



Please be seated and make yourselves comfortable... our Jelly Babies will join you shortly.



Teaching Creative Entrepreneurship *or...*

Standing at the
Intersection of...



Kathryn Penaluna

The Creativity and Business
Intersection lectures: Protecting
your rights and avoid being sued

21 February 2018
© Andy & Kathryn
Penaluna



Who am I ?

My aims today are...

To challenge your thinking about
Intellectual Property Rights

To provide a memorable experience -
to shape further thinking





Question 1

- Paper and pen is given to an artist...
- Who does a drawing and gives it to a friend...
- The friend discards the drawing (hates it)...
- Which is discovered by somebody who appreciates its value...
- An offer from a print company is accepted..
- Are they legally entitled to print it?



Question 2

- A local journalist discovers the story and takes a photo of the drawing with its owner...
- And runs a story in the local paper about it
- The photo includes the drawing
- Was this legal?



Innovation Protection?

- To fully exploit the potential of IPR you need to understand the range and type of intellectual property rights that are available to you... however
- “Because IP assets cannot be seen or touched it is sometimes hard to appreciate their value” (UKIPO, 2007)
- In the US, what % of company assets are not the factories and other physical and human resources?
- “65% of US assets are intellectual property”
(Christobal, 2006)



A brief summary of IPR assets:

- Patents ...protects invention
- Copyright ...protects the author
- Trademarks ...a distinguishing mark
- Registered Designs ...protect appearance

Innovation Protection?

- Who is this?



Innovation Protection?

- How did you know??

Cadbury



Innovation Protection?

- What is that knowledge worth to the company?
- In the UK alone...

£60 million to the owners



Louis Vuitton – Distinctive Print Trademark



What is the brand value in 2014?





Trademarks - recognition

- Registered Trademark = 
- Must be distinctive for your goods or service
- And not resemble one already in your line of business
- This will be subject to checking
- In the 'Trade Marks Journal'



Trademarks - recognition

- Unregistered Trademark = TM
- Common law allows you to simply use this
- And to defend it against infringers
- However, it is far more difficult to enforce
- And it could be your most valuable asset!!



- **Trade Marks**

“A badge of origin, a sign which is capable of distinguishing goods or services of one company from those of another” (UKIPO)

Name

Shape

Domain Name

Slogan

Colour

Logo

Music

November 2013 – Hells Angels accuse rapper Young Jeezy's clothing line and Dillard's store of trademark infringement over winged head design



© KAI PFAFFENBACH/Reuters/Corbis

This jacket shows the Death Head symbol that's the basis of a federal lawsuit by Hells Angels against 8732 Apparel and Dillard's.



© 8732 Apparel





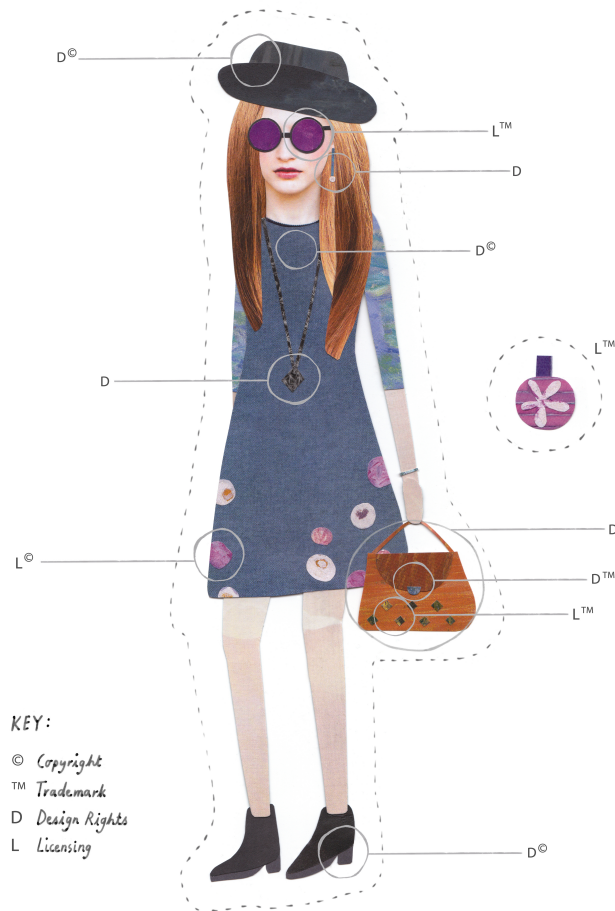
- **Registered Design**

Protecting the way
things look



Why register a design?

- Protects the 3D shape and / or appearance / surface pattern of individually produced and manufactured items
- It can safeguard you for up to 25 years
- It only costs £60 - renewable every 5 years
- Think - lines, contours, colours, shape, texture, material and combinations
- Think - new, individual, not seen before



Used with Permission

© Lianne Harrison



UWTSD will have permissions to reproduce the images in all forms and media for the purpose of teaching and promotion. UWTSD will ensure that your moral rights to be identified as the creator of the images are respected.

You warrant that you are entitled to grant us the rights and that the exercise of such rights will not (a) infringe the copyright or any other personal or property rights of any person or (b) entitle any person to claim any payment from us or from any of our licensees.

Consider the challenges

- Channel 4 / RDF Media's 'Scrapheap Challenge'



Colin Herriot -
Judge



Consider the challenges, Channel 4/RDF Media's Scrapheap Challenge, Flameflingers episode



Consider the problems...

'Scrapheap Challenge'

Andy Penaluna,
Ty Strigul,
Michaelsfield,
Mumbles,
Swansea SA3 4JB

3rd August 2004



Dear Sirs,

Re: Scrapheap Challenge 7 – Working Title 'Flame Fingers'

We write to confirm our agreement as follows:-

- 1 You hereby grant to us and persons authorised by us the exclusive right in perpetuity to record, copy, reproduce, broadcast, transmit and perform all or part of the Material for and/or in connection with the production, exploitation, promotion and/or advertising of the Programme throughout the world by all means and in all media whether now known or hereafter discovered and inclusion in cal
- 2 For the purposes o provided by you of
- 3 You warrant that yc and that the exercis property rights of an any of our licensee and liabilities (inclu Counsel) resulting i part contained in th
- 4 You will make avail once we have mad
- 5 We shall not be obl
- 6 We shall be entitle remain liable to you
- 7 This agreement shall be governed by and construed under the laws of England and Wales.

3 You warrant that you are entitled to grant to us the rights referred to in paragraph 1 above and that the exercise of such rights will not (a) infringe the copyright or any other personal or property rights of any person or (b) entitle any person to claim any payment from us or from any of our licensees. You agree to indemnify us against all and any costs, claims, expenses and liabilities (including, without limitation, legal fees and any sums paid on the advice of Counsel) resulting from breach by you of any of the agreements and/or warranties on your part contained in this agreement.

Yours faithfully

For and on behalf of
RDF Media Limited
© FACT 1998

Read and agreed by

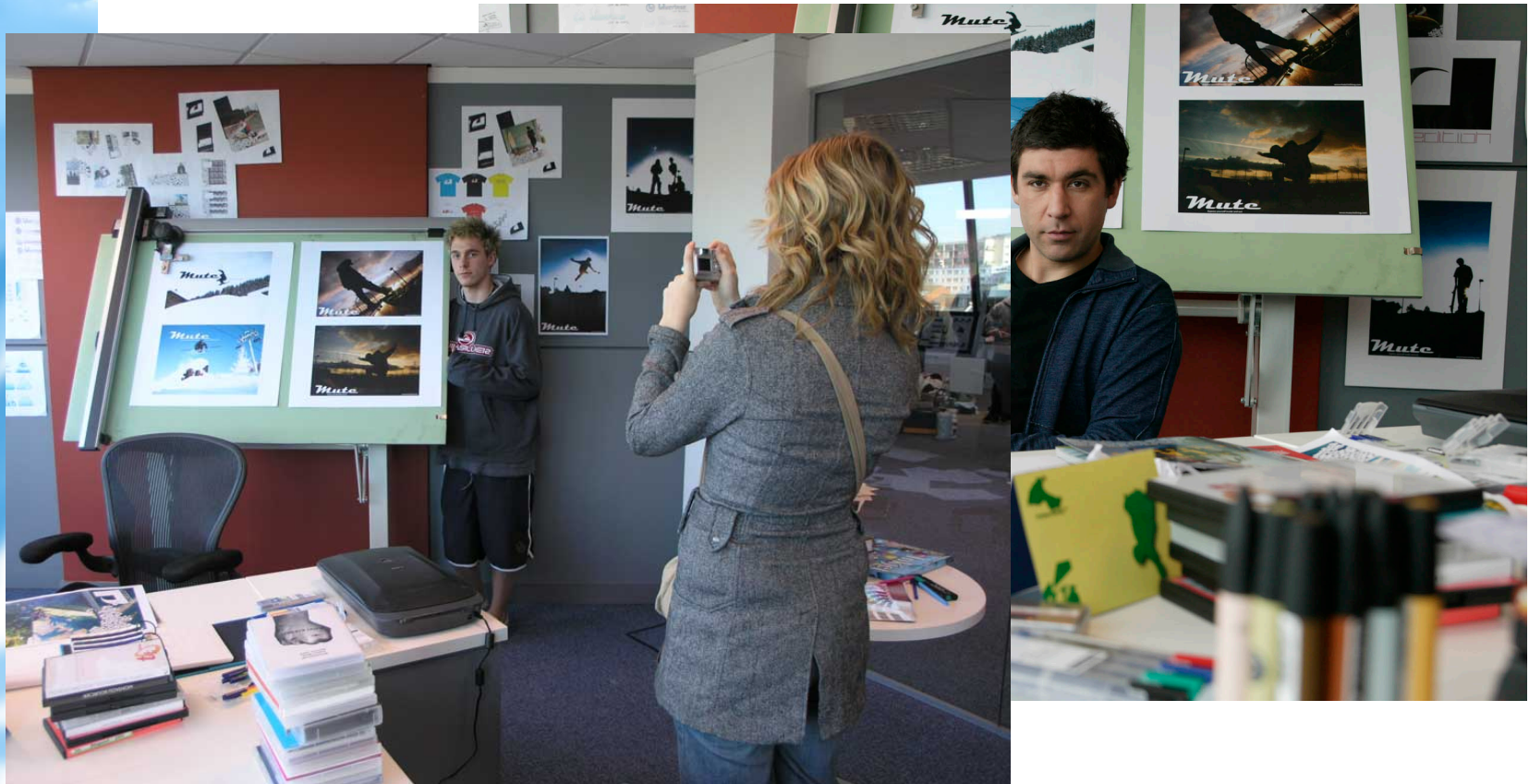
Duly authorised for and on behalf of
[Licensor]

RDF Media Limited
Registered in England
No. 2759428
Registered Office:
The Gloucester Building
Kensington Village
Avenmore Road
London W14 8RF

The Gloucester Building
Kensington Village
Avenmore Road
London W14 8RF
T: +44 (0)20 7913 4000
E: contactus@rdmedia.com



Consider the issues - 'Losing It'





The screenshot shows the Creative Commons website. At the top, there's a navigation bar with links like 'About', 'Blog', 'Donate', 'FAQ', 'Wiki', and 'International'. Below this is a large green banner with the text 'Share, Remix, Reuse — Legally' and a sub-header 'Creative Commons is a nonprofit organization that develops, supports, and stewards legal and technical standards that maximize digital creativity, sharing, and access.' To the right of the banner is a search bar with the text 'Find licensed content' and 'Search site'. Below the banner, there are four main sections: 'Creative Commons is Global' (describing a worldwide network of 100+ affiliates), 'Our Vision' (describing the goal of universal access to research, education, and culture), 'Licenses' (describing Creative Commons licenses as simple alternatives to 'all rights reserved'), and 'Culture' (describing how Creative Commons licenses help make work part of the cultural innovation that's multiplying on the Internet). There are also two smaller sections: 'Education' (describing access to education as easy and universal) and 'Science' (describing the belief that scientific research, journals, and data should be available to everyone). At the bottom, there are two boxes: 'Donate' (stating that Creative Commons is a non-profit organization and needs financial support) and 'Store' (stating that exclusive CC t-shirts, stickers, and more are available for purchase).

www.creativecommons.org.uk