

Helena K. Jahromi, LL.M.

Institute for International Law, Intellectual Property and Technology Law (IRGET)

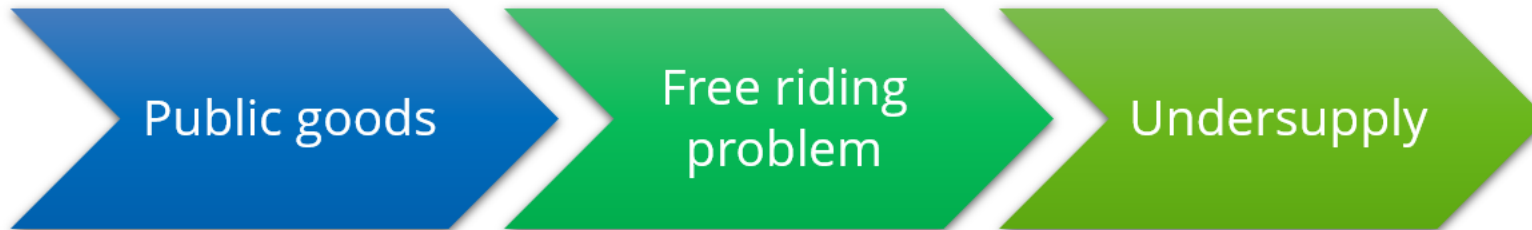
Self-help: Solution to Underenforcement in a Digital World?

reWIPS⁵ Szeged, Hungary // April 20th 2021

Intellectual Property & the Free Riding Problem



Intellectual Property & the Free Riding Problem



- nonrivalrous
- nonexclusive

taking the benefits without incurring the costs

no incentive to produce public goods

UNDER-ENFORCEMENT

Self Help?

Self Protection?

Defensive Self Help?

(cf. Beurskens, *Privatrechtliche Selbsthilfe*,
Tübingen 2017, p. 17, 284.)

„Impossibility Structures“?

(for definition cf. Rich, Harv. J. Law Public Policy 36 (2012), 795, 802– 804; Cheng, Northwest. Univ. Law Rev. 100 (2006), 655, bes. 664)

„Upload Filter“

Art. 17 par. 4 of Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (= „DSM Directive“)

The Standard:

The Constitution?

(cf. Bernzen/ Kehrberger, RW 2019, 374, 391)

State Guarantee of Access to Justice?

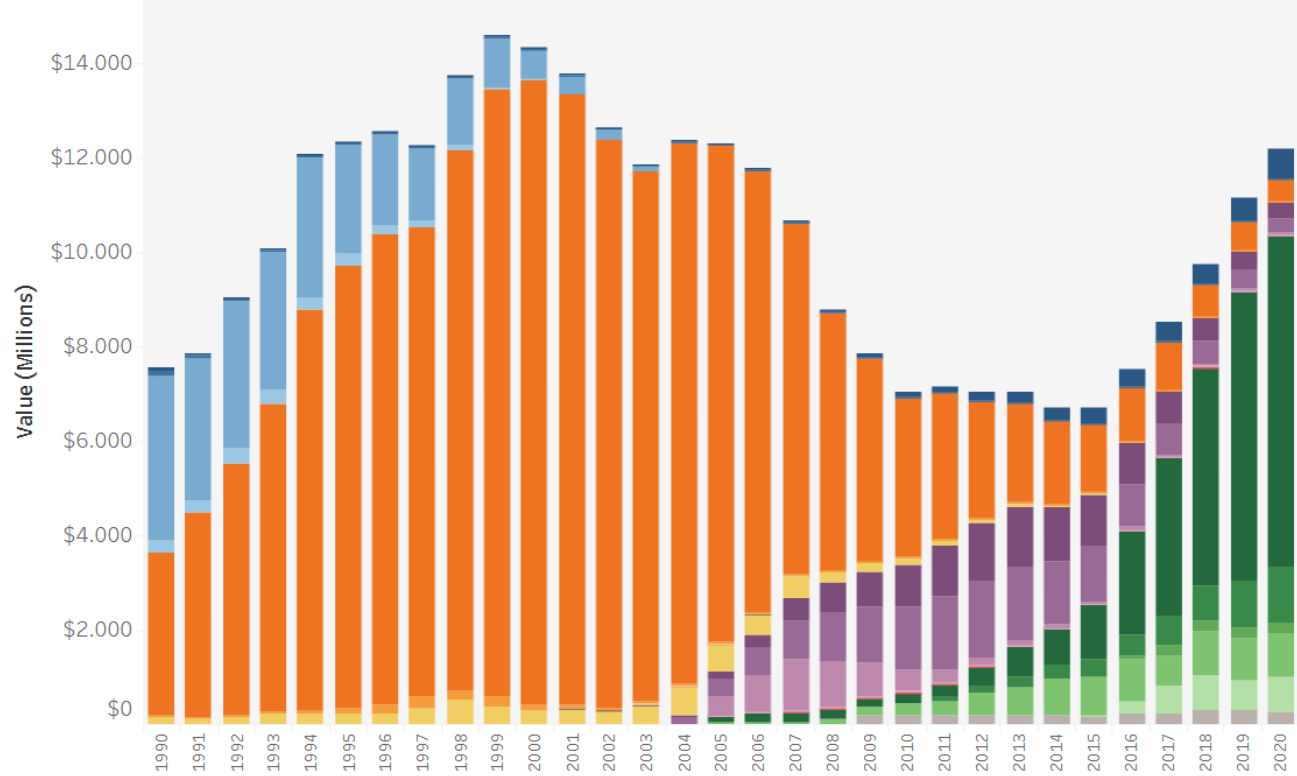
(cf. Basedow, JZ 2018, 1, 7; Bernzen/
Kehrberger, RW 2019, 374, 385)

The Image of Man

(cf. Rademacher, JZ 2019, 702, 707f;
Joite, BLJ 2013, 86, 89f)

U.S. Recorded Music Revenues by Format

Source: RIAA



Format (Click to Highlight)

- LP/EP
- Vinyl Single
- Cassette
- Cassette Single
- CD
- CD Single
- SACD
- DVD Audio
- Music Video (Physical)
- Download Album
- Download Single
- Ringtones & Ringbacks
- Download Music Video
- Other Digital
- Kiosk
- Paid Subscription
- On-Demand Streaming (Ad-Support...)
- Other Ad-Supported Streaming
- SoundExchange Distributions
- Limited Tier Paid Subscription
- Synchronization

<https://www.riaa.com/u-s-sales-database>

Thank You!

Helena K. Jahromi, LL.M.

Institute for International Law, Intellectual Property
and Technology Law (IRGET), TU Dresden

helena.kowalewska_jahromi@tu-dresden.de