

Global strategies for design protection of brand-essential designs

Victor Olsson Fekadu & Viktor Hultman
Machine Design, Department of Design Sciences LTH
Lund University
P.O. Box 118
SE-221 00 Lund, Sweden

Abstract

The master thesis was performed in the patent department of a major manufacturer in the heavy commercial vehicle industry (trucks, buses and engines). The company's trucks are regarded as premium quality and competing with aspects such as quality, high-end technology, fuel savings and performance.

Considered as the overall design leader in the heavy commercial vehicle industry, the company's designs has been subject to imitation from competitors. As a result design protection for brand-essential designs has been implemented in the company. The purpose of the thesis has been to answer how a company in the commercial vehicle industry should manage design protection of brand-signaling designs in order to maintain a distinctive brand identity.

Through identification of important market aspects decisions regarding where designs should be protected was made. Through the identification of important legal aspects a new internal classification of designs was implemented. The internal design protection process at the company was also analyzed, with several suggested improvements as result. In order to guarantee the sustainability of the formulated strategic guidelines, a business intelligence tool was developed.

Introduction

The importance of design in order to accentuate a market position becomes increasingly important in the commercial vehicle sector. As a result, the company leading the pack in terms of design and styling is facing immense imitation from western competitors as well as commercial vehicle manufacturers from emerging markets. In response, the company has adopted a strategy of using design protection of designs considered as essential for the overall design language and the brand.

By identifying the legal and market-based parameters essential for creating strategic guidelines for global design protection applications, several conclusions can be drawn. The implications of previously mentioned parameters were studied in conjunction with the analysis of the internal design protection process of the company to create strategic guidelines for the process of protecting brand-essential designs.

The overall approach was centered around answering three questions:

Where can designs be protected?

Where should designs be protected?

How should designs be protected?

Current situation

The industrial designs sought protection for is internally classified in two main categories:

- Brand-essential designs
- Spare part designs

Brand-essential designs are not limited to certain product categories. However entire vehicle designs, instrument panels and components in the vehicle front are often considered important for the overall design identity of the company.



Figure 1 An instrument panel, a clear example on a brand-essential design

Furthermore, the company has to some extent differentiated between spare part designs and designs with a clear accessory character. Spare parts can be for example bumpers or cabin corners, while as accessories can be beams for additional headlights or carpets for the cabin.

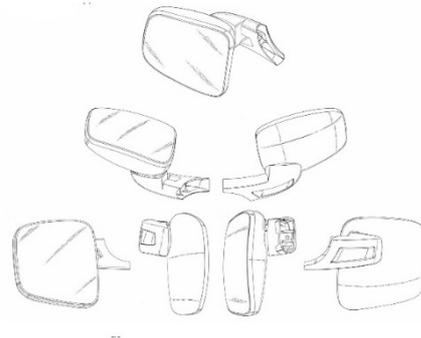


Figure 2 Side mirrors, a clear example of a spare part

Decisions regarding which designs require protection and where, are taken by the head of styling concerning brand-essential designs and the product manager for spare parts concerning spare parts and accessories. A design attorney from the patent department then has the operational responsibility and provides legal expertise, as seen in figure 3 below.

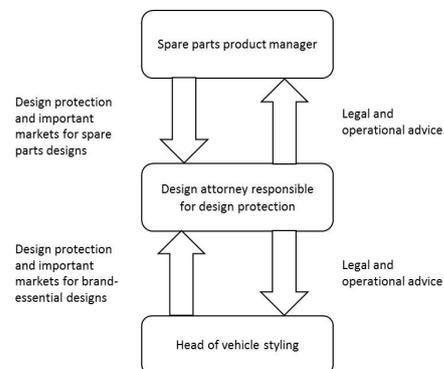


Figure 3 The competences involved in decisions regarding design protection

The protection of spare parts and accessories main purpose is to protect the company's service chain and guarantee quality and security for the customers. Meanwhile, the brand-essential protection serves as a mean to defend the brand's design identity.

Legal analysis

Through a broad legal analysis consisting of case law and global design legislation, a new classification of designs is suggested for the company:

- Aftermarket designs
- Brand-essential designs
- Brand-essential aftermarket designs

This classification aims to help the involved competences define the design, which allow for a suitable protection strategy to be employed.

Aftermarket designs are designs that have a clear aftermarket value for the company and can be assessed by looking at specific sales volumes.

Brand-essential designs, on the other hand, have a strong brand-signaling character and must be assessed by competences with knowledge and experience from styling and design activities within the company.

Market analysis

Opposed to the protection of aftermarket designs, which mainly aim to protect the company's designs against smaller third-party manufacturers of spare parts, the protection of brand-essential designs aim to protect the company against competing truck manufacturers. The focus of protecting brand-essential designs should therefore be concentrated on countries where competitive production exists,

which also allow for efficient protection in fewer countries compared to aftermarket designs that are protected in all countries with sufficient sales volumes.

Due to the unmanageable task of identifying countries that contain competitive and threatening production, qualitative global analysis with competences from the market department should be regularly conducted.

Process analysis

The internal design protection process of the patent department was analyzed to identify aspects possible to improve. Amongst other suggestions, the use of so called Hague applications is proposed. The Hague agreement is a centrally organized way of efficiently seeking protection in several states through one application. This will decrease the workload of the patent department greatly.

Business intelligence development

The business intelligence tool is to be used by the design attorney when a new product is evaluated with regards to the need of design protection. Two binary parameters were chosen: aftermarket value and brand signaling character. Input regarding the brand signaling character comes from the head of styling while as the product manager of spare parts gives input regarding the aftermarket value.

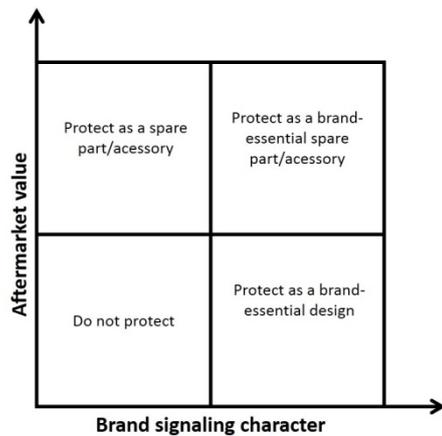


Figure 4 The chosen layout for the business intelligence tool

Depending on the position in the design matrix, a different set list of countries for protection is chosen (according to the lists implemented as a result of the market analysis).

The benefits of implementing a simple business intelligence tool is to create an internal understanding regarding design protection and increase the awareness regarding the importance of design in a brand perspective (when presenting the business intelligence tool within the organization).

Conclusion

A clear conclusion is that market and legal expertise is key in order to create an efficient design protection. Identifying important markets for protection requires input regarding market development, competitors and future sales. With knowledge of the global market, identifying important markets for protection becomes possible. The legal expertise regarding national design legislation and applicable court cases is necessary to set the basic fundamentals for the protection of designs.

The confidence within the company regarding the leading position when it comes to design is very well grounded and present in the process of protect-

ing brand-essential designs. The need for protecting brand-essential design is quite evident and is clearly indicative of the current market situation where the threat of imitation is apparent.

Design protection is a trans-boundary issue, thus creating a structured interface between R&D and the market department is of great importance. This is clearly present in the most important learning brought to light in the market analysis, the evolution of the emerging market competitors. The emerging market competitors now compete with the company on several markets and are expanding rapidly, further increasing the importance of protecting the company's brand and unique design.

Conclusively, the protection of brand-essential designs is a mean to enforce the design-leader position of the company, as long as the required efforts within the organization to promote the concept are made and the necessary substantial tools for implementation are adopted.

References

- [1] Olsson Fekadu, V., Hultman, V. (2013) *Global design protection strategies for brand-essential designs*, LTH, Lund.