

High-Level Guidelines on Intellectual Property for SMEs

Learnings from the Webinar on Intellectual Property and SMEs in the Digital Economy, hosted by the EU-U.S. TTC Working Group on Promoting SME Access to and Use of Digital Tools

In today's global market, **intangible assets** are at least as important as physical ones. Small- and Medium-sized Enterprises (SMEs) need to understand how best to identify, protect, manage, and leverage their Intellectual Property (IP), not only to gain competitive advantage and attract investment, but also to tackle the challenges brought by an increasingly digitalised economy.

The following points raised were provided by the speakers at the **EU-U.S. Trade and Technology Council (TTC) webinar on Intellectual Property and SMEs in the Digital Economy**, which took place on 7 July 2022 and was organized by the TTC Working Group 9 on Promoting SME Access to and Use of Digital Tools.

1. Build an IP culture from the start – Identifying a company's potential IP assets – including those potentially subject to patent, copyright, trademark, or trade secret protections – from the early stages of a business allows it to become more resilient in the long term. Delaying the process of considering how the business can protect and use IP may risk losing valuable assets, exposing the company to liability, or hampering the potential benefits that IP can bring in the future, including investment and competitive advantages.

2. Invest in skills – Investing in the education of employees about how they can ensure the protection of a company's IP is one of the key needs. Acquiring digital skills, including in IP management, is critical for a successful digital transformation. Investment in such skillsets should not be postponed but prioritised, even if resources or time are scarce.

3. Adopt an IP rights strategy – An effective IP rights strategy should at least identify both the assets to protect and the different options for ensuring protection, including the potential costs and steps to take when expanding cross-border. Typically, an SME should consider patents, copyrights (including where relevant for software, technical manuals, content, and branding), trademarks (including for the company name or logos), trade secret protection, and design protection (including for registered or unregistered designs and design patents). The SME should reflect on how it wants to protect its IP across jurisdictions. Some registration costs tend to be relatively high, in particular for patents. Therefore, it is important to strategically prioritise the most relevant markets in which to protect products or technology when deciding on where to apply for patents. Many jurisdictions also offer financial help with those costs for start-ups and SMEs, which is another factor to be taken into account by an SME for its IP protection. For SMEs in the European Union, the [Unitary Patent](#) system – to be launched in 2023 – will greatly facilitate patent protection and enforcement in up to 25 EU Member States.

4. Raise credibility with business partners and investors – Investors care about IP. Owning a patent sends a signal of the seriousness and reliability of the business and the product in the market. Start-ups with a patent are far more likely to be successful in raising funds than those

that have not secured comparable IP protection. When used as collateral a patent increases venture capital funding and funding from initial public offerings.

5. Check and compare with other competitors – Being aware of competitors’ IP not only allows an SME to assess how competitive it is, but also to ensure that the company is not infringing on other patents, trademarks, or other IP, thus putting itself at risk.

6. Ask for free or discounted support – There are a significant number of IP support tools, including free resources, for start-ups and SMEs in the European Union, the United States, and potentially in many other jurisdictions in the world. Navigating through IP issues requires substantial human resources, expertise, and money. Knowing where to find reliable information and support is key.

- In the EU, the [European Patent Office \(EPO\)](#) as well as the [EU Intellectual Property Office \(EUIPO\)](#) offer practical information and educational resources on IP. Information includes what IP items can be registered in the EU how to register it, how to process it, as well as checklists, videos, and other materials. SMEs can even [request](#) personalised advice. The [EU IP Help Desk](#) can also provide free-of-charge support to help European SMEs manage their IP in the context of transnational business or EU research and innovation programmes.
- In the United States, the [U.S. Patent and Trademark Office \(USPTO\)](#) provides help through its [Support Centers](#). The USPTO website has many free online resources for [inventors](#) and [start-ups](#), including [IP assessment tools](#) and tips for IP protection. The [U.S. Small Business Administration \(SBA\)](#) also offers [online resources](#) for small businesses interested in learning how to protect their IP, including as they grow and expand internationally. [STOPfakes.gov](#) provides information and resources to help businesses protect their IP in foreign markets. This includes online tutorials, and [industry-specific information](#) about protecting IP. SMEs can also seek professionals’ expertise, such as lawyers and IP specialists, to develop a strategy. The USPTO matches financially under-resourced inventors with [registered patent attorneys](#). The SBA also provides free or discounted counselling for small businesses.

7. Know where to find public funding and assistance – The [SME Fund](#) offers financial support to SMEs established in the European Union. In the U.S., the USPTO assists small businesses through [steep discounts on patent fees](#) and other benefits.