**Uganda Performing Rights Society Ltd v Mukubira**

**Division:** High Court of Uganda at Kampala

**Date of ruling:** 17 February 2004

**Case Number:** 818/03

**Before:** Karyabwire AJ

**Sourced by:** M Adriko and P Karugaba

**Summarised by:** C Kanjama

*[1] Civil procedure – Injunction – Anton Piller order – Whether temporary injunction will be granted* ex

parte *– Conditions for grant of Anton Piller order – Order XXXVII, rule 3 – Civil Procedure Rules –*

*Section 38(1) – Judicature Act (Chapter 13).*

*[2] Intellectual property – Copyright – Prohibitory order – Anton Piller order – Circumstances under which* ex parte *order will be made allowing search and seizure of infringing articles – Section 13 –*

*Copyright Act (Chapter 71)*

**Editor’s Summary**

The Applicant was the sole assignee of certain musical works. It was apprehensive that the Respondent was infringing on its copyright, and applied to court for an Anton Piller order permitting the search and seizure of infringing materials on the Respondent’s premises, and for a temporary injunction restraining the continued infringement of the Applicant’s copyright.

**Held** – A temporary (as opposed to prohibitory) injunction could not be granted *ex parte* on the basis of the Judicature Act without invoking the court’s jurisdiction under the Copyright Act.

An Anton Piller order may however be granted *ex parte* if the applicant satisfies the following conditions: (1) there must be an extremely strong *prima facie* case, (2) the actual or potential damage must be very serious for the applicant, (3) there must be clear evidence that the respondents have in their possession incriminating evidence and (4) there must be a real possibility that they may destroy such material before any application *inter partes* has been made.

The Applicant had satisfied the Court of these conditions and an Anton Piller order would be granted.

However, the Applicant’s counsel must attend at the time of service of the order as an officer of the Court. The Anton Piller order would also not permit forceful entry.

Anton Piller order granted.

**Cases referred to in ruling**

***East Africa***

*Giella v Cassman Brown* [1973] EA 358

*Microsoft Corporation v Mitsumi Computer Garage Ltd* [2001] 1 EA 127

***United Kingdom***

*Anton Piller KG v Manufacturing Processes Ltd and others* [1976] 1 Ch 55