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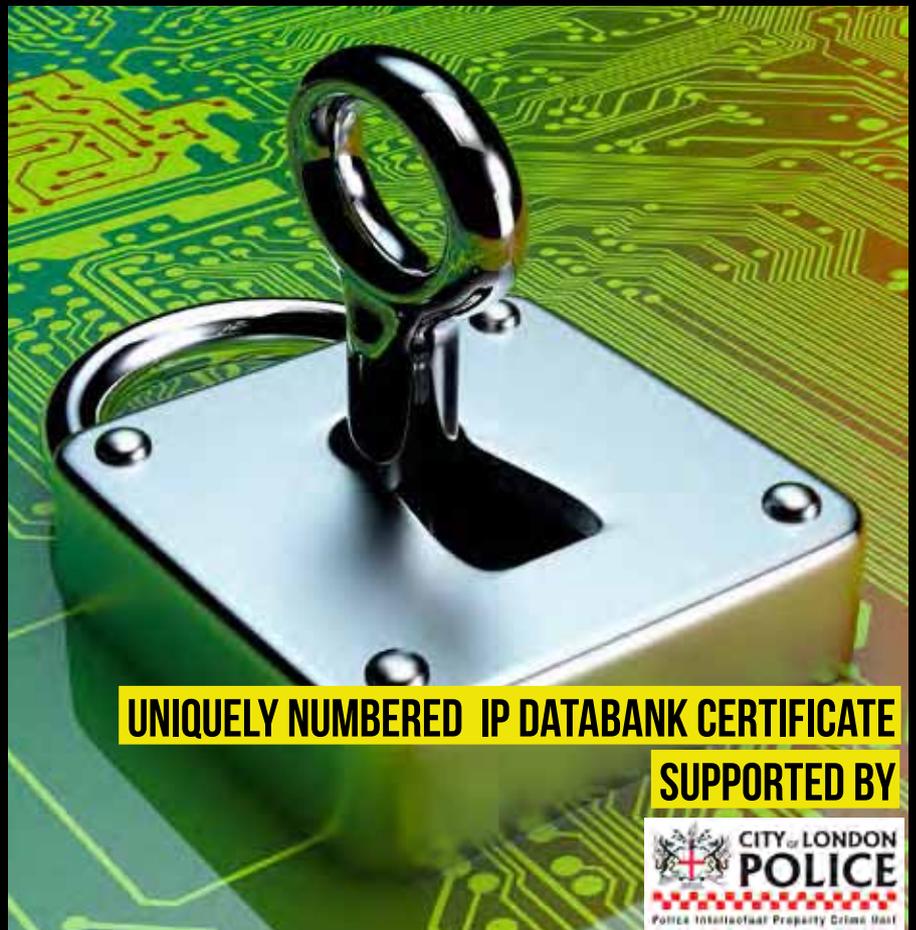
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ACID: THE VOICE AGAINST DESIGN THEFT



UNIQUELY NUMBERED IP DATABANK CERTIFICATE

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2017

CAMPAIGNING UPDATE

Brexit – EU UDR campaign & survey. The survey has now been completed and ACID has just shared its findings with the IPO, DIT and DeXEU MPs, Ministers and other key influencers. Headline statistics? No surprise – 90% felt design theft was blatant, 100% wanted a new UK unregistered UK design right law to mirror current EU unregistered design law and 99% were concerned, ranging from slightly to very, about changes to protection of registered and unregistered designs. ACID will be calling for Government leadership and clarity sooner rather than later.

Access to Justice – at our meeting with the IPO in June a promised meeting with the Ministry of Justice and the IP Enterprise Court Judges never materialised. The objective was to present case study evidence of the cost and time it takes to get to the Intellectual Property Enterprise Court. Whilst the process of the IPEC has been improved, the staggering amount of time and money it can sometimes take to actually have a case heard is out of kilter. We will be writing again to request this interaction with decision makers. How can the majority of lone, micro & SME designers, whose average earnings are £14.10 per hour, afford to keep pre-Court litigation going when legal fees can start at £200 per hour?

IPO Registered & Unregistered Designs Research – Due in September after nearly three years, this is still unavailable. It has so far cost the tax payer £73,111 and there is nothing to show to date.

Parliamentary Lunch at the House of Commons - Managing Directors of ACID member companies Lee Broom, Talking Tables and ThisisNessie joined artists and brand owners at a lunch at Westminster organised by the Alliance for Intellectual Property, of which ACID is a member and Dids Macdonald is Vice Chair, to discuss their IP frustrations with parliamentarians around blatant design infringement both on and offline and concerns about Brexit and design protection (more on page 20).

3D printing – In June we expressed our concerns to the IPO about the lack of IP law to enforce should this issue escalate

into widespread copying. We continue to be part of discussions and have suggested they should involve expert industry opinion as well as academic and economic researchers. Our concerns were reinforced at a meeting attended by Nick Kounoupas with the IP Minister The Rt. Hon Jo Johnson, MP in November and a further letter and evidence from our thought leadership conference was sent for the Minister's attention.

IP Crime and Enforcement Report 2016/2017 – Following the 2014 IP Act, ACID is now very much part of this national group and raised concerns about current and ongoing IP challenges. We invite all to contribute to this piece for next year to raise even further awareness.

Current Consultations – IPO and the Industrial Strategy – ACID has sent a submission which is available on request. The Alliance for IP has also submitted a paper to which ACID has contributed.

Online theft/ABES/Brand Enforcement – private prosecutions – At the recent ACID Advisory Council meeting, Rachel Jones from Snapdragon IP gave an update that few members had signed up to use the service but she had had many conversations to give general advice. Simon Bull and Rachel were to consider marketing in light of Snapdragon's new services to be launched in the New Year. ACID Affiliate Lawyer Gavin Llewellyn attended the meeting of IPOP (IP Online Protection) and will report back on progress and next steps. The ability to take private IP prosecutions is now available through the ACID website.

ACID Chief Counsel, Nick Kounoupas presented his update at the ACID Advisory Council meeting including feedback from the meeting with Tim Moss of the IPO and discussions on their evidence backed policy and EU registered/unregistered rights. The Government's Withdrawal Bill was heard on 14 November. There was no reference nor guidance on EU registered rights other than what is the status quo at the moment. It was suggested that ACID should draft its own IP Bill to achieve all the actions required

including creating a criminal offence for the infringement of unregistered design.

Nick made the point that private prosecutions should not be disregarded as an effective sanction against copyright infringement. He made the little known point that private prosecutions are free and costs can be recovered. Nick shared the positive outcome of a letter to Boris Johnson on an unrelated subject but the principle of membership engagement with a local MP reinforced the benefits of raising awareness on industry issues.

Frederick Mostert presentation - Frederick presented an illuminating report on online counterfeiting and how international brands were having their online platforms (including WeChat in China, Instagram and Facebook hijacked by counterfeit sellers for very short time periods to divert traffic/sales to their goods. YuPoo is another fake site).

The benefits of Block chain software to create an IP registry and authentication were shared and this could be considered for ACID's Databank submissions. Amazon's Brand Registry was also highlighted as a valuable resource. The challenges and rewards of augmented reality for brands were also shared. Work will continue on online IP theft.

IP Summit – Brussels Nick Kounoupas and ACID member Phyllis Cohen of Face Lace represented ACID at the IP Summit in Brussels – Nick shared his concerns with an international audience about the potentially calamitous situation if UK designers lose out on EU unregistered design protection and Phyllis Cohen, make-up artist to the stars and creator of the amazing Face Lace masks, shared her total frustration about the challenges of consistent and blatant online infringement of her original designs; nothing short of daylight robbery.



DESIGN LAW **THE ACID TEST**



**AS EVER WE WOULD LIKE TO THANK NICK KOUNOPIAS, ACID'S
CHIEF COUNSEL WHO HAS BEEN A PASSIONATE SUPPORTER
AND HEAVILY INVOLVED IN ALL OUR 2017 CAMPAIGNING**

A HAPPY NEW YEAR FROM ACID CEO DIDS MACDONALD OBE

A POSITIVE 2017 SAW THE ACID 2017-2020 STRATEGY AGREED BY OUR ADVISORY COUNCIL; THE LAUNCH OF A NEW, MUCH MORE USER FRIENDLY WEBSITE; SEVERAL NEW ADDED BENEFITS TO MEMBERSHIP AND AN EVEN MORE UNITED VOICE AGAINST IP THEFT. IT IS ENCOURAGING FOR US THAT UNDER THE NEW STEWARDSHIP OF SARAH WEIR OBE, CEO OF THE DESIGN COUNCIL, THERE IS, AT LAST, ACKNOWLEDGEMENT AND SUPPORT ABOUT THE SIGNIFICANT ROLE THAT IP PLAYS UNDERPINNING THE INTELLECTUAL CAPITAL WITHIN THE DESIGN SECTOR; WE ARE DELIGHTED THERE IS ANOTHER MAJOR VOICE SUPPORTING OUR CORNER!

But there is still much work to be done. The emergence of many more look alikes is not only worrying but alarming for those members such as Talking Tables, Chiselwood, Fiesta Crafts et al who are battling the ever increasing challenges taken by those companies who see something innovative, blatantly imitate it and march boldly on to market; many are behemoths and well able to afford deep legal pockets to stonewall legal challenge. So we are also trying to tackle this our way too by "naming and shaming" with our new "Spot the Difference" section on our website and its gaining momentum. However, this will only work if you engage to spread the word. A couple of seconds re-tweeting one of these stories to your network enhances reach, raises awareness and, with a bit of luck, shames.

It is reassuring that IP and Design has a more significant mention in the Industrial Strategy but it is still not enough and we have made our views known in the Calls for Evidence requested by the Intellectual Property Office. We have suggested a real focus on enforcement, online theft, IP trading platforms, B2B model agreements and a lack of access to a cost and time effective enforcement for lone, micro and SME's through the civil Courts. High on our list of priorities is the need to preserve EU unregistered and registered designs post Brexit. Our over-riding question is (with so little time left to negotiate)

if the IPO and EUIPO have not begun formal talks on rights post Brexit, who is leading on this critical subject? Being assured of good relations with the EUIPO is not the same as formal discussions where stakeholders can be involved to discuss, debate and help influence the best possible deal for design brands.

Online infringement is continuing to take its toll and despite many new bilateral agreements between platforms and stakeholders it is still a costly and time consuming battle for most. The ACID Brand Enforcement Service hosted by Snapdragon provides a specially tailored, fast track route through to take down so I would urge you to take a look. They are joined by Brand Enforcement UK with a proven track record tackling tackle offline infringements and are the experts to call for market surveillance, raid action, test purchases, witness statements etc. BEUK are very happy to take calls to see how they can help. And the bonus? They, like Snapdragon, offer reduced rates to ACID members.

So what of 2018 - we will continue to research how block chain technology may add an additional layer to the protection of unregistered designs, pursue the best possible deal for designs and trade marks post Brexit and explore the possibility of creating our own IP Bill to achieve our overall objective of criminal provisions for unregistered design infringement. With 3D printing looming around the corner, ripe for easy counterfeiting and criminal activities, there is still no law to adequately enforce unless you have a registered design and this is a real issues as most designers in the UK and EU rely on unregistered design right.

Under the experienced hand of our new Head of Membership, Simon Bull, ACID will be forging ahead to recruit new members, improve retention and add to benefits. The uncertainty of Brexit has and continues to be an added challenge

to us all. We would like to say a special thank you to our ACID legal affiliates whose continued support is so much valued and we will continue to champion fairness and redress of IP infringement.

To the ACID team who are consistently there at the end of the telephone to answer membership queries and drive forward our various initiatives, a heartfelt thank you for all your terrific work in 2017. We are collectively there to help and support our members and delighted that so many are engaging with us on social media. IP isn't just about the dark stories it is about celebrating innovation to achieve growth and ACID members, across various sectors, are testament to this - so we want to continue shouting loudly about all your achievements.

Thank you also to all our ACID friends and members for your continued support - a united voice is a strong voice - ACID is your voice against IP Theft. Happy New Year!

Dids Macdonald

Dids Macdonald, OBE CEO of ACID





Design
Council

ACID GUEST EDITOR

THIS ISSUE'S GUEST EDITOR IS THE CHIEF EXECUTIVE OF THE DESIGN COUNCIL, SARAH WEIR, OBE.

I'm delighted to be guest editor of ACID's magazine this month. Since I joined the Design Council in April 2017 I felt our relationship with you needed to be the top of my agenda. It helped that one of my first tasks, a week in, was an appearance before the Culture Media and Sport Select Committee to give evidence on the impact of Brexit on design. No hiding for me! After that session if I hadn't already understood the complexity of UK IP and design rights, I did then.

Since then it has become increasingly clear that perhaps one of the most important issues facing design in the wake of Brexit was the UK's IP and design rights. It runs alongside skills, talent and productivity. If people don't have the time to develop and register their design in the UK, then how can they have confidence in doing business here? It's hugely significant and it's why I talk about it at every opportunity I have, from trade Ministers to industry events.

It's been a busy two weeks in government with the budget, an Industrial Strategy and announcements on skills. Our response to these have been mixed. Whilst we recognise the steps government has taken to commit to key areas of social and economic challenge, such as an ageing

population and adult skills, we are disappointed that the opportunity for investment in design hasn't been realised. We did not see tax credits for design innovation, particularly in relation to R&D and in education we did not see design incorporated into STEM subjects and design and technology brought back into the post 14 curriculum.

Design is vital to the future economy. And IP is vital to design. For too long design and IP has been overlooked in policy, education, business and public services. Despite its value to the economy. On 6 December we published the first ever study on design skills, their prevalence and their value to the UK. The results are compelling and will be difficult to ignore.

And that's why we will be unashamedly talking about the importance of our research, design and the impact of Brexit on skills and IP over the coming months. Why? Because design really can be a game changer for growth; design can change lives for the better every day.

WWW.DESIGNCOUNCIL.ORG.UK



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*"I felt our relationship
with ACID needed to be
the top of my agenda"*

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CASE STUDIES

FIESTA STUDIOS HALT SALE OF INFRINGING SCULPTURES

ANTI COPYING IN DESIGN MEMBERS FIESTA STUDIOS LIMITED, LEADING DISTRIBUTORS OF GIFTWARE AND HOME DECORATIONS, HAVE SUCCESSFULLY RESOLVED A COPYRIGHT DISPUTE AFTER DISCOVERING A COMPETITOR, LONDON ORNAMENTS, SELLING WHAT IT CONSIDERED TO BE PRODUCTS INFRINGING ITS RIGHTS. FIESTA INSTRUCTED ACID LEGAL AFFILIATE MCDANIEL & CO., HAVING INSTRUCTED THE FIRM NUMEROUS TIMES IN THE PAST, TO ADVISE ON THE STRATEGY AND PROCESS OF PROTECTING THEIR RIGHTS.

Fiesta Studios Sales & Purchasing Manager, Jon Kingston, said, *“The gift market is very competitive these days, trying to be unique in the marketplace is one of the hardest things to do. When you find or create these great products it’s a tough task to keep overseas factories from copying your works. To find a company actively producing these pieces knowing that they are copying is completely unacceptable. To forcefully deny that they had any recollection of where the original masters came from and then on receipt of the moulds; the original barcode sticker on the back just proves that the trust has been completely broken with this company. As a company we are fast to act on copied products when they are brought to our attention, it can simply kill the sales of a product overnight which isn’t good for the shops or us. McDaniel & Co. have acted as always efficiently and effectively bringing this case to a close.”*

Fiesta became aware that one of its competitors was selling sculptures in respect of which Fiesta held the exclusive licence. Fiesta was able to recall its history with London Ornaments, which included a previous agreement to stop selling the infringing works, which London Ornaments had gone on to breach.

After some correspondence exchanged between the parties’ lawyers, London Ornaments, through their lawyers, offered an apology and to remove the products from sale. However, on the advice of McDaniel & Co., Fiesta successfully pressed for a payment towards its costs and damages on the basis that all sales after the previous agreement would be considered flagrant infringements by a Court and could lead to additional damages.

Senior Associate IP solicitor Kelly Hudson of McDaniel & Co. said, *“Fiesta’s compelling evidence proved to London Ornaments that the products which they were selling were infringing copies of Fiesta’s sculptures. As an exclusive licensee, Fiesta held the exclusive right to sell the sculptures and this gave them the right to take legal action against London Ornaments for selling the sculptures without obtaining prior permission.”*

ACID Comment: *Fiesta Studios’ robust and proactive intellectual property policies continue to ensure that they are able to resolve IP disputes with the backup of evidence and licences when they become aware of an issue - a good lesson for all businesses to heed. Contact ACID for assistance with your IP protocols and we will be happy to advise you.*

WWW.FIESTASTUDIOS.COM

FIESTA STUDIOS LTD
HOME|GARDEN|GIFT



FIESTA



COPY



FIESTA



COPY

NEW YEAR IP HEALTH CHECK

ACID Legal Affiliates make their recommendations for your New Year IP Resolutions.

REVIEW YOUR IP PORTFOLIO

After a busy pre-Christmas selling season the New Year is often a good time to reflect upon your IP portfolio and work out what is and isn't protected. It's important to do this regularly (at least annually) as some rights have short grace periods (e.g. registered designs) whilst others can be slow to register (e.g. international trade marks).

So, let January be your IP audit month - if nothing else, it will give you something to say when you're asked about your New Year resolution.

BREXIT PROOF YOUR TMS

On 1 December 2017 the EUIPO released a Notice to holders of EUTMs reminding them that if the UK leaves the EU with "no deal", their rights will cease to apply in the UK. Although this may seem obvious, it's a clear reminder to all that the best way to prepare for a hard Brexit is to replicate your EU trade marks with UK registrations. The sooner you do this, the better, as a hard Brexit could cause an extremely heavy workload for the UKIPO.

GENERAL DATA PROTECTION REGULATION

The GDPR is coming into force in May 2018. It changes the way personal data is controlled and processed for most businesses, as well as the way in which consent to processing is obtained. It also requires controllers and processors to be more transparent in terms of how, why and when personal data is processed. We recommend that businesses review their privacy policies so that key information is included and consent is validly obtained. The fines for breaching the new regulations are substantial so avoid a costly 2018 with a careful review ASAP.



William Miles, Briffa

WWW.BRIFFA.COM

REVIEW YOUR IP POLICY

Do you have a policy for identifying protectable IP and threats to your IP? Is it up-to-date with your current business model? If you've been copied before, at what stage in the life of your design did this happen? Identifying when your designs are most at risk of copying will help you to decide what form of IP protection is most suitable for you.

CONSIDER BREXIT-PROOFING YOUR DESIGNS BY REGISTERING THEM

After Brexit, we shall lose the unregistered EU design right. The UK right is less powerful. Identify new designs and designs launched in the previous 12 months (no more) and seek advice on registering them. Unless your designs are protected by copyright, which only protects a small category of 3D designs, you should probably register them because unregistered design rights are short-lived (3 years for the EU right and 5 years for the UK right before a compulsory licence becomes available).

ARE YOU GDPR COMPLIANT?

If you collect individuals' personal data as part of your business, you will need to comply with this important data protection legislation which comes into force next May. If you're unsure, seek legal advice.



Gavin Llewellyn, Stone King

WWW.STONEKING.COM

PLAN YOUR IP STRATEGY

Know what IP is important for your business. Do you want to keep others out of your market and be forthright in your protection? Or do you want to ensure that others know what you have? Do you want to reduce your business's tax bill? Do you want to create assets for your balance sheet, or as collateral for a loan or to plug a hole in a pension?

WORK OUT WHAT IS ACHIEVABLE

Once you have identified what you would like and why you need to work out if it is all achievable. It isn't just the cost as not all IP has a price. Do you have the time to put into all of the strategy? Do you have the personnel to implement the strategy? Are the goals you wish to achieve something that can be outsourced, either to a professional or to other skilled individuals?

KEEP AN EYE ON BREXIT

It's a fluid environment and no one knows for certain what will happen. Keep an eye out as it may have an impact.



Niall Head-Rapson,
McDaniel & Co

WWW.MCDANIELSLAW.COM



CASE STUDIES

TALKING TABLES LTD TACKLING SUSPECTED COPYRIGHT INFRINGEMENTS

DESIGNERS AND MANUFACTURERS TALKING TABLES LTD LAUNCHED A NEW PRODUCT, PROSECCO PONG®™, TO THE MARKET IN EARLY 2017. AFTER SEVEN MONTHS IN DEVELOPMENT, THE PRODUCT BOUNCED ON TO THE SHELVES AND BECAME AN INSTANT SUCCESS AND BECAME VIRAL ON SOCIAL MEDIA IN BOTH THE UK AND THE US.

However, despite registering the design, obtaining a trade mark, media coverage and vast experience in taking legal action against those infringing its rights, ACID (Anti Copying In Design) member Talking Tables was troubled to see B&M Retail Limited selling, what appeared to them to be, an almost identical version. The similarities between Talking Tables original product, and B&M's recent product are, in Talking Tables view, clear to see. The name, colours, size, composition and components could unquestionably be mistaken for that of Talking Tables Prosecco Pong®™.

ACID CEO Dids Macdonald, OBE commenting on the latest news said, *"ACID members Talking Tables are leaders not followers, always ahead of the game as a result of their investment into design, innovation and fresh approaches to their product range. They also invest heavily into their intellectual protection to fight the increasing emergence of look alike products; these are some examples of the challenges they face, what do you think?"*

Other retailers have been spotted selling a Prosecco themed game.

B&M RETAIL LIMITED

Talking Tables have now noticed that national discount retailer B&M Retail Limited has released its own prosecco drinking game based on beer pong which they have called 'Prosecco Shot Pong'. Talking Tables immediately noticed similarities in the packaging including the placement of six coupe champagne glasses on a table, the positioning of text, predominant colours used and the placement of the prosecco bottle.

Talking Tables are concerned that, as well as the similarities between the packaging of these products, consumers may be confused by the names. Talking Tables Ltd own a trade mark for the

'Prosecco Pong' name on their products and they are worried that consumers may be confused by B&M Retail Limited calling their product 'Prosecco Shot Pong' which is similar to the Talking Tables trade mark.

Talking Tables have instructed their solicitors to send a cease and desist letter to B&M Retail Limited who are yet to substantively respond. It should be noted that there has been a lot of publicity recently concerning B&M Retail Limited copying products and producing cheaper, inferior versions. This has included allegations in respect of an elf toy and 'Pie Face' games.

THE WORKS

Talking Tables have discovered a further product, this time being offered for sale by The Works, the packaging of which bears remarkable similarities to its own Prosecco Pong product in Talking Tables view. The product offered by The Works depicts 6 coupe champagne glasses which are also featured on Talking Tables original product. Other noticeable similarities include the presence and location of the bottle of prosecco and the colour and location of the strap line to the product. Talking Tables have instructed their solicitors to send a cease and desist letter to The Works alleging infringement of their rights. A full response is awaited.

OMICWAYS LIMITED

The success of Talking Tables 'Prosecco Pong' product has led to many similar products being offered by rival companies. One such product is being offered for sale by a company called Omicways Limited, trading as CGB, under the name 'Pop, Fizz, Clink!' When Talking Tables saw this product they were concerned by the similarities they felt existed in the packaging of the Omicways product. These similarities include the presence and location of a popping bottle of prosecco with spraying fizz and the inclusion of glasses of the same shape which feature pink ping pong balls either in or near the glasses.

Talking Tables instructed their solicitors to send a cease and desist letter to Omicways who have denied all allegations of infringement. Talking Tables are currently considering their options in how to pursue this matter further. Additional similar products continue to emerge like Gate 35's Fizz Pong version.

WWW.TALKINGTABLES.CO.UK



B&M RETAIL LIMITED





THE WORKS



OMICWAYS LIMITED



TALKING TABLES



GATE 35

ACID IP DATABANK

LOCK UP YOUR IP — UNLOCK GROWTH!

Government backed and with support from the Police Intellectual Property Unit (PIPCU) ACID's Copyright & Design Databank has been a resounding success for thousands of designers. The IP Databank holds intellectual property information for ACID Members who submit designs, trade marks and copyright works to the system and has been in place for nearly twenty years. So whether it is just sending a copy of your artwork or designs to a safe place or using it to deposit copies of responses to tenders or submissions to clients, it is a valuable resource.

The IP Databank has emerged from a system in 2006 when only hard copy design files were accepted. ACID has always been one step ahead of the game and as technology developed we accepted files on CD, memory sticks and then via email. In 2013 we began work on a direct internet file upload system which transformed into the current IP Databank. Throughout this period of change the underlying principle of the IP Databank has remained constant; **to provide third party, independent, dated evidence to support ACID Members' unregistered intellectual property rights. This has proved to be an essential part of Members' IP strategies.**

The downloadable Certificate that is generated after each online submission contains information to prove the existence of intellectual property on a particular date, with a unique file identification number and the date and time that the files were locked on the system. The certificate is signed by ACID's Chief Legal Counsel, Nick Kounoupas and endorsed by PIPCU, the Police Intellectual Property Crime Unit. The Minister of Intellectual Property at the time, hailed it as being of real value especially to lone, micro and SME design companies. The certificate on display, for example, can send a reinforcing message to any would-be copyists that a trusted independent 3rd party holds evidence of your design ownership.

Copyright works, such as novels, artwork, plans, photography, CAD drawings, business documents, agreements and responses to tenders can all be uploaded to the IP Databank, together with design works such as drawings, product images, illustrations and trade marks and logos. Anything which contains unregistered intellectual property, which is date sensitive and has a length of term or which needs independent proof (like a pitch, tender or agreement) can be uploaded. Members should always upload as much information as they think they may need to rely on in the future. Compelling evidence is key in taking on any infringers. So from seed of an idea to marketplace, always ensure that the key stages are recorded.

As with Registered designs, the onus is still on the Rights owner to include correct information in their upload and remember that whatever is entered as the file name and the file description will be reproduced on the Certificate. Another benefit of the ACID system is that copyright and designs can be uploaded at any time and not just within a 12 month window like Registered designs.

ACID can provide dated evidence from the locked date and time of receipt of files by the system, but Members need to ensure that they always keep proof of their work creation prior to that date. They should continue to sign

and date their original work and have a structured IP strategy - an audit trail, ensuring that the ACID Copyright & Design Databank is the cornerstone of their IP policy.

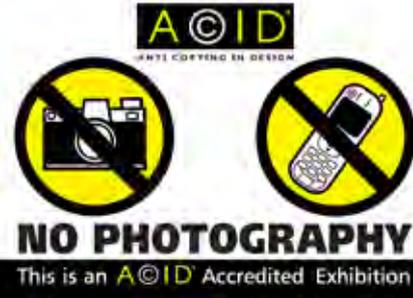
We are always very careful not to describe our IP Databank as an IP Register because this would only confuse designers who may think they had formally registered their IP. The only bodies who can formally register IP are organisations such as the UK Intellectual Property Office and National Offices through the Hague Convention as well as the EUIPO and WIPO.





**SECURE, SAFE AND COST EFFECTIVE
AT JUST £1.50 PER UPLOAD OF 12 FILES,
THE ACID IP DATABANK IS A POWERFUL TOOL
IN YOUR ARMOURY AGAINST DESIGN THEFT!**

ORIGINAL OR FAKE — INNOVATION V IMITATION?



Ensure you are prepared for the Spring Exhibitions!

As if launching a new product or bringing a new product range to market doesn't have enough challenges, the copying and counterfeiting of products have developed into one of the most insidious forms of crime across all design disciplines so it is even more important to ensure you have a proactive intellectual property strategy to help protect and prevent knock offs. Sending a clear message of deterrence to those who go deliberately to exhibitions to copy and steal ideas is an important element in any business strategy.

**IN A RECENT ACID SURVEY
90% OF THOSE SURVEYED
THOUGHT THAT COPYING IS
INTENTIONAL. SCARY!**

Did you know that in the UK stealing Intellectual Property is considered a more serious criminal offence than stealing someone's physical property? The maximum prison sentence for infringing copyright works, trade marks or registered designs is ten years and an unlimited fine can also be ordered. However, the maximum prison sentence for theft is seven years! Hopefully this is a stark warning that IP laws have changed and over the last twenty years Parliament, and the Courts, have begun, perhaps belatedly, to recognise the devastation caused to businesses by the theft and counterfeiting of their intellectual property. Following considerable and consistent lobbying from ACID over many years, infringing a registered design only became a criminal offence in 2014 punishable by ten years imprisonment. This is good news but the over-riding objective must be prevention and here are one or two simple things you can do to protect your designs:

Exhibitions can provide a unique opportunity to get in front of genuine design buyers, so taking a few steps to ensure you protect any new designs against being copied will pay dividends. Start by being **"IP SAVVY"** – know your © from your design right and your trade marks from your patents!

PROOF OF DESIGN OWNERSHIP IS CRITICAL? It's not rocket science! Make sure you have a design audit trail from the seed of an idea to marketplace. Signed and dated drawings do the trick. Better still; register your designs in the UK or EU. Or, like the majority of designers, you rely on unregistered rights; send them to the ACID IP Databank (©™ and Designs) giving you independent evidence of receipt. In any dispute it's necessary to provide evidence of ownership, originality and date of creation. The ACID IP Databank is supported by the Police Intellectual Property Crime Unit (PIPCU).

DO YOU ALLOW UNAUTHORISED PHOTOGRAPHY! – If you do, DON'T! Remember with phone cameras, your designs can be sent across the world in seconds and mass-produced before you even pack up your stand! So take control of who photographs your work, ask them why and note down their contact details. Only allow authorised photography and if it's a problem, insist that organisers support you. After all, you pay thousands to rent your stand space and exhibition organisers build their reputations on your innovation. **For January Furniture Show and Spring Fair, a no photography stand sign will be delivered to your stand.**

DO YOU TELL PEOPLE YOU DON'T WANT TO BE COPIED? Well why not? There's no more powerful message on your website/marketing material or a statement on your stand. Something along the lines of: **"All the intellectual property in our designs and products belongs to (your name). Any infringements will be viewed seriously"**. If you discover a copy of

your designs at an exhibition and you don't have a DATED design audit trail or evidence to support your work, it is almost impossible to take legal action or complain effectively to the show organisers; even better if this evidence can be reinforced by a member of ACID logo. The ACID community's message is starting to resonate as YOUR voice against design theft, especially with the latest "Spot the Difference" initiative.

DO YOU SHOUT LOUDLY ABOUT COPIES? – "Can you spot the difference?" Using social media effectively can be a useful platform for exposing your original and an alleged copy and getting immediate results. With the advent of social media it can take moments to erode the reputation of brands that produce lookalikes. But be careful! If you make a groundless threat and accuse someone of copying and in the fullness of time it proves otherwise in the UK you can be sued yourself. Always seek some professional advice. Gaining public support by shouting about unfairness and a blatant disregard for design originality is what many are starting to do. Such as the Trunki campaign #ProtectYourDesign.

TAKING SOMEONE TO COURT ISN'T AS EXPENSIVE AS IT USED TO BE! For relatively small IP disputes (£10,000 or less) if you have to take legal action it doesn't necessarily cost a fortune and there is access to inexpensive justice through a new small claims track.

And if you are unlucky enough to be copied at an exhibition where ACID is present, you can call on our help to mediate the issue. Out of over 4000 interventions at various exhibitions, less than 3% have reached a final Court hearing. Imitation isn't flattery if it costs you your business. Make sure it doesn't happen to you.



**START BY BEING “IP SAVVY” KNOW YOUR ©
FROM YOUR DESIGN RIGHT
& YOUR TRADE MARKS FROM YOUR PATENTS!**



MEMBER FOCUS

Introducing two ACID Members who would like to share how they make the most of their ACID Membership Benefits.

ACID MEMBER GAYNOR FUGE, ARTIST

WHEN AND WHY DID YOU FIRST START CREATING YOUR PRODUCTS/DESIGNS?

One day, I said, "I want to be an artist when I grow up", and I did. I am self-taught and as an environmental volunteer my designs and products have grown from the love of the nature. I find and redefine woody gems into unique gifts, such as wooden ring boxes, driftwood / wood cottages and wall art. They are created from a cabin between the sea and the mountains.

DID YOU HAVE ANY KNOWLEDGE OF INTELLECTUAL PROPERTY WHEN YOU STARTED YOUR BUSINESS?

Not really, although I was aware that there was some kind of protection for the originator and their works of art. I just muddled on so to speak but somehow it was always in the back of my mind. It was strange because I would actually read up on it but it all seemed quite complex. Then I found ACID, it took the thoughts straight out of the back of my mind and I've never looked back since.

WHICH ACID MEMBERSHIP SERVICES HAVE YOU USED?

The **ACID Membership Logo** is a must and I use it extensively, it's there to send a message that you care about your work and you intend to look after it. More recently my use of the logo has increased considerably and is placed on my images that go on my website, store, in fact anywhere on the internet. I place it discreetly along with the copyright symbol and my name, woodywomansworld. I am doing my first trade fair in April 2018 so will be using my logo at the British Craft Trade Fair Harrogate as Woody Womans World in the Newcomers' Gallery N16.

I use the **ACID Copyright & Design Databank** where I upload my designs. I have found this indispensable as I feel reassured that my work has the protection it deserves before it goes into the big wide world. It is easy to use, quick and efficient and very affordable with an option to purchase the upload certificate as proof.

Marketplace Shop

I have purchased the ACID labels and used them on various items for images and are great as a visual backup and deterrent.

HAVE YOU LAUNCHED ANY NEW DESIGNS RECENTLY THAT YOU WOULD LIKE TO SHARE?

It would be a pleasure. Tall White Cottages/Bythynnod Gwyn Tal were inspired by my wanderings along the coast of Wales. The majestic homes stand around huddled harbours and sandy seafronts with views that take you on a wonderful journey. I will be making groups of these cottages and each one quite unique with a story to tell which by the way comes with the cottage adding to its charm. One of my favourites, a scene of Tenby in Wales. It was a custom-made piece and so wonderful to create.

The Tiny and Enchanting Collection are not much bigger than a 50p but in the true sense of the words they are the hidden gems of Wales. The tiny white cottages were inspired by those seen tucked away in the most remote areas of the mountains. These charming cottages look so insignificant against the monumental mountains that I couldn't resist creating the Tiny and Enchanting Collection.

WHAT IP ADVICE WOULD YOU OFFER TO A NEW DESIGNER?

I think every creator feels, that the work they have produced is very much part of them. All the effort, time, thought and product should be protected. I used to create signage and it was when a retail outlet that I was supplying actually

copied my work to create a piece for their premises that alarm bells rung, I felt it was time to actively seek advice. Acting on this I contacted ACID and after some positive direction I joined. It goes without saying that if you value your work, protect it.

WHAT DOES BEING A MEMBER OF ACID MEAN TO YOU?

I think of it as a community of likeminded people all who care about the protection and safety of their designs, there can't be a truer saying than **safety in numbers**. For me it's reassuring to know that there is always help available, resources for information and the right people to speak with in various IP legal areas. The logo and design bank has become the thing I do before anything else after I have designed/made a product. Especially with an online presence, I tell myself "protect it".

ACID VALUES THE SUPPORT OF ITS MEMBERS TO ENABLE IT TO CAMPAIGN FOR DESIGN LAW REFORM. DO YOU HAVE ANY MESSAGES FOR GOVERNMENT/POLICY MAKERS ON IP ISSUES?

I fully support ACID campaigning for unregistered design right to have criminal provisions to really put the D in "deterrence" against copying.

WWW.WOODYWOMANSWORLD.COM/

WWW.ETSY.COM/UK/SHOP/WOODYWOMANSWORLD

WWW.FACEBOOK.COM/GAYNORFUGEARTIST/



MEMBER FOCUS

Annette Taylor-Anderson launched ATADesigns in 2006 and has been an ACID Member for 10 years.

ACID MEMBER ATA Designs

WHEN AND WHY DID YOU FIRST START CREATING YOUR PRODUCTS/DESIGNS?

I first started creating my own brand of wallpapers after I graduated from University in 2005 where I studied Textile Designs and Surface Decoration. ATADesigns was launched in 2006 when my first designs went on show at News Designers; One Year On at the Business Design Centre.

DID YOU HAVE ANY KNOWLEDGE OF INTELLECTUAL PROPERTY WHEN YOU STARTED YOUR BUSINESS?

Unfortunately, I didn't really know much about intellectual property, so I learnt as I went along.

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

I'm currently using the **ACID Copyright & Design Databank** to upload my designs and any new work. I have on a couple of occasions used your free legal advice service which has been very helpful. I have bought and downloaded legal documents to present to my clients i.e. Contracts etc.

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

Yes indeed! I have just launched "All Things British 3" wallpapers and murals collection at the Independent Hotel Show, Olympia. Every two years we launch an All Things British range, so I'm very excited about this new collection, inspired by Kew Gardens botanical gardens. I've also collaborated with a talented Illustrator called Arka Chergui to create "General Bulldog" wallpaper/murals, the second in our dog wallpaper range. And, there is always a bowler hat design within the collection, so I have created "Bowler Phone" wallpaper. There's lots of colour in the collection, and I can't wait to present them.

WHAT IS THE BEST ASPECT OF ACID MEMBERSHIP FOR YOUR BUSINESS?

The best aspect is knowing that being a member of an organisation like ACID, I can get help and advice whenever I need it. I feel that my designs are safer, especially when displaying the ACID logo on my website, my business cards etc., because the deterrent message is so strong. I often weave my membership of ACID into conversations with potential clients as a subliminal warning shot, some of whom may think about copying my work. Sadly this has happened in the past!

I also value the fact that whenever I'm exhibiting at trade shows or even visiting, the minute I see an ACID sign on someone's stand, I think yeah, there's an ACID member and this makes me feel very much part of a positive community all working together to speak with one, united voice against design theft.

WHAT ADVICE WOULD YOU OFFER TO A NEW DESIGNER?

Around 2 or 3 years ago, I received an angry email from a designer who accused me of copying her work (that I would never do). To cut a long story short, I emailed and called the designer, and talked to her calmly. I asked her what year she had created this particular design. I can't remember her exact words, but she said a few years ago. I told her that I created my design when I first started the business, this would have been around 6 years before she created her design. I also told her that I had proof, as at that time my work was featured in magazines. When I first started ATADesigns I wasn't a member of ACID, I didn't know about it then, but I had proof that I didn't copy her work. In fact I could say that she copied me, but I didn't go down that route. I think she was a little embarrassed accusing me of copying. Just goes to prove that evidence of when a design is created is critical in any sort of IP disputes.

My advice to any new designer is one of the first things to do before presenting your work anywhere, whether it is on the Internet or working with new clients, is to protect your work whenever you can. Record and date it, because guaranteed, there will always be someone one out there ready to copy your work. And if you are a member of ACID, lodge design files on the ACID Copyright & Design Databank to secure and provide uniquely numbered certificates of lodgment, endorsed by the Police Intellectual Property Crime Unit; you can't get better than that!

[HTTPS://TWITTER.COM/ATADESIGNS](https://twitter.com/ATADESIGNS)

[HTTP://WWW.ATADESIGNS.COM/](http://www.atadesigns.com/)

[HTTPS://WWW.FACEBOOK.COM/ATADESIGNS](https://www.facebook.com/atadesigns)



ACID GOES TO WESTMINSTER

(AND TRUNKI CAME TOO!)



Managing Directors of ACID member companies Lee Broom, Talking Tables and ThisIsNessie joined artists and brand owners at a lunch at Westminster organised by the Alliance for Intellectual Property, of which ACID is a member and Dids Macdonald is Vice Chair, last week to discuss their IP frustrations with parliamentarians around blatant design infringement both on and offline and concerns about Brexit and design protection.



Duncan Maclay said, *“ThisIsNessie is not registering their new product designs because we and many other designers produce so many that it becomes prohibitively expensive.”* Former IP Minister Baroness Neville-Rolfe stressed the importance of maintaining influence in EU to strengthen regulations there as these will be transposed to UK in 2019. However, she acknowledged that Unregistered EU rights were an exception.

ACID CEO Dids Macdonald said, *“Post-Brexit copyright will be about nuanced changes made to existing protection. But for design, Brexit offers an existential threat because of the possible loss of EU laws. UK designers will be severely disadvantaged if they lose EU unregistered design rights, on which the majority rely. EU design laws, both registered and unregistered,*

protect the individual character of a design in particular as they relate to the shape, texture, contours, lines, colours, ornamentation and materials of the design. UK UDR protects only the shape and configuration of a design. Entire design sectors such as fashion, lighting and furniture rely on the EU scope to protect their 3D designs; UK law alone cannot protect 3D designs whose individual character is defined by shape, texture, contours, lines, colours, ornamentation or materials.”

Dids continued, *“If these EU laws are not transposed into UK law post Brexit, design protection for many design sectors will be lost. Accordingly, this is a potentially calamitous issue for many design sectors. All present also heard the argument that ACID is pressing Government to introduce a new*

law which mirrors the protection afforded by EU unregistered design, replacing existing UK Unregistered design to put UK designers on a level playing field with their EU counterparts in terms of IP protection.”

Mark McCormack, MD of Talking Tables said, *“This year we have had to deal with a number of competitors selling copied versions of our successful table top game, Prosecco Pong. The challenges of copycat product appearing on Amazon, EBay, Etsy and Ali-Baba continue. Having created Talking Tables in 1999 we now employ 60 people and our projected turnover is £16m. If this level of IP infringement continues this could have a negative impact on jobs and job security.”*

Charles Rudgard MD Lee Broom said, *“We have six ongoing cases of alleged design theft at the moment which is very frustrating. The Lee Broom collection features over 100 furniture, accessory and lighting products which are retailed in over 250 stores in 48 countries. Winning over 20 awards to date, including the Queens Award for Enterprise presented by Her Majesty the Queen, the past ten years have seen the brand grow at an unprecedented rate. Blatant and indiscriminate design theft must not be an inhibitor to our growth potential, or, for that matter the security of those with whom we work.”*

In response to Duncan Maclay's comments, *With rampant copying of our marquee and awarding winning product now going on the internet, the job security of our staff and their 40 or so children who depend on the income to support them financially is fundamentally at risk.”*



MP Damian Collins said that there must be some way for online platforms to act on infringing users much more quickly – government should look at how it can compel them to do that, as they must take responsibility for what users can buy and sell online.

The point was made from the floor that small & SME businesses simply cannot afford the inordinate time it takes to track down and take down.

The parliamentarians were clearly shocked at the brazenness of copying, from 'ThisIsNessie' drawings, Talking Table's party products, Lee Broom lighting and furniture designs through to supermarket parasitic packaging and balloon products ripped off by Chinese factories and sold via Amazon warehouses under the FBA programme in the UK (which Amazon claims it cannot take responsibility for). In looking to solutions Andrew Vickerstaff pointed to Germany which has a much broader "Unfair Competition" law covering much more to protect brands than any UK law.

Dids Macdonald said, *"I have been impressed by the speed with which infringing products can be removed on the spot from physical sale at exhibitions, for example. It is relatively easy to apply for and be granted an injunction the same day in Germany. Why not in the UK?"*

Former IP Minister Baroness Neville Rolfe summarised by saying, *"It is clear that the online dimension is adding a substantial level of urgency to the IP issues faced by artists, designers and brand owners."* In the context that changing the law can take a minimum of two years, she said that more must be done through compliance and responsibility from online platforms though acknowledged the difficulty within a global and international landscape.



SPOT THE DIFFERENCE.....??

THIS IS NESSIE – CURRENTLY ONGOING IP ISSUES ONLINE WHICH THREATEN TO CHEAPEN THEIR BRAND WITH LITTLE THEY CAN DO WITHOUT ENORMOUS EXPENSE

Today, because of consistent online copying, the jobs and livelihoods of 15 employees with, collectively, 40 children's futures are at a risk because of out of control and indiscriminate copying



WORSHIPFUL COMPANY OF FURNITUREMAKERS WELCOMES NEW LIVERYMAN

At a ceremony at the Furniture Makers Hall, Niall Head-Rapson, Director & Principal of ACID Legal Affiliate McDaniel & Co., was installed as Liveryman of the Worshipful Company of Furniture Makers, the furnishings industry charity supporting excellence, training and welfare.

ACID's CEO and Junior Warden of the Furniture Makers, Dids Macdonald, OBE, said, "I am absolutely delighted and it is fitting that the FMC is able to draw on the experience of talented IP lawyers who have grass roots experience in this sector. Having supported ACID at the various furniture and furnishings exhibitions over the years, Niall will be a valued member of the livery."

Niall Head-Rapson on becoming a Liveryman said, "I am delighted to have been accepted as a Liveryman into the Worshipful Company of Furniture Makers. It is a great honour and I am looking forward to helping the Company achieve its aims and objectives. I am particularly keen to help establish the Guild Marks as an industry standard."



AND A HAPPY NEW YEAR FROM THE ACID TEAM!

After a very busy 2017 building the new ACID website and welcoming Simon Bull as Head of Membership, the ACID team enjoyed their Christmas Staff Party at Corse Lawn House Hotel where their Secret Santa presents were unveiled. All were tasked with shopping from an ACID Member for a fixed budget - thanks to all who assisted in our quest!



NEW MEMBERS



ACID welcomes the following new members to the ACID Community

MEMBER	INDUSTRY
JANICE DAUGHTERS ARTIST & ILLUSTRATOR	Cards
MANDY BILLINGTON ILLUSTRATIONS	Ceramics
WYN ABBOT CERAMICS	Ceramics
EARTHED BY WILLIAM CLARK	Fabrics & Textiles
KAS WILLIAMS	Fabrics & Textiles
LUCIE SUMMERS DESIGN	Fabrics & Textiles
MOORSWOOD LTD	Fabrics & Textiles
NATTY MAID ILLUSTRATION PRINTMAKING AND DESIGN	Fabrics & Textiles
RUFF AND TUMBLE	Fabrics & Textiles
THE PRINT LASS	Fabrics & Textiles
THE WILD DYERY	Fabrics & Textiles
VICTORIA HILL	Fabrics & Textiles
CALE WOLF	Fashion
NAPESH LTD	Fashion
BARKER AND STONEHOUSE	Furniture
CERAMIC IMPORT AND MANUFACTURING COMPANY LTD	Furniture
CROWTHER & SONS	Furniture
DAVIDSON	Furniture
JALLU EBÉNISTES	Furniture
KI EUROPE LTD	Furniture
LOOKING LOCAL	Furniture
MELVER FURNITURE	Furniture
OFFICE SOLUTIONS LTD T/A THEOMAC	Furniture
OLLIE HOLMAN	Furniture
PETER LANYON FURNITURE	Furniture
THOMAS BARNES FURNITURE	Furniture
SCREEN WITH ENVY LTD	Garden Products
CAT CHRISTOPHERSON DESIGN	Giftware
MABEL FOX	Giftware
INKYBEETLE	Graphics
IROX DESIGN	Graphics
TIM CHRISTOPPERSON	Graphics

MEMBER	INDUSTRY
YONI ALTER	Graphics
THE PLAYFUL INDIAN	Greeting Cards
CHALK HOUSE CREATIVE	Greetings Cards
JUPP ILLUSTRATIONS	Greetings Cards
CURIOSITY SNUG	Interior Accessories
MITCHELL AND BLUE	Interior Accessories
ALEXIA JEWELLERY DESIGN	Jewellery
AMY LEIGH DESIGNER/MAKER	Jewellery
BEACH ART GLASS	Jewellery
CRYSTAL MOON EMPORIUM	Jewellery
FRESH WATER SILVER	Jewellery
INKANA	Jewellery
SENIN	Jewellery
CROYDEX LTD	Kitchen & Bathroom
ATELIER GRIGO	Lighting
MARC WOOD STUDIO	Lighting
UNIQUITY DESIGN	Lighting
B & S GLASS INDUSTRIES LTD	Product Design
DESIGN DISRUPTERS LTD	Product Design
LINDHURST ENGINEERING LTD	Product Design
MONTY LEWIS	Product Design
PASCAL AUDRAN	Product Design
BREE MERRYN ART	The Arts
CHRISTO LEFROY BROOKS	The Arts
DRYDESIGN	The Arts
FAUXIDERMY	The Arts
KATE TOMS	The Arts
MERLYN JOSPEH	The Arts
THE CAT IN THE SHOE	The Arts
4GROUND LTD	Toys
BIG LITTLE TOYS LIMITED	Toys

ACID'S JOINING CRITERIA FOR NEW MEMBERS

In accordance with our policy that all members are provisional members for the first 6 months of their subscription period, we publish a list in each newsletter of companies which have recently joined ACID. In the event that there is any complaint against a new member, please write to the Chief Executive together with any substantiated facts. Hearsay, rumour or unsubstantiated facts will not be considered under any circumstances. Any complaint that should arise will be put before a panel comprising ACID's legal advisor, Chief Executive and two Corporate ACID Members from a different industry sector. If the panel decides that a complaint should be upheld their decision will be final and no correspondence will be entered into.

ACID CEO DIDS MACDONALD HONoured

FOR SERVICES TO THE INDUSTRY:

UK KITCHEN & BATHROOM AWARDS

ANTI COPYING IN DESIGN (ACID) CEO DIDS MACDONALD, OBE, WAS HONoured BY THE UK DESIGNER KITCHEN & BATHROOM AWARDS FOR HER SERVICES TO THE INDUSTRY AT A GLITTERING CEREMONY AT THE BLOOMSBURY BIG TOP IN LONDON. THE "SERVICES TO THE INDUSTRY AWARD" IS GIVEN EACH YEAR TO AN INDIVIDUAL WHO HAS MADE A BROADER CONTRIBUTION TO THE DEVELOPMENT AND SUCCESS OF DESIGN IN AND AROUND THE INDUSTRY. LAST YEAR'S WINNER WAS THE DESIGNER JOHNNY GREY FOR HIS WORK IN RAISING EDUCATIONAL STANDARDS FOR KITCHEN DESIGN IN THE UK. DIDS RECEIVED HER AWARD FROM MARTIN ALLEN-SMITH, EDITOR OF DESIGNER KB EYE AND THE EVENT WAS HOSTED BY CLAUDIA WINKLEMAN.

Dids, on being presented with her award said, "I am highly honoured and touched by this prestigious award. Intellectual Property, I know, isn't necessarily the sexiest of subjects but it is vitally



important for the UK's kitchen and design brands. Sadly, I have worked with a lot of kitchen designers whose work has been ripped off and there are many heart breaking stories out there.

Somehow there are those who think it is OK to steal designs and ideas but the bottom line is that it is theft in the same way as the theft of a wallet or watch, which is a criminal offence. Imitation isn't flattery if it costs you your business. So it's only by communicating an anti copying message in a robust way that designers can feel more

empowered. Being honoured ramps up awareness of the importance of IP protection to achieve and maintain growth in this sector.

Designing, delivering and installing a beautiful kitchen or bathroom takes creative skill, excellence and, usually, years of experience. It is crucial that the originality created by YOU, some of the sector's great designers, is recognised, respected and acknowledged for what it is. The very best! Thank you, I'm thrilled to receive this award."

Designer magazine Editor Martin Allen-Smith commenting on Dids' award said: "Plagiarism has been a huge issue for kitchen and bathroom designers for a long time now so it's vital they get support and advice in protecting their intellectual property. Dids' work in creating and developing ACID has provided a vital resource for many and helped raise awareness of this important topic. We wanted to recognise this by presenting her with this year's Services to the Industry Award."

EVENTS

21-24 JANUARY - THE JANUARY FURNITURE SHOW, NEC

VISIT ACID IN HALL 1 STAND B90. REGISTER TO ATTEND OUR BREAKFAST SEMINAR

WWW.JANUARYFURNITURESHOW.COM/NEWS/ARE-YOU-IP-SAVVY

JANUARY 30TH - CREATIVE INDUSTRIES FEDERATION EVENT - FROM SPARK TO MARKET, LONDON

REGISTER AT WWW.CREATIVEINDUSTRIESFEDERATION.COM

4-8 FEBRUARY 2018 - SPRING FAIR, NEC, HALL 4, STAND D80



ACID (Anti Copying in Design) Ltd
PO BOX 5078
Gloucester
GL19 3YB

Membership Office: +44 (0) 845 644 3617

Email: info@acid.uk.com

Online: www.acid.uk.com

Social Media: [@ACID_tweets](#) [Anti.Copying.In.Design](#)



ACID Registered Head Office: Unit 14, Staunton Court Business Park, Gloucester, GL19 3QS.
Company Reg. No 3402512. VAT Reg. No 707 5923 23



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