



## Intellectual Property Bill: Alliance drives issues forward

While primarily a vehicle to amend design and patent law, the Intellectual Property Bill, announced in the Queen's Speech and currently going through Parliament, presents an opportunity to address other anomalies and close legislative loopholes that have been of long-standing concern to the Alliance and our members.

Its measures to increase the level of protection for UK designers and introduce criminal sanctions for deliberate infringement of registered designs are very welcome. Ensuring designers have the same level of protection afforded to copyright owners has long been a campaign issue for the Alliance, and particularly for ACID (Anti-Copying in Design), one of our members. However, for any such changes to have real and lasting benefit for the UK's design community criminal sanctions must also apply to the deliberate infringement of unregistered design rights. The vast majority of designers (many of which are individuals and micro-businesses employing less than 10 people) rely on unregistered rights. This is evidenced by the fact that even though there are 350,000 designers in the UK only around 4,000 designs are registered each year with the Intellectual Property Office. Even ACID, with its 1,100 members had approximately 25,000 designs lodged in its Design Databank last year. We will be pressing the Government to amend the Bill to include deliberate infringement of unregistered designs.



ACID member's design (top) and lookalike (bottom) - original or copy?

The proposal to introduce a new statutory duty on the Secretary of State to report annually to Parliament on how, in his opinion, the activities of the IPO have supported innovation and growth in the UK is similarly a positive step forward and provides a much-needed focus for the IPO's activity. The report will cover new legislation and policy developments including those related to copyright licensing as well as the services delivered by the IPO. However, any measurement must be quantified and include some reference as to how the IPO's activities have supported IP-dependent businesses and IP rights.

In addition, the Intellectual Property Bill provides an opportunity to resolve some anomalies in IP legislation for which the Alliance has been campaigning, including:

### ■ Increasing penalties for digital copyright theft

Criminal offences for physical copyright theft have maximum penalties of ten years imprisonment while the same offences committed online attract maximum penalties of only two years! Criminal sanctions should not be dependent upon whether the offence is taking place in an online or physical environment. This Bill presents an ideal opportunity to fix this anomaly.

### ■ Providing a proper remedy for parasitic packaging

Greater protection is needed for businesses and consumers against 'copycat' packaging of goods or services. Packaging consumer products to mimic familiar branded products free-rides off those companies who have invested in building those brands and also misleads consumers and distorts competition. The copy bears none of the cost of building that reputation while reaping significant reward in terms of incremental sales and "assumed" reputation and quality. At the same time the brand is disproportionately damaged. With current legislation ineffective, this Bill is an ideal vehicle to provide much needed clarity in the law.

## APPG fact-finding trip to Brussels

In March, members of the All-Party Intellectual Property Group visited Brussels in order to better understand the current political debate in Europe on intellectual property. They met with British MEPs, officials from the European Commission as well as officials from the UK Representative in Brussels.

The Group came away concerned that the UK government is pressing for reform of IP law that is not in the interests of UK IP rights owners,

businesses and creators. Chair of the Group, John Whittingdale MP, said, "We were very concerned to hear that the UK, with its international reputation for producing high quality content which is sought after around the world, is lobbying for a weakened copyright framework alongside those who have little creative industry output such as the Nordic countries and the Netherlands".

The Alliance will continue to work with the MPs and Peers of the All-Party Group to get the government to clarify its position with regards to IP and Europe and ensure this is underpinned by a full impact assessment.



Members of the All-Party Parliamentary Group in Brussels

## Honorary President Lavinia Carey reflects on 15 years of the Alliance



Having worked with ten ministers with the IP portfolio over the years, when asked to name her favourite, Lavinia without much hesitation says “David Triesman” but “perhaps that’s just because he wasn’t around long enough to disappoint!” she laughs.

Lavinia is a campaigning stalwart of the IP community and the Alliance was incredibly lucky to have her as its chair for fourteen of its fifteen years and now as its Honorary President. Not only that, it is safe to say that without her vision and drive, there would be no Alliance and the strides that have been made by the Alliance’s unique cross-industry lobbying would not have taken place.

So how did the idea to create this ‘Alliance’ come about? “Long before I joined the British Video Association, the audio-visual industry had set up FACT to carry out its enforcement activity. From working closely with FACT and its then Director General, Reg Dixon, it became clear that the problems we were facing, such as copyright theft not being a serious arrestable offence, trading standards not having the power or duty to enforce copyright law, the police not understanding the links between IP crime and organised crime, were felt by enforcement agencies across the rights holder community. Illegal traders were even attempting to divide and rule. They would ask whether, if they switched to other counterfeit products, FACT would then leave them alone! Forces clearly needed to be combined!”

Lavinia set out to find a solution. Using the FACT model and her connections across the rest of industry, she set up the Alliance Against Counterfeiting and Piracy, the forerunner of the Alliance for Intellectual Property.

“We thought it would be a two-year project to see through our wish-list of legislative reforms but very quickly we started to see movement in a number of areas. The Government adopting

three key measures on length of penalties for copyright offences, seizures and forfeiture and packaging them into a Government hand-out Bill meant that this was a very attractive option for MPs high in the private members ballot. They knew that, with Government backing, they could make an important change to the ability of creators to protect their work and see a piece of legislation with their name on it! We were delighted that Vince Cable took this forward. This then gave us momentum and, buoyed up, we set about grasping other opportunities to raise the importance of intellectual property rights and the enforcement problems being faced. This led to IP offences being included in the Proceeds of Crime Act, IP crime being included in the UK Threat Assessment, the creation of the IP Crime Group and IP being included in the Serious Organised Crime Agency’s programme boards. Developments we previously could of only have dreamed.”

*“If I had to point to one thing as the Alliance’s greatest success it would have to be its ability to speak as a single voice across what might be viewed as different sectors with a solution-led approach. It is this success which has led to many, many others.”*

Fifteen years later, what does Lavinia see as the biggest challenges facing the Alliance? “We have made tremendous strides in getting law enforcement to see the connections between IP crime and other criminal activity, and in getting law enforcement to see the business harm this causes; IP is much higher on the political agenda. However, the important role IP rights play at the heart of businesses up and down the country is still not fully recognised by others in the Department for Business. IP rights need to be seen as a business asset as opposed to a by-product of an enterprise. That’s why last year was the right time to change the Alliance’s name and emphasis on promoting IP, as well as defending it.”



Lavinia Carey, Lord McNally and John Anderson (the then Director General of the Anti-Counterfeiting Group) at the launch of the Alliance Against Counterfeiting and Piracy (the forerunner of the Alliance for Intellectual Property).

## 15 years of the Alliance in figures!

- ★ Less than 15% of people were connected to the internet in 1998, compared to over 80% in 2012. More than 93% adults own or use a mobile phone today, compared to 25% in 1998. Ofcom research shows that accessing creative content is a big driver in consumers buying new technologies.
- ★ There are now around 70 legal digital music services that serve the UK, the largest number of music services that are available to one country in the world.
- ★ There are also a growing number of ways to access films and television. In 1998, the DVD was on the cusp of replacing the video tape as one of the most popular ways to view video content. In 2013, DVDs are changing to include new ways to watch, including the new UltraViolet system which allows people to download and stream content along with their physical copies.
- ★ The Premier League has grown from a turnover of £281m in 1998 to £2.4bn in 2012, creating real boost to regional economies across the country and making the UK home to one of the world’s most successful brands.
- ★ The first book of the Harry Potter series was published in 1997, growing into a global phenomenon responsible for a series of highly successful films, video games, toys, theme parks and more.
- ★ In 1998, estimated online retail spend in the UK was £0.4m. Most recent figures suggest that the online retail market is now worth over £50bn.
- ★ The numbers of counterfeit goods seized in EU has risen from 1million in 1998 to 114 million in 2011. This is both a sign of the greater effectiveness of measure taken to stop transport of infringing goods, and a demonstration of the ongoing scale of the problem across the EU.
- ★ There have been 6 Ministers since Lord Triesman took the post in 2007, 10 Ministers with an IP portfolio, and countless number of Bills, initiatives and reviews on IP policy. The Alliance has been at the forefront of the development of IP policy in the UK for the last 15 years and will endeavour to be so into the future!



## Behind the brand – AkzoNobel



**Christopher Ellis, Director of IP at AkzoNobel Decorative Paints discusses the importance of IP rights to protect, promote and innovate across its range of brands and products.**

AkzoNobel is home to some of the best-known household brands in the UK including Polycell and Cuprinol and its leading paint brand Dulux is a globally recognised name.

Manufactured for more than 80 years, Dulux paint has an enviable and established reputation as the world's leading brand of premium quality paint.

Without a strong IP system, our brand integrity and our unique offering to customers would be eroded and our ability to invest would be impaired.

Our products are distinctively packaged to stand out on the shelf and we register as trademarks our brand names, our sub-brand names, our logos and key features of our livery so that customers recognise AkzoNobel products, such as the Polycell tick and the Hammerite shield.

We recently introduced our new logo that we call the "Flourish" to unite our Dulux brand name and the brand names we use elsewhere in the world and we have supported its protection via trademark registrations worldwide.

We also use design registrations to protect the design elements that make up the "look-and-feel" of cans, brushes and product applicators and copyright to protect the extensive portfolio of images needed to show room-sets and colour ranges.

While customer loyalty and trusted quality have been central to the longstanding success of our brands, at the heart of our operations is creating new solutions for global challenges through developing the most innovative products for our customers.

In addition to our well-known paint brands, this includes products which provide the essential ingredients in everything from ice cream to asphalt, soup to soap, and plastics to paper. In 2012, AkzoNobel invested £319m in RD&I globally, accounting for 2.5% of 2012 revenue – more than any of our competitors in the industry.

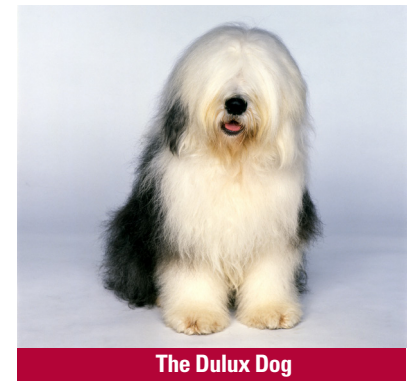
A key focus of our innovation is on a positive environmental impact, for example in reducing the use of titanium dioxide and solvents in paints. We have also been working recently on developments in digital colour matching to make it easier for consumers to select colours and in innovative effects in applying paint.

It takes time and investment to develop these important advances and the patent system is vital, not only to encourage businesses like ours to invest in such developments, but also to share knowledge with others to spur further innovation. And of course, we cannot talk about intellectual property without referencing the mascot of our best-known UK brand: the Dulux Dog.

The Old English sheepdog is an important brand asset for us, but it also creates its own challenges to ensure that others do not try to use similar dogs to create an association with our brand or damage our reputation.

From our iconic canine to our premium products, IP will continue to be integral to AkzoNobel as a business built on heritage and strong brands, helping us protect our innovative and sustainable developments long into the future.

**AkzoNobel are sponsors of the Alliance's Annual Summer Reception.**



## Social networks questioned by Home Affairs Select Committee

The Home Affairs Select Committee is continuing its investigation into e-crime, taking evidence from representatives of Facebook, Twitter and Google on the role of social networks.

E-crime on social networks is a growing problem for rights holders, as those seeking to make a profit from infringing intellectual property rights use these networks to advertise and sell their products, sometimes by tricking the consumer into believing that they are buying from a legitimate seller.

In a letter to the Committee, Director General of the Alliance Susie Winter highlighted that need for Government to help industry tackle issues such as IP infringing products appearing high on search engine results and problems associated with checking the identities of those registering and running illegal websites.

## Government publishes draft Consumer Rights Bill

A draft Consumer Rights Bill has been issued by the Government for consultation until 13 September 2013. Announced in the Queen's Speech the draft Bill seeks to clarify consumer rights in relation to the purchase of digital content and streamline consumer legislation into one document. It also proposes reforms to trading standards' powers. The Alliance is delighted that a number of concerns we raised with the proposed reform of TS powers have been addressed and will be considering the proposals relating to digital content carefully. In addition, this may be an ideal opportunity to deal with the huge problem of consumer confusion online. The internet has become an online shop window for illegal goods and consumers are unaware that many of the sites they are directed to by reputable search engines are selling, or providing access to, illegal goods. Any piece of legislation designed to protect consumers must address these problems.

## Committee concludes investigation into Creative Industries

The Culture, Media and Sport Committee has concluded their investigation into 'Support for the Creative Industries'. The Committee took evidence from stakeholders from across the creative industries, including Alliance Chair Richard Mollet, Honorary President Lavinia Carey, as well as representatives from other Alliance members, on topics ranging from the Government's attitude to copyright reform to tax-relief to attract the production of productions in the UK.

Intellectual Property Minister Viscount Younger and Culture Minister Ed Vaizey also provided evidence to the Committee on the Government's IP and creative industries policy.

The report, which also investigates the impact of the Hargreaves Review, is due out later in the year. The Alliance's submission to the Committee can be viewed on our website.



## EU Update

### Trade Mark Directive review

A strengthening of rights of trade mark owners is currently under review by the European Union as part of its update of European Community Trade Marks to help tackle counterfeiting. A document published by the European Commission earlier this year stated that it was "evident that there is an urgent need to have in place a European legal framework enabling a more effective fight against the counterfeiting of goods". As part of these proposals, the Commission recommended that trade mark owners have stronger powers to stop transit of goods from third countries, a move welcomed by rights owners in the fight against counterfeit goods.

### Stakeholder dialogues underway

A joint initiative from three Commission Directorates General (Connect, Markt, and Education & Culture) has seen the launch of a series of stakeholder dialogues on copyright law in the digital age. The dialogues are focusing on six particular areas: the cross-border portability of content; private copy levies; user-generated content; data and text mining; access to audiovisual works; and cultural heritage. Alliance members are individually inputting into these dialogues, helping inform discussion on role robust copyright laws play in as the basis for the UK's world-beating creative industries. Further information on this initiative can be found on the European Commission website.

## View from the Chair



**Richard Mollet**

We are now more than half way through the UK's first ever fixed term parliament and, despite the increasing pressures within the Coalition, it is still most likely that the next General Election will be on May 7 2015. Between now and then the IP Bill, recently introduced to the House of Lords, will have become law and we'll probably have seen a number of measures on copyright exceptions introduced.

So this is a good time to take stock of the political view of intellectual property and begin to consider what we want from our politicians beyond 2015.

Looking at current polling it is very possible we could have another coalition government – albeit one with a different hue. This means we

have to prove to parties of all colours why intellectual property is vital to this country's prosperity and cultural life. We are in a great position to do that. Unlike some issues, IP policy is not about left or right ideologies: it's about people from all backgrounds being able to earn a living from their creativity, about businesses being able to invest with clarity and the general public continuing to be able to enjoy the brands, music, books, films and sport they love.

Yet we face strong opponents who, for either ideological reasons or for commercial imperatives, seem convinced that intellectual property is a bad thing. These people dress up their arguments in lots of different ways but ultimately whatever we do to improve access to content for people, invest and compete transparently it won't be enough.

So in the run up to 2015 we need to redouble our efforts to make IP central to the debate on the economy. We need to have the leaders of businesses who rely on IP for their success champion it; to have individuals whose livelihoods depend on IP talk to their local candidates about it; and we need to suggest reasonable measures that will protect IP, both in the physical and online world. Above all, we have to break through the myths and propaganda being spread by our opponents and expose the damage their beliefs would have. In the next few months we are going to be consulting across business and creators to understand their priorities for the next few years, then make sure our politicians hear those views loudly and clearly.

## Find out more

Find out more about the Alliance for Intellectual Property:

Via our website: [www.allianceforip.co.uk](http://www.allianceforip.co.uk) | Via Twitter: @AllianceIP

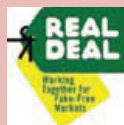
## News in Brief



### Business Committee reviews support for retail sector

The Business, Innovation and Skills Select Committee is continuing to take evidence on the health of the UK's retail sector. The Committee is looking at a range of issues, including the impact of online and direct sales to retail and the effectiveness of regulation in the sector.

The Alliance took the opportunity to raise issues such as the impact that the trade in fake goods, both online and at markets, has on legitimate retailers.



### Real Deal Campaign goes from strength to strength

During 2012 there was a 30% increase in the number of markets operating the Real Deal charter. Around 20% of all general retail markets, Sunday markets and car boot sales are now represented. The National Markets Group (the enforcement arm of the campaign) has also seen significant success with the closure of Grey Mere Lane market, previously one of the worst markets in the country.



### New TSI Chief Executive

In April, the Trading Standards Institute announced Leon Livermore as its new Chief

Executive. Livermore has been involved in trading standards for 25 years, starting his career as a trainee Trading Standards Officer in Kingston-Upon-Thames.



### The Content Map reaches 25,000 site visits

The Content Map, an initiative between rights holders to show the wealth of services that allow safe and legal access to digital content online has reached a fantastic 25,000 site visits.

The site, which allows users to find legal ways to access audiovisual, music, game, book and sport content, also features a search function, which allows users to check whether a website is legitimate. You can visit the site at [www.thecontentmap.com](http://www.thecontentmap.com)