

The Intellectual Property Academy – A Joint Programme by the Stockholm Network and MSD Turkey

Inaugural Meeting: IPRs, Foreign Direct Investment and Domestic Activities – Moving From a Zero Sum Game to a Win-Win Model

On November 8th 2010 the Intellectual Property Academy, a joint collaboration between the Stockholm Network and MSD, hosted its inaugural meeting in Ankara, Turkey.

The meeting focused on the subject of *IPRs, Foreign Direct Investment and Domestic Activities – Moving From a Zero Sum Game to a Win-Win Model?*

Participants were drawn from the IP policy community and included, among others, senior government officials, academics, representatives of research centers, the legal community, and the media.

Presentations

For this session, we invited five distinguished guest speakers who provided encompassing, comparative and in-depth perspectives of this issue.

An international perspective was provided by two distinguished experts:

Mr Douglas Lippoldt, Senior Trade Policy Analyst in the Trade and Agriculture Directorate of the Organisation for Economic Co-operation and Development (OECD) discussed the question of whether IPRs can be leveraged to promote innovation and generate greater economic value in this current period.

Specifically, Mr Lippoldt presented his comparative research into the correlation between IP and foreign direct investments (FDIs). The research surveyed 140 countries. Lippoldt's research finds favourable results in developing countries: a tendency for increased IPR stringency to yield gains in FDI, international licensing and, to some extent, merchandise trade. Another important finding presented was that patent rights had positive effects on inward FDI: a 1% increase in the patent rights index is associated with a 0.5% (or more) increase in the stock of FDI.

Professor Prabuddha Ganguli, CEO of VISION-IPR in India, discussed the impact of changing patent laws in developing countries on innovations, business and the wider economy. His presentation focused on a case study of India and specifically on the discussion and debate concerning India's patent laws in the field of pharmaceuticals.

Following an overview of the political and economic developments in India over the past 40 years, Professor Ganguli elaborated on the domestic processes which led to the re-adoption of pharmaceutical product patents in 2005. He explained that the decision to strengthen India's patent act in the field of pharmaceuticals was based on an evolutionary process which reflected India's national innovation strategy at the time, not least in terms of India's aspiration to strengthen its biomedical basis in order to allow its domestic companies and institutions to leverage their innovative potential.

Our next set of presenters then zoomed in on the case of Turkey itself:

Ms. Derun Ulgen, Senior Project Director at the Turkish Investment Agency discussed and elaborated on the investment climate in Turkey, which is rapidly becoming one of the most attractive hosts of FDI and collaboration with multinational entities. Turkey is considered to be the 16th largest economy in the world and the 6th largest economy compared to the EU area in 2009. Fuelled by over \$83 billion of FDI in the last 7 years, Turkey was ranked as the 15th most attractive FDI destination for 2008-2010 (World Investment Report, UNCTAD). Ms. Ulgen explained that during recent years Turkey has made some significant steps towards improving its global positioning in the race for attracting investment by multinational partners. In this context the Republic of Turkey Prime Ministry Investment Support and Promotion Agency (ISPAT) is the official organisation for promoting Turkey's investment opportunities to the global business community and rendering assistance to investors before, during, and after their entry into Turkey. ISPAT serves as a reference point for international investors and as a point of contact for all institutions engaged in promoting and attracting investments at national, regional and local levels. Last but not least Ms. Ulgen explained that Turkey is considering the area of innovation, including in the biomedical field, as one of its key strategic areas through which it can strengthen its partnerships with multinational entities.

Adv. Mehmet Gun, of Mehmet Gün and Partners, discussed the state of pharmaceutical IPRs in Turkey. Generally speaking Turkey's IP regime has improved in the last decade, not least due to its obligations under the TRIPS Agreement. However, certain challenges in the IP environment still stand out and are inconsistent with the internationally-accepted standards of developed countries, and specifically EU standards. In particular, with regard to the field of pharmaceuticals, challenges remain in the ability of innovators to enforce their patent rights *vis-à-vis* third parties during the phase of applying and obtaining patent protection; lack of patent extension terms (or supplementary protection certificates, per the standard in the EU) aimed at compensating innovators for the lengthy period of research and development; the absence of linkage between the patent system and the regulatory approval system; and possible expansion of the grounds for the grant of compulsory licenses which may go beyond the scope of the TRIPS Agreements. Also, Turkey's framework of regulatory data protection seems to fall short of the European standard, as today the six-year term of data protection starts on the date of licensing in a European Customs Union country, implying a shorter term of protection because of the length of the marketing approval process in Turkey. Such challenges may prevent Turkey from leveraging its potential in the field of biomedical R&D and investments.

Prof. Dr. Serhat Unal, Board Member, Hacettepe University Technopolis Inc, discussed the challenges and opportunities of biomedical R&D in Turkey and the role of IPRs. He explained the importance of public-private collaboration and technology transfer between academia and industry in Turkey. Specifically, he focused on the creation of Technology Development Zones in Turkey that are aimed at generating technological knowledge in order to provide the national industry with an internationally competitive and export-oriented structure, as well as to introduce innovations in products through the commercialisation of technological knowledge that is generated by universities and research centres in Turkey. Prof Unal gave the example of the Hacettepe University, Technology Development Zone Management Inc, which has been authorised to operate since 2003. Its mission is to support high-tech oriented company start-ups and their development through the optimum advancement of university-industry. It thus aims to transform academic knowledge and empirical results in the university into economic value, to support technology-intensive entrepreneurial ventures, and to encourage the growth of R&D investments and innovative small-scale businesses. Nevertheless, despite progress in this field, some challenges still need to be addressed in order to allow for a stronger collaboration between local research institutions and multinational entities. Researchers should be further encouraged to understand the importance of technology transfer and to take a greater active role in this framework. There is also a need to increase awareness about the importance of respecting and protecting the IPRs of both local innovators and external partners in order to allow for the successful completion of such partnerships, to the benefit of the Turkish economy.

Group simulation

During the second part of the day, participants took part in an innovative simulation which sought to emulate a "real-life" scenario that involves different groups negotiating a major investment deal in the biomedical field.

The idea of the simulation was to provide participants with a fresh perspective on the manner in which different stakeholders perceive the benefits and costs of such a deal and the manner in which IPRs take part in such a deal.

Participants were divided into three groups which represented the government, a multinational pharmaceutical company and a research institute.

The first stage of the simulation focused on a storyline, in which a multinational pharmaceutical company is looking for new promising molecule, while at the same time a local research centre (based in an imaginary Country D) has a promising patent-protected molecule in the field of oncology

During this stage both the company and the research centre were asked to negotiate a potential deal, with the support of the Government's involvement.

The participants were asked to identify their preference towards a range of possible outcomes – starting from a basic deal that involves an exclusive license and up to a more strategic deal that result in the creation of a new R&D centre in partnership between the research centre and the multinational company.

The purpose of this phase was to allow participants to obtain greater insights about the natural interests and enabling factors that can make or break such a deal.

During the second phase, participants were asked to deal with a situation, in which the above deal may be put in jeopardy due to an unexpected global development – the outbreak of a global pandemic resulted in a direct request from a less developed country than Country D asking it to export a much-needed drug to that country. It was said that this patented drug was also the result of an earlier collaboration between the same research centre and the multinational company.

Thus the participants were asked to decide on the solution to this dilemma should be and how it may affect the previous deal.

As noted above, the idea of the simulation was to allow participants to think "outside the box" and to find solutions that may be able to both protect IPRs, as a means of preserving the forthcoming deal, and at the same time to maintain the necessary flexibility that is required to assist other countries that are in a state of national health emergency.