



Counterpoint: The US Federal Government Should Not Strengthen Its Protection of Domestic Intellectual Property Rights

Thesis

Stronger intellectual property (IP) rights hamper innovation, contribute to inequality, and benefit big business at the expense of workers, consumers, and the community.

Talking Points

- Continuous innovation often builds on and incorporates other inventions.
- IP protections restrict access to technology and other breakthrough developments, which dramatically slows innovation.
- The wealth arising from IP is aggregated in a few individuals and corporations, even when public funding is used, and contributes to inequality.
- Strong IP protections work against the public good by devaluing cooperation, community, fairness, and equality.

Summary

Supporters of strong IP protections have long argued that the ability to profit over the long term from an invention or discovery is the strongest driver of innovation. Some critics, such as Jens Martin Skibsted of the Forbes Technology Council, have come to the opposite conclusion. “In today’s dynamic world, where many rely heavily on technology to survive, continuous innovation is paramount. However, innovation will happen at a snail’s speed when would-be creators cannot leverage existing inventions when IP laws restrict them.” Skibsted pointed to open-source and free software movements as examples of how technological advancements can be made available to spur further innovation, arguing that current IP laws have failed to keep up with the new realities of globalization, information sharing through digital platforms, and emerging technologies such as artificial intelligence (AI).

Other critics of strengthened IP rights protections have stressed concerns regarding inequality. As capital is accumulated by those individuals and corporations with the resources to protect their IP, inequality increases, according to Dean Baker, senior economist at the Center for Economic and Policy Research. “The upward redistribution of wealth arising from intellectual property (IP) is typically disguised in public debates as being the result of ‘technology,’” Baker stated, a way to distance the wealth gap from public policy around IP rights. In fact, “inequality is a policy choice,” when viewed through the lens of IP rights. According to Baker, the “amount of money transferred from the rest of us to those in a

position to benefit from IP comes to more than \$1 trillion annually.” Critics holding this view have noted that in some cases, this money is directly transferred from public funds to corporations, as IP laws allow companies to protect, and profit from, innovations developed with government funds. Rather than strengthen and lengthen IP protections, Baker argued, shorter, weaker IP rights would allow for more distribution of wealth while still providing an incentive to innovation.

Inequality is just one of the negative consequences of strengthened protections of IP rights, intellectual property scholar Jessica Silbey has argued. “We’ve lost the idea of public-mindedness, what it means to work for the collective rather than the individual,” she said, as quoted by Ting Yu for Boston University in 2022. Most inventions and innovations are developed not by an individual, but by teams. Employees of large corporations who own IP are often blocked from sharing the wealth generated by their work and prevented from sharing their knowledge with others. Large corporations can wield copyrights like a club, forcing small creators to give up the rights to their work. Far from benefitting individuals, Silbey added, copyright “prevents us from talking about the things we need to talk about: fair wages, labor equity, and abusive contracting provisions that take advantage of weaker parties.”

Ponder This

- The author has presented the fundamental positions for this perspective in the debate. Outline the strengths and weaknesses of each perspective.
- If asked to begin forming an argument for this position, what sources would you need to build your case? What fundamental information do you need? What opinion leaders in this debate would you look to in solidifying your argument?
- What are the weakest aspects of the position outlined by the author? How might those weaker arguments help you prepare a counterargument?
- What additional Talking Points could you add to support this position?

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