

Intellectual Property Protection For SMEs in Malaysia: Issues And Challenges

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Abstract

In most jurisdictions in the world, Intellectual Property (IP) related economy is often driven by small and medium-sized enterprises (SMEs). However, due to the lack of awareness of IP, newly invented products such as trade-names, new technology, know-how and other creative works are not always fully deployed by the SMEs. These circumstances will lead to a major economic harm as the superior opponents in the market will benefit from this situation by exploiting the inventions without having to remunerate the inventor or creator in the form of financial outcome. Thus, it is imperative to safeguard the ample protection of IP invention to disallow possible infringement, and at the same time profiting by alleviating the IP assets into a meaningful market value. The proper IP ecosystem will enable SMEs to exploit the full potential of their capacity which usually lead to profit-making that encourage the creation of new inventions. Hence, it is the objective of this paper to discuss the position of small-medium enterprises (SMEs) in Malaysia; to analyse the development of Intellectual Property rights amongst SMEs in Malaysia; and to identify the challenges and how to overcome the problems in managing IP amongst SMEs in Malaysia. This study is a qualitative research and analyses data using content and critical analysis. The result of this study indicates that the significant value in the intangible assets of Intellectual Property is pertinent in improving the worth of SME business entities, thus it is very important for the SMEs to strategize comprehensively in exploiting their IP assets.

Keywords: Intellectual property, SMEs, Malaysia National Intellectual Property Policy, SME Corporation Malaysia.

1.0 Introduction

The Fourth Industrial Revolutions (4IR) has been the centre of discussion amongst almost everyone from technologists, inventors, politicians, policy and law makers as well as entrepreneurs. Technology and creativity have now become the crux of development of nations and this supports the economic progress of a country.

Intellectual property (IP) on the other hand is a very important mechanism that protects the results or outcomes from the technology and indirectly encourages more creativity amongst inventors to create and invent new useful technologies which will assist people in the society. The Malaysia National Intellectual Property Policy ('NIPP') which was launched in July 2007 by the Malaysian Government is the basis of IP protection in Malaysia under the Ministry of Domestic Trade, Co-operatives and Consumerism.¹

The core objective of the NIPP is to harness intellectual property as a new engine of growth for the benefit of economic and social prosperity. This Policy was established to serve as the primary guidance in enacting and implementing laws relating to intellectual property in government agencies, research institutions, institutions of higher learning, non-governmental organisations as well as the private sector. It is also needed to facilitate the formation of an environment which stimulates and fosters the creation, protection, enforcement, management and maximum exploitation of IP aimed ultimately at developing a vibrant IP industry as a future growth driver of the nation. Furthermore, the NIPP is seen as a medium to promote an intellectual property culture among the business community as well as the public. The NIPP believes that nation's competitiveness will be strengthened by developing the intellectual property industry into a mature and highly developed industry that generates, manages and commercialises intellectual property effectively. Thus, an efficient and equitable intellectual property system would help strike a balance between the interests of innovators and the public and provide an environment in which creativity and invention can flourish for the benefit of all². Consumers as members of public would be able to confidently buy products or services with reliable, international trademark protection and enforcement mechanisms which discourage counterfeiting and piracy.

¹ <https://www.kpdnhep.gov.my/harta-intelek/?lang=en> (February 2019)

² https://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf (February 2019)

In most countries this increasingly knowledge-driven economy is initiated and often driven by small and medium-sized enterprises (SMEs). Unfortunately, these new invented products, brand names and other creative works are not always fully exploited by many SMEs due to the lack of awareness in IP. This situation will lead to major losses as the larger competitors are able to take advantage of this situation to exploit the inventions without having to pay anything in the form of financial benefit or reward to the inventor or creator. Therefore, it is very crucial to ensure adequate protection through IP invention to prohibit potential infringement and at the same time generate profit by alleviating the IP assets into a meaningful market value. This IP ecosystem will enable the SMEs to make full use of their capacity and creativity whilst making profit which will encourage the creation of new inventions.

2.0 Small and Medium-Sized Enterprises (SMEs)

SMEs in Malaysia are established based on certain criteria. It has been structured accordingly and is coordinated by SME Corporation Malaysia (SME Corp Malaysia), a Central Coordinating Agency under the Ministry of International Trade and Industry Malaysia.

2.1 Definition of SME

Under the new definition as provided in the Guideline for New SME Definition,³ a business can qualify as an SME if it meets either one of the two specified criteria, namely sales turnover or full-time employees, whichever is lower. All SMEs must be companies registered with SSM or other equivalent bodies excluding entities that are public-listed on the main board and subsidiaries of publicly-listed companies on the main board, multinational corporations (MNCs), Government-linked companies (GLCs), Ministry of Finance Incorporated and State-owned enterprises. As a result of many developments in the economy since 2005 such as price inflation, structural changes and changes in business trends, this new definition was undertaken in 2013 and was endorsed at the 14th NSDC (National SME Development Council) Meeting in July 2013. The definition covers all sectors, namely services, manufacturing, agriculture, construction and mining and quarrying. Sales turnover and number of full-time employees are the two criteria used in determining the definition with the “OR” basis as follows: For the

³ Published in October 2013 and updated in 2016.
http://www.smecorp.gov.my/images/pdf/Guideline_New_SME_Definition_updated.pdf
(August 2018).

- i. manufacturing sector, SMEs are defined as firms with sales turnover not exceeding RM50 million OR number of full-time employees not exceeding 200, while
- ii. services and other sectors, SMEs are defined as firms with sales turnover not exceeding RM20 million OR number of full-time employees not exceeding 75.⁴

This is a rather simplified definition of SMEs. More specifically, these enterprises can be categorized into micro, small and medium enterprises and their criteria vary between (1) manufacturing, and (2) services and other sectors. The categorization can be seen in the table below:

Table 1 : SMEs category

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

Source: SME Corp. Malaysia (2019)⁵

The definitions of micro, small and medium enterprises reflect diverse business groupings. While the definition of microenterprises makes them look quite homogenous, the definition of small enterprises reflects a wide range of business entities and capacity. For example, an enterprise or company with 5 employees is considered small just as another enterprise or company with 74 employees. Similarly, a business entity whose sales turnover is RM400,000 will be considered small just

⁴ <http://www.smecorp.gov.my/index.php/en/policies/2015-12-21-09-09-49/sme-definition> (August 2018)

⁵ <http://www.smecorp.gov.my/index.php/en/small-and-medium-sized-enterprises> (April 2019)

as another business entity whose sales turnover is RM14.5 million⁶.

The agricultural sector in which there is significant participation of micro players is also worth noting. Such sector falls under the category of “other sectors”. As the table indicates above, the disparity between the haves and the have nots is not as great as in the manufacturing sector. However, there is a need to relook at the Government’s approach to SME development because what is necessary for micro and very small enterprises may not be the same as regards to medium enterprises. This will be further explained in the role of SME Corp which is examined below.

3.0 What is SME Corp?

SME Corporation Malaysia (SME Corp. Malaysia) is a Central Coordinating Agency under the Ministry of International Trade and Industry Malaysia that formulates overall policies and strategies for Small and Medium Enterprises (SMEs) and coordinates the implementation of SME development programmes across all related Ministries and Agencies. It acts as the central point of reference for research and data dissemination on SMEs, as well as, providing advisory services for SMEs in Malaysia. SME Corp. Malaysia also assumes the role of the Secretariat to the National SME Development Council (NSDC), which is chaired by the Prime Minister of Malaysia.

Today, SME Corp. Malaysia is the nation’s premier organisation for the development of progressive SMEs to enhance wealth creation and the social well-being of the nation. In fulfilling its mission of promoting the development of innovative, resilient and globally competitive SMEs through effective coordination and provision of business support, SME Corp. Malaysia endeavours to empower the critical mass of SMEs with efficient processes, robust business models, access to financial resources, smart partnerships, market-entry strategies and sustainable growth solutions, through various platforms and programmes for SME development.

SME Corp. Malaysia provides business advisory services and information to SMEs in Malaysia through its SME Hub and its 11 State Offices nationwide. SME Corp. Malaysia also implements various

⁶ SME Corp Malaysia, Guideline for New SME Definition (October 2013), http://www.smecorp.gov.my/images/pdf/Guideline_New_SME_Definition_updated.pdf (accessed 12 September 2018)

programmes and initiatives under its own auspices including annual flagship programmes such as the SME Annual Showcase (SMIDEX), Enterprise 50 (E50) Award and SME Week.⁷

The rest of this discussion would emphasize on the relation of Intellectual Property and SME in Malaysia, the challenges and the way forward.

4.0 Intellectual Property Protection in SMEs Industry

4.1 SME's Intellectual Property Practices

In order to give protection to IP assets in SMEs, a formal approach is the most appropriate as it leads to the establishment of legal rights which may be enforced through civil and criminal remedies. These rights can be acquired through:-

- i. formal IP registration such as patent, trademark, industrial design, geographical indication and new plant varieties; and
- ii. automatic protection through fulfilment of the legal requirements as provided in the law of copyright and layout design and integrated circuit as well as contractual protection under trade secret.

However, there are SMEs that resort to informal protection through common law confidential information protection which applies in particular to technical information of their products and services⁸. Another way of obtaining informal safeguards is from business goodwill which may be protected without having to follow any formality (as required in trademark) where goodwill of the business itself is sufficient to attract protection⁹. The benefit of adopting formal rights is SME owners can

⁷ <http://www.smecorp.gov.my> (August 2018).

⁸ Study on Trade Secrets and Confidential Business Information in the Internal Market, Final Study Prepared for the European Commission Contract number: MARKT/2011/128/D, April 2013, pp. 103.

⁹ Fabio Giulio Grandis, Federica Palazzi, The Valuation of Small and Medium-sized Enterprises, https://www.researchgate.net/publication/290181474_The_Valuation_of_Small_and_Medium-sized_Enterprises (April 2019)

deter infringement by publicizing their IP rights and indicating their intention to take legal action should any infringement occur.

In SME businesses, IP is relevant in many aspects. IP products are produced or generated in mainly all kind of businesses (as mentioned in the definition above). This amongst others, can be summarized as below:

- i. Agricultural activities (Agro-based product),
- ii. Information Technology, architectural and Engineering Industries,
- iii. Any technology Industries (manufacturing food product, general machinery, furniture etc.),
- iv. Service based activities such as education, legal, accounting, tax, market research, consultancy, printing, industrial cleaning, human health activities,
- v. Hotels, transportation, sporting activities, film and sound recording industries.

All the above mentioned industries have contributed and generated new IP products in many forms. The potential protections that emerge in the SMEs businesses are indicated as follows:

- i. Copyright and Related rights
There are products and processes that are eligible for protection under copyrights for example, modules and framework of a business, scripts and stories plots, composed songs and lyrics, software (Apps and OS), computer programs, databases, pictures and others copyrightable works)¹⁰. The governing law in Malaysia is the Copyright Act 1987;
- ii. Patentable works
Newly invented products such as machines, apparatus, devices, engines, functional designed products as well as new methods for example formulas, processes, techniques and systems. The Patents Act 1983 and Patents Regulations are the laws administering the patents matters¹¹;
- iii. Industrial Registered and Unregistered Designs
Designs of all types of products that have aesthetical appeal which are not solely dictated by function and integrated circuits

¹⁰ Khaw Lake Tee, Copyright Law in Malaysia, 3rd Edition, Lexis Nexis, Malaysia, 2008, pp 74.

¹¹ Tan Pek San, Intellectual Property Law in Malaysia, Sweet & Maxwell, Malaysia, 2013, pp 499.

(industrial electronic chips). There are two relevant laws here, namely the Industrial Designs Act 1996 and the Layout Design of Integrated Circuit 2000;

- iv. Registered and Unregistered Trademark
Brandings such as the names, logo, and symbol of products and / or services that are associated with the owner's business and the common law goodwill in the name of companies' business as well as in the products and services. The registered brands are under the ambit of the Trademark Act 1979 whereas the unregistered mark are protected under common law tort of passing off;
- v. Trade secrets via contractual relationships
The formulae and recipes created by inventors of companies. The person handling or managing the inventions are bound by common law protection of confidential information and contractual liabilities. The laws concerned are the common law principles of Confidential Information as well as the Contract Act 1950;
- vi. Geographical Indications
This protection is very much relevant to agro-based product. Geographical indication provides legal protection to products of natural resources based on their geographical origin. In general, geographical indication is a sign used on goods which have a specific geographical origin and possess particular qualities or a reputation due to that place of origin. It can be used on natural or agricultural product or any product of handicraft or industry. The law that governs this matter is the Geographical Indication Act 2000.
- vii. New Plant Varieties
This subject matter is governed by The New Plant Varieties Act 2004. It provides protection for the rights of breeders of new plant varieties and gives recognition and protection of contribution made by farmers, local communities and indigenous people towards the creation of new plant varieties. Amongst the new plant varieties are the new breed of rice (Beras Merah) and chilies (Cili Bangi)¹².

4.2 Importance of IP for SMEs

Small Medium Enterprise (SME) Industries are the economy backbone of Malaysia which is represented by 907,065 business

¹² <http://www.ukm.my/pik/agro-food-industry/> (April 2019).

establishments altogether¹³. They create and innovate new inventions, promote new branding and suggest solutions to technological problems which have potential in gaining intellectual property protection. However, IP and its value is often not adequately appreciated as many SMEs do not realise the full potential of these intangible properties. This will lead to the loss of the values of the IP assets through irresponsible manipulation by larger business entities or infringement of rights that have never been enforced.

In actual fact, implementing suitable protection on IP invention created by the SMEs will assist in generating income through appropriate business dealings. It will also significantly raise the value of the business entity. Although physical assets always be counted in determining the competitiveness of an company in the market, the uprising changes in information technologies have put additional value on intangible assets such as brands, designs, know-how as well as creative and innovative ideas. Thus, IP may contribute significantly in generating income for the company through suitable business dealings such as licensing, sale or other kind of commercialization activities. In a way, IP rights may expand the SME's market share or increase the profit margin which may magnify the value of SMEs in the view of investors and financing institutions¹⁴.

Besides, the strategic plan in employing the IP rights as an asset of a SME company will definitely improve its competitive capacity. To achieve that purpose, it is the responsibility of the SME's entity to prepare an effective management mechanism or system to monitor, maintain and value the IP assets in order to utilize its full worth. However, this can only be done after the SME acknowledges the significance and value of the IP assets and its relevancy as a profit making tool.

4.3 Prospective Development of IP Invention in SME Businesses

IP assets are relevant to business development in many ways. They have been very significant in the business strategies ranging from activities related to designing, marketing, levitation of business capitals to exporting and enhancing business through IP commercial dealings.

Furthermore, IP rights provide an identity which creates a distinct image for marketing purposes. For ages, it is a known fact that IP inculcates reliability, confidence and belief amongst consumers of the IP product they choose to use. As mentioned above, the benefit of products

¹³ <http://www.smecorp.gov.my/index.php/en/policies/2015-12-21-09-09-49/sme-statistics> (April 2019).

¹⁴ https://www.wipo.int/sme/en/ip_business/ip_asset/sme_market_value.htm (April 2019)

with IP value is it provides goodwill, distinctiveness and special image which must be manipulated by the SMEs.

Product branding through trademark protection would be very useful in attracting people towards the products or services. It is believed that this intangible asset is more powerful than the real product itself as the consumer is easily influenced by brand rather than the actual product or service. To get protection under IP Rights, the branded products must be registered as a Trademark.

A trademark may consist of any sign capable of being represented graphically in particular words, including personal names, designs, letters, numerals, the shape of goods or of their packaging, provided that such signs are capable of distinguishing the goods or services of one undertaking from those or other undertakings¹⁵. A trademark is used as a marketing tool to enable customers in recognising the product of a particular trader.

An empirical study has been undertaken on the relationship between SME's business and IP. The study involves interviews of three SMEs and these interviews produced very interesting results. The first SME runs the business of producing *labu sayong* in the State of Perak.¹⁶ *Labu sayong* refers to ceramic products which have a variety of applications. The raw material for the products is sourced from a tributary of the Perak River. The raw material is extracted from the river bed before being processed by the SME. With workforce lesser than 10 employees, the processing and production of the ceramics are heavily manual but the designing of each product is individualised and involves a high degree of artistic skills. The designing is done by one person alone that is the owner of the SME business. The activity draws solely upon the maker's imagination and creativity, without any intervention from computers or machines. The motive of the design is also distinct and unique. A number of IP rights can be relevant and give rise to further questions. The fact that the ceramics are sourced from the bed of a single river in Perak may grant it a geographical indication. The designing, moulding, shaping and finishing, which are manually done can give rise to rights under copyright and industrial design, if they are translated into a product. The mixture that makes the end product which is only known to the maker/owner can be subject to trade secrets. When asked about whether the IP rights have been acquired, the SME responded negatively.

¹⁵ Section 3 of the Trade Marks Act 1976 (ACT 175)

¹⁶ That interview was conducted on 14/04/2018.

The second and third SMEs are producers of *kerepek* in the State of Selangor. *Kerepek* is a type of traditional snack made from thinly sliced bananas, tapioca, sweet potato or potato. The product is indigenous to Malaysia, Thailand, Indonesia and other South East Asian countries. The second SME produces *kerepek* in a village in the District of Sepang¹⁷ and the third SME produces the same product in a village in the District of Kuala Langat.¹⁸ The second SME makes *kerepek* from tapioca, banana and sweet potato while the third SME makes *kerepek* from tapioca and banana only. Both the second and third SME employ between 5 and 15 employees and have adopted and introduced a certain degree of automation in the processing and production of *kerepek*. Raw tapioca, sweet potato and banana are unskinned and cleaned manually but the process of slicing the raw tapioca has been automated with regards to the third SME. The frying process for both the second and third SME is assisted with machines. The mixing of the fried slices with coating and flavour also involves machines for both SMEs. IP becomes relevant to them (second and third SME) because both designed some of the machines themselves. The second SME (a lady entrepreneur) designed the mixer that she used to mix the *kerepek* with different flavourings while the third SME designed the machine that enables automatic slicing of tapioca. The SMEs only did the designing. The machines were custom-made by machinery manufacturers. The question which arises now is whether the SMEs' design can be protected under IP law? If yes, under which branch of IP law? The contrary can occur such as the SMEs can be caught infringing other people's IP rights. The worst scenario is the SMEs came out with the original ideas but due to their lack of awareness, the IP rights are "snatched" from them by irresponsible parties. The second SME also faces another dilemma whereby the recipes for her products are exclusively within her own knowledge and not disclosed to anyone else. While such exclusivity precludes others from producing parallel products with similar features, it may also prevent the knowledge from being transmitted to the owner's successor. The demise of the owner may lead to the end of the business altogether. Apart from the need for the *kerepek* to have its own trade mark (both SMEs have yet to register it), the recipes for making a good and marketable product should be protected by trade secrets law.

5.0 Challenges in Managing IP by SME

¹⁷ The interview with the second SME was conducted on 04/05/2018.

¹⁸ The interview with the third SME was conducted on 02/07/2018.

In the SME industry there are challenges faced by the entrepreneurs in managing IP as well as commercializing the products. The biggest challenge for the SMEs to market the IP assets is that the business owner must be able to ensure a clear link which associates the IP assets to the business and to make certain that customers are able to establish connections between the IP products and the SME business and to differentiate with the other competitors' products. Only when this is done, it creates trust and loyalty amongst customers in the IP product of the SME.

The lack of awareness amongst the business owners on IP system has discouraged the capability in exploiting the IP rights effectively. Poor IP management skills within SMEs "reduce their ability to fully benefit from the system and, therefore, to a certain extent limit the potential of the SME to increase their economic return". (Sati-Salmah Sukamirjan, Olivia De Vega Sapong, 2014)

Furthermore, the IP system is built up through technical elements which require a skilled person to understand, prepare and manage them. This role is typically played by the specific IP agent or legal person who may attend to the technical issues and legal requirements. SME companies often have limited access to this due to their limited knowledge and budget, what more to have them as an in-house service. Efficient IP management requires an array of expertise which is generally lacking in many if not most SME support institutions. This issue may complicate and reduce the opportunity in getting protection from the process for registration or any other means of granting of IP rights.

High expenses is another obstacle, which includes the process of acquiring, maintaining, monitoring and enforcing IP rights, particularly for business entities that are working in different geographically disseminated markets.

There is also a challenge in combating counterfeit goods and piracy problems. This never ending issue has caused severe harm not only to the business community but also to the public at large. Such unfortunate cases may damage the confidence in the quality of brand name products, which as a result would cause a huge loss in revenue, investment, potential transactions and development prospects. Moreover, the inferior quality of the infringing products may affect the consumers in innumerable means for example causing serious health and security issue.

Finally, the link between promoting IP rights and consumers needs to be highlighted. Protecting IP rights can have both positive and negative correlations with the protection of consumer interests. IP rights

can create monopoly positions. Increasing the strictness in protecting such rights can thus reduce consumer welfare. However, IP rights can enhance future consumer welfare if the rights incentivize innovators, while without them there will be no such investment and product will continue to go undeveloped. The most relevant type of IP rights in this regard is patent which protects ideas that generate innovation. Greater innovation can improve features of end products. Innovation in production and processes can also make them more efficient and this may translate into greater availability of products and better prices. Apart from patents, trademarks can also protect consumers from fraudulent products or ensure that they enjoy high-end products that they demand (Maskus, Keith E., 2000). However, when SMEs come into the picture, the equation may change. The challenges of protecting IP rights for SMEs may affect the extent to which the beneficiaries of IP rights including consumers are allowed to enjoy the legal protection of such rights. Since the correlations between IP and consumers vary, so does the extent of the legal enjoyment and availability of such rights for SMEs and the consumers. As more IP protection is made available to SMEs, the fate of consumers in the market will depend on whether IP brings benefits or harms to them. Nevertheless, there is a possible meeting of interests between SMEs and consumers, which is when IP rights create monopoly. The monopoly conditions could harm consumers and SMEs, at the same time, counteracting the adverse effect of IP protection and this may result in a parallelism in IP enforcement for consumers and SMEs. Better still, different end results for SMEs and consumers can still emerge because innovation that is supposedly brought about by IP rights creates exceptional market conditions which would not be found in ordinary cases in which innovation is absent. Examples of such conditions are more porous market boundaries with much easier entries into and exits from the market. This incidence of dynamic efficiency can bring long term benefits to consumers despite the possible monopolistic structure generated by the exercise of IP rights by certain sections of market players.

6.0 Combating Challenges

Many efforts have been or should be done essentially by the government in resolving the issues faced by SME entrepreneurs.

First and foremost, governments are responsible to create a reliable and encouraging ecosystem to boost the competitiveness of SMEs. They make policies that affect the commercial dealings and

function as a promoter to conform to global market desires. This is done by establishing their ability to monitor the application of international quality standards. This is a crucial role as governments are involved in expediting access to markets. In order to succeed in promoting more effective deployment of IP system amongst SMEs, the effort must not only focus on the SME business entities themselves but also their relevant business players which include business consultants, people in chambers of commerce and industry or investors and financial institutions who are in direct contact with the SME entrepreneur.

In addition, it is very substantial and proven effective to include IP in other activities carried out by SME companies such as marketing, new product development, exporting, financing, etc. In other words, it is pertinent to have IP integrated in the overall structure of business support services so as to enable it to be promoted. For example, Australia has taken an active role in promoting awareness and educating entrepreneurs or SMEs about the importance of IP system. Among the activities conducted are strong focus on training and providing support to business advisors, regular seminars on various aspects of IP for SMEs and developing IP Toolbox, a reference book for a wide range of organizations in conjunction with the industry. The Malaysian Government through the effort of MyIPO in collaboration with SME Corporation of Malaysia (SME Corp) had successfully organized the Successful SMEs and Intellectual Property Rights Seminar at the Intellectual Property Academy (IPA). The one day seminar aimed to further facilitate the SMEs to identify the potential of their IP assets to access funding and financing. It is said that SMEs should take advantage of IP protection through good IP management and to understand the rules of IP and intangible gains in order to design and carve out smart and effective strategies to compete in the global market. The conference was attended by 120 SMEs from all over Malaysia.

The government may also assist the SME's business entities in obtaining information about IP, related laws and regulations, business advisory services, training opportunities and financing sources which can be time consuming and costly. It is very beneficial if the government would be able to set up an entity to function as a business administrator which integrates Malaysian SMEs into supply chains locally and internationally.

It is an accepted view that the SMEs must be able to remain competitive in the market with the assistance of effective IP system¹⁹. Nevertheless, this objective is only achievable through concerted efforts by many players in the industry through cognizance of the importance of implementing IP system by all parties in the SMEs fraternity. This good initiative has taken up by some governments for example, in the Republic of Korea, the smart partnership was established between the Korean Intellectual Property Office (KIPO), the chambers of commerce, the government SME support agency, the Korean Patent Attorneys Association and other public and private partners, including financial institutions, business training centres and multinationals have established a network of support for SMEs in IP matters.²⁰ Amongst the activities are IP acquisition campaign for SMEs, assisting the creation of IP, reducing the cost of acquiring IPs, activating the market of IP and supportive measures for commercialization. On the same note, Singapore established high value-added and creative content industries by developing IP as strategic and competitive asset and proactive IP rights policy²¹. This brought to the transformation of Intellectual Property Office of Singapore into a semi-autonomous statutory body in charge of administering IP matters in Singapore. As a result, Singapore is currently known as a leading nation in the creation of patent filing and other IP assets.

Efficiency in enforcement to solve issues relating to IP infringement is very crucial particularly in the age whereby counterfeit and pirated goods are everywhere in the market. Apart from the actions taken by the enforcement unit in Malaysia, for example the taskforce from the Ministry of Internal Domestic Trade and Consumer Cooperative and also the Commercial Unit of Royal Malaysian Police Department (RMDP), protection of supply chains through the collaboration of public and private sectors is also needed. As the agency responsible for consumers is also involved, all stakeholders should take a balanced approach between protecting IP rights, protecting consumer interests and promoting the resilience, growth and sustainability of SME business in Malaysia. Close cooperation between the public and private sectors is essential for the purpose of effectively securing supply chains and protecting consumers and rights holders. In preventing the infringing articles from penetrating the supply chain, it is important for all business

¹⁹ <http://smeinfo.com.my/intellectual-property/ip-for-smes> (April 2019).

²⁰ KIPO Activities Targeted at the SMEs Sector (Republic of Korea), https://www.wipo.int/sme/en/best_practices/kipo.htm (April 2019).

²¹ Intellectual Property Office of Singapore, <https://www.ipos.gov.sg/> (April 2019).

entities as well as the purchasers including wholesalers, retailers and distributors to take sufficient measures to identify and verify the authenticity and legality of products entering the market. The public as a whole should be warned of the repercussions of manufacturing and distributing the infringing products, which may lead to severe criminal punishment or civil remedy.

7.0 Conclusion

SMEs are increasingly growing and it contributes substantially to the growth of the Malaysian economy. The significant value in the intangible assets of Intellectual Property is very much of assistance in enhancing the worth of SME business entities. Nevertheless, there are issues and challenges in the effort of adopting IP system in one SME as mentioned above. Thus, it is very pertinent to strategize methods to enable SMEs to fully exploit their IP assets, the potential hurdles or challenges and how to overcome them. To date, there are initiatives carried out by the government through their agencies in promoting awareness amongst SMEs on IP system and the benefits to the companies, to enhance the capacity building within SME entities so as to guarantee the full and effective utilisation of IP value as well as taking care of the enforcement of IP infringement. With the appropriate mechanisms and effective smart collaborations between the private and public sectors, the objective to empower SMEs particularly via IP system would be successful and brings benefit not only to the SMEs but also the public at large. The significant value in the intangible assets of Intellectual Property is pertinent in improving the worth of SME's business entities, thus it is very important for the SMEs to formulate strategies to comprehensively exploit their IP assets.

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