

ANTI COPYING IN DESIGN

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#58
NEWSLETTER

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CAMPAIGNING UPDATE

THE VALUE OF UK ART, BRANDS AND DESIGN: WHY IP MATTERS

Early in December ACID members Caroline Gardner, Black & Blum and Face Lace met with MPs and Peers at Westminster to put their case about the potential loss of EU registered and unregistered rights post Brexit. They also used the opportunity to say that Brexit is a unique opportunity for Government to fully support UK designers by extending criminal provisions for the intentional infringement of registered designs to also include unregistered designs. If the UK mirrors the protection afforded by EU designs and loses the existing UK unregistered right, UK designers will be better supported and this will make what is currently a complicated set of design laws easier and more accessible.



CURRENT STATUS: UNREGISTERED DESIGN RIGHTS IN THE UK ONLY OFFER DESIGN PROTECTION FOR THE SHAPE AND CONFIGURATION OF A DESIGN, BUT EU UNREGISTERED RIGHTS PROTECT A COMBINATION OF COLOURS, ORNAMENTATION, LINES, TEXTURE OR SURFACE DECORATION AS WELL AS SHAPE AND CONFIGURATION ON WHICH THOUSANDS HAVE RELIED TO PROTECT THEIR DESIGNS

UK Design is a success story and any erosion or loss of access to EU design rights post-Brexit (currently available to UK designers) would have a significant and negative economic impact on this sector and to the UK's GDP. The majority of the UK's 350,000 designers rely on unregistered EU and UK design rights and being unable to rely on EU unregistered design rights would seriously affect them. Currently, both EU registered (with one application) and unregistered rights (which arise automatically) offer UK designers design protection in 28 member states for 25 and 3 years respectively. EU Unregistered Design Rights are a much stronger design right and loss of access, potentially, may well influence UK designers seeking to launch new designs to find alternative European locations to secure better design protection.

Evidence supplied by Trunki is a good example of the impact that loss of EU design protection would mean to them: *My company Magmatic Ltd T/A Trunki designs and manufactures children's travel products. We employ 80 people at our Head office in Bristol and manufacturing facility in Plymouth. Our turnover is approximately £8.5million, all of which is generated by products protected by registered and unregistered design. If we lose protection of our unregistered rights in 28 member states, and are unable to enforce our rights, we predict approximately 25% of our sales could be lost. This could effectively quarter our turnover and lose approximately 20% of our workforce.*

Calling all ACID members who care about their future. Give us examples of how Brexit and the loss of EU Design Rights will affect you. Use the statement template as Black & Blum and Trunki have and email it to brexit@acid.uk.com. You can also request a template letter for you to send directly to your MP. This is absolutely necessary if we are to create an evidence based argument to Government.





WHO ATTENDED FROM ACID?

ANGUS GARDNER
Caroline Gardner Publishing Ltd,
www.carolinegardner.com



The Caroline Gardner brand began in 1993 and has enjoyed steady growth over the years. You can now see Caroline Gardner products in most corners of the UK - partnerships with John Lewis and other household names deepened and Caroline's iconic style, seen in the 'classic cg' and 'die-stamped' card ranges, was born. Some of the company's most recognisable designs, such as ditsy and the timeless hearts, followed quickly on, and were then used to develop the exciting new gift products. It was here that Caroline's quirky colour palette found its niche.

In 2014 - the Company made its very own leap into the world of retail. Now based in Fulham in West London, with a central London store and selling in over 20 different countries, the brand and its team, is happier and better than ever. Caroline Gardner has an ongoing legal battle in China where a company selling household items are using Caroline Gardner designs.

PHYLLIS COHEN
Face Lace
www.face-lace.com



When Phyllis arrived in London (1982) from California, the New Romantics embraced her colourful, illustrative makeup style. The fashion world followed suit, and for most of the 80s the fashion-pack turned to Phyllis when anything cutting-edge or artistic was needed. Her fans included Annie Lennox, David Bowie, Tina Turner, and Janet Jackson.

Phyllis puts her vast experience into every design she creates for her Face Lace range. Each piece starts out as a unique artwork meticulously researched from different eras and cultures of decorative arts. Phyllis loves what she does and has a passionate team of makeup artists who work closely with her. Unfortunately, Phyllis' stunning designs have attracted the attention of some high street retailers such as Claire's Accessories who have produced remarkably similar designs.

DAN BLACK
Blum & Black
www.Black-Blum.com



Dan explained that designs from Black+Blum have been copied far and wide, and showed those attending the "BOX APPETIT lime" and compared it with two far more inferior 'copies'. Dan explained that it is a difficult area to tackle as an SME which is unable to afford IP lawyers to take legal action against those who copy Black + Blum products. *"My company Black+Blum Ltd designs and manufactures homeware products. We employ 14 people at our Head office in London. Our turnover is approximately £3million, all of which is generated by products protected by registered and unregistered design. If we lose protection of our unregistered rights in 28 member states, and are unable to enforce our rights, we predict approximately 25% of our sales could be lost. This could effectively quarter our turnover and lose approximately 20% of our workforce."*

WHAT ARE ACID HOPING TO ACHIEVE WITH THEIR CAMPAIGNING ON UNREGISTERED DESIGN RIGHTS?

ACID will engage positively with Government to create a new UK unregistered design law which mirrors EU unregistered rights but lasts for up to 15 years, not 3 years - and we need your help. This is also a unique, once in a lifetime opportunity, to put UK designers at a competitive advantage by also introducing Unfair Competition, placing UK designers on a par with their EU counterparts when IP law fails them (e.g. Trunki). Extending criminal provisions for the intentional infringement of an unregistered UK design is also a priority.

Dids Macdonald also made the continuing argument that Brexit offers a unique opportunity to extend criminal provisions for the intentional infringement of registered designs to unregistered rights. Conclusions reached by the All Party Parliamentary Group on IP recommended to BEIS *"to remain open to reassessing whether unregistered design rights should be given greater protection."*

DEAR ACID MEMBER...

Happy New Year!

AS WE DUST OURSELVES OFF FROM A YEAR OF MASSIVE CHANGE/DISRUPTION/OPPORTUNITY, A TIME TO REFLECT ON SOME OF THE POSITIVE MOMENTS FOR IP IN 2016 AND OUR PLANS FOR 2017! ONE OF THE HIGHLIGHTS FOR ME WAS SCOOPING UP THE IP CHAMPION'S AWARD ON BEHALF OF THE ACID TEAM AT THE ALLIANCE BRITISH IP DAY CELEBRATION IN JULY. FOR DESIGN LAW REFORM TO ATTAIN THE HEIGHTS OF RECOGNITION AMONGST THE PREDOMINATE WORLD OF COPYRIGHT, TRADE MARKS AND PATENTS WAS A COUP. DESIGN IP ISSUES ARE GRADUALLY BECOMING MORE ON RADAR AND QUITE RIGHT TOO, AFTER ALL, THE UK HAS A WEALTH OF DESIGN INNOVATORS MANY OF THEM MICRO AND SME AND IT IS ABOUT TIME THAT THE VALUE OF YOUR INGENUITY IS RECOGNISED AND PROTECTED BY GOVERNMENT AND POLICY MAKERS.

My visit to China to accompany the IP Minister, Baroness Neville-Rolfe and her team in August, proved illuminating. China does seem to articulate a will to change the status quo about copying but there is still a very long way to go, not least establishing stronger connectivity between the business of IP lawyers and registration authorities and the reality of commerce and the frustrations of taking legal action. Unlike the UK, China IP policy responsibility is distributed across different ministries. We held positive talks with the senior management of Alibaba and time will tell if there is an increased momentum to assist track down and take down, especially for small companies who do not have the resource to be robust. Tom Duke the UK IP Attaché based in Beijing, the team at the British Embassy and Mick Ryan of the China British Business Council continue to be effective resources for grass roots help for all those engaged with China.

Soon to be a reality early in Jan, the unauthorised manufacture or sale of iconic furniture will be unlawful in the UK following an amendment to copyright law. Ewan Grist of ACID Affiliate Lawyers Bird & Bird explains about the effects of this on [page 14](#).

Ewan comments that this change may have profound implications for designers of iconic, industrially produced artistic works which are over 25 years old and who hitherto may have had no basis to take action against unauthorised replicas in the UK. In October, we heard from German and Dutch lawyers at the Briffa seminar about how they use copyright much more effectively to prevent unlawful copying and this is explained more fully on [page 16](#).

3D printing and the opportunities and IP challenges it poses was the centre stage of a debate and discussions by industry experts in November. ACID's objectives were to evaluate and highlight some of the attendant IP risks, in light of historical evidence from other sectors and to provide some thought leadership and recommendations on next steps for key stakeholders and policy makers. It became clear that currently, as the majority of designers and manufacturers rely on unregistered rights, a door could be left wide open for counterfeiters. ACID will now review with its members and other interested parties what had been discussed and will arrange to meet with Government as a matter of urgency to press the case for unregistered design right infringement to be made a criminal offence.

In December I was accompanied by three ACID members, Dan Black from Black & Blum, Phyllis Cohen of Face Lace and Angus Gardner of Caroline Gardner Limited to Westminster to raise their concerns to MPs and Peers, not only about the potential loss of EU registered right across 28 member states post Brexit, but also the escalating incidences of some high street retailers taking the fast track to market by copying. I used this opportunity, via a YouTube Video, to send a strong message to our Prime Minister, herself a dedicated follower of design, to urge her to put pressure on high street retailers' communication of IP respect, compliance and ethics within Corporate Social Responsibility. The message from ACID members to retailers was, "We want to work with you and design for you!" In other words "Commission it, don't copy it!" View the video on YouTube: ACID Delivers Design & IP Message to Prime Minister.

FOCUS FOR 2017 IS, QUITE SIMPLY;

- to ensure UK designers do not lose out post Brexit with the potential erosion of design protection and possible loss of EU unregistered rights.
- to ensure that ACID's voice is heard loudly and clearly to continue to press for criminal provisions for unregistered design rights
- to put UK designers at an advantage post Brexit
- to have a law in place which the Police and Trading Standards can enforce when 3D printing really comes into its own and counterfeiting occurs.

And of course, to continue to do what we do - but better! Look out for the launch of ACID's Brand Enforcement Service in 2017 together with a new and improved website.

Many thanks to our fantastic new ACID Council whose input to our strategy for 2017-2020 is invaluable. This will be published shortly to ensure that ACID's voice remains strong and resolute in the fight against design theft over the next few years.

And finally, without such a dedicated ACID team, our work would not progress so very many thanks to them and a final, final thank you to you - our ACID members - for continuing your support and enabling ACID's campaigning work to resonate and our services to expand.

Didi Macdonald

GUEST EDITOR

EDDIE LEVITEN

DIRECTOR GENERAL, ALLIANCE FOR INTELLECTUAL PROPERTY

LET ME GET A FEW THINGS OUT OF THE WAY. FIRSTLY, I AM NOT A LAWYER, ALTHOUGH I KNOW A LOT OF LEGAL EAGLES. SECONDLY, I AM NOT A COP (OR EX-COP FOR THAT MATTER), ALTHOUGH I ALSO KNOW A LOT OF PEOPLE IN LAW ENFORCEMENT. HOWEVER, MY EXPOSURE TO INTELLECTUAL PROPERTY ('IP') IS EXTENSIVE, FROM FAMILY AND FRIENDS WHO ARE ARTISTS, DESIGNERS, MUSICIANS AND FILM INDUSTRY PROFESSIONALS VIA MY OWN CAREER WORKING IN THE BOOK PUBLISHING AND MUSIC INDUSTRIES, IN ANTI-PIRACY, AND NOW AT THE ALLIANCE FOR INTELLECTUAL PROPERTY, WHERE I REPRESENT A WIDE RANGE OF MEMBERS AND THEIR SECTORS, INCLUDING, OF COURSE, DESIGNERS THROUGH ACID.

The Alliance was founded in 1998 and its core aims are to ensure the promotion and protection of intellectual property – seeking to improve the legislative and enforcement environment. So we do talk to cops and lawyers.

On a daily basis the Alliance engages with policymakers, influencers and stakeholders, whether Ministers, MPs and Peers or officials from across Government departments, and we help shape policy and strategy that will benefit our members' sectors, consumers and the UK economy.

It can be a hard slog, trying to get changes in legislation, but we do get results. We have achieved stronger protections for IP and harsher criminal penalties for infringements, been successful in enabling IP crime to be treated as a lifestyle offence in respect of Proceeds of Crime and we were in full support of ACID campaigning for the introduction of a new criminal offence for infringement of Registered Design Rights. We are now active on a range of issues, including on Unregistered Design Rights and parasitic packaging and seeking to drive the policy agenda on 3D printing, where we feel the UK could and should be leading the way.

Of course we are not solely focused on enforcement issues; we actively promote the value and importance of IP at every level of society. Those messages have to resonate with many different demographics, from young people who want instantaneous

access to goods and content but who also want to support creators, to older generations who do not see the harm in purchasing counterfeit goods.

And we have not even mentioned the 'B' word yet. Whilst Alliance members and their constituencies overwhelmingly support the UK remaining in the EU, we are now engaged at every level of Government pushing for IP to be front and centre of policy on trade and industrial strategy and banging the drum for British creativity and innovation. The Alliance is fully supportive of ACID championing the need for replacing UK unregistered design rights with a new right which would mirror the benefits of EU unregistered design right. It is critical that UK designers do not lose the current protection in 27 other member states.

There will be many voices, however, who are already calling for weakening of IP rights and less enforcement in the wake of the referendum; those voices will get louder in the coming months and years and we cannot let that happen.

The Alliance will be working harder than ever on behalf of its members to challenge those voices as well as developing opportunities for IP creators and all in the value chain in the UK and in export markets. The collective voice of all in IP is more vital now than ever before if the UK is to continue to lead the world in creativity and innovation.

WWW.ALLIANCEFORIP.CO.UK

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CASE STUDIES



LEADING FURNISHING MANUFACTURER BELFIELD GROUP WINS COPYRIGHT BATTLE

BLACKBURN COMMERCIAL LAW SPECIALISTS TAYLORS HAS HELPED ONE OF THE EUROPE'S LEADING FURNISHING MANUFACTURERS WIN A COPYRIGHT BATTLE

Belfield Furnishings Group successfully settled a claim against Avi Weisz of AWC Consultancies for infringement of copyright of Belfield's Arden design.

Belfield was represented by Tony Catterall of Taylors Solicitors one of the UK's leading experts in copyright law and an affiliate lawyer with Anti Copying In Design (ACID). He ensured the case was settled without the need for court proceedings.

Derbyshire-based Belfield had threatened infringement proceedings against both AWC and Mr Weisz for importing, selling and offering for sale their design Mulberry. The claim was settled after an agreement from AWC and Mr Weisz not to import or sell any further quantities of the infringing design and to hand over remaining stock to Belfield.

In addition, AWC has to pay profits and costs caused by the violation and publish an apology in the trade press which will bring the breach to the attention of the rest of the furnishings trade.

Rob Stone of Belfield Furnishings said: "We are very happy with the outcome achieved by Taylors on the Company's behalf. As one

of Europe's largest and most successful manufacturers, wholesalers and distributors of upholstered furniture, soft furnishings, curtains and accessories, caravan interiors and beds we invest heavily in product design. We can only protect that investment and our reputation by taking action when our intellectual property rights are infringed. I am delighted that Taylors have secured a satisfactory settlement for us."



Tony Catterall of Taylors said: "I am very pleased to have secured a rapid and worthwhile settlement of this infringement claim.

The dispute was brought to a conclusion without the delay and expense of a trial and is further evidence that it is possible to nip infringements in the bud at reasonable cost. We hope that trade press interest in the outcome should put potential infringers on notice that the Belfield Group will not stand by and have its intellectual property rights abused by infringers."



WWW.TAYLORS.CO.UK



TABLE ART ACT DECISIVELY IN ANOTHER IP DISPUTE

ANOTHER DEMONSTRATION OF TABLE ART'S PROACTIVE IP STRATEGY

Anti Copying in Design (ACID) members Wow Table Art Limited ('Table Art'), the innovative designers of unique centrepieces and table displays, have again acted to protect their intellectual property rights through ACID legal affiliates McDaniel & Co and secured the removal of infringing products from the marketplace with the minimum of time and expense. Table Art predominantly cater for large corporate events and past clients have included Premier League football clubs. One of their most popular centre pieces, for which they own the IP rights, is their signature Tall Light Perspex Stand.

When Table Art discovered that Deans Events Limited, an events company based in Brackley, were selling a table centrepiece that infringed the Tall Light Perspex Stand, they attempted to resolve the matter informally and were unsuccessful. They then contacted McDaniel & Co immediately. Prompt action by McDaniel & Co resulted in the speedy removal of the infringing design from sale and an undertaking, from the company not to repeat the infringement.

 **Kelly Hudson, a senior associate at McDaniel & Co** commented: *"It can be a good idea to contact infringers informally in the first instance. Even if the infringer will not remove their product this does make them aware of your rights and strengthens your case moving forwards. It can often also lead to an early resolution without incurring legal expenses. Having a proactive IP strategy demonstrates that expert legal intervention can so often resolve a dispute at an early stage and stop it escalating."*

 **Jane Banyai, Operations Director**, commented *"I absolutely endorse Kelly Hudson's comments! So many innovators think that taking legal action is going all the way to Court. The majority of ACID member cases are resolved in a cost effective and timely manner, which is results driven, at an early stage. McDaniel & Co are expert at this!"*

This was another successful result for Table Art and further cements their reputation for vigilance in respect of their IP rights. Kelly Hudson, Senior Associate.



WWW.MCDANIELSLAW.COM



FRYETT'S FABRICS CLAIM SUCCESSFUL SETTLEMENT

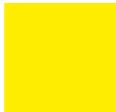
BLACKBURN COMMERCIAL LAW SPECIALISTS AND ACID LEGAL AFFILIATE TAYLORS HAS HELPED ONE OF THE UK'S LEADING CONVERTERS AND MANUFACTURERS OF FURNISHING FABRICS WIN A DESIGN RIGHT CLAIM.

Manchester-based Fryett's Fabrics successfully settled its claim against Mackays Stores Limited and its supplier Streamline Sales Limited after swift action by Taylors' Tony Catterall.

Tony, who is Head of the Intellectual Property team, insured the case was settled without the need for Court proceedings to be issued and on the basis of undertakings not to import, offer for sale or sell copies of the Beach Huts or Maritime designs.

Now the infringing stock has been destroyed and an agreed sum in respect of damages and costs has been paid to Fryett's.

Tony said: *"The case has been brought to a successful conclusion within three months which goes to show that prompt action to pursue infringers is well worthwhile and is achievable at realistic and affordable cost."*

 **Nick Marshall a Director of Fryett's** said: *"We are very pleased by the outcome achieved by Taylors as a result of this action. We at Fryett's invest in designing high quality fabrics and have a policy of embracing new technology which enables us to provide our customers with exceptional value products whilst maintaining superior customer service. To enable us to do this it is essential that we protect the integrity of our designs and I am delighted that Taylors have achieved a rapid settlement on our behalf."*

Tony Catterall, Head of the Intellectual Property team



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ACID COUNCIL MEETS THE IPO'S NATASHA CHICK TO VOICE CONCERNS OVER BREXIT

Natasha Chick, Assistant Director of Trade Marks & Designs, Intellectual Property Office was a guest at the 2nd ACID Council Meeting held in November. Prior to Natasha's arrival Nick Kounoupas, ACID's Chief Legal Counsel briefed attendees regarding our objectives in influencing policy post Brexit about unregistered Designs & Trade Marks. He emphasised that Brexit presents a unique opportunity to simplify an otherwise very complicated set of 5 different design laws, 3 unregistered rights and 2 registered. "Losing access to EU registered & unregistered design protection would be a disaster" he added.

THE EU UNREGISTERED DESIGN RIGHT IS A STRONGER RIGHT (ALBEIT THAT IT ONLY LASTS FOR 3 YEARS) BECAUSE IT OFFERS PROTECTION FOR SURFACE DECORATION AND COLOUR, VITAL FOR FASHION DESIGNERS AND MANY OTHERS WHO RELY ON THIS. NICK ALSO HIGHLIGHTED THE NEED FOR CRIMINAL PROVISIONS TO BE EXTENDED TO UNREGISTERED DESIGN RIGHT AS THE MAJORITY OF UK DESIGNERS RELY ON THIS.

ACID Council Member Professor Frederick Mostert (Oxford Intellectual Property Research Centre, University Of Oxford) said that there was a simple solution – "Simply to "Grandfather" all rights from a particular date (exit date?) which would resolve the issue going forward. Grandfather rights is a provision in which an old rule continues to apply to some existing situations while a new rule will apply to all future cases. Those exempt from the new rule are said to have grandfather rights."

ACID's CEO Dids Macdonald made the point that a balance of stakeholder input was vital to the IPO's decision making on policy. The previous roundtable had been mostly lawyers apart from ACID and the Design Council (who have rarely had an active voice on IP over 20 years). She said, "Design & IP is primarily about protecting the interests of designers, makers and manufacturers not about the business of lawyers."

Rodney McMahon of Morgan Contract Furniture Ltd. outlined the journey from idea to marketplace; concept, visualisation, prototypes, development, brochure, marketing and PR, funding a London showroom. Rodney said, "Copyists engage in none of this costly process which often takes between 12 and 24 months before the investment can start to be recouped, ensuring the job certainty of 73 employees. Even then there is a risk that the investment does not turn into market reality through a combination of blatant rip offs, market conditions, competition etc." He concluded by saying that following a debilitating case costing £75,000, not to mention the immense time taken to pursue the case, the UK IP law enforcement model was of little use to designers and manufacturers because few could financially pursue design theft and there are no exemplary damages (sic).

Natasha Chick outlined her role as Assistant Director of Trade Marks and Design and the main points of her presentation are summarised as follows:

- The main departments now dealing with IP and Brexit were Department for Exiting the European Union (DEXEU) and Department for International Trade (DIT)
- The IPO team had acknowledged and were aware of ACID's views on design law reform
- They will take an overview of what the issues are and examine each policy area including all rights (patents, trade marks, design and copyright)
- Natasha and the IPO team need to understand the economic impact on the loss of access to EU designs, identify the opportunities and prioritise
- They acknowledge the complications of design law
- Natasha clarified that if a designer is already in possession of EU designs they will continue to cover the rest of EU until Brexit happens. Issues around conversion to UK registered design will need to be considered



- Access to the Hague Agreement will create a mechanism where any gap exists. (Not discussed but for info. Hague will offer for design protection in 65 different countries for 100 designs with one application – good in principle but access to easy digital registration is, at the moment, impenetrable which will mean it will be expensive if using lawyers – this may be an easy option for Government)

Natasha then outlined three possible options for the IPO:

- Do nothing
- Amend UK design law
- Extend a new UK law with the same provisions as in the EU and extend to 15 years

GOVERNMENT AND IPO CRITERIA: Impact Assessment is the base line requirement as evidence. What are the economic benefits? What are the costs of having to comply with UK law? Weigh up whether the benefits outweigh the costs.

ACID Ambassador Rob Law responded immediately to this call for evidence as follows:

MY COMPANY MAGMATIC LTD T/A TRUNKI DESIGNS AND MANUFACTURES CHILDREN'S TRAVEL PRODUCTS. WE EMPLOY 80 PEOPLE AT OUR HEAD OFFICE IN BRISTOL AND MANUFACTURING FACILITY IN PLYMOUTH. OUR TURNOVER IS APPROXIMATELY £8.5MILLION, ALL OF WHICH IS GENERATED BY PRODUCTS PROTECTED BY REGISTERED AND UNREGISTERED DESIGN. IF WE LOSE PROTECTION OF OUR UNREGISTERED RIGHTS IN 28 MEMBER STATES, AND ARE UNABLE TO ENFORCE OUR RIGHTS, WE PREDICT APPROXIMATELY 25% OF OUR SALES COULD BE LOST. THIS COULD EFFECTIVELY QUARTER OUR TURNOVER AND LOSE APPROXIMATELY 20% OF OUR WORKFORCE.

This just reinforces the impact on just one company of the potential loss of £2m+ and the possible loss of 20 jobs if we lose the protection of designs in 28 members states. How would this affect YOU? Show your support by emailing to brexit@acid.uk.com where you can also request a template letter to send to your MP.

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ACID MEMBER

SANDRA MURRAY WEAVES

SCOTLAND & CHINA TOGETHER

"The Scottish Brocade" charts the production of bespoke garment in Nanjing and the Scottish highlands.

A TV DOCUMENTARY ENTITLED "THE SCOTTISH BROCADE" WAS RELEASED RECENTLY DETAILING THE START OF A PROJECT THAT AIMS TO HELP PRESERVE THE ANCIENT INTANGIBLE CULTURAL HERITAGE THAT IS NANJING BROCADE.

Nanjing Brocade, like much of the world's ancient crafts, faces the challenge of raising interest among future generations in the skills required to maintain it. With the aim of safeguarding brocade for the long term, the Nanjing municipal government and the Nanjing Brocade Research Institute joined forces in 2015 with Nanjing based Scottish company SinoConnexion Ltd., to create a bespoke garment that could capture the imagination of people around the world, along with an accompanying documentary style video.

Viewers of the documentary will join the participants on their voyage of discovery, that starts in the remote villages of the Highlands of Scotland and brings them to Nanjing where they face the challenge of bringing two very different weaving cultures together into one piece of fabric.

In the first phase of the project, Scottish weaver Sam Goates spent a week in Nanjing working with the Brocade Institute on the design for the material. Only after coming to a better understanding of the highly complex methods that comprise brocade production was Goates able to finalise her Scottish influenced design that resembles shoals of herring reflected in colours reminiscent of the seas around Scotland.

In the second stage, the Brocade Institute prepped one of its traditional brocade looms for production of the fabric, a process that took 6 weeks in all. Another 3 months were required to weave the fabric, at the painstaking rate of 5cm per day. Finally, in April of this year, the finished fabric was taken to Inverness in the Highlands of Scotland, and placed into the hands of couturier Sandra Murray MBE. In her unique method of working that involves only designing the garment after she has felt the material to be used in her own two hands, Murray spent the better part of a month to complete the final dress.

Frank Hossack, the documentary's director who has lived in China for 23 years, said of his inspiration to the project, *"I started thinking about connections between Nanjing and my home in the Highlands of Scotland. Remembering that brocade was initially reserved only for royalty, I was reminded that my friend Sandra Murray had previously designed a dress worn by the Queen. What a marvellous link between Nanjing and the Highlands of Scotland, I thought!"*

Vice Director of the Research Institute, Ms.Wu Ying said, *"We are excited by the project, not just because it will help people all over the world know about Nanjing brocade, but also in it being a great way to create a new modern material that has cross-cultural appeal, to people of all ages."* ACID's Dids Macdonald announced the success of this China/Scottish collaboration in her keynote presentation on the importance of brands to design when she accompanied the IP Minister to Beijing in August 2016.

Through this innovative, two pronged approach that produced the garment and documentary concurrently, organisers hope to bring understanding of the craft to a worldwide audience and inspire future generations to take up the mantle that is the preservation of Nanjing Brocade.

ABOUT THE NANJING BROCADE RESEARCH INSTITUTE: Ancient Chinese silk production and traditional brocade weaving techniques are presented by the Nanjing Brocade Research Institute that also traces the history of silk, through the investigation of archaeological textile fragments.

ABOUT SAM GOATES: With over 25 years' experience of textile design and production, Buckie-based artisan cloth weaver Sam Goates is dedicated to preserving traditional skills and craftsmanship in the cloth trade.

ABOUT SANDRA MURRAY: As a designer/couturier/artisan driven by a passion for hand stitching, designer Sandra Murray, MBE is based in Inverness and has, among her prior clients, Queen Elizabeth II, for whom she designed a dress worn by the monarch to the opening of the Scottish parliament in 1999. Sandra also designed an outfit for ACID CEO Dids Macdonald to receive her OBE in 2015.



**THE DOCUMENTARY CAN BE VIEWED ONLINE AT:
[HTTPS://YOUTU.BE/F4BIZCOFMLM](https://youtu.be/F4BIZCOFMLM)**



2016: A SUMMARY

As 2016 draws to a close, it has been nothing if not eventful in the design world.

AT THE END OF 2015, THE SUPREME COURT HEARD THE APPEAL OF THE NOW FAMOUS TRUNKI CASE, THE FIRST TIME THAT HIGHEST COURT IN THE COUNTRY HAS HAD TO GRAPPLE WITH DESIGNS. THE SUPREME COURT'S DECISION IN MARCH 2016 LEFT MANY DISAPPOINTED. WHILST THE OUTCOME WAS NOT THE VICTORY WHICH MAGMATIC FELT THEY DESERVED, THERE WERE AT LEAST SOME VALUABLE LESSONS TO BE LEARNED.

Firstly, given the ease and speed with which designers can obtain registered Community designs (RCDs), the UK courts are inclined to construe their scope of protection rather narrowly (unless there is evidence of significant design freedom or that the design differed markedly from the design corpus). Secondly, as a consequence of this, great care needs to be taken when choosing designs for filing, and particularly deciding how to graphically represent them, so as to ensure that the scope of the resulting protection is as wide and as flexible as possible. Thirdly, it is important to understand the limits of design law. Design registrations exist solely to protect the appearance of a specific design, not the type of product to which that design has been applied or its concept. Protection for a type of product or product concept may be available in limited circumstances under patent law and/or passing off, but not design law. Much of the frustration surrounding the Trunki decision was that design law had failed to prevent a competitor coming onto the market with the same type of product as the highly innovative Trunki suitcase. It has however never been the role of design law to prevent this kind of competition.

In June 2016, the ongoing relevance of the Community design regime was called into doubt by the Brexit vote. Upon Brexit, RCDs will cease to have any effect in the UK (but will continue to provide protection in the remaining 27 EU member states). To avoid a UK-sized gap opening up in the protection enjoyed by many designers who habitually rely on RCDs, it is highly likely that a conversion mechanism will be introduced such that any existing RCDs will be converted into the equivalent UK registered designs upon Brexit. The prospect of losing the unregistered Community design (UCD) regime however is far more troubling because there is currently no direct equivalent under UK law (the UK unregistered design right is narrower in scope than UCD as it does not extend to surface decoration). The UK IPO is consulting extensively on how to deal with the problem. Options range from creating a second unregistered UK right which mirrors UCD to doing nothing at all and simply accepting that unregistered design protection in the UK may be more limited in future. The only way to avoid the uncertainty that will dog unregistered design protection in the UK for some time to come is to make sure you register your most important designs.

LEGAL AFFILIATE



ANTI COPYING IN DESIGN



Again, on a domestic front, in July 2016, UK copyright law was amended such that designers of 'industrially produced' artistic works would be afforded the same length of copyright protection as other copyright works, meaning an increase from the previous 25 year term to 70 years from the death of the creator. This meant that copyright protection for industrially produced artistic works which are over 25 years old would effectively be reinstated in many cases. This change has potentially profound implications for designers of iconic industrially produced artistic works which are over 25 years old and who hitherto may have had no basis to take action against unauthorised replicas in the UK. There could also be major implications for manufacturers and retailers of such replicas, whose business model may well have depended on such products. However, the designer still has the significant hurdle to overcome of proving that the design in question was for an 'artistic work'. Just because a design has become a classic or an iconic work does not necessarily mean it is 'artistic' within the meaning of UK copyright law. Many classic pieces of furniture for instance are undeniably iconic, but may struggle to establish requisite artistic merit/reception at the time of their creation.

Ewan Grist, Bird & Bird LLP

WWW.TWOBIRDS.COM

ACID/BRIFFA SEMINAR EXPLORES ALTERNATIVE DESIGN PROTECTION THROUGH COPYRIGHT

At a recent ACID and Briffa event following the disappointing Trunki decision (PMS International Limited v Magmatic Limited [2016] UKSC 12), speakers explored IP enforcement in continental Europe and examined whether laws are more favourable to designers overseas.

BRIFFA'S ASSOCIATES FROM GERMANY AND HOLLAND EXPLAINED HOW COPYRIGHT COULD ENABLE A DESIGNER TO GET MUCH FURTHER IN CONTINENTAL COURTS THAN THEY WOULD IN AN ENGLISH COURT, THUS NEGATING THE RELIANCE ON REGISTERED OR UNREGISTERED DESIGNS (AND ALL OF THEIR ASSOCIATED LIMITATIONS).

(A) CLAIM THAT THEIR PRODUCTS ARE WORKS OF ART AND BENEFIT FROM COPYRIGHT PROTECTION FOR 70 YEARS FROM THE DEATH OF THE CREATOR; AND

(B) BENEFIT FROM A GENEROUS INTERPRETATION OF WHAT CONSTITUTES AN INFRINGEMENT.

Dr Jan Ludwig, from the German firm BRP Renaud und Partner, discussed two major cases in his talk. The first, the "Birthday train" case, opened the floodgates for designers to claim copyright in otherwise unprotected work. The second, regarding the "Wagenfeld lamp", showed that parties from outside Germany could be subject to the German interpretation of copyright, providing that their goods were targeted at the German market.

TM ® © BRIFFA



THE BIRTHDAY TRAIN CASE

The design below (the "Birthday Train") was the subject of a major change in German copyright law.

This simple product generated many millions of pounds in revenue but the designer responsible only received a payment of around £900. In order to claim a larger share of the profits the designer set about convincing the German Courts that the Birthday Train was, in fact, a work of art.

The designer referred to a legislative change allowing works of applied art (which may already have design right protection) to obtain protection under copyright law. For nearly five decades the case law of the German Court held that only outstanding works in the field of applied art would enjoy copyright protection which meant that only 1% of all furniture designs were accepted as works of art.

However, the German Court reversed this position in the Birthday Train case and it is now no longer necessary for works of applied art to show "outstanding character" to rely on copyright protection.



COMMENT

DESIGNS WHICH ARE NOT PROTECTED BY COPYRIGHT IN THE UK (DUE TO THE NARROW INTERPRETATION OF ARTISTIC WORKS) MAY STILL ENJOY PROTECTION IN GERMANY. FOLLOWING THE BIRTHDAY TRAIN CASE THE THRESHOLDS FOR PROTECTION IN GERMANY HAVE BEEN GREATLY LOWERED AND THE FAIR REMUNERATION SCHEME IS IN FORCE TO PROTECT DESIGNERS AND OTHER CREATORS. THIS MEANS THAT UK DESIGNERS CAN TARGET INFRINGEMENTS IN GERMANY AND ARE ENTITLED TO MAKE USE OF THE "FAIR REMUNERATION" SCHEME GOVERNED BY GERMAN LAW. THIS HOWEVER IS BASED ON A PRE-BREXIT STATUS AND IT IS CURRENTLY UNCLEAR WHETHER THESE ADVANTAGES WILL BE AVAILABLE IN A POST-BREXIT WORLD. IT IS CLEAR HOWEVER THAT THE UK APPROACH NEEDS TO CHANGE IN ORDER TO IMPROVE PROTECTION FOR DESIGNERS, THIS MIGHT HAPPEN WITH THE UK'S OWN BIRTHDAY TRAIN STYLE JUDGMENT (ALTHOUGH, AFTER TRUNKI, THIS SEEMS A LONG WAY OFF) OR MAYBE BREXIT IS JUST THE CATALYST WE NEED TO CHANGE THE APPROACH? THIS WAS CERTAINLY THE HOPE OF THE SPEAKERS AND ATTENDEES ALIKE, AND, IN ANTICIPATION OF TURBULENT WAVES OF POLITICAL CHANGE AHEAD, WE ALL DECIDED TO GET IN SOME SURFING PRACTICE!

ACID



THE WAGENFELD LAMP CASE

This transition in copyright protection for designs does not only have a domestic effect in Germany. Foreign companies (e.g. UK companies), which target the German market, must also obey the new copyright framework. In the "Wagenfeld lamp" case the Court affirmed a copyright infringement on the basis that the German market had been targeted. The Wagenfeld lamp, was created in 1924 and was acknowledged by the Court to be a protected work of art.

The claimants issued proceedings against an Italian resident who was selling imitations of the lamps in Italy. German customers could acquire the lamps by collecting the goods in Italy or contracting a carrier for transportation to Germany. However, the Italian retailer was using a German-language website and German print media advertising, suggesting that the business model was aimed at bypassing German copyrights. On that basis, the Court said that advertising could be prohibited by German Courts.

WWW.BRIFFA.COM

MEMBER FOCUS

Phyllis Cohen of Face Lace was part of the team that attended the recent House of Commons meeting covered in our campaigning update on page 2. Read more about how Face Lace utilize their ACID Membership Benefits to support their IP rights.

WHEN DID YOU FIRST START CREATING YOUR PRODUCTS/DESIGNS?

I self-funded my business through a need I recognised as a professional makeup artist. I have worked as a makeup artist for over 30 years and needed this type of product for photographic work, fashion shows, live events, and TV work. Sometimes a makeup artist has to do very quick, dramatic makeup changes that are perfect in a few minutes- my products are the answer to this. Although the general consumer has also enjoyed using our brands for special occasions.

DID YOU HAVE ANY KNOWLEDGE OF INTELLECTUAL PROPERTY AT THAT TIME?

My only knowledge of IP was as a creative in the fashion and advertising world. Doing a direct copy of another contemporary artists work was severely frowned upon in fashion. It was OK to be inspired by an artist from another field entirely and/or from another Era, like an homage, but if an artist was caught doing a direct copy of a well-known image by a contemporary, the industry would be very unforgiving, and call them out for sure!

The difference in IP issues, from being a freelance creative to a creative with a business which relies on designs and images, is that the copyists will not be known to you. My experience has shown that the copyists of my designs are extremely elusive as they are in Asia. The IP infringers can be all over the world profiting from your work.

When IP theft happens in your backyard and you know who they are, they are usually very big players that have weighed up the likelihood of you taking them to Court successfully.

WHICH ACID MEMBERSHIP SERVICES HAVE YOU USED AND HOW HAVE YOU BENEFITTED FROM BEING A MEMBER?

We have used the ACID Affiliates and spoken to Legal experts on issues regarding copyright in our original designs and tackling infringement. We also used one of ACID's recommended lawyers to confront a High Street brand (here in the UK) for naming a product "Face Lace" for infringement of our trademarked name. We have also had a very informative conversation with one of ACID's legal affiliates about the best way to go about reporting and achieving removal of Asian products pretending to be Face Lace on Amazon, Ebay, Etsy, Alibaba, Ali Express and other sites where copies of our products are sold.

We have also taken advice about using social media to name and shame another High street Giant who sold a design remarkably similar to our "Espina" design. Our "Espina" design was actually registered with the IPO. We spent a lot of money starting legal action against a High Street accessories chain only to have to step down at the last hurdle as we didn't have legal insurance in place to cover expenses if we lost. The legal team we used at that time heavily discouraged us from using Social Media.

ACID has assured us that next time they would be there to advise us on how to use Social Media to name and shame. This method might have been a more successful and less expensive way to stop them selling what we considered to be an infringing product.





HAVE YOU BROUGHT ANYTHING NEW TO THE MARKETPLACE RECENTLY THAT YOU WOULD LIKE TO SHARE?

In Winter time our Masks are very popular- we made a Mask based on a Cat Face with Egyptian design references called "Bastet" which was very popular for Halloween and Masquerade Balls. We have a few designs we launched at the very beginning which have remained popular for 4 years such as "Burlesque". Over the last year we began to add second layers of materials like our design "Starway 2 Heaven" and this is popular in Summer and Christmas. This year we launched Eye-Lobes which can be worn around the eyes or as an Ear Cuff - "Eye-Lobes Rings."

We are creating new designs using several layers- which we hope will be more difficult for the copyists to achieve. We have been using a wonderful holographic material for many of our newer designs, which reflects like jewellery on the skin. I would like to create makeup embellishments which are like a cross between makeup and jewellery on the skin.

WHAT IS BEST ASPECT OF ACID MEMBERSHIP FOR YOUR BUSINESS?

All my designs are unique, and I love to do research for each one. I hand paint my designs before they are put into a computer system to link with the machines for cutting. Once the designs are finalized, the first thing I do, before we do the photography, is submit them to the ACID Copyright & Design Databank. Then we also get them design registered with the IPO.

We had a frustrating correspondence with a Swedish company, that wouldn't take down the Asian copies from their website, even though we had a lot of Press from when we launched our designs, naming myself as the Creator of Face Lace designs. The Swedish company said unless we showed them proof that we had officially registered the designs they would continue to sell the fakes. Most other companies have been compliant, but it made us realise that we needed the support of official organisations like ACID to protect our Intellectual Property. We show our membership of ACID by using the Member of ACID logo on our website home page.

WWW.FACE-LACE.COM

WHAT ADVICE WOULD YOU OFFER TO A NEW DESIGNER?

If finances are too tight to register all of your original designs before you launch, ensure that they are on the ACID Databank. You can then leave the decision to register with the IPO or EPO for up to 12 months to see which are the best sellers and choose to register the ones you think are most valuable to you. Eventually I would aim to get all new designs registered. The Asian infringers haven't copied any of our registered designs, yet.



ACID



PRINTING CONFERENCE

A CONFERENCE FOCUSING ON 3D PRINTING EXPLORING THE OPPORTUNITIES, IDENTIFYING THE IP CHALLENGES, HELD IN CONJUNCTION WITH THE ALLIANCE FOR INTELLECTUAL PROPERTY, ACID COUNCIL MEMBER RODNEY MCMAHON, TALKED ABOUT HIS EXPERIENCES IN THE CONTEXT OF DESIGN AS MD OF MORGAN CONTRACT FURNITURE LTD.



Referring to the Rio and Oslo Collections, which are manufactured in their own factory in the UK, Rodney said, *"We operate in an arena where even the largest of us is comparatively small, aiming to supply commercial interiors to the likes of Hilton & Marriott, P&O & Royal Caribbean, Google & JP Morgan. Between us and them is a swamp of operators aiming to make a living between the lowest price at which we will sell and highest price the buyer will pay. These are architects, designers, specifiers, contractors, dealers, and procurement agents – independent or employed by the buyer. Many are visually illiterate, so not much motivated by the purity of design and unable to evaluate manufacturing quality, so easily persuaded to buy lower quality product."*

THE QUASI LEGALESE OF THESE DOCUMENTS OFFERS SOME HOPE OF A CLEAR RUN BUT USUALLY AT THE END OF A DETAILED DESCRIPTION OF OUR PRODUCT WE SEE THE KILLER TWO WORDS "OR SIMILAR".

Our immediate objective is to be specified as the supplier and having paddled our canoe across this swamp of conflicting loyalties and objectives we are very happy to see our product on the specification, even if it is for fewer items and fewer areas. This is a highly competitive industry with 1000's of competitors, mostly abroad, who do not hesitate to offer facsimiles of our designs.

To keep one step ahead of these people we introduce new product at the rate of 3 collections per annum, which means an average of 10 products per collection, and attempt always to offer some eye openers to maintain our place in the specifiers' memory as being innovative.

Registering the design right in all of these designs, many of which may not be commercially successful, is prohibitively expensive. More later. We spend 5% of t/o on R&D and since the best we can hope for is a net profit of 5% you can readily see that is a significant % of our resources.

Our Oslo collection is designed to be manufactured on a CNC with the two arm panels as individual manufactured units, connected by the side rails. This reduces manufacturing costs for us and makes copying harder. We use a flat bed 3 axis CNC which allows us to do this but 5 axis allows virtually the equivalent of 3D but in a subtractive manner.

The RIO table basket is 3D printed using polyamide, which is an extremely strong plastic, but the rest of the table is traditional manufacture. Many alternative materials can now be used – 9 types of wood, various metals and plastics. We believe that we are the first company to offer a commercial 3D printed furniture product. We have received orders for this as well so we are very pleased with the response. 3D printing is an additive technology, that is to say that raw material usually in powder form is heated or processed in order to build the item, as opposed to traditional methods of manufacture, sculpture etc., which are subtractive i.e. we cut bits off and throw them away. 3D is attractive as there is consistent accuracy between pieces manufactured which is cost saving, It is completely digital, requiring little further human intervention once designed, which is cost reducing, There is little or no waste with obvious cost and environmental implications, It is easy to rent time on a machine because it is instantly adaptable to the digital input so little or no capital investment or tooling is required for small runs or start-up companies.

It is readily mobile which requires little infrastructure investment and, in the case of using solar energy to convert sand into a building material, locally available raw materials, which allows for extraordinarily innovative building in deserts or, as Elon Musk would have it, on Mars. This is a gift to copiers and pirates who have, until now, had to have



some sort of static and real manufacturing premises. They can now invest little and move around at will or base themselves in countries with little more than a power supply and a broadband connection.

Technology is still slow and expensive but Nick Kounoupas' example of the music industry that poo pooh'ed his concerns asking who would spend 45mins downloading a song when a CD could be bought at HMV for £17.00 is apposite. Well we know where that ended so, likewise, the opportunities of 3D printing are barely known or understood yet and the pace of change will accelerate and be much faster than any of us expect.

The Rio Chair with 3D printed arm is printed and each one is an individual design, whilst the remainder of the chair is traditional manufacture. In fact the back is also available as a solid timber option.

Theory of Transformation by D'arcy Thompson, pioneer of Mathematical Biology describes natural forms and their similarities using maths. Not satisfied with just 3D printing in an existing form we wanted to use the technical creativity of digital design to create the forms for us. This differentiates us further as we chose to use a mathematical algorithm that alters the design slightly and progressively so that no two chairs or tables are identical.

All great opportunities from 3D thus far. How about the threats and challenges to us? How can we register that design? Do we register each chair or table that we decide to produce? What about the, possibly, 1000's of options that we choose not to manufacture but that are as a consequence of our original design idea?

In any case, we find that design registration is far from cost effective and we have to make very strategic decisions regarding what we can afford to register and what not. For example, whilst the UK Design Right is £50 the solicitor's fee is £750. The EUIPO registration fee is £800 per application reducing to £150 for anything else

registered at the same time, plus solicitor's fee of £300. This might sound like small beer to legal eagles but is actually unaffordable to most design companies especially where they produce multiple designs (we do at least 30 per annum) and therefore renders the possible protection an un-commercial additional cost. And in any case we find that we are encouraged to register elements and not complete articles to avoid the possibility of minor changes to a leg, for example, removing all protection.

I say possible protection because of the enormous amount of time and money required to progress a claim against a copier and the very uncertain outcomes associated with that.

AFTER ALL CROOKS AND COPIERS ARE FAR TOO SAVVY TO BE OPERATING THROUGH A COMPANY WITH ASSETS. BY AND LARGE THEY ARE MEN OF STRAW.

I mean that aside from the strict legal and design uncertainties, there is the low likelihood of an IP knowledgeable Judge and even if the Judgement is favourable, the low likelihood of recovering any costs, let alone damages.

iMakr is a shop in Clerkenwell just around the corner from my showroom, which also operates in New York. You can have anything that you like 3D printed or 3D scanned. Nowhere that I can see on their website is there any reference to IP. The ease and prevalence is scary as the overheads for a maker are very low – they can rent time only and not own a factory, machines, employees etc. This is just a tip of the iceberg.

3D Scanning - clearly, colour scanning has for some time now allowed the unscrupulous to copy 2D designs – floor coverings, wall coverings, textiles etc. and send those

images all over the world to whomsoever was willing to copy.

Aside from all the obvious opportunities and threat implications of 3D printing to a designer and manufacturer, somebody can now scan our chair in and copy it.

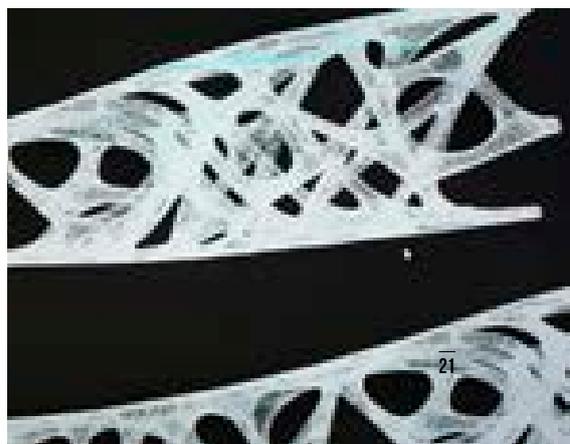
The digital file does not need to be 3D printed. They could just send it to a CNC machine that produces it all without the trouble for them of measuring, checking etc. that they have stolen the design accurately.

They can create their own digital files, name them anything they like, predate them conveniently to predate ours and to all intents and purposes have pretty good prima facie evidence to support a contention of original design ownership.

Designers need better, cheaper, more easily accessible protection not just from casual copying but from piracy and criminals. The current system, notwithstanding all the recent changes which are very favourable, is still too slow and expensive and out of the reach of many, and requires a litigious mentality which is rare amongst the design community.

The sanctions, particularly for deliberate copying, ought to come through the criminal process, which is faster, cheaper and offers some very serious discouragements. A little help from Vlad the Impaler would also be most welcome."

WWW.MORGANFURNITURE.CO.UK

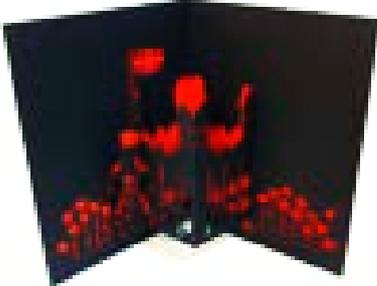


USING THE NEW ACID © COPYRIGHT & DESIGN DATABANK

THE CURRENT ACID DESIGN DATABANK ACCEPTS OVER 25,000 LODGEMENTS EACH YEAR AND NOW THAT THE ACID DESIGN DATABANK ACCEPTS COPYRIGHT WORKS, MEMBERS ARE DELIGHTED, NO MORE SO THAN HANNAH KOKOSCHKA WHO CREATES STUNNINGLY MAGICAL POP-UP CARDS APPROPRIATE FOR ALL OCCASIONS.

2D CARD DESIGNS

Each card is a hidden secret allowing the purchaser to write on the outside, giving the receiver the wonderful surprise of a pop-up on opening (an inside out card)! On design protection, Hannah said, "All my designs start from sketches (I never leave the house without a sketchbook in my bag!) I then work from these sketches to develop pop-ups (suitable for manufacturing) on my computer. At this stage I add my designs to the ACID Copyright and Designs Databank!" On using the ACID logo, "my weapon of deterrence" Hannah added, "I use the ACID logo everywhere I can, on my website, on promotional material and at fairs."



Chynna Brown's design process involves hand drawn floral elements combined with digital printing, every flower is individually drawn and then brought to life with colour. Her cushions are printed onto high quality panama fabric using digital printing methods, this allows for vibrant colour and a luxurious quality of cushion. All products are, from initial sketch until final product,

made and produced in Britain. "All of my work starts with hand drawn sketches, which are turned into a repeat using old fashioned or digital techniques. Once finished I upload every stage of my design process to the ACID Databank including initial sketches, the finished design, alternate colourways and any edited versions. I do this before showing any work on my website which carries an anti copying message."

DESIGN PROTECTION

When asked about his design process, Furniture Designer Stuart Scott said, "Creation depends upon the piece, but usually an idea is sketched and in the case of the upholstered items these are quickly prototyped full scale as its important to be able to sit in the piece and assess it. Whilst you're making the prototype the details and aesthetic fine tuning will quickly follow. The cabinetry items are usually detailed far more on the drawing board in order to get the proportions right. When I'm happy we'll then take these to prototype stage. It's quite an expensive fail if the prototype doesn't work in this instance! In terms of protection we registered our brand some time ago. In terms of individual designs we upload these to the ACID Design Databank."

RESPONDING TO TENDER OR PROCUREMENT — HOW TO PITCH MORE SAFELY

Seizing opportunities to submit to a contract tender, or responding to a commercial interest in your services or product range, is a 'no brainer' - but not without its potential IP hazards. But how do you present your ideas without giving the game away? What safeguards can innovative enterprises implement to ensure that others do not use their intellectual property without permission? The key issue is to ensure that intellectual property is commercially exploited only by originators and the risks from infringement or unauthorised use minimised.

A SIMPLE AND EFFECTIVE ROUTE TO DETERRENCE AGAINST COPYING AND PREVENTATIVE STRATEGY IS TO LODGE A COPY ON THE ACID COPYRIGHT & DESIGN DATABANK AND PUT A SIMPLE MESSAGE ON THE FRONT PAGE OF ANY SUBMISSION OR RESPONSE TO TENDER.

TECHNICAL SPECIFICATIONS, PLANS, DESIGN DRAWINGS, MARKETING OR ADVERTISING COPY

Even technical specifications (which usually take an enormous amount of time to create) can get copied as can marketing or brochure copy, or even the wording in ads for those who want to create the look and feel of a competitor without the investment of original copy. Help safeguard your copyright by sending documents to the Copyright & Design Databank, reinforcing your evidence of originality and sending a clear message to third parties.



WWW.HANNAHKOKOSCHKA.COM
WWW.STUARTSCOTT.CO.UK
WWW.CHYNNABROWN.CO.UK

NEW MEMBERS



We would like to welcome to the ACID community

COMPANY NAME	DESIGN CATEGORY
EMMA LOUISE WILSON - CERAMICS & MIXED MEDIA	Ceramics
SALLY BROOKS	Ceramics
COCOON HOME	Fabrics & Textiles
ELEANOR SWANN	Fabrics & Textiles
HOPSCOTCH	Fabrics & Textiles
KIMRHI STUDIOS	Fabrics & Textiles
PALESTRINA LONDON	Fabrics & Textiles
REBECCA J MILLS DESIGNS	Fabrics & Textiles
STEPHANIE DAVIES	Fabrics & Textiles
TINA FRANCIS TAPESTRY	Fabrics & Textiles
TURTLE DOVES (NOT JUST GLOVES) LTD	Fabrics & Textiles
EASTON DESIGN STUDIO LTD	Fashion
MEZZONE DESIGNS	Fashion
PEAK AND BRIM DESIGNER HATS	Fashion
JOSHUA LUMLEY CONTEMPORARY LTD	Floor Coverings
LOUISE CARRIER	Floor Coverings
AIVEEN DALY LTD.	Furniture
CONTEMPORARY OAK FURNITURE LTD T/A AMETIS	Furniture
DANIEL LAU DESIGN	Furniture
HAILL ASSOCIATES LTD (THE PLAYFUL CHAIR)	Furniture
HOLLY HUGHES	Furniture
JAN WATERSTON FURNITURE	Furniture
KIDD & BEAR LTD	Furniture
MORRIS OF PORTOBELLO	Furniture
THE DO COMPANY	Furniture
WOOD WISE TRADING LTD	Furniture
AUNTIE MIMS LTD.	Giftware
CAROLINE FRIEDMAN	Giftware
CUTE & CRAFTY	Giftware
THE CUSTARD UNICORN	Giftware
CORNISHBIRDINTHESTICKS	Graphics
LAURA ALICE PRINTS	Graphics

COMPANY NAME	DESIGN CATEGORY
MATTHIAS HILLNER	Graphics
ANGELA CORK	Greetings Cards
MEMELOU	Greetings Cards
MISTER PEEBLES	Greetings Cards
TINVITES (AND TINVITES HAPPY GREETINGS)	Greetings Cards
LINDEN GREEN	Interior Accessories
ORIGAN LTD	Interior Accessories
WILLA AND BOBBIN	Interior Accessories
YATELEY PAPERS	Interior Accessories
LEIGH LEAL	Jewellery
MARIA APLIN JEWELLERY	Jewellery
TANYA BARDO	Jewellery
MY LITTLE MASALA TIN	Kitchen & Bathroom
KATE HOLLOWOOD DESIGN	Lighting
NIAMH BARRY STUDIO	Lighting
ALSAPAN	Product Design
BASING HOUSE	Product Design
BRIDGECOURT (WESTERN) LTD	Product Design
ELAINE NORMAN	Product Design
JOANNE MURPHY	Product Design
KAREN BUSWELL DESIGN LTD	Product Design
LEANNE WARREN - LEAPUP / ROSE FILTERED / WHICKHAM WALKIES	Product Design
MAISON LE LOU	Product Design
MR GUY SKERMAN	Product Design
NEC PLASTICS LTD	Product Design
PEANUT & PIGLET LTD	Product Design
RUCHE ATELIER	Product Design
STYLISTS OWN	Product Design
HELEN MOYERS	The Arts
HIGH GLASS	The Arts
NIGEL ROBERT GRAY	The Arts
SQUIGGLY SUE DESIGNS	The Arts

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.

HERMAN MILLER'S EMILY DWYER WINS ACID IP ESSAY AWARD!



THE ANNUAL FURNITURE MAKERS YOUNG PROFESSIONAL INDUSTRY EXPERIENCE (YPIE) COURSE BRINGS TOGETHER SOME OF THE BEST AND BRIGHTEST YOUNG TALENT IN THE FURNISHING INDUSTRY TO TAKE PART IN AN INTENSIVE THREE-WEEK LEARNING PROGRAMME. IP EMPHASIS FOCUSED AROUND THE IMPORTANCE OF BRAND AND DESIGN PROTECTION AND ACID CREATED A COMPETITION SO THAT DELEGATES COULD TALK ABOUT IP AND THEIR BRANDS. THE WINNING ESSAYIST, EMILY DWYER OF HERMAN MILLER TELLS HER STORY ABOUT WHY BRAND PROTECTION IS CRITICAL TO HERMAN MILLER.

"It is not just the high quality products that we offer. The purpose of what we do is to create work environments that encourage productivity, collaboration, and well-being. To be able to get this message across, and to gain and maintain loyal customers, we need to ensure that our brand reflects this.

For decades, Herman Miller have produced innovative products to solve problems, both in the home, and workplace. The amount of investment, skill, and knowledge that has gone into achieving these iconic pieces that have evident passion in their designs, deserves respect. That is where Intellectual Property becomes vital.

By protecting our designs globally, we can prevent design copying that would otherwise have a negative impact on our brand. It isn't just the effort that has gone into the creation of designs, but it is also developing the means of manufacturing the products- which can be patented. There's also the quality and ethical sourcing of components. It's the customer service before and after sales, as well. If all of this is undermined by copies that are of inferior quality, potential damage to the brand is extensive.

There have been collaborations with external designers over the years, who have created products that we have developed

for manufacture. We understand that these designs are of their creation, and so, appropriate licenses need to be developed to acknowledge that we will be the sole user of the author's creation, and to ensure that they are appropriately compensated.

Another notable Intellectual Property milestone within Herman Miller was the licensing of the Eames range, back in the mid-eighties. From the start of 1986, the production and sale of the Eames range within EMEA was licensed to Vitra. Acknowledging this license supports our brand.

Lastly, it is not just the intellectual property of Herman Miller that is important to our brand- it is the intellectual property of others. At Herman Miller, we want to be creative and original. We don't want to copy others. We want to be honest, and by knowing what is already in the industry, we reduce the chance of investing in developments that already exists. Respecting others' work is also important to our brand."

Emily Dwyer, operations graduate at Herman Miller, said: *"Finding out that I had won the essay competition was such a surprise and a lovely way to conclude my Young Professionals Industry Experience. I now look forward to enjoying my prize and future work with The Furniture Makers' Company."*

Dids Macdonald, OBE and CEO of ACID, said: *"The essay clearly articulates the importance and understanding of why IP protection and awareness is critical to the Herman Miller brand. By protecting their designs globally, they can prevent design copying that would otherwise have a negative impact on their company. Ethics, compliance and respect for IP are clearly high on Herman Miller's IP priorities as demonstrated by Emily's excellent and winning essay on IP."*

WITH THANKS FROM ACID TO THE ACID LEGAL AFFILIATE TEAMS THAT TOOK PART IN THE YPIE PROGRAMME;

Nick Kounoupas KOUNOUPAS IP, Gavin Llewellyn STONE KING, Margaret Briffa BRIFFA, Philip Partington VIRTUOSO LEGAL, Simon Sellars SIPARA.

EVENTS

FOR FURTHER UP TO DATE INFORMATION ON ACID EVENTS VISIT OUR EVENT CALENDAR AT WWW.ACID.UK.COM



22-25 JANUARY 2017 - JANUARY FURNITURE SHOW, UK

5-9 FEBRUARY 2017 - SPRING FAIR NEC BIRMINGHAM, UK



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