

Intellectual Property Rights and Pharmaceutical Corporations

by
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I. Definitions

Property Rights – the ability to protect and control

Intellectual property rights – the ability to protect and control ideas or creative projects

II. Problems

In recent years intellectual property rights have become a hot issue in international trade agreements. Some of this has to do with the massive pirating of materials that goes on in the developing world

- 1) Hong Kong you can get CD's and videos for a couple of bucks because they are all pirated
- 2) In India you can buy "Microsoft Office" for about 30 dollars because it isn't really MS office it is a pirated copy. Software has been copied and sold throughout the world without patent or copyright protection at greatly reduced prices. So Microsoft really loses out.

In recent trade negotiations through the WTO intellectual property rights have been a key source of contention. This is why intellectual property rights are often called TRIPs or Trade Related Intellectual Property Rights. This is after the WTO document that restricts the ability of countries to infringe on patents, copyrights and other intellectual property rights. The issue was raised by the entertainment industry, but other industries such as pharmaceuticals realized that they too had a large interest in making sure that countries protected their intellectual property rights and didn't sell knock-off drugs.

The WTO TRIPs Agreement sets out the minimum standards for the protection of intellectual property, including those related to pharmaceuticals. It has come under fierce criticism because of the anticipated negative effects on the availability of affordable medicines.

The 4th WTO Ministerial Conference held in 2001 in Doha, Qatar, adopted the Declaration on TRIPs and Public Health. The Declaration gives primacy to public health over private intellectual property and clarifies WTO Members' rights to use the TRIPs safeguards

Why do intellectual property rights matter with relation to drugs?

They increase drug prices. Sometimes prohibitively so.

III. The sides to the conflict

Drug companies

Drug companies argue that research and development on new drugs is so expensive that they have to sell medicines at high prices in order to recuperate their costs.

Developing countries

Developing countries argue that the protection of intellectual property rights put important drugs, such as the anti-retroviral treatments for AIDS – out of the hands of their citizens and the patent laws prevent them from producing their own versions of these drugs less-expensively.

IV. Who is winning?

The jury is out. Two successful cases against the drug companies South Africa and Brazil, in which the drug companies were humiliated into dropping their suits. But the TRIPS agreement is not yet fully functional. Starting in 2006 countries that don't adhere to the TRIPs agreement can have trade sanctions imposed by the WTO. Doha agreement of the WTO in 2002 stated that public health takes precedence over patent protection but it isn't clear how this will be worked out.

Sources for further reading online:

TRIPS, pharmaceutical patents, and access to essential medicines: a long way from Seattle to Doha

<http://www.eldis.org/static/DOC13275.htm> - an academic report

<http://www.globalpolicy.org/soecon/bwi-wto/wto/2002/1201panos.htm>
- a popular report

The WTO point of view:

http://www.wto.org/english/tratop_e/trips_e/factsheet_pharm00_e.htm

http://www.wto.org/english/tratop_e/trips_e/trips_e.htm