

# Intellectual Property Caribbean Association (IPCA)

## *Inaugural Meeting Report*

The Inaugural Meeting of the Intellectual Property Caribbean Association (IPCA) took place on Saturday, 22<sup>nd</sup> November, 2014 at 9.00 a.m. the JW Marriott Miami Hotel, 1109 Brickell Avenue, Miami, Florida 33131 USA.



In attendance were:  
48 representatives from  
37 firms from  
21 countries in the Caribbean.

Note: 2 registered invitees did not attend.

The meeting was led by Mr. Huw St. John Moses OBE who welcomed everyone and identified the key decisions that needed to be made. Namely:

- Should we form a formal organisation and why?
- What should the aims and functions of the organisation be?
- What should “we” be called?
- What legal form should be used and in which jurisdiction?
- Who can be members?
- How should it be lead - short term and longer term?



It was quickly agreed that an association should be formed to promote the Caribbean and establish a forum for better communication amongst IP practitioners, and that it should be a not-for-profit company with limited liability (by guarantee).

Regarding the choice of jurisdiction Huw asked that anyone present who thought that their country (having no or low tax or tax exemptions) would be a suitable choice send him all the necessary information on company formation and setting up a bank account so that a decision could be made at a later date and a draft Memorandum of Association and Articles and By-laws be drawn up. In the meantime, Huw said that he was willing to continue to administer the association’s business through his firm, HSM IP, in the Cayman Islands.

Duncan Stowe pledged US\$1,000 on behalf of him and his firm, Stowe & Co. in Dominica, to help fund the new association.

After much discussion it was decided that a choice of name would need further consideration during the course of the proceedings, as would the membership structure.

It was agreed, however, that the criteria for membership should be that:

- The member was in a country that bordered the Caribbean Sea; or
- The member was in a country that was either a member or associate member of CARICOM; and/or
- The member must be ordinarily resident in such a country and have an established practice there.

Everyone who had registered for this meeting and paid their membership fees by 31<sup>st</sup> January, 2015 would be considered a Founding Member and be recognised as such on the association’s future web site.

It was further decided that government officials and brand owners would not, at this stage, be invited to become members. Once the association was more established then their future limited participation may be considered.

It was agreed that the next half-yearly meeting of the association should take place during INTA in San Diego in May, 2015, and that the first AGM should be held in late October 2015 at a venue to be decided. Huw said that he hoped that eventually the AGM would be held in one of the members countries, although there was support for continuing to meet in Florida. It was suggested that the AGM should take place over two days, with the first day being for Executive and Committee Meetings and the second day for a general meeting open to all. There will be a separate fee to attend the AGM in order to cover costs.

At 12.30 p.m. the meeting was suspended for the lunch buffet.



The meeting resumed at 2.00 p.m. with the Breakout Session.

Huw requested that as well as considering the Team Topics each of the three groups further consider a name for the association and membership structure.

Note: The Dolphin Team - Education & Training, did not meet as it was felt that a committee could be set-up to consider these issues at a later date.

At approximately 3.15 p.m. two members from each of the Teams gave their reports:

- Conch Team – Marketing

The target audience was identified as members and potential members of the association and the IP community as a whole. Social media was recommended as the best way to get the message out i.e. setting-up a web site and using Facebook, Twitter, LinkedIn and bulletins. A future marketing sub-committee could be set-up to liaise with other IP organisations.

All members of the Team volunteered to become members of the association's marketing committee and Alvaro Raminéz Bonilla of B&R Latin America IP LLC in Colombia agreed to serve as Chairman and will suggest an affordable third party source for the design of the web site.

It was envisaged that the web site would include IP legislation, policies, news and relevant case decisions with quarterly bulletins, as well as an interactive members-only section and public area. It will become a point of information for Caribbean IP matters.

Designs for a logo would be obtained and samples will be available for viewing and voting on on-line.

- Coconut Team - Legislation & Registry Liaison

It was recognised that IP laws in the region should be modernized, but any changes should not aim at establishing a single trade mark registration system.

A Think Tank could be established to liaise with local Registries and make recommendations and lobby for changes.

Registries should be encouraged to allow on-line searching of IP rights, but its use should be limited to IP lawyers and practitioners in that jurisdiction.

It was suggested that to encourage the implementation of an active patent examination and granting procedure in all countries the Trinidad and Tobago and Barbados models, for example, could be applied.

- Turtle Team - Enforcement & Anti-counterfeiting

It was agreed that there was a problem with counterfeit goods in the Caribbean and that trade mark counterfeiting was the main issue. There were some issues with counterfeit patents in regards to pharmaceuticals and in some jurisdictions there were copyright infringements especially in regard to the music industry.

It was considered that customs was the key player in regard to dealing with trade mark issues, and that health ministries could assist in issues relating to patents. Other organisations could be called upon to assist with copyright matters.

In order to tackle these problems the Team recommended lobbying the relevant authorities as well as sensitizing and educating people to the issues.

Existing remedies for infringements were seen as adequate, but often too expensive for brand owners.

In terms of monitoring and reporting infringements it was agreed that there was a lack of available data in the Caribbean and technology was an issue. The use of social media was recommended as a helpful and cheap tool.

It was considered that there was scope for improved liaison between officials e.g. the police, and brand owners, and that awareness campaigns aimed at both the authorities and the public could be helpful.

It was acknowledged that a country's reputation could be at risk unless it was seen to be tackling these issues and that as governments needed to improve their relationship with international lending authorities they had to show that they were not weak or corrupt. It was also noted that brand owners would not bother to register their IP rights in countries where enforcement was not taken seriously.

In conclusion it was recognised that this topic touched on complex issues with difficult legislation. It was felt that an association would have more of an impact in addressing matters with the police and customs authorities, as well as brand owners, than any individual going forward.

Each Team's suggested names for the association were then presented and voted on by a show of hands and Intellectual Property Caribbean Association (IPCA) was the winner.

Three possible membership structures were then considered and voted on and the following structure was adopted: There would be a fee of US\$350 to become a member of IPCA. The member could be a firm or an individual.

If a firm, that firm would appoint one staff member as the representative of the firm and a second person as their alternative representative. The representative (or the alternative representative in the absence of the representative) would be the key contact at that firm and the person able to exercise the voting rights of the firm. The member (being a firm member or an individual member) would have one vote.

For US\$150 a firm would be able to have additional individuals mentioned on the IPCA website (Associate Members) who would be able to attend functions (at member rates), receive bulletins etc. However the firm would only have one vote regardless of the number of associate members in the firm.

It was hoped that this membership structure would provide sufficient funding to enable the IPCA to progress its development during 2015. The membership year would run from 1<sup>st</sup> January, commencing 1<sup>st</sup> January, 2015.

Huw then thanked everyone for attending and also thanked his wife, Kim Rough-Moses, and colleague, Jennifer Cotarelo-Choice, for their assistance. He also requested that everyone provide him with their business card before they left to ensure that he had their current contact details.

Fiona Hinds from Carrington & Sealy in Barbados thanked Huw and his team for their work in organising the meeting.

The meeting concluded at 4.00 p.m. and was followed by a dinner (wine included) in the hotel restaurant, Isabela's, at 7.00 p.m. A cash bar was also available.



The guest speaker for the night was Tricia Thompkins, Chief Intellectual Property and Licensing Counsel for Perry Ellis International, Inc. who offered a brand owner's perspective on the merits of conformity of laws and practice throughout the Caribbean and the potential benefits of a single Caribbean registration system.

Congratulations go to Maurisha Robinson of Morton Robinson L.P. in St. Kitts & Nevis whose dinner guest, William, surprised her by presenting her with an engagement ring during the dinner to which her response was "Yes".

Huw then thanked everyone for attending and the event drew to a close.

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