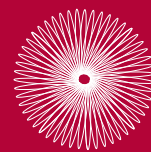


IP Update

Summer 2010



ALLIANCE
AGAINST IP THEFT

Alliance calls for action on IP

The quality of Britain's cultural and economic life today, now more than ever, relies on IP. To promote this, the Alliance launched a 'Manifesto for IP' which outlines a clear action plan for the new Government.

British consumers treasure British brands, British creative talent and output. From films such as Harry Potter and Slumdog Millionaire and artists such as Coldplay and Leona Lewis to the Mini, Dyson vacuums, Dr Martens, top selling video games, the Premier League and Scottish whisky brands, the quality of British creativity, innovation and design is simply world class.

But the deterioration of respect for, and appreciation of, IP and the lack of effective protection for IP rights could have a very damaging long term effect on our cultural and economic landscape.

Given the significant role IP can play in so many of the Government's core policies, the Alliance is calling on the new Government to make

the tackling of IP crime an early political priority. From reducing overall crime and regenerating towns and cities, to more effective governance and stimulating economic growth, action on IP theft is central to the issues all political parties claim to be their priorities.

Specifically, we assume the Government would want to:

- Create the right environment for economic growth
- Encourage respect for others and their property
- Reduce crime and promote safer communities
- Protect consumers
- Instil values

It therefore follows that taking firm action and placing IP at the heart of policy will enable achievements to be seen in all these areas.

A copy of the manifesto can be downloaded at www.allianceagainstiptheft.co.uk/downloads/pdf/Manifesto2010.pdf

More and more markets becoming the 'Real Deal'



Steve Lynch, Essex Trading Standards and Chair of LACORS IP Group endorses the Real Deal campaign

The Real Deal campaign is going from strength to strength. Not only has the campaign received the endorsement from and support of the UK Intellectual Property Office, but crucially has been taken up at markets across England and Wales. Manchester's became the first local authority-run markets to adopt the Real Deal when the City Council committed all the markets it runs to the campaign, closely followed by

markets operated by Liverpool City Council. But importantly, the campaign is also attracting support from private market operators with Groupe Geroud, amongst others, also signing up to the Real Deal's National Charter.

Markets continue to embrace the campaign and a full list of participating markets and authorities can be found at www.realdealmarkets.co.uk

The effects of the campaign have also been seen in enforcement efforts of Alliance members and trading standards with the notorious Cross Green Market in Leeds being closed following cooperation between industry and Leeds City Council. Manchester City Council has now started to take steps to tackle the infamous Connon Street and Grey Mere Lane private markets. These are excellent results and go a long way to ensuring people can shop with confidence at these locations.

In addition, a highly successful seminar for trading standards, market operators and brand owners was held in London in March to discuss the challenges of getting fakes off markets, with the Real Deal Campaign showcased as an importance solution. John McHale of Liverpool Trading Standards talked about the benefits his authority has seen from being part of the campaign, with further support and advice given by members of the ACG in how to spot fakes.

For more information about the campaign please email patricia@realdealmarkets.co.uk





Giles York

You can forget about flashing lights and fast cars (*Audi Quattro anyone? Ed*). When asked the obvious question of ‘why did you decide to become a policeman?’ Giles doesn’t hesitate in his response. “Because I wanted to have fun!”

“When I left university friends who were lawyers and accountants kept telling me how boring their jobs were but that they were earning lots of money at the end of day. The only person I met who really seemed to enjoy his job and couldn’t wait to go to work each day was a policeman in Islington and I thought, ‘That’s what I want!’”

All this was 20 years ago now and Giles has served in forces in Kent and Wales before ending up close to home back in Sussex. So, has policing changed over this time? “In a manner, yes. The biggest shift has been in relation to accountability. We are now far more accountable to the public and communities, changing from an organisation which did things to you to one which does things that you want them to do.”

Giles is acutely aware of the challenges faced by those from industry involved in IP protection and enforcement in getting police forces interested...

Giles adds, however, that it is often easy to generalise about what people want from their policing, “In actual fact, the vast majority of people, thankfully, go through their lives with no police contact at all. The thing is though that when they do have contact it can have a huge impact, leaving a lasting impression. I met an 80 year old lady who recounted to me in great detail a conversation her father had

Giles York, Deputy Chief Constable of Sussex Police, ACPO lead on IP and Chair of the IP Crime Group.

had with a policeman. Given her age I asked when this was. 1935 was the reply!”

The Alliance’s relationship with Giles stems from his appointment to two key roles – first as IP Lead Officer for the Association of Chief Police Officers (ACPO) and then as Chair of the IP Crime Group. This interest in IP came about following work with the Welsh Regional Intelligence Unit becoming the National SPOC for BPI intelligence sharing.

These appointments have proved invaluable in raising awareness of IP crime within the policing and enforcement communities. “Being ACPO lead officer for IP allows me to act as a point of contact for forces across the UK for any questions/issues they may have in relation to fighting IP crime. Within ACPO, IP importantly sits alongside economic crime which includes fraud and e-crime – two areas closely connected to IP crime. This enables me to feed the work that the IP community is doing into these fraud and e-crime units across the country.”

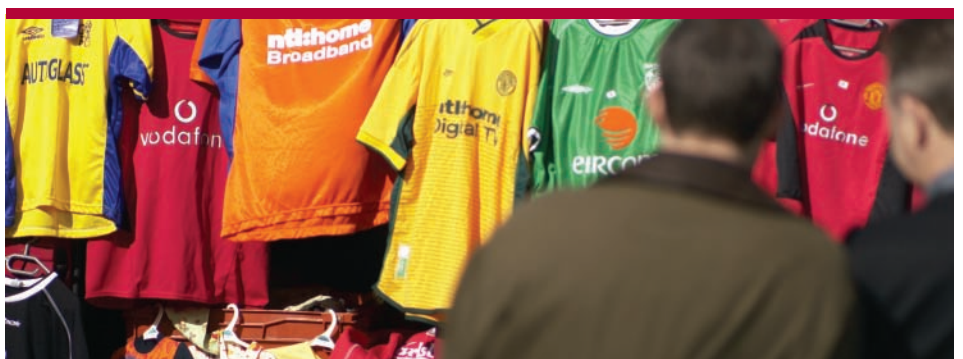
However, Giles is acutely aware of the challenges faced by those from industry involved in IP protection and enforcement in getting police forces interested and acknowledged that levels of understanding can be very low. “Policing today has a huge number of priorities, internationally, nationally and locally. IP crime only really becomes important to the police when it is associated with other types of harmful criminality such as human trafficking, close association with drugs and vice and when it is associated with significant financial loss or criminal gain. It remains important to press home that very rarely do we have single issue criminals. They will turn to any criminality which is financially beneficial to them, and often the weak link in such criminals’ ‘portfolios’ is IP crime. Giles says that he tells colleagues that just as Al Capone was eventually imprisoned for tax avoidance, one way of tackling serious

criminals is through targeting of IP crime. Giles’ advice to Alliance members? “Focus your messages on issues which are of concern to the public. At the end of the day, the police are merely a reflection of society. They too are consumers and parents and don’t want to be ripped off or sold products which could threaten them or their families’ safety.”

Nowadays, with websites in one country, servers in another and criminal bank accounts in a third, it is not that simple.

When asked about other challenges facing those tackling IP crime, Giles says that funding will be a big issue “Without a doubt the financial climate is going to make things tougher. Calls for another priority to be added into an already packed agenda competing for limited funds will be difficult to be heard. That’s why I support the Alliance’s approach of linking work on IP crime to existing priorities – consumer protection, economic growth and safer communities.” Giles also pointed to the impact the digital environment is having on the changing nature of IP crime, saying that when you were dealing with a seller of pirated music tapes at a car boot sale it was easy to see where the crime was being committed. Nowadays, with websites in one country, servers in another and criminal bank accounts in a third, it is not that simple. “We are grateful to industry in helping us understand and unravel this.”

Giles’ final piece of advice is about co-operation. “Never underestimate the importance of working together and learning from each other. Even though IP crime may not feature in mainstream policing, my work as chair of IP Crime Group has demonstrated how much we can actually learn from each other’s strengths and the importance of being patient with each other’s limitations.”



A welcome from the IPO's new Chief Executive



John Alty

Having joined the Intellectual Property Office in February, I am relishing the challenges posed by the world of intellectual property. My inbox contains a vast array of issues: from tackling global patent backlogs to modernising our registration functions for trade marks, the shape of our copyright system and, of course, work on tackling counterfeiting and piracy.

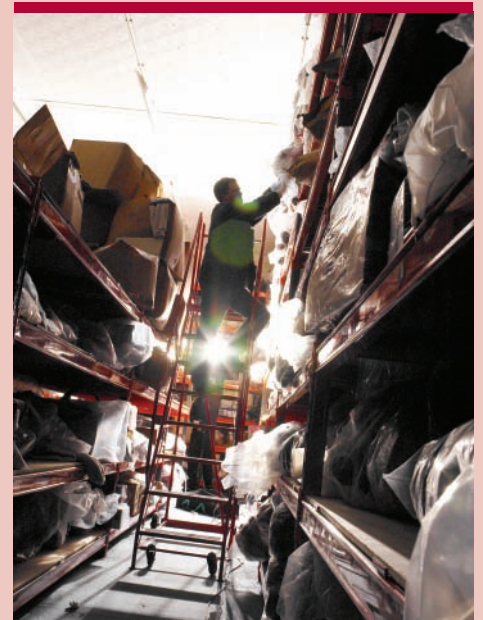
At first glance these may seem like a disparate group of issues but there is a common thread: ensuring that intellectual property is valued, exploited and respected. These are aims that we all share.

While I have only been in post a short time, it is clear to me that IP crime is a serious problem. Its impact is not only economic – although clearly that is important. It affects local communities and local prosperity – hitting local businesses and linking to wider criminality. It also threatens the health and safety of consumers. Prior to joining the IPO I led the Department of Business, Innovation and Skills' work on consumer protection and enforcement so I have witnessed at close-hand some of these challenges.

I have already been learning about the wider range of activities being undertaken by industry and enforcement agencies to tackle this problem. The Alliance Against IP Theft is clearly playing a major role. I have been particularly encouraged by what I am hearing about the level of collaboration, with everyone I have spoken to telling me that real improvements have been made over recent years.

The focus on intelligence led enforcement, awareness raising and training and the

spreading of best practice seems to be delivering results. I am sure there is more to be done but people have been very positive about what has been achieved and there is clearly enthusiasm for what more can be delivered by a continued focus on partnership working. The role of the Intelligence Hub in providing practical support to investigations has been highlighted by many as a key factor – which is very encouraging to hear. I shall want to maintain a strong focus on this work.



Digital Economy Act Update

►► Much relief was felt amongst Alliance members on April 12th when the Digital Economy Bill finally passed into law to become the Digital Economy Act.

This is an important piece of legislation which, for the first time, gives ISPs a specific legal duty requiring them to work with copyright owners in tackling the ongoing, and growing, problem of illegal P2P filesharing. The Act introduces two new statutory duties on ISPs:

- 1) To notify their subscribers if copyright owners have identified infringing activity taking place on their accounts.
- 2) To keep a record of which subscribers repeatedly infringe copyright in order to enable copyright owners to take targeted legal action.

The introduction of this simple process by which, when identified by copyright holders, ISPs can write to their subscribers alerting them of this fact and supplying them with, for example, the information needed to secure

their wireless connection or information on where content can be accessed legally, has the potential, we believe, to encourage the vast majority of people using unlawful filesharing services to switch to any one of the numerous legal alternatives.

However, our work has not finished. The Act provides for the detail of how these obligations will be implemented, to be decided by a Code of Practice. The drawing up of such a document is being led by Ofcom and the Alliance is working closely with them, ISPs and other copyright owners, to ensure the process is open, proportionate, transparent, robust and, most importantly, effective in tackling illegal P2P filesharing.

Who pays?

However, a crucial, yet still undecided, issue is that of who pays. The proposal put forward by the Government on which it is consulting as we go to press, is that copyright owners will pay 75% of the ISPs' costs associated with setting

up their systems to enable these obligations to be fulfilled, with ISPs paying 25%. This is unfair and unacceptable. The expectation that copyright owners will be required to bear the majority of the costs of this process fails to take into account the benefits ISPs will draw from both the reduction in infringing activity on their networks and the significant marketing opportunity it offers. We are campaigning for the significant sums of money copyright owners commit to investigating and detecting infringement to be included in any cost calculation. Such costs, as opposed to being 'discretionary' as stated in the consultation, are absolutely fundamental to delivering the goals of this legislation and are costs forced upon copyright owners because of the vast scale of infringements taking place over ISPs' networks.

The Alliance's full response to this consultation will be available at

www.allianceagainstiptheft.co.uk/current_responses.html

Dan Guthrie of Luther Pendragon considers the implications of the new government

▶▶ The new coalition is offering a new type of politics, at least that's how its two leaders are describing it. Whether that new politics can defy what are clearly very differing, if broad, churches of opinion within each party over the length of a whole parliament is deeply uncertain. Tough decisions to tackle the deficit will bind the coalition together for its first period of office. That crisis won't last forever; as economic prosperity returns and decisions

are required on distributing that growth, however small it might be, differences over taxation and the role of the state could return to split the coalition. For those with an interest in intellectual property policy, the new ministers across government departments have expressed significant support for our cause in the past; translating that into delivery of policy will perhaps be more complex, but no less rewarding.

Branding in a modern economy



▶▶ Wealth generation has never been more important for the UK economy. It is well known that brands – those products and services that appeal so strongly to consumers – generate great value for companies, sometimes

accounting for well over 50% of market value. However what is the value to the UK economy? Can that value be leveraged? How does the UK measure up against other worldwide markets as a place in which to create and build brands?

In November the Intellectual Property Office, in partnership with the CBI and British Brands Group, held a conference to explore these questions. Titled "Branding in a modern economy", it was attended by Government, NGOs and companies and looked at the policy context for brands, the SME dimension and the link to export performance.

A report of the conference (available at www.ipo.gov.uk/branding-confreport.pdf) identified some twenty areas worthy of further investigation in making the UK a better place in

STOP PRESS

▶▶ New IP minister

Baroness Wilcox has been appointed as the new IP Minister in the coalition government. A Conservative peer, Baroness Wilcox is a former chair of the National Consumer Council and is currently President of the Trading Standards Institute. The Alliance looks forward to working with our new Minister to ensure that IP in the UK is valued, respected and protected and as part of that process we are in the process of organising a date for our first meeting so we can talk through our priorities.



Baroness Wilcox

which to build brands. A Government response to that report is now awaited, potentially putting a spotlight on an area of wealth generation hitherto largely ignored in policy.

NEWS IN BRIEF

■ Customs consultation

The Alliance has responded to the EU consultation on reform of EU customs regulations stating that:

- Customs should be able to seize and detain pirated and counterfeit goods in transit through the EU, whether between member states or between third countries;
- There should not be a threshold for customs enforcement action;
- A mechanism is needed to allow customs to share enforcement intelligence with rights holders;
- Where possible the infringer should be liable for the storage and destruction costs of IP infringing goods.

■ Copyright exceptions

The Alliance has also responded to the Government's follow up consultation on the reform of the system of copyright exceptions as recommended by the Gowers Review.

While the Alliance does not believe in a need for wholesale changes to the current system of exceptions – or indeed the introduction of any new exceptions – we recognise that some reform might be necessary to reflect changes in technology.

Visit www.allianceagainstiptheft.co.uk to download a copy of this submission.

■ Reform of damages

Since our last newsletter the Government finally published its response to its consultation on damages. Unfortunately, it has remained firm in its position not to introduce exemplary damages for IP cases. This is disappointing as the Alliance is clear in its view that such deterrence is needed in relation to cases involving IP infringement. We will be taking this up with the new Government.