

Pilot Relating to Evidence in Inter Partes Trade Mark Proceedings

Frequently Asked Questions (FAQ)

1. What is this pilot about?

This pilot introduces page limits to evidence to be filed in trade mark proceedings before IPOS.

2. Why are we running this pilot?

We observe that parties are filing large volumes of irrelevant or unnecessary evidence.

Since IPOS is a low cost tribunal, parties should be mindful of what and how much evidence they file so as to avoid unnecessary cost to proceedings.

This pilot gives parties a guide to the general page limits we would, on the average, expect of parties' evidence in trade mark proceedings (see Question 4 below). Parties can calibrate their filing behaviour accordingly, so that proceedings can be more streamlined, and costs contained.

3. To which cases does this pilot apply?

This pilot applies to all cases where the evidence by initiator is filed on or after 1 January 2020. It does not apply to cases where the evidence by initiator has already been filed before 1 January 2020.

4. What are the page limits for parties' evidence?

Parties' evidence should fall within the following limits:

Evidence by Initiator: 300 pages

Evidence by Respondent: 300 pages

Evidence in Reply by Initiator: 100 pages

5. How did we decide on 300 pages as the page limit?

Having had the benefit of reviewing parties' evidence filed in many trade mark proceedings, we observed that relevant and useful evidence was generally filed in the range of 150 to 300 pages. After careful consideration, we decided on 300 pages as the page limit for the pilot.

6. What are the consequences if a party's evidence exceeds the page limit?

The consequences could pertain to costs.

We will apply a test based on the relevance and proportionality of the evidence. If the evidence exceeds the page limit and if the HMD officer concludes that a significant portion of the evidence is irrelevant or unnecessary, then there could be cost implications. For example, the party may not be awarded costs if the irrelevant or unnecessary evidence is excessive; or even if the party is awarded costs, the quantum could be based on the degree of relevance or necessity of the evidence.