

Paper on the use of IP in FeONIC plc.

We are a small OFEX listed company working with a smart magnetostrictive material at the cutting edge of a new technology. Our business model is that of licencing our smart material products which are principally devices that go into various consumer products. Our aim is to be a new Dolby or Intel as our magnetostrictive actuator has no moving parts and can be used for a variety of applications.

Successfully protecting our IP is core to the success of our business and it is in our IP that we trade and on which the value of the company is built.

If we look at your questions on how IP is awarded then indeed the process is a complex one that needs to be done with the help of a patent agent and this certainly adds greatly to the cost. This will be a deterrent I am sure to the smaller companies for whom the outlay is too much to bear. There have been times when the IP demands on our cash resources have been too high and we have had to cancel an application and reapply on the same day to extend the time when we need to proceed with the PCT application. For us protecting just in the UK (which is reasonably priced) is not sufficient as we are a global player as most companies must be these days.

We find too that the process time for a patent to be granted is getting longer and longer and this is frustrating.

As an organisation we use all forms of IP protection, copyright, trademarks, design rights and patent protection. Even though our business model is that of a licencing company, the value of the IP is treated as an intangible asset and is currently hugely undervalued. This does make it difficult to raise the level of finance that is required for us to fully capitalise on our IP. Due to the way that R&D tax credits are given, we find that we have to sacrifice the way we deal with our IP as a tangible asset. We pride ourselves on being a small innovative company but do feel hampered by the restrictions that the government imposes on the eligibility to receive innovation grants due to the de minimus factor.

It has been our experience when working with partners to create IP that these rights have been used defensively to prevent other parties from doing so and not as a means to generate income through creating new improved products. This has made us change our way of working with partners and we ensure that all the IP we create is owned by us wherever possible.

Finding good partners to fully exploit our IP is the main challenge of our business. The negotiation of a licence is also certainly challenging.

Internationally, there appears to be a high degree of protectionism and favouritism in the US and a fair amount of disregard in China which we find very difficult.

We are not aware of the “licence of right” provisions but do not think at the moment they would be applicable to our current business model.

We would dearly love to be able to find a way to ensure we could enforce our IP especially in the countries that are known to copy products such as China and India. The process of insuring against this is truly prohibitive and if the government could be seen to take a more active role in the protection of the IP created in the UK this would be a real advantage to innovative global businesses such as our ourselves. The processes that have been described of the Patent Office opinion service, mediation services etc are good for the coverage of UK patents but I suspect not effective for dealing with the Chinese.

In summary, we would like to see the process of protecting IP become simpler, more efficient and become more effective because of the ability to be better protected by stronger but affordable enforcement mechanisms.