



European IPR Helpdesk

Case Study

MILZU!: Going international with a sound trade mark protection strategy

May 2018

Company details

MILZU!

Small and medium-sized enterprise (SME)

Agrofood

<http://milzu.lv>



1. Background

MILZU! is a producer of healthy grain breakfast cereals in Latvia, founded by Mr. Enno Ence in 2013.

It offers products, which are made of 100% natural ingredients, rich in fibre and natural vitamins and minerals. In addition, MILZU! produces a range of bio products.

The company exports its products to 14 countries and its export sales represent 50% of the company's turnover.

2. Problem faced

In order to secure its unique brand design and gain a business advantage over its competitors, MILZU! has decided to base its business strategy on its widely known brand, and to protect its intellectual property (IP) rights through filing trade mark applications in the countries where it is active.

However, the company soon realised that filing individual trade mark applications in many countries could be very expensive, and following up different procedures and managing them in each country would be extremely burdensome. Therefore

it was then decided to get in touch with an IP expert to obtain professional support.

3. Actions undertaken

MILZU! was recommended to follow the EU trade mark route to register its trade mark in all EU Member States by just filing one single application at the European Union Intellectual Property Office (EUIPO).

Nevertheless, before proceeding with the application, a trade mark search was conducted in order to check possible earlier identical or similar trade marks filed in these countries, which may preclude MILZU! from obtaining registration for its trade mark.

Indeed, performing such a search is particularly important in the EU trade mark system, because even if there is a ground for refusal only for one country (e.g. because of a similar or identical earlier trade mark in that country), the EU trade mark application is refused as a whole for all EU Member States (the so-called "*all-or-nothing principle*")¹.

4. Outcome

Together with several national trade marks, MILZU! now has been granted an EU-registered trade mark to protect its MILZU! brand within the territory of the European Union and is now working on registering its trade mark in other countries for the markets which the company plans to enter.

Apart from its EU trade mark, the company also has a number of national trade mark registrations for the packaging of its products to ensure the most secure protection for its assets and it continues to develop its IP portfolio in line with its business objectives.

5. Lessons learned and suggestions

Branding is highly important for businesses, when competing both in local and global markets. On the other hand, while doing business is highly competitive in sectors such as the food industry, it is essential to take the necessary steps to protect the trade marks in order to build up a strong brand recognition, to secure the company reputation and to fight competitors.

Trade mark rights, as in patents and designs, have a territorial character, which means that a trade mark can only be registered within the borders of a given territory, where the right is obtained. In other words, one needs to register its trade mark in each country where trade mark protection is sought.

¹ In the case of such a refusal, upon request of the applicant, the trade mark application can be converted into national trade mark applications in the remaining EU Member States, in which the ground for refusal does not apply. However, these applications must be managed individually.

However, seeking protection in different countries does not only mean considerably high registration expenses. National rules and IP registration proceedings, which usually present some differences from one country to another, may also cause complex management issues, which are generally not easy to deal with.

For example, in most of the countries, applicants must appoint an IP attorney unless they are a citizen or have a domicile in that country, and follow different registration processes that are governed by each country's own legislation. Moreover, post-registration proceedings in different countries, such as payment of renewal fees, recordal of assignments or licences, or even basic changes to company addresses, could be very difficult to manage.

Since it is not easy to handle IP issues in many countries and bear the related costs, there are several regional and international systems designed to facilitate IP registration proceedings and simplify the management of IP rights.

Within the area of trade marks, the following trade mark protection routes are available in Europe²:

- EU trade mark: This is administered by the EUIPO and offers protection throughout the EU Member States.
- International trade mark registration via the Madrid System: This is administered by the World Intellectual Property Organization (WIPO), and offers protection in more than 100 countries around the world.

It is also of utmost importance to carry out anteriority searches before filing a trade mark application in order to check if there are any identical or similar signs filed earlier³.

Indeed, such a search should be conducted even before the brand development phase within the marketing process, as entering a market with a trade mark which is identical or similar to an earlier trade mark may make the company an infringer.

In today's era of global competition, businesses should be aware of all possible protection systems, follow the most relevant protection routes according to their business strategies and target markets, and always consider getting professional advice from IP experts before taking any steps regarding IP protection⁴.

² For further information on the EU trade mark and International trade mark (Madrid System) as well as on other IP titles, please consult the European IPR Helpdesk's [IPR Charts](#).

³ For further information about conducting trade mark searches, please consult the European IPR Helpdesk Fact Sheet on "[How to search for trade marks](#)".

⁴ The European IPR Helpdesk's publication "[10 steps to find a suitable IP professional](#)" provides guidance on the steps to be followed to find a suitable IP professional.

GET IN TOUCH

For comments, suggestions or further information, please contact

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The European IPR Helpdesk aims at raising awareness of Intellectual Property (IP) and Intellectual Property Rights (IPR) by providing information, direct advice and training on IP and IPR matters to current and potential participants of EU funded projects. In addition, the European IPR Helpdesk provides IP support to EU SMEs negotiating or concluding transnational partnership agreements, especially through the Enterprise Europe Network. All services provided are free of charge.

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Website: On our website you can find extensive information and helpful documents on different aspects of IPR and IP management, especially with regard to specific IP questions in the context of EU funded programmes.

Newsletter and Bulletin: Keep track of the latest news on IP and read expert articles and case studies by subscribing to our email newsletter and Bulletin.

Training: We have designed a training catalogue consisting of nine different modules. If you are interested in planning a session with us, simply send us an email at training@iprhelpdesk.eu.

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