

Where next for the European IP law?

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EU legal framework for IP

Extensive EU regulation:

- > 91/250/EEC computer programs directive
- > 92/100/EEC rental/lending directive
- > 93/83/EEC broadcasting directive
- > 93/98/EEC term extension directive
- > 96/9/EC database directive
- > 2001/84/EC resale directive
- > 2001/29/EC information society directive
- > 2004/48/EC enforcement directive

The declared purpose of all this regulation?

Promoting of innovation, knowledge economy, etc.

The underlying formula – “more IP = more innovation” (>©=>♪)

Is the equation ($\>\text{©}=\>\text{♪}$) valid?

- > **IP – socio-economic mechanism of recovering investment & earning profit for creativity/innovation**
- > **As it is sufficiently demonstrated by many economists – IP works, but it relies on knowledge recycling, proper social infrastructure, and other incentives**
- > **Thus $\>\text{©}\neq\>\text{♪}$, rather $\text{©} + \text{↻} + \text{@} + \text{€} = \text{♪}$**

© + ↻ + @ + € = ♪

> **Unfortunately current EU legal framework delivers only >©**

- Lacks proper protection/compensation for the author/inventor
- Increases dependence on old infrastructure (collective administration)
- Imperils ↻ of knowledge (limits fair use)
- Is disconnected from social infrastructure
- Requires a lot of € just to obtain/enforce ©

The result = stagnation of 🎵

- > LITHUANIA – earnest complier with the EU IP framework
 - One of the most modern IP legislation in the EU
 - Strong enforcement tools and efforts
 - All existing innovation tools focus on IP
- > Social infrastructure is missing
 - No university technology transfer
 - Unclear government/ university/ researcher IP allocation
 - No efficient public/private support for R&D (wrong/lacking incentives and absent resource allocation mechanisms)
 - Huge and increasing expense in obtaining/enforcing IP
 - Greedy and selfish collecting societies

© disconnected from ♪ (1)

- > Despite all efforts national IP is decreasing

Diagram: Lithuanian applications to State Patent Bureau (Source: SPB of Lithuania)

		2001	2002	2003	2004	2005	2006
Inven- tions	Lithuanian applicants	68	85	70	64	73	58
	Foreign applicants	3856	4593	5807	4707	NA	NA

© disconnected from ♪ (2)

> Despite all efforts national IP enforcement is minuscule

Diagram: IP cases reviewed by the Supreme Court of Lithuania (Source: Supreme Court of Lithuania)

Note: The bulk of software piracy cases do not reach the Supreme Court

	2001	2002	2003	2004	2005	2006
Civil enforcement	11	5	6	6	4	9
Criminal enforcement	1	2	4	7	8	3

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- > Tax income from creative activities is stagnant = creative activities are decreasing (tax administration improves)

Diagram: Tax income from creative activities in Lithuania
(Source: Ministry of Finance of the Republic of Lithuania)

	2003	2004	2005	2006
Income tax paid by persons engaged only in creative activities			1501 / 18.6 mln LTL	1498 / 18 mln LTL
Income tax paid by persons engaged in creative activities and employed elsewhere			29 000 / 284 mln LTL	34 500 / 334 mln LTL

So where next for the European IP law?

- > © shall be re-connected to ♪
- > EU IP regulation shall bring up the social infrastructure for innovation, instead of focusing on more IP
 - Protection of the author/inventor
 - Protection of the IP consumer (future author/inventor)
 - Public interest (A2K)
 - Transparency/efficiency of the collecting societies
 - University / researcher ownership of IP derived from publicly funded projects
 - European IP marketplace and common innovation area, rather than formal harmonization and further distancing of IP
 - Bringing down the cost of IP
 - Emphasis on private incentive mechanisms – sponsorship, grants and prizes

Thank you for your attention!

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