

**STRATEGIC BEHAVIORS AND COMPETITION  
INTANGIBLES, INTELLECTUAL PROPERTY AND INNOVATION**

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**Abstract**

Intangibles are an increasingly important source of value for businesses today. Intellectual property rights are a major source of intangible value for many companies. The increasing importance of intangibles and intellectual property from a value perspective has significance for the uses of intangibles by companies and the mechanisms and behaviors by which companies extract value from intangibles. Intellectual property structures are constructions of social reality that are neither inevitable nor natural. In addition, the manners in which holders of intellectual property rights wield such rights can play an important role in shaping intellectual property frameworks. Although intellectual property rights may serve as important tools of innovation, empirical evidence shows that in many industries intellectual property protection is not a primary means by which innovation is protected. Moreover, broad grants of intellectual property rights combined with strategic uses of intangibles that are increasingly characteristic of business practice today permit and even encourage the holders of such rights to use them offensively as strategic weapons in a manner that may actually be a disincentive to diffusion and future innovation. Existing models of intellectual property rights focus to a large extent on assumptions about ex ante incentives for individual creators and inventors. Under the intangibles paradigm, new markets for new products and technologies have arisen that suggest a more complex picture of incentives with respect to intellectual property, some of which may challenge dominant assumptions. The operation of markets for technology today also suggests that greater attention should be paid to the implications of the uses of intellectual property rights for markets, market competition and innovation.