





Intellectual Property (IP) in the context of ICT Industry



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ADVOCATES AND SOLICITORS

A Plan is Hatched

- Gan Joget Adi founded GJA Sdn Bhd (“GJA”), a successful software developer based in Bayan Lepas
- Everyone knows about Gan’s pride and passion for his software 
- This software was created by employees of GJA but GJA outsourced the preparation of software manuals and marketing materials to Gu Jug Ai Sdn Bhd, GJA’s related entity
- Gan is too focused on business development to care much about IP protection
- Mewah, an employee & Fiz, a freelancer resigned and established Gaya Juga Ada Sdn Bhd in Sg Ara. They took the source code, manuals, customer lists and other confidential info
- Gaya Juga Ada’s software  is almost an exact copy of GJA. Same goes for the manuals and marketing materials while some others were created based on the underlying concepts and ideas gathered when working with GJA

The saga continues..

- Based on their intimate knowledge of GJ's financial data, profit margin and other competitive intelligence, they were able to lure GJA's clients by offering competitive prices
- GJA lost several blue chip customers to Gaya Juga Ada
- Gaja Juga Ada immediately sought registration for the series marks  and "GJA" (block letters) under Reg No. 20101234 and the slogan "We are passionate about your dreams" under Reg No. 20101235 with MyIPO for software (Class 9), printed matters (Class 16) and software development services (Class 42)
- Gaja Juga Ada quickly made a statutory declaration declaring that it owns the copyright in the software 



Pointers for discussions

- Should GJA sit back and do nothing?
- Should GJA simply call Mewah and Fiz to beg them to stop stealing his IPR?
- Or GJA should immediately call Mewah, Fiz and every person ever related to Gaja Juga Ada over the phone and threaten legal actions (apart from shouting &%\$*#@)?

Pointers for discussions

- To start by conducting thorough assessment of strength of case, records available
- Evidence gathering exercise
- What are the causes of action available?
 - Infringement of trade marks?
 - Passing off?
 - Copyright infringement?
 - Breach of confidential information?
 - Breach of contract?
- Who should sue?
 - GJA Sdn Bhd, Gu Jug Ai Sdn Bhd?
- Who should be sued?
 - Gaya Juga Ada Sdn Bhd, Mewah or Fiz or all of them?
- Options and recommended actions?
 - C&D letter?
 - Civil action?
 - Criminal sanctions?





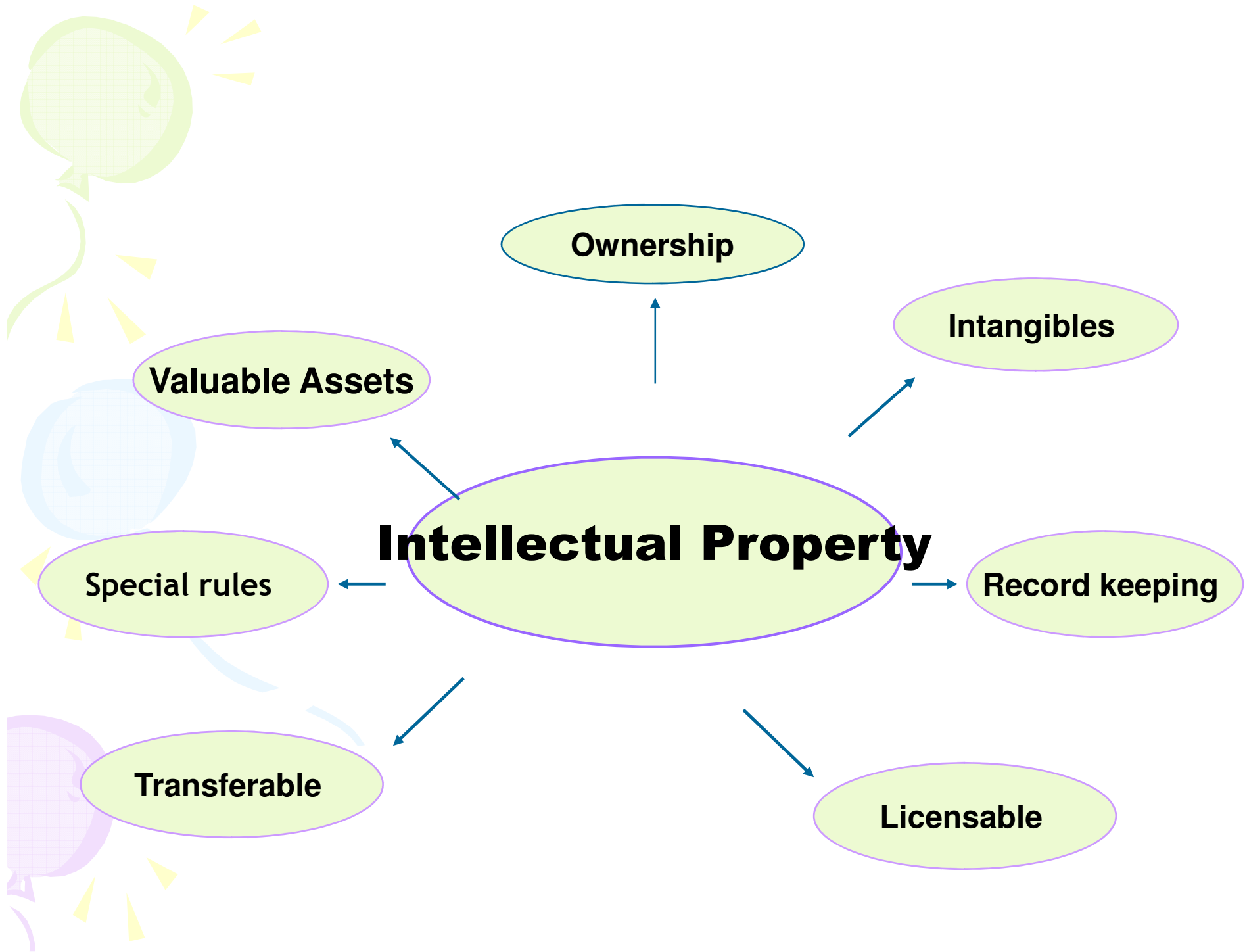
Issues and lessons learned

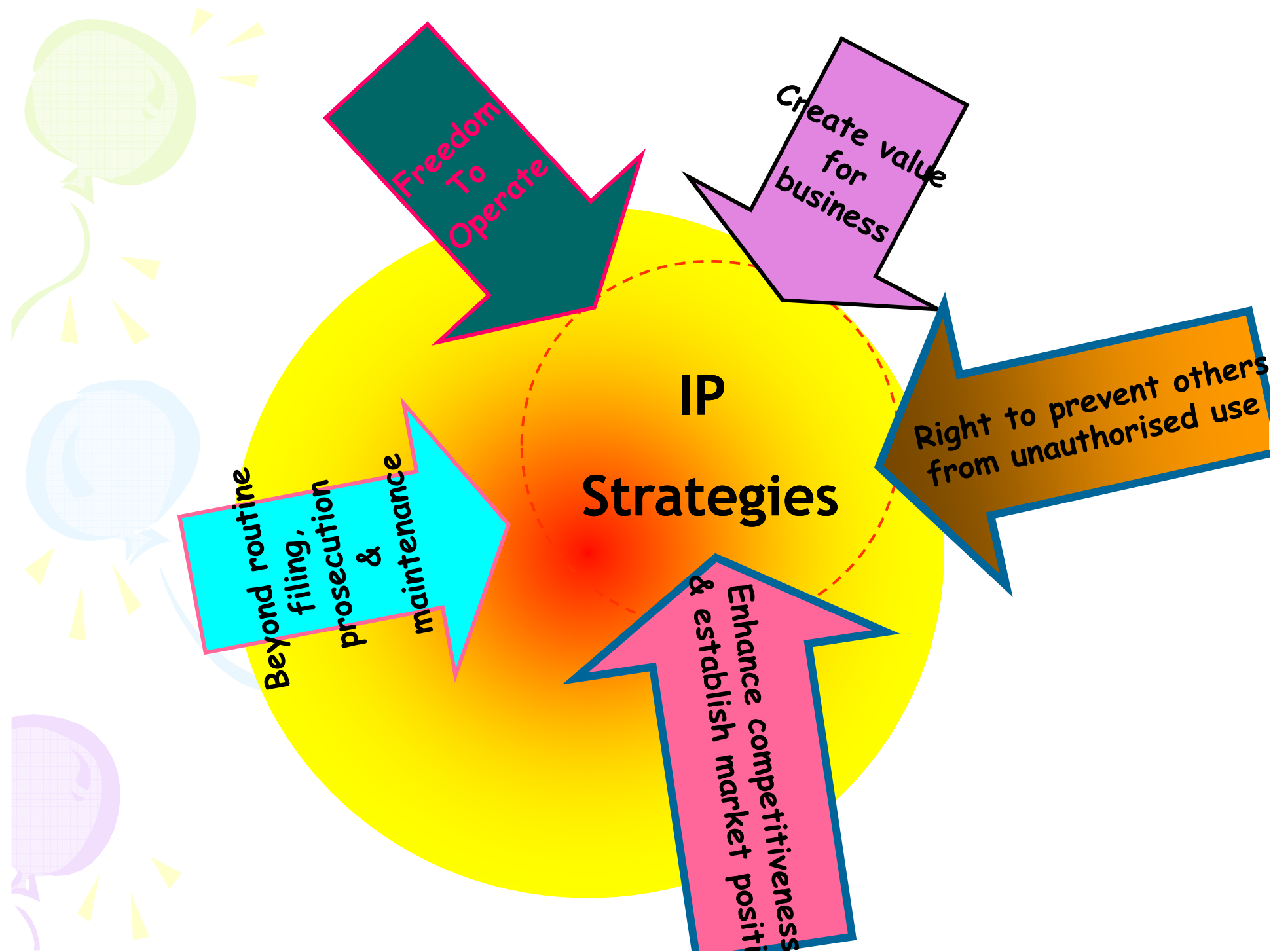
- Way forward and lessons learnt
 - Identification of IPR and seek protection
 - Ownership structure
 - Agreements and IP policies in place
 - Limited access to confidential info, NDAs
 - Proper retention of records
 - Certificates of registration
 - Section 42 Statutory Declaration
- Extra legal issues?
 - Sending the right message to other employees?



How can IP ‘add value’ to your business?

- Providing exclusivity and freedom to use without interference
- Prevent others from unauthorised use
- Providing competitive edge
- Enhancing image of the business
- Enhancing market value of the business
- Help in raising funds
- Access to new markets
- Increasing revenue (through licensing, sale)





**IP
Strategies**

**Freedom
To
Operate**

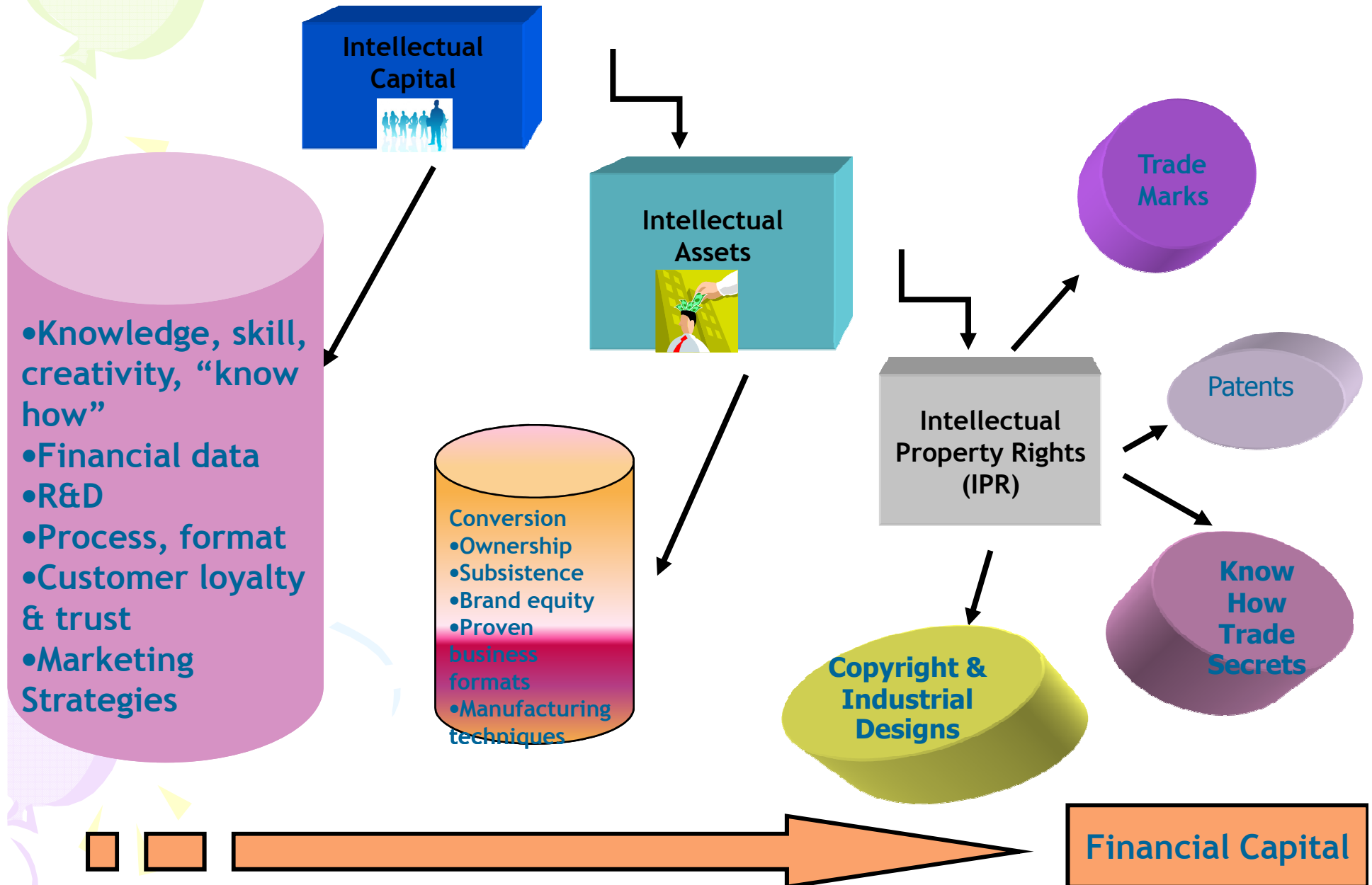
**Create value
for
business**

**Right to prevent others
from unauthorised use**

**Enhance competitiveness
& establish market position**

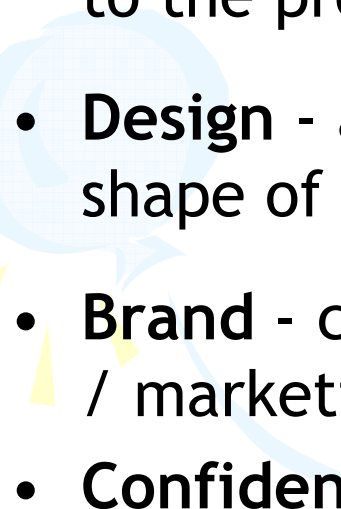
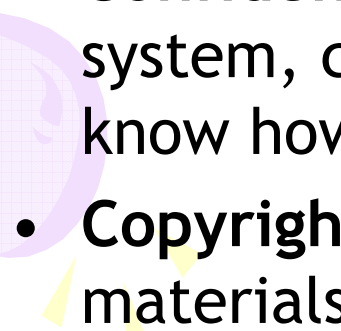
**Beyond routine
filing,
prosecution
&
maintenance**

IDENTIFYING AND RECOGNIZING INTELLECTUAL CAPITAL, INTELLECTUAL ASSETS AND INTELLECTUAL PROPERTY



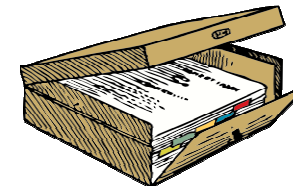
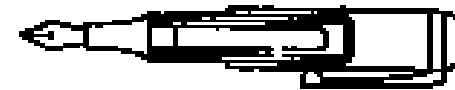


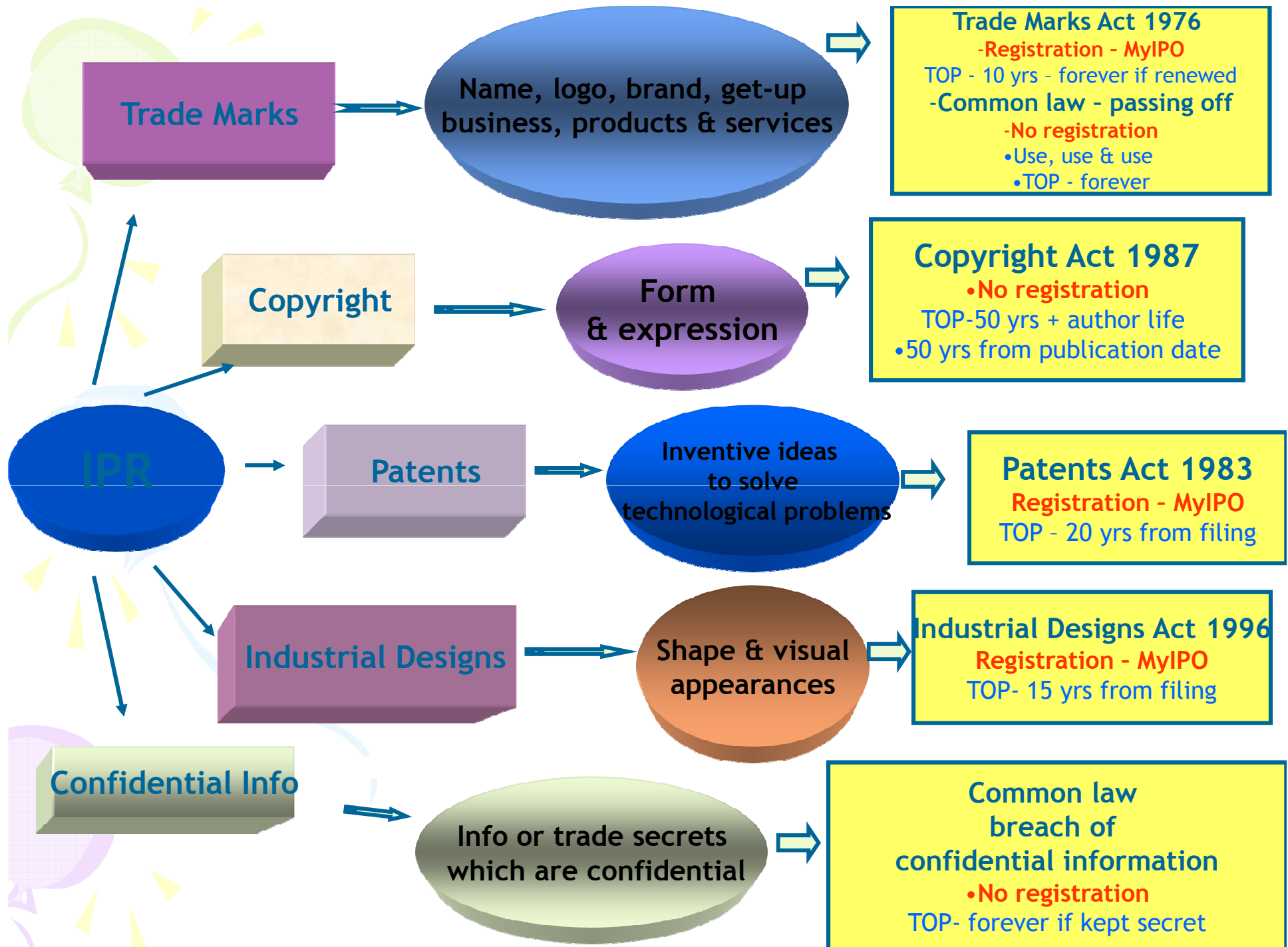
IP protection grants exclusive rights

- **Innovative technology** - improvements or solutions to the product or process → Patents, Utility Innovations
 - **Design** - appearance or shape of the product → Industrial Designs
 - **Brand** - commercialization / marketing of the product → Trade Marks
 - **Confidential** proven system, corporate data or know how → Trade secrets
 - **Copyrighted** marketing materials, software → Copyright
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Example

- **Patent** for the special ink
- **Utility Innovation** for the grip and pipette for injection of ink
- **Industrial Design:** smart design with the grip in the shape of an arrow
- **Trade Mark:** for the product and the packaging to distinguish it from other pens
- **Copyright:** brochures or marketing materials for the pen





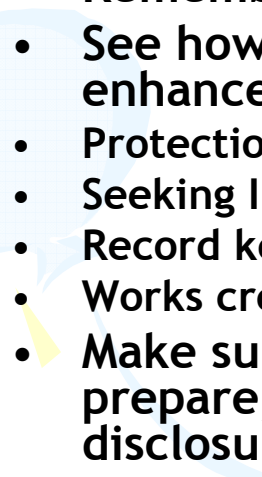

Proper Symbols

- ® = registered
 - Offence to use ® if mark is pending
- ™ = trade mark right is claimed, pending mark
- © 2000 ABC Sdn Bhd All rights reserved





Some Fast Facts/Checklists

- **Assess your business, products and services to determine the best form of protection**
 - Who you are, where you are and where you want to go
 - Product lifecycles, your competitors, nature of your business and your market
 - **Make an inventory of your IP assets, determine how to protect, exploit and enhance its value**
 - **Remember, IP strategies are beyond simple filing and registration**
 - **See how you can integrate your IP assets into your business strategy to enhance business**
 - **Protection is key to ownership**
 - **Seeking IP protection is costly but failure to protect will be even more expensive**
 - **Record keeping is critical**
 - **Works created by employees or commissioned persons belong to you**
 - **Make sure that trade secrets are kept within your organisation and prepare, where appropriate, confidentiality agreements or NDA before disclosure**
 - **Make sure that patentable inventions are not shared with others or published before filing a patent application**
 - **IP is territorial in nature. For export-oriented firms, ensure protection is sought in all potential export markets**
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Malaysia's 30 Most Valuable Brands for 2009 was unveiled tonight. Public Bank took the top spot, followed by Maybank and CIMB Bank... **MALAYSIA'S 30 MOST VALUABLE BRANDS 2009**

RANK 2009	RANK 2008	BRAND	INDUSTRY
1	(2)	PUBLIC BANK	BANKING
2	(1)	MAYBANK	BANKING
3	(3)	CIMB	BANKING
4	(6)	CELCOM	TELECOMS
5	(5)	PARKSON*	RETAIL
6	(4)	RESORTS WORLD GENTING	LEISURE/ENTERTAINMENT
7	(9)	DIGI	TELECOMS
8	(7)	ASTRO	MEDIA /ENTERTAINMENT
9	(14)	SIME DARBY	PROPERTY/INFRASTRUCTURE
10	(8)	PETRONAS**	ENERGY
11	(11)	PERODUA	AUTOMOTIVE
12	(10)	HONG LEONG BANK	BANKING
13	(12)	GIANT	RETAIL
14	(17)	AMBANK	BANKING
15	(16)	YTL	PROPERTY/INFRASTRUCTURE
16	(13)	MALAYSIA AIRLINES	AIRLINE
17	(18)	RHB BANK	BANKING
18	(15)	TV3	MEDIA
19	(21)	AIRASIA	AIRLINE
20	(20)	THE STAR	MEDIA /ENTERTAINMENT
21	(19)	JOBSTREET.COM	ONLINE RECRUITMENT
22	(22)	DUTCH LADY	FOOD & BEVERAGE
23	(25)	PADINI	APPAREL
24	(27)	SIN CHEW	NEWSPAPERS
25	(23)	AFFIN BANK	BANKING
26	(-)	ALLIANCE BANK	BANKING
27	(26)	KURNIA	INSURANCE
28	(-)	PREMIER	HOUSEHOLD PRODUCTS
29	(30)	SUNWAY CITY	PROPERTY/INFRASTRUCTURE
30	(-)	BONIA	LEATHERWEAR

Source: http://www.aaaa.org.my/v2/index.php?option=com_content&view=article&id=274:mmvb-2009&catid=61:mmvb&Itemid=66



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Press Releases

Opening of Wisma JobStreet.com stops traffic on busy street

12 March 2006

In a rare and unprecedented move, JobStreet Corporation Berhad staff took to the streets with a banner and marched along Jalan Tuanku Abdul Rahman and Jalan Sultan Ismail with the police keeping a close watch on them. The scene created so much attention that traffic came to a complete stand still.

It is history in the making as JobStreet.com organized an office move ceremony in conjunction with the opening of Wisma JobStreet.com today. The procession started at the old office in Bangunan Commerce Life in Jalan Tuanku Abdul Rahman. Led by Chairman Datuk Ali bin Abdul Kadir and CEO Mark Chang, the staff marched gloriously along the road carrying the banner proclaiming: "Your Career Our Passion. Move with Us". A strong 45-piece band from SMK Seri Garing 1 added pomp and pageantry to the procession. Traffic policemen halted traffic from all directions to enable the procession to walk in the middle of the road for 10 minutes. The street belonged to JobStreet.com for a temporary moment.

Ending at Medan Tuanku, off Jalan Sultan Ismail, Datuk Ali was joined by Mark Chang and directors Suresh Thiru, Ng Kay Yip and Charles Lim in a ribbon-cutting ceremony to officially signify the opening of the eight-storey Wisma JobStreet.com. A lion dance gave a sterling performance to the staff and guests.

In his speech, Datuk Ali said by having an own building, JobStreet.com has become an online company that owns a tangible asset which is reflected in the balance sheet. It was an extraordinary feat for JobStreet.com when compared to other dot.com companies. His remark was met with thunderous applause from the staff.

Mark Chang said: "Wisma JobStreet.com marks a significant milestone in the history of JobStreet.com. We first started in 1995 with only two staff and in the span of 11 years, we have grown to become the leading online recruitment company in Malaysia".

JobStreet Corporation Berhad, an MSC company listed in Bursa Malaysia, operates the JobStreet.com online recruitment websites and has regional operations in Malaysia, Singapore, India, the Philippines and Indonesia. The Group currently services over 20,000 corporate clients and over three million jobseekers.



Terima Kasih

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