

FRANCIS Gurry is a patient listener. And when he talks, he does so in a slow and measured tone – the hallmark of a person trained in the diplomatic art of thinking before leaping. Both attributes are invaluable for a man who's the director-general of WIPO (World Intellectual Property Organization), the global body which oversees the protection of intellectual property (IP).

The nature of his job ensures he's at the centre of disputes between those who want to defend their IP rights and others who think these are restrictions on the spread of human knowledge.

WIPO is one of the 16 specialised agencies of the United Nations and was set up in 1967 to encourage creative activity and to promote the protection of intellectual property throughout the world.

"Our (WIPO's) basic mission in life is to encourage innovation and creativity," explains Dr Gurry. "Our way of doing that is by helping in the creation of property rights that encourage investment in innovation and creativity."

Why is this so important?

Dr Gurry, who hails from Australia and has been with WIPO for most of his working life, notes that the environment under which IP is being created and viewed has undergone a radical change.

"This is because knowledge is now at the centre of wealth creation. Intellectual capital is replacing physical capital."

In other words, IP is at the centre stage of economic activity.

Elaborating the point, Dr Gurry notes that since the 1950s, the biggest driver of economic growth has been technological progress fuelled by knowledge creation. And protection of that knowledge – in other words, IP – has become important to the creators, because it provides an incentive for them to create.

Interestingly, the idea that IP – or creative knowledge – is valuable and needs to be protected is not the product of the modern digital age, even though the issue has acquired a new sense of urgency now.

As far back as 1883, there was a Paris Convention for the Protection of Industrial Property. This was followed, in 1886, by the Bern Convention for the Protection of Literary and Artistic Works.

Both conventions created international bureaux, which merged in 1893 to become the United International Bureaux for the Protection of Intellectual Property (BIRPI). In 1960, BIRPI moved from Bern to Geneva and, a decade later, it became WIPO.

WIPO – which has 184 member nations – today helps to protect creative innovations like inventions, books, music, works of art, films, industrial designs and trademarks. It is also increasingly involved in the protection of IP over the Internet.

Dr Gurry notes that even though the idea of protecting IP is not new, technological change – more precisely, the onset of the digital age – has resulted in a whole new set of IP-related issues coming to the fore.

"With the Internet, we find that all of the (old) methods of expressing cultural products and ideas have shifted from the physical media to the Internet."

The WIPO official adds that this means that using the old legal models becomes much more difficult.

"You don't have a book, a CD or DVD



"What we need to be saying in relation to piracy is: how are you going to finance the creation of culture? We all want books, we all want music and we all want films. But they don't just appear. They require investment of time, money and talent. Who's going to reward the artists? How are we going to reward the creators – in a larger sense, including journalists as well – so that they can enjoy a dignified economic existence? If every creative expression is for free, then the economic model doesn't work."

Francis Gurry, director-general of WIPO

FRANCIS GURRY

Director-general
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Born May 17, 1951 Australian

1974 Bachelor of Law (LLB)
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2003-2008 Deputy
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October 2008 to present:
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ARTHUR LEE

The rationalist

In wealth creation nowadays, creative knowledge is replacing physical capital in a big way. The head honcho of the World Intellectual Property Organization plays a crucial role in ensuring a fair deal – for everyone. **By Amit Roy Choudhury**

which you sell to collect remuneration which goes back to the creators of the IP. That's the problem, for example, of illegal downloading of films and music over the Internet."

There is another aspect to the issue. "IP has become the convenient battleground to express social anxiety over the underlying direction of technology, especially in areas like the manipulation of higher organisms and the direction in which life sciences is moving.

"Some of these battles, which are ethical in nature, are played out in the field of IP because intellectual property is the first social expression of any new technology."

Dr Gurry acknowledges that the behaviour of some corporations has also triggered a social response.

As a result, civil society has entered into the debate and has become a stakeholder. So the political management on the part of the intermediary agency – WIPO – has become that much more difficult and important.

"Social movements are very prominent in the field of IP. You've seen them in action in the case of health, pharmaceutical (industry) and in the (protection of) traditional knowledge."

The invention of the word "bio-piracy" – which refers to the taking of traditional

knowledge of plants and animals from less developed societies by big corporations – is a word developed by civil society.

"We have seen civil society getting involved in the case of the Internet and free downloading of music. We've gone to such an extent that there's a political party in Sweden called the Pirate Party, which is dedicated to the elimination of IP, and it got 7.1 per cent of the Swedish vote in the last European elections."

Dr Gurry notes that these issues have become mainstream political questions, and rightly so, because knowledge has become a means of wealth creation.

The trick is to find the right balance of incentives, both for the owner of the IP as well as the goals of civil society.

"However, increasingly, we are finding that the task of striking the right balance is a complex thing to do, particularly in a globalised world."

Nothing illustrates this issue better than the pharmaceutical industry.

Finding a balance

On average, pharmaceutical companies spend around US\$1.3 billion to develop a new drug. Hence they need to get adequate returns on investment in order to sustain the development of future drugs.

"This demand for returns is perfectly justifiable. However, a market pricing of the drug to reflect the investment could leave it out of the reach of a large part of the developing world – perhaps the very market where the drug can do wonders. Then it becomes a social issue as much as an economic issue.

"So we have to find a balance between creating the incentive to invest in innovation (in this case, creating new drugs) and the diffusion of the social benefit of the invention – ensuring (in this case) that the drug reaches the most vulnerable group of people where it can do the greatest good,"

says Dr Gurry.

One way to do that could be differential pricing – that is, different pricing for different markets, the WIPO boss says.

"But that is something that goes against the grain of globalisation, which is about creating a single market. With differential pricing, you start dividing up the globe into different markets and then you have the (new) problem of import and export and parallel import.

"When you make the drug available to some African countries at a very low price, you will also have to ensure that the drug doesn't find its way back into the North American or European markets where it costs more."

These are difficult issues. Dr Gurry feels they would be more easily resolved if IP had a human face.

The way to do that, he suggests, is to emphasise that innovation is both economically essential and socially desirable. "We all want to improve our quality of life, and technology ultimately enables us to do that," he says.

And it's not only about technology. Dr Gurry feels society needs to ask the same questions in the field of creative expression – that is, books, music, songs, movies, dramas, TV programmes, and others.

"In the field of creativity, what we need to be saying in relation to piracy is: how are you going to finance the creation of culture? We all want books, we all want music and we all want films. But they don't just appear. They require investment of time, money and talent.

"Who's going to reward the artists? How are we going to reward the creators – in a larger sense, including journalists as well – so that they can enjoy a dignified economic existence? If every creative expression is for free, then the economic model doesn't work."

So, again, the short-term cost is that you have to pay for your music. In return, you get the long-term gain of having created a dynamic culture because the creator will create (new cultural expressions) while enjoying a decent economic existence, he adds.

More IP in Asia now

Like in every other field, Dr Gurry feels the rise of Asia and the developing world is having a major impact on the way IP rights are evolving.

"We are seeing a reconfiguration of technological power. We see China, India, Brazil, Korea, Singapore and a lot more countries which have either made the transition to being a technological powerhouse or are in the process of doing so."

All this means more IP is being created in Asia than ever before. Dr Gurry notes that in 1994, Japan, South Korea and China together accounted for just 7.6 per cent of international patent applications; in 2008, this figure jumped to 26.1 per cent.

This geographical shift has important implications. "When you have, for example, China arguing as a 'developed' country for patent protection, the nature of the debate will change."

Dr Gurry also calls for a differentiated IP system to accommodate different countries.

"I think we do need a balanced system internationally," he says – that is, a system which allows appropriate rewards but also ensures proper diffusion.

Related to this is the need to find better mechanisms to ensure the transfer of technology to nations that need it.

"That's been spoken about in the international system for years – in fact, decades – but never really with satisfactory results," he points out.

Dr Gurry acknowledges that transfer of technology works well in a market economy. But he notes that the reality is that there is market failure in many of the least developed countries, where normal market mechanisms don't work.

"This is going to be a crucial issue in the context of climate change," he suggests. "The developing countries are being

asked to move towards a carbon-free technology. But carbon-based technologies are often cheaper, so what's their incentive to change? And they don't have the technologies to actually change.

"So a functional mechanism to actually transfer technologies is something we have to find and not just talk about."

Dr Gurry has his hands full with issues he wants to resolve. He has had an eventful year as director-general. "I spent an average of 30-40 per cent of my time travelling across the world to listen to people and their views," he says.

The Australian lawyer, who admits he drifted into the field of IP, has spent 23 years of his career at WIPO.

"I very much enjoy the multilateral environment together with all its frustrations," he says. "And I enjoy very much the international context, perhaps because I come from an island."

To help himself de-stress, Dr Gurry does yoga everyday and swims as often as possible. "And, obviously, family is an extremely important part of my life," he adds. "I think, in an international organisation like the one I'm in, one could work 24 hours a day, 365 days of the year. Family is a very good counterpoise to that temptation, as it shows us that there's indeed a life outside of the office which is very rich."

It's with this important grounding in reality that the chief of WIPO pursues his professional mission: to teach the world that IP is not just about patents, trademarks and copyright. Rather, it's about human endeavour – about inventiveness, creativity and making a better world.

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