

ECIPE Press Release, 18 April, 2007

A Transatlantic Divide?

The US and EU's Approach to the International Regulation of Intellectual Property Trade-Related Agreements

By Meir Perez Pugatch

In this ECIPE Working Paper Dr. Meir Pugatch presents new research on the so-called *TRIPs plus* phenomenon. *TRIPs plus* tends to be entirely viewed as an entity of regional and bilateral trade agreements of United States, but as Dr. Pugatch shows in this study the EU certainly also seeks to secure *TRIPs plus* provisions with its partners. However, the EU approach towards the international regulation of IPRs is less effective than the U.S. approach and does not fully meet its objectives. Dr. Pugatch concludes the EU should take a more proactive role in the international regulation and enforcement of IPRs.

The international regulation of intellectual property rights (IPRs) deals with a unique commodity—knowledge. Knowledge products are generally difficult and costly to create, but they can easily be used and copied. The rising increase in the importance of IPRs and the rapid pace of technological advancement across the borders requires that *TRIPs plus* agreements become much more specific and accurate. Today regional and bilateral trade agreements between developed and developing countries have tended to implement intellectual property (IP) provisions that go beyond the level of protection provided by the *TRIPs* agreement in the World Trade Organization. These provisions are categorised as “*TRIPs plus*”.

Both the United States and the European Union secure a *TRIPs plus* level in their Regional or Free Trade Agreements with other countries. However, U.S.-led agreements are much more detailed and comprehensive than EU-led agreements, both in terms of the structural framework and the level of IP protection. The United States is employing a “hands-on” strategy – a nanny approach – while the EU hitherto has preferred a generalist approach based on different multilateral treatments.

There are signs of a shift in the EU approach. A shift is also necessary. The EU needs to broaden the use of its new IP Enforcement Strategy in Third Countries and should also consider shifting to agreements that are more specific in terms of their IP demands. Stronger collaboration and coordination between the United States and the EU is recommended. Coordination is in particular important over countries that have not yet concluded their IP negotiations with the United-States or the EU. Countries such as India and China are of particular concern in that group.

There is also a greater need to strengthen the mandate of the monitoring and enforcement committees established under U.S. and EU-led FTAs in order to ensure that such agreements are better implemented. Paradoxically, countries that wish to secure a lower level of IP protection than provided by the current FTAs should strive to make *TRIPs* stronger rather than “celebrate” its flexibilities.

Publication details

ECIPE Working Paper No. 02/2007

A Transatlantic Divide?

The US and EU's Approach to the International Regulation of Intellectual Property Trade-Related Agreements

By Meir Perez Pugatch

Meir Perez Pugatch is a Senior Lecturer at the University of Haifa and specializes in the fields of intellectual property policy, management and exploitation of knowledge assets, technology transfer and entrepreneurship. Dr. Pugatch holds a PhD from the London School of Economics and heads the Intellectual Property and Competition Programme of the Stockholm Network.

Email: meirp@pugatch.co.il

Press information, Anna Wilson anna.wilson@ecipe.org, Mobile +46 709263177

The report can be downloaded at www.ecipe.org