Thoughts on Intellectual Property Rights: the "unorthodox" approach

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Abstract
Most experts hold the thesis that in the world there is a massive violation of Property Rights (property rights) in the field of intellectual property (specifically in certain parts of the industrial property such as patents and utility models). This idea has influenced the creation of national and international legislation which, in the opinion of a dissident doctrine, has generated -unnecessary- levels of overprotection. In an abstract and theoretical sense, this doctrine criticizes the dominant view. It relies on arguments such as the lack of need to regulate industrial property to the extent that an effective process of rivalry (economic competition) prevails. This through voluntary social cooperation that would make it inappropriate to establish the same protection that physical property receives. This assumption is valid in terms of the economic power of exclusion and recognition of ownership (subjective rights) despite the prevalence of theses such as the one that defends the need to introduce incentives (patrimonial retribution) for the generation of ideas and continuous improvements in innovation and development. Furthermore, this expressed through patents and utility models and their commercial identification (trademarks). Therefore, based on the above, and based on specific legal-economic considerations, this contribution choices a descriptive and argumentative methodology to present some thoughts on an unorthodox thesis: Why does a particular part of intellectual property produce a violation of Property Rights -understood as a passively universal obligation-?

Keywords: *Intellectual property, industrial property, property rights, copyright, patents*

Reflexiones sobre los derechos de propiedad intelectual: el enfoque "poco ortodoxo"

Resumen
La mayoría de los expertos sostiene la tesis de que en el mundo existe una vulneración masiva de los *Property Rights* (derechos de propiedad) en el ámbito de la propiedad intelectual (específicamente en ciertas partes del derecho de autor y la propiedad industrial (marcas, patentes y modelos de utilidad). Esta idea ha incidido en la creación de legislación nacional e internacional que, en opinión de cierta doctrina disidente, ha generado niveles -innecesarios- de sobreprotección. En un sentido abstracto y teórico, esta doctrina critica la visión dominante y se

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ampara en argumentos como la falta de necesidad de regular la propiedad intelectual en la medida que prevalezca un efectivo proceso de rivalidad (competencia económica). Esto a través de la cooperación social -voluntaria- que tornaría inadecuada el hecho de establecer la misma protección que recibe la propiedad física en términos de facultad económica de exclusión y reconocimiento de titularidades (derechos subjetivos) a pesar de la prevalencia de tesis como la que defiende la necesidad de introducir incentivos (retribución patrimonial) para autores y la generación de ideas y continuas mejoras en innovación y desarrollo expresadas a través de patentes y modelos de utilidad y su identificación comercial (marcas). Por lo tanto, a partir de lo expuesto, y fundamentándose en ciertas consideraciones jurídico-económicas, este aporte recurre a una metodología descriptiva y argumentativa para presentar una reflexión general sobre una tesis también disidente: ¿Por qué la propiedad intelectual podría producir una vulneración de los *Property Rights* -entendidos como una *obligación de carácter pasivamente universal-?*

Palabras clave: *Propiedad intelectual, propiedad industrial, derechos a la propiedad, derechos de autor, patentes*

Reflexões sobre direitos de propriedade intelectual: a abordagem "heterodoxa"

Resumo

A maioria dos especialistas sustenta a tese de que no mundo existe uma violação massiva dos Direitos de Propriedade (direitos de propriedade) no campo da propriedade intelectual (especificamente em certas partes dos direitos autorais e propriedade industrial (marcas, patentes e modelos de utilidade). Essa ideia influenciou a criação de legislações nacionais e internacionais que, na opinião de uma certa doutrina dissidente, geraram níveis -desnecessários- de superproteção. Em um sentido abstrato e teórico, essa doutrina critica os dominantes e apóia-se em argumentos como a falta de necessidade de regular a propriedade intelectual na medida em que prevaleça um efetivo processo de rivalidade (competição econômica) .Isto por meio da cooperação social -voluntária- que tornaria inapropriado estabelecer a mesma proteção que recebe propriedade física em termos de poder econômico de exclusão e reconhecimento de propriedade (direitos subjetivos), apesar o predomínio de teses como a que defende a necessidade de introdução de incentivos (retribuição patrimonial) aos autores e a geração de ideias e melhorias contínuas em inovação e desenvolvimento expressas através de patentes e modelos de utilidade e sua identificação comercial (marcas). Portanto, com base no exposto, e com base em algumas considerações jurídico-econômicas, esta contribuição recorre a uma metodologia descritiva e argumentativa para apresentar uma reflexão geral sobre uma tese dissidente: Por que poderia a propriedade intelectual infringir Direitos de propriedade -entendidos como uma obrigação passivamente universal-?

Palavras-chave: *propriedade intelectual, propriedade industrial, direitos de propriedade, direitos autorais, patentes*

Introduction

Within our society, intellectual property right (in this document mostly understood and summarized as copyrights and industrial property) constitutes highly protected legal relationships by the Law, as there is a close link between the owner and the property that is owned.[2] More protected by the legal system, since this constitutes the link between the owner of intellectual property (e.g. patent law) and the good, he owns.

The departure thesis states that intellectual property generates essential incentives that encourage investment and the constant creation of goods and services, thus motivating the creation of institutions in the field of Law, which empowers the owner to make decisions regarding the good or service resulting from the application of the intellect (Becerra, 2017; Holgersson & Aaboenb, 2019).

In this way, the well-known Intellectual Property Rights (IPR) and are born, which grant the owner of a patent or utility model the right to use, the benefits of having invested in the economic good and maintaining it, as well as the right to exclude third parties from its ownership. Also, Intellectual Property Rights give the owner the freedom to transfer these rights to others.

In terms of a more traditional legal property perspective, Roman Law, it can be made particular reference to these elements with the names of *usus*, which is what we currently have known as the right of use; *abusus*, the right to change the form of a good, its appearance or simply destroy it, but also the right to alienate, cede or encumber the good and finally the *fructus* or the right to receive the fruits (Segal & Whinston, 2012).

Then Intellectual Property Rights and Industrial Property protect the creator of the good or service from a possible deprivation of the possession and use of his creation. In this context, we can understand intellectual (copyright) and industrial property (patent law) as the set of both moral and economic rights, a product of the creations of the human mind (Bogers, Chesbrough & Moedas, 2018; World Intellectual Property Organization [WIPO], 2018).

Why does the Law seek to protect IPR and IP? Despite the various opinions and juxtaposed theories on this type of protection, without a doubt, the Law seeks to create an enabling environment through disincentives that constitute a strong motivation for invention and creation (Yu, 2017). Income generation is one of the most critical factors for the creator.

However, the purpose of the Law is not always fulfilled (Musa, 2018). The Law intends to make protection effective through rules and regulations governing the behaviour of society, whose positive or negative response will depend on the will of its members. Undoubtedly, low levels of open spaces for the infringement of IPR. In many places, one sees advertisements mentioning that piracy is theft. Nevertheless, piracy, unlike theft, does not deprive a holder of the use and enjoyment of his or her property. Piracy also allows people who for some reason, cannot access the original material to obtain the desired good or service at a price according to their economic capacities. Considering this, would it be correct to say that piracy violates IPR?

Therefore, the main objective of this document is to discuss whether piracy is a violation of IPR. In order to achieve this central objective, we will be assisted by the economic analysis of the law and descriptive and argumentative methodology.

This analysis can be taken as a form of descriptive and argumentative approach that considers the influence of the legal system, or the legal framework in the functioning of the economic system (Coase, 1996), or as "a scientific discipline derived from the economic science whose object is to analyze the situations of law, helped by the methods and economic conceptual frameworks" (Pérez Gómez, 2007).

Also, for better understanding these thoughts and discussion, we will divide this document into three crucial points:

1) Aspects to be considered for the existence of a violation of intellectual property rights and industrial property.
2) Analyzing if these aspects apply to intellectual property rights and industrial property.
3) Describing some effects that piracy generates to intellectual property rights and industrial property.

[2] The field of intellectual property is not restricted to patents, copyrights and trademarks (each with different objectives and scope of application). However, in line with the literature survey carried out, which we can qualify as unorthodox, this contribution will focus on describing and arguing - primarily - around these areas.

Development

Violation of Intellectual Property (IP) Rights and Industrial Property

Since intellectual property rights represent a comprehensive concept, it encompasses several types of rights. Each of these rights arises from intellectual creativity, or some cause directly or indirectly related to ideas. The rights that make up intellectual property rights are:

a) Copyright and related rights

- Including the right (or rights) of authorship, better known as copyright, which translates literally as the right to make copies, gives the authors of unpublished creations the sole and exclusive right to reproduce, prepare derivative works, and present or exhibit a work publicly.

b) Industrial property

- The patent, which is the Property light on inventions, which only seeks to prevent third parties from using the patented invention without the author's consent.
- The trademark, represented by a word, symbol, design or phrase used to identify a economic good and distinguish this economic good from others. The simplest example is the design and the trademark: 'Gucci' which appears on the clothes that the mentioned company produces and distinguishes it from its competitors such as 'Supreme' (Kinsella, 2001a).

Despite all these rights, intellectual property rights are prone to infringement. The fact that IPR is an intangible good put it in a very different category than what is generally associated with private property. Because it is challenging, for example, to guarantee the owner the complete exclusion of third parties from his property, which would make it difficult to grant and guarantee property rights over the property in question, we cannot say that IP and physical property are equivalent.

Therefore, private property is that good or service in which the owner of the good has the broadest power of disposition over the ownership, without any person being able to interfere, i.e. the owner is the master of his economic decisions (Ros, 1964), and therefore has the power to dispose of his own or transfer it through an exchange.

For achieving this absolute power of disposition over the property, the property must be endowed with two fundamental characteristics:

a) Low exclusion cost.
b) Rival consumption.

Once these details about private property are known, it is easy to see how easily intellectual property can be violated. This could make us think that perhaps intellectual property should not be considered private property, although we will go into this point in more detail later.

A simple example of how easy it is to recognize the lack of characteristics of private property in an intangible asset is postulated as follows: once a book is published, it can be subject to multiple reproductions which, for many authors, is a clear violation of intellectual property rights. This is because they assume, we are depriving the author of being able to receive remuneration for the good he created for his benefit. However, if we reflect well on this point, we will realize that it is not correct to call infringement of the Property Rights of a creator, since he has not been deprived of the good in question, nor is he prevented from selling the original copies of the book on his own (thinking about copyright).

In other words, private property guarantees that the good, being scarce, has only one owner, which guarantees that there is a rival consumption of it and therefore that its owner can, using the Property Rights, exclude third parties at low cost, so that, while the owner of the good is using it, nobody else than him can use the good and nobody that he does not previously choose can make use of the good. In a broad spectrum with intellectual property, this does not happen. Two people can listen to the same song or read the same book at the same time, without this preventing the original owner of the good from using and enjoying it.

Here it is necessary to clarify. However, the intellectual property lacks factors that allow its perfect protection in the fields of intellectual property. This analysis does not apply to a specific type of intellectual property such as trademarks, that is, commercial names of products, since this form of intellectual property does deserve protection and the legal system itself grants perpetual protection to trademarks. However, it reacts differently with the other types of intellectual property since copyrights or patents do not have

perpetual protection. This shows us that the same legal system recognizes that intellectual property is not the same as physical property.

For example, trademarks have perpetual protection just as the material property does since within trademarks. There is rival consumption. This is logical because we cannot use the mark "Lee" to identify jeans, since it would be deceiving people.

For this reason, it is necessary to talk about the points that in one way or another infringe the Property Rights that a holder has on his property in question, in order to determine whether the effect of piracy creates adverse conditions that prevent the incentives to create and make it difficult or impossible for the creator of the intellectual property to generate profits from the good.

As mentioned above, property rights give the owner of a property the power to:

a) Use
b) Abuse
c) To dispose of
d) Perceiving

Property and the benefits that it grants to him after having invested in the acquisition of the good or service and, maintaining it throughout a specific time.

Then, anyone could mention, in a relatively simple way, that the way Property Rights are violated is when the owner is deprived of one of these aspects. Nevertheless, on this reasoning, there is a problem constituted in the sense that each right carries a responsibility or a limit.

This leads us to determine whether within the legal system there are ways for a holder to be deprived of or all his powers regarding the good or service of his property without this implying an illegal violation of the Property Rights.

That is why, at this point, we must necessarily make a small reflection and analysis about the existence of specific legal limits of the owners of a good or service within the so-called Property Rights.

In principle, as previously stated, it is illogical to think that private property can give complete control to the user over his rights to the good, since if too many rights are obtained, resources become prone to waste, either by excessive use, which could generate negative externalities or by under-utilization in an "anticommon" (Heller, 1999).

In the following, we will elaborate on one of these effects of excessive use of property rights: externalities.

It happens that when individuals use a property or domain, of which those individuals act as the owners, in a completely irresponsible manner, claiming that since they are the owners, then, they can do what decide with their property, as much as they wish. Without restrictions, unforeseen events or occurrences that affect third parties tend to occur, known as negative externalities. The appearance of negative externalities due to excessive and unlimited use of Property Rights is a significant point of reflection, as well as essential if we want to understand to what extent a person is free to use his or her Property Rights without any legal consequences.

Externalities are, simply put, an unforeseen effect that occurs when the actions or behaviour of a particular individual, a collective or an institution creates repercussions on the welfare of others (Bale, 1978):

a) Positive externalities: if the unforeseen effects are beneficial for third parties.
b) Negative: if the unforeseen effects create adverse effects on the third parties involved.

An example of this is proposed by Valencia and Bohórquez (2012), explaining that:

> When a person decides to use his car or any other means of motorized transport to carry out an activity (in search of his benefit), some costs are generated that fall on him (private costs) and some other costs that fall on the rest of society, which are called externalities. (p. 140)

For this work, we are going to focus on negative externalities. An example of an action that can exemplify this problem is the following:

Let us suppose that Mr X has a sound system. Since he is the owner of the equipment, he can make use of it as much as he wants and, therefore, decides to listen to music at too high a volume. This will generate discomfort to the neighbours who are suffering because of the legitimate use of their property rights.

With this example, we can see that the negative externality is the uncontracted effect that the neighbour produces when improperly using his property. This activity that generates unforeseen adverse effects on third parties deserves to be sanctioned by the competent authority.

Using the analysis carried out for these non-contracted effects, we can observe that, if through the use of the private property it causes an effect on third parties, the legal system or even the individuals affected by action have the power to request a limitation of Property Rights or, in the case of the State through the legal system, to sanction conduct and restrict the use of the property.

These actions obviously cannot constitute a violation of Property Rights as an owner of the property since use is affecting third parties and it is clear that the way I dispose of the use of good or service is exclusively mine until someone is affected by it.

However, once the situations of exception have been analyzed, what aspects determine the existence of a violation of the Property Rights?

As we mentioned at the beginning of this section, if an individual or the state itself deprives of the rights that correspond to us as the owners of the good or service, without any reason and in an arbitrary manner, we are the victim of a violation of property rights.

To summarize this point, we will give a practical example. One of the most well-known property rights is the right to use and possess good or service. If someone, through theft, deprives us of the use, enjoyment and possession of a good that is under ownership, it is undoubtedly depriving us of the Property Rights.

However, as we explained above, the intellectual property lacks the elements that make it fall into the perfect concept of private property and it is logical to think that if someone takes public property for its use, he is not committing theft because he is not infringing a right that should be exclusive to a person.

Following this, we should ask ourselves the following question: do the aspects that prove the infringement of Property Rights applies to intellectual property? Furthermore, if this is true, can the Property Rights of the intellectual property be being infringed

Methodology

Methodological Considerations: Property Rights vs Intellectual Property

The main objective of this document is to discuss whether piracy is a violation of IPR. In order to achieve this central objective, the document the -traditional- economic analysis of the law perspective and descriptive and argumentative methodological approach.

Then, addressing these methodological considerations requires taking up again those ideas we mentioned above, which deals with the impossibility of conceiving intangible property as an equivalent to physical property. And line with a theoretical-conceptual approach, this starting postulate will constitute the methodological axis of this contribution.

This, as was well mentioned, occurs because the physical property is protected because it meets two primary requirements: first, the existence of rival consumption (in other words, that two people cannot, at the same time, have complete control, enjoyment and disposition of the same good or thing) in the good or service of which they have a title (Mariani de Vidal, 2009, p. 298) and second, low exclusion costs, more specifically, that tangible private property cannot be, except with the express authorization of the owner, infringed or violated (García Toma, 1998, p. 133), this possibility of deciding who can or cannot make use of the property must be at low cost.

However, if we analyze these requirements necessary for the optimal protection of property, we will realize that intellectual property simply does not have them. There is no rival consumption, and the cost of exclusion is very high.

As we exemplified in the previous point, there is a violation of Property Rights when the owner is deprived of the power to decide the good or service, but can intellectual property be subject to violations of those rights, even though it lacks the necessary qualities to guarantee its protection?

In the example of theft, when someone steals a material property, e.g., a cell phone. The good is derived from the owner's use, possession and enjoyment. Nevertheless, when someone copies the intellectual property, he is not dispossessing a holder of the good in question, he is only reproducing an idea. Kinsella (2001b) states an example that will be useful to explain this point. If we were in the "Garden of Eden" that the Bible speaks to us, all the goods that would exist in that place would be infinite, or too abundant. It would mean that there would never be

scarcity and therefore, private property (and surely Property Rights) would not exist. In this case, if someone had a lawnmower, this one when touched by some other inhabitant of paradise, would multiply, or would be cloned instantly and as it is obvious, to obtain a mower in these circumstances could not be considered a robbery. In this context, since intellectual property presents the same characteristic, the exclusivity of IP is unnecessary.

Therefore, it is logical to think that stealing and pirating are different things, for the simple fact that the original owner of the goodwill continues to maintain his ownership over the good he created and will continue to have the possibility of disposing of it or charging for its temporary use, which would be different if someone had stolen the good from him.

If we consider all the above, then, is it correct to consider intellectual property as a public good, which does not need property rights as private property?

To answer this question, we must deepen the aspect concerning the rights that compose intellectual property, which are:

a) Moral rights.
b) Economic rights.
c) We will now detail each of these components of intellectual property.

Moral rights are the rules or institutions that allow creators to control the authorship and presentation of their work by others (Ashok, 2013), this refers to the right of the creator of content to have exclusive authorship of a work.

On the other hand, economic rights are all the rights that the creator of intellectual property has about the patrimony, which, although it is understood in the world of Law as a set of legal relations, which can be quantified in money (Morales & Daza, 2016), within the Property Rights of intellectual property is understood as the possibility that the owner of the good has to charge for its use.

Now, if we focus on the question that initiated this topic, which was about whether or not the intellectual property should be considered a public good or not, we can say that, within the moral rights, intellectual property cannot be considered a public good.

The ownership that exists over creation must be, undoubtedly, exclusive and exclusive; therefore, intellectual property cannot be taken in this aspect as public property.

There is no doubt that whoever creates a work must treat the authorship as a perfect private property, since, for example, it would not be a fair fact that a person writes a book, uses his creativity and ideas and that, at the moment of publishing the work, any other person can come and remove the name of the original author from the text, substituting it with his own.

This action constitutes not only a crime, since the person who performs that act is claiming an effort he or she has not made. Moreover, thanks to this immoral act, he is taking away the recognition that the original author of a work deserves.

Now, on the other hand, there is the aspect of the economic rights of intellectual property, referring to this aspect and as far as the question is concerned, we consider that the economic rights can be considered public property.

On this point, we can argue that economic rights could be considered public property for the simple fact that the possibility of charging for the use of work lacking in rival consumption, which means that, even if there are people who reproduce a personal contribution, this does not affect that us, as the original owner, cannot sell a product. This, added to the fact that it is inefficient and very costly to try to exclude third parties from the possibility of reproducing wellbeing, means that the economic rights of intellectual property can be considered a public good.

Once these points are understood, it would be worthwhile to analyze what attitude the legislation should take, or in other words, what attitude should the State take towards piracy?

The State, through the legal system, should focus mainly on Property Rights that protect the moral rights of intangible property, since whoever usurps a moral right over intellectual property undoubtedly infringes, since authorship if it has rival consumption because it is impossible for two people to create precisely the same work at the same time. Therefore, we can conclude that the moral right deserves protection.

However, as far as economic rights on intellectual property are concerned, they lack rival consumption and low-cost exclusion, so it is easy to conclude that their protection is unnecessary.

Once these aspects have been analyzed, we realize that intellectual property, even not having the characteristics of private property, must be treated as such in terms of its Property Rights, but as for the rights concerning the patrimony that can be generated, these can be treated as public property. So, what category of property does intellectual property fall?

We can solve this question using the following chart:

Table 1.
Exclusion Costs

		Low	High
Rivality	**Yes**	Private Property	Imperfect private property
	No	Imperfect public property	Public Property

Accordingly, the simplest way to name intellectual property is as an imperfect private property, which cannot be treated as private property and deserves to have certain particular protections.

At this point, it is worth detailing the effects that piracy would have on property rights if they need to implement protection of the economic right of intellectual property is ignored, and then, if these effects were positive, adverse or if they would simply not cause any difference from what is already happening today.

Results

Reflections on The Effects of Piracy on The Levels of Intellectual Property Creation

As it was mentioned at the beginning, the main reason why intellectual property is protected is to be able to generate incentives to create, also called creative incentives, which basically would mean that the main reason we have to protect intellectual property is that, through certain stimuli that induce an individual or an agent to act in a certain way (Mankiw, 2012), content creators are motivated to keep creating new ideas.

The point to be addressed at this time is, what would happen to the levels of creation if economic rights are not protected?

It has long been believed that the only way to generate this incentive that motivates intellectual authors to produce new ideas is the complete and unique exclusivity of possessing the economic rights to an asset.

This statement is not entirely true. Although economic returns are a great incentive in today's world, they have never been the only thing that counts when it comes to motivating a content creator to produce new ideas.

These non-monetary incentives or non-monetary incentives are the ones that over time have motivated thousands of content creators to continue producing new ideas.

These non-monetary incentives can be specific things, but with significant meaning for the author, or they can be more elaborate motivations that awaken a production incentive in new content creators. Some of the most common non-monetary incentives are:

a) Prestige
b) Recognition
c) Special Awards
d) Advertising

However, talking about non-monetary incentives does not mean that we will be exchanging the economic rights of the content creator over his or her property. The author can always charge for the use of the property he owns, but this right, due to his lack of rival consumption, will not be attributed to him. In compensation for this, the author will receive a non-monetary incentive, which may even help him to increase the number of earnings from the use of the good he originally produced.

A clear example of what this means is a music creator like Billie Eilish when releasing a single, risks having her song copied and pirated. She is not prevented from selling her song on dedicated music platforms, but neither can she stop pirate sellers from doing so as well. So, to compensate for this fact, on TV channels, in advertising and social networks she announces the launch of her new single, this, added to the fact that copies of her new product have been distributed thanks to piracy massively, will cause a more significant number of people to know her music and that by increasing her recognition more people will go to see her in her next concert, which guarantees the full protection of her economic and moral rights.

In this way, we can demonstrate that, even if the economic rights are not guaranteed, or even protected, there would not be a significant disadvantage for the content creator.

Once this has been established, we must detail the effects that piracy without the restriction of economic rights would cause on the Property Rights of intellectual property.

A simple way to analyze whether these effects on content creators will be positive or negative is through a cost-benefit analysis, followed by a comparison.

The cost-benefit analysis (CBA) is an economic tool that allows us to estimate what the results will be if we take action or not. The CBA is easily defined by Ortega Aguaza (2012) in his article Cost-Benefit Analysis, where he points out that "the cost-benefit analysis [...] is a methodology to evaluate the costs and benefits of a project comprehensively" (p. 1).

If we use this economic principle to evaluate the costs and benefits that the lack of protection to the economic rights of intellectual property will bring us and we compare it with the current status quo, where this has not been applied, it will be easier for us to know if these effects will be beneficial, malignant or if nothing will happen.

We will start with the cost-benefit analysis of the status quo as counterfactual, or the present moment, where the economic rights of intellectual property have not been left unprotected and what will be the impact on the part of the population that will suffer the impact of this decision, that is, the creators of intellectual content and the individuals dedicated to the piracy of this content.

Table 2.

Precedent CBA to stop protecting economic rights

Costs	*Benefits*
The protection of economic rights is not efficient, so excessively costly laws must be implemented to try to prevent piracy.	The content creators would have the sole authority to remunerate with their creations.
The whole world has this problem and countries have different laws on this point, so piracy will not be easily fought, as it would move to countries with more flexible laws on this point of law.	The equity incentive motivates more people to generate intellectual content.
Trying to exclude third parties from generating income from a single good would cost more than the cost of producing intellectual property.	
If a creator is guaranteed the economic rights, it would not be profitable to offer him/her non-patrimonial incentives, which could lower the publicity and worldwide recognition of content creators.	

Once this is known, we can analyze that in the current social scenario, it is impossible to avoid piracy due to a lack of strong incentives. However, even if it does not bring more significant benefits or rather, even if it brings greater costs than benefits.

Next, we will deal with the second scenario proposed in this paper, and we will analyze in the same way the costs and benefits that its implementation would bring.

The second cost-benefit analysis that we will carry out will deal with a plausible scenario, not so popular in the commercial world, in which the protection of the economic rights of intellectual property would be omitted as exclusive to the original creator of the content, thus opening a door for anyone to generate income from intellectual work freely.

Table 3.
CBA in a scenario of non-protection of economic rights

Cost	*Benefit*
Some content creators would choose to stop producing it because of a feeling that they are usurping their work. Creation of paid platforms to obtain the content creations.	The greater dissemination of information helps the recognition of the author, which would encourage him to become a public figure and thus have support and motivation to create new content. Content creators can have an economic advertising incentive, which avoids them having to spend large amounts of capital on promoting their creations. The more significant amount of recognition can help an author generate more business in contact with their followers, which would help their economy grow. Ex: concerts, talks, book signings. The piracy market could generate employment to more people, which would help the economic growth of a country or region of the world.

As we can analyze, in a scenario in which the extreme protection to the patrimonial rights that is handled at the moment is left aside, it favours that more significant benefits exist, not only for the creator of intellectual content but for the rest of the people who can generate income with the commerce of the works. Then, these are not the only benefits that can be generated by the lack of protection of economic rights of intellectual property. It would also allow a more significant number of people who want to learn or get informed about specific topics to do so easily and quickly.

Although it is clear that there is no need for protection of economic rights on intellectual property, there is still some fear or distrust that the response of content creators is negative when one of their property rights on the property they created is violated. However, there are real facts that prove the opposite and that, moreover, can demonstrate that the purely economic or economic incentive is not what generates creativity or creative spirit in people.

Peruvian professor Bullard (2006) mentions the first example, alluding to the fact that in the world of news, there is no protection for economic rights. It is logical that, if we talk about news, anyone is free to take the same news and spread it through printed or digital media, regardless of who was the first to find, capture or obtain information.

This fact does not prevent the media from being discouraged from continuing to produce this type of material.

The second example we can show is that of classic literature. In the past, there was no notion of what an exclusive economic right implied, and piracy abounded.

This fact did not prevent the great creators of intellectual content, in their eagerness to gain prestige, recognition or to spread their ideas, from writing a significant number of books. Alternatively, in other words, even with a low level of protection of economic rights, the creators of classic literature had incentives to create content.

Fashion is another typical example of little or no protection of economic rights. If someone decides to make a change, such as narrowing the width of a pair of pants, or changing the type of zipper on a jacket, because there is no intellectual property protection, the next day the fashion world will change because thousands of people will copy those designs and pay with someone else's idea, but this does not stop the fashion industry from moving forward.

The fashion industry is more. It is more concerned with maintaining an innovative character within the market than having full property rights over the goods they produce.

Taking into account all that we have analyzed, we can say that really in case that it was decided to diminish or to remove protection towards the economic rights, to make that these are no longer exclusively of use of the author creator of content, there would not exist a significant diminution of the level of creation that is generated.

That is to say, even if the levels of protection currently granted to economic rights were to be reduced or eliminated, there would be no adverse effects that are too transcendental or impossible to manage, which would create chaos in the price system or, from an extremist point of view, lead society to a market failure.

Discussion and Conclusions

Discussion

Once we have analyzed all the points related to this work, we will mention what would be the conclusions we obtained from this reflection:

Intellectual property is the set of both patrimonial and moral rights, which are related to the creations of the human mind. Intellectual property is protected primarily to ensure that there are creative incentives, that is, that there is the motivation for people to continue creating intellectual property.

Intellectual property differs from physical property or tangible property in two fundamental ways: rival consumption and high exclusion costs. These aspects create difficulties when wanting to protect intangible property fully.

It is incorrect to pretend to conceive all types of non-public property as equal, and especially to try to regulate intellectual property in the same way, which, as we have already established, is neither private nor public property; it is imperfect private property.

Conclusions

From the above, it can be concluded that:

Although intellectual property is an imperfect private good, this does not exclude it from having private property rights. These rights, like private property rights, must be respected by all members of society, without exception.

Suppose in any arbitrary way, or outside of legal reasons, a third party restricts a person who owns an intangible asset, or a creator of intellectual content from using, enjoying, enjoying or disposing of his or her intangible property. In that case, he or she is violating Property Rights.

Piracy, when not preventing individual property rights from being affected, does not constitute a violation of these rights because, logically, even if a person uses and enjoys the same intangible property as we do, it does not imply that we are being deprived of being able to use and enjoy the same property at the same time.

The moral right to intellectual property must be recognized and protected by all means, since authorship does have a rival consumption due to the simple fact that two persons cannot have the same idea at the same time and translate it into a creation simultaneously. However, this does not mean that economic rights should be protected in the same way or with the same emphasis, since, unlike moral rights, these do not have rival consumption.

Even if the level of protection we currently have over the economic rights of intellectual property were reduced, this would not generate a negative incentive for creators.

Intellectual property does not need economic incentives to guarantee the creation of new ideas. While this is a deep-rooted idea in our current society, there are viable, non-equity ways to ensure the same incentives for a person to choose to produce intellectual content.

The current effects of piracy on intellectual property, with the protections afforded to it, are not catastrophic effects that infringe on the property rights of the owners.

If the existing protection of intellectual property rights were to be reduced, this would not generate a market failure or effects that would render the Property Rights on the intellectual property null and void.

Finally, we can conclude that the current level of protection of intellectual property does not justify the level of creation generated. It is possible to reduce the levels of intellectual property protection without leaving intellectual creators unprotected, without this creating an economic and social problem in the world.

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