

FAIRNESS AND OPENNESS:

TOWARDS A FAIR INTELLECTUAL PROPERTY FRAMEWORK FOR OPEN SCIENCE

The concept of 'Open Science' has experienced a significant evolution at a global level during the last years, as some international and domestic public policies seek to support scientific progress through measures that tend to establish an open context for the dissemination and sharing of research results. On the other hand, the growing importance of Intellectual Property rights has been evident in the adoption of numerous bilateral and multilateral free trade agreements. This entails an apparent conflict between 'Open Science' policies and Intellectual Property rights. However, law, which is dynamic and sensitive to social progress, can provide options to balance modern methods for the advancement of scientific investigation with protection of IP rights. Consequently, a proposed IP framework for 'Open Science' main goal should be strengthening investigation and science through interchange of data and results, with an adequate protection of IP rights that continues to encourage innovation and intellectual creations. This contribution aims to examine the foundations of open science and intellectual property, as well as the international and comparative legal framework to, finally, propose the use of certain flexibilities, exceptions and limitations to make compatible both policies.

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