

INTELLECTUAL PROPERTY

New Commercial Courts to include intellectual property matters

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On 3 October 2018, the Judge President of the Gauteng division of the High Court issued a Commercial Court Practice Directive, which will apply to the Gauteng Local Division (Johannesburg High Court) and Gauteng Division (Pretoria High Court). The Directive was effective immediately.

The Commercial Court, which will be administered as part of the High Court, aims to promote efficient conduct of litigation in the High Court and to resolve disputes quickly, cheaply, fairly and with legal acuity.

The Directive describes a 'Commercial Court case' as ordinarily a substantial case that has as its foundation a broadly commercial transaction or commercial relationship and provides for a list of examples of matters that would qualify, which includes intellectual property cases.

Not all cases will however be accepted as a commercial case that will be decided by the Judge President or Deputy Judge President on application made by letter setting out a description of the case and motivation for it to be allocated as a commercial case.

The Directive provides for how the cases should proceed including case management by the allocated judges.

The introduction of the Commercial Courts is welcomed, particularly in light of the specialised nature of the IP matters and also that all trade mark oppositions filed before the Registrar of Trade Marks are being referred to the Pretoria High Court, which can now be dealt with by the Commercial Court and the Commercial Court Directive.

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Janine Hollesen

Head of Intellectual Property

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