Why stronger IP provisions in EU free trade agreements are needed

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New provisions in EU free trade agreements (FTAs) have broken new ground when it comes to IP protection. In the last few years, and especially since covid-19, the need for stronger IP provisions has become paramount. A recent study conducted by the European Centre for International Political Economy (ECIPE) highlights the benefits of IP rights in FTAs and the positive effects for the EU economy.

The ECIPE report focuses on the protection of trademarks and patents in the European Union's trade agreements in comparison not only with European law, but also with other IP-protected sectors. While the European Union has taken significant steps to secure the protection of some categories of IP rights (eg, geographical indications, plant varieties and traditional knowledge) and create an IP framework capable of encouraging their development and exploitation, when it comes to trademarks and patents and especially the relevant provisions in European Union's FTAs with the United States, the agreed protection is neither proportional to that provided by EU law (ie, no trademark invalidation due to bad faith is given), nor sufficient. This leaves member states vulnerable in two areas that are highly significant for their economies.

It is indicative that, according to the same ECIPE study, in 2020 the EPO received more than 180,000 patent applications and granted close to 138,000 patents. Numbers of applications appear higher in the medical technologies, digital communications, computer technologies, electrical machinery and transport spaces. Respectively, the highest growth in 2020 was recorded in pharmaceuticals (+10.2%), biotechnology (+6.3%) and medical technology (+2.6%). As a matter of fact, trademark-intensive industries – along with design and patent-intensive industries – generate more than €10 trillion for the European Union, while at the same time constituting important sources of employment.

It is therefore clear that intellectual property is highly significant for the economies of EU member states. In many countries such as Greece, the jobs offered in these fields are of high quality, with significant amounts of investment per employee. IP-intensive sectors in Greece represent 10% of local production and provide employment for more than 170,000 people. To be more specific, according to the data of the Hellenic Industrial Property Organisation (HIPO), despite the pandemic and the strict lockdown implemented in Greece, there was a 26% increase in applications for national patent diplomas filed to the HIPO during 2020 (in comparison to 2019); during 2021, there was a further increase of 14% in relation to the previous year. As a result, in 2021 the total number of patent applications reached an all-time high.

However, it is actually their potential growth and, even further, their development that makes sectors such as medical technologies, digital communications, computer technologies, electrical machinery and transport key to the Greek economy and highlights the need for better IP protection. Stronger provisions will lead to more exports, imports and investment, and provide an overall boost for a country's GDP. In fact, according to the research conducted by the ECIPE regarding the positive macroeconomic impact of stronger IP provisions, Greece is one of the member states with the most to gain from such a scenario. Greek GDP would rise 1.5% showing the highest relative, not monetary, increase, followed by Malta and Bulgaria.

Such an impact, especially for an economy like that of Greece, cannot be overlooked and is a strong incentive for the European Union to move forward with stricter protection of its trademarks and patents when it comes to FTAs with third countries, while raising the level of protection to that provided for in the EU law. The Greek model exemplifies the untapped potential of fresh provisions in its FTAs and the difference that would make for the economy of member states and the European Union as a whole.

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