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Intellectual Property Rights

Protecting the Creation of New Knowledge Across Cultural Boundaries

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Communicated concepts of property ownership, including intellectual property, depend on cultural values and norms. In many parts of the world, conceptual private ownership lacks definitive regulations that apply in the Western world. This lack of cultural parallelism reflects and engenders significant problems in an age where growing technological advances spread ideas and devices across cultural boundaries bringing philosophical, financial, and other practical concerns that create questions about the role of local norms in governing international transference of innovations. Intellectual property rights (IPRs) are the focus of enormous contemporary international diplomatic efforts to the business of innovative technology and the artistic arena of music, literature, and art. This article briefly outlines the historical development of Western IPRs, illustrates many problems from a non-ethnocentric study of the topic.

Intellectual property refers to a broad range of confidential information sometimes protected by patents, trademarks, and copyrights that grant exclusive rights to sell new products. At the heart of almost all disputes over intellectual property lies a fundamental question: Who owns and is entitled to profit from an idea or invention. One of the more vexing current problems in the international social and business world involves the ownership that inventors, authors, or originators of ideas have over their innovations and the transfer of these rights across national and cultural boundaries. Concerns about intellectual property rights (IPRs) plague efforts to plan, develop, and implement their international transfer at many levels of government and business. Creative thinkers and inventors increasingly reflect on how to maintain control of their products, not only in terms of compensation or recognition but also in relation to later modification or distortion by other people. Businesses, when considering multinational investments, must consider how the laws and cultural practices of foreign countries might affect their technical and intellectual property.

In addition to ownership and profit, other questions, both philosophical and practical, have intensified as commercial interests in IPRs have spread to previously uninfiltrated areas of the globe. The primary question relates to the broad

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meaning of ownership. Whereas ownership and the concept of private property may appear relatively simple in Western societies, growing transference across cultural and national boundaries has rendered the concept of private property more problematic. Although private property ownership currently has strong roots in most Western cultures, this has not always been the case. Furthermore, in most of the non-Western world, a very different understanding exists regarding the rights of an individual or group to obtain and maintain private ownership of anything.

Also contested is the scope or range of IPRs in contemporary life. The right of property ownership is a critical focus in almost all Western academic disciplines, in both the creation of new knowledge and the application or uses of such. Research, the creation of new knowledge, has become more important and more commercially oriented over the past two decades. Members of academe feel compelled to contribute to the body of literature in their fields whether through artistic expression, scientific invention, creation of new methods for understanding, or practical improvements in everyday life. Such creators of knowledge have significant concerns about ownership of the products. In this respect, the academic researchers or creative producers share with global business a similar interest in the protection of their work, although their reward is usually in status and reputation rather than directly in cash.

This position, however, contrasts dramatically with the academy's traditional manner of instruction. Indeed, traditional pedagogy has sought to spread existing knowledge without remuneration and often without specific acknowledgment to those unnamed persons over the centuries who have developed and enhanced ideas. How would an education system function if it were not designed for the intent and process of distributing the ideas and concepts of earlier scholars? Thomas Jefferson is quoted as having written that "if nature has made any one thing less susceptible than others of exclusive property, it is the action of the thinking power called an idea" (Cross, 1996, p. A4). The academic community's contradiction in this area remains an unresolved question.

Another serious question relates to the concept of ownership in a postmodern world. If all meanings are relative to a social environment and cultural interpretation, how might transference of the concept of ownership take place? Indeed, if transference is always translation, how can there be valid claims to any original? In addition, does any society or group have the right to control the use of "property" once it has been discharged into the public arena? Have not Western societies encouraged the right of individuals and groups to make use of existing knowledge while attempting to enhance it through additional study, contemplation, experiment, and validation? How does one reconcile this democratic tradition of public knowledge with private control over intellectual and applied property?

In addition to the academic world, the questions about control of intellectual property take new twists within the world of global business. Although ownership and control remain crucial to manufacturers of all kinds, including drug

manufacturers, software developers, and companies in other research-intensive industries, the puzzle now extends to more traditional areas as well. As global expansion and transfer become more common, not only must employers recognize the threats to IPRs inherent in moving businesses around the world, but also employees themselves now need to focus on the question of real ownership as they move with greater frequency to new jobs and to new organizations. A mobile workforce faces the question of how much information from former jobs the individual may now use or disclose.

Trends in the management of organizations exacerbate this problem. As companies flatten their hierarchies and spread more information across groups of employees, access to previously confidential information and data becomes available to greater numbers of employees who will, in all likelihood, move to other employment during their working years. Identification of ownership also becomes more crucial as the interconnection of personal computers permits individuals to move their ideas around the globe and to interchange ideas with people who they do not and may never actually know. Ownership of these ideas and control over their subsequent adaptation are crucial to maintenance of intellectual property.

In sum, an understanding of problems associated with IPRs requires us to recognize the ethnocentric tendencies of our own assumptions and politics and to concede that different cultures have legitimate positions on property rights that may conflict with the dominant Western one.

THE DEBATE ON IPRS

IPRs include various policies and their underlying concepts that assess and protect the right to earn income from innovative and creative activity or information. IPRs provide legal authority to control the dissemination and commercialization of new knowledge and ideas and to enforce sanctions against their unauthorized use. IPRs are credited with playing a critical role in economic growth and development because they affect the profitability of industrial research and the rewards to creative activity. At the same time, IPRs remain controversial because stronger protection of property rights may come at the expense of higher prices and reduced availability of products. With the growth of world trade and, especially, increased direct foreign investment in the 1980s and 1990s, IPRs have become a central issue in trade policy. In the area of pharmaceutical and other life-saving products, there also may be humanitarian concerns.

Maskus (1993) identified two general types of intellectual property, industrial and artistic. Industrial property refers to industrial and commercial inventions of value. Artistic property includes artistic and literary works such as books, objects of art, filmed works, and recorded music. In the past, most goods and services could neatly be classified in these two areas; recently, however,

technological advances have clouded the distinctions. Within this bipolar definition, artistic property also includes a category of scholarly works that generally have held little commercial or economic value and, taken as a whole, form a small segment of current ideas about intellectual property. Their intrinsic value, however, has significant nonmonetary worth as some scholarly ideas or propositions have led to major social, political, and economic developments and changes. Moreover, the ability to investigate, develop, and propose new ideas freely and in one's own name is a cornerstone of Western ideals of individual freedom. Although the current overt concern with IPRs focuses on more economic rights, it also affects scholarly content and process, which influences our lives in many indirect ways.

Devices for protecting industrial property include patents, trademarks, service marks, trade names, and perhaps laws against unfair business competition. Patents provide exclusive rights to make, sell, and import new processes or products for a temporary period of time. The registration of distinctive marks for products and firms includes trademarks, service marks, and trade names. In Western society, virtually all goods and services are marketed under trademark protection. Trademark protections also may be extended to industrial designs and indications of source for products such as wines and spirits.

Copyrights and related mechanisms are generally designed to provide protection of artistic property. They grant exclusive right to exploit the expression—such as a book, recording, or file—of an idea rather than the idea itself. The expression must be the original creation of the artist and must exist in tangible form before protection is granted. An advanced form of the copyright includes "moral rights," which give the creator the right to prevent later distortions to the work after the sale of its rights. A further development of this includes the "neighboring right," which protects performers and broadcasters from unauthorized reproduction and communication of their work. Traditionally, artistic protections are one of the most difficult to enforce.

Rapid technological advances have engendered questions about protectability of products under traditional IPR concepts. For example, some countries may protect computer software through copyrights, but the flexibility to move lines around in the programming codes makes imitation easy without necessarily violating copyrights. Designs of computer chips and databases are similarly difficult to protect under existing laws and definitions.

Significant questions also arise over the patentability of biotechnological innovations, such as new microbiological animals and plants with potential industrial value. Some observers have argued the ethics of providing exclusive rights to exploit living organisms, even if developed by human creativity. Among industrialized nations, however, a consensus has emerged that such organisms are patentable, which has helped spur the development of the biotechnology industry (Maskus, 1993, p. 13). Recent success in cloning mammals incites ethical and practical questions about granting exclusive rights to reproduce existing forms of life.

Because innovative activity forms a major component of technological and economic development, most economically advanced nations favor strong protection. Their rationale is that almost any innovation incurs development costs and carries possibilities for failure. Incentives for such creative work include compensation for these costs and risks. When an innovation has economic value, competing firms will eagerly copy and sell it, sharing in the potential profits. However, an innovative firm that could not earn enough to pay its research and development costs would not undertake the research and development in the first place. In that case, societies would lose the benefits of new technologies, product variety, and cultural enrichment. Over time, economic growth would decline.

Protection of IPRs attempts to correct this problem by providing the innovative firm or person an exclusive right, or monopoly, to sell or use the product or technology for a given period of time. Thus, patents, trademarks, copyrights, and other IPRs are designed to enable that inventor or creative artist to recover development costs by earning short-term monopoly profits. At the same time, IPRs impose costs that society must balance against these gains. The higher prices resulting from IPR protection may reduce the availability and affordability of products incorporating new technology. For example, the high prices of some patented drugs may limit their availability. Thus, by providing a legal monopoly, IPRs create current market failures of restricted supply to overcome future market failures of inadequate innovation. The forfeiture of social gains through lower current prices that result from protecting intellectual property may be viewed as society's investment in promoting creative activities. This problem is not completely economic, however, because personal and societal losses also may result from the nonavailability of certain products.

By contrast, less developed countries (LDCs) cite the need for wide dissemination of new information and resist IPRs protection. They argue that significant scientific and technological innovation usually require high levels of industrialization. Under highly restrictive conditions, LDCs can only grow farther and farther behind, which will tend to magnify current differences in economic and social distribution. This complex situation complicates the choice of appropriate levels of IPR protection. Aside from the Western philosophic concept that profit should attach to private property and innovation, in practice, if protection remains too weak, innovation and creative activity may suffer, and technology transfers may be avoided. If protection is too strong, excessive monopoly power may result in exorbitant prices and the unavailability of much-needed products. The choice of appropriate protection levels is further complicated by problems of measurement. In principle, IPRs might be set so that monopoly profits exactly compensate firms for research and development costs, including some provision for risk. In reality, however, it is impossible to obtain enough detailed information to guarantee these factors (Maskus, 1993). But, models are being developed that might prove useful for predicting true costs in different situations where specific factors are varied.

HISTORY OF INTELLECTUAL PROPERTY

Throughout history, notions of intellectual property and associated rights have reflected cultural values. Bettig (1992) indicated that the concept of a property right related to intellectual production has its roots in the rise of capitalism and the development of the printing press. For practical reasons, oral cultures have less facility for preserving verbatim transcripts and accordingly have provided fewer records of individual authorship. For example, the Greek oral poets saw their work as a "collective achievement, the common and indivisible possession of the school, guild, or group" (Hauser, 1951, p. 87), rather than the work of an individual who could personally own it. In the Hebrew tradition, additions to the Talmud had to identify the authors of any new principles that contributed to that body of civil and religious law; however, it appears that such requirements had the purpose of contributing greater authority to the content rather than preserving a historical record of scholarship (Bettig, 1992). Hence, when works by lesser authors were attributed to greater ones, it was a case of reverse plagiarism rather than fraud in the modern sense. Medieval Europe, also an oral culture, did not contribute to the development of property rights. Again, Europeans of that age saw themselves as a part of a corporate structure rather than as individuals, so literary ownership was not a significant issue.

Until the development of the printing press and the possibility of broadly distributed written works, little effort was made to control access to or use of intellectual property. Because writers generally could not afford to have many copies of their work produced, their ownership became moot. As Brown (1995) noted, printing provided an outlet for copyrighting, reproducing, and marketing and thus arose the connection between objectivity and the printed word. With mass production of documents, the ownership actually fell to the publisher who had received an agreement from the creator to manage the use of the property. Today, artistic commoditization remains highly visible in such areas as the art market, with purchases made not for use value but for anticipated exchange value. Other cultural artifacts are transformed into investment instruments for capital along with real estate, bonds, stock, licenses, and so forth. Ultimately, the bulk of these assets rest in the hands of the capitalists, not the artists (Bettig, 1992; Brown & Clignet, 2001).

Ancient India, with an early history of caste groups and peoples rather than individuals and with anonymous literary and philosophical masterpieces, is another early oral culture. In such cultures, who said what was not as important as what was said (Oliver, 1971, p. 21). Even in modern times, group-oriented cultures do not focus on personal ownership of ideas or new techniques as do individual cultures. For example, Bettig (1992) noted that very recently, cultural production in Bali remained anonymous, directed toward and involving the entire community rather than expressing individual ideas, and Balinese intended their art to reflect collective rather than individual ideas. Until 1991, the People's Republic of China did not have a copyright system. Ploman and Hamilton (as

reported in Bettig, 1992) attributed the discrepant concepts of copyright in Europe and the East to different cultural attitudes, social organization, and legal conceptions.

ISSUES RELATED TO IPRS

A consideration of IPRs raises both philosophical and practical issues. Laws and social norms develop from broader cultural patterns and values. Thus, efforts to homogenize the system of financial reward across cultural and national boundaries may subtly impose cultural conformities to the standards of the dominant actors in such systems. Rapid economic regionalization and globalization accelerate these processes, although relative cultural standards remain important for those who appreciate differences and diversity among human societies. The dominance of financial reward over other cultural values appears firmly established, at least in the ideology of new liberal capitalism. Yet, the question remains. What goals should humanity seek: a variety of cultures or wholesale conformity? Some advocates for universality list social benefits that result from the imposition or adoption of standard policies by all cultural groups. These usually include improved health, education, and mobility, but sometimes these social largesse fail to arrive, are less than expected, or are viewed by the recipients as too costly in light of the loss of certain traditional values or conditions.

Any discussion of relative cultural values raises ethical questions regarding the rights of one culture to dominate or impose change on another. These questions predate the concept of IPRs. For example, proselytizing religious groups have often decided the terms under which they consider themselves authorized, even mandated, to instigate change. But, what should be the bases of cultural change instigated not by religions but by technological dissemination? Controversy over IPRs results in large part from the advances in technology that permit standardization across vast geographical areas. Yet, the voices of the people most deeply affected by such changes are rarely heard in discussions of IPRs.

Another area of question is the further increase in the power of industrialized and postindustrial countries over nonindustrialized nations, some of which have raw materials or labor resources that the industrialized nations need and seek. Increasing the disparity between rich and poor countries tends to promote ill will, resentment, and possible violent conflict. It is also increasingly criticized as unjust. In addition, the regulation involved in ensuring compliance with IPR laws invites controversy regarding national sovereign rights and good will between states. Debates over IPRs thus reproduce divisions of North and South or rich and poor nations. IPR advocates suggest that trademarks benefit society by encouraging the development of new products and increasing product quality and variety. They largely represent the rich countries. In contrast, critics, mostly from poor countries, say that IPRs impose costs by protecting monopoly profits

in certain brands and encouraging excessive spending on advertising and differentiation of products. Helpman (1993), for example, questioned the validity of imposing tight IPRs on LDCs because in the absence of foreign direct investment this imposition moves the terms of trade against poorer countries in favor of richer ones. When the rate of innovation responds positively to this policy, it rises initially but declines subsequently with the initial acceleration being insufficient to compensate the eventual decline to the LDCs. In addition, Helpman suggested that even if research and development investment takes place in the LDC, it does not provide enough stimulation to increase significant profits for the LDC, and that even such profits do not eliminate the negative welfare effect of the reallocation of value to the wealthier nations. Clearly, said Helpman, LDCs suffer from tight international property rights.

This conflict of interests between more developed countries and less developed ones is greater, of course, when the effects of unequal terms of trade become significant. This usually occurs as more developed countries secure better terms of trade with tighter IPRs, especially when the LDCs have low rates of imitation. Then, rich countries gain from tighter IPRs, and poorer countries lose. Although Helpman (1993) questioned the validity of prevalent thought on the value of strong IPRs, he emphasized that key problems of IPRs are amenable to careful empirical analysis and cannot be answered by theoretical arguments alone.

A study initiated by the International Finance Corporation (Seltzer, 1994) suggests that the significance of intellectual property protection depends greatly on the type of investment envisioned by the businesses involved. For investment in sales and distribution outlets, only about 20% of the firms that responded considered such protection very important. Consideration of investment in rudimentary production and assembly facilities raises the percentage to 30%. Approximately 50% to 60% of respondents consider protection important for investing in facilities to manufacture components or complete products, and some 80% call protection important for investing in research and development facilities. The study also found that the chemical industry, more than other industries, appears to consider protection important.

Various editorials in Western journals strongly support tight IPRs. For example, *The Economist* ("Trade Tripwires," 1994) suggests three advantages to developing countries that should come from the agreement on Trade-Related Aspect of Intellectual Property (TRIPS). This agreement obliges members of the World Trade Organization (WTO), successor to the General Agreement on Tariffs and Trade (GATT), to grant and enforce patents lasting at least 20 years and copyrights usually lasting 50 years. Compliance timetables vary depending on countries' levels of development. The rich have 1 year. Poorer countries, in which such protection has been generally weaker, have 5 years' grace, and the very poorest countries must comply within 10 years.

The first advantage of TRIPS to developing countries is that they will increasingly have their own intellectual property to defend. India's film industry, for

example, suffers from widespread bootlegging. Indeed, IPR protection might even encourage activity in such newly protected industries. Second, without the promise of the TRIPS agreement, the United States might have abandoned the Uruguay round, which would have deprived developing countries of some of the other benefits emerging from the negotiations.

The third and most important gain, it is argued, is the possibility of better access to advanced technologies, which is essential if developing countries are to foster new industries that can compete in liberalized international markets. According to this editorial, theft of these technologies is not a long-term solution. A more advantageous scenario would be for high-tech firms to build local plants or share their know-how with local producers. Such sharing will remain rare until owners maintain confidence in the safety of their intellectual property. Developing countries thus might help themselves by promoting TRIPS instead of resisting it ("Trade Tripwires," 1994).

Most analyses take the viewpoint of the more developed countries, as in the above, and look at the relative values of stronger or weaker IPRs in terms of the advantages to the wealthier countries, without addressing their full effects on the LDCs. For example, the *Far Eastern Economic Review* ("Property Developers," 1994) suggests that crippling costs will accrue to the LDCs for pirating intellectual properties. First, they list the cost in the product itself. Cleanliness or wholesomeness of product has no guarantee with pirated products. Serious computer users would hesitate to use unknown software that might contain viruses. Even more significant problems might occur with pirated medicines. Nonetheless, counterfeiting in some parts of the world now includes unauthorized copying of such items as pharmaceuticals, agri-chemicals, and repair parts for aircraft.

Such analyses also tend to focus on the costs to the entire economy of LDCs if their governments protect, say, a few illicit compact disc factories when that action might limit their overall access to current and developing technology from abroad. No country, no matter how huge the market, can reap lasting benefit from pirated goods if this seriously restricts its access to the latest technology. In short, this editorial ("Property Developers," 1994) states that self-interest forms the best reason for countries to protect foreigners' IPRs. Piracy and counterfeiting, after all, remain inherently inefficient; production of goods under license forms a more attractive option for all. Asian nations can put themselves on the cutting edge of high technology most rapidly by making themselves attractive to technologically advanced companies.

From the perspective of the wealthier countries, these arguments provide a long-term economic rationale for protecting IPRs. The view may be different, however, from a less technically developed society. First, an LDC that currently has little domestic capacity for developing new technology must plan to import whatever it needs and sees strong protection as harmful to its own development. This was the case, for example, in the early United States. Second, piracy offers some quick access to technology that is not always irreversibly polluted. Such access may provide local entrepreneurs a basis on which to build their own

individual and national product strength. Third, increasing availability of information across all nations provides a political and economic stimulus for rapid advancement in living standards, which are tied to the development or use of technology. National leaders have little choice but to address these domestic demands for immediate progress. Individual business entrepreneurs in LDCs also recognize that their personal future depends on quick acquisition and control of domestic technology and innovation. These various demands encourage governments in LDCs to focus on meeting current and imminent needs rather than look for more long-term solutions.

Finally, in many areas covered by IPR protection, time is of the essence. Electronic communication can provide quick information and development opportunities for a country but can also move so fast that newly acquired technologies become obsolete before local infrastructures are fully established to exploit them. Thus, any delay in acquisition and development of technology can put marketing at a disastrous disadvantage.

The legal protection of intellectual property has become a vital part of rules of world trade as a result of the Uruguay round of the WTO that concluded in 1994. Controversy over the value of protection for intellectual property did not end with the Uruguay round, however, and one of the WTO's three councils will oversee trade-related aspects of intellectual property. Protection of IPRs has also become an essential element of U.S. economic policy. As noted, the United States and other industrialized countries contend that strong protection stimulates research, technological innovation, and creativity because it allows individuals and companies to enjoy the benefits of their creative efforts. International emphasis on high-technology industries highlights that worldwide protection of U.S. IPRs remains essential to America's optimal competitiveness in the global economy. At the same time, estimated costs to U.S. owners of IPRs from illegal activities amount to billions of dollars each year, stirring the United States to actively promote IPR accords and enforcement.

The United States works to support the strengthening of IPR protection through international organizations to encourage other countries to enact protective laws or to enforce or strengthen existing laws. It also seeks to enforce its position on this topic through agreements and negotiations with its trading partners. In recent years, the United States has brought heavy trading penalties into consideration against China for its lackadaisical enforcement of IPRs. Because of the United States's focus on intellectual property protection during the Uruguay round of GATT trade negotiations, the following improvements were mandated by the TRIPS agreement: protection of computer programs as literary works, rental rights for computer programs and sound recordings, 50 years of copyright protection for sound recordings and motion pictures, product and process patent protection for virtually all types of inventions, a minimum patent term of 20 years, protection for service marks, stronger protection for internationally well-known marks, and protection for trade secrets, integrated circuits,

industrial designs, and nongeneric geographical indications used to describe wines and spirits ("Fact Sheet," 1994). Whether the United States can impose its will on all countries that do not choose to participate in U.S.-sponsored agreements remains to be seen. The assignment of resources toward control of the U.S. position has greatly increased. In 1996, for example, Federal Bureau of Investigation Director Louis Freeh said that the investigations of economic espionage had doubled in the past 2 years to a total of more than 800 cases ("FBI Wants Legal Power," 1996).

Domestic support for the U.S. position comes from many areas, including business, industry, and the Authors League, which supported proposed changes in the copyright law made by the White House–organized Working Group on Intellectual Property Rights ("Authors Support Copyright Changes," 1994). These changes include the extension of full copyright protection to copies of works distributed via transmissions, denial of first-sale doctrine rights to owners of copies distributed via transmission, prohibition of the manufacture or sale of devices designed to defeat technological-safeguarding devices, and prohibition of fraudulent removal or alteration of copyright information ("Washington Watch," 1994). Meanwhile, the International Intellectual Property Alliance has taken a stand with other organizations to allow copyright owners to control the importation of foreign copies of their own works ("IIPA Endorses," 1993).

The perceived importance of the protection of IPRs varies across the world. In more industrialized nations, the business and creative sectors push for strong protection. Also, in those nations that are moving toward rapid industrialization, such as Mexico, Korea, and Turkey, there exist significant efforts to upgrade protection for enhanced abilities of technology and labor (Maskus, 1993). As mentioned earlier, LDCs, depending on importation, view strong IPR protection as contrary to their interests.

Controversy also exists over the significance of costs related to protection for IPRs. Estimates of the costs of losses of intellectual property to producer nations and individuals have varied from $80 billion a year in the United States to much smaller numbers, depending on what might be included in the calculations ("Property Developers," 1994). In addition to direct costs to specific firms, there are indirect costs to national economies. Maskus (1993) reported three ways to access them. First, decisions made about whether to trade with specific markets, to invest in specific countries, or to transfer technology to specific countries may be influenced by protection laws. Second, the allocation of research and development and marketing resources may be influenced in the long term by such levels of protection. Third, trade disputes may arise over differences in IPR protection laws, thereby increasing overall transaction costs.

The issues of IPRs remain complicated because they involve important commercial interests and revolve around factors that change rapidly and also vary greatly across the globe. Generally, those nations that have little industrial and technological production see their interests better served with little attention

paid to IPRs. Although the United States has acknowledged intellectual rights or patents since the founding of the republic, more recently, it has vigorously sought international protection of investment in innovation and development through both legal and diplomatic means. Aggressive U.S. positions on trade policy have been criticized even by U.S. allies. Dillon (1993) suggested that Canadian laws have been changed because of pressure tactics from powerful U.S. chemical, pharmaceutical, computer, publishing, and electronics corporations that have forced Canada to negotiate IPR issues. Indeed, trade negotiations are a new arena for IPR issues, and they affect all nations that participate in international business.

A "Roll of Dishonour" (1992) in the *Far Eastern Economic Review* lists the nations that cause the greatest losses due to piracy of IPRs. Asian nations lead the list, including China, Japan, South Korea, India, Thailand, Indonesia, Taiwan, and the Philippines. A review of this list would indicate that piracy is closely related to rapid growth. However, although these nations either are in the midst of significant industrial development or have moved beyond the initial stages and in many cases taken leading roles, they are not the only countries where development is moving rapidly. One cannot help wondering whether piracy will grow in the non-Eastern countries where industrialization is progressing. If such piracy does not take place to the same extent as in the countries mentioned above, what would this imply for the cultural variability of concepts of law and private ownership? At any rate, the "Roll of Dishonour" does little to support Western theories about what level of protection is in the best interests of LDCs.

The United States has achieved some success through trade negotiations and other activities to lessen losses from piracy: From dramatic raids on printers and publishing houses in Indonesia ("Huge Book," 1993) to the development of a 3-point plan by the Korean government, such activities have helped to change attitudes in the technologically developing nations. For example, the Korean government upgraded the legal framework for support of IPRs, enhanced the enforcement of existing and new laws, and initiated a program for raising public awareness of the problem and its possible effects on economic development. The Korean government even identified a symbol and five logos to mark the educational program that it implemented. The government also supported other incentives such as tax breaks for research and development centers and software development firms ("Protection for High-Tech Ideas," 1994).

Even in countries that cannot obtain membership in the Berne Convention or the Universal Copyright Convention, activity is growing. In Taiwan, for example, the legislature passed a law of reciprocity that protects the works of all nations whose laws, in turn, protect Taiwanese works. Taiwanese protection even extends to works from some unprotected countries that have not specifically protected Taiwanese works but have provided protection to a third country that is a favored nation to Taiwan. Complete resolution to this problem, however, still eludes the world community.

DISCUSSION AND QUESTIONS FOR FURTHER CONSIDERATION

Among the many implications of protection for IPRs in an era of global capitalism, communication takes a leading role. Many IPR issues directly concern ownership of various forms of communication, from computer technology to music and literature. Other broad issues are social and cultural. For example, in Western societies, especially the United States, the concept of individual property rights is a deeply held value. Americans generally assume that the right of personal property ownership is nearly sacred, in fact, a basic tenet of their worldview. Moreover, through a historical and ideological sleight of hand, they construe corporations as legal individuals with all the rights of discrete individuals. Yet, this vision of humanity and its rights and relationships is not shared by all cultural groups. As global communication expands, the validity of imposing values from one culture on all others comes more into question. Some might consider such actions a kind of economic and cultural imperialism. Others ask what responsibility particular nations have to accept supposedly universal standards of conduct that are advocated by other countries? Does a nation have the duty to protect its cultural norms even at the risk of significant commercial resources? Even accepting the argument in favor of strong IPR protections, LDCs still must decide the relative merits of their traditional cultural values against promised economic advancements. These questions and conflicts, however, are not new. More powerful nations and individuals have always overcome less powerful ones and imposed their norms and tenets. The concept of individual ownership of intellectual property is no exception. Indeed, for many, it is the old imperialism in a new legal and technological form.

At a more basic level, does any individual "own" the product of his or her intellectual creativity, given that this product must depend to a significant level on the ideas and creativity of others? If all new ideas depend on precursors, to whom can society grant protection as the creator of any specific knowledge? How does an artistic creator or a technical inventor determine the level of originality on which to make a claim for ownership? The academic world demands that students give credit to sources that they use. But, in the larger sense, what possibility exists for the assignment of credit to someone who actually originated an idea? Or, did any single individual ever actually originate an idea? Is it possible or even advisable for one to attempt to control understanding and interpretation of ideas that have been set into some tangible product? If knowledge develops from within a particular experience and environment, what control or protection may be extended outside that boundary? As noted, most societies not only condone but encourage the use of other persons' ideas, without permission or even acknowledgment. As Thomas Jefferson said, "He who receives an idea from me receives instruction himself without lessening mine; as he who lights his taper at mine receives light without darkening me" (quoted in Cross, 1996, p. A11). Moreover, enormous problems arise even within a regime of protec-

tion of IPRs. For example, who holds the liability for sanctioned and protected property? Does the society that, through its protection, has endorsed the knowledge consequently hold the responsibility for any monstrous results that might ensue?

As technology and science advance geometrically, the possibilities expand for infringement on individual rights and cultural norms. The current use of political, economic, and moral force to sustain the philosophic and practical interests of the Western world may be resolved as peoples in other cultures come to accept them in the quest for greater economic success in global markets. But, is such an acceptance possible without a sustained engagement of the various issues we have discussed? Conversely, does increasing rapidity and diffusion of innovation suggest that the concept of personal ownership will erode over time? If so, what will be the place of personal, corporate, and national responsibility in such a world?

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