

Agenda 12 : IP and Innovation: University Tech Transfer

We are again surprised by the inclusion of an Agenda item on “IP and Innovation: University Technology Partnerships” at the behest of one developed country. We hope that it remains a stand alone item. We have seen similar agenda items in the past meetings of the TRIPS Council where the developed countries tried to highlight the fact that IP was good because it would propel development. The developing countries on the other hand maintained that there was no evidence to prove that strong IP could deliver on development or innovation. In fact IP is only one of the several factors required for development. It is rather unfortunate that rather than addressing the long pending agenda items of this Council which are of interest to the developing countries, few Members are attempting to convert the TRIPS Council into a debating forum.

Chair, the framers of the TRIPS Agreement had a very clear view that there was no direct relationship between IP and development. They therefore framed the Agreement by providing flexibilities and left it to the national legislations to define the path of innovation on the basis of their particular socio economic needs. While developed countries have tried to create private monopolies over minor or incremental innovations, the developing countries can define their own patent threshold on the basis of their socio economic development. Thus in order to provide affordable access to medicines, educational material or any other tools for socio economic development, it is essential that the minor innovations do not get patented. Rather than fostering development, the monopoly rights through patents could in fact block invention /innovation and development in the developing countries. It is important to note that higher number of patents do not mean real innovation.

The proponent of this agenda item would like us to believe that IP would not only lead to innovation but by following the US model in their Universities, we could convert our national Universities into centres of growth and technology transfer. While the model has been severely criticised even in the US, the proponents would like the governments to forget about the resources that they have invested in the Universities, provided these institutions demonstrate their output in the form of the number of patents that they have registered or the number of licensing agreements

with the commercial entities. The over-emphasis on IP may thus deviate the focus of the Universities from basic research and teaching to that of meeting the commercial needs of the industry. We therefore fail to understand the model where the government spends money but does not have any role in deciding the priorities for the Universities. Thus, in an IP centric model, even if the government would have a priority for research in neglected diseases like Malaria or Typhoid to meet the needs of its large population, the Universities may prefer to work on the diseases that could provide them better returns.

Chair, the model proposed by the US assumes that IP can facilitate innovation and transfer of technology. It may be relevant to a very few countries that have abundant resources and IP to protect. But the model cannot be extrapolated to other countries having very limited resources. In the developing countries, where the governments have limited funds even to attract the best brains to their Universities or to develop their basic infrastructure, by defining the output of a university through a narrow focus on the number of registered patents, we suspect that the Universities could become commercial enterprises by deviating from their objective of teaching and basic research. They would thus end up spending their limited resources on patent litigations and looking for opportunities to collaborate with industry.

Finally, we must not ignore the fact that most of the economic contribution of public sector research institutions has historically occurred without patents—through dissemination of knowledge, publications, presentations at conferences, and training of students. Throughout the 20th century, the universities were the most powerful vehicles for the diffusion of basic and applied research by ensuring that their research remained in the public domain and the industry and other public sector researchers could use it. By creating exclusive rights over the output of research we suspect that it would result in over commercialisation of universities and may lead to issues of corruption, conflicts of interest etc.

Chair, it is very important that we do not lose sight of the history of innovation. The developed countries have reached this level of development not through high IP standards but through a flexible approach. If there were patent monopolies even hundred years before, we would not have seen the current revolutions in varied fields like telecom, pharmaceuticals, engineering, IT etc. It therefore reminds me of

the famous quote from Bill Gates where he said if people had taken out patent monopolies when the web was still in its infancy, the IT industry would be at a complete standstill even today.

Chair, India strongly believes that innovation should happen in the Universities. But creating monopolies through IPRs is not a solution. The Open Source Drug Discovery (OSDD) pioneered by the Centre for Scientific and Industrial Research is one such effort to provide innovative health products to the developing world at an affordable cost. The idea is to provide a global platform where the best minds can collaborate & collectively endeavor to solve the complex problems associated with discovering novel therapies for neglected tropical diseases like Tuberculosis, Malaria, Leishmaniasis etc. In fact the idea for Open Source Drug Discovery is inspired by the success of open Source models in Information Technology (For e.g., Web Technology, The Linux Operating System) and Biotechnology (For e.g., Human Genome Sequencing) sectors. OSDD collaboratively aggregates the biological, genetic and chemical information available to scientists in order to use it to hasten the discovery of drugs. Similar models could be replicated in other fields like environmental technologies and goods where IPRs create barriers in accessing them at an affordable cost.