

Intellectual Property, Globalization, and Left-Libertarianism*

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Abstract: Intellectual property has become the apple of discord in today's moral and political debates. Although it has been approached from many different perspectives, a final conclusion has not been reached. In this paper I will offer a new way of thinking about intellectual property rights (IPRs), from a left-libertarian perspective. My thesis is that IPRs are not (natural) original rights, aprioric rights, as it is usually argued. They are derived rights hence any claim for intellectual property is weaker than the correlative duties attached to self-ownership and world-ownership rights, which are of crucial importance in any left-libertarian view. Moreover, IPRs lack priority in front of these two original rights and should be overridden by stronger claims of justice. Thus, as derived rights, IPRs should not benefit of strong enforcement like any original rights especially if it could be in the latter's detriment.

Keywords: intellectual property rights, ideas, expressions, self-ownership, world-ownership, justice, left-libertarianism, John Locke

Left-libertarianism is an appealing philosophical doctrine for conceptualizing ownership rights. In some respects, it is simple, minimal and it does not demand a strong metaphysical or ontological commitment. On the other side, as it was sometimes argued, left-libertarianism lacks coherence (Fried 2004) and hence it could not be a realistic foundation for normative claims concerning property entitlements in a complex global economy.

My aim is to construe and to some extent to enlarge the left-libertarian way of thinking such as it could offer theoretical soundness for inquiring contemporary intellectual property rights (IPRs) and their global or international regime. IPRs are some of the most questionable positive rights, a *form* of state and international regulation (Lemley 2015) that is often alleged to produce injustice. Left-libertarianism is a liberal-egalitarian conception of justice and impartial entitlements (Vallentyne 2000; Vallentyne 2012) which has arisen from the long natural rights tradition of moral thought. I use left-libertarian thinking as a guiding tool in questioning positive through natural conceptions of rights, and, equally, to establish if and how moral natural rights precede any positive entitlement to ownership in the realm of human ideas and expressions.

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The role this particular theory of justice plays in my essay is to make comprehensible the limits of entitlement when it comes to intellectual property.

The first section is a survey of a feasible contemporary, *i.e.* left-libertarian, branch for the natural rights conceptual framework. The second one is a general attempt to apply the original natural rights frameset to intellectual property. The third part concerns a descriptive attempt to explain the apparition of a global regime for intellectual property. My final step is to argue against granting *strong* IPRs in the field of human creative and innovational endeavor. In order to develop my critical approach I establish some points of inquiry, from a theoretical level to more applied questions of justice.

Legal scholars use a technical terminology and their aim is to literally put the law 'at work' in finding answers for practical decisions. My purpose is different: to address the problem of entitlements in the case of intellectual or ideal objects from a conceptual point of view, hence any recourse to actual rules governing intellectual property will be limited. Certainly 'conceptual' does not mean only 'ideal,' but also it is not the case of providing tools for legal examination of IPRs. The emphasis is put on the moral stance of these rights.

How To Think Like a Left-Libertarian?

Apparently, a left-libertarian has, in Hegelian terms, a double consciousness which struggles against itself. She has to cope with two different sources of this way of thinking: a conception of self-ownership and a demand for world-ownership – jointly, equally or as common use. It is hard to conciliate these two sources; in fact, here resides not only the crux of the modern political problem, *i.e.* how to match freedom and equality (Otsuka 1998), but also one of its solutions, maybe one of the most satisfactory and feasible one. There is no room for taking a categorical stance in answering questions about the best political theory able to give dual priority to freedom and equality; I assume beforehand the incompleteness of every theory. The justification for choosing left-libertarianism is not to be found in its wholeness or integrative capability, but in its logical robustness and fine malleability in applied questions of justice.

A special feature of libertarianism in general is its persistence on *moral rights* and *enforceable* (interpersonal) *duties* (Steiner 1994; Vallentyne 2012, 158). A theory of justice has to deal with what kind of duties are legitimately enforceable thus becoming justified coercions (Vallentyne 2000, 2; Vallentyne 2012, 153). Persons and the world are described in terms of moral relations and their moral standing is based on some original *set of bundles of rights*. Sometimes the set is composed of a single element, a sole bundle, that is, the original self-ownership in which every social existence originates; all libertarians support this bundle. To clarify the issue, even self-ownership is a *bundle* of rights, not a single remarkable one. For example you and I (hopefully) are the unique owners of our bodies and, I might say, minds. Therefore we have a right to our protection and, also, to our personal sphere of movement, activity, and expression in the

world as such without external interference and all this simply because we are self-owners. Moral self-ownership entails a *pure* negative conception of liberty (Steiner 1994, 33) which opens the question of self-governance; consequently, self-ownership must not be equated with autonomy even if their connection is nevertheless real when we see self-ownership as the ability of protecting our own conceptions about how to pursue goals in our life (Kymlicka 1990, 112). In some way, that's the discreet charm of philosophical arguments based on self-ownership: you don't need to be committed to a strong metaphysical conception of the self (as in communitarian or virtue ethics theories). 'Self' is just a linguistic prefix used to state an exclusivity relation the agent has with something or in doing something. At this point, G. A. Cohen account of self-ownership could shed light on the matter. The first thing to say is that he makes a distinction between the concept (which could lack coherence) and the thesis of self-ownership (that might be accepted or rejected but it still conserves its consistency) (Cohen 1995, 209–10).

According to the thesis of self-ownership, each person possesses over himself, as a matter of moral right, all those rights that a slaveholder has over a complete chattel slave as a matter of legal right, and he is entitled, morally speaking, to dispose over himself in the way such a slaveholder is entitled, legally speaking, to dispose over his slave. (Cohen 1995, 68)

By making an analogy with slave ownership, Cohen's definition brilliantly avoids the problem of ontological regression or reliance on other moral conceptions. For him, the term 'self' is used precisely for its reflexivity (Pateman 2002, 25) and its capacity to support a logical relation of identity (in a Leibnizian sense): "what owns and what is owned are one and the same, namely, the whole person" (Cohen 1995, 69). This position entails that it is impossible to separate a person from the self-ownership on her body since they are indiscernible. Her choices are expressed in terms of a range of possibilities to conduct actions and to follow goals by means of her body. To move on, I deem Steiner's definitional condition to be similarly informative on the issue. For him, *original* self-ownership means to have "unencumbered titles" to our bodies and "our bodies must be owner-occupied" (Steiner 1994, 232). An "unencumbered title" of "full liberal ownership of our bodies" (Steiner 1994, 232) means we don't have any duty toward others or ourselves in disposing of our bodies: "our original domains contain impermissibly obstructable liberties to dispose of them and their parts as we choose." (Steiner 1994, 233) Steiner emphasizes the idea of full capacity of choice embedded in this *original right*.

'Self' recursively points to the agent, but it isn't clear if we are talking only about a human agent. A cat doesn't have self-consciousness but it does self-cleaning several times a day without accepting to be cleaned by another agent. Many times the grammatical use of 'self' is vernacular, or natural, and it keeps a healthy distance from 'scholastic' metaphysical quarrels. In this sense, self-ownership is just a way to attribute exclusivity *in* and identity *with* the

possession. In another sense, its paramount importance in a system of moral rights demands to link it with self-governance, and with autonomy or self-determination. By some means, it is intimately related with basic human rights (Pateman 2002, 22). But how?

A peculiarity of all libertarian theories is how they construe moral rights as *property rights* regarding everything, from persons to external resources. In the case of moral self-ownership, the bundle of rights relevant to my inquiry is approximated by the next list: control rights, rights to compensation, enforcement rights, rights to transfer, and immunities to nonconsensual loss (Vallentyne 2000, 2–3; Vallentyne 2012, 154; Vallentyne, Steiner, and Otsuka 2005, 203–4). A right to control over the use of your own person is of paramount importance; it also constitutes itself as the ground for a correlative duty for others to abstain from interfering with a person without her prior authorization or consent. Rights to transfer are also a part of a full self-ownership view (Vallentyne 2012, 155). The rights to compensation and immunities are indeterminate with regard to nonconsensual loss, but they could be specified in each political constitution when it comes to make a positive move from the moral realm to the political one, therefore weakening self-ownership. The sole condition to keep the normative force of self-ownership even in a weaker design, *i.e.* less rights in the bundle, is to keep the set compatible with the same rights of other persons over other things in the world (Vallentyne, Steiner, and Otsuka 2005, 205). On the moral ground, the idea we have to keep in mind is the protection (Vallentyne 2000, 5) against unjustified harm and mistreatment this bundle of rights offers to every person. And if it is plausible that only each individual must be morally ‘in charge’ of her person and body (Vallentyne, Steiner, and Otsuka 2005, 208), the thesis of self-ownership is worthy to be taken into account (Vallentyne 2012, 161) despite the indeterminacy of its compulsory bundle of rights.

The second thesis of left-libertarianism, *i.e.* *world-ownership*, is an independent assumption for grounding the moral domain; it does not follow from the self-ownership thesis (Vallentyne, Steiner, and Otsuka 2005, 208). In Steiner’s words (1994, 235–6), ownership of external (natural) resources is our *second original right*. It is necessary to fulfill the demands of impartiality and equality in self-ownership, even if we are taking into account only a weaker form. And there lies the difference between right and left-wing libertarianism; for the latter branch, the ‘moral power’ of agents in unilaterally acquiring and using natural, external resources (Vallentyne 2012, 161) is feebler than for the former. Without doubt, for what is made from self-owned things, like our person, we have an “unencumbered title,” Steiner affirms (1994, 235), but he further continues: “Nothing can be produced by labor alone. Nothing can be made *ex nihilo*.” We make things, and hence our social existence, by using “extensional factors, [...] already owned or as yet unowned” (Steiner 1994, 235); an equal original right to property – the only way we can save the compossibility of

rights¹ – entails entitlements in “equal share of (*at least*) raw natural resources.” (*e.m.*) (Steiner 1994, 236) If self-ownership is the expression of the only moral status that could protect persons from unjust “non-consensual interference,” then egalitarian ownership is the most defensible position to put into practice, or, at least *effective* (Vallentyne, Steiner, and Otsuka 2005, 209; Jedenheim-Edling 2005, 303–4).

Equality in access, equality in shares, equality of opportunity – what kind of equality to endorse from this broad spectrum? This is not only a methodological question; it actually conveys the pluralism of the left-libertarian manner of thought regarding world-ownership claims; they are translated into a bundle of rights capable to actualize the claim of security (Vallentyne 2000, 7; Vallentyne 2012, 162) embedded in the self-ownership moral status. Natural resources are not the only set of objects towards which world-ownership vector aims, but, at this point, this is less important. World-ownership has a condition to pass: it has to be practical, *i.e.* it doesn’t need to meet the approval of other persons (that’s why the proposal of collective consent in using resources is pernicious), and it should be practiced “without any loss of the rights of self-ownership” (Vallentyne 2000, 7). As it was argued against Cohen’s position (1995, 94–8), an equality of condition could be accomplished without the loss of an effective self-ownership (Jedenheim-Edling 2005). Also, Otsuka (1998) showed that a struggle between self-ownership and equality is “largely an illusion” and both Nozick and Cohen were wrong even though their arguments are structurally opposed. For self-ownership, as an *exercisable* bundle of rights, to be acquired it has to let the world open; the reasons for this claim are at least twofold: one needs to access enough resources to maintain her autonomy and independence from others (Otsuka 1998, 84) – so she could not be subjected in various ways by other persons – and one needs to secure her access in order not to be marginalized and so to be easily exploited by others (Jedenheim-Edling 2005, 288).

As a left-libertarian, one aims to stress the importance of entitlements to natural resources as a way to overcome the differences between human physical and mental capacities but not as a way to correct the structure of “offices and positions” in a society (Vallentyne, Steiner, and Otsuka 2005, 213). Being concerned with an impartial and universal system of choices expressed in rights and duties, left-libertarianism does not take into account territoriality and local institutional arrangements (Steiner 1994, 262, 265): “our moral duties to respect other person’s rights and the rights derived from them don’t suddenly evaporate at international boundaries. [...] These duties are global in scope.” The conditions for natural resources acquisition are seen as preceding the Rawlsian questions of fairness in allocating the “fruits of social cooperation” (Vallentyne, Steiner, and Otsuka 2005, 213).

¹ To the compossibility of rights, another Leibnizian concept this time adopted and adapted by Steiner into his theory, I will return in the last section of my essay.

A brief overview of the most plausible left-libertarian proposal for effective world-ownership is necessary before analyzing the origin of this manner of thinking and how it would work for assessing IPRs. The proposal stems demands for equality in two senses: firstly, one can use any of the unowned resources if and only if “one leaves an equally valuable per capita share of the value” of the unowned resource for others (Vallentyne 2012, 164); secondly, each appropriation should not endanger the opportunity for the well-being of others, and this opportunity must be “at least as good as the opportunity for well-being that one obtained in using or appropriating natural resources” (Vallentyne 2012, 164). If the two provisos are not fulfilled, one has to pay a rent or a tax to a “social fund” responsible for ensuring equal opportunities and, ultimately, “equal gains in well-being” (Vallentyne 2000, 10–1).

Ideal Objects, Between Self-Ownership and the Commons

Until now, in a deliberate move, John Locke wasn't named at all, but my sharp readers could have predicted the next step would be to set up the debate around ideal, intellectual objects in his classical perspective of natural rights. Left-libertarianism is a successful contemporary attempt, I believe, to interpret Locke in his own right and this was one of the reasons I presented its main theses; the second was to prepare the ground for taking seriously the Lockean insights about claims and entitlements regarding intellectual property. Even without knowing the actual role a Lockean theory of entitlement to property plays inside the justification of IPRs, choosing Locke as a companion and inspiration is obvious: his theory can be used in judging the process of appropriation in the realm of ideas and expressions (Tavani 2005; Gordon 1993). More interesting is to query not *why* this theory is thought capable to take into account the realm of non-material artefacts but *how* different scholars found it, in different ways, ready to be used as a heuristic device. Somehow, it is not clear how Locke could answer to contemporary claims involving IPRs, but it is evident why we resort to his tempting theory. I'll start with what is obvious and then I will argue that Locke could have not endorsed *full or strong property rights* in the appropriation of ideas through particular expressions.

John Locke established the paradigm for property entitlements in his *Second Treatise of Government*. Naturally, he had in mind just a specific case – land ownership and physical goods provided by its exploitation – and it is not without difficulty to see how his theoretical account could or should be applied to ideal objects. In order to explain the apparition of private ownership his theory begins from a famous premise: we are self-owners of our bodies and persons – “every man has a property in his own person: this no body has any right to but himself” (Locke 1980, 18). A second premise, sometimes concealed by his interpreters, states the common ownership of the natural world as a gift from God who „*has given the earth to the children of men*; given it to mankind in

common.” (Locke 1980, 18)² Those premises are joined by an assumption, a problematic one (Nozick 1974, 174–5): a self-owned person can mix her labor with natural, unowned resources³. This kind of blending is the main way of claiming private property through appropriation, but it is not a sufficient condition. Indeed, for someone to be entitled to private property she has to follow two provisos which limit the scope of ownership and also justify its uses over time. The provisos – of sufficiency in access and of “no waste” in use – finally set the paradigm of property.

For Locke, there is no original property right in things when they are still in the commons: “no body has originally a private dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural state” (Locke 1980, 18–9). Property, or “private dominion,” stems from an acquisition process based on *purposive* (Gordon 1993, 1547) and *persistent* labor, and not as a result of mere luck or chance, Locke seems to state. Even so, labor is not the sufficient condition for claiming property (Tavani 2005, 90) mainly because one has to use *external* resources in order to alter and thus transform them into something either new or useful (Hull 2008, 13) – this process of alteration is narrowed by two general conditions (that I will soon make precise). Labor is just a means to an end; Locke doesn’t validate a cult of labor, but he sees productive endeavor as rational necessity for biological survival (of the body) and for social existence of any human person.

Let us examine a bit how labor could be understood in the case of ideal objects. It was suggested that there are important differences with respect to kinds of labor involved in producing physical and ideal objects (Tavani 2005, 89): the latter is not burdensome and ideas often just “come into the mind” without any prior effort; moreover intellectual labor is joyful and sometimes cognitive inception doesn’t contain any hard work. IPRs critics regularly shape arguments against intellectual property claims stating the enjoyment of a mild and un-risky work. But their opinions seem far-fetched for anyone who struggles to give new expressions to ideas or to innovate to any extent. Furthermore, even Locke put the intellect at the core of every industrious labor. It is not hazardous to affirm that any purposive and effective labor has an intellectual, that is, cognitively rational, dimension (Hull 2008, 14–5). In the *Essay concerning human understanding*, Locke openly affirms: “all Reasoning is search, and casting about, and requires Pains and Application” (Locke 1975, 52) and in another part of his work he confirms that for seeking and discovering truth humans must “employ

² It is debatable if we can apprehend and use the Lockean perspective neglecting its theological foundations by treating it just as a secular moral and political theory (Hull 2008).

³ Nozick’s question, “Why isn’t mixing what I own a way of losing what I own rather than a way of gaining what I don’t?”, I believe has only an heuristic role in explaining Locke’s metaphor. It is not a counter-argument against the possibility of transforming resources through labor and *as a result* of this activity to claim ownership. Nozick’s aim was to emphasize that we don’t have to take Locke’s metaphor literally.

all that Industry and *Labour* of Thought" (*e.m.*) (Locke 1975, 450). Labor must have a conscious intention, what we might call today *intentionality*, in short, labor has a purpose; intellectual activities by excellence are laborious and they presuppose not only purposiveness or volition, but also a "pain" in seeking to understand ideas and to create their expressions.

Mixing labor – when *intentional* labor is possible due to self-ownership – with something exterior doesn't constitute a sufficient condition for any claim to ownership (Nozick 1974, 174–5; Tavani 2005, 90). Gordon (1993, 1545) insists that "labor is not itself property," but we have to bear in mind that Locke's argument for property is based on the notion of *harm*: does appropriation or, on the other hand, intrusion or infringement (in case of ideal objects) produces an unjustified or wrongful harm? (Gordon 1993, 1545) Locke proposed a class of natural duties and liberties that generate, on their turn, moral claims and entitlements (Gordon 1993, 1541–3); the duty *not to harm others* is situated within this class as "lexically prior" (Gordon 1993, 1542). The duty of non-interference with others' ownership is only *conditional* and it could be overcome by the first duty of non-harming in cases when someone's ownership endangers the life of other members of the moral community. There are many ways in which appropriation could harm – the two provisos' role is exactly to limit maltreatment and worsening.

The sufficiency proviso states that in order for someone to have "private dominion," *i.e.* "unquestionable property" that "excludes the common right of other men," it must be "enough, and as good, left in common for others." (Locke 1980, 19) If this condition is not fulfilled, then any claim to ownership is questionable. So, what to question in claiming intellectual property? It could be argued that it is impossible to apply this proviso to the realm of ideal artefacts since they are "qualitatively different kinds of objects" and the risk of exhaustion or depletion is low in virtue of their ontological nature (Tavani 2005, 92). The proviso has to be construed such as its rationale is to offer fairness and even equality in access to external resources held in common and, equally important, the logic of appropriation must follow the priority of the *no-harm duty*: by any appropriation nobody should be affected "by being made worse off" (Tavani 2005, 91). According to the Lockean proviso, in Nozick's interpretation (1974), a rightful appropriation of un-owned objects or resources is possible if "no one's appropriation of an object *worsens* the situation of others." This position implies "a sort of egalitarian restriction" and the predisposition to find an "appropriative proportion" (Steiner 1977, 127–8). In case of IPRs the public could question if the creators' claims are, as a matter of fact, worsening the general situation of other rational and sensible, cultural beings. IPRs are imposing duties on the public whose equal abilities to create or to explore old and new cultural horizons are thus limited (Gordon 1993, 1563–4). In some ways, IPRs, by their restrictions, not only block access to cultural development, but are leading to an attrition of commons (Tavani 2005, 93) particularly in the case of digitization

and of rights expansion in time. Gordon (1993, 1567–9) detects two other ways of worsening the public’s situation: firstly, an innovation – either conceptual or practical – changes people’s condition and could make them dependent on the right holders who can, in their turn, deny the new instruments for survival and flourishing; secondly, in a media culture, expressions and ideas can infiltrate people’s minds without their consent: “being forbidden to copy,” Gordon (1993, 1569) writes, “thus may require one to choose between silence and deception.” An equilibrium between (too broad or strong) IPRs and an open space of intellectual development based on commons – or the public domain – is essential if we endorse a democratic and equalitarian right to expression and thoughtful understanding. One, either an actual being or a future person, can be harmed by strong IPRs in her activity of intellectual understanding and meaningful interaction with the world (Gordon 1993, 1556).

IPRs could also have a “spoilage effect” since they act as monopolies that induce “artificial wasteful scarcity” (Hull 2008, 40). The spoilage proviso is not very often brought into debate by Lockean scholars, but I believe it is equally or even more important than the first one in assessing the limits and justifications of IPRs. Locke writes:

As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: *whatever is beyond this, is more than his share, and belongs to others.* Nothing was made by God for man to *spoil or destroy.* (e.m.) (Locke 1980, 20–1)

The avoidance of spoilage is a post-production condition. It comes as a conclusive test for any claim of ownership after the mixing of labor and external resources took place. In the case of intellectual property, chiefly because an ideal object could not be over-consumed and it is non-rival, a monopoly leads to waste. Circumventing an idea or an expression is not producing a material loss, but a loss of all alternative uses of one ideal object beyond the claimant’s intention (Hull 2008, 27). Ideas are not optimally used under a strong and exclusive intellectual property regime, *i.e.* they produce enjoyments in life only for people having access to them. Restricting access is a perverse kind of waste in a world otherwise naturally (or by default) rich in ideal objects. The entitlement regime of intellectual property generates spoilage in an artificial manner through direct or indirect control, that is, monopoly costs, and anti-commons (Hull 2008, 30).

Locke’s framework seems to be less concerned with ownership-based-on-labor entitlements than with justice claims in using and abusing external resources. One main Lockean idea is the profound reliance of people on commons. For him, perhaps for theological reasons, the Latin dictum *ex nihilo nihil* was a beacon in assessing the just regime for property claims to become property entitlements. His interest was with the “normative status of institutional arrangements” (Hull 2008, 7) which take into consideration both the human endeavor and the necessity of keeping open access to external

resources in a scheme where the no-harm duty is prior to any claim. In the specific case of ideal objects the 'ex nihilo' condition is *prima facie* a deterrence for granting strong property entitlements (Hettinger 1989, 38). Locke was an empiricist who strongly argued against innate ideas and principles; the human mind is a *tabula rasa* where ideas have to come from outside by means of sensations. Complex ideas and inventive production, including manual labor, depend on previously existing resources (Hull 2008, 17–8; Hettinger 1989, 38–9); consequently, the value of an object is not a mere consequence of rational labor. The Lockean provisos' requirements should be understood as giving priority to the public's claims (Gordon 1993, 1538) and they should do justice to the equal interest of the public in developing complex ideas for the reason of enjoyment in their intellectual lives. A broad right to expression for everybody should prevail (Gordon 1993, 1570) if we have a strong commitment to equal interest of any rational being in understanding, interpreting and, finally, coping with the world.

Until now I presented the normative Lockean tradition of natural rights in a left-libertarian vision. The next section is more descriptive in its purpose and range. It depicts the global regime of IPRs as well as the critical questions that naturally arise from the depicted status-quo. I will further address all of these questions in the final section.

The IPRs International Regime⁴

I assume that in the informational economy we live in the most important resources are information and ideas able to generate knowledge. We live in a *type-economy*, where the *token* can be easily reproduced if you can control the *type*, the intellectual origin of all things.⁵ That's why I propose to the reader to consider central to any global informational economy the complex institution of IPRs, from the individual to the global level.

Intellectual property is a highly debated and contested concept which gained much attention in the last decades. It was even argued that in our post-industrial world, where the production of intangible goods is at forefront, intellectual property is an anachronism producing inconsistent justifications and rules (Voinea 2013). Although researchers have not yet settled on a clear and distinct definition, due to the many different perspectives from which it can be

⁴ This section is based on a previous research on intellectual property and global justice I led in Ștefănescu and Vică 2012.

⁵ The industrial modernity imposed the urge to understand, sociologically and philosophically, the meaning of 'labor' and at least two main philosophical currents embraced and focused on the nature of labor in producing social existence, *i.e.* Hegelianism and Marxism. Contemporary informational-based global society put emphasis on the notion of 'work,' of creating immaterial objects through cognitive activities involving the use of previous knowledge and new information. About the distinction labor – work, see Arendt (1961). Of course, this doesn't mean exploitative, manual, mechanical labor is not present nowadays.

approached, intellectual property is typically seen as a bundle of deontic powers – obligations, permission and interdictions – that arise in regard with the creation of knowledge, be it scientific, artistic or technological, and the way this newly created knowledge permeates society. This set of rules imposes various constraints on actors, depending on the context. The whole debate around intellectual property, including equal access and information responsibility, can be rephrased in deontic, action and epistemic terms as it was also proposed for computer ethics (Van Den Hoven and Lokhorst 2002). To make things more clear, I will offer an example. Patents can be seen either as *a right* to exclude others from the use of information (thus obligations are imposed on others to not use the information concerned) and as *a duty* to make information public (so they also set permissions to access information, but not to use it).

Two other important characteristics of intellectual property, mostly overlooked, determine its controversial nature: it is always *contingent* and *undecided*, meaning that any attempt of trying to verify or falsify it is doomed to fail. But its truly contended core rests in its contingent character, a feature that determines the constant change and evolution (by an artificial societal selection) of its rules and norms, without even a minimal concern for the attainment of both global or national justice and fairness. Thus, the aim of the institution of intellectual property is divergent from the ideals of (global) justice, a fact that raises many societal concerns.

The World Intellectual Property Organization is one of the biggest specialized transnational agencies created “to encourage creative activity, to promote the protection of intellectual property throughout the world.”⁶ But, one can ask, why is intellectual property so important, that it requires no less than seventeen agencies working under the United Nations’ patronage? The answer can be found in WIPO’s psalm-sounding motto “IPRs are the key economic resources of the future” (Sell and May 2001, 468). Although this sounds like music to the ears of big companies, it conceals a deep and complicated conceptual muddle: first and foremost, there is no definition of IPRs that could pass logical tests; secondly, its scope is highly uncertain and thirdly, there is no consensus on the international level with regard to how the legal framework should look like. The most affected by all these incoherencies in the discourse surrounding intellectual property are the innovators, whose incentives are constantly transformed, and this reflects directly into the trade system.

A look at the history of intellectual property reveals a tension between protection (& exclusion) and dissemination (& competition) (Sell and May 2001, 468). The first voices that spoke against intellectual property arose during the *Ancien Régime* against the *privilège du Roi*, a sort of monopoly offered only to several book printers and sellers. This contestation hid itself under a more subtle and insidious form, book piracy – which appeared on the basis of already

⁶ The full text of the Convention establishing the World Intellectual Property Organization (1967, 1979) could be found at this address: <http://www.wipo.int/treaties/en/convention/>.

existing informal networks of communication. *Craque, mauvais propos, bruit public, on-dit, canard, libelle* are some of the French words conserved in the contemporary oral language that stand as a proof of the tension between free speech and exclusive privileges to knowledge. In 1710, the United Kingdom became the first country to pass a copyright law, The Statute of Anne, which was the result of a struggle between authors and publishers. But more than that, The Statute of Anne was a form of boycotting the royal intervention in the market of ideas. The USA adopted the same kind of laws between 1850-1875. During this period two antagonistic groups coagulated – represented by those defending the protection of innovation by patents and those demanding an international system of free trade – giving rise to deep tension (Sell and May 2001, 483). But the most debated and anathematized attempt of regulating intellectual property was The Agreement on Trade-Related Aspects of Intellectual Property Rights and the rejected proposal of Anti-Counterfeiting Trade Agreement (Vică 2012). What complicated things even further was the attempt of establishing an international regime of IPRs, a trend that started in the 19th century with the Berne Convention. Thus, Intellectual Property has a convoluted history, and the prospect of ‘cosmopolitan peace’ seems very far away.

“Compromises and contingency” were the main drives for the development of intellectual property laws (Sell and May 2001, 496). This is due to the fact that intellectual property is a historical concept or construct (Sell and May 2001, 473) that arose from the clash of many interested parties like mercantile interests, domination positions, ideologies, and technologies. But, on the other hand, providing access to knowledge is a matter of historical contingency as well. The justifications of the two institutions vary greatly. Intellectual property as ‘property’ was always regarded as an unhistorical, essentialist and aprioristic entity. In contrast, the preoccupation for building a global knowledge society is seen as a deeply historical endeavor, with emphasis on historical arguments (including those that must take into account future generations) and contingencies (that is why the technological progress is expected).

This history of “compromises and contingency,” in other words the process of institutionalization of intellectual property, has many stages (Sell and May 2001, 468) and is unlikely to reach a final conclusion. Those in power, who have the ability of controlling technologies and, implicitly, public speech, are brought to the forefront of the main theatre of this war by the dialectical movement which is driven by ideological shifts and technological change.

In the literature, the history of intellectual property is interpreted from three perspectives: realist, functional and critical (Sell and May 2001, 469–74). In the center of the first perspective lays only one kind of actors, maybe the most powerful: the states, which are seen as acting monolithically, neglecting emerging important groups, as well as the old clash between groups in power and the newcomers (Sell and May 2001, 470). The second perspective, the

functionalist one, is holistic on the grounds of accepting the institutional arrangements produced by settlements. But, it is important to notice that it fails in the attempt of pinpointing the interest, power and ability of actors. Functionalist theories stress efficiency in the process of establishing property rights and ownership (not only in tangible assets, but also in ideal objects) and also embed into the characteristic aforementioned the regulatory condition for the institution of property. The downside of this kinds of perspectives is represented by an inability of clearly pinpointing what efficiency is (Sell and May 2001, 471): who defines efficiency, from what point of view, in what dimension and for how long? The main role of property, and its crucial importance, are derived from its ability of enhancing coordination between individuals. But, a question arises naturally: would efficiency be so important without coordination? In the case of information, efficiency is derived from protection and exclusion (in other words, the control of information) through IPRs (Sell and May 2001, 471). But this perspective does not take into account an important aspect of the informational resources wars, the clash between control and dissemination. Thus, it fails to optimize the two different efficiencies (or expectations of).

The third perspective, the critical one, which I hereby adopt, stresses the interaction “between ideas, material capabilities and institutions” (Sell and May 2001, 473). Unlike the other two approaches, this one considers the legal framework of intellectual property as just another actor between the rest, represented by theoretical and artistic pieces and technologies or creators/innovators. Moreover, it sees intellectual property as an institution caught in a big net of other institutions, to which it is connected. Thus, technologies are improved starting from other technologies and creators belong to a long history of ideas and their instantiation.

After I presented the institutional mechanism of building intellectual property, let me make a clear statement: intellectual property creates *artificial scarcity*, unlike physical property. The main reason for this is that knowledge and information are not scarce in nature. They stand beyond consumption, due to the fact that they can accumulate indefinitely and cannot be exhausted. Another important characteristic is that knowledge and information produce mostly positive externalities. This is reflected by the debate that took place in the 1960s, between Arrow and Demsetz. Their subject matter was the market efficiency of information, understood in a broad sense, ranging from data to knowledge. Arrow boldly stated that any new information “should be available free of charge” (Arrow 1962, 616–7). The welfare point of view assumed that this would generate *optimal* use of information. The downside was represented by the disappearances of the incentives much needed by creators to produce any new piece of information. What would rectify this deficiency? The answer lays in the imposition of artificial scarcity of information, which would be suboptimal, but

still efficient for innovators. Still, the problem of justice remains at the periphery of such kind of approaches.

A Left-Libertarian Background for Criticizing Intellectual Property

In the beginning of this last section I will make a distinction and introduce an assumption in order to clarify the left-libertarian background I'm proposing. My distinction is aimed at separating *ideas* and *expressions*. An idea can take a myriad of forms, *i.e.* expressions, but it can't be reduced to a general or unique expression. As Locke (1975) famously said, "ideas come into the mind," they feed the human cognition which, consequently, develops them into complex ideas. For the sake of my argumentation, by 'idea' I understand any conception, notion, thought or impression that can be expressed by means of opinions, beliefs, and intentions, and in pieces of reliable knowledge. Indeed, this distinction is debatable. Hettinger (1989, 32–3) affirms that sometimes it is hard to find a pure demarcation between content and style, especially in artistic mediums where *how* and *what* are said to be intricate. In my view, both ideas and expressions have content but style is something specific to each mind travelling between ideas and their understanding. Much closer would be the analogy with another distinction between scientific laws and principles and their technological applications. Scientific laws or patterns – especially in mathematics and physics, but also in chemistry, biology or sociology – are discovered, extracted from the external world through careful scrutiny. Ideas are general, expressions are particular to each intellectual laborer who articulates *or* understands an idea. Information and data, in a mathematical and physical sense, share with the formers their ontological nature. Ideas are naturally spreading and travelling from mind to mind, they have to be discovered, approximated and fixed through expressions. My assumption for the rest of this section considers data, information and ideas as raw resources necessary for any intellectual effort. Ideas could not be, logically and also physically, privately owned; they are built and transmitted collectively and particularly instantiated in expressions. World-ownership includes, in my view, ideas as both unowned and naturally endless resources.

How should a left-libertarian look at IPRs and *what* should she ask about the system of IPRs as bundles of rights and correlative duties concerning ideal objects? Before answering this question, let us go back to the argument of Wendy Gordon (1993, 1570) for the necessity of a Lockean proviso in the realm of ideal objects. For her, each creation changes the world as such hence it changes the person's situation – this is the fundamental premise. A second premise states that everyone is a creator in understanding as well as in interpreting the world. But IPRs as control rights make the second, the third, etc. until the last creator 'less well off' in their construal of the world. From this we deduce that the freedom of subsequent creators is *limited* by intellectual property impositions. Let us remember that the second premise states equality of opportunity in the

understanding of the world. Gordon arrives at a normative conclusion: we should ensure all creators a broad right of expression precisely for the sake of preserving their equal compatible freedom in pursuing their intellectual goals. And this is exactly what the sufficiency Lockean proviso does even in a world of ideas and information.

Both Lockean provisos – of sufficiency in access and of limiting waste – are united within the left-libertarian framework in a mechanism for ensuring the realization of effective or robust self-ownership by means of equal chances and opportunities in the use of unowned resources. This choreography of rights and duties has the main role to equally preserve and limit human powers in their (extreme) thirst for entitlements. In other words, using moral property rights as a paradigm of justifying justice is the way to ensure against the proliferation of privileges and monopolies. A domain of choices and actions must be coherent with regard to which claims could gain the power of just entitlements. A just appropriation of ideas through specific expressions – artistic or technological – should not exceed the *equal share* a person is entitled to and correspondingly it should not upset *equality of opportunity*; for this reason a strong public domain for ideal objects is prior to private appropriation. Data, information, concepts, thoughts, notions, languages, principles, and methods are more than outfitted in expressions, they are embedded *in* and enacted *by* expressions; many times they could pass as pure personal conceptions nascent in private minds. This is, I believe, the ontological wrongness a ‘romantic,’ exclusivist theory of authorship and innovation made to the realm of ideal objects and to the freedom of understanding and expression paramount for every social existence. Thus the power invested in creators by this theory should be limited by testing their claims. Their fallibility could be proved by some of the ‘conceptual pumps’ left-libertarianism provides us.

(1) To answer the question above – *how* and *what* a left-libertarian should inquire about the actual institutional design of IPRs – I think it would be better off to specify them as distinct questions a natural rights theorist can put to any entitlement regime applied to ideas (Breakey 2010, 210): “Is it universalisable? Does it worsen the prior position of others? Is it consistent with others’ rights? Does it grant powers to impose new duties without prior consent? [...] Do they interfere with the basic natural rights reasons for having property in the first place?” As Breakey (2010, 211) notes, these questions are guiding philosophical investigations on the “scope, strength, and duration of IPRs.” The problem of universalizability is connected in different ways with both consistency of rights and a demand of equal opportunities and avoidance of worsening others’ situation. Let us start with consistency.

(2) Consistent rights are also compossible. The issue of compossibility of actions, rights, and duties is, for Hillel Steiner at least, the main difficulty of any entitlement regime: “the mutual consistency – or *compossibility* – of all the rights in a proposed set of rights is at least a necessary condition of that set being a

possible one" (Steiner 1994, 2). IPRs and freedom of expression are at odds: they are, using Steiner's words, "yielding contradictory judgments about the permissibility of a particular action" (Steiner 1994, 3), that is, a liberty to make sense of the world and a right to control ideas and expressions the others need for exercising this liberty could not be consistent in the same time. In this case, claims put into practice by IPRs are making impossible the free use of the informational content. The control right of a creator is limiting the freedom of using equivalent expressions – especially in case of patents, but it also happens with copyrights – for another creator who could not claim the same right even though she has a *parallel* invention or artistic expression. "Freedom is the possession of things" (Steiner 1994, 39), and in this case the paradox could be solved either by denying any possession, *i.e.* ideal objects should not be possessed because the freedom involved is un-exercisable, or by leveling down one of the claims that generate the conflict. It is easy to demarcate in the case of physical things between people's domains or in plain English, their set of rights: a relation of exclusion between two persons regarding an object could factually, not just normatively be set. To have compossible domains implies that "each person's rights are demarcated in such a way as to be mutually exclusive of every other person's rights" (Steiner 1994, 91). Duty-holders are not deprived of rights; the general idea is to avoid the full burden of duties of only one part of the relationship. Besides that, "duties are identifiable solely by virtue of their controllability" (Steiner 1994, 92): how could somebody control the correlative duties of IPRs without depriving the duty-holders from a large part of their self-ownership bundle of rights? At this point, Steiner has an observation which can be totally applied to the issue at stake: "the important interests persons have both in privacy and in free expression are, as we know, ones which cannot invariably be joint serviced" (1994, 92). An interest in controlling and enforcing property in information, ideas and expressions could not be compossible with an interest in free expression which entails exactly the free flow of information, ideas and expressions.

One could have noticed that I have a hidden assumption: I endorse an evolutionary account of ideas and knowledge and also what was called a "Mertonian ethos" (Radder 2013, 289–90). Under this assumption the demand of consistency gains new wings: not only the *theoretical* issue, the compossibility as logical consistency of different rights of the same domain is worthy of interest, but also the *moral* one. I assume that for the growth of knowledge, progression of science, culture, and technology, as well for the truth-seeking human endeavor only an extreme liberty "to copy, learn, critique, refute, synthesise, subtilise and generally bounce off others' ideas" (Breakey 2010, 221), and universalism and communism of ideas are decisive. If someone wants to universalize strong levels of protection for IPRs, hence their correlative duties to burden other sensible beings, she must recognize the same amount of protection for other ideas and expressions in order to be *morally consistent* (Breakey 2010, 218). But creation

is not *ex nihilo*, so, IPRs holders extract information and ideas from a common heritage and from the free naturally occurring flow of ideal objects. To keep the regime of IPRs consistent, in both the ways articulated above, the delimitation between public domain and owned ideas and expressions should be institutionally redesigned in favor of the former and the equality in opportunity for expression must be translated in equal rights for creators that independently generate or stumble upon same ideas.

(3) I believe the 'romantic' theory of a genuine individual and exclusive creativity is both incorrect and doomed to fail in our networked global society. My philosophical interest is to show why it is incorrect in a left-libertarian background. The vindications of IPRs as generated solely by self-ownership rights is fallacious; in practice, the personalist stance, *i.e.* creation *originates* solely in me, as a person, guides this vindication and not a natural rights theory, as it is wrongfully assumed. Copyright and patents could not be seen purely as extensions of a full self-ownership right. They are derivative or secondary rights vindicated by a purposive labor one has done in expressing hence extracting information or ideas from the unowned resources. As a matter of fact, intellectual works are produced using an incredibly big amount of other ideal objects. One needs language, vocabulary or scientific patterns and laws as well as already objective experience, that is, knowledge previously expressed and instantiated in a medium, to build her own way of understanding the world. An access to all those prerequisites of creativity is a necessity for creation; just the equal entitlement to this common pool of education and knowledge ensures the possibility of intellectual labor.

For the sake of the argument, let us suppose that someone is lucky enough to express ideas without any prior immersion in the common pool of knowledge. Could she claim univocal ownership? There are two reasons for denial. Firstly, luck is not enough for being entitled to ownership, as John Locke and any left-libertarian would affirm. Luck is not a result of purpose and it does not cancel a duty towards other fellow beings in not worsening their situation. Secondly, expressions are worthy only when they are made public, when they enter the public space of ideas where debate, criticism and quotation are affordable. If an idea has no real value outside the creator's mind, it is just not worthy of protection. One can argue against this point of view pointing in the case of trade secrets: they must be kept undisclosed in order to keep their value. But their ownership is founded exactly on their secret nature.

IPRs holders often claim total control of their works, rights to compensation, enforcement rights and an immunity against the nonconsensual lost. But those are part of the bundle of the *original* right to self-ownership (Vallentyne 2012, 154), not rights regulating private ownership and use of objects produced through labor and external resources. To sum up, IPRs holders often claim rights which are *like* self-ownership in circumstances when original

self-ownership is not at stake. In this sense, they are “over-appropriators” (Steiner 1994, 268).

(4) The other way around when we concentrate on original rights is to question if IPRs sometimes undermine self-ownership on account of their strength and indeed they do interfere with other people’s bodies and minds. IPRs demand exclusivity and this right to control how, where and when a person can use ideas and expressions is puzzling. Why? As it was noted before, the whole concept of ideal or intellectual object is based on interference (Breakey 2010, 217): ideas circulate from mind to mind, they do not need physical support for their instantiation. Exclusivity and publicity are at odds in the realm of ideal objects. To control the use of an expressed idea means to control other minds and bodies, which, on a left-libertarian background, is morally wrong. Also, IPRs make redundant the right to transfer, *e.g.* if the right holder has this right then even if I use my memory to instantiate the cognitive content of an expression or idea I am not allowed to transfer it to you by word of mouth. IPRs holders entrap others in duties they did not consent to. Enforcement rights are even trickier: how to enforce intellectual property without interfering with or even violating not just people’s bodies but also their properly acquired property (as their personal computers or libraries)? Private sphere of the individual is not only praiseworthy for human development; its main role is to maintain a space free of political interference (Breakey 2010, 233–4).

On the whole, IPRs often open doors to stifling self-property rights and rights derived from them.

(5) IPRs are here to promote creativity. However, is creativity a more important value than welfare or general well-being? When left-libertarians introduce the thesis of world-ownership their idea is to secure a common ground for consistent property rights whose role is to enable equality. Starting from these dual original rights, a person can achieve not only the best compatible amount of freedoms, but this way, it is also guaranteed that her rights are not run-over by their enforceable duties towards others. Keeping the common pool of ideas and expressions full is the best way to secure effective opportunity in understanding the world. The scope of IPRs should be reduced such as to prioritize access to information and knowledge. The inflation of IPRs in the last two decades – seen as an answer to the huge possibilities of digital networks and global markets to transfer without consent informational content – and the continuous tendency to expand their limit in time constitutes a threat to non-right holders to fulfill their opportunities. Patents for biotechnologies and crucial drugs, copyright for fundamental knowledge a person, group of persons or nation need in safeguarding their existence, rights that limit use of intellectual content in schools and libraries, etc. are unjust constraints on people. A new institutional arrangement should be consistent with the world-ownership thesis and could provide – either through compensations or through limiting copyright and patent holders in their rights – the equal opportunity for well-being of all

human or non-human persons at no loss of intellectual recognition or incentives for creativity.

(6) What differentiates left-libertarianism from other liberal-egalitarian conceptions is its perseverance in showing that property entitlements should be *limited in time*, i.e. just for the right-holder lifetime, and also that duties are *borderless*, they are not restricted to a specific territory. A way to interpret the Lockean proviso is that the members of every generation should “ensure that, at their deaths, resources that are at least as valuable as those they have acquired lapse back into a state of nonownership so that the next generation has opportunities to acquire unowned resources which are at least as valuable as theirs” (Vallentyne, Steiner, and Otsuka 2005, 214). Even if “dead and future persons have no rights” (Steiner 1994, 250), this position entails a moral duty to future generations which is not correlative to any right, but it is as a result of the world-ownership thesis. It does not matter how we conceive future generations (Otsuka 1998), the fact that dead persons do not have any right to transfer owned objects purely because they ceased to be self-owners therefore their possessions fall back in a non-owned state is important. If this consequence of self-ownership thesis is right and if world-ownership involves any valuable unowned resource then copyright must not survive her owner. Nowadays copyright terms encompass creator’s lifetime and another 70 years. It can be inherited, hence any generation, after the author’s death, is deprived of valuable resources. The case is more despicable when it comes to orphan works – artistic and scientific works whose author cannot be found, but the copyright persists.

Left-libertarians are not interested in redistributing the fruits of social cooperation, like the Rawlsians (Vallentyne, Steiner, and Otsuka 2005, 214). For them, natural resources are not confined to a territory because “national boundaries are morally arbitrary” (Vallentyne 2000, 12). All human agents are entitled to them. In the case of ideal objects, an evolutionary account of knowledge must accept the continuous circulation of expression and ideas and historically cultural interbreeding at any specific moment in time. Globalization is in the first place an endless transfer of ideas which started before the Roman Empire and gained momentum in the last century. A patent for medicine or a copyright for a scientific handbook does not cover only a specific territory, but the world as a whole. It does impose duties to all world citizens. If its impact on the well-being of each citizen is measurable – and it is – and if its effect worsens their opportunities and prospects than the actual institutional arrangement should be redesigned in order to compensate or to share access for those adversely affected.

Conclusions

In the sections above I tried to construe the left-libertarian framework in order to deal with contemporary issues of intellectual property. At origin, John Locke and contemporary left-libertarians as well, were having in mind only the case of

physical objects, but I believe I have offered reliable arguments for an extension of this way of thought to ideal objects. The global regime of IPRs is under substantial scrutiny from different angles. What I proposed is to start from natural rights to observe how IPRs foundation, justification and moral implications could be assessed in a world where positive entitlements are settled by a top-down institutional design. Left-libertarianism is a theory of justice, not a legal theory. Moral rights and duties involving persons and their actions act as philosophical tests or checks, not as outputs of my analysis. The focus was on original rights in the interest of sensibly exploring how derived (and frequently imposed as) positive rights could and sometimes do create injustice. The flow of information, ideas, and expressions is harder to control than to motivate its free streaming. Moreover, and perhaps this is a fault in my position, I did not try to see what motivates creators to provide strenuous intellectual labor. But I think I provided sufficient reasons for the necessity of pursuing knowledge by each and every person alive.

IPRs are not original rights, they are derived and therefore any claim for intellectual property is *weaker* than the correlative duties attached to self-ownership and world-ownership rights. In other words, IPRs *lack priority* in front of these two original rights. IPRs should be overridden by and should not prevail against stronger claims of justice. An implication of their weakness is that they should expire faster than physical property rights. Another implication is that, as derived rights, IPRs *should not benefit of strong enforcement* like any original rights especially if it could be in the latter's detriment. Ideal objects revolve around general ideas and specific expressions and furthermore they radiate from mind to mind and body to body. Strong control rights or rights to compensation for intellectual property could be indeed enforced only at the expenses of diminishing other rights. This tensions should not be underestimated.

IPRs inflation is a hazardous process which corrodes piece by piece both self-ownership and world-ownership. It is also morally wrong because it harms people who did not consent; furthermore, this proliferation could also have unexpected social results, due to new layers of restrictions, such as the sinking of intellectual opportunities for people, an impaired access to education and culture, and a lesser level of innovation especially in the most deprived parts of the world. It is hard to estimate to what extent IPRs are really exercisable. For Steiner (1994, 57) at least, any acknowledgeable right must be exercisable because exercisability is found in the essential nature of right, not as contingency. Are IPRs more 'virtual' than 'actual?' At a first sight – take a look at the widespread contemporary illegal file sharing or at the counterfeiting phenomenon on the black market –, the balance tilts to a general failure of enforcing IPRs. An author could not in fact control her work in relationship with people's minds, intentions, and actions.

If IPRs upset the equality of opportunity or the equal share of raw intellectual resources, then the demand for *redress*, in the light of left-libertarian view of justice, are justified. A “redress transfer” is corrective, not retributive; it corrects only when a right is trespassed and it does this in order to restore the “just distribution” (Steiner 1994, 266–7). How to make this redress is a practical question and it must be addressed within the institutional design. Left-libertarians propose a “social fund” and/or mechanisms to re-introduce in the “common pool” of resources which through abandonment or death become unowned (Steiner 1994, 268). In the copyright case, “orphan works” and any other work after the author’s death should enter the public domain. In the case of patents, any unexploited invention, process or design should be free to use, in a reasonable period of time but smaller than 20 years. The future tends to become automatized, thus it will involve less and less manual labor. The disappearance of blue-collar labor due to robots opens the question of how persons will make a living without access to intellectual objects; these kinds of resources will exceed the utility of natural resources if they haven’t already. The distinction Hannah Arendt made between labor and work seems increasingly present and true.

The last conclusion is radical and it has to be taken *cum grano salis*: intellectual property is a category mistake. As I tried to argue elsewhere (Vică 2010), it is flawed to assign IPRs ontological features similar to physical property rights. They seem to look more like political privileges and economic artificial monopolies and that is why they generate many conflicts. Under the mistaken umbrella of intellectual property many claims were accepted as real property entitlements. The result is an unjust global regime of IPRs. It is not philosophers’ trade to make redress happen, but it is our duty to prove its necessity.⁷

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