

THE IPRs CHALLENGE IN THE EUROPEAN KNOWLEDGE BASED ECONOMY

Mina Zoulovits

Lawyer

minazoulovits@phrlaw.gr

LISBON STRATEGY



GOAL:

“to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion”

HOW :

1. “information society for all”

2. “the shift to a digital knowledge-based economy, prompted by new goods and services will be a powerful engine for growth, competitiveness and jobs. In addition, it will be capable of improving citizens' quality of life and the environment”

Current legal status on © ⇒ PROTECTION OF LITERARY & ARTISTIC WORKS (including computer programs):

- **International Treaties** (Berne Convention, TRIPS, WCT)
- **EU Legal Documents**
 - **Directive 91/250/EEC**
 - **Directive 96/9/EC**
 - **Directive 98/84/EC**
 - **Directive 2001/29/EC**
 - **Directive 2003/98/EC**
 - **Directive 2004/48/EC**
- **National Legislation**

Basic EU Legal Document for copyright protection in the information society ⇒ Directive 2001/29/EC



Core Principles:

- Harmonisation of fundamental exclusive rights
- Stipulating exhaustive list of exceptions to the exclusive rights set above
- Safeguarding technical protection measures
- Creating the basis for enforcement of common sanctions and remedies

➤ **Static View of the User**

KNOWLEDGE BASED ECONOMY

DIGITAL CONTENT – DIGITAL INFORMATION

CHARACTERISTICS:

- Facilitates creation, access, distribution, use, re-usability, reproduction of works
- Information age \Rightarrow need for vast exchange of information, need for more people to access information
- Community environments/trends \Rightarrow enhance user's participation in the creation and/or enrichment of content and/or distribution of content \Rightarrow Interactivity
- Individualisation of content
- Convergence on the design and distribution services due to the merger of previous distinct media (multi-platform approach)

Decision 456/2005/EC ⇒ E-Contentplus programme (Lisbon strategy, i2010):

➤ Basic Acknowledgments:

- shift to the digital knowledge based economy
- digital content stakeholders:
 - a. Content providers: organizations and/or institutions (public ones or private ones) that create, collect and own digital content
 - b. Content users: end users that use, re-use and/or add value to digital content
- technological advances offer the potential to add value to content & to improve interoperability at the service level which is fundamental to accessing, using & distributing digital content

COM (2007) 836 Creative Content on line in the Single Market

➤ Basic Goal for the Commission:

“ to make more content available online, while at the same time ensuring a robust protection of intellectual property rights and fostering user’s creative role in content selection, distribution and creation.”

NEW TRENDS



Open Content

Any kind of creative work published in a format that explicitly allows copying and modifying of its information by anyone
(Alternative): content produced non for- profit often collectively – with the intentional purpose of making content available for further distribution and improvement by others at no cost.

FREEDOM OF ACCESS AT NO COST



scalability of freedom



scalability of costs



legal provisions & contracts related to ©

Ideal Legal Framework

Fundamental Conceptual Elements

Respect ownership and on the same time focus *on information management* taking into account that:

- The user must be allowed to undertake some actions on the content that were previously bestowed only upon the owner.
- All definitions, rights, limitations, exceptions must be coherent and harmonised in all member/states. No sector-specific rules deviations
- Enforcement mechanisms & measures should be effective & narrowed to specific acts that lead to infringement of ownership rights
- Security measures related to © protection should be flexible and successful without seriously affecting the user's rights

Suggestions

⇒ **The scope should be:**

to rely on the power of © protection to
structure open content downstream and
interoperability of users and owners in
combination with the freedom of contract
regime.