



LICENSING EXECUTIVES SOCIETY
BRITAIN AND IRELAND

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The Saint, the Queen, and Ironic Tribute

Saint Artjunkie (Tony Knight – a Manchester fashion designer) recently took on *The Queen of Punk* (style icon Dame Vivienne Westwood) at the Patents County Court. Predictably he lost. He complained on his web site (now removed) that he was the victim of established business interests, the court system, the Judge (Colin Birss), and the Metropolitan Police. Self-representation and recalcitrance, as recorded in the Judgement (*Westwood v Knight* [2011] EWPC 8), were more likely contributors to the comprehensive nature of Mr Knight's defeat. It is interesting to contemplate whether an important passing off aspect of the decision would otherwise have gone differently.

This was the first case decided under the new rules that encourage acceleration of procedure, restriction of pleadings and capping of costs. Despite the large number of considerations – 12 infringements considered in relation to registered trade mark, passing off and copyright, as well as issues relating to domain names, fraud, validity of registrations, the copyright/design overlap provisions of the 1988 Act, and procedural matters – the case was heard within one day. Costs were assessed against Mr Knight at £35,625. PCC costs are now capped overall at £50,000 and there are limits for individual stages, which means that a day in court need cost 'only' £34,750. This sum, though doubtless still unimpressive to the average Mancunian, is a considerable improvement on what could be awarded under the previous regime, such as the infamous seven-figure sum in the 1990s *Pavel v Sony* case.

Mr Knight declined to follow procedure (eg by not filing a formal Defence or Skeleton Argument), he refused to take part in a telephone hearing, and he made (and then withdrew) complaints against the Judge. There were allegations of tampering with e-mails and evidence. Birss, or 'Burgess' as Mr Knight called him – presumably by confusion with that other controversial Mancunian who wrote *The Clockwork Orange* – handled all this with great aplomb. However, on receiving the usual advance copy of the Judgement, Mr Knight accused Judge Birss of lying. Even OHIM was the subject of a complaint. As Judge Birss observed, referring to Mr Knight's communications with the claimant's solicitors:

'The emails are symptomatic of part of Mr Knight's approach to this litigation. Although Mr Knight is perfectly capable of being an articulate and able advocate for his case, too often in correspondence he has descended into abuse and making unwarranted complaints about the behaviour of others.'

Fun though all of this is for the disinterested reader, the procedural irregularities and accusations distracted from proper consideration of an important passing off point. The claimant alleged passing off by the totality of Mr Knight's conduct and, in the absence of a proper response from the defendant, the judge agreed:

“During the trial I asked Mr Knight what his submission was in answer to the claimant's case that his conduct taken as a whole amounted to passing off. His answer was simply to come back to one of the specific points and argue the detail again. In my judgment Mr Ward is right that the defendant's overall approach should be considered.”

Mr Knight's activities (selling clothing on-line using Westwood-emulating brands and designs) tilted at the establishment windmill that the once-outrageous and now-exalted Dame represents. Dame Vivienne Westwood is an iconic designer with 1970s hippie and punk origins. Her shop names became well know – ‘*Let it Rock*’, ‘*Too fast to live, too young to die*’, ‘*Sex*’, ‘*Seditionaries*’, ‘*World's End*’. Her *Destroy* t-shirt with an image of Christ upside down on a cross with a stamp with HRH The Queen's head and a Nazi Swastika is famous. Her various brands and logos include, *inter alia*, an orb (derived from the Harris Tweed sign) with an encircling ring. She also uses the name *Red Line*. Mr Knight adopted a *Red Planet* brand with an orb logo with ‘Saturn’ rings. Though never using the trade mark *Vivienne Westwood*, he sold ‘*Artjunkie Westwood goods designed by Vivienne*’. In summary, he pursued a policy of copying or getting close to the claimant's names and logos. An eBay page contained the statement: “*I am not claiming it is made by Vivienne Westwood.*” – and the only evidence of actual confusion seems to be a dissatisfied customer who commented: “*Cheater liar fraud, Be VERY very careful with this charlatan.*” - which Mr Knight dismissed on the basis that: “*He didn't read the description. I offered a refund that was refused. This person was out to cause trouble.*”

There are a number of instances in which Mr Knight clearly overstepped the mark and unacceptably infringed copyright or trade marks. There are other instances in which infringement is not so clear cut. Judge Birss was of the view that the multiple close imitations “*all serve together to reinforce the message that the goods are connected with the claimant*”. But did these activities merit the might of a devised offence of passing off by ‘conduct as a whole’? As was observed: “*In the 1970s Ms Westwood shocked society with her convention-flaunting sexually provocative designs.*” Ultimately these designs became iconic and part of our cultural history. Surely, as Mr Knight intimated and might have argued, in the interests of aiding development of new designers is there not a social benefit to allowing ironic emulations that in reality are unlikely to cause real confusion or harm? Should ‘ironic tribute’ be a defence to ‘passing off as a whole’? Or is that idea too shocking and provocative?

Barry Quest
iPC2

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President's Diary



LESI Conference – June 5-8

It is a delight to be able to invite you to participate in the Licensing Executives Society International

Annual Conference for 2011, which will take place in London from June 5-8 and which has attracted 500 delegates from around the world. I am enthusiastic about the conference programme that Anne Lane and the organising committee has prepared and that will provide new perspectives on the business of licensing, collaboration and technology transfer in the new millennium. The programme reflects the strengths of LESI as an international, cross-disciplinary body that embodies practical, industrial perspectives on the licensing process and landscape.

As you may well be aware, the Licensing Executives Society International (LESI) is an association of 32 national and regional societies interested in the transfer of technology, or licensing of intellectual property rights - from technical know how and patented inventions to software, copyright and trademarks. The LES family is business-orientated for the most part, and has over 10,000 individual members, including management representatives from large, medium and small companies: the membership consists of a blend of scientists, engineers, academics, governmental officials, lawyers, patent and trademark attorneys and consultants. The predicted profile of the attendees in London is as follows: 50% European, 30% from United States and 20% from Asia. Over 400 delegates will arrive from outside the UK, and I urge you to take the opportunity to join this invigorating gathering and to share real-world practices in delightful surroundings.

LES Britain and Ireland – An Aspiration

I am now part-way through my tenure as President of the LES in Britain and Ireland, and it is an honour to be able to act in this role. I am delighted to report that the plans for the LES International June conference in London are well-advanced and that registrations from 500 delegates have been received. The organisation of this major LES International conference for 550 delegates has been a major activity for the society in Britain over the last year, and I would like to thank Anne Lane and the organising committee for all of the hard work that has been devoted to creating this landmark event.

With this major project nearly complete, I believe that Council should attempt to reinvigorate and to refocus the activities of the society, and these matters have been discussed at recent Council meetings. Critically, I would like Council to infuse LES Britain and Ireland with a strong industrial focus: one of the key strengths of the LES is that it blends lawyers and industrialists, and I feel that the industrial relevance of activities needs to be given greater prominence and emphasis

I believe that LES could be a significant force in providing non-partisan and excellent teaching, mentoring and guidance to help industrialists to become more effective in developing IP and in managing its exploitation. I believe that LES should concern itself with all forms of the industrial development and exploitation of IP: collaboration agreements, IP issues in acquisitions and venture capital, and alliance management should all be areas of interest, for example, rather than simply licensing as such. There is a substantial role that an “honest-broker” organisation could play; developing that role requires significant industrial input in order to set direction, to establish priorities and to select projects.

The future of the society has been discussed at recent gatherings of LES’s governing body in the UK, its Council, and this group has agreed the following outline aspiration which will be developed into a business strategy. I invite your frank responses on this outline, and I ask for your help in developing the society. I would be delighted to hear from you if you feel able to assist with helping LES in its activities, particularly in connection with education and mentoring.

Please note that there is an opportunity to be trained as a trainer for the one-day LES International course on licensing and IP as part of the London conference, and you may be interested to register for this course, even if you are unable to attend the main conference.

I thank you for your support and I look forward to making the period 2011-12 one of significant progress for LES Britain and Ireland with your help and input.

Target

Aims

- To address industrialist's needs
 - To provide events and materials that are relevant to industrial practitioners
 - To deal with all forms of IP use and exploitation e.g. collaboration, licensing, M&A
- To develop trust as an independent, cross-sectoral provider of high-quality training and knowledge
- To provide development tools, courses and networks for individuals and companies
 - High-quality, industrially-relevant courses
 - Online content
 - A mentoring scheme
- To enhance the international dimension
 - To develop pan-European activities
- To develop selected partnerships
 - To engage with major industrial operating companies
 - To work with key learned societies and government bodies

Summary

- Industrially-relevant
- Trusted
- Development-focussed
- International
- Engaged in key partnerships

Desired Behaviours

- To be open and accessible
- To promote actively its offering to the industrial community
- To be effective and transparent in its management

Mark Wilson

President, LES B&I

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The Community Patent and Community Patent Court¹ **An update.**

For many years the prospect of a Community Patent, a single patent valid across the whole of the EU has been an idea. More recently it has seemed a real possibility.

But on 8th March the ECJ gave its decision in the case brought by the Council of the European Union for a decision as to whether the draft Agreement for the creation of an unified patent litigation system, a Community Patent Court, was permissible under Community Law. [See: <http://curia.europa.eu/jcms/upload/docs/application/pdf/2011-03/cp110017en.pdf> and <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=Avis%201/09>]

The Court's view was a resounding "No", on the grounds that the proposed Court would not be part of the judicial system provided for under Community Law, would have jurisdiction over a significant number of actions brought by individuals in the field of patents, and would remove from the courts of the Member States jurisdiction in the patent field. Further it would remove the power of the ECJ to review decisions of the national courts.

As a result, the proposed Agreement was contrary to Community Law and could not be allowed to continue.

In parallel with the ECJ decision, following the refusal of Spain and Italy to agree to sign the draft Agreement and at the request of 12 Member States, on 14 December 2010 the Commission proposed to launch enhanced cooperation in the area of unitary patent protection – the Community Patent.. Following the Commission's proposal, another 13 Member States submitted their request to join the enhanced cooperation procedure.

The European Parliament gave its consent on 15 February and on 10 March 2011, the Competitiveness Council authorised the launch of enhanced cooperation with the participation of 25 Member States. (Spain and Italy have objected to the launch and threatened to take the matter to the ECJ, but this is not expected to delay matters.)

The implementation of the authorising Council decision requires the adoption of two regulations; one on the creation of unitary patent protection and a second on the applicable translation arrangements. (The Community Patent.) On 13 April 2011, the Commission published:

- Proposal for Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection;
- Proposal for Council Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements; and
- two impact assessments.

[See: http://ec.europa.eu/internal_market/indprop/patent/index_en.htm.]

Note that this does not address the Community Patent Court.

¹ The Community wide single patent and its attendant Court have had various names over the years. In this paper the term Community Patent and Community Patent Court is used to distinguish the unitary patent and its Court from the European Patent under the EPC and national patents.

The Commission is confident that it can amend the current proposals for the Community Patent Court to meet the objections from the ECJ. There appear to be four possible solutions:

1. A specialist panel in the ECJ. It is difficult to see how this might work in practice, and in particular the problems of having decisions in patent matters adjudicated by a non-specialist court, even at the appellate level. There are also very great concerns about the speed with which such a court would work if it had to follow the ECJ's procedures. Further such a Court could not be entirely divorced from the ECJ, which may result in business having little confidence in the Court. (There is also the absence of professional privilege for in house lawyers in front of the ECJ, which is a grave disadvantage for businesses which employ lawyers and patent attorneys to run their IP.)
2. An international EU patents court under Enhanced Co-operation. A similar proposal for an European Patents Court by Treaty between Member States willing to sign up, under the European Patent Litigation Agreement, was rejected by the Commission in 2007, but it is thought that under Enhanced Co-operation the Commission might allow a similarly constituted Court to be set up. This is thought to be the route most likely to be accepted by Member States under Enhanced Co-operation; and to provide the most satisfactory result. However the ECJ may still raise similar objections to those raised for the draft Agreement for the creation of an unified patent litigation system.
3. A unitary patent court operating in the same way as the current system for the European Trade Mark under OHIM. This is thought to be unacceptable as it would allow infringement actions to be brought in the Court of any Member State which could lead to an application to revoke a patent covering the whole Community. Given the different standards and level of experience of patent matters of the Courts in the different Member States this may well not be seen as acceptable to industry. It is also likely to lead to endless forum shopping. Further under the OHIM system pure revocation actions must be brought in OHIM, while the EPO has, at present, no jurisdiction or experience on invalidity in patent actions.
4. National courts could consider infringement actions in their own states. This has little, if any, advantage over the current system under the EPC.

The UK position at present, and certainly the LES (B&I) position, is that the Community Patent and its Court must be dealt with together. The two are integral and one without the other will lead to signing up to a Community Patent (as this is likely to be addressed first) without having any idea as to how it will be enforced. That is not a position likely to be attractive to industry!

Further the ECJ must not be part of the litigation process, given the delays in its decisions and their frequently imprecise nature.

19th May 2011

Note: There is to be a meeting at the UK IPO on Monday, 23rd May, to discuss the position further.

Robin Nott
Chair, LES B&I Laws Committee

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It is no coincidence that the leading economies are also the most prolific patenting nations. The importance of patents and other forms of IP to the economic growth of the nation is therefore widely

recognised. Yet there is no assistance or government aid if it becomes necessary to enforce your rights. In this regard the business or entrepreneur has traditionally stood alone.

With the average cost of a law suit in the UK costing £250,000 per side, enforcing patent rights is undoubtedly an expensive process. When you bring in other regions such as the US the cost can increase four-fold.

It is little wonder then that some SME business see less value in patenting ideas because the cost of enforcement is so high. While few can argue this point, it is surely a short-sighted approach if it means we cannot realise the true potential of our ideas in the fullness of time. If we are to get the real benefit from the ideas we have then patenting remains the right thing to do.

The best way to protect any business and ensure a successful and prosperous future is to manage the risks being faced. Entrepreneurs are often associated with risk taking but what many people fail to realise it is not just about having the courage to 'give it a go'. It is in fact their ability to manage the risks that make them so successful. I believe that with good advice most companies can create common sense risk management solutions for all their business assets, including Intellectual Property.

A common tool for many SME companies to reduce and manage risk is insurance. Most companies will have a variety of insurance policies to cover different types of risk. However, very few companies have purchased Intellectual Property Insurance, even though it has been available in the market for some time.

The simple truth is that lack of knowledge has held the insurance industry back from underwriting intellectual property risks. If you don't understand the risks how can you price it? At best it is an expensive gamble. As a result, few insurers who have provided the cover have been able to make money and have exited the market promptly. So we have had a catch 22 situation where there is not enough volume and competition to get the costs down and not enough profit to attract insurers and underwriting capital.

Yet the SME business community does need an insurance solution so that new ventures and small companies can affordably manage their risks. As a broker, I had not lost all hope of finding a solution that can work for small businesses.

A few years ago a small underwriting agency was set up by two of the UK's IP Insurance experts. It was called Samian and they developed a product for the Danish Patent Office. Its purpose was to create an insurance product that small businesses and new ventures can afford to buy. This product PatentEnforcer™ is now available in the UK via www.img-insurance.co.uk. Premiums start from £1000 a year if the patent is pending and at £1500 if the patent is granted. Prices will increase depending on the industry sector, geographic limits and amount of cover needed but in terms of the IP market this is a very important step forward for those with the ideas they want to Patent.

The reason I believe PatentEnforcer™ can succeed where others have failed is down to how the policy is underwritten. Here the Samian team are doing analysis of the patents and the commercial space they are occupying. They are looking at the competition and the potential for infringements and disputes. In other words they are taking away the guess work that had caused other IP Insurance facilities to fail by doing their homework. There is a general principle that if you underwrite risks based on a lack of knowledge you will lose money. By taking the guess work out of the equation Samian are now able to price risks in a measured way.

There are other products in the Samian stable that go further and don't just cover the cost of enforcing the patent. Companies can buy cover for defending infringements, trademarks, design rights and build up the coverage to worldwide protection if so desired but all of this comes at a cost and it is not always necessary or affordable to buy all the covers from day one.

What I like about the Samian product PatentEnforcer™ is it gives the innovator the chance to get cover at the start of the process at a cost that does not mean a remortgage of the house. They then have the ability to build from a solid and protected foundation. As they begin to make money they may want to widen out the cover and include defence as well as pursuit but they can do this when it suits their business and budget.

Innovators and New Ventures don't need to go it alone anymore and if they want the ability to reduce and manage risk then this is a tool I would recommend they put in their box.

Craig Eason, Managing Director
Insurance Management Group

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Comprising over 4000 innovation and business advisers across Europe and beyond, the Enterprise Europe Network (EEN) forms the world's largest business and innovation support network. It offers companies local support in finding business contacts for a variety of opportunities, increasing competitiveness and innovation.

The Network is set up to broker partnerships between organisations, helping them to: access new geographic markets through agents/distributors; create new products through joint-development; improve industrial processes; create joint ventures; access European funding. To ensure that the companies we work with are getting the best value from these partnerships, intellectual assets/intellectual property need to be high on the agenda when we begin working with a new client. A key part of our service is in looking at what an organisation has to offer, how they can create new market opportunities, and what they need to turn these opportunities into real business.

To do this effectively EEN needs well-informed Advisers (as opposed to IP experts), who understand that IA/IP are valuable assets to be traded, know what to ask their clients, when, and where to signpost them for further in-depth support. Ensuring consistency in approach is not straightforward, as the Network is made up of a variety of different types of organisations (including Chambers of Commerce, government agencies, and private sector business consultants) which are EEN partners but offer other, varied business support services. Therefore a group of experienced knowledge-transfer professionals, with backgrounds in providing IA/IP support were selected to represent the Network to address this, with 13 individuals from 10 countries.

Dave Morgan, EE South West (previously UK IPO) who coordinated the group throughout its activity in 2010 said "early in discussion, it was clear that there was an "advisory lifecycle" with IA/IP needing addressed from early contact with a new client, right through to helping clients to monitor partnerships when they are underway. The group created an IP Toolkit, which gives pointers on issues to be covered at each stage, as well as links to tools and organisations which can provide more in depth support. Clearly, much of the support which is available for companies depends on the region they are based, but in the UK we are fortunate to have fantastic resources

such as the UK IP Office, Scottish Intellectual Assets Centre and others offering practical assistance.”

In addition to the toolkit, a training programme was delivered with some of the group delivering sessions to Network colleagues. A small number of the group developed a role play script, for 2 client companies meeting at an event, and briefing their EEN Advisers afterwards. This over-emphasised issues such as talking at crossed purposes, and disclosing trade secrets. The Adviser’s role was then in retrieving the situation! This has been very well received and shared across the Network as an example of best practice for training. Much of the content is UK focused, but Jenny Laine from EEN in Sweden, says “we are in the process of adapting the script and toolkit to train 30 of our staff in May, and are working closely with the Swedish NPO on an ongoing basis now.” Colleagues in Italy have also incorporated some of the toolkit into an innovation and IP guide they recently produced.

Across the entire EE Network, there are plans to add these resources to augment work carried out in looking at the partnership process which mirrors the “Advisory lifecycle” of the IP toolkit. This is a clear indication that IA/IP are recognised as key issues in the Network’s daily contact with businesses.

Externally the SME Division of WIPO has referenced the EEN toolkit as a resource in the IP manual they are currently developing for Chambers. The new IPR Helpdesk contract tender (which was recently awarded) specified work with EEN “expected to achieve a coherent and seamless service to SMEs.” Clearly there is a drive from the European Commission to simplify access to the range of services it funds. On this note, Raquel Fernandez-Horcajada of the European Commission’s Executive Agency for Competitiveness and Innovation (EACI) says “in supporting Iporta (network of national IP offices), we expect to further enhance cooperation between the national IP offices and business intermediaries, in particular the Enterprise Europe Network.”

So if there are companies you are working with which are looking for business contacts in Europe and beyond – do tell them about us, and we’ll make sure our clients know how to make best use of time with professional advisers and other business intermediaries like you!

Jane Watters

Enterprise Europe Scotland



Photo – left to right:

Wawfka Perschke (EC DG Enterprise); Daniel Gassman (EACI); Jane Watters (EE Scotland); Dave Morgan (EE South West England); Sabina Rupert (EE Slovenia); Eckhard Behrendt

EEN Germany; Jyrki Ingman (EEN Finland); Simone Veronelli (EE Italy); Jenny Laine (EE Sweden); Emilie Marcelet (EE France); Annemie Hautekiet (EE Belgium); Christina Deyl (EE Germany); Kristel Allewijn (EE Belgium); Raquel Fernandez-Horcajada (EACI); Viktor Botos (EE Hungary); front – Onur Emul (EE Turkey)

Not in the photo but member of the group Paloma Mallorquin (EE Spain)

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A new era of rights licensing in Europe? The Advocate General takes on territorial exclusivity in the Pub Broadcasting Case

On 3 February 2011, Advocate General (AG) Kokott's Opinion was published in relation to the long running pub broadcasting cases. The AG expressed the view that the system of territorial exclusivity in the licensing of broadcast rights to live Premier League football contravenes EU principles of free movement of goods and services and EU competition law. The AG's opinion is of major significance to all holders of media rights because, if the ultimate decision of the European Court of Justice (ECJ) reflects the AG's opinion:

- It may change how rights are sold to broadcasters throughout Europe because it could remove the ability for rights owners to segment national markets
- It may change how consumers buy television content because consumers may find it far easier (and commercially more attractive) to subscribe to foreign broadcasters by using decoder cards and other equipment that is available in other member states
- More widely it may affect the online distribution of media content: music, e-books, films, even software

Brief Recap

Mrs Murphy is a pub owner who used decoder cards imported from Greece to show Premier League games. QC Leisure is a stockist and supplier of foreign decoders to pubs and the general public in the UK. Mrs Murphy was prosecuted by Media Protection Services Limited for the use of an "illicit" Greek decoder card. QC Leisure was sued for copyright infringement by the FA Premier League. In their defences Mrs Murphy and QC Leisure both raised important questions about the relationship between the EU principles of free movement of goods and services and highly lucrative European broadcasting market based on exclusive territorial licensing. This led to a series of questions being referred to the ECJ by the English courts.

Mrs Murphy and QC Leisure argue that the way in which the Premier League enters into its contracts with various broadcasters throughout the EU, among other things, infringes EU principles of free movement of goods and services and EU competition law. They argue that the Premier League's contractual provisions restrict the ability of Premier League rights holding broadcasters to screen live pictures outside their own designated territory. They also contend that this restricts the capacity of Mrs Murphy or QC Leisure to either view, or purchase decoders to view, live Premier League matches from any source other than the exclusive national Premier League rights holding broadcaster (i.e. Sky and ESPN can only broadcast their exclusive pictures in their allotted UK territory). Such restrictions, they say, are incompatible with EU principles of free movement and EU competition law.

The FA Premier League, in response, relies on a range of provisions in EU copyright and broadcasting law as well as ECJ precedent going back to the 1970s which supports, or appears to support, the notion of exclusive licensing in the context of broadcasting rights.

The Opinion

The AG does not mince her words. She describes such territorial restrictions as a "serious impairment on the freedom to provide services" and brands the territorial exclusivity granted by the Premier League to Sky as "tantamount to profiting from the elimination of the internal market." Moreover, she is unable to see any countervailing justification for such restrictions. Economic considerations are brushed aside with the statement that "there is no specific right to charge different prices for a work in each Member State. Rather it forms part of the logic of the internal market that price differences should be offset by trade". Similarly, protection of the intellectual property rights in live football transmissions is given short shrift: "a partitioning of the internal market for the reception of satellite broadcasts is not necessary in order to protect the specific subject-matter of the rights to live football broadcasts".

The AG does, however, recognise the right of broadcast rights holders to apply different charging models and licensing terms as between domestic users and pubs provided that this does not involve territorial restrictions.

The Impact

The AG's Opinion is not binding. The ECJ may still take a different approach in its judgment which is expected later this year. Whilst Advocate General Opinions are followed more often than not, it is not unusual for the Court to take a different view especially in controversial cases. However, if the Court follows the AG's Opinion, its ruling will strike at the very heart of the Premier League's lucrative European broadcasting rights deals. Exclusivity has been the cornerstone of the Premier League's highly successful broadcasting revenue strategy. Should the Opinion be upheld by the Court, the implications for rights holders and consumers could be groundbreaking.

Should the ECJ side with the AG, the Premier League will need a fundamental rethink of how it sells its lucrative rights because it could no longer guarantee total exclusivity on a national territorial basis for broadcasters. This may lead to, for example, the Premier League marketing its rights on a pan-European wide basis. No doubt the Premier League already has a back-up plan.

However, an ECJ ruling along the lines of the AG's Opinion would reverberate beyond football and indeed beyond sport into the licensing of media content generally. In addition to finding that exclusive national licensing in the context of broadcasting rights constitutes a serious restriction on the freedom to provide services, the AG observes that "similar problems exist with regard to access to other services, for example the sale of computer software, musical works, e-books or films via the internet". Although it would be rare for the ECJ itself to make such sweeping statements about products or services that were not the subject of the case before it, these remarks illustrate the very real potential for this case to change the way that any media rights are licensed in the EU.

The Advocate General's opinion can be read in full at: <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en&jurcdj=jurcdj&newform=newform&docj=docj&docop=docop&docnoj=docnoj&typeord=ALLTYP&numaff=&ddatefs=27&mdatefs=1&ydatefs=2011&ddatefe=3&mdatefe=2&ydatefe=2011&nomusuel=&domaine=&mots=&resmax=100&Submit=Rechercher>

Lewis Cohen, Partner, Nick Pimlott, Partner & Daniel Geey, Associate
Field Fisher Waterhouse LLP

The Advantages of Litigating IP Disputes in Scotland

Summary

The recent English case of *Lifestyle Management Ltd v. Frater* [2010] EWHC 3258 (TCC) highlights the importance of giving proper consideration to whether UK court actions should be brought in England or Scotland. In the case, the English High Court granted an interim injunction in respect of the actions of a respondent based in Scotland. The judgment will be effective against that respondent but only automatically so in England- further steps would need to be taken to enforce it in Scotland. If the case had been brought in Scotland the judgment would have automatic UK-wide effect. This case is a good reminder that the Scottish courts have jurisdiction to hear all types of IP and technology disputes, and it is always worth bearing Scotland in mind as a suitable forum when raising an action.

Background

The Respondent, Mr Frater, is an individual who lives in Scotland. He was a former agent of the Claimants (companies registered in Kenya and the British Virgin Islands). The Claimants are financial advisers and provide advice to British expats working, mainly, in Africa. They operate the website offshoreism.com.

The Claimants terminated Mr Frater's agency contract. Mr Frater considered he was entitled to commission which had not been paid. He registered the domain names offshoreism.net, offshoreism.org and offshoreism.co.uk ("the Infringing Websites") and set up websites which appeared similar to the Claimants' website, as well as containing information allegedly confidential to the Claimants, and allegedly defamatory material. Mr Frater made it clear that he would cyber-squat at the Infringing Websites until the Claimants paid them the money he claimed they owed him.

The Court's decision

The Claimants successfully applied for an interim injunction against Mr Frater. The judge, Mr Justice Edwards-Stuart considered that Mr Frater's conduct amounted to passing off and that his deceptive use of the Claimants' name was calculated to damage their business. The court granted an interim injunction requiring Mr Frater to redirect all enquiries to his three websites to a blank page so that users could not access the material. In addition the court ordered delivery up of any confidential client database and restrained Mr Frater from using any other confidential information belonging to the Claimants.

Effect of suing in England instead of Scotland

Although Mr Frater was not based in England, the court considered it had jurisdiction in the case based on Rule 3(c) of Schedule 4 of the Civil Jurisdiction and Judgments Act 1982. Schedule 4 provides that an individual may only be sued in a part of the UK where they are domiciled. However in relation to a tort, a person domiciled in one part of the UK may be sued in the courts of the place where the harmful event occurred or may occur. The judge accepted the Claimants' submission that Mr Frater's actions were causing damage to their reputation and their relationship with clients, and that this harm was occurring in England. This in itself was interesting given that the Claimants are not themselves domiciled in England, and their clients, who are expats, are by definition based abroad also.

As Mr Frater is domiciled in Scotland, the judgment will only have effect automatically in England. If he does not comply voluntarily with the interim injunction and the Claimants need to enforce it against him in Scotland, they will be forced to apply to the Scottish Courts to register the judgment before they can enforce it. The need to register the judgment would result in an increased expense for the Claimants which could have been avoided had they brought the action in Scotland from the outset. Also, had they obtained a Scottish decision it would have been enforceable UK-wide and potentially further afield.

Introduction to the Scottish Courts

The Court of Session in Edinburgh is the equivalent of the English High Court and has jurisdiction in all IP matters. The substantive IP laws are the same in Scotland as in England & Wales. It is possible to bring all types of IP cases in Scotland including UK and European Patent revocation and infringement actions, UK and Community Trade Mark disputes, and cases relating to UK and European Designs. The Sheriff Courts (equivalent to county courts in England) can also hear certain types of dispute.

The Court of Session has specialist designated IP judges assigned to hearing IP cases. There are case management rules that are specific to intellectual property actions. A number of Scottish advocates (equivalent of barristers in England) have expertise in IP matters. The Scottish courts are thus well equipped to hear all types of IP disputes and do so on a regular basis.

Advantages of Litigating in Scotland

There are a number of potential advantages to litigating in Scotland, including:

Where the potential defendant is based in Scotland, a decision of the Scottish courts will essentially take automatic effect UK-wide.

In most cases it is possible to obtain interim interdicts (Scottish equivalent of interim injunctions) on an ex parte basis without first giving notice to the defendant. This is a very useful tool in cases where there is an element of urgency and often results in the quick settlement of cases.

Decisions of the Scottish courts tend to attract less publicity than English High Court actions which can be advantageous if the clients wish to bring proceedings such as patent revocation proceedings “under the radar”.

The cost of litigating in Scotland is often lower than in England, although in the event of success usually no more than 50-60% of costs incurred are recoverable.

Validity challenges to all registered rights including European patents and Community Trade Marks can be brought in Scotland even where neither party has any connection to Scotland, provided the relevant right covers the UK.

There is no automatic discovery in Scotland, and no automatic need to give cross-undertakings in damages, which can be of benefit in certain cases.

Conclusion

Although the English courts are often considered to be the natural forum for UK-based IP disputes, there has been a steady increase in the number of IP cases brought in Scotland, and the Scottish Courts are well placed to handle even the most complex of these. Thus it is always worth considering in each particular case whether it is suitable to bring an action in the Scottish courts. Indeed the decision in Lifestyle Management Ltd. v Frater however provides the perfect example of a case that may have been more appropriately litigated in Scotland

Susan Snedden, Associate and Anoop Joshi, Trainee
Maclay Murray & Spens LLP

© Maclay Murray & Spens LLP

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LES B&I Meeting News...

“Licence Implementation and Monitoring” Review of the London evening seminar on 17th February 2011

The vital matters of licence implementation and monitoring were the focus of LES London’s early evening meeting on 17th February, kindly hosted by Linklaters. Three senior practitioners from industry shared their valuable insights and experience with over forty members and guests.

As in so many fields of professional practice, experience counts for a great deal in the successful management of licences – whether as licensor or licensee. Sometimes the lessons of experience seem self-evident, if only after the event. At other times, the valuable insights are not so obvious. They will have been learned through particular combinations of circumstance or at unforeseeable cost. Happily, for those who attended our informative event on the evening of 17th February, the combination of circumstance was altogether favourable and the cost entirely reasonable!

Our three expert presenters and panel members were JoAnna Emery (Trademark Manager – Premier Foods plc), Alessandro Fantauzzo (Senior Director Global Audit – HiT Entertainment) and Katherine Ray (Agreement Compliance Manager – BTG). Each interpreted their brief accurately and with generosity of insight. To add an amusing piquancy, it emerged that one presenter had just undergone an audit by another.

There was general agreement that licensors were often reluctant to audit as they were entitled, typically because of internal opposition from business development colleagues who feared rocking the commercial boat. Yet each of our speakers gave us good examples of ways in which preparing the minds of all parties well in advance could make the audit process less contentious and more constructive. It would be presumptuous to attempt a comprehensive summary of all the useful things we heard on the night. Here is a small sample.

For anyone in a compliance capacity, Katherine Ray recommended relationship building with a licensee’s key functions as soon as the deal is done. Finance, legal, investor relations and business development can all expect her early introductory phone call. It is also Katherine’s practice to send a licensee’s finance director a marked-up copy of the agreement straightaway, highlighting all of the financial arrangements. Where appropriate, Katherine schedules a joint six-monthly review of progress against the licensee’s business development plans. Establishing such breadth and depth of contact will pay dividends later on, if an issue should arise or appear as a dot on the horizon. As a final note for licensors, Katherine reminded us that even though a termination audit might mark the expiry of a licence, it should not be conducted in such a manner as to undermine a business relationship with a potentially valuable future.

Speaking predominantly as a licensee, JoAnne Emery emphasised the importance of ensuring that there was crystal clear understanding of key terminology on both sides. She recommended sending a two-page summary of terms and obligations in plain language to all colleagues concerned with operating a licence. If there were a single word-trap to avoid in licensing agreements, it was

probably the term “usual” – for example, in attempts to define acceptable trade discounts by reference to “the usual selling price”. The implied self-evidence would too often prove to be a phoney friend at audit. Ignorance of critical dates was another pitfall for the unwary, particularly natural expiry. To guard against this, JoAnne maintains a central database and email alert system for colleagues throughout the company.

Alessandro Fantauzzo’s theme was of co-operation and establishing a culture of compliance amongst licensees. He is conscious that royalty gaps can sometimes arise through the inefficiency of the licensor. He does not favour audit teams having the pressure of royalty recovery targets as a means of self-financing. Alessandro always uses whatever audit rights are available to him. However, he prefers to initiate with a general audit notification and follow with a phone call to agree the scope of the exercise, before confirmation. This helps to build trust and minimizes unduly negative perceptions of the process. A set of weighted criteria helps Alessandro to determine the priority audits for the year. That said, for pragmatic reasons he would usually aim to conduct an audit one year before any scheduled termination.

A short panel discussion brought the formal session to a close, responding to questions from the audience. The evening continued and concluded with an enjoyable reception, wines and canapés courtesy of our Linklater hosts.

David Abrahams
LES Brands Committee

* * *



LES (Scotland) Meeting
“Innovation, Sport and Reward”

12th May 2011

Presentation Reviews

LICENSING EXECUTIVES SOCIETY

Brian Whittle, Athlete and Sports Coach – “Overcoming Fear and Grasping Opportunity”

Brian, famed for running the third leg of the 4x400 relay at the 1986 European Championships with only one shoe on, gave an enthralling insight into the events leading up to and beyond the race. Initially taken to Stuttgart as a substitute, Assistant Bag Carrier as he put it, Brian explained how, though a series of unexpected injuries, coupled with a positive showing in the semi-final, he was elevated to the team for the final showcase event of the championship.

Whilst a childhood dream, when Brian was “given the nod” to run, he claimed he would much rather have been anywhere else and comments from opposing teams on the weaknesses he would introduce to the team did not instil confidence, but on reflection facing up to the challenges and risks – overcoming fear and grasping opportunity were key to his success.

Brian challenged the audience to grasp every opportunity – if you don’t someone else will. He also stated that the closer you get to your goals the greater the fear factor and dealing with fear makes winners.

Turning to IP, Brian highlighted an increasing alignment of IP to the other sports related business he is involved in: IP in sport, Social Media Platforms and Internet Sport TV. With specific reference to IP rights attributed to the identity of sports people and teams, Brian suggested that more and more sportsmen and women and becoming educated in where their IPR can be exploited and commercialised and to expect a massive increase in the influence of IP in the Sports World.

Nathan Bombrys, Scottish Rugby Union – “IP Innovation in Sport – Is this worth protecting?”

Nathan outlined his responsibilities at SRU – generating revenues by exploiting the IP of Scottish Rugby with events and key partners. Nathan illustrated the challenges SRU face and cited the forthcoming Rugby World Cup 2011 as an example. In this instance the International Rugby Board (IRB), who control the event, restrict sponsors of Scottish Rugby ability to associate with the event and it is down to Nathan to develop alternatives that meet mutual obligations. That’s not to say that others have tried to get around the restrictions. Epi Taoine, a Tongan player changed his name by Deed Poll to “Paddy Power” during the previous RWC 2007 in an attempt to get a sponsor mentioned!

Nathan, having worked previously with Sale Sharks, outlined other IP opportunities he was involved with, demonstrating where IP protection informality led to lost opportunity. He spoke of the Premiership Rugby Academy, which started off as an experiment by Sale Sharks, shared with other clubs in the common interest of rugby development and ultimately, based on its success, was taken on board by the Premiership and is now branded entirely as a Premiership product. The other example shared was the “School of Hard Knocks” programme which again was a Sale Sharks concept that expanded to other clubs and was ultimately taken on and branded by Sky Sports. In both cases Sale Sharks protection of their IP was weak and informal and as a result the successful ventures do not return Sale Sharks any benefit whether financial or in goodwill.

Ultimately, Nathan suggested that clubs should consider the long term benefit of IP in sport as well as the consideration of the impact of the exercise on the sport and as management of IP in sport continues to develop, those who innovate in sports need to protect their innovations.

Jonathan Kemp, AG Barr – “Brands and Sport - a Scottish commercial perspective”

Jonathan introduced his presentation by giving some background on the success of AG Barr:

- It’s not a family business, it’s a FTSE 250 company with family board members
- It’s not just Scottish focussed business, >50% of business is south of the border
- It’s not just Irn Bru, >50% of sales relate to other brands
- It’s not just drinks related, AG Barr’s own a state of the art production unit worth £100m

Jonathan suggested the core focus of AG Barr is on building brand equity. With initial association with Adam Brown, a highland athlete, as far back as 1901 and with endorsement of the Scottish boxer Benny Lynch in the 1938, sport has always been key to the growth of brand equity. Though sponsorship of Bolton Wanderers in the 60’s through to the Scottish Football League today, association with football as the main sport of its customers has been key. Equally so however, AG Barr recognised the importance of other customer demographics and supports Sky Sports Super League (rugby league) and Sky Sports Cricket coverage (through the Rubicon brand).

Jonathan stated there are two moments of truth associated with soft drink sales: “The Chiller Moment” - when the customer needs to make a choice from a range of options and “The In the Hand Moment” - when the customer consumption starts. He outlined five activities than must be considered.

- Whatever is done it has to relate to brand equity
- Working with individuals is a huge risk
- Creative thinking saves millions
- Customers must be an integral part of the activities
- Disciplined evaluation of payback is necessary

These activities were illustrated using the successful “BRUZIL” campaign. Whilst Scotland were not at the FIFA World cup in 2010 Barr’s ran a tongue-in-cheek campaign to maintain a high profile

of the brand during the event including posters, TV ads and match-sized cans demonstrating how companies can meet the challenges of association with high profile events as raised by Nathan in his presentation.

In conclusion, Jonathan suggested that the control AG Barr has through their ownership of the brand, bottling and manufacturing processes, allows them to take a more maverick approach, linking their product to the Scottish sense of humour and do things Coca-Cola would not consider. As a result, Jonathan believes the brand equity of Irn Bru is in the custody of the Scottish People.

Bill Gemmell
Metis Partners

* * *

Future Meetings...

3rd – 8th June 2011

LES International Conference
'Licensing in the 21st Century – better, faster, smarter'
Park Plaza Westminster Bridge Hotel, London

July 2011

LES AGM and London Meeting
Further information will be available shortly

September 2011

LES London Meeting
Further information will be available shortly

October 2011

LES London Meeting
"Valuation; why it matters in IP?"
Further information will be available shortly

15th November 2011

LES & ITMA Half Day Meeting
Further information will be available shortly

1st December 2011

LES London Meeting
"Hot Topics Affecting Licensing"
Raynolds, Porter & Chamberlain LLP, London

1st December 2011

LES Evening Drinks Party, London
Further information will be available shortly

Please visit www.les-bi.org for further information and registration details

Members...



Obituary – John E. Bowler 1918 – 2010

Kurt Deutsch – former member of LES Council and LES Education Committee writes:

Members of LES will be saddened to learn of the death of John Bowler on New Year's Eve. He was a founder member of the Society and twice national president in 1976 – 77 and 1978 – 79.

John studied Engineering part-time whilst working for GEC in London. During the war he served in the R.E.M.E., attached to a training unit in Cairo. Here he discovered a latent talent for teaching/lecturing and the design of training courses.

After the war, he returned to GEC and again undertook part-time study, this time at LSE where he gained a B.Sc. in Economics, with special interest in international trade. He then moved on to several engineering firms where he came into contact with IP and Licensing. In 1956 John joined Firth Cleveland as patents officer. Using newly available lightweight miniature electric motors, they produced hand-held hair dryers for sale as consumer products. Older readers will remember these being advertised on television. John was fond of relating that they were made for pence and sold for pounds. He rose to Chief of Patents and Licensing and finally Managing Director of Firth Cleveland Research.

When GKN took over Firth Cleveland, John emerged as licensing manager for the whole GKN group acquisitions portfolio. At that time all motor cars had the engine drive applied to their rear wheels. GKN produced a universal joint that enabled engine power to be applied to the front wheels while still allowing them to steer. This went into the new Mini car, enabling it to be more compact and helping with its famous transverse engine arrangement. The mini was a huge success and John negotiated 600 licences of the universal joint to car makers worldwide. Only BMW held out. Another blockbuster was the Surform DIY tool. John was fond of relating that 30 manufacturing processes were licensed out for this simple looking device, and that special versions were made for surgeons to clean up bone ends in amputations and for zoo keepers to trim elephants' toes.

I first met John in 1983. He was looking for work to keep his mind active and I was looking for help in introducing IP and its exploitation at the University of Warwick. Our needs were truly complementary. Together we mounted several conferences primarily for Warwick academics but often also nationwide. John helped to recruit speakers who were of national and international stature e.g. HM Comptroller of Patents; the Director of the European Patent Office in Munich, etc.

In 1990 Cranfield University was running short courses of management of R&D for help in introducing a module on IP Management. This led to the creation of a series of courses under the

“How to ...” title e.g. “How to protect your technology”; “How to license your technology” etc. The series ran for about five years and its success owes much to John for his inputs to the design, finding suitable speakers, many of them drawn from current and past members of LES and LES Council e.g. John Emanuel; Ludi Lochner, Stephen Powell etc.

Cranfield courses were truly sociable. Whilst delegates were working into the night to prepare for the next day’s negotiation exercises we, the tutors, were being entertained by John with stories from his travels all over the world. He was a natural raconteur.

Music was John’s other passion. He was an accomplished pianist and organist. For many years he was an member of the Evesham District Musical Club, served on its programme committee and wrote many of the concert programme notes. Whilst driving John to Cranfield, I was a captive audience and was assured of 90 minutes of classical music.

John led a long and active life and was a man for all seasons. We shall remember him as a companion and true friend. John is survived by one son and two daughters and five grandchildren.

We would like to thank Kurt for preparing this obituary and also Richard Reeves for his contribution.

* * *

BioBridge Ltd, the UK based consultancy, has been selected by IFAH, the International Federation for Animal Health, to manage its 2011 Global Benchmarking Survey, which is an update of IFAH’s 2006 survey.

Barbara Freischem, Executive Director of IFAH, said, “This 2011 survey is an opportunity for IFAH, its regional organisations and member companies to reflect on progress over the past 5 years since the last survey was undertaken and consider the changes and impact on the animal health industry.”

BioBridge’s international team of consultants is led by Mr Meredith Lloyd-Evans and includes Dr Jane Eagleson of AlcheraBio LLC for USA, Dr Earle Nestmann of Cantox Health Sciences International for Canada, Brett Price and Dr Bruce Chick of Veterinary Health Research Pty Ltd for Australia, Dr Atsuo Hata and Dr Yuki Ujimasa for Japan and other colleagues.

Meredith Lloyd-Evans said, “I am proud that IFAH has selected BioBridge to help with this work. We look forward to working with IFAH on conducting this survey and towards some interesting results.”

The work will be carried out throughout 2011 with the results expected late 2011 to early 2012.

Further contacts:

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About IFAH

The International Federation for Animal Health (IFAH) is an organisation representing manufacturers of veterinary medicines, vaccines and other animal health products in both developed and developing countries across five continents. The mission of IFAH is to foster a greater understanding of animal health matters and promote a predictable, science-based regulatory environment that facilitates the supply of innovative and quality animal medicines, vaccines and other animal health products into a competitive market place. These products contribute to a healthy and safe food supply as well as a high standard of health and welfare for animals and people. For further information on IFAH, please visit www.ifahsec.org

About BioBridge

BioBridge Ltd <http://www.biobridge.co.uk> is a bioscience innovation consultancy with a strong grounding in the animal health industry. Established over 22 years ago in Cambridge UK, BioBridge has a large and international network of associates. BioBridge's current clients are spread across industry, research institutions and government organisations and work focuses on activities as diverse as finding new products for human health, advising on biosecurity and disease trends for biomaterials from animal origin, providing mentoring for university and research spinouts, monitoring public-funded projects, advising an industry organisation on marine biotechnology issues and conducting surveys and impact analyses.

Members on the Move ...

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New Members

Mr Simon Black, Black and Associates

Interests include: Aerospace/Defence, Multimedia, Computer Hardware, Transportation, Telecommunications, Consumer Goods, University, Computer Software, Energy, Electronics, The Internet

Ms Rebecca Beecroft, DLA Piper UK LLP

Interests include: Consumer Goods, Computer Software, The Internet

Mrs Jayne McClelland, Astrazeneca UK Ltd

Interests include: Biotechnology, Pharmaceutical

Mr David Meldrum, D. Young & Co. LLP

Interests include: Aerospace Defence, Computer Hardware, Consumer Goods, Electronics, Healthcare, Transportation, Renewable Energy, Internet, Multimedia, Telecommunications, Computer Software, Bioenergy, Energy

Miss Sheilah MacKie, Blake Laphorn

Interests include: University, Computer Software, The Internet

Dr Loreto Sheils, Unilever R&D

Interests include: Consumer Goods, University, Animal Plant Food Science

Mr David Slattery, Wilson Gunn

Interests include: Computer Hardware, Consumer Goods, Electronics, Transportation, University, Renewable energy, Internet, Multimedia, Telecommunications, Computer software

Mr James Peel, Barker Brettell LLP

Interests include: Pharmaceutical, Chemical, Polymers & Associated Industries, University

Mr James Wall, Kuit Steinart Levy LLP

Interests include: Pharmaceutical, Consumer Goods, The Internet

Ms Yasmine Hashim, Cleveland

Interests include: Consumer Goods, Electronics, The Internet

Mr Mark Smith, ip21 Limited

Interests include: Consumer Goods, Computer Software, The Internet

Mr Ron Marchant, TY Heol, Thae Landings

Interests include: Pharmaceutical, University, Energy

Mr Carl Avison, BP

Interests include: Chemical Polymers

Mr Sangwani Nkhwazi, Mancunium Intellectual Property Ltd

Interests include: Renewable Energy, Electronics, Mechanical, Transport

Ms Joanna Memery, Memery Crystal LLP

Interests include: Pharmaceutical, University, Computer Software

Mr Stephen Milne, Memery Crystal LLP

Interests include: Multimedia, Telecommunications, Computer Software

Miss Aine McLaughlin, Barcrest Group Ltd

Interests include: Consumer Goods, Multimedia, Telecommunications, Computer Software, The Internet, Gaming

Miss Natasha Barnett, KPMG LLP

Interests include: Healthcare, Pharmaceutical, Electronics

Ms Liz McGoldrick, BT Plc

Interests include: Internet, Multimedia, Telecommunications

Dr Luke Kempton, Wragge & Co. LLP

Interests include: Healthcare, Biotechnology, Pharmaceutical

Mrs Heather Thompson, The University of Manchester Intellectual Property Ltd

Interests include: University, Chemical, Polymers and Associated Industry, Engineering

HARGREAVES REVIEW OF INTELLECTUAL PROPERTY PUBLISHED

The Hargreaves Review of Intellectual Property was commissioned by the Prime Minister, David Cameron, in November 2010 because of the risk that the current intellectual property framework might not be sufficiently well designed to promote innovation and growth in the UK economy.

The Review has led to wide interest, with about 70 interested parties meeting the UK IPO (The UK Patent Office) to discuss the review, and some 250 written responses being submitted.

LES met the UK IPO to discuss specific points and then put in written comments, (which are on the LES (B&I) website). The written comments reiterate the comments made at the meeting with the UK IPO and also raise some additional points.

The Report of the Hargreaves Committee was published on 18th May and can be found at: <http://www.ipo.gov.uk/ipreview-finalreport.pdf>.

As the Report was only published on the day before NewsXchange was published there has been no opportunity to consider it in detail.

However there is no doubt that the Laws Committee will be considering the Report in detail shortly and would be very interested to receive **comments: to laws@les-bi.org**.

The Report's principal focus is on the digital environment, not surprising as Professor Hargreaves holds the chair of Digital Economy at the Cardiff School of Journalism, Media and Cultural Studies and Cardiff Business School. The first conclusion is that the "IP framework is falling behind and must adapt".

Among other things

- the Report suggests the creation of a Digital Copyright Exchange to simplify the licensing of digital works.
- It stresses the need for an EU Patent and an EU Patents Court and suggests ways of tackling the growth of "patent thickets".
- It suggests a "Small Claims Track" for low monetary value claims in the Patents County Court, although there appear to be no details as to how this is to work when compared with the existing system.

The recommendations start at page 98 of the Report.

But there is clearly much more in the Report to be considered.

Please send your comments on the Hargreaves Report to: laws@les-bi.org.

Robin Nott
Chair, LES B&I Laws Committee



LICENSING EXECUTIVES SOCIETY
BRITAIN AND IRELAND

"Advancing the Business of Intellectual Property Globally"

Moving Company/ Changing Address?

Please remember to tell our administrator, Jennifer Kirkcaldy, if you change your office address so that we can continue to send you LES information.

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Please also remember to change your contact details in the membership directory on the LESI website (www.lesi.org). As a service to our members the editor will print any change of company and location in newsXchange™. Please contact Jennifer Kirkcaldy, les@northernnetworking.co.uk

Membership

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