A GUIDEBOOK FOR SMES

PROTECTION & COMMERCIALIZATION OF IPR AS BUSINESS DEVELOPMENT STRATEGY

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(Note: This publication is prepared under a project by Australia Awards)
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INTRODUCTION

Intellectual Property Rights (IPRs) are set of exclusive rights granted by the state for a specific time to protect the creations of human mind. Examples of IPRs are Patent, Trademark, Copyright, Geographical Indications, Trade Secrets, Plant Variety Rights, Layout Designs of Integrated Circuits and Industrial Designs etc. Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation.

Generally IPRs are divided into two broad categories i.e. Copyright and Industrial Property. Copyright includes literary and artistic work while Industrial Property includes Patents, Trademarks, and Industrial Designs etc. All these types of IPRs are important for small and medium enterprises for development of their businesses.

Importance of different types of IPR and minimum term of protection under WTO TRIPS Agreement is given below:

Table 1.1

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<tr>
<th>IP Type</th>
<th>Importance</th>
<th>Term of Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patents</td>
<td>Protection of inventions-Promotion of Research &amp; Development</td>
<td>20 years</td>
</tr>
<tr>
<td>Copyrights</td>
<td>Protection of Artistic, cinematographic, audio-visual and literary works</td>
<td>Life of author + 50 years</td>
</tr>
<tr>
<td>Trademark</td>
<td>Development of genuine businesses</td>
<td>Unlimited (renewal after 10 years)</td>
</tr>
<tr>
<td>Geographical Indications</td>
<td>Promotion of premium quality products of a specific area/region</td>
<td>Unlimited (renewal after 10 years)</td>
</tr>
<tr>
<td>Industrial Designs</td>
<td>Protection of new designs of industrial products</td>
<td>30 years</td>
</tr>
<tr>
<td>Plant Breeders’ Rights (PBR)</td>
<td>Protection of new plant varieties</td>
<td>20-25 years</td>
</tr>
</tbody>
</table>

IMPORTANCE OF INTELLECTUAL PROPERTY RIGHTS (IPRS) IN COMMERCE AND TRADE

Understanding the importance of various components of the intellectual property system and using it effectively as an integral part of its business strategy is crucial to success in the market place. Businesses need the intellectual property system to protect manufacturing secrets or other useful information and remain ahead of the competition. Businesses need to fully exploit their intellectual property assets to maintain consistent quality and market products and services to consumers so as to develop long-term customer loyalty. To remain ahead of competitors, business entities must either continuously introduce radically new products and services or make small improvements to the quality of existing products and services. Changes are also made in response to customer needs; therefore almost every product or service used in daily life gradually evolves as a result of a series of big or small innovations, such as changes in design or improvements in a product’s look and function. Businesses are also concerned with maintaining consistent quality and marketing products and services to consumers. Knowledge, both original and new, is essential to all of these processes.

When a business is establishing its presence in the marketplace, protecting and managing its intellectual property rights (IPRs) is critical as it leads towards success or failure. That is why it is important for businesses to wisely exploit IPRs as business development strategy.

Mostly large businesses create and maintain enforcement on a large intellectual property portfolio, many small and medium-sized enterprises (SMEs) wait too long into their development to get serious about intellectual property protection. SMEs should also be proactive with IPR protection in the early stages of their business. It is important for SMEs to utilize intellectual property ownership and licensing at an early stage. Similar to real property, the amount of "clear land" available for intellectual property depletes by the day as more people and companies are filing trademark applications to protect their brands and patent applications to secure the utility or designs of their products. Owning intellectual property helps businesses to protect them from others using something identical or similar to their creation, brand or product, and can also create new sources of revenue. Without protection, one can end up spending a lot more money in defending against someone else or even rebranding, and miss out on commercial opportunities.

Globalization of markets, coupled with the use of the Internet, has given consumers worldwide unlimited choice. The consumer is truly king! This has increased the challenges faced by SMEs. The rapidly changing tastes of consumers add further constraints for
SMEs to develop their business in the competitive market. In this rapidly evolving business environment, successful products have shorter and shorter life cycles. It is a growing challenge for most SMEs to provide newer, better, or more attractive products that catch the eye and retain the interest of consumers. The real challenge is to be more resourceful, creative and innovative than the competitors in all aspects of business from conceiving new ideas and transforming them into products, to marketing them in an efficient and cost-effective manner and earning a reasonable profit on the investment made.

A successful business is one that makes a bigger profit after understanding and meeting the needs of consumers better than its competitors. This can be achieved only if there is:

- A quality product;
- A distinctive brand; and
- Effective marketing.

In other words, these are the essential elements that give a business competitive advantage over its rivals.

WISE USE OF IPRS BY SMALL AND MEDIUM ENTERPRISES (CASE STUDIES)

IP assets accrue to their owners through its business development and strategies: from product development to design, from service delivery to marketing, and from raising financial resources to exporting or expanding its business through licensing or franchising. IP instills trust, confidence and loyalty to the consumers it markets. Furthermore, IP provides a distinct identity, image and reputation. IP rights, combined with other marketing tools (such as advertisements and other sales promotion activities) are crucial for differentiating one's products and services in the market. IP is one of the strong tools for business development strategy.

Following are practical examples of some SMEs which were successful in the market on the basis of wise use of their Intellectual Property rights.

1. **Guard Filters:-** Guard Filters Started as oil filter manufacturing small unit in 1960s in Lahore, Pakistan. Today it is the largest manufacturing unit of Automotive Filters in Asia. The range of production covers a large number of vehicles like cars, buses, trucks, tractors, construction machinery, marine, locomotives etc. Its Trademark is registered in many countries and company is exporting guard filters to UAE, Qatar, Japan, EU, USA etc. They are Original Equipment Manufacturer (OEM) for Honda, Toyota (coure), Suzuki, Millat & Alghazi Tractors which testifies their excellence in quality.

2. **Master Tiles and Ceramics:-** Master Tiles and Ceramics Launched in 1982 as small company in Gujranwala, Pakistan. It started manufacturing and marketing high quality sanitary fittings. Master tiles were tremendous hit in the market with its quality Designs. Currently, Master is exporting its products to United Kingdom, Afghanistan many European, Middle Eastern, Asian and African markets.

http://www.guardfilters.com.pk/about-us
http://www.mastersanitaryfittings.com/
**REGISTRATION OF IPRs AT NATIONAL LEVEL**

**INFORMATION FOR REGISTRATION OF TRADEMARKS**

A trademark is a sign that individualizes the goods of a given enterprise and distinguishes them from the goods of others. It can be in the form of words, designs, letters, numerals or packaging, slogans, devices, symbols, etc.

**TRADEMARK SEARCH**

1. If a Trademark for goods/services is selected to be registered, it will be useful to apply for search first.
2. For search, application is submitted on Form TM-55.
3. The TM-55 Form is available on IPO-Pakistan’s website www.ipo.gov.pk and it is also available free of cost in our offices at Karachi, Lahore, Islamabad and Peshawar.
4. After completion 1 original and 2 copies of TM-55 Form may be submitted or sent by post mail/courier in any of our offices at Karachi/Lahore/Islamabad.
5. The official Fee of TM-55 Form is only Rs. 1000/- which may be submitted in any branch of a Commercial Bank in the form of Bank Dra (other city) or Pay order (same city) in the name of Director General IPO-Pakistan.

**TRADEMARK REGISTRATION**

1. The application for Trade Mark Registration can be submitted on TM-1 Form.
2. The TM-1 Form is available on our website www.ipo.gov.pk and it is also available free of cost in our offices at Karachi, Lahore, Islamabad and Peshawar.
3. After completion 2 original and 7 copies of TM-1 Form may be submitted in any of our offices.
4. E-filing for Trademark has also been started in January, 2019.
5. The official fee of TM-1 Form is only Rs. 2000/- which may be submitted in any branch of a Commercial Bank in the form of Bank Draft (other city) or Pay order (same city) in the name of Director General IPO-Pakistan.

**TM Classes**

IPO-Pakistan follows NICE Classification regarding categories of Trademarks for registration. There are 45 Trademark Classes according to this classification. The detail of...

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*Biosal (Patented Product of HEJ, Karachi University)*:

Biosal is a Neem (local tree plant) based biopesticide which has been prepared after years long research jointly carried out by environment friendly H.E.J. Research Institute of Chemistry and Zoology Department, University of Karachi. This biopesticide is effective in protecting several crops like cotton, rice, vegetables, fruit and ornamental plants with nil hazardous effects on animals and human beings. Moreover, it does not pollute the atmosphere. The active gradient is Azadirachtin. Insects do not develop resistance against it. Best results are obtained on its prophylactic (cure before infestation) and regular use. HEJ has not only obtained patent for this product but also this product has been marketed successfully all over the country for the benefit of farmers’ community.

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1. [http://iccs.edu/page-patents](http://iccs.edu/page-patents)
these classifications is available on IPO Website (http://ipo.gov.pk/ipo.php?do=MjUw).

INFORMATION FOR REGISTRATION OF COPYRIGHTS

Copyright is related with the protection of literary works, computer programs, cinematography and artistic works. These include writings, music, and works of the fine arts, such as paintings and sculptures, and technology-based works such as computer programs and electronic databases.

COPYRIGHT REGISTRATION

i) The application for Copyright Registration can be submitted on Form-II.

ii) The Form-II is available on IPO website www.ipo.gov.pk and it is also available free of cost in IPO offices at Karachi, Lahore, Islamabad and Peshawar.

iii) After completion 1 original and 2 copies of Form-II maybe submitted in any of IPO Offices with three copies of the work and affidavit of Rs.50/- . Prescribed affidavits are given at IPO website www.ipo.gov.pk.

iv) The official fee of Form-II is only Rs. 1000/- which may be submitted in any branch of a Commercial Bank in the form of Bank Draft/Pay order in the name of Director General IPO-Pakistan.

INFORMATION FOR REGISTRATION OF PATENTS

A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. To get a patent, technical information about the invention must be disclosed to the public in a patent application.

PATENT REGISTRATION

i) The application for Patent Registration can be submitted on Form P-1(by local inventor), P-1a(by representative of local inventor), P-2(by foreign inventor) and P-2a(by representative of foreign inventor).

ii) The Forms P-1, P-1a, P-2 and P-2a are available on our website www.ipo.gov.pk and these are also available free of cost in our offices.

iii) After completion 1 original and 1 duplicate of these Forms can be submitted or sent by post mail/courier in any of our offices.

iv) The official fee of these Forms is only Rs. 4500/- which may be submitted in any branch of a commercial Bank in the form of Bank Draft(other city)/Pay order (same city) in the name of Director General IPO-Pakistan.

INFORMATION FOR REGISTRATION OF INDUSTRIAL DESIGNS

An industrial design is the ornamental or aesthetic aspect of an article, in other words, that part which makes the article attractive & appealing. It may consist of three-dimensional features, such as the shape or surface of an article or two-dimensional features, such as patterns, lines or colors.

DESIGN REGISTRATION

i) The application for Design Registration can be submitted on Form-15 (local applicant) or Form-16(foreigner applicant).

ii) The Form-15 and 16 are available on our website www.ipo.gov.pk and these are also available free of cost in our offices.

iii) After completion 2 copies of the Form, 4 copies of photographic representation of Design and 1 affidavit (for originality of work) may be submitted or sent by post mail/courier in IPO office.

The official fee of Form-15/16 is only Rs. 450/- which may be submitted in any branch of a Commercial Bank in the form of Bank Draft (other city)/Pay order (Same city) in the name of Director General IPO-Pakistan.
REGISTRATION OF IPRS AT INTERNATIONAL LEVEL

Regarding international protection, IPRs can be divided into two categories. One is Copyright which includes literary and artistic works and the other is Industrial Property right which includes Trademarks, Patents, Industrial Designs etc.

As far as Copyrights are concerned, these are governed at international level under Berne Convention. Pakistan is member of the Berne Convention since 1948. 176 countries are members of this convention which is administered by World Intellectual Property Organization (WIPO). According to this convention copyright is a universal right. The right holder in any of these 176 countries can enjoy his/her copyright from the time when work is created. There is no need of registration for copyright in members of Berne Convention countries. However, registration is important for double protection and evidence for court proceedings against copyright violators.

There are two important international treaties for protection of Industrial Property Rights at international level. One is Paris Convention and other is Madrid Protocol. Pakistan is member of Paris Convention since 2004. 196 countries are members of this convention which is administered by World Intellectual Property Organization (WIPO). Pakistani trademark applicant may claim priority within six months in any of the Paris Convention member country from the date of application in local trademark office while the Patent applicant can claim 12 months priority claim under the same scheme. Claiming priority means the IP right of applicant will be registered in other countries (where they will apply) from the initial date when he/she applied for registration in the home country’s IP Office (Pakistan).

The second important international treaty is Madrid Protocol. Pakistan is not yet member of this treaty. However, IPO-Pakistan is working actively to make administrative and legal arrangements for joining this important international treaty in near future. This treaty is specifically related with trademarks. Once Pakistan is member of Madrid Protocol, the trademark applicants from Pakistan will be able to forward single application in multiple countries through international Bureau of WIPO.

ENFORCEMENT OF IPRs

An efficient and effectively enforced intellectual property infrastructure is necessary to ensure the stimulation of investment in innovation and to avoid commercial-scale intellectual property rights (IPR) infringements that result in economic harm.

The main objective of acquiring IP protection is to enable an SME to reap the fruits of those inventions and creations of its employees which resulted in IP rights for the SME. Its intellectual property assets can only lead to benefits when the acquired intellectual property rights can be enforced, otherwise, infringers and counterfeiters will always take advantage of the absence of effective enforcement mechanisms to benefit from other’s hard work. In a nutshell, the enforcement of IP rights is essential for SME in order to (i) Preserve the legal validity of its IP rights before the relevant public authority; (ii) Prevent infringement from occurring or continuing in the marketplace in order to avoid damage including loss of goodwill or reputation; and (iii) Seek compensation for actual damage, e.g. loss of profit, resulting from any instance of infringement in the marketplace.

In Pakistan a well established setup of IP rights enforcement is available under IP laws and allied legislation. For inland enforcement Police is the lead agency, Federal Investigation Agency (FIA) takes actions against copyright violations, Drug Registration Authority of Pakistan (DRAP) along with provincial Health Departments is responsible for actions against counterfeit medicines and Provincial Food Authorities take actions against counterfeit food products. Pakistan customs is responsible for border measures against all types of IPR Crimes.

1 http://iccs.edu/page-patents
Table 6.1 below explains briefly about IPR enforcement related provisions of IP laws in Pakistan;

Table 6.1:- IPR Enforcement related provisions in IP Laws of Pakistan

<table>
<thead>
<tr>
<th>#</th>
<th>Offence</th>
<th>Status</th>
<th>Punishment (Criminal)</th>
<th>Civil Remedies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Copyright Violation (Piracy)</td>
<td>Cognizable and Non bailable</td>
<td>Maximum imprisonment up to 3 years</td>
<td>Available in the form of damages and compensation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Offence (Section 66 to 74 of</td>
<td>Fine up to one-hundred thousand rupees. Double Fine on repetition of offence</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Copyright Ordinance, 1962)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Trade Mark Violation (Counterfeiting)</td>
<td>Non-Cognizable Offence (Section 99 to 107 of Trademark Ordinance, 2001)</td>
<td>Maximum imprisonment up to 2 years Minimum fine Rs. 50,000</td>
<td>Available in the form of damages and compensation</td>
</tr>
<tr>
<td>3</td>
<td>Patent Infringement</td>
<td>Non-Cognizable Offence (Section 71 to 78 of Patent Ordinance, 2000)</td>
<td>Internationally, patent violation is not treated as a criminal offence</td>
<td>Available in the form of damages and compensation Estimated loss</td>
</tr>
</tbody>
</table>

Sections 478-489 of Pakistan Penal Code (XLV of 1860); Sections 15, 16, 17 Customs Act, 1969; Section 4 Police Order, 2002; Entry-26 Schedule of FIA Act, 1974; Section 20(g) of PEMRA Act, 2007; Section 23-26 of Punjab Food Authority Act, 2011

In 2012, the Intellectual Property Organization Act introduced new provisions for the establishment of Intellectual Property (IP) Tribunals in Pakistan. Since then, IP Tribunals have been established in Islamabad, Karachi and Lahore. The IP Tribunals are courts for all purposes and intent, and have all the powers of District and Session Courts. All cases of IPR violation are filed in these courts for speedy and merit based decisions. Brief summary of the addresses and jurisdiction of these tribunals is given in Table 6.2.

Table 6.2:- IP Tribunals in Pakistan

<table>
<thead>
<tr>
<th>#</th>
<th>IP Tribunal</th>
<th>Station</th>
<th>Territorial Jurisdiction</th>
<th>Address and Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Presiding Officer (Justice Rtd. Khalid Mehmood Malik)</td>
<td>Lahore</td>
<td>Province of the Punjab</td>
<td>Old Sessions Court Building, New Judicial Complex, C-2, 2nd Floor, Lahore. Ph: 042-99214363-4</td>
</tr>
<tr>
<td>2</td>
<td>Presiding Officer (Ms. Zarmeena Abbasi)</td>
<td>Karachi</td>
<td>Provinces of Sindh and Balochistan</td>
<td>Intellectual Property Tribunal, 4th Floor, State Life Insurance Corporation Building No. 3, Dr. Zia-ud-Din Ahmad Road, Karachi. Ph: 021-32400941</td>
</tr>
<tr>
<td>3</td>
<td>Presiding Officer (Mr. Kamran Basharat)</td>
<td>Islamabad</td>
<td>Islamabad Capital Territory and Province of Khyber Pakhtunkhwa</td>
<td>Federal Judicial Complex Building, Sector G-11/1, Islamabad. Ph: 051-9320240</td>
</tr>
</tbody>
</table>
IPO-Pakistan has established its Anti-piracy and Anti-counterfeiting cells at offices in Islamabad, Karachi and Lahore for complaint receiving and forwarding to concerned law enforcement agencies. SMEs may avail this facility for complaints against violators of their IP rights. Detailed information is given in table 6.3 below.

### Table 6.3: Anti-Piracy and Anti-Counterfeiting Cells of IPO-Pakistan

<table>
<thead>
<tr>
<th>#</th>
<th>Name of Officer</th>
<th>Designation</th>
<th>Office Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mr. Muhammad Ismail</td>
<td>Director,</td>
<td>IPO-Headquarters: 3rd Floor, NTC Building, G-5/2, Ataturk Avenue</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Islamabad</td>
<td>(East), Islamabad. Tel. 051-9245892, Fax. 051-9245874 Email:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><a href="mailto:muhammad.ismail@ipo.gov.pk">muhammad.ismail@ipo.gov.pk</a></td>
</tr>
<tr>
<td>2</td>
<td>Syed Nasrullah</td>
<td>Deputy</td>
<td>Trademark Registry, Plot No. CD-3, Behind KDA Civic Centre,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Director,</td>
<td>Gulshan-e-Iqbal Block-14, Karachi. Tel: 021-99230538, Fax: 021-992</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Karachi</td>
<td>9231001 Email: <a href="mailto:syed.nasrullah@ipo.gov.pk">syed.nasrullah@ipo.gov.pk</a></td>
</tr>
<tr>
<td>3</td>
<td>Syed Anjum Raza Bukhari</td>
<td>Deputy</td>
<td>IPO Regional Office, Lahore Basement of Lahore Chamber of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Director,</td>
<td>Commerce Building, 11-Shahrah-e-Aiwan-e-Sanat-o-Tijarat Lahore.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lahore</td>
<td>Tel: 042-99205850 Fax: 042-99205855 Email: <a href="mailto:lahore@ipo.gov.pk">lahore@ipo.gov.pk</a></td>
</tr>
</tbody>
</table>

### REFERENCES

2. [https://www.wto.org/english/docs_e/legal_e/31bis_trips_e.pdf](https://www.wto.org/english/docs_e/legal_e/31bis_trips_e.pdf);
4. Darren Heitner, 'Why Intellectual Property is Important for Your Business and What You Should be Doing Now to Protect It' (www.inc.com);
11. [https://ec.europa.eu/growth/industry/intellectual-property/enforcement_en](https://ec.europa.eu/growth/industry/intellectual-property/enforcement_en);