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Use of Intellectual Property in the Tourism Sector

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Abstract: This study aims to establish the scenarios in which it is possible to carry out effective protection of intellectual property in the sector services sector and specifically in tourism. For this purpose, a literature review was carried out both in tourism and in the application of intellectual property to the services sector. It was possible to identify that the use of intellectual property in the sector can favor the promotion of tourism, knowledge, traditions and national culture. It was also established that intellectual property protection mechanisms are associated with copyright, domain names and platforms, trademarks (mainly umbrella brand), geographical indications and industrial designs.

Key words: Tourism, management of intellectual property, industrial property, scenarios, culture

INTRODUCTION

According to the most recent figures of the World Intellectual Property Organization (WIPO, 2016) the use of industrial property systems has been increasing with figures that reached 2.88 million applications for invention patents in 2015; 1.15 million utility models; 8.4 million trademark registrations, 1.4 million industrial designs, 15.240 plant varieties.

According to the World Tourism Organization (OMT, 2017; UNWTO, 2017), international tourists amounted to 1,235 million in 2016, representing 46 million more tourists than the previous year that is growth of 3.9%. This rising trend has been maintained for 7 consecutive years, following the financial crisis of 2009.

If you analyze by region the entry of tourists in 2016: The most visited region were: Europe 620 million tourists, Asia and the Pacific with 303 million the American continent with 201 million and Africa with 58 million. Asia and the Pacific grew 8% (24 million more tourists), Africa 8% (4 million additional visitors), America 4% (8 million more), Europe 2% (12 million more) and the Middle East decreased -4%.

In this scenario, "tourism has become one of the main sectors of international trade and constitutes one of the main sources of income for many developing countries" (CDIP, 2015). Since, 2014 the world intellectual property organization has initiated a project entitled "Intellectual Property, Tourism and Culture" (CDIP, 2015; IEPI, 2016) with the aim of supporting the objectives of Development of disadvantaged communities, creating social development increase the competitiveness of the

tourism sector, establishing intellectual property as an endogenous development tool. All this having established that tourism is directed to a demand for customized products and differentiated services with added value and that one of the best ways to differentiate the products and services associated with tangible and intangible assets is through the protection of intellectual property (Lis-Gutierrez *et al.*, 2016).

Therefore, this document aims to identify the scenarios in which it is possible to carry out effective protection of intellectual property in the sector services sector and specifically in tourism.

MATERIALS AND METHODS

In order to identify the importance of the management of intellectual property in tourism sector, a review of academic literature was carried out, following the following protocol in accordance with the scheme of systematic reviews identification of the field of study, subject and period to be analyzed, formulating the problem, definition of search criteria for information, selection of references and studies, critical reading and risk assessment of bias in included studies, extraction of relevant information and data, analysis and synthesis of scientific evidence.

RESULTS AND DISCUSSION

According to OMPI (2010, 2015, 2017) intellectual property refers to "creations of the mind: inventions, literary and artistic works as well as symbols, names

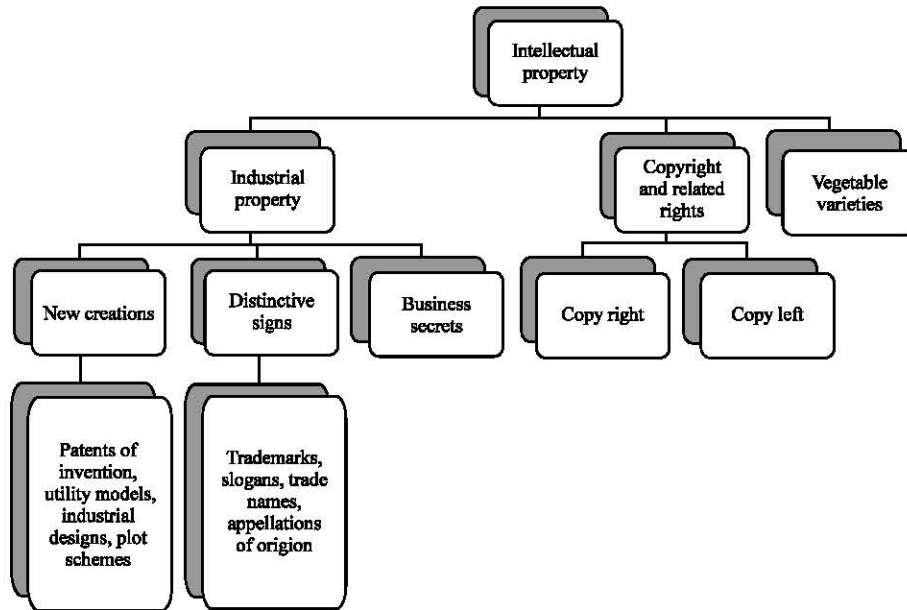


Fig. 1: Branches of the PI, self made

and images used in commerce”. Under the traditional protection scheme, IP is divided into three branches: industrial property, copyright and related rights and plant varieties (Fig. 1). The assets that are managed, in the case of cultural and tourist institutions, correspond to those derived from the first two. The main uses are summarized below.

Copyright: Copyright may offer protection in the following cases:

- Promotional material including guides, brochures, maps, among others, geographic locations or companies associated with the tourism sector
- Photographic images of objects, works of art and places of geographical spaces
- Films of objects, works of art and places of geographical spaces
- Multimedia productions, either on CD or available on the internet
- Publications and educational material whether in print or electronic form
- Interpretations or performances of traditional cultural expressions
- Software associated to the platforms of reservation of places

Domain names and platforms: In this case it includes the protection of websites and the reservation systems of places in cities, regions or companies associated with the

Table 1: Types of marks

Shape of the sign	Function of the sign	Use and function
Nominative	Commercial	Common
Figurative	Collective	Notorious
Mixed	Certification	Renowned
Three dimensional	-	-
Sonora	-	-

Fuente: Superintendencia de Industriay Comercio

sector. Associated with the reserve platforms are the personal data of those who use them which requires special protection.

Marks: The brand is a distinctive sign that allows to identify products or services which can be cataloged in different categories (Table 1). The use of brands in the tourist sector becomes a factor of commercial differentiation, standing out the umbrella brand within which it is found.

Target brands are associated with cities, regions and countries and the products of those places. It is used mainly for cultural, ecological and religious tourism, combining in a single teaching the tourism sector of a specific geographic space and authorizing third parties to benefit from its reputation. These marks fall into the shape or function category of the sign (Table 1).

Certification marks provide competitive advantages by creating added value and achieving competitive differentiation. Collective marks are defined as: “signs distinguishing the geographical origin, material, mode of manufacture or other common characteristics of the goods

Table 2: Types of IP that can be managed in the tourism sector

Form of protection	Product
Copyright	Promotional material including guides, brochures, maps, among others, photographic images of objects, works of art and places of geographical spaces, films of objects, works of art and places of geographical spaces, multimedia productions, either on CD or available on the internet, publications and educational material, whether in print or electronic form interpretations or performances of traditional cultural expressions, software associated to the platforms of reservation of places
Domain names and platforms	Definition of mechanisms for protection, renewal and defense of domain names, definition of protection mechanisms, renewal and defense of backup platforms, adequate use of different social media platforms in accordance with the respective policies and guidelines
Brands	Marks of establishments of services associated to the tourism (places of room, places of feeding, among others), development and use of collective marks, development and use of certification marks, creation of destination tags
Geographical indications	Use of geographical indications that apply to: agricultural products (food, wine, grains, tobacco leaves, fruits, animals, minerals, mineral waters, beers, flowers, flour). Handicrafts, some industrial products, Traditional Knowledge (TK), Traditional Cultural Expressions (ECT)
Industrial designs	Designs applied to merchandising objects. Handicrafts, traditional products which may be protected by geographical indications

Fuente: Elaboracion propia, a partir de Pantalony (2002, 2003, 2013), Torsen and Anderson (2010), Nanayakkara (2010), Bader (2007) and IMPI (2010)

and services of the various undertakings using the collective mark” (WIPO, 2016, 2017). The owner of the mark guarantees that common rules are followed to guarantee the quality and differentiating elements (historical, cultural and social conditions) that have led to the granting of registration. In the tourism sector it is mainly associated with the promotion of products characteristic of a geographical area. This: promotes the commercialization of products and services of the same geographical area. Promotes a framework of cooperation between producers in the same area. Facing the competition. Possibility of establishing franchises in hotels, restaurant, transport services, among others. An example of this is Hilton hotels.

Geographical indications: According to WIPO (2017), “a Geographical Indication (GI) is a sign used for products having a specific geographical origin and whose qualities, reputation and characteristics are essentially due to their place of origin”. Generally, GIs apply to agricultural products (food, wine, grains, tobacco leaves, fruits, animals, minerals, mineral waters, beers, flowers, flour), handicrafts, some industrial products and Traditional Cultural Expressions (TCEs). In the tourism sector, geographical indications:

- Request and use appellations of origin
- Increase the possibilities of internal and external marketing, based on the specific characteristics of the product or service, especially associated with agrotourism
- Increase the cohesion of producers
- Establishment of code of practices or standards to guarantee the quality of the product or service
- Creation of marketing strategies related to products such as: food, sale or transport services
- Increased tourism associated with traditional cultural expressions (e.g., festivals)
- Creation of specialized markets to meet the needs of tourists who love a specific product

Geographical indications may be covered by certification or collective marks but it is not a single requirement. Some examples of geographical indications associated with tourism are: tequila, roquefort cheese, Georgia wine, Parmigiano Reggiano, Cricova, Thai Silk, among others.

Industrial designs: Industrial designs are associated with: designs applied to merchandising objects which can also be licensed. Handicrafts, traditional products which may be protected by geographical indications.

The merchandising or commercial exploitation of the products as reminders, associated with: works, specific places, clothes with a trademark slogan, cups, among others can create an additional income for the actors of the tourism, associated with the payment of royalties (Table 2).

CONCLUSION

The use of intellectual property in the tourism sector can promote the promotion of tourism, knowledge, traditions and national culture (tangible and intangible assets) in order to foster economic growth; increase the value added; increase productivity, competitiveness and innovation capacity, foster social development and reduce inequality.

IP in the tourism sector generally fulfills two functions that must be balanced: the widest possible social dissemination by guaranteeing copyright and the commercial exploitation of IP as a source of resources. However, the protection and management of IP is not limited to traditional copyright mechanisms. Alternatives such as creative commons or art libre are a way to supplement or replace traditional protection, depending on which premium interest: dissemination or commercial exploitation.

Within the future research is to propose an alternative model of valuation of intangibles that is not

based on the system of costs or on the calculation of past and future economic benefits to facilitate to the companies of the tourist sector the adoption of mechanisms of protection of intellectual property.

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