

**IN THE SUPREME COURT OF THE REPUBLIC OF SINGAPORE**

**PRACTICE DIRECTION NO. 11 OF 2005**

**APPLICATIONS FOR DISCOVERY OR INTERROGATORIES AGAINST  
NETWORK SERVICE PROVIDERS IN RELATION TO SPECIFIC  
INTELLECTUAL PROPERTY ISSUES**

Pursuant to Singapore's obligations under Article 16.9.22(b)(xi) of the United States-Singapore Free Trade Agreement, applications made under Order 24, rule 6(1) or Order 26A, rule 1(1) of the Rules of Court against network service providers for information relating to the identity of a user who is alleged to have:

- (a) infringed copyright in relation to an electronic copy of material on, or accessible through, the network service provider's primary network; or
- (b) made unauthorised use of a performance in relation to an electronic recording of material on, or accessible through, the network service provider's primary network

will, if made in the proper form, be fixed for hearing within 5 days from the date of filing of the application.

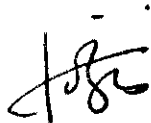
2 This practice direction puts into effect the above procedure by introducing a new paragraph 23A and by making the necessary updates to Appendix C.

3 This practice direction also makes miscellaneous amendments to Form 21 of Appendix B.

4 This practice direction will take effect from 15 August 2005.

5 This practice direction should be included in *The Supreme Court Practice Directions (1997 Ed.)* immediately before the first page of the table of contents. Instructions for effecting the amendments to *The Supreme Court Practice Directions (1997 Ed.)* are contained in the Appendix hereto.

Dated this 12th day of August 2005



KOH JUAT JONG  
REGISTRAR  
SUPREME COURT

## **APPENDIX**

- 1) The existing page ii to be replaced with the attached page ii.
- 2) The existing page 15A to be replaced with the attached page 15A.
- 3) The existing pages 20 to 21 to be replaced with the attached pages 20 to 21A.
- 4) The existing pages 155 to 156 to be replaced with the attached pages 155 to 156.
- 5) The existing pages 161 to 163 to be replaced with the attached pages 161 to 163.

• Amendments made on original writ/originating summons (where amendments are not numerous or lengthy).....	11
• Amendments made on a fresh document (where amendments are numerous or lengthy).....	11
12. Endorsements on originating processes and other documents.....	11
13. Additional endorsements on cause papers .....	12
14. Draft orders .....	13
15. Unnecessary extraction of orders of the Court .....	14
16. Interest rates in default judgments .....	14
• Non-contractual interest.....	14
• Contractual interest .....	14
=> Fixed/Constant Rate .....	14
=> Fluctuating rate.....	14
=> Evidence of agreement on contractual interest.....	15

**PART III : INTERLOCUTORY AND OTHER APPLICATIONS ..... 15A**

17. Distribution of applications.....	16
18. Summonses for directions.....	16
19. Summonses-in-chambers .....	17
20. Motions .....	17
21. Procedure .....	18
22. Applications for adjournment of matters fixed before the Judge on Summonses Days .....	18
22A. Ex parte applications for injunctions .....	18A
23. <i>Mareva</i> injunctions and <i>Anton Piller</i> orders.....	19
• Applications for <i>Anton Piller</i> orders.....	19
23A. Applications for discovery or interrogatories against network service providers .....	20A

**PART IV: FORM OF AFFIDAVITS AND EXHIBITS..... 21**

24. Affidavits .....	21A
• Form of affidavits generally.....	21A
• Markings on affidavits .....	21A
• Binding of affidavits .....	22
• Pagination of affidavits .....	22
25. Exhibits to affidavits .....	22
• Exhibits in general .....	22
• Pagination .....	23
• Numbering .....	24
• References to exhibits in other affidavits.....	24
• Non-documentary exhibits.....	24
• Related documents .....	25
26. Effect of non-compliance.....	25
27. Order 41, Rules of Court.....	25
28. Application.....	25

## TABLE OF CONTENTS

<b>PART III : INTERLOCUTORY AND OTHER APPLICATIONS .....</b>	<b>15A</b>
17. Distribution of applications.....	16
18. Summonses for directions.....	16
19. Summonses-in-chambers .....	17
20. Motions .....	17
21. Procedure .....	18
22. Applications for adjournment of matters fixed before the Judge on Summonses Days .....	18
22A. Ex parte applications for injunctions .....	18A
23. <i>Mareva</i> injunctions and <i>Anton Piller</i> orders .....	19
• Applications for <i>Anton Piller</i> orders.....	19
23A. Applications for discovery or interrogatories against network service providers .....	20A

at 276; [1992] FSR 361 at 387, 388 that the order be served by a supervising solicitor and carried out in his presence and under his supervision. The supervising solicitor should be an experienced solicitor who is not a member or employee of the firm acting for the applicant and who has some familiarity with the operation of *Anton Piller* orders. The evidence in support of the application should include the identity and experience of the proposed supervising solicitor. These guidelines are equally applicable in the local context and the Judge in his discretion may, in appropriate cases, require a supervising solicitor.

- (b) Where the premises are likely to be occupied by an unaccompanied woman, at least 1 of the persons attending on the service of the order should be a woman.
- (c) Where the nature of the items removed under the order makes this appropriate, the applicant will be required to insure them.

*(The next page is page 20A.)*

**23A. Applications for discovery or interrogatories against network service providers**

- (1) This paragraph applies to applications made under Order 24, Rule 6(1) or Order 26A, Rule 1(1) of the Rules of Court:
  - (a) by or on behalf of an owner or exclusive licensee of copyright material against a network service provider for information relating to the identity of a user of the network service provider's primary network who is alleged to have infringed the copyright in the material in relation to an electronic copy of the material on, or accessible through, the network service provider's primary network; or
  - (b) by or on behalf of the performer of a performance against a network service provider for information relating to the identity of a user of the network service provider's primary network who is alleged to have made an unauthorised use of the performance in relation to an electronic recording of the material on, or accessible through, the network service provider's primary network.
- (2) An application referred to in sub-paragraph (1) shall:
  - (a) be made in Form 7 of Appendix A to the Rules of Court; and
  - (b) when made in accordance with sub-paragraph (a), be fixed for hearing within 5 days from the date of filing of the application.
- (3) For the avoidance of doubt, the provisions of Order 3 of the Rules of Court shall apply to the calculation of time under this paragraph.
- (4) The onus shall lie on the applicant to highlight the nature of the application to the Registry and to request that the application be fixed for hearing within 5 days.
- (5) In sub-paragraph (1)(a), the words "electronic copy", "material", "network service provider" and "primary network" have the same meanings as in section 193A(1) of the Copyright Act (Cap. 63).

- (6) In sub-paragraph (1)(b), the words "electronic recording", "network service provider", "performance" and "primary network" have the same meanings as in section 246(1) of the Copyright Act.



## TABLE OF CONTENTS

<b>PART IV: FORM OF AFFIDAVITS AND EXHIBITS.....</b>	<b>21</b>
24. Affidavits .....	21A
• Form of affidavits generally.....	21A
• Markings on affidavits .....	21A
• Binding of affidavits .....	22
• Pagination of affidavits .....	22
25. Exhibits to affidavits.....	22
• Exhibits in general .....	22
• Pagination .....	23
• Numbering .....	24
• References to exhibits in other affidavits.....	24
• Non-documentary exhibits.....	24
• Related documents .....	25
26. Effect of non-compliance.....	25
27. Order 41, Rules of Court.....	25
28. Application.....	25

## PART IV

### FORM OF AFFIDAVITS AND EXHIBITS

#### 24. Affidavits

##### (1) Form of affidavits generally

- (a) Affidavits shall be on A4-ISO paper of durable quality with a blank margin not less than 35 mm wide on all 4 sides of the page.
- (b) Paper used shall be white except in bankruptcy proceedings, where the paper shall be light blue.
- (c) Affidavits shall be produced by printing, lithography or typewriting, and in any case not by carbon copying. A document produced by a photographic or similar process giving a positive and permanent representation free from blemishes will be treated, to the extent that it contains a facsimile of matter produced by 1 of the above processes, as if it were so produced. Photographic copies which are not clearly legible will be rejected.
- (d) Affidavits shall be printed or typed, double-spaced, on 1 side of the paper only.

##### (2) Markings on affidavits

At the top right hand corner of the first page of every affidavit, and also on the backing sheet, there shall be typed, printed or written clearly and in a single line:

- (a) the party on whose behalf it is filed;
- (b) the name of the deponent;
- (c) the number of affidavits in relation to deponent; and
- (d) the date filed.

For example, “2<sup>nd</sup> Deft: Tan Ah Kow: 4<sup>th</sup> : 23.08.96”.

1. We hereby apply for a record of the court proceedings as follows:

Format	Number of copies †	Scope	Delivery timeline
Transcript in paper format		(1) the full trial <input type="checkbox"/> (2) part thereof * <input type="checkbox"/> _____ _____ _____	(1) 24-hour delivery (excluding Sat/Sun/public holidays) <input type="checkbox"/> (2) 3-day delivery <input type="checkbox"/> (3) 5-day delivery <input type="checkbox"/> (4) 14-day delivery <input type="checkbox"/>
Transcript in soft copy on CD-ROM		(1) the full trial <input type="checkbox"/> (2) part thereof * <input type="checkbox"/> _____ _____ _____	(1) 24-hour delivery (excluding Sat/Sun/public holidays) <input type="checkbox"/> (2) 3-day delivery <input type="checkbox"/> (3) 5-day delivery <input type="checkbox"/> (4) 14-day delivery <input type="checkbox"/>
Audio recording on cassette tape		(1) the full trial <input type="checkbox"/> (2) part thereof * <input type="checkbox"/> _____ _____ _____	_____ _____ _____
Audio recording on CD-ROM		(1) the full trial <input type="checkbox"/> (2) part thereof * <input type="checkbox"/> _____ _____ _____	_____ _____ _____
Audio recording on DVD		(1) the full trial <input type="checkbox"/> (2) part thereof * <input type="checkbox"/> _____ _____ _____	_____ _____ _____

[† Insert the number of copies required. For transcripts in paper format, the minimum order is 3 copies (1 copy for the judge and 2 copies for the parties). For details of fees payable, please refer to [http://www.wordwave.com.sg/Supreme\\_Court\\_Fee\\_Schedule.](http://www.wordwave.com.sg/Supreme_Court_Fee_Schedule.)]

[\* Specify dates of proceedings or names of witnesses.]

2. We undertake:-

- (1) to pay directly to the service provider the requisite fees for the services and audio recordings and/or transcripts requested; and
- (2) if transcripts are requested, to supply to the service provider:
  - (a) at least 2 clear working days before the commencement of the hearing or immediately upon submission of a request by any party after the hearing has concluded, one (1) copy each of such of the following documents as have already been filed in Court:
    - (i) authorities or bundles of authorities;
    - (ii) documentary exhibits or bundles of documents;
    - (iii) written submissions; and
    - (iv) lists of the names of witnesses;
  - (b) a copy of any document, authority or submission tendered during the hearing by that party immediately after such document, authority or submission is tendered if such document, authority or submission has not previously been supplied to the service provider; and
- (3) not to reproduce or transmit in any form or by any means any material contained in the transcript or on any audio record supplied to us.

## APPENDIX C

Para. 29(1)

### WAITING PERIODS

S/N	TYPE OF PROCEEDINGS	Targets
<b>Pre-trial conferences</b>		
1.	Pre-Trial Conferences in Suits:	
	(a) Where the writ has not been served.	10 weeks from the date of commencement of writ
	(b) Where the writ has been served.	7 weeks from the date of service of writ / memo of appearance
<b>High Court – Original Civil Jurisdiction</b>		
2.	Trials in Suits	8 weeks from the date of setting down
3.	Bankruptcy Petitions	6 weeks from the date of filing
4.	Bankruptcy Originating Summonses	2 weeks from the date of filing
5.	Probate	3 weeks from the date of filing
6.	Companies Winding-Up Petitions	4 weeks from the date of filing
7.	Originating Summons	<b>Before Registrar / Judge</b>
	(a) Ex-parte or where appearance not required (other than in the situation referred to in paragraph (c) ) or for possession under Order 81	3 weeks from the date of filing of Originating Summons
	(b) Where appearance required	4 weeks from the date of filing of Notice of Appointment to hear Originating Summons
	(c) Application for discovery or interrogatories against a network service provider under paragraph 23A of these Practice Directions	5 days from the date of filing of Originating Summons
8.	Motions, Originating Motions	3 weeks from the date of filing the Motions
	Originating Motion for O 69, r 6 on Arbitration	13 weeks from date of filing (statutory min period of 3 months)
	Originating Petitions	4 weeks from the date of filing the Originating Petition

- |     |  |  |
|-----|--|--|
| 9.  | Summons in Chambers before Judge and Registrar other than applications for summary judgment pursuant to Order 14 | 3 weeks from the date of filing  |
| 10. | Applications for Summary Judgment pursuant to Order 14   | 5 weeks from date of filing (statutory minimum period)                             |
| 11. | Summons for Directions   | 3 weeks from the date of filing  |
| 12. | Bankruptcy Applications (SICs)   |  |
|     | - Application for Discharge  | 3 weeks from the date of filing  |
|     | - Other applications   | 2 weeks from the date of filing  |
| 13. | Taxation : - General bills   | 3 weeks from the date of filing  |
| 14. | Review of Taxation before Judges   | 3 weeks from the date of filing  |
| 15. | Assessment of Damages  | 3 weeks from the date of filing [Includes time taken to subpoena witness to court] |
| 16. | Examination of Judgment Debtors  | 3 weeks from date of filing of praecipe for hearing date                           |

#### **High Court – Appellate Civil Jurisdiction**

- |     |  |  |
|-----|--|--|
| 17. | Registrar’s Appeals (from High Court)  | 3 weeks from the date of filing  |
| 18. | Appeals in civil matters from Subordinate Courts (District Court Appeals and Small Claims Tribunals Appeals) | 4 weeks from the of receipt of the record of proceedings from Subordinate Courts |

#### **High Court – Criminal Jurisdiction**

- |     |   |   |
|-----|---|---|
| 19. | Trials of Criminal Cases  | 4 weeks from date of preliminary inquiry or 24 weeks from date accused is first charged in Subordinate Courts |
| 20. | Appeals in criminal matters from Subordinate Courts (Magistrate’s Appeals and Criminal Revisions) | 8 weeks from the date of receipt of the record of proceedings   |

**Court of Appeal**

- |     |                  |   |
|-----|------------------|---|
| 21. | Civil Appeals    | Ready to be heard in 14 weeks from date of Notification to collect Records of Proceedings |
| 22. | Criminal Appeals | 6 weeks from the date of service of the record of proceedings                             |

*(The next page is page 165.)*