Intellectual Property Arbitrage
(How Foreign Rules Can Affect Domestic Protections)

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Intellectual Property (IP) has long been regarded to be a controversial issue which few have dared to resolve. This paper presented briefly looks at the laws and flaws in the current system which we adhere to. Stating conditions which have global implications and then actually following up on those conditions is something which is rarely done, and the author has stated time and again that that is one of the main reasons for arbitrations to arise.

We start off by looking at the history of the WTO and observing the ramifications caused by treaties such as Trade Related Aspects of IP (TRIPS). Implementing and abiding by TRIPS, various interpretations of the term ‘law’ and legalities involved in expanding jurisdiction beyond a country’s border are some of the critical points which the author has argued about. In terms of curbing piracy of patented products, the rise of Parallel Products globally cannot be ignored too. However barring the US which has a total ban on Parallel Products, foreign governments have much to do.

Repercussions of IP Arbitrages have resulted in Software License terms prohibiting reverse engineering, barring products of research tools developed in a country different from the one which issues the patent, embedding country codes and banning all forms of Peer to Peer networks. Possible responses to deal with IP ‘theft’ include enhancing protection at home, pressurizing “rogue” nations, filing complaints with international organizations, proposing amendments to existing laws, isolation and acceptance of arbitration.

Concluding it can be said that protection has to exist everywhere or else it’s nowhere.

Discussion Questions:

- Does the sensitivity of disputes involved bother patent issuers as opposed to just the legalities? What degree of debt do foreign companies owe the local country for developing, marketing and profiting via the host country’s natural resources?

- Originally stated for creation in 1944 and ever since it set base in 1995 many have regarded the World Trade Organization’s record in the last 10 years as a failure. Is it high time for the WTO to be disbanded?

- How would you as an individual respond to widespread abuse of patent laws? When would you react and voice your concerns in a world where individuals who obey the law would be seen as fools and those breaking the law for their own individual needs would threaten the very existence of the resources shared by all.