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Press Release

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NEW PHOENIX CENTER STUDY REFUTES CLAIM THAT SINGAPORE'S EXPANDED "FAIR USE" COPYRIGHT POLICY LED TO ECONOMIC GAINS

Poor Data and Poor Research Make Poor Law

WASHINGTON, D.C. – As a consequence of digitization and the diffusion of the Internet, nations across the globe are taking a fresh look at their respective intellectual property laws. For this process to work effectively, policymakers require an understanding of the shortcomings of existing laws and enforcement mechanisms as well as empirical evidence to better inform new policy proposals.

To help policymakers separate the wheat from the chafe, Phoenix Center Chief Economist Dr. George S. Ford released today a new Policy Perspective entitled *The Economic Impact of Expanding Fair Use in Singapore: More Junk Science for Copyright Reform.* In this Perspective, Dr. Ford reviews an often-cited study by Roya Ghafele and Benjamin Gibert entitled *A Counterfactual Impact Analysis of Fair Use Policy on Copyright Related Industries in Singapore,* where Ghafele and Gibert claim to show that Singapore's choice to amend its copyright laws in 2005 to include "fair use" was responsible for substantial economic gains. However, as Dr. Ford conclusively demonstrates, because the empirical analysis by Ghafele and Gibert in their *Singapore Study* is of such stunningly poor quality, their study is worthless for policy purposes.

"Intellectual property laws support substantial economic activity and rouse the creative energies of humankind," says Dr. George S. Ford, Chief Economist of the Phoenix Center. "Careless and unskilled studies aimed at manipulating discourse about such laws are unhelpful, and undermine the trust between policymaker and researcher. Reviews of intellectual property laws deserve better."

Among other flaws, Dr. Ford shows that because there were many changes in Singapore's copyright law (including an extension of copyright term and the addition of statutory damages), trademark and patent laws, and a bursting tech bubble and a global recession, a simple "before and after" calculation based on almost no data cannot possibly quantify the effect of any single event.

Second, Dr. Ford shows that while Ghafele and Gibert claim to "test this hypothesis using a differences-in-differences methodology," they neither test a hypothesis nor employ a proper difference-in-differences methodology. Further, the control group is ineptly chosen and, by

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Ghafele and Gibert's own admission, the most basic and necessary assumption of the difference-in-differences method is violated (the parallel paths assumption).

Third, Dr. Ford points out that while there are 12 years of data available for 23 distinct industries segments (276 total observations), Ghafele and Gibert use only six data points thereby tossing out the vast majority of the available data. In so doing, Ghafele and Gibert foreclose the ability to use common statistical testing techniques.

All of these errors are fatal.

Finally, Dr. Ford points out that Ghafele and Gibert's results (if they were legitimately estimated) suggest that Singapore's expanded fair use policies coincided with a significant expansion in the production of technologies that permit widespread copying of intellectual property but had no effect on the creation of new, transformative works. As Dr. Ford explains, fair use is *not* about the wholesale copying of intellectual property; fair use is mostly about the use of very *limited* pieces of content to create something new (i.e., transformative), or perhaps limited use in educational or research settings. Under Ghafele and Gibert's logic, however, the rise in the production of copying technologies could just as easily be interpreted to suggest that Singapore's new copyright law was taken to be a license to pirate copyrighted content with impunity. Indeed, less than a decade after the new fair use policy was codified, Singapore's Ministry of Law initiated a consultation regarding widespread digital piracy in that country; the law was subsequently amended to address these concerns.

A full copy of the paper, PHOENIX CENTER POLICY PERSPECTIVE NO. 16-01, *The Economic Impact of Expanding Fair Use in Singapore: More Junk Science for Copyright Reform,* may be downloaded free from the Phoenix Center's web page at: http://www.phoenix-center.org/perspectives/Perspective16-01Final.pdf.

The Phoenix Center is a non-profit 501(c)(3) organization that studies broad public-policy issues related to governance, social and economic conditions, with a particular emphasis on the law and economics of the digital age.