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Role of Intellectual Property Rights in Promoting Creativity: A Comprehensive Research Review

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Abstract

For new ideas, innovation or creativity encouragement, IPR plays crucial role. The review of various IPR such as copyrights and patents and its role in promoting creativity is discussed in this paper. It studies various researches, available study material to explain how IPR can impact on economic growth, invention and innovation. The study reveals that intellectual property right gives sole rights to the inventors thereby accelerating the process of creativity but this is not exactly the same situation in every sector. We can observe this from pharma or chemical sector where strict patent laws can support but these laws create problem where new ideas are based on old ideas such as sector of software. Due to digitisation, copyrights laws also have to face many challenges which creates difficulty in making original work safe and allowing others to utilize it. The paper discusses on various aspects of IPR like future innovations, protection required by every field, its support for new start up, maintaining the balance between first and next creators. This needs to be study for establishing stronger IPR system which can promote creativity and can help the society. Through this study, it has been suggested that if IPR is used along with tools like grants, rewards or open-source initiatives, then it may give better results.

Keywords: Intellectual Property Rights, Patents, Copyright, Innovation, Creativity, Economic Development, Creative Industries

1. Introduction

A motivation for creativity, innovation or new idea is always encouraged. This is necessary for the development of the system. But then question arises about the protection of this invention or creation as there might be few people who want to copy those ideas and this will not be fair with original creators who can make money out of that creation or the valuable time, they have spent on it. IPR can help to tackle this problem by giving exclusive rights to these creators by promoting

creativity along with rising technology. Digital tools have changed how people create, share, and use creative works, which can be difficult to manage for older IPR laws [9]. A significant problem in the creative industry is that companies want stronger protections for their work, but creative groups want more freedom to use old work to create new things. Also, as more countries participate in the global economy, they introduce different IPR rules, whichmakes IPR policies more difficult [3].But how IPR affects creativity is more complicated than it seems at first glance.

Over the past 20 years, many researchers have shown that IPR can have different effects in different situations. In some cases, such as in the pharmaceutical industry, a strong IPR helps foster innovation [17]. In other cases, such as when new ideas are built on old ideas, strong IPR progress is slowed. or does not have any visible effect [14].This paper examines research in economics, law, management, and innovation studies to address some key questions. Different types of (How do IPRs like patents or copyrights affect creativity and innovation? Does IPR work better in some industries or countries than others? What are the main challenges in building a good IPR system?And what other methods other than traditional IPR can help creativity?

This paper covers the following topics: This paper explains the main idea and principle behind IPR. It also reviews research on patents, copyrights and their implications in various industries and covers related studies. Similarly, it discusses what the findings mean for the policy.

2. Background and Theoretical Foundations

2.1 Why Do We Have Intellectual Property Rights?

The main reason for having Intellectual Property Rights (IPR) is to solve the problem of how new ideas and creative works are shared. Knowledge is different from regular products because when one person uses an idea, it does not stop others from using it, and once a new idea comes, it becomes difficult to stop others from copying it. This makes it easier for people to use someone else's work without paying for it, which is called the "free-rider" problem [11]. Patents give inventors exclusive rights to their inventions for a limited time. This allows them to earn money from their inventions and recover the cost of research and development.Similarly, copyright gives authors, artists, and creators the right to control how their work is used and to receive money from it.IPR is not a perfect solution, but it is better than no protection. Some people think that the best way would be for the government to pay for all the research and share the results freely, but most countries use IPRs and marketplaces to encourage private investment in new ideas.

2.2 The Balance Between Incentives and Access

While intellectual property rights give people reasons to innovate and create, they can also make it difficult for others to use knowledge and creative creations. This is called "incentive-entry trading." [14] Stronger and longer intellectual property rights give searchers greater insight, but it can make things more costly and hinder the spread of new ideas. Governments may modify the rules for patents (such as how long they last) as well as copyright rules (such as how much people can use without permission) to strike the right balance. The best level of protection is determined by how much it costs to invent something, how easy it is to copy, and how much new ideas are constructed on old ideas. [11] This balance is especially difficult when new inventions rely on old innovations. If too many people have access to small chunks of knowledge, it can be challenging and costly to create new ones for others [11].

2.3 Important Principles of IPR

Researchers have different views on how intellectual property rights influence creativity. Some emphasize on how IPR increases the reward for invention and thus supports new ideas. [17] Schumpeterian growth theory on the other hand clears that it depends on competition whether IPR can support or create problem for innovation [7]. There are some thinkers that who believe that you can easily buy or sell or share technology with more cleared intellectual property rights [14]. There are also some opinions that combining old ideas in new manner leads to creation of innovation. The process of innovation can also be disturbed with too much rigidity in rights [3]. The efficient working of IPR system is also dependent on strong legal and cultural system and the view of people for copying in general [4].

In short, behavioral economics simply reflects the opinion that people do not always work only for money. Sometimes, giving money can reduce people's need to create for themselves and change their behavior while changing how people see risk [10], [12], [13]. From this, it is clear that besides giving importance to money, the attitude and behaviour of people should be given preference in setting IPR rules.

3. Review of Literature

3.1 Patents and Innovation Incentives

There are many studies which described about the effect of patents on innovation and how it can help in offering rewards to the inventors. This effect varies as per the sector in which it operates

such as in pharmaceutical or chemical field the patent system works well where as in other fields it may not be that effective [14], [17]. It has been showed that in various other fields, expenses spent on dealing with patents are far more than the returns obtained on it [17]. If we observe in various countries, we will see that effective patent system depends on combination of effective economic system and the kind of innovation they have [16], [20]. For example, in China, patents have benefited high-tech industries, but if the industry is not prepared for them, it can harm overall economic growth. [18]. The result of a patent also depends on other factors, such as the nature of competitors in the market. When favourable patent regulations are combined with strategies that make marketplaces more equal, they can really help innovation [7].

3.2 Copyright and Creative Output

Copyright is distinct from patent and it has a unique set of challenges, particularly in areas like art, music and digital media. Some studies show that copyright is preferred [1]. Research in China has found that weak copyright actually encourages creativity since it allows for greater recycling [3]. In digital marketplaces, the best level of protection is contingent upon whether the product is more about the original design (patent) or the content (copyright).

3.3 Differences between Industries

IPR is not applicable to all industries in the identical way. Research on industries as wide-ranging as pharmaceuticals, software, film, music and books has demonstrated that patents and copyrights can assist new companies establish themselves, but over time, big companies witha lot of IPR can take over.In digital industries, such as mobile apps, the most effective way to use IPR is dependent on the type of product. For certain goods, patents function better; for others, copyright is best [5]. Some professionals are of the view that the current IPR frameworks are not working well for most modern sectors, except for pharmaceuticals. Excessive protection can make it challenging for others to act on existing ideas [8].

3.4 IPR in Developing versus Developed Countries

The effects of IPR also vary between rich and poor countries. Some studies have found that IPR is more conducive to innovation in developing countries [20]. But this is not always true, IPR needs to be aligned with good institutions and execution. In developing nation like India, there is a need to motivate innovation by bringing the changes in legal regime of IPR. Whereas, in the absence of sufficient skilled labour and strong research activities, the system of patent is of no use to even high-tech industries in country like China [18].

4. Related Research

4.1 Evidence on How Well IPR Works

Many studies have been done for understanding and studying patent system in various countries and in various sectors. As discussed earlier, patent system works very well in pharma or chemical sector but is not much effective in software sector [14]. Some studies also explains that patent process is linked with some weaknesses besides its usefulness to promote creativity like high prices of its process or if too many individuals have rights to small portions of an invention, it becomes hard for others to innovate [11].Some evaluations have been done on the effect of patents on creativity and economic growth. Overall view says that the IPR system works more effectively in developing nations as compared to developed nations [20].

4.2 The problem of working on previous ideas

When new innovations are above the old creations then matters under IPR can get complicated. If many individuals have limited rights to various pieces of knowledge, doing something novel for others can be challenging and costly. This is called the "tragedy of the anticommons." [11] Some industries try to address this issue with things like patent pools or cross-licensing contracts, but these solutions don't always work.

4.3 Digital technology and challenges to intellectual property rights

The rise in use of digital technology has created difficulty in creating and maintaining the stronger IPR system. The relation between digital technology and copyright system has been shown with the help of some standard computer models in few studies [9]. There are some creative industries or companies who want strict protection but creators want more freedom of utilizing and mixing of the contents. Research in China has demonstrated that weak copyright protection actually encourages creativity since it allows for more reuse and recycling [3].In digital markets, the best level of protection is contingent upon whether the product is more concerned about the original design (patent) or the content (copyright).

4.4 Alternative and complementary systems

Knowing that IPR has its drawbacks, certain investigators suggest using alternative methods to promote creativity, such as rewards, grants, public funding, tax credits, and open-source models. Integrating this with IPR can support innovation in various manners. For example, in the U.S. pharmaceutical industry, patents are utilized in conjunction with public research financing and tax

credits. Open-source and Creative Commons permit allow people to reuse content as per certain rules, which helps creativity circulate and still provides some security to creators. The best way to encourage innovation is to employ a combination of tools, not just IPR.

4.5 Behavioural and Experimental Insights

Some recent research on how individuals actually act when it comes to creativity and intellectual property rights (IPR) has demonstrated that the rules governing intellectual property rights (IPR) may affect how people create, but the implications vary [10], [12], [13]. How people think about risk and reward, and how the regulations are explained to them, can change their willingness to try new things. Sometimes, concentrating too much on money can cause individuals to lose their passion to be creative.

5. Discussion

5.1 Key Findings

This review found that IPR can promote creativity and innovation, but its influence is frequently influenced by the industry, country and situation. Patents work best in industries such as medicine, where it costs a lot to invent new things. In industries where ideas are interdependent, such as software, patents can cause problems [14], [17]. Copyright has new challenges in the digital age, where copying can help us grow. The impact of IPR also depends on how well educational institutions, research systems, and regulations are implemented [7], [18], [20]. Motivation of people and how they perceive risk is also important. Too much focus on money can also harm creativity [10], [12], [13].

5.2 Challenges in IPR Design

There are major challenges in making IPRs work well. A strong IPR offers greater benefits, but can also make knowledge costly and challenging to use. The optimal level of IPR depends on the technology and industry [11], [14]. It's also essential to maintain a balance between rewarding creators by permitting others to use and work on their creations. IPR can help startups, but then it can also help big businesses block new ideas [6], [15]. Different countries have different IPR rules. Developed nations may want stronger safeguards, but developing countries may need weaker rules and regulations to achieve them. [20]

5.3 Policy Recommendations: Policy makers shouldn't create the same norms for everyone. They ought to modify the IPR for every sector and use other resources such as grants and monetary

incentives where they can be valuable [14], [17], [29]. In the expanding and evolving environment of sectors in developing nations, laws should be flexible and modified. IPR needs a adequate education and a solid legal framework to work well. [4], [18] Policy makers should test novel concepts and adjust rules based on what actually works.

5.4 Limitations and Research Gaps

How IPR impacts creativity is difficult to show because it includes numerous other factors. Most research focuses on immediate outcomes, but IPR can affect creativity for a long time. We need to learn further about how IPR affects various kinds of inventors, companies, and standardized technologies. There has to be more research on alternative methods of promoting creativity beyond IPR and how people's feelings and culture respond to IPR. It is required to keep up with the laws with rapidly changing technological innovation.

6. Conclusion

This paper reviews, analyses and explains the role of IPR in promoting creativity and innovation. It is observed that sometimes it serves extensive and sometimes confusing role with varying effects as per nation, sector, technology and as per the time period. It works effectively in pharma or chemical industry as compared to software sector. In software sector, the outputs are inconsistent. It has been also observed that if we want best results, then IPR should be used along with other tools such as there is need of proper investment in education and legal system, revision in legal system as per the technology, modifications in rules and regulations as per the situation. There is also need to create a healthy environment which is feasible for creativity to flourish, for knowledge sharing and for the benefits of the society.

References

[1] Bach, L., Cohendet, P., & Simon, L. (2010). Creative industries and the IPR dilemma between appropriation and creation: some insights from the videogame and music industries. *Management international*, 10.7202/044293AR.

[2] Handke, C., Guibault, L., &Vallbé, J. J. (2015). Fördert das Urheberrecht Innovation? Eine empirischeUntersuchung.

[3] Montgomery, L., & Fitzgerald, B. (2009). Does weaker copyright mean stronger creative industries? Some lessons from China. *Creative Industries Journal*, 1(3), 245-261. https://doi.org/10.1386/CIJ.1.3.245_1

[4] Chauhan, S. (2024). Intellectual Property Rights and Innovation: A Study of India's Legal Framework. https://doi.org/10.36676/ijl.v2.i3.35

[5] Boudreau, K. J., Guinan, E. C., Lakhani, K. R., & Riedl, C. (2022). Profiting from digital innovation: Patents, copyright and performance. *Research Policy*, 51(4), 104477. https://doi.org/10.1016/j.respol.2022.104477

[6] Lee, P. (2019). Reconceptualizing the Role of Intellectual Property Rights in Shaping Industry Structure. *Vanderbilt Law Review*, 72(5).

[7] Aghion, P., Howitt, P., & Prantl, S. (2015). Patent rights, product market reforms, and innovation. *Research Papers in Economics*.

[8] Gobble, M. M. (2014). Rethinking Intellectual Property. *Research-Technology Management*, 57(5), 6-8. https://doi.org/10.5437/08956308X5705005

[9] Martinelli, A., Nomaler, Ö., &Verspagen, B. Digitalization, copyright and innovation in the creative industries: an agent-based model.

[10] Buccafusco, C., &Sprigman, C. J. (2014). Experimental Tests of Intellectual Property Laws' Creativity Thresholds. *Texas Law Review*, 92.

[11] Langinier, C., & Moschini, G. C. (2002). The Economics of Patents: An Overview. *Center for Agricultural and Rural Development Working Papers*. https://doi.org/10.22004/AG.ECON.18374

[12] Buccafusco, C., &Sprigman, C. J. (2014). Experimental Tests of Intellectual Property Laws' Creativity Thresholds. *Social Science Research Network*.

[13] Hoffman, M., Kahn, L. B., & Li, D. (2017). Patently Risky: Framing, Innovation and Entrepreneurial Preferences.

[14] Hall, B. H., & Harhoff, D. (2012). Recent Research on the Economics of Patents. *Annual Review of Economics*, 4(1), 541-565. https://doi.org/10.1146/ANNUREV-ECONOMICS-080511-111008

[15] Lee, P. (2019). Reconceptualizing the Role of Intellectual Property Rights in Shaping Industry Structure. *Social Science Research Network*.

[16] Sweet, C. M., & Eckhardt, D. S. E. (2015). Do Stronger Intellectual Property Rights Increase Innovation? *World Development*, 66, 665-677. https://doi.org/10.1016/J.WORLDDEV.2014.08.025

[17] Bessen, J., & Hunt, R. M. (2014). Patents and the Innovation Incentive: An Interview with Jim Bessen. *Research-Technology Management*, 57(5), 22-26. https://doi.org/10.5437/08956308X5705003

[18] Zhang, W., & Zhao, S. (2015). Appropriate Patent Protection for Industries at Different Levels of Technology: Evidence from China.

[19] Menell, P. S., & Meurer, M. J. Intellectual Property. In *Handbook of Law and Economics*. https://doi.org/10.1002/9781119648055.ch9

[20] Neves, P. C., Afonso, Ó., & Silva, S. T. (2021). The link between intellectual property rights, innovation, and growth: A meta-analysis. *Economic Modelling*, 97, 196-209. https://doi.org/10.1016/J.ECONMOD.2021.01.019

[29] Hemel, D. J., & Ouellette, L. L. (2019). Innovation Policy Pluralism. *Yale Law Journal*, 128(3).

[30] Hudson, J., & Minea, A. (2013). Innovation, intellectual property rights, and economic development: a unified empirical investigation. *World Development*, 46, 66-78. https://doi.org/10.1016/J.WORLDDEV.2013.01.023