INTELLECTUAL PROPERTY AWARENESS AMONG PUBLIC: COMPARATIVE STUDY BETWEEN MALAYSIA AND UNITED KINGDOM

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Abstract-Intellectual property is regarded as a symbol of national wealth that can boost the development of the economy of the country. High production of intellectual property materials protected by intellectual property law will act as stimulants to the development of the economy of the country. However, the success of the intellectual property system of a country depends very much on the public's level of awareness. The number of intellectual property materials produced in Malaysia is not encouraging although several measures have been taken by Malaysia Intellectual Property Corporation and enforcement body to increase the public intellectual property awareness. Therefore, this paper attempts to identify the level of public awareness of intellectual property rights and to compare the level of awareness between Malaysia and United Kingdom. Lastly, this paper attempts to investigate the appropriate measures taken by both countries to improve the level of public awareness of intellectual property rights. Various literatures related to awareness of intellectual property law were examined and discussed. The findings of this paper showed that there are differences between Malaysia and United Kingdom in terms of the level of intellectual property awareness among the public and measures taken by those countries. The final section discussed suggestions as well as recommendations on appropriate measures taken by both countries in order to cultivate intellectual property awareness among the public.

 $\label{lem:conditional} \textbf{Keyword: Intellectual property law, Intellectual property rights, Awareness.}$

I. INTRODUCTION

Intellectual property is one subject of interest that has often been discussed and reviewed over the past few decades (Wonglimpiyarat, 2009). Intellectual property is a collective term used to refer to all forms of intellectual property resulting from someone's mind or intellect (Goldstein and Straus, 2009). In other words, intellectual property refers to any property resulting from the use of the ideas and expertise of a person. Intellectual property includes patents, copyrights, trademarks, industrial designs, trade secrets and geographical indications (Bainbridge, 1999). It is hard to ignore the importance of intellectual property. Almost all countries including as Japan, USA, Germany, Korea, Switzerland and those of Europe are now competing with each other on a global basis to develop their own intellectual property which are known as non-physical assets symbolizing a nation's wealth. All of these countries have high production of intellectual property.

In order to become competitive in the global economy, Malaysia took many initiatives to transform the economic model from resource based to knowledge based. Universities and industries were given the responsibility by government to produce intellectual property to stimulate nation economy growth. Several measures which have been taken by government to encourage the production of

intellectual property include the establishment of Intellectual Property Corporation of Malaysia (MyIPO) on 3 March 2003. The objective of MyIPO is to strengthen the Malaysian intellectual property laws and to promote public awareness of the importance of protecting intellectual property through seminars, workshop, incentives, awards, policy and enforcement.

However, the number of patents produced is still low with only 308 patents granted compared to 2193 foreign patents (MyIPO, 2012). In addition, only a small number of Small and Medium Enterprise (SME) has been registered in the geographical category under intellectual property (Utusan, 2013). Another issue has been raised regarding copyright piracy concerning optical discs, computer software and royalties distribution among artists. According to Pikethly (2012), the success of intellectual property system is dependent on the public awareness of intellectual property. Therefore, this paper attempts to identify and compare the level of awareness on intellectual property rights between the United Kingdom and Malaysia. This paper will also investigate the appropriate measures which need to be taken in order to improve the level of public awareness of intellectual property rights.

II. LITERATURE REVIEW

Intellectual property is defined as property that is generated from the human mind or intellect (Shiv Sahai Singh, 2004). It can also be defined as the individual's right to protect the products produced by him whether by hand or brain against unauthorized use or exploitation by others (Osborn's Concise Law Dictionary, 2002). According to the World Intellectual Property Organization (WIPO), intellectual property generally covers several rights which are related to literary, artistic, and scientific works; performances of performing artist, phonogram and broadcast; inventions in all fields of human endeavor; scientific discoveries; industrial design; trademarks service marks, and commercial names and designations; protection against unfair competition; and all other rights resulting from intellectual activity in industrial, scientific, literary or artistic fields.

Generally, intellectual property can be split into two categories namely industrial property and literary property. Industrial property includes patents, geographical indications, industrial designs, trademarks and layout designs of integrated circuits while literary property is comprised of literary work such as books, musical or artistic works or films (Khadijah Mohamed and Ahmad Shamsul Abd Aziz, 2005).

Intellectual property can be characterized as territorial in nature which means that intellectual property generated will only be protected in places where such protection is

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granted (Lionel and Brad, 2002). For instance, if a patent is registered only in Malaysia then the patent will be protected only in Malaysia. If the patent was infringed by any person or party in a country other than Malaysia, then the owner of the patent won't be able to take action against the infringer under infringement of patent.

Intellectual property law grants the owner of the property the natural rights to their inventions and creations for a limited period of time (Keith, 1987). For instance, in Malaysia, an owner of a patent is given protection for a period of 20 years. By patenting the process or product, similar processes or products other than those of the patent owner will be kept out of the market for a certain period of time. This allows the inventor to acquire competitive advantage where the inventor is free from competition. During this time, the inventor can recoup the costs of research and development or such other costs spent on the invention. The patent right can be exploited as it could be licensed, assigned, mortgaged or bequeathed to others (Section 35(1) of the Patents Act 1983).

A. Why does intellectual property need to be protected?

Intellectual property exists in the nature of intangible property which the owner of the property has rights on it (Narayanan, 1997). Intellectual property law was developed with the purpose of protecting the owner's rights related to industrial and literary products from others who intend to imitate such ideas without the owner's permission. The generation of ideas or products requires expenditure in the form of time, energy, and money. Thus, the individual who created the idea or product should be recognized and be well compensated. Therefore, intellectual property law functions as a mechanism that protects the idea itself by granting rights over the product or work embodying the idea (Shahid Alikhan and Raghunath Mashelkar, 2004).

Intellectual property can have a positive impact on society and the state. The main purpose of intellectual property protection is to encourage innovation activity that has potential and benefit to the community and public at large (Shahid Alikhan and Raghunath Mashelkar, 2004). Intellectual property protection helps owner by preventing unfair competition by those who have intention to replicate the ideas and free riders who intend to exploit the invention for free. Intellectual property law is a form of legal protection which prevents others from copying or imitating the work of the original creator. In addition, intellectual property also has the ability to encourage development of more sophisticated inventions and innovations by transforming information and ideas (Narayanan, 1997) such as information provided in patent documents. Patent protection acquired not only protects the inventor's ideas but also provides information related to the invention to the public through the patent document (Narayanan, 1997) in order to encourage other inventors and creators to come up with better inventions.

Intellectual property should also be viewed as an important trade attraction tool in economic and trade activities (Alikhan, Shahid and Mashelkar, Raghunath, 2004). It has the capability to enhance the value of the product by providing it with a form of protection which in turn accelerates the process of technology transfer (Keith, 1987).

B. Intellectual property Awareness

The effectiveness of intellectual property protection depends not only on the extent to which intellectual property law can provide protection but also on what the public perceives as the benefits acquired from the protection. In order for an intellectual property system to work successfully in the long term, it is crucial to ensure that the public has high level of intellectual property awareness. Public refers to a group of people from various backgrounds such as students, academicians, entrepreneurs, farmers, researchers and so forth. Public with high level of intellectual property awareness tend to respect other people's work. In contrast, public that has lower level of intellectual property awareness are prone to disrespect works produced by others leading to infringement of intellectual property.

Intellectual property infringements can create negative impact to inventor/author, consumers, industry and also to the country. According to Bob Casey (2012), intellectual property infringement harmed both inventor/authors and companies through lost R&D revenue, the cost of intellectual property protection, damage to brand and decreased incentives to innovate. This negative impact will demoralized authors/inventors and may lead to their refusal to invent new products or write literary work. As a consequence, it will decrease the production of high quality literary works and novel inventions.

In addition, consumers will also be affected when they are forced to buy non-genuine products of lower quality such as pirated software, non-original medicines and so on. The consumers will be cheated or misrepresented due to false trademark of original brands displayed on non-genuine products. This may cause not only loss to the inventor/author and companies but also put the consumer's health and safety at risk. In addition, the company's reputation and good-will will also be affected.

Another party that will be affected from intellectual property infringement is government. Intellectual property infringement activities which involve activities like manufacture, importation, distribution and sale of product without the owner permission will eventually lead to loss of government revenue. In order to overcome this problem a huge number of enforcement bodies have to be deployed to fight parties that have infringed the intellectual property. As a consequence, government needs to absorb huge enforcement costs. Thus, intellectual property infringement will cause slower economy growth and decreased job opportunities.

Therefore, it is important for the public to be aware of the benefits, importance and the functions of the intellectual property system to enable its effective use. Intellectual property awareness requires the public to have a basic understanding of the key requirements for obtaining intellectual property rights and the differences between various types of intellectual property rights which affect their use. Thus, in order for the public to have high level of intellectual property awareness, the government should play an important role in educating and cultivating intellectual property awareness among the public.

C. Intellectual property awareness in United Kingdom

In United Kingdom, intellectual property awareness among the public is regarded as important and is emphasized in order to provide better intellectual property protection. Although a huge effort has been made by United Kingdom government, a high level of intellectual property awareness among the public was not achieved in a short period. A study conducted by Pikethly (2006) showed that the level of intellectual property awareness among firms was low. It was found that only 11.2 % of Micro-enterprises and 33% of firms knew that publishing before filing will invalidate a UK patent application. Over 50% of UK industry did not know and 36% incorrectly thought of the considerable risk associated with publishing before filing to preserve patentable innovation. In addition, 53% of firms chose to search UK trademarks and 70% of UK companies searched names to ensure clear use of a new business or product name. In contrast, smaller firms were found to have not conducted any search on United Kingdom trademarks prior to trademark application. This showed that half of the SMEs and 70% of companies have the awareness to search UK trademarks.

After four years, another study conducted by Pikethly (2010) found that the level of intellectual property awareness among the firms has increased slightly. The number of respondents that knew that publishing before filing would invalidate a UK Patent application had increased to 14%. In respect to industry awareness on intellectual property litigation, it was found that awareness is still low where 10-20% of SMEs and almost 40% of large companies are likely to have been involved in litigation. This showed that mostly large firms have been involved in litigation rather than the micro firms. Licensing activity remained stable where more than 250 employees of small firms have experience in licensing activities. Recent research conducted by Pikethly (2012) claimed that the larger companies are more aware of the importance of intellectual property. In contrast, SME and the mass of micro enterprises are still unaware of the IP system and their awareness of intellectual property is still not encouraging.

In additions to firms and industry, it seems that students of higher education from United Kingdom also have high level of intellectual property awareness. This can be seen from the studies conducted by National Union of students and United Kingdom Intellectual Property Office (2012) which revealed that the students believed that intellectual property knowledge is important to both their education and their future career. In addition, students who have some experience with intellectual property viewed it positively and expressed the desire to learn more about intellectual property. This showed that, teaching intellectual property earlier in formal education could motivate them to have greater interest in the subject. Students also felt that it was important for them to know about intellectual property in order to ensure they can be compensated and receives recognition for their work and invention. This study also revealed that 40% of the students regard their current level of intellectual property awareness as sufficient to support them in their future career. From the above findings, it can be said that the United Kingdom education system has succeeded in cultivating intellectual property awareness among the students and therefore contribute to higher level intellectual property awareness in United Kingdom.

Based on several studies related to public level of intellectual property awareness in United Kingdom, it can be concluded that there was an increase in the level of intellectual property awareness from 2006 to 2012. The awareness among the public has been cultivated through several ways to improve the awareness of public on intellectual property. In order to support United Kingdom

www.ijtra.com Special Issue 10 (Nov-Dec 2014), PP. 84-88 growth, the Intellectual Property Office of United Kingdom Government initiated several measures to encourage UK business to understand, use, and protect their IP both in the UK and abroad. United Kingdom Intellectual Property Offices also took initiatives by collaborating with Police Intellectual Property Crime Unit, trading standards, and international agencies to strengthen enforcement activities and to help reduce the flow of counterfeit goods into the UK (UK IPO, 2014).

In addition, suitable methods are also developed to encourage university lecturers to insert intellectual property into their course material and to develop student understanding of Intellectual property. Intellectual Property Office of United Kingdom Government also developed and delivered a campaign to cultivate interest, understanding and respect for intellectual property amongst the public especially the young generation. Campaigns are conducted through media and campaign-related web pages which reached at least 4 million people. Access to online training in intellectual property issues for business advisors is also provided at two levels. For the basic level it is for free but for advanced level it will be charged at commercial rate (UK IPO, 2014). The initiatives taken by United Kingdom government in cultivating intellectual property awareness among the public are commendable and will surely reap benefit in the future.

D. Intellectual property awareness in Malaysia

In contrast to the United Kingdom, several studies in Malaysia have indicated that the level of awareness among Malaysian people is less encouraging. Hapriza et. al. (1996) conducted a study based on the level of awareness of intellectual property protection among academicians in higher education. The main focus is on copyright law, patent law and registered design. The study indicated that Malaysian academic research has a lower level of awareness of intellectual property rights. In 2008, a study was conducted by Ling (2008) on Figo Food Industries employees. The study revealed that the employees have medium level of trademark knowledge. In addition, another study was conducted among faculty engineering students in Universiti Teknologi Malaysia on intellectual property knowledge. According to Nurul Huda Tendot (2012), students have low level of patent law knowledge.

The level of intellectual property awareness can also be measured through the number of intellectual properties that have been produced. According to MyIPO (2013), the number of local firms that have registered for intellectual property protection is only 65,516 compared to 71,667 foreign firms (Utusan, January, 2013). In addition, the number of patents produced by local people is less encouraging than patents produced by foreigners. It was reported that only 287 Malaysian organizational or individuals have been granted patent compared to 1785 foreign patents (MyIPO, 2014). At the international level, Malaysia produced only 25 patents under Patent Corporation Treaty while United Kingdom has been granted with 2064 patents (WIPO, 2014). This shows that intellectual property produced by Malaysian people in Malaysia itself or at the international level is still less encouraging.

In terms of software piracy, Malaysia was ranked 57th of 109 countries with 59% rate of software piracy. In contrast, United Kingdom was ranked 96th of 109 countries with only 26% of software piracy (Nation Master, 2007).

Table 1: Software Piracy Rate, 2007

Rank	Country	Rate (%)
57	Malaysia	56
96	United Kingdom	26
103	Japan	23
104	New Zealand	22
105	Luxembourg	21
106	United States of America	20

(Source: www.nationmaster.com, 2007)

However, there is an improvement in terms of copyright protection and enforcement where Malaysia has been removed from the 'Watch List' of United States 301 Special Reports in 2012 (USTR 301 Special Report, 2012) and remained off the 'Watch List' for 2013 and 2014 (The Star, May, 10, 2014).

The success of Malaysia in moving off the 'Watch List' is due to continuous government effort to increase the level of intellectual property awareness among the public. Several measures has been taken by MyIPO in order to increase the level of intellectual property awareness among the public including academicians, researchers, inventors, and students in the form of seminars, workshop, promotional activities, rewards and incentives and enforcement (MyIPO, 2014).

Seminar is one of the activities that can help to disseminate intellectual property knowledge to the public (Haliza, 2009). The topics delivered by international and local speakers cover a wide range of intellectual property rights to the commercializing of research findings. During these seminars, handbooks and pamphlets on the importance of intellectual property were circulated to the participants. In order to ensure that the awareness of intellectual property protection is spread to the public at large, the circulation of handbooks and pamphlets were also extended to Government officials in research institutions, universities, companies and organizations engaged in research and development activities.

Another way to increase the level of intellectual property awareness is through conducting workshops. Workshops were conducted to provide hands-on training to researchers and inventors. Intellectual property practitioners, intellectual property examiners as well as officers from intellectual property offices were also invited to provide adequate training to researchers and inventors.

According to Shahid Alikhan and Raghunath Mashelkar, (2004), Intellectual property literacy should be encouraged at all walks of life. Technological advancements such as the internet, radio and television can be used as a medium to educate the public on intellectual property and in creating greater awareness on the importance of intellectual property among the community. In Malaysia, MyIPO has conducted an extensive outreach program via the IP Mobile Clinic. IP Mobile Clinic is a custom built vehicle which has similar in concept to that of mobile library. The IP Mobile Clinic functions as a vehicle which travels to schools and public places to disseminate information and knowledge on intellectual property.

In Malaysia, National Intellectual Property Day is celebrated every year in the month of April. During National Intellectual Property Day, many activities are held to educate and inform the public on the importance of intellectual property as a means of economic as well as social development. Amongst the activities are exhibitions, invention competitions as well as the National Intellectual Property Award. The National Intellectual Property Award

www.ijtra.com Special Issue 10 (Nov-Dec 2014), PP. 84-88 is a form of recognition and appreciation given by MyIPO to successful inventors and innovators.

The government's aggressive approach towards cultivating intellectual property awareness is also done through the enforcement of intellectual property rights. They are several bodies that are responsible for enforcement of intellectual property namely enforcement division of the Minister of Domestic Trade, Cooperation and Consumerism and the Royal Malaysia Police. Provisions contained in the relevant statutes are enforced in order to deter infringers.

It can be concluded that Malaysia has taken several steps to cultivate intellectual property awareness by educating the younger generation from schools, SME's and the public through seminars, clinics, training and campaigns. The measures taken have brought positive impact where Malaysia has been successful in moving off the United States Special Report 'Watch list'. Thus, this shows that Malaysia has undertaken various commendable ways to increase the public awareness of intellectual property.

III. DISCUSSION

Based on the literature review, there are several differences between Malaysia and United Kingdom related to level of intellectual property awareness among the public. The first is in terms of patent production. A total of 4996 patents have been granted to local people in 2012 in United Kingdom. In contrast, only 295 patents have been granted to Malaysian people. This shows that the number of patents granted in the United Kingdom is much greater than the number of patents issued in Malaysia. Another difference that can be seen is in terms of piracy rate. The United Kingdom has a lower rate of piracy with 26 % compared to Malaysia's rate of piracy with (www.nationsmaster.com., 2007).

In addition, both countries have also taken several measures in order to improve public intellectual property awareness. Both countries chose media as a medium to convey information related to intellectual property such as television, radio, and newspaper due to its capability in reaching millions of people from various ages and backgrounds. Seminars and training were also provided by both countries however there is difference whereby in Malaysia, trainings was delivered by using hands on method (MyIPO, 2014) while in the United Kingdom the training was delivered by using hands on and also online (UKIPO, 2014). By using online training, the number of public people who are interested in the opportunity to learn and understand intellectual property rights better can easily assess the training from their home or work place. In respect of enforcement, it was found that Malaysia and United Kingdom have different bodies that are responsible for the enforcement of intellectual property. In Malaysia, there are two enforcement bodies that are responsible namely Minister of Domestic Trade, Cooperation and Consumerism (enforcement division) and the Royal Malaysia Police (MyIPO, 2014). In order to increase the efficiency of the enforcement, intellectual property office will provide information to the police department for checking the registration of rights. In the United Kingdom, there is a specific enforcement body which is known as police intellectual property crime unit.

Intellectual property rights have also been viewed as an important subject that needs to be introduced and taught to students especially those who study courses like management, engineering, and business (Lionel and Brad,

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2002). The inclusion of an intellectual property subject will not only help to increase the awareness of intellectual property among students but also increase their understanding of the intellectual property system. In addition, this will also help them to pursue their future career as entrepreneur and inventor. This step has been taken by both Malaysia and the United Kingdom where subject of intellectual property has been taught in Higher Education. However, Intellectual Property Office of United Kingdom has taken a step further by developing suitable tools in order to encourage university lecturers to bring IP into their course material and to build student understanding of Intellectual property.

It can be concluded that there are several problems reported regarding piracy. There are still many hard goods piracy of local and imported factories that produce optical discs and burned recordable discs in Malaysia. The retail pirates are found to be still active although many raids have been made with good cooperation among authorities. The retail shops reopen within 58 to 72 hours after the raid evidencing lack of deterrence (US Special Report 301). In addition, there are also software piracy problems where pirated software was sold and installed in new computers (US Special Report 301). Thus, in order to overcome this problem the Malaysia government should amend their legislation so that more strict liability will be charged to those who infringe intellectual property.

Thus, it can be summarized that intellectual property awareness among the public in the United Kingdom is more encouraging than the level of intellectual property awareness among the public in Malaysia. In order to increase the level of Intellectual property awareness several ways to cultivate awareness of intellectual property have been undertaken by both countries. Both countries utilized quite similar methods such as campaigns, seminars or training, and strengthened enforcement. It can also be seen that Malaysia has been on the right path and the efforts shown by the Malaysian government should be praised in order to cultivate awareness among the public. However, cultivating intellectual property awareness among the public cannot be done in a short period. The efforts will yield positive results over a period of several years and the level of Malaysian public awareness of intellectual property will be commensurate with the United Kingdom level of intellectual property awareness.

IV. CONCLUSION

Based on the above discussion, it can be concluded that the awareness of intellectual property is important in order to ensure the success of intellectual property. In addition, higher level of awareness of intellectual property can also help countries to be more competitive through the active creation of intellectual property. It has also been shown that awareness of intellectual property rights can be improved by disseminating it to the public through education by assisting university lecturers with suitable tools to increase student understanding, providing seminars, training and campaigns with wide range of targets including intellectual property creators and users, and effective and efficient enforcement.

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