

I. Introduction

A. Connecting IP with Climate Change

The case of Tuvalu symbolizes the graveness of climate change. Only three meters above average sea level, the South Pacific island nation is susceptible to the serious adverse effects of global warming. Its Prime Minister has described the situation as follows: “for a highly vulnerable small coral atoll nation like Tuvalu, the consequences of the impacts of climate change are frightening. The survival and security, along with fundamental human rights, and the cultural identity of our entire nation is under threat.”¹

Not only Tuvalu but the entire world is facing the impact of climate change. The Intergovernmental Panel on Climate Change (IPCC), a scientific body jointly organized by the World Meteorological Organization (WMO) and the United Nations Environmental Programme (UNEP) to assess the risk of climate change, reported that “warming of the climate system is unequivocal” as observed in the increase of global average temperature, melting of glaciers and sea level rise.² Such observed change is “very likely due to anthropogenic” (*i.e.*, originating in human activity) greenhouse gas concentration.³

The broad implementation of relevant technologies will be essential to international efforts to address climate change. In this context, the question for the IP community is: “what is the role of intellectual property in this scenario?”⁴

B. Purpose of Research

In connection with climate change, IP is often perceived as a double-edged sword.⁵ While IP is broadly regarded as a necessary incentive to innovate, such temporary exclusivity is also questioned, especially when the access to technology is essential for public policy purposes, such as combating climate change.⁶

1 H.E. Apisai Ielemia, Prime Minister of Tuvalu, General Debate at the 63rd U.N. General Assembly (Sept. 26, 2008) (transcript available at http://www.un.org/ga/63/generaldebate/pdf/tuvalu_en.pdf).

2 IPCC, CLIMATE CHANGE 2007: SYNTHESIS REPORT 30 (2007).

3 *Id.* at 39.

4 Francis Gurry, Director General, WIPO, WIPO’s Role in Green Technology, Speech at the WIPO Conference on Intellectual Property and Public Policy Issues (July 13, 2009).

5 WIPO, CLIMATE CHANGE AND THE INTELLECTUAL PROPERTY SYSTEM: WHAT CHALLENGES, WHAT OPTIONS, WHAT SOLUTIONS? 3, at http://www.wipo.int/export/sites/www/patentscope/en/life-sciences/pdf/ip_climate.pdf.