IPR: A CASE OF ONE SMALL AND MEDIUM ENTERPRISE (SME) IN NORTHERN MALAYSIA

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ABSTRACT

The purpose of this article was to highlight the importance of implementation of Intellectual Property Rights (IPR) in one of the Small and Medium enterprises (SMEs) in Northern part of Malaysia. The main objective of this article was to examine the extent of implementation of IPR of Al Ridhwee Holdings (M) Sdn. Bhd (AHSB). The second objective was to analyse the "strength, weaknesses, opportunities and threats" of AHSB by implementing IPR. Interview method was used to gather the data to be studied. Key personnel of the company had been chosen to be interviewed. Observations also was done in order to look how the process of implementing the use of IPR in the company to protect their products and services. It was found out that the implementation of IPR in AHSB was in the very early stage. SWOT analysis has been able to detect the issues and challenges that would be meaningful for the future improvement of this company. Therefore, data obtain from SWOT analysis would be able to provide some guidelines for the company to move ahead in the current challenging business environment. IPR also provide the platform for company to produce new ideas in creation and innovation against the products and services offered.

Keywords: Intellectual Property right, Small and Medium enterprise (SME), Northern Malaysia.

1.0 INTRODUCTION

Intellectual Property, in other definition, means the legal rights which result from intellectual Activity in the industrial, scientific, literary and artistic fields (WIPO, 2004). Nevertheless, the protection of IPR concern not only law and policy but also a country’s political, social, economic and culture system (Yu, 2012).

When IP protection is guaranteed, this will contribute to the long lasting funds for another invention that would potentially benefit the organisation, industry, and society as a whole (Anuar, Zulhumadi, & Udin, 2012). Surprisingly, implementation of IPR was being undermined by Small and Medium enterprises (SMEs) in some countries who thought that it would not give them any benefit in the future. This is due to the low awareness of what they could get in return of applying IP protection. Intellectual Property can be a valuable business asset (Sukarmijan & Sapong, 2014). Patent can provide important guidelines for policy measures aimed at improving the state of the company to entrepreneur. However, for Small and Medium enterprises (SMEs), they use patent lesser as compared to other big firms, especially with regards to the motive of preventing imitation (Veer & Jell, 2012).

What is certain, the Small and Medium enterprises (SMEs) play an important role in the Malaysian economy. In Malaysia, there are 645,136 Small and Medium enterprises (SMEs) operating in Malaysia, it represents 97.3 percent of the total growth of the business. Furthermore, the Small and Medium enterprises (SMEs) take of about 3.7 million out of a total of 7.0 million workers that in sum of 52.7 percent of total employment in the country (Salikin, Wahab, & Muhammad, 2014). Meanwhile, Small and Medium enterprises, the potential for as an engine economic dynamism, source of innovation, technological progress and employment (Gibb & Blili, 2013).

Therefore, IPR should be implemented among Small and Medium enterprises (SMEs). This is because the issue of unfair competition becoming more common such as exploitation Activity creativity other person, innovation, information or reputation (Lemper, 2012).

1.1 Problem Statement

The problem exploitation happen when the people try to take another people ideas and make it as their own. Which mean, the idea of creation and innovation the other people in produced of product and service are imitate by another person. This problem would be cause unfair competition in the market. Therefore, for small companies such as Small and Medium enterprises (SMEs) need to implement IPR so that a problem related of exploitation idea creation and innovation in producing of products and services not occurring.
The next problem is the use of IPR is not widespread among Small and Medium enterprises (SMEs). Most of the entrepreneur in Small and Medium enterprises (SMEs) is not aware of IPR. Therefore, they take for granted on the implementation of IPR. However, they do not know that IPR can provide protection for creation, brands and designs products and services and can provide financial benefits or rewards to inventors or creator.

Besides that, the problem found in this study is the issue of counterfeiting and piracy. The issue of counterfeiting and piracy of products and services can be harm to the commerce and welfare of the people and undermine confidence in the quality of brand name product and service which will lead to the lost of revenue, investment, future sales and growth opportunities business. It is also detrimental to the business and employees that play an important role in the design, manufacture, distribution and selling original products.

1.2 Objectives of Research

This research is about the implementation IPR (IPR) among Small and medium enterprises (SMEs) in Northern Malaysia. There are several objectives of this study:

a) To examine the extent of implementation of IPR of AHSBCompany.

b) To analyze the Strength, Weaknesses, Opportunity, and Threat of AHSBCompany by implementing IPR.

This research is expected to serve as a prelude for further study.

1.4 Scope of Research

This study was only focusing on one of the Small and Medium enterprises (SMEs) in Northern Malaysia. This company is known as Al Ridhwee Holding (M) Sdn Bhd. AHSBwhich is famous with the production of "Kuih Loyang Madu". This study includes description to what extent the implementation of IPR of Al Ridhwee Holding (M) Sdn Bhd.

1.5 Significance of Research

Through this study, it can provide an overview and guidelines for researchers to understand IPR. Meanwhile, this study can also provide benefits to researchers regarding approaches to the study. Therefore, this study is so important for future research about the implementation of IPR among Small and Medium enterprises (SMEs) in Northern Malaysia. Among the important of this study are:

2.0 LITERATURE REVIEW

2.1 Intellectual Property

Intellectual Property, very broadly, means the legal rights with result from Intellectual Activity in the industrial, scientific, literary and artistic field (WIPO, 2004) through the result this Activity will be protected in the various branches such as Patents, Copyrights, Trademarks, Industrial Designs, geographical indications and trade secrets (Palmqvist, Sandberg & Mylly, 2012). In Malaysia, these Activities will be covered under the law, such as Patents, Trademarks, Copyrights, Industrial Designs, geographical indications and layout designs of integrated circuits (MyIPO, 2008). However, there are presumption of differing in meaning and concepts of IPR from developed countries such as the United States and Russia. The United States considers the Intellectual Property as a form of personal property and can be exploited by the owners namely can be used by the owner, selling or market. Presumption Intellectual Property of the Russian state is something intangible and produced through Intellectual Activity such as creation, innovation, know-how and etc (Mingaleva & Mirskikh, 2013).

In the business, Intellectual Property is the most important asset in business (Lemper, 2012). This is because, the Intellectual Property system could be providing of guideline to entrepreneurs to policy measures which aimed at improving the business environment (Veer & Jell, 2012). At the global level, the use of IPR has become a major concern for harmony in the market, especially in countries transition such as China (Qing, 2014).

Besides that, the Intellectual Property becomes important thing for entrepreneurs to ensure a competitive advantage in business. The importance of Intellectual Property protection such as Patents become more important because the rapid technology development in specific areas. The market there is always a new product, process marketing innovation that arise consequent from the needs of customer which ongoing. Therefore, companies should use the Intellectual Property in the innovation cycle in order to avoid the problem of high losses in the business (Rylkova & Chobotova, 2014).

2.1.1 Patents

Patent is a document, issued, upon application by the government officials representing several countries. Patent describes invention and creates as a law that can be exploited as produced, used, sold and imported by the owner Patent. Patent is the creation that cannot be utilized by anyone other than the owner. This indirectly helps the owner to prevent others from exploiting the creation commercially (WIPO, 2004).

2.1.2 Copyright

Copyright is a branch of law relating to IPR of the creator. Copyright laws are related with the invention from the result of creativity associated with communication. It is related to publishing, printing and television broadcasting, sound, film and computerized systems for the storage and acquisition of information. Creativity is divided into two types namely of creativity that exists in physical form and does not exist in physical form. For example, of the creativity that exists in physical form are books, paintings and drawings; while the creativity does not exist in physical form is music, poetry and musical notation or words. Creativity is important in the law of Copyright. However, the law of Copyright only protects the form of expression of ideas (WIPO, 2004).

In addition, the Copyright registration provides additional benefits for owner such as the ability to get statutory damages and attorney's fees. Copyright owner also has the right to use, reproduce, distribute, display or perform, import, and make derivative versions of Copyrighted works (Lemper, 2012).

2.1.3 Trademark

In fact, the Trademark has existed in the ancient world. It has been used by many of the population and growing at hundreds of centuries ago. Trademark plays an important role and be a key factor in the world of modern international trade and economy that market-oriented. Trademark allows consumers to make a choice between the several of products available in the market. Trademark also encourages owners maintain the quality of products sold under the trade mark. As a result, the Trademark of stimulate the country's economy (WIPO, 2004).

Based on Trademark Act 1979 and regulations of the Trademark 1997 gave protection to Trademarks and service marks in Malaysia. After the trade mark is registered, no person may be is 10 years, and can be renewable in a period of 10 years later. The Trademark owner is entitled to exploit, assign or license its use (MyIPO, 2008).

2.1.4 Industrial design

Industrial Design refers to creative activities to achieve the ornamental appearance for mass-produced items, within the available cost constraints, satisfies both the need for the item to appeal visually to potential customers. In terms of law, Industrial Design refers to the rights granted in many countries, according pursuant to a registration system; protect the original ornamental and non-functional features of an industrial article or product from design activity. The legal protection of Industrial Designs was serves the important function of protecting one of the distinctive elements by which manufactures achieve market success (WIPO, 2004).

2.1.5 Geography indication

Geographical indication is a fundamental thing that new and exists in intellectual property laws. Geographical indications can be obtain the high reputation and can be the valuable asset in the commercial. For example, “Champagne”, “Cognass”, “Roquefort”, “Chianti”, “Havana”, “Tequila” and so on. These names are the famous name that related to geographical name which become the name of the product that quality (WIPO, 2004).

In Malaysia, Geographical Indications Act 2000 allocate protection against products that give indication of where the goods originate, where the quality, reputation or other characteristics of goods related to the place of origin of the item produced. To register, the applicant is someone that undertaking the activity as a producer in the geographical area. Geographical indication protection period is for 10 years and can be renewed every year (MyIPO, 2008).

2.1.6 Trade secret

Trade secrets are laws that protect business proprietary information that provides a competitive advantage. Business information such as formulas, practices, processes, instruments and patterns can be protected as a trade secret. People who use trade secret rights have legal standing to prevent others from obtaining, using or disclosing information without the owner's permission. Trade secret rights will existence as long as reasonable efforts are made to keep secret and continue to provide benefits to the owners and the country’s economy (Lemper, 2012).

2.2 Small and Medium enterprise (SMEs)

Small and Medium enterprises (SMEs) with large Multinational enterprises (MNEs) are different, in terms of ownership structure and features of management. This is because; most of the Small and Medium enterprises (SMEs) were run by family ownership or solitary
ownership (Laufs & Schwens, 2014). In terms of management in Small and Medium enterprises (SMEs) have a structure of management style that encourages entrepreneurship and innovation. Small and medium enterprises (SMEs) tend to be informal, non-bureaucratic and there are few rules. In term of control, based on the owner’s personal supervision and formal policies tend to be absent in Small and Medium enterprises (SMEs). In addition, in terms of the process of business planning and decision-making is limited to only one person namely the owner of the company. Most the small firms such as Small and Medium enterprises (SMEs), owner managers take on a central position (Edvardsson & Durst, 2013).

According to Salikin et al (2014), Small and Medium enterprises (SMEs), can be distinguished in terms of few demographic factors and characteristics of size, location, structure, age, number of employees, sales volume, ownership through innovation and technology. Small and Medium enterprises (SMEs) in Malaysia was defining as firms with annual sales not exceeding RM 25 million or employees not exceeding 150 workers for manufacturing and sales turnover not exceeding RM5 million. Small and Medium enterprises (SMEs) in the services sector, the number of employees does not exceed than 50 employees and so are the other sectors.

Small and Medium enterprises (SMEs) in Malaysia were playing an important role in the economic development of Malaysia in 2010. It contributed to 99.2% of total business growth in Malaysia with control of 32% of GDP, stock of 59% of occupation and 19% share of total export. Therefore, this total shows the Small and Medium enterprises (SMEs) succeeded in forming economic landscape in Malaysia (Mahmud & Hilmi, 2014).

Subsequent, to improve Small and Medium enterprises (SMEs), governments and agencies such as the Ministry of Rural and Regional Development (MRRD) and the Ministry of International Trade and Industry (MITI) plays an important role in providing appropriate training for the entrepreneurial skills to Small and Medium enterprises (SMEs) (Husin, Alias & Ismail, 2013). Furthermore, if Small and Medium enterprises (SMEs) using core technology with innovation technology, they can be maintain the business in the market (Yu & Feng, 2011). Therefore, Small and Medium enterprises (SMEs) are very particularly important in the economy and in providing employment opportunities, especially in development of countries (Mahzaz & Chia, 2014).

3.0 METHODOLOGY

Case study approach is used because it allows the researcher to retain the holistic and meaningful characteristics of real-life events. This study is interested in delineating the important variables associated with the issues.

Before the interview, preparation is needed for the interview protocol. The protocol is based on a set of questions that were completed over the formal questions. Hand phone is used to record the voice of interviewee during the interview session. The interview was conducted at the factory of "Kuih Loyang Madu", Alor Setar, Kedah, Malaysia. Observation also made to look at things related to IPR in the factory area.

4.0 FINDINGS

From the study, it was found that the implementation of IPR in the AHSB are in a new stages. By using the SWOT analysis (strengths, weaknesses, opportunities and threats), it gives a clear picture of IPR implementation in AHSB. SWOT analysis is an important tools in the decision making process that is used to analyze the strategic position that related the external and internal environment in the company (Salar & Salar, 2014).

4.1 STRENGTH

4.1.1 Have their own machine

AHSBCompany has a homemade machine. Machine of “Menggoreng Kuih Loyang” is 100 % created by the owner of the company namely Mr. Ramli bin Abdullah is a board of directors of the company. When the company has a homemade machine then the competitors from outside cannot produce product on a large scale. This is because, the AHSBCompany is able to produce as much as 2000 packages in 1 day "Kuih Loyang” while, competitors can only produce a few hundred packets only "Kuih Loyang”. Next, AHSBCompany does not need to spend a lot of money to buy new machines. This is because, the owner of this company has a skill in designing a machine. Therefore, he can create his own machine without buying a ew one. Indeed, the production of homemade machine is a strength in the AHSBCompany.

4.1.2 Doing the innovation activities on the machine

Subsequent, AHSB has been innovating towards the machine that is machine “Menggoreng Kuih Loyang". Based on interviews which conducted with Miss Siti Munirah (2014), the innovation activity has been done by
the owner of company. He will innovate from time to

time on the machine to improve operations and product

sales. Previously, the company use of the machine

“Menggoreng Kuih Loyang” small and now the company

has a long fryer machine.

Once retread can get 2000 packages in 1 day.

Furthermore, if the previously machine “Menggoreng

Kuih Loyang” requires 4 workers but now only requires

1 employee after the owner of company doing innovate

towards the machine. Indeed, doing innovation activities

alone is a one of the strength that AHSB has.

4.2 WEAKNESS

4.2.1 Lack of cost and capital

Among the weaknesses found in AHSB is lack of cost

capital to implement of IPR. Companies require high

costs and capital to implement of IPR. This is because,

for the registration of IPR require high costs including

application fees, publication fees and maintenance fees

(Sukarmijan & Sapong, 2014).

In addition, the AHSB also still waits for large funds

from the government that is “TERAJU” to help the

company. Therefore, the company to move themselves it

is very difficult in the market (Siti Munirah, 2014) and

let alone, to implement of IPR in the company is also

very difficult for the AHSB. Indeed, lack of capital is a

weakness in AHSB for implementing of IPR.

4.2.2 Time contraints and the changing of

machine design

One of the weaknesses that were found in AHSB to

implement IPR was time constraints and the change of

machine design. To register for the IPR, it requires a

long time especially for obtaining a patent (Rylkova &

Chobotova, 2014). Moreover, machine designs

“menggoreng kuih loyang” that keeps on changing, has

make it more complicated for the company to register

IPR such as patents.

According to Miss Siti Munirah (2014), to implement

IPR, we must show the correct machine design and the

right machine to the party of IPR. Therefore, the

company of AHSB has not implement the IPR because of

time constraints and the rapid change of machine

design.

4.3 OPPORTUNITIES

4.3.1 Participation in the carnival organized by

the government

Participation in the carnival organized by the
government is an opportunity for small firms, such as

Small and Medium enterprises (SMEs). This is because,

Small and Medium enterprises (SMEs) can introduce

their product sales to the public during carnival.

AHSBCompany participated in the carnival, which was

organized by the Government such as MOA (Ministry of

Agriculture and Agro Based Industry), MADA

(Lembaga Kemajuan Pertanian Muda) and MAHA

(Malayan Agri-Horticulture Association). During the

carnival, the company has held the promotion and

exhibition of product sales company to the public.

Therefore, many people visit the company's sales outlets

during the carnival to feel and own a product “kuih

loyang madu”. Indeed, with participation in carnival

organized by the government is an opportunity for the

company of Al Ridhwee Holding (M) Sdn Bhd.

4.3.2 Commercial of the product on a large scale

Opportunities that could be owned by Al Ridhwee

Holdings (M) Sdn Bhd Company are commercial of the

product on a large scale. Although the company does not

implement the of IPR, and many competitors who can

imitate their products, but the company can produce a

“kuih loyang” as much as 2000 package within 1 day.

This shows that the AHSBCompany has opportunity for

a commercial of the product in a large scale. Indeed,

AHSBCompany have the opportunity in commercialize

their products in large scale, even though the company

did not implement of IPR and it is considered in the

implementation of a new stage.

4.4 THREATS

4.4.1 The problem of mimicry from the

competitors

The problem of mimicry from the competitors is one

of the threats that faced by the AHSBCompany. Based

on interviews with Miss Siti Munirah (2014), she stated

that there was a problem of mimicry in terms of

packaging, and product color. Competitors use the same

color towards the products manufactured by the

AHSBCompany that is "kuih loyang madu". The impact

of, users cannot distinguish between products company

with competitor products when using the same color and

the same packaging. Therefore, the company AHSBhad

to contend with the problem of mimicry by competitors

when the company does not implement of IPR, although

still considered the implementation in a new stage.

4.4.2 The level of high competition in the market.

Among the threats faced by the Al Ridhwee

Holdings (M) Sdn Bhd Company is the level of high

competition in the market. AHSBCompany has not

implement the IPR and its implementation can be

considered still in the infancy stage. Therefore, the level
of competition that faced by the company are in high levels in the market. This is because, competitors use sales strategies such as imposing the low prices and wholesale. However, the AHSBCompany still imposing the same price that is RM 5 for every product in their sales strategy. This shows that the company to continue to use the same sales price despite the level of high competition in the market.

5.0 DISCUSSION & CONCLUSION

Based on the research finding, it is shown the implementation of IPR in AHSBCompany are at the very early stage. SWOT analysis has help the company to position their company to become more IP focused than before. It gathered a lot of information before the company can embark on a very strategic way of getting protection of IP.

Implementation of IPR should be carried out among Small and Medium enterprise (SME), because IPR gives more benefit to entrepreneur in term reduce the problem of imitation, and the patent also protects the creator from appropriability by other firm and then, the IPR also stimulate competition and facilitate of innovation. Value added characteristics of the product can be obtained once the product being protected with IPR which later on helps to enhance the products marketability (Anuar, Udin, & Nawi, 2013).

Therefore, to improve the business in Small and Medium enterprises (SMEs), government and policy makers should be encourage of implementation of IPR to entrepreneurs by providing exposure about IPR protection (Sukarmijan & Sapong, 2014) and the company must maintain a good relationship with the customer with fulfilling the customer needs towards the company’s products (Okwiet & Grabara, 2013).

6.0 REFERENCES


