

Cite as: 10 TECH. L. REV., June 2013, at 1.

Legal Issue in IP Securitization: Securitization Law, Guarantee Setting and Bankruptcy

Wei-Lin Wang^{*}

Abstract

The word “Intellectual property (IP) securitization” was originated from asset securitization, which started being used in the U.S. real estate market from 1960s, and introduced to the IP field initially first in 1997. In accordance with the prosperous market of asset securitization in the past, it is reasonable to deduce that IP securitization will play an important role as a financial instrument as well as a powerful financing tool for small and medium enterprises. However, due to different characteristics of tangible and intangible assets, IP is hard to manage and it has relatively unstable value, thus creating obstacles in IP securitization. The main obstacle may come from lesser stability and predictability of cash flow in IP securitization, which result in investors’ preference in other financial instruments. Therefore, increasing the stability and predictability of cash flow from legal and business aspect, shall be critical to the motivation of IP securitization.

This study is to investigate several legal issues in IP securitization, such as specialized legislation, improvement on IP rights registration and guarantee filing

^{*} Associate Professor, Graduate Institute of Financial and Economic Law, Feng-Chia University; J.S.D., Washington University in St. Louis (2004).

system, influences on securitization by bankruptcy trustee's decision upon originator's bankruptcy, etc. The discussion will explore relevant regulations in the mature market of U.S. IP securitization, and make comparison and give advices to relevant domestic regulations, providing a greater motivation of IP securitization in Taiwan and improve domestic enterprises' funding pipeline.

Keywords: Asset Securitization, True Sale, Securitization of Intellectual Property, Bankruptcy Remote, Executory Contract