

THE MONSTERFACTORY™

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Andrew Gowers
HM Treasury
1 Horse Guards Road
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SOA

Recd 18/04/06
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Dear Andrew Gowers

I understand that you have been invited to head a Review of intellectual property by The Chancellor of the Exchequer. I am a member of ACID (Anti Copying In Design, an independent trade organisation whose sole objective is to assist its members in the protection of their intellectual property rights. The Monster Factory employs 4 with an annual turnover of £250k. I estimate that losses to our organisation through copying amounts to an estimated \$75k+ per annum.

Dids Macdonald, ACID's Chief Executive recently met with the review team to put forward ACID's objectives and I would like to take this opportunity to endorse ACID's list of priorities to ensure that they are given due consideration in your recommendations.

- Unlawful Imitation - the introduction of a new law of unlawful imitation (but only to bring the UK in line with the majority of other European countries on unfair competition), thereby eliminating one of the most costly, time consuming and difficult legal remedies for many small companies to rely upon, that of "passing off"
- Addressing the disparity between copyright owners and design right owners (why should a furniture designer have more rights than, say, an illustrator? Why should an author have moral rights and not a lighting designer?)
- For design right infringements to have criminal sanctions - at the moment there is little disincentive to copyists encouraging design theft as a "soft touch"
- Inclusion of design infringement in the UK's National IP Crime strategy (at present designers do not have a voice in national policy in The Patent Office Report's current format)
- An increase in exemplary damages to discourage the culture that its OK to copy and free ride on another's design ideas
- A national design infringement mediation scheme - based on ACID's already successful grass roots mediation initiative (over 1600, less than 30% required further legal action)
- Educate to Protect - a national educational scheme to encourage understanding and knowledge of IP as a positive tool to exploit and underpin innovation focussing on practical tools of self help, such as generic industry standard legal agreements
- Pressure placed on design buyers to make a publicly declared inclusion in their CSR's of support for the creative industries, respect for intellectual property rights and a commitment to "commission original work and not copy it".
- Influence and pressure should also be exerted on those design buyers when caught out to be discouraged from stonewalling challenge and perpetuating litigation fuelled by their legal purchasing capability. IP lawyers, too, have a responsibility to work within recognised and regulatory frameworks, there are some that hide behind time wasting smokescreens of legalese and should be discouraged. What other profession regulates itself?
- A highly visible National Intellectual Property insurance scheme, accessible, affordable and available to all innovators. We insure our cars, houses, why not the value created in our IP - what better deterrent could there be against copying?
- Greater promotion and awareness of the relatively new and much unpublicised registered UK and registered Community design right lasting 25 years in 25 member states. Having a monopoly right, a certificate which says you own a design, is much less legally expensive to pursue if there is an infringement because you don't have to prove copying. Again, there is a deterrent element in publicising such a registered design on marketing literature, websites, etc.
- The Appointment of a Government Minister - Managing Intellectual Property. A dedicated Minister who will ensure that there is a coordinated effort to place intellectual property and exploitation as a national priority.

A copy of this letter will be sent to ACID and I do hope that our organisation can look forward to a high priority being placed upon these issues which affect many thousands of designers and manufacturers, not only ACID members, but those who rely on design rights in the protection of their IP.

Yours sincerely,


Martin Grix
Director

Cc: Ms D Macdonald, CEO, ACID