Latin America IPR SME Helpdesk pilot study on the Needs on Intellectual Property of LA SMEs doing business with EU SMEs

July 2016
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ACKNOWLEDGEMENTS

This report has been supported by the Latin America IPR SME Helpdesk (Contract nº 657846), project funded by the COSME programme of the European Union.

We thank the Latin America IPR SME Helpdesk partners for their contribution and all survey respondents and experts interviewed for their valuable input.

A special thank to the ELAN Network and AL-INVEST 5.0 projects for disseminating the survey through their communication channels.

DISCLAIMER

The Latin America IPR SME Helpdesk is a free service which provides practical, objective and factual information aimed at helping European SMEs to understand business tools for developing IPR value and managing risk. The services are not of a legal or advisory nature and no responsibility is accepted for the results of any actions made on the basis of its services. The content and opinions expressed are those of the authors and do not necessarily represent the views of the European Commission and/or the Executive Agency for Small and Medium-sized Enterprises or any other body of the European Union. Before taking specific actions in relation to IPR protection or enforcement all customers are advised to seek independent advice. Neither the European Commission nor the Agency may be held responsible for the use, which may be made of the information contained therein.
EXECUTIVE SUMMARY

Any industry or business, whether traditional or modern, regardless of what product or service it produces or provides, is likely to regularly use intellectual property to prevent others from encroaching on its due reward or taking advantage of its goodwill in the market place. Every industry or business should systematically take the steps required for identifying, protecting, and managing its intellectual property assets, so as to gain the best possible commercial results from its ownership (...) 1.

This quote from WIPO underlines the undeniable relevance of Intellectual Property (IP) for business, especially when operating in an international context. Intellectual Property Rights (IPRs) represent vital assets for the international competitiveness of EU businesses and this is of vital importance for Small and Medium-sized Enterprises (SMEs). However, the limited resources available and the lack of specialized knowledge on the subject (especially with regards to international IPR) may constitute an obstacle for SMEs in adequately securing and managing their IPR portfolio. IP assets must be effectively managed so they can generate value; however, before achieving this, SMEs must first understand IP as a crucial business asset. SMEs’ awareness raising should thus be seen as a process that starts with an SME with limited knowledge on IP issues and finalises with such SMEs having IP fully integrated into their business strategy 2. However, in order for this awareness raising and learning experience process to be effective, SMEs must be competently guided and mentored. The reliability of the legal support is of high importance, since a non-appropriate protection of IPR can lead to counterfeiting and piracy, problems that can ruin legal business, distorting the internal market. Considering this, and due to their limited size and capacity to react properly, SMEs often suffer great losses that in some cases represent lethal barriers for them.

With this context in mind, the main aim of the Latin America IPR SME Helpdesk 3, funded by the COSME programme 4 of the European Union, is to provide assistance to EU SMEs (internationalised in Latin America or willing to do so) to overcome the obstacles posed by a challenging IPR environment in or arising from Latin America, allowing them maximising the value of their IP assets and thus improving their competitiveness at international level.

2 www.dpma.de/docs/dpma/kooperation/conclusion_paper_ipeuropaware.pdf
3 www.latinamerica-ipr-helpdesk.eu
4 http://ec.europa.eu/growth/smes/cosme/
With the aim of fostering better and mutual understanding between EU and Latin American (LA) SMEs having business, the present specific pilot study is focused on Latin American SMEs doing or willing to do business with EU companies; its main purpose is to analyse their level of awareness, knowledge and use of IP with the special focus on doing business with EU SMEs. The results of the present analysis will be widely disseminated and shared with the Latin American countries’ National Patent Offices and other relevant competent authorities for their consideration and to foster a more in depth support to Latin American companies in terms of raising the awareness and use of IP to valorise their IP assets. This will bring as a result the establishment or potentiation of solid business relations with EU SMEs for their mutual benefit.

In this framework, the Latin America IPR SME Helpdesk will continue working towards contributing to an increase of the level of awareness and knowledge on IP among LA companies willing to do business with EU SMEs by means of targeted training and support activities (helpline and content materials) for a better and higher use of IP instruments. This will strengthen trust between current or potential EU business partners to achieve sustainable economic relationships and the final benefit of European SMEs. The rationale behind this is the fact that the success of businesses and projects of any kind, especially Research and Development (R&D), will not solely depend on IP management practices of European SMEs, but also on the IP awareness and knowledge of its Latin American strategic partners.

This document presents the main findings drawn from the pilot study Needs on Intellectual Property of LA SMEs doing business with EU SMEs conducted from November 2015 to March 2016 with a total of 344 Latin American SMEs respondents, distributed across most of the Latin American countries. Survey results were integrated and complemented by secondary information consisting in a series of interviews of experts across the Region and with the analysis of relevant related reports.

Overall, the findings of the pilot study show that the LA SMEs’ perception of IP as a business tool is highly positive, and that they are aware of the role IP plays for the development of their business –at least from theoretical point of view--; however, their knowledge of the IP system and the use of the IPR does not correspond to such perception.

Taking into account respondents’ point of view, the Latin America IPR SME Helpdesk, in strong synergies with other relevant actors in the field, as well as complementary initiatives, will
contribute to the improvement of LA SMEs’ knowledge and use of IP as a useful tool for the benefit of EU-LA business relations by means of:

- **Tailor made actions** (requested by 60% of respondents): mainly in the form of helpline support where users can receive assistance on concrete IP issues tailored to their needs.

- **Webinars** (requested by 60% of respondents): seen as the most attractive training typology because of their adaptability to SMEs’ day-to-day busy context, and more exploitable because of their replicability.

- **Face-to-face trainings** (requested by 30% of respondents): where entrepreneurs, in addition to the content, have also the possibility to do networking with other SMEs and intermediaries, and can be conceived with a sector focused approach.

- **Content Materials** (requested by 50% of respondents): jargon free and user friendly and such as guides, short content materials, etc., as reference for entrepreneurs.
INTRODUCTION

The role of SMEs is considered crucial for growth and job creation, and a twofold support approach is contemplated with the aim of reaching the objectives of the Europe 2020 Strategy. On the one hand, at EU level, efforts are being focused on improving the framework conditions for business innovation; while on the other hand, at the level of member States, work is also in progress to improve the conditions for enforcing IP.

Additionally, from an international perspective, at Latin America level, IPRs are a key factor in the construction and evolution of a modern and competitive economy based on innovative and creative activities. This is especially true in Latin America, where they are directly linked to political issues and represent a strategic tool closely linked to the economic development of a country when used in the context of well-defined national, regional and business strategies. Economic activities related to IPR and copyright are a valuable contribution to job creation, GDP growth and exports of products and services with added value. Last, but not least, at social and cultural level, SMEs foster social cohesion, they are considered one of the most effective policy instruments to promote growth and social development. Thus, understanding the system and the strategic role of IPR and assets to improve SMEs’ competitiveness, that will provide access dynamic markets towards creation and innovation, is a key challenge.

In the context of SMEs’ internationalisation, the analysis of IPR knowledge and practices in Latin America and its implications for European countries is essential. In terms of barriers, one of the main Latin American challenges is their low technological culture, when compared to the EU. In addition to this, the creation and transfer of technologies is not linked to IP and the cost of patent applications is

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hardly affordable for the majority of Latin American SMEs. Another important gap is the lack of proper technical consultancy to support SMEs in tackling IP issues and the scepticism among inventors and SMEs regarding misappropriation of inventions.

SMEs’ competitiveness is affected by a limited exploitation of international opportunities and innovation prospects in the Single Market and beyond. In this context, the Programme for the competitiveness of enterprises and SMEs (2014-2020), COSME, aims at promoting growth, competitiveness and sustainability of enterprises in the European Union, and the Latin America IPR SME Helpdesk is one of the initiatives funded by this program, contributing towards the achievement of the programme goals.

The Latin America IPR SME Helpdesk project (continuation of the previous MERCOSUR IPR SME Helpdesk Service -SI2.660627-) aims at contributing to the internationalisation of EU businesses by providing them with expert advice on how to protect and enforce their IPRs in or relating to Latin America.

The project, with its special focus on Brazil and Mexico, is developing specific actions with the aim of:

- Increasing cooperation opportunities between EU SMEs and companies in the Latin America region.
- Integrating aspects of support for internationalisation, research and innovation already promoted by other initiatives (such as EEN Network to promote technology transfer also funded under the COSME programme).

These broad aims are being achieved thanks to the provision of the following services:

**HELPLINE**→ free of charge, first line advisory service on IP protection and enforcement mainly for EU SMEs working or planning to operate in Latin America.

**TRAINING**→ targeted trainings on IPR protection and enforcement mainly for EU SMEs (including sector-specific approaches).
BACKGROUND MATERIALS ➔ state-of-the-art online publications on the protection and enforcement of IPR in Latin America – specifically addressing IP matters from SMEs’ business needs point of view (Factsheets, Interactive Modules, Videos, IP Glossary, Case Studies) –

PARTNERING SERVICES ➔ for Latin American companies and SMEs engaged in commercial cooperation with EU SMEs to strengthen the links between EU SMEs and Latin American companies with regards to the protection and enforcement of IPR.

POLICY ADVICE ➔ monitoring relevant IPR developments affecting SMEs in the territories covered by the action. Provision of basic support for initial contacts with local law enforcement agencies in Latin America.

The report is organised as follows: Section 2 presents the main objectives of the report, followed by the methodology employed for data collection and analysis (Section 3). Section 4 elaborates the qualitative analysis, while Section 5 draws the conclusions of the study with the proposed action plan for the Latin America IPR SME Helpdesk project. Appendix I provides more details on the questionnaires, while Appendix II includes the interviews carried out with relevant actors in the IP field, plus the analysis of relevant reports. Finally, the Latin America IPR SME Helpdesk project experts’ interviews are available in Appendix III.
The present pilot study aims at identifying the level of knowledge, practices and needs in terms of IPR for those Latin American SMEs with a business relationship (or willing to establish one) with European SMEs. Conclusions will feed and provide valuable input for the design and implementation of different support actions (training, helpline service, materials, networking) to increase Latin American SMEs’ level of awareness of IPR. This resulting increased awareness of IPR will consolidate mutual trust between LA and EU SMEs, which will foster and strengthen their business relations for the final benefit of EU SMEs. IP is seen as a key factor towards achieving sustainable economic relationships, where the success of businesses and projects of any kind, especially R&D, will not solely depend on IP management practices of European SMEs, but also on the awareness and knowledge of IP of its Latin American strategic partners.
METHODOLOGY

The data analysed in this report has been obtained from an online questionnaire designed by the Latin America IPR SME Helpdesk after an extensive analysis of previous similar-related exercises. The resulting survey, consisting of 27 questions, was structured in 4 main modules whose aims are detailed below and more extensively discussed in Sect. 4 of this report.

- **Module 0**: Filters the answers, ensuring SMEs are the actual respondents
- **Module 1**: Filters LA SMEs with any business relation with EU SMEs
- **Module 2**: Detects the level of awareness and knowledge of the IP system in LA
- **Module 3**: Detects use and knowledge of IP mechanisms and use of IP information tools and support
- **Module 4**: Identifies the countries of respondents and their sector
The online-based survey was largely disseminated via multiple channels (website, social media, etc.), exploiting the network of contacts of the Latin America Helpdesk partner institutions. In addition to this, and with the aim of reaching a statistically relevant number of respondents, other channels provided by relevant related projects such as the ELAN Network or AL INVEST projects have been addressed, and this was possible given the strong synergies in place between such initiatives and the Helpdesk.

However, due to the resistance tendency detected among Latin American SMEs to get involved in an electronic survey, and with the aim of obtaining accurate data, the information collected from the respondents was complemented by additional inputs: a) analysis of key reports on IP with special focus on Latin America and project experiences; and b) interviews to relevant institutions on IP in Latin America and c) interviews with a selection of external experts from the Latin America IPR SME Helpdesk pool of experts.

The survey was launched on November 2015 and answers collected until March 2016. The qualitative analysis has been formulated in line with the AIDA methodology adapted by the Centre de Recherche Public Henri Tudor in Luxembourg for the analysis carried out in the framework of the IP awareness level in SMEs under the IPeuropAware project (No. SI2.479203), funded by the Competitiveness and Innovation Framework Programme (CIP) of the EU. This AIDA version has been further adapted to the needs of this specific study.

The AIDA structure and logic has been exploited for the identification of the maturity level of an SME in terms of its IP knowledge and use. The method is based on the assumption that the optimal usage of IP is achieved via the following the AIDA levels shown below:

<table>
<thead>
<tr>
<th>A</th>
<th>Attention</th>
<th>Knowledge, awareness</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Interest</td>
<td>Protection</td>
</tr>
<tr>
<td>D</td>
<td>Desire</td>
<td>Management</td>
</tr>
<tr>
<td>A</td>
<td>Action</td>
<td>Use</td>
</tr>
</tbody>
</table>

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7The tool used to implement the online survey was Survey Monkey (https://es.surveymonkey.com)
8www.elandos.org/content/elan-network-project
10www.list.lu
Figure 1: Integration level of IP in SMEs

Based on the levels contemplated by AIDA, the scale of IP integration in SMEs has been computed as shown in Table II:

<table>
<thead>
<tr>
<th>AIDA LEVEL</th>
<th>CONCEPT</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attention</td>
<td>KNOWLEDGE: The SME is aware of the existence of IP and understands the basics of the IP system.</td>
<td>First level: General knowledge and awareness level of IP in the SME (general knowledge of intangible assets, different IP titles, trade secrets, etc.).</td>
</tr>
<tr>
<td>Interest</td>
<td>PROTECTION: The SME protects its IP or at least knows that it should protect it and how, in a regular and systematic manner.</td>
<td>Second level: Protection means use by SMEs to protect their intangible assets (protection of registered rights, other non-registrable intangible assets, confidentiality agreements...).</td>
</tr>
<tr>
<td>Desire</td>
<td>MANAGEMENT: The SME has intangible assets to protect and manages its IP rights.</td>
<td>Third level: Administrative and operational management of IP in the SME and respect for third parties’ IPR.</td>
</tr>
<tr>
<td>Action</td>
<td>USE: The SME has and uses its IPR in its favour. For example, by selling and valuing IP, as part of its business strategy, etc.</td>
<td>Fourth level: More advanced IP practices at SMEs level. It is related to the IP strategy developed by the SME (commercialisation and valuation of IP), use of IP rights (in relation to third parties).</td>
</tr>
</tbody>
</table>

11 Analysis of awareness level and use of IP in Higher Education institutions performed in Chile by the PILA-Network project, 2009
As mentioned above, secondary information has also been employed and selected according to the following criteria:

- Focused on Intellectual Property and Latin American SMEs in priority countries of the Latin America IPR SME helpdesk project, such as Brazil, Mexico, Chile and Argentina.

- Published by entities with presence in Latin America and/or conducting such studies or projects for Latin America or a group of countries from the region.

- Relevant reports of co-financing sources were also considered for searching projects with coverage in Latin America on these issues. For instance, projects financed by EU programs such as PILA - Network from ALFA III\(^ {12} \), a post cooperation program between the EU and Latin America in the field of higher education and training.

- Lessons learnt and findings from previous related projects, specifically MERCOSUR IPR SME Helpdesk.

- Documents and projects that could provide more and better information on the responses of the survey were selected.

Interviews with Latin American and European relevant stakeholders on IPR and SMEs issues have been also carried out, more specifically with:

- Public and private bodies working on the IP field and with SMEs in Latin America (national intellectual property agencies, technology transfer offices).

- Public or private initiatives focused on IP issues and SMEs in Latin America (such as CIBEPYME\(^ {13} \)).

- Intellectual Property consultants or advisers and SMEs participating in projects on IP related issues.

\(^ {12}\)http://www.pila-network.org
\(^ {13}\)Iberoamerican Industrial Property Platform for companies, www.cibepyme.com
With the aim of obtaining coherent and comparable information with the data from the online survey, interviews were also based on the AIDA logic model and questions have been mapped with the AIDA matrix as shown in Table 3 below:

Interviews have been structured in four main questions:

a. According to your experience and knowledge, what is your perception on the level of knowledge and use of IPR in Latin American SMEs? Why?

b. According to your experience and knowledge, do you think Latin American SMEs know or are aware of the importance and benefits of IPR applied to their businesses? Why?

c. Do you believe SMEs have the knowledge and tools needed to perform the administrative and operational management of IP? Why?

d. What actions could be taken to improve each of the AIDA concepts?

<table>
<thead>
<tr>
<th>AIDA LEVEL</th>
<th>CONCEPT</th>
<th>SURVEY QUESTIONS</th>
<th>BRIEF INTERVIEWS QUESTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attention</td>
<td>KNOWLEDGE: The SME is aware of the existence of IP and understands the basics of the IP system.</td>
<td>Q7 to Q9</td>
<td>a, c</td>
</tr>
<tr>
<td>Interest</td>
<td>PROTECTION: The SME protects its IP or at least knows that it should protect it and how, in a regular and systematic manner.</td>
<td>Q10 to Q13</td>
<td>b, c</td>
</tr>
<tr>
<td>Desire</td>
<td>MANAGEMENT: The SME has intangible assets to protect and manages its IP rights.</td>
<td>Q14 to Q19, EXCEPT Q15</td>
<td>c, d</td>
</tr>
<tr>
<td>Action</td>
<td>USE: The SME has IPR and uses it in its favor. For example, by commercialising and valuing IP, as a business strategy, etc.</td>
<td>Q22 to Q24</td>
<td>c, e</td>
</tr>
</tbody>
</table>

Last but not least, a selection of experts from the Latin America IPR SME Helpdesk pool have been interviewed with this additional round of interviews focused on having a more in-depth analysis of some discussion aspects raised by results obtained in previous steps.
The interviews were structured as follows:

According to your experience in the different LA countries:

**Q1:** What is the level of theoretic importance of IP for an SME?

**Q2:** What is the level of practical importance of IP for an SME.

**Q3:** What is the level of IP knowledge of LA SMEs?

**Q4:** Which are the main challenges on IP?

After having presented the analysis methodology, next section presents the discussion of the qualitative analysis of the results obtained.
As explained in section 3, the questionnaire consisted of 5 modules whose main conclusions are summarised below:

- **Module 0, Survey Filter**
  Its goal was to filter the participating companies in order to make sure only Latin American SMEs are the respondents. This section consisted of one question:
  
  - Is your company an SME? It included the definition of an SME according to the EU:
    
    "Criterion 1: Less than 250 employees. Criterion 2: Annual turnover of € 50 million or less or balance sheet of € 43 million or less".

- **Module 1, EU - LA link**
  Its goal was to filter only those Latin American companies that have a business relationship with European SMEs or are willing to have one. This section consisted of two questions:
  
  - What is your relationship with European SMEs?
  - Where does it take place?
344 valid answers were obtained and according to the results, commercial relations among LA SMEs and EU SMEs are mainly located over the Southern Cone region and mainly with EU countries such as Spain, Italy, Germany, Holland and Sweden. Moreover, and in line with the secondary information obtained from experts’ interviews, countries such as Mexico and Brazil are also considered key business partners.

The Table below shows the percentage of business activity in Latin America and Europe.

Table IV: Percentage of business activity in Latin America and Europe obtained from respondents.

<table>
<thead>
<tr>
<th>Latin America</th>
<th>Europe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina 26%</td>
<td>Spain 59%</td>
</tr>
<tr>
<td>Uruguay, Venezuela and Chile 20%</td>
<td>Italy 38%</td>
</tr>
<tr>
<td>Brasil 13%</td>
<td>Germany 28%</td>
</tr>
<tr>
<td>Mexico 6%</td>
<td>Holland and Sweden 24%</td>
</tr>
</tbody>
</table>

Latin American countries can be grouped into two main Regions in terms of level of business activities (and this awareness and use of IP) with EU SMEs. A first group with a more advanced level of awareness and knowledge (Southern Cone) and a second one with the rest of LA countries with a lower level of awareness on the importance of IPRs. With this in mind, the higher or lower level of interaction with IP systems in each LA country and the definition of more basic or advanced actions/services from the Latin America IPR SME Helpdesk are essential.

Modules 2 and 3 of the survey have been designed to have an in-depth overview of the Levels of Awareness, Knowledge, Use and Needs of LA SMEs on IPR.

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13Answers belong to LA SMEs having business, or intending to, with EU SMEs.
Module 2 Awareness and knowledge/understanding of IP system

Its goal is to gather awareness and knowledge level of IP System among LA SMEs.

This section consisted of the following questions:

Q7: Assessment of the importance of IP in business.

Q8: What industry is IP useful for?

Q9: Is IP only used by large companies?

Q10: What do you think of the following statement: When a company in Europe sells products you patented only in your country of origin (Latin American) without your permission, it is infringing your IPR.?

Q11: How do you protect the name of a company or product?

Q12: Does advertising an invention endanger its future patenting?

Q13: Is it necessary to register your IPR to prevent being copied/imitated?
The following main conclusion can be drawn from the analysis:

**High level of theoretical awareness of IP importance as a business tool**

In Q7 only 11.3% of respondents perceived IP in business as low relevant. On the contrary, almost a 90% of respondents gave an answer ranging from among Enough, A lot or Essential. This positive perception shows that the LA business environment does not perceive IP as an obstacle for the improvement of their businesses (by the limitation of their knowledge level, for instance). It can be concluded that LA SMEs have the perception, at least at a theoretical level, that an IP system is a useful tool for business improvement and competitiveness.

Figure 2: Q7: Assess the importance and impact IP has in business

Answers to question Q8 enforced the conclusion drawn from Q7, where the distribution of the relative importance given by the answers mainly fluctuated between Essential and Enough, with a revealing 88.7%.

In this sense, the initial conviction barely finds 1% of the respondents not believing that IP can be useful for any kind of business, including creative industries, IT, technological and R&D intensive businesses.
Nevertheless, it cannot be concluded that the real awareness level is high, because it has not been verified if the theoretical perception of IP level is sustained by a real behaviour of LA SMEs. Additionally, taking into account the existing substantive deviations, they could be caused by external factors (for instance, high registration fees) that motivate the contradictory use of IPRs in comparison with the IP perception level obtained (this aspect will be addressed in Q10 and Q24 discussion).

Figure 3: Q8: Intellectual Property is useful for…

- Creative Industries, 10.8%
- Technological Business, 13.1%
- Business with a large R&D department, 13.6%
- Any type of business, 59.1%
- None of the above, 1.1%
- Other (please specify), 2.3%
The high level of theoretical awareness of the IP system as a tool for business development can be appreciated in the following figure:

![Figure 4: AIDA level-Attention](image)

As it can be noticed, the average level of the Importance of IP as a business tool and its usefulness for all sizes of companies was high, while an intermediate average value appeared when considering its usefulness for companies from different sectors (Scale of 1 to 5, where 5 is the highest score).

According to the importance that SMEs give to IP as a business tool, (See Appendix III) higher levels can be found in bigger countries, the ones with a more robust business environment such as Argentina, Brazil or Mexico. As a consequence, this value decreases in countries such as Costa Rica, Bolivia, Colombia or Peru.
Taking into account the lack of knowledge of IP special features and practical usefulness obtained from the survey, it is remarkable the high consideration level that IP has as a business tool for LA SMEs.

Figure 5: Q10: ¿What do you think about the following statement? When a company in Europe sells products you patented only in your country of origin (Latin America) without your permission, it is infringing your IPR.

The figure above shows that almost 75% of respondents were not aware about the territoriality principle - a basic aspect of the IP system - and hence answered incorrectly to Q10.

This second conclusion is reinforced by answers to questions Q11 and Q12. The first one was focused on detecting "How the name of a company or a new product is protected?". Although the majority (73.7%) answered correctly, there is a significant percentage of error. This indicates on the one hand that respondents did not know the meaning and objective of each IPR; on the other hand, the existing IPR knowledge is very basic and unbalanced. In this regard, the scope of protection of a trademark and its registration process seems to be more familiar to LA SMEs than any other IPR, according to the answers provided and the experts consulted (See Appendix III).
This better knowledge regarding the Trademark system in comparison to other IP protection systems could be due to the low level of innovation and/or low knowledge of IP systems, in addition to the fact that the trademark registration process is simpler than that of a patent.

Interviews with experts (See Appendix III) also highlighted the unbalanced knowledge of the different IP systems, the lack of human resources devoted to this area and the perception that, even being considered relevant for business, IP is perceived as too complex and academic a subject for SMEs.

Table V: Q11: How do you protect the name of a company or of a new product?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trademark</td>
<td>73.7%</td>
</tr>
<tr>
<td>Patent</td>
<td>19.9%</td>
</tr>
<tr>
<td>Copyright</td>
<td>2.9%</td>
</tr>
<tr>
<td>Design</td>
<td>0.6%</td>
</tr>
<tr>
<td>Industrial Secret</td>
<td>0.6%</td>
</tr>
<tr>
<td>Can not be protected</td>
<td>1.8%</td>
</tr>
</tbody>
</table>

Q12 “Do you know if your invention advertised in a magazine / blog / event may impair your registration as a patent in the future?” This question deepened into the knowledge level of respondents, although its formulation forced them to pay special attention to possible solutions and consider different IP systems. In this case, barely 26.3% managed to understand the scope of a disclosure prior to the patent granting date. This enforces the conclusion on the need of specific training, as a response to the low real IP knowledge level detected.
Table VI: Q12: Do you know if advertising your invention on a magazine/blog/event might endanger its future registration as a patent?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, affects</td>
<td>35.1%</td>
</tr>
<tr>
<td>Depend on where is publicate it and when is registered</td>
<td>26.3%</td>
</tr>
<tr>
<td>No, reinforces the application</td>
<td>2.3%</td>
</tr>
<tr>
<td>No, not affect in any way</td>
<td>16.4%</td>
</tr>
<tr>
<td>I do not know</td>
<td>19.9%</td>
</tr>
</tbody>
</table>

Additionally, the following figure shows the low level of knowledge of IP (Appendix I)

Figure 6: AIDA level- Interest

Figure 6 also shows a low average level in answers to the following questions: When are SMEs’ IP rights violated? What actions harm the patent application? Nevertheless, this data shows that SMEs did know the registration system for Trademark protection. This confirms the unbalance in terms of knowledge regarding the different IP systems (Scale 1 to 5, where 5 is the highest score).
Module 3, Use of IP mechanisms, and knowledge/use of IP information tools and support

Its objective was to identify the usage level of IP mechanisms and the level of knowledge and use of IP information and support tools. This module consisted of the following questions:

Q14: Do you deal with IPR or not?
Q15: Which ones?
Q16/Q17: Measures implemented to protect your IPR when negotiating with other companies and when are they adopted?
Q18: Do you conduct a search before launching a new product?
Q19: Where do you perform the search?
Q20: Who registers IPR when necessary?
Q21: Why you follow that procedure?
Q22: Do you believe that legal advice is essential?
Q23: What portion of your legal expenses is dedicated to IPR protection and defense?
Q24: What costs are a hindrance to registering IPR?
Q25: Have you had any disputes due to infringement of third parties’ IPR?
Q26: How did you solve it?
Q27: How would you like to increase your knowledge of IPR?
The main conclusions drawn from Module 3 analysis are presented below:

**Low and asymmetric awareness level in the use of IP Rights**

In question Q14, almost 70% of respondents admitted dealing with IPR and 58% of them use their own IPR.

If we compare answers obtained in Q14 and Q15, a certain level of asymmetry in terms of the different importance given to the various IPRs (Trademark vs. Patent) can be detected. In line with the conclusions from the previous survey module, such asymmetry is observed in favour of Trademarks (85%), followed by patents and far behind, by designs and copyright.

Given that copyright effects as IPR are active without prior registration before the Intellectual Property Offices, and that the scope of protection for this type of IPR aims at catalogs, presentations, advertising campaigns, reports, databases customers, artistic creations (eg company logo, registered as a trademark or not, photographs, etc.), it can be concluded that companies are not aware that they are dealing with IPR as often as they do. This, again, is the result of a lack of knowledge of IP systems.

Alternatively, it can be considered that the configuration of the IP protection strategy of respondents focuses on company names and/or products, leaving behind other intangible assets and IP protection strategies.

LA SMEs again showed a low level of knowledge of the IP system and, consequently, a faulty design of IP protection strategies.
Figure 7: Q14: Do you deal with IPR (registered or in process to)?

- Yes, own IP rights, 58.1%
- Yes, 3rd party ownership, 9.6%
- No, 32.3%

Figure 8: Q15: What IPR do you work with?

- Trademarks: 85.7%
- Patents: 49.1%
- Copyright: 21.4%
- Design: 20.5%
- Software: 12.5%
- Database: 5.4%
- Other (please specify): 2.7%
Interviews carried out with relevant actors (see Appendix II) also confirmed the unequal knowledge of the different IP rights, for example when comparing the high number of trademark registrations to the number of patent applications.

Although there is a low level of knowledge and use, it could be also said that there is an increased use of IP systems among SMEs from the most competitive sectors. This could be related to a better knowledge of the technological language and legal systems.

These very same conclusions are in line with what the external experts indicated as a result of a consultation that was carried out with the aim of complementing the information obtained from the interviews with external experts. This consultation was addressed to the countries with a lower survey response ratio and with the purpose of obtaining additional information to formulate a comparable analysis across LA countries. These countries were Costa Rica, Bolivia, Colombia and Peru, and were compared by experts with countries like Brazil, Argentina and Mexico, with a more robust economic and commercial environment as well as with higher capacities regarding IP issues (See Appendix III).

<table>
<thead>
<tr>
<th>Country</th>
<th>Perception on the importance of IP awareness</th>
<th>Perception on the importance of IP use</th>
<th>IP Knowledge level (1 Low – 5 High)</th>
<th>IP detected threats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costa Rica</td>
<td>Low</td>
<td>Low</td>
<td>1</td>
<td>Small market</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Knowledge ↓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Incentives ↓</td>
</tr>
<tr>
<td>Bolivia</td>
<td>Low</td>
<td>Low</td>
<td>2</td>
<td>Training ↓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Knowledge ↓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Strategic Vision ↓</td>
</tr>
<tr>
<td>Argentina</td>
<td>Low</td>
<td>High</td>
<td>3</td>
<td>IP costs ↑</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Piracy ↑</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>IP Policy ↓</td>
</tr>
<tr>
<td>Brasil</td>
<td>Enough</td>
<td>Enough</td>
<td>2</td>
<td>IP National System</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Piracy ↑</td>
</tr>
<tr>
<td>México</td>
<td>High</td>
<td>Enough</td>
<td>3</td>
<td>Piracy ↑</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>National Legislation</td>
</tr>
<tr>
<td>Colombia</td>
<td>Low</td>
<td>Low</td>
<td>2</td>
<td>Training ↓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Dissemination ↓</td>
</tr>
<tr>
<td>Perú</td>
<td>Low</td>
<td>Low</td>
<td>2</td>
<td>Regulation ↓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Incentives ↓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>IP National System</td>
</tr>
</tbody>
</table>
Insufficient use of IPR not in line with the observed positive perception of IP as business tool

Q19 asked if SMEs performed a previous search to check if there is any existing product similar to the one the SME wishes to commercialize. Answers were very positive and showed that searches are indeed conducted. Hence, the high level of awareness appointed in the first part of the survey was consistently supported by an effective practice followed by most of LA SMEs, which act with enough caution to avoid jeopardizing their businesses.

Respondents argued that these searches are mostly performed using Internet general search engines, closely followed by databases from national patent offices, and to a lesser extent by Helpdesks (free or paying services). However, it is important to point out that when using such tools, a minimum level of knowledge about IPR and the support of IP professionals is mandatory in order to avoid any prejudice.

Figure 9: Q19: Where do you perform the search?

Based on respondents’ answers for Q22 and Q23, it can be observed that most of them considered legal advice indispensable to protect and manage SMEs’ IP (See Appendix I). More in-depth regarding Q23, results showed that almost 80% of the respondents were not using even a 3% of their legal issues devoted for IP protection and/or litigation. Thus, the low level of use of systems and
legal assessment available is evident. Additionally, the conclusion of a low awareness level, or at least awareness but only from the theoretical point of view, is underpinned by the fact that there is no evidence of effective protection of their IPR.

**Figure 10:** Q23: What percentage of your legal expenses is devoted to IP protection and defense?

Q27 referred to IP as business tool: "How would you like to increase your knowledge about IP issues and its possibilities as a business tool?". Respondents expressed preference in receiving Online Workshops, free-of-charge training courses, but also advice and updating via email.
Table VIII: Q27: How would you like to increase your knowledge on IP and explore its potential as a business tool?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Face-to-face</td>
<td>30.1%</td>
</tr>
<tr>
<td>Webinars</td>
<td>60.9%</td>
</tr>
<tr>
<td>Free content material</td>
<td>47.4%</td>
</tr>
<tr>
<td>Expert advice</td>
<td>36.5%</td>
</tr>
<tr>
<td>Updates on practices and tips via email</td>
<td>60.9%</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>4.5%</td>
</tr>
</tbody>
</table>

Interviews with experts (See Appendix III) highlighted the lack of human resources dealing with IP issues at SME level. They also pointed out a low knowledge and capacities to use existing resources (cost-free services many times). This is complemented by the next figure in which the low level of use of systems and tools for IP advice is shown.

**Figure 11: AIDA level-action**

Figure 10 shows that LA SMEs are aware of the importance of IP as a business tool. They consider legal advice indispensable and the related costs are not perceived as an obstacle; however they do not use existing tools for managing their IP rights.
Most of the main conclusions drawn from the survey are supported by the reports analysed and are listed below:

- SMEs consider that it is essential to have an efficient IP protection system, but they have erroneous concepts about use costs and general IP rights’ management. (3)15
- Despite IP Costs in Chile not being too high, existing and professional IP services are nevertheless not employed. (3)
- Awareness level of IP importance is sufficient in Argentina, but knowledge and use of IP systems is very low. There is no use of patent (or other IP) information as a tool for enhancing innovation at SMEs level. Nor are these IP systems used in order to know if patent existence may be an obstacle to the SME innovation process. (2)16
- Lack of knowledge regarding IP registering and management systems. There is a need for capacity building focused on exploiting IP as an innovation tool for SMEs. (2)
- A high number of SMEs find obstacles such as funding, IP training costs, lack of information and challenges in cooperating with other companies and institutions. (2)
- 80% of employment rate in countries like Chile is generated by SMEs, which represent 70% of the number of companies in the country. Therefore, SMEs, very sensitive to economic crisis, need specific policies in order to strengthen their IP knowledge as an additional business tool. (1)17

16 López, A., Pupato, G., Sacristán, A. April 2005. Study on the use of the IP system by small and medium enterprises in Argentina La Propiedad Intelectual en las pequeñas y medianas empresas: El caso argentino,
17Portilla Rodríguez, B. February 2006. Study on the use of the IP system by small and medium enterprises in Chile. La Propiedad Intelectual en las pequeñas y medianas: el caso chileno.
Module 4, Identification: its objective was to identify the countries of origin of the companies and their economic sectors: company name, activity sector, e-mail, country.

A higher percentage of answers was received from SMEs located in Southern Cone countries, where there is a more intense business contact with EU SMEs. The following figure shows the number of answers received by country:

Figure 12: Number of respondents by country

As we can see in the figure above, 344 answers have been obtained from LA SMEs, of which 23 preferred not to disclose their country of origin.

The business sector focus of respondents is shown in the figure below. As we can observe, 38% of them belong to the following four sectors: AgroFood, IT, Chemical Industry and Services (Consulting).
Figure 13: Respondents by sector
The main objective of this pilot study was to identify the level of knowledge, practices and needs in terms of IPR for those Latin American SMEs with a business relationship (or willing to establish one) with European SMEs.

The rationale behind this study is that IP is a key factor towards achieving sustainable economic relationships, where the success of businesses and projects of any kind, especially R&D, depends on the IP management practices of European SMEs, but also on the awareness and knowledge of IP of its Latin American counterparts.

From the analysis, it emerges that due to Latin American companies' low level of awareness on IP as a business tool, efforts should be focused on bridging this gap among the ones with business relations (or willing to establish them) with EU SMEs. This will consolidate mutual trust between LA and EU SMEs and set the basis for fruitful business relations and the final benefit of EU SMEs.

As mentioned in the document, with the aim of fostering synergies and avoid duplications, the Latin America IPR SME Helpdesk actions should be integrated in a broader strategic framework in which the Latin American countries National Patent Offices are the main actors in increasing the awareness and usage of IP as a tool to valorise business assets among LA companies.

In terms of concrete actions to be implemented by the Latin America IPR SME Helpdesk, the tailor made support available by the Helplines has been indicated as crucial, followed by training. Webinars
have been detected as the preferred training delivery methodology; being at no cost (no travel expenditures needed) and timely effective. They would give SMEs more flexibility and foster their participation. This is also complemented by access to IP content materials.

Being of an initial level, training topics would start from IP awareness and the valorisation of its potential use. In addition, raising the awareness on most relevant EU funded initiatives aimed at providing advice on IP issues is crucial. The list below shows a tentative set of thematic areas:

1. IP Unitary protection in Europe
2. IP Identification: from assets to rights
3. IP: keys to negotiate with EU SMEs

In terms of training content, modules should:

1) Contain a theoretical part with the IPR basics every SME should know; and a practical part with real cases applied to SMEs and ideally to their specific sectors.

2) Employ a jargon-free language, tailor-made for an SME and ideally to its sector.

3) Allow SMEs to grasp this knowledge and apply it to their business. The methodology for transferring knowledge, information, best practices, innovative techniques, etc.

4) Be supported with content material such as fact sheets or tips, videos and case studies.

The Latin America IPR SME Helpdesk trainings will provide SMEs an overview of IP and how it is articulated in practice for the protection of IPRs, detection of IP assets in the company, how to negotiate with other SMEs in terms of IPRs, and trainees will also become familiar with IP practical cases in Europe.

Trainings, especially the ones delivered on face-to-face basis, will be also complemented by networking activities where SMEs will have the possibility to benefit from networks, platforms, systems, etc. relating to the identification, registration, protection and management of their own IPR. Meetings, B2Bs and networking activities with relevant actors are essential for SMEs to connect with each other and with other intermediaries dealing with innovation and companies such as universities, technology and innovation centres, chambers of commerce, trade associations, etc. SMEs need to
be active, foster and strengthen those relationships with such actors to improve their knowledge, but also get interested and familiar with the IPR system. In the framework of networking activities, SMEs will also have the opportunity to contact with the Latin America IPR SME Helpdesk experts with their questions related to IP and afterwards, in case of need of additional support, use the free and confidential Helpline service. They might learn first hand real cases of IPR use as a business strategy, both successful and unsuccessful, to help them understand the system, its benefits and costs.

The Latin America SME Helpdesk through its services is contributing to bridging this gap by means of providing LA companies the support they need with the aim of fostering a better understanding of IP mainly for EU SMEs doing business in Latin America, but especially vice versa. Through the different services offered and mainly training, content material, helpline and networking events, the Latin America SME Helpdesk offers free, confidential and tailor made assistance on IP issues for EU SMEs. However in order to be effective the Latin America Helpdesk Service should be in strong synergy with the Latin American countries’ National Patent Offices and other relevant actors, key actors in the IP context.
Appendix I/
More details on the questionnaire

The following appendix presents the detailed answers to each question of the survey. The conclusions presented in Section 4: Qualitative Analysis of Answers - Main Conclusions have been drawn from the content of this Appendix.

Questionnaire modules, focus, questions

As explained in section 3 Methodology, the questionnaire consisted of five modules of questions as described below.

- **Module 0, survey filter:** its goal was to filter the respondents in order to obtain answers only from Latin American SMEs. This section consisted of one question:
  - Is your company an SME?
    - It included the definition of an SME according to the EU: "Criterion 1: Less than 250 employees. Criterion 2: Annual turnover of € 50 million or less or balance sheet of € 43 million or less".

- **Module 1, EU - LA link:** its goal was to filter respondents and select only those with business relationships with European SMEs. This section consisted of two questions:
  - What is your relationship with European SMEs?
  - Where does it take place?

- **Module 2, Knowledge and understanding of the IP system:** with the goal of gathering SMEs’ level of knowledge and understanding of the IP system, this section consisted of seven questions: assessment of the importance of IP in business; for what industry is IP useful; if IP is only used by large companies; how do you protect the name of a company or product; do you think it is necessary to register IPR to prevent being copied; and
two statements on possible problems related to patent registration that might be faced by companies.

- **Module 3, Use of IP mechanisms, and knowledge and use of IP information tools and support**: Its aim was to identify the usage level of IP mechanisms and the level of knowledge and use of IP information and support tools. It contained 14 questions such as: do you deal with IPR or not?; which ones?; measures implemented to protect your IPR when negotiating with other companies and when they are adopted; do you conduct a search before launching a new product? where?; who registers IPR when necessary and why?; do you believe that legal advice is essential?; what portion of your legal expenses is dedicated to IPR protection and defense and what costs are a hindrance to register IPR?; have you had any dispute due to infringement of third parties’ IPR and how did you resolve it?; how would you like to increase your knowledge of IPR?.

- **Module 4, Identification**: was focused on identifying the countries of origin of the companies and their economic sectors: company name, activity sector, e-mail, country.

**RESULTS**

The survey was launched and widely disseminated by all Latin America IPR SME Helpdesk project partners with the active involvement of the three Latin American Contact Points based at Tecnológico de Monterrey; EUROCHILE and Dannemann Siemsen18. The survey was available online via Survey Monkey and accessible from the project website, Social media channels, and also done by phone in some cases. A total of 378 responses have been obtained, where 344 came from Latin American SMEs. The distribution by country can be appreciated in the following graphs:

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18 [www.latinamerica-ipr-helpdesk.eu/content/contact-points](http://www.latinamerica-ipr-helpdesk.eu/content/contact-points)
As foreseen, due to different national contexts, we can appreciate a lower number of participation from some countries, such as Honduras, Guatemala, etc. One of the main reasons is that these countries do not have a public institutional framework to foster the awareness and use of IP as a business tool among SMEs. Another reason is that some of these countries do not have a significant number of SMEs with a business relationship with European SMEs.
The distribution of the responses by economic sector is shown below:

Among the SMEs that disclosed their economic sector (this was an optional field), the main ones were Foods (9%), Software development and ICT (11%), and Chemical industry (10%) and consultancy, with 8%.
STATISTICAL RESULTS BY MODULE

Module 0

91.0% of respondents were Latin American SMEs, thus the following analysis of the results will only consider the answers of that 91.0%.

Figure 17: Is your company an SME?

Yes, 91.0%

No, 9,0%
Module 1 EU - LA link

> Business relationship with European SMEs

Around 60% of LA SMEs surveyed have a commercial relationship with European SMEs.

Table IX: What is your relationship with European SMEs?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary negotiations</td>
<td>22.5%</td>
</tr>
<tr>
<td>Partners in a joint venture</td>
<td>3.1%</td>
</tr>
<tr>
<td>You are the license holder</td>
<td>1.3%</td>
</tr>
<tr>
<td>You are the licensor</td>
<td>1.6%</td>
</tr>
<tr>
<td>You are franchise holder</td>
<td>1.3%</td>
</tr>
<tr>
<td>You are the franchisor</td>
<td>0.3%</td>
</tr>
<tr>
<td>You are the local agent / distributor</td>
<td>10.9%</td>
</tr>
<tr>
<td>They are the local agent / distributor</td>
<td>4.1%</td>
</tr>
<tr>
<td>None</td>
<td>41.6%</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>27.8%</td>
</tr>
</tbody>
</table>

Those Latin American SMEs with no business relationship with European SMEs, but interested in developing one, were also considered in order to enrich the analysis.

> Continent or country where the business relationship with the European SME takes place

SMEs were asked where the business relationship takes place or where they would like to initiate a new one with European SMEs. As expected, this relationship takes place mostly in Latin America (53.5%) followed by both Europe and Latin America (27.8%).

Table X: Where does this relationship take place?

<table>
<thead>
<tr>
<th>Answer options</th>
<th>Response percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Europe</td>
<td>16.0%</td>
</tr>
<tr>
<td>In LatinAmerica</td>
<td>53.5%</td>
</tr>
<tr>
<td>Both in Europe and Latin America</td>
<td>27.8%</td>
</tr>
<tr>
<td>None</td>
<td>2.7%</td>
</tr>
</tbody>
</table>
According to the survey, the main countries where business relationships between Latin America and Europe take place are:

**Table XI: Main countries where business relationships between Latin America and Europe take place**

<table>
<thead>
<tr>
<th>Latin America</th>
<th>Europe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina 25.2%</td>
<td>Spain 58.6%</td>
</tr>
<tr>
<td>Uruguay, Venezuela and Chile 19.4%</td>
<td>Italy 37.9%</td>
</tr>
<tr>
<td>Brasil 12.4%</td>
<td>Germany 27.6%</td>
</tr>
<tr>
<td></td>
<td>Netherlands and Sweden 24.1%</td>
</tr>
</tbody>
</table>

Therefore, most of the Latin American SMEs do not have any business relationship with European SMEs. However, those having business relationships abroad are concentrated in Southern Cone countries (Argentina, Uruguay, Chile and Brazil). This is why the analysis also considers those companies interested in having a business relationship with European SMEs.

It is worth highlighting that there are two groups of countries with different level of IP awareness and use. One would be focused in the Southern Cone, with countries with at least basic levels on IP issues. The second group includes other LA countries where the number of SMEs and the socioeconomic situation are weaker.
Module 2, Knowledge and understanding of the IP system

> Importance and impact of IP in business

When assessing the importance and impact of IP in business, the participating SMEs considered it as "very important" (33.9%) and "quite important" (29.9%). The third choice was "essential", with 24.9%:

These data allow inferring that Latin American SMEs are aware of the importance of IP for business and that this can be a useful tool to improve their benefits.
> Business types where IP is useful

Most of the respondent SMEs believe that IP is useful for any kind of business (59.1%). While the majority of SMEs share this opinion, it is equally worrying the number of SMEs that believe IP is only useful for businesses with a large R&D department (13.6%) or for technology businesses (13.1%).

These results show that although Latin American SMEs consider IP very important for business, they believe it is not useful in all economic sectors and the Latin America IPR SME Helpdesk project can contribute to the reconversion of this misconception via dissemination and training on IP importance as a strategic tool in all sorts of businesses. Such trainings could be sector focused and also tailor made to the specificities and needs of the trainees. This is because IPR issues are different for companies with R&D departments and for creative industries.
> Only large companies produce and protect IPR

This question offers a very similar result if compared with the previous one. When asked if only large companies produce and protect IPR, the majority of the Latin American SMEs answered No (73.6%), but a significant proportion said Yes (26.4%).

**Figure 20:** Do you believe that only large companies produce and protect Intellectual Property Rights?

The results reinforce the idea that the various activities and services of the Latin America IPR SME Helpdesk project could contribute to correct these misconceptions on IP, through dissemination and knowledge transfer for companies of all types and sizes.
Would it be considered an infringement for a European company selling products patented in their country of origin without permission?

With the aim of testing the level of knowledge of Latin American SMEs on IPR, they were asked if the following statement was true or false: "When a company in Europe sells without your permission products you patented only in your country of origin, is it infringing your IPR?" Most of the participating SMEs answered "True" (74.0%), when in fact the statement is "False."

According to the territoriality principle that governs IPRs, the scope of protection of a patent granted only in a Latinamerican country does not extend to any other territory—including a European one—. Hence, the proposed scenario would not imply a patent infringement.

This is a very basic issue, and results obtained clearly indicate a low level of IP knowledge among respondents.

Figure 21: Q10: What do you think of the following statement? "When a company in Europe sells products you patented only in your country of origin (Latin American) without your permission, it is infringing your IPR."

- True, 74.0%
- False, 26.0%
> How to protect the name of a company or new product

When asked how to protect the name of a company or new product, most SMEs answered correctly. The majority answered with "Trademark" (73.7%) but a significant percentage said "Patent" (19.9%). The following table shows the results regarding other options:

**Figure XII: How do you protect the name of a company or new product?**

<table>
<thead>
<tr>
<th>Answer options</th>
<th>Response percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trademark</td>
<td>73.7%</td>
</tr>
<tr>
<td>Patent</td>
<td>19.9%</td>
</tr>
<tr>
<td>Copyright</td>
<td>2.9%</td>
</tr>
<tr>
<td>Design</td>
<td>0.6%</td>
</tr>
<tr>
<td>Trade Secret</td>
<td>0.6%</td>
</tr>
<tr>
<td>Cannot be protected</td>
<td>1.8%</td>
</tr>
</tbody>
</table>

This result reaffirms the conclusions from the previous question. Having no or low level of knowledge of IP could jeopardize the success of a company or a business relationship with European SMEs. Therefore, targeted training actions are crucial to bridge this knowledge gap.
> Might advertising an invention endanger its future patenting?

When asked whether advertising their invention on a magazine/blog/event might endanger its future registration as a patent, most SMEs chose a wrong answer option: "Yes, it does" (35.1%). However, a considerable percentage chose the right one, which is "It depends on where it is published and when it is registered", 26.3%; a 19.9% chose "I do not know", and 17% answered "No, not at all". These figures are both important and troubling, since they lead to a majority of wrong responses.

<table>
<thead>
<tr>
<th>Answer options</th>
<th>Response percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, it does</td>
<td>35.1%</td>
</tr>
<tr>
<td>It depends on where it is published and when it is</td>
<td>26.3%</td>
</tr>
<tr>
<td>registered</td>
<td></td>
</tr>
<tr>
<td>No, it reinforces the application</td>
<td>2.3%</td>
</tr>
<tr>
<td>No, not at all</td>
<td>16.4%</td>
</tr>
<tr>
<td>I do not know</td>
<td>19.9%</td>
</tr>
</tbody>
</table>

These figures show that although SMEs do not use IPR they know general issues regarding patenting. Whichever the case, the percentage that answered "I do not know" is considerable, representing a significant gap to cover through dissemination and knowledge transfer activities for SMEs in the frame of the Latin America IPR SME Helpdesk project.
> Is it necessary to register IPR to prevent being copied or imitated?

Finally, this module asked the respondents whether it would be necessary to register their IPR to prevent being copied or imitated. Most SMEs responded "Yes, always" (68.9%), while 24.9% chose "Yes, but not always."

Figure 22: Q13: Is it necessary to register your IPR to prevent being copied/imitated?

This might be one of the questions that tests the most the real experience of the Latinamerican SMEs. Any company that had registered and enforced IPRs would have known that:

1) Not every IP Right must be registered to be enforceable (eg: copyrights)

2) A granted IPR is just a tool. It must be enforced against infringers by adopting the corresponding legal actions in order to stop the IP violation. A non-contentious agreement, or a court decision would –under normal conditions- deter the infringer from committing the same offence again. However, new offences could take place and a proactive, as consequence well-designed IP enforcement strategy is essential.

Again, a low IP knowledge level is shown.

Every shortcoming or weakness detected in this module of the survey can be addressed through dissemination and training (including best practices, with real cases applicable to the reality of Latin American SMEs).
Module 3, Use of IP mechanisms and knowledge and use of IP information tools and support

> Does your company deal with IPR?

The first question of this module asks whether the SME deals with IPR (registered or in the process). Most companies answered “Yes, my own” (58.1%), “Yes, from third parties” (9.6%) and “No” (32.3%).

Figure 23: Q14: Do you deal with IPR (registered or in the process)?
> What IPR do you work with?

Most of the companies dealing with IPR answered “Trademark” (85.7%), the rest of the answers were distributed as follows: “Patents” (49.1%), “Copyright” (21.4%), “Designs” (20.5%), “Software” (12.5%) and “Databases” (5.4%).

From the data shown in the graphs above, we can deduce that LA SMEs are not aware on the fact they are working with IPR or their IPR protection strategy is weak. The IP tool that is more widely used by SMEs is trademark. This might be due to the fact that it is the easiest IP right to obtain and with the most visible and direct benefits. Of special interest is the low percentage of Copyright, Database and Software when the use of software is common at present.
> Measures used to protect their IPR

SMEs were also asked what IPR protection measures they use when negotiating with other companies. Most answered that they sign a "Confidentiality agreement" (62.4%), "Registering the IPR involved" (24.2%), "None" (20%), "Keep their IP assets a secret (unregistered)" (8.5%), "Sharing no significant aspects" (6.1%).

**Table XIV: Q16:** When negotiating with another company, which of the following measures would you use to protect your IPR?

<table>
<thead>
<tr>
<th>Answer options</th>
<th>Response percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signing of a confidentiality agreement</td>
<td>62.4%</td>
</tr>
<tr>
<td>Registering the IPR involved</td>
<td>24.2%</td>
</tr>
<tr>
<td>Sharing no significant aspects</td>
<td>6.1%</td>
</tr>
<tr>
<td>Keep their IP assets a secret (unregistered)</td>
<td>8.5%</td>
</tr>
<tr>
<td>None</td>
<td>20.0%</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>0.6%</td>
</tr>
</tbody>
</table>
> When do you take such measures?

Considering the results of the previous question, Latin American SMEs tend to take protective measures "Prior to negotiating" (43%), others "During the negotiation" (20.6%), a significant percentage answered "Never" (17.0%) and "At the initial stages of the negotiation" (18.8%).

Table XV: Q17: When do you take such measures?

<table>
<thead>
<tr>
<th>Answer options</th>
<th>Response percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to negotiating</td>
<td>43.0%</td>
</tr>
<tr>
<td>At the initial stages of the negotiation</td>
<td>18.8%</td>
</tr>
<tr>
<td>During the negotiation</td>
<td>20.6%</td>
</tr>
<tr>
<td>When problems arise</td>
<td>0.6%</td>
</tr>
<tr>
<td>Never</td>
<td>17.0%</td>
</tr>
</tbody>
</table>

According to the results obtained, the majority of SMEs take protective measures before negotiating with another company. However a significant number of SMEs never takes them or does it during the negotiation, which poses a risk. This demonstrates that LA SMEs do not understand which IPR strategy mechanisms are available or how to use them; therefore again training actions would be crucial to provide SMEs the knowledge they need on IP.
Before launching a new product, do you perform a search to check if there is something similar or identical? Where do you perform the search?

When launching a new product, most of the participant Latin American SMEs answered "Yes", they do a search for similar or identical products (89.6%). However, they use ineffective or even unreliable information sources, as shown in the following figure:

Figure 25: Q19: Where do you perform the search?

This result highlights the relevance of providing Latin American SMEs with appropriate capabilities and tools to manage their own IPR. Firstly, SMEs should know what IP assets they have and be able to sort them into different IP categories. Then, conduct a search on reliable and effective sources to check if there is something identical or similar. Disseminating information on websites and the way to access them in each country plays a significant role.
How do you register your IPR?

The majority of the respondents said they "Delegate this task to external legal services" (43.2%), followed by "Register them yourself" (25.9%). 19.8% said "A mix of both options" and 14.2% said "Do not register IPR". The following chart shows this information:

<table>
<thead>
<tr>
<th>Answer options</th>
<th>Response percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Register them yourself</td>
<td>25.9%</td>
</tr>
<tr>
<td>Delegate this task to external legal services</td>
<td>43.2%</td>
</tr>
<tr>
<td>A mix of both options</td>
<td>19.8%</td>
</tr>
<tr>
<td>The European company does it</td>
<td>1.2%</td>
</tr>
<tr>
<td>Do not register IPR</td>
<td>14.2%</td>
</tr>
</tbody>
</table>

These results show that SMEs that register IPR usually employ external legal advice because of their lack of knowledge of the corresponding procedures. A significant proportion mixes external legal assistance and their own efforts, which could be explained by the cost of outsourcing this task to external legal services.

It is noteworthy that 25.6% said they register their IPR themselves. We believe this is the case for trademarks, since it is the easiest process. For others, it is expected for them to ask for legal assistance that in some cases is mandatory.

Considering the above, as stated before, the provision of capabilities and tools to SMEs to manage their IPR themselves is crucial and will allow them to save time and money throughout the process. For example, conducting trainings on the best ways of managing IPR for different economic sub-sectors and products with real cases.
Why do you register your IPR like that?

The results of this question reinforce what was stated before. The majority replied they do it “To simplify the process” (38.8%), followed by “Lack of knowledge on the registration system” (29.4%). Then, to “Save money” (25.6%), to “Save time” (20.0%), “Control the registration process” (18.1%) and finally, by “Legal/contractual obligation”.

Figure 26: Q21: For what reason?

- Other (please specify): 5.6%
- Legal obligation / contractual: 0.4%
- Control the reg. Process: 18.1%
- Lack of knowledge of the reg. System: 29.4%
- Simplify the process: 38.8%
- Save time: 20.0%
- Save money: 25.6%
> Do you believe it is essential to have legal advice to protect and manage your IP?

Respondents answered "Yes, always". 47.5% believe it is essential to have legal advice to protect and manage their IP. 35.6% said "Usually, yes"; 9.4% "Sometimes" and 7.5% "no".

**Figure 27: Q22: Do you believe legal advice is essential to protect and manage your IP?**

We can deduce that although legal advice is costly for SMEs, they do think it is important because the IPR registration and management system is complex for them to understand and to apply. Therefore the advice of an IPR professional is crucial. In this context, the first-line assistance provided by the LA IPR SME Helpdesk can be seen as the most adequate response to the above-mentioned needs of SMEs.
> Proportion of legal expenses derived from IP protection and defense

When asked what percentage of their legal expenses derives from IP protection and defense, most SMEs answered "Less than 3%" (79.7%), "Between 4% and 10%" (17.1%), between "11 and 25%" (0.6%). Only 1.9% said between "26-50%" and 0.6% "over 50%".

Figure 28: Q23 What percentage of your legal expenses derives from IP protection and defense?

Results confirm a previous conclusion, that Latin American SMEs do not use or apply the IPR system to their businesses, although they think it is important. They are aware it may benefit their business but is not a priority for the company. This is reflected by the proportion of legal expenses devoted to IP protection and defense.
> Costs related to registration that hinder the protection of IP

To deepen the conclusions of the previous question, SMEs were asked about the costs related to registration that hinder protecting their IP. The majority replied that “Legal counselling” is a hindrance (45.2%). It is followed by “None” (41.4%), “Official rates of IPOs” (34.4%) and “Document translation and others” (22.3%).

Figure 29: Q24: What are the costs related to registration that hinder the protection of your IP?

The biggest barrier of counseling, can be overcome by the assistance offered by the Latin America IPR SME Helpdesk Helpline and also the content materials created by the project with a jargon free language and a sector focused approach.
Conflicts derived from third parties’ IPR infringement and how they are solved

When asked whether they have had any disputes arising from infringement of third parties’ IPR, 87.2% of the respondents said “No”. From the remaining 12.8% who said “Yes”, 30% of SMEs said it was solved by a “Trial”, 35% answered “No legal action was taken”, and 35.0% said it was solved through an “Amicable settlement”.

These results confirm that there is a lack of balance between IP awareness as a business tool and its effective use. As consequence, Latin American SMEs are not involved in enforcement actions. Basic level trainings offered by the Helpdesk and the use of IP focused materials would be a key support to contribute bridging this gap.
Preferred means to increase knowledge on IP and its potential as a business tool

The last question of the survey seeks to understand Latin American SMEs’ preferences on how they would like to increase their knowledge about IP and its potential as a valuable business tool. The following table shows that 60.9% of the participants preferred “Online workshops”, 60.9% marked “Updates on practices and tips via e-mail”, and 47.4% said “Free learning documents”.

Table XVII: Q27: How would you like to increase your knowledge on IP and its potential as a business tool?

<table>
<thead>
<tr>
<th>Answer options</th>
<th>Response percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Face-to-face workshops</td>
<td>30.1%</td>
</tr>
<tr>
<td>Webinars</td>
<td>60.9%</td>
</tr>
<tr>
<td>Free content documents</td>
<td>47.4%</td>
</tr>
<tr>
<td>Expert advice</td>
<td>36.5%</td>
</tr>
<tr>
<td>Updates on practices and tips via email</td>
<td>60.9%</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>4.5%</td>
</tr>
</tbody>
</table>

We can conclude that most Latin American SMEs have preference for online formats (email or online workshops). Therefore, tools such as Webinars could be used for dissemination and transfer of knowledge and good practices, given the fact that they also allow an interaction among participants/speaker. One of the key features of a Webinar is its interactivity: the ability to provide, receive and analyze information in real time, allowing SMEs to learn and be informed, saving time.
Appendix II/ Interviews to relevant actors

Secondary information:
Interviews to relevant institutions related with IPR and SMEs

The interviews are part of phase 2 of the methodology. These data, together with the opinions of the pool of external IP experts will complement the results gathered by the survey.

Representatives from Latin American and European institutions were selected and interviewed, with the following questions guiding each interview:

- According to your experience and knowledge, what is your perception on the level of knowledge and use of IPR on Latin American SMEs? Why?
- According to your experience and knowledge, do you think Latin American SMEs know or are aware of the importance and benefits of IPR applied to their businesses? Why?
- Do you believe SMEs have the knowledge and tools needed to perform the administrative and operational management of IP? Why?
- What actions could be taken to improve each of the AIDA concepts?

The institutions interviewed were the following:
OEPM - Spanish Patent and Trademark Office, Spain (www.oepme.es)

The OEPM is an autonomous agency of the Spanish Ministry of Industry, Energy and Tourism that fosters and supports technological and economic development by providing legal protection to the different types of industrial property. It grants patents and utility models (inventions); industrial designs (from creations); commercial brands and names (distinctive signs), and titles to protect topographies of semiconducting products. In addition, it diffuses information regarding the different forms of industrial property protection. On an international scale, OEPM represents Spain in different forums and international organizations in charge of intellectual and industrial property. OEPM manages CIBEPYME\(^{19}\), a support platform for Iberoamerican SMEs that want to internationalize their business in the region. The interview was conducted with the Dissemination, Communication and Company Relations Area of the OEPM.

UIA - Argentinian Industrial Union (www.uia.org.ar)

UIA is a nonprofit, civil business union, which represents the industrial activity of the country, federal and sectorial. Its mission is to represent the Argentinian industry along with its local and sectorial entities in order to promote socioeconomic and territorial development. This is done through proposals that consistently improve the competitiveness, technological development and added value of the sector, the strengthening of the internal market and the international integration of its industry. Its departments of Education, Science and Technology, Legislation and its Studies Center, provide information, studies, advice, etc. to companies and public agencies about IP. The interview was conducted with its Studies Center.

CNI - Brazilian Confederation of Industry (http://www.portaldaindustria.com.br/cni/)

CNI is the body representing the Brazilian industry. It is the supreme body of the joint system of businesspersons in the industry. Since its foundation in 1938, it defends the interests of the domestic industry and works with the Executive, Legislative and Judicial powers, as well as several Brazilian and foreign institutions. It represents 27 industrial federations and 1250 unions, affiliated to almost 700,000 industries. An interesting fact is that CNI is part of the Enterprise Europe Network (EEN), a European Commission network that helps SMEs improve their competitiveness. The interview was conducted with the Executive Department of Industrial Policy, more specifically, the area of Intellectual Property.

\(^{19}\)www.cibepyme.com
Property and Bio-Economy. It promotes the use of IPR and trains companies on its use through programs and projects.

- **INAPI – National Industrial Property Institute, Chile (www.inapi.cl)**

INAPI is the agency in charge of managing and providing industrial property services in Chile. It promotes the protection offered by industrial property and diffuses the available technological knowledge and information. It also contributes to the Chilean Government innovation strategy, generating efficient systems for the use and protection of industrial property rights, promoting innovation, entrepreneurship and knowledge transfer to the community. In addition, INAPI is part of the consortium implementing the project *Latin America Intellectual Property Rights SME Helpdesk*. The interview was done with INAPI’s Knowledge Transfer Department.

- **UAI - Universidad Adolfo Ibanez, Chile (www.uai.cl)**

UAI is a non-profit academic community that emerged from the Business School of the Valparaiso Region, Chile. The interview was conducted at the Projects and Intellectual Property Office (OPIP), which is part of UAI+D, UAI’s area for project managing, intellectual property and technology transfer. OPIP assists the university community in identifying, valuing, protecting and eventually commercializing the results of their research projects, and the creation of inventions or works, encouraging their transfer to the public and private production sector. ²⁰

- **PUC - Pontificia Universidad Catolica de Chile (www.uc.cl)**

Education and research at doctorate level are the pillars of the university’s academic activity. The Research Vice-rectory (VRI) is in charge of guiding and implementing policies on research, doctorate; and of the school for Doctorate, Arts and Culture programs, Transfer and Innovation. The VRI belongs to the department of Intellectual Property, which took part in this interview.

²⁰[www.opip.uai.cl](http://www.opip.uai.cl)
CNC - Chilean Chamber of Commerce, Services and Tourism (www.cnc.cl)

CNC’s objective is to lead the development of its associates through union management. Currently, it is composed of 20 territorial chambers of commerce from Arica to Magallanes, 23 specialized associations, 18 bi-national chambers of commerce, and 18 partner companies, representing over 5,800 companies all over the country. Regarding IP, CNC’s Union Department addresses the issue by informing their partners and training them from two perspectives: protecting their own IP and respecting third parties’ Intellectual Property Rights as well as the relevant regulations and laws (e.g., black market and piracy). The interview was conducted with the Union Department.

Carey - Law firm, Chile (www.carey.cl)

Carey is the largest law firm in Chile, with over 200 professionals in its legal area. It is considered one of the leading law firms in Latin America. It provides a full range of legal services, with highly specialized lawyers in all areas of the Law. One of their areas of expertise is Intellectual Property and Information Technologies. It leads the Chilean market on Intellectual Property issues, with a portfolio that includes over 5,000 patents and 27,000 trademarks. The interview was conducted at the Intellectual Property and Information Technology Area.

Innovation Division, Ministry of Economy, Development and Tourism, Chile (www.minecon.cl)

The Innovation Division states that innovation is an essential tool for Chile’s development. There is no way to grow sustainably without relying on innovation and the development and incorporation of new knowledge to the country’s activity. This division is in charge of INAPI. The mission and objectives of this division are funding innovation fostering tools by managing and monitoring the resources of the Competitiveness Innovation Fund and the Innovation National Strategy; gathering information for understanding innovation policies; monitoring and assessing the instruments implemented by the agencies according to their funding sources and securing its effectiveness. It coordinates their design, and their consistency inter and intra-institutionally. In addition, it disseminates and socializes innovation as a necessary value, highlighting its importance and impact for the country’s competitiveness, and it measures the perceptions of different. The interview was conducted with the area coordinating Technology Transfer.
**BRIDEPI - Investigating Squad on Intellectual Property Crimes - Chilean Investigation Police (PDI)**

BRIDEPI is a unit of the National Authority for Economic Crimes. It deals with cases related to Law 17336 on Intellectual Property and Law 19039 on Industrial Property in Chile, as well as the requirements set out on free trade agreements and other decrees that deal with both laws, which are primarily aimed at protecting consumers who are defrauded with counterfeit goods. It also performs educational tasks when required by schools. This squad, unique in Latin America, allows Chile to have a permanent unit specialized in these crimes in order to make police work more dynamic, efficient and effective. The interview was conducted with this unit.

**PUCV - Pontificia Universidad Catolica de Valparaiso, Chile (www.pucv.cl)**

PUCV is a heterogeneous institution. Through its nine faculties, it covers a wide range of areas of knowledge, from Arts and Humanities to Engineering, including Basic Sciences, Education and Theological Studies. The Vice-rectory for Research and Advanced Studies controls the Transfer and Licensing Office²¹ (OTL) that aims to promote the transfer of scientific knowledge from the university to the society, offering advice on IP issues, among other services. The interview was conducted with this unit.

**CORFO - Chilean Production Development Corporation (www.corfo.cl)**

CORFO’s Department of Technological Capabilities Development aims at promoting individual or associative business innovation, collaborating with technological and university entities thanks to the design and management of programs, instruments and actions to support projects, or the generation of capabilities within companies. Additionally, it develops actions to promote innovation practices and culture in companies. The interview was conducted with the Area of Technological Transfer that transfers knowledge and creates businesses based on technologies from R+D activities.

²¹ www.otlpucv.cl
Universidad EAFIT - School of Management, Finance and Technology, Colombia (http://www.eafit.edu.co/)

The mission of EAFIT is to contribute to Colombia's social, economic, scientific and cultural development, through undergraduate and postgraduate programs in an environment of ideological pluralism and academic excellence with a view to form internationally competent people; with scientific and applied research processes in permanent interaction with the business, governmental and academic sectors. The area of Contracts and Agreements, along with the Center for Innovation, Consulting and Entrepreneurship (CICE) and the Research Directorate are working on Intellectual Property within the university. They advise and train faculty members, students and any public, supporting companies in these processes. The interview was conducted with the Area of Contracts and Agreements of EAFIT.

UP - Universidad Panamericana, Mexico (www.up.edu.mx)

UP promotes business links in order to create technological development and specialized training of human capital. Requests related to intellectual property protection, patents, utility models, industrial designs, trademarks and copyright are managed by the Intellectual Property Department of the Linking Office, based on the applicable procedure considering an analysis of business potential. The interview was conducted with the area of Intellectual Property, Copyright, and New Technologies of the Law Faculty.

CREEL - CREEL, GARCIA-CUELLAR, AIZA Y ENRIQUEZ, Mexico (www.creel.mx)

CREEL is a law firm that provides integral legal advice. Its reputation is based on the timely delivery of specialized legal services and its commitment to excellence. Its practice is based on the philosophy of offering the client legal advice designed to prevent legal problems, rather than react to them. The interview was conducted with one of its lawyers.

http://www.eafit.edu.co/cice/Paginas/inicio.aspx
UTP - Universidad Tecnologica de Panama (http://www.utp.ac.pa/)

UTP’s mission is to provide society with integral human capital, qualified, enterprising and innovative, with critical thinking, and socially responsible in Engineering, Science and Technology. In addition, it aims to generate appropriate knowledge contributing to a sustainable development of the country and Latin America and to address the needs of the environment. The Direction of Management and Knowledge Transfer, the Vice-rectory of Research, Graduate Studies and Extracurricular activities, has a unit in charge of Intellectual Property, which must identify, value and coordinate IPR registry, in order to create a permanent exchange of intellectual property assets and all those internal or external goods and services, backed by the competent authority of the UTP. The interview was conducted with this unit.

CIR – National Registry Center, El Salvador

CIR is responsible for ensuring the principles of publicity, legality and legal certainty to the records on estate and mortgages, commerce, intellectual property, security interests and land registry through a modern, transparent, self-sustainable management, and committed to a quality economic and social development of El Salvador. It depends from the Ministry of Economy of El Salvador. The interview was conducted at the Area of Land Registry and Mortgages.

CIU - Uruguayan Chamber of Industry (www.ciu.com.uy)

CIU is the business organization representing Uruguay’s industrial sector. Its objective is to promote the interests of the domestic industry, protect its rights and to foster Uruguay’s industrial development. Its Department of Industrial Innovation and Entrepreneurship (DIIE), along with its Technology Management Center (CEGE23), provide services and advice to companies through different programs and projects. The interview was conducted with this department.

CONCLUSIONS OF THE INTERVIEWS

The interviews were guided to answer four questions regarding IPR and their link with SMEs. The following summarizes the general conclusions for each question:

> Perception about IPR knowledge level and use by Latin American SMEs

- The level of knowledge is very low, even if it has been rising over the past three to five years due to the implementation of policies focused on making this knowledge available to companies. Previously, it only existed for inventors and researchers working at research centers mainly linked to universities.

- The growth of this type of knowledge has been uneven. That is to say, Latin American SMEs know some topics better than others. For example, the trademark process is better known because it is more used and simpler than the process to register patents.

- In addition, SMEs still consider IP as a sophisticated issue, too "intellectual or academic" for them. In many cases, they do not have enough human resources to apply IP as a business strategy. They do not know how to do it.

- Latin American SMEs from more competitive sectors are forced to innovate; therefore, they know and apply IP in their businesses. We can deduce that there is a gap in the level of knowledge and use of IPR within different types of Latin American SMEs.

- SMEs do not master the technological language and as a result they get discouraged by the legal jargon.
Perception regarding the awareness level on the importance and benefits of IPR for SMEs

- The level of awareness has been increasing over the past three to five years. For instance, the number of SMEs that take part in workshops or training programs has increased considerably.

- Despite this increase in the awareness level during recent years, there is a lack of culture about IP respect and protection, though there are public efforts to promote it.

- There is a gap in the awareness level between SMEs from different sectors. SMEs from competitive and innovative sectors increasingly understand IP as part of a protection strategy, as a means to an end and not an end on itself. Their awareness on the fact that IP can add value to their products is increasing.

- Nevertheless, most SMEs do not trust the benefits of IP systems. For example, they feel that processes are too long and do not prevent others from copying their products. Therefore, they do not use IP as a tool to increase their advantages, e.g., to negotiate with foreign companies.

- Latin American SMEs are more reactive than proactive regarding the usage of IPR. They take an interest when they encounter a problem, but it is often too late to protect their IP.

- It is concluded that there is a significative level of awareness and interest; however SMEs do not know how to apply IP in their business. They do not know the costs and many believe it is more expensive and complex than it really is. Since they do not know its benefits, investing in IP is not a priority and therefore it is not reflected in their strategies or budgets.
> Perception on the level of knowledge and tools available for SMEs in order to take charge of their own IP administrative and operational management

- The Latin American market is getting increasingly sophisticated about IP; however the gap with more developed countries still exists.

- Even when SMEs have been expanding their knowledge and awareness regarding IPR, they do not take full advantage of it for their businesses. They mainly request to register trademarks. Patents are less demanded, due to two factors: the low level of innovation among Latin American SMEs and the absence of capabilities and tools to use IPR.

- The existing legal and institutional framework on IP in Latin American countries works; there are international agreements on IP issues that allow determining how it is applied in each country. The problem seems to be the complexity in understanding how this system works, even more if it is not used because it must be applied case by case.

- There is inequality among Latin American countries regarding IP. There are countries where SMEs have more knowledge; there are more and better-implemented public policies, subsidies, and institutions that advise SMEs.

- There are easily available tools, some free of charge, such as search engines from technology transfer offices, and institutions to guide or help Latin American SMEs, such as national institutes of IP, but SMEs do not know them or do not know how to use them.

- Most Latin American SMEs do not have the tools, knowledge and capabilities to perform the administrative and operational management of their own IPR.
> Actions that could be carried out to enhance knowledge, protection, management and use of IPR

- To connect Latin American SMEs with networks, business groups, universities, technological centers, etc., and help them actively participating in these networks. These networks allow SMEs to see real results or powerful examples of cases that might make them more interested in IP.
- To generate alliances with universities, technological transfer centres, licensing offices, law firms and commerce chambers in order to disseminate and transfer knowledge and information to Latin American SMEs.
- To help SMEs adjust their innovation management system to integrate IPR as part of their strategies. This is because the IPR system is usually not compatible with the daily management of an SME.
- To deepen the work with Latin American SMEs. Interventions should be deeper and more comprehensive than just a workshop or seminar. SMEs should get advice and customized support in order to grasp IP.
- To create IP handbooks for Latin American SMEs. Many times, SMEs feel the system is not aimed at them.
- To train those who must deliver or share knowledge, good practices, etc. to companies. Often there is no adequate knowledge transfer.
- To create opportunities of knowledge transfer and low-cost training for SMEs.
- To train SMEs on:
  - Existing tools for administrative and operational management of IP, so that they can start working on the registry and protection process before formally starting it. This would save time and money.
  - How to use IP as a business strategy; its benefits, incentives, and the potential costs of not using them, showing real, applicable examples for their economic sector and business; using a language adapted for SMEs, starting with the basics. For example, testimonials could be a great means to show cases.
  - How to identify and sort their IP assets.
Appendix III/
Latin America IPR SME HD experts’ interviews

With the aim of complementing the responses obtained in the survey, and to compensate the low response level in some countries, a short questionnaire was prepared aimed at IP experts who collaborate with the LA IPR SME HD. The answers received can be found below:

EXPERT QUESTIONNAIRES
“IP Needs of Latin American SMEs”

> Questionnaire 1

NAME OF EXPERT: Ana VinkaDerpic Burgos

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Bolivia

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential
3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

4. Which of the following statements best adjusts to the reality of the level of IP knowledge of SMEs in the country?
   
   a. The level of knowledge is very limited or almost non-existent.
   b. **There is a very reduced level of knowledge, limited to basic matters.**
   c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs’ intangible assets.
   d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.
   e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:

   *The challenges listed are based on Bolivian SMEs.
   
   a. Lack of specialised training, which affects the vision SMEs have on IPR. SMEs in Bolivia are small nuclei and the person who manages them usually does a bit of everything (known as a “do it all”). This generates future weaknesses that are reflected in the low level of incursions into the world of IP.
   b. The lack of information and knowledge on the rights that are a result of their activities — which are often related to IP — makes SMEs not place a priority on protection of what is generated in this field, often the registrations are done as a result of international requirements. There are SMEs that could drive the recognition of Appellation of Origin, for example, but they don’t because as I commented, there is a strong lack of strategic vision in this sense.
   c. Despite the fact that the State has programmes to incentivise the registration of SMEs’ trademarks (discount on the registration fee for SMEs registered in Bolivia), there is a lot of disinformation, and although the number of this type of requests has increased, it is not very relevant. To note, this aspect is weighed down a lot by the bureaucracy, a common practice in Bolivia that discourages searching for information from any type of public entity.
Questionnaire 2

NAME OF EXPERT: Silvia Salazar Fallas

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Costa Rica

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None  
   b. Little  
   c. Some  
   d. A lot  
   e. Essential

3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   a. None  
   b. Little  
   c. Some  
   d. A lot  
   e. Essential

4. Which of the following statements best adjusts to the reality of the level of IP knowledge of SMEs in the country?
   a. The level of knowledge is very limited or almost non-existent.  
   b. There is a very reduced level of knowledge, limited to basic matters.  
   c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs’ intangible assets.  
   d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.  
   e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:
   a. The market is very small and the SMEs don’t generate sufficiently to invest in creativity and research and development.  
   b. There is very little knowledge or even motivation to learn more about IP. When you organise a course, even if it is free, they do not attend. The day to day eats at them, there is no planning and they believe they “don’t have time for courses” or simply don’t think these will benefit them. In my experience once they’ve participated it’s as if their eyes were opened and they see the importance and the opportunities, but this first step is very difficult for them.  
   c. There aren’t many incentives or a public policy that motivates to use IP.
> Questionnaire 3

NAME OF EXPERT: Eli Salis

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Argentina

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

4. Which of the following statements best adjusts to the reality of the level of IP knowledge of SMEs in the country?
   a. The level of knowledge is very limited or almost non-existent.
   b. There is a very reduced level of knowledge, limited to basic matters.
   c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs' intangible assets.
   d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.
   e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:
   A) Lack of governmental policy to promote IP.
   B) Costly procedures and big delays in the obtaining of IP rights.
   C) Perception that IP rights do not deserve to be respected and that copies are something normal.
> Questionnaire 4

NAME OF EXPERT: Eli Salis

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Brasil

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

4. Cuál de las siguientes afirmaciones se ajusta más a la realidad del nivel de conocimiento de la PI de PYMEs en el país.
   a. The level of knowledge is very limited or almost non-existent.
   b. There is a very reduced level of knowledge, limited to basic matters.
   c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs' intangible assets.
   d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.
   e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:
   A) Unacceptable delays to obtain the concession of a trademark or patent by INPI.
   B) Inefficiency by INPI when it comes to solving the backlog that has been produced in the Office for more than 10 years.
   C) Perception that IP rights do not deserve to be respected and that copies are something normal.
> Questionnaire 5

NAME OF EXPERT: Eli Salis

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Mexico

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None
   b. Little
   c. Some
d. A lot
e. Essential

3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   a. None
   b. Little
c. Some
d. A lot
e. Essential

4. Which of the following statements best adjusts to the reality of the level of IP knowledge of SMEs in the country?
   a. The level of knowledge is very limited or almost non-existent.
   b. There is a very reduced level of knowledge, limited to basic matters.
c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs’ intangible assets.
d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.
e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:

   A) Perception that IP rights do not deserve to be respected and that copies are something normal.
   B) Lack of laws that complement the protection of IP, for example unfair competition.
   C) Lack of a system for oppositions in the field of trademarks
> Questionnaire 6

NAME OF EXPERT: Eduardo Ernesto Barzola Córdova

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Perú

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

4. Which of the following statements best adjusts to the reality of the level of IP knowledge of SMEs in the country?
   a. The level of knowledge is very limited or almost non-existent.
   b. There is a very reduced level of knowledge, limited to basic matters.
   c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs’ intangible assets.
   d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.
   e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:

   The first problem that the IP system in Peru is facing is the lack of awareness of the system itself. This means that SMEs do not take advantage of the added value given by the use of IP rights, limiting their activity to commercialisation of tangible assets or delivery of specific services.

   In addition, a regular infringement of others’ IP rights is being generated, in which members of certain sectors conceive it to be a normal and non-sanctionable practice to use third parties’ rights in their own commercial goods or activities, without the appropriate consent.
Another major challenge is the low capacity to enforce IP rights, due to the lack of human and financial resources available to the administrative and judiciary institutions responsible, preventing thus the proper carrying out of the necessary actions, to prevent the infringement of IP rights.

Finally, the informality of the national Peruvian market results in Peruvian SMEs avoiding incurring expenses, including the registration and generation of IP rights, limiting themselves to the use of free access elements, including protected third party ownership elements, as indicated above. Furthermore, this informality results in a lack of innovation platforms, and while businesses don’t generate IP assets, universities, including the almost non-existent research centres, don’t find any incentive to develop knowledge that could be used by businesses either.
> Questionnaire 7

NAME OF EXPERT: Patricia Covarrubia

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Colombia

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

4. Which of the following statements best adjusts to the reality of the level of IP knowledge of SMEs in the country?
   a. The level of knowledge is very limited or almost non-existent.
   b. There is a very reduced level of knowledge, limited to basic matters.
   c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs’ intangible assets.
   d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.
   e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:
   - In most cases IP is only based on procedural rules.
   - There aren’t just challenges in matters of research and innovation, there is also a lack of guides in matters of protection and exploitation of knowledge.
   - There is a need of training, awareness and application of the existing normativity – not just applicable to trans-national businesses or big businesses, but to all in equal measure.
> Questionnaire 8

NAME OF EXPERT: Patricia Covarrubia

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Perú

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

4. Which of the following statements best adjusts to the reality of the level of IP knowledge of SMEs in the country?
   a. The level of knowledge is very limited or almost non-existent.
   b. **There is a very reduced level of knowledge, limited to basic matters.**
   c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs’ intangible assets.
   d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.
   e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:
   - Deficient application of the normative.
   - Lack of programmes financing research and development activities.
   - Delays in the applications managed by INDECOPI.
Questionnaire 9

NAME OF EXPERT: AURELIO LOPEZ-TARRUELLA MARTINEZ

1. Latin American country of reference: (if more than one, please complete as many questionnaires as countries)
   Perú

2. According to your view, what is the level of theoretical importance given to IP by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

3. According to your view, what is the level of importance given to IP in practice by SMEs in the country?
   a. None
   b. Little
   c. Some
   d. A lot
   e. Essential

4. Which of the following statements best adjusts to the reality of the level of IP knowledge of SMEs in the country?
   a. The level of knowledge is very limited or almost non-existent.
   b. There is a very reduced level of knowledge, limited to basic matters.
   c. The level of theoretical knowledge is acceptable but there are deficiencies observed when it comes to using IP tools to protect the SMEs’ intangible assets.
   d. The level of knowledge is relatively high; SMEs use it and register IPRs to protect their intangible assets.
   e. The level of knowledge is high, IP is a strategic component of the business. It is exploited via complex contracts such as licences, franchises or technology transfer.

5. Please detail, from your point of view, what are the main three challenges related to IP to which SMEs in the country are confronted:
   - Lack of IP culture, which implies a lack of knowledge of the tools available for their businesses and a lack of resources for them.
   - Lack of awareness on the importance of IP in certain public authorities.
   - Piracy is not seen as a problem by society, a circumstance which results in it being very widespread in certain sectors such as music or audiovisual.