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Submitted Electronically via EDIS and in Copies to the Commission, Investigation Nos. 332-531 and 332-540

Lisa R. Barton
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Re: IIPA Pre-Hearing Brief and Statement Related to: *International Trade Commission, Digital Trade in the U.S. and Global Economies, Part 1; Institution of Investigation and Scheduling of Hearing, Investigation No. 332-531*, 78 Fed. Reg. 2690, January 14, 2013; and *International Trade Commission, Digital Trade in the U.S. and Global Economies, Part 2; Institution of Investigation and Scheduling of Hearing, Investigation No. 332-540*, 78 Fed. Reg. 12787, February 25, 2013.

To the International Trade Commission:

The International Intellectual Property Alliance (IIPA) hereby submits its Pre-Hearing Brief and Statement Related to: *International Trade Commission, Digital Trade in the U.S. and Global Economies, Part 1* and *International Trade Commission, Digital Trade in the U.S. and Global Economies, Part 2*. We understand the hearing is scheduled for March 7, 2013.

Respectfully submitted,

Michael Schlesinger



**Pre-Hearing Brief and Statement of the
International Intellectual Property Alliance (IIPA)¹
before the United States International Trade Commission
Digital Trade in the U.S. and Global Economies, Parts 1 and 2**

The International Intellectual Property Alliance (IIPA),² a private sector coalition formed in 1984 of trade associations representing U.S. copyright-based industries, is pleased to submit its Pre-Hearing Brief and Statement related to: *International Trade Commission, Digital Trade in the U.S. and Global Economies, Parts 1 and 2*. As has been documented in the Federal Register notices (78 Fed. Reg. 2690, January 14, 2013 and 78 Fed. Reg. 12787, February 25, 2013), the Finance Committee of the United States Senate has requested the above-referenced investigation which would result in two reports.

¹ Appearing at the March 7, 2013 hearing will be Michael Schlesinger, Counsel to IIPA.

² The IIPA is a private sector coalition, formed in 1984, of trade associations representing U.S. copyright-based industries working to improve international protection and enforcement of copyrighted materials and to open foreign markets closed by piracy and other market access barriers. IIPA's seven member associations represent over 3,200 U.S. companies producing and distributing materials protected by copyright laws throughout the world—all types of computer software, including operating systems, systems software such as databases and security packages, business applications, and consumer applications such as games, personal finance, and reference software, free software, open source software, and software as a service, entertainment software including interactive games for videogame consoles, handheld devices, personal computers and the Internet, and educational software; motion pictures, television programming, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and fiction and non-fiction books, education instructional and assessment materials, and professional and scholarly journals, databases and software in all formats. Members of the IIPA include [Association of American Publishers](#), [BSA | The Software Alliance](#), [Entertainment Software Association](#), [Independent Film & Television Alliance](#), [Motion Picture Association of America](#), [National Music Publishers' Association](#), and [Recording Industry Association of America](#).



According to the USITC, the first report, “Digital Trade in the U.S and Global Economies, Part I,” will: 1) describe U.S. digital trade in the context of the broader economy; 2) examine U.S. and global digital trade, the relationship to other crossborder transactions (e.g., foreign direct investment), and the extent to which digital trade facilitates and enables trade in other sectors; 3) describe notable barriers and impediments to digital trade; and 4) outline potential approaches for assessing the linkages and contributions of digital trade to the U.S. economy, noting any challenges associated with data gaps and limitations, with such contributions and linkages possibly including effects on consumer welfare, output, productivity, innovation, business practices, and job creation.

According to the USITC, to “the extent practicable,” the second report will: 1) estimate the value of U.S. digital trade and the potential growth of this trade (with the potential growth estimates to highlight any key trends and discuss their implications for U.S. businesses and employment); 2) provide insight into the broader linkages and contributions of digital trade to the U.S. economy (such linkages and contributions may include effects on consumer welfare, output, productivity, innovation, business practices, and job creation); 3) present case studies that examine the importance of digital trade to selected U.S. industries that use or produce such goods and services, with some of the case studies to highlight, if possible, the impact of digital trade on small and medium-sized enterprises; and 4) examine the effect of notable barriers and impediments to digital trade on selected industries and the broader U.S. economy.

In this Pre-Hearing Brief and Statement, IIPA will endeavor to assist the Commission in the preparation of its Part 1 report by providing concrete information pertaining to at least the first and third themes on which the Commission has been requested to report. First, IIPA will endeavor to assist the Commission in describing U.S. digital trade in the context of the broader economy, from the



perspective of copyright-based industries, the core of which make up 6.36% of the U.S. economy, and the total of which make up 11.1% of the U.S. economy, and the total of which make up increasingly significant percentages of foreign markets' economies.³ Second, IIPA will endeavor to assist the Commission in describing notable barriers and impediments to digital trade, including piracy and myriad market access barriers which the copyright-based industries face and which hinder these industries' ability to contribute positively to the economy. While this Pre-Hearing Brief and Statement does not in great detail address the second and fourth themes in Part 1 of the investigation on which the Commission has been requested to report (namely, examining U.S. and global digital trade, the relationship to other crossborder transactions, and the extent to which digital trade facilitates and enables trade in other sectors, and outlining potential approaches for assessing the linkages and contributions of digital trade to the U.S. economy), over time and through the investigation process, IIPA may make further submissions to address these themes more concretely and in greater detail.

In addition, IIPA reserves the ability to make further submission with respect to all of the themes in Part 2 of the investigation on which the Commission has been asked to report. To a certain extent, the findings of prior IIPA and copyright-based industry reports may be responsive to the first and fourth themes in Part 2 of the investigation. Namely, certain of IIPA's and others' economic studies (which are discussed or mentioned below, and some of which are appended to this Submission) already provide data with respect to estimating the value of U.S. digital trade and the potential growth of this trade. Similarly, prior reports by IIPA and others' may provide significant input into examining

³ *Copyright Industries in the U.S. Economy: The 2011 Report*, by Stephen E. Siwek, Economists Incorporated, prepared for the International Intellectual Property Alliance (IIPA), available at www.iipa.com. The core industries are those industries whose primary purpose is to create, produce, distribute or exhibit copyright materials. These industries include books, newspapers and periodicals, motion pictures, recorded music, radio and television broadcasting, and computer software (business and entertainment). The "total" copyright industries include the "core" as well as those whose revenues, etc. are dependent on the "core" industries, and include the "partial," "non-dedicated support," and "interdependent" sectors.



the effect of notable barriers and impediments to digital trade on selected industries and the broader U.S. economy. Further, while this Pre-Hearing Brief and Statement does not in great detail address the second and third themes in Part 2 of the investigation on which the Commission has been requested to report (namely, providing insight into the broader linkages and contributions of digital trade to the U.S. economy, and presenting case studies that examine the importance of digital trade to selected U.S. industries that use or produce such goods and services the extent to which digital trade facilitates and enables trade in other sectors), over time and through the investigation process, IIPA reserves the opportunity to provide further submissions to address these themes more concretely and in greater detail.

U.S. Digital Trade in the Context of the Broader Economy

Products and services dependent on copyright protection make up a significant part of digital trade, including products in digital formats, and products and services capable of being licensed, sold, distributed, or delivered over digital networks.⁴ In IIPA's description of the products and services encompassed by its trade associations and over 3,200 companies, the following categories appear that are all relevant to digital trade:

- “all types of computer software, including operating systems, systems software such as databases and security packages, business applications, and consumer applications such as games, personal finance, and reference software, free software, open source software, and software as a service”;

⁴ In the Federal Register notice, “digital trade” is noted to include commerce in products and services delivered over digital networks. Examples given include software, digital media files (e.g., e-books and digital audio files), and services such as data processing and hosting. The ITC also indicates that its report will examine how other industries, such as financial services and retailing, make use of digital products and services for production and trade. *See, e.g.,* http://www.wto.org/english/thewto_e/whatis_e/tif_e/bey4_e.htm.



- “entertainment software including interactive games for videogame consoles, handheld devices, personal computers and the Internet, and educational software”;
- “motion pictures, television programming, DVDs and home video and digital representations of audiovisual works”;
- “music, records, CDs”; and
- “fiction and non-fiction books, education instructional and assessment materials, and professional and scholarly journals, databases and software in all formats.”

It is useful, in assessing U.S. digital trade in the context of the broader U.S. economy, to take into account the contribution of copyright-based industries to the economy. The IIPA has commissioned 13 reports over the years documenting the contribution of copyright industries dating back to 1990. The latest report, released in November 2011, entitled *Copyright Industries in the U.S. Economy: The 2011 Report*, was prepared by Stephen Siwek of Economists Inc., and details the economic impact and contributions of U.S. copyright industries to U.S. gross domestic product (GDP), employment, and trade.⁵ We append that report to this Pre-Hearing Brief and Statement for the record as Appendix A.

The 2011 report found that the “core” copyright-based industries in the U.S. continue to be major contributors to the U.S. economy, accounting for an estimated \$931.8 billion or 6.36% of the U.S. GDP in 2010. The value added for the total copyright industries \$1.627 trillion or 11.10% of U.S. GDP in 2010.

⁵See Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2011 Report*, November 2, 2011. The entire report as well as summaries can be accessed at http://www.iipa.com/copyright_us_economy.html, and is appended to this Pre-Hearing Brief and Statement as Appendix A. Core copyright industries are those whose primary purpose is to create, produce, distribute or exhibit copyright materials. These include books, journals, newspapers, and periodicals; motion pictures; recorded music; radio and television broadcasting; and computer software. The “total” copyright industries include the “core” as well as those whose revenues, etc. are dependent on the “core” industries, and include the “partial,” “non-dedicated support,” and “interdependent” sectors.



The core copyright industries employed nearly 5.1 million workers in 2010, that is, 3.93% of the entire U.S. workforce, and 4.75% of total private employment in the U.S. The annual 2010 compensation paid to core copyright workers, \$78,128 far exceeds the average annual compensation, \$61,404 paid to all U.S. workers, amounting to a 27% “compensation premium” over the average wage.

The total copyright industries employed more than 10.6 million workers in 2010, accounting for 8.19% of all U.S. employment, or nearly 10% (9.91%) of all private employment in the United States. The average annual compensation paid to employees of the total copyright industries in 2010, \$70,513, also exceeded the U.S. average annual wage by 15%.

Estimated 2010 foreign sales and exports of key sectors of the core copyright industries amounted to \$134 billion, a significant increase over previous years. As a comparison, the foreign sales of the copyright industries significantly exceed foreign sales of other major U.S. industries including aircraft (\$77.5 billion), automobiles (\$49.8 billion), agricultural products (\$60.2 billion), food (\$51.9 billion) and pharmaceuticals (\$36.4 billion).

The World Intellectual Property Organization has for many years developed its own program for member countries to calculate the contribution of their copyright industries to their economies. The 2012 WIPO study, *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries*, resulted from compiling copyright industries studies in well over 30 countries.⁶ We append that report to this Pre-Hearing Brief and Statement for

⁶World Intellectual Property Organization, *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries*, 2012 (on file with IIPA). In 2003, the World Intellectual Property Organization (WIPO) published a guidebook on the economic parameters to develop such studies entitled *Guide on Surveying the Economic Contribution of the Copyright-Based Industries* (WIPO Publication No. 893) (2003), at http://www.wipo.int/copyright/en/publications/pdf/copyright_pub_893.pdf. The guidelines have been implemented in over 39 countries around the world, and studies have been published so far in 30 countries, including: Australia (2007), Bhutan



the record as Appendix B. Informally, WIPO indicates the completion of a total of 39 country studies, with more in the pipeline. Other studies have measured the contribution of certain sectors to national economies. For example, the Motion Picture Association Asia Pacific has issued a series of “Economic Contribution of the Film and Television Industry” studies for Indonesia (2012), Japan (2012), South Korea (2012), Thailand (2012), New Zealand (2009, 2012), Australia (2011), India (2010), and Hong Kong (2009).⁷

Notable Barriers and Impediments to Digital Trade

While the studies mentioned above amply demonstrate the positive contribution of copyright-based industries to the economy and therefore also to digital trade, they do not reveal the massive costs imposed by overseas piracy and market access barriers to U.S. copyrighted products and services. Piracy remains the single-most damaging barrier and impediment to digital trade. Content industries are forced to face unfair competition from those who engage in piracy as a high-profit, low risk enterprise. Today, legitimate businesses built on copyright are facing increased threats, as they must compete with the massive proliferation of illegal services unencumbered by costs associated with either producing copyrighted works or obtaining rights to use them.

(2011), Brunei (2012), Bulgaria (2011), Canada (2004), China (2011), Colombia (2010), Croatia (2010), Finland (2011), Hungary (2006), Jamaica (2008), Kenya (2011), Latvia (2006), Lebanon (2008), Malaysia (2011), Mexico (2008), Netherlands (2011), Pakistan (2011), Panama (2011), Peru (2011), Philippines (2008), Republic of Korea (2012), Romania (2010), Russia (2010), Singapore (2004), Slovenia (2011), South Africa (2012), Thailand (2012), and Ukraine (2010), and United States (2011).

⁷ See, e.g., Motion Picture Association Asia-Pacific, *Research and Statistics*, at http://mpa-i.org/index.php/research_statistics.



An independent study released by BASCAP (Frontier Economics), *Estimating the Global Economic and Social Impacts of Counterfeiting and Piracy* (February 2011),⁸ estimated the value of digitally pirated music, movies and software (not losses) at \$30-75 billion in 2010, and growing to \$80-240 billion by 2015. Others have issued reports on the economic consequences of piracy for specific industry sectors.⁹ The software industry estimated the software piracy rate and commercial value of unlicensed software in more than 100 countries in 2011, concluding that 42% of all software used worldwide is unlicensed, with the commercial value of unlicensed software rising to more than \$63 billion worldwide.¹⁰ The software industry has also examined the multiplier effects of reducing piracy on contributions to GDP, job growth, and tax revenues, concluding that reducing the piracy rate for PC software by 10 percentage points between 2009 and 2013 would create \$142 billion in new economic activity while adding nearly 500,000 new high-tech jobs and generating roughly \$32 billion in new tax revenues by 2013.¹¹ Rampant piracy not only impedes the evolution of legitimate channels for distribution, but also threatens to damage permanently or displace existing and authorized distribution channels which are unable to compete with infringing business models.

The U.S. copyright industries also suffer from myriad market access barriers, investment barriers, and discriminatory treatment that make it difficult to compete in some foreign markets on a level playing field. All efforts to crack down on piracy will be unavailing if legitimate products and

⁸Frontier Economics, *Estimating the Global Economic and Social Impacts of Counterfeiting and Piracy: A Report Commissioned by Business Action to Stop Counterfeiting and Piracy (BASCAP)*, February 2011 (on file with IIPA). The report builds on a previous OECD study (*The Economic Impact of Counterfeiting and Piracy (2008)*)

⁹The Motion Picture Association has commissioned studies from IPSOS and Oxford Economics on *Economic Consequences of Movie Piracy: Japan (2011)* and *Economic Consequences of Movie Piracy: Australia (2011)*.

¹⁰ See BSA (now BSA | The Software Alliance) and IDC, *Shadow Market, 2011 BSA Global Software Piracy Study*, Ninth Edition, May 2012, <http://portal.bsa.org/globalpiracy2011/>.

¹¹See, BSA (now BSA | The Software Alliance) and IDC, *Piracy Impact Study: The Economic Benefits of Reducing Software Piracy*, 2010, at <http://portal.bsa.org/piracyimpact2010/>.



services cannot be brought into a market to meet consumer demand. Among other forms, the market access barriers include:

- Ownership and investment restrictions on copyright-related businesses, such as those imposed in China, Indonesia, Vietnam, and elsewhere.
- Discriminatory or onerous content review/censorship systems. For example, in China, music and entertainment software companies continue to face lengthy delays in the censorship approval process, wiping out the very short viable window for legitimate distribution of their music and videogame products. Further, while piracy enters freely in these markets, countries like China and Vietnam impose content review processes which clear the way for further piracy and, adding insult to injury, are discriminatory to foreign content, further skewing the playing field.
- Discriminatory restrictions including on the ability to fully engage in the development, creation, production, distribution, promotion, and publication of copyright materials.
- The maintenance of quotas including screen time and broadcast quotas or complete bans on broadcast of foreign programming or advertising.
- Periods during which governments prevent U.S. producers from releasing, or force producers to release, their films in theaters, or onerous restrictions on the window for theatrical exhibition/distribution (including unfairly shortening the run of a theatrical motion picture).
- Local film print requirements, such as that nominally imposed (although suspended in recent years) in Indonesia.
- Onerous import duties or the improper assessment of duties on an *ad valorem* basis. Ad valorem duties are based on potential royalties generated from a film rather than the accepted practice of basing duties on the value of the carrier medium (i.e., the physical materials which are being



imported). This is a growing, dangerous, and very costly phenomenon to the film industry. The International Chamber of Commerce recognized in a policy statement, *The Impact of Customs Duties on Trade in Intellectual Property and Services*, that such a practice distorts markets, increases costs for suppliers and buyers, depresses commercial activity, and impedes the availability of intellectual property in the country imposing the tariffs.

- Government procurement preferences for domestic products or those with locally-owned or locally-developed IP. As an example, over the past several years, China has been rolling out a series of policies aimed at promoting “indigenous innovation.” The apparent goal of many of these policies is to develop national champions by discriminating against foreign companies and compelling transfers of technology. These include policies providing government procurement preferences for goods or services with locally-owned or locally-developed IP. The Chinese government has made a series of commitments in bilateral negotiations with the United States, including at the U.S.-China Joint Commission on Commerce and Trade (JCCT) and the U.S.-China Strategic and Economic Dialogue (S&ED), to eliminate such policies that link government procurement to where IP is owned and developed.
- Hardware tariffs. For example, game consoles play an increasingly important role in online game purchases and online game play, including through online marketplaces Xbox Live, Sony Entertainment Network, and Nintendo Wii Shop. Unfortunately, in countries that maintain unbound, high bound, or applied tariffs on game consoles, consumers must pay more (often significantly more) to access the means by which to make these digital purchases and access digital content. High bound tariff rates for the industry’s hardware products, approaching or exceeding 30% in some promising markets, choke consumers’ ability to acquire these products and



contributes uncertainty for businesses looking to provide supporting services, including software development.

Whatever form they take, whenever such market access restrictions impede the entry of legitimate products, they make it easier for pirate operations to fill the void, become de facto “exclusive” distributors of the products, and cement strong loyalties with their consumer base that make them even harder to dislodge.

One mechanism the United States has used over the years to identify barriers and impediments to trade in copyright materials, and which has thus increasingly become a way to catalog barriers and impediments to digital trade, is the Special 301 trade program. The IIPA has filed in every Special 301 proceeding since 1989, and in 2013, filed its 25th report in that docket. IIPA’s 2013 Special 301 Report, filed with the U.S. Trade Representative, documented online and physical piracy of copyright materials, market access barriers, and other developments in 48 countries/territories for denial of adequate and effective IPR protection or fair and equitable market access. The full IIPA Submission can be accessed at http://www.iipa.com/2013_SPEC301_TOC.htm. The complete Submission letter (but not the appendices to that report) is appended to this Pre-Hearing Brief and Statement as Appendix C.

In the 2013 submission, IIPA further advocated solutions to address “Copyright Industries’ Initiatives and Challenges for 2013,” which include notable barriers and impediments to digital trade. These include the following:

1) The Lack of Deterrent Enforcement Responses to Copyright Piracy in Many Foreign Markets: The overarching objective for the copyright industries remains to secure globally effective



legal frameworks capable of providing deterrent enforcement against copyright piracy; and to ensure that enforcement authorities robustly use these legal frameworks to combat copyright infringement.

2) Internet Piracy: Internet and mobile piracy pose enormous challenges and require a multi-faceted approach. Governments must recognize the need for proportionate and effective steps to curb online piracy, and provide adequate legal frameworks for the protection of copyright online, including provisions in line with the leading international treaties on copyright in the digital environment, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT); provisions recognizing online piracy as a form of cybercrime; and provisions that foster cooperation among the stakeholders (including ISPs) involved in the online supply chain to combat online infringements. Effective enforcement is critical to ensure the healthy development of a legitimate online market, and it must take place before it is too late to recover markets that are severely damaged by widespread and persistent piracy in all its forms. Increasingly, the role of advertising and ad networks in sustaining notorious piracy websites has come under scrutiny. Some companies have made the right choice and decided to take affirmative steps to terminate such practices—at least in part, and we applaud those who have done so.

3) Enterprise (Including Government) End-User Piracy of Software and Other Copyright Materials: The unauthorized use of software within enterprises, also referred to as “enterprise end-user software piracy,” remains a highly damaging form of infringement to the software industry today. Licensing software and installing it on multiple computers well beyond the terms of the license, or client-server overuse, in which more than the authorized number of employees on a network have access to or are using a central copy of a program at the same time, gives enterprises the productivity benefits that the software provides, while foregoing the expense of licensed copies of the software,



thus allowing them to enjoy an unfair commercial advantage over their competitors who pay for their software. On a macroeconomic level, countries with high piracy levels compete unfairly with countries which have lower rates. Sometimes enterprise end-user software piracy is attributable to negligence and poor software asset management (SAM) practices. In many cases, however, enterprise end-user piracy is undertaken willfully, with management fully aware and supportive of the conduct. Combating the unauthorized use of software in a business setting requires legal protection, including, in appropriate cases, through criminal prosecutions, and in civil cases, the imposition of statutory damages. Enterprise end-user software piracy and unlicensed use by government agencies remains a serious and widespread problem, setting a bad example for private enterprise in the countries in question. China and Ukraine are notable examples where government legalization efforts have experienced severe problems.

End-user piracy is not limited to software but affects other copyright sectors as well. Use of networks, computers, or other equipment owned by a government or public institution to carry out infringement is objectionable. Governments have an opportunity and responsibility to engage in best practices with respect to the handling of intellectual property issues in the operation of government services, and they should be encouraged to lead by example.

4) Unauthorized Loading Onto PCs (Hard-Disk Loading), Mobile Devices (Mobile Device Piracy), and “Media Boxes,”: The IIPA Submission discusses the unauthorized loading of software or other copyright materials onto PCs – hard disk loading – in which unscrupulous computer manufacturers and dealers install copies of software onto the internal hard drive of the personal computers they sell without authorization from the copyright holder. A similar problem involves mobile devices, as a cottage industry has emerged in which pirates operating from stalls or kiosks, or



masquerading as “repair” shops, offer (either at the point of sale of the mobile device, or afterwards) the illicit downloading onto any device of virtually any kind of copyrighted material. Another relatively recent phenomenon involves the manufacture, distribution, and use of “media boxes” which facilitate massive infringement. These “media boxes” are generally manufactured in China and exported to overseas markets, particularly throughout Asia. They can be pre-loaded with 200 HD motion pictures prior to shipment, loaded upon delivery, or plugged directly into Internet-enabled TVs, facilitating easy access to remote online sources of unauthorized entertainment content including music, music videos, karaoke, movies, TV dramas, and other creative materials. Enforcement authorities must take effective action against these forms of piracy or losses will mount out of control.

5) Circumvention of Technological Protection Measures (TPMs): Technological protection measures – TPMs – are employed by copyright owners as enabling technologies, managing access to copyright works to allow consumers to enjoy authorized access to more copyright works in more diverse ways, and at more affordable price points, than ever before. Myriad innovative products and services are currently made available in connection with works protected by TPMs, and new business models that depend on such controls are emerging and being extended to new markets constantly. TPMs are supposed to ensure that works made available in the digital and online environments are not easily stolen, but unfortunately, there are those who build their entire business models around providing devices, tools or technologies to fill demand for gaining unlawful access to the content or copying it. While proper implementation and effective enforcement actions against distributors of unlawful circumvention technologies are critical, these efforts are undermined by countries that have yet to fully or adequately implement TPMs protections. Countries that lack TPM provisions not only fail to afford domestic protections for legitimate online business models, but also serve as a source of



circumvention devices for consumers who live in countries where such devices and technologies are rightly prohibited.

6) Illegal Camcording of Theatrical Motion Pictures: One of the greatest sources of infringing copies of audio-visual works in digital formats (including online) is the illegal recording of movies from theaters, which is especially harmful when it occurs immediately after a title's theatrical exhibition window opens. Approximately 90% of newly released movies that are pirated can be traced to thieves who use a digital recording device in a movie theater to steal the audiovisual work (whether image or sound or both) from the theater screen. The increase in the severity of this problem in recent years tracks the development of camcorder technology that makes detection difficult and copies nearly perfect. All it takes is one camcorder copy to trigger the mass reproduction and distribution of millions of illegal Internet downloads and digital bootlegs in global street markets just hours after a film's theatrical release and well before it becomes available for legal home entertainment rental or purchase from legitimate suppliers. A multifaceted approach is needed including: (1) educating the public about the problem; (2) working with the private sector to identify and prevent unauthorized camcording in cinemas; and (3) developing and implementing legal measures to effectively deter unauthorized camcording.

7) Piracy of Books and Journals: Piracy of books and journals, i.e., of academic, scientific, technical and medical books, is an increasing irritant to digital trade, as book pirates have shifted tactics and are increasingly electronically storing digitized files of books (academic or otherwise).

8) Optical Disc and Game Cartridge Piracy: Pirate digitized optical disc (OD) products and game cartridges continue to inflict serious losses. In response, programs such as regularized surprise production plant inspections and exemplar (sample) disc collection should continue, and where



unlicensed illegal activity is detected, copyright laws and specialized OD laws or regulations should be enforced. Similarly, unauthorized factory production of entertainment software in cartridge format persists in China for export globally. In recent years, factory production of optical discs has waned as technological developments have meant fewer large-scale factories, replaced by smaller, more agile operations that “burn” music, books and reference publications, games, movies, and business software onto recordable media.

9) Pay TV Piracy and Signal Theft: The problem of the unauthorized broadcast, cablecast or satellite delivery of motion pictures and television content, as well as other content (music and sound recordings) costs right holders dearly in many markets, and increasingly takes the form of digital delivery and/or impinges on legitimate digital trade. One problem involves unauthorized cable access, when individuals or groups illicitly tap into the lines of legitimate cable TV companies. This occurs mostly in major metropolitan areas, and may use circumvention or hacking techniques, codes, or devices. A second problem involves unauthorized operators who take broadcast signals by unauthorized means (hacked set-top boxes or “overspill” boxes from neighboring countries), replicate the signal and sell it to hundreds or even thousands of consumers, without paying for any of the content, a problem of growing severity in several countries in the Caribbean region. These problems requires strong traditional copyright laws and enforcement, but authorities also can make use of licensing regulations, halting those who broadcast without a license, and prohibiting unlawful decryption or unlawful distribution or retransmission of decrypted signals, since pay-TV signals are almost always encrypted.

10) Lack of Full Implementation of IPR Provisions in Trade Agreements: The negotiation of multilateral trade agreements (such as the WTO TRIPS Agreement), as well as regional and



bilateral free trade agreements (FTAs) or Trade Promotion Agreements (TPAs) over the past two decades has proven to be of great value to the U.S. economy, and has included the introduction and implementation of enforceable obligations for our trading partners to modernize their copyright law regimes and improve enforcement procedures, most notably, in the digital environment. These agreements have helped U.S. copyright industries to compete more fairly in foreign markets, and have helped our trading partners develop their domestic copyright industries, a true win-win for all parties. In addition to TRIPS implementation, which has been completed in virtually all countries/territories that are members of the WTO, FTAs with 20 countries have entered into force. However, the failure of certain countries to fully implement their FTA, TPA, or other bilateral, regional or multilateral obligations poses a barrier and impediment to being able to fully enjoy and exercise copyright in those markets, including the full enjoyment of the digital markets there.

These initiatives and challenges pertain directly to, or are at least highly relevant to, evaluating barriers and impediments to digital trade.

Conclusion

In conclusion, IIPA appreciates the opportunity to provide the Commission with the perspectives of the U.S. creative industries on the issues presented in this investigation, and we look forward to continued work with the Commission in seeking to ascertain the significance of digital trade in copyright materials in the U.S. economy, and ways to address barriers and impediments to digital trade in the same.



APPENDIX A

Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2011 Report*, November 2, 2011, available at http://www.iipa.com/copyright_us_economy.html.

COPYRIGHT INDUSTRIES in the U.S. Economy



The 2011 Report

**By Stephen E. Siwek
Economists Incorporated**

**Prepared for the
International Intellectual Property Alliance®**

COPYRIGHT INDUSTRIES **in the U.S. Economy**



The 2011 Report

By Stephen E. Siwek
Economists Incorporated

Prepared for the
International Intellectual Property Alliance®

Copyright Industries in the U.S. Economy: The 2011 Report is the thirteenth report on the U.S. copyright industries prepared for the International Intellectual Property Alliance (IIPA) since 1990.

Citation format: *Copyright Industries in the U.S. Economy: The 2011 Report*, by Stephen E. Siwek of Economists Incorporated, prepared for the International Intellectual Property Alliance (IIPA), November 2011, available at www.iipa.com.

This latest report updates and supplements twelve previous reports produced by Economists Incorporated for the IIPA:

- Stephen E. Siwek and Harold Furchgott-Roth, *Copyright Industries in the U.S. Economy* (released in November 1990)
- Stephen E. Siwek and Harold Furchgott-Roth, *Copyright Industries in the U.S. Economy: 1977-1990* (released in September 1992)
- Stephen E. Siwek and Harold Furchgott-Roth, *Copyright Industries in the U.S. Economy: 1993 Perspective* (released in October 1993)
- Stephen E. Siwek and Harold Furchgott-Roth, *Copyright Industries in the U.S. Economy: 1977-1993* (released in January 1995)
- Stephen E. Siwek and Gale Mosteller, *Copyright Industries in the U.S. Economy: The 1996 Report* (released in October 1996)
- Stephen E. Siwek and Gale Mosteller, *Copyright Industries in the U.S. Economy: The 1998 Report* (released in May 1998)
- Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 1999 Report* (released in December 1999)
- Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2000 Report* (released in December 2000)
- Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2002 Report* (released in April 2002)
- Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2004 Report* (released in October 2004)
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The IIPA is a private sector coalition formed in 1984 to represent the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection and enforcement of copyrighted materials, and address market access barriers for the creative industries. These seven member associations – the Association of American Publishers (AAP), the Business Software Alliance (BSA), the Entertainment Software Association (ESA), the Independent Film & Television Alliance (IFTA), the Motion Picture Association of America (MPAA), the National Music Publishers' Association (NMPA) and the Recording Industry Association of America (RIAA) – in turn represent over 1,900 U.S. companies producing and distributing materials protected by copyright laws throughout the world—all types of computer software, including business applications software and entertainment software (such as videogame discs and cartridges, personal computer CD-ROMs, and multimedia products); theatrical films, television programs, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and textbooks, trade books, reference and professional publications and journals (in both electronic and print media).

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PREFACE

Michael Schlesinger and Steven J. Metalitz
International Intellectual Property Alliance

For the last 27 years, the International Intellectual Property Alliance® (IIPA®) and its association members have worked in partnership with the U.S. government to improve the ability of companies dependent on copyright to do business successfully in foreign markets. These efforts have resulted in very significant improvements in copyright laws in these countries, in the enforcement of those laws, and in the lowering of other market access barriers. These improvements have had a substantial positive impact on

revenue and employment in the U.S. creative industries; in helping these industries become one of the nation's largest contributors to exports and foreign trade; and in boosting U.S. economic growth overall. These improvements have also benefitted millions of creative individuals and enterprises in these foreign countries.

As international trade has increased and globalized, governments have become acutely aware of the significant



contributions that their copyright-based industries make to their own economic growth, technological innovation and cultural diversity. With the strongest copyright industries in the world, the U.S. was the first to quantify the economic impact of these industries. In 1990 IIPA commissioned one of the first reports of its kind to measure the role of the copyright industries as a distinct economic sector and to assess its revenue, employment, and growth impact on the U.S. economy. The series of reports that began in 1990 demonstrated that the creation and dissemination of knowledge-intensive intellectual property-based goods and services have become more and more critical to the continued economic growth of this country.

This 2011 Report, prepared for the IIPA by Steve Siwek of Economists Incorporated, underscores once again that the copyright industries are one of the most important contributors to U.S. economic growth. The U.S. copyright industries –

- continue to outpace the rest of the economy in real growth;
- employ over five million workers, who on average are paid significantly more than other U.S. employees; and
- contribute significantly to U.S. foreign sales and exports, exceeding those for many major U.S. industry sectors.

Other countries have discovered the value of preparing their own national studies. In 2003, the World Intellectual Property Organization (WIPO), building upon the methodologies developed by Steve Siwek of Economists Incorporated, issued its *Guide on Surveying the Economic Contribution of the Copyright-Based Industries*. The Guide describes methodologies for measuring the role of copyright industries in domestic economies that can, in particular, be adapted to developing countries. Since 2004, when the IIPA's report was the first to use this new WIPO methodology, 28 more countries have completed their own national reports. Studies employing the WIPO methodology have now been done in: Australia, Bhutan, Brunei, Bulgaria, Canada, China, Colombia, Croatia, Finland, Hungary, Jamaica, Kenya, Korea, Latvia, Lebanon, Malaysia, Mexico, Netherlands, Pakistan, Panama, Peru, Philippines, Romania, Russia, Singapore, Slovenia, South Africa, and the Ukraine. In

many of these countries, the studies provide the economic underpinnings for efforts to reform copyright law and enforcement and to lower rates of copyright piracy. Other countries are expected to join this effort as well.

This 2011 report, our fourth report that follows the WIPO methodology, presents data on the value added contributions of the copyright sectors to the U.S. economy; the percentage contribution of the copyright sectors to the overall U.S. economy; their employment levels; the average compensation for workers in the copyright sectors in comparison to other sectors; and the contributions of selected copyright industries to exports and foreign sales. The period covered by this report (2007-2010) includes the financial crisis and the U.S. recession of 2008-2009. No previous report in this series has ever documented a period of such damaging impacts on the U.S. economy and on U.S. jobs. While the copyright industries were not immune to these impacts, the value added by the copyright industries to U.S. GDP continued to grow in real terms over the period as a whole, even though U.S. GDP overall did not. During the same period, the copyright industries also maintained their share of the overall U.S. workforce, and foreign sales and exports reached their highest levels ever in 2010.

Despite these robust achievements, the creative and knowledge-based industries, and our economy as a whole, face a significant challenge from global copyright piracy. A growing percentage of revenue is being generated by sales outside the United States, leading to new and higher paying U.S. jobs in the copyright sector. Piracy inhibits this growth in the U.S. and around the world.

The creativity, innovation, investment, jobs, and cultural benefits that the copyright-based industries supply to national economies and societies can no longer be denied. Widespread online and physical piracy of copyright materials undermines the vitality and vibrancy of creative industries. Economic reports such as this one underscore what is at stake. They provide a compelling argument for more effective legal, enforcement, and market access regimes to promote and foster the growth of the content-based industries in the U.S., and in national economies around the world.

EXECUTIVE SUMMARY

This report, *Copyright Industries in the U.S. Economy: The 2011 Report*, completed by Economists Incorporated, updates and supplements twelve earlier reports prepared on behalf of the International Intellectual Property Alliance (“IIPA”). This thirteenth report presents estimates of the copyright industries’ contributions to the U.S. economy for the years 2007-2010, which reflects the most recent full year data (2010) at the time of the publication.¹

As will be explained herein, this report concludes that the U.S. copyright industries continue to contribute a large share of the U.S. gross domestic product and to employ millions of U.S. workers. Compensation paid to U.S. workers in the copyright industries substantially exceeds the average compensation paid to U.S. workers. The U.S. copyright industries also continue to contribute significantly to U.S. foreign sales and exports, exceeding those for many major U.S. industry sectors. Finally, despite the recession of 2008-2009, and the continuing harmful effects of copyright piracy, the U.S. copyright industries outperformed the rest of the U.S. economy as a whole during the period 2007-2010.

The period covered by this report includes the U.S. recession of 2008-2009. No previous report in this series has ever documented a period of such damaging impacts on the U.S. economy and on U.S. jobs. During the years 2008-2010 and continuing into 2011, the U.S. economy experienced a nearly unprecedented decline in GDP and employment.² The copyright industries were not immune to these impacts. But even through this difficult period, the value added by the copyright industries to U.S. GDP continued to grow in real terms while U.S. GDP as a whole did not. During the same period, the copyright industries’ share of the overall U.S. employment market remained largely unchanged.

This 2011 report continues to reflect the use of industry data classifications adopted under the North American

Industry Classification System (“NAICS”) which has been widely implemented by U.S. statistical agencies. The report also continues to follow the international standards and recommendations propounded by the World Intellectual Property Organization (“WIPO”) in 2003 regarding the development of economic and statistical standards to measure the impact of domestic copyright industries on domestic economies.³

The data in this study quantify the size and critical importance of the copyright industries to the U.S. economy, generally using the most current data available. As in past studies, the U.S. copyright industries’ contribution to the U.S. economy is measured by three economic indicators: value added to the U.S. gross domestic product (“GDP”) in current dollars; industry employment and share of national employment; and revenues generated from foreign sales and exports. This study includes two additional indicators of the importance of the copyright industries to the U.S. economy: compensation per employee, and real annual growth. As set forth below, for the period 2007-2010, the copyright industries, both core and total, achieved average real annual growth rates in excess of 1.0%. By contrast, for the same multi-year period, the U.S. economy’s real growth was essentially flat. These growth rates were realized even though the study period included the 2008-2009 recession, a time when the copyright industries’ real annual growth rates were negative.

Consistent with the declines experienced in total U.S. GDP and employment since 2007, the recent performance of the U.S. copyright industries did not match the copyright industries’ achievements in years past and as documented in previous reports. However, even during this period, characterized in large part by the 2008-2009 recession, the U.S. copyright industries continued to contribute mightily to the overall U.S. GDP and were able to outperform the U.S. economy as a whole.

¹ In this study, the values presented for 2007 have been updated from the 2007 results presented in *Copyright Industries in the U.S. Economy - The 2003-2007 Report*. The updates result from data revisions published by the U.S. Bureau of Economic Analysis and by other government agencies since the last report was completed.

² See Appendix A.

³ The author of this report, Stephen E. Siwek, participated as an expert at the meeting of the “Working Group of Experts of the Preparation of a WIPO Handbook on Survey Guidelines for Assessing the Economic Impact of Copyright and Related Rights” which was co-sponsored by WIPO and held in Helsinki, Finland, in July 2002. That meeting launched the process which resulted in WIPO’s 2003 publication of its *Guide on Surveying the Economic Contribution of the Copyright-Based Industries* which describes many of the recommendations and standards used in this report.

COPYRIGHT INDUSTRY VALUE ADDED TO GDP – 2007-2010

As noted above, the harmful effects of the recession of 2008-2009 were widespread and most U.S. industries experienced declining sales and employment during those years. However, by 2010, the U.S. economy began to improve somewhat from its low point in 2009. Within this context, the copyright industries remained an important contributor to U.S. GDP.

As shown in Table 1, the current dollar “value added” to U.S. GDP by the “core” copyright industries reached \$931.8 billion in 2010. In the same year, U.S. GDP reached \$14.66 trillion. Thus, the core copyright industries maintained a 6.4% share of U.S. GDP. The value added by the total copyright industries in the same period is also shown in Table 1. As reported in Table 1, the value added to U.S. GDP by the “total” copyright industries in 2010 was \$1.627 trillion, or 11.10% of U.S. GDP.

Table 1:
2007-2010 VALUE ADDED (BILLIONS OF U.S. DOLLARS)

	2007	2008	2009	2010
Core Copyright Industries	\$904.3	\$913.9	\$901.0	\$931.8
Total U.S. GDP	\$14,061.8	\$14,369.1	\$14,119.0	\$14,660.4
Core Share of U.S. GDP	6.43%	6.36%	6.38%	6.36%
	2007	2008	2009	2010
Total Copyright Industries	\$1,583.6	\$1,593.0	\$1,562.7	\$1,626.9
Total U.S. GDP	\$14,061.8	\$14,369.1	\$14,119.0	\$14,660.4
Total Share of U.S. GDP	11.26%	11.09%	11.07%	11.10%

To put these figures in perspective, it is useful to compare the economic contributions of the U.S. copyright industries to the contributions made by other U.S. industries in the same time period. Inter-industry comparisons to the U.S. copyright industry are shown in Table 2.

As reported in Table 2, the total value added to the U.S. economy by the entire federal government in 2010 was \$637.7 billion.⁴ This amount is approximately 60% lower than the value added by the total copyright industries in the same year. In 2010, the total value added to the U.S. economy by state and local governments was \$1,326.1 billion. This value is approximately 18% lower than the value added by the total copyright industries in 2010. Comparisons of the copyright industry’s value added in 2009 and 2010, to other sectors of the U.S. economy are also provided in Table 2. These comparisons clearly document the size and importance of the copyright industries today.

Table 2:
2009 AND 2010 VALUE ADDED COMPARISONS TO OTHER SECTORS (BILLIONS OF U.S. DOLLARS)

	2009	2010
Core Copyright - Value Added	\$900.9	\$931.8
Total Copyright - Value Added	\$1,562.7	\$1,626.9
Federal Government - Value Added	\$611.5	\$637.7
State and Local Government - Value Added	\$1,311.0	\$1,326.1
Construction - Value Added	\$537.5	\$505.6
Health Care and Social Assistance - Value Added	\$1,057.9	\$1,111.7
Finance and Insurance - Value Added	\$1,171.6	\$1,235.2

The value added estimates for the copyright industries that are contained in this report reflect underlying data that was obtained from the U.S. Bureau of Economic Analysis (“BEA”), the U.S. Census Bureau and other government statistical agencies. In particular, the estimates of copyright industry value added make direct use of the industry-specific estimates of U.S. value added that are regularly published by the U.S. BEA. These industry-specific estimates (in both current dollar and real terms) are used as starting points to derive the contributions made by the core and total copyright industries to U.S. GDP

⁴ U.S. GDP figures from Gilmore, T., Morgan, E. and Osborne, S., *Annual Industry Accounts – Advanced Statistics on GDP by Industry, Survey of Current Business*, May 2011, Table 1. (Hereinafter – U.S. BEA, Annual Industry Accounts).

COPYRIGHT INDUSTRY REAL GROWTH

The real growth rates in value added experienced by the U.S. copyright industries and by the U.S. economy during the period 2007-2010 are shown in Table 3.⁵ For the periods 2007-2008 and 2009-2010, the U.S. core copyright industries experienced positive real growth in excess of 3% annually. However, for 2008-2009, the core copyright industries' real value added declined by 3.07%.

The total copyright industries experienced a comparable pattern during the years 2007-2010. As shown in Table 3, for the periods 2007-2008 and 2009-2010, the total copyright industries grew at annual rates of 2.39% (2007-2008) and 4.20% (2009-2010). However, the total copyright industries also reported a reduction of 2.07% in real value added for 2008-2009.

This mixed pattern of growth and decline can also be observed for the U.S. economy as a whole. As shown in Table 3, U.S. GDP, in real terms, was flat in 2007-2008. However, in 2008-2009, real U.S. GDP fell by 2.63%. Subsequently, in 2009-2010, real U.S. GDP grew by 2.85%.

For U.S. private industry, the trends in real GDP were even worse than for the economy as a whole. Real private industry GDP fell by 0.67% in 2008 and by another 3.02% in 2009. Even by 2010, U.S. private industry GDP in real terms remained lower than it had been in 2007 (\$11.52 trillion in 2010 and \$11.62 trillion in 2007).

As Table 3 makes clear, in the years 2007-2010, both the U.S. copyright industries and the U.S. economy experienced dramatic ups and downs in real annual growth. In order to provide a longer term assessment of these growth patterns, the average annual growth rates for the entire period 2007-2010 are also provided in Table 3.

For the entire period 2007-2010, the U.S. core copyright industries, in real terms, grew at a compound annual growth rate of 1.10%. During the same period, the total U.S. copyright industries grew at a compound annual growth rate of 1.47%. By contrast, the U.S. economy's compound annual growth rate over the period 2007 through 2010 was only 0.05%.

As these data suggest, in 2007-2008, the core copyright industries grew at a rate in excess of 2.0% (and the total copyright industries grew at a rate in excess of 3.0%) while the U.S. economy did not grow at all. Subsequently, in 2008-2009, the copyright industries, like the rest of the economy, declined at an annual rate of 2-3%. Finally, in 2009-2010, the copyright industries experienced real growth of 3.4-4.2% while the U.S. economy grew at just under 3%. For the whole period of 2007-2010, the compound annual growth rate achieved by the U.S. copyright industries significantly exceeded the compound annual growth rate achieved by the U.S. economy as a whole.

COPYRIGHT INDUSTRY EMPLOYMENT AND COMPENSATION — 2007-2010

Employment figures for the core and total copyright industries for the years 2007, 2008, 2009, and 2010 are provided in Table 4. As shown in Table 4, the core copyright industries employed 5,496,100 workers in 2007. These workers represented 3.99% of the total U.S. workforce in 2007. By 2010, the number of core copyright employees in the United States had declined by 398,500 workers to 5,097,600. This number is significant, but must be

Table 3:

	REAL ANNUAL GROWTH RATES VALUE ADDED TO U.S. GDP			Annual Growth Rate
	2007-2008	2008-2009	2009-2010	2007-2010
Core Copyright Industries	3.05%	-3.07%	3.44%	1.10%
Total Copyright Industries	2.39%	-2.07%	4.20%	1.47%
U.S. GDP	0.00%	-2.63%	2.85%	0.05%

⁵ Real growth rates measure changes in constant dollar value added over time. In these estimates, current dollar value added figures are converted to "chained" dollars for the year 2000.

understood in the context of overall U.S. employment, which declined by 7,780,000 from 137,598,000 in 2007 to 129,818,000 in 2010.⁶

Table 4:

2007-2010 TOTAL EMPLOYMENT (IN THOUSANDS)

	2007	2008	2009	2010
Core Copyright Industries	5,496.1	5,474.8	5,176.1	5,097.6
Total U.S. Employment	137,598	136,790	130,807	129,818
Core Share of U.S.	3.99%	4.00%	3.96%	3.93%
	2007	2008	2009	2010
Total Copyright Industries	11,557.2	11,473.8	10,814.8	10,632.2
Total U.S. Employment	137,598.0	136,790.0	130,807.0	129,818.0
Total Share of U.S.	8.40%	8.39%	8.27%	8.19%

For U.S. private industry, employment declines in the years 2007 through 2010 were even greater than for the U.S. economy as a whole. As shown in Table 5, total U.S. private employment fell by more than 8,000,000 from 115,380,000 in 2007 to 107,337,000 in 2010. During these years, the core copyright industries maintained a 4.8% share of all private employment while the total copyright industries' share of private employment declined slightly from 10.02% to 9.91%.

Table 5:

2007-2010 TOTAL PRIVATE EMPLOYMENT (IN THOUSANDS)

	2007	2008	2009	2010
Core Copyright Industries	5,496.1	5,474.8	5,176.1	5,097.6
Total U.S. Private Employment	115,380	114,281	108,252	107,337
Core Share of U.S. Private Industry	4.76%	4.79%	4.78%	4.75%
	2007	2008	2009	2010
Total Copyright Industries	11,557.2	11,473.8	10,814.8	10,632.2
Total U.S. Private Employment	115,380	114,281	108,252	107,337
Total Share of U.S. Private Industry	10.02%	10.04%	9.99%	9.91%

In this report, as in the past, we also present estimates of the total compensation paid to workers in the core and total copyright industries for the years 2007-2010. In these calculations, worker compensation includes both wage and salary accruals and supplements to wage and salary payments.⁷ These data are shown in Table 6.

During the period 2007-2010, average compensation per employee in both the core and total copyright industries increased. As shown in Table 6, average compensation earned by core copyright employees stood at \$78,128 in 2010. This value was 27% higher than the average compensation paid to all U.S. employees in 2010, which stood at \$61,404. For all copyright industry workers, average compensation in 2010 was \$70,513, about 15% higher than the U.S. average.

Table 6:

2007-2010 COMPENSATION PER EMPLOYEE (U.S. DOLLARS)

	2007	2008	2009	2010
Core Copyright Industries	\$74,450.18	\$75,852.89	\$76,015.33	\$78,127.81
Total U.S. Compensation	\$57,093.10	\$58,983.20	\$59,678.60	\$61,404.20
Ratio: Core to U.S.	1.30	1.29	1.27	1.27
	2007	2008	2009	2010
Total Copyright Industries	\$67,320.41	\$68,534.30	\$68,621.60	\$70,512.84
Total U.S. Compensation	\$57,093.10	\$58,983.20	\$59,678.60	\$61,404.20
Ratio: Total to U.S.	1.18	1.16	1.15	1.15

FOREIGN SALES AND EXPORTS — 2007-2010

In terms of foreign sales and exports, this Report examines four selected core copyright industry sectors – the sound recording industry, the motion picture and television industry, the computer software industry and the non-software publishing industries which include newspapers, books and periodicals. These core copyright industry

⁶ U.S. Bureau of Labor Statistics, *Databases, Tables & Calculators by Subject, Employment*, available at <http://www.bls.gov/data/#employment>. For U.S. private industry, the employment declines were even greater. For the years 2007 through 2010, U.S. private industry employment fell by almost 7.0%. Private employment in the United States fell from 115,380,000 in 2007 to 107,337,000 in 2010.

⁷ The definition of compensation used in this report tracks that used by the U.S. Bureau of Economic Analysis.

sectors continued to grow during the 2007-2010 time period. By 2010, foreign sales for these core copyright groups increased by nearly 4.0%.

Annual growth rates for foreign sales and exports of these selected core copyright industries are provided in Table 7. As shown in Table 7, foreign sales increased in 2008 by 4.4%, decreased in 2009 by 3.3%, and once again increased in 2010 by 3.8%.

Table 7:

ANNUAL GROWTH RATE OF FOREIGN SALES AND EXPORTS			
	2008	2009	2010
Growth Rate	4.4%	-3.3%	3.8%

In Table 8, the foreign sales of these selected copyright industry sectors, representing only a portion of the core copyright industries, are compared with sales and/or exports of other U.S. industries. In 2010, these selected copyright industry sectors alone generated non-U.S. sales of \$134.0 billion. These sales figures compare favorably to

many industry sectors. For example, in 2010, reported exports of U.S. aircraft, aircraft engines and parts were \$77.5 billion, while U.S. automobiles, transmissions, power trains and engines were nearly \$50 billion, and U.S. agricultural exports were approximately \$60 billion. In 2010, foreign sales of pharmaceuticals and medicines were \$36.4 billion. In the same year, the U.S. chemical industry (excluding pharmaceuticals and medicines) achieved somewhat higher foreign sales of \$143.1 billion.

Table 8

2010 FOREIGN SALES AND EXPORTS FOR SELECTED INDUSTRIES (BILLIONS OF U.S. DOLLARS)	
Industry	2010
Selected Copyright Industries	\$134.0
Chemicals (excluding Pharmaceuticals & Medicines)	\$143.1
Aircraft, Aircraft Engines and Parts	\$77.5
Autos, Auto Trans & Power, Auto Engines	\$49.8
Agricultural Products	\$60.2
Food and Kindred Products	\$51.9
Pharmaceuticals & Medicines	\$36.4

I. INTRODUCTION

This report, *Copyright Industries in the U.S. Economy: The 2011 Report*, is the thirteenth in a series issued over the last twenty-one years by Economists Incorporated on behalf of the International Intellectual Property Alliance (IIPA). This latest report confirms once again that the U.S. copyright industries have outpaced the rest of the economy in real growth. The copyright industries also continue to employ millions of workers whose compensation levels substantially exceed the average level of compensation paid to all U.S. workers. Finally, the U.S. copyright industries continue to contribute significantly to U.S. foreign sales and exports, exceeding those for many major U.S. industry sectors.

As in previous years, this study is presented in five sections:

- The copyright industries
- Value added by the copyright industries to the U.S. economy
- Employment in the copyright industries in the U.S. economy
- U.S. copyright materials in world markets
- Conclusion

II. THE COPYRIGHT INDUSTRIES

In nine of our twelve prior economic reports on the copyright industries, we divided the copyright industries into four groups: core, partial, distribution, and copyright related; these are the sectors we developed and defined in our first report issued in 1990. In the “2004,” “2006,” and “2003-2007” reports, we still used four categories, but in order to conform to the international standard, we relied upon the four copyright categories defined by WIPO: core, partial, non-dedicated support, and interdependent.

The core industries are those industries whose primary purpose is to create, produce, distribute or exhibit copyright materials. These industries include newspapers and periodicals, motion pictures, recorded music, radio and television broadcasting, and computer software.

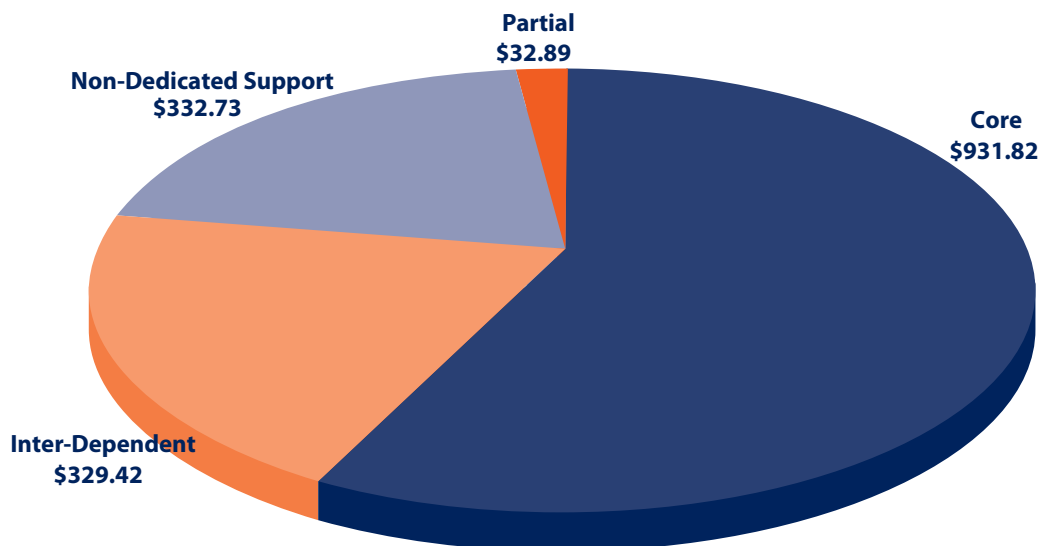
Partial copyright industries are industries in which only some aspect or portion of the products that they create can qualify for copyright protection. These industries range from fabric to jewelry to furniture to toys and games.

The third group, non-dedicated support industries, includes industries that distribute both copyright and non-copyright protected materials to business and consumers. Examples here include transportation services, telecommunications, and wholesale and retail trade. As in past studies, only a portion of the total value added by these industries is considered to be part of the copyright industries.

The fourth group involves the interdependent industries – those that produce, manufacture, and sell equipment, whose function is primarily to facilitate the creation, production, or use of works of copyrighted matter. These industries include manufacturers, wholesalers and retailers of CD players, TV sets, VCRs, personal computers and usage dependent products including blank recording material and certain categories of paper.

We refer to the four groups together – core, partial, non-dedicated support, and interdependent – as the “total” copyright industries.

COPYRIGHT INDUSTRIES IN THE U.S. ECONOMY 2010 (VALUE ADDED IN BILLIONS OF DOLLARS)



TOTAL: \$1,626.86 BILLION OR \$1.627 TRILLION

III. VALUE ADDED BY THE COPYRIGHT INDUSTRIES

The most appropriate way to measure an industry's contribution to the national economy is to measure the industry's value added. Value added reflects the economic contribution of labor and capital of a particular industry. The sum of the value added of all industries in the United States is equal to gross domestic product (GDP), a standard measure of the size of the U.S. economy. For this reason, value added calculations can be used to draw comparisons of the relative size and growth rates of different industries in a way that is consistent with the federal government's national income and product accounting data.

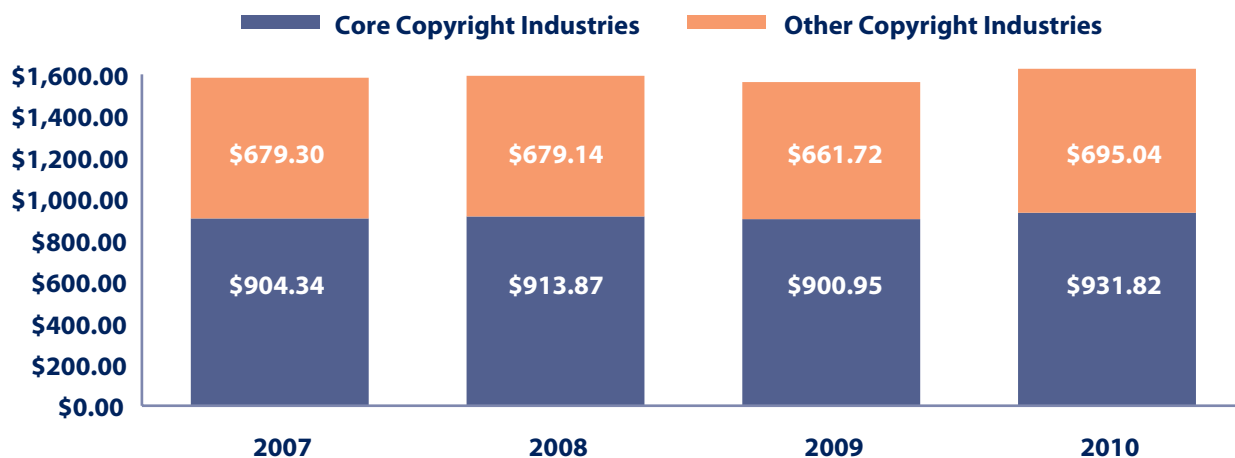
In our past reports, we noted that timely estimates of the value added by individual industries were not generally available from government sources for many of the industries considered in these studies. As a result, our prior estimates of copyright industry value added were derived by applying historical input-output factors to more current data on industry sales from both government and non-government sources.

By contrast, in the most recent studies, we make direct use of the industry-specific value added estimates produced by the U.S. Bureau of Economic Analysis ("BEA") to derive the contributions made by the core and total copyright industries to the U.S. economy. An additional benefit of using these data is that the BEA calculates both current dollar and constant dollar value added for the industry classifications that it analyzes. In this report, the constant dollar value added figures are used to derive estimates of the real growth rates achieved by the core and total copyright industries on a year by year basis. These data are also used to measure the contribution made by the copyright industries to the real annual growth achieved by the U.S. economy as a whole.

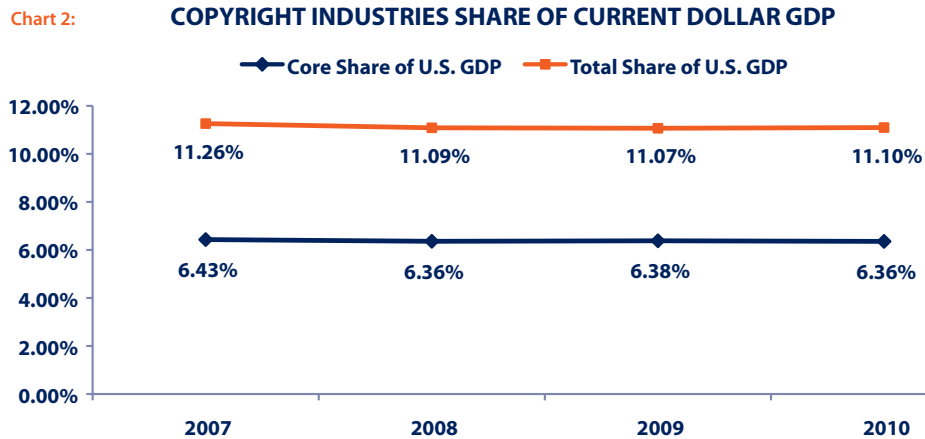
As shown in Chart 1, our current estimates of the value added for the core copyright industries in 2007, 2008, 2009, and 2010 increased from \$904.34 billion in 2007 to \$931.82 billion in 2010. The estimated value added for the other (non-core) copyright industries rose from \$679.30 billion in 2007 to \$695.04 billion in 2010.

Chart 1:

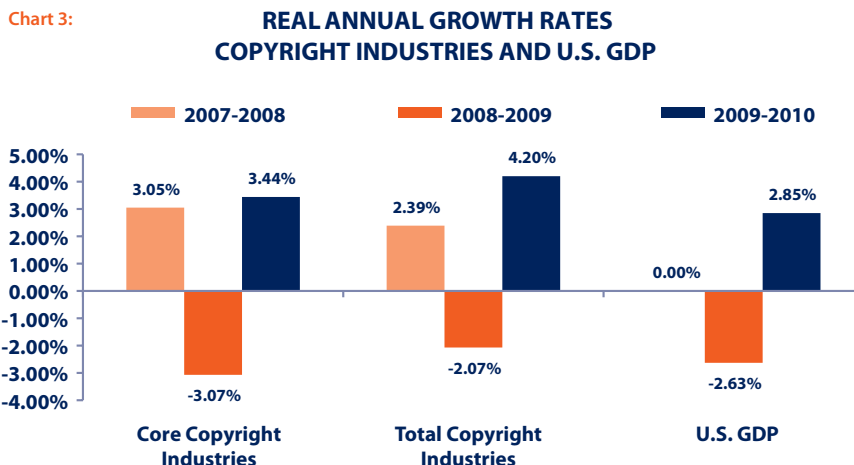
COPYRIGHT INDUSTRIES VALUE ADDED (IN BILLIONS OF CURRENT DOLLARS)



The copyright industries' current dollar share of the U.S. economy is provided in Chart 2. On the basis of the methodology described above, we now estimate that the core copyright industries' current dollar share of the U.S. economy has remained at approximately 6.4% of the U.S. economy for the years 2007 through 2010. The core copyright industries' current dollar share of the U.S. economy reached 6.43% in 2007. During the same years, the total copyright industries current dollar share of U.S. GDP remained at about 11.1%, peaking at 11.26% in 2007.

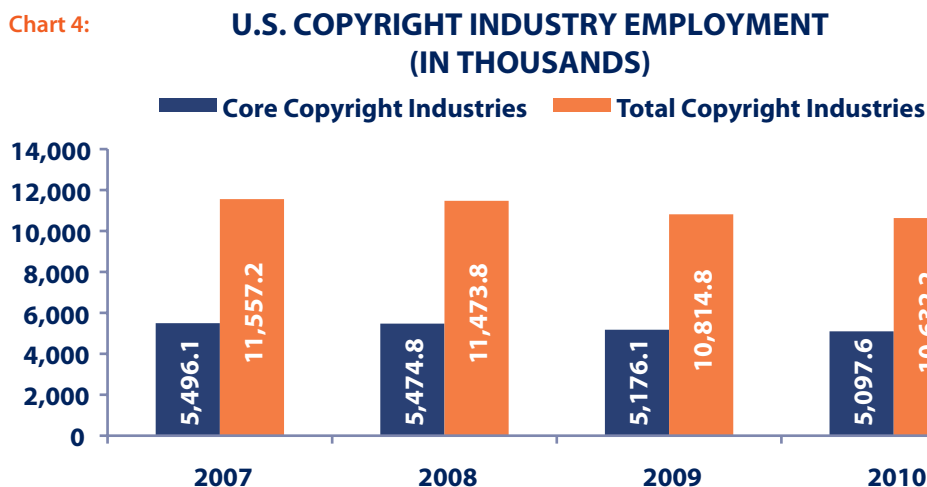


In Chart 3, we report the real (constant dollar) annual growth rates experienced by the copyright industries during the periods 2007-2008, 2008-2009, and 2009-2010. We also report the real growth rate achieved by the U.S. economy as a whole. As shown in Chart 3, the core copyright industries grew in excess of 3% in 2007-2008 and 2009-2010. Similarly, the total copyright industries grew at a rate of 2.39% in 2007-2008 and 4.20% in 2009-2010. By contrast, the real growth rates achieved by the U.S. economy as a whole were 0.00% in 2007-2008 and 2.85% in 2009-2010. In 2009, total copyright, core copyright, and the U.S. economy as a whole, retracted at rates of -2.07%, -3.07%, and -2.63%, respectively. As Chart 3 demonstrates, since 2007 the core and the total copyright industries have tended to grow moderately faster than the real annual rate of growth experienced for the U.S. GDP as a whole.



IV. EMPLOYMENT IN THE COPYRIGHT INDUSTRIES

In this report, as in the past, we estimate the number of workers employed in the core and total copyright industries for the years 2007-2010. The procedures used to derive our estimates of employment in this report were largely based on the formulas derived in the earlier reports. In those reports, employee counts were derived so that the counts would be consistent in both the NAICS and ISIC classification systems. As in the past, the actual employee counts by NAICS code were extracted from the Bureau of Labor Statistics (“BLS”) data base.



As shown in Chart 4, the core copyright industries employed 5.496 million workers in 2007. The total number of workers in the core copyright industries consistently decreased from 2007 to 2010.⁸ In 2010, the total number of workers employed in the core copyright industries was 5.098 million, a year-on-year decrease of 78.5 thousand and a decrease of 398.5 thousand from 2007. In 2007, the total copyright industries employed 11.557 million workers. Total employment in the total copyright industries decreased in 2008 and in all subsequent years through 2010. By 2010, the total copyright industries employed 10.632 million workers, a decrease of 924.9 thousand employees over the 2007 totals. However, because U.S. total employment also fell, the core copyright share of employment stayed right under 4%, while the total copyright share of employment slightly decreased from 8.4% to 8.2%.

In this report, we also quantify the average compensation per employee received by workers in the copyright industries and in the U.S. as a whole. In these calculations, “compensation” means “wages and salary accruals and supplements to wages and salary accruals.”⁹ These supplements include “employer contributions for employee pensions and insurance funds and employer contributions for government social insurance.”

As reported in Chart 5, in 2007, the average annual compensation per worker was \$74,450 in the core copyright industries and \$67,320 in the total copyright industries. In the same year, the average annual compensation for all U.S. workers was only \$57,093. The compensation “premium” paid to workers in the copyright industries continued through 2008, 2009, and 2010. In 2010, the average annual compensation per worker was \$78,128 in the core copyright industries and \$70,513 in the total copyright industries. By contrast, in 2010, the average annual compensation for all U.S. workers was only \$61,404.

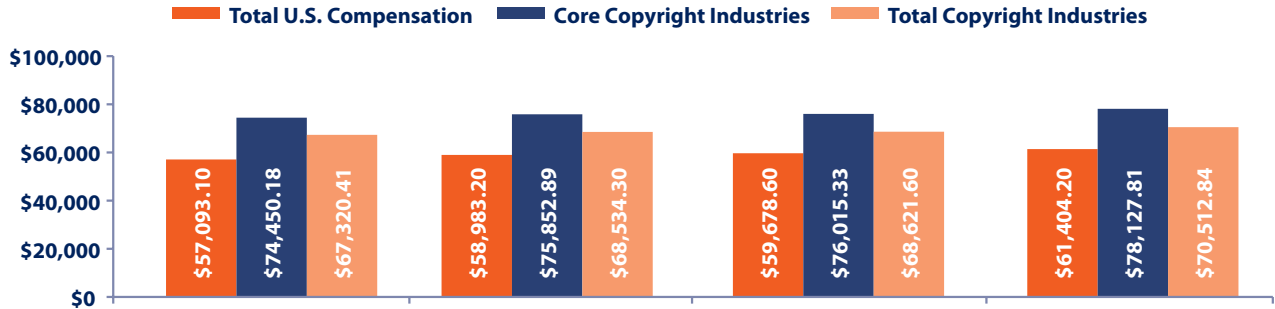
⁸ As a whole, the core copyright industries have consistently been able to add jobs to the U.S. economy. Within the core, however, certain component industries, particularly in the printing sector, have experienced declines in employment since the late 1990s.

⁹ See U.S. Bureau of Economic Analysis, *Glossary Index*, available at http://www.bea.gov/glossary/glossary_c.htm.



Chart 5:

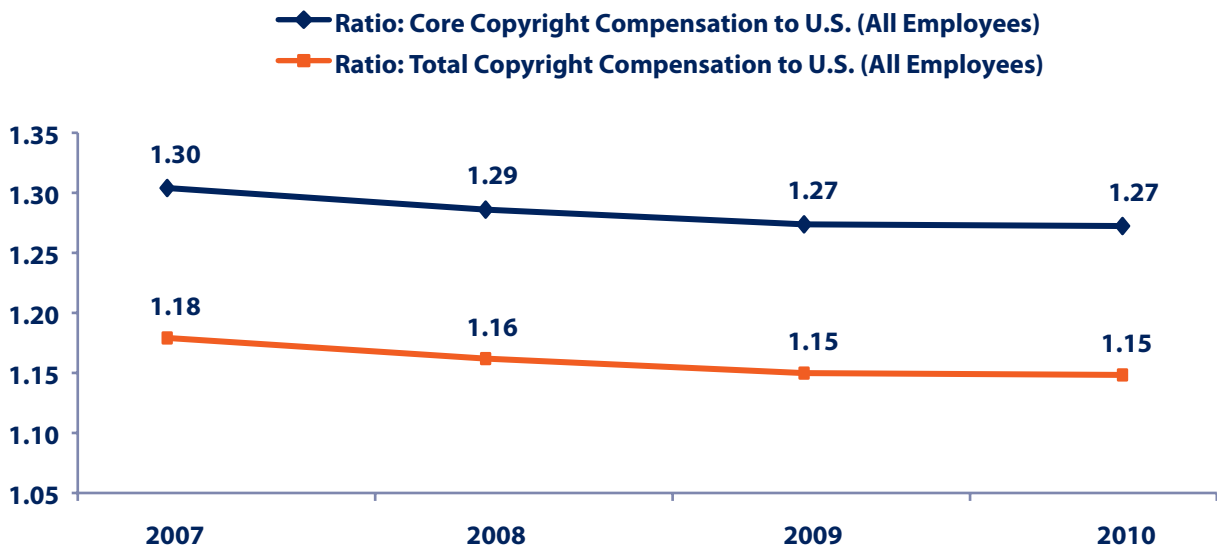
U.S. COPYRIGHT INDUSTRY COMPENSATION PER EMPLOYEE



The compensation premium paid to copyright industry employees can also be illustrated by ratio. In Chart 6a, the average compensation paid to employees in the core and total copyright industries is compared to the average compensation paid to all workers in the United States. For core copyright employees, the compensation premium has generally been in the range of 25-30%, and in 2010, the compensation premium was right at 27%. For total copyright employees, the compensation premium in 2010 was 15%. In other words, in 2010, core copyright employees on average received 27% more compensation than the average U.S. worker while total copyright industry employees received about 15% more compensation.

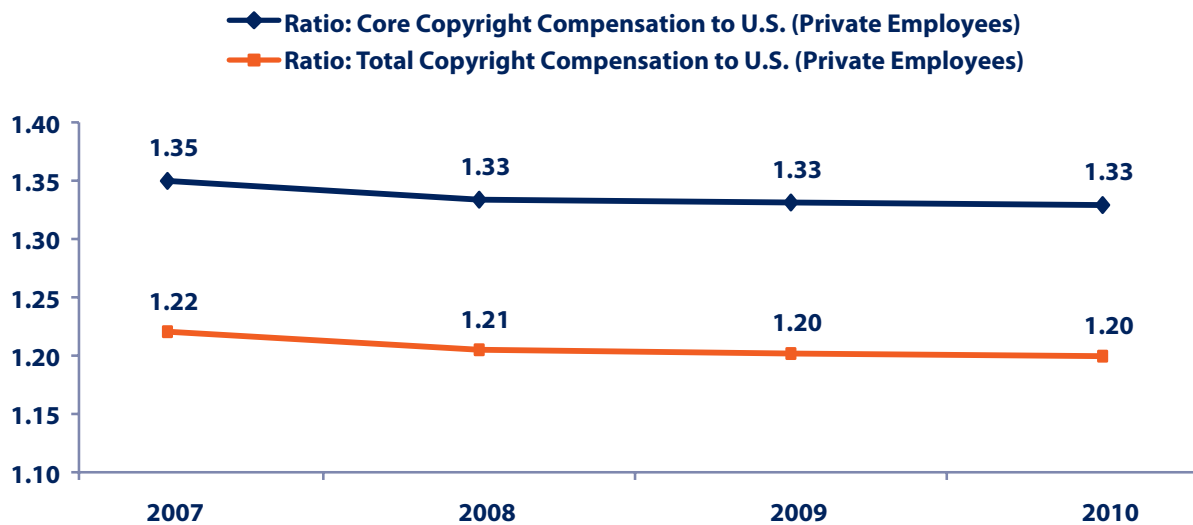
Chart 6a:

U.S. COPYRIGHT INDUSTRY RATIOS COMPARED TO ALL U.S. EMPLOYEES



Copyright industry workers are also paid more than the average U.S. worker in private industry. As shown in Chart 6b, the compensation paid to workers in the core copyright industries has generally been about 33-35% higher than the average compensation paid to U.S. private industry employees, and in 2010, this “compensation premium” was right at 33%. Similarly, the compensation paid to workers in the total copyright industries has generally been about 21% higher than the average compensation paid to U.S. private industry employees as a whole, and in 2010, this “compensation premium” was at 20%.

Chart 6b: U.S. COPYRIGHT INDUSTRY RATIOS COMPARED TO PRIVATE U.S. EMPLOYEES



V. U.S. COPYRIGHT MATERIALS IN WORLD MARKETS

Consumers in non-U.S. markets continue to demand products that embody American creativity. Copyright products that are sold abroad may be manufactured in the U.S. or in foreign markets but, in either case, the creative components of those products are nurtured by the protection afforded under U.S. laws.

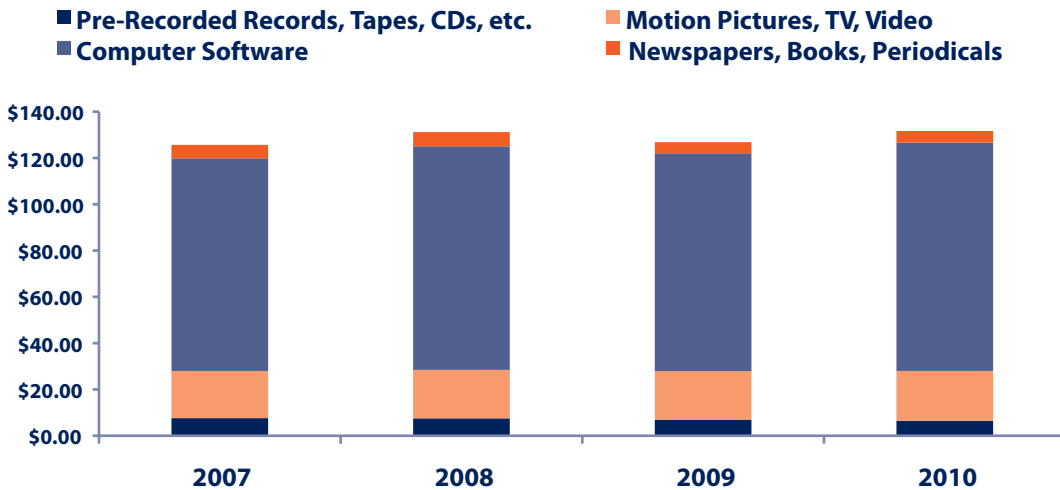
As noted in prior reports on these industries, we believe that the U.S. government’s statistics on “exports” of copyright products generally fail to accurately measure the true value of American copyright works sold abroad. We recognize that, in recent years, efforts have been undertaken to improve the scope of the copyright product export statistics that are gathered in government surveys. For example, the U.S. Census Bureau now reports “Estimated Export Revenue for Employer Firms,” for a number of the copyright industries including the motion picture industry and the sound recording industry.¹⁰ However, these statistics are dwarfed by the actual foreign market sales figures collected by the industries themselves.

¹⁰ See U.S. Census Bureau, Information Sector Services (NAICS 51), *Estimated Export Revenue for Employer Firms: 1998 through 2004*, Table 3.0.3.

As in past reports, we again provide estimates of foreign sales and exports for four selected core copyright industries during the years 2007 through 2010. These core industries are: the sound recording industry, the motion picture and television industry, the computer software industry, and the non-software publishing industries which include newspapers, books and periodicals. For these years, we report total foreign sales for the “selected” core copyright industries of \$127.9 billion in 2007, \$133.5 billion in 2008, \$129.1 billion in 2009, and \$134.0 billion in 2010. In Chart 7, these estimates are disaggregated as among the four copyright industries studied. The underlying figures by industry are also provided in Appendix A, Table A.5.

As noted earlier in this report, the foreign sales/exports of the core copyright industries remain significantly larger than the exports of other major industry sectors. As reported in Table 8, copyright industry sales in foreign markets significantly exceed foreign exports of the following U.S. industries: aircraft including aircraft engines and parts; agricultural products; food and kindred products; automobiles including gasoline engines and parts, transmissions and power trains; and pharmaceuticals and medicines.¹¹

Chart 7: ESTIMATED REVENUES GENERATED BY FOREIGN SALES/EXPORTS OF SELECTED U.S. CORE COPYRIGHT INDUSTRIES (BILLIONS OF DOLLARS)



¹¹ In this report, U.S. exports by industry were taken from the International Trade Statistics “Censtats” data base at the U.S. Census Bureau. Export statistics by industry were identified by NAICS code.

VI. CONCLUSION

The U.S. copyright industries have consistently outperformed the rest of the U.S. economy, in terms of their real annual growth rates and their contributions to the growth of the U.S. economy as a whole. These industries also constitute a large share of the U.S. gross domestic product and they employ millions of U.S. workers. In addition, the compensation paid to U.S. workers in the copyright industries consistently and substantially exceeds the average compensation level paid to U.S. workers as a whole. Finally, the copyright industries continue to play an increasingly prominent role in the growth of U.S. exports.

Value added in the copyright industries continues to grow. As of 2010, the value added by the core copyright industries was \$931.8 billion, approximately 6.36% of U.S. GDP. In the same years, value added for the total copyright industries stood at \$1,626.9 billion or 11.10% of GDP. In 2007, 2008, 2009, and 2010, the real annual growth rates achieved by both the core and total copyright industries tended to be higher than the growth rates exhibited by the U.S. as a whole.

The U.S. core copyright industries now employ nearly 5.1 million workers while some 10.6 million people are

employed by the total copyright industries. The annual compensation paid to core copyright workers exceeds the average annual compensation paid to all U.S. workers by 27%. The average compensation paid to employees of the total copyright industries exceeds the U.S. average by 15%.

Sales of U.S. copyright products continue to expand in overseas markets. We estimate that total core copyright sales in foreign markets were nearly \$128 billion in 2007 and amounted to \$134 billion in 2010. The foreign sales of the copyright industries significantly exceed foreign sales of other U.S. industries including aircraft, automobiles, agricultural products, food, and pharmaceuticals.

These consistently positive trends solidify the status of the copyright industries as a key engine of growth for the U.S. economy as a whole. As new technologies support the development of new distribution methods for legitimate copyrighted products, the U.S. copyright-based industries represented in the IIPA remain optimistic that economic growth, combined with strong laws and effective enforcement, will continue to pave the way for economic growth in both the U.S. and global markets.

APPENDIX A: TABLES OF STATISTICS

Table A.1

CORE COPYRIGHT VALUE ADDED AND CONTRIBUTION TO GROWTH IN U.S. GDP (BILLIONS OF DOLLARS)

Nominal Value Added	2007 rev.	2008	2009	2010 est.
Core	\$904.34	\$913.87	\$900.95	\$931.82
U.S. GDP	\$14,061.80	\$14,369.10	\$14,119.00	\$14,660.40
Share	6.43%	6.36%	6.38%	6.36%
Real Value Added (Billions of 2005 dollars)	2007 rev.	2008	2009	2010 est.
Core	\$898.58	\$925.96	\$897.57	\$928.46
U.S. GDP	\$13,228.90	\$13,228.80	\$12,880.60	\$13,248.20
Annual Growth in Real VA	2006-2007	2007-2008	2008-2009	2009-2010
Core	N/A	3.05%	-3.07%	3.44%
U.S. GDP	N/A	0.00%	-2.63%	2.85%
Compound Annual Growth Rates	2007-2010			
Core	1.10%			
U.S. GDP	0.05%			

Table A.2

TOTAL COPYRIGHT VALUE ADDED AND CONTRIBUTION TO GROWTH IN U.S. GDP (BILLIONS OF DOLLARS)

Nominal Value Added	2007 rev.	2008	2009	2010 est.
Total Copyright	\$1,583.64	\$1,593.01	\$1,562.67	\$1,626.86
U.S. GDP	\$14,061.80	\$14,369.10	\$14,119.00	\$14,660.40
Share	11.26%	11.09%	11.07%	11.10%
Real Value Added (Billions of 2005 dollars)	2007 rev.	2008	2009	2010 est.
Total Copyright	\$1,594.96	\$1,633.09	\$1,599.21	\$1,666.42
U.S. GDP	\$13,228.90	\$13,228.80	\$12,880.60	\$13,248.20
Annual Growth in Real VA	2006-2007	2007-2008	2008-2009	2009-2010
Total Copyright	N/A	2.39%	-2.07%	4.20%
U.S. GDP	N/A	0.00%	-2.63%	2.85%
Compound Annual Growth Rates	2007-2010			
Total Copyright	1.47%			
U.S. GDP	0.05%			

Table A.3

U.S. COPYRIGHT INDUSTRY EMPLOYMENT

Core Copyright	2007 rev.	2008	2009	2010
Core Copyright Employment (in Thousands)	5,496.1	5,474.8	5,176.1	5,097.6
Total U.S. Employment (in Thousands)	137,598.0	136,790.0	130,807.0	129,818.0
Total Private U.S. Employment (in Thousands)	115,380.0	114,281.0	108,252.0	107,337.0
Core Copyright Share of U.S.	3.99%	4.00%	3.96%	3.93%
Core Copyright Share of Private U.S.	4.76%	4.79%	4.78%	4.75%
Total Copyright	2007 rev.	2008	2009	2010
Total Copyright Employment (in Thousands)	11,557.2	11,473.8	10,814.8	10,632.2
Total U.S. Employment (in Thousands)	137,598.0	136,790.0	130,807.0	129,818.0
Total Private U.S. Employment (in Thousands)	115,380.0	114,281.0	108,252.0	107,337.0
Total Copyright Share of U.S.	8.40%	8.39%	8.27%	8.19%
Total Copyright Share of Private U.S.	10.02%	10.04%	9.99%	9.91%

Table A.4

U.S. COPYRIGHT INDUSTRY COMPENSATION PER EMPLOYEE

Core Copyright	2007 rev.	2008	2009	2010
Core Copyright Compensation (per Employee)	\$74,450.18	\$75,852.89	\$76,015.33	\$78,127.81
Average U.S. Compensation (per Employee)	\$57,093.10	\$58,983.20	\$59,678.60	\$61,404.20
Average Private U.S. Compensation (per Employee)	\$55,156.50	\$56,873.30	\$57,098.90	\$58,782.20
Ratio: Core Copyright Compensation to U.S.	1.30	1.29	1.27	1.27
Ratio: Core Copyright Compensation to Private U.S.	1.35	1.33	1.33	1.33
Total Copyright	2007 rev.	2008	2009	2010
Total Copyright Compensation (per Employee)	\$67,320.41	\$68,534.30	\$68,621.60	\$70,512.84
Average U.S. Compensation (per Employee)	\$57,093.10	\$58,983.20	\$59,678.60	\$61,404.20
Average Private U.S. Compensation (per Employee)	\$55,156.50	\$56,873.30	\$57,098.90	\$58,782.20
Ratio: Total Copyright Compensation to U.S.	1.18	1.16	1.15	1.15
Ratio: Total Copyright Compensation to Private U.S.	1.22	1.21	1.20	1.20

Table A.5

**2007-2010 REVENUE GENERATED BY FOREIGN SALES/EXPORTS
OF SELECTED U.S. CORE COPYRIGHT INDUSTRIES
(BILLIONS OF DOLLARS)**

Industry	2007	2008	2009	2010
Pre-Recorded Records, Tapes, CDs, etc.	\$7.62	\$7.52	\$6.97	\$6.48
Motion Pictures, TV, Video	\$22.62	\$23.24	\$23.25	\$23.89
Computer Software	\$91.86	\$96.57	\$94.11	\$98.60
Newspapers, Books, Periodicals	\$5.78	\$6.14	\$4.79	\$5.05
Total for Selected Industries	\$127.9	\$133.5	\$129.1	\$134.0

APPENDIX B: VALUE ADDED AND EMPLOYMENT TRENDS IN THE U.S. ECONOMY: 2007-2010

During the period 2008 through 2010 and continuing into 2011, the U.S. economy experienced a nearly unprecedented decline in output, value added, and employment. The harmful effects of the recession in 2008-2009 were widespread and most U.S. industries experienced flat or declining sales and employment during these years. By 2010, the U.S. economy had begun to improve somewhat from its low point in 2009.

Table B.1

2007-2010 UNITED STATES TOTAL AND PRIVATE INDUSTRY GDP				
	2007	2008	2009	2010
U.S. GDP – Current Dollars	\$14,061.8	\$14,369.1	\$14,119.0	\$14,660.4
U.S. GDP – Real (2005) Dollars	\$13,228.9	\$13,228.8	\$12,880.6	\$13,248.2
Annual % Change in Real GDP	N/A	-0.01%	-2.63%	2.85%
	2007	2008	2009	2010
U.S. Private Industry GDP - Current	\$12,301.9	\$12,514.0	\$12,196.5	\$12,696.5
U.S. Private Industry GDP – Real	\$11,623.6	\$11,546.3	\$11,197.6	\$11,520.5
Annual % Change in Real GDP	N/A	-0.67%	-3.02%	2.88%

As shown in Table B.1, the U.S. gross domestic product has been essentially flat (in real terms) since 2007.¹² Real GDP in 2008 was virtually identical to real GDP in 2007. In 2009, real GDP declined by 2.63%. However, in 2010, real U.S. GDP increased by 2.85%.

For U.S. private industry, the trends in real GDP were even worse than for the economy as a whole. Real private industry GDP fell by 0.67% in 2008 and by another 3.02% in 2009. Even by 2010, U.S. private industry GDP in real terms remained lower than it had been in 2007 (\$11.52 trillion in 2010 and \$11.62 trillion in 2007).

Table B.2

2007-2010 UNITED STATES TOTAL AND PRIVATE INDUSTRY EMPLOYMENT (THOUSANDS)				
	2007	2008	2009	2010
U.S. Non-Farm Employment	137,598.0	136,790.0	130,807.0	129,818.0
Annual % Change	N/A	-0.59%	-4.37%	-0.76%
U.S. Private Industry Employment	115,380.0	114,281.0	108,252.0	107,337.0
Annual % Change	N/A	-0.95%	-5.28%	-0.85%

Employment trends for the U.S. economy as a whole are shown in Table B.2.¹³ For the period 2007-2010, total U.S. employment declined from 137,598,000 to 129,818,000, a drop of nearly 5.7%. For U.S. private industry, the employment declines were even greater. For the years 2007 through 2010, U.S. private industry employment fell by almost 7.0%. Private employment in the United States fell from 115,380,000 in 2007 to 107,337,000 in 2010.

The declines in U.S. GDP and employment since 2007 provide a useful context for assessing the economic contributions made by the U.S. copyright industries during the same period. As shown in the body of this report, the performance of the U.S. copyright industries during these troubled years did not match the copyright industries' achievements in years past. However, even during this recession, the U.S. copyright industries were able to outperform the U.S. economy as measured by a subset of the metrics developed in this report.

¹² See U.S. BEA, *Annual Industry Accounts*, *supra* note 4.

¹³ U.S. Department of Labor, Bureau of Labor Statistics, *Subject Areas: Overview of BLS Statistics on Employment*, available at <http://data.bls.gov/bls/employment.htm>.

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Copyright Industries in the U.S. Economy: The 2011 Report



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APPENDIX B

World Intellectual Property Organization, *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries*, 2012, available at http://www.wipo.int/ip-development/en/creative_industry/pdf/economic_contribution_analysis_2012.pdf.

**WIPO STUDIES ON THE ECONOMIC CONTRIBUTION OF THE COPYRIGHT
INDUSTRIES**

World Intellectual Property Organization (WIPO)
2012

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WIPO STUDIES ON THE ECONOMIC CONTRIBUTION OF THE COPYRIGHT INDUSTRIES

1. Background

Since 2002 the World Intellectual Property Organization (WIPO) supports research on assessing the economic contribution of industries which are dependent on copyright and related rights protection – “the copyright industries” (CRI) . In 2003 WIPO published common guidelines on carrying out such research throughout the world¹. This methodology outlines four groups of copyright industries, identified on the basis of their level of dependence on copyright material. It establishes a set of major indicators – contribution to GDP, employment and foreign trade, and lays out research standards and approaches. The WIPO guidelines were developed on the basis of best international practices reviewed by an expert group of renowned economists. The guidelines have been implemented in over 40 countries around the world (30 studies have been completed and published) and their improvement continues with the experience gained.

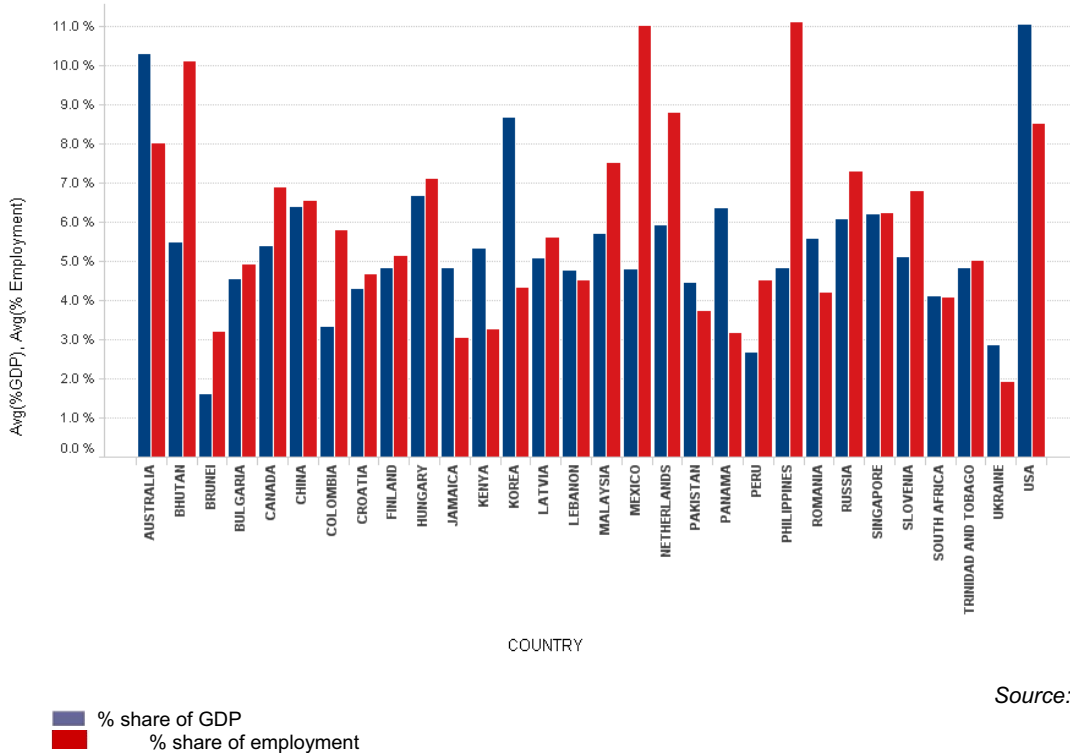
The present analysis is built on data from 30 national studies which have been finalized until December 2011². The analysis seeks to present the available data in a unified manner in order to facilitate further research and investigation in this area. The data matrix that has been created enables constant update of the overview of results from country studies and the presentation of the variables surveyed. Currently the data base includes over 60 variables, including data from other relevant sources that enhance reporting and analysis on the subject matter. The analysis and conclusions contained in this document present an overview of the performance of the copyright industries in selected countries in terms of macroeconomic indicators, compares this performance with other economic indicators and analyses the structure of this economic contribution, outlining trends and patterns in a comparative perspective. The direct data analysis is followed by a data relationship analysis and a more detailed industry decomposition analysis.

2. Direct data analysis: Country Comparisons

The direct data analysis is based on two major indicators employed to measure performance of the copyright industries: Contribution to GDP (%) and Share of Employment (%). On the basis of the two a labor productivity index is calculated and a country positioning scheme is established.

2.1. Copyright Industries Contribution to GDP and Employment

Chart 1: Overall Contribution of Copyright Industries to GDP and Employment³



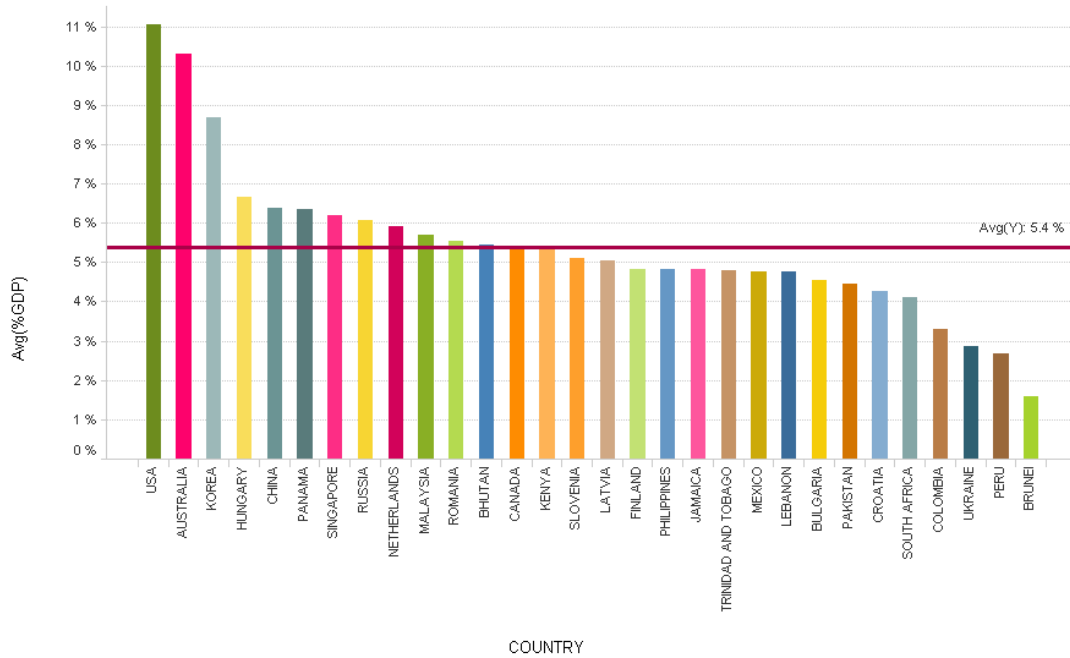
Source: WIPO

The overall performance of the copyright industries in the countries surveyed indicates the existence of a sizeable sector, which in most countries was found to be beyond the level of expectations. Copyright has often been perceived predominantly as a legal category and has not been analyzed as a growth factor of social and economic importance. The overview suggests that copyright industries have a significant overall economic contribution.

2.1.1. Contribution to GDP

The contribution to GDP varies significantly across countries from over 10% (USA, Australia), to under 2% for Brunei. With the average 5.4%, three quarters of the countries have a contribution between 4% and 6.5%. Three countries in the sample, the United States, Australia and Korea have shares considerably higher than the average. Countries that have experienced rapid economic growth typically have above average share of GDP attributed to copyright industries.

Chart 2: Contribution of Copyright Industries to GDP⁴

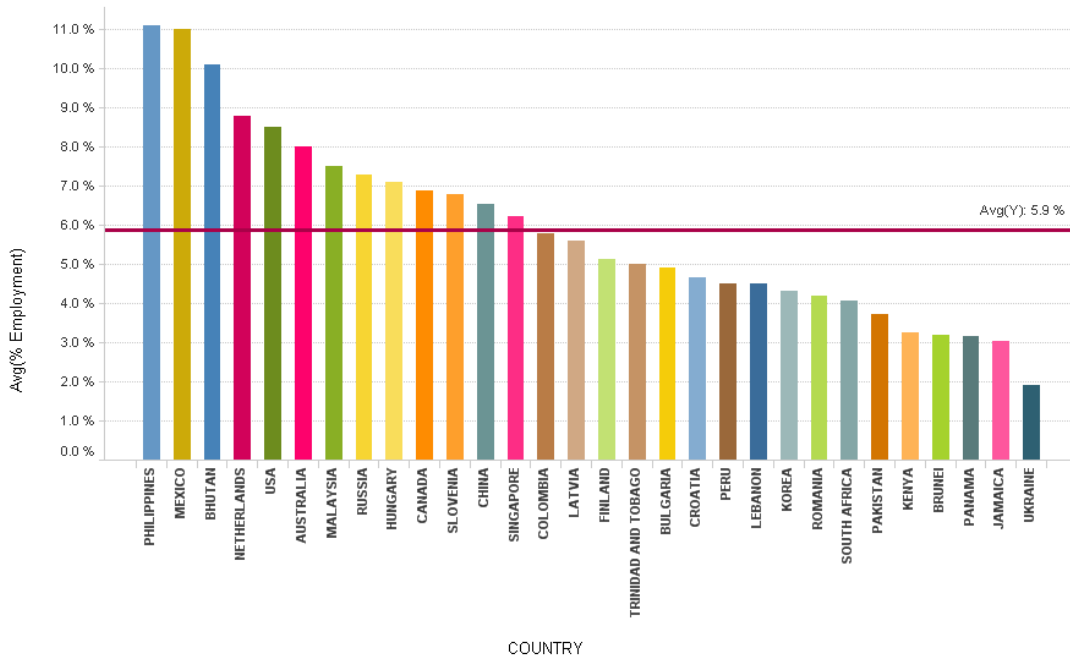


Source: WIPO

2.1. 2. Contribution to National Employment

The contribution of copyright industries to national employment varies significantly from the share of GDP and stands at an average of 5, 9%. Nearly three quarters of the countries fall in the range between 4% and 7% contribution to national employment. Mexico and the Philippines have by far the highest share of their labor force in the Copyright Industries. Most countries with above average share of creative industries⁵ in GDP also exhibit above average share of employment.

Chart 3: Contribution of Copyright Industries to National Employment

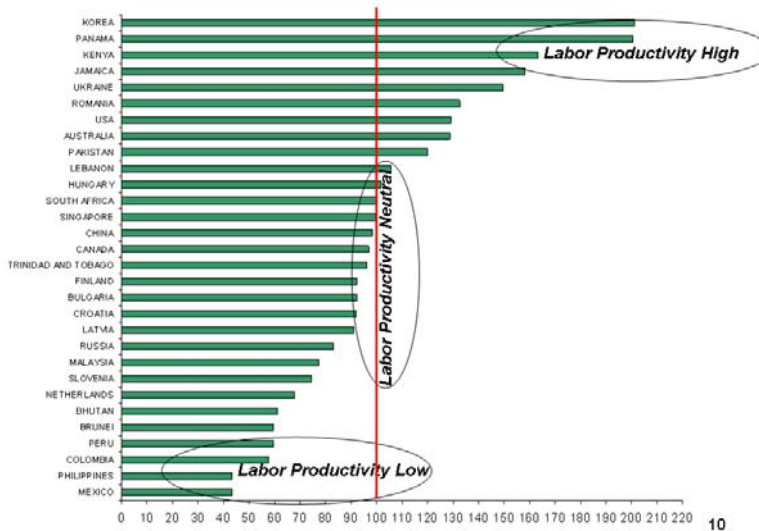


Source: WIPO

2.2. Labor Productivity

On the basis of the GDP and employment contributions a Labor Productivity Index is calculated and introduced. Labor Productivity is defined as the ability to produce a given contribution to the national GDP by employing a given share of labor resources. It is calculated as the proportion between the share of GDP, and share of national employment attributed to copyright industries. With 100 being the base, an index above indicates that higher share of creative industries GDP output is achieved with lower share of labor input.

Chart 4: Labor Productivity Index for Copyright Industries



Source: WIPO

Countries that have the highest calculated Labor Productivity do not necessarily have a high contribution to GDP (with the exception for Korea) which is a deviation from the expected pattern. Countries' high productivity index is a result of increased monetary value per unit of labor.

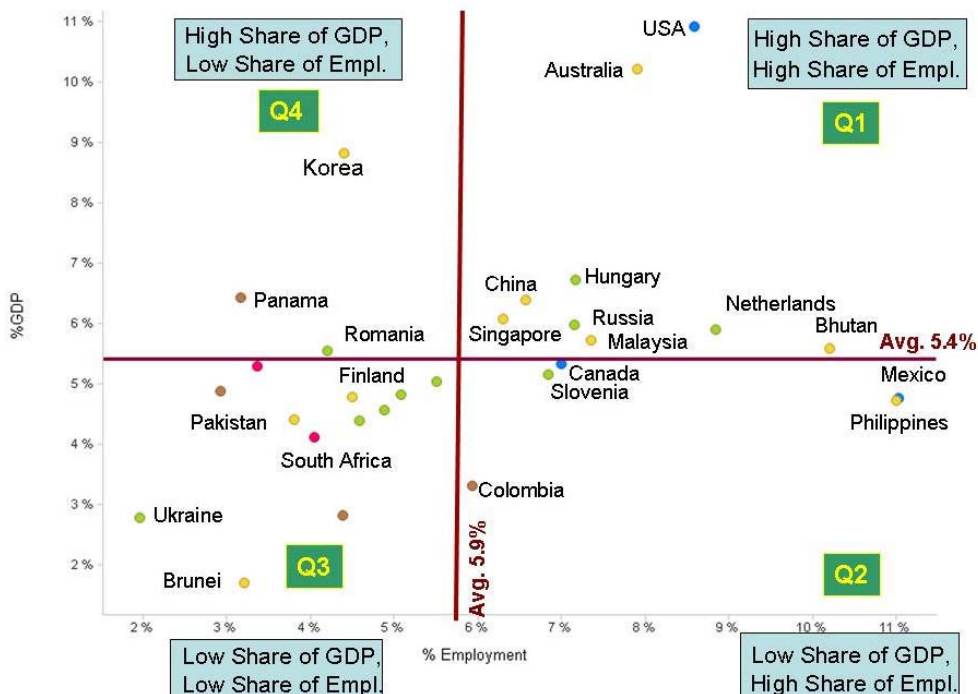
2.3. Country positioning

The country positioning is analyzed through the four quadrant paradigm. Based on their position along the two indicators, share in GDP and share in employment, countries can be attributed a position on the four quadrants chart. This analysis is of practical use when following a country's development over time with the goal of monitoring performance tendencies.

The national studies suggest that some of the driving factors that define the position of countries on the plot could be summarized as follows:

- The structural positioning of the sector across countries;
- Positioning of copyright industries in domestic and global markets;
- Monetary value attached to creative products
- National policies in supporting this sector of the economy
- Cultural characteristics and national traditions⁶

Chart 5: Country Positioning based on GDP and Employment



Source: WIPO

The majority of the countries are clustered either in the upper right quadrant (Q1; high share of GDP, high employment) or in the lower left quadrant (Q3; low share of GDP, low share in employment). Keeping in mind that this clustering is relative to the average contribution of

CRI in the sample, it could reveal potentially important patterns in the development of CRI over time.

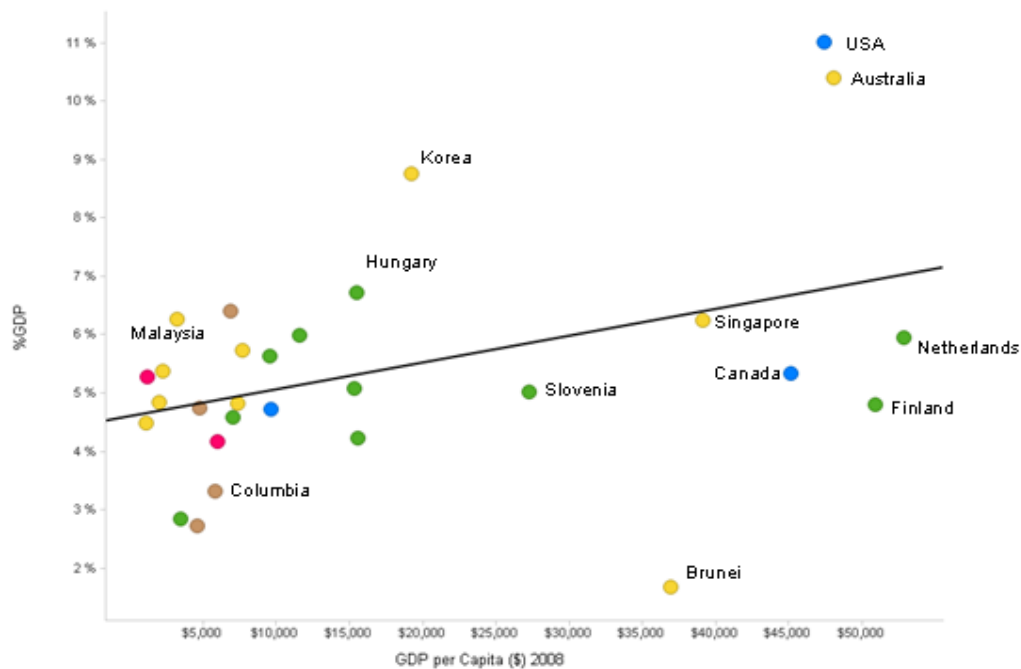
3. Data Relationship Analysis

The data relationship analysis seeks to establish statistically significant relationships between the contribution of copyright industries to GDP and other available indicators and indexes of economic performance.

3.1. Gross Domestic Product per Capita

There is a significant and positive relation between the contribution of copyright industries to GDP and the GDP per Capita⁷. However, GDP per Capita is not the only factor that affects the economic contribution of copyright industries, as considerable differences exist between countries within the same GDP per capita brackets.

Chart 6: Relationship between Contribution of Copyright Industries to GDP and GDP per Capita



Source: The World Bank Development Indicators

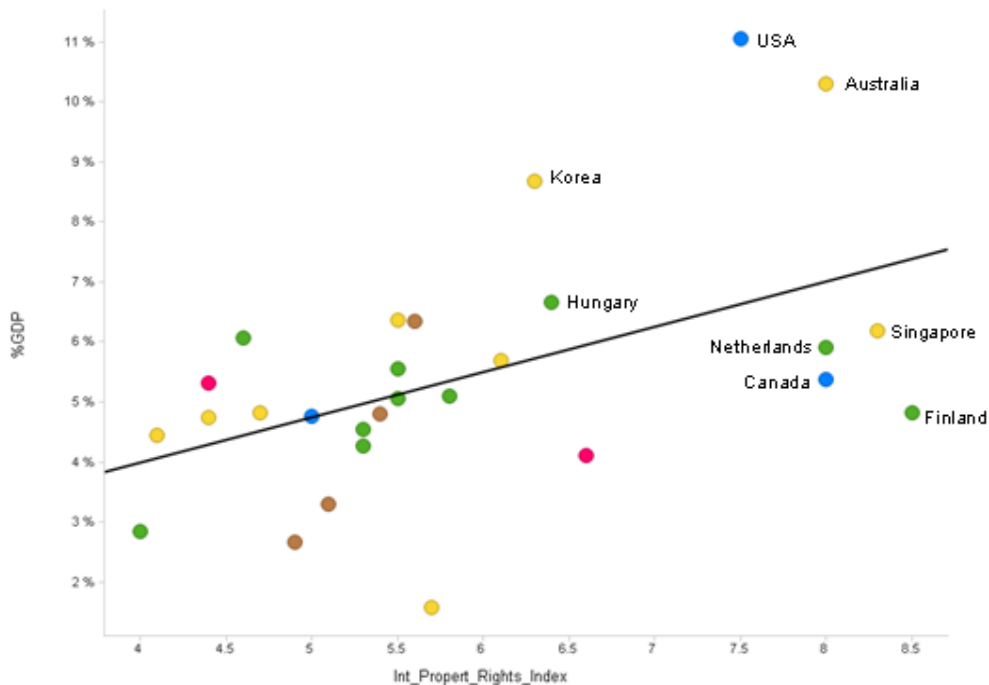
3.2. International Property Rights Index

The International Property Rights Index (IPRI) is an international comparative study that measures the significance of both physical and intellectual property rights and their protection for economic well-being. The Index focuses on three areas:

- Legal and Political Environment
- Physical Property Rights
- Intellectual Property Rights

The study prepared by the Property Rights Alliance⁸ analyzes data for 129 countries around the globe, representing ninety-seven percent of world GDP.

Chart 7: Relationship between Contribution of Copyright Industries to GDP and the IPR Index



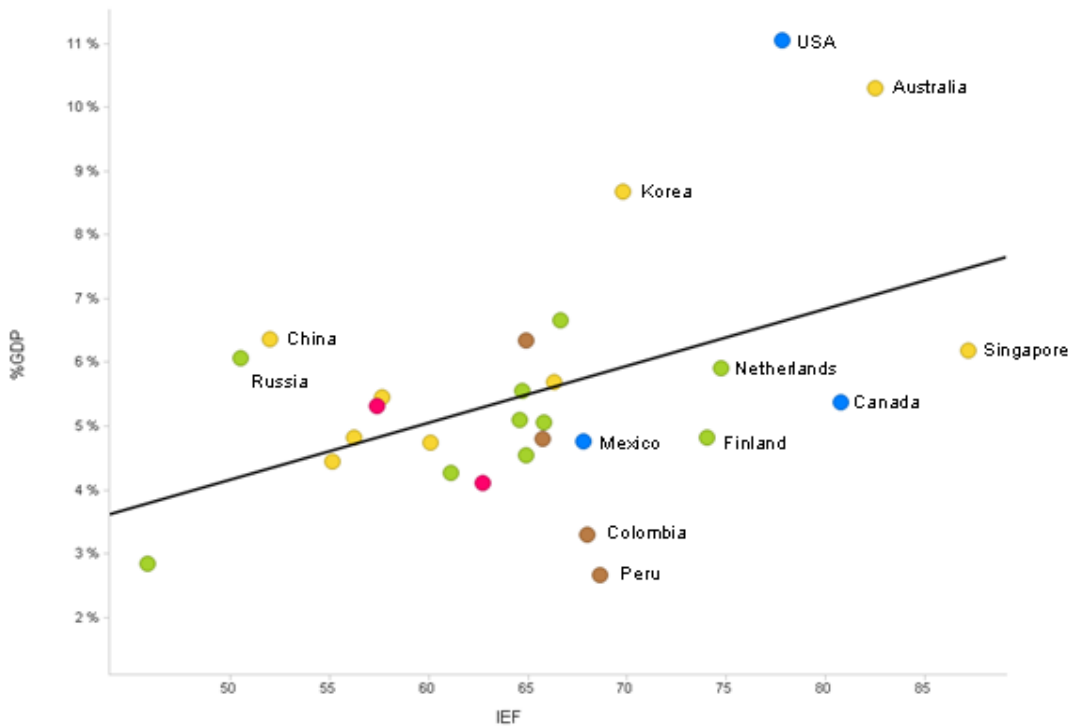
Source: WIPO and Property Rights Alliance

The analysis suggests a strong and positive relationship that exists between the Contribution of copyright industries to GDP and the IPR Index. Countries with the highest share of copyright industries to GDP typically have well functioning property rights legislation.

3.3. Index of Economic Freedom

The *Index of Economic Freedom*⁹ ranks countries on a 1-100 scale according to 10 categories that evaluate economic openness, competitiveness and the rule of law, such as business freedom, trade freedom, fiscal freedom, property rights, freedom from corruption, etc. Countries that score well demonstrate a commitment to individual empowerment, non-discrimination and the promotion of competition. Their economies tend to perform better, and their populations tend to enjoy more prosperity, better health and more positive measures on a variety of quality-of-life indices. Economies rated “free” (scoring 80-100) or “mostly free” (scoring 70-79.9) in the 2011 *Index* enjoy incomes that are more than three times the average levels in the rest of the world.

Chart 8: Relationship between Contribution of Copyright Industries to GDP and the Index of Economic Freedom



Source: The Heritage Foundation and the Wall Street Journal

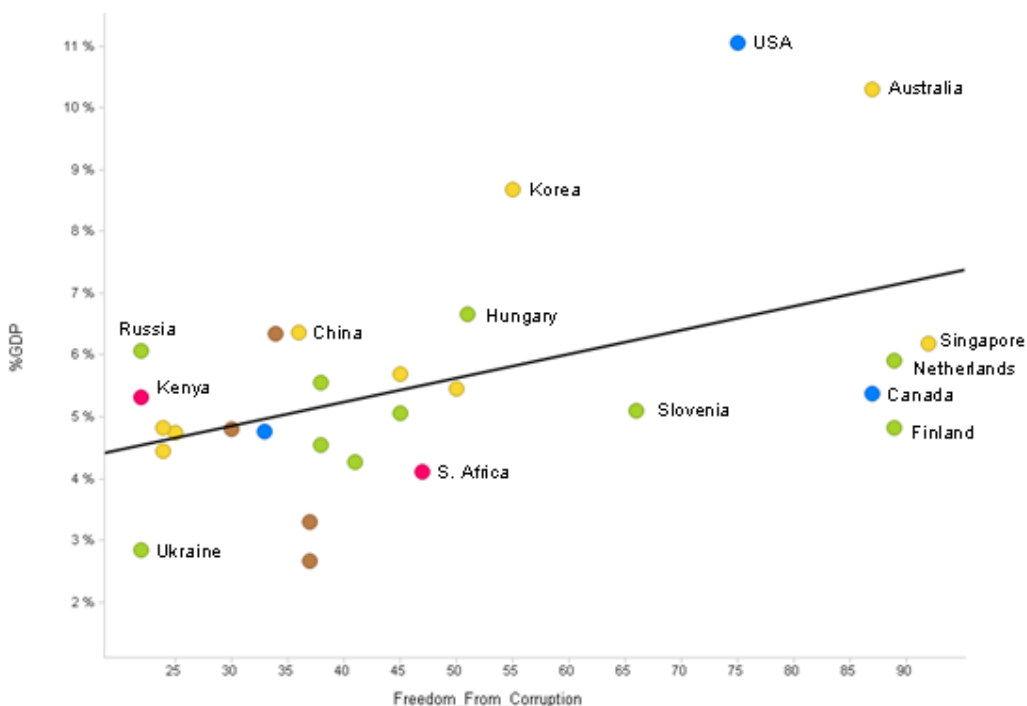
Contribution to Copyright industries to GDP exhibits strong and positive relationship with the Index of Economic Freedom. Economic freedom tends to provide a better framework for the operation of creative industries..

3.4. Freedom from Corruption

Corruption erodes economic freedom by introducing insecurity and uncertainty into economic relationships. The score for this component is derived from Transparency International's Corruption Perceptions Index (CPI) for 2009, which measures the level of corruption in 180 countries. The Index is based on a 10-point scale in which a score of 10 indicates very little corruption and a score of 0 indicates a very corrupt government.

For countries that are not covered in the CPI, the freedom from corruption score is determined by using the qualitative information from internationally recognized and reliable sources.

Chart 9: Relationship between Contribution of Copyright Industries to GDP and the Freedom from Corruption Index



Source: The Heritage Foundation and Transparency International

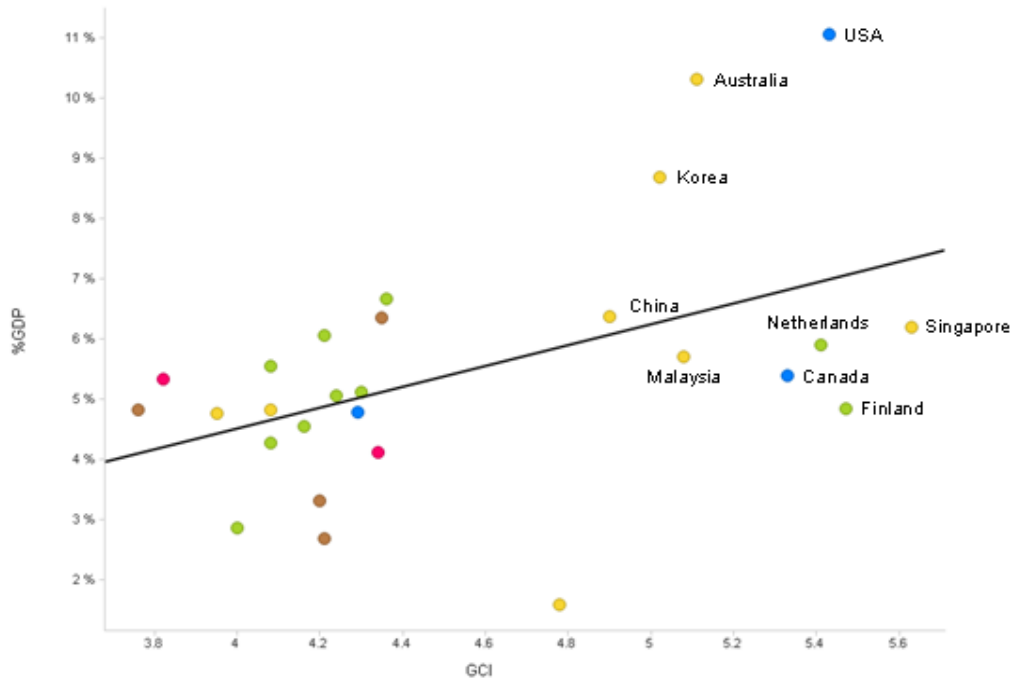
Contribution of Copyright industries to GDP exhibits strong and positive relationship with the Freedom from Corruption indicator. Greater freedom from corruption is associated with greater transparency and predictability in the institutional context, which is important for investment in creative industries.

3.5. Global Competitiveness Index

The World Economic Forum's Competitiveness Report and report series, as the world's most comprehensive and respected assessment of countries' competitiveness mirrors the business operating environment and competitiveness of over 140 economies worldwide. The report series identify advantages as well as impediments to national growth thereby offering a unique benchmarking tool to the public and private sectors as well as academia and civil society. In addition to statistical data, the index also features data from the

Executive Opinion Survey carried out by the World Economic Forum with over 13,000 business leaders representing the 142 countries in the data.

Chart 10: Relationship between Contribution of Copyright Industries to GDP and the Global Competitiveness Index



Source: The World Economic Forum (WEF)

The analysis suggests that there is a strong and positive relationship between the contribution of copyright industries to GDP and the Global Competitiveness Index. There is high level of clustering of the sample at the high end of the competitiveness and the GDP contribution scale, and at medium-low end of the scale. The clustering at the high end of the scales suggests that countries with high level of competitiveness have a strong presence of CRI in the economy as CRI are symbols of advanced knowledge, ideas and innovation.

3.6. Global Innovation Index

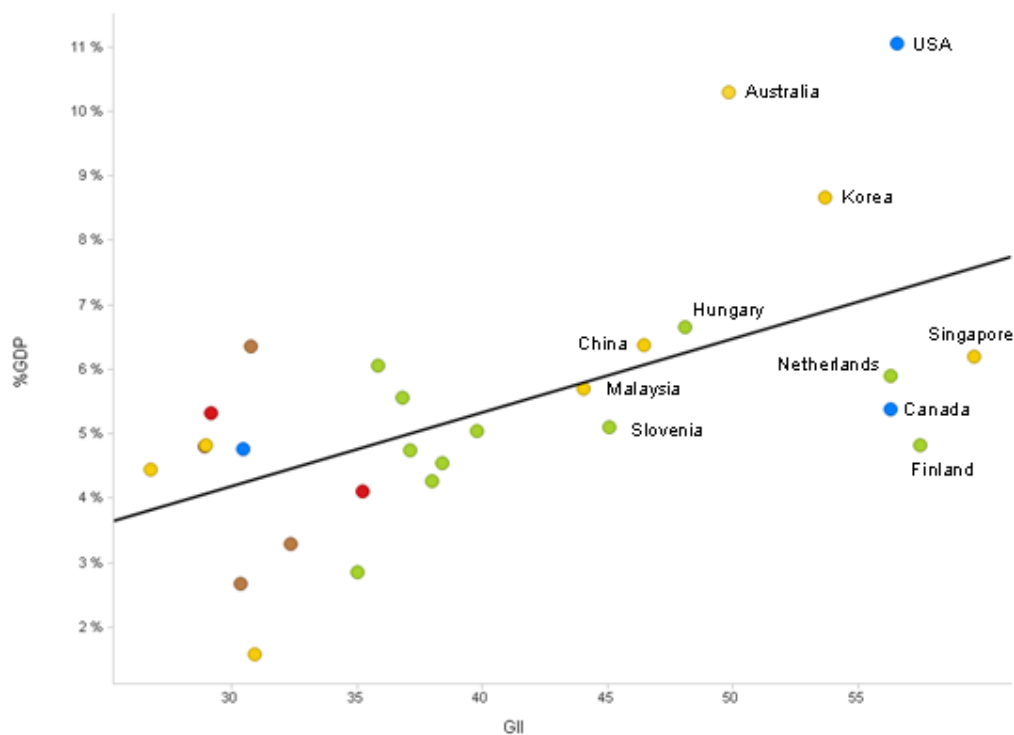
INSEAD, supported by WIPO and other partners, are producing in partnership the INSEAD Global Innovation Index (GII), recognizing the key role of innovation as a driver of economic growth and prosperity.

The GII acknowledges the need for a broad horizontal vision of innovation that is applicable to both developed and emerging economies, with the inclusion of indicators that go beyond the traditional measures of innovation, to also include:

- Institutions
- Human capital and research
- Infrastructure
- Market and business sophistication

The GII is evolving into a valuable benchmarking tool to facilitate public-private dialogue, whereby policymakers, business leaders and other stakeholders can evaluate progress on a continuous basis.

Chart 11: Relationship between Contribution of Copyright Industries to GDP and the Global Innovation Index



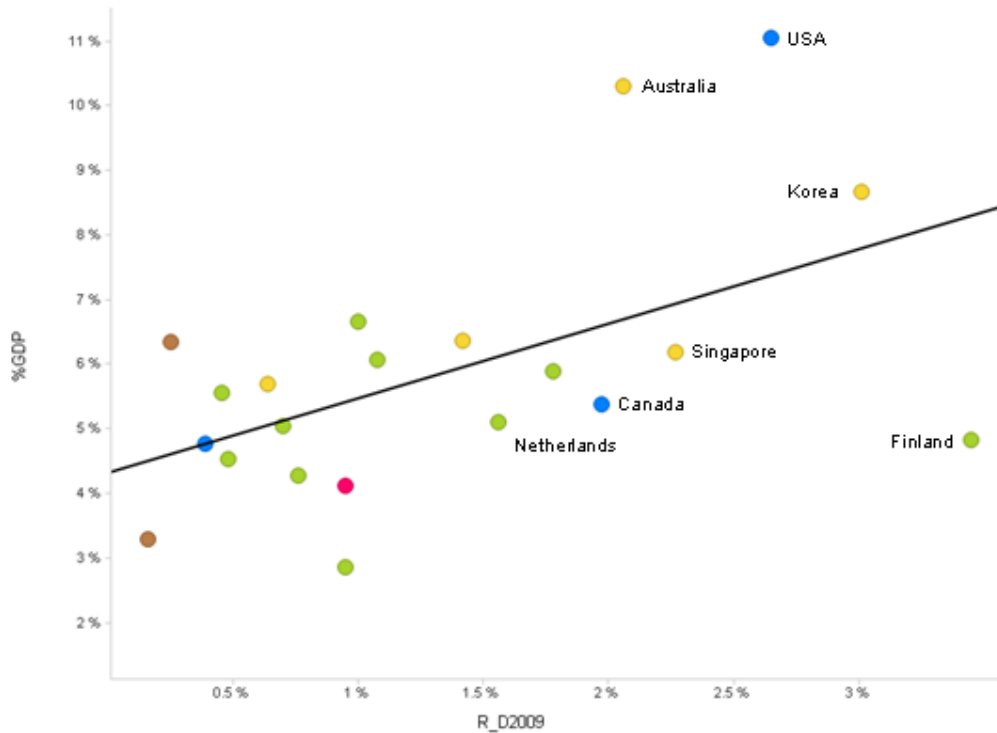
Source: INSEAD eLab

This indicator has a positive and highly significant relation with performance of the creative industries. This relationship implies that innovation and creativity are inherently and positively connected. The innovation leaders such as developed economies and some of the rapidly growing developing countries (Korea, Singapore, China, Malaysia), but also countries in transition such as Hungary and Slovenia, are a testimony to this close relationship.

3.7. Research and development

This factor is sourced from the World Bank Development Indicators. Expenditures for research and development are current and capital expenditures (both public and private) on creative work undertaken systematically to increase knowledge, including knowledge of humanity, culture, and society, and the use of knowledge for new applications.

Chart 12: Research and Development Indicator



Source: The World Bank

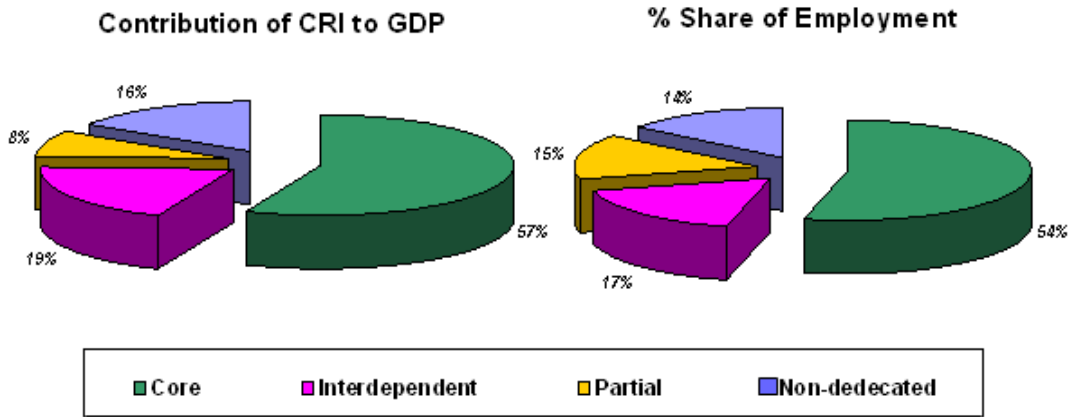
This research and development indicator correlates very highly and significantly with the share of Creative Industries to GDP. The leading economies in terms of CRI share to GDP are also leaders in domestic expenditure in Research and Development.

4. Breakdown of the contribution by group and industry

The WIPO methodology distinguishes between 4 different groups of copyright industries in function of the level of dependence on copyright material – core, interdependent, partial and non-dedicated support industries¹⁰. This section will review in some detail the contribution of the core copyright industries, while the remaining three groups of industries representing the non-core copyright industries are dealt with in the subsequent section of the report.

More than half of the total contribution of the copyright industries to GDP and employment comes from the core copyright industries.

Chart 13: Contribution of Copyright Industries to GDP and Employment by Groups of Industries.



4.1. Contribution of the core copyright industries to GDP

The pie chart reveals the average break-down of industry formation of the core sector. With 40.5%, Press and Literature is by far the biggest contributor to generating added value. The other driver industries – Software and Databases, Radio & TV, Music & Theatre, Advertising, Motion picture and video exhibit together 55% of the share, with Software and Databases alone standing for almost half of that contribution.

Chart 14: Contribution of Core Copyright Industries to GDP by Industry¹¹

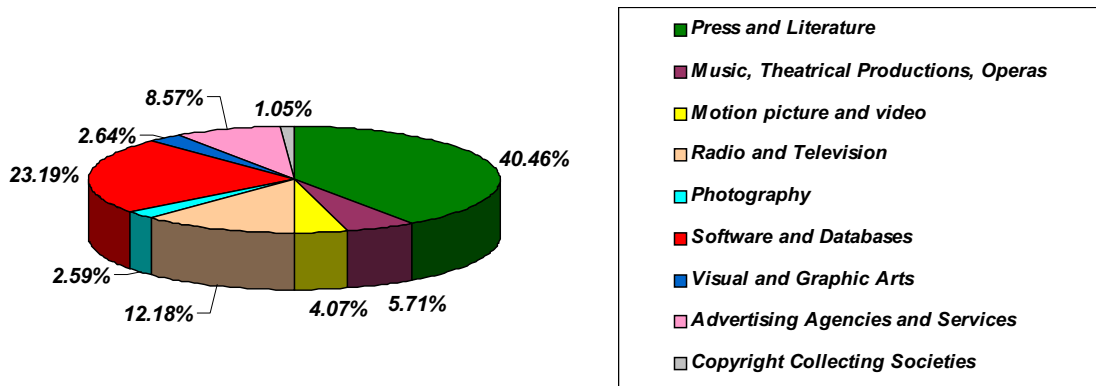
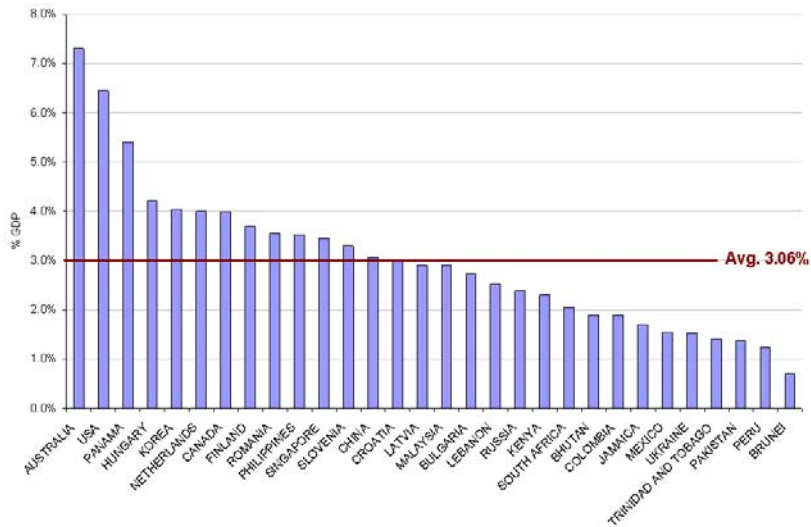


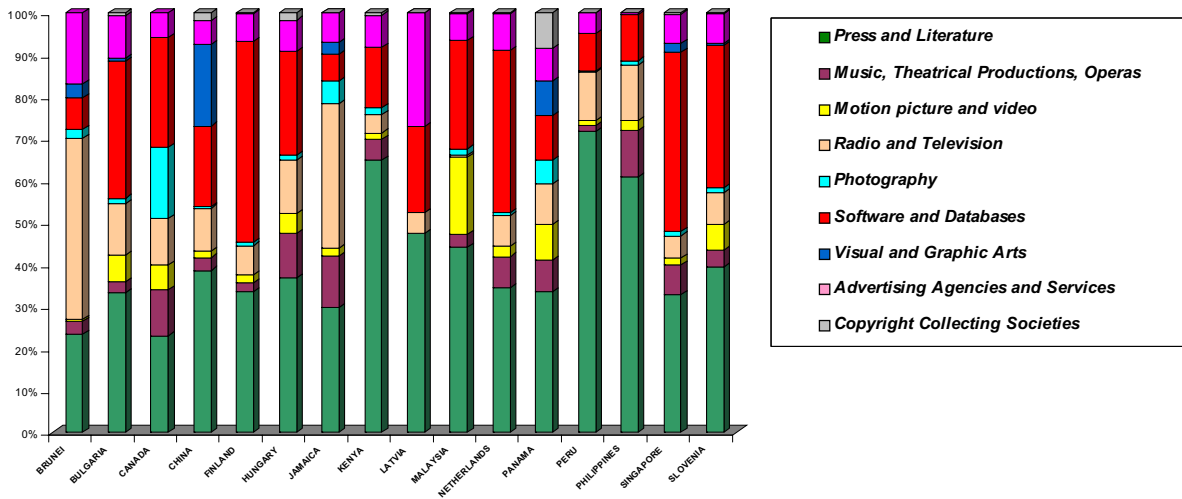
Chart 15: Contribution of Core Copyright Industries to GDP by Country



4.2. National diversity

The economic contribution of Copyright industries is not evenly distributed between different industries, and neither between countries. Although Press and Literature appears to have the highest share for most of the counties, it is not the case for all countries. Chart 15 presents a visualization of the creative diversity across countries represented by the different weight of the creative sector in each nation.

Chart 16: Contribution of Core Copyright Industries by Industry in Specific Countries



4.3. Average Share of the Core Industries by Employment

Just under half of the labor force in the Core copyright industries is employed in Press and Literature. The top 5 industries in terms of share of employment account for almost 90% of the total employment. Software and Databases and Radio & TV are the most labor intensive sectors, providing higher contribution to GDP compared to the labor input in them.

Chart 17: Contribution of the Core Copyright Industries to Employment by Industry

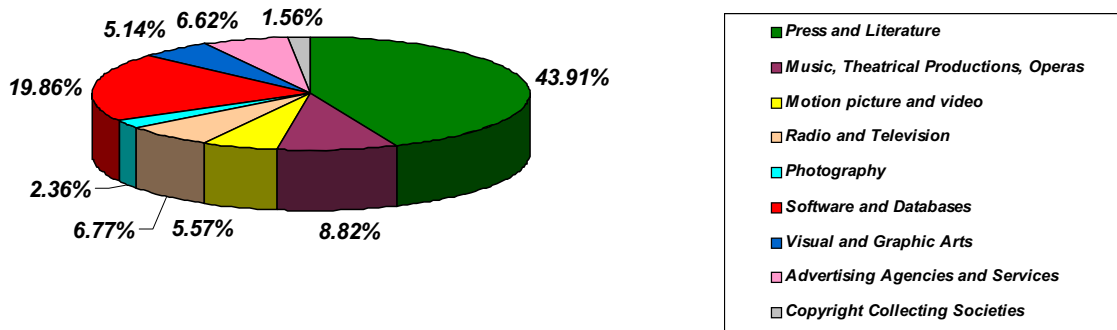
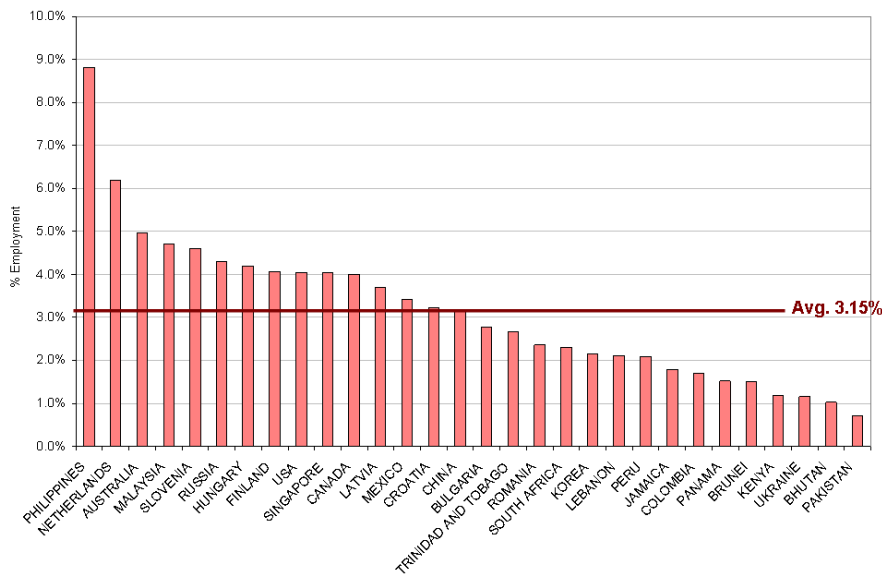


Chart 18: Contribution of Core Copyright Industries to Employment by Country



4.4. Comparison between the contributions of the Copyright Industries with Other Key Industries in Selected Countries

Chart 19: Contribution of Copyright Industries and Other Sectors of the Economy in Selected Countries

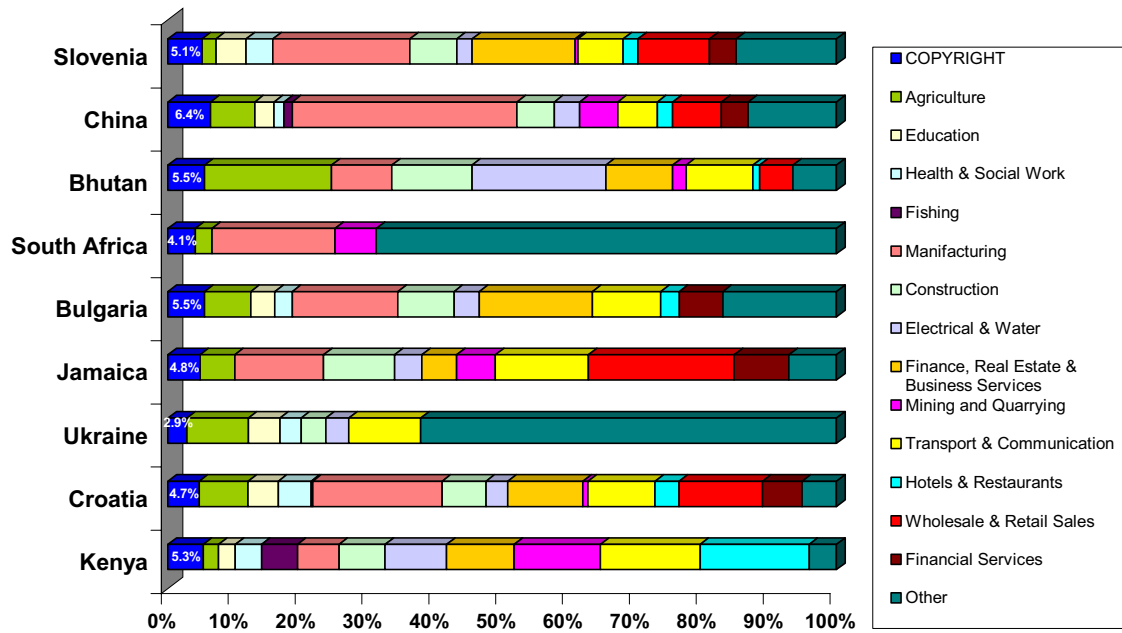


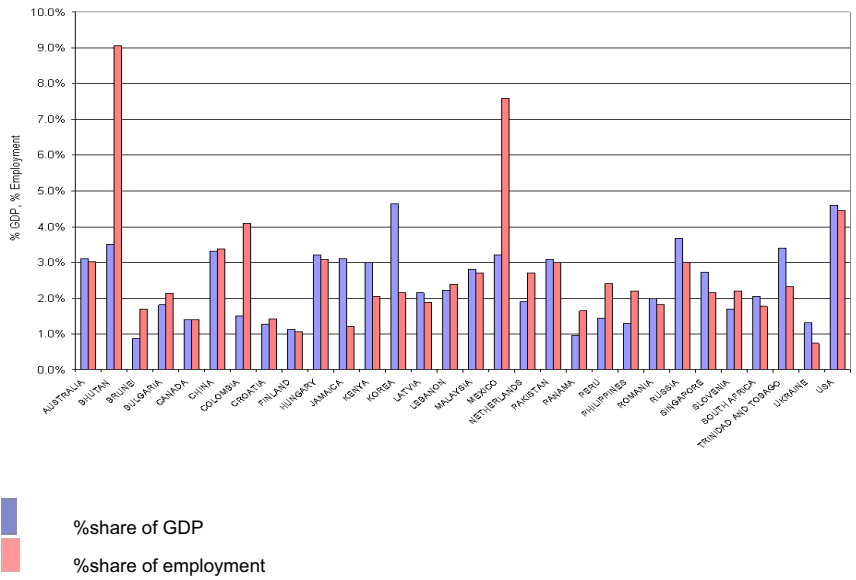
Chart 19 suggests that the copyright industries are a sector which is gaining weight in comparison with other sectors. In many countries it is more substantive in size than traditional economic sectors such as agriculture and fully comparable with tourism, hotels and restaurants.

5. Contribution of the non-core copyright industries

The non-core copyright industries are the interdependent, partial and non-dedicated support industries. The analysis suggests a great degree of variability among countries in terms of the overall contribution of the non-core copyright industries to GDP and employment.

5.1. Overall contribution of the non-core group

Chart 20: Major Performance Indicators for the Economic Contribution of the Non-Core Copyright Industries



The positioning of countries presented on Chart 19 and Chart 20 indicates a somewhat different pattern than the contribution of the core sector to GDP.

Chart 21: Contribution of Non-Core Copyright Industries to GDP

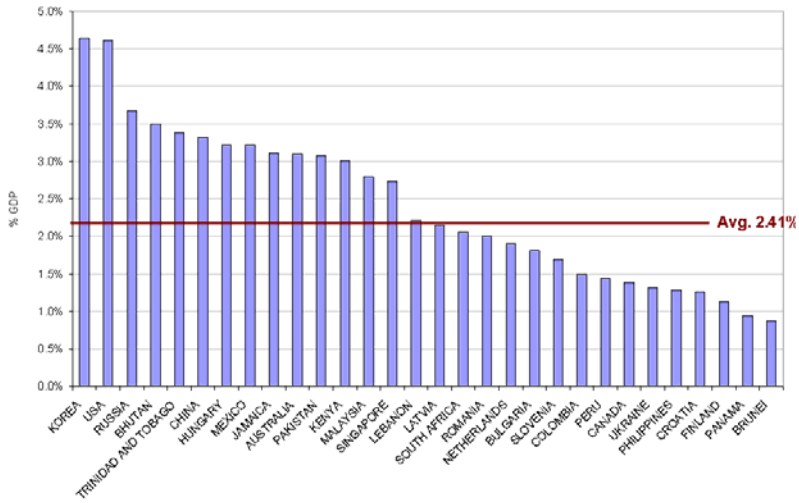
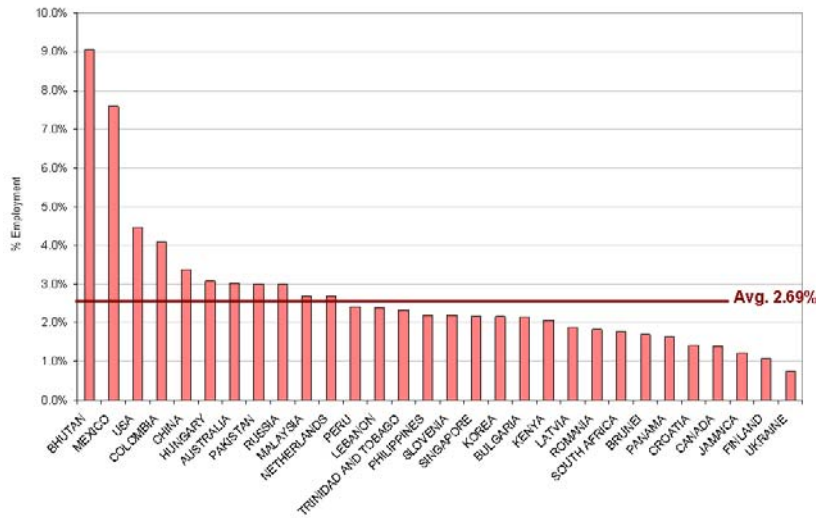


Chart 22: Contribution of Non-core Copyright Industries to Employment

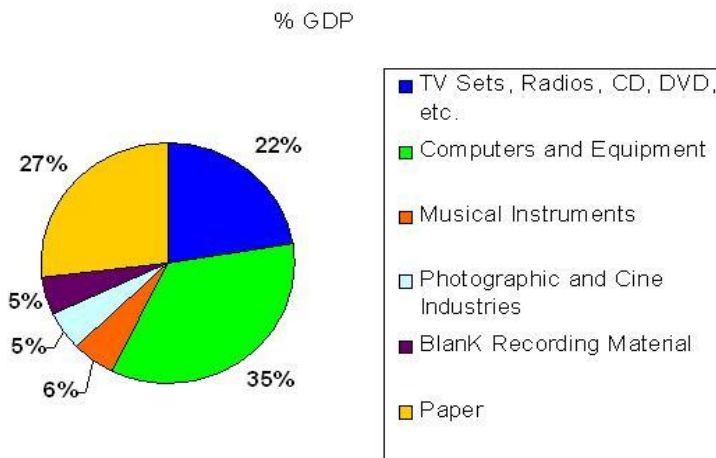


5.2. Contribution of interdependent industries

5.2.1. Contribution of interdependent industries to GDP

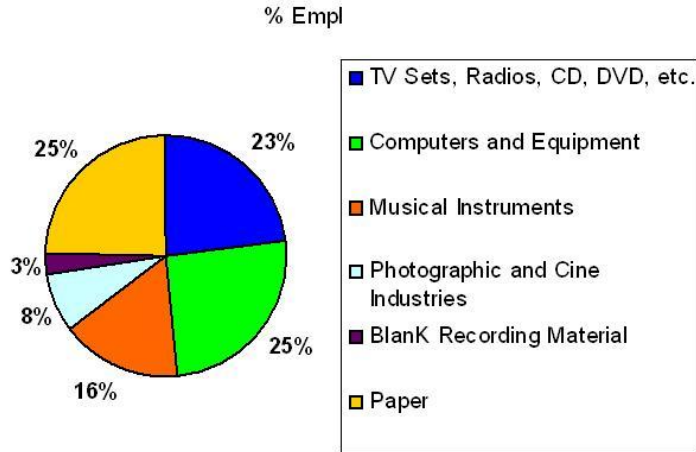
Chart 20 reveals the average break-down of industry formation of the interdependent copyright industries. With 35% of the share *Production of Computers and Equipment* is the leader in terms of generated value added among the group of interdependent industries. The top three industries account for over 80% of the share of the subsector

Chart 23: Contribution of Interdependent Industries to GDP



5.2.2. Contribution of interdependent industries to employment

Chart 24: Contribution of Interdependent Industries to Employment



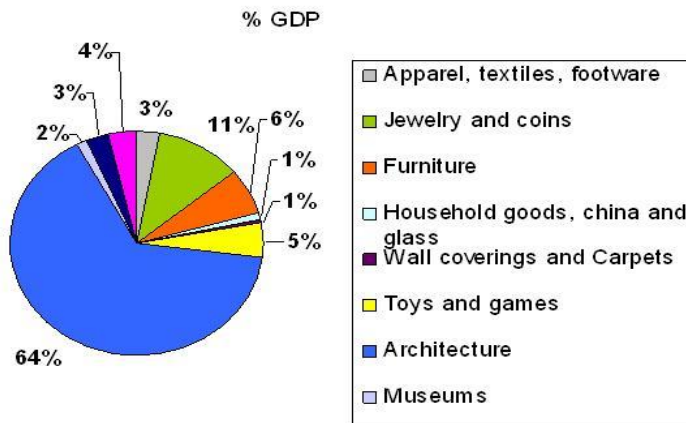
The pie chart reveals the average break-down of industry share of employment of the interdependent non core industries. It indicates that the % employed in the manufacturing of TV sets and Radio is significantly lower than the % employed in the manufacturing of musical instruments. Computer manufacturing remains an area of major importance in terms of job creation in the interdependent group.

5.3. Contribution of the partial copyright industries

The partial copyright industries represent activities where copyright stands only for a portion of the produced value added and employment, weighted with an assigned copyright factor.

5.3.1. Contribution of partial copyright industries to GDP

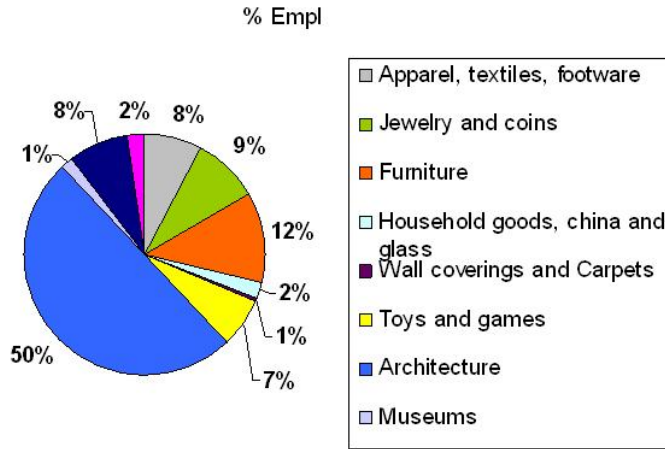
Chart 25: Contribution of Partial Copyright Industries to GDP



The chart shows that architecture by far provides the highest share of GDP in the group of partial industries.

5.3.2. Contribution of partial industries to employment

Chart 26: Contribution of Partial Industries to Employment



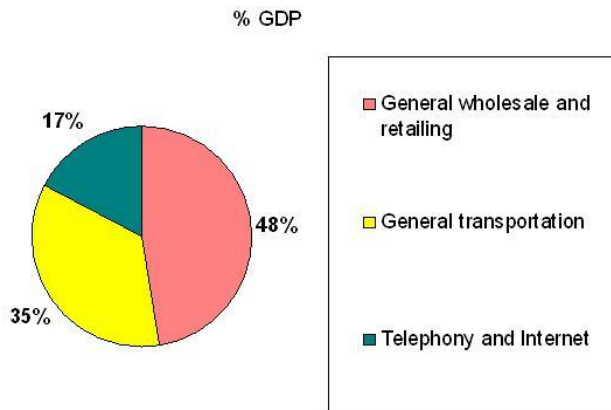
While Architecture still holds the leading position in terms of % employment, it has given way to an increased share of employment in Furniture, Apparel and Toys and Games manufacturing.

5.4. Contribution of non-dedicated support industries

Non-dedicated industries measure secondary impacts and spillover effect of the copyright industries on the economy. The contribution of these industries is weighted with a copyright factor. This information provides insights on the effect of copyright on other spheres of the economy.

5.4.1. Contribution of non-dedicated industries to GDP

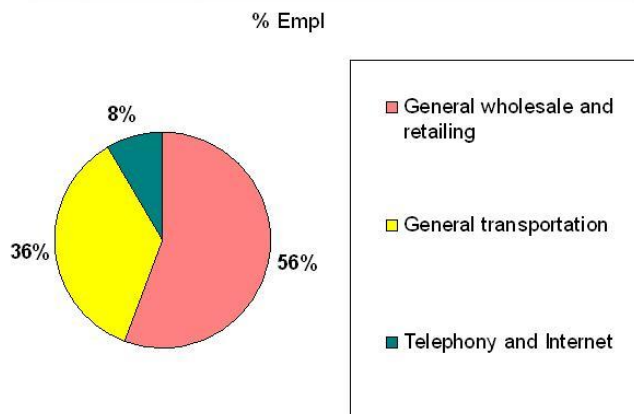
Chart 27: Contribution of Non-Dedicated Copyright Industries to GDP



General Wholesale and Retail assures almost half of the contribution to GDP of this group of copyright industries.

5.4.2. Contribution of non-dedicated support industries to Employment

Chart 28: Contribution of Non-dedicated Copyright Industries to Employment

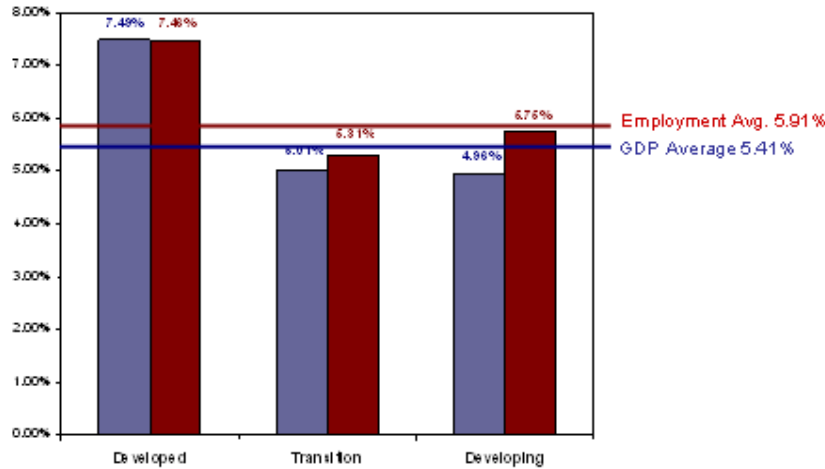


General wholesale accounts for an even higher share of Employment with 56%, followed by a large share (36%) also provided by employment in General Transportation. However, studies containing time series suggest a growing share of internet related services.

6. Creative Industries in the Development Context

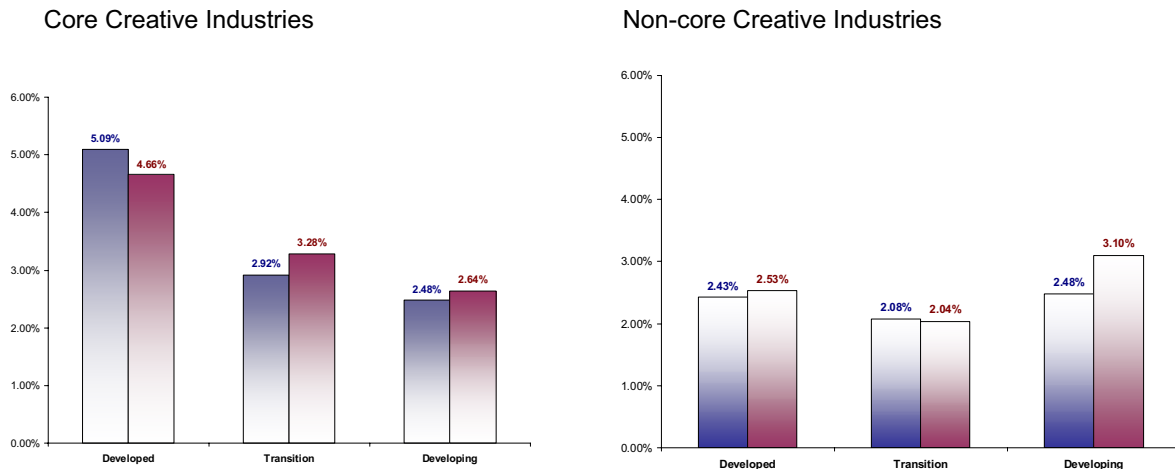
Developed Countries perform significantly better both in terms of the share of their copyright industries to GDP and Employment compared to Transition and Developing economies. Their contribution to GDP is 50% higher than the other two country groups, and their % of Employment is 35%, and 30% higher compared to Developing and Transition countries respectively.

Chart 29: Contribution to GDP and Employment by Groups of Countries in the Development Context



Within the Core industries only, Developed countries have a GDP share 75% higher than Transition, and two times higher than Developing countries. Within the Non-Core Industries however, the Developing countries have the highest average share of GDP, as well as the highest share of employment.

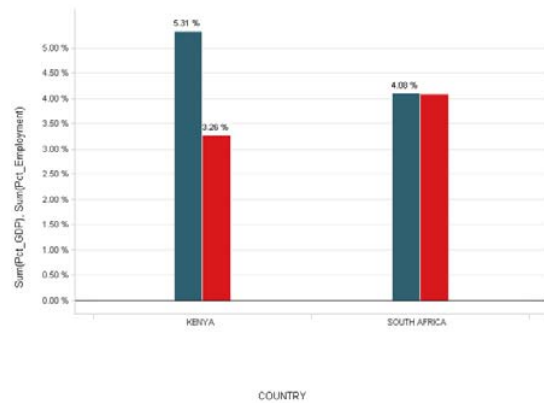
Chart 30: Contribution to GDP and Employment by Industry Groups in the Developmental Context



The Chart suggests that the developed economies produce more value and jobs in their core copyright industries. For the developing world non-core sectors are of higher significance in terms of employment generation and value creation. This conclusion points to the importance of including non-core sectors in any analysis of the copyright contribution, incl. non-direct impacts, which could more accurately capture the economic linkages and spillover effects of copyright in developing economies.

6. Regional Overview

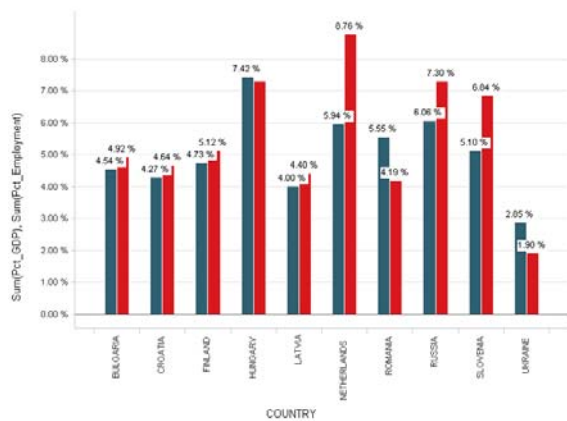
6.1. Africa



■ % share of GDP
■ % share of employment

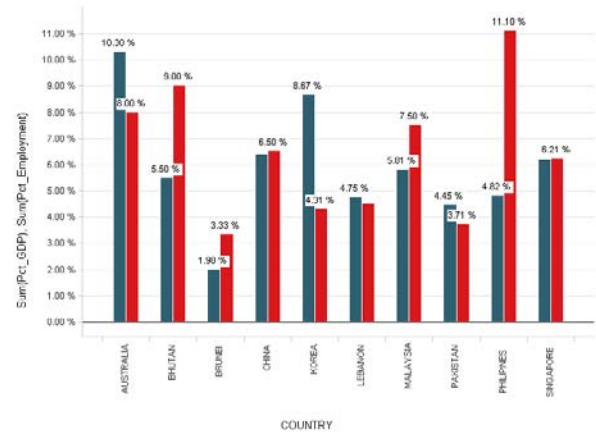
Currently studies are finalized in two countries: Kenya and South Africa. We observe higher contribution to GDP in Kenya and balanced share of GDP and Employment in South Africa. Studies in progress are carried out in Ghana, Jordan, Malawi, Morocco, Nigeria, Tanzania and Sudan.

6.2. Europe



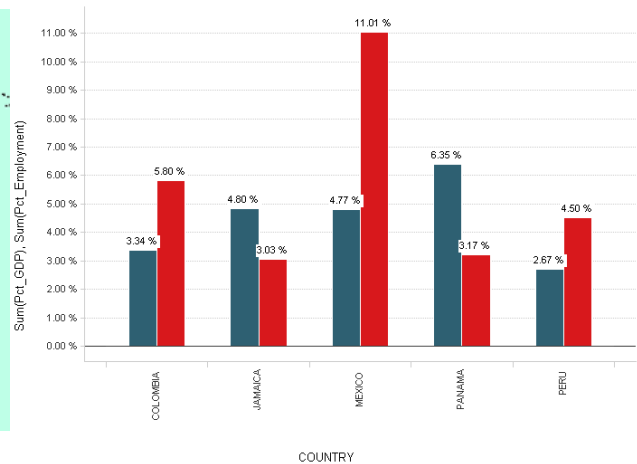
Currently studies are finalized in ten countries: Bulgaria, Croatia, Finland, Hungary, Latvia, Netherlands, Romania, Russia, Slovenia, and Ukraine. Studies in progress are being carried out in Lithuania and Albania

6.3. Asia and Australia:



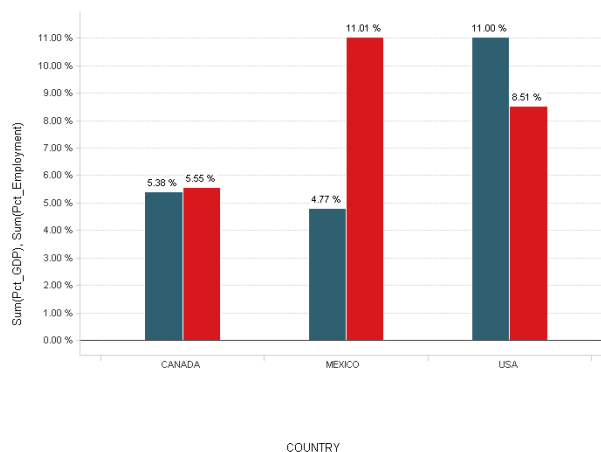
Currently studies are finalized in nine countries: Australia, Bhutan, Brunei, China, Lebanon, Malaysia, Pakistan, Philippines, and Singapore. The Asian economies that have experienced rapid economic growth (Korea, China, Singapore and Malaysia) and also Australia, exhibit above average contribution to GDP. Studies are being completed in Thailand and Indonesia.

6.4. Latin and Central America:



Currently studies are finalized in five countries: Colombia, Jamaica, Mexico, Panama, and Peru. Panama's CRI exhibit the highest share of GDP in the region. Mexico manifests one of highest share in employment on a global scale. Studies are being finalized in Brazil, Trinidad and Tobago and the East Caribbean States (the OECS).

6.5. North America



Currently studies are finalized in three countries: Canada, Mexico, and USA.

With 11% of share of GDP, the U.S. is the highest performer in terms of this measure. Canada's and Mexico's CRI have a similar share in their respective GDP, but Mexico's labor force share is double that of Canada.

Note: Mexico appears in both the Latin & North America regions because of its Central American location one hand, and also being connected economically to North America as member of NAFTA, on the other.

6.6. Country profiles

Selected information from the national studies is provided in a country sheet format. The available fact sheets are presented in Annex II.

7. Limitations of the used methodology

The WIPO methodology is only one of the available tools for assessing the economic importance of the creative sector. While this method is gaining acceptance and credibility with each new study which is undertaken, it has to be borne in mind that it has some important limitations, which need to be considered in the interpretation of the results of the studies.

The assessment of the size of the copyright industries is based on the method of measuring the value added, created in the copyright-industries as a percentage of the GDP. The value added approach is a universally adopted industry-centered approach, based on a standardized measurement technique, which allows the identification of the contribution by industry, as recorded in National accounts. The value added method reduces the chances of double-counting; it makes use of input-output tables and indicates important relationships in the economy.

This method has also a number of shortcomings related to its inability to differentiate between copyright-related and non copyright-related activities within a selected industry. It may inevitably also omit some elements, related to copyright in industries which are not

included in the study. The method does not disclose which part of the value is added to the product while creating and producing it and which part is added in the modification, distribution or consumption phases of the value chain. This may limit a more in-depth analysis of the copyright industries.

The methodology is based on official data sources as it focuses on comparability between countries. In many cases, however, creative products are produced and distributed in the informal economy and may not be accounted for in national accounts statistics. Same applies for job generation, which may not be fully reflected in census statistics if creative activities fall outside the scope of the adopted statistical survey methodology. This limitation generally reflects an understatement of the employment potential in the copyright industries.

Finally, the surveying of macroeconomic indicators is based on a number of assumptions, the most important of which is that copyright is enforced, i.e. that the economic activities that are measured are based on respect for copyright and related rights. This assumption is needed for the measurement purposes, however the results obtained through the study should not be interpreted as an indication of the strength of copyright enforcement in each individual country.

8. The way forward

The analysis confirms the importance of copyright-based industries in overall economic performance. Creative industries are well connected with the rest of the economy and have an active presence in the economic cycle. In many countries, creative industries are playing a more important role than some traditional industries. Creative industries performance is enhanced when stimulated by governments (economic freedom), the legal system (well established property rights) and the businesses environment (competitiveness, innovation).

National studies confirm the applicability of the WIPO methodology in countries at various levels of development. Developed countries performance in terms of contribution to GDP is higher in core copyright industries, while the developing countries have higher contribution in the non-core industries. New studies that are being carried out across the world will enhance the analysis and the overview of the performance of the creative industries in the global economy.

More broadly representative sample to include a greater share of emerging and developed economies will strengthen the robustness of the analysis. The next steps could involve time series analysis, cluster/regional analysis, deeper examination of the relationships through a statistical model that would seek to disclose closer causal relationships between copyright industries performance measures and relevant explanatory variables.

The merit of further studies and deeper analysis of the copyright industries is in outlining the potential of copyright for development, the need of linking the implementation of a robust copyright regime to the achievement of development objectives. This can be achieved through streamlining and applying uniform approaches to future research. The WIPO model is one possible tool in this direction.

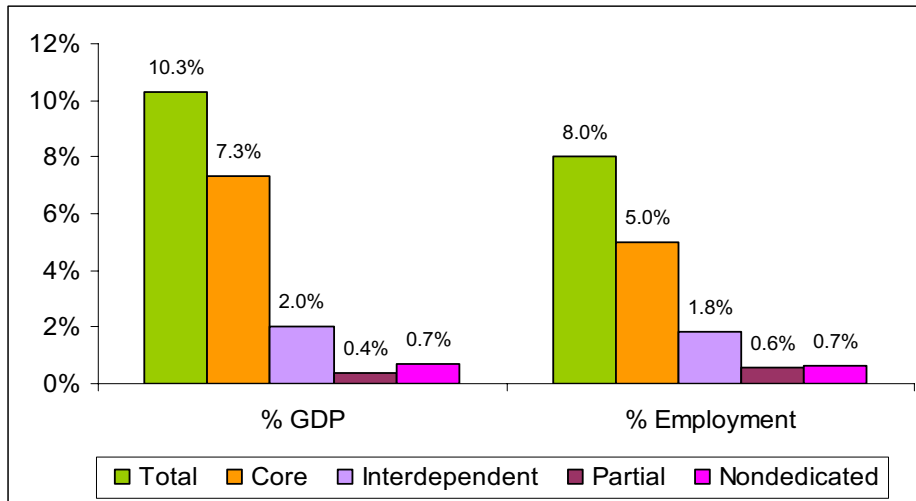
January 2012

ANNEX 1:

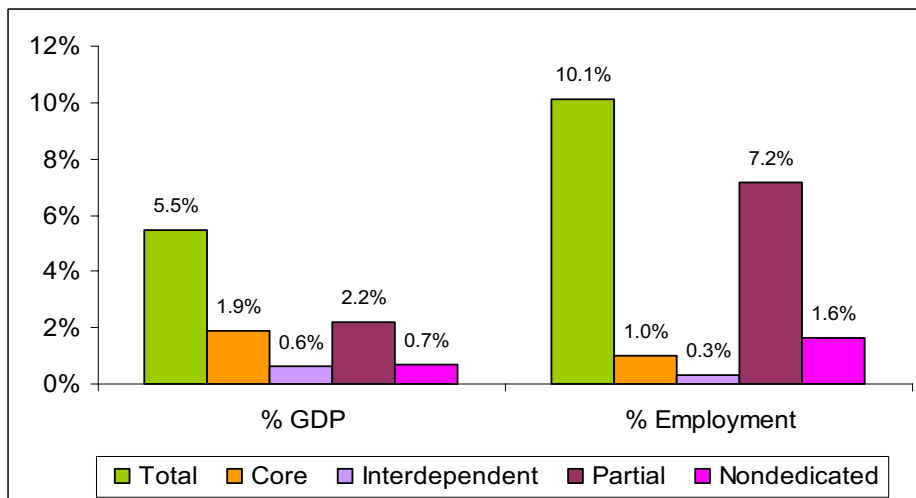
COUNTRY	YEAR OF PUBLICATION	% CONTRIBUTION OF COPYRIGHT INDUSTRIES TO GDP					% CONTRIBUTION OF COPYRIGHT INDUSTRIES TO EMPLOYMENT				
		Total Share	Core	Interdependent	Partial	Non-dedicated	Total Share	Core	Interdependent	Partial	Non-dedicated
AUSTRALIA	2009	10.30	7.30	2.00	0.40	0.70	8.00	4.97	1.81	0.57	0.65
BHUTAN	2011	5.46	1.90	0.60	2.20	0.70	10.09	1.03	0.29	7.16	1.61
BRUNEI	2011	1.58	0.70	0.10	0.70	0.08	3.20	1.50	0.40	1.10	0.20
BULGARIA	2011	4.54	2.74	1.08	0.29	0.44	4.92	2.78	1.34	0.31	0.49
CANADA	2004	5.38	3.99	0.90	0.11	0.38	6.87	4.00	0.91	0.16	0.33
CHINA	2009	6.37	3.06	1.92	0.48	0.92	6.52	3.14	1.90	0.85	0.63
COLOMBIA	2008	3.30	1.90	0.80	0.30	0.40	5.80	1.70	0.70	1.90	1.50
CROATIA	2007	4.27	2.99	0.88	0.32	0.07	4.65	3.22	0.93	0.41	0.08
FINLAND	2010	4.83	3.70	0.47	0.20	0.46	5.12	4.06	0.43	0.25	0.38
HUNGARY	2010	7.42	4.21	1.79	0.41	1.02	7.28	4.20	1.37	0.58	1.13
JAMAICA	2007	4.81	1.70	0.74	0.47	1.90	3.03	1.79	0.31	0.23	0.68
KENYA	2009	5.32	2.30	2.17	0.41	0.43	3.26	1.20	0.75	1.04	0.27
KOREA	2005	8.67	4.03	2.79	0.36	1.49	4.31	2.15	1.06	0.31	0.79
LATVIA	2004	5.05	2.90	1.10	0.28	0.77	5.59	3.70	0.70	0.44	0.75
LEBANON	2007	4.75	2.53	0.71	0.62	0.89	4.49	2.11	0.73	0.70	0.95
MALAYSIA	2008	5.70	2.90	2.10	0.60	0.10	7.50	4.70	1.60	0.90	0.20
MEXICO	2006	4.77	1.55	1.69	0.85	0.68	11.01	3.41	3.65	2.53	1.41
NETHERLANDS	2009	5.90	4.00	0.40	0.90	0.60	8.80	6.20	0.60	1.10	1.00
PAKISTAN	2010	4.45	1.37	0.11	0.98	1.99	3.71	0.70	0.04	1.37	1.60
PANAMA	2009	6.35	5.40	0.06	0.05	0.84	3.17	1.52	1.20	0.31	0.13
PERU	2009	2.67	1.23	0.28	0.02	1.14	4.50	2.09	0.14	0.07	2.20
PHILIPPINES	2006	4.82	3.53	0.96	0.04	0.29	11.10	8.81	1.40	0.20	0.60
ROMANIA	2008	5.55	3.55	1.08	0.53	0.39	4.19	2.36	0.58	0.82	0.43
RUSSIA	2007	6.06	2.39	0.76	0.27	2.64	7.30	4.29	0.75	0.56	1.69
SINGAPORE	2007	6.19	3.46	1.56	0.09	1.08	6.21	4.04	1.15	0.20	0.82
SLOVENIA	2010	5.10	3.30	0.60	0.50	0.60	6.80	4.60	0.80	0.70	0.70
SOUTH AFRICA	2011	4.11	2.05	0.56	0.21	1.29	4.08	2.31	0.51	0.23	1.03
TRINIDAD AND TOBAGO	2011	4.80	1.41	0.13	0.97	2.28	5.00	2.67	1.73	0.20	0.41
UKRAINE	2008	2.85	1.54	0.68	0.10	0.54	1.90	1.16	0.46	0.08	0.20
USA	2011	11.10	6.36	2.25	0.22	2.27	8.19	3.93	2.17	0.26	2.03

ANNEX 2 COUNTRY PROFILES

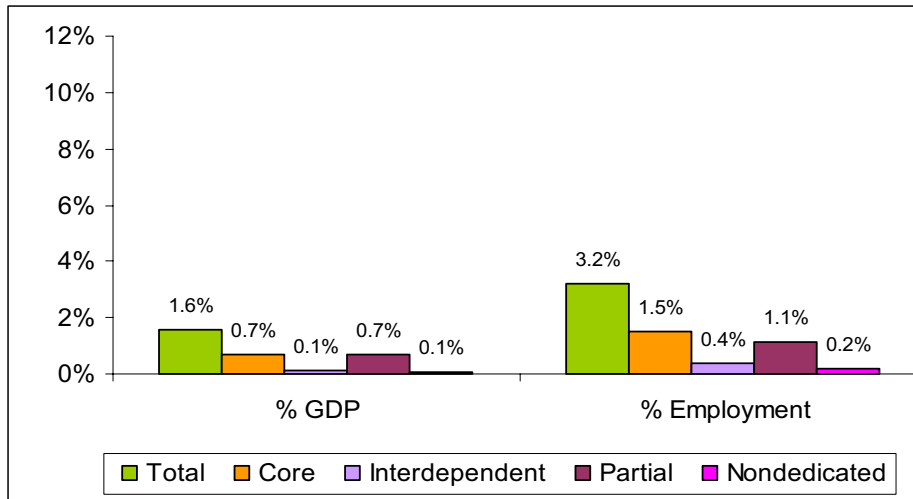
Australia



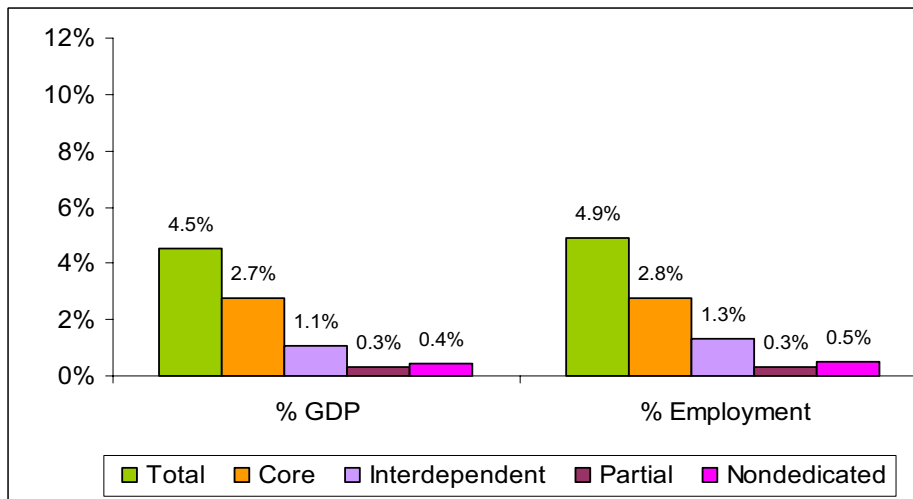
Bhutan



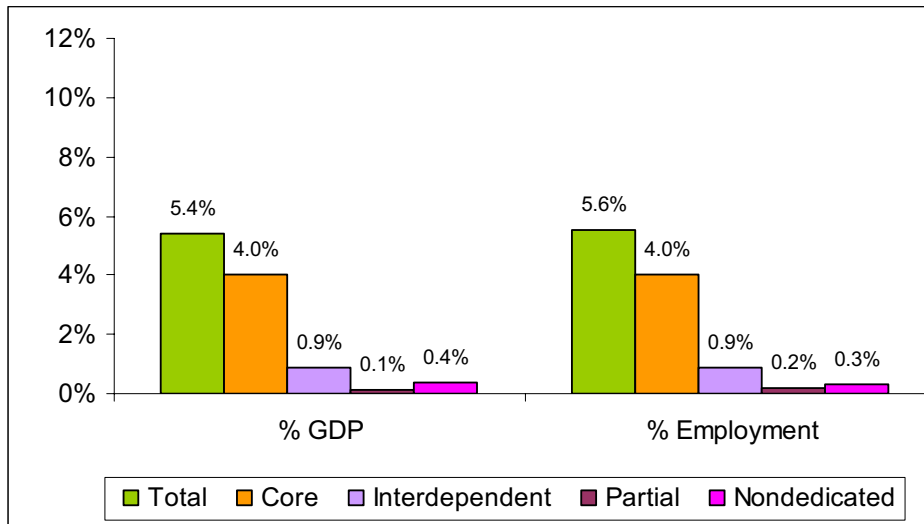
Brunei Darussalam



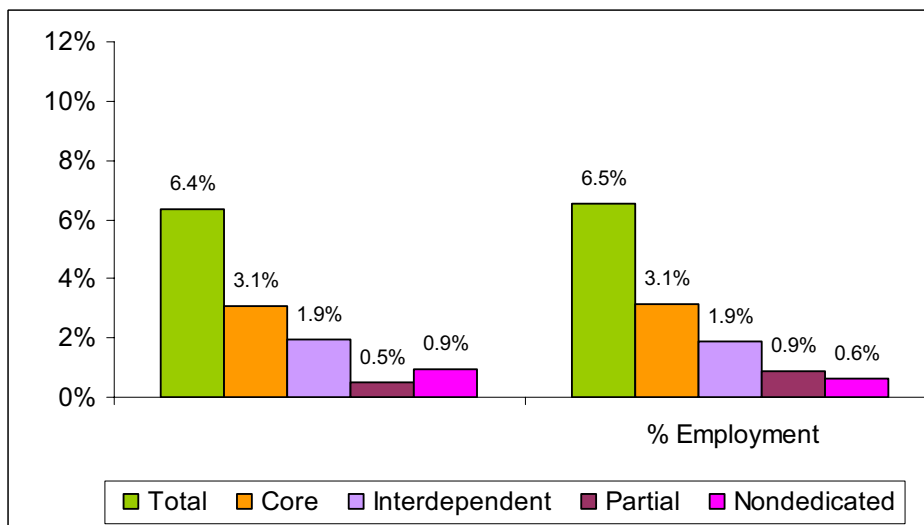
Bulgaria



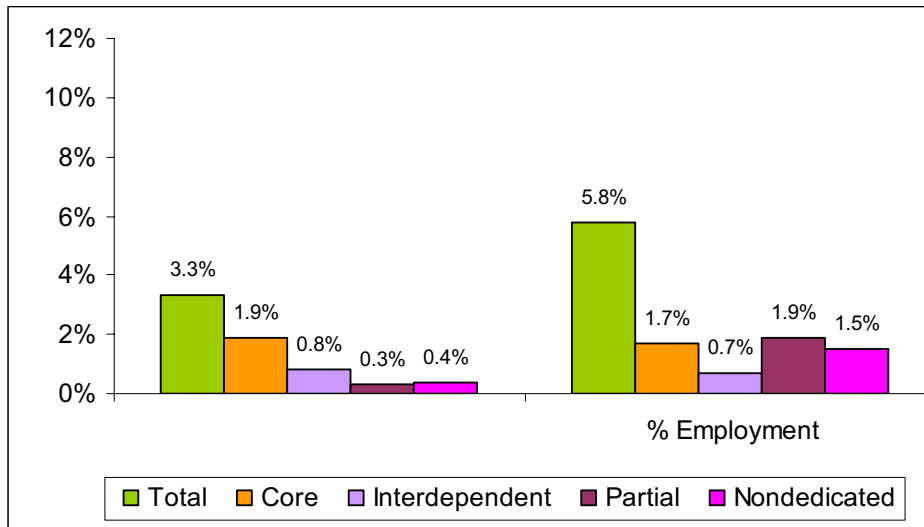
Canada



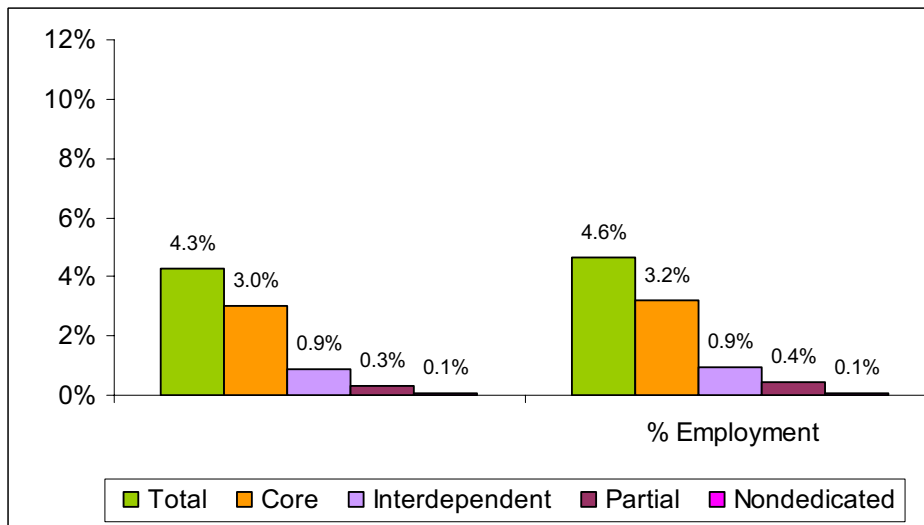
China



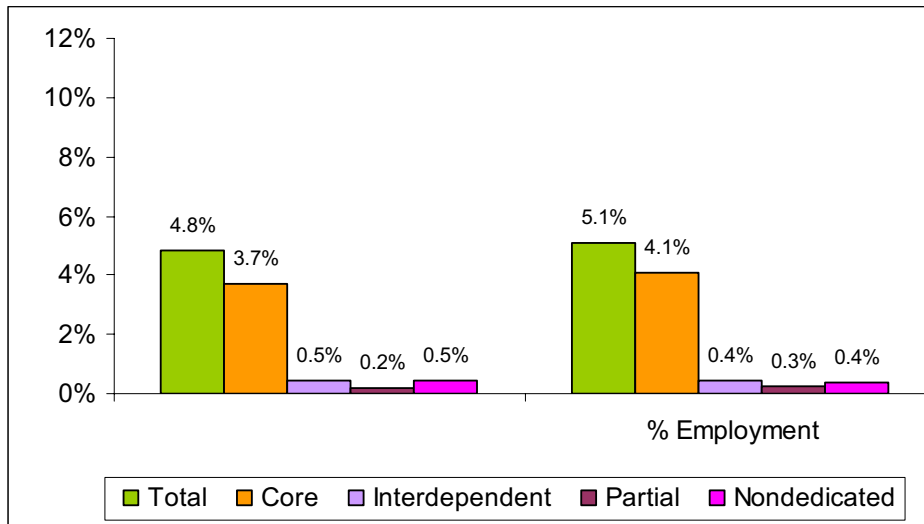
Colombia



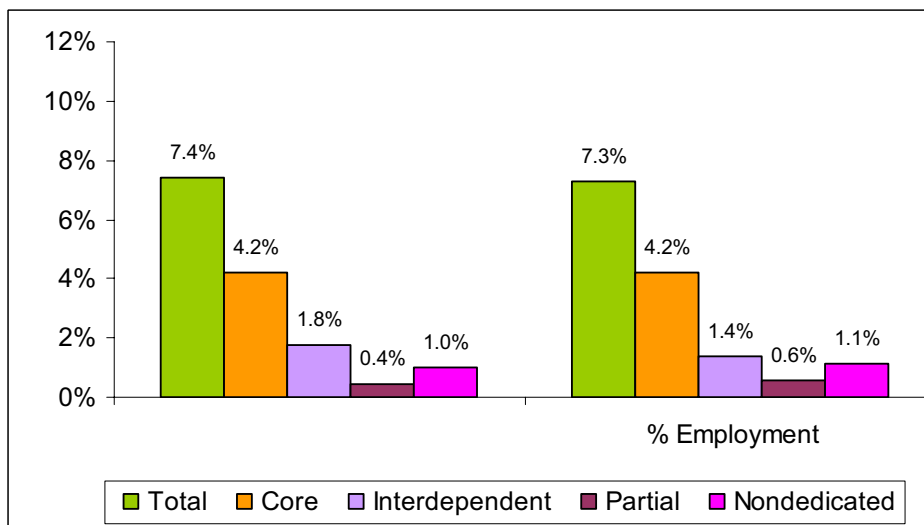
Croatia



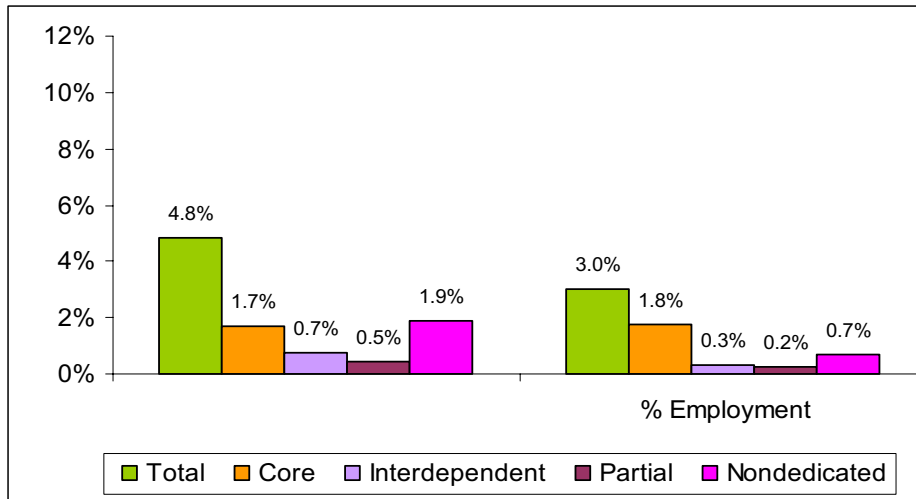
Finland



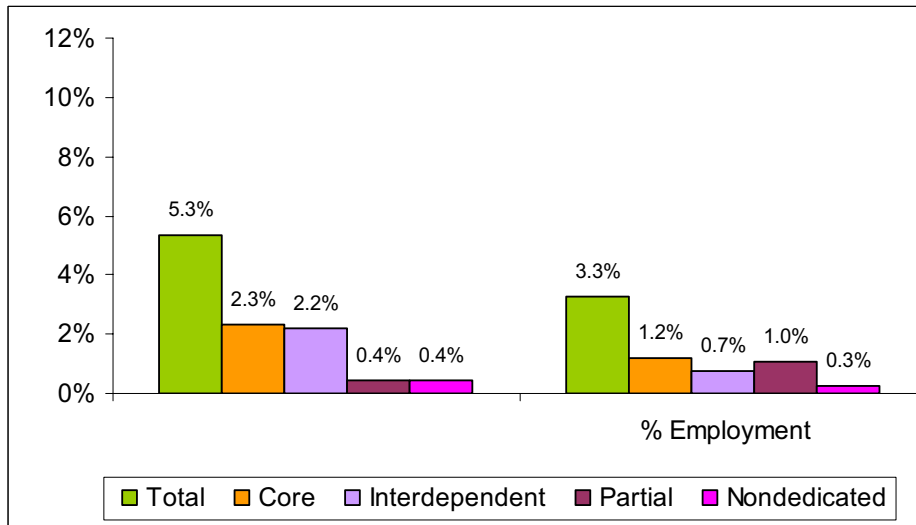
Hungary



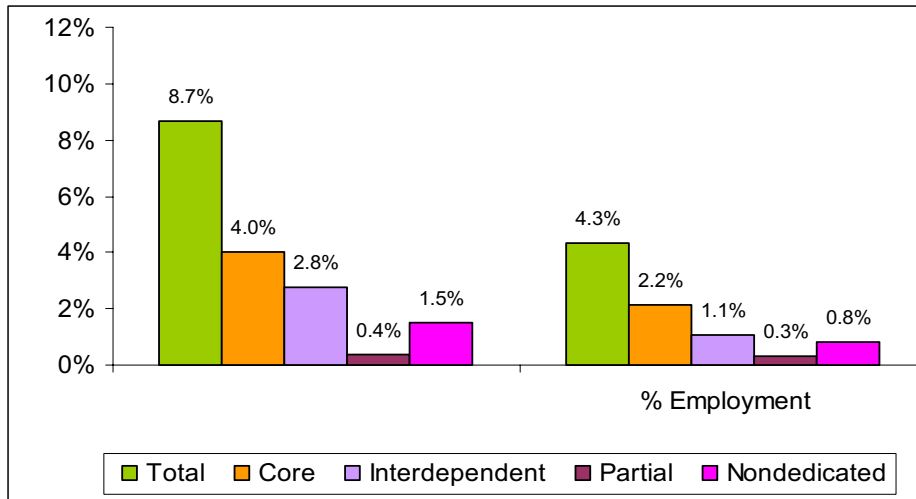
Jamaica



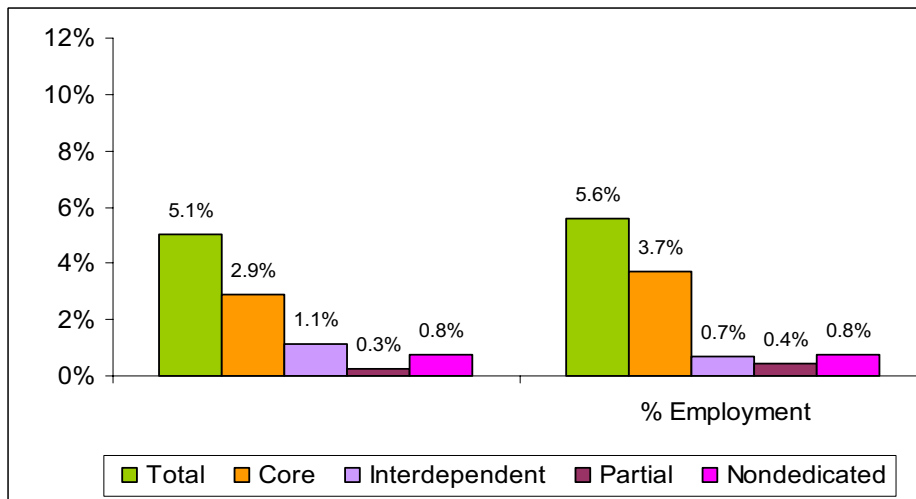
Kenya



Korea



Latvia



¹ WIPO Guide on Surveying the Economic Contribution of the Copyright-Based Industries, WIPO Publication No 893 (E), ISBN 978-92-805-1225-7

² Results from published WIPO Studies are published in the series “National Studies on Assessing the Economic Contribution of the Copyright-Based Industries”: Volume 1- WIPO Publication No 624 (E), ISBN 92-805-1553-5; Volume 2 - WIPO Publication No 1009 (E), ISBN 978-805-1732-3; Volume 3 - WIPO Publication No 1017 (E), ISBN 978-92-805-1908-2; Volume 4 - WIPO Publication No 1024 (E), ISBN 978-92-805-2022-4; Volume 5 - WIPO Publication No 1032 (E), ISBN 978-92-805-2156-6, available also at http://www.wipo.int/ip-development/en/creative_industry/economic_contribution.html .

³ Detailed statistics on the individual contribution of the copyright industries in each country is contained in Annex I to this document

⁴ The results based on the Study on Economic Contribution of Copyright-Based Industries in Trinidad and Tobago is pending for approval

⁵ The terms *creative industries* and *copyright industries* are used interchangeably throughout the document

⁶ Based on the narratives of the studies published in the Creative Industries series.

⁷ Statistical significance for all correlations is calculated at the 95% level. This indicates that obtaining the respective relationship by chance is less than 5%.

⁸ <http://www.internationalpropertyrightsindex.org/>

⁹ The index is prepared by the Heritage Foundation in cooperation with the Wall Street Journal, available at <http://www.heritage.org/index/default>

¹⁰ See WIPO Guide on Surveying the Economic Contribution of the Copyright-Based Industries, WIPO Publication No 893 (E), ISBN 978-92-805-1225-7

¹¹ All breakdowns of the contribution of the specific industries either to GDP or employment are calculated on the basis of the available statistics in the national reports. It has to be noted that some country reports do not exhibit the breakdown for various reasons; hence the contribution of specific industries to GDP and employment does not reflect their national specifics. Percentages for charts 13, 14, 17, 23, 24, 25, 26, 27, 28, 29 and 30 were calculated as an average of countries' creative industries share to either CDP or Employment



APPENDIX C

IIPA Written Submission Regarding *2013 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment and Announcement of Public Hearing Request to Testify at 2013 Special 301 Hearing (77 Fed. Reg. 77178, Dec. 31, 2012)*, available at
<http://www.iipa.com/pdf/2013SPEC301COVERLETTER.pdf>

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February 8, 2013

Submitted via regulations.gov Docket No. USTR-2012-0022

Mr. Stanford McCoy
Assistant U.S. Trade Representative
for Intellectual Property and Innovation
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: IIPA Written Submission Regarding 2013 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment and Announcement of Public Hearing Request to Testify at 2013 Special 301 Hearing (77 Fed. Reg. 77178, Dec. 31, 2012)

Dear Mr. McCoy:

The International Intellectual Property Alliance (IIPA) submits this response to the Federal Register notice that invites “written submissions from the public concerning foreign countries’ acts, policies, or practices that are relevant to deciding whether a particular trading partner should be identified as a priority foreign country under Section 182 of the Trade Act or placed on the Priority Watch List or Watch List.” Under Section 182, more commonly referred to as “Special 301,” the Office of the U.S. Trade Representative leads an interagency process to identify countries that deny adequate and effective protection of intellectual property rights or that deny fair and equitable market access to U.S. persons who rely on intellectual property protection (19 U.S.C. §2242). This year’s notice also makes two additional requests: 1) that submissions include specific references to laws, regulations, policy statements, executive, presidential or other orders, administrative, court or other determinations, and any other measures relevant to the issues raised in the written submission or hearing testimony; and 2) that, where relevant, submissions mention particular regions, provinces, states, or other subdivisions of a country in which an act, policy, or practice is believed to warrant special attention.¹

IIPA has participated in every Special 301 cycle since the 1988 Trade Act created this process, providing public comments on acts, practices and policies regarding copyright law, piracy, enforcement and market access in selected foreign countries and territories. In this year’s filing, including this Submission Letter and appendices, IIPA reports on 42 countries/territories noted in the chart in Section C of this Submission Letter, mentions 3 countries for positive achievements (two of which also appear as country reports), and mentions 6 countries for issues related to bilateral, regional, or multilateral IPR obligations worthy of discussion.

IIPA requests that Ukraine be designated as a Priority Foreign Country in this year’s review. IIPA also requests that 32 other countries appear on the Special 301 Priority Watch List or Watch List. IIPA has also recommended that USTR conduct an out-of-cycle review (OCR) later in 2013 on Thailand. IIPA will also file under separate cover a Notice of Intent to Testify at the February 20, 2013 public hearing on Special 301.

¹With regard to both of these requests, we note that all of the country appendices contain specific references to laws, regulations, policy statements, executive, presidential or other orders, administrative, court or other determinations, and any other measures relevant to the issues raised in this written submission, and that the country appendices mention particular regions, provinces, states, or other subdivisions of a country in which an act, policy, or practice is believed to warrant special attention, where relevant.



A. THE IIPA'S INTEREST IN THIS FILING AND THE SPECIAL 301 PROCESS

The IIPA is a private sector coalition, formed in 1984, of trade associations representing U.S. copyright-based industries working to improve international protection and enforcement of copyrighted materials and to open foreign markets closed by piracy and other market access barriers. IIPA's seven member associations represent over 3,200 U.S. companies producing and distributing materials protected by copyright laws throughout the world—all types of computer software, including operating systems, systems software such as databases and security packages, business applications, and consumer applications such as games, personal finance, and reference software, free software, open source software, and software as a service, entertainment software including interactive games for videogame consoles, handheld devices, personal computers and the Internet, and educational software; motion pictures, television programming, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and fiction and non-fiction books, education instructional and assessment materials, and professional and scholarly journals, databases and software in all formats. Members of the IIPA include [Association of American Publishers](#), [BSA | The Software Alliance](#), [Entertainment Software Association](#), [Independent Film & Television Alliance](#), [Motion Picture Association of America](#), [National Music Publishers' Association](#), and [Recording Industry Association of America](#).

In November 2011, IIPA released the latest update of the comprehensive economic report, *Copyright Industries in the U.S. Economy: The 2011 Report*, prepared by Stephen Siwek of Economists Inc. This report details the economic impact and contributions of U.S. copyright industries to U.S. gross domestic product (GDP), employment, and trade. The “core” copyright-based industries in the U.S. continue to be major contributors to the U.S. economy, accounting for an estimated \$931.8 billion or 6.36% of the U.S. GDP in 2010. These industries provide nearly 5.1 million U.S. jobs, which is 4.75% of the entire private sector labor force in 2010, and pay on average over \$78,000, 27% higher than the overall workforce average. Estimated 2010 foreign sales and exports of key sectors of the core copyright industries amounted to \$134 billion, a significant increase over previous years, and more than foreign sales of other major U.S. industry sectors such as aircraft, automobiles, agricultural products, food, and pharmaceuticals.² Linkages between copyright protection and economic development in other countries are documented by the World Intellectual Property Organization's 2012 study, *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries*, compiling similar studies in 30 countries.³ WIPO reports the completion of a total of 39 country studies, with more in the pipeline. Other studies have measured the contribution of certain sectors to national economies,⁴ or the multiplier effects of reducing piracy on contribution to GDP, job growth, and tax revenues.⁵

While these studies amply demonstrate the contribution of copyright-based industries to the economy, they do not reveal the massive costs imposed by overseas piracy and market access barriers to U.S. copyrighted products and services. Content industries are forced to face unfair competition from those who engage in piracy as a high-profit, low risk enterprise. Today, legitimate businesses built on copyright are facing increased threats, as they must compete with

²See Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2011 Report*, November 2, 2011. The entire report as well as summaries can be accessed at http://www.iipa.com/copyright_us_economy.html. Core copyright industries are those whose primary purpose is to create, produce, distribute or exhibit copyright materials. These include books, journals, newspapers, and periodicals; motion pictures; recorded music; radio and television broadcasting; and computer software.

³World Intellectual Property Organization, *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries*, 2012 (on file with IIPA). In 2003, the World Intellectual Property Organization (WIPO) published a guidebook on the economic parameters to develop such studies entitled *Guide on Surveying the Economic Contribution of the Copyright-Based Industries* (WIPO Publication No. 893) (2003), at http://www.wipo.int/copyright/en/publications/pdf/copyright_pub_893.pdf. The guidelines have been implemented in over 39 countries around the world, and studies have been published so far in 30 countries, including: Australia (2007), Bhutan (2011), Brunei (2012), Bulgaria (2011), Canada (2004), China (2011), Colombia (2010), Croatia (2010), Finland (2011), Hungary (2006), Jamaica (2008), Kenya (2011), Latvia (2006), Lebanon (2008), Malaysia (2011), Mexico (2008), Netherlands (2011), Pakistan (2011), Panama (2011), Peru (2011), Philippines (2008), Republic of Korea (2012), Romania (2010), Russia (2010), Singapore (2004), Slovenia (2011), South Africa (2012), Thailand (2012), and Ukraine (2010), and United States (2011).

⁴For example, the Motion Picture Association Asia Pacific has issued a series of “Economic Contribution of the Film and Television Industry” studies for Indonesia (2012), Japan (2012), South Korea (2012), Thailand (2012), New Zealand (2009, 2012), Australia (2011), India (2010), and Hong Kong (2009).

⁵See, e.g., BSA (now BSA | The Software Alliance) and IDC, *Piracy Impact Study: The Economic Benefits of Reducing Software Piracy: Israel*, 2010, at http://portal.bsa.org/piracyimpact2010/cps/cp_israel_english.pdf.



the massive proliferation of illegal services unencumbered by costs associated with either producing copyrighted works or obtaining rights to use them. An independent study released by BASCAP (Frontier Economics), *Estimating the Global Economic and Social Impacts of Counterfeiting and Piracy* (February 2011),⁶ estimated the value of digitally pirated music, movies and software (not losses) at \$30-75 billion in 2010, and growing to \$80-240 billion by 2015. Others have issued reports on the economic consequences of piracy for specific industry sectors.⁷ In many countries in this submission, rampant piracy is not only impeding the evolution of legitimate channels for distribution, but also threatens to damage permanently or displace existing and authorized distribution channels which are unable to compete with infringing business models.

B. SUMMARY OF THE IIPA 2013 SPECIAL 301 SUBMISSION

The IIPA 2013 Special 301 Submission provides information intended to assist the U.S. government in defining plans of action for the year ahead, to reduce global piracy levels, and to open markets to U.S. works protected by copyright in the identified countries/territories. Section C of this Submission Letter provides the IIPA recommendations for the 2013 Special 301 lists. Section D summarizes 12 major cross-cutting initiatives and challenges involved in improving copyright law and enforcement and lowering market access barriers to U.S. copyrighted materials. Appendix A to the Submission includes all the country surveys.⁸ Appendix B describes IIPA members' methodologies for estimating the scope of piracy in various countries. Appendix C provides a chart of countries/territories' placement on Special 301 lists by USTR since 1989.⁹ Information about the Special 301 histories of countries/territories on which IIPA has filed in the past, whether recommended for placement on a list this year, deserving of Special Mention, or appearing on past lists, is available as an Additional Appendix on the IIPA website, at <http://www.iipa.com/pdf/2013SPEC301HISTORICALSUMMARY.pdf>.

Countries Deserving of Recognition for Progress Made in 2012 in Copyright Protection and Enforcement

IIPA recognizes and welcomes important steps taken by the following countries in 2012:

- **Brunei:** Law enforcement authorities continued to cooperate with rights holders, including a raid in December 2012 against a large retail chain engaged in piracy. The owner of the company was found guilty and sentenced to six weeks in jail in Brunei's first criminal copyright case.¹⁰ This action followed the cleaning up of the retail market in May 2012 as a result of a Municipal Department directive to empty shelves of pirated DVDs, music and software or face closure.¹¹ Notwithstanding challenges in the Internet environment, physical piracy of music is now reportedly roughly 30%, which marks a general decline. With software piracy remaining at 67% in 2011 and some remaining enforcement hurdles, Brunei will need to take steps (highlighted in previous reports), both in terms of legislative

⁶Frontier Economics, *Estimating the Global Economic and Social Impacts of Counterfeiting and Piracy: A Report Commissioned by Business Action to Stop Counterfeiting and Piracy (BASCAP)*, February 2011 (on file with IIPA). The report builds on a previous OECD study (*The Economic Impact of Counterfeiting and Piracy (2008)*)

⁷The Motion Picture Association has commissioned studies from IPSOS and Oxford Economics on *Economic Consequences of Movie Piracy: Japan* (2011) and *Economic Consequences of Movie Piracy: Australia* (2011). BSA's most recent study estimating the software piracy rate and commercial value of unlicensed software in more than 100 markets is at <http://portal.bsa.org/globalpiracy2011/>. A 2010 study looking at the economic impact of piracy in select countries is at <http://portal.bsa.org/piracyimpact2010/index.html>.

⁸Country surveys were prepared by counsel to the IIPA, Michael Schlesinger, Amanda Wilson Denton, Steven Metalitz, and Eric Schwartz, and are based on information furnished by IIPA's seven member associations. We thank Pamela Burchette for her contribution in preparing, producing and distributing this submission. The country reports contain information which should not be construed as providing legal advice.

⁹Fifteen of these countries/territories have appeared on a Special 301 list each year since 1989, and are recommended by IIPA to appear there again. A 1994 amendment to Section 182 of the Trade Act, dealing with identification of "priority foreign countries," provides that the U.S. Trade Representative must take into account "the history of intellectual property laws and practices in the foreign country, whether the country has been identified as a priority foreign country previously, and U.S. efforts to obtain adequate and effective intellectual property protection in that country." Uruguay Round Agreements Act Statement of Administrative Action, *reprinted in* H.R. Doc. No. 103-316, vol. I, at 362 (1994). Under these criteria, these 15 countries/territories named by IIPA are particularly vulnerable.

¹⁰*Brunei's Fight Against Piracy Pays Dividends*, The Brunei Times, December 11, 2012, at <http://www.bt.com.bn/letters-editor/2012/12/11/bruneis-fight-against-piracy-pays-dividends>.

¹¹Quratul-Ain Bandial, *With No Access to DVDs, Many Eye Online Piracy*, The Brunei Times, May 26, 2012, at <http://www.bt.com.bn/news-national/2012/05/26/no-access-dvds-many-eye-online-piracy>.



reforms and enforcement, to continue progress. Brunei's participation in the Trans-Pacific Partnership (TPP) negotiations signals its commitment to further enhance its copyright protection and enforcement capacity.

- Malaysia:** In 2012, Malaysia passed major amendments to its Copyright Act, joined the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) effective December 27, 2012, and appeared on the road to address copyright protections in the digital and online environment and to protect against unlawful camcording of motion pictures effectively. These changes in Malaysia are already having a positive commercial effect on some local copyright-based businesses. Remaining concerns, including the need for sustained enforcement efforts, are discussed in greater detail in a Special Mention report appended to this Submission. Malaysia's participation in the TPP negotiations signals its commitment to further enhance its copyright protection and enforcement capacity.
- Philippines:** The Intellectual Property Office of the Philippines, the Optical Media Board, and the Philippine National Police have closed several once-notorious piracy markets in Metro Manila, and appear poised to make more progress in Manila and beyond. The creative and innovative approach to addressing piracy and transforming an illegal market for the long term marks a positive success story and a hopeful path forward. Certain issues remain to be addressed, which are discussed in greater detail in a Special Mention report appended to this Submission.

C. IIPA RECOMMENDATIONS FOR THE 2013 SPECIAL 301 LISTS

This year IIPA has recommended 42 countries/territories for designation as a Priority Foreign Country, for placement on the Priority Watch List or Watch List, or as deserving of Special Mention for copyright, enforcement, and/or market access-related concerns.

PRIORITY FOREIGN COUNTRY	PRIORITY WATCH LIST	WATCH LIST	COUNTRIES DESERVING SPECIAL MENTION
Ukraine (GSP)	Argentina Chile China (306) Costa Rica India Indonesia (GSP) Russian Federation (GSP)	Belarus Brazil Bulgaria Canada Ecuador Egypt Greece Israel Italy Kazakhstan Kuwait Lebanon (GSP) Mexico Pakistan Romania Saudi Arabia Spain Switzerland Tajikistan Thailand (OCR) Turkey Turkmenistan United Arab Emirates Uzbekistan (GSP) Vietnam	Albania Estonia Hong Kong Malaysia Malta Moldova Paraguay Philippines Taiwan
1	7	25	9



D. INITIATIVES OR CHALLENGES FOR 2013: REDUCE COPYRIGHT PIRACY, REMOVE MARKET ACCESS BARRIERS, STRENGTHEN LAWS

This Submission and its Appendices aim to define and seek implementation of solutions to significant commercial hurdles faced by the copyright industries of the U.S. The following list of cross-cutting initiatives and challenges summarizes actions governments must execute to reduce copyright piracy, open markets to legitimate U.S. copyright exports, and ensure that adequate legal structures are in place to lower piracy levels.

1. The Need for Deterrent Enforcement Responses to Copyright Piracy

Copyright piracy increasingly occurs in ways more sophisticated than the mere duplication and sale of content on physical media. Piracy also includes:

- the unauthorized use of software or other copyright materials by enterprises or governments;
- the illegal copying, uploading, downloading, making available, communicating, and streaming of copyright materials on the Internet or mobile networks, or contributing to, benefitting from, promoting, or otherwise inducing the same, including, for example, rogue sites often cloaking themselves under the guise of legitimacy with advertising and payment methods recognized by consumers as authentic;
- the illegal camcording of movies from theater screenings;
- the illegal photocopying or pirate offset printing of books;
- the illegal public performance or broadcast of audiovisual works or sound recordings; and
- hard-disk loading of software or other copyright content onto computers, laptops, tablets, phones, or other mobile devices without authorization or license.

Related to piracy are activities such as:

- the development, manufacture, or distribution of circumvention technologies, devices, or components used to access, copy, or otherwise use copyright materials protected by technological protection measures;
- the development, manufacture, or distribution of “media boxes” including “HD players,” in which multiple gigabytes of storage space can accommodate 200 high definition movies and other content, and boxes that can directly link to websites providing illegal downloads of content to the boxes or pirated movie lists for customers to pre-select for delivery on the box, e.g., through the mail or a courier service.
- the trafficking in counterfeit software packaging, labels, holograms, certificates of authenticity, or documentation; and
- the development, manufacture, or distribution of pay-TV decryption technologies, devices, or components, or the unauthorized decryption of, or line-tapping to illegally obtain access to, pay-TV signals.

Too often, whether due to lack of political will or inadequate rule of law, countries fail to address piracy effectively. The overarching objective for the copyright industries therefore remains: 1) to secure globally effective legal frameworks capable of providing deterrent enforcement against copyright piracy; and 2) to ensure that enforcement authorities robustly use these legal frameworks to combat copyright infringement. To do so, countries should:

- dedicate enforcement resources commensurate with the scale of the piracy problem, to provide for “effective action” and “remedies that constitute a deterrent”¹² to infringement as the minimum required by the TRIPS Agreement, through civil, administrative, and criminal action, and effective adjudication in the courts;¹³

¹²For effective deterrence, prosecutors and judges (or, where applicable, administrative agencies) should impose penalties that remove the monetary incentives that drive the pirate trade. Small fines do not deter pirates who stand to gain hundreds of thousands to millions of dollars. Recidivism is endemic in many countries. Deterrence requires substantial prison sentences in these cases.

¹³In many countries, specialized IP courts have been established, in addition to IP- or cybercrime-intensive investigative units with police and prosecutors. In the most successful examples, such specialized courts or divisions are starting to make a difference in their localities.



- train, build capacity, and empower enforcement authorities to investigate and prosecute copyright offenses;
- update laws and enforcement tools to meet the current piracy challenges;¹⁴
- direct government agencies, state-owned as well as privately held enterprises, contractors, and educational institutions to use only legal software, legal copies of textbooks, educational materials and professional and scholarly publications, and other copyright materials, and to ensure their networks or computers are not used for infringing purposes;
- ratify and fully implement the WCT and the WPPT and enforce resulting prohibitions as a means of reducing piracy;
- encourage cooperation by Internet service providers (ISPs) with all content owners, including notice-and-takedown systems for the hosted environment, and effective and fair mechanisms to deal with repeat infringers in the non-hosted environment and infringements on foreign websites; and
- enact and enforce measures to make it illegal to use or attempt to use an audiovisual recording device to make or transmit a copy of a motion picture.

2. Internet Piracy

Transformative developments on the Internet and mobile (WAP, 3G, Wi-Fi) networks have created opportunities for faster, more efficient and more cost-effective distribution of information, products and services across the globe. The world boasts 2.4 billion Internet users as of June 2012, with an estimated 35% having fixed broadband,¹⁵ and 1.1 billion mobile broadband users by the end of 2011.¹⁶ This connectivity has had a positive transformative effect on many economies, but has also unfortunately led to massive infringement of music, movies, games, software, books and other reading materials, and other copyright materials. A January 2011 study by Envisional concluded that an astonishing 23.76% of all worldwide Internet traffic is copyright infringing, broken down by the following technologies: 11.4% illegal BitTorrent downloading; 5.1% illegal downloading from infringing distribution hubs; 1.4% illegal video streaming; and 5.8% other peer-to-peer (P2P) file sharing (eDonkey, gnutella) or Internet protocols, such as Usenet, that are used for file sharing.¹⁷ Research also indicates there is a correlation between addressing online piracy through legislation or shutting down a major suspected piracy service (as in the case of *MegaUpload*) and increases in legitimate distribution of copyright materials.¹⁸

Although there are many commonalities, each industry sector has its own unique experience with online piracy most harmful to them:

- The motion picture industry's distribution patterns (including theatrical, on-demand, pay-TV, home video, and legitimate online services) have been decimated by the availability of Internet downloads or streaming of their films. To give just one example, the motion picture, *The Grey*, which was released on January 27, 2012 in the United

¹⁴Piracy (both online and offline) has been taken over in many countries by organized crime syndicates, linked across national boundaries, that control large amounts of capital, and exploit complex distribution networks. The private sector does not possess the tools, nor usually the legal authority, to investigate and fight organized crime. In addition, such organized groups or other commercial pirates can become violent, and company representatives and counsel have in some countries experienced threats on their lives, physical intimidation, or attacks leading to injury when doing their jobs to investigate piracy, and this has prevented enforcement activity by the private sector in many instances. Governments can step up to this challenge, including encouraging countries by applying their organized crime laws, like Hong Kong's Organized and Serious Crimes Ordinance and the United Kingdom's Serious Crimes Act 2007, to bring enhanced remedies to bear against syndicate operations involved in piracy, including, *inter alia*, disclosure of information being used to commit piracy and seizure or freezing of assets. Since 2000, INTERPOL has recognized the need for national and international enforcement authorities to coordinate their efforts and cooperate with IP right holders to fight IP crimes including piracy.

¹⁵ Internet World Stats, World Internet Usage and Population Statistics, June 30, 2012, at www.internetworldstats.com (Internet usage information comes from data published by Nielsen Online, by the International Telecommunications Union, by GfK, local ICT Regulators and other reliable sources).

¹⁶ International Telecommunications Union, *Mobile-Cellular Telephone Subscriptions Per 100 Inhabitants*, accessed January 24, 2013, at <http://www.itu.int/ITU-D/ict/statistics/>.

¹⁷ Envisional, *Technical Report: An Estimate of Infringing Use of the Internet*, January 2011 (on file with IIPA).

¹⁸ See, e.g., Brett Danaher, Michael D. Smith, Rahul Telang, Siwen Chen, *The Effect of Graduated Response Anti-Piracy Laws on Music Sales: Evidence from an Event Study in France*, January 21, 2012, available at SSRN: <http://ssrn.com/abstract=1989240> or <http://dx.doi.org/10.2139/ssrn.1989240> (increased consumer awareness of HADOPI caused iTunes song and album sales to increase by 22.5% and 25% respectively relative to changes in the control group); Dianna Dilworth, *How to Stop Piracy: Carnegie Mellon Professor Michael Smith at DBW*, January 16, 2013, at http://www.mediabistro.com/appnewser/how-to-stop-piracy-carnegie-mellon-professor-michael-smith-at-dbw_b31162 (Carnegie-Mellon Economist Michael D. Smith indicates his research demonstrates that every 1% reduction in Megaupload usage translated into a 2.6-4.1% increase in legitimate digital sales).



States and Canada, was reportedly already available for illegal download on the *isoHunt* BitTorrent site the next day. By mid-afternoon on January 30, 2012, *isoHunt* itself reported that 3,000 people were downloading *The Grey*, or better said, a 1.2 gigabyte pirated version of *The Grey*.

- Online piracy is by far the greatest priority issue for the music industry, which faces a global Internet piracy problem estimated at 95%. To effectively address this problem, it is essential for governments to attack both the supply and demand sides of the piracy equation, through education, criminal and administrative actions where appropriate, a sound framework for civil actions, and legislation that creates incentives for network service providers to address the use of their networks and services for infringing purposes. Mobile device piracy (e.g., stores that offer, often as an after-service to the sale of a mobile device, unlimited unauthorized downloading of content, and the use of “apps” to illegally download content onto a mobile device) is also becoming more prominent, especially in countries with significant mobile penetration and mobile broadband.
- Online piracy of entertainment software continues to be overwhelmingly international, as reflected in ESA vendor monitoring of P2P and direct download activity. Data drawn from ESA’s online vendor monitoring of P2P activity during 2012 indicates that the vast majority of peer connections participating in the unauthorized file sharing of ESA member titles were undertaken by Internet subscribers in foreign countries. ESA vendors identified Russia, Brazil, Italy, Spain, and Ukraine as the top five leading countries in overall numbers of detected connections to select ESA member titles on public P2P networks. Other countries moving up in terms of detections compared with 2012 include India (6th place), Romania (10th place), Chile (11th place, up from 18th in 2011), Argentina (12th place, up from 21st in 2011), Turkey (13th place), and Mexico (14th place, a dramatic increase from its 28th place finish in 2011). This monitoring also highlighted that the vast majority of sites that facilitate web-based game piracy are hosted on facilities outside of the United States.
- Book and journal publishers are plagued by sites that provide and deliver unauthorized digital copies of medical and scientific journal articles on an illegal subscription basis. With the rapid adoption of electronic reading devices (e-readers) and tablets, online piracy affecting trade books (fiction and non-fiction), and academic textbooks continues to increase significantly.
- Counterfeit software products remain prevalent on certain auction and e-commerce sites, as well as on well-constructed sites and services that fool consumers, selling well-packaged but poor quality counterfeit copies of language-learning and other software.
- Internet cafés continue to provide opportunities, particularly in developing countries, for getting access to infringing software, music, motion pictures, videogames, and published materials.

IIPA’s filing and those of its members to the U.S. Trade Representative in its 2012 Special 301 Out-of-Cycle Review of Notorious Markets present non-exhaustive but illustrative lists of examples of notorious online piracy markets and services.¹⁹ Based on our filing and those of others in that docket, USTR named its list of “notorious markets” on December 13, 2012.²⁰ Many of the online “notorious markets” listed in the IIPA filing are discussed in detail in the country reports appended to this Submission.²¹ These include:

¹⁹See International Intellectual Property Alliance (IIPA), *IIPA Written Submission Re: 2012 Special 301 Out-of-Cycle Review of Notorious Markets: Request for Public Comments*, 77 Fed. Reg. 48583 (August 14, 2012), Docket No. USTR-2011-0011, September 14, 2012, at http://www.iipa.com/pdf/2012_Sep14_Notorious_Markets.pdf.

²⁰United States Trade Representative, *Out-of-Cycle Review of Notorious Markets*, December 13, 2012, at <http://www.ustr.gov/sites/default/files/121312%20Notorious%20Markets%20List.pdf>. USTR’s list includes the following notorious online piracy markets: linking sites *BaixedeTudo* (Sweden) and *Warezb* (registered in Sweden, hosted in Russia); hosting/cyberlocker sites *Rapidgator.net* (Russia), *Putlocker* (U.K.), and *Ex.ua* (Ukraine); B2B and B2C site *Paipai* (China); BitTorrent indexing sites *ThePirateBay* (Sweden), *IsoHunt* (Canada), *Kat.ph* (formerly *kickasstorrents*) (Canada), *torrentz.eu* (formerly *torrentz.com*) (Canada, Panama, Switzerland); BitTorrent trackers *Rutracker* (Russia), *Zamunda.net* (Bulgaria), and *Arenabg.com* (Bulgaria); social media sites *vkontakte* (Russia) and *Zing.Vn* (Vietnam) (also linking); and pay-per-download *Allofmp3* clones (Russia generally).

²¹The online “notorious markets” list demonstrates that many bad actors are abusing various technologies – all of which have legitimate uses – in order to foster widespread copyright piracy.



- **ThePirateBay.se** (Sweden);²² **Kat.ph** (formerly **Kickasstorrents.com**);²³ **IsoHunt.com** (Canada);²⁴ **Extratorrent.com** (Ukraine);²⁵ **Torrentz.eu**;²⁶ and **Rutracker.org** (Russia);²⁷ are examples of sites that employ or facilitate the use of the BitTorrent file sharing protocol to enable pirated content – including very large files – to be quickly located and downloaded.
- **Putlocker.com** (United Kingdom);²⁸ **Netload.in** (Germany); **Simdisk.co.kr** (and other “webhards” in Korea); **Turbobit** (Germany);²⁹ **4Shared.com** (registered in the British Virgin Islands);³⁰ **Ex.ua** (Ukraine);³¹ and **Depositfiles**,³² are examples of “one-click hosting sites,” colloquially referred to as cyberlockers, which provide access to large libraries of infringing files.
- **vk.com** (**vkontakte**) (Russia) is a Russian social networking site that features search functionality specifically designed and operated to enable members to upload music and video files, hundreds of thousands of which contain unlicensed copyright works, which other members search and stream on computers and mobile devices.³³
- **1channel.ch** (formerly **letmewatchthis**) (Estonia);³⁴ **Movie2k.to** (Romania);³⁵ **Zing.vn** (Vietnam);³⁶ **Seriesyonkis.com** (Spain);³⁷ **Sohu/Sogou** (China);³⁸ **Warez-bb.org** (currently hosted either in Russia or hidden

²²Swedish-based *ThePirateBay.se* is ranked as the 73rd most visited site in the world according to Alexa.com, the 14th most visited site in Sweden, and the 18th most visited site in the Philippines; it is one of the top 50 websites visited in 17 countries. *ThePirateBay* is a BitTorrent site with a global scope. The site remains hosted in Sweden, despite criminal convictions against the four founding individuals in April 2009 (appeal upheld in November 2010). The site has over 30 million users and access to pirate versions of the world’s most popular films and music for instant download. Right holders have turned to ISPs in other countries for cooperation in respect to enforcement, and have received some good cooperation. However, the operators of the site have practiced evasive tactics to ensure the site remains open for its illegitimate business.

²³*Kat.ph* is currently ranked as the 119th most visited site in the world by Alexa.com, and the 30th most visited site in the Philippines.

²⁴*IsoHunt*, operating out of Vancouver, Canada, is one of the largest BitTorrent sites in the world, with millions of users monthly, providing popular music and films available for instant download illegally. In December, 2009, a U.S. federal district court found *IsoHunt* liable for massive copyright infringement, finding that its business model “depends on massive infringing use,” and citing un rebutted evidence that 95% of the files traded through *IsoHunt*’s sites are likely infringing. In May 2010, the court issued an injunction that *IsoHunt* ignored, and criminal contempt proceedings were initiated. The website has shown only isolated signs of cooperation, and continues to operate through servers operated by *Isohunt* in Canada.

²⁵Ukraine-based *ExtraTorrent.com* claims it is “The World’s Largest BitTorrent System,” and claims, “Any torrents for FREE download. Download music, movies, games, software, iPod, anime, porn, adult, books, pictures and other torrents.” It is particularly popular in South Asia, coming in, for example, as the 76th most visited site in all of India, according to Alexa.com.

²⁶*Torrentz.eu* is ranked the 175th most popular site in the world, according Alexa.com.

²⁷Russia-based *Rutracker* was recently ranked by Alexa.com among the 14 most visited sites in Russia, number 18 in Ukraine, 19 in Belarus, and 25 in Latvia. The site allows for the fast identification and download of pirated content.

²⁸*Putlocker.com* is particularly popular throughout Europe.

²⁹*Turbobit*, hosted at Leaseweb, ranks 165th in Russia in terms of Internet popularity. It is the 70th most visited site in Turkey, and is popular in the Middle East and North Africa.

³⁰*4shared* is ranked as the 118th most visited site in the world according to Alexa.com Internet traffic rankings. The site is in the top 25 most visited sites in Brazil (25), Indonesia (17), Saudi Arabia (24) and throughout the Middle East, and is very highly ranked in terms of visits in Thailand (34th most visited site), Egypt (35), and United Arab Emirates (37).

³¹Although *Ex.ua* has been subject to criminal action and was temporarily shut down in January 2012, it is now back up and running and the criminal case has been closed without explanation. According to Alexa.com rankings, the site is the 13th most popular website in Ukraine. There are approximately 1,160,000 visitors to the site every day and approximately 386,300 new uploads every day. Notice and takedown is ineffective because within days after an infringing link is taken down, a new link with the same content reappears.

³²*Depositfiles.com* is currently the 190th most visited site in the world, and is in the top 100 sites visited in seven countries, including Russia (65), Egypt (68), Chile (75), and Mexico (77). The domain is registered by a company in Seychelles; Alexa.com indicates the site is located in Cyprus. Depositfiles generates revenue from advertising and by offering “premium accounts.” Users are also able to pay for premium access allowing them to download files more quickly and further to download up to 250 files simultaneously. The site also offers bonus or affiliate programs rewarding users whose friends download their files. Depositfiles has been subject to legal action for infringement, but remains in operation.

³³*Vk.com* (*vkontakte*) is currently the 25th most visited site in the world, according to Alexa.com rankings, the number one site visited in Belarus, the 2nd most visited site in Russia and Ukraine, and the 4th most visited site in Kazakhstan. It has in excess of 80 million registered users and web monitoring companies report that 35 million unique Russian users visit the site every month. The site was found civilly liable for copyright infringement in early 2012 in a case brought by a Russian record label, Gala Records, but this has had no impact on the way that *vkontakte* conducts business, and the site continues to enable members to infringe on a massive scale.

³⁴*1channel.com* (previously *Letmewatchthis.com*) is a particularly popular linking site in Canada (62), the UK (73), Ireland (77), and Denmark (97) according to Alexa.com.

³⁵*Movie2k.to* is particularly popular in Germany (20), Austria (35), Switzerland (61), and the Philippines (61).

³⁶*Zing.vn* remains an extremely damaging site in Vietnam, ranking as the 6th most visited site in that country, and is often visited from South Korea and elsewhere in the Asia-Pacific, giving it a strong global ranking.

³⁷*SeriesYonkis* moved up to the 49th most visited site in Spain and is strong generally (in the top 200) in many Spanish-speaking countries. It is a dedicated linking “streaming” site for infringing first-run movies and television content.

³⁸*Sohu*, which is the parent company of *Sogou*, continues to operate an unlicensed deeplinking service called “Sogou MP3” (*mp3.sogou.com*). According to Alexa.com rankings, *Sohu* is now the 9th most accessed site in China, the 54th most visited site in South Korea, the 55th most visited site in Hong Kong, and the 54th most accessed site globally; *Sogou* is not far behind, ranking 17th in China, 20th in South Korea, 30th in Hong Kong, and 133rd in Taiwan; it ranks 88th globally. *Sogou MP3* provides users with access to deep links of music files from unauthorized sources for streaming and download. Despite court judgments against the search service in 2010, *Sogou* has not taken meaningful steps to remedy the infringement. *Sohu* has a built-in *Sogou* search field in a prominent position on *Sohu*’s

behind a proxy server);³⁹ and **BaixedeTudo** (Brazil),⁴⁰ are linking sites that aggregate, organize and index links to infringing files stored on other sites (so-called deeplinking). Linking sites typically organize illegal copies by title or genre. Depending on the website, users are commonly presented with the option to either stream the content in a video-on-demand format or download a permanent copy to their computer. Coca-Cola and Samsung stopped advertising on Zing.vn in October 2012.⁴¹

- **Xiami** (China);⁴² and **Blubster** (Spain),⁴³ are examples of sites operating P2P file sharing services encouraging infringement, especially of music files (but increasingly these are multi-platform sites).
- **Usenext.com** (Germany) is an example of a “Usenet” service, but with the difference that its proprietors offer search functionality which encourages infringement and offers significant speeds of download for large files like infringing motion pictures. Even though Usenet notices result in takedown from the global usenet, infringing content remains on the “closed” Usenext system.
- **Extabit.com** (Netherlands)⁴⁴ is a download hub (hosting unauthorized copyright material for download) particularly popular in Southeast Asia and South Asia. Earlier this summer, payment provider PayPal stopped handling payments for the company.

The significant challenges of online piracy require a multi-faceted approach, but some of the solutions are quite straightforward. Governments must recognize the need for proportionate and effective steps to curb online piracy, and provide adequate legal frameworks for the protection of copyright online, including: provisions in line with the two treaties adopted by the World Intellectual Property Organization (WIPO) in December 1996, the WCT and the WPPT;⁴⁵ provisions recognizing online piracy as a form of cybercrime;⁴⁶ and provisions that foster cooperation among the stakeholders (including ISPs) involved in the online supply chain to combat online infringements.⁴⁷ Effective enforcement is critical to ensure the healthy development of a legitimate online market, and it must take place before it is too late to recover markets that are severely damaged by widespread and persistent piracy in all its forms. Increasingly, the role of advertising and ad networks in sustaining notorious piracy websites has come under scrutiny.

website and infringement can be found otherwise through *Sohu's* platforms. The takedown rate by *Sohu* and *Sogou* remains extremely low at 1%. Although administrative complaints were filed against *Sohu* and *Sogou*, no sanction resulted and the Government authority has failed to provide an explanation for this. According to *Sohu's* 2012 half year results, *Sogou* revenues were US\$30 million, up 123% year-on-year and 34% quarter-on-quarter.

³⁹*Warez-bb.org* remains a popular site in certain countries in South Asia and Oceania.

⁴⁰*BaixedeTudo's* English translation is “download everything” and “comscore” estimates site has more than 1.2 million unique users per month. While the site is hosted in Sweden, it targets the Brazilian market. The site also provides distribution of hacked or cracked software codes and programs.

⁴¹Chris Brummitt, *APNewsBreak: Coke, Samsung Pull Vietnam Site Ads*, Associated Press, October 3, 2012, at <http://bigstory.ap.org/article/coke-samsung-pull-ads-vietnam-website-citing-concerns-over-unlicensed-music-downloads>.

⁴²*Xiami.com*, a Zhejiang Province-based company, continues to operate its multi-platform infringing service in music portal, P2P application (“XiageShark,” through which users are encouraged to upload infringing music), and mobile applications that actively induce users to search for infringing music files hosted on *Xiami's* servers for streaming and download. *Xiami's* music portal is searchable and categorized by language (including Cantonese, Mandarin, English, Japanese, Korean, French, and German), by origin, by genre, and by mood. The site is now ranked 911th in the world in terms of Internet traffic and 132nd in China (and is popular in Taiwan).

⁴³*Blubster* is a music-dedicated P2P service run out of Spain. A statistical analysis has confirmed that the vast majority of music being shared on the service is infringing. *Blubster* has a decentralized structure and no central indexing server, but it is operated by a group of companies and is not open source. The operators generate income through advertising and through sales of advertising-free client software. Spanish record companies brought legal proceedings in April 2008; the case has unfortunately suffered from lengthy delays and difficulties involving the initial judge sitting on the case. A new judge decided the case without having presided at the hearing, delivering judgment in November 2011, and dismissing the Spanish music industry group's claims in their entirety. A decision on appeal is awaited.

⁴⁴*Extabit* ranks very high in terms of number of visits in South Asia, Southeast Asia, and Latin America, giving it a relatively high global ranking.

⁴⁵This should include express recognition of protection of reproductions in the online environment, regardless of their duration (i.e., temporary as well as permanent copies capable of being further copied, communicated, or perceived should fall within the exclusive reproduction right), since business and consumers engage in the full exploitation of copyright materials they receive over a network without ever making a permanent copy. This should also include a WIPO treaties-compatible definition of “communication to the public” including an interactive “making available” right. Currently, there are 90 members of the WCT and 91 members of the WPPT.

⁴⁶Governments should join and implement the Council of Europe Cybercrime Convention, Budapest, 23.XI.2001, which contains, in Articles 10 and 11, obligations to “adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright [and related rights] ... where such acts are committed wilfully, on a commercial scale and by means of a computer system,” and to outlaw intentional aiding and abetting of such crimes.

⁴⁷Many governments, particularly in Asia and Europe, have recognized the need for urgent steps to curb online piracy, and while not all approaches are favored by all the content industries equally, the goal is the same: to ensure effective action is available in practice against online piracy. There is consensus that bad actors who cause massive harm or profit from their direct involvement in the online infringing supply chain should be held responsible. There is also general agreement that all stakeholders in the online supply chain, including service providers, should have proper incentives to cooperate to eradicate bad behavior, which has traditionally included notice and takedown, and which at least includes effective and fair mechanisms to deal with repeat infringers in the non-hosted environment. The fact is that momentum is building for workable solutions and all recognize that solutions are required and desirable.



Some companies have made the right choice and decided to take affirmative steps to terminate such practices—at least in part.⁴⁸ However, more often than not, such companies are entirely unaware that their advertisements appear on sites that facilitate access to infringing content. It is imperative that the ad networks that contract with site operators to feed ads on their sites make ethical business decisions. We applaud those who have already done so, and urge all the responsible participants in the online advertising ecosystem to act to ensure that such websites do not benefit from their advertising activities.⁴⁹

3. Enterprise (Including Government) End-User Piracy of Software and Other Copyright Materials

The unauthorized use of software within enterprises, also referred to as “enterprise end-user software piracy,” remains a highly damaging form of infringement to the software industry today. In the most typical examples, a corporate (or governmental) entity either uses pirated software exclusively, or else purchases one or a small number of licensed copies of software and installs the program on multiple computers well beyond the terms of the license. Client-server overuse, another common example of end-user piracy, occurs when too many employees on a network have access to or are using a central copy of a program at the same time, whether over a local area network (LAN) or via the Internet. In whatever way this piracy is carried out, it gives the enterprises involved the productivity benefits that the software provides, while foregoing the expense of licensed copies of the software, thus allowing them to enjoy an unfair commercial advantage over their competitors who pay for their software. The unfair advantage can be understood on a macroeconomic level as well, since this means countries with high piracy levels compete unfairly with countries which have lower rates.⁵⁰ Sometimes enterprise end-user software piracy is attributable to negligence and poor software asset management (SAM) practices. In many cases, however, enterprise end-user piracy is undertaken willfully, with management fully aware and supportive of the conduct.

Adequate laws prohibiting the unauthorized use of software in a business setting must be enacted and enforced, including, in appropriate cases, through criminal prosecutions,⁵¹ in order to reduce piracy of software. The adoption of pre-established (statutory) damages for copyright infringement is also needed in many countries to provide predictability, encourage settlements, and provide “remedies which constitute a deterrent to further infringements,” as required by TRIPS Article 41.⁵²

Enterprise end-user software piracy by government agencies remains a serious and widespread problem. In addition, in many countries, governments are using a high volume of unlicensed software in their own operations. Since the government is often a major, and in some cases the largest, buyer of software in many countries, this has a tremendous impact on sales of legitimate software. It also undermines the credibility of government enforcement efforts against software piracy and sets a bad example for private enterprises to follow. Moreover, the use of unlicensed software creates security vulnerabilities and risks for government agencies. Government software legalization problems are documented in the accompanying reports for many countries. China and Ukraine are notable examples:

⁴⁸The Vietnam website *zing.vn*, a notorious marketplace for online piracy as identified by IIPA and USTR, enjoys advertising from major Fortune 500 corporations, but some have chosen to divest, a move which IIPA applauds. Chris Brummitt, *APNewsBreak: Coke, Samsung Pull Vietnam Site Ads*, Associated Press, October 3, 2012, at <http://bigstory.ap.org/article/coke-samsung-pull-ads-vietnam-website-citing-concerns-over-unlicensed-music-downloads>. In deciding to divest from Zing, Samsung said, “We highly respect and value intellectual property rights, and stand against acts of infringement, such as the unauthorized copying and distribution of copyrighted material. ... Accordingly, our advertisements on Zing.vn have been withdrawn.” Coca-Cola said it had stopped advertising on the site and would “investigate their practices before making further decisions.” Other multinationals that have advertised on Zing include Canon, Yamaha, Intel, and Colgate Palmolive.

⁴⁹Jonathan Taplin, Director of the USC Annenberg Innovation Lab, released the first study on Online Ad Networks’ support of the major pirate movie and music sites around the world. See USC Annenberg Innovation Lab, Annenberg Innovation Lab *Research Study Demonstrates Relationship Between Online Advertising & Pirated Film, Music and Video Content*, January 3, 2013, at http://www.annenberglab.com/adminfiles/files/USCAnnenbergLab_AdReport_Jan2013.pdf. In part, the data on ad sites of infringing sites was compiled by reviewing Google’s list of sites which, anecdotally, were the subject of the most takedown requests by stakeholders using its notice and takedown protocol. Data regarding those sites can be found at <http://www.google.com/transparencyreport/removals/copyright/domains/?r=last-month>.

⁵⁰For example, China’s 77% PC software piracy rate means that Chinese enterprises competing with U.S. firms pay on average for just over one out of five copies of software they use, while their U.S. counterparts (the US has a 19% PC software piracy rate) pay on average for more than four out of five copies.

⁵¹TRIPS Art. 61 requires that this remedy be available against corporate end-user piracy.

⁵²The U.S. has the lowest software piracy rate in the world and this is due in large part to the deterrent impact of infringers knowing that right holders can avail themselves of statutory damages.



- **China:** The Chinese government has made numerous bilateral commitments to the U.S. and issued directives to ensure legal software use in government agencies at all levels (central, provincial, municipal, county). This has led to incremental progress in terms of software sales to the government. We urge the Chinese government to build on these initial efforts and implement a comprehensive legalization program for government agencies that encompasses all types of software and utilizes software asset management best practices.
- **Ukraine:** The Ukrainian government has also made bilateral commitments to the United States and issued directives to combat unlicensed software use in the government but to date has taken woefully inadequate steps toward this result. This is one reason IIPA has recommended designation of Ukraine as a Priority Foreign Country.

Government software legalization is also a problem in countries not covered by the IIPA Special 301 report. For example, in **Korea**, the government agreed to specific obligations on government software legalization in the Korea-U.S. Free Trade Agreement (KORUS), yet as noted in a later section, there remains a significant problem with particular Korean government ministries not taking steps to resolve the issue of substantial unlicensed software use.

The principal way to address unlicensed software use in the government is through comprehensive government software legalization programs that utilize software asset management best practices. In countries having significant state-owned enterprise sectors (China being just one example), this problem is compounded. Therefore, it is also critical that governments vigorously pursue legalization of software within state-owned enterprises as well. Governments should also take steps to ensure that businesses that provide goods and services under government contracts do not use unlicensed software.

End-user piracy is not limited to software but affects other copyright sectors as well. For example, in some government, school and university facilities, photocopy machines are routinely used for commercial-scale book piracy. Use of networks, computers, or other equipment owned by a government or public institution to carry out infringement is particularly objectionable. Governments have an opportunity and responsibility to engage in best practices with respect to the handling of intellectual property issues in the operation of government services, and they should be encouraged to lead by example.

4. Unauthorized Loading onto PCs (Hard-Disk Loading), Mobile Devices (Mobile Device Piracy) and “Media Boxes”

Not all retail piracy takes place at the point of sale of illegal merchandise. One example is “hard-disk loading” performed by unscrupulous computer manufacturers and dealers who install copies of software onto the internal hard drive of the personal computers they sell without authorization from the copyright holder. A similar problem involves mobile devices.⁵³ A cottage industry has emerged in which pirates operating from stalls or kiosks, or masquerading as “repair” shops, offer (either at the point of sale of the mobile device, or afterwards) the illicit downloading onto any device⁵⁴ of virtually any kind of copyrighted material.

Another relatively recent phenomenon involves the manufacture, distribution, and use of “media boxes” which facilitate massive infringement. These media boxes are generally manufactured in China and exported to overseas markets, particularly throughout Asia. These media boxes can be pre-loaded with 200 HD motion pictures prior to shipment, loaded upon delivery, or plugged directly into Internet-enabled TVs, facilitating easy access to remote online sources of unauthorized entertainment content including music, music videos, karaoke, movies, TV dramas, and other creative materials. Such media boxes are available in China, Malaysia, Singapore, and Taiwan. Enforcement authorities must take effective action against these forms of piracy or losses will mount out of control.

⁵³Mobile penetration is over 100% in 97 countries, and had reached 70% in the developing world, according to International Telecommunications Union (ITU), *Newsroom • ITU StatShot*, August 7, 2011, at www.itu.int/net/pressoffice/stats/index.aspx?lang=en.

⁵⁴Cell phones, mp3 players, external hard disks, thumb drives, flash drives, or USB drives are all illegally loaded in this fashion.



5. Circumvention of Technological Protection Measures (TPMs)

Today, more consumers enjoy authorized access to more copyright works in more diverse ways, and at more affordable price points, than ever before. A major contributor to this progress is the widespread use of technological protection measures (TPMs) to control and manage access to copyright works. Myriad innovative products and services are currently made available in connection with works protected by TPMs, and new business models that depend on such controls are emerging and being extended to new markets constantly. TPMs also ensure that works made available in the digital and online environments are not easily stolen. For example, game consoles contain TPMs so that infringing copies of games cannot be played. DVDs are protected by “content scramble system” (CSS) to prevent second-generation copying and subsequent distribution or play, directly or over the Internet. Pay-TV, premium cable and satellite services, and Internet services providing legitimate downloads or streaming of motion pictures similarly employ access and copy controls. Many software packages are licensed with some type of technological protection measure (encryption, passwords, registration numbers). EBooks employ access and copy controls as well.

Unfortunately, just as content owners would use TPMs that play an increasingly large role in the dissemination of creative content, or take such self-help measures to protect their content in the face of enormous technological challenges, there are those who build their entire business models around providing devices, tools or technologies to fill demand for gaining unlawful access to the content or copying it. The “mod chip,”⁵⁵ “game copier,”⁵⁶ and software and technologies used for “soft modding” facilitate piracy on game console platforms and require strong legal measures and enforcement to make space for the sale of legitimate games.

While implementation of TPMs protections has given rise in those countries properly implementing them to effective enforcement actions against distributors of unlawful circumvention technologies, these efforts are critically undermined by countries that have yet to implement or do so adequately. Countries that lack TPM provisions not only fail to afford domestic protections for legitimate online business models, but also serve as a source of circumvention devices for consumers who live in countries where such devices and technologies are rightly prohibited.

6. Illegal Camcording of Theatrical Motion Pictures

One of the greatest concerns to the motion picture industry involves illegal recordings of movies from theaters, especially immediately after a title’s theatrical exhibition window opens. An unauthorized recording may include a video capture, an audio capture, or both. Approximately 90% of newly released movies that are pirated can be traced to thieves who use a digital recording device in a movie theater to steal the audiovisual work (whether image or sound or both) from the theater screen. The increase in the severity of this problem in recent years tracks the development of camcorder technology that makes detection difficult and copies nearly perfect. All it takes is one camcorder copy to trigger the mass reproduction and distribution of millions of illegal Internet downloads and bootlegs in global street markets just hours after a film’s theatrical release and well before it becomes available for legal home entertainment rental or purchase from legitimate suppliers.⁵⁷

A multifaceted approach is needed including: (1) educating the public about the problems posed to businesses and the consumer by unauthorized camcording; (2) working with the private sector to identify and prevent unauthorized camcording in cinemas; and (3) developing and implementing legal measures to effectively deter unauthorized camcording. In 2012, MPAA identified 791 total illegal recordings of its member company titles from cinemas around the world, including 280 video captures and 511 audio captures. This number does not include the numerous independent or local country films illegally camcorded, and these producers also suffer gravely from illegal camcording.

⁵⁵There is a global market for modification chips (mod chips) sold on the Internet and in videogame outlets which, when easily installed into a console (by the user or by the pirate retailer) will bypass the handshake and allow the play of pirated games.

⁵⁶“Game copier” devices also bypass TPMs to allow for uploading, copying, and downloading of games for handheld platforms.

⁵⁷Independent film producers who coordinate release patterns with dozens of national distributors may be especially vulnerable to this type of piracy.



Anti-camcording legislation – outlawing the use of an audiovisual recording device to make or attempt to make a copy of a motion picture in a theater, or to distribute or transmit such a copy – is critical to stopping the rapid increase in camcording, and effective anti-camcording laws have now been adopted in Canada, Japan, Korea, Malaysia, the Philippines, and the United States. The 21 members of the Asia-Pacific Economic Cooperation (APEC) grouping committed, in November 2011, to “developing and implementing legal measures to effectively deter unauthorized camcording,” as well as working with the private sector and educating the public.⁵⁸ It is clear that if laws creating a separate offense for camcording are not adopted and deterrent penalties are not applied, this crippling source of piracy will continue, migrating to territories where enforcement is weak.

7. Piracy of Books and Journals

The book publishing industry continues to be plagued by large scale unauthorized photocopying of academic, scientific, technical and medical books, principally on and around university campuses;⁵⁹ sophisticated infringing offset print versions of books (essentially akin to counterfeiting); and unauthorized translations of popular books.⁶⁰ Photocopy piracy in most countries involves unauthorized commercial copying of entire textbooks by copy shops on and around university campuses, often undertaken on a “copy-on-demand” basis to avoid stockpiling. Book pirates have shifted tactics and are increasingly electronically storing digitized files of books (academic or otherwise) and fulfilling customer requests on a “print-to-order” basis. Authorities need to recognize this shifting pattern and tailor enforcement efforts accordingly (e.g., by including cyber forensics in their investigations). Commercial print piracy is prevalent in many developing countries where unauthorized operations obtain masters or copies of books and run unauthorized editions, in English or via unauthorized translation, off a printing press. In other cases, licensed local distributors or publishers produce print overruns, printing more copies of a title than permitted by their license. While many pirated copies are rife with errors or obviously of inferior quality, in some cases sophisticated scanning and printing technologies result in extremely high-quality pirate editions of books, making it difficult for users to distinguish between legitimate and pirate products.

Book and journal piracy calls for aggressive action by law enforcement authorities. Universities and educational institutions (especially those which are state-funded or operated) should do more to promote and adopt appropriate use and copyright policies, in particular the use of legitimate books and journal publications. IIPA urges the U.S. government to ensure that such acts of piracy are fully covered in all bilateral, regional, and multilateral engagements.

8. Optical Disc and Game Cartridge Piracy

While piracy is migrating to the online space for most of the content industries, physical piracy, including optical disc (OD) products,⁶¹ and game cartridges, continues to inflict serious losses, especially in markets with low Internet penetration, or where pirate console- or cartridge-based videogames are popular. In response, programs such as regularized surprise production plant inspections and exemplar (sample) disc collection should continue, and where unlicensed illegal activity is detected, copyright laws and specialized OD laws or regulations should be enforced. Similarly, unauthorized factory production of entertainment software in cartridge format persists in China, for export

⁵⁸*Effective Practices for Addressing Unauthorized Camcording*, 2011/AMM/014app05, adopted at 23rd APEC Ministerial Meeting, Hawaii, United States, November 11, 2011. APEC members include Australia; Brunei Darussalam; Canada; Chile; People’s Republic of China; Hong Kong, China; Indonesia; Japan; Republic of Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; The Philippines; Russia; Singapore; Chinese Taipei; Thailand; The United States; and Vietnam. Asia-Pacific Economic Cooperation, *Member Economies*, at <http://www.apec.org/About-Us/About-APEC/Member-Economies.aspx>.

⁵⁹Pirate photocopying takes place in a variety of venues, including commercial photocopy shops located on the perimeters of university campuses and in popular shopping malls, at on-campus copy facilities located in academic buildings, libraries and student unions, and in wholly illicit operations contained in residential areas or other underground establishments. Some of these operations are highly organized and networked, and technological advances are making the problem worse, since the shift from physical copy machines to electronic files means shops can print infringing books on demand. Publishers also suffer from unauthorized institutional or business-related photocopying for commercial research (often accompanied by failure to compensate right holders through collective means or otherwise for copies made).

⁶⁰This problem affects books and journals of all kinds and genres. Unauthorized and unlicensed compilations abound in the academic context as well, in the form of course packs or even “original textbooks” that consist of sections of U.S. publishers’ material, in English or in translation.

⁶¹OD include formats such as compact discs (CD), video CDs (VCD), CD-ROMs, CD-Recordables (CD-Rs), digital versatile discs (DVDs), DVD-Recordables (DVD-Rs), universal media discs (UMD), and high-definition formats such as Blu-ray.



globally. Without sustained enforcement actions against these factories, and the prosecution of their owners and financiers, there will be little progress in curtailing this piracy problem.

In recent years, factory production of optical discs has waned as technological developments have meant fewer large-scale factories, replaced by smaller, more agile operations that “burn” music, books and reference publications, games, movies, and business software onto recordable media. Nonetheless, high-quality counterfeit DVDs, Blu-ray discs, and elaborate box sets continue to be manufactured in China and find markets in Southeast Asia, with unlikely entry points such as into Thailand from Cambodia and even Myanmar. CD-R or DVD-R “stack” bays (of ten or twenty discs when “daisy-chained”) are lightweight and can produce multiple discs in minutes. They are being set up anywhere, including in factories but also in shops where vendors can “burn to order,” blurring any distinction between retail piracy and pirate production.

9. Pay-TV Piracy and Signal Theft

The unauthorized broadcast, cablecast or satellite delivery of motion pictures, television content, and music and sound recordings, costs right holders dearly. Three key problems are identified by the industry. The first is unauthorized cable access, when individuals or groups illicitly tap into the lines of legitimate cable TV companies. This occurs mostly in major metropolitan areas, and may use circumvention or hacking techniques, codes, or devices. The second involves unauthorized operators who take broadcast signals by unauthorized means (hacked set-top boxes or “overspill” boxes from neighboring countries), replicate the signal and sell it to hundreds or even thousands of consumers, without paying for any of the content, a problem of growing severity in several countries in the Caribbean region. The third is subscriber under-declaration, when cable companies do not pay for all the channels they use, or all the subscribers they serve.

Regulations imposing licensing on distributors of signals have been effective in some countries in weeding out unlicensed television distributors and consolidating the market into legitimate options (Lebanon is one example of this). In countries still experiencing major pay-TV theft, governments must take active steps to curtail it. Pay-TV signals are almost always encrypted; so in addition to strong copyright laws securing all the necessary exclusive rights, signal theft laws should prohibit the decryption of encrypted cable or satellite signals, as well as the onward use of the signals already decrypted (whether lawfully or not), without the authorization of the right holder of the content of the signal (and, if any, of the signal itself).

10. Implementation of IPR Provisions in Trade Agreements

The negotiation of multilateral trade agreements (such as the WTO TRIPS Agreement), as well as regional and bilateral free trade agreements (FTAs) or Trade Promotion Agreements (TPAs) over the past two decades, has proven to be of great value to the U.S. economy, and has included the introduction and implementation of enforceable obligations for our trading partners to modernize their copyright law regimes and improve enforcement procedures. These agreements have helped U.S. copyright industries to compete fairly in foreign markets, and have helped our trading partners develop their domestic copyright industries, a true win-win for all parties. In addition to TRIPS implementation, which has been completed in virtually all countries/territories that are members of the WTO, at the time of this submission, FTAs with 20 countries had entered into force. On March 15, 2012, the U.S.-Korea FTA (KORUS) entered into force. On May 15, 2012, the U.S.-Colombia TPA entered into force. On October 31, 2012, the U.S.-Panama FTA entered into force.

The pending negotiations for a TPP FTA present an opportunity to expand the benefits of existing FTAs to a broader range of markets around the Pacific Rim. The governments of Canada and Mexico officially joined the TPP negotiations during the 15th round in Auckland, New Zealand in December 2012, bringing the total number of countries



negotiating the agreement to eleven.⁶² IIPA members believe that the TPP IP text should use the now-in-force KORUS as a baseline. Enhancement of copyright standards and enforcement consistent and co-extensive with those agreed to by current FTA partners, Australia, Singapore, Chile and Peru, and an expansion of these protections to other TPP negotiating countries, will contribute to U.S. job growth, increased exports, and economic recovery in line with the Administration's goals.

IIPA takes notice of the following countries for issues related to their bilateral, regional, or multilateral obligations in the area of intellectual property rights.

- **Colombia:** On May 15, 2012, the United States-Colombia TPA went into force. This agreement contains a comprehensive chapter on intellectual property rights that will raise the level of copyright law and enforcement obligations in Colombia to the benefit of both Colombian and U.S. creators. Colombia should be encouraged to take effective steps in 2013 to implement its TPA obligations and to increase the focus of law enforcement officials on needed anti-piracy actions on the streets of Colombia and online.
- **Korea:** IIPA members were strong supporters of KORUS due to the strong commitments made in the IP chapter on which industry believes the U.S. government can further build in the TPP and other new, 21st century trade agreements. One important aspect of the IP chapter was the commitment Korea made to ensure that its central government agencies would utilize legitimate software. However, software industry representatives have raised concerns about significant under-licensing of software by certain ministries, and the Korean government has to date not taken sufficient action in response to these concerns. For example, auditing appears not to follow best practices in many circumstances and to be nonexistent in others. Korea also fails to provide adequate funding for at least some Korean agencies to purchase the software they actually use. U.S. industry has tried to work with individual ministries, such as Korea's Ministry of Defense, to address problems of substantial under-licensing, but so far without success, despite Korea's KORUS obligations and the value of eliminating piracy to advance public security. IIPA will be closely monitoring this issue in Korea and will consult closely with the US government on means to address it. In addition, industry looks forward to working with the U.S. government to ensure that trade agreement obligations related to government software legalization are further strengthened, in the TPP and other future trade agreements, to give industry enhanced protection and recourse to deal with shortfalls in meeting these obligations.
- **Peru:** The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2008. Peru was afforded transition periods to come into compliance with some provisions of the PTPA, but those transition periods have expired as to Peru's outstanding obligation to provide statutory damages (which expired September 1, 2009, per TPA Article 16.11.8) and obligations related to service provider liability (which expired February 1, 2009, per TPA Article 16.11.29). Meanwhile, Peru now has the worst problem of unauthorized camcording of U.S. motion pictures in all of Latin America. IIPA appreciates the cooperation of the Peruvian government in trying to address the camcording problem, and calls upon the government to work to effectuate changes to fully implement its PTPA obligations.
- **Singapore:** While the copyright law and enforcement provisions of Singapore's FTA with the United States, which came into force in 2005, have been largely successful, several significant shortfalls remain. Online piracy continues to threaten Singapore's market for copyright works, especially music, movies, and television programs. The government has thus far refused to bring public prosecutions of online music pirates⁶³ or to bring Internet service providers into a cooperative stance with right holders to combat online piracy. Both these shortfalls, in addition to

⁶²TPP negotiating countries now include Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam.

⁶³Article 16.9.21.b of the FTA provides that "Each Party shall ensure that non-private criminal actions are the primary means by which it ensures the effective enforcement of its criminal law against willful copyright or related rights piracy. In addition, each Party shall ensure that its competent authorities bring criminal actions, as necessary, to act as a deterrent to further infringements."



some others (e.g., Singapore law still makes no provision for agents or authorized representatives acting on behalf of copyright owners to apply for pre-trial discovery in order to identify online copyright infringers) raise FTA compliance issues. Singapore should also join the global trend and outlaw camcording in its cinemas, before a festering problem becomes more serious, and should consider upgrading to deterrent levels its criminal penalties for trafficking in circumvention devices and services.

- **Antigua and Barbuda:** In January 2013, the government of Antigua and Barbuda sought and obtained from the World Trade Organization (WTO) approval to cross-retaliate against U.S. intellectual property rights worth \$21 million a year as a remedy in an unrelated trade dispute. IIPA is of the firm view that suspending intellectual property rights is not the right solution, and that state-sanctioned theft is an affront to any society. Should the government of Antigua and Barbuda determine to move forward in this manner, it would be in violation of its obligations under international instruments not administered by the WTO (e.g., the Berne Convention), and would – by definition – fail to provide adequate and effective IPR protection as required under U.S. trade laws governing unilaterally-granted trade benefits such as CBI. In the event that Antigua and Barbuda proceeds in this manner, we believe that the U.S. should take appropriate, immediate and robust action to uphold U.S. trade laws.

11. **Implementation of the WCT and WPPT, and Ongoing Work at WIPO to Promote Robust Intellectual Property Protection**

The WCT and WPPT, in force since 2002, provide a basic legal framework for the protection of online copyright. The WCT now has 90 adherents, while the WPPT now has 91 adherents. Effective implementation of the global legal minimum standards embodied in the WCT and WPPT is critical in the fight against online piracy, and is a key element of the “adequate and effective” copyright protection that is demanded under the Special 301 program. These standards include clarifying exclusive rights for the online world, and prohibiting through civil and criminal remedies the production of or trafficking in tools that circumvent technological protection measures used by right holders to prevent access to content or the exercise of exclusive rights. A number of key trading partners, including New Zealand and Israel among developed countries, and Thailand among developing countries, have not yet either ratified or implemented these treaties. The United States, which was one of the first countries to implement these changes in its laws more than a decade ago, should continue to make it a priority to encourage other countries to follow this path.⁶⁴

One of the key aspects of WCT and WPPT implementation involves adequate and effective protection against the circumvention of TPMs. In order for such protection to be “adequate and effective,” as required by the WIPO treaties, countries must address acts of circumvention, trafficking in circumvention devices, tools, and technologies, and the provision of circumvention services (such as the installing of “mod chips” into game consoles). Countries must also ensure that both TPMs that control access to content as well as TPMs that prevent the unauthorized copying or other exercise of exclusive rights are covered. Exceptions to protection in this area must be narrowly tailored to ensure that prohibitions on circumvention are not rendered ineffective. Civil and criminal (and where available, administrative) remedies should be provided.

In the more than 16 years since the adoption of the WCT and WPPT at WIPO in Geneva, WIPO has taken some steps to encourage its members to join and implement the treaties, but more should be done, particularly in light of the conclusion of a Diplomatic Conference on the adoption in June 2012 of the Beijing Treaty on Audiovisual Performances (BTAP). The U.S. government should now take all steps to urge WIPO to encourage its members to adopt the WCT and WPPT as essential forerunners to the newly concluded BTAP. WIPO should also be encouraged to continue its important work in the Copyright Infrastructure Division to measure the contribution of copyright industries to national economies, and in addition, to commence measuring the impact of piracy in WIPO members.

⁶⁴The United States implemented the WCT and WPPT by enacting Title I of the Digital Millennium Copyright Act of 1998, Pub. L. No. 105-304, 112 Stat. 2860 (1998). The United States deposited instruments of accession for both treaties on September 14, 1999.

12. Market Access Barriers

The U.S. copyright industries suffer from myriad market access barriers, investment barriers, and discriminatory treatment that make it difficult to compete in some foreign markets on a level playing field. All efforts to crack down on piracy will be unavailing if legitimate products and services cannot be brought into a market to meet consumer demand. Thus, the reduction of market access impediments is a key component of ongoing efforts to combat piracy. Among other forms, the market access barriers include:

- ownership and investment restrictions on copyright-related businesses;
- discriminatory or onerous content review/censorship systems;⁶⁵
- discriminatory restrictions including on the ability to fully engage in the development, creation, production, distribution, promotion, and publication of copyright materials;
- the maintenance of quotas including screen time and broadcast quotas or complete bans on broadcast of foreign programming or advertising;
- periods during which governments prevent U.S. producers from opening their films, or onerous restrictions on the window for theatrical distribution (including booking competing motion pictures simultaneously or unfairly shortening the run of a theatrical motion picture);
- local print requirements;
- onerous import duties or the improper assessment of duties on an *ad valorem* basis;⁶⁶ and
- government procurement preferences for domestic products or those with locally-owned or locally-developed IP.⁶⁷

Whatever form they take, whenever such market access restrictions impede the entry of legitimate products, they make it easier for pirate operations to fill the void, become de facto “exclusive” distributors of the products, and cement strong loyalties with their consumer base that make them even harder to dislodge.

U.S. officials should continue to strive to open markets and to eliminate or phase out market access barriers including those identified in this year’s IIPA submission.

E. CONCLUSION

The health and competitiveness of the U.S. economy depends on a thriving copyright sector that creates jobs and exports. It is essential to the continued growth and future competitiveness of these industries that our trading partners provide high levels of protection for copyright, more effective policies and tools to enforce that protection, and freer, more open markets. To meet the constantly evolving threats to copyright worldwide, our country should remain committed to a flexible and innovative response to this threat. Special 301 remains one cornerstone of the U.S. response, and we urge USTR and the Administration to use Special 301 and other trade tools available to encourage the countries identified in our recommendations this year to make the political commitments, followed by the necessary

⁶⁵In China, for example, music and entertainment software companies continue to face lengthy delays in the censorship approval process, wiping out the very short viable window for legitimate distribution of their music and videogame products. Further, while piracy enters freely in these markets, countries like China and Vietnam impose content review processes which clear the way for further piracy and, adding insult to injury, are discriminatory to foreign content, further skewing the playing field.

⁶⁶*Ad valorem* duties are based on potential royalties generated from a film rather than the accepted practice of basing duties on the value of the carrier medium (i.e., the physical materials which are being imported). This is a growing, dangerous, and very costly phenomenon to the film industry. The International Chamber of Commerce recognized in a policy statement, *The Impact of Customs Duties on Trade in Intellectual Property and Services*, that such a practice distorts markets, increases costs for suppliers and buyers, depresses commercial activity, and impedes the availability of intellectual property in the country imposing the tariffs.

⁶⁷As an example, over the past several years, China has been rolling out a series of policies aimed at promoting “indigenous innovation.” The apparent goal of many of these policies is to develop national champions by discriminating against foreign companies and compelling transfers of technology. These include policies providing government procurement preferences for goods or services with locally-owned or locally-developed IP. The Chinese government has made a series of commitments in bilateral negotiations with the United States, including at the U.S.-China Joint Commission on Commerce and Trade (JCCT) and the U.S.-China Strategic and Economic Dialogue (S&ED), to eliminate such policies that link government procurement to where IP is owned and developed.



actions, to bring real commercial gains to the United States through strengthened copyright and enforcement regimes worldwide.

We look forward to our continued work with USTR and other U.S. agencies on meeting the goals identified in this Submission.

Respectfully submitted,

/Steve Metalitz/
/Michael Schlesinger/
/Eric Schwartz/
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