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LES Britain and Ireland present:



"Innovations in the Licensing World"

Pan-European Conference

SAS Radisson Hotel, Glasgow 21-23 June 2006

Mixing work and pleasure has never been easier for licensing professionals and Intellectual Property service providers! LES Britain and Ireland invite you to share in a truly stimulating and professionally rewarding event in Scotland next June. Not only can we offer you excellent speakers, interactive workshops, ample opportunity for networking and a Ceilidh (a Scottish word meaning a wild evening of excellent food, drink and dancing...), which will take place in the imposing Stirling Castle, but also access to Glasgow's wonderful cultural life and café society, designer shopping and even the possibility of a game or two of golf!

LES Pan-European Conferences are an essential part of the LES global network offering LES members in Europe and our colleagues throughout the world time to catch up on new legislation, discuss current issues with other IP professionals, learn from others' experiences and make those key contacts and business links which make the licensing community such a stimulating group of professionals.

The conference will provide something of interest to everyone, why not encourage your academic colleagues, clients, service providers and those promising trainees to join you in Scotland. Glasgow is an ideal city for accompanying partners and family, not only are there plenty of city attractions there are also many interesting places to visit in the surrounding countryside, they will have no time to miss you whilst you are making the most of the conference!

The three plenary session speakers will include Alison Brimelow, President Elect of the European Patent Office, who will consider the future of intellectual property, David Koretz, Chief Executive of Blue Tie Inc and serial entrepreneur, who founded and ran four successful technology companies by the age of 24, a sure inspiration for struggling inventors, and Dr Alexander Lewis of Wood Mackenzie, who with a PhD from the University of Edinburgh and a background in medical research and drug development, is a multi-talented consultant to the pharmaceutical and biotech industry. He provides advice on in and out licensing of products for companies, R&D and corporate strategy and performs independent due diligence assessments on companies' products and technologies.

Workshops, covering key areas of interest to our members will include a master class on software patents, trade-mark and character licensing in Europe, anti-trust issues in IP dispute settlement agreements, transferring technology from public sector organizations, biodiversity and biopiracy and much, much more. For up-to-date conference information please see the LES B&I website (www.les-bi.org) or contact **Sheena Hunter** (les@glasconf.demon.co.uk).

The 2006 LES Pan-European Conference organizing committee is delighted to invite you, your colleagues and your partners to share in a truly warm Scottish experience.

Put the dates in your diary now! We look forward to welcoming you in June 2006 to Glasgow.



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President's Diary

Welcome to the new session of LES meetings and other events which will culminate in the Pan-European Conference in Glasgow in June 2006. These conferences are always well attended, from Europe and further a field. Martin Sandford and his team have prepared an excellent programme of licensing topics and social events. Reserving your place early will help the organisers (and our cash flow). Our sponsorship scheme has already boosted the finances of the society, so if your organisation would be interested in sponsoring this prestigious event, just contact Northern Networking.

Before then, Council has a number of initiatives prepared. The first of these is the holding of a Train-the-Trainers course in London on 11 to 13 November. Chris Goodman's article in this issue gives further details of this international co-operation and I urge you to attend so that you can participate in spreading the word on what can be achieved by effective protection and exploitation of technology and brands. Worldwide, over a hundred LES members have qualified to present the "Fundamentals in Intellectual Asset Management" lectures, but so far only a handful from Britain and Ireland. Age is no barrier, upwards or downwards, so encourage your younger colleagues to accompany you on the course.

Will thee be any IP to Licence?

The above was the intriguing title of a talk given by Mats Pårup of Novartis International at the LES Scandinavian Annual Conference which I attended in Stockholm at the end of August. His theme was the effectiveness with which those dedicated to opposing I.P. present their case. Whether it is the Green Party against inventions in genetics or the Open Source movement and computer-implemented inventions, the voices of IP holders are seldom heard. This point was also endorsed by Ian Harvey during questions after his talk at our Annual Conference at the Café Royal. LES has tended to use its influence quietly and behind the scenes in the past, having considerable success with the EU Technology Transfer Regulations. Given the more widespread public attack on the business of IP should LES be more vocal in future and adopt a higher profile? I would be very interested to receive your views.

Sport (again)

Yet again sport raises its head to coincide with an LES event, this time the London open-top bus tour by the winners of the Ashes creating congestion in the streets around the Café Royal. At the same time there was substantial media coverage of the cricket equipment company Woodworm, which had the foresight to recruit Andrew (Freddie) Flintoff and Kevin Petersen to promote its wares. Their bats are protected by patent applications and Woodworm is registered as a trade mark, so IP received some generally-favourable publicity for once.

Stephen Powell,
President LES B&I

Welcome!

Council has been pleased to welcome the following new members to the Society:

Mr Bob Carter, Head of Trade Marks, Shell International, Ltd.;
Mr Stephen Carter, European Patent Attorney, Mewburn Ellis;
Mr Simon Church, Patent Attorney, Wilson Gunn; **Ms Janice Cullen**, Product Commercialisation Consultant, Janice Cullen Consulting; **Mr James Fox**, University of Liverpool; **Dr Sean Harte**, Chartered Patent Agent, Murgitroyd & Co; **Dr Davnat Heenan**, Commercialisation Specialist, Enterprise Ireland; **Ms Sara Ludlum**, IP Solicitor, Keeble Hawson; **Mr Robin Nott**, IP Solicitor; **Mr Dhiren Patel**, IPR Licence Negotiator, Nokia IRP Dept; **Mr Robert Stankey**, Covington & Burling.

IPR Update

- The European Commission launches a public consultation (16/09/05)** on whether and how to create a European Institute of Technology (EIT) that could strengthen research, education and market innovation in Europe.
- Patent Office states (31/08/05)** through their "What is Key?" campaign that growing businesses need to know their copyright.
- Artpower Ltd v Bespoke Couture Ltd & Ozwald Boateng (28/07/05)**. The licence agreement between the parties engaged in the sale of designer menswear included a clause that was effectively a restraint of trade.
- Alan sales v Jonathan Stromberg & Geraldine Knight, CIR International Ltd (26/07/05)**. A design based on a simple geometric shape was a protectable design under the Copyright, Designs and Patents Act 1988 and royalties were payable under the licence agreement.
- London General Holdings Ltd & Ors v USP PLC & Anor (22/07/05)**. An infringing copy could be used in several ways each giving rise to a claim for damages. In this case the breach consisted of the unauthorised use of the text.
- Clearsprings Management Limited v BusinessLinx Ltd and Mark Hargreaves (14/07/05)**. Whether a term relating to ownership and licensing was to be implied into a contract depended entirely on the circumstance of the individual case.
- JR French Ltd v Redbus LMSD Ltd (14/07/05)**. On its true construction the licence agreement could only be terminated without cause by giving six months notice. Furthermore, the licence should be amended to reflect what the parties had agreed with respect to sub-licensing.

Monitored by
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For further details on all of the above please visit: <http://www.les-bi.org/>



eLearning brings IP awareness training 'alive' for researchers

An online course in Intellectual Property has just been released into the Academic market by Epigeum (www.epigeum.co.uk), the eLearning spin-out from Imperial College. Containing interactive simulations, quizzes, reading and video featuring well-known personalities the course sets a new model for IP training with scientists, engineers and designers.

The course is fun and engaging to work through. Adam Hart-Davies, the BBC presenter who leads the video sections, with guest appearances from Sir Harry Kroto (Nobel Prize Winner), Mandy Haberman (Inventor of the Anywayup Cup), Dr Paul Leonard (Director of the IP Institute) and Professor Ruth Soetendorp (an acknowledged UK expert on IP management education from Bournemouth University).

The initial response from students and staff has been extremely positive and Epigeum anticipates a strong adoption within the Higher Education market. Plans are now underway to produce a similar product for the corporate market.

Professor Soetendorp explains the academic thinking behind the course:

WIPO identifies four key stages in the management of intellectual property rights: RECOGNITION, PROTECTION, EXPLOITATION and ENFORCEMENT. All are essential to the successful management and commercial exploitation of IPR. It is impossible to do justice to all four areas in a brief introduction to IPR. Careful thought has to be given to the anticipated audience, their responsibilities and expectations.

EPIGEUM, in devising the interactive module 'IP in the Research Context' has considered their audience very carefully. University Graduate Schools, Technology Transfer Offices, and researchers all need IPR awareness and a level of competence in handling the IPR that results from innovative research activity. After conducting research of their own, the EPIGEUM team agreed that in a product aimed at the research community, RECOGNITION of IPRs is crucial.

IPR RECOGNITION includes understanding of exactly what is covered by national and international legislation and regulations as 'Intellectual Property Rights'. The interactive package emphasises the importance of confidentiality and keeping accurate lab records. It also conveys the importance of knowing where to go with news of a breakthrough.

'IP in the Research Context' puts the university researcher at the heart of the interactive course. Conscious that 'law' will be an alien cognitive discipline for most users of the resource, the authors have been careful to present material in a way that will engage, rather than intimidate, users with a non-legal background. Whilst the governing law for the course is UK, the materials acknowledge the relationship of UK intellectual property law to European and International legal regimes. It alerts non-UK

nationals to check whether their domestic law differs from the European position.

Over the past ten years or so, there has been a growing recognition of the importance of equipping graduating students with a basic IPR awareness. This is clearly evident in, for example, the brief of the National Council for Graduate Entrepreneurship, which sees IPR awareness as part of the graduate entrepreneurial skill set. Professional bodies, for example UK Engineering Council, appreciate the importance of IPR to new engineers, and include IP awareness in their accreditation requirements.

Government has tasked Universities with management of the intellectual property created within the academic community. University research can only take place as a result of funding from public sector research councils or private sector companies or trusts. Funding bodies have themselves become far more conscious of intellectual property issues associated with publication of research findings, and dissemination or exploitation of research outputs. Successful research is dependent on a good triangular relationship between University, funder and researcher. It would be odd indeed to leave one member of that trio, the researcher, in the dark about intellectual property rights, and their relevance to the research project.

At the same time, it is well understood that the overwhelming majority of researchers' time will be focussed on their research projects. They should not be burdened with having to immerse themselves in a new and cognitively disparate subject. They will be working alongside academic experts in their discipline who may be complete novices in the area of intellectual property rights. So in that context, is it possible, or reasonable to expect researchers to acquire an awareness of intellectual property?

The answer is 'YES'. EPIGEUM's 'IP in the Research Context' is designed to introduce researchers to IPR. In particular, to RECOGNISE the circumstance that give rise to rights; the situations in which rights might be vulnerable; the implications of using other peoples IPR, and the next steps they should take in dealing with IPR issues (for example contacting their Technology Transfer Office, or following certain actions depending on the type of IP).

The course is hosted within a web-based Learning environment. This means it can be accessed by staff and students at any time of the day, regardless of location. Licences are given on an annual basis so users can also refer back to the material several months after their first induction.

If you would like to know more about this course, or the planned commercial version, please contact **David Babington-Smith** on david.babington-smith@epigeum.co.uk tel: 0207 229 8886.

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Geographical Protections for Food and Drink

In June 2005, the Commission received its first application from a non-EU country to a register a geographical indication in the EU when Colombian authorities applied to register "Café de Colombia" in the EU Register. This application gives an encouraging indication that Regulation (EEC) No. 2081/92 on the protection of geographic indications and designations of origin for agricultural products and foodstuffs is helping producers succeed in producing foods which establish a direct link between quality and origin by protecting names throughout, and beyond, European markets.

Consumers require the products they buy not only to satisfy higher dietary, hygienic and health standards than ever before but also look for certification and reassurance of products' origin and production methods thus placing a high value on quality. With increased freedom of movement of goods in the EU, there was a perceived need for better information for consumers about individual product characteristics due to specific production methods, composition or origin. To reflect these changing attitudes of consumers in Europe, the EU adopted Regulation (EEC) No. 2081/92.

What is protected under the Regulation?

The Regulation distinguishes between two classes of name:

A Protected Designation of Origin (PDO) is defined as meaning the name of a region, specific place or country referring to a product originating in that region, specific place or country and whose quality or other characteristics are essentially or exclusively due to a particular geographical environment. The production and processing of raw materials, up to the stage of the finalised product, must occur in the defined geographical area whose name the product bears. Examples of PDOs include products such as Feta, Gorgonzola and Champagne.

A Protected Geographical Indication (PGI) is defined as meaning the name of a region, specific place or country describing a product originating in that region, specific place or country and possessing a specific quality, reputation or other characteristic which may be attributed to the geographical origin. The product must be produced in the geographical area whose name it bears but unlike PDOs, it is sufficient that one of the stages of production occurs in the defined area, for example, raw materials may come from another region. Examples of PGIs include Scotch beef and Arbroath smokies.

The Regulation covers names of wines, cheeses, hams, olives, beers and regional breads, fruits and vegetables as listed in Annexes I and II to the Regulation. These lists may be amended by the Commission from time to time. Generic names (names of products which, although relating to the place where the product was originally produced or marketed, have become common names of the products) cannot be registered as PDOs or PGIs. Registered PDOs and PGIs are legally protected against any misuse or false or misleading indication.

Registration Procedure

A group of producers must define the product according to precise specifications. The application is sent to the relevant local office in the Member State in the geographical area in which the product originates is located, which office checks the application to ensure it satisfies all requirements and if acceptable, transmits the application to the Commission. The Commission further examines the application and publishes it in the Official Journal of

the European Communities. If there are no objections, the PDO or PGI is entered in a register kept by the Commission.

However, there is no protection for those names on products both made and sold outside the EU, for example, in the US, one can buy American champagne. In addition, non-EU countries may apply for the registration of a designation derived from its territory and the Commission has authority to negotiate agreements with third countries for the reciprocal protection of designations (for example, an agreement has been entered into with Australia regarding wine).

Benefits of the Protection Afforded

In addition to its initial aim of providing reassurance to consumers and protecting them from misuse of names, the Regulation may also benefit producers.

The Regulation helps to maintain rural communities by enabling farmers to continue to make a living in their own home regions. The Regulation can help to protect local producers in situations where the indication of their regions are used by a third party not entitled to do so which can lead to local producers' reputation being diluted and the customer numbers being diminished. Non-original products are usually cheaper than the original and consumers, unaware that the label of geographical origin could be deceptive or inaccurate, will naturally gravitate towards the cheaper version.

Disadvantages of the Regulation

The potential benefits to be gained from the Regulation must be balanced against its perceived disadvantages.

From the producers' point of view many consider the scheme to be too restrictive with regards to the criteria of the designations. For example to qualify as Roquefort, cheese must be made from milk of a certain breed of sheep, and matured in caves near the town of Roquefort in the Aveyron region of France where it is "infected" with the spores of a fungus (*Penicillium roqueforti*) that grows in these caves. There is also a concern that the Regulation is too prescriptive for the modern retail industry.

The restrictive nature of the scheme may limit the choice and availability to consumers as only limited numbers of suppliers may be able to produce products due to the stringent criteria. The costs involved with the need for other producers to re-label or reformulate products will ultimately be passed on to consumers. This may be resisted by consumers given their low awareness and understanding of the scheme.

Future of the Regulation

Producers in the EU and elsewhere seem to be becoming more aware of the scheme. The recent Colombian application to register a PDO in the EU is the first step that a non-EU country has taken in this scheme which indicates acceptance of the scheme since it was introduced in 1992. In March 2005, a WTO Panel report vindicated the scheme by ruling against a complaint brought by the US and Australia that geographical indications cannot coexist with prior trade marks under TRIPS. It would seem therefore, that worldwide acceptance of the scheme, although moving forward, is still a slow process.

Lauren McLeod, Shepherd+ Wedderburn, London
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United States Grapples With Proposed Patent Reform Legislation

Over the past several months, the United States Congress has been considering multiple proposed versions of legislation that would effect substantial changes in the United States Patent Code, and in the procedures for obtaining and enforcing U.S. Patents. The latest draft bill, H.R. 2795 (still under committee consideration), may represent a significant step toward viable reform legislation, because it eliminates three of the major sources of contention in prior draft bills.

The previous drafts included: (1) a proposed revision of 35 U.S.C. § 283 that would have limited the availability of injunctive relief for patent infringement; (2) the addition of 35 U.S.C. § 123 to limit the enlargement of claims in continuing applications; and (3) a European-style post-grant opposition proceeding that would have included a six-month window for opposing a patent's validity following an allegation of infringement made any time during the enforceable life of the patent. These three provisions are gone from H.R. 2795.

PATENT LAW HARMONIZATION First-Inventor-To-File Priority

H.R. 2795 replaces the U.S.'s existing first-to-invent system with a system more like those of the rest of the world, in which the first inventor to file a patent application is awarded the patent.

While the first-to-invent system and priority contests would be eliminated by this change in priority law, a procedure for a derivation-type interference practice, called an inventor's rights contest, would be established to resolve allegations that the first filer is not really an inventor.

Elimination Of Best Mode Requirement And Other Subjective Criteria

The subjective intent of the inventor or others involved in patent prosecution is the subject of several sections of current U.S. patent law. For example, 35 U.S.C. § 112 requires disclosure of the best mode "contemplated by the inventor" at the time of filing for carrying out the invention. H.R. 2795 would eliminate the requirement of revealing best mode, and would modify the law in other instances in which subjective intent is currently an issue. This step can be seen as a further attempt to harmonize U.S. patent law with the patent laws of most other countries, which generally do not consider issues involving subjective intent.

While some concerns have been expressed about these changes, especially eliminating the requirement for disclosure of the best mode, it is unlikely that those concerns will derail the legislation or have long-term adverse consequences. As to best mode, for instance, many lawyers and commentators believe that the requirement for an enabling disclosure sufficiently protects against an inventor's holding back valuable information in the form of trade secrets.

PATENT QUALITY ENHANCEMENTS

Publication Of Virtually All Applications After 18 Months

Under present U.S. law, an inventor can opt out of publication of an application if the application is not filed outside the United States. This option would be eliminated by H.R.2795's deletion of 35 U.S.C. § 122(b)(2)(B).

Post-Grant Opposition

Post-grant oppositions continue to be a major feature of

the proposed patent reform. Advocates of opposition hope that allowing an opposition to be filed in the U.S. Patent and Trademark Office ("PTO") within a limited time window, immediately after the patent issues, would help weed out invalid patents in a procedurally simple, relatively inexpensive forum. An attempt in the previous draft of the bill to leave the opposition period open for the enforceable life of the patent has been -- at least for the moment -- defeated, so under the present proposed legislation, an opposition would need to be filed no later than nine months after the patent is granted.

An estoppel provision prevents the opposer from later asserting the invalidity of any claim addressed in the opposition "on the basis of any issue of fact or law actually decided by the panel and necessary to the determination of that issue." A new provision of this portion of the bill prevents a court from staying an infringement action pending the outcome of an opposition.

Some concern has been expressed about the fact that the proposed opposition procedures would permit invalidity to be proven by "a preponderance of the evidence" rather than by "clear and convincing evidence" as is the case when a defendant seeks to invalidate a patent in litigation. Currently, the PTO Board of Patent Appeals and Interferences (as well as Patent Examiners) renders patentability decisions based on the lower "preponderance" standard. Issued patents, however, are statutorily presumed to be valid. Deciding the validity of issued patent claims in oppositions by the preponderance standard could thus represent a significant change. For example, if this lower preponderance burden is adopted, would alleged invalidating prior art that comes in through the testimony of a witness be able to meet the "preponderance" burden standing by itself, or would corroboration continue to be required? Also, validity would be determined in opposition proceedings on the basis of the broadest reasonable construction of the claims. That, too, differs from how courts construe patent claims when considering validity (in view of case law instructing judges to construe claims so as to preserve their validity, if possible).

Re-examination

In an attempt to make patent reexamination a more appealing option, 35 U.S.C. § 315(c) would be amended so as to limit the estoppel effect of an unsuccessful reexamination, which currently arises in an infringement action against the requester of a previous reexamination on the patent, acting to bar invocation of any defenses the requester actually raised or could have raised during the reexamination. The pending bill limits the estoppel effect to bar only those litigation defenses that were actually raised in the prior reexamination.

Third party Submissions To The PTO

In an attempt to open yet another avenue for ensuring that relevant prior art or other information salient to examination of an application is considered by the PTO, 35 U.S.C. § 122 would be amended to allow any person to submit any published material of potential relevance for consideration and inclusion in the record of a patent application. The published material would need to be timely submitted with a description of its relevance and "such fee as the Director may prescribe."

Jeffrey D. Sullivan, Baker Botts, L.L.P.
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News from the Regions

LES Irish Section



The Annual Dinner of the Irish Section will take place at the Clarence Hotel Dublin on Thursday 20th September. Our guest speaker is the Head of the Commercial Court, Mr Justice Peter Kelly. This lovely venue, overlooking the Liffey, promises to be a very enjoyable evening and we will include photos of the event in the next

newsxchange™

The Forfas Second Friday lecture series continues into the Autumn with two upcoming events. On November 11th, Mark Dorff, a partner with the law firm, Brown Rudnick will address the group on Doing Business in America, which will be of great interest to Irish exporters, especially in the software industry.

On Friday December 9th Jörg Macheck of the EPO will speak on the Examination of Computer Implemented Inventions and Business Methods at the European Patent Office. Jörg is currently director in charge of searching and examining Computer Implemented Inventions and Methods for Doing Business.

Yvonne Cunnane of Matheson Ormsby Prentice is standing down from the Irish Committee this year and we thank her for her participation and work on behalf of LES over the past number of years.

Jeanne Kelly, email: jkelly@MHC.ie

LES North East Region

Our first meeting of the autumn will be on 4th October 2005 at The Novotel, Whitehall Road, Leeds from 6.00pm to 8.00pm

'Obtaining Maximum Benefits from Computer Forensic Investigations' Speaker: Paul Carratu from Carratu International Plc

From fraud to industrial espionage, counterfeiting to corruption, it's a rare case that does not involve a computer. They generate a mass of information which, unless its user has been extremely careful, will be retained, even after deletion. If handled and interrogated correctly this material can be used as evidence. However, to ensure that it remains admissible requires a thorough understanding of evidence handling procedures, as well as necessary technical skills to produce and preserve an exact mirror image and working copy.

For further information please contact:

Deborah Parsons, Fox Hayes Solicitors, Tel: 0113 383 8469, email: deborahparsons@foxhayes.co.uk

LES North West Region

LES NW Region is launching its autumn programme on Thursday 6th October, at Café Istanbul, Manchester, with a talk entitled, "Community Unregistered Design Right: A shape up in European Law".

Our speaker, Jessie Bowhill, a barrister specializing in IP law, will discuss the *Mattel v Simba* case and its implications and will also present an overview of the recent Court of Appeal decision in *Ultraframe v Eurocell*. This promises to be a very interesting evening, book early as places are limited, guests are welcome.

For further information please contact: **Paul Brandon, Tel: 0161 835 9655 or email: paul.brandon@appleyardlees.com**

LES Scotland Region



We are delighted to invite LES members and guests to our autumn event 'Breaking China' on 8th November 2005 at the Menzies Hotel, Glasgow - a few minutes from Junction 19 of the M8 and a walk or taxi ride for those who work in the City centre.

The event focuses on the topical subject of Intellectual Property and doing business in China. We have top ranking speakers lined up for you including Ben Goodger (former President of LES B&I) of Rouse & Co International who spent several years in China gaining direct experience of IP management and protection in this developing economy. Speakers from the pharmaceutical industry and the Scottish Executive will also share their expertise and advice. So this is not one to miss! See the Events Diary (back page) for contact details.

Cathy Rooney, email: cathy.rooney@snbts.csa.scot.nhs.uk

LES West Midlands Region

The first meeting of the new North West Region LES Committee is being held on 20th September 2005 in Birmingham.

Please contact **Simon Church** for details of future West Midlands events: Simon.Church@wilsongunn.com

IRMA SOUNDS DEATH KNELL

Irish Recorded Music Association ("IRMA") has accused over 16 parties of illegally sharing music over the web, of which 15 are individuals, some of whom are parents of teenagers engaged in the activity at home. Eight have already admitted liability and have agreed to settle out of court, paying damages between 2,000 to 6,000 and also undertaking not to engage in illegal sharing of music in the future.

Last month, IRMA secured a Norwich Pharmacal disclosure order from the Commercial Court against two Irish internet service providers for the purpose of bringing copyright infringement proceedings against those who uploaded music illegally. The Norwich Pharmacal Order takes its name from the English case in which the order was first granted. It was approved in Ireland by the Supreme Court in 1993 in *Megaleasing UK Limited & others -v- Barrett & others*. However, the relief is only granted in limited circumstances where a clear proof of a wrongdoing exists and what is sought are the names and identity of the wrongdoers rather than factual information concerning the commission of the wrong. While the ISPs involved (such as Eircom and BT) did not contest the making of the order, they expressed concerns on issues such as data protection, which they believed the Court should take into account. When granting the order, the Court ordered that the information be given to IRMA under strict confidentiality undertakings furnished by the association.

IRMA's actions follow those of the general music industry in countries such as the United States, which started 12 months ago as well as the United Kingdom where the British Phonographic Industry (BPI) issued proceedings this month, for the first time, against 5 individuals for illegally uploading and sharing music online. To date, 60 UK file-sharers have settled with BPI in relation to legal actions against them, paying up to £6,500 (9,413) in damages.

As for IRMA, it is understood that it intends to further intensify its campaign, shortly launching a second wave of legal action. The death knell for illegally downloading music from the Internet has certainly arrived in Ireland.

Maureen Daly, Head of IP/IT, Beauchamps, Dublin m.daly@beauchamps.ie



LESI Education Committee and LES B&I are running a "Train the Trainers" course on 12th and 13th November 2005 at the Radisson Edwardian Grafton Hotel in Tottenham Court Road, London.

The course is designed to introduce potential tutors to the Fundamentals in Intellectual Property course so that they may present the course to pupils who are relatively inexperienced in the licensing field. We need at least 6 tutors to put on the course and therefore your attendance is urgently requested. We see the Fundamentals course as a valuable recruitment tool for attracting members to LES B&I.

There will be no charge for this seminar for the attendees. The attendees will only be responsible for getting to the meeting and their accommodation costs. Attendees' member society will need to take a license from LESI for the educational program.

All program materials will be provided for this session by LESI. The trainers, Paul Germeraad, Chris Goodman and Willy Manfroy, are available and we are awaiting our registration for this seminar.

PRACTICAL LICENSING AND THE BAR-X/OXO CASE

The BAR-X/OXO case reported last year* addressed the difficult question of what constitutes infringing use of a trade mark, and attracted considerable interest amongst trade mark practitioners.

The High Court decision was not however the end of the matter. Much went on afterwards 'behind the scenes' and it is well to bear in mind that High Court decisions do not set binding precedents. The original decision was appealed and eventually this was settled between the parties ('Electrocoin' and 'Coinworld') with the defendant accepting a licence.

That part of the case which was pursued to appeal was much concerned with the use of symbols BAR, X, O on the reels of a gaming machine. The claimant ('Electrocoin') had registrations for BAR-X and OXO and claimed that these were infringed by the defendant's machine which spelled out BAR X and OXO in certain positions of the reels. Mr. Geoffrey Hobbs, QC, sitting as a Deputy Judge, decided that the registrations were valid but were not infringed by the reel symbols, notwithstanding evidence filed to show that the registered marks were

There will be a dinner on Saturday evening and a closing reception on Sunday as part of this training program and ample time for networking among the trainees and trainers.

All participants, having attended the full seminar, will receive a certificate and be added to the list of certified trainers qualified to teach the Fundamentals Course.

Please let us know by completing an application form (which may be found on the LES B&I website: www.les-bi.org) and returning it, by email, to **Chris Goodman at education@lesi.org or by fax to: +31 343 594 566 if you would like to participate. Upon receipt of your registration form, we will send you a confirmation.**

Cancellations are not possible; however, substitutions may be made if necessary. Available places are limited.

We look forward to welcoming you to London.

A "Train the Trainers" course was held in Sydney, Australia in the summer, which was attended by 30 future tutors, all experienced in the licensing and IP fields. LES Australia has already scheduled a meeting to present the Fundamentals Course to newcomers in licensing in Australia and New Zealand.

well known and many other fruit machine suppliers had taken licences (on 'real' terms) to use the symbols on the reels.

The appeal was settled on a cooperative licensing basis with Coinworld acknowledging Electrocoin's trade mark rights in the BAR X and OXO reel symbols and giving its support for Electrocoin's expressed intention to continue protecting its trade marks including use as reel symbols.

This is an interesting outcome to an interesting case of particular practical relevance to the business of licensing.



Playing with words

The world's first purpose-built passenger railway (running between Manchester and Liverpool) opened for business 175 years ago on 15th September 1830.

The need for efficient steam locomotives stimulated a spectacular rate of technological innovation and patent activity, and eventual world wide technology transfer.

It is fitting therefore that one of the replica locomotives (the 1838 'Lion') exhibited during the anniversary celebrations at the original Manchester

station (now part of the City's Science Museum) is on permanent loan from an organisation which, coincidentally, also calls itself LES!

Another exhibited famous locomotive was the 'Sans Pareil' which lost out to the 'Rocket' in the Rainhill trials. This name was coined as a 19th Century engineering pun.

Which LES and what was the pun? Our editor will award a prize for the first received correct answer. Answers to: elson.mary@btinternet.com before 30th October 2005. The answers, and winner, should there be one, will appear in the next edition of **newsxchange™**.



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Events Diary 2005-2007

For further information please contact regional officers for LES events in Britain and Ireland (see panel on the left of this page or visit the LES B&I website <http://www.les-bi.org/>) and the officers of national societies for overseas events (see LES directory or the LESI website <http://www.lesi.org>)

20 September 2005 LES Irish Section

Annual Dinner
Clarence Hotel, Dublin
Speaker: Mr Justice Peter Kelly
For further details please contact:
Jeanne Kelly, email: jkelly@mhc.ie

4 October 2005 LES NE Region

The Novotel, Whitehall Road, Leeds
"Obtaining Maximum Benefits from computer Forensic Investigations"
Speaker: Paul Carratu of Carratu International
6:00 – 8:00
For further details please contact:
Deborah Parsons, email: deborahparsons@foxbayes.co.uk

6 October 2005 LES NW Region

Café Istanbul, Manchester
"Community Unregistered Design Right: A Shape Up in European Law?"
Speaker: Jessie Bowhill, barrister
6:30 for 7:30 dinner
For further details please contact:
Paul Brandon, email: paul.brandon@applayardlees.com

16-19 October 2005 LES USA & Canada

Annual Meeting
Marriott Desert Ridge Hotel
Phoenix, Arizona, USA
For further details please see:
www.usa-canada.les.org/meetings/2005annual/

8 November 2005 LES Scotland Region

Menzies Hotel, Glasgow
"Breaking China"
Speakers: Ben Goodger of Rouse & Co, also speakers from the pharmaceutical industry and Scottish Executive
6:00 – 8:00
For further details please contact:
Cathy Rooney, email: cathy.rooney@snbts.csa.scot.nhs.uk

10-11 November 2005 LES Benelux

Licensing Course
Mandarin Park Plaza, Eindhoven
The Netherlands
For further information see:
www.les-europe.org/benelux

11 November 2005 LES Irish Section

Wilton Room Forfàs, Wilton Park House, Dublin 2
"Doing Business in America"
Speaker: Mark Dorff
For further details please contact:
Jeanne Kelly, email: jkelly@mhc.ie

12-13 November 2005 LESI Education Committee

"Train the Trainer"
Radisson Edwardian Grafton Hotel
Tottenham Court Road, London
For further details please contact:
Chris Goodman at education@lesi.org

9 December 2005 LES Irish Section

Wilton Room Forfàs, Wilton Park House, Dublin 2
"The Examination of Computer Implemented Inventions and Business Methods at the European Patent Office"
Speaker: Jörg Machek
For further details please contact:
Jeanne Kelly, email: jkelly@mhc.ie

2007 LES B&I Conference and AGM Dublin Further details TBA



"Innovations in the Licensing World"
Pan-European Conference
SAS Radisson Hotel, Glasgow
21-23 June 2006

Membership

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A membership application form may also be found on the LES B&I website: www.les-bi.org



newsxchange™

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