

4. MANAGEMENT AND COMMERCIALIZATION OF INTELLECTUAL PROPERTY DRAWING EXPERIENCE FROM THE FIJI ISLANDS

Amit Prakash

ABSTRACT

Indisputably, progression of globalization has provided the South Pacific Nations with the framework, protection and tools for safeguarding intellectual property (IP). However, a recurring concern is the effectiveness in managing and commercializing IP, especially in resource constrained nations. Fiji's national development documents fall short in comprehending the importance of Intellectual Property. Nurturing creative industry will drive growth and foster job creation. So why are creative producers hesitant in managing and commercializing their creativity? From an economic standpoint, local producers in resource constrained nations fail to realize the value added by intellectual capital. This research signifies that by doing the basics correctly, to build

This paper takes the standpoint that IPRs are in existence but questions how creative producers are managing and commercializing their creativity. Furthermore, from an economic perspective, it can be argued that local producers in Resource Constrained Nations (RCNs) fail to realize the value added by intellectual capital. Alternatively, local producers unintentionally forgo protecting their creations, presuming that registering a business suffices for the trademark. These are a few concerns in relation to management and commercialization of Intellectual Property (IP) in Fiji this paper will further plunge into investigating other potential exogenous and endogenous factors. IP is yet to become a pivotal policy Fiji for economic growth.

This research signifies that correctly doing the basics will build a foundation upon which IP can flourish, whereby mastering of IP management will create a platform or norm for new innovators. This paper takes an exploratory approach, venturing into new areas or factors, but does not

Fiji's Trade Marks Act is based on British trade marks legislation and goods are classified according to the old British classes, rather than the generally accepted international classes. The Registrar of Trademarks prioritizes existing applications rather than filing of new applications. Furthermore, the records at Fiji's Trade Marks Registry are not computerized therefore, manual searches are undertaken. In addition, the registration process takes from 10 months to several years.

As of 13th December 2017, there were 1292 patents on the Fi.6 (i)-0.7 (l)-0.7 (i)9t.7 -2.3 (i)-1.6 (o)

3. CREATIVE ECONOMY IN THE FIJI ISLANDS

In the midst of transforming to industrialized economies, at times the decisive component of nourishing and protecting the creative industry is overlooked. The United Nations Conference on Trade and Development (UNCTAD) Creative Economy Report of 2010²¹ highlighted that during the global financial crisis of 2008, global trade contracted by 12 percent. On the other hand, trade in creative goods and services grew at an annual rate of 14 percent for the period 2002 to 2008, reaching \$592 billion. Succinctly, creative industries are composed of creation, production, marketing, and distribution of products and services generated from human creativity. Thus, knowledge-based economic activities rise from tangible products and intangible intellectual services with economic and cultural value, creative content and market objectives.

The potential for escalating socioeconomic growth and employment through creative industries in developing countries remains mostly untapped. Even though creative industries contribute significantly towards employment, the unstable source of income is a result of unstable work contracts, poor working conditions and lack of social protection.²⁵ UNCTAD documented benefits from creative industries to be as follows: (1) promotes new integration with the global economy through regional cooperation; (2) assists developing countries in achieving 5 out of the 8 Millennium Development Goals; (3) fosters social inclusion; (4) promotes economic diversification, trade and innovation; and (5) promotes cultural sustainability.

²¹ UNCTAD Creative Economy Report 2010, https://unctad.org/en/Docs/ditctab20103_en.pdf accessed 29 October 2018.

²² UNCTAD Strengthening the Creative Industries for

Development in Mozambique (1) 1.6 (0) 0.6 (A98-13.4) 2.1 (7 (2c 0 Tw 3U0.7 8 (A) i4p21 Go)-10.4 (a) 1[(U)4..6 (r)0.1)1.5 (or)0.7 ()]T.7 8 (A) iice 1.6 (c

Performing Association (APRA). AMOCS and FPRA represent the 2 million foreign composers throughout Fiji.

The creative industry export total for Fiji in 2003 was valued at US\$10.44 million, compared to US\$10.78 million in 2012.³² However, the import bills for 2012 stood around US\$5206 million relative to US\$83.05 million in 2003. Consistently, for the period 2003-2012 Fiji had a trade deficit in creative industry.

Figure 1. Fiji's Creative Industry Trade Performance 2003-2012

Source: United Nations Conference on Trade and Development

The export trend is smooth in contrast to the import trend. The import trend of the creative industry is very volatile with highs and lows. The import bills of trade may be escorted by the key determinant agent of political instability, which has a direct effect on tourism. This can be confirmed with a slump for 2007's import trade (Figure 1), following the political unrest in December 2006.

The major markets for Fiji's creative trade in 2012 were the United States

knowledge through provision of free legal tools. The flexibility with of a CC license extends certain usage rights to the public while creators decide on the extent of relaxation.³⁹

x The existing local understandings, norms and institutions, which currently regulate intangible property in the region.

The CC license may be favored in the Pacific region because enforcement of copyright laws can be difficult due to lack of activity of the courts, police, and others in the judicial system to effectively deal with new categories of cases.⁴⁰ Thus, CC laws more flexibility than traditional copyright and presents a more practical benefit to the practice of copyright in the region.⁴¹ However, CC is based on copyright laws, and as such in the Pacific region the copyright system does not exist or is not enforced whereby CC licenses are legally effective.⁴²

In addition, few of the issues identified with Creative Commons for small businesses are as follows: (1) a CC license provides no legal protection as a CC license has no legal significance beyond the license itself; (2) CC licenses are irrevocable once it has been applied to a work; (3) a CC license organization disclaims all the liability and ... is not a party to the work.

party to the work

7¹

8^T

According to Miranda⁴³ there is a need for reform in copyright law to provide balance between creators and users. Furthermore, such policies should consider:

- x The need to ensure access to global sources of knowledge and IP protected goods (computer software and textbooks) with the reality that Pacific Island countries import more than they export.
- x Limited capacities of most states and divisions to administer and enforce state based copyright regimes and cost of these regimes.

³⁸ Creative Commons, 'Frequently asked questions about Creative Commons' (29 August 2018)

<<https://creativecommons.org/faq/#what-is-creativecommons-and-what-do-you-do>> accessed 6 December 2018.

³⁹ Laura Brahm and Vera Franz, 'Why We Support Creative Commons' Open Society Foundation (2018)

<<https://www.opensocietyfoundations.org/voices/why-we-support-creativecommons>> accessed 6 December 2018.

⁴⁰ Daurewa (2013) as cited in Miranda Forsyth 'Creative Commons come to the Pacific Islands' (2014) Australian National University Brief 2014/8,

<http://dpa.bellschool.anu.edu.au/sites/default/files/publications/attachments/201512/IB-20148-ForsythONLINE_0.pdf> accessed 7 December 2018.

organizational structure.⁴⁶ In addition, OECD countries experience a greater competitive advantage by investing in the intangible assets that enhance creation and application of knowledge.⁴⁷

Furthermore, business investment activities have shifted from investment in traditional physical assets to investment in knowledge-based capital (KBC). Barnes and McClure disclosed that in Australia, investment in KBC has been around 1.3 times that of investment in physical assets and business investment in KBC has become a priority in emerging countries.⁴⁸

KBC refers to nonphysical assets that create future benefit for firms. Corrado, Hulten and Siciliani subdivided KBC into three types: computerized information (software and database); innovative property (patents, copyright, designs, and trademarks); and economic competencies (brand equity, firm-specific human capital, networks of people in institutions, and organizational know-how that increases enterprise efficiency).⁴⁹ Also, countries that invest more in KBC are more effective in reallocating resources to innovative firms. For instances, USA, Japan, and Sweden invest around 10% of GDP in KBC, compared to 5% by Italy, Portugal, and Spain. Thus, the success from patents in the USA, Japan and Sweden raise four times as much capital than in Italy and Spain.

entrepreneurial dynamism and internal flexibility to respond to changing circumstances are the major advantages SMEs have to be successful. However, when compared to developed countries, the extent of innovation is low in developing countries?

Although SMEs are a major engine of growth and job creation, the copyright-based industry is stagnant in Fiji. This is the core of this research paper: why SMEs in the

donors.⁶⁴ According to the 2015 Global Innovation Index report, countries with no resource base are more innovative.⁶⁵ Another cultural problem is that Fijians are more susceptible to their traditional partners (Australia, New Zealand, United States, and United Kingdom) and have failed to appreciate the growing significance of the Asian market, especially in the high-tech sectors. Furthermore, low employee empowerment, insignificant role of managers to promote innovation, little appreciation for employees' ideas, and lack of building capacity, are notable barriers to SMEs innovation.⁶⁶

To promote long run innovation, educators should create a culture of innovation, an essential element to support research and development. Therefore, to create an entrepreneurial cultural shift, the Fijian government has to invest sufficient financial support in education and implement policies that propel innovation in the 'new economy'.

B. ACCESS TO FINANCE AND INABILITY TO SCALE

Entrepreneurs need significant financial resources to remain competitive when commercializing their product or service to the market. Access to finance and venture capital are very important for firms in particular. As such, the Fijian government has implemented various initiatives for SMEs to innovate and commercialize their product. The National Centre for Small and Micro Enterprise Development (NCSMED) is tasked with supporting and promoting SMEs to generate income, reduce poverty, improve livelihoods,

⁶⁴ Gurmeet Singh, Rafia Naz and Rd Pathak, 'Internationalization of SMEs: A challenge for Fiji' (AGSE conference 2009).

⁶⁵ The Global Innovation index 2015: Effective Innovation Policies for Development.

⁶⁶ David Thorpe and Steven Goh, 'Study of SME Innovation in two Queensland Industries' (2013) 1.3 Intl J of Entrepreneurship and Innovation, 14, 18.

⁶⁷ Fiji's National Financial Inclusion Taskforce, 'Micro, Small and Medium Enterprise' (2018) <<http://www.nfitfiji.com/for>

7. POSSIBLE POLICY SOLUTIONS TO IMPROVE MANAGEMENT AND COMMERCIALIZATION OF IP FOR SMEs IN FIJI

There have been various initiatives implemented to promote SMEs in Fiji. Initiatives by the National Center for Small and Micro Enterprise Development (NCSMED) in facilitating growth of SMEs are: business training, business monitoring, business cluster development, market linkage and providing access to financial services. The Fijian government, through commercial banks, licensed credit institutions and the Fiji Development Bank, coordinate the SME Credit Guarantee Scheme (SMECGS). A notable point is that at the end of July 2018, 1844 SME loans valued at FJ\$108.5 million were registered under the SMECGS. Furthermore, the Fijian government late 2014 signed a Memorandum of Agreement (MOA) with the Indian government intended to strengthen SMEs in Fiji and the

B. IP EDUCATION AND MANAGEMENT

The creation of IP to gain a competitive edge in an SME is often lost as the companies are not aware they have an innovative idea in the first place and that they can protect it. IP education is important for SMEs. From the outset that rights and protections are available and will allow companies to innovate rather than litigate.

A common misapprehension is that the business registration is sufficient to protect innovation and creativity. There needs to be dissemination of information on the distinction between IP and business licenses. The short run approach is integrating basic IPR courses with the YES program initiated by the Fijian government. Apart from business mentoring and training on financial stability, IPR content must also be complementary to the YES program.

Medium term prospects should target incorporating fundamental IP knowledge in primary and secondary schools. Basic knowledge will equip future innovators taking ownership of who owns what. Moreover, in the long run it would be worthwhile for stakeholders in the education sector to focus on delivering undergraduate and postgraduate courses in IP.

C. CREATING A STABLE AND NURTURING BUSINESS ENVIRONMENT FOR SMES

SMEs in Fiji are faced with many legislative, regulatory and financial issues upon startup. It is a lot to undergo with minimal employees without specialized skills. The stability will be reflected with macro policies addressing these issues and more so, outlining gradual implementation of IPR in Fiji. The IP factors must not be viewed in isolation but knotted with economic and social variables.

There needs to be more collaborative platforms for Fijians to showcase their creativity. It was in December of 2008 that Fiji held its first ever fashion week at the Hilton Hotel in Denarau. In addition, the government's commitment to

⁸⁶ Ashna Kumar, 'Call to give women a break' The Fiji Sun (Suva, 22 June 2018) <<http://www.fiji.com/fiji>>

that can increase innovation and growth in Fijian SMEs. Therefore, an increase in innovation would lead to wide economic prosperity.

BIBLIOGRAPHY

- ABC News, 'Global Happiness Survey Shows Fijians Are The World's Most Content' <<https://www.abc.net.au/news/2014-12-31/global-happiness-survey/5994014>> accessed 29 October 2018
- <<https://www.abc.net.au/news/2014-12-31/global-happiness-survey/5994014>> accessed 29 October 2018
- Australian Council of Intellectual Property, Review of Post Grant Patent Enforcement Strategies (Final report, (2010) Intellectual Property Australia, November 2006) 24
- Australian Government, 'Improving Bankruptcy and Insolvency Laws' (Proposal paper, The Treasury, 2016) 10
- Beas et al, 'Approach of the SME Entrepreneurs to Financial Risk Management in Relation to Gender and Level of Education' (2015) 8.4 Economics and Sociology 38
- Bloch H and Bhattacharya M, 'Promotion of Innovation and Job Growth in Small and Medium Enterprise in Australia: Evidence and Policy Issues' (Discussion Paper 17/16, Monash Business School, 2016), 2; OECD, 'Removing Barriers to SME Access to International Markets' (2008, OECD), 139
- Burrone S, 'Intellectual Property Rights and Innovation in SMEs in OECD Countries' (2005) 10 *Journal of Intellectual Property Rights*
- <[http://nopr.niscair.res.in/bitstream/123456789/3612/1/JIPR%2010\(1\)%2034.pdf](http://nopr.niscair.res.in/bitstream/123456789/3612/1/JIPR%2010(1)%2034.pdf)> accessed 7 November 2018

Gounder N, 'Trade Liberalization and Poverty Fiji: A Computable General Equilibrium- Microsimulation Analysis' (DPhil thesis, Griffith University 2013)

Holmes S and Gupta D, 'Opening Aladdin's Cave: Unpacking the Factors Impacting on Small Business' (presented at Reserve Bank of Australia's Conference, Australia, 2015), 43

Keller K, 'Expensive Problems with Using Creative Commons for Small Business' (2016)

<https://smallbiztrends.com/2015/03/using-creative-commons-for-small-business/>

