

Evidence

A Guide to the Requirements for Presentation before the Comptroller



All information contained in this document was correct at the time of going to print, and is available in alternative formats on request. For further information please visit our website at:- www.ipo.gov.uk or contact us on:- **08459 500 505**

This leaflet outlines procedural requirements and other matters about patents, designs and trademarks. It is not intended to be a comprehensive guide, and many details which may be relevant in particular circumstances have been omitted. It is, therefore, advisable to seek independent professional advice about any matters covered by the leaflet, and not to rely on this leaflet alone.

Presenting Evidence

In legal proceedings in the Office relating to patents, designs or trade marks you may be invited to file evidence to support any facts on which you are relying.

However, there are rules controlling the sort of evidence you use and the way you present it. The following questions and answers explain what evidence is and how you should present it.

What is evidence?

Evidence is information given by yourself or anyone else which is intended to establish a fact or point in question.

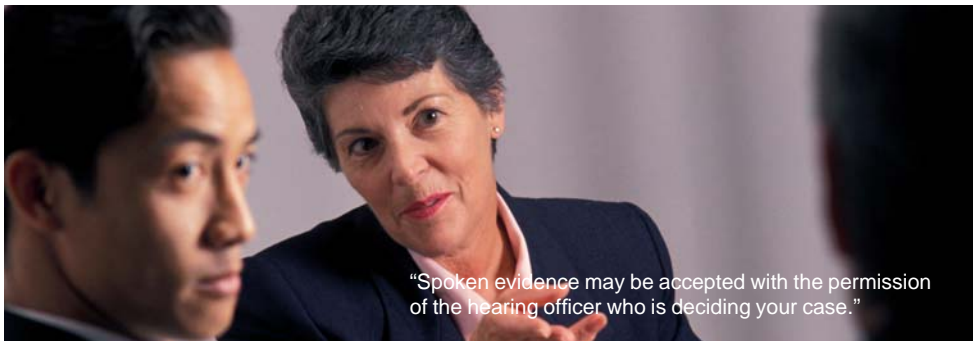
Preferably, it should be based on what the person giving the evidence has seen or heard. Evidence as to what someone else has seen, said or written (“hearsay”) may be admitted but will tend to carry less weight

Does evidence have to be in writing?

Evidence should be in the form of written statements about the facts by individual people. These are known as witness statements. However, spoken evidence may be accepted with the permission of the hearing officer who is deciding your case.

A witness who appears at a hearing may be cross-examined on his or her written or spoken evidence.

If you wish to include a document or object (for example, a contract or a model or drawing of an invention) as part of the evidence, you should attach it to the witness statement as an “exhibit” and refer to it in the text. There is an example of an exhibit at the end of this leaflet.



Presenting Evidence

What is a witness statement?

A witness statement is the written equivalent of the oral evidence which that witness would give if called, in evidence. It must include a statement by the witness that they believe the facts in it are true, eg 'I believe the facts in this witness statement are true'. It should be signed and dated by the person making the witness statement. An example of a witness statement is included at the end of this booklet.

How should I write a witness statement?

You should start with a title which identifies the proceedings.

You should then give your name, address and occupation. If you are giving evidence in a professional or business role, you can give your working address, your position and the name of your firm or employer instead of giving your home address.

Your evidence should be written in the first person (for example, 'I') and each paragraph should be numbered.

The statement must be signed and dated and contain a statement of truth, for example, "I confirm that the information in this statement is true to the best of my knowledge and belief.

Any exhibit to a witness statement should bear a covering notice headed in the same way as the witness statement. The exhibit should be numbered, signed and dated.

Are there any more rules about how I must present my evidence?

You should file original witness statements. We cannot accept copies

You should present your evidence on good quality A4 paper, typed on one side of the paper only and it should be easy to read. If possible, you should bind the evidence securely in a way which does not make it difficult to file, otherwise each page should have your initials on it.

You should number the pages in order and all numbers including dates should be in figures. The evidence should follow the sequence of events in date order as far as possible.

Presenting Evidence

Does evidence have to be written in English?

If you wish to file evidence in a foreign language, you must also file a translation into English made by a qualified translator.

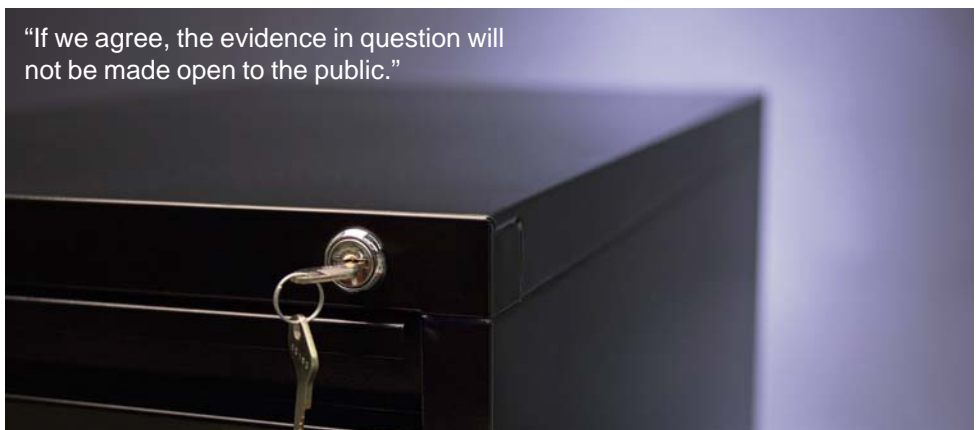
Can I ask for evidence to be treated as confidential?

If you want us to keep any evidence you have filed confidential, in most cases you must ask for this to be done within 14 days of filing it. You must also say why you want us to keep the evidence confidential.

If we agree, the evidence in question will not be made open to the public. However, the evidence will still have to be sent to anyone else who is involved with the proceedings or their legal representative.

False statements

It is an offence to make a false statement, on purpose, whether in evidence or otherwise which is relevant to the proceedings. Anyone who is convicted of doing this may be fined or sent to prison.



Example of a witness statement

Patents Act 1977

IN THE MATTER OF an application
For restoration of Patent No GB3245678
By Peter Brown under Section 28 of the Act

Witness Statement

I, Peter Brown, of 2 High Street, Bromworth OP3 7DR an Electrician, state the following;

1. I always make a note of the renewal due date on my computer records system. I usually pay the renewal fee very near to the due date. This system has worked very well for the last seven years.
2. In March last year my computer was infected by a virus and I lost all the information it contained.
3. I understand that the Office sends a renewal reminder alerting properties that the renewal fee has not been paid.
4. In January last year I moved addresses and although I set up a mail forwarding system with the Post Office (see exhibit 1) I did not receive the reminder.
5. My failure to pay the renewal fee was due to the fact that my computer contracted a virus and that I did not receive your reminder letter.
6. It was not my intention to allow my patent to lapse.

I confirm that the information contained in this witness statement is true to the best of my knowledge and belief.

Signed

Date

Example of a witness statement

Patents Act 1977

IN THE MATTER OF an application
For reinstatement of Patent No GB3245678.1
By Peter Brown

Witness Statement

I, Peter Brown, of 2 High Street, Bromworth OP3 7DR an Electrician, state the following;

1. I was touring Australia for six months from October last year and was unaware that the form 10 needed to be filed.
2. Whilst I was away I had arranged with my Brother to forward any important documents on to me but unfortunately on this occasion he did not send your notification to me or any details of it.
3. I only discovered that my patent was terminated last week, upon my return to this country. I immediately contacted your Office for information as to how I could reinstate my patent.
4. It was always my intention to continue with my patent application.

I confirm that the information contained in this witness statement is true to the best of my knowledge and belief.

Signed

Date

Example of a witness statement

Patents Act 1977

IN THE MATTER OF
Patent application No GB3245678
By Peter Brown

Witness Statement

I, Peter Brown, of 2 High Street, Bromworth OP3 7DR an Electrician, state the following;

1. The above patent was filed on 16 January 2001.
2. I understand that the substantive examination report was issued on 21 March 2003 but for some unknown reason I never recieved it. I was unaware of it until I recieved your letter of 6 June 2005 warning me that you intend to treat my application as refused.
3. Upon receipt of a copy of the substantive examination report, I set about drafting my response. This took a little while and I responded to the report on the 22 August 2005 and requested an as of right extension to the rule 34 period.
4. A further official examination report was issued on 6 September 2005. Unfortunately I was out of the country at that time and did not see the report until my return on 19 September, hence my request for a further extension of time to enable me to put the application in order for grant.
5. I confirm that it was always my intention that the application should proceed to become a granted patent.

I believe that the information contained in this witness statement is true to the best of my knowledge and belief.

Signed

Date

Example of an exhibit

Patents Act 1977

IN THE MATTER OF an application for restoration of Patent No GB3245678 by Peter Brown under section 28 of the act.

This is the exhibit 'PB1' referred to in my witness statement.

Signed

Date

Contact Details

If you have any questions about anything in this leaflet please contact us at:

UK Intellectual Property Office

The Central Enquiry Unit

Room: 1L02

Concept House

Newport

NP10 8QQ

E-mail: CentralEnquiries@ipo.gov.uk

Tel: 08459 500 505

Minicom: 08459 222 250 (customer with hearing difficulties)

Or phone: 01633 814332 (for patents and designs)

01633 812272 (for trade marks).

Web: www.ipo.gov.uk

Please keep this leaflet with your other papers in case you need it in the future.

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contact our Central Enquiry Unit.

When you no longer need this booklet, please recycle it.

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