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INTELLECTUAL PROPERTY PROTECTION, A FINANCIAL ASPECT OF THE ISS

Abstract

One of the ISS' main goals is to provide a work area where astronauts can conduct experiments requiring special environmental conditions that may hardly be simulated on Earth, such as microgravity. The major fields of research are involved, while the number of industrial applications of the new materials discovered is ever increasing. This paper analyzes, on the one hand, the legitimate expectations and needs of the industries in terms of intellectual property protection for outer space research, as they need to be protected against violations and be free to grant exploitation licenses. On the other hand, it investigates the need to ensure that one of the key principles of space law – set out in article 1 of the OST – is respected, i.e. that the use and exploitation of outer space and celestial bodies must be carried out for the benefit and in the interest of all countries. On the important issue of the protection of inventions in accordance with national and international regulations will be addressed the research. The paper will start from a combined analysis of art. 5 of the IGA, establishing that each Partner shall retain jurisdiction and control over the elements it registers, and art. 21 of the IGA, which regulates intellectual property based on the quasi-territorial principle and sets out that the regulations of the State in whose registered modules the invention occurs shall apply. The paper aims to examine national intellectual property protection regulations, highlighting possible conflicts of applicable national laws with respect to the place where the invention occurs and inventor nationality, but also for the recognition of the patent systems adopted by ISS Partner States. European Partner States enjoy a privileged position, as paragraph 2 of art. 21 of the IGA establishes the extension of intellectual property rights and automatic recognition of patents among all the Partner States, as well as streamlined infringement proceedings. It will be interesting to see how the Code of Conduct and the ESA – and other Agencies' – Staff Regulations regulate intellectual property and astronauts' duty of secrecy. For quick recognition of intellectual property licenses, the paper will therefore analyze existing International Conventions on the matter, the TRIPS Agreement, and European patent regulations, which streamline procedures, and introduce stringent minimum protection standards in all the areas of intellectual property.