



# Intellectual Property in the Fashion Industry

## Handbags at Dawn: Protecting your Clients and their Designs

23 September 2008, London

Comments from last year's delegates:

"Well done"

"A good selection of topics"

"Excellent. Really very good speakers. Good handouts"

"Very impressive and helpful"

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### 9.00 Registration and Coffee

### 9.30 Chairman's Welcome and Introduction

*Jeremy Phillips, Research Director, Intellectual Property Institute and Intellectual Property Consultant, Olswang*

### 9.45 Intellectual Property in the Fashion Sector: An Overview

- How many different types of IP right can be brought to bear?
- The main players: designers, fashion houses, competitors, copycats, retailers, distributors and consumers
- Overview of recent legal developments

*Carina Badger, Macfarlanes*

### 10.20 Trade Mark Topics

- How far can trade marks protect fashion?
- Is there such a thing as a protectable "family" of styles?
- Online sales and e-trade

*Dawn Osborne, Rouse Legal*

### 10.55 Coffee

### 11.10 Design Right Issues

- Why register when there are perfectly good unregistered rights around?
- Scope of protection: 2D, 3D, garments, accessories, patterns, ornamentation
- What do recent cases tell us?

*Sarah Wright, Olswang*

### 11.50 Dealings with Designers

- What sort of contract issues arise from dealing with freelance and employee designers?
- Confidentiality, restraint of trade, restrictive conditions: state of the art review

*Vicki Salmon, Eversheds*

### 12.15 Protection of Fashion in Continental Europe

- Do the civil law jurisdictions offer better protection?
- Review of recent case law: what can we learn from our European counterparts?

*Estelle Derclaye, University of Nottingham*

### 12.50 Questions

### 1.00 Lunch

### 2.15 Distribution Strategies and Pitfalls

- Sales within Europe - the problem of exhaustion
- Sales outside Europe - more exhaustion problems?
- Competition restrictions on distribution strategies
- Competition restrictions on refusals to distribute

*Christopher Stothers, Milbank, Tweed, Hadley & McCloy LLP*

### 2.50 Shows, Exhibitions and Other Horrors: What ACID Can Do

- Trade shows and exhibitions: a window on the world or an invitation to copy?
- How can and should designers and manufacturers respond at the sight of copies and lookalikes?
- The ACID Mediate to Resolve programme: what can it do? What are its limitations?

*Dids Macdonald, ACID*

### 3.30 Tea

### 3.45 Can You Protect a Style? Old Rules, New Strategies, how Far does Copyright Stretch?

- ... and passing off?
- ... unfair commercial practices

*Jason Rawkins, Taylor Wessing*

### 4.20 Stripes in the Sportswear Sector: *adidas* under the Microscope

- Three stripes v three stripes
- Three stripes v four stripes
- Three stripes v two stripes
- Where are we now?

*Gino Van Roeyen, Banning, The Netherlands*

### 4.55 Conclusion and Chairman's Closing Remarks

### 5.15 Conference Close

# Intellectual Property in the Fashion Industry

From brand logo to stitching on a handbag, fashion designers and their legal advisers are under increasing pressure to protect their designs and their business.

This one day conference focuses on all the key areas of concern when advising the fashion sector including:

- IP in the fashion industry – what works and what doesn't
- What protection do trade marks offer?
- Do design rights work?
- IP issues when dealing with designers
- Protection of fashion in continental Europe
- Putting goods in shops – competition and other concerns
- Shows, exhibitions and other horrors
- Can you protect a style?
- Stripes in the sportswear sector: *adidas* explained

## Chairman:

**Jeremy Phillips** is an intellectual property consultant, Olswang. He is a research director, Intellectual Property Institute, editor of *The European Trade Mark Reports* and *Journal of Intellectual Property Law and Practice* and co-founded the IPKat weblog.

## Speakers:

**Carina Badger** is a senior associate within the Macfarlanes IP/Commercial group, and advises on all aspects of intellectual property law including protection, exploitation and enforcement issues. A significant part of her practice involves advising on discrete IP licensing arrangements and general portfolio management.

**Estelle Derclaye** is a lecturer at the University of Nottingham where she teaches intellectual property law. Previously, Estelle practised intellectual property in an international law firm in Brussels and was a lecturer at the Universities of Leicester and London (Queen Mary). She is the author of *The Legal Protection of Databases: A Comparative Analysis*, (Edward Elgar, 2008).

**Dids Macdonald** is the CEO of ACID, Anti Copying In Design, a hard-hitting member organisation committed to fighting IP theft. She launched ACID as a result of her design-led products being consistently plagiarised. ACID's objectives are education, prevention, deterrence and support utilising IP as a positive commercial force. ACID LOBBY has an ongoing campaign to raise awareness and improve design law.

**Dawn Osborne** has been a partner of Rouse Legal (formerly Willoughby & Partners), Rouse & Co.'s UK legal arm, since 2000. She has extensive experience advising on, and acting in relation to, all aspects of soft IP enforcement, primarily trade marks, copyright and designs. She has a keen personal interest in fashion and costume and regularly acts for couture houses, designers and luxury companies to protect and advise in relation to their IP interests. One particularly memorable litigation success involved obtaining revocation of a design registration relating to science fiction costumes for a major film company.

**Jason Rawkins** is a partner in Taylor Wessing's IP department. Jason's practice covers all aspects of intellectual property, in particular disputes relating to trade marks, designs and copyright. He is head of Taylor Wessing's Fashion and Luxury Goods industry group and acts for several well-known companies in those sectors. Jason is also on the panel of Nominet's decision-making experts on UK domain name disputes and has extensive experience in that area.

**Gino Van Roeyen** joined Banning in 1999. He laid the foundation for the present IP Practice Group and has specialized in this area. Gino publishes and lectures regularly. He is a member of the European Communities Trade Mark Association (ECTA), the Association of European Trade Mark Owners (Marques) and the International Association for the Protection of Intellectual Property. Gino works for a large number of reputable clients in areas that include food and fashion.

**Vicki Salmon** is one of a handful of dual qualified solicitors and patent attorneys in the UK. With over 20 years experience of IP, her dual qualification gives her an insight into the roles of both professions. She advises clients in the fashion industry in relation to ownership and design enforcement and brand protection. She is a member of the Council for the Chartered Institute of Patent Attorneys and Chair of the CIPA Litigation Committee. She contributes to patent law text books and participates in seminars.

**Christopher Stothers** is an associate in the Intellectual Property Litigation group of Milbank, Tweed, Hadley & McCloy LLP in London. His practice focuses on patent, trade mark, copyright and design litigation, including competition and free movement issues. He is the author of the practitioner textbook *Parallel Trade in Europe: Intellectual Property, Competition and Regulatory Law* (Hart 2007) and he has authored chapters of several other books and numerous articles. He is also a Visiting Lecturer at University College London.

**Sarah Wright** is a partner in Olswang's IP team, and specialises in brand protection issues. She has experience of advising fashion businesses on how to protect and enforce their trade marks and designs against third party infringers. Sarah also advises clients in relation to anti-counterfeiting, as well as licensing and franchising issues. Sarah has particular expertise in advising clients about how to protect their rights online, and is currently appointed to the International Trademark Association's Internet Committee.

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23 September 2008, London

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