

Current Issues in International Intellectual Property Rights

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Intellectual property rights (IPRs) have been getting longer, broader, and stronger ever since their inception several hundred years ago. This trend has accelerated greatly in recent decades as many parts of the world have begun to transition from industrial to post-industrial “knowledge” economies. The trend has been reflected in the international treaties of the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO), and other more specific intergovernmental organizations, and implemented through national legislation, regulations, and policies. Although usually developed and adopted first by OECD countries, many developing countries have been implementing the same laws as well. These various laws have been promoted almost exclusively by large multinational industry sectors, such as pharmaceuticals, software, publishing, and film and music. The actual interests and applicability of these laws to less developed countries, or, for that matter, to smaller businesses and consumers in the more economically developed countries, have tended to be disregarded or marginalized in the push for expansive exclusive property rights.

In very recent years, there have been a number of developments at the international and national levels that have sought to balance the interests between rights holders and the public, and between the wealthier and poorer countries. Some of these efforts have taken place within the public law domain of intergovernmental organizations, such as the Development Agenda at WIPO, while others have been sector-specific or nationally focused. One important approach that has emerged in the past few years is in private contract law, which seeks to promote the voluntary adoption of agreements between parties of “some rights reserved”, instead of the full restrictions of the statutory IP regimes. Such “common use” contracts seek to preserve the rights that are most important to the owner of the IPRs, while allowing users of the intellectual property greater freedom to access and reuse it in more socially beneficial ways.

This presentation will provide an overview of these developments in public and private law in the intellectual property arena, and particularly as they relate to the interests of developing countries and the non-profit research community.

¹ The views expressed in this abstract and presentation are those of the author and not necessarily those of the National Research Council.