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# Why Intellectual Property is Important

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There appears to be a widespread assumption that intellectual property (i.e., things produced by the mind, such as books, songs and inventions) is less worthy of protection than physical property such as cars, homes, real estate, livestock and jewelry.

People who would never walk into someone's house and take a stereo without permission or paying for it might feel no guilt whatsoever in stealing software or downloading a song from the Internet without paying for it or seeking permission from the artist or recording company.

Although people often **can** get free use of someone's intellectual property, does that make it right? Does it really hurt anyone? Is intellectual property really all that important?

## The Constitutional Case for Intellectual Property

While state and local statutory laws stand as the primary protectors of physical property, intellectual property is specifically protected by the U.S. Constitution. The Founding Fathers, but especially Jefferson and Madison, wanted to ensure that inventors and authors had an incentive to create. In England, patent rights and monopolies were often seen as the prerogative of the king, to bestow on friends and supporters. The Constitution, in contrast, gives Congress the authority "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

Politics and practical concerns have generally determined how long the inventors and authors have exclusivity. Patents for new inventions had been 17 years, but Congress recently changed that to 20 years, to conform to most of the other industrialized nations. Copyrights for books and other written material, on the other hand, last for the life of the author plus 70 years. It had been 50 years, but recent legislation extended copyright protection by 20 years.

## The Demographic Case for Intellectual Property

The United States is becoming an intellectual property powerhouse as the workforce transitions from an industrial to an information economy. In his new book *The Rise of the Creative Class,* Carnegie Mellon University professor Richard Florida explores the growth of a group of people he calls the "creative class," which "include people in science and engineering, architecture and design, education, arts, music and entertainment, whose economic function is to create new ideas, new technology and/or new creative content." As the table shows:

- In 1900 only 10 percent of the U.S. workforce could be categorized as the creative class, while 35.8 percent made up the working class and 37.5 percent were agricultural workers.
- By 1999, the creative class had grown to 30.1 percent, while the working class had shrunk to 26.1 percent and agricultural workers made up only 0.4 percent.
- Even the service class, which peaked in 1980 at 46.2 percent, has begun a gradual decline; but the creative class has maintained a steady growth throughout the 20th Century.

### An Evolving U.S. Workforce

| | 1900 | 1920 | 1940 | 1960 | 1980 | 1999 |
|---|---|---|---|---|---|---|
| Creative Class | 10.0% | 11.7% | 14.2% | 17.9% | 18.7% | 30.1% |
| Working Class | 35.8% | 40.2% | 39.8% | 37.7% | 31.7% | 26.1% |
| Service Class | 16.7% | 21.1% | 28.6% | 33.3% | 46.2% | 43.4% |
| Agriculture | 37.5% | 27.0% | 17.4% | 6.1% | 2.8% | 0.4% |

**Source:** Richard Florida, *The Rise of the Creative Class,* Appendix Table 2.

We are more than a society that consumes intellectual property; we are a society that creates it. Undermining intellectual property protections undermines one of the pillars on which our economy (and our global competitiveness) rests.

## The Economic Case for Intellectual Property

The U.S. economy depends on intellectual property, and the world economy—and its populations—depend on the U.S. In 1999, $545 billion was spent worldwide on research and development. The U.S. share of that R&D was $243 billion, or 44.6 percent, according to economist John Howkins in *The Creative Economy.* Moreover, the U.S. was responsible for producing $960 billion, or 42.8 percent, of the world's total creative output, including science, research, entertainment, fashion, software and a whole host of other industries.

That output depends in large part on government enforcement of intellectual property protections. How many films would be created—especially high budget films—if a pirater could copy the film immediately and sell it at a fraction of the creator's cost? How many new books? How many new drugs? How much new software? Destroy the protection and you destroy intellectual property.

But doesn't intellectual property protection create a monopoly and thereby reduce competition and economic growth? Not at all. You can't copy Coca-Cola and call it Close-a-Cola. But there is plenty of competition in the soft drink industry. On a recent special hosted by ABC's Peter Jennings, he asserted that patents on pharmaceuticals give the "innovator" companies a monopoly on the new drugs they create. However, he later contradicted himself by pointing out that there are 170 drugs on the market for high blood pressure (some of which have patents).

## The Informational Case for Intellectual Property

The Founders wanted to encourage innovation through intellectual property protection, but they also understood the importance of the free flow of information. Once a patent is granted, the information becomes public. Others can see what the inventor did and how he or she did it. They can't copy it, but they can learn from it and build on it. That is precisely what you want in an information economy.

## Threats to Intellectual Property

Today, intellectual property is under attack on several fronts. First, the digital revolution has made it possible to do high-volume copying and zero-cost distribution of digital material, such as music, video and software. Second, recent antitrust actions by the federal government (e.g. the case against Microsoft) have proposed weakening a company's intellectual property as a viable remedy. And third, many politicians have decided that attacking and weakening a company's or industry's intellectual property protection is a populist vote-getting strategy. For example, legislation introduced by Senators Charles Schumer (D-NY) and John McCain (R-AZ) would weaken intellectual property protections on brand-name drugs in an effort to lower drug costs.

Ironically, Sen. McCain has written a book, as have other senators who might vote for his bill, such as Sen. Hillary Clinton (D-NY). They and their heirs will benefit financially from this intellectual property, especially from the recent copyright extension passed by Congress. And they likely would be incensed if a rogue publisher flooded the market with cheap copies of their books. Is there any hypocrisy in accepting copyright protection for their life plus 70 years for their own intellectual property while simultaneously seeking to undermine the pharmaceutical industry's 20 years of intellectual property protection?

## Conclusion

The Founding Fathers' foresight with regard to intellectual property laid the foundation for our strong economy by providing the freedom to innovate, allowing incentives to encourage innovation and protecting those innovations. Countries with strong intellectual property protections have proven to be the most prosperous. And that will be even truer as we move from a postindustrial society to an information society. Weakening intellectual property protections won't just hurt the economy now; it undermines our future.

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