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Secrecy: the IP right most often used by SMEs

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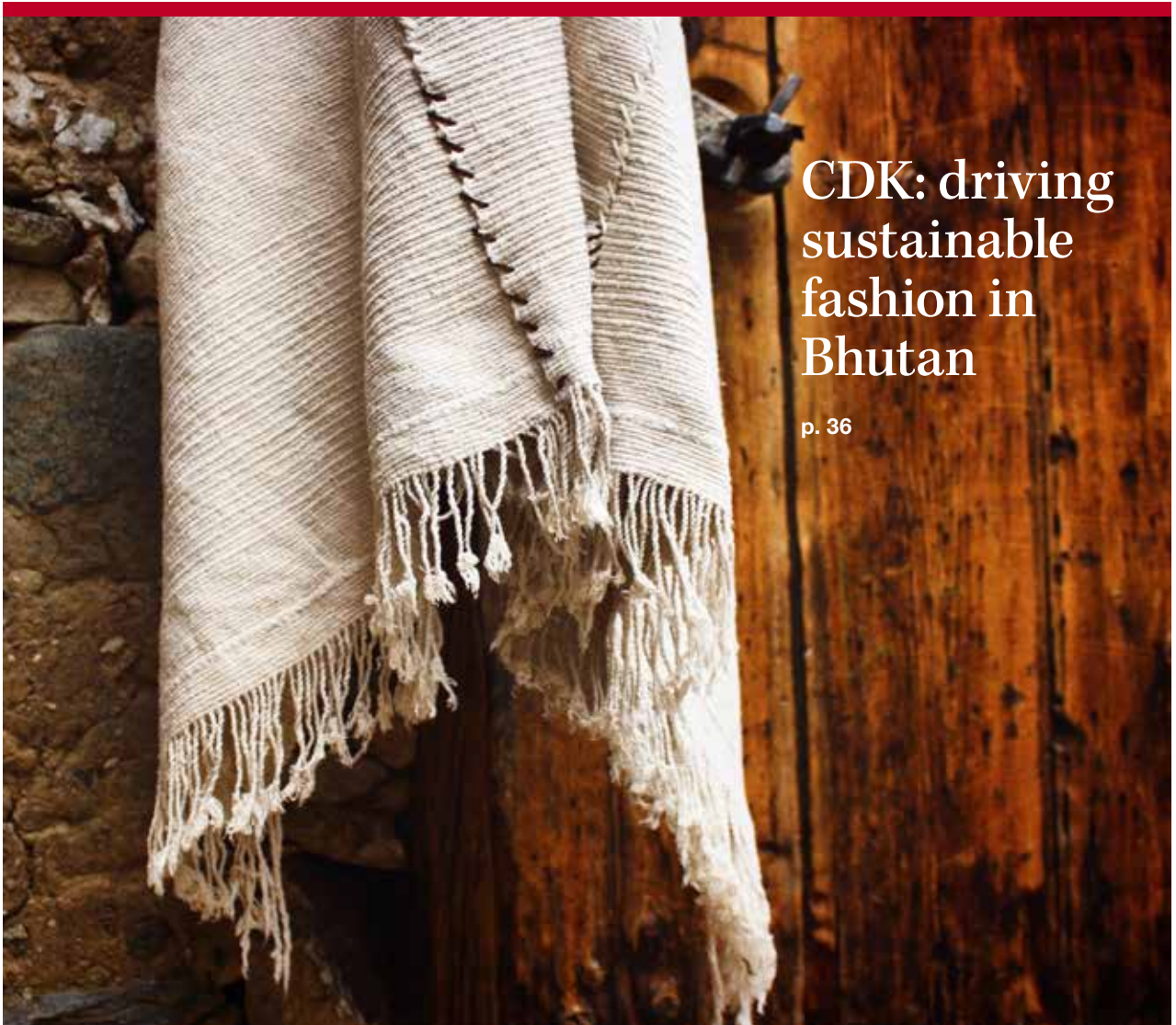
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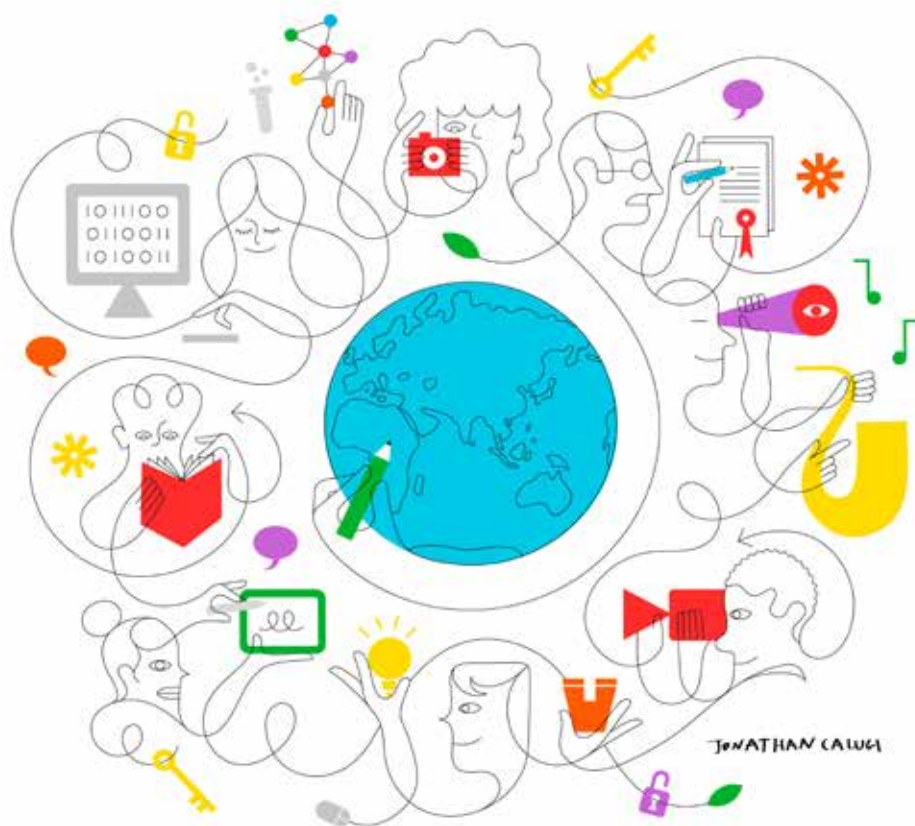


CDK: driving sustainable fashion in Bhutan

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IP and SMEs:

Taking your ideas to market



World Intellectual
Property Day 2021
April 26

#worldipday
wipo.int/ipday

SMEs are the backbone of national economies. They represent around 90 percent of the world's businesses, employ around 70 percent of workers globally and make up around half of the global economy.

Studies show that when businesses acquire and use IP rights effectively, they do better. Yet many SMEs still don't know how IP can help them turn their ideas into marketable business assets or how IP can help them compete and grow.

At a time when the imperative of economic recovery is high, World Intellectual Property Day 2021 shines a light on the critical role of SMEs in the economy. It also takes a

closer look at how SMEs can use IP rights to build stronger, more competitive and resilient businesses.

This special focus issue of the WIPO Magazine surveys some of the challenges and opportunities for SMEs in using IP. We also explore how selected SMEs are using IP to advance their business goals.

For more on World Intellectual Property Day, see www.wipo.int/ip-outreach/en/ipday.

Join us on Twitter (#worldipday), Facebook (www.facebook.com/worldipday) and LinkedIn (www.linkedin.com/company/wipo/).

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Editor: **Catherine Jewell**

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Secrecy: the IP right most often used by SMEs

By **Stefan Dittmer**, Partner, Dentons, Germany, and **James Pooley**, Professional Law Corporation, USA, Members of the ICC Commission on Intellectual Property, International Chamber of Commerce (ICC)

Most kinds of intellectual property (IP), such as patents, copyrights, trademarks and designs, are rights granted by a government. But there is another right that depends only on the choice of an individual business: secrecy. The law protects someone who shares information in confidence with another, but does not require that it be registered with any agency. If there is a dispute, the legal system will sort it out.

Trade secrets have been part of commercial transactions for centuries, as a common and practical way for a business to maintain a competitive advantage. While other forms of IP are carefully limited to creative works that meet a very specific set of requirements, protection for secrets applies broadly to any information that is secret, that has some commercial value, and that the owner has taken some steps to maintain in confidence.

It is this breadth and flexibility of secrecy that make it so attractive, in particular to smaller organizations that may not have the budget to build a portfolio of registered IP rights. Every restaurant can have its secret recipes. Every beauty salon has its customer list and knows the individual preferences of its patrons. Every furniture maker has “tricks” to increase the efficiency or quality of the finished goods. More recently, secrecy has been identified as a means to protect unstructured data, for example, machine data produced in large quantities and used to fuel automation, or algorithms, another key component of the digital industry.

An introductory article about trade secrets from an earlier edition of the WIPO Magazine, is available at: www.wipo.int/wipo_magazine/en/2013/03/article_0001.html.

HISTORICAL BACKGROUND

The laws of most countries, following the standards laid down in the Agreement on Trade Related Aspects of Intellectual Property Rights (the TRIPS Agreement) protect obligations of confidentiality in business transactions. The reality of continuing relationships means that the vast majority of those obligations are respected by the participants.

The breadth and flexibility of trade secrets make them attractive to SMEs – including restaurants that may want to protect their secret recipes – that may not have the means to register IP rights.



Photo: grandriver / E+ / Getty Images Plus

“Trade secrets have been part of commercial transactions for centuries, as a common and practical way for a business to maintain a competitive advantage.”

In the United States, trade secret laws had traditionally been a matter left to the individual states. A Uniform Trade Secrets Act was proposed to the states in 1979 and since then has been widely adopted, but with varying provisions that made enforcement on a national scale fairly complicated. In 1996, the federal government enacted the Economic Espionage Act, but it was limited to criminal remedies. Twenty years later, the US Congress passed the Defend Trade Secrets Act of 2016 (DTSA), which for the first time, gave trade secret holders the option to file civil claims in federal court, offering a number of procedural advantages over state courts.

In effect, the DTSA has harmonized the rules that apply to trade secret disputes, and the number of cases brought in federal court has surged. As is true in other areas of commercial litigation in the United States, a claim can be made based on circumstances that “plausibly” infer that the defendant has misappropriated a trade secret. After that, a broad array of “discovery” methods, including extensive document production and pre-trial taking of sworn testimony from witnesses, is used by both sides to uncover the relevant facts. Although this easy availability of discovery allows trade secret holders to more effectively enforce their rights, it makes litigation in the United States generally more expensive than in any other country. Coupled with the sometimes-uncertain outcomes and generous damage awards due to the availability of civil lay juries, this environment can be intimidating for companies from other jurisdictions that are used to the more modest cost and predictability of the civil law framework that does not allow for discovery or juries.



Protection for trade secrets applies broadly to any information that is secret, that has some commercial value, and that the owner has taken some steps to maintain in confidence.

Almost at the same time as the DTSA was adopted in the United States, the Directive on the Protection of Undisclosed Know-How and Business Information (Trade Secrets) against their Unlawful Acquisition, Use and Disclosure (Directive (EU) 2016/943 of 8 June 2016, or “EUTSD” for the purposes of this article) entered into force.

Before that, the national laws of EU member states, similar to the laws of any major economy, protected trade secrets one way or another. However, the fragmentation of the legal landscape across the EU was identified increasingly as an obstacle to cross-border technology transfer and R&D or, more generally, innovation.

Pressure from industry and business associations, but also growing political support for the idea of harmonization, not the least the “Europe 2020 Flagship Initiative Innovation Union,” paved the way for adopting the EUTSD. It has been implemented by EU member states. Although full harmonization was not intended or achieved, companies doing business in the EU can expect to find national legal regimes in the member states that are reasonably identical or similar across the entire EU.

Inevitably, the process of introducing the EUTSD reignited the discussion as to whether secrecy is an IP right, after all. It is, in many aspects, an academic issue because even those who question that quality of secrecy treat it in many respects *like* an IP right. Contrary to the prevailing legal doctrine in the United States, the EU decided against qualifying secrecy as an IP right. As a consequence, Directive 2004/48/EC on the enforcement of intellectual property rights, better known as the Enforcement Directive, does not apply. While individual EU member states, notably Italy and Slovakia, decided otherwise, the practical relevance of this inconsistent approach is limited in that the EUTSD stipulates an enforcement regime quite similar to that of the Enforcement Directive.

This seemingly coordinated effort on both sides of the Atlantic to improve trade secret enforcement was the subject of a study (www.iccwbo.org/publication/trade-secrets-report/) by the International Chamber of Commerce published in 2019.

Recent reform and upgrading of trade secret laws has not been limited to the EU and the United States. In 2018 and again in 2019, China made significant amendments to its Anti-Unfair Competition Law to expand the definition of a protectable trade secret and to increase penalties for theft, including the availability of punitive damages. China further refined its law to address the trade secret owner's challenge of developing sufficient evidence by declaring a "preliminary" showing of misappropriation sufficient to trigger a requirement that the defendant prove independent development of the information.

TRADE SECRETS AND SMES

What does all of this legislative activity directed at strengthening trade secret laws mean for SMEs? There are two general consequences. First, the subject of protecting competitive advantage by secrecy has received more attention than ever before, with the result that more resources are available to assist SMEs in managing this often-overlooked aspect of intellectual property. Second, businesses of all types and in all countries are challenged to take advantage of this easy-to-use approach, not only to protect their own data, but to avoid unwanted exposure to the trade secrets of others.

Protecting an SME's competitive advantage by using secrecy requires awareness of what information needs to be protected to retain that advantage, and of the measures available to reduce the risks to its secrecy. Legislation poses virtually no limit to the kind of information that can be claimed as a trade secret; it can be *any* kind of information, as long as "it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question" (the TRIPS Agreement, Article 39), and derives from its secrecy some actual or potential commercial value. Of course, the information must be distinct from individual skill, which is outside the scope of legal protection.

“Protecting an SME’s competitive advantage by using secrecy requires awareness of what information needs to be protected to retain that advantage, and of the measures available to reduce the risks to its secrecy.”

The more challenging aspect is to identify and apply security measures that are "reasonable," since every control brings with it a certain cost, either in money or efficiency or both (consider, for example, the annoyance of dealing with two-factor authentication, in which you have to wait for a unique code to be sent to your phone). What is reasonable under the circumstances will be decided ultimately by a court taking into account a company's risk environment, the value of the information, the threat of loss and the cost of measures to mitigate the risks.

To identify its most important trade secrets, the business should consider the value of the information, measured by the investment made to develop it, the potential advantage it provides over the competition, the potential damage from loss of control, its exposure to any form of reverse engineering (which is, in principle, allowed in most jurisdictions), and/or the likelihood that a competitor might independently discover or develop it.

Once information has been identified as a valuable trade secret, the company needs to carry out realistic risk assessments to determine appropriate security controls. Introducing different classes of information with corresponding security measures can be useful to structure the process of managing trade secrets. Other parts of this process may include labeling the information in accordance with its classification, restricting access to those with a need to know, applying other physical and electronic safeguards and using properly drafted confidentiality (or non-disclosure) arrangements in situations where information must be revealed to a supplier or other business partner.

In the EU, the adoption of Regulation (EU) 2016/679 (General Data Protection Regulation) helped to raise companies' awareness for data security. Technical and organizational measures, mandatory under the General Data Protection Regulation (GDPR), Article 32, to protect the secrecy and integrity of personal data, can also be "reasonable steps under the circumstances" to preserve the confidentiality of trade secrets.

SMEs, for the very reason that they often rely on secrecy rather than registered rights to protect their IP, are particularly prone to the threat of becoming targets of industrial espionage. For them, it is essential to not only apply high levels of cyber security, but to update and upgrade them regularly to remain on top of technical developments. After all, what is "reasonable under the circumstances" is subject to change due to technical progress and the relative value and threat variables, which may change over time.

While cyber-crime is on the minds of many businesses, the most prevalent threat to the preservation of secrecy are individuals who, while employed by the company (or by a trusted supplier), legitimately hold or have access to the information, but leave the company and carry the information to their new employer. In addition to contractual confidentiality obligations that should be standard in any employment agreement, IT surveillance within the limits of employment and data privacy legislation, frequent training on applicable duties, and a diligent exit process, including exit interviews, can help mitigate the risk. So can an established and well-communicated practice of strict

enforcement in cases of security breaches. And not to forget that third party information illegally brought *into* the company by new hires also poses a threat to the company's position, making it important that recruiting and on-boarding processes are reviewed.

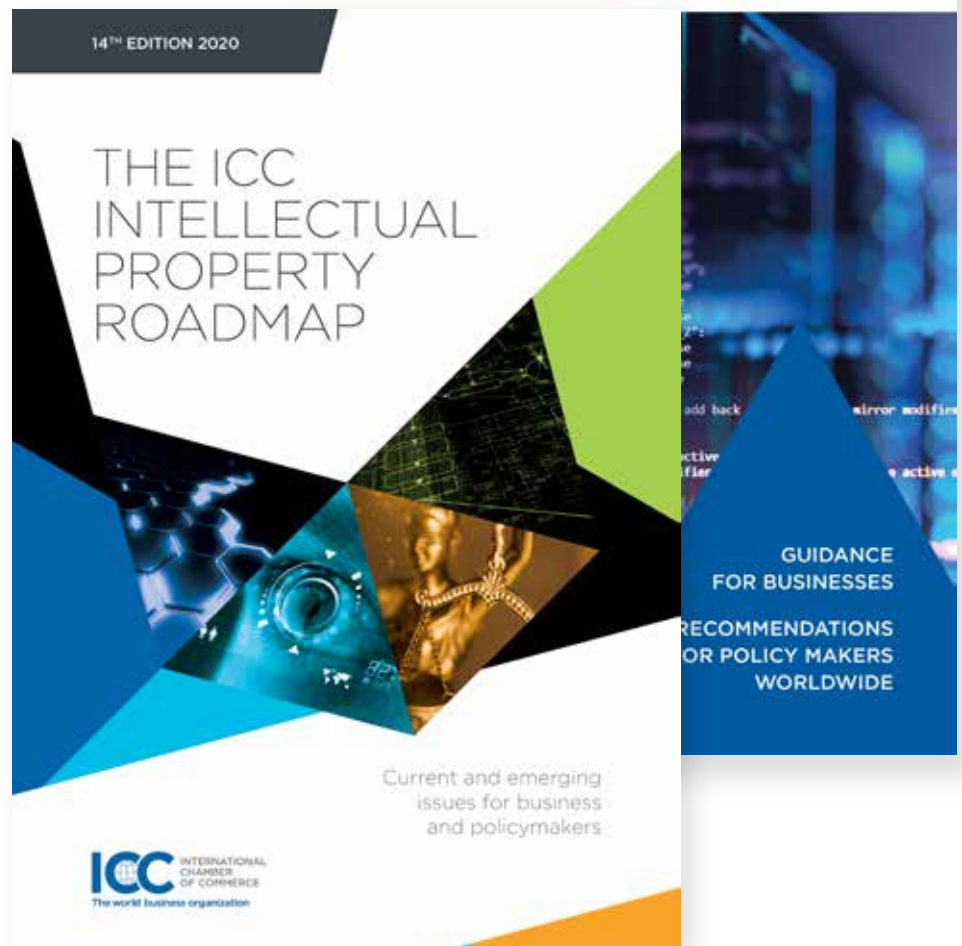
Thanks to recent improvements in trade secret laws around the world, SMEs have more options and opportunities to increase enterprise value and prevent loss of data assets by using the IP right that is entirely in their control: trade secrets.

FURTHER READING:

Protecting Trade Secrets – Recent EU and US Reforms (available at: <https://iccwbo.org/publication/trade-secrets-report/>).

Current and Emerging Issues for Business and Policymakers (available at: <https://iccwbo.org/publication/icc-intellectual-property-roadmap-current-emerging-issues-business-policymakers/>).

**PROTECTING TRADE
SECRETS – RECENT EU
AND US REFORMS**



Practical IP considerations for SMEs on their journey to market

By **Audrey Yap, President**, Licensing Executives Society International (LESI), Singapore



Photo: mustbeyou / Alamy Stock Photo

The main way for companies to get the support they need to take their ideas to market successfully is to build a portfolio of IP rights," says Audrey Yap, President of LESI.

The ability of small and medium-sized enterprises (SMEs) to embrace intellectual property (IP) and all it represents, as they continue to evolve and innovate, will be key to the economic future of many industries and countries.

In these times, we cannot talk about the economy without mentioning the impact of the Covid-19 pandemic. Many companies, and SMEs in particular, have been hit hard, especially those operating in sectors involving physical interaction and travel. In most countries, SMEs make a significant contribution

Photo: Courtesy of LESI



“In the post-Covid world, IP will remain an enduring focus as companies continue to prioritize investment in business models built around digital technologies,” says Audrey Yap, President of LESI.

“While SMEs are creative and innovative, many forget to think about building a portfolio of IP rights to protect the very ideas that help them generate revenue and wealth.”

to the economy. They represent 90 percent of businesses and more than 70 percent of employment worldwide. So, understanding and supporting SMEs is critical.

DIGITIZATION GATHERS PACE

A recent survey conducted by Ocean Tomo, published in LESI’s *les Nouvelles* February 2021 edition shows that Covid-19 has accelerated the digitization of the global economy. Telemedicine, telework and online education have become commonplace during the lockdown of many countries.

Online shopping has grown exponentially and working from home, which is now “the new normal,” is accelerating demand for online conference such as Zoom, Skype, WebEx, WeChat, DingTalk and many others. These developments underscore the importance of IP. Indeed, it is thanks to the incentives embedded in the IP system, that we have been able to readily access these and other technologies and to stay in touch with each other.

IP COMMERCIALIZATION ON THE RADAR

In the post-Covid world, IP will remain an enduring focus as companies continue to prioritize investment in business models built around digital technologies. This trend will continue to drive the economic inversion that the growing ascendancy of intangible assets represents as they displace tangibles as the key source of market value in the global economy. Ocean Tomo estimates that intangible assets now account for 90 percent of all business value.

It is most timely, then, that WIPO has chosen *IP and SMEs: Taking your ideas to market* as the theme for this year’s World Intellectual Property Day celebrations. When nurtured and supported in the process of translating their ideas into marketable products and services, SMEs can emerge stronger and more resilient.

Commercialization of IP has been the business of the Licensing Executives Society (LES) for over 50 years. Training, education, sharing best practices and, in particular, expanding the number of IP deals that take place around the world, is what has enabled LES to progress. I am proud to serve as President of LES International (LESI), an LES umbrella organization with 33 chapters covering 90 countries.

ENCOURAGING GREATER USE OF IP BY SMES

Getting products and IP assets to the market raises myriad issues and requires a coherent and well-oiled ecosystem; one that WIPO is well placed to influence through its work. LESI is happy to partner with WIPO in moving towards that goal.



Achieving that goal, however, will hinge, in large part, on convincing the global SME community that IP rights are central to their business interests. While SMEs are creative and innovative, many forget to think about building a portfolio of IP rights to protect the very ideas that help them generate revenue and wealth.

IP rights encompass a bundle of different categories in law that protect different aspects of an invention or a creative work. For example, patents protect innovative technologies while trademarks help protect the reputation, goodwill and identity of the producer (the source of goods or services) and ensure quality for consumers. SMEs need to understand what IP rights do and how they can help them achieve their business goals.

Building a portfolio of IP rights that bears fruit requires forethought and careful planning; the seeds need to be planted at an early stage for the trees to grow and bear fruit.

PERSPECTIVES ON IP

IP rights are legally driven; they do not operate without the existence of a strong legal infrastructure at national, regional and international levels. Arguably, however, the intellectual assets that IP rights protect are people-driven, covering all products of the mind.

“In today’s hyper-competitive global market, it isn’t enough to invent great breakthroughs or useful products; businesses need to understand the value of what they have, how to sell their intellectual assets, and indeed, how to price them,” notes Audrey Yap, President of LESI.



Photo: Asia File / Alamy Stock Photo

Some commentators argue that the potential value of technology and intellectual assets can only be fully realized if accompanied by people-centric perspectives (see *People as Enablers*, by Thomas Bereute *et al*, *les Nouvelles* June Edition 2020). The authors submit that management of the human factor is what achieves value realization through business transactions that are innovation and IP driven. Why? Because business owners, decision makers and IP managers support and complement each other throughout the process. That is why SMEs need to:

- know what IP is and have a clear idea of the intellectual assets they may possess to drive the growth of their portfolio of IP rights;
- get their people involved early and preferably in an integrated fashion; and
- protect their intellectual assets with IP rights to create a strong foundation for IP-driven commercial transactions.

COMMERCIALIZATION MEANS KNOWING HOW TO BECOME “IP ATTRACTIVE”

In today’s hyper-competitive global market, it isn’t enough to invent great breakthroughs or useful products; businesses need to understand the value of what they have, how to sell their intellectual assets, and indeed, how to price them.

A quote from Douglas C Engelbart, computer pioneer and inventor of the mouse, underscores the importance of understanding the market and when and where to deliver a product. He wrote:

“Stanford Research Institute patented the mouse but they really had no idea for its value. Some years later I learned that they had licensed it to Apple for something like USD 40,000”.

What sum might Stanford Research Institute have been able to command from Apple with a better understanding of the commercial potential of its invention?

BUILDING A PORTFOLIO OF IP ASSETS: AN IMPORTANT FIRST STEP

Interestingly, the main way for companies to get the support they need to take their ideas to market successfully is to build up a portfolio of IP rights. If there are no IP rights to begin with, then a company is unlikely to attract investors (who need assurances that they can make a return on their investment) or licensees. A savvy licensee will ask, why pay for something when it can be copied or reproduced for free?

When commercializing IP assets, it is important to remember that filing an application for IP rights is just one, albeit important, step in the process. Commercialization goes far beyond owning a patent or a trademark. That is why it is so important for SMEs to develop cohesive IP strategies that put IP management systems into place and that anticipate the need, as required, for the valuation of their IP portfolio.

“Building a portfolio of IP rights that bears fruit requires forethought and careful planning.”



“When licensing technologies from others for use in their company, especially when budgets are tight, SMEs need to have a clear understanding of the technology they are licensing or have acquired.”



Photo: wnjay_woothisak / iStock / Getty Images Plus

USING IP TO BRIDGE INNOVATION GAPS

The journey to market is one that it is best not to undertake alone. There are a huge number of commercial opportunities out there. A company's ability to take advantage of them often means working with others to resolve technical problems and bridge innovation gaps.

A willingness to collaborate with others and to exchange technologies with them through cross licensing deals, for example, can enable businesses to scale up their operations. Some may query the value of open innovation, but it has its role in the emerging IP ecosystem that enterprises need to work and play in if they want to grow. How entrepreneurs harness open innovation is part of the all-important IP strategy that all businesses need to have in place when taking their ideas to market.

A MORE INTEGRATED APPROACH TO IP CAN YIELD DIVIDENDS

Entrepreneurs often worry about "speed to market" and push for quick development of products and services; a concern that is further compounded by the breakneck speed of technological development.

A deeper appreciation of the need for rapid innovation will help smaller businesses develop a more integrated approach to securing access to the technology they require to remain, or indeed, excel in the market.

In this context, the question of whether to license a technology (from another company), either to advance in-house product development or to monetize existing IP assets, becomes a strategic decision. That's what large companies like Apple, Facebook and Google do. Why shouldn't SMEs do the same? Owners of smaller businesses need to start asking these same questions. But that's just the beginning. When licensing technologies from others for use in their company, especially when budgets are tight, SMEs need to have a clear understanding of the technology they are licensing or have acquired. This is crucial.

RENEWED FOCUS ON TECHNOLOGY TRANSFER

One remarkable outcome of the Covid-19 pandemic is that governments around the world, especially those with limited R&D capabilities, are starting to encourage technology transfer for their local companies.

In *Transfer of Technology: UNCTAD's Code of Conduct (International Lawyer Vol 19. No. pp 689-707)*, Pedro Roffe defines technology transfer as:

"The transfer of systematic knowledge for the manufacture of a product, for the application of a process or for the rendering of a service. Transactions involving the mere sale or the mere lease of goods are specifically excluded." (Emphases mine.)

Many countries are now seriously looking into this to see what needs to be licensed to create local capabilities, spur business growth and support economic recovery.

WIPO's continued engagement with IP offices and other stakeholders around the world to strengthen innovation and IP ecosystems is extremely important and to be applauded.

SINGAPORE'S DRIVE TO ENHANCE ITS INNOVATION CAPABILITIES

In Singapore, where I am based, the national IP Office (IPOS), on whose Board I sit, takes technology transfer very seriously. Indeed, it is at the heart of the national master plan to guide Singapore towards becoming a Global IP Hub in Asia and to enhance the country's innovation capabilities. As a result of significant investment in developing the country's innovation ecosystem, Singapore consistently ranks high in various independent innovation indexes, including WIPO's Global Innovation Index and Bloomberg's annual equivalent.

These rankings underscore the co-relationship between technological change and economic impact. Notwithstanding the significant progress made in its innovation journey, Singapore and other similar countries continue to face challenges, including in terms of their capability to understand and absorb the more complex aspects of technology transfer. It is important, therefore, to continue to drive efforts and to implement policies that effectively address these challenges. Such a focus will help ensure that investments made in R&D, innovation and technology transfer generate economic and social value.

SMES CAN STEER THEIR OWN IP JOURNEY

For their part, SMEs can help themselves by working with professionals who understand how to transfer technology cost effectively. They can also support their interests by joining networks, such as publicly funded research institutes, universities, SME associations or even a group like LESI, which is engaged in the business of educating and training businesses to advance IP globally.

Building strong local companies, especially SMEs, in core sectors is crucial for all countries. Helping SMEs understand the underlying value of the IP assets they create and the importance of protecting and effectively managing and using them to generate revenue or to scale up, is important work that needs to continue across the globe.

IP protection: building value and growth for small businesses

By **Julian Crump**, President of the International Federation of Intellectual Property Attorneys (FICPI)

There's a myth that protecting intellectual property (IP) is the preserve of larger firms and is unsuited to smaller and medium-sized enterprises (SMEs).

While large companies invest in IP for good reasons – to protect their products and services, discourage competition and create new revenue streams for themselves – IP undoubtedly benefits smaller businesses too.

In fact, the evidence is that SMEs that apply for patents, trademarks or designs are more likely to grow quickly and succeed than those that do not.

A 2019 EPO/EUIPO study demonstrated that SMEs that have at least one IP right are 21 percent more likely to experience a growth period. Meanwhile, a 2021 update to the study found that fewer than 9 percent of SMEs owned at least one of the three main IP rights (a patent, trademark and design). By contrast, the figure is close to 60 percent for larger firms. This reveals a shocking disparity in the use of such a valuable business tool.

THE VALUE SMES GAIN FROM PROTECTING THEIR IP ASSETS COMES IN MANY FORMS

As well as serving as the current president of FICPI, I am a Chartered UK and European Patent Attorney, and a partner in the firm of Abel + Imray in London, Bath and Cardiff, UK and Spain. To look for examples of SMEs that use IP protection as a key element of their business success, my partners and I reviewed our list of clients. We did not have to look far.

“SMEs that apply for patents, trademarks or designs are more likely to grow quickly and succeed than those that do not.”

The results are instructive and hugely encouraging for other SMEs:

- **Growing license sales and royalty revenue** – Several years ago, market-leading aircraft seating designers Acumen Design Associates, led by founder Ian Dryburgh, moved from a consultancy model, with revenue based on project fees, to also creating their own designs, which are then patented. Today, a major part of Acumen’s revenue comes from issuing licenses for the use of their protected designs – including a large deal in 2016 with United Airlines for business class seating.
- **Winning venture capital (VC) funding** – XYZ Reality Ltd., has won numerous accolades for a highly accurate, “engineering grade” augmented reality (AR) solution which ensures building construction matches exactly the architects’ drawings. Their solution avoids problems with traditional site setting-out methods and penalties for errors. The patent application was complicated, involving multiple disciplines from advanced engineering to AR and physics. A positive opinion on the application from the European Patent Office (EPO) helped XYZ Reality secure venture capital (VC) funding.
- **Making SMEs more valuable for acquisition** – Siltbuster Limited is recognized as the UK’s top provider of on-site water treatments and is a winner of the Queen’s Award for Enterprise. A big factor in its success has been the patenting of breakthroughs by the company’s founder, Dr Richard Coulton, who began with a vision of treating concrete wastewater at construction sites in a more environmentally friendly way. In 2018, the technology caught the eye of Workdry International, which ended up purchasing Siltbuster – and its IP.
- **From university research to university spin-out** – A research project at University College London investigating how to transfect cells using siRNA morphed into a small company, NanoGenics Limited. A few years – and several research cycles – later, NanoGenics developed *LipTide*[®] to target selected genes and better combat cancer. The company sold the associated IP rights for GBP 4.5 million (approx. USD 6.2 million), helping their cutting-edge medical development advance to commercialization.
- **Using trade secrets to stay under competitor radar** – Today, Rheon Labs Ltd., which makes protective body wear for high-impact sports, is a strategic and sophisticated user of IP. Initially, they relied on trade secrets to protect selected aspects of their IP, staying under their competitors’ radars (rather than filing patent applications, which are automatically published after 18 months). However, once others started encroaching on their field, Rheon Labs pivoted to patenting. This put their technology into the public domain, but in return they gained 20 years of exclusivity and their competitors must now devise their own new and inventive products if they wish to secure their own patents.

“Over and above the underlying product or service it protects, IP is a valuable asset in its own right. Indeed, it can become a company’s most valuable asset.”

Photo: Courtesy of Acumen Design Associates



Several years ago, aircraft seating designers Acumen Design Associates moved from a consultancy model (with revenue based on project fees), to also creating their own designs, which are then patented. Today, a major part of Acumen's revenue comes from issuing licenses for the use of their protected designs.

Photo: Courtesy of Rheon Labs Ltd.



Rheon Labs Ltd., who make protective body wear for high-impact sports, is a strategic and sophisticated user of IP.



Photo: Courtesy of NanoGenics Ltd.

NanoGenics Limited, an innovative, research-based gene therapy company, sold IP rights for its *LipTide* therapy for GBP 4.5 million (approx. USD 6.2 million), helping their cutting-edge medical development advance to commercialization.

Photo: Courtesy of XYZ Reality Ltd.



XYZ Reality Ltd., has developed a highly accurate, "engineering grade" augmented reality (AR) solution which ensures building construction matches exactly the architects' drawings. A positive opinion on the application from the European Patent Office (EPO) helped the company secure venture capital funding.

“IP rights create a protective wrapper around an intangible asset – locking in value and making it tradeable, through licensing, pooling, securitization or acquisition.”

- **Trademarks to underpin commercial partnerships** – The *Rheon Labs*[®] trademark was registered early, when pre-filing searches indicated there were few third-party rights that might prevent its use. As the company grew and moved into the realm of collaborations and commercial partnerships, water-tight non-disclosure agreements (NDAs) and design registrations were added to its IP estate. *Rheon Labs*[®] now has strong brand recognition, and the company benefits from valuable goodwill in its name. Registration serves to lock in that value, provides a visible sign of ownership, and facilitates co-branding with partners like Xenith LLC, a top American football helmet manufacturer, whose products now carry the *Rheon Labs*[®] trademark, and are recognized for reducing concussive impacts and associated brain injuries, alongside their own. Without registration and water-tight licensing arrangements, allowing a third party to apply your trademark to their goods would put you at risk of losing it. Registration typically protects a company’s marks for 10 years, but with the advantage that they can be renewed in perpetuity – as long as they don’t become generic terms.
- **Creating valuable IP assets to demonstrate market potential** – Ceres Power is a company with patented “deep technology” that has a wide range of clean energy applications and has become a hugely valuable asset. However, had commercialization specialists, IP Group Plc, not stepped in at a critical moment, the company would likely have declared bankruptcy following the failure of initial field trials. IP Group works with early-stage companies that own IP originating from university research to get them to a point where they can demonstrate the real-world viability of their technology to attract co-investment from large corporates and ultimately acquisition. IP Group’s Dr. Rob Trezona told me, “IP is a table stake. If our portfolio companies haven’t secured their IP rights, they won’t be able to raise finance. And typically, investors are looking for a number of patents rather than one or two.” Key to IP Group’s successful turnaround of Ceres was the realization that its world-class IP position would allow it to generate more value as a technology provider that jointly develops and licenses technology than as a vertically integrated manufacturing business. The company has partnered successfully with Bosch, Doosan and Weichai Power to develop products for data centers, distributed generation and heavy road vehicles, and is able to generate value for itself through license fees and royalties.

These examples illustrate how, over and above the underlying product or service it protects, IP is a valuable asset in its own right. Indeed, it can become a company’s most valuable asset. Without doubt, there will be countless other examples among the clients of other IP firms worldwide.

IP rights create a protective wrapper around an intangible asset – locking in value and making it tradeable, through licensing, pooling, securitization or acquisition. Without IPRs, investments made by companies in developing new products and processes

or even in simply devising new product ideas, are at risk. It's a bit like creating a beautiful garden without putting up a fence to keep the rabbits out!

Without the help of a specialist IP attorney, an SME is unlikely to be able to identify the important points of novelty or broad utility of their inventions, which are vital for a successful IP strategy, or may simply be defeated by the registration process.

Indeed, for SMEs, tackling IP protection can seem impossible. Seeking to obtain patent, trademark and design rights is complex. There are relatively few "self-filers", and of those few, the majority abandon their applications or are unsuccessful in gaining granted rights.

As a patent attorney, I obviously have a self-interest in pointing out the depth and sophistication of the services offered by independent IP professionals to SMEs.

However, given the stakes, the clear evidence that SMEs holding IP rights prosper relative to others that do not, and the all-too-frequent failure of SMEs to complete the application process on their own, the conclusion is clear.

SMEs should look to protect their IP assets to support and accelerate their growth by locking in the value of their IP and building intangible assets which can be used to underpin a wide variety of different business models, with innovation at their core.

Independent IP attorneys bring wide experience from advising a broad range of different clients. They can look beyond the immediate applications of an invention to focus on its points of novelty, giving the patents a longer useful life as the businesses they protect flex and adapt to new markets and are made more attractive to investors.

The investment an SME makes in partnering with an independent IP professional has a significant return, not only in terms of a successful application, but also for its future as the owner of IP rights.

NEXT STEPS

- Visit the WIPO website for a rich source of information on patents, trademarks, designs and other intellectual property rights.
- Find out whether the EUIPO pro bono programme of "free personalised intellectual property support" is suitable for your needs.
- Read FICPI's report *The IP Practitioner: adding value to innovation*, which neatly summarizes some of the ways that independent IP attorneys can add value to small businesses seeking to protect their IP rights.
- Find a qualified independent IP attorney in your country on the FICPI member database, most of whom will provide an hour or more free initial consultation.

Energysquare makes wireless recharging a reality

By **Catherine Jewell**, Information and
Digital Outreach Division, WIPO

Energysquare, founded in 2015, by three young French entrepreneurs, Daniel Lollo, Matthieu Poidatz and Timothée Le Quesne, is reinventing the way we charge our electronic devices. Their wireless-charging technology, Power by Contact[®], offers a smart solution for charging several devices simultaneously. Power by Contact[®] matches the performance of conventional chargers, optimizes energy use and means we will soon be able to say goodbye to the tangle of cables we need to power-up our electronic devices.

The company has built its business model around its expertise and know how. Thanks to its large portfolio of patents, it is licensing its award-winning technology to major international electronics manufacturers.

In 2020, Energysquare signed its first technology partnership with electronics giant Lenovo. The company's CEO, Timothée Le Quesne, shares Energysquare's experience in taking its technology to the market.

Tell us about your technology.

Unlike the induction charging solutions that are currently on the market, Power by Contact[®] operates by conduction, that is, the charge is made through direct contact between the device and the surface. This makes for a more efficient charge because there is no interference, no overheating, and no energy loss. Charging speeds are comparable to traditional methods.

Power by Contact[®] is a concentration of advanced microelectronics and algorithms. It allows users to charge all their electronic devices simultaneously on a single surface, without having to find the right cable or adapter to do so. Power by Contact[®] is the first technology to allow wireless charging of laptops. It also gives users access to data about which devices are being charged, when and where.

**“You can’t
license a
technology
if you don’t
own it
and it isn’t
protected
and
managed
effectively.”**

What prompted you to develop Power by Contact®?

Over the past decade, we've seen a huge increase in the number of battery-powered small electronic devices, and with that, an increase in the number of cables we use every day to charge them. Technology should make our lives easier, but the tangle of cables we need to charge our electronic devices – a consequence of poor ergonomic design – has created a poor experience for users. To resolve this problem, we set about building a seamless charging technology that allows users to power up their devices effortlessly, without the need to find and plug-in the right cable to do so.

What challenges did you face in breaking into the electronics market?

Convincing large industry players to adopt a brand-new technology is not easy, and bringing technology from the laboratory to mass production is always challenging. We have spent years developing a technology that meets the highest industrial standards and the needs of electronic device manufacturers.

We also had to face long sales cycles. It's also quite a challenge to introduce a new technology into products like cell phones and laptops, which involve complex production processes.

Energysquare is reinventing the way we charge our electronic devices. Their wireless-charging technology, Power by Contact®, offers a smart solution for charging several devices simultaneously.



Photo: Courtesy of Energysquare



Unlike the induction charging solutions, Power by Contact® operates by conduction, that is, the charge is made through direct contact between the device and the surface.



Photo: Courtesy of Energysquare

Since we license our technology to manufacturers – we don't actually sell any products, as such – we had to put a strong technology transfer service into place. This required a particular focus on protecting and managing our intellectual property (IP) assets. After all, you can't license a technology if you don't own it and it isn't protected and managed effectively.

At what stage did you realize the importance of intellectual property for your business?

When we first talked about licensing-out our technology to customers, we realized we needed a strong patent portfolio. Our ability to protect our R&D from A to Z is critical to our business model. That's why we have developed a strong portfolio of IP rights. We realize that patents are not enough and, certainly not the only way to build a strong IP strategy, so we have a holistic approach to IP. Our portfolio encompasses a range of different IP rights including patents, trademarks, trade secrets and copyright.

How are you using IP rights and how are they helping your business?

In our drive to build the next charging standard, we decided to build our company around a licensing business model so that as many device manufacturers as possible can adopt our technology. IP rights lie at the heart of a licensing business model and are crucial in terms of convincing and protecting both clients and investors.

We invested in developing our patent portfolio at a very early stage. IP is central to all our strategic, commercial and technical decisions. We have always benefitted from the support of external IP experts, but in September 2020, we decided to bring that expertise in-house. Our new Head of IP, Catalina Olivos, is now handling the many IP questions we are dealing with and ensuring that our business strategy and our IP are fully aligned and complementary. Every new move in our business strategy must be followed by a strategic move on the IP side.

What was the biggest challenge you faced in building your IP portfolio?

The most difficult challenge we faced was financing our patent portfolio, particularly when it came to protecting our technology in other countries. We faced a chicken and egg situation: to pay for our patent portfolio, we needed financing from investors, but investors needed to see that our technology was well protected before they would back us. This is a challenge that all young companies face. In our case, thanks to the support of French institutions, especially France Brevets, we were able to move forward. They saw the potential of our idea and supported us in building our dream.



Photo: Courtesy of Energysquare

In 2020, Energysquare signed its first technology partnership with electronics giant Lenovo.

What can IP offices do to support businesses like Energysquare?

IP offices play a key crucial role, especially in terms of supporting and encouraging young companies to invest in IP. Startups are often caught in a vicious circle, where without IP, nobody wants to invest in them, but without investment it's impossible to implement an IP strategy and for the business to survive. We would like to highlight the work of the national IP Office of France (INPI). We are beneficiaries of INPI's PASS PI program, which provides financial support to SMEs and offers assistance in areas of interest to them, such as developing technology landscapes, expert advice on contracts, and registering IP rights. In that sense, all the support that IP offices can offer entrepreneurs and innovators to guide them in the early stages of their development is always welcome.

What are some of the main lessons you have learned?

Investing very early in IP brings exponential value down the line. Your IP strategy is a long-term and structural approach that needs to be in place from day one. In the beginning, it seems to make no sense to invest so much time and money in something that offers no immediate return, but when you sit down and negotiate with a big company, you are very happy that you invested in your IP portfolio. It's impossible to attract the interest of a big investor if you haven't protected your innovations and creations, and aren't forward-looking in your IP strategy.

Why it is important for SMEs to focus on IP?

In specific markets, IP is the only way to compete with tech giants with much greater marketing and commercial strength. We decided not to produce our technology but to license it. Without IP, our business would not exist and we would not be able to compete. Our core business is our technology, our know-how, and our trademarks. Like many startups, we have faced a lot of difficulties and have had to invest a great deal. But now that our product is being launched by one of the biggest companies in the laptop sector, we know we made the right decision. Startups and SMEs, in general, are based on innovations that are the result of research and findings, which for the most part, change our lives. These endeavors must be protected so companies can get an equivalent return for all the time, energy and expense they put into developing them.

What advice do you have for other SMEs when it comes to IP?

Invest in IP from day one. It's hard, but it's the way to move forward. And don't only invest in patents, think about protecting your trademarks, which play a key role in the marketing side of your business. If you choose the wrong name, you can have a lot of problems protecting it around the world.

What are your plans for the future?

We have many plans. From the IP viewpoint, we are implementing a comprehensive IP strategy to cover everything from the research stage through to the marketing phase. We are always thinking about new features and applications for our technology and exploring new markets. We are very excited about the product launch of our first clients in 2021.

Despite the Covid-19 crisis, we have managed to continue our R&D work. Many new improvements are in the pipeline, but we can't talk much about them until the patents are published. Our short-term goal is to bring cable-less charging and connectivity technologies to workstations and meeting rooms. And in the longer term, our aim is for our technology to be the wireless-charging standard in the workspace and for other applications.

“In specific markets, IP is the only way to compete with tech giants with much greater marketing and commercial strength.”

App icons are the new trademarks: ten conditions for strong design and protection

By: **Zeeger Vink***, IP Director at MF Brands Group, Switzerland

Smartphones have revolutionized interaction between consumers and brands. App icons now play a pivotal role and serve to distinguish often and quickly between large numbers of rival apps. They are the new trademarks, and require a similar treatment. The following guidelines allow companies ranging from startup to multinationals to optimize app design and protection – a precondition for strong brands.

1. CHOOSE A DISTINCTIVE SIGN

Valid trademarks need to be *distinctive* to perform their function as commercial identifiers. Overly simplistic or abstract graphics are therefore unfit as a trademark, and may be refused by trademark offices due to their banal, decorative or functional character.

Illustration 1: App designs with limited inherent distinctiveness.



Square

Citymapper

Momondo

Zalando

YouTube

2. DON'T LET THE ICON DESCRIBE THE SERVICE: BE ORIGINAL

An icon that is composed of elements that describe the activities of the company, or that is otherwise visually generic, is unable to distinguish itself from competitors in the same category. It is therefore also unfit to function as a trademark, or will be weak and difficult to defend at best.

*Zeeger Vink is IP Director at the MF Brands Group (Lacoste) and author of *THE GREAT CATAPULT: How Integrated IP Management Will Shoot Your Brand to Success*. The article was originally published in *The Trademark Lawyer* and is the fruit of the Master's course in IP & Communication at the Sciences Po School of Management & Innovation; the author thanks the class of 2018 for their research contributions. All opinions expressed in this article are solely those of the author.

Illustration 2: Examples of visual descriptiveness.



WeatherPro WhatsApp Apple Music The Fork Microsoft OneDrive

This condition is somewhat counter-intuitive, as many marketers consider descriptive elements as logical entry points to guide consumers. Apart from the distinctiveness issue, a rationale for excluding such elements from registration as trademarks is that registration would give an unjustified monopoly to a single market player. It doesn't mean that descriptive app icons cannot function as trademarks at all, as testified by the fact that most people will recognize the icon for WhatsApp above. But that is due to intensive use and massive global attention, the luck that only a handful of companies will have. So why create a handicap from the start? The strongest trademarks are original logos, unrelated to the services provided.

Illustration 3: Examples of strong intrinsic distinctiveness.



Deliveroo Snapchat Twitter TripAdvisor

3. USE DISTINCTIVE COLORS

Colors are powerful identifiers and can contribute significantly to the power of trademarks. Stand out from the competition and choose one or more original colors as part of the mark.

Illustration 4: Distinctive use of color.



Instagram

Certain colors have become common identifiers for particular categories, for example green for communication apps and yellow for taxi apps. Staying away from the pack will guarantee enhanced distinctiveness, and thus trademark strength.

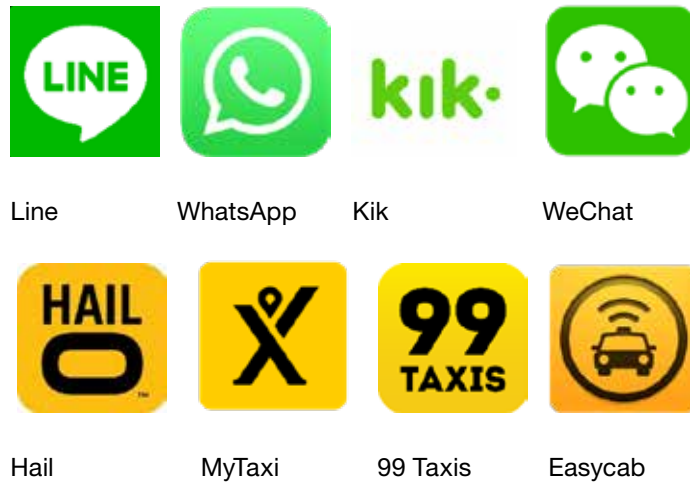
About *The Great Catapult*

IP is fast becoming the most valuable business asset: proprietary brands, design and content determine the success and longevity of companies. *THE GREAT CATAPULT* shows the way in this global reality. It summarizes, in plain business language, why IP is fundamental to brand-based companies, and provides hands-on advice on the actual organization of IP within a business.

Based on inside experience from some of the world's best-known brands, the book advocates for *Integrated IP Management*, the approach where IP steps out of its legal shell and aligns all operational functions to create a "catapult" towards a lasting competitive advantage.

The book's lessons provide a head-start for anyone managing a company – from startups to listed multinationals – and empowers all others involved in creating brand value, including marketers, investors and management consultants.

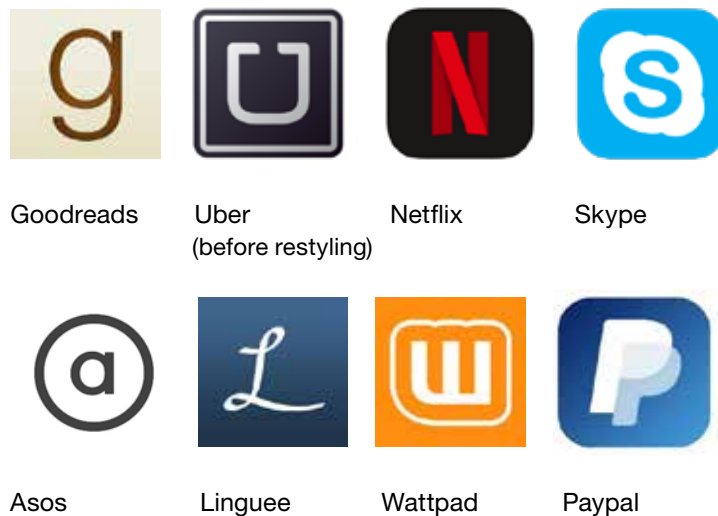
Illustration 5: Category colors weakening trademark strength: Communication and Taxi services.



4. DON'T FALL INTO THE "INITIAL-TRAP"

Limited space is a particular constraint for icon design: brand names are often too long to include. A common solution is to use the brand name's first letter in a specific font or style. While this may be an understandable solution for brands with high pre-existing brand awareness, it is a bad strategy from a legal protection perspective. The registered brand name does not provide protection for its initials. Trademark offices in many countries refuse trademarks for single letters. Even if your "initial-mark" does get accepted, you will not be able to avoid use of the same letter by a different app. Actually, it is highly likely that among the millions of existing apps, many already pre-date your initials!

Illustration 6: Alphabet soup.



Brands with short names or multi-letter abbreviations can safely choose them as a logo and count themselves lucky. A distinctive font or style will add to the trademark's strength.

Illustration 7: Distinctive letter combinations.



CNN

H&M

5. USE YOUR EXISTING COMPANY LOGO (IF SUITABLE)

In recent times, many companies have developed stand-alone eCommerce branding to underline their move into the “digital” sphere. Obviously, this approach is not ideal for brand coherence and may already have become obsolete in view of *omni-channel* strategies, which seek to merge online and offline in a uniform customer experience. Why not dust off the good-old company logo and adopt it as an app icon? It allows you to capitalize on accrued notoriety, consolidate existing rights globally, and avoid new trademark filings.

Illustration 8: Naturally extending established trademarks to the digital world.



Mercedes

Swiss railways

Nike

Chanel

6. BEWARE OF PRIOR RIGHTS

Before a new logo can be adopted as a trademark, it is crucial to make sure no prior rights exist, as these may form an obstacle for registration and use. An *availability search* will reveal any third-party trademarks that may pose a legal risk and could force expensive changes later on. But also check for other potential IP issues: official signs are often regulated (i.e. country flags; the Red Cross logo and more), and common symbols were once designed by someone, who may still have rights in them. Complicated? Look at it this way: if you want exclusivity, you have to be the first. That’s how IP works.

Illustration 9: Rights alert.



Mondocroix

Plague

7. OWN THE RIGHTS TO YOUR DESIGN

In line with point 6, you also need to make sure you own the rights to your *own* logo. In many cases, company logos are designed by a contractor, an employee or even a friend: all should formally transfer the related copyright and design rights to avoid future conflicts. And as a tip for business angels and other investors: make sure the app-founder transferred his or her creative rights to the company!

8. REGISTER!

Surprisingly few app-owners have registered their icons. Whether this is due to ignorance, oversight or the false assumption that the company name will suffice, only the registration of the actual icon will guarantee exclusivity and protection. Sure, registration comes with a cost, and startups in particular, often have limited budgets. But in the digital economy, intellectual property rights (IP) such as trademarks often represent the company's principal assets. Their protection is well worth the investment.

9. STICK TO THE DESIGN

Trademarks remain valid if they are used as registered. Consequently, changing the design of your registered app icon may result in the loss of rights. It is therefore advisable to stick to your app icon in the same way companies remain faithful to their brand logos. (Now you understand why they rarely change!). If you wish to maintain the freedom to refresh colors from time to time: file the icon-mark in black and white, as in most jurisdictions this automatically covers all colors. (Note: this will make distinctive app colors inoperable, see point 3.). If you do change your app design, don't forget to file new trademark registrations to ensure it is protected.

Illustration 10: Changing trademarks: Uber evolution.



10. ANTICIPATE TECHNOLOGICAL CHANGE

It seems logical to file an app mark in the shape that is so typical for current apps: a square with rounded corners. But don't forget that this shape is simply the result of the graphics chart imposed by iOS, Android, and other platforms. What if one day they change? It could potentially modify the use of your icon, thereby affecting the validity of your mark (see previous point). Similar effects can be imagined in cases where other types of interfaces become prevalent. To ensure your icon-mark withstands the test of time, it is wise to file it in a technology-neutral way, for example, in a standard (square) form and without claiming use as a "smartphone app" in the description.

To conclude, a glimpse into the near future: moving app icons may arrive sooner than you expect. And that will make the right IP strategy even more relevant.

Global Health Biotech: bridging the gap between science and business

By **Catherine Jewell**, Information and
Digital Outreach Division, WIPO

Photo: Courtesy of Global Health Biotech



The Global Health Biotech Team. From left to right:
Dr. Mapula Razwinani, Professor Keolebogile
Shirley Motaung and Dr Makwese Maepa.

Professor Keolebogile Shirley Motaung is a biomedical scientist and Director of Technology Transfer and Innovation at the Durban University of Technology in South Africa. In 2015, based on her own scientific exploration into the use of medicinal plants in tissue engineering of bone and cartilage, Professor Motaung founded Global Health Biotech (PTY) Ltd.

Professor Motaung's passion for biomedical research and its commercialization has won her many top awards in South Africa for bridging the gap between science and entrepreneurship. In 2020, for example, she was awarded the Shining Light Award for Science and Technology from the Motsepe Foundation. And in 2018, she won the Research for Innovation Award of the National Science and Technology Forum and also was voted Most Innovative Woman of the Year at the Gauteng Women of Excellence Awards. Professor Motaung discusses why it is so important to help ensure that university research translates into products and services that build new businesses and create employment.

What prompted you to start researching plant-based remedies to treat musculoskeletal injuries?

I have always had an interest in science and the musculoskeletal system and was curious to see how the medicinal plants that make up South Africa's rich floral heritage could be used to heal musculoskeletal inflammation and injuries. In 2010, my mother was diagnosed with osteoarthritis (OA), also known as degenerative arthritis. It's a common



Photo: Courtesy of Global Health Biotech



La-Africa Soother, a plant-based anti-inflammatory topical ointment that relieves muscle aches and joint pain. Global Health Biotech's top-selling product.

condition that affects millions of people around the world and occurs most commonly in the knees, hips, lower back, the neck, small joints of the fingers and the base of the thumb. In my mother's case, it was in her knees. Joint replacement (arthroplasty) is the recommended treatment for late-stage OA, but because the waiting lists for such operations in South African government hospitals are long, patients often have to live with chronic pain for years. My mother had to wait for four years before getting an appointment for knee surgery. By then, her condition had deteriorated so much that surgery was no longer an option. So, I wanted to find a way to alleviate the suffering that patients with OA have to endure.

And what prompted you to set up Global Health Biotech?

I had always dreamed of translating my research into a commercial asset. Setting up Global Health Biotech was an opportunity to do that. My own scientific research convinced me that medicinal plants could be used to engineer and regenerate bone tissue and cartilage. During my research I worked very closely with Dr. Johannah Mpilu, a traditional healer, and two doctoral students, who have since qualified, Dr. Makwese Maepa and Dr. Mapula Razwinani, and together we set up the company and developed our natural anti-inflammatory ointment, La-Africa Soother.

Two key factors drove me to set up the company. First, I wanted to demonstrate that it is possible to turn scientific ideas into commercial assets by setting up a spin-off from the University. And second, while I want to teach my students how to do research and become scientists, I also want to teach them how to become entrepreneurs. And by setting up Global Health Biotech, I was able to bring Dr. Makwese Maepa and Dr. Mapula Razwinani into the company, so they too could learn how to become entrepreneurs.

“These days, universities depend on government subsidies. That needs to change. Governments need to encourage universities to commercialize the IP that flows from their research.”

Tell us about your products.

Our top-selling product is a plant-based anti-inflammatory topical ointment called La-Africa Soother (LAS), which relieves muscle aches and joint pain. It is widely used by athletes, fitness enthusiasts and other physically active people. It is applied both before and after physical activity to prevent any anticipated muscle aches and pains. Unlike other similar products, it focuses on prevention rather than cure.

We are also developing a plant-based morphogenetic factor (PBMF) implant to heal damaged bone and cartilage tissue. It offers an alternative treatment to repair bone fractures, OA and other damaged bone and cartilage tissue. The medicinal plants we use are freeze-dried (lyophilized) and converted into an injectable biomaterial, which medics can use to treat bone and cartilage defects at precise locations. PBMF is currently undergoing animal studies. It augments new bone formation and heals bones quickly and painlessly without the need for painful operations. And it is affordable. We anticipate that its use will help lower the number of patients requiring surgery and reduce hospital waiting lists.

At what stage did you realize that intellectual property was important?

From the outset, it was clear that intellectual property (IP) would be central to Global Health Biotech’s future. IP was the basis of the agreement with the University to spin-off the company. Since then, we have also licensed a technology from Stellenbosch University to develop a vegan-friendly protein shake, which reduces inflammation – it promises to be a more effective non-steroidal anti-inflammatory drug and with fewer side effects. The fact that the University covered the patent fees and I have been able to license it at a much lower cost has really assisted our business. Of course, IP is also central to the company’s marketing strategy; our registered trademark enables us to build brand recognition and expand our customer base.

Why is it important for universities and researchers to have a focus on the market?

These days, universities depend on government subsidies. That needs to change. Governments need to encourage universities to commercialize the IP that flows from their research. The IP portfolios of most major research universities are bursting with wonderful products, yet the majority of these inventions go nowhere because there are no qualified professionals to take them to market. That’s why I am working to change the way we write research proposals. Of course, it’s great that researchers publish their work, but it’s also important that they think about how their work can benefit the community and create jobs both for themselves and others. In the past, we have given precedence to academic excellence, only for our best students to join the ranks of the unemployed. Now, we need to motivate them to create marketable products and services from their research, so they generate benefits for themselves and the community.

“Universities need to change the way they train postgraduate students to ensure that research translates into products and services that benefit society and contribute to the national economy,” says Professor Motaung.



Photo: Courtesy of Global Health Biotech

How exactly are you working to change the mindset within the university and among students?

I am happy to say that Durban University of Technology is fully on board with my approach. It's in line with the University's commitment and ENVISION 2030 to make knowledge work. As for the students, I have developed a more business-oriented framework for research proposals, for example, by substituting "background" and "justification" for "business concept". And in place of defining the research problem, I suggest they define their "value proposition". This encourages the students to think about the problem they want to solve, how well their proposed solution meets customer needs and how it is unique or better than existing offerings. I have also included market analysis (so they start thinking about target market, partners and competitors, etc.) as well as financial projections and IP to get them thinking about how they are going to make money out of their work. And in place of progress reports, I expect my students to focus on the evolution of their business concept and issues like the structure of their business, branding, networking, marketing and sales, as well as operational questions. But of course, we also need to create room for them to fail and help them develop a plan B when things don't work out.

The traditional way of doing university research lacks this entrepreneurial focus. I am a strong advocate of training research students to be entrepreneurs.

What more can universities do to boost commercialization of research?

Universities need to cultivate a different mindset among faculty staff. They need to start building entrepreneurship into the curriculum, so as undergraduates, students learn how to approach their postgraduate research. Universities also need to enable students to commercialize their ideas, through flexible and preferential licensing

“I am a strong advocate of training research students to be entrepreneurs.”

programs, for example. Other important steps include establishing a business incubator to help students commercialize their ideas and actively encouraging researchers to partner with industry and small businesses. Of course, if research funders were to prioritize research with potential for commercialization, that would really drive the change we need to see.

When developing their IP policies, universities need a clear view of what is going to happen to the technology resulting from research. It's not enough to simply acquire patents. They need to actively license those patented technologies and create opportunities for research students to access them and take them to the market. That will enable them to make a business out of their research, scale-up production and even develop it further. This is extremely important given the current economic situation and high levels of unemployment.

What was the biggest challenge you faced in creating the company?

Securing funding was by far the biggest challenge. Thankfully, the company is now a Level 1 Broadbased Black Economic Empowerment (B-BBEE)-certified enterprise, which means it is 100 percent black owned. The process of registering our products with the South African Health Products Regulatory Authority (SAHPRA) was also tedious. It took a long time to get final approval. While plant-based, our products are the result of intensive research and development and rigorous safety and efficacy tests, which, of course, are an extremely important part of the process.

How are you marketing your products?

Our LAS ointment is available online via our website and Instagram. It is also available from selected gyms. It's been very well received and orders are coming in. That's why we recently appointed a sales manager to expand our marketing activities.

What are the main lessons you have learned on your business journey?

First, it can take a long time to take a product to market. I also learned that there is a huge difference between presenting research data and pitching a business proposal to investors. I have learned many business skills, from how to raise funds and negotiate to sales. And of course, the importance of pure determination and perseverance cannot be overstated.

Second, universities need to change the way they train postgraduate students to ensure that research translates into products and services that benefit society and contribute to the national economy.

And third, the templates for writing research proposals need to become more business oriented and to include considerations like value proposition and market segment.

What advice do you have for other SMEs when it comes to IP?

SMEs can license IP from universities, and those that do can perform better when they adopt a "scientific" approach to making key decisions. This enables them to create hypotheses, test them, and then decide whether to proceed, change or abandon an idea on the basis of probability estimates that flag the commercial potential of their idea. Most of all, take criticism with a pinch of salt and follow your dream.

What are your plans for the future?

My goal is for our products to be available globally and, in particular, to lower- and middle-income communities. I want Global Health Biotech to be a leading global provider of clinically proven and affordable plant-based products to treat musculoskeletal injuries.



CDK: driving sustainable fashion in Bhutan

By **Catherine Jewell** and **Ella Marie Thomson**,
Information and Digital Outreach Division, WIPO

CDK is an emerging sustainable fashion line that gives a modern interpretation to traditional Bhutanese designs.

“It’s no longer enough to reduce our impact on the planet. Our aim is to leave the environment and communities we touch better off through our conscious actions.”

Chandrika Tamang, founder of CDK

CDK is an emerging sustainable fashion line that gives a modern interpretation to traditional Bhutanese designs. The company creates contemporary silhouettes using handloom fabrics with Bhutanese motifs and textiles. Working exclusively with Bhutanese female weavers, CDK is a proud supporter of women's empowerment and a committed promoter of Bhutan's weaving culture.

For CDK's owner, Chandrika Tamang, designing clothes started as a sideline activity during her school days. It never occurred to her that design would someday become an integral part of her life, or that her hobby-turned-passion would become her profession.

"Before getting into the industry in Bhutan, I was a banker," says Ms. Tamang. "After graduation, I was looking for a secure job and ended up in the banking sector, but spent my free time ripping clothes and stitching them back together. It took me about six years to realize that design was my calling."

After training in Basic Apparel and Tailoring in India, Ms. Tamang's thirst for creativity led her to start designing and making clothes from home. "I would learn about designing for hours from the Internet," she notes. "It soon dawned on me that I could set up a business that could help fill a void in the Bhutanese fashion industry, create local employment and help promote and preserve Bhutanese textiles. I went with my gut feeling and decided to take up designing full-time in 2016. That's when I set up CDK."

Since then, the designer has gone on to win many awards. In 2017, she won the National Woman Entrepreneur of the Year award, from the Department of Cottage and Small Industry (DCSI) under the Ministry of Economic Affairs. Ms. Tamang has also represented Bhutan in many international fashion shows and policy fora.

SUSTAINABILITY IS A PRIORITY

Ensuring that CDK is an ethical fashion label that supports women's empowerment and sustainability goals is a priority. "I want to make changes in my own small way. It's important to me that I don't forget my roots. I love working with different artisans and to give value to local products," Ms. Tamang explains.

In line with CDK's motto "quality over quantity," the company uses ethically sourced, high-quality, biodegradable raw materials and natural dyes and works to minimize waste, for example, by ensuring that off-cuts are made into accessories or decorative items. As a textile brand, the company is keenly aware of its impact on people and the planet. "My dream is for the fashion industry, at least in Bhutan, to go green," she notes. "As CDK's brand develops, we plan to use certified, Bhutan-sourced, organic raw materials, like cotton."

CDK is committed to increasing sustainability by empowering home-based weavers to preserve and promote the culture of weaving and to reduce waste whenever possible.



Photo: Courtesy of CDK



“We are deeply committed to the communities, artisans, weavers and seamstresses we work with. Together, we hope to create long-lasting and low-impact products to be cherished both today and tomorrow, keeping in mind that no person (or animal) is harmed as we make our pieces.”

Chandrika Tamang, founder of CDK





Photo: Courtesy of CDK

Today, CDK is recognized as a quality fashion brand in Bhutan and now has its sights set on the international market.

A HOLISTIC APPROACH TO BUSINESS

Community is at the heart of CDK's business. Convinced that collaboration is the best path forward, the company is working closely with its customers, suppliers and makers. "We are deeply committed to the communities, artisans, weavers and seamstresses we work with. Together, we hope to create long-lasting and low-impact products to be cherished both today and tomorrow, keeping in mind that no person (or animal) is harmed as we make our pieces," the designer says.

"We are committed to adopting a multifaceted, holistic approach to the way we operate the business, from the way we manage the lifecycle of the products we develop and the materials we use, to the way we work with local artisans."

Not content to simply reduce its carbon footprint, CDK is taking its commitment to sustainability to the next level. "It's no longer enough to reduce our impact on the planet. Our aim is to leave the environment and communities we touch better off through our conscious actions," Ms. Tamang explains.

"We have set out a roadmap to track our impact. Our aim is to enrich and educate, and to collaborate with the communities we work with to cherish the materials we use and minimize waste. By weaving only the amount of fabric needed we are also working towards the zero-waste design concept. Handspun, handwoven and hand-stitching methods reduce the electricity used and also allow each artisan to add their own individual touch, and their love and affection to the product," Ms Tamang notes.

From 2022, CDK will publish its Social Conscience Report every two years. The report will include detailed updates on progress with its sustainable actions.

BUILDING BRAND RECOGNITION

Recognizing the importance of building brand recognition, customer confidence and loyalty, in 2018, CDK registered its first trademark. In 2019, the company was among the winners of the Annual National Trademark Award from the Department of Intellectual Property of Bhutan for its achievements.

"We are using the trademark to promote our branded products, including on social media. Today, our brand is recognized as a mark of quality design by our customers and among the business circles of Bhutan. Our recent audience with our King and Queen further boosted our reputation in the market," says Ms. Tamang.

CDK is now planning to diversify its range by opening a "slow" luxury clothing brand from Bhutan. The new line reflects a high-value/low-volume ethos that emphasizes quality over quantity. This move is fully aligned with the company's goal to increase sustainability by empowering home-based weavers to preserve and promote the culture of weaving, reducing waste whenever possible.

COPYCATS TRY TO SPOIL THE PARTY

While CDK is enjoying commercial success, it has also had its share of challenges, especially in terms of infringement of its original designs. “IP is new to the business community in Bhutan, and there are many cases of IP infringement in the textile sector,” Ms. Tamang reveals. “During the pandemic, we launched our hand-woven raw-silk *tego* (national dress), one of our original designs. Now you can see copies of it everywhere. It’s really disheartening, because this sort of activity discourages creative people from coming up with new ideas. It’s also expensive to register IP rights for each product when you are a small and new business.”

Like many other small businesses, the pandemic has also taken its toll on CDK, which has had to reduce its workforce. Today, it employs just four permanent staff and eight home-based weavers, whereas before the health crisis it had 11 permanent staff and 40-plus home-based weavers. Undeterred by these setbacks, CDK has set its sights on the international market and is planning to expand the number of home-based tailors it works with.

CDK is gaining increasing popularity in Bhutan, thanks to the hard work and determination of Ms. Tamang and her team. The company’s innovative design concepts, forward-thinking IP strategy and holistic approach are what make it one of Bhutan's most exciting upcoming SMEs.

Photo: Courtesy of CDK



CDK lives by the motto, “quality over quantity.” It uses ethically sourced, high-quality, biodegradable raw materials and natural dyes.

Managing risks and disputes in the fashion industry

By **Heike Wollgast**, **Chiara Accornero**, WIPO Arbitration and Mediation Center, Geneva, Switzerland and **Ida Palombella** and **Federica Caretta**, Deloitte Legal, Milan, Italy

Every day in the fashion industry, brand owners enter into contracts with partners and influencers from around the world. Disputes are not uncommon. That's why brand owners need to have access to a reputable dispute resolution method that knows the business and allows for fast and effective decisions.



Photo: Goran Jakus Photography / iStock / Getty Images Plus

Fashion is going digital, and so too is advertising. The digitalization of the fashion industry was already gathering pace when the pandemic hit, but home confinement and social distancing have further boosted the trend. Consumers stranded at home spend more time on social media. Brands are acutely aware of this. Building an effective and strong digital presence that aligns with brand values, and effectively communicating such values to consumers through the screens of their mobile phones, is what increasingly makes the difference between staying relevant and a huge flop.

To stay relevant in the market you certainly need at least one of the following elements: an eye-catching advertising campaign, a well-organized e-commerce website, a catchy pay-off or slogan, an efficient and reachable customer service, and marketing initiatives to keep your fan base involved and interested in the brand. Even better, you need a mix of all these elements ...and oh yes, you need a great product, but that's a given, right?

Behind each marketing initiative stand legal pitfalls that may cause any brand to have to deal with a storm of angry customers posting not-so-kind comments on their social media accounts. Sound familiar?

Luckily, there are ways to avoid such pitfalls: prior vetting of advertising campaigns, new brands and new e-commerce platforms to ensure they comply with the applicable laws can help avoid the need to shut off a campaign or change a brand, or take other remedial action, once it is already out in the world.

Similarly, well-written contracts help brands understand what to do should anything go wrong. These can make a real difference when you are at loggerheads with your business partner – which can be highly stressful. Finally, we all know how important it is to keep the brand-fan community active and engaged by, for example, creating games or having the right influencer wear your products during the most fashionable event. Legal checks ensure that you have all necessary licenses and authorizations in place to be able to unleash your creativity without fear of associated legal wrangles.

But what if, despite all the above, something goes wrong? Within the fashion industry, cross-border disputes are not uncommon. Now, more than ever, the fashion business is global, reaching consumers in many jurisdictions. On a daily basis, brand owners enter into contracts with partners in different parts of the world and with influencers that are relevant to specific markets. With such a web of contracts in place, it is important for brand owners to have access to a dispute resolution method that is reputable, knows the business and allows for fast and effective decisions.

ADVANTAGES OF ALTERNATIVE DISPUTE RESOLUTION FOR DISPUTES IN THE FASHION INDUSTRY

Stakeholders in the fashion industry are on the lookout for efficient and affordable ways to resolve disputes and are increasingly turning to mediation and arbitration to resolve issues that were previously handled by the courts. When well managed, mediation and arbitration can translate into substantial savings and commercially useful outcomes, making them a more affordable and flexible avenue for resolving fashion disputes, including on advertising and image rights. The advantages of alternative dispute resolution (ADR) include:

- **Time- and cost-savings:** mediation and arbitration allow parties to save significant costs compared to multi-jurisdictional court proceedings. As the fashion lifecycle can be short, parties to fashion and advertising disputes are keen to avoid costly and lengthy proceedings. A typical WIPO Mediation takes four months, but may be completed more rapidly at the request of

“Stakeholders in the fashion industry are on the lookout for efficient and affordable ways to resolve disputes.”

the parties. Parties may also opt for the procedural framework established by the WIPO Expedited Arbitration Rules; such expedited arbitration proceedings have been concluded in as little as five weeks.

- **A single procedure:** through mediation and arbitration, parties can resolve disputes covering issues protected in several jurisdictions in a single proceeding. This allows them to avoid the expense of litigation in multiple jurisdictions and eliminates the risk of inconsistent results across national borders. Advertising and fashion collaborations, which typically involve multiple parties from different geographical locations with varying legal systems and business cultures, can benefit from such a simplified procedure.
- **Party autonomy and expertise:** because mediation and arbitration are private in nature, parties can exercise greater control over the way their dispute is resolved. For example, they can select streamlined or more extensive procedures, a mediator or arbitrator who is a specialist in the subject matter in dispute, the applicable law, location, and language of the proceedings. Moreover the WIPO Mediation, Arbitration and Expert Determination Rules (WIPO Rules) may be modified by party agreement, or may otherwise provide a firm procedural basis for the dispute to be resolved.
- **Confidentiality:** mediation and arbitration allow parties to keep the proceedings and the outcome confidential. This helps parties focus on the merits of their dispute without fear of negative publicity or damage to their business reputation, a key consideration in the fashion industry, especially in disputes relating to image rights.

In light of the potential usefulness of alternative dispute resolution in resolving fashion-related disputes, the CNMI and WIPO have joined ranks to establish a tailor-made mediation and arbitration process for fashion industry-related disputes.



Photo: fizkes / iStock / Getty Images Plus

- **Preserving business relationships:** mediation gives the parties an opportunity to negotiate creative solutions that satisfy their business interests, in terms of preserving existing business relationships or forging new ones. Seventy percent of WIPO mediation procedures settle, and for arbitration, over 30 percent of WIPO cases are settled by the parties before any formal decision is issued.

In recent years, the WIPO Arbitration and Mediation Center (WIPO Center) has received an increasing number of cases relating to the fashion and luxury industries. Such disputes relate to, among others, trademarks, patents, industrial design, copyright, software, product development, Internet retail and e-commerce as well as IP infringements. Disputes have arisen out of agreements relating to licensing, distribution and franchising, manufacturing, software, sponsorship and marketing.

These cases have involved large-sized companies and SMEs in the fashion industry, manufacturers, inventors, retailers and service providers.

THE WIPO CENTER AND THE NATIONAL CHAMBER OF ITALIAN FASHION JOIN FORCES

In light of the potential usefulness of ADR, especially arbitration, in resolving fashion-related disputes, the National Chamber of Italian Fashion (CNMI) and the WIPO Center have joined ranks to establish a tailor-made mediation and arbitration process for fashion industry-related disputes.

Under the collaboration, CNMI members will benefit from WIPO mediation and arbitration services at reduced rates as well as services that are specially designed for fashion-related disputes. CNMI members will also be able to choose mediators and arbitrators experienced in fashion from the WIPO List of Neutrals, and can benefit from expert procedural advice from both CNMI and the WIPO Center, respectively. In this way, CNMI members will enjoy a more practical and efficient avenue to resolve their cross-border disputes, with the assurance that arbitral awards can be readily enforced internationally.

About the WIPO Arbitration and Mediation Center

The WIPO Arbitration and Mediation Center (WIPO Center) was established in 1994 as an independent and impartial body which forms part of the World Intellectual Property Organization (WIPO). The WIPO Center's role is to facilitate the time and cost-effective resolution of commercial IP and technology disputes through ADR mechanisms such as mediation and arbitration. Developed by leading experts in cross-border dispute settlement, the procedures offered by the WIPO Center are recognized as particularly appropriate for international intellectual property (IP) and technology disputes.

The WIPO Center is also the leading global provider of mechanisms for resolving Internet domain name disputes without the need for court litigation. This service includes the Uniform Domain Name Dispute Resolution Policy, under which the WIPO Center has so far processed over 50,000 cases related to the abusive registration and use of Internet domain names.

The WIPO Center has administered over 740 mediation, arbitration, expedited arbitration, and expert determination cases. In its role as administering institution, the WIPO Center maintains strict neutrality and independence and administers mediation and arbitration cases under the WIPO Rules. This includes assisting parties in selecting a suitable mediator or arbitrator; offering active case management, including guidance on the application of relevant procedural rules. The WIPO Center also makes available online case administration options, including an online docket – WIPO eADR – and videoconferencing facilities. There is growing interest in these tools by parties.

Managing intellectual property rights in innovation: the key to reaching the market

By **Maria del Coro Gutierrez Pla** and **Lynn Burtchaell**,
EUIPO SME Programme, European Union Intellectual
Property Office (EUIPO), Alicante, Spain

The EUIPO offers insights from its recent studies about the positive relationship between intellectual property (IP) rights and economic performance. Whether developing technology in-house or acquiring it from external sources, IP rights have a central role to play in every company's journey to the market.

A recently published study, *Intellectual property rights and firm performance in the EU*, from the European Union Intellectual Property Office (EUIPO) and the European Patent Office (EPO), confirms the strong, positive relationship between a company's ownership of different types of IP rights and its economic performance. The analysis, which uses data from over 127,000 companies from all EU member states, shows that this relationship is even more pronounced for SMEs, the basis of Europe's economy.

According to the European Commission, SMEs represent 99 percent of all businesses in the EU. When controlling for relevant factors, such as country or industry sector, SMEs that own IP rights have a 68 percent higher revenue per employee than those that do not own any IP rights. Moreover, SMEs that own a combination of patents, trademarks and registered designs generate almost double (98 percent) the revenue per employee compared with companies that do not own any of the three IP rights. A previous study by the EPO and the EUIPO, published in 2019, found that SMEs that make use of IP rights are more likely than other firms to achieve high growth in turnover in subsequent years.



“SMEs that own IP rights have a 68 percent higher revenue per employee than those that do not own any IP rights.”

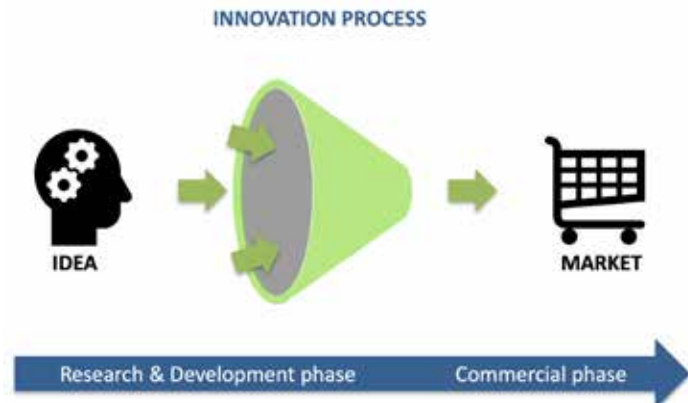
Taken together, these studies offer compelling evidence of the positive association between ownership of IP rights and the economic performance of individual companies. Although this correlation should not be interpreted as having a direct causal effect – the mere registration of an IP right is not sufficient to trigger growth – it can signal an SME’s stronger ability to succeed in its innovation process – a key factor for growth – and to survive in the highly competitive business world.

INNOVATION, A MAJOR FORCE FOR SME GROWTH

Innovation, understood as the complex process of taking an idea to market, has proven to be a major challenge for entrepreneurs and SMEs. For this reason, there exists the concept of the “valley of death,” the period where most companies collapse due to lack of external support.

All innovation processes involve two main phases:

- the research and development (R&D) phase, when a company acquires technology; and
- the commercial phase, when products are launched on the market.



During the innovation process, the legal protection of the knowledge that will finally materialize in a product or a process is crucial. For this reason, IP protection is a strategic tool in the innovation process of companies.

Patents, copyright and confidential information, such as trade secrets, play an important role during the R&D phase. They are decisive before launching a product to the market, where competitors may try to infringe on a company’s innovative effort. Trademarks and designs come into play in the commercial phase of the innovation process, when products must be distinguished from those of competitors. Protecting the identity of products with a trademark and their appearance with a design is critical in the event of unauthorized use by a third party.

CLOSED AND OPEN INNOVATION MODELS

Not all companies operate under the same circumstances. Some have enough technological resources to complete the innovation process internally, but others need to collaborate with external sources of knowledge.

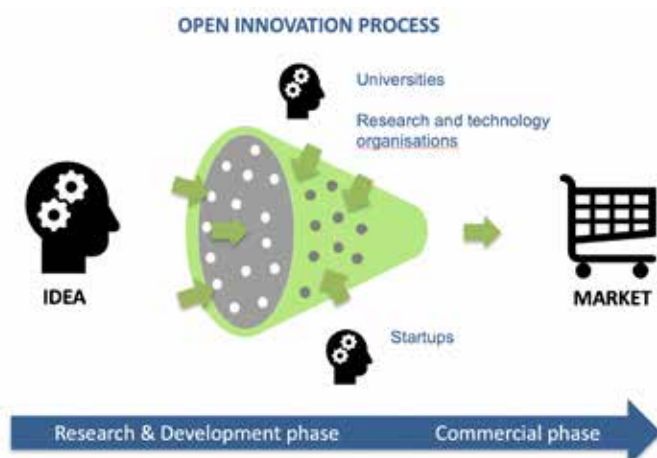
In a closed innovation model, where the entire innovative process is carried out internally by companies, the exclusivity and protection provided by IP rights can be fundamental for innovative SMEs to appropriate the value of their ideas and ensure a return on their investments in intangible assets. But it is in an open innovation model where IP rights become fully strategic as the development of innovative solutions is made using external knowledge in collaboration with other companies, research and technology organizations or universities.

Let's see an example. Company A wants to launch a new product on the market and they need technology already patented by another company, Company B. Company A has two options:

- to develop its own technology, or
- to use the technology belonging to Company B through a licensing or purchase agreement.

When companies select the second option, we call it “open innovation”.

The benefit of IP rights to prevent others from misappropriating trademarks, designs or other innovations is well known. In open innovation, however, there is another less well-known benefit: it allows companies to share their technology and solutions in a safe way.



In the context of open innovation, IP rights reduce operational risks, facilitate knowledge sharing and play a key role in enabling appropriate technology transfer, or in other words, the selling or licensing of the IP rights to another organization.

THE EUIPO'S SME PROGRAMME

Whether involved in open or closed innovation, it is clear that SMEs should start managing IP at the early stage of the innovative process and need to develop an IP strategy to make proper use of IP rights from the start. With this in mind, the European Commission asked the EUIPO to spearhead a number of initiatives to support SMEs through their startup and scale-up journeys. The response from the EUIPO was to create the SME Programme, as part of the EU's Action Plan on Intellectual Property, to empower SMEs within the EU and beyond. A series of initiatives under the Ideas Powered for Business brand are the first results of the EUIPO SME Programme implementation.

EUR 20 MILLION SME FUND OFFERING FINANCIAL HELP TO SMES

The Ideas Powered for Business SME Fund opened for applications from EU-based SMEs on 11 January 2021. Applications will be distributed in five phases, or windows, between January and September 2021.



European SMEs can benefit from this fund in two non-exclusive ways:

- reimbursement of 50 percent of their trademark and design basic application fees at national, regional and EU level; and
- reimbursement of 75 percent of the IP pre-diagnostic service (IP scan).

One application per service is permitted and SMEs can apply for both services. Each SME can be reimbursed up to a maximum of EUR 1,500.

Applications for the grant should be made via the SME Fund web page before applying for the trademark and/or design and/or IP pre-diagnostic service.

The territorial level of protection will depend on each company's business strategy and growth plans. SMEs may decide, therefore, to have an IP scan carried out before deciding which trademarks or designs rights to apply for.

“SMEs should start managing IP at the early stage of the innovative process and need to develop an IP strategy to make proper use of IP rights from the start.”

WHY AN INTELLECTUAL PROPERTY SCAN?

We have highlighted the importance of developing a strategic plan for when and how to make appropriate use of IP rights in the initial stage of the innovation process. An IP pre-diagnostic service or IP scan of your business may be a good first step.

The IP scan can be compared to a medical check-up, where the patient is a company and the doctor an IP expert. By looking at an SME's business model and its existing products and services, the IP experts can help an SME formulate a plan, anticipate future growth and build an IP strategy. This service can help SMEs decide:

- which intangible assets can be protected by IP rights;
- to develop their IP portfolio if they already have registered rights;
- how to plan their strategy for the future.

Through the SME Fund, SMEs can apply for the reimbursement of 75 percent of the costs of the IP pre-diagnostic service. The service is offered in some EU member states and others will join soon. Before applying, SMEs should check the list to ensure that the service is offered in their member state.

For more information on the SME Fund and applications, visit the SME Fund web page.

IDEAS POWERED FOR BUSINESS HUB AND WEBSITE

In response to Covid-19, last year the EUIPO launched the Ideas Powered for Business hub. The hub promotes the benefits of IP protection and provides information on trademarks and designs using clear, jargon-free language. It offers step-by-step fast-track routes to registration with the new EasyFiling tool that guides first-time applicants in their trademark application and e-learning courses tailored to SMEs. In addition, it is the access point from which SMEs can sign up for free, personalized intellectual property support in their own language. Depending on the case, this can include:

- *pro bono* / free, personalized consultations: this service pairs SMEs with providers of free IP consultations to provide swift, tailor-made and practical solutions to questions on IP. The service is offered by IP experts from all over the EU. The EUIPO matches the SMEs with suitable IP experts based on their needs.



- effective dispute resolution (EDR) service: this service is aimed at SMEs currently involved in opposition or appeal proceedings at the EUIPO. If requested, our mediators will get in touch to find a solution that will be acceptable to both parties, saving time and money for all involved.

Coming soon is the launch of the Ideas Powered for Business website, especially developed for SMEs in collaboration with national IP offices and other stakeholders. The website will aim to put IP in the business context where it is relevant to SMEs. It will offer new tools and services specifically tailored to the SME sector, such as a visualization map to find useful services, a multi-language chatbot, a training area and a section with selected useful tools.

THE STRONGER THE IPR PORTFOLIO, THE BETTER THE BUSINESS PERFORMANCE

IP protection is critical to fostering innovation. A company that owns IP rights will have a higher competitive advantage and legal protection against counterfeiting. Such legal protection is critical, in particular, for those companies wishing to export to new markets. In addition, companies with IP rights can license or sell their IP rights, thereby reducing operational risks and facilitating knowledge sharing in open innovation scenarios.

As the studies confirm, there is a positive association between owning IP rights and economic performance. Intellectual property can be considered a reliable predictor of whether an SME will survive or even experience high growth. In this context, potential investors and business partners will be mindful of IP rights as a valuable source of information when determining SMEs with economic potential. It is clear that SMEs need to protect and make smart use of their intangible assets.

The EUIPO recommends that SMEs talk to the experts and make the most of the discounts available during 2021, from the *Power your business with the SME Fund*.

“A company that owns IP rights will have a higher competitive advantage and legal protection against counterfeiting.”



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