5th NASME International Conference and Exhibition

Enhancing the Competitiveness and Growth of SMEs

September 17 – 19, 2002

Sub-Theme III: Marketing Challenges for SMEs

Intellectual Property for SMEs

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“As a corporate function and a social institution, marketing is increasingly regarded as a ‘necessary evil’ rather than a value-creating activity, focusing renewed attention on its productivity…the marketing function appears to consume a disproportionately high share of resources, inviting intense scrutiny from corporate cost-cutters.”

Sheth and Sisodia, 1995

"Business, because its function is to create and sustain a customer, has only two purposes, Marketing and Innovation. Everything else is an expense."

Peter Drucker

(i) Introduction

Our sub-theme today is on “Marketing Challenges for SMEs;” therefore, the focus of my presentation will be on how effective use of intellectual property (IP) could facilitate the marketing activities of small and medium enterprises (SMEs). For the purpose of this presentation the SMEs referred to are those with the prime objective of profit maximization. The said SMEs could be operating in any sector or industry, e.g., manufacturing, service, supply, high or low tech. etc.

Since there is no universally accepted standard definition on what constitute SMEs, I leave it to you to decide on the definition that you want to use. However, it suffices to say that in most countries, the definition of SMEs is based on an enterprise’s number of employees, the level of assets, sales turnover of the said enterprise or a combination of these criteria. In some cases even institutions within a country defer in their SMEs definition depending on activities and objectives of the defining institutions. All in all the definition of SMEs is to a great extent influenced by the level of economic development of the defining...

2 http://www.zianet.com/NetDNS/business.html 7:07 PM September 13, 2002
country e.g. in the USA enterprises employing less than 500 employees are categorized as
SMEs, in the European Union SMEs are those enterprises with less than 250 employees, in
Nigeria it was, at least by the end 2001, enterprises with between 11 and 100 employees.

Whereas there is empirical evidence in several developed countries and some
developing countries suggesting a substantial contribution of SMEs to economic activities of
these countries, there is a dearth of such studies in the African region. However, since most
of you are from the SMEs sector I believe you will agree with me when I say that most
enterprises in Africa are SMEs. Furthermore, I trust that you will also agree with me that like
in other countries SMEs in Africa make significant contribution in job creation, export trade,
domestic investment and overall economic wellbeing of a country. I would also add that
SMEs contribute positively to social and political tranquility of many countries.

In their flyer “Patent Support Service to SMEs- Chemical Sector” the National Office
for Technology Acquisition and Promotion (NOTAP) identifies SMEs as “engine of growth
of the economy.” This view is supported by Clive Carpenter in his paper “SME Finance in
Nigeria” presented during the roundtable on “Making Small Business Finance Profitable in
Nigeria” held on November 28, 2001. In his paper, Carpenter states that “even if there are
controversies on definitions, what is not contestable is the contribution SMEs are making to
the Nigerian economy. About 10% of total manufacturing output and 70% of industrial
employment are by SMEs”.

To enable a lively discussion following my presentation, I shall address the following
issues (ii) Basic intellectual property concepts (iii) SMEs and the use of IP (iv) IP for
marketing (v) Importance of IP for business (vi) SMEs, IP and ICTs (very briefly)
(vii) Enhancing SMEs Awareness of SMEs: WIPO role

However, before going any further let me stress that the effectiveness of IP enforcement
mechanism, at the national level, is very crucial in ensuring that the users of IP reap the
benefits resulting from their intellectual creativity.

(ii) Basic intellectual property concepts

Let me start by briefly introducing some basic IP concepts. Intellectual property is the
intellectual creation of the human mind and intellectual property rights are the legal rights
granted to holders of such property in deciding how best they can use the said rights, without
harming other peoples rights.

IP is basically divided into two branches,

(i) Copyright and related rights: Copyrights covers rights over literary works e.g.
novels, poems, plays, newspapers, films, computer programs, databases, musical
compositions, choreography etc.; and artistic works such as, paintings, drawings,
photographs, sculpture, advertisements, architecture drawings, maps and technical drawings,
e.t.c. The owner of a copyright has the legal right to prohibit or authorize the lawful (a)
reproduction/copying of his/her work in various forms, such as printed publication or sound
recording (b) public performance, as in a play or musical composition, (c) recording of his/her

3 Clive Carpenter “SME Finance in Nigeria” paper prepared for the roundtable on Making Small Business
work, for example, in the form of music CDs, audio cassettes or videotapes, (d) the broadcasting of his/her work by radio, cable, or satellite, and (e) the translation of his work into other languages, or its adaptation such as a novel into a screenplay. In most countries copyright protection is automatic (does not need registration) from the time a work is created. However there are countries where registration is necessary. Under the Bern Convention for the Protection of Literary and Artistic Works, the minimum requirement of copyright protection is 50 years from the year of the holder’s death (which also applies to members of the World Trade Organization.

Related rights (i.e. related to copyright) cover three types of rights i.e. of *performing artists* in their performance; of *producers of sound recordings* e.g. audio cassettes, video cassettes, music CDs e.t.c; of *broadcasting organizations* in their radio and TV programs.

(ii) **Industrial property**: Major categories include

- **Patent**: This is a legal right granted by the government (normally patent office) for an invention (new way of doing things or a new solution to a technical problem) which meets the following three criteria, new or novel; involves an inventive step (it is non-obvious); and is capable of industrial application. Once granted, the holder has the legal right to exclude others from making, using, distributing or selling the invention without his/her consent. The duration of such exclusive right is 20 years. Once granted a patent is only valid within national or regional territory for which it has been granted. This is also true to all other types of intellectual property rights. In order to extend the validity of a patent to more than one country, the owner has to submit his application in each country where protection is being sought. In the event that a patent holder is a national of, or residing in, a country which is a party to what is known as the Patent Cooperation Treaty (PCT), he/she can submit his/her application through the PCT system indicating in which countries patent protection is sought. As of July 15, 2002, Nigeria was not a party to the PCT.

**Industrial design**: This is a legal right granted by a government to protect the new or original ornamental or aesthetic aspect of a useful article (usually, the visual appeal to the naked eye is considered). The design can be of two or three dimension and can be a shape or surface, pattern, lines or color. Industrial design registration gives you exclusive rights to your designs for a specific duration subject to applicable law, though in most countries it is 15 years (an initial period of five years with the possibility of renewal for two further periods of five years each), some countries provide protection for only 10 years, while others allow even 25. Renewal of protection is usually subject to the payment of a renewal fee. Depending on applicable law of a country industrial designs may be protected by one or more of the following, industrial design law, copyright law, trademark law (as a two or three-dimensional mark) or under unfair competition law.

Articles protected include industrial product and handicrafts such as the shape of a the decoration on the handle of a spoon cars, pens, clock, watch, jewelry, kitchenware, electrical appliances, carpets, textile designs, furniture, bamboo products, architectural structures e.t.c.
When preparing for this presentation I came across a web site which shows some Nigerian products ready for export. An example is shown below. For more information please visit http://nigeriaexport.com/products/furniture.html.

While I am not sure whether the impressive furniture designs are new or original or for that matter registered for industrial design protection, the picture convinced me that Nigerian participants in the furniture sector have the skills to come up with original designs which could qualify for industrial design protection.

I am also sure that SMEs in Nigeria have the capacity and technical skills to come up with protectable industrial designs.

For a challenge let us see some products which have been protected under industrial designs in other countries:

a) Rocking Kangaroo (wood), registered in Australia in 1995 by Daniel Gasser

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b) Chair, registered in Australia in August 5, 1985 by Raymond Leslie Strachan and Brenda Mary Strachan, trading as Strachan Woodworks.

- **Trademark**: A trademark is a distinctive sign which identifies certain products or services as those produced or provided by a specific person, enterprise or a group of persons/enterprises, and allows consumers to distinguish between competing products or services of others. Two main characteristics for a trademark are (i) it must be distinctive and (ii) it should not be deceptive.

A trademark may be one or a combination of words, letters, and/or numerals. It may consist of drawings, symbols, three-dimensional signs such as the shape and packaging of goods, audible signs such as music or vocal sounds, fragrances, or colors used as distinguishing features.

The duration of protection for a registered trademark varies from country to country depending on applicable law. Depending on national laws, the initial period of registration is not less than 7 years (generally 10 years). However, unlike other industrial property rights, the registration of marks can be renewed upon payment of a renewal fee indefinitely. In some countries trademark protection exists without registration. In this case a trademark has to be actively used by its owner. However, it is always advisable to register a mark to obtain a better or stronger protection. Examples of trademarks include COCA-COLA®, CHIVITA,

- **Geographical indications**: A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin. Most commonly, a geographical indication consists of the name of the place of origin of the goods. Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil. Whether a sign functions as a geographical indication is a matter of national law and consumer perception. Geographical indications may be used for a wide variety of agricultural products, such as, for example, "Tuscan olive oil" produced in a specific area of Italy, or "Roquefort" for cheese produced in France. Other examples of geographical indications include "Champagne", "Bordeaux" and "Chianti", the first two being regions in France and the third, a region in Italy, all famous for their wines or

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5 Application number 2291/1982, ID rights have effect from December 6, 1982  
6 “Tuscan” protected, for example, in Italy by Law No. 169 of February 5, 1992  
7 “Roquefort” protected, for example, in the European Union under Regulation (EC) No. 2081/92 and in the United States under US Certification Registration Mark No. 571.798).
sparkling wines, respectively. Another product registered as geographical indication is Sidi Salem "A.O.C." (Red and Rose wine in limited areas of Khanguet and Beni Ayach in Grombalia district governed by Nabeul –Tunisia)

Furthermore, under the geographical indication regime we have what is know as appellation of origin which is a special kind of geographical indication, used on products that have a specific quality that is exclusively or essentially due to the geographical environment in which the products are produced. Geographical indications are protected in accordance with national laws and under a wide range of concepts, such as laws against unfair competition, consumer protection laws, laws for the protection of certification marks or special laws for the protection of geographical indications or appellations of origin.8

- **Collective marks:** These are trademarks owned by an association whose members use the mark to identify themselves with a certain level of quality and other requirements set by the association. The quality and other requirements set by the association may pertain to the geographical origin, material, mode of production, and other common characteristics of goods or services of different enterprises using the collective mark.

- **Certification mark:** This is a mark given for compliance with defined standards, but are not confined to membership of any organization

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8 A number of treaties administered by the World Intellectual Property Organization (WIPO) provide for the protection of geographical indications, most notably the Paris Convention for the Protection of Industrial Property of 1883, and the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration. In addition, Articles 22 to 24 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) deal with the international protection of geographical indications within the framework of the World Trade Organization (WTO).
The Egyptian cotton logo TM is essential to distinguish products made out of 100% Egyptian Barbadense cotton from other products. Products on which the logo can be attached include textile products, ready-made garments, home furniture and mostly all products made of Egyptian cotton.

- **Trade name/Commercial name**: Trade names are protected, with or without registration, against any unlawful act committed by others. (e.g. the use of a trade name by another enterprise either as a trade name or as a trademark in a way likely to mislead consumers/public)

- **Trade secrets**: Broadly speaking, any confidential/secret business information that provides an enterprise a competitive edge in the marketplace can be deemed as such. Trade secrets can be protected as long as they remain secrets/confidential. Trade secrets do not require registration though the owner/holder must be able to prove, in particular when it is abused, that he/she had taken necessary measures to ensure that the secret(s) were safe and secured. Furthermore, trade secrets must be valuable because they are kept secret. However, a decision on whether such information qualifies as trade secret depends on applicable law of a country. A well-known example of trade secret is the formula of preparing the Coca-Cola drink.

(iii) SMEs and the use of IP

Having looked at the brief description of the main IP tools, the question that follows is do SMEs make effective use of such tools? Unfortunately, recently concluded empirical studies on the extent that SMEs use the intellectual property system in their business activity show that most SMEs do not seek to benefit from IP. Even though these studies were undertaken in developed countries one could safely argue that SMEs in developing countries are in the same situation. Reasons put forward on the non-use of IP include,

- Perceived lack of relevance of the IP system: Due to inadequate awareness of IP issues most SMEs do not know whether they own IP assets hence the irrelevance of the system. In some instances SMEs take the necessary steps and acquire say a trademark, unfortunately such SMEs do not consider the acquired IP right as a business assets which has the potential of having its own independent value. Most enterprises are not aware that patents contain useful information that could be used by for market research purposes, source of information for inputs, available technology etc. A trademark could also be very useful negotiating tool in the event of licensing, merger of acquisition. These are some facts which make IP awareness a necessity to enterprises be they large, medium or small in size.

- Perceived high cost and complexity of the IP system: While it is true that in some cases the acquisition of IP rights is relatively high for SMEs, it is also true that there are several ways in which such costs can be reduced. The WIPO SMEs division web site provide best practices cases in which some government and non-government institutions have initiated in order to facilitate SMEs accessibility of IP system, see [http://www.wipo.int/sme/en/best_practices/index.htm](http://www.wipo.int/sme/en/best_practices/index.htm)

- Lack of qualified human resources to follow IP issues: Most SMEs face financial constraints which limit their capacity to employ experts in different areas of business
including IP. However, some basic knowledge of IP matters within the enterprise could make a big difference between an enterprise and its competitors. Such knowledge would enhance the capability of the enterprise to understand better its strength in the market and identify opportunities relating to the industry.

- In some cases the infancy of the IP system of a country (i.e. where IP legislation still needs to be updated so as to be in line with the current/modern IP legislation which are in line with current international standards in the field of IP)

- There are even cases where SMEs are completely unaware of intellectual property.

SMEs have to be made aware of the fact that, in the new economy where the twin forces of globalization and liberalization are the reality, IP awareness becomes a necessity and an essential part of business strategy. In this new era we are witnessing a trend where intellectual capital as a basis of the total value of an enterprise is increasingly taking the central stage as opposed to traditional physical capital. “Physical assets-land, natural resources, office space, factories, machines- are rapidly becoming basic commodities. Anyone can buy or lease them, so there is no competitive advantage available to the company that controls them. Today, new wealth and competitive advantage largely come from nonphysical assets, or ‘intangibles,’ including ideas, human capital, corporate competencies, and, importantly…, intellectual property rights.”

This is evidenced by the discrepancy between the book value and market value of an enterprise (e.g. in 1999 it was claimed that while Microsoft’s book value was around US $ 90 billion its market capitalization or market value was around US $ 270 billion. In this case the US $ 180 billion discrepancy was attributed primarily to IP assets including trademarks, patents, know-how protected as trade secrets)

The question may validly be raised as to how a small enterprise based in Abuja, which is not even listed in the Nigeria stock market may own IP assets? My response to this would be “SMEs should have a serious look in their daily business activities;” they should take what is known as an IP audit, which includes, identifying any trade secrets which gives the enterprises a competitive advantage against its competitors this could be list of customers, distribution networks, source of suppliers, training manuals e.t.c; check manufacturing practices check whether they have any unregistered trademarks; check what IP of others that the they use, for innovation related SMEs, they should also check whether there exist employee manuals, research and development capabilities etc. I wouldn’t be surprised if it turns out that some SMEs have been facing financial constraints without realizing that they have been sitting on a “gold field.” It is always advisable to conduct an IP audit with the assistance of an expert. However, for one with basic knowledge of IP he/she can always begin by undertaking a preliminary audit. IP audit is not a one-off activity but should be conducted on a regular basis (at least once annually). One should never proceed in a merger or acquisition process without undertaking an IP audit.

Knowledge of what IP assets that an enterprise owns should be followed by steps aimed at deciding which of the IP assets are worthwhile acquiring IP protection and what type of rights should be sought. Here the enterprise should seek expert advice i.e. from an IP lawyer.

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9 Margaret M. Blair, Gary M. Hoffman and Salvatore P. Tamburo “Clarifying Intellectual Property Rights for the New Economy,” in From Ideas to Assets ed. Bruce Berman, pg. 84, John Wiley & Sons, Inc. 2002

10 Bruce Berman “The emergence of an ‘invisible’ asset class, in Hidden Value ed. Bruce Berman, pg. 24
Once an enterprise has identified its IP assets and has taken the necessary steps to acquire relevant IP rights then it is possible for the enterprise to formulate a strategic plan on how to use these assets in its overall business plan. I will not go into using of IP assets in overall strategic business plan but focus on marketing.

(iv) IP for Marketing

To achieve the profit making goal the main objective of a business venture is to identify and satisfy customer needs\footnote{BizMove.com “Introduction to marketing”, http://www.bizmove.com/marketing/m2a.htm (July 29, 2002, 5:27 PM)} that is to say to identify and access a market where it would sell its products at a reasonable price—generally at a profit, and to sustain its competitiveness in the said market. Therefore the main challenge for SMEs in their marketing activities is what can be called consumer/customer acquisition and customer/consumer retention. Marketing activities of SMEs would therefore be deemed successful if SMEs were able to effectively use marketing tools to facilitate the acquisition and retention of customers/consumers. While I do not in any way try to say that IP is a panacea to the challenge, I can confidently say that the use of IP would have a significant impact in enhancing SMEs marketing activities other things being equal (i.e. the national IP system is effective and enforcement mechanism are in place and effective).

As most of you would agree, marketing is a multi-faceted activity which includes market knowledge; market research; competition; customer needs and wants; products and branding; product life cycles; customer relations and behavior (i.e. understanding the customer and his/her relationship with the enterprise); cost and benefits relating marketing to financial activities of the enterprise (i.e. marketing productivity); quality; advertising; sales; public relations; technology as applied to marketing activities; distribution channels e.t.c.\footnote{Roger I. Cartwright, “Mastering Marketing Management” pg. 11-12, internet version}. In other words the main objective of marketing is to identify, anticipate and satisfy customers needs profitably. The marketing process for an enterprise therefore, begins with finding out what customers want, both now and in the future, consider the possibility of entering the identified market and then strive to be in a position to service both the current and future needs of its potential customers\footnote{Roger I. Cartwright, Mastering Marketing Management, pg. 3}. Effective use of IP would, directly or indirectly enhance the possibilities of an enterprise to achieve the above-mentioned objectives.

SMEs can effectively use patent and patent information to secure a market or identify potential strategic partners who would enhance the position of an SME in a certain market. As it is widely acknowledged SMEs have proven to be innovative, unfortunately, there are times when financial constraints force this group of enterprises to fail to commercialize their innovations. However, SMEs holding strong patents are in a better position to enter into negotiations with large companies on ways and means of commercializing their inventions. These negotiations can lead into an agreement on joint ventures, merger, acquisition, or establishment of strategic alliances depending on the enterprises’ long and short-term objectives/strategies.

Patents can also be a source of revenue. SMEs can license their patented technology to large businesses and sometimes even to competitors if this is within the enterprise’s business strategy, and receive royalties in return. This in itself is a marketing strategy, since an
enterprise will be selling its products and at the same time getting income from its competitors in the form of royalties.

**Patent information** can assist SMEs to identify potential markets for their products and can also provide useful information on technology trend in a particular industry. Such information, if used effectively, can enable an enterprise to adjust its activities accordingly. Furthermore, patent information can assist SMEs to acquire technology which is in public domain. In this way an enterprise can enhance its productive capacity hence strengthen its ability to satisfy consumer demands, were relevant, the acquired technology can also enable an enterprise to reduce its production costs which would ultimately have an impact on the competitiveness of its products in the market place in term of prices.

Business promotion is central in any business activity. That is why we see companies spending fortunes in advertising and other promotional activities. The “raison d’être” of these promotional activities is to attract customers and potential customers to the enterprises’ product(s) or service(s). Through promotional activities enterprises attempt to appeal to the mind of its current and potential customers to in order to develop a trust on the good quality of the its products and preference in relation to other similar products or services of competitors. More important enterprises want customers to associate the quality of the product with the company. To do this the use of trademark becomes **essential**.

A **trade/service mark**, also known as **brand** in business language, is a powerful tool in facilitating the customers’ differentiation of otherwise similar products. For the purpose of this presentation I will be using the two terms interchangeably. Brands enable customers to easily recognize and choose a specific product from a particular producer in a group of similar products. In most cases such decision are consciously or unconsciously influenced by the belief, in the part of customers/consumers, that the chosen brand product is of better quality in relation to other similar/competing (substitute) products. Quality products with strong brands have strong potential of acquiring and retaining customers/consumers i.e. establishing and maintaining loyal customers/consumers. Such ability contributes to the creation of what is known as brand equity (i.e. marketing effects uniquely attributable to a brand. That is, brand equity relates to the fact that different outcomes result in the marketing of a product or service because of its brand, as compared to if that same product or service was not identified by that brand). To achieve this, a brand must be able to appeal to the eyes of a customer/consumer (brand recognition) and at the same time must instill confidence and trust on the part of the customer/consumer regarding good quality of products of the brand (brand preference). This would then result into having customers/consumer who would be willing to pay even higher prices for the desired branded product such customers/consumers are what are known as loyal clients.

In this era where customers/consumers are relatively well informed and where competition is increasingly gaining strength due to the existence of substitute/competing products one would agree to a popular branding theory, which states “when marketplace choices increase, buyers tend to have an increased preference for familiar brands, thus, saving them research time and limiting their exposure to risk.” While the creation of a strong trademark would need expert advise, it is always useful to have some knowledge on the basic features of a good trademark.

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these include (i) it should be inherently distinctive (ii) it should be easy to memorize and pronounce (iii) should fit the product or image of the business (iv) have no legal restrictions and (v) should have a positive connotation. A well-developed and targeted brand can succeed in penetrating peoples mind and influence their decisions. I believe the following brands/names would “click” to most of delegates in this room, Chivita fruit juice, Emzor (Paracetamol/Medicines), Indomie noodles, and Alabunkun\textsuperscript{16}. My point here is that local brands can also succeed.

Baby Jogger Co. is a small company with 70 employees was established in 1984 in a garage by Mary Baechel and her then- husband Phil. The company used retailers to establish a distribution network and by 1994 its sales stood at US $ 5 million and by 2000 its sales had leapt to US $ 15 million. Baby Joggers has become a household name in some parts of the world.\textsuperscript{17}

Brands also facilitate communication between producers and the customers in a way that if customers are pleased with a specific brand product they will always purchase the products and in the process enable producers to get a reliable feedback on the performance of their products in the market place, that is to say brands facilitate market intelligence.

Care should be taken on the use of a brand name. Once a brand name has been established it is upon the owner of the brand to make sure that the said brand does not degenerate into a generic term as it had happened to "Aspirin" and "Escalator."

\textbf{Industrial designs:} Industrial designs are increasingly used not only to differentiate similar products but also to target a specific market segment on age or gender basis. It is not therefore surprising when consumers attach particular importance to the visual appeal of shoes and clothes they buy, or the look and style of gadgets or cars. A good design can play an important role in influencing the perception of a product by a customer/consumer i.e. the value and usefulness of a product or service. SMEs are normally said to have the advantage of being closer to the market as opposed to large enterprises hence are well positioned to be aware of the changing taste of consumers. SMEs are also said to be flexible than large enterprises and are therefore well placed to change their products according to the taste of the market and develop and deliver better products, in aesthetic terms faster than large enterprises. Industrial design can also be used to protect packaging designs. I believe you

\textsuperscript{16} An analgesic (pain relieving) whose success is claimed to result from local content advertising and packaging. See Akin Adeoya “In Search of Nigeria’s Greatest Brands”, THISDAYonline, wysiwyg://203/http://www.thisdayonline.com/archive/2001/07/28/20010728cam01.html (Aug. 1,2002, 2:59 PM)

\textsuperscript{17} http://www.babyjogger.com/bj3.asp 2/09/02 2:58 PM
would agree with me when I say that packaging is a marketing activity which plays an important role in influencing customers and potential customers’ decisions on whether to buy a certain product. In order to maintain competitiveness in the marketplace the protection of the newly created design becomes imperative, otherwise “free-riders” will enter the market and creative SMEs (this is also true to large companies) would not be able to recoup their investment made in designing new products.

**Geographical indications**: A product can be promoted successfully through geographical indications. Currently, the number of products benefiting from geographical indications is very limited in Africa. With a right strategy “made in Nigeria products” may become very successful in the market place, textiles and textile designs are an example of such products.

Generally speaking all IP assets have the potential of facilitating entry into foreign markets. Copyrights, trademarks, patents, industrial designs and geographical indication can all be used to enhance export opportunities. However, to be successful in such venture an enterprise intending to make effective use of intellectual property must put in place IP management mechanism within its enterprise. Furthermore, governments should put in place measures which would facilitate less costly protection of domestically protected products in foreign markets such as accession to the Patent Cooperation Treaty (PCT), the Madrid system (for trademarks) and the Hague Agreement (for industrial designs), which are administered by WIPO and provide mechanisms facilitating the application of IP protection in more than one country. For more information see [http://www.wipo.int/sme/en/ip_business/export/export_opportunities.htm](http://www.wipo.int/sme/en/ip_business/export/export_opportunities.htm)

**(v) Importance of IP for business**

The ability of IP to create value to an enterprise makes its inclusion in overall business strategy a necessity. Increasingly businesses are realizing this fact and we are now witnessing some enterprises, also know as IP-smart enterprises, taking serious note of their IP assets.

For large companies which are publicly traded, their market value can easily be translated into shareholder wealth i.e. share value. In such instance large companies which are IP-smart so far have no difficulties in calculating (estimating) the value of their IP assets, for example as of May 31, 1997 the business value of NIKE was totaled US $ 3.3 billion, 81.7% of this value was associated with intellectual property and intangible assets. The Interbrand 2001 annual survey of the world’s most valuable global brands cited Coca-Cola, and IBM as having the value of US $ 68.9 billion and US $ 52.7 billion respectively.

Most SMEs use earnings and asset value as a measure of sale value of a company becomes useful. Unfortunately due to inadequate IP awareness most SMEs do not consider their IP assets as independent assets with independent value (in most cases they treat them as goodwill or not consider them at all). This results to the underestimation of the total value of the enterprise.

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18 Russell L. Parr, Intangible assets dominate hidden corporate value ed. Bruce Berman, Hidden Value Profiting from the intellectual property economy, pg. 76
19 see WIPO Magazine/January 2002 “The role of trademarks in marketing”
20 John B. White et al. Pg. 4
Enterprises are using different IP strategies with the objective of enhancing their competitiveness and build strong basis for value creation. These strategies include
- Defensive strategy- Keeping competitors at bay so as to protect profits and markets.
- Defensive with cost control- Identifying economically beneficial IP assets. The non-economically beneficial IP assets can be discarded through outright sale, donated etc
- Income generation- Licensing, Franchising, Donation for in order to have tax reduction

Government institutions can also use IP to assist SMEs in the country e.g., a government-funded research institution can come up with an invention and patent it. The institution can then allow SMEs within the country to utilize the technology at a token cost or freely. In such a scenario SMEs can use the technology to enhance their competitiveness (export markets).

(vi) SMEs, IP and ICTs

Due to lack of time I shall only very briefly touch upon IP and information and communication technologies (ICTs). The revolution taking place in the field of information and communication technologies (ICTs) is an aspect of globalization which SMEs have direct implications to SMEs marketing activities. ICTs rapid pace of change combined with developments in the field on international trade have resulted to the opening of a wide range of opportunities and challenges. On the hand, with a click of a mouse SMEs are now able to reach to potential customers in distant market which a decade ago was a far-fetched dream. On the other hand, SMEs are now faced with serious competition from large, medium, and small enterprises in their own “turf.” The advantage of operating in niche markets is now being threatened. The advantage of market presence is slowly evaporating.

SMEs, directly or indirectly, are increasingly taking part in e-commerce. IP awareness is crucial if one wants to effectively and successfully to participate in e-commerce. Furthermore, effective combination of ICTs and IP could facilitate SMEs the penetration of foreign markets. The use of these instruments would positively contribute to SMEs’ successful participation in the “global market.”

Below are some necessary measures which should be considered by SMEs participating in e-commerce,
- Identify and take stock of their IP assets
- Take necessary measures to protect trade secrets
- Before launching a web site, an enterprise should be clear on the ownership of IP rights of the design, content and every other aspect of IP regarding the web site. It is advisable any agreement should be in writing and nothing should be left to chance.
- Avoid disclosing information which would negatively affect or destroy their IP rights

(vii) Enhancing SMEs’ Awareness of IP: WIPO’s Role

The SMEs Division of World Intellectual Property Organization (WIPO) was established in October 2002. The main objective of the division is “Improve competitiveness of SMEs, worldwide, by enabling them to fully exploit their innovative and creation potential through effective use of the IP system.
In achieving its objective the SMEs division has created a web site for SMEs and their support institutions. The content of the web site has been written in business friendly language and attempts to address most IP-relevant concerns of SMEs see http://www.wipo.int/sme/en/index.html. The Division is continuing to improve the content so as to cover a broader range of IP issues relevant to SMEs. The Division has also produced CD-ROM version of the web site, in order to enable SMEs and other stakeholders with difficulties in accessing the Internet but are able to access computer facilities to also benefit from the information. Upon request, the division is also willing to send by post mail printed versions of the same.

Reaching out to non-traditional WIPO audience is a strategy used by the SMEs Division in order to ensure that the IP message reaches the widest audience possible. The new audience includes SMEs and SMEs associations, SME support institutions. The Division is also reaching out to universities, financial institutions, incubators/technology parks etc. The mode of delivery in reaching out to these institutions is through participation in their awareness creation activities like this one, and inviting them to WIPO organized activities.

The SMEs Division is currently in the process of preparing practical IP guides on different topics such as (i) Licensing IP (ii) SMEs and the use of trademarks (iii) Patents and patent information (iv) Trade secrets (v) Copyright and (vi) Development of policy guidelines on SMEs use of IP.

The Division is also continuing to collect information on strategies used by different institutions in facilitating SMEs’ use of IP system (best practices) and the experience of SMEs in making use of IP (case studies) here special mention is made on Dr. Ovadje and the EAT-SET device.

It is the expectation of the Division that its activities would lead to an enhanced awareness of IP issues on the part of SMEs and other stakeholders. Furthermore, it is hoped that SMEs will start treating IP matters as part and parcel of their overall business strategies and give proper value to their IP assets.

It is our expectation that governments will realize the important role that IP can play in enhancing SMEs contribution to economic growth and would therefore, provide conducive legal and business environment which would facilitate SMEs’ effective use of IP system.

We are glad that NASME has reacted positively to our activity and decided to include IP as an important subject in its first major conference since our first contact with them in June 2002. I invite you to visit WIPO SMEs Division web site at www.wipo.int/sme

Thank you for your kind attention.