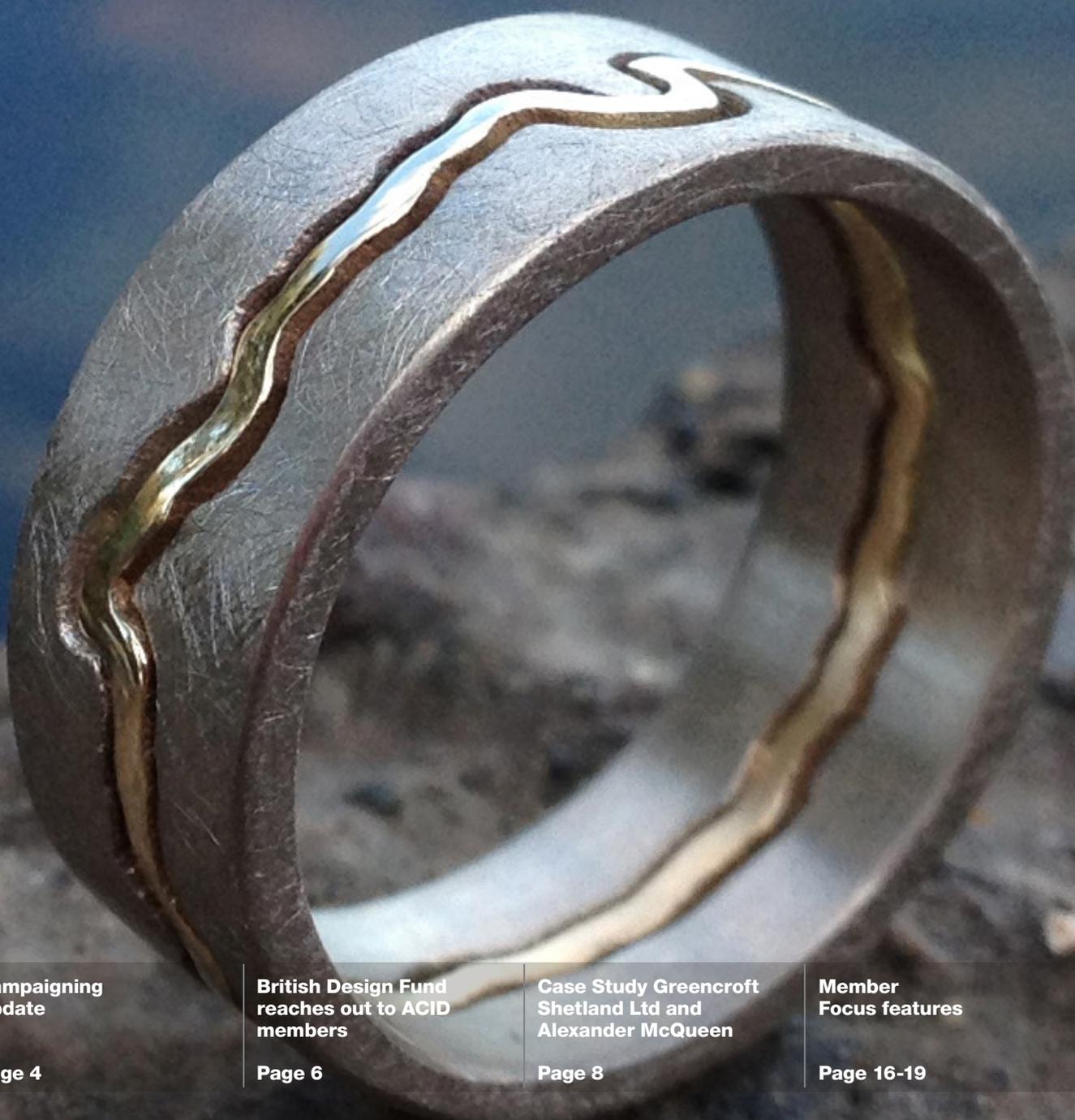


ACID[®] MAGAZINE D

YOUR VOICE AGAINST DESIGN THEFT

Hannah Louise Lamb, River Ring



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Dear ACID members

“The next British Design Fund, Fund 2, is now open to interested investors from July through to December 2018. The Fund will, again, be deployed into five to ten businesses, each receiving a minimum of £100k along with support and mentoring in exchange for equity.” Now is YOUR chance to find out more and see if you reach the criteria for funding, support and mentoring.

Hopefully, by the time you read this, cool breezes will be wafting over our lovely country and you have all enjoyed our sunny and hot summer delights, I did!

A couple of exciting new relationships have been forged between ACID and the Goldsmiths Centre and ACID and The Design

Fund. For ACID member craftsmen in the jewellery, silver, goldsmith's and allied industries, Intellectual property is of significant importance to grow their businesses for the future; knowing that they are aware of the IP rights that protect them but equally aware of how to safely capitalise on these assets. As a starting point, there will be the

creation of a joint events programme to include an IP Master Class as well as other IP events, seminars, workshops. The IP Master Class is a must for those well on the way to creating their own business to help them understand the basics of design law and create a proactive IP strategy. Our existing ACID members in these sectors will also be able to benefit from the special relationship between Goldsmiths and ACID by joining their network and hearing about the latest news and events with the opportunity to partake in their specialist workshops.

Following the Design Council Spark programme finalist celebration, where we met the amazing Deborah Meaden, we also met Damon Bonser and John Mathers of the newly formed British Design Fund and feel proud to have formed a special relationship as partners. We invited ex Design Council CEO John Mathers as our September guest editor to tell us more about what is on offer and how to access the



L-R Dids Macdonald, OBE., CEO of ACID, Deborah Meaden and Nick Kounoupas

fund. Of the British Design Fund, John Mathers said, “The next British Design Fund, Fund 2, is now open to interested investors from July through to December 2018. The Fund will, again, be deployed into five to ten businesses, each receiving a minimum of £100k along with support and mentoring in exchange for equity.” Now is YOUR chance to find out more and see if you reach the criteria for funding, support and mentoring.

Last month, I was privileged to be invited to take part in a two day “Royal & Ancient” Leadership Summit called “Reach”, held over two days at Royal Lytham Saint Anne’s gold centre. Launched last year by a small but dedicated group of women, spear-headed by the passionate Sky Golf commentator Sarah Stirk, 88 leading women from diverse sectors were brought together to discuss diversity and equality. Building an empowered community of successful, motivated women, fuelled by their motto collaborate to accelerate, is about men and women working together to achieve this goal. As Jonny Ives said, “The best ideas start as conversations.”

Reach has a vision which see women reaching their career and life goals unhindered by inequality and traditional preconceived ideas and misconceptions. The tangible sound of energy and enthusiasm of 88 women talking together was like the beginning of a symphony being master-minded. It now needs momentum to

gain traction. If any ACID members would like to know more, do please contact me. Design remains 78% male, yet women make up 63% of students studying creative arts and design at university which is encouraging.

We continue to travel across the country to deliver our corporate members with Intellectual Property Strategy Reviews, a free benefit of corporate membership. We meet key Board Directors and Design teams and, after a pre-visit questionnaire, spend a couple hours, first running over the basics of IP laws and then, through discussion, identify areas where specific help can be given. Each visit is followed by a comprehensive, bespoke review and report which acts as a starting point for the creation of ongoing IP policies from the basis of a sound IP Strategy. Most successful businesses are underpinned by intangible assets – Intellectual Property, or “IP”. In order to identify and maximise this key asset, its monetary value must be identified and then leveraged as a recognisable USP and key driver in mergers, acquisitions and investments. IP must also be valued for the purposes of budget planning to produce cost effective product and brand protection within an ongoing IP strategy, as well as when considering exit strategies following the sale of a business.



Margaret Briffa, Director of Briffa Law, Dick Shone, MD of Boutique Modern, Dids Macdonald OBE, CEO of ACID

Commenting on the recent visit to Boutique Modern for an IP Strategy Review by Dids Macdonald and Margaret Briffa, Dick Shone, MD of Boutique Modern said, “Discussing Boutique Modern’s recent growth, and the company’s development of both design

and processes we are currently in the thick of, has highlighted the need for IP caution in many areas of the business. I am looking forward to receiving the IP Strategy Report & Recommendations and acting on your suggestions.”

We held a meeting in July of many of our ACID Legal Affiliates and from this, a new ACID Legal Affiliates Code of Conduct/Charter has been created which is available on request. The main objective is to ensure that our team of ACID Legal Affiliates complement our overall aims and campaigning objectives and support the promotion and support of designers/ the creative Industries. The new Code of Conduct will set the tone of declared support for defending ACID members and the general

ethos contained in the ACID Code of Conduct. Joining this meeting was partner and IP specialist Colin Hulme Of new ACID Legal Affiliate, Burness Paull, who will be advising our Scottish members and those who need advice when trading in Scotland. Scottish IP law is very different to UK IP law and we are thrilled with this new partnership.

Have a successful Autumn.

Dids Macdonald

Campaigning Update

The Creative Industry Sector Deal With ambitions to out-perform the rest of the UK economy, the Creative Industries will increase by 50% by 2023 and be worth £150 billion, creating 600,000 new jobs. So say three Ministers who signed the Creative Industries Sector Deal, part of the UK's Industrial Strategy promises.



Dids Macdonald with Duncan & Nessie Maclay of Thisisnessie

It will open up creative jobs to people of every background. Time will tell whether these ambitious plans will reach fruition but past performance of the incredible design sector do not suggest otherwise. So as optimists we believe

this is THE most exciting time for the design sector.

Key policies will include ideas, people, infrastructure, businesses environment and places, driving over £20bn of investment in innovative and high potential businesses,

including through establishing a new £2.5bn Investment Fund, incubated in the British Business Bank.

BUT there is no point creating ideas unless there is a progressive IP framework and environment from which our

incredible designers can grow without the threat of IP theft. Online IP theft is galloping away, the stable door having opened with no cost and time effective legal mechanism to address knock offs, copies and look alike springing up like and uncontrollable computer game. The minute you get one knock off removed, another 10 appear. So, what's to be done?

Government wants evidence and we must provide it. Whether it is an anecdotal case study or, more importantly, data. So how does this look? Your name, your business name, how many copies you have found, where they have been discovered, what is the evidence? How much have you lost through online theft? Do you believe online marketplaces, social media platforms and search engines are responding with easy to access, take down of sites? All these contributions matter and will be sent to the Alliance for IP who will be coordinating all the evidence from all sectors. Please send to info@acid.uk.com

What has happened so far?

Government, it would appear, will not act on the scale of the problem without hard factual evidence and unless we can provide evidence the response will be "well what's the problem?" A meeting was set up by Government to address IP infringement in advertising, online sales platforms and social media platforms and ACID member and Advisory council member Rachel Jones. Rachel runs the ACID Brand Enforcement

L to R Kelly Hudson, McDaniel & Co with Chi Onwurah, MP for Newcastle Central and Eddy Leviten, Alliance for Intellectual Property



Service through her company Snapdragon IP and was the expert contributor at the first meeting on the technical challenges surrounding online infringement in advertising, online sales platforms and on social media platforms such as Facebook. As we speak the evidence from this meeting is being collated to present to Government policy advisors.

Case studies were received from Phyllis Cohen of Facelace, Simon McLaren of Little Shop Of, Anna Jeffreys of Anna Jeffreys Design, Luke Holt of Greencroft, Shetland, Mel Holiday of Chiselhurst, Lyndsey Childs of Tidalways, Terry Dady of Microslat, Heidi Sturgess of Heidi Sturgess Designs and Duncan Maclay of ThisisNessie. We cannot thank you enough. Not only were these included in evidence as case studies, but ACID will be collating these and sending them to the Director of Copyright & Enforcement at the UK Intellectual Property Office, Ros Lynch.

British IP Day

On British IP Day, the Minister of IP, Rt. Hon Sam Gyimah met, amongst other creators, Tidal Marks Owner and artist Lyndsey Childs and Duncan & Nessie Maclay of ThisisNessie. For both artists Nessie Maclay and Lyndsey Childs, it is their creative skill as an artist which forms the basis of successful IP-rich small businesses.

They joined Ministers, parliamentarians and those representing song writers, musicians, authors and film



At a creative industry briefing at Westminster on British IP Day, the Minister the Rt Hon Sam Gyimah, MP said, *“This is an important occasion – IP is the lifeblood of modern economies – and there is much to celebrate ... The work we are doing to improve understanding of, and respect for, intellectual property is beginning to pay dividends. However, I recognise there is still more to do, with 25% of consumers still accessing some content illegally. I am committed to tackling piracy. Through greater collaboration we can continue to reach the current and next generation of digital consumers, for the long-term benefit of us all. Our modern Industrial Strategy and the transformative Creative Industries Sector Deal are key in helping us achieve this.”*

Thisisnessie Ltd.’s Managing Director Duncan Maclay said, *“I spoke to our constituency MP Sam Gyimah who is also the Minister for Intellectual Property and showed him the stark reality of what we face every day. He instantly agreed to visit our studio to witness for himself the devastating effect that this is having on our business and discuss ways in which government can help. Our IP is the most valuable asset in our business and when this is compromised there is a price to pay. At the close of the last financial year, a projected growth of 20% had become a contraction and we had to lay off three employees. The redundancies have affected the business directly as we have less resource to direct at the development of new products. Never far from our minds at times like this are the partners and children whose lives are affected by these redundancies.”*

makers, just a small part of the array of vastly talented creators who make the UK creative industries the envy of the world!

Thisisnessie is a successful growth company supporting

larger online marketplaces. Last month Thisisnessie had to lay off three staff as a direct result of online theft.

ACID is intent on working with Government, policy makers and the industry

to insist on solutions for cost and time effective enforcement to address blatant copying on social media platforms and online marketplaces so that growth is not impeded by theft. Intellectual property is at the heart of the design sector and must be protected!

We were delighted that the IP Minister met with ThisisNessie but the Minister’s comments are in direct contrast to the letter written on his behalf by the IPO which says that we have the best IP system in the world. Yes, we probably do but this is based on the Taylor Wessing Index produced by a law firm about the judicial and registration systems. Litigation is still the luxury of the few, legal redress takes up to 4 years and there is no cost & time effective IP system fit for purpose for micro & SME’s who struggle daily against IP infringement. A “Duty of Care” as the Minister puts it is a real call for online marketplaces, search engines and social media platforms to be held to account with enforceable Codes of Conduct but equally, our Government is responsible for providing accessible enforcement law which will stem the tide of an almost out of control fleeing of UK design talent by those who steal online.

12 employees, their partners and children. But success has been marred by daily and significant challenges through insidious, blatant copies of their artwork and products for sale on social media platforms and through the

British Design Fund reaches out to ACID members

I'm writing this from a window seat in the Falls of Dochart Inn, looking out over the Falls and watching the water tumbling down over the rocks. I'm sitting inside because for the first time in what seems like months, there's this wet stuff falling from the sky ... I vaguely remember it's called rain!!

Anyway, I'm also looking at some of the ideas that are starting to come through as applications for the British Design Fund. Not surprisingly, us Brits being the great inventors that we are, a number of the ideas are about how we might keep ourselves cooler the next time a heatwave hits our shores.

The Fund was launched in 2017 with the very simple, but compelling idea that for our country to survive and thrive technology alone is not the answer and we need to be supporting well designed British products.

Astonishingly we found that there were no follow on venture capital funds to do just that. So, over the last nine months we've now invested in a first tranche of companies, five to be exact, which are great product ideas that fulfil a real need.

The next British Design Fund, Fund 2, is now open to interested investors from July through to December 2018. The Fund will, again, be deployed into five to ten businesses, each receiving a minimum of £100k along with support and mentoring in exchange for equity.

We knew from the start that whilst the cash injection is vital it is also the support and mentoring advice, from a group of really experienced advisors, that our teams appreciate so much.

The minimum Fund 2 size will be £750k to a maximum of £2m.

We have a very simple but comprehensive process for choosing the businesses which will become part of the Fund.

Firstly, and vitally, is the strength of the IP in the product. How defensible is it, where is it protected and what competitive products are close.

Secondly how do the teams understand the competitive landscape for their product, have they really done their homework and understand what it is that is different that their product brings

The Investment Committee always asks the key question which is all about the importance of the problem that the product solves.

Then we will look at the level of demand that the product has and how valid the forecasts are ... have you got orders in the bag already, commitment from retailers, wholesalers set up etc. If your product isn't



already launched then we will be looking at the window to launch within the next twelve months

Finally we will be looking at the winning chemistry within the founding team. We will be working closely with you and it's important that we believe in you and feel you have the real ambition that it takes to be a success.

So have a look at the website www.britishdesignfund.co.uk to find out more, download the application form or get in touch with either Damon or John

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JOHN MATHERS
DIRECTOR OF DESIGN
AND FOUNDER
BRITISH DESIGN FUND





**Luke and Kate Holt
of Greencroft Shetland Ltd**

David Challenges Major Fashion Brand Goliath Alexander McQueen!

Despite not admitting liability nor acknowledging alleged infringement, major fashion brand label Alexander McQueen have settled an IP infringement matter in a confidential agreement with Greencroft Shetland Ltd.

case. The one tip we would want to pass on to any other ACID members is to speak to an ACID Affiliate lawyer BEFORE you contact the company. After an initial free consultation, this may cost a small amount but will save you money and months of frustration and wasted energy.”

Senior Partner of Taylors, Tony Catterall commented, after negotiating the confidential settlement, “I am delighted that we were able to bring this matter to a successful conclusion. It is important, whether micro or macro, there are ethics and compliance for intellectual property ownership.”

ACID Comment: *“When small, talented companies like Greencroft created a beautiful, hand crafted and unique product through which their business has grown, it is essential that there is respect for the intellectual property they create. This settlement sends a clear message out for the many who find inspiration in Shetland’s growing wealth in its creative community to play by the rules.”*

Kate Holt added, *“It’s more an ethical thing, generally, it’s big business versus small business, and the history of people coming North to plunder design ideas and then leave again. People should be very, very wary.”*

www.Greencroft Shetland.co.uk

www.Taylors.co.uk



Alexander McQueen had prominently displayed an image of one of the Greencroft designs on a catwalk runway without asking permission nor crediting the creators. They had obtained this by photographing one of the distinctive red door planters when fashion shooting in Shetland. The images were subsequently used for a catwalk rug design for McQueen’s Spring/Summer 2017 Paris fashion show. In addition to the rug featuring on the catwalk, the design of the rug was also used in the lining of a coat featured in Alexander McQueen’s 2018 men’s collection, shown in Paris in 2017. Anti Copying in Design (ACID) members Luke and Kate Holt run a small, family business called Greencroft Shetland Ltd., producing unique hand-made planters which look like

exact miniatures of traditional croft houses. Following a photoshoot by consultants working for Alexander McQueen an image was taken of the distinctive, red-doored planters in someone’s garden.

When he discovered the lookalike, Luke Holt of Greencroft said “I was extremely angry and contacted Alexander McQueen several times and eventually their legal department responded acknowledging that it was our image but didn’t feel there was anything wrong with that. Having asked for, and been refused an apology, both Kate and I were worried that battling a giant was an almost impossible fight. We then contacted one of ACID’s legal affiliate’s Tony Catterall of Taylors in Manchester who decided we had a strong



McQueen Catwalk Rug

Thisisnessie – British IP Day

The stark reality of copying on social media platforms



On British Intellectual Property Day 2018, Duncan and Nessie Maclay of ThisisNessie travelled to Westminster to join a national event organised by the Alliance for Intellectual Property to celebrate the IP upon which theirs and others within the creative industries thrive. For artist Nessie Maclay it is her creative skill as an artist which formed the basis of a successful

IP-rich small business called ThisisNessie.

They joined Ministers, parliamentarians and those representing song writers, musicians, authors and film makers, just a small part of the array of vastly talented creators who make the UK creative industries the envy of the world!

ThisisNessie is a successful growth company supporting 12 employees, their partners and children. But success has been marred by daily and significant challenges through insidious, blatant copies of their artwork and products for sale on social media platforms and through the larger online marketplaces. This is theft.



ThisisNessie Managing Director Duncan Maclay said,

Did's Macdonald, ACID's CEO commented "Anti Copying in Design is intent on working with Government, policy makers and the industry to insist on solutions for cost and time effective enforcement to address blatant copying on social media platforms and online marketplaces so that growth is not impeded by theft. Intellectual property is at the heart of the design sector and must be protected!"



www.thisisnessie.com

Design registration – don't get taken for a ride!



Registered designs hit the press when the “Trunki” litigation reached the Supreme Court in 2016. Since then, more people have become aware of the pitfalls surrounding design registration and the importance of registering designs effectively – something which is not always as straight forward as it might appear.

If there is one thing to take away from the “Trunki” litigation, it is that the most crucial aspect of registering designs is considering carefully how to represent them in the application.

In case you missed it, “Trunki” is the name of the award-winning, child’s ride-on suitcase designed by Rob Law. Various designs of Trunki were registered as Community designs, including this one: product exactly (including the internal packaging) and also copied substantial parts of many other elements n

Trunki accused PMS International Group plc of infringing its registered design when it imported and sold the “Kiddee” case, a child’s ride-on suitcase designed to look like an animal. Here are two examples:

There are clearly similarities with the Trunki, but were they



enough to infringe the Trunki design? The High Court thought they were, saying that Trunki had registered the shape of a suitcase and that the Kiddee case, whilst having a number of obvious differences, shared its “sculpted, sophisticated, modern appearance” and its “prominent ridge and horn-like handles and clasps looking like the nose and tail of an animal”. It said that the animal decorations to the Kiddee cases could be ignored because the Trunki registration was for a shape.

When PMS appealed, the Court of Appeal took the opposite view, saying that the Trunki registration was not just for the shape of a suitcase. It identified other important features of the design. It was those additional features (with which the Supreme Court later broadly agreed) which turned the tables in favour of PMS.

So what is a registered design and why does it matter?

In any registered design claim, the Court must firstly decide what the “overall impression” of the design is. This is because the infringement test for registered designs is whether the accused design “does not create a different overall impression on the informed user”. The question asked is how all the features of the design shown in the registration would be perceived by the informed user.

To make things more complicated, the “overall impression” is affected by the purpose of the design because it is the impression on the “informed user” which counts, not the impression on the man in the street. In the Trunki case, the informed user was primarily “the



GAVIN LLEWELLYN OF STONE KING AND AN ACID AFFILIATE LAWYER FOCUSES ON REGISTERED DESIGNS.

parent, carer or relative of a three to six-year-old child”.

The Court of Appeal said that the Trunki design:

- Created an overall impression of a horned animal with a nose and tail,
- Showed “a distinct contrast in colour between the wheels and the strap, on the one hand, and the rest of the suitcase on the other”, and
- Showed that it was “not adorned with any other imagery which counteracts or interferes with the impression the shape creates”.

The Kiddee cases on the other hand created the overall impression of a ladybird and a tiger. Their decoration did affect the same informed user’s perception of the designs.

The upshot of this was that Trunki had registered more than just a shape. The design in the registration was not just a line drawing showing the overall shape of the suitcase and nothing else. The image showed light and shade, colour contrast and the absence of ornamentation. Comparing the Kiddee case on a like-for-like basis, it was right to take into account its decoration and the overall impression which that helped to create vs. the minimalist design shown in the

Trunki design registration.

What lessons can be learned from this?

It is vital to use the right images to register a design. Make sure that you don’t end up claiming features as part of your design which are not required to protect your design. Remember that you cannot file a description of your design (although in the UK you can disclaim elements of the design which can be helpful).

If your design is completely novel you might be able to file using simple line drawings which show the shape of a product. If Trunki had used line drawings rather than CAD, it was more likely that the Kiddee case would have infringed.

Of course, a balance has to be struck, since the shape of a product alone might not necessarily be novel enough to qualify for protection when compared with other products on market. Sometimes, it is necessary to register around earlier designs by including additional design elements (like decoration). So think about what it is you are claiming rights to before filing an application. If you register the wrong design, it might be impossible to put things right later.

This is what makes the task of protecting designs so difficult for designers. Unfortunately, there will never be a yardstick which we can apply to all cases.

Gavin Llewellyn,
Stone King LLP

www.stoneking.co.uk

SK STONE KING



Latest Trade Mark Regulations 2018 – Check Out What’s New!

The Trade Marks Regulations 2018 (“the Regulations”) introduce a large number of changes to trade mark legislation in the UK, although many of these changes are not hugely significant in practical terms. The most important amongst them for rights holders are discussed below. The Regulations bring the EU’s Trade Mark Directive of 2015 into UK law. The Regulations have already been laid before Parliament, but they will not come into force until 14 January 2019.

able to clearly and precisely determine what is protected.” It may seem contradictory that something that can’t be graphically recorded on the register can be protected by it: however, there have been certain olfactory marks that have been protected elsewhere and that protection enforced (e.g. the smell of Play-Doh in the US). It may not be long before we see more frequent registrations of this type in the UK. There will also be a move to hold things such as sound files on the UK Intellectual Property Office (IPO) register, so that representations of marks can be assessed as they should be. The IPO has stated that, initially, it will be possible to submit representations of marks in the same file formats that the European Union Intellectual Property Office (EUIPO) already accepts for EU trade marks. This includes .mp3, .mp4, and .jpg files. However, it plans to “enable applications to be submitted using the widest range of digital file formats that is technically possible with our current systems” as soon as is possible.



KELLY HUDSON,
MCDANIEL & CO
WWW.MCDANIELSLAW.COM

Non-standard types of trade marks – Probably the most important change is the change to the definition, and thus to the scope, of what can be registered as a trade mark. Regulation 3 amends the definition of “trade mark” to remove the requirement that a sign must be capable of being represented graphically. That, in theory, will assist in the future registration of non-traditional marks such as olfactory or non-musical auditory marks in the UK (smells and sounds). Although it has been possible to register such marks for years, very few have actually made it on to the register. It is thought

that removing this barrier will encourage applications for these types of marks and other non-traditional types of marks such as holograms.

Kelly Hudson, trade mark expert at ACID Legal Affiliate law firm McDaniel & Co says, “It will still be the case that signs will be able to be registered as a UK trade provided they are capable of distinguishing goods or services of one business from those of others and can be represented “in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor”. Thus, this removes the strictness of requiring the mark to be ‘represented graphically’ but it is still a strict requirement in that third parties must still be

Kelly Hudson further commented, “We will be interested to find out if many non-musical auditory marks are registered. Sounds like brake screeching, a dog bark, or water splashing are all used extensively in advertising, and it surely will not take long for a company to attempt to trademark a sound that it has used regularly.”

Widening of grounds for refusal – The absolute ground for refusal for registration of a trademark under section 3 of the Trade Marks Act has been widened. Previously those marks consisting of a shape resulting from the goods, or necessary to obtain a technical result, or which give substantial value to the goods could not be registered. The new regulation adds “or characteristic” after

Trade mark registration

– who, what, where, why and when?

Trade marks are great aren't they? All the big brands have them, so they must be important, and it must be particularly satisfying to put ® next to your carefully selected name.

But is that it? Is that why you should incur the costs of a trade mark application? Or is there a little bit more to it?

Well, to answer this question I would suggest that we look at “the five Ws” and hopefully, by then end of this article, you'll be in a strong position to make your own mind up.

WHO should register a trade mark?

Trade marks should be registered by brand owners. These are typically companies (i.e. the corporate entity used to trade under the brand) but they can also be the person behind the brand, or its founder. Sometimes there's an advantage to keeping the trade mark in the name of an individual as it gives a useful degree of separation if the company experiences financial difficulties. But, more usually, it's better to keep the brand in the name of the company, particularly if the company has multiple shareholders or if you're planning to sell

the business in the future. It also means if any claims are issued by or against the brand owner, there will be a corporate entity to shoulder the burden.

WHAT should you register?

The most useful trade mark is a word mark (e.g.

TM ® © **BRIFFA**

BRIFFA) however brands do also protect their logos (e.g.), particularly if they're concerned about the stylisation of their logo being copied under a different name.

In some circumstances it's also possible to register sounds, shapes and colours but these typically require a significant amount of goodwill and reputation.

Essentially what you want to protect is your signifier,

or signifiers, of origin, i.e. the thing that shows consumers who you are and differentiates you from your competitors.

WHERE should you register?

Unfortunately there's no such thing as a single trade mark registration which covers the whole world and so you need to pick the countries which are most applicable to you and your trade. Most of our clients start with a UK registration but you can quickly build on this with an EU registration and further registrations in most major countries using an international registration system called the Madrid Protocol.

Your filing strategy should match your commerce and you should register a trade mark in the countries in which you sell or supply your goods/services (and, in the case of goods, the countries in which your goods are made).

WHY should you register a trade mark?

This is the biggie, why should you spend your hard-earned cash on a trade mark



WILLIAM MILES,
BRIFFA
WWW.BRIFFA.COM

TM ® © **BRIFFA**



application? Well, the two most significant reasons are as follows:

1. A trade mark is a monopoly right which allows you to prevent others from using a particular sign in relation to particular goods and services. It's the most powerful

weapon in your brand protection arsenal and it's public and easy to prove. Once registered, as long as you use the mark and continue to renew it, your monopoly can remain in place indefinitely and you can always use it to prevent those pesky infringers.

2. A trade mark is a tangible business asset. It's not something which you think you might have (e.g. brand recognition or notoriety) it's something which you definitely have. Once registered, trade marks can be bought, sold and licensed. They can be used to

generate money for your business and they can show investors exactly what they get in return for their investment. In light of this, trade marks are invaluable assets which protect all of the time and effort spent on building, developing and promoting your brand.

WHEN is the best time to do it?

You've managed to get to the end of this article so why not now? Really the answer is the sooner the better. Obviously, you need to be sure that your chosen brand name or logo is definite (as you don't want to it to be changed in a few months requiring a new application) but, given that a trade mark grants a monopoly right, you need to make sure that it's your name on the certificate and not the name of someone before you.

So best to get started as soon as the name is confirmed.

**William Miles,
Briffa
www.briffa.com ■**

Member Focus

Claire Elsworth



Claire Elsworth is a UK surface pattern designer based in Derbyshire. She creates surface pattern designs available for license and purchase for a variety of markets and products. Claire loves to draw and her process always starts with detailed hand-drawn motifs which she works up into beautiful designs in Illustrator. From her eclectic inspiration of nature, fabulous ornamentation and visual trend forecasts she strives to produce an elegant feminine aesthetic staying true to her own unique, opulent and intense style.

When and why did you first start creating your products/designs?

My career background was in finance and prior to having my children I'd taken an Access course at Adult Education which enabled me to build a portfolio that got me to Art School as a mature student. After that I set up handmaking home decor textile products and bags and tried to make the

jump to production with my own fabric designs. However, the recession hit and I ended up winding that up. That coincided with having children and my focus shifted to my family.

Fast forward 8 years and although I was being creative with my children I wasn't being creative in a way that satisfied me and I was thinking ahead to relaunching my career. I'd looked into taking a degree but after weighing up the cost and time I realised that wasn't going to work for me with a young family. I had been reading about Make It In Design's (MIID) Art and Business of Surface Pattern Design courses and I decided that route would suit me better. From those incredible courses that I started in 2016, I learnt digital design from scratch. I also learnt a lot about the industry, gained exposure, achieved a few accolades with various design competitions and sold my first design to Swedish fashion brand KappAhl.

Earlier this year I won the MIID Ultimate Portfolio Builder Trade Show competition and I am now about to exhibit at my debut trade show in New York, with Artabella Collective, where I will be selling and licensing my surface pattern designs.

Did you have any knowledge of intellectual property (IP) when you started your business?

Yes, in the past I had completed various Business Link courses about



protecting your IP. Over the last two years, I have taken all MIID's The Art and Business of Surface Pattern Design courses which are packed with valuable information on IP (which ACID have contributed to) so I was in a good position for taking steps to protect my designs.

Which ACID Membership services have you used and how have you benefited from being a Member?

I use the ACID IP Databank regularly and the Member of ACID logo. When I sold my first design ACID were brilliant at helping me navigate this. I spoke to a legal adviser who gave me advice and explained things in plain English rather than legal speak.

Have you brought anything new to the marketplace recently that you would like to share?

Yes, I am exhibiting at Blueprint Show 2 in NYC this May and I would love to meet & connect with buyers, art directors and prospective clients. I will be showing a diverse range of on-trend designs in floral, geometric, abstract, conversational and Christmas categories that are available to buy and license in a wide variety of markets. I am particularly interested in attracting clients from home decor markets, wallpaper, bolt fabric and fashion but also open to all opportunities.

What is the best aspect of ACID Membership for your business?

It's all good! The ACID IP Databank for third-party evidence is great and I really appreciate being able to use the Member of ACID logo. It acts as a deterrent and it's an added level of reassurance that I have the substantial back up should I need it.

What advice would you offer to a new designer?

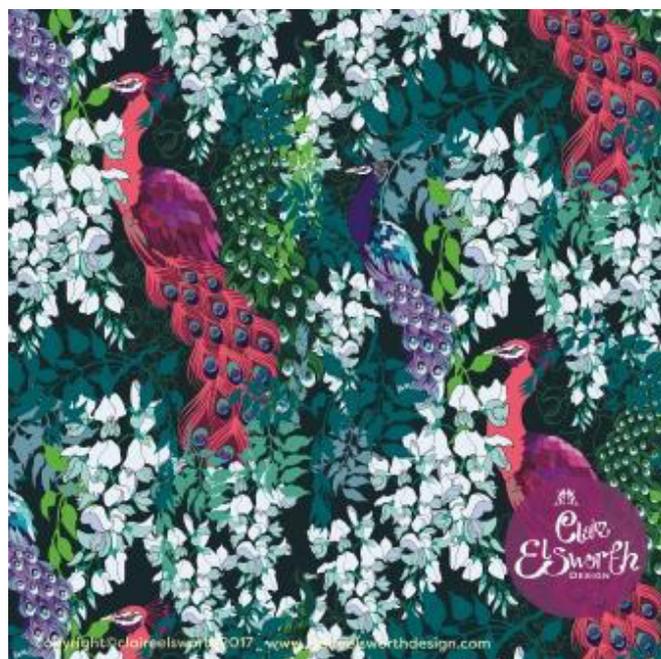
Join ACID! Educate yourself on IP & Copyright. There are many small steps you can take as a designer to protect your designs such as always adding your file info metadata, copyright & watermark logo. Never share images without these as you never know where an image could end up. Sign and date your original drawings & keep them filed so you also have a paper trail. Keep your digital design files tidy

& devise a portfolio filing system that works for you, so you can access your work easily.

ACID values the support of its members to enable it to campaign for design law reform. Do you have any messages for Government/Policy Makers on IP issues?

Help UK designers to get the protection they need whether it's from infringement or changes in design law that will affect us after Brexit, we are a valuable UK industry.

www.claireelsworthdesign.com
www.artabe



Member Focus

Lynn Forder



When and why did you first start creating your products/designs?

My professional background is in accountancy, however, things changed when I stumbled upon the term “surface pattern design”. I knew what it was, I just didn’t know this was the way to describe all the pretty patterns and designs you see covering objects you come across each and every day. I wanted to learn more about it and so I signed up for the courses being run by Rachael Taylor and her team at Make it in Design.

Did you have any knowledge of intellectual property when you started in the business?

The Make it in Design courses covered this topic and it was through them that I learned about ACID and just how important it is to protect your work.

Which ACID Membership services have you used and how have you benefited from being a Member?

I have uploaded my designs to the ACID IP Databank and I use

the Member of ACID logo on my marketing materials and website.

Have you brought anything new to the marketplace recently that you would like to share?

I have been commissioned to design tote bags and mugs for a property development company in Edinburgh, I have had my designs featured in the fabulous Print and Pattern blog and I have had a request to design some wallpaper and lampshades for a new client. I am also looking at adding an online shop to my website and have been working on a range of homewares and accessories which I hope to launch very soon.

What is the best aspect of ACID membership for your business?

Being able to upload my designs to the ACID IP Databank gives me enormous peace of mind and using their logo on my website acts as a great deterrent to potential copycats!

What advice would you offer to a new designer?

Join ACID! Always protect your work - get into the habit of signing and dating your original artwork or drawings. Add a watermark, copyright symbol or your design logo when sharing your images on social media and always use low res images. Add copyright information when saving your digital files.

ACID values the support of its members to enable it to campaign for design law reform. Do you have any messages for Government/Policy Makers on IP issues?



As a UK designer, I feel that it is critically important we have the protection required to offer our services in the global market place. Because of this, I ask that the UK Government seeks to create similar or better protection standards than currently exists within the EU.

www.lynnforderdesigns.co.uk



Rachael Taylor
of Make it in Design

“When I first started out in the design industry over 13 years ago, there didn’t seem to be much information readily available to designers and artists about how to protect their work or how to even understand intellectual property. There also wasn’t much legal information on the laws and regulations, or even tips available on the best ways to fight against your work being copied or stolen. When I first launched my courses with Make it in Design I knew this was a topic that I wanted to cover in-depth and having been a member of ACID I worked closely with them to offer my students as much information as possible to help them protect their design rights. ACID were really there for me during a highly publicised legal battle and I wouldn’t have had the success I achieved without their support. Now being part of ACID’s Advisory Council, I’m proud of the work we are doing to spread awareness of IP rights and the knowledge of how to effectively safeguard your work.”

www.makeitindesign.com

Exhibitions



September marks the start of the Autumn ACID Accredited Exhibition season. The following Exhibitions are all accredited to ACID and will have an ACID team onsite to assist with IP queries for visitors and exhibitors.

AUTUMNFAIR 2-5 September 2018 NEC Birmingham Volume sector opens 1 September 2018

Intellectual property theft watchdog ACID to partner with Autumn Fair

Autumn Fair, the season's number one home and gift marketplace for the retail industry, will once again be welcoming Anti-Copying in Design (ACID) to this year's event. ACID, the UK's leading design and intellectual property campaigning organisation, will have their Exhibition Protocol and Legal teams on-hand to listen to exhibitors' and visitors' concerns.

ACID has a history of performing over 4,000 grass roots mediations at accredited exhibitions over the last 20 years. Autumn Fair, as a fully accredited ACID partner show, will offer its exhibitors unique access to design theft counsel and

advice of huge value.

Louise Young, managing director of Spring & Autumn Fair, said:

"At Autumn Fair we're proud of our ACID accreditation and are looking forward to welcoming their team to this year's event. As the leading voice against design theft in the UK, they'll be able to offer our exhibitors the know-how they'd need to successfully navigate the complex legal implications of design theft. Intellectual property theft has the potential to affect any one of our exhibitors. Design fraud not only strips its victims of the credit they deserve for their designs, but can also have a significant impact on sales. It's why Autumn Fair takes the issue so seriously and why we will continue to work closely with ACID."

ACID COMMENT: "Autumn Fair is an extremely important event for us with so many ACID members in attendance, and many IP breaches emerging from the home and gift sector. For many of them it's where we're at our most accessible and visible, which makes it a fantastic opportunity to drop-in for a chat or to raise their concerns. Autumn Fair are a really collaborative partner who give us wide-ranging access to exhibitors – really allowing us to hear the most pressing issues of the day for designers." **Anti-Copying in Design's team can be found at Stand X37 in Hall 3.**
www.autumnfair.co.uk



January FURNITURE SHOW

NEC
20-23 JAN
2019

glee | 10-12
September
2018

What's new at Glee 2018?

In 2018 Glee will be benefitting from a complete relocation into NEC halls 6, 7, 8, & 19-20, providing the show with a much bigger footprint, and an even larger and more exciting exhibition. During 44 years as the go-to event for the garden retail industry, Glee has undergone many changes. Reflective of the need to keep retail environments fresh and interesting, the 2018 event will be updated to a vibrant and revitalised Glee exhibition. From a new location, to a refreshed floorplan and a wealth of additional features and innovative content, Glee 2018 will be THE show to attend if you want to stay ahead of the competition in 2019 and beyond.

Matthew Mein, Glee's Event Director, said: "Glee 2018 is all about arming retailers and suppliers with the tools, inspiration and knowledge to grow their businesses. This year we have curated a show

that builds on the success of previous years but takes it to the next level."

ACID at GLEE

Glee is an ACID Accredited Exhibition. The team from ACID will be in attendance at Glee (Hall 19, stand U32) supported by its ACID legal affiliate team from McDaniel & Co. Together they will be dealing with any IP issues and catching up with new and existing ACID members.

**10th – 12th September,
NEC Birmingham www.gleebirmingham.com.**

New Developments for January Furniture Show 2019

Now well established as the principal furniture and interiors trade show in the UK calendar, the fifth January Furniture Show (JFS) at the NEC in 2019, will take place from 20th - 23rd January 2019. The event has major developments and major new

names from around the world joining the already impressive line-up.

ACID will again partner with the show and returns to Hall 1 with its own stand and will be available for help and advice on all IP issues. Both the January Furniture Show and its sister show, the Manchester Furniture Show, are ACID Accredited Exhibitions and the organisers of the events are fully supportive of ACID's anti copying regulations.

A new Bed Zone in Hall 5, featuring Silentnight, whose brands include Sealy and Rest Assured, will take centre stage in the hall, and new in Hall 3 will be a brand new lighting section called LIGHT. Both new developments will help to confirm the January Furniture Show as the most complete trade event for retail and contract buyers of furniture and interiors in the UK.

Beds have become increasingly important to buyers at the show, with feedback from visitors at this year's event requesting more bed companies. Joining Silentnight in the new Bed Zone will be other well-known brands including Kaydian, MLily, Furmanac, Highgate, Slumberland, Deep Sleep and Highgrove. Together they will form the largest concentration of bed and mattress companies at the event since its inception in 2015.

LIGHT in Hall 3 will also see many new skilled

and established lighting companies at the show for the first time. Searchlight, Oaks Lighting, Impex Lighting and Loxton Lighting are all new and will be joined by show favourite Dar Lighting, who return to the show with new imaginative designs. Collectively the companies showing in LIGHT will offer the most extensive array of lighting at the show to date, covering everything from large-scale light installations and chandeliers to bedside table lamps.

Increasing its stature as the hall for high-end European cabinet and upholstery, Hall 2 sees new exhibitors Hartmann and Violino join the prestigious line-up for 2019. German cabinet connoisseur Gwinner returns after an absence this year, and will show alongside returning brands Ego Italiano, SITS, Italia Living, Bontempi, Skovby, ROM, Camel Group and ALF.

Among other styles buyers will get the perfect opportunity in Hall 2 to select some Italian chic, Scandi minimalist design or German cabinet engineering expertise.

The 2019 January Furniture Show is still very much in the planning stages with other new developments being announced shortly. It is already getting primed to be an excellent show.

januaryfurnitureshow.com



Amazon - Protect Your Brand With Amazon Brand Registry

In talks with Graham Thatcher Amazon's Global Relations Manager, Customer & Brand Protection, recently, ACID will be arranging a webinar in, hopefully, October which ACID members and the broader UK design community can take part in to discover how to register and use Amazon's Brand Registry. In the meantime, for those who do not know about Amazon's new Brand Registry, it's time to find out!

amazon brand registry

To enrol in Amazon's Brand Registry, you will need

An active registered trade mark for your brand that appears on your product or packaging.

The ability to verify yourself as the rights owner or the authorized agent for the trade mark.

An Amazon account. You can use an existing Amazon account (credentials associated with Vendor/Seller Central) or create a new one for free.

What are the key benefits?

Accurate brand representation - Once you enrol, Brand Registry gives you greater influence and control over your brand's product listings on Amazon.

Powerful search tools - Amazon Brand Registry enables you to easily find content in different Amazon stores. Search for content using images, keywords, or a list of ASINs in bulk and report suspected violations through a simple, guided workflow.

Proactive brand protection - Their automated protections use information about your brand to proactively remove suspected infringing or inaccurate content. The more information you provide, the better Brand Registry can

help you protect and improve your brand experience.

- Amazon have a global team that is available 24 hours a day, 7 days a week to respond to and take action on reported violations and notices of potential infringement.
- Any rights owner can enrol in Amazon's Brand Registry to manage and protect their brand and intellectual property rights on their store.
- More than 60,000 brands are enrolled in Brand Registry and are using this free service to better protect their brand and control product information displayed on Amazon—this means

brands can ensure their information is accurate and customers can make confident, informed purchasing decisions on Amazon.

- They encourage rights owners who have product authenticity concerns to notify them; they investigate all claims thoroughly.
- Amazon investigated and took action on 95% of all notices of potential infringement received from Brand Registry within eight hours.
- Brands in Brand Registry on average are finding and reporting 99% fewer suspected infringements than before the launch of Brand Registry.

- Brand Registry features powerful text and image-based search capabilities and automated protections that use machine learning to predict and prevent future defects.

Helping you protect your brand on Amazon

Amazon Brand Registry helps you protect your intellectual property and create an accurate and trusted experience for customers on Amazon.

Get started >

New Members

ACID welcomes the following new members to the ACID Community



Member's Name	Design Category	Member's Name	Design Category	Member's Name	Design Category
Little Weaver Arts Limited	Ceramics	Indesign Furniture Ltd trading as Little Tree	Furniture	Farming Solutions Ltd	Product Design
Myer Halliday Design	Ceramics	Furniture	Furniture	Guild of Colour	Product Design
V Nascimento Ceramics Limited	Ceramics	The Elliot Collection	Furniture	James Hughes	Product Design
Brightapril	Fabrics & Textiles	IRENELTD Limited	Garden Products	Klever Furniture Co Ltd	Product Design
CAROLINE ZOOB	Fabrics & Textiles	Skyline Glass	Giftware	Phat Design	Product Design
Livia Papiernik	Fabrics & Textiles	ElÅ¼bieta Frankiewicz	Graphics	TruRegard	Product Design
Minihorsesales Ltd	Fabrics & Textiles	Kristina Regn	Graphics	weaveeezz ltd	Product Design
Star Vince Textiles	Fabrics & Textiles	Peter Fox Design	Graphics	Yougoshoego	Product Design
Teresa Dunne Woven Textiles	Fabrics & Textiles	Do Something David	Greetings Cards	CJ Prop Hire And Events Ltd	The Arts
Boost Innovations Limited	Fashion	Eastern Print Studio	Greetings Cards	Myr Art Ltd	The Arts
Elliott Reynolds	Fashion	Top 3 Inches	Greetings Cards	Scorched Earth Art	The Arts
Gumbies Limited	Fashion	Anastasiou Designs	Interior Accessories		
Helen Anderson Designs Ltd	Fashion	Jessica Osborne	Interior Accessories		
Immogen Neilson	Fashion	Poppetry	Interior Accessories		
Lizzie Lowe Embroidery	Fashion	House of Halos	Jewellery		
Niki Fulton	Fashion	Paul Rogers	Jewellery		
Silver Birch Clothing Limited	Fashion	FMM Ltd	Kitchen & Bathroom		
Andy Boyce Ltd	Furniture	Carol Nunan Printmaker	Product Design		



Rio by ACID Member Morgan Contract Furniture

ACID's Joining Criteria for New Members

In accordance with our policy that all members are provisional members for the first 6 months of their subscription period, we publish a list in each newsletter of companies which have recently joined ACID. In the event that there is any complaint against a new member, please write to the Chief Executive together with any substantiated facts. Hearsay, rumour or unsubstantiated facts will not be considered under any circumstances. Any complaint that should arise will be put before a panel comprising ACID's legal advisor, Chief Executive and two Corporate ACID Members from a different industry sector. If the panel decides that a complaint should be upheld their decision will be final and no correspondence will be entered into ■

And the last word!

ACID Goes North Of The Border!

Following a recent ACID Legal Affiliates meeting at which Colin Hulme was present, ACID is delighted to announce that Burness Paul have been appointed as ACID's Scottish legal affiliates, giving our Scottish members access to experts in Scottish IP law and our other members access to advice if they are trading in Scotland. The enforcement of Intellectual Property Rights is very different in Scotland so we are thrilled to provide this expert resource.

Colin leads the Firm's IP Practice, with focus on managing IP and technology disputes. Colin is highly regarded for his leading brand protection practice and also his work managing disputes concerning design rights, patents, trade marks, software, copyright and confidential information. The Burness Paul IP team are top ranked in all of the main Legal Directories and are currently Managing IP's Litigation Firm of the Year in Scotland.



Colin Hulme, Burness Paul

Colin is the only practising IP litigator in Scotland Rated Band 1 in Chambers UK and is a Leading Individual in Legal 500, Colin is one of only a handful of litigators to be accredited as an IP specialist by the Law Society of Scotland. He is an associate member of CITMA and holds an LLM in IT and Telecommunications Law. "strategically brilliant" and "an outstanding IP lawyer." (Legal 500) and described as a "renowned IP litigator." By Chambers UK.

Colin Hulme said. "It is a great honour to be appointed as ACID's Legal Affiliate for Scotland. The entire team here is excited about the opportunities to provide much needed support for brilliant Scots design companies who risk infringement of their rights North of the Border."

Dids Macdonald, OBE, ACID CEO said, "This is terrific news and we can't wait to start working with Colin and his team. Plans are afoot to hold a Scottish design protection event. Colin comes highly recommended by Rachel Jones who provides ACID's Brand Enforcement Service through her innovative company, Snapdragon!"

ACID members can contact Colin directly through the Affiliates tab on the member area of the ACID website www.acid.uk.com and through their website www.burnesspaul.com ■



Top L-R ACID Legal Affiliates Colin Hulme, Shaidah Ali, Margaret Briffa, Kelly Hudson, Sarah Merrifield, Gavin Llewellyn, Dids Macdonald and Nick Kounoupas

Events

AUTUMN FAIR
2-5 SEPTEMBER 2018
BIRMINGHAM NEC

AUTUMN FAIR
2-5 SEPTEMBER 2018
BIRMINGHAM NEC

GLEE
10-12 SEPTEMBER 2018
BIRMINGHAM NEC

glee

BRIFFA CORPORATE BREAKFAST BREIFING
12 SEPTEMBER 2018
BUSINESS DESIGN CENTRE LONDON

ACID COUNCIL MEETING
24 OCTOBER 2018
LONDON

ACID
ANTI COPYING IN DESIGN

ACID IP MASTERCLASS WITH GOLDSMITHS
8TH NOVEMBER

ACID
ANTI COPYING IN DESIGN

JANUARY FURNITURE SHOW
20-23 JANUARY 2019
BIRMINGHAM NEC

FURNITURE SHOW
20-23 JANUARY 2019
BIRMINGHAM NEC

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Nothing in this newsletter is intended to be a complete statement of the current law and you should always take specialist advice in respect of your own particular circumstances

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marketplace

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