International dimensions of IP systems

What are international dimensions of IP?

Intellectual property rights are national rights subject to territorial legislation and jurisdiction. For example, even if a patent or an industrial design has been granted through the World Intellectual Property Organization's (WIPO) international procedures (i.e. the Patent Cooperation Treaty [PCT] system for granting international patents through a single application procedure; and the Hague System for the registration of industrial designs internationally through a single registration procedure), the resulting IP rights, once granted, will become national titles in each of the countries designated by the applicant.

However, IP rights increasingly have international dimensions in the following ways:

- First, several international and regional bodies deal exclusively with IP matters (e.g. WIPO for the development of IP protection, and the international granting and registration of different IP rights; or the European Patent Office [EPO] for the granting of European patents through a centralized procedure) (link to node on 239.International and regional bodies).

- Second, IP rights are also the subject of an important number of international and regional agreements, such as the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), the Berne Convention for the protection of author's rights and the European Patent Convention for the granting of European patents, amongst others (link to node on 240.International and regional agreements).

- Third, regional unions, such as the Andean Community, bilateral/trilateral free trade agreements like the North American Free Trade Agreement (NAFTA) or international investment agreements also contain provisions concerning IP.

What implications do the international dimensions of IP have for innovation?

As innovation activities are increasingly globalised, international dimensions of IP rights can be a natural extension of national IP systems. The fact that innovation is increasingly international in nature (WIPO, 2011; OECD, 2012) has intensified global interest in the international protection of IP rights. The existing international system of IP protection offers advantages for business: international registration procedures like the PCT or the Madrid system allow firms to protect and exploit their IP assets in multiple countries through a single-application procedure, ultimately helping companies to recoup their investment in innovation. There is also growing demand for IP protection in middle-income countries, where multinational companies are increasingly locating their R&D facilities (WIPO, 2011) with the further development of global value chains.

International discussions are also increasingly important for the following reasons:
International cooperation between IP offices, e.g. by sharing examination results, can help reduce processing costs across IP offices (OECD, 2013). This can in turn help improve the legal quality provided, so as to enhance the contributions of IP to innovation, which is essential. For instance, in the case of patents, a significant part of the increase in patent filings in the last few years was due to subsequent patent filings, most of which represented international filings (WIPO, 2011). Furthermore, combining the resources of a number of IP offices can help promote patent quality (WIPO, 2011). Cooperation can take place at different levels - it can range from a simple exchange of information

to the recognition of foreign grant decisions, with many options in between. Deciding on the appropriate level of cooperation involves many considerations, including trusting the work of foreign counterparts, assessing the compatibility of domestic IP standards with those from abroad and considering the learning benefits that may be lost by not examining patents domestically (WIPO, 2011).

In addition, IP internationalisation has resulted in an increased tradability of IP assets and the development of technology markets. The last few decades have seen an increase in licensing and other IP-based collaborative mechanisms, such as patent pools (OECD, 2012). New intermediaries and IP marketplaces have also emerged, which facilitate trade in ideas and vertical disintegration of knowledge-based industries (WIPO, 2011). Moreover, trading IP assets also enables firms to capture value from IP not utilized internally.

Also, many countries have sought to use IP laws to favour domestic firms over foreign ones. To avoid this, the major international IP conventions and bodies are aimed at controlling such domestic behaviour in the interest of encouraging international trade, to facilitate access to innovative information and knowledge, and to promote international knowledge spillovers.

What are the implications for national IP policies?

Countries differ in their capacities for innovation due to differences in technical skills and know-how. Thus, governments have to design their national IP policies according to their particular innovative landscape and the ability of domestic firms to innovate (Grossman and Lai, 2002). It is important to adopt IP systems that meet the standards and obligations derived from the international IP legal framework, but that also support specific economic sectors, technology fields and the particular needs of the national context (WIPO, Public Policy-related Assistance; Wallerstein et al., 1993). A lot will depend on complementary policies countries adopt when it comes to the impact of IP on innovation, particularly in development contexts (OECD, 2013). These are very much subject to national policy making and relate to the wider set of innovation policies (link to node on 327.Governance of IP).
Internationalisation of IP offers national governments the possibility of taking part in discussions on IP policy issues of global interest. It provides a platform for sharing a country's experience and defining common policy objectives. Thus, participation in international forums is potentially very important.

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