

Know IP – The Stockholm Network’s Monthly IPR Journal Volume 3: Issue 2. February 2007

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Commentary

Questions to the Government of Thailand – Helen Disney and Dr Meir P. Pugatch ¹

Let us begin with the facts.

On 29 November 2006 Thailand's Ministry of public health, the Department of Disease Control, issued compulsory licenses for the patented drug Stocrin (Efavirenz), which is an antiretroviral (ARV) drug for the treatment of HIV.²

This decision has now been expanded to include 11 additional medicines, including non HIV/AIDS drugs, such as Plavix (treating occlusive thrombus and embolic stroke).

The Government of Thailand argues that:

1. "There are several effective antiretrovirals that can extend the life of HIV infected individuals currently available in the Thai market. The Thai Government has launched a policy of universal access to antiretrovirals since 1st October 2003, and has a budget specifically allocated for them. However, it is still difficult to get access to some more effective and safer antiretrovirals. The high price of these patented antiretrovirals has hindered their accessibility under the universal access policy."³

2. "Efavirenz is a highly effective and safe anti-retroviral. It is also placed in Thailand's National List of Anti-retrovirals. However, the price of

the patented Efavirenz is twice that of those generics produced by WHO certified Good Manufacturing Practices (GMP) factories in India. With this higher price, the budget allocated from the Thai Government can only cover some patients with Efavirenz, whilst the remainder must use other non-patented [and] more toxic antiretrovirals"

3. "According to the Doha Declaration on the TRIPS Agreement and Public Health, Member Countries have a right to issue a safeguard measure to protect public health, especially for universal access to essential medicines using compulsory licensing on the patent of pharmaceutical products".... "Based on the Declaration, the compulsory licensing measure can be used for the purposes of emergency cases and public uses".

The Government of Thailand decided:

1. To assign the compulsory licence on Stocrin to the Government Pharmaceutical Organisation of Thailand - to either import the generic drug (most likely from India) or to manufacture it locally - until the end of 2011.

2. To use the compulsory licence to supply the medicine to 200,000 patients per year (we assume that the Government aims to provide the medicine on an annual basis).

4. To compensate the owners of the drug with 0.5% royalties of the total sale value of the imported or locally produced drug.

Our questions to the Government of Thailand

We assume that the motives and motivations behind the Government's decisions are pure, non commercial and with the best interest of the Thai people and of Thai HIV patients in particular in mind.

1. Do you imply that non patented products (i.e. generics) currently in use in Thailand are less effective and possibly dangerous to HIV/AIDS patients?

¹ Helen Disney is CEO of the Stockholm Network. Dr. Meir Perez Pugatch, Haifa University, is the Research Director of the Stockholm Network.

² Announcement of the Department of Disease Control, Ministry of Public Health, Thailand on the Public use of patent for Pharmaceutical Products, Announced on 29th November 2006, signed by Mr. Thawacht Soontatajarn, Director General, Department of Disease Control.

³<http://www.wcl.american.edu/pijip/documents/ThailandCLAnnounce>

We ask this because your announcement seems to suggest (perhaps unintentionally) that there is a link between the quality of ARVs and their price – i.e. that high priced patented ARVs provide better treatment to patients in Thailand in terms of their therapeutic effect.

2. Since you state that non patented ARVs (i.e. generics) are more toxic than patented medicines, who will guarantee that the generic version of Stocrin will not have the same toxic features and hence put Thai patients at risk?

3. Based on a simple mathematic calculation, is it right to assume that you will make sure the income of generic manufacturers from Efavirenz will not exceed 1% of sales of the generic Efavirenz in Thailand?

This assumption is based on your statements that (1) the price of Stocrin is twice that of generics produced in India (from where you intend to import the product) and (2) that under the Thai Patent Act, ministries, bureau, and departments are allowed to use the patent rights of any products for non-commercial public uses.

In other words, we assume that the 0.5% royalties which you provide to the owners of Stocrin is your interpretation of compensation on a non-commercial basis, to be applied on all commercial entities – both innovative and generic?

4. If, on the other hand, it turns out that the Government of Thailand does not enforce the 0.5% royalty rule on the sales of Efavirenz by generic companies, does that mean that the Government would essentially facilitate the transfer of income from the owner of Stocrin to other companies or third parties (such as the Government Pharmaceutical Organisation of Thailand)? If this is the case (highly unlikely, assuming that the interests of the Thai government are pure), then one might be tempted to describe this act by a different name – corruption.

5. Since your decision to issue a compulsory licence is based on the Doha Declaration on the TRIPS Agreement and Public Health of November 2001, does this mean that Thailand is

now in a state of emergency because of the prevalence of AIDS? If this is the case, should the government not declare this state of emergency to the rest of the world?

6. Did the Government of Thailand consider using its own economic logic to analyse the consequence of its actions for the Thai HIV/AIDS infected population in 2011?

This logic is as follows: An ARV with a proven therapeutic effect and low side effects is likely to be expensive because it is based on a patent, which provides the basis for commercially based R&D. And, as soon as such an ARV is launched in Thailand the Government will essentially appropriate the product. Or in the case of Thailand it can even choose to manufacture the product locally and try to export it.

Consequently, if a new generation of ARV were to be introduced to the market, who would guarantee the innovator that the product would not meet the same fate as Stocrin if launched in Thailand? The Government of Thailand is currently putting up a big no-entry sign for future innovative patented ARVs.

According to the UNAIDS 2006 AIDS Epidemic Update there are currently 580,000 HIV infected people in Thailand (though estimates vary between 330,000–920,000), and 18,000 of them were infected this year.¹ What will happen to existing and newly infected Thai people in 2011 if companies would be deterred from launching their products in Thailand?

7. Finally – does the recent *coup d'état* in Thailand have anything to do with the change in Thailand's strategy towards the fight against AIDS?

The 2006 UNAIDS report commended Thailand for its efforts in recent years due to the fact that the number of new annual HIV infections dropped to an estimated 18,000 new infections in 2005 (10% fewer than in 2004)

¹ UNAIDS 2006 AIDS Epidemic Update; http://data.unaids.org/pub/EpiReport/2006/05-Asia_2006_EpiUpdate_eng.pdf

Yet far from painting a rosy picture, the report concludes that Thailand needs to significantly step up its efforts to fight the epidemic, especially in the areas of prevention and early discovery. The report finds that a large proportion of new HIV infections in Thailand are found in people considered being at low risk of infection: about one third of new infections in 2005 were in married women who were probably infected by their spouses.

The report calls for the Thai government to reinvestigate its safer sex campaigns and to ensure that its overall HIV prevention programme encompasses the gay community. In Bangkok, HIV prevalence has actually risen steeply - from 17% in 2003 to 28% in 2005. The report also calls on Thailand to scale-up and improve the accessibility of services for voluntary HIV counselling and testing throughout the country. Finally, the report identifies the need to expand outreach programmes that can provide comprehensive harm reduction services

Taking all this into consideration, it is quite surprising to learn that the new regime in Thailand has decided to fight the HIV/AIDS epidemic by going down the route of compulsory licensing. Why this sudden change of strategy? Why now?

We assume that the motives and motivations behind the Government's decisions are pure, non commercial and with the best interest of the Thai people,, and of Thai HIV patients in particular, in mind. But we might of course be wrong.

Topic of the Month

The Economics of DRM in Capitalist Markets – Dr Meir P. Pugatch

"Why would the big four music companies agree to let Apple and others distribute their music without using DRM (digital rights management) systems to protect it? The simplest answer is

because DRM haven't worked, and may never work" said Steve Jobs, Apple's legendary CEO.¹

Undoubtedly, Jobs' thoughts were applauded by IP sceptics such as the Electronic Frontier Foundation (EFF), which argues that "As a first step in putting his music store where his mouth is, we urge him (Jobs) to take immediate steps to remove the DRM on the independent label content in the iTunes Store... Many independent labels and artists already recognise that DRM is a dumb idea for digital music, as demonstrated by the availability of their music on eMusic."²

At the outset it is worth noting that DRM is a concept that broadly refers to different sets of technologies aimed at identifying and protecting digital content belonging to IP rights-holders. At times, DRM is treated as synonymous with technological protection measures (TPMs), which are aimed primarily at preventing the unauthorised copying and downloading of digital content or (though less frequently) to rights management information (RMI), aimed at identifying digital works and managing the provision of material to customers, or both.³ It should also be pointed out that depending on the characteristics of the content provided and the different media on which it is provided, different industries (for example the music, film and game industries) use different DRM systems to serve different purposes.

For example, Apple's music files include DRM to restrict them from being played on Apple hardware. Other music files may be protected from being played on multiple devices or have DRM enabling their usage to be monitored. Most DVDs include DRM that encrypts the signal that is put out (although this technology has been cracked, it cannot be replaced without forcing consumers to buy new DVD players). The DRM

¹ Thoughts on Music; 6 February 2007; <http://www.apple.com/hotnews/thoughtsonmusic/>

² EFF. Steve Jobs: DRM Is Bad for Consumers, Innovators And Artists (6 February 2007), <http://www.eff.org/deeplinks/archives/005115.php>

³ For a discussion of these concepts see the report by the All Party Parliamentary Internet Group (UK). *Digital Rights Management - Report of an Inquiry by the All Party Internet Group* (June 2006)

also incorporate regional codings to enable geographically specific distribution mechanisms. In some instances DRM on games include software that prevents use without the disk, or machines with particular hardware configurations.

So is DRM a dumb idea? And furthermore, is it perhaps even an illegitimate tool? No and no!

Some thoughts on the economic and legal legitimacy of DRM

Is DRM a legitimate tool? Indeed it is. But in order to understand why, we must first focus on the very nature of products and technologies that are based on knowledge, information and intellectual (KII in short) creations, such as software, music and films.

While economic theory tells us that most resources (such as land, crops, etc) are subject to the problem of scarcity (the more people use it the less of it there is to use), KII products are not. On the contrary, the more people use a KII resource the more of it there is to use. Think of a song. If I sing a song and you like that song, then you can sing it too and then your friend can sing it as well - without any damage to my ability to sing this song. That is what is so wonderful about KII products; potentially everyone can benefit from them.

But this is also their downfall. KII products are easy to copy, especially those that are based on the delivery of content. Compared to the cost of creating a KII product (think of the cost of producing a new record or a new movie for example) the cost of copying this product is negligible. The result is that for some people the incentive to free-ride on KII products (for example, to copy a CD or use the internet for downloading) is stronger than the will to pay for it.

In the absence of any institutional provisions that establish property rights in KII products (i.e. patents, copyrights and other forms of IPRs) the incentives to free-ride will increase. Consequently, the incentive to create KII products will decrease (after all, the accumulation of capital is based on the notion of being rewarded for one's efforts).

IPRs define the commercial and legal relationship between the seller (owner) and the buyer (user) of certain KII products. These relationships are established on (a) the price of the KII product and (b) on the conditions attached to the use of this product. It is important to note that a commercial transaction between the owner and the user of a KII product is based on the right to use and not on the transfer of ownership. When someone buys an artist's latest album this does not make him the owner of the artist's work (what he owns is the plastic CD but not its content). This is indeed the essence of the market of KII products: that they can be commercialised by the owners, but not by the users.

For entertainment based KII products, such as music and films, the decision to conduct a transaction (or not) should be quite simple. If a consumer thinks it is worth paying the asking price for the right to use a certain KII product, he will pay it. If the consumer, on the other hand, thinks the price is too high, he is certainly entitled to abandon the transaction altogether (in other areas where demand is less elastic other considerations come into place so the transaction becomes more complicated). What the consumer is not allowed to do is to free-ride by copying or downloading the KII product without the permission of the right-owner. In the modern IP system this type of free-riding is simply illegal.

By definition, right-owners of KII products have the right to restrict the unauthorised use of their products and DRM is an expression of that right. Some people may dislike the purpose and function of DRM (they may also dislike other law enforcement mechanisms), but as long as the IP system is in place DRM should be considered as a legitimate and, of course, legal tool to be used by owners of KII products.

On the 'dumbness' of DRM

Coming back to Steve Jobs, the EEF and other critics, one could ask whether DRM is a dumb idea because it simply does not work.

Bearing in mind that this article refers to DRM in broad terms (not only focusing on arguments relating to the music industry), one can identify

three major themes that underpin critics' arguments.

The "lower your price" critique

Some critics of DRM argue that they are ineffective since they cannot really mitigate between the asking price of the KII-owner and the price that users are willing to pay. These critics argue that given the high price of KII products the free-ride problem is too significant to be dealt with by DRM. Consequently, critics argue that if KII-owners were to reduce prices, the free-ride problem would decrease and with it the need for DRM.

The problem with this critique is that it is based on the rather naïve assumption that free-riding is a function of price. In fact, there is no evidence to suggest that if the price of certain KII products would be reduced by 20% free-riding would decrease at the same rate. This is because when faced with the alternatives of paying something for a KII product or paying nothing for it, free-riders will always choose the latter.

The "your technology doesn't work" critique

This critique is based on the assertion that for every new DRM technology developed or acquired by right- holders, a new anti-DRM (circumvention) technology will be developed. This may be perceived as a zero sum game, and a rather futile one.

While this argument is a more serious one, it still suffers from the "half-empty, half-full glass syndrome". In the half-empty glass approach, those who criticise DRM technology will always examine the flaws of DRM. For them these flaws are proof that DRM does not fulfil its task.

However, one may adopt the half-full glass approach and ask what would happen if DRM was abandoned altogether? If the answer is that in the absence of any kind of DRM mechanisms more free-riding would take place, then the straightforward conclusion is that DRM is a necessary, yet insufficient tool for KII rights-owners to secure at least a portion of their rights.

In other words, one cannot argue that DRM does not work if one fails to consider or suggest alternatives. And, in the absence of any alternatives, DRM may not be described as such an inferior tool.

The "change your business model" critique

This critique is based on the view that the business models of KII-owners such as record, media and even software companies are obsolete. For example, critics of DRM in music argue that the model in which a user must pay for the entire CD just to listen to one song should be completely abandoned in the age of the internet and MP3 players.

This critique carries significant weight. KII-based industries are, of course, aware of this and are trying to examine their own business models on a daily basis. There is no shortage of ideas, including subscription-based services, pay-per-download models, content packaging (i.e. the bundling of multiple KII contents in a single purchase) and more radical ideas such as options (purchasing today the right to buy at low cost a future KII product before it becomes popular – think of a new artist for example).

A change in the way KII products are traded is likely to take place in the future. But such a change cannot take place instantaneously. Nor will it take place in a predictable manner. It can be based on some kind of a 'creative destruction' model that will push the entire industry forward in a single leap or it can take place slowly and progressively until a new cohesion is established.

For now, DRM should not be disregarded completely. Critics should recall that history is filled with brilliant alternatives to existing businesses and economic systems (such as the IP system) that somehow went awry. Marx and Engels' *Das Kapital* and its subsequent application is one example.

Views

For SMEs but Without Consulting Them? A Critique of the Gowers Review of Intellectual Property – John Mitchell¹

HM Treasury states as a forward to the Gowers Review that “The UK’s economic competitiveness is increasingly driven by knowledge-based industries, especially in manufacturing, science-based sectors and the creative industries”. Gowers, however, was side-tracked to focus on copyrights. As copyright is free yet already carries criminal penalties for breach, this issue detracted from the deserving issue of patenting, which was largely ignored by Gowers, despite the above HM Treasury guidance.

Patents are as significant to the economy and to innovation as copyrights, yet in the UK there are still no penalties for infringement. Apart from missing out on this major problem, Gowers made numerous invalid assumptions on patenting.

Gowers concludes that as patent litigation is expensive, most settle out of court. He suggests that the fact that only 1.5% of cases are litigated in the US supports his claim. The claim might be true for corporate hostilities but is definitely not true for SMEs, who create the vast majority of UK innovation.² The reality is that almost all cases where an SME’s patent is infringed, can never make court, and thus are of insufficient threat to create a settlement of any value.

Gowers concludes that the patent system works well and that patent quality is good. Even Microsoft and Yahoo’s submissions suggested the opposite. Both mentioned that they could see how the UK patent system worked poorly for SMEs and was far too expensive. These two organisations are probably the largest

respondents in size. Both hold many patents and have fought numerous cases, and thus should know.

Gowers suggests that because the Patent Office (PO) has established ISO certification, patent quality is good. But there is no connection. The PO admits that it spends less than 11 hours on average dealing with each patent application, but takes 3-4 years over examination giving an unfortunate impression of quality and responsibility. The PO is not responsible in law for any of these decisions, which catches out many inventors as this fundamental issue often undermines inventors getting their invention to market or even licensing it.

Gowers admits that the examination is often sub-contracted abroad but fails to pick up on the language barrier as a major cause for concern, as patent enforcement often hangs on the meaning a judge ascribes to an individual word.

Gowers concludes that if patent enforcement were to be made easier, consumers would pay more. This irrationally assumes that patented inventions are all actually made available to consumers. With easier patent enforcement, the inventor might be able to compete into established markets with newer and more efficient technology with consumers benefiting. The slower than necessary adoption of ecology friendly technology is a good example.

Gowers also assumes infringers would automatically get a license, which Dyson for one might have something to say about. Cheaper but fairer patent enforcement would also force more innovation from the corporates, rather than allowing them to put SMEs at disadvantage. In short, there would be more competition, better products and lower prices. We need to encourage innovation to flourish, not report falsely that all is well when plainly it is not.

Gowers lost any credibility in patenting when he argued for no change to the current muddled waters of patents involving software. He could not see how a patent that covers a software’s ‘technical effect’ should be granted equally to one that would otherwise be granted if the inventive ‘technical effect’ is implemented by old fashioned

¹ John Mitchell is Managing Director, AllVoice Computing plc. He is the Vice- Chairman - SMART Club and Chairman of the Patent Reform Group

² David Irwin, speech given to the European Forum; http://www.sbs.gov.uk/SBS_Gov_files/speeches/eu_car_diff.pdf

hardware (e.g. a volume control). Conversely, Gowers argues that the copyright system needs revising to account for new hardware such as DVDs as some enforcement law has become outdated. Since technology way before DVDs and video recorders, people have been arguing for change in the patent system, which remains geared up to 19th century hardware. His argument for change on copyright law should be transposed to permission for software patenting.

Gowers also raised the issue of patent insurance in his call for evidence. However, the report is strangely lacking in commentary. This is no doubt because few outside of government are particularly interested in insurance, as it has been proven to fail many times, in many countries. For patent insurance to work, insurance companies need to cover all eventualities in all jurisdictions. They will, for example, not insure someone already infringed, as happens to many whose applications are published under the patent system (18 months) and copied before normal patent grant (around 4 years). The faster moving the technology, the more likely this scenario is to occur. They also largely avoid cover for the US, which for most is the biggest problem. An EU report found that every significant European patented innovation was copied by at least one US company.¹

How did Gowers get patenting so badly wrong? The answers are quite simple. We know he formed his evidence on the established interests of Government, IPR lawyers, courts and other specialists such as patent attorneys, thus ensuring a continued bias in their favour. It was difficult, if not impossible, for real users to have their say, and indeed Gowers refused to meet with elected SME IPR representatives. Several wrote in to complain that they could not produce evidence, given the bias, with one IPR UK professor writing in to say “A major issue in the IPR debate is that the weak lack the resources to use the system as effectively as the strong. In requesting information of a sort and in a form that most SMEs, most independent inventors, and most

developing countries are quite unable to supply, you would seem to be dismissing this problem.”²

In summary, SME inventors are likely to take about as much notice of the Gowers report as he took of them. Let’s hope that Gordon Brown will arrange for a proper review of patenting with a view to substantive change, or we might as well kiss goodbye to the UK or Europe getting back into any position of leadership in innovation.

Experts’ Corner

Patents and measuring competitiveness: Reflections on living with a huge new database - Kevin Scally

3

Patents are constantly being used as indicators of comparative national competitiveness, often beyond what they are capable of delivering. They are a measure of a part of the technological output only and many of them are of questionable intrinsic value; the majority provide little or no financial return.

Nevertheless, if we are careful about what is being measured and how it is measured, they may be valid as a proxy for, and can provide some indication of, comparative innovative capability.

I was responsible for assembling and analysing a large mass of new data for a recently published study of this kind.⁴ The Small Entity (SE) data are a unique subset of the United States Patent and Trademark Office (USPTO) data that allows us to more easily distinguish individual inventors, small firms, and universities. These entities qualify for a remission of 50 per cent on selected fees due to the USPTO.

¹ http://cordis.europa.eu/innovation-policy/studies/im_study3.htm

² The professor in question was Prof. Stuart MacDonald of the University of Sheffield

³ Kevin Scally (BSc PhD TCD) is Lecturer in Management at the National University of Ireland (Cork)

⁴ Kingston, W. and K. Scally; *Patents and the Measurement of International Competitiveness*; Edward Elgar; Cheltenham; 2006

Since the declaration of Small Entity status is made by the patentee, it can provide scholars and policy makers with a measure of their subjective assessment of the licensing or transferability potential of their patent. The SE data are a relatively recent resource for patent analysis since they have been collected only since the mid 1990s and been available for analysis only since 2001. By focusing on the SE subset, features are highlighted which are less clear, or entirely obscured, in an examination of the full patent records. Some of these are identified in the study, and a few have been selected for brief discussion below.

University IP activities

An important reason for taking stock of the patenting and licensing behaviour of universities is that, in the current global economic, political and legal framework, the possession of large numbers of patents gives their owners – whether these be firms or universities – a measure of control over the re-research environment. The corollary of this is the fear that universities with very few patents in an increasingly privatised IP environment may find themselves at a disadvantage.

The SE data suggest variable attitudes to technology transfer among universities in the major European nations. Over 50 per cent of all patent applications from German universities claimed the SE fee remissions, while the equivalent French figure was 6 per cent. The reason offered by the French universities is that they do not bother to claim the fee remission since they expect, as a matter of course, to licence their IP to large firms (thus losing the SE entitlement). Assuming this explanation is true, it highlights an important variance in policy between the French universities and practically all other universities in Europe and the US.

Costs of patenting

The SE data show that the proportion of all eligible Small Entities claiming the fee remissions is declining. In 1982 the US Congress designed the SE remissions as a means of encouraging applications from the sectors they saw as important to the national innovation process: individuals, small firms, and universities. What

Congress did not foresee was that, with the growth of a global patenting ‘industry’, the fees to the USPTO would become a diminishing proportion of the costs of obtaining a patent. The decline is more pronounced among universities than among individual inventors or small firms, supporting other research that indicates increasing privatisation of the output of university research.

Patenting activities outside the US

Taiwan is shown to have the highest count of SE patents in the world. Closer examination of the SE data reveals, more forcefully than the full patent records, the extent to which Taiwanese USPTO patents are owned by individuals. One explanation for this appears to be that the Taiwanese economy is heavily dominated by smaller, often family owned, firms and that the proprietors of these firms, to a far greater extent than elsewhere, reserve ownership of the firm’s IP in their own names. There is a suggestion that fear of the volatility of the Taiwanese economy and the likelihood of the firm ‘going under’ may be a contributory motivation for this.

The SE database also reveals a preponderance of inventive activity in Israel by smaller firms and substantial input from the university component. The evidence suggests that easy availability of seed capital is an important factor, allied to some unique circumstances inherent in the political and economic environment of the country. The military and defensive nature of life in Israel has contributed to a culture of small start-up enterprise with opportunities for military and ICT related contracts. In addition, there has been a steady contribution to the educated scientific capital of the country, through immigration, over many decades.

National vs. foreign share ownership of patents

A further avenue of exploration for researchers, and one not heavily covered in the literature, is the level to which the patents from each country are assigned to non-national entities. It hardly comes as a surprise to find that the US multinational corporations (MNCs) with overseas offices will appear as Assignees on a high

proportion of the SE patents, but all the major industrial nations also appear. The differences between countries in this transfer of ownership from indigenous inventors to MNCs are of interest. As an example, taking only university patents, 31 of the 43 Swedish patents over the 10 year period (72.1%) were assigned to US entities, as were 54 out of the 94 Belgian patents (57.4%). At the other end of the scale only 11 out of the 1,101 Korean patents (1%) were assigned to a US entity, as were only 26 out of Israel's 459 university patents (5.7%).

The data confirm that the patent system needs to be kept under constant review to monitor which individuals, organisations or countries now derive differential benefit from it. This review should, of course, include an assessment of policy driven incentives like the Small Entity fee remissions.

At the individual level, users of patents need to be more careful in deciding if the future value of the invention they intend to patent is genuinely likely to exceed the cash they are about to pay to secure the protection. The patent decay statistics alone suggest that all categories of Small Entity patentee are over-optimistic. Some Institutions may even be using patenting purely as a matter of bureaucratic policy.

Universities must reassess their technology transfer policy. As custodians of public money their duty is not to act solely as a research facility for private investors. They need, therefore, to consider the balance between the immediate issue of ensuring that research is converted into valuable improvements for society, and the longer-term issue of safeguarding areas of knowledge for future research.

News Flashes

Top Stories in the World of IP and Competition

1) Following comments made by the Director of the WHO, Dr. Margaret Chan when she recently visited Thailand, many NGOs are now accusing the new Director of failing to stand up for people living with AIDS. In a response to the military-backed government of Thailand issuing a

compulsory license for Merck's HIV/AIDS drug Efavirenz, Dr Chan said she truly felt that the pharmaceutical industry was part of the solution to better drug access and that the government should open negotiations with drug firms over the issue rather than misusing CL.

To read more go to www.who.int

2) In a statement published on Apple's web site, Steve Jobs, the company's chief executive called for the world's 4 major record companies (Vivendi's Universal Music, Sony BMG Music Entertainment, EMI and Warner Music Group) to start selling their online music without digital rights management. Apple has been under heavy pressure in Europe to make its iTunes compatible with other music devices than its own iPod, and critical voices both from the music industry and consumer organisations dismissed Jobs' comments as mere "frustration at being the bad guy".

To read more go to www.apple.com and www.ft.com

3) While Microsoft's new and long-awaited operational system Vista was launched to businesses in November 2006, home users had to wait until only a few weeks ago to use the new software. The launch has been severely delayed and critics have argued that it's a reflection of Microsoft's declining hegemony in the software industry. While they might be right in arguing that Microsoft is facing tougher competition, it is still estimated that about 100 million computers worldwide will be using Vista within the next 12 months.

To read more go to www.microsoft.com and www.news.bbc.co.uk

4) In an open letter published recently on his web site former Soviet leader Mikhail Gorbachev pleads Bill Gates to "show mercy" in a high profile case involving a Russian teacher accused of having run pirated versions of Microsoft Windows on school computers. The teacher is charged for deliberately using pirated Microsoft software and causing the company to lose an estimated 266,000 roubles (£5,000). "We have great respect for the work of Microsoft's

programmers... and are in no way casting doubt on the principle of punishment for intellectual property violations. However, in this case we ask you to show mercy and withdraw your complaint against Alexander Ponosov," the letter read.

To read more go to www.news.bbc.co.uk

5) For the third time the Global Congress on Combating Counterfeiting and Piracy met in Geneva to discuss ways to fight the ever-increasing problem. Under the banner "Shared Challenges: Common Goals" senior national officials, delegates from the international organisations, civil society and representatives from the industries affected by piracy discussed how to take the battle forward.

To read more go to
<http://www.ccapcongress.net/>

6) On the 20th February the Stockholm Network and UNCTAD co-hosted a debate on the topic of pharmaceutical IPRs at the Palais des Nations in Geneva, Switzerland. The debate featured representatives of industry, academia, the UN and civil society, and the central issues being debated included controversial topics such as different innovation models to encourage R&D in the pharmaceutical sector and access to medicines in developing countries.

To read more go to
www.ip-watch.org

Forthcoming Publication

The Stockholm Network IP and Competition programme will publish a new essay collection on the topic of pharmaceutical IPRs in early April. The publication, entitled *Healthy IPRs* exposes readers to some of the central issues currently taking place in the field of pharmaceutical Intellectual Property Rights.

It is no secret that the IP field in general, and pharmaceutical IPRs in particular, have been the subject of many heated discussions. These discussions can often be as emotional as they are rational.

Yet without denigrating the importance of the pharmaceutical IPR debate in general, and the issue of access to medicines in particular, it is essential to keep the big picture in mind. Pharmaceutical IPRs work. They are part of the solution and not part of the problem.

By providing a comprehensive and realistic overview of the many aspects of pharmaceutical IPRs this compendium seeks to underline this message.

Healthy IPRs includes concise and informative contributions from seventeen distinguished experts, including academics, policy makers and practitioners. It is a useful tool for anyone seeking to understand the complex issues at the heart of global IP policymaking.

For more information about the book or to order a copy please contact Simon Moore:
simon@stockholm-network.org