

Funding the Future

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I [wrote a blog in about 7 minutes yesterday](#) which included a minor error inconsequential to the argument I presented (although you would not think that from the reaction of those who had clearly never actually read or understood what I was saying) and over 100 comments followed, most dismissive of my position, if I put the kindest spin on what was said.

I found it all rather bemusing. For one reason, I certainly never expect such reactions. But more intriguingly because those reactions show just how little most commentators here understand the process of change.

My argument, if I précis it, is that most patents and trademarks serve no real purpose in protecting property law. That, I suggested was the case with regard to the Apple trademark to which the blog referred. Instead I suggested that those intellectual property rights are created for at least three quite different reasons.

The first is to create an artificial 'asset' whose ownership is then very often located in a low tax jurisdiction for the use of which a charge is then made and a deduction claimed in a high tax jurisdiction. I would have thought I hardly need have presented evidence in support of this claim since it is one of the key issues of concern in the OECD BEPS process and the EU Competition Commission enquiry into IT and other companies, but apparently such common knowledge was a complete revelation to many commentators who claimed considerable expertise for themselves.

The second is that this intellectual property can be used to prevent powerful barriers to entry to new competitors into a market and so preserve monopoly profits. This is hardly a radical suggestion, it being a widely shared concern (I thought) but again it was apparently shocking news to many commentators.

And third, this intellectual property can be used to warn off innovation. Because of the imbalance in many markets IP once granted to a company commanding significant resources (and I think there is agreement that this might describe Apple) can be used to threaten legal action that purely pragmatically a smaller company could not challenge, and so will not take risk upon. Now, as a matter of fact it is obvious that Apple does pursue IP litigation, as is its legal right, but which I think could result in real

risk that developments on its thinking (which is how all innovation happens) can only occur within its metaphorical four walls. Since large companies have generally poor records of major innovation, usually relying instead on incremental change or government subsidy (in which case their claim to ownership of the resulting IP should be questionable) this is likely, in my opinion, to be harmful to the overall rate of innovation, although others clearly disagree.

Now I offered these three, connected, ideas in a deliberately disruptive way, I admit; setting them in the economic environment of what I think can fairly be called rentier capitalism, whose risks [I described in an audio blog](#). The reason for the disruptive presentation - by which I mean a deliberately provocative whilst nonetheless wholly genuine approach is used - was that without disruption change does not occur and so the status quo - which almost every commentator on the issue clearly sought to uphold - is preserved.

Change is then predicated on the existence of disruptive thinking and, as Schopenhauer suggested, it usually provokes a three or four fold response. At first it can be ignored. That clearly did not happen in this case. Second it is ridiculed, which most certainly occurred. Then it is violently opposed. It may be fair to say that happened, although I mean in terms of the argument, and no more. Last it is accepted as being glaringly obviously appropriate and the right thing to do, with the idea then being adopted by those who usually have no idea how it might have emerged.

So, the blog I wrote demonstrated how a process of change might begin. I would like to see a change in IP law. I do think much of it deeply abusive of society at large. And predictably that suggestion was rejected out of hand by most who responded.

But so have other changes i have proposed been rejected in that way and yet change has happened or is underway as a result of them. So, I can assure you, I am not deterred. Indeed, the immediate vehemence of the reaction suggests how important change in this area might be. It was a worthwhile day.