

**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

FINLAND

The present document reproduces the text¹ of Act No. 344/2000 to Safeguard the Evidence in Civil Actions Concerning Intellectual Property Rights (enacted on 7 April 2000 and entered into force on 1 May 2000), notified by Finland under Article 63.2 of the Agreement in a communication from its Delegation dated 20 November 2000. The Act changes the Finnish legislation concerning the application of Article 50 of the Agreement on TRIPS and clarifies the existing state of affairs in Finland.

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

FINLANDE

Le présent document contient le texte¹ de la Loi n° 344/2000 sur la sauvegarde des preuves dans les actions civiles concernant les droits de propriété intellectuelle (adoptée le 7 avril 2000 et entrée en vigueur le 1^{er} mai 2000), notifiée par la Finlande au titre de l'article 63:2 de l'Accord dans une communication de sa délégation datée du 20 novembre 2000. Cette loi modifie la législation finlandaise concernant l'application de l'article 50 de l'Accord sur les ADPIC et clarifie la situation actuelle en Finlande.

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

FINLANDIA

En el presente documento se reproduce el texto¹ de la Ley N° 344/2000 de salvaguardia de las pruebas en los procesos civiles relativos a los derechos de propiedad intelectual (promulgada el 7 de abril de 2000 y que entró en vigor el 1° de mayo de 2000), notificada por Finlandia en virtud del párrafo 2 del artículo 63 del Acuerdo en una comunicación de su Delegación de fecha 20 de noviembre de 2000. La Ley modifica la legislación finlandesa concerniente a la aplicación del artículo 50 del Acuerdo sobre los ADPIC y aclara la situación actual en Finlandia en la materia.

¹ In English only./En anglais seulement./En inglés solamente.

An unofficial translation. Valid only in Finnish or Swedish.

No. 344/2000

Act

**to Safeguard the Evidence in Civil Actions Concerning
Intellectual Property Rights**

The following is enacted according to a decision of Parliament:

Section 1 Scope of application

This Act provides for the safeguarding of evidence in civil actions based on the infringement of the intellectual property rights under the following Acts:

- 1) the Copyright Act (No. 404 of 1961);
- 2) the Patent Act (No. 550 of 1967);
- 3) the Utility Models Act (No. 800 of 1991);
- 4) the Act on Exclusive Rights to an Integrated Circuit Layout-Design (No. 32 of 1991);
- 5) the Trade Mark Act (No. 7 of 1964);
- 6) the Model Rights Act (No. 221 of 1971);
- 7) the Trade Name Act (No. 128 of 1979); or
- 8) the Plant Breeder Rights Act (No. 789 of 1992).

This Act shall also apply to the safeguarding of evidence in civil actions concerning:

- 1) compensation for damage based on an infringement of confidentiality prescribed in subparagraphs 20 and 21 of paragraph 1 of section 24 of the Act on the Transparency of Public Officials' Activities (No. 621 of 1999) with regard to matters covered by the Pharmaceuticals Act (No. 395 of 1987) or the Chemicals Act (No. 744 of 1989);
- 2) compensation for damage based on unauthorised use or disclosure of a trade secret, technical prototype or technical instruction referred to in section 4 of the Act on Improper Practices in Business (No. 1061 of 1978) or an injunction under section 6 of the Act on the said grounds.

Section 2 Content of a precautionary measure

In order to safeguard the evidence, a competent court may order the seizure of materials which may be presumed to have significance as evidence in a civil action referred to in section 1. In addition to, or instead of seizure, the court may order other measures, though not more severe measures than seizure, which are necessary for acquiring or preserving the evidence.

When deciding to order a precautionary measure the court shall seek to ensure that the inconvenience caused to the adversary is not excessive in view of the interest to be safeguarded.

Section 3 Requirements for a decision on a precautionary measure

A precautionary measure may be ordered if:

1) the petitioner can establish a probability that he possesses the right referred to in section 1, which may be confirmed by a decision under paragraph 1 of section 1 of chapter 3 of the Execution Act (No. 37 of 1895), and that his right is being infringed or that an infringement is imminent; and

2) there is risk that the adversary or the party in possession of evidence, will conceal, destroy or relinquish the evidence or will otherwise act in a manner which will jeopardise the preservation of the evidence.

Section 4 Interim decision on a precautionary measure

If the intent of a precautionary measure might otherwise be jeopardised, the court may, at the petitioner's request, issue an interim decision on a precautionary measure without affording the adversary an opportunity to be heard. The order shall remain valid until otherwise ordered by a court.

Section 5 Enforcement of a decision on a precautionary measure

An execution officer shall be entitled, where necessary, to receive official assistance from the police for the purpose of enforcing a decision on a precautionary measure. If necessary the execution officer may use the assistance of an unbiased expert in the enforcement of a decision on a precautionary measure. The disqualification of an expert shall be governed by the provisions of section 47 of chapter 17 of the Code of Judicial Procedure concerning the disqualification of an expert. The petitioner or the representative of the petitioner may, however, act as an expert if there is no likelihood that this will not lead to the disclosure of a trade secret not pertaining to the matter.

Before inviting an expert, the execution officer shall reserve the petitioner an opportunity to be heard. The adversary shall also be reserved an opportunity to be heard unless the matter concerns the enforcement of an interim decision on a precautionary measure.

An execution officer shall have the right to take photographs, copies and samples, to make audio and video recordings and to take other measures necessary to enforce a decision on a precautionary measure. Enforcement shall be executed in a manner causing the least possible inconvenience to the adversary or to the party in possession of the property.

Enforcement of the precautionary measures under this Act shall also comply as applicable with the provisions of chapter 7 of the Execution Act concerning the enforcement of a security measure ordered under chapter 7 of the Code of Judicial Procedure.

Section 6 Obligation of secrecy

An expert referred to in this Act and a petitioner who has acquired confidential information in his capacity as a litigant shall be governed by the obligation of secrecy and prohibition on exploitation enacted in the Act on the Transparency of Public Officials' Activities.

Section 7 Supplementary provisions

Otherwise, the provisions regarding precautionary measures in chapter 7 of the Code of Judicial Procedure shall apply to the precautionary measures referred to in this Act.

Section 8 Entry into Force

This Act shall enter into force on May 1, 2000.

Done at Helsinki on April 7, 2000

TARJA HALONEN

President of the Republic

Suvi Lindén, Minister of Culture
