



# An Introduction to the Intellectual Property System and to the Work of the World Intellectual Property Organization

Tamara Nanayakkara

# Presentation Outline

- Background – New Economy and rise in importance of intangible assets
- Importance of differentiation and adding value to be competitive
- The intellectual property system
- Use and exploitation of IP assets
- The work of WIPO and its program for assisting SMEs

# New Economy

- New economy or the knowledge economy – Greater reliance on know-how, knowledge, human creativity and innovation (infinite) for creating VALUE (customer, shareholder and stake holder)

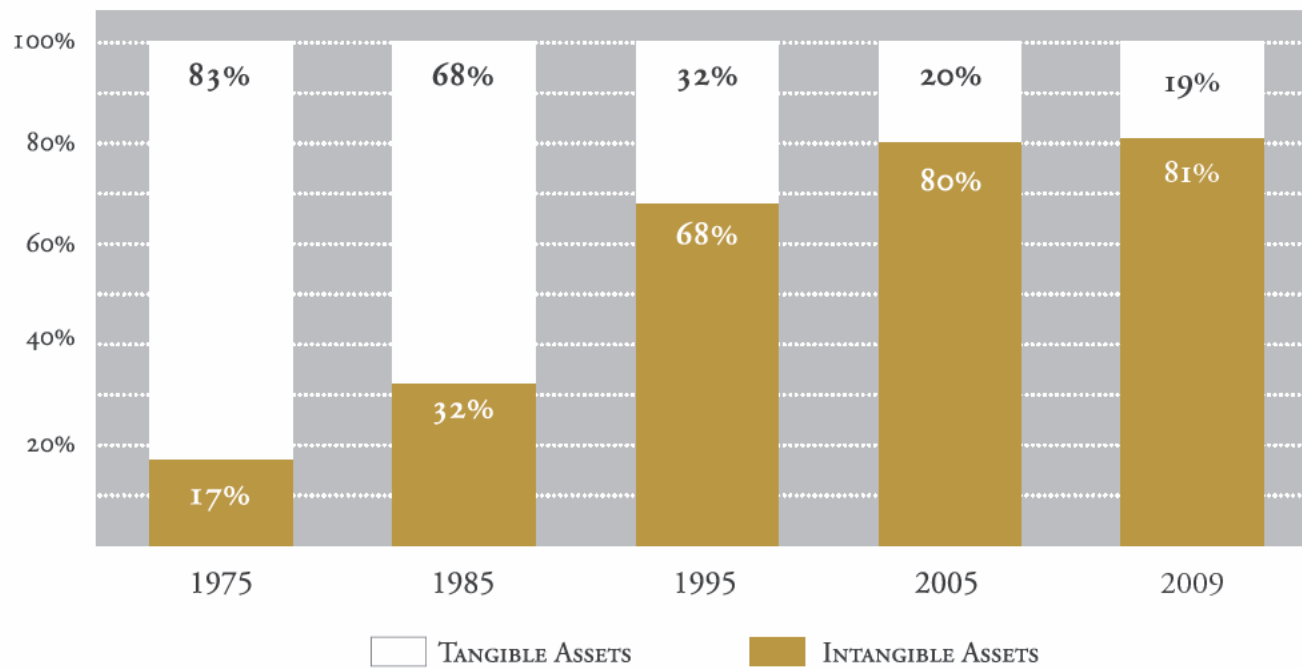
# Creating Value in the New Economy

- Low cost and the ability to produce efficiently is not enough. The competition is also able to produce as efficiently and at lower cost
- Customers are looking for added value, a differentiation from the competition other than on price.
- Intangible assets are the biggest value drivers in today's economy

# Growing Importance of Intangibles



COMPONENTS OF S&P 500 MARKET VALUE

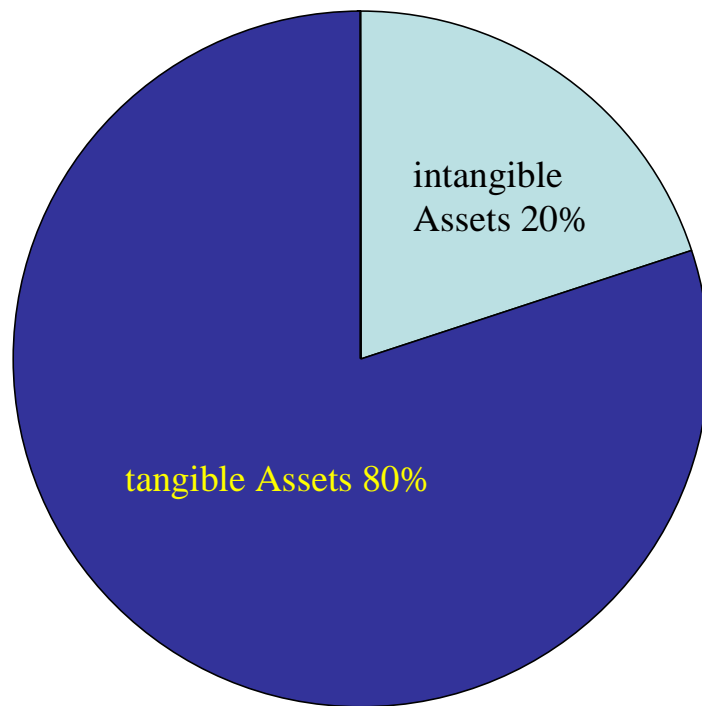


Source: Ocean Tomo

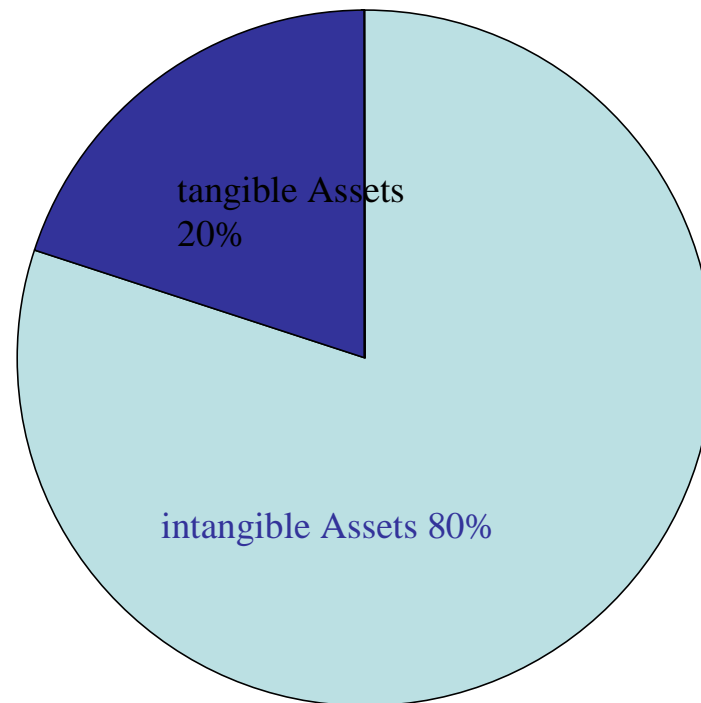
- When Netscape went public in 1995, it was a \$17 million company with fifty employees. Yet after only the first day of trading, the stock market valued Netscape at \$3 billion. What were investors buying? Certainly not fifty telephones and the company's inventory of software.
- In fact, what investors “bought” were the people who had built Netscape — their knowledge, skills, ideas and talent. They were also investing in the company's demonstrated ability to innovate, create, and bring to market a product that makes the Internet accessible to the public at large.

**Intellectual Capital: Tomorrow's Asset, Today's Challenge**  
by Barry Brinker, CPA

# Knowledge Economy



Before –  
manufacturing  
based economy



Now – technology and  
innovation driven  
economy

# Intangible Assets

## Marketing-related intangible assets

- (1) Trademarks, trade names, collective marks, certification marks
- (3) Trade dress (unique color, shape, or package design)
- (4) Newspaper mastheads
- (5) Internet domain names
- (6) Noncompetition agreements.

## Customer-related intangible assets

- (1) Customer lists
- (2) Order or production backlog
- (3) Customer contracts and related customer relationships
- (4) Non contractual customer relationships.

## Artistic-related intangible assets

- (1) Plays, operas, ballets
- (2) Books, magazines, newspapers, other literary works
- (3) Musical works; compositions, song lyrics, jingles
- (4) Pictures, photographs
- (5) Video and audiovisual material, including motion pictures, music videos, television programs.

## Contract-based intangible assets

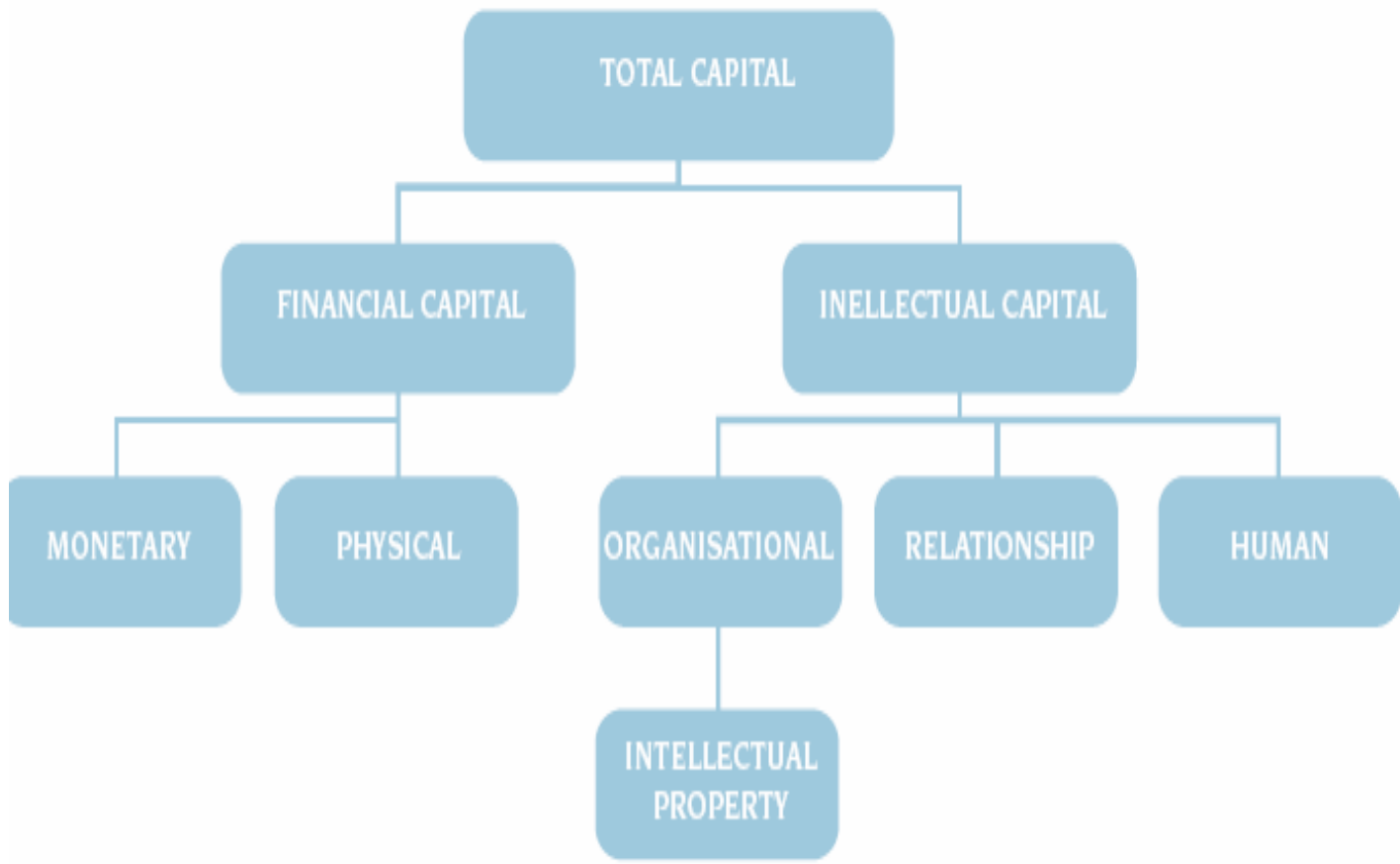
- (1) Licensing, royalty, standstill agreements
- (2) Advertising, construction, management, service or supply contracts
- (3) Lease agreements
- (4) Construction permits
- (5) Franchise agreements
- (6) Operating and broadcast rights
- (7) Use rights such as drilling, water, air, mineral, timber cutting, and route authorities
- (8) Servicing contracts such as mortgage servicing contracts
- (9) Employment contracts.

## Technology-based intangible assets

- (1) Patented technology
- (2) Computer software and mask works
- (3) Unpatented technology
- (4) Databases, including title plants
- (5) Trade secrets, such as secret formulas, processes, recipes.

As per financial Accounting Standards Board





- Relationship capital - customer relations, relationships with networks of suppliers and strategic partners and stakeholders of the business.
- Human capital - Collective knowledge competency, experience, skills and talents of staff.
- Organisational capital refers to knowledge that has been captured and institutionalized with an organisation's structure, processes and culture. IP is the most tangible form of organizational capital

# New Economy

- Global market place
- Demanding and fickle consumers
- Shorter product cycles
- Working through relationships, networks and outsourcing
- Increased competition
- Pressure to do more with less

# IP and Competitiveness

**Source**

**Design**



**Innovative  
features**

**Quality**

**WIPO**  
WORLD  
INTELLECTUAL PROPERTY  
ORGANIZATION

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# Intellectual Property and Competitiveness

- The IP system provides **exclusivity** over the exploitation of innovative products and services, creative designs and business identifiers
- Through the IP system certain intangibles have acquired a certain “tangibility” by virtue of proprietorship and the ability to exclude others
- That is an owner of IP has the right to prevent anyone else from using and exploiting the IP right

# Intellectual Property Assets

- Innovative products/ processes
- Cultural, artistic and literary works
- Goods that have a certain quality or reputation due to where it comes from
- Creative designs
- Distinctive signs
- Confidential business information
- Patents or utility models
- Copyright and related rights
- Geographical Indications
- Design rights
- Trademark
- Trade secrets

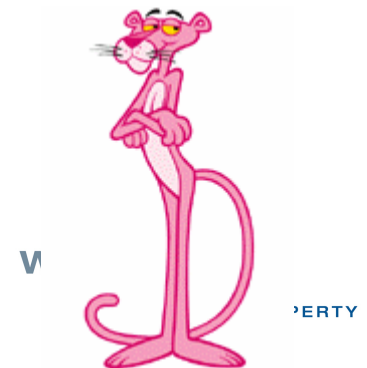
# Patents



- A product or process providing a new way of doing something, or a new technical solution to a problem  
(which may lower cost, create efficiencies, enhance performance, add new features etc..)
- If it is new, not obvious and has industrial applicability it could be granted a patent which would provide an exclusive right to prevent others from using the invention for a maximum period of 20 years

# Trademarks

- A sign that distinguishes the goods and services of one enterprise from that of another
- Right to prevent others from using identical or similar marks with respect to goods or services that are identical or similar
- Rights obtained through registration (or use)
- Famous marks have greater rights





- Any distinctive words, letters, numerals, pictures, shapes, colours,
- In some countries: sounds, smells, three-dimensional marks
- Advertising slogans – “Its finger lickin good“ (KFC) “I can’t believe its not butter“



- Words ( NIKE for shoes, Lawdit and Trademarkroom.com for Legal Services)
- Slogans (I CAN'T BELIEVE IT'S NOT BUTTER for spread).
- Smells (Sumitomo Rubber Industries' registration of a floral fragrance reminiscent of roses as applied to tyres).
- Sounds (Directline's registration of the trumpet jingle, well known from television and radio commercials).
- Letters (MFI in respect of furniture).
- Numerals (501 jeans).
- The shape of goods or their packaging (the triangular shape of Toblerone chocolate and the Coca Cola bottle,
- Colours (Heinz's registration of the colour turquoise for use on tins of baked beans).
- Gestures (for example, a finger tapping a nose has been registered by Derbyshire Building society).
- Moving digital images (for example, BT's revolving globe internet icon).

# Pickwick

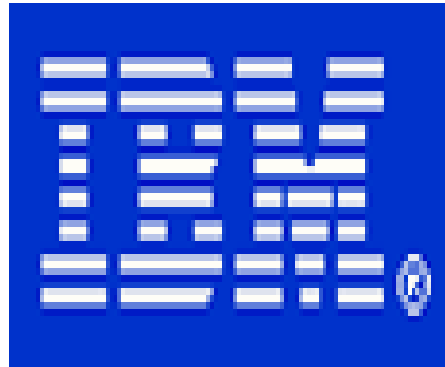
- An Italian businessman buys unmarked t-shirts from manufacturers of generic clothing, attaches his trademark (**Pickwick®**, which pictures a rebellious-looking teenager) and begins to sell them to retail stores
- Started in a garage in the periphery of Rome
- Today the **Pickwick®** trademark is perceived by Italian teenagers as a synonym of style and quality
- **Pickwick®** has begun to export its products across Europe
- Its trademark is its most valuable asset



# Interbrand 2010 Annual Survey of the world's most valuable global brands



**Coca-Cola: 70**



**IBM: 65**



**Microsoft : 60 b US\$.**

# Design Rights

- The ornamental or aesthetic aspects of a product, that which distinguishes that product from the competition and makes the product appealing to a consumer
- Right to prevent others from using identical or similar designs
- Rights obtained by registration but in some countries there exists an unregistered design right



*Industrial designs*

# Geographical Indications



- Goods that have a certain quality or reputation due to the geographical region it comes from
- Generally pertaining to agricultural products
- Examples: Bordeaux wine, Ceylon tea, Gruyere cheese, Swiss chocolates, Champagne, Colombian coffee, Greek feta cheese



# Copyright



- Copyright law grants authors, composers, and other creators legal protection for their creations usually referred to as “works.”
- From a business point of view, these will include computer programs or software, content on websites, catalogs, newsletters, manuals, artwork and text on product literature, labels or packaging, posters etc,
- It gives an author or creator economic rights to **control the economic use** of his work and moral rights to protect his reputation and integrity.
- No registration required to obtain rights

# Trade Secret

- If reasonable steps have been taken to keep certain information secret and it has commercial value by virtue of being secret it may qualify for trade secret protection
- Use of confidentiality agreements, physical barriers to access to information and a HR policy that values and protects the confidential information of the business





# Territoriality

- IPR are territorial and, as such, only valid in the country or region in which they have been granted. Therefore applying for IPR in other countries is important



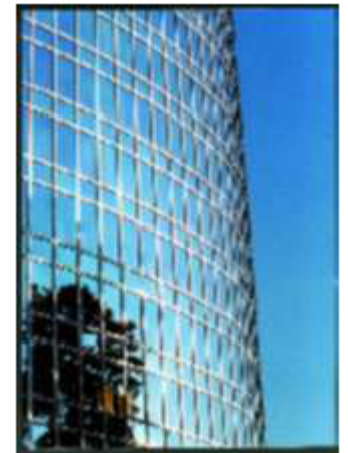
**WIPO**

WORLD  
INTELLECTUAL PROPERTY  
ORGANIZATION

# The World Intellectual Property Organization

# Brief History of WIPO

- Paris Union 1883
- Berne Union 1886
- International Bureau combined 1893
- WIPO Convention 1967
- UN Specialized Agency 1974
- 184 Member States (as of end of October 2010)



# Basic Facts about WIPO



## WIPO's Mission:

To promote the protection of IP rights worldwide and extend the benefits of the international IP system to all member States

**Status:** An int'l intergovernmental organization

**Member States:** 184

**Observers:** 250 +

**Staff:** 950 from 101 countries

**Treaties Administered:** 24

**Decisions by:** GA, CC, WIPO Conference

# WIPO

- Effort to demystify IPR and make it more accessible and relevant to a broader group of people
- IP no longer to be seen from solely a legal perspective but also its place in the society as a tool for economic growth
- A means to an end, and not an end in itself.

# WIPO's Mandate

- WIPO is dedicated to developing a balanced and accessible international intellectual property (IP) system, which rewards creativity, stimulates innovation and contributes to economic development while safeguarding the public interest.



# Member States direct the work of WIPO

## ■ Governing Bodies

- The WIPO General Assembly – members of WIPO and of Paris and/or Berne (impt function – election of DG)
- The WIPO Conference – members of WIPO
- The WIPO Coordination Committee – members of Paris and Berne (propose DG and agree on D and higher appointments)
  - In addition, The Assemblies of the member states of each of the Unions, (e.g. the PCT Union Assembly; the Madrid Union Assembly etc.) were established by the respective WIPO-administered treaties.

## ■ Standing Committees established for a given purpose

- Standing Committee on the Law of Patents (SCP).
- Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).
- Standing Committee on Copyright and Related Rights (SCCR).
- Standing Committee on Information Technologies (SCIT).
  - When a SC determines that sufficient progress has been made in order to move towards treaty adoption, the GA can decide to convene a **Diplomatic Conference**.

## ■ Permanent Committees

- Committees of Experts to revise and update the classification systems.
- Program and Budget Committee
- Committee on Development and Intellectual Property (CDIP)
- Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).
- Advisory Committee on Enforcement (ACE).

# Promotion of IP through:

- Norm setting - Preparing for new treaties and developing and administering treaties that are in force
- Registration activities
- IP for development
- Other Services
  - Registration activities
  - Alternative dispute Resolution mechanisms
    - Arbitration and mediation



# Treaties - 24

- IP Protection- internationally agreed basic standards of protection (Paris, Berne)
- Registration- one application to have effect in many (PCT, Madrid, Hague)
- Classification-organize information concerning inventions, trademarks and industrial designs into indexed, manageable structures for easy retrieval (Locarno, Nice)

# Development Agenda for WIPO

- Adopted: September 2007 to emphasize use of IP for development
- Challenge: facilitate use by developing countries of IP for economic, social, cultural development
- 45 agreed proposals (6 clusters of activities)
  - Technical Assistance and Capacity Building;
  - Norm-setting, Flexibilities, Public Policy and Public Knowledge;
  - Technology Transfer, Information and Communication Technology (ICT) and Access to Knowledge;
  - Assessments, Evaluation and Impact Studies;
  - Institutional Matters including Mandate and Governance
- Committee on Development and Intellectual Property
  - monitor, assess, discuss and report on implementation of recommendations and discuss IP and development issues
- Development Agenda Coordination Division
  - Ensure agreed outcomes reflected in relevant programs

# IP for Development

- Legal Framework
- IP administration
- Enforcement and IP education
- National IP strategies - IP cross cutting
- Users - creators, inventors and innovators, businesses, public research institutions identify, protect, exploit and manage their IP assets more effectively.

# WIPO Worldwide Academy

<http://www.wipo.int/academy/en/>

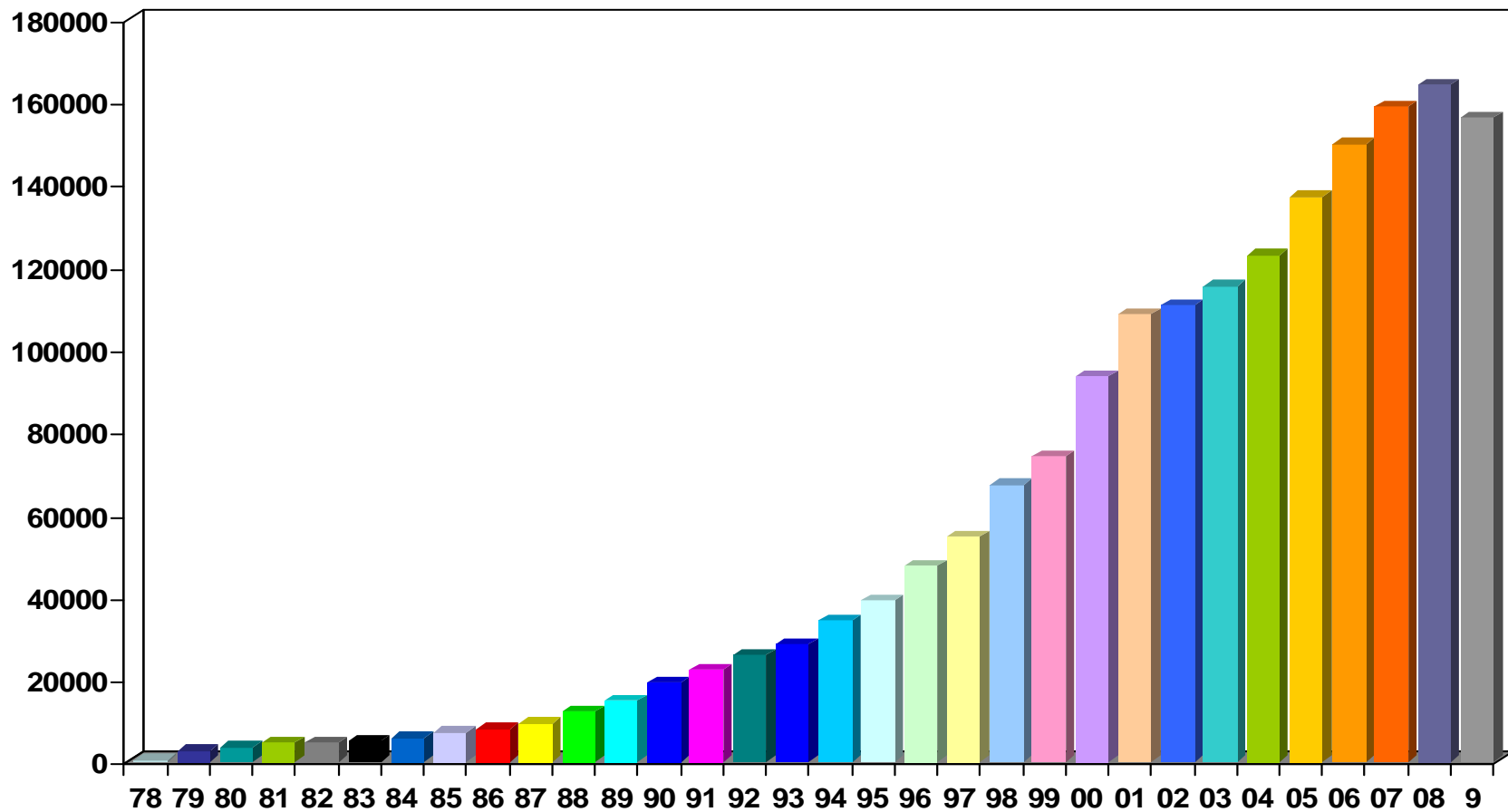


- Provides training to promote use of IP for development in line with evolving IP landscape
- Int'l, interdisciplinary approach to IP education
- Face-to-face training/distance learning
- Aims to promote international cooperation to enhance human IP capital through global networking with stakeholders and partners
- **PROGRAMS:**
  - Professional Development (IPOs)
  - Partnership Program (Universities, etc.)
  - Distance Learning Program (expanding portfolio of courses)
  - *Executive Program (launch 2011)*
  - Summer Schools Program
- Internships at WIPO

# Services

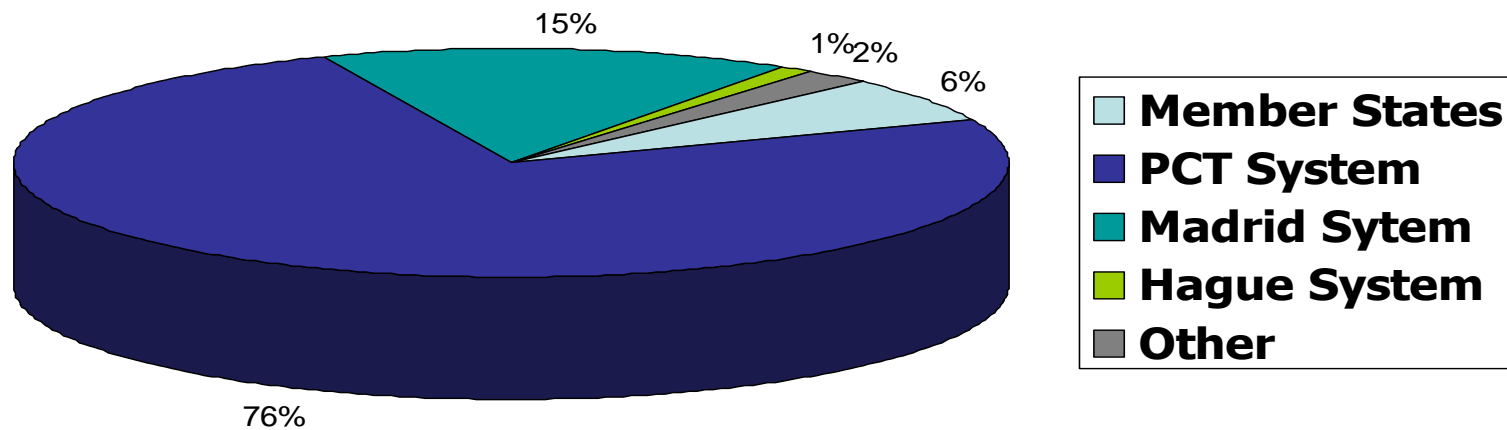
- Registration Treaties
  - PCT
  - Madrid
  - Hague
- Alternative dispute resolution
  - Arbitration and mediation Center

# PCT Statistics



**142 Contracting Parties**

# WIPO's Main Sources of Revenue



**Budget 2010-2011: CHF 618 million**  
(decrease of 1.6% (9.8m) on 08-09)



**WIPO**

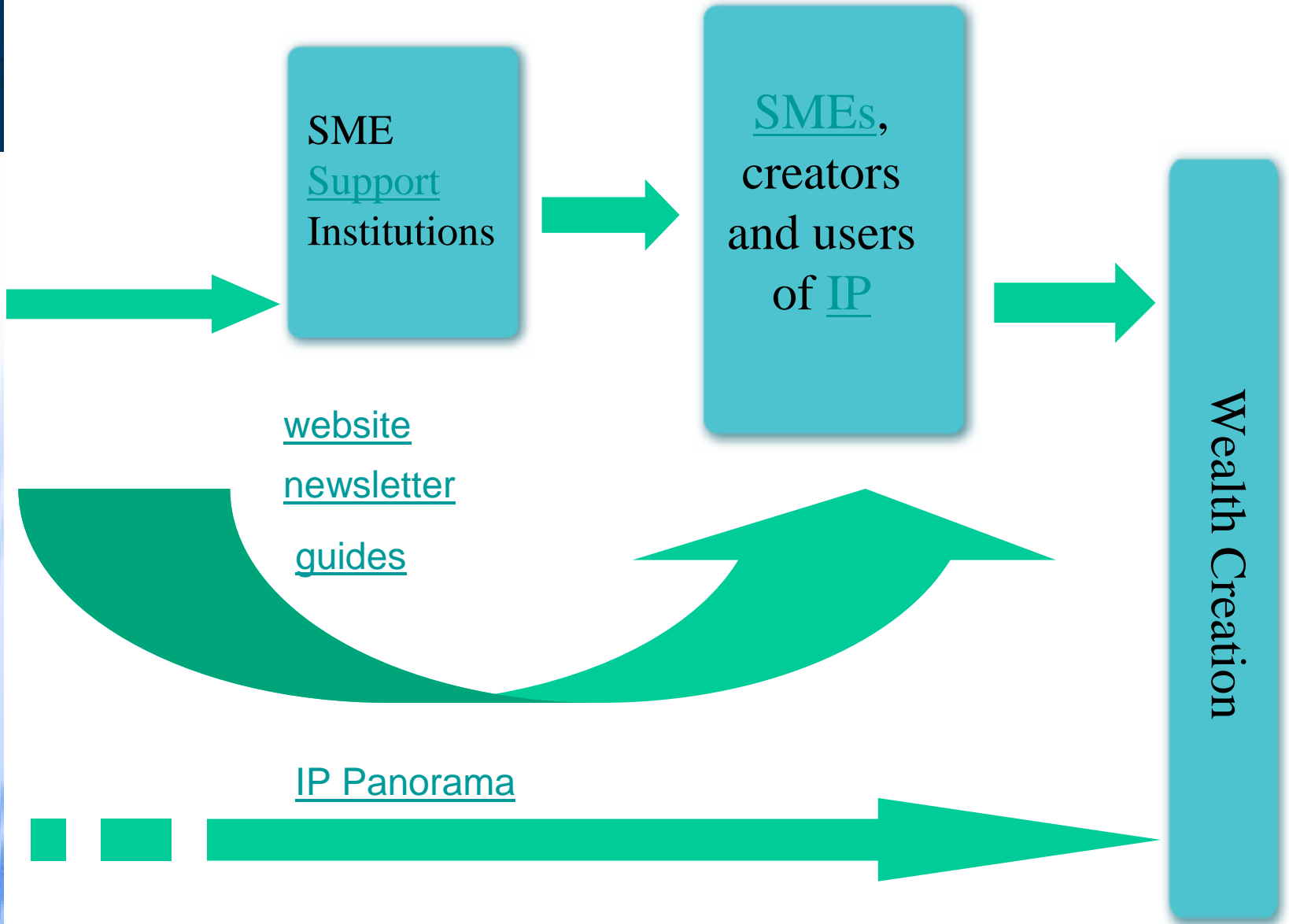
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ORGANIZATION

# Small and Medium-sized Enterprises Division





Small and Medium-sized Enterprises Division



website  
newsletter  
guides

IP Panorama

Studies

**WIPO**  
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# SMEs

- 90% of enterprises of any economy. The back bone of economic development and growth
- Few SMEs (high tech and start up) are technology developers (patents, copyright)
- Some are technology users (patent info)
- Most are technology followers (TM, GI, Design etc)
  - IP system is relevant to all for their competitiveness. Exclusivity (IP rights) and beyond (licensing, financing, partners, branding, franchising)

# Obstacles

- However, the IP system is an under-utilized tool
  - Limited awareness of the IP system and its relevance as a strategic tool
  - High costs (filing, translation, drafting, maintain)
  - Complexity of IP system
  - Delays in obtaining IP rights
  - Lack of expertise to make use of the IP system
  - Success rate in getting IP rights (patents) low
  - Inability to monitor and enforce



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## Small and Medium-Sized Enterprises (SMEs)

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### RESOURCES

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### New on the SME Website

- >> [Junkk.com®: Filing an International Patent for Maximum Protection and Commercial Gain \(UK\)](#) (Nov 20, 2008) **New**
- >> [Mak Marine: Building a Strong and Defensible Worldwide Brand \(UK\)](#) (Nov 5, 2008)
- >> [SPL: International Patent and Trademark Protection to Secure Licenses \(UK\)](#) (Nov 5, 2008)
- >> [FAVEO Limited: An Innovative Bra Design and Development Company set up by a Female Cancer Research Scientist in the UK](#) (Oct 15, 2008)

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# Around 70 case studies of SMEs that have successfully used the IP system to enhance their competitiveness

## Case Studies: Marketing

- » [Industrial Property Mistakes can be Expensive - the Experience of Alba Confecciones \(Cuba\)](#) (Mar 30, 2006)
- » [Commercialization of Invention Before the Grant of Patent - The Case of a Matrix Heat Recovery Unit - MHRU \(India\)](#) (Jun 1, 2005)
- » [Bubbles, Brains and Bright Ideas- Descorjet S.A. \(Argentina\)](#) (Mar 1, 2005)
- » [The Power of Brands - I.L.A.R. \(Italy\)](#) (Aug 4, 2004)
- » [Chirimoya Cumbe -The Value of a Name \(Peru\)](#) (Mar 27, 2004)
- » [Dairy By-Products - APDL Cajamarca \(Perú\)](#) (Mar 27, 2004)
- » [Nice & Clean - Saigon Cosmetics Corporation \(SCC\) \(Vietnam\)](#) (Mar 27, 2004)
- » [Queensland Tourist & Travel Corporation Stands by their Trade Marks \(Australia\)](#) (Mar 27, 2004)
- » [The First Italian Designer Apple - Melinda Consortium \(Italy\)](#) (Mar 27, 2004)

## Case Studies: Franchising

- » [From Fast-Food Wagon to Successful Business — Emprendimientos Fast S.A. \(Paraguay\)](#) (Mar 1, 2005)
- » [Uruguayan Enterprise IP strategy in the IT sector - Memory Computación \(Uruguay\)](#) (Aug 9, 2004)
- » [An Impressive IP Strategy Model - The Dome Group \(Australia\)](#) (Mar 27, 2004)

## Case Studies: Trade Secrets

- » [SPL: International Patent and Trademark Protection to Secure Licenses \(UK\)](#) (Nov 5, 2008)
- » [Management of Intellectual Property in Offshore Outsourcing: How Shinetech Software Inc. Sets Itself Apart From its Competitors \(China\)](#) (Apr 27, 2005)
- » [Recognition of the Importance of Intellectual property by a Start-up Business Manager - Enterprise S \(Luxembourg\)](#) (Dec 22, 2004)
- » [Australian Invention Dazzles Hollywood - Jim Frazier \(Australia\)](#) (Mar 27, 2004)
- » [Innovation with Focus](#) (Mar 27, 2004)
- » [Success of a Mauritanian initiative attributable to intellectual property management - Abdallah Ally \(Mauritania\)](#) (Mar 27, 2004)



**WIPO SMEs NEWSLETTER October 2008**

*by the SMEs Division of the World Intellectual Property Organization (WIPO)*

WIPO SMEs Newsletter is a monthly e-publication providing readers with useful intellectual property information contained in articles, case studies, forthcoming SMEs relevant events, and published presentations featured on our web site. We hope you will find it useful and informative. We encourage you to share the newsletter or items of interest with friends and colleagues. For past issues and information on the activities of the SMEs Division, please visit <http://www.wipo.int/sme>.

**NEWS**

**IP PANORAMA Business School for Korean Companies organized (see linked program) on October 6 to 10, 2008, at WIPO headquarters, Geneva, Switzerland.**

If any other Chamber of Commerce and Industry, University or SME support/training institution, anywhere in the world, wish to organize similar program based on utilizing [IP PANORAMA](#) multimedia toolkit, please write to Mr. G.S. Jaiya, Director, SMEs Division, WIPO at [guriqbal.jaiya@wipo.int](mailto:guriqbal.jaiya@wipo.int).

**CASE STUDY**

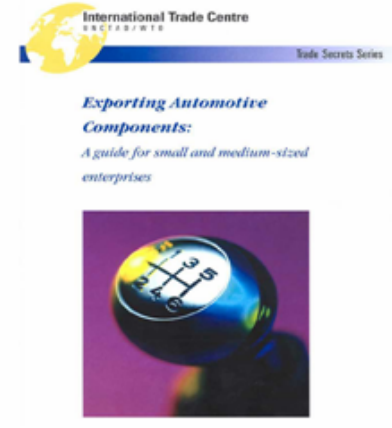
**International Patent and Trademark Protection to Secure Licenses**

This case study illustrates the use of IP as collateral in attracting investments into the company and emphasizes the importance of patent protection and trade secret for businesses. [More](#)

**Yak Marine: Building a Strong and Defensible Worldwide Brand**

This case study demonstrates that IP protection builds a strong brand and raises the core IP value of products. [More](#)

# Easy to read, practical, business friendly guides



# Translations and/or adaptation projects

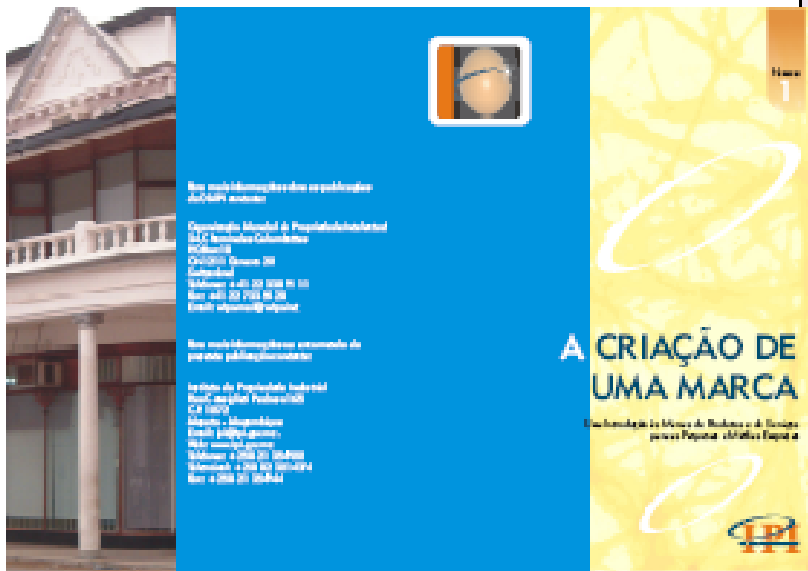
Countries are encouraged to translate and or adapt the guides to their local language (s) and their laws and procedures.

Over 20 countries have completed such translations and adaptations. Around 20 more have signed agreements and are in the process of completing.



Uruguay

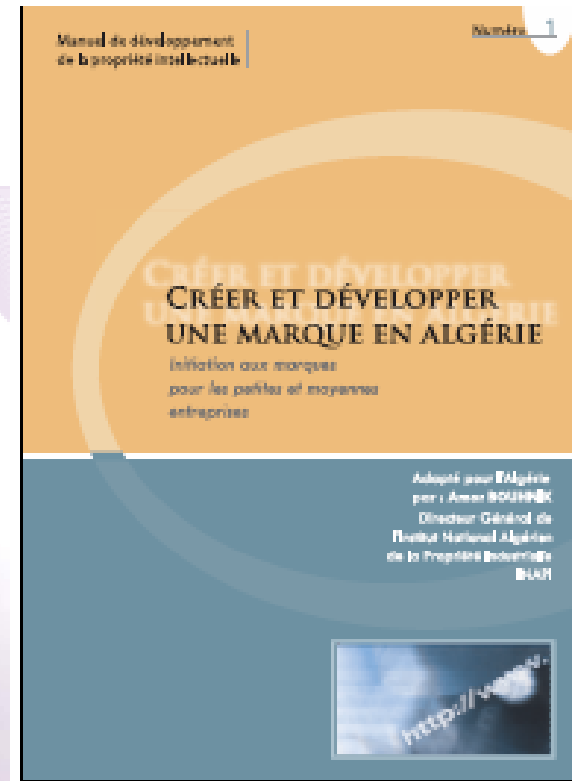
mozambique



Macedonia



Algeria





# IP PANORAMA 12 Modules

Basic Modules	Advanced Modules
1. Importance of IP for SMEs	6. Patent Information
2. Trademarks and Industrial Designs	7. Technology Licensing in a Strategic Partnership
3. Invention and Patent	8. IP in the Digital Economy
4. Trade Secrets	9. IP and International Trade
5. Copyright and Related Rights	10. IP Audit
	11. Valuation of IP Assets
	12. Trademark Licensing

In Development

Franchising and IPRs

### IP PANORAMA 01: Importance of IP for SMEs

- » Why is IP relevant to your SME?
- » IP as a business asset
- » IP as an investment
- » The value of IP assets
- » Introduction of IP Audit



### IP PANORAMA 02: Trademarks and Industrial Designs

- » Trademarks and Industrial designs to Increase the Power of Marketing
- » Brand building
- » How to protect trademarks and industrial designs
- » Trademark management



### IP PANORAMA 03: Invention and Patent

- » Basics of invention and patent
- » Patent application
- » Patent infringement
- » Patent management system

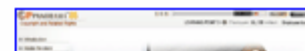


### IP PANORAMA 04: Trade Secrets

- » Basics of trade secret
- » Trade secret management program
- » Misappropriation of trade secrets
- » Violation of trade secrets
- » A trade secret audit



### IP PANORAMA 05: Copyright and Related Rights



# Project on IP for SMEs

- Identify barriers, issues, challenges and opportunities of SMEs.
- Develop materials based on “IP for Business” series and “ IP PANORAMA”,
- Undertake business-oriented IP education and training in teaching and training institutions that support SMEs
- Prioritize delivery of training - knowledge-intensive, high tech, export-oriented sectors, especially those which are already part of global supply or value chains/networks, or with SMEs that are in geographic clusters, or those linked to research institutes, universities, or housed in incubators and science parks
- As far as possible in implementing activities explore and develop synergies and partnerships with similar projects, draw lessons from the experience of other countries and use case studies.