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**Original article**

## Justification of intellectual property rights, using game theory approach

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### ABSTRACT

The creation of intellectual rights protection is a challenging task, Since its creation. Protection of the rights and granted the exclusive right to use, Creates the social costs. In other words, Due to lack of access of other people's, to this invention Economic and industrial development is reduced In contrast, The lack of support for inventors Reduce the incentives for people to produce intellectual property. Therefore, the Legislators to support or not support the creation of intellectual rights, Faced by The challenge to equilibrium Between protecting the Private interests and Motivation for the production of intellectual goods and, And protect social benefits of access to intellectual goods. It must be said that intellectual property rights directly effective On innovations, inventions and technology transfer Into the country. In this paper, Different perspective on the necessity of protecting the rights and shall be reviewed, To determine why that is and why these rights should be protected and ,What is the basis for this support.

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## 1. Introduction

The economic development and sustainable development, including concerns for any country, especially in the developing world is. It is noted, however, that no development, and technology transfer does not take place. The fact is, if they do not protect the rights of intellectual creation, foreign companies, the incentive to transfer technology to other countries, they would lose. Protection of intellectual creation has always been a challenging place. Protect the rights, granted the exclusive right to exploit, for the benefit of that is, including motivated professionals, researchers, inventors, academic and research institutions, industry and the owners of the idea, the community to prevent the concealment of thought and technology, to prevent the concealment of thought and technology, accurate release new technologies to avoid duplication of research topics, and a waste of time and investment, facilitate technology transfer, knowledge of the technology development process countries, and the level of awareness of the research activities of competitors, including technology development process (E . Hettinger: 31-52). In contrast, the establishment of such rights, which are some disadvantages, including the inhibition of transcription technology, proprietary technology, the government, research, and reduce incentives for research, and the increasing prices of goods and services, and technology to the monopoly noted (E . Hettinger: 31-52). Research has shown that less developed countries and most developing countries, intellectual and innovative products are not the result of intellectual, industrial countries are consuming (Gene M Grossman and Lai L.C Edwin 2002). Should be noted that, in the context of the need to protect the rights of intellectual creation, different views have been expressed. Some of these views, philosophical and social aspects, and others based economy and market. The views in this paper are discussed, and a review of the historical trends of these ideas, up to date, and insights of game theory, is trying basis and reasons for the creation of intellectual rights protection, is more apparent.

### First topic: rationale creation of intellectual property

In justifying the need for legal protection, various opinions have been expressed. Philosophical insights, Pragmatist, rights granted by the government, the social contract and perspective of game theory, is discussed in detail in this section.

First speech: a philosophical perspective:

Philosophical perspective, the English philosopher's ideas, "John Locke" (1704-1632), "Thomas Hobbes" (1671-1588), German philosopher, "Viham George Frederick Hegel" (1831-1770) is founded.

### Section I: theory-based work (locke's view)

Maybe "John Locke" is the most important theorist of intellectual property rights. Based on opinions "Luck" property right, like all other rights, natural rights arises (Donald Richard, 2004). The philosophy of natural law, God as creator, is considered. In terms of this view, God's creation of the world has awarded jointly to everyone. So, how can an individual be entitled to the exclusive ownership rights to material gain.

"Luck" is certainly an excellent solution that leads us to the concept of private property rights has provided. 'Luck,' argument, to draw down the distinction between communal property, among humans, that they are endowed by God, and the person in possession of the property is determined. Although the earth and all its creatures, is common to all men, yet every man has a personal property, and that means that no one other than the person himself, has any right to it. From this perspective, must be physical work, or something that someone has done it with his hands, forced to learn it properly. So, whatever his situation is, nature has created, changed, and these changes remain in effect, denied his job with it, and what the property himself, or have joined it. Hence, it has made it his property. In other words, a person with a job, a change in the wealth created, and this led to the withdrawal of the property, the property is shared by others (Kenneth Himma, 2005). (John Locke , 1690) 'The interpretation of beliefs "Lukin" is derived. In a sense, we are entitled to a non-specific property objects, they have been working on it, we will win. More precisely, we work, we have combined them, and hence we, our possessions, where objects are available. In other words, we are entitled to a non-specific property objects, they have a job

promotion, can be obtained. Because our work has value that does not exist in the natural world, such as the new value, the work we create. So, what is our property? Hence, we have the right things; they've got a job promotion, provided that no other person before us, there is a claim on them. Opinions "Luck" by "Thomas Hobbes" was followed, who first advocated the theory of social contract was pragmatic (Thomas Hobbes, 1651). The pragmatic theory of social contract, the prevailing theory of the social contract proposed by the "turtle", the challenged. In this approach, the need for state power to enforce our rights, there is nothing natural about a right to exist. This is because, if the authorities want to run right, it would, without imposing their views about the concepts of right and wrong, justice and injustice is not possible. Therefore, the claim that natural law, the first is a contradiction. Another philosophical approach in the field of intellectual creation, by emphasizing "dialectics", the assets, as a sign of a free man, has been established. "Hegel" states: "Ownership of view, which enables individuals, their full human character, and Qualifying free will (George Hegel, 1860)." According to this approach, it is expanded argument that intellectual property should be inalienable.

In fact, "Hegel" debate property completely changed. He never tries to questions such as, how the property is developed, and why humans need, and are looking for a property to respond. "Theory Lukin", very appreciated, and has been the subject of much research. "Etayi Send," serious pro-action theory, takes a critical theory, and discusses the need for more attention to this issue, that is, how social conventions - which, by the politicians, the civil rights advocate - Appearance and inference are we (Itai Sened , 1997: 65). A serious discussion about intellectual property rights is that the inventions of technology, primarily a social innovation and public, we all have a part in it, and hence, not any particular person or company that claims to own it onslaught (Arnold Plant, 1995: 30-51.).

### **Second language: a pragmatic approach**

Cash mentioned, our pragmatic approach, leads. This approach by "Bentham", "Smith", "Mill" and "Clark" is raised. The proposal by economists, is that the creation of intellectual rights, a possible reward, provides for researchers, it is also, in turn, led to the advancement of technology, by creating additional incentives for innovation and investment to develop new ideas to be developed without incentives, and innovation will be reduced (Birgitte Anderson, 2003: 12-19).

The patent system is a good example to understand this topic, which is provided by the school provides. The main concept of this system is that the patent, which allows inventors, inventions claim over cost price. Hence, they allow more profit from their final investment value, are collected. The reason is that R & D and providing an invention to market is a long and expensive process, and it is no guarantee for success (Michael A. Carrier, 2000: 761.). In some cases, when success is achieved, the phenomenon of "free ride" happen, and those who had no investment, it is possible that the original hard copy was obtained, and its value to assign to them. Such measures, other inventors, the activity is open, and thus the invention is reduced.

Various experimental studies have shown that lack of exclusive property rights, the economy is certainly strikes. Also, it is clear that, buying the right to exclusive use, the rate of innovation in industries such as pharmaceuticals and chemicals, principally patent to protect the rights Inventors relies increases (Edwin Mansfield, 1986: 173; Francis Narin et al., 1993: 52 .). "Simon Rose" has shown a direct relationship between patent was upheld, and exclusive archival rights, and a strong statistical relationship between archival rights, and GDP there (Simone A . Rose, 1998-1999: 579). It was observed that, following a dispute cycle (assuming no exclusive rights), the number of applications for patents for technological innovation that has fallen, it would have a negative impact on the economy. On the other hand, the courts of appeals have exclusive rights advocate, the number of patent applications increased, and this has had a positive impact on the economy (Simone A. Rose: 514.). Thus, intellectual property rights, is based on two claims:

- Innovations, will not be effective without incentives. In other words, neither invented nor exploits it, will not take place unless inventors and capitalists, they believed that the benefit is worth the effort and risk capital, would gain.
- The creation of intellectual rights, the cheapest and most effective way to maintain this motivation. Despite much debate on the functioning of patents as innovation incentives, the use and

allocation of resources more effectively (Birgitte Anderson: 12-14.), but economists, lawyers and public officials, as is widely believed that the rights Patents are useful for economic development (Robert Mazzoleni and Richard R.Nelson, 1998: 273 – 284.).

### **Third speech: perspectives rights granted by the government**

Some lawyers believe that the legitimate rights of intellectual creation, administration and law will be sought. In other words, phenomena and effects rights of intellectual creation, part of the common heritage, and belong to the community, and have no owner. In this view, the government on behalf of the community, and the public interest, in order to encourage Innovators, and spread to some of these initiatives, certain types of benefits and privileges, grants.

Adherents to this view, the common practice of states, based on limited and specific concessions, it has been innovative creators 'From this perspective, rather than the nature and basis of intellectual property rights, on how to create and support these rights should reflect the shape and style of intellectual property protection, in recent legislation.

### **Part four: perspectives on social theory**

According to this view, the normal situation, someone else on the rule and not the rule, and all of that natural liberty, this creates an abnormal situation. As a result, their self-interested individuals, who see it, the social contract, as part of the law and its implementation, the community (government) are assigned.

In this context, adherents to this view, the social contract as a result of the acquisition, and it contract as to the origin. "Sterling", in this regard, writes: "The copyright arising from the contract between author and work community. Community provides the context, artists and innovators to grow, but the author also his great work, the community, and in return, gets rewarded (J.A.L Sterling world copyright law: 67; look at that: Mahmood Hekmatnia 2008: pp. 327). "

### **Five -speech rule and prohibit unfair competition possess insidious**

In this speech, the rule prohibiting unfair competition possess a commercial archly, as a foundation to support the work of the Creator's Rights, scrutinizing is investigated.

### **First paragraph: rule possess unfair**

The most important rule, which, through its claims, it is the author's financial rights, proved the rule "unfair possess" is. The rule is that the French law "has no reason to be" called, has its roots in Aristotle's notion of restorative justice (Mirghasem Jafarzadeh: 13-12). Roman jurists, the fighting species identification, and have raised: 1 - ejection what no cause is given, and 2 - Playing without causing conflict (John Glover: 169.). New era, new rules as a source of obligation are recognized. The problem is that, if the rights of intellectual creation be respected, it leads to no use to society, is the originator of the work. It is noteworthy that the use of having an unfair rule, based on the official explaining the nature of intellectual property, the criticisms against the face. Such that, applying this rule, the relationship between the individual and society, is problematic, because location applies this rule, the relations between private individuals are given.

### **Section II: the prohibition of unfair competition**

Can the rights of intellectual creation, citing the rule prohibiting unfair competition, supported. These rights, however, directly under unfair competition, will not be, but by analogy priority, they will also be included. This means that, unfair competition, false name to sell their products personally, but someone else's products referred to his name, and it sells.

**Six words: game theory perspective**

The review and consideration of the rights of intellectual creation, this approach measures, the law raises the group's strategic focuses. In this section, consider a hypothetical model that offers an explanation of this is how the law can impact on people's behavior, and how governments, the state, to provide effective enforcement of this law leads are given. Game theory, a person's hypothesis considers standard. Such wise that they are, in their own interest to act, and the incentives created by intellectual rights is provided, and are aware (Pratij K. Dutta, 1999). Example, in relation to this research to consider. The group intended to analyze a set of pharmaceutical companies, which are located in the closed economy, the larger your market, the goods are ready, invented. Companies in this group are concerned about issues such as production lines for investment, pricing a drug, and the amount of investment in research and development. Determining the success of any company in research and development is uncertain, and depends on research investments, and other companies are developing. Because the developer of the first drug, the most profitable business, interaction and interplay between the two companies is created (for relevant patents). Thus, investment in research and development, as it can play a role in increasing the company's profits, the development of new drugs to play a strategic and logical. Consider two pharmaceutical companies: Company "A", and now "B", depending on the systems to deliver new products to a larger market, act. In addition, profit from investing in research and Development Company "A", influenced by the Investment Company "B", in research and development.

The basic model for corporate behavior, whether or not to invest in research and development is the prisoner's dilemma, in a one-period game. Assuming the system, the pharmaceutical companies that are: Any company that makes investments, or side stops, while the other company, partnership or investment will be more profitable trades. Both companies will benefit in terms of the investment, or to work towards a situation in which either withdrawn or not to invest (James W. Friedman, 1990).

Company B		Figure 1.	
Lack of cooperation (0, 5)	Cooperation (3,3)	Cooperation	Company

Prisoner's dilemma on graphs, "1", is offered, and economic equilibrium for both companies, partnerships or investments in the research and development will be. If the game is a model of the real world, no research and development, due to the high investment cost, should take place, and no management investment situation leads (Richard A . Posener, 2002). Figure "1", and related topics, offers disadvantage.

Favorable situation, the scenario diagram "2" is presented, the state is concerned that, in its corporate incentive to invest in research and development, and the resulting profits due to monopoly provided by the system patenting will prosperity. In this case, both parties intend, to invest in research and development.

Company B		Figure 2	
Lack of cooperation (2,-6)	Cooperation (10,10)	Cooperation	Company A
(2,6-)	(1,1)	Lack of cooperation	

In this game, if both firms decide to invest or not to pull out, because resources on non-trusted system will extend will be in a worse situation.

Company "A" if you do not invest or withdraw, suffered a worse situation, the result is waste of its resources. (6, 2 - ) and (b) to make investments in research and development, will certainly introduce new innovations to the market will be, will be more profitable. If both firms invest, and to contribute, both due to innovation of the highest interest (10, 10) will benefit. From this analysis, it is clear that investment in development, the dominant strategy for both firms. In other words, a company without taking other action, venture or partnership, it would be more profitable. Here, we should note that, in the

pharmaceutical industry spending on research, proprietary waste is not for losers, but the information obtained can be used in future projects (James W . Friedman, 1990). From the above analysis it is clear that incentives be created by patents, has an important role in the player. It is argued that the creation of intellectual rights, not only through the definition of rights, but also to effectively enforce this law, providing stronger patent rights encourages innovation.

**Seven words: the perspective of game theory**

Analyzing the strategic behavior of parties, not only to understand their dominant strategy, and strengthening laws to protect the rights of business helps, but also lead to a better understanding of the behavior of each of the players are. "Susan Sol", the his Interestingly explains how power in international politics, increasingly, in the person of interest is being served up by the authorities (Susan K, 2003).

To illustrate this, imagine that, two companies in two different countries, with power and capacity to conduct trades and research and development, there are differences: Company "A", the country«X», where transaction prices higher and wider and has a larger capacity for innovation (ie innovation manufacturer), and the company «B», in «y», a smaller share of innovative products, and to will produce a lower price, (ie, consumer innovation), this category mainly as a substitute relationship between north and south, are mentioned (Chin , Judith and Gene M. Grossman, 1990: 90 – 107). As a result, some have concluded that the North (producer innovation), anticipated need for stronger protection of rights of intellectual creation, and south (consumer innovations) for the benefit of local consumer to the manufacturer's expense, to safeguard the rights of intellectual creations, shall jumps. Because the first drug developer, most profitable (because of patents and the sale of drugs, not only in the country of origin, but also in other countries, the market for those drugs) makes.

Prisoner's dilemma on graphs "3" is presented, and an appropriate balance in the absence of agreement, effective international patents or intellectual creation of a global legal regime for both investment company, or will recede, and This is because the cost of research and development, in part because the requirements are very high, but ancillary costs, including the cost of duplication is low.

Company B		Figure 3	
Lack of cooperation	Cooperation	Cooperation	Company A
(0,5)	(3,3)	Lack of cooperation	
(1,1)	(5,0)		

Can be argued that the dominant strategy is provided in Exhibit "3" for companies in the current economic world, it makes a big claim, because to achieve it, the international standards for the protection of the rights Creations intellectual (Susan K: 1), and general guidelines of many others, that the international competitiveness of the affected are to be considered.

Incentives for investment and development in the world economy in a free enterprise system, and will encourage a company should be able to return significant capital that would be worth the investment to obtain. Approach that trips Agreement, title to expand and require high levels of support, victory, for the players who, in knowledge-based industries are interacting. Because, according to the Treaty of trips, several players to work together, to exercise their powers and effectively advance freedom of sovereign states, and the company is limited, and opportunities for those companies those which support multiple serious instruments of World Intellectual Property succeeded increase (Susan K: 9). Since the establishment of incentives for new inventions can not, in developing countries, to encourage the implementation of trips, because these countries are often consumer rights. Many researchers have stated that, in developing countries, the adoption of the Treaty of trips, as the negotiations have been under pressure. If this is true, trips rights treaties as sources of international law can be questioned, and high transaction costs (labor bargaining to reach an agreement), to help reach a consensus, trips will lead to the complete demise (Susan K . Sell: 9). Appears, trips are a perfect example of export relationships. Exports in international trade relations, increasingly (Alan O. Sykes, 2004), the agreement will expand opportunities. The trips, developing countries, the creation of intellectual rights are more consumers to its



manufacturer, have been encouraged to strengthen their intellectual property laws of creation, that is, capable of considerable interest to holders foreign intellectual property rights, the Organization for Economic Cooperation and allowing greater access for developing countries to export to the markets of developed countries (for exports of agricultural products and textiles) is reached (Susan K: 9). As a result, trips incentives for investment, and market access for countries in the developing provides. Trips, given Creations is an efficient legal regime, devised in a good incentive for inventors around the world, the law provides. Prisoner's dilemma on graphs "4" is presented. In this situation, interaction is created, and the economic balance of companies, the partnership or investment in research and development will be.

Company B		Figure 4	
Lack of cooperation (2,-6)	Cooperation (10,10)	Cooperation	Company A
(1,1)	(2,6-)	Lack of cooperation	

Some studies have raised the question, whether a country with limited capacity for innovation, the development of the trips, to foreign inventors would benefit? Some lawyers, including "Kalman" income transfer implicit in trips estimates, and indicates that patent harmonization, not only in Japan but also in the United States of America, Canada and Great Britain, with The cost benefit of developing countries. Although his calculations, the benefit of the country, resulting in a global rise in creative activities, have earned has not (Philip Mc Calman, 2002: 1-14.). In others, they conclude that further harmonization, of the distribution is to generate, and the incorporation of such provisions in a treaty, such as trips, which has an effective monopoly agreements, global incentives for R & D strengthened, and the rapid innovation in all countries are both producers and consumers, innovation, encourages (Gene M.Grissman and Edwin L.C Lai , 2002: 28.). Hence, "Msk" based on evidence of increasing creative activities in poor countries and middle-income countries, such as Brazil and China has provided (Keith E . Maskus , Parallel Imports, 2000: 1269-1284) . "Grossman," too, has expressed that strengthen the protection of intellectual creations in the south, global welfare increases (Judith Chin and Gene M. Grossman, 1990: 100.). Such a change in policy, there are two positive external consequences. First, more profitable monopoly, which provides for the North inventors, the total revenue involved, and second, the incentives for research and development, increasing innovation is associated with increases in both countries. Law "Baij Will" (Bagh – Dold or Patent and Trademark Law Amendments Act , 35 U . S . C. 200.) is another example, can you clarify how dominant strategy rule-base can be considered. If you consider this, the principal inventor of a university or a government laboratory, and research has been invested by the government. Given that, before the law, but the Baij (1980), University of the invention, without any royalties, and hence, most research had commercial application, and was in the public domain. In other words, universities and government laboratories, to reach an economic equilibrium (Rebecca S.Eisenberg , 1996: 1663), but not to participate in projects of economic applications. Should be noted that, the law creating the exclusive right to use, to universities and other research institutions, they do research on projects that commercial applications are encouraged. According to the statement, rating copyrights, inventions by providing incentives to reinforce. If the invention, in any case continues to have patents that encourages innovation, no need to backup. In this case, the " Baij Will" does not mean anything (William M.Landes and Richard A.Posener, 2003). Although the discussion which led to the development and commercialization of patent inventions, but obviously, it is unlikely that a company committed to developing initiatives geared at a university unless, private property rights have. If universities were patent, they were able to grant the license, and the possibility of investment firms, is necessary. "Old leaves", which represents a change in policy, a windfall in the form of patents for inventions, most of the financial costs, has been funded by federal taxpayers, the university provides them to change the target of their research, the application leads to a pure state (Rebecca S . Eisenberg: 1663.). In addition, "Arno" and "Davis" show, giving the fruit of patents applied research, funds to support research, Pure provides (Peter S . Arno and Michael H . Davis: 631-688.) Also, "Mazilini" and "Nelson", which expresses the law, "Will Baij " dramatically, to a range of U.S. universities, their results are potentially of commercial applications have been allocated to the , has increased(Roberto Mazzoleni and Richard R.Nelson: 273-284).

## Conclusions

As a result of this investigation, it was determined that the rights of intellectual creation, the result have been a creative person, and therefore, must be protected. Several theories about why supporting the rights of expression and its documentation for any reason, are expressed in the form of detailed, were studied. But the reality is, no matter what the theory, to examine, if they do not support this law, the rate of innovation and invention, a noticeably reduced, but also the protection of these rights, the challenge of lack of access to These inventions, and innovations faces. Different legal systems, to solve this problem, the protection of these rights, support for a limited period, and the work of the Creator through the private interest and public interest in the use of these rights have gathered. As in this study were identified, principally the lack of support for these rights, reduce innovation and increase the result of duplication of thinking, and creativity of other people. In this case, the principle of rational choice, lack of investment in the production of these rights, and it is copied. In contrast, the protection of these rights, individual rational choice, lack of investment in the production of this law, and therefore it will expand and prosper. The issue of expanding the technological gap between developing countries and developed countries, the protection of these rights, or the lack of support they. Can result in the transmission or non-transmission technology to those countries, because the world of technology, unwilling to transfer technology to countries that do not protect the rights of those who do not. It must be said that, today, the need to protect the rights of intellectual creation, it has been accepted, and the question of the extent and duration of the protection of those rights are.

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