

APPENDIX 1
REPORT OF MARK PROTECTION COMMITTEE ACTIONS
September 2013 –July 2014

Members of the Mark Protection Committee from September 2013 through July 2014 were as follows, with the expiration of membership listed in parentheses after their name: Warren Buff (elected until 2014), Linda Deneroff, (elected until 2014), Sandra Levy (appointed by Chicon 7 until 2014), Dave McCarty (elected until 2014), Stephen Boucher (elected until 2015), Scott Dennis (elected until 2015), Donald E. Eastlake III (elected until 2015), Randall Shepherd (appointed by LoneStarCon 3 until 2015), Paul Dormer (appointed by Loncon 3 until 2016), Deb Geisler (appointed by Detcon 1 until 2016) Tim Illingworth (elected until 2016), Kevin Standlee (elected until 2016), Ben Yalow (elected until 2016), and Glenn Glazer (appointed by Sasquan until 2017). Ian Stockdale's term expired at the conclusion of the 2013 meeting, and the MPC thanks him for his service to this committee. Kevin Standlee was re-elected Chairman; Linda Deneroff, Secretary; and Scott Dennis, Treasurer.

The MPC Finance Report is appended at the end of this document. Reports from the Hugo Awards Marketing Committee and Worldcon Website Working Group will be submitted separately from those committees.

This year was a rollercoaster, with some months quiet and some quite active.

1. When Sasquan won the 2015 bid for Worldcon, they asked the Mark Protection Committee to advise on the use of a d/b/a and were advised that as the selected Worldcon, their usage of the marks "Worldcon 2015" and "Spokane Worldcon" were entirely reasonable. Effectively, when they won, they were licensed to use the relevant marks. It was recommended, however, that Sasquan file d/b/a(s) with the relevant local authority so that they can cash checks payable to "Worldcon," or "World Science Fiction Convention." However, the decision to pay for a service mark registration for a convention name is something each committee needs to make for itself. Additionally, it was pointed out that the service mark need not appear on every single page of the website, but the use of footers makes it rather moot. However, Kevin Standlee was concerned that Worldcons are fragmenting their brand recognition by not trading on the same name every year.
2. In November, Ben Yalow pointed out that a new top-level domain name, .fan, was going to be issued shortly, but he felt that there was no need to register worldcon.fan at this time.
3. Also in November, we discovered that on the website of the World Congress on Coloproctology, <http://worldcon2014.com/about-worldcon-2014/>, was calling itself worldcon. Unfortunately their "Contact Us" form failed, there was no direct e-mail address and they are located in India. We finally contacted the Sachin Bhave, the WHOIS contact, who said he would forward a message to the conference owners. Kevin also sent a letter via the post office. Unfortunately we never received a response and the website is still active.

4. In February 2014 we received an email from the owner of hugoaward.com who wanted to know if we would purchase it for (gulp) £399 (about \$665). (Our website is thehugoawards.com specifically because this person owned the domain he was now offering for sale.) Dave McCarty suggested that we offer half that amount because the domain could be of use to us, but in the end we simply ignored the offer.
5. In March 2014, our attorney pointed out that because our marks are federally registered with the U.S. Patent and Trademark Office, Worldcon websites can use the symbol “®” beside the marks if they chose to do so. Lawyers always want their clients to do everything that they can to alert the public that the marks are protected but a website might choose not to do so because the symbol might be unsightly or the site does not want to limit itself to the U.S. Our attorney also pointed out that if we registered in every country that is a signatory to the Madrid Protocol, it could cost over \$10,000. However, we rely on the uniqueness of our marks and their prior international usage to discourage use by others in similar fields. It’s the MPC’s policy to prioritize registration based on the number of Worldcons held in a given country, and in particular any country that has hosted more than one Worldcon. However, if there were a practical way of obtaining an EU-wide registration that isn’t prohibitively expensive, we would be interested. Curiously, while Canada is not a signatory to the Madrid Protocol, China is, but it wouldn’t be worth the effort to register in China. If we could do the entire EU as a single entity, it would probably be more worthwhile, there having been two non-UK-but-EU Worldcons so far. In the end, our attorney filed the U.S. renewal application for World Science Fiction Convention and began renewing the registrations for the four other marks, Worldcon, World Science Fiction Society, WSFS and The Hugo Award. The filing fee is \$500 per mark, for a total of \$2,500.
6. A serious issue arose at the end of March, when Loncon 3 was sent a cease-and-desist letter by the lawyers for fancaster.com, noting that “Fancaster” is a registered trademark in the United Kingdom (Registration number 2433200), USA (Registration number 1,543,885) and European Union (Registration number 005731187). After much discussion, and in consultation with Loncon 3, the MPC determined to fight the order. (The mark as registered is for headphones: there is no overlapping industry, no possible confusion in regard to trade and they lost on a prior attempt against Comcast to claim that “fancast” violated their trademark: (see http://blog.ericgoldman.org/archives/2012/01/im_not_a_fan_of.htm)). (Requesting that Loncon try and change the name of the Fancast Hugo at this late date would be an unreasonable, undue burden.) In the end, the British attorney for Loncon 3 sent a sternly worded letter back to Fancaster indicating that she did not find infringement and raising other defenses (including the risk of an award of attorneys’ fees for frivolous litigation, no likelihood of confusion, etc.) to ward off a potential lawsuit. She also suggested an action be filed to

counter Fancaster by applying to get their trademark revoked on the grounds that they have not publicly used it very much. The MPC was unanimous in agreeing to fight this. Previous Worldcons were informed of this situation and asked to pledge funds to help cover costs, should it become necessary (our policy is not to encumber a seated Worldcon until we've tapped all past ones).

7. The MPC's cash reserve is reported to the WSFS Business Meeting, so that WSFS members understand that the MPC is not flush with cash. Further donations will help build up to a reasonable level of reserve, which we will need in the coming months.
8. At the beginning of April, The U.S. Patent and Trademark Office renewed the trademark registration for the mark, "Worldcon." We will need to file another renewal application between June 26, 2023, and June 25, 2024, in order to maintain the registration.
9. Discussion regarding Fancaster continued through the rest of April, with the British attorney recommending collating evidence of how the FANCAST and FANCASTER marks are used, including carrying out Google searches and printing off any reference on websites; receiving any marketing or promotional materials distributed by companies using the term descriptively if the mark is used within those materials; and adding value from WSFS records and members as to the circumstances regarding the decision to adopt "Fancast" as a category. Members of the MPC helpfully provided links to the historical use of "fanzine" and the subsequent derivation of "fancast", and the attorney found evidence of others using the terminology prior to the registration by Fancaster. The estimated cost of the invalidity action is £1,500-£2,000. Obviously, if this proceeds to court, expenses will be much higher.
10. The kerfluffle with Fancaster led directly to a discussion of whether and how to change the way MPC currently collects funds. The donation of \$1 per site selection voter has not changed since 1984, while costs have risen substantially in the "real world". Adjusted for inflation, the amount would be about \$2.25 in today's dollars. No decision was reached.
11. Again in April, the Korean-Japanese food conglomerate Lotte released a "Worldcon" ice cream in conjunction with the Football World Cup. Since we don't have a registration in any place where they are marketing it (the attempt to register marks in Japan came to nothing) and since they're marketing a product, not a service, we took no action.
12. At the end of April, the U.S. Patent and Trademark Office renewed the trademark registration for the mark, "World Science Fiction Convention." We will need to file another renewal application between June 26, 2023, and June 25, 2024, in order to preserve the registration.

13. At the start of May the MPC renewed “wsfs.org” for five years for \$80.25. (They charge \$16.05/year and there's no discount for longer term renewals.)
14. At the end of May, Kevin Standlee noted that the JOF (Journeymen of Fandom) group on Facebook suggested that in lieu of every U.S.-based WSFS convention having to set up a BMI/ASCAP account, the MPC could deal with it as a single account, with each convention paying the appropriate fees through the MPC. While this is asymmetric – it doesn't do much for non-U.S. conventions, which have different licensing rules per country – it wouldn't necessarily be inappropriate for the MPC to do this if the conventions in question wanted to work that way. But the Business Meeting would have to pass a resolution directing the MPC to work with U.S.-based WSFS conventions (including NASFiC) for intellectual property right licenses, including BMI/ASCAP. Glenn Glazer pointed out that BMI/ASCAP charges wildly different fees every year because there is no continuing relationship. However, most members felt this was beyond the scope of the MPC.
15. At the end of May, the Hugo Awards website received an enquiry regarding a Hugo Award with the name Honey Wood on it and asked if there were a market for it. Honey was a conrunner, fanzine fan and secretary of the Cleveland in 55 bid (which resulted in Clevention), which suggests that this particular Hugo is a 1955 committee spare. We determined that it was not in our purview to make an estimate; however, individual members of the MPC acting in their personal capacities contacted the person making the inquiries to discuss the matter further.
16. Also at the end of May, Glenn Glazer required clarification for a flyer being produced by the Spokane CVB, to advertise the city that included references to Worldcon. He asked if all the marks must be listed in the usual disclaimer phrase (“ ‘World Science Fiction Society’, ‘WSFS’, ‘World Science Fiction Convention’, ‘Worldcon’, ‘NASFiC’, ‘Hugo Award’, the Hugo Award Logo, and the distinctive design of the Hugo Award Rocket are service marks of the World Science Fiction Society, an unincorporated literary society.’”) or if it were acceptable to use only one or two; e.g., “ ‘World Science Fiction Convention; and ‘Worldcon’ are service marks of the World Science Fiction Society, an unincorporated literary society.” It was decided that if something wasn't a publication, then the authorized group could do what it wanted. It was noted that no notice is required on the physical Hugo awards themselves.
17. In early June, we returned to the Fancaster debacle, with Warren Buff submitting the “Leaky Fancast” podcast that was made by members of the Leaky Lounge back in 2006. Their use of the term “fancast” predated the EU filing by at least a year and would thus be extremely helpful in invalidating the EU trademark filing. We determined to hold this in abeyance unless needed.

18. Again in June, we learned of Wichita State's "Hugo Wall Award," named for someone by the name of "Hugo Wall." The *Wichita Business Journal* called it "Hugo Award," but we felt we did not need to take any action.
19. At the end of June, the Loncon 3 lawyer was prepared to file against Fancaster. Alice Lawson, on behalf of Loncon, wanted to know our position because this matter will easily drag on until after Loncon. The MPC's lawyer reviewed the paperwork, calling it "very thorough and of excellent quality" and saying that "the changes are strongly in WSFS's favor." With that said, and with \$10,000 pledged by CanSMOF and SCIFI, (\$5,000 each) in addition to the MPC bank account, the MPC voted to continue the proceeding; however, inasmuch as the Fancaster action might drag on beyond the projected end of the legal entity running Loncon, the MPC needs to determine who actually stands for the MPC in any action (see Item 23 below).
20. This led to a discussion regarding filing our service marks in the EU. For £2,640 we can get coverage in the UK; for an additional £1,860, we could cover the entire EU. (Considering the entire EU as a single entity obviously meets the two-or-more Worldcons test.) However, we do not have the funds at this time to initiate this process. This discussion, however, led back to the discussion in Item 10 herein, regarding asking for a change in the amount of money donated to the MPC by individual Worldcons and NASFiCs. The three issues involved are:
 - (1) A determination about how much WSFS believes it should be spending to protect our marks globally, in the US, in Europe, etc. How widely should we be looking? In all possible countries? In all countries where bidding is taking place? (There is currently a bid for China right now.)
 - (2) The toll that inflation has taken on the "traditional" \$1 per vote after 30 years without an increase.
 - (3) Transparency regarding the amount of funding available to the MPC.

We've been saying for years that we need a long-term budget. We still need it, so we can see how much money we need. Our marks renew after ten years, so we need to look over at least that long a window to cover the existing marks in the existing places, plus any additional ones we expect to need. It seems likely that our current level of support from Worldcons (which was established in 1984) is insufficient to support our current level of activity. Once we have done a budget that covers a longer period, we can return to the Business Meeting with a proposal for changes in how Worldcons fund the MPC's operations.
21. In July, we renewed the NASFiC service mark in the U.S.
22. A currently unfinished piece of business consists of a proposal (for the Fancaster action only) to name an individual human being with standing to bring the

action on behalf of the WSFS MPC and designate him/her to be our agent (with the understanding that the WSFS MPC – and our backstopped pledges from past Worldcons – would indemnify him or her for any expenses incurred thereby) for this action. The UK lawyers pointed out that we need to move sooner, not later, on the Fancaster action, because if Fancaster makes a claim against Loncon, we won't be able to file the invalidity action at all.

23. Related to the Fancaster action above, the MPC discussed setting up a “Worldcon Intellectual Property Trust” (WIPT) as a holding legal entity for marks. Such an entity, which would be under the control of the MPC, would make it substantially easier to register our service marks in countries outside the USA, most of which will not issue registrations to unincorporated associations. The consensus of the MPC was to seek additional guidance from the Business Meeting, and accordingly the committee has submitted a resolution (see agenda).

– Linda Deneroff –

**Financial Report – Mark Protection Committee – World Science Fiction Society
1 August 2013 through July 31 2014**

| | Income | Expense | Balance |
|---|---------------|----------------|--------------------|
| Cash on hand as of 1 August 2013 | | | \$10,683.66 |
| Paid to Kevin Standlee for expenses, domain renewal | | 114.50 | 10,569.16 |
| Paid to Attorney Esther Horwitz, various trademark renewals | | 2,610.00 | 7,959.16 |
| Paid to Attorney Esther Horwitz, trademark work | | 1,811.42 | 6,147.74 |
| Paid to Attorney Esther Horwitz, trademark work | | 464.90 | 5,682.84 |
| Paid to Kevin Standlee for hosting, domain renewal | | 160.25 | 5,522.59 |
| Received from anonymous donor | 400.00 | | 5,922.59 |
| Balance as of 31 July 2014 | | | \$5,922.59 |

Notes:

After the close of this report, the MPC sent Loncon 3's U.S. agent \$220 to cover UK legal costs not otherwise covered by Loncon 3's traditional contribution toward WSFS expenses (GB£2,600) or by a contribution of CA\$5,000 (approximately GB£2,700/US\$4,580) from CanSMOF and a contribution of US\$5,000 from SCIFI paid directly to Loncon 3. The MPC thanks SCIFI and CanSMOF for their donations.

In subsequent events occurring after the period of this report, Kevin Standlee is owed \$80.25 for an additional domain renewal.

These and other recent transactions will be contained in the subsequent period report for 1 August 2014 through 31 July 2015.

The treasurer is not aware of any other pending debts, although Kevin Standlee and Mark Olson each continue to spend small amounts that will eventually require reimbursement. We also may incur additional bills from our intellectual property attorney at any time, and the Marketing Committee has also been authorized to spend small amounts of money.

The Business Meeting and the MPC 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. The MPC thanks Loncon 3 and Anticipation.

The MPC does not request donations from U.S. Worldcons until after they have been held. The MPC anticipates a generous donation from Chicon 7 and Loncon 3 in the future.

— Scott Dennis

Hugo Award Marketing Committee Report to Mark Protection Committee September 2013 – July 2014

The members of the Hugo Award Marketing Committee (“HAMC”) are Dave McCarty (Chair), Craig Miller, Cheryl Morgan, Mark Olson, and Kevin Standlee. The HAMC members are appointed by the Mark Protection Committee, and the chairman of the HAMC reports to the MPC. HAMC is responsible for maintaining the Hugo Awards website, <http://TheHugoAwards.org>, and answering email sent to info@TheHugoAwards.org.

TheHugoAwards.org provided text-based CoverItLive.com (“CIL”) coverage of the 2013 Hugo Awards Ceremony. As the video stream for the award ceremony experienced a drop during the ceremony, we again saw a spike in usage of the text-based coverage, which had been scaled to allow such usage (822 people watched the CIL coverage).

For the twelve months ending at the end of July 2014, TheHugoAwards.org had approximately 195,000 visitors. The peak visits were about 13,500 for the 2013 Hugo Awards ceremony/results and for the 2014 finalist announcements. Sixty-one percent of visitors are from the U.S., 7% from the UK, followed by Canada, Australia, Germany, Spain, France, Poland, Brazil and Italy.

There was no CoverItLive coverage of the 2014 ballot announcement, but there will be coverage for the 2014 award ceremony at Loncon 3. Loncon 3 is providing logistical support to the HAMC team (Kevin Standlee, Mur Lafferty, and Cheryl Morgan) covering the event.

The Committee continues to act as a clearinghouse for information and questions about the Hugo Awards, including referring specific questions about a given year’s administration to that year’s Hugo Award administrators. This also includes providing information about, and copies of, the Hugo Award logo, whose use we encourage in conjunction with references to the Awards.