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INTRODUCTION

Every year, new ideas are created and generated. A majority of these new ideas are generated within the Small and Medium Scale Enterprise (SMEs) sector. According to the World Bank Group “SMEs account for the majority of businesses worldwide and are important contributors to job creation and global economic development. (1)

This year’s World Intellectual Property Day celebrates the ingenuity and creativity behind every SME, their courage to make a difference, their contributions to enhancing our lives and the role of intellectual property (IP) rights to build stronger, more competitive, and resilient businesses.

World Intellectual Property Day 2021 creates awareness of the opportunity to discover the economic benefits and supports of Intellectual Property to businesses and their environs.

It is no news that the Global Pandemic led to an economic crunch, hence there is an urgent need for global economic recovery. WIPO celebrates the World Intellectual Property Day 2021 and uses the opportunity to shine a light on the critical role of SMEs in the economy and how they can utilize their IP rights to build stronger, competitive, and resilient businesses.

While SMEs are struggling for survival, competitive, distinctive, and meaningful impact, they regardless, take exposure risks for visibility and audience through technology. The theme of the year “IP & SMEs: Taking Your Ideas to Market” is presenting a window for a thorough understanding of the principle of defending new ideas, inventions, trademarks/brands, and software by company entrepreneurs and risk-takers.

(1) <https://www.worldbank.org/en/topic/sme/finance>. Accessed on the 23rd of April, 2021: SMEs represent about 90% of businesses and more than 50% of employment worldwide. Formal SMEs contribute up to 40% of national income (GDP) in emerging economies. These numbers are significantly higher when informal SMEs are included.”

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IP & SMES: TAKING YOUR IDEAS TO MARKET - HELPING SMES THRIVE

Every day, new products, brands, creative designs and technologies, which are the result of continuous human innovation and creativity, are taken to the marketplace with little or no caution in respect of protection under the relevant IP laws. The value of IP is often not appreciated by proprietors of small-scale businesses and this, understandably, is due to the fact that they are constantly seeking out platforms to sell their products. This often leaves the business at the mercy of counterfeiters or the big elephants in the room.

In many cases, the SME proprietors largely erroneously believe that, once a business is formally registered, the IP protection automatically comes with it, as they assume that from then on, they possess the exclusivity of the business.

Unbeknownst to them, IP protection is quite different from the legalization of a business and one of the benefits of IP is that it enables SMEs to have exclusive rights over the exploitation of their innovative products, their creative designs and their brands, thus enhancing their international competitiveness.

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In order to be internationally competitive, SMEs need to constantly improve their efficiency, reduce production errors and enhance the reputation of their products by: Investing in research and development; acquiring new technology; improving management practices; developing creative and appealing designs; and marketing their products and services.

IP assets accrue to their owners through its business development and strategies at different levels: from product development to design, from service delivery to marketing, and from raising financial resources to exporting or expanding business through licensing or franchising. IP instills trust, confidence and loyalty of the consumers of the products (goods or services). Furthermore, IP provides a distinct identity, image and reputation.⁽²⁾

For most SMEs, marketing products or services is more challenging where products are not protected, and the IP rights exposed especially at the tender stage of the business. This often means a wrong image can be created in the minds of potential customers when positioning products and services in the market especially when competing with the bigger businesses within its sector.

IP rights, combined with the use of technological tools (such as advertisements in social media platforms, use of more technologically driven devices and other sales promotion activities) are crucial for differentiating products and services while making them easily recognizable and acceptable even in foreign markets.

(2) <https://reader.elsevier.com/reader/sd/pii/S2214011514000113?token>, accessed on the 23rd of April, 2021

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There is no gainsaying that without use of technology, not so much growth can be achieved for SMEs, especially with the impact of the global pandemic on the economy of several nations, especially in Nigeria. Given the characteristics of SMEs, they are delicate and therefore extremely vulnerable to economic crisis yet, they represent a key pillar for the local economy. It is therefore essential that small businesses across the globe adapt to the use of technology as technology can help them not just to carry out their normal activities, but also enhance business processes. For instance, digitalization will create SMEs with a better and much more cost-effective marketing channel that delivers results.

One of the foremost ways technology comes into play in aiding SMEs grow is through digitalization; going digital is now a vital necessity. This will entail having a business website where prospective clients can check out the products and services the companies offer, then these businesses can be promoted in search engines and social media platforms. Digitalization provides small and medium enterprises the chance to compete and attract their share of targeted traffic.

Despite the growing importance of SMEs in national economies, research has it that mostly large firms utilize intellectual property as against SMEs. Furthermore, it has been discovered that SMEs do not maximize the mechanisms of protection and appropriation of intellectual property due to two reasons;

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- the high costs of protection and,
- the lack of awareness of the importance and functioning of the means of protection, especially the formal instruments.

The most prevailing challenge most SMEs face is the high costs of registering and maintenance of the IP rights. In relation to the costs of acquiring IP right, most SMEs usually consider the fees to be paid: the cost of application, preparation, legal advice and translation costs whenever such SME intends to apply for protection on a global scale. The costs of getting IP protection may be perceived by many SMEs as exceeding the potential benefits to be obtained from protection.

Another challenge SMEs face is lack of skills ranging from legal, scientific and technical experts, this challenge is usually a barrier for SMEs to secure their IP rights because limited access to the necessary human resources and/or accessible legal advice makes the use of the IP system complicated and decreases the chances of success in the application process for registration/grant of IP rights.

These problems can be solved by the three stakeholders in the process, i.e the regulators, the businesses and the professional rendering IP protection services.

For the regulator, in order to be successful with promoting a wider and more effective use of the IP system by SMEs, it must seek to target not just the entrepreneurs themselves but also their business advisers, whether they be private sector consultants, or employees of chambers of commerce and industry or investors and

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employees of financial institutions who are more likely to be listened to by the entrepreneurs and managers or owners of SMEs. Furthermore, the Government can work hand-in-hand with the regulatory body to subsidize the registration fees. This is to entice the SMEs and help them appreciate the essence of protecting their IPRs.

For the businesses, effort and a budget should be made for IP protection. Businesses should also learn to carry (competent) professionals along in the process of creation, execution and marketing. The cost of IP protection ought to be factored in the pricing of goods and services that the business intends to deliver to the market. Also, SMEs need to adapt to the use of technology both in the area of marketing and by applying available technological tools for IP protection. There is also the point of selecting and working with knowledgeable and effective professionals. While working with a professional is quite useful, working with an ineffective professional can sometimes be worse than not working with a professional at all. Therefore, businesses have to make significant effort in ensuring that the professional whom he works with is indeed professional.

For professionals, it is important to keep up-to-date with relevant changes in the marketplace both from the point of regulation to that of the behaviour, style and processes of businesses.

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BOUTIQUE
COMMERCIAL
LAW FIRM OF
THE YEAR
NIGERIA



Olaide
Ajewole
Senior Associate

Fernandez
Marcus-Obiene
Senior Associate

Elfrida
Igbikiowubo
Associate

Deborah
Orji
Associate

Ubokobong
Asuquo
Associate