

Case Study: Launching a new product in the Indian market

INDIA IP SME HELPDESK

✓ Background

“Ekotechnik Czech”, a Czech SME specialised in the installation and servicing of solar and hybrid power plants, with international presence in markets such as Slovakia, Hungary, Spain, the United Kingdom, Turkey, Ukraine, Kazakhstan, Russia and Romania, decided to expand to the Indian market and established a sister company named “Ekotechnik Manufacturing Limited” in Mumbai.

The EU SME invented a product for the installation of solar panels that offers an improved functionality and allows for low manufacturing costs in comparison to already existing products. The panel installation invented by Ekotechnik is simple and very cost-effective. Hence, the EU SME was concerned that their technical solution might be copied by competitors the moment the product was launched into the market.

Ekotechnik contacted an IP consultancy firm to assist and advise them in the implementation of an IPR strategy, since they did not have internal expertise.

⚙️ Actions taken

The IP consultancy firm had to evaluate which IP right was suitable for Ekotechnik’s products. The technical solution provided by the invention was simple, and given that the Indian patent law does not provide protection for utility models, all patentability criteria such as novelty, non-obviousness, inventive step and industrial applicability had to be further evaluated to make sure that the invention was eligible for patent protection. The EU SME was given the following advice:

- Protect the visual features of the invention by filing an application for an industrial design in addition to seeking protection of the technical features of the invention by a patent application.
- The patent application and the application for an industrial design should be filed on the same day so as to avoid conflicts, as regards a potential loss of the novelty due to the public disclosure of various elements of the products.
- Create a logo for their product and file a trade mark application to leverage their branding. For this, a prior trade mark search was conducted to verify that the suggested logo was unique and eligible for trade mark protection.
- Check whether they met the criteria of a ‘small entity’, as defined by the Indian law, that would make them eligible for reduced official fees to file IP applications as well as for expedited proceedings for the patent application.

📊 Outcome

- The prior art search found that Ekotechnik’s design and patent applications were likely to succeed, and the preliminary trade mark search determined that their name and logo could be registered in India.
- The EU SME filed applications for a patent and an industrial design to protect the technical and visual features of their product, as well as a trade mark application to protect their logo and develop their branding. By doing so, they ensured maximum protection of their product from both a technical and commercial perspective.
- Ekotechnik Manufacturing Limited found out that they qualified as a “small entity” for the purposes of IPR applications in India. As such, they could apply for reduced filing costs and an accelerated patent examination procedure.

📖 Lessons learned

- Develop an IPR strategy in alignment with the business objectives of your company, such as filing an IPR before launching a product or use of technology, logo, etc. both in India and anywhere else in the world.
- If you do not have internal expertise, you should contact an IP consultancy firm, a law firm or a patent agent to guide you through the process and assist you with your strategy.
- Evaluate the most suitable form of protection for your technology, product, logo or brand: can your product be protected by more than one IP right?
- Conduct a prior art search to evaluate the novelty and patentability of your invention and, hence, its eligibility for patent protection. Likewise, you should conduct a prior trade mark search to evaluate the uniqueness (the “availability”) of your mark in India.
- Determine whether your business falls within the category of “small entity”. By doing so you can save time and money when filing IPRs in India, and it also gives you the right to reduced official fees for your IP applications, as well as a faster processing of your patent applications.

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