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INTELLECTUALPROPERTYANDECONOMICGROWTH
WITHSPECIALATTENTIONTOCOPYRIGHTANDRELATEDRIGHTS
(OUTLINE)

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“Intellectual Property is the Cinderella of the new economy. A drab but useful servant, consigned to the dusty and uneventful offices of corporate legal departments until the princes of globalization and technological innovation – revealing her true value – swept her to prominence and gave her an enticing new allure” (Dr. Kamil Idris: “Intellectual Property – a Powerful Tool for Economic Growth”)

I. INTRODUCTION

1. Classical growth theories: Adam Smith, Ricardo, Marx.
2. Pessimistic growth theories: “quicker growth of population than productivity”; “over-exploitation of life-sustaining resources”; limits of economic development. Malthus and his school.
3. Another dimension of pessimism: the “creative destruction theory”.
4. 1950- 1990: step by step recognition of the potentials of intellectual property in the growth of economic output and consumption. The Solow model (emphasizing the synergy of the contributions of capital, labor and knowledge) and other endogenous growth theories.
5. The Uruguay Round negotiations with the economic and trade aspects of intellectual property in the limelight. The TRIPS Agreement and the free trade agreements. The Doha declaration. WIPO’s new agenda.
6. Globalization trends and electronic commerce. Intellectual property as the driving force and *conditio sine qua non* of the “knowledge economy” and “information society”.
7. The economic importance of industrial property rights (patents, trademarks, industrial designs, etc.) is more obvious; their impact may be more easily perceived and more precisely measured (the number of patent applications and economic output, trademark applications and the level of business activities, etc.). For a long while the economic role of copyright and related rights was more or less neglected. It is in the light of the newest developments – with the growing globalization, the worldwide telecommunication and distribution systems, the Internet and electronic commerce – that growing attention is paid not only to the cultural and aesthetic functions but also to the economic impact of this branch of intellectual property.

II. STUDIES ABOUT THE ECONOMIC IMPORTANCE OF COPYRIGHT

8. Copyright is traditionally regarded as a branch of law whose task is to protect beautiful things – music, literature, artistic creations, etc. – and, in a way, the expressions of the personality of their authors – and through such protection to recognize, remunerate for, and promote creativity. It should not be forgotten, however, that works and objects of related rights also appear as goods and services with definite economic value, and with implications for trade and competition in the market. In fact, copyright was born as a result of the advent of the first technology for the production of copies of works: printing with movable types; and the development of the legal institutions in this field has been decisively influenced by the ever newer waves of technological advancement, the result of which new cultural and information products have appeared in the market.

9. It was in the middle of the 1970s, that it occurred that it would be worthwhile to try to measure also the economic impact of copyright-related industries and trade. The first intensive studies were made in the United States which have been repeated since then quite regularly. It is worthwhile quoting some of the basic findings of one of the most recent such studies entitled “ Copyright Industries in the U.S. Economy; The 2002 Report”, written by Stephen Siwek of Economists Incorporated, about the economic impact and contributions of U.S. copyright industries- including theatrical films, TV programs, home video, DVDs, business software, entertainment software, books, music and sound recordings -- on the U.S. economy.

-- In 2001, the U.S. copyright industries accounted for 5.24 percent of U.S. Gross Domestic Product (GDP), or \$535.1 billion -- an increase of over \$75 billion from 1999 and exceeding 5 percent of the economy and one-half trillion dollars for the first time;

-- Over the last 24 years (1977 - 2001), the U.S. copyright industries' share of the GDP grew more than twice as fast as the remainder of the U.S. economy (7 percent vs. 3 percent);

-- Between 1977 and 2001, employment in the U.S. copyright industries more than doubled to 4.7 million workers, which is now 3.5 percent of total U.S. employment; and the U.S. copyright industries' average annual employment grew more than three times as fast as the remainder of the U.S. economy (5 percent vs. 1.5 percent);

-- In 2001, the U.S. copyright industries achieved estimated foreign sales and exports of \$88.97 billion, again leading all major industry sectors, including: chemicals and allied products, motor vehicles, equipment and parts, aircraft and aircraft parts, and the agricultural sector.

10. Similar, although, in general, less frequent and less detailed studies have been made also in other countries. Some figures indicating the share of cultural and information industries to the GDP of various countries measured recently: Australia: 3.1%, Germany 2.9%, Netherlands 4.5%, New Zealand: 3.2%, Sweden 6.6%.

11. WIPO has also included into its program projects concerning the assessment of the economic importance of copyright. In July 2002 a Working Group of Experts was convened in Helsinki which discussed the methodology of studies in this field. A handbook will be published soon containing the results of that meeting and other related material.

12. One of the most important first results of this new direction of WIPO's activity was the publication of a "Study on the Economic Importance of Industries and Activities Protected by Copyright and Related Rights in the MERCOSUR Countries and Chile" based on research conducted by a team of economists coordinated by Professor Antônio Márcio Buainain, State University of Campinas, Brazil. The main findings of the study were as follows:

-- The share of the contribution of copyright-related activities to the GDP of Argentina, Brazil and Uruguay is similar. In Argentina, the figure was 6.6%, in Brazil 6.7% in 1998, and in Uruguay around 6% in 1997. In Chile and Paraguay, the share of copyright-related industries was lower: 2% in Chile and 1% in Paraguay.

-- In all the countries, a substantial number of jobs were generated by copyright-protected activities, ranging between 5 and 3%. In 1993, in Argentina, around half a million people worked in the field directly or indirectly linked to copyright. In Brazil, the number exceeded 1.3 million in 1998. In Chile, during the same year, the sector employed 150,000 people, and in Uruguay the figure was at least 60,000 in 1997.

-- One important factor concerning Paraguay is the size of the unofficial market. The reproduction and distribution of unauthorized material probably employs a large number of people, but it cannot be measured by official statistics.

-- All the MERCOSUR countries had foreign trade deficits in products of the copyright industries. The share of exports and imports of copyright-related goods and services in overall trade varies depending on the country. Close examination of the data confirms the importance of distribution and of the media used for the consumption of protected products.

III. COPYRIGHT: SPECIAL ASPECTS RELATED TO SOCIAL AND ECONOMIC DEVELOPMENT AND CULTURAL DIVERSITY

13. The economic importance of copyright and related rights cannot be measured only on the basis of such kinds of figures as those quoted above. The nature, functions and social role of works protected by copyright and other productions protected by related rights differ to a great extent. Computer programs, databases, works of applied art do have quite a direct impact on economic activities, and their utilitarian functions may be dominant. Entertainment productions, in general, are of a similar nature to other goods on the market. However, works and other productions necessary for education, research and public information have specific importance; without their availability on appropriate conditions, obstacles may emerge for social and economic development.

14. Balancing between the public interest concerning the promotion of creativity and cultural production, on the one hand, and other public interests. The system of exceptions to and limitations on copyright and related rights. The “three -step test” for the application of such exceptions and limitations (Article 9(2) of the Berne Convention, Article 13 of the TRIPS Agreement, Article 10 of the WCT, and Article 16 of the WPPT). The Appendix of the Berne Convention concerning compulsory translation and reproduction licenses applicable in developing countries for public education and scientific research. rne

15. Specific aspects of balancing interests in the digital environment, in particular in the context of the Internet. The agreed statements adopted concerning the WCT and the WPPT on the extension of exceptions and limitations to the new environment. The delicate interface between the application and protection of technological protection measures (encryption of works and objects of related rights) and the applicability of certain exceptions and limitations.

16. Interests related to copyright and related rights beyond economy and trade. Human rights aspects. The protection of these rights as an indispensable means for the promotion of creativity and the preservation of cultural diversity and national identity.

[End of Outline]