



The Role of IP in Enhancing the Competitiveness of SMEs in the Textiles and Clothing Sectors: **A Stitch in Time...**

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www.wipo.int/sme



The focus is on **knowledge** in today's economy

- Knowledge, Weightless, Information, Digital or Service Economy
- **Factors of production:** Land, Labor, Capital, Intangibles
- Knowledge as **useful** Information (or Service)
- Information as a "**Public Good**"
- Information as Property



The challenge of **adding value** in today's economy

- Raw materials/ Inputs + Value addition= Value added output; **Profit**
- Value addition: **Better:** Functional/technological or aesthetic/non-technological
- Price; access/availability; consistency
- Individual, Enterprise (legal person), Chains, Networks
- Ownership vs. access to knowledge



Competition and Cooperation in Today's Economy

- Property: Right to Exclude/use/enjoy
- Share/leverage
- Physical vs. Intellectual Property
- **One to one vs. one to many**
- Physical manifestation/link to carrier/medium or fixation
- Functional, abstract shape, pattern, equivalent, class, set, related goods



Market-oriented Economy

- Playing Field: Unfair competition; **free riding**
- National Legal Systems: Diversity (bilateral/regional/ international treaties or agreements)
- **Adding Value : Meeting or exceeding market needs or expectations**
- Market research: Consumers' needs, competing products or substitutes, gaps
- Innovation as an element of marketing



Challenges in Today's Economy

- Government regulation, market participants and consumers; globalization, deregulation, quotas, tariffs, subsidies, market access or non-tariff barriers
- Supply exceeds demand; fickle demand, risk, lean retailing
- **Trust and relationships:** Consistency vs Innovation
- Changing needs: creativity and innovation
- Mass production, custom made, personalization, co-creation/designing
- Supply, demand, production, value chain or network
- Innovation/creativity: Customer, supplier, consultant, partner, competitor, standards, product liability, risk sharing, ownership



The Challenges to the IP System

- Expand, adapt, fine tune, harmonize
- New categories (Sui generis systems)
- National, regional or global
- National treatment vs. reciprocity
- Digital environment and E-commerce
- Legal jurisdiction, applicable laws
- Fit for purpose: Clear, fast, cheap and effective
- Simple and cogent



Intellectual Property in Today's Economy

- Over 80% of the market value of Microsoft derives from its intangible assets, especially its intellectual property assets.
- The value of the Coca-Cola trademark exceeds US\$ 60 billion.



Dr. Horst Fischer, Corporate Vice President, Siemens AG

“**Any company** wishing to **prosper** in the next (21st century) millennium will also have to **efficiently manage its IP portfolio**”.

“For this reason it has become **essential** that **every manager in the enterprise** - not just those working in the corporate legal department - **appreciates and understands not only what IP is, but how it can be more effectively exploited.**”



What are IP Rights?

- **Industrial Property Rights**
 - Patents and Utility Models (or “short-term patents”)
 - Trademarks
 - Industrial Designs
 - Geographical Indications
 - **Trade secrets**
 - Topographies of integrated circuits
- **Copyright and Related Rights**
- **Plant breeders rights: New Varieties of Plants**
- **Non-original database rights**



Definition: Identify Trade Secrets

Considerations in determining whether information is a trade secret:

- Whether known outside the company
- Whether widely known by employees and others involved with the company
- Have measures been taken to guard its secrecy/confidentiality



Identify Trade Secrets Contd...

- What is the value of the confidential/secret information to your company?
- What is its potential value to your competitors?
- How much effort and/or money spent in collecting/developing it?
- How difficult would it be for others to acquire, collect or duplicate it?



Definition

- Formula, pattern, device or compilation of information, unknown to others, that gives competitive advantage
- Common law or statute
- Unlimited Duration / No registration
- Cost (of maintaining secrecy, security, surveillance, litigation)
- Reverse engineering; independent development



Examples

- Unpatented inventions
- Future product designs/models
- Valuable nonpublic company documents: Drawings, blueprints, laboratory notebooks, test data and training manuals
- Marketing, purchasing, planning and customer information
- Financial, accounting, recruiting and legal information



Examples Contd...

- **Strategic plans**
- **Product concepts**
- **Financial reports**
- **Customer lists**
- **Employee files**
- **Engineering plans**
- **Production manuals**



Integrated Security Environment

- **Prioritize:** Identify key corporate assets “crown jewels”
- Integrate and balance security components in interlocking layers to protect against perceived risk profile
- Communicate, train, and educate employees to distribute ownership of the security process throughout the employees (weakest link)
- Monitor and reassess to adapt to changing risk profile



Protection Strategies

- Identify Trade Secrets
- Develop Protection Policy; Document it
- Educate Employees; Monitor Compliance
- Restrict Access
- Mark Documents
- Physically Isolate and Protect
- Maintain Computer Secrecy



Protection Strategies Contd...

- Restrict Public Access to Facilities
- Deal Cautiously with Third Parties; Confidentiality Agreements and Nondisclosure Agreements
- Be Careful and Consistent with Unsolicited Submissions
- Security/Trade Secret Audit; internal / external
- Coordination of integrated security enterprise-wide



What is a Brand?

In marketing terms it is:

The intangible, but real, value of words, graphics or symbols that are associated with the products or services offered by a business.



A brand represents the holistic sum of all information about a product or group of products.

It is a **symbolic construct** which typically consists of

- a name;
- identifying mark;
- logo;
- visual images or symbols; or
- mental concepts.



Simply, a brand is to ...

— distinguish a product or service.

➤ It is useful for *the marketer* to think of this as a set of **aligned expectations in the mind of its stakeholders ...**

- from its **consumers**,
- to its **distribution channels**,
- to the **people and companies who supply the products and services**.



Why branding is important for any Business?

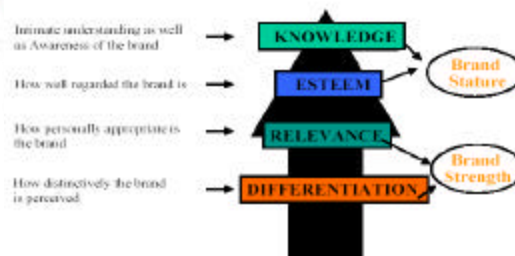
1. Gives a business a **significant edge over the competition**;
2. Makes the **customer** view your business as **the only solution to their need or problem**;
3. A strong brand will **engender feelings** of trust, reliability, loyalty and recognition in the customer's mind;
4. Through its brand image, a business will attract and **retain customer loyalty** for its goods and services and **increase the value of its business**.



How to Develop a Successful Branding Strategy ...

1. Develop a brand as a **part and parcel of your business plan**;
2. **Target what customers care about**: articulate precise values and qualities that are relevant and of direct interest;
3. **Emphasize features** that are both important to consumer and quite differentiated from competitors;
4. **Sell the brand outside and inside**: Motivate employees to identify with brand;
5. **Keep the brand flexible**;
6. **Communicate** the brand image at all levels of operations;
7. Use Intellectual Property Rights (IPRs), tools for branding, such as **trademarks, industrial designs and copyright**.

How Brands Are Built



Source: Association of Professional Design Firms, APDF, http://www.apdf.org/Public/Index.asp?Page_ID=74



A Brand — A Trademark

Trademark: Legal concept

Brand: Marketing concept

1. Registration of a trademark **add value** to your business.
2. Brand profile and positioning may vary over time, but trademark protection remains the same.



What is the relationship between a Brand and a Trademark?

The term '**brand name**' is often used interchangeably with "brand" or "trademark", **but...**

it is more correctly used to specifically denote written or spoken linguistic elements of a brand.

In this context, a "brand name" is the same as a **trademark**, if it helps customers to **distinguish and differentiate the product(s) marketed under that brand name from those of its competitors.**

A brand owner protects his proprietary rights in a brand name through its registration as a trademark.



IP Rights: Trademarks

- Trademarks:
 - A sign capable of distinguishing the goods (or services) produced (or provided) by one enterprise from those of others
 - Crucial to **differentiate products** from those of competitors
 - Basic pillar of any **marketing strategy**
 - Important for enhancing **recognition** and **reputation** of the product and for creating a **loyal clientele**
- Trademark registration:
 - Provides **exclusive right** to prevent others from making identical or similar products under the same or a confusingly similar mark
 - Duration: 10 years. **Can be renewed indefinitely.**



Types of Trademarks

- **Trade marks:** to distinguish goods
- **Service marks:** to distinguish services
- **Collective marks:** to distinguish goods or services by members of an association
- **Certification marks**
- **Well-known marks:** benefit from stronger protection;
- **Trade-name vs. Trademark.**



The link between Brand Equity and Trademark Protection

Brand Equity measures the **total value of the brand** to the brand owner.

Brand Equity is built on the foundation of a protected, that is, a registered Trademark

Often, a brand or a portfolio of brands is the most important asset of a business



Therefore, as an asset, a 'Brand' and/or a Trademark, may be...

...disposed of separately from the other company's assets (**it becomes a 'free-standing' asset**); and

... **give rights** that can be legally protected and exploited.



Using the Trademark as a Business Asset

Licensing: owner retains ownership and agrees to the use of the TM by other company in exchange for royalties > *licensing agreement* (business expansion/diversification);

Franchising: licensing of a TM central to **franchising agreement**. The franchiser allows franchisee to use his way of doing business (TM, know-how, customer service, etc.);

Selling/assigning TM to another company (**merger & acquisitions/raising of cash**).



Merchandising

- An Italian businessman buys unmarked t-shirts from manufacturers of generic clothing, attaches his trademark and begins to sell them to retail stores
- Started in a garage on the periphery of Rome
- Today, the Pickwick trademark is perceived by Italian teenagers as a synonym for style and quality
- Exports its products across Europe.



Certification mark



Case Study: "RUGMARK"

- Global non-profit organization working to end child labor and offer educational opportunities for children in India, Nepal and Pakistan
- RUGMARK label is assurance that no illegal child labor was employed in the manufacture of a carpet or rug



HELP CHANGE A SMALL PART OF THE WORLD.



Case Study: "RUGMARK"

- To be certified by RUGMARK, carpet-manufacturers sign legally binding contract to:
 - Produce carpets without illegal child labor
 - Register all looms with the RUGMARK Foundation
 - Allow access to looms for unannounced inspections
- Carpet looms are monitored regularly by RUGMARK
- Each labeled carpet is individually numbered
 - enables origin to be traced back to the loom on which is was produced
 - also protects against counterfeit labels



Case Study: "WOOLMARK"

- Registered by Woolmark Company
- Quality assurance symbol denoting that the products on which it is applied are made from 100% wool and comply with strict performance specification set down by the Woolmark Company
- Registered in over 140 countries





"Through ownership and licensing of the Woolmark, we provide unique worldwide quality endorsement.

Our brands and symbols are protected by rigorous and extensive control checks and recognized globally as unrivalled signs of quality and performance.

If a wool product carries our brands, it carries our guarantee of product quality."

Geographical Indications

- Sign used on goods that have a specific **geographical origin** and possess **qualities** or a **reputation** that are due to that place of origin (Soil, Environment, Skills)
- **Most commonly, consists of the name of the place of origin of the goods**
 - Country, region, city
 - E.g. Champagne
- **In some countries : can also be figurative element**
 - E.g. Eiffel tower, Egyptian pyramid
 - E.g. birds, animals associated with a place



How does a GI work?

- **Authorization to use**
 - Each enterprise located in the area has right to use
 - For products originating from that area ® **LINK**
 - Possibly subject to certain **quality requirements**
- **Link between product and place**
 - Place where product is produced (carpets, saris, industrial products, crafts)
 - Place where product is extracted (clay, salt)
 - Place where product is elaborated (liquor, cheese)



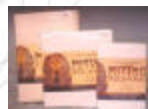
Typical examples:

- **Agricultural products** that have **qualities** that derive from their place of production and are influenced by specific local factors, such as **climate, type of soil, altitude**, etc
 - E.g. wine, champagne, cognac, port, sherry, whiskey
 - E.g. cheese, yoghurt
 - E.g. olive oil, ham, potatoes
- Also: **handloom and handicraft products**



Case Study: "Egyptian cotton"

- Logo: figurative elements and words
- 100% Barbados cotton
- Developed to promote and increase export of cotton products from Egypt
- 2001: Agreement
 - Egyptian Ministry of Ec and Foreign Trade + Alexandria Cotton Exporters' Association + 2 American textile companies
 - US companies authorized to use logo on their products made of Egyptian cotton in USA and Canada
- Export increased



Industrial Design: An Important Branding Tool

- Just as trademarks distinguish/differentiate your goods or services from those of the competition, so do industrial designs differentiate your products.
- Both are intellectual property tools that contribute to your **branding strategy** and therefore need protection.



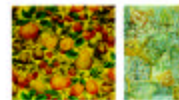
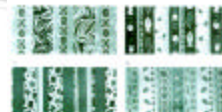
Industrial Designs

- Industrial Designs
 - Aesthetic features of a product
 - Must be new, original and have an individual character
 - Adds value to the product by making it more appealing to consumers.
 - Enables customization of products to specific markets or target groups (e.g. women, children, etc.)
- Design protection
 - Provides **exclusive rights** to prevent others from making, offering, importing or selling any product in which the design is incorporated
 - Duration: in the European Union up to **25 years** (unregistered design: 3 years).



Two-dimensional Designs

Ornamentation, patterns, lines or color on a product



Wallpaper, carpets, textiles, etc...



Industrial Designs



IP Rights: Copyright

- **Rights given to creators** for their **literary and artistic works**
- **Protected works:** books; newspapers; computer programs; databases; films, musical compositions; choreography; paintings; drawings; photographs; sculpture; architecture; advertisements; maps and technical drawings; **no registration**
- Generally protected for 50 years after the death of the author
- **Extent of overlap between copyright and design laws**



A Bundle of Exclusive Rights

Economic Rights

- Reproduce or make copies;
- Distribute to public;
- Sell, rent*, lease*, lend, license ;
- Display or perform to public ;
- Adapt and Translate

Inherit, Gift, Sell or License

Moral rights**

- Right of paternity: of acknowledgement;
- Right of integrity: to object against mutilation and/or distortion of work;

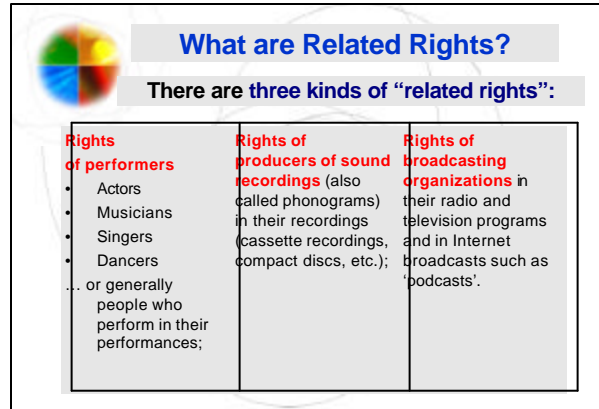
**** Moral rights cannot be transferred; but may be waived.**

* Generally applies only to certain types of works: i.e. Cinematographic works; musical works, or computer programs



Copyright Works

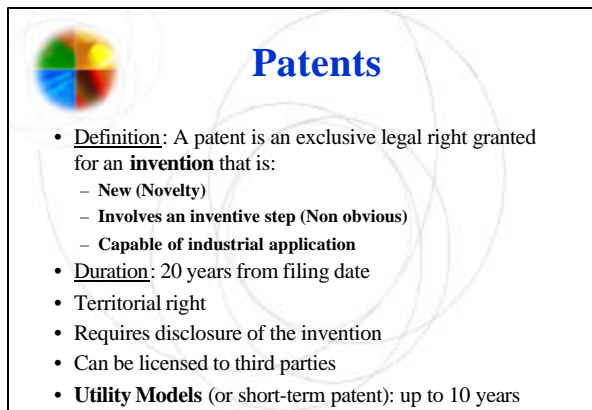
The diagram shows a central hub with five branches: Films, Literary, Dramatic, Sound Recording, and Artistic. Each branch is accompanied by a representative image: a film strip for Films, a book for Literary, a stage performance for Dramatic, a vinyl record for Sound Recording, and a painting for Artistic. A Music icon is also present at the bottom left.



What are Related Rights?

There are three kinds of "related rights":

Rights of performers	Rights of producers of sound recordings (also called phonograms) in their recordings (cassette recordings, compact discs, etc.);	Rights of broadcasting organizations in their radio and television programs and in Internet broadcasts such as 'podcasts'.
<ul style="list-style-type: none"> Actors Musicians Singers Dancers ... or generally people who perform in their performances; 		



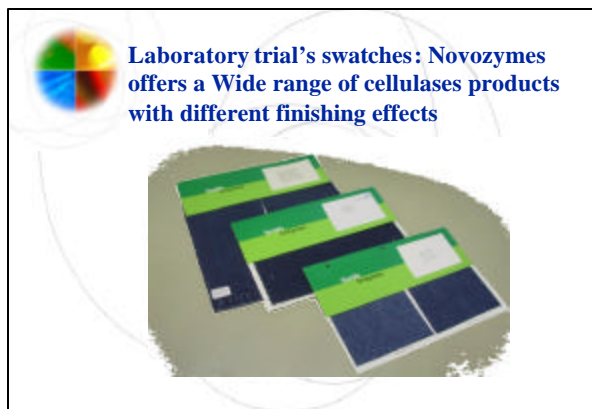
Patents

- **Definition:** A patent is an exclusive legal right granted for an **invention** that is:
 - New (Novelty)
 - Involves an **inventive step** (Non obvious)
 - Capable of **industrial application**
- **Duration:** 20 years from filing date
- Territorial right
- Requires disclosure of the invention
- Can be licensed to third parties
- **Utility Models** (or short-term patent): up to 10 years



Why seek patent protection?

- Market exclusivity
- To recover R&D investments
- Facilitates licensing
- Advantageous negotiating tool
- Financing opportunities (venture capitalists, etc)
- Favorable image and credibility
- Freedom to operate
- Higher market value and publicity
- International expansion



Laboratory trial's swatches: Novozymes offers a Wide range of cellulases products with different finishing effects

The image shows several rectangular fabric swatches in various shades of green and blue, arranged on a light-colored surface.



Jeans treated with different cellulases. Left to right: Light stonewash, Normal stonewash, Sandblast, Bleached, Overdyed.

The image shows five pairs of jeans hanging side-by-side, demonstrating different finishing effects: light stonewash, normal stonewash, sandblast, bleached, and overdyed.



Cellulase / Laccase / Bleach



Illustration of denims fashions.

Different shades and effect can be created through enzymatic stonewashing merely by changing the cellulases and combining other finishing tools.

Denim colour choices have changed over the years due to fashion on demand, enzymatic processing with cellulase has provided more possibilities in the industry



Cellulase treatment of cotton

Bio-Polishing



Control



Cellulase-treated



IP and Competitiveness

What are the factors that determine the success of a new product in the marketplace ?



International Fashion Machines; www.ifmachines.com

- First, second and third generation textiles
- Natural; synthetic; latest advances in materials, biological sciences, nanotechnology and intelligent systems
- Intelligent fibres, interactive textiles or smart fabrics/garments
- Clothes that can change color electronically to match our mood/camouflage



International Fashion Machines; www.ifmachines.com

- “As an MIT Media Lab startup, IFM possesses high levels of expertise in wearable computing, smart and electronic textiles, expressive software, materials, electronics, the latest computer and micro-technology, sensing, graphic design, interaction design and industrial design.
- This highly unusual combination of skills, as well as our **intellectual property [patents]** in smart textiles, makes us uniquely qualified to transform new and existing technologies into beautiful, practical and innovative products for the fashion and design industries.”



Factors determining the success of a new product

- The product provides **functional advantages**
- Price
- Attractive **design**
- Reputation of **brand**
- Available in the main retail shops
- Consistent product quality
- After-sales services



How should SMEs Respond?

- If functional improvements, attractive designs and a well-positioned brand are some of the features that may determine the success of a new product, what can an SME do to protect these and maintain its exclusivity over their use in the marketplace and deal with free riders?
 - **Prevention is the only Cure!**



Legal protection of IP grants exclusive rights

- **Innovation** - improvement of functional aspects or fabrication process of the product ⇒ **Patents, Utility Models**
- **Design** - the product's appearance ⇒ **Industrial Designs**
- **Brand** - commercialization / marketing of the product ⇒ **Trademarks**



Intellectual Property Rights

- Innovative functional features → **Patents or utility models**
- Design / aesthetic aspects → **Industrial designs**
- Brands → **Trademarks**



SMEs and Global Economy

- In the new knowledge economy, intangible assets, including innovative ideas, confidential information and know-how have become key business assets.
- In the USA, SMEs contribute 2.38 times more innovations per employee than do larger firms (Source: OECD)
- SMEs are proven innovators in the broad sense



Competitiveness of SMEs

- In the knowledge economy, competitiveness of an enterprise is increasingly based on its ability to provide **high-value-added products and services at a competitive price (More for Less)**
- Globalization and trade liberalization has made it crucial for SMEs to become **internationally competitive** even while operating exclusively in the local or domestic market



Competitiveness of SMEs Contd...

- To become and remain internationally competitive, SMEs also need to improve faster than their competitors in improving efficiency, reducing costs and developing trust in relationships:
 - Investing in research and development
 - Acquiring new or improved technologies
 - Improving logistics and management practices
 - Developing creative and appealing designs
 - Effectively branding and advertising their products and services as part of their branding strategy



Competitiveness of SMEs Contd...

- Any or all these actions require SMEs to make significant investments.
- Without **intellectual property protection** there is a **big risk** that investments in R&D, product differentiation and marketing will be **copied by competitors**
- Intellectual property enables SMEs to have exclusivity over the exploitation of their innovative products, their creative designs and their brands, thus creating an appropriate incentive for investing in improving their **competitiveness and profits**



How IP 'adds value' to your business?

- Providing exclusivity over product or design: greater market share
- Increasing revenue (through licensing)
- Enhancing market value of the firm
- Enhance image of the company
- Help in raising funds
- Access to new markets



Key Message

It is important for an enterprise to establish a culture of identifying, protecting, cultivating and strategically leveraging its IP assets so as to increase its revenues, have an edge over its competitors, and position itself well in the market to become and remain profitable.

Ignoring IP altogether is in itself an IP strategy that may prove costly to the enterprise in the long-term.



WIPO SMEs Guides

- Making a Mark (Trademarks)
- Looking Good (Designs)
- Inventing the Future (Patents)



A New Multimedia Product

IP PANORAMA (Ten Modules)

www.wipo.int/sme