

The Great Global Intellectual Property Rip-off

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In 1801 President Thomas Jefferson bucked world opinion and took an aggressive, no nonsense approach to piracy. It worked. Five years later he reported to Congress that, "the states on the coast of Barbary seem generally disposed at present to respect our peace and friendship." While the face of piracy has certainly changed in two centuries, global buccaneers are again challenging our economic well being.

Everybody knows that the U.S. is shifting away from traditional manufacturing toward a more knowledge-based economy. This is no accident. Knowledge and invention have always been our economic muscle. By almost every measure, the U.S. remains the most entrepreneurial, technically innovative country in the world.

This new economy has also created a new definition of property. Technical know-how, patents, trademarks, copyrights, and trade secrets have largely replaced the industrial age concepts of plant, equipment, and capital. But these forms of intellectual property are mostly still in their infancy. And, like any child, they need to be nurtured and protected with vigor, discipline and energy.

The case is simple. No country will ever prosper if people are allowed to freely steal the economic engines that drive society. According to the Peruvian economist Hernando De Soto, a great society needs institutions that allow property to be defined, recorded, owned, and exchanged. For the past 200 years, the U.S. has stood firm in this respect, but now serious cracks are starting to appear.

One would think that international law protects the rights of intellectual property owners, even outside the U.S. After all, most nations are members of the World Trade

Organization (WTO) and are required to ratify the Agreement on Trade-Related Aspects of Intellectual Property Rights. The Agreement is supposed to protect all intellectual property rights. Violators are subject to disciplinary actions, including possible trade sanctions.

Yet our own National Intellectual Property Law Enforcement Coordination Council (NIPLECC) identifies almost 50 countries as seriously violating the intellectual property rights of U.S. firms – the most serious include China and India. In other words, our new knowledge-based economy is being stolen.

In China, India, and many other developing nations it is estimated that over 90 percent of all software is, in fact, pirated. In some countries over 60 percent of all pharmaceuticals produced are based upon stolen U.S. patents. In Latin American bazaars, one can buy counterfeit DVDs of U.S. movies while they are still being previewed in Hollywood theaters. Trade groups, such as the Software and Information Industry Association, are up in arms.

Even in my own small R&D firm I've seen our patented instrument designs in unauthorized Eastern European catalogs and unique pharmaceutical delivery system misappropriated by an Asian joint-venture partner. We invent the technology, they receive the benefits.

How much is the U.S. losing? Estimates range up to \$250 billion per year according to recent 2004 Congressional Hearing of the House Government Reform Committee. To put this in perspective, it is more than the total projected cost of the Iraq war, seven times the \$35 billion in insurance claims from the 9/11 attack, and twenty times the forecasted \$11 billion tsunami disaster relief cost.

Actually, it's worse than reported. Much of this stolen intellectual property becomes the technological platforms for other products, which are then sold through out the world, or

even back to the U.S. But most damaging is the huge million person job loss associated with the disappearance of a several-hundred billion dollar per year economy.

The WTO, UN and other global institutions are ridiculously ineffective at policing piracy. The U.S. has not been much better. In 2000 the Clinton administration actually rewarded China with permanent normal trade status. But, at least, we formed a committee to study the problem.

The apparent lack of interest is not surprising. After all we live in a news era when embezzling a couple thousand dollars from a local bank merits the front page, but stealing a couple billion dollars from the U.S. electronics industry isn't even mentioned.

So the next time China and India are extolled as the modern miracles of industrial growth, remember, to a large extent, it was built upon the back of purloined intellectual property.

Let's just be honest and call the piracy of U.S. intellectual property what it really is. If it's not outright thievery, then at least call it foreign aid, an indirect contribution to developing countries courtesy of the U.S. private sector and our unemployed workers. Without question the U.S. has been the most "generous" nation in the world when it comes to giving away our intellectual soul.

But perhaps it's time to stop subsidizing our future global competitors. Perhaps it's time to concentrate on expanding our own knowledge-based economy before it is too late. Perhaps next year on the 200th anniversary of President Jefferson's suppression of the Barbary pirates, we can say again that the global community is "generally disposed" to respect our property rights.

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