ABSTRACT

The purpose of this Course Completion Work is to study the Copyright Law Institute, its protection system, its influence in the various fields of Law and its relation with Copyright Law. Also, its contribution to society, its excellent social function, the incentive to research, and creation, taking industry, economy, university and human creation as bridges to consolidate the Institute. Regarding the research proposal, the object of study is the "Institute of Copyright", with the objective of investigating the important contributions that the Copyright Law can provide, both for society and for the scientific, social areas, economic, moral, professional and legally as it is supported, through research in various sources and up-to-date in the field. Having thus, following the problematic: What important contributions can Copyright provide, both for society, and for the scientific field, of performance and legally as supported? The research methodology is based on bibliographic research and the method used is the narrative of literary revision, this being a qualitative and descriptive research that had as execution schedule the period from February to November of 2018. It was possible to perceive great doctrinal principles and case law. the object sought and the system of its protection. However, it was also possible to detect the excellent importance of this institute for the social, economic, cultural and if it is possible to reveal, the perception of a study and hybrid knowledge that runs through some fields of action and domain beyond the right.

Keywords: Intellectual Property. Creation. Protection. Right. Social Role.
Law and Intellectual Property: Constitutionalization, field of action and responsibility the violation of law.

1- Introduction

The theme selected for the research of the Course Conclusion Work, arouses interest, as it is an area that encompasses various forms of protection of human creation, its creative acts and related intellectuals, generally for the purpose of producing ideas and materializing them, impacting both the economy and technology, with a social, commercial and economic function, as well as being present in our daily lives.

It is also justified that the proposed work: Law and Intellectual Property: Constitutionalization, field of action and responsibility for the violation of law, deserves attention because it is a matter of collective interest, since the theme offers a lot of relevant information that can help to understand a whole system of protection from the creation of ideas in a capitalist and competitive social context, whose author of creation in addition to the right to be recognized intellectually for his work, will also have the right to claim the economic proceeds of his creation and other rights that he has, are relevant. And it is in this context that the Intellectual Property System comes in to guarantee the legal protection to creators of their creations.

Thus to promote the research, the answer was sought from the following question: How is Intellectual Property legally protected and what support is based on the violation of their rights.

The research is focused on the bibliographic methodology, supported by the Narrative Literature Review method, being a qualitative and descriptive research.

It is understood as Literary Review, according to the research manual of the Dante Moreira Leite Library of the Institute of Psychology of the University of São Paulo-USP (2015). to find an answer to a specific question, where Literature covers all relevant material that is written about a theme: books, journal articles, newspaper articles, historical records, government reports, theses and dissertations, and other types.

He types of Literature Review stand out as: narrative, systematic and integrative. In the case of this research, it will be the Narrative Literature Review, aiming not to use explicit and systematic criteria in the search and critical analysis of the
literature, being adequate for the theoretical foundation of articles, dissertations, theses, and course completion works.

And as Bibliographic Research Methodology, research developed from existing material, consisting mainly of books and scientific articles.

**2-Conception of Law and its relationship with Intellectual Property.**

At this moment, we intend to present the importance of legal protection to the protection of the Intellectual Property System. For this, it is necessary, as a theoretical foundation, to discuss the conception of law over time; the position of the Law in relation to the Normative Structure of the Brazilian Legal System in the perspective of the Federal Constitution of 1988 and on the responsibility for the violation of the rights, in relation to the Intellectual Property.

The conception of law also follows social evolution, and what comes closest to the idea to be developed in this work, aiming at Intellectual Property is that of law as a system of rules that regulate human relations and the faculty that defends personal interests, also associated with the idea of branch of studies referring to the legal norms. However, when researching about it was possible to realize a paradigm of ambiguities.

According to Gusmão, cited by Caminha (2018), the legal philosophical thinking around the conception of law is maintained in two antagonistic currents:

1-Those who admit a universal conception of law, in which are the so-called Idealists or Neokantians and Criticists who defend the idea that legal experience would only be possible with the aid of a priori definition, justified by the need to define the law. conception for reason, disregarding experience.

2 - Those who consider it impossible to establish a single conception of law in which Positivists are who defend the idea that the conception of law is formed through generalizations of data obtained through legal experience and that it would be possible only a posteriori., which establishes an indispensable criterion of law to select the legal phenomenon from the other historical phenomena.

According to Vecchio (2016):

> If the common and vague notion of law can sometimes suffice for certain particular ends, it is nevertheless insufficient for the higher ends of knowledge. The common manifestations of legal activity are easily recognized by all, but in the face of the highest and most general problems, when it comes to placing the idea of law in the order of knowledge, determining its essential elements, distinguishing it from others. related objects and categories, doubts and
difficulties arise that the vulgar notion is important to solve. Solving such problems requires an investigation that cannot be done by any stricto sensu legal science, that is, of Positive Law, because each of these sciences has as its object only a part of legal reality, while the logical definition must encompass all legal systems, including non-positive ones; that is: indicate the limit of all possible legal experience (p.05)

Thus, it can be understood that thermology applies to different realities, requiring not only a single definition, but as many as necessary to explain the reality to which it is appropriate, that is, object of study, having the construction of fluent law in several historical moments.

Consider some conceptions about, according to some teachers:

• Immanuel Kant: Law is the science of duty, in which the norm would constitute the categorical imperative, understood as a set of conditions in which the agency of one can be reconciled with the agency of the other, according to the general law of liberty, or In other words, the idea of law is founded on the law, prescribed to regulate the way people act, with validity, effectiveness in a predetermined time and place, addressing all members of society and which implies the meaning of to owe.

• Hans Kelsen: The law is constituted by coercive norms, with validity based on a fundamental norm, that is, the law to have valid effectiveness and validity must have provision of the original legislator that established it in the Constitution.

• Miguel Reale, a critic of Kelsenian normativism, in his theory of the three-dimensionality of law-law for it, is not only the norm as Kelsen argued, nor the fact as Marxists or legal economists think. Although law is not economic production, it involves and interferes with it. Nor is law a value, as advocates of natural law argue. Reale (1998) argues that yes, Law is at the same time: Fact, Value and, norm ie Law is normative integration of facts according to values, being always present in the substance of the legal. It is understood from the assumptions of Lima (2018) that, Fact is understood in this context as reference to the world of nature and being, in which acts as determinants of historical events, that Value is considered as an element that translates the ethical world or of culture, present the moral and the customs and that; Norm is understood as the science of law and standards of conduct desirable and established by and for the social environment. Thus, writes the aforementioned author that Miguel Reale (1998) presents the conception of law as concretization of the idea of justice in a contextual view of pluridiversity, its historical duty-being, being the person the source of all values.
Norberto Bobbio: Law is not a norm, but a coordinated set of norms, and a legal norm is not isolated, but articulated with other norms with which it forms a normative system. In discussing the idea of the conception of Law in relation to Intellectual Property and the System of Protection to human creation, it can be seen that it lives up to the assumptions of the aforementioned author, in which: “Law, among other conceptions, can be seen as a set of rules and principles that, in order to protect social peace, aims to conceive Justice, granting each one what is their own” (p.09). However, it can also be considered from another perspective that the Law must be considered at the same time: Fact, Value and Standard and that, the Law must also consider the idea that is formed by a set of norms articulated to each other, Even if each one has its own specificity, but in isolation, it does not have at the same time: effectiveness (ability to change the legal world) and efficiency (producing results).

See also the importance of the following conceptions for a better understanding of the fields of action of Law on which Intellectual Property relies to protect itself legally, in relation to the fundamentals of the classification of Public Law and Private Law, since what belongs to one does not belong to the other, since there is nothing that is public and private simultaneously, all phenomena are framed in one or the other. The two spheres: Public and Private are mutually delimited, where one has its limitation when the other begins assuming opposite valuation to each other.

1.-Private Law: The interest is individual, in which the predominant type of social relationship is the relations between equals, of coordination. It is a formal equality, focused on economic relations (market). The type of binding rule of conduct is the contract. Therefore, it is stressed that there is protection to private interests; principles that base it as: autonomy of the will; Formal equality, a concept of freedom-related legality, where freedom-related is stated in what is expressly prohibited, is allowed. It also regulates between individuals, individuals, their relations and may dispose of their own interests, within certain limits-available interests. Permissive rules prevail, although there are principles of public policy which cannot be changed by the parties. Thus Private Law has as its main purpose the regulation of private interests, prevailing to the equality of the parties, with no subordination of each other.

These include the branches of Private Law: a - Civil Law, which has as its object, the basic acts of civil life and which regulates the relations between individuals,
including patrimonial and personal, as regards: contracts, property, to marriage, successions, obligations, among others; b- Commercial or Corporate Law, is the law concerning companies and their activities, especially Civil Law, by the specific rules applied to the business area, whose basic principle is to protect and guarantee the circulation and credit and; Private International Law is a branch of law that defines the principles, formulates the criteria, establishes the norms to be obeyed, aiming at the best solution to the emerging conflicts of international private legal relations.

2-Public Law: It is Law concerning public legal relations of public nature. The interest involved is collective, in which the relations between unequal ones predominate, marked by relations of subordination-command and obedience-political sphere. Here the binding type of conduct is the law: a rule that obliges all who are subject to sovereign power.

Understand the branches of Public Law:

a- Constitutional Law, is the law set by the people without the observance of the government, based on the basic norms without organization of the state and society. It is, according to Moraes (2014), legally that the Federal Constitution should be understood as the fundamental and supreme law of a state, which contains rules regarding the structuring of the state, the formation of public powers, the form of government and the acquisition of the power to govern;

b- Administrative Law, is Law pertinent to the activity of public administration as such and is related to the norms on the organization of the State in the exercise of its administrative / executive function. Second, Justen (2005, p.05) are legal rules of public law that discipline administrative activities to the realization of fundamental rights and the organization and functioning of state and non-state structures;

c- Financial Law, is Law that has as its object, the financial facts, directed to the revenue and expenses of the State;

d- Tax Law, is Law concerning taxes and branch of Law responsible for creating a set of laws that regulate the collection and inspection of taxes;

e- Criminal Law, is criminal law, whose object is the criminal offense, being branch of law that is dedicated to establishing criminal offenses and their respective sanctions (penalties and security measures);

f-International law Public - It is a law concerning international public relations, consisting of an autonomous legal system, which governs the relations between sovereign
states, that is, a branch of law whose purpose is to regulate interstate relations, as well as
the relations of international organizations and individuals, aiming at universality;

g- Procedural Law - is a branch of law that studies and deals with matters related
to the process, ie, it deals with the sequence of acts intended for an end, the jurisdiction,
finally among other branches of law not cited at this time. It is worth mentioning among
these, most frequently, the Corporate Law; Civil right; Constitutional Law International
Law and Administrative Law, aiming to make a brief cut to emphasize the research object:
“The Institute of Intellectual Property”. However, other fields of law logically interfere
or may interfere with the performance of the Intellectual Property Protection System and
or a new form of protection. We now reflect on the legal system and the protection of
Intellectual Property with emphasis on its constitutional basis.


Given the research and studies in the area, it is possible to realize that the
existence of a theoretical reference and an institutional structure to support the observance
and effectiveness of the intellectual property rights are recognized and encourage
innovation and creativity, contributing to progress. socioeconomic, cultural, commercial
and technological, having, in Brazil, the main foundation in the Federal Constitution of
1988 and in several Ordinary Laws, Infraconstitutional Norms, Treaties and International
Agreements to which the country is a signatory. At the Infraconstitutional level, the issue
is regulated by a set of rules, among them Law 10,973 / 2004, known as the Innovation
Law, which establishes incentive measures that can be classified according to the nature
of the actions it seeks to promote; the Industrial Property Law, Law 9279/1996; Law
8884/1994 of CADE (Administrative Council of Economic Defense); Law 12529/2011
that created the SBDC (Brazilian Competition Defense System), among many others,
specific laws, decrees, resolutions.

Therefore, it is verified that the interpretation and application of the regulatory
framework of scientific and technological innovation demands from the Law
operator, besides the knowledge of the applicable legal rules, the competence
to resort to the legal principles agenda and from this to extract rational and
proportional within the boundaries of legality, capable of allowing the
transparent demonstration of the adequacy and relevance between the
interpretative decision adopted and the premises of the specific legal system
(BOCCHINO, 2012, p.69).
Thus, the Normative System of Brazilian Law is integrated by legal principles and rules, the principles being recognized as values that a given society, historically considers, elects them as significant and, for this reason, experience them, being inserted in the legal framework, found as principle norms in the Federal Constitution of 1988, with express and implicit provision.

As for legal rules, they generally function as an instrument of materializing the principles.

The principles of law fulfill two functions:
1- Theological Functionality, with a finalistic function, as the foundation of the legal system, indicating the principles, from the legal point of view, the ends to be socially achieved;

2- Methodological Functionality, where in their fulfillment of methodological function, the principles point the interpretative way to go, aligning and giving meaning to the formulations established in the rules and the system as a whole.

The Greater Law affirms the dignity of the human person as one of the foundations of the Republic and freedom, social justice and solidarity as some of the fundamental objectives of the Brazilian State. Thus, the issues that are most relevant to social life are reflected in the legal principles (AGU.vol2, p.67).

The Laws in the Brazilian Legal System have an organization at the hierarchical level that, for better understanding, is emphasized in this context, its organization, observing in the illustrative below, the hierarchical relationship between the different normative species that integrate the Brazilian legal system. It is worth remembering that the Intellectual Property Institute in its Protection System, firstly gives legal protection to national laws, which in this case are provided for in the Federal Constitution / 88, then in the infra-constitutional norms, which are after the Constitution and in the Treaties and International Agreements. of which Brazil is a signatory. Second, the International Intellectual Property Organization (WIPO). It is noted that the protection of Intellectual Property is born of the law, and that according to Barbosa (2002):

One of the most interesting effects of the market failure doctrine is to highlight the primary nature of state intervention in the protection of intellectual property. This is why intervention is necessary, restricting the free forces of competition and creating legal restrictions on such forces, since the creation of Intellectual Property is completely and exclusively a drafting of the law, which does not result from any right, prior to such legislation. Even after the creation of intellectual property laws, what remains outside the specific scope of
According to the Federal Constitution of 1988, competition opens with a declaration in favor of freedom of initiative, inserting among the principles of the Economic Order the principle of freedom of competition, in which for private initiative, the state will not directly exercise economic activity, unless intervention is required as regards national security or relevant collective interest, in which both cases are dealt with by law. The provision of Article 173 of the Federal Constitution of 1988 underlies the constitutional treatment of private investment.

Constitutional rule also of extreme relevance is the one that reads in the Art.174 of the same Letter, that the State, as normative agent and regulator of the economic activity, will perform functions of inspection, incentive and planning, which, for the private sector, will have a purely indicative effect (Idem, 2002, p. 04).

Also, it confers in items XXVII, XXVIII and XXIX of article 5 of CF / 88, the Intellectual Property among the list of fundamental guarantees of man, in a context of inviolability of property, as an immovable clause, and its interpretation, systematic and finalistic, intended for all individuals, Brazilians or foreigners resident or not, who come to be in the national territory, without distinction of any nature.

Intellectual rights with an essentially industrial content, on the other hand, in relation to the constitutional context, are objects of their own protection and are not confused with the economic regulation of economic nature of copyright.

It is understood, therefore, that the protected interest in relation to the object of study Institute of Intellectual Property, regarding its Protection System is the social need to foster innovation in knowledge and aesthetic creations, leading private investment to such fields. In order to obtain the collective interest, the law institutes a restriction on public freedoms, favoring private interests.

Therefore, once the objective of the public interest is achieved through the creation of private investment conditions, the balance is rebalanced. When intellectual property is part of the intangible heritage of legal entities under public law, such as municipalities and public foundations, it is considered a public good and when it is part of the public institution's wealth of assets intended for use by interested parties, generally
called the productive sector, or private enterprise, the opportunity and form of alienation are subordinate to the distinct discipline of the same trade between private individuals.

Recalling that there may be a collision of two or more equally valuable constitutional rights, and in such cases the rules of reasonableness, weighting or balance should then be imposed.

Second, Barbosa (2002), reasonableness means:

(...) What is reasonableness, which the STF and the scholars understand as indispensable to the application of the rules and to the administrative procedure? The reasonable is, first of all, the result of the normal sense of balanced and respectful people of the purposes that governed the granting of the exercise exercised. What is reasonable is also the adequacy of means to ends, in a logical and functionally appropriate manner. Indeed, such a constitutional rule assumes that the restriction is the best means of achieving its ends with the least possible restriction. Third, reasonableness is the rule of least interference with the status quo to ensure maximum legal certainty and minimum state intervention in the legal framework of private persons (p.09).

As Intellectual Property is regulated by the Federal Public Agency - National Institute of Industrial Property (INPI) it is important to emphasize the understanding of the position of public agencies in this context.

Regarding public agencies, according to Federal Law No. 9,784 / 99, referring to the administrative process within the scope of Federal Public Administration, it presents the conception of public agency as “the unit of action that is part of the structure of Direct Administration and the structure of Indirect Administration.” However:

(...) public agencies are not confused with the public person that is part of it. They correspond to a set of competences belonging to the public person. They do not exist by themselves, but because they are part of a legal entity. In Federal Direct Administration only the Federal Government has legal personality. The Ministries, for example, Federal Direct Administration bodies, are depersonalized competence centers, whose performance is imputed to the Federal Government. It should be noted that the distribution of competencies in depersonalized units can occur in both Direct and Indirect Administration (BOCCHINO, 2018). , p.09).

Since the organization of the Brazilian Public Administration is presented in two important instruments: 1-decentralization and; 2-deconcentration, in which the former refers to the competences that are transferred to people other than the one who originally held them.

As for example, to the legal entities that are part of the indirect administration: municipalities, public foundations, public companies and mixed capital companies and;
the second, the devolution that consists in a distribution of competences within the structure of the same legal entity. Each set of competences thus assembled, each complex of attributions being organized within the structure of the legal entity considered technically as an organ, being, therefore, public bodies, sets of competences assembled within a public person, in which there are public bodies in the internal structure of each of the people that make up our Federation - Union, States, Federal District and Municipalities - and also within the entities of the respective indirect administrations. However, even though the Intellectual Property Institute is presented by a system of legal protection, still in our country, there is a delay regarding generic forms of jurisdiction to settle disputes in the civil area, existing criminal types and jurisprudential jurisdiction to exercise criminal prosecution, thus hindering the effective protection of the rights guaranteed to Intellectual Property.

In our country, the protection of intellectual property, on the one hand, is based on the Constitution and on several ordinary laws, but on the other, it still needs to be more effective, especially due to piracy and civil and criminal offenses. world Wide Web. Even with recent laws, Brazil is approximately 40 years behind in the form of intellectual property regulation in relation to its treatment in international law (CARDOSO, 2008, p.52).

While international organizations: United Nations (UN) and World Trade Organization (WTO) provide broad and uniform protection, Brazil is still trying to reorganize itself at a costly financial cost, in which it has issued several normative acts on the subject. At the same time, existing bodies creating attributions for others, decentralizing control and enforcement through laws specific to the Intellectual Property Protection System in the forms of protection: Industrial Property; of cultivars; Intellectual Property of Computer Programs; Copyright, Generic Drugs, Genetically Modified-GMOs; Semiconductors and Integrated Circuits, among others. As a result, the creation of several public or private agencies, with specific attributions in each one of them (ANVISA - National Health Surveillance Agency; INPI; MAPA; CADE, among others), can be created, a structure that may become unnecessary onerous. and that hinders the effective repression of legal violations, according to the position of indoctrinators, given the current state of the Intellectual Property Protection System and what was possible to raise, according to the literary review.
Failure to comply with the rules and principles relating to the subject produces in principle the civil liability of its violator. In addition, this violation may also imply a criminal offense, and its perpetrator suffer criminal prosecution by the state. Among the differences in the material and procedural norms of civil and criminal rights, there are the rules of jurisdiction, which cause even greater difficulties in the suppression of the injuries perpetrated against intellectual property rights (CARDOSO, 2008, p.52).

The recognition of the right to intellectual property and its protection system thus have protection in national law and international law, with the purpose of effecting the judicial protection of intellectual property rights through the creation of special judgments to settle matters relating to such an institute. Even with the existing Treaties and Agreements they are not sufficient to enforce what is proposed, with the main international negotiations and agreements currently being held by the WIPO (World Intellectual Property Organization) and the WTO (World Trade Organization).

Thus, there is also difficulty in safeguarding these rights, not only because of the amount of existing normative acts and institutions, but also the difference in repressio of civil and criminal offenses. However, as a rule in civil actions, the jurisdiction is the Federal Court, violations in relation to copyright is the competence to judge the State Justice, and in most cases the criminal action is private, considering that intellectual property rights are private rights, despite their supervision, the exercise of their exclusive use and their regulation depend, as a rule, on acts of the Public Power.

Such distinctions create obstacles to the protection and uniform performance of intellectual property rights, causing legal uncertainty and not conferring the necessary protection, also hindering the effective socioeconomic, cultural, commercial and technological development in the country. Therefore, it is important to discuss the way in which the theme is regulated in the country, in order to harmonize it with international law and unify its standardization and protection, thus ensuring respect for rights and encouraging intellectual production in Brazil. (CARDOSO, 2008, p.56).

Thus, the holder of Intellectual Property, in the civil sphere, is assured the right of action to defend and repair damages caused to him in any violation of the law or unfair competition, regardless of the criminal action, the injured party can bring the actions applicable in the form of the CPC-Code of Civil Procedure.

In the case of Industrial Property Law, given that the INPI is a Federal autarchy, as a rule the competence of the Federal Court is to prosecute and judge causes related to
the invalidity of registrations or patents. When the INPI is not the plaintiff, it should intervene in the deed, being the competence of the Federal Court.

However, according to Cardoso (2008), the Supreme Court of Justice understands that the State Justice has jurisdiction to rule on the invalidity of the patent as a preliminary question, producing inter partes effects.

The argument, according to the above-mentioned author, is justified that the administrative act of the INPI granting registration or patent is not to be confused with the real right over them, which in turn are debated in court, limiting the Public Administration, the check whether or not the applicant meets the necessary legal requirements.

According to Neto (2018), contrary to what many argue, at the first moment it is necessary to emphasize that the protected good is collective and not private, deriving from International Treaties and Constitutional Norms that elevate it to fundamental right, although part of the doctrine advocates On the contrary, for the purpose of cultural and technological development, the State guarantees to creators and inventors a certain monopoly in the onerous and non-onerous use of their work or invention.

Intellectual Property Law states that, before regulating commercial, contractual and unfair competition issues, it deals with exchange between the creator and the State, exchanging technology / culture for exploitation exclusivity, or at least temporary exclusivity, in most cases.

The State does not prohibit healthy business competition but rather encourages and encourages free competition as a way of enhancing commercial, industrial, technological activities and consequently economic development. What the state represses is competition made unlawfully, contrary to honest, ethical and fair practices, based on the Federal Constitution of 1988 in its Article 173, § 4, “the law shall repress the abuse of economic power aimed at domination. markets, the elimination of competition and the arbitrary increase of profits” and to such abuse we have the so-called unfair competition, which can be found in article 10 bis of the 1967 Paris Convention for the Protection of Industrial Property, on what:

(1) - Union countries shall ensure that nationals of Union countries are effectively protected against unfair competition; (2) unfair competition shall mean any act of competition contrary to honest use in industrial or commercial
matters; 3) - The following shall be prohibited in particular: 1. All acts that may, by any means, create confusion with the establishment, products or industrial or commercial activity of a competitor; 2 False statements in the exercise of trade, which may discredit the establishment, products or industrial or commercial activity of a competitor; 3° An indication or statement the use of which in the course of trade may mislead the public as to the nature, mode of manufacture, characteristics, possibilities of use or quantity of the goods.

2.2- The principles of Administrative Law applied to the Intellectual Property Institute.

The consideration of the constitutional principles of Public Administration as a focus and specifically Industrial Property as a branch of Administrative Law, being necessary to realize the practical link between both, justifying the fact that the National Institute of Intellectual Property (INPI) is a federal autarchy. and, pursuant to Law No. 9,279 of 1996, Law No. 9,609, 1998 and Law No. 11,484, 2007, to be responsible for the registration of Trademarks, Industrial Design, Geographical Indications, Integrated Circuit Topography and Computer Programs, Patenting, Technology Transfer Agreements and Business Franchise.

The Federal Constitution of 1988 in its article 37 expressly points out the principles of Public Administration, as follows: 1- The Principle of Legality; 2- Principle of Impersonality; 3- Principle of Morality; 4- Principle of Advertising and 5- Principle of Efficiency.

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The principles are the pillars that support the legal order, possessing cogent force and inspiring the elaboration and execution of the rules, respectively. In this sense, any offense against a principle is much more harmful than a breach of the norm, since to confront a principle implies disrespect of the legal order in its genesis (NOGUEIRA, 2009, p.57).

We highlight the conceptions of each principle pointed above for better understanding according to Di Pietro (2006):

A-Principle of Legality: Principle by which the Public Administration can only do what the law determines or permits. In practice, it is admitted that the Public Administration can not do anything without a prior law dictating that it is authorized or
has an obligation to do so. Also, it is worth noting the difference between the principle of legality for the Administration and the principle of legality for the individual. That is revised in article 37, caput, of the SC, and this, in article 5, item II, of the same constitution: "no one shall be obliged to do or fail to do anything except by virtue of law."

B-Principle of Impersonality: principle by which equal treatment is imposed on people, respect for the purpose and also the idea that the acts of public agents should be imputed directly to the Public Administration and not the person of the agent.

C-Principle of Administrative Morality: prescribes obedience to the ethics of the Administration, consistent in the set of precepts of administrative morality, such as the duty of honesty, loyalty, good faith and probity and that according to the Federal Constitution in its article 5, item LXXIII, refers to administrative morality being present within the administration and not in the midst of society as a whole. However, it is up to it should be noted that Article 11 of the Constitution incorporates moral precepts to be followed, such as: honesty and loyalty to institutions. That would also fit the Intellectual Property.

D- Advertising Principle - principle by which the wide disclosure of official acts is imposed, for public knowledge and the beginning of external effects, revealing two important meanings: 1- ensuring that everyone has access, knowledge of the acts of the Public Administration and; 2- ensure that official acts have external effects after their publication, except for those information whose confidentiality is essential to the security of society and the State- Law 12527/2011 regulates access to the information provided for in item XXXIII, being applied to all federative entities.

E- Principle of Efficiency: principle by which the obligation of the Public Administration to satisfactorily meet the needs of the administrated, as well as the public administrator to do the best, as a professional, before the means at its disposal. In the infraconstitutional sphere, the administrative principles are provided for in Law No. 9,784, of January 29, 1999, in its article 2, in which every action of its agents must unequivocally demonstrate in its acts, its principles and principles. in which they materialize.

2.3- Responsibility: Civil, Criminal and Administrative.
We try to approximate the idea of what will be the term “Responsibility” and the link with the Institute of Intellectual Property in what it confers to the fields: Civil, Criminal and Administrative.

According to Dias (1997), every manifestation regarding human activity brings with it the problem of responsibility, and this fact is a problem to fix its conception, because responsibility is not an exclusive phenomenon of legal life, but rather connects to all domains of society, social life.

For a better understanding, the idea of interest is cut, when it comes to responsibility regarding the issue, breach of the norm or obligation facing the agent, in which having violated any norm, is exposed to the unpleasant consequences resulting from this infringement, which in turn is translated into measures for which the authority responsible for ensuring compliance with the precept must take action. Liability then expresses the idea of restoration of balance, consideration, and repair of damage. Since human activities are manifold, numerous will also be the species of responsibility.

In this context, we also highlight legal responsibility and moral responsibility, which may occur separately or concomitantly, depending on the fact that configures the infringement.

The moral field is broader than that of law, since legal liability is only considered when there is prejudice. This is only revealed when there is violation of the legal norm that causes damage to the individual or the community. In this case, the perpetrator of the injury will be obliged to restore the right attained, repairing in kind or pecuniary the damage caused and that, according to Gonçalves (2014, p.20), “moral responsibility is confined to conscience, not socializes externally, has no repercussions on the legal order. But it presupposes free will and an awareness of obligation”, as the distinction between obligation and responsibility. The first is always an original legal duty and the second, a successive legal duty resulting from the breach of the first, that is, if it does not fulfill the obligation, ceasing to provide the services, will violate the original legal duty, resulting in liability, in the obligation to make up the damage caused by failure to comply with the obligation.

In short, in every obligation there is an original legal duty, while in liability there is a successive legal duty. And, since liability is a kind of shadow of obligation, whenever we want to know who is responsible, we have to observe to whom the law imputed the original obligation or duty (GONÇALVES, 2014, p.21).
As for civil liability, it can be understood as a set of measures, which are imposed as a result of damage to repair it, with the purpose of satisfaction to the victim; the content of such reparation as reparatory or compensatory; rebalancing in society or in the legal relations of the injury, ie the damage (moral or material). Reparation or indemnity may be required on account of an unlawful act, or on account of a risk, potential for the production of damage. Thus, in civil liability, the injured interest is the private one, being the injured person with the right to claim or not the reparation. It is of an equity nature, as it is the debtor's equity that will answer for its obligations.

Civil liability is subdivided into non-contractual and contractual. Non-contractual liability refers to non-contractual liability whereby the person who causes harm to another person, through fault in the strict sense or intent, is obligated to repair it.

As a rule, it is subjective, resulting from an illegal act, but may be objective in some cases. Guilt is not presumed and must be proved by the person concerned. Contractual liability, on the other hand, arises from a contract, referring to the breach of a contractual obligation, which can also, as a rule, be subjective, as objective, in which the debtor's fault is presumed, which should prove its absence.

Regarding the material, moral and aesthetic damage with perspectives to Intellectual Property and its Protection System, there is the possibility of incidence in all forms in which Intellectual Property is configured. In relation to damage - It is injury to a right, interest, or legal property. Such injury may be material, moral and / or aesthetic in scope, and the same behavior may result in the three injuries, in which:

1- Material Damage- is the damage that affects only the property of the offended, while moral damage is that which offends the debtor as a human being, without affecting the property.

2- Moral Damage- is the offense to the intimate forum of the person, in which the Rights of Personality are those inherent to the dignity of the person, and must be proven, although it is presumed in some situations.

3- Esthetic Damage- is considered the injury to the physical image of the person, while moral damage is not necessarily. However, according to Precedent 387, it is possible to cumulate the indemnities of aesthetic and moral damage. Criminal liability, on the other hand, is personal and non-transferable, in which the defendant responds with the
deprivation of his liberty, whose agent violates a legal norm, requiring the investigation of his culpability or the establishment of the antisociality of his procedure.

Criminal liability, on the other hand, is personal and non-transferable, in which the defendant responds with the deprivation of his liberty, whose agent violates a legal norm, requiring the investigation of his culpability or the establishment of the antisociality of his procedure.

The difference between civil liability and criminal liability lies in the violated legal rule. If it reaches the interest of society as a whole, the liability will be criminal or criminal. However, if it reaches only the private realm, it will only be civil. That is, in criminal liability, the agent infringes a rule of public law, with the injured interest being that of the company, while civil liability, the injured interest is the private one, so that the injured person may or may not claim his reparation.

In relation to the judicial process, the criminal action may suspend the civil process for one year, but depending on the case, the civil action may be suspended for a longer period than this one. It is not a mandatory but convenient suspension, as it avoids conflicting decisions. Immediately after the suspension period has elapsed, civil proceedings may be resumed, but the ideal is to await the final judgment of the criminal proceedings.

As for administrative responsibility, for better understanding, one of the principles that represents one of the main guarantees of respect for individual rights is rescued, the Principle of Legality, in which the Public Administration should only do what is in the law, unlike the relations involving individuals where what is not foreseen or prohibited by law is permitted.

Thus, the public administrator, in the management of Intellectual Property, is responsible for applying the relevant legislation, and cannot, by simple administrative act and in contravention of the law, grant or restrict any right or advantage of any kind not provided for by law. Thus, it is incumbent upon the public agencies of the Public Administration to promote policies for the development and strengthening of Science and Technology, establishing their own protection rules regarding their intangible assets. In addition to the constitutional precepts of the Administration, the legislation that affects the subject matter and the procedures of the Administrative Proceeding provided for in Law No. 9,784 of 1999 are also respected.

For Bocchino (2018):
It is observed that the meaning of the principle of legality does not exhaust itself with the meaning of legal qualification, but also that the Administration is prohibited from editing acts or taking measures contrary to the norms of the law. Indeed, while on the one hand the principle of legality represents a kind of limit to the action of the public power, on the other, it aims at protecting the administrated against the abuse of this power (P.26).

It is also important to observe, in relation to the Principle of Legality, the relevance of the contracts, agreements and partnership agreements and the functions of the INPI, in relation to Intellectual Property and Public Institutions, which when constituting sources of rights and obligations, is imbued with force of law between the parties, and the public administrator must be aware of the responsibilities. In this sense, the Principle of Legality is summarized in the submission in relation to the public power to the commandments of the law and the activities of the Public Administration to submit and limit the determination of the legislation, in which the action of the public power without the normative chase entails the illegality of the act, being subject to nullity.

In the case of infringement, both individuals and legal entities may hold property and moral rights over the various ways in which the Intellectual Property System operates, and all types of restrictions should be quickly, forcefully and effectively curtailed. violation that violates the established precepts. Soon:

Intellectual Property Rights are protected at the administrative, criminal and civil levels. Anyone who violates these rights may be held responsible in these three spheres, simultaneously, isolated or successive. Therefore, in addition to having a duty to indemnify the material and possibly moral damages caused to the holder of the Intellectual Property Rights, the infringer may also respond to a case with the specific legislation of each form of protection (BAGNATO, MURAKAWA and SOUZA, 2016, p.

Only with the effective and constant action of the judiciary and the INPI will the exchange between the creator and the state become balanced and stimulate the private to make their knowledge available to the state, as well as universities to address the problems of society and public policies to support technological development in relation to the application and commercialization of knowledge generated by academic research.

Recalling that the registration of a patent requires the publication of the technology and in the case of original invention and industrial application, the product of knowledge will be protected in the country of origin or abroad for a determined period,
on average 20 years, during which inventor may exploit it commercially or license it in return for royalty payments before it falls into the public domain. Thus, it is hoped that, with the research presented in this chapter, it has somehow achieved the proposed objective: “Relate Intellectual Property rights within the scope of Law in relation to the Federal Constitution, liability and violation of rights: Civil, Criminal and Administrative, as well as the performance of other fields of Law in relation to the Intellectual Property Institute, through literary revision in several bibliographic sources”.

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