

# **New Political Economy of IPR Regulation**

**Bob Jessop  
Institute for Advanced Studies  
Lancaster University**

# Outline

- **IP as a hybrid category**
- **Knowledge vs Knowledge-Based Economy**
- **A Polanyian Perspective on IP**
- **A Marxian Perspective on IP**
- **Some Contradictions of IP(R)**
- **On the Regulation of IP(R)**
- **Conclusions**

# A Hybrid Category

- **IP comprises several categories, such as**
  - technological (grounded in possession)
  - juridical (grounded in property)
  - economic (grounded in relations of production, distribution, circulation, consumption)
  - ideological (grounded in fetishism)
- **Contingent (dis-)junction of categories & their impact on IPR regulation**

# Knowledge versus “KBE”

- Knowledge always vital economically: every economy is a knowledge economy
- Accumulated knowledge *qua* intellectual commons is key in classical political economy
- Its importance has not always been expressed in juridical form of IP, which is a late development and still far from universal phenomenon

# Polanyi on Fictitious Commodities

- ‘It is with the help of this fiction that markets for labour, land, and money are organized’
- ‘The commodity fiction [is] a vital organizing principle’ in a self-regulating market economy
- Treating labour, land, and money *as if* they were commodities has real effects – their demand, supply, and price are real magnitudes
- Such treatment affects man as a whole being, nature as eco-system, compatibility of capital in general with survival of particular capitals

# **“IPR as a Fictitious Commodity”**

- **“Information economy can survive only as part of market economy and market society”**
- **“Information and knowledge must be priced to ensure balance in supply and demand”**
- **Commodity description of labour, land, money [and knowledge] is entirely fictitious**
- **“While knowledge has a price, it is not produced for sale (it is another ‘aspect of man’)”**
- **“Unlimited commodification of knowledge undermines market economy”**

# Knowledge as Quasi-Commodity?

- **Emerging division of labour in which firms specialize in producing immaterial goods or services that are information-rich, knowledge-intensive, or 'creative'**
- **These firms need average rate of profit insofar as their immaterial products are key inputs into market economy**
- **Intellectual property is one means to secure average rate of profit, especially where typical problems in economics of information apply**

# Knowledge and Commodities

- **Non-Commodity**
  - Intellectual commons
- **Fictitious Commodity**
  - Separation of mental from manual labour; ‘work for hire’; expert systems; smart machines, etc
- **Quasi-Commodity**
  - Reflexive Application of Knowledge to Production of Marketable Knowledge
- **Fictive Capital**
  - IPRs to secure commercial returns; and securitization of future IPR flows

# A Marxian Perspective I

- IP as commodity form rooted in circulation – getting immaterial goods and services to market
- IP as revenue category as means of appropriating & redistributing surplus value, especially as intellectual labour gets separated from material production
- IP penetrates into labour process as formal and/or real subsumption (work-for-hire, smart machines, expert systems) to appropriate absolute and/or relative s/v
- IP as primitive accumulation (by dispossession)
- IPR as commodity fetishism as legitimation of profit-oriented, market-mediated knowledge-based economy
- Contradiction between use- and exchange-value aspects of the commodity form and its elaborations

# Marxian Perspective II

**Role of intellectual property and IPR become more important, more that**

- **capital accumulation depends on valorization of knowledge,**
- **intellectual labour is commodified,**
- **intellectual production involves long gestation periods high fixed costs,**
- **distinct fractions, branches, or enterprises come to specialize in intellectual production for the market, and**
- **there is a secondary market in titles to revenue flows from intellectual property.**

# Marxian Perspective III

IPRs become essential to overall organization of capitalist production in an age of specialization and inimical to overall dynamic of accumulation insofar as they undermine operation of intellectual commons as a 'free gift of human nature' or a 'universal productive force' available for appropriation and exploitation by each and every capital at each and every point in circuit of capital

# Genuine Capitalist Commodities?

	<b>Produced for sale in capitalist labour process subject to competition to reduce socially necessary labour and turnover times</b>
<b>Labour</b>	Farm and laboratory animals – limit case would be cloning human slave labour for profit; Commercial training and re-skilling
<b>Land</b>	Land reclamation; biofuels; solar energy; genetically engineered organisms
<b>Money</b>	Commodity money; securitized financial assets
<b>Knowledge</b>	News production; new drugs produced entirely in capitalist labour process for sale

# IPR Contradictions & Dilemmas I

- **Social source of creativity vs substitutable factor of production**
- **Use-value versus exchange-value**
- **Intellectual commons versus intellectual property**
  - Want free input versus want to charge for output
  - Problem of anti-commons (search costs, transaction costs, multiple-marginalization and royalty-stacking)

# IPR Contradictions & Dilemmas II

- **Guarantee of the average rate of profit versus monopoly privilege facilitating super profits**
- **Technological rents generated by new knowledge disappear when latter generalized – if they can be generalized or invented around**
- **Leads to search for new institutional and juridical solutions that balance contradictions and dilemmas, without ever removing them**
- **They are inherent in knowledge in profit-oriented, market-mediated economy**

# Beyond Marx and Polanyi

- **Commodity fetishism**
- **Primitive accumulation**
- **Role of IPRs in marketing the immaterial**
- **Technical and social division of labour**
- **Formal & real subsumption of knowledge work**
- **From non- to fictitious to quasi- to real petty commodity or capitalist commodities**
- **Contradictions and dilemmas of the KBE**
- **Need cartography of all aspects of economy and its embedding to understand new political economy of regulation**