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Which IP strategies do young highly innovative firms choose?



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SUMMARY			
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Abstract

In their article, Veugelers and Schneider examine the strategies followed by young highly innovative companies ('YICs') to appropriate the gains from their innovations. Examining empirical data contained in the EUROSTAT Community Innovation Survey for Germany, the authors find that YICs tend to combine both formal appropriation mechanisms—patents, copyrights, and trademarks—and informal mechanisms—mainly secrecy and lead-time advantage. The authors conclude that it is important for public policy to remove barriers to the development of IP strategy.

Summary

The present article examines the appropriation strategies implemented by young highly innovative companies ('YICs').¹ Based on empirical data YICs show the following fundamental characteristics: They are mostly concentrated in engineering, ICT, as well as the electrical and optical instruments sectors.² YICs are characterised by a very high R&D intensity, reaching 73 percent.³

The authors distinguish between formal appropriation mechanisms, that is, formal intellectual property rights (IPRs) such as patents, copyrights, and trademarks; and informal appropriation mechanisms, in particular secrecy and lead-time advantage.

Veugelers and Schneider initially review the relevant economics literature on the appropriation of the gains from innovation.⁴ They note that the strength of an IP system

¹ Reinhilde Veugelers, /Cédric Schneider, 'Which IP strategies do young highly innovative firms choose?' (2018) 50 *Small Bus. Econ.* 113.

² *ibid.*, 119.

³ *ibid.*

⁴ *ibid.*, 114 et seq.

is a decisive factor for appropriation of innovation.⁵ Moreover, the authors review empirical studies showing variance in the patenting propensities of firms according to their size and industry.⁶

The authors also cite contributions by Teece pointing to the greater importance of a strong IP system for younger and smaller firms, as opposed to larger incumbents.⁷ A strong IP system provides YICs a bargaining chip to contract around IPRs, gain access to complementary assets, and earn licensing revenue.⁸

However, patenting can also be costly for startups and YICs. Patenting entails not only administrative costs—for instance application fees—but also costs in monitoring the market for infringement, as well as patent enforcement costs in litigation.⁹ The costs of the patent system explain to some extent, why informal appropriation mechanisms—secrecy in particular—are attractive to smaller businesses.

With regard to the article's main contribution, the authors examine data in the EUROSTAT Community Innovation Survey for Germany, in order to find whether YICs employ different IP strategies compared to other innovators—more established firms, SMEs, startups. This survey inquired into the innovation strategies for firms, as well as their motives for innovating.

According to the authors' analysis, available data leads to the finding that YICs do indeed use an IP strategy, and their strategy is more likely to combine formal and informal appropriation mechanisms.¹⁰

Veugelers and Schneider conclude that firms indeed employ different appropriation mechanisms. Large firms with intensive exporting activities are more likely to opt for formal mechanisms, in particular formal IPRs. YICs on the other hand, combine formal and informal forms, in particular patents and secrecy. The authors suggest that managers and policy makers focus on both formal and informal appropriation mechanisms in designing their IP strategies.

⁵ *ibid*, 114.

⁶ Wesley Cohen, Richard Nelson, and John Walsh, 'Protecting their intellectual assets: Appropriability conditions and why US manufacturing firms patent (or not)' (2000) NBER Working Paper No. w7552; Bronwyn Hall et al, 'The choice between formal and informal intellectual property: a review' (2014) 52(2) *Journal of Economic Literature* 375.

⁷ David Teece, 'Profiting from technological innovation: implications for integration, collaboration, licensing, and public policy' (1986) 6 *Research Policy* 285.

⁸ Veugelers and Schneider (n. 1) 115.

⁹ *ibid*, 116.

¹⁰ *ibid*, 123.