

Chapter 1

Strategic Behaviour in the International Exploitation of TV Formats

A Case Study of the *Idols* Format¹

Sukhpreet Singh & Martin Kretschmer

Introduction

The international trade in TV formats has been increasing steadily. According to the Format Recognition and Protection Association (a format producers' industry association) the value of the global TV format business exceeds € 9.3 billion (FRAPA 2009). In the early 2000s, the market grew more than 30 per cent in three years, and the UK became one of the lead exporters of formats, along with USA and the Netherlands (FT 2005). This case study investigates how *Idols* became one of the most successful television formats sold worldwide – with, as noted in the Introduction, over 40 global versions – in the absence of specific format rights. Component parts of an *Idols* type format may attract copyright protection in its production manual (also known as 'format bible'), set design, programming sequence, episode segments and musical content; but in a court of law, the underlying concept and the format arrangement of the components does not attract copyright protection. From a legal perspective, if there is no formal protection regime provided by law, competitors should be able to copy the product freely and hence the price of such a product should be zero. However, formats are bought and

¹ Research for this case study was funded under ESRC (UK) Grant No. RES-186-27-0012: 'The Exploitation of Television Formats: Intellectual property and non-law based strategies'.

sold for large sums of money. The licensees fees alone for a sought after format, such as *Idols*, can cost broadcasters in a Western European territory, upwards of €35,000 for one series of 20 to 30 episodes of 1 hour duration besides additional fees for consultancy in the form of flying producers.

This case study identifies the strategies employed by producers of the *Idols* format to counter the limited legal protection available to their cultural products. The case study is structured as follows. The first section gives an introductory overview of international trade in the *Idols* format, circumscribing the issue of format imitation from a legal and commercial point of view. Secondly, the research design for the case study is explained. Thirdly, market based patterns of format protection and exploitation are identified from the empirical data. The chapter concludes with a discussion section, in which these patterns of exploitation are grouped into three overarching strategies pursued by the producers of the *Idols* format.

The International Trade in *Idols*

From the bold and glitzy *American Idol* to *Indian Idol* (infused by Bollywood and family values), *Idols* is one of the most successful global television format franchises. The origins of the *Idols* format were explored in 2004 in a dispute between Simon Fuller of 19TV and Simon Cowell of Syco (jointly with multinational TV producer and distributor FremantleMedia). This dispute was settled out of court in the UK. Simon Fuller of ‘19TV’ had brought the format to be co-developed with Talkback Thames – the production wing of FremantleMedia – whereupon it was broadcast first as *Pop Idol* on ITV, the UK’s main commercial terrestrial channel. FremantleMedia later on also co-produced a show called *The X Factor* created by Simon Cowell, who had been a show

judge on *Pop Idol*. There were striking similarities between the two shows and hence Fuller sued Cowell and FremantleMedia in the UK on various counts (BBC 2004). Some of the charges included infringement of the '300 page production bible' of *Pop Idol* for *The X Factor*, imitation of technical aspects such music, lighting, the show's structure, use of the phrase 'We're looking for the X Factor' originally employed on *Pop Idol*, as well as using almost half of 59 staff, including senior producers, from the *Pop Idol* team to produce *X Factor* (Singh, 2009). However, a confidential commercial settlement allowed FremantleMedia and Simon Cowell to continue producing the *X Factor* format in the UK and other territories while giving Fuller a stake in the *X Factor* (Hinton 2006). *Pop Idol* was discontinued in the UK to make way for the *X Factor*, while *Pop Idol* (as per previous agreements between Fuller and FremantleMedia) continued to be exported as a format to other territories.

The *Idols* format saw a slow initial roll-out in various countries, notable amongst the first few were South Africa and Poland. A major push only followed after the success of *American Idol*. Tape sales of *American Idol* were initially secured in several territories within the English geo-linguistic cultural markets or with market potential for Western music and Western cultural values (such as Canada, Australia and Puerto Rico). In the industry's understanding, tape sales test the market and stimulate demand in these territories to create local versions, leading to the sale of a format. From its beginning in 2001, *Idols* has aired more than 42 national territory versions (see appendix) while its taped versions have reached more than 154 countries (Elber 2006).

Equally popular in Western and Eastern Europe, *Idols* became the highest rated series ever in the Netherlands since the start of commercial television in 1989, whereas

the final of *Idols* in the Czech Republic (titled *Česko Hledá Superstar*) was watched by over one third of the population (FremantleMedia 2009). *American Idol* has consistently been ranked the television series with the highest American viewing figures averaging around 22 million viewers per year (Rosenthal, 2011).

The *Idols* format is a well marketed brand with brand extensions in several product merchandising and licensing categories. To address cultural sensitivities (such as the negative connotation of the word 'Idol') or operational requirements, the format title was changed in several territories. For example *Idols* is known as *Deutschland sucht den Superstar* (in Germany), *Nouvelle Star* (in France), *Turkstar* (in Turkey) or *Superstar.KZ* (in Kazakhstan). In other countries, the company has tried to maintain a consistent brand name as seen in examples such as *Pop Idol* (in UK), *Australian Idol*, *Indian Idol*, *Malaysian Idol* or *Idolos* (in Brazil/ pan-Latin America and Portugal). The naming of local *Idols* adaptations will also be discussed in the next chapter, which deals with official *Idols* websites. With a wide demographic target market (age 14 to 49), the *Idols* format is usually scheduled in prime time evening slots by broadcasters worldwide, as this is most suitable for reaching a young audience which is attractive to advertisers. The *Idols* format has also been licensed into ancillary products and merchandising such as interactive games, T-shirts, *Idols* car, *Idols* perfume and so on.

To keep the *Idols* brand fresh in the audience's minds (thereby keeping it popular with advertisers), continuous research and detailed analysis takes place. The format owners have a research and statistics department which gathers television ratings and other data from various research and statistics companies around the world, such as AC Nielsen in US, BARB in the UK and Eurodata in the rest of Europe. This is then analysed

in-house to inform the company's management information system as well as make programming changes to the format. For example, in 2010, American Idol was scheduled consecutively on Tuesdays & Wednesdays on Fox to compete head to head against another very popular format, ABC's *Dancing with the Stars*. Research showed that moving the *Idols* format in 2011 to consecutive Wednesdays and Thursdays will help it to achieve a larger audience viewing figure (Rosenthal, 2011).

Idols has also been subjected to audience research using focus groups to make sure, as the series progresses from year to year, that its product proposition remains relevant for audiences. As *Idols* is in its ninth or tenth series in some territories, ongoing audience research has thrown up issues on the choice of contestants, the show's judges, the structure of the show, audition methods and so on:

'When *Idols* was launched in 2001, it had a very distinct pattern of viewers. The auditions phase used to give us an upward curve of the viewers but during the group stage when the contestants are cut down to the final 12, the viewers will tune out for some reason. But during the final live stage, the viewers went up again. So, it was a U-shaped curve and we discovered that this was the same pattern in all countries. We made the middle section more compact and dynamic so that we didn't lose so much of the audience in between.' (Research Manager, FremantleMedia, 2009)

Hence, as a result of talking to their viewers, the producers are able to keep the format constantly moving. This also helps to dissuade potential imitation attempts.

Copycatting – Legal and Commercial Dimensions

Format imitation (or copycatting, as the industry prefers to call it) has emerged as a by-product of the growing international trade in formats. As there are relatively low barriers to the dissemination of information in the digital world, imitators routinely scan the international TV scene for format solutions which they can recreate without paying any licence fee. Copycats change elements of the original format, and localize it without the involvement of the originator. This, according to the original producer, is theft of their format rights – treated by the originator as 'intellectual property' – leading to accusations of format plagiarism or format copycatting. However, there are no specific laws anywhere in the world which govern formats as intellectual property rights:

'The format industry is not necessarily reliant on legal protection. It certainly helps that there is a degree of perceived legal protection but the industry at large is aware of how dubious that legal protection is' (Senior Manager, FremantleMedia, 2009).

In the last few years, in three of the biggest and most sophisticated television markets – USA, Germany and UK – there have been well-reported accusations of unauthorized format imitation (or copycatting) – some of these have made it to a court of law. Apart from UK's *Pop Idol* and its successor *The X Factor*, examples include RDF's *Wife Swap* and similar shows in both the USA (*Trading Spouses*) and Germany (*Frauentausch*). None of these involved any potentially suspect production houses looking for a quick dip in format success; all were highly respected large TV organizations.

In the landmark case of *Green v NZ Broadcasting Corporation*, the British television author and presenter Hughie Green had objected to the unauthorized imitation of his talent show *Opportunity Knocks*, broadcast under the same title by the Broadcasting Corporation of New Zealand from 1975 to 1978. Green claimed copyrights to the ‘script and dramatic format’ of the show, broadcast in England between 1956 and 1978. As a ‘format’, ‘structure’ or ‘package’, Green cited the title, the use of certain catch phrases, the use of a ‘clapometer’ to measure audience reaction and the use of sponsors to introduce competitors. However, the Court of Appeal of New Zealand (*Green v BCNZ* [1988]) ruled that the ever changing format elements lacked the certainty and unity of a dramatic work. The case was appealed to the Privy Council in the UK which held that a dramatic work must have sufficient unity to be capable of performance. Green was unable to show that the elements of his format were more than accessories to different dramatic performances and, as a whole, not protectable under copyright law (*Green v BCNZ* [1989]).

In another UK case, *Norowzian v Arks* [2000]), advertising agency Arks Ltd. had used a innovatively edited jerky dance routine for a Guinness commercial which was inspired by the short film *Joy*, directed by Mr Norowzian. The Court of Appeal for England and Wales held that no single frame was directly copied. Editing and post-production techniques creating a ‘look and feel’ did not amount to an original work itself.

Following the lead of these decisions, most jurisdictions sided, in effect, with the view that restrictions on the use of new entertainment techniques might stifle innovation².

In other words, if private parties were allowed to ring fence patterns and general elements of making programmes, the public domain of material from which to create new works will shrink. As a consequence of legal rulings that permit imitation of programme ideas in principle, one should have expected a decrease in the market for international television formats. ‘If no such rights exist, then the commercial rate for the format, at least from a legal point of view, is zero’ (McInerney and Rose 1999).

Although the format industry does not have access to any specific format protection right under intellectual property (IP) law anywhere in the world, it does use the signalling, stance and rhetoric of IP protection whenever it is required to justify protection of its intangible assets. At the same time, lobbying associations do no longer aggressively seek statutory protection for format rights. For example, during the consultations for the Gower’s Review of Intellectual Property in the UK (Gowers 2006), one of the largest format makers of UK – the BBC – advised against the use of *sui generis* legal remedies to protect a format from being copied. The BBC’s response states that current laws provide adequate protection’ and that ‘a more prescriptive approach will create difficulties’ (Gowers 2006). Our preliminary investigation through tracking of reported disputes in trade journals and interviews with format industry managers at

² In research that will be reported elsewhere, the authors undertook a collection, indexing and systematic analysis of all reported format disputes over the 20 years since *Green v BCNZ* [1988]. Key disputes as well as statistical observations are available from the website of the ESRC project: <http://tvformats.bournemouth.ac.uk>

international television media trade fairs suggests that the legal uncertainty has led to the development of market based protection strategies, to provide an environment of stability where formats can be traded internationally.

Methodology

A case study design was used to develop theory at the linkages between the disciplines of law, marketing and media economics which all appeared to offer different answers to the paradoxical observation motivating this research, that in the absence of protection under intellectual property laws the commercial rate for the TV format will be zero. This case study was conducted as the third phase of a more complex research design.

The first phase (which is not reported here) created a database of 59 format disputes between 1987 and 2007 (<http://tvformats.bournemouth.ac.uk>). As a result of an analysis of these disputes and decisions, and after reviewing the literature offering possible explanations of increasing trade despite a low protection regime, 32 interviews were conducted in the second phase of the research with media sellers and buyers at three international television trade fairs (Discop East Budapest in June 2008, Asia Television Forum Singapore in December 2008 and NATPE Las Vegas in January 2009). These trade fairs, typically lasting for three or four days, occur once a year and are locations where format distributors and buyers converge from all over the world to interact and transact; hence these were ideal locations to find a large number of respondents under one roof. Although the interviews were conducted using a protocol, the interviewees were able to raise additional or complementary issues that eventually formed part of the study's findings. These were then transcribed and analysed using a coding technique

drawn from the Grounded Theory approach (Strauss & Corbin 1998). In a first iteration of open coding, exploratory responses which did not correspond to the propositions underpinning the interview protocol were included. Thereafter, axial coding provided an opportunity for the data to be matched with the pattern of strategies assumed in the interview protocol. This was repeated for the open codes which had emerged at a later stage. The third phase of the research design involved the placement of one researcher (Singh) with FremantleMedia for a period of 2 months during which a further 13 interviews were conducted.

Protection and Exploitation of *Idols*

The following section presents eleven patterns of strategic behaviour that format producers exhibit when faced with requirements of format protection and exploitation. These patterns emerged from the coding of all semi-structured interviews, both at the international trade fairs and during the research placement at FremantleMedia in London. The quotes use the *Idols* case wherever possible, and are discussed in the context of relevant theories.

Competitor intelligence

“The spotter's network is so secretive that I only know the names of the spotters. They work as freelance production executives who channelize things they hear to me and the aim is about getting the knowledge of promising shows coming through from our competitors rather than trying to spot rip offs.” (Senior Manager, Worldwide Distribution, FremantleMedia, 2009)

Market orientation, or awareness of key developments in the market pertaining to new products, competitors, and customers, exhibited by a business is an important determinant of its performance (Jaworski & Kohli 1993). The *Idols* producers depend upon enhanced and proprietary channels of information flow to detect format imitation using a network of ‘spotters’ around key television territories. This helps them to be aware of imitation attempts right at the outset and allows them to put into motion other patterns of behaviour.

Gentlemen’s agreements and trust

“What drives the format industry is not what is legally protectable or the rights – it is traced back to what is the initial impulse for a television commissioning editor or buyer to buy someone else’s TV format – because that impulse is as simple as ‘since it worked over there, therefore it has a fairly decent chance that it is going to work here as well i.e. there must be some chemistry in the show that works with the audiences. Therefore *Idols* is a shining example which goes around the world and achieves very similar results almost everywhere, despite uncertain legal protection.” (EVP, Commercial & Business Affairs, FremantleMedia, 2009)

“There is a degree of taint around about very obviously ripping off someone else’s show. There is a degree of honour and trust within the industry and its seen as shameful to be very obviously ripping off somebody else’s show.” VP Development, FremantleMedia, 2009)

Social norms provide an alternative source of incentives which induce and reward producers of cultural goods in the absence of formal intellectual property protection. A strong implicit norms-based IP system exists amongst French chefs to protect *haute*

cuisine recipes (Fauchart & Von Hippel 2007). Trust, respect and access control to different levels of magic guilds and associations prevents the leakage of magic to outsiders (Loshin 2007). The *Idols* producers prefer to use market based strategies to solve format disputes, rarely depending on tradable intellectual property rights such as copyright. Using legal means of counter format imitators is considered resource intensive while judicial inconsistency in format disputes reinforces the industry view that a negative decision in the courts indirectly encourages more format imitations. Relationships and trust are important in the industry and gentlemen's agreements are still considered the cornerstone of global television business, where large companies have started respecting each other's format ideas.

Deterrent legal claims

“Most of the times ... you can solve [things] in a simple way i.e. by sending a couple of angry letters.” (In-house Legal Counsel, FremantleMedia, 2009)

Idols producers use established positioning and signalling rhetoric of intellectual property protection to assert ownership of formats. This is achieved through ‘*deterrent letters*’ (or ‘*letters of claim*’) from an in-house legal department emphasising to imitators that intellectual property rights based legal action will be pursued if commercial means fail to find a satisfactory solution to their dispute.

Speed to the Market

“Speed to market is the key to protecting our formats. We have bases in every major television territory. Know-how of successful previous versions coupled with a highly skilled technical team ensures we get the commission to produce a licensed version.” (Senior Manager, FremantleMedia, 2009)

“Presence on the ground enhances the ability to protect our formats...the way we are structured helps ensure protection.” (Senior Manager, FremantleMedia, 2009)

Firms operating in cultural industries seek not only economies of scale but of scope, hence successful firms have to keep diversifying their portfolio rapidly into risky territories (Towse 2003; Acheson 2003). The first format of a genre to be broadcast (that is, to reach the market) usually beats the intended imitators. Thus, *Idols* has maintained its legitimacy of being original by a speedy roll-out throughout the main television territories of the world. This strategy has been widely employed by companies which have production bases in key television territories.

Production Know-How ('Format Bibles')

“If you want to copy *Idols* properly, then you really have to get hold of the *Idols* bible which we hold relatively tightly ... I don't know examples of our bibles being passed around – because it can be traced back to someone.” (EVP, Commercial and Business Affairs, FremantleMedia, 2009)

“The technical know-how or the ‘production bible’ is the crown jewel which we wish to protect. We never release it without a contract having been signed.” (Partnerships Manager, FremantleMedia, 2009)

‘Rip-off shows fail because there is a lot more to a format than what you see on the television screen. There is a lot going on under production techniques, how you find the people, how you find the stories, how you look after the people’ (Senior Manager, Worldwide Distribution, FremantleMedia, 2009).

In a globalized world, the key drivers of competitive advantage explaining wealth creation have been recognized as knowledge, competence and technological know-how (Teece 1998). *Idols* producers provide format development support to local versions in terms of ‘format bibles’, style guides and other technical know-how (supplied under confidentiality agreements). This creates a highly complex product that it makes it difficult for would-be imitators to copy.

Flying Producers System

“*Idols* was put together in-house – there is an awful lot going on beneath the surface; and if you have access to the people who created the original show, you have access to all that knowledge going on under that surface. If you don’t have access ... then you don’t actually know the true source of where the magic comes from.” (Flying Producer, FremantleMedia, 2009)

“Our production management system which is run in sync with the flying producers – it’s all about knowledge transfer. When we buy-in a format to sell further on, we send some flying

producers to sit in on the original production of the show.” (Senior Manager, Distribution, FremantleMedia, 2009)

International coalitions increased the marketability of a programme as the foreign partner understands the programme’s attributes desired by its own domestic audience (Hoskins & McFadyen 1990; Chan-Olmsted 2002). There is a network of ‘flying producers’ who help to keep *Idols* values and on-screen look intact in all territories by policing the recreation of formats as close as possible to the original’s standards of quality. They give the format a distinct identity besides bringing to each new production the knowledge gained in producing all the previous productions. Flying producers know what has been tried in other territories, and what has worked and what has not.

Stimulating Demand with Taped Versions

Demand patterns in cultural industries are characterised by social contagion, leading to escalating changes through feed-back loops (Kretschmer et al. 1999). *Idols* producers supply a broadcaster with a licence to broadcast the original tape for a specific number of times on its channels. Local audiences experience a highly developed product and this helps the broadcast in creating an appetite for a local version. Taped versions of *American Idol* sold to territories such as Canada, Mexico, Israel or Malaysia, have helped to drive the *Idols* format sales in these territories.

Power Relations and Retaliatory Clout

“Being local and being large means that our company is noticed – a copycat can surely expect our local representative to knock on their doors. We have the size and scale in terms of churning out regular formats and a copycat will cut off the supply of not only future licensed versions but also tape sales from us.” (VP, Development, FremantleMedia, 2009)

“Because we come out with more and more outstanding formats, the broadcast community understands the importance of keeping good relations with us - they tend not to jeopardize relations with us by bringing out a format too close to our own.” (Senior Manager, FremantleMedia, 2009)

Successful stand-up comedians, in the absence of legal protection, order their industry under a set of norms which punishes imitation while increasing investments in the creation of original material – something not available before creation of such norms (Oliar & Sprigman 2008; Decherney 2008). Since the *Idols* producers are a large diversified television media conglomerate, they are able to influence buyers to buy a format in combination with other programmes. If buyers try to imitate *Idols*, they become the objects of retaliatory measures such as cutting off supply of other programmes or being blacklisted from industry relations. Thus, broadcasters, who depend on library of finished programming from the above producers, will not attempt any imitation.

Role of Trade Fairs

“Trade fairs are used only to build relationships for formats. For shows where a really fast roll-out is necessitated, along with marketing the uniqueness of the show, a trade fair helps to create an event around the format and pitch the show to a range of broadcasters.” (Senior Manager, FremantleMedia, 2009)

“MIP is one of the important trade fairs for us. It is about sitting down with our buyers as well as one of the few opportunities that the whole company could come together. Before MIP, we internally decide a list of priority formats we wish to push at the market.” (Senior Manager, FremantleMedia, 2009)

Trade fairs in business to business marketing help to establish the identities of participants, instruct them in the business culture, and foster common-sense assumptions about how the industry functions (Penaloza 2001). Trade fairs differentiate similar products and provide a terrain for producer’s corporate brand identity (Havens 2003). Buyers at trade fairs act as cultural gatekeepers responsible for appraising and acquiring programming (Harrington & Bielby 2005). The *Idols* producers attend international television trade fairs (such as MIP Cannes, NATPE Las Vegas, Discop Budapest, ATF Singapore) to promote the format to the industry. Launching and showcasing *Idols* at trade fairs legitimises FremantleMedia as the originator of the format. This reduces imitation attempts by creating a set of ground rules within the industry for engaging in business relationships.

Cultural Localizations

“In Britain’s Pop Idol, show judge Simon Cowell’s caustic comments were acceptable on television whereas in Asian territories such as Singapore, etc. where the culture is much more polite, we had to ensure judges follow local customs and traditions.” (VP, Development, FremantleMedia, 2009)

Television formats provide a unique opportunity to overcome ‘cultural discount’ (Steemers 2004), a concept where cultural differences affect the extent to which and the ways in which audiences appreciate foreign media products. When the format is remade in a territory, the buyers ensure that this is made according to local customs and tastes. As will be discussed in other case studies in this book, *Idols* producers attempt to suit the culture of their local versions so that these could be easily accepted by local broadcasters and audiences. Format productions that align with a territory’s cultural values prolong the lifespan of a format and its brand - this prevents imitators from originating their own versions as there is a finite market share for a certain programme type within a certain genre. The *Idols* format has undergone numerous cultural localizations in order to appeal to local audiences in diverse territories around the world. In territories and cultures where there were no recording companies to award winners with recording contracts, an innovative and culturally sensitive prizes mechanism was incorporated. For example, in the pan-Arab region where there is a strong culture of singers singing at the parties of influential and rich people, winners were put in touch with concert promoters.

Managing the Brand

“We try to be very obsessive about key branding elements – and we mandate that territories do not change the key branding elements.” (EVP, Commercial & Business Affairs, FremantleMedia, 2009)

“From the outset we have been obsessive about the brand elements of Idols. We make available to all our format licensees, production assets from other productions such as the logo, the theme music, the opening title sequence, etc. When Idols went to Poland, the production made there was so outstanding in terms of logos, music, titles sequences, etc., that such production values hadn’t ever seen before there. Here was this incredibly glossy, world class framed and branded show in a country which had never seen it before; plus it allowed it to be done at a price suitable for that country”. (EVP, Commercial & Business Affairs, FremantleMedia, 2009)

Branding creates consumer inertia – a barrier to change habits (Reizebos 2003) and by extension, brand innovators give copycats a moving target to remain ahead of the competition (Kapferer 2000). Advertisements, trade-press reviews, in-person sales calls to buyers, and B2B programme merchandising gains visibility in a broadcaster’s premises and the minds of the programme buyers (Havens 2003). These strategies help distributors to inform buyers about forthcoming shows, provide information on shows already achieving high ratings for other broadcasters or territories & reinforce the decisions of existing buyers (Eastman, et al. 2002). *Idols* producers nurture the brand by managing closely a consistent brand identity through style guides and the flying producer system. They then seek to extend this identity to merchandising, off-air licensing and spin-off

programming so that it drives audiences back to the on-air product - the format. *Idols* has been extended into product categories as diverse as perfume, clothing, publishing and live entertainment.

Conclusion

Having mapped these eleven patterns of strategic behaviour, three groups of responses emerged, each combining legal and market based means of preventing imitations of *Idols*.

The first group may be characterised as the attempt to formalise knowledge, so that it can be transacted. Analysis of the data reveals elements such as know-how and knowledge that resides not on screen but behind the camera: how to source contestants, how to involve audiences, where to place the lighting, and how to pace a series. These are laid down in a 'format bible', supplied under confidentiality agreements, implemented by flying producers, and supported by raw production elements (such as music and graphics).

The second group takes its lead from the discipline of marketing. It involves floating possible formats through tape sales of the large and successful *Idols* productions, localization of format elements, and crucially, providing a distinct brand identity while at the same time constantly evolving the brand it so that it becomes harder to imitate. Merchandising and other product tie-ins also fall within this group. The use of trade mark law to protect titles and logos of the show is the complementary legal strategy.

The third group relies on strategies that can be understood in the context of media economics. If distribution structures enable a speedy roll out, using local production bases, *Idols* can become a 'category killer', leaving little space for competing shows in

the same genre. Also relying on the structure of distribution networks are strategies that conceive of social norms as sources of incentives. Deviant producers will face reputation sanctions in the context of trade fairs, and may no longer have access to finished programming and library content from the same production house.

Underlying these groups of strategies are two more generic competences. The first relates to the gathering of competitor intelligence, ability to spot trends, as well as responding to imitations by putting deviant producers on notice. The second is a sophisticated in-house legal competence that enables elements of all three groups of strategies: producing non-disclosure agreements, contracting over production bibles, registration of logos and trademarks, instigating mediation, and drawing up deterrent letters.

The empirical data suggests that for competitors, copying will incur considerable costs. A format licence buys insights and implementation expertise that is only available from the format's originator (who also is trying hard to keep the target moving, again increasing the costs of copying). Lastly, unauthorised 'copycat' producers may also fear losing their access to sell and buy channels within the international network of TV programme producers, structured around trade fairs. Again there is a cost attached to deviant behaviour.

This case study develops a rich empirical picture of the strategies employed by format producers for exploiting a complex cultural product in markets where imitation appears easy. By transacting tacit knowledge under conditions of confidentiality, moving the image of the format through constant re-invention, and threatening retaliation for

unauthorised imitations, the producers of *Idols* have succeeded in creating a franchise of global significance.

References

- Acheson, K., 2003. Globalization. In: Towse, R., ed. *A Handbook of Cultural Economics*. Cheltenham: Edward Elgar, 248-254.
- BBC, 2004. Pop Idol mogul sues Simon Cowell. Available from <http://news.bbc.co.uk/2/hi/entertainment/3645004.stm> [Accessed 10th October 2009]
- Chan-Olmsted, S., 2002. Branding and Internet Marketing in the Age of Digital Media. *Journal of Broadcasting and Electronic Media*, 46(4), Pg. 641-645.
- Decherney, P., 2009. Gag Orders: In: Paul Saint-Amour (ed.) *Modernism and Copyright*, Oxford: Oxford University Press.
- Eastman, S., Ferguson, D., and Klein, R., 2002. *Promotion and Marketing for Broadcasting, Cable, and the Web*. Oxford: Focal Press.
- Elber, L., 2006. American Idol' proves global reach as episodes are shown about 48 hours after they air in U.S. CBS News [online], May 26. Accessed 10th March 2011 Available from <http://replay.waybackmachine.org/20060703014123/http://www.cbsnews.com/stories/2006/05/22/ap/entertainment/mainD8HP3UB80.shtml>
- Fauchart, E. and von Hippel, E., 2008. Norms based intellectual property systems: the case of French chefs. *Organization Science*, 19(2), 187-201.
- FRAPA, 2009. The FRAPA Report 2009 – TV Formats to the World. Available from <http://www.frapa.org/services/frapa-report/> [Accessed 10th March 2011]

- FremantleMedia, 2009. Internal Presentation: *Idols* – The Global Phenomena. London: FremantleMedia.
- FT, 2005. *Format trade is reality for TV Broadcasting*. Financial Times, April 13th, Pg 22.
- Gowers, 2006. Gowers Review of Intellectual Property – Call for Evidence, Response of BBC. Available from http://www.hm-treasury.gov.uk/media/192/37/bbc_and_bbc_worldwide_ltd_142_83kb.pdf
[Accessed 10th October 2009]
- Harrington, C. & Bielby, D., 2005. Global Television Distribution: Implications of TV “travelling” for Viewers, Fans and Texts. *The American Behavioural Scientist*, 48(7), 902.
- Havens, T., 2003. Exhibiting global television: On the business and cultural functions of global television fairs. *Journal of Broadcasting and Electronic Media*, 47, 18-35.
- Hinton, C., 2006. Can I protect my format? *Entertainment Law Review* 17(3), 91-93.
- Hoskins, C. and McFadyen, S. 1990/ 1991. International Marketing Strategies for a Cultural Service. *International Marketing Review*, 8(2), 40-52.
- Jaworski, B. & Kohli, A., 1993. Market Orientation: Antecedents and Consequences. *Journal of Marketing*. 57(3), 53-70
- Kapferer, J. 2000. *Strategic Brand Management*. London: Kogan Page.

- Kretschmer, M., Klimis, G. M. and Choi, C. J. 1999. Increasing Returns and Social Contagion in Cultural Industries, *British Journal of Management* 10: S61-S72.
- Loshin, J., 2007. How magicians protect intellectual property without law. *Law & Magic: A collection of essays*. Durham: Carolina Academic Press.
- McInerney, P. & Rose, D., 1999. Television formats and copyright protection. *The Times* (Law page), 2 March
- Oliar, D., and Sprigman, C., 2008. There's no free laugh: The emergence of intellectual property norms and the transformation of stand-up comedy. *Virginia Law Review*, 94(8), 1784-1866.
- Penaloza, L. 2001. Consuming the American West. *The Journal of Consumer Research*, 28(3), 369-398.
- Reizebos, R., 2003. *Brand Management*. Harlow, UK: Pearson Education.
- Rosenthal, P., 2011. 'American Idol' hopes to advance with major changes. Available from http://articles.chicagotribune.com/2011-01-16/business/ct-biz-0116-phil-20110116_1_kara-dioguardi-kris-allen-fox-s-american-idol [Accessed 13th September 2011]
- Singh, S. 2009. Format Disputes Database 1987-2007. Bournemouth: CIPPM. Available from <http://tvformats.bournemouth.ac.uk>
- Steemers, J. 2004. Process and Product – the Global Trade in Television Programmes. In: *Selling Television: British Television in the Global Marketplace*. London: BFI, 22-48

- Strauss, A. and Corbin, J., 1998. Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory. 2nd Ed. London: Sage Publications.
- Teece, D. 1998. Capturing Value from Knowledge Assets: The New Economy, Markets for Know-how, and Intangible Assets. *California Management Review*. 40(3)
- Towse, R. 2003. Cultural Industries. In: Towse, R., ed. *A Handbook of Cultural Economics*. Cheltenham, UK: Edward Elgar, 170-176.

Law Reports Cited

- Green v Broadcasting Corporation of New Zealand [1988] 2 NZLR 490, Court of Appeal, New Zealand
- Green v Broadcasting Corporation of New Zealand [1989] 2 All ER 1046, Privy Council, UK
- Norowzian v Arks [2000] EMLR 67, Court of Appeal, England and Wales

Appendix

Launch History of Idols

Count	Country/ Region	Local Title	Network/ Broadcaster	Launched
1	UK	Pop Idol	ITV	Oct-01
2	Poland	Idol	Polsat	Jan-02
3	South Africa	Idols	M-Net	Mar-02
4	USA	American Idol	Fox	Jun-02
5	Germany	Deutschland sucht den Superstar	RTL	Nov-02
6	The Netherlands	Idols	RTL 4	Nov-02
7	Belgium	Idool	VTM	Jan-03
8	Norway	Idol	TV2	Jan-03
9	France	Nouvelle Star	M6	Mar-03
10	Arab Region	Super Star (later Arab Idol)	Future TV	Jun-03
11	Canada	Canadian Idol	CTV	Jun-03
12	Kazakhstan	SuperStar KZ	PKE	Jun-03
13	Australia	Australian Idol	Network Ten	Jul-03
14	Finland	Idols	MTV3	Aug-03
15	Denmark	Idols	TV3	Sep-03
16	Iceland	Idol stjörnuleit	Stöð 2	Sep-03
17	Portugal	Ídolos	SIC	Sep-03
18	Russia	Narodniy Artist	RTR	Sep-03
19	Serbia, Montenegro & Macedonia	Idol	BKTV	Oct-03
20	New Zealand	NZ Idol	TV2	Jan-04
21	Czech Republic	Česko hledá SuperStar	TV Nova	Feb-04
22	Greece	Super Idol (Later Greek Idol)	Mega (later on Alpha TV)	Feb-04
23	Turkey	Turkstar	Kanal D	Feb-04
24	Croatia	Hrvatski Idol (later Hrvatska traži zvijezdu)	Nova TV (later on RTL)	Mar-04
25	Indonesia	Indonesian Idol	RCTI	Mar-04
26	Malaysia	Malaysian Idol	8TV / TV3	Jun-04
27	Singapore	Singapore Idol	MediaCorp 5	Aug-04
28	Sweden	Idol	TV4	Aug-04
29	India	Indian Idol	Sony TV	Oct-04
30	Slovakia	Slovensko hľadá SuperStar	Markíza	Oct-04
31	Brazil	Ídolos	SBT (later on Rede Record)	Apr-05
32	Armenia	Hay Superstar	Shant TV	Mar-06
33	Latin America	Latin American Idol	Sony	Jul-06
34	Philippines	Philippine Idol (later as Pinoy Idol on GMA)	ABC-5	Jul-06
35	Bulgaria	Music Idol	bTV	Feb-07

36	Estonia	Eesti otsib superstaari	TV3	Feb-07
37	West Africa	Idols West Africa	M-Net	Feb-07
38	Vietnam	Vietnam Idol	HTV9	May-07
39	Georgia	Geostari	Rustavi 2	Sep-08
40	Nigeria	Nigerian Idol	various	Oct-10
41	Macedonia	Macedonian Idol	A1	Nov-10
42	Puerto Rico	Idol Puerto Rico	WAPA-TV	Aug-11
<i>Compiled in 2011 from various internet sources.</i>				