



**INTELLECTUAL PROPERTY MODELS TO
ACCELERATE SUSTAINABILITY
TRANSITIONS
(IPACST)**

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Social Licensing Knowledge Brief

Elisabeth Eppinger, Andreas Tauber, HTW Berlin
Anjula Gurtoo, Akriti Jain, Indian Institute of Science
Pratheeba Vimalnath, Frank Tietze, University of Cambridge

Social licensing for sustainability impact

What is social licensing?

The term generally means that licenses are used to enable access to technologies, products, and services at little or no cost to those who are disadvantaged by economic or social inequalities. This may include access to necessary medicines, educational resources, consumer electronics, but also renewable energy resources, water purification systems, and mobility technologies. IPR licenses usually include IP transfer to enable setting up manufacturing for providing these goods and services at low costs or at-cost basis.

Definition of social licensing for sustainability impact

A social license is a differentiated IPR sharing mechanism where IPR licensors use licensing conditions for improving access to technologies, products, and services for communities that are disadvantaged by economic or social inequalities.

The IPR owners may be enterprises, universities, or research institutes. There are different possibilities to utilize IPR licensing for increasing social sustainability impact. Licensees can obtain exclusivity for specific industrialized countries as exchange for providing certain amounts of products to communities in need or developing manufacturing utilities in developing countries. Another common approach is that licensors provide IPR to stakeholders in developing countries free of charge or at reasonable royalties and support the development of local production and markets.

The terms “humanitarian licensing”, “socially responsible licensing” and “equitable licensing” are also used to refer to the same concept to some extent as well as other synonyms.

Example – Berkley’s Socially Responsible Licensing Program

The program uses different approaches and business models to particularly strengthen innovation and alleviate disparities. They use a broad spectrum of intellectual property (IP) management strategies

- *in the fields of global health and poverty*
- *in dialogue with low- and middle-income countries*
- *taking a “relationship-based” perspective*
- *IP royalty-free or at-cost basis*
- *includes not only the transfer of knowledge, rights and results, but also of material and personnel.*
- *to maximize social impact*
- *to stimulate investments by others*

Mimura (2010)

Why social licensing?

Research and development is unevenly distributed globally, including when it comes to the distribution of IPR, in particular patents. If expensive technology respectively IPR is then to be bought, the transaction costs can slow down the development in those countries. As a result, the use of technology applications can also be prevented, despite the high benefits in terms of social, economic and environmental sustainability issues.

Benefits for social licensors

- Increase market diffusion of innovation for social sustainability
- May influence technology development direction towards own sustainable solution
- Increase social sustainability impact by sharing IPR
- Improve and demonstrate social sustainability performance for stakeholders, such as investors
- Attract partnerships to develop technologies further, including building partnerships to access new territories and markets
- Enhanced reputation as a social sustainability contributor for stakeholders including current and future workforce, investors, business partners
- Avoid possible involuntary and forced licenses

Challenges for social licensors

The advantage of social licensing is that control over the IPR remains with the licensor to some extent, but leakage of trade secrets is possible and can mean that not only the target group but also others such as competitors in developing countries benefit from it.

Social impact or humanitarian use can be defined very arbitrary. Accordingly, defining beneficiaries may spur discussions and businesses should prepare to explain and improve their designations in a respectful, constructive manner.

Benefits for social licensees

- Gain access to IPR for technologies and products
- Reduce and avoid R&D costs and associated risks
- Free up resources for other necessary activities such as setting up manufacturing lines, developing supply chains and markets

Benefits for the society

- Increase in economic development of less developed regions
- Depending on the type of technology and products: reduced health issues or environmental problems at poorer communities

Examples

Yale University: key patent holder on stavudine (HIV/ AIDS antiretroviral drug). Allows a generic drug production in South Africa.

Gilead Sciences: allows South African company Aspen generic production of Truvada and Viread (HIV/ AIDS).

Cornell University: biotech patent holder for ringspot resistant papaya, allows the use to Thailand.

Brewster et al. (2005)

Social licensing for sustainability impact is thus a way of counteracting technological and economic inequalities within the framework of IPR. A standardized IPR protection of a 'level' playing field does not take this context into account and hides these inequalities.

How to license a social license?

A social license agreement should take into account the following components:

The licensee or group of licensees (who exactly is using the IPR), purpose (who is supposed to benefit), definitions and subject matter, rights granted and restrictions, improvements, confidentiality, reports and audits, representations and warranties, infringement, term and termination.

The social license can be limited like any other license based on several reasons:

- Types of use allowed (distribution, derivative works for copyright or manufacture for patents)
- Geographical scope
- Time
- Grant conditions: you obtain the license only upon compliance with certain conditions.

Note – Challenges in defining the purpose, in particular the target groups

Finding the right criteria can be challenging. Should it be a maximum income or, related to the agricultural sector, a maximum farm size or

a minimum degree of subsistence? Or should the demand be linked to the geography, for example to a specific country or region? The OECD and the World Bank can also provide criteria. These considerations based on the specific case should be evaluated, also with regard to efficiency, feasibility and timely review of the criteria.

Note – Encouraging social licensing

It is important that different IPR sharing approaches are made understandable for the responsible businesses and IP managers in order to pursue sustainability goals. These

approaches allow those responsible to define more precisely who should benefit from royalty-free or at-cost basis licenses, whether this license should be exclusive or non-exclusive and how long it is valid. These approaches should be communicated as openly and transparently as possible so that others can benefit from these approaches and experiences. It does apply to both the public and private sector, but research funding organizations and publicly funded research in particular is in demand here.

Further readings

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