

WTO/TRIPS Council 3/18, November 8 2018

Agenda item 12: IP & Innovation - IP and New Business

SWITZERLAND

Mr. Chair,

Switzerland is pleased to propose this agenda item and co-sponsor submission IP/C/W/648 in partnership with Australia, Brazil, the European Union, Japan, Korea, Chinese Taipei, and the USA. We welcome the opportunity to exchange experiences on how intellectual property contributes to creating new business. This is an important topic for the WTO, whose goals are, among others, to promote trade between and economic development of its Member States.

For large companies, the protection of intellectual property is often a cornerstone of their business strategy. They consider IPRs key to protecting their intellectual property, investment and reputation against unfair competition, misuse and freeriding. At least in innovation-driven industries, intellectual property rights are often the most valuable assets in their balance sheet. For small companies and start-ups, the use of IP as an essential asset-building instrument is not always that obvious. There may be a lack of awareness. Or the start-up may know about the potential value of IP rights but shies away from the administrative work and financial costs associated with seeking IP protection – or falsely assume that they can deal with securing IP rights at a later stage in their business development.

My delegation would now like to share some experience we have made in Switzerland with regard to the three aspects addressed in IP/C/W/648 on how IPR can help new business drive their success:

Introduction

In 2015, more than 580,000¹ companies were located in Switzerland. 40,000² new businesses started operations in the same year, the majority by far being SMEs. The economic significance of these newly founded companies does not only lie in the number of newly created jobs. It lies also in the *business momentum*, the value-added *for the economy and society* they generate, *including* intangible assets such as IP. Founding a start-up may be the initiative of an independent entrepreneur. Frequently, however, they are the result of a spin-off from research institutes or universities.

Government activity and policies - as well as the legislator - can best serve research initiatives and entrepreneurs by providing favourable business conditions, i.e. lean procedures for the creation of new businesses, an attractive tax system, and not least: clear, reliable legislation for adequate and effective protection of intellectual property and for licensing IP rights. This provides a safe and effective regulatory framework for new businesses or university spin-offs entering the market and doing trade with their innovations.

We would like to illustrate this with two examples of new businesses that were the result of the partnership between academia and Innosuisse, Switzerland's innovation promotion agency.

¹ <https://www.kmu.admin.ch/kmu/de/home/kmu-politik/kmu-politik-zahlen-und-fakten/kmu-in-zahlen/firmen-und-beschaefigte.html>

² <https://www.bfs.admin.ch/bfs/de/home/statistiken/industrie-dienstleistungen/unternehmen-beschaefigte/unternehmensdemografie/neugruendungen-ueberlebensraten.html>

Innosuisse A WORD OF EXPLANATION FIRST

INNOSUISSE IS

the Swiss Government's Innovation Agency³. It supports science-based innovation in the interest of industry and society, with the aim of laying the groundwork for successful Swiss start-ups and their innovative products and services. Its long-term mission and goal is to contribute with its activity to a prosperous and sustainable economy in Switzerland. The activities of Innosuisse involve promoting entrepreneurial thinking by providing targeted and personalised training to start-ups, by funding science-based innovation projects, by helping the internationalisation of Swiss SMEs, and by promoting networking and events in key innovation fields.

Part of Innosuisse's mandate is raising awareness of SMEs of the importance of protecting their intellectual property. Innosuisse promotes business ideas in accordance with the subsidiarity principle, MEANING it only supports projects if the market potential is not otherwise tapped into. Innosuisse follows predominantly a *non-monetary* policy, i.e. a coaching and knowledge-pooling approach rather than substituting private market funds from, for example, venture capitalists. This approach helps avoid wrong incentives and ensures sustainable use of limited public means.

Of course, new businesses need substantial kick-off financing from private sources. Often, however, their sheer lack of expertise and experience of how to establish and run a business are by themselves handicaps. Here, governmental institutions can lend assistance as temporary partners, trainers, coaches and intermediaries. Innosuisse especially promotes partnerships between academia and the private sector. It is also a networking

³ Observation: In 2018, the Commission for Technology and Innovation (CTI) became Innosuisse, a public law entity.

platform, bringing the right partners from the academic and private sector together. Moreover, by helping to promote the market potential of innovations at an early stage of development, the agency can facilitate a start-up's entry into international markets.

Such cooperative assistance and support can benefit companies in all economies, whether high-, middle, or low income, of course adapted to the particular circumstances, needs and capacity of the companies in an individual country. The World Bank's research paper by Cravo and Piza⁴ on the impact of business support services for SMEs in low and middle-income countries shows how business support in these countries helps improve performance of companies and create jobs. The research paper informs policy debates with its meta-analysis on how such engagement of the public with the private sector benefits companies in a country, even if such support and engagement is limited to training courses.

In Switzerland, in 2017, around 200 start-ups benefitted from such individually tailored coaching⁵. The projects which were mentored by Innosuisse, have contributed to the development of innovative solutions, some responding to everyday problems, others producing breakthrough innovations.

Example 1

At yesterday's side event on IP & Innovation, Jonas Pollard, a Swiss post-doctoral researcher at the University of Freiburg in Switzerland, presented his highly innovative project Hemolytics Malaria Diagnostic. For its lift off, Pollard entered a partnership with Innosuisse. The business case of his project was to develop

⁴ <http://documents.worldbank.org/curated/en/521211467989461591/pdf/WPS7664.pdf>

⁵ COMMISSION FOR TECHNOLOGY AND INFORMATION (CTI). **A Successful Final Year for the CTI: activity report 2017**. Available at: <>. Accessed on: 26 Apr. 2018. Page 8.

a highly sensitive, inexpensive, portable, robust diagnostic device for malaria parasite detection in human blood. It relies on the patented chemical amplification of a malarial biomarker, a molecule found only in infected people. When this biomarker is present, a transparent liquid containing the chemical reagents (“re-agent”) turns cloudy. By recording the formation of cloudiness, one can assess the infection of a patient. Mr. Pollard explained that the *BRIDGE programme* of *Innosuisse* had been essential for developing his innovative work beyond the stage of basic scientific research. The BRIDGE programme is a joint project run by *Innosuisse* and the Swiss National Science Foundation. It enabled the grant of a kick-off funding for a year (of CHF 130,000), during which Pollard had to change his scientific mindset to an entrepreneurial one. This was also possible thanks to the BRIDGE programme, which aims to help young researchers apply their research results and gain the confidence needed to enter the market. To achieve this, Jonas Pollard participated in training courses such as the *Innosuisse Business Concept* and soon thereafter the *Business Creation Training*. He considered the support from different *Innosuisse* mentors to be crucial and helping him carry out the business development of his venture.

But how do academia, doctoral students and start-ups manage to handle their intellectual assets, their IP rights? Let’s look at the example of Jonas Pollard, whose new business holds a first patent filed in European countries and the USA. The patent is still owned by his employer, the Adolphe Merkle Institute, which covered the cost for the patent application under WIPO’s Patent Cooperation Treaty PCT. The institute’s policy is that the research group where the patent originated from covers half of the patenting costs incurred for the national filing phase. This policy applies if the invention is not licensed-out to a corporation as an external partner. Pollard is now negotiating either to obtain

an exclusive license or to buy the patent from the Adolphe Merkle Institute. A second patent is already in the pipeline for an important follow-on invention.

Summing up his experience, Jonas Pollard states that the patent was helpful in giving credibility to his project and attracting funding from other institutions and the private sector. It also enabled the disclosure of the technology to potential partners and customers without the need for a non-disclosure Agreement.

Example 2⁶

Let us also briefly present a second project supported by the BRIDGE programme. It concerns a new, innovative and sustainable business model that relies, inter alia, on trademark protection.

Colombian national Catalina Jossen-Cardozo arrived in Switzerland four years ago. Here she studied for a Master's degree at the Lucerne School of Art and Design. In her studies, she thoroughly analysed the footwear market and observed that this sector was not only characterised by very complex logistics, but also dominated by monopolies. Against this backdrop, Jossen-Cardozo created a smart production chain for commercialising shoes in a new and sustainable way. To do this, she uses a sophisticated online tool and is building up her brand "By Maria", a registered trademark.

Ms. Jossen-Cardozo has collaborated with Columbian footwear *designers* who create their collections using her online tool and her trademark ("By Maria") thanks to a licencing agreement. This allows them to have their designs produced in a small, high quality, handcrafted limited edition. The shoe designers earn 10% of the product's selling price – compared to the normal

⁶ Mainly taken from: <https://www.hslu.ch/de-ch/hochschule-luzern/forschung/projekte/detail/?pid=3763>

average of only 1%. Furthermore, the Columbian *shoemakers* involved also receive a larger share of the selling price than is average. The project further aims at *training and equipping* footwear makers, enabling them to build up an independent livelihood for themselves and a better living for their families.

At the end of the supply chain, consumers acquire bespoke designer footwear that addresses their specific needs, while being reassured that the brand they are buying is a sustainably produced product at a fair and transparent price.

Ms. Jossen-Cardozo hopes that, in the future, she will be able to apply her concept and brand to other products and in other countries. Trademark law will allow her to do so through licensing contracts. Further relevant IP rights that she may rely on are industrial designs and copyright.

Conclusion

To sum up, Mr Chair, IP can play a key role throughout the whole process of creating a new business. IP can positively shape an entrepreneur's incentive to innovate and protect investments. It can help science-based start-ups to step into markets and it can help new businesses connect with partners and gain a foothold in the international market. We encourage Member States to take part in a comprehensive discussion on this. My delegation is looking forward to hearing from other delegations about their own experience and examples of the role of IP for new business, and about their policy approaches to support and promote new businesses.