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The Effect Of Business Innovation Capital and Social Innovation Capital On the Value Of Copyrights

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ABSTRACT

This paper discusses copyrights as a value system by using the value-in-use assumption as a point of departure. By examining Finnish record and music companies' value creation practices in twenty-nine qualitative interviews, the paper identifies copyright value as dependent on two forms of relational innovation capital. By deploying their business innovation capital, companies create and develop products and services, which form the basis for the emergence of their copyrights. Social innovation capital is used in influencing the copyright policy. It is proposed that the value of copyrights will be greater when the company succeeds in using its business and social capital in innovating products, services and policies, which have high user-perceived relevance and usability. Further, companies could facilitate user value creation more efficiently by resorting to fairly broad copyright limitations and exceptions and by developing products and services that have a capacity to deliver social and hedonic benefits, which are typical consequences in P2P networking.

Keywords: *Copyright value, value in use, relational innovation capital, business innovation capital, social innovation capital*

1 THE RESEARCH SETTING

Copyright has been a subject of increasing interest and contradictions since the emergence of digital technologies and the Internet. In the public debate, lots of energy has been put in discussing what counts as a copyright infringement and how copyright law should be changed. Less has been said about copyright as a value system, in which innovators and innovation users co-create value by deploying their relational capital. This is the area of discussion in this paper. We want to know (1) how value emerges for companies' copyrights and (2) what is the role of relational innovation capital in the formation of companies' copyright value? Copyright is examined in an innovation network context and by using the value-in-use assumption as the point of departure. The empirical evidence is derived from the recording industry.

Record companies' (which produce primarily records) and music companies' (which offer a wide range of services including record production) copyrights are embedded in recordings. Hence, when trying to find out, how copyright value emerges, we must first study the process of creating and producing a record, which is here considered as an act of co-creating value between allied business actors. It is viewed as a form of business network innovation, which adds to the financial value of firms' copyrights and to the company's wealth according to the recording's cultural relevance in the market. However, copyright value is also dependent on copyright policy and its cultural relevance among societal actors. Co-creating value for a copyright policy means societal (social) network innovation, which takes place between industrial actors, consumers and governmental institutions. Cultural relevance refers here to the user-perceived value of a product, a service or a policy within a community of historically developed social sensemaking. For Bourdieu (1986), this is cultural capital and it comprises the culture and the cultivation of people and the shared symbolic meanings that people give to cultural goods and societal institutions.

Business network innovation and social network innovation are viewed as manifestations of firms deploying their relational capital. Relational capital has been conceptualised as a form of intellectual capital. However, the choice of this concept creates a theoretical dilemma, because there seems to be an ambiguity as to what relational capital signifies. Consequently, there is no customary practice of referring to innovation capital that arises from firms using their relational resources. This paper aims to shed light on this matter by distinguishing between two innovation processes, where companies utilise their relational capital in creating value for their copyrights.

Creating value refers here to benefits, which result from a network actor creating financial, utilitarian, social and/or hedonic value for itself by deploying a product, a service, a policy or a relationship. In service management literature, this is referred as the value-in-use approach, where value emerges for the service provider when it succeeds in facilitating the creation of value for the service user in a way that benefits the user's everyday practices (Korkman 2006, Grönroos 2008, Sandström et al. 2008, Heinonen 2009). Only then, when the firm enables the customer to create value for herself, she is willing to give back from her resources. The service provider's value capture is hence dependent on the user-perceived value of the offering. Financial value refers to monetary benefits. Utilitarian value refers to the perceived level of the usability of an offering. Social value emerges when products, services or policies enable network stakeholders to interact with one another in a desired way. Hedonic value emerges when a stakeholder satisfies her self-esteem and self-actualisation needs.

The paper continues from hereon by discussing the study's central concepts and copyright as a value system. Chapters in the methodology and interview findings follow. The paper ends with a discussion of the study's theoretical and managerial implications.

2 CONCEPT DEVELOPMENT

Firms need financial and intellectual capital in innovating. The term capital has originally meant an accumulated sum of money, which can be invested in the hope of a monetary return in the future (Field 2003). In intellectual capital theories, the meaning of capital includes also non-monetary sources of wealth creation (Andriessen 2004). However, there seems to be an ambiguity in how these sources should be classified. Most scholars agree on that intellectual capital comprises human capital and structural (also called organisational) capital. Human capital relates to the skill-sets, aptitudes and attitudes of employees (Marr and Adams 2004). Structural capital refers to explicit business process knowledge and to contracts that protect this knowledge from external exploitation. It is the systematised practices of the company (Marr et al. 2002), which comprise the hardware, software, databases, operational processes, organisational structure, trade secrets and intellectual property (Edvinsson and Malone 1997, Stewart 1997). Some scholars view customer relationships as structural capital (cf. Skandia Navigator by Edvinsson and Malone 1997, IC-index by Roos et al. 1997), but in many recent theories, relational capital appears as an independent typological category of intellectual capital.

When relationships are viewed as capital, they are seen as an accumulated sum of intangible assets, which when invested in can generate economic wealth for the company in the future. The early relational capital theories (e.g. Brooking's *market assets* 1996, Sveiby's *external structure* 1997) comprise only customer relationships. *Relational capital* appears as a network-based concept including a variety of stakeholder relationships in the Intellect Model by Euroforum (1998), in the Holistic Value Approach by Pike et al. (2002) and in Viedma Marti's (2004) Intellectual Capital Benchmarking System, where relational capital is defined as "*the ability of the firm to interact positively with business community members to stimulate the potential for wealth creation by enhancing human and structural capital"* (ibid. p.156). Alternate network-based concepts are found as *social innovation capital* in McElroy (2002) and as *business capital* and *social capital* in Bueno et al. (2004).

Social capital has been used as an explanatory variable of innovation (Landry et al. 2002). For McElroy (2002), *social innovation capital* is the collective and self-organising manner, in which social systems such as firms and independent learners within the firms organise themselves to carry out the production, diffusion and application of knowledge within a network. According to this view, *social capital* can refer to network resources of an employee, a firm or of any social system.

Bueno et al. (2004) distinguish between *business capital* that is derived from relationships with customers, suppliers and allied competitors and *social capital*, which is a set of relationships with agents that operate in promoting solidarity, social cohesion, economic development, commitments of corporate governance, commitments acquired with scientific and technological development, environmental protection and the defence of cultural and artistic heritage. Here, *business capital* refers to companies' relational resources that are embedded in business networks. *Social capital* comprises societal relations between different social groups.

In the course of the current empirical study, two forms of relational capital have been identified. Record and music companies use contractually defined relationships in creating new recordings. Following Bueno et al. (2004), the accumulation of these relational resources are here called *business* (network) *capital.* Further, inducing from Möller and Svahn, who define business networks as *"intentional inter-organisational structures, which firms design deliberately for specific purposes"* (2005: p. 987), *business innovation capital* refers to the value potential of known and clearly specified innovator relationships, which have been formed deliberately to fulfil a specific creation or development purpose of a product or a service. *Business innovation capital* is the accumulated sum of contractual and specified business network relationships, which when invested in can create wealth for the company in the processes of creating and improving the company's offerings.

Firms aim also to influence legislators and consumers in order to develop copyright legislation. Again following Bueno et al. (2004), this form of relational capital is called *social* (network) *capital.* Social networks are societal inter-institutional structures, where the relationships are usually not as specified and personal as in business networks, but which are, nevertheless, formed to serve a specific purpose. As a consequence, *social innovation capital* means an accumulated sum of often unspecified relationships between industrial actors, consumers and governmental agencies, which when invested in can create wealth for the company in the processes of influencing the environmental conditions of conducting business. The creation and development of laws and law enforcement practices as a form of public policy is a result of societal actors' co-innovation.

3 COPYRIGHT AS A VALUE SYSTEM

Copyrights are a form of companies' intellectual property and structural capital (Edvinsson and Malone 1997, Stewart 1997). The judicial status of copyrights is defined in intellectual property rights (IPR). IPR can be understood as *"the legal rights resulting from intellectual activity in industrial, scientific, literary and artistic fields"* (Sullivan 2005: p.138) and they act *"as instruments of public policy, which confer economic privileges on individuals or institutions solely for the purposes of contributing to the greater public good"* (Barton et al. 2002: p.6). IPR can thus be perceived both as economic and commercial rights but also akin to political and human rights (ibid).

In the recording industry, copyright is a license from the author (composer, lyricist) and the performing artist to the producer (record company/music company) allowing the producer to fix the author's works and the artist's performances to a phonogram and to make copies of it. Copyright is also a license from music creators (authors, performing artists, producers) to music users (business customers, consumers) allowing them to use works, performances and recordings for broadcasts, public performances and commercial reproduction by compensating creators financially.

Creators are also afforded the right of attribution, integrity and disclosure (Rosenthal Kwall 2002). These rights are designed to protect creators' reputation and their works, performances and recordings from unwanted associations and deployment. The EU copyright legislation recognises authors' attribution and respect rights as moral rights (cf. WIPO). Performing artists are afforded similar rights in practice (Gramex 2007). Producers can resort, for instance, to unfair competition or trademark law. The American copyright system recognises authors, artists and producers as equal copyright holders and renders in practical terms only economic rights. In alleged reputation infringements, creators can resort to trademark legislation (cf. Heymann 2007).

In order to balance the creators' exclusive rights with user rights, the copyright law includes limitations and exceptions to creators' rights. These can include geographical limitations, limitations to the length of the protection, limitations to the use of works that are not fixed in a material form, the right of copying for personal use, the quotation right, broadcasters' right to make temporary recordings and compulsory licensing (WIPO).

3.1 Types of Copyright Value

For music creators, economic rights render financial value, which arises from the law providing a temporary monopoly. This monopoly allows the copyright holder to control the reproduction, distribution, public performance and display of the work, and whether any derivative works can be created of it (Heymann 2007). Moral rights create social and hedonic value by affording the author the right of being identified as the work's creator and the right to decide on how the work can be displayed publicly.

Music creators can also gain utilitarian value. For instance, cover and mashup artists and their record labels use other creators' works in producing their own works. These creators need a license from the original right holders before they can publish the songs as derivate works. However, sometimes the owners do not grant the licenses. Hence, copyright has a capacity to deprive creators a livelihood and to suppress the right of expression. It can limit the creation and dissemination of music and hence decrease wealth creation in the music industry.

Value for music users emerges from music usage. Business customers can use music to boost their businesses by adding music to their business recipes. Music adds utilitarian value for entrepreneurs such as radio and TV channels, restaurants, hairdressers, taxi companies and department stores. By using music as a main attraction or as a background ambience, firms can create more customer-friendly business environments, which may lead to increased sales and to the capture of higher financial value. Business customers can also generate social and hedonic value from being able to associate the firm's name with a musical genre, an artist or a record label. This may influence the firm's wealth creation positively.

For a consumer, music can be a source of financial value, when she exercises the exhaustion of rights and re-sells or exchanges a product in the aftermarket. Most often, however, music renders utilitarian, social and hedonic value. Music can be used as part of the individual's "life recipe". It can be used instrumentally for entertainment or learning purposes or as a source of social value in seeking social acceptance, belonging or recognition. Music can also generate hedonic value when it serves the user's self-confidence and self-expression needs.

3.2 An Incentive or an Impediment?

The incentive theory proposes that the value of copyright lies in its power to provide the creators an incentive to create, and that without it creators would under-produce (Heymann 2007), because there would be no guarantees of receiving financial compensation for the labour put into creating a work. According to this view, the value of copyrights as a legislative system lies in its capacity to enable creators to capture financial value. This is seen to encourage industrial, scientific and artistic creation. A society without copyright would hence be poorer in relation to music and music-related products. Another common assumption states that, *"the immediate impact of intellectual property protection is to benefit financially those who have knowledge and inventive power and to increase the costs of access to those without"* (Barton et al. 2002: p.7). This assumption implies that copyright may have a capacity to discriminate music users. The copyright legislation can place users in an oppressive market position by increasing access barriers. According to the economic theory, high access barriers reduce the value of knowledge and art as public goods. Hence, copyright implies as having a capacity to cause deadweight loss for society.

The value-in-use assumption proposes that copyright can render value to music creators when they succeed in facilitating value creation for music users. This means that the copyright system must provide users with financial, utilitarian, social and/or hedonic value. Hence, music users' perceptions of the relevance and usability of the copyright system should be the starting point when developing copyright policy.

Presumably, user-perceived value of copyright would be higher in a system that provides broad exceptions and limitations to creators' exclusive rights. Such a system could be described as user protectionist (see fig. 3.2.1). Obviously, limited rights would restrict creators' opportunities to reap monopoly profits and, hence according to the incentive theory, their ability to create and publish new music. A creator protectionist system with narrow exceptions and limitations could, on the other hand, enhance music creation and production, but simultaneously, it is most likely to limit music consumption in official and legal channels, as costs of accessing music are higher. This would lead to the decrease of income for music creators. Further, a system with narrow exceptions and limitations does not only provide an incentive to create but it can also restrict the creation and distribution of music, because music creators are allowed to deny other creators the right to compose and publish derivate works.

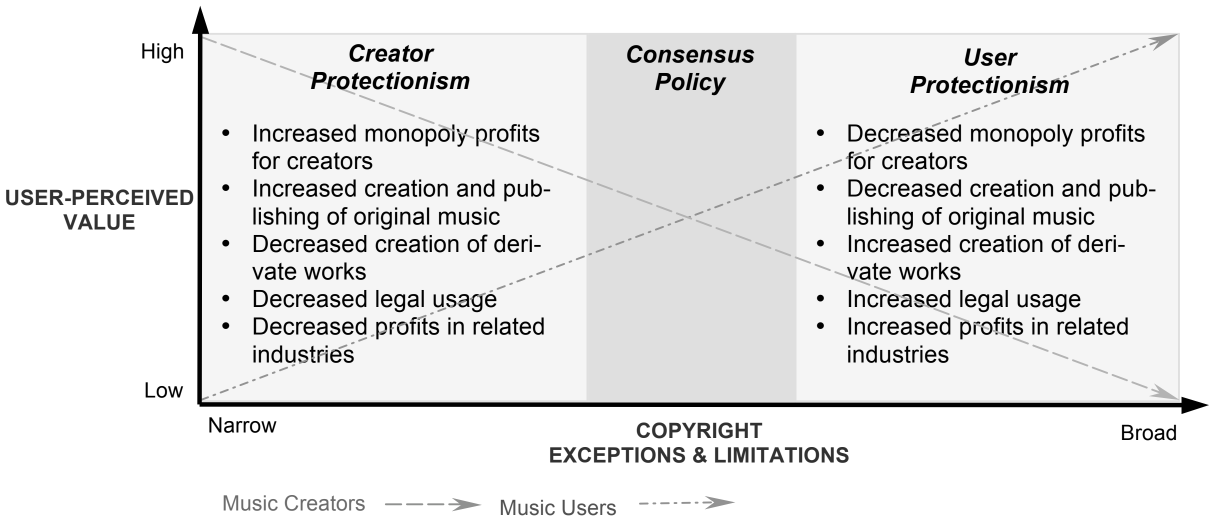

Fig. 3.2.1: Exceptions and Limitations as a Driver of User-Perceived Value of Copyright Policies

In recent years, record companies have sought stronger protection for their copyrights. However, firms' interest in developing legally verified multi-protection systems, in which users' access to music can be limited with even more far-reaching IPR, such as technical protection measures (TPM), contracts (cf. Samuelson 2006) and the extension of the copyright duration diminishes user-perceived value of copyrights. Instead, users would benefit from an increased number of songs falling into the public domain or to be licensed as copyleft by using the Creative Commons ShareAlike license or the GNU General Public License.

Copyrights increase also the costs of business for industrial actors in copyright-related fields. Having a radio or a CD on when interacting with customers, accounts as a public use of music. Such firms are charged a copyright fee. Copyright fees are often transferred to consumer prices, which can create consumer dissatisfaction and lead to a decrease in sales. In addition, teleoperators, Internet operators and equipment manufacturers have brought up that there is a danger of the copyright system creating impediments for their business development. Copyrights have been seen to hinder consumers' access to music. When the access is restricted, there are fewer growth possibilities for equipment manufacturers and distributors, because consumers' have no need to acquire platforms for content they cannot obtain.

Legislators need to combine the contradicting views of different social groups in developing a consensus policy so that most social actors are willing to embrace it. The high rates of illegal downloading and the rise of the Pirate Party movement in Europe can be interpreted as signs of not all consumers embracing the current policy. On the basis of public discussion, some consumers seem to think that copyright prioritises industrial interests and that it suppresses basic human rights such as the freedom of expression, the freedom of information and the right to privacy. At the same time, social media and peer-to-peer (P2P) networks have provided an outlet to consumers, who now can control their value creation processes as prosumers. Apart from providing better financial value, P2P networks enable people to make more cultivated music acquisition choices, as there is more information available. This adds to the user-perceived utilitarian value. Moreover, P2P networks enable users to form relationships and to generate social value between themselves. Producing self-made content can be a source of user-perceived hedonic value. Consumers' interest to P2P networking has led to an emergence of a viable C2C electronic market, which has decreased revenues in the recording industry and which possibly has led to an inflation of the enforceability of the copyright law.

4 METHODOLOGY

The empirical study was conducted as qualitative face-to-face interviews, the structure of which varied between semi-structured to unstructured depending on the respondent's role as a research participant. The interviews were recorded with a mp3 player and they were later transcribed. During the interviews I also took notes and drew mind maps.

Out of the twenty-nine respondents, twenty-five represent record and music companies and four interest groups, collecting societies and governmental agencies. A purposive sampling method of combination sampling was used (cf. Patton 2002). The interviews were conducted between December 2008 and April 2009 and they varied in length from 50 to 138 minutes, the average length being 96 minutes. All respondents were granted anonymity to encourage them to talk also about sensitive matters.

The record and music company professionals represent twelve companies. Respondents work in business administration and management (9 pers.), A&R (artist and repertoire) management (7 pers.), marketing and public relations (6 pers.) and in B2B sales and distribution (3 pers.). They are managing directors, A&R directors, production managers, marketing directors, publicists and sales directors. Their work experience varies from one to thirty-three years, the average work experience being 16.6 years. The four respondents representing interest groups, collecting societies and governmental agencies work in high-level management positions. They have a study background in law and on average they have worked with copyright issues for 22.5 years.

The record and music company professionals provided me with information about (1) what kind of tangible and intangible resources record and music companies use in their value creation, (2) what kind of actors participate in creating value, (3) how these actors participate in value creation, (4) what kind of a role network relationships and relationship characteristics play in value creation, (5) how companies manage their network relationships and (6) how companies manage their intellectual property. Experts from interest groups, collecting societies and governmental agencies were used to gain a better understanding about (7) how the copyright system functions, (8) what kind of actors create value by utilising copyrights, (9) how these actors create value by deploying copyrights and (10) how music users benefit from a copyright system.

5 INTERVIEW FINDINGS

5.1 Revenue Formation

The majority of respondents perceived their companies as product-oriented organisations. Four respondents anticipated that they are on the way of becoming service firms and four respondents stated that their companies already are in the service business. These respondents perceived their companies as *"multipurpose houses of music entertainment"*. Many referred to record and music companies as being marketing and sales organisations. A respondent saw that music companies possess features of advertising agencies.

Most identified copyrights as a central source of value for companies. A managing director noted that music business is about intellectual property rights management. According to a sales director, firms' intellectual property rights comprise rights to master tapes, pictures, photographs, logos, videos, edited texts and brands that emerge from relationships between artists and strategic partners. Strange enough, back catalogues, which are the firms' archives of master tapes and copyrights, and the sales of which according to a sales director account for over 50% of their company's annual turnover, are not included in balance sheets. A master tape becomes valuable in monetary terms only when it or parts of it are re-published. According to a managing director the back catalogue corresponds to its stock value, which is expressed as expenses in the P&L statement. A back catalogue on the whole is valuated only in a case of a merger or when a company is sold.

Record companies' revenues comprise income from product sales and from Gramex Copyright Society of Finnish Performing Artists and Phonogram Producers, which collects remunerations from the public use of recordings. Music companies complement these revenue streams with touring and merchandise income and with brand partnerships. Even though, product sales create most of companies' income, copyright remunerations have become more important along with the increase of radio stations.

According to a director, music companies' primary market is the one, in which they sell music as tangible goods. The secondary market is the digital market, in which music trade has become content and image marketing and rights commerce. In the digital market, it is not content that is sold but rather the rights to use the content. The director noted:

> *"Legislation is central, because we are more and more in the rights trade. […] In the digital world, content equals to the right. […] It's a question of licensing or transferring rights. The dealer is given a license to sell a copying right to the consumer."*

5.2 Two Networks of Innovators

The majority of respondents referred to contracts as the most important source of companies' intellectual capital. Contracts were considered as important, because they act as antecedents in the emergence of companies' copyrights. Through the contracts companies obtain recording rights and publishing rights to master tapes, songs, photos, pictures, videos, documentaries and logos as well as the right to license recordings, cover art and texts to third parties.

Contracts are also central in forming business relationships with actors, whose resources companies need in producing and distributing records. Artist relationships were identified as the most central. In addition, companies use subcontracting and strategic partnering with actors who offer, for instance, composing, performing, production, recording, mixing, mastering, art design, photography, video, styling, promotion, advertising, wholesale, retail and touring services. In this network of actors, companies and individuals co-create, co-produce, co-market and co-distribute music-based products and services.

Respondents noted that in the everyday practice of producing, marketing and distributing records, their company's success is dependent on their ability to identify interesting artists, good music and appropriate delivery formats, which suit to the idea of the times and which attract the desired audiences. They saw that they must have an ear for hit songs and an ability to identify trends, which were described as *"social and cultural things taking place in our time"*. Here, *culture* appeared as employee-embedded tastes and social awareness, which are developed on the basis of interacting with people at work and in leisure time.

Due to the rising role of copyrights as a revenue source and as a barrier to prevent unauthorised copying of music, companies have a need to participate in developing copyright legislation. In influencing law development and enforcement, companies use interest groups such as Gramex, IFPI (International Federation of the Phonographic Industry) Finland, Copyright Association for Audiovisual Producers in Finland (TUOTOS), Copyright Information and Anti-

Piracy Centre (CIAPC) and Luovan työn tekijät ja yrittäjät (LYHTY) to lobby domestic and EU legislators and to inform and to educate music users. Here politics play a role. A director mentioned that in the United States, radio stations have so far managed to lobby politicians so that they are exempt from paying copyright fees from using recordings in their programming. The dominant political views can thus have an impact on determining whose interests are prioritised in legislation.

5.3 On Music Users and Music Uses

For years, Finnish recording industry actors have been alarmed about the slow development of domestic electronic commerce. A director noted that while the broadband technology was developing quickly in the beginning of the 21st century, copyright legislation lacked for a long time the means to tackle the illegal activity made possible by the broadband. *"We were totally toothless when it came to our rights as producers."* At the same time, there was a change in the consumption behaviour of the young consumers who form the biggest buyer group of records. They no longer went to record shops but to the Internet, where they focused on music that was free and easy to download.

> *"All your information mass was also available for others to use. The young audiences of the information society start from the assumption that information is free and that it must be obtained and transferred freely."*

According to a director, 60 – 70% of the broadband use is related to unauthorised distribution and use of music and films. As a consequence of consumers acting high-handedly the bottom has fallen out of electronic commerce development. This has been the main reason for why the recording industry has sought for broader copyright protection. The use of access control technologies such as digital rights management (DRM) and technical protection measures (TPM) are examples of broader rights that the current EU and Finnish legislation allow for record and music companies. Originally, these technologies were designed to protect web content from copying but firms started also to use them in CDs. However, these technologies caused widely spread consumer resistance due to the apparent limitations that they imposed on the uses of CDs in different devices and due to the security vulnerabilities that they caused in computers. According to the respondents, consumer responses have been the cause of why now all big record labels have abandoned DRM in CDs. A respondent noted that consumers and technology developers as well as mobile and Internet operators have created quite a counterforce for record and music companies. It is no wonder as P2P networks have been *“the motor that has drawn the operator sector upwards”.* The objectives of consumers, technology developers and operators have continuously dealt with the removal of alleged difficulties and impediments in acquiring user licenses for contents.

When it comes to music users, the interviews revealed that record and music companies have fairly weak ties to consumers. A managing director noted that, *“consumers are far away in the network”.* Yet, another managing director saw that the Internet has increased the meaning of the relationship between the artist and the audience and that artist-consumer relationships are becoming increasingly interactive and deeper. A third managing director referred to music companies as producing filtering services and guidance, with which they can help consumers to make acquisition decisions. Consumer demands were also perceived to be increasing. It was assumed that consumers want better products, which provide better quality, usability, additional services and a possibility for private copying and after-use. A director suggested that apart from concentrating on copyright management, which *“traditionally never has been a consumer business”,* companies could boost their revenue formation by developing also advertising, electronic and post-licensing services in the social media.

P2P networking was seen to represent a value change and an ideological change in society. According to a director, there is a danger that *“the music industry is perceived as an unsympathetic supranational phenomenon and the international well-earning artists as such that they don’t need my money”.* Hence, P2P networking can lead to an *“inflation of attitudes”*. It is a question of an attitude gap that *“resembles the rebellion of the youngsters in the 1970’s, who opposed their parents and the establishment”*. However, firms were not perceived as being in competition with C2C market actors. A director noted:

> *“The user group of P2P networks is small compared to the entire consumer market. It’s more a question of how we get those to buy who currently aren’t buying at all - how we can increase the size of the web market and make the trading natural.”*

5.4 On the Value of Copyright and Alternate Licensing Schemes

The respondents agreed on that without copyright nobody could earn a living in the music industry. In addition, copyright was seen to form the basis for the entire creative economy. A director noted that: *"copyrights are the currency of the information society"*. Copyright gives the creator a bargaining power and enables her to negotiate a price that corresponds to the breadth of her work's usage. For consumers, copyright was seen to provide an access to a continuously renewing pool of music.

The respondents thought that without copyright the music sector would become amateurish and that the professional production culture would cease to exist. Copyright was perceived primarily as a means of creating an incentive for musicians to compose new songs and for companies to produce and publish new recordings. The publishing of original compositions was valued highly in contrast to the publishing of derivate works. There was also little understanding for artists who base their artistry on combining existing works such as mashups.

A respondent used a metaphor of copyright being a chunk of cheese, which has holes in it. The cheese represents creators' copyrights and the holes represent the limitations and exceptions, which are the legislators' attempt to balance the copyright system with user rights. Firms' business opportunities were perceived to decrease in a situation, where *"copyright functions poorly or it has lots of holes"*. Hence, from the creator viewpoint, copyright that includes too broad limitations and exceptions can hinder value formation in the industry. A respondent noted that an example of copyright legislation functioning badly is from the beginning of the 21st century when the development of the Internet and broadband technologies temporarily exceeded the legal development. The Internet allowed consumers to access and use music outside industrial control systems. This was a new situation to industrial actors and legislators. According to a director, it took about ten years to figure out what the judicial implications of music consumption moving from traditional media to the Internet were.

In reference to the Internet, Creative Commons and other open source schemes were referred as *"the socialisation of intellectual property"*. They were not perceived as suitable in commercial use due to the relational asymmetry that they propose. In open source environments, the level of market interest does not necessarily correlate with revenue formation. A director noted that currently the open source ideology seems to resemble a religion and that:

> *"Open source ideology functions superbly in computer software [...] but that it would function outside it is false reasoning. The Commons thinking is a social, more like a notion of a democratic movement [...] where public right of access is linked to music. [...] It would be nice, if the music that sells more, which interests more - that it could generate more income to the producer. A fabulous product leads to fabulous revenues."*

6 THEORETICAL IMPLICATIONS

The aim of this paper has been to find out how value emerges for companies' copyrights and what the role of relational capital is in the formation of companies' copyright value. As a point of departure the paper has used the value-in-use assumption.

The interviews revealed that record and music companies use network relationships in two ways. Firstly, they are used in co-creating products and services and in finding innovative marketing and distribution methods. It was suggested that this form of relational innovation capital could be referred as *business innovation capital.* Business innovation capital is an accumulation of relational resources, which business network actors use in facilitating value creation for music users. Here, the firms are the service providers and their customers are the service users.

In addition, companies use their network relationships in co-developing copyright legislation and law enforcement methods. According to the paper's proposition, this corresponds to *social innovation capital*. Social innovation capital refers to the accumulated relational resources of societal networks, within which copyright laws and their enforcement are developed. Here, firms, business customers and consumers all act as copyright creators and copyrights users.

The market value of a new recording is determined in the process of how business network actors succeed in using their knowledge about the development of consumption trends. The respondents identified this as a form of cultural competence, which is an employee-embedded skill that can be used in creating, producing, marketing and distributing music. As a source of wealth creation, the accumulation of employees' cultural competences is here called cultural capital. All business network actors are carriers of some form of cultural capital, the validity of which is tested in the market success of products and services that the business network invents. In the suggested framework (see fig. 6.1), network actors distribute cultural capital also in social networks, the validity of which is tested in the success of copyright policies.

The user-perceived value of the product affects the value of companies' copyrights. Companies receive copyright remunerations from public uses of music. A song that the media finds interesting receives more airtime and it can become a hit. Hits are likely to increase product sales and commercial licensing. Hence for companies, business innovation can become a source of copyright value, if the business network succeeds in producing a product that receives wide user-perceived acceptance. Correspondingly, social innovation can generate copyright value, if the social network manages to develop a copyright policy that receives wide user-perceived acceptance. It is suggested here that consumers give higher value to a copyright system that includes fairly broad copyright limitations and exceptions, because in such a system they can more efficiently create value for themselves as social media prosumers. For commercial music users and technology developers, broad limitations and exceptions mean lower business and innovation costs.

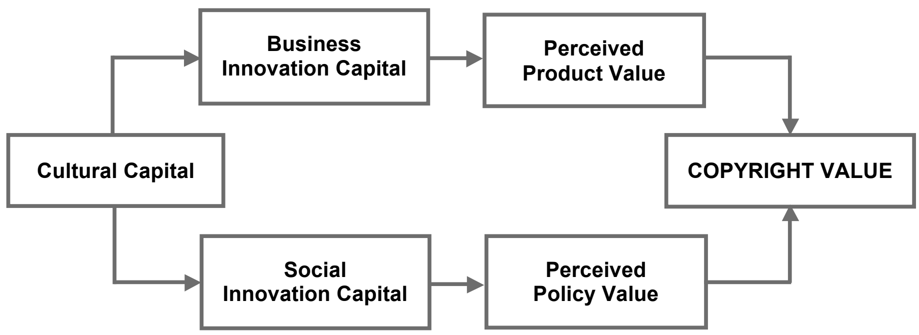

Fig. 6.1: Suggested Framework for the Formation of Companies' Copyright Value

The interviews revealed that even though record and music companies are evolving toward becoming service-oriented firms, most firms are still following a goods-dominant logic. This may be a reason for why firms have not yet paid much attention to their consumer and business customer relationships. Producing culturally relevant products is considered as a prerequisite of business success, but there is room for development when it comes to enabling the formation of consumer-perceived and business customer-perceived relevance of copyright policies that form the framework for trading rights in the Internet-based music market. If a societal actor does not accept the policy or its underlying determinants, she is likely to create a policy of her own. In that case, the value of a copyright system is less than it would be in circumstances, in which all societal actors enforced it.

The Internet is a social medium, which democratises market actors and the practices of trade and communication. On the Internet, consumers have a power to create value between themselves. They have become active participators. This can have many effects. On the one hand, the Internet brings music creators and users closer to one another, because creators are expected to form deeper relationships with their audiences. On the other hand, consumers adopting a prosumer role and a co-creation culture has led to a formation of a viable C2C market, in which consumption has taken forms that challenge the existing legal norms.

Traditionally, consumers have bought goods, i.e. physical copies of works. This has been done in a market, in which goods are exchanged for money and in which consumers have been receivers of media content (see fig. 6.2). They have had little need to deal with copyright, as they have not had an access to publish works in the public media. It has been merely commercial music users, who have had a need to participate in the copyright economy. However on the Internet, the product has become a right. On the Internet, both consumers and commercial music users are right users. Consumers can make a choice whether to buy a song or to acquire the right to listen to it. In either case, the purchase or the subscription is embedded with rights that determine the characteristics of the after-use.

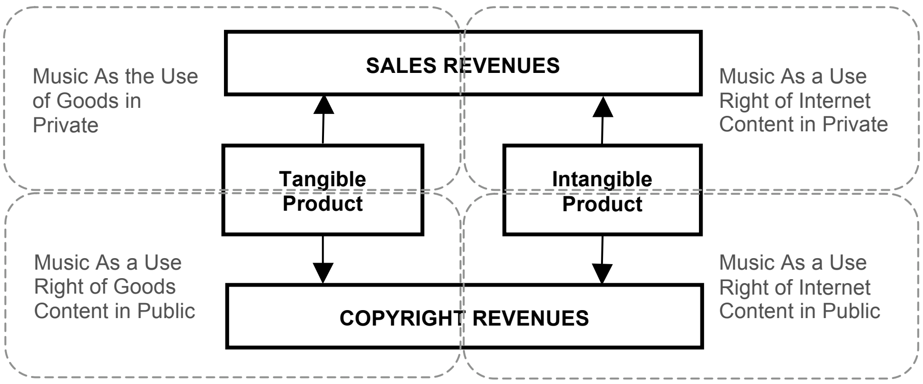

Fig. 6.2: Revenue streams, markets and music uses in the recording industry

Moreover, drawing a line between the private and public uses of music on the Internet is difficult. For recording industry actors, the Internet is a public medium, in which music publishing and distribution corresponds to the public use of music regardless of who distributes the music.

It does not matter if the distributor is a radio channel or a private person. However, especially young consumers seem to use the Internet as an extension of the privacy of their homes. Instead of inviting friends over or exchanging letters with pen friends abroad, consumers now meet on the Internet and consider the interaction, content generation and content exchange to be private activity. They do not see themselves primarily as music distributors when they exchange music files in P2P networks.

7. MANAGERIAL IMPLICATIONS

It is understandable why record and music companies have sought support form legislation. When producers and performing artists were afforded the related rights at the turn of the 1960's, the recording industry experienced an explosive growth. It is only reasonable to think that further development of copyright legislation would generate similar benefits at a time when record sales have come down for years at a rate of minus five, ten, fifteen or twenty percent. However, not all changes provide a suitable framework for creating revenue growth when brought to practice. For instance, DRM technologies in CDs proved to be too controversial. This can be seen as a sign of consumers' power to influence copyright policy, when their value creation practices are threatened.

It could be that consumers' interest in resorting to P2P networks has emerged from a realisation that they provide a more efficient channel for creating value than what the official channels do. Indeed, firms have to solve the problem of how to facilitate consumer value creation in B2C networks more efficiently than how consumers do it between themselves in C2C networks. Companies will not solve this problem by a stronger copyright protection, because higher access barriers and the decreased opportunities for interaction and self-expression decrease the user-perceived value of companies' offerings.

It may be difficult to solve this problem. Too broad limitations and exceptions to creators' exclusive rights diminish the incentive value of the copyright system. Paradoxically, too narrowly phrased limitations and exceptions direct music users to act outside the law and this reduces creators' income. Indeed, both the user protectionist system and the creator protectionist system have a capacity to be detrimental to the recording industry. Basically, it comes down to a question of whether one believes that companies can capture value more efficiently by producing products in a regulated economic system, in which the music creators' value creation practices drive the wealth creation, or whether it is the music users' value creation practices that determine companies' success. According to the value-in-use assumption, it is service users' value creation practices, which drive firms' value capture.

As a management method, informing and educating consumers to become obedient copyright users does not necessarily lead to higher user-perceived value of copyright. High user-perceived value of copyright can be achieved by producing products, services and copyright policies, which support music users' everyday value creation practices. For music users, a copyright system with fairly broad limitations and exceptions produce higher value than a system with very narrow copyright limitations and exceptions. When it comes to product and service development, the interview findings suggest that firms could invest more in developing services in the social media. In reference to this, it is suggested here that record and music companies could benefit from benchmarking consumers' value creation practices in C2C networks, which usually provide good possibilities for interacting with meaningful peers and for self-expression. In other words, C2C networks often are more efficient in facilitating user-perceived social and hedonic value than the current B2C networks.

The empirical evidence also suggests that some firms seek to create income by developing branded contents and brand partnerships. This can lead the companies to enter into a trademark business. On the contrary to copyright, trademark and brand management is a consumer business. Brands come with an opportunity to increase perceived utilitarian value of products, as they decrease consumer confusion in purchasing situations. They can also act as a spur in generating user-perceived social and hedonic value. Premium pricing becomes also possible. This scheme would presumably elevate the role of moral rights due to the reputation and prestige value that they render. Firms could support the formation of their trademark value with moral rights management.

BIBLIOGRAPHY

Andriessen, D. (2004). *Making Sense of Intellectual Capital – Designing a Method for the Valuation of Intangibles*. Burlington, MA: Elsevier Butterworth-Heinemann.

Barton, J., Alexander D., Correa, C., Mashelkar, R., Samuels, G., Thomas, S. et al. (2002). *Integrating Intellectual Property Rights and Development Policy*. Resource document. http://www.iprcommission.org/papers/pdfs/final_report/CIPRfullfinal.pdf. Accessed 13 September 2009.

Bourdieu, P. (1986). The Forms of Capital. In J. G. Richardson (Ed.), *Handbook of Theory and Research for the Sociology of Education* (pp. 241 – 258). London: Greenwood Press.

Brooking, A. (1996). *Intellectual capital: core asset for the third millennium.* London: International Thomson Business Press.

Bueno, E., Salmador, M. P., Rodríguez, Ó. (2004). The role of social capital in today's economy: Empirical evidence and proposal of a new model of intellectual capital. *Journal of Intellectual Capital,* 5(4), 556 – 574.

Edvinsson, L., & Malone, M. S. (1997). *Intellectual Capital: Realizing Your Company's True Value by Finding Its Hidden Brainpower.* New York: HarperCollins Publishers.

Euroforum (1998). Medición del Capital Intelectual - Modelo Intelect. Madrid: Instituto Universitario Euroforum Escorial. Resource document. http://www.gestiondelconocimiento.com/modelo_modelo_intelect.htm. Accessed 13 September 2009.

Field, J. (2003). *Social Capital.* London: Routledge.

Gramex (2007). Jotta musiikki soi huomennakin – Tekijänoikeuskorvaukset ovat palkkaa työstä ja yrittämisestä. Helsinki: Esittävien taiteilijoiden ja äänitteiden tuottajien tekijänoikeusyhdistys Gramex ry.

Grönroos, C. (2008). Service Logic Revisited: Who Creates Value? And Who Co-creates? *European Business Review,* 20(4), 298 – 314.

Heinonen, K. (2009). The Influence Of Customer Activity On E-service Value-In-Use. *International Journal of Electronic Business,* 7(2), 190 – 214.

Heymann, L. A. (2007). The Trademark/Copyright Divide. *Southern Methodist University Law Review,* 60, 55 – 102.

Korkman, O. (2006). *Customer Value Formation in Practice - A Practice-Theoretical Approach*. Report A155. Helsinki: Hanken Swedish School of Economics.

Landry, R., Amara, N., Lamari, M. (2002). Does Social Capital Determine Innovation? To What Extent? *Technological Forecasting and Social Change,* 69(7), 681 – 701.

Marr, B., Schiuma, G., Neely, A. (2002). Assessing Strategic Knowledge Assets in E-business. *International Journal of Business Performance Management,* 4(2/3/4), 279 – 295.

Marr, B., & Adams, C. (2004). The Balanced Scorecard And Intangible Assets: similar ideas, unaligned concepts. *Measuring Business Excellence,* 8(3), 18 – 27.

McElroy, M. W. (2002). Social Innovation Capital. *Journal of Intellectual Capital,* 3(1), 30 – 39.

Möller, K., & Svahn, S. (2005). Managing In Emergence: Capabilities for influencing the birth of new business fields. *Research in Competence-Based Management,* 1, 73 – 97.

Patton, M. Q. (2002). *Qualitative Evaluation and Research Methods*. 3rd edition. Thousand Oaks: Sage Publications.

Pike, S., Rylander, A., Roos, G. (2002). Intellectual capital management and disclosure. In Bontis, N., & and Choo, W. (Eds.), *The strategic management of intellectual capital and organisational know-ledge* (pp. 657 – 671) New York: Oxford University Press.

Roos, J, Roos G., Dragonetti, N.C., Edvinsson, L. (1997). *Intellectual Capital – Navigating the New Business Landscape*. London: MacMillan Press Ltd.

Rosenthal Kwall, R. (2002). The Attribution Right in the United States: Caught in the Crossfire Be-tween Copyright and Section 43(A). *Washington Law Review,* 77, 985 – 1019.

Samuelson, P. 2006: Enriching Discourse on Public Domains. *Duke Law Journal,* Vol. 55, 783-834.

Sandström, S., Edvardsson, Bo, Kristensson P., Magnusson P. (2008). Value In Use Through Service Experience. *Managing Service Quality,* 18(2), 112 – 126.

Stewart, T. A. (1997). *Intellectual Capital – The New Wealth of Organizations.* London: Nicholas Brealy Publishing.

Sullivan, P. H. Sr. (2005) An Intellectual Property Perspective on Intellectual Capital. In Marr B. (Ed.), *Perspectives on Intellectual Capital* (pp. 137 – 151). Burlington: Elsevier Butterworth-Heinemann.

Sveiby, K-E. (1997). *The New Organisational Wealth.* San Francisco: Berret-Koehler Publisher.

Viedma Marti, J. M. (2004). Social capital benchmarking system: Profiting from social capital when building network organisations. *Journal of Intellectual Capital,* 5(3), 426 – 442.

WIPO: *Understanding Copyright and Related Rights.* WIPO Publication No. 909(E). Resource docu-ment. http://www.wipo.int/freepublications/en/intproperty/909/wipo_pub_909.pdf. Accessed 11 April 2009.