THE ROLE OF INTELLECTUAL PROPERTY IN ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT

by

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The topic for our discussion involves an investigation of how the intellectual property (IP) system can be used as a tool for social, economic and cultural development. How can the promotion of the protection of intellectual property rights foster economic, social and cultural development? Can a country that participates in a program of intellectual property protection expect to reap benefits from the IP system?

It is well-known that IP rights are private and belong solely to the creator, inventor or innovator. The protection of the creator's rights through a patent or copyright system, *albeit*, for a specified limited period of time, is intended to provide the creator, inventor or innovator the opportunity to recoup his/her investment for their creativity. The right accorded to the rights-holder relates to the prevention of others from using or copying the idea without his/her consent. However, in return for the limited protection, in the case of an invention, the owner agrees to disclose the information relating to the invention so that a person skilled in the art can reproduce and work that invention.

One of the major reasons for the protection of IP is that it provides an incentive to the rights holder. The limited period of protection for his/her work, is provided so that the rights holder may have the opportunity to reap the benefits of his/her creativity without the fear of having his/her work copied and commercialized by third parties without his/her consent.

Many countries have recognized the fact that the IP system is a major pillar and cornerstone of a country's development process. It is regarded as one of the nation's major infrastructures necessary for economic, social and cultural development. The promotion of the protection of IP gives inertia to a country's inventive and creative activity. In turn, this serves to fuel a country's entrepreneurial spirit.

It is also well-established that IP protection is a crucial factor for luring or attracting direct foreign investment in a country. Without a strong IP system of protection, it is considerably difficult to attract foreign investment. However, a country that fosters a strong IP protection is viewed as a stable climate in which to invest. Few enterprises are interested in investing in a country that has a reputation for wide spread counterfeit or copyright infringement of IP assets.

As noted above, one of the preconditions for obtaining a patent is that the inventor must disclose the information in a sufficient manner that a person skilled in the art may

reproduce the invention. The patent document is therefore an excellent source of information regarding the state of the art of the latest technological inventions and innovations available on the market. Although the protection gives exclusive rights to the rights holder to the invention, anyone is however free to consult the document for research or academic purposes. There are over 40 million published patent documents in the world today and one million is added each year. The availability of this information free of charge, therefore, ensures that society, as whole benefits. Society therefore does not have to waste time trying to reinvent the wheel. Science is therefore made to go forward and people can invent other useful products by working around the invention or adding on top of that knowledge - "inventive step." In all these documents, a vast array of information is made available on a variety of technological inventions and innovations that can be consulted and used to create new knowledge.

However, without the IP system, the knowledge would be protected through other means, for example, trade secret. The human society as a whole, would therefore be deprived of access to this secretly held knowledge. Society would have to reinvent the wheel instead. In such a case, economic, social and cultural development in the world would, no doubt, be negatively affected.

Furthermore, the technology disclosed through patent information allows the society to gauge the latest developments in a particular discipline or science. This disclosure acts as stimulus for other competitors in a similar business, to try and undercut the competition. Through competition, better products are made available and the price of goods is forced to go down.

Countries around the world have used the IP system to develop their economies in various fields, such as manufacturing, the arts, music, software, etc.

The large number of patents currently in force in the world, around 4 million patents, attests to the overwhelming endorsement of the patent system as a vehicle for economic, social and cultural development. This figure is testament to the great success the patent system has enjoyed. The success rate of the system can also be gauged from e.g. the following patent applications rate per annum; for example, Japan files some 400,000 patents annually; the United States of America, some 200,000; Germany, 100,000; United Kingdom, 70,000, etc. Developing countries are not too behind either in the patent filing. For example, the Republic of Korea files some 92,000 patents a year; China, some 24,000; South Africa, some 11,000 patent applications; India, some 10,000 applications annually; Singapore, 8,000; Malaysia, 6,500; Brazil, 6,000; Mexico, 4,000; Philippines, 3,500, etc.

In the field of copyright, the copyright industry, which relies on the protection of books, music, film, software, etc., is well developed in many countries. The industry is a

major contributor to the wealth creation of many countries. It is no doubt a vital part of every nation's infrastructure. A country that does not protect copyright is bound to lose large amounts of revenue through piracy or copyright infringement.

In the United States of America, for example, movies, music, television programs, books, computer software, etc, account for some USD70 billion annually. This output is more than that of any other major industry in the country. In India, more than 60,000 book titles are produced each year and generate some USD450 million per annum. Its film industry, the largest in the world with some 800 movies produced annually, is a USD1.2 billion industry. Music accounts for some USD400 million. Furthermore, India's software exports which was some USD4 billion in 2000 is expected to rise to some USD9 billion in 2001.

South Africa's book industry produces some 900 titles annually and generates around USD250 million in revenue. Its music industry generates some USD220 million annually.

Egypt's music industry rose from USD13 million in 1997 to over USD40 million in 1999.

Argentina on the other hand published over 56 million copies of books annually with sales of over USD460 million. On the other hand, Brazil generates some USD2 billion in book sales, another USD2 billion in software sales and the industry employs well over 70,000 people.

Naturally, the amount of taxes generated by the State from these activities augurs towards the development process of the country concerned.

CONCLUSION

It is no doubt true that use of the IP system can enhance a country's ability to realize her development agenda. On the other hand, a country that does not have a well developed IP infrastructure loses out on many fronts. It loses out on the competitive front, the investment front, and the loss of revenue in direct and indirect taxes. Most of all, such a country is unable to develop its own authentic industrial assets. It remains a copycat, and thus has no soul of its own. A nation that has no self identity has no pride or leg to stand on in the world arena.