

**2010 No. 791**

**COPYRIGHT**

**The Copyright Tribunal Rules 2010**

*Made* - - - - *15th March 2010*

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*Coming into force* - - *6th April 2010*

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The Lord Chancellor in exercise of the powers conferred upon him by sections 150 and 152(2) and (3) of the Copyright, Designs and Patents Act 1988(a), after consultation with the Secretary of State(b), with the approval of the Treasury as to the fees chargeable under these Rules in respect of proceedings before the Copyright Tribunal, and after consultation with the Administrative Justice and Tribunals Council in accordance with paragraph 24(1), (3) and (4) of Schedule 7 to the Tribunals Courts and Enforcement Act 2007(c), makes the following Rules:

**PART I**  
**PRELIMINARY**

**Citation and Commencement**

1. These Rules may be cited as the Copyright Tribunal Rules 2010 and shall come into force on 6th April 2010.

**Interpretation**

2.—(1) In these Rules—

“the Act” means the Copyright, Designs and Patents Act 1988;

“applicant” means a person or organisation who has made a reference or application to the Tribunal in accordance with rule 7;

“application” means the application form and statement of grounds filed with the Tribunal in accordance with rule 7(1);

“application form” means the form set out in Schedule 1;

“bank holiday” has the meaning conferred by section 1 of the Banking and Financial Dealings Act 1971(d);

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(a) 1988 c.48.

(b) The function of the Lord Advocate in section 150 of the Act transferred to the Secretary of State by virtue of S.I. 1999/678 (article 2 and Schedule).

(c) 2007 c.15; the Copyright Tribunals is a listed tribunal by virtue of S.I. 2007/2951.

(d) 1971 c.80.

“the Chairman” means the Chairman of the Tribunal or a deputy chairman or any other member of the Tribunal appointed to act as chairman;

“costs”, in relation to proceedings in Scotland, means “expenses”;

“court” means—

- (a) as respects England and Wales, the High Court;
- (b) as respects Scotland, the Court of Session;
- (c) as respects Northern Ireland, the High Court of Northern Ireland;

“intervener” means a person or organisation who has applied under rule 15 to be made a party to proceedings;

“the office” means the office for the time being of the Tribunal;

“proceedings” means proceedings in respect of an application before the Tribunal;

“relevant fee” means the fee payable to the Tribunal as set out in Schedule 2;

“the Secretary” means the Secretary for the time being of the Tribunal;

“small application” has the meaning given in rule 17(6);

“standard application” has the meaning given in rule 17(6);

“statement of truth” means—

- (a) in Northern Ireland, an affidavit;
- (b) in England and Wales and Scotland a statement which meets the requirements of paragraphs (2) and (3) below;

“the Tribunal” means the Copyright Tribunal;

“the Tribunal address for service” has the meaning set out in rule 4; and

“the Tribunal Website” has the meaning set out in rule 5.

(2) A statement of truth is a statement that—

- (a) The party putting forward the document, or
- (b) in the case of a witness statement, the maker of the witness statement believes the facts stated in the document are true.

(3) A statement of truth must be signed by—

- (a) In the case of a statement of grounds, a response or a request for permission to intervene, the party or the legal representative of the party and
- (b) In the case of a witness statement, the maker of the statement.

(4) The powers conferred on the Tribunal by rules 39(3) and 42 may be exercised by either the Chairman or the Tribunal.

### **Overriding objective**

**3.—**(1) The Rules set out a procedural code with the overriding objective of enabling the Tribunal to deal with cases justly.

(2) Dealing with a case justly includes, so far as practicable—

- (a) ensuring that the parties are on an equal footing;
- (b) saving expense;
- (c) dealing with the case in ways which are proportionate—
  - (i) to the amount of money involved,
  - (ii) to the importance of the case,
  - (iii) to the complexity of the issues, and
  - (iv) to the financial position of each party;
- (d) ensuring that it is dealt with expeditiously and fairly; and

- (e) allotting to it an appropriate share of the resources available to the Tribunal, while taking into account the need to allot resources to other cases.
- (3) The parties are required to help the Tribunal to further the overriding objective.

#### **Tribunal address for service**

4. The address for service of documents on the Tribunal is: The Secretary of the Copyright Tribunal, 21 Bloomsbury Street, London WC1B 3HF or such other address as may be notified in the London, Edinburgh and Belfast Gazettes and on the Tribunal Website.

#### **Tribunal Website**

5. The location of the Tribunal Website is: [www.ipo.gov.uk/ctribunal.htm](http://www.ipo.gov.uk/ctribunal.htm) or such other location as may be notified from time to time in such manner as the Chairman may direct.

#### **Representation and rights of audience**

6. In proceedings a party may be represented by—
- (a) a person who, for the purposes of the Legal Services Act 2007(a) is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation within the meaning of that Act;
  - (b) an advocate or solicitor in Scotland or a barrister or solicitor in Northern Ireland; or
  - (c) any other person allowed by the Tribunal to appear on his behalf.

## PART II

### COMMENCING PROCEEDINGS

#### **Commencing proceedings**

- 7.—(1) Proceedings are started when a person files—
- (a) an application form;
  - (b) a statement of grounds; and
  - (c) the relevant fee.
- (2) The statement of grounds must—
- (a) contain a concise statement of the facts on which the applicant relies;
  - (b) state the statutory provision under which the application is made;
  - (c) where appropriate include the terms of payment or terms of licence which the applicant believes to be unreasonable;
  - (d) specify the relief sought;
  - (e) be verified by a statement of truth.

#### **Defective applications**

8.—(1) If the Tribunal considers that an application does not comply with rule 7, or is materially incomplete, or is lacking in clarity, it may give such directions as may be necessary to ensure that those defects are remedied.

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(a) 2007 c. 29.

(2) The Tribunal may, if satisfied that the efficient conduct of the proceedings so requires, instruct the Secretary to defer service of the application on the respondent until after the directions referred to in paragraph (1) have been complied with.

### **Power to reject**

9.—(1) The Tribunal may, after giving the parties an opportunity to be heard, reject an application in whole or in part at any stage in the proceedings if—

- (a) it considers that the Tribunal has no jurisdiction to hear the application;
- (b) it considers that the applicant
  - (i) does not have a sufficient interest in the application; or
  - (ii) is not an organisation that is representative of a class of persons that have a sufficient interest in the application;
- (c) it considers, in accordance with relevant provision of the Act, that the application is premature;
- (d) it considers that the application is an abuse of the Tribunal's process;
- (e) it considers that the application discloses no reasonable grounds for bringing the application.

(2) When the Tribunal rejects an application it may make any consequential order it considers appropriate.

(3) For the purposes of paragraph (1)(c), the relevant provision means—

- (a) section 118(2), where the reference is made under section 118;
- (b) section 125(2), where the reference is made under section 125;
- (c) paragraph 3(2) of Schedule 2A, where the reference is made under paragraph 3 of Schedule 2A and
- (d) paragraph 10(2) of Schedule 2A, where the reference is made under paragraph 10 of Schedule 2A.

### **Amendment of application**

10.—(1) The applicant may amend the application only with the permission of the Tribunal.

(2) Where the Tribunal grants permission under paragraph (1) it may do so on such terms as it thinks fit, and shall give such further or consequential directions as may be necessary.

### **Withdrawal of the application**

11.—(1) The applicant may withdraw an application only with the permission of the Tribunal.

(2) Where the Tribunal gives permission under paragraph (1) it may—

- (a) do so on such terms as it thinks fit; and
- (b) instruct the Secretary to publish notice of the withdrawal on the Tribunal Website or in such other manner as the Tribunal may direct.

(3) Where an application is withdrawn any interim order of the Tribunal, other than an order made in respect of costs, shall immediately cease to have effect, unless the Tribunal directs otherwise.

## PART III

### RESPONSE TO THE PROCEEDINGS

#### **Acknowledgement and notification**

- 12.**—(1) On receiving an application the Secretary must—
- (a) send an acknowledgement of its receipt to the applicant; and
  - (b) subject to rules 8(2) and 9 send a copy of the application to the respondent marked to show the date on which that copy is sent.

#### **The response**

**13.**—(1) The respondent must send to the Secretary a response in the form required by this rule so that the response is received within 28 days (or such further time as the Tribunal may allow) of the date on which the Secretary sent a copy of the application to the respondent in accordance with rule 12(b).

- (2) The response filed by the respondent must state—
- (a) the name and address of the respondent;
  - (b) the name and address of the respondent’s legal representatives, if any;
  - (c) an address for service in the European Economic Area;

and must be signed and dated by the respondent, or on the respondent’s behalf by a duly authorised officer or legal representative.

- (3) The response must contain—
- (a) a concise statement of the facts on which the respondent relies;
  - (b) any relief sought by the respondent; and
  - (c) any directions sought pursuant to rule 20.
- (4) The response must be verified by a statement of truth.
- (5) Rules 8 and 10 shall apply to the response.
- (6) On receiving the response, the Secretary shall send a copy to the applicant.

## PART IV

### INTERVENTION AND CONSOLIDATION

#### **Publication of application**

**14.**—(1) Subject to rules 8 and 9 the Secretary must as soon as practicable upon receipt of an application publish a notice on the Tribunal Website and in any other manner the Chairman may direct.

- (2) The notice referred to in paragraph (1) must state—
- (a) that an application has been received;
  - (b) the section of the Act under which the application is made;
  - (c) the name of the applicant;
  - (d) the particulars of the relief sought by the applicant;
  - (e) a summary of the principal grounds relied on; and
  - (f) that any person—
    - (i) with substantial interest in the proceedings;

- (ii) who objects to the application on the basis that the applicant does not have a sufficient interest in the application; or
  - (iii) who objects to the application on the basis that the applicant is not representative of a class of persons that have a sufficient interest in the application,
- may apply to intervene in the proceedings, in accordance with rule 15, within 28 days of publication of the notice or such other period as the Chairman may direct.

### **Intervention**

**15.**—(1) Any person with substantial interest in the outcome of proceedings may make a request to the Tribunal for permission to intervene in those proceedings.

(2) The request must be sent to the Secretary within 28 days of the publication of the notice in accordance with rule 14.

(3) The Secretary shall give notice of the request for permission to intervene to the respondent and all other parties to the proceedings and invite their observations on that request within a specified period.

(4) A request for permission to intervene must state—

- (a) the title of the proceedings to which that request relates;
- (b) the name and address of the person wishing to intervene;
- (c) the name and address of their legal representative, if any;
- (d) an address for service in the European Economic Area;
- (e) the facts on which the person wishing to intervene relies and the relief sought.

(5) The request must be verified by a statement of truth and accompanied by the relevant fee.

(6) The Tribunal may permit the intervention on such terms and conditions as it thinks fit, if satisfied, having taken into account the observations of the parties, that the intervening party has a substantial interest.

(7) On granting permission in accordance with paragraph (6), the Tribunal shall give all such consequential directions as it considers necessary with regard, in particular, to the service on the intervener of the documents lodged with the Secretary, the submission by the intervener of a statement of intervention and, if appropriate, the submission by the principal parties of a response to the statement of intervention.

(8) The statement of intervention and any response to it shall contain—

- (a) a concise statement of the facts supporting the intervention or response; and
- (b) any relief sought by the intervener or the party responding to the intervention.

(9) The statement of intervention and any response shall be verified by a statement of truth.

(10) Rules 8 and 10 shall apply to the statement of intervention.

### **Consolidation**

**16.**—(1) Where two or more applications are made relating to the same licensing scheme or proposed licensing scheme, or which involve the same or similar issues, the Tribunal may on its own initiative, or on the request of a party, order that the proceedings or any particular issue or matter raised in the proceedings be consolidated or heard together.

(2) Before making an order under this rule, the Tribunal must invite the parties to the relevant proceedings to submit their observations.



## PART V ALLOCATION

### **Allocation**

**17.**—(1) The Tribunal shall allocate an application to the small applications track or to the standard applications track, taking into account the factors set out in this rule;

(2) When the Tribunal makes an allocation it shall have regard to—

- (a) the financial value of the application to each of the parties;
- (b) whether the facts, legal issues, relief requested or procedures involved are simple or complex; and
- (c) the importance of the outcome of the application to other licensees or putative licensees of a licensing body.

(3) The small applications track is the normal track for an application where its financial value is less than £50,000 to each party and the facts and legal issues involved are simple.

(4) The standard track is the normal track for all other applications.

(5) When the Tribunal has allocated an application to a track the Secretary shall serve a notice of allocation on every party.

(6) Applications allocated to the small applications track are referred to as “small applications” and all other applications are referred to as “standard applications”.

(7) The Rules apply to small applications with the exception of rules 22(1), (2) and (3), 23, 35 and 36.

(8) The Rules apply to standard applications with the exception of rule 21.

### **Change of track**

**18.** The Tribunal may at any time on the request of a party or of its own initiative order, having considered the factors set out in rule 17(2), that—

- (a) proceedings allocated to the small applications track be transferred to the standard applications track; or
- (b) proceedings allocated to the standard applications track be transferred to the small applications track.

## PART VI CASE MANAGEMENT AND PREPARATION FOR HEARING

### **Case management – general**

**19.**—(1) In determining applications the Tribunal shall actively exercise its powers set out in rules 16 (consolidation), 17 (allocation), 18 (change of track), 20 (directions), 21 (procedure for small applications) 22 (case management of standard applications) 23 (oral hearing of a standard application) 24 (evidence), 25 (expert evidence) 26 (summoning of witnesses and order to answer questions or produce documents) and 27 (failure to comply with directions) with a view to ensuring that the application is dealt with justly.

(2) The Tribunal may in particular—

- (a) encourage and facilitate the use of an alternative dispute resolution procedure if it considers it appropriate; and
- (b) dispense with the need for the parties to attend any hearing.

## Directions

20.—(1) The Tribunal may at any time, on the request of a party or of its own initiative, at a case management conference, pre-hearing review, on an application for appeal or otherwise, give such directions as are provided for in paragraph (2) below or such other directions as it thinks fit to secure the just, expeditious and economical conduct of the proceedings.

(2) Where a party requests directions in accordance with paragraph (1) the request must be accompanied by the relevant fee.

(3) The Tribunal may give directions—

- (a) as to the manner in which the proceedings are to be conducted, including any time limits to be observed in the conduct of an oral hearing;
- (b) that the parties file a reply, rejoinder or other additional statements or particulars;
- (c) that part of any of the proceedings be dealt with as a preliminary issue;
- (d) that any part of the application, response or intervention be struck out;
- (e) for the dismissal of the proceedings;
- (f) to stay or, where the proceedings are in Scotland, to sist the whole or part of any proceedings or order or decision of the Tribunal either generally or until after a specified date;
- (g) for the preparation and exchange of skeleton arguments;
- (h) in relation to proceedings in England and Wales or Northern Ireland, requiring persons to attend and give evidence or to produce documents<sup>(a)</sup>;
- (i) as to the evidence which may be required or admitted in proceedings before the Tribunal and the extent to which it shall be oral or written;
- (j) as to the submission in advance of a hearing of any witness statements or expert reports;
- (k) as to the cross-examination of witnesses;
- (l) as to the fixing of time limits with respect to any aspect of the proceedings;
- (m) as to the abridgement or extension of any time limits, whether or not expired;
- (n) for the disclosure between, or the production by, the parties of documents or classes of documents;
- (o) for the appointment and instruction of experts, whether by the Tribunal or by the parties and the manner in which expert evidence is to be given;
- (p) as to the use or further disclosure of a document which has been disclosed in the proceedings, whether or not it has been read to or by the Chairman or Tribunal or referred to at a hearing which has been held in public;
- (q) for the award of costs; and
- (r) for hearing a person who is not a party where, in any proceedings, it is proposed to make an order or give a direction in relation to that person.

(4) The Tribunal may, in particular, of its own initiative—

- (a) put questions to the parties;
- (b) invite the parties to make written or oral submissions on certain aspects of the proceedings;
- (c) ask the parties or other persons for information or particulars;
- (d) ask for documents or any papers relating to the case to be produced;
- (e) summon the parties' representatives or the parties in person to meetings.

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(a) Section 151(3) of the Act applies to proceedings in Scotland.

(5) A request by a party for directions shall be made in writing as soon as practicable and shall be served by the Secretary on any other party who might be affected by such directions and determined by the Tribunal taking into account the observations of the parties.

### **Procedure for small applications**

**21.**—(1) This rule contains the procedure for small applications.

(2) As soon as possible after an allocation is made in accordance with rule 17 or 18 the Tribunal shall give directions and notify the parties of the date on which the decision shall be delivered in accordance with rule 30.

(3) If any party requests a hearing or the Tribunal considers that a hearing is required, either before or after the Tribunal has given directions in accordance with paragraph (2) the Tribunal must give directions (which may include directions for a case management conference or a pre-hearing review), fix a date for the hearing and notify the parties in writing of the date, time and place of that oral hearing.

### **Case management of standard applications**

**22.**—(1) This rule applies to the case management of standard applications. Paragraphs (4) and (5) of this rule apply to small applications if the Tribunal gives directions in accordance with rule 21(3).

(2) Where it appears to the Tribunal that any proceedings would be facilitated by holding a case management conference or pre-hearing review the Tribunal may, on the request of a party or of its own initiative, give directions for such a conference or review to be held.

(3) Unless the Tribunal otherwise directs, a case management conference must be held as soon as practicable after allocation in accordance with rule 17 or rule 18(a).

(4) A case management conference or pre-hearing review shall be held in private unless the Tribunal otherwise directs.

(5) The purpose of a case management conference or pre-hearing review is—

- (a) to ensure the efficient conduct of the proceedings;
- (b) to determine the points on which the parties must present further argument or which call for further evidence to be produced;
- (c) to clarify the forms of order sought by the parties, their arguments of fact and law and the points at issue between them;
- (d) to ensure that all agreements that can be reached between the parties about the matters in issue and the conduct of the proceedings are made and recorded;
- (e) to facilitate the settlement of the proceedings;
- (f) to set a timetable outlining the steps to be taken by the parties pursuant to directions in preparation for the oral hearing of the proceedings;
- (g) to set the dates within which the hearing shall take place.

### **Oral hearing of a standard application**

**23.** As soon as practicable after the case management conference or pre-hearing review, the Secretary shall, after discussions with the parties, notify the parties in writing of the date, time and place for the oral hearing and of any timetable for that hearing.

### **Evidence**

**24.**—(1) The Tribunal may control the evidence by giving directions as to —

- (a) the issues on which evidence is required;
- (b) the nature of the evidence required to decide those issues; and

(c) the way in which the evidence is to be placed before the Tribunal.

(2) The Tribunal may use its power to exclude evidence that would otherwise be admissible where—

- (a) the evidence was not provided within the time allowed by a direction;
- (b) the evidence was provided in a manner that did not comply with a direction;
- (c) it would be unfair to admit the evidence;
- (d) the evidence is not proportionate to the issues of the case; or
- (e) the evidence is not necessary for the fair disposal of the case.

(3) The Tribunal may require any witness to give evidence on oath or affirmation or, if in writing, by way of a witness statement verified by a statement of truth.

(4) The Tribunal may allow a witness to give evidence through a video link or by other means.

### **Expert evidence**

**25.**—(1) Expert evidence shall be restricted to that which is proportionate to the issues of the case and necessary for the fair disposal of the case.

(2) No party may call an expert or put in expert evidence without the permission of the Tribunal.

(3) When a party applies for permission to call an expert or put in expert evidence it must identify—

- (a) the field in which expert evidence shall be relied upon;
- (b) the expert in that field whose evidence shall be relied upon and, if applicable, the organisation by whom the expert is employed and
- (c) the principal issues which the expert will be expected to address.

(4) If the Tribunal grants permission under this rule it must be only in relation to the expert named and the field and on the issues identified in the application.

(5) The Tribunal may limit the fees and expenses of an expert that can be recovered from the parties to the litigation that did not instruct that expert.

### **Summoning of witnesses and orders to answer questions or produce documents**

**26.**—(1) On the application of a party or on its own initiative, the Tribunal may—

- (a) by summons require any person to attend as a witness at a hearing at the time and place specified in the summons; or
- (b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.

(2) A summons under paragraph (1)(a) must—

- (a) give the person required to attend not less than 14 days' notice of the hearing or such shorter period as the Tribunal may direct; and
- (b) where the person is not a party, make provision for the person's necessary expenses of attendance to be paid, and state who is to pay them.

(3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law in the part of the United Kingdom where the proceedings are due to be determined.

(4) This rule shall only apply to proceedings in England and Wales and Northern Ireland<sup>(a)</sup>

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(a) Section 151(3) of the Act applies to proceedings in Scotland.

### **Failure to comply with directions**

27. If any party fails to comply with any direction given in accordance with these Rules, the Tribunal may, if it considers that the justice of the case so requires, order that such party be debarred from taking any further part in the proceedings without the permission of the Tribunal.

## **PART VII**

### **THE HEARING**

#### **Hearing to be in public**

28. Except where the Tribunal orders otherwise, the hearing of any application must be in public.

#### **Procedure at the hearing**

29.—(1) The proceedings must be opened and directed by the Chairman who is responsible for the proper conduct of the hearing.

(2) The Tribunal shall, so far as it appears to it appropriate, seek to avoid formality in its proceedings and shall conduct the hearing in such manner as it considers most appropriate for the clarification of the issues before it and generally to the just, expeditious and economical handling of the proceedings.

(3) Unless the Tribunal otherwise directs, no witness of fact or expert may be heard unless the relevant witness statement or expert report has been submitted in advance of the hearing and in accordance with any directions of the Tribunal.

(4) The Tribunal may limit cross-examination of witnesses to any extent or in any manner it deems appropriate.

## **PART VIII**

### **DELIVERY OF THE DECISION**

#### **Delivery of the decision**

30.—(1) The decision of the Tribunal on an application must be given in writing and must include a statement of the Tribunal's reasons.

(2) The Secretary must as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision.

(3) The Chairman must arrange for the decision of the Tribunal to be published in such manner as considered appropriate.

#### **Orders for costs**

31.—(1) The Tribunal may, at its discretion, at any stage of the proceedings make any order it thinks fit in relation to the payment of costs by one party to another in respect of the whole or part of the proceedings.

(2) Any party against whom an order for costs is made shall, if the Tribunal so directs, pay to any other party a lump sum by way of costs, or such proportion of the costs as may be just, and in the last mentioned case the Tribunal may assess the sum to be paid or may direct that it be assessed or, where appropriate, taxed by—

- (a) the Chairman;
- (b) a costs officer of the High Court;

- (c) the Master (Taxing Office) of the High Court of Northern Ireland; or
- (d) the Auditor of the Court of Session.

**Effective date of order**

**32.** Except where the operation of the order is suspended under rule 33 or 34, an order of the Tribunal shall take effect from such date, and shall remain in force for such period, as is specified in the order.

## PART IX

### APPEALS FROM THE TRIBUNAL

**Commencement of appeal proceedings**

**33.—**(1) An appeal to the court under section 152 of the Act arising from a decision of the Tribunal must be brought within 28 days of the date of decision of the Tribunal or within such further period as the court may, on application to it, allow.

(2) A party appealing to the court must as soon as may be practicable serve on the Secretary a notice of such appeal accompanied by the relevant fee and shall serve a copy of the notice on every person who was a party to the proceedings giving rise to that decision.

(3) Following receipt of the notice of appeal by the Secretary the Tribunal may on its own initiative suspend the operation of any order contained in its decision.

**Suspension of order**

**34.—**(1) Unless the Tribunal orders otherwise an appeal to the Court shall not operate as a stay of any decision or order of the Tribunal.

(2) The Tribunal may endorse a consent order where all parties to an action have consented to the suspension of the operation of an order.

(3) An application to the Tribunal for an endorsement under paragraph (2) must be accompanied by the relevant fee.

(4) Where any order of the Tribunal has been suspended by the Tribunal in accordance with rule 33(3) or upon the application of a party to the proceedings in accordance with rule 34(2) the Secretary must serve notice of the suspension on all parties to the proceedings, and if particulars of the order have been advertised must cause notice of the suspension to be advertised in the same manner.

(5) Rule 30(3) applies to the publication of a decision to suspend an order.

## PART X

### INTERIM ORDERS AND AWARDS

**Power to make provisional awards**

**35.** Subject to rule 36, the Tribunal shall have power to order on a provisional basis any relief which it would have power to grant in a final decision.

**Awards on different issues**

**36.—**(1) The Tribunal may make more than one award at different times on different aspects of the matters to be determined.

(2) The Tribunal may, in particular, make an award relating to—

- (a) an issue affecting the whole claim, or
  - (b) a part only of the claims or cross-claims submitted to it for decision.
- (3) If the Tribunal makes an award under paragraph (2) it shall specify in its award the issue, or the claim or part of a claim, which is the subject matter of that award.

## PART XI

### SUPPLEMENTARY

#### **Enforcement – England and Wales and Northern Ireland**

37. A decision made by the Tribunal may, by leave of the court, be enforced in England and Wales or Northern Ireland in the same manner as a judgment or order of the court to the same effect.

#### **Enforcement of Tribunal’s orders in Scotland**

38. Any decision of the Tribunal may be enforced in Scotland in the same way as a recorded decree arbitral.

#### **Service of documents**

39.—(1) Any notice or other document required by these Rules to be served on any person may be sent by pre-paid post to its address for service, or, where no address for service has been given, to its registered office, principal place of business or last known address, and every notice or other document required to be served on the Secretary may be sent by pre-paid post to the Secretary the Tribunal address for service during office hours.

(2) Any notice or other document required to be served on a licensing body or organisation which is not a body corporate may be sent to the secretary, manager or other similar officer.

(3) The Tribunal may direct that service of any notice or other document be dispensed with or effected otherwise than in the manner provided by these Rules.

(4) Service of any notice or document on a party’s solicitor or agent shall be deemed to be service on such party, and service on a solicitor or agent acting for more than one party shall be deemed to be service on every party for whom such a solicitor or agent acts.

#### **Time**

40.—(1) Where a period expressed in days, weeks or months is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question.

(2) A period expressed in weeks or months shall end with the expiry of whichever day in the last week or month is the same day of the week or falls on the same date in the month, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month.

(3) Where the time for doing any act expires on a Saturday, Sunday, Christmas Day, Good Friday or bank holiday, the act is in time if done on the next following day which is not a Saturday, a Sunday, Christmas Day, Good Friday or bank holiday in any part of the United Kingdom.

#### **Office hours**

41. The office shall be open between 10.00am and 4.00pm Monday to Friday, excluding Good Friday, Christmas Day and bank holidays in England and Wales.

### **Clerical mistakes and accidental slips or omissions**

42. The Tribunal may at any time correct any clerical mistake or other accidental slip or omission in a decision, direction or any document produced by it, by—

- (a) sending notification of the amended decision or direction, or a copy of the amended document, to each party; and
- (b) making any necessary amendment to any information published in relation to the decision, direction or document.

### **Power of Tribunal to regulate procedure**

43. Subject to the provisions of the Act and these Rules, the Tribunal shall have power to regulate its own procedure.

## **PART XII**

### **TRANSITIONAL AND REVOCATION**

#### **Transitional provisions**

44. Any proceedings commenced under the Act before these Rules come into force shall continue in accordance with these Rules.

#### **Revocation**

45. The Copyright Tribunal Rules 1989(a) are revoked.

Signed by authority of the Lord Chancellor

15th March 2010

*Bridget Prentice*  
Parliamentary Under Secretary of State  
Ministry of Justice

We approve the fees prescribed by these Rules in respect of proceedings before the Copyright Tribunal.

11th March 2010

*Dave Watts*  
*Tony Cunningham*  
Two of the Lords Commissioners of Her Majesty's Treasury

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(a) S.I. 1989/1129.



SCHEDULE 1  
Application form

Rule 2

APPLICATION FORM	
Tribunal reference: Issue Date	
Applicant's name and address, email address and telephone number:	
Respondent's name and address, email address and telephone number:	
Either (a) the section number of the Copyright Designs and Patents Act 1988 or Broadcasting Act 1990 or (b) name of the Regulations under which the claim is brought:	
Brief details of the facts upon which the applicant relies:	
Applicant's address for service, if different from the address above:	
Date:	

## SCHEDULE 2

Rule 2

### Fees

1. The relevant fee is £15 for an application for directions in accordance with rule 20, other than an application for a direction under rule 20(3)(d).
2. The relevant fee is £25 for
  - (a) an application for directions under rule 20(3)(d);
  - (b) a request for permission to intervene made under rule 15;
  - (c) a notice of appeal served in accordance with rule 33;
  - (d) an application for endorsement of a consent order made in accordance with rule 34(3);
  - (e) an application to the Tribunal made under rule 7 where the application is
    - (i) for special leave made under section 120, 122, 127, 135F, 142 or paragraph 5 of Schedule 6 to the Act or paragraph 6(2) of Schedule 17 to the Broadcasting Act 1990(a);
    - (ii) a reference made under section 125 or 126 of the Act;
    - (iii) an appeal made under section 139 of the Act;
    - (iv) made under section 135F(b) of the Act for review of an order;
    - (v) made under section 142 of the Act to settle royalty or other sums payable;
    - (vi) made under section 144 of the Act to settle terms of a licence of right;
    - (vii) made under paragraph 6(1) of Schedule 17 to the Broadcasting Act 1990.
3. The relevant fee is £50 for an application made under rule 7, other than an application listed in paragraph 2(e) above.

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(a) 1990 c.42.

(b) Section 135F was inserted by section 175(1) of the Broadcasting Act 1990 (c.42).

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These rules prescribe the procedure to be followed before the Copyright Tribunal (“Tribunal”) established by section 23 of the Copyright Act 1956 and renamed by section 145 of the Copyright Designs and Patents Act 1988 (“the Act”) in relation to proceedings before the Tribunal including proceedings under the Act.

Part I contains the definitions used in the Rules, the overriding objective of the Rules and rules on representation and rights of audience before the Tribunal.

Part II and Schedule 1 set out the procedure for commencing proceedings in the Tribunal and the form to be used, the Tribunal’s powers to reject an application and the applicant’s powers to amend or withdraw an application.

Part III sets out the procedure for responding to an application.

Part IV sets out requirements for publication of an application and the procedure for intervening in proceedings before the Tribunal. It also allows the Tribunal to consolidate applications if certain conditions are met.

Part V imposes obligations on the Tribunal to allocate and, if necessary, to re-allocate, an application to a small applications or standard applications track.

Part VI contains rules on the case management of applications and imposes an obligation on the Tribunal to exercise these powers with a view to ensuring that the application is dealt with justly.

Part VII sets out the rules that apply to a hearing.

Part VIII contains the rules that apply to the delivery of a decision, costs orders and the effective date of an order.

Part IX sets out the rules that apply to an appeal and to a suspension of an order.

Part X sets out rules on interim orders and awards. These rules do not apply to applications in the small applications track.

Part XI contains supplemental provisions including rules on enforcement of decisions of the Tribunal.

Part XII revokes the Copyright Tribunal Rules 1989(a).

Schedule 2 sets out the fees for applications made to the Tribunal.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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(a) S.I. 1989/1129

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STATUTORY INSTRUMENTS

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The Copyright Tribunal Rules 2010

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