For the public good

The benefits of pro bono services are being recognised across the board. But what limitations does it face?

Pro bono work is becoming more valuable to law firms and corporate legal departments. Not only is it important to ensure that those in need have access to legal advice, but it can also be instrumental in the training, motivation and satisfaction of both new and experienced practitioners.

With a heightened focus on teamwork, it can have a positive impact on morale and provide exciting opportunities and challenges to lawyers at all levels. It can also enhance the public's perception of a firm and add value to corporate social responsibility programmes. For students, pro bono work can foster a culture of commitment from an early stage while providing positive and practical experience.

The difficulty in the globalisation of pro bono is that every jurisdiction has a different approach to taxation and regulation of such work.

The participation of leading law firms is essential for its evolution because they have the resources available. They can also promote pro bono services as a professional goal for all practicing lawyers and set an example from the top.

While more sophisticated jurisdictions may have rules that make a certain amount of pro bono services compulsory – for example, the New York State Bar Association insists that law students must devote 50 hours to such work – many are only now recognising pro bono's benefits.

"In the last decade, pro bono legal services have made inroads worldwide, and are now available even in developing markets such as Russia and China," said Glenn Kolleeny, partner at Dentons in Moscow, who is moderating today's session.

"Not only law firms, but in-house legal departments and law schools are playing an increasingly important role. My hope is that by organising the session on the globalisation of pro bono, we can encourage its further development, including in developing and transitional economies."

The panel plans to discuss whether there should be an international best practice approach to pro bono work and potential hurdles to its globalisation.

They will consider how to engage smaller national firms, individual lawyers, law schools and bar associations in the discussion on pro bono, as well as how such programmes should be structured and what role judges should play in encouraging pro bono services.

Another possible topic is how international law firms and multinational corporations have impacted pro bono services, and how these companies have provided such assistance.

Emerging markets' role in pro bono services will also be addressed, with a focus on Russia. Then the speakers will look to the future of legal services for the public good, and how this may shape access to justice in the coming years.

"My hope is that by organising the session on the globalisation of pro bono, we can encourage the further development of pro bono, including in developing and transitional economies," added Kolleeny.

Speakers include Özgür Kahale, pro bono counsel Europe at DLA Piper; Mathias Fischer, counsel at Latham & Watkins; and Kendall Coffey, chairman of the southern district conference at the Florida Federal Judicial Nominating Commission.

This session will be particularly useful for teachers in the legal field. However as such work is becoming increasingly relevant to both firms and corporate legal departments, it is highly recommended to all.

SESSION
Globalisation of pro bono

TIME/VENUE
Thursday, 10.30 am – 12.20 pm
Hall 7, General Staff Building, eastern wing

Key takeaways

- All legal practitioners must take the value of pro bono work into consideration – there's a role to play at every level
- A panel of specialists, moderated by Glenn Kolleeny, will consider the limitations of the globalisation of pro bono, with a focus on the role played by emerging markets – specifically Russia
- Speakers will also discuss whether or not there are common global standards surrounding pro bono legal services, and how these can be improved upon

Sponsored feature

New rules for Russian IP

Valentina Orlova, head of the intellectual property and trademarks practice, Pepeliaev Group

In October 2014, the Russian Civil Code was extensively amended in relation to regulating intellectual property. For instance, a fully fledged expert examination of utility models will be conducted, rather than a formal examination. The previous absence of a fully fledged expert review resulted in there being patents that formed the basis for so-called 'patent trolls' to assert claims against good-faith manufacturers.

No longer will licensing agreements and contracts assigning exclusive rights require state registration. Instead, rights transferred or granted under a contract must be registered with the Russian Patent and Trademark Office (Rospatent). This is a significant step in favour of businesses because, according to the new rules, a contract may take effect as soon as it is signed rather than after it has been registered with the state.

A number of other new developments concerning licensing agreements are undoubtedly of interest to investors in Russia. Examples of these developments include that royalty-free licenses between commercial entities are not allowed, but the restriction applies only if the license is (i) granted worldwide, (ii) on exclusive basis, and (iii) granted for the period until the expiration of the exclusive right(s). Based on the new rules, commercial entities are entitled to enter into a royalty-free license agreement, unless the agreement falls within conditions (i-iii) above.

'Open' licences for copyright protected items have also been introduced – meaning a right owner may allow the public at large to use works on terms set out in the agreement. This is actually equivalent to a free licence, yet the rules regulating these agreements differ from those regulating creative common and other public licences.

Since 2013 the Intellectual Property Court has been operating in Russia, and it is now possible to make an assessment of the court's progress. First, the quality of decisions taken in IP-related disputes has significantly improved.

Second, a research and advisory board of the court has been established. This assists and supports the court in issuing analytical information bulletins concerning various aspects of dispute settlement rules, allowing investors to assess how issues will play out.

Third, the court is using its new power to question experts in certain areas of science and technology or law which require a scientific approach. This is helping to improve the quality and predictability of court decisions. It also prevents case law from being formed that could have an adverse impact on further work.

'Anti-piracy' measures are another crucial new development. Since 2014, a law has been in force in this area, although it has received mixed reviews. Despite this, the law allows right owners to take special fast-track actions to block any content that has been unlawfully published on the internet, thereby mitigating the damage incurred as a result of copyright-protected items being illegally distributed online.

Data exclusivity

Amendments have been made to the legal regulation of data exclusivity and provisions related to obtaining patents for medicines:

(1) In respect of data exclusivity, a new law on the circulation of medicines has established that a minimum of four years should pass after the original medicine has been registered before an application to register a new generic may be filed, and three years should pass before it is possible to apply for a biosimilar medicine. It is still prohibited to use information about pre-clinical and clinical trial results for six years.

2) In terms of patenting inventions that are classed as medicines, it has been determined that the patent office has the right to require that additional materials be provided. The period during which such materials are to be provided should be no more than 13 months.

Criminal and administrative liability has been made stricter where trademark rights are violated – eg, in cases that involve counterfeit goods being manufactured.

The process of improving IP legislation in order to make investments in Russia more attractive is continuing. In particular, there are discussions about the principle of trademark exhaustion rights being changed from a regional/national basis to an international one, and how to regulate parallel imports. The platform for discussions has changed – now the issues are being discussed by the Eurasian Economic Commission.

However, interested parties continue to take the same stances. For instance, foreign investors with local manufacturing facilities in Russia have concerns over exhaustion rights being shifted from a national principle to an international one. One of the concerns is based on the risk of uncontrolled import of goods which properties and characteristics do not comply with Russian quality standards.