



INTELLECTUAL PROPERTY THEFT: A THREAT TO U.S. WORKERS, INDUSTRIES, AND OUR ECONOMY

The motion picture, television, theater, and music industries are vital sectors of the U.S. economy. They employ millions of U.S. workers, generate revenues for local businesses and communities, and are among the all-too-few U.S. industries that generate substantial trade surpluses in the midst of growing U.S. trade deficits. The theft of copyrighted films, television shows, theatrical productions, and music costs the U.S. entertainment industries billions of dollars in revenue each year. That loss of revenue hits directly at bottom-line profits and those middle-class workers who earn their living in these industries. This fact sheet examines the consequences of intellectual property (IP) theft for the entertainment industries, their workers, and those in related industries.

Creative Workers and Copyright

Creative workers rely on copyright protection and royalty or residual payments to make a living from their artistic creations and performances. Even creative workers who are paid for work for hire ultimately rely on the copyright protections of the organizations that pay them. Technology is rapidly changing the way consumers enjoy arts and entertainment. Performing and craft professionals in the arts, entertainment, and media, and their unions must work to insure that these professionals are properly compensated.

- Copyright is important to creative workers because it grants certain rights and protections in their artistic creations. Copyright provides the basis on which creative workers are compensated for the use of their work.¹
 - Copyright is “a form of protection provided by the laws of the United States to the authors of ‘original works of authorship,’ including literary, dramatic, musical, artistic, and certain other intellectual works.”² This protection is secured automatically when the work is created and endures for a certain term.^a Under copyright laws, the holder of the copyright has the exclusive rights to do and authorize others to³:
 - Reproduce the work in copies;
 - Prepare derivative works based on the original work;
 - Distribute copies of the work for public sale or other transfer of ownership, or by rental, lease, or lending; and
 - Display or perform the work publicly or in the case of sound recordings, to perform the work publicly by means of digital audio transmission.
- Copyright gives the author control over intellectual property, including the right to distribute a copyrighted work. The copyright holder is able to collect money by licensing others to

^a In the case of a work of authorship of an individual, the term under the current law is life of the author plus 70 years; in the case of a work made for hire the term is 95 years from first publication or 120 years from creation, whichever is shorter.

reproduce, make derivative works from, distribute, perform, or display the copyrighted material.

- Creative workers and entertainment professionals often earn a living on copyrighted materials by receiving residual payments. Residuals are “compensation paid for the reuse of” a performer or writer’s work in a produced material, like a motion picture, television program, or sound recording.⁴ When an entertainment professional receives credit on a produced material, the entertainment professional may be entitled to compensation if the material is used beyond its original exhibition. For example, residual payments begin for an accredited worker on TV production, “once the show starts re-airing or is released on video, pay television, broadcast TV, basic cable, or new media.”⁵
- Creative workers also earn a living on copyrighted sound recordings through the receipt of royalties from the sale and distribution and the public performance of their creative work.
- Unfortunately, not all countries respect copyright laws. To improve copyright protections around the world, the United Nations (UN) created a specialized agency, the World Intellectual Property Organization (WIPO) to promote intellectual property protection through greater cooperation and collaboration among states and international organizations.⁶

Copyright Industries and the U.S. Economy

In March 2012, the United States Patent and Trademark Office and the Economics and Statistics Administration published “Intellectual Property and the U.S. Economy: Industries in Focus.” According to the study, over the course of two decades (1990-2010), shrinking employment in patent-intensive industries (the result of diminishing manufacturing jobs) was offset by expansion in the copyright-intensive ones.

- Copyright-intensive industries include: newspaper, periodical, book, and directory publishers; software publishers; motion picture and video industries; sound recording industries; radio and television broadcasting; and cable and other subscription programming.
- Through 2011, the copyright-intensive industries saw the largest percent job growth of the IP-intensive industries, 2.4 percent.
- In 2009, there were about 93,000 copyright registrations covering performing arts works, such as films, musical and dramatic works, and choreography. There were 75,000 registrations for works of visual and applied art, and registrations for sound recordings totaled 42,000.⁷

The Entertainment Industries: Economic Powerhouses

The entertainment industries are a thriving, if often overlooked, part of the U.S. economy.

- The U.S. Bureau of Economic Analysis and the National Endowment for the Arts estimated that in 2011, the arts and culture sector of the economy contributed \$502 billion or 3.2 percent of Gross Domestic Product (GDP). This sector includes motion picture and video production, advertising services, cable television production and distribution, publishing, and the performing arts.⁸ In 2011, the U.S. Department of Commerce reported that performing arts, spectator sports, museums, and related activities were a value added to the U.S. economy, generating \$83 billion (0.6 percent of GDP).^b The motion picture and sound

^b The U.S. Department of Commerce, Bureau of Economic Analysis determines the “value added” to the U.S. economy as an industry’s “gross output (which consists of sales or receipts and other operating income, commodity

recording industries were value added to the U.S. economy, adding \$114.9 billion to the nation's GDP in 2013.⁹

- The arts and entertainment industries employ millions of workers. In 2014, there were 905,000 businesses in the U.S. involved in the creation or distribution of the arts.¹⁰
 - In 2014, there were over 2.9 million people employed in arts, design, entertainment, sports, and media occupations.¹¹ This does not include the many persons employed in retail and other “downstream” or “secondary” industries (movie rental stores, music stores, online retailers, etc.) that also depend on the entertainment industries.
 - The performing arts, spectator sports, museums, and related activities employed 468,000 full and part-time employees in July 2015.¹² In addition, the motion picture and video industries employed nearly 377,470 workers in May 2014.¹³
- In addition to being a thriving part of the U.S. economy, the entertainment industries are also some of the most densely unionized industries in the U.S. Many unions represent professionals in a host of capacities in the entertainment industries. Among them are Actors' Equity Association, the American Federation of Musicians, the American Guild of Musical Artists, the American Guild of Variety Artists, the Guild of Italian American Actors, the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts, the International Brotherhood of Electrical Workers, the Office and Professional Employees International Union, SAG-AFTRA, and the Writers Guild of America, East.

Supporting Professionals, Supporting Communities: Motion Picture and Television Production

Motion picture and television production has an economic impact that extends far beyond what is seen onscreen and offers a concrete example of broad economic benefits. The U.S. motion picture and television industry is a jobs engine nationwide, employing millions of U.S. workers, and supporting numerous small businesses and entrepreneurs.

- The U.S. motion picture and television industry is an important contributor to the U.S. economy, with a \$113 billion trade surplus in 2013 and employing 1.9 million people. The motion picture and television industry employs not only actors, writers, and craftspeople on set, but also generates vital secondary industries, like movie theater staff, costume dry cleaners, and on-set caterers.¹⁴
- In 2013, the movie and television industry made \$40 billion in payments to U.S. vendors, suppliers, small businesses, and entrepreneurs. That same year the industry paid \$47 billion in wages to American workers.¹⁵
- The economic impact of the motion picture and television industry extends far beyond California and New York. All fifty states and the District of Columbia have activity in film and television production, providing jobs and business to local communities.

taxes, and inventory change) minus its intermediate inputs (which consist of energy, raw materials, semi-finished goods, and services that are purchased from domestic industries or from foreign sources).”



Defending U.S. Jobs and Benefits Requires Combating Theft

The broad reach of the entertainment and copyright industries^c means that digital theft and counterfeiting hurt average American workers and the U.S. government.

A 2010 report by the Government Accountability Office (GAO), *Intellectual Property: Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods*, reviews the literature measured the effects of IP theft^d on a range of goods and services, from media to pharmaceuticals. The GAO found that data measuring the economic impacts of digital theft are difficult to obtain and hard to quantify; however, it is clear that IP theft has significant negative effects on consumers, the arts and entertainment industries, as well as the government.

- The GAO found that IP theft and counterfeiting in some industries (pharmaceuticals, for example) may negatively affect consumers by compromising their health and safety, as well as provide the consumer with lower quality goods.
- The GAO also found that the arts and entertainment industries incur losses on sales of products like CDs and DVDs as a result of IP theft and that the low quality of stolen goods can damage a brand or artist's value and image. Arts and entertainment businesses incur increased costs trying to protect intellectual property, which, coupled with a loss of sales from digital theft, decreases the incentives for companies to invest in research and development and new production.
- The government is also negatively affected by IP theft. The government is responsible for the cost of enforcing all U.S. intellectual property laws while losing tax revenue that would be generated by the sale of lawful goods.

The GAO study found that no single calculation is effective for accurately measuring revenue and job loss as a result of copyright infringement and counterfeit production. The illegal nature of digital theft makes quantifying the economic impact difficult. The difficult question is how many people who download illegal content would purchase the legitimate product. Research in specific areas found that the counterfeiting and digital theft problems are sizable.¹⁶ The estimates developed by several organizations monitoring IP theft put losses in the billions.

No part of the entertainment industry is immune from the adverse impact of intellectual property theft. Live theatre, for example, has begun to be “cinecast” or shown in movie theatres to expand the number of audiences able to take in stage performances. This then opens stage productions to the same tactics IP thieves use to steal motion pictures, which, again, results in a loss of income to the producers, artists, and craftspeople. While the theft of captured live performance is unlikely to shut down the live performance, it still has an impact on the earnings of all involved.

^c Here the term “copyright industries” refers to the industries that produce the “core” copyright products: motion pictures, sound recordings, packaged software, and video games. These industries rely heavily on copyright or patent protection to generate revenue, employ and compensate workers and contribute to real growth.

^d For the purposes of this Fact Sheet, we use “intellectual property theft” or “IP theft” to refer generally to infringements of copyrights and patents, whether through digital theft or counterfeiting. We use “digital theft” to refer to stealing electronically recorded or transmitted content; by “counterfeiting,” we generally refer to making and selling imitations of physical goods without authorization.

Digital Theft Grows

Digital theft rapidly grew in 2000 and 2001 with increasing Internet speeds and the birth of online technologies that facilitated networked file sharing. Digital theft, theft that occurs over the Internet, has become the largest source of IP theft in recent years. This is because products stolen digitally can be streamed instantly and illegal downloads can be replicated thousands of times and transferred around the world.

- In the first 6 months of 2014, “more than 500 million unique IPs shared files globally, accounting for more than 17 billion downloads and \$275 billion dollars of unmonetized demand.”¹⁷
- In the second quarter of 2014, the Netflix original series *Orange is the New Black* was downloaded from peer to peer networks 60.8 billion times.¹⁸ AMC’s *Breaking Bad* had an unmonetized demand of \$4 billion.¹⁹ Music, movies, TV shows, software, video games, books, photos, and periodicals are just some of the products that are stolen through digital theft.

While digital content is still stolen and sold by street vendors in U.S. and international cities, most of the distribution of copyright-protected digital content now occurs online. The music industry has been hit especially hard by digital theft because song files are small enough to transmit quickly even over slow internet connections.

- According to a Columbia University study, 70 percent of young adults between 18 and 29 had illegally copied or downloaded music or video files.²⁰ At the same time, recorded music revenue is down 64 percent since 1999, per capita spending on music is 47 percent lower than it was in 1973, and the number of professional musicians has fallen 25 percent since 2000.²¹
- According David Lowery, a musician and instructor at the University of Georgia, “The average income of a musician that files taxes is something like 35k a year w/o benefits. The vast majority of artists do not make significant money on the road. Until recently, most touring activity was a money losing operation. The idea was the artists would make up the loss through recorded music sales. This has been reversed by the financial logic of file-sharing and streaming.”²²

Combating Intellectual Property Theft

In April 2012, AFL-CIO President Richard Trumka spoke about the link between intellectual property and American jobs²³:

“Entertainment professionals depend not just on pay, but on a share of ‘downstream revenue’ from the repeated use of a show, film, or recorded music after its initial release. Three-quarters of the revenues for a motion picture come after its initial theatrical release. More than half of scripted television revenues come after the first run. These downstream revenues yield the residuals and royalties that sustain entertainment professionals between projects and fund their pension and health care plans. But along with billions of dollars each year, digital theft has cost the U.S. entertainment industry countless jobs.”

Trumka also highlighted the consequences intellectual property theft has on American jobs and the importance of taking action to stop it:

“While intellectual property is necessary to U.S. jobs, incomes and the economy as a whole, it is not enough by itself to grow good jobs. It is only one part of a larger picture that requires coordinated industrial and trade policies.”

¹ Library of Congress, United States Copyright Office, *Copyright Basics*. (Circular 1 2 1.0512), 2012. <http://www.copyright.gov/circs/circ01.pdf>.

² *Ibid.*

³ *Ibid.*

⁴ Writers Guild of America, West, *Explanation of Disbursement of Residual Payments after Death*. 2010. <http://www.wga.org/content/default.aspx?id=5814>.

⁵ Screen Actors Guild *Residuals FAQ* (Issue Brief), 2015. <http://www.sag.org/content/residuals-faq>.

⁶ World Intellectual Property Organization, *About WIPO*, 2010. http://www.wipo.int/about-wipo/en/what_is_wipo.html.

⁷ U.S. Department of Commerce, “Intellectual Property and the U.S. Economy: Industries in Focus,” March 2012. http://www.uspto.gov/news/publications/IP_Report_March_2012.pdf

⁸ National Endowment for the Arts, “U.S. Bureau of Economic Analysis and National Endowment for the Arts Release Preliminary Report on Impact of Arts and Culture on U.S. Economy,” News Release, December 5, 2013.

⁹ Department of Commerce, Bureau of Economic Analysis, *Gross-Domestic Product by Industry & Input-Output*. November 13, 2014.

<http://www.bea.gov/histdata/fileStructDisplay.cfm?HMI=8&DY=2014&DQ=Q2&DV=Annual&dNRD=November-13-2014>

¹⁰ Americans for the Arts, *Congressional Arts Handbook: Facts and Figures*, 2015.

http://www.americansforthearts.org/sites/default/files/pdf/2015/events/arts-advocacy-day/handbook/AAD_2015IssueBriefs_covers.pdf.

¹¹ U.S. Department of Labor, Bureau of Labor Statistics, “Employed and experienced unemployed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity, Annual Averages 2014, Table 11.” *Current Population Survey*, 2014.

¹² U.S. Department of Labor, Bureau of Labor Statistics, “Industries at a Glance: Performing Arts, Spectator Sports, and Related Industries,” 2015. <http://www.bls.gov/iag/tgs/iag711.htm#workforce>.

¹³ U.S. Department of Labor, Bureau of Labor Statistics, “May 2014 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 512100 - Motion Picture and Video Industries”. May 2014.

http://www.bls.gov/oes/current/naics4_512100.htm

¹⁴ Motion Picture Association of America, “The 2015 Economic Contribution of the Motion Picture & Television Industry on the United States Fact Sheet,” 2015. <http://www.mpa.org/wp-content/uploads/2015/02/MPAA-Industry-Economic-Contribution-Factsheet.pdf>.

¹⁵ *Ibid.*

¹⁶ GAO, “Intellectual Property, Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods.” April 2010.

¹⁷ Campbell, Thomas. “File Sharing Leaves \$275 Billion Hole in Industry,” *IP&TV News*, August 22, 2014.

¹⁸ Tretbar, Alex. “When it comes to piracy, Orange is the New Black is the new Game of Thrones,” *Digital Trends*, August 20, 2014.

¹⁹ Dixon, Colin. “Are 4B Illegal Downloads in 1H2014 that Bad?” *NScreenMedia*, August 25, 2014.

²⁰ Columbia University, *The American Assembly* “Copyright Infringement and Enforcement in the United States” November 2011. <http://piracy.americanassembly.org/wp-content/uploads/2011/11/AA-Research-Note-Infringement-and-Enforcement-November-2011.pdf>

²¹ Lowery, David. “Letter to Emily White at NPR All Things Considered,” July 18, 2012.

<http://thetrichordist.com/2012/06/18/letter-to-emily-white-at-npr-all-songs-considered>.

²² *Ibid.*

²³ Trumka, Richard, L. “Statement by AFL-CIO President Richard L. Trumka at the Eisenhower Executive Office Building on ‘Intellectual Property and the U.S. Economy: Industries in Focus.’” AFL-CIO Blog.

<http://www.aflcio.org/Press-Room/Press-Releases/Statement-by-AFL-CIO-President-Richard-L.-Trumka-at-the-Eisenhower-Executive-Office-Building-on-Intellectual-Property-and-the-U.S.-Economy-Industries-in-Focus>.

For more information on professional workers, check the DPE website: www.dpeaflcio.org.

The Department for Professional Employees, AFL-CIO (DPE) comprises 22 AFL-CIO unions representing over four million people working in professional, technical and administrative support occupations. DPE-affiliated unions represent: teachers, college professors, and school administrators; library workers; nurses, doctors, and other health care professionals; engineers, scientists, and IT workers; journalists and writers, broadcast technicians and communications specialists; performing and visual artists; professional athletes; professional firefighters; psychologists, social workers, and many others. DPE was chartered by the AFL-CIO in 1977 in recognition of the rapidly growing professional and technical occupations.

Source: DPE Research Department
815 16th Street, N.W., 7th Floor
Washington, DC 20006

Contact: Jennifer Dorning
(202) 683-0320, extension 114
jdorning@dpeaflcio.org

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