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The importance for Oman of teaching IP law

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1. The importance of IP

IP impregnates our daily life. IP is present when we do our shopping at the market, when we fly an airplane, when we drive a car, when we drink water. Why? Because IP is a legal regime that is inserted in the organizational structure of all societies.

In other words, IP is an important element of the institutional fabric of an efficiently organized society.

This is true in the United States, in the UK, in Brazil, in Sri Lanka, or in Oman. This is true in Muscat, in Salalah, in Nizwa, or in Sohar.

Let us suppose that I am a very lucky human being and I live in Muscat with my family. When I go to the soukh for buying "tâmaras" (that is how I call dates in Portuguese), I always seek the same farmer, Mohammad, who invariably sells me very sweet, juicy dates (e.g., the khala variety).



I also trust Mohammad because he does not use chemical pesticides in his plantation. Moreover, even if his dates are the best and produced with greater care, they are sold at the same price as those of his competitors'. The reason is that Mohammad has developed new techniques of irrigation that avoid waste of water and reduce the costs of producing dates.





Another merchant might feel jealous of my preference: he might put a sign on his counter falsely advertising that he sells "Mohammad's dates"; or he could start a false rumour announcing that Mohammad's dates are genetically modified, or that Mohammad had started spraying his orchard with chemical pesticides.

This is intellectual property. This is trademark infringement ("Mohammad" is a trademark, registered or not), passing off, trade name infringement, and unfair competition. Moreover, Mohammad's dates are sweeter than his competitors' because of the breeding work carried out by him and his ancestors. In choosing his dates, I am paying him for the work of inventing a new date variety.

Intellectual property, let us not forget it, is about preserving the differences between competitors.

The more those differences are legally preserved, the more competition there is. And the more competition there is, the more society is better off in terms of variety of products offered, better quality and lower prices.

And this is the reality in the United States, in the UK, in Brazil, in Sri Lanka, or in Oman. This is true in Muscat, in Salalah, in Nizwa, or in Sohar. Instead of dates, we could refer to soy beans, to cotton, to photographic cameras, to aircraft equipment, to oil, gas and derived products, to auditing services... In a nutshell, this is true as regards all areas of economic activities, regardless of whether the country is developed or not.

Probably the oldest statute in the world that contained IP-related provisions was the Hammurabi's Code of Laws (1,780 b.C.):

"188. If an artisan has undertaken to rear a child and teaches him his craft, he can not be demanded back.
189. If he has not taught him his craft, this adopted son may return to his father's house."

This is about appropriation of knowledge and preservation of trade secrets.

2. The importance of teaching IP

But that reality is made of social constraints, of rights and obligations, of privileges and duties. It assigns favors and imposes behaviors. That reality, therefore, is imposed by means of Law.

In this manner, teaching IP contributes to:

- disseminate and advance knowledge of IP, thus creating general awareness of that crucially important, even if subliminal, element of our daily lifes;
- establish adequate, efficient legal systems for the protection of IP;
- assist government agencies and courts in properly administering the legal system, thus fostering legal security and predictability.

In other words, teaching IP is not a negligible means to contribute to the economic development of Oman.

3. Important elements of IP that should be considered in its teaching

Why is IP so frequently neglected in law schools of developing countries as well as of many developed countries?

The reason is that: IP is inherently multifaceted, multidisciplinary and multinational.

IP is multifaceted.

IP is about (but not limited to): a) creators' and inventors' rights; b) private property rights; c) administrative and commercial registrations; d) new technologies; e) preservation of a competitive environment; f) civil enforcement; g) criminal enforcement; h) customs enforcement.

a) Constitutional law; Human Rights Law; b) Civil law; Contract law; Tax law; c) Administrative law; Commercial law; d) Ethics, morality, ordre public, religion; e) Unfair competition law; Antitrust law; f) Civil procedure; g) Criminal procedure; h) Customs law (which is itself a combination of tax law, commercial law, administrative law and procedural law).

IP is multidisciplinary.

IP is law. IP is economics. IP is technology. IP is business and government management.

IP is multinational.

IP results from the daily business of merchants, farmers, industrialists. IP is originally national, even local. IP was born at the soukh.

But since the 19th century IP has been integrated into the logics of international trade. In the end of the 20th century, IP has gone global.

IP is multinational.

Consequently, many of the current features of IP have their origin in other jurisdictions and/or in international negotiations. Consequently, many of the provisions of Omani law are dictated by rules set forth by the Paris Convention, the PCT and the TRIPS Agreement. Their rationale can only be found in those international treaties.

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In conclusion, a good teacher of IP must be familiar with many different areas of law; he must have basic education in (micro)economics and at least a minimum experience as to how to use the system from the users' perspective as well as from the patent office's standing. Finally, a good IP teacher, in order to correctly understand the national IP system, must become familiarized with the origins and the development of the international framework of IP. For example, no teacher in Oman can understand correctly the Omani IP system if he/she does not know the Paris Convention and the TRIPS Agreement.

Thank you.

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