

A micro-perspective on the governance of openness

Background

On a November day in 2014, two people walked down the stairs to a cellar in the center of Copenhagen. On the door, a sign read “*Labitat/Biologigaragen*”. On the business cards of the two people descending the stairs, it said “Novozymes R&D”. The meeting between the R&D people from Novozymes and the Biohackers from Biologigaragen developed into the joint project “Baessy”¹, an open source bio-assay for measuring ethanol in bio-samples. Following up on the biohacker experience, Novozymes launched the open innovation platform “Hello Science”² in 2017. Around the same time as Novozymes were developing a bio-assay with biohackers in a cellar in Copenhagen, LEO pharma launched an open innovation platform³ inviting anyone to submit compounds for analysis of its bioactive properties using LEO Pharma’s portfolio of assays accumulated from decades of research and development – no strings attached.

Research Objective

While the air is thick with definitions of openness and discourse on the benefits of openness to innovation, the practice of openness by individual companies are following many different trajectories. Open innovation projects displays a great diversity in the legal means utilized in the (ad)ventures into openness by companies. Much literature and legal research has focused on IPR, licensing and licensing mechanisms in this domain. This paper will explore the agreements and underlying strategies in open innovation projects, where the basis for licensing are not present e.g. because there is nothing to license (yet). The research is based on three short case studies. The primary legal instruments scrutinized will be the Terms of Use for Novozymes and LEO pharma’s open innovation platforms and the agreement governing the collaboration between Novozymes and the biohackerspace Biologigaragen. Furthermore, the analysis will include interviews with key stakeholders – management and legal counsels - involved in the projects realization.

The chosen case studies provides an excellent opportunity to explore some of the many possible trajectories, which may be followed in the governance of openness on a micro level. Description and analysis of the cases will provide insights regarding the strategies for governing background and foreground IPR in the design of open innovation projects.

Methodology

The purpose of the activities in the case studies are to promote innovation in Novozymes and LEO pharma. However, several different theories on what generates innovation exists. The neo-schumpeterian school emphasize rent-seeking behavior as the driver of innovation; the neo-classical focus on the trade-off between incentives and access; and more recently the concept of learning networks has become a prominent voice in the debate on the genesis of innovation focusing on knowledge flows and sharing of information⁴. The three cases will be analyzed in the perspective of these theoretical positions. Furthermore, the outcomes and experiences flowing from the projects will be explored through interviews with relevant stakeholders in the projects. This will form the basis for a discussion of the application of legal instruments and their formative impact (if any) on the outcome of the projects.

¹ Website for the biohackerspace “Biologigaragen”, sub-page for the project “Baessy” can be accessed here: <https://biologigaragen.org/baessy/> (Last accessed 14 Sept.2018)

² Website for HelloScience can be accessed here: <https://helloscience.io/> (Last accessed 15.Sept. 2018)

³ LEO Pharma’s open innovation platform can be accessed here: <http://openinnovation.leo-pharma.com/> (Last accessed 15 Sept.2018)

⁴ Benkler, Yochai. "Law, Innovation, and Collaboration in Networked Economy and Society." *Annual Review of Law and Social Science* 13 (2017): 231-250.