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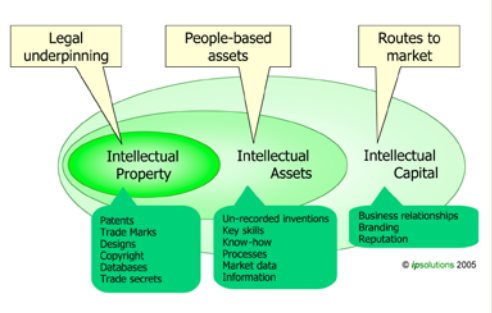
It's Not Just IP!

Intellectual Capital commercialisation in the Board Room

In the major stock markets, an estimated 80% of the value of companies lies in intangibles. Accountants may wrestle with what comprises intangibles and usually agree that Intellectual Property is a component part of intangible assets, but it is clear that intangibles cover a broad range of assets better described as Intellectual Capital.

Intellectual Capital (IC) includes Intellectual Property (IP), rights with clear legal ownership, providing the legal underpinning to company operations. However, the role of Intellectual Assets (IA), including workforce skills, business processes and know how the people – based assets is often the real driver of successful business operations. Furthermore, the wider Intellectual Capital of business relationships, branding and reputation underpin the routes to market. Without good routes to market, there is a risk that IP may be little more than a financial liability. Successful commercialisation needs a mix of all three ingredients: IP, IA and IC, to operate together, along with available finance to provide investment and working capital.



Damage to IP in technology companies, for example due to adverse inventorship disputes, loss of major patent claim coverage due to invalidity findings, or expensive patent litigation can directly impact and even destroy share value very quickly. On the other hand a strong IP portfolio often forms a key collateral asset that underpins investor funding in venture capital communities and stock markets.

In taking new concepts to market, particularly technology-based products, their intellectual capital needs to be built up into a robust and tight cluster to secure the optimum business model. However, building up IP portfolios in isolation is not the best way forward. In developing the IP for commercialisation, market issues need to be factored in to the process to guide and inform the key IP decision-making steps along the way.

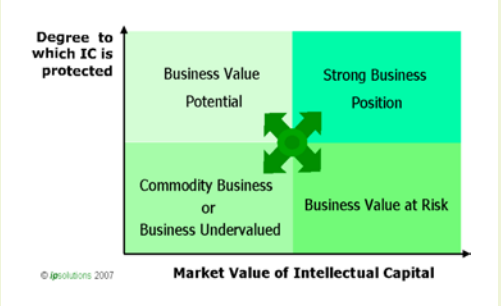
As traditional manufacturing activities have moved overseas, the UK economy is increasingly dependent on the development and commercialisation of IC to deliver economic value now and in the future, an issue clearly acknowledged in government thinking and policy, and one that is having a widespread impact on UK companies.

It all appears to be a straightforward and obvious no – brainer, and so, given how much company value is in IC, you would expect business leaders to have IC/IP as a regular item on the Board Agenda, along with financial and market reporting.

In good practice companies, the CEO and CFO take a strong lead in understanding how their IP protects their products and how its value can be built and optimised to increase company performance and shareholder value and how changes in business direction need to be reflected in their IC portfolios. IC is recognised to be too important to leave to the company technologists or the corporate legal department. They also take specific action to understand where their IP fits in the 'IP landscape', the IP held by other players in their market, and to understand the IP strategies of their competitors.

Additional value can be realised through licensing, provided that the IP is constructed with that in mind and that the additional know – how and processes that are so often critical to operational success are built into the licence. It also needs a good licensing executive to secure the best deal!

Survey after survey in recent years, however, shows that awareness of IP in the board rooms of the UK is still very low and good practice is too frequently absent. Some companies have their intellectual capital recognised in



Quantitative IP Benchmark, provided by IP Solutions.

their market cap, but do not have it well protected and are at major risk of losing it to competitors. Some large corporations have accumulated large and expensive patent portfolios, originally build for traditional defensive purposes that no longer match their business activities and are not recognised in their market value. The winners are those that have their IC well protected and their IC is recognised in their market value.

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President's Diary

The main event of the last few months for me was the AGM and party at the Institute of Directors on 4th July. This was particularly notable because we were lucky enough to have the recently appointed Chief Executive of the UK Intellectual Property Office, Ian Fletcher, to speak to us. He flagged up the intellectual property issues that he sees arising in the short and medium term future, particularly the "iceberg" arising out of the numerous new patent filings in China, and the dearth of patent examiners in Europe who can read those patents. What follows is an edited version of my review of the past year, as given to the AGM.

I took over the torch as President of LES Britain & Ireland from **Stephen Powell** at the end of the Pan European conference in Glasgow last June. Those of you who attended will, I am sure, remember with warmth the Ceilidh at Stirling Castle. At that time, we did not know what the financial outcome was, though we knew we had, with great assistance from **Gill Moore** at Northern Networking, avoided a loss. As it turns out, we made a significant profit which has contributed to the surplus that you have seen in the accounts. The theme of international meetings arose again in the Autumn when were asked to put forward a proposal to host the 2010 LESI Conference in London. Knowing how close we had come to disaster with Glasgow, your Council took considerable care to examine the issues before deciding to proceed. A proposal was finally put forward and the matter considered at last month's LESI meeting in Zurich. As it happens, LESI has decided to hold its 2010 meeting in South Africa. I feel that neither the process to reach that decision nor the wisdom of the decision itself would stand close scrutiny, but that is their decision. I would like to thank the Council sub-committee led by **Hayley French, with Darren Olivier, Mark Wilson** and **Anita Roberts**, but particularly Hayley for her hard work in putting together the proposal; the proposal was sound and would have produced a conference offering excellent value for money.

LES B&I stands or falls on the quality of the events it organises, and the usefulness of the network it sustains. This is one reason why the provision of education is so important. Whilst we all know the quality of the minds and wealth of experience we can access through our LES network, it is important to provide the opportunity to those who are new to the world of intellectual property and its commercialisation with reasons to join us and find out the worth of the society for themselves. I was thus delighted that we were able to put on the full three day Fundamentals of Intellectual Asset Management course, comprising Modules 101, 102 and 103, at the end of February this year. I am also glad to report that the high standard of events has been sustained this past year. I know from experience that it is one's period as Vice President that is the hardest work in the society. **Nigel Jones** has performed brilliantly in the role delivering excellent and varied evening meetings and a much applauded morning conference and lunch at the Savoy.

Sir Jonathan Porritt was our speaker at the Savoy lunch and I heard many present comment upon what they found to be a thoroughly thought provoking, and potentially the most important talk that they had heard at any LES event, either B&I or International, in recent years. To follow up on that thought, we have established a joint Special Interest Group with Bioscience for Business to address Technology Licensing in Renewables.

During the past year I have had the pleasure of visiting the Irish, Scottish and North East regional groups of LES Britain & Ireland. Again, the content of the meetings was excellent and I was made extremely welcome. I will endeavour to attend meetings in the other regions during the coming year.

As another year passes, it would be remiss of me not to note the huge contribution made to the society by your Council and by the Committee Chairs; succinctly, without their efforts nothing would happen. During the year we co-opted **Conan Chitham** onto Council to assist us with marketing, recognising his success at raising the membership of LIMA UK. Three long standing members of Council did not stand for re-election. We have benefited hugely over the years from the thoughtful and constructive inputs of **John Emanuel** and **Henry Connor**, and I thank them for that. However, there is going to be one huge hole in LES B&I next year, and, for that matter, in the Education Committee of LES International. It is impossible to over-state the impact that **Chris Goodman** has had on our society. He has freely given an enormous amount of his time and energy, and is in large part responsible for the shape of the society that you see now. One further member of Council did not stand for re-election; this is **Hayley French**. She is moving to Zurich to a new position. She has also put an enormous amount of effort into LES B&I in the past few years, including compiling the legal summaries for News Exchange and organising the Chelsea Conference, and I thank her and wish her well;
I expect we will still see and hear a fair amount of her, particularly at international meetings.

I would also like to thank the Committee Chairs: **Chris Goodman** and **Ian Hartwell** for Education, **Darren Olivier** for Brands, **Robin Nott** for Laws, **Christi Mitchell** and **Jenny Pierce** for Healthcare and **Dai Davis** for IT & e-Commerce for their continued and successful efforts to produce good programmes and interesting events. Likewise, LES B&I in the regions has prospered because of the efforts of **Yvonne McNamara**, **Alistair Payne** and **Jeanne Kelly** in Ireland, **Caroline Sincock** and in Scotland, **Mark Snelgrove** in the East Midlands, **Simon Church** in the West Midlands, **Paul Bentham** in the North West, **Liz Ward** in the North East and **Graeme Fearon** in the South West and South Wales.

It is difficult to believe that half my time as President of LES B&I is over; but it also means half is still to come. I started out wishing to define a new strategy for LES B&I, and to begin its implementation. The analysis is complete, but the implementation plan remains to be developed, proposed to your Council, adopted and implemented. It will be my prime objective in the next 12 months to complete the process before I hand over to Nigel.

As ever, we all participate in the activities of LES B&I alongside our "day jobs", so if there is anyone else with ideas, energy and time that they would like to offer to LES B&I, please contact me.

Martin Sandford President LES B&I

APOLOGY

We apologise sincerely to Barry Quest, Keeble Hawson Solicitors and Wilson Gunn Patent & Trade Mark Attorneys. In the last edition of News Exchange we incorrectly stated that Barry Quest was Head of Intellectual Property at Keeble Hawson Solicitors. Barry Quest is a Partner at Wilson Gunn, Patent & Trade Mark Attorneys.

IPRinBusiness

Dr Hayley French is on holiday.

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Companies, and boards, that ignore IP do so at their peril, especially if they have not bothered to check whether their new product or branding is infringing rights held by others. For all companies, and especially those at risk, now is the time for a wake-up call!

Jim Asher/Jackie Maguire
IP Solutions,
www.ip-solutions.biz

SECOND LIFE FOR VIRTUAL WORLD LAW?

The virtual world of Second Life, created by Linden Labs is presenting further challenges for intellectual property (IP) rights owners. There are currently around 8 million residents of the virtual world which has born many entrepreneurs, trading in virtual goods in world. Users enter the virtual world as a virtual character, an avatar, and can walk around and trade using the in world currency "Linden Dollars". Users can exchange their Linden Dollars for US Dollars at any in world exchange. Users must agree to Linden Labs' Terms of Service to access Second Life which states at Clause 3.2 that "You retain the copyright and other intellectual property rights with respect to Content you create in Second Life…" This policy sets Second Life apart from other MMORPGs (massively multi-player on line role playing games) where in world creators do not retain ownership of their IP and has the potential to lead to problems of enforcement.

The two principle forms of infringement have been in relation to trademarks and copyright. Goods are traded in world under household trademarks without permission from the owners, for example Coca Cola have recently "released" their trademark in relation to in world goods due to widespread use of the famous mark. Other companies have set up offices in world including Microsoft and Apple.

In a recent case, Eros LLC which produces a virtual piece of furniture called the SexGen bed which allows avatars to interact intimately, has brought a claim for copyright infringement against a Second Life avatar called Volkov Cattaneo. Cattaneo has produced and sold a reduced price copy of the SexGen bed in Second Life. Although certain law firms have set up offices in world, Eros have brought the action in the real world courts.

The challenge for IP owners will be in devising the best way of protecting their rights in a relatively unregulated environment. Linden Labs's policy which sets out strict rules in relation to copyright conflicts with their policy of allowing use of programmes designed to copy in world items such as CopyBot, which infringes users' copyright. This has not assisted rights owners in protecting their in world assets. With precedents for enforcement of virtual world rights being extremely sparse, it is important to raise awareness of the importance of in world infringement among rights owners and the potential for damage to trademarks with the in world population increasing by the day. In the future, the question will be whether rights owners protect their IP by designing in world solutions or whether they turn to the real world Courts for a solution.

Emily Peters
Shoosmiths

BUSINESS NEWS

IP Pragmatics Ltd (IPPL) is pleased to announce that they have completed the acquisition of NetsPat Ltd, whereby NetsPat Ltd will become a wholly owned subsidiary of IPPL. This acquisition follows an 18 month period of close co-operation between the two companies.

Dr Win Eyles, Managing Director of NetsPat will become a non-executive director of IPPL. IP Pragmatics works with a range of private and public sector companies, research organisations and universities providing a full range of IP support services, including IP annuity payment service, outsourced formalities, IP audit and IP strategy development. They can assist in all aspects of early stage technology transfer and IP commercialisation.

www.ip-pragmatics.com

NetsPat works with companies and other organisations across the entire technological spectrum to provide a secure online solution for the effective management of patent assets, including the construction of cost projections and budgets.

www.netspat.com

Dr Win Eyles, Managing Director of NetsPat comments: "This is a great step forward for NetsPat. Over the last eighteen months, the practical skills that IP Pragmatics bring have significantly helped us to enhance the existing service and we look for that to continue into the future."

Adam Wylie, Director IP Pragmatics Limited comments: "Having worked closely with NetsPat we believe it to be a unique product, comprising a powerful system for the management and strategic planning of patent portfolios. Its aim – to simplify the patent process and enable clients to make informed, rational decisions concerning their IP strategy is aligned with IPPL's thinking and general service offering. We look forward to developing the system and are delighted that we will continue to work closely with Win"

PATENTCAFÉ OPENS IN THE UK

IP analytics company, PatentCafé announced that they ave opened an EMEA office in the UK. Patent Cafe provides IP professionals with natural language search engines, and a suite that produces patent factor reports for licensing professionals, analyzing patents and ranking their strength and weaknesses across thirty legal, commercial and technological factors.

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Handbags and Glad Rags
Designers vs. The High Street

Enforcement of design rights, both registered and unregistered, is becoming more prevalent within the EU. The fashion industry in particular has seen a massive benefit in the Community legislation which was introduced in the UK in 2002.

Rights in designs have been recognised as a form of intellectual property in the UK since the 1830s. Originally conceived as means of protecting the textile industry from the threat of cheap importations, design rights have evolved into important means of protecting and preserving an original design, both in the UK and Europe.

Many industries have benefited from the broad scope of protection which design rights now offer, but none more so than the ever-changing world of fashion.

By definition fashion is "the current popular custom or style" (The Oxford Dictionary). It follows that the success and longevity of a fashion designer depends on their ability to generate unique designs. Although these creative demands are high, the rewards for getting it right will be even higher!

However, like the saying "truth should never get in the way of a good story", it seems that some believe that selling fashion to the masses should not be hindered by the fact that a design belongs to someone else. Inferior quality imitations of couture fashion ranges are being produced in abundance, but it's not just taking place in the back street markets or car boots of Europe, it's also happening on the high streets.

High end fashion designers are stumbling across rip-offs of their own unique designs in major stores and retailers across Europe on an all too frequent basis. The problem is exacerbated by the relative ease and speed in which digital images from catwalk shows anywhere in the world can be uploaded onto the Internet for all to view. Indeed, websites run by company's such as Worth Global Style Network provide instant access to what is hot and what is not in the international fashion industry, a service which high street retailers frequently use. This so called "fast fashion" is unjustly cashing in on the innovation which has been invested by the fashion houses and independent designers alike into their designs.

So how do you stop/prevent rip-offs of your design? The answer is simple, with an arsenal of design rights.

As stated above, the UK has historically protected designs, but it was not until 2001 and the Design Protection Directive that the EU member states harmonised the laws relating to design rights to offer designers pan-European protection.

As with the current UK system, designers benefit from both unregistered and registered design rights, known as Community design rights. Importantly, both types of Community design rights protect substantially the same matter i.e. the appearance of the whole or part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product and/or its ornamentation. This definition of design is broad and will include both 2D and 3D shapes. In contrast, although UK registered designs provide broadly equivalent protection to these Community design rights, UK unregistered designs only protect functional objects and specifically exclude surface decoration.

The significance of this extended protection is particularly felt in the fashion world. Under the existing UK regime for design protection fashion designers would have to register their designs on the UK Design Register (i.e. obtain a registered design) to stand a chance of successfully enforcing their designs against cheap reproductions. However, this is often impractical given the unpredictable ebb and flow of fashion trends. Put simply, it does not make commercial sense to spend money on protecting a design which has a likely shelf life of a season. What the fashion world required was a right which was instantaneous and automatic, and that is exactly what they now have courtesy of the unregistered Community design right (UCDR).

Provided that the design meets the criteria for protection, that is to be novel and to have individual character, the UCDR will arise automatically. If a UCDR subsists in a design then protection lasts for 3 years from the date on which the design was first made available to the public within the Community giving a fashion designer ample protection over their latest seasonal collection.

Furthermore, should a designer tap into the zeitgeist and produce an instant classic they will have up to 12 months from the date of making the design available in which to extend the period of protection to up to 25 years by converting their UCDR into a registered Community design right (RCDR). The system for registering a RCDR is proving to be quick and cost effective and, as under the UK system, there is no examination process, which means that obtaining a RCDR is relatively painless task. Both the RCDR and the UK registered design systems also allow for the registration of an unlimited number of designs at the same time provided that they are of the same category. This is much cheaper than filing separate applications for each design.

The upshot of these sweeping changes made to the design right system in Europe is that it is increasingly easy for a designer, large or small, to use their rights to defeat unlawful copying of its designs (see Success stories below). On the high street retailers are keen to profit from the lucrative market of creating affordable alternatives to couture fashion ranges, but the message from Europe is clear – this cannot be done through ripping-off others' designs.

Design Right Success Stories:

Jimmy Choo

Marks & Spencer were forced to destroy thousands of handbags and agree a cash settlement with Jimmy Choo after the latter successfully argued that a £9.50 handbag infringed the design of their £495 Cosmo silk bag.

Jimmy Choo has also been successful in stopping a number of other national high street retailers such as New Look and The Shoe Studio Group (licensees for Nine West) following similar rip-offs of Jimmy Choo's handbags and shoes.

Enforcement of Jimmy Choo's design rights, both registered and unregistered, has gained significant financial benefit in pursuing these companies, not to mention large amounts of positive PR and increased awareness that they will protect their brand at all times.

Fenn Wright Manson and Jeffery-West

Fenn Wright Manson made use of the Community design rights to force a well-known supermarket to remove an inferior imitation of its designer skirt off its shelves.

Similarly, Jeffery West enforced its Community design rights to prevent a number of high street retailers and brands from selling a replication of its famous moccasin shoe which contained a number of distinctive features such as an upturned leather arch, diamond stitching and diamond shaped insert on the heels.

Neither the Fenn Wright Manson nor Jeffery-West designs were registered. Instead, both designers were able to successfully rely on the unregistered design rights which the UK and EU had afforded them.

Georgina Goodman

An emerging footwear designer, Georgina Goodman, found one of her designs for sale in a well known high street retailer's store. One of the designer's members of staff noticed the imitation shoe in the shop window for sale at £55, whereas Georgina Goodman's original sold for £285. By asserting her design rights Georgina Goodman was able to negotiate a swift settlement.

Joe Stephenson
Shoosmiths

Is It Broken?

US Attempts to Reform Patent Law

Thomas Jefferson, author of the US Declaration of Independence (1776), architect of the US Patent system, and an inventor himself, was strongly against patents. He considered them to be undemocratic and an "embarrassment" to the public. He believed that the benefits to be derived from "really useful" patents could not compensate for the "abuse of frivolous patents".

Little has changed. We are now in the midst of attempts to introduce a new US law, 217 years after the first, with the aim of remedying present perceived ills. The current April 2007 bill passed the House Judiciary Committee on July 18. Previous attempts to push through similar legislation failed at the committee stage in 2005 and 2006.

The problem with patents has long been recognised. Patents are monopolies which go against everyone's social views. Commercial monopolies give unfair advantages to individuals, which doesn't please the left, and they restrict the free market practices beloved of the right. On the other hand, most agree that inventing the right kind of things is to be encouraged. The difficulty is that of limiting within reason the power of the patent monopoly, and confining it to good inventions.

The world's first patent law, passed by the city state of Venice in 1474 expressly limited the term of the monopoly, to ten years, and made it subject to the government's right to use the invention for its own needs. The later starting point of the world's systems, the British Statute of Monopolies of 1623, gave a fourteen year monopoly, but only as long as it was not harmful to trade or otherwise "inconvenient". The US Constitution (Section 8) in 1787 empowered the grant of patents under the general proviso that their function had to be "promotion of the useful arts". This isn't just history. In the recent KSR v Teleflex case, the US federal court went back to this proviso to justify the clampdown on "trivial" or "abusive" patents.

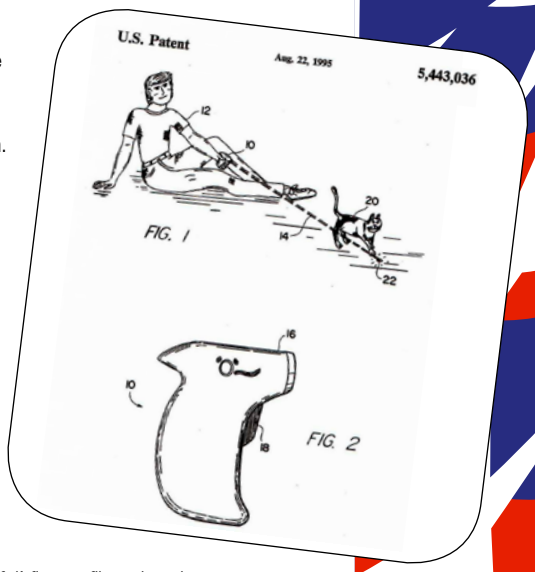
In our own courts, Mr Peter Prescott QC (sitting as a Deputy Judge), in CFPH LLC's Application, referred to a 'patent thicket' of wrongly granted computer software patents and commented "The only safeguard against that wrong – and it is a wrong – is the vigilance of the Patent Office". As Andrew Gowers put it when reviewing the British patent system: "There are patent thickets, which are a complex web of patents which may stunt invention and discourage research and development".

Critics of the US patent system have drawn attention to patents granted for crustless peanut-butter-and-jelly sandwiches, a way to move sideways on a swing, and a technique for exercising cats using a laser pointer (US 5443036). The US Federal Trade Commission has gone on record as saying that such patents, while humorous, clearly show both how broken is the American patent system and how lax standards are hurting innovation when it comes to business.

In presenting his US bill, representative Howard Berman pointed out that, rather than the patent system being the incentive for "so much of our innovation, it has become a constraint on innovation,"

This isn't just about trivial patents, it's about too many patents. They give rise to opportunities for Trolls those who buy up unused patents so they can be used litigiously to extort royalties from infringers. There are the drug patents of the pharmaceutical industry which, allegedly, make enormous profits and hold the developing world to ransom. There are the attempts of the software giants such as Microsoft to use patents to reinforce their monopolistic positions and hold the developed world to ransom. And there are the fiendish biotech companies which want to control our very existence by patenting our genes, our animals and our foods.

Before patents were invented, there were other inducements to innovation. In the 14th century, Flemish weavers were promised a package including "wholesome women" if they brought their skills to England. In the 21st century, it is a sensible patent system which is contemplated to strike the right balance of encouragement and propriety. Or as the US bill's sponsor has put it: "Our objective in passing this bill is to reform the patent system so that patents continue to encourage innovation. When it functions properly, the patent system should encourage and enable inventors to push the boundaries of knowledge and possibility."



Some important features of the US bill are: The way that patent damages are calculated: less extreme and more in line with most other countries, with the actual value of the invention being used as the proper basis, and a limit to the circumstances in which an infringement is designated 'wilful'.first to file rather than first to invent, with the right of an aggrieved inventor to challenge ownership in entitlement, rather than expensive interference proceedings.allowing third parties greater ability to challenge patents once they've been issued in Patent Office proceedings.

The Indian press has welcomed the US bill on the ground that reduction in the present large numbers of 'weak' US patents may help access to the US market by Indian industry which currently fears infringement actions. Not everyone is against patent proliferation. As one US commentator has put it: this bill, if it becomes law, will spell the end of America's world leadership in innovation. Another commentator has pointed out "If this stuff passes as it is, it will lower the value of patents by two to three orders of magnitude."

In reality the bill is highly controversial. It is seen by some as undermining US entrepreneurial culture and breaching fortress America; much opposition is therefore expected.

The intent of the US bill is to limit 'abusive' use of patents and reduce numbers of "trivial" or "weak" patents. This follows the KSR decision which has already led to a tightening up of US Patent Office practice on assessing inventive merit. In Europe, there are currently debates about limiting grant of patents in a wide range of 'modern' areas, such as software, "life", and business methods. Unfortunately those against patenting are particularly vociferous. As the philosopher Edmund Burke might have put it: "All that's necessary for the anti-patent movement to prevail is for good men (and women) of the Licensing Executives Society to remain silent"

Barry Quest
Wilson Gunn

News from the Regions

LES Scotland Section

The Glasgow Commonwealth Games Bill: the High Price of Sponsorship

Major sporting events are expensive to organise. Part of the costs can be covered by sponsorship. However, sponsors will be willing to pay large sums only if, in return, they can be confident that they alone will be entitled to promote their products as associated with the event and its kudos. Thus, the greater assurances of this that the Games organisers can give to potential sponsors, the more likely lucrative sponsorship is to be forthcoming. It is with these considerations in mind that the Scottish Executive has produced the draft Glasgow Commonwealth Games Bill (the "Bill") for consultation.

The Bill takes its cue from the London Olympic Games and Paralympic Games Act 2006 (the "2006 Act"). However, there are some key differences. Unlike the 2006 Act, the Bill creates blanket criminal offences. Section 2, for example, unceremoniously dictates that "It is an offence to trade in the vicinity of a Games event", although there is an exception for trading "in a building (unless the building is designed or generally used as a car park". Section 9 is similarly wide: "It is an offence to advertise in the vicinity of a Games event". Regulations may also provide for certain "authorised trading" which would otherwise be criminal.

The definition of advertising is extremely broad. "An activity is to be treated as advertising if it is a communication to the public, or a section of the public, for the purpose of promoting an item, service, trade, business or other concern". "Activity" includes announcements, or the display of words, images, lights or sounds. It also includes a Kafkaesque fiction whereby something "done with, or in relation to, material which has, or may have, purposes or uses other than as an advertisement" is deemed to be an advertising activity (s10(2)). This provision targets, among others, the nonchalant supporter.

Such a situation occurred at the 2006 FIFA World Cup. Dutch fans, waiting to enter the Stadium to see their team play the Ivory Coast, were required to remove Bavaria Brewery's leeuwenhosen (fetching orange lederhosen with a lion's tail and for which many fans had paid about €8) before entering the stadium. The branded leeuwenhosen were thought to infringe Budweiser's exclusive marketing rights as official beer sponsor. As a result, many watched the game in their underwear! Conceivably any supporter or athlete who wears clothing with a logo not authorised under the regulations commits an offence. So too does someone who shouts out the name of an unauthorised undertaking. It might be argued that in practice such trivial situations will not result in prosecution or that there is no criminal intent, but it is not clear whether that is any defence. It is, in short, one thing to be excluded from a stadium for wearing the wrong trousers, but quite another to be branded a criminal for being out of touch with Games fashion.

It is proposed that these draconian measures will be enforced by employees of Glasgow City Council. Although these "enforcement officers" have no powers of arrest, they will have powers to enter and search premises, including business premises, and to use reasonable force to do so without a warrant.

One potential problem with the regulations is that they potentially criminalise an individual who may be exercising his contractual rights. A number of situations may be envisaged. Individual supporters who have bought tickets, contractual rights to a Games event may, in a variety of ways, inadvertently engage in all sorts of advertising activity. More lucrative contracts may also be affected. What is the position with national teams who have their own contractual sponsorship agreements, subject to their own national laws? The effect of the Bill is that it is likely that many national teams will not be able to comply with their obligations under any such sponsorship contract.

IP and Association Rights

Intellectual Property is a matter that is reserved to Westminster under the Scotland Act. The Scottish Executive has indicated that it intends to liaise with Westminster on IP issues. One issue is the creation of an "association right", similar to the one found in the Olympic Symbol etc (Protection) Act 1995, the London Olympic Games and Paralympic Games Act 2006 and The Olympics and Paralympics Association rights (Appointment of Proprietors) Order 2006 (2006/1119). It can therefore be predicated with some confidence that, as with the London Games, the use of any mark suggesting a link with the Glasgow Games will amount to an infringement of a statutory association right as well as amounting to a criminal offence. The Westminster legislation on this is awaited with interest.

The Bill provides only a general indication of the content of the proposed regime, with the detail to follow in future regulations. On the civil side measures as regards the IP attaching to the Games will come from Westminster. Thus at present it is not possible to give a definitive view on the full legal implications. One thing though that is abundantly clear is that the Glasgow Games will take at least as hard-line an approach to sponsors' rights as other international events. This will undoubtedly make the Games an attractive target for sponsors but the price for this may be a very restrictive regime for local businesses, as well as unsuspecting supporters.

Gill Grassie and Ross Anderson,
Maclay, Murray & Spens LLP, Glasgow

GLASGOW2014
COMMONWEALTH GAMES
CANDIDATE CITY

LES Irish Region

The Dublin Committee look forward to meeting as many of you as possible during the September conference. If we can assist in any way with your plans, please contact either Alistair Payne at Matheson Ormsby Prentice or Jeanne Kelly at Mason Hayes+Curran.

The Committee would like to wish its former Chair, Yvonne McNamara, the very best of luck as she becomes a barrister. Yvonne, formerly an IP partner at McCann Fitzgerald, will join the Irish Bar in the coming weeks and we don't doubt that she will make a significant contribution to the other branch of our profession.

Maureen Daly, former Secretary of the Committee, was recently made a partner at Beauchamps, so congratulations from us all to Maureen.

Condolences

We are sad to have to announce that Renate Siebrasse's life partner, Ernie Adams, passed away after a lengthy illness on Saturday 14th July. They had been together since 1963 and had two sons. Renate has served as International Secretary of LESI as well as Secretary and Director of Administration of LES Britain and Ireland, and is well known internationally. Ernie was equally well known. He accompanied Renate to many international meetings and was always good company. It was his character to be helpful and enthusiastic. He was often to be seen manning the LESI publications committee display at meetings and he always enhanced the after hours networking sessions. The tango bars of Buenos Aires at a meeting in 1995 come to mind. He will be sadly missed and our thoughts are with Renate and her family.

February 2008 LES B&I London Meeting

As a change from our normal February half-day morning meeting and Annual Lunch, Council has decided to make next year's event an afternoon meeting/seminar, organised by the Laws Committee, followed by a less formal and less expensive evening networking event. We hope this will be more attractive to the younger members of the Society as well as appealing to our regular Lunch attendees.

Further details will follow in the next edition of News Exchange.

The Patent Highway UK - Japan

The UK Intellectual Property Office (UK-IPO) announced in early July a twelve-month pilot scheme to speed up patent applications in the UK and Japan. Building on the success of the Patent Prosecution Highway being piloted by the US Patent and Trademark Office and the Japanese Patent Office (JPO), the scheme will help promote international efforts to develop work sharing arrangements aimed at reducing duplication of work.

The Patent Prosecution Highway will allow patent applicants who have received an examination report by either the UK-IPO or the JPO to request accelerated examination of a corresponding patent application filed in the other country.

For further details see: **www.ipo.gov.uk**

LES Australia and New Zealand

Christi Mitchell, former LES B&I President and Co-chair of the Healthcare Committee recently attended the LES ANZ Annual Conference.

Christi with Ron Grudziecki, LESI President, and his wife.

Christi with Simon Rowell, the incoming LES ANZ President and Rob McInnes, the outgoing LES ANZ President.

Simon Rowell, Ron Grudziecki and Rob McInnes

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LESI "Fundamentals of Intellectual Asset Management" Course

Developed by LES International, this course provides a valuable introduction to the field of licensing. Over three days, it covers the Basics of Intellectual Property and Licensing, Filling and Managing the Portfolio, and Negotiation of a Licence Deal. It was successfully run in London in February and will be repeated in shortened form in Dublin in September. Further dates are planned for 2008.

The LES B&I IAM Education Committee is holding a meeting on the afternoon of Thursday 4 October 2007 to discuss the presentation and content of the second, "Filling and Managing the Portfolio" module of the course. GlaxoSmithKline have kindly offered to host the meeting at theiroffices in Brentford. If you would be interested in discussing the latest thinking on IA portfolio management and possibly helping to present the module in 2008, please register your interest with, Ian Hartwell at **i.p.hartwell@ip-max.com**

Events Diary 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)

2-4 September 2007
LES Scandinavia Annual Conference
"Surviving Locally in the Global IPR Perspective"
Ålesund, Norway
www.les-scandinavia.org

13-14 September 2007
LES B&I Annual Conference
Trinity College Dublin
Email: les@glasconf.demon.co.uk

25 Sept 2007
LES North East Branch
Talk by the Federation against Software Theft (FACT)
In Leeds, Details tba
For further information email:
liz@virtuosolegal.com

4 October 2007
LES Education Committee Discussion
"LESI F IAM CoursePart 2 - Content"
GlaxoSmithKline Offices, Brentford
Email: i.p.hartwell@ip-max.com.

9 October 2007
LES Benelux
Hilton Hotel, Rotterdam
Lifesciences Meeting
"http://www.les-benelux.org" www.les-benelux.org

14-18 October 2007
LES US/Canada Annual Meeting
"The New Deal: Competing in a Global Economy"
Vancouver Convention & Exhibition CentreCanada **www.usa-canada.les.org/meetings/2007annual/**

17 October 2007
LES London Region
Details TBA
Email: HYPERLINK "mailto:les@glasconf.demon.co.uk" les@glasconf.demon.co.uk

7 November 2007
LES B&I Healthcare Meeting
Halfday (p.m.) Interactive Meeting
Venue in London
Further details TBA
Email: mailto:les@glasconf.demon.co.uk

21 November 2007
LES London Region
Details TBA
Email: les@glasconf.demon.co.uk

Welcome!

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

Ms Katrina Crooks, McCann Fitzgerald**; Mr Alexander Denoon,** Clifford Chance**;Miss Mirin Diver,** Charles Russell**; Dr Vincent Lenaerts,** U.C.B.**; Dr Ruth McMahon,** Enterprise Ireland**; Miss Annette Orange,** McCann Fitzgerald**;**
Ms Renee Michelle Robinson, Oakwell CDC**; Dr Matthew Rose,** Unipath**; Ms Linda Scales,** Linda Scales**; Mr Edward Simpson,** Faradays Law**.**

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

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**

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