



**REPORT  
ON  
TWENTY FOURTH  
ENTERPRISE DEVELOPMENT  
NETWORK FORUM**

**June 20, 2008**

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**Enterprise Development Network (EDN)**

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## **1. ACKNOWLEDGEMENT**

On behalf of Enterprise Development Network (EDN), we would like to thank the resource person Mr. Sajjan Bar Singh Thapa, Advocate of Supreme Court of Nepal for giving his valuable time and sharing his ideas and experiences in our 24<sup>th</sup> EDN Forum.

We also would like to show our sincere gratitude towards Women Entrepreneurship Development Committee/FNCCI and Tips/WINNER for supporting 24<sup>rd</sup> EDN Forum. Along with that our special thank goes to all the participants who actively took part in Twenty Forth EDN forum.

## **2. PROCEEDINGS OF THE MEETING**

### **2.1 Program Overview**

The EDN forum is the bimonthly programme and 24<sup>th</sup> EDN forum took place at FNCCI building, Teku on 20<sup>th</sup> June 2008. The topic of the forum was **“Intellectual Property Right and its Feasibility in Nepal”**(see annexure 1 for the program schedule).

Mr. Sajjan Bar Singh Thapa gave his presentation on the topic “Intellectual Property Right and its Feasibility in Nepal” and also shared his ideas and experiences.

The forum was mainly focused on patent rights, copyrights, trademark etc. It also explicate on why the patent rights, design and trademark are importance, what are its benefits and non-benefits and how can one get registered into it?

Nepalese entrepreneurs have a little know how about such laws and regulation but yet not implemented properly. The world is global village now; business is not only crossing the boundary of country but also entering to international market with a purpose of expansion and diversification. Entrepreneurs should not only familiar with nation laws and regulation for intellectual property right but also access and update the international business laws. With an objective to spread information and knowledge about meaning and importance of intellectual property right in Nepalese context, we chose the theme “Intellectual Property Right and its Feasibility in Nepal.

## **2.2 Mr. Sajjan Bar Singh Thapa, Advocate of Supreme Court of Nepal.**

Mr. Sajjan Bar Singh Thapa, LL.M (USA) is a well-known advocate of Supreme Court of Nepal. At the beginning of his presentation he stressed on branding and its importance in establishing trademark of any product. He explained intellectual property is that creation of mind, which is intangible in nature, and have a commercial implication and the protection of such intellects by the national law. He said in every country intellectual property has divided into two branches. Trademark, Patent, industrial design, geographical indication, integrated circuit which falls under the category of industrial property whereas literary, artistic work, compose, painting, computer programme, movie neighboring rights falls under copy rights and other related rights. He informed, trademark law has already existed in Nepal and it was enacted in 1993/94 (B.S.) but has not yet implemented properly.

Trademark simply means source identifier, which can be in the forms like; logo, words, devices, labels, sound, slogans and smells that the entrepreneurs use to individualized their products and distinguished them from other competitors. Regarding the history of trademark, Mr. Sajjan Bar Singh Thapa shared that the first trademark law was enacted in 1875 by US congress, and in 1886 Coca-Cola was registered as trademark in soft drinks, in 1888 George Eastman registered KODAK trademark for photographic equipment and in 1995 Amazon.com formed trademark as online book store.

He added trademark could be enforced and protected by registration of mark, proper use of registered mark in business paper or advertisements and renewal once in seven year. Additionally he discussed on industrial design, patent, copyright and their registration process, protection, infringement and remedies.

Towards the end he gave few examples of cases at Supreme Court regarding the trademark and patent right. They are Kiran Shoes Industry Vs Basnet Footwear & others, Bhagwati Steel Vs Arati Strips, Parallel import (Lux & Unilever products), Cigarette Brand Vs Alcoholic Beverage (Khururi cigarette Vs Khukuri Rum), and Bad Faith Registration – Sun Fittings (India Vs Nepal)

In the case of sun fittings, Sun brand GI pipes and fittings were imported and traded in Nepal from years ago. And one of its dealer started production of GI pipes and fitting and marketed on Sun brand. Later on Indian company claimed and registered the case in Nepalese Supreme Court accusing Nepalese producer that they have copied their trademark. Since the Indian company did not registered trademark in Nepal, the court has not resolved the case yet and as a result both Indian and Nepalese product can be seen in the market.



**Discussion**

**Question:** Mr. Bed Raj Gyawali raised a question that big entrepreneurs are getting advantage from Trademark act but incase of small entrepreneurs (handicraft entrepreneurs), they are still confused on such law. In this regard he raised a question to on should small entrepreneurs get benefit from trademark?

**Answer:** On such query Mr. Thapa replied that small entrepreneurs do not require to spend lots of money to advertise and publicized their trademark. He added to register the trademark that will be beneficial to secure their product in future.

**Question:** One of the participants from FNCCI raised a query on how many times the act regarding trademark had been amendment in Nepal?

**Answer:** On such query, he said that in Nepal the trademark act had already been enacted along with the company act in 1994/96 B.S. Similarly it had also been amendment in 2042 B.S. Further he said that we had act, laws and rules but we had not use them and implement properly.

**Question:** Meghraj Pokharel from Chaudhary Group put forward a query to all lawyer participants at the forum informing that CG Company had made an agreement with one of the Korean company for using the Crazy named trademark in Nepal for 5 years. And the time has come to the end the agreement and CG wanted to use such trademark in coming future too due to its goodwill. In such condition, can Chaudhary Group use trademark in coming future if the agreement is not renewed. For further information he mentioned that such Korean company is not registered in Nepal or in Korea.

**Answer:** In this regard Ms. Anju Upreti from a law firm gave example of the similar case of General food of Nepal. She shared that General Food of Nepal had made contract with one Thai Food company to use Yem Yem trademark in Nepal for chowchow product. After the completion of contract, General Food continued production and supply in that trademark with out extension of contract. So that Thai company filed the case against General Food in Nepal and Supreme Court also made the decision in favor of Thai Food Company. Having said that, she suggested that the company couldn't use other's trademark without the consent of the owner company. In addition to that Ms Bibha Amatya from Dabur Nepal also suggested that it's unethical to use someone else trademark for own benefit.

**3. WRAP UP**



## **Enterprise Development Network**

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Towards the end of the program Ms Sanju Manandhar from Lotus BizPort wrapped up the forum saying that the presentation by Sajjan Bar Singh Thapa on Intellectual property Right and its Feasibility in Nepal was really fruitful and knowledgeable. She thanked the resource person for giving such useful knowledge and information on intellectual property right.

She thanked TIPS/Winner and WEDC/FNCCI for sponsoring and hosting the Twenty-fourth Enterprise Development Network forum. Also, she thanked the resource person Mr. Sajjan Bar Singh Thapa for taking out his time from his busy schedule and last but not least thanked all the participants for being present and interactive during the forum.

At the end of the program she informed that the next EDN Forum will be held on August 29, 2008 and requested all the participants to provide the topics that they want to talk about in the next forum.



#### 4. ANNEXES

##### Annex 1: Program Schedule

"Intellectual Property Right & its feasibility in Nepal"

23rd Enterprise Development Network Forum  
**(June 20, 2008, Monday)**

Venue: FNCCI, Meeting Hall, Teku,  
Ph: 4262061 / 4262218

**Kindly hosted by Tips/Winner and Women Entrepreneurship Development Forum/ FNCCI**

**Venue: FNCCI, Meeting Hall, Teku, 4262061 / 4262218**

##### Program Schedule

TIME	SESSION
2:30 – 2:40	<b>Registration</b>
2:40 – 2:45	<b>Welcome and Overview of the discussion</b>
2:45 – 3:15	<i>Presentation By Advocate: Sajjan Bar Singh Thapa</i> <ul style="list-style-type: none"> <li>▪ Brief description of Intellectual Property – Trademark, Patents, Copy Rights etc</li> <li>▪ Benefits</li> <li>▪ Registration process</li> <li>▪ Legal Compliances</li> <li>▪ Feasibility In Nepal</li> </ul>
3:15 – 3:50	<b>Question &amp; Answer/Discussion</b>
3.50 – 4:00	<b>Moderator Wrap up</b>

**Annex 2: List of Participants**

SN	Name	Designation	Organization	Contact No:
1	Bed Raj Gyawali	Proprietor	New Reliable Export Import	5535613
2	Anju Upreti	Lawyer	IP Law Firm	4221340
3	Radha Shakya		H.B Crafts	4274599
4	Urmila Tamrakar	Managing Director	Peegannani Handicrafts	4261108
5	Min Narayan Dangol	CEO	Rahisha Crafts	9841572963
6	Bishnu Magar		Nabin Papers	5522883
7	Rajesh Kafle	Advocate	Sinha Verma Law Concern	9851036515
8	Narayan Basnet	Executive (Admin)	Dabur Nepal	4112240
9	Bibha Amatya	Executive (Sales)	Dabur Nepal	4112240
10	Pramila Rai		Ninam Ridum Bio Handicrafts	9851098542
11	Megh Raj Pokharel	General Counsel	Chaudhary Group	9851035220
12	Paru Nakarmi		PHC sisters creation	05540334
13	Sangita Shrestha		Mahila Udhyami	4269138
14	Reisha	CEO	Rahisha Crafts	4361518
15	Radha K Pathak	Lawyer	Chhaya Law	4221877
16	Manoj Adhikari	Lawyer	Prateek	9851059693
17	Ambar B Thapa	Corporate Manager	Unilever Nepal	9851022684
18	Tripura Joshi	Proprietor	Nalwal Food Store	4264725
19	Kul P Poudel	Assistant Director	FNCCI	4262061
20	Hempal Shrestha	Program Officer	Bellanet	9851011031
21	Bindira Manandhar	General Manager	Lotus BizPort Pvt Ltd	5530313