

Along with the massive increase of global trading, Intellectual Property (IP) is getting more important.

In order to achieve global Intellectual property registration, it is very difficult to the Small and Medium Enterprises (SME) who are having limited capital and human resources.

Only for the trademark registration, it is according to the principal of 'a type of product, a trademark and one registration'. If the branded item having more than one class, although the same brand name will be using, another brand name for the different class should be registered separately, in order to avoid others to forestall the registration.

Today, we will understand how the local Small and Medium Enterprise (SME) look upon the Intellectual Property.

Loosen policy

Small and Medium Enterprises having low IP concern

Have you registered your IP? IP refers to company's trademarks, copyrights, industrial designs, and patents.

Chong Han Kwang, the director of an IP Agency, CIMAGE Sdn Bhd said, according to the latest statistic, last year, more than 90% of SME had not yet registered their IP.

"Among the 10% applicants, only 30% of them successfully registered their trade mark, and most of them were the oversea companies, around 17,000 companies and local companies were only 12,000 companies."

Not paying attention to IP lead to serious consequences

When he was having the interview with China Press, he emphasized two main points from the statistic, that are (1) SMEs are having lower IP concern, ignore the importance of IP; (2) lower success rate of registration, the need of assistance from professional companies in applying.

When asking why the Malaysia businessmen having lower IP concern, he said, "this relates to the loosen policy."

"China is having the global highest IP registration rate. The local government forces the businessmen before introduced their products, they should register their brand name, trademark, patent and so on, if not they will not be given their trading license."

Chong Han Kwang said, Malaysia, on the other hand, encourage the IP registration, 'hope' that the businessmen will automatically go and register, gradually many companies ignore the registration, and not trying to understand the serious consequences of ignoring.

He said, the south of Malaysia is having the lowest rate of IP registration. More than 95% SME had not yet registered their IP.

“Although Pulau Pinang and Kuala Lumpur are more concern about IP, but the register rate is not more than 10%.”

Chong Han Kwang explained, due to the lack of relevant knowledge and information, causes the businessmen to ignore the importance of IP registration as part of their business.

“Once we inform the party regarding the importance of IP, and also explain to them the registration process, registration fees and so on, most of the SMEs will accept and willing to invest some money in registration and thus the property will become the most importance and valuable to the company.”

Should participate in the Madrid System Simplify the application of trademark

Trademark registration is divided into four types, all of them are equally important. Chong Han Kwang said, trademark registration includes voice (homophony or Synonym), logo, combine (word and design), and slogan.

He pointed out, from the four IP registration, trademark registration is the most important. But, our country is lack of the proper system in handling the registration, thus, many enterprises facing problem in registration.

“For example, Malaysia has not yet participated in the Madrid System, become the contracting country.”

He explained, there are 56 member countries globally, including China and Singapore. The biggest advantage of having the treaty powers is the applicant is able to register for global trademark in either one of the member country, they do not need to travel to each of the countries to register trademark there.

Early registration, forestall the opportunity

The Madrid system is constituted of the Madrid Agreement and the Madrid Protocol. It is being controlled by the World Intellectual Property Organization (WIPO) of Geneva, Sweden having the objective of simplifying the trademark registration process.

Chong Han Kwang said, the Trademark Act in our country had once having the loophole, and had been revised in the year of 2007, in order to protect the businessmen.

“Before revised, the businessman only has to take out the evidence to proof they are the original user of ‘A Trademark’, then the other businessmen using the ‘A Trademark’ should immediately cease the use of the trademark and compensate for it.”

He said, the 'Oldtown White Coffee' is one of the examples. Before the year 1997, more than 10 businesses using the brand of 'Oldtown White Coffee' went to the court in order to strive for the trademark.

"But, no businessmen were having the evidence to proof that they are the earliest users of the trademark; until now, there is no conclusion for this case."

Chong Han Kwang said, in order to prevent the happen of another similar case, the government revised the rules and regulations of trademark in the year of 1997 to be, although the businessman is the original users of a trade mark, if the person did not register it, then the trademark is not belong to him.

"In other words, who is the earliest registered users, then the trademark is belong to the person."

Furthermore, the similarity of the design logo should not be more than 50%.

"The logo of 'Buatan Malaysia' used by the government a few years ago had raised some arguments in the market, due to the similarity with the logo of 'Nike'."

The businessmen should ingeniously design the trade mark Place more focus on the logo rather than the word

The local businessmen are more focus on the logo rather than the word.

Chong Han Kwang said, more than 70% of local companies think that logo is more important than the word, and having a wider representation.

"For example, a peanut oil producer uses only some peanuts to be as their logo, and lack of word in explaining the 'peanut', resulting the loss of the original meaning and difficult to represent the product."

He said, businessmen should ingeniously combine the logo and the word, then only can develop the value of the product and company.

Self-create new phase

"The businessmen should register the logo and the words together, only then be considered as complete registration."

Chong Han Kwang said, only the word which cannot be found in the dictionary can be registered, if not the businessmen should create their own word or phrase.

"For example, originally, I want to register my company name as 'Creative Image', but these two words are the common words being used globally, thus it cannot be registered. Then, I combine the two words to become CIMAGE."

He said, commonly the registration of trade mark will take time one month, which includes the investigation of whether the logo or word was being used by others.

The making procedures can also register for patent

The making process or procedures can also register for patent.

The quality product will definitely involve the secret of production, especially to the food production. Chong Han Kwang said, once the production procedures being disclosed, means not able to register for the protection under patent, prevent others from copying or imitating.

“You should not despise the important of patent; it will result in the loss of company invention, and cause the company to loss everything.”

Protection until the expiration

He had pointed out, from the year 2004, when Malaysia participate in Patent Corporation Treaty (PCT) become one of the contracting countries, the applicant is having a 12 months period of applying the global patent registration through writing letter to others member countries.

“During the application, the government is not allowed to disclose the application’s details, until the expiration.”

He said, the standard period of protection under patent is 20 years. After the date, others can produce the similar product.

PCT is a foundation of international patent, it provides the inventor and entrepreneur an easy global patent registration procedures. The applicants can only apply the patent in one of the PCT offices, and then they will be getting the patent registration in the other member countries (157 countries).