

ACID

news

ANTI COPYING IN DESIGN

Issue 50
2014



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Dear ACID Member

This 50th issue of the ACID newsletter coincides with a seismic change for UK designers with strengthened law reform within grasp. I am delighted to tell you that, Queen's Assent permitting, UK designers will be better protected when the IP Bill becomes law very shortly. In the future, intentional infringement of a registered UK or EU design will become a crime.

When I first co-founded ACID in 1996, I remember claiming rather naively "I want design infringement to be acknowledged and heard across Parliament and in all legislative quarters." Little did I realise what a long journey it would be. Well, eventually it was heard in both Houses and a very strong case was also put forward to include unregistered designs. But Government played it safe so the battle goes on for UDR inclusion for Criminal Sanctions.

The good news is that the door is still open and the Rt. Hon David Willetts is recorded in Hansard as saying that he will evaluate further research on the subject. Labour's Shadow Business Secretary Iain Wright, MP made a very well informed and eloquent speech in favour of unregistered rights inclusion in the Bill as did Liberal Democrat peer Lord Clement Jones and an impassioned Vice Chair of the All Party Parliamentary IP Group, Pete Wishart MP, but to no avail. The ayes had it by a whisker.

As designer makers, the harsh reality of consistent theft of our designs, so real to us was alien for policy makers to understand for many years. I recently spoke with a Government official, who had listened to Cynthia Wilkinson's passionate story of consistent infringement of Marks' work and her battle for justice. He said to me, "A designer's world is light years away from mine. I could never take those risks!" And yet that is what we all do, as entrepreneurs - take risks and, as a nation, we are actually rather good at it. So maybe policy makers should step away from the safety of their pension assured jobs and spend a day or two with designer makers to see the raw reality of daily risk taking by those who earn their living on their creative ability and wit. I am all for that!

Sometime next year I will be stepping down as CEO and making way for an exciting new chapter in ACID's life. I will carry on as Chair of ACID to continue my campaigning work and will appoint a Steering Board to which a new Director General will report. So, if anyone would like to join our board or fancies themselves as the next person to steer ACID's further phase in life, do let me know. It certainly won't be dull and I can honestly say that whilst I didn't choose this path in life, I have had a ball and met some fantastic people.

A change in design law would not have happened without many of you who have taken time to write to your MPs, painting the picture of job uncertainty through the consistent challenges of copying and also accompanying me to tell Ministers how it really is at the coal face. So thank you very much.

Special thanks too must be given to Berwin Leighton Paisner's Simon Clark, ACID's original co-founder whose sage advice and guiding hand steered us in the right direction. And latterly, to Nick Kounoupas of DMH Stallard whose generous pro-bono work as our legal counsel guided me through the labyrinth that is the rather complex beast of the law. Nick used to call me a text stalker when I had occasionally over stepped the mark and hounded him for a legal opinion. Thank you Nick, from us all. Government officials too, were very supportive and, given that changes in law often happen from a public affairs and mega money campaigning chest, they were prepared to listen and learn from grass roots case studies. The Minister for Intellectual Property, Lord Younger, too, is a champion of IP and kindly took the trouble to write to me to thank us for ACID's contribution.

However, Government were not prepared to take the risk to include Criminal Sanctions for unregistered designs, the behemoths did their stuff this time. But watch this space.....

Dids Macdonald
Chief Executive of ACID



Welcome to Guest Editor Peter Wishart, MP, Perth and North Perthshire. Scottish National Party

Peter Wishart is currently the SNP party's Westminster Spokesperson for the Constitution, Home Affairs, Culture, Media and Sport and International Development.

The Intellectual Property Bill has provided a fantastic opportunity for both Houses to discuss and debate a subject previously low on parliamentary radar, the disparity between copyright owners and those who create 3d design.

As Vice Chair of the All Party Parliamentary Group for Intellectual property and also the supportive voice for UK Design, I am proud to have taken part because I feel very passionate about design and its contribution to the UK economy. Now passed un-amended, the IP Bill will progress to Queen's Assent. In particular, Clause 13, to introduce criminal provisions for intentional registered design infringement, will bring about much needed support for the UK's incredible design army.



Peter Wishart

I share ACID's regret that Government did not listen hard enough to the case for including unregistered designs.

Why? Because it simply doesn't make sense as the majority of the UK's designers rely on unregistered rights and the reasons behind this decision were not more closely examined. Critics have said that this is one way of boosting the UK Intellectual Property offices coffers which, as a trading body, is sadly lacking in registered design income. Maybe a more generous appraisal would be that Government is being unrealistic resulting policy advisors' arguments focusing on the necessity to rely on official registries to satisfy ownership. At best this is a poor argument, at worst it is turning a blind eye to reality. Ownership of a registered design is unexamined and can be challenged.

I simply cannot understand the view articulated by Government that the risks involved in introducing criminal sanctions would be too great or that it would have a stifling effect on

innovation. Where is the evidence? We can only see positive examples of this in copyright sectors such as the film, publishing music, video games and brands where criminal provisions apply and where the UK excels.

The Minister's examples citing the UK's and EU's publicly accessible registers holding about 728,000 design registrations in force should be read in the same context as ACID's Design Databank which holds 300,000 designs. 728,000 designs over a 10 year period from 28 member states means that on average only 2600 per each member state were registered. This is hardly representative as a comprehensive search basis for new designs for the whole of Europe.

However, the good news is that the Minister, the Rt Hon David Willetts MP has committed to an evaluation which will include an assessment of the effectiveness of the new measure, and his department will keep an eye on whether further changes need to be made to its operation and scope, and whether there might ever be a case for including unregistered design rights. On behalf of UK designers, I live in hope and offer you my continued full support!

www.petewishartmp.com

BLOSSOM SUGAR ART TAKES ON ITALIAN CATERING COMPANY PAVONI ITALIA SPA

ACID Member Blossom Sugar Art is a company in the business of creating spectacular cakes and cookies. They also design silicon moulds and cutters for cake decoration. They noticed that a big Italian Company, Pavoni Italia Spa, was offering for sale moulds and cutters that were infringing Blossom Sugar Art's own rights in the UK and other European Countries. So they asked ACID Legal Affiliate team McDaniel & Co to send a legal letter in January 2014. In February 2014, after correspondence and negotiations, they entered into a Licence Agreement with Pavoni Italia Spa, who is also paying £580 towards the legal fees incurred by Blossom Sugar Art in pursuing this matter.

IP lawyer and Partner at McDaniel & Co Niall Head-Rapson added, "This is exactly the sort of result that we like - turning a negative into a positive licensing opportunity."

ACID comment, "It is only correct and compliant that if someone is going to use another's design that they either ask (and are granted) permission or they enter into a licence agreement. For both sides this now is a win win win!"

Louisa Russell, owner and creator of Blossom Sugar Art said, "I am delighted that what started out as a case of taking legal action has now resulted in, hopefully, a really positive outcome and that our two companies can work together in the future."



www.blossomsugar.com



PORTA ROMANA STOPS LOOKALIKES BEING SOLD IN R V ASTLEY IP CASE

When ACID Member Porta Romana Limited spotted two remarkably similar light fittings to their 'Yves' and 'Flynn' wall lights they took legal advice from Niall Head-Rapson, one of ACID's Legal Affiliates and a Partner at McDaniel & Co. Niall sent a letter before action to RV Astley and they have agreed not to further sell what they called their 'Beau' and 'Halsey' lights and to deliver up the infringing articles they had in their possession. They also agreed to hand over the name of the manufacturers.

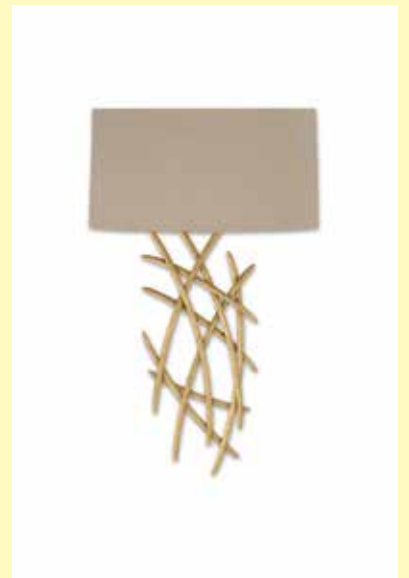
Our IP strategy is very clear and we are determined to continue to preserve our reputation for design originality and excellence at all costs."

ACID comment, "We are pleased this has come to a speedy settlement and it highlights the importance to anyone within the lighting sector to 100% check the design credentials and ownership of products offered by manufacturers to the trade."

www.portaromana.com

"Handing over the name of the manufacturers", said Niall Head-Rapson, "is key, because now we can get to the bottom of who is manufacturing the Porta Romana designed lamps without permission."

Porta Romana MD and founder Andrew Hills said, "We are often the targets of others wishing to sell or manufacture our original designs without permission but have steadfastly opposed this during our 26 years in business."



KREEPSVILLE666 LICENSE TO TOP SHOP SUPPLIER

KREEPSVILLE 666 DO AN IP LICENCE DEAL WITH TOP SHOP'S SUPPLIERS FOLLOWING IP CLAIM

ACID member Kreepsville 666, a shock clothing and accessories design house discovered that Top Shop (supplied by an American Company, Worn By) were using a design known as "Skelli Hand Devil." Kreepsville 666 had not agreed to the use of their design so they decided to ask their lawyers to write a letter before action to Worn By, as they believed that their design had been supplied by them to Top Shop without permission.

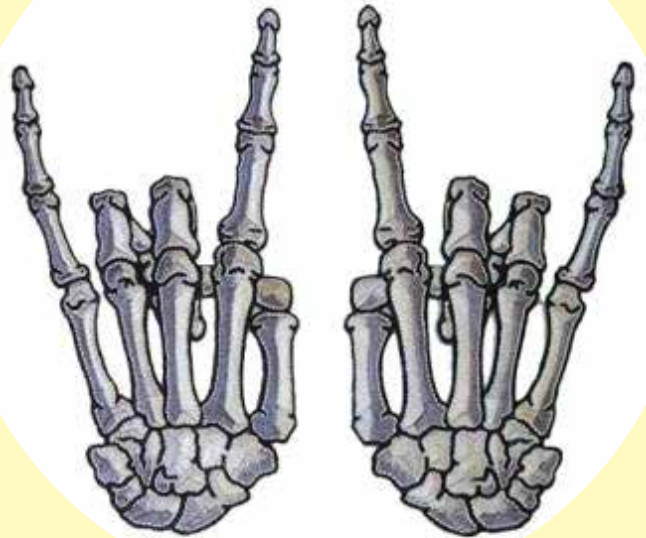
Niall Head Rapson of McDaniel & Co, the ACID Legal Affiliate firm dealing with the case said, "It was a really positive legal exchange because Worn By were happy to negotiate an ongoing licence and now Kreepsville 666 receive a 20% royalty of every T shirt sold."

A spokesperson from Kreepsville 666 said, "This is a good outcome, if only Worn By had come to us first we would have been delighted to negotiate such a positive deal and we would not have had to take legal action. As it is, we hope that this will be a long and

happy association and they may wish to licence more of our designs."

ACID comment , "There are so many occasions when a licence opportunity is originally missed by companies not taking enough notice of intellectual property ownership. In this case there was a great outcome!"

www.kreepsville666.com



TAYLORS IP TEAM SECURES WIN

ALANDAR PARK LIMITED T/A JOHN CHARLES V GINO CERRUTI (UK) LIMITED

The Intellectual Property team at commercial law firm, Taylors, has assisted British fashion house, John Charles, in resolving its High Court claim against design house, Gino Cerruti (UK) Limited and its Director, Mr Gurpreet Singh Johar.

John Charles claimed infringement by Gino Cerruti of community unregistered design right in nine original John Charles designs.

Taylors secured a very favourable settlement which required Gino Cerruti and Mr Johar to make a substantial payment to John Charles in respect of damages together with 100% of its legal costs. Gino Cerruti was also required to give undertakings to destroy its residual stock and to not in future manufacture, import, offer for sale or sell copies of the nine John Charles designs.

Tony Catterall, Head of Intellectual Property at Taylors Solicitors, said: "Taylors' success on behalf of John Charles in ensuring these copies are taken off the market and obtaining a substantial cash settlement for damages and costs illustrates that the English legal system has teeth with which to bite plagiarists. This should send a strong message

to those seeking to ride on the creative efforts of reputable designers that they will be made to suffer the financial consequences of their unlawful conduct and represents another step along the road towards stamping out the blatant plagiarism that is rife in the fashion market."



ACID commented, "ACID is always glad to learn of successful outcomes to IP disputes and welcomes this news from ACID Legal Affiliate team, Taylors."

www.taylors.co.uk

ACIDS LONG CAMPAIGN NEARS ROYAL ASSENT

INTELLECTUAL PROPERTY BILL – ACID'S LONG CAMPAIGN FOR DESIGN LAW REFORM ONE STEP NEARER TO ROYAL ASSENT

Clause 13 will introduce criminal provisions for the intentional copying of a UK or EU registered design. The objective is to reduce the scale of registered design infringement by acting as a deterrent and to increase protection for the holders of registered designs. The introduction of criminal provisions will also better punish perpetrators of blatant design infringement. Taken together, these measures will help designers and business to better protect and commercialise their design property. Individual directors will also be liable if they intentionally copy a registered design.



In April, the Intellectual Property Bill passed to the House of Lords for consideration of Commons amendments. During the debate, the House agreed to a number of Commons amendments.

Lord Stevenson of Balmacara, agreed that the present law was unsatisfactory and changes were needed to ensure that designers in the UK could not unintentionally infringe a UK unregistered design right when they were building on ideas that they may have taken from elsewhere in the EU.

Viscount Younger moved a second motion to agree with commons amendments 4 to 12 to Clause 13 which made it a criminal offence "intentionally to copy a UK or EU-registered design in the course of business without the consent of its owner". He stated that the clause had proved controversial, with some industry representative voicing concerns that its drafting left some uncertainty as to the scope of the sanction, and therefore amendments 4, 6, 8, 11 and 12 had been introduced to insert the word "intentionally".

The Minister referred to ACID and said that his officials are talking to ACID and other bodies to look at ways in which the UK design registration system could be improved.

Lord Clement-Jones spoke during the debate to express his regret that unregistered designs had not been given greater protection under the Bill, especially given that of the £137.5bn UK investment in intangible assets, 21 per cent was by unregistered design rights. He disagreed with the current situation of unregistered design rights not being covered by criminal penalties if deliberately and intentionally copied for commercial gain, and praised a recent decision by the European Court of Justice on this matter in the Karen Millen & Dunne case. In a previous House of Commons debate Rt.Hon David Willetts confirmed that he would be prepared to look at fresh evidence on unregistered designs in the future.

The recent Opinion given by the Advocate General (AG) in the Karen Millen & Dunne fashion case will, if it progresses to a ruling, give much more clarity to unregistered design right creators and strengthens the right in the hands of the designer against would-be copiers by making it both easier to obtain and to enforce.

The AG has confirmed that the overall impression which a design produces on the informed user must be assessed against one or more earlier designs taken individually and viewed as a whole, not by eliminating individual parts of a design. So, it should now be easier for designers to obtain the unregistered Community design right for their designs.



Distance and Online Sales to Consumers – Are you prepared for the New Regulations?

Stephen Greenwood from McDaniel & Co offers Advice

All businesses should have a robust set of terms and conditions detailing how their business trades with consumers. If your business sells goods, services or digital content to consumers online or otherwise at a “distance” (email, post or telephone) it is likely that new regulations due to come into force will affect how you contract with consumers and you will need to consider whether your sales process and/or an terms or procedures will need to be changed.

Consumer Contracts (Information, Cancellation and Additional Payments) Regulations 2013 (“Regulations”)

The new Regulations will replace the current regime and will affect all consumer contracts (not business to business) entered into on or after 13 June 2014.

The key changes include:

* **Pre-contract information** – before a contract is concluded certain information must be provided to consumers. This has always been the case and the Regulations make limited changes. The list of information that must be provided is long (running to 24 provisions). A copy of the list can be found at Schedule 2 of the Regulations which are available at:

www.legislation.gov.uk

Failure to provide this information can result in the customer not being obliged to pay and having a 12 month cancellation right.

* **Pre-ticked boxes** – in relation to additional charges (for example, insurance or gift wrapping) such boxes are not allowed. A consumer must expressly agree (e.g. by ticking a box) to any purchase of additional goods and services.



* **Payment buttons** – these must be very clearly identified as imposing an obligation on the consumer to pay. Buttons must include wording such as “order with obligation to pay” or “pay now”.

* **Payment by credit cards** – excessive surcharges cannot be charged only the cost to you may be passed on (note: this provision came into force in April 2013 in separate regulations).

* **Contract confirmation** – no later than the time of delivery of goods, or performance of a service, the consumer must be provided with confirmation of the contract on a “durable medium” (e.g. an email or on paper).

* **Longstop for delivery** – unless otherwise agreed by the consumer, all goods must be delivered within 30 calendar days of the contract being concluded.

* **Cancellations/“Cooling-off”** – this period has been extended significantly from 7 calendar days to 14 calendar days. In the case of sales of goods the period starts from after delivery of the goods or in the case of services contracts or the supply of digital content, 14 calendar days after the contract has concluded. Model instructions for cancellation and a model cancellation form are set out at Schedule 3 of the Regulations.

* **Returns and refunds** – customers must return unwanted items with 14 calendar days of cancelling the contract and a refund (excluding non-standard delivery costs) must be paid within 14 calendar days of the goods being returned.

Payment for delivery should be refunded in full unless the consumer chose a delivery option costing more than the least expensive common and generally acceptable kind offered. In this case only the value of the least expensive option needs to be refunded.

* **Telephone helplines** – premium rate lines should not be used where information and/or advice relating to existing contracts is sought.



* **Digital content** – e.g. music downloads, are now separate from goods and/or services. When supplying content you will have to provide information on functionality and compatibility with hardware and software. Importantly you must obtain consent of the consumer to the supply the content within the cooling off period and an acknowledgement that by giving consent the consumer waives their right to cancel and receive a refund.

Action

Your business must act quickly to avoid falling foul of the Regulations. As standard practice you should check your terms and conditions. If you do not think they comply with the Regulations you will need to amend them or seek expert advice.

You should also check that your sales procedures and website comply with the changes made by the Regulations or amend them as required.

Future Developments

The introduction of a new Consumer Rights Bill (introduced into Parliament on 23 January 2014), which it is envisaged will clarify and simplify UK consumer law, may mean that further tweaks could be implemented to the Regulations in the coming months.

Further, on 26 February 2014, MEP’s approved the Common European Sales Law (CESL) which will create a legal contractual framework for distance selling and will negate the need for companies to rely on the national law of the country from which they operate. It remains to be seen whether the UK government will implement the scheme in respect of domestic contracts (i.e. those conducted between UK businesses with UK based consumers). If it does not then the Regulations will continue to apply to such contracts with the CESL applying to cross border transaction.

50th issue:



Newsletters

Our 50th Issue made us think about a few Landmarks in our History...



ISSUE 1

The very first issue of ACID News, in black and white and just four sides of information.

But it soon evolves into a historical cache of ACID initiatives and achievements, covering 16 pages and filled with Member news and information.



ISSUE 9

Covers a landmark High Court victory for ACID Members Designers Guild in 2001. It was a long struggle with the case eventually taken to the House of Lords for ruling, but showed how perseverance can effect change.



ISSUE 17

This shows ACID's interaction with Major High Street Retailers, encouraging them to sign the ACID Retailers Code of Conduct, with some success, which we will be expanding through the new Marketplace interaction.



ISSUE 23

A landmark issue with Dids Macdonald donning hard hat and safety jacket to bring about the destruction of hundreds of lookalike Bombo products for Magis Spa.



ISSUE 5

Now in colour and printed on glossy paper the newsletter starts to document case studies and announces the Exhibition Accreditation Scheme where Trade Shows sign up for the ACID Exhibition Protocol to deal with copying incidents.



ISSUE 10

Following hot on the heels of issue 9, ACID's original launch of "Commission it Don't Copy it" urges retailers & specifiers to commission original design and stamp out copying.



ISSUE 21

ACID Ambassador Kevin McCloud supports ACID's Design = Value campaign to raise awareness of the monetary value of creativity and how this works alongside the "Commission it Don't Copy it" campaign.



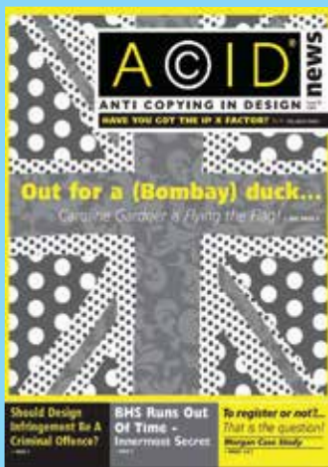
ISSUE 27

The announcement came of 3 new legal teams to assist members with free initial advice. McDaniel & Co, DMH Stallard LLP and Hammonds LLP joined forces to make a formidable team for legal support. McDaniel & Co and DMH Stallard are still part of our new Legal Affiliate Programme.



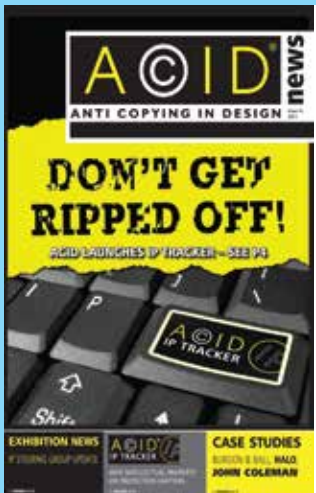
ISSUE 29

Mediate to Resolve was officially launched with ACID promoting mediation over legal action as a means of resolving IP disputes – an extension of the grass roots mediation service offered at exhibitions to Accredited Exhibitions using the Exhibition Protocol.



ISSUE 35

As ever, a slightly corny headline under which subsisted another of ACID's Member case studies. Front page news in 2009 was the question of Design Infringement attracting Criminal Sanctions. There was even mention of the X Factor!



ISSUE 41

Another launch for ACID, this time IP TRACKER - a safer electronic sending service for designers to e-mail design drawings and pitches to designbuyers with the comfort of knowing that ACID had an automatic copy of every file sent as an added safeguard.



ISSUE 48

With another iconic front cover, this time a design from ACID Ambassador Sebastian Conran, ACID Action continues to support the IP Bill with evidence for the need for criminal sanctions on UDR as well as Registered Design Infringement.



ISSUE 32

ACID's 10th Anniversary issue with a celebration at the Design Council in London where the Minister for IP Baroness Morgan congratulated ACID on behalf of the Government & welcomed ACID's "Educate to Protect" initiative.



ISSUE 39

A great Front Cover showing original ACID round table member Adam Aaronson creating one of his wonderful glass products. If you want to see how skilled this is watch Monty Don's Real Craft on More 4 – an excellent programme, showing designer/makers at their individual crafts.



ISSUE 44

The relaunch of CIDCI is endorsed by the Government in 2012. Meanwhile ACID's lobby group ACID Action has continued to supply case studies and statistics to the Hargreaves Review and responded to a call for evidence to the Copyright Consultation.



ISSUE 49

The launch of ACID Marketplace. ACID's latest initiative to assist designers in protecting their designs and design buyers in sourcing new talent and forging lasting business relationships.

Our old friend Kevin McCloud pops up with his take on design law reform too.

DESIGN THEFT OR FLATTERY?

Cynthia Wilkinson former joint owner of Mark Wilkinson Furniture tells it how it was!

My husband is Mark Wilkinson, a designer, an inventor, a creator who started his first kitchen furniture company called Smallbone & Co in the late 80's. This old pine design style was so successful, 'it went viral' – nationally and internationally and shot Smallbone into the fitted furniture stratosphere. Not realising at the time, this was 'a first' to hit the market and created the English Country kitchen as we know it today transforming a cold working environment into the hub of the home. In turn creating today's huge fitted kitchen furniture industry worth hundreds of millions and employing thousands.

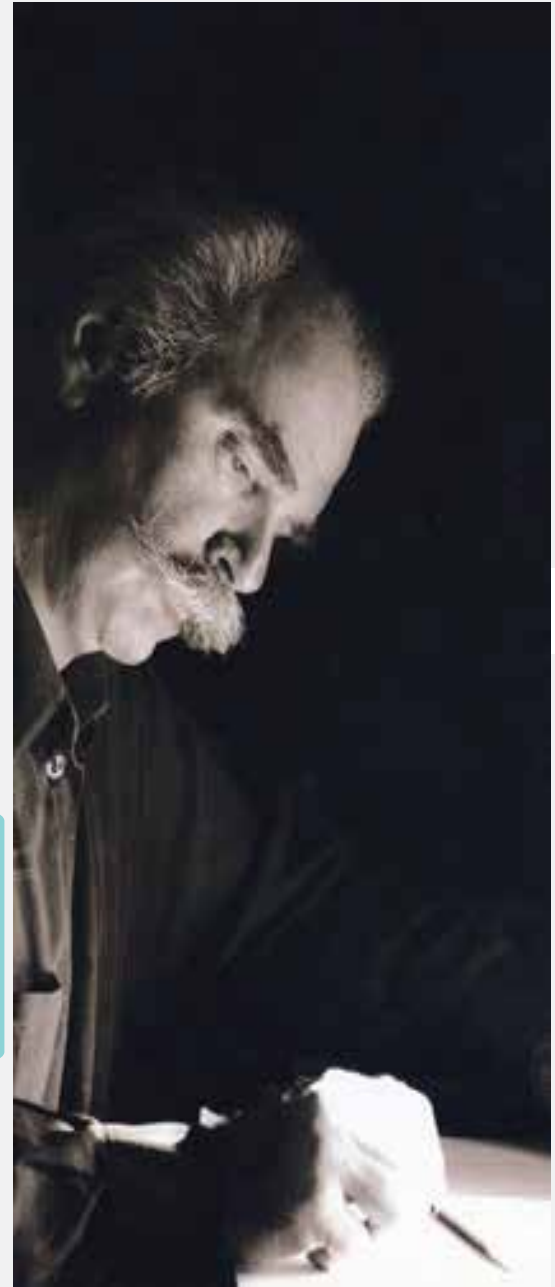
As the 'new kid on the block' featured in the Daily Telegraph's article about this 'must have' new old pine kitchen, investment was soon attracted to the business and money-men took over the management with the designer cast aside. Mark lost all benefits from the company his designs had created.

So, backs against the wall with no money, no job, no workshop and this time, a just born baby and lots of tears and fears we set about starting all over again and this time we called the company Mark Wilkinson Furniture Limited. Mark had given no thought to registering the design which, as a dyslexic, was in his head and not on paper and when people asked us for kitchen furniture we made his original old pine design as Mark was the originator, the design had not been registered and the design was on the open market. What we didn't know at the time was that by reproducing and appearing to 'copy' the design we inspired and influenced hundreds of copycat companies all over the country to do the same, putting the design under threat once more.

We worked day and night designing furniture and our company grew. When taking our furniture to County Shows we slept in hired lorry cabs, under lorries, in the back of lorries. When we needed more machinery, larger premises or a showroom for our furniture I increased the mortgage and we hardly slept. Mark's second design saw us through the 89/90 recession, enabling us to keep all those brave enough to believe in us fully employed, a third design quickly followed and then another which we called The Cooks Kitchen.

Having witnessed frenzied copying of Mark's old pine kitchen design we noticed the Cooks Kitchen was arousing interest in the industry and soon we became aware of Radcliffe based Woodcraft Designs making lookalike Cooks kitchens but not for the odd individual but supplying companies in Cheshire, Northamptonshire, Berkshire, Lancashire, Shropshire, Yorkshire and the English based dealer of the large German Kitchen Company called Alno. Woodcraft supplied their Imperial/Cooks kitchen with various small amendments such as a different size handle in a different material and other such twizzles but to all intents and purposes it was our Cooks kitchen design.

Mark's designs were the life blood of our company, the roof over our children's heads, the wages our employees worked hard for and the means for repaying the ever increasing bank loan and mortgage. Taking no action would signal a free for all for all of Mark's designs in the future. We had no choice and were introduced to the ferocious Ian Rosenblatt, a solicitor who liked a challenge and thank goodness he lived up to his reputation. In 1997 we took Woodcraft Designs Limited to the High Court of Justice in London with our Cooks Kitchen design on the Unregistered Design Right law which came into play in 1988 but was untested. Justice John Parker presided. We were dead if we didn't take action and were dead if we took action and lost. Taking court action took over a year and cost approximately £250,000.00 (another increase in the bank borrowing) and our lives were on hold. After months of deliberation we heard the result – we had won. But it didn't stop there.



Although we had then gained the reputation – copy us and we'll sue – we had to fight another 26 cases of copying until the message really got across that we meant what we said. We spent thousands on protecting ourselves instead of employing more people to help grow the business but our self imposed protection worked. We sold the business in 2005 having taken the turnover in bespoke individually designed furniture to £20m., employing 300 people and eventually to £26.4 but not before we had won Employer of the Year in the Governments Apprenticeship Scheme and last year Mark's iconic Cooks Kitchen design was still in the limelight when it was presented with the first ever industry Design Classic award. Yet, all this could have been lost.

Artist designer/makers like Mark have to go out on a whim to make a living and origination is expensive. Before they even get to a product to sell, vast investment has to be made in workshops, machinery, design, materials, labour, marketing and to be able to register any design the product has to be made and tested to ensure accurate drawings and registration. The cost and time in getting to this point is huge and it is absolutely impossible to do this for every design created. My pet hate is the condescending phrase 'oh, but he's good with his hands'. When will people understand that 'to be good with your hands' you first feel it in your heart, see it in your mind and possess the wit and will to make it happen. That's the very essence of design.

Let me give you the recipe for one silver panel, which is but one of over 20 design elements of one book case and one of ten different panels and each panel has 15 steps to make it:- First have the idea, feel the design and then see the design in your mind because many designers like Mark are visual, spacial thinkers, not verbal linear thinkers. Then machine a plain panel of oak, polish it until the grain disappears, cover it in blasting tape, draw the pattern on to the tape, cut around it with a scalpel, peel off the background and shot blast the panel, peel off the pattern after the shot blasting, put in the detail with a veining chisel, send away to have a latex mould made, electroform copper into the latex mould, then silver plate the copper panel. Voila – simple isn't it? Yet this silver panel and the inventiveness of it's execution is only part of the overall design process. This was just for one panel for one door in one design and all before actually making the bookcase and after buying all the kit to make it with.

For the small 'Marilyn' jewellery statue, there is a scanning process with the original sculpted clay master, then a computer programme created and a five axis machine needed for the computer programme to work, the original cost of which was circa £120,000. but then of course 'he's good with his hands'. Come on.

Origination is expensive, reproducing design is simple because the hard work has been done and although skill is required – it is called copying.

Design and innovation is the life blood of this nation and it constantly feels as if there is a big thumb pressing down hard on the main artery. Most designers aren't slick business people who can guard, ward and protect themselves. They are easy meat for the predators.



Thank heavens they have ACID to fall back on but ACID and all designers need more legal teeth which is why, although Registered Design Right now carries the threat of criminal prosecution, Unregistered Design Right should carry the same. Design is currency and when it is copied it is financial theft. With the threat of criminal proceedings and without detailed drawings readily available to study, people will think hard about copying an unregistered design because they will never be quite sure and just might contact the designer, perhaps buy the design or even work with the designer instead.

How do you put a price on intellect, heart and soul, creativity, and the actual cost of design but without it what would we spend our money on, to make our homes welcoming, to make us feel good with a pat on our backs saying 'haven't we done well'. Mark gets quite indignant at the inequality in the world of creators, when he hears stories of songwriters grumbling about having only 50 years of protection. If only all creators could have 50 years. Every design step is a musical note and the bookcase and jewellery box, for instance, both compositions. He also says PROPER design is an art form and so deserves equal respect to poetry, painting, music and although it does not have the same immediacy it does have greater power in its drip feed into our daily lives. If you were to turn on your heel with your eyes wide open in any department store you will probably take in the influence of over a thousand designers. Art is inspiration made manifest, inspiration whether it is for an entirely new style or a new piece of music. It all deserves the same respect.

It's a 'dog eat dog' world out there and design the law is still weighted against the originator. By including criminal prosecution in the Unregistered Design Right law it doesn't mean a stranglehold has been put on design or on the mass of business that comes from the influence of design, quite the opposite. It just means the originator can be confident that the money, effort and time he or she has invested in their work and their future is guarded. There is plenty of opportunity for anyone to pay for a design or be influenced by design and this can only increase business but in a much fairer way. We are proof of it.

How much do you think my husband as a 'mere' designer has contributed to the British economy by protecting his unregistered designs? His first unregistered design gave birth to an enormous international industry which is worth billions, we employed hundreds of people, have helped hundreds of people start their own design businesses, Mark Wilkinson Furniture became a design leader and the largest selling company in the industry because we protected our Unregistered Designs. Was our Court Case worth it? Yes, regrettably, very few designers would take the plunge as we did and so their businesses must be allowed to grow with the protection by law, as was ours, for the betterment of our economy, our country and for mankind. **Cynthia Wilkinson is now a consultant for Crewroom. www.mwf.com**

MEMBER PROFILE: BELLY BUTTON DESIGNS

Rachel Hare, founder of ACID Member Belly Button Designs Ltd, shares her thoughts on design protection and ACID membership



Rachel's third baby Tom makes his debut at the National Sales Meeting.



- **Belly Button Designs** is an unusual name – how did you choose this as your trading name?

I studied at Edinburgh College of Art that I was awarded a scholarship to go to Greece to study at the school of art there. I spent three wonderful months in the beautiful town of Delphi, which ancient Greeks believed to be the 'navel' of the earth, hence the name Belly Button Designs. Everyone has always loved the name, it's important as it reflects the fun nature of the company. 20 years on we are often thought of as a new company because of our original fresh designs and our distinctive youthful name.

- **Did you have any design experience prior to starting your company?**

I didn't have any specific design experience before I started the company. I studied Fine Art at Edinburgh School of Art.

- **How did you start creating your products?**

Belly Button Designs was started by chance when a friend who had a card and gift shop asked me to make a range of handmade cards. They sold out quickly and I also sold cards from a café where I worked part-time. At this time I had a business start up package from The Princes Trust. This is when I exhibited at Spring Fair International which was sponsored by The Princes Trust, from there the business took off. At this time there were only a handful of handmade card companies in the industry – very different to now.

- **What about intellectual property rights? Were you aware of how to protect your designs?**

We have always been aware of intellectual property rights and the need to document and safeguard our them.

- **Have you had instances where your products have been copied?**

We have always been aware of copying. As a designer I think it is natural to recognise elements of your own style influencing others. When it is taken further it's difficult not to be upset. There have been instances both in the past and present where this has happened. It is very shocking and surreal experience, to see products that are clearly a copy of our work. It makes me feel very sad for the greeting card industry as a whole, when retailers and customers are not receiving the best products. As copies flood the market the overall standard and variety of design drops. This is quite damaging to an industry which sometimes struggles to be taken seriously in design. With such a wealth of talent within our industry it is disappointing to see this creativity being undermined. We invest significantly in design and the development of new products so that we produce innovative, unique and original designs, to have someone blatantly take our designs and use them for their own personal gain is very frustrating and unacceptable. Creativity is our strength! Protecting our success is key in order for the business to grow.



- **You have been nominated for and won awards such as The Henries and Gift of the Year. Does this help or hinder copying?**

Being nominated for and winning prestigious awards can help in terms of copyright issues as it serves to show who designed any particular products, making it more difficult for other companies to use those designs for their own gain.

- **What did you feel would benefit you by joining ACID and how have you used our services?**

ACID supports us in upholding the value of our designs and offering protection against infringement of copyright. We are sending out a clear message that we are protecting our success and the future of Belly Button Designs. We have been using the Marketplace Databank upload service to support our designs which has proved to be a very useful tool for us. We are currently actively working together with ACID to pursue instances of blatant copying.

- **You have uploaded many of your designs through the new ACID Marketplace. What do you like about the service?**

The ACID Marketplace data upload tool is a key tool for protecting our designs and products in a simple and easy process. It is reassuring to know that our designs are protected.

- **How did you feel when your Paloma design was featured on TV on The Only Way Is Essex?**

We were very excited to see our Paloma design on The Only Way Is Essex. It is always great to have any publicity where our designs are seen in a positive light, safe in the knowledge that we have uploaded them to ACID databank.

- **What would you advise entrepreneurs to do first when they start their own business?**

When starting up your own business I would advise entrepreneurs to pursue whatever it is you are passionate about, your energy from this will shine and get you through anything that the business world throws at you! You will reap the benefits of a business that was started on solid foundations. Perseverance is key and sheer hard-work is essential!

- **What would you like Belly Button Designs Ltd to be doing in 10 years time?**

I would love to see Belly Button Designs grow in the next 10 years and to still be at the forefront of innovative and creative design.



Rachel from Belly Button Design with Tom Stade receiving a Henries Award

belly button designs



Belly Button Designs Paloma new home card 'as seen on TV' in TOWIE



www.bellybuttondesigns.com

www.bellybuttonblog.com



Member News and Awards

ACID would like to congratulate all the Members who have been shortlisted and won awards this year.

Remember if you do win an award or want to share your news, contact the Membership office and we will be happy to add your story to our social media program to share with other Members.



Congratulations to ACID Member Simon Denver of Denver Designs, who has won an award at the British Craft Trade Fair - Highly Commended award for Excellence in Design.

He had this to say on his blog and website about the experience,

Last year was my first year - I had no idea what to expect, full of cold, totally unprepared. Didn't do too bad considering. I didn't win an award though, I remember that. I actually remember telling people I will win an award next year, just you wait and see! And yes indeed, I did win an award. Not sure if it's the power of positive thinking or just all the extra effort I put in to packaging, getting the pricing right, tweaking the products, and generally all the dozens of things you need to do to get a successful product launched. But it did the trick.



Simon Denvers with his British Craft Trade Award



ACID Member Thomas Bramwell, the innovative British company renowned for bespoke and beautiful outdoor furniture concepts and design has been selected by Kevin McCloud to display their recently launched Eco-collection at Grand Designs in May as one of the 'Green Heroes' companies.

Now our focussing on sustainable green and stylish up cycled-materials the ecological Bison range was specifically designed for award-winning landscape architects Aralia, and includes modular outdoor seating, loungers, tables and planters made from the upcycled (E.collection) material. Upcycling is the process of converting waste materials or useless products that generally end up in landfill into new materials or products of better quality or for better environmental value.



BISON FURNITURE AND PLANTERS
MADE FROM RECYCLED MATERIAL



Latest New Members List ●●●

Company Name	Industry ID	Company Name	Industry ID
Denise O'Sullivan Ceramics & Design Ltd	Ceramics	Emamooden Design	Graphics
Neil Jeffree - Product Design & Development	Ceramics	Ink Inc.	Graphics
Raewyn Harrison	Ceramics	Peter Reynolds Design	Graphics
Richard Bramble	Ceramics	Sarah Summers Illustration	Graphics
Virginia Wright Glass Design	Ceramics	A Is For Alphabet Ltd	Greetings Cards
Beth Sutherland Creative Studio	Childrenswear	Blackbird Designs	Greetings Cards
Blue Frog Toys Ltd	Childrenswear	CarolAnnDesigns	Greetings Cards
Jayne Gay	Childrenswear	Ella Creative	Greetings Cards
Ashley Thomas Ltd	Design Agency	Emma Burnett	Greetings Cards
RRuki designs (N.I.O)	Design Agency	Karoline Rerrie	Greetings Cards
V-eco Limited	Design Agency	Main Street Crafts	Greetings Cards
Allinthemaking	Fabrics & Textiles	Nancy & Betty Studio	Greetings Cards
Annabel Perrin	Fabrics & Textiles	Niche Arts Ltd	Greetings Cards
Charlotte Brown	Fabrics & Textiles	Rare Radish	Greetings Cards
Chloe Elizabeth Atkins Designs	Fabrics & Textiles	Raspberry Blossom	Greetings Cards
Clair Whyman	Fabrics & Textiles	RJF FARHI LIMITED	Greetings Cards
Cream Cornwall	Fabrics & Textiles	Snappy Crocodile	Greetings Cards
cushions covered	Fabrics & Textiles	Strawberry Bleu & Co.	Greetings Cards
DEEPAK WADHWANI	Fabrics & Textiles	Atelier Nomad	Interior Accessories
Julia Brooker Paintings Ltd	Fabrics & Textiles	Crossing Zebra S&G	Interior Accessories
Layla Faye	Fabrics & Textiles	Daughters of the revolution	Interior Accessories
Leah Nelson	Fabrics & Textiles	Denvers Designs	Interior Accessories
Lucy Levenson	Fabrics & Textiles	Mibo Ltd	Interior Accessories
Natalie Singh	Fabrics & Textiles	Molten Wonky	Interior Accessories
Sophie Crawshaw	Fabrics & Textiles	Drawn Surface	Interior Design
Terry Macey	Fabrics & Textiles	Roberta Fulford Design	Interior Design
The Faff Room	Fabrics & Textiles	Seema Shah	Interior Design
The Intercontinental Cooking & Tableware Co Ltd	Fabrics & Textiles	AneMi Design	Jewellery
Tradescant & son	Fabrics & Textiles	Bug	Jewellery
Wools of New Zealand (UK) Ltd	Fabrics & Textiles	Fay Page	Jewellery
Zip Us In	Fabrics & Textiles	Green Eye Rocks Limited	Jewellery
Alfred Dunhill Limited	Fashion	Griff (Great Britain)	Jewellery
Asia SONG Design Ltd.	Fashion	Leigh Shepherd Designs	Jewellery
James England LTD	Fashion	Mercian Forest	Jewellery
MAIA FRANCESCHI LIMITED	Fashion	Shlos	Jewellery
SnoKart Ltd	Fashion	Gareth Devonald Smith Limited	Lighting
Timothy Addison Ross Ltd	Fires & Fireplaces	Lux & Luxe	Lighting
Brave Design Ltd	Furniture	Martin Huxford	Lighting
GCL UK LTD	Furniture	Charlotte Gale Design	Product Design
General Aesthetics	Furniture	Craster Ltd.	Product Design
Hannah Stanton Furniture	Furniture	FreeForma	Product Design
Invisible City Limited	Furniture	James Purdey & Sons Ltd	Product Design
Liz Ret	Furniture	Johnson Magnetic Filters	Product Design
Lotties Design	Furniture	K&B Designs Ltd	Product Design
MAD Design Company Ltd	Furniture	Made Lovingly Made	Product Design
Rob Barker	Furniture	Nicholas Rose	Product Design
Robert Smith	Furniture	Noel Batt	Product Design
Simon Quick	Furniture	Picture Case Ltd	Product Design
Splinter Works Ltd.	Furniture	Robert Brunt	Product Design
Storm Furniture Ltd.	Furniture	Robert Chapman	Product Design
Alphadecs Design Ltd	Giftware	Scruffs	Product Design
BECKY BROOME LTD	Giftware	Sophie Tilley Designs	Product Design
Bespoke Verse	Giftware	Studio Bilge Nur Saltik	Product Design
Busy Being	Giftware	Graham and Leigh	The Arts
Coochy Coo Nappy Cakes	Giftware	J A Boyt Designs Ltd	The Arts
Gifts by Jenny	Giftware	Lucas Antics	The Arts
Happy Peeps Limited	Giftware	Props Unlimited Bespoke and Hire	The Arts
Love Your Nation Limited	Giftware	Monkey and Me Enterprises	Toys
Octavia Plum	Giftware		

ACID's Joining Criteria for New Members

In accordance with our policy that all new 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.



IPAN Event for World Intellectual Property Day
Terrace Pavilion, Westminster
28 April 2014
www.wipo.int



BCFA Event – IP Bill Update with Dids Macdonald
Salisbury Rd, London NW6 6NU
30 April 2014
www.thebcfa.com



Make Your Mark Open Day for Students
Goldsmiths College
Goldsmiths' Hall, London EC2V 8AQ
16th May 2014
www.thegoldsmiths.co.uk



Round table event with ACID & Davenport Lyons
Davenport Lyons, 6 Agar Street,
London, WC2N 4HN.
22nd May 2014
www.davenportlyons.com



Exclusively Housewares
ACID Accredited Exhibition
Business Design Centre, 52 Upper Street,
London, N1 0QH
10-11 June 2014
www.exclusivelyhousewares.co.uk

BRITISH LIBRARY EVENT WITH ACID IP STRATEGY SEMINAR

At a packed seminar at the British Library, design creatives heard Dids Macdonald and Gavin Llewellyn give advice on how to share creative work without being copied. All delegates were keen to have a better understanding of intellectual property, vital for anyone producing works - whether it's film, photography or design. Gavin, an IP expert covered image copyright, sharing work from the internet and how exchange of artists work can sometimes infringe on their copyright. Those present were also given tips on what to do if you discover what appears to be a copy of something you have created.

> Firstly, decide whether to take action or not?
If you have a registered UK or Community design, you have a certificate which says, effectively, you "own the design". If you have an unregistered design, you have to prove copying and provide a compelling audit/design ownership trail from seed of an idea to market-place. Whether registered or unregistered IP rights it's better to consult an IP expert on the strengths of your case.

> ACID members can obtain a free legal opinion, depending on the complexity of the issue. When the IP Bill is passed you can obtain a legal opinion for approx £200 from the Intellectual Property Office www.ipo.gov.uk. If you have a registered design, your lawyer will write a letter before action claiming unlawful copying of your registered right. Your registered right may be challenged. If you have an unregistered design right your lawyer will write a letter before action and you will be asked to provide evidence of ownership. ACID members have access to a Design Databank specifically for this purpose.



ACID at British Library – Maria Lambert IP Information Expert, Gavin Llewellyn, ACID Legal Affiliate and Partner Davenport Lyons, ACID CEO Dids Macdonald

> The majority of ACID's hundreds of settlements are based on unregistered designs (copyright, unregistered design right or unregistered trade marks). However, we always recommend registering designs, whenever possible www.ipo.gov.uk or in the EU www.oami.europa.eu. WHY? Because unless there are validity issues it will be more straightforward to enforce your rights. Copyright is not registrable in the UK so an audit trail is key for 2d designs, images, photographs.

> The Government recently introduced a Small Claims Track at the Patents County Court now renamed in October 2013, The Intellectual Property Enterprise Court and also confirmed that the small claims track for IP claims should work largely the same as the general small claims track. The Good news for SME's is access to a new Small Claims Track has set a limit on damages available on the IP small claims track at current general limit to £10,000.

> Briefly touching on issues surrounding 3D printing, Gavin Llewellyn highlighted the positives aspects including relatively cheap, fast production to order and the negative aspects of a potential increased risk of counterfeiting aided by fast production and the effect of private copying of original work.

For further information about image rights, take a look at the presentation on the ACID website

www.acid.uk.com



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HOTLINES...

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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. ©ACID 2014

