

Legal Marketing Online: Lawyers Facilitate in Commercialization of Malaysian University Research

¹Wan Mohd Hirwani Wan Hussain, ²Mohd Nizam Ab Rahman, ³Wan Kamal Mujani

⁴Noor Inayah Yaakub and ⁵Zinatul Ashiqin Zainol

¹Department of Mechanical and Materials Engineering,
Faculty of Engineering and Built Environment, Graduate School of Business (GSB),

²Department of Mechanical and Materials Engineering,
Faculty of Engineering and Built Environment,

³Department of Arabic Studies and Islamic Civilization,
Faculty of Islamic Studies, Institute of West Asian Studies (IKRAB),

⁴Faculty of Economy and Management, School of Management,
Institute of West Asian Studies (IKRAB),

⁵Institute of West Asian Studies (IKRAB), Universiti of Kebangsaan Malaysia,
43600 UKM Bangi, Selangor, Malaysia

Abstract: This study analyzes and empirically examines whether the online legal marketing concept can function as an effective strategy in promoting commercialization and technology transfer in the Malaysian scenario. The debate about technology transfer and commercialization has become important in Malaysian universities. Most of the literature only focus on the patenting, licensing, spin off and there is a lack of research on the role of lawyers to facilitate the commercialization process. Traditionally the role of lawyers only focus on legal matters such as applying and protecting Intellectual Property (IP). We feel that their role can be expanded further because they are involved in the commercialization process from the start. Another important element is the nature of their profession which is based on professionalism, integrity and trust, placing them as the most relevant referral point to help universities in the commercialization process. This study looks at how lawyers may market university innovations when they simultaneously market their legal skills online. The study recommends that lawyers who have been appointed as legal advisors for universities may simultaneously act as their online marketing agents.

Key words: Lawyers, university technology transfer, professional, law, technology transfer office, internet marketing

INTRODUCTION

The issue of commercialization and technology university research is still new in the Malaysian environment. Now-a-days, Malaysian universities are aware of the importance of this concept and are transforming their traditional roles from research and teaching to generating income. From the perspective of universities these activities are often referred to as third stream or third mission, terms that emphasize the role of universities, as promoters of economic development besides their two traditional missions of teaching and research (Smith, 2007). In accepting this new task,

universities are said to become part of a coherent system that includes industry, government, underpins innovation and economic progress (Etzkowitz and Leydesdorff, 2000). Today, universities hold important patents on many life-saving drugs including the anti-retroviral drugs stavudine (Yale University), abacavir (University of Minnesota), lamivudine (Emory University) and enfuvirtide (Duke University). Implicit in this view is usually the shifting role of academics.

In lieu of concentrating on blue-skies analysis, academics have emerged increasingly eager to link the worlds of science and also technology within an entrepreneurial way by commercializing the technologies

Corresponding Author: Wan Mohd Hirwani Wan Hussain, Department of Mechanical and Materials Engineering,
Faculty of Engineering and Built Environment, Graduate School of Business (GSB),
Universiti of Kebangsaan Malaysia, 43600 UKM Bangi, Selangor, Malaysia

that arise from their research (Clark, 1998; Shane, 2005; Etzkowitz, 2003). The issues that are being discussed are academic entrepreneurship, patenting as well as licensing for the commercialization of university research however the literature this subject is still at infancy state (Meyer-Krahmer and Schmoch 1998; Ponomariov, 2008; Perkmann and Walsh, 2007; Martinelli *et al.*, 2008). It is mentioned by Yusof *et al.* (2009) and Hirwani *et al.* (2011a) that the commercialization process in Malaysian universities is still at an infancy state and there is still of paucity research about it. This shows that Malaysia is left behind in the context of transforming inventions for the marketplace. This situation occurs because most of the research on commercialization of university inventions only focus on the development that happened in USA and also in Europe. From this point of view, we feel that research is important not just to contribute to the body of knowledge but also to provide more understanding about commercialization of Malaysian universities.

Basically there are 5 research universities in Malaysia and most of them have established a legal department that will help in assisting the commercialization. USM (Universiti Sains Malaysia) and UKM (Universiti Kebangsaan Malaysia) have already expedited the commercialization process or have hired lawyers that can handle the legal process to protect the innovations by researchers at university. Before this, the roles of lawyers only focus applying for patent, licensing and advising the parties. Hirwani *et al.* (2011a) mentioned that there is still a lack of marketing for the commercialization of university research in Malaysia and this research empirically examines the commercialization process from the perspective of internet marketing strategy.

Internet marketing strategy is still new in Malaysia and the researchers feel that incorporating the internet marketing strategy will not just help the commercialization of university research but also establish the linkage between the university and industry. However, the researchers are focusing on the role of lawyers to fulfill that task. Lawyers are suitable public figures to do the task and help in commercialization of university invention research. Lawyers can commercialize inventions of the universities through their online legal marketing. They know about the legal protection of inventions and it will give more confidence to potential investors. This is possible in the following scenario:

Firstly since, they have been appointed by the university as their lawyer to deal with some legal aspects of commercialization. Secondly, that leads and qualifies them to market their legal expertise which extend to the commercialization of university research. In other words,

lawyers will market online their legal services which are extended to cover commercialization of university inventions and innovations. Potential investors will be more confident to invest in the product and this will assist the university in making its profits.

MATERIALS AND METHODS

The methodology used in this study is by examining previous research and literature related to the implementation of online legal marketing for commercialization Malaysia of university research in Malaysia. As has been mentioned before, the commercialization Malaysia of university research is still new and at infancy state. From the literature we find that there are still many issues that require more understanding about the commercialization in Malaysia. Using this approach and mechanism will helps us to develop an in-depth, relevant understanding of poorly understood phenomenon.

Lawyers' role in commercialization process of university research: It really is fair to advise that most of the creations produced by researchers are being funded through the university or in association with the university.

If a researcher desires to commercialize that creation, he would inform the TTO to generate an application to patent it. This is the most vital role of the lawyer that he must make sure that such invention will get proper legal protection before entering the marketplace. Application processes for the patent take a long time up to 9 years to get the patent established.

Whenever patent application is being made, the lawyer should identify whether that invention only requires a protection in Malaysia or internationally. In Malaysia, there are two regulations that govern patent protection, namely. The Patent Act, 1983 and The Patent Regulations, 1986. It should be noted here that when applying for the patent that invention should be new and is not already in the market. In addition, lawyers also help for the intellectual property evaluation for the invention before making a decision to apply for a patent or not. In evaluating whether that invention is worth patenting or not depends on the knowledge of people who are involved in that commercialization process such as lawyers, researchers, investors in addition to the university.

If the university believes that such invention is worthy of patent then the patent application will be made. If not then the university will go for licensing process.

Licensing process is much easier than the spin-off because it does not involve lot of money and there is no need to find entrepreneur for that process. A spin-off process needs a long time before it will give benefit or return of investment for the university.

Additional roles of lawyers in commercialization process: Marketing is the most important thing for the commercialization process of university research. After innovations have been identified, the next step is to find the investor who wants to invest capital on it. This can be done through many types of marketing whether online or offline techniques. Most of the marketing strategies are taken by the business people who have knowledge in marketing but here the task to market is carried out by lawyers. As said by Hirwani *et al.* (2011a) marketing activities for university technology transfer is still lacking and need much improvement in Malaysia. So, lawyers who have been involved at the start of the commercialization process of inventions are the most suitable persons to market the product online.

Lawyer become marketers: The Malaysian authorities have been pressuring all Malaysian universities to commercialize their designs to the public. This pressure becomes more stressful for research universities in Malaysia due to the fact that the commercialization process is only newly started in Malaysia (Yusof *et al.*, 2009). There are certainly 5 research universities in Malaysia which are Universiti Kebangsaan Malaysia (UKM), Universiti Malaya (UM), Universiti Putra Malaysia (UPM), Universiti Sains Malaysia (USM) and Universiti Teknologi Malaysia (UTM).

Commercialization of university research started in the United States when back then the federal government had cut university funds because the cold war caused a government budget. When US introduced the Bayh Dole Act 1980, it had introduced a long list of changes along with commercialization process of most universities in the US (Rasmussen, 2008). This act helps the university to obtain funds from the government faster and in patent applications. Then in 1986, Federal Technology Transfer has been introduced to govern and control the inventions that have commercial value to be commercialized in the market (Rahm *et al.*, 1988).

In Malaysia, the economic situation that happened in 2008 pressured the government to cut research budget to the research universities. As a result, most of the research universities in Malaysia looked for alternative funding for the budget to fund their research in the future. The Vice Chancellor UKM, Tan Sri Prof. Dr. Sharifah Hapsah

Syed Hasan Shahabudin in the special edition of the Centre Research for Innovation and Innovation Management (CRIM) stated that UKM will continue to invest in human capital and infrastructure in support of knowledge generation and innovation and in their dissemination for social and economic development in 2010. The statement made by this prominent Vice Chancellor of UKM shows that UKM and all research universities have been looking forward to be involved in the commercialization process of the university inventions. As has been commented by Hirwani *et al.* (2011b) academic entrepreneurs are still new in the Malaysian context and scenario. This is true because most of the research in Malaysia traditionally only focused on the theoretical aspects rather than entrepreneurship. It was rare to find an entrepreneur that can take the invention from the university to the public. One of the initiatives used by the Isis Innovation University Oxford is by having a collaborative partner with the Said Business School. Said Business School will provide the potential and reliable entrepreneur that has business background to commercialize invention from Oxford University. This technique also has been used by the UKM by having collaboration with Graduate School of Business (GSB) to provide and teach courses related to commercialization and technology transfer.

Internet and marketing in general: Paul (1996) believes that the Internet encourages the convenience by which businesses can conduct global marketing and advertising campaigns with specific importance to smaller companies that recently have been completely struggling to compete on the international scale. With the development in its user base along with its inability to be limited by either time or location, the world wide web has the possibilities for mass interaction and also marketing with negligible variable cost per customer (Deighton, 1997). Breakthroughs in information technology along with internet get constantly impacted upon the worldwide marketing strategies of firms. The emergence of electronic communications as well as the internet is rapidly changing conventional marketing techniques (Hoffman and Novak, 1996). The advertising potential of the internet have been realised by organizations over the past few years with its popularity as a medium to target consumers increasing and many academics predict it will increase in the future (Hamill, 1997; Hoffman, 2000). Strauss and Frost (1999) claim that such qualities will encourage the internet to exchange standard mass media. Due to this emerging trend in worldwide communications, easier execution of global marketing strategies is made possible, as a

presence on the web means being global by definition. The internet is becoming established as a fully-fledged global marketing and communications channel and may deliver numerous aspects of any organization's worldwide marketing strategies which range from branding, database building and also customer acquisition to giving customer support, forming relationships, building commitment and installing advocacy in existing customers (Czinkota and Ronkainen, 1990). Supported by projections from Forrester research which indicate that by 2004 companies will be allocating a median of \$720,000 to their online marketing budgets, compared with the \$240,000 spent in 1999 (Richardson, 2001). Furthermore, Ernst and Young LLP (2000)'s survey of internet shopping indicated the potential of the internet to inform and influence consumers online with 57% of online households using the internet to research products or services. Moreover, anecdotal evidence even indicates that marketing online is more effective than marketing through traditional media channels with one vendor estimating that his marketing efforts on the web resulted in ten times as many units sold with one tenth of the advertising budget (Porter, 1994). This indicates that an organization perceives the internet as a major communication tool in promoting corporations, their products and services as well as a means of building brand awareness. However, Samiee (1998) comments that in the international marketplace, given the limited global access of the internet at present, traditional channels will still prevail in the near future online legal service marketing. In 1977, The US Supreme Court ruled in *Bates v. State Bar of Arizona* that the First Amendment protected a lawyer's right to advertise their services. This decision not only upheld a lawyer's right to advertise but Justice Blackmun further elaborated that lawyer advertising was both permissible and desirable because it provided a way for lawyers to provide information to potential clients and may offer great benefits.

The Massachusetts Rules of Professional Conduct, Rule 7.1, supports the Supreme Court decision and provides reasonable guidelines for maintaining the integrity of legal advertising. Last 2 years according to Reuters News Services in 2007 they predicted there would be >9 million legal services searches done on the internet. One of the most stunning aspects of the past few years has been the speed at which the internet market has expanded and matured. This rapid rate of internet adoption has resulted in an extraordinary pace of change in the marketing landscape and opened up a variety of opportunities for marketers (Pollack, 1999).

Lawyers market university innovations through online:
Online marketing for lawyers is to reflect legal firms to

look more professional and appealing to prospective clients. The ultimate ambition of online marketing is to add value to law business to find ways to unlock hidden potential and bring additional work into legal firm. It makes sense for there to be a shared ambition the most valuable person in any firm is the one who brings in the clients. With online marketing this can be done. It is perhaps worth adding that online service marketing may create sustainable growth rather than quick fixes-within the law business. One of the most expansive areas for opportunity is the international marketing environment due to low set-up costs, globalness, ease of entry, time independence and interactivity (Berthon *et al.*, 1996). Legal firms also can create an opportunity to create relationship with the client through online marketing. For instance through public relations, legal firms can provide free legal education and advisory in newspaper columns which aim to build up a client based relationship and public awareness (Darden *et al.*, 1981). Using online marketing will help the lawyer and law firm to expand their business up to the new level. Once a company decides to develop a website, it is no longer operating in just a local or national arena but rather on the global information superhighway.

The internet removes traditional geographic boundaries so that, virtually anyone can access a web page from anywhere in the world at any time. The internet provides numerous other advantages for companies wishing to expand their overall potential in the international market (Cronin, 1996). In line with the aforesaid paragraphs, online service marketing for legal firms in Malaysia ought not to be overlooked. In today's business surroundings, competitiveness among the law firms for new business can be fierce. Moreover, challenging economic times result in consumers to reflect more seriously on financial selections and examine their choices more carefully than at another economic time. It is very important for firms to review ways to link up deeper with their existing clients as well as investigate the mediums offered to prospect for new clients. The upside possible of marketing far exceeds the downside risk.

RESULTS AND DISCUSSION

Studies confirm that sales and profits increase when marketing is maintained, even in a recession or business slowdown. The truth is, companies that have continued to market during past recessions continued to outgrow their competitors exponentially after that time period. In this increasingly urbanized environment where the world has no barriers with shifting patterns of using information technology and fierce competition require firms to try and

find new avenues for advertisement and marketing practices. Most legal firms are attempting to market their services in a new different and creative way. The rapid adoption of the internet as a commercial medium has resulted in more innovative ways of marketing to consumers in computer mediated environments (Ainsough and Lockett, 1996). The internet has facilitated the ability of firms to reach target audiences more efficiently, displacing undifferentiated mass marketing techniques for more customised practices. By 1998, nearly 400,000 companies had established an internet presence (Hof, 1998) in hopes of capturing part of the current e-commerce market, currently valued at around \$8 billion and expected to grow to around \$50 billion by 2002 (Lynch, 1999). The future for e-commerce looks promising; >60 million US homes have either e-mail or internet access and the number of households and businesses making online purchases continues to increase. When lawyers start their online business they will have to do the followings:

- Find niche areas
- Find best and possible keyword
- Find the targeted customer based on the geographical locations
- Building professional website
- Creating the information about legal issue
- Attracting the traffic and maintaining the relationship

Issues regarding the website:

- Domain name
- Copyright
- Undue influence through online
- Identity theft
- Spam and ethical issue

CONCLUSION

It is suggested in this study that universities now should recognize and consider that lawyers are professionals who not only deal with the completion of the legal process but are also capable of promoting and marketing its innovations through online marketing.

LIMITATIONS

This research has been carried out to give an overview about the new roles of the Malaysian lawyers in the context of commercialization Malaysia university research. Adapting to new roles of lawyers in commercialization of universities will help to sustain the

process and improve the confidence level of the society about university inventions. It is very important for lawyers to involve in this process by implementing these new services instead of only applying for patents and involving in legal issues. This research was carried out to give the explanation (Hirwani *et al.*, 2010a, b, 2011a, b) and new dimension of utilizing the commercialization of university research in Malaysia. The findings generated from this research are only based on the situation in Malaysia and from an understanding about the commercialization process in Malaysia universities. It will give a great impact if this research can provide a case study and comparative analysis for us to learn about the transformation of lawyers in adapting to this new task. We also feel that by utilizing this new task in other commonwealth jurisdiction it will provide more understanding about this matter.

RECOMMENDATIONS

Lawyers role in commercialization of Malaysian universities are important to sustain technology transfer between universities and industry. Researchers feel that Malaysian universities should expand this new task and provide explanations to the lawyer. This can be done by giving the training and attachment program that can provide more understanding about these matters. Having attachment programs will create awareness for the lawyer about the commercialization process and get involved in this process. TTO offices should take serious steps by informing about the structure and process in technology transfer to give a complete picture for the lawyer. This is important as once the lawyer knows the process and get involved in the process, he can become a powerful arsenal tool for the university to help in the commercialization process.

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