



Amy Tindell, Ph.D.

Partner
303.473.2735
Boulder
ajtindell@hollandhart.com

IP Funding Programs for SMEs

Insight — February 1, 2022

International Trademark Association (INTA)

Republished with permission, originally appeared in International Trademark Association, February 1, 2022.

Small-and-medium sized enterprises (SMEs) play a crucial role in the world economy, accounting for 90 percent of total businesses and 50 percent of total employment worldwide. Since half of SMEs do not have access to credit, according to the World Bank, obtaining financing is a key challenge to growing their businesses. And funding challenges include resources to protect a company's intellectual property (IP).

Since IP is a fundamental element of a business's success, some governments and private entities have developed ways to encourage and fund SMEs' IP portfolio development. Among these funding opportunities, Europe and China represent examples of financing programs to support SMEs in their efforts to create and maintain valuable IP rights.

Europe

The European Commission and European Union Intellectual Property Office (EUIPO) launched the Ideas Powered for Business SME Fund in December 2020 to help European SMEs with their IP portfolios, specifically trademarks, designs, and patents. In 2022, SMEs may now access up to EU 2,250 total (U.S. \$2,511), an increase over the 2021 funding levels. They can apply the award toward IP pre-diagnostic services, in which professional IP auditors evaluate the company's IP strategy and the value of its nontangible assets, or toward filing trademark, design, or patent applications at the national, regional, or EU levels.

Funding applicants must fit the official EU definition of an SME and apply during the Fund's annual application window. In 2022, the application period runs from January 10 to December 16. Grants are awarded on a first-come, first-served basis.

When the Fund initially opened last year, there were six application windows. According to EUIPO Executive Director Christian Archambeau, the Fund received approximately 1,200 requests covering 3,000 IP assets in its first application window in January 2021. Micro business entities accounted for 79 percent of applications, followed by small (16.75%), and medium (4.25%) business entities. More than 80 percent of the funding requests were in connection with an SME's planned application for its first IP right.

Across all six application windows in 2021, the largest number of funding applications were from Germany (1,401), Spain (1,365), Poland (1,348),

and Italy (1,295). In total, the Fund has processed over 21,000 trademark and 5,000 design grant applications, and 841 requests for the IP pre-diagnostics services, providing assistance to 12,989 SMEs across all 27 EU countries.

China

The Chinese government and China National Intellectual Property Administration (CNIPA) have promulgated policies supporting IP funding initiatives for decades. Local provincial and city governments develop and implement the initiatives to raise awareness of the importance of IP, promote innovation of SMEs, and boost the local and national economies.

A recent study by the United States Patent and Trademark Office (USPTO) estimates there are approximately 70 trademark subsidy measures across China, which apply to both domestic and foreign filings. For example, starting in 2013, the city of Shenzhen offered a filing subsidy of RMB 5000 (US \$750) to applicants who wished to register trademarks in certain foreign countries, including the United States.

Because the Shenzhen subsidy and similar funding schemes often exceed the cost of filing a trademark application (e.g., as low as US \$225 in the U.S.), numerous funding recipients filed applications in bad faith or with no intention to use the mark. As a result, IP offices around the world, including in the U.S. and Europe, faced a rapid escalation in filings from China, posing challenges in examining applications and adjudicating disputes for legitimate owners.

To address these issues, the Chinese government recently amended its Trademark Law to prohibit bad-faith trademark applications and to impose penalties on bad-faith applicants. Additionally, last January, the CNIPA issued a notice confirming its plans to terminate all subsidies for patent applications by June 2021, and it has since indicated it plans to eliminate all IP subsidies in the future. Nonetheless, despite CNIPA's initiative, IP funding opportunities continue to be offered by particular regions and cities, such as the city of Sanya in Hainan.

Ray Lei Zhao (Unitalen Attorneys at Law, China) and Howard Tsang (Wilkinson & Grist Beijing, China) contributed to this article.

Amy Tindell is Vice Chair of INTA's Public Information Committee and is an intellectual property attorney at Holland & Hart in Boulder. She has with experience across a diverse range of industries, including pharmaceuticals, medical devices, computer programs and security, alcoholic beverages, consumer products and retail, and sporting equipment and events.

This publication is designed to provide general information on pertinent

legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.