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Practice Group:
Intellectual Property

How Do I Go Global? Key Considerations for an International Export Strategy

By Lisa Egan (LE) and Kate Richie (BRR)

In an increasingly global market, many brands are considering how they can benefit from selling globally, but just how do you go global? Lisa Egan, Partner at K&L Gates, talks us through the key considerations for brands before launching overseas, including brand protection.

BRR Lisa Egan, who is a partner in the Intellectual Property team at K&L Gates, joins us to discuss the considerations for fashion designers and businesses, at large, when it comes to launching their products overseas. Lisa, thanks for joining us.

LE Thanks Kate.

BRR Well Lisa, firstly what are some of the main considerations for businesses before they do launch overseas?

LE I think the most important thing is to make sure you've got your business set up very well domestically first, so not every business might be ready to launch overseas. It's all the things that you'd expect to hear from legal advisers and accounting advisers in terms of having your business strategy in place. Knowing what your stock control levels are like, what sort of ability you've got to meet orders, and the financial reporting side of it is quite important to understand, for example, what your cash flow is and to have proper financial reporting functions within your business. In light of all those things, one of the main considerations is to make sure your business is one that has an ability to adapt to overseas markets and make sure you've got all those things in place first.

BRR So would you say that this is something that all businesses should attempt?

LE Not all businesses will be made for online or international sales generally, and a lot of that really comes down to knowing how your business runs very well at a domestic level, but also to really understand what the international markets are that you're looking at. There's no sort of 'one size fits all' approach – you need to know exactly why your products will be successful overseas, what shops you'd like to sell them in, and really do your research about what your competitors will be like in those jurisdictions to make sure that you've got the right kind of product offering and the right kind of structure to support overseas sales. You also need to consider some of the jurisdictional issues in terms of legal and accounting requirements in other countries and what model works for you. Whether it is setting up a shop

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overseas or having a distributor or an agent appointed over there, or if it's just your online sales. All of these will involve slightly different considerations.

BRR **Well Lisa, I'm sure that most businesses and fashion designers know that it's really important to protect their designs in Australia, but how important is it for them to make sure their designs are protected before they do launch in overseas markets?**

LE Yes, I think that's an important consideration, certainly in terms of your brand itself. You really need to have your brand registered as a trade mark in Australia if you're trading here, but also in any of the international countries you're looking at trading in. It is important to be aware of some of the considerations around that, in particular, as some countries have a first to file approach, so if you haven't filed for your trade mark in, for example, China and you start selling or manufacturing there, someone else could file the trade mark as soon as they see there's another brand coming into the market and it will then be very hard to get it back, so you really need proper advice at the outset about trying to have that brand protection in place at the earliest possible stage. That's also to make sure that, by selling in another country, you're not going to be doing anything that might infringe someone else's rights because there may well be another party you don't know of that has a trade mark already registered.

The same is true for design protection filing in Australia. It is obviously crucial if you're selling here, and different countries have different regimes for how you can protect your design or your copyright works like fabric prints, so, again, it's important to get good advice at the outset because a lot of the time, unless you file the application before you've actually launched in that jurisdiction or often if you've launched anywhere internationally, you might not have a right left to register. Some of those things are important to consider at the earliest possible opportunity.

BRR **Well there's some good advice for businesses there, Lisa, thanks so much for joining us.**

LE Thanks very much Kate.

BRR **That was Lisa Egan, who is a partner in the Intellectual Property team, at K&L Gates. Now listeners, if you have any questions for Lisa you can send them through by either using the panel on your screen or via email to law@brrmedia.com.**

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