

# CSD RELAUNCHES INTELLECTUAL PROPERTY SERVICE FOR MEMBERS

## A COST EFFECTIVE SPECIALIST ADVICE WITH PERSONAL SERVICE



**C**SD members are now able to benefit from the development of a customised service offer in conjunction with specialist intellectual property law firm Briffa, who are expert in copyright, design, trade marks, passing off and patents. Briffa has achieved a name for itself in not only providing a specialist service but in also helping designers avoid some of the common problems which get in the way of developing successful businesses.

“Established by Margaret Briffa in 1995, the Briffa team now comprises 9 lawyers, all focused on the diverse needs of designers across all disciplines. Our mission statement since the beginning was to combine cost effective specialist advice with personal service. Originally, we found that designers would seek advice only when things had gone wrong for them legally. The perception amongst designers was they could not afford to take advice, or that they would take advice when the business became much bigger, but for the time being they would muddle through and hope for the best.

Consequently, once the designers decided to contact Briffa we found, that on many occasions, all we could offer was ‘band aid’. What is important for designers to remember is once a problem has arisen all they can do is the best with the facts available. There seems to be a general lack of awareness of what designers and their businesses could do to put themselves in a much better position for dealing with legal issues. Generally, however, there seemed to be a resistance to getting basics right as many designers consider lawyers have nothing to offer or even in some instances that seeking advice could make

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things worse – there was a fear that lawyers will ‘spoil a deal’ if they got involved.

It takes years to break down barriers, to deliver good practical advice to designers before the problems arise. The first example that comes to mind is the famous shoe company Doc Martens who recently spent a good deal of time, energy, and not to say money, arguing about the ownership of a logo designed for them by an independent design company.

It transpired that the contract between Doc Martens and the design company did not specify who should own the copyright. The designers of the revamped logo claimed they did. The practical effect of the claim was a severe restriction on the use, which Doc Martens could make of the logo.

Doc Martens won in the end. The judge did however express his surprise that even though there was a contract between the parties which stretched to many pages – it did not deal with this single and important issue, that is: the ownership of the copyright in the work done by the design company.

Briffa’s relationship with the Chartered

Society of Designers is an extension of the work Briffa has done to deliver legal support at the time when it is going to be the most effective. Briffa’s aims to help CSD members in identifying, protecting, exploiting and enforcing their intellectual property in a manner that helps CSD members meet their business objectives. The service which is free to all CSD members provides:

- Information on Intellectual Property topics whether to do with protection, infringement or effective commercial exploitation.
- A telephone help line for all CSD members who wish immediate help and support on intellectual property matters.
- The offer of a free 30 minute assessment for CSD members who Briffa considers need further support on the issues raised via the CSD hotline.

Briffa believes that by facilitating information and taking calls from designers who may just need to ‘check’ points, they are providing the right support from the beginning. Callers with problems that need further exploration may also attend a free meeting. That feature of the service will most commonly be important where issues of breach of copyright have arisen or where the situation is complex and the designer needs to impart quite a lot of background information in order for us to be able to advise properly.

In addition, Briffa and CSD are establishing a CSD design log service through which CSD members can electronically file designs. Briffa could then act as an independent third party in relation to the date of creation of designs. Costs are being developed for this service, meanwhile members should contact us to

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discuss each case. As the Briffa service is all about support, the log is an imprint feature of the service which will be offered exclusively to CSD members.

As a result of having represented designers for many years, we are acutely aware that identifying and protecting intellectual property is the first step and should a member find that their designs have been copied, he or she would also need back up, legal and financial to take action. To cover these eventualities, Briffa and CSD are also working on an insurance product, which will cover CSD members in the event of having to pursue design and copyright infringement. Because CSD members will lodge their initial designs with Briffa and therefore protect themselves against copying, members will benefit from more favourable premiums than those available to individual non-members, designers or their companies. Premiums will range between £100 per annum for small business rising to £500 for businesses with a turnover in excess of £500,000.

In addition to the services being developed for members, Briffa will be regular speakers at CSD Intellectual Property Events and will also contribute regular articles in *The Designer*,

#### INTELLECTUAL PROPERTY TERMINOLOGY

##### INTELLECTUAL PROPERTY

Rights in intangible property which can include rights in patents, copyright, designs, trade marks and confidential information.

##### COPYRIGHT

A right granted by law to prevent others from copying your original work. It applies to many types of creative work including works of artistic, craftsmanship, drawings and graphics.

##### PATENT

Monopoly right granted to those who file details of inventions at the Patent Office.

##### DESIGN RIGHT

Unregistered right in functional articles which are not common place within the design field to which they relate. Arises automatically on creation as with copyright.

##### BREACH

A breach of copyright occurs where another person does something within the exclusive control of the copyright owner without the permission of the copyright owner. This can also be referred to as infringement.

##### TRADE MARK

A sign (logo, name symbol) which identified goes as originating with a particular person from or company. Trade marks may be registered or unregistered. There is a national and EU wide system for filing. An international filing is also possible if it is based on a national trade mark filing or registration.

##### REGISTERED DESIGNS

There is a system under which novel designs which have individual character can be registered. A system of design registration introduced in April 2004 allows one filing for the whole of the European Community.

##### CONFIDENTIAL INFORMATION

Information within a business which has commercial value and which has not been disclosed publicly.

##### PASSING OFF

An unregistered trade mark can be enforced by a common law right called passing off. To succeed against another person the trade mark holder needs to show they have reputation in the trademark, that the use by the other person has caused or is likely to cause confusion and that as a result will suffer damage.

dealing with intellectual property, highlighting any changes and keeping members informed with the aim to remind everyone about the issues and the need to take steps to protect their business. We strongly advocate that all members should conduct regular Intellectual Property health checks and assistance will be on offer soon to enable this.

Intellectual property is a subject which is recognised as an increasingly important ingredient in company success. Many designers have traditionally failed to take good care of their rights and therefore failing to use them to their best advantage. This is a good time to protect your rights as regulation is becoming more easily accessible through the new pan European system of registration which has made the task of protecting your rights far more affordable.

**F**inally, I would like to impress upon all CSD members the importance of getting your intellectual property affairs straight at the start rather than wait until a problem arises to tackle legal issues. By planning ahead, you can easily avoid costly arguments and remit of the collaboration between Briffa and CSD is to show all members how to do so successfully and in a cost effective manner **D**

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*For further information, please contact Briffa on 020 7288 5003. CSD members will receive general advice with a preliminary discussion free of charge if deemed necessary.*