

INTELLECTUAL PROPERTY RIGHTS AND ECONOMIC DEVELOPMENT

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INTRODUCTION

Intellectual properties are those properties which result from the creation of human mind and intellect. The various headings of Intellectual property are-Copyrights which include literary, artistic and scientific works e.g. books. Copyright's related rights such as rights of a producer of a sound recordings, broadcasts etc. Patents which includes protections of inventions for example protection of a new jet design. Industrial design e.g. design of soft drink bottle. Trademarks which include service marks, logos, names etc. & Geographical Indications.

Intellectual property laws are different in all countries. Resources allocated for the creation of intellectual property are different in every country. Nations encourage creation of intellectual property as it boosts the economy. They develop laws to protect IP to provide incentives to individuals to create IP and also to give recognition to such endeavors. Protection of intellectual property is considered to be a part of economic policy. Economic theories point out that intellectual property can have many effects on growth some positive some negative.

This paper attempts to analyse the intellectual property rights from an economic perspective. The paper starts with introducing the interrelation between IPR and economics. Further, it discusses positive and negative impact of IPR on economic development. The paper concludes by suggesting required changes in the policymaking.

ECONOMIC ANALYSIS

There are two main economic goals of intellectual property protection. First is to give exclusive rights to utilize new technology by encouraging investment in research and information creation¹. Absence of such protection will allow the competitors to use the results for free and would discourage the companies to invest in research and innovation. Second is to promote circulation of new research and innovation by encouraging right holders to place their inventions in the market². In economic terms it is beneficial to provide access to new information and technologies once they are developed at marginal costs. There is a trade-off between these two goals, a strict law of IPR will restrict individuals from taking advantage or utilizing the new innovation. And a weak system will not provide sufficient incentives to the developers and will thus reduce innovation³.

Providing exclusive rights by giving protection to developers will lead the pricing to be above the marginal cost level. This will provide returns to the developers for their research and innovation. However, this will create a monopoly in the market. Monopolies increase disparity and inequalities in the market in both consumption and production⁴. On the other hand free distribution of knowledge will discourage innovation and will lead to anti-competitive market practices. The legal system includes IPR system and antitrust system. The competition policies (anti-trust) improve consumer welfare by checking the behavior of companies which have market powers. Whereas intellectual property rights give monopoly powers to those who hold such rights. The market including consumers and developers or producers will be benefitted only if a balance is achieved between these two.

Financial systems can also solve the problem by rewarding the creators of IPR by government subsidiaries etc. and by limiting a system of property rights which provide exclusion of others to access without the authorization of the author.

¹ Gould, David M. and William C. Gruben, 1996, "The Role of Intellectual Property Rights in Economic Growth," *Journal of Development Economics* 48, 323-350

² Id. at 325.

³ Park, Walter G. and Juan Carlos Ginarte, 1997, "Intellectual Property Rights and Economic Growth," *Contemporary Economic Policy* 15, 51-61.

⁴ Harris, Richard G. 1984. Applied General Equilibrium Analysis of Small Open Economies with Scale Economies and Imperfect Competition. *American Economic Review* 74, 1016-1032

POSITIVE IMPACTS OF IPR ON ECONOMIC DEVELOPMENT

Companies in various nations specially developing nations like India must focus on raising the productivity in the market. This can be achieved by focusing more on quality of the goods and services produced, this might require installation of new management systems etc. These investments are costly but are important for raising productivity. For instance the Japanese patent system after World War 2, influenced the technical progress of the country by increasing the total productivity⁵.

Various theories suggest that trademark and copyright infringement have a negative impact on the economy. For instance, in China in 1980s, trademark infringement negatively affected the Chinese innovative enterprises. The trademarks of well established firms were applied to counterfeited products. The quality of these products was not equivalent to those of the legitimate company, this harmed the reputation of the latter. As a result of the same many companies exited the market. This damaged the development of the companies and trade in various regions was also affected⁶.

Copyrights violations have a similar impact. In countries with weak copyright laws pirate firms would have a strong hold. Thus, low quality copies or pirated copies would be available but the economy's technological development would be hampered. IPR laws should provide incentives for both the producers and consumers to invest in the market. This also assures quality, which is important for safeguarding the interests of the customers. For instance, counterfeited or fake products of beverages, food products, cosmetics and medicines can be hazardous to customers⁷.

⁵Maskus, Keith E. and Christine McDaniel, 1999, "Impacts of the Japanese Patent System on Productivity Growth," *Japan and the World Economy*, vol. 11, 557-574.

⁶ Dougherty, Sean M., 1997, "The Role of Foreign Technology in Improving Chinese Productivity," MIT Science and Technology Initiative, Beijing, manuscript

⁷ Danzon, Patricia M., 1997, *Pharmaceutical Price Regulation*, (Washington: American Enterprise Institute).

NEGATIVE IMPACTS OF IPR ON ECONOMIC DEVELOPMENT

Stringent laws of IPR can increase the costs of the goods and services. Developing countries usually do not have strong IPR laws. There is a significant amount of labour employed in copying unauthorized goods. If these states enforce stronger laws, the labor might be left unemployed.

IPRs support monopoly pricing. Intellectual property rights such as patents, copyrights and trademarks create barriers to entry and hinder competition in market. Companies which would be granted IPR would reduce the production to increase the prices and their net profits, which would not be beneficial for the customers⁸.

In a perfectly competitive market firms do not have power to influence the market and specially the price. They face stiff competition⁹. Firms which operate in a perfect competition are price takers, they take the price of the market, if they do not do so they might end up losing their customers to other competitive firms. On the other hand a monopoly exists when there is only one firm or enterprise which supplies the commodity in market. A monopolistic firm has single ownership to buy the resources. They have strong influence on the market specially the price. Monopoly produces less than socially desirable and therefore charge prices above the marginal cost¹⁰. Thus, it is not beneficial for the customers.

Strict IPR laws will generate a return for the investment or innovation. But that return can exceed the cost of production. Thus making the restriction to access innovation unnecessary. It also burdens the consumer to pay more.

⁸ Maskus, Keith E., 1998d, "Price Effects and Competition Aspects of Intellectual Property Rights in Developing Countries," background paper for World Bank, *World Development Report 1998/99*.

⁹ Mankiw, Gregory, 2012, *Principles of Economics, 6th Edition, South-Western, Cengage Learning India Pvt. Ltd.*, Ch 15.

¹⁰ Id.

CONCLUSION

Economic theories demonstrate that intellectual property laws can either play a positive or negative role on economic growth. The effectiveness of IPR would depend on the mechanism of the market. Their existence can even cause problems in terms of market prices and anticompetitive abuse.

Policymakers should strike a balance between the economic goals of intellectual property. They must come up with laws which promote innovations and inventions as well as promote competition in the market. The balance should be met keeping in mind the requirements of producers and customers. The interests of producers should not surpass the interests of consumers. Policies should strengthen capital and skill acquisition. A non-discriminatory, transparent and effective competitive regime must be established¹¹.

¹¹ *Supra* note 4.