

Fighting The Intellectual Property Regime

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Outline

- History of IP rights
- The situation of developing countries
- How they did it
- What we can learn

What is Intellectual property?

- Copyright
- Patent law
- Trademark protection
- Protection of trade secrets

Why “property”?

- Some commonalities
- BUT:
 - You **cannot deprive** s.o. of IP
 - You **can copy** IP with **reproduction cost ≈ 0**
- Natural market value = reproduction cost

1. The short history of IPRs

History of IPRs

- Patent law: 14th century
- Copyright: 15th century
- Other rights: 18th century

Internationalisation of IPRs: 19th century

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- No protection of IP of foreigners
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- First multilateral agreements

Internationalisation of IPRs: IP & trade

- 1883: Paris Convention
- 1887: Berne Convention
 - 1967: **WIPO**
- 1948: General Agreement on Tariffs and Trade
(GATT)

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- 1948: General Agreement on Tariffs and Trade
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- 1986-1994: Uruguay Round

TRIPS

- Agreement on Trade-Related Aspects of Intellectual Property Rights
- 1994
- Part of new GATT
- Harmonized regulatory framework

“effective action against any act of infringement
of intellectual property rights”
(TRIPS Art. 41.1)

TRIPS & Developing countries

- Exceptions for generics?
- 2001 Doha

2. The situation of developing countries

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- Are strong IPRs good for development, research, ...?

“stronger IPRs [are] associated positively with trade,
foreign direct investment and licensing in developing
countries”

(Lippoldt 2008, 257)

“the true casual relationship between IPRs and such performance variables [...] may actually run in the reverse direction”

(Richard 2008, 272)

Empirical research

“weak or no evidence”
(Boldrin/Levin 2010, 243)

So?

- **More disadvantages** than advantages **at least in developing countries**
- Questions:
 - *Why did they agree?*
 - *How could they change the agreement later on?*

Why did they agree?

- Lack of negotiating power

Why did they agree?

- Lack of negotiating power
- Because of their smaller markets

“Nothing but the likelihood that powerful states will otherwise employ threats and coercion presently compels [...] countries that are TRIPS signatories from not following the U.S. and European lead on intellectual property laws”

(Keohane 2005, 66)

3. How they changed the agreement ...

Actors

- **3 transnational networks:**
 - International pharmaceutical companies + Governments of the Quad
 - Intellectual Property Committee (IPC)

- AIDS Network

What happened?

- IPC influenced **agenda setting**

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- **Framing** effects

What happened?

- IPC influenced **agenda setting**
- **Framing** effects
- Strong **cooperation**

4. ... and what we can learn from it!

Goals

- We must **seek allies**
- We must **become a agenda setter**
- We need to **reframe free knowledge**

Thank you!

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