IPR	Damages for innocent infringement	Acc of profits for innocent infringement	Flagrancy damages
Copyright	No. CDPA s. 97((1)	Yes. CDPA s. 97(1)	Yes. CDPA 97(2)
	Provisions as to damages in infringement action	Provisions as to damages in infringement action	The court may in an action for infringement of copyright having regard to all the
	(1) Where in an action for infringement of copyright it is shown that	(1) Where in an action for infringement of copyright it is shown that at the	circumstances, and in particular to—
	at the time of the infringement the defendant did not know, and had	time of the infringement the <u>defendant did not know, and had no reason</u>	(a) the flagrancy of the infringement, and
	no reason to believe, that copyright subsisted in the work to which	to believe, that copyright subsisted in the work to which the action relates,	(b) any benefit accruing to the defendant by reason of the infringement, award such
	the action relates, the plaintiff is not entitled to damages against him, but without prejudice to any other remedy.	the plaintiff is not entitled to damages against him, but without prejudice to any other remedy.	additional damages as the justice of the case may require.
Trade marks	Yes.	Yes, but see Kerly.	No.
Trade marks	165.	les, but see Kerry.	NO.
Patents	No. Patents Act s.62	No. Patents Act s.62	No.
	Restrictions on recovery of damages for infringement	Restrictions on recovery of damages for infringement	
	(1) In proceedings for infringement of a patent damages shall not	(1) In proceedings for infringement of a patent damages shall not be	
	be awarded, and no order shall be made for an account of profits,	awarded, and no order shall be made for an account of profits, against a	
	against a defendant or defender who proves that at the date of the	defendant or defender who proves that at the date of the infringement he	
	infringement he was not aware, and had no reasonable grounds for	was not aware, and had no reasonable grounds for supposing, that the	
	supposing, that the patent existed; and a person shall not be taken to have been so aware or to have had reasonable grounds for so	<u>patent existed</u> ; and a person shall not be taken to have been so aware or to have had reasonable grounds for so supposing by reason only of the	
	supposing by reason only of the application to a product of the	application to a product of the word "patent" or "patented", or any word or	
	word "patent" or "patented", or any word or words expressing or	words expressing or implying that a patent has been obtained for the	
	implying that a patent has been obtained for the product, unless	product, unless the number of the patent accompanied the word or words in	
	the number of the patent accompanied the word or words in	question.	
	question.	·	
Unregistered	No. CDPA s.233	Yes. No. CDPA s.233	Yes. CDPA s.229
Designs	Innocent infringement	Innocent infringement	Rights and remedies of design right owner
	(1) Where in an action for infringement of design right brought by	(1) Where in an action for infringement of design right brought by virtue of	(3) The court may in an action for infringement of design right, having regard to all the
	virtue of section 226 (primary infringement) it is shown that at the time of the infringement the defendant did not know, and had no	section 226 (primary infringement) it is shown that at the time of the infringement the defendant did not know, and had no reason to believe, that	circumstances and in particular to—  (a) the <u>flagrancy of the infringement</u> , and
	reason to believe, that design right subsisted in the design to which	design right subsisted in the design to which the action relates, the plaintiff	(b) any benefit accruing to the defendant by reason of the infringement, <u>award such</u>
	the action relates, the plaintiff is not entitled to damages against	is not entitled to damages against him, but without prejudice to any other	additional damages as the justice of the case may require.
	him, but without prejudice to any other remedy.	remedy.	(4) This section has effect subject to section 233 (innocent infringement).
Registered	No. s.24B RDA	There is no express reservation of other remedies.	No.
Designs	Exemption of innocent infringer from liability		
	(1) In proceedings for the infringement of the right in a registered	s.24B Exemption of innocent infringer from liability	
	design damages shall not be awarded against a defendant who	(1) In proceedings for the infringement of the right in a registered design	
	proves that at the date of the infringement he was not aware, and had no reasonable ground for supposing, that the design was	damages shall not be awarded against a defendant who proves that at the date of the infringement he was not aware, and had no reasonable	
	registered.	ground for supposing, that the design was registered.	
	(2) For the purposes of subsection (1), a person shall not be	ground for ouppoints, that the dodigh was registered.	
	deemed to have been aware or to have had reasonable grounds		
	for supposing that the design was registered by reason only of the		
	marking of a product with—		
	(a) the word "registered" or any abbreviation thereof, or		
	b) any word or words expressing or implying that the design		
	applied to, or incorporated in, the product has been registered,		
	unless the number of the design accompanied the word or words or the abbreviation in question.		
	(2A) The reference in subsection (2) to a relevant internet link is a		
	reference to an address of a posting on the internet—		
	(a) which is accessible to the public free of charge, and		
	b) which clearly associates the product with the number of the		
	design.		
Dout	No CDDA o 404 I	Voc CDDA o 404 I	Vec CRDA c 404 I
Performer's	No. CDPA s.191J	Yes. CDPA s.191J	Yes. CPDA s.191J (2) The court may in an action for infringement of a performer's property rights having
rights	Provisions as to damages in infringement action (1) Where in an action for infringement of a performer's property	Provisions as to damages in infringement action (1) Where in an action for infringement of a performer's property rights it	regard to all the circumstances, and in particular to—
	rights it is shown that at the time of the infringement the defendant	is shown that at the time of the infringement the defendant did not know,	(a) the flagrancy of the infringement, and
	did not know, and had no reason to believe, that the rights	and had no reason to believe, that the rights subsisted in the recording to	(b) any benefit accruing to the defendant by reason of the infringement, <u>award such</u>
	subsisted in the recording to which the action relates, the plaintiff is	which the action relates, the plaintiff is not entitled to damages against	additional damages as the justice of the case may require.
	not entitled to damages against him, but without prejudice to any	him, but without prejudice to any other remedy.	
	other remedy.		