



STATUTORY INSTRUMENTS.

**S.I. No. 421 of 2010**



DISTRICT COURT (INTELLECTUAL PROPERTY) RULES 2010

**(Prn. A10/1299)**

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DISTRICT COURT (INTELLECTUAL PROPERTY) RULES 2010

The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961 and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice and Law Reform, make the following rules of court.

Dated this 19th day of April 2010.

Miriam Malone                      Chairperson

Mary C. Devins

Thomas E. O'Donnell

David Riordan

Shalom Binchy

Roy Pearson

Noel A. Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 1st day of September 2010.

DERMOT AHERN,

Minister for Justice and Law Reform.

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 7th September, 2010.*

S.I. No. 421 of 2010

DISTRICT COURT (INTELLECTUAL PROPERTY) RULES 2010

1. These rules may be cited as the District Court (Intellectual Property) Rules 2010.
2. These rules shall come into operation on the 29th day of September 2010 and shall be construed together with all other District Court Rules 1997 to 2010.
3. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended by the substitution for Order 31B of the Order set out in Schedule 1.
4. The Forms numbered 31B.10 to 31B.13 inclusive in Schedule 2 shall be added to the Forms in Schedule B of the District Court Rules 1997 (S.I. No. 93 of 1997).

SCHEDULE 1

“ORDER 31B

Seizure without warrant, delivery up, forfeiture, disposal and applications for return in intellectual property cases

1. In this Order:

“the Act of 1996” means the Trade Marks Act 1996 (No. 6 of 1996);

“the Act of 2000” means the Copyright and Related Rights Act 2000 (No. 28 of 2000);

“the Act of 2001” means the Industrial Designs Act 2001 (No. 39 of 2001).

2. An application for an order permitting seizure of infringing goods, material or articles without warrant under section 25(1) of the Act of 1996, may be made ex parte at any sitting of the Court for the district in which the said infringing goods, materials or articles are for the time being.

3. (1) An application by the owner of copyright in a work for an order permitting seizure without warrant under section 132(1) of the Act of 2000 may be made ex parte at any sitting of the Court for the district wherein it is believed that infringing copies of the work or articles specifically designed or adapted for making copies of work knowing or having reason to believe that it has been or is to be used for making infringing copies of a work, or protection-defeating devices are being hawked, carried about or marketed. Such application may be grounded upon the information on oath and in writing of the owner of the copyright in the work or his or its authorised representative and the Court may receive hearsay evidence to the effect that the witness or deponent believes that the material may be found in a particular location.

(2) An application to the Court by the owner of any copies, articles or devices seized under section 133 of the Act of 2000 for the return of those copies, articles or devices shall, unless the Court otherwise permits, be made not later than 30 days after the seizure. The application shall be preceded by the issue of a notice of application in the Form 31B.10, Schedule B (to which is attached a copy of the notice given under section 133(8) of the Act of 2000). A copy of that notice shall be served personally or by prepaid registered post on (a) the person claiming to be the owner of the copyright in the work concerned, as identified in the notice given in accordance with section 133(8) of the Act of 2000 and (b) the Superintendent or an Inspector of the Garda Síochána for the district in which the seizure was made.

(3) An application to the Court by the owner of any copies, articles or devices seized under section 133 of the Act of 2000 or other person aggrieved by such seizure for damages in accordance with section 133(12) of the Act of 2000 shall be preceded by the issue of a notice of application in the Form 31B.10, Schedule B (to which is attached a copy of the notice given under section 133(8) of the Act of 2000). A copy of that notice of application shall be served personally or

by prepaid registered post on the person claiming to be the owner of the copyright in the work concerned, as identified in the notice given in accordance with section 133(8) of the Act of 2000.

4. An application by the registered proprietor of a design for an order authorising seizure without warrant under section 62(1) of the Act of 2001 may be made ex parte at any sitting of the Court for the district wherein it is believed that infringing products or articles are being hawked, carried about or marketed. Such application may be grounded upon the information on oath and in writing of the owner of the registered design or his or its authorised representative and the Court may receive hearsay evidence to the effect that the witness or deponent believes that the material may be found in a particular location.

5. (1) An application by the owner of the rights in a recording of a performance conferred by Part III of the Act of 2000 for an order authorising seizure without warrant under section 256(1) of the Act of 2000 may be made ex parte at any sitting of the Court for the district wherein it is believed that illicit recordings of the performance, articles specifically designed or adapted for making recordings of a performance which the person hawking, carrying about or marketing those articles knows or has reason to believe have been or are to be used to make illicit recordings of a performance, or protection-defeating devices are being hawked, carried about or marketed. Such application may be grounded upon the information on oath and in writing of the owner of the rights in the recording of the performance conferred by Part III of the Act of 2000 or by his or its authorised representative. The Court hearing such application may receive hearsay evidence to the effect that the witness or deponent believes that the material may be found in a particular location.

(2) An application to the Court by the owner of any recordings, articles or devices seized under section 257 of the Act of 2000 for the return of those recordings, articles or devices shall, unless the Court otherwise permits, be made not later than 30 days after the seizure. The application shall be preceded by the issue of a notice of application in the Form 31B.11, Schedule B (to which is attached a copy of the notice given under section 257(8) of the Act of 2000). A copy of that notice shall be served personally or by prepaid registered post on (a) the person claiming to be the owner of the rights in the recording concerned, as identified in the notice given in accordance with section 257(8) of the Act of 2000 and (b) the Superintendent or an Inspector of the Garda Síochána for the district in which the seizure was made.

(3) An application to the Court by the owner of any recordings, articles or devices seized under section 257 of the Act of 2000 or other person aggrieved by such seizure for damages in accordance with section 257(12) of the Act of 2000 shall be preceded by the issue of a notice of application in the Form 31B.11, Schedule B (to which is attached a copy of the notice given under section 257(8) of the Act of 2000). A copy of that notice of application shall be served personally or by prepaid registered post on the person claiming to be the owner of the rights in the recording concerned, as identified in the notice given in accordance with section 257(8) of the Act of 2000.

6. (1) An Order made on an application authorising or permitting seizure without warrant under rule 2, 3(1), 4 or 5(1) shall be in the Form 31B.1, 31B.2, 31B.3, or 31B.4, Schedule B, as appropriate.

(2) An Order made on an application under rule 3(2), 3(3), 5(2) or 5(3) shall be in the Form 31B.12 or 31B.13, Schedule B, as appropriate.

7. (1) An order may be made for the delivery up of an infringing copy, article or device under section 142 or of an illicit recording, article or device under section 260 of the Act of 2000 or of an infringing product or article under section 69 of the Act of 2001 by the Court, of its own motion or on the application of the person bringing the prosecution, at any convenient time during such proceeding, provided that the Court is satisfied that there is a prima facie case to answer, or following the determination of such proceeding.

(2) An order for the delivery up of an infringing copy, article or device to the copyright owner or to such other person as the Court may direct under section 142 of the Act of 2000 shall be in the Form 31B.5, Schedule B.

(3) An order for the delivery up of an illicit recording, article or device to the rightsowner or to such other person as the Court may direct under section 260 of the Act of 2000 shall be in the Form 31B.6, Schedule B.

(4) An order for the delivery up of an infringing product or article to the registered proprietor or to such other person as the Court may direct under section 69 of the Act of 2001 shall be in the Form 31B.7, Schedule B.

(5) An order made by the Court under section 142 or section 260 of the Act of 2000 or under section 69 of the Act of 2001 shall be served personally or by prepaid registered post on the accused and on any person to whom it is ordered that any infringing copy, article, or protection-defeating device, or illicit recording, article or protection-defeating device or infringing product or article be delivered up. On the hearing by the Court of an application by the person bringing the prosecution for such an order, or where the Court makes such order of its own motion, the Court may additionally direct the person bringing the prosecution to make and serve notice of an application for forfeiture or disposal (as provided for in rule 8) under section 145 or section 264 of the Act of 2000 or, as the case may be, under section 72 of the Act of 2001 on notice to the known or reputed copyright owner or rightsowner or registered proprietor and to any other person directed by the Court to be served with such notice.

8. (1) An application in a criminal proceeding for the forfeiture or disposal of an infringing copy, article or device under section 145 of the Act of 2000 or of an illicit recording, article or device under section 264 of the Act of 2000 or of an infringing product or article under section 72 of the Act of 2001 shall be in the Form 31B.8, Schedule B and shall be served by the applicant personally or by prepaid registered post on (a) any person heard or represented on any previous application for the delivery up of the same infringing article, copy or device under section 142 or illicit recording, article or device under section 260 of the Act of 2000 or of the same infringing product or article under section 69

of the Act of 2001, (b) any other person appearing to have an interest in the recording, copy, article, device or product concerned and (c) any other person directed by the Court to be served.

(2) An order of the Court on such application shall be in the Form 31B.9, Schedule B.

9. (1) Notice of an application under this Order shall, if served personally, be served not less than seven days before the date of the sitting of the Court to which it is returnable and, if served by prepaid registered post, be served not less than fourteen days before the date of the sitting of the Court to which it is returnable.

(2) The original of any notice of application under this Order shall be lodged with the Clerk not less than four days before the date of the sitting of the Court to which it is returnable.”

SCHEDULE 2

31B.10

COPYRIGHT AND RELATED RIGHTS ACT 2000, \*Section 133(10)  
\*Section 133(12)

NOTICE OF APPLICATION FOR \*RETURN OF COPIES, ARTICLES  
OR DEVICES \*DAMAGES

District Court Area of

District No.

..... of ..... Applicant  
..... of ..... being the person claiming to be the  
owner of the copyright in the work concerned ..... Respondent.

WHEREAS certain copies, articles or devices were seized on the ..... day  
of ..... 20 ..... at ..... in court \*(area and) district aforesaid

The said copies, articles or devices are more particularly described in the notice  
given in accordance with section 133(8) of the Copyright and Related Rights  
Act 2000 (a copy of which is attached to this notice of application), to the owner,  
occupier or person in charge of the place where the seizure took place.

TAKE NOTICE that an application will be made to the sitting of the District  
Court to be held at ..... on the ..... day of ..... 20 .....  
at ..... am/pm by the above-named applicant, being

\*the owner of the said copies, articles or devices, under section 133(10) of the  
Copyright and Related Rights Act 2000, for the return of those copies, articles  
or devices on the grounds that .....

\*the owner of the said copies, articles or devices, \*a person aggrieved by said  
seizure, under section 133(12) of the Copyright and Related Rights Act 2000,  
for damages against the said respondent, being the person claiming to be the  
owner of the copyright in the work concerned, on the grounds that

- (a) no infringement of copyright has been established, and
- (b) the respondent being the person who exercised the right to seize and  
detain, conferred by section 133(1) of the said Act had no reasonable  
grounds for such seizure.

Dated this ..... day of ..... 20 .....

Signed .....

Applicant/Solicitor for the Applicant



To: Clerk of the District Court

at .....

And to: .....

of .....  
being the person claiming to be the owner of the copyright in the work  
concerned

[And to: Superintendent/Inspector of the Garda Síochána at ..... ]

\*Delete where inapplicable

COPYRIGHT AND RELATED RIGHTS ACT 2000, \*Section 257(10)  
\*Section 257(12)

NOTICE OF APPLICATION FOR \*RETURN OF RECORDINGS,  
ARTICLES OR DEVICES \*DAMAGES

District Court Area of

District No.

..... of ..... Applicant  
..... of ..... being  
the person claiming to be the owner of the rights in the recording concerned  
..... Respondent

WHEREAS certain recordings, articles or devices were seized on the ..... day  
of ..... 20 ..... at ..... in court \*(area and) district aforesaid

The said recordings, articles or devices are more particularly described in the  
notice given in accordance with section 257(8) of the Copyright and Related  
Rights Act 2000 (a copy of which is attached to this notice of application), to the  
owner, occupier or person in charge of the place where the seizure took place.

TAKE NOTICE that an application will be made to the sitting of the District  
Court to be held at ..... on the ..... day of .....  
20 ..... at ..... am/pm by the above-named applicant, being

\*the owner of the said recordings, articles or devices, under section 257(10) of  
the Copyright and Related Rights Act 2000, for the return of those recordings,  
articles or devices on the grounds that .....

\*the owner of the said recordings, articles or devices, \*a person aggrieved by  
said seizure, under section 257(12) of the Copyright and Related Rights Act  
2000, for damages against the said respondent, being the person claiming to be  
the owner of the copyright in the work concerned, on the grounds that

- (a) no infringement of a right conferred by Part III of the Copyright and  
Related Rights Act 2000 has been established, and
- (b) the respondent being the person who exercised the right to seize and  
detain, conferred by section 257(1) of the said Act had no reasonable  
grounds for such seizure.

Dated this ..... day of ..... 20 .....

Signed .....

Applicant/Solicitor for the Applicant

To: Clerk of the District Court

at .....

And to: .....

of .....  
being the person claiming to be the owner of the copyright in the work  
concerned

[And to: Superintendent/Inspector of the Garda Síochána at ..... ]

\*Delete where inapplicable

COPYRIGHT AND RELATED RIGHTS ACT 2000, \*Section 133(10)  
\*Section 133(12)

ORDER FOR \*RETURN OF COPIES, ARTICLES OR DEVICES  
\*DAMAGES

District Court Area of

District No.

..... of ..... Applicant  
..... of ..... Respondent

WHEREAS on application made this day by the above-named applicant to the sitting of the District Court at .....

I AM SATISFIED THAT certain copies, articles or devices more particularly described in the notice given in accordance with section 133(8) of the Copyright and Related Rights Act 2000 (a copy of which is attached to this order) were seized by the above-named respondent on the ..... day of ..... 20 ..... at ..... in court \*(area and) district aforesaid

BEING SATISFIED that notice of the said application was duly served

HAVING HEARD the evidence offered and submissions made on behalf of the said applicant \*and the said respondent

\*BEING SATISFIED that the said applicant is the owner of the said copies, articles or devices and that it is appropriate to make such order IT IS ORDERED under section 133(10) of the Copyright and Related Rights Act 2000 that said recordings, articles or devices be returned to the applicant

\*BEING SATISFIED that the said applicant is \*the owner of the said copies, articles or devices \*a person aggrieved by said seizure AND BEING SATISFIED that

- (a) no infringement of copyright has been established, and
- (b) the respondent being the person who exercised the right to seize and detain conferred by section 133(1) of the said Act had no reasonable grounds for such seizure

\*IT IS ORDERED under section 133(12) of the Copyright and Related Rights Act 2000 that the said respondent do pay the said applicant damages in the amount of €.....

Dated this ..... day of ..... 20 .....

Signed .....  
Judge of the District Court

\*Delete where inapplicable

31B.13

COPYRIGHT AND RELATED RIGHTS ACT 2000, \*Section 257(10)  
\*Section 257(12)

ORDER FOR \*RETURN OF RECORDINGS, ARTICLES OR DEVICES  
\*DAMAGES

District Court Area of

District No.

..... of ..... Applicant  
..... of ..... Respondent

WHEREAS on application made this day by the above-named applicant to the sitting of the District Court at .....

I AM SATISFIED THAT certain recordings, articles or devices more particularly described in the notice given in accordance with section 257(8) of the Copyright and Related Rights Act 2000 (a copy of which is attached to this order) were seized by the above-named respondent on the ..... day of ..... 20 ..... at ..... in court \*(area and) district aforesaid

BEING SATISFIED that notice of the said application was duly served

HAVING HEARD the evidence offered and submissions made on behalf of the said applicant \*and the said respondent

\*BEING SATISFIED that the said applicant is the owner of the said recordings, articles or devices and that it is appropriate to make such order IT IS ORDERED under section 257(10) of the Copyright and Related Rights Act 2000 that said recordings, articles or devices be returned to the applicant

\*BEING SATISFIED that the said applicant is \*the owner of the said recordings, articles or devices \*a person aggrieved by said seizure AND BEING SATISFIED that

- (a) no infringement of a right conferred by Part III of the Copyright and Related Rights Act 2000 has been established, and
- (b) the respondent being the person who exercised the right to seize and detain conferred by section 257(1) of the said Act had no reasonable grounds for such seizure.

\*IT IS ORDERED under section 257(12) of the Copyright and Related Rights Act 2000 that the said respondent do pay the said applicant damages in the amount of €.....

Dated this ..... day of ..... 20 .....

Signed .....

Judge of the District Court

\*Delete where inapplicable

EXPLANATORY NOTE

*(This does not form part of the instrument and does not purport to be a legal interpretation.)*

These Rules substitute Order 31B and add forms 31B.10 to 31B.13 in Schedule B to facilitate the operation of sections 133 and 257 of the Copyright and Related Rights Act 2000.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
nó trí aon díoltóir leabhar.

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