

REPORT OF MARK PROTECTION COMMITTEE ACTIONS

September 2010 - August 2011

Members of the Mark Protection Committee from September 2010 through August 2011 were as follows, with the expiration of membership listed in parentheses after their name: Stephen Boucher (elected for until 2011), Scott Dennis (elected until 2012), Donald E. Eastlake III (elected until 2012), Tim Illingworth (elected until 2013), Dina Krause (appointed by ReConstruction until 2012), Ruth Sachter (elected until 2012), Adrienne Seel (appointed by Anticipation until 2011), Kevin Standlee (elected until 2013), Ben Yalow (elected until 2013), Mark Linneman (appointed by Aussiecon 4 until 2012), Mark Olson (elected until 2011), Linda Deneroff, (elected until 2011), Sandra Levy (appointed by Chicon 7 until 2014), Ian Stockdale (appointed by Renovation until 2013). Kent Bloom's term expired at the conclusion of the 2010 meeting, and we thank him for his services to this committee. Ben Yalow was appointed chairman; Linda Deneroff, secretary; and Scott Dennis, treasurer.

The MPC Finance Report is appended at the end of this document.

After the past few years, this year had fewer issues. Major accomplishments of the Mark Protection Committee between September 2010 and August 2011 were:

1. We received an enquiry from Scott Dorsey regarding a full page ad for "Captain Celluloid's Movie And TV World Con" in *Classic Images* magazine (which included a look at their convention). We voted unanimously to send them a note asking them to use the generic "World Convention" rather than "World Con." There is no record that we ever received a response.
2. FaceBook listed a group described as "The Hugo video awards." A Google Translation of the group message in English read, "If this group reaches 38 people, I will be releasing videos of Hugo compromising. Warning this video may impair its integrity so I ask you to think twice before signing up. This group will be automatically deleted if Hugo or a benevolent philanthropist donates 20 euros to each member and at any time." The general consensus was that this was some sort of joke, and Mark Olson reminded the group that "we don't own the name 'Hugo[, only the right to] prevent others from using the word 'Hugo' in the course of purveying goods and services related to the fairly limited part of commerce our registration covers in a way which would confuse those goods or services with ours." Kevin suggested that we simply note the site's existence and monitor it.
3. Tim reported that worldcon.org was not being properly maintained and pointed out that as of January 2011 wsfs.org still had the 2009 Constitution and Standing Rules posted. Ben was tasked with discussing the leadership and

membership issues with the existing Worldcon Website Working Group members and reporting back to the MPC e-list with new appointments, and Sandra Levy agreed to help if needed.

4. Ben reported that control of worldcon.com was turned over to the MPC by Vincent Docherty, who had bought the name. Both he and Vince Docherty have the passwords to the website. Ben said the committee needed to decide who should have the passwords and who should be the admin, tech and registrant contacts. He suggested that the MPC chair be the admin, the HAMC chair be the tech, and the MPC secretary be the registrant.

Mark suggested that others should have the passwords as well, as long as they agree not to use it unless requested by an appropriate person. Sandra pointed out that the HAMC chair might not have the requisite skills and asked if it could be assigned to someone with whatever protections the group thinks is appropriate, or if the HAMC chair could appoint someone to work under his or her supervision. Kevin added that everything needs backups and multiple people with the passwords, so that every time we change officers/committee members we can change the data quickly. Ben added that if we ever decide on what to do about worldcon.com, we should migrate toward that scheme for all our other domains. There was a side discussion as to whether the password(s) should be written down, kept in a sealed envelope and/or be told to someone. Ben also clarified that currently worldcon.com is not in use and that “the only reason we have it (and any of the other unused domains that we keep) is to stop other people from using it, and causing confusion with our real worldcon.org site.” A vote was taken on the original question to assign the MPC chairman to be the admin, the HAMC chair to be the tech, and the MPC secretary be the registrant of worldcon.org, and passed with eight votes.

5. René Walling asked Mark Olson to join the Hugo Award Marketing Committee. By a vote of 6 to 5, the membership was confirmed.
6. In March 2010, Kevin discovered a website, worldcon2011.org that hosts the XVIth World Congress of Cardiology, Echocardiography and Allied Imaging Techniques. Mark pointed out that it “falls in the ‘not a conflicting usage’ category.” Ben agreed, but added that “it might be better for people looking for either of us if their name didn’t start with the string “worldcon.” Don Eastlake took an opposite position, pointing out that “Causing confusion is pretty much the definition of trade mark infringement, and it is admitted that people would be confused by their URL.” It is worth repeating Don’s final paragraph as a general mission statement:

Worldcon is really our strongest and most important Mark, in my opinion. If you do nothing, it is quite possible that their use of worldcon

will spread from the URL to other places in their collateral in future years. Will signs at this meeting say “Worldcon” in big letters? Possibly, if we do nothing. Even their current use erodes our mark to a limited extent. They would only incur costs if they changed their current usage and might put up a fight about that. So what you really need to do is put them on notice and obtain assurances that they will not use “worldcon” in future years, which is what we did/got for that HVAC conference that started using "Worldcon" as a contraction for World Conference.

Upon further investigation, it appeared that the use of worldcon2011 was a one-off; a quick check showed that worldcon2009.org, worldcon2010.org, and worldcon2012.org were all unused. On that basis, no action was taken.

7. In May, we received a written note that a publisher other than the one that has asked us in the past was planning on producing a book of Hugo nominated works, and was planning on claiming that on the cover. Anyone may truthfully claim a “Hugo Award winner” or “Hugo Award nominee”, but the current President of SFWA was asked (by other parties) to comment. He wrote:

I would agree that you need to run this past a lawyer, soon. If these people note in the back copy (or the equivalent) that the stories are Hugo winners or nominees, that’s one thing. If the title, subtitle or any other aspect of the book represents or implies that the book is an authorized or licensed anthology, then you run a substantial risk of consumer confusion, which trade and service marks are meant to avoid.

It also seems like these folks may be attempting an end run around WSFS, and are trying to obtain the benefit of the Hugo mark without appropriate licensing, which aside from being vaguely sleazy puts any officially-licensed anthology at a perceptual and competitive disadvantage in the marketplace and will possibly make it more difficult for you to market and sell officially-licensed Hugo anthologies in the future.

Ben correctly pointed out that we have no restrictions on the mark for correct attribution, and no licensing is required. “However, when a respected industry professional who is fundamentally on our side makes such a suggestion, then I feel that I should forward it to the MPC for discussion, to see if we should discuss this with counsel (which would, presumably, cost us).”

Kevin noted that if that were the case

we've effectively lost control of our service mark for works of Hugo-nominated and Hugo-winning works and we should give back the \$100 license fee we already received for the previous anthology and apologize to the publisher, because we basically licensed something that we can't control or license. . . . You can publish a work by an author who has won Hugos and describe it as by a "Hugo-award winning author." You could even publish a collection of Hugo-nominated works. But putting "Hugo Award" in the *title* of such a collection seems like it should be a violation to me.

Mark asked if the terms of our agreement with the publisher who paid us a license fee was for exclusive use, and added that if it was termed "exclusive", we sold "something we did not own." He added, "Our goal should be to get the Hugo mark out as widely as possible."

Don noted, however, that the question here is different. It is can we control someone's incorporation of our mark into the *name* of a work or series, a name which, itself, might at some point qualify for registration and agreed we should seek legal advice.

After protracted discussion, no action was taken.

8. Concurrent with item 7, we were asked if it would "be possible for the MPC to trademark the Hugo Awards as a series of science fiction books?" In reviewing the emails from this period, it looks like the two discussions may have been combined and/or confused. However, specific to this discussion, Ben noted that "The MPC would not undertake such a registration without explicit direction from the Business Meeting, since that is not a class we've been directed to register the mark in."
9. May was a busy month. HAMC forwarded an email from the film production of *Neighbors*, requesting "permission to verbally refer to the Hugo Awards in one scene in the film." They attached a copy of the script and gave the specific reference to the scene. Without much discussion, it was agreed that the film company did not need permission from us to use the term in the film, but since the film company was still worried, we signed their release saying that we gave our permission, to the extent it was needed.
10. While coordinating the HAMC's CoverItLive coverage of the 2011 Hugo Awards Ceremony with the Renovation Events tech team, Kevin Standlee created (at their request) a generic Worldcon.events@gmail.com email account. He then used that account to create a UStream user named **Worldcon** with a profile name of "Events Worldcon" and a UStream channel named Worldcon (<http://www.ustream.tv/channel/worldcon1>). Kevin then shared the

logon information with Renovation Events so that they can use it to live-stream events at Renovation. The plan is to hand this account over to Chicon 7 for their use in the same way. The account is not tied to any specific person's identity (except for backup password-recovery purposes) and will not be used as a personal email address.

11. At the beginning of August, Don Timm discovered a website called <http://worldcon.biz/index.html>. There has been no discussion of the issue at this time. But based on the precedent of ignoring Worldcon Construction in Southern California, until and unless they start trying to hold conventions we are not likely to act on this.
12. As a follow-up to item 3, Ben made the change to worldcon.com. He reported that we cannot redirect worldcon.com to worldcon.org until we get better control of worldcon.org's servers, so they know to respond to worldcon.com, as well and added that we could set up a tiny host for worldcon.com that simply does a redirect to worldcon.org. We have until October to renew the domain, but we may want to switch to a different registrar and then get one that allows a small dummy site to do the redirect. And since these people allow 4 names, not the usual three, on the account, Ben left Vincent's name on the account. We will follow up with this in subsequent weeks.

– Linda Deneroff –

Financial Report – Mark Protection Committee – World Science Fiction Society

1 August 2010 through 31 July 2011

	Amount	Balance
Cash on hand as of 1 August 2010		8061.09
Paid to Donald Eastlake for various marks (this amount was reported as owed last year)	(129.79)	7931.09
Paid to Deborah Geisler accumulated monthly expense	(165.00)	7766.09
Balance as of 31 July 2011		7766.09

All amounts are in U.S. dollars.

The Treasurer is not aware of any other pending debts, although I understand that Deborah Geisler and Mark Olson each continue to spend small amounts which will eventually require reimbursement.

We also may incur additional bills from our intellectual property attorney at any time.

The Marketing Committee has also been authorized to spend small amounts of money.

It is the practice of the Business Meeting and Mark Committee to encourage non-U.S. based Worldcons to use their suggested donation amounts to further the interests of the Society through protection of the Marks in their own countries. Consequently, I have not expected a donation from Anticipation or Aussiecon 4. It is the practice of the Treasurer to not request donations from U.S. Worldcons until after they have been held.

– Scott Dennis –