The Greening of Technology Transfer: A Conference Summary*

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A 1994 conference entitled "The Greening of Technology Transfer: Protection of the Environment and of Intellectual Property" was held in Concord, New Hampshire. Organized by Suzanne Watson,[1] David Downes[2] and myself, it was designed to address two basic themes:

- Is there an interrelationship between intellectual property (IP) protection and environmental protection? If not, should there be? In any case, it was posited that policies and mechanisms within IP systems that promote creation and transfer of ecotechnologies need to be more widely understood. Are special IP or technology transfer incentives for "environmentally superior technology" needed? If so, what would be best? Conversely, do we need disincentives for technologies that may "seriously prejudice" the environment?
- Are the principles of IP protection adaptable as incentives (or rewards) to traditional or indigenous groups to promote conservation of biodiversity? What mechanisms are most likely to give biodiversity-rich countries or communities incentives to conserve biological resources? What mechanisms can ensure that benefits of biodiversity exploitation are shared equitably with source countries or communities?

Participants[3] reached consensus that there is no inherent conflict between strong environmental and strong IP protections. Many also believed that environmental threats and depletion of biodiversity may

* An edited and indexed transcript is also available.

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3 Including representatives from the 3M Company, the Environmental Law Institute, the Centre for Management in Agriculture of the Indian Institute of Management, Cornell Research Foundation, the International Ass'n for the Protection of Industrial Property (AIPPI), the U.S. Patent and Trademark Office, the Office of Technology Development of the National Cancer Institute, Cultural Survival, Inc., the Center for Global Change, Monsanto Company, the USDA Forest Products Laboratory, the Rainforest Alliance, practicing attorneys, and academics representing ethics, botany and agriculture. Many were citizens of other countries.

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require new forms of IP. Some emphasized that IP protection involves more than patents. Trademark and trade secret protection may sometimes be more important, or competitors may have causes of action against firms that falsely suggest, even negatively, "greenness." It was also pointed out that patents may be ineffective without accompanying know-how and access to persons trained in the technology. The effectiveness of compulsory licenses was questioned compared to creative cooperation in promoting technology transfer. A few participants discussed whether collective IP rights could in theory and practice be used by social as well as corporate entities.

No consensus was reached as to whether patent systems should make special provisions for ecotechnologies. However, some participants were highly skeptical of either the competence of patent examiners to determine the environmental soundness of technology or the accuracy of anyone's judgments early in a technology's development.

Several recommendations were noted. One was to establish electronic bulletin boards and other cost-effective methods to keep momentum in the international dialogue between members of the environmental and IP communities, particularly regarding major international instruments of IP protection such as the Convention on Biological Diversity. Another was to better educate members of environmental and indigenous groups concerning existing IP options and enlist the support of the World Intellectual Property Organization for this effort. A third, was that entrepreneurs in less developed countries and indigenous groups be helped in using IP and understanding how technology transfer can create "win-win" relationships. Some participants also thought it would be useful to track and disseminate information about initiatives for protecting and transferring ecotechnology.

Finally, it was generally agreed that interested parties should gather information about the efforts of IP organizations to explore environmental aspects of IP law and encourage more contributions from those whose concerns are primarily environmental.



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