

intellectualproperty

Thought control

Legally protecting your designs and preventing misappropriation by others is no longer a case of 'need to' but now a case of 'have to'. Intellectual property (IP) protection consists in granting exclusivity to the rights holder in relation to protected property and it is accepted that intellectual property rights (IPR) is a key issue affecting the product design community. The results of the 2003/4 British Design Industry Valuation Survey, undertaken by the British Design Initiative (BDI), show the UK commercial design industry in trouble as it struggles to charge appropriate fee levels commensurate with value and overhead investment. Turnover is down by £1.4 to £3.9 billion (-26 per cent) and fees are down by £0.5 to £3.1 billion (-13 per cent).

Maxine Horn is the CEO of the BDI. She has a number of concerns regarding IPR most of which are centred on more appropriate remuneration terms. As a result of these concerns the BDI has held two IPR events recently and will be supporting another at the Design Council towards the end of this month.

Why is the BDI so involved in the area of IP? You obviously feel that it is a growing issue in the design field.

Nearly five years ago the BDI became aware that the product design discipline was facing critical changes that would both result in it moving up the value chain to occupy a position of strength or fragment it as a discipline and relegate all but the most commercially savvy agencies to the role of supplier. We called together the MD's of

the leading product design agencies and presented a case for product design to create its own distinct identity. The idea was welcomed but got caught up in a political storm about who was best placed to lead that change. The end result being that it remained an idea.

Product design agencies knew then that change was afoot. At that time the change was focused on the critical role the product design agency should be playing in the field of brand communication - not competing with brand consultants but bringing an extra and crucial ingredient to brand development through their ability to appeal to consumer emotions and communicate directly on multiple levels. Product design agencies had to decide whether they were to be 'process' driven or brand strategy driven.

The conversation we should have been having in parallel was regards IPR issues but at the time IPR was rarely discussed as work was plentiful and fee paying work was more desirable than shared risk deals.

An agency who understood this very clearly at that time (and before) and

David Morgan | David Morgan Associates

"We protect our designs either with patent applications and/or design registrations, sometimes before presenting them to clients and sometimes later in the development process. We license the designs to our clients in return for a percentage of sales revenue and advance payments for development costs. Normally our clients will take over the patent and design registration costs and fight the legal cases that arise although sometimes we do maintain our investment in IPR protection. I work on the basis that DMA's designs are our intellectual property and that we should aim to receive a share of the value created by these designs. Clearly this can be a risky business. It sometimes takes some years for a design to reach the market and some designs never make it in their original form. However, the ideas can often be reworked and developed into something new so not much gets wasted except time. Over the long term I have seen that each product that makes it into the market on this basis does produce a profitable revenue stream that allows DMA to work on new designs. But, you need to be resilient in the short term to cope with the unpredictable income flows. One of the most satisfactory aspects of this way of working is that the relationship with our clients tends to be very close and non confrontational since we are both working towards the same goal and both taking commercial risks in the project. This is why these relationships tend to become long term ones."



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Tanya Weaver discusses with Maxine Horn of the British Design Initiative (BDI) how the product design community can use intellectual property to their advantage

is now reaping the benefits is David Morgan Associates (DMA). They specialise in the area of technical lighting products and lighting systems. The company takes a proactive approach and creates designs in response to the needs of the technical lighting market. Morgan realised early on in the life of DMA that time related fees were not the best way to capture the added value they were creating for their clients by their design work.

