Negative: Intellectual Property Rights

By “Coach Vance” Trefethen

***Resolved: The United States federal government substantially reform the use of Artificial Intelligence technology***

Case Summary: The AFF plan grants intellectual property rights (e.g. copyrights and patents) on the output of the creative process of artificial intelligence. For example, if an AI program created a new song, the new song could be copyrighted, which it cannot be under current law (which only allows copyrights on things produced by humans).

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Negative: Intellectual Property Rights

INHERENCY

1. Social recognition solves

Social recognition solves

Dr. Shlomit Yanisky Ravid and Xiaoqiong Liu, written 2017, published in 2018, last revised in 2020. (Ravid - Professor of Law; Yale Law School, Information Society Project (ISP), Fellow; Ono Academic Law School, Israel (OAC), Senior Faculty; Fordham University School of Law, Visiting Professor; The Shalom Comparative Legal Research Center, SCLRC, OAC, Founder and Director. Liu - engineer holding a J.D. Fordham University School of Law; Fordham Intellectual Property Institute, Fellow) Cardozo Law Review, WHEN ARTIFICIAL INTELLIGENCE SYSTEMS PRODUCE INVENTIONS: THE 3A ERA AND AN ALTERNATIVE MODEL FOR PATENT LAW, posted online 13 Mar 2017, published in Cardozo Law Review 2018, last revised 25 Nov 2020 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2931828> (accessed 6 June 2021)

Inventions by AI are unpredictable; AI should be understood, therefore, to contain an inventive intuition, like the human mind. This creative intuition may derive from an AI’s features (“personality”) and may make it receptive to some sort of recognition. Social recognition, such as through social networks, Web sites, trade journals or even printing on the AI products themselves could serve as an effective alternative to granting patent rights or inventorship status to AI inventions. Rather than denying or degrading the invention’s utility, social recognition offers a psychological advantage to the people involved in generating the product, such as the inventor and operator, even if they fail to obtain patents.

2. More study needed and Status Quo will handle it

More study is needed, and Status Quo is doing it. Policies might or might not be needed – we’ll see when the study is done

ANDREI IANCU 2020 (Under Secretary of Commerce for Intellectual Property, and Director, U.S Patent and Trademark Office) published written transcript of remarks at COPYRIGHT IN THE AGE OF ARTIFICIAL INTELLIGENCE 5 Feb 2020 <https://www.copyright.gov/events/artificial-intelligence/transcript.pdf> (accessed 7 June 2021)

As the administration's lead agency on intellectual property, the USPTO has been actively engaged on this topic of AI and IP policy. A year ago, for example, we gathered leading thinkers, policy makers, academics, and practitioners to discuss the growing capabilities and economic impacts of AI and implications for IP policy at the day-long conference similar to this at our headquarters in Alexandria. Then last August we issued a request for comments on patenting artificial intelligence inventions. Two months later in October we followed up with a request for comments on patenting artificial intelligence inventions. Two months later in October we followed up with a request for comments on intellectual property considerations for 14 innovation more broadly including specific questions of the AI nexus with copyright law. We've received many, many comments from the United States and internationally and we are now reviewing those comments that we have received and will be issuing the report hopefully in the coming months. But as we go through these exercises, we should be careful. We should be careful not to jump to conclusions. Instead, we obviously need to be deliberate and have a steady hand. As Maria mentioned, we have faced many technological advances over time; increasing automation. This new advance may be just another step along the spectrum. Our current policies may work just fine. On the other hand, they may need to be updated as AI could also present brand new issues which we are exploring now throughout the U.S. Government and here at this conference today.

HARMS / SIGNIFICANCE

1. Lack of AI patents not hurting anyone

AI patents aren’t needed because just being first to the market gives the necessary financial incentive

Dr. Shlomit Yanisky Ravid and Xiaoqiong Liu, written 2017, published in 2018, last revised in 2020. (Ravid - Professor of Law; Yale Law School, Information Society Project (ISP), Fellow; Ono Academic Law School, Israel (OAC), Senior Faculty; Fordham University School of Law, Visiting Professor; The Shalom Comparative Legal Research Center, SCLRC, OAC, Founder and Director. Liu - engineer holding a J.D. Fordham University School of Law; Fordham Intellectual Property Institute, Fellow) Cardozo Law Review, WHEN ARTIFICIAL INTELLIGENCE SYSTEMS PRODUCE INVENTIONS: THE 3A ERA AND AN ALTERNATIVE MODEL FOR PATENT LAW, posted online 13 Mar 2017, published in Cardozo Law Review 2018, last revised 25 Nov 2020 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2931828> (accessed 6 June 2021)

First movers can more easily stay ahead of rivals by continually improving on their inventions. Switching costs can also deter existing customers from buying imitations of their products. First-mover advantages tend to fade over time and the frequency of cost switching often decreases over the years as buyers become more knowledgeable about competing products. Still, research shows that, while the average duration of the monopoly enjoyed by a first mover has declined, the first-mover advantage remains significant. Furthermore, the absolute size of sales per time unit increases for the first mover due to this effective monopoly. Therefore, we suggest that the relevant players within the Multiplayer Model who bring AI inventions to market will take advantage of being first movers instead of relying on an inapplicable and outdated patent regime.

2. Not creative

Computers aren’t capable of creativity under the definition of intellectual property

Brigitte Vezina and Brent Moran 2020. (Vezina - attorney; worked for a decade as a legal officer at World Intellectual Property Organization,  then ran her own consultancy, on copyright; law degree from Univ. of Montreal, master of laws degree from Georgetown Univ. Moran – computer programmer) 10 Aug 2020 Artificial Intelligence and Creativity: Why We’re Against Copyright Protection for AI-Generated Output <https://creativecommons.org/2020/08/10/no-copyright-protection-for-ai-generated-output/> (accessed 8 June 2021)

Common law jurisdictions generally have a low threshold for originality, requiring only a minimal level of creativity or intellectual labor and independent creation for a work to be protectable. The word “originality” in that context refers to the author as being the “origin” of a work, rather than to any creativity standard.  Some other countries, like [Brazil](https://wipolex.wipo.int/en/legislation/details/17474), approach originality from the negative, and state that all works of the (human) mind that do not fall within the list of works that are expressly defined as “unprotected works” can be protected.  Under EU law and case-law, a work is original if it reflects the “author’s own intellectual creation,” i.e. the expression of the author’s personal touch and the result of free and creative choices. In short, both EU and US law establish the need for the work to be the proximate (direct) causal result of human action. This implies that AI, as it is currently understood as intelligence completely implemented via computational means, cannot make free and creative choices on its own and that the concept of creativity is not applicable to machines.

3. No geopolitical threat

China’s central government isn’t directing AI development, and it’s about economic growth, not global hegemony

Prof. Jinghan Zeng 2021. (Professor of China and International Studies in the Department of Politics, Philosophy and Religion at Lancaster University, United Kingdom) “China’s Artificial Intelligence Innovation: A Top-Down National Command Approach?” 23 Jan 2021 <https://onlinelibrary.wiley.com/doi/abs/10.1111/1758-5899.12914> (accessed 9 June 2021)

In this regard, the Chinese approach is summarized as a geopolitically driven national strategy reflecting the ambition of Beijing and Chinese leaders to pursue a China-centred AI order, assuming a concerted national effort to achieve a unified central objective. This article, however, argues that these views are mistaken. It argues that China’s AI strategy is a loose slogan rather than a concrete policy plan. In order to mobilize domestic actors, the slogan is kept deliberately vague and broad to accommodate the interests of domestic stakeholders. Instead of unfolding according to Beijing’s top-level design, China’s AI development is primarily driven by powerful domestic stakeholders with diverse and competing interests. As economic growth is the most important goal of China’s AI plans, the central state has restricted discretion, while local states have primary responsibility for boosting the AI economy in China.

China’s AI policy is a vague political slogan. The real work is being done at the local level with no geopolitical impact

Prof. Jinghan Zeng 2021. (Professor of China and International Studies in the Department of Politics, Philosophy and Religion at Lancaster University, United Kingdom) “China’s Artificial Intelligence Innovation: A Top-Down National Command Approach?” 23 Jan 2021 <https://onlinelibrary.wiley.com/doi/abs/10.1111/1758-5899.12914> (accessed 9 June 2021)

As this article shows, ‘to develop AI’ is a broad and vague political slogan to mobilize Chinese domestic actors. Far from being a specific plan, the State Council’s ‘New Generation AI Development Plan’ is a ‘manifesto about the future’ (Laskai, [2017](https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12914#gpol12914-bib-0041)) or a ‘wish list’ of AI technology that the central state would like to develop with little concrete ideas about how to get it done (Sheehan, [2018](https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12914#gpol12914-bib-0060)). **[END QUOTE**] Its implementation heavily relies on local and subnational actors to interpret the AI slogan and find their own ways to motivate the private sector and accelerate AI activities in their respective jurisdictions. This process often supports local agendas and interests as the mechanism allows a high level of discretion for local actors to decide local AI activities. This slogan mobilization process means that local and subnational actors play an important role in shaping AI politics. In this regard, China’s AI innovation does not simply follow a top-down command approach, which makes it distinctly different from that in the US and Europe. While strategic thinking and national planning mindsets are clearly there backing the Chinese central state’s AI plans, these top-level grand masterplans are not completely unfolded into concrete practices at the local level. [**HE GOES ON LATER TO SAY QUOTE**:] The nature of China’s economic circumstances means that its AI industry is primarily driven by a range of local, subnational and non-state actors who have diverse – and sometimes competing – interests and little diplomatic and geopolitical awareness.[ **END QUOTE**] Their struggle for resources has shaped the development of China’s AI industry. Instead of a top-down command model, the development of China’s AI policies largely follows a bottom-up manner in that existing local AI initiatives successfully won recognition from Beijing and were upgraded to become a national focus. Rather than a concerted national effort to boost the AI industry, the Chinese approach faces the problems of coordination and manipulation. [**AND FINALLY HE CONCLUDES QUOTE**:] Similar to the US and Europe, China’s market forces and entrepreneurs play a key role in boosting the AI industry, and they are pursuing individual commercial interests not the country’s national interests.

China’s central government is so bureaucratic and conflicted that they can’t effectively run an AI policy

Prof. Jinghan Zeng 2021. (Professor of China and International Studies in the Department of Politics, Philosophy and Religion at Lancaster University, United Kingdom) “China’s Artificial Intelligence Innovation: A Top-Down National Command Approach?” 23 Jan 2021 <https://onlinelibrary.wiley.com/doi/abs/10.1111/1758-5899.12914> (accessed 9 June 2021)

It may also be worth mentioning that, even for authoritarian regimes like China’s, coordination and central planning are not as straightforward as many would expect. Even within the central government in Beijing, bureaucratic politics is everywhere. As far as AI is concerned, jurisdiction among the central state’s different departments over China’s AI policy is anything but straightforward. Four central agencies, including the National Development Reform Commission, the Ministry of Science and Technology, the Ministry of Industry and Information Technology and the Cyberspace Administration of China, fought to assert their power in deciding and managing China’s AI policy (Ding, [2018](https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12914#gpol12914-bib-0014)). Different national AI policy papers indicate remarkably interesting conflicts over which agencies have the mandate to command China’s AI policy (Ding, [2018](https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12914#gpol12914-bib-0014)). In other words, central agencies in Beijing are not pursing a single unified goal – let alone the whole national attempt to advance AI in China.

“China AI threat” argument disproves AFF case: If China is a big competitor in AI, they got there by NOT doing IP protection

Jeff Spross 2018 (economics correspondent for THE WEEK) 3 Apr 2018 “Why intellectual property laws aren't worth defending” <https://theweek.com/articles/764074/why-intellectual-property-laws-arent-worth-defending> (accessed 9 June 2021)

As it stands, China's enforcement of IP laws within its borders [is rather lax](https://www.bloomberg.com/news/articles/2018-03-22/what-s-intellectual-property-and-does-china-steal-it-quicktake). And China uses its industrial policy to essentially force foreign companies to share their technological secrets with Chinese companies, [as the price for doing business](https://www.npr.org/2018/03/23/596529839/what-stake-china-has-in-american-intellectual-property) in its massive market.

SOLVENCY

1. Patents not effective: insufficient profit incentive

Patents wouldn’t do much for AI products because it’s not an adequate profit incentive

Dr. Shlomit Yanisky Ravid and Xiaoqiong Liu, written 2017, published in 2018, last revised in 2020. (Ravid - Professor of Law; Yale Law School, Information Society Project (ISP), Fellow; Ono Academic Law School, Israel (OAC), Senior Faculty; Fordham University School of Law, Visiting Professor; The Shalom Comparative Legal Research Center, SCLRC, OAC, Founder and Director. Liu - engineer holding a J.D. Fordham University School of Law; Fordham Intellectual Property Institute, Fellow) Cardozo Law Review, WHEN ARTIFICIAL INTELLIGENCE SYSTEMS PRODUCE INVENTIONS: THE 3A ERA AND AN ALTERNATIVE MODEL FOR PATENT LAW, posted online 13 Mar 2017, published in Cardozo Law Review 2018, last revised 25 Nov 2020 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2931828> (accessed 6 June 2021)

The patent reward in general is questionable. Scholars argue that patent laws fail to reach their goal of maximizing benefit to society. Granting twenty years of exclusive rights to the inventor or the inventor’s transferee may not significantly incentivize inventors. Surveys show that even CEOs in most industries see patent incentives as relatively unimportant. If corporate leaders who are driven by a profit motive do not see the value of patent incentives, then certainly such an incentive is meaningless to the multiple players and cumulative patent models. When determining whether to grant patent rights in uncertain situations, therefore, such as in regards to inventions by AI systems and the multiplayer and cumulative patent models, we should not overemphasize the importance of the patent system compared to other alternatives.

2. Improper allocation of rewards

AI patents are economically inefficient because they can’t allocate financial rewards fairly

Dr. Shlomit Yanisky Ravid and Xiaoqiong Liu, written 2017, published in 2018, last revised in 2020. (Ravid - Professor of Law; Yale Law School, Information Society Project (ISP), Fellow; Ono Academic Law School, Israel (OAC), Senior Faculty; Fordham University School of Law, Visiting Professor; The Shalom Comparative Legal Research Center, SCLRC, OAC, Founder and Director. Liu - engineer holding a J.D. Fordham University School of Law; Fordham Intellectual Property Institute, Fellow) Cardozo Law Review, WHEN ARTIFICIAL INTELLIGENCE SYSTEMS PRODUCE INVENTIONS: THE 3A ERA AND AN ALTERNATIVE MODEL FOR PATENT LAW, posted online 13 Mar 2017, published in Cardozo Law Review 2018, last revised 25 Nov 2020 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2931828> (accessed 6 June 2021)

As a fourth point, patent law fails in the multiplayer and cumulative patent environment characteristic of AI systems. It is not flexible in allocating rewards and is thus economically inefficient. Indeed, patent law only offers four ways to allocate rewards among two parties: 0:0 (both patents invalid), 50:50 (both patents upheld), 100:0 (first patent valid, second invalid) and 0:100 (first patent invalid, second valid).

3. Multiple other incentive failures of AI patents

3 flaws block solvency: 1) distorted incentive to be first; 2) equal treatment of unequal inventions; 3) things would be invented anyway without it

Dr. Shlomit Yanisky Ravid and Xiaoqiong Liu, written 2017, published in 2018, last revised in 2020. (Ravid - Professor of Law; Yale Law School, Information Society Project (ISP), Fellow; Ono Academic Law School, Israel (OAC), Senior Faculty; Fordham University School of Law, Visiting Professor; The Shalom Comparative Legal Research Center, SCLRC, OAC, Founder and Director. Liu - engineer holding a J.D. Fordham University School of Law; Fordham Intellectual Property Institute, Fellow) Cardozo Law Review, WHEN ARTIFICIAL INTELLIGENCE SYSTEMS PRODUCE INVENTIONS: THE 3A ERA AND AN ALTERNATIVE MODEL FOR PATENT LAW, posted online 13 Mar 2017, published in Cardozo Law Review 2018, last revised 25 Nov 2020 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2931828> (accessed 6 June 2021)

What are the flaws in patent incentives that make them irrelevant to AI? First, patent law only rewards the first inventor, while second comers get nothing. The drive to be first—even by an hour or two—can force competing owners of AI systems deep into diminishing returns. This is wasteful. Second, patent law grants exactly the same length of protection for all inventions, regardless of their R&D costs and other economically relevant factors. Although this approach is simple, it grossly over-rewards some inventions and under-rewards others. Third, patents are superfluous for products that would be invented anyway. For instance, conventional software developed rapidly even before courts were willing to grant it patent protection. Patent protection serves a limited purpose.

4. Difficult to enforce

Very difficult to enforce AI patents because of its unpredictable nature

Dr. Shlomit Yanisky Ravid and Xiaoqiong Liu, written 2017, published in 2018, last revised in 2020. (Ravid - Professor of Law; Yale Law School, Information Society Project (ISP), Fellow; Ono Academic Law School, Israel (OAC), Senior Faculty; Fordham University School of Law, Visiting Professor; The Shalom Comparative Legal Research Center, SCLRC, OAC, Founder and Director. Liu - engineer holding a J.D. Fordham University School of Law; Fordham Intellectual Property Institute, Fellow) Cardozo Law Review, WHEN ARTIFICIAL INTELLIGENCE SYSTEMS PRODUCE INVENTIONS: THE 3A ERA AND AN ALTERNATIVE MODEL FOR PATENT LAW, posted online 13 Mar 2017, published in Cardozo Law Review 2018, last revised 25 Nov 2020 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2931828> (accessed 6 June 2021)

Fifth, in practice, patent law would pose difficulties in bringing patent infringement actions against or on behalf of inventions by an AI or against the copying of an AI’s invention. Because of the unpredictable nature of AI, it is very difficult to identify the human that is responsible for the “actions” of an AI system. Sometimes the human involved in the process does not know how an AI system arrives at an invention. In other cases, the AI system can “break” data into electronic nano components and rebuild it in different ways, thus rendering it impossible to establish proof of infringement.

5. Difficult to clarify authorship

Hard to know what is a human creation and what is machine created

Francis Gurry 2020 (Director General of the World Intellectual Property Organization) published written transcript of remarks at COPYRIGHT IN THE AGE OF ARTIFICIAL INTELLIGENCE 5 Feb 2020 <https://www.copyright.gov/events/artificial-intelligence/transcript.pdf> (accessed 7 June 2021)

The biggest challenge as far as I can see -- besides the policy challenge of how we go about doing that -- the biggest challenge is going to be how will we ever know what is a machine creation and what is a human creation? I don't have any answer to this but perhaps those of you who are experts in the area have thought about this and thought about the ways in which you would be able to make that distinction. I'm not sure that people are going to necessarily tell you, or indeed are telling you that this is a machine creation as opposed to a human creation. This, I think, is a real challenge for us.

6. More study needed

Field of AI is still so new that we can’t do IP right until we have time to see how it develops

Brigitte Vezina and Brent Moran 2020. (Vezina - attorney; worked for a decade as a legal officer at World Intellectual Property Organization,  then ran her own consultancy, on copyright; law degree from Univ. of Montreal, master of laws degree from Georgetown Univ. Moran – computer programmer) 10 Aug 2020 Artificial Intelligence and Creativity: Why We’re Against Copyright Protection for AI-Generated Output <https://creativecommons.org/2020/08/10/no-copyright-protection-for-ai-generated-output/> (accessed 8 June 2021)

All said, as much as AI has advanced in the past few years, there exists no clarity, let alone consensus, over how to define the nascent and uncharted field of AI technology. Any attempt at regulation is premature, especially through an already over-taxed copyright system that has been commandeered for purposes that extend well beyond its original intended purposes. AI needs to be properly explored and understood before copyright or any intellectual property issues can be seriously considered. That’s why AI-generated outputs should be in the public domain, at least pending a clearer understanding of this evolving technology.

DISADVANTAGES

1. Impedes technological progress #1: blocks use of earlier inventions

Link: AI patents would impede future technological progress

Dr. Shlomit Yanisky Ravid and Xiaoqiong Liu, written 2017, published in 2018, last revised in 2020. (Ravid - Professor of Law; Yale Law School, Information Society Project (ISP), Fellow; Ono Academic Law School, Israel (OAC), Senior Faculty; Fordham University School of Law, Visiting Professor; The Shalom Comparative Legal Research Center, SCLRC, OAC, Founder and Director. Liu - engineer holding a J.D. Fordham University School of Law; Fordham Intellectual Property Institute, Fellow) Cardozo Law Review, WHEN ARTIFICIAL INTELLIGENCE SYSTEMS PRODUCE INVENTIONS: THE 3A ERA AND AN ALTERNATIVE MODEL FOR PATENT LAW, posted online 13 Mar 2017, published in Cardozo Law Review 2018, last revised 25 Nov 2020 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2931828> (accessed 6 June 2021)

As a fourth point, patent law fails in the multiplayer and cumulative patent environment characteristic of AI systems. It is not flexible in allocating rewards and is thus economically inefficient. Indeed, patent law only offers four ways to allocate rewards among two parties: 0:0 (both patents invalid), 50:50 (both patents upheld), 100:0 (first patent valid, second invalid) and 0:100 (first patent invalid, second valid). Patent law may also impede future technological progress by making it harder for other AI systems to build on earlier inventions.

Impact: Turn the Affirmative case

Whatever the AFF says is the impact of blocking AI development, it gets worse after their Plan is enacted.

2. Impedes technological progress #2: Reduces competition

Link: IPR grants government-enforced monopolies that reduce competition, which reduces innovation

Jeff Spross 2018 (economics correspondent for THE WEEK) 3 Apr 2018 “Why intellectual property laws aren't worth defending” <https://theweek.com/articles/764074/why-intellectual-property-laws-arent-worth-defending> (accessed 9 June 2021)

On the one hand, IP laws are supposed to incentivize innovation by making sure creators are rewarded for their creativity. On the other, all IP rights are government-enforced monopolies: In exchange for inventing something, the inventor is granted a license that says they're the only person allowed to sell it. But competition is supposed to be capitalism's mechanism for spreading innovations, perfecting them, and ultimately making them affordable. Paradoxically, IP laws promote innovation by creating monopolies that threaten competition.

Impact: Again, turn the Affirmative case

Whatever the AFF says is the impact of blocking AI innovation, it gets worse after their Plan is enacted.

3. Hypocrisy and Ridiculous Results

Link: If you think IP protection is a good idea that promotes innovation and violators should be prosecuted, get ready for handcuffs.

**For example, if you own a home computer that might be able to copy digital files or have ever taken a photo that had a Ford car in it, you could be in trouble**

Stephan Kinsella 2010 (attorney in Houston, director of the [Center for the Study of Innovative Freedom](http://c4sif.org/) ) 23 Nov 2010 Ideas Are Free: The Case Against Intellectual Property <https://mises.org/library/ideas-are-free-case-against-intellectual-property> (accessed 9 June 2021) (brackets in original)

Ford Motor Company has attacked Ford enthusiasts, claiming that they hold those rights to any image of a Ford vehicle, even if it is a picture that you took of your own car.

The NFL has prohibited churches from holding Superbowl parties on TV sets larger than 55 inches.

And, of course, there are recent extensions of copyright such as the [Digital Millennium Copyright Act](http://en.wikipedia.org/wiki/Digital_Millennium_Copyright_Act), or DMCA, which criminalizes even the mere possession of technology that can be used to circumvent digital-protection systems.

**END QUOTE. And here’s another one from later in the same article. QUOTE:**

A court has said the University of Southern California is the only one who can use "USC." Sorry, University of South Carolina [laughter].

Impact: Affirmative ballot = hypocrisy

If you vote to expand and enforce a law that you yourself have violated and intend to keep on violating, you have a problem that ought to bother your conscience. If you’ve ever taken a picture that had a Ford car in it, you’re an IP violator. If you’ve ever referred to the Univ. of South Carolina as “USC,” you’ve disrespected Intellectual Property Rights. And even if you’ve never done it, if your home computer is capable of violating the DMCA, you’re a criminal. If you vote Affirmative, you will be voting to punish people for doing exactly what you have done and intend to keep on doing.

A/T “IPR is good because the Founders put it in the Constitution and America prospered” – Bad reasoning.

Stephan Kinsella 2010 (attorney in Houston, director of the [Center for the Study of Innovative Freedom](http://c4sif.org/) ) 23 Nov 2010 Ideas Are Free: The Case Against Intellectual Property <https://mises.org/library/ideas-are-free-case-against-intellectual-property> (accessed 9 June 2021) (brackets in original)

Now the founders may be forgiven for their hubris and assumptions, but not today's econometricians. The evidence is against them, but like the left-liberal do-gooders of Thomas Sowell's [The Vision of the Anointed](http://books.google.ca/books?id=ISTtFtcIkKAC) — the "[Humanitarians with a Guillotine](http://mises.org/daily/2739)" — they persevere in claiming IP law generates net wealth without a shred of proof. Some claim that the success of the United States shows that IP law generates wealth. They forget that correlation is not causation. If they're right, we can also attribute Western prosperity to the income tax, antitrust laws, and war. So I guess we should export these policies to other nations, too. Oh, wait.

4. Injustice outweighs

Injustice of IPR telling someone they can’t do what they want with their own property (like copy an idea with their own paper and ink) outweighs any economic benefit

Prof. Stephan Kinsella 2013 (South Texas College of Law, Houston) Jan 2013 “The Case Against Intellectual Property” <https://www.researchgate.net/publication/278637139_The_Case_Against_Intellectual_Property> (accessed 9 June 2021)

