

# INTELLECTUAL PROPERTY FOR BUSINESS

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**WIPO-WASME SPECIAL PROGRAM  
ON PRACTICAL INTELLECTUAL PROPERTY  
RIGHTS ISSUES  
FOR ENTREPRENEURS, ECONOMISTS, BANKERS,  
LAWYERS AND ACCOUNTANTS**

**Geneva, October 6 to 9, 2003**

## TOPICS

- Competitiveness of SMEs
- IP and SMEs
- How IP can enhance the value of SMEs
- How to make best use of IPRs
- WIPO SMEs strategies

## Competitiveness of SMEs

## New economy and the SMEs

- In the knowledge economy competitiveness is increasingly based on a firm's ability to provide high value-added (new or improved) products and services at a competitive price
- Globalization and trade liberalization have made it crucial for SMEs to become internationally competitive even when competing exclusively in domestic markets

## SMEs in the new economy (1)

- To be internationally competitive SMEs need to constantly improve their efficiency, reduce production costs and enhance the reputation of their products and services by:
  - Investing in research and development
  - Acquiring new technology
  - Improving management practices
  - Developing creative and appealing designs
  - Effectively marketing their products and services

## SMEs in the new economy (2)

- This requires SMEs to make significant investments
- Without effective **intellectual property protection** there is a strong risk that investments in R&D, product differentiation and marketing will be wasteful
- Intellectual property enables SMEs to have exclusivity over the exploitation of their innovative products and/or services, their creative designs and their brands, thus creating an appropriate incentive for investing in improving their competitiveness

- Founded in 1981 in Apples, Switzerland
- 1983 Develops a mouse for the Apple® Lisa®, computer, ancestor of the Macintosh
- 1984 Introduces the first cordless mouse, which uses infrared technology
- 1991 Introduces the first mouse designed especially for children ("Kidz Mouse")
- 2003 Milestone: 500 million mice sold
- Hqs. in California, CH and Taiwan (4,800 employees)
- Distribution in more than 100 countries worldwide
- Quoted at both the Swiss SMI and US Nasdaq markets





## IP relevance to SMEs (1)

- IP is all around us (the Ladislao Biro's patent)
- SMEs constantly use, develop and/or create IP
- Several forms of IP protection are available
- Patents, trademarks, licensing, copyright, trade secrets
- IP may assist SMEs in the entire business cycle
- IP as a tool to promote economic development

## IP relevance to SMEs (2)

- According to most studies and surveys, SMEs worldwide largely under-utilize the intellectual property system
- Some reasons for low use of IP System by SMEs:
  - Perceived lack of relevance of the IP system
  - Perceived high costs and complexity of IP system
  - Limited awareness of the IP system and its usefulness
  - Lack of qualified human resources to use the IP system

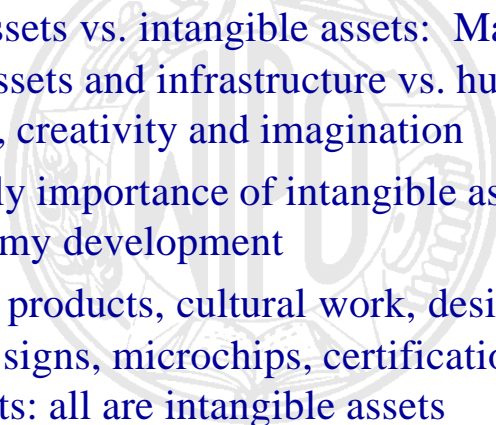
## IP relevance to SMEs (3)

- In order to surmount these obstacles, public, private and civil society institutions in many countries provide support to SMEs to make a wider and more efficient use of the IP system



## How IP Enhance the Value of SMEs

### Assets (1)

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- Physical assets vs. intangible assets: Machinery, financial assets and infrastructure vs. human capital, know-how, creativity and imagination
  - Increasingly importance of intangible assets in the new economy development
  - Innovative products, cultural work, design, distinctive signs, microchips, certification of origin, trade secrets: all are intangible assets
  - Acquiring IP is crucial to increase market value

## Assets (2)

- Turning intangible assets into exclusive IPRs
- Conducting internal and/or external IP audit to capitalize IP assets in an SME: a valuable tool for evaluating current IP assets, attract investors, increase cash flow by licensing out its IPRs, evaluate actions against infringement, maintain up-to-date IP assets and reduce registration costs

## Turning inventions into profit-making assets (1)

Reasons for patenting:

- Exclusive rights for using and exploiting inventions
- Prevent use of patent, reduce competition and strengthen market positions
- Opportunity to licence or sell the invention
- Increase in negotiating power
- Reinforce the company image



## Turning inventions into profit-making assets (2)

- Avoid patenting by somebody else
- Avoid competitors to make the same product
- Without IP rights, transfers of technologies difficult, if not impossible

## IP crucial for marketing products/services

- For SMEs marketing is a major challenge
- IP is an important tool in creating a business image
- IPRs may contribute to establish a marketing strategies in different ways:
  - Trade and Service Marks
  - Collective Marks
  - Industrial Designs
  - Geographical Indications
  - Patents
  - Utility Models

## IP assets used for financing

- IP for SMEs is not only a legal asset but also a powerful financial instrument
- Importance to understand the commercial value of IP assets when developing a SME business plan
- IP assets are instrumental in obtaining business financing from institutional and private investors
- IP protection is a good indicator of a SME potential

## Enhance exporting through IP

Protect IPRs internationally may open up new export opportunities in areas such as patents, trademarks and industrial design. Some examples:

- Licensing a product to a foreign firm that will manufacture the product locally
- Setting up joint ventures locally or internationally
- Producing the good domestically and exporting the protected item directly or through intermediaries
- Reaching a worldwide coverage by registering internationally IP assets



The story of **Piaggio** is closely linked to its intellectual property vision: ideas from at least three mechanical sectors, the motorbyke, the airplane and the motor car

- On April 23, 1946, the Florence Patent Office certified the filing by Piaggio of an application for an industrial design patent
- In March 1949, Piaggio filed an application for registration of the name “**Vespa**” as a trademark
- Today Piaggio owns some 34 trademarks that contain the word “**Vespa**” (without counting patents and ID rights)
- Registrations have been obtained in 120 countries



How to make best use of IPRs



## Protecting IPRs abroad

- Protecting IP abroad means to enjoy worldwide the same benefits of protection enjoyed on the domestic market
- Most countries allow a 12-month priority period from the date of filing of the first application for applying for patents in other countries. With regard to copyright, this period is of 6 months
- Different procedures by applying to national, regional and international application schemes

## Relevance of trademarks to the success of SMEs

- A trademark is the face of a SME business
- Importance in creating and/or selecting a trademark
- Sign should be easy to read, spell, pronounce etc.
- Sign should be suitable for external markets
- Sign should not create confusion as to the nature of the product
- Sign should be adaptable to all advertising media
- Importance of conduct trademark searches

## Protecting the trade secret of SMEs

- Any confidential business information which provides an enterprise a competitive edge is a trade secret
- Trade secrets are protected without registration
- Some conditions (as in Art. 39 of TRIPS):
  - Information must be secret
  - It must have commercial value because it is a secret
  - It must have been the object of confidentiality protection
- Trade secrets are widely used by SMEs
- Advantages and disadvantages of using trade secrets

## How can SMEs benefit from copyright

- Copyright is a legal term describing rights given to creators for their literary and artistic works
- Copyright may be used by SMEs in the creation, recording, publication, dissemination, distribution or retailing of artistic, musical or literary works
- Time limit of 50 years after the creator's death
- Copyright related rights: performing artists, producers of sound recording and broadcasting

## Protecting innovation by utility models

- A utility model is an exclusive right granted for an invention.
- Less stringent requirement than for patents
- Term of protection usually between 7 and 10 years
- Much cheaper to obtain and maintain
- Some restrictions with regard to their protection
- Primarily used for mechanical innovations
- Only a small but significant number of countries provide the option of utility model protection

## Managing IP assets of SMEs (1)

A basic IP strategy would include at least four policies:

- Policy on IP acquisition
- Policy on IP exploitation
- Policy on IP monitoring
- Policy on IP enforcement

## Managing IP assets of SMEs (2)

- Important steps in developing an IP strategy are:
  - Checking trademarks and patents databases
  - Identifying patentable subject matters
  - Keeping strict confidentiality in trade secrets
  - Protecting IP in all potential export markets
  - Using IP portfolio as leverage in looking for finance
  - Monitoring the market to make sure IP assets are not infringed
  - Integrating IP in the business plan formulation

## Using patent information (1)

- Patent information is the technical and legal information contained in patent documents. Its knowledge may help SMEs to:
  - Avoid unnecessary expenses in R&D
  - Identify and evaluate technology for licensing
  - Identify alternative technologies
  - Keep abreast with the latest technologies
  - Fine ready solutions to technical problem
  - Get ideas for further innovations

## Using patent information (2)

- From the commercial and information strategy view point, patent information would help to:
  - Locate business partners
  - Locate suppliers and materials
  - Monitor activities of real and potential competitors
  - Identify niche markets
  - Avoid possible infringement problems
  - Assess patentability of inventions

## Licensing of IPRs

- Effective tool for starting, expanding or improving the quality of business
- It is a partnership between an IP owner (licensor) and another who is authorized to use such rights (licensee), in exchange for an agreed payment (fee)
- Licensing agreements are:
  - Technology license agreement
  - Trademark licensing and franchising agreement
  - Copyright license agreement



## Collective, certification marks & GI

- Useful for SMEs to obtain consumer recognition, through a clear identification of a product
- Better promotion of products characteristic of a given region
- Improve quality criteria applied to same products
- Sharing costs in marketing investments

- In 1977 Tequila was registered as a Geographical indication in Mexico
- Tequila registered through Lisbon agreement and mutual recognition agreements with the EU
- Only Mexican producers from 5 specified regions of the country (where the raw material “agave” grows) are entitled to produce Tequila
- Over 190 million liters of Tequila are produced annually, giving direct employment to over 36,000 Mexicans





## SMEs Division Policies & Strategies

### WIPO's SMEs Division

- In September 2000, the WIPO Assemblies approved the proposal of the International Bureau that:
  - certain activities planned for 2001 be realigned or refocused towards SMEs
  - “...a substantial new program of activities, focusing on the intellectual property-related needs of SMEs worldwide, be included in the draft Program and Budget for the next [2002-2003] biennium”
- SMEs Division established in October 2000

## WIPO's SMEs Division

- Main objectives of the SMEs Division:
  - Promote awareness of the IP system so as to enable SMEs to make informed decisions on how to fully exploit their innovative and creative potential by using the IP system
  - Improve the policy framework and business environment to make it conducive and easier for SMEs to use the IP system

## WIPO's SME Strategy (1)

1. Targeting a new audience (SMEs, SME associations, SME support institutions, etc)
2. Creating simple SME-friendly material (SME web site, SME guides, articles for magazines, etc)
3. Focusing on new areas (IP and financing, IP insurance, IP as business assets, etc)
4. Gathering and providing information (best practices on promotion of IP among SMEs, case studies on use of IP by SMEs, research studies on IP and SMEs)

## WIPO's SME Strategy (2)

5. Establishing new partnerships (with IGOs, NGOs, SME focal points in governments, SME associations, etc for the promotion of the IP system among SMEs)
6. Strengthening outreach activities of IP offices (by providing technical assistance in developing awareness raising campaigns, organizing seminars for SMEs, developing IP guides for SMEs, etc.)

## The SMEs Division's Website

- Over 500 pages of practical information for SMEs and SME support institutions
- Section on "IP for Business": questions and answers on practical issues of concern for SME entrepreneurs
- Section on "Best Practices": experiences of institutions providing support to SMEs
- Section on "IP and e-commerce": practical advice to SMEs concerning IP and e-commerce
- Section on "Case studies": compilation of case studies of SMEs that have benefited from the use of the IP system

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### Welcome to the SMEs Website

Have you ever wondered what is "intellectual property" or what relevance it could possibly have to the creation or success of a small or medium-sized enterprise (SME)? If yes, then you have come to the right place.

Here, we take a close look at intellectual property (IP) from the perspective of SMEs and analyze the possibilities offered by the IP system for improving their performance and competitiveness.

The web site also offers details on the activities of WIPO's SMEs Division and provides information of interest to SME support institutions.

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