Inter-ministerial Group on Intellectual Property (GIPI in Portuguese)

Imagem: SkippyJon

GIPI decided, by the end of 2008, to limit the grant of pharmaceutical patents for second use and polymorphs in the country. This position came as a response to the polemic attempt to review the patent exam guidelines of the National Institute of Industrial Property (INPI in Portuguese) to allow the grant of these patents. These rules would harm public health since they would allow new monopolies over medicines which were already in the public domain.

Jorge Ávila President of the National Institute of Industrial Property (INPI in Portuguese)

Imagem: http://www.inpi.gov.br

INPI's president insists in not adopting GIPI's decision. He states that it's a responsibility of the National Congress to modify legislation and prevent patenting for second-use and polymorphs. With this justification, INPI continues to grant patents for second-uses and polymorphs opposing public interest and GIPI's decision.

Parliamentarians Paulo Teixeira and Dr. Rosinha

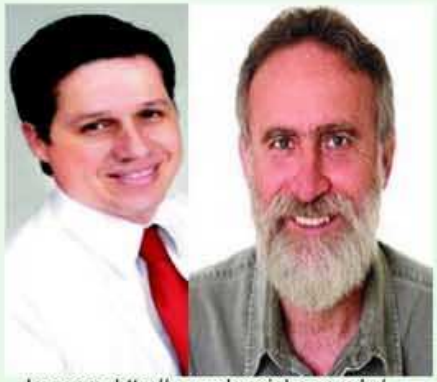

Imagem: http://www.drrosinha.com.br/
http://www.pauloteixeira13.com.br/

Parliamentarians Dr. Rosinha and Paulo Teixeira presented the bills (Law bill nº. 3995/2008 and Law Bill nº. 1893/2007) which limits intellectual property rights, and therefore benefits the public health and access to medicines. We also hope that they, on the last year of their mandate, will oppose the bill nº. 4961/2005 (proposed by Parliamentarian Mendes Thame), which aims to patent substances extracted from living beings!

Parliamentarian Rafael Guerra

Imagem: http://www.congressoemfoco.ig.com.br

Parliamentarian Rafael Guerra, in spite of being ex-president of the Parliamentary Health Front, proposed the law bill nº. 3809/2008, which is absolutely contrary to public interest. The bill intends, for now, restrict ANVISA's (Brazilian Drug Regulatory Authority) possibility to participate in the analysis of patent applications for pharmaceutical products and processes, and in the long run, actually eliminate its participation. The elimination of ANVISA's prior consent is a historic retrocession in the struggle for access to medicines in Brazil, and is contradictory to the Brazilian foreign policy agenda in WHO, WIPO and WTO.

Pre-grant Oppositions

Imagem: Act-UP

After many patent oppositions presented worldwide by groups of people living with HIV/AIDS and NGOs (including GTPI), in 2009, finally patent applications of the ARV Tenofovir (Gilead) were rejected. Applications were rejected, for example, in India and Brazil for not fulfilling patentability requirements (Brazilian Patent Office presented a very strong decision). Tenofovir is a molecule developed in the 80's which has been "reformulated" in an attempt to maintain the company's monopoly over it.

Tenofovir (Gilead)

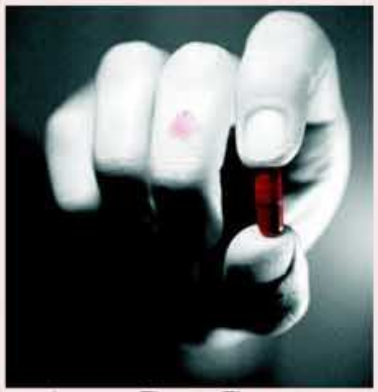

Imagem: Thomas Thomas

Gilead, producer of the HIV/AIDS medicine, Tenofovir, in spite of having their patent applications rejected in several countries for lack of inventiveness and novelty requirements, filed a new patent application in Brazil and in India. This is an abusive use of the patent system that intends to keep their monopoly and prevent the entry of generic versions. The new application generates a situation of legal uncertainty and undermines public health since the patent applications usually take about 8 to 10 years to be examined.

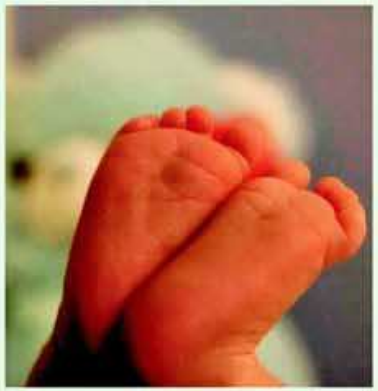

Imagem: Gabi Menasce

Prosecutor General of the Republic

After waiting for two years, an Unconstitutionality Direct Action (ADI 4234) was proposed by the Prosecutor General's Office in Supreme Court, regarding pipeline patents. This action is an old dream of the GTPI and is a result of a representation to the Prosecutor General of the Republic made in 2007. This action may give back to the public domain hundreds of important medicines which are now marketed at high prices in Brazil. More information available at: http://www.abiaids.org.br/_img/media/QuestAnswers_PIPELINE_INGLES.pdf.

Imagem: Chick 57

Judge of the 15th Federal Branch (of the Federal District)

GTPI proposed a public civil action, with the Federal Prosecutor in 2005, demanding the compulsory license for the HIV/AIDS medicine lopinavir/ritonavir (Kaletra®) and until today the Judge has not set a trial date. ZzZzZzZzZz

UNITAID

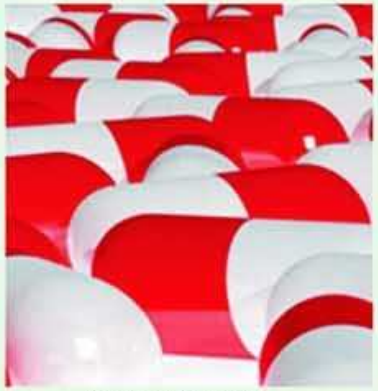

Imagem: UNITAID

UNITAID is discussing the implementation of a patent pool for AIDS medicines. This pool has as its goal to encourage the production and broaden the access to medicines, specially considering the current scenario in which almost all countries grant patents for pharmaceuticals. It is an alternative still being built, but its success depends whether developing countries may also be benefited from it.

European Union

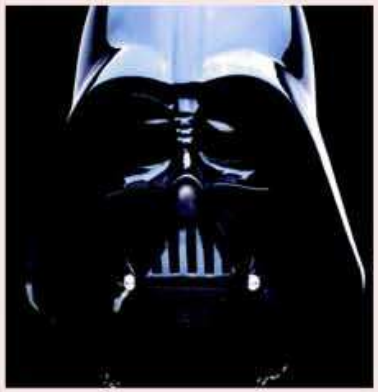

Imagem: Google Imagens

The EU has seized in their customs medicines shipments destined to developing countries on the grounds that they violated intellectual property rights. In January, a shipment coming from India to Brazil of a generic drug for high blood pressure (Losartan) was seized. Up to now, we know of 20 irregular seizures, as happened to Losartan (including ARVs), impairing the free circulation of essential medicines.

Colombian Civil Society

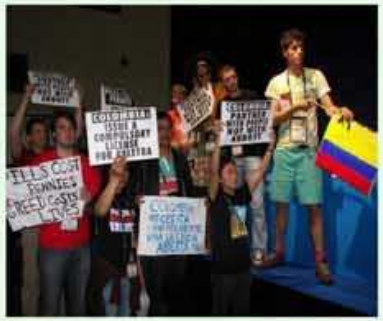

Imagem: CEDOC/ABIA

Colombian civil society has fought against economic abuse practiced by Abbott, which charges prices up to nine times more expensive for the HIV/AIDS medicine, lopinavir/ritonavir (Kaletra®), when compared to prices in neighboring countries. The government refused to issue a compulsory license, but after much pressure and a law suit initiated by civil society, the government decided to establish a maximum price for the medicine. We applaud Misión Salud, IFarma, Colombian Network of People Living with HIV (RECOLVIH in Spanish) and the NGO assembly working with HIV and AIDS.

ABBOTT

Abbott
A Promise for Life

Imagem: ABBOTT

The company charged high prices for the HIV/AIDS medicine lopinavir/ritonavir (Kaletra®) in Colombia (about US$1,683 per patient/year in the public sector and US$4,449 in the private sector). While this was happening, neighboring countries paid much lower prices.

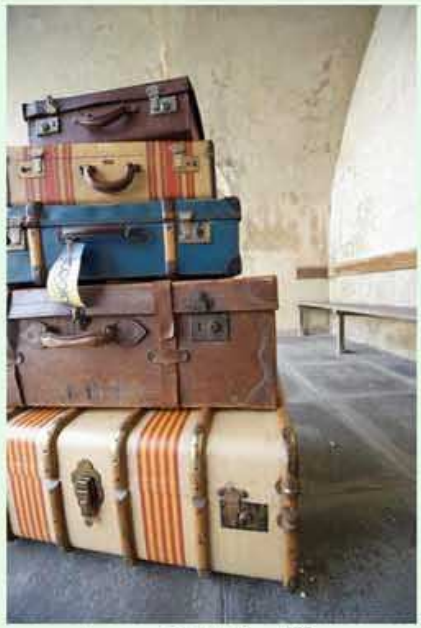

Imagem: GeishaBoy 500

Will not be missed…

The bill proposed by ex-Senator Ney Suassuna (PL 29/2006), which attempted to include the linkage mechanism to the Brazilian legislation, was rejected by the Social Issues Commission with the vote of Senator Papaléo Paes. This mechanism obliges ANVISA to reject the drug registration if the applicant is not authorized by the patent holder of such drug. One important point is that drug registration is not linked to patents. The linkage mechanism is an obstacle for the entrance of generic medicines in the market.

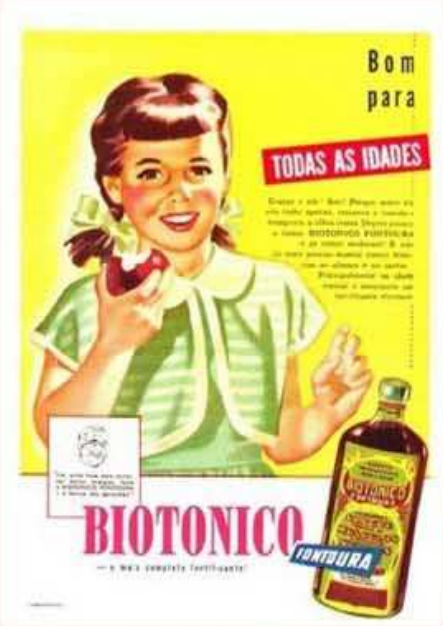

Imagem: Google Imagens

What can improve…

Civil society has fought for a seat in the Farmanguinho's Consultive Council and we hope that in 2010 it will be more active.

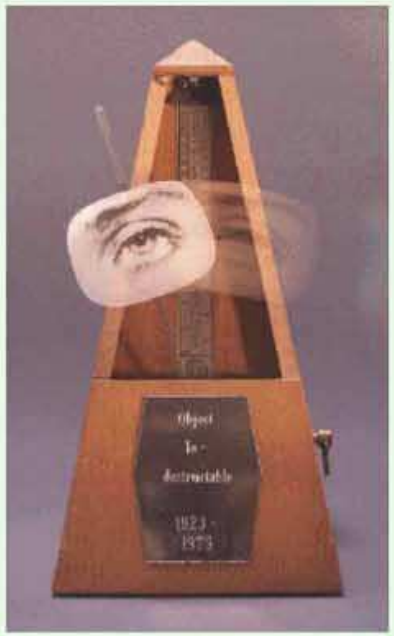

Imagem: Objeto Indestrutível - Man Ray

We are watching you…

Some companies, such as Boehringer (Tipranavir) and Gilead Sciences (TDF+emtrincitabine) has requested the marketing approval of their products in ANVISA requirement for the commercialization of the medicines in the country with much delay in relation to developed countries (about five years). These medicines were tested on Brazilian patients and GTPI denounced the delay in the application for sanitary approval of the product in Brazil.

THE GREEDY AWARD 2009 GOES TO...

Bristol-Myers Squibb Company

Imagem: http://www.bms.com

Bristol has set high prices for an important HIV/AIDS medicine: Atazanavir. This medicine accounts for the largest sum of the Brazilian health system (SUS in Portuguese) budget for imported antiretroviral purchase (about 20%). The company states that it is the cheapest price in developing countries. If in Brazil, where the "cheapest" medicine account to almost a fifth of the ARV budget and affects the sustainability of the universal access program, can you imagine the situation in other places in the world?