

FRANKS & CO

European Patent & Trade Mark Attorneys

Incorporating HULSE & CO

Confidential

UK Intellectual Property Office
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Our Ref:

RBF/Q0003.103117L1

Your Ref:

Date:

October 31, 2017

BY EMAIL AND POST CONFIRMATION
(industrialstrategy@ipo.gov.uk)

Dear Sirs/ Madams

RE: RESPONSE TO INDUSTRIAL STRATEGY: INTELLECTUAL PROPERTY CALL FOR VIEWS
RESPONDENT: FRANKS & CO GROUP

In response to the above consultation our comments are as follows:

Registered design infringement and validity opinions

These have been previously promised, but have not materialised. The UK IPO should introduce registered design opinions for both the UK and Community registered designs. The rules and timescale should be similar for the existing UK Patent Office opinions under section 74A.

IP trading platforms

We have little experience of IP trading platforms in practice. Our clients generally use patents, trade marks and designs to protect their own products and services and are not interested in trading intellectual property with other companies, except perhaps for settling an infringement action by taking a licence.

When one client purchases another business having intellectual property, the intellectual property usually comes under the general assets of the business which is being bought, and are split off separately.

It is our view that if there were significant demand for an IP trading platform, then the currently available commercial IP trading platforms would be more successful.

In our view, this is not the best use of the UKIPO resources.



Franks & Co are regulated by the Intellectual Property Regulation Board

Chartered Patent Attorneys • European Patent Attorneys • European Trade Mark Attorneys

B2B model IP agreements

We have not come across the Lambert Model IP agreements in practice, and did not even know about them. However, now that we have learned about them we may offer them to our clients, and advise our clients accordingly.

Voluntary IP register

There is a small but significant level of demand, particularly from smaller clients, to register copyright and unregistered design rights.

We consider that the UK IPO setting up a register of copyright and design right is a positive idea and worth trying in our view.

New financial products

Care must be taken in creating lending based on intellectual property assets not to create another collateralised debt obligation type bubble. Financial products based upon intellectual property are ripe for mis - selling.

In our experience, by volume, most intellectual property rights are effectively worthless or have only low value as stand-alone rights. It is the underlying business which they protect which have value. However there is a small percentage of intellectual property rights which do have independent value, and some can have significantly high value.

In our practice, we come across funding secured on IP assets very rarely.

What is more common is for clients to request quotes for creating intellectual property rights as a tick-box for obtaining grants and other government funding.

IP licensing resolution

Our firm considers that the IPO offering a tribunal for the determination of licensing disputes between organisations operating in the field of standard reliant technologies would be a good idea and a useful service provided by the UK IPO. However, we cannot think of any particular one of our clients which would use it at present. We would expect the volume of cases to be quite low.

Royalty-free patents

If a patent is deemed royalty free then publishing this information on the granted patent, or a republished later version would be very useful, particularly when companies or their representatives are searching patent databases.

Alternatively, the information can be placed upon the register provided it is viewable online.

We think that this is a good idea.

IP valuation standards

We consider that a government regulated standard valuation method for intellectual property rights would be very useful. The government should look at the valuation methods used in other countries, and use the best one as a starting point for the UK valuation method.

The primary benefit would come in entering the value of intellectual property assets on to company balance sheets. A large proportion of FTSE 100 company nominal stock market value lies "off balance sheet" in intangible assets which includes goodwill and intellectual property. Getting these assets onto the balance sheet in a consistent and rigorously defined manner which is accepted by the finance industry and the accounting profession would be of benefit to most companies, and also give a clearer view to shareholders. It would narrow the gap between the figures on the balance sheet and the nominal market capitalisation value which the stock market places on a company.

Information about respondent

Franks & Co Group of companies comprises Franks & Co Limited, Franks & Co (South) Limited and Franks & Co (Mancunium) Limited. We are a firm of Chartered and European patent and trade mark attorneys. We are professional representatives at the UK Patent Office and other patent offices.

We operate internationally but most of our business is servicing UK-based, small, medium and large enterprises.

Yours faithfully

A handwritten signature in dark ink, appearing to be 'NLC' or similar, written in a cursive style.

Franks & Co Limited