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INTERNATIONAL INTELLECTUAL PROPERTY  
TRAINING INSTITUTE  
KOREAN INTELLECTUAL PROPERTY OFFICE



WORLD INTELLECTUAL  
PROPERTY ORGANIZATION

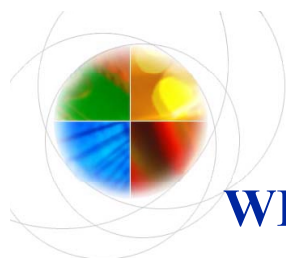
**WIPO ASIAN REGIONAL SEMINAR ON AN  
INTELLECTUAL PROPERTY STRATEGY FOR  
SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)**

organized by  
the World Intellectual Property Organization (WIPO)  
in cooperation with  
the International Intellectual Property Training Institute (IIPTI)  
and  
the Korean Intellectual Property Office (KIPO)

**Daeduk, Daejeon, Republic of Korea, November 26 to 28, 2002**

IMPORTANCE OF AN INTELLECTUAL PROPERTY (IP) STRATEGY  
FOR SMALL AND MEDIUM-SIZED ENTERPRISES (SMES) IN  
ENHANCING THEIR MARKET COMPETITIVENESS AND  
CONTRIBUTING TO NATIONAL ECONOMIC GROWTH

*Document prepared by the International Bureau of WIPO*



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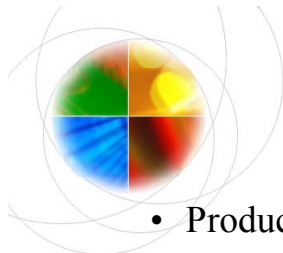


**The importance of intellectual property  
(IP) Strategy for Small and Medium-Sized  
Enterprises (SMEs) in Enhancing Their  
Market Competitiveness and Contribution  
to National Economic Growth**

by Li Jiahao

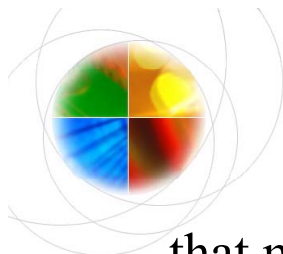
Deputy Director, Cooperation for Development Bureau for Asia  
and the Pacific,

World Intellectual Property Organization (WIPO)



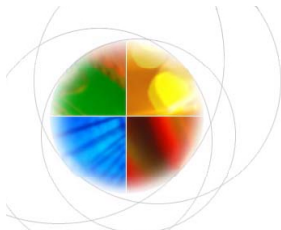
## What makes a product successful?

- Product represents a **functional improvement** compared to other existing products
- Advantageous price
- Product or its package has an **attractive design**
- The **trademark** of the product has a good reputation (guarantee for quality) and has been promoted through publicity
- Product can easily be found in the main retail places and is distributed by the main distributors
- Good after-sale services



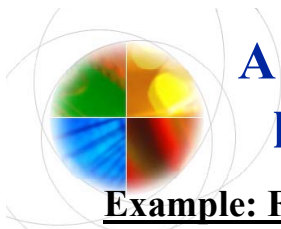
If these are the factors  
that may determine the success of a  
product in the marketplace

→ What can an enterprise do to  
obtain **exclusivity** on its use?



## Legal protection of IP grants exclusive rights

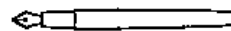
- **Innovation** - Improvement of the functional aspects and the fabrication process of the product → Patents, Utility Models
- **Design** - The product's appearance → Industrial designs
- **Trademark** - Commercialization / marketing of the product → Trademarks



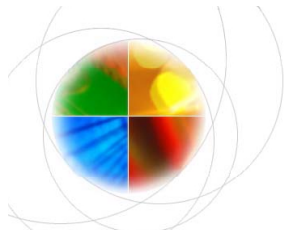
## A range of IP can be used to protect the same product

### Example: Fountain pen

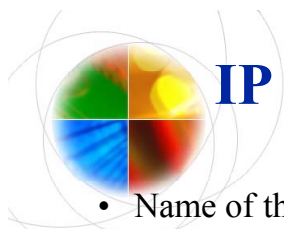
- **Patent**: for the fountain pen that could store ink
- **Utility model**: for the grip and pipette for injection of ink
- **Industrial Design**: smart design with the grip in the shape of an arrow
- **Trademark**: on the product and/or the packaging to distinguish it from other pens



• Source: Japanese Patent Office

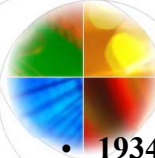


**Regardless of what product your enterprise makes or what service it provides, it is likely that it is regularly using and creating a great deal of intellectual property**



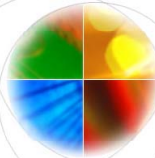
## **IP rights can be acquired for**

- Name of the business : **Trade name**
- Distinctive signs: **Trademarks, Geographical indications, Certification marks, Collective marks**
- Creative designs (appearance or look of manufactured products): **Industrial design**
- Innovative products and processes: **Patents, Utility models**
- Cultural, artistic and literary works, including, in most countries, also for computer software and compilation of data: **Copyright**
- “Trade secrets” (customer lists, sales tactics, marketing strategies, manufacturing process, etc.): **protection of confidential business information**



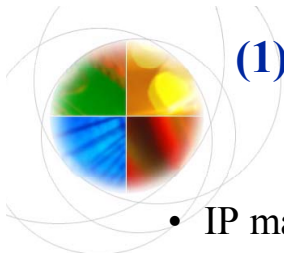
### **Example: Lego**

- **1934 - Trademark:** Leg Godt (“play well”)
- **1958 - Patent:** stud and tube coupling system (the way bricks hold together)
- **1974 - Industrial Designs:** lego figures: castles, pirate ships, Wild West ranches, cavalry forts, space stations, people
- **Copyright:** artistic work, manuals



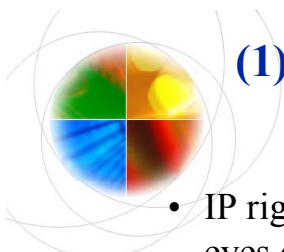
### **How can IP ‘add value’ to your business?**

- (1) Increasing market value of the firm
- (2) Marketing
- (3) Exporting goods and services
- (4) Raising finances
- (5) Acquiring new technology and finding suppliers
- (6) Commercializing innovative products



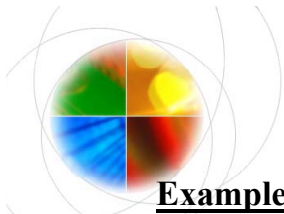
## (1) IP can increase the market value of a firm

- IP may **generate an income** for your SME
  - Exclusive rights to use and exploit (for limited time of period) + prevent others from commercially using your creations
  - Licensing, sale (patents, trademarks, industrial designs, know-how)
  - Cross-licensing: using IP as a negotiating tool to obtain licenses from other companies



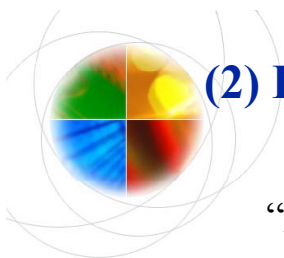
## (1) IP can increase the market value of a firm

- IP rights can enhance the value of your SME in the eyes of **investors** and **financing institutions**
  - IP rights are one of the 5 main criteria used by European venture capitalists in their decisions to fund SMEs
- In the event of a **sale, merger or acquisition**, IP assets can provide an extremely valuable bargaining tool
- IP assets are separately identifiable business assets and have a **separate value**
  - E.g. Coca-Cola brand value: estimated at US\$ 69 billion



### Examples

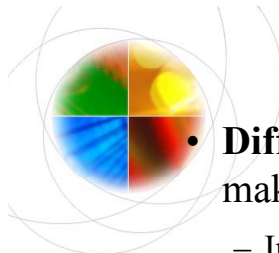
- **Biobrás:** A Brazilian biotech company obtained a patent on human recombinant insulin. While sales have remained constant (company exploring commercialization), the value of shares has gone up six-fold over the past 5 years. **bioBRÁS**
- **Amati Communications (US):** Texas Instrument paid US\$ 395 million to acquire a small computer company (Amati Comm.). The reasons for such a high price were 25 key patents.



## **(2) IP is an important marketing tool**

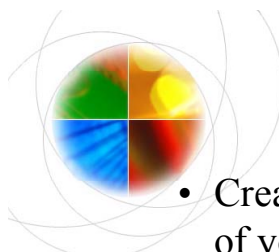
*“Marketing is everything you do  
to promote your **business**,  
so that  
**customers buy your products or services**  
and begin to patronize your business  
on a regular basis”*





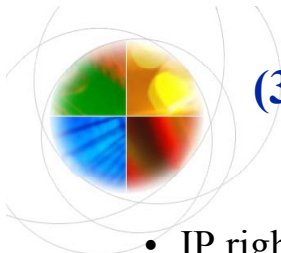
## IP rights are crucial for

- **Differentiating** your products/ services and making them easily recognizable
  - Industrial designs & trademarks are identifiers → customers **distinguish**, at a glance, between your products or services and those of your competitors. They establish a **link** between your products or services and your SME
- Promoting your products or services and creating a **loyal clientele**
  - Trademarks, geographical indications, collective marks, certification marks → customers associate them with certain desired **qualities**



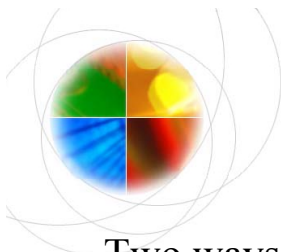
## IP rights are crucial for

- Creating an **image** for your business in the minds of your customers and in positioning your business in the market
- Marketing your products or services in **foreign countries**
- Marketing your products in the **new economy**
  - Use of domain names and trademarks in e-commerce



### (3) Exporting goods and services

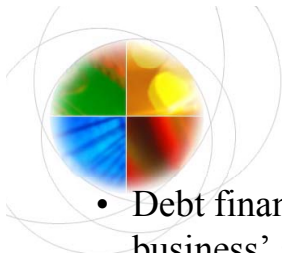
- IP rights are ‘territorial’
- SMEs that intend to export their products should consider **legal protection** of their IP in their **export markets** !
- Whether you commercialize yourself or you license out, you need IP protection in the export countries in order to have **exclusivity**



### (4) Raising funds

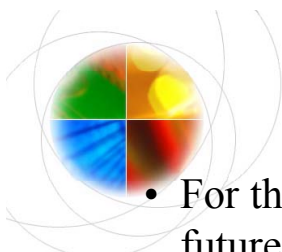
Two ways of raising funds:

- **Debt** - loan which the borrower must repay
- **Venture** - which gives the investor a share of the actual business of the investee and is not automatically repaid by the investee business, but rather relies on the investor ultimately realizing the equity held in the business



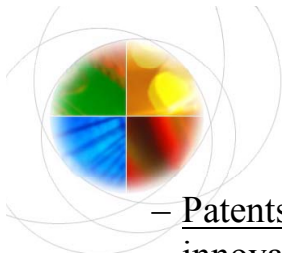
## Debt finance

- Debt finance is generally ‘secured’ by a charge over the business’ assets. In principle, these assets can be any claims that have reasonably predictable cash flows, or even future receivables that are exclusive.
- **Securitization of IP assets** - a new trend: collateralizing commercial loans and bank financing by granting a security interest in IP is a growing practice, esp. in music, Internet and high technology sectors.
  - E.g., securitization for future royalty payments from licensing a patent, trademark or trade secret, or from musical compositions or recording rights of a musician (D. Bowie).



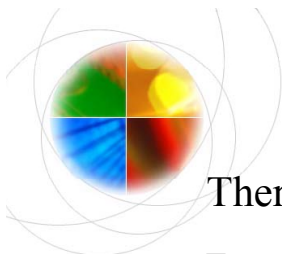
## Venture capital

- For the venture capitalist, return depends upon future profits.
- IP ownership is important to convince investors of the market opportunities open to the enterprise for the commercialization of the products/services in question :
  - Strong trademarks are a guarantee for a loyal clientele
  - Patents provide exclusivity for the commercialization of inventions and may be important to convince investors for the commercialization of your product



## Venture capital

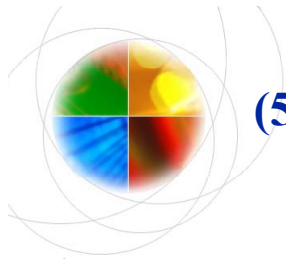
- Patents may convince investors that your product is innovative, unique, or superior to the offerings of competitors
- Trade names, trademarks and domain names may be the prime elements that differentiate your product from those of competitors
- For many companies, confidential business information (such as details of production, secret inventions, and technical, financial and marketing know-how) alone may be the source of their competitive advantage



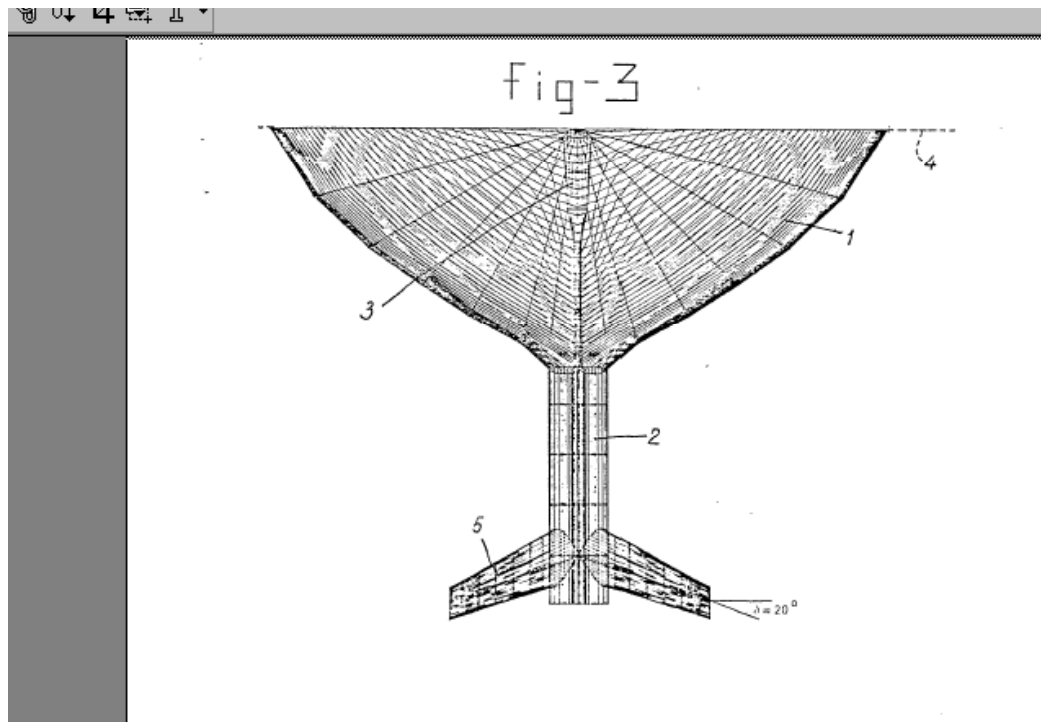
## Venture capital

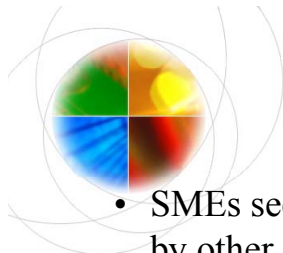
Therefore:

- Ensure that your IP portfolio protects those aspects of the business which determine the venture's success
- Reflect proprietary IP in your business' books, balance sheet, business plan
- Any indication that confirms due diligence on your part in the management of IP assets is likely to play an important role in convincing investors of your company's potential



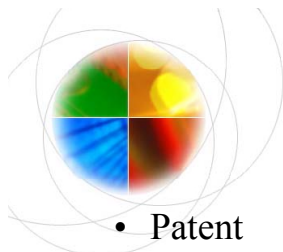
**(5) Acquiring new technology and finding suppliers**





## Acquiring new technology and finding suppliers

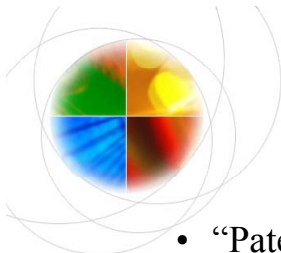
- SMEs seeking access to innovative technology developed by other companies should consult **patent databases** to identify the necessary technology.
- They may have to negotiate **licensing agreements** with the patent holder in order to obtain the right to use the technology.
- Information in patent documents may also assist entrepreneurs in their search for alternative suppliers of identical or similar technologies.



## Patent Information: The other side of the medal

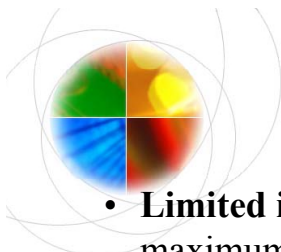
- Patent → 1. “deed securing to a person an exclusive right granted for an invention”  
→ 2. “open, evident, manifest”; “open to public perusal” < Latin *patens*  
(Collins Dictionary)

- Patent as an interchange between society and the inventor
- All patents are published and are open to public



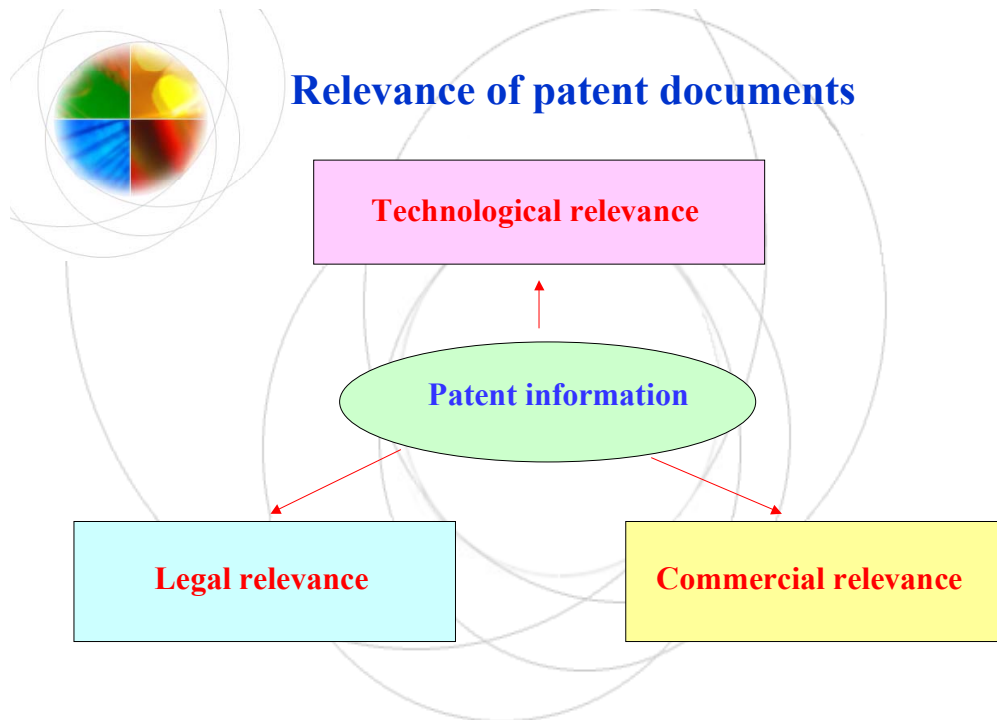
## Using Patent Information

- “Patent information” is the technical and legal information contained in patent documents that are published periodically by patent offices.
- A patent document includes the full description of how a patented invention works and the claims which determine the scope of protection as well as details on who patented the invention, when it was patented and reference to relevant literature.



## Patent limits

- **Limited in time:** a patent grants protection for maximum 20 years. After that, they may be commercialized without authorization
  - In Europe less than 25% of the patent are upheld for 20 years
- **Limited in content:** a patent only protects what is specified in the claims
- **Geographical:** a patent is only valid in the country/countries where protection is granted

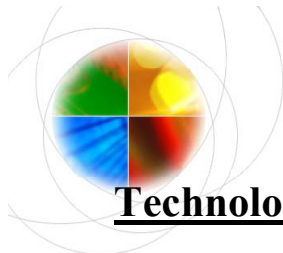


## Using patent information

### Legal relevance:

- Avoid possible infringement problems
- Assess patentability of your own inventions
- Oppose grant of patents wherever they conflict with your own patent

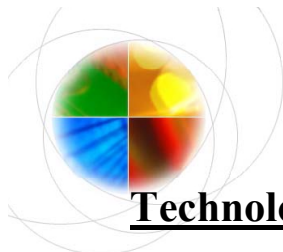




## Using patent information

### Technological relevance:

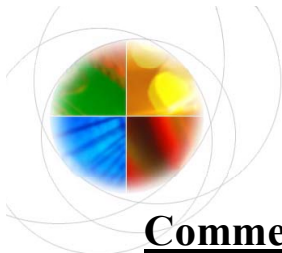
- Keep abreast with latest technologies in your field of expertise
- Avoid unnecessary expenses in researching what is already known
  - “Discovery consist in seeing what everybody has seen, and thinking what nobody has thought” (Albert Szent-Györgyi von Nagrapolt)
  - In Europe, more than US\$ 30 mill. per year is waisted in unnessary research - 30% of the total investment in R&D



## Using patent information

### Technological relevance:

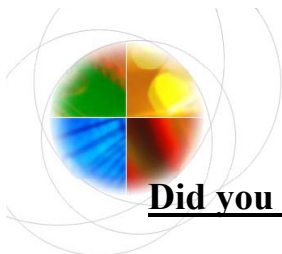
- Identify and evaluate technology for licensing and technology transfer
- Get ideas for further innovation
- Identify alternative technologies
- Find ready solutions to technical problems



## Using patent information

### Commercial Relevance

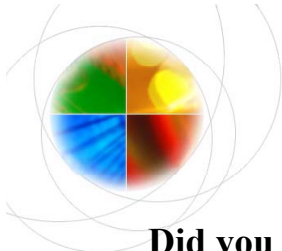
- Locate business partners
- Locate suppliers and materials
- Monitor activities of real and potential competitors
- Identify niche markets



## Using Patent Information

### Did you know?

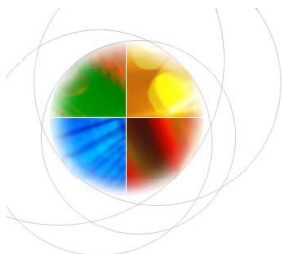
- The entire set of patent documents worldwide includes approximately 40 million items.
- Every year approximately 1 million patent applications are published.
- About two-thirds of the technical information revealed in patents is never published elsewhere.



## Using Patent Information

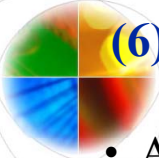
### Did you know?

- Most of the inventions are disclosed to the public for the first time when the patent is being published.
- The information contained in the patent documents IS NOT SECRET!



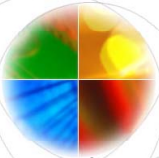
Thomas Edison:

*“I start where the last man stopped”*



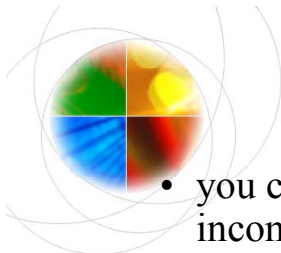
## (6) Commercializing innovative products

- An invention on its own has little value for an SME → **How do you turn inventions into profit-making assets of your SME?**
- Trade secret vs. Patent - The acquisition of a **patent** gives the SME **exclusivity** over the commercialization of an innovative product or the innovation process of fabrication
  - either: commercialize the invention yourself
  - or: allowing its commercialization by other firms



## Commercializing innovative products

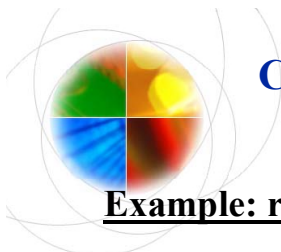
- If you choose not to exploit the patent yourself → you may
  - **sell** or
  - **license**the rights to other firms that have the capacity to commercialize the patented inventions
- “A **licensing agreement** is a partnership between an intellectual property rights owner (licensor) and another who is authorized to use such rights (licensee) in exchange for an agreed payment (fee or royalty)”



## Advantages of licensing technology

- you can ensure a **steady** stream of additional income from your invention (royalties)
- **no need to invest** yourself in the commercialization of the invention
- your SME can **expand** its business to the frontiers of your partners' business
- **cross-licensing**

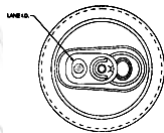
Attention! International context→ IP right you wish to license must be protected in the countries concerned.

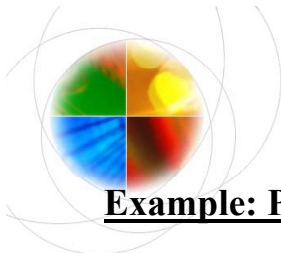


## Commercializing innovative products

### **Example: ring-pull cans**

- The inventor licensed the system to Coca-Cola at 1/10 of a penny per can. During the period of validity of the patent the inventor obtained 148,000 UK pounds a day on royalties.

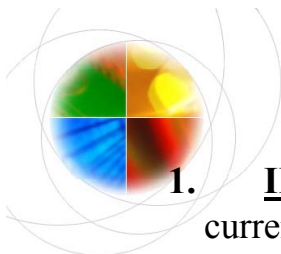




## Commercializing innovative products

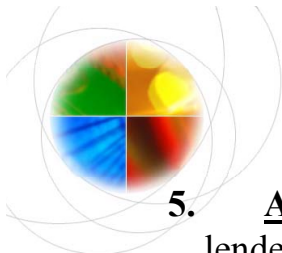
### Example: Post-it

- The glue used for **Post-its** was discovered by chance by 3M. Initially ignored, it was then patented. Post-its subsequently brought huge profits to the company through licensing agreements.



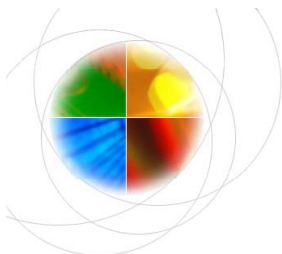
## Some key strategies

1. **IP audit**: taking stock of all IP (how is it currently exploited?)
2. **IP valuation**: like physical assets, IP assets should be identified and valued individually (as a stand-alone asset)
  - important for licensing, during M&As, for raising funds, to report to shareholders and investors
3. **Licensing**: may provide a constant revenue stream from royalties
4. **Cross-licensing**: using IP to obtain access to other companies' technology



## Some key strategies

5. **Announce your IP**: let potential investors, lenders, business partners, share holders, etc. know that you have proprietary IP.
  - Include IP assets in accounts books, balance sheet, business plan
6. **IP search**: consult IP databases on a regular basis.



## Conclusion

By establishing a culture of identifying, cultivating and strategically using its IP assets, an enterprise can enhance its market competitiveness and contribute to National Economic Growth.



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