

TEC 154 2014S, Class 30: Intellectual Property (2)

Overview

- Preliminaries.
 - Admin.
 - Questions.

Preliminaries

Admin

- Note takers: SA and DB.
- Volunteers for Monday?
- Monday's readings: Forthcoming.
- Please email me your paper topic and group members.

Extra Credit

- <http://www.strikingly.com/pioneerweekend>

Questions

Key Points from DB

1) Recap from last time: Goal of patents is to protect an innovator's work in order to motivate innovation. Without a patent system we would have too little creativity/innovation.

2) Advantages of patent system:

- Protection is strong
- Opportunities for true protection/reward are clear
- Incentive for inventors to introduce new products
- Inventors decide what to create

3) Disadvantages of patent system:

- Market failures may distort incentives
- Defensive patenting
- Overlapping patents
- Patent trolls

4) Alternatives to Patents:

- Prizes
- Alternative forms of intellectual property
- Secrecy
- Complexity
- Lead time

5) Effects of abolishing patent system:

- Little innovation
- Secrecy, complexity, and lead time would be the only protection for inventors' ideas

Review

- Patents
- Assume that we remember what they are.
- What's the purpose?
 - Protecting an innovator's/inventor's work. A grant of protection / legal monopoly to keep others from using the work.
 - Motivate people to innovate, to create new ideas.
 - [Graham notes that innovation is usually the last stage of the process. It needs to start much earlier with creativity.]
 - Economists look at this in terms of stages
 - Creativity
 - Research (think about more systematically)
 - Development (make it into something usable)
 - And, finally, Innovation (turn it into something to sell)
 - The patent is really supposed to come in near the development->innovation stage.
- Would we still have innovation without patents?
 - It's not that we won't have creativity without patent but we'd probably have less.
 - Questions about drugs. It's hard to replicate drugs, so there might still be incentives.
 - Many famous economists are writing articles to abolish the whole system.

Advantages of current system

- Enough time to make up costs. Protection is relatively strong. (Okay, monopoly is pretty damn strong.)
- Selective - If we only award patents with a clear innovation, we should not have to worry about overlapping innovation. (If rights are clear and approval is not guaranteed, then we create the right incentive; opportunities for true protection/reward are clear.)
- [Traditionally, monopolies increase prices. So, how do we end up with a more competitive environment? Can patents create competition?] If patents are narrow (hah!), there's an incentive to "invent around" a successful invention.

- [Prizes vs. Patents; what complementary things does the author say about patents?] Leaves it more open, not just the domain that the prizemaker thinks is open. Inventors decide what to create. Consumers decide whether or not it is useful, presumably leading to things that are really valuable to society. "Reward determined by markets."
 - [Contrast commercially viable to valuable to society.]
 - Does the mismatch between commercial viability and societal value mean that markets aren't functioning well?
- Patents can be challenged, we have ways to work around mistakes.

What do we do about "market failure" - the issue that markets may not make the right choice (typically in terms of quantity - too much or too little).

- E.g., producing products creates pollution. If the buyers don't take into account the external costs, we have challenges. *Negative externalities*.
- E.g., things that have a social good, but it's hard to pin down the good or to charge the people who benefit. *Positive externalities*.

Disadvantages of Patent System

- Markets don't always work the way they should to maximize social value.
- Defensive patenting - Apply for patents not to use them, but to stifle other companies from using them.
 - Similar: Accumulating "war chests" of patents.
- Overlapping patents create thorny legal ground
 - Lawsuits
 - Negative incentives
 - Also due to our litigious nature and the cost of our legal system.
 - Innovation is incremental/cumulative
 - 20 years can create roadblocks to building on top of things
 - Seems to be incentive for narrowing
 - Intellectual ventures/patent trolls
- Incentive for breadth

Rise of the Patent Troll

The Main Video

- <http://everythingisaremix.info/>
- <https://www.youtube.com/watch?v=Il9nXHoprsU>

One of the underlying cases

- <http://www.techdirt.com/articles/20130206/07215421891/patent-troll-says-it-owns-podcasting-sues-adam-carolla-howstuffworks.shtml>
- <http://www.google.com/patents/US8112504?dq=8,112,504&ei=FrkRUc63N8zWigKlt4DAB>

A related advocacy group

-

Defining "Patent Troll"

- One definition: "Mysterious corporations that file lawsuits or demand licensing fees in order to profit."
- An alternate definition: "Build patents not so much to use as to file lawsuits."
- Do these groups serve a public good - they serve a step between coming up with an idea and bringing it to market.
 - People can invent creative things and license them to others.
 - You need power to do this.
- What about software that doesn't take much effort to produce?
- So ... things aren't as simple as they seem.

Alternatives to Patents

- Find other ways to encourage other people to innovate.
- How do prizes work? Government (or entity) identifies a goal. Doesn't restrict who can achieve the goal. Sets up a fund to incentivize. Danger that this means that development is within a particular domain.
- Make patent less powerful in different domains.
- Secrecy is the most common form of IP protection ("Trade Secret").
 - Doesn't protect against reverse engineering.
- Complexity - If it's difficult to reverse engineer, it may be difficult to reproduce
- Lead time.

Copyright (c) 2014 Samuel A. Rebelsky.



This work is licensed under a Creative Commons Attribution 3.0 Unported License. To view a copy of this license, visit <http://creativecommons.org/licenses/by/3.0/> or send a letter to Creative Commons, 543 Howard Street, 5th Floor, San Francisco, California, 94105, USA.