

## Intellectual Property Rights: A Destroyer as Well as a Creator of Jobs?

**Author :** Pamela Samuelson

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Camilla Hrdy, *Intellectual Property and the End of Work*, 71 **Fla. L. Rev.** 303 (2019).

Do intellectual property (IP) rights create or destroy jobs (or both)? Industry associations and governmental agencies, such as the Patent & Trademark Office (PTO), frequently tout IP as a major force in creating (good) jobs as well as significantly contributing to economic growth. In 2016, the PTO, for instance, claimed that IP-intensive industries were directly or indirectly responsible for 45.5 million jobs, said to represent 30 percent of all jobs in the US. Without questioning this statistic, [Professor Hrdy's article](#) explains that this is at best only one side of the story.

The main insight of the article is this: "Intellectual property may be partly responsible for job creation for people who work within IP-intensive industries . . . But a significant subset of innovations protected by IP, from self-service kiosks to self-driving cars, are labor-saving, and in many cases also *labor-displacing*" (emphasis in the original). The development and deployment of automated systems for performing a wide variety of tasks in a wide array of industries is "drastically reduc[ing] the amount of paid human labor required to complete a task." Job losses resulting from technological change give rise to what economists call "technological unemployment."

While some studies have concluded that the displacement of labor due to technological innovations has resulted in more job creation than job destruction, Hrdy questions whether this result will hold true in the near future owing to several factors. These include the increasing quality and pace of automation in various sectors, a decrease in quality of the work that remains unautomated, a rising inequality in who has what kinds of jobs, and the inability of education to keep pace with the needs of displaced workers.

Hrdy offers self-driving trucks as a case study. According to the American Trucking Association, there are currently 3.5 million professional truck-drivers in the US. The median salary of these truck drivers is about \$40,000 per year. If the huge investments now being made in the development of IPR-laden self-driving trucks pay off, truck driving may no longer be a viable source of employment for most, if not all, of these people. The highly skilled engineers who are developing the software and hardware for self-driving vehicles generally earn more than \$200,000 per year. But truck drivers cannot easily or quickly become engineers. Their jobs are going to be substantially displaced by automation. What is to become of these workers?

What should the US do about the labor-displacing impacts of technological innovation? The right answer is not the one Queen Elizabeth I chose when asked to grant exclusive rights to a knitting machine in 1589. She denied the inventor's request for a patent because it would bring ruin to the many workers who made their living by hand-knitting clothing and other products. Elon Musk has suggested a universal basic income initiative as a solution. Bill Gates has proposed a robot tax. These and other possible solutions to the end-of-work problem brought about by advances in technology and IPRs on which these innovations are built are discussed in Hrdy's fascinating paper. IP may not be wholly responsible for the end of work, but Hrdy says that it "magnifies the division of rewards between generators of IP and the workers whom their innovations replace." Without destroying the incentive effects of IP, Hrdy would have us consider and address the distributive effects.

Whether you agree with Hrdy's conclusions or not, this provocative article is well worth a read.

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