



ICC's Commission on Environment and Energy

Business: Part of the solution

Intellectual property and climate change

Technology cooperation and transfer occurs every day in the course of thousands of commercial transactions between private and public sector participants. Technology development and deployment involves more than just the transfer of hardware, but also best practices, information and improvement of human skills. A country's technical capacity and enabling environment are also key factors for implementation. The global development and deployment of advanced technologies to address climate change will require appropriate institutional frameworks, including intellectual property rights protection to accelerate promising technologies.

The international intellectual property system brings benefits to society as a whole, striking a balance to ensure that the needs of both the creator and the user are satisfied. In return for granting IP rights (IPR), society benefits in a number of ways, as IPR help maintain fair competition, encourage the production of a wide range of quality goods and services, stimulate economic growth and employment, sustain innovation and creation, promote technological dissemination, and enrich the pool of public knowledge and culture.

IP in the global discussion on climate change

- Intellectual property rights contribute to the development and diffusion of new and existing technologies for combating climate change, whether through mitigation, efficiency or adaptation.
- When governments consider potential mechanisms to foster transfer of technology in the context of a United Nations Framework Convention on Climate Change (UNFCCC) post-2012 framework on climate change, they should avoid measures that would create additional burdens and legal uncertainty for intellectual property owners thereby compromising the essential role of patents and discouraging innovation and disclosure of technological developments
- Numerous longstanding and broadly accepted inter-governmental institutions and agreements exist to address IPR in global markets and jurisdictions, notably the World Intellectual Property Organization (WIPO) and the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement and their provisions should be respected.

Technology development and deployment

- A very broad range of technologies will play a role in the transition to more efficient and lower emissions economic and social activity. Attempting to define "ESTs," is unlikely to capture the fullest scope of technological options that will be required in different countries and for different purposes.
- IPR is relevant for all technologies. Moreover, in light of complicated value and supply chains, and the reality that technologies often work in complex interactions and assemblages (such as a power station, smart grid, or transport network), existing IPR protections should be maintained overall as indispensable in promoting the efficient transfer of technologies that will enable the successful implementation of UNFCCC agreements.



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- Technologies are “transferred” in a variety of ways, ranging from government aid to commercial transactions. IPR plays a supportive role in all these channels.
- IPR give necessary legal clarity and certainty for the dissemination of technology. They provide the framework around which legal agreements can be structured and collaborative developments achieved.
- IPR encourage innovation by providing the means to generate a commercial return on investment in the development of technologies that can contribute to both adaptation and mitigation.

Enabling frameworks

- IP protection is an integral part of the broader enabling frameworks that provide the private sector with the confidence needed to engage in direct foreign investment, joint ventures, partnerships and licensing arrangements with local partners, establish local operations and open new research facilities - so critical to the technology deployment needed to deal with climate change.
- IPR account for only a small fraction of the cost of development and deployment of low-carbon technologies when compared to, for example, raw material and labour costs. Consequently, the influence of IPR on product price is very limited. The adoption of regulations for compulsory licensing would result in deterring development and the disclosure of superior and more cost effective alternatives.
- IPR, capacity-building and essential support for the development of effective enabling environments are crucial components for the development and deployment of technologies to the poorest and most vulnerable countries. Substantial financing is needed, but so are measures to promote private sector investment and trade. Regional centers of excellence offer a viable model to enhance capacity building.
- Especially for small and medium sized enterprises (SME), IPR can support financing for research and development (R&D) activities in clean technologies as they can increase a company's asset value and ability to obtain credit

Role of patents in stimulating innovation

- Published patent documents (patent databases and patent landscaping) offer a vast, freely accessible source of technological information on which others may build. Technology patented in developed and developing countries is becoming more and more accessible via existing online search engines and patent offices websites.
- IPR, in particular patent protection are increasingly being utilized in emerging markets to stimulate domestic innovation, particularly for low-carbon technologies. For instance, of the 215,000 patents registered for low emissions technologies, between 1998-2009, 10 percent were registered in emerging countries.

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