

THE ROLE OF INTELLECTUAL PROPERTY (IP) AMONG  
SMALL MEDIUM ENTERPRISE (SME) IN MALACCA

NURIZZIATY BT ABD RAUP

UNIVERSITI TEKNIKAL MALAYSIA MELAKA



FACULTY OF TECHNOLOGY MANAGEMENT  
AND TECHNOPRENEURSHIP

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NURIZZIATY BT ABD RAUP

BACHELOR OF TECHNOLOGY MANAGEMENT  
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NURIZZIATY BT ABD RAUP

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## DECLARATION

I declare that this project paper entitles “The role of Intellectual Property among Small-Medium Enterprise in Malacca” is the result of my own search of except as cited in the references. The project paper has not been accepted for any degree and is not concurrently submitted in the candidature of any other degree.

Signature: .....

Name: Nurizziaty Abd Raup

Date: 25 June 2014

## **DECLARATION OF SUPERVISOR**

Acknowledge that I had read this project paper and I clarify that this project paper is sufficient in terms of scope and quality for the award of the Bachelor of Technology Management (Innovation)

Signature: .....

Supervisor: Dr Norain Bt Ismail

Date: 25 June 2014

Signature: .....

Supervisor: Mr Isma Addi B. Jumbri

Date: 25 June 2014

## DEDICATION

...This project paper is dedicated...

...to my parents and family for their love,...

...endless support and encouragement...

... I also dedicate this dissertation to ...

...my many friends have supported me throughout the process...

...I will always appreciate all they have done...

...Last but not least all interviewees from SME....

... for their willingness of sharing information with me ...

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Thank you.

## **Abstrak**

*Ekonomi inovasi dan harta intelek (HI) telah mengalami perubahan besar sepanjang dekad yang lalu. HI telah dipindahkan dari satu aktiviti khusus sebahagian besarnya undang-undang untuk peringkat pusat daripada tajuk-tajuk utama setiap hari dalam akhbar popular. Walau bagaimanapun, kesedaran HI masih kurang di Malaysia terutamanya di kalangan Perindustrian Kecil dan Sederhana (PKS). Sejauh mana negara melindungi IP mereka akan menentukan sejauh mana mereka melaksanakan dalam model ekonomi baru. Pada masa kini, pelanggaran HI begitu mudah dan ia boleh menyebabkan kerugian besar untuk firma. Kajian ini bertujuan untuk mengatasi masalah dan cabaran yang dihadapi oleh PKS di dalam dan meningkatkan pemahaman mereka tentang peranan IP. Satu siri temubual separa berstruktur akan dijalankan untuk mengumpul jawapan ditemubual, dan maklumat yang diperolehi dianalisis secara kualitatif. Akhir sekali, beberapa cadangan yang dibuat dalam meningkatkan kesedaran PKS mengenai IP.*



## **Abstract**

The economics of innovation and IP has undergone enormous change over the past decade. IP has moved from a largely legal niche activity to the centre stage of the daily headlines in the popular press. However, the IP awareness is still lacking in Malaysia especially among SME. The extent to which countries protect their IP will determine how well they perform in new economic model. Nowadays, IP infringement is so easy and it can cause completely a big loss for the firms. This research attempts to overcome the problem and challenges face by SMEs in and improve their understanding of role of IP. A series of semi- structured interview will be conducted to collect interviewees answers, while data collected were analysed qualitatively. Finally, some recommendations are made in improving SMEs awareness of the value of IP.

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## **Chapter 1:**

### **Introduction**

#### **1.1 Background of the Study**

It is apparent that small and medium enterprises (SME) play a vital role in the economic development of a country. The current trend of economic growth and the rapid industrial development has made Malaysia as one of the most open economies in the world. In conjunction with the Ninth Malaysia Plan (2006-2010), the government is devoting and designing the SME development plan to assist the SME to meet the new business challenges in the competitive global business environment. There is no doubt that economic.

Achieving strong, sustainable and balanced economic growth is the Government's economic policy priority and Intellectual Property (IP) is an increasingly important means of supporting growth. By referring to The Star, 2013, "The Government is targeting for small and medium enterprises (SME) to contribute 40% to the country's gross domestic product (GDP) by 2015 via more dynamic entrepreneurs. Current contribution from SMEs stands at 33%." It shows that, the contribution SME for Malaysian economy is quite huge.

An IP right is thus a legal right, which is based on the relevant national law encompassing that particular type of intellectual property right. Such a legal right comes into existence only when the requirements of the relevant IP law are met and, if required; it is granted or registered after following the prescribed procedure under that law. In practically all countries the world over, a national legal system of intellectual property rights has evolved; this has been created over varying periods of time during the last 150 years or so. It has enabled the grant of property-like rights

over such new knowledge and creative expression of mankind, which has made it possible to harness the commercial value of the outputs of human inventiveness and creativity.

## **1.2 Problem Statements**

SME in Malaysia are not really exposed and concerned to the important of protecting intellectual property in meeting the challenges due to globalization. However, a study by Kitching & Blackburn (1998) highlighted that SME owners placed most emphasis on informal methods to protect intellectual property. These methods were more familiar, cheaper, and less time-consuming and frequently considered as effective as more formal rights.

The rates of business failure vary greatly by industry and are affected by factors such as type of owner, size of business and expertise of the owner. The causes of business failure are many and complex; however, the most common causes are inadequate management and financing (Hatten, 2009). The researcher belief scarcity in management of IP protection might be one of the circumstances which lead to the business failure.

In addition, Muhammad, 2010 recommend as for SME, the formal recognition and registration often considered to be uneconomical in order to enforce their rights through the existing legal system. They need to protect their intellectual property in a cost effective way. This is a setback when gigantic companies took over their rights. In terms of bankruptcy arrangements, many entrepreneurial ventures are not a success, but they are not necessarily failures in the sense of losing money.

### **1.3 Research Questions**

Research Questions:

- Does people in SMEs aware about how valuable IP are?
- What is the role of IP in improving the business performance among SMEs?
- What are the challenges and difficulties that SMEs face in protecting the IP?
- What is recommendation that can be made to overcome their problems?

### **1.4 Research Objectives**

The objectives of this study are:

- To identify the awareness about IP among SME in Malaysia.
- To investigate the role of in SME.
- To examine the challenges and difficulties face by SME in protecting IP.

### **1.5 Scope, Limitations and Key Assumptions of the Study**

This research focuses on SME from different industry that located around Malacca area only. The respondent or interviewees will be the top management of each company to ensure the knowledgeable information and the researcher estimate the duration to complete all interview is 4 weeks.

It is important to note the methodological limitations of the studies involved in this study. The limitations of the study are those characteristics of design or methodology that impacted or influenced the application or interpretation of the results of the study. They are the constraints on generalizability and utility of

findings that are the result of the ways in which you chose to design the study and/or the method used to establish internal and external validity.

From this study the researcher found out that, there are several limitations during conduct the interview and during the research process. The limitation might be divided into two parts which is methodological limitation and limitation of the researcher.

For the methodological limitation, firstly the researcher is lack of prior research study on the research topic. Citing prior research studies forms the basis of the literature review and helps lay a foundation for understanding the research problem of what the researcher are investigating. Since the prior research about intellectual property in Malaysia is too little especially among SME, the researcher is depending a lot with the analysis of the interview with respondents and the research from outside Malaysia. However, the researcher notes that this limitation can serve as an important opportunity to describe the need for further research.

Secondly, the researcher is lack of available and reliable data. As indicated by Brutus, 2013 points out, a lack of data or of reliable data will likely require you to limit the scope of your analysis, the size of your sample, or it can be a significant obstacle in finding a trend and a meaningful relationship. The scope of this study is only limited within Malacca only, and since the topic is focused on SME only there are not so many information that the researcher can gather because not all interviewees had applied IP for their company so their understanding about IP is insufficient.

For the limitation of researcher, Firstly the access with the respondent, and again on the word of Brutus, 2013 said that, if your study is depends on having access to people, organizations, or documents and, for whatever reason, access is denied or otherwise limited, the reasons for this need to be described. It is difficult for the researcher to deal the appointment with SME especially to ask about IP because most of SME doesn't have specific unit or person that manage IP. Usually the business owner itself will manage for IP.



Last but not least, the researcher should avoid bias during conducting the interview. Everyone has biases, whether researchers conscience of them or not. As maintained by C.Taylor from Demand Media said that, bias occurs when subjects, researchers or methodologies are influenced by external factors that alter the results of the study. Controlling these sources of bias is paramount to producing useful and authoritative results for your business. During the interview session, when one respondent cannot provide sufficient information, the researcher assumes that the other respondent also had the same thought. The researcher also bias to think that most of SME is lacking in understanding about IP compare to other establish company. In addition, if the researcher detects bias in prior research, it must be acknowledged and the researcher should explain what measures were taken to avoid perpetuating bias.

The research only discusses about role of IP among SME in Malaysia only but will also include previous researcher from all over the world.

### **1.5 Significance of the Study/Importance of the Study**

The study is importance in increasing the level or awareness among SME and overcome the difficulties regarding IP that face by SME. Apart from that, the study will help the business owner realize the about the incentive, grant and campaign provided by government. It might also contribute to the further research about the important role play by IP in Malaysia.

## Chapter 2:

### Literature Review

#### 2.0 Literature Review

Nowadays, the patent battle between Samsung and Apple become a very well-versed issue. It makes people realize the important of Intellectual Property in order to protect their creation, invention, innovation, brands and labels. In Malaysia, IP is still very new and the business owner still did not aware how valuable the IP are.

IP infringement is too easy. SME owner should not rely on custom officer to monitor and take action against infringements. In facts, owners can monitor the market themselves and ensure that their IP assets are not being infringed. If they detect a violation of their IP right, they should call their lawyer immediately before any further damage is done to their business.

For instance, in a victory for little guys worldwide, the Malaysian restaurant McCurry has won an epic trademark battle against McDonald's. Yes, McDonald's. McCurry has been open for ten years, and has spent eight of those fighting McDonald's. They won on the grounds that nobody could possibly ever confuse the two restaurants.

*"It is the end of the road for McDonald's. McCurry can use the prefix," said lawyer Sri Dev Nair who represented the family-owned restaurant, which serves up Malaysian favourites like tandoori chicken and fish masala. "McCurry and McDonald's are two different businesses which sell different types of food and they have different*

*customers,” he said, rejecting McDonald’s claim that the use of “Mc” in its name could cause confusion.*

Supposedly, the name stands for “Malaysia Chicken Curry Restaurant.” (Northrup.L, 2009)

Legislation that govern IP rights in Malaysia include of Patent Act 1983, Copyright Act 1987, Trade Marks Acts 1976, Industrial Design Act Intellectual Property Corporation of Malaysia Act 2002, Layout Design of Integrated Circuit Act 2000, Geographical Indication Act 2000 and Optical Disc Act 2000.

Apart from that, Malaysia is considered as a member of the World Intellectual Property Organization (WIPO) in 1989 and a signatory body to both the Paris Convention 1989 and Berne Convention 1990.

## **2.1 Definition of Intellectual Property (IP)**

According to Cheeseman (2013), intellectual property is a term that describes property that is developed through an intellectual and creative process. Intellectual property falls into a category of property known as intangible rights, which are not tangible physical objects.

Meanwhile Ulrich and Eppinger (2012) pg 332 believe that, within the context of product development, the term intellectual property refers to the legally protectable ideas, concepts, names, designs and process associated with a new product. They also clarify that, unlike physical property, intellectual property cannot be secured with lock and key to prevent its unwanted transfer. Therefore, legal mechanisms have been developed to protect the rights of intellectual property owner. These mechanisms are intended to provide an incentive and reward to those who create new useful inventions, while at the same time encouraging the dissemination of information for the long-run benefit of society.

IP and innovation is interrelated to each other, Stamm, 2003 agrees that an innovation is often risky and costly; most companies are quite keen to protect their innovations for as long as possible through patents and other form of intellectual rights protection. He also tells that, there are people who believe that making intellectual property freely available can be greatly beneficial. During, a recent workshop at the leading edge innovation consultancy IDEO, one of their staff commented, “We believe that ideas are free. It is what you do with them that create the value.”

## **2.2 The definition of SME.**

According to Abdullah, 2010 the definitions of SME have been changed from time to time based on the importance of SME contribution to Malaysian economy. Definition of Malaysian SME is based on the number of employees and sales turnover. The criterion used is almost similar to the other countries such as the UK, USA, Japan, China and Korea. The researcher clarify that, the definition of SME should be stated comprehensible to ensure that the researcher would find the perfect SME for the collection of primary data.

The Prime Minister, YAB Dato“ Sri Mohd Najib Tun Haji Abdul Razak had recently announced a new definition for SMEs for Malaysia effective 1 January 2014. The National SME Development Council (NSDC) which is chaired by the Prime Minister with members from key Ministries and Agencies, including Sabah and Sarawak, had approved the proposal to raise the qualifying threshold for sales turnover and employment of SMEs for all economic sectors during the 14th NSDC Meeting held on 11 July 2013 in Putrajaya.

The new definition is expected to result in more firms being classified as SMEs, particularly from the services sector. This will facilitate the country’s transformation to a high income nation through the initiatives under the SME

Masterplan. As a result of the change in definition, the share of SMEs to total establishments is expected to increase from 97.3% currently, to 98.5%.

CATEGORY	MICRO	SMALL	MEDIUM
Manufacturing	Sales turnover of less than RM300,000 OR	Sales turnover from RM300,000 to less than RM15 mil OR	Sales turnover from RM15 mil to not exceeding RM50 mil OR
	employees of less than 5	employees from 5 to less than 75	employees from 75 to not exceeding 200
Services and Other Sectors	Sales turnover of less than RM300,000 OR	Sales turnover from RM300,000 to less than RM3 mil OR	Sales turnover from RM3 mil to not exceeding RM20 mil OR
	employees of less than 5	employees from 5 to less than 30	employees from 30 to not exceeding 75

Table 1: New definition of SMEs (Source: SMECorp Official Website)

### 2.3 Awareness about IP among SME

The researcher belief that, Many SME have only limited knowledge of IP and the impact it may have on their business. YB Dato" Sri Ismail Sabri Yaakob, Minister of Domestic Trade, Co-operatives and Consumerism said in the interview:

*“In 2010, the number of applications by the locals indicated an increment of 2.4% with 15,111 applications (2009:14,743) which comprised of trade marks, patents and industrial designs. The increment in number of local applications indicated shows that the level of awareness among Malaysians has increased. However, the number of local applications is still relatively low as to against foreign applications.” (MyIP Bulletin, 2011)*

IP lawyer, P. Kandiah said SME owners should file IP rights for their products or design before they expose them to the public. In fact, the law requires it.

He said many SMEs have lost exclusive rights for their products or processes because they were not aware of IP rights."It is applicable not only for new products, but any modification they make to the products or processes that is going to make a commercial impact such as competitiveness and cost reduction, they should consider getting IP rights."For companies that fail to protect their IP, if their products are successful, they can only compete on price because others can copy their products," Kandiah said in an interview recently.

Datuk Badlisham Ghazali, CEO of the Multimedia Development Corporation (MDeC), said lack of awareness on IP monetisation, especially with regards to licensing and franchising also proved a challenge for local ICT industry. This was something MDeC felt needed addressing, especially when the sector is expected to grow rapidly in the coming years.

One example of the legislation of IP in Malaysia is Geographical Indication Act 2000; it defines geographical indication as an indication which identifies any goods as originating in a country or territory, or a region or locality in that country or territory, where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical origin. By referring graph 1 the researcher found that the number of registration in decreasing and the application become flat. From the researcher point of view, the business owner did not realise that the registration of geographical indication will give positive impact to their business.

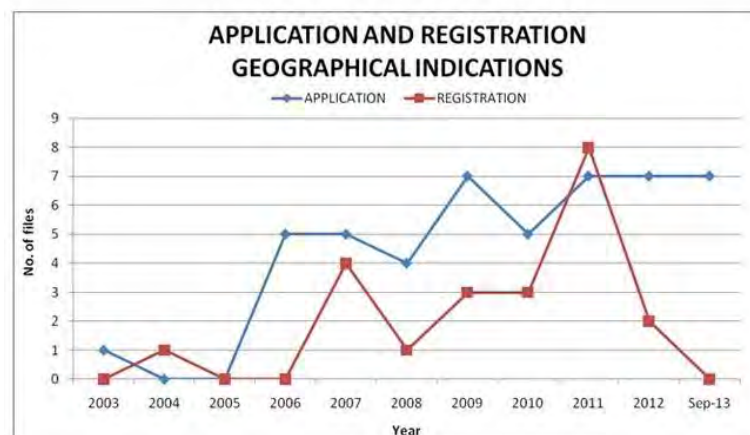


Figure 1: Application and Registration Geographical Indications (Source: MyIPO Official Website)

## 2.4 Role of IP

According to Kalanje, 2010, as there are many players involved in facilitating the market success of an innovation, the effective use of the tools of IP will play an important role in reducing risk for the players involved, who may then be able to reap acceptable returns for their participation in the process. IP plays an important role in facilitating the process of taking innovative technology to the market place.

At the same time, IP plays a major role in enhancing competitiveness of technology-based enterprises, whether such enterprises are commercializing new or improved products or providing service on the basis of a new or improved technology. For most technology-based enterprises, a successful invention results in a more efficient way of doing things or in a new commercially viable product. The improved profitability of the enterprise is the outcome of added value that underpins a bigger stream of revenue or higher productivity.

Hatten, 2009 point out the importance of having competitive advantage is critical. To cope with a quickly changing competitive environment, small business needs to be market driven. Small business cannot rely on the inertia of the market place for their survival. When running small business, they cannot solve problems simply by throwing the money. Instead, they need to see their competitive environment with crystal clarity, then identify and secure a position they can defend.

Other than give competitive edge to the business, James, 2011 outline another few roles of IP in improving businesses which is:

- Consolidate market position.
- Provide new revenue streams through licensing, franchising or sale.
- Gain investment funds to develop and market new products.
- Increase in negotiating power through cross licenses or Joint Venture agreements.

Meanwhile Greenhalgh et al. (2013) clarify that a number of industry, especially the information and communication technology (ICT) industry have

experienced a fundamental change in the role of IP plays in innovation and product market competition. Companies increasingly use IP as strategic tools rather than merely as means of protecting their inventions. He also said that, firms face not only the decision to patent an invention or to rely on alternative appropriation mechanisms, such as secrecy. Firms also decide on whether to develop inventions in-house or whether to contract R&D out.

The researcher agrees that, there are many ways in improving enterprise profitability from IP. This can be done through:

a) Direct Exploitation of the IP

- Do It Yourself (Patent, Trademark, Industrial Design and trade secret)

- Joint Venture

b) Allowing others to use the IP

-Licensing, Franchising and/or Merchandising (see Koon, 2006)

## **2.5 Issues and difficulties in IP protection**

Challenges that most SME face in acquiring IP protection include the following:

- Inadequate manpower to undertake the necessary groundwork needed for IP acquisition, for example, initial searches and other pre-filing procedures;
- High costs involved, particularly, in the patenting process which may go hand in hand with expenses for the translation of documents and fees for IP agents or attorneys;
- Inadequate “in-house” knowledge of IP rights and procedures for their protection. (Deschamps et al, 2013)