

Market Based Anti-American Sentiment: A Study of Non-Resident Copyright Protection

James D. Thayer *

Abstract

With more than 60 percent of all Korean households having high-speed Internet access, Korea is one of the world's most wired countries.¹⁾ According to the United States Trade Representative (USTR), and others, many Koreans use this high-speed access not only to surf the web but also to trade in pirated goods.²⁾ Many U.S. companies alleging harm from this piracy currently lobby the Korean Government - often through the USTR - to continue to improve the enforcement and establishment of non-resident copyright protection in Korea.³⁾

At a general level, this international struggle between United States producers and Korean consumers is the same struggle that exists between producers and consumers within the United States itself. For example, in the U.S., domestic producers of goods protected by copyright laws lobby the United States government for increased copyright protection. Simultaneously, domestic consumers lobby the same government for increased access to protected goods. This struggle is inherent in the United States constitutional authority that allows for copyright protection in order "[t]o promote the progress of science and useful arts."⁴⁾ That is to say, the constitutional authority behind copyright protection "seeks to encourage creativity without unduly hindering the public's access."⁵⁾

One difference in this international arena is that Korea's copyright policy is being heavily influenced by an outside source. The outcome of the struggle between incentive and access in Korea is being largely decided by the United States. Such a model can lead to neglect of domestic Korean consumer interests. Instead of the Korean market dictating Korean copyright policy, U.S. producers of videos, music, and software are. As this paper will discuss, one result of this structure is an increase in anti-American sentiment in Korea.

* J.D. / LL.M.(International and Comparative Law) Candidate, Duke University School of Law; With love to EBT and many thanks to Sang-Jo Jong and Ralf Michaels.

1) "Korea Emerges As Internet Poll Powerhouse", *The Korea Herald*, July, 2002.

2) United States Trade Representative, 2001 *Special 301 Report*, 1-37, at <http://www.ustr.gov/enforcement/special.pdf>. See also International Intellectual Property Alliance, 2003 *Special 301 Report South Korea*, 288, 289, at <http://www.iipa.com/countryreports.html>.

3) International Intellectual Property Alliance, at <http://www.iipa.com>.

4) U. S. Const. art. VIII, § 8.

5) See, Roger E. Schechter, *Unfair Trade Practices & Intellectual Property* (West Publishing Co. 1995).

I. Introduction

Domestic policy dictated by foreign pressure can lead to domestic resentment in at least two ways: first, regardless of market conditions, resentment towards outside control, and second, resentment resulting from disproportional rights between producers and consumers because of market conditions.

If left to market forces, supply and demand will establish a balance between access and incentive. Such a balance is promoted by a balance in political pressure from domestic consumers and producers on the domestic government concerning copyright protection. However, if the rights of domestic producers and consumers are balanced via a foreign source, there is greater risk of establishing domestically disproportional rights, i.e., the rights domestic consumers lose may not be balanced by what rights their domestic producer counterparts gain and vice versa. This would then promote an imbalance in political pressure on the domestic government concerning copyright protection. The upset party often will look outside its borders to vent frustration.

Over the past 200 years, the United States has allowed its copyright policy to be determined by domestic market forces. In contrast the United States puts international pressure on Korea to adopt “international” copyright standards, resulting in rising anti-American sentiment in Korea.

One alternative approach for the United States to strengthening copyright protection in Korea is market-based. The aim of a market-based approach would not only be to promote increased copyright protection for foreigners, but also be to reduce anti-American sentiment in Korea. Furthermore, a market-based approach would be more indicative of the approach the United States has followed to establish its own copyright policy concerning non-residents within the United States.

II. Copyright and the United States’ Non-Resident Policy

As mentioned above, the aims behind copyright law in American are as old as the United States itself.⁶⁾ Balancing rights between creators and consumers “[t]o promote

6) U. S. Const. art. VIII, § 8, “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

the Progress of Science and useful Arts” has been the foremost recognized purpose behind copyright law in the United States.⁷⁾ This rationale was solidified in America’s first copyright statute in 1790. In the United States this balancing of rights, however, did not originally include non-residents. Barbara Ringer notes that historically the United States’ non-resident copyright protection has been a policy promoted by “intellectual shortsightedness, political isolationism and narrow economic self-interest.”⁸⁾

The first significant sign of support for international copyright protection in the United States came perhaps only as early as 1837, in a report by the chairman of the Committee on Foreign Relations, Henry Clay.⁹⁾ What became known as the *Clay Bill* was introduced several times between 1837 and 1842, but never reached a vote in the Senate.¹⁰⁾ Subsequent legislation that sought to extend United States copyright protection to foreign authors met strong domestic opposition.¹¹⁾

Only on March 03, 1891 did the international copyright movement in the United States take on any specific legislative form with the passage of the International Copyright Act.¹²⁾ Even though the Act claimed to provide reciprocal copyright protection for foreigners, what became known as the “manufacturing clause” of the Act severely hampered foreign publishers’ and other foreign copyright seekers’ ability to obtain copyright protection in the United States.

For example, one requirement of the manufacturing clause required any foreign author seeking copyright protection in the United States to first manufacture two copies of the foreign work in the United States before initial distribution and sale of work in any market.¹³⁾ Not only did this requirement hamper copyright protection for non-residents, but it also gave business to U. S. publishers, one of the main voices

7) *Id.*

8) Barbara A. Ringer, “The Role of the United States in International Copyright - Past, Present, and Future”, 56(2) *Geo. L. J.* 1050, 1055 (1968); see also *id.* at 1054 “[F]or a century after enactment of the first United States copyright statute in 1790, . . . the United States . . . not only deny[ed] any protection to the published works of nonresident foreign authors, but actually appear[ed] to encourage piracy.”

9) Ringer, “The Role of the United States in International Copyright”, at 1054.

10) *Id.*

11) *Id.* “[P]rincipally by American printing and publishing interests who believed that their livelihood depended upon cheap reprints of English books.”

12) *Id.*

13) *Id.* at 1056-57.

against granting copyright protection for foreign works. This is an example of the type of political balancing that takes place with those involved in copyright protection.

After the Second World War, the United States made significant advances in promoting the copyrights of non-residents. However, even after the Universal Copyright Convention came into effect on September 16, 1955, other hurdles to foreign copyright protection remained.¹⁴⁾ Some point to the United States' 1988 accession to the Berne Convention - considered by many to be the main international treaty regarding copyright protection - as the United States' true recognition of non-resident copyright protection. It is significant to note that the United States' ratification of the Berne Convention came over 100 years after the Convention originally came into being, and almost 200 years after the enactment of the American Copyright Statute of 1790. That means if we believe both Ringer and the USTR, over the past 200 years the United States has grown from a pirate to one of the leading proponents for establishment and enforcement of international copyright laws against piracy.¹⁵⁾

Why this change in policy for the United States; why did it take 200 years; why is the U.S. now pressuring countries like Korea to change along with it? The United States' original stance in 1790 of domestic dominance concerning copyright protection, and its resistance towards foreign pressure for international copyright protection, could be explained by its perception that granting reciprocal non-resident copyright protection would have the result of a net economic loss to the United States' domestic market. The United States' change in policy from isolation to exploitation of international copyright protection follows continuing developments in the United States' domestic market and its position in the global market. Perhaps most importantly, the United States "has gone from a net importer of copyrighted works to the world's largest net exporter."¹⁶⁾ J. Thomas McCarthy goes as far as to say, "[I]f no

14) *Id.* at 1061-62.

15) "Economy of the mind", *The Economist Newspaper Ltd.*, December 12, 1989 (UK Edition) "America's government estimates that patent pirates, trademark thieves and copyright bandits cost American industry over \$60 billion a year. At America's insistence, measures to stop the idea-thieves are being painfully negotiated under the General Agreement on Tariffs and Trade (GATT)."

16) Graeme B. Dinwoodie, "The Development and Incorporation of International Norms in the Formation of Copyright Law", 62 *Ohio St. L.J.* 733, 742 (2001) "Although the United States joined the Berne Convention only in 1988, it has recently sought to strengthen international copyright law with a zealotry displayed only by converts. But the conversion has been fostered by economic rather than philosophical considerations; the United States has gone from

intellectual property protection exists regarding technical and entertainment information, then we have little to sell to the rest of the world.”¹⁷⁾

This is a far cry from the early protective forces of the “American printing and publishing interests who believed that their livelihood depended upon cheap reprints of English books.” Or is it? If the requests and concerns of the American printing and publishing companies of the 1800’s are contrasted with those of the technological companies that make up the International Intellectual Property Alliance (IIPA) of the 2000’s their respective cries look very similar.¹⁸⁾

The IIPA is a group of private U.S. companies that has a large financial stake in the international protection of copyrighted materials.¹⁹⁾ It represents mostly companies with large export markets:

All types of computer software including business applications software and entertainment software (such as videogame CDs and cartridges, personal computer CD-ROMs and multimedia products); theatrical films, television programs, home videos and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and textbooks, tradebooks, reference and professional publications and journals (in both electronic and print media).²⁰⁾

The driving force behind the development of foreign copyright protection in the United States has been the domestic market of the United States itself. According to the *Economist*, the United States attributes annual losses to United States industries because of intellectual property infringements at \$60 billion.²¹⁾ If this figure holds true for 1998, the IIPA would attribute roughly \$308.2 million of the total \$60 billion yearly losses to piracy in Korea alone.²²⁾

While the United States’ policy in relation to international copyright protection has

a net importer of copyrighted works to the world’s largest net exporter.” See also Ringer, *The Role of the United States in International Copyright*, at 1059, “[T]he United States had become an exporter in the copyright trade and something had to be done.”

17) J. Thomas McCarthy, “Intellectual Property—America’s Overlooked Export”, 20 *Dayton L. Rev.* 809, 813 (1995).

18) *Description of the IIPA*, at <http://www.iipa.com/aboutiipa.html>.

19) *Id.*

20) *Id.*

21) “Economy of the mind”, *The Economist Newspaper Ltd.*

22) International Intellectual Property Alliance, *2003 Special 301 Report South Korea*, 288, 289, at <http://www.iipa.com/countryreports.html>. Please note that the categories and the years involved are different.

changed significantly over the last two centuries, its “narrow economic self-interest” perhaps has not.

III. United States Trade and Copyright Relations in Korea

One of the first recorded American-led trading expeditions to Korea was that of a merchant-marine schooner the *General Sherman* in 1866. The circumstances surrounding the fate of the *General Sherman* are debatable.²³⁾ However, one description of the account of the *General Sherman's* encounter with Korea is as follows:

It is not well known that the US-Korean conflict dates back to July 1844 when the US Congress tabled a motion to trade with Korea - the Hermit Kingdom. In spite of this, an armed American merchant-marine schooner, the *General Sherman*, was dispatched to Korea to “survey” the waters of Korea.²⁴⁾

This account continues by reporting communication from Korea to the American ship regarding the government of Pyung-an's lack of desire to trade with the U.S. ship:

In the 7th moon of Year Pyung-in (1866), a black foreign schooner . . . dropped anchor at . . . the border of Pyung-an and Whang-hae provinces. Governor Park Kyoo Soo of Pyung-an . . . sent Lee Hyon-ik, the deputy commander of the Pyongyang garrison, to the ship with four eggs and a message:

“You have reached the walls of our city when asked to stay put at Keupsa

23) Dr. S. Wells Williams, “Oppert's Kingdom of Corea”, *New Englander and Yale Review*, Vol. 39, Issue 157, 509-21, 512 (W. L. Kingsley etc., New Haven, Sept. 1880).

24) Lee Wha Rang, “Sinking of the General Sherman: A US Marine Merchant Ship”, March 19, 2000, at www.kimsoft.com/2000/Sherman.htm; see also Cesare Lomvroso, “Why Homicide Has Increased in the United States”, *North American Review* No. CCCCXCIV, 710, January, 1898.

Gate. You insist on trading with us, which is forbidden. Your actions have created a grave situation.”

When the Americans refused to leave and continued to sail up the river toward Pyongyang, the American ship was sunk and all aboard were killed. This unfortunate incident triggered a series of American attacks on Korea.²⁵⁾

Having come halfway around the world to open trade with Korea, the *Sherman* ostensibly ignored Pyung-an’s refusal to trade. After the *Sherman* failed to comply with the request of Governor SOO to leave Pyung-an, Governor SOO and the people of Pyung-an retaliated. Here, although there may well have been another cause for the violence, it would not have happened but for the *Sherman*’s insistence on trade.

The beginning of U.S. influence on Korean copyright law dates back to a 1908 treaty between the United States and Japan.²⁶⁾ Since Korea was heavily influenced by Japan at that time, Korea was also subject to the treaty.²⁷⁾ This treaty extended to “American copyright holders in Korea the same copyright protection that existed in Japan.”²⁸⁾

The United States’ influence on Korea was officially revived in 1983 when the two countries began bilateral discussions over copyright law.²⁹⁾ By 1985 the United States was mostly concerned with a draft form of Korea’s third copyright bill.³⁰⁾ Korean officials claimed the bill was of their own making, and that any improvement in copyright protection in Korea should be reflective of Korea’s domestic economic development, not the United States’ political pressure.³¹⁾

Despite the Korean government’s apprehension, 1986 and 1987 saw the enactment

25) Rang, “Sinking of the General Sherman”.

26) Il-Hyung Lee, “Culturally-Based Copyright Systems: The United States and Korea in Conflict”, *Wash. U. L. Q.* vol. 79, 1103, 1151 (2001).

27) Colonial control by Japan officially began in 1910.

28) Lee, *supra* not 26, at 1151.

29) R. Michael Gadbaw and Timothy J. Richards, “Intellectual Property Rights: Global Consensus, Global Conflict”, 272-73 (*Westview Press* 1988).

30) *Id.*

31) *Id.* see also “that Korea had not yet reached a level of economic development at which increased protection of intellectual property would be cost-effective for Korea.”

of a series of revisions to the Patent, Trademark, and Copyright Acts of Korea. R. Michael Gadbow claimed that these revisions were “catalyzed by a Section 301 investigation initiated by the United States Government in October 1985.”³²⁾ (As amended, Section 301 of the United States Trade Act of 1974 is meant to “promote the adequate and effective protection of intellectual property rights in foreign countries.”³³⁾ Whatever the cause, the United States saw the revisions of Korea’s intellectual property acts as a major victory in the battle over copyright protection for United States producers in Korea.³⁴⁾

At present, the United States government continues to use its political and economic pressure to increase copyright protection in Korea for United States copyright holders.³⁵⁾ One of the main forces behind the action of the United States government in this regard is the IIPA, as mentioned above. The next section will further discuss the role of domestic market forces in shaping the United States’ foreign policy concerning Korea, and Korea’s response to continued pressure to protect United States’ copyright holders in Korea.

IV. Results of United States Pressure on Korea

There are many obvious and expected results of the United States’ continued pressure to increase non-resident copyright protection in Korea. One such result has been an increase in protection. However, this protection has been haphazard in many instances and non-existent in others.³⁶⁾

The IIPA claims “incremental progress” over the last year against some forms of business software piracy.³⁷⁾ It admits a loss of ground concerning an “old form of

32) *Id.* at 272, but *see* note 2, at 272.

33) Judith H. Bello & Alan F. Holmer, “Special 301”: Its Requirements, Implementation, and Significance”, 13 *Fordham Int’l L.J.* 259 (1989).

34) Gadbow, *supra* note 29, at 272.

35) United States Trade Representative, 2001 *special 301 Report*, 1-37, at <http://www.ustr.gov/enforcement/special.pdf>.

36) International Intellectual Property Alliance, 2003 *Special 301 Report South Korea*, 288-303, at <http://www.iipa.com/countryreports.html>.

37) *Id.*

audio-visual piracy.”³⁸⁾ Furthermore, book piracy seems to be on the rise and video piracy continues “unabated” in spite of attempts to stem the flow.³⁹⁾ The IIPA also claims estimated trade losses due to piracy in Korea have nearly doubled over the past four years - from \$302.8 million in 1998 to \$572.3 million in 2002.⁴⁰⁾ The IIPA chart below tracks this progression.

**[Table 1] South Korea⁴¹⁾ Estimated Trade Loss Due to Piracy
(in millions of UNITED STATES dollars)
and Levels of Piracy: 1998 - 2002***

Industry	2002		2001		2000		1999		1998	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Motion Pictures	27.0	25%	25.0	25%	20.0	20%	20.0	20%	20.0	20%
Records & Music	6.9	20%	4.0	14%	7.0	19%	10.0	20%	10.0	15%
Business Software Applications**	121.4	50%	100.4	48%	177.2	56%	118.9	50%	115.7	64%
Entertainment Software	381.0	36%	487.7	63%	157.0	90%	119.0	63%	122.1	65%
Books	36.0	NA	35.0	NA	39.0	NA	39.0	NA	35.0	NA
Totals	572.3		652.1		400.2		306.9		302.8	

* The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in IIPA’s 2003 Special 301 submission, and is available on the IIPA website (www.iipa.com/pdf/2003spec301methodology.pdf)

** BSA’s estimated piracy losses and levels for 2002 are preliminary, and will be finalized in mid-2003. In IIPA’s February 2002 Special 301 filing, BSA’s 2001 estimates of \$134.2 million at 47% were identified as preliminary; BSA finalized its 2001 numbers in mid-2002, and those revised figures are reflected above. BSA’s trade loss estimates reported here represent losses due to piracy which affect only UNITED STATES computer software publishers in this country, and differ from BSA’s trade loss numbers released separately in its annual global piracy study which reflects losses to (a) all software publishers in this country (including UNITED STATES publishers) and (b) losses to local distributors and retailers in this country.

38) *Id.*

39) *Id.*

40) *Id.* at 289.

The IIPA indicates that much work is still to be done if the United States wants to ensure complete or even substantial protection for its copyright holders in Korea. The USTR's Special 301 Report indicates that the United States Government agrees with the IIPA's studies⁴²⁾ and addresses significant concerns with Korea by placing Korea on its "Priority Watch List."⁴³⁾ The Special 301 Report also notes advancement in the fight against piracy and counterfeiting in Korea with orders from then President KIM to "the Ministries of Information and Communications and Ministry of Justice designed to strengthen their copyright enforcement efforts."⁴⁴⁾ However, progress is limited, in part because of Korea's failure to provide full protection to works created after 1950. This is a specific example of how Korea has apparently been unable or unwilling to enforce certain international intellectual property commitments - e.g., the WTO agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).⁴⁵⁾

Another result of the United States' continued pressure to increase non-resident copyright protection in Korea has been a contribution to the rise in anti-American sentiment in Korea, beginning as far back as 1866 with the *General Sherman* tragedy.⁴⁶⁾ On its face, this incident had nothing to do with copyright protection; however, it illustrates a harsh response to the United States' efforts to impose the wishes of its markets on the domestic markets on Korea. This is similar to the relationship that exists today between the United States and Korea involving non-resident copyright protection.

A second example of a harsh Korean response to United States trade policy (more specifically related to copyright law) occurred with the 1908 treaty between the United States and Japan.⁴⁷⁾ Korea resented Japan's ensuing occupation and saw this treaty as an extension of Japan's occupational rule.

A third example took place throughout the late 1980's following the bilateral talks between the United States and Korea concerning intellectual property. Many Koreans did not want the revisions that followed these talks and resented the imposition of such

41) *Id.* Format of table has been modified.

42) United States Trade Representative, *2001 special 301 Report*, 1-21.

43) *Id.* at 1-3.

44) *Id.* at 12.

45) *Id.* at 20-21.

46) Rang, *supra* note 24, *see also* Williams, *supra* note 23.

47) Lee, *supra* note 26, at 1151.

change by the United States government. For example, “the Korean Publishers’ Association staged an ‘Anti-United States Pressure’ rally in which headbands were worn to protest United States efforts at intellectual property reform.”⁴⁸⁾

Friction . . . had been caused in the late 1980s by South Korea’s trade surplus [with the United States]. Correcting and eliminating this trade imbalance became the center of economic controversy between Seoul and Washington. Although Seoul gave in to Washington’s demands to avoid being designated as a “priority foreign country” (PFC) under the United States “Super 301” provisions of the Omnibus Trade and Competitiveness Act of 1988 economic policymakers in Seoul greatly resented this unilateral economic threat. They also feared that the PFC designation would fuel anti-Americanism throughout South Korea.⁴⁹⁾

Although the United States was able to achieve broad intellectual property rights reform in Korea during the 1980’s, it was almost exclusively through trade leverage.⁵⁰⁾ There was very little support from Korea’s domestic market.⁵¹⁾ This created an imbalance between producers and consumers in Korea. As much as Koreans attributed this imbalance to the United States, anti-American sentiment was the result.

The next two tables - taken from R. Michael Gadbow, *Intellectual Property Rights* - illustrate sources of domestic and foreign political pressure on the Korean Government to improve protection for intellectual property rights.

48) *Id.* at 280.

49) Library of Congress Country Studies, *Korea - A Country Study, Relations with the United States* (1990) at <http://memory.loc.gov/frd/cs/cshome.html>.

50) Gadbow, *supra* note 29, at 276.

51) *Id.*

[Table 8.1⁵²⁾] Basic Political Pressures on Korean Government to Provide Improved Protection For Intellectual Property

	Domestic									Foreign						Total			
	Innovators			Violators			Trading Co.			Consumers			Investors			Traders			Net Private sector Political Pressure
	A	B	C	A	B	C	A	B	C	A	B	C	A	B	C	A	B	C	
Patent	3	2	6	-5	4	-20	0	4	0	-1	3	-3	5	4	20	4	12	12	15
Copyright	5	2	10	-5	3	-15	0	4	0	-3	3	-9	3	4	12	3	9	9	7
Trademark	5	2	10	-5	3	-15	0	4	0	-1	3	-3	5	4	20	5	15	15	27
Trd. Secret	3	2	6	-5	4	-20	0	4	0	0	3	0	3	4	12	1	3	3	1
Mask Work	1	3	3	-5	3	-15	0	4	0	1	2	2	3	4	12	0	0	0	2
Overall*	4	3	12	-5	4	-20	0	4	0	-3	3	-9	5	4	20	3	3	9	12

A = position of increased protection for this form of intellectual property
B = political impact (based on political influence of the interested party on this issue)
C = a*b

* Based on weighting of above factors given varying degrees of importance of each form of intellectual property protection to each group.

* primarily involved in removal of agricultural chemical label requirements

According to Table 8.1, above, net domestic pressure on the Korean government to improve copyright protection is negative fourteen. Foreign interests, mainly the United States, create a net foreign pressure of twenty-one. The United States is lobbying for something the Korean domestic market does not want. With regards to Chart 8.1, the Korean Publishers Association exerts stronger pressure on the government than the Korean Music Copyright Association (KOMCA), the Korean Society of Authors, and the Korean Phonogram Association combined. This demonstrates the imbalance between domestic innovators and consumers. There is an imbalance in what the market wants and what the market is given; it vents itself in anti-American sentiment.

⁵²⁾ *Id.* at 278, format modified.

For A:	Total Column Key
+5 = favor Strongly	>24 = Strong net private sector pressure on government to improve intellectual property right protection.
0 = no position	10-25 = Moderate net private sector pressure on government to improve intellectual property right protection.
- 5 = oppose strongly	0-9 = Some , but minimal, net private sector pressure on government to improve intellectual property right protection
	-9-0 = Some , but minimal, net private sector pressure on government to reduce intellectual property right protection
For B:	-25 to -10 = Moderate net private sector pressure on government to reduce intellectual property right protection.
+5 = strong influence	<-25 = Strong net private sector pressure on government to reduce intellectual property right protection.
0 = no influence	
Total = sum of all columns "c"	

**[Chart 8.1⁵³⁾] Private Sector Organizations
Active on Intellectual Property Issues in Korea**

	Favor Increased Protection	Oppose Increased Protection
General	Korean Intellectual Property Research Society (KIPS)	
Industrial Property	Foreign Pharmaceutical Representative Group (FPRG) Foreign Agriculture Suppliers Group*	Korean Pharmaceutical Association Korean Agricultural Chemical Association
Copyright	Korean Music Copyright Association (KOMCA) Korean Society of Authors Korean Phonogram Association	Korean Publishers Association

53) *Id.* at 279.

On a side note, some scholars argue that because culture influences market conditions, the United States' misunderstanding or willful ignorance of Korean culture could also be a partial cause of Korean anti-American sentiment. This paper accepts this argument only insofar as such "misunderstood" culture truly affects domestic market conditions in Korea.

V. Conclusion

The United States' markets dictate the United States' domestic and foreign non-resident copyright policy. This policy largely ignores Korea's own market demands for and against copyright protection. The resulting copyright regulations in Korea disproportionately favor domestic producers rather than consumers and aggravate Korean anti-American sentiment.

As mentioned above, one of the main forces behind the United States policy for international copyright protection today is the IIPA.⁵⁴⁾ The IIPA represents almost an opposite image of comparable manufacturers that can be found in Asia. "While the Asian nations produce most of the hardware . . . such as televisions, CD players, and PC clones, America supplies the content for that hardware—the shows, songs, and software that makes the hardware valuable."⁵⁵⁾

If United States "content" providers use the United States government to achieve their desired level of copyright protection in Korea, many domestic Korean consumers of "content" goods will be disenfranchised. However, if there is sufficient domestic support, i.e., political pressure from domestic "content" providers in Korea, to offset the displacement of the "content" consumers we could expect a relative balance of interests in the market. That is, any short-term loss to domestic "content" consumers would be balanced by a gain to domestic "content" providers, i.e., innovators.

Just as the United States allowed for domestic pressure to build over almost 200 years to dictate its full embrace of non-resident copyright protection, perhaps by letting Korea's domestic market dictate its own timing for embracing non-resident copyright protection the United States would strengthen the relations it has with the older generation of Koreans and create bonds with the new generation.

54) *Id.*

55) See note 6, McCarthy, 813-14.

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