

A study of the united states international intellectual property

Law



International Intellectual Property

In the United States, we have established how we as a nation and as a culture feel about piracy. A general rule of thumb we use is that works can be reused, reinterpreted, and resold; as long as it creates something new that does not cannibalize the purpose or ideas of the original work—derivative works must create new meaning or functionality. This rule is applied to every aspect of our culture: parodies of other works can use the same iconic, copyrighted, or trademarked figures, as they create something new; licensed software can't legally be copied and distributed for free, as they cannibalize sales of the original while providing the exact same thing. And while various legal loopholes have allowed a certain household name entertainment company to challenge the laws and extend the copyright expiration dates indefinitely in order to protect their own brand, these laws have stayed largely the same for a long time. However, the situation may not be the same in other cultures around the world. While other countries may look at our legal system as a precedent, other cultures value and interpret piracy differently. In African countries, they consider intellectual property laws to be a hindrance to economic progress. In Brazil, the groundwork is there to enforce it, yet it rarely happens. In China, their culture sees no wrong in the theft of intellectual property at all.

Many central African countries have been treated very poorly by the Western and European worlds, with a history of rich culture and peace being interrupted by slavery and imperialism in the interest of commercial business in such a way that many countries have never really recovered

from. Whether it's a matter of their colonial legacy, their narrow economic base, or political instability is an entire issue of its own—but the effect this has on how they regard intellectual property is unique. They haven't really had the time to settle on firm or ubiquitous laws, as many African countries have vastly different governments and powers behind them. But the cultural consensus looks down upon regulation or protection of intellectual property. Since they have little precedent or history in the matter, it's interesting to see how they tackle the issue with a fresh look. As Nkwi explains in his paper on how African cultures view proposed regulation, they're asking the big questions of whether they need it at all. In a growing economy that basically has to start from scratch on an international scale, excessive regulation might stifle progress for both the nation as for the consumer. So what are the benefits? As Nkwi continues,

Indeed, a number of voices are regularly being heard denouncing the development and impact of intellectual property rights in the world. It is said that [intellectual property rights] are responsible for maintaining the technological gap between producing countries, most of which are situated in the West, and consumer or developing countries. Despite pressures from multinationals and large industrial monopolies, the criticisms and controversies that are fueling the debates on IPRs in developing countries are being noticed, albeit slowly, by international regulatory authorities.

In fact, it seems that their conclusions of the effects of intellectual property are having an effect on other countries as well, making us take a step back to analyze why we are in the position we are in too; though, it's hard to

imagine the Supreme Court of the United States tossing our intellectual property laws out of the door, too. Be that as it may, their fresh take on its benefits and downsides is markedly different to that of any Western culture.

Intellectual property laws in Brazil are an odd mixture. The laws themselves are comprehensive and easily comparable to the United States, “ with penalties that go up to four years imprisonment plus the charge of a fine,” writes Brazil Business’s Andréa Novais. “ The problem Brazil is facing is that the laws are not enforced as intended and there is little political will to instruct the police to enforce these laws.” While the government’s official stance is a firm no-tolerance policy, the issue is that law enforcement seem to tolerate it excessively. Socially, Brazilians see no issue with it. Those selling bootleg DVDs and physical media, camelôs, are littered across city streets and tourist destinations. Even former president Luiz Inácio Lula da Silva was reported positively reviewing a film he watched from his private jet—that hadn’t yet been released outside of theaters. It seems that as a whole, Brazil’s stance on piracy and intellectual property is similar to that of the United States: legally comprehensive, yet rarely enforced, as generally accepted as something that the lower class will do anyway.

China has an interesting relationship with intellectual property. One would naturally think that the historically oppressive government would crack down on intellectual property theft, being the same country that has tried to hide all the information it could about the Tiananmen Square protests of 1989 from its citizens, and being the same country that has blocked many popular sites on the Internet in its famous controversy with Google’s services.

However, according to consumer research by The Nanyang Technological University in Singapore over piracy in the Asia Pacific region, the Chinese government and people are surprisingly lax with copyright protection. As Simmons and Tan explain in their paper,

Most of the 31 factories in China that produce CDs and software are owned, to some degree, by the Chinese government. [...] When the Chinese people see the government selling pirated software, they do not feel compelled to abide by the law. Police organizations are also not obligated to, and frequently cannot, act against their government. [...] It has not been that many years since the communist Chinese government considered stealing information or technology from the “evil” western market economies something to be rewarded.

Since stealing from western countries has practically been encouraged for so long, the average Chinese citizen no longer sees anything wrong with stealing. As is the case in many communist and formerly communist countries, keeping something entirely for yourself is looked down upon (This is even apparent in televised game shows in these countries. When one contestant wins a large prize for themselves, the audience claps and cheers noticeably less than their Western counterparts). Thus, very few people are prosecuted for theft of intellectual property in China.

In conclusion, people from all around the world can be drawn to stealing software, movies, and intellectual property, even if they're for different reasons. In only recently recovering central African countries, which have been taken advantage of and thrown around by the Western world for as

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long as boats big enough to travel there have been built, they see any kind of economic regulation as a choke on progress. In Brazil, many parallels can be drawn to the United States: the government is heavy on regulation, but law enforcement is lax on enforcing it. Finally, in China, their communist background and competitive economy has made the average citizen unfazed by the concept of using another's ideas. As we move forward in an increasingly digital world where copying ideas is getting progressively easier and easier, and as the world gets more and more exposed to the ideologies of different parts of the world, maybe the United States will change its stance on the issue, too.