

The patent question

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The absence of patent protection, which had favoured the birth of the Basel chemical industry, became a political issue in the last decades of the nineteenth century. Foreign governments and industries, above all those of Germany, complained that Swiss companies copied their inventions without paying for them. Swiss industries that wanted to protect their own inventions, in particular the watch and machine industries, campaigned for a patent law. The chemical industry of Basel, which benefited from the absence of protection, opposed it.

After two failed attempts, the Swiss voters approved a constitutional amendment giving the Confederation the power to legislate on patents in 1887. The first Federal Patent Act came into force in 1888. However, the law protected only inventions that could be represented by a model, which excluded chemical processes. This limitation, which reflected the influence of the chemical industry, was criticised abroad, with Germany pressing Switzerland to extend protection. In 1907, under the threat of German trade retaliation, Switzerland revised its patent law to protect chemical processes, although not chemical products as such.¹ The protection of chemical and pharmaceutical products themselves was introduced only in 1978.²

By the time patent protection arrived, the Basel chemical industry had developed its own research capacity and no longer depended on copying. Having become an innovator in its own right, it would soon become one of the strongest defenders of intellectual property in the world. The trajectory of the Basel industry from imitator to innovator, and from opponent of patents to champion of patents, has parallels in the histories of other industrial nations: the United States in the nineteenth century, Japan after the Second World War and China in the early twenty-first century all began their industrialisation by imitating foreign technologies under weak intellectual property protection. Part G returns to this theme

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in connection with the current debates on pharmaceutical patents and access to medicines.

1 Notes

1. On the Swiss patent legislation of 1888 (requirement of a model, excluding chemical processes) and its revision of 1907 under German pressure (protection of chemical processes), see the literature on the history of Swiss patent law. To be verified. ↩
2. On the introduction of product protection for chemical substances and pharmaceuticals in Swiss patent law (revision in force 1978), see the literature on Swiss patent law. Date to be verified. ↩

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