



European
Commission

Case Study: Attending Trade Fairs

CHINA
IP SME HELPDESK

✓ Background

A Spanish SME produces agriculture and farming equipment including tractors. In the coming weeks, the most important agro-industry trade fair in Asia would take place in Beijing. Companies from all over the world would attend the fair to showcase their products, including the new harvesting and planting machinery. This would be a must-attend trade fair for the Spanish SME.

The Spanish SME had invested millions in developing a new model of tractor, which they expected to gain a lot of attention from potential buyers. The tractor not only had a new design, but most importantly, substantial improvements had been made to the engine allowing for lower fuel consumption. Thus, the new tractor was capable of increasing the working power at a lower cost.

The SME is highly aware of the importance of IP and the company's legal department had protected most of the tractor's intellectual property rights, except the engine, for which they had not yet filed an invention patent application. There was no time to correctly prepare and translate all the documents and speeding up the process of filing the application involved taking risks in drafting the claims. The engine was the main competitive advantage of the tractor, and the SME did not want to risk losing patent rights or ending up with suboptimal scope of protection.

Furthermore, an exhibition of unregistered technology or design at an international fair would imply the loss of novelty, invalidating any possibility of future patent registrations. The Chinese Patent Law gives a grace period of six months for filing patent applications for inventions "exhibited for the first time at an international exhibition sponsored or recognized by the Chinese Government". However, the SME was not certain whether the patent was ready to be filed even after the grace period.

Not exhibiting the tractor at the Beijing trade fair was also not an option since it was the SME's main product and they had invested so much money in it. Failing to succeed in the next year could mean that competitors might catch up in the near future and the SME could risk losing competitive advantage. The company was determined to exhibit the new tractor at the trade fair.

▮ Action undertaken

The legal department recommended considering trade secret protection for the engine at the Beijing trade fair, as trade secrets do not need to be registered and they have value as long as they are, precisely, secrets. Before attending the trade fair, the legal department carried out IP audit and drafted a comprehensive IP protection strategy for the tractor.

A portfolio of all the intangible assets of the new tractor was carried out. All the technologies, designs and brands involved were included in it. The logo and the company name had been protected with trade mark registration, the product catalogue was voluntarily registered as copyright in China, a process which is rather quick and cheap. The design of the tractor was also protected via design patent, for which an application had been filed months ago. The audit concluded that each intangible asset had (or was going to have) the proper IPR legal protection in place at the time of being exhibited at the trade fair in China. Only the engine would be without registered IP protection, so there was no other option than to protect it as an industrial secret.

Since all the remaining IPRs were already safe, the tractor can be exhibited at the trade fair entirely, except for its engine. Exhibiting the tractor with the engine hood closed would allow the product to be displayed without exposing new technology and risking losing the novelty required for invention patent applications. In fact, for added security, the engine would not travel to China. The tractor will be exhibited without an engine, its hood closed.

This way, the SME will be able to talk about the advantages of the new engine. Give specifications on its power, its fuel consumption, the technical service offered, since none of this information provided the possibility of replicating the technology. Of course, no company representative could provide the details of how the new engine works and how those specifications are achieved. To avoid mistakes, the legal department provided a brief training on trade secret protection to the staff exhibiting the tractor at the trade fair. Thus it was guaranteed that no one who saw the tractor could learn nor understand how this new engine achieved more power with less fuel consumption, and therefore, the trade secret remained safe.

To guarantee legal certainty, this form of exposure of the tractor would be corroborated by public notaries who would later attest to the non-inclusion of the engine.



Outcome

Thanks to this strategy, the company managed to participate in the most important fair in Asia, showcase the advantages of its product, achieve the desired commercial and sales agreements, and protect all its intellectual property rights. Later, the SME was successfully able to obtain an invention patent for the engine.



Lessons learned

- It is not recommended to participate in a trade fair without prior protection of intellectual property rights.
- Technologies that have not been protected by patent or utility model registration can still be kept as trade secrets, and avoid being exposed to third parties.
- The mere exposition of the advantages that a new technology will have does not mean the loss of the “novelty” in the matter of patents, insofar as the way in which the technical results are achieved is not revealed.
- Participation in a trade fair must be planned in advance, to have all intellectual property assets ready and protected.

©European Union, 2021.

Reuse is authorised provided the source is acknowledged.

The reuse policy of European Commission documents is regulated by Decision 2011/833/EU (OJ L 330, 14.12.2011, p.39).

Disclaimer: The China IP SME Helpdesk is a free service for SMEs which provides practical, objective and factual information about Intellectual Property Rights in China. The services are not of a legal or advisory nature and no responsibility is accepted for the results of any actions made on the basis of its services. The content and opinions expressed are those of the authors and do not necessarily represent the views of the European Commission and/or the Executive Agency for Small and Medium-sized Enterprises or any other body of the European Union.

Before taking specific actions in relation to IP protection or enforcement all customers are advised to seek independent advice. Neither the European Commission nor the Agency may be held responsible for the use which may be made of the information contained herein.



www.intellectual-property-helpdesk.ec.europa.eu



Publications Office
of the European Union

Luxembourg: Publications Office of the European Union, 2021

Print ISBN 978-92-9460-481-1 doi:10.2826/461346 EA-05-21-029-EN-C
PDF ISBN 978-92-9460-480-4 doi:10.2826/031775 EA-05-21-029-EN-N



@iprchina

@ question@china-iprhelpdesk.eu

Helpline

free, fast & confidential

working
3days