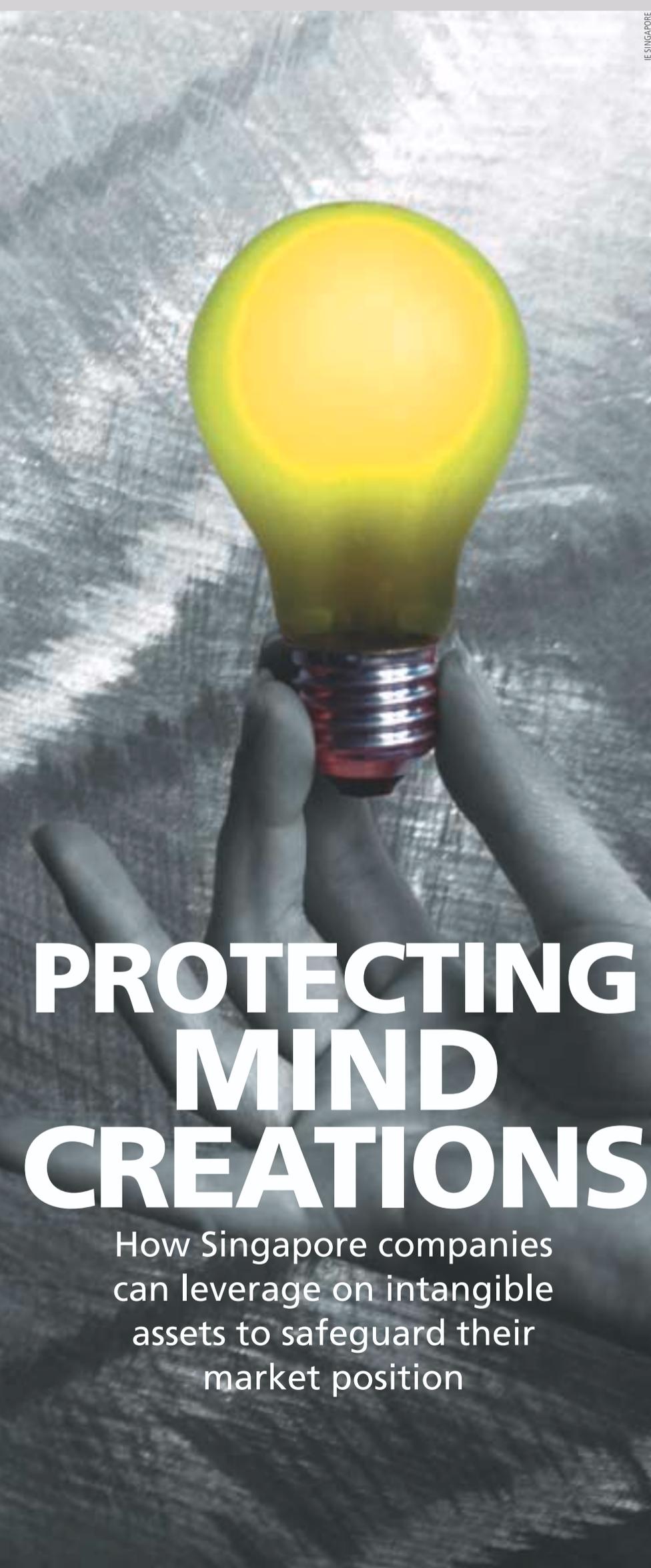


BEYOND SINGAPORE

Giving companies an edge over competitors

Intellectual property



PROTECTING MIND CREATIONS

How Singapore companies can leverage on intangible assets to safeguard their market position

IE SINGAPORE

STORIES BY AUDRINA GAN I

The roar of a Harley Davidson, the dominant fuchsia-pink colour palette for Barbie dolls, instantly recognisable Nokia ring tones, the popping sound of a Tupperware container and the vibrant purple packaging hugging a Cadbury chocolate bar — these brands have one thing in common. It's a strong sensory feature in each that sets it apart from the many products out there in the marketplace.

Colour, sound, smell and shape. These are new non-traditional hallmarks that can make a difference. And such trademarks are all part of intellectual property (IP), which refers to creations of the human mind. Duly protected, a creative work, an original expression or even technical solutions to a problem can become invaluable IP. In Singapore, the various forms of protected IP include patents, trademarks (see "IP terms at a glance"), registered designs, copyright, layouts of integrated circuits, geographical indications, trade secrets and confidential information as well as plant varieties.

Capitalising on IP

But what's the significance of IP and how can it benefit corporations? At IE Singapore, deputy chief executive officer Ted Tan notes a growing emphasis on IP as part of business fundamentals. "Savvy venture capitalists are evaluating a company's IP much more closely before investing," he says.

To those venture capitalists, a strong IP portfolio is testament to the depth of a company's intellectual capital base and its ability to protect its market position. Bryan Wong, president of Trusted Hub Ltd (see page F4), concurs with this view. He recalls that in one instance, the company's Japanese partners were interested in the "processes" that Trusted Hub used to create legally compliant data and e-documents. "In the minds of the Japanese, whose economy is built significantly on IP, the value of a product or service is closely tied to its IP," he says.

Apart from locking in existing customers and increasing market share, Wong points out IP ownership also allows a company to maintain a strong profit margin by staying ahead of the pack. In today's knowledge-based economy, an organisation won't be able to compete globally in an effective and efficient manner should it fail to leverage on IP, says Ng Kim Tean, managing partner of Alain A John Partnership, a boutique law and IP firm.

Two decades ago, fixed assets such as plants and machinery used to account for about 68% of a company's value. Today, they account for less than 35%. "The bulk of a company's value is now attributable to the intangible assets and intellectual capital," informs Ng.

Classic examples run from IBM and Dell to Coca-Cola and McDonald's. These multinational corporations have strategically leveraged on their brand names, goodwill, market leadership positions, proprietary technologies and new products to capture new market segments as well as shareholder value beyond what was in their balance sheets. For instance, Coca-Cola's 2003 market capitalisation was US\$115 billion, almost 10 times its book value.

Closer to home, there are several compa-

IP terms at a glance

- **PATENT:** A monopoly right given by the government to the owner of an invention to prevent others from using, copying or making the invention without his consent in the country in which he has obtained patent protection. A patentable invention can be a product or process that gives a new technical solution to a problem.
- **TRADEMARK:** A sign used by a person in the course of business or trade to distinguish his goods or services from those of other traders. A registered trademark has to be capable of being represented graphically. It can consist of any letter, word, name, signature, numeral, device, brand, heading, label, ticket, shape, colour, aspect of packaging or a combination of these.
- **REGISTERED DESIGN:** A design refers to the features of shape, configuration, pattern or ornament applied to an article by an industrial process. An article refers to any object to which the design is applied. Registered designs are used primarily to protect designs for industrial use. It is the right given by the government to the owner to control the use of his design.
- **COPYRIGHT:** A form of property, it can be licensed or assigned, either as an individual right (for instance, the right to reproduce) or in a bundle (all the rights an author owns in his work). Copyright protects works like novels, software programs, plays, sheet music and paintings.
- **GEOGRAPHICAL INDICATION (GI):** A sign that identifies a product as originating from a location that has given that product a special quality, reputation or other characteristic. Well-known examples include "Darjeeling" (an Indian region famous for its tea) and "Tuscany" (a region in Italy famous for olive oil). There is no need to file any application to protect a GI.
- **LAYOUT DESIGN OF AN INTEGRATED CIRCUIT (IC):** Refers essentially to the three-dimensional character of the elements and interconnections of an IC.
- **TRADE SECRET:** Some information or "secret" that is important to the business and is not known to the public. It is a term commonly used to cover information that has commercial value.

nies, including Chartered Semiconductor Manufacturing, Creative Technology and Trek Technology (Singapore) Pte Ltd, that have leveraged on IP as one of the key sources of shareholders' wealth and competitive advantage beyond Singapore's shores. More recently, Trek made a successful claim against four companies for infringing on its patent in

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Minding the pitfalls

From page F1

relation to its portable data storage device. Another case in point is Stratech Systems Ltd (see page F3), which has advanced information technology expertise in computer visioning and intelligent transport systems. It understood the need to fully realise its investments in research and development by undertaking an IP evaluation exercise on its proprietary IT solutions. The exercise, which was co-funded by IE Singapore, helped the company leverage on the full value of its patents when negotiating joint-venture deals with overseas partners.

Be careful with IP

Conversely, when a company does not have an effective IP strategy, it may run the risk of being wiped out, says Alain A John Partnership's Ng. TriTech Microelectronics Pte Ltd is a classic example. The Singapore company was in the business of designing and marketing integrated circuits for personal computers and consumer electronics. It was once viewed as a promising technology start-up that had signed agreements with industry heavyweights. But all these came to an end in 1999, when rival firm Cirrus Logic Inc sued it for infringement of three patents, causing TriTech to eventually wind up.

As more companies begin to ride on the internationalisation bandwagon, the pitfalls of venturing overseas without IP protection become more evident. Because of its intangible nature, IP can be stolen quickly and discovery of unauthorised use may only arise much later, says Renee Xavier, principal consultant at Alpha & Omega International.

"Unauthorised use of IP by a third party means loss of business, revenue and goodwill. This will lead to brand deterioration and product value," she adds. Worse, it could lead to unnecessary litigation suits that could have been avoided.

One such instance is the use of the crocodile mark by Crocodile International Pte Ltd (which has rights to a left-facing crocodile) and La Chemise Lacoste (rights to a right-facing crocodile). The two companies have been involved in lawsuits because of the similar logos used for several decades in various countries.

Fortunately, there are clear signs that companies are increasingly beginning to appreciate the notion of assets, says IE Singapore's Tan.

"They are realising that it's not just brands, but also designs, technologies, franchises, licences, new technology and business know-how that can drive both top and bottom lines," he adds. But Tan says acknowledging the value and contribution of IP to a company's financial performance is hardly enough.

"Companies must develop IP strategies and take active measures to protect their stable of IP, particularly when they are expanding to different markets," he says.

And one of the challenges faced by Singapore-based companies is the integration of IP assets into their long-term business strategy. To assist companies in this aspect, IE Singapore has implemented the "IP for Internationalisation" programme (see "Intellectual property learning"). This programme aims to achieve IP value outputs of more than \$100 million, benefiting at least 500 companies over three years through training, consultancy and research initiatives.

Common mistakes

Indeed, there are many areas in which Singapore-based companies need to be educated to avoid making mistakes on IP. At the Intellectual Property Office of Singapore (IPOS), director-general Liew Woon Yin points out one of the mistakes companies commonly make is assuming they have universal protection after filing for IP protection in Singapore.

"IP rights are territorial and the IP management considerations vary from country to country," explains Liew.

And there have been cases in which Singapore companies found themselves at the wrong end of lawsuits due to their failure to ensure proper IP protection.

"Local players in the foreign markets that they entered would file the company's trademark with the local IP office and subsequently sue the company for trademark infringement," says Liew. Such cases could be avoided if proper IP management were undertaken as part of the company's business considerations prior to market entry.

Another mistake is the premature disclosure of a potential invention. By disclosing the invention prior to a patent application, the invention is rendered non-patentable because in the eyes of law, the invention has lost its novelty, says Alain A John Partnership's Ng.

And while many companies have acknowledged the importance of IP, they have not actively sought to manage and commercialise their IP portfolio.

"One effective result of such IP portfolio management could be the commercialisation of the company's non-core IP, thereby creating new revenue stream for the company," says Ng.

That's what IBM did and it recorded a revenue of US\$1 billion from royalties payment for its proprietary technologies. Indeed, IP has become an increasingly essential part of the lifeblood of companies as Singapore joins the big league. Singapore firms need to make greater progress in IP if they want to have an edge in today's competitive marketplace. **E**

WIPO comes to town

For the various stakeholders in the IP system ranging from policymakers to enforcement officials, the establishment of a Singapore office by the World Intellectual Property Organisation (WIPO) — a specialised agency of the United Nations — last month (June 7) is a major boost. As the regional focal point for Asia-Pacific, the office will serve as a conduit between its headquarters and regional counterparts in facilitating WIPO's programmes and activities, says director Rowena Paguio.

For a start, stakeholders can leverage on the capacity-building programmes available at the institution. Such programmes come in the form of training, awareness building and provision of tools in the various IP areas that address the particular concerns and interest of the stakeholder's sector. Among the areas seen as relevant to Singapore enterprises are IP asset management, IP audit, patent drafting, patent and technical information services, licensing and technology transfer.

For more information, call 6774 6406.

Intellectual property learning

In today's knowledge-driven economy, IP has become increasingly significant to Singapore-based companies operating across a wide variety of industries.

Intangible assets such as brands, designs, technologies, franchises and licences can play a bigger role in generating and sustaining the financial performance of businesses.

In view of the importance of IP strategy to the internationalisation efforts of companies, IE Singapore has developed the "IP for Internationalisation" initiative to help companies develop IP strategies in line with their internationalisation roadmap in the area of strategy development, market research and training.

How does it work?

IE Singapore will help companies take the right steps in the audit of their current IPs to assess

their strategic value to current and future business expansion plans in their respective target markets.

This would help identify which set of IPs should be protected and to be bundled with other IPs to create value-add products and services that would enhance their competitiveness in their overseas markets. Third-party expertise (consultants) will be called upon to provide guidance.

• Research

IE Singapore will support relevant IP-related market research undertaken by industry and trade associations that provide companies with reliable and up-to-date data and insights to make informed decisions when embarking on their IP strategies in their specific industry cluster and target geographical markets.

• Training

IE Singapore will partner qualified training providers to develop customised programmes to help companies acquire a better understanding of application strategies for their IPs. IE Singapore also collaborates with trade associations, chambers of commerce and training institutes such as IP Academy to organise market- and industry sector-focused IP workshops and seminars.

• Resources

Companies can also check out online IP resources including related articles, directory of experts, online searches, diagnostic tools, and listings of training and seminar events gathered by IE Singapore's partners at IPOS and IP Academy.

For more information, visit www.iesingapore.com



Png: Companies need to know how to use IP as a global competitive edge

Using IP to drive growth and competitive edge

From IBM and Dell to Coca-Cola and McDonald's, these corporations have strategically used intellectual property (IP) to capture market share and shareholder value. Angela Png, deputy director, capability development group of IE Singapore, answers some frequently asked questions on IP.

Why does IP play a critical role in a company's globalisation?

Through various forms of intangible assets such as brands, designs, technologies, franchises and licenses, companies are able to reach a larger global marketplace.

In addition, they can also use IP to exchange and obtain new information and ideas. By deploying IP, companies can build upon their intellectual rather than physical assets to drive growth and competitive edge.

What should companies be mindful of when they attempt to leverage on IP in their global business strategies?

For a start, they need to develop IP management capabilities, such as the proper use of IP in relation to employees and customers'

IP or joint-venture partners. This also applies when companies are building or adapting new products and services with an overseas partner's licensed patent trademark or technology. More importantly, they need to know how to use IP as a global competitive edge.

True, IP can be used as a defensive and offensive tool when companies venture abroad. Still, companies must not be caught off-guard when limiting opportunities for competitors to 'free ride' on originating company concepts, creativity or research and development investments. They need to manage this carefully so that other people's rights are not infringed.

What are the types of IP strategic projects that can be supported by IE Singapore?

The various components supportable under IP projects include IP market research; audit [general IP health check]; valuation; training; documentation; corporate governance and policies.

The scope of eligible expenses would include developing strategies for using IP to protect market share, exploiting new revenue streams to create competitive advantage, as well as building up a robust IP management infrastructure to ensure adequate and effective protection in different markets and industries.

We would also consider the development of an IP strategy to align business growth plans or companies that wish to leverage on their new or rebundled IPs for enhanced service offerings. **E**



Companies need to understand that there's more to IP than just registering a trademark or patent, says Chow

Surfing for gold in loyalty solutions

If you have ever sought consultancy on how to build and develop customer loyalty solutions or partner relationship management, you might have used the intellectual services of companies such as SurfGold. Established in 1999, SurfGold provides a single window for multinational and regional companies for their customer loyalty, channel partner loyalty and data analytics requirements. As such, the expertise of SurfGold's employees is the company's key intellectual assets, while their perspectives which are expressed in written or pictorial form during the course of their work become the company's intellectual property (IP).

According to SurfGold's managing consultant Gordon Chow, the benefits and significance of effective IP management are critical in various forms. First, it provides companies with a protective shield as due diligence has been conducted. This reduces the likelihood of copyright infringement. Once IP management strategy is in place, companies can seek legal action to protect their interests. In addition, it can also be a key driver in the company's growth as the intellectual assets can be licensed or franchised. More importantly, the use of web technology — one of the pillars of SurfGold's solution offerings — can be easily replicated. With a regional footprint in seven Asian countries, failure to incorporate proper IP management would make the company

vulnerable to infringement or litigation issues.

Since IP may become a potential source of commercialisation or liability, Chow says active steps are taken to manage this properly. To familiarise itself with an overview of IP, SurfGold participated in relevant seminars organised by IE Singapore. Along the way, SurfGold also sought professional and financial assistance from the Intellectual Property Office of Singapore. Through these channels, SurfGold took an audit of its current assets and practices. From there, it identified some areas that are easy to implement and yet offer good protection. For instance, a copyright clause is incorporated into all the company's written documents.

Still, companies need to understand that there's more to IP than just registering a trademark or patent, says Chow. In addition, companies should not go overboard in seeking IP registration. "Decide what is really strategic for registration and which country to register in," he advises. Ultimately, due diligence should be conducted prior to implementing any product, solution, services or strategic materials. This will ensure the company's rights are not lost to public domain unnecessarily.

"Due diligence is extremely important as we invest heavily in new loyalty solutions. Any infringement could devalue these intellectual assets," he says. And never assume that IP laws are universal, adds Chow. ■

Stratech taps technology licensing

Sophisticated technology can deliver world-class solutions but more often than not, it's bait for impersonators. And the vulnerability gap widens for Singapore-based companies such as Stratech Systems Ltd that have a global reach in regions including Asia, the Middle East, Australia, Europe, and North and South America.

An emerging world-class advanced technology and e-systems developer, Stratech delivers large-scale, complex and real-time mission-critical systems in the areas of intelligent vision, intelligent transport systems and e-systems (for governments and businesses). So far, its products have been used in industries such as aerospace and defence, financial services, healthcare, homeland security and transportation.

As a software company, intellectual asset management is a key business process as the company's value is measured by its technological offerings, says executive chairman David Chew. Since its inception, Stratech has placed great emphasis on developing proprietary technology and owning key patents in the technological field.

Last August, the intellectual assets of two of its core competencies — namely, Computer Vision and Intelligent Transport Systems — were independently valued at more than \$780 million each by PricewaterhouseCoopers (PwC).

"This is a strong reflection of the vast store of intangible value that Stratech has built up from intensive research and development and product development over the years," says Chew. Notably, the PwC report also underscores the company's planned strategy to tap new avenues of businesses such as technology licensing.

Aside from creating new business segments, Chew notes that IP management has also helped the company attain a higher level of recognition when doing business in developed countries. Its portfolio of projects is a case in point. In 2003, Stratech provided key support to the wireless gatelink project, which



Chew says IP management has helped Stratech attain a higher level of recognition when doing business in developed countries

was conducted in conjunction with Boeing.

More recently, the homegrown company broke into the US technology market with a contract from the US government for its Intelligent Vehicle Access Control System.

Despite its runaway success, the process of managing IP is not without its share of problems. For a start, the filing of patents or trademarks does not come cheap, says Chew. What's more, he laments, the ownership of a patent does not imply that others won't try to copy or circumvent it.

Still, IP management is crucial if companies want to build strong and sustainable growth. Thus, Chew urges companies to think long term.

"While it may cost more to protect your IP now, it will benefit [the company] in the long run," he says. And firms that take too long to ponder over the filing process could end up paying a heavy price. ■

International market beckons

For many Asians, sauces and mixes are "must-haves" in their culinary palate.

And for Singapore's Sin Hwa Dee Foodstuff, these have formed the essence of the company's growth over the past three decades. Sin Hwa Dee started off as a producer of soya and oyster sauces, bean paste and plum paste. It has since widened its product range to premixes such as black pepper sauce, laksa paste and chicken rice mix.

"We have developed a lot of intellectual assets over the years. These include our manufacturing capability and supply chain," says managing director Jocelyn Chng.

Take the production of its soya sauce. In the beginning, the sauce was produced the traditional way — in large earthenware jars to ferment the soya beans. This process has since been replaced by state-of-the-art technology.

Chng envisions growing Sin Hwa Dee into an international player. To achieve this, the company has continually upgraded its production facilities and equipped them with the

latest in food technology.

Today, Sin Hwa Dee's products — marketed under the retail brand "CHNG Kee" — are exported to more than 20 countries, including China, the Philippines, Indonesia, Norway, the Netherlands and Australia. Even countries as far-flung as Iceland and Mauritius have im-



Chng: You need to establish the strategy based on where the market is going and how you can move on

ported various sauces from the company.

And that's where intellectual asset management becomes an important component for Sin Hwa Dee. "As we globalise, we're afraid that people will copy us," says Chng. What's more, Sin Hwa Dee has invested substantially in its brand and "we don't want people to infringe on the goodwill". Additionally, it's wary of infringing on other people's IP rights.

The way Chng sees it, a protected brand provides consumers with the confidence to purchase a product. "They know that products from such brands will not be manufactured in various ways that will turn out to be different from the conventional ones," says Chng.

Notably, IP also plays a key role in corporate and business development strategies. "It helps us make certain decisions," notes Chng.

The company's plans to explore the licensing and franchising of its intellectual assets are a case in point. Prior to venturing into an overseas market, the management at Sin Hwa Dee identifies the owner of the intel-

lectual rights. From there, it can then decide whether to deploy a co-branding or joint venture strategy. Elaborating, Chng adds, "If I get a company in China to produce CHNG Kee's seafood chilli sauce, we're doing technical know-how transfer. That will guide us to set certain rules and requirements for our partner to meet."

And it's vital that IP is implemented earliest possible — before one enters into a market. "You need to establish the strategy based on where the market is going and how you can move on from there," says Chng.

A tardy move could be costly as your suppliers and customers might turn against you and register your assets, warns Chng.

As such, identifying the market for IP protection and the type of assets to be protected are crucial.

"We're an SME [small/medium-sized enterprise] and we cannot be all over the place," says Chng. For a start, companies need to understand that IP is not a mere trademark or patent, she adds. And one should not neglect to register intellectual assets done in conjunction with third parties. For instance, research materials done by laboratories are registered as Sin Hwa Dee's property. ■

Building a Trusted Hub

With the rampant use of electronic mail these days, the retention and management of electronic content has become vital. And the processes of doing so are intangible intellectual assets for Trusted Hub Ltd (THL), which specialises in legal-compliant electronic content.

“Our company’s intellectual property [IP] is the sum of knowledge gained from our operational experiences and the innovations of our outsourcing solutions,” says Samuel Siaw, vice-president (international) of THL.

The company has patents pending for its “Authentication of Electronic Documents” and “Document Signature Method and Systems” products. Why is IP important for THL?

IP provides a competitive advantage by preventing competitors from duplicating or selling similar inventions in the marketplace. This is particularly vital when a company globalises. According to Siaw, some Asian countries are equipped with the necessary expertise to reverse-engineer one’s technology, especially software. And they are able to do so within a short span of time and at a lower cost. Without IP protection, one cannot make claims against individuals or companies that copy your invention and business models.

Additionally, IP also helps the company establish a robust brand and paves the way for cultivating customer recognition and trust toward THL’s solutions and services.

Take its business process outsourcing



Siaw: Partners and customers want to purchase your products or services only when you have IP and can create value

(BPO) centre, for instance. THL markets this business segment through a franchise model. According to Siaw, company IP that has been developed over the years is a valuable asset when it comes to striking strategic partnerships with overseas partners to set up BPO centres in their countries. In more mature and advanced markets, Siaw emphasises that IP determines a company’s value.

“Partners and customers want to purchase your products or services only when you have IP and can create value,” he says. Lit-

tle wonder, then, that IP is also a direct link to the company’s wealth generation. After all, royalties, licensing and franchising fees are collected when the know-how is replicated.

And THL is not stopping at capitalising on its IP assets through franchising. In fact, it is pursuing grants from IE Singapore to subsidise consultancy in branding, trade marketing and overseas market studies that will help enhance the IP of services and solutions in the markets THL is exploring.

The benefits for IP are aplenty. But how

did THL develop its IP strategy? To begin with, the company started by fostering an innovative culture internally. Regardless of their work capacity, members of staff are encouraged to table ideas for discussion. In addition, it also takes onboard suggestions from customers.

Thereafter, led by the company’s president, functional heads from business, operations, technology and audit departments will jointly assess the feasibility of bringing each of these new ideas to market. At times, THL will work with a customer or value-added partner to enhance the commercial selling point of an idea, which can lead to a new product or service.

Once a commercial value is determined, Siaw advises companies to move with lightning speed to protect the IP. “Product development life cycles are short,” he adds. This means competitors can easily replicate your product, bring it to market and compete against you. Ideas that have been left on the back burner should not be cast aside. Instead, these should be properly documented as they may become valuable assets later when market trends and customer demand evolve. In addition, companies should not rest on their laurels even if they already have existing IP assets.

“Markets and technologies are constantly changing. It’s necessary to constantly review business plans and IP portfolios to ensure they continue to stay relevant,” says Siaw. ■

Protecting its investments

The long-term value of highly innovative technology techniques is undermined when these technologies are copied. Little wonder, then, that muvee Technologies places tremendous emphasis on protecting its multimillion-dollar investments in research and development.

muvee’s award-winning autoProducer software features unique patented technology that revolutionises the process of video production. With the software, amateurs can automatically convert their raw video and photos into professional-looking finished “muvees” in hundreds of different styles. What’s more, each production reportedly takes only seconds to complete — a thousand times faster than with conventional technology.

At present, muvee’s products are available for personal computers and camera phones, among others. Since its products are sold in more than 150 countries, ensuring that its life-

blood — IP — is properly protected becomes pivotal for the company’s continuous growth. By working with patent and trademark attorney firm Lloyd Wise, muvee (which was founded in 2001) has pursued design and technology patents in Singapore and other major economies such as the US, Japan, South Korea and Europe.

Without such protection, the company’s brand and product marks can be “echoed” by competitors trying to cash in on the [company] brand value, says Phillip N Morgan, chief operating officer of muvee.

“This can dilute your brand message and potentially lead to confusion amongst customers,” adds Morgan. In worse cases, a company might find that rival companies are effectively passing off inferior copy to unsuspecting customers. What’s more, muvee’s global working relationships with Tier 1 customers such as Hewlett-Packard, Sony, Nokia and Nikon



muvee’s creations are available for products such as personal computers and camera phones

fuelled the need for an established patent and trademark portfolio. On their part, these companies typically assess muvee’s IP and the steps it has taken to protect the IP before embarking on any business transactions.

Morgan says many of these global deals included a stage of due diligence in which prospective customers reviewed muvee’s patent and trademark applications. Such scrutiny is necessary to ensure that when going into business with muvee, they (the customers) are duly protected too. In fact, in one review, Morgan recalls that the company’s enthusiasm for patenting the muvee brand might have gone a little too far.

“One of our lawyers was actively pursuing an application in North Korea! I think that will probably be put on hold for now,” says Morgan. Indeed, developing the right IP strategy is no mean feat. muvee has participated in a series of initiatives by IE Singa-

pore to outline its thinking on the subject. For a start, companies need to determine the value of what they have and the area where competitors might be a threat.

“If your biggest market is in the US, patent protection in Sweden might be of little practical value,” says Morgan. Thereafter, he advises companies to determine the appropriate levels of protection, and how to achieve the right balance between protection and costs. After getting the basic knowledge in place, Morgan recommends companies partner a specialist IP lawyer firm that operates globally so they can find the best and most cost-effective way through the patenting and trademark processes. And they shouldn’t be sloppy in framing the scope or content of a patent or trademark application.

“The success or failure of a multimillion-dollar patent infringement suit might eventually turn on a handful of words,” cautions Morgan. ■



Morgan: Companies should determine the appropriate levels of protection, and how to achieve the right balance between protection and costs