

Fair Use in the U.S. Economy:

Economic Contribution of Industries Relying on Fair Use

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Summary

- Results: Fair use reliant industries held their own in tough economic times.
- Purpose of the study
- Methodology
- Detailed results for key contribution measures.

What is Fair Use?

- “Fair use” is an important restriction to the rights conferred on original works by the U.S. Copyright Act of 1976.
- For this study, the term “fair use” includes fair use and other related limitations and exceptions to copyright enumerated in Title 17
- The key provisions are listed below and defined in the report.

Section	Form of Protection
102(a)	Noncopyrightability of facts
102(b)	Idea/expression dichotomy
105	No copyright in U.S. government works
107	Fair use: criticism, comment, news reporting, browser, cache copies, reverse engineering, space shifting
108	Library uses
109	First sale doctrine, copies
112	Ephemeral recordings
114(a)	Exception to sound recording performance right
117(a)	Back-up, essential step
302-304	Copyright term
512	ISP safe harbors

Why Measure the Fair Use Economy?

- Estimates of the economic contribution of copyright industries are widespread.
- The limitations to copyright, fair use, are also important to the U.S. economy.
 - Fair use undergirds important economic activities and products in the digital age.
 - Beneficiaries of fair use are widespread.
 - Businesses and consumers benefit.
- This study aims to quantify the economic contribution of fair use.

Methodology

- Identify industries that benefit from fair use.
 - Worked with Professor Jaszi to define fair use industries.
 - Core and non-core
- Follow the WIPO framework of analysis.
- Determine revenue, employment, payroll, and exports of those industries.
- Estimate value added for those industries.
- Compare fair use values with overall economy.

Methodology

- **Core industries** depend in large measure on the limitations and exceptions to copyright law.
 - Internet service providers and web search portals
 - Computer and peripheral equipment manufacturing
 - Legal services
 - Newspaper publishing, etc.
- **Non-core industries** facilitate output of the fair use core or are major users of fair use industries.
 - Book, periodical, and music stores
 - Consulting
 - Communications equipment manufacturing

Methodology: Data Sources

■ Census Bureau

- ***Economic Census*** (2002 and 2007)
 - Revenues and payroll, value added for some industries
- ***County Business Patterns*** (2006 and 2007-08)
 - Payroll
- ***Service Annual Survey*** (2008-09)
- **Merchandise exports**

■ Bureau of Labor Statistics

- Employment

■ Bureau of Economic Analysis

- Value added estimates for most industries
- Services exports

Measuring Fair Use Industries

Main WIPO Metrics

- **Revenues**—value of net sales
- **Value added**—value of output minus value of purchased inputs
 - Measures firm's contribution to Gross Domestic Product (GDP)
 - No double counting
- **Employment**—number of workers
- **Payroll**—all forms of compensation
- **Trade**—export value

Results— Revenues of Fair Use Industries

Total Revenue = \$4.5 trillion in 2009



Sources: U.S. Census Bureau and Bureau of Economic Analysis.

■ Non-core ■ Core

% increase 2002 to 2009—Core: +42%; Non-core: +19%; Total: +31%

Results— Value Added of Fair Use Industries

Total Value Added = \$2.4 trillion in 2009

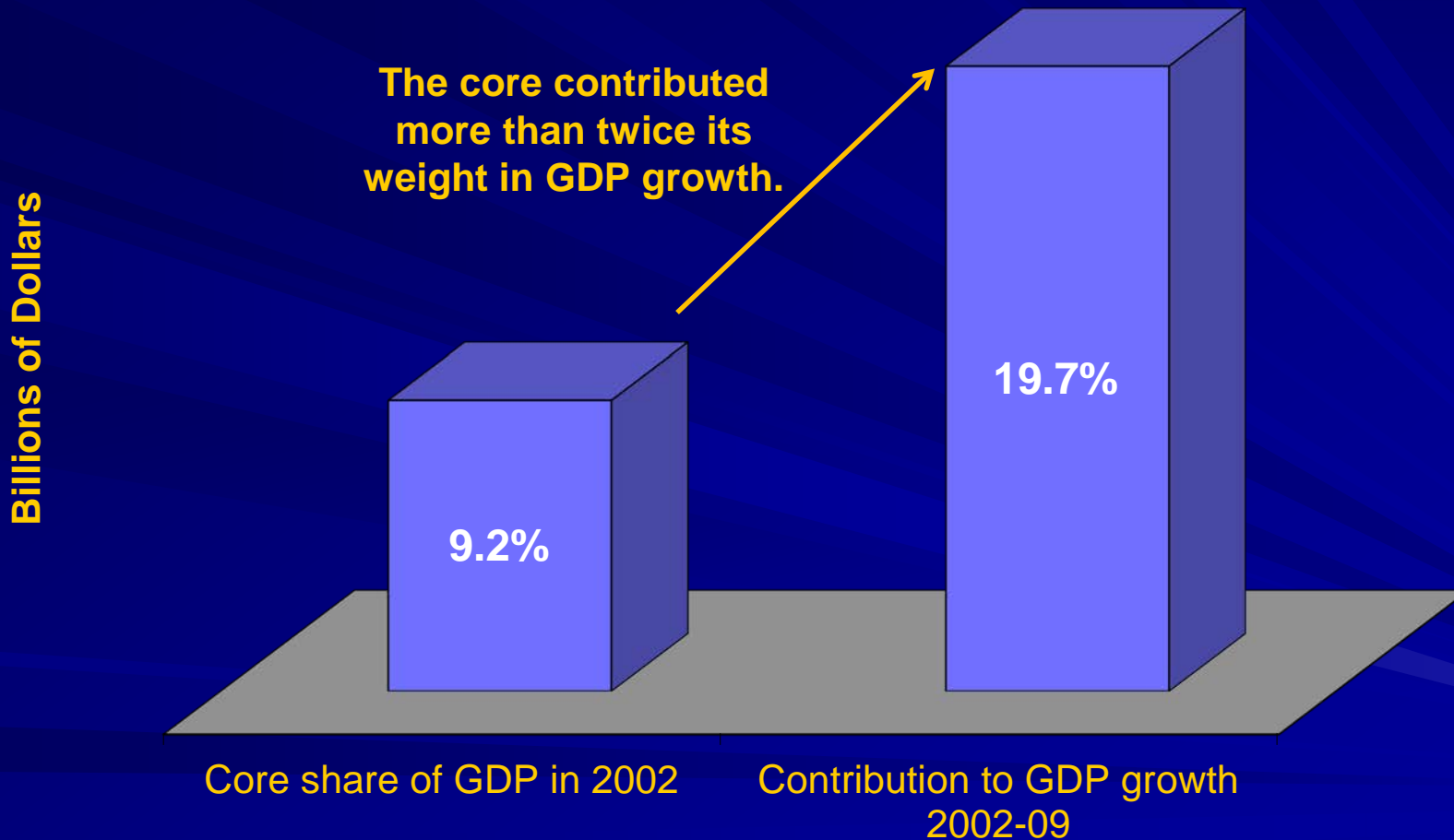


Sources: U.S. Census Bureau and Bureau of Economic Analysis.

■ Non-core ■ Core

% increase 2002 to 2009—Core: +49%; Non-core: +38%; Total: +44%

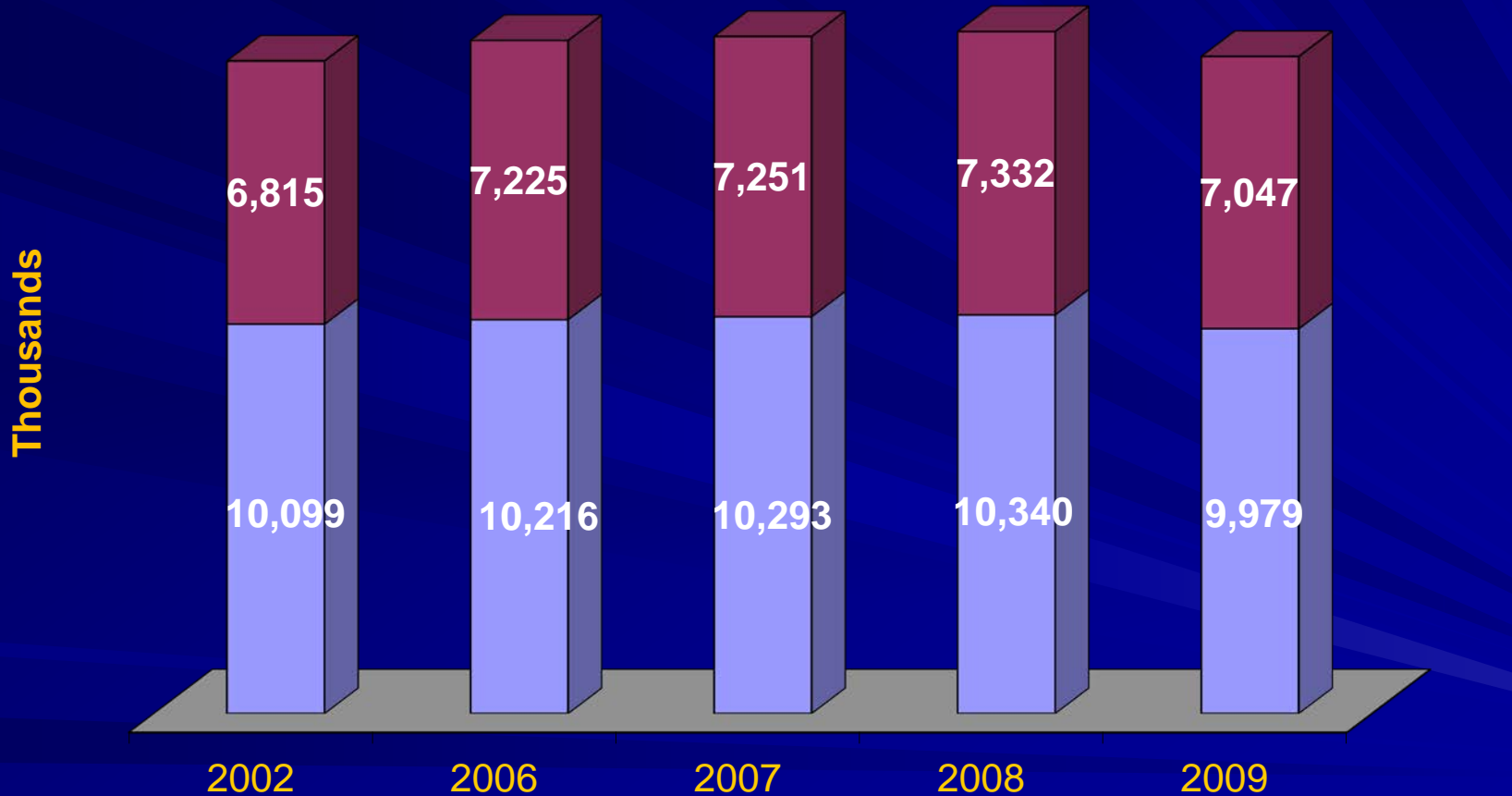
Results— Core Contribution to GDP Growth



Sources: U.S. Census Bureau; Bureau of Economic Analysis; and Appendix 5.

Results— Employment in Fair Use Industries

Total Employment = 17.0 million in 2009



Source: Bureau of Labor Statistics.

■ Non-core ■ Core

% increase 2002 to 2009—Core: -1.2%; Non-core: +3.4%; Total: +0.7%

Results— Payroll in Fair Use Industries

Total Payroll = \$1.2 trillion in 2009



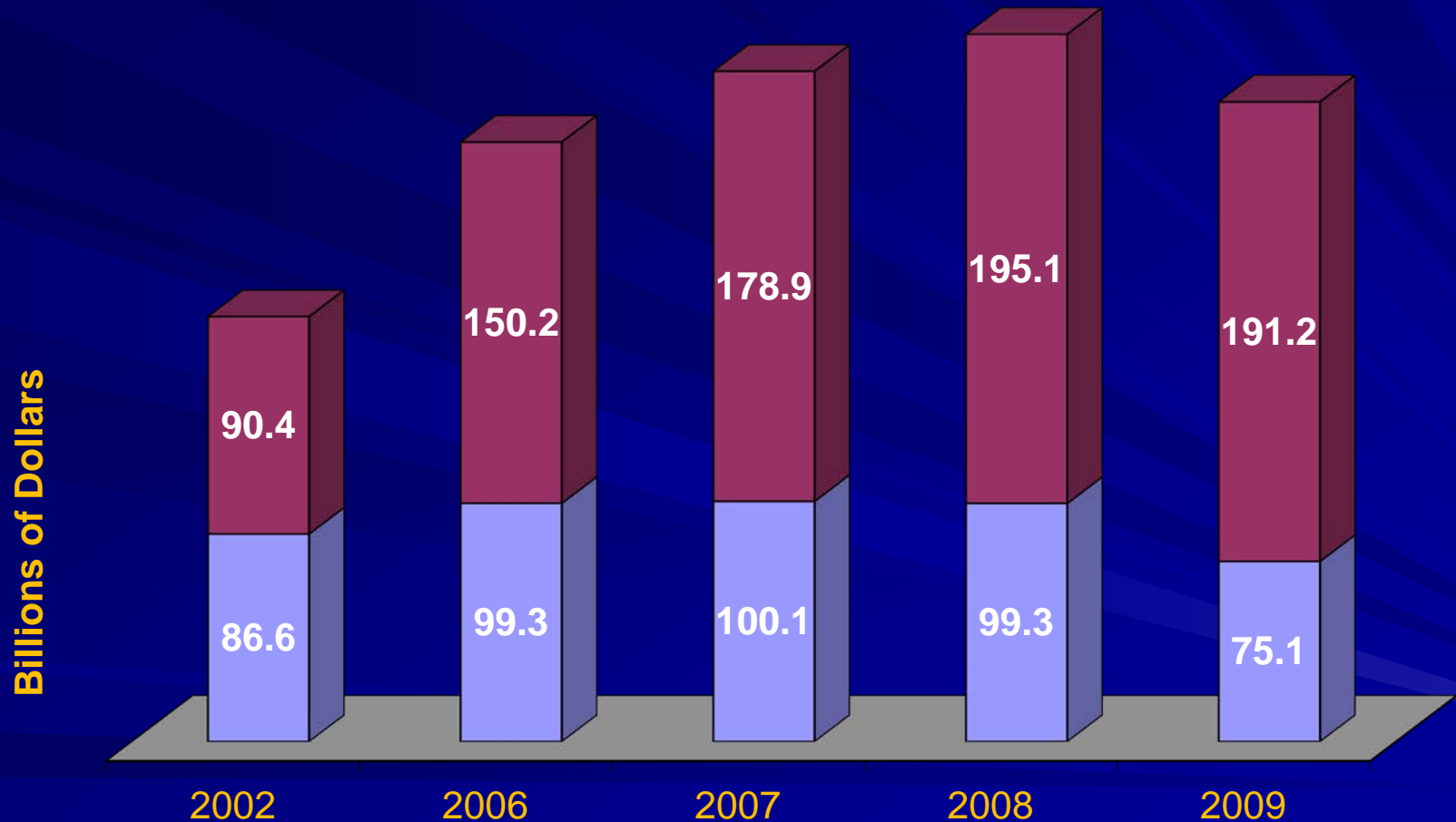
Sources: U.S. Census Bureau.

■ Non-core ■ Core

% increase 2002 to 2009—Core: +41%; Non-core: +26%; Total: +35%

Results— Exports of Fair Use Industries

Total Exports = \$266 billion in 2009



Sources: U.S. Census Bureau.

■ Services ■ Goods

% increase 2002 to 2009—Goods: -13%; Services: +111%; Total: +50%

Results— Productivity and Compensation in Fair Use Industries

- Productivity and compensation growth have been especially strong in core industries.

Measure	Type	2002	2007	Change
Payroll per Employee	Compensation	\$55,288	\$78,968	+\$23,680
Value Added per Employee	Productivity	\$96,681	\$145,402	+\$48,721

Results—

Fair Use and the Great Recession

- Fair use industries were affected by the economic downturn, but held up relatively well.

Measure	Fair Use	USA
Employment	-3.7%	-4.4%
Value added/GDP	+0.0%	-1.7%
Goods and services exports	-9.5%	-14.5%