

INTELLECTUAL CAPITAL AS THE BASIS FOR THE DEVELOPMENT OF CREATIVE INDUSTRIES

Hanna Kostromina¹, Olha Potishchuk², Tamara Rudenko³, Maryna Pushkar⁴, Oksana Romaniuk⁵,
akostromina.hanna@gmail.com¹, bpotya@ukr.net², ctamararud@ukr.net³, dpushkarmv@ukr.net⁴, eRomanukov@i.ua⁵

National Technical University of Ukraine "Igor Sikorsky Kyiv Polytechnic Institute", Kyiv, Ukraine¹, National technical university of Ukraine "Igor Sukorsky Kyiv Polytechnic institute", Kyiv, Ukraine², National technical university of Ukraine "Igor Sikorsky Kyiv Polytechnic institute", Kyiv, Ukraine³, National University of Life and Environmental Sciences of Ukraine, Kyiv, Ukraine⁴, Bogomolets national medical university, Kyiv, Ukraine⁵

Abstract

Globalization and the development of technology have turned creativity into a necessity. Numerous countries consider creativity to be the major model of economic development. In this era of the knowledge-based economy, creativity is becoming a catalyst for the development of millions of people around the world. Irina Bokova, the former Director General of UNESCO, has stated that the cultural and creative industries have a capital of 2 250 billion US dollars, almost 30 million jobs worldwide in the economies of advanced countries and developing countries (Cultural Times, 2015). Copyright is a branch of intellectual property with a wider scope, forasmuch as it applies to every product of literary, scientific and artistic works in all forms of expression, relating to certain levels of originality.

Keywords:

intellectual capital, copyright protection, creative economy, development of creative industry.

1. Introduction

The world has entered the fourth economic era, known as the knowledge-based economy. Primarily, the first signal of the creative economy came from advanced countries, and the pioneer was the United Kingdom. Economic globalization increases the pressure of economic competition in traditional industries (manufacturing). Oddly enough, developing a new scale of manufacturing is not easy, taking into account such factors as economic (huge capital requirements), social factors, namely: the availability of territory, space and other resources, as well as environmental factors, where the increased level of industrial pollution is perceived as a threat to the environment.

In order to overcome economic, social and environmental challenges, the UK has developed the creative economy as a new economic model known as the "weightless economy". This is a term describing an economic model based on creativity, knowledge, information technology, telecommunications and

other intangible assets in order to reap the benefits of high value. The core ideas are no longer embodied in intermediate material goods. The weightless economy promotes ideas and knowledge as the basis of economic development (Quah, 1996).

The weightless economy puts creativity as the most important capital; the bottom line is that the creative activity generates self-employment, informal business, which is relatively open to people of all ages, and in fact significantly contributes to youth employment and women's empowerment by developing their skills and income through small businesses and informal sectors (United Nations Industrial Development, 2013).

2. Literature Review

According to the viewpoint of Chris Bilton, creativity can be perceived as a "deliberately controlled process" or a "deviation from traditional tools and perspectives". The creativity should meet two criteria, namely: the creation of the mind should create something new and it should create intellectual property that is valuable, useful and profitable (Bilton, 2007).

In the age of creativity, intellectual property plays a defining role in promoting economic development even at the microeconomic level and it has a strong potential for economic transition (Goans, 2004; Anggadwita & Dhewanto, 2016). The intellectual property regime, accepted at the international level, creates a global framework in which developing countries can participate in economic and trade activities alongside advanced countries.

The creative economy is governed by the use of human creativity; the protection of creativity through copyright law is above the necessity as recognition and protection of creators over their creations, for protecting the manifestation of ideas and creations of minds. Adequate protection is expected to lead to economic growth and it will make a real contribution to the society; according to Robert M. Sherwood's "Theory of Social Benefit", creativity should be recognized and protected by law (Bend & King, 2014; Robert M. Sherwood, 1990) in order to enhance creativity and reach the phase where creativity becomes the foundation of creative economic growth.

Copyright is a form of intellectual property including rights to works of art and literature. Copyright has both economic and moral rights. Moral rights relate to the recognition of the creator in terms of ownership of original ideas and concepts; legal economic law is the right to receive material benefits from the use and operation of an object protected by copyright. In a broad sense, copyright protects creativity and its manifestation.

The creative economy is defined as the transaction of creative products having an economic good or service that is the result of creativity and has economic value (Howkins, 2013). Creative content and products are an integral part of the community's life. These are more than physical things; they are manifestations of embodied knowledge such as creativity, technological knowledge, vision and physical prowess combined with social relations. There is a compelling interrelationship between creativity and productivity.

Legal certainty is essential in order to achieve the desired proportionate sustainable development. Legal certainty should be supported by the existence of appropriate legal instruments (Oudat, Ahmad, & Yazis, 2016; Mayana, 2004) as a manifestation of a responsive state in accordance with the modern concept of the welfare state, where the state plays a vital role in promoting the economic development and social well-being of its citizens, based on the principles of equal opportunities towards achieving a fair distribution of wealth.

The present academic paper aims to identify the interdependence between expanding the scope of copyright protection and promoting the creative

economy and transforming the concept of the creative economy into a creative industry. This research is expected to provide guidance to interested parties and institutions related to legislation and the economic sectors relating to the creative economy and the creative industry in the process of adopting legislation and implementing existing regulations in order to transform the concepts of the creative economy into actual creative industries. The present research also aims to reveal the ideal platform for the creative industries in order to become a job generator for sustainable creativity-based development. This study can also provide assistance to scientists and researchers in conducting further investigations on copyright and its interrelationship with the creative economy and the creative industry.

3. Materials and research methods

The present research is preceded by the study of the literature on theory and concepts related to the topic under consideration. The method is a qualitative research, characterized by its goals, relating to understanding some aspects of public life while exploring possible and ideal activities for the implementation of the concept of intellectual property as a tool of social engineering in a developing country, and, in response, empowering the community as a tool of legal engineering. This method aims to provide information on the aspect of the social dimension of this issue. Qualitative methods are expected to be effective in identifying problems in intangible forms, namely: social norms, social-economic phenomena, cultural value and factors of acceptance and resistance by the society of globally accepted intellectual property regimes, providing recommendations concerning improving systems.

In our knowledge-based age, intellectual property plays a crucial role in promoting economic development, even at the microeconomic level, and it has powerful potential for economic transition (Goans, 2004). The internationally recognized intellectual property regime creates a global framework in which developing countries can be engaged in economic and trade activities with advanced countries. The point of pressure lies in the implementation of the law. The strength of law will be effectively enforced if it supported by the subject of the law.

It is expected that copyright as a protection of the creations of the mind will affect creativity, innovation and creative industries in accordance with the matrix of benefits of copyright protection (Handke, 2011). In the short-term outlook, copyright protection generates more income for copyright owners in the form of remuneration or reward; in the long-term outlook, copyright protection provides more incentives for the supply of creative works in the future. The escalation of creative works directly triggers the creation of the creative industry as a vital platform for transforming the concept of the creative economy into an actual creative industry.

The transformation of the concept of the creative economy into a creative industry cannot depend solely on updating the essence of copyright law. According to Lawrence M. Friedman's theory of the legal system, the legality of the law depends on the structure, culture and content (Friedman, 1984). The legal structure consists of a legal institution, the core function of which lies in introducing, implementing and ensuring the fulfillment of current legislation and regulations. Legal substance, according to Friedman, is perceived as the actual rules, norms and patterns of behaviour of people within the system, and legal culture is the public consciousness and social forces determining how law is used and accepted by the society.

4. Results

Considerable part of the world's intellectual property is embodied in music, films, videos, books, articles, illustrations and other creative content. Due to the constant revolution in digital devices and services, this content is created, moved and consumed in increasingly sophisticated ways.

This creates challenges and opportunities for the global intellectual property system, resulting from several trends. Distribution models are moving towards instant, ubiquitous access, sometimes via social media and increasing the reach of content creators. New technologies allow content creators interacting directly with their audiences in innovative ways; they also include new mechanisms for collaborative content creation. Business models are also changing; licenses to access content often replace ownership of copies of content. In addition, the increased cross-border movement of content raises

jurisdictional issues, including potential incompatibilities between national legal systems.

The necessity to continue updating the intellectual property systems in general and fundamentals of copyright specifically in order to adapt to the digital age has been widely recognized for several decades at the national and regional levels. However, in the world, where the creation and consumption of content has become truly global, it is also important to consider the issues involved in a global context.

In order to help achieve the goal of an improved global system for the protection of intellectual property rights, it is important to consider the factors generating the creation of intellectual property (Figure 1).



Figure 1 – The interaction of factors generating the creation of intellectual property

The development of the legal essence, legal structure and legal culture is the requirement for creating comprehensive copyright protection as a vital gateway to transform the concept of a creative economy into creative industries. The escalation of copyright protection for the protection of creativity is becoming a significant impetus for the transformation of the concept of the creative economy into creative industries, based on the considerations as follows:

1. Creation of creative culture.

When ideas and creativity are properly protected, creative culture will grow at the same time. Copyright protection enables creativity and innovation by ensuring that the author receives recognition and useful rewards or receives fair compensation for his creative efforts.

2. Powerful launcher for starting a business.

Most start-up enterprises use ideas and creativity as capital assets. When the implementation of ideas and creativity receive proper protection, the launched business will be an ideal option for self-employment.

3. Acceleration of innovations.

Copyright protection encourages the creator to be extremely innovative, forasmuch as copyright protection is provided mainly on the basis of originality.

4. Improving the competitiveness of business.

The global market economy allows and encourages competition between industrial and commercial institutions. Copyright protection increases the competitive advantage of goods and encourages manufacturers to defend their competitive advantages in the global economy. Legal protection features prevent unfair competition in global business by protecting good faith.

5. Product quality improvement.

Competition between manufacturers has direct consequences for product quality. In order to be able to compete in the market, manufacturers are encouraged to simultaneously improve product quality as the most decisive factor in the consumer's decision to purchase.

6. Generators of workplaces.

When the concept of the creative economy is transformed from a small business or informal sector to an industrial one, the scale of business automatically increases. This requires a larger workforce and it will increase the contribution to the elimination of unemployment. For instance, in the United States, more than 5,5 million people were employed in the main areas of copyright in 2015, representing 3,87% of the total US workforce and 4,57% of total private employment in the United States (Siwek, 2016; Tangpornpaiboon, & Puttanapong, 2016).

7. Contributing to economic growth. A well-implemented copyright protection system positively balances economic growth. The economic contribution of copyright in the United States is over 10%, and WIPO has a strong positive correlation between the share of copyright in GDP and international intellectual property protections and international competitiveness measures.

Determining the ideal platform is carried out for optimal expansion of the role of creative industries as a generator of jobs and a tool of "weightless economy" in the formulation of sustainable development based on creativity.

The structure of the world economy has shifted to the creative economy by intensifying creativity and ideas as a production factor. Ensuring copyright protection is inseparable from economic and commercial motivation. As a defence for the implementation of ideas and creativity, copyright protection aims to articulate economic growth driven by knowledge. The more producers of ideas exist, the faster the economy grows. There are some strategic movements aimed at expanding the scope of the creative economy in the form of creative industries. The creative industry is an ideal implementation of a "weightless economy" and a generator of workplace, taking into account the considerations as follows.

1. Creativity and ideas as the most important capital have a high level of reproducibility with unlimited opportunities in terms of development.
2. Ideas and creativity independently generate self-employment in the form of informal business.
3. Informal employment in business is relatively open to people of different ages and different levels of education and skills.
4. The creative economy makes a significant contribution to youth employment and prevents the escalation of industrial unemployment.
5. The creative economy and the informal sector are relatively conducive to extending rights of women in order to provide them with a possibility to develop their skills and earn a certain amount of income.

The capital is another significant aspect of formulating an ideal platform for economic development. Many start-up companies do not achieve development on an industrial scale due to lack of (mostly financial) the capital. This problem stems from the fact that the capital owned by most of the creative economy or start-up companies is the intangible capital: ideas and creativity. This type of capital is perceived as unsuitable for banking services compared to fixed assets.

5. Discussion

The choice of priorities of scientific, technical and innovation policy should be based on the analysis of global directions of technical and economic dynamics, as well as on preconditions of formation of competitive advantages in business activity. Currently, inasmuch as the formation of a new type of economy in some countries acquires a new character, the main feature of the global economy lies in changing the dominant type of the capital (Acs et al., 2016).

According to the functional content, the following types of intellectual capital can be distinguished, namely: personalized, technical-technological, infrastructural, client capital, branded. Each type contains the corresponding types of the intellectual capital.

1. Personalized – knowledge, skills, creativity, education, professional qualifications, loyalty, staff values, psychometric characteristics.
2. Technical and technological – inventions, utility models, industrial designs, patents, trade secrets (know-how), design rights.
3. Infrastructure – information technologies, databases, organizational structure, management, philosophy, corporate culture, business cooperation.
4. The client capital – customer relations, contracts, portfolio of orders, franchises, licensing agreements.
5. Branded capital – trademarks, corporate brand (name), trademarks of services. The image of the entrepreneur or his business reputation can be attributed to this category (Watson & Stanworth, 2016).

The availability and efficiency of using intellectual resources determine the formation and possibilities of applying other types of intellectual capital, forasmuch as the possibility of creating new technologies, inventions and new brand projects primarily depends on human intelligence. The proposed classification of intellectual capital on the basis of its corresponding features reveals its essence in various aspects and creates a scientific basis for the development of methodological provisions on such pressing issues as developing a system for the formation of entrepreneurial intellectual capital, its reproduction and assessment (Green, 2013).

The organizational and economic mechanism of intellectual capital management has a rational combination of appropriate management methods, which, in turn, should ensure the effective performance of the functions of intellectual capital and the achievement of the goals outlined.

Considering the fact that the process of intellectual capital management is carried out with the help of intellectual labor, the motivation mechanism is another first-class element of the intellectual capital formation (Sarasvathy, 2001; Tkacheko, 2019). The motivational mechanism of intellectual labour is a set of regular relationships determining the implementation of the actualized needs of individuals (interests) with the help of intellectual activity (Lim, 2010; Drobyazko, 2019).

Recognition and understanding of the importance of the creative economy is gaining momentum. The United Nations has declared 2021 as the International Year of the Creative Economy for Sustainable Development (UN resolution, 2021). Its ability to create workplaces, introduce innovations, promote social inclusion and cultural diversity is currently certainly better understood than ever before, perhaps because of the devastating effects of the Covid-19 crisis. UNCTAD, as a designated UN agency on promoting the creative economy, is ready to engage and join forces with partners in this effort.

6. Conclusions

The escalation of copyright protection simultaneously entails the transformation of the concept of the creative economy into creative industries, taking into account the direct consequence of as follows: empowering creativity and creating a creative culture, encouragement to start a business, accelerating innovations, increasing business competitiveness and improving product quality. Along with this, there is empowerment for creativity to create workplaces and support economic growth.

The formation of an ideal platform is carried out for optimal expansion of the role of creative industries as a generator of jobs and “weightless economy”. The tool in the formation of sustainable development based on creativity should take into account several vital aspects, namely: legal aspects (content) by formulating legal norms, the best practices of implementation (structure) through the application of legal norms in practice, as well as the necessity and awareness of the society (culture) by promoting the most effective research of ideas and creativity as the primary capital of sustainable development based on weightless economic creativity.

References

- [1] I. Acs, Z., Åstebro, T., Audretsch, D., & Robinson, D.T. (2016). Public policy to promote entrepreneurship: a call to arms. *Small Business Economics*, 47(1), 35-51.
- [2] Anggadwita, G., & Dhewanto, W. (2016). The Influence of Personal Attitude and Social Perception on Women Entrepreneurial Intentions in Micro and Small Enterprises in Indonesia, *International Journal of Entrepreneurship and Small Business*, 27(2-3), 131-148. Available at: https://www.researchgate.net/publication/288992735_The_influence_of_personal_attitude_and_social_perception_on_women_entrepreneurial_intentions_in_micro_and_small_enterprises_in_Indonesia
- [3] Bend, D., & King, A. (2014). Why Consider a Benefit Corporation? Available at: <http://www.forbes.com/sites/theyec/2014/05/30/why-consider-a-benefit-corporation/>.
- [4] Bilton, C. (2007). *Management and Creativity: From Creative Industries to Creative Management*, Oxford: Blackwell Publishing. Available at: [https://www.scirp.org/\(S\(351jmbntvnsjt1aadkposzje\)\)/reference/ReferencesPapers.aspx?ReferenceID=1814403&utm_campaign=826331897_48172385928&utm_source=lixiaofang&utm_medium=adwords&utm_content=aud-975820722207:dsa-312568144013&gclid=CjwKCAiA1aiMBhAUEiwACw25MYIcFVKkilx10x3akWrYm5-tV9vqNn03XehkYn1dJHBgHMTN3wtclRoCCOAAQAvD_BwE](https://www.scirp.org/(S(351jmbntvnsjt1aadkposzje))/reference/ReferencesPapers.aspx?ReferenceID=1814403&utm_campaign=826331897_48172385928&utm_source=lixiaofang&utm_medium=adwords&utm_content=aud-975820722207:dsa-312568144013&gclid=CjwKCAiA1aiMBhAUEiwACw25MYIcFVKkilx10x3akWrYm5-tV9vqNn03XehkYn1dJHBgHMTN3wtclRoCCOAAQAvD_BwE)
- [5] Cultural Times. (2015). *The First Global Map of Cultural and Creative Industries*, December 2015, CISAC : The International Confederation of Societies of Author and Composers, Available at: https://en.unesco.org/creativity/sites/creativity/files/cultural_times_the_first_global_map_of_cultural_and_creative_industries.pdf.
- [6] Drobyazko, S., Makedon, V., Zhuravlov, D., Buglak, Y., & Stetsenko, V. (2019). Ethical, technological and patent aspects of technology blockchain distribution. *Journal of Legal, Ethical and Regulatory Issues*, 22, 1-6.
- [7] EY Publication. (2014). *Creating Growth: Measuring Cultural and Creative Market in The European Union (EU)*. Available at: http://www.ey.com/Publication/vwLUAssets/Measuring_cultural_and_creative_markets_in_the_EU/%24FILE/Creating-Growth.pdf.
- [8] Friedman, L. W. (1984). *American Law: An Invaluable Guide to the Many Faces of the Law, and How it Affects Our Daily Lives*”, W.W.Norton & Company, New York.
- [9] Goans, J. W. (2004). *Intellectual Property: Principles and Practice*, Nathan Associates Inc, Cairo.
- [10] Green, F. (2013). *Skills and skilled work: An economic and social analysis*. Oxford University Press. Available at: <https://oxford.universitypressscholarship.com/view/10.1093/acprof:osobl/9780199642854.001.0001/acprof-9780199642854>
- [11] Handke, C. (2011). *Economic Effect of Copyright : The Empirical Evidence So Far*, Report for the National Academies of the Sciences, Washington, DC. Available at: https://sites.nationalacademies.org/cs/groups/pgasite/documents/webpage/pga_063399.pdf
- [12] Howkins, J. (2013). *The Creative Economy: How People Make Money From Ideas*, Penguin, United Kingdom.

- [13] Lim, L.L., Chan, C.C., & Dallimore, P. (2010). Perceptions of human capital measures: from corporate executives and investors. *Journal of Business and Psychology*, 25(4), 673-688.
- [14] Mansfield, E. (1991). Academic Research and Industrial Innovation, *Research Policy*, 20(1) 1-12. Available at: <https://www.sciencedirect.com/science/article/abs/pii/004873339190080A?via%3Dihub>
- [15] Mari, E. P. (2014). *Ekonomi Kreatif : Kekuatan Baru Indonesia Menuju 2025*, Kementerian Pariwisata dan Ekonomi Kreatif, Rencana Aksi Jangka Menengah 2015-2019. Available at: http://gov.indonesiakreatif.net/wordpress/wp-content/uploads/2014/MEA2015/12/RJPM_Ekonomi%20kreatif.pdf.
- [16] Oudat, M. S., Ahmad, N., & Yazis, M. (2016). The Impact of Macroeconomic Variables and Global events on Banking System : Evidence from Jordanian Banking System, *Journal of Administrative and Business Studies*, 2(1), 29-34.
- [17] Oxford Economics. (2014). *The Economic Contribution of the Film and Television Industries in South Korea*, Global Headquarters, Oxford, United Kingdom. Available at: <https://cutt.ly/ITy8C45>
- [18] Quah, D. T. (1996). *The Invisible Hand and The Weightless Economy*, Centre for Economic Performance, Occasional Paper No. 12, London. Available at: <http://eprints.lse.ac.uk/2271/1/OP012.pdf>
- [19] Ranti, F. M. (2004). *Perlindungan Desain Industri di Indonesia Dalam Era Perdagangan Bebas (The Protection of Industrial Design in Indonesia in the Free Trade Era)*. Jakarta, PT. Gramedia Widiasarana Indonesia, Jakarta.
- [20] Sarasvathy, S.D. (2001). What makes entrepreneurs entrepreneurial?. *Harvard Business Review*, 21, 1-9. Available at: https://www.effectuation.org/sites/default/files/research_papers/what-makes-entrepreneurs-entrepreneurial-sarasvathy_0.pdf
- [21] Sherwood, R. M. (1990). *Intellectual Property and Economic Development*, Westview Special Studies in Science, Technology and Public Policy, Westview Press Inc, San Fransisco.
- [22] Siwek, S. E. (2016). *Copyright Industries in U.S Economy*, Economist Incorporated, International Intellectual Property Alliance, Washington.
- [23] Spicker, P. (2000). *The Welfare State: A General Theory*, Sage Publication, California, United States of America. Available at: <http://www.spicker.uk/books/Paul%20Spicker%20-%20The%20welfare%20state%20a%20general%20theory.pdf>
- [24] Tangpornpaiboon, S., & Nattapong P. (2016). Financial Contagion of the Global Financial Crisis from the US to other Developed Countries, *Journal of Administrative and Business Studies*, Vol.2, Issue 1, pp. 48-55. Available at: https://www.researchgate.net/publication/306263667_Financial_Contagion_of_the_Global_Financial_Crisis_from_the_US_to_Other_Developed_Countries
- [25] Tkacheko, S., Shatskaya, Z., Dashchenko, N., Mu, J., & Malakhovsky, Y. (2019). Organizational maintenance of internal control of electronic money at the enterprise. *Academy of Accounting and Financial Studies Journal*. Available at: <https://www.abacademies.org/articles/organizational-maintenance-of-internal-control-of-electronic-money-at-the-enterprise-8408.html>
- [26] United Nations Industrial Development. (2013). *Creative Industries for Youth: Unleashing Potential and Growth*, United Nations. Available at: https://www.researchgate.net/publication/254956321_Creative_Industries_for_Youth_Unleashing_Potential_and_Growth
- [27] UN resolution 74/198: *International Year of Creative Economy for Sustainable Development*, 2021, UN, December 2019.
- [28] Watson, A., & Stanworth, J. (2016). Franchising and intellectual capital: A franchisee's perspective. *The International Entrepreneurship and Management Journal*, 2(3), 337-349. Available at: https://www.researchgate.net/publication/225401036_Franchising_and_Intellectual_Capital_A_Franchisee%27s_Perspective
- [29] World Intellectual Property Organization. (2013). *WIPO Studies on the Economic Contribution of Copyright Industries*, Available at: http://www.wipo.int/export/sites/www/copyright/en/performance/pdf/economic_contribution_analysis_2013.pdf.