

Dispute Resolution

What's in a name? The Irish Times v Times Newspapers

Date: 1 July 2015

The Irish Times v Times Newspapers Limited

In launching an online business, be mindful that you are not infringing on someone else's copyright. A recent case involving the Irish Times illustrates this point.

This case, Irish Times Ltd v. Times Newspapers Ltd [2015/3941P], provides a valuable reminder of the remedies available to companies who are concerned with the imminent use by others of property which infringes their copyright and trademarks.

The Copyright Issue:

The Irish Times Ltd issued proceedings in May 2015 in respect of plans by the Times Newspapers Limited, trading as the Times of London to establish an online newspaper called "The Times Ireland".

The Irish Times Ltd stated that the alleged name of the new website and associated social media accounts of the Defendant infringed upon their copyright and breached various trademarks held by The Irish Times Ltd. Counsel also advised the Court that the use of the title proposed by the Defendant for its new website had the potential for confusion and could cause enormous problems for the Plaintiff.

The Legislation:

Such a trademark or copyright, as claimed by The Irish Times Ltd in this case, would be protected by Section 37 of the Copyright and Related Rights Act 2000. This section protects the exclusive right of the copyright holder to undertake or authorise others to undertake certain work, such as

- The right to copy the work,
- The right to make the work available to the public, or
- The right to adapt the work.

The Trademark Act 1996 also protects any registered trademark held by an individual or company. A trademark is defined as any sign capable of being represented graphically and capable of distinguishing the good or services of one undertaking from those of other undertakings. A trademark can consist of anything from words to designs and shapes.

The owner of a registered trademark has exclusive rights in the trademark, and infringement can occur in a number of circumstances. Infringement occurs where the trademark has a reputation in the State and the unlawful use of the sign, being without due cause, takes unfair advantage of this reputation. Infringement also occurs if the use of the sign is detrimental to the distinctive character or the reputation of the trademark, under s. 14 (3) of the 1996 Act.

The Case:

In this case, the Plaintiff sought injunctive relief prohibiting the use by the Defendant of the title “The Times Ireland” or any name similar to the Irish Times in respect of both newspapers and online content. Related proceedings were entered into the Commercial list on 8 June 2015.

Times Newspapers Limited indicated that there was no basis for the injunction application and that the Plaintiff was aware since February that the Defendant intended to launch “The Times Ireland”.

A resolution was found when Times Newspapers Limited recently agreed to provide The Irish Times Limited with appropriate undertakings not to use the titles complained of without any admission of liability on the part of the Defendant.

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