

[REDACTED]

From: [REDACTED]
Sent: 15 November 2017 16:53
To: industrialstrategy
Cc: [REDACTED]
Subject: Intellectual property calls for views

We write regarding the request for views regarding industrial strategy in respect of Intellectual Property. In explanation of our role we have included the requested information along with our views on issues the industrial strategy needs to address.

HOW2 limited is a not for profit advisory arm to GovGrant Limited a business focused on assisting innovative companies benefit from state support and intellectual property development. We have answered the questions in respect of this position.

- We are an intermediary business, we represent a broad section of UK industry but predominantly the SME sector
- The company turnover is £5million our activity is to assist other companies to develop IP strategies and initiate patent protection where necessary.
- We operate all over the UK and have some activities in selected EU countries and the Middle East
- The main area that we believe the IP system needs to help UK companies overseas with is in litigation support for infringement. This could be achieved through negotiated trade deals that involve protection agreements at Government level, similar to the approach of the USA in respect of all trade agreements.
- We have over 1000 clients in the sector with a spread of spending
- All aspects
- The benefits of the system are in its consistency
- The main barriers are in timing delays and speed of action.

Key considerations for success from the UK government Innovation Industrial Strategy

• **Timing:** The most critical time for the UK Government to invest is at the beginning of the process at the VC1 stage. This would lead to more companies considering the use of patenting to protect their intellectual property. Early stage government funding could be promoted with reduced risk by a straightforward benefit share. An alternative protection for the management of risk for government investment can be achieved using similar principles to the UK student loan scheme. Additional taxes could be placed on the benefiting companies when they are demonstrating improved profits from the patent investment. This way the government could act as an early investor (like "patient" capital but around a more tangible patent investment) with a beneficial part assignment in the success of the intellectual property.

• **Cost:** it is not only the cost associated with the initial local patenting process but the "roll on" effect, once the requirements to internationalise the process begins. The Government, through the European Enterprise network, already offers grant support up to £3000 with a contribution from the business of £400 for an expert assessment of any Intellectual property based on feasibility for patenting. This process is registered through the Intellectual Property Office. Such a process could be refined to ensure the support offered under the early investment above could be risk assessed. In addition, any successful UK patents could receive international roll out IP investment from Government to create global positions, where the recovery of investment is through patent part assignment to the state vehicle.

• **Disclosure Protection:** the view of many SMEs is that the publishing of the local Patent gives their competition direction for development before granting, thus enabling disruption tactics. – "Better to just keep the inventive step a secret" The Germans have a better idea.

The German Patent Office issues what are called utility models, (Gebrauchsmuster), these are granted immediately on an assessment of the German Patent office without a search. They give immediate protection, and are generally used by companies as part of their Patent strategy whilst the Patent is pending as they cost only c€300. Such instruments exist in France, Italy, Spain, Austria, and the Netherlands but not UK or US. They're also popular in Australia and China but there is currently no international filing treaty, unlike regular patents, they must be applied for country by country. The UK Government should consider such a solution.

- **Defence Litigation:** The costs obtaining a patent pale into insignificance in comparison to litigation costs for defending the IP rights. As part of the trade negotiations that are going to take place across the world as we move into Brexit it will be necessary for the government to demonstrate a level of commitment to agreeing best practice with each trade partner. Areas to be considered are:

- Establish a strong patentability standard, with appropriate limitations drawn from international commitments
 - Adopt strong copyright protections drawn from international norms
 - Consider Utility models to facilitate rapid introduction.
 - Close loopholes used by counterfeiters and make enhanced penalties available for particularly serious cases.
 - Ensure the availability of mechanisms to effectively enforce intellectual property rights including the recent introduction by the IPO for mediation services
 - Consider financial support and supported insurance solutions for assistance with litigation
 - Malaysia and Singapore are introducing guarantees to facilitate IP-backed lending
 - Denmark and India are supporting the development of IP marketplaces
 - Germany has sought to articulate the 'Wissensbilanz' (knowledge scoreboard) to assist financial analysis of individual firms
 - Brazilian banks are experimenting with IP audits prior to lending.
 - China has publicly set out its policies to make the country a world leader in technology by 2050, which has included the establishment of targets for the creation of "indigenous IPR".
- Hong Kong set up an Innovation and Technology Fund targeting IP-rich businesses with a \$5bn injection as long ago as 1999.
- **Value:** There are no clear guidelines, valuation models or recognised markets to trade Intellectual Property. Cash flow is often closely connected to a company's IP and intangibles. Despite this, and good evidence to show that high growth IP-rich businesses are more resilient and perform better than others over time, IP and intangibles are rarely considered in mainstream lending practice. Balance sheets do not represent the value of these assets, and current regulations actively work against consideration of IP and intangibles as an asset class. There are plenty of examples of faster growing economies taking steps to understand this issue and make knowledge assets bankable:

UK Global Rankings are non-existent

The lack of success in developing Intellectual property through Government institutions in the UK is borne out by the Thomson Reuters Report on the Global top 25 Government institutional Innovators: