

Is Intellectual Property the Root of all Evil?

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Three Key Points on Intellectual Property

- 1) It is policy – technology doesn't determine income distribution. Policy on technology determines distribution.
- 2) There is real money at stake – possibly more than \$1 trillion a year (5 percent of GDP)
- 3) Current policy has redistributed large amounts of income upward (can you say “Bill Gates?”)

Intellectual Property Is Policy to Promote Innovation

- 1) Constitution – explicit purpose to promote useful arts and science. A power of Congress, like the power to collect taxes, it is not a right.
- 2) Patent and copyright monopolies are one mechanism, there are alternatives.

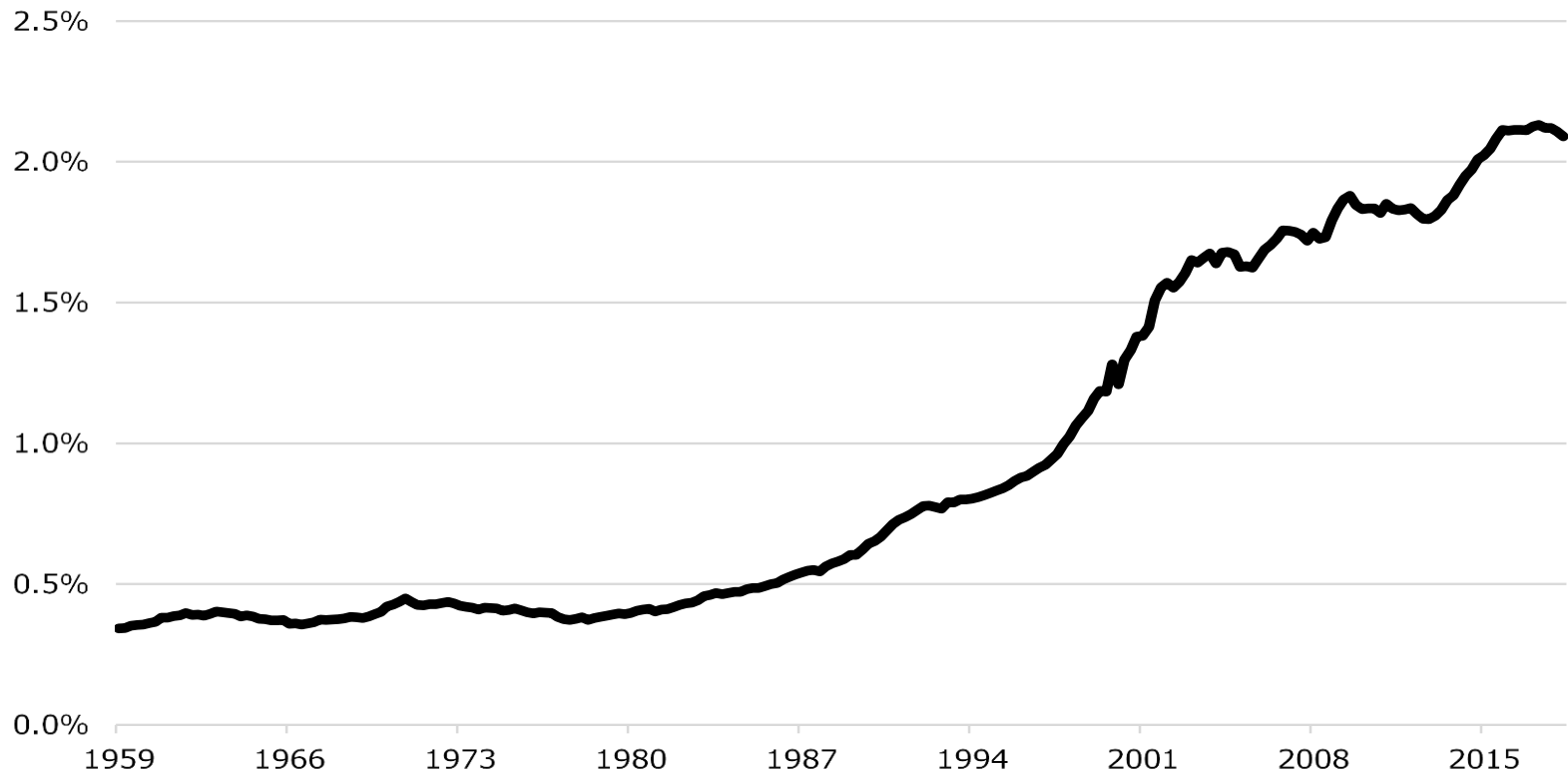
Issues on IP

- 1) Length of Monopolies
- 2) Scope
 - i) patents extended to life forms, business methods, and software
 - ii) Apple –touch and feel of mouse
 - iii) Amazon – one-click shopping
- 3) Enforcement – punitive damages -- DMCA
- 4) Trade policy – imposing IP on other countries (larger surplus on IP means larger trade deficit on everything else)

The Impact of 1980 Bayh-Dole Act on Prescription Drug Spending

FIGURE 1

Spending on Prescription Drugs as a Percent of GDP, 1959–2018



Source and notes: Bureau of Economic Analysis (2018).

Alternative Mechanisms for Financing Innovation and Creative Work

- 1) Direct Public Funding, e.g. N.I.H.
- 2) Patent Buyout Prize Funds (prescription drugs)
- 3) R&D tax credits – already exists as marginal credit
- 4) Tax credit for creative work – modeled on charitable deduction.

Quick Digression: IP and the Budget Deficit

- 1) Granting patent and copyright monopolies are one way the government pays for services.
- 2) The rents on these monopolies are equivalent to excise taxes.
- 3) Honest deficit hawks (an oxymoron?) should include these rents in their scorekeeping.

Money at Stake with Patent and Copyright Monopolies

TABLE 1

Total Savings from Patent/Copyright Alternatives

(billions of 2018 dollars)

| | Current Spending | Potential Savings |
|--|------------------|-------------------|
| Prescription drugs (line 131) | \$426.6 | \$315.5 |
| Other medical products (line 119) | \$78.1 | \$39.1 |
| Computers and other information processing equipment (line 46) | \$139.1 | \$83.5 |
| Recorded music and video material (line 42) | \$16.6 | \$13.3 |
| Educational Books (line 67) | \$11.4 | \$8.0 |
| Recreational books (part of 90) (line 58) | \$21.9 | \$11.0 |
| Newspapers and periodicals (line 141) | \$50.0 | \$40.0 |
| Motion Pictures (line 210) | \$17.6 | \$14.1 |
| Cable and satellite television and radio services (line 215) | \$97.1 | \$77.7 |
| Computers and peripheral equipment (line) | \$121.2 | \$72.7 |
| Communications equipment (line 5) | \$133.7 | \$80.2 |
| Non-medical instruments (line 9) | \$42.4 | \$25.4 |
| Medical Equipment and Instruments (Line 6) | \$94.0 | \$47.0 |
| Total | | \$827.4 |

Source and notes: Bureau of Economic Analysis (2018), NIPA Tables 2.4.5U, 5.5.5U and author's calculations, see text.

Who Gets the Money?

TABLE 2
The World's Billionaires

(billions of 2017 dollars)

| US Rank | World Rank | Name | Net Worth | Age | Source | IP Dependent? |
|---------|------------|---------------------|-----------|-----|------------------------|---------------|
| 1 | 1 | Jeff Bezos | \$112 B | 54 | Amazon | ? |
| 2 | 2 | Bill Gates | \$90 B | 62 | Microsoft | Y |
| 3 | 3 | Warren Buffett | \$84 B | 88 | Berkshire Hathaway | N |
| 4 | 5 | Mark Zuckerberg | \$71 B | 34 | Facebook | Y |
| 5 | 8 | Charles Koch | \$60 B | 82 | Koch Industries | N |
| 5 | 8 | David Koch | \$60 B | 78 | Koch Industries | N |
| 7 | 10 | Larry Ellison | \$58.5 B | 74 | software | Y |
| 8 | 11 | Michael Bloomberg | \$50 B | 76 | Bloomberg LP | Y |
| 9 | 12 | Larry Page | \$48.8 B | 45 | Google | ? |
| 10 | 13 | Sergey Brin | \$47.5 B | 45 | Google | ? |
| 11 | 14 | Jim Walton | \$46.4 B | 70 | Walmart | N |
| 12 | 15 | S. Robson Walton | \$46.2 B | 73 | Walmart | N |
| 13 | 16 | Alice Walton | \$46 B | 68 | Walmart | N |
| 14 | 21 | Sheldon Adelson | \$38.5 B | 85 | casinos | N |
| 15 | 22 | Steve Ballmer | \$38.4 B | 62 | Microsoft | Y |
| 16 | 28 | Phil Knight | \$29.6 B | 80 | Nike | N |
| 17 | 34 | Jacqueline Mars | \$23.6 B | 78 | candy, pet food | N |
| 17 | 34 | John Mars | \$23.6 B | 82 | candy, pet food | N |
| 19 | 39 | Michael Dell | \$22.7 B | 53 | Dell computers | Y |
| 20 | 44 | Paul Allen | \$21.7 B | 65 | Microsoft, investments | Y |
| 21 | 47 | Thomas Peterffy | \$20.3 B | 73 | discount brokerage | N |
| 22 | 48 | Len Blavatnik | \$20.2 B | 61 | diversified | N |
| 23 | 52 | James Simons | \$20 B | 80 | hedge funds | N |
| 24 | 54 | Elon Musk | \$19.9 B | 47 | Tesla Motors | N |
| 25 | 58 | Laurene Powell Jobs | \$18.8 B | 54 | Apple, Disney | Y |
| 26 | 67 | Ray Dalio | \$17.7 B | 69 | hedge funds | N |
| 27 | 73 | Carl Icahn | \$16.8 B | 82 | investments | N |
| 28 | 80 | Donald Bren | \$16.3 B | 86 | real estate | N |
| 29 | 83 | Abigail Johnson | \$15.9 B | 56 | money management | N |
| 30 | 83 | Lukas Walton | \$15.9 B | 31 | Walmart | N |
| 31 | 94 | Rupert Murdoch | \$15 B | 87 | newspapers, TV network | Y |
| 32 | 100 | Harold Hamm | \$14.1 B | 72 | oil & gas | N |
| 33 | 102 | Steve Cohen | \$14 B | 62 | hedge funds | N |
| 33 | 102 | Dustin Moskovitz | \$14 B | 34 | Facebook | Y |

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|---------|------------|----------------------|-----------|-----|-------------------------|---------------|
| 35 | 106 | Charles Ergen | \$13.4 B | 65 | satellite TV | ? |
| 35 | 106 | Eric Schmidt | \$13.4 B | 63 | Google | Y |
| 37 | 108 | Philip Anschutz | \$13 B | 78 | investments | N |
| 37 | 108 | Jim Kennedy | \$13 B | 70 | media | Y |
| 37 | 108 | Blair Parry-Okeden | \$13 B | 68 | media | Y |
| 40 | 113 | Leonard Lauder | \$12.9 B | 81 | Estee Lauder | N |
| 41 | 117 | Stephen Schwarzman | \$12.6 B | 71 | investments | N |
| 42 | 121 | Donald Newhouse | \$12.3 B | 89 | media | Y |
| 43 | 132 | Andrew Beal | \$11.6 B | 65 | banks, real estate | N |
| 44 | 134 | John Menard, Jr. | \$11.5 B | 78 | home improvement stores | N |
| 45 | 138 | David Tepper | \$11 B | 60 | hedge funds | N |
| 46 | 145 | Pierre Omidyar | \$10.5 B | 51 | eBay | N |
| 47 | 152 | Ronald Perelman | \$9.8 B | 75 | leveraged buyouts | N |
| 48 | 154 | Micky Arison | \$9.7 B | 69 | Carnival Cruises | N |
| 49 | 158 | Thomas Frist, Jr. | \$9.6 B | 80 | health care | N |
| 50 | 162 | Charles Schwab | \$9.4 B | 81 | discount brokerage | N |
| 51 | 164 | Herbert Kohler, Jr. | \$9.3 B | 79 | plumbing fixtures | N |
| 52 | 170 | Jan Koum | \$9.1 B | 42 | WhatsApp | Y |
| 53 | 172 | James Goodnight | \$9 B | 75 | software | Y |
| 53 | 172 | Ken Griffin | \$9 B | 49 | hedge funds | N |
| 55 | 178 | James Chambers | \$8.7 B | 61 | media | Y |
| 55 | 178 | Katharine Rayner | \$8.7 B | 73 | media | Y |
| 55 | 178 | Margaretta Taylor | \$8.7 B | 76 | media | Y |
| 58 | 181 | Gordon Moore | \$8.5 B | 89 | Intel | Y |
| 59 | 183 | Stanley Kroenke | \$8.3 B | 71 | sports, real estate | N |
| 60 | 186 | John Malone | \$8.1 B | 77 | cable television | Y |
| 61 | 190 | Carl Cook | \$8 B | 56 | medical devices | Y |
| 61 | 190 | David Geffen | \$8 B | 75 | movies, record labels | Y |
| 61 | 190 | George Soros | \$8 B | 88 | hedge funds | N |
| 61 | 196 | Edward Johnson, III. | \$7.9 B | 88 | money management | N |
| 65 | 198 | David Duffield | \$7.8 B | 77 | business software | Y |
| 65 | 198 | George Kaiser | \$7.8 B | 76 | oil & gas, banking | N |
| 65 | 198 | Patrick Soon-Shiong | \$7.8 B | 66 | pharmaceuticals | Y |

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(billions of 2017 dollars)

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|---------|------------|---------------------------|-----------|-----|-----------------------|---------------|
| 68 | 205 | Stephen Ross | \$7.6 B | 78 | real estate | N |
| 69 | 207 | Pauline MacMillan Keinath | \$7.4 B | 84 | Cargill | N |
| 70 | 211 | Eli Broad | \$7.3 B | 85 | investments | N |
| 70 | 211 | Sun Hongbin | \$7.3 B | 55 | real estate | N |
| 70 | 211 | Christy Walton | \$7.3 B | 69 | Walmart | N |
| 73 | 217 | Shahid Khan | \$7.2 B | 68 | auto parts | N |
| 74 | 222 | John Doerr | \$7.1 B | 67 | venture capital | N |
| 75 | 242 | David Green | \$6.8 B | 76 | retail | N |
| 75 | 242 | Hank & Doug Meijer | \$6.8 B | - | supermarkets | N |
| 76 | 251 | Brian Acton | \$6.6 B | 46 | WhatsApp | Y |
| 76 | 251 | Ann Walton Kroenke | \$6.6 B | 69 | Walmart | N |
| 78 | 261 | Leon Black | \$6.5 B | 67 | private equity | N |
| 78 | 261 | John Paulson | \$6.5 B | 62 | hedge funds | N |
| 80 | 265 | David Shaw | \$6.4 B | 67 | hedge funds | N |
| 80 | 265 | John A. Sobrato | \$6.4 B | 79 | real estate | N |
| 82 | 274 | Daniel Gilbert | \$6.3 B | 56 | Quicken Loans | N |
| 83 | 281 | Richard Kinder | \$6.2 B | 73 | pipelines | N |
| 83 | 281 | Robert Kraft | \$6.2 B | 77 | New England Patriots | N |
| 83 | 281 | Ralph Lauren | \$6.2 B | 78 | Ralph Lauren | N |
| 86 | 287 | Les Wexner | \$6.1 B | 80 | retail | N |
| 87 | 289 | Whitney MacMillan | \$6 B | 88 | Cargill | N |
| 88 | 296 | Marijke Mars | \$5.9 B | 54 | candy, pet food | N |
| 88 | 296 | Pamela Mars | \$5.9 B | 58 | candy, pet food | N |
| 88 | 296 | Valerie Mars | \$5.9 B | 59 | candy, pet food | N |
| 88 | 296 | Victoria Mars | \$5.9 B | 61 | candy, pet food | N |
| 92 | 305 | Nancy Walton Laurie | \$5.8 B | 67 | Walmart | N |
| 92 | 305 | Tom & Judy Love | \$5.8 B | 81 | retail & gas stations | N |
| 92 | 305 | Robert Rowling | \$5.8 B | 64 | investments | N |
| 92 | 305 | Dennis Washington | \$5.8 B | 84 | construction, mining | N |
| 96 | 315 | David Sun | \$5.7 B | 66 | computer hardware | Y |
| 96 | 315 | John Tu | \$5.7 B | 77 | computer hardware | Y |
| 98 | 321 | Jen-Hsun Huang | \$5.6 B | 55 | semiconductors | ? |
| 98 | 321 | Charles Johnson | \$5.6 B | 85 | money management | N |
| 98 | 321 | Jerry Jones | \$5.6 B | 75 | Dallas Cowboys | N |
| 98 | 321 | Richard LeFrak | \$5.6 B | 73 | real estate | N |
| 98 | 321 | Steven Rales | \$5.6 B | 67 | manufacturing | N |

Source and notes: Dolan and Kroll (2018).

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Share of Forbes Top 100 Wealth Due to IP Monopolies

TABLE 3

Intellectual Property Based Wealth as a Share of Forbes 400 Wealth

(billions of 2017 dollars)

| | 1 | 2 | 3 | 4 |
|---------|-----------|---------|---------|---------|
| | All | Pure IP | Mixed | |
| Total | \$1,813.8 | \$490.6 | \$298.9 | \$789.5 |
| Percent | 100.0% | 27.0% | 16.5% | 43.5% |

Source and notes: Author's calculations, see text.

Conclusion: IP Policy Must be Part of an Inequality Agenda

- 1) Intellectual property rules both lead to static inefficiencies and increased inequality.
- 2) We can make IP shorter and weaker.
- 3) We can promote alternatives to IP for financing research and creative work.
- 4) Shorter and weaker protections could radically reduce the demand for highly skilled individuals.
- 5) Technology does not threaten to impoverish workers, our policy on technology threatens to impoverish workers.

