

Human Resource Development and Intellectual Property (The Philippine University Experience)

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Human resource development in the Philippines in the field of intellectual property is just in its infancy stage. While intellectual property laws were already existing in the Philippines since the early 20th century, the practice of intellectual property was predominantly in the legal field following the “sword and the shield” approach. In his book *Intellectual Property Strategy*, John Palfrey describes this strategy as follows: *“As a sword, intellectual property can be used to attack a competitor who seeks to exploit some aspect of your intellectual property in a way that violates your rights. As a shield, intellectual property can help you stave off attacks of your competitors.”*¹ Intellectual property as a business asset viewed from a business manager’s perspective is relatively unheard of. With the increasing interplay of intellectual property with the academe, government and industry today, there is a growing clamor to view intellectual property not merely as a sword and a shield, but a social and business asset that is part of business strategy of an institution or business entity.

To have a proper context of intellectual property as a field of study, there is need to know the Philippine regulatory environment in intellectual property. The first laws in the Philippines on intellectual property were enacted in 1947: (1) Republic Act No. 165 otherwise known as “An Act Creating a Patent Office, Prescribing its Powers and Duties, Regulating the Issuance of Patents and Appropriating Funds Therefor”; and (2) Republic Act No. 166 otherwise known as “An Act to Provide for the Registration and Protection of Trade Marks, Trade Names and Service Marks, Defining Unfair Competition and False Marking and Providing Remedies Against the Same, and for other Purposes”. After undergoing several revisions, it was only in 1997 that the Philippines passed a comprehensive law on intellectual property through Republic Act 8293 or the Intellectual Property Code of the Philippines, which took effect January 1, 1998. Even with the

¹ Palfrey, John 2012. *Intellectual Property Strategy*, The MIT Press, Boston, Massachusetts, p. 2.

passage of the IP Code, private companies, government offices and research and development institutions still did not realize the importance of intellectual property and, therefore, did not invest much in human resource development in the field of intellectual property. It is therefore not surprising that interest in the development of human resource in the field of intellectual property just recently came into being in the Philippines. The passage, however, of the Technology Transfer Law of the Philippines (R.A. 10055) in 2009 has helped in viewing intellectual property as a tool in economic development. This is the Philippine version of the Bayh-Dole act wherein intellectual property ownership over government funded projects shall be given to the university or research and development institutions. In 2011 this technology transfer mindset was further enhanced with the creation of the Innovation and Technology Support Office (ITSO) program of the Intellectual Property Office of the Philippines (IPOPHIL) where it trained universities and research and development institutions to offer a wide range of IP services from patent searching and patent drafting to IP commercialization activities. Today there are around 80 ITSOs throughout the Philippines which can at the very least basic patent services to incubation of start-up business. It has been a model program for training IP managers and experts in the region. All these activities have raised interest in intellectual property management in the Philippines which, in turn, has raised the demand for intellectual property professionals. Unlike before, intellectual property is now recognized as a career giving rise to the need to have a human resource management strategy for IP practitioners and professionals. Universities and companies in the Philippines today have realized the need to have a separate IP office and hire full time IP managers and experts due to the need to protect and commercialize their intellectual property. This has spawned a new career in intellectual property management in most entities.

In this paper, I will share my experience in facing the challenges of human resource development in the field of IP in the school or university setting in the Philippines and the possible measures on how to address these concerns.

Many universities in the Philippines today still hold on to the “publish or perish” mentality in the conduct of their research – and for the most part they cannot be blamed. The patent system, while having the same ultimate goal of providing public benefit,

follow a quite different set of rules as it requires novelty as a requirement for patentability. How then can we make scientists and researchers buy into the idea of becoming part of the human resource personnel in the field of intellectual property if their desire to publish and disseminate knowledge would be restricted by the novelty requirement of the patent system? What policy measure is required to develop human resources and make scientists, researchers, engineers, lawyers, business educators be part of the intellectual property team of their company or institution? As I previously stated in a paper involving a similar topic and to reiterate these points to a broader audience, the following measures can help in developing human resources in intellectual property in the university setting:

(1) Change of Mindset from “Publish or Perish” to “Patent, Publish and Profit”: The Intellectual Property Office of the Philippines has created this new mantra of “Patent, Publish and Profit” for IP people in universities and research and development institutions. I agree that there is a need to explain to inventors and researchers that there is no conflict between patenting and publishing and that the way to truly effect change in society is not merely by publishing but by transforming ideas into patentable products and services that would directly benefit the public. A paradigm shift is needed for scientists and inventors so that they can appreciate the value of protecting intellectual property. While this idea is not for everyone, those who are open to it can explore this new area of activity and widen their horizon.

(2) Give incentives to patenting and not publishing alone: It is a fact that researchers are motivated to publish because it helps build their reputation in the industry and discipline, helps in their career promotion, and gives monetary rewards as well. To help build the human resource in IP, make these scientists and inventors part of the IP team by making it more attractive to patent. A change in university policy by giving the same if not more incentives to patenting will be a big boost in making patenting more attractive to inventors and researchers while still maintaining the incentives for publication. For the part of the government, IPOPHL has supported this program through its Patent Incentive Program where the first 100 patent applications may be applied for free, including PCT applications.

(3) Increase awareness in the value of intellectual property: The reason why many universities lack IP personnel is because they fail to appreciate the value of intellectual property in all aspects of the education and social life as a whole. In fact, some think that protecting one's intellectual property is selfish as it restricts the free flow of ideas. With proper knowledge and information about the value of intellectual in all facets of human life, universities will start investing in developing human resources in the field of intellectual property. Intellectual property per se is not good or evil, it is how you use it that makes it so.

(4) Develop local and international associations for IP professionals and personnel: As the saying goes, experience is the best teacher. IP professionals who have "been there and have done that" can help starting and developing universities and institution on how to make full use of intellectual property and develop strategies towards achieving "success stories". Organizations like the Licensing Executives Society (LES) and the Association of University Technology Managers (AUTM) are good examples of IP associations. In the Philippines, the Innovation and Technology Support Offices (ITSOs) has proven to be a great tool in developing IP personnel in universities and research institutions through IP training and workshops and the sharing of best practices. USAID STRIDE's contribution of setting up Knowledge and Technology Transfer Offices (KTTOs) in the Philippines has also helped build human resource development in the field of intellectual property in universities and research and development institutions.

(5) Establish a dedicated IP Office and IP Policies: Unlike other fields of study, intellectual property practically covers the entire field of human work. For this reason, there must be a dedicated office that will focus on all the university's or company's concerns and needs on intellectual property. To support the IP office, IP policies are indispensable as it establishes the framework of its mandate and operations. With the policies in place, IP managers and technical experts will be needed to implement them thereby raising the demand for IP Professionals.

(6) Realizing the Rewards of IP Work: Compared to other types of work, working in an IP office or technology transfer office has its own rewards. There is

always something new to experience and having the satisfaction of knowing that you have helped someone no matter how small. With this realization, human resource will develop and flourish in the IP field.

(7) Realizing that intellectual property provides a whole range of benefits to the institution or company, which are not necessarily monetary: Intellectual property can be used in many ways to improve a company's reputation and attract goodwill to prospective clients. To ensure that intellectual property will help achieve this purpose, an IP professional is necessary to implement a sound intellectual property strategy for the institution or company. Whether it is forming a start-up, licensing or having a joint venture with another company, an IP professional will prove to be a key ingredient for success. Since every company will have an IP portfolio, human resources for IP will be ideal, if not necessary.

With the technology transfer and commercialization mindset gaining ground in the Philippines, there is a growing demand for IP professionals, managers and experts. While it is admittedly difficult to change the mindset of the old school, there is hope in the new breed of young and idealistic intellectual property professionals. The challenge is to develop the interest of the younger generation in the value of creating, protecting and properly exploiting intellectual property. Today's knowledge-based economy coupled with the rise in data science and the internet of things will surely draw up more interest in developing human resources in the field of intellectual property.