

## **Executive Committee Paris February 27, 2009**

### **RECENT DEVELOPMENTS IN IRELAND**

*(Samantha Holman)*

#### **I. Legislation**

##### **SI No 20 of 2009**

Copyright & Related Rights (Proceedings before the Controller) Rules 2009  
The purpose of these Rules is to prescribe the procedures to be observed and the fees payable in relation to proceedings before the Controller of Patents, Designs & Trademarks under the Copyright & Related Rights Act 2000.

The Rules are available at <http://www.entemp.ie/science/jpr/si20of2009.pdf>

The fees as set out in schedule 1 are set at €500 for a reference or application by petitioner and €380 for counter statement by respondent.

##### **SI No 597 of 2008**

Public Lending Right in Ireland was established by the Copyright & Related Rights (Amendment) Act 2007. The Act enables the Minister for the Environment, Heritage & Local Government to establish a Public Lending Remuneration scheme. The regulations establishing this scheme were signed on 31<sup>st</sup> December 2008. <http://www.attorneygeneral.ie/esj/2008/B26672.pdf>

The Scheme will be similar to the UK scheme in that a payment will be made to registered authors, resident in the EEA, in respect of books registered with the PLR and loaned by public library authorities. The scheme will be run by An Chomhairle Leabharlanna (The Library Council). The scheme applies to authors, illustrators, photographers, editors and translators (provided they are named on the title page of a book). It does not apply to publishers or to audio books or sound recordings.

Only living authors may register for the scheme.

#### **II. Jurisprudence**

##### **January 2009**

Eircom, Ireland's largest Internet Service Provider, settled a High Court Action taken by the four major music labels (EMI Records, Sony Music, Universal Music and Warner Music) forcing it to take measures to prevent the use of its networks for the illegal free downloading of music. The case had been at trial for eight days and both sides expressed satisfaction at the outcome.

Under the agreement, Eircom subscribers found using peer-to-peer networks to download music would receive two warnings before a third and final communication which would lead to their account being terminated. The subscriber can refute the allegation at each stage and there will be an element of discretion in relation to company connections where an employee is using peer-to-peer networks.

There is an onus on IRMA (Irish Recorded Music Association) to “take all necessary steps to put similar agreements in place with all other ISPs in Ireland”. Letters were sent by the solicitors acting for IRMA on 16<sup>th</sup> February to a number of telecoms and internet service providers which seek the implementation of a “graduated response” to infringement by the service providers’ customers.

There is concern amongst ISPs in particular to being asked to disconnect customers without “a competent court finding that they have done something wrong” and at a reference to Eircom agreeing to block access to “the Pirate Bay websites or similar websites”.

ISPs were given seven days from the 16<sup>th</sup> February to respond.