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The Green Issue

Green guru, **Sir Jonathon Porritt**, guest speaker at the LES B&I Annual Lunch

With Green Issues very much in the news LES B&I is delighted to welcome Sir Jonathon Porritt as guest speaker at the B&I Annual Lunch at The Savoy, London, on 8 February 2007.

Former Director of Friends of the Earth, a member and former Co-Chair of the Green Party and an eminent writer, broadcaster and commentator on sustainable development as well as Co-Founder Director of Forum for the Future (www.forumforthefuture.org.uk), which is now the UK's leading sustainable development charity, Jonathon Porritt's green credentials are impeccable. He was appointed Chairman of the UK Sustainable Development Commission (www.sd-commission.gov.uk), by the Prime Minister, in July 2000. The Commission is the Government's principal source of independent advice across the whole sustainable development agenda. In January 2000 Jonathon Porritt received a CBE for services to environmental protection. His talk at the LES B&I Annual Lunch, 'Technology Transfer for a Sustainable World' touches on a subject of vital importance to all of us, how can we use our skills to safeguard the environment? We hope that you will come along to hear his words of wisdom and, of course, to enjoy the lunch at The Savoy.

Following LES B&I tradition the Annual Lunch is preceded by a half day seminar, this year organised and chaired by Robin Nott of the B&I Laws Committee. Entitled, 'An Overview of the Licensing of IP Rights' the seminar aims to give an over view of licensing from the point of view of industry, academia and the legal profession. The speakers will talk about what can be licensed; how you set about finding someone to license with; what terms, including financial terms, you might expect to see in the license agreement and guidance about managing the licence once it is in place including avoiding disputes between parties.

The seminar will be useful to those new to licensing as well as to experience practitioners.

The seminar and the lunch are open to LES members and non-members alike. It is possible for groups to reserve complete tables at the lunch should you wish to bring along clients or colleagues.

Early reservations, for both the seminar and lunch, are recommended, as space is limited and the Annual Lunch is a very popular event. For further details and reservations please contact **Cara McIlwraith** (email: cara@glasconf.demon.co.uk)

Court of Appeal rules on business method and software patents

A good old English compromise, but what will the EPO think?

It was one all at the Court of Appeal on 27th Oct. Aerotel's patent was upheld as being based on a patentable telephone system, not an excluded business method, whereas Mr. Macrossan's Application for a computerised company incorporation service was thrown out on both business method and computer software grounds. The two unrelated cases were heard simultaneously and have roused much interest.

The decision includes a clever four step test for patentability assessment – which essentially summarises all pre-existing tests, although it was barely applied to the Aerotel case which was found clearly to relate to new apparatus in its entirety. Similarly Macrossan's entire disclosure was found in essence to amount to no more than a business program.

This is a difficult grey area and it would be preferable to decide what everyone wants and amend the law accordingly rather than having to keep going through the angels dancing on the head of the pin bit. For the present, unusually, the Court suggested that the EPO Enlarged Board of Appeal might want to let us have their views.

With indecent haste the UK Patent Office rushed out a practice note only days later in which, having trawled the decision for comments supportive of a robust approach, they assert: *Applicants don't have to be given the benefit of the doubt; Business methods will be rejected even if they are not abstract or are incomplete business procedures; Applications for programmed media will generally be rejected.*

Oh dear – another tough year on the horizon!

See: www.bailii.org/ew/cases/EWCA/Civ/2006/1371.html for the decision.

www.patent.gov.uk/patent/p-decisionmaking/p-law/p-law-notice/p-law-notice-subjectmatter.htm for the practice note.

CHRISTMAS COMPETITION

A prize for the first received full explanation of the Caliph's apocryphal words referred to in the decision, and which doubtless their Lordship's considered we all know by heart... Answers, to Mary Elson, by email, before 17 January 2007. elson.mary@btinternet.com



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Renate Siebrasse, David J Veasey,
Michael Waggett, Mark Wilson



We presently hear a great deal about the 2012 Olympics but within LES Britain & Ireland we have a decision to take about an event that may happen two years earlier.

LESI would like us to organise the LESI Annual Conference in London in 2010, and we have to decide whether or not to bid. This will probably be one of the biggest decisions that your

Council has to take during my Presidency. The last time the LESI Annual Conference was in the UK it was held in Edinburgh and was a resounding success. Indeed the healthy bank balance that we presently benefit from is in large part due to the success of that conference. Most LESI Annual Conferences since then have been well attended, with upwards of 500 delegates. This makes the staging of such a conference a major exercise, with significant risks, but also with many positive opportunities. I expect to report in the next edition of News Exchange on the Council decision.

Henry Connor has recently resigned from Council for personal reasons. I would like to pay tribute to, and thank him for, his long service on Council and his many contributions to LES Britain & Ireland. His most recent success was in bringing the Patent Office into the programme for the Pan-European Conference and as sponsors. Council has benefited over many years from his varied experience, but also from his willingness to try new ideas and approaches. He will be much missed on Council but will be remaining as a member of LES B&I and we hope to see him at future meetings.

I am delighted to welcome Dr Mark Wilson onto Council. Mark is Head of Third Party Management, Europe, for GlaxoSmithKline. This means that he has considerable experience of trying to make relationships and agreements with GSK's partners work. These range from research collaborations to licensing and to companies in which GSK has a stake. Many of you will have heard him speak of his experiences at past LES events. On Council, we are already beginning to benefit from his forthright views and fresh approach.

As it happens, Mark Wilson was in Dublin at the same time as me for the Irish Section Annual Dinner. This was a highly enjoyable evening, meeting many old friends, and with an excellent short talk from Dr Mark Heffernan, the Chief Executive and co-founder of Opsona Therapeutics, a Dublin-based spin-out from Trinity College whose mission is to discover and develop therapeutics to restore balance to the immune system and to improve the quality of life of patients with inflammatory diseases. Mark illustrated the cosmopolitan nature of the modern Ireland, citing his own Chinese ancestry and long career in Australia before deciding he wished to move to Ireland.

The Annual Dinner was preceded by the AGM of the Irish Section at which the reins of power were transferred from Yvonne McNamara to Alistair Payne and Jeanne Kelly. Alistair, originally from New Zealand, is Head of Commercial Intellectual Property at Matheson Ormsby Prentice and Jeanne is a partner with Mason Hayes & Curran. Yvonne has been a tireless Chair of the Irish section, which has prospered under her leadership, supported by an able and enthusiastic committee. Yvonne also organised the excellent October London evening meeting. Yvonne will be staying on the Irish Committee, so her experience and contacts will be available to her successors. As you should already be aware, our Annual Conference in 2007 will be held in Dublin on September 13th & 14th.

I cannot help but think about the changing environment as the rain is lashing down outside my window whilst I write. This reminds me that we have secured a formidable speaker on sustainability for the Savoy Lunch on 8th February 2007. Many of you will have heard of Sir Jonathon Porritt, whose campaigning for Friends of the Earth in the 1980's first brought to the fore the issue of what was then, and is now, happening to our planet. New technologies and the licensing of them worldwide should have a part to play in addressing the causes of global warming. Thus there may be opportunities for members of LES to play a positive role, but we should, in any case, as good citizens, be aware of the environmental challenges and possible solutions. There is likely to be heavy demand for tickets for the Savoy Lunch, so please book early to avoid disappointment.

Martin Sandford President LES B&I

IPRinBusiness

- The Institute for Public Policy Research (IPPR) (30/11/06)** publishes report on IP in a digital age.
- Patent Office publishes guidance (16/11/06)** on collection of artists' resale royalties.
- Artpower Ltd & ANOR v Bespoke Couture Ltd (16/11/06).** Termination clause in licence agreement conferred a right of termination but did not require a party be bound to take such a step.
- European Commission publishes a result of a survey of EU businesses (05/10/06)** on their experiences with IPR enforcement outside the EU.
- European Commission has accepted binding commitments (04/10/06)** given by 5 major music publishers and 13 collecting societies.
- European Commission publishes evaluation of patent litigation insurance schemes (03/10/06).** The Commission is seeking views from interested parties by 31 December 2006.
- Charlie McCreevy, European Commissioner for Internal Market and Services gave a speech (03/10/06)** on music licensing for the 21st century.
- Online music providers and the British Phonographic Institute settle dispute (28/09/06)** with the MCPS-PRS Alliance over royalty rates.
- The Copyright Licensing Agency extends standard licence (27/09/06)** for higher education institutes.
- The Patent office consults business community (26/09/06)** for their views on the introduction of representative actions for the enforcement of IPRs.
- British Library launches a manifesto (25/09/06)** entitled "Intellectual Property: a balance", in which it makes recommendations concerning the current UK copyright framework, which it considers should be addressed in the Gower Review.
- British Academy publishes copyright "fair dealing" review (18/09/06)** which analyses how the exemptions for private study and non-commercial research are being applied in practice.

Monitored by **Dr Hayley French** Bird & Bird. Hayley.french@twobirds.com

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



From Sneetches to Prada

A literary ramble through branding ethics

"Oh! 'tis hard, 't is hard to be working
The whole of the live-long day,
When all the neighbours about one
Are off to their jaunts and play.

No. This isn't a seasonal piece about the sad lot of City solicitors burning the midnight oil in the hope that Christmas will bring the Ferrari bonus.

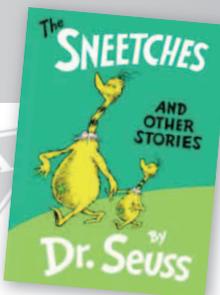
The rhyme is from the 'Manchester Song' in Elizabeth Gaskell's 'Mary Barton'. This 19th Century book from the 'trouble at 't mill' school, contained the moralising 'dress test'. The wealthy mill owner said he would agree to his daughter's plea to give a guinea to a passing beggar if she would sacrifice the expensive gown they were on their way to collect. Naturally she said she would give up the dress, and naturally her father relented and paid for both the dress and the beggar.

The developed world has the same dilemma. We want to give the third world our guineas, but are we prepared to sacrifice our BMWs, and if we do will someone step in to maintain our standard of living? As in *Mary Barton*, that is ultimately the wrong question. Elizabeth Gaskell's mill owner was faced with low price 'unfair' foreign competition and had to cut wages below subsistence levels to try to survive. This was the time before introduction of the trademark registration system in 1875 when imports of fraudulently branded 'Manchester' cloth were undermining our textile industry.

The relevant question then as now is how to regulate trade, rather than charity, so that everyone can benefit from globalisation – and of course we know the answer. As the EU has just sensibly commented in relation to the arrival in Felixstowe of the world's largest cargo ship, *Emma Maersk*, – filled with Christmas goods from China accused of usurping local manufacture: "We want China to trade fairly and to observe the intellectual property rights of European Countries."

The recent US cult documentary film, Micha Peled's 'China Blue', tracks the origin of Walmart's jeans and reveals the low pay and poor working conditions in Chinese factories which enable us to buy so cheaply in the West.

We shouldn't be doing it. We shouldn't be chasing cheap manufacture which inevitably leads to exploitation. We should be buying expensive brand-protected jeans so that our goods can be made ethically in both undeveloped and developed countries. That way enough money can be put back into the system so that everyone can benefit everywhere.



Dr.Seuss' learned treatise on branding is equivocal:

*"Now, the Star-Belly Sneeches
Had bellies with stars
The Plain-Belly Sneeches had none upon thars
The Stars were a sign of riches and wealth,
But were really so small
You might think such a thing wouldn't matter at all."*

But the current film 'The Devil Wears Prada' is in no doubt about its importance. Meryl Streep's character (Miranda) resolutely eschews emotion, until, stung by her new assistant's intellectual contempt of fashion brands, we get her impassioned 'lumpy jumper' speech memorably delivered in muted steely tones – a wonderful panegyric for trade marks. She explains that her assistant's 'no-fashion, no-logo' chain store garment that she had chosen because of its unusual colour was in fact the product of a long chain of design and research, filtering down from the high level activity of famous-brand companies, such as Prada; and that all of this was important and kept many people well employed and well paid.

It isn't just the developed countries that have realised this. Recent press articles have drawn attention to the actions taken by Ethiopia to increase revenue from coffee by controlling market prices through registration of their bean varieties as trademarks (Sidamo, Harar and Yirgacheffe). That's what we should think of as 'Fair Trade' (and that's another registered trademark!).

That way ultimately we all get to give the guineas and keep the BMWs.

Certainly we don't want to follow completely Dr Seuss' Sneetches. They all found out about and enjoyed trade in 'stars' until someone developed a misplaced anti-commercial conscience by confusing social responsibility with personal freedom:

*The day they decided that Sneetches are Sneetches
and no kind of Sneetch is the best on the beaches.
That day, all the Sneetches forgot about stars
and whether they had one, or not, upon thars."*

If we go down that road we will all be out of work!

Barry Quest Wilson Gunn



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Implications of the Human Tissue Act 2004

1 September 2006 welcomed significant changes to the law governing human organ donation and tissue retention, with the introduction of the final, and perhaps most important, provisions of the Human Tissue Act 2004 ("HT Act 2004").

For those waiting on organ transplant lists, the provisions increase the chances of receiving a transplanted organ by altering the rules in relation to deceased, and related and non-related living donors. Further, gone are the days of the secret paternity tests of crime novels, as the new legislation creates an offence of "DNA theft".

Such amendments were triggered by numerous factors, most notably the Alder Hay and Bristol Royal Infirmary scandals, where tissue from deceased infants was retained without parental consent. This inevitably undermined public confidence in relation to tissue retention and organ donation by medical professionals. It is hoped that the new provisions will alleviate such fears and improve public confidence, particularly so people would be more willing to agree to the use of tissues and organs in research and for donation.

The most important changes are discussed below:

1 Organ donation and tissue retention

The HTA 2004 permits the donation of all solid organ transplants, allogenic bone marrow, peripheral blood stem cells and donor lymphocytes for transplantation, from living human donors, whether or not the donor is related to the recipient (section 33 HT Act 2004). Previously, living donations were only permitted between genetic relatives and people with close emotional ties (e.g. spouse, adopted child etc). This therefore increases the flexibility in who can donate to whom, and the hope is that more people can benefit from a living donor transplant.

The new provisions still permit the donation of organs and tissue from a deceased person. However, it also allows techniques to be used to preserve an organ following death until the wishes of the deceased can be determined (section 43 HT Act 2004). There is therefore less pressure on the bereaved relatives to make such an important decision in the emotionally charged moments immediately following death.

The most important change in relation to deceased donation is to the requirement of consent. As before, consent must be obtained in order for any organs or tissues to be retained and used for research or transplantation (this applies to both living and deceased donation). Importantly, the consent must be that of the person donating the tissues or organs (for example in the case of a deceased donor, they may have previously expressed their wishes to donate their organs in the event of their death). Relatives therefore will no longer be able to overrule the wishes of a deceased person to donate their organs or tissues. UK Transplant has stated that the wishes of approximately one in 10 possible donors were overturned by their families under the previous system. Clearly therefore these changes could have a significant bearing on the number of organs that are available for transplantation in the UK. If no record of consent exists, then it can be given by a person nominated by the deceased or the family.

The threat posed by the international trade in organ trafficking has also been recognised by the new legislation. Section 32 HT Act 2004 prohibits commercial dealings in human materials for transplantation for payment. This is an offence, which is punishable by a prison term of up to 3 years and/or a fine.

2 Human Tissue Authority

Section 13 of the HT Act 2004 also established the Human Tissue Authority ("HTA"), which acts as a regulatory body. The HTA is an executive non-departmental public body which is sponsored by the Department of Health. Its functions are threefold, namely to:

- 2.1** regulate the removal, storage, use and disposal of human bodies, organs and tissues for research, transplantation, education and training, as set out in the HT Act 2004; and
- 2.2** develop national operational procedures (Codes of Practice) and guidelines to ensure compliance with the HT Act 2004; and
- 2.3** licence activities using human tissues, and licence and inspect venues where activities using human tissues are carried out, including post mortems and anatomical examinations.

3 "DNA theft"

The HT Act 2004 creates a new offence of "DNA theft" (section 45 HT Act 2004). In other words, anyone who obtains bodily material with the intention of analysing the DNA, without the consent of the individual from whom it was obtained (or those close to them if they have died), commits an offence. So, for example, a suspicious husband can no longer conduct a secret paternity test to confirm whether or not he is in fact the father of his wife's child.

There are, however, several exceptions to this offence, including analysis for the prevention or detection of a crime, medical treatment, to carry out the functions of a coroner or for national security purposes. On summary conviction of the offence, a person can be fined up to £5000. On conviction on indictment, a person can be fined, and/or imprisoned for up to 3 years.

While the changes in relation to organ donation are welcomed, a recent parliamentary report has suggested that they will in fact have little effect without the appointment of more specialised NHS staff to explain the revisions to bereaved relatives. It would be difficult, it is argued, to completely ignore the wishes of the deceased's relatives. This may be the case, but surely, in a time where health concerns are paramount and those requiring organ transplants due to the modern lifestyle increase, any changes which attempt to alleviate the strains on the present system must surely be welcomed with open arms.

Sarah Lynam Charles Russell
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Members on the *Move*

The following LES members have recently changed their addresses:

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ACROSS THE POND

America's Risky Gamble

I.P. Rights may become a retaliatory weapon in trade and regulatory disputes among WTO members.

Background

Internet gambling constitutes a rapidly-growing market, estimated at USD\$2B globally in 2000 and now estimated at USD\$12B. Many of the businesses providing gambling services are operated from small nations seeking to invigorate their economies. The small Caribbean nation of Antigua has taken a leading role in the recently-booming Internet gambling industry, with Antigua-based gambling sites taking in over USD\$1B in revenue in 2000. Recently, though, the United States government has taken increasingly stringent actions to limit the ability of U.S. citizens to gamble through offshore services such as those based in Antigua. It has been estimated that losing access to U.S. patrons would cost Antigua-based gambling businesses the great majority of their current revenue.

In a striking illustration of the law of unintended consequences, it has recently been suggested that the anti-offshore-gambling laws and regulations implemented by the U.S. violate the reciprocal obligations imposed on members of the World Trade Organization ("WTO"). More specifically, and far more alarmingly for the U.S. and other WTO members whose citizens generate substantial quantities of intellectual property, the possibility has emerged that these alleged violations of WTO norms may entitle the aggrieved island nation to suspend protection in Antigua of intellectual property rights owned by U.S. citizens and otherwise protected by other WTO treaty provisions.

WTO Dispute Settlement Proceedings

In March, 2003, Antigua initiated a WTO dispute settlement proceeding against the United States, alleging that then-existing United States laws and regulations restricting online offshore-based gambling ran afoul of U.S. obligations to other WTO member nations, including Antigua, under the General Agreement on Trade in Services ("GATS"). Antigua essentially argued that United States laws, facially and as enforced, amounted to an unfair trade restriction on gambling services and that these restrictions discriminated against foreign gambling operations while allowing some U.S. gambling business to operate lawfully.

After bilateral discussions between the U.S. and Antigua failed, a panel of the WTO's Dispute Settlement Body (the "DSB Panel") was established to review the complaint. The parties requested several extensions to allow for further discussions, but failed to achieve an agreement. In October 2004, the panel issued a detailed 451-page report finding, *inter alia*, that United States federal and state laws were in violation of the U.S.'s obligations to Antigua under GATS, and requiring the U.S. to explain within a specified "reasonable time" a plan for compliance with the ruling.

In April 2006, after its "reasonable time" had expired, the United States issued a one-page statement asserting that it had complied with the DSB ruling. The statement merely quoted a letter from the Department of Justice confirming that United States law criminalized interstate gambling on horse races and noting that a civil investigation was underway into a possible violation of this interstate gambling law, implying that the United States' position on remote gambling on horse racing (and implicitly, its overall regulatory stance on online gaming) was already in compliance with the DSB rulings.

In fact, legislation aimed at *further restricting* offshore Internet gambling was already making its way through Congress in the form of several bills seeking to prohibit the transfer of money to gambling operations, but carving out exceptions for intrastate gambling, Native American gambling, and horse racing. The progress of these bills (and the existence of already-applicable restrictions on other aspects of gambling) was not lost on Antigua, which requested the formation of a WTO compliance panel to rule on whether the United States had in fact brought its laws into compliance with the DSB rulings. The DSB formed a compliance review panel in August of this year.

Meanwhile, Congress passed one pending bill as the Unlawful Internet Gambling Enforcement Act of 2006 ("UIGEA"). The UIGEA's clear exemptions for intrastate gambling, Indian casinos, and horse racing will serve as ammunition for Antigua against the United States in the ongoing proceeding at the WTO by providing evidence of the United States' seeming protectionism of its domestic gambling operations.

Consequences Of Non-Compliance

According to the Dispute Settlement Understanding, which defines the WTO's dispute settlement procedure, a winning party in a dispute settlement is entitled to compensation for its losses due to unfair trade practices. Failing an agreement between the parties on compensation, the complaining party may request permission from the DSB to "suspend concessions or obligations," a practice commonly known as retaliation. If the DSB approves such a request, the victorious complaining nation may refuse to honor some of its own obligations under trade agreements with respect to the losing nation.

Thus, if Antigua established the United States's non-compliance with the DSB's rulings and could not agree with the U.S. on adequate compensation, Antigua would be entitled to request permission to retaliate. While WTO policy generally favors "like-kind" retaliation (e.g., retaliation for a medical services violation with a tariff on legal services, both governed under the GATS agreement as services; or retaliation for a steel violation with a tariff on automobiles, both governed under the separate GATT agreement as goods), if such retaliation would be ineffective, the WTO will in appropriate circumstances permit "cross-retaliation." Cross-retaliation is the use of trade measures covered under one WTO agreement in response to violations in another (e.g., imposing tariffs on goods under GATT in retaliation for intellectual property rights violations under the GATT TRIPs protocol).

Antigua, with a gross domestic product of less than USD\$1B and a largely tourism-based economy, would not be likely to gain much leverage by imposing a tariff on U.S.-supplied goods or hobbling U.S. provided services. On the other hand, if Antigua could lawfully suspend its compliance with GATT/TRIPs-imposed requirements to provide national protection for intellectual property originated by U.S. companies, it could arguably get the attention of U.S. industry and in turn policymakers much more readily and quickly.

Consider, for instance, the enormous pressure that software vendors, or movie studios would bring to bear upon Congress if Antigua secured WTO approval for a policy of no longer enforcing national patent or copyright interests of U.S. parties. The spectre of an Antigua market in which Microsoft's software or Hollywood movies could lawfully be freely distributed without any payment being made to the U.S. companies who had promulgated them must be one that would make even the most anti-offshore-gambling U.S. legislator think twice about the Pandora's box that would be opened by triggering a far-ranging suspension of reciprocal WTO-treaty rights with Antigua or any other jurisdiction.

In practice, the WTO does not authorize retaliation frequently, and cross-retaliation is even more rarely allowed, so it remains unclear whether or how such a scenario would unfold in this case. Nonetheless, the ongoing friction between the U.S. and Antigua, originally triggered by a desire to regulate gambling, but now possibly propagating across a far broader range of international trade regulation, illustrates the broad reach of reciprocal trade and intellectual property obligations under the WTO and other conventions, and makes clear that none of the blessings intellectual property owners have enjoyed under such multilateral treaties are unmixid.

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News from the Regions

LES Irish Section

The Irish Committee would like to extend their thanks to **Yvonne McNamara** of McCann Fitzgerald and **Maureen Daly** of Beauchamps who recently stood down from the positions of Chairperson and Secretary of the LES Irish Committee after many years. Yvonne and Maureen have done great work in expanding the profile of the LES in Ireland, through regular seminars and other events include the hugely successful Forfás Second Friday lecture series. They have done this with grace and good humour despite demanding work schedules. Their replacements were selected at the AGM in November and are as follows:

Alistair Payne: Chair; **Jeanne Kelly:** Vice Chair; **Hazel Larkin:** Secretary; **Mary Bleahene:** Treasurer; **Peter Bolger:** PRO.



Alistair Payne, new Chair of the Irish Committee, was born in Australia, grew up and was educated in New Zealand then worked as a solicitor in Auckland for several years. After completing a LLM (IP) at Queen Mary College (London) he returned to Australia and worked in private practice with Mallesons in Melbourne and then Corrs in Sydney.

He joined Matheson Ormsby Prentice, one of Ireland's largest law firms, as Head of its Intellectual Property Group in the Corporate and Commercial Department over two years ago and has represented multinational clients in the telecommunications, broadcasting, financial services, energy, pharmaceutical, manufacturing and retail sectors. He has a particular interest in protecting and commercializing business methods, software developments and e-commerce products and has helped a number of clients in patenting and licensing their software and internet technologies.

Outside work Alistair is a confirmed Francophile, spending one weekend in three in Paris. His other interests include English and Irish furniture and Chinese ceramics, tennis, arthouse cinema, opera and the classical voice – although he claims he wouldn't dare sing himself – but it might be worth testing his resolve – the Dublin conference in September 2007 could be a suitable venue!

Irish Members News

Jeanne Kelly, Vice Chair of the LES Committee has been made a partner in the Commercial department of Mason Hayes & Curran where she specializes in non-contentious intellectual property work. Her colleague **Peter Bolger** (also an LES member) was recently promoted to Senior Associate in the same department.

LES Scotland Region

Our Christmas Event on 5 December, "Scottish Universities – a sparkling future" is a topic of great importance for Scotland as much as for the institutions themselves – namely, what's the future for our Universities? Is it sparkling, a bit jaded or downright dull?

We are told that our Universities are one of Scotland's greatest assets in the knowledge era. What then are their priorities for future action? What are the new ways in which the Universities can work? How do they plan to exploit all their assets – not just "good ol' patents" and technology, but also staff expertise, the wider knowledge base, their brands and reputation, the alumni and student bodies, and even the tangible assets such as premises.

This will be a thought provoking evening and also great fun with mince pies and mulled wine at a venue that's easy to get to, Glasgow Opportunities, 36, North Hanover Street, Glasgow, hope to see you there.

LES London Region

LES London Region's first meeting of the New Year is on 11 January 2007 at the offices of BTG at 10 Fleet Place, Limeburner Lane, London EC4M 7SB and covers the increasingly important subject of Security Protocols and Systems.

The pressure on organizations to use adequate security protocols has never been higher. While the law of data protection may fail to change habits, the threat of loss of personal reputation has forced companies to re-evaluate the steps they take to protect personal data. We are very fortunate to be able to welcome internationally renowned experts, **Geoff Harris** and **Clive Reedman** to the LES B&I January meeting to discuss current security techniques and related issues.

Geoff Harris is an IT Security Consultant, with a background in military communications systems. He has been trained, approved and listed by CESA (the commercial arm of GCHQ) – the UK Government's National Technical Authority for Information Assurance and provides guidance and advice to government and commerce in line with current HMG policies and standards.

Geoff is well-known in the information security industry and is Vice President of the Information Systems Security Association in the UK. He has presented papers on IT Security, Forensics, Telecommunications and Computer Crime at many conferences.

Clive Reedman has been involved in the identification of human beings through automated means for over 22 years. He joined the Metropolitan Police Fingerprint Branch in 1980 and was added to the Registrar of Fingerprint Experts in 1984. He was immediately seconded to the FOCUS project that introduced the first Automated Fingerprint Identification System into the UK. In 1993 he was seconded to the Home Office to assist with the formulation of the user requirement for the National Automated Fingerprint System.

Clive joined the Police Information Technology Organization in 1998, when it was formed, and took on the responsibility of managing their Biometrics Programme. He was elected Chairman of the Association for Biometrics in Spring 2003. He has an international reputation as an expert in identification and related technologies and speaks at high-profile conferences around the world.

For further information please contact Cara email: cara@glasconf.demon.co.uk

2007 Dates for the Diary

8 February Annual Lunch and Half-Day Meeting

28 February - 2 March LESI IAM Fundamentals Course

13 - 14 September LES B&I Annual Conference

The LES (Scottish Branch) "Burns' Supper with a Difference" is already organised for the 13th February at a prestigious Glasgow venue. The theme for the night is - "Burns – cashing in on old relics". As always, the evening will be peppered with pipes, haggis addressing and entertaining and informative speakers including:- Alan Horn, Director of the hugely successful Kelvingrove Art Gallery and Museum Refurbishment Appeal, speaking on the assets – tangible and intangible – of the museum's collections; Lynne Cadenhead of Scottish Quest, explaining the development of a remarkable game, using Scotland's history to create something novel and very marketable. But the audience doesn't just sit and listen, they will be challenged to develop a trade mark with brand development potential for a, as yet undisclosed, museum exhibit – clues to good brand development will be provided by Andy Boddice of Myron. Prizes will be given for the best entries! Don't miss what will be a thoroughly enjoyable evening with great networking.

For further details contact Cara. email: les@glasconf.demon.co.uk

WIKIPEDIA: USE WITH CAUTION?



Wikipedia, the online encyclopaedia, has developed into a widely used resource for locating information quickly and conveniently. Whether it be an unusual acronym or the meaning of a word, Wikipedia has become the popular choice for those looking for quick, digestible “nutshells” on a variety of topics. But just how reliable is this resource of information?

Due to its nature as a user-regulated resource, Wikipedia is useful as a ‘casual’ introduction to any topic one might be researching. It can point you in the right direction, and offer useful links to other valuable resources. However it cannot be relied upon in any context where the veracity and accuracy of quoted information is of critical importance. This is because the key characteristic of the site is that it is written, edited and maintained by its users. Any user can contribute articles and edit existing ones with total freedom; no qualifications or expertise are required to post one’s opinions, and there are no restraints on another user replacing your contributions with their own. The principle is that through this self regulatory practice, users are able to control the integrity of Wikipedia’s articles by simply doing it themselves.

The nature of Wikipedia as an information resource has been thrown into new light with the possibility of its use and reference in legal proceedings. According to Business Week magazine in the United States, The US Patent Office was recently using Wikipedia as a reference in assessing patent applications. Presumably in response to criticism, The US Patent Office has now taken Wikipedia off its list of accepted sources of information.

In the context of trade marks for example, Wikipedia can potentially be a useful tool for supplementing evidence and arguments in the face of citations or oppositions, when examining the conceptual meaning of a mark for the purposes of similarity, or locating evidence as to the acquired distinctiveness of a mark. Wikipedia’s articles can also be a useful indicator of public perception and recognition.

However, is Wikipedia a reliable source of information in legal research? The susceptibility of Wikipedia to ‘e-vandalism’ has been widely documented, with examples including character assassination campaigns against the footballer Cristiano Ronaldo in the wake of his World Cup 2006 performances. Another example used to highlight the dangers of unconditionally using Wikipedia as a credible source involved the US television presenter Stephen Colbert calling on his viewers to actively enter false information into a variety of Wikipedia articles, such as the current population of elephants in Africa and the Far East. While Colbert and his online accomplices were subsequently locked out from the Wikipedia system, these vulnerabilities are symptomatic of the self-regulating model which it employs.

Wikipedia must therefore be seen as an informal, but very useful, introduction to topics of research. As a starting point it cannot be faulted, but care should be taken to always follow up and verify any key points through traditional sources.

Darren Olivier and Daniel Durnin
Field Fisher Waterhouse

2007
LES B&I
Annual Conference

Dublin
13-14 September
Trinity College



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2005-2006

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The Irish Economic Miracle Lessons for the Licensing Community

We are all familiar with the “Celtic Tiger” phenomenon but how does it affect the licensing community? What has it achieved for the Irish economy? Are there lessons we can learn?

Ireland is the largest exporter of software; the location of choice for the manufacturing operations of many of the world’s leading pharmaceutical companies and it aims to be, “...internationally renowned for the excellence of its research and be at the forefront in generating and using new knowledge for economic and social progress, within an innovation driven culture” by 2010 (www.entemp.ie).

LES Ireland Region has been a trail-blazer in its association with Forfás, Ireland’s national policy and advisory board for enterprise, trade, science and innovation in the “Second Friday” lecture series. Now we offer you the opportunity to learn from the Irish experience. What better location could there be for the 2007 LES B&I Annual Conference than Dublin?

The conference will include contributions from a number of the institutions, which have driven the success of Ireland’s technology-based industry, giving delegates the chance to hear first-hand how technology transfer has contributed to Ireland’s success. It will also provide the opportunity to learn the basics of licensing with LESI’s Fundamentals Course. With workshops covering the areas of Healthcare, EC/Laws, Brands, IT & E-Commerce and Plenary Sessions there will be something of interest to all LES members.

Whilst taking advantage of the conference’s academic setting to explore the ways in which the industry-academia interface has contributed to Ireland’s economic success and network with a broad range of licensing-oriented organisations and individuals you can also soak up the atmosphere of Ireland’s oldest university. Founded in 1592, during the reign of Queen Elizabeth Trinity College is one of Ireland’s leading historical sites.

Make a note of the dates in your diary today!

For further information contact Cara, email:
cara@glasconf.demon.co.uk

see also:
www.tcd.ie
www.enterprise-ireland.com
www.dublintontourist.com
www.entemp.ie
www.ryanair.com



LES Strapline

We have not been deluged with suggestions for the LES Strapline but here are the suggestions so far:

- LES: The IP Club
- LES: The Tech Transfer People/Club/Enthusiasts/Gurus
- LES: The place for tech transfer networking
- In 2 Tech Transfer? C U at LES
- LES: Tech Transfer Networking, Education and more
- LES: IP from concept to conclusion
- LES: Creating a sense of community among UK licensing professionals
- LES: Our business is all about IP

We would welcome your comments and additional suggestions – the prize for the best suggestion has not yet been awarded!

Anita Roberts Anita.roberts@btg.com

New to Licensing?

The, highly recommended, LESI three-day Fundamentals of Intellectual Asset Management Course is for you!

28 February - 2 March 2007

THE UNIVERSITY WOMENS’ CLUB
2 Audley Square, Mayfair, London W1k 1DB

Aimed at licensing professionals with up to two years’ experience in licensing, it is a valuable introduction to licensing whether you have a legal, academic or other business background.

You should aim to attend all three days of the course unless you have already attended course 101 or are a patent or trade mark attorney, or lawyer with IP experience

or anyone who satisfies the organisers having equivalent knowledge or experience.

The flyer, enclosed in this edition of News Exchange provides a detailed description of the course.

For reservations and further information contact Cara, email: cara@glasconf.demon.co.uk



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/>)

4 December 2006
LES North West Branch

"Practical Licensing - is it a game? - A serious but festive review of the lessons to be learned from fruit machines."

Speaker: Barry Quest
Venue: Relish Restaurant, Great Northern Warehouse, Manchester
18:00 for 18:30

For further information
Email: mark.goodwin@wilsongunn.com

5 December 2006
LES Scotland Branch

"Scottish Universities - A Sparkling Future?"

Speakers: Gillian McFadzean, Ian Laird and a representative from the Translational Medicine Research Institute

Venue: Glasgow Opportunities, George House
36 North Hanover St., Glasgow
18:00 - 20:00

For further information
Email: cara@glasconf.demon.co.uk

11 January 2007
LES London Area

"Security Protocols and Systems"

Speakers: Geoff Harris and Clive Reedman
Venue: BTG, Limeburner Lane, London EC4M 7SB
18:30 - 20:00

For further information
Email: cara@glasconf.demon.co.uk

8 February 2007
LES B&I Annual Lunch and Morning Meeting

Early booking highly recommended.
The Savoy, London
Guest Lunch Speaker: Sir Jonathon Porritt & Half-Day Morning Meeting entitled, **"An Overview of the Licensing of IP Rights"**
For further information
Email: cara@glasconf.demon.co.uk

13 February 2007
LES Scotland Branch

Burns' Supper
"Burns - Cashing in on Old Relics"

Speakers: Alan Horn and Lynne Cadenhead
Glasgow-venue tba

For further information
Email: cara@glasconf.demon.co.uk

28 February -
2 March 2007

LESI IAM
Fundamentals Course

Developed by LESI
Professionals for licensing
beginners, this highly
recommended course
will take place at

The University Women's Club,
London W1K 1DB

With six experienced LES
presenters over a three day
period the Intellectual Asset
Management Course is
a stimulating way to get
a grip with the subject.

Places are limited.

Early reservations are
recommended for this
excellent course.

For further information see the
flyer enclosed in this edition
of News Exchange or email:
cara@glasconf.demon.co.uk

Moving Company/Changing Address?

Please remember to tell our administrator, **Cara McIlwraith**, 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

Membership

Enquiries should be addressed to **Cara McIlwraith** at the LES Administrative Office:

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Email: les@glasconf.demon.co.uk

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



Welcome!

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

Mr Peter van Bruchem;
Robert Drakeford;
Mr Graham Hulse;
Sarah Lynam;
Jennifer Moynihan;
Ben Wilcox.

LES B&I Conference

13-14 September 2007
Trinity College, Dublin

The Irish Economic Miracle:
Lessons for the
Licensing Community

For further information,
Email: cara@glasconf.demon.co.uk



newsxchange™

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