

Private Rights and Public Problems: The Global Economics of Intellectual Property in the 21st Century

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Why this book now?

- Frequent inquiries about updating the 2000 volume.
- Many recent and new issues in global IP area.
- Increasing domestic and international interest in IPRs: public policy, commercial questions, personal connections.
- Global policies continue to evolve with a number of unresolved questions.
- IPRs remain as controversial as ever; probably more so as developing countries engage more fully and technologies continue to change.
- IPRs debates are often driven by rhetoric and narrow commercial interests; it may be time to bring some accessible economics to the table.
- Quite a bit of recent economic and legal scholarship is useful and should be brought to wider attention.

Objectives of the volume

- An economist's stocktaking: where are we, what do we think we know, and what's missing?
- Document and assess the major changes in global IP policy since the onset of TRIPS.
- Call current controversies into greater attention.
- Discuss economic evidence on the role of IPRs in international innovation, technology transfer, and information markets.
- Provide economic analysis of questions regarding the structure of IP markets (eg, exhaustion and parallel trade, geographical indications, digital licensing, enforcement)
- Comment on the economics of how IPRs interact with the provision of quasi-public goods.
- Offer policy suggestions where warranted.

Selling knowledge: chapter 1

- Ever-increasing importance of knowledge and creativity as a basis for economic and social progress.
- Ubiquity of IPRs and the “new ownership society”.
- New forms of innovation and creativity: are they consistent with traditional standards?
- If you build it they will copy.
- Striving for a new balance.

The big global upgrade:

chapter 2

- A remarkable expansion since 1995 of legislated patent rights around the world.
- Generally stronger protection of copyrights, trademarks, PVRs and trade secrets as well.
- These changes are the result of:
 - TRIPS obligations.
 - Additional requirements in FTAs and bilateral arrangements.
 - Growing domestic interests in emerging economies.
- How well are these changes working in economic terms?
 - Some positive evidence of domestic innovation impacts.
 - Clear evidence of additional market-based technology transfer to middle-income and emerging economies.
 - Strong evidence of positive spillovers into productivity gains and more economic activity in local economies.
- Bottom line? These changes are improving the “plumbing” of global technology markets, except in poorest countries.

Table 2.1 Changes in the GP Patent-Rights Index						
Income level	1990	1995	2000	2005	% Rise	Sample
LI	1.78	2.03	2.26	2.67	50	33
LMI & MI	1.61	2.30	3.04	3.34	107	44
UMI	2.24	2.93	3.39	3.91	75	13
HI	3.37	4.13	4.34	4.38	30	24
Quartile 1	1.84	2.01	2.19	2.65	44	30
Quartile 2	1.53	2.11	2.69	3.06	100	29
Quartile 3	1.69	2.58	3.27	3.57	111	29
Quartile 4	3.26	3.99	4.27	4.34	33	29
Countries						
India	1.03	1.23	2.27	3.76	265	
China	1.33	2.12	3.09	4.08	207	
Brazil	1.28	1.48	3.59	3.59	181	
Mexico	1.36	3.14	3.68	3.88	186	
S. Korea	3.69	3.89	4.13	4.33	17	
Taiwan	1.26	3.17	3.29	3.74	198	
Singapore	2.04	3.88	4.01	4.21	106	
Israel	2.94	3.14	4.13	4.13	40	
Hungary	2.28	4.04	4.04	4.50	97	
Portugal	1.67	3.35	4.01	4.38	163	
Jordan	0.74	1.08	3.03	3.43	363	
USA	4.68	4.88	4.88	4.88	4	

Notes: LI (low income) covers countries with 2003 GNI per capita (PPP) less than \$2,500.

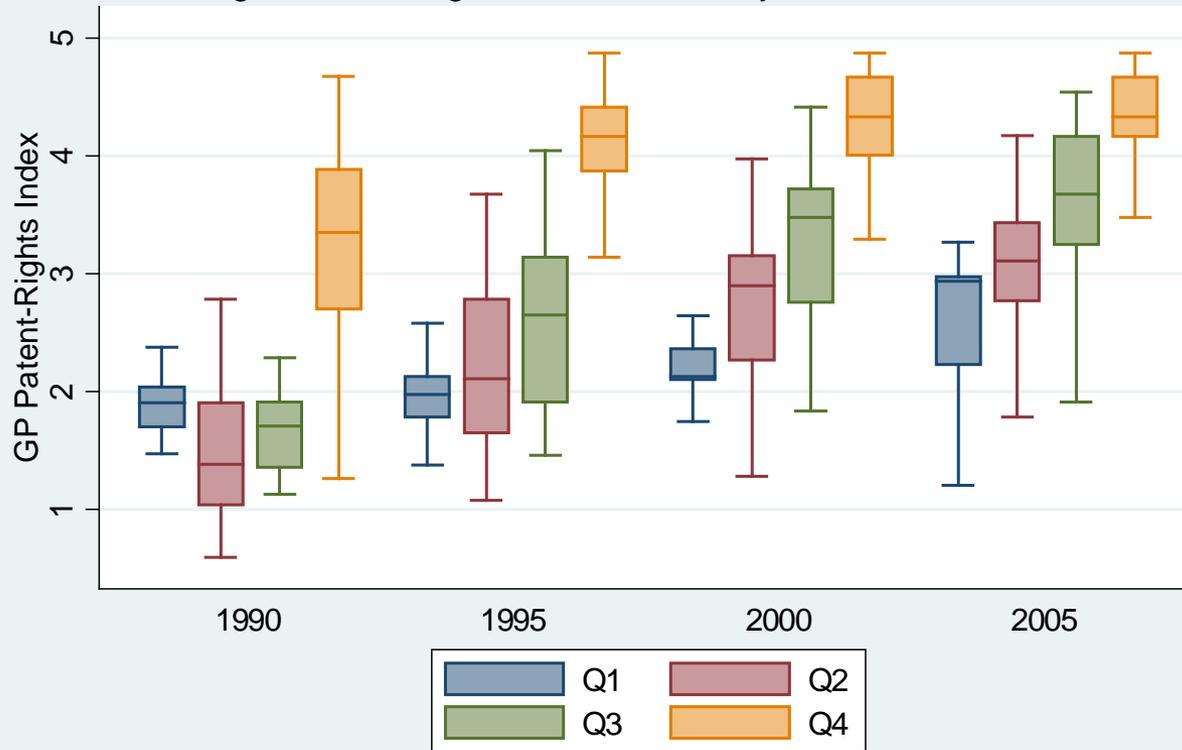
LMI (lower middle income) and MI (middle income) covers the income range \$2,500 to \$11,000.

UMI (upper middle income) covers the income range \$11,000 to \$20,000.

HI (high income) covers countries with 2003 GNI per capita (PPP) greater than \$20,000.

Sources: Computed by the author from Park and Ginarte (1997); Park (2008); World Bank (2005).

Figure 2.1: Changes in the GP Index by Income Quartiles



Global governance: chapter 3

- Largely a descriptive review.
- TRIPS:
 - Minimum standards and “flexibilities”.
 - IPR dispute resolution under TRIPS.
 - Continuing issues.
- TRIPS-Plus issues and TPP.
- WIPO’s role and the Development Agenda.
- The new enforcement emphasis:
 - ACTA as a new global norm?

Regulating a stressed system: chapter 4

- Systemic pressures arising from “private” use of IPRs on an international scale.
 - Massive patent applications burdens, lack of transparency in patent ownership, need for greater cooperation.
 - *Idea 1: Establish easily searchable databases of industrial property, either at major patent offices or at WIPO.*
 - Use and misuse of patents in standards setting.
 - IPRs exhaustion and parallel trade.
 - Complex economics.
 - Comments on relaxation of US re-importation restrictions in medicines.
 - Economics of geographical indications.
 - The EU’s objective.
 - Is there scope for using GI’s to foster rural development in poor countries?

Regulating a stressed system: chapter 4

- Digital goods and licensing problems.
 - Economics of downloading and file sharing.
 - Global enforcement dilemmas and the limits to licensing solutions.
 - Moving toward a system that features:
 - Neutral framework that supports innovation in licensing models;
 - Makes paying for content as easy as downloading it;
 - Recognizes that digital licensing should have global reach.
 - *Idea 2: Recognize that copyright owners have a global digital transmission right and encourage competition in national and international collection societies.*
- Enforcement economics.
 - Large economic and social gains to effective enforcement.
 - Obvious political-economic problem of imbalance between costs and benefits.
 - *Idea 3: small levy placed on applications for industrial property (patents, GI's, PVRs, trademarks and renewals, possibly copyrighted content) to fund better enforcement measures.*

IPRs and global policy challenges: chapter 5

- Additional issues arising from interplay between IPRs and provision of public goods.
- Two basic economic questions:
 - Does global IPR system raise enough roadblocks to justify changes in norms or processes?
 - Is reliance on private exclusive rights enough to meet needs for innovation and diffusion of new technologies?
- IPRs, policy space and economic development.
- Problems and progress in public health.
- Technology transfer and climate change.
- Agriculture and genetic resources.
 - The vertical R&D problem;
 - Access and benefit sharing;
 - Disclosure of origin of genetic resources?

IPRs and global policy challenges: chapter 5

- Traditional knowledge.
- Basic knowledge and science as an international public good.
 - Innovation networks, sharing and pricing knowledge.
 - The knowledge commons and transactions costs.
 - The international dimensions.
 - Patent norms and access-oriented licensing approaches.
 - A global access treaty?
- A primary common denominator regarding public goods: finding mechanisms to increase technology transfer while sustaining innovation incentives.
 - *Idea 4: A coordinated announcement that technology transfer for development and public needs is a clear global priority.*

Revitalizing a tired system:

chapter 6

- Is the current system of norms consistent with a world of cumulative innovation, network economics, global marketing and digital creativity?
- Is it prepared to absorb the emergence of major economies (eg, BRICS) that have their own expectations?
- System is under increasing pressure and seeks a new balance.
- The WTO/TRIPS approach can be built upon but is unlikely to deal effectively with public goods issues.
- Importance of energizing WIPO as an information repository, analytical support and location for refining and developing IPR norms.
- Whatever the path, the system needs to accommodate broader interests in ownership, new forms of innovation, and reasonable access across borders.