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# In Search of a Useful Theory of Intellectual Property Rights

*Birgitte Andersen*  
*Birkbeck College, University of London*



## **Our tools for understanding the dynamics or performance of IPR systems remain blunt**

**Highly asymmetric results across the board (across countries, regions, sectors, and firms within sectors), in terms of meeting the IPR system's originally intended objectives of:**

- Stimulating innovation-based competition;
- Facilitating spill-over and expansion of knowledge based ideas and the creative expressions of ideas;
- Rewarding inventiveness and creativity throughout the economic system;
- Facilitating sustainable development of firms and industry.



## **A central test for theory is if it is useful.**

In Nelson and Winter's (1977: 36) search of a useful theory of innovation, we learned that for "theory to be useful ... [it] must organize knowledge and guide research regarding what lies behind the different performance of the different economic sectors".

**Is IPR theory is useful in explaining why the IPR system generates different performance results and varying potential for growth across firms, sectors and nations participating in the IPR system.**

No



## Way forward

Mix of:

### **(i) New institutional economics (e.g. Williamson's 1998)**

Conceptually separate:

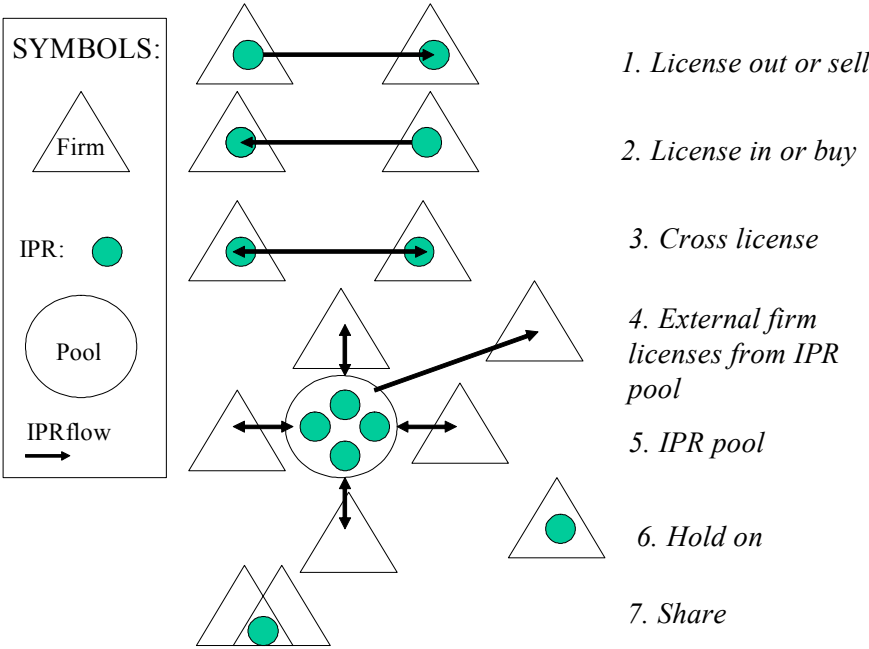
- the 'institutional IPR environment' setting 'rules of the game' and
- the "Institutions of IPR governance" organizing the 'play of the game'"

Advantage for:

- analytical purpose: Where does the problem reside?
- policy purpose: It helps us to understand which institutions to target when designing policy aimed at fostering the new economy and actors best situated to improve performance of these institutions.



# Alternative Institutions of IPR Governance



## (ii) Productive Systems literature (e.g. Birecree, A., S. Konzelmann and F. Wilkinson, 1997)

The nature of stakeholder behaviour and interaction is essential for understanding the organization and performance of entire IPR systems and their various constituent parts.

- Stakeholder behaviour and interaction reveals the *underlying incentives* for individuals and firms to participate in IPR systems.

System effectiveness is very much about securing the critical role of productive social relations for value creation and value distribution.

- Collaboration is important and solving of conflicts are important. It is essential to recognize the conflicts in the IPR systems as the stakeholders have different incentives and objectives when participating in the IPR system.

**In the productive systems approach suggested by Andersen and Konzelmann; each of the governance structures are only productive if:**

- the total value realized from IPRs is NOT below its potential, or
- when the value realized is distributed among the participants in the IPR system in proportion to each of their value added (i.e. no exploitation).
- The value realized do not exceed the direct and indirect costs of upholding and participating in the IPR system.

**Problem is that many IPR stakeholders are more interested in the size of their individual share of the pie (or value created from IPRs) rather than the collaboration in creating a larger pie in which they may be given a smaller share. Main reasons are the importance of keeping relative dominance or power.**