

# *Intellectual Property and Global Warming*

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Could intellectual property rights be the cause of global warming? After all, the greatest inventions of the two last centuries include the car, the plane and with them the use of oil and coal to generate energy. They are some of the causes that contribute the most to the increase of levels of CO<sub>2</sub> on the planet. The academic community has given very little attention, if any, to this increasingly important issue. It is time however that the national and international intellectual property systems and treaties be reassessed in view of this problem that touches every human being.

The paper explores the role that intellectual property rights play in regulating pollution levels, especially levels of greenhouse gases. Intellectual property statutes are certainly not *in se* responsible for global warming and pollution. They can be seen as neutral, as their aim is simply to give an incentive to invent new technologies or create original works or designs. For instance, Article 1, section 8, clause 8 of the US Constitution simply enables Congress to promote the Progress of Science and useful Arts. In some cases already, intellectual property statutes may indirectly help the environment. For instance, compulsory licences exist if an invention is not put to practice, allowing anyone to commercialise an environmentally-friendly invention.

The paper argues that whilst the current intellectual property systems already indirectly take the respect of the environment into account, they could be improved if one wishes to further reduce CO<sub>2</sub> emissions. For instance, compulsory licensing rules could be improved. Also if one admits that intellectual property rights are human rights (and there seems to be a general consensus on this issue now<sup>1</sup>), they must be balanced against other human rights which may mandate a healthy environment. The paper analyses these issues in turn and makes some recommendations to modify intellectual property laws accordingly.

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<sup>1</sup> See e.g. C. Geiger, *Droit d'auteur et droit du public à l'information, Approche de droit comparé*, Litec: Paris, 2004; ALAI Congress Barcelona 2006 on copyright and freedom of speech ([www.alai.org](http://www.alai.org)); CIER Utrecht, Conference on intellectual property rights and human rights, 3-4 July 2006.