

The Public Psychology of Intellectual Property Rights

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Intellectual property rights now represent the dominant value of American companies and have become hotly disputed in policy, legal, and media debates. Despite their popular and legal prevalence, public perceptions and understanding of intellectual property law and rights have barely been explored. This paper presents the results of the first experimental study to investigate the relationship between popular conceptions of what intellectual property rights *should be* and what intellectual property rights *legally are* across different types of creative works.

The study utilizes a series of four paired intellectual property scenario experiments given in a between-subjects design to a national sample of over 1700 U.S. adults. The study examines three primary issues: (1) whether and how popular conceptions of intellectual property rights differ from actual intellectual property law; (2) whether and how popular conceptions of intellectual property rights vary across different types of creative achievement (artistic versus inventive creativity); and (3) how the popular understanding of the basis for intellectual property rights compares to standard rationales used in intellectual property policy and legal decision-making.

Results demonstrate (1) that respondents' views of what should be protected by intellectual property differ substantially from actual law; (2) that respondents' opinions were surprisingly consistent across copyright and patent law despite the doctrinal disparity between these fields; and (3) that popular conceptions of the basis for intellectual property law are contrary to commonly accepted bases relied upon in legal and policy decision-making. In addition, regression analyses on participants' preferences for the strength of intellectual property rights reveals that having *lower income*, being *older*, being *more educated*, and having *less experience* with intellectual property all correlate with a desire for *stronger* intellectual property rights. Further, for certain intellectual property rights, women prefer weaker rights to men and minorities prefer stronger rights to non-minorities.

The disconnect between public judgment and the law is problematic because such conflict can undermine the legitimacy and effectiveness of intellectual property law. The results also indicate that the behavioral model on which the intellectual property system is based cannot produce its desired effects concerning either the promotion of creative activity or compliance with intellectual property rights.