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## LITIGIOUS LICENSING IN THE GAMING MACHINE INDUSTRY

The gaming machine industry is very much dependent on innovation. It is a fashion industry. To survive, manufacturers need to provide a steady stream of new features to attract and maintain the interest of players, and when one manufacturer hits the jackpot with its latest machine the rest of the industry needs to follow suit. This inevitably leads to a cycle of IP protection, 'copying', litigation and licensing.



Bell Fruits 'Trick Shot' video pool game

Gaming machines rely on software running complex algorithms to produce entertaining games with attractive displays – all of the things which are so difficult to protect conceptually under current ip law.

Patent, copyright and trade mark law has all been put to test in recent times.

There has been the Shopalotto decision (Shopalotto.com Ltd's patent application), relating to a bingo game using brand images in place of numbers, which both confirmed that patentability could not arise in mere 'presentation', and that patents could not be granted for games in which the only new thing is the rules. As a spin off of this case the UK Patent Office is now rejecting applications to patent board games.

There has been the Electrocoin decision and appeal (reviewed in News Exchange Oct/Nov 2005) which related to the use of trade mark law to protect BAR X and O X O symbols used on fruit machine reels. In the first instance registrations of BAR-X and OXO were found to be valid but not infringed, but the subsequent appeal was settled after the defendants took a licence and acknowledged that their reel displays did constitute trade mark use.

And, more recently there has been the Nova decision (Nova Productions Ltd v Mazooma Games Ltd and Bell Fruit Games Ltd) in which the large manufacturers' 'me too' pool-simulating video games were held not to infringe Nova's copyright either in its screen display artwork, or in its software. The defendants were aware of Nova's design (and had declined to take licences) but gave evidence that they had worked from prior computer games – so that anything they took from Nova's artwork was insufficient to meet the usual 'substantial part' test for infringement. Since the defendants used their own purpose-written computer program, there was no software infringement despite functional similarities, following the decision relating to Easy Jet's internet booking system (Navitaire Inc v Easy Jet Airline Co. & Anor).

The Nova decision is currently under appeal, and the industry waits to see whether this will give rise to any change in the 'substantial part' test, and perhaps more importantly the extent to which, despite Easy Jet, the Courts might be prepared to extend software copyright protection to cover program functionality. There might even be an ECJ reference under the Software Directive in this somewhere.

Whilst the interests of the gaming community are esoteric, their ip problems are leading edge and very relevant to other areas. As industry moves away from traditional 'hard' mechanical engineering, it becomes more important for ip laws to provide adequate protection for the kinds of 'soft' activities on which we are all now dependent.

**Barry Quest**  
Wilson Gunn



**"Innovations in the Licensing World"**

**Pan-European Conference** SAS Radisson Hotel, Glasgow 21-23 June 2006



# President's Diary

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Jennifer Pierce, Barry Quest,

Renate Siebrasse, David J Veasey,

Michael Waggett, Mark Wilson



One of the roles of a national LES president is to act as a conduit between his or her national members and LES International. Although the national societies are legally independent entities, they still have to adhere to the rules and practices of the LESI "Club" and there is a mutual benefit in this resulting co-operation.

Being participants in a world-wide organisation having approaching 12,000 members has the advantages of being able to influence decision-makers, to develop close links with colleagues in many countries and to benefit from international publications such as Les Nouvelles and the membership list.

Accordingly, when one receives a request for information or assistance from LESI, one does one's best to comply. However, a recent communication gave me pause for thought: "Please let us have details of your Business Plan". What Business Plan? Surely they can't want our projected budget, because as mentioned above we are an autonomous UK limited company and they won't be interested in whether we make a loss or profit any particular year.

Do they mean a strategic Plan? Certainly LES B & I council has continuing (I hate the word ongoing) plans to develop the society and provide high quality services (meetings, information and news in News Exchange and on our website), but to dignify it with the title "Business Plan" might be an exaggeration.

But perhaps LES B & I should have an identifiable Business Plan. To me this suggests the appointment of a paid CEO with licensing experience in addition to the present Council members, who all serve on a voluntary basis. This would be expensive, but with the growing significance of licensing and technology transfer globally, should we not be ambitious? Feedback please.

You will find elsewhere in this issue, details of the relaunch of our South West and South Wales group under the guidance of Graeme Fearon. I am grateful to Graeme for his efforts, and if you live or work within travelling distance of Bristol, I urge you to attend this event.

Another presidential plea concerns the March edition of Les Nouvelles. Although at the time of writing I have not seen this, the LESI publications committee has been working hard on a complete make-over of the journal. Please write in to Les Nouvelles with your reaction to the changes. Les Nouvelles could facilitate a much better interchange between all parts of LES and so we need to show the editorial board that the changes are appreciated.

The March edition of Les Nouvelles will also contain a pull-out brochure for our pan-European conference in Glasgow from 21 to 23 June. If you and your colleagues have not already registered, I suggest you do so immediately because we are expecting it to be extremely popular with LES members around the world.

### Stephen Powell

President LES B&I

### London Evening Meeting 22 March 2006

A select band of 18 gathered at the University Women's Club in Audley Square to hear an informative, stimulating and amusing presentation on the Intellectual Property Institute, its history, its role and its current projects and plans from Dr Paul Leonard, IPI's Director. This was followed by a lively debate which extended into dinner on a wide range of topical issues including the criminality of IP infringement (should a Government Minister ever boast of owning counterfeit goods?), Government, EC and public attitudes to IP, the protection that EU law gives to databases following adoption of the database directive, the UKPO review of Inventive Step and the Gowers Review of Intellectual Property. Those who did not attend missed an excellent evening but the slides are available on the LES B & I website and the intention is to develop a

closer working relationship with the IPI, so watch this space for future events.

### South West & South Wales Region inaugural meeting 4th May 2006, 18:00 - 20:00 Hotel du Vin, Bristol.

As Stephen Powell mentioned in the President's Diary, the first meeting of the South West and South Wales Region of LES B&I will take place on May 4th in Bristol.

You are invited to come along for an informal drink and chat. The evening will include a discussion on the problems of Brand Control and Undesirable Brand Extensions. Non members welcome.

Please contact:

**Graeme Fearon**, email: [gfearon@ttuk.com](mailto:gfearon@ttuk.com) or **Sarah Pollock**, email: [spollock@ttuk.com](mailto:spollock@ttuk.com)

**IPR in Business - Will not appear in this edition of News Exchange. It will, however, appear on the LES B&I website.**

**Hayley French has been in hospital. We wish her a speedy recovery.**

### Fundamentals In Licensing

The add on course at the Glasgow LES Pan-European Conference entitled Fundamentals of IP and Licensing is ideal both for those newly involved in the Licensing field and also as a refresher for those more experienced in Licensing and Intellectual Property. The one day course covers all aspects of IP including: Trade Secrets, Patents, Trade Marks and Copyright and includes a review of a Basic Licence Agreement .

the course in the London by attending on the second and third days. Details of the London Course will be announce later on in 2006 .

Contact: **Sheena Hunter**

for further details about the Glasgow Conference: email: [les@glasconf.demon.co.uk](mailto:les@glasconf.demon.co.uk)

**Chris Goodman**

for further details about the Fundamentals in Licensing Course to be held in June at Glasgow or the course to be held in October in London: email: [cgoodman@eric-potter.com](mailto:cgoodman@eric-potter.com)

The course comprises the first day of the full three day Intellectual Asset Management course to be held in London in October. Attendees will be able to complete

# European Commission Evaluates the Database Right



At the end of last year, the European Commission carried out a much-needed evaluation of the Database Directive (Directive 96/9/EC). The question at the heart of this inquiry was: had the Database Directive fulfilled what it set out to do – encourage the growth of investment in databases across Europe? The Commission concluded that “The economic impact of the “sui generis” right on database production is unproven. Introduced to stimulate the production of databases in Europe, the new instrument has had no proven impact on the production of databases.”

The Database Right was introduced to protect people or organisations who compiled data into a database by giving them a right to prevent others from copying substantial parts of the database without their permission. The creator of the data must show that he/she/it has made a substantial investment (of time or resources) in obtaining, verifying or presenting the information in a database.

However, it is doubtful whether the Database Right in its present form even fulfils this function. The ECJ significantly restricted the scope of this right in its ruling in the case of *The British Horseracing Board v William Hill*. The Database Right now protects the obtaining of data rather than its creation. It seems unlikely that valuable databases, such as medical research data will benefit from Database Right, the very kind of databases that it was originally intended to cover.

The significance of the Commission’s study is in the economic evidence presented against the effectiveness of the Database Right. The study shows that investment in databases has fallen to pre-Directive levels and is lagging well behind the kind of growth experienced over the last few years by the US database industry, which has no equivalent right protecting its databases. The gap appears to be widening - the report comments that “the ratio of European/US database production, which was nearly

1:2 in 1996, has become 1:3 in 2004.” Furthermore, the database industry in Europe has only managed to record three more databases in the Gales Directory of Databases than the total number listed in 2004 when the Directive was introduced.

In parallel with this empirical study, the Commission sent out a questionnaire to the European database industry to canvass the industry’s opinions of the Database Right. Unsurprisingly, the feedback was positive and the report acknowledged that the European publishers and database producers would clearly prefer to retain the protection afforded by the Database Right.

So how does the Commission intend to take these findings forward? The report offers a number of options: either (i) to repeal the Directive; (ii) to withdraw Database Right but maintain the harmonised level of copyright protection; (iii) to amend the Database Right in an attempt to clarify the scope of protection; or (iv) to simply maintain the status quo.

It is understandable why the Commission has presented the first three options – the economic effect of database production is unproven and if the Commission’s aim is to increase the growth in database production, the arguments are clearly in favour of change. However it is less clear why the Commission has presented the fourth option: the Commission reasons that to remove the Database Right altogether may be more costly than maintaining the status quo and would reopen the debate on the appropriate level of protection.

The Commission should take this opportunity to introduce such reforms as are necessary to stimulate the growth of the database industry in Europe; it must not let slip the chance to address the empirical evidence against the effectiveness of the Database Right.

**Carla Pont**  
Charles Russell

## EU/ Laws Committee

- Gowers Review of Intellectual Property
- Patent Office Consultations.

The EU/ Laws Committee has recently made submissions to the European Commission on its Evaluation of Directive 96/9/EC on the Legal Protection of Databases (The Database Directive) and the its Questionnaire On the Patent System in Europe.

The Committee is now preparing submissions on:

- Gowers Review of Intellectual Property [see: [http://www.hm-treasury.gov.uk/independent\\_reviews/gowers\\_review\\_intellectual\\_property/gowersreview\\_index.cfm](http://www.hm-treasury.gov.uk/independent_reviews/gowers_review_intellectual_property/gowersreview_index.cfm)]
- Patent Office Review of Inventive Step Requirement [see: <http://www.patent.gov.uk/about/consultations/inventive/index.htm>]
- Patent Office Consultation on Relative Grounds of Refusal of Trade Mark Applications [see: <http://www.patent.gov.uk/about/consultations/relativegrounds/index.htm>]

- Patent Office Consultation on Proposals to Introduce New Fees for Registered Designs [see: <http://www.patent.gov.uk/about/consultations/regdesignfees/index.htm>]
- Patent Office Consultation on the Statutory Forms to be Introduced with the New Registered Design Rules [see: <http://www.patent.gov.uk/about/consultations/regdesignfees/index.htm>]

The Committee is very keen to hear the views of members of LES (B&I) on any and all of these topics; but particularly on the Gowers Review..

Further details of what is being done, and how to submit comments, can be found on LES B&I’s website at <http://www.les-bi.org/> click on the link, entitled, “Gowers Review of Intellectual Property and Patent Office Consultations” on the front page of the website.

**Robin Nott**  
Chair LES B&I EU/Laws Committee

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# PATENTS AS BUSINESS ASSETS: A PRACTICAL GUIDE –

*Notes from the Half-Day Meeting on  
Thursday 9th February 2006  
Chaired by Nigel Jones of Linklaters*

“Patents by themselves are worth very little” these were the opening words of Dr Peter Cozens from ProPharma Partners; they are indicative of the general feeling about patent protection in the UK at present. Dr Cozens went on: “A weak patent in strong hands is worth more than a strong patent in weak hands”. Most lawyers will recognise the truth of this statement as the cost of defending and protecting patents is high and hence those patent owners with deep pockets are best placed to take advantage of the legal system! Clearly the more tips about how patents can be commercialised successfully the better! Indeed this was my motivation in attending the “Practical Guide to using patents as a business asset”.

The first half of the meeting focused on the use which some British universities make of their natural resource of inventiveness, and the advantages and disadvantages of working in an academic environment when setting out to make money from inventions. For many British universities the process of bringing inventions to market involves the creation of a parallel organisation, structured as a business, with commercial principles, to run alongside the University, which obviously has quite different objectives.

**Dr David Winstanley**, who has 10 years experience at Sheffield University Enterprises Limited (“SUEL”), the company responsible for generating spin out companies and commercially licensing unencumbered\* technology, opened the session by explaining the dichotomy of working with inventors whose primary interest is academia and whose objectives are to disseminate information and do research which can be shared. The commercial requirement that an invention be kept confidential until it can be protected by a patent is at odds with the academic’s desire not just to be published, but to be the first to publish.

Dr Winstanley also commented that he generally preferred to avoid direct commercialisation of charity funded research (except for Wellcome) and multi-partnered EU grants. In both cases the IP agreements governing the grants are such that a university TT company will have difficulty generating the profit streams necessary to sustain its operations.

*\*Technology developed within universities is often encumbered due to the fact that sometimes academics are free to work as consultants for commercial enterprises and as such Intellectual Property rights, in the research undertaken by them, may already be owned or licensed by a third party.*

**Dr Anne Lane the Executive Director at Biomedica plc**, the spin out arm and wholly owned subsidiary of University College London (“UCL”), described the approach which UCL take to exploit the intellectual property rights which their employees generate. Dr Lane acknowledged the difficulties inherent in this environment and also felt that the conflicting requirements currently placed on British Universities were not constructive.

She noted that current proposed changes to the objectives of UCL Biomedica would result in it being penalised for setting up “good” projects (ie those without a realisable or with a negligible return on investment but which would benefit society generally.)

*A general remark was made that LES should bring this issue to the attention of the government and perhaps the Chancellor’s current request for feedback on IP was an appropriate forum.*

Dr Lane explained that the first question for BioMedica (“BM”) when faced with a new patent is to decide whether it is more appropriate to create a spin out company to exploit it or to develop it through a licensing opportunity. As they do not have funds to develop a patent to bring it to market there is inevitably a loss of equity in the patent when they look to raise funds to do this. The strategy adopted by BM is to try to hold onto the equity for as long as possible to maximise the possible income for BM.

**Dr Peter Cozens the Principal at ProPharma Partners** spoke about “Patents in strong hands – an engine of growth for SME biotech.” He highlighted a problem faced by both businesses and universities namely that it was impossible to know how much resource to put into developing patents. Dr Cozens proposed that Intellectual Property management was not the management of IP itself but of internal and external commercial factors. There was a legal reality which had to be assessed in terms of the commercial reality. For example if you have a patent do you know if third parties are infringing it? If they are, and you know about it, do you have the finances to stop such infringement?

Dr Cozens is of the view that if you have something of value you will always be attacked and if you are a start up company the value of your IP assets may not be obvious so attack is less likely. However to stay in control of your IP assets you should always show your strength and not allow yourself to be pushed around. Cost effective litigation is not always cheap litigation!

When asked what mistake was the biggest made when a company was trying to commercialise a patent, Dr Cozens answered that it was a failure to understand the objective of the patent with the result that the patent claims are set too wide.

**Mark Wilson, a Director of GlaxoSmithKline** in the department of Collaboration Management Europe Pharmaceutical Development described himself as a man who “crafts” deals and advised that the more key business terms that can be agreed between parties before a legal agreement is drafted the better. GSK employ 16,000 research and development scientists and he agreed with Dr Winstanley that removing the negotiations from the hands of the scientists improved the efficacy of the transaction!

It was interesting to realise how much management of patents is required internally within GSK and that the basic problems faced are often similar to those faced by those in an academic environment. As Dr Cozens highlighted, knowing when a patent is going to be commercially successful is not obvious and the decision to invest in the commercialisation of a patent is expensive whether ultimately successful or not.

Overall the speakers provided significant food for thought. My conclusions from both this session and personal experience is that to be successful at exploiting an invention you need not just the ideas people but a sound commercial brain to make the transition from lab to marketplace as efficient and cost effective as possible. Rarely are those attributes to be found in one person.

*All the power point slides from each of these talks can be found on the LES website:- <http://www.les-bi.org>*

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# Standing To Assert A U.S. Patent - To The "Patentee" (Only) Belongs The Infringement Action

**Who can sue on a United States patent? The answer is not always as clear-cut as it might be. A patent plaintiff or other party seeking to assert rights in a U.S. patent portfolio will thus wish to ensure before commencing any such assertion that he enjoys sufficient legal standing as to the patents in his portfolio. Otherwise, a challenge to such standing may lead to unexpected chagrin for the would-be assertor of the patent and unlooked-for advantage on the part of the alleged infringer against whom the patent was to be asserted.**

35 U.S.C. § 281 provides that "a patentee shall have remedy by civil action for infringement of his patent." (emphasis supplied). This section of the Patent Code provides the statutory basis for standing to sue in a patent case. It may be a source of some surprise, then, to consider how often in practice there arise substantial questions regarding the putative patent plaintiff's threshold right to assert the patent at all, or how important it is (for both plaintiff and defendant) to determine at the outset of a possible patent infringement proceeding whether plaintiff actually has adequate ownership interests in the patent he is purporting to assert.

How could anyone have the effrontery to attempt asserting a patent as to which he was not the patentee at all? In most cases in which there are standing to sue issues, the problem is not that the putative plaintiff truly has no relation at all to the patent in suit, or that he has rashly filed a complaint based on the patent of a stranger. Rather, more commonly, the plaintiff has or believes he has some relation to or interest in the patent in suit, but this interest is not sufficiently close or perfected to satisfy the somewhat stringent statute- and case-based requirements that "the patentee," or someone very like the patentee, is the only person entitled to complain of infringement of the patent's claims.

A patent infringement plaintiff must be the owner of valid right, title, and interest in the patent in suit. An ostensible plaintiff in a patent infringement suit has no standing if he has no proprietary interest in the patent.

A common scenario in which sufficient standing may be lacking arises from the licensee, or co-venturer, or distributor of a patent holder who wishes to assert the patent to protect his market. The leading United States Supreme Court case of *Waterman v. Mackenzie*, 138 U.S. 252 (1891), established over a century ago that a "bare" licensee, as opposed to a patentee or assignee, does not have standing to sue for patent infringement. The Court in *Waterman* noted that a patentee could convey in writing: (1) the whole patent, comprising the exclusive right to make, use, and sell the invention; or (2) an undivided share of that right; or (3) the exclusive right within a specified part of the United States. But it held that any assignment or transfer short of one of these three kinds is a mere license, "giving the licensee no title in the patent and no right to sue at law in his own name for an infringement." The importance of the distinction between owner and licensee has been reaffirmed in modern cases. In *Pfizer Inc. v. Elan Pharm. Res. Corp.*, 812 F. Supp. 1352 (D. Del. 1993), the court granted defendant's Rule 12(b)(6) motion to dismiss, noting that rights licensed by plaintiff Pfizer from patentee were not sufficiently exclusive or otherwise adequate

to establish ownership rights in Pfizer, and hence did not meet *Waterman's* requirements to establish standing. Because the patentee had not transferred substantially all its rights, Pfizer was "a licensee who cannot sue in its own name. Accordingly, Pfizer does not have standing to sue in its name for infringement . . . ." *Id.* at 1373.

The courts have recognized that an *exclusive* license, giving the licensee the sole right to make, use, and sell within the United States, may meet the *Waterman* test as "an undivided share of [the patent] right," and thus may allow the exclusive licensee to stand in the shoes of the patent holder. Even if the license appears to be or is denominated as "exclusive," it will still pay to make sure that no substantial rights within the U.S. are reserved to the patentee or another party (for instance, an "exclusive" distribution license might grant a wholesaler the sole right to use, sell, and offer for sale the product within the U.S., but not to make it, because the patentee is the manufacturer and OEM supplier of the product; if the patentee thus reserves part of the patent monopoly, then arguably the distributor's nominally "exclusive" rights are insufficient to give him standing to sue).

In determining whether a license is sufficiently exclusive to give rise to standing to sue for the licensee, courts will closely examine the substance of which rights the licensor granted (and which, if any, he retained), taking into account the intention of the parties as manifested in the license documents.

Recent case law confirms that this inquiry will require detailed and fact-specific inquiry into all the transactions involved in the chain of title for the patent before determining whether the party asserting the patent holds all (or substantially all) substantive rights in it. In *Aspex Eyewear, Inc. v. Miracle Optics, Inc.*, the Court of Appeals for the Federal Circuit recently held that an exclusive licensee whose license runs for less than the full term of the patent does not possess independent standing to sue an alleged infringer (and thus that such licensee's cause of action was dismissible). 434 F.3d 1336 (Fed. Cir. 2006).

Early consideration and investigation by defendants of the fundamental legal issue of the putative plaintiff's standing to sue can help avoid squandering substantial resources on a full-blown patent infringement litigation. Thus, it is probably advisable when considering a possible patent assertion – from either an offensive or defensive perspective – to make investigating the assignment documents, recordation, and other evidence of the chain of title or license among the very first steps before proceeding any further. If there are evident gaps in the chain of title or license, or if there is significant doubt as to whether the rights of the purported assignee are sufficiently extensive, a court may even grant expedited preliminary discovery to allow exploration of this matter, thus setting up a possible motion to dismiss if the missing links of the chain, or evidence of a sufficient grant of exclusive rights, do not materialize.

**Jeffrey D. Sullivan**  
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# News from the Regions

## LES Scotland Region



### POST CARD FROM SCOTLAND

Dear LES Members  
Welcome to spring in Scotland - snow, sledding and skiing! But now the snow has melted (just) we have torn ourselves away from the hills to bring you a fascinating and instructive event on brands, trade marks and the whisky industry on the 20th April. The evening will include a presentation from Robert Ransom who will brief us on the Glenfarclas brand and we are delighted that Murgitroyd's will lead an interactive session to round the evening off. Stephen Powell President of LES Britain and Ireland will also be attending. The event will be fun and informative and a great networking opportunity. We look forward to seeing you in Edinburgh in April!

Best regards  
Cathy Rooney, Secretary, LES (Scottish Branch)

## LES London Region

The May meeting will be held at the offices of Simmons & Simmons, CityPoint, One Ropemaker Street, London EC2Y 9SS. There will be two short talks:

1) **Michael Sinclair** will speak on "Open Source Software". What are the pros and cons of using open source software and what are the legal risks in doing so? To what extent can a licensee expect IPR infringement protection from the licensor? Can the risk of infringement be quantified and can it be insured against? In what circumstances is a licensee's own proprietary software put in jeopardy by combining it with open source software? How should a target's use of open source software be dealt with on a business acquisition or business disposal?

Michael Sinclair is a partner in the Communications, Outsourcing and Technology Group at Simmons & Simmons. He specialises in technology development and supply and IT-enabled business process outsourcing. Clients for whom he acts include KPMG International, Transport for London, Schlumberger, HMV, Genworth Financial and Lincoln Assurance. Michael has advised a number of technology sector and financial services clients in relation to the implications of using open source software.

2) **Jeremy Morton** will speak on "What Are Database Rights?". Now that the dust has settled on the dispute between the British Horseracing Board and William Hill, Jeremy Morton will assess the impact of the decisions by the ECJ and Court of Appeal. Following the ECJ's interpretation of the database right, many businesses may have far less to license and protect than they thought.

Jeremy Morton is a partner in the Intellectual Property Group at Simmons & Simmons. Jeremy advises on all aspects of intellectual property as well as some related areas of law such as data protection and privacy. His significant, although not exclusive, focus is on clients in the IT, telecoms and electronics sectors.

Dinner after the meeting will be at the "City Pipe", 33 Foster Lane, (off Cheapside).

For further information please contact:

**Sheena Hunter**

Email: les@glasconf.demon.co.uk for further details.

## LES West Midlands Region

Our next event is to be held at the **Bank Restaurant and Bar** in Birmingham's Brindleyplace on the 27th April 2006 and is entitled:

### "Leveraging Value from the Cadbury Brand - A Licensing Case Study"

The speakers are **David Foster** and **Mark Hodgkin** of Cadbury Schweppes Group Intellectual Property Department.

With origins dating back some 200 years, Cadbury Schweppes PLC is the world's largest confectionery company and one of the world's largest soft drinks companies. IP forms a major part of the company's assets, which include some of the most well known and liked brands in the world. Focusing on Cadbury Schweppes' IP licensing in the UK, the presentation will look at how IP licensing can be used to extract increased value from a brand as well as some of the practical issues surrounding the management of a significant licensing operation in foodstuffs.

Bank is one of the best known restaurants in Birmingham and the presentation will be followed by a three course meal with wine. With another high turnout expected, early booking is recommended to avoid disappointment.

We are currently planning a further event to be held in June or July and hope to be in a position to make an announcement on this shortly.

For further information please contact

**Simon Church**

simon.church@wilsongunn.com

## LES North East Region

*Businesses in South Yorkshire may be interested in some financial help which is being provided by Richard Lindley at International Innovations Services Limited ("IISC") in Sheffield. IISC has recently announced a substantial package of financial support aimed at new businesses, who have been trading for less than 18 months. The funding is designed to help new companies overcome initial barriers to trading and help companies grow at a faster rate during the initial trading period. The funding package can be used to support a variety of key activities such as legal and intellectual property expenses, design costs, production planning, prototyping, market research, developing advertising and PR campaigns, business planning, fundraising and financial systems. If you have any clients who would be interested in taking advantage of the financial support on offer then they must contact Richard Lindley on 0114 249 5600 or e-mail him at richard@technology-transfer.co.uk.*

Fox Hayes LLP is hosting a seminar with the Defence Diversification agency at their Leeds office on Monday 3 April 2006. The key speaker will be Dr Damien McDonnell, Chief Executive at the DDA. Damien will speak about the work of the DDA and there will be a presentation on how the DDA has helped various businesses in Yorkshire together with a presentation by Liz Ward, Head of Intellectual Property at Fox Hayes, and Chair of LES NE Region, talking about Licensing and finding the right business partner. For further information on this seminar please contact Liz Ward on 0113 383 8464 or e-mail Liz at elizabethward@foxhayes.co.uk.

The next North East LES meeting is 10 May when **Ignatius Decastro** of WIPO will speak on domain name dispute resolution. Please contact **Deborah Parsons** for further information Tel: 0113 383 8469, Email:deborahparsons@foxhayes.co.uk

## OBITUARY – Henry Hodding

Henry Hodding was born in 1924 and died in February 2006. He had been married for over fifty years and leaves his widow, Sybil, two children, Lydia and Mark and three grandchildren. These are the bare facts.

What was special about Henry? In his early life he nearly became a professional soldier and, in his retirement years he was a stalwart of the local parish council and the parochial church council.

He was born in Hampshire, England and went to Wellington School which was very much a military-style school. He joined the army during World War 2, was commissioned and wounded in Italy. He returned to service and fought in the Balkans and finally in Palestine. He could have become a regular soldier but decided against this and instead became a patent attorney or patent agent.

In England, it has never been necessary that a law degree is a prelude to qualification as a Chartered Patent Agent, or Attorney. Henry qualified with no real difficulty and then he joined a firm of patent agents. After a short period he joined the firm of A.A. Thornton and Company where he spent the greater part of his long professional career, eventually becoming Senior Partner.

It is a long time ago and my recollection of his firm may have become hazy but a unique feature was that there were two brothers Thornton, one of whom was a very good cricketer and reached Minor County standard.

Henry never attempted to achieve honours as an officer in the Chartered Institute of Patent Agents but on the prompting of one of his partners he joined the Licensing Executives Society (U.K.) which had been formed only a few years before.

I was the first International Secretary of L.E.S.I. When a new Secretary was needed our collective eye fell on Henry. He was invited to attend a Board meeting in Europe. Our talent spotting had been good. Henry seemed to have a natural talent and enthusiasm for the position. After service as International Secretary he achieved the distinction of becoming International President in 1983. He travelled extensively on behalf of L.E.S.I. during and after his Presidential year and in 1989 was awarded the L.E.S. International Gold Medal.

Henry's involvement in L.E.S. (U.K.) started after his service at the international level. He was not unique in this order of events. I followed the same pattern myself. In the early years of L.E.S.I. it was inevitable that non-American international officers might have had little service in national societies. Henry became President in Britain in 1986.

Having retired from practice as a patent attorney in 1987 he took a step, which was characteristic of him but relatively unusual. He moved from a London suburb to a beautiful small village and immersed himself in local activities.

He became a stalwart of the village council and also of the local church council. Sybil and he spent a great amount of time looking after their garden, which was open to visits by the public during the Annual Gardens Week. Obviously the quality of the flowers was very much appreciated because visitors secretly helped themselves to cuttings so that they could try to emulate the success of Sybil and Henry's efforts.

Finally, and most important of all, Henry was a devoted husband, father and grandfather.

**Michael Burnside**



## LES International Officers 2005-2006

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A new museum opened in London last December, dedicated to 'Brands, Packaging and Advertising'. Tucked away in a fashionable side street in Notting Hill the museum is stocked with 10,000 packets, promotions and artifacts which chart changes in home lifestyle over the past 200 years. Branded soap powders, breakfast cereals and chocolates are exhibited alongside games, toys and radio receivers.

There is a strong nostalgic appeal so the older you are the more you will enjoy it, but the museum also provides a fascinating insight into the commercial development of trade marks, although that is nowhere stated.

The exhibits are somewhat randomly eclectic, with out of place inclusions and notable omissions (don't ask the staff why there are no Marmite jars – apparently everyone asks that, and the answer is that there is only space to show part of the collection) – but that is part of the charm. The collection was started as a personal venture by Robert Opie at the age of 16 with a packet of Munchies.



UK Registered Trade Mark 1083277 Procter & Gamble

Further information and directions (very necessary) can be found on <http://www.museumofbrands.com/>



# Events Diary 2006-2007

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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/>)

### 9-13 April 2006 LESI Conference

Seoul, Korea  
For further information:  
[www.lesi2006.or.kr](http://www.lesi2006.or.kr)

### 19-21 April 2006 7th International Trade Mark Conference

WIPO, Geneva, Switzerland  
[www.trademarkconference.com](http://www.trademarkconference.com)

### 20 April 2006 LES Scottish Branch

Royal Society  
George Street, Edinburgh  
18:00 – 20:00  
"Barleycorn v Infringer – the importance of brand and market position"  
Speakers: Robert Ransom of J&G Grant and an interactive session lead by Murgitroyds. Email: [cathy.rooney@snbts.csa.scot.nhs.uk](mailto:cathy.rooney@snbts.csa.scot.nhs.uk)

### 27 April 2006 West Midlands Region

Bank Restaurant and Bar  
Brindley Place, Birmingham  
"Leveraging Value from the Cadbury Brand – A Licensing Case Study"  
Speakers: David Foster and Mark Hodgkin of Cadbury Schweppes.  
Email: [simon.church@wilsongunn.com](mailto:simon.church@wilsongunn.com)



"Innovations in the Licensing World"

Pan-European Conference  
Radisson SAS Hotel, Glasgow  
21-23 June 2006

### 3-4 May 2006 European Inventor of the Year Conference

Brussels  
For further details see:  
[www.european-inventor.org](http://www.european-inventor.org)

### 4 May 2006 SW & S Wales Region

Hotel du Vin, Bristol  
18:00 – 20:00  
Inaugural Meeting, informal drinks  
Discussion on problems of brand control and undesirable brand extensions.  
Email: [gfearon@ttuk.com](mailto:gfearon@ttuk.com)

### 10 May 2006 LES North East Region

Speaker: Ignatius Decastro of the WIPO  
Subject: Domain Name Dispute Resolution  
For further details please contact:  
Deborah Parsons: Email: [deborahparsons@foxhayes.co.uk](mailto:deborahparsons@foxhayes.co.uk)

### 17 May 2006 London Area

Simmons & Simmons  
City Point, One Ropemaker Street, London  
Two short talks:  
i) Open Source Software;  
Speaker: Michael Sinclair  
ii) What are database rights?  
Speaker: Jeremy Morton  
For further details contact:  
Sheena Hunter, email: [les@glasconf.demon.co.uk](mailto:les@glasconf.demon.co.uk)

2007  
LES B&I Conference  
and AGM Dublin

Further details TBA

## Moving Company/Changing Address?

Please remember to tell our administrator, Sheena Hunter, if you change your office address so that we can continue to send you LES information and newsxchange™. Her address is:

LES Administrative Office, Northern Networking Ltd  
1 Tennant Avenue, College Milton South, East Kilbride  
Glasgow G74 5NA

Please also remember to change your contact details in the Membership Directory on the LESI website. As a service to our members the editor will print any change of company and location in newsxchange™. Please contact Mary Elson, [elson.mary@btinternet.com](mailto:elson.mary@btinternet.com)

## Membership

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Email: [les@glasconf.demon.co.uk](mailto:les@glasconf.demon.co.uk)

A membership application form may also be found on the LES B&I website: [www.les-bi.org](http://www.les-bi.org)



## Welcome!

Council has been pleased to welcome the following new members to the Society:  
Mr Leon Agnew, Enterprise Ireland; Mr Philip Atkinson, Kent Jones & Done; Mr Peter Bolger, Mason Hayes & Curran; Mr Brian Callagy, Queen Mary IP Institute; Mr Paul Carlyle, Shepherd Wedderburn; Mr Matthew Carpenter, University of Strathclyde; Mr Edward Chatterton, DLA Piper; Mr Richard Clack, Pace Micro Technology; Mr Simon Cosgrove, Maclay, Murray & Spens; Ms Ann Critchell-Ward, Freeth Cartwright; Mrs Alice Debats, CMS Cameron McKenna; Ms Anna Feros, Shepherd Wedderburn; Dr Alastair Fleming, ERI; Miss Melissa Geffert, Osborne Clarke; Mr Ben Goodger, Willoughby & Partners; Dr Deborah Harland, GlaxoSmithKline; Mr Philip Harris, Gill Jennings & Every; Dr Paul Hawkins, Herbert Smith; Mrs Cynthia Johnson, Dundas & Wilson; Mr Alastair McCulloch, Jones Day; Mr Tim Marshall, Herbert Smith; Mrs Helen Mill, The Robert Gordon University; Mr Takefumi Miyamoto, Tanabe Seiyaku Co.; Miss Anne Mizzi, Shepherd Wedderburn; Mr Ian Murphy, Edinburgh Research & Innovation; Dr Wendy Nicolson, ERI; Mr Julian Nolan, Honeywell; Mr Gerard O'Regan, Enterprise Ireland; Dr Richie Paul, National Centre for Sensor Research; Mr George Pickering, Reed Smith; Ms Carla Pont, Charles Russell; Mr Colin Pope, Enterprise Ireland; Mr Mark Risdale, Bristows; Miss Malissa Ritchie, LeBoeuf, Lamb, Green & MacRae; Mr Tony Rivers, Tanner & Taylor; Mrs Scott Singer, Denton, Wilde Sapte; Mr Robert Spavin, Crusade Laboratories; Mr Robert Stoker, Ricksons; Mr Gordon Stove, Radar World; Mr Giovanni Visintini, International Brand Management; Miss Angela Wilks, University of Surrey; Mr David Wooldridge, Oxford Brookes University; Mr Nabil Zahlan, ICI Strategic Technology.

## newsxchange™

Editor: Mary Elson  
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