

Moving towards a Patent Pool?

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Access to medicines and IPR: a recent issue in the Health Agenda within WHO

- 1999 (WHA52.19): The revised drug strategy.
- 2001 (WHA54.11): WHO medicines strategy.
- 2002 (WHA55.14): Ensuring accesibility of essential medicines.
- 2003 (WHA56.27): Intellectual property rights, innovation and public health.
- 2004 (WHA57.14): Scaling up treatment and care within a coordinated and comprehensive response to HIV/AIDS.
- 2006 (WHA59.24): Public health, innovation, essential health research and intellectual property rights: towards a global strategy and plan of action.
- 2007 (WHA60.30): Public health, innovation and intellectual property.
- 2008 (WHA61.21): Global strategy and plan of action on public health, innovation and intellectual property.

Public Health and IPR: looking forward to reach a balance

- Innovation (NCE), incremental innovation
- The neglected and most-neglected diseases
- Prices of new medicines and diffusion in the relevant markets
- Public Health and access to medicines
- Is a balance possible?
- A continuous process: trade and health, the UK CIPR, WHO CIPIH, IGWG

Background for the UNITAID move



- MSF paper on medicines patent pool (request to UNITAID and the French Government) - June 2006
- IPDS preliminary legal review - July 2007
- EB6 - Resolution on patent pool - December 2007
- 1st meeting of Expert Group - March 2008
- 2nd meeting of Expert Group - June 2008
- EB8 approves the principle of the patent pool – July 2008

Patent pool (for medicines)

A portfolio of assets consisting of the entire set of patents & related information held by various actors (companies, universities, government institutions) related to a particular technology that are made available on a non-exclusive basis to manufacturers and distributors of medicines.

Objectives of a Patent Pool



- ➡ Reduce transaction costs
- ➡ Unblock development of technology through a distributed holding of patents
- ➡ Achieve price reduction
- ➡ Encourage competition

Key features of the Patent Pool



- ➡ A licensing agency to act as an intermediary
- ➡ Set up as a voluntary mechanism
- ➡ Include a wide range of industry players

Other examples of patent pools



- ➡ SARS patent pool
- ➡ Public Intellectual Property Resource for Agriculture (PIPRA) licensing arrangement
- ➡ Golden Rice Patent Pool
- ➡ Open Invention Network (OIN) for Linux Software

Recommendations for the setting-up



- ➡ Geographic coverage: to include all low and middle income countries and allow for exceptions
- ➡ Scope: to focus initially on Pediatric ARVs and new combinations
- ➡ Relationship with UNITAID: a licensing agency legally separated from UNITAID and with full liability
- ➡ Quality assurance : licensing agreements include requirements aimed at ensuring that licensees can meet appropriate quality standards.

Potential Benefits



- ➡ Increase access to more appropriate and affordable medicines
- ➡ Development of new formulations (new FDCs)
- ➡ Increase competition in the supply of medicines
- ➡ Flexibility in licensing
- ➡ Access to patented technology under reasonable terms
- ➡ Lower prices
- ➡ **A win-win proposal?**

Next steps potentially ahead



- ➡ UNITAID Board Resolution: the principle of establishing a patent pool (EB8).
- ➡ The Secretariat prepares a budget to set up the process, looking towards a licensing agency (July 2008).
- ➡ Task Force operational (August 2008)
- ➡ Triggering the process and elaboration of draft documents, including license agreements
- ➡ UNITAID discusses and approves the establishment of the Pool (January 2009)?

"From airline tickets to patent pools..."



(...)

Today patent pools are a favoured system in technology sectors that require common standards, such as the MPEG-2, DVD-video, DVD-ROM and radio. Medicines, though, are trickier terrain.

(...)

UNITAID may be able to pull it off with some luck and lots of hard work. (...) They have a delicate and onerous task before them. Millions of people are waiting hopefully at the patent poolside."

Latha Jishnu/ New Delhi July 23, 2008

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