

# Editorial News

## Intellectual Property

### Challenge to IAHC Proposals

Following on the proposals by the IAHC (Internet Ad-Hoc Committee) for 5 new gTLDs (generic Top Level Domains) challenges have been lodged in the US courts.

David Flint, Partner in MacRoberts IP Group says that the whole Internet ethos has been built on compromise, trust and the basic assumption that in all the confusion of Cyberspace some things would remain constant. Of these the most important is the assumption that there would be a finite number of registries which kept the indexes of domain names at the various levels (Root Nameservers) – and that the domains would be an accepted and agreed list. The WWW is basically a massive indexing operation where a party can find a site by looking in the appropriate national registry, then the registry applicable to the gTLD (such as .com, .org or .net) to find where the information is held. Each computer needs to know where the information for (say) .com is held; if there were to be an uncontrolled proliferation of gTLDs, the index would become untenable.

In one case, Image Online is challenging the use of the new gTLD .web in which it claims intellectual property rights and in the other case pgMedia has sued network Solutions Inc (NSI) (the US Registry) and others for antitrust violations as a result of the IAHC plan. PgMedia seeks damages and amendment of the configuration files on NSI's Root Nameservers to add reference to pgMedia's Nameservers.

In an unrelated action, former ISOC (Internet Society) Executive Director Anthony Rutowski has questioned the IAHC's authority to restructure the gTLDs, arguing that this is solely within the competence of government. However the Internet community do not see this as a likely outcome of the present discussions given the nature of the Internet and the difficulty of governmental authorities in responding sufficiently quickly to technological developments.

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national chemists chain resulted in a letter from its Legal Department stating that they would implement a "thorough review of procedures for avoiding infringements of copyright". As more and more retail outlets provide coin operated, high tech colour copiers as a facility to their customers, claims for damages from photographer's as a result of breach of the Copyright Act are growing apace.

Samantha Mycock, Intellectual Property lawyer at commercial law firm Cobbetts, issued a warning that the increasing sophistication of these machines means that it is more difficult to show the differences between an original photograph and a copy. However, often the image is not as clear as the re-print from a negative and the illegal copy is thus not a true representation of the photographer's work with the result that people can be misled into believing the copy is actually the photographer's work and of a poor quality.

She said that copyright owners appreciate that photocopiers have many legitimate uses. They are not unrealistic and live in the real world. But at the end of the day, the Copyright Act exists to afford protection to them and they are using the remedies available to sue in the civil courts to protect their work and their reputation. Ignorance of the law in this area is no excuse.

The law as it stands makes it illegal for a person, without the license of the copyright owner, to copy someone else's work either himself or by authorising another to do so. Both the person making the copy and the owner of the machine used may be liable. It is also possible that the store in which the facility is provided may be liable because, by "turning a blind eye", they're arguably authorising such infringement, on a daily basis.

Store owners should protect themselves by putting up a clearly legible and unobstructed notice at the machine setting out the law in this area. The notice should make it clear that copying certain items, including Ordnance Survey maps, posters, and album covers, is illegal and it should be positioned so that anybody operating the machine cannot miss reading it.

Ms Mycock suggests that the ideal solution would be to have fully trained member of staff attending the machine and to operate it on the customers behalf. That person could speak to the customer, identify what was to be copied and make sure, as far as it is possible, that copyright work is not infringed.

For further information please contact: Holly Rowan at Cobbetts 0161 833 3333.

**Cobbetts News Release, April 1997**

### Colour Copier Copyright

A member of the Professional Photographers Group (North West Region) recently received a four figure sum from a leading high street photographic processor in an out of Court settlement. Complaints to a