

AFRICA UNIVERSITY

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TRADEMARK EXPLOITATION BY SMALL AND MEDIUM-SIZED
ENTERPRISES IN THE AGRICULTURAL SECTOR OF THE GAMBIA

BY

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A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE
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Abstract

Intellectual Property (IP) contributes significantly to the economic growth and development of countries globally. Trademarks (brand) is very essential in the commercialization and marketing of goods and services including agricultural products. Unfortunately, the Agricultural sector in The Gambia has not been utilizing the trademark system. The purpose of the study was to establish the factors that contributed to the inadequate utilization of trademarks by SMEs in the agricultural sector in the Gambia. The study assessed the level of awareness among SMEs about the benefits of protecting and exploiting trademarks and explored measures for promoting the use of trademarks by SMEs in the agricultural sector in The Gambia. Both qualitative and quantitative approaches were used in data collection, analysis and presentation. Data was collected from Agripreneurs from six regions that had high involvement in agricultural activities. Fifty SMEs were purposively selected from the six regions based on their levels of economic activities, export readiness and formalization. The findings revealed that there is a low level of awareness and appreciation of the IP system by farmers and SMEs. Other factors that contributed to the inadequate utilization of trademarks by SMEs in the agricultural sector include a lack of institutional IP policies and strategies; and inadequate support structures for SMEs. Because of the findings, the study recommends that awareness creation should be the cornerstone for any effort to promote the utilization of trademarks by SMEs. Such awareness can help SMEs to understand the economic benefits of utilizing the trademark system in the commercialization of their services and products. Other recommendations include the provision of adequate support structures for SMEs by the government and promoting the use of institutional IP policies in the SMEs.

Key Words: Intellectual Property (IP), SMEs, Agricultural sector, trademark.

Declaration page

I declare that this dissertation is my original work except where sources have been cited and acknowledged. The work has never been submitted, nor will it ever be submitted to another university for the award of a degree.

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Dedication

To my Mum whose love and encouragement made it possible for me to reach this level. May Allah give her long life with good health to witness many more successes that are yet to come. To my son as a source of inspiration to pursue education.

List of acronyms and abbreviations

AFCFTA	African Continental Free Trade Area
ARIPO	Africa Regional Intellectual Property Organisation
AU	Africa University
AUREC	Africa University Research and Ethics Committee
EU	European Union
FDI	Foreign Direct Investment
FZs	Free Zones
GIEPA	Gambia Investment and Export Promotion Agency
ICT	Information and Communication Technology
IP	Intellectual Property
IPR	Intellectual Property Right
LDCs	Least Developed Countries
MIP	Master in Intellectual Property
MNCs	Multinational Companies
NDP	National Development Plan
R&D	Research and Development

SMEs	Small and medium Scale Enterprises
TRIPS	Trade Related aspects of Intellectual Property Rights
VAT	Value Added Tax
WIPO	World Intellectual Property Organisation
WTO	World Trade Organisation

Definition of key terms

Geographical indication: is a sign that identifies a good as originating in the territory of a country; or a region or locality in that territory, where a given quality, reputation or other characteristics of the good is essentially attributable to its geographical origin.

Innovation: An act of making changes to the existing product or the process by introducing new ways or ideas.

Intellectual Property Rights: Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her invention for a certain period.

Intellectual Property: Intellectual Property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; symbols, names, and images used in commerce.

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CHAPTER 1 INTRODUCTION

1.1 Introduction

The Gambia is located on the bulge of the West African coast between latitudes 13.0o N and 13.7o N; and longitude 13.7o W and 16.0o W. The Gambia stretches about 350km from the coast inland, with its width varying from 25 to 50km, occupying a total land area of 10,690 sq. km.

Micro, small and medium-sized enterprises play a very important role in the economy of the Gambia. According to the 2018 MSME Mapping Study, it is very evident that the Micro, Small and Medium Enterprise Sector (MSME) can play a crucial role in employment creation, income generation and promoting socio-economic development, especially for those in the agricultural sector because of its contribution towards food self-sufficiency. In The Gambia, the MSME sector has a huge potential to serve as the engine of growth and achieve the objectives of the national development plan of the country. With limited employment opportunities in the public sector, coupled with mixed fortunes in the productive sector such as agriculture, a growing number of Gambians are turning to the MSME sector for employment, livelihood and survival.

The 2018 MSME Mapping study indicates that there was an estimated number of one hundred and fifteen thousand and sixty-eight (115, 068) MSMEs in the Gambia in 2018 and 4.3% are in the agricultural sector.

According to WIPO (2019), the percentage of the registered IP Rights patent globally for Africa in 2018 accounts for 0.6% with an average growth rate of 5.1% from 2008 to 2018. Africa scored 25 in the Global Innovation Index which is the lowest and only eight of the

countries in the top 100 were from Sub-Saharan Africa, according to the Global Innovation Index 2018 report. Despite being the smallest country in mainland Africa, 60% population are youths (GBOS). The Gambia is among the lowest when it comes to intellectual property rights and this is affecting our development.

Innovation plays a significant role in national economies. The protection of intellectual property rights has therefore gained prominence in economic development because it motivates technological change, which is essential for economic growth. Innovation cannot grow in any country without a proper intellectual property system and this has been weak in The Gambia.

With the training WIPO and ARIPO are doing, there is a growing number of experts in IP, however, the major issue is SMEs are not using intellectual property as a strategy for growth and one of the effects of intellectual property rights on economic performance in the context of developing countries require a long-term vision to harness its benefits for both SMEs and governments. Some of them may argue that intellectual property rights do little to stimulate innovation in agriculture but this is mostly in countries that have a very low innovation ecosystem and little investments in the sector. The MSME mapping study indicates that more than 80% of businesses in the Gambia do not have access to loans both formal and informal. Those who have access to finance declared that the majority access formal loans from Micro Finance institutions (50%) and commercial banks (10%), whilst informal loans are from family support, women group with 18.5 % and 3.6% respectively. The MSMEs lamented the unfavourable terms and conditions (collateral, high-interest rates etc.) of loan repayments (MSME Mapping Study, 2018).

The Gambia Intellectual Property Act of 1989 covers trademarks, patents, utility models, a Gambia Copyright Act of 2004 which looks at copyright and related rights, and a

Competition Act of 2007. All these are in respect to the commitment of the government to the protection of intellectual property which is a useful tool for socio-economic development. The Ministry of Justice is currently working on a new act that will include industrial property and copyright in one act and this will be under one office which will be Gambia Intellectual Property Office

At the regional and international level, The Gambia is a member of the African Regional Intellectual Property Office, World Intellectual Property Organization, World Trade Organization, Trade-Related Aspects of Intellectual Property and other international treaties related to intellectual property. The Gambia has also signed the Africa Continental Free Trade Agreement (AfCFTA). All these are to provide protection mechanisms for creations and innovations to create a critical mass of technological productions.

The government of the Gambia believes that agriculture is a key driver of the development of the Gambia and it has been included as one of the 8 priority areas of the National Development Plan of the Gambia.

In the view of the AfCFTA, innovation plays a significant role in economic activity because they are bigger players to compete with across the continent. The protection of intellectual property rights has therefore gained prominence in economic development, especially through trademarks and geographical indications for the agricultural sector and this motivates export, commercialization, exploration of the agricultural value change and investments, which is essential for economic growth.

In the business world, innovation drives industry competitiveness. The process of uncovering new ways to do things involves modifying business models and adapting to changes as the process lead to the introduction of new ideas, devices, services, function or methods (Bently & Sherman, 2009). Among Micro, Small and Medium Enterprises

(MSMEs), trademarks are the legal framework for the protection of brands, and they provide superiority for MSMEs in penetrating markets faster, providing a better connection to emerging markets and access to capital which can lead to more significant opportunities.

Intellectual Property Rights (IPRs) on the other hand are rights that relate to the creation of the human mind (Bently & Sherman, 2009). Individuals and companies (big or small) may claim them. IPRs naturally give the owner of the intellectual creativity the exclusive right to control the use of the creation for a certain limited period. Micro, Small and Medium Enterprises (MSMEs) are critical players in the economy of every country including developing countries; they generate intellectual property, discoveries, and innovation. Effective utilization of the trademark systems contributes to Gross Domestic Product (GDP), creates employment through innovation and creativity, encourages technology transfer agreements and protects Research and Development (R&D). MSME's innovation and intellectual property creation nature necessitate the need for the protection of brands through the trademark system.

1.2 Background to the Study

This study was aimed at establishing the factors that contribute to the inadequate utilization of trademarks by SMEs in the agricultural sector in the Gambia. This is important because the sector needs to explore the agricultural value and expand to a bigger market and thus, they need to be protected both within and outside the Gambia. Most of the farmers in the Gambia are based in the rural area where they are primarily involved in subsistence farming and they are a few that are also focused on commercial farming and mainly for export purposes. Two research and development institutions focus on the

agricultural sector and namely the National Agricultural Research Institute and International Trypanotolerance Centre.

SMEs rely on IP protection and licensing as key elements of their strategy to protect their innovations from expropriation, gain a return from innovation and compete or partner with larger companies. The National Development Plan (NDP) envisages achieving innovation, and technological development, reducing poverty and unemployment. Innovation is considered to be the primary tool for achieving these goals. The Gambia is a member of several international treaties, organizations and intergovernmental organizations dealing with Intellectual Property Rights such as the World Trade Organization (WTO) and subsequent the Trade-Related Aspect in Intellectual Property (TRIPS) Agreement, World Intellectual Property Organization (WIPO), Patent Cooperation Treaty (PCT), Paris Convention and African Regional Intellectual Property Organization (ARIPO).

ARIPO is an intergovernmental organization, established in 1976 by the Lusaka Agreement as amended. There are currently 19 states that are party to the Lusaka Agreement and hence member states of ARIPO. These are Botswana, The Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, Liberia, Rwanda, São Tomé and Príncipe, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe, among the member state Somalia is not an active member due to political instability. Any member of the United Nations Economic Commission for Africa (UNECA) or African Union can join ARIPO as stipulated by article IV of the Lusaka Agreement. ARIPO has three protocols entered into force that deals with the registration of Intellectual Property; The Swakopmund Protocol on the Protection of Traditional

Knowledge and Expression of Folklore, The Banjul Protocol on Marks, and the Harare Protocol on Patents and Industrial Designs.

In the quest to promote knowledge, and build on the knowledge gap it is important to have a study that will give strategies on how to use trademarks to help the agricultural sector of the Gambia. Research institutions on the other hand are establishments engaged in doing research, either in basic research or applied research as the case may be. Industries are engaged in the production of goods or services within an economy in line with the developmental needs of a country. However, we have little research that the farmers are benefitting and farmers don't have the right commercial base to address the local market. In The Gambia, most of the farmers in Agriculture are not large companies but rather small-medium enterprises that have limited technology or know-how.

SMEs in agriculture have the potential to be a perfect medium for development. Currently, in The Gambia, there is a weak linkage between the IP system and the agricultural sector. This has left many SMEs to struggle especially for expansion and export because of the limited knowledge and awareness of how the IP system can help them in terms of exploitations and commercialization of innovations. Therefore, there is a great need to establish or strengthen the IP framework within the agricultural ecosystem and this can promote the development of industries to respond to the socio-economic development of The Gambia. This can be done by encouraging the acquisition of trademarks through technology transfer offices or the IP office. Trademark exploitation could be a great potential for leveraging the marketing of agricultural products by SMEs. SMEs can evolve into growth-oriented businesses that provide much-needed jobs. However, SMEs still experience challenges when it comes to intellectual property protection of their

innovation, the imitation and copying of their changes by other SMEs do not provide an incentive to innovate more, and they become uncompetitive (Dana, 1993).

Intellectual property rights have been recognized as part of the infrastructure supporting investments in Research and Development (R&D), job creation, and technology transfer and this thesis will highlight the role of IP and how we can use it to develop the continent. Regardless of small businesses, small businesses are the backbone of the economic and social structure. The rationale for the development of micro, small and medium enterprises lie in the important contribution that they make to the economy.

It can enhance the contributions of SMEs in poverty alleviation interventions through employment creation and income generation. It can provide well-trained, skilled and highly motivated personnel for SME products and service providers for the industry. To broaden the indigenous base of Gambian entrepreneurs engaged in SMEs by promoting an enterprise culture, which encourages self-reliance and risk-taking.

It can foster the generation of new product ideas and innovation to increase sales and customers of the existing entrepreneurs in the industry. It can also enhance the development of the private sector and enhance private sector initiatives through rural industrialization and social development. SMEs can be effectively operated in urban and rural settings.

1.3 Statement of the Problem

There has been a lack of investment opportunities in the agricultural sector, and this has cost a huge economic loss to the farmers and the government at large. Besides that, farmers

find it difficult to expand to other countries especially now that The Gambia has signed and ratified the AFCFTA. The Gambia has some potential geographical indications that can be explored and sought protection for and once this is done there will be a need to commercialize it and exploration of the entire agricultural value chain. In addition, the use of trademarks for business growth and competitiveness has minimally been exploited by SMEs in the agricultural sector. The Gambia in The National Development Plan (2018-2021), highlighted that the agricultural sector has not significantly contributed to poverty reduction as 91 per cent of the rural poor work as farmers while the sector continues to be relatively undiversified, mainly smallholder based and characterized by rain-fed subsistence farming.

1.4 Purpose of the Study

The purpose of the study was to establish the factors that contribute to the inadequate utilization of trademarks by SMEs in the agricultural sector in the Gambia.

1.5 Research Objectives

To realize its purpose, the study focused on achieving the following objectives:

1. To assess the level of awareness among SMEs about the benefits of protecting and exploiting trademarks.
2. To establish the factors that contribute to the inadequate utilization of trademarks by SMEs in the agricultural sector in The Gambia.
3. To explore measures for promoting the use of trademarks by SMEs in the agricultural sector in The Gambia.

1.6 Research Questions

1. What is the level of awareness among SMEs about the benefits of protecting and exploiting trademarks?
2. What factors contribute to the inadequate utilization of trademarks by SMEs in the agricultural sector in the Gambia?
3. How can the use of trademarks by SMEs in the agricultural sector in The Gambia be promoted?

1.6 Significance of the Study

The study will provide information on the need for effective exploitation of trademarks to enhance growth in the agricultural sector among SMEs in The Gambia. As trademark plays a key role in the export of agricultural products, the findings of this study will create a positive impact on the people of the Gambia especial those in rural areas. The more significant role that SMEs play in contributing to economic growth, also that IP right serves as an incentive to promote investment and enhance the performance of SMEs, justifies the need for effective exploitation of the trademark system by SMEs in The Gambia. Hence, institutions like the Ministry of Agriculture, GIEPA, GCCI and the donors may use the findings of this study to improve SMEs' growth.

The research findings will show the importance of the exploitation of the trademark system which will help businesses to formulate and have strong IP policies. The study will supply recommendations for further research in the same area.

1.7 Delimitation of the Study

The IP system is a wide area with various sectors for which trademark is of them. Covering all aspects of trademarks related to agriculture could be difficult due to the limited time available for this study. Therefore, this study only focused on establishing the factors that contribute to the inadequate utilization of trademarks by SMEs in the agricultural sector in the Gambia. The other aspects for which agriculture may be relevant with regards to trademarks are left for future research and investigations for any interested person(s) or entity. This goes in line with the fact that research is an open field and a continuous process that goes in tandem with the realities of development. The study will also not focus on trademark exploitation from other countries outside of The Gambia.

1.8 Limitation of the Study

Since there has been limited time to conduct this study, it was difficult to cover a lot of respondents. Financial constraints and availability of resources to facilitate the research are not much and therefore would in one way or the other be a deterrent to the smooth conduct of the research. The fact that such a study has not been conducted in the Gambia and many stakeholders lack awareness of intellectual property, especially the farmers. Since trademark exploitation seems a new area for many potential respondents, it created some challenges due to resistance during data collection. But questions were drafted in a way that will stimulate respondent interests to fully participate in the study. IP is a complex subject, and it is not well understood in The Gambia, the majority of the responders did not know nor were aware of intellectual property. SMEs especially struggled to answer some questions, and this made it difficult to ask to follow up questions

to enable them to provide the best responses to the research. The researcher had to get a translator, to be able to interview some of the MSMEs owners who could not speak English. However, the use of face-to-face interviews helped the researcher to collect in-depth information.

CHAPTER 2 REVIEW OF RELATED LITERATURE

2.1 Introduction

In reviewing the literature, this Chapter focuses on the available literature developed on the exploitation of trademarks by SMEs in general as well as the challenges faced in ensuring the promotion of trademarks if any, using the national, regional and international contexts. In doing so, the Chapter considers laws, policies and other literature in both The Gambia and other countries. The Chapter further seeks to investigate the best practices and critically analyse the available literature concerning the situation in The Gambia. Much as there are several works of literature in the area of trademarks, particularly at international levels, the researcher noted that no literature specifically refers to the factors that contribute to the inadequate utilization of trademarks by SMEs in the agricultural sector in the Gambia.

2.2 Theoretical Framework

There are many theories relating to the research topic but our focus is the Game Theory. There are many more complex ways to summarize this theory, but most simply put it this way. Any successful business must be able to put itself into the “shoes” of its competitors and reason from their perspective and their strategies. While we may never know with full certainty what our competition is thinking or planning to do next, the strongest businesses think strategically and make decisions for the long term. For farmers, this is an important theory because it helps to be able to anticipate their competitor’s next move and put it into action before they do.

Game theory is a theoretical framework for conceiving social situations among competing players. In some respects, game theory is the science of strategy, or at least the optimal decision-making of independent and competing actors in a strategic setting. In business, game theory is beneficial for modelling competing behaviours between economic agents. Businesses often have several strategic choices that affect their ability to realize economic gain. It has assumed a central place in our understanding of capitalist markets, the evolution of social behaviour in animals, and even the ethics of altruism and fairness in human beings. With game theory's ubiquity, however, has come a great deal of misunderstanding (Erikson, 2015).

It can be called the theory of social situations, which is an accurate description of what game theory is about. Although game theory is relevant in other fields it focuses on how groups of people interact. In addition to game theory, economic theory has three other main branches: decision theory, general equilibrium theory and mechanism design theory. All are closely connected to game theory (Levine, 2021).

2.3 Relevance of the Theoretical Frame to the Study

The game theory is key in the study because the agricultural sector will be more competitive, especially with the AFCFTA coming into force. It brings bigger opportunities in terms of the market for agricultural commodities but also there is a wider scope of competition amongst farmers not only nationally but internationally. Customers with identical or similar wants and needs may be grouped into customer segments to ensure targeted promotion and marketing of products relevant to those grouped wants and needs. Therefore, it is important to use game theory to be utilizing trademarks like other farmers in other African countries. This will ensure that Gambian brands can be sold

across the globe. It is at once the goal, the strategy and the outcome of companies' efforts to create unique and relevant places in the hearts and minds of customers.

Based on the adopted theory, there is strong evidence that farmers need to benefit economically from their agricultural products and at the same time contribute to the progress of society and compete adequately with companies across the globe. Therefore, the chosen theory better informs and supports the establishment of a framework where companies can establish and exploit trademarks that will benefit from the investments and competition and also support the growth and development of a country.

Strong protection and enforcement make intellectual property a tool that promotes research and development leading to innovation that is transmitted to economic growth for the benefit of the larger society (Adams, 2011). In this view, IP is seen as a means of maximizing the greater good. Similarly, another research conducted in 71 countries on the relationships between intellectual property rights and economic growth established that countries with strong commitments to enact policies to protect and enforce IP achieved high economic growth while where violations were prevalent, those countries have lower economic growth rates (Le & McLennan, 2011). This means that with stronger IP protection and enforcement mechanisms, there will be economic growth and development. It also shows the need for proper structures for the effective enforcement of intellectual property rights without which the protection of IP will be meaningless.

2.4 Reviewed Literature

2.4.1 Definition of SMEs

The term SMEs or small business is often used to refer to upcoming enterprises. Despite the frequent use of these terms to apply to small businesses, there is no single universal definition of small businesses. However, definitions exist depending on the country and area of operation(industry), it is defined differently but commonly as a function of their employment, assets, gross receipt, turnover, and other characteristics (Gale & Brown, 2013).

This paper looked at the MSMEs definition in two contexts both economic and statistical definition. Under the commercial framework, a firm is regarded as small when it is run and managed by owners or part-owners in a personalized style and does not in any way involve any management structure. It should also be independent and not be part of any large firm and is measured as an MSME if it has a small market share. Secondly, the statistical definition of MSMEs encompasses three requirements; determined by the size of the SMEs and their contribution to GDP, employment and Export; the second requirement is the business's comparison with cross-country small firm contribution to economic development and lastly its contribution to the economy over time (Cyril & Eslon, 2013).

The definitions provided by Cyril and Elson above invite critics because not all the MSMEs portray a personalized structure, some MSMEs show a management structure because they are co-owned by several people and they need a management structure (Asemota & Asemota, 2008). Similarly, it is common knowledge that most MSMEs do

not contribute to the country's export because their products do not meet the international export standard, or they cannot produce as many products for foreign markets.

A study by the United Nations Industrial Development Organization (UNIDO) come to realize the weakness of the definitions. The above definition presents some critics because some MSMEs have similar features as found in large firms. In the European Union, MSMEs are defined as the firms with employees of not more than 250, and in terms of financial assets, they can be decided the higher intensity of national and regional aid than large companies. On the other hand, the United States defines MSMEs as the firms with employees not exceeding 500 people and their financial assets can be from the state and private funding (Reynolds, *et al.*, 2005).

In the Gambia, the definition of MSMEs for this exercise used the national definition as enshrined in the MSME National Policy document (2014) as shown in the table below. The number of employees were used as MSMEs were not comfortable disclosing their paid-in capital/assets and annual sales.

Table 1: Definition of SMEs

<i>Definition of MSMEs as per National Policy Document</i>			
Category	Number of Employees	Paid-in Capital/Assets GMD	Annual Sales GMD
Micro enterprises	1-4	0 – 25,000	0 – 100,000

Small-sized enterprises	5-49	25,000 - 1 Million	100,001 – 1 Million
Medium-sized enterprises	50 -99	1 Million - 5 Million	1 Million – 10 Million
Large Enterprises	100 or More	More than 5 Million	More than 10 Million

Source: MSME mapping policy 2018

The 2018 Mapping exercise recorded a total number of 50723 MSMEs across the LGAs. Based on the figure below which has been estimated using the population growth rate (i.e., 3.2%), accounted for 115, 068 MSMEs in the Gambia in 2018.

The definition of MSMEs is significant for statistical purposes for assessing economic performance in the country, between sectors and between states and pronouncing the importance of MSMEs to the country's economic development, to the policymaker. It assists in categorizing various businesses and their contribution to Gross Domestic Product (GDP), Employment and other Macro-economic indicators to be able to develop policies and programs suited to support MSME.

2.4.2 Challenges of SMEs in the utilization of trademark system

There are challenges Micro Small, and Medium Enterprises are facing concerning intellectual property, these challenges include; insufficient information on the relevance of IP in their day-to-day business, high costs associated with obtaining and enforcing IP rights, perception by SMEs that IP system is ambiguous, too cumbersome and time-

consuming (Sukarmijan & Sapong, 2014). Another challenge highlighted by this study was the presence of counterfeit and piracy goods in the channel of commerce that harm MSMEs' businesses, and public well-being and undermine confidence in the quality of IP products resulting in lost revenue, investment, and future sales, and potential growth opportunities. It also harms legitimate business including that of MSMEs workers who create, manufacture, distribute and sell genuine products.

WIPO magazine found that MSMEs face challenges because they have limited knowledge of the IP system, they also lack clarity about its relevance to their business strategy and competitiveness (WIPO Magazine, 2005). The same magazine also found that most MSMEs found the system too complicated and expensive because most of the studies conducted on the use of IP by MSMEs are more limited to the use of patent and their mind gets wrapped up in the idea of the stringent requirement of patent and its cumbersome delay and fees (Kalanje, 2002).

In The Gambia challenges in using the IP systems by MSMEs stems from a lack of awareness and knowledge confirming the findings by several researchers such as WIPO magazines which pointed that out. In the Gambian context, there is a lack of innovative mindset which does not do much help with innovation. WIPO magazine also found that some challenges are associated with the fact that most of the studies being done are on the patent system and MSMEs.

A paper on the case of Malaysia acknowledged that innovation is central to MSME's performance; they termed innovation as the most crucial factor in today's globalized and competitive environment. The researcher's finding suggests that, although MSMEs in Malaysia are aware of the critical role innovation plays in an organization's performance

and growth, they are unable to focus on the innovation process to gain a competitive position (Kamariah, Omar, Soehod, Senin, & Akhtar, 2014).

On the other hand, intellectual property is associated with enhanced innovation among businesses. The relationship between intellectual property and innovation is one of the most debated topics, according to a recent research paper, IPR-enhancing policies promote innovation in MSMEs and other larger firms (Forero-Pineda, Laureiro-Martinez, & Marin, 2011). The study also established that there is a lack of occurrence of major/breakthrough innovations among MSMEs in developing countries, there is however adaptation of existing technology, has left conventional IP protection such as patents unable to protect the innovation.

A study by Backhaus and Schumpeter argues that a firm's innovations create a competitive advantage leading to the development of the next innovation, so they maintain their monopoly (Backhaus & Schumpeter, 2003).

Jones in his study of intellectual property and innovation, concluded that the cost of a stronger patent system might outweigh the benefit it offers (Jones, 2012). Another study argued that monopoly lowers the incentive to innovate because the new innovated product must compete with the firm's old products (Arrow, 1962). The study has concluded that the incentive to innovate is less monopolistic than under competitive conditions.

A working paper on innovation in Indonesia MSMEs stated that innovation is not promoted when MSMEs have highly educated local entrepreneurs. (Fransen, 2013). As much as the MSMEs' performances increase with new inventions, there are imitation barriers that come with innovation (RouwMaark, 2012). A study by Wolff & Pett, (2006)

concluded that MSMEs' performance is influenced by many factors such as environmental hostility and the size of the MSMEs.

According to OECD, 49 % of the MSMEs contribute to the Sub-Saharan Economies. The report further relates that MSMEs engage in innovation most of the time, but they usually engage in incremental and imitation innovations as opposed to radical and or breakthrough innovations. As a result, because their innovations are the improvement of the existing products or imitation of what already exists, their innovation does not always if at all meet the patentability criteria. Therefore, some of these innovations are left unprotected and are used by everyone, and because most time, MSMEs do not have much knowledge of trademark protection, they do not seek for further auditor alternative to protect their invention. This study provides a question and a gap to what IPR or *sui generis* can be used to protect MSMEs' incremental and imitation innovations.

Another study's findings were that the presence of IPR in the local context does not play a role, either as a direct incentive for innovation or as an indirect incentive enabling knowledge spillover (Sampath, 2007). Heller & Eisenberg, (1998) Argue that IP may slow down innovation; this is based on Harding's "tragedy of the commons." Another study analyzed the situation around the impact of stronger IP rights in the context of developed countries and developing countries such as Africa (Junxi, 1993). He argued that in developed countries, the firms innovate and in developing countries firms such as those in Africa imitate the other innovation. The study concluded that developed economies have tighter IPR, and they benefit from this tighter IPR. In developing economies, especially in Africa, with fewer Foreign Direct Investment, and tighter IPR, there is likely to be few innovations and more imitations (Mondal & Gupta, 2006).

2.4.3 SMEs in the Agricultural sector

The seed sector in Sub-Saharan Africa is dominated by informal supply systems with farm-saved seeds accounting for approximately 80 per cent of planted seeds, compared with a worldwide average of 35 per cent. This informal seed supply system is characterized by on-farm production of self-pollinated non-hybrid crops and a distribution system limited to barter trade and sales in local markets. Improving smallholder farmers' access to new high-yielding varieties and hybrid crops requires better-coordinated marketing efforts and expanded distribution systems (Da Silva, 2011).

The total number of unemployed Gambians stands at roughly 221,000. This means an overall unemployment rate of approximately 30%. The total numbers for youth, however, are much higher, with more than 44.3% of The Gambian youths currently unemployed, according to The Gambia (Gambia Labour Force Survey, 2012, p. 103). A clear majority of Gambians rely on work in the informal sector (62.8% of employees in the non-agricultural sector) and other forms of vulnerable employment. Paid employees constitute just 23.5% of the total working population, while 60% are self-employed (own-account workers) and 12.5% are unpaid family workers (Gambia Labour Force Survey, 2012).

According to data from the Gambia Bureau of Statistics (GBOS), real GDP was estimated to have grown by 4.6 per cent in 2017 compared to 0.4 per cent in 2016 and also higher than sub-Saharan Africa's average growth rate of 2.8 per cent. In 2018, economic recovery is expected to strengthen further with real GDP growth projected at 5.4 per cent on the back of continued implementation of sound macroeconomic policies, structural reforms and strong performance of the services sector and construction.

In most developing countries, including LDCs, farmers' informal seed systems usually operate alongside formal seed systems. Farmers' systems are characterized by traditional methods of selection within and among varieties, on-farm seed multiplication, and informal diffusion of seed from farmer to farmer. These systems still provide the vast majority of all crop seeds used by farmers in most developing countries. Although farmers' seed systems are built on traditional methods and processes, they often involve modern varieties, some of which may be associated with IPRs (The World Bank, 2006). Seed is often expensive, placing poor farmers at a disadvantage. Large seed companies concentrate more on countries with big farmers and a large demand for seeds, especially hybrid maize and vegetable seed. They often ignore seeds with thin profit margins, such as self-pollinated crops, like wheat, rice and beans, and open-pollinated crops like non-hybrid maize vegetatively propagated crops, because farmers often save the seeds from one harvest to the next and because proprietary laws are missing or not enforced. However, these are the crops still widely grown by most smallholder farmers, providing food and employment for themselves and others. Letting farmers try new varieties and then distributing the seed will be crucial as the world adapts to climate change (Guei, 2011).

Trademark protection enables goods or services of the owner of the trademark to be distinguished from that of competitors, providing a mechanism for managing brand names, company names and product attributes such as quality, durability, etc. within the market, potentially into perpetuity (Hooper, 2004). Innovation has become the primary factor influencing competitive differentiation and stakeholder value creation. In a context where creative thinking determines competitive advantage and where the nature of products and services is increasingly more complex, knowledge creation and protection

mechanisms also promote sustainable organizational leadership with intellectual property (IP) and knowledge management in product development serving as factors for differentiation by the team, rather than by product (Janszen, 2000).

2.4.4 Benefits of SMEs to the Economy

The value of Gambian horticultural production can increase by USD 64M, impacting the lives of 37,000 farmers by 2025. The opportunity is to increase the sector's contribution to the national economy while improving the livelihoods of 100,000 farmers in terms of revenue, food security, and nutrition. USD 17M would be reached through exports, by capturing up to 0.4% of the projected 2025 imports of Italy, France, Germany, The Netherlands, and The United Kingdom. These countries together are the top drivers of the global demand in terms of both growth and Quantity for three horticultural crops with the highest export potential for The Gambia. Gambian producers alone could capture all this value if constraints along the value chains are removed (Dalberg, 2018, p. 2). According to The Gambia National Horticulture Sector Master Plan, 2015, Horticulture contributes approximately 19% to the agricultural Gross Domestic Product of the Gambia. The total production for 2013 was 71,573 tons, representing a total value of 21 million US dollars.

According to the (The policies for sustainable and inclusive private sector-led growth, 2019) from the finding of the assessments, it shows that Agriculture is the Gambia's largest sector, is particularly characterized by low productivity Low agricultural productivity due to structural and institutional weaknesses. Gambian firms experienced only small productivity improvements over the last decade and remain the least productive among peers. The intensity of capital use is also low, which partly explains the low firm

productivity, Ineffective public investment contributes to a poor enabling environment for firms in The Gambia.

2.4.5 Exploitation of TM System by SMEs

Commercializing Intellectual Property brings economic, social and personal benefits, it can generate revenue for the inventor/MSMEs through sales or licensing of the exclusive right, contribute to the reputation of the inventor and increase R&D. A strong IP portfolio attracts government financial and support Programme (OECD, 2004). OECD further reports that, in addition to generating revenue, UM protection and licensing provide incentives for inventors/ businesses to invest in research and development and improve their innovation. The commercial transfer and acquisition of technology require two or more parties to reach a contractual agreement between them.

Despite the growing importance of the value of intangible assets, including IP assets, most businesses, especially agricultural SMEs, do not make effective use, or indeed any use, of the IP system. This is often due to a lack of awareness about the importance of the IP system; poor understanding of its role in reducing risk; poor understanding of how it improves competitive position, inadequate or no access to expertise for creating and using effectively IP assets; and undue concern about the costs and uncertainty of using the IP system, especially in policing their IP rights and in the dispute settlement stage (WIPO, 2015).

As a result, in countries like the Gambia, there is not much demand for the private sector, fee-based IP services for SMEs, including agricultural SMEs. In this situation, IP-savvy governments in developing countries, including LDCs, have taken on the responsibility of

providing free or subsidized information, awareness and capacity building IP services to SMEs to create an IP culture that is crucial for market success in the knowledge-driven economy of the 21st century. Once the basics are understood, it will not take long for these IP-aware SMEs, including agricultural SMEs, to understand that legal protection of IP assets by itself would not suffice; to be successful, every business, large, medium or small, must develop and implement an IP management strategy that it must integrate with its overall business strategy (WIPO, 2015).

Only then can an SME, including agricultural SMEs, be in a position to prevent free-riding by competitors and have a fair opportunity to reap the reward of its IP-related efforts in the marketplace by selling its products or providing its services at a profit margin that justifies the risks it took and the investments it made. Often, the agricultural SME will need financial, technical and other types of support for becoming business-savvy, IP savvy and managing risks as an informed entrepreneur. This support may come from various quarters; not only from stakeholders in the public sector but also from the private sector and civil society (WIPO, 2015).

Trademarks are relevant for the branding strategies of all types of enterprises in the entire agricultural value chain. They enable signalling, which enables easier identification for developing relationships of trust in business. The importance of trademarks keeps increasing as the credence attributes of an agricultural product for determining its quality gain more importance in the buying decision and/or the value of the quality of the support services keeps increasing in the final price. Thus, the increasing importance of the services of food distribution, food retail and restaurants attest to the growing role of trademarks in the branding strategies of agricultural enterprises at all levels. Different food products are

recognized on retail shop shelves by company name, trademark/logo and design /on their packaging. Trademarks are relevant for the advertising, branding and other marketing needs of companies (WIPO, 2015). Without trademark registration and protection, the company's investments in marketing a product may become wasteful as rival companies may use the same or a confusingly similar trademark for identical or similar products or services. If a competitor adopts a similar or identical trademark, customers could be misled into buying the competitor's product or service thinking it is the company's product or service. This could not only decrease the Company's profits and confuse its customers but may also damage the reputation and image of the company, particularly if the rival product/service is of inferior quality.

Trademarks provide an incentive for companies to invest in maintaining or improving the quality of their products to ensure that products bearing their Trademark will have a positive reputation. Thus, the ownership of a trademark with goodwill and reputation provides a company with a competitive edge (WIPO, 2003). Trademark management should be an integral part of the branding strategy of any enterprise since a valuable trademark gives visibility to agricultural products.

Agricultural commodities are generic, undifferentiated products that, since they have no other distinguishing and marketable characteristics, compete with one another based on price. Commodities contrast sharply with those products which have been given a trademark or branded to communicate their marketable differences (Crawford, 1997).

Many people conflate the legal concept of a trademark with the marketing concept of a brand. A trademark is an essential but only one aspect of a strong brand; it acts as a peg in the minds of consumers to which visual images, emotional connections and positive (or

negative) associations can be attached by the consumers or customers of the branded product. Thus, a brand connotes the unique and proprietary sensory, emotional, rational and cultural image of a company or its branded product in the minds of customers or consumers. Brand equity is the commercial values of all associations and expectations (positive and negative) that people have of an organization and its products and services due to all experiences of, communications with, and perceptions of, the brand over time (Singh, 2012).

Trademarks are among the most efficient marketing and communication tools. Trademarks are a powerful instrument to capture the consumer's attention and make your products stand out. Trademarks, as a part of your brand, can wrap up in a single element all the intellectual and emotional attributes and messages about your business, reputation, products and consumers' lifestyles, aspirations and desires (Burrone, 2012).

Trademarks are the basis for building brand image and reputation. Trademarks allow the consumers to base their purchasing decisions on what they have heard, read or experienced themselves. They create a relationship of trust which is the basis for establishing a loyal clientele and for enhancing the goodwill of the company. Adopting a competitor's trademark can provide a marketing boost, giving a sizable advantage over those with competing products.

However, this can be a complex legal issue and you should consult a trademark lawyer for advice. You may want to reuse a competitor's trademark that is no longer used but still fondly remembered from the past. The public's memory of the original trademark can trigger instant demand for your new product, reduce advertising costs and raise profits (Burrone, 2012).

Serious challenges to food security in LDCs have been caused by the dramatic escalation of food prices from the beginning of 2008. The High-Level Conference on World Food Security convened by the FAO in June 2008 noted that during the first 3 months of 2008, international nominal prices of all major food commodities reached their highest levels in nearly 50 years while prices in real terms were the highest in nearly 30 years. The High-Level Conference observed that the constriction of food supplies was caused by the shift of farmers into the production of biofuels and also the impact of global warming on food supplies. The Declaration issued by the High-Level Conference in article 3 identified “an urgent need to help developing countries and countries in transition expand agriculture and food production, and to increase investment in agriculture, agribusiness and rural development, from both public and private sources” (FAO Declaration, 2008).

The mandatory obligation imposed by TRIPS for WTO members to protect plant varieties has resulted in most countries adopting laws based on the 1991 iteration of the UPOV Convention. This latest version of the Convention may be contrasted with the earlier versions because it does not guarantee the right of farmers to save, exchange and replant seed. It is suggested that these restrictions on the rights of farmers risk exacerbating the crisis of hunger and malnutrition would be a violation of human rights (Edwardson, 2005).

The role of IP in eliminating food insecurity has to be placed in its proper policy perspective. Development experience over the last 50 years attributes rural poverty and food insecurity in developing countries to develop strategies that overlooked the importance of the development of the agricultural sector, particularly the production of staple foods (FAO, *The State of Food and Agriculture: Lessons from the past 50 years*, 2000).

Thus, the enhancement of food security in LDCs requires a package of policies that address the supply, distribution and consumption aspects of the food chain. The FAO has noted that the policy options that are available to poor countries are constrained by several factors including (a) limited resources for public spending programs; (b) the dilemma between remunerative prices for producers and prices that a large number of poor households can afford, thus making the option of border protection less attractive, despite high bound tariffs; and (c) major constraints on foreign exchange availability leading to pressure to boost production of export crops (FAO, 2001).

In almost every industry, IP is increasing its presence on corporate balance sheets and proving that it has a direct influence on product positioning, revenue generation and shareholder value. Indeed, if managed with diligence, IP can be a powerful and strategic business weapon. Yet if overlooked, a company's innovations can be left dangerously exposed and easily exploited by competitors in today's patent-frenzied marketplace. (Colson, 2001).

Effective management of IP rights must be recognized as an essential foundation for creating core competence and South African businesses need to develop competencies in this regard to promote business development through effective technology exploitation and knowledge transfer (Stern, 2005).

IP management typically encompasses teamwork between the legal team driving IP protection and the engineering team responsible for innovation because managing the stakeholder involvement and ownership of IP requires a specific technology/IP strategy that is integrated with the company's technology strategy and which seeks to encompass the technology management life-cycle (Stern, 2005).

Agricultural commodities matter to development, especially in developing countries like The Gambia. Commodity products such as sugar, coffee or beef contribute to over half of total employment and more than a quarter of GDP in developing countries, where over 1 billion farmers derive at least part of their income from them. As most of these farmers are smallholders, raising the value of commodities can do much to reduce poverty. Unfortunately, the trend has been the opposite. Modern food chains place increasing importance on branding, distribution and services, rather than on farmers' traditional role in supplying produce to wholesale markets. As a result, primary producers of agricultural commodities have been capturing less and less of the total value of their products. At the same time, power has become concentrated in the hands of a small number of buyers — the major supermarket chains and manufacturers who dominate the global food market. By branding commodities, producer countries and organizations can reverse this growing imbalance. Branding creates consumer demand, giving producers leverage in negotiations with large buyers (Docherty, 2012).

The strategy of branding agricultural commodities is neither new nor the preserve of mature states; successful cases show it is within the reach of countries and producer groups with limited resources. Commodities are physically simple and easily transported and with the recent expansion of outsourcing in sophisticated retail (Docherty, 2012).

Agricultural commodities play an important role in development. But traditional commodity trading, based on exporting produce in bulk at low prices, limits how much of the profits from these products flow to producers in developing countries. (Docherty, 2012, p. 4) Moreover, the value of the commodities is increasingly being shifted away from developing-world farmers and businesses. Today's markets are developing a 'value

trap' that transfers income downstream in the supply chain (Docherty, 2012). In this study, we will explore how a non-traditional approach based on marketing and trademark exploitation commonly used by large multinational companies to develop profitable agricultural brands in mature markets can help small-scale farmers compete in the global economy.

Producers in the developing world can rebalance value chains by applying the same principles of branding and supply chain management used by agribusiness in mature markets. In this way, farmers can retain more of the value generated by their agricultural commodities and ensure effective control over their supply chains. Even in global commodity chains where large buyers are at an advantage, end consumers ultimately hold the power over how value is distributed (Docherty, 2012).

The Darjeeling region of India produces a unique tea product primarily due to geographical and climatic factors, including high humidity and rainfall, elevated cultivation, specific soil types and steep drainage gradients, but also due to the widespread use of traditional processing methods. Almost three-quarters of Darjeeling tea is exported, with a value of US\$30 million per year. Registration of Darjeeling as a geographical indicator has led to more effective policing of the use of the term through an intellectual property monitoring agency, but also generates a license fee for producers payable by the packer, which varies by country of export (Rangnekar, 2010).

If brands generate clear commercial value and leverage with buyers in an environment that is increasingly unfavourable to developing producers and has been applied effectively to a range of commodities, why are they not more widespread? Policymakers and development institutions typically point to several apparent problems with the branding

of agricultural commodities, primarily related to producers' limited capacity to pursue branding strategies (Anholt, 2005).

Brand development is not a priority in developing countries and has limited potential to impact smallholders. For states and communities struggling with basic needs such as safe water, sufficient food, infrastructure and health care, branding a product that has been sold in the same way for decades may simply not be a priority. Even where this is not true, without clear organization and transparent mechanisms to pass on the benefits of added value to farmers, branding could boost overall economic activity but fail to alleviate poverty (Docherty, 2012).

Other barriers to commodity branding are driven by classic mindsets about commodities, a traditional approach to capacity constraints and a belief that consumer-led branding operations in commodity sectors require significant expenditure and risk with little potential for real rewards. We argue throughout this paper that many of these traditional assumptions are fundamentally mistaken (Docherty, 2012).

In managing the product life-cycle, IP protection should accordingly be exercised between both the tactical and operational areas aligned to corporate product strategy, where protection mechanisms should typically be adopted between the market testing and commercialization phases of the new product development life-cycle (Stern, 2005).

For women to leverage the benefits of intra-African agricultural trade under the AfCFTA, they require targeted support in the form of agricultural trade policies that respond to the AfCFTA, buttressed with context-specific complementary measures. Interventions that build upon existing strategic actions to increase the participation of women in productive

agriculture activities and trade must be pursued (The Gambia National AFCFTA Strategy, 2020).

They find positive correlations between the firm-level use of trademarks and firm-level proxies of innovation. This supports the view that trademarks may be relevant for measuring innovation, as discussed in the pioneering paper by Mendonca (2004).

Trademark law provides economic agents with the opportunity to protect brand owners against imitation. Trademarks identify the origin of goods and services and thereby protect both sellers and buyers, namely protection against deception and fraud to buyers, and some extent protection of monopolies established by differentiation efforts to sellers. Strictly, however, trademarks do not protect IP like patents do, since an inventive step and non-obviousness are not required to apply successfully for trademarks. From casuistic we know that firms sometimes use new brands and apply for new trademarks in cases of meaningless or nil differentiation, to prolong other IP to leverage brand equity (Ringle & Kocyigit, 2011).

Process innovation and organizational innovation efforts were not significantly related to trademark activity, which was also confirmed by the studies of Götsch and Hipp (2012) (Gotsch & Hipp, 2012) for process innovation, by Flikkema *et al.* (2014) (M.J Flikkema, A.P de Man and C Castaldi, 2014) for organizational innovation, however, did not confirm the lack of correlation between trademark activity and process innovation. Flikkema, Castaldi, De Man & Seip, (2015) concluded that although there is a link between trademark filing and innovation, there is a need to better understand why and when firms apply for trademarks to appropriate the rents from innovation.

Trademark protected brands can establish sustainable relationships between customers and producers and may thereby also help companies to fend off patent infringement issues, or to reduce the resources needed for patent litigation. Trademark filing strategies can only be defined for firms already possessing at least one trademark. Start-ups seem to have distinctive trademark filing strategies since trademarks may signal their very appearance in the market (Flikkema, Castaldi, De Man & Seip, 2015).

According to Block et al. (2013) (Block, Fisch & Sandner, 2014) brand creation is required if a firm wants to tap into new market segments where they cannot capitalize on the equity of parent brands. They consider brand-modernizing as the renovation of existing brands to keep up their appearance up to date and discard unwanted associations in changing environments, to signal revitalization and ongoing market presence, or to improve the fit with a product's life cycle. 'With brand extending, strategies companies build upon an established brand and seek to induce spillover effects by transferring this brand to other products or markets.

2.4.6 Utilization of Trademarks for SME growth

From an innovation perspective, filing a new trademark is a means for firms to announce the introduction of new products. Next to signaling, trademarks act as complementary specialised assets helping firms to appropriate the economic rents from innovation through compelling branding, distribution and franchising strategies (Teece, 1986).

More recently, the entrepreneurship perspective has focused on trademarking decisions in young and small firms. Trademarks filed by startups constitute a valuable signal to external stakeholders such as potential customers and investors. Startups, particularly in

their early phases, do not have a track record of satisfied customers and successful products and are typically not known to the market. They may suffer from severe liabilities of newness and hence may file a trademark as a way to signal their seriousness and professionalism towards external stakeholders. When it comes to investors, Forti found that VC involvement is an important driver of trademark filing and the building of brand assets (Forti, 2019).

When it comes to trademarks, one insight is that startups tend to have stronger incentives to file trademarks earlier in the innovation lifecycle than mature firms (Seip *et al*, 2019). As startups suffer from liabilities of newness and smallness, they use trademarks as a means to attract resources. This motive to file trademarks relates to the signaling function of trademarks and targets different actors: VCs and other specialised investors in a very early phase for the case of innovative startups, all other investors in the R&D phase and customers and competitors in the commercialisation phase.

Both entrepreneurship and innovation studies have suggested a strong link between trademarks and innovation. In startups, trademarks often mark the start of a business. Research on trademarks in entrepreneurship has focused on the signaling function of trademarks to attract financial resources. Further research might go beyond this particular form of resource and broaden the scope toward non-financial resources that are needed to successfully build and grow a venture. For example, it would be interesting to learn how trademarks and their related brands help to attract co-founders and early employees (Coad, Nielsen & Timmermans, 2017) which are of crucial importance for high-growth firms.

So far, we know little about the relatedness of trademarks to innovation in mature firms. For product and service innovation, micro-level studies that also encompass branding strategies, as (Flikkema, 2019) proposed, bear potential for establishing the trademark-

innovation link. brand it or lose it' nearly speaks for itself. Studying branding strategies for innovation in depth may help to better understand when and why new trademarks are filed.

While the motives for firms to trademark might be quite clear and strengthened by the evidence of substantial private returns it remains unclear whether the societal benefits of trademarks are as strong as the private ones. The early IO studies stressed how the higher prices that consumers pay for trademark-protected products are compensated by the decrease in search and transaction costs and/or the increase in the availability of new products (Besen & Raskind, 1991).

It showed that trademark activity positively correlated with dynamic competition confirming arguments from the innovation perspective on motives to trademark. Other authors have been more critical and argued that trademarks might be associated with monopolistic practices with negative outcomes for consumers and society enlarge (Lunney Jr, 1999).

Emerging evidence on practices that one could call 'strategic trademarking' also casts doubts on the welfare efficiency of current trademark systems. Large incumbent firms resort to 'submarine trademarks' (Fink et al., 2018) by filing trademarks at obscure trademark offices to avoid revealing their market strategies while being able to claim priority. Other practices are 'trademark cluttering', i.e., multiple trademarks filing to claim priority without an intention to market and 'trademark squatting', i.e., filing of trademarks by someone other than the brand owner (Fink, Helmers, & Ponce, 2018) (Fink, Hall & Helmers, 2018). All these strategic motives to trademark potentially endanger the informational value of trademarks and the very functioning of trademark systems.

If left unprotected, a good invention or creation may be lost to larger competitors that are in a better position to commercialize the product or service at a more affordable price, leaving the original inventor or creator without any financial benefit or reward. Adequate protection of a company's IP is a crucial step in deterring potential infringement and in turning ideas into business assets with a real market value. Taking full advantage of the IP system enables companies to profit from their innovative capacity and creativity, which encourages and helps fund further innovation. Its potential for providing opportunities for future profit is widely underestimated by SMEs. IP can become a valuable business asset if it is legally protected and there is a demand for IP related products or services in the marketplace. IP may generate income for the SME through licensing, sale or commercialization of the IP products or services that may significantly improve the SME's market share or raise its profit margin (Idris, 2003).

However, not all IPs may be relevant or applicable to the agro-based product (Mohd Noo, 2011). One IP that would be very much relevant is a trademark. A brand is something that is unique and can attract people to a certain product or service. It is an intangible asset that is more powerful than a real product or service. It is an intangible asset that is more powerful than a real product or service. Today, it is much easier to sell a brand instead of selling a real product. Consumers will tend to be influenced by brands instead of products or services.

There is a need to strengthen the interaction between IP offices, SME support institutions, business associations, national, regional and local governments and other relevant institutions with a view to better identifying the IP needs of entrepreneurs and SMEs and the barriers to more effective use of the IP system by entrepreneurs and SMEs. In addition, government and policymakers may promote more effective use of the IP system by

entrepreneurs and SMEs by enhancing awareness and knowledge of all elements of the IP system, including not just patents but also trademarks, geographical indications, industrial designs, utility models, trade secrets, copyright and related rights, new varieties of plants, non-original databases and relevant aspects of unfair competition law, among entrepreneurs and business advisers within public and private SME support institutions (Louwaars, 2005).

A descriptive exercise done on Norwegian firms gives some clues on SMEs' likelihood to use trademarks. Gathering several thousands of applicants, including micro firms and SMEs, (Iversen, 2003) underlines that less than 30% of the smallest firms identified were involved in two or more trademark applications whereas the percentage rises to 90% for large enterprises. This rough analysis suggests a positive correlation between size and the number of trademark applications.

Mamede, (2011) conducted a study in Portugal, their regression results largely confirmed the notion that firm size and age are relevant determinants of trademark use. In particular, new firms reveal a higher propensity for trademarking, while trademark use is more probable among bigger firms than in smaller ones. The regression results also show that geographical proximity plays an important role in explaining the trademark used by firms (even after controlling for the higher propensity of firms located in metropolitan centres to use trademarks). The regional effect showed to be more important than the industry effect.

Brand counterfeiting can be regarded as an economic crime because brand counterfeiters not only defraud and harm consumers with a counterfeit product but also damage the reputation of the original employer. Violations of a brand are similar to the counterfeiting of a brand in the imitation of labels and packaging. The difference is, that the brand

counterfeiting label or packaging the product used is a clone of the original, while the copies, the label used was his own by using his name. Perpetrators of this imitation is not a criminal, but rather a competitor who did the cheating. (WIPO)

Registration of Trademark will give the strong rights to strengthen the protection of the use of his brand. World Intellectual Property Rights (WIPO) explains, Small and Medium Enterprises (SMEs) have a lot of potential for growth and development of innovation and creativity in the product. However, unfortunately, the awareness of SMEs on the importance of the use of intellectual property rights/trademark to support their business activities are still lower ineffectiveness (Sardjono,2013).

Internal and external factors that influence the legal protection of trademarks against SMEs, such as where internally, the SMEs have not enrolled in Brand trade, caused by several things, the SMEs have less initiative and creativity to create a brand name and register they were afraid for registration process includes an expensive fee for brand insight among the SMEs as well as the registration procedure, the length of time for the trademark registration until two years have not been out certificates. While externally, due to lack of socialization, workshop, counselling and legal aid and the Government and privates, limited or lack of budget funds and expertise as a chaperoned field of IP at the level of the central government, provincial, district/city (FGD, 2019).

2.5 Summary

The above literature review looked at relevant topics related to the role of trademark exploitation for SMEs in the Agricultural Sector. Most of the author's findings are that there are many challenges facing MSMEs such as lack of awareness, the complexity of the IP system and trademark is not seen as an investment and a business strategy. A study

found that there is a lack of innovative mindset among MSMEs; they do not make use of intellectual property protection. Different studies agree that the registration requirement for the trademark system is less striking than those of the patent system. The complexity of the IP system also causes the ineffective utilization of trademarks.

Therefore, there is a gap needed to be explored to explore the possibility of promoting the use of a trademark to encourage growth and export by SMEs in The Gambia, because all the studies reviewed concentrated their efforts on IP such as patents to promote innovation in countries such as the USA, Europe, and Japan, studies that have focused on the promotion of growth in SMEs identified other areas of IP such as geographical indications as the best practices to encourage growth in agriculture for SMEs.

CHAPTER 3 METHODOLOGY

3.1 Introduction

This chapter presents the methodology of the study. It describes the research design, population and sampling techniques, data collection methods and instruments as well as how data were collected.

3.2 The Research Design

This study used both qualitative and quantitative approaches. It also used a desk review of existing IP strategies and policies relating to trademark exploitation in agriculture and a survey. The survey was done using a questionnaire which was generated from the research questions that we're addressing the objectives of the study.

3.3 Population and Sampling

According to the Gambia Bureau of Statistics, the population of the Gambia is about two million people. The study population consisted of Agripreneurs from 6 regions. The study focused mainly on North Bank Region and Central River Region because of their dominance in the agricultural sector. These regions were chosen because there is high involvement in agricultural activities by farmers. The population of the study was 150 respondents. Due to the population of the country and the small number of the farmers and stakeholders the sample size of the study was 100 participants out of which 50 SMEs were purposively selected based on their levels of economic activities, export readiness and formalization and any existing collaboration in the sectors of health, tourism, agriculture and energy. The respondents from the identified SMEs were selected based on

their level of commitment to agriculture and the protection of the enterprise's intellectual property rights. This was done through the Agricultural Extension Office of each region. The government agencies that were included in the study were those with active roles in the development of agriculture, the Industrial Property Office and the Gambia Investment and Export Promotion Agency in The Gambia. In these agencies, government officials with technical knowledge of IP rights administration were targeted as respondents. In total, the sample size consisted of 100 participants from Gambia Investment and Export Promotion Agency (GIEPA), Ministry of Justice Intellectual Property Office (MOJIP), Ministry of Agriculture (MOA), Gambia Chamber of Commerce and Industry (GCCCI), and National Intellectual Property Policy and Strategy Committee (NIPC), University of The Gambia (UTG), and from Agricultural sector SMEs as detailed in Table 2.

Table 2: Distribution of study participants by category

Category of participants	Sample size
GIEPA staff	8
MOJ IP officials	5
MOA Officials	10
SMEs respondents	60
GCCI Staffs	4
NIPC Officials	6
UTG	5
Total number of participants	98

The SMEs that were included in the study were selected from farmers, breeders, growers; input suppliers to the agri-food sector; agri-food processors; agri-food packaging manufacturers and suppliers; agri-food traders, agri-food retailers; agri-food supply/value chain/network participants such as agri-food input suppliers; agri-food machinery suppliers, agri-food logistics providers; and others.

3.4 Data Collection Instruments

The study used primary and secondary sources of data. The primary data included information obtained directly from the use of a questionnaire and an interview schedule, while the secondary data was collected through a desk review of relevant documents such as IP strategies and policies, textbooks, e-books, journals, magazines and materials from the internet relating to the topic under study.

3.5 Data Collection Procedure

The questionnaires were distributed to the SMEs and it was filled and collected. In some regions, enumerators were engaged to distribute the questionnaires to participants. The completed questionnaires were collected and sent back to the researcher for analysis. Interviews were also conducted with Policy Makers in the Agricultural and Intellectual Property Ecosystem

3.6 Analysis and Organization of Data

The qualitative data were analysed with the use of descriptive statistics and presented using frequencies and charts. The qualitative data collected using open-ended questions and the interview guide were analysed by reviewing and identifying the emerging themes concerning the objectives of the study.

3.8 Ethical Consideration

In administering the questionnaire, respondents were assured that their information would not be for commercial use and would not be disclosed to a third party that will be harmful to them. The researcher signed a Non-Disclosure Agreement with all the participants of the study. All participants signed an informed consent form to indicate their acceptance to voluntarily participate in the study. After the data was analyzed, the questionnaires were stored by the researcher to ensure they did not get in the wrong hands. For participants to provide reliable information, they were assured of confidentiality and anonymity. Any information collected about individual participants was treated without attaching or mentioning their names or names of their institutions. This researcher considered all the ethical requirements, presented information without misleading people and provided a list of references as acknowledgement of all sources that were consulted and used for the study.

3.9 Summary

The study aimed to establish the factors that contribute to the inadequate utilization of trademarks by SMEs in the agricultural sector of the Gambia. Both quantitative and qualitative methods were used in data collection and analysis. The study population consisted of Agripreneurs from 6 regions. Fifty SMEs were purposively selected based on their levels of economic activities, export readiness and formalization. Data collection was done using a questionnaire and interview guide.

CHAPTER 4 DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1 Introduction

The research aimed to establish the factors that contributed to the inadequate utilization of trademarks by SMEs for business growth and competitiveness in the agricultural sector in the Gambia. The summaries, tables, figures, computations and interpretations in the following sections of this chapter represent the results of the research per the research questions. In the order of the research objectives, the data presentation and analysis section present the sources, validity and demographic features of respondents. The study evaluated the impact of trademark exploitation by the MSMEs in the Agricultural Industry in The Gambia by establishing the factors that contributed to the inefficient utilization of the Trademark System in said country. To attain this, the researcher collected relevant data which was analyzed with a focus on establishing the exploitation and/or non-exploitation of the trademark system through the research objectives of this study. Also critical to this study was the assessment of the awareness levels among the participants on the exploitation of the trademark system by the SMEs in the Agricultural sector stimulating innovation in that industry in The Gambia, identifying the contributing factors that led to the lack of trademark utilization in the Agricultural sector, evaluation of registration of trademarks by SMEs in The Gambia. The study further established how policy gaps can be implemented to ensure the effective use of the trademark system to improve the innovation of SMEs in The Gambia. In this chapter, data collected from the stakeholders is presented, evaluated and analyzed in the form of tables, charts, and graphs culminating in the findings of the study. Questionnaires were distributed and collected

from the participants in this study. Their responses have been presented and analyzed with respect to the objectives of this study.

4.2 Data Presentation and Analysis

4.2.1 Frequency distribution of study participants

Eighty-three participants participated in the study out of the sample size of 98 representing an 84.7% participation rate. The participants were drawn from Gambia Investment and Export Promotion Agency (GIEPA), Ministry of Justice Intellectual Property Office (MOJIP), Ministry of Agriculture (MOA), Gambia Chamber of Commerce and Industry (GCCCI), and National Intellectual Property Policy and Strategy Committee (NIPPS), University of The Gambia (UTG), and from Agricultural sector SMEs. The frequency distribution and the response rates for each category of participants are presented in Table 3.

Table 3: Response rates for categories of participants

Sample Description	Sample size	Respondents	No responses	Response rate
GIEPA staff	8	6	2	75%
MOJ IP officials	5	5	0	100%
MOA Officials	10	7	3	70%
SMEs respondents	60	52	8	86.7%
GCCI Staffs	4	3	1	75%
NIPPS Officials	6	6	0	100%

UTG	5	4	1	80%
TOTAL	98	83	15	84.7%

The 83 participants that took part in the study were drawn from institutions and other relevant stakeholders whose dealings directly or indirectly affect the exploitation of the trademark system by SMEs in the Agricultural sector in The Gambia. From the total of sixty questionnaires that were administered to the SMEs, only 52 completed questionnaires were returned. Six interviews were scheduled for this research and only 3 interviews were conducted.

The participants were selected from relevant institutions whose activities have a direct or indirect impact on the SMEs' exploitation of the trademark system in the said agricultural industry. Based on the above table, 86.7% of the participants from the SMEs responded. The overall response rate for the study was 84.7%.

The data collected showed that 64% of the respondents who participated in the study were men and only 36% were women. Table 4.2 shows the age distribution of the respondents.

Table 4: Age distribution of respondents

Age Range	Score	Percentage
18-29	14	17%
30-39	13	16%
40-49	25	30%

50-59	23	28%
60 and above	8	09%
Total	83	100%

The table above presents the age group of the participants that have responded to the research study. The number of respondents was youths within the age range of 30-39 constituting 16% of the total participants that responded, 17% are in the age range of 18-29, while 30% of the participants are between the ages of 40-49.

4.2.2 Knowledge and awareness of trademark system

The study interrogated the level of IP awareness among the various participants of the study. This is in line with the key elements of the research objective of this research. The data obtained shows that there is a high level of IP awareness at the MOJ IP Office and the NIPC. However, the level of awareness for the SMEs is very low which explains one of the factors for the lack of exploitation of trademark systems by the SMEs in The Gambia. The general knowledge of the trademark system is administered to participants from all the stakeholders with the view to assess IP awareness among the participants from various institutions. The participants were asked questions on knowledge of trademarks, their registration processes and benefits for SMEs and economic growth. The responses of the participants showed a lack of awareness from most stakeholders, particularly the SMEs. Table 5 features the responses of the participants about their IP knowledge.

Table 5: Assessment of IP Knowledge and awareness

STAKEHOLDERS	Assessment of IP Knowledge and awareness		Percentage of IP awareness	
	YES	NO	YES	NO
GIEPA staff	2	4	33%	67%
MOJ IP officials	5	0	100%	0%
MOA Officials	3	4	42%	57%
SMEs respondents	5	47	10%	90%
GCCI Staffs	1	2	33%	67%
NIPPS Officials	6	0	100%	0%
UTG	3	1	75%	25%
TOTAL	25	58	30%	70%

One Hundred per cent (100%) of the respondents from the IP office indicated that they had trademark knowledge which is essential for spurring growth in SMEs. GIEPA only 25% are aware of the IP system and Ministry of Agriculture 30% respectively. SMEs present the least data on IP awareness with only 10% of them aware. The majority of the SMEs had no idea what IP and they considered IP as a tool for large corporations and not for SMEs.

A large proportion (90%) of SMEs lacked knowledge and information on IPRs and their benefits. Among the interviewed SMEs, none were having a registered trademark. They suggested that IPR procedures should be simplified and shortened and that there should be better access to IPR databases and information.

4.2.3 Contributing factors to inadequate utilization of Trademarks by SMEs in the Agricultural Industry

Participants were asked to highlight the contributing factors to the lack of trademark utilization by SMEs in the agricultural sector. The following factors were cited:

4.2.3.1 Lack of IP knowledge and awareness among SMEs

90% of the respondents from all participant groups strongly emphasised that there is a lack of IP knowledge and awareness among SMEs in the Gambia. 20% of the participants also attributed the poor utilization of trademarks to the perception of the complexity of the IP system. Because of the lack of knowledge, the IP system is regarded as a foreign procedure that no one wants to get involved with. All the SMEs who participated in the study indicated that they lacked adequate knowledge on how to protect their brand with trademark and that the cost of procedures seemed too complicated and too long and burdensome.

There was a low IP awareness (30%) among officials at the Ministry of Agriculture who were aware of the trademark system and its benefit to SMEs. 70% of the respondents do not have an idea what a trademark or IP is. Some of the officials were not aware of the relationship between agriculture and intellectual property and the benefits IP may bring to the SMEs.

On whether the IP Office has ever approached SMEs for IP awareness, 90% of the IP Office respondents indicated that there had never been any awareness programs targeting SMEs, despite the institution sharing information on its website on campaigns, IP Day and the national trade fairs. This situation prevailed despite all IP Office respondents

highlighting it is important to make SMEs aware of the benefits of trademarks for their businesses.

4.2.3.2 Lack of institutional IP policies and strategies

The study revealed that some factors that contributed to the inadequate utilization of trademarks by SMEs in the Agricultural Industry related to Legal frameworks and IP policies. Participants from the Ministry of Justice attributed the ineffective utilization to the lack of institutional IP policies and strategies;

4.2.3.3 Inadequate support structure for SMEs

94% of SMEs highlighted that there is no support from the government for trademark utilisation, besides regulations that are provided by the Ministry of Justice. It was reported that the Ministry of Justice and the Gambia Chamber of Commerce and Industry (GCCCI) support big businesses but encourage SME start-ups and operations. Furthermore, the study revealed that the line ministries and stakeholders were not providing adequate support to SMEs to make sure that they are aware of the IP system and utilize it. Participants from the Ministry of Agriculture also indicated that the existing intellectual property laws were not favourable for SMEs.

Although 42% of the officials of the Ministry of Agriculture indicated that there are support structures that encourage SMEs innovation and SMEs are made aware of these structures through the Ministry's campaigns and public awareness, it was reported that most of the SMEs do not seek any support from them but rather larger firms seek such support. If SMEs used these support structures, they could develop themselves and be able to grow more and seek protection for their brands. The support that SMEs seek from MOA

was reported to be mostly on access to finance. However, the study revealed that there is a Business Development Support Service provided by most of the projects under CCPU which include the NEMA Project, FASDEF, GCAV and the recent roots project which is a comprehensive package of business support to assist entrepreneurs by conducting training, develop business plans, enhance business skills through hands-on development as well as business monitoring and coaching. Participants from MoA were asked if there was any collaboration with the MOJ IP Office on matters relating to trademarks and how they could promote SME development. 80% of the respondents stated that there was not any collaboration between the two on SME development.

4.2.3.4 Inadequate Entrepreneurship Policy

Another factor that contributes to the inadequate utilization of trademarks by SMEs in the Agricultural Industry has related to the inadequacy of the Entrepreneurship Policy. The study showed that the Entrepreneurship Policy did not incorporate IP, and the regulations only favoured big businesses and discouraged SME start-ups and operations in terms of IP protection. It was also reported by SMEs and the Ministry of Agriculture that the Entrepreneurship Policy did not incorporate enabling structures to support creativity and innovation in SMEs such as the establishment of innovation support centres.

4.2.4 Measures for promoting the use of a trademark by SMEs in the agricultural sector in The Gambia.

Participants were also asked to describe any **measures that can be taken to promote**

the use of trademarks by SMEs **in the agricultural sector in The Gambia**. The results are presented in figure 1.

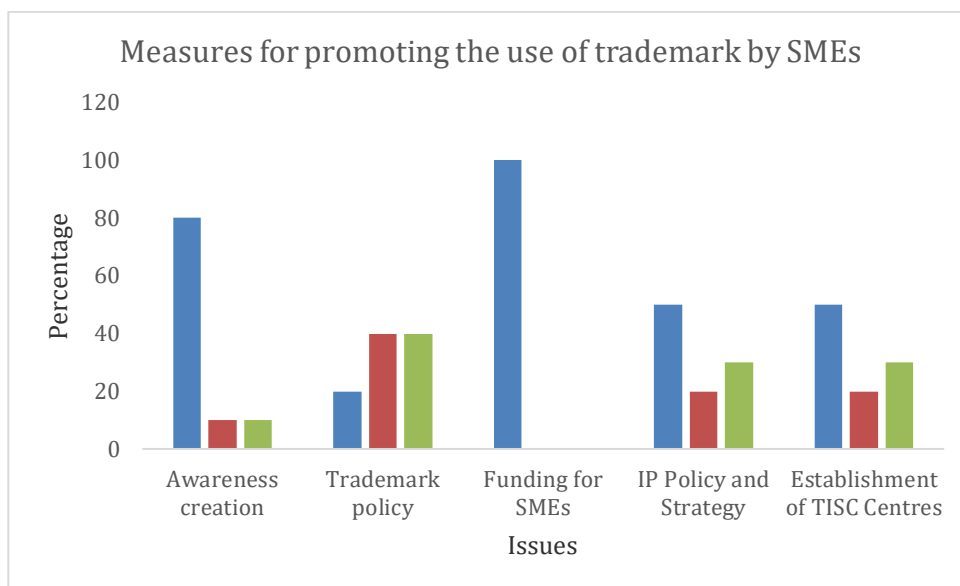


Figure 1: Measures for promoting the use of a trademark by SMEs

All the respondents strongly agree that Funding for SMEs is the most important factor that supports trademark exploitation, 80% of the respondents strongly agree that Awareness creation, 20% of the respondents strongly agree that Trademark policy can assist SMEs to acquire protection through trademark and 50% agrees that having an IP Policy and Strategy will be a factor that will support SMEs. In addition, 50% strongly agree that the establishment of TISC Centres will be a factor that will support the use of a trademark.

4.3 Discussion and Interpretation

Participants were asked to highlight the contributing factors to the lack of trademark utilization by SMEs in the agricultural sector. 90% of the respondents from all participant

groups strongly emphasised that there is a lack of IP knowledge among SMEs in the Gambia. 20% of the participants also attributed the poor utilization of trademarks to the perception of the complexity of the IP system. 80% of the respondents strongly agree that Awareness creation, 20% of the respondents strongly agree that a Trademark policy can assist SMEs to acquire protection through trademark and 50% agree that having an IP Policy and Strategy will be a factor that will support SMEs. In addition, 50% strongly agree that the establishment of TISC Centres will be a factor that will support the use of a trademark. One Hundred per cent (100%) of the respondents from the IP office indicated that they had trademark knowledge which is essential for spurring growth in SMEs. GIEPA only 25% are aware of the IP system and Ministry of Agriculture 30% respectively. SMEs present the least data on IP awareness with only 10% of them aware. The majority of the SMEs had no idea what IP and they considered IP as a tool for large corporations and not for SMEs.

4.3.1 IP Knowledge and awareness

From the data presented above, the following observations were drawn from the results of the questionnaires, the interview and the Observation held with the participants

Firstly, about IP awareness, the results revealed that there is a lack of IP awareness among SMEs and government institutions with a direct impact on SMEs' operations. This conclusion of lack of IP knowledge agrees with historical literature that shows that the IP system's successful use depends on the awareness of the IP system (Pitkethly, 2012). For one to be able to protect their innovation must have the innovation and must appreciate the system and be willing to make use of it. WIPO magazine 2015 said that IP could only be used if the user of IP is made aware of the system. While SMEs are innovating, it does

not necessarily mean that they are aware of how to protect their innovation by the use of a trademark. The lack of trademark use in the agricultural industry could be attributed to the lack of IP awareness by SMEs and the line ministries. Pitkethly study on IP awareness confirms that for effective utilization of IP, one needs to have good IP knowledge and understanding, IP management practices and awareness and use of IP information and advice. These are all lacking as the research data on awareness revealed. Only the IP office has indicated better awareness of Intellectual Property representing the 100 % of the total participants from the office knowing IP, but the SMEs who are supposed to use the system majority have no idea.

The SMEs' awareness of IP is low on the list at 10%. The interviewed SMEs on the awareness appeared to stunt and have no idea whatsoever. They were also asked how they protect their brands from copying; a shocking revelation was that most SMEs have no problem with their brands being copied. This has indicated how little they know about the IP system; it is advantages and benefits. The level of awareness is overall low even with the line ministries who are supposed to provide support structures.

4.3.2 The contributing factors to the lack of exploitation of trademarks by SMEs in the Agricultural Sector in The Gambia

The research found out that the majority of the respondents from all participant groups strongly emphasize that there is no IP knowledge and awareness among SMEs in The Gambia and ordinarily around the business sector. The finding indicated that the trademark system is new to most of them but again is known by many but it is disregarded, therefore, it's rarely used. Also, in this study's conclusion, participants view trademark as a new and cumbersome system. Therefore, it needs to be brought out through training

and information sharing by the relevant stakeholders. IP officials detailed that, one aspect of a successful IP system is that, there must be sound enforcement procedures to enforce the rights, However, IP Office staff responded that, there has been a lack of enforcement of trademarks because of our cultural background this may be a reason why for some SMEs who believes in this are opting to not trust the process because of the uncertainty with the enforcement of the right.

The study state that there are attitudes of lack of knowledge that have led to inefficient use of IP. This argument relates to the notion of copying that SMEs are referring to as the best practice, so the other SMEs benefit from their innovation. SMEs need to grow and protect their brand through trademarking and commercializing their products, so they benefit themselves, other SMEs and the country at large and that is how they can better share the knowledge.

A study by (WIPO Magazine, 2005) also confirms that businesses can only financially benefit from their brand when they protect and commercialize their brand by licensing it. This argument is just proof that there is much more for SMEs to benefit by protecting their brand because they can commercialize it and get royalty out of their brands. But not to give to fellow businesses to copy and benefit by being acknowledged as the majority of the SMEs have stated. These attitudes are also contributing factors to ineffective utilization of trademarks and them not viewing trademarks as an asset but rather a financial burden that requires their effort, resources, and maintenance.

This study concluded that SMEs do not take any measures to protect their brands because they do not see the benefit in protecting their brand, the system is too complex and cumbersome, they want to avoid any litigation that may come with the protection, and they also want to avoid difficulty associated with the enforcement of the trademark

protection. These are all indicators of one not being familiar with the system. (Iam Media, 2018) Concluded that, most businesses opt not to protect their brand because of the perception that the IP system is complex and because of lack of knowledge they view the system as cumbersome. Some added that the trademark is not preferred by some businesses because of fear of litigation. SMEs lack IP knowledge and as such, they view IP systems as cumbersome and unfriendly with litigations, as a result, they opt not to use the system and rather not protect their innovation.

This study's findings are that, the majority of the participant seems uninterested and that they do not see the benefit of protecting their brand, that their brands are better off being copied by fellow SMEs rather than going through the lengthy process of IP protection. The fact that the majority of the SMEs preferred their goods being copied than choosing protection for their brands is an indication that they do not appreciate being aware of and not interested in trademark protection. Although trademark is not as commonly used by businesses in The Gambia, the system is more beneficial to SMEs because of the nature of the business that SMEs involve. Therefore, the use of a trademark is necessitated by the fact that the protection of the inventions is typically obtained swiftly and it helps to deter imitation or duplication while their brands gain commercial acceptance in the marketplace (Patrick, 2010).

Trademarks may produce an income for SMEs through the licensing, sale, or commercialization of the protected products or services that may meaningfully recover creativity's market share or raise its profit margins. IP rights improve the value or worth of SMEs in the eyes of investors and funding institutions. The strategic operation of IP assets can, therefore, considerably enhance the value of SMEs.

Investing in equipment, property, product development, marketing and research can strongly improve a company's financial situation by increasing its asset base and increasing future efficiency. Acquiring a trademark may have a hopeful effect. Markets will value the company based on its assets, its current business processes and prospects for future profits. Investment in emerging a good IP portfolio is, therefore, much more than a cautious act against potential competitors. This increased consciousness will inspire MSMEs to make better use of the trademark system and make it an integral part of their business strategy.

4.3.3 Measures for promoting the use of trademark system by SMEs in the agricultural sector in The Gambia

The results indicate that most of the research participants attributed the ineffective utilization to the lack of institutional policy, SMEs have no IP strategies in place, and line ministries and stakeholders do not provide adequate support structures for SMEs to make sure that they are aware of the system and utilize it. Historic literature agrees with this study's finding that intellectual property policy influences the creation of institutional IP policy, having an institutional IP policy influence the utilization of IP (Obloh & Okwilagwe, 2018). The majority of the respondents also indicated that the current intellectual Property law is not favourable for SMEs, it is too complicated, and the IP related policies need to be updated and amended to provide a better support structure to SMEs, SMEs indicated that there is no support or motivation for registering for a trademark, or information sharing and no educational programs.

Thus, the factors that affect the legal protection of trademark SMEs is still low awareness of SMEs on the importance of the use of intellectual property rights and trademarks to

support the businesses, there are many trademarks of SMEs that have not been registered both nationally and globally. Violation of Trademark done by installing Trademarks, logos and materials exactly like the original, use of Trademarks is similar to other registered brands. Using Trademarks that are identical or similar to other brands leads to misperceptions in the public mind and harms the business actors who have a registered trademark, passing it off as trademarked.

Legal protection of trademarks MSMEs in improving the global competitiveness based on the values of Pancasila shall improve the principle of honesty and good faith of the SMEs and the community in general. Changing the mindset of the global national SMEs, clustering SMEs and exercising the government's role in assisting the SMEs with online trademark registration in national territory and global access. As well as in financial access as well as same opportunity and assessment access to its market.

The value of trademarks has been demonstrated through various brand rankings and in recent studies conducted in the United States and the European Union and by the World Intellectual Property Organization (WIPO) and many other scholars interested in the field of intellectual property in general and trademarks in particular. They address many questions, and the variables they take into consideration vary from firms' size, their financial performance, the use of a trademark as an innovation indicator and a combination of them. They show a positive correlation between trademarks and firm size, and financial performance, and in many cases serve as an indicator to show how innovative firms are. The strategic utilization of trademarks can, therefore, substantially enhance the competitiveness of SMEs. SMEs should make sure that they are ready to face the challenge and take measures to exploit their trademark and protect it wherever possible. Like physical assets, a trademark must be acquired and maintained, accounted for, valued

monitored closely, and managed carefully to extract its full value. But before this can be done, SMEs must first acknowledge the value of the trademark and begin to see it as a valuable business asset.

If the powerful brands of SMEs are not legally protected by trademark, then these may be freely and legally used by any other enterprise without limitation. However, when they are protected by trademark, they acquire concrete value for SMEs as they become property rights which cannot be commercialized or used without SME's authorization. Increasingly, investors are becoming aware of this reality and have begun to value trademarks highly. Enterprises worldwide are also more and more acknowledging the value of their IP assets, and, on occasions, have included them in their balance sheets. Many enterprises, including SMEs, have begun to undertake regular technology and IP audits. In several cases, enterprises have realized that their IP assets are worth more than their physical assets. This is often the case for companies operating in knowledge-intensive and highly innovative sectors, or companies with a well-known brand name. Trademark gives enterprises the exclusive right to prevent others from commercially using a product or service, thereby reducing competition for their innovative product and enabling the enterprise to establish its position in the market as a pre-eminent player. Additional income can be generated from licensing or selling trademarks. SMEs may choose to license or sell the rights to other enterprises in exchange for lump-sum payments or royalties, to generate additional income for the enterprise.

4.4 Summary

This chapter analysed data and literature using the adopted research methodology in chapter 3, to achieve the four research objectives and the arising research questions. The

analysis aimed to establish whether trademark exploitation plays a role in the growth of SMEs in the agricultural sector in The Gambia. The sections in this chapter were organised per the research objectives. The study has established that the SMEs in the Agricultural industry in The Gambia are not utilizing the trademark system for the protection of their products and/or services. One of the factors for the lack of exploitation of the trademark system by the SMEs is because lack of awareness made by SMEs. Also, there is no institutional IP policy by most of the SMEs in the Agricultural industry. Before the last year 2020, there was no integrated IP policy in SMEs' sectoral policies and there are no support structures for training and creation of awareness of IP.

CHAPTER 5 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

In recent years, there has been no effective trademark exploitation for SMEs, even though most of them are experiencing growth in their businesses. This study was aimed at establishing the factors that contributed to the inadequate utilization of trademarks by SMEs in the agricultural sector in The Gambia. This chapter presents a summary of the main findings, conclusions, recommendations and suggestions for future research

5.2 Summary

The research revealed three main findings are summarized as follows; for the agricultural sector to effectively utilize the trademark system to protect their brand, there is a need for them to acquire IP knowledge, to know the benefit of a trademark to their business and how it can improve their competitiveness in the market. Secondly, there is a need for support structures and enabling structures to be provided by the institutions responsible for SME development and other stakeholders. For SMEs to acquire IP knowledge, they need training and sensitization programs in IP that can be done by the IP office or other institutions such as the Ministry of Trade and the Chamber of commerce. Also, SMEs need IP integrated into their sectoral MSMEs policies so that it aligns with their business strategies and helps them craft their IP strategy when they are sensitized. There is a low level of awareness among SMEs about the benefits of protecting and exploiting trademarks. Some of the factors that contribute to the inadequate utilization of trademarks by SMEs in the agricultural sector in the Gambia were identified by the study. The study has outlined measures that will address the challenges SMEs are facing in using

trademarks as a tool for economic growth. The study has shown how the registration of a trademark can affect the SMEs in the Agricultural sector of The Gambia

5.3 Conclusions

To offset their limited resources and relative lack of non-core expertise, innovative SMEs tend to engage in various forms of cooperation to accelerate growth. To attract the right partners, as well as extract value from their innovations and partnerships, innovative SMEs must develop adequate IP management strategies drawing from these categories: formal, registered intellectual property protection; alternative strategies including secrecy; and hybrid strategies. Most SMEs, including other agri-food SMEs, know practically nothing about IPRs and their potential contribution to their success in the marketplace. This study seeks to place innovation, marketing and their link with IP asset management at a much higher level in the list of business priorities of a market-oriented small- and medium-sized farm or another agri-food SME, given that new or improved knowledge has become the essential input for creating or adding value to a new or improved product, because only such a new or improved product can provide a consumer greater value at a lower cost than competing products (goods and/or services). Preventing free-riding by unscrupulous competitors by protecting, leveraging and, if need be, enforcing proprietary rights over different types of knowledge assets through smart use of different types of IPRs has, therefore, become an absolute necessity for all enterprises, including small- and medium-sized farms and other types of agri-food SMEs.

The primary objective of this study is to highlight the importance of effective IP asset management by owners, managers and employees of small- and medium-sized farms and other agri-food SMEs to become and remain competitive. A key objective of the study is

to create awareness about the importance of effective IP asset management in the success of business strategies. The study provides a high-level overview of the role of effective management of assets protectable by IPRs in enhancing the effectiveness of marketing, innovation, entrepreneurship and new product introductions for improving the competitiveness of small- and medium-sized farms and other types of agri-food SMEs. For this reason, it will also be very useful for the following: policymakers, managers, teachers and trainers in agribusiness extension, training and R&D institutions.

There is a need to strengthen the interaction between IP offices, SME support institutions, business associations, national, regional and local governments and other relevant institutions with a view to better identifying the IP needs of entrepreneurs and SMEs and the barriers to more effective use of the IP system by entrepreneurs and SMEs. In addition, government and policymakers may promote more effective use of the IP system by entrepreneurs and SMEs by enhancing awareness and knowledge of all elements of the IP system, including not just patents but also trademarks, geographical indications, industrial designs, utility models, trade secrets, copyright and related rights, new varieties of plants, non-original databases and relevant aspects of unfair competition law, among entrepreneurs and business advisers within public and private SME support institutions.

5.4 Implications

The scope of this research's findings is limited to the context of trademark exploitation in SMEs in The Gambia. Applying the conclusion of this study to another type of IPR other than trademark may yield incorrect assumptions. However, these conclusions are relevant to improving the ineffective exploitation of trademarks by SMEs in The Gambia. The implications for the Ministry of Trade and the IP office are that the Ministry of Trade,

Chamber of commerce should collaborate with the IP Office to incorporate IP training in their support Programme offered to SMEs to improve IP awareness. The IP Office should avail themselves of capacity building and provision of training materials if need be. The research contributed to the use of the Trademark system by SMEs, and the study succeeded to add to the body of literature on the effective exploitation of trademarks by SMEs to promote economic growth in The Gambia. The study proposes that there must be a collaboration between SMEs, IP Office and all other institutions that have an impact on the SMEs ecosystem.

5.5 Recommendations

Actions to improve the formal IP system and to make it more accessible to smaller firms can support SMEs in more effectively capturing the value of their intellectual assets. Governments can:

1. Take steps to improve awareness creation among stakeholders to ensure that trademarks can be used to signal value to potential investors, partners, and competitors;
2. Facilitate trademark filing for SMEs, including by providing for staff at the TISC Centre for SMEs; to assist them in Licensing, Franchising and Merchandising
3. Institute outreach and training programs for SME business leaders, to raise awareness about the importance of sound trademark management, improve SMEs' intellectual asset management, and increase opportunities for them to engage with IP officials;

4. In addition, governments that provide financing for solutions have been highlighted by the IP Policy and Strategy 2018. This can help ensure that funds are wisely invested in trademarks for further development and commercialization.
5. Support the establishment of a TISC Centre together with industry groups, whether directly or indirectly through incentives;
6. Support the creation of agricultural incubators, whether government-run or for-profit, which can deliver access to services that innovative SMEs need, such as coaching on business skills and trademark management strategies.
7. IP office should intensify, particularly engaging all the relevant stakeholders such as the relevant government agencies and IP agents to create a culture of registering trademarks and innovation in general such as an awareness education training program and innovation fairs to inform potential users such as SMEs of how the system works and how it is beneficial for SMEs and the economy.
8. IP Office should also try to work with local universities for the implementation of the IPR curriculum in universities and Technical Training Centers. This will help SMEs and everyone to appreciate IP protection and trademark in particular in The Gambia.
9. Encourage SMEs to explore dynamic and highly competitive markets, two key strategic requirements for becoming and remaining competitive are the establishments of a trademark and effective marketing strategy Both should be “fit-for-purpose” and executed efficiently and effectively by SMEs. However, most small and medium-sized enterprises (SMEs) are not aware of the importance of trademark registration, effective marketing or the links of innovation and/or marketing to the

different types of intangible assets that may be protected and leveraged in business by the efficient and effective use of one or more types of IPRs.

5.6 Suggestions for Further Research

Future research may focus on exploring the use of the trademark system for export by large corporations in The Gambia. This study was unable to cover this, but a question remains if SMEs are not exploiting trademarks for their growth, what about large corporations with low trademark portfolios. What happens to their trademark, do they all engage in export and not protect their brand or do all of their trademarks meet the requirements to get protected globally.

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APPENDICES

Appendix 1: Questionnaire

SECTION A – QUESTIONNAIRE FOR ENTREPRENEURS

Questionnaire

1. Please tick in the appropriate circle.

Gender: Male () Female ()

2. Age: 18-29 yrs.: () : 30-39 yrs.: () : 40-49 yrs.: () : 50-59 yrs. : () : 60 yrs.
and above. ()

3. Region: Greater Banjul Area: () West Coast Region: () North Bank Region: ()
Lower River Region: () Upper River Region: () Central River Region : ()

4. Education Level: Senior School () Bachelor's degree () : Master's degree () :
PHD degree () : Other ()

5. Monthly income Level: 0 – \$4,999 () : \$ 5,000 – \$9,999 () : \$10,000 - \$14,999 () :
\$15,000 – \$19,999 () : Above \$20,000 ()

6. Business Experience: Less than one year () 1-2 years () 2-4 years () 4-5 years () More than 5 years ()

7. Nature of the Business: Sole Proprietor () Partnership () Company () Others ()

8. Stage in the Business Stage: Introduction Stage () Growth Stage () Maturity Stage () Declining Stage () No Idea ()

9. Do you have any person in your team with Intellectual Property Expertise?

Yes () No ()

10. Have you ever heard about trademarks?

Yes ☐ No ☐ Don't Know ☐

11. If yes, how did you get to know about the trademark?

☐ Traditional media advertisement ☐ New media advertisement

(Television, newspapers and radio)

(The Internet, forums)

☐ University / R&D Institution

☐ Industry

Friends , colleagues & family

Others, Please specify

12. What do you understand by technology transfer?

13. Do you know about the trademark laws in the Gambia?

a) Yes

b) No

14. Have you acquired any trademarks?

() Yes () No ()

15. IS TRADEMARK BENEFICIAL FOR SMES IN THE GEOGRAPHICAL
INDICATION SECTOR? YES, NO, OR NOT SURE

16. WHAT MEDIUM OF COMMUNICATION DO YOU USE? RADIO, SOCIAL
MEDIA, TV

17. Do you know about the IP office of the Gambia?

a) Yes

b) No

18. What support are you getting from your government in terms of Intellectual
Property Rights? Please indicate

19. What are the challenges you are facing in acquiring a trademark

Please specify.....

20. Do you know the importance of a trademark to your enterprise as well as your
products?

a) Yes

b) No

21. If yes what do you know about it?

.....

.....

.....

22. What method do you use that you successfully bar other enterprises from Diluting
or imitating your brand?

.....

.....

23. Do you know the importance of a trademark to your enterprise as well as your
products?

a) Yes

b) No

24. If yes, what do you think is the relevance of a trademark to your enterprise as
well as your products?

.....

.....

25. What aspect of your business does your trademark seek to protect

.....

.....

26. Do you know the procedures for protecting your brand

a) Yes

b) No

27. Are you aware of the important role of the Chamber of Commerce TISC

Centre in the growth of the agricultural sector in The Gambia?

Yes ☐

No ☐

Dont Know ☐

28. Governments' have been found to benefit from an effective trademark system?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

29. Who do you think should provide an effective trademark system for The Gambia?

Government		(1)
Chamber of commerce		(2)
IP Office		(3)
SMEs		(4)
Other, please specify		(5)

30. In your opinion, what role should SMEs play in terms of a trademark?

31. The following statements will assess your opinion regarding the extent to which you think a well-established trademark system has:

Statements	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree	
Influences the growth of industries						(1)
Does not influence the growth of industries						(2)

It will spur economic development						(3)
It will promote market diversification						(4)

32. Which of the following do you think supports a trademark?

Issues	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree	
Awareness creation						(1)
Trademark policy						(2)
Funding for SMEs						(3)
IP Policy and Strategy						(4)
Establishment of TISC Centers						(5)

Is the growth of your company caused by the trademark

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
----------------	--	-------	--	----------	--	----------	--	-------------------	--

33. Is the decline of companies/SMEs caused by the lack of registering and using trademarks?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

34. There are regulatory policies supporting trademarks in The Gambia?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

35. Are the regulatory policies providing support to educate SMEs on issues of a trademark?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

36. Are the policy/policies supporting SMEs in acquiring trademarks for Export?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

Are the policy/policies linking SME growth and effective trademark exploitation?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

37. It is important to make SMEs in the Agricultural sector aware of the role of trademark systems?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

38. It is important for the public need to be aware of the role trademark has in the growth of SMEs?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

39. Government officials responsible for innovation, trade, and intellectual property needs to be aware of the role of a trademark on the growth of SMEs?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

40. Policies relating to trademark has been effectively implemented for the growth of SMEs in The Gambia?

Strongly Agree		Agree		Not Sure		Disagree		Strongly Disagree	
-------------------	--	-------	--	----------	--	----------	--	----------------------	--

Appendix 2: Interview guide

SECTION B - INTERVIEW GUIDE FOR POLICY MAKERS

This will be used to get in-depth information on issues relating to technology transfer. It is targeting Policy Makers and players in the Agricultural and Intellectual Property Ecosystem

The following Questions will be asked:

1. What do you know about trademarks in relation to SMEs in Agriculture?
2. What role does trademark play in promoting SME growth?
3. Why do you think it is important to make SMEs aware of the role of a trademark?
4. Does The Gambia need a program to help SMEs in the agricultural sector utilise the trademark system? If YES or NO.....Why
5. What role do Geographical Indications play in promoting the growth of SMEs?
6. Do you think The Gambia has potential Geographical Indications we can exploit? Why are they and how can we exploit them?
7. Is there any innovation system in The Gambia or any Intellectual Property Policies to support especially trademarks for SMEs in the agricultural sector? If yes please explain
8. What can agricultural and trade facilitator institutions do to assist SMEs to acquire IP rights and exporting?

Appendix 3: Informed consent form

Identify yourself

My name is David Jeng, a final year Masters in Intellectual Property student from Africa University. I am carrying out a study on the role of trademark exploitation for SMEs in the agricultural sector of the Gambia. I am kindly asking you to participate in this study by answering filling in the questionnaire -

What you should know about the study:

Purpose of the study:

The purpose of the study is to access how SMEs in the agricultural sector can use trademarks as a tool for the commercialization of their product in the Agricultural Sector in The Gambia. You were selected for the study because you are among the entrepreneurs that have the potential to grow in the sector.

Procedures and duration

If you decide to participate you will have to fill out a questionnaire. It is expected that this will take about 15 minutes to fill out the form.

Risks and discomforts

The questionnaire may be time-consuming and some questions might be technical but we are always available to answer the question and assist you to fill them.

Benefits and/or compensation

We will share the outcomes of the study with you and have an information-sharing session to present the outcomes of the study.

Confidentiality

All information that is obtained in the study from the participant will not be disclosed without their permission. Names and any other identification will not be asked for in the questionnaires.

Voluntary participation

Participation in this study is voluntary. If the participant decides not to participate in this study, their decision will not affect their future relationship with Gambia Investment and Export Promotion Agency. If they choose to participate, they are free to withdraw their consent and discontinue participation without penalty.

Offer to answer questions

Before you sign this form, please ask any questions on any aspect of this study that is unclear to you. You may take as much time as necessary to think it over.

Authorisation

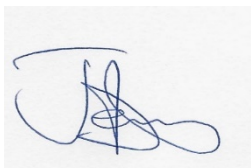
If you have decided to participate in this study please sign this form in the space provided below as an indication that you have read and understood the information provided above and have agreed to participate.

DAVID JENG

16/12/2020

Name of Research Participant (please print)

Date



Signature of Research Participant or legally authorised representative

If you have any questions concerning this study or consent form beyond those answered by the researcher including questions about the research, your rights as a research participant, or if you feel that you have been treated unfairly and would like to talk to someone other than the researcher, please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extensions 1156 email aurec@fricau.edu

Name of Researcher: DAVID JENG

Appendix 4: AUREC Approval form



AFRICA UNIVERSITY RESEARCH ETHICS COMMITTEE (AUREC)

P.O. Box 1320 Mutare, Zimbabwe, Off Nyanga Road, Old Mutare-Tel (+263 20) 60075/60026/61611 Fax: (+263 20) 61785 website: www.africau.edu

Ref: AU1941/21

9 March, 2021

David Jeng
C/O CBPLG
Africa University
Box 1320
Mutare

RE: **THE ROLE OF TRADEMARK EXPLOITATION ON THE GROWTH OF
SMEs IN THE AGRICULTURAL SECTOR IN THE GAMBIA**

Thank you for the above titled proposal that you submitted to the Africa University Research Ethics Committee for review. Please be advised that AUREC has reviewed and approved your application to conduct the above research.

The approval is based on the following.

- a) Research proposal
- b) Data collection instruments
- c) Informed consent guide
- **APPROVAL NUMBER** AUREC1941/21
This number should be used on all correspondences, consent forms, and appropriate documents.
- **AUREC MEETING DATE** NA
- **APPROVAL DATE** March 9, 2021
- **EXPIRATION DATE** March 9, 2022
- **TYPE OF MEETING** Expedited

After the expiration date this research may only continue upon renewal. For purposes of renewal, a progress report on a standard AUREC form should be submitted a month before expiration date.

- **SERIOUS ADVERSE EVENTS** All serious problems having to do with subject safety must be reported to AUREC within 3 working days on standard AUREC form.
- **MODIFICATIONS** Prior AUREC approval is required before implementing any changes in the proposal (including changes in the consent documents)
- **TERMINATION OF STUDY** Upon termination of the study a report has to be submitted to AUREC.



Yours Faithfully

**MARY CHINZOU – A/AUREC ADMINISTRATOR/CHAIRPERSON, AFRICA
UNIVERSITY RESEARCH ETHICS COMMITTEE**