

Name: ThisisNessie

Number of Employees: 15 (reduced by 20% because of consistent and blatant copying over the last few years. This not only affects employees who we have had to let go but their families too.)

Sector: curated collections of birthday gifts, engagement gifts, wedding gifts, anniversary gifts, new baby gifts, Father's Day gifts, Valentine's Day gifts, from the original Welly Boot Print and all its friends.

Turnover: £1m+

Loss through IP theft over 5 years: £1m+

www.ThisisNessie.com



Background: In 2005, Nessie Maclay was a young mother with a sole trader business that had segued from handmade cards to producing bespoke, illustrated personalised stationery. The internet – as we know it now – was still in its infancy. Social media was limited to myspace.com and a waning interest in Friends Reunited. The iPhone was still two years away and outside of the near-ubiquitous Blackberry, folk who had email or browsing capability on a phone were considered most unusual.

There was a charm to this that is almost forgotten these days in a world where you can share almost anything with the swipe of a thumb. Today, everyone has access to the kind of promotion that builds a business from nothing in moments.

During 2005, Nessie was commissioned to produce some Change of Address cards that would capture the fact that her client was moving from London to the countryside. The idea alighted on was of a row of illustrated green wellington boots – one for each member of the family – with the final pair artfully toppled over to depict their youngest child.

The client was delighted with her cards and Nessie developed this idea. She added other colours to the available wellies, created versions in the flags of over 70 countries and added embellishments such as flowers and cricket bats to allow customers a more granular expression of the characters of their families.

In the background, the internet developed apace and now all of Nessie's designs and illustrations were widely visible on social media and via her own custom-built website.

Up until 2014, the wellies had been restricted to small postcards – they would feature at the top of correspondence cards, thank you notes and change of address announcements. Ever unique, always appreciated, the device started to take on a life of its own and over time became the best-selling illustrations in the business. Nessie was now firmly known as “The Welly Lady” and was producing hundreds of thousands of these cards – all bespoke to their owners - which were shipped all over the UK and worldwide.

Then came the real breakthrough moment when Nessie came up with the idea to make the wellies into a larger format personalised print. The very first one was made for a friend's birthday and was an almost instant hit. Nessie listed the product on the online marketplace notonthehighstreet.com and the print racked up six-digit sales in its first Christmas. Shortly after this it was named Product of the Year on the site amid an explosion of interest.

Nessie's business grew from a single member of staff to a team of 15 and turnover hit seven figures. Further development of the range followed and with tea towels, mugs, water bottles, chopping boards and bags added to the Welly collection. Nessie also developed a strategy for ensuring the longevity of the product, protecting the ways in which the illustrations could be used, continuously developing the illustrations, and ensuring that the artwork did not become devalued.

What type of copying issues have you experienced? In 2016, friends and customers started to tell her – with varying degrees of outrage – that they were starting to see other people selling versions of the Welly Boot Print that were clearly inspired by Nessie's original work. She contacted ACID who put her in touch with one of their legal affiliates and several legal challenges were prepared and fired off.

Cost & Time of taking legal action: The finely nuanced nature of “passing off” made this a frustrating, time consuming and expensive exercise. A few honest souls admitted that they had been inspired by Nessie, but others retrenched themselves in their convictions that they had not plagiarised her in any way. Nessie's experience of this aspect will resonate with many ACID members who have seen their ideas ripped off in this way. It is an uphill struggle.

Online infringement issues: The internet had not finished with Thisisnessie yet. The manner in which Nessie's illustrations were displayed online for the benefit of customers made them easy fodder for “cut-and-paste” merchants. Suddenly anyone with a Facebook presence and a computer was using low end graphics software to cut out Nessie's

illustrations from the gallery on her website and composing knock-off versions of her artwork. They would then offer these for sale on social media

How did you deal with this? In the main, these were relatively easy to take down as the infringers would quickly understand that they were breaking the law. The harder thing was to find the infringements. Closed groups on social media number in the millions and support a grey economy where individuals offer items and services for sale. The closed aspect of these groups makes it nigh on impossible to see what is going on inside them. Without the valiant efforts of supporters to tip her off, Nessie would have no idea this was going on.

How did online copying issues develop? The problem reached a peak when users started to share Nessie's illustrations on an application called PicsArt in 2017. This led to nearly 100,000 infringements of the company's copyright in just a few short weeks. Although PicsArt responded as quickly as they could once made aware of the issue, the appearance of Nessie's illustrations in an application that made it so easy to create versions of her increasingly well-known idea gave rise to infringers thinking this validated their behaviour. Nessie is certainly not going to roll over. However, she believes that IP enforcement could be much more robust. She and her team will continue to call out anyone who steals her illustrations.

How important is education? Nessie, meanwhile, believes that education is the key to changing the view that the internet is a free for all. Ethical creation needs to be at the heart of artistic training to make plagiarism as unacceptable as blowing smoke in a baby's face.

Currently only the intentional infringement of a registered crime is a crime? Individual directors are also liable. Do you think this should be extended for unregistered design infringement? I have always supported the deterrent element of making the infringement a registered design a crime and extending this to unregistered design infringement is a natural progression to support the UK's creative designers.

Do you think Copying is blatant or inadvertent? Blatant, without a shadow of a doubt!