Chapter 7

The Impact of Intellectual Property Reforms on ASEAN Member Countries

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ABSTRACT

A number of studies have been conducted with regard to the economic impact of intellectual property reform on economic growth. Majority of these studies, particularly works of an empirical nature, have focused on highly industrialized economies, with the findings supporting the conclusion that intellectual property rights (IPRs) have been economically beneficial to industrialized economies. Little research has been conducted on the economic benefit of IPR within developing countries. The current study considers the impact of IPR within ASEAN member countries to determine whether reform activities have been beneficial to IPR activity. The findings are mixed, suggesting that for some categories of IPR, reform activities have been beneficial while in other instances, regulatory reforms have not had a discernable impact. Additionally, the findings also indicate that intellectual property reform, where effective has been most effective in generating additional intellectual property activity, as measured by intellectual property applications, amongst non-residents, rather than amongst domestic registrants. This finding supports the conclusion that reform activities have engendered confidence amongst foreign firms and foreign nationals.

INTRODUCTION

Intellectual property rights (IPR) are afforded to industrious individuals and institutions who seek to secure their innovation through patent registration. There are a number of international agreements in place which seek to support and promote intellectual property rights globally. The manner in which countries have supported and enacted such agreements varies significantly. It is quite logical that the incentives for adoption and enforcement differ greatly across jurisdictions. Some nations have actively supported and promoted IPRs globally while other nations have sought to slow negotiations. In recent years, intellectual property legislation has proliferated, particularly within a number of south East Asian
countries. Indeed, since 1995, given the impetus provided by the Trade-related Aspects of Intellectual Property Rights (TRIPS) agreement, the vast majority of south East Asian countries have significantly overhauled their intellectual property systems. A number of ASEAN (Association of South East Asian Nations) countries have enacted significant changes to their Intellectual Property frameworks. Antons (2006) asserts that this is a result of bilateral pressures from major trading partners, particularly the USA and the European Union (EU). The author also notes more recent pressures consequential to bilateral Free Trade agreements.

The pressures exerted on the polities of the region resulted in many developing countries having to enact a significant number of changes in a relatively short period of time. Indeed, pressure was also exerted on the more advanced countries in the region, with Singapore initiating a significant intellectual property legislation reform program. As Antons (2006) notes, many of the nations in the region, particular ASEAN member countries, still had many antediluvian laws in place which originated from the colonial era. While progress in certain countries has been limited, a number of ASEAN countries have now significantly reformed their intellectual property framework.

Little is known about how the reform programs have affected intellectual property registrations beyond initial reflections on the quoted statistics. Critically, there is a dearth of research considering the impact of intellectual property reform programs on intellectual property growth, employing statistically robust methodologies. The current study is amongst the first to respond to this dearth. Specifically, the current study shall consider the impact of intellectual property-related regulatory reforms on intellectual property growth.

A critical challenge associated with any analysis of intellectual property reform programs from an economics perspective has been the paucity of available data, particularly at the national level in relation to IP secured within difference jurisdictions around the world. Recent progress in the development of databases has increased the potential for this type of analysis. The study shall provide a fuller analysis of this association, given the availability of IP registration data.

Much of the current research that has benefited from improved data availability is quite limited in its focus and scope. Much of the research adopts conventional econometric methodology, which is poorly suited to this type of analyses. Amongst the most common issues evident within much of the existing research is the aggregation of all IP data across classifications. Frequently, patent, trademark and copyright data is aggregated, with researchers being hopeful that this practice will result in meaningful findings. It is in the view of authors that this practice is largely unhelpful and may give rise to spurious conclusions.

As would perhaps be expected, the number of patents secured within most emerging nations is substantially lower than the number registered within highly industrialized and developed nations. Moreover, the aggregate data indicates that firms based within high Gross Domestic Product (GDP) countries possess a significantly large ‘pools’ of existing patents. These differing ‘patent pools’ and the differences observed in relation to the nature and structure of the underling patent registration are generally not considered within the existing law and economics research. The current study incorporates lagged differenced dependent variables into the model specifications to consider the relevance of earlier patent (trademark) registrations on latter period patent (trademark) registrations.

**Intellectual Property Reform within ASEAN and the TRIPS Agreement**

The following is a brief analysis of key legislative changes to the nations that are central to this analysis. The countries considered within the study are characterized by their significant IPR reformatory activi-
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