

Case studies of MSMEs and SMEs in Pune

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Abstract

Small and Medium Scale Enterprises are an extremely diverse and heterogeneous group with a very wide range of needs and concerns. For small and medium-sized enterprises (SMEs) intellectual property (IP) is an important business asset. SMEs can benefit from the wealth of technological and commercial information available in patent and trademark databases to learn about recent technological breakthroughs, identify future partners, and find out about the innovative activities of competitors. Managing IP effectively and using it to devise business strategies is an increasingly critical task for entrepreneurs worldwide. IP strategy of SMEs should take a holistic approach to the different types of IP assets. Thus, the objective is to enhance awareness of MSME about Intellectual Property Rights (IPRs) to take measure for protecting their ideas and business strategies.

Keywords: studies, MSMEs, SMEs, Pune

Introduction

Worldwide, the micro small and medium enterprises (MSMEs) have been accepted as the engine of economic growth and for promoting equitable development. Small and medium-sized enterprises (SMEs) represent over 90% of enterprises in most countries. They are the driving force behind a large number of innovations and contribute to the growth of the national economy through employment creation, investments and exports. The major advantage of the sector is its employment potential at low capital cost. The labour intensity of the MSME sector is much higher than that of the large enterprises. In India the MSMEs play a pivotal role in the overall industrial economy of the country. MSMEs in India account for more than 80% of the total number of industrial enterprises and produce over 8000 value-added products. It is estimated that in terms of value, the sector accounts for 45% of the manufacturing output and 40% of the total export of the country and employs over 6 crore people. Further, in recent years the MSME sector has consistently registered higher growth rate compared to the overall industrial sector. With its agility and dynamism, the sector has shown admirable innovativeness and adaptability to survive the recent economic downturn and recession.

Micro, Small and Medium enterprises are independently owned business set up with the objective of making reasonable profit on the investment made. Generally, SMEs are defined on the basis of one or more quantitative parameters such as number of persons employed the annual turnover, or the level of their investment. SMEs are an extremely diverse and heterogeneous group with a very wide range of needs and concerns. They could help promote innovative new technologies, managerial growth and competitiveness and the absorption of technological innovations and exploitation of indigenous research findings. 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. Despite the importance of SMEs for the vitality of the economy and the potential offered by the IP system for enhancing SMEs competitiveness, SMEs often underutilize the IP system.

All Governments have placed SMEs high on their list of priorities, and generally provide numerous SME support services. For small and medium-sized enterprises (SMEs) intellectual property (IP) is an important business asset. Companies investing in a brand should be protecting that brand with registered trademarks. Too often, though, the legal complexities of IP protection mask the real significance of the IP to the business and make sensible commercial IP decisions too difficult.

IP as an Asset and SMEs

In the changing global scenario, the issues of IPR have gained special importance for the Micro, Small & Medium Enterprise (MSME) sector and SME. IPR protection plays a key role in gaining competitive advantage in terms of technological gains for achieving higher economic growth in a market driven economy. It is felt that IPR requires greater understanding and attention by the industry, particularly the MSME sector in India.

SMEs should consider how best to use the IP system to its own benefit. Intellectual property (IP) may assist SMEs in almost every aspect of business development and competitive strategy: from product development to product design, from service delivery to marketing, and from raising financial resources to exporting or expanding business abroad through licensing or franchising. The value of IP is often not adequately appreciated and its potential for providing opportunities for future profit is widely underestimated by SMEs. If the innovative ideas, creative designs and powerful brands of SMEs are not legally protected by IP rights, then

these may be freely and legally used by any other enterprise without limitation. However, when they are protected by IP rights, they acquire concrete value for the enterprise as they become property rights which cannot be commercialized or used without authorization.

The protection of IP is an important issue for the survival of SME. However the number of patent applications filed by SMEs is relatively low compared to the number filed by multinational companies. There are number of factors that discourage SMEs from filing patents, including the lower level of familiarity with the procedures involved, the high costs of filing and maintaining a patent, uncertainty about the protection offered by a patent and the uncontrollable and

unpredictable costs of litigation. Large multinational companies often have critical mass to maintain their own patent departments and benefit from already established technology and markets to generate continuous stream of IP knowledge. In contrast SMEs usually focus on cutting edge technology and in many cases they still need to find a market for it. SMEs lack financial means to maintain an in-house patent department as well as the financial strength to mount successful legal challenges to rivals infringing their IP rights. As a result there is a need to assist local SMEs with the patent filing procedures to facilitate the acquisition of tangible protection for their IP and to secure IP protection at a broader international level.

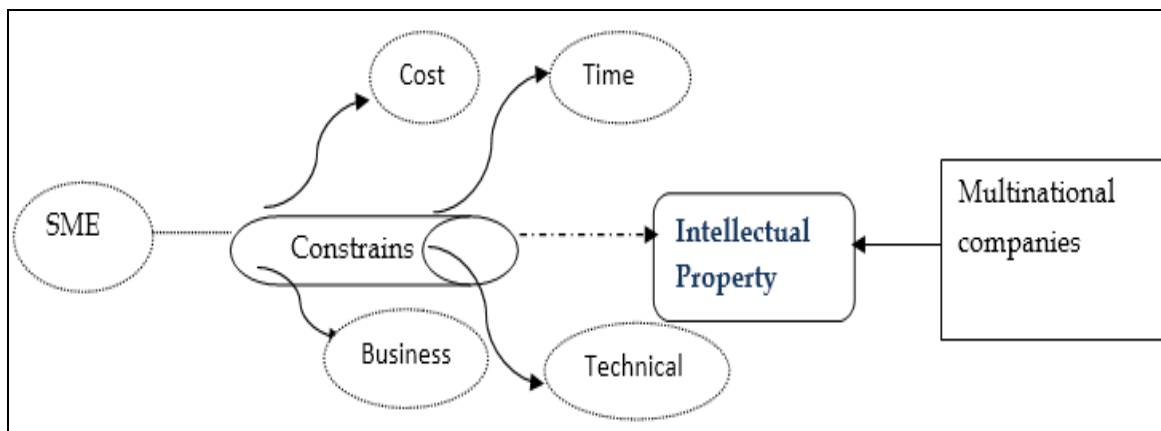


Fig 1: Constrains preventing the smooth protection of IP of SMEs as compared to multinationals

Thus, when IP is legally protected and there is demand for the IP-protected products and/or services in the marketplace, IP can become a valuable business asset.

- IP helps in generating income through the licensing, sale, or commercialization of the IP-protected products or services that may significantly improve an enterprise's market share or raise its profit margins.
- IP enhances the value or worth of SME in the eyes of investors and financing institutions.
- In the event of a sale, merger or acquisition, IP assets significantly raise the value of enterprise, and at times may be the primary or only true assets of value.

The strategic utilization of IP assets can, therefore, substantially enhance the competitiveness of SMEs. SMEs should make sure that they are ready to face the challenge and take measures to exploit their IP and protect it wherever possible. Like physical assets, IP assets must be acquired and maintained, accounted for, valued, monitored closely, and managed carefully in order to extract their full value. But before this can be done, SMEs must first acknowledge the value of IP and begin to see it as a valuable business asset.

Thus the crucial point about legal protection of intellectual property is that it turns intangible assets into exclusive property rights, albeit for a limited period of time. It enables SME to claim ownership over its intangible assets and exploit them to their maximum potential. In short, IP protection makes intangible assets "a bit more tangible" by turning them into valuable exclusive assets that can often be traded in the market place.

IP Management and SMEs

Effective IP management enables companies to use their intellectual property assets to improve their competitiveness and strategic advantage. Acquiring IP protection is a crucial initial step, but effective IP management means more than just protecting an enterprise's inventions, trademarks, designs, or copyright. It also involves a company's ability to commercialize such inventions, market its brands, license its know-how, conclude joint ventures and other contractual agreements involving IP, and effectively monitor and enforce its intellectual property rights. Indeed, a company's portfolio of IP must be viewed as a collection of key assets that add significant value to the enterprise.

SMEs can also benefit from the wealth of technological and commercial information available in patent and trademark databases to learn about recent technological breakthroughs, identify future partners, and find out about the innovative activities of competitors. Managing IP effectively and using it to devise business strategies is an increasingly critical task for entrepreneurs worldwide.

Thus IP strategy of SMEs should take a holistic approach to the different types of IP assets. Creating an IP culture in an SME is a first step, which begins by creating and implementing an action plan for protecting its business secrets that provide it an edge over its competitors. It is important that the immense value of technical, business and legal information contained in a patent documents be appreciated since access to and proper use of patent information has great potential benefits for an SME. Improved Intellectual Property

asset management by the SMEs essentially means that SMEs consciously plan and strive to get the best result out of their IP assets in line with their business objectives. Identification of IP assets is a first step. Protection is the next, and management the last one, to effectively manage IP assets. SMEs should also learn to use the IP system specially the technical information disclosed in patent documents. Further, they need to learn the use of IP system for developing advertising and marketing proficiencies. SMEs not only need access to markets but also suitable network partners and joint ventures, management skills and credit guarantees. It is advisable to decide on foreign filing only after considering the likely demand, licensing possibilities, and enforcement difficulties but this decision should be made as early as possible. Thus, making technocrats and staff of SME aware and informed of the costs and benefits of the use of IP system, and through it, of protection of new and original ideas, is essential for reaping the benefits of improved product quality, in an increasingly competitive market place and in a knowledge-driven global economy.

Business strategy and SMEs

In the increasingly knowledge-driven economy, intellectual property (IP) is a key consideration in day-to-day business decisions. 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. Taking full advantage of the IP system enables companies to profit from their innovative capacity and creativity, which encourages and helps fund further innovation.

For an SME business, IP strategy is about matching the IP protection to the business strategy in an informed way, so that the company's IP rights help the business meet its strategic aims. A good IP strategy can be about selecting the right brands at an early stage so that registration is straightforward and conflicts do not arise as the brand becomes better known; or matching patent protection to the product features that matter to customers, not just the features that seem clever; or maintaining a clear understanding of the ownership of the business copyright so that problems do not arise when negotiating an exit. Increasingly, investors, stock market brokers and financial advisors are becoming aware of this reality and have begun to value IP assets highly. Enterprises worldwide are also more and more acknowledging the value of their IP assets, and, on occasions, have included them in their balance sheets. Many enterprises, including SMEs, have begun to undertake regular technology and IP audits. In a

number of cases, enterprises have realized that their IP assets are in fact worth more than their physical assets. Intellectual property, when efficiently used, is an important tool in creating an image for the business in the minds of current and potential customers and in positioning the business in the market.

A business that has a strong IP strategy makes better decisions about IP protection and avoids wasting money by timing the IP budget to match its current and future needs. When the IP strategy is understood and adopted by the business leaders - not just the lawyers - the business as a whole makes consistent IP decisions and capitalises fully on its investment in IP protection. In the face of larger competitors with greater market power, innovation protected by strong IP may be the only thing that enables the business to succeed.

Future Ahead

Insufficient information on the relevance of IP in day-to-day business, high costs associated with obtaining and enforcing IP rights, perceptions that the IP system is esoteric, too cumbersome and time-consuming: These are among the reasons why many SMEs are sometimes slow to protect their intellectual property assets.

Thus, the objective is to enhance awareness of MSME about Intellectual Property Rights (IPRs) to take measure for protecting their ideas and business strategies. Awareness of IPR benefits to the MSMEs is mainly on two fronts. Firstly, how they can protect their creations i.e. to protect their own *intellectual property rights* and secondly, how they can avoid violating *intellectual property rights* of others. Furthermore, this increased awareness will encourage MSMEs to make better use of IPR system and make it an integral part of their business strategy.

Effective utilization of IPR tools by MSMEs would also assist them in technology up-gradation and enhancing competitiveness. Today the scenario for some SME businesses has changed and is successfully being sensitized towards IP protection and its value. IP is no longer a concept that is best understood and handled only by experts. The government has made several provisions for even a layman to make an application to protect his IP and track its progress. Below are case studies that help of understand the problems of SME related to IP and help provided by IPFACE:

MSME and SME case studies from Pune, IPFACE

Intellectual Property Facilitation Center (IPFACE), Pune – Maharashtra, project of Venture Center supported by the Ministry of Micro, Small and Medium Enterprises, Government of India and National Chemical Laboratory, Council of Scientific and Industrial Research, India. (IPFACE) aims to promote awareness and adoption of intellectual property rights amongst entrepreneurs and MSMEs in India while also making accessible high-quality IP services and resources.

Following case studies elaborating the IP management strategies in MSMEs carried out IPFACE are illustrated below:

Case 1

Details: Client was an individual inventor with innovative

product on safety devices. These safety devices were basically designed as for emergency exit tools during fire and flood conditions. The product was handy and the material was well used.

Problem area: The inventor had two Indian patents to his credit for other products. Inventor had approached IPFACE with an issue of cost required to file his new invention. Inventor had carried out a comparative study of service charges provided by other IP service centres and IPFACE. Client was happy to see the moderate service charges. Inventor required guidance on language skills required to draft a patent and also understand the comments send by patent offices. Client was poor in language skills and was highly incapable to understand the patent examiner comments send for PCT application. As a result he was about to lose his PCT application due to lack of response to the patent office. Also the inventor was highly excited to apply for and US application, but was unable to do it due to lack of awareness and help about US procedure.

Role of IPFACE: Initially the client was counselled to make him understand the method in which IPFACE can support him. The application drafted by the client, was re-drafted to meet the standards of patent application. The redrafted application was approved from the inventor before filing and application. The client admitted that the newly drafted application very well explains the invention as compared to the early drafted application. The client was briefed on the US application procedure and fees that he shall be required to pay to the patent office.

The client received an acceptance note from USPTO after receiving the application. The inventor was extremely happy on this, as it was his first US application and he noted that it was his dream to at least file one US application. The second PCT application also recovered as immediate response was conveyed to query by patent office.

Case 2

Details: The client was a registered company with a drafted application on an engineering process.

Problem area: The client was unable to file the application due to time constrains as he was the sole authority in the self-owned company. He required assistance in completing patent office formalities such as filing forms, understanding procedures etc. The client was unaware of the fact that there is a huge difference between the filing fees for individual and company. Also, the client wanted to apply for trademark protection.

Role of IPFACE: IPFACE helped the client to redraft the application by explaining him the concept of broad and narrow claims. The client was happy to file the application as an individual inventor rather than company as it helped him to save financial burden. The client was immensely satisfied with personalised service of visiting the site office, as he was unable to come to IPFACE office due to work pressures and single authority. He was thankful and mentioned that his long pending application has been filed. The trademark application

was also filed which has recently been approved.

Case 3

Details: The client was an individual inventor with invention on household appliances.

Problem area: The client had prepared a draft for patent application. However the application was not drafted according to the standards required by the patent office.

Role of IPFACE: IPFACE helped the client to redraft the patent application. However, the client was not happy to file the application with redrafted invention. The client was not ready to accept the changes in the draft, which resulted in non-patent filing. The invention has remained on paper.

Case 4

Details: The client was a company with a novel formulation on method of treatment.

Problem area: The client was unaware of the countries where method of treatment formulation is permitted and protected under patent law.

Role of IPFACE: IPFACE helped the client to with a list of PCT countries that allow method of treatment invention. This helped the company understand marketing strategies and launch the product in different countries.

Case 5

Details: The client was an individual inventor with an ayurvedic formulation for treatment of cancer.

Problem area: The client wanted to know the language requirement for PCT countries for filing patent application and also the charges required for translation.

Role of IPFACE: IPFACE helped the client with a detailed report stating language requirements of PCT countries for patent application and also charges for translation of invention; however, no response was received from client.

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