

## TC Document

### I. Basic Information for TC

▪ Country/Region:	JAMAICA/CCB - Caribbean Group
▪ TC Name:	Strengthening the Intellectual Property Ecosystem to Increase Innovation, Competitiveness and Growth in Jamaica
▪ TC Number:	JA-T1161
▪ Team Leader/Members:	Stevenson, Claudia (IFD/CTI) Team Leader; Grant, Kayla Sharee (IFD/CTI); Pilgrim, Valarie (IFD/CTI); Blair, Sudaney (CCB/CJA); Lopez de Valles, Maria Fernanda (IFD/CTI) and Verissimo Da Silva, Carolina (LEG/SGO).
▪ Taxonomy:	Client Support
▪ Number and name of operation supported by the TC:	N/A
▪ Date of TC Abstract:	June 25, 2018
▪ Beneficiary:	Jamaica
▪ Executing Agency:	Inter-American Development Bank through the Competitiveness, Technology and Innovation Division (IFD/CTI)
▪ Donors providing funding:	Compete Caribbean Partnership Facility – CCPF
▪ IDB funding requested:	\$ 250,000.00
▪ Local counterpart funding, if any:	\$180,400.00 (\$149,900.00 cash, \$30,500.00 in-kind)
▪ Disbursement period (which includes execution period):	30 months (24 months execution period)
▪ Required start date:	November 15, 2018
▪ Types of consultants:	Individual Consultants, Firms
▪ Prepared by Unit:	Competitiveness, Technology, & Innovation (IFD/CTI)
▪ Unit of Disbursement Responsibility:	Institutions for Development (IFD/IFD)
▪ TC included in Country Strategy (y/n):	Yes
▪ TC included in CPD (y/n):	No
▪ Alignment to the Update to the Institutional Strategy 2010-2020:	Productivity and innovation

### II. Objective and Justification of the TC

- 2.1 The objective of this project is to strengthen Jamaica's Intellectual Property (IP) ecosystem to support micro, small, and medium enterprises (MSMEs) in leveraging their IP assets to drive innovation, competitiveness and growth.
- 2.2 Intellectual Property (IP) is a major value driver in startups and firms. IP assets (which consist of intellectual property rights (IPRs) such as patents, trademark, industrial design, or copyright) account for 70% or more of a business' perceived net value<sup>1</sup>. The brand value of Uber alone, for instance, is US\$70 million. Yet in Jamaica, only 5% of Jamaican firms surveyed by the 2013 productivity, technology, and innovation survey (PROTEqIN) indicate having successfully filed for IPRs in the last three years. Majority of surveyed firms with IPRs are women-owned firms<sup>2</sup>.

<sup>1</sup> Uber brand valued at US\$70 billion, Facebook brand valued at over US\$33 billion, Airbnb brand valued at over US\$30 billion, etc. See

[http://www.wipo.int/edocs/mdocs/africa/en/wipo\\_ipas\\_tm\\_gbe\\_17/wipo\\_ipas\\_tm\\_gbe\\_17\\_t\\_3.pdf](http://www.wipo.int/edocs/mdocs/africa/en/wipo_ipas_tm_gbe_17/wipo_ipas_tm_gbe_17_t_3.pdf) for more information. And see <https://www.lexology.com/library/detail.aspx?g=6f7dd161-e101-4809-9cb6-af37b853aae8>

<sup>2</sup> Of the 5% of firms that say they own an IPR, 66.6% are women-owned firms, and 33% are other firms. See 2013 PROTEqIN dataset.

- 2.2 Firms, especially small firms, tend to be reluctant to register patents and instead resort to alternative IP competitive strategies (such as trade secrets) that in turn result in undercapitalization of intellectual assets leading to hurdles for the development of capital venture markets (De León and Donoso, 2017). The lack of awareness on the benefits of registering and valuing IP assets, limited know-how on IP asset valuation, deficiency in IP monetization<sup>3</sup> culture amongst both academia and private sector, and a limited support framework for innovation and IP commercialization contribute to low IPR filing rates<sup>4</sup>. The creation, protection, and utilization of IPRs play an important role in the national innovation ecosystem and in promoting national competitiveness<sup>5</sup>.

Concrete steps to create an IP ecosystem in Jamaica were taken with the establishment of the Jamaica Intellectual Property Office (JIPO) in 2002, with responsibility for the administration, registration and protection of IP assets.<sup>6</sup> Best practices from countries such as Korea and Singapore, show that certain factors and elements need to be in place for a strong IP ecosystem. These include the following:

- (i) **IP Creation** - A critical mass of innovative firms or individuals creating IP assets (patents, trademarks, copyrights) and who are knowledgeable about IP rights and protection is critical. A key structural component includes the culture to innovate. Despite low levels of firm innovation<sup>7</sup> and weak university-industry collaboration for improving the commercialization prospects of research and development (R&D) efforts, the high level of skilled and educated labor force combined with a high level of skill migrations is evidence of absorptive capacity for innovation. Entrepreneurial activity in the country is also relatively high<sup>8</sup>.
- (ii) **IP Administration and Operational structure** – An agency (such as an Intellectual Property Office) tasked with IP public education, IP administration, IP training and IP protection.
- (iii) **IP Monetization Technical Capacity** –Valuation experts who can value IP assets, financial institutions willing to accept IP assets as collateral, a secondary market for IP assets, a functioning secured transactions framework (legislation and collateral registry)
- (iv) **IP Protection and Enforcement** - A proper legal regime for the protection and enforcement of IP rights including technical experts (legal, accounting etc.) in IP protection and enforcement, patent drafting, patent litigation etc.

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<sup>3</sup> The terms “monetizing” and “commercializing” IP assets are often used inter-changeably. However, strictly speaking, monetization is the broader term, which refers to the following methods to obtain either revenue or financing from IP assets: licensing, sale, sale-leaseback (IP assets are pooled and sold), co-development, spin-out (IP assets moved to a newly-formed company), collateralization (utilizing IP assets as collateral typically under a debt instrument), as well as securitization (utilizing IP assets as security). IP commercialization usually refers to licensing or sale of these assets.

<sup>4</sup> De León, Ignacio and Donoso, Jose. 2017. “Innovation, Startups, and Intellectual Property Management: Strategies and Evidence from Latin America and Other Regions”.

<sup>5</sup> Korean Institute of Intellectual Property (KIIP)

<sup>6</sup> JIPO is an agency under the Ministry of Industry, Commerce, Agriculture and Fisheries (MICAFA) and has a mandate to create a robust ecosystem for IP in Jamaica to attract investments in high-grossing industries that will facilitate the growth and competitiveness of the local economy, so that Jamaicans can benefit from the three critical areas that are necessary for a strong IP environment: protection, income generation and enforcement. JIPO is advisor to and representative of the government on IP matters, at the national, regional and international level. In carrying out its mandate, JIPO has a public education program, with ongoing outreach to schools, tertiary institutions, and IP holders/stakeholders through presentations, seminars and an annual IP week. As Jamaica’s representative to the World Intellectual Property Organization (WIPO), JIPO collaborates with them to provide seminars in Jamaica on various IP-related topics.

<sup>7</sup> Only approximately 12% of surveyed Jamaican firms (see PROTEqIN 2013) are innovating.

<sup>8</sup> Jamaica’s total early stage entrepreneurial activity (TEA) is 9.85% compared to a global average of 12.33% and it exceeds the global rate of high status given to successful entrepreneurs (84.5 compared to global average of 68.88). The female/male TEA rate also exceeds global average (.81 compared to global average of .67). (2016, Global Entrepreneurship Monitor)

Monetizing<sup>9</sup> movable assets – including IP - and specifically their use as collateral for debt financing, is more common in the U.S. and Europe and is now being pioneered in many emerging markets, particularly in Asia, with the government playing a key role. In Singapore, for example, the Government in 2013 released a 10-year plan to make its country a global IP “hub”. This Plan was updated in 2017, in an effort to build on achievements, including providing consistent support for firms in terms of both IP awareness and monetization and launching a financing scheme to assist firms in monetizing their IP assets.<sup>10</sup> Korea has established an Intellectual Property Training Institute under the auspices of the Korea Intellectual Property Office (KIPO) to provide IP training in commercialization and valuation to local and overseas public and private sector officials.<sup>11</sup> Malaysia ranks second behind Singapore in the ASEAN countries in terms of IP protection, and it has established Khazanah Harta Intelek Malaysia, a centralized IP repository to promote and facilitate IP commercialization.<sup>12</sup> Closer to home in Latin America, Costa Rica has adopted a new secured transactions law that also establishes a collateral registry, and allows the use of movable assets such as IP as collateral.<sup>13</sup>

- 2.3 In lieu of the prior, this TC proposes support for digitizing the Jamaica Intellectual Property Office’s (JIPO) paper-based IP registration system in order to increase the efficiency of business processes related to IPR (such as IPR searches, examination, and registration procedures) and to improve the experience of users of the IP system. Data sharing protocols would allow for improved data analysis and IP strategy development amongst users, such as universities, private sector, and other IP offices. The World Intellectual Property Office (WIPO) supported JIPO in the development of an Industrial Property Automation System (IPAS) which stores data for trademarks, patents, and industrial designs and is updated by WIPO. The automation capabilities of the system have not been fully capitalized on given the following: (i) not all data has been migrated to the database (ii) an application interface does not yet exist for data sharing and (iii) functionalities do not yet allow for online registration or payments.
- 2.4 This TC thus addresses points (i), (ii), and (iii) and proposes to address identified market failures by helping to create the conditions for IP monetization, most specifically collateralization<sup>14</sup>, so that firms can effectively leverage their IP assets to foster further innovation and contribute to competitiveness and economic growth in Jamaica. MSMEs, large firms and academic institutions would benefit from tools for valuing and monetizing their IP. Given their majority in terms of firms with registered IPR, this TC proposes targeting growth-oriented women-owned firms to support their IP valuation and monetization strategy. The project also targets other actors in the IP ecosystem

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See <https://www.heerlaw.com/monetizing-intellectual-property>

<sup>10</sup> The Plan includes establishing a center of excellence for valuation, and a financing scheme to utilize IP assets for collateral. See Singapore Reveals 10-year Plan to be a Global IP Hub, Intellectual Property Watch Jan. 4, 2013 [http://www.wipo.int/pct/en/pct\\_contracting\\_states.html](http://www.wipo.int/pct/en/pct_contracting_states.html); Update to Intellectual Property Hub Master Plan, Government of Singapore and Intellectual Property Office, May 2017.

<sup>11</sup> See [http://www.kipo.go.kr/kpo/user.tdf?a=user.english.html.HtmlApp&c=91003&catmenu=ek02\\_03\\_01](http://www.kipo.go.kr/kpo/user.tdf?a=user.english.html.HtmlApp&c=91003&catmenu=ek02_03_01); IP Finance, June 24, 2016 - <http://www.ip.finance/2016/06/collateralization-of-intellectual.html>.

In field research it was determined that two lawyers, previously affiliated JIPO, have taken advantage of this training, but they have not been able to use their skills, due to the absence of a local demand for IP collateralization.

<sup>12</sup> <https://www.thestar.com.my/business/business-news/2017/03/21/malaysia-ranks-second-in-asean-for-ip-protection/>.

<sup>13</sup> [http://arizonajournal.org/wp-content/uploads/2016/04/11\\_Picado\\_139.pdf](http://arizonajournal.org/wp-content/uploads/2016/04/11_Picado_139.pdf);

<https://www.iflr1000.com/NewsAndAnalysis/Secured-transactions-law-expanding-access-to-credit-for-small-and-medium-busine/Index/4123>.

<sup>14</sup> IP collateralization is the use of intellectual property assets as a source of collateral.

(business support organizations (BSOs), financial institutions, lawyers, accountants) who face knowledge gaps, particularly with respect to IP valuation.

- 2.5 **Complementarities:** This TC supports the larger effort by the Government of Jamaica (GOJ) to improve the business climate in Jamaica. Within the last decade, Government efforts are increasingly being made to foster innovation, and stimulate the growth of early stage dynamic firms. These include: i) the National Business Plan Competition supported by the Development Bank of Jamaica (DBJ) to encourage innovation in local university students and the development of creative enterprises; ii) the IGNITE Program, now in its second phase – a DBJ grant program for promising start-up businesses to enable them to move from prototype to commercialization; iii) the National Innovation Competition, sponsored by the Ministry of Science, Energy and Technology, through the Scientific Research Council (SRC); iv) ongoing work to update the Science, Technology and Innovation Policy; and (iv) the Government's MSME Policy which advocates the creation of an "innovation network" of MSMEs, government agencies, business service providers etc. to promote technology innovation and increase R&D.<sup>15,16</sup> Specifically, the Policy emphasizes the importance of the promoting the new secured transactions regime, thereby facilitating the acceptance of movable assets (such as IP) as loan collateral; and developing a valuation regime as well as a secondary market for movable assets in the event of a loan default.<sup>17</sup>
- 2.6 This TC is timely in that there are a number of other complementary initiatives that are either underway or that will be launched over the next few months. These include: a) the anticipated passage of the new Patents and Designs Act and the amendment of the Trade Marks Act and the Copyright Act; b) review and upgrading of the SIPPA and collateral registry, and the development of movable assets securitization being currently undertaken by the IFC/World Bank ; c) the final drafting of guidelines by the Bank of Jamaica (BOJ) for commercial banks with respect to the treatment of IP assets on their balance sheets; d) review by the Development Bank of Jamaica (DBJ) of its voucher program, which includes support for patent registration; e) ongoing IP training and capacity-building by JIPO for MSMEs; and f) current work by Caribbean Export with companies on protection of IP assets, which will include a workshop in Jamaica later in the year on IP protection, using case studies from the region. Finally, the Caribbean Development Bank (CDB) is directly supporting JIPO in activities specifically geared at improving IP awareness and valuation capabilities in Jamaica.
- 2.7 **Synergies:** The TC is consistent with the Update to the Institutional Strategy 2010-2020 and is aligned with the development challenges of innovation. It supports the current IDB Country Strategy (2016-2021), which seeks to support the government in the implementation of reforms to further improve the business climate and the environment for innovation. It complements the Regional Entrepreneurial Asset Commercialization Hub (RG-T2536) which aims to increase the possibilities for commercializing IP assets. It builds on the efforts of JA-CC2046<sup>18</sup>, in that it will further improve the business climate by seeking to fill key gaps impeding the utilization of IP assets as collateral. The project is aligned with priorities defined in the Innovation, Science and Technology Sector Framework Document and with the priorities of the Proposal for the Establishment of the

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<sup>15</sup> Jamaica currently invests only 0.3% of GDP in R&D. MSME & Entrepreneurship Policy p. 59.

<sup>16</sup> In the Caribbean, micro, small and medium-sized businesses (MSMEs) are estimated to comprise 70% to 85% of the private sector and contribute 50% of employment and 70% of GDP respectively.<sup>16</sup>

<sup>17</sup> Jamaica MSME and Entrepreneurship Policy – updated 2017, Ministry of Industry, Commerce, Agriculture and Fisheries, para. 2.1.3, p. 36.

<sup>18</sup> As part of its efforts to improve the business climate, in 2013, the IDB and Compete Caribbean provided support via JA-CC2046 to establish a secured transactions framework, including the drafting of the Secured Transactions in Personal Property Act (SIPPA) permitting the recognition of movable assets, including IP, as collateral, and the establishment of a movable collateral registry. This secured transactions framework facilitates the monetization of IP assets, specifically helping to launch an effort for IP collateralization in Jamaica.

Compete Caribbean Partnership Facility. The project will seek to incorporate the needs of women owned businesses and digital based firms.

### III. Description of activities/components

- 3.1 **Component 1. Roadmap and Toolkit for Improving the IP Monetization Culture (US\$62,900).** This component will finance the development of a 3-year Roadmap for strengthening the IP ecosystem (beyond this TC) that will prioritize a sequence of activities to be undertaken to encourage an increase in the monetization of IP assets in Jamaica. This component will also finance the development of an IP toolkit tailored to the Jamaican context to bridge knowledge gaps within the private and public sectors on the steps which need to be taken to create, manage, monetize and protect IP assets in Jamaica. This component is fully funded by counterpart financing. The expected outputs include the following: (i) action plan/road map which includes a data collection strategy (ii) IP toolkit and (iii) delivery of IP awareness training workshops.
- 3.2 **Component 2. Capacity Building in IP Valuation (US\$92,500).** This component will fund the drafting of valuation guidelines for the different categories of IP assets (patents, copyrights, designs, and trademarks) adapted to the Jamaican context. The component will also finance the design and conduct of workshops for bankers, lawyers, accounts, auditors and insurance risk managers in valuation and valuation techniques in order to build local understanding and expertise in valuation, a necessary pre-requisite for the recognition and acceptance by financial institutions of IP assets as collateral. This component is fully funded by counterpart financing. The expected outputs include the following: (i) development of an operations manual (ii) development of training products and (iii) delivery of training workshops.
- 3.3 **Component 3. Piloting IP Collateralization (US\$140,000).** Collateralizing IP assets is a novel concept that needs to be tested. This component will finance the research, design, testing and roll-out of a financial product(s) which will use IP assets as collateral. This methodology<sup>19</sup> will be piloted on the ground in Jamaica by one or more financial institutions. Outputs expected include (i) the pilot design and (ii) the pilot implementation.
- 3.4 **Component 4. Support for the Digitization of JIPO's Administration of IPR (US\$50,000).** Data from hard copy applications in the Patent Register and Designs Register will be accurately digitized, verified and re-verified for internal accessibility. This component will also finance a consultant to share best practices from countries such as Korea, prepare an action plan detailing and costing priority activities that must take place for a fully automated IP administration system, and in light of ongoing legislative updates (see 2.6), recommend any further regulatory considerations necessary to support digitization efforts, including consideration for the needs of firms operating in the digital economy. This action plan will be used as the basis for securing further funding to support a Phase II in digitization. The expected output includes (i) new databases created for patents and designs and (ii) the design of a digitization action plan for JIPO.
- 3.5 **Component 5. Project Management and Communications (US\$85,000).** This component will finance (i) a local Project Manager to coordinate the implementation of activities towards ensuring proper stakeholder engagement, timely execution, monitoring and reporting of the technical and financial aspects of the Project and the achievement of deliverables to the established quality standards (ii) awareness campaign strategy and (iii) the development of public relations (PR) materials highlighting successful cases of IP commercialization in Jamaica. The ultimate aim is to shift public and stakeholder perception and awareness on the benefits of IPR creation, valuation and monetization.

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<sup>19</sup> The IDB will grant permission to selected institutions to utilize the methodology developed for the pilot.

#### IV. Budget

- 4.1 The total cost of this TC will be USD\$ 430,400.00. USD \$250,000.00 will be financed by the Inter-American Development Bank through the Compete Caribbean Partnership Facility. In-kind counterpart contribution from JIPO is estimated at USD\$30,500.00 and cash contribution ) is estimated at USD\$149,900.00. In-kind contributions will include technical expertise, staff time to conduct trainings, meeting and workshop venue, work space, and printing of materials as necessary.

**Indicative Budget**

<b>Activity/Component</b>	<b>IDB/Fund Funding</b>	<b>Counterpart Funding</b>	<b>Total Funding</b>
Roadmap and Toolkit for Improving the IP Monetization Culture	\$ 0.00	\$ 62,900.00	\$ 62,900.00
Capacity Building in IP Valuation	\$ 0.00	\$ 92,500.00	\$ 92,500.00
Piloting IP Collateralization	\$ 140,000.00	\$ 0.00	\$ 140,000.00
Support for the Digitization of JIPO	\$ 50,000.00	\$ 0.00	\$ 50,000.00
Project Management and Communications	\$ 60,000.00	\$ 25,000.00	\$ 85,000.00
<b>Total:</b>	<b>\$250,000.00</b>	<b>\$180,400.00</b>	<b>\$430,400.00</b>

#### V. Executing Agency and Execution Structure

- 5.1 The Bank, through the Competitiveness and Innovation Division (IFD/CTI) will be responsible for the execution of this project, in collaboration with the Coordination Unit (FCU) of the Compete Caribbean Partnership Facility (CCPF). Project outcome and output indicators will be monitored in the context of the Monitoring and Evaluation (M&E) framework of the CCPF. The sex-disaggregated data collected will feed into the CCPF Results Framework. The project execution period will be 24 months with a disbursement period of 30 months and the unit of disbursement responsibility (UDR) will be IFD. The activities to be executed with IDB financing are included in the Procurement Plan (Annex IV) and will be contracted in accordance with Bank policies as follows: (a) AM-650 for Individual consultants; (b) GN-2765-1 and Guidelines OP-1155-4 for Consulting Firms for services of an intellectual nature and; (c) GN-2303-20 for logistics and other related services.
- 5.2 The CCPF, approved under GN-2851, is a program designed to be executed by the Bank, through the FCU established in the IDB Country Office in Barbados. This project will be implemented in collaboration with JIPO. The part-time project manager will be a local hired to coordinate project activities on the ground in Jamaica will work in collaboration with JIPO and will be supervised by the Bank and will be supported by JIPO staff as required. The manager will monitor and disseminate project results for all project components and corresponding activities. .

#### VI. Major Issues

- 6.1 Sustainability is a key risk that will be addressed through the following avenues (i) creating a project committee with stakeholders key to the IP ecosystem who realize the benefits of the project and thus have incentive and agency to sustain momentum (ii) during implementation, partnering on key activities (such as the pilot and training workshops) with organizations in the ecosystem that are already working on this topic

area (such as the Development Bank of Jamaica (DBJ), the Scientific Research Council (SRC) and the National Commission on Science and Technology (NCST)) (iii) working closely with the GOJ which is strongly invested and involved in developing the SIPPA, especially with regard to moveable assets which include IP assets.

## **VII. Exception to Bank Policy**

7.1 No exception of the Bank Policy is required for this TC.

## **VII. Environmental and Social Strategy**

8.1 Given the nature of the project, there are no associated environmental or social risks. Based on the Environment and Safeguards Compliance Policy (OP-703) this operation is classified as “C”, meaning that no environmental assessment studies or consultations are required for this category (see [Safeguard Policy Filter](#) and [Safeguard Screening Form](#)).

## **REQUIRED ANNEXES:**

- Annex I: [Request from Client](#)
- Annex II: [Results Matrix](#)
- Annex III: [Terms of Reference](#)
- Annex IV: [Procurement Plan](#)