European Enterprise Institute Lunch debate on;

Patents, Innovation and Competitiveness

With Professor J. Peter Murmann, Kellogg School of Management.

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The European Enterprise Institute hosted on October 7th, 2004 a lunch debate at Hotel Leopold with the 2004 years Schumpeter award winner **Professor J. Peter Murmann** from the Kellogg School of Management. The topic for the discussion was taken from Professor Murmann's book *Knowledge and Competitive Advantage* which extensively dealt with Patents and its affect on innovation and economic competitiveness.

The lunch gathered 40 people from the EU institutions, industry representatives and as to the credit to the topic and speaker, also a good number of MEP' who despite ongoing Commission hearings took the time to join the debate.

Professor Murmann opened the debate by sharing of his expertise from researching U.S and European experiences from patents and their effect on stimulation of technological capabilities in the economy.

Professor Murmann stressed that there are two divergent philosophical stand points on patents; There is the older school of thought which argues that patents increase the rate of innovation as they provide individuals and firms with incentives to create new knowledge by offering a, in time restricted, monopoly of the patented product. The patent would according this line of thinking enable new technology to spread fast as "knowledge" would not have to be hidden and kept out of the market

The other view of patents is that it actually decreases the rate of innovation. This is because patent restricts the entry of new and better technology as competing firms are blocked from entry by the patent-holding company. This reduces the competitive pressure in the market and reduces innovation. Knowledge would according to this line of arguing be diffused through reverse engineering and employee mobility.

Professor Murmann acknowledged that whereas the patent system makes sense for individual companies and industries, his research has shown that this is not always the case for the economy as a whole..

According to Murmann one of the lessons that can be drawn from his research on the synthetic Dye Industry during the period before World War is that patents can help firms to develop superior technological, but whether it is good for the economy as a whole depends to a large extent on patent regimes in other countries. His research was focused on the industry development in Germany, Britain (which invented the technology), France, Switzerland and in the U.S.

One of the conclusions of this research was that those countries with a strong product patents in place had failed to produce competitive synthetic Dye industries. On contrary, countries with initial low level of product patents were according to Murmann superior in leveraging new technological competencies. Moreover, evidence from this research suggests that the key element for the competitive advantage of the German synthetic Dye industries were that patent laws were limited as to ensure a continued competitive pressure within the country. This pressure forced German companies to maintain better organizational capabilities than their foreign rivals.

After the presentation the European Enterprise Institute President and entrepreneur Mr. Peter Jungen chaired a Q & A session with the audience. Several points were raised which questioned some of the general conclusions made by Professor Murmann.

A person from the audience, pointed out that any general conclusion of the comparison of the patent systems in the U.S and the EU has to take into account that the two systems operate differently. For example in software – related inventions the U.S system allows to patents almost everything and even pure business methods are sometimes patented. This leads to trivial and patents that restricts competition.

Another intervenient added another dimension; if the EU wants to reduce the R&D gap towards the US, which in the year of 2000 represented 0.8% of GDP, a part of this has to come from the private sector. The Lisbon strategy foresees stronger government expenditure but in order to give also private companies incentives to invest in R&D, strong patent protection is fundamental.

Another member of the audience raised critic against the statement that patents would restrict innovation was that reality sometimes differs from theory. In practice it is sometimes necessary, especially for Small and Medium Sized enterprises, to have legal measure to protect their innovations. Without a patent there is no way for SMEs to keep innovations from being copied by larger and wealthier firms and being out competed by marketing and economies of scale. This situation would hamper SMEs investments in R&D.

He also emphasized that many of the negative effects of patents portrayed by the Professor Murmann, was in many way already dealt within the frame of competition law, namely, regulation against companies' abuse of dominant position and this already ensures that competition is upheld

Finally, Jacob Nielsen, EEI Executive Director, raised the issue whether a 19th Century low technology case, played out in an environment of mercantilist national economies would be fully applicable to the cut & paste technology transfer of today's global production lines. Would not the gains of increased transfer speed by abolishing patents be very quickly off-set by the loss in property rights of the developer to the benefit of seasoned copy pirates?

EEI President Mr. Peter Jungen concluded the event by thanking the speaker for taking his time to come to Brussels and debating this fascinating topic and acknowledged that the speech was as informative as it was challenging.

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