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DUBAI'S NEW INTELLECTUAL PROPERTY-BASED ECONOMY: PROSPECTS FOR DEVELOPMENT WITHOUT DEPENDENCY

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ABSTRACT

The Emirate of Dubai has, as a result of deliberate policy actions, been able to reinvigorate, indeed to reinvent, its Intellectual Property Potential. That is to say Dubai has boosted its ability to be the originator (and creator) of intellectual property subject-matter, rather than merely a consumer thereof. Dubai has achieved the two conditions through which an intellectual property régime becomes a valuable national asset for a country with an initially low Intellectual Property Potential; namely a structured regulatory framework coupled with effective infrastructure-related action. Dubai's undertakings in the intellectual property sphere go to show that even a country that has an initially low Intellectual Property Potential and a high reliance on raw materials, can chart its own distinct path towards an intellectual property rich economy.

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AMIR H. KHOURY*

"Dubai had big dreams and a bright vision and we used what we had - and created what we needed - to build the right environment where big ideas and fresh thinking can take off."[1]

INTRODUCTION

I. EVOLUTION IN THE MAKING

In this article I propose that the Emirate of Dubai has, as a result of deliberate policy actions, been able to reinvigorate, indeed to reinvent, its "Intellectual Property Potential." That is to say Dubai has boosted its ability to be the originator (and creator) of intellectual property subject matter, rather than merely a consumer thereof.

Dubai has achieved the two conditions through which an intellectual property régime becomes a valuable national asset for a country with an initially low "Intellectual Property Potential;" namely a structured regulatory framework coupled with effective infrastructure-related action.[2] I will highlight the steps that Dubai has undertaken in this regard. In other words, Dubai has been able to enjoy a dash toward spectacular economic development derived from its natural resources,[3] while in the process, evading the "Dependency" trap, wherein the use of another's technology renders the user ever dependent on continued technological transfers.[4] In effect, Dubai has been able to lay the foundations for a distinctive "Development" track.[5] These foundations are symptomatic of Dubai's endeavor to maintain its

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1 *Mohammad Reveals Secret of Dubai's Success*, GULF NEWS (U.A.E.), May 23, 2007, http://www.gulfnews.com/articles/07/05/23/10127165.html.

2 SHEIKH MOHAMMAD BIN RASHID AL MAKTOUM, U.A.E. VICE PRESIDENT & PRIME MINISTER & RULER OF DUBAI, HIGHLIGHTS DUBAI STRATEGIC PLAN (2015): DUBAI . . . WHERE THE FUTURE BEGINS 26 (2008) [hereinafter MAKTOUM, DUBAI STRATEGIC PLAN], *available at* http://egov.dubai.ae/opt/CMSContent/Active/CORP/en/Documents/DSPE.pdf.

3 *Id.* at 16.

4 *See* Osamu Onodera, *Trade and Innovation Project: A Synthesis Paper* 20, 22 (OECD Trade Policy, Working Paper No. 72, 2008), *available at* http://www.oecd.org/dataoecd/60/22/41105505.pdf.

5 Martin Hvidt, *Governance in Dubai: The Emergence of Political and Economic Ties Between the Public and Private Sector* 10 (Ctr. for Contemp. Middle East Studies, Univ. of Den., Working Paper Series No. 6, 2006), *available at* http://www.sdu.dk/~/media/Files/Om_SDU/Centre/C_Mellemoest/Videncenter/Working_papers/06WP2006MH1.ashx.

blossoming economy that is intended to continue to flourish even after its oil reserves are depleted.[6]

My contention is that Dubai's undertakings in the intellectual property sphere, go to show that even a country that has an initially low "Intellectual Property Potential" and a high reliance on raw materials, can chart its own distinct path towards an intellectual property rich economy.

In this research I will first highlight the structure of Dubai's economy and its intellectual property related regulatory system. Following this, I examine the debate relating to the perceived national benefits of intellectual property protection in countries that do not have a notable "Intellectual Property Potential." In the section that follows this, I demonstrate how despite the apparent one-sided benefits that the intellectual property system grants primarily to Developed countries, Dubai has been able to create a distinct national policy that is geared towards the creation of an integrated national infrastructure that can boost its "Intellectual Property Potential."

II. THE LEGAL AND COMMERCIAL CHRONICLES OF DUBAI

A. Dubai and Energy: Not a Synergy!

The Emirate of Dubai is located in the northeast portion of the United Arab Emirates (U.A.E.).[7] Dubai City, the emirate's capital, is the U.A.E.'s principal commercial center.[8] It is also home to the U.A.E.'s main seaport.[9] Originally, starting in the 1960s, Dubai's economy was based on its booming oil industry.[10] Contrary to popular perception, however, the oil and gas sectors no longer dominate now its Gross National Product.[11] Indeed, Dubai is expected to exhaust its oil reserves in less than two decades.[12] Even now, Dubai only has a two percent share of the U.A.E.'s gas reserves.[13] Nevertheless, Dubai accounts for 65% of the U.A.E.'s

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[6] *See* MAKTOUM, DUBAI STRATEGIC PLAN, *supra* note 2, at 19.

[7] FRAUKE HEARD-BEY, FROM TRUCIAL STATES TO UNITED ARAB EMIRATES: A SOCIETY IN TRANSITION 14–15 (Longman 1982). The United Arab Emirates (U.A.E.) is a Middle Eastern federation of seven states situated in the southeast of the Arabian Peninsula in Southwest Asia on the Persian Gulf, bordering Oman and Saudi Arabia. *Id.* at 11–17. The seven states, termed emirates, are Abu Dhabi, Ajman, Dubai, Fujairah, Ras al-Khaimah, Sharjah, and Umm al-Quwain. *Id.*

[8] *See* CHRISTOPHER M. DAVIDSON, DUBAI: THE VULNERABILITY OF SUCCESS 1–2 (Columbia Univ. Press 2008).

[9] ROSEMARIE SAID ZAHLAN, THE ORIGINS OF THE UNITED ARAB EMIRATES 11–13 (St. Martin's Press 1978).

[10] *See* DAVIDSON, *supra* note 8, at 1.

[11] *See id.*

[12] Hvidt, *supra* note 5, at 9. Dubai's GDP as of 2005 was USD 37 billion. MAKTOUM, DUBAI STRATEGIC PLAN, *supra* note 2, at 19. Although Dubai's economy was built on the back of the oil industry, revenues from oil and natural gases currently account for less than 6% of the emirate's revenues. *Id.* The emirate's share in UAE's gas revenues is about 2%. UAE Oil and Gas, http://www.uae.gov.ae/Government/oil_gas.htm (last visited Aug. 21, 2009). Dubai's oil reserves have diminished significantly and are expected to be exhausted by approximately 2025. *Id.*

[13] *Id.*

manufactured exports.[14] Even more so, per capita, Dubai has become among the richest state in the oil-rich region of the Persian Gulf relative to the size of its population.[15] Dubai has been transformed, literally overnight, into the new hotspot for commerce, tourism and business.[16]

Indeed, Dubai has undergone a dramatic change over the past three decades.[17] It appears to have set its sights on becoming a major business center with a dynamic and more diversified economy.[18] Furthermore, due to its strategic location at the heart of the Persian Gulf, Dubai serves as the biggest re-exporting center in the Middle East, and enjoys thriving manufacturing, finance, and information technology sectors.[19] Dubai real estate and tourism sectors have also flourished.[20] I submit that the intellectual property laws and their practical application on the national level are indicative of Dubai's deviation away from the oil sector.[21]

B. Intellectual Property Regulation in the U.A.E. and in Dubai

The U.A.E. is a member of the leading international organizations that are involved in the protection of intellectual property rights. Specifically, the U.A.E. is a member of the World Intellectual Property Organization (WIPO)[22] and the World Trade Organization (WTO).[23] In addition, it is party to a long list of intellectual property related agreements including the Paris Convention for the Protection of

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[14] John H. Donboli & Farnaz Kashefi, *Doing Business in the Middle East: A Primer for U.S. Companies*, 38 CORNELL INT'L L.J. 413, 438 (2005).

[15] *See* Karl A. Russell, *Free Zone Concepts in the Middle East: Dubai Technology, E-commerce and Media Free Zone* 9 (Swiss Mgmt. Ctr., Working Paper No. 3, 2008), *available at* http://www.swissmc.ch/documents/Karl_Russell_workingpaper_03-2008.pdf.

[16] *See* MAKTOUM, DUBAI STRATEGIC PLAN, *supra* note 2, at 21; Steven T. Taylor, *United Arab Emirates. . . The Epitome of a Booming Economy Draws U.S. Law Firms en Masse*, 27 OF COUNSEL 1, 1–2, 16 (2008). Dubai's economy grew around sixteen per cent in 2005 to be worth an estimated thirty-seven billion dollars. MAKTOUM, DUBAI STRATEGIC PLAN, *supra* note 2, at 18–19. This rate of growth is expected to exceed that of China, acknowledged to be one of the fastest growing economies in the world today with a growth rate of (then) 8.5 per cent. *Id.* at 16–17.

[17] *See* DAVIDSON, *supra* note 8, at 1–2.

[18] MAKTOUM, DUBAI STRATEGIC PLAN, *supra* note 2, at 21.

[19] *Cf.* DAVIDSON, *supra* note 8, at 1 (describing Dubai's advantageous position in the Persian Gulf, a prime location for the exportation of goods).

[20] *Id.*

[21] *See* Russell, *supra* note 15, at 9.

> Dubai has made tremendous progress within recent years towards the establishment of a knowledge-based economy. Economic solutions have been embarked upon that rely heavily on Dubai's capabilities to access and use the world's assets of knowledge and experience, especially to enable this emirate to create its own knowledge environment. The Dubai government has undertaken several large scale and capital intensive initiatives to strengthen its industrial base and to diversify its economy and income.

Id.

[22] WORLD INTELLECTUAL PROPERTY ORGANIZATION, WIPO GUIDE TO INTELLECTUAL PROPERTY WORLDWIDE 583 (1st ed. 2000). The U.A.E. has been a WIPO Convention member since September 1974. *Id.*

[23] Notification of Acceptance, Protocol for the Accession of the United Arab Emirates to the Marrakesh Agreement Establishing the World Trade Organization, WT/Let/70 (Mar. 12, 1996).

Industrial Property ("Paris Convention"),[24] the Patent Cooperation Treaty ("PCT"),[25] Berne Convention for the Protection of Literary and Artistic Works ("Berne Convention"),[26] Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations,[27] the WIPO Performances and Phonograms Treaty,[28] and the WIPO World Copyright Treaty.[29]

The U.A.E. has enacted various intellectual property laws covering patents, trademarks and copyrights.[30] In the U.A.E., patents are protected in accordance with the Patent and Industrial Design Law Number 17 of 2002, which amended Federal Law Number 44 for the year 1992.[31] Notably, in the U.A.E., patents can be protected either by registering the patent with the U.A.E. patent office or by filing a patent application with the Gulf Cooperation Council Patent Office.[32] Furthermore, thanks to its PCT membership, the U.A.E. can be designated in a PCT application[33] and similarly, U.A.E. nationals (person or entity) can utilize that system in order to file their respective patents abroad.[34] In the U.A.E., patent coverage is quite extensive, covering machines, methods of production, as well as chemical compounds and pharmaceutical formulas.[35] Also, due to its membership in the Paris Convention, an inventor or owner of other types of industrial property can claim Convention priority.[36]

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[24] WORLD INTELLECTUAL PROPERTY ORGANIZATION, *supra* note 22, at 583.

[25] *Id.*

[26] WORLD INTELLECTUAL PROPERTY ORGANIZATION, WIPO GUIDE TO INTELLECTUAL PROPERTY WORLDWIDE 2 (2d 2008), http://www.wipo.int/about-ip/en/ipworld/pdf/ae.pdf.

[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] Federal Law No. (7) of 2002 (copyrights and neighboring rights) (U.A.E.); Federal Law No. (8) of 2002 (trademarks) (U.A.E.) (amending Federal Law No. (37) of 1992); Federal Law No. (17) of 2002 (industrial regulation and protection of patents, industrial drawings and designs) (U.A.E.) (amending Federal Law No. (44) of 1992).

[31] Federal Law No. (17) of 2002.

[32] *Id.* In the U.A.E., a patent application is examined as to both formalities and substance including novelty, inventiveness and industrial applicability. *Id.* arts. 4–5. If the application is refused, the applicant has the right to appeal to a specialized committee in the Patent Office. *Id.* art. 12. Once an application is accepted, it is published in the Official Gazette. *Id.* art. 13. Any interested party has the right to oppose the acceptance of the patent. *Id.* The opposition must be filed with the designated committee within sixty days as of the date of publication in the Official Gazette. *Id.* In the absence of an opposition, the registration certificate is issued. *Id.* A patent is now valid for twenty years. *Id.* art. 14. However, this validity is contingent upon payment of annual maintenance fees. *Id.* art. 14. The right to a patent may be assigned or licensed. *Id.* art. 18, 20. In order for the assignment to be valid against third parties, it must be recorded at the Patent Office and published in the Official Gazette. *Id.* art. 18. Use of patents in the U.A.E. constitutes a crucial requirement for the validity of a registered patent. *Id.* art. 20. Thus, if the owner of a patented invention does not satisfy the stipulated "working", then the patent will be subject to compulsory licensing under the provisions of the law *Id.*

[33] *Id.* art. 1.

[34] PCT Applicant's Guide, International Phase, Annex B1, *available at* http://www.wipo.int/pct/guide/en/gdvol1/annexes/annexb1/ax_b_ae.pdf.

[35] Federal Law No. (17) of 2002, arts. 1, 70.

[36] *Id.* art. 2; Paris Convention for the Protection of Industrial Property, Mar. 20, 1883, 21 U.S.T. 1583, 828 U.N.T.S. 305, art. 2 [hereinafter Paris Convention] (amended 1978); *see also* Paris Convention for the Protection of Industrial Property, Contracting Parties (2008), *available at* http://www.wipo.int/export/sites/www/treaties/en/documents/pdf/paris.pdf (documenting that the

Trademarks in the U.A.E. are regulated and protected in accordance with Federal Law Number 19 for the year 2000 and Federal Law Number 8 for the year 2002, which implements the standards set by international agreements.[37] The new U.A.E. copyright law Number 7 of 2002 grants copyright protection for a period beginning with from the time of creation of the work and extending until 50 years after the author's death.[38] This law protects original works of authorship as well as related rights.[39] The law provides for the imposition of penalties, including fines and imprisonment.[40] It also allows for the destruction of infringing copies and equipment that are used to create them.[41]

U.A.E. became a member of the Convention on September 19, 1996).

[37] Federal Law No. (8) of 2002 (trademarks) (U.A.E.) (amending Federal Law No. (37) of 1992). According to this law, a mark need not be in use in the U.A.E. in order to qualify for registration. *Id.* arts. 6–7. The application should reveal the name, address and nationality of the applicant, as well as the goods or services that are to be covered by the mark. *Id.* art. 5. Once an application is filed, the application is examined. *Id.* arts. 13–15. The UAE trademark office applies the classification system of the Nice Agreement (8th edition). AL TAMIMI & CO., TRADEMARK LAW 8, www.tamimi.com/files/Legal%20Brochures/trademarkLaw.pdf (last visited Sept. 2, 2009). That revision includes dividing class 42 among four new classes of services, i.e., 42–45. International Classification of Goods and Services for the Purposes of the Registration of Marks 31–33, June 15, 1957, S. Exec. Doc. E, 500-1, 23 U.S.T. 1336, 550 U.N.T.S. 45 (8th ed. 2001), *available at* http://www.wipo.int/export/sites/www/classifications/nice/en/pdf/8_alphabetical_list.pdf. If, upon examination, the Office decides to accept the application, then it will proceed to issue a "Notice of Acceptance," and the mark will be published for oppositions in the Official Trademarks Gazette and in two local newspapers. Federal Law No. (8) of 2002, art. 14. An interested party may oppose the mark within 30 days. *Id.* arts. 13–15. The applicant needs to respond within 15 days of rejecting the opposition. *Id.* The trademark registrar rules on the application, and his decision may be appealed before the trademark committee which decision, in turn, may be appealed before the civil courts. *Id.* art. 15. At the conclusion of that process, and if the application is accepted, it is then registered by the Office. *Id.* art. 16. Indeed, if no oppositions are filed or if oppositions filed are unsuccessful, the mark will be registered, subject to payment of registration fees, and a certificate of registration will be issued by the office. *Id.* arts. 16, 47. A trademark registration is valid for a period of 10 years, and subject to payment of fees, can be renewed for consecutive periods of 10 years each. *Id.* art. 19. If a trademark registration is not renewed on time, the owner of the mark can still request to renew the registration, subject to a fine, within 3 months of its expiry. *Id.* The registered mark can be cancelled if it is not used, by its owner, in the U.A.E. for a consecutive period of 5 years. *Id.* art. 22.

[38] Federal Law No. (7) of 2002, §§ 4.20.1 (copyrights and neighboring rights) (U.A.E.). This is in accordance with Article 7(1) of the Berne Convention for the Protection of Literary and Artistic Works: "The term of protection granted by this Convention shall be the life of the author and fifty years after his death." Berne Convention for the Protection of Literary and Artistic Works, Sept. 9–May 4, 1886, S. Treaty Doc. No. 99-27, 1161 U.N.T.S. 3, art. 7(1) [hereinafter Berne Convention] (amended 1979).

[39] Federal Law No. (7) of 2002, §§ 2–3.

> The author's economic rights include the exclusive right to license the use of the work, through any means, particularly reproduction including electronic loading and storage, any form of representation, broadcasting or rebroadcasting, public performance or broadcasting, translation, modification, alteration, leasing, rental, lending or any form of publication including access through computer or information network, communication network or other means. The author shall also have the right to assign all or part of his economic right.

Al TAMIMI & CO., COPYRIGHT LAW: THE UAE COPYRIGHT & RELATED RIGHTS LAW 2–3, *available at* http://www.zu.ac.ae/library/html/UAEInfo/documents/UAECopyright.pdf.

[40] Federal Law No. (7) of 2002, §§ 7.37–.41.

[41] *Id.* § 7.40.

In addition to these laws, the U.A.E. has recently enacted two federal laws, namely Federal Law Number 1 of 2006 regarding Electronic Transactions and Commerce and Federal Law Number 2 of 2006 regarding Cybercrime.[42] These laws are deemed to constitute the centerpiece for creating a regulative framework in the U.A.E. that can address the challenges of the digital age.[43]

C. The Underlying Debate Regarding the Benefits of Intellectual Property Laws

As has been detailed above, the U.A.E. has enacted intellectual property laws in accordance with its international obligations (*i.e.*, TRIPS as well as WIPO administered treaties).[44] The question that presents itself here is: can this legal framework contribute, in whole or in part, to Dubai's economy?

The debate over the benefits of intellectual property laws on the economy of countries is framed by two opposing views.[45] On the one hand, proponents of intellectual property legislation contend that intellectual property protection is beneficial to all economies, notwithstanding their level of development.[46] In their view, such protection assists domestic producers to reap income that would otherwise be lost to counterfeiters (and "free riders") and encourages investments in developing countries by boosting the confidence of foreign investors.[47] Accordingly, intellectual property protection is said to provide incentives to develop local crafts, clothing, foods and services.[48] Furthermore, economic development is deemed to be a "dynamic process" in which intellectual property rights may be used fruitfully to help convert "free riders" into "fair followers."[49] This, in turn, contributes towards opening the local markets and creating new jobs.[50]

Others challenge this rosy picture.[51] They hold that developing countries have assumed the role of consumers rather than holders of intellectual property assets.[52]

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[42] Law No. (1) of 2006 (electronic transactions and commerce) (Dubai)), *available at* http://www.tecom.ae/law/law_1_amend.htm; Law No. (2) of 2006 (combating cyber crimes) (Dubai), *available at* http://www.aecert.ae/Prevention_of_Information_Technology_Crimes_English.pdf.

[43] *See* Bilal Khan & Atif Osman, *New Laws in the UAE*, NEWSLETTER (Emerites Int'l Law Firm, Abu Dhabi, U.A.E.), Apr. 2006, at 1–2, *available at* www.eilf.com/NewsletterApril2006.pdf.

[44] *See* discussion *supra* Part II.B.

[45] *Compare* SHAHID ALIKHAN, SOCIO-ECONOMIC BENEFITS OF INTELLECTUAL PROPERTY PROTECTION IN DEVELOPING COUNTRIES 42–45 (World Intellectual Prop. Org. 2000) (discussing the benefits of intellectual property protection for developing countries); *with* ASSAFA ENDESHAW, INTELLECTUAL PROPERTY POLICY FOR NON-INDUSTRIAL COUNTRIES 352–53 (Dartmouth 1996) (arguing against strict intellectual property protections for developing countries as it results in an importation only model instead of indigenous development).

[46] *See* ALIKHAN, *supra* note 45, at 43–44.

[47] J.H. Reichman, *From Free Riders to Fair Followers: Global Competition Under the TRIPS Agreement*, 29 N.Y.U. J. INT'L L. & POL. 11, 17–18, 24–26 (1997).

[48] KEITH E. MASKUS, INTELLECTUAL PROPERTY RIGHTS IN THE GLOBAL ECONOMY 179 (Inst. for Int'l Econ. 2000).

[49] Reichman, *supra* note 47, at 16, 50–51; *see* Amir H. Khoury, *The "Public Health" of the Conventional International Patent Régime & the Ethics of "Ethicals:" Access to Patented Medicines*, 26 CARDOZO ARTS & ENT. L.J. 25, 53 (2008) [hereinafter Khoury, *The "Public Health"*].

[50] *See id.* at 58–59.

[51] *See* ENDESHAW, *supra* note 45, at 146–47; Ruth Okodiji, *Back to Bilateralism? Pendulum Swings in International Intellectual Property Protection*, 1 U. OTTAWA L. & TECH. J. 125, 128–30,

Consequently, they contend that foreign investments do not materially contribute to these economies because they are primarily "'turnkey' projects that do not entail a substantial transfer of technology or expertise" or involve the use of foreign brands and creative content.[53]

I have previously concluded that each side to this debate bases its assertions from an opposing starting point; namely, the Development Theory, for the first view, and the Dependency Theory, for the second.[54] These two positions derive from a wider debate pertaining to the development of Third World countries.[55] That debate emanates from Development Studies and is prevalent in debates relating to political economy discourse.[56] That debate articulates and accentuates two distinctly different views as to how developing countries need to proceed in order to attain development.[57]

During the 1950s and the 1960s, various scholars associated with the comparative politics approach formulated the Modernization Theory,[58] also referred to as the Development Theory, which attempted to show how developing countries could achieve development.[59] Development theorists contend that Third World countries should follow a path to economic and political modernization that is similar to the one the First World had traveled.[60] In practical terms, developing countries are advised to "acquire modern cultural values and create modern political and economic institutions."[61]

Development Theory is based on the premise that the only way for non-industrialized countries to develop is by following in the footsteps of developed countries and by adopting the latter's standards, values, conduct and legal structure.[62] In its attempt to tackle economic and technological underdevelopment, Development Theory also calls for the "transplantation" of legal systems and norms

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139–40 (2004); *see also* Angela R. Riley, *Indigienous Peoples and the Promise of Globalization: An Essay on Rights and Responsibilities*, 14 KAN. J.L. & PUB. POL'Y 155, 156, 160 (2004) (discussing international economic disparities and the conflict between "Western intellectual property law" and indigenous peoples' rights to "self-determination").

[52] *See, e.g.*, ENDESHAW, *supra* note 45, at 146–47.

[53] Amir H. Khoury, *Trademark Policy: The Case of Arab Countries*, *in* INTELLECTUAL PROPERTY, TRADE AND DEVELOPMENT: STRATEGIES TO OPTIMIZE ECONOMIC DEVELOPMENT IN A TRIPS-PLUS ERA 300 (Daniel J. Gervais ed., Oxford Univ. Press 2007).

[54] *Id.* at 301–04 (outlining the Development Theory debate).

[55] ENDESHAW, *supra* note 45, at 13–19 (discussing theories on the development of Third World countries).

[56] *See* Esayas Bekele Geleta, Development as a Background 5–6 (June 2005) (unpublished manuscript, *available at* http://ssrn.com/abstract=740527); *see generally* Gustav Ranis, *The Evolution of Development Thinking: Theory and Policy* (Yale Univ. Econ. Growth Ctr., Discussion Paper No. 886, 2004), *available at* http://ssrn.com/abstract=551645 (discussing economic development theory post-World War II).

[57] Khoury, *supra* note 53, at 301–04 (outlining the debate on development versus dependency theories as applied to third world countries).

[58] ENDESHAW, *supra* note 45, at 14.

[59] *See generally* JAMES COLEMAN ET AL., THE POLITICS OF THE DEVELOPING AREAS (Gabriel Almond & James Coleman eds., Princeton Univ. Press 1960) (discussing developing countries' challenges and how they can achieve development); SAMUEL P. HUNTINGTON, POLITICAL ORDER IN CHANGING SOCIETIES (Yale Univ. Press 1968) (discussing political development theory).

[60] HOWARD HANDELMAN, THE CHALLENGE OF THIRD WORLD DEVELOPMENT 13 (3d ed. 2003).

[61] *Id.* at 15.

[62] ENDESHAW, *supra* note 45, at 14.

from industrialized countries (ICs) to non-industrialized countries.[63] In this context, Development theorists submit that "ICs have developed because of the existence of specific forms of laws and institutions while non-ICs failed to do so because they had no such laws and institutions or were 'traditional.'"[64]

But the Development Theory has not gone unchallenged.[65] Its skeptics have argued that people, nations, and countries have, throughout history, charted different paths of development.[66] As such, no specific path of development should be singled out. It is further argued that re-enacting the steps undertaken by today's industrialized countries is not a viable option because it is not possible to reconstruct the circumstances under which those countries have developed.[67] Indeed, during the late 1960s and 1970s, a number of social scientists in Latin America and the United States formulated a theory of Dependency.[68] This theory maintains that the methods that are advocated by Development theorists "merely serve[] to widen the economic rift between the rich 'North' and the poor 'South'" to the detriment of the latter.[69] This state of affairs is attributed to the unequal distribution of wealth, knowledge, production capabilities as well as intellectual property assets.[70]

At its core, the Dependency theory reflects the view that the "world capitalist economy has resulted from a relation[ship] of domination by a few 'metropolitan' countries (the '[Center]') and the 'subjugation' and subordination of most of Africa, Asia and Latin America (the 'periphery')."[71] According to this line of reasoning, the "Periphery" was prevented from attaining industrialization and remained the supplier of primary products.[72] Those theorists conclude that colonization of the "'Periphery' by the 'Center' has cemented the relationship between the two into 'passivity' and 'dynamism,' respectively."[73]

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[63] *Id.* at 5.

[64] *Id.*

[65] *See id.* at 2.

[66] *See id.*

[67] *See id.* at 2, 4.

[68] *See* HANDELMAN, *supra note* 60, at 17; *see also* ANDRE GUNDER FRANK, CAPITALISM AND UNDERDEVELOPMENT IN LATIN AMERICA: HISTORICAL STUDIES OF CHILE AND BRAZIL 145–146 (Monthly Rev. Press 1967) (tracing and explaining Brazil's limited capitalist development).

[69] Khoury, *The "Public Health," supra* note 49, at 52; Amir H. Khoury, *Measuring the Immeasurable – The Effects of Trademark Régimes: A Case Study of Arab Countries,* 26 J.L. & COM. 11, 13 (2008) [hereinafter Khoury, *Measuring the Immeasurable*]; *see* HANDELMAN, *supra note* 60, at 17–18.

[70] HANDELMAN, *supra note* 60, at 17–18.

> Today, however, newly industrialized countries must compete against such well-established industrial giants as the United States, Japan, and Germany . . . [and] have to borrow financial capital and purchase advanced technology from the developed world, thereby making them dependent on external economic forces beyond their control and weakening their development.

Id. Countries are likely to be consumers rather than owners of intellectual property. *Id.* Similarly, foreign investments are of little use to developing economies because they lack a real transfer of technology and are primarily "turnkey" projects that retain control over the intellectual property subject matter. Khoury, *supra* note 53, at 300.

[71] *See, e.g.*, ENDESHAW, *supra* note 45, at 2.

[72] Khoury, *The "Public Health," supra* note 49, at 52; *see* ENDESHAW, *supra* note 45, at 3.

[73] Khoury, *The "Public Health," supra* note 49, at 52; *see* ENDESHAW, *supra* note 45, at 3 (stating that this relationship has reflected negatively on the countries of the "Periphery" in various

> Supporters of the Dependency theory further contend that this unbalanced exchange (between the "Center" and the "Periphery") is manifested by the permanent transfer of value-added products from the "Center" to the "Periphery." That, in turn, is said to have caused a lack of foreign currency reserves and lack of capital accumulation in countries of the "Periphery." Thus, a vicious circle has been created, whereby countries of the "Periphery" were largely relegated to the production and export of food and raw materials and forced to trade for industrial imports on unfavorable terms.[74]

Accordingly, Dependency theorists claim that developing countries cannot develop by merely copying "Western" values and standards because they will always be dependent on "Western" capital and technology.[75] This would also mean that that intellectual property protection, *per se*, will ultimately only serve the industries of developed countries, which hold the intellectual property assets, and will, as a matter of course, hamper the efforts of developing nations to compete in the global marketplace.[76] In effect, "Dependency theorists are pessimistic about the possibility of bridging the gap between the 'Center' and the 'Periphery'. . . ."[77] They reject the developmental notion according to which the eradication of underdevelopment in non-industrialized countries can be achieved when those countries adopt the norms that are invoked by industrialized countries, including intellectual property protection.[78] This is especially true given the low "Intellectual Property Potential" of developing countries.[79]

Consequently, Dependency theorists call for severing the ties of dependency.[80] They contend that the Development theory cannot justify stringent intellectual property protection in developing countries because adopting modern standards of intellectual property protection does not automatically entail economic benefits.[81] In fact, in light of the demands of globalization, developing countries are unable to maintain their economic independence and are "coerced into adopting concepts of 'free trade' and 'competition'" as well as "abandoning concepts of 'self-sufficiency' and 'independence.'"[82] As a result, they become "'victims' of globalization because they

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ways including the exchange process, the freedom of independent economic decision-making, and the proliferation of technology).

[74] Khoury, *The "Public Health," supra* note 49, at n.114; *see* ENDESHAW, *supra* note 45, at 3.

[75] Khoury, *The "Public Health," supra* note 49, at 52; *see* WALDEN BELLO, *The Iron Cage: The WTO, the Bretton Woods Institutions, and the South*, *in* WHY REFORM OF THE WTO IS THE WRONG AGENDA 51–52 (Focus on the Global South 1999), *available at* http://focusweb.org/publications/Books/wto%202.pdf.

[76] ENDESHAW, *supra* note 45, at 6–7.

[77] Khoury, *The "Public Health," supra* note 49, at 52; *see* BELLO, *supra* note 75, at 59.

[78] Khoury, *The "Public Health," supra* note 49, at 52–53; *see* ENDESHAW, *supra* note 45, at 6–7.

[79] *See* MASKUS, *supra* note 48, at 6 (stating that developing countries import new technologies and products); NEW HORIZONS IN INTELLECTUAL PROP., THE INTELLECTUAL PROPERTY DEBATE: PERSPECTIVES FROM LAW, ECONOMICS AND POLITICAL ECONOMY 172 (Meir Perez Pugatch ed., Edward Elgar Publ'g Ltd. 2006) (stating that companies do not patent products in developing countries because of the "low commercial market potential"); Khoury, *Measuring the Immeasurable, supra* note 69, at 40, 44–45 (explaining that developing countries have a low "trademark potential").

[80] ENDESHAW, *supra* note 45, at 4; Khoury, *Measuring the Immeasurable, supra* note 69, at 17.

[81] *See id.* at 5–7.

[82] Khoury, *The "Public Health," supra* note 49, at 44–45; *see, e.g.*, Okodiji, *supra* note 51, at 139–40.

have effectively delegated their powers of economic decision-making" to Western-controlled (transnational) corporations.[83] This has led some commentators to refer to this civilization of consumption as "Americanization,"[84] "McDonaldization,"[85] or even the "Coca-Colonization"[86] of the world.[87] Thus, they submit that, the Third World does not need this "market dictatorship" and "modern imperialism," but rather requires real opportunities for growth and stability.[88] Consequently, those that oppose stringent intellectual property protection have stressed the need for a creative intellectual property régime that is more receptive to the needs of developing countries.[89] Therefore, proponents of Dependency Theory advocate a proactive approach, whereby developing countries should exercise self-sufficiency by producing and manufacturing what they consume.[90] This is referred to as the "Import Substitution" model.[91]

The Dependency Theory can also be scrutinized. One such counter argument against it rests on the free trade model according to which there should be no interference in the economies of states.[92] Further to the principle of "comparative advantage," each country that seeks to raise its productivity should limit its production to sectors in which it enjoys a comparative advantage.[93] Thus a country would produce more in relatively less time while incurring fewer expenses and would be able to engage in trade with other countries that can produce other products.[94]

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[83] Khoury, *The "Public Health," supra* note 49, at 49–50; *see* ENDESHAW, *supra* note 45, at 3.

[84] ULRICH BECK ET AL.,GLOBAL AMERICA?: THE CULTURAL CONSEQUENCES OF GLOBALIZATION 36 (Liverpool Univ. Press 2003) ("The propagation of American ideas, customs, social patterns, industry and capital around the world.").

[85] *Id.* ("[T]he process by which the principles of the fast food restaurant are coming to dominate more and more sectors of American society as well as the rest of the world.").

[86] Farid Esack, *Muslims Engaging the Other and the Humanum*, 14 EMORY INT'L L. REV. 529, 541–42 (2000).

[87] James Q. Whitman, *Consumerism Versus Producerism: A Study in Comparative Law*, 117 YALE L.J. 340, 343–44 (2007).

[88] Khoury, *The "Public Health," supra* note 49, at n.105; *see* ENDESHAW, *supra* note 45, at 15, 26–27.

[89] Khoury, *Measuring the Immeasurable, supra* note 69, at 17; *see* Endeshaw, *supra* note 45, at 8; HANDELMAN, *supra* note 60, at 273–75.

[90] Khoury, *Measuring the Immeasurable, supra* note 69, at n.16; *see* HANDELMAN, *supra* note 60, at 272–75 (discussing the "Import Substitution Industrialization" model where a developing country consumes what it produces).

[91] *See* HANDELMAN, *supra* note 60, at 226 (providing for an account of various "Industrial Strategies" undertaken by some third world countries, including an "Import Substitution Industrialization" model, such as in Latin America, and an Export-Oriented Industrialization model such as the "Asian Tiger Economies").

[92] *See* Carlos A. Primo Braga et al., *Intellectual Property Rights and Economic Development* 48 (World Bank, Discussion Paper No. 412, 2000).

[93] BEVERLY M. CARL, TRADE AND THE DEVELOPING WORLD IN THE 21ST CENTURY 32 (Transnational Publishers 2001); *see* FRIEDRICH LIST, THE NATIONAL SYSTEM OF POLITICAL ECONOMY 369 (Augustus M. Kelley Publishers 1966) (1855).

[94] *See* CARL, *supra* note 93, at 32. Thus, the "overall efficiency is thereby boosted, the size of the world's economic pie is increased and a higher standard of living provided for all." *Id.* This free-trade model also entails a division or allocation of labor according to the specialized needs of the industry in a given country. *See id.* In other words, not only is a country supposed to limit its production to areas, where it enjoys a comparative advantage, it is also required to orient its entire work force towards that end. *See id.* The theory of comparative advantage requires an environment of free trade so that its full potential can be realized. *Id.* at 32–33. Consequently, countries have

Furthermore, it might be possible to entertain an argument according to which the free trade model does not negatively impact the intellectual property potential of a country.[95] The rationale for that argument might be that the comparative advantage doctrine that is at the heart of the free trade model merely reflects the facts on the ground, *i.e.*, that some countries' economies are geared toward innovation while others have a comparative advantage in the extractive industries and in agriculture.[96]

One way of responding to this is by arguing that the Dependency Theory is not directly intended to derogate from the principle of comparative advantage, but rather to contribute to its prudent implementation by disavowing the regulatory structure that preserves the "Center-Periphery" model.[97] In other words, in order to implement the principle of comparative advantage in the most optimal manner, the world economy needs to do away with all those hurdles to trade including hurdles that have been created by the WTO-TRIPS system.[98] In fact, the drafters of the TRIPS agreement foresaw a possibility whereby the TRIPS itself could potentially hamper free trade.[99] Article 8(2) of the TRIPS agreement plainly prescribes the principle according to which: "[a]ppropriate measures, provided that they are consistent with the provisions of this Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology."[100]

Indeed, in the wider context, the principle of comparative advantage itself has not been without skeptics.[101] Those skeptics view it as a structurally-biased system which preserves a status quo of production vis-à-vis consumption among the North and South respectively.[102] They further contend that even as early as the 19th

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been obligated through GATT-WTO to adopt a free market system, to remove trade restrictions and to shift their economies towards privatization and openness. *Id.* at 35–36.

[95] *See* Primo Braga, *supra* note 92, at 27.

[96] *See* CARL, *supra* note 93, at 32; LIST, *supra* note 93, at 369.

[97] *See* AILEEN KWA, POWER POLITICS IN THE WTO 59 (Alec Bamford ed., 2d ed. 2003). It should be noted that the theory of comparative advantage is not the only model of international trade. *See* HANDELMAN, *supra* note 60, at 271–72. A variety of substitute theories and concepts have been introduced. *Id.* In this regard, one critic of the WTO advocates a "change from a 'trade creates wealth' to one that stresses broad based development," in order to "improve the living standards of the world's poor and ensure the long-term sustainability of resources." Aileen Kwa, Focus on the Global South (Bangkok), *WTO and Developing Countries*, FOREIGN POL'Y IN FOCUS, Nov. 1998, at 3, *available at* http://www.fpif.org/pdf/vol3/37ifwto.pdf. That review calls on the WTO to emphasize greater self-sufficiency of economics nationally and regionally. *Id.*

[98] *See generally* BELLO, *supra* note 75 (discussing the challenges created by the WTO-TRIPS system for developing countries).

[99] *See* Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, Legal Instruments—Results of the Uruguay Round, 33 I.L.M. 1125, 1869 U.N.T.S. 299 (1994) [hereinafter TRIPS Agreement], *available at* http://www.wto.int/english/docs_e/legal_e/27-TRIPS.pdf.

[100] *Id.* art. 8(2).

[101] *See* CARL, *supra* note 93, at 33.

[102] *Id.* at 32 (observing that "some advocate free trade; others believe that a greater or lesser degree of protectionism is necessary. Import substitution and state intervention are desirable to some, anathema to others."). According to Carl:

> During the 19th and early 20th century, international trade was relatively free.
> Under the dominance of the colonial powers, the developing nations became

century, developing countries were sidelined in terms of development and a simple, but unjust system evolved, whereby "the South supplied the commodities to the North and served as a market for its industrialized goods."[103] Thus, while exports by developing countries were primarily comprised of primary commodities, exports to the South, from industrialized countries, primarily consist of manufactured goods.[104] Consequently, the WTO and its underlying principles of free and unrestricted trade are said to contribute to increasing the intellectual property deficit of developing countries because these countries are merely import destinations for manufactured goods from developed countries.[105]

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From the ongoing Dependency-Development debate, it is possible to conclude that while intellectual property protection might be a necessary condition for moving toward development, it is not a sufficient condition for realizing such development.[106] Indeed, while some argue that intellectual property protection is a precondition for international trade and for the success of any given country (or nation),[107] others regard such protection as a non-universal norm that is not applicable to non-industrialized societies.[108] As such, they regard intellectual property as merely an economic tool of Western monopoly.[109] In light of this Debate it appears that what Dubai has done by way of amending its intellectual property legislation and enacting new laws, will not raise its intellectual property and will only serve foreign IP holders that may be trying to sell their products, content or brands therein.

However, my contention is that Dubai has managed to transcend the dependency fears by reinvigorating its intellectual property potential. In the next section, I demonstrate how Dubai has embarked on a proactive approach wherein its

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> "export" economies, composed primarily of mines and plantations . . . . Little processing of the minerals or agricultural products was carried on within the developing countries; rather the raw materials were usually exported to the industrialized nations for further refining or manufacture.

Id. at 33.

[103] *Id.* at 34.

[104] *Id.* at 34–35.

[105] *See id.* (referring to a study by Dr. Raul Prebisch, the executive president of United Nations Conference on Trade and Development). The reason for such a downward effect was that the price of products of developing countries (primary products) would tend to decline relative to the prices of imports from industrialized countries. *See id.* at 19 (explaining that "developing nations, in response to urgings from international institutions and from industrialized countries, have significantly reduced their own tariffs and non-tariff barriers to imported goods. The lowering of these duties has led to an increased demand in developing nations for manufactured goods and capital equipment from the industrialized world.").

[106] *See* Primo Braga, *supra* note 92, at 12–17.

[107] *See* Robert M. Sherwood, *Human Creativity for Economic Development: Patents Propel Technology*, 33 AKRON L. REV. 351, 354, 356–57 (2000); *see generally* MASKUS, *supra* note 48 (arguing that IPRs provide an important foundation for promoting technology transfer, local innovation and economic growth in the long run).

[108] Ruth L. Gana, *The Myth of Development, The Progress of Rights: Human Rights to Intellectual Property and Development*, 18 LAW & POL'Y 315, 323, 326 (1996).

[109] *See, e.g.*, Keith Maskus, *Intellectual Property Rights and Economic Development*, 32 CASE W. RES. J. INT'L L. 471, 492 (2000).

own intellectual property potential has been raised. It seems that Dubai has escaped the grasp of dependency. I will demonstrate how Dubai has created an integrated environment for innovation and creativity which, in effect, has laid down the foundations for moving from being consumers of intellectual property subject matter to creators thereof. Interestingly, this move has not been limited to patents and copyrights but has also, in an ingenious twist, infiltrated the branding sector as well.

III. DUBAI'S MULTILAYERED MODEL RELATING TO BOOSTING ITS INTELLECTUAL PROPERTY POTENTIAL

During the past decade, Dubai has been engaged in creating a fertile environment in which not only can foreign intellectual property rights flourish, but also its own intellectual property has been developed and enhanced. This has been realized through a multilayered system that is essentially a synthesis between national infrastructure and collaboration with foreign intellectual property holders. In this manner, Dubai has started to make intellectual property work for it. This section uncovers Dubai's strategic steps in this regard.

A. Crafting the Legislative Infrastructure

As mentioned in the preceding section, the U.A.E. has enacted intellectual property laws that address its international obligations and which emanate from TRIPS as well as other treaties.[110] However, Dubai has not stopped there. Rather, during the last few years, it has embarked on what amounts to an expansive legislative project that has been geared towards creating a legislative framework that is intended to nurture a "Dubai initiative" for creating a substantial intellectual property hub within.[111] In 2000, Dubai enacted Law Number 1 of 2000 of the Emirate of Dubai establishing the Dubai Technology, Electronic Commerce and Media Free Zone.[112] This law has subsequently been amended three times in order to bring it in par with new technological needs: Law Number 9 of 2003;[113] Law Number 11 of 2004[114] and Law Number 1 of 2006.[115] In addition to that law, in 2002 Dubai enacted Law Number 2 of 2002 of the Emirate of Dubai – Electronic Transactions

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[110] *See* discussion *supra* Part II.B.

[111] Federal Law No. (7) of 2002 (copyrights and neighboring rights) (U.A.E.); Federal Law No. (8) of 2002 (trademarks) (U.A.E.) (amending Federal Law No. (37) of 1992); Federal Law No. (17) of 2002 (industrial regulation and protection of patents, industrial drawings and designs) (U.A.E.) (amending Federal Law No. (44) of 1992).

[112] Law No. (1) of 2000, amended 2006 (technology, electronic commerce and media free zone (Dubai), *available at* http://www.tecom.ae/law/law_1.htm.

[113] Law No. (9) of 2003 (technology, electronic commerce and media free zone (Dubai) (amending Law No. (1) of 2000), *available at* http://www.tecom.ae/law/law_12.htm.

[114] Law No. (11) of 2004 (technology, electronic commerce and media free zone (Dubai) (amending Law No. (1) of 2000), *available at* http://www.tecom.ae/law/law_15.htm.

[115] Law No. (1) of 2006 (technology, electronic commerce and media free zone) (Dubai) (amending Law No. (1) of 2000), *available at* http://www.tecom.ae/law/law_1_amend.htm.

and Commerce.[116] In that same year Dubai enacted Law Number 6 for 2002 - Formation and Protection of the Telecommunication Network for Dubai Internet City.[117]

The aggregate effect of these laws has been to promote Dubai as a center for technology, electronic commerce and media. Thus, for example, the Law Number 1 of 2000 of the Emirate of Dubai establishing the Dubai Technology, Electronic Commerce and Media Free Zone sets the framework for establishing a university and research center in order to attain these purposes.[118] In addition, these laws are viewed as important regulatory tools that can assist Dubai in becoming an offshore center for e-commerce.[119]

B. Generating Localized Platforms for Research & Development

Notwithstanding the expansive legislative undertakings, Dubai's legislative infrastructure falls short of providing the tools for boosting the intellectual property potential of Dubai. In other words, these laws need to be complemented by action on the ground that can provide an incentive for foreign corporations to bring their technology and knowhow into that emirate.[120] It is worth noting that, in the narrow intellectual property context, foreign corporations would not have a real incentive to have a formal corporate presence in Dubai.[121] That is primarily because the intellectual property laws of the U.A.E. do not discriminate against foreign entities.[122] Those foreign corporations enjoy "national treatment" in accordance with the U.A.E.'s obligations under the Paris and Berne conventions and the TRIPS agreement.[123] Thus, for example, a foreign holder of intellectual property is entitled to the same rights and protection that is granted to a locally registered corporation.[124] Nevertheless, Dubai has managed to create a system of corporate registration whereby corporations are encouraged to establish an active local presence therein.[125]

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[116] Law No. (2) of 2002 (electronic transactions and commerce) (Dubai), *available at* http://www.tecom.ae/law/law_2.htm.

[117] Law No. (6) of 2002 (formation and protection of the telecommunication network for Dubai Internet City) (Dubai), *available at* http://www.tecom.ae/law/law_3.htm.

[118] Law No. (1) of 2000, art. 8.

[119] *See* Stephen Blythe, *The Dubai Electronic Transactions Statute: A Prototype for E-Commerce Law in the United Arab Emirates and the G.C.C. Countries*, 23 J. ECON. & ADMIN. SCI. 103, 104 (2007).

[120] *See* Law No. (1) of 2000 (providing the regulatory and legal framework for foreign companies to operate within Dubai).

[121] *Id.* arts. 9(6), 11–12 (providing that foreign and local companies are treated equally under Dubai Free Zone Law).

[122] *Id.*

[123] Paris Convention, *supra* note 36, art. 2, Berne Convention, *supra* note 38, art. 3; TRIPS Agreement, *supra* note 99, art. 1(3).

[124] Paris Convention, *supra* note 36, art. 2, Berne Convention, *supra* note 38, art. 3; TRIPS Agreement, *supra* note 99, art. 1(3).

[125] *See* Donboli & Kashefi, *supra* note 14, at 439–41 (describing the relative ease and economy with which a foreign company may establish a presence in Dubai's Free Zones).

In 2004, the Dubai International Financial Centre (DIFC) was established[126] with the aim of creating "an environment for progress and economic development in the UAE and the wider region."[127] It is thought to be "the world's fastest growing international financial centre."[128] Additionally, a year later the Dubai International Financial Exchange (DIFX), now NASDAQ Dubai, was established.[129] The DIFC focuses on various aspects of financial dealings and which, in some cases, have a direct impact on intellectual property development.[130] Foreign corporations are flocking to register with DIFC and to operate therein, due to the significant benefits that such registration entails.[131] These benefits include a zero tax rate on profits; one hundred percent foreign ownership; as well as a lack of restrictions on foreign exchange or repatriation of capital.[132] It is also worth mentioning that various legal entities can register with DIFC, including a company limited by shares (LTD) or limited liability company (LLC).[133] Furthermore, the Companies Law facilitates the establishment of a branch office of a pre-existing foreign "Recognized Company."[134] Interestingly, that law also allows for the transfer of an existing company to the DIFC from another jurisdiction.[135] In that case the transferred company would be referred to as a "Continued Company."[136] In addition to the methods of incorporation that are provided by the Companies Law, the Limited Liability Partnership Law also allows for the establishment, with DIFC, of Limited Liability Partnerships (LLP), or a branch of a pre-existing foreign Limited Liability Partnership (RLLP).[137]

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[126] Federal Decree No. (35) of 2004, art. 1 (establishment of a financial free zone in Dubai) (U.A.E.), *available at* http://difc.ae/laws_regulations/laws/enacted_laws.html/ (follow the PDF hyperlink below "Federal Decree No. (35) of 2004"); Law No. (9) of 2004, art. 3 (Dubai International Financial Centre) (Dubai), *available at* http://difc.ae/laws_regulations/laws/enacted_laws.html/ (follow the PDF hyperlink below "The Law of the Dubai Internaitonal Finance Centre").

[127] Dubai International Financial Centre, http://www.difc.ae/index.html (last visited Aug. 29, 2009).

[128] *Id.*

[129] *See* NASDAQ Dubai, http://www.nasdaqdubai.com/aboutus/index.html (last visited Aug. 29, 2009).

[130] eeS Dubai International Financial Centre, supra note 127. The DIFC focuses on various issues including banking services (investment banking, corporate banking & private banking), capital markets (equity, debt instruments, derivatives and commodity trading), and asset management. *Id.* In addition to these, the DIFC focuses on several other sectors including fund registration; insurance and re-insurance; Islamic finance and professional service providers. *Id.*

[131] *See* DUBAI INT'L FIN. CTR., DOING BUSINESS IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE 8 (PricewaterhouseCoopers 2009), *available at* http://www.pwc.com/en_M1/m1/publications/doing-business-in-the-difc-2009.pdf.

[132] Dubai International Financial Center Law No. (3) of 2006, §§ 11.115–.116, 14.151 (companies) (Dubai), *available at* http://difc.ae/laws_regulations/laws/enacted_laws.html (follow the PDF hyperlink below "Companies Law").

[133] *Id.* § 3.9.

[134] *Id.* §§ 11.115–.116.

[135] *Id.* §§ 12.117–.122.

[136] *See id.*

[137] Dubai International Financial Center Law No. (5) of 2004, §§ 2.8, 4.14(1), 8.36–.37 (limited liability partnership) (Dubai), *available at* http://difc.ae/laws_regulations/laws/enacted_laws.html (follow the PDF hyperlink below "Limited Liability Partnership Law"). Furthermore, the General Partnership Law allows for registering a general partnership (GP) or branch of a pre-existing foreign general partnership (RP). Dubai International Financial Center Law No. (11) of 2004, §§ 2.12–.13 (general partnership) (Dubai), *available at* http://difc.ae/laws_regulations/laws/enacted_laws.html (follow the PDF hyperlink below "General Partnership Law"). It should be noted that

Generally, foreign corporations that are registered in DIFC are entitled to retain their connection with their foreign mother company or partnership.[138] If a foreign corporation transfers its entire incorporation to DIFC, however, then it is considered to have become a national corporation that is bound by the local Companies Law (in the case of a corporation) or a partnership under the local Limited Partnership Law.[139] Thus, the DIFC law provides significant financial incentives to foreign entities that are engaged in research and development, including startup entities.[140] In other words, such entities need not be satisfied solely with their "national treatment" standing with respect to intellectual property rights, but rather may opt to register and cooperate within the DIFC framework, thereby expanding the interface with local entities and corporations that are engaged in similar projects.[141]

The DIFC has helped to transform Dubai into the "New Delaware" for corporations that are engaged in R&D and which retain significant control over intellectual property subject matter.[142] This in turn, has increased the likelihood for establishing bilateral cooperation (in research and development) between Dubai's national industry and those foreign corporations that have been registered therein.[143] Indeed, the physical proximity of those corporations adds to the potential of expanding cooperation not only in the form of Foreign Direct Investments that are sometimes viewed with suspicion,[144] but also as a vessel for the transfer of technology and access thereto. For example, in September 2007 the Dubai Silicon Oasis established the first R&D Laboratory in the U.A.E.[145] Also, Microsoft Gulf has

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limited partnership (LP) or a branch of pre-existing limited partnership (RLP) may also register with DIFC in accordance with the Limited Partnership Law. Dubai International Financial Center Law No. (4) of 2006, § 2.9 (limited partnership) (Dubai), *available at* http://difc.ae/laws_regulations/laws/enacted_laws.html (follow the PDF hyperlink below "Limited Partnership Law"). Moreover, DIFC also accepts the registration of existing limited partnership originating in other jurisdictions (Continued Limited Partnership/Foreign Limited Partnership). *Id.* § 8.

[138] *See* Dubai International Financial Center Law No. (3) of 2006, § 11.116.

[139] *Id.* § 12.119.

[140] *Id.* §§ 11.115–.116, 12.117–.122, 14.151; *see also* DUBAI INT'L FIN. CTR., *supra* note 131, at 8 (listing benefits that institutions can gain from registering with the DIFC).

[141] *See* discussion *supra* Part III.B.

[142] *See* DUBAI INT'L FIN. CTR., *supra* note 131, at 6 (stating that eighty percent of Fortune 500 companies are established in Dubai and that over 120 different countries represent over 6,000 companies located in the Jebel Ali Free Zone); *see also* UNITED NATIONS, WORLD INVESTMENT REPORT 2007: TRANSNATIONAL CORPORATIONS, EXTRACTIVE INDUSTRIES AND DEVELOPMENT 253, Annex B.1 (2007) (indicating that the U.A.E. had approximately $8.4 million in foreign direct investments in 2006).

[143] *See* Donboli & Kashefi, *supra* note 14, at 439 (describing the U.A.E.'s efforts to encourage foreign businesses to operate in the country to enhance its development).

[144] *See, e.g.*, U.S. GOV'T ACCOUNTABILITY OFFICE, FOREIGN INVESTMENT: IMPLEMENTATION OF EXON-FLORIO AND RELATED AMENDMENTS 2 (1995), *available at* http://www.gao.gov/archive/1996/ns96012.pdf (discussing restrictions on foreign direct investment in the United States to prevent the loss of "leading-edge" technology).

[145] Press Release, AME Info, Dubai Silicon Oasis Establishes First R&D Laboratory in the UAE (Sept. 9, 2007) (on file with The John Marshall Review of Intellectual Property Law), *available at* http://www.ameinfo.com/131407.html. Dr. Eesa Mohammad Bastaki, Director of Education & Technology - Dubai Silicon Oasis Authority (DSOA) explains that "Through the establishment of the Research and Development Laboratory, we aim to compete on a global level through attracting more knowledge-based innovations such as Integrated Circuit design centers, R&D facilities, and Semiconductor manufacturing companies." *Id.*

established a Microsoft Innovation Centre in Dubai.[146] That centre is based around the theme of a digital lifestyle and sponsors applications for digitalized homes, communities and cities.[147]

A similar model has been implemented with respect to companies operating in Dubai Internet City (DIC). DIC is an initiative that is geared towards bringing various internet corporations, large and small, local and foreign, under one roof.[148] The similarity lies in two elements, namely a package comprised of substantial financial incentives coupled with an active physical presence in the country.[149] These elements are enhanced because the "DIC offers both 100 per cent tax exemption and 100 per cent business ownership."[150] These two substantial incentives have prompted "global giants" such as IBM, Microsoft and Cisco Systems to establish a presence therein.[151] But even more importantly, DIC has, due to this strategic and cost effective platform, the potential to attract many small and medium size businesses as well as promising entrepreneurial ventures.[152] The activities of those entities within DIC cover a variety of sectors, including software development, business services, web-based e-Commerce, consultancy, sales and marketing and back office.[153] This "on the ground" approach brings development and research closer to local scientists and technicians.[154] This in itself, can act as a stimulus for boosting local innovation.[155] Thus, the model transcends the conventional purchase of products or rendering of services, by shifting to the creation of a real partnership between the local and foreign, one in which the local trademark potential can be

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[146] *See* MICROSOFT, MICROSOFT TECHNOLOGY CENTERS: DUBAI, *available at* http://www.microsoft.com/mtc/locations/Dubai.mspx (follow "learn more" hyperlink).

[147] Press Release, Zawya, Living is Easy with Microsoft & Energy City Qatar (Mar. 6, 2007) (on file with The John Marshall Review of Intellectual Property Law), *available at* http://www.zawya.com/printstory.cfm?storyid=ZAWYA20070307050433&l=050400070306.

[148] *See* Dubai Internet City - Why Dubai Internet City?, http://www.dubaiinternetcity.com/why_dubai_internet_city/ (last visited Aug. 29, 2009).

> DIC provides an environment that attracts all elements of the ICT value chain, and in addition, has developed several programmes that can be leveraged by the community to explore and expand channel development opportunities. Companies are privy to an advanced Metro Ethernet broadband infrastructure and a range of business-enabling services including government transactions. DIC also has the world's largest commercial IP Telephony network.

Id.

[149] *See id.*

[150] *See id.*

[151] *See id.* (reporting that other corporations that now have an established presence in DIC include HP, Dell, Siemens, Sun Microsystems, Computer Associates, PeopleSoft and Sony Ericsson).

[152] Press Release, Dubai Internet City, DIC Supports Focus Softnet's Roadshow (Oct. 20, 2008) (on file with The John Marshall Review of Intellectual Property Law), *available at* http://www.dubaiinternetcity.com/press_centre/press_releases/67/.

[153] *See* Dubai Internet City, *supra* note 148. The term "back office" refers to the section of most corporations where tasks dedicated to running the company itself take place (i.e. the administrative section). THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 131 (4th ed. 2000).

[154] *See* Press Release, Dubai Internet City, Intel Unveils Innovation Center in Dubia Internet City (Dec. 12, 2006) (on file with The John Marshall Review of Intellectual Property Law), *available at* http://www.dubaiinternetcity.com/press_centre/press_releases/33/.

[155] *Id.*

bolstered.[156] In this way, DIC can foster a dynamic environment where research and development can flourish and not less importantly, where "foreign" knowledge is interwoven into local talent.[157]

Notwithstanding these above initiatives, it appears that the crown jewel of the R&D infrastructure of Dubai manifests itself in the Dubai Biotechnology and Research Park ("DuBiotech").[158] This new initiative aims to attract biotechnology related R&D in the U.A.E..[159] DuBiotech is currently the world's first free zone dedicated to the life science industry.[160] DuBiotech has created a unique business environment and a package of incentives that is intended to encourage corporations to initiate operations at the Park.[161] Among other things, DuBiotech grants to corporations full foreign ownership, repatriation of profits and tax exemption.[162] It also provides for easy incorporation with minimal formalities, fast track immigration and customs procedures, long term land leases, guaranteed fifty years exemption from personal income and corporate taxes.[163] DuBiotech has already managed to attract key players in the pharmaceutical and biotechnology industries, as well as entrepreneurs, drug manufacturers, and industry specific business support services.[164] DuBiotech companies cover the types of industries including biotechnology; medical; industrial; agricultural; environmental; equine/animal/marine; pharmaceuticals; neutraceuticals;[165] nanotechnology;[166]

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[156] *See id; see also* Federal Law No. (8) of 2002, art. 2, 4, 6(1)–(3) (trademarks) (U.A.E.) (amending Federal Law No. (37) of 1992) (defining the meaning of a trademark in the U.A.E. and allowing natives or foreigners to apply for registration).

[157] Press Release, Dubai Internet City, *supra* note 154.

[158] Jim Phipps et al., *International Legal Development in Review: 2005 Regional Comparative Law*, 40 INT'L LAW. 597, 625 (2006) ("DuBiotech has identified the critical ingredients to create a flourishing cluster, which include establishing venture capital financing vehicles to attract innovative biotechnology companies and attracting world-class education and research institutions to set up facilities.").

[159] *Id.*; *see also* Yousef Haik, Nanotechnology in the United Arab Emirates: Hype and Hope, 5 NANOTECHNOLOGY L. & BUS. 219, 220 (2008) (stating that the U.A.E. nanotechnology initiatives such as Nanotech Valley, DubioTech, and Dubai Silicon Oasis show future promise).

[160] Press Release, AME Info, DuBiotech Unveils BioTiqania Training Institute (Jan. 7, 2008) (on file with The John Marshall Review of Intellectual Property Law), *available at* http://www.ameinfo.com/143276.html.

[161] Phipps et al., *supra* note 158, at 625.

[162] Law No. (1) of 2000, amended 2006, art. 15 (technology, electronic commerce and media free zone (Dubai); Dubai International Financial Center Law No. (3) of 2006, §§ 11.115–.116, 14.151 (companies) (Dubai), *available at* http://difc.ae/laws_regulations/laws/enacted_laws.html (follow the PDF hyperlink below "Companies Law").

[163] Law No. (1) of 2000, art. 9(9), 12–16, 20; Dubai International Financial Center Law No. (3) of 2006, § 10.114.

[164] DuBiotech - Business Partners, http://www.dubiotech.ae/index.php?option=com_content&task=view&id=13 (last visited Aug. 29, 2009) (listing Amgen, Biomedix, Index Holding, Merck-Serono, and Pfizer among others, as business partners of DuBiotech).

[165] 1 JAMES T. O'REILLY, FOOD AND DRUG ADMINISTRATION § 10:49 (3d ed. 2009). Nutraceuticals are dietary supplements that "add[s] health related ingredients to food products." *Id.*

[166] SCI. POLICY COUNSEL, U.S. ENVTL. PROT. AGENCY, NANOTECHNOLOGY WHITE PAPER 5 (2007), *available at* http://www.epa.gov/osa/pdfs/nanotech/epa-nanotechnology-whitepaper-0207.pdf. Nanotechnology is defined as:

> [R]esearch and technology development at the atomic, molecular, or macromolecular levels using a length scale of approximately one to one hundred nanometers in any dimension; the creation and use of structures, devices and

medical devices; and bioinformatics.[167] The activities of those companies include: diagnostics; R&D including drug discovery; manufacturing, storage; industry specific training; and clinical trials.[168] In addition to DuBiotech, other research institutes and organizations have been established in the U.A.E. with a view towards advancing nanotechnology in the country.[169] These include the Dubai Silicon Oasis and Nanotech Valley.[170]

The structure of DuBiotech shows that it is not simply a marketing-oriented initiative nor a "turn-key" type undertaking.[171] Rather, built-in incentives effectively attract foreign investment in the form of R&D and exposes local industry to this research.[172] Consequently, this enhances the local industry's potential to embark on independent research projects.[173] Ultimately this can lead national companies to singlehandedly engage in frontier research and to develop new pharmaceutical and other types of patents.[174]

C. Attracting Creators: Copyright and the "Freedom to Create"

When one considers the promotion of copyright-related subject matter, one is first inclined to consider the extent of protection that is granted by law. However, unlike other forms of intellectual property, copyrighted creations are intertwined with local culture and cultural values.[175] As such, the creators and producers tend to pride themselves on local creativity.[176] Thus, moving creativity out of its local surroundings is not a simple task. Here incentives per-se might not suffice. In its

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> systems that have novel properties and functions because of their small size; and the ability to control or manipulate matter on an atomic scale.

Id.

167 *See* DuBiotech - Business Partners, *supra* note 164. Bioinformatics involves the analysis of biological information using computers and statistical techniques, the science of developing and utilizing computer databases and algorithms to accelerate and enhance biological research. National Center for Biotechnology Information, Bioinformatics Fact Sheet, http://www.ncbi.nlm.nih.gov/About/primer/bioinformatics.html (last visited Aug. 30, 2009).

168 Dubai Technology and Media Free Zone Authority Decision No. (1) of 2009, §§ 2.1, 9 (license categories for Dubai Internet City, Dubai Media City, Dubai Knowledge Village, Dubai International Academic City, Dubai Outsource Zone, International Media Production Zone, Dubai Studio City, Dubai Biotechnology and Research Park & Energy and Environment Park) (Dubai) (listing the activities of Dubiotech), *available at* http://www.tecom.ae/law/law_24.htm.

169 Haik, *supra* 159, at 220.

170 *Id.*

171 *See* Phipps et al., *supra* note at 158, at 625; Press Release, AME Info, DuBiotech Showcases Unique Business Advantages at BIO International Convention 2009 in US (May 23, 2009) (on file with The John Marshall Review of Intellectual Property Law), *available at* http://www.ameinfo.com/197641.html.

172 Phipps et al., *supra* note 158, at 625.

173 Haik, *supra* note 159, at 223.

174 *See id.* at 219, 223.

175 Mark Schultz & Alec van Gelder, Creative Development: Helping Poor Countries by Building Creative Industries, 97 KY. L.J. 79, 102 (2008).

176 *See* Christine Haight Farley, *Protecting Folklore of Indigenous People: Is Intellectual Property the Answer?*, 30 CONN. L. REV. 1, 5 (1997) (illustrating the importance and significance of local works).

endeavor to create a safe haven for creativity, through the protection and enforcement of copyrights, Dubai has established the Dubai Media City (DMC).[177]

Notwithstanding the copyright laws that are in place as described above and which provide the creators with a bundle of rights,[178] DMC's operations are based on the concept of "freedom to create."[179] It ensures that the relocation of production to Dubai does not entail a loss of the freedom of expression or interference therein.[180] Furthermore, the aim of DMC is "[t]o create and market world class enabling services for the media industry."[181] These institutions, *i.e.*, DMC and DIC, are not disembodied endeavors, but rather appear to be part of a systematic approach for fostering the accumulation of intellectual property based capital in Dubai.[182] Indeed, these zones, in the aggregate, constitute the Dubai TECOM (Dubai Technology, Electronic Commerce and Media Free Zone Authority).[183] TECOM, in turn, is one of the free zones operating within Dubai.[184]

Another component in TECOM is the Dubai Studio City (DSC).[185] This, in my view, represents the utilization of copyright assets to their fullest potential. This zone is an offshoot of DMC.[186] Its aim is to provide answers to the production needs of the region and, in time, to create full-fledged cinema studios as well as sound stages and backlots, comparable with those of Hollywood and Bollywood.[187] In addition to pre-built studios; sound stages; workshops; back lots and stage areas, Dubai Studio City will also house film and television academies.[188] This creates the potential of shifting from a service rendering entity to a producing entity that can potentially create a synergy between local and regional talent and create new content

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[177] *See* DAVIDSON, *supra* note 8, at 212.

[178] Federal Law No. (7) of 2002 (copyrights and neighboring rights) (U.A.E.).

[179] Dubai Media City, http://www.dubaimediacity.com/about.htm (last visited Aug. 30, 2009); *see also* DAVIDSON, *supra* note 8, at 212 (quoting Sheikh Muhammad bin Rashid Al-Maktum's statement that Dubai "must remain an oasis of responsible freedom and democracy of opinion and expression.").

[180] *See* Dubai Media City, *supra* note 179 (noting the open and flexible environment promoting individual freedom and expression).

[181] Vision and Mission of the Dubai Media City, http://www.dubaimediacity.com/City-about-vision.htm (last visited Aug. 30, 2009).

[182] Phipps et al., *supra* note 158, at 625 ("[T]he Government of Dubai has established a successful track record in catalyzing targeted industries such as information technology, media, finance, and healthcare by developing business clusters in a free zone setting.").

[183] Dubai Studio City - TECOM Investments, http://www.dubaistudiocity.ae/index.php?option=com_content&task=view&id=28&Itemid=32 (last visited Aug. 30, 2009).

[184] See Law No. (9) of 2003, arts. 2–3 (technology, electronic commerce and media free zone) (Dubai) (amending Law No. (1) of 2000), *available at* http://www.tecom.ae/law/law_12.htm.

[185] Dubai Technology and Media Free Zone Authority Decision No. (1) of 2009, §§ 1.1 (license categories for Dubai Internet City, Dubai Media City, Dubai Knowledge Village, Dubai International Academic City, Dubai Outsource Zone, International Media Production Zone, Dubai Studio City, Dubai Biotechnology and Research Park & Energy and Environment Park) (Dubai), *available at* http://www.tecom.ae/law/law_24.htm.

[186] Dubai Studio City - TECOM Investments, *supra* note 183 (noting that the success of the Dubai Media City led to the launch of the Dubai Studio City).

[187] *See* About Dubai Studio City, http://www.dubaistudiocity.ae/index.php?option=com_content&task=view&id=1&Itemid=2 (last visited Aug. 30, 2009) (outlining the Dubai Studio City vision: "To facilitate the creation and development of an environment and world-class infrastructure to foster the growth of the television, film and music industries in the region.").

[188] *Id.*

and creative works.[189] Such an endeavor might not only bring in business in the form of foreign cinema producers, but could very well contribute to invigorating artistic and cinematographic creation at the local and regional level as well.[190]

In creating this massive undertaking, members of the media and creativity sector have entered Dubai.[191] This in turn, will expose local professionals to creative productions relating to the Media.[192] In this way, the copyright laws are not only intended to protect foreign assets, but also are focused on fostering the creation of "local speech."[193] This, in my view, represents a classic case of "glocalization,"[194] in which the global blends with the local and which, in time, can also create new local speech and expression.[195] Thus, these undertakings have not created a risk of pacing local talent and industry at a disadvantage but rather of creating a system for attracting foreign technology, knowhow and talent. In this regard the model that has been applied in Dubai relating to the operation of free zones and the incentives that they harness is very similar to methods applied in England where both foreign and local traders have received similar benefits.[196] This is clearly demonstrated in the case of the Dubai International Financial Centre (DIFC) and NASDAQ Dubai (formally known as the Dubai International Financial Exchange) wherein both local and foreign corporations can operate.[197]

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[189] *See id.*

[190] Press Release, Dubai Studio City, Dubai Studio City Steps Up Efforts to Boost Film-Making Community in UAE (May 1, 2008), *available at* http://www.dubaistudiocity.ae/index.php?option=com_content&task=view&id=321&Itemid=80. Salman Chaudhry, Managing Director, MFA-Dubai, stated, "Backed by excellent support from the government and the private sector, as well as the overwhelming student response, the day we establish a permanent film academy at Dubai Studio City is not too far off." *Id.*

[191] Dubai Media City Community Guide, http://dmc-communityguide.com/dmc/ (last visited Aug. 30, 2009).

[192] *See* Press Release, Dubai Studio City, *supra* note 190.

[193] Dubai Studio City - TECOM Investments, *supra* note 183 (stating that TECOM supports the "growth of knowledge-based industries in Dubai" and has "developed the largest IP infrastructure in the world").

[194] THOMAS L. FRIEDMAN, THE LEXUS AND THE OLIVE TREE 295 (Anchor Books 2000) (1999). "Glocalization" is defined as the "ability of a culture, when it encounters other strong cultures, to absorb influences that naturally fit into and can enrich that culture, to resist those things that are truly alien, and to compartmentalize those things that, while different, can nevertheless be enjoyed and celebrated as different." *Id.*

[195] *See id.*

[196] *See* Daniel Klerman, *The Emergence of English Commercial Law: Analysis Inspired by Ottoman Experience* 1, 4–5 (USC Ctr. in Law, Econ. & Org. Research Paper No. C08-19, USC Legal Studies Research Paper No. 08-24, 2000), *available at* http://ssrn.com/abstract=1266403 (contrasting Medieval England sharply with the early modern Ottoman Empire, the latter created special institutions for foreign merchants, eventually putting the Ottomans at a competitive disadvantage).

[197] Law No. (1) of 2000, amended 2006, art. 11 (technology, electronic commerce and media free zone) (Dubai) (providing equal treatment for both foreign and local companies in the Dubai Free Zones), *available at* http://www.tecom.ae/law/law_1.htm; Dubai International Financial Center Law No. (3) of 2006, §§ 4.11, 11.115 (companies) (Dubai), *available at* http://difc.ae/laws_regulations/laws/enacted_laws.html/ (follow the PDF hyperlink below "Companies Law"); *see also* DUBAI INT'L FIN. CTR., *supra* note 131, at 5 (noting that NASDAQ Dubai is an international stock exchange that is located in the DIFC).

D. Creating "Human Wealth"

Intellectual property is people-driven.[198] It is based on the human wealth of a nation which, in turn, is contingent on developing human resources to a degree whereby it is possible to shift into the creation of patents and original works.[199] The Dubai Knowledge Village (DKV) is yet another manifestation of the clear policy of fostering human wealth.[200] Launched in 2003, DKV caters to a wide variety of knowledge-based entities, including training centers and learning support.[201] Interestingly, it is the only free zone of its kind that is wholly geared towards professional training and learning support services.[202] Another indication of Dubai's commitment to improving the human element relates to its focus on science in schools.[203] This is especially important, given the significant role of science education on the future infrastructure of research and development.[204] In this regard, the focus of science education in Dubai exceeds that of most leading countries.[205]

Furthermore, Dubai has established the Emirates Institute for Advanced Science and Technology (EIAST).[206] This institute aims to "enhance prosperity and support sustainable development by inspiring scientific innovation and fostering technological advancement."[207] It is worth noting that that Dubai is not the only emirate in the U.A.E. that has been investing in establishing research institutes.

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[198] *See, e.g.*, Henry Smith, *Institutions and Indirectness in Intellectual Property*, 157 U. PA. L. REV. 2083, 2084 (2009).

[199] *See* Peter Weiss, Commentary, *Geographical Indications: Reports & Additional Comments*, 82 TRADEMARK REP. 1001, 1009 (1992) (articulating that intellectual property is based in and adds to "human wealth").

[200] *See* About Dubai Knowledge Village, http://www.kv.ae/page/about-dkv (last visited Aug. 30, 2009) ("This thriving knowledge community was founded as part of a long-term economic strategy to develop the region's talent pool and accelerate its move into a knowledge-based economy.").

[201] *Id.*; DAVIDSON, *supra* note 8, at 118.

[202] *See* DAVIDSON, *supra* note 8, at 118 (discussing the various free zones developed in Dubai and enumerating the Dubai Knowledge Village as the only one dedicated to educational training).

[203] *See* Bassam Za'za', *A Momentous Boost for Education*, GULF NEWS (U.A.E.), Mar. 31, 2005, 2005 WLNR 25149803 (noting General Shaikh Mohammad Bin Rashid Al Maktoum's support of education and commitment to development of human resources). In his dedication address, Sheik Mohammad commented favorably on the computer and technology-based teaching methods applied in the Dubai Men's College and emphasized that applied science education will assist students when they graduate and join the workplace. *Id.*

[204] *See* Danielle Conway-Jones, *Research and Development Deliverables Under Government Contracts, Grants, Cooperative Agreements and Cradas: University Roles, Government Responsibilities and Contractor Rights*, 9 COMP. L. REV. & TECH. J. 181, 191 (2004) (discussing the importance of science in education as a requisite for successful future technology transfer).

[205] *See* Klaus SCHWAB & MICHAEL E. PORTER, WORLD ECON. FORUM, THE GLOBAL COMPETITIVENESS REPORT 2008-2009 171, 305, 337, 339, 341 (2008), *available at* http:// www.weforum.org/pdf/GCR08/GCR08.pdf (indicating that the U.A.E. has higher math and science education ranking than Germany, the United Kingdom, the United States, and Spain). Some other countries rank higher than Dubai, for example: Canada, China, Estonia, Finland, Hong Kong, Hungary, India, Jordan, Malaysia, Poland, Singapore, Switzerland, and Taiwan. *Id.* at 129, 135, 159, 163, 183, 185, 189, 203, 231, 279, 297, 313, 317.

[206] Law No. (2) of 2006 (Emirates Institution for Advanced Science and Technology) (Dubai), available at http://www.eiast.com/userfiles/EIAST-Law-No-2_2006_English.pdf.

[207] EIAST's Strategic Thinking, http://www.eiast.ae/default.aspx?options={a93e7034-0baa-4e2b-be21-721a4b6feb8e}&view=Article&layout=Article&itemId=100&id=29 (last visted Aug. 30, 2009).

Suffice it to mention the Adu Dhabi based "MASDAR" initiative that provides a "global cooperative platform to search for energy solutions."[208] In addition, the U.A.E. government has recently established the National Research Foundation (NRF).[209] The aim of this foundation is to provide funding to scientific research in the country.[210] It is intended to mirror the role of its US counterparts, namely the National Science Foundation and the National Institute for Health.[211] Indeed, it would appear that another byproduct of the various initiatives and projects mentioned thus-far is that national human resources will be less inclined to leave the country in search of professional opportunities that would suit their qualifications.[212] This also helps combat brain drain from the U.A.E.[213]

But still, much needs to be done by way of building the research capacity in Dubai.[214] According to statistics provided by the World Economic Forum, the number of utility patents in the U.A.E. remains low.[215] If this policy shift is to succeed, it is imperative to invest more in the human factor that will, in time, also contribute to the creation of patentable inventions in various areas.[216] In this regard, it is worth mentioning that, thus far, the total number of patents originating from the U.A.E. (including Dubai) that have been registered with the USPTO is only 136.[217] In addition, there are 186 pending patent applications originating in the U.A.E.[218]

E. Building the "DUBAI" Brand

Another creative use of the intellectual property system in Dubai relates to capitalizing on the DUBAI brand. Dubai has been able to harness the power of brands by transforming Dubai the emirate into DUBAI the brand.[219] In fact, this

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208 Haik, *supra* note 159, at 220.

209 Ministry of Higher Education and Scientific Research Decree No. (41) of 2008 (establishing and organizing the National Research Foundations) (U.A.E.), *available at* http://www.nrf.ae/decree.aspx.

210 *Id.* art. 3(3).

211 Haik, *supra* note 159, at 220.

212 *See* Law No. (2) of 2006, art. 5(4) (Emirates Institution for Advanced Science and Technology) (Dubai), available at http://www.eiast.com/userfiles/EIAST-Law-No-2_2006_English.pdf.

213 *See* Schultz & Gelder, *supra* note 175, at 147 (suggesting that the proper institutions can prevent "brain drain" and loss of talented local creators to pursue their ideas elsewhere).

214 Haik, *supra* note 159, at 222.

215 *See* WORLD ECON. FORUM, THE ARAB WORLD COMPETITIVENESS REPORT 2007 268, Data Tables (2007), *available at* http://www.weforum.org/pdf/GCR08/GCR08.pdf 268.

216 *See* Haik, *supra* note 159, at 221–22.

217 Patent Database Search Results: ICN/AE in US Patent Collection, http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&u=%2Fnetahtml%2FPTO%2Fsearch-adv.htm&r=0&p=1&f=S&l=50&Query=ICN%2FAE&d=PTXT (last visited Aug. 30, 2009).

218 PreGrant Publication Database Search Results: ICN/AE in AppFT Database, http://appft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&u=%2Fnetahtml%2FPTO%2Fsearch-adv.html&r=0&p=1&f=S&l=50&Query=ICN%2FAE%0D%0A&d=PG01 (last visited Aug. 30, 2009).

219 Duraid Al Baik, *Shaikh Mohammed Creates Dubai Media Affairs Office*, GULF NEWS (U.A.E.), June 12, 2009, http://www.gulfnews.com/nation/Media/10322137.html (reporting the establishment of "Brand Dubai" the objective of which is to strategically coordinate Dubai's regional and international image).

brand has come to denote what could be referred to as Bigger & Better than Ever![220] The Dubai brand has the potential of being transformed into what may well be the biggest collective mark ever.[221]

In this regard, it is imperative for the DUBAI brand, in order to sustain itself, to tolerate no shortcuts. If the DUBAI brand is to become a world recognized indicator of sophistication, quality and outstanding service, then a supervisory authority needs to regulate the use of that brand.[222] Such an authority would, as in the case of all collective brands, be charged with the task of screening all projects and business initiatives that pride themselves on originating from Dubai.[223] It is worth noting that this is not the first time that a country has sought to transform its name into a brand denoting quality. Consider, for example, the case of the Swiss brand, which covers a host of high quality consumer products, including watches, medical products, banking services and even chocolates.[224] From all of the above, it appears that Dubai has not only acted to amend its intellectual property laws and to create a strong regulative régime thereto, but it has also created the infrastructure that is needed in order to convert itself from a mere consumer to a producer of intellectual property subject matter.[225] This, however, has not been done behind an iron curtain but rather by reaching out to international partners.[226] Dubai's actions constitute a measured move on the developmental track while evading dependence on foreign know-how.

CONCLUSION

The Emirate of Dubai has, as a result of deliberate policy actions, been able to reinvigorate, indeed to reinvent, its "Intellectual Property Potential." That is to say Dubai has boosted its ability to become the originator (and creator) of intellectual property subject matter, rather than merely a consumer thereof.

Dubai has achieved the two conditions through which an intellectual property régime becomes a valuable national asset for a country with an initially low "Intellectual Property Potential"; namely a structured regulatory framework coupled with decisive infrastructure-related action.[227] Dubai has been able to enjoy a dash

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[220] *See* Dubai Business Minds, Dubai Global Village, http://www.dubaibusinessminds.com/artman/publish/dubai_global_village.shtml (last visited Aug. 31, 2009) (highlighting that each year the Dubai Global Village aims to be "bigger and better than ever.").

[221] *See* Future Brand, Country Brand Index 2008: Insights, Findings & Country Rankings 15, *available at* http://www.countrybrandindex.com/download/ (listing Dubai as one of the top self-promoting countries).

[222] *See* Al Baik, *supra* note 219.

[223] *See id.* (quoting Mona Ganem Al Merri, Dubai Media Affairs Office Executive Officer, that the "Dubai Brand" is "entrusted with handling credible information about economic and social activities for media reports and business requirements from Dubai and from all over the world.").

[224] *See* Norma Dawson, *Locating Geographical Indications – Perspectives from English Law*, 90 TRADEMARK REP. 590, 609 (2000); Justin Hughes, *Champagn, Feta and Bourbon: The Spirited Debate About Geographic Indications*, 58 HASTINGS L.J. 299, 301 (2006) (listing the Swiss brand, particularly chocolate, as one with "great cachet," thereby providing economic benefits).

[225] *See* discussion *supra* Part II.B.

[226] *See id.*

[227] *See* discussion *supra* Part III.A.

toward spectacular economic development derived from natural resources while, in the process, evading the "dependency" trap, wherein the use of another's technology renders the user ever dependent on continued technological transfers.[228] In effect, Dubai has been able to lay the foundations for a distinctive "Developmental" track.[229] These foundations are symptomatic of Dubai's endeavor to maintain its blossoming economy that is intended to continue to flourish even after its oil reserves are depleted.

The U.A.E., including Dubai, have enacted intellectual property legislation in accordance with its international obligations.[230] As I have demonstrated, the debate relating to the benefits of intellectual property laws on the economical development of countries, however, remains in contention.[231] The argument reverberates through the interface between the Development theory and the Dependency theory.[232]

By creating a multilayered economic model of incentives that is coupled with a long-term investment in national IP-related infrastructure, Dubai has, in effect, paved a distinctive "developmental" track.[233] Indeed, while this track still needs maintenance and refinement, it appears to have directed Dubai towards sustainable development. By embarking on this model, Dubai has reinvented itself from a lowly fishing town to a mega-fisher of ideas and innovation.[234]

I believe that the Dubai model can act as a beacon for other economies with an initially low intellectual property potential. Dubai's undertakings in the intellectual property sphere show that even a country that has an initially low "Intellectual Property Potential" and a high reliance on raw materials, can chart its own distinct path towards an intellectual property rich economy. Other countries should think about ways in which to apply their national intellectual property laws in a manner that is beneficial to their respective national economy.

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[228] *See* discussion *supra* Part II.C.

[229] *See* discussion *supra* Part III.A.

[230] *See supra* Part II.B.

[231] *See supra* Part II.C.

[232] *See id.*

[233] *See supra* Part III.A.

[234] Tom Dyckhoff, *The Tart Turns Tasteful*, TIMES (London), Mar. 26, 2008, § Times2, at 11 (crediting Sheikh Mohammed bin Rashid with leading the transformation of Dubai from a fishing village to a world city).