

## PalArch's Journal of Archaeology of Egypt / Egyptology

### THE ROLE OF INTELLECTUAL PROPERTY IN UNIVERSITIES AND PUBLIC RESEARCH INSTITUTIONS

Jehad Saleh Bani Younis <sup>1</sup>

<sup>1</sup>Department American University in the Emirates COOLG OF LAW Director of the Master's  
Program in Intellectual Property

Jehad Saleh Bani Younis: The role of intellectual property in universities and public research  
institutions-- Palarch's Journal Of Archaeology Of Egypt/Egyptology 17 (2), 591-601. ISSN 1567-214x

**Keywords:** intellectual property, researchers, accelerate, exacerbated , disputes,  
**Acknowledgment, Likewise, commercialization. Technological development.**

### **Subtraction**

This study defines the responsibilities of the various stakeholders, and clarifies the obligations that arise in establishing, managing and harnessing the resulting IP using funding from the National Science, Technology and Innovation Plan. This policy establishes mechanisms to protect, invest in, own and maintain intellectual property. It also describes special incentives for researchers to encourage innovation and invention. In fact, this study aimed to reach a clear and accurate idea, as far as possible, of a relatively recent decade, which is the decade of scientific research. During our research, we showed just how important this decade is. And the extent of the necessity to be framed by a specific legal system

### **Introduction :-**

Intellectual property plays a fundamental role in the teaching and research functions at the level of universities and public research institutions. This policy is of a national scope, and determines the factors of intellectual property ownership rights resulting from research and development funded by the national plan. This policy defines the responsibilities of the various stakeholders, clarifying the obligations

that they entail for generating, managing and harnessing the resulting intellectual property using funding from the National Plan for Science, Technology and Innovation. This policy establishes mechanisms for the protection, investment, ownership and preservation of intellectual property. It also describes special incentives for researchers with the aim of promoting innovation and invention.

### **A. Intellectual property and research**

Whether research is basic ("open-ended") or applied, universities and PRIs, through their R&D activities, reach results in the form of inventions. Many of these inventions are patentable, but many of them are merely a proof of concept or a laboratory model, which requires further research and development before possible commercialization. By granting universities and public research institutions rights over their ownership emanating from research funded by the public treasury and enabling them to market their results, governments all over the world are trying to accelerate the transfer of inventions into industrial<sup>1</sup> processes and products and to strengthen cooperative links between universities and industrial circles.<sup>2</sup> The "Comprehensive Intellectual Property Policy for Research and Development Funded by the National Plan for Science, Technology and Innovation" is referred to as the policy, and it sets out a framework that guarantees the protection of intellectual property resulting from funding provided by the National Plan for Science, Technology and Innovation, and harnessing it in a way that maximizes economic interests.

### **B. Intellectual property and teaching**

In addition, the teaching activities of universities or public research institutions generate intellectual property, such as teaching materials, theses, computer programs, or designs. The Internet and new technologies have not only increased access to scientific materials, but also exacerbated disputes over ownership and use of those materials.

---

<sup>1</sup> Boudahra Kamel, Al-Dah Abdel Malek, Legal Protection of the Author's Moral Rights in Algerian Law,

<sup>2</sup> Notebooks of Politics and Law, Kassadi Merbah University, and Ouargla: Algeria, Volume 12, Issue 01, 2020.

Consequently, universities and public research institutions need appropriate policies in the field of intellectual property to deal with issues related to ownership and management of teaching materials, access to scientific information, and use of third-party materials.<sup>3</sup>

Usually, universities served the public interest by providing graduates to meet the needs of the industrial and business sectors in their vicinity. Focusing on this, universities have been publishing the results of their research activities and making them available free of charge.<sup>4</sup>

Today, however, this is often seen as something inconsistent with the industry sector's need to maintain information confidentiality and protect intellectual property rights, such as patents.

In view of the rapid development witnessed by globalization, universities and public research institutions must be open to international business and cooperation. This, in turn, requires ensuring that research results are effectively protected and managed, through the effective use of the intellectual property system.<sup>5</sup>

Intellectual property policy is the basis for innovation and creativity for universities and PRIs. This policy provides the framework, predictability, and framework needed for gifted minds to do what they do best: innovation.

This policy aims to determine the intellectual property rights resulting from the research and development activity funded by the national plan. This policy also enumerates the conditions for claiming the right to own intellectual property resulting from the research and development activity financed by the national plan, as well as mechanisms for

---

<sup>3</sup> Hawass Fatiha, The Special Edition as a Restriction on the Financial Authorization Right, Journal of Law and Political Science, University of

<sup>4</sup> Hawass Fatiha, Daas Kamal, Protection of intellectual property between the deficit of the law and the need for technical measures,

<sup>5</sup> Algerian Journal of Legal, Political and Economic Sciences, Ben Aknoun University, Algeria, Vol. 56, No. 2019, 02

encouraging participation in enhancing the value of intellectual property development and investment, and sharing the benefits that result from.<sup>6</sup>

Innovation has become a necessity for any country to compete in the current global environment. In adopting the national plan, the government of the Kingdom of Saudi Arabia committed itself to building innovation capacity, taking the initiative to devote financial resources to research and development.

The university must generate, adapt and employ intellectual property resulting from research and development, in order to enhance creativity and reap broad economic benefits through innovation. It is also important to create a framework within which to activate the use and regulation of intellectual property to create incentives for innovation

Reforming the laws governing the substantive rules of intellectual property rights and making them compatible with the relevant international agreements, cannot produce its fruits without proper and effective procedures for implementing these rights.<sup>7</sup>

Acknowledgment and recognition of the existence of any right according to objective legal texts is not sufficient in and of itself to protect this right, and this right must be enforced through the judicial and procedural bodies so that we can say that this right has actually been protected.

The main problem with regard to protecting intellectual property rights in the Arab and developing countries in general is not in the lack of substantive legal texts that recognize and acknowledge these rights, but rather in the application of these laws and the enforcement of these rights for the benefit of their owners by the competent authorities, chiefly the judiciary. Intellectual property laws that guarantee a minimum level of protection for these rights have existed in the aforementioned countries for more than a century, and it is rare to find a country in the world that has not yet entered into intellectual property laws. Likewise, most Arab countries have known intellectual property laws in their modern sense

---

<sup>6</sup> Riziq Adel, Mudawoud Sumaya, Limits of the Author's Practice of the Moral Right in Algerian Legislation, The Tanweer Magazine

<sup>7</sup> <http://www.wataonline.net/site/modules/newbb>

Understanding Industrial Property. "World Intellectual Property Organization. Archived from the original on 3 April 2019. Accessed 06 December 2018.

since the days of the Ottoman Empire (for example, in 1916 a copyright law was passed in the Ottoman Empire).

Not to mention the heritage of the Arab world, which condemns literary and intellectual plagiarism. However, the rate of piracy and abuse of intellectual property rights is still very high in the Arab world, and the main reason for this is the weak implementation and enforcement of these rights by the concerned bodies.<sup>8</sup>

### **C.Procedures not available or effectively applied in Arab countries**

There are certain procedures related to the enforcement of intellectual property rights, and other rights, which are not fully available in the laws of many Arab countries, as neither intellectual property laws nor laws of pleadings and judicial procedures in general stipulate them, or stipulate them, but they are not applied and implemented by Courts effectively. These procedures have become among the standards stipulated or recommended by the relevant international conventions, in particular the TRIPS Agreement.

### **D.Intellectual property rights and information technology**

Intellectual property is related to creation, which is creativity, which God the Creator, the first Creator, preserved for us, only we humans, the owners of the creative mind have the right to enjoy it. (The attribute of the creator and the innovator is limited to a person, not to other creatures). In the general popular tradition, there is no thought except in literature. This is true to some extent, but it is not sufficient. This is because intellectual creativity is not confined to poetry, the story, the novel, the article, and the other chapters of literature, its schools, and its ramifications, but rather goes to non-written artistic creations (I meant drawing, sculpture, engraving, music, theater, photography, architecture, computer programs ...) and beyond them. To all products of the human mind.<sup>9</sup>

---

<sup>8</sup> Zian Ashour University, Djelfa: Algeria, Issue 06, June 2018

<sup>9</sup> Ayman Kamal Al-Sebaei, Copyright, Al-Qanun's position on the translator and the translation profession, available at 08/01/2020: Accessed DatE

Intellectual property is a group of two parts: the first section includes literary and artistic monuments with its various ramifications, and the second section includes industrial innovations in its sections: patents, industrial designs and models, trademarks, trade names ...

And while we are talking about rights, it is impossible to imagine rights, no matter how diverse or different in their legal nature or high in rank in the ladder of Hans Kelsen, without maintenance or protection from any assault that may occur to them. If natural law requires the protection of rights in general, it is better for the products of the human mind to be preserved and protected, because of their importance and distinction on a level other than the cultural and economic level.<sup>10</sup>

Technological development and the entry of the digital world had a daily public life, whether through the Internet and the many doors it opened, their misuse may strip them of legal legitimacy, or through satellites and the types of their transmitters of signals transmitted "from an outer space of the Earth" (the term for the Accordance Agreement The industrial park signed in Brussels 5-21-1974), had a great influence on intellectual property rights.

The nature of creativity protected by intellectual property laws is no longer the same in this modern digital world and information technology. Whereas, in normal "traditional" cases, it has a specific rigid legal framework. With regard to literary and artistic monuments and the rights of performing artists, broadcasting and production companies, the protected literary effect is either written - such as a novel, story, article, or poetry - or verbally - such as improvised poetry and pleadings ... - and the protected artistic effect is either a drawing, a picture, a sculpture, an engraving or a musical piece. Or a dance or a performance .

He adopts a well-known expressive style and method to materialize the "idea" in a tangible way, without showing it a complete effect to the audience. The same applies to industrial innovations, as there are strict rules that require their availability, such as proving novelty and innovation, especially innovative activity (with a slight difference in the

---

<sup>10</sup> What are intellectual property rights?" World Trade Organization. World Trade Organization. Archived from the original on July 6, 2019. Retrieved May 23, 2016

fact that the law does not require the deposit of literary and artistic antiquity as a fundamental condition for its protection, while filing in industrial property is essential for filing a lawsuit).<sup>11</sup>

As for information technology, it depends, in a complex scientific way, on converting information, regardless of its size, into numbers (specifically to a binary numbering with two main numbers being 1 and 0, each called a bit) for the possibility of storing it in the computer's memory and using it later.

However, what needs to be considered, in a hurry, is that the general "basic" conditions for protecting the invented intellectual product are the same in traditional cases and across the digital network.

In terms of abstract ideas, they are completely excluded from the scope of protection, given that intellectual property rights are created for the creator or to whom the right devolves from public or private successors to an exclusive (monopolistic) right that entails deterrent penalties for attacking a person. So to disable the creative mind.

Within the framework of digital texts:

The principle is that all texts, regardless of their type and whatever their supporting pillar, the condition of innovation, and that their protection is not legally prohibited, can be protected by virtue of the literary and artistic property law. Accordingly, protection does not differ between whether the text carries a literary or artistic work, a scientific or documentary analysis, or a political article, or if it is placed on paper, CD, CD, or on the Internet.

However, it remains that the ability to transfer the protected texts from its original installed support to the digital network or from one site on that network to another requires the express and written consent of the author of the text (the copyright owner) or whoever has that right assigned to him, (otherwise this will be considered a violation of copyright Unless the work has fallen into the public domain. However,

---

<sup>11</sup> Jeel Center for Scientific Research, Tripoli: Lebanon, 22-24 April 2016  
Aqli Fadila, Protection of Intellectual and Industrial Property Rights from Information Crime, Al-Iqtisad Magazine

the moral right of the author remains, in all cases, valid and the duty to respect.<sup>12</sup>

## **Conclusion**

In fact, this study aimed to reach a clear and precise idea, as far as possible, about a relatively recent decade, which is the contract of scientific research. Throughout our research, we have shown how important this contract is. And the extent of the need to frame it with a specific legal system

## **Results**

1- The scientific research contract is based mainly on the specialty of one of his parties, who is the researcher, where the latter has a creative role, innovating for a scientific research that corresponds to the objectives of the other contractor who is called the beneficiary, and if the latter has the same specialty as the researcher, as the specialization does not prevent If a person is ignorant of the appropriate solution to a problem, he turns to another specialist who can reach this solution.

2- Scientific research is the object and purpose of the scientific research contract, and it can be defined as: A scientific mental effort aimed at achieving an artistic result by which it can satisfy the missing human needs, in the sense of introducing something new to society or creating something that was not previously present in its strength or characteristic to be the fruit of an innovative idea or an innovative activity that goes beyond existing art. Thus, scientific research includes every study or experimental work directed at increasing human knowledge, and its results are the property of mankind

The scientific research contract is an important tool for protecting scientific knowledge when dealing with this knowledge. We have previously indicated that the main pillar of the scientific research contract is the scientific knowledge that is transferred to the other party - the beneficiary - in the contract, whether its goal is to possess it and to monopolize it, or to limit its exploitation.

---

<sup>12</sup> Industrial, El Hadj Lakhdar University, Batna: Algeria, Issue 12 (2), June 2017



In the matter of distinguishing the scientific research contract from other legal centers and the actions contained in the information, the scientific research contract by relying on scientific knowledge differs in itself and its extent from technology transfer contracts that depend on technological knowledge. The scientific research contract also differs from the consultant's commitment to providing advice in the advice contract in terms of basis, time and extent. And we have justifications for that that we explained above.

6- In order for the researcher to enjoy the legal protection stipulated in the Copyright Protection Law, it is required that his research be innovative. Innovation is what creates for the researcher a right that deserves protection, and innovation means that the researcher strips some of his personality and his own character for his research and that his personality emerges in the components of the idea he presented and in the style he presented.

7- The researcher enjoys, under the Copyright Protection Law, a right of a dual nature over his intellectual product (his innovative research), which includes, in addition to moral rights, financial rights.

## **Recommendations**

A) The necessity to establish relationships and links with research centers of an international and regional character.

B) The necessity to participate in international and regional conferences related to knowledge transfer, participate in the work of international organizations that have a relationship with this matter, and seek the help of what it prepares in terms of rules and instructions in this aspect.

C) That the state prepare qualified scientific human capabilities by supporting and establishing national research and development centers, and providing the necessary financial and scientific resources for conducting scientific experiments and research. D) The specificity of the scientific research contract refuses the provisions for compulsory material execution and the consequences of the termination of this contract.

D) And then the legislator must establish a legal system that states that it is not possible to say compulsory concrete implementation, and also to protect the researcher from the impossibility of applying the consequences of canceling the contract in terms of its retroactive effect and the need to protect the researcher when his research cannot be retrieved after it is delivered to the beneficiary, especially if this beneficiary reprints it And the exploitation of this research despite the termination of the scientific research contract.

E) In view of the unconventional results of this peculiarity of the scientific research contract, we must recognize it without delving into the traditional rules, which we refuse to say, and we can only call on the legislator to respond to these data pertaining to this contract in terms of its nature, provisions and implementation, and nothing in that matters. Subverting our stable legal rules,

This is because the law is the product of the environment. The environment has produced those modern relationships that express modern scientific data and their exploitation in special legal ties. Finally, it must be noted that the scientific research contract should be viewed in a practical and flexible manner, as the beneficiary cannot place whatever restrictions and penalties he wants in the terms of the contract. Perhaps our call for flexibility and a practical view in such contracts is justified, and that reality shows that scientific research is in need of great freedom and excluding inevitable submission to the conditions of the beneficiary, means leaving the greatest amount of freedom for the researcher in creativity and innovation.

## References

1-Boudahra Kamel, Al-Dah Abdel Malek, Legal Protection of the Author's Moral Rights in Algerian Law,

Notebooks of Politics and Law, Kassadi Merbah University, and Ouargla: Algeria, Volume 12, Issue 01, 2020.

2-Hawass Fatiha, The Special Edition as a Restriction on the Financial Authorization Right, Journal of Law and Political Science, University of

Abasalgourour, Khenchela: Algeria, Issue 08, C02, June 2017.

**3-**Hawass Fatiha, Daas Kamal, Protection of intellectual property between the deficit of the law and the need for technical measures,

Algerian Journal of Legal, Political and Economic Sciences, Ben Aknoun University, Algeria, Vol. 56, No.

2019, 02

**4-**Riziq Adel, Mudawoud Sumaya, Limits of the Author's Practice of the Moral Right in Algerian Legislation, The Tanweer Magazine,

**5-** Zian Ashour University, Djelfa: Algeria, Issue 06, June 2018

**6-** Salmi Isaidani, Fakir Layla, Legal Legislation to Protect Virtual Intellectual Property Rights: A Vision

**7-** Criticism from a Legal Media Perspective, The Eleventh International Conference on: Learning in the Era of Digital Technology,

**8-** Jeel Center for Scientific Research, Tripoli: Lebanon, 22-24 April 2016

Aqli Fadila, Protection of Intellectual and Industrial Property Rights from Information Crime, Al-Iqtisad Magazine

**9-**Industrial, El Hadj Lakhdar University, Batna: Algeria, Issue 12 (2), June 2017

**10-** Ayman Kamal Al-Sebaei, Copyright, Al-Qanun's position on the translator and the translation profession, available at:

08/01/2020: Accessed Date, -

**11.**<http://www.wataonline.net/site/modules/newbb>

Understanding Industrial Property. "World Intellectual Property Organization. Archived from the original on 3 April 2019. Accessed 06 December 2018.

**12.**"What are intellectual property rights?" World Trade Organization. World Trade Organization. Archived from the original on July 6, 2019. Retrieved May 23, 2016.