IP and Sustainable Economy: Unlocking the potential of intellectual property rights in driving green fashion

World IP Day Youth and Sustainability
Examples for inventions in the fashion industry

- Environmentally friendly materials
- New ways of recycling
- Materials with new functions
- Reduced energy consumption
- Reduced consumption of harmful chemicals

Textiles and Fashion

Your idea?
Protecting your invention

- Disclose your idea to the public
- Get up to 20 years of exclusive rights
- Apply for patent protection

Your idea
Patentable inventions – Article 52 (1) EPC

You can obtain a European patent for any inventions, provided that:
No invention – Article 52 (1) and (2)(b) EPC

<table>
<thead>
<tr>
<th>Patentable inventions</th>
<th>Not regarded as an invention</th>
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<tr>
<td>In all fields of technology – that means invention needs to have a technical aspect.</td>
<td>Aesthetic creations – pure art or design cannot be an invention.</td>
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Aesthetic creations – Article 52 (2)(b) EPC

Patentable inventions

Technical aspects of aesthetic creations

- technical aspects of obtaining an aesthetic effect, e.g.
  - using recycled material
  - reducing waste during sewing
  - dyeing with less harmful chemicals

- an aesthetic aspect that has a technical effect, e.g.
  - bright orange colour as a safety feature

Not regarded as an invention

Aesthetic creations as such

- purely aesthetic effects (e.g. arrangement of colours or look of a fashion item)
Novelty – Article 54 EPC

Your invention is new if it does not form part of the "state of the art".

State of the art: Everything made available to the public anywhere in the world before the date of your patent application.
State of the art – Article 54 (2) EPC

- **Written description**
  - Patents
  - Newspaper articles or books
  - Internet articles

- **Oral description**
  - Presentation
  - TV interview
  - Talking about an idea in front of your class

- **Use**
  - Machine or process in a factory
  - Product sold in a shop

- **Any other way**
  - Video showing a product on YouTube, Instagram etc.
State of the art – Article 54 (2) EPC

Attention!

- This also applies to you as the inventor!
- Be careful about who you share your ideas with prior to applying for a patent!
- Preferably get professional help as early as possible in your development process.
Novelty – Article 54 EPC

Claim 1:

Denim fabric made of 100% recycled yarn.
Claim 26:

A woven denim fabric having about 100% of the total filling and warp yarns made from pre-consumer or post-consumer denim waste.
Inventive step – Article 56 EPC

An invention that is not obvious to the "person skilled in the art".

Not a real person, but a concept: A theoretical practitioner with average knowledge and skills.

Has access to all the public information in the world.
Patentable inventions

New and inventive process of recycling

Source: Jan Hausding
Patentable inventions

New and inventive product with recycled materials and new function.

Source: Jan Hausding
Further important requirements of the EPC

Your patent application may not be changed in such a way that it contains information which goes beyond the content of your application as it was filed.

The claims define your invention and they need to be clear.

You need to disclose your invention sufficiently clear and complete for a skilled person.
Sufficient disclosure – Article 83 EPC

After reading your application the skilled person needs to know how to put your invention into practice.

You have to include all the necessary details that make your invention work.
Sufficient disclosure – Article 83 EPC

Is your invention really “green”?

Environmental impact of an invention is not directly examined. But it is checked whether a claimed (green) invention can be put into practice based on the information in the application.
Clarity – Article 84 EPC

The meaning of the terms of a claim must, as far as possible, be clear for the skilled person from the claim alone.
Example denim fabric:

- Claim is directed to a product (denim fabric).
- What exactly has been recycled here?
  - The yarn?
  - The fibres in the yarn?
  - The material that forms the fibres in the yarn?
- Is feature "recycled" a feature of the product or rather of the process of manufacturing that product?
Clarity – Article 84 EPC

What does "recycled" mean in the claim?

- Are the fibres themselves re-used (e.g. from production waste or from old clothes)?
- Do the fibres undergo a mechanical or chemical process that alters their properties in an identifiable way?

Source: Jan Hausding
Clarity – Article 84 EPC

- Potentially not clear: Product claims such as
  - A denim fabric made of 100 % recycled cotton.
  - A denim fabric made of 100 % recycled polyester fibres.

- Possible solution: Formulate method claim.
  - Method for manufacturing a denim fabric comprising the steps of:
    - obtaining cotton or polyester fibres from waste fibres
    - producing a yarn from said cotton or polyester fibres
    - producing a denim fabric from said yarn.

Source: Jan Hausding
Clarity – Article 84 EPC

- Be careful with "green" terms in patent claims, for example
  - organic cotton
  - fair cotton
  - biodegradable material
  - bio-polymer

- Ensure that they are clearly defined
  - with technical features
  - measurable properties/parameters
  - defined proportions of ingredients
  - reference to test standards

Source: Jan Hausding
Clarity – Article 84 EPC

The patent grant process is not specifically intended to determine whether something is actually environmentally friendly.

This is the task of environmental laws and regulations and accredited certification bodies.

Patent examination mainly checks whether the claims "make technical sense".