

because of those infringements have been applied<sup>267</sup>. Such successful court practice in IP infringement cases played an enormous role in reducing software IP piracy in the Baltic markets.

## **B. Aspects of the Baltic IP research, innovation and industry**

### *I. General remarks*

As rightly referred, “the enforcement of intellectual property rights thus protects local commercial and industrial innovation, as well as encourages technology transfer and foreign investment” and has an immediate effect on the countries’ economic, social, cultural growth<sup>268</sup>. It is also to contribute to technical innovation<sup>269</sup>.

This is noticeable for the Baltic countries which are building their economies, improving their IP legislation and fighting against IP piracy which, needless to discuss, has negative economic impacts on their economies<sup>270</sup>. It is believed that the success of local commercial and industrial innovation also starts with IP teaching and research at the level of local universities, other educational as well as scientific institutions. It should be noted likewise that before the World War II intellectual property-orientated research and teaching in the Baltic countries played a very modest role. It could be conditioned by the fact that the Baltic states as well as their legal systems, including IP legislation and related infrastructure, were developing during the period of the first independent republics (1918/1919 – 1940/1941), and only, for instance, in Estonia regular scientific research and teaching began at the beginning of the nineties at the University of Tartu where it has been introduced as an independent field of research and education<sup>271</sup>.

The described aspects of such local teaching and research arguably helps to depict the features of local innovative and creative context of the Baltic countries which legislative provisions on enforcement of IP rights are further analysed.

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267 See more about “the compensation instead of damages” provision and its application in Lithuanian court practice with *refs.* to landmark court decisions on the subject-matter in *infra* § 5F.I.1.

268 See *Blakeney*, Counterfeiting and Piracy in the EU: Overview, p. 3.

269 See more in *Straus*, Reversal of the Burden of Proof, the Principle of “Fair and Equitable Procedures” and Preliminary Injunctions under the TRIPS Agreement, p. 808.

270 According to *BSA/IDC 2007 Global Software Piracy Study*, in 2007 the losses from using illegal software in the Baltic countries amounted (\$ Million): 20 \$ in Estonia, 29 \$ in Latvia, and 37 \$ in Lithuania; and in comparison with 2006 those losses increased.

271 See *Pisuke*, Estonia: Copyright and Related Rights, p. 103.

## II. *IP teaching: a role of the national educational institutions and a level of the scientific research*

One may agree that research as well as knowledge which is materialized in technologies and peoples' creation is a substantial impulse for the economic development which is, of course, influenced by all other internal and external factors and creation of intellectual potentials starting from the school and university levels. Therefore, it is extremely important to understand and to control the processes which are related not only to the creation of specific knowledge and distribution of them, however, also the processes in relation with the use of such knowledge.

Such view is reflected in the so-called "European Paradox"<sup>272</sup> which foresees a very important IP education, research and industry interconnection and formulates the important message for the Baltic countries as well. It is essential to stimulate the applied technological research in order to create the end-consumer products which are used as means and processes to develop other better-quality products and services and to compete in the Internal Market as well as in the worldwide market more effectively<sup>273</sup>.

Such views and intentions to analyse the actual status of applied sciences and possibilities of their practical implementation were the basis for the report on actual potentials of applied sciences at the Vilnius University in Lithuania with the main aim to clarify how the scientific products could be applied in practice and could be spread in a circle of further innovative activities taking the intellectual property aspects into account<sup>274</sup>. The report is to be considered as one of the most important sources while analysing the actual status in the field of local applied sciences and the conditions of patenting of creative innovations as well as intellectual property protection in this particular field<sup>275</sup>.

As specifically described in the Report 2006, the primary source of scientific research in IP field is nowadays found in the biggest universities of the Baltic countries<sup>276</sup>. Let us take the example of the Vilnius University which is one of the leading

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272 "European Paradox" mainly reflects the view that there exists a strong fundamental science, however, a weak innovative activity. *Note:* this view could be well applied to the Baltic countries as well; see also *Innovation in FP6 European Commission, Community Research, 2005*, p. 3.

273 As also stressed in Mizaras, Current Key Aspects of Intellectual Property in Lithuania (ATRIP Congress (2008)), p. 2.

274 Report of the Workgroup established by the Order No. R-121 as of 10 May 2006 of the Rector of the Vilnius University on the topic "Science at the University of Vilnius: Applied Sciences and Intellectual Property" (unofficial publication) (hereinafter – the "Report (2006)"), or the "Vilnius University Report on Applied Sciences and IP (2006)". The Report 2006 covers the information in the field of applied sciences in 2004-2005 and is based on the self-analytical material on scientific research at Vilnius University and the findings as of 2004 of the competent experts of the European University Association in this particular field.

275 The numbers (local scientific research level, etc.) as provided in the following text are based on the information from the *Report 2006*.

276 Vilnius University (Lithuania), Riga University (Latvia) and Tartu University (Estonia).