



Against Intellectual Monopoly

Michele Boldrin , David K. Levine

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"Intellectual property"—patents and copyrights—have become controversial. We witness teenagers being sued for "pirating" music, and we observe AIDS patients in Africa dying due to lack of ability to pay for drugs that are high priced to satisfy patent holders. Are patents and copyrights essential to thriving creation and innovation—do we need them so that we all may enjoy fine music and good health? Across time and space the resounding answer is: No. So-called intellectual property is in fact an "intellectual monopoly" that hinders rather than helps the competitive free market regime that has delivered wealth and innovation to our doorsteps. This book has broad coverage of both copyrights and patents and is designed for a general audience, focusing on simple examples. The authors conclude that the only sensible policy to follow is to eliminate the patents and copyright systems as they currently exist.

Against Intellectual Monopoly Details

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Chris says

This book has many strengths. It is quite thorough. You can find it for free on-line (rightly so). It's packed with terrific history on patents, beginning with their inception as a royal privilege (sister of the trading company).

The book wears a bit thin, as arguments are repeated in slightly different formulations.

Also, as the authors catalog just about every reason to get rid of patents, it should come as no surprise that some fall short.

They do succeed in their overarching point: dispelling the myth that there exists positive evidence that patents are a necessary evil.

They deserve credit for taking on the Pharma industry, which provides the toughest nut to crack for the anti-patent movement. This chapter was less than convincing in its logic -- though filled with excellent historical factoids on innovation in medicine -- but they do come up with a very creative alternative to patents to maintain the profit incentive for medical innovation.

At the end of the day, they had me convinced that 95% of the time patents are completely unnecessary, and in the remaining 5%, their value could be replicated by some other institution that didn't carry such high residual costs.

Not bad.

A. Kursat says

"Yasal olarak hiç kimse, ba?ka birisi ba??ms?z olarak onu ke?fetmi? olsa dahi, patent sahibinin izni olmadan o fikri kullanamaz." Patent ve telif haklar? hakk?nda farklı meslek gruplar?ndan örneklerle ele?tiren güzel bir kitap. <http://www.freepatentsonline.com/craz...>

Stephen says

I recommend this book as a companion piece to Stephan Kinsella's *Against Intellectual Property*, because while that book lays out the case against IP from a theoretical, *a priori* perspective, *Against Intellectual Monopoly* attacks the subject from an empirical, *a posteriori* angle. This allows anyone interested in the question of whether IP is compatible with traditional property rights, and more importantly, whether it's a benefit to the economy as a whole, to actually examine historical data. Is it really the case that patents and copyrights spur innovation? Isn't it possible that we've created a massive bureaucratic drag on innovation that only lines the pockets of lawyers and protects large conglomerates from competition from upstarts? This book draws on studies of the recording industry, companies like Disney, and the history of patents to at least

examine these questions, rather than uncritically accepting IP as a natural, beneficial facet of capitalism, as is so often the case.

I still think Kinsella's book is better, but these two books complement each other nicely.

Bill Toole says

interesting but not that well written

Zachary Moore says

I can hardly recommend this book highly enough. It is guaranteed to make you question your belief in the validity of intellectual property laws and is easily one of the most interesting and engaging ever written by a pair of economists. The authors do a thorough job of refuting point-by-point the practical arguments laying behind intellectual property laws as well as demonstrating that the act of artistic and intellectual creation is rarely the work of a single, solitary genius but far more often the result of collaborative efforts by a number of people pursuing similar lines of inquiry, the wealthiest and best-connected of which inevitably ultimately when the intellectual property rights regardless of how trivial their actual input to the overall process was. A must-read for anyone living in the digital age.

Deja says

What happens when two academics have some great ideas but take three years to write the book? this book. Great ideas.. but lost in the hustle and backtracking on facts.

I still loved the main premise that copyright does not drive creativity or innovation, but monopolizes ideas.

Was recommended Free Culture by Laurence Lessig, a law professor. I like it better. plus its free.

Nathan says

They did their homework.

Max says

2.5

I was pretty disappointed with this book. I actually found the overall argument of the book quite compelling, and within the book, there were several interesting arguments and examples. But it is very frustrating to read an entire book on intellectual property and not feel as though one received a thorough foundation in the

subject. The book was so one-sided that I often felt like I wasn't hearing the full scope of the arguments. Many of the arguments seemed to be based on the single study that backed up the authors' argument, while I am sure there are contradictory studies that were not mentioned. Finally, for what it's worth, this book was quite poorly written.

Herve says

Last October I published a post about the article *The Case Against Patents* by Michele Boldrin and David K. Levine. I had mentioned at the end that there was also a book, entitled *Against Intellectual Monopoly*. I am not finished with it yet but it is so strange, powerful and complex that I will talk about it in two parts. More later... It's a very strange book (and the authors have been known for their arguments for a few years now) because it gives arguments against intellectual property ("IP"). They are not always easy to follow. This is a book about economics which sometimes, often (but not always) confirms the intuition that there is something wrong about IP. Yes inventors, innovators, creators need to be able to protect their creation against thieves. Does it mean they should be given a monopoly (patents) or a right to prevent copy of their work (copyright)? This is what the authors try to address. You can now read my comments but I strongly advise you to read the book and its complex and fascinating arguments, even if in the end, you disagree with them! [Please notice that my comments refer to the free online pdf version] As a provocative statement, they finish their 1st chapter with: "This leads us to our final conclusion: intellectual property is an unnecessary evil". [Page 12]

One of their strongest arguments is the following: "It is often argued that, especially in the biotechnology and software industries, patents are a good thing for small firms. Without patents, it is argued, small firms would lack any bargaining power and could not even try to challenge the larger incumbents. This argument is fallacious for at least two reasons. First, it does not even consider the most obvious counterfactual: How many new firms would enter and innovate if patents did not exist, that is, if the dominant firms did not prevent entry by holding patents on pretty much everything that is reasonably doable? For one small firm finding an empty niche in the patent forest, how many have been kept out by the fact that everything they wanted to use or produce was already patented but not licensed? Second, people arguing that patents are good for small firms do not realize that, because of the patent system, most small firms in these sectors are forced to set themselves up as one-idea companies, aiming only at being purchased by the big incumbent. In other words, the presence of a patent thicket creates an incentive not to compete with the monopolist, but to simply find something valuable to feed it, via a new patent, at the highest possible price, and then get out of the way." [Page 82]

The following is nearly as strong: "The incentive to share information is especially strong in the early stages of an industry, when innovation is fast and furious. In these early stages, capacity constraints are binding, so cost reductions of competitors do not lower industry price, as the latter is completely determined by the willingness of consumers to pay for a novel and scarce good. The innovator correctly figures that by sharing his innovation he loses nothing, but may benefit from one of his competitors leapfrogging his technology and lowering his own cost. The economic gains from lowering own cost or improving own product, when capacity constraints are binding, are so large that they easily dwarf the gains from monopoly pricing. It is only when an industry is mature, cost-reducing or quality improving innovations are harder to come around, and productive capacity is no longer a constraint on demand that monopoly profits become relevant. In a nutshell, this is why firms in young, creative, and dynamic industries seldom rely on patents and copyrights, while those belonging to stagnant, inefficient, and obsolete industries desperately lobby for all kinds of intellectual property protections." [Page 153]

You can stop here! Or read additional extracts below. Or as I advised go to the book...

"The crucial fact, though, is that the following causal sequence never took place, either in the US or anywhere in the world. The legislative branch passed a bill saying "patent protection is extended to inventions carried out in the area X", where X was a yet un-developed area of economic activity. A few months, years, or even decades after the bill was passed, inventions surged in area X, which quickly turned into a new, innovative and booming industry. In fact, patentability always came after the industry had already emerged and matured on its own terms. A somewhat stronger test, which we owe to a doubtful reader of our work, is the following: can anyone mention even one single case of a new industry emerging due to the protection of existing patent laws? We cannot, and the doubtful reader could not either. Strange coincidence, is it not?" [Page 51]

In Italy, pharmaceutical products and processes were not covered by patents until 1978; the same was true in Switzerland for processes until 1954, and for products until 1977. [Page 52]

"While patent pools eliminate the ill effects of patents within the pool - they leave the outsiders, well, outside." [Page 70]

"Later in the book we talk about the Schumpeterian model of "dynamic efficiency" via "creative destruction." The latter dreams of a continuous flow of innovation due to new entrants overtaking incumbents and becoming monopolists until new innovators quickly take their place. In this theory, new entrants work like mad to innovate, drawn by the enormous monopoly profits they will make. Our simple observation is that, by the same token, monopolists will also work like mad to retain their enormous monopoly profits. There is one small difference between incumbents and outsiders: the formers are bigger, richer, stronger and way better "connected." David may have won once in the far past, but Goliath tends to win a lot more frequently these days. Hence, IP-inefficiency." [Page 76]

"We understand that the careful reader will react to this argument by thinking "Well, the AIDS drugs may be cheap to produce now that they have been invented, but their invention did cost a substantial amount of money that drug companies should recover. If they do not sell at a high enough price, they will make losses, and stop doing research to fight AIDS." This argument is correct, theoretically, but not so tight as a matter of fact. To avoid deviating from the main line of argument in this chapter we simply acknowledge the theoretical relevance of this counter-argument, and postpone a careful discussion until our penultimate chapter, which is about pharmaceutical research. For the time being, two caveats should suffice. The key word in the former statement is "enough": how much profits amount to "enough profits?" The second caveat is a bit longer as it is concerned with price discrimination, and we examine it next." [Page 77] There is a full chapter about Pharam, I will probably cover in part 2 of this article.

Jerry Baker, Senior Vice President of Oracle Corporation: "Our engineers and patent counsel have advised me that it may be virtually impossible to develop a complicated software product today without infringing numerous broad existing patents. ... As a defensive strategy, Oracle has expended substantial money and effort to protect itself by selectively applying for patents which will present the best opportunities for cross-licensing between Oracle and other companies who may allege patent infringement. If such a claimant is also a software developer and marketer, we would hope to be able to use our pending patent applications to cross-license and leave our business unchanged." [Page 80]

Roger Smith of IBM: "The IBM patent portfolio gains us the freedom to do what we need to do through cross-licensing--it gives us access to the inventions of others that are key to rapid innovation. Access is far more valuable to IBM than the fees it receives from its 9,000 active patents. There's no direct calculation of

this value, but it's many times larger than the fee income, perhaps an order of magnitude larger." [Page 84]

"Notice, in particular, that patenting is found to be a substitute for R&D, leading to a reduction of innovation. In the authors [Bessen and Hunt]' calculation, innovative activity in the software industry would have been about 15% higher in the absence of patent protection for new software." [Page 92]

An example of extreme aberration in U.S. Patent 6,025,810: "The present invention takes a transmission of energy, and instead of sending it through normal time and space, it pokes a small hole into another dimension, thus, sending the energy through a place which allows transmission of energy to exceed the speed of light." [Page 101]

Arguments in favor of IP are known and quoted again by Levine and Boldrin... "In order to motivate research, successful innovators have to be compensated in some manner. The basic problem is that the creation of a new idea or design ... is costly... It would be efficient ex post to make the existing discoveries freely available to all producers, but this practice fails to provide the ex ante incentives for further inventions. A tradeoff arises... between restrictions on the use of existing ideas and the rewards to inventive activity." [Page 176]

More in part 2....

Ospinboston says

With this book the authors powerfully rebut an *idée fixe* that seems to pervade most of Western society: namely, that creativity and innovation can only occur in a legal culture that places many restrictions on the kinds of innovation that are allowed (by granting patent applications that claim entire product classes), resulting in enormous amounts of money being spent on developing sufficiently dissimilar rival products -- that is, reinventing the wheel.

If this sounds as though there might be something odd about this idea, that's because there is. Apparently granting monopolies does foster neither innovation, nor creativity -- rather, it stifles it. One could easily make the argument, after all, that an author or inventor will be encouraged to do nothing the rest of his life after (s)he has written a single best-selling work as you could argue the opposite.

One of the strongest conceptual arguments they offer is the (historical) fact that IPRs are really always only granted years to decades after an industry is established, by which time it has amply proven that the market offers adequate incentive for companies to invest in it. (What's more risky, after all, than setting up a company in an entirely new industry?) Once a company has gained size, they can use the they (and their employees) 'needed' patent protections, even though they had obviously managed to grow to their current size without protection, surviving the competition and mutual borrowing practices without major problems. And after they've gained their protection, they can effectively rest on their laurels (innovation speed generally decreases, or at best stays the same as before), and force competitors who can't contribute to patent pools out of business, as well as keeping new entrants from establishing a foot-hold through patent litigation, which basically makes them legalized cartels. So once a few companies hold a large amount of patents, they will be in the position to threaten/sue out of business, every smaller competitor, after which no new companies will have a chance to enter the field unless they are already larger than those companies. Furthermore, because of patents, rather than spending R&D money innovating a current generation of a product, either your own or a competitors, you will be forced to research until you find a marketable product that is not encumbered by a patent held by one of your competitors. This enormously increases R&D costs with very little benefits, except for the companies holding the patents.

The authors do a great job, using lots of empirical/historical data, convincing their readers of the fact that, in almost all cases, intellectual property rights are superfluous at best, and usually detrimental. I found this book a lot of fun to read: it steadily chips away the foundations beneath a lot of arguments you are likely to have heard from the industry and lawyers/judges, who believe that a world without IPR is an innovation-less world. Read it!

Xezzy Yeats says

My review is based only on the first chapter. I give it only two stars, and I'd much rather use my time on reading a better book.

Authors make a mistake of lumping together various issues that are not related, without any explanation on why they are doing that. This is particularly harmful in a way that reader might think that downloading music over the internet has something to do with patents, for example.

Another problem is the lack of introduction to the topic. Reader must have significant knowledge about pitfalls of "intellectual property" term, for example.

Despite these major issues I have with this book, it is not completely useless: bibliography is extensive and there might be some interesting read found there. Informed reader might still take something out of this book, since most of the things written in the first chapter are relatively true, and interesting, and some are new to me and might be new to you.

Logan says

Not for everyone, if you need mental justification for what you and everyone else is doing give it a once over. I think the congress is creating the problem by listening to special interests and not to the people they are representing more so in the courts where justice should be blind, of course some justice is more blind than others.

Sanjiv says

I thought I understood Open Source philosophy but this book clarified it immensely. The authors are remarkable in that they practice what they preach. They posted the whole book on their web site. I wish our leaders can find time to read this book and take up the authors on their offer of free consultancy for assistance in legislation. Both the authors are "Distinguished Professors" of Economics and have done a wonderful job of presenting their arguments. They have anticipated their detractors and have provided the answers. Finally, they have provided a very practical way of abolishing patents and copyrights.

Adam Ross says

This was a stellar book on intellectual property. The writing is dense, penned by two economists and so the prose is thick and sometimes slow going. Not a book you can rush through; you have to work to grasp what they're saying sometimes. Occasionally, the book is poorly written, but for the most part it is pointed, but clear and firm. The authors work through the advantages of abolishing intellectual property rights entirely, which would include trademarks, patents, copyrights, and the rest of it. Their arguments are solid, clear, and devastating.

The section on patents was staggering. A corporation can patent any idea they have even begun work on. If a corporation thinks it might one day want to go into research for a cure or treatment, or develop a new sort of software, they can patent the idea even though they have nothing to show for it. The result is that anyone else who wants to develop the same thing or anything similar are then prevented or are forced to pay for the right to develop anything in a large swath of related ideas. Microsoft submits over 20,000 patents a month, protecting ideas that haven't been developed yet. All the other software companies do the same.

I found the first half of the book better than the second, where the authors begin to dig into deep economic language to develop their proposal. The first several chapters are more interesting, because they are direct interaction with what is going on in the world around us every day, and answering objections, and demonstrating their thesis with real-world examples from history. Highly recommended.

Jeremy says

Not as compelling as I had expected. I had heard good things, and I wanted to challenge my own beliefs about intellectual monopolies and learn something in the process. While I did learn several interesting facts, the argument made by this book comprises anecdotal situations instead of a more convincing rigorous analysis. The book did convince me that some of the intellectual monopoly laws deserve a second look such as minimum requirements for patents and how to handle two inventors with the same invention at nearly the same time. It did not convince me that the world would be better off without patents and copyrights.
