Searching for Transparency: Patent Information in Practice

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• Patent Information Resources
• Methodologies for Searching
• Freedom to Operate
• Policy
• Improving Patent Transparency and Access to Medicines
Patent Information Resources

Increased digitalisation of patents = more transparency?

• Gaps in information

• How the information is provided/diffused
Methodologies for Searching

- US FDA Orange Book and Health Canada

- Keyword, chemical names, citations, applicant, classification etc
Methodologies for Searching

Limitations:

• Orange Book/Health Canada: processes, metabolites, intermediates, different chemical forms e.g. salts, esters, enantiomers (Canada), biologicals (US), granted patents, products only approved/sold in US/Canada

• Keyword/citations/chemical names: obfuscation by applicants, irrelevant or limited citations
‘Freedom’ to Operate

Transaction Costs

- Patent searches and information (legal status, expiry, renewal data)
- Translations
- Claims analysis (different rules of claim construction in countries), broad claims
- Continuation/divisional applications (e.g. India), patent term extensions
- Patent thickets
- Litigation
‘Freedom’ to Operate

Snapshot of Timeline for Patents on ARV Compounds A & B in the name of X

[Diagram showing timeline and patents related to ARV compounds A & B]
Policy

TRIPS flexibilities:

• Voluntary and compulsory licenses/government use;
• Patentability standards and patent quality

Measuring Innovation/R&D and technology transfer:

• Counting or reading patents?
• Patenting strategies of companies
Improving Transparency & Access to Medicines

- Start diffusing real patent information e.g. provide automatically updated list of patents for active ingredients as owned by different companies.

- Presenting patent landscapes with actual patent information that can be used in practice and built upon by others

- Need to start reading patents instead of just counting in order to have an evidence based understanding of innovation/R&D, technology transfer and patent policies

- Changing the pedagogy in IP education for developing countries (and include civil society actors)