

Intellectual Property, the oil of the 21st century:

The role of Intellectual Property in the Caribbean creative sector

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Introduction

“Intellectual Property is the oil of the 21st century”-this quote by Mark Getty, founder of Getty Images.¹ Every April 26, World Intellectual Property Day is celebrated. This day was established by the World Intellectual Property Organization (WIPO) in 2002. “Innovate for a green future” was the theme of this year’s World Intellectual Property Day. The aim of this event is to raise awareness on the impact of Intellectual Property (IP) on our daily life and to celebrate creativity.² According to the World Intellectual Property Organization (WIPO), Intellectual Property is intangible property that emerges out of mental labor, such as inventions, literary, artistic works, designs, and images used in commerce.³

Intellectual Property is an essential component of the creative sector. The creative sector also involves aesthetic, identity and copyrightable goods, and services. The term cultural or creative industries illustrates the economic activities of artists, arts enterprises, and cultural entrepreneurs for profit as well as non-profit, in the production, distribution, and consumption of film, television etc. The creative industries have contributed to GDP, export growth, employment and influenced destination and intellectual Property branding in the Caribbean.⁴The significance of Intellectual Property was first acknowledged in the Paris Convention for the protection of Industrial Property (1883) and the Berne Convention for the protection of Literary and Artistic Works (1886). WIPO is the administrator of both treaties.⁵ Most Caribbean countries are members of WIPO and parties to the conventions of WIPO.⁶ Intellectual Property is protected by a body of federal and state laws. This body of laws is called “Intellectual Property Law”. Intellectual Property Law includes copyright, trade mark and patent law.⁷ The Caribbean and Americas Intellectual Property Organization (CAAIPO) promotes Intellectual Property rights and innovation.⁸

This essay explores the importance of Intellectual Property in the Caribbean creative sector, with a focus on copyright law. In setting the context for the discussion, chapter one of the essay briefly outlines the advantages and challenges of the creative sector in the Caribbean. Chapter two of this essay then provides an overview of Intellectual property rights, Intellectual Property protection, namely copyright law and some IP developments in the

¹ The oil of the 21st century, Perspective on intellectual Property < <http://oil21.org> > accessed on June 15,2020.

² World Intellectual Property Day- April 26, 2020 < <http://www.wipo.inta> > accessed on June 16,2020.

³. World Intellectual Property Organization. “What is Intellectual Property ?”, pg. 2,retrieved from: <http://www.wipo.inta/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf >accessed on June 15, 2020

⁴ Nurse, K and others, The Creative Sector in CARICOM: The Economic and Trade Policy Dimensions, pg.2, retrieved from: <https://caricom.org/documents/13188-concept_paper_creative_sector.pdf> accessed on June 16, 2020

⁵ World Intellectual Property Organization. “What is Intellectual Property ?”, pg. 3,retrieved from: <http://www.wipo.inta/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf >accessed on June 15, 2020

⁶ Summary Table of Membership of the World Intellectual Property Organization (WIPO) and the Treaties Administered by WIPO, plus UPOV, WTO and UN, < <https://www.wipo.int/treaties/en/summary.jsp>> accessed on June 16, 2020

⁷ What is Intellectual Property law ? <<https://www.hg.org/intell.html>> accessed on June 15

⁸ Caribbean and American Intellectual Property organization.’ Promoting Intellectual Property rights and innovation, < <https://www.caaipo.org/>> accessed on June 16 2020

Caribbean. Chapter three gives a review of the link between IP regimes and economic growth and the relevance of IP in Caribbean creative sector. The ends with a conclusion.

1.The creative sector in the Caribbean

1.1 Advantages of the creative sector

The Caribbean creative sector has several advantages that are recommendation for development. The creative industries have the capability to be a pillar of economic diversification and export growth in the Caribbean. The creative industries give talented and skilled people of the Caribbean the opportunity to produce competitive products and services.⁹

A second advantage of the creative sector is the main use of domestic capital. Such capital is critical for economic development. It also gives Caribbean countries the opportunity to make the best use of imported equipment, technology and know-how that can be considered as capital created elsewhere. Utilizing domestic capital allows the creative industries to produce differentiated products and service, including music, art, fashion and videos that can capture high value-added niches in international markets. Usually, there is a high demand for branded products and services in global markets because they are distinctive and supply reliable evidence of quality.¹⁰

A third advantage is the capability of the creative industries to create good quality jobs. Creative industries can help ease the chronic unemployment issue in the Caribbean countries. Since, they are based on skill and talent, they provide the prospect for more quality jobs and this could help to keep the middle-income gains that most countries have reached. Also, increasing self-employment can reduce the pressure on the state to create jobs. Further, the sector has the potential for exploiting the creative talents of the Caribbean youth, which can reduce deviant behavior.¹¹

Fourthly, the creative sector involves a combination of traditional activities like craft, art, and indigenous music, alongside modern fashion, software and multimedia. A more dynamic sector can be created out of this mix of traditional cultural activities with knowledge and technology-intensive activities. The creative industries probably offer the best prospect for developing a differentiated Caribbean brand in products and services. The Caribbean brand in the creative sector can be connected into global chains in specialized subsectors. For example, fashion designers like MeiLing and Calvin Howell can connect in trains like Chanel or Gucci.¹²

⁹ Hendrickson, M.' Creative industries in the Caribbean: a new road for diversification and export growth, pg.5, retrieved from:< <https://www.cepal.org/en/publications/5049-creative-industries-caribbean-new-road-diversification-and-export-growth>> accessed on June 19, 2020.

¹⁰Ibid., pg.9

¹¹Ibid., pg.20

¹² Ibid., pg. 20

1.2 The main creative industries in the Caribbean creative sector

The music industry

The music industry is one of the major segments of the creative sector in the Caribbean. The Caribbean music tradition is rich and diverse and is well-known in the music world. Genres such as Reggae, Dancehall, Calypso, Soca, Steel pan and Salsa reflects the creations of artists such as Bob Marley, The mighty Sparrow, Beenie man, Machel Montano and Sean Paul. The biggest exporters of music in the Caribbean are Jamaica and Trinidad and Tobago and they also have the most developed music industries. Trinidad and Tobago exports Soca and calypso, while Jamaica exports its indigenous genres, Reggae and Dancehall.¹³

Performing arts

The focus of the performing arts is live presentation of dance, drama, music, speech and traditional folklore among others. The colonial legacy had a big influence on the performing arts. The Caribbean region is internationally famous for its music, dance and folklore. The Caribbean has approximately over 1000 artists and cultural organizations, over 100 dance companies, 50 theatre companies, 40 non-religious chorale ensembles, and dozens of informal community-based folks performing groups. There are dozens of professional practitioners in the bigger islands. Trinidad and Tobago have nearly 64 dance schools offering instructions in Latin Dance, Ballet, Folk, and East-Indian dance, modern dance, ballroom dance styles, and in Barbados there are nearly 35. Most of these schools in these countries have full scale performing ensembles that perform locally and tour regionally and internationally.¹⁴

Visual arts

Visual arts refer to painting, drawing, photography and sculpture. This Subsector has been depended on the resources of entrepreneurs because it has not been adequately supported by the government. There's a relatively high failure rate among art galleries, due to the lack of support services and financial assistance. Only the successful art galleries capture most of the market. A few institutions in the Caribbean offer training in visual arts, such as The University of The West Indies (UWI) Centre For Creative Festival Arts in Trinidad and Tobago, The Edna Manley College of Visual and Performing arts in Jamaica, and The Barbados Community College.¹⁵

Audiovisual

Audiovisual covers sound and visual components, film, television and video. This subsector is small and underdeveloped. A few videos(music), television programs and documentaries are produced in the Caribbean. There seems to be an incomplete niche in high-quality documentaries and children's programs like cartoons. However, the production of such programs is relatively expensive. In this segment of the market, the fairly low cost that large

¹³ Ibid., pg. 23

¹⁴ Ibid., pg. 26-27

¹⁵ Ibid., pg. 25-26

United States media house charge, has an influence on the Caribbean demand. Thus, the film market is dominated by United States films.¹⁶

1.3 The challenges of the Caribbean creative sector

The creative industries sector faces challenges in several areas. The issue areas are: trade and border measures, incentives regimes, organizational issues, industrial and innovation issues. The Caribbean also face several challenges that are linked to small and peripheral economies, such as poor management and inadequate information systems, shortage of skilled employees, inadequate training, poor manufacturing and service facilities, uncompetitive packaging and branding, weak marketing and distribution channels, high levels of copyright infringement, weak rights management and royalties collections. Furthermore, there tends to be a historical, institutional and commercial bias against indigenous content in local market. This is a barrier for local entrepreneurship, investment and market development. The Caribbean Single Market and Economy has not succeeded in delivering its potential advantages to the creative industries because of member states not fulfilling their obligations. At regional and national level, the Caribbean government has been slow to supply resources to institutions and policies targeting creative industries.¹⁷

2. Intellectual Property in the Caribbean creative sector

2.1. Intellectual Property Rights

There are two categories of Intellectual Property: Industrial Property and Copyright. Industrial Property involves patents for inventions, trademarks, industrial designs and geographical indications. Copyright includes literary work, films, music, artistic works, and architected designs.¹⁸ According to the World Trade Organization (WTO), Intellectual Property rights are legal rights given to the creator to protect his creation for a certain period of time. These legal rights grant an exclusive right to the creator to fully exploit his creation for a certain period of time.¹⁹ Intellectual Property Rights are outlined in Article 27 of the Universal Declaration of Human Rights.

IPR's include the following:

- Copyrights and related rights

¹⁶ Ibid., pg.25

¹⁷ Ram, J. and Kendall, P. ' Literature Review of the Economic Impact of Creative Industries on the Caribbean Economy, pg.2, retrieved from:
<https://www.ceintelligence.com/files/documents/Review%20Caribbean%20Creative%20Industries%20Economic%20Impact_07_02_15.pdf> accessed on June 20, 2020

¹⁸ World Intellectual Property Organization. "What is Intellectual Property ?", pg. 2 ,retrieved from:
http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf > accessed on June 15, 2020.

¹⁹ World Trade Organization. 'What are Intellectual Property rights?'
<https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm> accessed on June 18, 2020

- Trademarks
- Patens
- Industrial designs
- Integrated circuit designs, plant varieties and trade secret

There are several compelling reasons why Intellectual Property rights should be promoted and protected. Primarily, the progress and well-being of human's rests on its potential to create and invent new works in the areas of technology and culture. Secondly, the commitment of additional resources for further innovation is stimulated by the legal protection of new creations. Finally, the promotion and protection of Intellectual Property stimulates economic development, creates good jobs and industries, and improves the quality of enjoyment of life.²⁰

2.2. Intellectual Property protection: the law of copyright in the Caribbean

2.2.1 Definition of copyright

Copyright is a form of legal protection given to the creator of original creative work. The concept of copyright is defined in national legislation. Copyright law only protects the form of expression of ideas, not the ideas themselves. The creativity that is protected by copyright law is creativity in the choice and arrangement of words, musical notes, colors, shapes, and movements.²¹

Types of work protected under most national copyright laws:²²

- Literature: novels, short stories, essays, poems, manuscripts, articles, computer software, and smartphone apps.
- Music: musical notes, melodies, and lyrics of a song or jingle, operas, and musical plays.
- Sound recordings: podcasts, CD, and recorded speeches.
- Audio-visual: movies, television shows, online videos, stage plays, video games and slideshows, pantomimes, and choreography.
- Art: graphics, fine arts, photographs, maps, diagrams, and sculptures.
- Architectural: architectural plans and drawings associated with it.

The main purpose of copyright is to grant creators the incentive and reward for sharing their original work. Creator can reap the economic benefits from their copyrighted work and receive proper recognition. They also have the power to decide on how their work may be

²⁰ World Intellectual Property Organization. "What is Intellectual Property ?", pg. 3 ,retrieved from:<http://www.wipo.inta/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf > accessed on June 15, 2020

²¹ Copyright law 1913, section 1(1)> original name "Wet Auteursrechten 1913"

²²Module 2, Copyright and Related rights, pg.2, available at: < https://www.wto.org/english/tratop_e/trips_e/ta_docs_e/modules2_e.pdf> accessed on June 20, 2020.

reproduced, distributed, adapted, derived, aired streamed or displayed.²³ Most Caribbean nations have signed the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement and are therefore charged with maintaining the types of minimum Intellectual Property protection that are outlined in the treaty. For example, a rule of the TRIPS Agreement is automatic copyright protection. No formalities are required as a precondition for obtaining copyright. This principle is contained in Article 5(2) of the Berne Convention. A copyright has a term or length depending on when the work itself was created. Based on the TRIPS agreement the term of copyright is the life of the author and for fifty years after the author's death. This rule is outlined in Article 7(1) of the Berne Convention. The Berne Convention is incorporated in the TRIPS Agreement.²⁴ .

2.2.2 The limitations of Copyright

Article 13 of the TRIPS Agreement permits members to give limitations and exceptions to the exclusive rights of authors in respect of particular acts of exploitation. There are two types of limitations:

- Free use (use of protected works without the obligation to ask for authorization and to pay any remuneration)
- Non-voluntary license (permitted use of protected works without authorization but with the obligation to pay equitable remuneration to right holders)

Free use of copyrighted works is permitted for some specified purposes, subject to certain conditions. Examples of such use include quotations, illustrations for teaching purposes, and reporting of current events (Articles 10 and 10bis of the Berne Convention).²⁵ Across the Caribbean there are different degrees of the idea of free use in the protection of copyright. Free use balances the interests of both the copyright holder and the end users. The Jamaica copyright Act 1993 clearly outlines the idea of fair dealing. This act gives the end user a number of permissions to use works fairly and without fair, while giving significant protection to the author or creator.²⁶

2.2.3 Benefits of copyright protection

Copyright protection has some benefits. Firstly, copyright protection is a key component in encouraging human creativity and innovation. Secondly, the multibillion-dollar film, recording, publishing and software industries brings joy to millions of people in the world and it would not exist without copyright protection. Thirdly, individuals and companies can easily invest in the creation development and global dissemination of their works, when the existence and enforceability of rights is guaranteed. This can assist to enlarge the enjoyment of culture, knowledge and entertainment and encourage economic and social development²⁷.

²³ Ibid., pg.1,6

²⁴ Ibid., pg. 5,11

²⁵ Ibid., pg.8

²⁶ The Copyright Act 1993, section 52-54

²⁷ World Intellectual Property Organization. "What is Intellectual Property ?", pg. 20-21 ,available at : <http://www.wipo.inta/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf > accessed on June 15, 2020

2.2.4. Copyright infringement

Copyright infringement refers to the violation of a person's Intellectual Property. It is the theft of someone's original creation, especially if the person who stole reaps the benefits and not the creator of the work. An example of copyright infringement is the use of music in your videos. If you have not been granted the permission to use the song as background music for your business presentation or your own creative work, then you are violating copyright laws. The major forms of copyright infringement are: counterfeiting and piracy.²⁸

Counterfeiting

Counterfeiting refers to an infringement of the legal right of an owner of Intellectual Property. Technically, the term 'counterfeiting' only includes cases of trademark infringement, but counterfeiting can also result in copyright infringement.²⁹ The intention of the maker of a counterfeit good is to make the product look exactly like the original and deceive customers in to believing that they are buying the original product at a low price. Consequently, violating the Agreement on Trade-Related Aspects of Intellectual Property Rights.³⁰

Piracy

Piracy is the act of illegally reproducing or spreading copyrighted material, such as computer, programs, books, music, and films.³¹ The Caribbean countries are considered developing countries under the TRIPS agreement. Many have been afflicted with piracy and other types of behavior that infringes IPR, s of others. The domestic scale of pirated goods is seen as beneficial in the developing countries. They are the basis of important consumer spending for citizens and tourists.³²

The economic and social impacts of counterfeiting and piracy

Firstly, counterfeiting and piracy decrease innovation, directly affects job creation and economic growth. Secondly, counterfeiting and piracy endanger consumers health and safety. Some consumers intend to buy genuine products, but they unknowingly end up buying the pirated and counterfeit goods and there are others who knowingly buy counterfeit and pirated product. In both cases, an increasing number of products are often substandard and carry significant risks that range from mild to life threatening. Thirdly, the trade in fake goods is

²⁸ What is copyright infringement and how to avoid it, < <https://www.copyrighted.com/blog/copyright-infringement> > accessed on June 22, 2020

²⁹ Vithlani, H. "The Economic Impact of Counterfeiting, OECD, The Head of Publication Service, OECD, Andre' Pascal, 1998, pg.5, retrieved from: < <http://www.oecd.org/sti/ind/2090589.pdf> > accessed on June 21, 2020

³⁰ Agreement on Trade Related Aspect of Intellectual Property Rights, World Trade Organization, 1994, pg.320, retrieved from: <http://www.wto.org/english/docs/legal_e/27-trips.pdf > accessed on June 23, 2020

³¹ Vithlani, H. "The Economic Impact of Counterfeiting, OECD, The Head of Publication Service, OECD, Andre' Pascal, 1998, pg.5, available at: < <http://www.oecd.org/sti/ind/2090589.pdf> > accessed on June 21, 2020

³² 'THE CARIBBEAN INTELLECTUAL PROPERTY OFFICE (CARIPO): NEW, USEFUL, AND NECESSARY, pg. 575, retrieved from: < <https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?article=1058&context=ilr> > accessed on June 24, 2020

viewed as a high profit and low risks because of the high profit margins from counterfeiting. As a result, they have become a striking investment for organized crime. lastly, counterfeiting and piracy influence the public budgets of member states. As a result of pirated and counterfeit goods smuggled through custom and sold on grey markets, millions in tax revenues are lost every year. At the same time, member state governments often bear the costs associated with addressing the consequences of counterfeiting through further expenditure on consumer health and safety and law enforcement.³³

2.3 Intellectual Property developments in the Caribbean

Intellectual Property protection in the Caribbean came about in separate stages. The manner in which it happened is somewhat associated with timing, circumstances, and degree of independence of each particular nation state. Economies of scale also had an impact because most of nations are relatively small and therefore, have not had the money or inclination to develop strong IPR regimes.³⁴

Important Caribbean Intellectual Property developments

A number of Caribbean countries have taken the step to update their Intellectual Property laws, despite their lesser-regarded state in the global market. Others have simply depended on the previous legislation of their former colonial hosts. A brief look at some of the active states shows that progressive action is a matter of education, political will, and some measure of fiscal support as opposed to relying on the size of the nation or when it was granted independence.³⁵

Belize

Belize became independent in 1964 as British Honduras, and officially became Belize in 1973. The Belize Intellectual Property Office was instituted (BILIPO) in the year 2000. The mission of BILIPO is to create an adequate and modern Intellectual Property system leading to emergence of a vibrant IP culture in Belize. The office manages copyrights, industrial designs, patents, trademarks, plant varieties, protection of integrated circuits and also Traditional Culture knowledge. Significantly, Belize has updated all of its IP laws during the last ten years and is considered in full compliance with its obligations under TRIPS Agreement, with the motivation of WIPO. Belize, through BELIPO, is at the front line of IP improvement in the Caribbean and serves as both an incentive and model for comparable activities all over the region.³⁶

³³ 'The Economic Impacts of Counterfeiting and Piracy, pg. 6-12, available at:

< <https://iccwbo.org/content/uploads/sites/3/2017/02/ICC-BASCAP-Frontier-report-2016.pdf>> accessed on June 25, 2020.

³⁴ 'THE CARIBBEAN INTELLECTUAL PROPERTY OFFICE (CARIPO): NEW, USEFUL, AND NECESSARY, pg. 573, retrieved from: < <https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?article=1058&context=ilr>> accessed on June 24, 2020.

³⁵ Ibid., pg.575

³⁶ Ibid., pg. 567-577

Barbados

Barbados has been another Caribbean state that is taking valuable steps toward improvement of Intellectual Property rights. Barbados was granted independence in 1966, but still keeps ties as part of the Commonwealth order, like other Caribbean nations. The IP office of Barbados is “The Corporate Affairs and Intellectual Property (CAIPO), which handles IP matters and advise government officials on technical and political issues concerning nation IPR regimes. Most of the revisions to Bajan Intellectual Property Law took place in the late 1990’s and were also stimulated by WIPO outreach efforts. WIPO sought to get the developing countries TRIPS compliant. Barbados is also considered TRIPS compliant. The Bajan Intellectual Property Law were inspected by the WTO TRIPS council in 2001.³⁷

Jamaica

Jamaica gained independence in 1962 and is also maintaining ties with the UK. Jamaica significantly modernized its Intellectual Property Laws to become TRIPS compliant and has seen an increase in the number of applicants seeking protection both nationally and internationally. This increase has been primarily in the area of copyright and trademarks. The Jamaica Intellectual Property Office (JIPO) was established in 2001. JIPO concentrates on the management of all IP matters, therefore making registration more accessible and user friendly. Jamaica has especially been active in the area of copyright because of its status as the world’s recognized originator and major producer of Reggae and Dancehall music. Jamaica is still working on strengthening its recognitions and protection of IPR’s for benefit of national and international rights holders and for the economic and trade benefits it receives through its bilateral and multilateral agreements.³⁸

Suriname

Suriname was granted independence in 1975 and it is only Dutch speaking country of the CARICOM.³⁹ The Intellectual Property office of Suriname is “Bureau Intellectueel Eigendom (BIE)”. It is an agency of the ministry of Trade, Industry and Tourism. This office has the mandate to administer Intellectual Property matters locally and it only facilitates the registration of trademarks, which confer upon registered proprietors the exclusive right to utilize and benefit from their trademark in Suriname. It also collaborates with national and international organizations to protect the interests of IP owners.⁴⁰ Suriname is taking valuable steps to improve its Intellectual Property Laws. Suriname revised its copyright law in 2015. Meanwhile, the government has taken the initiative to draft new legislation. This will be

³⁷ Ibid., pg. 577-578

³⁸ Ibid., pg.578-580

³⁹ Buddingh’, H. ‘De onafhankelijkheid van Suriname, pg. 2-3

⁴⁰ ‘Bureau Intellectuele eigendom Suriname, < <http://tradeandindustry.gov.sr/diensten/bureau-intellectuele-eigendom-bie/>> accessed on June 24, 2020

settled based on existing laws and new development concerning Intellectual Property protection.⁴¹

Caribbean nations have ratified several international treaties that aim to protect Intellectual Property, including the Berne Convention for Protection of Literary and Artistic works. All CARICOM countries have ratified this convention. In addition, a number of Caribbean countries have introduced copyright legislation to encourage the development of their creative industries. The aim has been on strengthening right regimes, accelerating registration, and the use of improved measures to prevent piracy and other forms of exploitation. A couple of collective management organizations, such as the Copyright Music Organizations of Trinidad and Tobago and the Eastern Caribbean Collective Organization for Music Rights, have been assisting with the enforcement of copyright and collective rights management.⁴²

3. The relationship between IP and the Caribbean creative sector

3.1 IP protection and economic growth

Intellectual Property is one of the critical features of the creative sector. It's integral to the creative sector success. IP plays a role in defining and providing a financial and regulatory architecture for the creative industries. With patents, trademarks, copyright and other property rights as the principal assets of creative activities, IP is a critical component of the health and growth of the Caribbean creative sector.⁴³

Consequently, optimal growth of creative industries relies on IP laws protecting Intellectual Property and balancing owners' interests. Improving IP legal systems to be more responsive to the characteristics of the creative global market will strengthen the likelihood of consistent growth of the creative sector. The disadvantage of weak IP laws is uneven and unpredictable growth in the creative sector. This situation presents a particular challenge for the developing countries. For a number of this countries, the creative sector is least likely to have the benefit of a strong functioning system of registered copyrights or designs or strong institutional support. The result is often an unreliable source of income and also no ability to claim

⁴¹ 'Auteurswet gewijzigd op vrijdag de 13^e , < <https://uitgaan.uitsu.com/auteurswet-gewijzigd-op-vrijdag-de-13e/> > accessed on June 24, 2020.

⁴² Hendrickson, M.' Creative industries in the Caribbean: a new road for diversification and export growth, pg.51, retrieved from:< <https://www.cepal.org/en/publications/5049-creative-industries-caribbean-new-road-diversification-and-export-growth> > accessed on June 19, 2020.

⁴³ Nurse, K and others, The Creative Sector in CARICOM: The Economic and Trade Policy Dimensions, pg.2, retrieved from: <https://caricom.org/documents/13188-concept_paper_creative_sector.pdf> accessed on June 16, 2020.

attributions when works are appropriated by third parties. Thus, there is a strong correlation between an economy with flourishing creative industries and effective IP law systems.⁴⁴

3.2 The importance of IP in the Caribbean creative sector

A 2012 WIPO study on the economic contribution of copyright has confirmed that copyright has a significant economic contribution. The study was built on data from 30 national studies in all continent and among both developed and developing countries.⁴⁵ A study (James 2007) on copyright-based industries shows that copyright is the form of IP that is mostly used in Caribbean. Copyright protection drives development in the Caribbean creative sector and contributes to the national economy. The creative industries make a contribution to GDP. Based on James (2007) study the contribution to Jamaica's GDP in 2005 was approximately US\$464.7mn or 4.8% of GDP. All of the money came through copyright protection.⁴⁶ According to James (2012) study the contribution of copyright industries to GDP of Trinidad and Tobago has increased from 3,9% in 2000 to 4% in 2007 and to 4,8 % in 2011.⁴⁷

It's indisputable that the Caribbean region is very rich in culture, arts and music. While all Caribbean states have national legislations regulating copyright law, the protection of copyright is a major challenge and this continues to have grave implications for creative industries in the region. The production of Reggae music in Jamaica has been labeled a multi-billion industry, but little of that money has gone to Jamaican artists and citizens. Meanwhile, Jamaica and other Caribbean countries are collecting royalties for foreign music so that the money can be paid abroad. The absence of strong IP legal systems throughout the Caribbean signifies that there is no mutual economic benefit. For this reason, a number of copyright-related organization have arisen, such as the Jamaica Anti-Piracy Alliance (JAPA) in 2005 and Jamaica Music Society (JAMMS) in 2006 as well as the Jamaican Copyright Licensing Agency (JAMCOPY). Registration and notable litigation have risen in Jamaica as a result of these developments.⁴⁸ The economic impact of IP is only one facet of the story. The significance of IP can also be seen in the performing arts, namely arts of folktales, folklore,

⁴⁴ Dixon, A. 'Intellectual Property: Powerhouse for Innovation and Economic Growth, pg. 12-14, retrieved from: <<https://iccwbo.org/content/uploads/sites/3/2011/02/Intellectual-Property-Powerhouse-for-Innovation-and-Economic-Growth.pdf>> accessed on June 24, 2020.

⁴⁵ 'WIPO study on the economic contribution of copyright-based industries, available at: <https://www.wipo.int/export/sites/www/copyright/en/performance/pdf/economic_contribution_analysis_2014.pdf> accessed on June 25, 2020

⁴⁶ Vanus, J.' The Economic Contribution of Copyright-based industries in Jamaica, Mona, UWI, 2007, available at: <https://www.wip.int/export/sites/www/copyright/en/performance/pdf/econ_contribution_c_ja_df> accessed on June 27, 2020

⁴⁷ Vanus, J. ' The Economic Contribution of Copyright-based industries in Trinidad and Tobago, Mona, UWI, 2012 available at: <http://www.ipo.gov.tt/downloads/Relevant_Studies/econ_contribution_cr_tt.pdf> accessed on June 27, 2020

⁴⁸ 'THE CARIBBEAN INTELLECTUAL PROPERTY OFFICE (CARIPO): NEW, USEFUL, AND NECESSARY, pg. 580, retrieved from: <<https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?article=1058&context=ilr>>

folksongs and instrumental music and all of that contributes to the enhancement of the Caribbean society.⁴⁹

Conclusion

There is no doubt that the Caribbean region has enormous creativity. Intellectual property is the catalyst that transforms creative activity into creative industry and value. The creative industries make substantial contributions towards national economic growth through the exploitation of the creative skills of their workforce and the generation of Intellectual Property. Adequate and stable Intellectual Property systems impact the economic growth, social and cultural well-being of a country. For example, studies have confirmed that Caribbean countries earn money through copyright protection. Therefore, Intellectual Property protection is an important determinant of economic growth. IP also promotes cultural expression and diversity. As a result, other nations can see the rich and diverse culture of the Caribbean. Intellectual Property can be compared to oil. Some people became wealthy extracting natural resources, such as oil, gold, diamonds etc. In this day and age people also get rich out of Intellectual property.

⁴⁹ Hendrickson, M. Creative industries in the Caribbean: a new road for diversification and export growth, pg. 23-27, retrieved from: < <https://www.cepal.org/en/publications/5049-creative-industries-caribbean-new-road-diversification-and-export-growth> > accessed on June 19, 2020.