

Name: Rodney McMahon

Company name: Morgan Contract Furniture

Sector: Contract furniture

Number of Employees: 50

Background: Morgan Contract Furniture is a British manufacturer of design-led furniture within the contract sector. They have developed and revitalised the company in the last 18 years from a company of 8 employees to one totalling 60, with a major position as a leader in the contract market. However, as a result of the pandemic, their employees have been reduced by 15%. The intellectual property they create is the lifeblood on which the future of their company will rely. Their mission is to be heroes of their marketplaces as a design-led, world class manufacturer and they aim to be leading designers and manufacturers of contract seating. They strive for design excellence in all their furniture and aim to continuously introduce exciting collections of individual contemporary products. They employ highly skilled, committed and motivated people, with a passion for furniture, and ability to interpret and satisfy their customers' needs.

This process of design and its co-ordination from initial concept through to brochures and image is managed by Design Director Katerina Zachariades. MD Rodney McMahon stated recently, *"Having been the recipient of intellectual property infringement on a significant scale, I find the Government's statement that design infringement may be inadvertent is way off the mark and misleading. As a former Chairman of the British Contract Furnishing Association, the majority of our 200 members would also confirm that it is rare to experience inadvertent copying. For most, IP infringement is blatant and deliberate"*.

Details: Morgan Furniture took legal action against PTT Design Ltd., and the case was settled by mediation two years later. They were paid £65,000 which went some way to recovering their costs and the case took 2 years to be resolved without going to Court. In the High Court action, they claimed that PTT had copied a number of Morgan designs which PTT had then supplied to hotel groups. Morgan had been tendering for the same hotel refurbishment project.

The terms of the settlement achieved included undertakings from PTT and its individual directors that they would not in the future infringe design rights in seven of Morgan's furniture designs. PTT also agreed to pay £65,000 towards damages and costs.

ACID Summary: This is one of many examples of design led companies like Morgan Contract Furniture who responds to tenders within the hospitality sector on what they believe is a level playing field. They submitted their bid in response to a clearly defined brief but were not successful. Instead, competitor PTT was selected to produce Morgan look alike furniture to Hyatt Hotels. This is when Morgan decided to challenge what appeared to be a blatant infringement of their design rights.

- What this case study demonstrates is the time taken to mediate a settlement – from start to finish 2 years.
- This period of time spent pursuing design right infringement had a significantly detrimental effect and resulted in reducing time available to concentrate on growth and business building through innovation.
- It also demonstrates the lack of intellectual property respect in the tender process itself which allowed Morgan's designs to be sent to a third party to produce simply because they could be replicated more cheaply. This is one of many examples of a lack of IP standard within tender and procurement.

- Had Morgan been approached they could have been given the opportunity to re-price given the scale and quantity required by Hyatt hotels.
- Declared and communicated respect for intellectual property in Hyatt CSR might have changed board strategy to continue to propagate this culture within procurement.
- It is arguable that if blatant design right infringement had criminal sanctions Board strategy may have been different.

Images of original products copied



Did you take legal action? Yes, see above, at this sort of expense in time, resource and finance we simply could not pursue further cases in this way

Do you register your designs with IPO/EU? Some

How many times have you been copied? Too many times to be quantified. Copying is rife in the contract sector with little regard for probity in procurement

Have you registered your Trademark? Yes

How much have you lost through copying? Impossible to quantify

Do you export? Globally

What 3 IP design policy changes do you think would support designer and discourage copyists:

- We support ACID's bid for criminal sanctions for design infringement
- A dissuasive damages system which will influence deliberate Board strategy to think more clearly about not pursuing design infringement as a means of expanding their market share
- An easy IP Court system to access to redress blatant design infringement effectively

Do you think Copying is blatant or inadvertent?

Without any shadow of a doubt, Blatant.