

# INTELLECTUAL PROPERTY (IP) SME SCOREBOARD 2016

Executive Summary



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INTELLECTUAL PROPERTY (IP)  
SME SCOREBOARD  
2016

*Commissioned to GfK Belgium by the  
European Union Intellectual Property Office (EUIPO)*



# Executive Summary

INTELLECTUAL PROPERTY (IP)  
 SME SCOREBOARD - 2016

In 2015 the EUIPO through the European Observatory on Infringements of Intellectual Property Rights, produced the Intellectual property rights and firm performance in Europe report, which indicated that 9 % of European small to medium-sized enterprises (SMEs) register IP Rights (IPRs). Subsequently, the Office commissioned an external contractor, GfK, to conduct a study called IP SME Scoreboard to provide more insights and evidence as to why SMEs do or do not register IPRs, what problems those who register encounter and how they think such problems could be solved in the most efficient manner.

The sampling approach used in the report had the aim of achieving a sufficient number of interviews with SMEs that have registered an IPR and those that have not, while ensuring a spread of interviews across companies of different sizes and sectors. A sample of SMEs was selected in the ORBIS (Bureau Van Dijk<sup>1</sup>) database and matched with the EUIPO and PATSTAT<sup>2</sup> databases of companies having registered IPRs in order to identify companies with and without IPR use upfront. This method allowed the specific targeting across companies of different sizes and using different IPRs. This enabled the analysis to consider a larger sample of SMEs that have registered an IPR than is found in the general population of SMEs. The 8 970 completed interviews are spread across companies of different sizes and sectors as per the table below.

- 1 - The ORBIS database provides financial and other information on millions of European companies, collected from the filings and accounting reports made by the companies in the commercial registers of all EU Member States.
- 2 - The PATSTAT database is also known as the EPO Worldwide Patent Statistical Database. It contains information on more than 90 million applications of more than 80 countries.

SECTOR	COMPANY SIZE			TOTAL
	Micro (1-9 employees)	Small (10-49 employees)	Medium (50-249 employees)	
<b>Manufacturing</b>	276	794	481	1551
<b>Construction</b>	221	463	205	889
<b>Transportation, accommodation, and food services</b>	272	521	309	1102
<b>Wholesale and retail trade</b>	415	582	352	1349
<b>Financial and insurance activities and real estate services and information and communication</b>	297	523	249	1069
<b>Other sectors</b>	807	1549	654	3010
<b>Total</b>	2288	4432	2250	8970

The results of the study show that the majority of the SMEs consider themselves to be innovative. SMEs can protect their innovation both through formal IPR and alternative protection measures. It is not surprising that SMEs tend to choose the ways of protection that better suit their needs. As the report shows, in fact for many SMEs the most important protection measure is domain name registration, followed by trade marks.

However, in order to strike the most effective protection strategy for their IP assets companies need to have good level of knowledge regarding the ways of protecting their innovations, benefits deriving from it and processes involved. The survey shows that many SMEs do not have such knowledge to base their protection decision upon. Therefore the objective information about protection of IP assets should be delivered to this group of companies through various channels including non-traditional ones like accountants, as for many SMEs, especially micro, this is the only external counsel advising them on company related issues. Moreover, the Internet seems to be one of the most effective platforms to provide information about IPR.

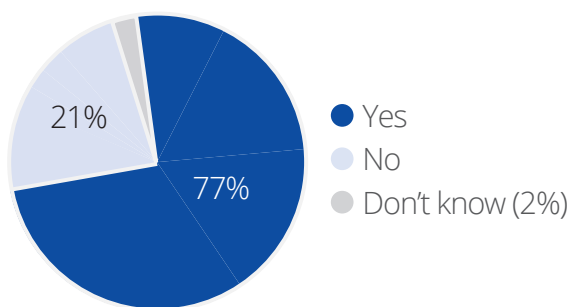
The study shows that a big majority of companies that chose IPR registration report positive effects like increased reputation or image of reliability, strengthening of long-term business prospects and increased turnover. Although there are many reasons why firms choose to protect their IP through formal IPR registration (e.g. reputational gains) protection against copying is the most important objective for SMEs. This is the legitimate concern as surprisingly almost one in three SMEs declared having suffered from infringement. This phenomenon affects many successful innovators of all sizes, but with medium-sized companies reporting having suffered from infringement the most. Therefore it is very important to simplify the protection procedures and make them more efficient and cost effective. For some, especially smaller companies, costly and complicated judicial procedures may be an important deterrent stopping them from actively defending their assets. That is why it is important to design instruments to help them in this task. Although there is anecdotal evidence that IPRs could be an instrument used by big companies to intimidate smaller counterparts by accusing them of infringement of their IPR, a relatively small fraction of SMEs declared having been accused of infringement.

More detailed key findings are provided below.

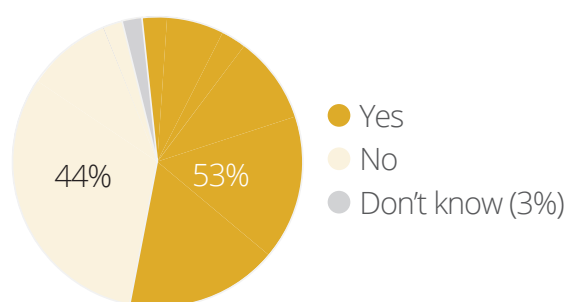
### Innovation – perceptions and reality

The majority of SMEs (with and without registered IPRs) consider themselves innovative, however in reality the level of innovation (i.e. have innovated products, processes, etc.) in the last three years is highest amongst those who have registered IPRs. This is likely to be reflecting the point that more innovative SMEs are more likely to register an IPR to protect that innovation. Having introduced new or significantly improved products is the most common innovation for both SMEs with (69 %) or without IPRs (37 %). However, for SMEs without IPR processes (36 %) or organisational changes (36 %) are almost as likely as to have innovated products (37 %) in the previous three years.

Perception of innovation within IPR users



Perception of innovation within Non IPR users



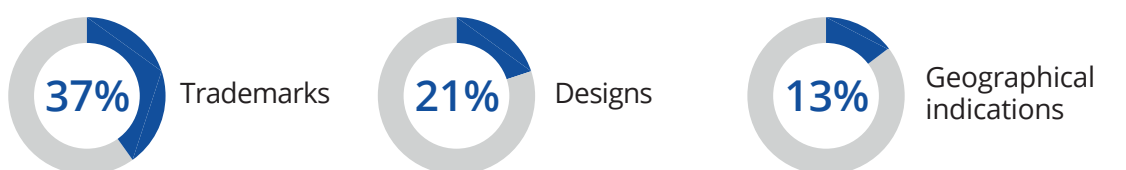
REALITY OF INNOVATION	COMPANY SIZE (with IPR)		
	Micro	Small	Medium
Yes	83%	89%	93%
No	17%	11%	7%

REALITY OF INNOVATION	COMPANY SIZE (no IPR)		
	Micro	Small	Medium
Yes	61%	71%	78%
No	39%	29%	22%

## Importance of various Intellectual Property protection measures

Internet domain names, confidentiality (trade secrets) and trade marks are the top three measures that SMEs report as being important for a company's ability to derive competitive advantage from their innovative activities. Internet domain name (s) is the single most important kind of protection measure for all SMEs regardless of size.

### Intellectual Property Rights Importance of IPR - IPR Users



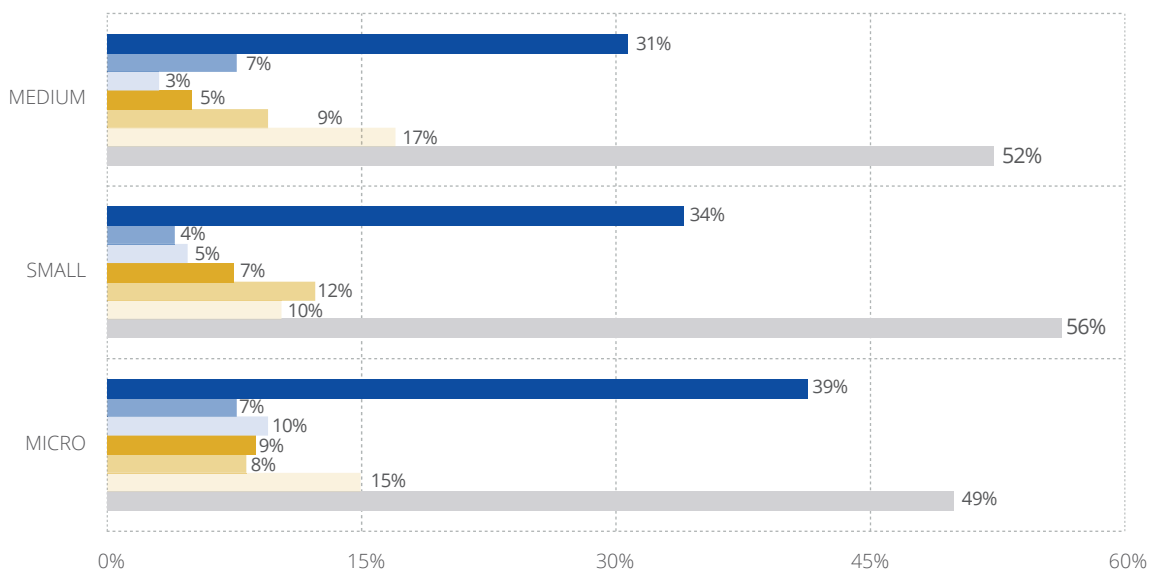
### Alternative measures Importance of alternative measures - IPR Users



## Reasons why SMEs do not take any measures to protect their innovation

Not seeing any benefit in protecting innovations, lack of knowledge on how to protect innovations and the cost of procedures are the top three reasons why SMEs do not protect their innovation.

An average of 35 % of SMEs do not take any measures to protect their innovations because they do not see any benefit of doing so. A further 13 % say they do not have enough knowledge on how to protect innovations, while 10 % say the procedures are too costly. Other answers range from the feeling that procedures are too long and burdensome (8 %) or that SMEs want to avoid any potential enforcement difficulties (7 %) or litigation (5 %).



- I don't see any benefits in protecting innovations
- Avoid the risk of potential litigation
- Avoid potential difficulties enforcing these
- Procedures are too long and burdensome
- Procedures are too costly
- I do not have enough knowledge
- Other

### Familiarity with IPR among SMEs

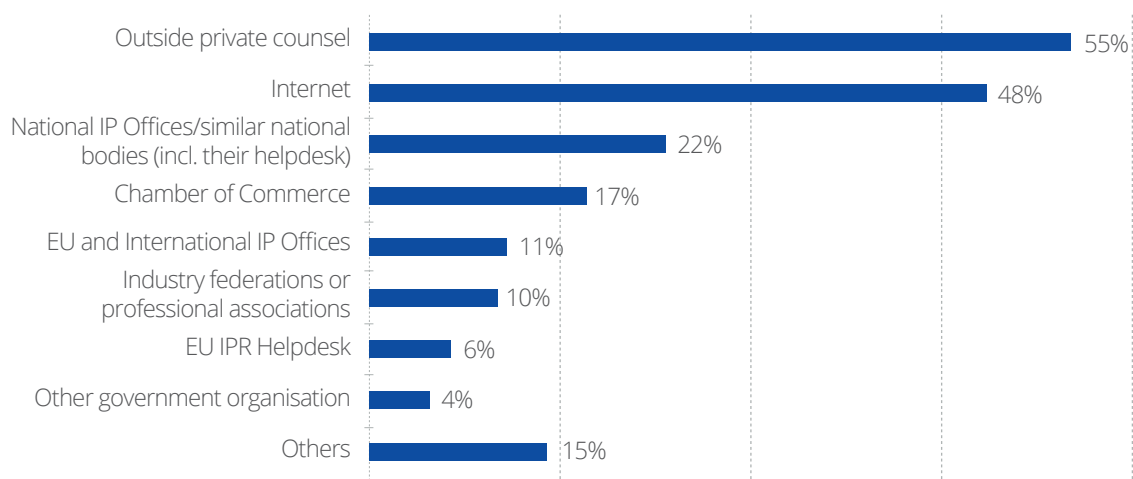
SMEs that have registered an IPR are more familiar with the term 'Intellectual Property Rights' (IPRs) and the bigger the SME is, the more familiar it is with the term. Medium-sized companies who have registered an IPR are on the top of the familiarity scale.

The sector analysis notes that mainly SMEs that do not register IPR in the transportation and construction sector show a low level of familiarity with the term. SMEs that register IPR and are active in the financial sector profess to be the most familiar with the term.

FAMILIARITY WITH IPR	COMPANY SIZE (with IPR)			FAMILIARITY WITH IPR	COMPANY SIZE (no IPR)		
	Micro	Small	Medium		Micro	Small	Medium
<b>Low</b>	26%	20%	18%	<b>Low</b>	49%	45%	41%
<b>Medium</b>	49%	52%	47%	<b>Medium</b>	38%	39%	41%
<b>High</b>	25%	28%	35%	<b>High</b>	13%	16%	18%

### Source of information on IPR registration

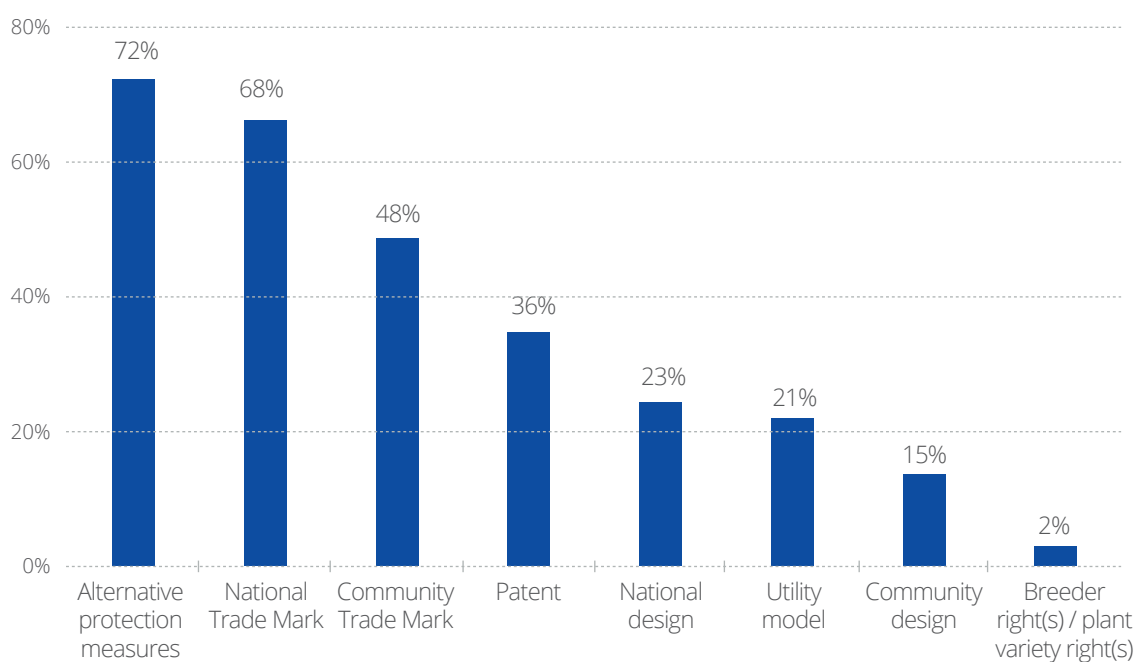
Private counsel from outside of the company and the Internet were the sources most used to learn about the IPR registration process by those SMEs who registered rights.



### Usage of various Intellectual Property protection measures

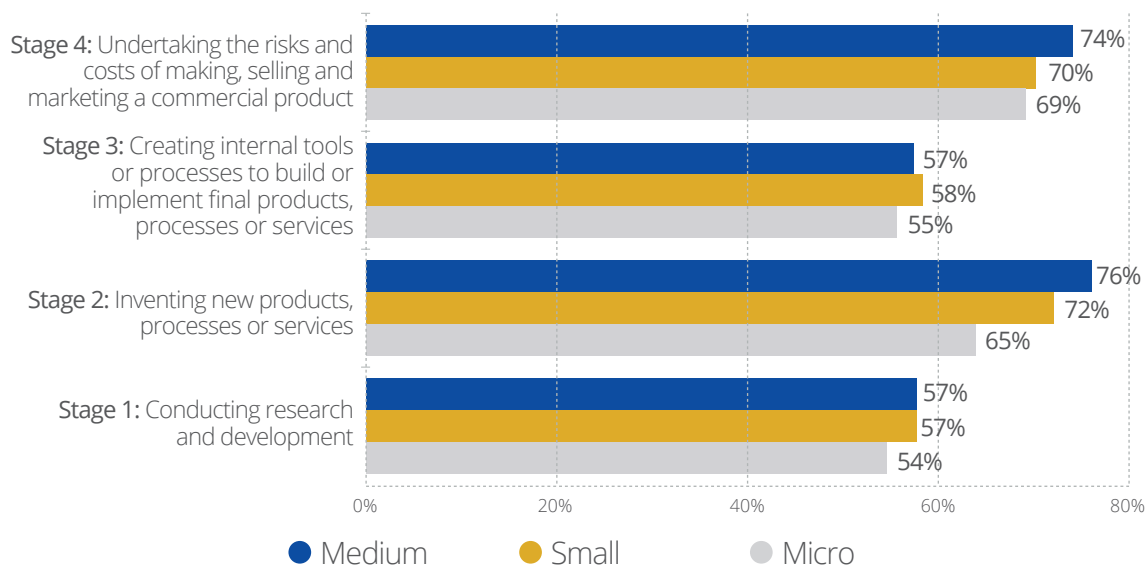
SMEs that register IPRs use mostly alternative measures of protection followed by registration of national trade marks and European Union trade marks (EUTMs). The alternative protection measures mainly relate to domain name or trade secrets.





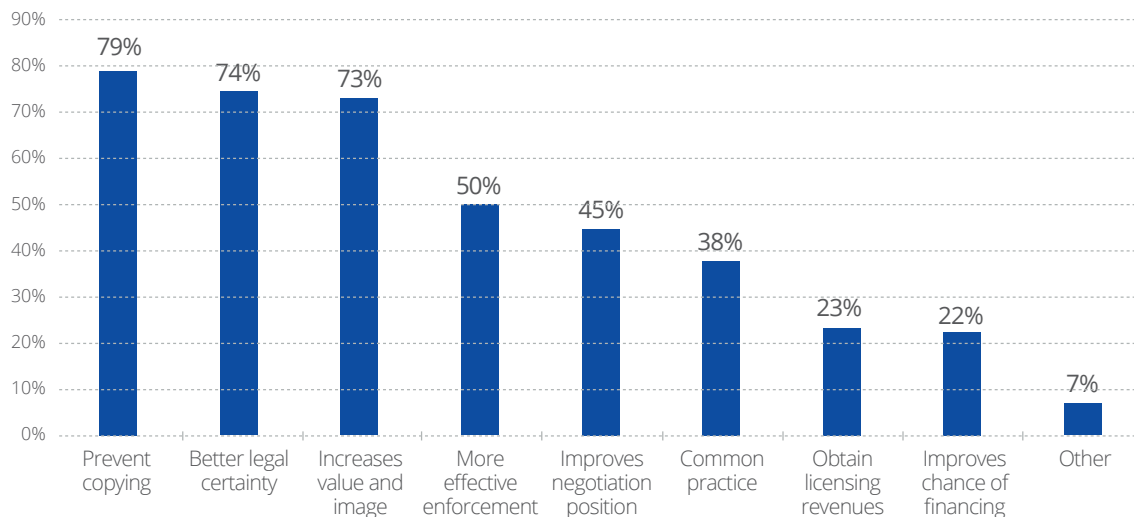
### Stages in the innovative process where IPR registration is thought to be crucial for SMEs

Inventing and marketing/commercialising a product, processes or services are the two crucial phases where IPR registration is deemed important by SMEs that have registered IPRs. The innovation process can be generally characterised as having four stages, explained below, out of which stage 2 and 4 are considered to be the most relevant for registering IPR.



### Reasons for registering IPR

Preventing others from copying their products or services, followed by better legal certainty and an increase in the value and image of the SME are the top three reasons why SMEs register IPRs.

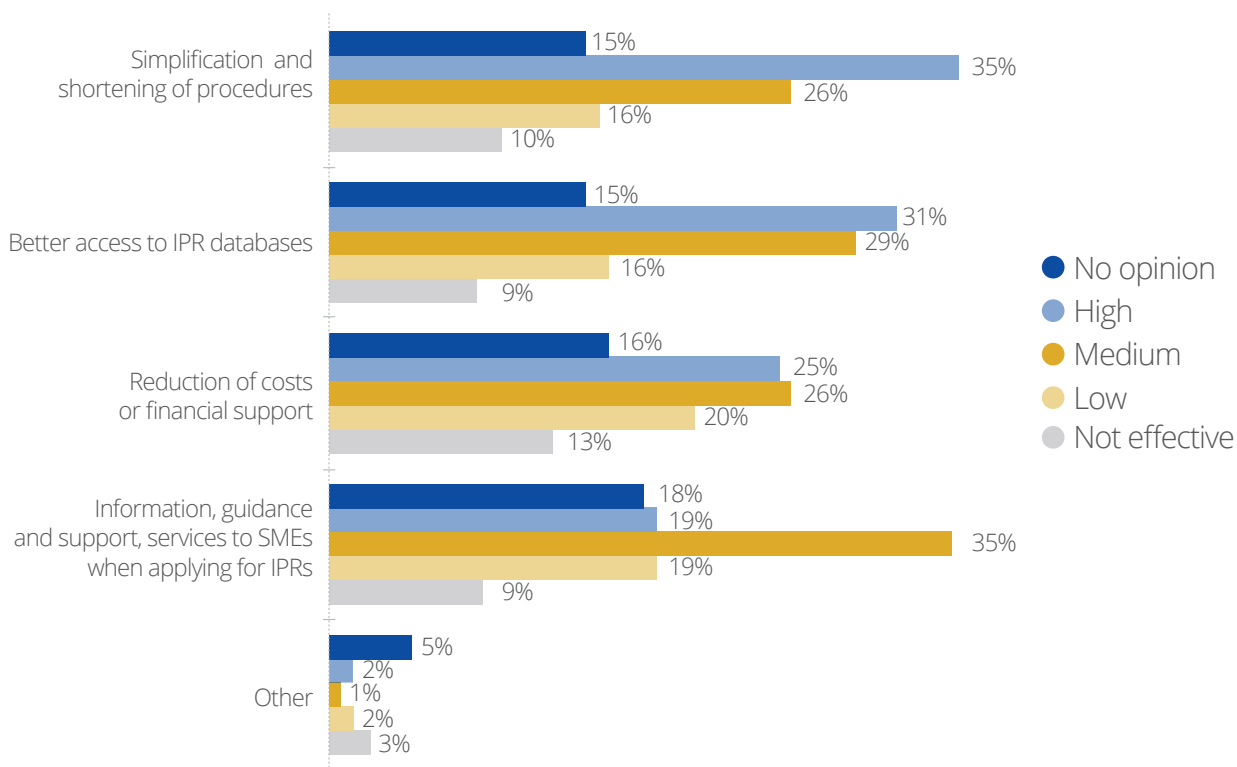


## Assessment of the level and type of difficulty during the process of registration

Almost half of the SMEs interviewed did not experience any difficulties when registering IPRs; however when difficulties did occur, cost and length of procedure were the most common difficulties encountered. Alternative measures such as Internet domain registration are mostly described as ‘easy’ or ‘very easy’, with a greater proportion of micro SMEs finding it ‘very easy’.

## The most effective and desired ways to support SMEs in registering IPR

Simplification and shortening of procedures and better access to IPR databases are seen as the most effective support measures to help SMEs protect their Intellectual Property assets. Less important, but nevertheless generally considered moderately effective are reduction of costs or financial support (25 % high effectiveness), and information, guidance and support services to SMEs (19 %).



## Reasons for not registering IPR

Belief that intellectual assets are not innovative enough, lack of knowledge about how to register IPRs and belief that there are no additional benefits stemming from IPR protection are three top reasons for refraining SMEs from IPR registration.

Reasons that SMEs refrain from registering IPRs are different depending on the size of an SME. Micro SMEs clearly state lack of knowledge as an important barrier compared to small SMEs where predominantly there is a belief that IPR does not bring any benefits. Whilst medium sized companies state that their intellectual assets are not innovative enough.

REASON FOR NEVER OR STOPPING REGISTERING	COMPANY SIZE		
	Micro	Small	Medium
Lack of knowledge	32%	26%	21%
Intellectual asset not innovative enough	27%	25%	30%
Did not meet requirements of IPR regulations	25%	21%	24%
IPR not available for my innovation steps	15%	16%	17%
Too costly and burdensome	19%	15%	15%
Procedure would delay introduction of product/ service on market	10%	8%	8%
No benefits	26%	27%	26%
Potential difficulties in enforcement	15%	15%	12%
Do not want to reveal crucial details and prefer Trade Secrets	21%	19%	21%
Other	25%	28%	27%

## Conditions under which SMEs would consider registering IPRs

SMEs would register IPRs if they would be assured of receiving adequate protection, if it would be easier to take legal action and if the process would be easier to understand and access.

These results indicate that a combination of changes would be needed to encourage SMEs to register IPRs, as no single solution stands out. The same importance was given to improving the process (understanding, access, and cost) and to making it more reliable (adequate protection, ease of taking action). There are many different factors, which have to be taken into account notably the size, location, industry, turnover, strategy and so on of the given SME.

CONDITIONS FOR REGISTERING IN THE FUTURE	COMPANY SIZE		
	Micro	Small	Medium
Reduction of costs	27%	19%	21%
Easier to access	29%	25%	26%
Easier to understand	31%	28%	26%
Certitude of adequate protection	32%	29%	30%
Easier to take legal action	31%	28%	30%
Other	28%	31%	29%

## Source of advice on issues related to the company

Lawyers (or other advisor) and accountants are the two most important sources of advice for company matters, however micro businesses with no IPRs are just as likely to consult accountants as they are their lawyers while large companies prefer lawyers.

SOURCES OF ADVICE	COMPANY SIZE (with IPR)		
	Micro	Small	Medium
Accountant	41%	32%	22%
Lawyer (or other advisor)	66%	77%	82%
Chamber of Commerce	24%	23%	19%
Industry Association	11%	16%	17%
IP Offices	16%	16%	21%
Other	18%	16%	15%

SOURCES OF ADVICE	COMPANY SIZE (no IPR)		
	Micro	Small	Medium
Accountant	59%	50%	40%
Lawyer (or other advisor)	59%	68%	79%
Chamber of Commerce	21%	26%	24%
Industry Association	16%	22%	25%
IP Offices	9%	9%	11%
Other	17%	18%	16%

### Interest in receiving information on IP and preferred means of communication

Over one third of SMEs (those who register IPR and those who do not) would like to receive information about IP. The Internet is the preferred means of communication.

RECEIVE INFORMATION ABOUT IPR	COMPANY SIZE (with IPR)		
	Micro	Small	Medium
Yes	40%	39%	41%
No	60%	61%	59%

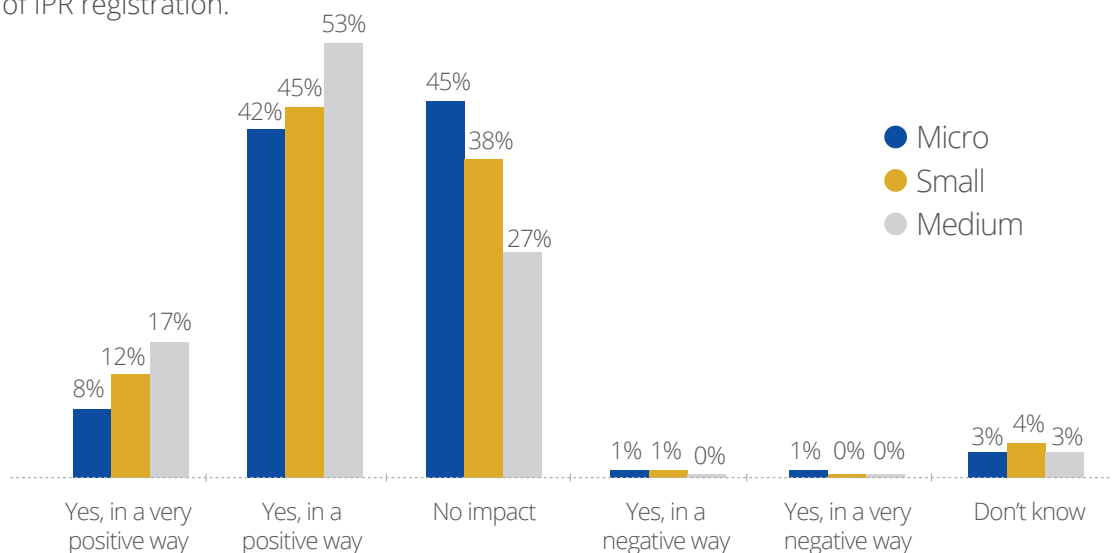
RECEIVE INFORMATION ABOUT IPR	COMPANY SIZE (no IPR)		
	Micro	Small	Medium
Yes	26%	26%	26%
No	74%	74%	74%

BEST SOURCES FOR ADVICE	COMPANY SIZE (with IPR)		
	Micro	Small	Medium
Internet / social media	79%	84%	78%
Local advisors	37%	35%	42%
Local media	19%	14%	9%
Local administration	26%	17%	18%
Local Chambers of Commerce	38%	39%	36%
Local Industry Association	28%	27%	27%
IP Office	41%	40%	45%
Others	6%	8%	8%

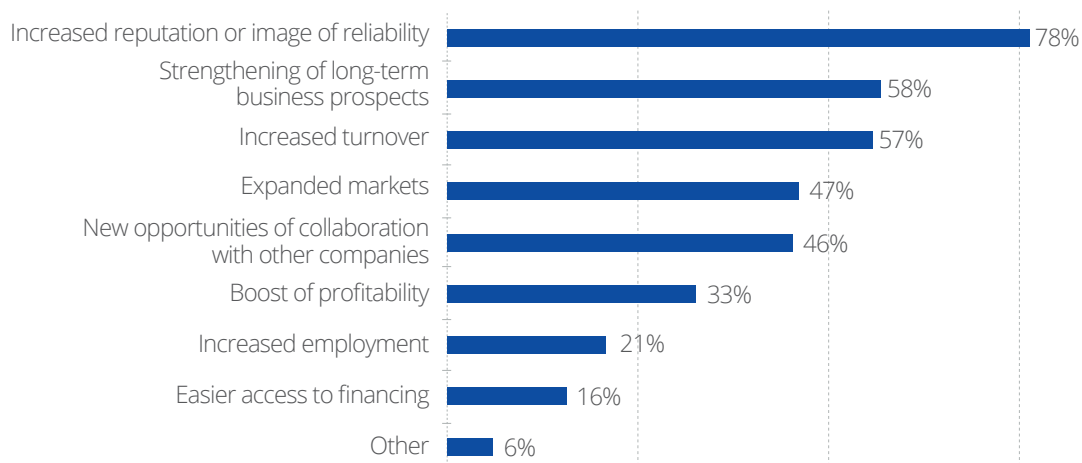
BEST SOURCES FOR ADVICE	COMPANY SIZE (no IPR)		
	Micro	Small	Medium
Internet / social media	83%	83%	83%
Local advisors	34%	30%	31%
Local media	15%	15%	13%
Local administration	24%	22%	16%
Local Chambers of Commerce	36%	39%	43%
Local Industry Association	24%	29%	28%
IP Office	37%	39%	44%
Others	3%	9%	5%

### Impact of IPR registration

The majority of SMEs who registered an IPR believe that it had either a 'very positive' or 'positive' impact on their businesses. Increased reputation or image of reliability, strengthening of long-term business prospects and increased turnover were the top three positive outcomes of IPR registration.



### Positive aspects of IPR registration reported by SMEs





## IPR infringements

Almost one third of SMEs registering IPRs declare having suffered an infringement. This proportion increases with the size of the SME, with medium-sized SMEs being affected most (39 %) and micro SMEs suffering least from IPR infringement (24 %). The top three of IPRs infringed are trade marks, patents and designs.

SUFFERED FROM INFRINGEMENT OF IP	COMPANY SIZE		
	Micro	Small	Medium
<b>Yes</b>	24%	28%	39%
<b>No</b>	72%	68%	56%
<b>Don't know</b>	4%	4%	5%

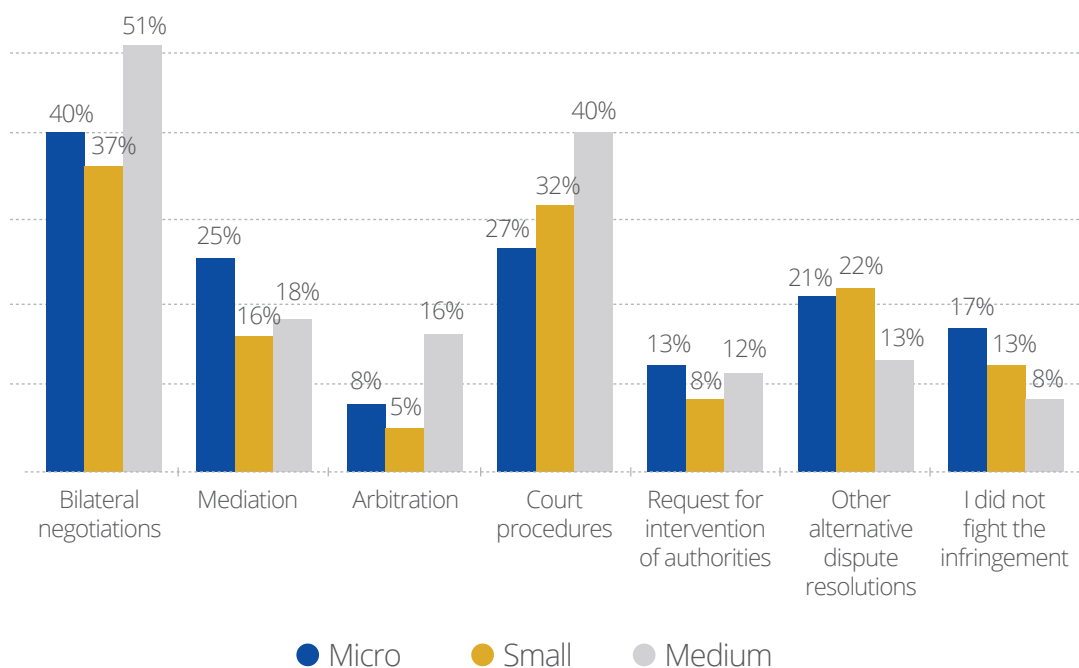
## Impact of infringement on a company performance

Loss of turnover, damage to the reputation or a loss of competitive edge are the top consequences reported by SMEs of IPR infringement.

MOST FREQUENT NEGATIVE IMPACT OF INFRINGEMENT	COMPANY SIZE		
	Micro	Small	Medium
<b>Loss of turnover</b>	42%	38%	35%
<b>Damage to reputation</b>	38%	37%	34%
<b>Release staff / stop hiring</b>	9%	3%	2%
<b>Loss of incentives to innovative and invest</b>	13%	8%	6%
<b>Loss of competitive edge</b>	34%	29%	35%
<b>Increase awareness of my products</b>	19%	18%	18%
<b>Other</b>	36%	31%	30%

### Most common means to solve IPR infringement conflicts

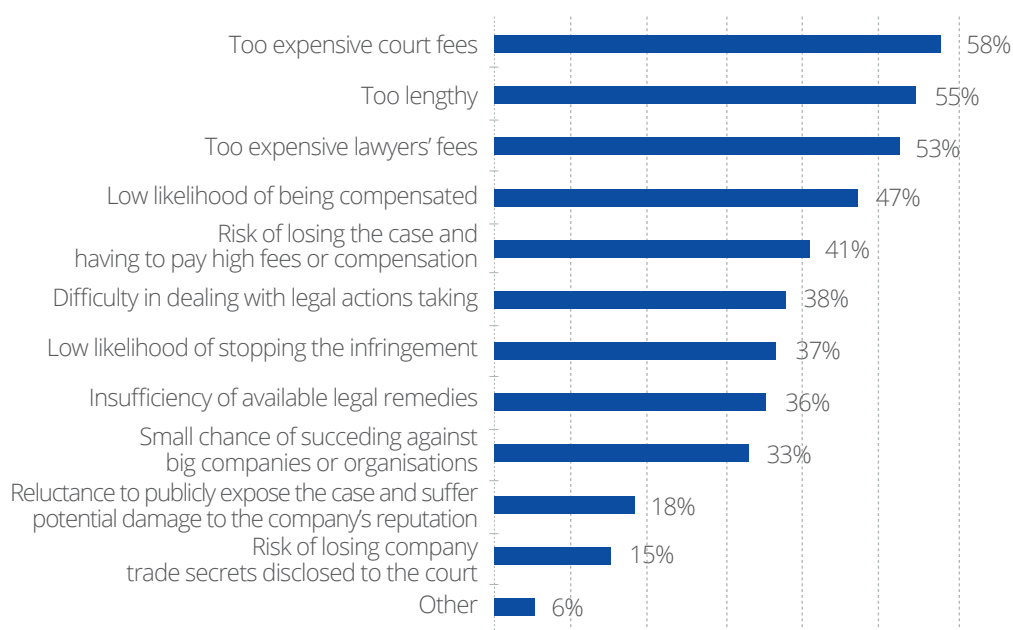
Bilateral negotiations followed by a court procedure are the most often mentioned ways of solving IPR infringement conflicts. SME size is strongly linked to the likelihood to fight IPR infringement and the method used. Compared to SMEs in general, micro SMEs are more likely not to fight the infringement (17 % compared to 12 % on average) and less likely to choose a court procedure (27 % compared with 35 %). Small SMEs are less likely to enter into bilateral negotiations (37 %) or arbitrations (5 %) and more likely to mention other dispute resolution methods. In contrast, medium SMEs are more likely to act with higher than average proportions of bilateral negotiations (51 %), court procedures (40 %) and arbitration (16 %) usage.



### Reasons to refrain from court procedures as a mean to solve IPR infringement conflict

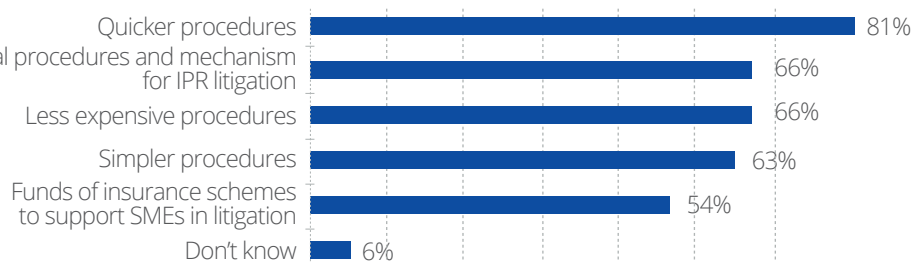
Although the likelihood to start a court procedure increases with the size of the SME, no significant differences appear in terms of barriers.

Costs and lengthy procedures are the key reasons why SMEs refrain from court procedures as a means to solve IPR infringement conflict



### Issues that could be improved in the court procedures

Quicker, simpler and less expensive procedures together with special procedures and mechanisms for IPR litigation are the most important means mentioned by SMEs to improve court procedures. Micro SMEs in particular are in favour of special procedures and mechanisms for IPR litigation, with 83 % selecting this answer in comparison with 66 % for all SMEs that used court procedures to fight IPR infringement.



### Incidence of SMEs suffering from unjust allegation of IPR infringement

A small minority of SMEs declare having suffered unjust allegations of IPR infringement. Most allegations relate to trade marks, patents and designs.

Out of all SMEs surveyed, 9 % say they have suffered from such unjust allegations of infringing another company's IPR. When asked which type of IPR they experienced an 'unjust' infringement allegation, SMEs most often mention trade marks (37 %), patents (23 %) and designs (14 %). These are also the top three IPR types mentioned by SMEs who reported IPR infringements in general.

### Interest in participating in an SME network

One third of SMEs declared willingness to participate in an SME network.

Out of all of the SMEs surveyed, 29 % said they would be interested in participating in a network that would bring together innovative and IP minded SMEs that would meet and discuss best practice and challenges faced with creating, using enforcing or litigating IP rights. Some differences exist between those who register IPRs and those who do not, with 39 % of IP using SMEs reporting an interest in the network compared to 22 % amongst those with no IPR.

WILLING TO JOIN NETWORK	COMPANY SIZE (with IPR)			WILLING TO JOIN NETWORK	COMPANY SIZE (no IPR)		
	Micro	Small	Medium		Micro	Small	Medium
<b>Yes</b>	39%	37%	40%	<b>Yes</b>	21%	20%	24%
<b>No</b>	61%	63%	60%	<b>No</b>	79%	80%	76%

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