

FURTHER SUBMISSION

Dear Sirs

I have received a copy of your draft report.

I note it does not consider or deal with the arguments made in my submission no 001, so I send it again. I ask you to read and respond to its arguments.

It seems to be the fashion for public bodies never to try to answer questions they cannot answer and even to pretend the questions were never raised.

I therefore direct you again to the threshold questions you should at least pretend to deal with.

In the meantime, I have note that some 92% of patents were granted to non-residents in 2010.

You should note in your final report that there is only one good argument for patents, viz, that they facilitate arrangements for international tax planning by Australian and overseas businesses seeking to divert income at low royalty withholding rates to lower tax jurisdictions. The resultant reduction in the tax burden on business incomes is thus the benefit of the patent system as a backdoor selective business tax relief mechanism.

You might even ask yourselves whether the patent system should be extended to protect novel methods of tax planning.

This is obviously said, tongue in cheek, but it does illustrate the lack of rational foundations for the patent system. It is simply an absurd infringement upon natural liberty and the spirit of emulation which drives all economic progress.

If you say that such patent protection for tax planning inventiveness would be contrary to public policy, why are pharmaceutical patents which direct research efforts away from natural non-patentable treatments not equally contrary to public policy?

Personally, I consider the Productivity Commission's naive endorsement of "property rights" of any kind makes it the compliant handmaiden of monopoly. A property rights theory based on "first seen, first owned", "first come, first grabbed" inevitably promotes engrossment of the commons (be it physical or intellectual). Adam Smith would have despised the hidden intellectual underpinnings of your draft report.

Yours sincerely

Terence Dwyer

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