Margaret Chon

Abstract

_Tacit Knowledge in Education, Intellectual Property and Intergenerational Equity_

Tacit knowledge systems may in fact constitute the much larger body of knowledge than we usually acknowledge in intellectual property, and may intersect with intellectual property, including copyright, in unexpected ways. As Paul David and Dominique Foray have noted, “while the cost of replicating information amounts to no more than the price of making copies (i.e. next to nothing thanks to modern technology), reproducing knowledge is a far more expensive process because some, indeed many, cognitive capabilities are not easy to articulate explicitly or to transfer to others. There are elements that therefore remain ‘tacit’: ‘we know more than we can say’ (Polanyi, 1967). Knowledge reproduction has, therefore, long hinged on the ‘master–apprentice’ system (where a young person’s capacity is moulded by watching, listening and imitating) or on interpersonal transactions among members of the same profession or community of practice. These means of reproducing knowledge may remain at the heart of many professions and traditions, but they can easily fail to operate when social ties unravel . . . .” Thus a significant liminal area within global intellectual property is between tacit and codified knowledge systems, which has been explored within patent law but less so within copyright. Understanding the reach of tacit knowledge may point to the means to encourage knowledge reproduction and dissemination where that knowledge is typically difficult to collate, demonstrate, gather and/or pass on to others. Education, ironically, is one of those latter realms. Where will tacit knowledge—due to its impact on unraveling social ties, incommensurate cultural norms and/or consistently inattentive institutions—prevent the emergence of robust governance mechanisms through and within intellectual property laws, including copyright? Conversely, where will hybrid cultural and legal forms truly emerge through acknowledgement, recognition, movement and fusion of local and global governance norms? This paper will attempt to tease out the various ways in which tacit knowledge has played (underacknowledged) roles in these processes.