



TOGETHER
for a sustainable future

OCCASION

This publication has been made available to the public on the occasion of the 50th anniversary of the United Nations Industrial Development Organisation.



TOGETHER
for a sustainable future

DISCLAIMER

This document has been produced without formal United Nations editing. The designations employed and the presentation of the material in this document do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations Industrial Development Organization (UNIDO) concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries, or its economic system or degree of development. Designations such as “developed”, “industrialized” and “developing” are intended for statistical convenience and do not necessarily express a judgment about the stage reached by a particular country or area in the development process. Mention of firm names or commercial products does not constitute an endorsement by UNIDO.

FAIR USE POLICY

Any part of this publication may be quoted and referenced for educational and research purposes without additional permission from UNIDO. However, those who make use of quoting and referencing this publication are requested to follow the Fair Use Policy of giving due credit to UNIDO.

CONTACT

Please contact publications@unido.org for further information concerning UNIDO publications.

For more information about UNIDO, please visit us at www.unido.org

07794



UNITED NATIONS
INDUSTRIAL DEVELOPMENT ORGANIZATION

Dist.
~~RESTRICTED~~
UNIDO/ICIS. 39
26 August 1977
English

NATIONAL CONSULTATIONS
ON
TRANSFER OF TECHNOLOGY
Algiers, Algeria
22-30 October 1977

**HEAT CORPORATION AB
AND
ITS LICENSING PROBLEM**

A case study
by
Bertil Hedberg*

* Licensing Director, Nitro Nobel AB, Stockholm, Sweden.

The views and opinions expressed in this paper are those of the author and do not necessarily reflect the views of the secretariat of UNIDO.
This document has been reproduced without formal editing.

The Line of Business of the Company

The company produces house heating equipment and markets complete systems as package deals compiled out of units that can be assembled into complete systems. Products and systems are designed to comply with the standardization rules of the buying countries.

It is practical to split up the heating system into the following groups of units:

1. Source of heat
 - A. A separate heating boiler
Burner
Water heater
 - B. Heat exchanger
(in case of a district heating plant)
2. Tube System with Tube Fittings, Valves, etc.
3. Radiators and Thermostats
4. Armatures (Taps, Mixer Taps, etc.)

The Company Resources

1. Production Capacity

As to Group 1 the present production capacity of the company is big enough to cover the demand in Sweden and from already established markets but can be increased to meet the demand of any possible new markets.

As to the Groups 2, 3 and 4 the production capacity of the company is fully utilized and can only satisfy the company's requirements on the home market and on established export markets.

2. Markets and Market Shares

The present markets of the company are Sweden, West Germany, Austria, Holland and Belgium. Complete systems are produced in factories in Sweden. In West Germany and Austria there are daughter companies with factories and sales organizations for the groups 2, 3 and 4. Holland and Belgium have only sales companies.

At present the market share of the company in Sweden for complete systems is 70%. The corresponding figures

2.

are approximately 20% for West Germany and 10-15% for Austria, Holland and Belgium.

If the total market share in Sweden is set at 100 the equivalent figures for the following markets would be:

West Germany	500
France	300
Austria	80
Holland	60
Belgium	50

3. Planned Market Increase

The total sales volume of the company is considered too small. Therefore the company intends to try to increase the sales volume on already established markets and to open up new markets. France is considered to be a suitable country for the introduction and sale of complete systems as package deals and/or parts thereof. The company has no production or marketing resources in France at present.

Present Protection of the various units of the System

1. Patent Protection

Certain parts of the heating boiler, the burner and the water heater are covered by patents. The same applies to the heat exchanger. Tube fittings and thermostats are protected by patents covering the entire product. The patent protection may be considered as comparatively strong. The patent protection comprises the Nordic countries and the countries of the EEC.

The remaining lifetime of the patents, counted from now, varies between 10-13 years.

2. Trade Mark Protection

There is a registered trade mark "CORP-HEAT" referring to the complete system. Furthermore there are registered trade marks for each separate product.

The trade mark protection covers the same geographical area as the patent protection.

3. Design protection

Design protection is available in the geographical area mentioned above for products of Group 4, i.e. taps and mixer taps.

4. Know-How

Production know-how for radiators and tube fittings is vast. Know-how concerning thermostats is very unique and valuable.

Considerations in connection with an establishment on the French Market

1. A market investigation carried out in France indicates that there is a potential market for complete systems, which is what the company wants to offer. It is estimated that it should be possible to acquire a market share of 15-20%.
2. As already mentioned the company has no production and marketing organization in France.
3. Products from Group 1 of the package can be produced and supplied from Sweden.
4. Products from the groups 2, 3 and 4 have to be produced in France owing to lack of capacity.
5. The question is whether the company should build up a production and sales organization in France or as an alternative decide to licence the production and sale of these products in France?

Expected productivity results in Sweden, on the established markets and of from planned activity in France were compared as follows:

- a. The net profit per unit on products from Groups 2, 3 and 4, when produced and sold in Sweden, was calculated and assigned the comparison figure 100.
- b. The net profit per unit on said products, when produced in Sweden but sold through sales companies on established markets, corresponded to the comparison figure 80.
- c. The net profit per unit on said products, when produced and sold on an established market, corresponded to the comparison figure 60.
- d. When it comes to the establishment on the French market the investigation showed that the corresponding comparison figure would have to be set as low as 10, mostly in view of the many factors of uncertainty and risk. The investigation that was made covers a ten year period, i.e. the time that patent protection can be maintained in France.

An establishment in France with the creation of a production and sales organization does not seem to be an attractive alternative.

Instead the licensing alternative should be chosen.

1. General considerations in connection with the granting of a licence.
 - a. What should the net profit per unit be in relation to the comparison figure 10 (see point 5 d under "Considerations in connection with an establishment on the French market) to make the granting of a licence interesting?
 - b. What may the marketing of the licence cost in relation to expected income on the licence?
2. How should the marketing of the licence be planned?
 - a. Should the products that one wishes to licence be introduced in France by means of a PR-drive?
 - b. What channels should be used to establish contact with a suitable licensee?
 - c. What type of company should one concentrate on?
 - A small company whose main task would be to produce and market the licensed products.
 - A big company that would incorporate the licensed products into its own production and sales program.
 - Would a joint-venture arrangement be a viable solution?
 - Should the company acquiring the licence have a R&D organization of its own?
 - Should the licence be an exclusive or a non-exclusive one (i.e. one or several licensees)?
 - Should licensor be allowed to sell on the French market alongside with a sole licensee (a so-called sole licence)?
3. Licence fees
 - a. Should a presumptive licensee pay a certain fee for the right to evaluate the licence object - some kind of an option fee?
 - b. The size of the licence fee for different kinds of companies and licences.
 - c. How much of the licence fee should be paid in advance and how much in royalties?
 - d. Should the royalty fee be apportioned between know-how, patents, designs and trade marks?

5.

- e. Should the royalty fee vary according to increasing quantity?
- f. Should the royalty fee remain the same during the whole life of the licence?
- g. Should a minimum royalty fee be prescribed?

4. Industrial property rights

- a. Should the licensee be recommended to use licensor's trade marks, designs?
- b. How should proprietary rights, exploitation rights and costs be settled for patents etc resulting with the licensee during the lifetime of the licence agreement?
- c. How should infringement, litigation and other such costs be settled, if any?

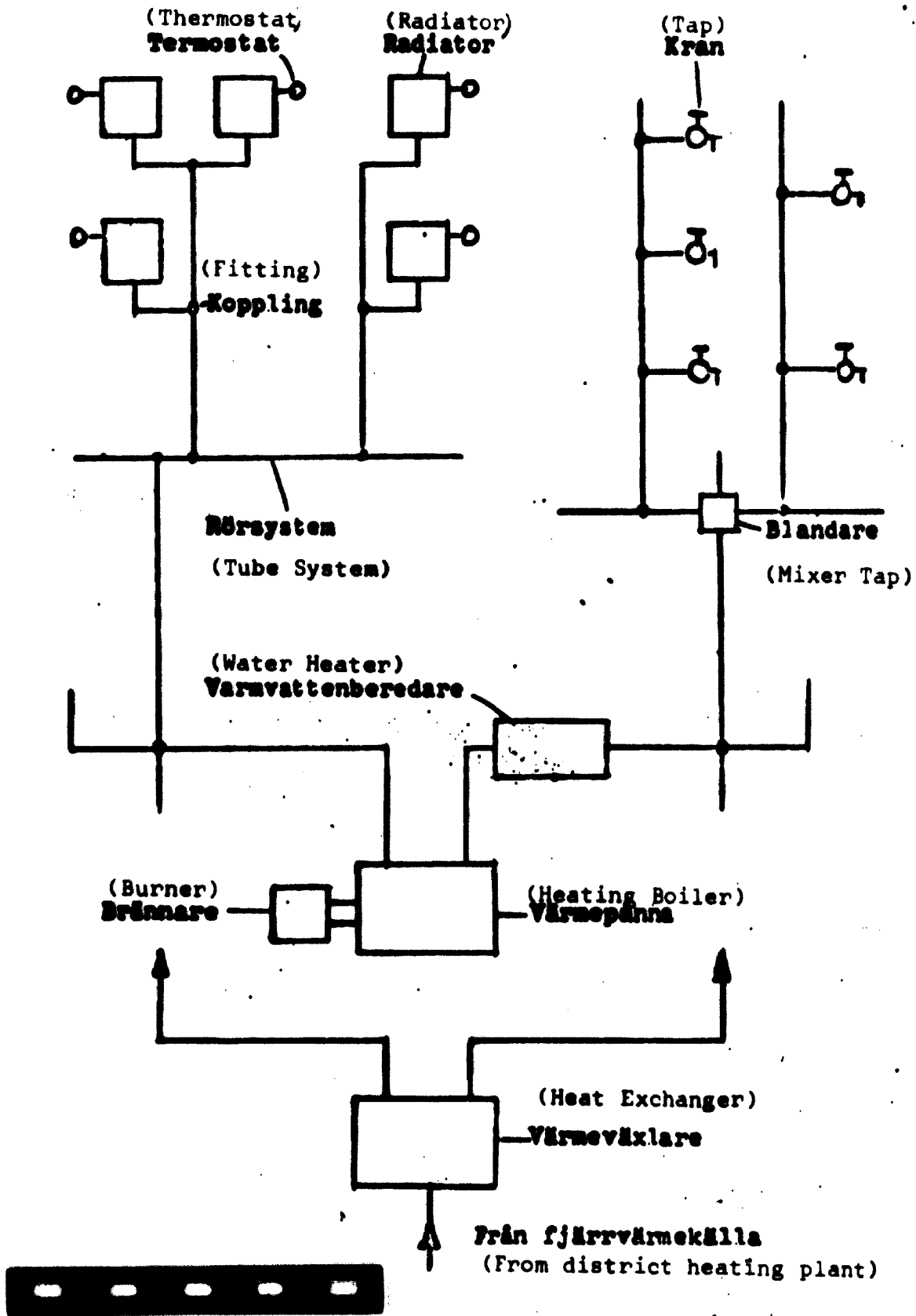
Who is to pay and who is to receive compensation in connection with infringement of industrial property rights?

5. Other issues

- a. How should the sale of products pertaining to Group 1 be coordinated with licensee's sales of products within the Groups 2, 3 and 4?
- b. Is the approval of the products by public authorities required for their sale in France? If so, who is responsible for obtaining such approval and who should be charged for the expenses?
- c. How long should the licence be in force?
- d. Should there be a possibility for both parties to terminate the licence agreement?

HEAT CORPORATION AB OCH DESS LICENSPROBLEM (Heat Corporation and its licensing problem)

"VÄRMEPAKET" (Complete Heating System)



C-135



80.03.19