

Congress Milan 2016
Adopted Resolution
September 20, 2016

Resolution

Patent Rights and Green Technology / Climate Change

Background:

- 1) This Resolution concerns the role of intellectual property (*IP*), particularly patent rights, in relation to the development, dissemination and implementation of green technologies. For the purpose of this Resolution, the term **green technologies** refers to technologies that are directed to mitigate or reverse the effects of human activity on the environment, including but not limited to the conservation of natural resources, especially technologies directed to the elimination, reduction or restriction of the emission of greenhouse gases (**GHG**), and which do not themselves have other adverse effects on the environment.
- 2) AIPPI has previously considered the issues addressed in this Resolution within its Standing Committee on IP & Green Technology whose 2014 Report, entitled "Climate Change and Environmental Technologies – the Role of Intellectual Property, esp. Patents", published at the 2014 AIPPI World Congress in Toronto (Canada) (**Report**), provides a full discussion of the background to the issues addressed in this Resolution.
- 3) According to the majority of experts and confirmed in Intergovernmental Panel on Climate Change (**IPCC**) "Climate Change 2013: The Physical Science Basis. Summary for Policymakers" climate change observed in recent years is to a large extent due to the effects of human impact on the environment. With the signature of the United Nations Paris Agreement on Climate Change by 168 countries in April 2016, a decisive step was taken to tackle this challenge.
- 4) The development, dissemination and implementation of green technologies is highly significant to a sustainable world economy.
- 5) This requires the *acceleration* of research and development in the field of green technologies, and the *dissemination* and *implementation* of these technologies on a worldwide scale. Individual inventors, start-up companies and small- and medium-enterprises (**SMEs**) play a key role in this regard.

- 6) The development of, and access to, green technologies by developing and emerging countries has been debated for many years. Some developing and emerging countries consider that patent rights act as a barrier, rendering access to green technologies difficult or prohibitively expensive. Developed countries generally consider that issues relating to IP should be debated within the framework of the World Trade Organization rather than as part of the United Nations Framework Convention on Climate Change.
- 7) There is insufficient evidence to suggest that fundamental changes in IP systems are needed to incentivize the development, dissemination and implementation of green technologies.
- 8) The Report, in the paragraph bridging pages 17 and 18, citing the joint European Patent Office - UN Environment Programme Report "Patents and clean energy in Africa", suggests that presently in most developing countries, the majority of green technologies are not covered by patent (or other IP) rights, and so are generally freely available for use by all. Accordingly, proposals for compulsory licenses or proposals to dilute the standards under the Agreement on Trade-related aspects of Intellectual Property Rights (**TRIPS**) for compulsory licensing do not provide a solution to the needs identified at paragraph 4) above.
- 9) Further, know-how for development and practical implementation of green technologies, including skills to adapt such technologies to local conditions, is important for developing and emerging countries.
- 10) The Report, on pages 18-21, states that "The development of standards in the green technology domain may also be quite relevant". It draws attention to, and identifies the advantages of, the International Renewable Energy Agency's "Information Platform for Renewable Energy Patents and Standards", a web-based information platform which aims at integrating the existing information regarding the national and international standards as well as patents in the field of renewable energy technologies. The International Standards Organization observes, in its publication "GHG Schemes addressing Climate Change How ISO Standards help", that "Standards will play an increasingly important role in moving societies and economies to a more climate-safe development path. Standards can provide clear guidelines, help structure processes and set quality norms".
- 11) Because IP ownership incentivises inventors to develop and commercialize new technologies, including green technologies, a strong patent system will contribute to research and development (**R&D**) in the field of green technologies. It is important to foster R&D from all sources including individual inventors, start-up companies and SMEs.

AIPPI resolves that:

- 1) The minimum standards for patent systems prescribed in the TRIPS Agreement involve a careful balancing act and require non-discrimination across technology areas. There is insufficient basis to suggest that any fundamental changes to

patent law are warranted that would differentiate the treatment given to green technologies from any other technological areas.

- 2) Recognizing the immediacy of the threat of climate change, procedures enabling applicants to elect for accelerated examination of patent applications covering green technologies should be supported.
- 3) Patents are an important source of information about the nature and ownership of existing technologies, and so play a vital role in the dissemination of information about green technologies. To better use this resource to facilitate technology collaboration and communication, online patent resources should be improved, as should measures to educate on, facilitate access to and use of such resources.
- 4) Initiatives that have demonstrated that IP laws can be implemented in such a way as to promote the development, dissemination and implementation of green technologies should be supported. These include:
 - a) the work of the European Patent Office on patent information as a way to increase the transparency of the patent system;
 - b) the “WIPO GREEN” program, which consists of an internet platform where businesses and public bodies around the world can register their needs, and/or their green technologies that they are willing to transfer for reasonable consideration, that encourages green technology transfer;
 - c) training programs conducted by the World Intellectual Property Organization and other institutions to enable and empower individuals and stakeholders to use the IP system.
- 5) The development, adoption and use of international standards for green technology should be encouraged as such standards help promote the rapid and widespread adoption of green technology.
- 6) For the IP system to provide a real and practical contribution to the development, dissemination and implementation of green technologies in developing and emerging countries, the innovation infrastructure in such countries should be strengthened so as to drive IP asset development, and enable IP licensing and R&D collaboration as a means to facilitate commercialisation.
- 7) The IP system is part of a larger ecosystem that contributes to the development, dissemination and implementation of green technologies. In isolation, the IP system cannot address all the issues faced by developing and emerging countries in this regard. Tax and other incentives should be available to encourage the dissemination of new technology, including by voluntary licensing and equitable collaboration among parties in developed, developing and emerging countries.

Links:

- Report of AIPPI's Standing Committee on IP & Green Technology entitled "Climate Change and Environmental Technologies – the Role of Intellectual Property, esp. Patents",
<http://aippi.org/wp-content/uploads/committees/198/Report198Report+Climate+Change+and+Environmental+Technologies+-+The+Role+of+IP+esp.+PatentsEnglish.pdf>
published at the 2014 AIPPI World Congress in Toronto (Canada).
- Joint EPO – UNEP study: Patents and clean energy technologies in Africa,
<http://www.unep.org/newscentre/default.aspx?DocumentID=2716&ArticleID=9502&l=en>
- European Patent Office (EPO) on patent information, https://www.epo.org/news-issues/issues/classification/classification_fr.html
- The “WIPO GREEN” program, <https://www3.wipo.int/wipogreen/en/>
- Intergovernmental Panel on Climate Change (IPCC) “Climate Change 2013: The Physical Science Basis. Summary for Policymakers”,
http://www.climatechange2013.org/images/report/WG1AR5_SPM_FINAL.pdf