

FACE OFF

Whose **IDEA** is it anyway?



Intellectual Property (**IP**) is a controversial topic in today's knowledge-based society

Overleaf IEA staffers **CHRIS SNOWDON** and **STEVE DAVIES** go head-to-head on the importance – or otherwise – of protecting people's ideas



Economic liberals do not question the importance of property rights to the free market.

The idea that we have exclusive ownership over our material possessions is so instinctive that it almost feels like a law of nature. It is not.

Societies have existed without them in the past and revolutionaries spent much of the twentieth century trying to get rid of them. Property rights were not handed down by God but were created by mankind because they confer a number of practical benefits, not only for the property owner but for everybody.

Entrepreneurs tend not to invest in countries where there is a possibility of confiscation by arbitrary and capricious government. Without the guarantee that you can keep what you have produced, there is little incentive to create. If you can't profit from your brilliant invention, why bother being an inventor?

Strong property rights, and a clean legal system to enforce them, are at the heart of successful capitalism. They are one of the reasons why Britain has been an attractive place to do business since

IP: THE CASE FOR...

the 18th century.

Intellectual property is less tangible than conventional property— you cannot hold it in your hand – but it is no less important in providing security, incentivising innovation and promoting creativity.

Why write a book if it is going to be republished on a website for free? Why spend millions of dollars developing a new medicine when it is going to be copied by a rival pharmaceutical company immediately? Why spend years building a strong brand when a fly-by-night company can plaster your trademark over their products?

I am in the fortunate position of being paid to write

enough to be inventors or poets in their spare time. But most people work to put food on the table. Without the financial incentive to create, less will be created.

We can argue about what form intellectual property rights should take. Perhaps the existing system makes life too easy for patent trolls. Perhaps 75 years is too long for a song to remain in copyright.

But there should be no argument over the basic principle that people should be rewarded for ideas that make the world a better place. By the same token, individuals should not be allowed to profit from stealing other people's work.

Intellectual property rights

PEOPLE SHOULD BE REWARDED FOR IDEAS THAT MAKE THE WORLD A BETTER PLACE

books by a think tank which then gives them away for free. Most authors are not. Some bands are so successful that they can make a living from concerts and not worry about their music being pirated. Most are not.

There will always be people who create for the love of their art. There will always be a lucky few who are rich

are no more artificial than conventional property rights. Both serve the same ends: they give innovators, artists and inventors the security they need to produce work that benefits us all•

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Intellectual property (mainly patents and copyright) is an incoherent idea, is not needed, and is increasingly damaging. We should be trying to severely cut it back or even scrap it.

Intellectual property is not like other kinds of property, not least because it is time limited (unlike e.g. property in land). If treated like other kinds of property it leads to bizarre results such as perpetual copyright. Moreover, ideas are inherently not scarce, so a major justification for property is absent.



IP creates a time limited monopoly. This creates a monopoly rent for the holder – by design. Monopoly rents reduce general economic welfare so this requires a justification. The justification is that without the incentive of the time-limited supernormal profits created by the IP there would not be an incentive to create innovations and artistic works.

IP: THE CASE AGAINST

In other words, without IP there would be much less creativity and innovation (there would still be some but much less). This is an empirical claim but the evidence does not support it.

Firstly, there is the evidence of periods and countries where such protection was absent or limited, such as the nineteenth century.

At that time patents and copyrights could only be enforced in the country that granted them and many jurisdictions (Italy for example) did not have a patent regime. Despite that we do not see lower levels of innovation than we have now, if anything the opposite.

The case that there is a positive tradeoff between the costs of an IP monopoly and the benefits of higher innovation is weak to non-

existent, by imitation, copying, and amendment of ideas, technologies and literary forms. IP stops this process and in the form it has taken over the last 30 years actually inhibits innovation.

Instead it creates monopolies with a powerful incentive to stop others amending or improving the patented technology and it leads to damaging activity such as patent trolling. The relentless extension of copyright terms by the US Congress is actually inhibiting the diffusion and exchange of ideas and art.

What we should be thinking about is at least severely reducing the scope of IP. Patent and copyrights should be limited to a short period, say six years, never more than ten.

We should revert to only granting them for genuine innovations, not amendments or tweaks, and we should stop the creep by which patents are awarded for pure knowledge or ideas rather than (as originally) applications of ideas.

We should think very seriously about abolishing IP altogether. If there is a need for an incentive for innovation this can be provided easily by things such as prizes, whether publicly or privately funded.

IP is an idea that has shaky foundations, does not bring the benefits that are claimed and even if it were useful once, is increasingly a dangerous force in the world and an obstacle to true innovation and progress.

existent.

Despite much research over the last few years there is no clear evidence that strengthening IP rights has led to higher innovation and creativity. This reflects the real nature of innovation. It derives from contact between people and the free exchange of ideas.

Above all, it is driven

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