# COPYRIGHT LAW DEVELOPMENT AND PROTECTING ORGANIZATIONAL INNOVATIONS AS INTELLECTUAL PROPERTY

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***Abstract:*** Scientific research and knowledge innovations today can not only escape researcher's hold to be available on global network but also put forward an important question. Should they be protected by law? It is a permanent question whether the traditional copyright law contributes to this aim through protecting individual and organizational achievements as intellectual property or not. As Peter Lee suggests conventional wisdom holds that patents contribute to progress.(2004) There are two main concerns about such an approach. Firstly, powerful IP regimes deter investments in research programs and doing so, the innovation in scientific areas. Secondly, availability of research tools may be limited due to the decrease of organizations' investments. It can be said that patent law system is useful for organizations in the same way that copyright law may protect individuals' right on their expressions and abstract theories. So, it is often stated that a patent protects ideas and copyright protect expressions. We argue that legal and administrating protection policies must be managed to provide for the coexistence of these two as private interests and a public interest and prevent a public challenge. Patents normally protect research products in scientific areas which entail huge investments such as pharmaceutical formula as they are intellectual property belonging to organization and manufacturer. We suggest that scientific humanities are intellectual property and must be patented. Patenting this salient part of organizational entity may conflict with scientific norms of communal sharing and as it is said, it can discourage investment in primary levels. Local and international rules may help improve the IP systems. If knowledge should be considered as a shared and public asset, there would be logically an expectation on behalf of investing organizations in scientific research to have the exclusive right over the products of their investment.

***Keywords:*** Intellectual Property, Organizational Innovation, Patent Law, Copyright, IP Regimes.

## INTRODUCTION

Development owes its progress to organizational innovations. For centuries scientific works and research theories have been limited to public area of human development and contributed to a traditional paradigm shift of scientific achievements. In traditional view, knowledge not being protected by such means as copyright law and patents, contributed more to humanity than to development. Nowadays, knowledge, both in the form of abstract theory and practice is weighed according to how much contribute to development. As a matter of fact, conventions and scientists are equally attempting to protect knowledge and to communicate it. Local and international rules are all directed toward protecting innovations in the form of copyright systems that according to some scholars, is a state mechanism directed at enhancing the democratic character of civil society.(Balganesh, 2009)

Scientific research and knowledge innovations today not only can escape researcher's hold to be available on global network, but also put forward an important question. Should they be protected by law? Actually, patents as legal protectors act so forcefully against public utilization that many critics have been arisen about them. What we know as intellectual property may appear in different forms. In this paper the main argument is bout organizational innovations. In modern organizations theoretical issues and abstract ideas are considered deciding elements of knowledge development. Our attempt is to suggest some analyses regarding what are organizational innovations what is its role in corporate progress, and whether there are any legal measurements in conventional IP regimes to protect them as intellectual properties. So it is a permanent question whether the traditional copyright law contributes to this aim through protecting individual and organizational achievements as intellectual property or not. As Peter Lee suggests conventional wisdom holds that patents contribute to progress.(2004) It is naturally expected that this progress is guaranteed by defining these innovations as patentable.

Since intellectual property is defined as a broad concept that covers several types of legally recognized rights arising from some type of intellectual property, or that are otherwise related to ideas (kinsella, 2001), domestic legislators may consider different organizational products and tools as assets that must be protected by law.

## WHAT IS ORGANIZATIONAL INNOVATION

Organizational innovation is a broad concept. Companies today are increasingly moving toward progress phases by investing in scientific areas within their organizational terrain. Knowledge as the means of development is applied in the form of research, theories, tools, formulas, products and even ideas throughout the world of organizational endeavor. Every scientific work which may end to the development of research tools or material or intellectual product in this realm should consequently be viewed as the organization's property. Should personal research and innovations a person makes while he is bond with organizational obligations be considered as organization's assets or they would be considered his intellectual property? Considering organizational innovations as intellectual property requires us to refer to two related contexts of debate which are of high importance for any legal systems.

In the first place, the ideas, theories, marketing creativities and management innovations are considered a part of "scientific humanities" which is the product of individuals, attempts who are working within corporate and organizational frameworks.

From another point of view, it is the task of local and international legislator to find a way to protect ideas, theories, innovations and research acts in organizational level as intellectual property possessed by the individuals. As a matter of fact personal scientific attempt for progressing organization is considered an organizational task. But from a constitutional perspective it is a kind of research tools which are protected by copyright law nowadays. In this way, we suggest a paradigm shift that comes from the concerns over the legal void regarding the innovative ability and personal ideas and theories that can be made into progress.

Scientific work is naturally a shared human asset. Traditional view supports this idea. According to this view, science progress in an accumulative fashion; each discovery builds upon the vast generations of discoveries before it in an inexorable drive toward higher levels of comprehension of the natural world. Isaac Newton's famous observation, "If I have seen further it is by standing on the shoulders of giants", encapsulates this vision of cumulative advancements. (lee, 2004) Innovations in personal or organizational domain are scientific processes which are to be considered common wealth in primary steps.

## ORGANIZATIONAL INNOVATION AND IP REGIMES

In some parts of the world organizations claim a right for themselves to hold the ownership of any inventions achieved through corporate investment even in the form of abstract theories. Intellectual property in the form of patents so, appears lawful and at the same time, the subject of legal debates. As Lee suggests, organizations such as Pharmaceutical Research and Manufacturers of America, for example, argue that patent protection is necessary to recoup the hundreds of millions of dollars in initial investments necessary to develop new drugs. (2004) Modern organizations are heavily dependent on knowledge and applicable scientific methods. In this way they may press on states to protect their achievements legally. Regarding the personal and organizational intellectual properties, lawmaking in the modern regulatory state is a painstaking task. (Cry, 2001)

Copyright conventions and the jurisdictional procedures in local societies hosting organizational innovations and justifying the ownership of development research projects distinguish precisely between two domains of abstract ideas and applied sciences used in that area. Arguments exist defending the idea of restricting IP regimes and limiting the use of legal measurements for imposing exclusive rights of research applications to the interests of companies. However, two main concerns they are talking about are as follows: (a) Powerful IP regimes deter investments in R&D programs even by non-profit

organizations and doing so, weaken the innovative and creative trends in scientific domains. Opponents of enforceable regulations protecting organizational innovations refer to econometric studies that do not conclusively show net gains in wealth (Kinsella, 2001) as a result of executing these regulative regimes. Perhaps there would even be more innovations if there were no patent laws; may be more money for research and development (R&D) would be available if it were not being spent on patents and lawsuits. (Id.) (b) Limited availability of research tools due to the decrease of organizational investments is another argument. As Peter Lee says, "as research tools become more specialized and propertized, more and more fields of inquiry [and research] will ultimately fall under the domain of patents. While this causes concerns over the inhibitory effect of patents on scientific progress, it also opens the door for patents to help induce paradigm shifts". (2004) Furthermore, the coexistence of private interests and a public interest though does not necessarily crate a conflict, can make legal protection a public challenge. The conflict occurs where the self-interest of investing organizations and the public good pull in opposite directions. (Birnhack, 2003) Anyway, noticing the afore-mentioned void, many activists of the private sector and investing companies may attempt to look after the alternatives for IP regimes or to act another way to lead development researches. Some R&D managers, operating within strong regimes, have spent time and money setting up IPR scanning procedures. Other (innovative) business strategists have sought to operate independently of IPR considerations, be creatively designing new ways of capturing revenues and appropriating profits from digital products that depend only upon markets and technologies. (Singer & Singer, 2002)

**Patent Law and Organizational Innovation**

Generally as Abrahamson proposes, the patent system was designed to ensure that knowledge embodied in the patented good is disseminated widely, while the commercial exploitation of that knowledge by anyone other than patent holder is severely restricted. This protection may be viewed as shallow for scientific purposes but deep for commercial purposes.(2002) This argument is the fundamental element of the challenging idea that considers patent law hurdling the free use of knowledge shared by all human societies. Organizations and companies by constraining the free use of technical innovations, enjoy patents to increase the value of such innovations and ensure that more will be generated, thus benefiting society as a whole. (Lee, 2004)

Traditional patent theorists focus on the positive effects that patents exert on scientific and technological innovation. Critics, however, argue that patents on upstream research tools disrupt norms of communal sharing and can impede downstream experimentation and application. (Lee,2004) Whether the acts of investing organizations and companies creates such environment of harsh conflict between public interests and patent holding entities, or impede the scientific progress or is in contrast with the idea of communal interest of sharing knowledge and information or not, remains the subject of legal discussion. But it is generally believed that patent law serves two basic economic functions: protection of market exclusively and generation of revenue through licensing. (Kline, 2008) Typically the patent owner has invested heavily in researching the innovation and in developing that innovation into a commercially viable product or service. Patent rights protect this investment by allowing the patent owner to market a product or service without being undercut by competitors who have not made similar investment.(Id.)

As such, there can be found a dual though conflicting role for patent law regarding research investment in organizational domain. Proponents of this approach may view the impact of patents from two different and contradictory perspectives. Firstly, as noted before, states and global officials consider patent law useful for development purposes. From another point of view, patents have a stifling function.

Organizational innovations and their products when perceived as intellectual property are normally supposed to be exploited exclusively and under the strict supervision of local legislator. This approach is not limited to any special legal system. Empirical evidence suggests that, if anything, patents and the patent system are growing in complexity. (Allison & Lemely, 2002) Recently, the discussions about the function of patent law to protect organizational innovation are mainly focused on business model of organization's patent. These patent holding organizations acquire patent rights through invention or assignment and, unlike a typical inventor or manufacturer, exist solely for the purpose of licensing the patent to others. (Kline, 2008) These are called patent holding organizations. The term "patent holding organization" is not intended to refer to any specific form of business association. The term is intended as generic phrase to refer to organizations that behave as described herein and is not intended to reference any external definition. The term is distinct from a natural person holding a patent as an individual rather than as a business association; the individual is subject to a more limited patent venue statute. (Niro, 2006)

Patent holding organizations are able to focus on maximizing the value of their intellectual property. (Kline, 2008) The process of patenting new inventions and products in every organization shows different developments building upon each other and the increasing market value due to exclusive exploitation in the light of legal protection. Generally speaking, the patent law as a protecting system much has proved much more useful to companies and innovative organizations than to the individuals who have made a business mode or development research. It is even believed that without some type of intellectual property protection, companies would not survive. (Cry, 2001) Without analytical review and empirical evidence we cannot decide whether this is true with innovative organizations or not. It can be said that patent law system is useful for organizations in the same way that copyright law may protect individuals' right on their expressions and abstract theories. So, it is often stated that a patent protects ideas and copyright protect expressions. However, a closer look suggests that what patent law protects may not simply be general ideas, but a specific implementation of these ideas. (Lee, 2005)

**The Role of Humanities and Social Sciences**

While patent scholarship has profiled handsomely from law and economics and empirical studies, academic inquiries into the psychology and sociology of science can illuminate many features of the legal architecture of innovation.(Lee, 2010) Humanities and social sciences play a decisive role in defining the function of IP regimes to manage the rights over innovative products and business models.

Analyzing the patent law systems in theoretical levels, the indispensable role of humanities in conceptualizing the individual and social frameworks within which copyright law systems act must be revisited. Current scholarship has largely ignored patents' role in the evolution of scientific theory and lacks a robust analytic framework for conceptualizing this relationship. (Lee, 2004) Humanities are to be regarded as the basic material for theorizing the IP rights of organizations over innovations. Concepts referring to the philosophy of patent law and the social and administrative necessities surrounding it are the missing parts of many theories about patents and IP applications specially, in the domain of organizational framework.

Another issue that appears socially nowadays is the conflict arising from exerting IP regulations in the economic and political domain. Since 1990s there have been many theoretical discussions about the dual function of copyright rules that are protecting private rights over scientific researches and the global need to provide open access to knowledge and communal wisdom. In this way some scholars as Hoppe have advised that property rights must be demonstrably just, as well as visible, because they cannot serve their function of preventing conflict unless they are acceptable as fair by those affected by the rules. (Hoppe, 1989) Besides, in the realm of market place and organizational investments on research programs the conflict may expose the scientific theory to the risk of the social conflict.

Others suggest restricting of the borders of intellectual property rights or patents to some definite areas of utilitarian functions of these rules. In this way the debate about the expanding the domain or restricting it pose another theoretical conflict. So, it seems appropriate that copyright law particularly with regard to patents in scientific researches and huge investments of organizational entities should be redefined as a constitutional right of natural and legal persons in order the public and private right alike might be ensured through states' regulations.

Some scholars observing the findings of social sciences argue that patents and copyrights can deter even innovation and improvements on existing works. (Mc John, 2006) Observing the private and personal rights, some scholars prefer economic approach for fostering intellectual property and development researches. They believe that economic dimensions approach to intellectual property law offers powerful tool to both explain and reform intellectual property law. (Id.) In this way, organizations and companies that invest in innovative ideas and inventions to get most in trade system should be viewed as bodies whose rights must be protected by legal system. However, it is the frustrating task of humanities and research in social sciences to deal with the conflict between public interest of shared knowledge and the interests of private holder of patent right including individuals and organizational entities.

## CONCLUSION

Organizational innovations are the sources of huge investment in international economy and have brought about intensive discussions about the functions of IP regimes. Knowledge as the means of development is applied in the form of research, theories, tools, formulas, products and even ideas throughout the world of organizational endeavor. Generally any idea, abstract theory or research program on which an investment is made by companies and result in an economic and marketable progress is supposed to be protected by patent law and considered as intellectual property. International conventions have permanently recognized the IP rights on different scientific and artistic achievements. However, they do not suggest any particular priority for organizational innovations as intellectual property. This means that there would be

a debate on how legal system distinguishes between what can be patented as IP and what should be as common knowledge.

The only legal measure which is applicable to organizational innovations in trade level is patent law for protecting their exclusive right over business models or research tools. Arguments exist defending the idea of restricting IP regimes and limiting the use of legal measurements for imposing exclusive rights of research applications to the interests of companies. But States and international law have taken approach to protect the organization' right specially when there are innovative methods of themselves and previous investments. International conventions too tend to such an approach. TRIPS conventions are minimum standard agreement, but it does allow for a greater level of protection, which is referred to as TRIPS-plus protection. (Cimbolic, 2007) it seems that copyright law in relation to patents of scientific researches and huge investments of organizational entities should be redefined as a constitutional right of natural and legal persons in order the public and private right alike might be ensured through states' regulations.

Local and international rules may help improve the IP systems. If knowledge should be considered as a shared and public asset, there would be logically an expectation on behalf of investing organizations in scientific research to have the exclusive right over the products of their investment.

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