

Affordable, enforceable patents as an enabler in making EU SMEs globally competitive

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Your Presenter

- Entrepreneur in high technology and medical markets
- Significant involvement in EU and US
- Member professional chamber EU Enterprise Policy Group
- Member UEAPME
- European Adviser to UK Forum for Private Business

UEAPME

- ❑ European employers' organisation representing Small and Medium Sized Enterprises & trade and craft enterprises to EU
- ❑ EU SME social dialogue partner
- ❑ Through member organisations represents 9 million+ enterprises in EU employing 30 million+ people. (Across whole of Europe, represents 11.5+ million businesses in 32 countries with nearly 50 million employees)
- ❑ Participates in more than 50 EU Commission working groups and advisory bodies

A Reflection ...

"Reasonable people adapt themselves to the world. Unreasonable people attempt to adapt the world to themselves. All progress, therefore, depends on unreasonable people."

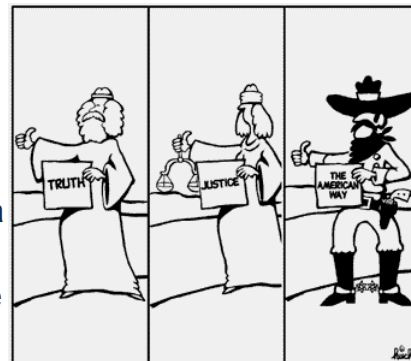
- George Bernard Shaw (1856 - 1950)

SME's – Drive economic growth

- In 2000, 750,000 high tech SMEs in Europe employed 5+ million people
- Over 65% of EU employment is in SMEs
- Around 60% of EU value added comes from SMEs
- 80% of ground breaking US product innovation is estimated to come from SMEs
- Bulk of new jobs are created in SMEs

Global Trends (Markets are Global)

- US & Far East in the lead
- Products have shorter life cycles
- Post 1980 studies have shown that most of US product innovation comes via SMEs
- The gap between the Europe and the US and other global economies is widening



Fastest Growing

Revenue Growth	
POWERCHIP SEMI (Taiwan)	150.0%
RESEARCH IN MOTION (Canada)	127.1
GOOGLE (USA)	103.0
YAHOO! (USA)	90.9
LAM RESEARCH (USA)	86.5
COMMSCOPE (USA)	80.7
NIDEC (Japan)	75.1
TPV TECHNOLOGY (Hong Kong)	75.1
ATOS ORIGIN (France)	74.7
HIGH TECH COMPUTER (Taiwan)	68.2

The Biggest

Current Sales (US\$ millions)	
IBM	\$97,026.0
VERIZON	72,406.0
DEUTSCHE TELEKOM	71,987.6
SAMSUNG	71,584.8
FRANCE TELECOM	58,651.0
DELL	51,051.0
TELEFONICA	39,654.3
MICROSOFT	38,919.0
NOKIA	38,284.6
LG ELECTRONICS	37,773.2

Most Profitable

Return on Equity	
NEXTEL PARTNERS	81.3%
WESTERN WIRELESS	75.8
TATA CONSULTANCY	70.5
MEMC ELECTRONIC	51.5
DELL	50.1
BT GROUP	47.3
ACCENTURE	42.4
NOVATEK	40.5
MOBILE TELESYSTEMS	40.0
TELEFONICA MOVILES	39.2

Best Returns

Shareholder Return (5/31/05)	
GOOGLE	226.2%
APPLE COMPUTER	183.4
HIGH TECH COMPUTER	144.3
MITAC INTERNATIONAL	141.0
AUTODESK	121.2
COGNIZANT	107.6
TELUS	107.1
TURKCELL	85.1
VERISIGN	77.6
SEAGATE TECHNOLOGY	75.7

All figures are for most recent available 12 months = DATA: Standard & Poor's *BusinessWeek*

In a Global Economy Technology Based SMEs Must Be Competitive

To Survive

To Grow

To Drive
Profit & Reward

To Meet Challenge of
Technical Change



"Look, I've got nothing against globalization, just as long as it's not in my backyard."

SMEs and Patents

"I often regret that I have spoken,
never that I have been silent."

Publilius Syrus

Patents make a key contribution

- **Protecting** market position and competitive positioning
- **Establishing** business value and giving access to investment capital
- **Establishing** a brand and marketing edge

Own Patent Experience

- High technology
 - Medical device product and use patents in the US and where possible in Europe
 - Had a perpetual patent attorney contract
 - Key to enterprise value, but not a bankable asset to borrow against
- Low technology
 - In construction sector
 - Key to marketing and product differentiation

Some Facts

- Patent registrations are a key measure of innovation
- SMEs patent 30% fewer patents per employee
(source:- Ministry of Trade and Industry, Denmark)
- Patent defence costs deter SMEs ... in a study
 - 13% said fear of litigation costs was very high
 - 36% said litigation costs are a significant factor
- Defending a patent can mean betting the company
 - E.g. Dyson vs Hoover

Capital Raising In Technology SMEs

- Is essential to fund
 - R & D and regulatory approval
 - Commercialisation and market development
 - Growth
- Requires
 - ***A strong and defensible body of intellectual property (e.g. patents)***

Registering Intellectual Property For SMEs Requires

- Money
 - To write the patent
 - To pay for and maintain registration
- Disclosure via patent process
 - Of the innovation to industry majors
- Invites
 - Infringements
 - Spoiling actions

SME Patent System Needs?

- Easy to use
 - Avoiding the costs of experts
- Giving good protection
 - Matching international standards
- Affordable
 - To register a patent
 - To maintain
 - To defend a patent / or infringement case



Experience In US ...

- Can register a patent that covers all 50 states in a single transaction ...
- Have opportunity to protect concepts and product applications through registering “use patents”
- Can defend patents through contingency lawyers

Experience In Europe

- Need to visit local patent office
 - In each country ...
 - Paying fees to agents in each country ...
- With more restrictive patenting concepts ...
- And effective defence requires at a minimum hundreds of thousands of Euros to be able to pay for lawyers

A Competitive Status Quo?

"Everything that deceives may be said to enchant."
Plato (427 B.C. - 347 B.C.)

A Patent System That Enables Easy Registration

- A single patent for the whole of Europe ...
- Registered via a low cost procedure possibly using the internet ...
- Registered in local language and in swahili (why swahili – well why not!!) and ... perhaps English

Giving Access To Justice ... Through affordable Insurance

- Either open the patent litigation market to contingency lawyers who can work on aggressive and defensive actions
- Or*
- Establish a low cost patent insurance scheme for SMEs so they can compete with well resourced large companies

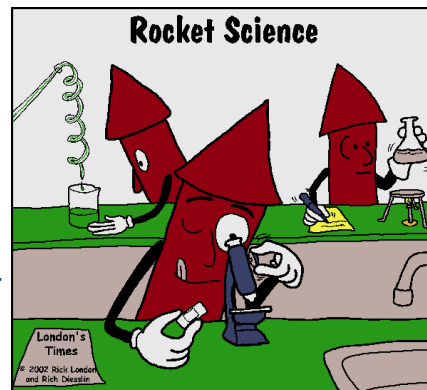
A Recent EU Study Found

“While schemes are marketed in the EU and the USA, including Patent, trade mark and copyright cover, it appears that in no part of the world has Patent Litigation Insurance (PLI) been particularly successful, and more to the point, particularly in relation to SMEs, no insurance scheme has shown any capacity to provide adequate cover at premiums affordable by patentees in general. This is partly because of high levels of premium and low levels of indemnity.”

Study relating to Patent Litigation Insurance by CJA Consultants Ltd for The European Commission - January 2003

Rocket Science?

“A very high proportion of patent orientated companies, patent lawyers, and attorneys considered that the possibility of the European Commission taking steps to set up patent litigation insurance throughout Europe was of interest and would be beneficial.”



Some operating rules for EU SMEs right now ...

"Whatever advice
you give, be brief."
Horace (65 B. C. - 8 B.C.)

If you are NOT raising investment capital

- Try to hide your technology into black box proprietary knowledge
 - In high tech, R & D investment in an ASIC chip can be worthwhile (and cost effective by using chip designer revenue / profit share agreements)
- Commit your staff to your success through stock options and financial incentives
- Avoid reliance on legal strategies
 - Too expensive and too risky

If you ARE raising investment capital

- Patent at a general level so competitors cannot gain important knowledge about your products
 - Gives investors comfort on your market position
- Try to hide your key technology in black box proprietary knowledge
- Commit your staff to your success through stock options and financial incentives
- Avoid reliance on legal strategies
 - Too expensive and too risky

And remember that our efforts we need to avoid this ...



We trained hard, but it seemed that every time we were beginning to form up into teams, we would be reorganized. I was to learn later in life that we tend to meet any new situation by reorganizing; and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency and demoralization.

Petronius Arbiter 210 B.C

