MEXICO-COUNTRY REPORT

by

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ABSTRACT

The present report is divided in three parts, first the teaching of intellectual property in Mexican universities is analyzed; the second part refers to research and specifically the use by the universities of the patent system; finally we propose some guidelines for the advancement of teaching as well as the practice of intellectual property in Mexico.

1. About the teaching of intellectual property in Mexico

The teaching of intellectual property (IP) occurs more frequently in private universities (especially the Universidad Panamericana and the Instituto Tecnológico Autónomo de México (ITAM)) than in public ones; however, the latter constitute 80% of the Institutions of Higher Education.[1] Besides the system of private and public universities, there is a system of Technological Institutes, the most important of which is the Instituto Politécnico Nacional (IPN). This is a matter taken care of by institutions in the country's capital (Mexico Distrito Federal) and rarely in the federal entities (32 autonomous and sovereign states), to understand this we must consider that one third of the country's population is concentrated in Mexico City and also one third of our wealth is generated here, accordingly most of the institutions and students are found in the Mexican Capital. Furthermore, 40.8% of the patents requested by residents in Mexico come from the Federal District.

The courses are generally taught in Law Schools, it is rare to have courses or subjects in engineering or commerce schools. Those who attend class are generally students of law schools and lawyers. The professors who teach the courses work in well

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* The translation to the English language was carried out by M.C. Olga A. Krauss Torres, Investigador del Programa de Propiedad Intelectual, Universidad de Colima, Mexico.

[1] There are approximately 134 public and private universities, which are affiliated to the National association of Universities and Institutions of Higher Education ANUIES, in 2000 and 2001 a tendency towards growth of private universities was observed. To this respect, see http://www.anuies.mx

known and prestigious law firms, it is not common to find specialized teachers in our subject matter.

The most used teaching method is that of the teacher's explanation of legal texts. The case study, learning based on problems and the complementation of the legal knowledge with other disciplines, as well as the contact with the technological markets does not occur frequently, which would be desirable.

The National Council of Science and Technology (CONACYT) is the public organization in charge of government policy in the matter of science and technology, within it the matters related to IP are included. The Council has not been successful in introducing programs and projects on such matter in the universities or the technological institutes.

2. Recent teaching experiences 1999-2001.

Because of their significance, we will refer to two important Mexican experiences on the subject matter of teaching and learning intellectual property: The workshops for training teachers of Mexican public universities and the distance learning program.

2.1. The workshops for training teachers of Mexican public universities in intellectual property

January 1997 - The first "Teacher Training Workshop" took place in the University of Colima involving 70 persons from eight Universities within Mexico. A second workshop took place in the Mexican National University UNAM (Universidad Nacional Autónoma de Mexico) in August 1999, that 300 persons attended. Most of them from that same university. In July 2001, the third workshop took place in the UDG (Universidad de Guadalajara) with 51 teachers who travelled from 15 Mexican universities.

The workshops where proposed by the Intellectual Property Program of the University of Colima. It is located in the state of Colima, in the western part of the Mexican Republic along the Pacific Coast. The program cooperates with the World Intellectual Property Organization (WIPO) and the national and administrative authority on the subject, the Mexican Industrial Property Institute (IMPI). As well as the National Association of Universities and Institutes of Higher Education (ANUIES), which groups more than 90 Mexican universities supports the program. The two first workshops were of an introductory and general character. In a sense that they included all the general subjects of Intellectual Property. One of the agreements reached in the workshops was a standard study program to use in law schools, so that all of them had the subject in their

curricula. Unfortunately, the proposal found echo in very few schools. The third workshop was different. It's goal was to train intellectual property agents within the universities instead of teachers, it was meant to promote offices or departments that would aid with counseling inventors and creators as well as promote teaching and research.

The said workshop was an answer to the following questions. Here are some of the questions we tried to answer in the third workshop:

- Why patent registration in Mexican universities is so low?

- How could the patents increase and also create a patent-culture?

- What specific needs do intellectual property teaching and research have regarding patents?

- In what ways could we use the technological information contained in patents to benefit the function of the universities?

- Does the patent system allow a better link with the industrial plant and with regional development?

- How can we promote the inventions generated in the university and highlight the inventor's role?

- In what ways does the Mexican legal system protect university patents?

- How can the universities benefit from the world patent system?

The fourth workshop seeks to train counselors on the subject matter of author's rights and new technologies. It is directed to creators of computer programs, data bases, audiovisual works and multimedia. It is known that actually, many of these innovators do not protect their creations and do not obtain any profit for themselves or for the university.

In the conception and carrying out of the four workshops, we observe very clear tendencies: to go from general to specialized courses, to tend to the needs of those clearly defined IP users instead of a heterogeneous public, to convoke law schools but also commerce and engineering, to add economic contents to legal knowledge, to tend to the needs of inventors and creators related with the most recent technologies.

2.2. The distance learning program through satellite

The distance learning program through satellite "The Intellectual Property System in Mexico, its application in the academic and business context" was transmitted from Mexico City to 20 universities; distributed in 15 states of the Mexican Republic, among these 19 institutes of higher education, with a total of 425 students. It started in September 1999 and ended in July 2000. It lasted for 160 hours. This program was organized by the Mexican Institute of Industrial Property, IMPI, the National Association of Universities and Institutes of Higher Education, ANUIES, the Latin American Institute of Communication and Education, ILCE, and the UNAM, the largest and most important university in the country.

This Program was structured in five modules, among them:

- Introduction to intellectual property
- The protection of inventions
- Distinctive signs

The majority of the teachers in this program were well known lawyers from private firms in Mexico City and IMPI officials only 10% were UNAM teachers. The satellite signal came from the EDUSAT net from the SEP (Ministry of Public Education). The sessions in this program were interactive, by direct phone calls and e-mail. The bibliography was given through the internet.

3. About the use of intellectual property systems by faculties in Mexican universities

Besides teaching the universities also have researchers for pure and applied sciences. At the same time some state organizations carry out applied research activities such as the Mexican Institute of Oil and the Mexican Institute of Electricity.

Supposedly, this academic personnel, that in Mexico gathers several thousand people, will apply for patents and other figures of industrial property; however this is not the case. The following statistics presented by IMPI show:

Patents applications by origin amount and percentages (1998)

Origin	Amount	%
Total	12,110	100
Presented by foreign citizens	11,165	96.2
Presented by Mexicans	455	3.8

IMPI Annual Report 1999, pages 37, 38

If we calculate how many applications presented by Mexicans are made by institutions of Higher Education we find that:

Percentage of patents applied for by institutions of higher education (IES) in 1998

Origin of the application	Absolute Numbers	Percentages %
Presented by Mexicans	455	100
Presented by IES	41	9.1

Source: Calculations by the author based on the IMPI Annual Report 1999, pages 37, 38

The charts show that the industrial Mexican system "has maintained itself at the margin of international systems that that allow development and appropriation of technologies."[2] Mexican enterprises did not use the system, or generated, or protected intellectual capital. On the contrary, the most recurrent practice was buying technology "key in hand" invented in the United States of America and not in the national research centers. This is explained by the vicinity with the country mentioned, but also by the high profile of Mexican foreign trade; factually Mexico in exports is the number 13 country in the world number 14 in imports.[3]

The Instituto Politécnico Nacional, the most important in technology matters in the country, recognizes the following problems:

(a) Absence of institutional policies oriented to promote and foster IP protection.
(b) Competition between academic productivity or industrial property, the inventor has the first road much clearer than the second.

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[2] Jalife Daher, Mauricio: "600 patentes nacionales" en Mexico DF, El Financiero, August 1, 2001, page 35.

[3] Madrid, El País, May 9, 1999, page 59.

(c) Scarce generation of patents in relation with results of scientific and technological activities. Actually the same E institute reports that Figures such as: (i) individual projects, (ii) projects of the university, (iii) projects of joint development and (iv) projects with the industrial plant, are almost unknown in ours environment.

Results obtained by the Instituto Politécnico Nacional - 1940-2000

National Patents granted	7
Patents granted in other countries	6
Applications for national patents	39
Applications for patents in other countries	2
Registered author's rights	120
Applications of author's rights	20

Source: Arzate Torres, Rafael Paper presented in the Third Workshop for Training Teachers on Intellectual Property, Guadalajara, Jalisco. July 5 to 7, 2001.

(d) Important number of treaties and contracts in which the counter part "reserves its right to" patent.

(e) Lack of studies of previous markets, follow up in the process of counselors, abandonment of applications, lack of payment to preserve the rights.

(f) Insufficient publicity about IP legislation and institutional supports.

(g) Bureaucracy between different departments and schools.

The conclusion is that there is no culture on intellectual property that equally includes the productive structure, the world system of technology transfer and the academy.

In public universities the prevailing idea is that by presenting patent applications, utility models and other IP figures they can obtain more resources from the state and also establish links with the productive sectors and gain prestige in the perspective of competing institutions. In general, they have little idea of the importance of generating a culture of intellectual property linked to the very essence of the institution that would be a part of their mission and their vision.

The actual Mexican system of incentives to academic production specially the SNI (National Investigators System) doesn't establish awards for inventors equal to those granted for publishing scientific articles in renowned magazines; however in the short term reforms will be made that contemplate high stimulating rewards for innovators.

Publishing should be one of the results of inventive activity, not the only one, it can be done after the patent application is presented.

It has also been proposed that researchers who are also teachers may use for their courses the technological information contained in the patents. In this sense, IMPI has carried out an important task by organizing, jointly with the European Patent Office (EPO) and the ELDIPAT, an annual event, in its second edition in July 2001. Much attention was dedicated to academics.

4. Proposals for a Mexican culture on intellectual property

4.1. Creating an alliance policy between the IES, the IMPI, CONACYT and the regional governments to give impulse to IP within the IES.

4.2. Creating Institutional Programs to foster protection for universities and derive into Offices of Technology Transfers within them, which would be in charge of counseling and presenting applications as well as promoting a culture on IP within the IES and giving service to local private inventors.

4.3. In the case of teaching, going from established programs in Law Schools to programs in commerce and engineering. Training counselors that will join the Offices of Technology Transfers.

4.4. Modifying the policies of incentives for researchers, equalling patent applications with the publishing in arbitrated foreign magazines.

4.5. Endorsing agreements between universities and enterprises.[4]

4.6. Promoting IP week within the IES.

5. Conclusions

In comparison with the recent past, beginning of the nineties, we can appreciate a great increase in the interest of teachers with a tendency to include the teaching of

[4] A good example is the Fund for Support of Research Projects in cooperation with institutions of higher education of the Mexican Oil Institute. Fondo de Apoyo a Proyecos de Investigación en colaboración con las instituciones de educación superior (FIES) del Instituto Mexicano del petróleo.

intellectual property in their curricula, proof of this are the two cases discussed in this paper: the teachers training workshops and the distance learning program.

There is also an interest in increasing the low level of patent applications and grants by researchers in applied sciences and other technicians and the possibility that they share their experience in the training of human resources.

The Mexican Institute of Industrial Property (IMPI) has begun a program for promoting IP inside the Universities. These results will be known by the end of 2001 and beginning of 2002.

It is expected that some universities install internal offices of technology transfer in charge of counselling inventors and carrying out patent applications, as well as the general function of creating a culture on intellectual property within the institutions of higher education.