The Impact of Balance

WIPO SCCR
Nov. 14, 2017
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Growth of Openness, 1970 - Present

Middle Income Countries

High Income Countries

- General Exception
- Quotation
- Education
- Personal & Private Uses
- Computer Programs
- Text and Data Mining
- Transformative Use
- Library

2016

1970

0.0
0.5
1.0
1.5
2.0
2.5
3.0
Openness Score and Performance of Firms Receiving Investment by U.S. Multinationals

Logged U.S. Dollars

Openness Score

Net Income

Total Sales

Value Added

Net Income

Total Sales

Value Added
Openness and Scholarly Output

Citable Documents per 100,000 Population

- Below median openness score
- Above median openness score
<table>
<thead>
<tr>
<th>Washington Principles on Copyright Balance</th>
<th>Treaty Provision Examples</th>
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</thead>
<tbody>
<tr>
<td>Protect Open, Flexible, General Exceptions</td>
<td>WIPO Copyright Treaty art. 10 footnote 9 Agreed Statement (“may extend”); US-Korea Free Trade Agreement art.18.4 footnote 11 (“may adopt … fair use”); Marrakesh Treaty, art. 10 (“may “ implement through “fair practices, dealings or uses”)</td>
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<tr>
<td>Promote Balance</td>
<td>WIPO Copyright Treaty preamble (objective of promoting “balance”); Beijing Treaty on Audiovisual Performances preamble (same); TPP Article 18.66: Balance In Copyright And Related Rights Systems (“Each Party shall endeavour to achieve an appropriate balance”)</td>
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<tr>
<td>Provide Digital Exceptions</td>
<td>EU Infosoc Directive Art 5 (requiring exceptions for “temporary” to enable “transmission in a network”)</td>
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<td>Ensure Legitimate Exceptions for Anticircumvention</td>
<td>Marrakesh Treaty art. 7 (requiring appropriate measures to ensure that prohibitions against circumvention do not prevent limitations and exceptions); Beijing Treaty, footnote 10, agreed statement concerning art. 15 (“nothing … prevents … measures to ensure … limitations and exceptions”).</td>
</tr>
<tr>
<td>Guarantee Proportionality in Enforcement</td>
<td>TPP art.18.17 (“shall take into account the need for proportionality”); TPP art. 18.68 (“A Party may provide that the criminal procedures and penalties do not apply to a non-profit library, museum, archive, educational institution, or public noncommercial broadcasting entity”)</td>
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Copyright & Education in the Digital Environment: Challenges & Opportunities

Posted by PIJIP on November 13, 2017

Tuesday, November 14, 13:00 Luncheon; 13:20 Panel Discussion
@World Intellectual Property Organization, Room A, AB Building
Sponsored by: The Brazilian Delegation to WIPO, and the American University Washington College of Law Program on Information Justice and Intellectual Property