

The Importance of Intellectual Property (IP) for Economic Growth and Business Competitiveness

Sub-Regional Workshop on the Effective Use of the IP System for Economic Growth and Business Competitiveness

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Summary

IP and business

IP and financing

IP and branding

IP relevance to business

- Every product or service that we use in our daily life is the result of a long innovative and creative process
- IP protection is possible through a coherent utilisation of IPRs such as patents, trademarks, industrial designs, geographical indications, copyright, trade secrets or licensing
- IP may assist in the entire business cycle

How IP can enhance the value of business

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

How IP can enhance the value of business

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

IPRs crucial for marketing products/services

- In business, marketing is a major challenge and it is an important tool in creating a business image
- IP may contribute to establish a marketing strategy by using various IPRs, namely:
 - Trade and service marks
 - Collective and certification marks
 - Industrial designs
 - Geographical indications
 - Patents
 - Utility models
 - Trade secrets
 - Copyright

Relevance of TM to the business success

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

Collective and certification marks

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

Industrial designs

■ Industrial Designs

- Adds value to the product by making it more appealing to consumers.
- Some products (e.g. furniture) are primarily sold on the basis of their appearance
- Enables customization of products to specific export markets
- Enables customization of products to specific target groups (e.g. women, children, etc.)

Marketing opportunities for GIs

- Export promotion, when Geographical Indications (GIs) are used to take a foothold on foreign markets
- Strengthening GIs through close coordination with consortium or producers' associations, with an adequate Government intervention
- Government agencies, to help obtain recognition of GIs in foreign jurisdictions

Reasons for patenting

- Exclusive rights for using and exploiting inventions
- Opportunity to licence or sell the invention
- Increase in negotiating power
- Reinforce the company image
- Avoid competitors to make the same product
- Enhance transfers of technologies
- Importance of using patent information

Protecting innovation by utility models

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

Protecting the trade secret in business

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

How can business benefits from copyright

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

Enhance exporting through IP

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

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

Acquire and maintain IP protection

Before a business can take advantage of IP assets, it has to acquire IP rights by going through these principal steps:

- Study the country's legal system governing IP issues
- Seeking advice from a local IP agent, national IP industrial or copyright office
- Using various sources of information on IP legislation, such as databases (see WIPO free IP searching tools)

Protecting IPRs abroad

- Protecting IP abroad means to enjoy worldwide the same benefits of protection enjoyed on the domestic market
- WIPO offers various international registration systems for the protection of IPRs at international level
- Different procedures by applying to national, regional and international application schemes

Managing IP assets for business

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

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IP assets used for financing

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

Raising capitals through IP

- IP assets can be sold, licensed, used as collateral or security for debt finance, can attract private investors (such as “business angels”, venture capitalists, specialized and even regular banks)
- IP assets’ owners can obtain financial support from Governments
- IP assets can be monetized but only if properly valuated

Why IP assets have value

- Can be legally protected
- Can create income
- Can be valued
- Can attract investors
- Can boost R&D

Why reviewing the IP portfolio

- Know what IP you own
- Undertake IP asset valuation
- Check existing laws
- Identify potential partnerships
- Identify the best source of finance

IP assets' valuation

- Potential of IP assets as source of finance is a matter of great interest among investors, particularly if supported by reliable and innovative valuation methodologies
- The IP asset valuation give you:
 - the real value of your IP assets and not the price
 - the estimate of how much capital can the IP assets attract

Legal requirement in using IP assets

- In using IP assets for financing, special attention has to be devoted to:
 - Whether or not the assets are legally protected
 - Ownership status (absence of litigation proceeding, for instance)
 - Potential of the underlying IP asset to maintain its value (absence of clear challenge to its competitive edge)

Technology transfer agreements

- Sale or assignment of IPRs
- License contract
- Franchise contract
- Acquisition of equipment and their capital goods
- Consultancy arrangements
- Joint venture agreements

Sale or assignment of IPRs

- The sale by the owner of all his or its exclusive rights and the consequent purchase of those rights by another person or legal entity

License contract

- The permission granted by the owner of a patented invention to a person or legal entity to perform, in the country, the exclusive rights of the patented invention
- Effective tool for starting, expanding or improving the quality of business
- It is a partnership between an IP owner (licensor) and another who is authorized to use such rights (licensee), in exchange for an agreed payment (fee)
- Available for all IPRs
- In most US universities, licensing pays for less than 5% of R&D costs (maximum is 20% at Stanford and Columbia - see Google's example)

Franchise contract

- A business arrangement whereby the reputation, technical information and expertise of one party are combined with the investment of another party for the purpose of selling goods or services directly to the consumer

Acquisition of equipment

- The commercial transfer and acquisition may take place with the sale of equipment and other capital goods (such as machinery and tools indispensable for the making of specific products)
- Usually associated with license and/or know-how contracts

Consultancy arrangements

- The assistance of a individual consultant or a consultancy firm in providing specialized advice on the use of a given technology

Joint venture agreements

- A form of strategic alliance between two separate companies
- An investment in a start-up business that is perceived to have excellent growth prospects but does not have access to capital markets
- An alternative source of fund raising
- Well managed IP portfolios can influence decisions of venture capital investors
- Main examples of success stories in bio-tech industries, fashion, IT sector

New areas for financing IP

- New areas where IP assets may be used to raise finance include:
 - Collateral
 - Venture capital
 - Business Angels

Collateral

- Companies can use their IP assets as loan collateral, provided that they are able to prove their liquidity, value, durability and marketable power
- Importance of obtaining an objective valuation of the identified IP asset
- Acceptance of IP assets as collateral need to be supported by respective national laws

Venture capital

- An investment in a start-up business that is perceived to have excellent growth prospects but does not have access to capital markets
- An alternative source of fund raising
- Well managed IP portfolios can influence decisions of venture capital investors

Business Angels

- Family, friends or close associates with money and, in most cases, a business background
 - Expect returns on their investment
 - IP knowledgeable business angels would favorably consider investing in enterprises with IP assets

Summary

IP and business

IP and technology transfer

IP and branding

A whole image

- A brand it is not just a mark or a logo, it is the primary identity of a product, service or business
- A brand serves to create associations & expectations among products made by a producer
- Branding possess and develop multiple concepts: vision, mission, message, service & quality, image, differentiation, recognition, investment and pride

Purpose of branding

- Gives a business/enterprise a significant edge over the competition
- Have the customer view a business/enterprise as the only solution to their problem
- A strong brand engenders feelings of trust, reliability, loyalty, empathy, responsiveness and recognition in the customer's mind

Plan to brand

- Developing a brand is a milestone in the preparation of every strategic business plan
- A good knowledge of trademarks is crucial to develop a successful branding . . .
- . . . also applicable to industrial designs and geographical indications

Building a tradition



- Never modified, continually used: the winged hourglass logo of the Longines watch-making company is the oldest valid trademark in the Trademarks International Registry at WIPO
- Originally registered in Switzerland in 1889 and filed under the Madrid Agreement in 1893
- Building its brand by continually innovating and creating unique design
- Using IP system to protect and market the product



Small business brands



- Branding a small business is possible
- Google, today one of the most successful brands in the world, used almost no advertising to develop extremely strong brand

Tradition - Nestlé



NESPRESSO®

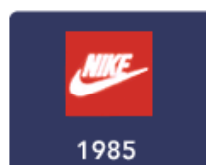
- Nestlé combination of two famous references (Espresso, namely the Italian way to make and drink coffee) with the letter **N** on Nestlé trade name
- Making at home a real Italian coffee shaped by Swiss technology and expertise



Brands evolve - Nike



- This case reflects the popularity of a well-known TM
- The “Swoosh” is the well known symbol of Nike
- Originally Nike’s logo included also the shoemaker’s name
- At the end of the nineties, the Nike’s name disappeared
- The swoosh remained as the main identification symbol of the shoemaker
- Today there is no need to include the brand into this logo since the recognition of a simple swoosh automatically bring our attention to Nike



Brands in motion



- The success of Italian moto scooters' company **Piaggio** is closely linked to its intellectual property vision: ideas from three mechanical sectors, the motorbike, the airplane and the motor car came together into a unique brand
- On April 23, 1946, filing by Piaggio of an industrial design application
- In March 1949, Piaggio filed an application for registration of the name "**Vespa**" as a trademark
- Today Piaggio owns some 34 trademarks that contain the word "**Vespa**" (without counting patents and ID rights)
- Registrations have been obtained in more than 120 countries



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Ethical commerce



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

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Appellation of origin



- The famous Swiss tourist location of St. Moritz protects its logo, slogan, design and name as part of an unique brand
- The sun and writing were used as early as 1930, the slogan "Top of the World" was added in 1987
- Protection through the Madrid System in over fifty countries for up to 15 categories of merchandize

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Marks Used by Trade Guilds Florence, Italy – XIII Century



Silk



Judges



Wool



Butchers



Blacksmiths



Locksmiths

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Famous Certification and Collective Marks XXI Century



Leather



WOOLMARK

Wool



Flowers



Ham



Wine



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Textile

Information on the WIPO Web

- [WIPO Gold](#) searching database platform
- Intellectual Property [Law](#)
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Many thanks

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