

BUSINESS BRIEF: SWEDEN

Patents

How do you register or secure patent rights, and is national or international coverage most appropriate?

A Swedish patent application is filed with the Swedish Patent and Registration Office (PRV), and is granted for a term of up to 20 years from the filing date (if the annual renewal fees are paid). If the patent relates to a medicinal or plant protection product, the term of the patent can be extended by five years using supplementary protection.

The national application can be filed in Swedish, but there is also the opportunity to prepare for the international phase by filing an application in English, although the PRV will request a supplement of Swedish translation within four months from the office action.

One advantage of filing a national Swedish application is that the first Office Action or Intention to Grant is issued within six to eight months from the filing date, which means it is possible to obtain a patent extremely quickly.

What are the costs for obtaining a patent, and what are the costs of defending it?

The basic filing fee for a Swedish national patent is SEK 3,000 (€330), with an additional fee for each patent claim beyond the first ten of SEK 150. The issue fee is SEK 1,400, and SEK 175 for each page exceeding eight. Attorney fees have to be paid for the filing and examination proceedings as well as for the issuance of the patent.

The costs up to the City Court decision tend to range between 400,000 SEK and five million SEK, depending on the complexity of the case. The costs before the court of appeal are generally slightly lower.

Where can you find information on existing patents in your jurisdiction?

The Swedish patent database can be found on the PRV website.

Is there anything unusual about the patent law that companies should be aware of, and what are the most common mistakes businesses make?

Filing a patent application in Sweden is a quick and cheap way to get a patent protection: the first office action is issued within six months from the filing date. This office action can in fact be the formal information that the patent office intends to grant the patent. Within a further three to four months, after payment of all official fees, the patent will be granted and issued.

The most common mistake is to inform media and possible financial partners before securing the patent with an application, or at least a proper non-disclosure agreement.

What are the key threats to patent owners, and what is the best strategy if you suspect someone is infringing your patent?

Patent infringement, especially in the medical and software technology business, is rather common. In case of infringements by business partners, mediation is the best way to find a solution, but in other cases a distinct cease-and-desist letter is the best start.

However, do bear in mind that a groundless cease-and-desist letter may be seen as an unfair competition. Also, the accused infringer normally acts directly with a patent validity trial.

Have there been any changes to the patent law(s) in the last 12 months?

On January 30, 2014, the Swedish government submitted a referral to the Council on Legislation for adapting Swedish law to the Unitary Patent protection within the EU. As a part of the referral, it is suggested that although an applicant who chooses to validate a European patent in Sweden shall still file a Swedish translation of the patent claims, the Swedish translation will no longer have any legal effect. The regulation will likely come into legal force by July 1, 2014.

Trademarks

How do you register or secure trademark rights, and what protection does it grant?

Trademark protection in Sweden can be obtained by use, by a national Swedish trademark registration, by a Madrid Protocol registration covering Sweden and/or by a Community trademark registration.

An unregistered trademark is protected only in the part of Sweden that it has become used and known, and only as long as it is in use.

All other formally registered trademarks have full protection in Sweden, preventing third parties from using and registering a trademark, design or company name that is confusingly similar and related to the same or similar goods or services.

What are the costs for registering a trademark, and what are the costs of defending it?

The official filing fee for a Swedish trademark application is 1,800 SEK (€200), and 900 SEK per additional class (if filed electronically). The costs up to the district court decision tend to range between 75,000 SEK and 150,000 SEK.

What are the key threats to trademark owners, and what is the best strategy for dealing with infringement?

Online infringement is still the most common threat, with fake websites and online sale of pirate goods. As to patent-related disputes, the easiest and best way is to start with a formal cease-and-desist letter. If such letter does not stop the infringement, the trademark holder will have to take the case to court, normally civil but in certain serious cases criminal court actions are also available.

What are the most common mistakes trademark owners make?

To not register corresponding domain names prior to the application of the trademark, therefore opening up opportunities for cybersquatters.

Also, within a grace period of five years, the trademark needs to be used as registered and for the goods and services covered by the registration. If not, a third party can apply for full or partial cancellation of the trademark registration.

Another mistake is to not register the trademark in countries where the marked goods are produced but not intended to be sold. Infringers often use that weakness to make counterfeit goods in these specific countries.

Copyright

What are the key challenges to copyright holders in your jurisdiction?

The biggest problem is—as in many other countries—the online sale of copyright infringing goods, and the difficulties of stopping that use as well as identifying the offenders.

How should people ensure they are protected against copyright infringement?

Copyright protection begins automatically at the same moment the work is created. No registration or other formality is needed, and it is not possible to officially register the copyright. The copyright symbol has no legal effect in Sweden but rather serves as a reminder that copyright protection exists for the work. Therefore, the best way to ensure protection against copyright infringement is show the date of creation and have a continuously and active search of what is used on the market.

What is the best way to deal with infringement, and what are the costs associated with it?

There are a number of possible ways to deal with infringements, such as warning letters, customs authority alerts, general public information on the risks in using fake goods and, finally, court actions. The costs for court actions are more or less the same as for trademark disputes.

Have there been any changes to the copyright law(s) in the last 12 months?

“THE MOST COMMON MISTAKE IS TO INFORM MEDIA AND POSSIBLE FINANCIAL PARTNERS BEFORE SECURING THE PATENT WITH AN APPLICATION, OR AT LEAST A PROPER NON-DISCLOSURE AGREEMENT.”

As of November 1, 2013, amendments of the Swedish copyright act came into force, improving the possibility to exploit works after an agreement has been entered into with organisations that represent a large number of creators in the area—so-called extended collective licensing.

Also, copyright protection for performers and producers of sound recording was extended from 50 years to 70 years.

Counterfeiting

How big a problem is counterfeiting in your jurisdiction?

Online piracy is still a problem, despite the fact that Sweden has some of the world's most severe enforcement laws on internet piracy.

What industries are particularly at threat?

The software industry, films and computer games, as well as the medical industry.

What are the best strategies for dealing with the problem?

The customs authorities have the power to take action against the import of pirated material and one way to assist the customs is to file prior information on your specific goods and what to look for so customs may easily see the difference between real and fake products.

General

Are there any legislative changes to the IP regime that would make life easier for businesses?

The Swedish Justice Minister has claimed support for the creation of a general and central IP Court in

Sweden. Today, IP, competition law and marketing law cases are divided between public courts and general administrative law courts, as well as two specialised courts (Patent Appeal and the Market Court). The new IP Court will likely come into force by July 1, 2015. ■

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Maria Zamkova has a Master's of industrial design and is a patent and trademark attorney. She also studied law, business economy and management at the University of Stockholm and IP at the IP Academy of Sweden. She is an expert in European patents and assists national and international clients in IP due diligence and is a frequent lecturer in IP and business strategies.