

REPORT OF MARK PROTECTION COMMITTEE ACTIONS **September 2008 - July 2009**

Members of the Mark Protection Committee from September 2008 through July 2009 were as follows, with the expiration of membership listed in parentheses after their name: Kent Bloom (appointed by Denvention Three until 2010), Stephen Boucher (elected for until 2011), Scott Dennis (elected until 2009), Donald E. Eastlake III (elected until 2009), Tim Illingworth (elected until 2010), Bob MacIntosh (appointed by Nippon 2007 until 2009), Steve Norris (appointed by TuckerCon/Archon 31 until 2009), Ruth Sachter (elected until 2009), Adrienne Seal (appointed by Anticipation until 2011), Kevin Standlee (elected until 2010), Don Timm (alternate appointed by Nippon 2007 until 2009), Ben Yalow (elected until 2010), Mark Linneman (appointed by Aussiecon 4 until 2012), Mark Olson (elected until 2012) and Linda Deneroff (elected until 2012). Sue Francis and Lynn Anderson left the committee at the conclusion of the 2008 meeting, and we thank them for their services to this committee. By unanimous consent Kevin Standlee was reappointed chairman; Tim Illingworth, vice chairman; Linda Deneroff, secretary; and Scott Dennis, treasurer.

This was certainly a very busy year. Major accomplishments of the Mark Protection Committee between September 2008 and July 2009 include the following.

1. We continued to move forward in registering the Hugo rocket. Our attorney, Esther Horwich) recommended that we use 1955 design as our claim of “first use” because that was when the rocket reached a form recognizably similar to the current design. (The 1953 trophy is very different from the current one.) Our attorney also recommended that we register our trademark in the category of “educational and entertainment services” which will give us protection for the rocket as goods, since arguably use by another in an award context would cause confusion. (It does not fit into a category for goods very well, since those categories were designated in the early 1900s and have not been recently updated, and our attorney does not recommend registering it in the category of goods alone.) We intend to register the rocket design when our attorney is ready to proceed with the registration, and we continue to ask Worldcons to include “the distinctive design of the Hugo Awards rocket” among the service marks that WSFS claims.
2. We were asked by our attorney to make inquiries as to when rocket was used in connection with advertising the Worldcon. We found a page from the 1955 Worldcon progress report showing not only photos of the trophy but also mention of “Hugo” in association with it (<http://www.fanac.org/fanzines/Clevention/Clevention1r4-03.html>). We sent this and photos of the 1955 Worldcon Hugo Banquet from the same website to our attorney to further our claim.

3. We received an enquiry from Charles Pappas regarding knowledge of any photos of the 1939 Worldcon. Mr. Pappas does a monthly historical column for *Exhibitor Magazine* (which covers the trade show industry) called Archive, and runs old photos of trade shows (and/or exhibits in those shows) in the publication. Each photo is accompanied with historical information that puts the show and the company in the context of its time and place. Kevin referred him to <<http://fanac.org/worldcon/NYcon/w39-p00.html>> (the FANAC Fan History Project website).
4. The MPC sponsored a Hugo Awards logo design contest and voted to set aside up to \$300 to pay for a trophy and any related administrative costs the contest. An email vote was taken. Nine members voted, and the measure passed unanimously.

The first four items took place in December 2008. The next three items took place in January 2009.

5. Steve Davidson contacted MPC with a merchandise proposal that would use the words “Hugo Awards” with our permission. He said he could not afford any royalties up front but was willing to pay a small royalty based on sales. Scott suggested \$1 was a reasonable royalty, and is pleased that someone else is taking our mark seriously. The contract was signed on February 6, 2009. A copy of the contract is available upon request to the committee.
6. We became aware of a group organizing what they originally described as an “online worldcon” <<http://community.livejournal.com/flycon2009/profile>>. Before we could contact them to advise them of the potential confusion this would cause, they changed their description to an “online world-wide con.” This eliminated any potential confusion, and we took no further action.
7. Michael Walsh forwarded us an eBay listing that included an erroneous reference to “Worldcon” that almost certainly was intended to be “Wizard World.” Kevin wrote and asked the seller to correct the listing to avoid confusion. The vendor apologized and corrected his listing.
8. In February, Steven Silver forwarded us an announcement from the State of Virginia declaring June 27 Will F. Jenkins Day. The announcement credited WSFS with the creation of the Sidewise Award for Alternate History, which is incorrect. The Sidewise Award was not established by the WSFS, nor is it affiliated with Worldcon, except to generally be presented there.
9. In March we were once more informed that Cinema Chicago was presenting the “Hugo Television Awards” (generally referred to as the Gold Hugo or Silver Hugo). Unfortunately, there is nothing we can do about this since they

have been giving their awards for so long that they probably have carved out a portion of the name space for themselves.

10. Again in March, we were asked whether we assert any sort of right to a royalty over the use of the Hugo Awards name. We do not assert a royalty over the *name* "Hugo Award." We only ask that they use the Hugo Award service mark only to describe actual Hugo Award things, and use the mark properly.

The next four items took place in April 2009.

11. We were asked whether someone needed to go through Wikipedia and make sure our service marks were listed on pages regarding Worldcon and/or Hugo categories. The short answer is no. The long answer is Coca-Cola's pages do not have their trademark notices plastered over Wikipedia's entries, and they would have been all over it if there were a problem.
12. Our Hugo Awards Logo Contest finally went "live." See <http://www.thehugoawards.org/?p=356> for the front-page announcement and <http://www.thehugoawards.org/logocontest.htm> for the Logo Contest Page proper. (See the Hugo Award Marketing Committee's attached report for further information about the Logo Contest.)
13. Our attorney filed our revised "generic" (no special typography) registration for NASFIC. For the record, as of April 2009, our original "stylized" registration was Registration Number 1436766 and was cancelled effective January 18, 2008. (So for about a year, no form of NASFIC was registered at all. Fortunately, no harm was done.) Our new "generic" registration is Serial Number 77629499 (no Registration Number assigned yet), with a filing date of December 9, 2008, and a "Published for Opposition" date of April 14, 2009. All our marks, including this one, are now correctly pointing at Mark Olson's address as the physical site and show Esther Horwich as our Agent. This catches up on several years of neglect on the registration details.
14. In May we were contacted by Gérard Kraus regarding an incentive in Luxembourg to celebrate Hugo Gernsback's 125th birthday. He requested our assistance in obtaining a Hugo Award to display at a three month exhibit in the national literary centre in order to highlight the importance of Mr. Gernsback outside of Luxembourg to locals as well as to potentially display it at the University of Luxembourg's future Science faculty building. Kevin raised the concern that the custodians of the trophies that go into the annual display may face undue criticism if they "give away" a trophy to anything other than a Worldcon itself. But it points out that nobody actually "owns" the exhibit materials. The MPC referred this information to the Hugo Awards Marketing Committee for possible use. Anticipation has agreed to add a trophy to the

current production run since the Luxembourg exhibit organizers are willing to pay the marginal production and transportation costs.

15. Also in May, Adrienne Seel, Anticipation's appointee to the MPC, reported that the Canadian trademark office continues to maintain their objections to our marks. She will give us a detailed summary later, but the key issue remains the lack of legal personhood. She is still hoping to find away around that. Another issue concerns the need for an address. In addition, apparently, a fee was not paid for a certified copy of a U.S. trademark registration. (This dates back to 2006.) It is \$50 per application. Adrienne is inclined to just pay it but will double check the records first. We sent Ken Smookler certified copies of all of our U.S. trademark registrations ages ago, so Adrienne should have them, but it was unclear if we had to pay a different fee on the Canadian end to give them our certified copies for which we have already paid.