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Intellectual Property Rights and Creative Economy; Way Forward for Pakistan

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ARTICLE DETAILS	ABSTRACT
History	This paper examines the relationship between enforcement of intellectual
Revised format: 30 June 2019	property rights and growth of the creative economy. Intellectual property
Available Online: 31 July 2019	based creative industries highly contribute towards national economy
	through trade, value addition, and tax revenues. Size of the global creative
Keywords	economy has almost doubled during 2015 leading it to the figure of \$509
Intellectual Property Rights,	billion that was \$205 billion during year 2002. It is worth noting that
Creative Economy, Copyrights,	major player in global volume of creative economy are South Asian
Patents, Trade And Development,	countries such as China, Hong Kong, Malaysia, India, and Taiwan. Major
TRIPS Agreement 1994	creative industries include software, pharmaceutical, music, cinema,
	fashion, design, art, culture, photography, publishing, and other related
JEL Classification:	creative works. Creative industries need support of effective enforcement
034, F10, E24, F35, K11	from intellectual property rights to pay incentive to a creator for its
	investment of expertise, labour, and finances. In absence of effective
	intellectual property enforcement and violation of intellectual property
	rights, innovation may go slow that affects growth of the creative
	economy. This research highlights potentials of growth of the creative
	economies in Pakistan in terms of intellectual property rights.

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1. Introduction

After adoption of TRIPS Agreement in 1994, the dynamics of global creative economy have gone very competitive. It is good omen form Pakistan that South-Asia, especially China and India, have won a major share of creative economy that helps them grow with enormous pace. Pakistan shares almost same cultural and social trends and that is why it is very likable that economy of Pakistan grows at the identical pace by focusing on its creative economy through facilitating its creative industries. Pakistan has been focusing on various creative industries such as software industry that has grown with moderate pace rising its volume to the level of from \$2.2 billion during to \$5.1 billion in 2002. This shows that Pakistan got potential of growing its creative economy at least as equal pace with the world (Shamsi, Nasir, 2016). As it is stated earlier that global markets effected by creative economy growth went double from 2002 to 2015. The same trends would be demonstrated by using the data of growing software industry in Pakistan.

Post-TRIPS agreement standards of intellectual property rights have raised the standards of protecting intellectual property rights from national to international treatment. Before adoption of TRIPS Agreement, a development happened during Uruguay Round of Trade Negotiation (1986-94), intellectual property rights were regulated by Paris Agreement in 1863. Moreover, Berne Convention, Rome Convention, Paris Convention, and other international agreements were prominent. TRIPS Agreement has provided the world with a unified comprehensive document that includes ethos of major intellectual property developments in the past (Bagchi, 2007). TRIPS Agreement includes almost all prominent aspects of intellectual property rights such as copyrights, patents, geographical indications, trademarks, and industrial designs (TRIPS Agreement, 1994). Apart from substantive structure of intellectual property rights are conferred for innovative and creative acts in fields like literature, theatrical work, industrial innovation, music, videos, television programs, software, databases, graphic arts, trademarks, trade secrets, geographical indications, engineering, design, and other innovative aspects.

United Nations Conference on Trade and Development (UNCTD) has published its report in 2018 that shows positive trends of growth in creative industries of Pakistan. Moreover, Pakistan has evolvingly obtained better scores regarding the protection of intellectual property rights. Figure 1 demonstrates the profile of Pakistan towards creative economy (UNCTD, 2018):

Aforementioned diagram reveals that performance of Pakistan towards growth of the creative economy and a comparative analysis of its growth with neighbouring countries reveals that this growth, although satisfactory, falls behind average growth in South-Asia. Trends of the creative economy have remained constant and no prominent growth happened between 2005 and 2011. A short boost was witnessed throughout 2011-14 and a steep decline has shown in coming years.

Although, Pakistan has seen an evolutionary growth in macrocosmic and microcosmics activities, this growth is less as compare to other regional players. This may be optimised by facilitating innovation through enforcing intellectual property rights. International Intellectual Property Rights Alliance (IIPA) propounds its concerns for the standards of enforcing intellectual property rights in Pakistan. Moreover, the alliance has filed a petition questioning Pakistan's status for duty free preferential treatment under_Generalised System of Preferences GSP program of World Trade Organisation (WTO) concerning software and book piracy in Pakistan (Ahmed, et al. 2010). Pakistan's status on global intellectual property compliance list is gradually lowering that may slow down import of innovative ideas and products which will ultimately affect the creative economy of Pakistan. The Business Software Alliance (BSA) reported that control over software piracy could help Pakistan worth \$160 million in revenue and an additional \$23 million in tax revenue (Samad et, al., 2018)

This paper will analyse various creative industries with respect to intellectual property rights categories. First part will highlight Pakistan performance in copyright related industries. Second part will focus on patents related innovation in industry of Pakistan. Third part will highlight Pakistan's growth in software industry. Fourth part will highlight, situation of intellectual property rights enforcement and way forwards to help growth of the creative economy in Pakistan.

2. Research Question

Fundamental question in this research is to what extent intellectual property rights relate to growth of creative economy in Pakistan. The question is significant and global as well as regional economy is growing enormously with the support of the creative economy. This question will be analysed through data available via various national and international organisation.

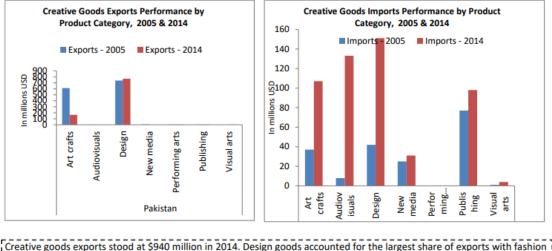
3. Research Method

Based on nature of question and its scope, the approach will be deductive that tests existing theory of relationship between innovation and economic growth. Research design will be qualitative with special focus on doctrinal research methodology. Nature of work is interdisciplinary a doctrinal research methodology will appropriately help us deducing results of relationship between enforcement of intellectual property rights and growth of creative economy in Pakistan. The research used primary legislative and judicial sources along with secondary data collected by United Nations Conference on Trade and Development, National Bureau of Statistics, State Bank of Pakistan, and National Institute of Cultural Studies.

Figure 1

COUNTRY	PROFILE	- Pakistan								
Creative In	dustries Tra	ade Perforn	nance, 2005	5-2014		Value in N	1illion US\$			
Pakistan	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Exports	1.363,11	1.300,80	1.153,66	1.262,40	1.191,63	1.302,42	1.244,45	2.355,40	1.251,65	940,59
Imports	189,86	257,77	263,38	436,51	293,95	381,71	455,83	358,08	290,04	525,48
Balance of Trade	1.173,25	1.043,03	890,28	825,89	897,68	920,71	788,62	1.997,32	961,61	415,11





Creative goods exports stood at \$940 million in 2014. Design goods accounted for the largest share of exports with fashion goods exports worth \$652 million and jewelry \$106 million. Art crafts is also a dynamic sector, the exports of carpets being worth \$123 million. Pakistan's handmade carpet industry can be traced back to the 11th century and employs around 1 million people.¹ A single piece of carpet requires six months to a year's labor. Creative goods imports stood at \$525 million in 2014. Pakistan posted a trade balance of \$415 million in 2014.

4. Literature Review

4.1 Creativity and its Impact on Economy

Creativity is directly proportional to economic growth of state. For instance, artistic production, inventing new engineering process, starting new business method, inventing a design with financial and economic impact directly leads towards economic activity in a state. United States of America takes of major part of its economic might from creative industries such as software, pharmaceutical, performing arts, music, and other innovative aspects of innovation. According to Shumpeter (Shumpeter, 1934), modern day entrepreneurship is product of forming new business or firm supported by new idea and a process to execute it for social or cultural activity that produces economic benefits. It is estimated that UBER, a transportation facility that does not own a single car, will turn to \$100 billion dollar company after its listing to stock exchange. The same aspect of creativity is highlighted as formation of private kingdom that supports joy of creating (Audretsch, Keilbach 2005). Creating a new idea turns in not only facilitating culture and society grow to new levels of ease and comfort but it also helps economy sustain (Carree, Thurik 2008).

Schultz was the first to highlight significance of innovation in growth of creative economy. Moreover, BecKer highlighted the same aspect during 1964 (Glaeser et al. 1992). World industrial investment has been shifted form investment of hard input to human capital and it is human intellectual capital that creates a big difference in making companies top earning in the world (Berry and Glaeser 2005). Creative industries, in now a day, are the major source of revenue for world economies. Audretsch has highlighted the same relationship between intellectual innovation and economic growth. Along with intellectual innovation by human capital, technological growth is major factor in economic growth and is based on innovation in various methods.

Saxenian (1994) explains the growth of creative industries and stresses that creative industry may grow with cooperation of universities, industries, and entrepreneurs by uniting human capital to market that will ultimately help growth of not only innovation but also creative economy. Florida (2002) mentions various aspects of creativity in arts, engineering, science, culture, and entertainment that can help creative industry grow effectively in a state. Lucas (2009) highlights identical trends my mentioning that new ideas stain economic growth of a state and role of ideas solve social problems related to business and industries (Howkins 2001). Creating new business and production in current times requires a good deal of innovation of ideas that make it distinct from other existing business ideas (Audretsch et al. 2010). Capital of investment has been divided in two parts; funds and human capital that turns these funds perform maximum towards financial return (Putnam 1995).

Top creative organisation are mainly generating their profits from their innovative ideas and list ranges from Apple, Amazon, Microsoft, Facebook, music and film industry, to many other creative businesses around the world. It is worth mentioning that creativity requires a great deal of expertise, intellectual ability, persistent quest for innovation supported by hard work, and financial capita. In case innovation is not respected and is left prone to piracy, theft, and unauthorised use, it will discourage inventors from investing their time and efforts. In result, the world will lose its sustainable development.

4.2 Role of Copyrights related industries in the creative Economy

Copyrights related industries are diverse. They range from poetry to composing a complex business or software model. To highlight the role of copyrights in various industries, WIPO framework can act as a guidance and various writers have tried to define the domain of copyrights related industries. Copyrights may bear relevance to publishing, writing, data processing, social and cultural heritage, radio and television broadcasts, musical manufacturing and instruments, arts and craft, textile, garments, leather products, jewellery, transport, and other services that use model of copyrights.

Copyrights inspired industries have served Pakistan's creative economy in a very positive manner by enhancing exports. During 2018, research published by Samad et, al highlights a good estimation of contribution of copyrights related industries in enhancing creative economy of Pakistan. The research concludes that copyrights industries got potential to contribute towards adding value, taxes, trade and foreign exchange, attaining balance between import and exports. The study recommends that it is very important that industries grow with the help of enforcement of copyrights and this enforcement will enhance innovation that will lead towards economic activity. Moreover, the study reveals that copyrights related industries are underrated for their contribution in developing economy of Pakistan. For understanding contribution of copyrights related industries, table 1 is significant:

Aforementioned table demonstrates the contribution of various copyrights related industries towards export during 2003-2008. The table demonstrates that various industries have been progressing with a moderate pace. It is pertinent to mention that this pace may be enhanced by including copyrights protection and effective enforcement of innovation in these industries. Copyrights enforcement will help growth of creative industries in two way. First, it will create competition among national industries to invest in research and development and second it will attract international investors to invest in creative industries of Pakistan.

Law of copyrights in Pakistan is know as Copyrights Ordinance 1962. It was latest amended in year 2000 to make it compliant with international standards of copyrights standards provided in TRIPS Agreement 1994. Pakistan is member of Berne Convention as well as Universal Copyrights Convention. Copyright protection in Pakistan is available for literary, artistic, musical, dramatic, cinematographic, architectural work, photographs, books, newspaper writings, lectures, engravings, all forms of records such as tape, disc, wire, or other sound recording. Copyright generally connotes right to author or creator. According to Black's Law Dictionary, copyrights means (Bashir, Khan, 2015):

Table 1

Copyright-Based Industries Exports (2003 – 2008) Thousand US \$

Copyrigni-Duseu mausiri			2000) 1			
Categories	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Core Copyright Industries						
Books, Newspapers and Printing Industry	3,622	6,086	4,616	3,909	4,365	3,577
Works of Arts	17,260	6,653	23,233	15,432	6,797	2,125
Computer and Information Services				72,000	106,000	154,000
Advertisement market research and public opinion						
poll				20,071	24,040	23,987
Personal, Cultural and Recreation Services				1,315	2,000	3,000
Total	20882	12739	27849	112,718	143,202	186689
Interdependent Copyright Industries					-	
Photographic goods	919	852	779	110	85	44
Paper and Paperboard	10,019	13,613	26,296	43,976	21,833	37,304
Sound Recorders and Reproducers, Television	-	ŕ		, i i i i i i i i i i i i i i i i i i i	·	
accessories	36,522	44,940	101,892	134,605	145,330	74,128
Cinematographer	172,094	178,287	192,640	222,013	236,621	275,505
Total	219554	237692	321507	400704	403869	386981
Partial Copyright Industries						
Wood and articles of wood	13,47	11,16	15,73	10,26	10,72	16,90
Apparel and Textile	211278	226038	250700	273757	297027	314069
Carpets and other textile Floor coverings	8160	8111	9759	9503	9088	8422
Special Woven Fabrics, Tufted Textiles Fabrics, Lace	11171	19326	23338	26313	26554	16593
Knitted or Crocheted Fabrics	1408	2453	1820	1398	1977	2693
Articles of Apparel and Clothing Accessorised						
Knit	71356	85267	95680	97693	106060	107344
Articles of Apparel/Clothing Access not Knitted	50573	33881	36947	46434	54070	59614
Other Man-Made Textile Articles, Sets, Worm						
Clothing	68610	77000	83156	92416	99278	119403
Footwear, Headgear	4303	4130	6087	6417	5772	5828
Articles of Stone, Plaster, Cement,	825	1339	1156	1340	1339	1832
Total	216406	231507	257943	281514	304138	321729
Non-Dedicated Support Industries						
Transportation				44282	44778	43050
Communication Services				8118	4961	4797
Total				52400	49739	47847
Copyright-Based Industries Exports (Core +				22.00		
Non-Core)	456842	481938	607299	847336	900948	943246

"The right of literary property as recognized and sanctioned by positive law. A right granted by statute to the author or originator of certain literary or artistic productions, whereby he is invested, for a limited period, with the sole and exclusive privilege of multiplying copies of the same and publishing and selling them".

Violation of copyrights may attract various remedies for right holder such as civil, criminal, and administrative (Copyrights Ordinance, 1962). A person involved in violating copyright may face injection, compensation, and forfeiture if pirated products (Copyrights Ordinance, 1962). Under criminal jurisdiction, the violation may attract imprisonment, fine, or both. Moreover, a police officer is authorised to inspect the property under suspension of copyrights violation (Copyrights Ordinance, 1962). Copyrights law provides administrative remedies by authorising customs officers to inspect any suspected baggage that may contain any copyrights violation material and withhold the material (Copyrights Ordinance, 1962). Moreover, this may also lead towards invocation of criminal action against copyright violator. It is worth mentioning that registering copyright in Pakistan is not compulsory under the law but is recommended. Section 39 of Copyrights Ordinance states (Copyrights Ordinance, 1962):

"The author, publisher, owner or other person interested in copyright of any work may make an application in the prescribed fee to the registrar for entering particulars of the work in the register of copyrights, after it registrar may issue certificate of such registration ,unless, he considers that such entry should not be made in respect of any work."

It is commonly misunderstood that scope of copyrights extends to only published material. This paper try highlighted and connected copyrights aspect to industry and creative innovation that leads towards strengthening economy of Pakistan. As stated earlier, copyrights related industries has performed very well to available capacity and capabilities. This performance can be optimised by enforcement of copyrights laws in effective manner.

Incentive and appreciation leads human nature towards creation. While discouraging trends of piracy affects innovation. Impact on innovation ultimately leaves weaker economy. Ignoring copyrights law as less important is not right approach towards economy and strengthen copyrights law will facilitate related industries grow (Mehmood, Ilyas, 2005). Moreover, it will attract international investments to develop atmosphere of competition as well as foreign direct investment.

4.3 Patents-related creative industries

During year 2000, US patent related industries contributed \$19 billion dollars to economy and the rising with every year. Patent related industries include pharmaceutical, engineering, manufacturing, technology, and in some cases software and mobile applications. Patent Ordinance 2000 defines patent as right that provides inventor a monopoly over its invention for 20 years to exclude others from unauthorised use of the invention. Patent rights may be granted to any patentable invention and patentability criteria is defined in section 7 of Patent Ordinance 2000. Patent mainly is innovation that is novel and is product of inventive steps. Moreover, an invention is eligible for grant of patent if it has some industrial application. Patent protection to innovations are granted for two main reasons. First if encouraging innovation to inventor that has invested efforts and money in inventing a new product, process, or solution. Secondly, patent protection enhances competition in society to get reward for contribution towards society. Moreover, patent require inventor to disclose its inventive steps and secret information behind idea that further helps growth in knowledge and industry. Greenhalgh and Longland (2001) found that patent and creative industries have a strong relationship as the patent ignites industrial development that further facilitates growth of economy.

Patent related industries can only grow with sufficient investment in research and development of new ideas. Table 2 demonstrates that investment in research and development has been very marginal (UNCTD, 2018):

PAKISTAN	Values in	Million US \$			
	2010	2011	2012	2013	2014
EXPORTS	201,0	244,0	274,0	312,0	390,0
Charges for the use of intellectual property n.i.e					
Other business Services	8,0	4,0	7,0	4,0	11,0
Research and development (R&D)	8,0	4,0	7,0	4,0	11,0
Personal, cultural and recreational services			1,0		
Audiovisual and related services			1,0		
Telecommunications, computer, and information services	193,0	240,0	266,0	308,0	379,0
Computer services	193,0	240,0	265,0	308,0	379,0
Information services			1,0		
IMPORTS	169,0	196,0	190,0	178,0	184,0
Charges for the use of intellectual property n.i.e					
Other business Services	1,0	2,0	6,0	1,0	
Research and development (R&D)	1,0	2,0	6,0	1,0	
Personal, cultural and recreational services		2,0			
Audiovisual and related services		2,0			
Telecommunications, computer, and information services	168,0	192,0	184,0	177,0	184,0
Computer services	156,0	174,0	170,0	158,0	168,0
Information services	12,0	18,0	14,0	19,0	16,0

CREATIVE SERVICES

Abovementioned table clearly demonstrates that share of research and development in both import and export has been very marginal. It is fact that innovation in industry is hard without equitable investment in research and development.

Patent related industries in Pakistan are pharmaceutical, industrial engineering, car manufacturing, agriculture, software, and other industry related innovations. With special focus on pharmaceutical industry, the statistic show very positive trends in growth of pharmaceutical industry of Pakistan. Estimates from 2017 demonstrate that volume of Pakistan Pharmaceutical industry has gone to \$3.1 billion with the growth rate of 12 percent annually. Although this figure is satisfactory but is lower than India whose industry will reach \$55 billion in 2020 with annual growth rate of 22.4 percent. One may argue that India is bigger country in comparison with Pakistan but the

gap in growth rate reveals that pharmaceutical sector of Pakistan is growing with half pace than India. Moreover, software industry of India has also achieved a figure of \$181 billion that is much higher than that of Pakistan.

With reference to performance on patent related industries, Pakistan falls behind regional players such as India, China, and Honk Kong. India has been declared a country who has dealt with challenges of patent issues in very effective manner. Indian patent law balances between international patent grants and growth of its domestic industry to look after public interest. In the field of pharmaceuticals, India has taken position of pharmacy of the developing world. India is one of the major exporter of generic low cost medicines to developing countries. Indian pharmaceutical Industry, with the facilitation of legislative and judicial framework, has been effective on helping developing and least developed countries to solve issue of high cost of essential medicines. By doing so, Indian pharmaceutical industry will flourish to the level as high as \$55billion during 2020. It is the case of Indian software industry where India used both intellectual property laws as well as cost effective skilled labour class to help information technology contribute towards creative economy.

Indian patent law codes a provision known as section 3(d). This section allows administrative authorities as well as court to watch any grant of patent, especially in pharmaceuticals, that can possibly effect Indian interest on the basis of 'public interest'. TRIPS Agreement 1994 allows protection of public interest by the state (TRIPS Agreement, 1994). Contrary to this provision, patent law in Pakistan is not equally effective to watch public interest and issues of accessibility, availability, and affordability resulting from protection of patents on various innovations.

In order to help patent related creative industries, it is need of the time to invest in research and development of innovative ideas at universities and industries levels. Moreover, industries should start investing in university led research to help them optimise their production and innovate new ideas to grow at global pace. Moreover, protection and enforcement of patent laws should be made in balance way that it appreciates innovation as well as protects public interest in the shape of availability, accessibility, and affordability of products under patent protection.

4.4 Trademarks and creative economy

Trademarks are one of the big source of creative economy. Amazon brand value of its trademark is \$150.8 billion during year 2019. Apple stands second as high as \$146.3 billion and google wins third place by its value \$120.9 billion. Indian total brand value of all trademarks during year 2018 in total was \$2159 billion. All this is result of creative economic activity. Trademark is a sign, name, mark, sound or smell that distinguishes services or goods of one business from other. Trademark should be distinctive and owner should be vigilant on any violation as law helps vigilant not indolent (Adeni, 2015). Trademarks are enforces in various manners such as civil, administrative, border management, criminal procedure, and other ways. Trademarks in Pakistan fall under Trademarks Ordinance 2001, Trademarks Rules 2004, Pakistan Penal Code 1860, Intellectual Property Organisation Act 2012, Custom Act 1969, and Specific Relief Act 1877. Moreover, Pakistan is member of TRIPS Agreement 1994 and need to make laws relating to trademarks more effective at par with international standards.

Trademarks laws in Pakistan are evolving. They are not enforced at their full efficiency. Moreover, enforcement of trademarks is affected by various hindrances such as corruption, lack of understanding trademarks, insufficient legal experts, and new enforcement laws (Arain, 2015). Trademarks registration offices are established at only Karachi and Lahore while trademark business is going on all across the world. It makes it hard for trademark holder to register their trademarks and enforce them effectively. As quoted earlier, non-opposition of trademark loses right of trademark holder. Limitation for raising objection against trademark violation is two months that makes it hard for right holder to arrange legal counsel and other necessary arrangements for opposing the violation of trademarks. Moreover, multiple forums for remedying violation of trademarks make it complex for the right holder (Zaheer, 2016).

To improve trademark enforcement in Pakistan, the standards of TRIPS Agreement should not move to next step where their legal realisation is sought in effective manner. Moreover, the process of registration and enforcement should be made convenient to public needs where it is available in various big cities. Pakistan need improving its trademark infrastructure at almost all levels such as legislative, judicial, and administrative. This will not only appreciate innovation in business along with competition but will also attract global business players' entry in local market (Mukhtar, Jusoh, 2018).

5. Suggestions and Recommendation

Aforementioned discussion, supported by data, demonstrate that creative economy in Pakistan is underestimated. If measures are taken at policy and operation levels to facilitate creative economy to play its part, it may revolutionise economic activity in Pakistan by making it a prominent global player of creative economy. Following suggestions and recommendation are significant:

- i. Creative industries may be appreciated by state of Pakistan at legislative, judicial, and administrative levels.
- ii. Intellectual property laws related to creative industries must be enforced in their letter and spirit.
- iii. The state must patronise creative ideas related to industrial and economic activity in Pakistan.
- iv. Private industrial sector may form liaison with universities to boost research and development activity that will ultimately help them find new and effective ways to increase their business and profit.
- v. A consolidated intellectual property toolkit must be made available to public that will help awareness and protection of these rights. Moreover, protection of intellectual property rights will create competitive environment for innovation.
- vi. For judicial matter, a special court must be established that will help speedy and low cost remedial forum.
- vii. At university level, education syllabus should include awareness about violation of intellectual property rights and discouraging their violation as ordinary theft.

6. Conclusion

The creative economy would catalyse the economy by encouraging societies forming more inclusive, collaborative and prosperous landscape. The creative economy, supported by effective enforcement of intellectual property rights, may also help establishing the formation of competitive environment in a state like Pakistan where population is young with potential to work in certain direction to change its economic destiny. It is likely to be misunderstood that creative arts, innovation, research and development, innovation and business fall behind law and order, poverty, and other issues faced by society. Reality check is that these creative ventures may help Pakistan by not only improving its economy but will also help strengthening social fabric of the society. Trade and commerce in creative goods and services are encompassing traditional trends of business. Contribution of creative economic activities such as copyrights, patent, and trademark related industries, which are much higher than exporting oil, minerals, and other tangible products. Intangible ideas are capturing more space in economic activates of developing and developed states. The creative economy of Pakistan has the potential to influence present and future economic activities to help its economy as well as its global status among international community of the states.

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