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LEGAL & ECONOMIC
C E N T E R PUBLIC POLICY STUDIES
www.phoenix-center.org

5335 Wisconsin Avenue, NW
Suite 440
Washington, D.C. 20015-0234
Tel: +1 (202) 274-0235
Fax: +1 (202) 318-4909
www.phoenix-center.org

Press Release

Contact: Lawrence J. Spiwak
Phone: +1 (202) 274-0235

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NAFTA NEGOTIATORS SHOULD IGNORE THE AMERICAN UNIVERSITY STUDY ON "USER RIGHTS"

Spurious results contained in Flynn-Palmedo Study to advocate for weak copyright in NAFTA are consequences of basic errors in design, construction and execution of the statistical analysis

WASHINGTON, D.C. — In a new POLICY PERSPECTIVE released today entitled *The Vanishing Benefits of Fair Use: A Review of the Flynn-Palmedo Study on "User Rights" in Copyright Law*, Phoenix Center Chief Economist Dr. George S. Ford uncovers fatal flaws in a recently released study by American University Washington College of Law's Program on Information Justice and Intellectual Property ("PIJIP") scholars Sean Flynn and Mike Palmedo. Among other problems, Dr. Ford demonstrates that the statistical results of the *Flynn-Palmedo Study* are obvious spurious correlations — the consequence of basic errors in both the design, construction and execution of the empirical analysis.

In the PERSPECTIVE, Dr. Ford replicates the analysis and shows that the statistically significant relationships touted by the *Flynn-Palmedo Study* vanish when standard methods replace their own poorly specified and improperly estimated models. Moreover, Flynn and Palmedo offer no theoretical basis for their regression models, their choice of outcomes is ad hoc, and their measure of "user rights" improperly constructed.

Shortly after the release of the draft study, the authors and other PIJIP participants sent a letter to NAFTA negotiators citing their work as evidence in favor of including weak copyright protections in a re-negotiated NAFTA. However, the research methods employed, coupled with the letter to NAFTA negotiators, could lead an impartial observer to suspect the *Flynn-Palmedo Study* was motivated by advocacy, rather than academic curiosity. Accordingly, the *Flynn-Palmedo Study* and claims based upon its purported findings should be ignored.

"With even marginal improvements in model specification, which cannot and do not resolve all the defects in the regression analysis, the results of the *Flynn-Palmedo Study* vanish," said Phoenix Center Chief Economist Dr. George S. Ford. "In light of the flimsy results, the *Flynn-Palmedo Study* is not relevant for policymaking. In fact, given the magnitude of the errors, the *Flynn-Palmedo Study* should be retracted and substantially revised."

A full copy of PHOENIX CENTER POLICY PERSPECTIVE NO. 17-12, *The Vanishing Benefits of Fair Use: A Review of the Flynn-Palmedo Study on "User Rights" in Copyright Law*, may be downloaded free from

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the Phoenix Center's web page at: <http://www.phoenix-center.org/perspectives/Perspective17-12Final.pdf>.

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