Stakeholders‘ Perspectives on Licensing of Climate Change Related Technologies to Developing Countries – Private Sector Perspectives

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Topics

- Huge challenges
- Developing countries’ role and situation
- Technology transfer
- The IP*SEVA model: Research and development collaboration
- The role of patents
- Private sector requirements and contribution
- Conclusions
Challenges
Possible Solutions

- Wind
- Water
- Sun

- From single PV or solar thermal panel to CSP projects, like Desertec, in many countries (AU, CN, IN, TH, US, MX, CL, ZA, MA, DZ, AE, ES, FR, IT, DE, …)

*Within six hours deserts receive more energy from the sun than mankind consumes within a year*

Dr. Gerhard Knies, Desertec Foundation

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Developing Countries’ Role and Situation

- No relevant contribution to negative climate change effects (compared with industrialized countries and emerging economies)

- Heavily affected by climate change impact

- Strong need for more energy in order to
  - Develop economies
  - Raise standard of living
Developing Countries’ Situation (2)

- Unique opportunity to avoid climate damaging effects by maximizing the use of clean energy

- Need for large scale buildup of alternative/sustainable energy generation facilities

- Need for technology transfer
Patent Licenses Alone not Sufficient

- The relevant technologies are (typically) very complex; reproduction only on the basis of patents is usually not possible

- Needed in addition:
  - Experience
  - Know-how/Trade secrets
  - Training/Capacitation/Education

- Also bottleneck: negotiation competence
Technology Transfer – What?

- Which types of technologies
  - Large installations/plants, e.g. hydropower plants, CSP plants, ...
  - End-user products, e.g. solar lamps, solar cooking devices, ...
  - In between: e.g. solar PV installations with local assembly and mounting
Technology Transfer – From Where?

- Typically from industrialized countries and emerging economies to developing countries
  - Preparedness to apply more flexible terms when licensing to developing countries with limited financial capacity

- To be avoided: only one-directional relationships

- Use technology transfer for
  - Enhanced capacitation at transferee end
  - Prudent license back arrangements
TT - Interests of the Parties

- Transferor/Licensor
  - Cover new markets: additional production or sales capacities (or both)
  - Speed up market entry / market development for new products or services
  - Obtain access to technologies through cross licensing or grant back licenses
  - Generate additional income through license fees
  - License in connection with R&D cooperation or joint venture
  - Increase reputation
TT - Interests of the Parties (2)

- Transferee/Licensee
  - Get quick access to new products/services
  - Reduce development cost, avoid cost of designing around
  - Reduce risk of patent/IP infringement

- As cheap as possible…
The IP*SEVA Model

For solving climate change and other challenges

- Technology transfer alone is not enough
- Research and development collaborations are needed on a global scale
- [http://ipseva.com/about/the-ipseva-model](http://ipseva.com/about/the-ipseva-model)

**Literature:** Cynthia Cannady, IP*SEVA, Access to Climate Change Technology by Developing Countries – A Practical Strategy, ICTSD Issue Paper 25, 2009-09
Are patents a hindrance?

- Completely exclude patentability of green energy technologies?

- Additional regulations for compulsory licensing?
  - In most countries legal regulations already exist

- Would missing patent protection be a motivation for R&D?
Why is Patent Protection so Important?

- In Technology Transfer as well as in R&D collaborations, without patent (and other IP) protection, creative contributions
  - could be freely used by foreign business partners;
  - cannot be employed for bargaining and thus achieving more affordable conditions;
  - cannot be used to stabilize scientific positions and domains;
  - cannot be used to generate income.
Private Sector Contribution

- Good Governance (Compliance) more important than ever
- Fair and adequate dealings with business partners are the best basis for lasting and sustainable business relationships
- Renaissance of responsible business behavior
  - Responsibility and obligations for
    - Own employees and associates
    - Society at large
    - Social standards
    - Environment, climate protection
  - Also needed: responsibility of capital owners and investors

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Private Sector Contribution (2)

- Not only driven by short-term goals and financial advantage

*Profit is as necessary as air to breathe, but it would be bad if we did business to make profits only as it would be bad if we lived only to breathe.*

*Hermann Abs, German banker, 1901 – 1994*

- The civil society is co-responsible for the appropriate behavior of the private sector
Summary/Conclusions

- Preparedness to collaborate in R&D is essential, involving partners from industrialized, emerging and developing countries
- Public regulations, incentives
- Responsible attitude of private businesses
- Pressure from the civil society
- Patent information is not the final answer but fundamentally important and extremely useful
- No new, different patent regime needed!
  Patents play favorable role and are necessary
Summary/Conclusions (2)

- **Who must be involved:**
  - Private enterprises
  - Governments
  - International institutions
  - Financing institutes

- **What is necessary and constantly needs to be further enhanced:**
  - Competence and expertise at the transfeerees end
  - Education, especially tertiary education
Thank you very much for your attention!

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Intellectual Property for Sustainable Energy Ventures
Core focus on **IP Strategy**, **Technology Contracts**, and **IP Education**

(Non-exclusive) **Concentration** on Sustainable Energy and Environmental Technologies

**International Network**

- Business Opportunities: R&D Collaborations, Investment
- Law firms, esp. Patents, Corporate, Tax, Regulatory issues, Venture Capital

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