

# Licensing and Marketing Outlook

*Speaker opens International Conference at Brussels with insightful look into licensing future in Europe*

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I shall start with a few words about the market situation or, more broadly, the economic outlook. After drawing your attention to certain perceptible trends or tendencies in innovation, technology and in the market, I will then consider the effects and consequences these may have on licensing and licensing policies.

First, what is the economic outlook and what is the situation in the market? Generally speaking, we are recovering from a deep recession and are now seeking some improvement in the economic climate, led by the United States. However, growth in Western Europe in 1983 was rather moderate, with the U.K. and West Germany showing somewhat stronger momentum.

Developments in 1984 indicate a further strengthening of the economic situation, but Western Europe is still running behind the average trend, notwithstanding the support from its improved competitive position against the United States.

In an economic report it is said that "growth prospects for Western Europe will continue to be hampered by structural inflexibilities, the negative effects of Europe being a fragmented market and its low technological competitiveness.

We are indeed still a long way off from the homogeneous European market which was to have been created step-by-step on the basis of the Treaty of Rome, now 25 years old. With a variant on the concept of "l'Europe des patries" or "Europe of the nations," one could speak of "Europe of the home markets," an expensive variant both for industry and for Europe in particular.

## Electronics Industry

Within this environment the electronics industry plays an important role and the impact of electronics on the world economy is evident. Sales of electronic products are expected to grow by 8 to 12% a year during the rest of the decade. Communication links will grow by an estimated 15 to 22% per year, and software sales will leap by 24 to 30% per year.

In the fierce competitive battle for market shares being waged by Europe, the United States, and Japan.

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something close to half of the value of electronics sold in the world is attributed to the United States, 40% to Japan and 10% to Europe. It is against the background of Europe's position in third place—separated by a discouragingly large gap—and the implications this has for Europe's prospects of sustaining economic prosperity, that a European-based electronics company such as Philips must marshal all its resources to remain competitive in the world market.

In view of the rapid technological developments now taking place, it is interesting to ask which important trends can be distinguished in the electronics industry that will have a clear impact on the future? I will give you four keywords, then expand on each:

- Innovation
- Integration
- Standardization
- Cooperation

## INNOVATION

Rapid technological developments require a strong R&D commitment. In fact, Philips considers technological innovation a precondition for continuity of the company. Since the amount of investments in R&D—Philips currently spends 7% of sales—is skyrocketing, critical decisions must be made about where to concentrate investments for the future and which R&D activities offer the best opportunities for future products and systems.

In view of the high costs of R&D it will not always be possible to do everything oneself. This may lead to cooperation with other companies, in particular research cooperation. Philips therefore concluded an agreement with Siemens AG to investigate the possibilities of long-term research projects in such areas as new semiconductor materials, submicron technology, computer-aided design, and speech recognition.

But some governments such as the French, German and U.K. governments, have programs for subsidizing industry in specific sectors. A recent example is the so-called Alvey Program in the U.K. under which subsidies will be granted for cooperative research projects between industry, universities and others in the field of Advanced Information Technology. Subsidies will in principle be granted on a 50% funding basis, while an amount of L200 million will be made available by the U.K. government over a period of five years.

Internationally operating companies will of course want to see that the conditions of government grants intended for implementation in a specific country will leave freedom to transfer the results of such subsidized R&D by way of licenses of technology transfer within an international group. This is in any case of specific

importance in connection with the fierce competition in the electronics industry worldwide.

### Case in Point

A case in point here is the ESPRIT Program sponsored by the Commission of the European Community, with which most of you will be familiar. Since this program has only recently been published and is of considerable interest I will deal with it in more detail. Notwithstanding the political and other difficulties involved in financing the EEC, the member governments decided to approve the ESPRIT Main Program at the end of last February. ESPRIT stands for European Strategic Program for Research and Development in Information Technology. It plans to make available an amount of 750 billion ECU—around \$600 billion—over a period of five years, in principle on a 50% funding basis. It may result in the employment of approximately 2,000 research workers.

Within the framework of the ESPRIT Program, each project should be based on cooperation between at least two companies or other partners in different member states.

Proposals for these projects were filed with the commission in Brussels at the beginning of this month and it is intended that, after official approvals have been given and the necessary arrangements made, the program should be implemented in September. The program is a challenge, since the clear aim is to promote the strengthening of European R&D and industry at large in information technology, with an eye to the 1990s, and to preserve European industry in this field of technology against American and Japanese competition. Cooperative R&D on such a scale, however, has to go through a learning process. It will have an extra dimension of difficulty.

Within the framework of these cooperative R&D projects licensing aspects will play an important role. Who will own patent rights? Will Foreground Patents and Information resulting from this cooperation in a project be freely available to the partners and also to others? And what is the position of Background Patents and Information, especially in the case of background rights originating from third parties?

### Arrangements

Between partners in a given ESPRIT Project as well as between the EEC and the parties involved, arrangements will be made on the following lines:

—Foreground Patents and Information will be freely licensed to the other partners in a project.

—Parties participating in other ESPRIT Projects are entitled to licenses against reasonable conditions under such Foreground Patents and Information to the extent required for the execution of their project.

—In the event of exploitation the partners to a project are entitled to exploit the results of such project and they shall be granted nonexclusive licenses and user rights on a royalty-free basis for any Foreground Patents and Foreground Information.

Other parties may apply for licenses and user rights under Foreground Patents and/or Foreground Information if their own R&D program in information tech-

nology or the exploitation of the results thereof cannot reasonably be executed otherwise. The granting of such licenses shall not be unreasonably withheld, but licenses shall be given in return for reasonable compensation.

—With regard to Background Patents and Information it is arranged that:

- The other partners in the project are entitled to be granted nonexclusive licenses and user rights for Background Patents and Information under appropriate nondiscriminatory conditions, provided that the contractor is free to disclose and license the use of such Background Patents and Information and such licenses are required for the execution of their project.

- To parties participating in other ESPRIT Projects licenses under Background Patents shall be made available against appropriate nondiscriminatory conditions, provided that the contractor concerned is free to grant a license under such Background Patents and no major business interests of said contractor oppose the grant of such license.

- In the event of exploitation each partner in a project shall be entitled to nonexclusive licenses and user rights for any Background Patents and Background Information under appropriate nondiscriminatory conditions, provided that:

1. The contractor concerned is free to disclose and license the use of such Background Patents and Background Information.

2. No major business interests of said Contractor oppose the grant of such licenses and rights to use.

3. No license or right to use Background Patents and Background Information needs to be granted with respect to products or the manufacture thereof, to the extent such products are or are about to become commercially available.

The ESPRIT Program is stated to be research and development in a precompetitive stage. It is of the utmost importance to industry that the EEC Competition Rules are not used to create new limitations or administrative impediments regarding the implementation of R&D cooperations, and that the commission at least will stick to its "Notice on cooperation between enterprises" of 1968 pursuant to which R&D arrangements as a rule do not infringe the EEC Competition Rules. The present draft R&D Block Exemption Regulation of the Commission is inconsistent with its 1968 Notice in a number of respects and would for instance cast a shadow of illegality on R&D cooperation between two big companies or of one big company with a "small or medium enterprise."

In this connection, I understand that in the U.S.A. there has been some mitigation of the antitrust rules with respect to R&D cooperation.

Be this as it may, what we need in Europe is an industrial policy which would promote cooperation between European industries where needed, and in particular in the field of electronics with its fast-changing technology and many new developments, working in a highly-competitive market.

### INTEGRATION

As a second key trend I mentioned *integration*, meaning thereby integration of technology and integration of

products into systems.

The traditional dividing lines between consumer and professional electronic products are becoming increasingly blurred. Differentiation between personal computers for business use and personal computers for the home will soon be insignificant. Computers for all kinds of applications are being integrated with telecommunications, audio with video, entertainment with information.

Integration is also leading to products with a multi-functional character. Computers are also word-processors, telex machines and telephone answerers, and aids to filing. The possibilities are unlimited. Television receivers are equipped for teletext and are also used as video monitors for a whole range of electronic products. The telephone is enhanced by the addition of viewdata and home-banking functions. Some day soon the car radio will form part of a warning system for road traffic.

An extension of linking techniques also represents a step toward multi-technology. One example of multi-technology is the video camera with an integrated video cassette. It is called the 8-mm video camera. The technologies needed to achieve this are provided by the essential microelectronic link between camera technique coupled with special optical techniques and a fusing of video, recording and cassette technology.

### Laser Technology

An example of this is to be found in the field of laser technology. As you know, the laser is a light beam device that is being applied in the video longplay system, now called LaserVision, and also in the Compact Disc audio system. Further developments have resulted in its application in digital optical recording (DOR). Philips has entered into a joint-venture cooperation with Control Data Corporation, initially for the joint further development of a system of data storage based on the concept developed by Philips. This cooperation has now been extended to the joint production, marketing and sales of DOR apparatus. Here we have an example of industrial cooperation where the technology and a specific technological development in a certain direction of one partner has been linked with the expertise of another partner in the marketing of computers.

I would now like to turn to the third trend, namely *standardization*.

### STANDARDIZATION

The high investments needed to develop present-day technologies have made large series production so essential that a national market could never offer sufficient scope. This is true not only for a small country like the Netherlands. Even in the United States and Japan the home market simply does not offer sufficient scope to meet investment requirements. Therefore, to ensure the potential for a worldwide market, standardization and agreements with regard to product specifications are absolutely essential.

We at Philips have been rather successful in achieving standardization in the audio field. Think, for example, of the audio-cassette recorder and the Compact Disc. As regards video we have been less successful. Notwith-

standing all efforts, no standardization was reached in the field of video recorders, resulting in three different video recorder systems being marketed.

Patent rights are often an important support for arriving at cooperation in the field of standardization or compatibility. A recent example is the Compact Disc in which the Philips system has been accepted as the standard worldwide.

The agreements relating to the specifications for the future 8mm video camera and cassette are other examples of worldwide standardization.

Another example of an agreement with regard to product specifications is the cooperation between Philips, Siemens, CIT-Alcatel and Thomson of France in the field of mobile automatic telephone systems. This cooperation, which should result in a jointly developed standard mobile radio system, is based on an understanding between the French and German authorities. It is expected that this will lead to a common European standard.

Without these standardization agreements it is simply not feasible to develop products of the kind mentioned. Measures of standardization can only be taken internationally and with the cooperation of other producers.

Finally, the last keyword, *cooperation*.

### COOPERATION

In the foregoing I have given many examples of cooperation, some of them on a worldwide scale. We are convinced that at the present time cooperation between companies in some fields of activity is imperative in view of the high costs of research, the fast technological developments taking place, and the need for a worldwide market. In this connection it is not without significance that the theme of the last European Management Forum in Davos was "cooperative competition."

Cooperation in itself should not be a goal, but it can form a framework, a vehicle, for attaining specific business objectives. Cooperation is not always easy and it may often be easier to do things by yourself. The right choice of partner is essential, and compatibility of interests between the partners is a prerequisite for success.

Success and failure are two sides of the same coin. In the 1970s we saw the failure of Unidata, the cooperation between Siemens, the French CII and Philips in the computer field. It was meant to become a European basis for the computer industry, but it failed to materialize. Quite evidently, tripartite cooperation is much more difficult than bipartite cooperation. In this case it fell apart within two and a half years owing to the French Government's decision that France should have a national computer industry, not one that was only a part of a greater entity.

This example should be a warning to European industry and governments alike, since the share of European-based industry in the computer world market is not significant. Cooperation can take many forms, ranging from a one-sided technology-transfer arrangement or mutual R&D cooperation to a more intensive and more in-depth cooperation in a joint venture.

There are various forms of joint ventures and many

underlying reasons for them, but I will not go into them all here. Sometimes the reason may be a match of technology or a combination of forces in technology and market experience. The joint venture between Philips and AT&T International in the field of public switching and transmission systems is an example of such a combination that is expected to achieve a stronger position in the international market.

Looking at Europe, I think it would be worthwhile, in order to ease the legal problems concerning corporate structures in a cooperation between companies in various countries, to study the possibility of introducing the concept of a European private limited company combined with an appropriate tax system, which would certainly further the implementation of European cooperation.

In all the aspects mentioned—innovation, integra-

tion, standardization and cooperation—licensing arrangements and technology exchange play an important role. There is a need for a broad willingness to license other parties and to exchange technology. In the electronics industry there is a willingness in principle to extend licenses to others and therefore not to exercise the patent monopoly in these cases. But the political will, based of course on business interests, to exchange licenses and technology and to enter into cooperation, should be there.

It may look like carrying water to the sea to emphasize before this audience the importance of licensing and the importance of the expertise required for drawing up proper licensing arrangements. Nevertheless, I do so, because the trends I have described are, as far as I can see, also trends to the future, and this could even mean an increased activity in the licensing field.