

HARRY POTTER AND THE IP BONANZA

As this edition of the WIPO Magazine began to take shape, Harry Potter fever was sweeping the planet with the publication of the seventh and final book in the wildly popular adventures of the eponymous boy wizard. As midnight struck on the July 21st release date for *Harry Potter and the Deathly Hallows*, throngs of black-cloaked figures were seen waiting impatiently outside bookshops from London to Hong Kong. The fate of young Harry, with whom countless children have grown up since his first appearance nine years ago, had been kept a tightly guarded secret by author J.K. Rowling and her publishers. The suspense was spellbinding.

From rights to riches

The success of her creative works has brought J.K. Rowling enough wealth to pack the vaults of Gringotts Bank. It has, moreover, created huge revenues for license and rights holders throughout the copyright-based industries. The figures are dizzying:

- The first six books sold over 325 million copies worldwide. The seventh made publishing history in the U.K., selling over 2.6 million copies within the first 24 hours for publisher Bloomsbury. First day sales in the U.S. topped 8.3 million. According to U.S. publisher Scholastic, during a Harry Potter release year, sales of the book account for 8 percent of the company's revenue. The translations in over 65 languages include Icelandic, Swahili, Serbian and ancient Greek.
- Five Hollywood **film** adaptations of the books have earned some US\$4 billion in ticket sales for Warner Bros., who hold the film rights, and have shot a new generation of young actors to fame. The first film, *Harry Potter and the Philosopher's Stone* (or *Sorcerer's Stone* in U.S.), ranked fourth on the worldwide list of all-time highest grossing films. When the ABC **television** network broadcast *Harry Potter and the Sorcerer's Stone* in April this year, it still netted approximately 4.2 million U.S. viewers. The haunting **music** soundtracks from the first four movies, composed by John Williams, sold over 1.1 million copies in the U.S.
- Warner Bros. also own the worldwide merchandising rights to the Harry Potter **trademarks**, including characters, themes and other elements. The company divided the rights among its licensees for use on some 400 different products, so mutually reinforcing the brand: Toymakers Hasbro, for example, are licensed to distribute Harry Potter sweets – such as Cockroach Clusters, Chocolate Frogs and Fizzing Whizbees – on which U.S. consumers have spent more than

US\$11.8 million since 2001. Mattel acquired the right to make Harry Potter action figures, games and puzzles, and saw the company's shares rise by 13.5 percent. Electronic Arts gained the rights to manufacture Harry Potter computer and video games; and Coca Cola secured rights in marketing the film together with its products. Estimates of the global worth of the Harry Potter brand range from US\$4 billion to twice that figure.

Defence against the dark arts

Success, however, brings free-riders seeking to profit from – or help themselves to – the creative output of others. J.K. Rowling's lawyers have had their hands full defending her copyright against infringers.

The infringements have taken more different forms than Rowling's shape-shifting boggart. Entire scanned copies of the books have been uploaded and distributed across the Internet. J.K. Rowling launched several legal actions against users of the e-Bay online auction site this year, alleging that they were selling illegal e-books of her work.

In India, legitimate book sellers bewailed the proliferation of pirated print copies in the streets of Mumbai and Bangalore, despite concerted action by police and vigilance officials. "We estimate 50 percent of sales lost due to piracy," Himali Sodhi, head of marketing for Penguin India, told Asia Times Online. Akash Chittranshi of the New Delhi-based firm, ACA-Law, added with a smile: "Some of the pirated books use such cheap paper that they turn into pulp if some water drops on to them."

Infringing versions of the books in China were in a league of their own. From 2002, entire fake sequels – bearing J.K. Rowling's name, photo and even copyright notices – began *apparating* in book shops

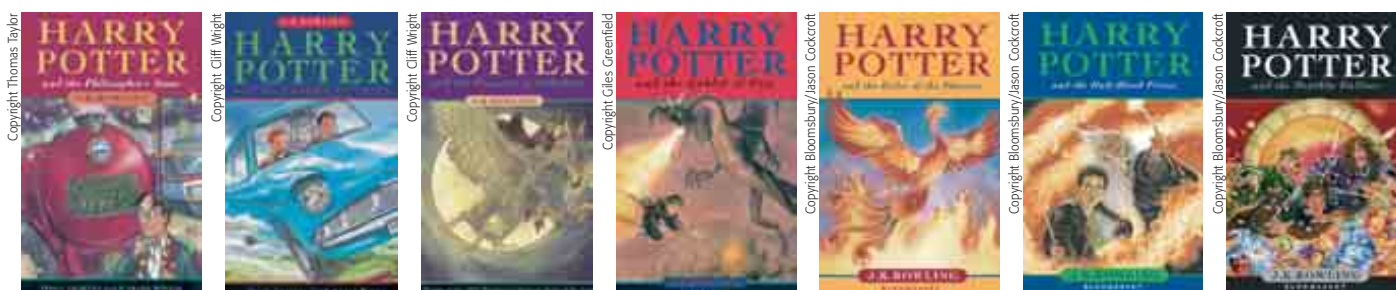
Muggle Magic in the PCT?

"Any sufficiently advanced technology is indistinguishable from magic." – Science fiction novelist, Arthur C. Clarke (1961).

"First demonstration of a working invisibility cloak," announced a press release last year from Duke University, in North Carolina. The break-through by researchers in the electrical and computer engineering department, published in the journal, *Science*, seemed to herald a fantasy come true.

The device works by deflecting microwave light around an object with so little distortion as to make it seem to an observer almost as if it were not there. "The wave's movement is similar to river water flowing around a smooth rock," explained the designer, David Schurig. The researchers created the cloaking device using "metamaterials" – artificial composites that can be made to interact with light and other electromagnetic waves in ways that natural materials cannot – which were arranged in a precise series of concentric circles that confer specific electromagnetic properties. David Schurig is named as a co-inventor on PCT patent applications, including WO/2006/023195 for Metamaterials.

But sadly for the would-be wizards among us, there is a long way to go. The device cannot hide an object from a human eye but only, as the *New Scientist* explains, from the "eyes" of a microwave detector. And for the moment it only works in two dimensions. Undeterred, the team is already at work on a 3D version.



under such fantastical titles as "Harry Potter and the Filler of Big" and "Harry Potter and Leopard-Walk-up-to-Dragon." Readers of the latter were less than enchanted to find their young hero apparently more preoccupied by personal hygiene than by the fight against the Evil Lord, ("Harry wipes sticky cake from his face... For a civilised young man, it is disgusting to have dirt on any part of his body"); before being teleported into J.R. Tolkien's *The Hobbit*, with the names changed to Harry Potter characters. Prompt legal action by J.K. Rowling's lawyers saw the infringing book removed, with a fine and an apology from the Chengdu-based publishing house.

A French teenager was detained by police in August this year, having translated all 759 pages of the final book just days after its release and posted it on the Internet. Apparently not having sought commercial gain, he was released without charge, having learned a sharp lesson about copyright.

Parody and plagiarism

The books have spawned a range of other unauthorized derivative works and imitations. The Tanya Grotter books by Russian author Dmitry Yemets, featuring a magical teenager with round glasses at the

Abacadabra school for witches, have gained a loyal following in Russia. J.K. Rowling and her publishers brought a successful legal action in the Dutch courts in 2003 to prevent the distribution outside Russia of a Dutch translation of *Tanya Grotter and the Magical Double Bass*. The Dutch courts rejected the arguments put forward by Mr. Yemets and his Moscow-based publishers, who claimed that the books constituted a parody, permissible under copyright law exemptions. A number of Harry Potter parodies are, however, currently in circulation, and have not faced legal injunction, including Michael Gerber's *Barry Trotter and the Shameless Parody*, which has sold over 700,000 copies.

J.K. Rowling's creative talents have made her one of the wealthiest women in the world. Yet it was through the international system of IP rights that she was able to plug that creativity into the global publishing and entertainment networks which propelled her from poverty to plenty. Harry Potter is not just a children's story. It is a magical tale of the transformative powers of creativity and intellectual property.