

## **EXECUTIVE SUMMARY**

### **ACCESS TO INTELLECTUAL PROPERTY FOR YOUR BUSINESS**

#### **SMEs Webinar Series: Session 3**

1. This webinar focuses on how SMEs could access intellectual property (IP) for their business. Building up on the foundations laid by the preceding two webinars in this series, there is a recap of the rights granted by intellectual property, with a focus on patents, which will be a major thematic focus for licensing, and identifying and locating IP in the public domain.
2. In respect of patents, the relationship between protection and disclosure is briefly discussed, with emphasis on the patent document as not only teaching how to carry out the invention, but also providing significant source of technical and background information as well as market intelligence (e.g. inventor, assignee, technology trends, family, etc.).
3. The concept of territoriality is also discussed as part of the understanding that patents are granted by government in a particular country and therefore valid and in-force in that country, subject to payment of relevant renewal fees. Some critical questions to be considered include: Is it protected in your country? Is the patent still valid and in force (maintenance, and 20 years?) Can you obtain a licence? Could you collaborate with the owners?
4. The concept that “You do not need to own IP to use it – Other People’s IP (OPIP)” forms a major component of the discussion. The focus is on public domain (in respect of all forms of intellectual property) as well as accessing third party IP through licensing and possibly acquisition (which then translates to ownership). Public domain is referred to in respect of inventions and copyrighted works. In respect of patents, this includes abandoned patent applications and patents, expired patents, successfully opposed patents, patents not extended to one’s country, etc. More particularly is the fact that the disclosure published with each patent application or patent, can be used to fast-track development and be the basis for improvements that an SME can make to that patent and either commercialise that improvement on their own (where it falls outside the scope of the patent) or obtain a licence from the patentee (where falls within the scope of the patent). The webinar makes reference to two WIPO publications on identifying and using inventions in the public domain.
5. Building up on the concept of OPIP the webinar will introduce licensing, open source and joint ventures. There is a detailed discussion on licensing – differentiating between exclusive, non-exclusive and sole licence; as well as the anatomy of a licence, with particular emphasis on an approach to licensing from standpoint of both a licensee and licensor. The concepts of in-licensing and out-licensing as well as cross-licensing are also introduced as applicable to SMEs.
6. The discussion on licensing finishes off with summary of rights conferred by a licence for different forms of IP, with franchising as a specific form of licensing of trademarks and know-how.

7. The section on Patent Search introduces the tools used for undertaking patent searches as well as the different types of searches that an SME would be interested in, novelty and freedom to operate searches. Using various examples, this topic is elaborated on, by illustrating various aspects of a patent document (i.e. patent information located on a published patent application or patent – and relevance to an SME), the different ways of searching patent databases, locating patents that are in the public domain. The discussion specifically focuses on aspects of doing novelty and freedom to operate (FTO) searches (i.e. novelty extending beyond patent documents to include all forms of disclosure with FTO focusing on claims, as opposed to the entire disclosure).
8. The Patent Search component finishes off by providing an illustration of where searches should be conducted in the ‘journey of an entrepreneur taking an “Idea to Market” as well as links to a number of freely available search portals.
9. The webinar concludes with a number of case studies consolidating the various aspects covered in the session. This includes identifying inventions in the public domain, integrating public domain and patents in product development, and licensing of IP from research institutions and universities.
10. A list of resources that SMEs can use to expand on the theme of this webinar may be found at:  
<https://henry.law/blog/uber-patent-strategy/>  
<https://www.wipo.int/sme/en/multimedia/>  
<https://www.wipo.int/publications/en/details.jsp?id=4501>  
<https://www.wipo.int/publications/en/details.jsp?id=4502>  
<https://www.wipo.int/publications/en/details.jsp?id=291&plang=EN>  
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