



Unlocking
IP-backed
Financing
Series

Country
Perspectives
**Jamaica's
Journey**



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Acknowledgments

This report was prepared for the Government of Jamaica, supported by WIPO and by independent consultant Wayne Beecher. WIPO would like to thank all stakeholders involved in the development of this report. And specifically, the Jamaica Intellectual Property Office (JIPO) for its technical support and for providing feedback during finalization of the document.

Disclaimer

The views expressed in this publication are those of the authors and do not necessarily represent those of the institutions to which they are affiliated nor those of WIPO.

Acronyms

BIGEE	Boosting Innovation, Growth and Entrepreneurship Ecosystem	NCST	National Commission on Science and Technology
CCI	cultural and creative industry	NFDST	National Foundation for Development of Science and Technology
CEF	credit enhancement facility		
DBJ	Development Bank of Jamaica	NFT	non-fungible token
GDP	gross domestic product	OECD	Organisation for Economic Co-operation and Development
IDB	Inter-American Development Bank	PIOJ	Planning Institute of Jamaica
IGNITE	Innovation Grant from New Ideas to Entrepreneurship	SIPPA	Security Interests in Personal Property Act
IP	intellectual property	SME	small and medium-sized enterprise
IPR	intellectual property right	TIF	technology investment fund
JACAP	Jamaica Association of Composers, Authors and Publishers	UNESCO	United Nations Educational, Scientific and Cultural Organization
JAMMS	Jamaica Music Society	UK	United Kingdom
JDBC	Jamaica Business Development Corporation	US	United States of America
JIPO	Jamaica Intellectual Property Office	WIPO	World Intellectual Property Organization
MSME	micro, small and medium-sized enterprise	WTO	World Trade Organization

Executive summary

Intellectual property (IP) has emerged as a critical asset within the global economy, and its monetization plays a pivotal role in various industries. Jamaica, with its rich cultural heritage and growing innovation ecosystem, has recognized the potential of IP-based financing to foster economic development. The Government is working to develop the capacity of businesses to value and commercialize their IP assets through its establishment of the Jamaica Intellectual Property Office (JIPO), the lead governmental agency responsible for promoting and protecting IP rights within Jamaica. JIPO offers several programs and services to help businesses in registering and commercializing their IP assets, including general IP sensitization sessions, IP monetization workshops and providing access to a network of IP experts.

Access to IP-based financing remains limited. However, through continued support from the Government of Jamaica and JIPO, several initiatives are being executed to establish a necessary framework, improve awareness and bridge the financing gap. These initiatives began with the establishment of a conducive regulatory environment through the passing of the Security Interests in Personal Property Act, 2013, which makes it easier for businesses to use IP assets as collateral for a loan. This act was followed by the enactment of the Patents and Designs Act, 2020, and the Trade Marks (Amendments) Act, 2021, which together have the effect of establishing an enabling environment to facilitate the introduction of IP-backed financing instruments.

The Government of Jamaica, together with partnering support organizations such as the World Intellectual Property Organization (WIPO) and the Inter-American Development Bank (IDB), are working to promote IP-based financing in support of businesses through programmatic funding and technical assistance. The Development Bank of Jamaica (DBJ) has introduced initiatives to provide funding for high-potential entrepreneurs and for the innovations that startups and SMEs could leverage in order to monetize their IP. JIPO is currently working with its development partners and local financial institutions to execute a pilot to design and test an IP-backed financing instrument appropriate to the local context. Insights from this pilot should provide useful guidance for the introduction of IP-backed financing.

Jamaica's Journey

Introduction

Jamaica is renowned for its abundant potential to generate creative and cultural assets, with notable anecdotal global validation ascribed to its music, art and sport-related intellectual property (IP) assets. However, the full potential of Jamaica's cultural, creative and intellectual assets is yet to be fully developed and leveraged by its micro, small and medium-sized enterprises (MSMEs) and entrepreneurs. A report mapping Jamaica's cultural and creative industries (CCIs) estimates they contribute 5.2 percent of the country's GDP and account for 3 percent of total employment.¹ Globally, cultural and creative innovations – referred to loosely in this report as intangible assets – continue to accelerate, achieving their highest ever value of USD 65.7 trillion² in 2020, when they accounted for approximately 90 percent of the S&P (Standard and Poor) 500 market value.³ While the value of Jamaica's intangible assets is yet to be fully unlocked, there are positive steps being undertaken to address the systemic constraints within its entrepreneurial and innovation ecosystem, particularly in establishing an enabling environment for adequate and affordable financing.

There are several factors affecting the inability of Jamaica's innovation ecosystem to transform its latent creative potential into revenue-generating intangible assets. Issues relating to innovation and culture; mindset; the skill set required to generate, as well as manage, innovation and IP assets; the cohesiveness of the regulatory framework; and the nascent state of the ecosystem⁴ are all being addressed through various government initiatives, some with the assistance of multilateral partners. Even further benefit could emerge from Jamaica's intangible assets, were creators and innovators able to leverage IP assets to secure financing. This would require IP-backed financial instruments or funds designed to meet the specific needs of IP-rich entrepreneurs and creatives. Local IP valuation capabilities would also need to be improved; and efforts are already underway in this area.

Jamaica stands at a pivotal period. Economic globalization has accelerated toward a more digital economy. And businesses now have greater access to global markets, particularly through digital channels. Within the digital economy, intangible assets are key drivers of growth. Leveraging its cultural and creative value proposition in the form of intangible assets is therefore critical in positioning Jamaica for economic growth. Several studies have shown that rapid expansion of investment in intangible assets by companies and financial institutions in the United States of America (US), Japan and Europe has had a significantly positive effect on productivity.⁵ Such a strategy is also clearly reflected in Jamaica's MSME & Entrepreneurship Policy (2018), which posits a framework for the creation of an enabling environment in support of the monetization and commercialization of innovation.⁶ Of note, this policy provides for the acceptance of non-traditional movable collateral such as IP in financial transactions.⁷ This is a pivotal development in establishing a framework for the introduction of IP-backed financing instruments.

Sustainable national economic growth can only be achieved through an inclusive approach that engages the full potential of the majority. Given that MSMEs account for 97.6 percent of all classified and registered enterprises in Jamaica, the engagement of this sector is paramount.⁸ Typically, MSMEs and early-stage entrepreneurs have limited tangible assets, and hence find it difficult to access financing through traditional, asset-backed financial instruments. Therefore, the introduction of novel financing mechanisms able to leverage intangible assets as part of a financial appraisal process are required, if innovation-driven entrepreneurial ventures are to be supported.

With the introduction of affordable and adequate financial innovations through public and/or private financial vehicles, Jamaican MSMEs and entrepreneurs will be able to invest in generating and growing intangible assets. Unlocking the innovation potential of local entrepreneurs through IP-backed financing could have an exponential impact on economic growth. However, introducing this type of financial innovation into a nascent capital market requires that financial institutions are supported and incentivized toward an orderly adaptation.

The focus of this report will be on exploring the opportunities and challenges related to the introduction of IP-backed financing as a means of solving the capital formation gaps constraining the growth and development of MSMEs and entrepreneurs in Jamaica.

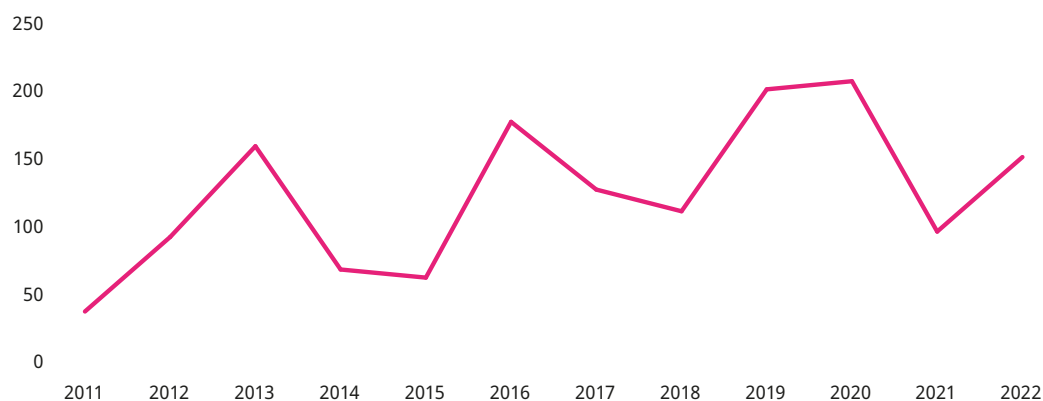
IP-backed financing

Innovative and technology-driven companies globally have for a long time shifted away from using only tangible assets to secure long-term financing. In fact, the value of some leading global companies, such as GitHub which was acquired by Microsoft for USD 7.5 billion in 2018, is based almost entirely on intangible assets.⁹ Intangible assets account for the non-tangible value that patents, designs, trademarks and copyright afford an enterprise through enhancing its competitiveness within an ever-changing business landscape.

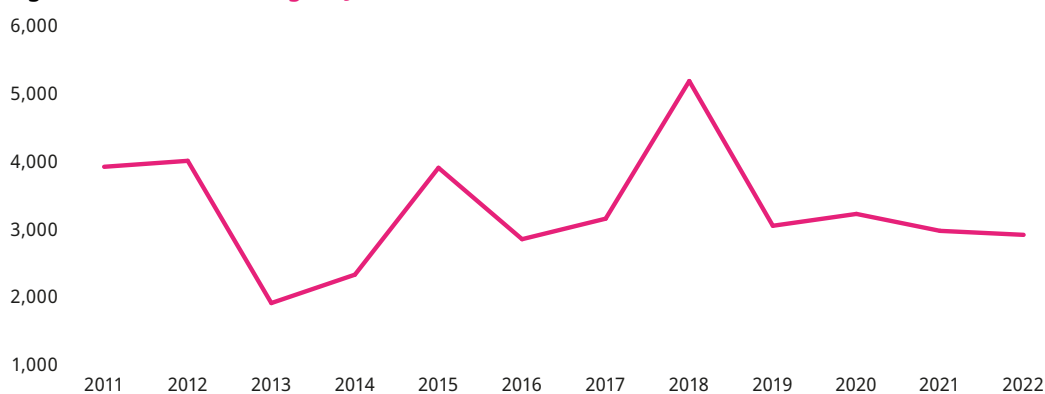
IP financing focuses on the funding of value-laden intangible assets for positive returns. Among the benefits of IP financing are improved security, value appreciation and as a repayment incentive for the lending entity. But more importantly IP-backed financing has the potential to boost the macroeconomic growth of a country.

Traditionally, Jamaica's local financial sector has provided financial support through collateral-funded loans centered on tangible assets and facilitated through various financial channels. The Planning Institute of Jamaica (PIOJ) reports that the stock of loans and advances specifically to the entertainment industry made by commercial banks in 2018 amounted to 2,491 million Jamaican dollars (JMD).¹⁰ However, it is unclear as to whether any of those loans were backed by IP.

Precursors to the development of IP-backed financing include the registration of IP assets, the monetization of those IP assets and the recognition of the value they generate in such a way that it can be legally transferred. There are positive trends in this regard. One is the registration of IP rights. The other is the monetization of those rights. JIPO has made notable progress in building an awareness as to the benefits of registering IP rights resulting in the registration of IP. Trademarks is the most registered active class of IP right, while patent registration continues to lag and shows no discernible growth trend. This is irrespective of the fact that, according to WIPO's Global Innovation Index (GII) 2023, Jamaica has been ranked an innovation achiever performing above expectations among upper-middle income countries in three of the last four years. The numbers of patents may relate to the high level of investment and considerable time required to develop the underlying inventions. Without long-term capital investment to support the development of patentable innovation, growth within this area may continue to lag. But, while patent filing is low, industrial design applications continue to rise. In 2020, Jamaica registered 211 industrial designs, its highest annual count to date (figure 1). Between 2011–2020, trademark filing accounted for the highest number of IP related applications for the period (figure 2).¹¹

Figure 1 Industrial design filings in Jamaica, 2011–2022

Source: WIPO Statistics Database.

Figure 2 Trademark filings in Jamaica, 2011–2022

Source: WIPO Statistics Database.

The informality associated with aspects of the local music and creative sectors makes it difficult to capture data on their full commercial value. The most recent trend has seen the rise of digital IP assets. This could be a game changer, given the exponential growth already associated with such technologies. An interesting emerging class of IP asset is the non-fungible token (NFT), which provides a new channel through which individuals can commercialize digital images. This digital art space has created new opportunities for Jamaicans to mint or create new art forms sold through digital platforms. Already, there are athletes, musicians and entrepreneurs pursuing opportunities to monetize their IP assets through NFT platforms. Sports celebrity Usain Bolt, the Jamaica Bobsleigh Team and dancehall artist Bay-C have announced an intent to sell NFTs. Usain Bolt, an iconic Olympic champion and international sporting celebrity, declared an intent to sell NFTs bearing his signature in a partnership with Autograph.io and DraftKings Marketplace starting in 2022.¹² The Jamaica Bobsleigh Team have sold NFTs in partnership with US-based Electric Token and @NFT, co-founded by Jason Falovitch and billionaire Mark Cuban.¹³ CryptoRastas, which creates dreadlock-wearing emojis in NFT format, has achieved sales of approximately USD 700,000.¹⁴ This is an example of leveraging IP toward monetization and commercialization. Given their transparency and traceability, the revenue streams generated by such NFT transactions can be used to accurately compute the value of the underlying IP asset and thus form the basis for the design of IP-backed financing instruments.

IP rights used to secure financing locally

The current local regulatory framework captures a variety of IP rights categories, including copyright, patents, trademarks, industrial designs and geographical indications. However, there is no evidence at this time of these IP rights having been used to leverage financing either from

accredited financial institutions or investors. In a dialogue with commercial bankers during the preparation of this report, they indicated that a few of their clients did receive a cash flow from music royalties.¹⁵ However, Jamaican banks do not currently offer financing based on such royalty streams. Clients in this category are usually offered unsecured loans instead, which typically attract higher interest rates, and thus may be inappropriate for most early-stage MSMEs and entrepreneurs.

Local legal and regulatory framework

Jamaica has made notable progress in establishing a supporting regulatory framework for the protection of IP assets. The most consequential amendments to IP laws in Jamaica took place following the country having become a party to the World Trade Organization (WTO) in 1995. The International Property Rights Index reports Jamaica as having one of the strongest IP protection regimes within the Latin America and the Caribbean region whose objective is to safeguard the rights of IP owners. Of note, Jamaica ranked 78th overall among the 132 economies featured in WIPO's GII 2023.¹⁶ Jamaica's updated MSME & Entrepreneurship Policy (2018) also outlines strategic imperatives in support of fostering a culture of innovation and entrepreneurship. It is within this context that several legislative initiatives have been implemented, setting a foundation for Jamaica's IP system. The new Patents and Designs Act, 2020, represents a notable development following several initiatives designed to modernize the country's innovation ecosystem. Those initiatives include:

- **The Copyright (Amendment) Act, 2015** – This legislation allows creatives and innovators a longer period in which to exploit and earn income from their works.
- **The Trade Marks (Amendment) Act, 2021** – These amendments incorporate provisions within the Madrid Protocol (1989), along with other amendments related to the operation of the trademark registry at JIPO.
- **The Protection of Geographical Indications (Amendment) Act, 2018** – These amendments will see a higher level of protection afforded to wines and spirits under the WTO's Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS) being extended to non-wines and spirits.
- **Protection of new plant varieties** – JIPO (an agency of the Ministry of Industry Investment and Commerce), in collaboration with the Ministry of Agriculture and Fisheries, has developed draft legislation to protect the breeders of new plant varieties. This will facilitate and encourage innovation in relation to the breeding of new plant varieties and the registration of plant breeders' rights as an IP in Jamaica.
- **Patents and Designs Act, 2020** – Passed in Parliament in January 2020, the Act repeals and replaces the Patent Act of 1857 and the Designs Act of 1937.

Laws and regulations impacting IP-backed financing

Security Interests in Personal Property Act, 2013. The 'status' of IP creators is further enhanced with the recognition of IP as a form of collateral through the Security Interests in Personal Property Act (SIPPA), 2013.¹⁷ Work is being done to review and upgrade the SIPPA, as well as collateral registry and to develop movable assets securitization in Jamaica. Specifically, the SIPPA emphasizes the importance of promoting a new secured transactions regime, thereby facilitating the acceptance of movable assets (such as IP) as loan collateral sheets.

Local institutions engaged in IP-backed financing

While Jamaica does not currently have local institutions directly engaged in IP-backed financing, there are government-led initiatives directed toward catalysing innovation-driven entrepreneurship and encouraging the generation of IP assets. These programs could be built upon to introduce IP-backed financing instruments.

The first of such programs is being spearheaded by the Jamaica Intellectual Property Office (JIPO), an agency of the Ministry of Industry, Investment & Commerce through the Government of Jamaica, Caribbean Development Bank (CDB)/IDB. The program called "Strengthening the

IP Ecosystem to Increase Innovation, Competitiveness and Growth in MSMEs” will create a platform where inventors and creators can leverage their intellectual property rights (IPRs) in an environment conducive to growth and development.

The following four local institutions offer programs that could directly or indirectly contribute to the development of IP-backed financing instruments.

Development Bank of Jamaica

The Development Bank of Jamaica (DBJ) offers the Boosting Innovation, Growth and Entrepreneurship Ecosystem (BIGEE) Programme. The BIGEE Programme is designed to finance the economic growth of MSMEs through the promotion of innovation and entrepreneurship. It leverages a range of innovative financing mechanisms, so as to provide access to financing for innovation-driven MSMEs and entrepreneurs. Financing mechanisms include:

- **IGNITE Programme** providing technical assistance and grants to eligible innovative start-up entrepreneurs and MSMEs to assist in idea development, the commercialization or scaling of new products and services, innovation ventures, business models and the penetration of new markets. The IGNITE Programme disburses funding through two windows.
 - **Ideation window:** This window is designed for start-up entrepreneurs and small businesses at the idea stage of product development. Funding is provided in order for testing to be completed and to create a minimum viable prototype or scale the business. Such idea-stage ventures are eligible for up to JMD 3 million in grant financing through this window.
 - **Commercialization window:** This window supports emerging technologies at the early stage of commercialization, enabling early-stage ventures with the capacity to transform a scientific discovery into a market-ready product or service or to penetrate into new markets. Early-stage ventures are eligible for up to JMD 7 million in grant financing through this window.
- **Credit Enhancement Facility (CEF)** is a partial loan guarantee program that helps MSMEs without the adequate traditional asset-backed collateral required to access loans from financial institutions. The primary objective of the CEF is to reduce the risk-exposure normally associated with small business lending, thereby allowing eligible MSMEs with viable projects to access term loans through commercial banks.
- **Discontinued DBJ programs**
 - **Innovation Grant Fund.** Promoted an increase in or creation of revenue streams for MSMEs through the financing of innovative ventures.
 - **Go-Digital voucher.** Designed to help MSMEs and entrepreneurs finance either the development or adoption of digital technologies.

Ministry of Culture, Gender, Entertainment and Sport of Jamaica

The Ministry of Culture, Gender, Entertainment and Sport of Jamaica is executing a program sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the European Union for elaborating a Creative Economy Act to streamline Jamaica’s cultural policies and the administration of the cultural and creative industries (CCIs). The program involves:

- **Streamlining efforts to support the creative economy.** The project will assist Jamaica in designing a Creative Economy Act. This Act will streamline various policies and strategies impacting CCIs, coordinate inter-ministerial cooperation mechanisms and outline the regulatory and support framework given to CCIs in Jamaica.
- **Establishing a dedicated fund to support creatives.** The project will support Jamaica in creating a pool of funds for CCIs in a more efficient and targeted manner. The new system will allow creative actors to access the necessary funding in order to be able to materialize their endeavours. Although unclear at this point, it is anticipated that the design of this funding vehicle will consider intangible assets.

National Foundation for Development of Science and Technology (NFDST)

- **Technology Investment Fund (TIF).** Designed to operate like a “venture capital” fund providing sponsorship for science, technology and innovation (STI) projects. It finances investment into highly innovative ventures that contain new or substantial technological improvements, and which would not qualify for funding using current commercial and

development banking criteria. The Fund was designed to provide funding for research and development into enhancing competitiveness and/or complementing productivity in existing commercial enterprises. The status of this initiative is uncertain, because of limited publication of its activities. However, this initiative could complement efforts by the DBJ and its BIGEE program in closing the financing gap that exists at the early stages of innovation design.

- **R&D Tax Incentive Scheme.** Administered by the National Commission on Science and Technology (NCST) Secretariat and accessed by individuals, as well as organizations. This tax credit scheme is designed to incentivize research and development using scientific methods to develop prototypes and conduct pilots with potential innovation outcomes. Activities considered under the Scheme include inter alia Environment Impact Assessments, Environment Impact Studies, prospecting, feasibility studies, pilot trials and product development work. There is no prescribed minimum or maximum value in order for projects to qualify.

Jamaica Intellectual Property Office

The Jamaica Intellectual Property Office (JIPO) is an agency of the Ministry of Industry, Investment and Commerce (MIIC) established under the Jamaica Intellectual Property Office Act, 2002. Prior to January 2001, different government ministries and agencies were responsible for the administration of Jamaica's Intellectual Property (IP) Laws. The creation of a single dedicated office streamlines the administration of IP rights in Jamaica. JIPO is mandated to administer all IPRs, including but not limited to:

- copyright and related rights
- trademarks
- geographical indications
- industrial designs
- patents
- layout designs (topographies).

JIPO's service offerings are geared toward enhancing the capacity of individual creators and innovators, MSMEs corporations and institutions to create wealth through the acquisition and maintenance of IPRs.

Non-government organizations

Jamaica Association of Composers, Authors and Publishers (JACAP) collects license fees from music users and distributes the money as royalties to writers and publishers of musical works. JACAP was established in 1998 and is owned by its members, who are composers, authors and music publishers. JACAP has currently over 3,000 members.

Jamaica Music Society (JAMMS) is a private, non-profit organization founded under the Jamaican Copyright Act in 2006. It is responsible for managing IPRs granted to "Record Producers," or the proprietors of master sound recordings.

As a "licensing agency/collecting society," JAMMS's function is to handle the broadcasting and public performance rights of its members. This entails issuing licenses to music users, such as radio and television broadcasters, webcasters, cable providers, club operators, restaurant operators, gym operators, event planners and concert promoters, among others. A JAMMS license is necessary for anyone or any organization broadcasting or performing sound recordings in public as part of their operations. JAMMS's responsibilities also include collecting and distributing royalties to members in exchange for royalties received.

Jamaica Copyright Licensing Agency (JAMCOPY) is Jamaica's national reproduction rights organization (RRO) and its collective management organization (CMO) for copyright in published works containing text and images. In compliance with Jamaican legislation and the Jamaica Copyright Act, 1993, JAMCOPY was established in 1998 as a non-profit organization. JAMCOPY offers licencing and education solutions. These include making it easier for users to access, reuse and share content both within a business and across international boundaries.

IP as security for equity financing

The First Angel Investment Network has funded 11 early-stage firms over the past six years.¹⁸ Although the investment appraisal process has not been made public, innovation and IP are typically considered in an early-stage venture investment appraisal. The Network recently launched the RevUP Caribbean incubator designed to offer advanced business development to high-potential ventures seeking equity financing. This five-month incubator program included support from IP lawyers.¹⁹

Government backed-guarantees and funds

JIPO is currently leading a program to build IP valuation expertise capacity within Jamaica. A series of workshops was conducted with MSMEs and practitioners in 2021. This was followed by the training of a first cohort of IP valuers. Approximately 12 people were trained in advanced IP valuation methodologies under the guidance of experienced IP valuation consultants from the United Kingdom (UK). Training included bankers, business professionals and finance specialists, as well as representatives from the Bank of Jamaica. Advanced IP valuation training included valuation exercises, two of which were conducted with operational enterprises that had IP registered with JIPO.

Through continued public education, it is hoped that creators, innovators and industry leaders will maximize the potential of their ideas by registering their high value IPs in order to facilitate their monetization. Taking this continued approach, Jamaica’s earning power ought to improve, thus further developing the country’s capacity to transform the business landscape both locally and regionally.

Debt-based financing²⁰

Jamaica piloted its first IP-backed financial instrument in the first quarter of 2022.²¹ This was undertaken by JIPO through a project designed to strengthen the IP ecosystem, so as to increase innovation, competitiveness and growth in Jamaica.

This Jamaican IP financing pilot is part of a package of measures supported by Compete Caribbean, an initiative sponsored by the Inter-American Development Bank (IDB), the Caribbean Development Bank and the governments of the UK and Canada.²² This package has featured projects designed to increase understanding and raise awareness of IP valuation techniques, as well as to digitize parts of the Jamaica IP office’s rights registers. Both are important enabling steps.

The most recent phase of the IP financing pilot started in October 2022. In total, 29 companies were considered as possible participants. Of these, 18 were determined as potentially eligible by the project manager, 15 of which successfully created IP and intangible asset inventories that were then checked by JIPO. Eight completed a IP valuation on an online platform extensively used within the UK. And, at the time of writing, six were at various stages of negotiation with the two participating lenders.



This phase of the pilot project also engaged with several important stakeholders in the funding landscape, including national and regional development banks, the Bank of Jamaica, the Ministry of Finance and accounting, and banking trade associations. Their views were canvassed about the opportunities on offer and the hurdles that remain to be overcome.

The pilot has so far demonstrated that Jamaican companies do indeed have IP that could be harnessed effectively as security and confirmed that there are the essential legislative and regulatory building blocks in place to support lending activity. The pilot has also highlighted the importance of working with companies that are genuinely innovative and scalable in order for this form of finance to be appropriate and attainable. It has become evident that such firms would benefit from further support in producing quality business plans that accurately capture their current status and future growth potential, and which meet lender requirements.

IP collateralization

The Inter-American Development Bank (IDB), the Caribbean Development Bank, and the Compete Caribbean Partnership Facility (CCPF) are funding the JA-T1161 Project which aims to strengthen Jamaica's IP ecosystem in support of MSMEs leveraging their IP assets, so as to drive innovation.

Moving forward

JIPO has benefitted from this project in several ways. In particular, there has been added traction and interest shown by citizens requesting information about how to monetize, value and use IP as collateral.

To move beyond the pilot phase of this project, lenders will require further training and familiarization, as well as access to the kind of "safety net" (against unrecoverable asset value) necessary in order to lend with confidence within the Caribbean market, where IP disposal routes are not yet mature. For the pilot, some are looking to use existing credit guarantee facilities. But a structure better tailored to the characteristics of innovative businesses would be preferable.

There is need for further funding to ensure the required training for bankers, accountants and other business groups in order to better mobilize the type of support needed to help MSMEs achieve their full potential. It would also be of benefit to this group, if existing banks and other business groups who have financed MSMEs would be willing to share guidance with Jamaica's banks and business groups on their challenges and successes.

JIPO remains committed to continuing public education geared toward MSMEs and other business groups about the importance of IP and the benefits that can be derived from utilizing it for the purpose of financing.

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