

The Evolution of Intellectual Property Concepts at National and International Level

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ABSTRACT: Closely related to this field is the activity of research - development and innovation which is a strategic component, decisive for economic development and social progress. Thus, science, technology and innovation represent fields that constantly generate technological progress, ensuring the sustainability of development and the prospective economic competitiveness of Romania. At the same time, innovation and technological transfer are solutions for solving economic problems and for the permanent renewal of the necessary technologies by connecting Romanian research to the requirements and pressures of a free, expanding market, in the context of globalization.

KEY WORDS: innovation, technological transfer, Intellectual property, solutions, economic competitiveness

Introduction

Intellectual property protection has become a global issue as a result of the development of world trade in products that include copyright or industrial property rights. The protection and global promotion of intellectual property is an element of vital importance, of economic development, piracy and counterfeiting being a cross-border issue, whose approach must have the support of the political class and civil society (Roş 2001, 88).

Cooperation and coordination between the public and private sectors in the field of counteracting the phenomenon, building capacities to combat intellectual property fraud, promoting national and international regulations to prevent and repress piracy and counterfeiting and last but not least awareness of the phenomenon, are the main ways to reduce global risks in the field of intellectual property protection.

In the evolution of globalization, an important aspect is the agreement concluded between the members of the World Trade Organization, known as the Trade Agreement - Related Aspects of Intellectual Property Rights (TRIPs), which is the most complex multilateral document on intellectual property globally (Macovei 2010, 104).

In the field of global intellectual property protection, the TRIPs agreement is considered a global standard that imposes common international rules in the field and regulates how the basic principles of world trade and international agreements in the field of intellectual property protection are applied, the most appropriate way to protect. Intellectual property, the legislative and practical consolidation of these rights in the national state territories, the settlement of disputes between WTO member states as well as the special provisions regarding the transition period, until the full implementation of the system.

There is no universally accepted definition of piracy or counterfeiting, but there are different definitions of the term and activities that are closely related to it. Sometimes the interest varies depending on the context in which it is used. In English-speaking countries, the term "counterfeiting" is used primarily for flagrant infringement of trademarks, while "piracy" is used more in connection with copyright (OMPI 2001). From the protection of property to the protection of the creation of the human mind was a step favored by creating appropriate legislation in the field.

In Romania, the first law in the field of intellectual property appeared in 1879 by a decision of the Parliament and which referred to the Law on Trademarks. At the same time, the issue of adopting a law on Patents for Invention arose, which appeared only on January 17, 1906, efforts being made since 1880. On this occasion, the Patent Office was established, which is now the State Office for Inventions and Brands - OSIM. Intellectual property

refers to creations of the mind: inventions, literary and artistic works, and symbols, names, and images used in commerce.

Intellectual property rights are property rights like any other - they allow the creator or owner of a patent, trademark or copyrighted work to benefit from his or her work or investment.

These rights are highlighted in Article 27 of the Universal Declaration of Human Rights, which stipulates that every human being must enjoy the protection of the moral and material rights deriving from any scientific, literary or artistic work of which he is the author.

The importance of intellectual property was first recognized by the Paris Convention for the Protection of Industrial Property of 1883 and the Berne Convention for the Protection of Artistic and Literary Works of 1886. Both treaties are administered by the World Intellectual Property Organization (WIPO). There are several reasons why the protection of intellectual property is urgently needed:

- ✦ The progress and prosperity of humanity depends on its creativity in the technical and cultural fields;
- ✦ Legal protection of new creations encourages investments and leads to other innovations;
- ✦ The promotion and protection of intellectual property stimulates economic growth, leads to the creation of new jobs and new branches of activity and to the improvement of the quality of life.

An efficient and equitable intellectual property system can help all countries to exploit the potential of intellectual property which is a powerful tool for economic development and social and cultural progress.

This system contributes to establishing a balance between the interests of the innovator and the public interest, thus ensuring an environment conducive to creativity and invention, for the benefit of all (The Marrakesh Agreement, 1994).

Intellectual property rights reward the creativity and human effort that are the engine of human progress. Here are some examples:

- ✦ The film industry, the audio and video recording industry, the publishing industry and the software industry, which invest billions of dollars to entertain millions of people around the world, would not exist without copyright protection;

- ✦ Consumers could not confidently purchase products or services without effective international trademark protection, able to deter counterfeiting and piracy;
- ✦ Without the benefits of the patent system, researchers and inventors would be underestimated to continue to seek to improve their products in terms of quality and efficiency in the interests of consumers around the world.

Intellectual property is property of the creations of the mind, inventions, literary and artistic works, symbols, names and images used in commerce (Paris Convention, 1883).

Intellectual property rights, like all property rights, allow the creator or owner of a patent, trademark or copyrighted work to benefit from his or her work or investment.

According to art. 27 of the Universal Declaration of Human Rights, everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic work of which he is the author. These rights, expressly provided for, are of particular importance, because the exploitation of the potential of intellectual property is a powerful tool for economic development and social and cultural progress (Mihai 2002, 301).

The protection of intellectual property through a strong legal framework and an effective mechanism to ensure its application are necessary due to the fact that the progress and prosperity of humanity depend on its creativity in the technical and cultural fields, and the protection of creations encourages investment and leads to other innovations. The promotion and protection of intellectual property stimulates economic growth, leads to the creation of new jobs and new branches of activity, as well as to the improvement of the quality of life.

General Aspects of Intellectual Property Law

Intellectual property viewed under its two components, industrial property on the one hand and copyright and related rights on the other, is one of the basic levers of the nation's economic, social and cultural development. In this context, it can be appreciated that the protection of intellectual property

rights is of great importance, its essence, purpose and purpose being to protect the product of human intelligence and, at the same time, guarantee the benefit of consumers to use this product.

Intellectual property includes rights to:

- Literary, artistic and scientific works,
- Shows and exhibitions of artists, photographers and television,
- Inventions in all fields of human research, scientific discoveries,
- Industrial signs, trademarks, service marks, trade names and emblems, protection against unfair competition and all rights resulting from an intellectual activity in the industrial, literary or artistic fields.

Intellectual property is intangible even if its external manifestation is visible or materially expressed (Roş 2016, 228).

Thus, a painting is a tangible object, but the object of intellectual property is the author's creativity. Intellectual property is the result of human activity, even if a device, such as a computer, intervenes during the creation of a person who makes a computer program.

The holder of the intellectual right has the legally recognized capacity to authorize or prohibit the access of certain persons to its creation in the sense of use, reproduction, etc. The separation of intellectual law from the physical object in which intellectual creation is found is sometimes difficult to imagine and understand (Simler 2010, 76).

For example, is it possible to photocopy a book for resale or to grow a plant to sell the seeds, as long as these material objects are owned by the person who wants to do these things? The answer is no, given the intangibility of intellectual law, which limits what property rights allow.

Man's creative activity has always been a decisive factor in accelerating the general progress of humanity, which has determined in the modern era the integration of intellectual property rights in the legal order of civilized countries (Puttemans 2000, 144). In the current conditions, the existence of modern economies oriented towards a free market is inconceivable without the unanimously recognized contribution of intellectual property.

An edifying example in this regard is the integration of intellectual property into the World Trade Organization (WTO) system created by the Marrakesh Convention of 15 April 1994, intellectual property being

thus integrated into the new concept of international trade, which aims to build a modern company based on the organization of the market in a competitive system that also implies a free circulation of intellectual values, which propelled them due to their increasing importance, in the context of the process of globalization of markets towards the center of world interest.

The essence of the industrial property right consists in the prerogatives of the holder of a protection title granted, on a territory and for a limited time, to realize, produce and capitalize the object of industrial property as well as to prohibit third parties from unauthorized reproduction, manufacture and exploitation.

In other words, it is a question of conferring by law a monopoly right to exploit the object of industrial property in favor of the holder, a right which is limited in time and space.

For the purposes of Article 2 of the 1967 Stockholm Convention establishing the World Intellectual Property Organization (WIPO), an intergovernmental organization specializing in international cooperation, intellectual property means the rights to literary, artistic and scientific works, interpretations of artists, performers, phonograms and radio broadcasts, inventions in all fields of human activity, scientific discoveries, industrial designs, trademarks, trademarks, service marks, trade names, protection against unfair competition, and any other rights regarding intellectual activity in the industrial, scientific, literary and artistic field.

In a concise formulation, intellectual property therefore includes the set of rules by which the protection of industrial property rights, copyright and know-how is achieved (Bertrand 2005, 198).

In Law no. 344 of November 29, 2005 on some measures to ensure the enforcement of intellectual property rights in customs clearance operations, intellectual property rights are defined as follows: copyright, related rights, the right to protected product or service marks, the right on industrial designs, the right on geographical indications, the right on patents, the right on supplementary protection certificates, the right on plant varieties (art. 3 paragraph 1 point 1).

The legislative technique used is that of enumerating the different categories of subjective intellectual property rights, enunciative enumeration and not limiting as one of the significant transformations of the intellectual

property right consists in extending the protection to objects that were previously outlawed and which, by their importance he insistently claims his vocation for protection. For example, computer programs, new varieties of plants and animal breeds, topographies of integrated circuits, etc. (Cremona 2001, 76).

Within the intellectual property between the two major domains that compose it - copyright and industrial property law, there are a number of points of contact that justify, although there are some differences, their reunion within a single division of civil law, intellectual property law, namely:

- ✦ Common fund of fundamental principles;
- ✦ The indissoluble link between the author and the work of intellectual creation, the author being recognized a temporary right of exploitation monopoly that responds to the need to reward the author who manages to impose himself through new ideas in industry or originality in literature and art;
- ✦ Both types of rights have their genesis in ancient royal privileges.

We must also note, it has been pointed out in the doctrine, that this approach does not concern all industrial property rights. Obviously, distinctive signs such as brands, names and trade names, geographical indications are more related to commercial activity and respond to a specific need for this form of activity and inventive creation is located at the confluence of industrial activity in the broadest sense and intellectual activity.

There are also a number of significant differences between the two major areas of intellectual property, such as:

- ✦ In the field of artistic and literary property, the author's personality is more vigorously outlined. Thus, along with the monopoly of exploitation of the work, many other prerogatives were established under the name of moral rights (for example: the right to decide under what name the work will be brought to public knowledge; the right to withdraw the work; the right to decide whether, in what way and when the work will be made public, etc.);
- ✦ The administrative requirements in the field of industrial property, attesting to the birth of the right are much higher and

are embodied in an administrative title such as the patent in the case of inventions or the registration certificate in the case of trademarks or in the case of designs industrial. On the contrary, in the case of artistic and literary property in the continental system, law is born independent of any administrative formality;

- ✦ Competition in the industrial or commercial environment is much fiercer than in the artistic and literary environment, which determines differences in terms of sanctions applicable in case of infringement of intellectual property rights (Bodoaşcă and Târnu 2015, 201).

Conclusions

Intellectual property largely includes the legal rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields. In general, intellectual property laws aim to give creators and other producers of intellectual goods and services, for a limited time, the rights to control how their products are used.

Intellectual property rights are property rights like any other; they allow the creator or owner of a patent, trademark or copyrighted work to benefit from his or her work or investment. These rights are highlighted in Article 27 of the Universal Declaration of Human Rights, which stipulates that every human being must enjoy the protection of the moral and material rights deriving from any scientific, literary or artistic work of which he is the author.

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There are several reasons why property protection is so imperative. First, humanity's progress and prosperity depend on its technical and cultural creativity; second, the legal protection of new creations encourages investment and leads to other innovative activities; third, the promotion and protection of intellectual property stimulates economic growth, lead to the creation of new jobs and new branches of activity and to the improvement of the quality of life.

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