

Abstract: Limitations of patent protection in pharmaceutical industry with regards to the access to medicine problem

The goal of this master thesis is for the reader to gain a general overview about the legislation in the area of European pharmaceutical patent law and also about medicines accessibility problems that come with the patent protection in this area. In the beginning we present relevant legal regulation with the focus on the TRIPS, as this international treaty is the source of patent protection exemption that is focal to this thesis. Later the paper addresses patentability requirements while the most of attention is given to specifics that are typical for pharmaceutical industry. This thesis further analyses two important concerns standing against each other. These being the protection of intellectual property rights where it identifies its origins and practical importance; and concern over right to health, which constitutes a legal reasoning for better accessibility efforts. In this thesis we identify lack of accessibility in various forms, which can present either as inaccessibility due to high prices or not even existent treatment, while both these problems might have more causes. These causes may and may not stem from the current patent system. That is why we further analyse current measures adopted to make a treatment more accessible, i.e. compulsory licenses, research exemptions, supplementary protection for rare diseases treatments or paediatric use. In the analysis we observe whether in order to raise accessibility, these measures are making patent protection stronger or weaker. While doing this we also try to assess particular measures from the point of effectivity. At the end of the thesis we present some alternative elements or systems that disrupt the current patent system with the ultimate goal of making medicines more accessible. Some alternatives, like public funding for research in first stages or prizes for neglected diseases research, are compatible with the existing patent system. On the other hand there are others, like royalty-based schemes that go against current patent protection. We also devoted a room to a popular project of *Health Impact Fund* which is adding a new alternative to intellectual properties protection instead of changing the system. In general, this master thesis aims to contribute to the answer to the question whether the current patent system is a desirable solution for the area of pharmaceuticals and towards which direction should an eventual change of regulation head to.