

Abstract - ONTOLOGY OF INFORMATION AND ITS VALUE FOR IP

SCHOLARSHIP

Zohar Efroni

What is “information”? Is this question answerable? Why should intellectual property scholars bother conceptualizing information? We are told that we live in the technological age, in which information is a prime resource. In turn, intellectual property [IP] regulation directly relates to this resource. Most IP scholars would probably agree that their respective disciplines concern property-like entitlements with respect to “information.” Information is the subject matter around which IP laws tailor exclusory regimes. In this light, the thinness of the theoretical discussion about IP subject matter *as information* is quite striking. In contrast to the prevailing tendency refraining from defining information, this paper asserts that defining information - in the specific context of IP law - is both feasible and beneficial. Pondering the concept of information (and the nature of IP subject matter *as information*) may illuminate nonobvious aspects of both theoretical and practical issues.

Borrowing insights from information and communication theories, I propose a framework that defines information as a meta-concept. Information is a significantly unpredictable and ubiquitous dynamism, in which medial messages are constantly created, delivered, processed, modified, changed and exchanged. Messages are the objectively detectable apparitions of that process. For analytical purposes, I propose that the information process can be broken down to atomic sequences of communication events. Each singular sequence involves a medial message passed from an originator to a recipient. The medial message, the essence of IP subject matter, fulfills two *quasi*-formal requirements: It must be both perceptible and comprehensible. After presenting the model and its definitions, I turn to apply it to copyright law. It shall be demonstrated how the model can describe and explain basic copyright concepts and principles. It is further shown how information model perspectives can throw new light on legal analysis of concrete problems, for instance, the questions of authorship and originality. I argue further that the policy debate surrounding IP law can benefit from a robust theoretical conversation geared toward a more solid understanding of “information.” The information model introduced in this paper hopes to furnish some initial insights in this direction.