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Editor: **Catherine Jewell**

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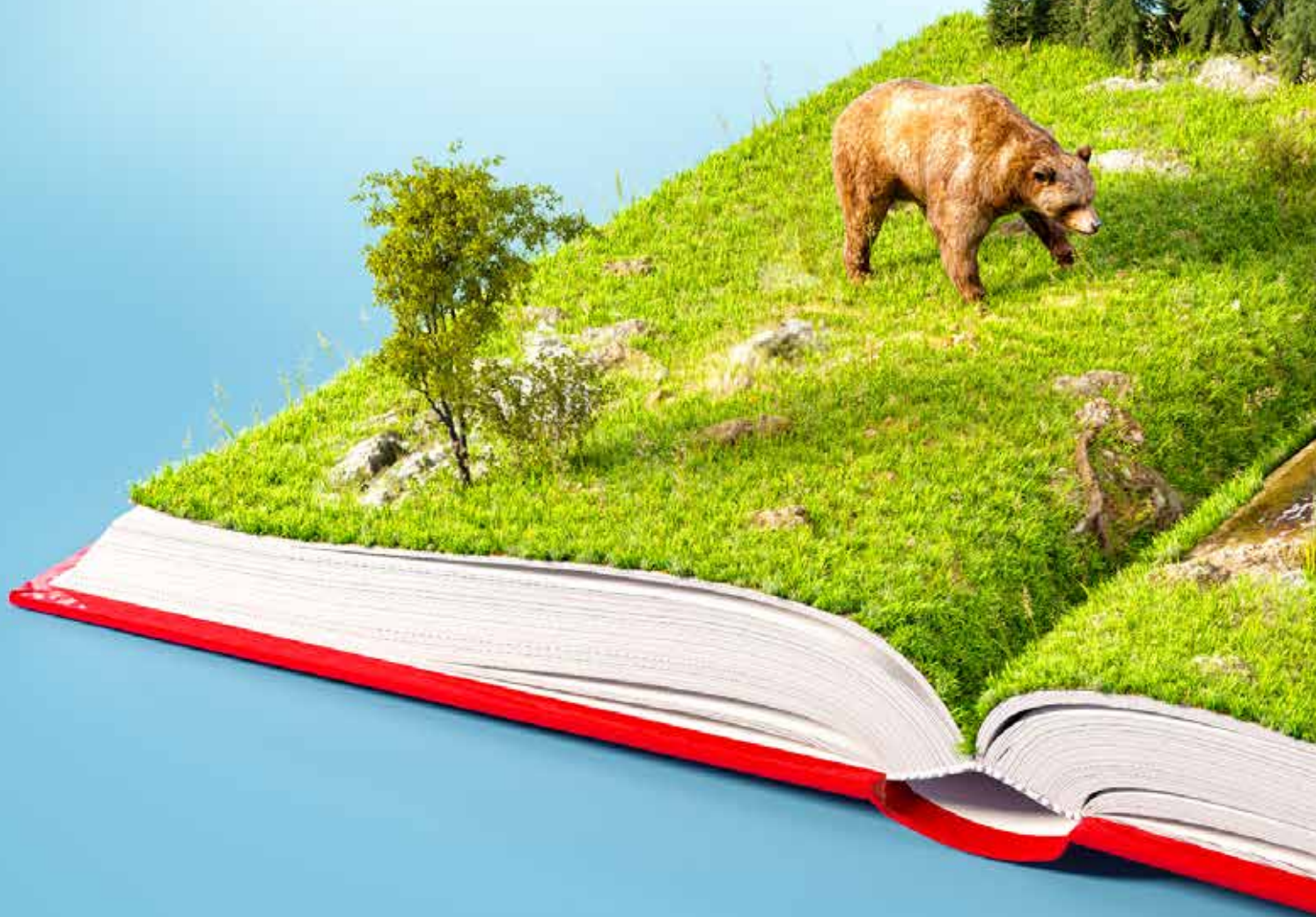
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40	Paolo Lanteri , Copyright Law Division, WIPO

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The Accessible Books Consortium: what it means for publishers

By **Catherine Jewell**,
Communications Division, WIPO



“When it comes to accessible publishing the Accessible Books Consortium (ABC) is the way forward,” says IPA President Michiel Kolman.



Photo: Vadmay / iStock / Getty Images Plus



Photo: Courtesy of Hugo Setzer

Above right: Michiel Kolman, Senior Vice-President of Information Industry Relations at Elsevier and President of the International Publishers Association (IPA).

Above left: Hugo Setzer, CEO of Manual Moderno and Vice-President of the IPA.



Photo: Courtesy of Michiel Kolman

Since its launch in June 2014, the WIPO-led Accessible Books Consortium (ABC) has been working to boost access to publications for people who are blind or visually impaired. The aim is for publishers around the world to produce works that are “born accessible” so that they can be used directly by both sighted and print-disabled readers.

Michiel Kolman, Senior Vice-President of Information Industry Relations at Elsevier (Netherlands) and current President of the International Publishers Association (IPA), and Hugo Setzer, CEO of Manual Moderno (Mexico) and IPA Vice-President, share their views on what this aspect of the ABC’s work means for publishers.

Why is the Accessible Books Consortium (ABC) important?

Michiel Kolman: When it comes to accessible publishing the ABC is the way forward. Now that the legal framework of the Marrakesh (VIP) Treaty is in place and more countries are signing up to it, we have to focus on producing books in accessible formats and making them widely available. That is where the ABC comes in. And that’s why we need as many publishers as possible to sign up to the ABC-sponsored Charter for Accessible Publishing so that we can really boost the number and range of works in accessible formats like braille and large print.

Hugo Setzer: My company, Manual Moderno, has just signed the ABC Charter for Accessible Publishing. We are a mid-size Mexican medical publisher. We believe the Marrakesh Treaty and the ABC are extremely important. Less than 10 percent of all publications produced every year are available in accessible formats, yet according to the World Blind Union there are around 253 million people globally who are visually impaired and need works in accessible formats. That is why it is so important that we publishers engage

in the process of making our publications accessible. And even if publishers are not yet ready to sign the ABC Charter, they can still support the initiative by expediting copyright clearances requested by the ABC Global Book Service to facilitate the cross-border exchange of books in accessible formats.

What are the main concerns publishers have in relation to the ABC?

Michiel Kolman: While Elsevier was at the head of the queue in joining the ABC in 2014 – our Chairman, Young-suk Chi, IPA President at the time, was convinced it was the right thing to do – I am aware that many publishers are worried about the impact born-accessible publishing will have on sales and revenues. These concerns are understandable, but unfounded. Sales will not plummet because publishers make books available in accessible formats, like EPUB 3 for e-books or html for journals, for a select group of customers with print disabilities.

Hugo Setzer: I agree. Publishers can really do a lot to make books available in accessible formats. Their concerns stem in large part from the fact that they still don't quite understand what accessible publishing is all about. Many still associate the Marrakesh Treaty with a copyright limitation, which typically means a negative impact on revenue. But in this instance there is no evidence that that is the case. On the contrary, making our publications accessible could be a source of revenue. People who are blind or visually impaired don't want publishers to give them anything for free, they want to be able to buy books but in the formats they need.

Michiel Kolman: Publishers are also concerned about the cost of moving to a born-accessible publishing environment. I realize Elsevier is a large publisher and ahead of the curve on technology issues, but smaller publishing houses that are transitioning to digital can benefit from our experience and can leapfrog many issues by using the tried-and-tested formats that are now available. These formats work very well for everybody.

About the Accessible Books Consortium (ABC)

The ABC aims to increase the number of books worldwide in accessible formats (braille, audio and large print) and to make them available to people who are blind, visually impaired or otherwise print disabled.

Launched in June 2014, the ABC is an alliance led by WIPO and includes advocacy organizations, authors, libraries for the blind, publishers and standards bodies.

Partners include the World Blind Union, the DAISY Consortium, the International Council for Education of People with Visual Impairment, the Perkins School for the Blind, Sightsavers, the International Federation of Library Associations and Institutions, the International Publishers Association, the International Federation of Reproduction Rights Organisations and the International Authors Forum.

The ABC trains local non-governmental organizations, government departments and commercial publishers who want to produce and distribute their books in accessible formats. So far, over 4,000 accessible educational books have been produced through ABC training programs in Argentina, Bangladesh, Botswana, India, Nepal, Sri Lanka and Uruguay.

The ABC Global Book Service, a global library catalog of books in accessible formats, enables libraries serving the print disabled to exchange items in their collections, thereby eliminating the need (and the cost) of converting them to accessible formats. Some 165,000 people with print disabilities have borrowed accessible books through the Service's 25 participating libraries.

The ABC is also promoting accessible book production techniques within the commercial publishing industry so that e-books can be used by both readers who are sighted and those with print disabilities. If you would like to receive guidelines for self-publishing authors or a Starter Kit for Accessible Publishing, contact Accessible.Books@wipo.int or go to www.AccessibleBooksConsortium.org.

Hugo Setzer: In addition to the impact on revenue and costs, publishers are also concerned about the formats required and how to address the needs of users. Many fear that a move to accessible publishing means they will have to produce two different versions of the same publication, one for the regular (sighted) market and one for people with print disabilities. But this is not the case. A publication that is born accessible can be used by everyone. It simply has a different layout and format. Signing the ABC Charter indicates a publisher's objective and aspiration to make more books accessible to more people. If we incorporate accessibility standards into our publishing processes, which is relatively easy to do, all new publications could be born accessible. And that is what we are aiming for.

At Manual Moderno we have been working with our technology partners to solve various technical issues, but in moving to EPUB 3, the standard for making books accessible, we are seeing great potential to improve the usability and overall quality of our e-books.

How difficult is it to build accessibility into the publishing business?

Michiel Kolman: Accessibility certainly takes real commitment and technical expertise. At Elsevier we already had a digital workflow solution in place, so with a few tweaks we were able to move to EPUB 3 relatively easily. But clearly it is not always that easy, especially for smaller publishers.

Hugo Setzer: Yes, that's right. Actually taking the decision to sign the ABC Charter was easy because we believe it is the right thing to do. But the next step, learning how to make our publications accessible, is not so straightforward. It is not just a question of adopting EPUB 3. That's an important starting point, but obviously, people with print disabilities are not going to listen to the book from beginning to end. They have to be able to navigate their way through it, and search the parts that interest them, just as sighted people do. So we have to think about how a reader with print disabilities can navigate the text. This requires knowledge of technical mark-up language, web standards and specifications as well as an understanding of how people with disabilities use their assistive technologies. At present we are learning about the needs of print-disabled readers and how we can use technology to ensure they have a good user experience. But it is becoming clear that, at least in our case, we will be unable to produce all our publications in accessible format. When it comes to our textbooks for surgeons, for example, it would serve little practical value and would be very complicated and costly to produce them in accessible format. So it is all about identifying market needs and assessing where we can add most value. But we are committed to doing as much as we can. It really is a work in progress.

“Many publishers are worried about the impact born-accessible publishing will have on sales and revenues. These concerns are understandable, but unfounded.”

Michiel Kolman, President of IPA

About the Marrakesh Treaty

The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled is the latest addition to the body of international copyright treaties administered by WIPO. It has a clear humanitarian and social development dimension and its main goal is to create a set of mandatory limitations and exceptions for the benefit of the blind, visually impaired and otherwise print disabled (VIPs).

It requires Contracting Parties to introduce a standard set of limitations and exceptions to copyright rules in order to permit the reproduction, distribution and making available of published works in formats designed to be accessible to VIPs, and to permit the exchange of these works across borders by organizations that serve those beneficiaries.

At the time of writing, 34 countries have signed up to the Treaty.

The ABC focuses on supporting publishers in developing countries, but is there a need to support small publishers in wealthier countries?

Michiel Kolman: We should target all publishers and my hope is that many more will sign up to the ABC Charter. A lot are curious but haven't yet taken the plunge. I understand their hesitations but let's not forget that there is no expectation for a publisher to deliver accessible publishing solutions overnight. Signing the ABC Charter is a commitment, and is certainly aspirational, but publishers can make the transition in their own time. And they can also benefit from the experiences of those who have already made the transition. If a smaller publisher needs more time, that's fine.

Hugo Setzer: Yes, I agree. We have to consider the interests of all publishers. The IPA is fully behind the ABC and we have to work closely with WIPO to ramp up our efforts to explain its role to the thousands of publishers that the IPA represents in more than 70 countries and in WIPO's 191 member states.

Why is it important for publishers to focus on accessibility?

Michiel Kolman: It is the responsibility of publishers to make sure that their publications are available to everybody. Ethically we cannot exclude people because of their disability. So it is about doing the right thing. Of course, it cannot be achieved overnight, but we need to work to make sure that the bulk of all publications are available in the formats that people with visual impairment need. It is part of our broader social responsibility.



Photo: zllkovec / iStock / Getty Images Plus

Less than 10 percent of all publications produced every year are available in accessible formats, yet according to the World Blind Union around 253 million people globally are visually impaired and need works in these formats. "That is why it is so important that we publishers engage in the process of making our publications accessible," says IPA Vice-President Hugo Setzer.

What gaps still need to be addressed?

Michiel Kolman: Raising awareness among publishers about the ABC is essential. Many publishers are not even aware it exists. Although they may have heard about the Marrakesh Treaty, many are still puzzled about what it means for them. When publishers know exactly what the Marrakesh Treaty is all about and what the ABC is seeking to do, I feel sure they will sign up to the ABC Charter.

Hugo Setzer: Yes, raising awareness is hugely important. In general, publishers don't like exceptions and limitations to copyright law. But the exception that underpins the Marrakesh Treaty is very well defined and precisely drafted. While the IPA's endorsement of the Treaty eases publishers' concerns, many still don't know about the ABC or the publishing needs of print-disabled readers. If you had asked me a few months ago if an audio book was a good solution for visually impaired people, I would have said yes. I simply had not thought about the need to offer a visually impaired reader the capacity to navigate a book. For many publishers, including myself, moving to born-accessible publishing is a big learning experience.

Can the blind and visually impaired community do anything to help publishers better understand their needs?

Michiel Kolman: The ABC is the right platform for that discussion. We certainly have to do more to encourage publishers to learn from each other.

Hugo Setzer: Our first challenge is to promote the ABC among publishers and underline its aspirational nature.

Then we need to start rolling out practical training programs so publishers know what they need to do to make a book accessible. This is really important and I think there is a role here for WIPO. Once publishers commit to the ABC and accessible publishing, we need to give them practical support to make the transition.

What sort of challenges do you see arising in the future?

Michiel Kolman: Just imagine a time when a good number of publishers are producing more content in the formats people with visual impairment need. How easy will it be for people with visual impairment to find the books they want in the format they need by searching Google or Amazon? I don't think that has been addressed yet and I think it is something we need to start thinking about now. The last thing we want is for it to be difficult for people to find all the works that WIPO, IPA and others have been working so hard to make available in the right formats.

What is your wish list for accessible publishing in the next 10 years?

Michiel Kolman: I want many more publishers to sign up to the ABC and to really get going with born-accessible publishing. I want the number of publications in accessible formats to skyrocket, and for them to be easily searchable.

Hugo Setzer: As a first step, I think we need to at least double the percentage of publications available in accessible formats over the next five years. That would be a very good start.

Signal piracy: a threat to Asia-Pacific broadcasters

By **Seemantani Sharma**, Legal and Intellectual Property Services Officer, Asia-Pacific Broadcasting Union, Kuala Lumpur, Malaysia



Photo: Veritigo3d / iStock / Getty Images Plus

Signal piracy is adversely affecting traditional regional broadcasters in the Asia-Pacific region and inadequate legal remedies to tackle the problem are undermining their long-term future.

The Asia-Pacific Broadcasting Union (ABU) is the world's largest broadcasting union, serving an audience of around 3.5 billion people in approximately 72 countries. Its primary objective is to bring together the public service broadcasters and national broadcasting organizations of one of the world's most diverse group of countries. Its membership stretches from Turkey in the west to Samoa in the east, and from Mongolia in the north to New Zealand in the south. ABU membership is also open to commercial broadcasters, provided they are national in character and produce a substantial amount of their own programming.



While broadcast piracy affects broadcasters of all sizes, those in developing countries suffer the greatest harm as they often do not benefit from the economies of scale enjoyed by broadcasters in more mature markets.

The countries that make up the ABU's membership vary in terms of geography, socio-economic development, legal systems, ethnic composition, language and culture. In consequence, the commercial goals, scale of operations, technological prowess, breadth and scope of content production of their broadcasting systems and the way they are run are quite different. Of the eight regional broadcasting unions that exist across the globe, none is more diverse than the ABU. But Asia-Pacific broadcasters face a common scourge – the theft of their broadcast signals by unauthorized third parties.

HOW PIRACY AFFECTS BROADCASTERS

While the battle against piracy in the areas of software, film and music has played out sensationally in the popular media and in academia and regulatory circles, piracy of broadcasters' signals has received scant attention. Lack of awareness about the issue of signal piracy in the Asia-Pacific region is attributable to the absence of any realistic empirical assessment of both the scale of signal piracy in the region and the associated financial losses incurred by the broadcasting industry. The last study that sought to quantify the cost of broadcast piracy in the region was undertaken by the Cable & Satellite Broadcasting Association of Asia (CASBAA) in 2011. While that study put broadcast piracy at USD 2.2 billion for the year 2010-2011, it focused exclusively on losses to pay TV and did not include those incurred by free-to-air and public service broadcasters. There is clearly an urgent need to assess losses incurred by all types of broadcasters within the region and beyond, but doing so is an expensive and time-consuming undertaking.

Notwithstanding the need for more detailed analysis of the current situation, evidence suggests that broadcast piracy affects small and large broadcasters alike wherever they operate. In fact, broadcasters in developing and least developed countries suffer the greatest harm from signal piracy because they often do not benefit from the economies of scale enjoyed by their counterparts in more mature economies.

Signal piracy makes it significantly more difficult for public service broadcasters to sell their local content in foreign markets, especially when viewers in those markets already have access to the content through illegal websites.

Why is this a big deal, you may ask. Well, without the revenues generated by international sales, broadcasters are hamstrung in their ability to invest in the acquisition, production, scheduling and transmission of quality local content. Moreover, beyond the economic losses suffered by broadcasters and governments alike, evidence also suggests that signal piracy may be linked to other illegal activities including money laundering and violation of foreign exchange regulations.

BROADCAST PIRACY AND SPORT

The opportunity, and indeed the right, to broadcast high-profile sporting events live is a core income generator for traditional broadcasters. Signal piracy impedes the broadcasters' ability to secure those rights and can also jeopardize the financial sustainability of sporting events.

Sports broadcast piracy is rampant across the Asia-Pacific region. Although unauthorized sports clips have also been detected on live video streaming apps such as Meerkat and Periscope in recent months, unicast (when a broadcast is transmitted by one sender to a receiver within a network) and P2P (peer-to-peer) remain the two most prominent forms of illegal broadcasting.

China Central Television (CCTV), China's state television broadcaster, has suffered repeated piracy of its broadcasts, including of sporting events both within China and beyond. As the sole provider of broadcast content for the 2008 Beijing Summer Olympic Games, CCTV successfully combated the unauthorized retransmission of sports telecasts over the Internet. This, however, was not the case during the 2016 Rio Summer Olympic Games. During the closing ceremony of the latter, CCTV's broadcasts were pirated at a rate of around 35 percent via online video websites.



Photo: VASILIS VERVERIDIS / Alamy Stock Photo

Broadcasting high-profile sporting events live is a core income generator for traditional broadcasters. However, rampant signal piracy is impeding their ability to secure their broadcasting rights and jeopardizing the financial sustainability of sporting events.

This is just one example of the experiences of one broadcaster in the region. Other broadcasters also suffer a similar plight. For example, in Hong Kong (SAR), the signals of the free-to-air broadcaster, TVB, are routinely pirated, with unauthorized, perfect digital copies of their programming available almost immediately on Chinese web servers for audiences in mainland China. Even if pirates are sued in the Chinese courts, the legal costs of doing so outweigh the damages recovered, making the threat of legal action ineffective.

And in India, due to increasing consumption of digital content, sports broadcasters' rights are regularly undermined by unauthorized online transmission of cricket matches. The problem is particularly serious for Star India, the official broadcaster for Indian Premier League. During the 2017 season, *indiantelevision.com* estimated that matches were illegally telecast by more than 1,700 unique URLs via 211 unique servers, 122 pirate streams, 51 hosting sites and 23 infrastructure providers via remote servers.

ASSISTANCE FROM AN UNUSUAL SOURCE

A recent ruling by a United States bankruptcy court in Florida offers some scope for optimism. In October 2017, the US Bankruptcy Court for the Middle District of Florida held that bankruptcy cannot be used as a shield from monetary liability for broadcast piracy. In this case, a retailer of Internet Protocol television (IPTV) streaming devices with unauthorized channels was found guilty of the unlawful distribution of television content broadcast by CCTV and the Hong Kong (SAR)-based TVB on its TV pads. In a lawsuit which began in 2015, the court had ordered the retailer to pay USD 55 million in damages. But in a move to dodge the fine, the retailer filed for bankruptcy.

Although CCTV and the other plaintiffs were successful in suing this particular pirate in a foreign jurisdiction, few public service broadcasters in the region have the financial clout to do so, especially those operating in developing and least developed countries.

INSUFFICIENCY OF THE LAW

The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, administered jointly by the World Intellectual Property Organization (WIPO), the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), is the principal international legal instrument protecting the rights of broadcasters. But, concluded nearly 60 years ago in 1961, it is the product of an age in which cable network was at its inception, the use of satellites for broadcast transmission was unheard of and the Internet was not even a fanciful idea.

The Rome Convention has limited international appeal – only 93 of WIPO's 191 member states, and just 17 countries from the Asia-Pacific region, have signed up to the treaty – and falls short of effectively addressing the interests of broadcasters in the 21st century on a number of counts. For example, it does not protect



As the sole broadcaster of the 2008 Beijing Summer Olympic Games, China Central Television (CCTV) successfully combated the unauthorized retransmission of sports telecasts over the Internet. This was not the case at the Rio 2016 Summer Olympic Games.



Photo: Pete Niesen Editorial / Alamy Stock Photo

a broadcaster's pre-broadcast signal. Pre-broadcast signals are program-carrying signals used to transmit content from one broadcaster to another. They are not intended for public reception. Stripped of advertisements, trademarks (logos) or any other identifying graphics, a pre-broadcast signal is more susceptible to piracy than a traditional broadcast signal.

Moreover, the Rome Convention only protects simultaneous rebroadcasts of a broadcaster, because when the treaty was concluded relevant recording equipment simply did not exist. However, these days, pirates can easily acquire the technology to record a signal and relay it over multiple platforms including the Internet, cable and terrestrial TV, and all from the comfort of their own home.

From a legal perspective, within the Asia-Pacific region the Rome Convention is somewhat redundant as only signatories to the Berne Convention for the Protection of Literary and Artistic Works or the Universal Copyright Convention (UCC) can become signatories of the Rome Convention.

That means that unless countries like Afghanistan, the Islamic Republic of Iran, Papua New Guinea, Samoa and Timor-Leste sign up to the Berne Convention or the UCC, they cannot join the Rome Convention. As a consequence, broadcasters have no legal recourse open to them if their signals are pirated in those countries.

That is why a standalone international legal treaty that protects broadcasters' rights against signal piracy is so urgent. Such a solution is all the more important at a time when broadcasters operate in an increasingly border-free world.

A NEED FOR URGENT ACTION

Because signal piracy is so rampant and adversely affects traditional regional broadcasters, and because the existing international legal regime falls short of what is required, the ABU is supporting international negotiations to update the current legal protection available to broadcasters under the Rome Convention so it is fit for the modern era. Policymakers have been grappling with this issue within WIPO's Standing Committee on Copyright and Related Rights (SCCR) since 1998. But the ongoing evolution of broadcast technology means the industry is left exposed. Without effective legal remedies it cannot rein in those who misappropriate the means by which broadcasters are able to sustain their existence and thrive.

Notwithstanding variations in scale, traditional broadcasters the world over increasingly use the same technology. By that virtue, they meet the same fate at the hands of pirates.

Revenue generated by traditional broadcasters is directly proportionate to their ability to invest in the development and procurement of quality content. For developing and least developed countries in the Asia-Pacific region, broadcasting (i.e. free-to-air and pay TV) remains the primary means of mass communication. If the legitimate rights of these broadcasters are not upheld, their ability to provide these services will be severely impeded and the citizens of these countries will have no choice but to resort to alternative platforms such as over-the-top (OTT) players, like Apple TV or Netflix, which are likely to become more popular in coming years. OTT players deliver audio, video and other media content over the Internet. The problem here is that given the digital divide that exists between developing and industrialized countries, the knowledge gap will deepen because those who do not have access to the Internet will not be able to access these new digital platforms.

Public service broadcasters in many countries in the Asia-Pacific region are dying a slow death. As these countries move toward the information society, they cannot afford to let their public broadcasters fall into decline. Revenue generated by traditional broadcasters is directly proportionate to their ability to invest in the development and procurement of quality content. However, loss of revenues resulting from signal piracy impedes their ability to produce quality content. As a consequence, in the long run, the general public loses out because viewers are deprived of access to quality content and information.

Against this backdrop, an international treaty that balances the rights of all stakeholders is imperative. After 20 years of in-depth discussion, the time is now ripe to finalize an international treaty that offers broadcasters in all regions a fair and reasonable means of combating signal piracy and safeguarding their interests.

A fresh look at the Olympic properties

By **Carlos Castro**, Head of Copyright and Content Affairs, International Olympic Committee



Photo: Korean Government / Alamy Stock Photo



Photo: Aflo Co. Ltd. / Alamy Stock Photo



Photo: CrowdSpark / Alamy Stock Photo

The Torch Relay is one of the biggest and most emblematic aspects of the Olympic Games. It seeks to inspire people with the Olympic values and generate excitement in the build-up to the Olympic Games. Before it arrived at the PyeongChang Olympic Stadium for the Opening Ceremony on February 9, 2018, the Olympic flame was carried by 7,500 torchbearers across more than 2,000 kilometers.

The Olympic Games are the most popular event in the world. In February, billions of spectators from across the globe will tune into three weeks of spectacular sporting action during the XXIII Olympic Winter Games in PyeongChang, Republic of Korea. From February 9 to 25, those familiar symbols that we associate with the Olympic Games will have the eyes of the world upon them.

The intellectual property (IP) system plays an important role in safeguarding these and the unique character of the Olympic Games, and in generating the funds required to organize one of the largest and most complex sporting events in the world. Let's explore how and why it is so important.

UNDERSTANDING THE OLYMPIC PROPERTIES

The Olympic Charter identifies the Olympic flag, motto, anthem, designations, emblems, flame, torches and identifiers including but not limited to “Olympic Games” and “Games of the Olympiad” as the Olympic properties. While they are all well known, the most familiar are the Olympic rings, which enjoy a 93 percent recognition rate.

The Olympic properties encompass all rights relating to the Olympic Games in relation to the organization, exploitation and marketing of this top-tier event. These rights also cover the right to photograph or record audiovisual footage of the event for use by the media in their publications, broadcasts or platforms.

As creations of the mind that are expressed through distinctive symbols and names which may be used in commerce, the Olympic properties qualify for IP protection under laws governing copyright, trademarks and industrial designs, which together with patents, utility models and trade secrets make up the palette of IP assets that are relevant to the Olympic Games.



Of all the so-called Olympic properties identified in the Olympic Charter, the most familiar are the Olympic rings, which enjoy a 93 percent recognition rate.

The white tiger, Soohorang, and the Asiatic black bear, Bandabi, are the official mascots and iconic emblems of the PyeongChang 2018 Winter Olympic Games.



All IP rights associated with the Olympic properties are exclusively owned and controlled by the International Olympic Committee (IOC), which plays a leading role in enhancing the Olympic values and providing material support for the organization and hosting of Olympic Games.

A KEY FUNDING TOOL

The IOC and all organizations within the Olympic Movement, such as the National Olympic Committees, International Sport Federations and Organising Committees for the Olympic Games, are entirely privately funded. Intellectual property assets are central to a range of programs managed by the IOC to generate the revenues required to fund the Olympic Games. These include programs to manage the sale of media rights to the Olympic Games, to attract private sponsors through the TOP worldwide sponsorship program and to generate licensing income through the IOC official supplier and licensing programs.

Ninety percent of the revenues accruing from these programs are distributed by the IOC to organizations across the Olympic Movement to support the staging of Olympic Games and promote the global development of sport. The IOC, as mandated by the Olympic Charter, is responsible for ensuring that the Olympic Games are celebrated at regular intervals. The significant financial contributions it makes in funding and servicing the Organising Committees of the Olympic Games is pivotal to their success. For example, IOC contributions to the Olympic Games in Paris 2024 are estimated to reach USD 1.7 billion. Of the 10 percent of revenues retained by the IOC to generate and manage these resources and programs, around USD 3.4 million per day is distributed by the IOC to athletes and sports organizations around the world operating at all levels.

THE OLYMPIC PROPERTIES AND DIGITAL MEDIA

The Olympic Games are the most viewed event in the world. Today, sports fans have an expanding range of opportunities to follow the thrills and spills that make the Olympic Games so exciting. Broadcast television, digital and social media platforms offer unprecedented viewing opportunities. Media companies pay significant sums for the exclusive right to report on or broadcast the Olympic Games, and the sale of these rights represents 47 percent of the IOC's income (USD 4.157 million for the period 2013-2016).

But viewing patterns are changing fast as the use of digital technology becomes second nature to a growing number of people, especially younger people. Increased smartphone and Internet penetration is boosting the consumption of sports content globally.

The Rio 2016 Olympic Games were viewed by half the world's population, with online consumption rising to 7.2 billion views on social media platforms, double that of the London 2012 Olympic Games. On average, TV viewers watched 20 percent more content for Rio 2016 than for London 2012. Between the two events, TV coverage increased by 13.5 percent and digital coverage rose by a stunning 198.6 percent. The distribution of a record



PyeongChang 2018™



STEEP™

ROAD TO THE OLYMPICS

Ensuring the Olympic Games remain an attractive viewing option for young people is an enduring challenge. That is why the IOC officially launched its “Steep™ Road to the Olympics” video game at the PyeongChang 2018 Winter Olympic Games.

number of hours of content – 357,000 hours of coverage for Rio 2016 compared to 181,523 hours for London 2012 – made this possible.

For Rio 2016, digital coverage topped an unprecedented 243,000 hours: twice that of traditional television coverage and almost three times the digital offering for London 2012. Rio 2016 was the most digitally enabled Olympic Games to date.

ATTRACTING YOUNGER AUDIENCES WITH ESPORTS

Ensuring that the Olympic Games remain an attractive viewing option for young people is an enduring challenge. Recognizing the widespread popularity of video games, the IOC officially launched its “Steep™ Road to the Olympics” video game at the PyeongChang 2018 Winter Olympic Games. Our aim is to engage young people and other audiences and give them a taste of the sporting action that takes place at the Winter Games across all disciplines. Launching the game as an officially licensed product for PyeongChang 2018 reflects the IOC’s interest in exploring eSports further.

At a time when the development of ever more popular eSports is being supported by various stakeholders within the Olympic Movement, participants in the Olympic Summit in October 2017 discussed their relevance to the Olympic Games. At that meeting, the IOC and the Global Association of International Sports Federations (GAISF) were called upon to open a dialogue with the gaming industry and player community to explore how eSports might fit into the frame of the Olympic Games.

The Summit concluded that eSports could be considered a sporting activity insofar as participating players prepare and train with an intensity that is comparable to that of athletes competing in traditional sports. They also asserted that the content of eSports must not infringe Olympic values; this was a prerequisite to the IOC recognizing eSports as a competitive sport. The Summit also ruled that such recognition would require that eSports are organized and represented by an organization that guarantees compliance with the rules and regulations of the Olympic Movement in relation to anti-doping, betting, competition manipulation, and so on.



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The medals for the PyeongChang 2018 Winter Olympic Games were designed by Lee Suk-woo and reflect the traditions and culture of the host nation. Two hundred and fifty nine sets of medals were made for the PyeongChang 2018 Winter Olympic Games.

To further explore the type of relationship that eSports may have with the Olympic Movement in the future, the IOC's Worldwide TOP Partner INTEL showcased two distinct eSport gaming experiences at PyeongChang 2018: the Intel Extreme Masters PyeongChang eSports tournament, featuring Blizzard Entertainment's "StarCraft® II," one of the most celebrated eSports titles of all time, and "Steep™ Road to the Olympics".

THE OLYMPIC CHANNEL

In a further bid to leverage the potential of digital media, and to respond to the public's hunger for compelling sports content, the IOC recently launched the Olympic Channel, a digital-first, multi-platform global media destination where fans can experience the power of sport, connect with the Olympic Movement and learn about the many cultural and humanitarian projects undertaken by the IOC all year round. It is an integral part of the IOC's Olympic Agenda 2020, a strategic roadmap for the future of the Olympic Movement, which embraces digital technology as a means of reaching younger audiences on their terms.

The Olympic Channel is freely available at www.olympicchannel.com via mobile apps for Android and iOS, and in 11 languages. It currently features a catalog of more than 6,000 programs covering all Olympic disciplines and 206 countries. So far, the Channel has established partnerships with 54 sports organizations and premiered more than 30 original series. It has also forged partnerships with various media outlets to produce localized content. These include NBCUniversal and USOC in the USA, Eurosport in Europe and the beIN Media Group in Middle East and North Africa (MENA) territories.

PROTECTING THE OLYMPIC PROPERTIES

Protecting the Olympic properties and their associated IP rights is crucial to maintain the exclusivity that commercial partners acquire in associating themselves with the Olympic Games, and thus to secure the corresponding income to fund the Olympic Movement. All IOC marketing and media rights programs are rooted in the exclusive terms that are granted to an Olympic Marketing Partner in relation to content, media, category of service or product, or territory. Any non-authorized content or association with the Olympic Games has the potential to negatively impact the value and revenues derived from the Olympic properties.

At the international level, the IOC relies on various international IP treaties, in particular the Nairobi Treaty, adopted in 1981 and administered by WIPO. Under this Treaty, member countries are obliged to protect the Olympic symbol against use for commercial purposes (in advertisements, on goods, as a mark, and so on) without the authorization of the IOC.

Recognizing the growing economic importance of sport, many countries (former and future hosts of the Olympic Games) have adopted specific national legislation to protect the Olympic properties and the rights of organizers of sports events. Such legislation sets out legal measures in particular to prevent “ambush marketing,” which can be defined as all intentional and unintentional attempts to create a false or unauthorized association with the Olympic Properties or the Olympic Games, whereby businesses or organizations that have no official connection with an event seek to exploit it in their marketing. This is the case, for example, in Argentina, which is to host the Buenos Aires 2018 Youth Olympic Games, and in Australia, Brazil, Canada, China, the Czech Republic, Egypt, France, Greece, Italy, Poland, the Russian Federation, South Africa, the UK and the USA.

For PyeongChang 2018, in addition to their Copyright Act and their Trademark Act, the Government of the Republic of Korea adopted a Special Act on Support for the PyeongChang 2018 Olympic and Paralympic Winter Games. For Tokyo 2020, Beijing 2022 and Paris 2024, discussions on corresponding legislation are ongoing.

On top of this, the IOC also enacts specific regulations that are applicable to the Olympic Games. These include, for example, the News Access Rules applicable to the XXIII Olympic Winter Games PyeongChang 2018, 9-25 February 2018, the IOC Social and Digital Media Guidelines for persons accredited to the XXIII Olympic Winter Games PyeongChang 2018 and the IOC Guidelines for Editorial use of the Olympic Properties by Media Organisations.

These rules and regulations safeguard the exclusivity required by all marketing and media rights deals and ensure the related income is generated to appropriately fund the Olympic Movement. In so doing, they allow the general public to enjoy the spectacular multi-sports extravaganza that is the Olympic Games.



Photo: © International Olympic Committee. All rights reserved

The Rio 2016 Olympic Games were viewed by half the world's population, with online consumption rising to 7.2 billion views on social media platforms. Rio 2016 was the most digitally enabled Olympic Games to date.

eSport: everything to play for

By **Stephen Townley** and **Annie Townley**, Active Rights Management Limited, London, United Kingdom

Traditional sport has a problem: media fragmentation – the increasing choice and consumption of content across different media – is changing the way sports fans wish to receive and engage with sport content. eSport offers great opportunities to attract and retain a global following, especially among younger people.





The International Olympic Committee (IOC) has declared that eSport, or competitive video gaming, could be considered a sporting activity. That is a momentous decision. eSport is an important way of reaching young people and a vitally important market for media businesses, game producers and sports themselves. There is everything to play for.

But the issues at stake are not clear cut. Is eSport really sport? What are the potential benefits and challenges for the sports industry of recognizing eSport? And – crucially – what are the implications in terms of intellectual property (IP)?

IS ESPORT SPORT?

At a summit on October 28, 2017 in Lausanne, Switzerland, the IOC decided that “Competitive ‘eSports’ could be considered as a sporting activity, and the players involved prepare and train with an intensity which may be comparable to athletes in traditional sports.”

It also said that any eSport would need to fit with the rules and regulations of the Olympic movement in order to gain IOC recognition, and agreed to carry on discussions with the gaming industry and players along with the Global Association of International Sports Federations (GAISF).

The key word in the IOC decision is “competitive” – the analogy is perhaps the difference between a morning run around the park and a race. The IOC has recognized that a competition element – “the winning or losing” of an event run according to a predefined set of rules – is essential. Competitive eSports must tick that box. Indeed, as the computer code behind an eSport game avoids the subjective and possibly fallible input of a referee or judge, one could argue that it is a competition but a fairer one.

For some people, the IOC’s focus on competition and athletes’ training may not be enough. Some would argue that the definition of sport must include a sports performance, the outcome of the interaction between the mind and body of the athlete – as seen, for example, in a golfer swinging a club and striking the ball. The role of the body and physical activity in eSport is different. The body is not involved beyond interaction with the input device and the game software, for example in hand-eye coordination. However, objections to eSport on this ground are confounded by the widespread acceptance over recent years of mind sports, such as chess, and the increasingly important technology-aided aspects of, say, motor sports.

WHY SPORT CAN’T IGNORE ESPORT

So why are the IOC and the sports industry interested in eSport? In a word: potential. eSport offers great opportunities to attract and retain a global following, especially among younger people.

Traditional sport has a problem: media fragmentation – the increasing choice and consumption of content across different media – is changing the way sports fans



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Market intelligence provider, Newzoo's research has suggested that eSport revenues will reach USD 696 million by 2017 and USD 1.5 billion by 2020.

wish to receive and engage with sport content. Any content that may build a deeper level of fan engagement, particularly with a younger audience, is desired by sport. Market data analysts BI Intelligence have suggested that the proportion of millennials in the United States who watch eSport is higher than those who watch any of the major US leagues. Major sports have their own official eSport titles but, tellingly, neither of the current top-selling eSport titles linked to traditional sports, namely FIFA 18 and NBA2K, feature among what the games industry classifies as its 10 top-selling titles.

Admittedly, the current eSport community is tiny compared with the sports community. The IOC report on Rio 2016 affirmed media fragmentation, with 7.2 billion views of official content on social media platforms. The same report indicated that half the world's population had watched at least some of the Rio 2016 Summer Olympic Games on television. But what of the future? Research by data analysts, Statista has estimated a global eSport

audience of 385 million. And market intelligence provider Newzoo's research has suggested that eSport revenues will reach USD 696 million by 2017 and USD 1.5 billion by 2020.

Countries hungry for gold medals and with a digitally strong youth population are turning to eSport for chances of international glory. Last year, Singapore launched an eSport Academy to further its efforts, and its government-funded sport council includes eSport in its elite athlete program.

Intel, the IOC's partner in the TOP worldwide sponsorship program, announced two eSport events ahead of the PyeongChang 2018 Winter Olympic Games. eSport will also be exhibited at the 2018 Asian Games prior to its formal inclusion in the program for the 2022 Asian Games. This international exposure will increase government support for elite eSport athletes.



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eSport, which is becoming increasingly popular, upsets the delicate relationship between sport and IP. For example, the law may recognize IP in a virtual eSport game but not in a real sporting event. Whereas a sporting performance does not qualify for copyright protection, the creative work involved in developing and publishing eSport does.

The commercial opportunities are potentially enticing. In 2014, Amazon purchased the leading eSport media platform Twitch, demonstrating that major players see the opportunity that “sport” will grow their business. It is therefore hardly surprising that the sports industry wants a slice of the action.

But if eSport represents an opportunity for sport, it also poses challenges. To understand those challenges, one needs to grasp the critical importance of intellectual property for modern sport.

SPORT AND IP – A COMPLEX RELATIONSHIP

Sport and IP have a checkered history. We would go as far as to say that no other industry has struggled more to try to gain the benefits of IP protection. The meteoric growth in the value of the sports industry over the last 30 years has been driven by the importance of sports material as content that could be used by media businesses to acquire customers, which in turn boosted growth in the value of association (sponsorship, advertising and merchandising). Sport wanted to benefit from any available IP protection and at the same time society wanted to preserve access to sport for all as a basic human right.

Protecting sport through IP law is not straightforward. A sports performance is not recognized as a copyright work in the same way as a musical or dramatic performance. The portrayal of the sports performance through a picture or media coverage may, however, attract IP in different jurisdictions. Exclusivity in content licensing is achieved through contracts with athletes, the media, commercial partners, press and audiences. IP created by others is assigned in return for access.

Active Rights Management (ARM) was involved with the IOC in amending its charter in 2000 to extend the IOC’s assertion of ownership of representations of a sports performance to include digital representations. ARM also worked with the sports industry to open a debate within the European Union on whether something similar to a sports performance right should be recognized. The EU Court of Justice commented on this issue in the *Murphy* case (joined cases C-403/08 and C-429/08 *Football Association Premier League v QC Leisure and Karen Murphy v Media Protection Services Limited*): “sports events such as football matches cannot be considered intellectual creations or works and so cannot be protected by copyright.” It was noted that sports events have a unique and original character that can transform them into subject matter worthy of protection. The EU determined that whether to grant such protection should be left to Member States in their domestic legal framework. Some countries have done so. Most have not.

As the pie of revenue from sport has expanded, and as media have fragmented, the tensions over IP rights have increased. Athletes, teams, officials, event promoters and governing bodies all fight to secure what they see as their fair return for their efforts, skills and inventions.

These challenges have entered a new dimension with the emergence of eSport, with console manufacturers, game developers, publishers and players looking to be accepted as part of the family of sport while controlling access to their own communities.

ESPORT, SPORT AND IP

eSport upsets the delicate relationship between sport and IP in two ways.

First, there is a significant difference between the legal protection available to sport and eSport. The law may recognize IP in a virtual eSport game but not in a real sporting event, because whereas a sport performance does not amount to a copyright work, the recognized creative work in developing and publishing eSport will qualify for such protection.

If there is no generic right in sports performances, what is to stop an eSport event or league replicating an existing event? Copyright, trademarks, goodwill and “get up” and in some cases image rights may be potential legal mechanisms for a sports organization, but ambush marketing (when businesses that have no official connection with an event seek to exploit it for publicity) has already shown that there may be ways around traditional IP protection in the sports industry.

Second, eSport may entail significant reputational risks for sport. The sport industry is often conservative. Sport can be entertaining and at one level it is entertainment, but it is also so much more. Its value system is important because athletes often act as role models by inspiring fair play in life. Sports governance seeks to protect and achieve this purpose.

The sport industry operates within a highly regulated framework. Not only are there carefully guarded rules of the game, but there is much internal and external regulation of the industry. Sport uses the granting of “official” status to events and partners, including eSport game developers, to control how their sport is represented. The “rules” of a sport are its core asset, developed carefully over many years.

In contrast, the evolution of eSport has rested on a youth market and culture. This often challenges rather than aligns with the established order. Part of the attraction of eSport is that it is pure entertainment. It is not trying to become a model for good citizenship. And since eSport may protect the characters and game format through copyright, regulating the rules of the game may be less important or even irrelevant.

A CULTURE CLASH?

This intrinsic value system of sport, and the challenge that eSport poses to it, have been recognized by IOC President Thomas Bach. “We want to promote non-discrimination, non-violence, and peace among people. This doesn’t match with video games which are about violence, explosions and killing,” he told the *South China Morning Post*.

Is the Olympic Charter strong enough to distinguish competitive “war” games from others of a more wholesome nature? Is a game that involves firing arrows at an ancient army eSport because it involves archery? The Olympic Games include boxing, which clearly involves real physical pain. Is a virtual shooting game any less defensible?

Ethical and disciplinary matters have already arisen in eSport. Verbal abuse appears commonplace. For example, the player Christian “IWillDominate” Rivera was banned from competing for one year following a history of verbal abuse. The blight of match-fixing has reared its ugly head. Four North American Counter-Strike players were suspended.

And the use of performance-enhancing drugs is reported to be widespread. The International eSports Federation (IeSF) signed the Code of the World Anti-Doping Agency (WADA) to make it clear that it applies to the e-Sport industry too, but the IeSF has a limited number of members and may simply not gain traction. In January 2018 several high-profile players were reported to have withdrawn from a Galaxy Battles II event planned in Manila because the Games and Amusements Board of the Philippines required mandatory drug testing. As a consequence the tournament’s designation as a Major in the Pro Circuit was withdrawn.

CRUNCH TIME

There are undoubted similarities between sport and eSport. Both are competitive and involve skill, training and judgment. Both engage fans in a passionate and emotional way. Both operate at a grassroots and elite level. Both have major events as well as commercial programs that support them. Both have dedicated media channels or platforms. Events can be played out live before spectators in large auditoriums and venues.

But there are material differences in their objectives, and sport will need to have its wits about it to resist being damaged by a wholesale acceptance of eSport games that do not respect the legacy and social values of sport. Sport may well need the support of additional IP law to achieve this.



While there are similarities between sport and eSport, eSport may entail significant reputational risks for sport. Sport may need the support of additional IP law to resist being damaged by a wholesale acceptance of eSport games that do not respect the legacy and social values of sport.



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Blockchain and IP law: a match made in crypto heaven?

By **Birgit Clark**, Baker McKenzie,
London, United Kingdom



Photo: Rick_Jo / iStock / Getty Images Plus

Blockchain and related distributed ledger technologies are a hot topic, with new use cases emerging almost every day.

Blockchain and related distributed ledger technologies have been a hot topic recently, with multiple industries exploring their possibilities and new blockchain use cases emerging almost every day. But how might these technologies be used in the context of intellectual property (IP) law and practice?

WHAT IS BLOCKCHAIN?

Blockchain technology has become famous as the technology behind cryptocurrencies such as Bitcoin and Ethereum. In its basic form it is an open ledger of information that can be used to record and track transactions, and which is exchanged and verified on a

peer-to-peer network. Blockchain and other distributed ledger technologies create a trustworthy and transparent record by allowing multiple parties to a transaction to verify what will be entered onto a ledger in advance without any single party having the ability to change any ledger entries later on. Each transaction or “block” is transmitted to all the participants in the network and must be verified by each participant “node” solving a complex mathematical puzzle. Once the block is verified, it is added to the ledger or chain.

From the perspective of information, the real innovation of distributed ledger technology is that it ensures the integrity of the ledger by crowdsourcing oversight and

removes the need for a central authority. In other words, transactions are verified and validated by the multiple computers that host the blockchain. For this reason it is seen as “near unhackable,” because to change any of the information on it, a cyber-attack would have to strike (nearly) all copies of the ledger simultaneously. While the traditional concept of blockchain is an open and anonymous network, there are also “private” blockchains which pre-screen who is allowed to administer the ledger.

ATTRACTIVE BEYOND THE WORLD OF FINTECH

Since distributed ledger technology creates a secure, time-stamped and immutable chain of information, it is already finding applications in brand protection and enforcement, marketing and consumer engagement. More use cases seem to emerge on an almost daily basis. The technology has fast become attractive beyond the world of fintech. It is already being used to track the progress of goods in a supply chain, which is of interest to many IP-intensive sectors including the pharmaceutical, automotive, luxury and consumer goods industries, where the traceability of goods is important and counterfeit and grey goods are of concern.

Blockchain is attractive to many different industries because of its potential uses. Different types of data can be added to a blockchain, from cryptocurrency, transaction and contractual information to data files, photos, videos and design documents. And the technology is continuing to develop with new types of distributed ledgers such as hashgraph software, which seeks to address issues of scalability.

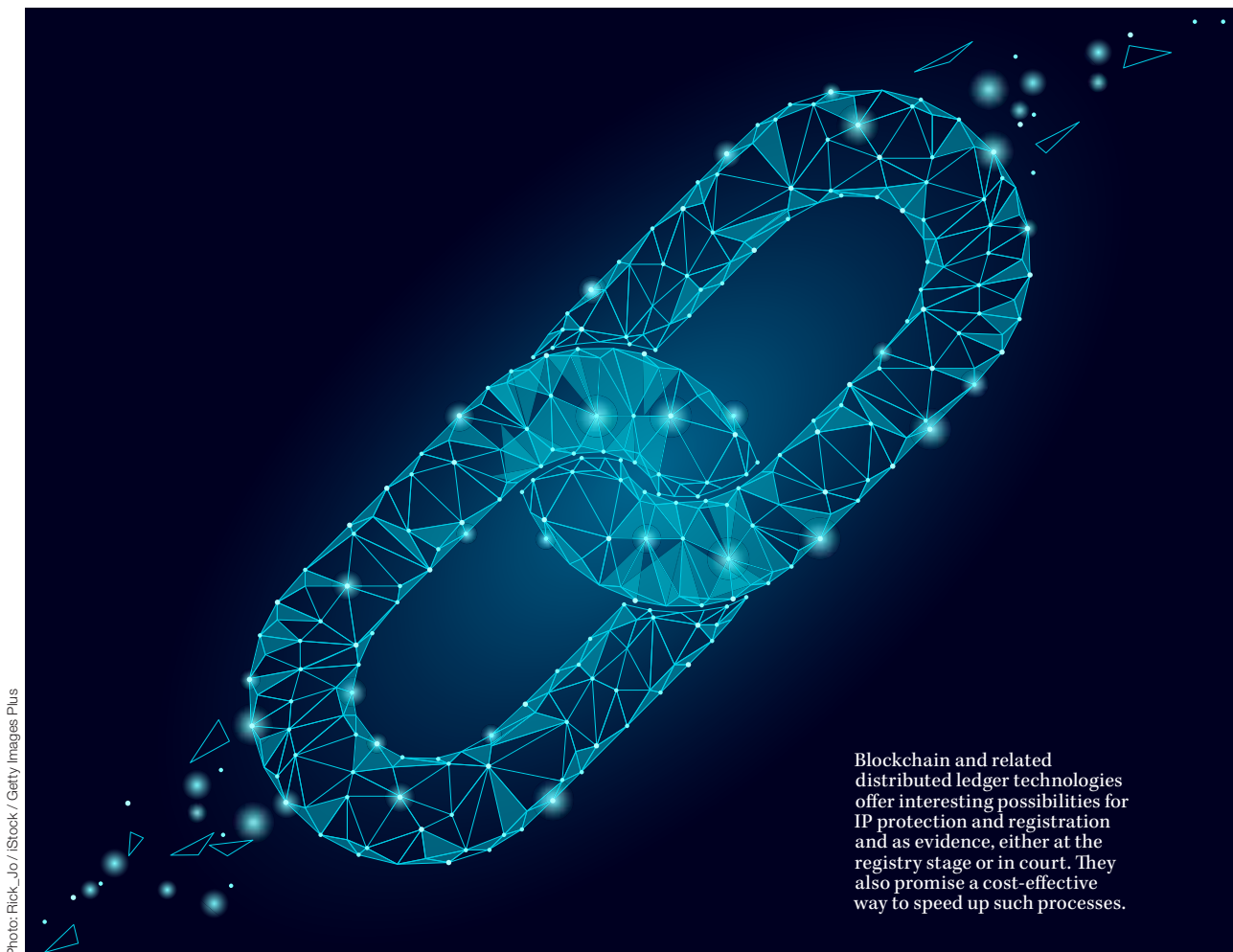
POSSIBLE APPLICATIONS IN THE WORLD OF IP

There are various potential hurdles to large-scale legal application (including questions of governing laws and jurisdictions, data security and privacy concerns). Despite this, in the context of IP-heavy industries, blockchain and related distributed ledger technology offer obvious possibilities for IP protection and registration and as evidence, either at the registry stage or in court. It also promises a cost-effective way to speed up such processes. Potential use cases include: evidence of creatorship and provenance authentication, registering and clearing IP rights; controlling and tracking the distribution of (un)registered IP; providing evidence of genuine and/or first use in trade and/or commerce; digital rights management (e.g., online music sites); establishing and enforcing IP agreements, licenses or exclusive distribution networks through smart contracts; and transmitting payments in real-time to IP owners. Blockchain may be also used for authentication and provenance purposes in the detection and/or retrieval of counterfeit, stolen and parallel-imported goods.



Photo: allanswart / iStock / Getty Images Plus

Blockchain is attractive to many different industries because of its potential uses. Different types of data can be added to a blockchain, from cryptocurrency (above), transaction and contractual information to data files, photos, videos and design documents.



“SMART” IP RIGHTS

The potential to use blockchain technology for the management of IP rights is vast. Recording IP rights in a distributed ledger rather than a traditional database could effectively turn them into “smart IP rights”.

Related is the idea of IP offices using distributed ledger technology to create “smart IP registries” in the form of a centralized solution run by the IP office as an accountable authority which would create an immutable record of events in the life of a registered IP right. It could include when a trademark was first applied for, registered, first used in trade; when a design, trademark or patent was licensed, assigned, and so on. It would also resolve the practicalities of collating, storing and providing such evidence.

The ability to track the entire life cycle of a right would have many benefits, including smoother IP right audits. It could also simplify the due diligence exercises that are necessary for IP transactions, for example in mergers and acquisitions. Confidentiality concerns on the side of the IP owners could be addressed by an opt-in scheme.

EVIDENCE OF USE OF IP RIGHTS

A ledger showing who owns what offers brand owners a potential reference point for their rights and for the extent those rights are used within the market. This could be particularly helpful in those jurisdictions where proof of first or genuine use is required or where the extent of use is crucial, such as in disputes or other proceedings involving recognition of well-known marks, or in defending a non-use revocation action.

By way of example, collecting information on the use of a trademark in trade or commerce on a blockchain-based official trademark register would allow the relevant IP office to be notified virtually immediately. This would result in reliable and time-stamped evidence of actual use and frequency of use of a trademark in trade, both of which are relevant in proving first use, genuine use, acquired distinctiveness/secondary meaning or goodwill in a trademark. Similarly, distributed ledger technology could be used to publish technologies for defensive publication as prior art to prevent others from obtaining a patent over such technologies.

EVIDENCE OF CREATORSHIP

Blockchain technology can also play an important role within the context of unregistered IP rights such as copyright (which in many jurisdictions, and under the terms of the Berne Convention for the Protection of Literary and Artistic Works, is not a registrable IP right) and unregistered design rights, since it can provide evidence of their conception, use, qualification requirements (such as originality and the country in which articles made to the design were first marketed) and status. Uploading an original design or work and details of its designer or creator to a blockchain will create a time-stamped record and solid evidence to prove these matters.

Distributed ledger technology-based repositories for unregistered IP rights are already being developed by several blockchain start-ups and could be an interesting and manageable solution for copyright protection as well as digital rights management.

SMART CONTRACTS AND DIGITAL RIGHTS MANAGEMENT

Often cited in the context of blockchain is the concept of “smart contracts.” As some blockchain solutions can hold, execute and monitor contractual codes, such “smart contract performance” they could be of interest for digital rights management and other IP transactions.

Smart contracts could be used to establish and enforce IP agreements such as licenses and allow the transmission of payments in real time to IP owners; “smart information” about IP rights in protected content, a song or an image, for example, could be encoded in digital form (in a music or an image file). That these ideas are fast becoming mainstream is evidenced by Kodak’s recent launch of a blockchain-based image rights management platform and its own cryptocurrency.

ANTI-COUNTERFEITING AND ENFORCEMENT OF IP RIGHTS

A ledger showing who owns what, who is an authorized licensee, and so on would enable everyone in the supply chain, including consumers and customs authorities, to validate a genuine product and distinguish it from a fake. Blockchain ledgers holding IP rights information allow for provenance authentication, since they can record objectively verifiable details about when and where products are made, and details about their manufacturing process and sources of raw materials. These types of blockchain solutions are fast becoming mainstream and enable users to verify the authenticity of a product and provide confidence and reassurance for businesses, authorities, consumers and insurers.

Adding scannable blockchain-connected tags, tamperproof seals or imprints (either obvious or covert) to products is one of the most convincing use cases of distributed ledger technology and could play an important role in fighting counterfeits. If a brand owner informs customs authorities about the security features that its genuine products should have, then the absence of such features is an easy way for border officials to check whether a product is counterfeit. The presence of these features interacting with the blockchain also offers greater potential to engage with and educate customers about the risks of counterfeits and the ability to verify whether the products they have purchased are genuine. The technology could also be used in connection with certification marks to certify that products meet certain established criteria or standards, for example the Woolmark, which certifies that the goods on which it is used are made of 100 percent wool.

SUPPLY CHAIN MANAGEMENT

The ability to track goods on an immutable blockchain could help brand owners enforce their contractual arrangements regarding distribution and spot leaks in their distribution system as well as helping to identify parallel imports or grey market activity. Tracking distribution of products can also be used to meet regulatory requirements, such as in the pharmaceutical industry, and validate warranties.

WHO OWNS BLOCKCHAIN?

The promise of blockchain technology has triggered the filing of numerous patent applications for blockchain-related inventions in recent years. Many of the initial patent filings were made by banks and financial institutions, but with blockchain technology becoming increasingly mainstream, applications are being filed across a broad spectrum of industries.

Most related patent applications claim methods of enhancing or using the original blockchain, as disclosed by its presumed mysterious inventor, known only under the name Satoshi Nakamoto, in a white paper in 2008 (see <http://satoshinakamoto.me/bitcoin-draft.pdf>). Some proponents also continue to advocate making blockchain technology accessible by offering the code under open source licences or creating patent pools. And, as is the case with many promising new technologies, blockchain has also attracted patent trolls, as pointed out, among others, by the Chamber of Digital Commerce, a US advocacy group that promotes the emerging industry behind blockchain technology. It recently launched the Blockchain Intellectual Property Council (BIPC), which aims to create an industry-led defensive patent strategy to combat blockchain patent trolling. However, the uncertainty as to who owns blockchain has not affected its rapid increase in popularity.

THE OUTLOOK – BEYOND CRYSTAL BALL GAZING

As blockchain technology becomes mainstream, industry participants and blockchain developers will increasingly have to collaborate to develop standards and interoperability protocols. Various governmental agencies and IP registries such as the European Union Intellectual Property Office (EUIPO) are actively looking into the capabilities of blockchain; the EU Commission has plans for a blockchain observatory and the US Congress recently created a Congressional Blockchain Caucus. Global standards for self-executing contracts are being discussed by various organizations.

It therefore appears to be only a question of time before the law addresses the potential hurdles in the large-scale legal application of the technology – such as questions of governing laws and jurisdictions, enforceability of smart rights, data security and privacy concerns, reliable rules and definitions for smart contracts – and how it permeates IP law and practice.

A toast to Ya Kun's IP-driven success

By **Emma Barraclough**,
freelance journalist

Image: Courtesy of Ya Kun



Ya Kun Kaya Toast
Coffeestall since 1944

Intellectual property is at the heart of Ya Kun's business strategy.

Ya Kun is a Singapore-based coffee and toast chain with outlets across Asia. Executive chairman Adrin Loi explains how intellectual property (IP) has been central to the business's expansion.

When Adrin Loi's father left the southern Chinese province of Hainan Island on a junk destined for Singapore 90 years ago, it is unlikely that he ever imagined that his family would one day preside over a café empire with more than 100 outlets in a dozen markets in East and South-East Asia.

Fifteen-year-old Loi Ah Koon began working on a Hainanese coffee stall in the downtown district of his new homeland. Soon he opened his own outlet serving coffee, tea, toast and soft-boiled eggs to the traders and boatmen who worked in the area. When he married, his wife began producing her own kaya, a jam-like paste made from egg and coconut, and Ah Koon began to import coffee beans and roast them himself.

Ah Koon devoted the rest of his working life to running his coffee stall business, named Ya Kun (the Chinese pinyin transliteration of Ah Koon).

"Dad really established the business and it seemed a pity not to carry it on," says Adrin Loi, explaining his decision to take on the stall with his brother Algie in 1998 when their father became ill.

Construction work in the business district forced the two sons to relocate the stall. Rent skyrocketed and they decided they needed to modernize the business if they wanted it to thrive.

Almost 20 years later, the Loi family now oversees a business that has more than 60 outlets in Singapore and 55 across Asia, from Dubai to Japan and the Republic of Korea to Indonesia.

Ya Kun cafes continue to offer customers a core menu of coffee, tea, toast, kaya paste and soft-boiled eggs. Mr. Loi says that his goal was to make Ya Kun a household name and for its outlets to be affordable and accessible.

How has the business grown so fast? Mr. Loi says intellectual property is at the heart of Ya Kun's strategy. The company has a simple offering, but the Loi family has leveraged its trademarks and branding to offer franchise opportunities to partners. Now, half its coffee and toast outlets are run by others.



“Franchising is one of the fastest ways to grow a business,” says Mr. Loi. “I haven’t been to Dubai and Bangkok but I have licensed businesses there. If we ran all the stores ourselves, it would take a lot of capital. This way, we share the financial burden of expansion with the franchisees.”

Even before Ya Kun coffee shops spread across Singapore and beyond, Mr. Loi was determined to protect the brand that his father had worked so hard to create and uphold.

“When we started, we realized that copycats can easily leverage what we had painstakingly built. There are low barriers to entry in this industry – you just need a little bit of capital.”

Adrin Loi’s wife helped him come up with the name “Ya Kun Kaya Toast Coffee stall since 1944” – a long phrase chosen to deter rivals who wanted to sit on Ya Kun’s reputational coat tails. “Now lots of people in Singapore use the phrase ‘since such and such a year,’” says Mr. Loi. “It implies that your brand has heritage and it’s one way to capture the market.”

Once the Loi family had opted for a franchise model, they knew that they had to protect their IP and consolidate their trusted reputation if they were to attract franchisees.

“We wanted everyone to believe in the brand – from the owners to the managers to the staff. And we wanted that sense of importance of protecting the IP to cascade down to everyone.”

“If our food is good and the service is good then it’s a win-win situation for Ya Kun and our franchisees.”

Ya Kun got its trademarks registered. The business now has a trademark for Ya Kun toast, the Ya Kun word mark, Ya Kun in Chinese characters and for Ka Kun toastwich. It also has copyright in the designs that it uses for its enjoy-at-home ground coffee and for its kaya paste merchandise. Trade secrets protect its processes for roasting and brewing coffee and its kaya paste recipe.

“We have our own ways of doing things,” says Mr. Loi. “We use a sock for brewing coffee – not the kind of sock you wear, but a special coffee-brewing sock that allows us to make 10 cups at a time, unlike some coffee shops where they can only make coffee one cup at a time. We also offer very full cups of coffee – unlike some of the latte coffees that you can buy elsewhere!”

Ya Kun imports Robusta coffee beans from countries including Brazil, Indonesia, the Lao People’s Democratic Republic and Viet Nam. Mr. Loi says that the method of roasting is very important in determining the taste of the final product.

Over the past 20 years Ya Kun has grown from a small coffee stall to an international business with 60 outlets in Singapore and 55 across Asia from Dubai to Japan and the Republic of Korea to Indonesia.



Photo: Courtesy of Ya Kun

“Franchising is one the fastest ways to grow a business but franchisees must believe in the brand they are taking on.”

Ya Kun Executive Chairman Adrin Loi



Franchising and IP

Adrin Loi on how IP helped the Ya Kun brand grow

What were the main challenges you faced when devising an IP strategy for Ya Kun?

One of the biggest challenges is avoiding disputes overseas.

Some emerging economies are still using very old laws relating to IP and they aren't really adequate for modern agreements. In some countries there can be disagreement about what some of the legal terms used in the law actually mean. That can create uncertainty in franchising agreements.

We registered our marks quickly and we haven't experienced any problems with trademark squatting. We are a relatively small business so I think we go under trademark squatters' radars!

What opportunities and challenges do social media and the Internet offer from an IP perspective?

We are now very well known in Singapore and people can readily identify us. That means we have to be very careful: the more well known we are, the greater is the potential fall.

We have a Facebook page and a website and we have someone to manage social media. We do a lot of marketing online, we sell merchandise via our website and we offer loyalty programmes such as customer rewards that we promote on social media.

People have sometimes misused our brand overseas and one of the biggest challenges we face is how we keep track of brand use. When people use our brand online, we have to look at how they are using it and what the context is before we decide what kind of action to take. We reply to comments on sites such as TripAdvisor – it's all part of managing our online reputation.

Are you able to protect your recipes using IP rights?

We protect our recipes using trade secrets. We tell people the basic ingredients but we maintain trade secrets over our methods of production. We have kept our methods within the family and we sell the finished products to the franchisees. This has allowed us to protect our rights. There may come a time when we need to share our recipes but for now we treat family members well and we all keep the secrets!

What advice do you have for other businesses considering a franchising model?

Franchising is one of the fastest ways to grow but franchisees must believe in the brand they are taking on. They need to ensure that it is profitable. Franchisees must take it on with their eyes open, believing that it will create revenue.

You need to get your trademark portfolio in order. Get a good lawyer to help.

One challenge is ensuring everything is covered by the franchise agreement and set out in full. We try to avoid litigation and so far we have not had any disputes about IP. We make sure that when franchisees take on a franchise, they really understand how they must use the IP.

Some people take on two or three franchises. If they have existing business interests as well then there is a risk that they will neglect the franchises. Although franchisees run the business by themselves, they need reminding of the Ya Kun way, including regular training and a sense that they are part of the family. Make sure that franchisees feel they are part of the business. If they do well, it reflects on you, and if they do poorly that reflects on you as well.



Adrin Loi, Executive Chairman of Singapore-based coffee and roast chain Ya Kun.

Ya Kun has a simple offering of coffee, tea, toast, kaya paste and soft-boiled eggs, but has leveraged its trademarks and branding to offer franchising opportunities to partners.



Photos: Courtesy of Ya Kun

“We sell regular Singapore coffee: it’s something that most local people like. It’s quick and relatively cheap. In some markets such as Hong Kong (SAR) and Dubai we offer Arabica instead, or coffee styles such as latte. We try to offer the same products in all the markets we operate in, because it is easier to control product quality and the consistency of our offer but there are some exceptions. For some markets we ask the coffee plantations to develop a bean that is more neutral-tasting. We have to offer what the market wants. Before launching in a new market, the franchisee does R&D on what products the local people will accept and will sell and then we give final approval.

Coffee is an integral part of Ya Kun’s appeal, and the extent to which the company has to develop products that meet local demand in different markets reflects the growing segmentation of the coffee industry and the role that IP plays in its value chain. *The World Intellectual Property Report 2017 – Intangible Capital in Global Value Chains*, published by WIPO in late 2017, includes an analysis of the global coffee industry and explains how consumption has moved from the first wave (coffee largely drunk in the home, often to boost energy levels) to the second wave (coffee drunk in social settings such as coffee shops) to the third wave (coffee targeted at consumers interested in knowing how their coffee beans are sourced, farmed, roasted and brewed, and who are prepared to pay a premium price for the drinking experience).

“These new market segments provide opportunities for different participants to upgrade their role along the chain,” says the report, suggesting that Ya Kun’s Singaporean coffee roasting methods and sock-brewing techniques may reap IP dividends to come.

Can the monkey selfie case teach us anything about copyright law?

By **Andres Guadamuz**, Senior Lecturer in Intellectual Property Law, University of Sussex, United Kingdom

On July 2011, British photographer David Slater travelled to a national park in North Sulawesi, Indonesia, to take pictures of the local wildlife. Once there he followed a troop of monkeys, trying to get a few unique pictures. Mr. Slater claims that he was specifically looking for a very close shot of a monkey's face using a wide-angle lens, but the monkeys were obviously shy, and didn't allow him to get too close. While he managed to take a few pictures, he didn't get the shot he was looking for. He claims he placed his camera on a tripod as the monkeys were curious about the equipment, and clicked a few shots. The first pictures they took were of poor quality. He claims he then changed the camera settings and that one monkey in particular, was drawn to the reflection of the lens. The monkey then went on to take a few pictures.

Mr. Slater claims that one of these images was an astounding, once-in-a-lifetime shot that captured an expression of pure joy and self-awareness on the monkey's face. He imagined it appearing on the front of National Geographic, so he sent it and a few others to his agent, who then circulated them to a number of news sources. Eventually, it was first picked up and published by the *Daily Mail* as a feature story, and then went viral.

THE SPAT WITH WIKIPEDIA AND OTHERS

However, the popularity of the photos, came at a price. In 2014, it triggered a dispute between Mr. Slater and Wikipedia when the online encyclopaedia uploaded the picture and tagged it as being in the public domain, reasoning that monkeys cannot own copyright.

When Mr. Slater tried to get the picture removed, Wikipedia did not relent, and the so-called monkey selfie is still listed on that site as public domain material.

Then, in September 2015, the campaign group People for the Ethical Treatment of Animals (PETA) sued Mr. Slater in a California court on behalf of the monkey (named Naruto in the suit) to assert copyright over the picture, claiming that the selfie "resulted from a series of purposeful and voluntary actions by Naruto, unaided by Mr. Slater, resulting in original works of authorship not by Mr. Slater, but by Naruto."

In January 2016, the trial judge dismissed the action on the basis that even if Naruto had taken the pictures by "independent, autonomous action," the suit could not



Photo: © David Slater / Wildlife Personalities Ltd

This image of a female crested black macaque monkey is at the heart of a legal row between UK wildlife photographer David Slater and Wikimedia Commons over its copyright status.

continue as animals do not have standing in a court of law and therefore cannot sue for copyright infringement.

Astoundingly, PETA appealed the dismissal, in the Court of Appeals of the 9th Circuit, and those following the case were treated to the spectacle of US Federal Court judges and lawyers making monkey jokes and discussing whether PETA had identified the right monkey.

Somewhat disappointingly, however, the drama was cut short as the parties reached a settlement out of court. While the exact terms of the settlement are unknown, lawyers for PETA have said that the deal includes a commitment from the photographer to pay 25 percent of all future royalty revenue to the monkey sanctuary where Naruto lives.

This would seem to be the end of the monkey selfie case, but in a recent interview Mr. Slater hinted that he is thinking of suing Wikipedia for copyright infringement. But where could this lawsuit take place?

JURISDICTION

The Naruto case took place in a California court because Mr. Slater has published a book called *Wildlife Personalities* using the self-publishing service Blurb, a Delaware company that ships its printed material from a San Francisco warehouse. The plaintiffs (PETA) claimed that this was enough to grant them standing in the United States. However, as Mr. Slater is a British citizen, any future litigation could take place in the United Kingdom.

The fact that the picture was shared online has been an important factor from the start of the case, overshadowing even the physical elements of the story such as Mr. Slater's nationality. Jurisdictional issues in relation to the Internet are one of the most complex areas of cyber law because of the network's global nature.

Thankfully, jurisdictional questions in relation to copyright tend to be rather more straightforward.

Copyright law is strictly national in nature, but there is an international system in place that allows creators to protect their works in other jurisdictions. As a general

Photo: © David Slater / Wildlife Personalities Ltd



UK photographer David Slater on location in Sulawesi, Indonesia.





Photo: © 2005 Temple Island Collection Ltd

Temple Island Collection won a court action against English Teas to protect their famous red bus image. The case outlines a series of acts that can convey originality in determining the authorship of a photograph.

principle, Article 5(1) of the Berne Convention for the Protection of Literary and Artistic Works states that copyright in a work subsists wherever it originates, that is, in the country in which it was first published. In the monkey selfie case, the picture was taken in Indonesia, and first published in the UK through Caters News Agency, a picture and video licensing firm, which then granted permission for its publication in the British media.

In so far as the work can be said to have originated in the UK, and since Mr. Slater has repeatedly claimed exercise of his rights in the UK (as per Article 5(2) of the Berne Convention), it would be more than fair to assume that UK copyright law would apply in this instance.

Even if we ignore the place of publication, courts seem very keen to exercise jurisdiction over their nationals. Courts in the UK have even heard cases from other jurisdictions, as was the case famously in *Pearce v. Ove Arup*.

Moreover, the Court of Justice of the European Union (CJEU) has been erring on the side of the creator when it comes to jurisdictional matters, and in particular when dealing with online infringement cases, such as in *Pinckney v. Mediatech* and *Hejduk v. EnergieAgentur*.

In light of the above, an analysis of copyright authorship issues under English and EU copyright law is in order.

AUTHORSHIP ISSUES UNDER ENGLISH AND EU COPYRIGHT LAW

As a British citizen, it is fair to assume that Mr. Slater would sue Wikipedia in the UK. Commentators in the United States seem to agree that the photo does not enjoy copyright protection under US law.

While, the question remains open to debate, should Mr. Slater sue in a UK court, it would appear, given existing case law and the position of leading authorities on copyright in relation to photographs, that he has a very strong case in claiming that copyright subsists in the image and his ownership of the photo.

Take, for example, *Painer v. Standard Verlags GmbH* (C 145/10), an EU case involving Austrian photographer Eva-Maria Painer and several German-language newspapers.

Ms. Painer, a professional photographer, had taken a portrait of teenager Natascha Kampusch, who subsequently

became famous for having been kidnapped and held for eight years in a basement. She later escaped her captor.

At the time of her kidnapping, the only available picture of Ms. Kampusch was the photograph taken by Ms. Painer. Several newspapers used a stylized digital version of the portrait to illustrate their stories of Ms. Kampusch's escape.

In 2007, Ms. Painer sued for copyright infringement for such unauthorized use. The defendants alleged, among other things, that the portrait did not have copyright as it was simply a representation of Ms. Kampusch and was not sufficiently original. The question was referred to the CJEU, which on the basis of the prevailing law and case law declared that photographs are original if they are the author's own intellectual creation and reflect his or her personality.

In this instance, however, the Court of Justice went further. It stated that the photographer's "free and creative choices" in selecting a background and pose, adjusting lighting and employing different developing techniques to produce a photo provide a "personal touch" that confers originality and makes a photo worthy of protection as an intellectual creation which conveys the photographer's personality.

This case is directly relevant to the monkey selfie case. While *Painer* deals with portrait pictures, the court clearly lists the various actions that warrant originality, including the choice of angle, lenses and even techniques for developing the photograph.

It is also important to note that nowhere in its definition – nor, for that matter, in any EU case law or legislation – does the law require that the button be pressed by the photographer. The acts preceding and following the taking of the photograph seem to be more important in establishing whether it is the author's own intellectual creation.

In similar vein, the landmark English case *Temple Island Collections Ltd v. New English Teas* [2012] EWPC 1 case offers a strong indication that Mr. Slater may well be able to claim ownership of his photo in UK courts. That case involved an iconic black-and-white picture of the Houses of Parliament with a red bus crossing Westminster Bridge. The photograph, which has become famous and is routinely licensed to other companies, is owned by a firm that produces and sells London souvenirs. When negotiations with Temple Island Collections Ltd to obtain a license to use the image on their tins broke down, the defendants, New English Teas, went ahead and produced a different version of the Temple Island picture featuring a different angle and setting, but the same monochrome background with the red bus.

While the case rested largely on whether a substantial part of the Temple Island image had been copied, the defendants argued at some point that the copied picture did not have copyright as it was not an original work.

Here, the judge relied heavily on *Painer* and other CJEU cases, and clearly stated that individual decisions involving "motif, visual angle, illumination" and other similar creative choices can confer originality. As long as the author has made decisions about the arrangement of the photograph, it should have copyright.

But most important, the case discusses the issue whether “the mere taking of a photograph is a mechanical process involving no skill at all and the labour of merely pressing a button,” or whether something else is needed to convey originality.

The judge identified a series of acts that can convey originality in a photograph, as follows:

- the angle of shot, light and shade, exposure and effects achieved with filters, and developing techniques;
- the creation of the scene to be photographed; and
- “being in the right place at the right time”.

Note that these three elements are to be considered more important than the mere physical act of pressing a button when determining copyright ownership.

Of particular relevance to the monkey selfie case is the third situation – being in the right place at the right time. If we accept Mr. Slater’s version of the story (and at present there are no witnesses other than the monkeys), he set up the tripod, selected an angle, adjusted the lens aperture, checked the lighting, and was in the right place at the right time.

To my mind, Mr. Slater did more than enough to be awarded copyright protection, irrespective of his actions after the photograph was taken, including its development.

ANOTHER USEFUL PERSPECTIVE

His case would appear to be further supported by an interesting contrasting example of what a picture taken by an animal looks like without human intervention.

When wildlife photographer Ian Wood travelled to Borneo, he encountered a group of orangutans. He left his camera in a spot where they could take pictures (perhaps following Mr. Slater’s lead), and one in particular took several selfies. The difference in quality between these and Naruto’s selfie are astounding, and lend credit to the version of events that has Mr. Slater making an important contribution to the final shot.

While arguably not a commonly held view, there is in my opinion, an extremely strong argument to be made regarding originality of the monkey selfie in the UK based on these and other cases. It will be interesting to see how this plays out.

Grumpy Cat: the kitty who grew a business empire with IP rights

By Anca Draganescu-Pinawin,
IP Counsel, Novagraaf, Switzerland



Photo: www.grumpycats.com

This grumpy-looking kitty is an Internet sensation and lies at the heart of a business empire built around an effective and robust IP strategy.

There once was a cat with such a look of disgruntlement on her face that one day in September six years ago, her owner's brother felt compelled to take a picture and post it on reddit for all to see. She looked so grumpy!

The cat very quickly became an Internet sensation. As P.G. Wodehouse would have put it, anyone could see that, if not actually disgruntled, she looked far from being grunted. Many people made memes from the picture: they took it, added a funny caption, and posted it on the Internet for others to have a laugh and share before watching other cat videos, flicking through pictures of kittens, or otherwise carrying on with their lives.

And so was born the most famous cat in the world: Grumpy Cat.

Now the grumpy cat's owner, a waitress toiling away in a restaurant, and her business partner brother, could spot a good business opportunity, no matter how sour its expression, when it stared them in the face.

So they started a company called Grumpy Cat Limited and to protect the "Grumpy Cat" IP, hired IP counsel to file the appropriate copyright and trademark applications. They began selling all sorts of everyday objects bearing the image of the grumpy cat: pens,

mugs, calendars, even the *New York Times*-bestselling *Grumpy Guide to Life*.

Grumpy Cat had her own YouTube channel, website and Instagram and Facebook accounts, and even featured in her own TV commercial for Honey Nut Cheerios®, and a McDonald's commercial (<https://youtu.be/KPTx-JZyKymA?t=46s>)! The cat became famous; her owner, rich, although no one could exactly pinpoint the size of her fortune (but many tried). Was it USD 1 million or 100 million? No one could say. Still, the cat's grumpy expression persisted.

But if simply putting the picture of a cat on everyday objects and selling them could make so much money, one thing was clear: that picture and trademarks had to be protected. With so much at stake, not just anybody should be able to use the grumpy cat's image and marks: they would first have to ask for the owner's permission. The cat owner's company would establish how and where the picture and the marks could be used, and if those rules were broken, the user would end up in a lot of trouble.

You see, the cat owner had to make sure she was protecting her money-making cat with a veritable fortress of IP rights: copyright, trademarks and licensing agreements. While all these rights allowed licensees to enjoy and benefit from the Grumpy Cat business, they made quite certain that nobody could not ride on the cat's coat tails and make it their own business without first seeking permission from the cat owner. To do otherwise might well cause them to be dragged like a mouse into court to explain their actions in front of the plaintiff (the cat owner), the judge and maybe even a jury. And if the jury came to the conclusion that the user had indeed tried to profit from the picture without first obtaining the required paw of approval, they might have to pay lots and lots of money to the grumpy cat.

This is in fact what befell the folks at Grenade Beverage LLC, which had made a contract with Grumpy Cat Limited to sell Grumpy Cat Grumppuccino iced coffees. A few years into their contract, the licensees decided to prowl beyond the terms of their licensing deal and

started selling Grumpy Cat Roasted Coffee. Grumpy Cat Limited learned that the terms of the agreement had been breached, and took Grenade Beverage LLC to court for copyright infringement, trademark infringement, breach of contract and even cybersquatting! The jury found Grenade liable, and ordered Grenade Beverage LLC to pay Grumpy Cat Limited more than USD 700,000 in damages. That is around 175,000 Grumpy Cat Grumppuccinos!

While Grumpy Cat remained distinctly unamused, her owner was delighted that she had so thoroughly protected the IP rights associated with the image and her business, and rightfully so. These rights had allowed her to establish her business and the cat's place in the market (how many other felines can claim to be an Internet sensation or the head of a business empire?). They also meant that the company was able to protect its brand and take legal action against any and all who might dare to ride on the grumpy cat's fame.

The moral of the story? Any business that believes it has an idea worth bringing to market should protect the relevant IP rights as if it were already generating revenue. It doesn't matter if the idea is as simple as putting a cat picture on a mug or a t-shirt and selling it. You never know if, or when, or how spectacularly your business will take off. Besides, if you're confident enough in the value of your idea to put time and energy and capital into pitching it to investors and others, you should also think about what could happen to your business if the IP rights at its heart go unprotected.

Think about it: if your IP goes unprotected you could be left out in the proverbial rain while others are busy making money from your idea. And then you would really have a reason to be grumpy.



34, chemin des Colombettes
P.O. Box 18
CH-1211 Geneva 20
Switzerland

Tel: +41 22 338 91 11
Fax: +41 22 733 54 28

For contact details of WIPO's External Offices
visit: www.wipo.int/about-wipo/en/offices/

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