

Review

Intellectual Property



High Court decision is warning light to businesses

The recent decision of the High Court in the case of *Re Bending Light* was a warning to businesses about the importance of renewing registered IP rights on time.

Bending Light Ltd was the proprietor of patent GB 2 342 726 for a “light transmission optical component with degraded crests for reducing flare”. It failed to pay the renewal fees on time and its patent lapsed. It applied to the Intellectual Property Office and then to the High Court asking for its patent to be restored. It said that the company had been in financial difficulties and so did not have the money available to pay the renewal fees. The IPO and the High Court were unsympathetic. The court scrutinised Bending Light’s accounts and said that it did have some small surplus funds available but that even if there were no surplus funds Bending Light should have put off its other creditors and prioritised payment of the renewal fees. The court found that Bending Light had not taken reasonable care to see that the renewal fees were paid and it lost its patent for good.

In the current economic climate it is likely that other businesses will find themselves in the same position as Bending Light. In recognition of this, the IPO has announced a package of measures to make the protection of IP easier and more affordable. These include discounts on patent and trade mark application and opposition fees and the introduction of an ‘early assistance’ service for new trade mark applicants. In a separate move, the European Commission has introduced fee reductions for community trade marks. Although the application fees for CTMs have been increased by around €150, the registration fee (formerly €1000 or €850 if the application is filed electronically) has been reduced to nil.

At a time when budgets are being squeezed businesses should ensure that their IP is not neglected. IP rights give a business its competitive edge and properly exploited IP can generate revenue. In the current climate, competitors are less likely to innovate and more likely to infringe. Now is the time to conduct a strategic review of your IP rights to make sure that they are properly protected, exploited and enforced, maximising their value to your business.

This case was a warning about the importance of renewing registered IP rights on time

FURTHER INFORMATION

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