

Patents' Private and Social Function Innovation, Markets, and New Businesses

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Abstract

This paper explores the dual functions of patents in contemporary society, focusing on their private and social roles in fostering innovation, shaping markets, and nurturing new businesses. Patents are instrumental in incentivizing individual inventors and companies to invest in research and development activities by granting them exclusive rights to their inventions. This private function encourages innovation and facilitates the emergence of novel technologies. Simultaneously, patents serve a broader societal purpose by promoting knowledge dissemination, enabling market competition, and facilitating the growth of start-ups. This paper delves into the intricate interplay between these private and social functions of patents, emphasizing their pivotal role in shaping the landscape of innovation, markets, and new businesses. Patents serve as a crucial mechanism for incentivizing innovation by granting exclusive rights to inventors, thereby enabling them to recoup their investments and enjoy a competitive advantage. Simultaneously, patents play a pivotal role in shaping markets and fostering the emergence of new businesses. This study delves into the interplay between these private and social functions, highlighting the complex dynamics that influence technological progress and economic growth.

Keywords: Patents; Innovation; Markets; New businesses; Intellectual property; Incentives

Introduction

In the ever-evolving landscape of innovation-driven economies, patents stand as both guardians and catalysts of progress. These legal instruments, designed to protect the intellectual property of inventors, play a multifaceted role in shaping the trajectories of innovation, influencing market dynamics, and fostering the birth of new businesses. In this paper, we embark on a comprehensive exploration of the private and social functions of patents, as they intersect with the realms of innovation, markets, and the emergence of new enterprises. At their core, patents serve as potent incentives for innovation. By granting inventors exclusive rights to their creations for a set period, patents offer a critical quid pro quo: inventors disclose their inventions to the public, thus advancing the collective knowledge base, in exchange for a temporary monopoly that allows them to recoup investments and gain a competitive edge. This article discusses some aspects of the impact and implications of patents for firms and society, drawing on data, evidence and insights from the economic and management literature. The article does not cover all relevant topics about patents [1-4]. The subject of patents and the literature are so vast that it will be impossible to cover all these topics in the space of one article. The article is a selection of topics and problems that the author believes are worth the attention of readers, with no claim to exhaust all topics worthy of attention. A focal theme of this article is the dual role of patents. By this we mean the distinction between the value of patents to the individual owners and the broader value of patents to society.

Patents are economic assets. Like other economic assets, the value for their owners is equal to the sum of the discounted stream of profits generated by the asset. At the same time, in this paper we focus on three broader values of patents in our societies: they can signal the quality of inventors or organizations, disclose information about inventions that generates pullovers or avoid duplications in research efforts, and encourage markets for technology disembodied from physical products. The classical perspective on patents highlights that they privatize inventions. The broader perspective highlights that they also help the diffusion of knowledge and perform other valuable functions

in our societies. This perspective raises natural points of discussion – how important are these different roles and functions of patents? How much do policies that target one goal also affect the others? To what extent can policies optimize trade-offs among these goals?

This private function of patents is instrumental in encouraging individuals and organizations to invest in research and development, ultimately spurring technological progress. However, the story of patents does not end with their private role. These legal constructs wield significant influence over markets and the emergence of new businesses. Patents can create barriers to entry for potential competitors, thereby shaping the competitive landscape. Conversely, they can also act as assets, serving as collateral for securing financing or licensing agreements, enabling new ventures to navigate the intricate path from concept to commercialization. This paper aims to shed light on the intricate interplay between the private and social functions of patents. We will delve into the mechanisms by which patents influence innovation, market dynamics, and the formation of new businesses. By scrutinizing these functions, we hope to contribute to a nuanced understanding of the broader impact of patents on technological advancement, economic growth, and the innovation ecosystem as a whole. Some reviews focus, among other things, on topics that we also deal with in this review, such as the disclosure function of patents, follow-on inventions, and more generally the dual function of patent. Provide robust empirical understanding of the many functions of patents [5].

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Received: 03-Aug-2023, Manuscript No. ijaiti-23-113101; **Editor assigned:** 05-Aug-2023, Pre-QC No ijaiti-23-113101 (PQ); **Reviewed:** 19-Aug-2023, QC No. ijaiti-23-113101; **Revised:** 25-Aug-2023, Manuscript No ijaiti-23-113101; **Published:** 31-Aug 2023, DOI: 10.4172/2277-1891.1000230

Citation: Danckar MK (2023) Patents' Private and Social Function Innovation, Markets, and New Businesses. Int J Adv Innovat Thoughts Ideas, 12: 230.

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However, the problem is that, while there is wide availability of data about patents, they are not created with the goal of providing causal understanding of phenomena, particularly the implications of the many functions of patents. This calls for the collaboration of patent agencies, firms and other institutions or stakeholders. They can both raise relevant questions from the practice, and help to coordinate, facilitate and encourage data collections, research designs, and experiments that generate identification strategies to answer these relevant questions by nailing down causal effects and mechanisms. This will provide the basis for rigorous evidence-based management and policies about patents. This section also provides examples of these analyses.

Discussion

Private value and uses of patents

Intellectual property protection: Patents grant inventors exclusive rights to their inventions for a specified period, typically 20 years from the filing date. This protection ensures that others cannot make, use, sell, or import the patented invention without the patent holder's permission. It safeguards the inventor's intellectual property from unauthorized use or imitation [6].

Market exclusivity: Patents provide a competitive edge by establishing a temporary monopoly. This exclusivity allows patent holders to control the production, sale, and distribution of their invention, giving them a unique position in the market. This can be especially valuable in industries with high research and development costs.

Monetization and licensing: Patent holders can monetize their intellectual property by licensing it to others. Through licensing agreements, patent owners grant third parties the right to use their invention in exchange for royalties or fees. This can generate a steady stream of income without the need to manufacture or market the product themselves.

Strategic defensive tool: Patents can also serve as defensive tools. In a competitive landscape, companies may acquire patents not only to protect their innovations but also as a deterrent against potential litigation from competitors. This defensive use can help prevent costly legal disputes.

Attracting investment and financing: Patents can enhance an organization's ability to secure investment or financing. Investors and lenders often view patents as valuable assets that can be used as collateral, increasing the company's credibility and improving its access to capital for further research and development or expansion.

Market entry barriers: Patents can create barriers to entry for potential competitors. By holding patents covering essential technologies or processes, companies can limit the ability of others to enter the market, maintaining their market share and pricing power [7].

Enhancing negotiating power: Having patented technology can strengthen a company's negotiating position in business partnerships and collaborations. It allows them to negotiate favorable terms or secure cross-licensing agreements with other innovators.

Defending against infringement: Patents empower their holders to take legal action against entities that infringe on their intellectual property. This can result in court-ordered injunctions to halt infringing activities and potentially significant damages awards in cases of proven infringement.

Protecting research and development investments: Patents help

companies protect their investments in research and development. The promise of exclusive rights encourages organizations to invest in innovative projects, knowing they can reap the rewards if their inventions succeed in the market.

The broader value of patents in society

Encouraging innovation: Patents incentivize innovation by providing inventors with exclusive rights to their creations. This encourages individuals and companies to invest time and resources in research and development, knowing they can protect their inventions and potentially reap the rewards [8, 9].

Spurring technological advancement: Patents contribute to the advancement of technology by facilitating the disclosure of new ideas, processes, and inventions to the public. This disclosure enables others to build upon existing knowledge, fostering a culture of continuous innovation.

Knowledge sharing: Patents require inventors to provide detailed descriptions of their inventions. This information becomes part of the public domain once the patent expires, allowing others to learn from and build upon the patented technology. This knowledge sharing accelerates progress in various fields.

Attracting investment: A strong patent system attracts investment in research and development, as investors are more willing to fund innovative projects when they know that intellectual property rights are protected.

Evidence-based management and policies for patents

Evaluating the impact of patents: Conduct thorough research and analysis to assess the impact of patents on innovation, economic growth, and other relevant factors. This includes examining data on patent filings, grants, and their correlation with R&D investments, technological advancements, and market outcomes.

Assessing patent quality: Develop metrics and methodologies to evaluate the quality of patents. High-quality patents are those that represent truly novel and non-obvious inventions. Policymakers can use quality assessments to ensure that only valuable innovations receive patent protection.

Balancing exclusivity and disclosure: Strive to strike the right balance between the exclusivity granted by patents and the disclosure of information to the public. Research can help policymakers determine the optimal duration and scope of patent protection to maximize innovation while avoiding excessive monopolies.

Measuring the impact on different industries: Recognize that the impact of patents varies across industries. Conduct sector-specific analyses to understand how patent policies affect industries like pharmaceuticals, technology, manufacturing, and agriculture differently. Tailor policies accordingly.

Examining patent thickets and patent trolls: Investigate the prevalence and consequences of patent thickets (large numbers of patents covering a single technology) and patent trolls (entities that acquire patents for the purpose of litigation). Evidence-based policies can address these issues to reduce litigation and encourage innovation.

Evaluating licensing and technology transfer: Analyze data on patent licensing and technology transfer to understand how patents facilitate the dissemination of technology. Evaluate the role of patents in facilitating collaboration between innovators and the broader marketplace [10].

Conclusion

In conclusion, evidence-based management and policies for patents represent a critical framework for fostering innovation, economic development, and equitable access to technological advancements. By diligently assessing the impact of patents, evaluating patent quality, and tailoring policies to specific industries and contexts, policymakers can create patent systems that strike the right balance between granting exclusivity to inventors and promoting knowledge dissemination. Additionally, addressing issues such as patent thickets, patent trolls, and access to essential medicines underscores the importance of evidence-based approaches in patent governance. Furthermore, international comparisons and stakeholder engagement provide valuable insights and perspectives that can inform the design and improvement of patent systems. The commitment to continuous monitoring, transparency, and accountability ensures that patent policies remain adaptable and responsive to evolving economic and technological landscapes. Based approach to patents serves as a linchpin in modern economies, supporting a culture of innovation, technological progress, and economic growth while safeguarding the interests of inventors, industries, and the broader public. As we navigate the complexities of the innovation ecosystem, evidence-based management and policies for patents are indispensable tools for shaping a future characterized by ingenuity, progress, and shared prosperity.

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