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Do Cultural Differences Impact on Intellectual Property Protection in the United States and China?

Abstract or Résumé:

In a knowledge economy, intellectual property is highly related to core competency of an organization. Without proper protection, the competitive advantage is vulnerable to imitation and counterfeiting. Intellectual property protection can be seen as information and knowledge activities that are taken to prevent trademark, patent, copyright, and trade secret infringement. Between the United States and China, there is an intense and enduring controversy on intellectual property protection. Many previous relevant studies on this issue adopted a legal and governance approach, rarely focusing on the effect of cultural differences on these information and knowledge practices. This paper reports the theoretical exploration portion of an on-going empirical research on the cultural influences that impact intellectual property protection in the two countries, aiming to draw some implications for the field of knowledge management.

1. Introduction

As the call for proposal says, “the movement of information across borders is of particular interest to information studies.” (CAIS-ACSI.ca 2019). One of central inquiries of this CAIS-ACSI conference is “how does information generated through lived experiences among one group of people leave that context and become meaningful to people in another?” (CAIS-ACSI.ca 2019). Echoing to that, this paper will focus on intellectual property protection issues in the United States and China, exploring how a series of cultural variables may affect these entanglements.

2. Research Problem

In a knowledge economy, intellectual property (IP), as part of intellectual capital, is highly related to the core competency of an organization (Carrillo 1997, Malkawi, Al Omari, and Halasa 2018). Without proper management and protection, such competitive advantage is vulnerable to imitation and counterfeiting, and will then possibly be deprived of the bulk of its market value (Budde-Sung 2013, Yang, Sonmez, and Bosworth 2004). Therefore, from a knowledge management perspective, intellectual property protection is not solely necessary, but also a must-have.

Conventionally, IP protection refers to a system of rules and laws dictating the ways to prevent unauthorized exploitation of intellectual property for a certain period of time (Husted 2000). However, in an information study context, IP protection can be conceptualized as a set of information and knowledge practices. These activities get involved in seeking, processing, and using a great deal of information and may occur at various levels such as individual, group, or organizational. They may be self-initiated or imposed by someone else. But they have a common and concrete objective – to guard against any infringement of *copyrights, patents, trademarks, or trade secrets*. In this global community, allegations and criticisms are constantly made that certain countries fail to well protect intellectual property (Budde-Sung 2013, 2017, Whitman, Townsend, and Hendrickson 1999). This research narrows down to the United States and China, examining their IP protection practices through a cultural lens. Herein, China refers only to Mainland China, not to any part of Hong Kong, Macau, and Taiwan.

Between the United States and China, there is an intense and enduring controversy on IP protection. Over last more than three decades, the United States has, together with many other developed nations, frequently accused China of refusing to protect intellectual property, particularly those originated from foreign countries, in an effective way. Indeed, China is abundant of copycat goods, most of which counterfeit such iconic American brands as Apple, Coke, Michael Kors, and Nike, just name a few.

What's more, in 2007 or so, a term, *shanzhai* (山寨), started to be popularized throughout China. According to Balsamo (2014, 86), the term means massive imitation and reproduction of branded originals without permission or authorization. Canaves and Ye (2009) explain in details that *shanzhai* “literally means ‘mountain fortress’,” implying “banditry and lack of state control;” but in actuality, it “refers to China’s vast array of name-brand knockoffs.” Currently, the scope of this term has significantly expanded. It is never limited to counterfeiting consumer goods, but spreads to include unauthorized imitation of artistic and creative works such as sculptures (Sonmez and Xin 2015), architectural designs (Yuan 2017), and even sitcoms (Phillips 2012). Despite their inferior quality, *shanzhai* products are rather cheap and easy to access. Increasingly, therefore, they have driven an untamed economic boom and become a rebellious grassroots symbol (Balsamo 2014, Beebe 2013), posing a tremendous challenge on IP protection.

Nevertheless, the intellectual property regimes that we use today can be traced all the way back to Western cultural heritage and traditions, such as *property rights* or *Lockean theory* (Reber 2016, Spinello 2007, Mossoff 2015). When these particular logics, mentalities, and rationalities leave their original context and travel to new territories, they may have to transform one way or another (Santoro 2008). In addition, numerous scholars have discovered that information is *culture-specific*, and that different people who are fostered by different cultures may have vastly different understandings of information (Kim 2013, Machlup and Mansfield 1983, Menou 1983). Thus, in this vein, when conceptualizing IP as information products, we presume that IP, as well as its protection, should be culturally dependent and construed (Budde-Sung 2013, 345, Menou 1983, 121). That being said, prior research on IP issues in cross-national contexts are often conducted from a legal or managerial perspective, targeting on organizations or organizational executives’ perceptions. Few studies, however, have investigated the impact of cultural differences, and inquired about how ordinary people perceive IP protection. Our exploratory

study attempts to fill that niche. One central research question is formulated to guide this on-going empirical study:

- To what extent do cultural differences impact people's perceptions on intellectual property protection in the United States and China?

Through addressing the research question, this study aims to attain two objectives: (1) to gain a better understanding of the role of culture played in IP protection; and (2) to seek for some theoretical and practical implications for the field of knowledge management.

3. Conceptual Framework

To better address the research question, we integrate a series of cultural variables and intellectual property management theories into a conceptual framework. The cultural variables are mainly identified from Hofstede's dimensions (2001) and the Project GLOBE Survey Study (House et al. 2004), such as *power distance*, *uncertainty avoidance*, *future orientation*, *individualism-collectivism* (or *institutional collectivism* and *in-group collectivism*), *performance orientation*, *masculinity-femininity* (or *gender egalitarianism*), *assertiveness*, and *humane orientation*. The intellectual property management theories are originated from Fisher (2001).

Culture is such a broad notion that is pervasive in our histories, societies, localities, and verbal and non-verbal systems. It constantly influences and shapes our *beliefs*, *norms*, and *values* (Harrison & Huntington, 2000). However, it may be limited by geographic boundaries. Thus, when IP and IP rights transfer across borders, they will encounter cultural barriers (Menou 1983, Kim 2013).

As aforementioned, previous studies reveal that the very concepts of IP, IP right, and its protection, are derived from Western or Anglo-Saxon culture. Thus, when they travel east, different cultural roots and historical conventions may hinder their implementation and advancement (Budde-Sung 2013, Reber 2016).

The literature also discovers that in many southeastern Asian countries where Confucian traditions prevail, people will perceive imitation of someone's creative endeavor is an honor of or a praise for his or her work, because this kind of sharing behavior may help the entire community to learn and grow (Kuanpoth 2003, Smith 1999). Many East Asian nations who advocate collectivism may also see IP protection as a way that one party wants to carry out monopoly of human knowledge over other parties (Altbach 1988).

Budde-Sung (2013) found that cultures or societies that are more collectivistic and humane oriented tend to have a negative impact on IP protection, while those cultures or societies that welcome uncertainty avoidance and future orientation tend to have a positive impact on the protection.

4. The Study

When this proposal is written, we just finished the theoretical exploration portion of the project. In February 2019, we will conduct two focus groups to collect ideas on how to design a survey questionnaire, which will be administered on two university campuses, one in the United States, and the other in China. The survey will randomly select 1,000 college students on each campus and solicit their perceptions on cultural values and on IP protection.

Findings of this study will potentially contribute to the knowledge management theories (particularly in the sense of intellectual capital) and benefit corporations and government agencies to formulate practical policies and strategies on IP protection and management.

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