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AT THE JAPAN INSTITUTE OF INVENTION AND INNOVATION
AT OKURA HOTEL, TOKYO, JAPAN
ON TUESDAY, 25 MAY 2004**

**“Intellectual Property for Supporting Development
in the World Economy”**

Intellectual Property is a new concept with which Asians were not familiar with before. Asians used to hide their treatment for diseases for example, so as to profit only themselves or probably their descendants. Obviously very much less people benefit from their secret treatment and fewer still from acquisition of the formula.

2. The concept of intellectual property enables more people to benefit from the formulas or inventions of individuals without the formulators or inventors losing their rights and the profits they are entitled to. Clearly intellectual property laws benefits more people and actually increases the profits of the originators due to the more extensive marketing of their products.

3. But today research into new formulas, recipes and systems is no longer done by individuals exclusively. There are still individuals doing research and inventing, but by and large research and development of formulas and systems are done systematically at research laboratories manned by a large number of paid scientists and technicians. Research too has become very methodical as ideas and inventions are systematically examined and tested, modified and enhanced until a product is identified which will perform the functions most effectively. Thousands of products may be discarded as useless before one is found which is efficacious and meets expectations.

4. One of the most famous drugs was MB 693, a sulpha drug, researched and produced by the laboratories of May and Baker, which was found effective in the treatment of infections by a variety of germs. 693 of course refers to the 693rd compound which was effective. There were 692 compounds which were useless.

5. Today's researches are still based on systematic serial formulations and rejections or acceptance of the results in laboratories manned by thousands of scientists and technicians, and equipped with very sophisticated machines. Nevertheless years may pass before something of value is discovered.

6. Quite obviously all these cost huge sums of money. Certain businesses, particularly in the pharmaceutical industry would allocate hundreds of millions of dollars for these research efforts. Governments often provide subsidies so as to enable costly research and development to be less of a burden for the private sector. Universities too expand a lot of money on research which very often bring no return other than academic advancement. But every now and again something worthwhile would be discovered which gives a return.

7. Without protection for intellectual property neither the Governments nor the industries would expand so much money on research which could be used by others who had not spent anything on research. If no research is done than the human community would not benefit and make progress. Without new drugs diseases would remain a threat to the human race and probably epidemics would occur frequently and hundreds of thousands of people would die. In other fields there would be no advancement and no new products like the cellular phones, aeroplanes etc to make life more convenient and enjoyable that we experience today.

8. As research is a necessity and is costly, those undertaking research will try to maximise their returns by pricing their products as high as possible. But not all the profits will go towards research. An unknown sum would be profits for the company to distribute to their executives and shareholders.

9. But how big should the margin be? Giant pharmaceutical companies demand very high prices for their proprietary products, prices usually beyond the reach of the poor. Yet it is the very poor who usually suffer from such diseases as HIV-Aids. Drugs for the treatment of HIV-Aids are so expensive that the poor people just cannot afford to buy. And so we see Aids spreading like wildfire in the poor countries of Africa and Asia. Yet the drugs can be produced very cheaply in Asia and Africa.

10. This is a very unsympathetic and short sighted usage of Intellectual Property Rights on the part of the pharmaceutical firms. They may make big profit selling to rich patients, but since few rich people suffer from Aids, they are not really maximising their profits. If they take a lower profit, the sales to poor people would be so big that they will almost certainly exceed the total profit that they make at the higher prices. But they will not do this because they have the rights to their drugs.

11. This is the financial bottom line. But shouldn't the proprietors of patents also consider the humanitarian aspect? They can make high profits from Viagra

where only pleasure and not life is at stake, but for life-saving drugs they should minimise their profits, or even not make any profit at all.

12. There must be some ethics in the application of Intellectual Property. But at times only greed motivates those with patent rights. Thus Basmati rice has been grown in the Indian sub-continent since ancient time. American genetic scientists succeeded in splicing the genes of a variety of rice to produce rice similar to Basmati rice. They then proceeded to register Basmati rice as their proprietary product and no one else. Not even the Pakistanis and Indians can call their original and natural Basmati rice as Basmati rice. It is worse than plagiarising the novel of another author. Had the Indians and Pakistanis not protested vehemently they would have lost the name which they had used for time immemorial.

13. Then there is the case of the African periwinkle found in Madagascar. American scientists took this flower and plant from Madagascar and extracted a substance with medicinal properties from it. They then registered this extract as their very own and nobody else's. Even the Madagascans have no right to produce this extract. Thus what belongs to a poor nation, now belongs to a very rich nation simply because of the international laws governing Intellectual Property.

14. As far as can be seen the poor countries do not benefit from the laws and rules of Intellectual Property. They do not have the capacity to exploit the natural resources that they have. With their unlimited funds, their huge sophisticated laboratories and their highly paid and qualified staff, the rich countries can always claim and register for themselves innumerable Intellectual Property Rights. Even the process of patent application is so complex and costly that the poor just cannot avail themselves of these rights. But their losses are more than these. There is a constant brain drain from the poor countries to the rich. Today hundreds of thousands of scientists from developing countries are doing research and development in the rich countries. The results of their works do not accrue to the scientists. They become the property of the firms employing them. What they would get would be a mere pittance by comparison to what their employers would get. Certainly their home countries are not going to get anything at all.

15. They have to go and work in the rich countries because of the high pay they are offered. Besides even if they want to work in their own country, no one, not their Governments, nor their companies can afford to set up the kind of sophisticated and well-equipped laboratories that they need. And so their countries keep on losing their best scientists to the developed rich countries, even though their own countries had provided these scientists with the education that they had. The situation is not unlike the piracy of intellectual property, only this time the intellectual property is in the person of the trained scientists belonging to the poor countries. It is ironical that these scientists are not

regarded as intellectual property which may not be acquired without paying royalty. Yet should they discover or develop something through their research, their discoveries would be regarded as intellectual property which may not be copied even by the country of origin of these scientists. Somehow it does not seem right. What belongs to the rich is rightfully theirs but what belongs to the poor may also be regarded as belonging to the rich. Is not the brain of the scientists from the poor countries, the intellectual property of these countries?

16. There was a time when many of the poor countries did not accede to the international laws governing intellectual property. They were able to copy and reproduce the works and inventions of the rich countries. They were able to do a lot of reverse engineering, copy and produce things which they had not originated. But now this has been stopped as it is considered illegal and unethical. Punitive action can be taken against countries which disregarded the laws on Intellectual Property even though they may not be signatories to the treaty.

17. Countries which subscribe to the laws on Intellectual Property Rights not only have to respect these rights but have to spend huge sums of money protecting the intellectual properties and products of foreigners, sold in their countries. Since 99 % of the Intellectual Property belongs to the rich countries, and the need to pirate is mainly in the poor countries, again the poor countries are the ones having to expand large sums of money to police and protect the intellectual property of the rich. Because of the huge differences in the prices of the genuine products and the pirated copies, piracy of intellectual property happens more often in the poor countries. Computer software is one of the most easily copied Intellectual Property. It is extremely difficult to police piracy of software. Yet they are so very expensive and the copies are so very cheap and easy to reproduce that the market is flooded with them. The poor countries where most of the copies are sold, face severe punitive action while what it expands to police and protect foreign-owned property receives no compensation. The cost to the countries protecting Intellectual Property of others must affect the capacity of the poor countries to develop.

18. Intellectual Property Laws are obviously necessary. Without them research would slow down and the benefits to the world would be diminished. But the present regime favours the rich too much at the expense of the poor. This is certainly neither fair nor equitable.

19. Today Free Trade implies deregulation, non-interference by the Government. There is a naïve believe that the market will regulate itself, will discipline itself. But the market is about making profits, maximising profits. It is not about fairness or equitability. As a result the social effects of free trade can be most unjust. Yet free traders expect Governments to solve the social problems created by them, while they go on making money. In other words while they object to having Government intervention in their trading activities, they

insist on Government intervention with regard to the problems caused by their trading.

20. If they believe in the self-regulating market, then they must deal with the problems that they cause and not the Government. This they can do by reducing their profits and taking care of the social problems resulting from the exercise of their freedom. But obviously they are not willing to do this. Certainly in the case of Intellectual Property they expect the Government to protect their Intellectual Property, including the Governments of the poor countries where they sell their products.

21. Governments can do this only if the Government is authorised to take measures to prevent things from going wrong before it can be expected to act against wrong doings. With regard to Intellectual Property Governments should determine by how much the proprietors of Intellectual Property should be compensated and for how long. There is presently some time limit in some cases but obviously this has not been of much help. More measures need to be taken by the Government to protect public interest as much as the interest of the proprietors of Intellectual Properties.

22. In the case of drugs such as that for HIV-Aids, much time has passed without the copyright being ended. In the meantime millions are getting infected and are dying. For such drugs a shorter period of copyright should be considered, or the margins above the costs of development significantly limited. Others should be allowed to produce the drugs with minimal royalty payments.

23. Less essential proprietary rights may be given a longer period or a higher margin if the period is shortened. Some agreement must be reached between countries subscribing to the Intellectual Property Laws on these matters, taking into consideration each country's situation.

24. In the case of biotech, the country from where the material is obtained should be entitled to a certain overriding commission. We see this being practised where overriding commissions are paid to agents or distributors when others sell the goods which they have been awarded agency rights. Why shouldn't the countries which initially and exclusively provide the raw material or the researcher also be given overriding commissions?

25. The concept of protection for intellectual property is correct and fair. But it should also protect the community from abuses by the few who benefit from this law. Maximising profit to the extent of depriving the community of the benefit from the protection that it has agreed to is ethically and morally wrong. There is therefore a need for a rethink on the laws on Intellectual Property so that everyone, the proprietor, the consumer, the community and the nations involved can benefit and develop.

26. This is how Intellectual Property can support development in the world economy. When we talk of the world economy we must always remember that the world is not made up of rich developed nations only. A lot of nations are poor, sometimes very poor. The world cannot be considered as developed if large parts of it are poor; if numerous nations and people are poor and are dying for want of treatment.

27. Just as in rich countries the Governments try to spread the wealth to the poor also by directly giving allowances such as unemployment benefits and subsidies for farmers, and indirectly by providing needed infrastructures, the rich countries and people of the world must extend a helping hand to the poor countries and peoples, in a globalised world. In the case of intellectual property the poor must not be made to pay the full cost of research and development of the intellectual property of the rich. Somehow they must be helped to gain access at no cost or with minimal cost, especially when such intellectual property can save lives and contribute to their development and the development of their countries.

28. Presently Intellectual Property laws only support the development of the rich countries. The poor countries also make up a part of the World Economy, and, unless they gain, Intellectual Property cannot be said to support development in the World Economy.

29. To ensure that the owners of intellectual properties do not lose, the rich should pay a much higher royalty or higher prices for access to them. The end result must be a more balanced distribution of benefits and wealth from the results of researches, discoveries and inventions between the rich and the poor. The world would become more evenly developed as a result of the Intellectual Property laws. In this more developed world the rich will benefit from the markets created. Then and then only can we claim that Intellectual Property has supported the development of the world economy.
