

©, the protector of the original intellectual works

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Abstract

Imagination feeds progress in the arts as well as science. Music, painting, sculpture, architecture, novels and other works of art, are created by individuals who are not content with the old, and instead see and express ideas and emotions in new ways. Copyright protects original works of authorship fixed in a tangible medium of expression. It protects literature (e.g. poetry, musical lyrics, writings, software, etc.), drama, music and choreographic works, pictorial, graphic and sculptural works (e.g. drawings, photos, blue prints, computer screen displays associated with software, buildings, etc.), and many other intellectual works. Original works are protected upon fixation. Notice, e.g., "© Name, Year, All Rights Reserved", is not required, but is recommended. It bars innocent infringement defenses and may deter some copying. The copyrighted work may also be registered at the Copyright Office. Registration is generally required for filing an infringement action and provides enhanced remedies. Copyright registration is therefore recommended for works having commercial significance. Copyright management (protection) is seen as an important issue in the management of the firms and institutions, whose key products include written or audio and video materials. Those firms use copyright actively for

protection. Under this general framework, it is important for us to understand (research) if the Copyright/s is/are important, for those entities. The methodology used in this paper is unfolded with its own dimensions as: specification of the research subjects, tools used for the research, sampling, implementation plan, ethical issues and presentation of the research findings. The research is based on primary and secondary data collection and on the testing of the main Hypothesis. Some important conclusions are given at the end of the paper.

Key words: *copyright, copyright management (protection), companies in Albania.*

Introduction

The history of the human race is a history of the application of imagination, or innovation and creativity, to an existing base of knowledge in order to solve problems. In countless discoveries and innovations, it has been the imagination of the world's creators that has enabled humanity to advance to today's levels of technological progress.

From the earliest rituals, through the beginning of music and dance, burial rites, cave paintings, the written word, and theatrical representation, to the use of modern technologies such as the phonogram, celluloid film, wireless broadcast, software, and digital recording, humankind has identified and defined itself through cultural creativity and expressions in the form of artistic creations and performances. Much of this creativity survives and thrives today in folklore or other forms of traditional knowledge.

Today's music, films, books, art, and other forms of creations or expressions are indicators of social progress and the quality of life. As the private property of their original creators, they are prized by society for many reasons (including their economic, political and cultural role) but their particular value is that the legacies of human endeavor live in their expression.

Indeed, as the former Director General of WIPO, Arpad Bogsch, stated:

„The search for new technological solutions and cultural creative activities deserves constant encouragement because, as the history of nations has shown, in addition to spiritual development, inventions and cultural creations are the main sources of social and economic development of mankind. Food, health, communications and other fundamental needs for the survival of the human race have improved, are improving and will continue to improve because of inventions and creations. „

The continuum from imagination - to idea - to knowledge - to creation - to copyright protection continues to be a powerful driving force for social

and economic development. And what is important here is the national and international protection of the works of mind.

Copyright may subsist in creative and artistic works (e.g. books, movies, music, paintings, photographs, and software) and give a copyright holder the exclusive right to control reproduction or adaptation of such works for a certain period of time.

As almost every nation has some form of copyright protection for authors and artists, international protection of copyright was first addressed in treaties beginning in the late 19th century. In the mid-1800s, renowned authors were finding their works illegally reproduced and for sale in countries other than their own, and from which they received no royalties. In order to eliminate this practice, the famed French author of *Les Misérables* and *The Hunchback of Notre Dame*, Victor Hugo, organized a group of prominent authors into the International Literary Association, which later became known as the International Literary and Artistic Association, with the intention of establishing some basic form of international protection for their works.

In 1886, to provide the basis for mutual recognition of copyright between different states, a major international IP treaty was enacted, the Berne Convention for the Protection of Literary and Artistic Works. The crux of the convention was the principle of national treatment, that is, equal protection between nationals and foreigners.

Several important international treaties also deal with copyright law among nations. In 1994 most countries of the world signed another important treaty dealing with copyright law. This agreement, called the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), clarified several aspects of copyright law and strengthened copyright protections internationally.

Some nations of the world have weak copyright laws or few resources devoted to enforce those laws. These countries often have a large market for counterfeit goods made in violation of the copyright protections of authors. Unauthorized recordings of music on compact discs, computer software, and videocassettes of movies are often available at very low prices in these countries. This activity costs different copyright owners billions of dollars each year in sales and royalties.

To protect these copyright owners, for example, the United States attempts to persuade other countries to enforce copyright laws vigorously. This issue has been a source of particular tension between the United States and China. Although the Chinese government has signed agreements promising to combat copyright piracy, copyright violation continues to be a serious problem there. Certain provisions of the TRIPS agreement may help to persuade foreign governments to fight piracy more vigorously.

In the first one hundred years since the establishment of the Berne Convention, we have seen growth in the protection of copyrighted works at the international

level. In these first hundred years, we have also seen the early development of cooperation among states in this field. What is important to note here however, is that the premise underlying copyright protection has always been the recognition that ownership of inventions and creative works stimulates their creation and with such creation, also stimulates economic development.

Copyright as part of Intellectual Property

Copyright is part of Intellectual Property (IP). Intellectual property is the term that describes the ideas, inventions, technologies, artworks, music and literature, that are intangible when first created, but become valuable in tangible form as products. However, for purposes of this introduction, suffice it to say that IP is the commercial application of imaginative thought to solving a technical or artistic challenge. It is not the product itself, but the special idea behind it, the way the idea is expressed, and the distinctive way it is named and described.

The word „property“ is used to describe this value, because the term applies only to inventions, works and names for which a person or group of persons claims ownership. Ownership is important because experience has shown that potential economic gain provides a powerful incentive to innovate.

It is also important to note that IP results from innovation based on existing knowledge. It is the result of creative improvements on what has worked well in the past or of creative new expressions of old ideas and concepts.

The term „intellectual property“ has recently become topical and, at times, controversial. It is easy to find articles describing recent events related to IP. Some critics attack it as a negative force or as irrelevant to developing countries; some others in developing countries maintain that it stymies creativity. These beliefs have become popular myths and have acquired a cultural momentum.

We must acknowledge at the outset that for most people, IP is either an unknown, misunderstood, or mysterious term. Technology and creative arts pervade modern society, yet few actually realize that their daily lives are surrounded by IP creations‘ from which legal rights of all sorts, including their own, arise. Building public awareness of the role of IP is key to fostering a broad understanding of, and respect for, it and the system that promotes and protects it. To truly convince the public, including civil society activist groups, it is essential to engage them in such a way that they all see themselves as stakeholders in a healthy and robust IP system. To do so they must be included in an ongoing dialogue and feel empowered by the system.

The World Intellectual Property Organization (WIPO) has proclaimed the universal value of IP,‘ and has shown that IP is native to all peoples, relevant in all

times and cultures and that it has marked the world's evolution and historically contributed to the progress of societies. Intellectual property is the heritage of us all.

Intellectual property laws confer a bundle of exclusive rights in relation to the particular form or manner in which ideas or information are expressed or manifested, and not in relation to the ideas or concepts themselves. It is therefore important to note that the term „intellectual property“ denotes the specific legal rights which authors, inventors and other IP holders may hold and exercise, and not the intellectual work itself.

The shift in terminology towards „intellectual property“ has coincided with a more general shift away from thinking about things like copyright and patent law as specific legal instruments designed to promote the common good and towards a conception of ideas as inviolable property granted by natural law. This shift has led to the use of terms like piracy and theft to refer to violations of copyright laws and has underlain arguments in favor of the expansion of such laws.

The term intellectual property has been criticized on the grounds that the rights conferred by exclusive rights laws are in some ways more limited than the legal rights associated with property interests in physical goods - chattels or land - real property. The inclusion of the word property in the term can be seen as favoring the position of proponents of the expansion of exclusive rights in intellectual products. For example, most nations grant copyrights for only limited terms; all limit the terms of patents. Additionally, the term is sometimes misunderstood to imply ownership of the copies themselves, or even the information contained in those copies. By contrast, physical property laws rarely restrict the sale or modification of physical copies of a work (something that many copyright laws do restrict).

A common argument against the term intellectual property is that information is fundamentally different from physical property in that a „stolen“ idea or copy does not affect the original possession. Another, more specific objection to the term, is that the term is confusing and that the term implies a non-existent similarity between copyrights, patents, trademarks, and other forms of exclusive rights, which makes clear thinking and discussion about various forms difficult. For example, those that pertain to intellectual content (copyrights and patents) have limited terms, hence differ from conventional property, whereas trademarks, which have unlimited terms, are merely signs and lack intellectual content. Furthermore, most legal systems, including that of the United States, hold that exclusive rights are a government grant, rather than a fundamental right held by citizens.

Though it is convenient for direct incentive beneficiaries to regard exclusive rights as akin to „property“, items covered by exclusive rights are, by definition, not physical objects „ownable“ in the traditional sense. Others point out that the law itself treats these rights differently than those involving physical property. To

give three examples from US law, copyright infringement is not punishable by laws against theft or trespass, but rather by an entirely different set of laws with different penalties.

Copyright protects original works of authorship fixed in a tangible medium of expression. It protects literature (e.g. poetry, musical lyrics, writings, software, etc.), drama, music and choreographic works, pictorial, graphic and sculptural works (e.g. drawings, photos, blue prints, computer screen displays associated with software, buildings, etc.), and many other intellectual works.

A computer program (software) is also considered literary creation and is protected by copyright. The copyright protection afforded software is generally not very great, since software is inherently utilitarian, but exists nevertheless. In some cases, software inventions may be eligible for patent protection in addition to that of copyright, as discussed below.

Original works are protected upon fixation. Notice, e.g. “© Name, Year, All Rights Reserved”, is not required, but is recommended. It bars innocent infringement defenses and may deter some copying.

The copyright reserves to its owner the exclusive right to reproduce and distribute the work, or to use or display it publicly, although a limited number of reproductions of protected work, may be permitted by others, for honest purposes.

The copyrighted work may also be registered at the Copyright Office. Registration is generally required for filing an infringement action and provides enhanced remedies. Copyright registration is therefore recommended for works having commercial significance. In fact, many countries offer copyright protection without registration, while other countries offer little or no protection, especially for the work of foreign nationals.

Copyright subsists for a variety of lengths in different jurisdictions, with different categories of works and the length it subsists for also depends on whether a work is published or unpublished. In most of the world the default length of copyright for many works is either life of the author plus 50 years, or plus 70 years. Copyright in general always expires at the end of the year concerned, rather than on the exact date of the death of the author.

Like other elements comprising intellectual property, copyright can also be managed in the companies, whose key products include written or audio material, and copyright is actively used for protection. Intellectual property management is a key set of concepts, methods, and processes designed for aligning the intellectual properties of the firm with its business strategies and objectives. It represents one of the most fundamental approaches to maximizing the extraction of value from a firm's intellectual capital, that is, the sum total of all knowledge in an enterprise.

Methodology for research

Copyright management (protection) is seen as an important issue in the management of the firms, whose key products include written or audio and video materials. Those firms use copyright actively for protection. Under this general framework, it is important for us to understand (research) if the Copyrights are important assets, for the business organizations in Albania.

The aim of this research is: to investigate if the Copyrights are important assets, for the business organizations in Albania.

The research is based on the testing of the Hypothesis, expressed as:

H0: Copyrights are not important assets for the business organizations in Albania.

Ha: Copyrights are important assets for the business organizations in Albania

The methodology used in this paper is unfolded with its own dimensions as: specification of the research subjects, tools used for the research, sampling, implementation plan, ethical issues and presentation of the research findings. The research is based on primary and secondary data collection and on the testing of the Hypothesis as indicated above.

Specification of the research subjects

Many companies in Albania see copyrights as important assets, so the conduction of such a research adds value to their management strategies. So, after defining the hypothesis, we started out the work about specification of the subjects that could be compatible to the purpose of this research. After distinguishing a number of companies of interest (businesses in the Tirana region of Albania), we started to collect the required information from the managers of these companies.

Tools used for the research

In order to collect the necessary information, analyze the data, and draw conclusions, a questionnaire composed of 10 basic questions were developed and delivered. The questionnaire was prepared to collect important data on different aspects of copyright management practice. The analyses of the collected information gave us the necessary level of understanding about the issue in discussion. Data were analysed using SPSS program.

Sampling

Our original sampling consisted of 48 managers, in 48 companies, in the Tirana region of Albania. 46 questionnaires were delivered, and the questionnaires' return rate was 83%, or 38 collected questionnaires. The collected data could be considered as being representative.

Implementation plan

The way we were organized helped us in reducing the time and costs required to perform the interviews. Data were collected during 2019-2020, comprising a period of five years (last five years). In order to prepare the findings and draw conclusions, collected data were processed. There were not present any difficulties in distributing and collecting the questionnaires.

Ethical issues

The information collected from the respondents was very important to analyze and interpret the findings. The names of the respondents (companies' managers) due to ethical obligations were not disclosed in this paper.

Presentation of the research findings

In this section research findings are presented.

Copyrights as important assets

In order to test Hypothesis 0, Descriptive analysis is used.

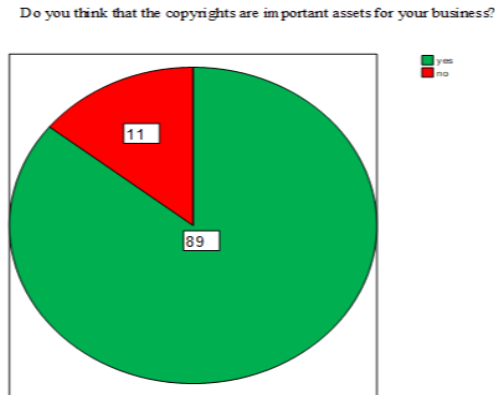
In regard with the importance of the copyrights as assets of the business, the results of the analysis are as following:

To the question "Are you aware of the concept of copyright?", 100% of respondents answered "yes", (0% of respondents answered "no", 0% of respondents answered "do not know"), clearly indicating that all companies are aware of the concept of copyright.

To the question "Do your institution owns copyrighted materials/products?", 100% of respondents answered "yes", (0% of respondents answered "no", 0% of respondents answered "do not know"), indicating that all companies own copyrighted materials/products.

To the question “Do you think that the copyrights are important assets for your business?“, 89% of respondents answered “yes“ (Graph 1), 11% of respondents answered “no“, and only 0% of respondents answered “do not know“, indicating that most of the companies are aware of the importance of their copyrights as business assets. However, there are companies (managers) thinking that their copyright/s are not important.

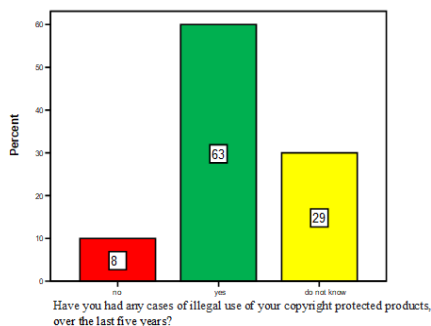
GRAPH 1. Importance of copyrights as business assets.



To the question “Do you know what piracy is?“, 100% of respondents answered “yes“, (0% of respondents answered “no“, 0% of respondents answered “do not know“), clearly indicating that all companies are aware of the concept of piracy.

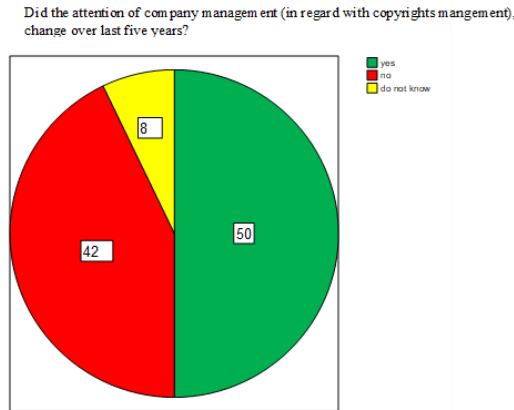
To the question “Have you had any cases of illegal use of your copyright protected products, over the last five years?“ (Graph 2), 63% of respondents answered “yes“, 8% of respondents answered “no“, 29% of respondents answered “do not know“, indicating that most of the companies are faced with the illegal use of their copyright protected products.

GRAPH 2. Cases of illegal use of copyright protected products.



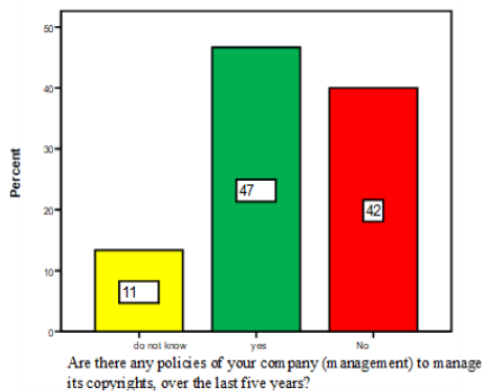
To the question “Did the attention of company management (in regard with copyrights magement) change, over the last five years?” (Graph 3), 50% of respondents answered “yes”, 42% of respondents answered “no”, 8% of respondents answered “do not know”, indicating that in most companies management pays attention on the copyright/s magement.

GRAPH 3. Change in attention of company management.



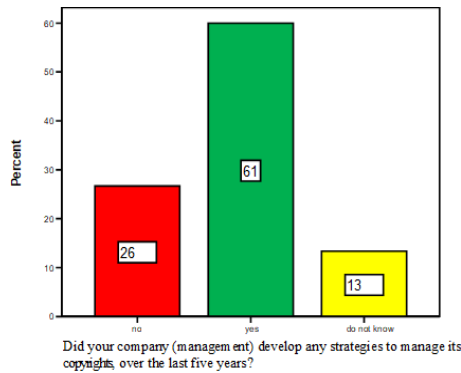
To the question “Are there any policies of your company (management) to manage its copyright/s, over the last five years?” (Graph 4), 47% of respondents answered “yes”, 42% of respondents answered “no”, 11% of respondents answered “do not know”, indicating that most of the companies own policies to manage their copyright/s.

GRAPH 4. Existence of policies.



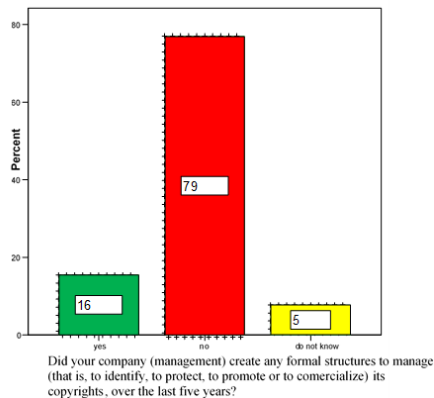
To the question “Did your company (management) develop any strategies to manage its copyright/s, over the last five years?” (Graph 5), 61% of respondents answered “yes”, 26% of respondents answered “no”, 13% of respondents answered “do not know”, indicating that in many companies copyright is becoming part of their business strategies.

GRAPH 5. Development of strategies.



To the question “Did your company (management) create any (direct) formal structures to manage (that is, to identify, to protect, to promote or to comercialize) its copyrights, over the last five years?” (Graph 6), 16% of respondents answered “yes”, 79% of respondents answered “no”, 5% of respondents answered “do not know”, indicating that a few companies own direct formal structures involved in the mangement of their copyright/s.

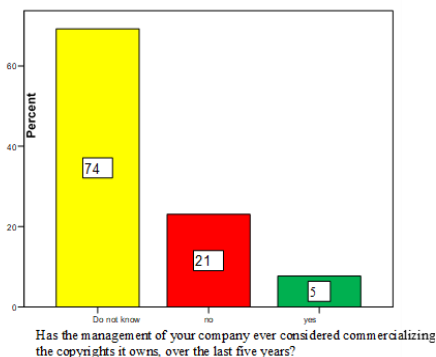
GRAPH 6. Creation of (direct) formal structures.



To the question “Has the management of your company ever considered commercializing the copyrights it owns, over the last five years?” (Graph 7), 5% of

respondents answered “yes“, 21% of respondents answered “no“, 74% of respondents answered “do not know“, indicating that a few companies have considered the commercialization of their copyright/s.

GRAPH 7. Commercialization of copyrights.



The percentages, as indicated by the answers of the respondents, clearly showing the importance of the copyright/s, and the importance of the activities pertaining to its management. So, the results of the analysis above indicate that hypothesis H0: Copyright/s are not important assets for the business organizations in Albania, is invalidated, that is, alternative hypothesis Ha: Copyright/s are important assets for the business organizations in Albania, is validated.

Some important conclusions are given below.

Conclusions

Many companies in Albania are aware of the concept of copyright and they know how to make use of the protection it grants.

Many companies see their copyright/s as important assets for their businesses and in these companies management pays attention on the copyright/s mangement. However, there are some companies (managers) thinking that their copyright/s are not important.

Companies are aware of the concept of piracy and many of them are faced with the illegal use of their copyright protected products.

Many companies own policies to manage their copyright/s, but despite the fact that many of them see their copyright/s as important, yet there are companies that do not own any policies to manage their copyright/s.

Despite the fact that in many companies copyrights are becoming part of their business strategies, yet only a few of them own or have created formal structures involved in the management of their copyright/s.

As companies in Albania recognize the importance of copyright/s management, yet a few companies have considered the commercialization of their copyright/s.

References

- Miller, R., A., & Davis, H., M., (2000), "Intellectual property, patents, trademarks and copyright", USA, West Group.
- Koci, E., (2003), "Pronësia Intelektuale, E Drejta e Autorit dhe Markat", Tiranë. Fletorja Zyrtare e Republikës së Shqipërisë, Botim i Qendrës së publikimeve Zyrtare, Nr.42, Qershor 2005.
- Gould, D., & Gruben, W., (1996), "The role of intellectual property rights in economic growth", Journal of Development Economics, Vol. 48.
- Hayes, D., (2003), "Performing and Intellectual Property Audit of Copyrights", Fenwick and West LLP, Palo Alto.
- <http://www.wipo.org>, "World Intellectual Property Organization", Internet publications.
- <http://www.wto.org>, "World Trade Organization", Internet publications.
- Jeremiah, R., J., (1997), "Merchandising intellectual property rights", England, John Wiley & Sons Ltd.
- Ligji Nr. 7564, datë 19.5.1992 «Për të Drejtën e Autorit».
- Ligji Nr. 8410, datë 30.9.1998 „Për radion dhe televizionin publik e privat në Republikën e Shqipërisë“.
- Ligji Nr.9380, datë 28.04.2005 "Për të drejtën e autorit dhe të drejtat e tjera të lidhura me të".
- Morten, P., (2002), "The Foundation's Intellectual Property Policy", Foundation for Research Science & Technology, Wellington.
- Poltorak. I. A., Lerner, J., P., (2002), "Essentials of intellectual property", USA, John Wiley & Sons, Inc.
- Stim, R., (2006), "Patent, copyright & trademark", USA, Consolidated Printers, Inc.
- Sullivan, H., P., (2000), "Value driven intellectual capital. How to convert intangible corporate assets into market value", USA, John Wiley & Sons, Inc.