

Enhancing Small and Medium Enterprises Access to Finance: The Opportunities and Challenges of Using Intellectual Property Rights as Collateral in Sri Lanka

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Abstract : Intellectual property (IP) assets are the 'crown-jewels' of innovation-driven businesses in the knowledge-based economy. In that sense, IP rights such as patents, trademarks and copyrights afford enormous economic opportunities to an enterprise, especially Small and Medium Enterprise (SME). As can be gleaned from the latest statistics, the domestic industries in Sri Lanka are predominantly represented by SMEs. Undeniably, in terms of economic contribution, the SME sector is considered to be the backbone of the country's 'real economy'. However, the SME sector in Sri Lanka faces number of challenges. One of the nearly-insurmountable-hurdles for small businesses is the access to credit facilities, due to the lack of collateral. In the eyes of law, the collateral is something pledged as security for repayment in the event of default. Even though the intellectual property rights are used as collateral in order to facilitate obtaining credit for businesses in number of Asian jurisdictions, financial institutions in Sri Lanka are extremely reluctant to accept IP rights as collateral for granting financial resources to SMEs. Against this backdrop, this research investigates from a legal perspective reasons for not accepting IP rights as collateral when granting loans for SMEs. Drawing emerging examples from other jurisdiction, it further examines the inadequacies of existing legal framework in relation to the use of IP rights as collateral. The methodology followed in this paper is qualitative research. Empirical research and analysis concerning the core research question are carried out by conducting in-depth interviews with stakeholders, including leading financial institutions in Sri Lanka.

Keywords : intellectual property assets, SMEs, collaterals financial facilities, credits

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