
Intellectual Property Rights in Smes

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ABSTRACT: *SMEs are an extremely diverse and heterogeneous group with a very wide range of needs and concerns. Their intellectual property needs and concerns are, therefore, dependent on the nature and scale of their operations and on their relationships with other entities and enterprises. They could help promote innovative new technologies, managerial growth and competitiveness as also, equally, the absorption of technological innovations and exploitation of indigenous research findings. All Governments have placed SMEs high on their list of priorities, and generally provide numerous SME support services. Various adhoc surveys and studies conducted by WIPO indicate that, despite the importance of SMEs for the vitality of the economy and potential offered by IP system for enhancing the competitiveness of, why the most of the SMEs don't use or don't get the best out of their use of IP system? Need to answer this question initiate the researcher to make a study on this topic. Present study aims at exploring the IP Culture in SME's and finds that SMEs in*

general are not well informed about the potential benefits of using intellectual property assets in their business strategy.

Key Words: SMEs, IP Rights, Competitiveness, innovative.

INTRODUCTION: Today, information economies are transforming into knowledge driven economies where intellectual property becomes a key issue that needs the Intellectual properties to be protected from duplication or using it by others. New products, brands and creative designs appear almost daily on the market and are the result of continuous human innovation and creativity. Small and medium-sized enterprises (SMEs) are often the driving force behind such innovations. Their innovative and creative capacity, however, is not always fully exploited as many SMEs are not aware of the intellectual property system or the protection it can provide for their inventions, brands, and designs.

If left unprotected, a good invention or creation may be lost to larger competitors that are in a better position to commercialize

the product or service at a more affordable price, leaving the original inventor or creator without any financial benefit or reward. Adequate protection of a company's intellectual property is a crucial step in deterring potential infringement and in turning ideas into business assets with a real market value.

To help SMEs more fully utilize their IP assets in their business activities, the World Intellectual Property Organization (WIPO) has established a program to assist entrepreneurs, SME-support institutions, and national governments in increasing awareness and use of the IP system among SMEs across the globe.

SMEs form the backbone of the Indian manufacturing sector and have become engine of economic growth in India. It is estimated that SMEs account for almost 90% of industrial units in India and 40% of value addition in the manufacturing sector. SME are often a driving force behind a large number of innovations and contribute to the growth of national economy through employment creation, productive investment and value added exports. Various adhoc surveys and studies conducted by WIPO indicate that, despite the importance of SMEs for the vitality of the economy and

potential offered by IP system for enhancing the competitiveness of, why the most of the SMEs don't use or don't get the best out of their use of IP system? Need to answer this question initiate the researcher to make a study on this topic.

OBJECTIVES OF THE STUDY:

- To know the status of SMEs in India.
- To assess the potential offered by IP system for enhancing the competitiveness of SME sector in India.
- To acknowledge the legal framework in respect of IPRs in India.
- To suggest the measures to be taken by Government as well as SMEs to protect their creativity and innovative capacity.

RESEARCH METHODOLOGY:

Research methodology of this study consists of following procedures:-

Research Design: Being the study descriptive in nature, it will go through sampling, data collection, and its analysis.

Source of Data: This study is mainly based on secondary data gathered from various newspapers, magazines, journals, and websites. In addition to this primary data has

also been collected through a snap survey using the questionnaire designed for this purpose to know the actual position and status of application of IPRs in SMEs.

Sampling:

- Sample size: 10
- Sampling unit: SMEs

Research Method: Study is based on sampling not the census method which limits its universality.

The questionnaire was structured as follows:

- 1. General information section:** It seeks general information about IP activities for SMEs.
- 2. Services Section:** This seeks information about IP awareness and capacity building services offered by IP Offices.
- 3. Marketing Section:** which has question relating to barriers to providing IPR awareness and capacity building services, the mode of providing services, and the marketing strategies employed.
- 4. Section on SMEs support institutions.**
- 5. Section on WIPO assistance on IP for SMEs.**

INTELLECTUAL PROPERTY RIGHTS

IN INDIA: There is well defined and developed legal framework to protect the intellectual property rights in India. Judicial system of IPRS in India is adequate to administer it. It includes all kinds of intellectual properties whether it is related to patents, copyrights, trademark, or industrial designs. Government of India seems to be committed to pursue the changes in IP legislation to strengthen and make it more protective to intellectual properties. The year 1999 was witnessed to give more attention and passing the major acts and laws related to intellectual property rights. They include;

- 1. The Patents (Amendment) Act, 1999** was passed by the Indian Parliament on March 10, 1999 to amend the Patents Act of 1970.
- 2. The Trade Marks Bill, 1999** was passed to repeal and replace the Trade and Merchandise Marks Act, 1958.
- 3. The Copyright (Amendment) Act, 1999** was passed by both houses of the Indian Parliament, and assented by President of India on December 30, 1999.

4. A sui generis legislation for the protection of geographical indications called the Geographical Indications of Goods (Registration & Protection) Bill, 1999 was approved by both houses of the Indian Parliament on December 23, 1999.
5. The Industrial Designs Bill, 1999 was passed to replace the Designs Act, 1911.
6. The Patents (Second Amendment) Bill, 1999 to further amend the Patents Act, 1970 and make it TRIPS compliant was introduced in the Upper House of Indian Parliament on December 20, 1999.

Furthermore, Government of India has also taken several initiatives to rationalize and make the IPRs machinery more effective and efficient in the nation. Projects related to modernize the patent information services and registration of trademarks have been executed with the assistance of WIPO or UNDP. The Government of India has formulated a project to modernize the patent

offices costing Rs. 756 million which incorporate the many components like human resources development, recruitment of additional examiners, infrastructural developments, in form of computerization and re-engineering of work practices.

As we talk of enforcement aspect, relevant enforcement agencies are performing their duty in efficient manner and big decline in piracy has been noted down in India. Furthermore, raids are being conducted against the copyright infringers which indicates that Government is active to enforce the copyright act. Special branches and cells have been set up in 23 States and Union Territories for copyright enforcement.

SMES IN INDIA: There are several definitions of SMEs varying from country to country and varying between the sources reporting SMEs statistics. But in the Indian context, such categorization is made as per MSME Act, 2006 on the basis of investment in plant and machinery/equipments as shown below in Table 1:

Table 1: Classification of Enterprises

Classification	Manufacturing Enterprises	Service Enterprises
Micro	Rs. 2.5 Million/ Rs. 25 Lakh (US\$ 50,000)	Rs. 1 Million/ Rs. 10 Lakh (US\$ 20,000)

Small	Rs. 50 Million/ Rs. 5 Crore (US\$ 1 Million)	Rs. 20 Million/ Rs. 2 Crore (US\$ 40,00,000)
Medium	Rs. 100 Million/ Rs. 10 Crore (US\$ 2 Million)	Rs.50 Million/ Rs. 5 Crore (US\$ 1 Million)

Source: MSME Ministry's website

STATUS OF SMES SECTOR IN INDIA :

There are 12.8 millions units (over 90% of total industrial units) in the sector which employs nearly 31 million people. This sector contributes 39% of industrial production and 33% of exports.

1. The sector well to initiatives by registering a growth rate of 11.7% in April- May 2007, which is far more impressive than their elder brothers in the manufacturing sector
2. There are 6500 products ranging from traditional to high- tech items in the sector.
3. After agriculture the sector provides the maximum employment i.e. 29.4

million people opportunities in the country.

4. The sector operated 99% in the debt markets.
5. The sector holds great potential for further expansion and growth in future.

SME sector contributes significantly to the manufacturing output, employment, and export of the country and has a maintained a higher growth rate vis-à-vis the overall industrial sector as shown in Table 2 and Table 3 as below:

Table 2: Comparative Growth Rate of SMEs

Year	Growth Rate of SMEs Sector (%)	Overall Industrial Sector (%)
2002-03	8.68	5.7
2003-04	9.64	6.9
2004-05	10.88	8.48
2005-06	12.32	8.10
2006-07	12.60	11.4

2007-08	13.00	8.00
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Source: MSME Ministry's website

Table 3: SMEs Performance: Units, Investment, Production, Employment & Export

	Year	Total SMEs (in lakhs)	F.I. (Rs. Crore)	Production at Current Prices	Production at Constant Prices	Employment (lakh person)	Exports (Rs. Crore)
1.	2000-2001	101.1	146845	261297	184401.4	238.73	69797
2.	2001-2002	105.21	154349	282270	195613	249.33	71244
3.	2002-2003	109.49	162317	314850	306771	260.21	86013
4.	2003-2004	113.95	170219	364547	336344	271.42	97644
5.	2004-2005	118.59	178699	429796	372938	282.57	124417
6.	2005-2006	123.42	188113	497886	418884	299.85	150242
7.	2006-2007	128.44	213219	585112	471663	312.52	177600
8.	2007-2008	133.68	238975	695126	532979	322.28	NA

Source: MSME Ministry's website

*F.I. : Fixed Investment

DATA ANALYSIS: A structured questionnaire was sent to 10 SMEs to collect their perceptions and information about 5 aspects of IP Offices to encourage and

protect their creativity and innovative capacity. Respondents reacted as below:

1. General Information:

- 60% respondents stated that IP offices have different contact for WIPO SMEs Division from that for WIPO in general.
- 50% of respondents stated that IP Offices have total staff of less than 50 persons and only 5% have over 500 persons.
- 30% of the respondents have declared that they have full time staff for their IP awareness and capacity building activities.
- Only 50% respondents replied about their budget for IP awareness and capacity building services. It ranges from 15% to 40%.
- All respondents have included IP services in their work plans.

2. IP Services:

- 80% respondents are satisfied with the IP awareness and capacity building services provided by IP Offices as a

part of their regular plan of activities.

- Most targeted sectors are manufacturing, innovative and agribusiness enterprises.
- Inventors, entrepreneurs, customs, police and chamber of commerce are top five recipients of assistance.
- Top services offered by the IP Offices are guidance for procedure for registration of Patents, Trade Marks, and Industrial Designs, patent and trade mark information services and general training awareness creation programmes on IP for SMEs, training programs for police, customs and judiciary.
- There is lack of financial resources to IP offices to deliver IP awareness and capacity building services to entrepreneurs of SMEs.
- Only 70% of respondents are dissatisfied to maintenance of a database of contact of SMEs support institutions with IP Offices.

3. Marketing:

- Only 15% of IP Offices have a formally approved marketing policy, plan and strategy for their IP awareness and capacity building activities.
- Only 10% of the IP Offices have the official websites

4. SMEs Support Institutions: 90% of Respondents stated that there is lack of SMEs support institutions.

5. WIPO Assistance: World Intellectual Property Organization (WIPO) has established a program to assist entrepreneurs, SME-support

institutions, and national governments in increasing awareness and use of the IP system among SMEs across the globe.

EVALUATION OF IPRS OF SMES: One section of questionnaire was also designed to assess the effectiveness of various IPRs to SMEs in India. The expected scores were compared to actual computed scores for the various constituents of IPRs to find the gap between legal framework for protection of Intellectual Property and its implementation i.e. real situation of IPRS to SMEs as given in Table 4.

Table 4: Evaluation of IPRs of SMEs

S. No.	Constituent of IPRs to SMEs	Expected Values	Calculated Mean Values	Gap
1.	Patents	6.5	3.3	3.2
2.	Copyrights	3.0	1.7	1.3
3.	Trademarks	6.7	4.5	2.2
4.	Registered (industrial) design	4.3	2.3	2.0
5.	Protection of IC layout design	5.4	2.3	3.1
6.	Geographical indications	3.4	2.2	1.2
7.	Protection of undisclosed information	5.7	3.5	2.2

GAP ANALYSIS: SMEs evaluate the laws regarding intellectual property, especially

Intellectual Property Rights on the basis of real situation with reference to expectations

to know the effectiveness in its implementation. The difference in Gap scores (Perceptions-Expectations) points out the failure of IP system to achieve its objective but it is not hundred percent true. To some extent it has been failed on the part of SMEs themselves. The discrepancy in the ideology and practice of the IP system in India constitutes its continued economic backwardness. Study reveals that little has been done or achieved through IP programmes. The main reasons for the contradiction are:

- Lack of Intellectual Property Organizations to support the IP system.
- Lack of awareness of IP activities among the SMEs.
- Inadequate financial resources.
- Ineffective implementation of IP strategy in the country.

RECOMMENDATIONS : To avoid the demarcation among the SMEs in India, the accessible and feasible solution is to provide them a sound knowledge of IP to make them able to take part in economic race of the world through their ideas of innovation. The existing hurdles for SMEs can be resolved by:

- Develop a methodology by government for conducting national IP surveys/studies to better assess the need of SMEs.
- Strengthen the capacity of IP Offices to provide the assistance to SMEs.
- Organizing workshops on various aspects of Intellectual Property.
- Enhancing SMEs accessibility to equity and other funds from the market.
- Enforcing the strongly implementation of IP strategy in the country.
- Providing adequate information, orientation and facilities for protecting their intellectual property.
- Improving awareness on Intellectual Property amongst SMEs to develop a positive approach towards creation, protection and management of Intellectual Property (IP) as a source of creating competitive edge in the trade and technology market for value addition.
- Providing financial assistance such as grants, banking loans, doorstep banking ICICI and HSBC banks etc.

- Providing Intellectual Property training.

CONCLUSION: There is a still requirement the pictures of efforts before filling the colors of Intellectual Property on canvas. With the expansion of markets and growth of competition, SMEs will have to aim at Intellectual Property, Business Intelligence & technical knowledge. Before reaping the fruits of Intellectual Property in the country, Intellectual Property Organization is required to organize and promote the IP activities in the villages, towns as well as in the cities. Study reveals that role of IP Offices is eminent to protect the creativity and innovative capacity of SMEs through awareness and capacity building activities, and support institutions to enable them to contribute to the growth of national economy through employment creation, productive investment and value added exports. But the actual performance of IP system is deviating from expected outcome from SMEs point of view as stated in survey analysis. So Government should take initiatives to increase the effectiveness of IP strategy which will help SMEs to preventing competitors from copying or closely imitating a company's products or

services, avoiding wasteful investment in research and development (R&D) and marketing, creating a corporate identity through a trademark and branding strategy, negotiating licensing, franchising or other IP-based contractual agreements etc.. The SMEs may become the potential sector in the country, if they are supported in the right direction by the intellectual property organizations.

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