



# **The Value of IPRs**

**Success Stories in  
Developing Countries**



**How do IPRs help  
to add value?**

# Standard view of the role of IPRs

- ◆ IPRs exist as an incentive to create new intellectual property (literary, artistic & scientific works ... inventions ... brand names & image).
- ◆ IPRs offer a limited “monopoly” (ownership) over the “creation”.
- ◆ The act of creation has a cost (e.g. R&D expenditure to invent).
- ◆ The monopoly allows the owner to charge higher prices than would occur if the “creation” could be used by others and, thereby, recoup their expenditures.

# Other sources of value from IPRs

- ◆ As protection against infringement.
- ◆ Value of disclosure (e.g. as a source of technical information, as a shop window, in monitoring competitors & potential collaborators).
- ◆ As a source of funding (e.g. using IP to attract investors, as collateral for borrowing).
- ◆ To enable licensing (own-technology, trade marks, etc.).
- ◆ To secure technology from others (e.g. patent pools, cross licensing, etc.).
- ◆ As a focus for quality and management best practice (including incentivising employees).



# **Illustration using a case study (I)**

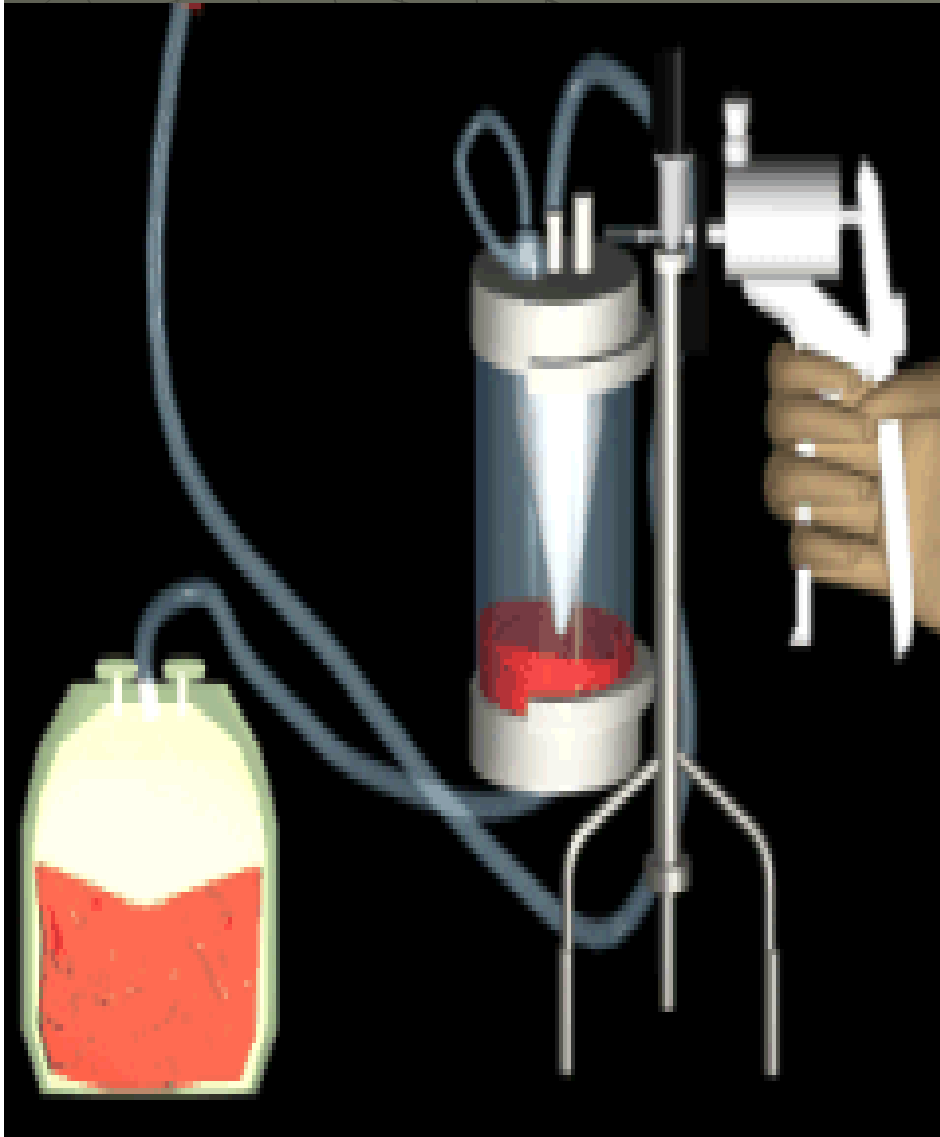
Attracting investment funding

# Emergency Autotransfusion Set

<http://www.eatset.com/history.htm>

- ◆ EAT- SET - pioneered by Dr. Ovadje, Military Hospital Ikoyi Lagos.
- ◆ Recovers blood from the body during operations and reinfuses it into the patient after filtration.
- ◆ Project began in 1989.
- ◆ By 2001, EAT-SET Industries was established.

# EAT-SET device



- ◆ Less costly than other systems.
- ◆ Can be manually operated.
- ◆ More appropriate for developing economies where blood supplies are scarce.
- ◆ Avoids contracting aids and other infections through blood transfusion.
- ◆ Avoids blood type incompatibility.
- ◆ Avoids the need to screen blood.

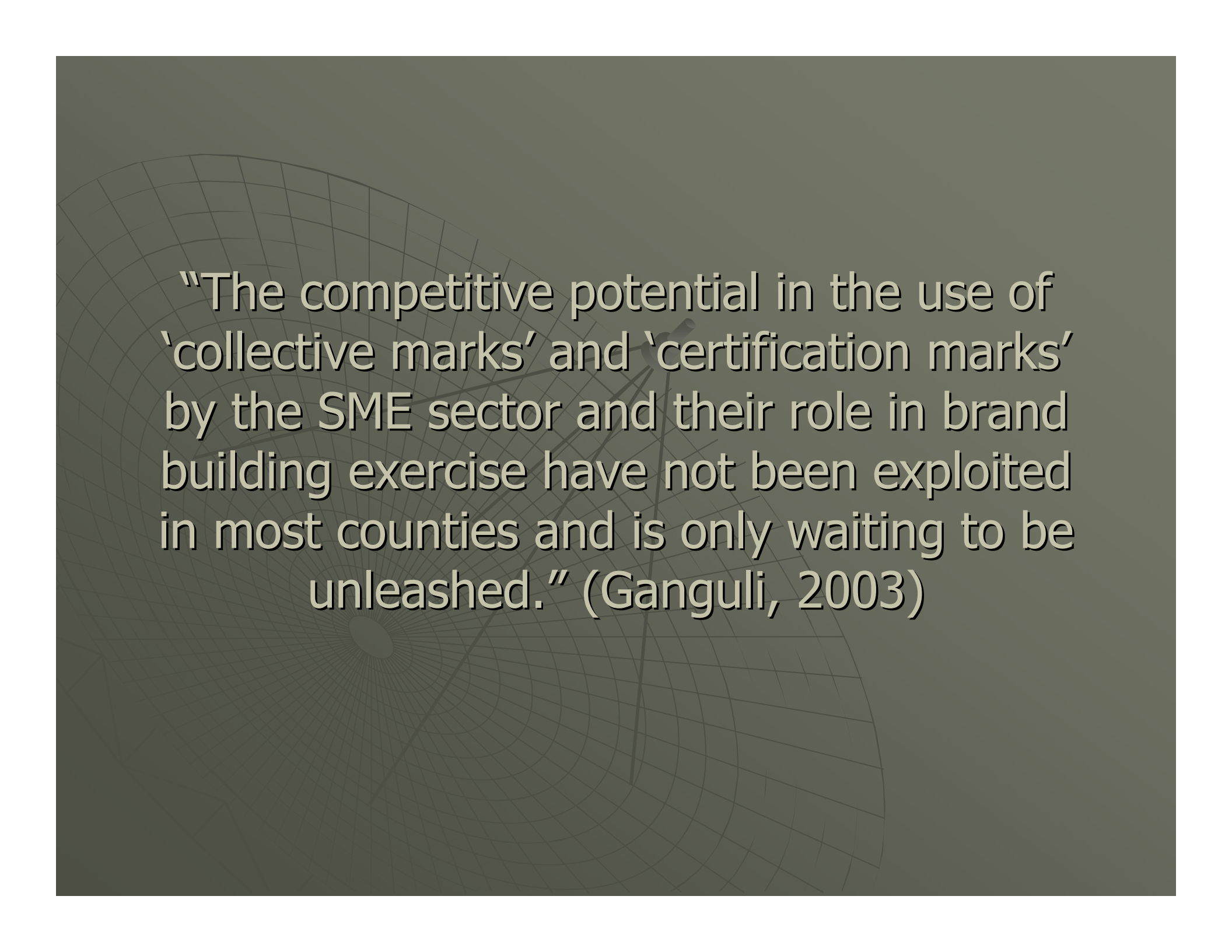
# Attracting funding

- ◆ Project started in 1989 - financed by the Nigerian government (about US\$ 120).
- ◆ Attracted further funding for development and testing from the United Nations Development Program (UNDP).
- ◆ UNDP helped Dr. Ovadje acquire patent and trade mark protection in nine foreign countries.
- ◆ In 2001, EAT-SET Industries established to commercialize the invention and design new medical tools appropriate to developing countries
- ◆ The IP protection has stimulated investment in the company, which has grown from 120 US\$ in 1989 to nearly \$100,000 US.
- ◆ It is reported that investors are now willing to put in US \$1 million.



# Illustration using a case study (II)

Developing a brand and raising  
quality – the role of collective  
marks, certification marks and  
geographical indications



“The competitive potential in the use of ‘collective marks’ and ‘certification marks’ by the SME sector and their role in brand building exercise have not been exploited in most countries and is only waiting to be unleashed.” (Ganguli, 2003)

# Relevant forms of protection

- ◆ “Collective” & “certification” marks, and “geographical indications” are of considerable importance to SMEs and to developing countries.
- ◆ Collective marks - often used to promote products characteristic of a given region (although they can denote other kinds of association) – they provide authentication of membership of the collective group that owns the mark.
- ◆ Products from a distinct geographical origin may be marketed under collective marks and, in many countries, under GIs - GIs “belong” to the region itself and are administered by state governments which oversee certification systems and other controls.
- ◆ Certification marks - usually given for compliance with defined standards - not confined to members – maintain quality.
- ◆ Collective and certification marks may both be used together with the individual trademark of the producer of a given good.

# Darjeeling tea – collective mark

WIPO SME site & [www.darjeelingtea.com](http://www.darjeelingtea.com)

- ◆ Darjeeling tea – a traditional product.
- ◆ Darjeeling tea started some 150 years ago.
- ◆ Dr. Campbell planted tea seeds in his garden at Beechwood, Darjeeling, 7000 ft above sea level as an experiment.

# Darjeeling tea – IP protection

- ◆ Tea Board obtained "home" protection - registering the Darjeeling logo & the word "Darjeeling" as a certification mark.
- ◆ Also registered both under Geographical Indication of Goods Act, 1999.
- ◆ Darjeeling logo, created in 1983, has since been registered in many countries as a trade mark, certification mark and/or collective mark.



- ◆ Statutory compulsory system of certifying authenticity of the Darjeeling tea introduced 2000 – gives certificates of origin.

# Protection of the "brand"

- ◆ Prevent misuse of the word "Darjeeling" for other types of tea sold world-wide.
- ◆ Deliver the authentic product to the consumer.
- ◆ Ensure the product is of a consistent quality and taste.
- ◆ Enable the commercial benefit of the equity of the brand to reach the Indian industry and hence the plantation worker.
- ◆ Achieve international status similar to Champagne or Scotch Whisky.

# Success of Darjeeling

- ◆ The first commercial tea gardens were planted by British tea interests in 1852.
- ◆ Then, Darjeeling was a sparsely populated hamlet.
- ◆ By 1866, Darjeeling had 39 gardens and a total crop of 21,000 kilograms of tea.
- ◆ By 1870, the number of gardens was 56 and 71,000 kilograms of tea were produced.
- ◆ By 1874, tea cultivation in Darjeeling involved 113 gardens with approximately 6,000 hectares.
- ◆ Today, there are only 85 tea gardens, but nearly 17,400 hectares producing 11.5 million kilograms of tea.

# Role of certification marks for Indian teas

- ◆ According to the Indian Tea Board, a number of considerations from the special nature of certification marks have to be fulfilled.
- ◆ The role of a certification trade mark is to indicate that the goods on which it is impressed have been certified by some competent person in respect of some characteristic of the goods like origin, composition, mode of manufacture and quality.
- ◆ The use of such a mark must be regulated by suitably framed rules to prevent its abuse.
- ◆ “In the Certification Trade Mark Protection Scheme of the Tea Board all the aforesaid considerations are fulfilled.”



# Some comments on GIs (and marks)

- ◆ “GIs are important for all countries, not only for economic and social reasons, but also for keeping diversification and passing tradition and knowledge to future generations.” (Agnes Nyaga, Tea Board of Kenya)
- ◆ GIs seem too weak to make a difference, but not so fragile when they represent the collective will of the producers living in a particular region (Elizabeth Barham).
- ◆ Because the product is directly dependent on its natural base, producers are encouraged to value and protect their environment because the reputation of their product’s name is directly linked to the reputation of their local environment.” (op cit.)
- ◆ Because GIs can be profitable, they have helped create rural employment niches directly, and helped support rural economies indirectly through associated industries such as tourism (op cit.)
- ◆ GIs help many traditional, historic products remain competitive on the market when they might otherwise have disappeared, leaving a richer, more diverse world (op cit.)



# Conclusions

- ◆ IPRs have become central to economic success.
- ◆ IPRs are much broader than patents, and some form of protection is available for almost every, if not all, creative activities.
- ◆ There are IPRs relevant to SMEs and to developing countries, even if they are not involved in new-to-the-world inventions.
- ◆ IPRs such as collective and certification marks can have the benefits of producing a focus on the rural economy, generating synergies between producers and setting standards for quality.