

Who needs a copyright small claims court? Evidence from the **UK's IP Enterprise Court**

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Intellectual Property Enterprise Court (IPEC)

- Patents County Court reconstituted as IPEC 2010-2013
- IPEC Multi-Track (MT)
 - All IP rights
 - Damages cap £500,000
 - Cap on recoverable attorney's fees £50,000
- **Small Claims Track (SCT)** within IPEC created in October 2012
 - Copyright, trademark, unregistered design
 - Damages cap £10,000 (initially £5,000) – no statutory damages
 - Recoverable attorney's fees very limited
 - Fees (depends on damages claimed) £60- £1,310
 - Same relief as in MT (damages, account for profits etc.) but no interim relief
 - No discovery, but expert testimony permitted
 - If disagreement over SCT venue, court decides

Annual IPEC-SCT Caseload by Claim Type

	Copyright	Design	Trademark
Q4 2012	16	0	1
Q1 2013	9	0	3
Q2 2013	8	1	4
Q3 2013	6	1	1
Q4 2013	16	0	2
Total	55	2	11

SCT Copyright Cases

	Plaintiff Type			
	Individual	SME	Large Entity	All cases
Num. Case	34	20	1	55
Def. Type				
Individual	12 (35%)	5 (25%)	0 (0%)	17 (31%)
SME	12 (35%)	10 (50%)	1 (100%)	23 (42%)
Large Entity	10 (30%)	5 (25%)	0 (0%)	15 (27%)

SCT Copyright Cases

	Plaintiff Type			
	Individual	SME	Large Entity	All cases
Num. Case	34	20	1	55
Copyrighted work				
Photo	27 (79%)	13 (65%)	0 (0%)	40 (73%)
Audiovisual	1 (3%)	4 (20%)	1 (100%)	5 (7%)
Literary	3 (9%)	1 (5%)	0 (0%)	4 (7%)
Other	3 (30%)	2 (25%)	0 (0%)	6 (27%)

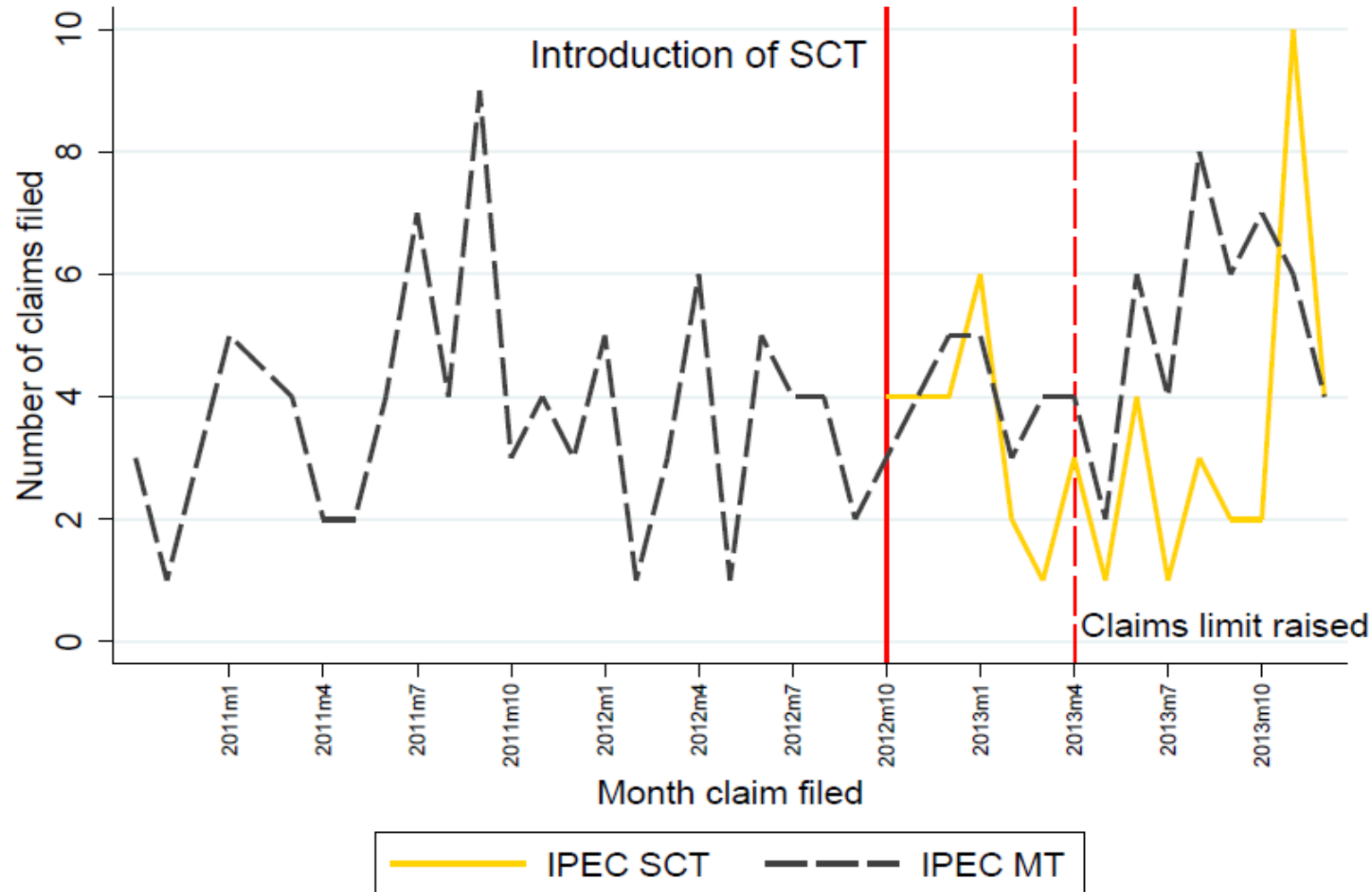
SCT Copyright Cases

	Plaintiff Type			
	Individual	SME	Large Entity	All cases
Num. Case	34	20	1	55
Outcome				
Settlement	19 (56%)	8 (40%)	0 (0%)	27 (49%)
Default Judgement	3 (9%)	3 (15%)	1 (100%)	7 (13%)
Merits Decision	7 (20%)	2 (10%)	0 (0%)	9 (16%)
Dismissal	3 (9%)	5 (25%)	0 (0%)	8 (14%)
Ongoing (March 2014)	2 (6%)	2 (10%)	0 (0%)	4 (7%)

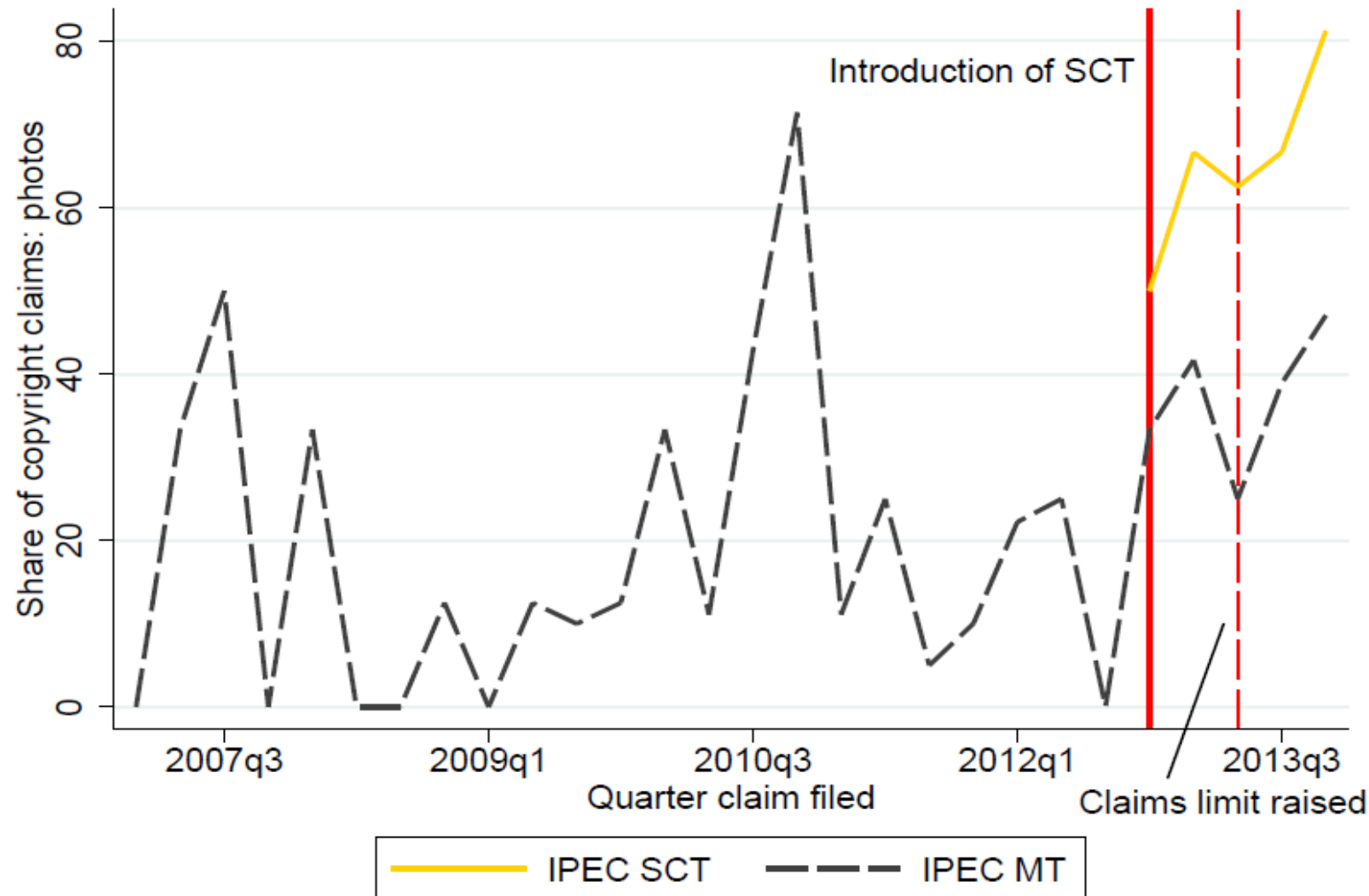
SCT Copyright Cases

	Plaintiff Type			
	Individual	SME	Large Entity	All cases
Num. Case	34	20	1	55
Damages requested				
Average	£2,635	£3,321	£1,596	£2,865
Settlements				
Average	£1,091	£1,064	-	£1,082

IPEC MT/SCT Monthly Copyright Case Filings



Percent of Copyright Cases Alleging Infringement of Rights to Photos



Summary

- Copyright most common type of claim at SCT
- Mostly individuals suing businesses for unauthorized use of photos
- Average damages requested less than £3,000 and reported settlements ~£1,000.
- Few default judgements
- Cases would not have been brought in absence of SCT (also supported by survey evidence from UK legal practitioners)

Lessons

- Multi-part schedule of fees (damages and complexity)
- Low damages cap
- No fee-shifting
- If disagreement, court decides allocation.