

INFORMATION PAGE

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IP & SMES: TAKING YOUR IDEAS TO MARKET

When SMEs exploit IP rights, ideas are turned into business opportunities, these ideas generate value, and ultimately, the choice of products available to customers is massively enriched.¹

Introduction

In many countries, particularly in developing countries, Small and Medium Scale Enterprises (SMEs) are disproportionately affected by market failures, barriers and inefficiencies in the business environment, and policy sphere. According to the **World Trade Organization (WTO)**, more than 61% of SMEs around the world are hampered in taking their business ideas close to consumers due to restricted access to finance, restrictive or non-existing government policies, restrictive tariff or non tariff measures, to mention but a few.² The situation has become worse; according to the **Organization for Economic Co-operation and Development (OECD)**, SMEs in nations such as Nigeria will suffer economic slump for a very long time due to economic crisis caused by the pandemic.³

Significantly, SMEs are the predominant form of enterprise all over the world, accounting for approximately 99% of the firms; they provide the main source of employment; are major contributors to value creation and contribute up to 33% of GDP.⁴ Specifically, SMEs contribute an estimated 48% to Nigeria's GDP and employ about 84% of its work force.⁵ In light of all these contributions to economic growth, major bodies all over the world, the **WTO** and **OECD** inclusive, are working on all fours to boost the

¹ National Intellectual Property Management Office, "World IP Day 26 April 2021 'IP & SMEs: Taking Your ideas to Market'" (NIPMO 2021) < <https://nipmo.dst.gov.za/events/world-ip-day-26-april-2021-ip-smes-taking-your-ideas-to-market> > Accessed April 2021

² World Trade Organization, "Leveling the Trading Field for SMEs" (WTO, 2016) World Trade Report 2016

³ Organization for Economic Co-operation and Development, "Enhancing the Contributions of SMEs in a Global and Digitalized Economy" (OECD, June 2017) Meeting of the OECD Council at Ministerial Level, Paris, 2017

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⁵ NM Partners, "Are SMEs the Solution to Nigeria's wailing Economy?" (NM Partners, September 2020) < <https://nairametrics.com/2020/09/21/are-smes-the-solution-to-nigerias-wailing-economy/> > Accessed April 2021

growth and contributions of SMEs to the world. Notably, the **World Intellectual Property Organization (WIPO)** is driving that change this year by shining a light on how the use of Intellectual Property rights can build stronger, more competitive and resilient businesses.⁶ Intellectual Property refers to creations of the mind, such as inventions, literary and artistic works, designs, symbols, names and images used in commerce and it is protected in law, for example, by patents, copyright and trademarks.⁷ The **WTO** defines SMEs as firms employing about 10 to 250 people and includes producers of non-tradable services to suppliers of digital products, high quality artisanal goods or sophisticated instruments.⁸

This essay looks at the confluence between IP and SMEs; specifically, it looks at the huge role of IP in boosting the business space for SMEs and how opportunities in the IP space could be leveraged on by SMEs to advance economic growth.

Taking Your Ideas to Market: the Role of IP

In the main, the constant theft of ideas, brands and inventions developed by SMEs is a bane to the development of the industry; SMEs can leverage on the IP system to enjoy exclusivity over the exploitation of their innovative products, creative designs and brands, thus improving their local and international competitiveness. According to **WIPO**, 4 in every 10 SMEs do not have their inventions, product brands and/or designs protected.⁹ The effect of this is a proliferation of diverse similar products in the market, inability to properly compete in a highly competitive market, undeveloped potentials as well as hindered capacity for job creation. For a nation like Nigeria, this would stagnate the growth of its economy. In Nigeria, SMEs not only do not protect their products but also do not know that they ought to and where they know, they are mostly at a loss as to

⁶ National Intellectual Property Management Office, "World IP Day 26 April 2021 'IP & SMEs: Taking Your ideas to Market'" (NIPMO 2021) < <https://nipmo.dst.gov.za/events/world-ip-day-26-april-2021-ip-smes-taking-your-ideas-to-market> > Accessed April 2021

⁷ Amy Dietterich, "WIPO GREEN: Supporting Green Innovation and Technology Transfer" (WIPO Magazine, March 2020) < https://www.wipo.int/wipo_magazine/en/2020/01/article_0003.html > Accessed April 2021

⁸ World Trade Organization, "Leveling the Trading Field for SMEs" (WTO, 2016) World Trade Report 2016

⁹ World Intellectual Property Organization, "An Introduction to Industrial Designs for Small and Medium-sized Enterprises in Nigeria" (Ministry of Trade and Investments, 2011) < www.wipo.int/sme/en/documents/guides/ > Accessed April 2021

how to go about it. Significantly, the Intellectual Property system encourages SMEs' protection of their products and creates incentives for creators to develop, produce, and distribute new and genuine goods and services for commercial purpose while enjoying exclusivity. The overall advantage of exclusivity for SMEs is distinct recognition both in the local and international market of their product, higher return on investments and an avenue for increased competitiveness.

Secondly, according to data drawn from the **European Central Bank/Survey**, limited access to finance and loans is a major constraint hampering the productivity of SMEs the world over¹⁰; it is time for SMEs to leverage on IP Finance as a means to maximize access to finance as well as boost availability of consumer products. IP financing is the use of IP assets such as trademarks, design rights, patents and copyright to gain access to credit.¹¹ All over the world, multinational corporations are leveraging massively on their IP assets in exchange for finance, and lending institutions around the world are increasingly extending their businesses to provide loans on the basis of IP. In 1998, Nikolas Ashford and Valerie Simpson, songwriters and producers of hit songs including "*Ain't No Mountain High Enough*" used the copyright on 247 of their songs as assets to back bonds, raising US\$25 million.¹² SMEs in developing countries such as Nigeria are not yet on this train. SMEs in Nigeria can leverage on IP finance by licensing and directly selling their patents or trademarks at IP auction houses which allows for these IP assets to be sold faster, enabling access to rapid liquidity. SMEs can also utilize their IP assets as collateral: where borrowers pledge their patents, trademarks or copyrighted works, the collateral pool increases in value and the potential for a successful loan is increased. The advantages of IP finance are immeasurable for SMEs: it would increase the business' asset value, and understanding and valuing these assets will help the business make informed investment and marketing decisions; higher asset values will help in negotiations with a business' bank and facilitate access to credit, or

¹⁰ Maricia Moscalu Et al, "SMEs' Growth under Financing Constraints and Banking Markets Integration in the Euro Area" (2020) *Journal of Small Business Management* Vol. 58, Issue 4

¹¹ WIPO, "Intellectual Property Financing – An Introduction" (WIPO Magazine, September 2008) < www.wipo.int/wipo_magazine/en/2008/05/article_0001.html > Accessed April 2021

¹² Debora Vrana, "Ashford & Simpson in Tune with Investors" (November 1998) < <https://www.google.com/amp/s/www.latimes.com/archives/la-xpm-1998-nov-30-fi-49162-story>. > Accessed April 2021

help to negotiate cheaper interest.¹³

Additionally, Small and Medium Scale enterprises can maximize the advantages that a robust trademark and designs system provides under IP so as to create a lasting image of the business in the minds of the consumer and position their business in the market. Data has shown that most consumers of products launched by SMEs are often confused as to the exact brand, name or product mark belonging to one business separate from another business.¹⁴ Trademarks protect the names or marks of a product while its aesthetic features are protected by industrial design. Robust IP systems such as what is existent in Malaysia help businesses and companies by providing trademark experts in the trademark registry to advice on possible trademarks, brands, or designs that would effectively distinguish and stand a business out from others.¹⁵ If, and when SMEs in Nigeria and indeed the world over leverage on the possibilities of a robust trademark and designs system, they are able to establish closer link to their consumers as well as create a formidable niche for their business in an overly populated and competitive market.

SMEs can leverage on effective IP asset valuation and management to enhance the value of their businesses and pitch the business in the realm of opportunities open only to large companies. Intellectual property assets are valued by checking the market price at which such ideas or inventions of a person would be bought or the amount of financial income the IP is expected to generate. Maintaining the value of such idea or invention, or ensuring that the market price of such invention continues to soar is intellectual property asset management. Notably also, IP assets are managed by constantly developing new and innovative features to compliment a business' already-existing ideas and inventions. According to **WIPO**, every year, the world loses tons of ideas and inventions developed by SMEs largely due to absence of adequate IP protection of such ideas, and effective management of highly valued IP assets.¹⁶ The

¹³ SMEs Division, WIPO, "The Importance of Intellectual Property for the Competitiveness of SMEs" (June 4 and 5, 2003) < www.wipo.int/sme > Accessed April 2021

¹⁴ Sati-Salmah Sukarmijan and Olivia De Vega Sapong, "The importance of Intellectual Property for SMEs; Challenges and Moving Forward"

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¹⁶ Supra

valuation and management of intellectual property assets is driving revenue creation in nations such as Canada and USA where universities and research institutions have generated billions of US\$ following effective valuation and management of IP assets.¹⁷ For SMEs in Nigeria, IP assets when valued and properly managed by SMEs will promote funding for Research and Development (R&D) which provides and enhances needed technologies and products; provide bargaining power in technology transfer negotiations; increase high value exports; and attract high-value foreign direct investment (FDI) and joint ventures.

Lastly, SMEs in Nigeria and indeed the world over would be unable to maximize the advantages of IP if we do not create an IP system that is advantageous to SMEs. In Nigeria, awareness of IP is driven in the educational system and not extended to the markets. It is time to drive information awareness of IP on radios, TV stations as well as social media platforms where business' can benefit from IP information. Importantly also, it would be a laudable step in the history of the Nigerian IP system and indeed to the benefit of SMEs if use of the new business online service - WIPO Proof - is subsidized for SMEs. WIPO Proof is a new digital business service that provides a date and time-stamped digital fingerprint of any file, proving its existence at a specific point in time.¹⁸ The system offers innovators and creators in the business space a fast and effective way to safeguard digital files. Presently, most SMEs in Nigeria know nothing about the WIPO Proof; to change this narrative, it is important that awareness is not only championed but that they are encouraged to use the system by subsidizing use of such system for them. Most importantly, SMEs who wish to maximize the advantages of IP do not know how to go about it; it is important that expert IP officers be attached to the trademarks, patents and designs registry in Nigeria to advise SMEs in this regard for free.

¹⁷ Femi Olubanwo and Oluwatoba Oguntuase, "Strengthening Intellectual Property Rights and Protection in Nigeria" (Banwo & Ighodalo, March 2019) < <https://www.mondaq.com/nigeria/trademark/788714/strengthening-intellectual-property-rights-and-protection-in-nigeria> > Accessed April 2021

¹⁸ Francis Gurry, "WIPO PROOF: WIPO Introduces New Business Service that Provides Evidence of an Intellectual Asset's Existence" (WIPO, May 2020) < www.wipo.int/pressroom/en/articles/2020_0012.html > Accessed April 2021

Conclusion

Every day, SMEs come up with intelligent ideas to better our economy but soon fold up due to lack of finance, theft of these ideas, absence of technology, inability to establish a distinct product image as well as inability to properly compete. We cannot overemphasize the importance of a robust intellectual property system for better SMEs. When SMEs leverage on the exclusivity offered by a robust IP system; utilize IP finance; maximize the distinctiveness provided by the trademarks and designs system; and leverage on IP asset valuation and management we all would benefit from an economy whose major contributors are made more equipped to serve us all.