

PATENTOMICS

UNVEILING THE ECONOMIC DYNAMICS OF INTELLECTUAL PROPERTY

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P E N A C C L A I M S P U B L I C A T I O N S

“Patentomics: Unveiling the Economic Dynamics of Intellectual Property”

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Acknowledgement

_This book is a special ode to my father in heaven, I hope I made you proud! _

I am immensely grateful to all the individuals who have contributed to the creation and completion of this book. Their support, guidance, and encouragement have been instrumental in bringing this project to fruition.

First and foremost, I would like to express my deepest gratitude to my family for their unwavering love and understanding throughout this journey. Their constant belief in me and their willingness to lend a helping hand have been a source of inspiration.

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To all those who have supported me along the way, whether through words of encouragement, a listening ear, or a helping hand, thank you from the bottom of my heart. Your contributions have made this book possible, and I am forever grateful for your presence in my life.

With deepest appreciation,
Adv. Amrita Atul Ajmera

Preface

A thought that has been enduring in mind when becomes real is truly an interesting and exciting experience. This book is one such cherished work that has its roots in the persuasion of many authors, contributors and also mentors which has now embellished to become the snapshot of the innumerable efforts put in since months. This book serves to reinforce increased awareness, improved interaction and integration among all of us.

As the Editor of this book entitled “Patentomics: Unveiling the Economic Dynamics of Intellectual Property”, I wish to thank the researcher, who has submitted his valuable contributions. The main aim of this book is to enhance knowledge among researchers, students and the legal fraternity at large and to provide an opportunity for creative research and multi-level consideration of broader issues related to legal insight from both national and interdisciplinary perspective.

It has been indeed a pleasure going through the journey of compiling and editing this book. This maiden issue will surely inspire all of us for a new beginning and enlighten the minds of young scholars with hope, confidence and faith.

Happy reading!

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Chapter 1

INTRODUCTION

Patents are probably the most important legal mechanism for ensuring the protection of intellectual property rights. For a limited time period, a patent grants the inventor the exclusive right to prevent others from economically exploiting the innovation (20 years from the date of filing). To qualify for patent protection, an invention must be original in the sense that it is not part of the previous art or, more broadly, is not already in the public domain. Additionally, a patentable invention must entail an inventive step, which means that it must be novel to someone with ordinary ability in the area of application. To be patentable, an invention must also be helpful; that is, it must enable the solution of a specific issue in at least one application. A critical component of a patent application is disclosure: the invention must be sufficiently disclosed in depth to allow persons competent in the relevant area to apply it. Additionally, the patent application includes detailed claims defining the invention's scope. The initial legal scope of patents - machinery, industrial processes, materials compositions and manufactured goods — excluded major scientific discovery categories such as natural laws, natural occurrences and abstract ideas. Although a simplistic understanding of such exclusions is questioned by recent developments in the use of patents for computer software, information technology and biotechnology technologies. Merges (1997) contains further information and a complete study of US patent law.

Since private property is inherently connected with the freedom of choice underpinning market economies (Barzel 1989), it can seem obvious that intangible assets connected with human creativity and inventiveness should have a legal status comparable to that granted to hold more conventional services and goods. Although desirable, the numerous aspects of patent economies are not reflected in this review. There are at least two viable techniques to articulating a more comprehensive examination of this.

Intellectual property institution: a constructive and normative study. From a more optimistic standpoint, we may inquire how patents, as presently applied, impact the economic system's functioning. Finally, we want to analyse how the presence of patents impacts the allocation of resources to creative activities and the distribution of wealth generated by them. Additionally, a positive economic framework may be utilised to examine the linked subject of why patents exist. Alternatively, we might examine whether the institution of patents is a desirable aspect of the economic system and what the characteristics of an ideal patent system are. In what follows, we will examine these economic issues in further depth, with a particular emphasis on conceptual and theoretical assessments.¹

The patent system was established to foster innovation. This is because patents allegedly provide an incentive for individuals to research new technologies by granting the owner the power to exclude rivals from the market.

¹ Arrow, K.J. 1962. "Economic Welfare and the Allocation of Resources for Inventions." In *The Rate and Direction of Inventive Activity: Economic and Social Factors*. Edited by R.R. Nelson. Princeton, NJ: Princeton University Press.

Additionally, in certain sectors, notably medicines, it is claimed that the patent owner's monopoly on the market enables the owner to recoup the enormous cost incurred during the research and development period.²

While there are various techniques in place for checking if a patent application is legitimate and accurate in scope in the economically savvy world, some patents continue to argue that no improvements in comparison to previous art or are found invalid if challenged. The system corrects these faults by keeping the authority to revoke improperly awarded patents. However, because to the high expense of litigation, only a tiny percentage of patent disputes actually reach the courtroom. According to a 2005 research, just 1.5 percent of the 200,000 patents awarded each year are ever challenged, and just 0.1 percent of patents are ever taken to trial³. This implies that the vast majority of patent infringement lawsuits are either dismissed or resolved confidentially. While private settlement is a cost-effective method of balancing the business interests of two enterprises, it benefits neither the public nor the private parties. Due to the private nature of such agreements, there is no possibility for an open debate to explain the extent of a patent's rights, and the potential to invalidate the patent is lost. Other rivals do not gain, and industry-wide costs do not decrease.

MACRO ECONOMICS PERSPECTIVE

The patent system affects the economy as a whole. "The benefits of new results, once the research is publicly known, are available to all in the relevant field, thereby bringing advantages to all parties in that field, though reducing the direct return to the party performing the pioneering research. This reduces economic incentive for a party to conduct research and innovate. The effects of patents on a given market may vary widely according to the type of market, and whether there are other barriers to entry (e.g., business methods versus regulated medications). Even in socialist monopole economies, the adherence to international patent laws was or becomes strict, as the effect is reciprocal for public economy, as soon as the level of technology development in these economies creates comparable advantage.⁴ However, since patents essentially encourage innovation by giving owners the right to monopolize the market for a limited time, the public will suffer from the patents that are not innovative by paying a super competitive cost.

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² Werth, Barry (2013). *"Tale of Two Drugs"*. MIT Technology Review. 116 (6). Archived from the original on 10 May 2014.

³ Lemley, Mark A.; Shapiro, Carl (2005). "Probabilistic Patents" (PDF). *Journal of Economic Perspectives*. 19 (2): 75–98. doi:10.1257/0895330054048650. Archived (PDF) from the original on 18 November 2005

⁴ Langinier, Corinne; GianCarlo, Moschini (January 2002). "Chapter 3: The Economics of Patents: An Overview". In Newman, Scott; Rothschild, Max Frederick (eds.). *Intellectual Property Rights and Patenting in Animal Breeding and Genetics* (PDF). Oxford, England: CABI Publishing. ISBN 978-0-85199-838-1. Archived(PDF) from the original on 15 February 2004.

Message from the Publisher's desk

We, at Pen Acclaims, take immense pleasure in welcoming you to our new venture, "Patentomics: Unveiling the Economic Dynamics of Intellectual Property". We have created a series of publications with the intention of providing a space for the generation of knowledge, dialogue, critique, debate, and collaboration among an international community of child, youth, family and community practitioners and scholars. The immediacy of e-based publication makes it possible for us all to be fully connected to each other and to developments in our field and to be directly involved in ongoing knowledge construction. Our journal is independent of corporate demands and we can therefore invite you to be full participants in the creative process that we are undertaking together. Our vision is to create a high-quality publication that will be relevant, challenging, thought-provoking, and inclusive of a diverse range of voices and perspectives, including graduate students, academic researchers and scholars, policy-makers, and child, youth and family serving practitioners. We welcome original research, theoretical contributions, reviews of the literature, critical commentaries, case studies, book reviews, and works-in progress. It is our intention from time to time, to offer guest edited special issues as books as well as journal offerings. We do this in order to support access and diversity in the ever narrowing corporatized world of academic publication. We are delighted that you are joining us as readers and hope you will also join us as contributors.



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