UTILITY MODEL PATENT FOR UNIVERSITY INVENTION IN SRI LANKA: A PROPOSAL FOR LAW REFORM

P.R.M.N.D. Pallepola*
Department of Commercial Law, Faculty of Law, University of Colombo, Sri Lanka
*Corresponding author: naveen@law.cmb.ac.lk

Abstract

Utility model protection is used to foster innovation in developing countries around the world. However, Sri Lankan intellectual property (IP) law regime does not accord such protection. Due to this reason, university researchers often find it hard, if not impossible, to turn their innovative ideas into commercially viable products. Needless to state that the process of obtaining patent rights is complex, slow, and expensive, and this situation frequently discourages university inventors from obtaining patent rights for their inventions. Moreover, the Sri Lankan patent system is yet to permit the filing of provisional patent application for inventions. Therefore, the main purpose of this research is to explore whether and to what extent a utility model system can be introduced as an accessible form of IP protection for inventions emanating from university research and development efforts. This research finds that a utility model is a form of protection that is generally easier, cheaper and faster to obtain than a normal patent. It further posits that the utility model protection, compared with the patent system, stands attractive to university researchers, due to its simpler application procedure and less stringent conditions for protection. If such a system is tailored to suit the specific needs of the country such a system has the potential to remove the roadblocks that university researchers currently encounter. Findings of this research suggest that a large part of university inventions do not receive much needed IP protection and an alternative model of promoting research and development is necessary to create a conducive ecosystem for university innovation. This research highlights the need for revisiting and modernizing the current patent system to accommodate utility model protection. In this regard, it is necessary for Sri Lanka to draw inspirations from comparative jurisdictions such as Malaysia and South Korea. The adoption of a utility model system has the potential of bridging the gap between academic research and industry, helping our universities transform from learning centers into powerful engines for innovation and economic growth. In terms of the implication of this research, the researcher is of the view that this research would enlighten the law reform process and offer valuable insights for policy makers. This research is library-based and is carried out by employing doctrinal legal research methodology.

Keywords: Intellectual Property, Patent, Utility Model, University Innovation