

The Process of Intellectual Property Policy-Making

Background

Participants were drawn from the IP policy community and included, among others, the Director of the Ministry of Health, the Patent Commissioner, the four members of the inter-ministerial committee on IP, other senior government officials, Sick Funds, academics, technology transfer officers, representatives of research centres, patient federations, the legal community, and the media.

Presentations

For this session, two distinguished guest speakers provided comparative and in-depth perspectives of this issue.

Prof. Blakeney's presentation focused on IP policy formulation both at the international, regional and national levels. Prof. Blakeney argued that the multi-faceted nature of IP and its diverse applications have resulted in a multitude of international, national and regional entities which involve themselves in IP policy formulation. The result of this crowded policy field is that IP policies are sometimes overlapping, contradictory and confusing. Prof. Blakeney argues that this situation necessitates the establishment of a capacity at the national level for inter-ministerial collaboration in IP policy formulation.

Mr. Sandelin focused on the strategies and tactics underlying the Bayh-Dole Act in the US (Patent and Trademark Law Amendments Act of 1984), which practically laid the foundations for technology transfer activities that are based on public-private partnership. The Bayh-Dole Act is probably the most important legislative tools for the exploitation of IPRs by public research bodies, such as universities. Before 1980, fewer than 250 patents were issued to U.S. universities each year and discoveries were seldom commercialised. In contrast, between 1993 and 2000, these universities were granted some 20,000 patents (almost 4,000 patents were issued in 2003) and more than 3,000 new companies were established. These activities generated income of more than \$US 1.2 billion to academic and government institutions alone.

Interactive Section

Participants took part in innovative interactive game that is based on the Prisoner's Dilemma. The Director General of the Ministry of Health hosted this session.

The purpose of this session was to demonstrate that inter-ministerial coordination in the field of intellectual property can better reflect the position of the government compared with IP policy originating from and pursued by a single Ministry.

Participants were divided to five groups: Ministry of Finance, Ministry of Trade and Industry, Ministry of Justice, Ministry of Health and the "Researchers" Group consisting of physicians and researchers.

Each group was asked to identify the three main objectives of the Government office which it represents.

Based on these objectives, each group was asked to identify the four most important IP topics from an IP list that includes eight topics (1. Terms of exclusivity; 2. Degree of freedom to exploit IPRs; 3. IP incentives to researchers of public research organisations (PROs); 4. IP ownership by PROs (Bayh-Dole); 5. Compulsory licensing; 6. Process of patent examination and patent grant; 7. Enforcement of IPRs; 8 International IP standards. Each group was also asked to prioritise the IP topics it has identified by degree of importance (i.e. first most important subject, etc.)

The purpose of each group was to win the game by obtaining the maximum number of points (400). . Points were granted as follows: If an IP topic, which was identified by a certain group, also appears in another group's IP listing, than the first group would receive 20 points. If an IP topic, which was identified by a certain group, also appear in the same priority order in the IP listing of another group than the first group would receive extra 5 points (the maximum point the one group can get from another group is 100).

In the second part of the game, participants were divided to five groups representing inter-ministerial committees. Government officials were still asked to represent the interests of their own office but under an inter-ministerial capacity.

Each group was asked to identify the three main objectives of the Government. The game and scores were then repeated

We are very pleased to report that the Prisoner's Dilemma session was able to decisively demonstrate that an inter-ministerial process is able to reflect far better the overall interests and IP interests of the government of Israel.