

Federal Court Publishes Updated Guidance on Complex Proceedings and PM(NOC) Proceedings

Eleanor Wilson, Sean Jackson

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On November 28, 2024, the Federal Court published the following practice directions: an updated [Case and Trial Management Guidelines for Complex Proceedings and Proceedings under the PM\(NOC\) Regulations](#) (Guidelines) and an updated [Timetable Checklist for Proceedings under the PM\(NOC\) Regulations](#) (PM(NOC) Timetable). The Guidelines provide important guidance for those litigating complex proceedings in the Federal Court, such as intellectual property matters, and the PM(NOC) Timetable must be completed by the parties in proceedings brought under section 6 of the *Patented Medicines (Notice of Compliance) Regulations* (PM(NOC) Regulations). A summary of the main updates to these documents is set out below.

Guidelines update. The updates to the Guidelines include:

Updates applicable to all complex proceedings:

- i. Examinations for discovery:** paragraph 8(d) encourages parties to use Rule 95(2) during discovery, i.e., allowing the witness to answer subject to the right to have the propriety of the question determined before the answer is used at trial.
- ii. Duration of discovery:** paragraph 9 provides guidance on factors that may be considered in setting the duration of examinations for discovery. Notwithstanding the limits in the Guidelines, these factors include the volume of documentary evidence and complexity of the proceeding, as well as other factors listed in the paragraph.
- iii. Fact witness testimony:** paragraph 22 clarifies that will say statements and fact witness affidavits, as opposed to brief descriptions of proposed areas of testimony, shall be exchanged between parties at least two weeks before trial.
- iv. Special equipment and facilities:** paragraph 28 clarifies that a request for special equipment or facilities for trial shall be raised with the Court as early as possible but no later than six weeks before trial.

Updates applicable only to proceedings under the *PM(NOC) Regulations*:

- v. Target dates for service of expert reports:** paragraph 35 adds the following target dates for service of expert reports:

Expert reports in chief: five months before trial;
Responding expert reports: three months before trial; and
Reply expert reports: two months before trial.

vi. Target dates for completion of discovery: paragraph 36 adds a target date for completing first round discovery of six months from the close of pleadings.

vii. Pre-trial conferences: paragraph 38 adds a requirement that a pre-trial conference be held to address the possibility of settlement.

PM(NOC) Timetable update. The updates to the PM(NOC) Timetable include:

- i. Removal of the step relating to motion for joinder.
- ii. Addition of target dates for some steps intended to be guidance for the parties, including those noted above in the Guidelines.
- iii. Addition of a step for a pre-trial conference to be convened after delivery of expert reports in chief to discuss the possibility of settlement (Item 25), as noted above for the Guidelines.
- iv. Addition of a step in the Trial Preparation and Related Motions Phase requiring filing joint claims charts on infringement and validity (Item 74).

Please do not hesitate to reach out to [Eleanor Wilson](#) or [Sean Jackson](#) if you have any questions.

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