



Intellectual property and technology court in Ireland - not just for big tech

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The High Court has set up a new division of the Commercial Court which will be used to decide intellectual property and technology disputes.

Previously the Commercial Court had quite a limited jurisdiction to hear intellectual property (IP) disputes. Under Order 63A of the Rules of the Superior Courts, Jurisdiction was limited to proceedings taken under specific legislation, namely

- Patents Act 1992
- Trade Marks Act 1996
- Copyright and Related Rights Act 2000
- Industrial Designs Act 2001
- Passing off

Now, the Judge has discretion to decide whether the matter can be heard in the IP / Technology list.

That is because the Rules of the Superior Courts (Intellectual Property Proceedings) 2021 amend Order 63A to allow the Commercial Court to deal with a wide range of matters related to IP and technology. The matters do not have to be ones related to specific acts as was the case previously.

Ireland as an intellectual property hub

The timing of the setup of this list is significant. International tax rule changes in Ireland in 2015 led to significant restructuring of many of the large US multinationals in Ireland. When restructuring, many of these multinationals moved their intellectual property assets to Ireland.

The Administration of Civil Justice Review Group report recommended that the setting up this list will make Ireland an attractive forum seeking to resolve such disputes in "as timely and cost-effective manner as possible".

Businesses and organisations working with the IDA had identified that Ireland is an expensive jurisdiction in which to enforce IP rights. Companies should now have to wait less time for a matter to be heard, this will reduce legal costs. A detailed pre-trial procedure, which includes the holding of a case management conference after the close of pleadings, should reduce the timeframe of the case from beginning to end.

Benefits for smaller companies

Legislation has been enacted which will benefit more than just the big five tech giants with a presence in Ireland - Facebook, Amazon, Apple, Microsoft and Google (FAAMG).

New rules governing IP disputes in the Circuit Court came into effect on 1 October 2021 (S.I No. 499/2021 Circuit Court Rules (Intellectual Property) 2021). This Statutory Instrument requires parties to include detailed particulars of an IP Claim in the Civil Bill, this will reduce costs of a Circuit Court IP dispute as these details will not have to be retrieved in particulars.

The Copyright and Other Intellectual Property Law Provisions Act 2019 granted jurisdiction to the High Court and District Court to "hear and determine intellectual property claims". The District Court can now hear copyright actions with a value up to €15,000. The Circuit Court can hear actions where claims are in excess of €75,000.

Previously, IP and technology matters were often heard in the Commercial Court. Commercial Court actions are usually more expensive and an application for entry into the Commercial Court list requires a Court Fee of €5,000.

The ability of the District and Circuit Court to hear IP and technology disputes is certainly welcome, this will also free up the new High Court IP and technology list to hear higher value actions. We await statistics in relation to what type of claims are being brought in the District Court / Circuit Court / Commercial Court, but the new legislation is designed to offer a forum for all types of IP and technology disputes. This means the Courts are more accessible for all involved in such disputes, and not just "Big Tech".

For further information on this topic please feel free to contact Ultán Anderson or Elaine White.

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