ISROHQ. TTG

INDIAN SPACE RESEARCH ORGANISATION
ISRO HEADQUARTERS

TECHNOLOGY TRANSFER GROUP

Ref: TTG:12 Patenting September 21, 1981

Sub: Patenting of ISRO knowhow in countries abroad - recommendation to discontinue

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1. Recently there was an audit enquiry and comment regarding ISRO's patent applications in countries abroad. Though the audit enquiry had been answered (apparently to the satisfaction of the audit), the issues raised in the enquiry and referred to in the last paragraph of our reply need to be examined.

Flag 'A'...

2. At present ISRO has three patents in UK and two in USA. A status of ISRO patents in foreign countries is given in the reply to audit referred above. So far ISRO has spent about Rs. 81,000 on these foreign patents. About Rs. 26,000 was spent on 2 US patent applications which were later abandoned because it was judged that further pursuit and answering of the objections of the US patent Office would not be worthwhile. The term of patents in UK is 20 years subject to payment of renewal fees. The first renewal fee for each of the 3 patents had been paid already. The official renewal fees, agents fees etc. amounted to Rs.1,600 for each of the UK patents. For the subsequent years these figure will increase progressively and for the 20th year this will be nearly 3-4 times. This is according to the current schedule of renewal fees, agent fees etc. which are likely to be raised in future. To maintain these 3 UK patents for 20 years will obviously involve considerable expenditure. For the US patents no renewal fees are required. The patent automatically has a term of 17 years. However the US Government is considering the question of introducing renewal fees.

3. It is obvious that taking out a patent and maintaining the same for the full term in the foreign country is a costly affair. Now we have to examine whether the expenditure and the efforts involved in patenting in foreign countries is really worthwhile in terms of the benefits ISRO gets out of these patents.

4. Patenting by itself has very little to do with technology transfer. As a matter of fact technology transfer and its implementation is much easier in the absence of patents because, for a patented invention, there are a number of statutory procedures prescribed under the patents acts of many countries regarding registration of licence agreement, restrictions on certain kind of clauses to be incorporated in the TT agreement etc. Patenting is actually an instrument of market protection. Hence patenting in countries abroad is, infact, an attempt to secure market protection for the patented product in those countries. However, in most of the cases this market protection is merely illusory, especially in the current context of the operation of

..2

MNCs. In order to secure effective market protection one has to take out the patent in all countries where significant market for the products exists. Otherwise an MNC with its world wide operations and net work of associates and subsidiaries can easily manufacture the product in some country where the product is not patented, and sell in all countries where the patent is not in force. Moreover, in cases where it really matters, patent rights can be enforced to secure market protection only through protracted legal battles. As a result, only when the stakes are very high,-for example pharmaceutical products with their high developmental cost, large potential business and high profit margin - legal enforcement of patent rights are worthwhile. Infact, the legal system of patenting itself is used in many ways by MNCs and big business to thwart competition.

5. ESA also concur/s with our view as explained above.* Thus:

> "ESA concurred with the ISRO view that patenting had very little to do with technology transfer. Patenting was primarily an instrument of market protection. In respect of 'global' patenting, ESA agreed that in present conditions of multi-national operations of companies, one must patent in all significant industrial/ industrialising countries or in none at all."

6. In conclusion it is recommended that ISRO should stop patenting in countries abroad. The existing UK patents may be allowed to lapse. The US patents do not need renewal fees. However in case renewal fees are prescribed in future these patents may also be allowed to lapse. It is also recommended that no further expenditure and effort be spent on maintaining and working the existing UK and US patents. However, in special cases where market protection is required in a particular country for ISRO's products exported to that country, the question of patenting in the relevant country can be taken up for the consideration of Secretary, DOS on a case-to-case basis.

For orders

V Siddhartha

V.Siddhartha, 27/6/82
Chairman,TTG

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*Minutes of Working Group No.7 ISRO-ESA Meeting (JULY 29-30 & August 1,1981)

Secretary, DOS

Before taking action to stop patenting it would be advisable to send a brief self contained note to Secy/DST and D.G. ... for their ...

TOR: Action pl! 14

From pre-page

As instructed by Secretary, draft letter to Secretary, DST and DG, CSIR and a Note on patenting of DOS/ISRO knowhow in foreign countries is put-up for approval.

V.Siddhartha
V.Siddhartha
Chairman, TTG
Oct. 31, 1981

Secretary, DOS

2/11

1. In response to Secretary's letter and note of November 2, 1981 (Flag 'B'), Secretary DST has concurred with the policy advice contained in para 7 of the note (vide DST DO No.DST/PS/1778/81 of November 17,1981 - Flag 'C'). DG, CSIR vide telex dated November 30,1981 (Flag 'D') says that CSIR policy is essentially the same as that recommended in para 7 of the note.

2. We may now proceed to implement the recommendation contain at para 7 of the note.

For orders

V.Siddhartha
V.Siddhartha
Chairman,TTG
December 15,1981

Secretary, DOS

JS See the detailed comments of DG, CSIR & if no contradiction or precautions raised proceed to draft a similar note implementing the rec of para 7

10/12

from pre-page ..:

Flag 'E'.1. Detailed comments of CSIR have been received from DG, CSIR vide his letter DO No.2/385/81-Pat dated 7/18th December 1981. I am afraid the detailed note has tied itself in knots by repeating the mythology of patenting in the usual vague hand-waving manner (which is often repeated by those who are making a living out of the patent system) but then goes on to agree with the 'policy outline' contained in para 7 of our note, further reiterated by the first sentence of the letter from DG, CSIR. Secretary, DST, per contra has seen the clear logic of our note and proceeded to give his one line concurrence to our policy.

Flag'E'.2. Draft Office OM on the subject implementing para 7 of our note is appended. This is the best issued by Chairman,TTG as with the ~~concurrence~~ approval of Secretary,DOS/ Chairman,ISRO.

V.Siddhartha
Chairman,TTG
Dec. 24,1981

Secretary, DOS

Ok
You can proceed
23/12

Memo will issue as approved by Secy. DOS alone. M. instruct Dy & Dy, our Patent Attorneys that they need not ~~waste~~ incur expenditure to maintain DOS/ISRO patents abroad.

V. Siddhartha
Chm, TTG
1981 12 28

In T.G. Raghuraman
Member Secy, TTG.