



Intellectual property rights management for digital innovations: policy recommendations – Armenia

Executive summary

Due to specifics of intellectual property (IP) as a business asset, there are only a few regulative acts that are used as part of the IPR policy in a prescriptive manner towards IPR distribution (mostly covering publicly co-funded R&D), while most of IPR policy tools have the objective to facilitate the capacity building of businesses and organisations to effectively manage their IP assets, including provision of external specialised consultancy.

Because of limited absorption capacity of domestic markets in the Eastern partner countries, it is essential that IPR ecosystems in these countries facilitate the innovators to grow for international markets, where the IP protection strategy follows the study of the market (including competitors, customers, resource structure, logistics), and is developed in a conjunction with a business strategy. To be able to support innovations based on frontier digital technologies, the IPR policy includes capacity building of existing organisations servicing SMEs in IPR as well as building additional actors of the ecosystem to cover the service gaps.

This document outlines the main features of policy recommendations, that were elaborated in detail in a separate document, based on status and gap analysis comparing to relevant EU best practices, and validated with the EU4Digital ICT innovation Expert Network of Armenia in April-June 2020.

The gap analysis was performed complementary to the previous extensive work done in Armenia on IPR system study from the perspective of lawyers (Armenian Bar Association and IP/IT Committee for Armenia, 2019).

In a view of this, policy recommendations of the EU4Digital Facility intentionally focus on the ecosystem of actors from economic perspective, to identify practical actions needed to strengthen the capacity of the ecosystem to support SMEs with digital innovations, and to support the implementation of the recommendations accepted from Armenian Bar Association.

The actors suggested by the EU4Digital Facility as potential actors in this document based on status analysis, have further considered their participation. The final list of potential stakeholders is indicated in the Action plan.

1. Existing regulation and recommendations issued to create incentives for IP circulation in the economy, including IP created with public funds

<p>Gaps:</p> <ul style="list-style-type: none"> R&D agreements and technology transfer agreements are not defined under the Civil Code or other legislation in Armenia. R&D agreements and technology transfer agreements are not exempted from anti-monopolistic regulation. This can lead to treatment of consortia with an innovative project as a regular monopolistic cartel or syndicate in the traditional market and imply punishment, thus blocking innovations 	<p>Core recommendations:</p> <ul style="list-style-type: none"> Introduce the definition of research and development agreement, technology transfer agreement, related definitions, and the principles of concluding R&D and technology transfer agreements contained in the Commission Regulation (EU) No 1217/2010 and Commission Regulation (EU) No 316/2014 with special account of public safeguards, in the legislation governing R&D activities. Consider harmonising the regulations of R&D agreements and technology transfer agreements, in particular, extending the exemptions that have been allowed for vertical agreements, to horizontal agreements as well, notably to R&D agreements and technology transfer agreements, simultaneously taking into account the existing obligations of Armenia in EAEU (the provisions of the EEU Treaty, including Annex 19 to the Treaty). 	<p>The EU regulations:</p> <ul style="list-style-type: none"> Commission Regulation (EU) No 1217/2010; Commission Regulation (EU) No 316/2014. <p>Actors in Armenia:</p> <ul style="list-style-type: none"> Ministry of High-Tech Industry; State Revenue Committee; Ministry of Economy.
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Why? Today R&D in many areas requires more collaboration and contribution of assets by various stakeholders (private; private and public; public and public) within the national economy and across the borders, resulting in innovative products and processes. Most R&D agreements and technology transfer agreements lead to economic benefits for both parties; some may lead to significant technological improvements, which even may lead to monopolistic position of the parties. However, if they significantly contribute to technological progress and innovations, they are treated as an economically favourable outcome.

2. Existing regulation and recommendations as incentives for IP circulation in the economy, including IP created with public funds

<p>Gaps:</p> <ul style="list-style-type: none"> The clear rules of IPR allocation and transfer to innovation actors, incentivising collaboration and IP circulation in the economy, including IP created with public funds, are not established: Rules of the intellectual property rights (IPR) distribution as results of R&D funded (co-funded) by the state budget (public funds) are not established. Recommendations on the management of IPR in knowledge transfer activities and sample Code of Practice (sample Agreement) for universities and public research organisations are not issued. 	<p>Core recommendations:</p> <ul style="list-style-type: none"> Consider the rules and scenarios of IPR allocation in joint R&D undertakings and different scenarios of co-financing within the state aid for research and development and innovation contained in Communication COM 2014/C 198/01. Establish the technology transfer centres at the universities and public research institutions as well as under experienced sectorial business associations of Armenia and equip them with competencies and tools related to commercialisation of R&D results via licensing and creation of spin-off companies. Elaborate the sample Code of Practice (sample Agreement), that provides the basic framework to govern the relations between the employer and employee. 	<p>Actors in Armenia:</p> <ul style="list-style-type: none"> Ministry of High-Tech Industry; State Revenue Committee; Ministry of Economy; Ministry of Finance; Ministry of Education, Science, Culture and Sport. <p>The EU practices and counterparts:</p> <ul style="list-style-type: none"> Recommendation 2008/416/EC on the management of intellectual property in knowledge activities and Code of Practice for universities and other public research organisations; Competence Centre on Technology Transfer (CC TT); European TTO Circle.
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Why? In the absence of rules explaining how to deal with intellectual products created via public funds, and in the absence of material incentives and assistance to innovators in disclosing their inventions and bringing them to market, the inventions created in the country are very often not put into a rational economic usage. The best practice elaborated in the world (where such situation is common for all countries because of R&D process specifics) is that on the level of the state, the rules are established that fairly remunerate both the university and the innovator, plus the ecosystem is created that allows for a successful development of invention into a product- or service-oriented business via technology transfer offices, incubators, etc.

3. Ecosystem for support of SMEs in IPR management

Area 1. Capacity building of the ecosystem actors providing support to SMEs

<p>Gap:</p> <p>The capacity of Armenian public agencies and innovation ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, competence centres, external consultants, etc.) needs to be increased to create favourable framework and provide support to start-ups and SMEs and consultations with focus on IP audit; IP strategy and IPR issues</p>	<p>Core recommendations:</p> <ul style="list-style-type: none"> Facilitate the increase of AIPA capacity by extending the available online tool for filing and processing applications to handle the full application process for IPR and other relevant processes; targeted trainings of AIPA staff and its external consultants, including capacity building of judges; practical transfer of the EU experience to AIPA and related regulators of building the innovation ecosystem in the partnership of public and private stakeholders around IPR. Introduce the international training programme to the group of consultants. Promote staffing by innovation infrastructure organisations and ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, etc.) of patent attorneys and patent agents, to be able to better support start-ups and SMEs. Promote among innovation infrastructure organisations and ecosystem actors the list of services that they can master and deliver to local start-ups, as well as potential counterparts from 33 countries (see PRO INNO list). 	<p>Actors in Armenia:</p> <ul style="list-style-type: none"> Armenian Intellectual Property Agency; Intellectual Property Rights Centre Armenia; IP Owners Club; Adwise Law & Business Consulting Firm; American Chamber of Commerce; Armenian British Chamber of Commerce; Union of Advanced Technology Enterprises (UATE); Union of Employers of Information and Communication Technologies (UE ICT). <p>The EU counterparts:</p>
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emerging around publicly funded R&D.

- Consider introducing by [Enterprise Europe Network Armenia](#) of services similar to those provided by [Enterprise Europe Network](#) in the EU.
- Develop participation in the international working groups specialised in issues of IPR in the digital economy.

- European Union Intellectual Property Right Office (EUIPO);
- [Permanent Working Group Intellectual Property Rights](#);
- [Working Group at Europarliament on Intellectual Property Rights and Copyright Reform \(2016\)](#);
- [WIPO eLearning center](#).

Why? The reports of special evaluation groups ([2007a](#), [2007b](#), [2013](#)) point among major principles of the efficient IPR support ecosystem the need to *ensure links between IP specialist support and general business support (e.g. National Intellectual Property Agency and more general innovation support)*. “The best way to offer IPR support was to deliver it as part of general business support” ([IPorta project report](#)). Networking with existing professional actors will allow the ecosystem organisations in the Eastern partner countries to quickly learn about the progress and failures in regulation and business models, to map the EaP platforms and raise interest of the EU investors and collaborate in joint cross border projects.

Area 2. IPR Helpdesk for start-ups and SMEs

Gap:

Online and onsite support tailored to start-ups and SMEs materials needs to be proposed via IPR Helpdesk, including IPR management, IPR enforcement and link to online tool for handling the full application process for IPR.

Core recommendations:

- Establish centre(s) ‘IP for SMEs’, serving as an IPR Helpdesk for start-ups and SMEs.
- Develop an online toolkit for SMEs, including description of the business importance of IPR, particular knowledge domains (all covered by WIPO) and instructions for SMEs on the steps recommended, starting from confidentiality agreement (its model to be placed online); description of the regulatory framework and links to relevant laws; promotion of SMEs protection against cybersquatting and counterfeit trade via e-shops infringing trademarks via specific domain names to assist SMEs in using Internet as an international marketing channel; references to training opportunities; mapping of the specialised consulting and support services for start-ups and SMEs.

Actors in Armenia:

- Armenian IP Agency (AIPA).
- The EU counterparts:**
- [European IPR Helpdesk Helpline in case of suspected infringement of intellectual property rights](#);
- [IP Booster](#);
- [ip4inno \(Intellectual Property for Innovation\)](#).

Why? The reports of special evaluation groups ([2007a](#), [2007b](#), [2013](#)) point among major principles of the efficient IPR support ecosystem the need to *take a client-service attitude towards SMEs*.

Area 3. Mapping consulting and support services and networking actors

Gap:

The visibility of services delivered by the key institutions active in the field of intellectual property support and by specialised consulting organisations needs to be improved via online tools and platforms, to improve their channeling to SMEs and the linkages among ecosystem actors in Armenia.

Core recommendations:

- Register major actors on IPR, innovation, technology transfer as a [EEN local Network contact point](#) and at the [European IP Helpdesk’s Signposting Directory](#).
- Complement the list of IP attorneys available at AIPA’s website with information on the specialisation of the IP attorneys, to help customers understand whom to consider for their specific needs.
- Launch a searchable online database of organisations delivering support and consulting on the IPR assets protection and management issues. Consider having it as a national or regional (e.g. the EaP) platform.
- Combine this database with an ‘SME journey’ advising the list of services relevant to the stage of development and challenges of the business (online questionnaire can be developed).
- Develop systematic collaboration of the Armenian IP Office and innovation ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, competence centres, external consultants/attorneys/legal firms).
- Consider introducing a voluntary certification and maintaining a database of trusted external consultants/companies on certain issues in all lifecycle stages of IP and related rights management – both related to those in jurisdiction of AIPA and those beyond the jurisdiction.

Actors in Armenia:

- Armenian IP Agency (AIPA);
- [Enterprise Europe Network Armenia](#).
- The EU counterparts:**
- [Enterprise Europe Network](#);
- The [European IP Helpdesk’s Signposting Directory](#).

Why? From the viewpoint of a start-up/SMEs, it is important to be available to quickly find an appropriate counterpart that can professionally treat any issue related to IP and related rights. Online database of organisations delivering support and consulting on the IPR assets protection and management issues should be available to SMEs and organisations guiding them in the challenges and the vast number of organisations for various IPR issues.

Area 4. Awareness raising of SMEs

Gap:

The awareness raising of start-ups and SMEs on the importance of IP issues needs to be supported by online materials, trainings and via available business consultancy channels.

Core recommendations:

- Develop the online materials to explain the main principles of IP protection and management in the underrepresented areas, with references to laws and competence centres for further consultations.
- Develop introductory training courses in Armenian in collaboration with WIPO and European IPR Helpdesk for delivery via WIPO eLearning platform.
- Communicate to start-ups via AIPA, innovation infrastructure organisations, business associations, chambers of commerce the existence of such information.
- Promote the usage of available training courses and webinars by start-ups and SMEs.

Actors in Armenia:

- Armenian IP Agency.
- The EU counterparts:**
- [Regular Webinars of the European IPR Helpdesk](#);
- [IP for Business Series for SMEs](#);
- [WIPO eLearning center](#).

Why? A lot of efforts have already been made in the world to elaborate easy to understand and inspiring to act online materials. Their usage by the EaP SMEs is the way to better understanding of the logics of European and U.S. SMEs that learn on the same materials. Learning in English provides the best actuality of materials. The ecosystem should communicate via innovation infrastructure organisations the basic principles of IP protection in these areas and bridge local innovators with qualified experts abroad. The central IP agency can contribute to the IP support ecosystem as an actor that, along with its core functions, performs the **awareness-raising** about the importance of IP issues among SMEs (advises not only to seek patents but also to undertake regular management of IP assets in conjunction with business strategy). Specific support to innovators and SMEs is to be provided by **specialised** external consultants with deep thematic expertise and practice.

Area 5. Public support to SMEs

Gap:

Public support in form of grants, vouchers, loans, subsidies needs to be provided for IPR registration, management and enforcement (for example, for consultations on IPR and development of IPR strategy).

Core recommendations:

- Develop financial framework for the national innovation ecosystem development (including tax reliefs, grants, vouchers, loans, subsidies for SMEs and framework to support IPR-related ecosystem services), to be used as a basis when considering the introduction of specific financial tools for IPR ecosystem. Perform the localisation taking into consideration the legislation of RA. In case of missing points in the RA legislation, develop the appropriate normative acts.
- Consider introducing tax benefits and co-investments scheme for patenting abroad, complemented with expertise and advice from experienced international experts.
- Consider introducing the innovation vouchers for advanced consultations to be provided to start-ups and innovative SMEs via state support (consultations by accredited patent attorneys, law firms and valuation firms). Seek mentoring of [Business Finland](#) and [Vinnova](#).

Actors in Armenia:

- Ministry of Finance;
- Ministry of Economy;
- Ministry of High-Tech Industry.
- The EU counterparts:**
- [InnovFin Technology Transfer](#);
- [Vinnova, Finland](#);
- [Business Finland](#).

Why? Introducing tax benefits and co-investments scheme for patenting abroad could further maintain the presence of Armenian businesses at the EU and US markets, especially if complemented with expertise and advice from experienced international experts.