



Property Rights in Media Law

MVV60K Media Law
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Tento projekt je spolufinancován Evropským sociálním fondem a státním rozpočtem České republiky.



INVESTICE DO ROZVOJE VZDĚLÁVÁNÍ



Copyright

- Common law
- Work for hire
- Protects the investor

Droit d'auteur

- Civil law
- Moral rights
- Protects the author

Berne Convention

Rome Convention

TRIPS

WCT

WPPT



- **Directive 92/100/EEC** – Directive on rental right and lending right and on certain rights related to copyright in the field of intellectual property
- **Directive 93/83/EEC** – Directive on the coordination of certain rules concerning copyright and related rights to copyright applicable to satellite broadcasting and cable retransmission
- **Directive 93/98/EEC** – Directive harmonizing the term of protection of copyright and certain related rights
- **Directive 96/9/EC** – Directive on the legal protection of databases
- **Directive 2001/29/EC** – Directive on the harmonization of certain aspects of copyright and related rights in the information society
- **Directive 2001/84/EC** – Directive on the resale right for the benefit of the author of an original work
- **Directive 2009/24/EC** – Directive on the legal protection of computer programs

Literary

Scientific

Artistic

- unique outcome of the creative activity
- expressed in any objectively perceivable manner
- (originality)
- NOT official/folk. works



Moral rights

- **PERSONAL LINK**
- **Paternity**
- **Integrity**
- **Divuligation**

Economic Rights

- **REWARD**
- **Reproduction**
- **Making available**
- **Distribution**
- **Public performance**
- **Translation**
- **Adaptation**



- 70y †
- Post mortem protection

Performers

Producers of phonograms

Broadcasters

Audiovisual fixation producers

- **International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961)**
- **WPPT**
- **Rights granted**
 - Fixation
 - Reproduction
 - Re-broadcasting
- **50 y +**



Measures and remedies

- Civil
- Administrative
- Criminal

Court

121/2000

40/1964

- Damages
- Unjust enrichment
- Satisfaction
- Decision publication

Administrative body

500/2004

121/2000

- Fine
- Up to 150K

Court 40/2009

- Imprisonment
 - max 8y
- Financial penalty
 - Max 36,5 mil. CZK
- Disqualification
- Forfeiture



- **Act. No. 191/1999 Coll. on Some Measures Regarding Import, Export and Reimport of Goods Infringing Certain Intellectual Property Rights and on Amendment to Certain Acts**



- **scientific use**
- **library and archive use**
- **educational use / teaching**
- **users with handicap**
- **quotation**
- **private use**

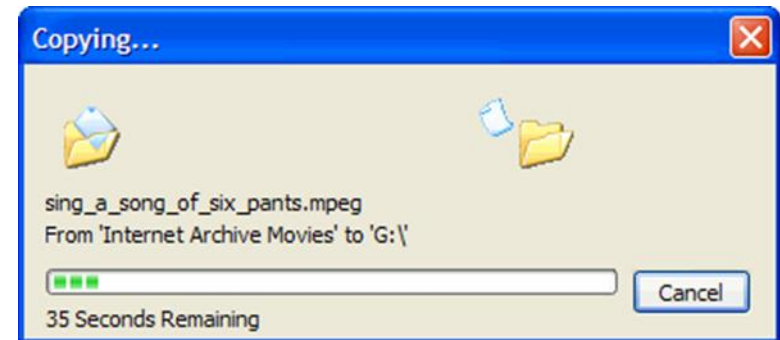
Digitalization



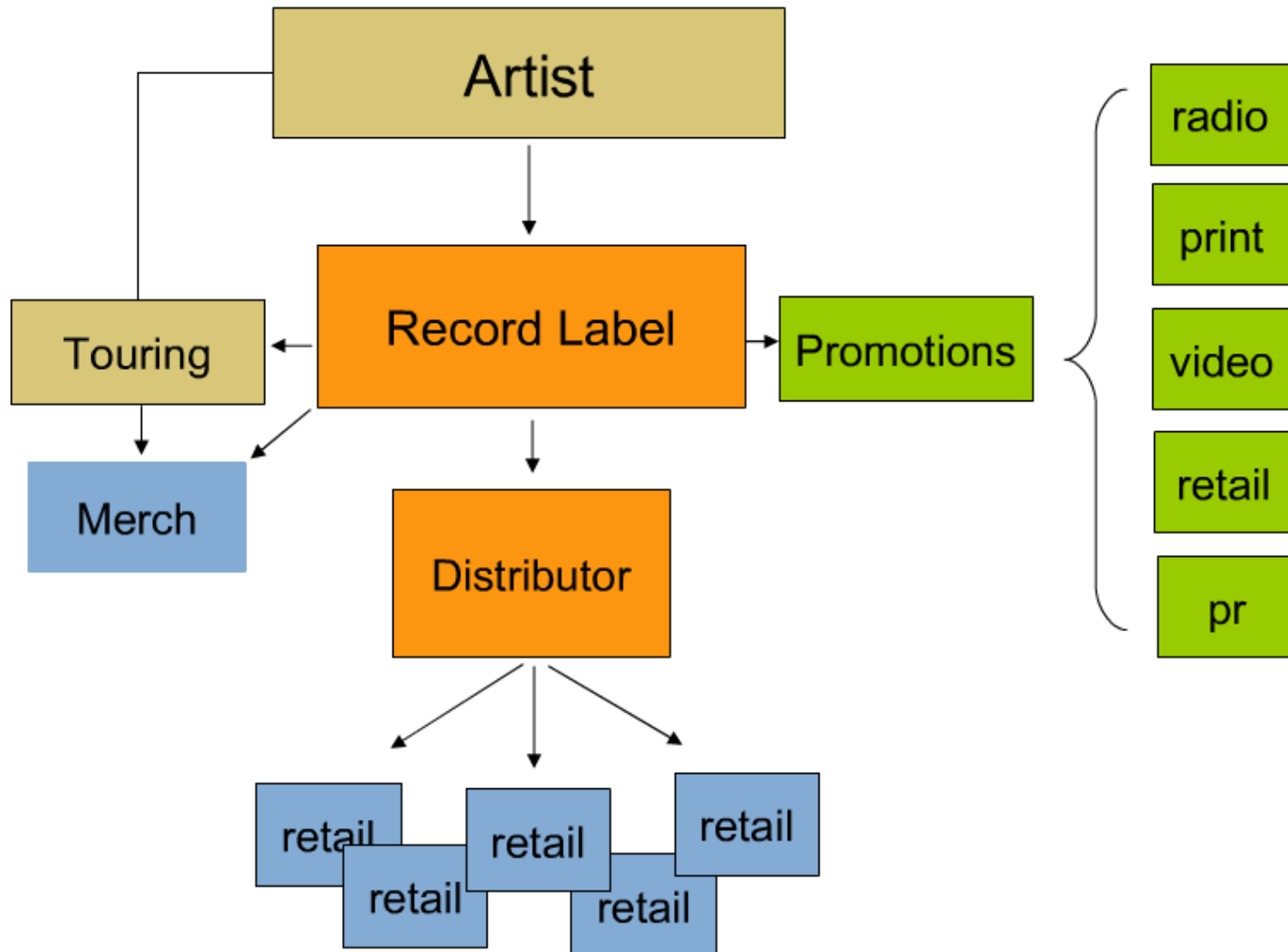
**Distributed
communication**

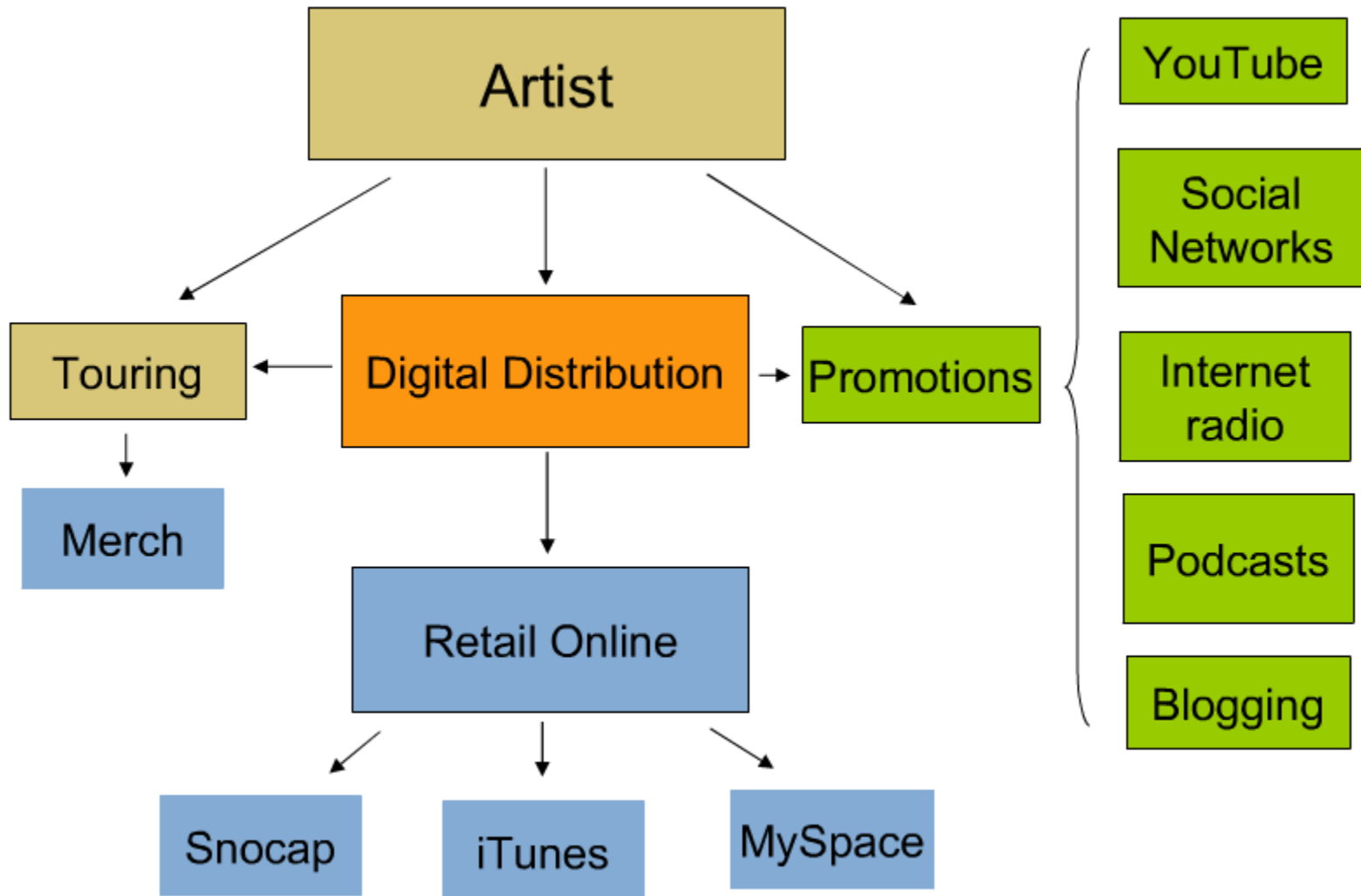


Disintermediation



17 | The “Pre-Internet” Model







- **Copyright wars**
 - Lobbying
 - Education
 - Litigation
 - Self-Help = DRM

UN Convention on the Law of the Sea

- *a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:*
 - *(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;*
 - *(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;*
- *(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;*
- *(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)*



The Pirate Bay Case

- ISP providers?

Jammie Thomas-Rasset

- Playlist of the century



- Guns N Roses "Welcome to the Jungle"; "November Rain"
- Vanessa Williams "Save the Best for Last"
- Janet Jackson "Let's What Awhile"
- Gloria Estefan "Here We Are"; "Coming Out of the Heart"; "Rhythm is Gonna Get You"
- Goo Goo Dolls "Iris"
- Journey "Faithfully"; "Don't Stop Believing"
- Sara McLachlan "Possession"; "Building a Mystery"
- Aerosmith "Cryin'"
- Linkin Park "One Step Closer"
- Def Leppard "Pour Some Sugar on Me"
- Reba McEntire "One Honest Heart"
- Bryan Adams "Somebody"
- No Doubt "Bathwater"; "Hella Good"; "Different People"
- Sheryl Crow "Run Baby Run"
- Richard Marx "Now and Forever"
- Destiny's Child "Bills, Bills, Bills"
- Green Day "Basket Case"

- \$62,500 for each song

• 1,5 mil \$

- **DRM – digital rights management**
 - TPM – technological protection measures
 - RMI – rights managements information
- **TPM protected by law**
- **Copy control**
- **Access Control**
- **Art 6. EUCD**
- **§ 43 czCA**

- **Effective TPM protection**
 - Art. 6(1) – Acts of circumvention
 - Art. 6(2) – Dealings in circumvention devices
 - Art. 6(3) – Definition - **effective**
 - Art. 6(4) – © exemptions measures
- **Art. 7 Protection for RMI**



- any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorised by the rightholder of any copyright or any right related to copyright as provided for by law or the sui generis right provided for in Chapter III of Directive 96/9/EC.
- Technological measures shall be deemed "effective" where the use of a protected work or other subject-matter is controlled by the rightholders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective.



- Three step test
- Fair compensation
- Legality of source copy
- **NO SOFTWARE**

- in certain special cases specified herein and only if
- the use of a work in such special cases shall not conflict with the normal exploitation of the work and
- shall not unreasonably prejudice the legitimate interests of the author.

FREE

PAID



Soft

Arts

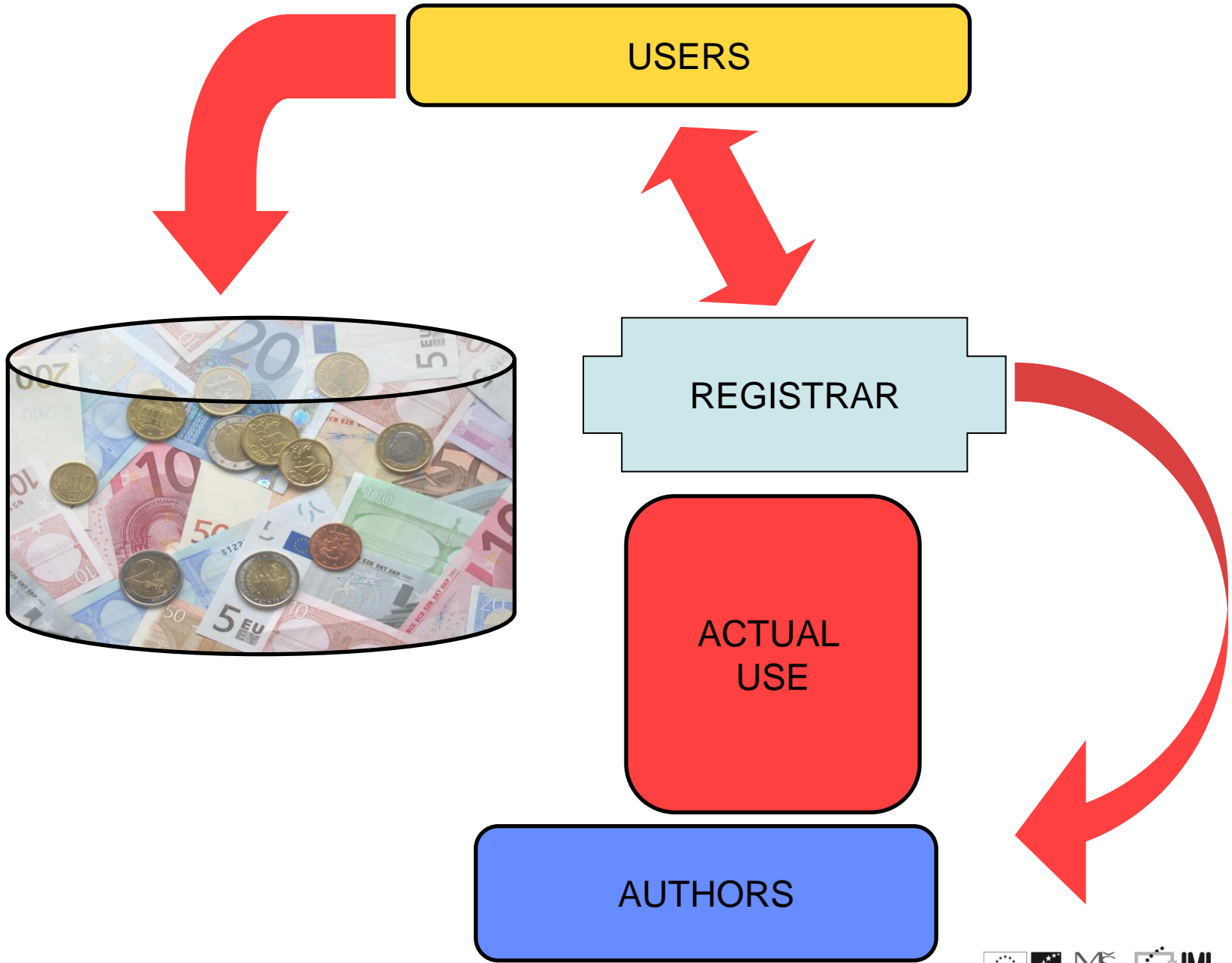
Science



- **2000**
- **2009 in CZ**
- **Public license**
- **Sec. 46 CzCA**



Gerd Leonhard's Flat Fee Model





What have we learned today?



- **MIND THE COPY**
- **Sharing is caring**
 - ...of you works (CC)
- **Otherwise**
 - No uploading
 - Downloading uncertain (3 step test)
 - NOT SOFTWARE



Thank you for your attention!

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MINISTERSTVO ŠKOLSTVÍ,
MLÁDEŽE A TĚLOVÝCHOVY



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