

WTO General Council: Intellectual Property Rights

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1 Introduction and Executive Summary

Creative thinking is often considered the driving force of humanity and creative ideas are said to being the roots of all human innovation. In the competition of corporations, technologies and nations it therefore may seem only natural for humans to protect their ideas, their intellectual property.

The general idea behind the protection of intellectual property is that recognizing a person's idea and granting them a larger advantage over their competitor (namely, that the competitor will be barred from using the idea) will encourage innovation both in the inventor and its competitor. The protection of IP rights should therefore first and foremost serve innovation and not an inherent feeling of justice. This goes both in the case of companies/technologies and authors/artists.

In our case, we will mainly focus on economic issues, i.e. the companies/technologies and industrial Rights (see Section 2). Iran has joined the WTO and will therefore now have to adhere to the WTO's TRIPS Agreement's standards. In the sessions to come, delegations should

- consider the issues of IP rights in the ongoing trade war,
- look into IP rights in new technologies, e.g.
 - Biotechnology,
 - Software,
 - Pharmaceuticals.

As preparation, Delegations should consider their country's stance on IP rights, research any open IP quarrels with other WTO members and look into the effects of Intellectual Property in their economy.

2 Intellectual Property Rights [1]

There are two groups of intellectual property, Copyrights and Industrial Property.

Copyrights: The rights of authors and artists are protected under copyright for a minimum of 50 years after the author's death. Further protected are the rights of performers, producers and broadcasters; this is sometimes called "neighbouring rights".

The main purpose of copyright and neighbouring rights is to encourage and reward creative work.

Industrial Rights are distinguished into distinctive signs and inventions/designs.

Distinctive signs can be either trademarks (to distinguish goods/services of one party from another) or geographical indications (goods originating in a place where a given characteristic of the good is essentially attributable to its geographical origin, e.g. Dijon Mustard, Parma Ham, Roquefort, Tequila). The purpose of these distinctions is to stimulate and ensure fair competition and to protect consumers.

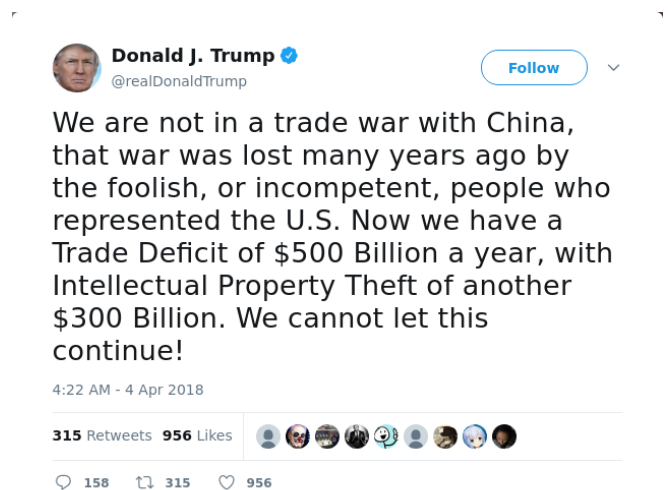


Fig. 1: The Commander-in-Chief—in his own words—accusing China of Intellectual Property Theft.

Inventions (protected by patents), industrial designs and trade secrets build the other category Industrial Rights. They should protect the results of investment in the development of new technology, thus giving the incentive and means to finance research and development activities.

A functioning intellectual property regime must also regulate the sharing and transferring of technologies in the form of foreign direct investment, joint ventures and licensing. The protection is usually given for a finite term (e.g. 20 years in the case of patents). While these general outlines are similar in every area, in detail, the rights and regulations are subject to a number of limitations and exceptions, aimed at fine-tuning the balance between the right holders and users.

3 TRIPS [2]

Intellectual Property Rights were first multilaterally negotiated in the 1986-94 Uruguay Round. The resolutions of these talks were manifested in the WTO's **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)** and have since governed the restriction, regulation and transfer of intellectual property. TRIPS, as amended on 23 January 2017, can be found [here](#).

TRIPS provides a basis of agreement, on which WTO members can build their own approaches to IP protection. There is ample room for members to find their own balance between the long term benefits of incentivising innovation and the possible short term costs of restricting access to or protection of the creative process. Under TRIPS, members are also able to create exclusions or exceptions to intellectual property rights, to suit their national goals or needs. The

WTO's dispute settlement system is always available to settle disputes over IP Rights and the application of TRIPS.

The TRIPS Agreement covers five broad areas:

- basic principles of multilateral trade applying to IP
- minimum standards of IP Rights protections
- procedures for members to enforce IP Rights
- dispute settlement among members
- arrangements for the implementation of TRIPS provisions

4 ETHMUN Agenda

As this will be a floor-based debate with the intent of a multilateral solution to a multilateral issue, the debate should match *classic* MUN. Although we will not pass resolutions, the goal should be Council Directives covering recent issues of IP Rights (see Section 5).

Please bear in mind, that we can pass multiple Directives at any point of the debate, as long as they have a simple majority. It would therefore be very much advised to address different issues in different Directives, as that would enable changing majorities (some countries might oppose certain issues in one Directive, other might oppose the other directive, a combined directive would therefore be opposed by a majority, while each directive would find a simple majority).

Similar to previous sessions in this semester, the goal is not to write detailed and ironclad legal documents, but to offer a general solution to the matter. It is more important to find general solutions to the issues of IP Rights, than to write another TRIPS amendment.

5 Recent Developments

Both the US and EU filed a WTO complaint against China concerning the protection of Intellectual Property Rights (US vs. China) and the transferring of technology (EU vs. China) in the first half of 2018. While currently still in consultation, other WTO members, such as Japan or Saudi Arabia requested to join the talks. [5]

While Industrial Property Theft has been a costly issue for many Western companies in China over the past decades, the Trump Administration has decided to more aggressively move forward on the matter (see Figure 1). The initiative opens a new front in Washington's commercial standoff with Beijing, after the world's two largest economies engaged in a tit-for-tat exchange of tariffs on each others' imports over U.S. accusations of unfair Chinese trading practices. [4]

6 References

- 1 WTO: 'What are intellectual property rights?', https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm
- 2 WTO: 'Intellectual property: protection and enforcement', https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm7_e.htm
- 3 Forbes: 'The Trade War With China And The Problem With Intellectual Property Rights', <https://www.forbes.com/sites/davidvolodzko/2018/11/11/the-trade-war-with-china-and-the-problem-with-intellectual-property-rights/>
- 4 WSJ: 'U.S. Adopts New Battle Plan to Fight China's Theft of Trade Secrets', <https://www.wsj.com/articles/u-s-deploys-new-tactics-to-curb-chinas-intellectual-property-theft-1542027624>
- 5 WTO: 'Disputes by agreement' ↔ Intellectual Property (TRIPS), https://www.wto.org/english/tratop_e/dispu_e/dispu_agreements_index_e.htm