

INTELLECTUAL PROPERTY PROTECTIONS

The internet and technology have changed the way businesses operate and how consumers buy things. Accessing hundreds of thousands of books, movies and software is as simple as clicking a mouse from anywhere on the planet. This content is broadly defined as intellectual property (IP). While ease of access is great for consumers and helps individuals and businesses earn money on their creative work, the information age has also brought online pirates that steal from innovators and distribute their IP for free. Currently there is a debate on how IP should be protected and what impact it has on the economy.

FOUNDATIONS OF INTELLECTUAL PROPERTY

Intellectual property in the United States dates back to the days when the Constitution was being drafted. The Founders clearly viewed IP as an important factor that contributed to the growth of society, mentioning the issue in Article 1, Section 8, Clause 8 of our founding document, a provision often referred to as the Intellectual Property clause. This clause granted Congress the power to create IP laws. And while the clause doesn't provide great detail on the definition of IP or the scope of its protection, the Copyright Act, passed the following year, offers some insight into the Founders' intentions for IP (3).

CATEGORIES OF INTELLECTUAL PROPERTY

Copyright: Copyrighted content generally includes things like movies, artwork, television shows, or music. The people who produce this content seek copyrights to prevent unauthorized parties from profiting from them.

Provided by the Constitution and a series of laws dating back to 1790, copyright allows this protection for a limited period of time. The Copyright Act of 1976 is currently the primary law. Copyrights expire and they may be renewed. Copyrighted content may be bought for personal use, or they may be licensed for commercial use.

Patents: Patents generally cover a process or how something is built and the way it functions. This can range from code in computer software to hinges on a door.

IP, ECONOMIC LIBERTY, AND THE FREE MARKET

Property rights are an important part of the free market. While intellectual property often lacks a conventional physical component, it is still property and deserves to be protected. Someone who creates an intellectual product should be granted the same kind of rights to protect their work as someone who makes a physical product. Moreover, both creators ought to have the right to protect their properties from theft.

QUICK FACTS

- IP plays an important role in driving the economy and is present in a broad range of industries. IP-intensive industries have accounted for at least 40 million American jobs, 34.8 percent of U.S. gross domestic product, and over 60 percent of all U.S. annual exports (1).
- IP doesn't only apply to white collar jobs. IP industries provide good paying jobs for hardworking American families with wages 42 percent higher than other industries (2).

NOTABLE & QUOTABLE

Article 1, Section 8, Clause 8 of the Constitution: "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."

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IP rights encourage innovation, economic liberty, and freedom of expression by assuring creators and innovators their products will be protected by law. IP allows people to make creative products that not only express who they are, but also pave a path to economic prosperity through returns from their investments. The creative industry is a prime example of economic liberty through expression. In 2012, over 900,000 U.S. businesses were involved in the creation or distribution of the creative arts.

When IP is not protected, it discourages people from innovating and creating and ultimately harms the overall economy. Innovators are unable to reap the fruits of their creative labors if their product can be obtained and distributed by others without their consent, and without receiving any compensation.

CONCLUSION

Intellectual property should receive sensible protections. These protections should be similar to those applicable to physical property, and their scope should be consistent with the intentions of the Framers. IP rights are what keep innovation flowing and are the fuel to the fire that is the American entrepreneurial spirit. More piracy has come with the information age making the need to protect IP even more critical. The economy depends on the preservation of IP rights as they ensure the continued contribution of innovators and creators. James Madison makes this abundantly clear in Federalist 43: "encouragement of individual effort by personal gain is the best way to advance public welfare through the talents of authors and inventors in 'Science and the useful Arts'; and sacrificial days devoted to such creative activities deserve rewards commensurate with the services rendered."

Endnotes:

1. "Intellectual Property and the U.S. Economy: Industries in Focus", U.S. Department of Commerce (March 2012)
2. "Intellectual Property-Intensive Industries Contribute \$5 Trillion, 40 Million Jobs to U.S. Economy", U.S. Department of Commerce Blog (April 2012)
3. Article I, Section 8, Clause 8 of the United States Constitution

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