



CK deal leaves IP questions to be answered by Philips

Jed Dorsheimer comments on this year's most talked about solid-state lighting acquisition – the purchase of Color Kinetics by Philips.

"Will Philips aggressively pursue licensees? Or will it take a more laid back approach?" -Jed Dorsheimer

It has been over a month since the close of this year's largest solid-state lighting acquisition, namely the purchase of Color Kinetics by Philips. With a hefty price tag of just under \$800 million (by our estimates, roughly 7x forward sales and over 10x trailing sales), this acquisition was sizable even for the multinational Philips.

The transaction has left many industry participants curiously pondering its market implications, and investors scrambling to find the next CK-like opportunity.

The benefits

What did Philips see in CK? Was it the product portfolio, distribution, or IP? Our guess is a combination of each, as well as a general commitment to the market. Remember, Philips is also leading a coalition to phase out incandescent lamps – amounting to roughly 80% of all lamps sold by our estimates - within the next 10 years. (For more on this subject, see the news article on page 7.) Clearly, Philips believes in this technology at a high level, and \$800 million may just represent a small price to pay to own a market that is worth over \$100 billion annually, according to the Freedonia Group.

Overall, I view the acquisition as being very positive for the SSL industry. Why? First, CK had built a rather questionable reputation in the industry regarding its early tactics of enforcing their IP. However, in recent years the company has done an amazing job, in my opinion, of creating access to, and value around, its patent portfolio and licensing program, a turn of events that many had openly debated, even doubted.

Rumors of "being served" [with cease-and-desist orders for alleged infringement] at trade shows permeated the industry. This created a fear that was palpable among both small start-ups and established companies, and the situation may well have limited the number of new entrants into the market. However, we believe these "skeletons" will be buried under the Philips name.

The IP question

The major question, in my opinion, is what will happen with the CK IP portfolio now that it is part of a much larger entity. In common with most other observers, I would have liked to see the CK vs. TIR lawsuit play out to final verdict, to put an end to the broadly-written patents that CK owns.

Further, recent USPTO changes in late August would have added a very

interesting element to the once-pending lawsuit. However, one can only speculate, as Philips now owns both CK and TIR, and a verdict has not been reached.

But what does this mean to the industry? A primary consideration is the lack of equivalent, alternative IP holdings. Philips now holds a commanding IP position that could put many other IP owners at a substantial disadvantage, should they choose to distance themselves from this new IP center of gravity.

Will Philips aggressively pursue licensees (and possibly assertion)? Or will it take a more laid back approach with partnerships in hopes of empowering the SSL industry, recognizing that broader adoption of solid-state lighting will ultimately benefit the company more than a 3-5% royalty? Only time will tell, however, early discussions with industry participants suggest Philips is set on building the solid-state lighting "ecosystem" as distinct from maximizing near-term royalties.

That is not to say Philips will not look to build a licensing business. Will Philips be offering free license terms if Lumileds LEDs are used? Perhaps, yet we believe this would be a mistake. We hope that Philips sees its long-term interests being better served through empowering early-stage participants, and encouraging established players to join in the accelerating development of LEDs.

Future developments

Further consolidation among existing players is likely, especially in light of this deal, which could make the IP landscape more complex. Recent political developments, such as mandates by Canada and Australia to phase out incandescent lights, as well as concerns about energy conservation, power grid capacity, and global warming, are certain to drive even greater interest in LEDs.

Venture investment and private equity are currently seeking out opportunities, and when the money comes looking, astute technologists and companies must be sure to make themselves known.

It seems safe to say that LED product and market development will only accelerate over the next few years, and that intelligent navigation of the IP landscape will be an essential function for any company that wants to play a part.