

Formation, Concept and Content of Copyright in the Digital Space

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Abstract.

This article is aimed at exploring new issues and problems related to copyright protection and balancing the interests of authors, society and consumers in connection with the development of digital technology capabilities. The formation of copyright in the digital space first of all requires taking into account the peculiarities of the digital environment, where copying, distribution and access to content become simpler and more accessible. This greatly complicates the task of copyright protection. The concept of copyright in the digital space also requires updating and adaptation to new realities. The content of copyright in the digital space should take into account not only the interests of authors, but also the rights of consumers and society as a whole. In general, the formation, concept and content of copyright in the digital space require constant updating and adaptation to new challenges and technological changes. It regulates issues such as the protection of copyright in the online environment, the application of technical measures to protect digital copyrights to prevent unauthorized use of works, such as copying or distribution.

The content of copyright in the digital space also takes into account issues related to the digital right of access to information and the characteristics of personal data and confidentiality in the transfer and use of digital content. It is necessary to develop new approaches, laws and international treaties agreed upon between all stakeholders in order to ensure copyright protection and fair distribution of interests in the digital age. In general, copyright law in the digital space seeks to maintain a balance between protecting authors and ensuring access to information, taking into account the opportunities provided by digital technologies. It also continues to evolve and adapt to changes in technology and user behavior to effectively regulate the use of copyrighted works in the digital environment.

Keywords: copyright, digital space, international legal protection, Internet, global network

Становлення, поняття та зміст авторського права в цифровому просторі

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Анотація.

Ця стаття спрямована на дослідження нових питань і проблем, пов'язаних із захистом авторського права та збалансуванням інтересів авторів, суспільства та споживачів у зв'язку з розвитком можливостей цифрових технологій. Формування авторського права в цифровому просторі насамперед вимагає врахування особливостей цифрового середовища, де копіювання, розповсюдження та доступ до контенту стають простішими та доступнішими. Це значно ускладнює завдання захисту авторських прав. Концепція авторського права в цифровому просторі також потребує оновлення та адаптації до нових реалій. Зміст авторського права в цифровому просторі має враховувати не лише інтереси авторів, а й права споживачів і суспільства в цілому. Загалом формування, концепція та зміст авторського права в цифровому просторі потребують постійного оновлення та адаптації до нових викликів та технологічних змін. Він регулює такі питання, як захист авторських прав в онлайн-середовищі, застосування технічних заходів для захисту цифрових авторських прав для запобігання несанкціонованому використанню творів, наприклад копіюванню чи розповсюдженню.

Зміст авторського права в цифровому просторі також враховує питання, пов'язані з цифровим правом доступу до інформації та характеристиками персональних даних і конфіденційністю при передачі та використанні цифрового контенту. Необхідно розробити нові підходи, закони та міжнародні договори, узгоджені між усіма зацікавленими сторонами, щоб забезпечити захист авторських прав і справедливий розподіл інтересів в епоху цифрових технологій. Загалом законодавство про авторське право в цифровому просторі прагне підтримувати баланс між захистом авторів і забезпеченням доступу до інформації, враховуючи можливості, які надають цифрові технології. Він також продовжує розвиватися та адаптуватися до змін у технології та поведінці користувачів, щоб ефективно регулювати використання творів, захищених авторським правом, у цифровому середовищі.

Ключові слова: авторське право, цифровий простір, міжнародно-правова охорона, Інтернет, глобальна мережа

Introduction.**Formulation of the problem.**

With the development of information technology and the Internet, copyright has become one of the most relevant and controversial topics in the digital space. The problem of the formation, concept and content of copyright in the digital era arises. On the one hand, copyright is an integral tool for protecting the creative work and intellectual property of the author. However, on the other hand, digital technologies have created new opportunities for copying, distributing and using creative works without the consent of the authors. Thus, the main challenge is to find a balance between copyright protection and free access to information in the digital space. These issues require careful analysis and the development of new approaches to the formation, concept and content of copyright in the digital era. It is necessary to take into account the peculiarities of digital technologies, changes in user behavior and create a balanced system of legal protection of copyrights that would simultaneously respect the rights of authors and ensure free access to information on the Internet.

Analysis of research and publications.

In connection with the development of digital technologies in the Internet space, opportunities have arisen for translating works into digital formats. According to Ya.A. Karev, "the difference between an electronic document and a document drawn up on paper lies in the features of its form." This difference is significant. And vice versa, many authors, for example, S.I. Boldyrev and D.A. Kobylatsky, do not see any differences between works in electronic form and digital ones

Purpose of the study.

The purpose of the study is to study the formation, concept and content of copyright in the digital space. The study intends to analyze the main aspects of the formation of copyright in the digital space, including its historical context, changes in the legal system and emerging problems.

Main material.

The concept of "copyright" appeared in the Middle Ages with the invention of printing. Most researchers associate the creation and development of the copyright institution with the development of printing technology, the invention of the printing press by I. Gutenberg and the creation of the printing industry. (XV century)

Since the first literary works were created in Ancient Egypt, many researchers consider Ancient Egypt to be the birthplace of the book. In 1911, E. Richardson published a book confirming the existence of libraries and librarians in Ancient Egypt, despite Muller's objections. Since this was considered the best guarantee of the immortality of the work, the authors of Ancient Egypt tried not to associate their works with their names, attributing them to a pharaoh or a god. Literary creativity in Athens, along with book publishing and book sales, reached a fairly high level (Berezhnaya, 2021).

The origin of the concept of "published book" is related to Ancient Greece. Translated from the ancient Greek word "ekdosis" means "to publish". This process

consisted of the author himself or the writers under his guidance first preparing the original of the author's work. If necessary, they made copies according to the number of orders. At that time, plagiarism was considered a crime. Since the commission of this crime was considered as defamation of the honor and dignity of the citizen, it was often punished by expulsion from politics. During the high development of civil law in the Roman Empire, only the right of works was established, and the special legal protection of copyright was not defined by law. In the Roman Empire, there was no special legal protection for works because without the technical means to produce them in sufficient quantities to satisfy consumer demand, works became commodities. At that time, it was difficult to reproduce the works, because the manuscript had to be copied only by hand, the drawing was drawn again. The regulation of such relations did not require the creation of any other legal institution other than property rights. The work, as an intangible object, is not isolated from the material object it actually embodies.

That is why some scientists (Y.A. Matyukhina, T.B. Tsareva, etc.) associate the creation of copyright with the invention of printing. As N.N. Dotsik rightly noted, "Romans and ancient Greeks viewed the work of the author as an ideal and excluded the idea of any material reward for the aesthetic pleasure provided by works of literature and art."

The following stages of copyright development can be noted.

The first stage in the development of copyright law is called Venetian law, with the adoption of the "Decree on Patents and Privileges" in 1476, the subject of which was books and inventions. Although after some time it became common to reprint books that were released. This was considered beneficial to the extent that it allowed the author to avoid unnecessary costs for the award. On March 19, 1474, copyright protection was first enshrined in legislation with the publication of the Charter, the world's first copyright law, published in Venice. For the first time for a limited period of time, the author's moral exclusivity for the use of his work was shown. During the Republic period, Antonio Sabellico received the first privilege in the field of exclusive right to print the work in 1486 for his work entitled "The Decade of Venetian Affairs". It should be noted that at this time the first legal norms regulating copyright began to be formed. An important stage in the development of copyright was the establishment of the guild of book publishers in 1566. This guild became a kind of censorship body that regulated and authorized the publication of books. This was an important step in the development of the control system for the publication of literary works (Boldyrev, 2016).

The next phase in the history of copyright was the English copyright phase, which was marked by the development and implementation of copyright legislation in England. These stages and events show the evolution and development of the concept of copyright in different historical periods. This stage received its name due to the adoption of the first legislative act in the field of copyright, the Statute of Queen Anne on April 10, 1710 in England.

This act included the concept of copyright for the first time. The latter should be understood as the right to protect the published work and the prohibition of its reproduction without the consent of the author. Thus, this legislative act made the transition from the previous system of privileges to the system of legal protection of copyright.

The above-mentioned act also established one of the most important principles in this field - the principle of "copyright". This principle gives the author the right to protect the published work and prohibits the reproduction of the work without his consent. Also, this act established the right to the published work for a period of 14 years from the date of its publication, and also allowed the extension of this period for another 14 years during the lifetime of the author. In 1789, the Decree of the French National Assembly stated: "Everything made public by the author becomes public property."

In 1791 and 1793, important laws were passed that marked the first stage in the history of copyright. These laws provided a new level of protection for various types of creativity, including literary, dramatic, musical and visual works. The importance of these laws is that they established the principles of copyright and prohibited the unauthorized use of creative works without the consent of the authors. This stage in the history of copyright also affected other European countries, and they also began to introduce legislative measures to protect intellectual property.

Thus, at the beginning of the 19th century, new normative acts aimed at strengthening the rights of authors and ensuring their interests were adopted. The adoption of the Berne Convention in 1886 was an important step towards the international protection of copyright. This convention established the basic standards and principles for the protection of literary and artistic works. The adoption of this convention meant that authors' rights began to be recognized across national borders, an important step in the globalization of copyright law. In addition, it should be noted that the French experience in the field of copyright regulation in the 19th century had an impact on the international level. The principles established in French legislation have become a model for the formulation of normative legal acts that ensure human rights, including the rights of authors (Gude, & Petrishcheva, 2016). This practice was reflected in the Universal Declaration of Human Rights of 1948, in which Article 27 emphasized the importance of protecting the moral and material interests of authors.

In the second half of the 20th century, further steps were taken towards the expansion of intellectual property rights. The signing of the International Convention for the Protection of the Rights of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) in 1961 was an important event. This convention brings together the rights of performers, phonogram producers and broadcasters and establishes important principles of protection and relevance. Overall, the development of copyright and intellectual property protection reflects an evolution in the understanding and recognition of the importance of creative individual and collective efforts. From the first laws in the 18th century

to international conventions in the 20th century, these measures have sought to balance the rights of authors with the interests of society, and to encourage creativity and innovation.

The creation of the first companies prevented a monopoly in the market. In this regard, such organizations tried to obtain rights to copyright materials (at that time, these were industrial designs, trade secrets), which helped them maintain their leading positions.

The reason for the escalation of international conflicts, for example, between Germany and Switzerland in the field of the chemical industry, is the fact that relations regarding the creation and use of inventions and technologies were not regulated until the 20th century. But it is interesting that there was no patent right in Switzerland or Germany at that time. Therefore, in order to rapidly expand the production of chemical products and even try to surpass German quality, Switzerland could use the technologies available in Germany (Vozkaev, 2020).

As a symbol of the digital revolution, an important event that took place at the end of the 20th century and the beginning of the 21st century was the emergence and rapid development of the Internet. At first, the World Wide Web was a headache for copyright owners and a joy for users. Copyright holders were unable to immediately adapt to the changed conditions, realizing the new opportunities for the exploitation of their materials using the Internet, and at the same time the danger of their uncontrolled distribution. The Internet has given strong impetus to the idea that the purpose of copyright, which existed before, was to disseminate knowledge and ideas in society. Because this goal is no less important than the copyright holders receiving a reward. Firstly, thanks to the Global Network, information exchange has been accelerated and facilitated, hundreds of millions of users have been involved, secondly, information search, recording and duplication have been simplified, and thirdly, unlimited opportunities for publishing any information have appeared.

One of the key ideas is that the Internet is the result of the combined efforts and inspiration of many dedicated users. It was their joint activity that laid the foundation for the development of the entire online environment

At the beginning of the 19th century, various countries began to develop laws for the protection of copyright. However, only national authors fell under the scope of these laws. International treaties and agreements were required to ensure full copyright protection at the international level. International congresses became an important part of this process. For example, at the Congress of Authors of Literary and Artistic Works held in Brussels in 1858, the possibility of creating an international document on copyright was discussed. In the 1878 Congress, it was decided that there was a need to develop a convention for the protection of copyright. This led to the adoption of the Berne Convention for the Protection of Literary and Artistic Works in Switzerland in 1886. This step freed the works of foreign authors from geographical restrictions and paved the way for international copyright protection (Gude, & Petrishcheva, 2016).

Legislation in the field of intellectual property covering new protected objects continued to develop. In addition to traditional works of art, the scope of the defense included lectures, choreographic compositions, photographs, and even cinematographic films. The Berne Convention established basic principles for copyright protection that are still relevant today. The principle of national regime requires that countries that have signed the convention grant foreign authors the same rights as their own citizens. An important provision is that "the protection of copyright does not depend on the observance of any formality, even if such a requirement exists in the law of the country where the work was created."

The minimum term of copyright protection was set at 25 years after the death of the author, and was later increased to 50 years. With the development of technology and industry in the 20th century, the need for additional protection of intellectual property rights arose. The emergence of new objects, such as the rights of performers and producers of phonograms, required the improvement of legislation. International conventions such as the 1952 Universal Copyright Convention and the 1961 International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations have become important tools for the protection of rights. These conventions are based on the principles of determining the minimum level of national regime and protection.

This convention also defines the minimum term of protection for producers of phonograms - 20 years. For the first time in the Convention, "performer", "phonogram", "broadcast", "publication", etc. concepts are given (Alisova, 2016).

After a while, the increase in technological progress in the copying of sound recordings made it an easy and fast process that did not require special costs, and there was no international document protecting the rights of phonogram producers. This contributed to the adoption of the Convention on the Protection of the Rights of Phonogram Producers Against Unauthorized Duplication of their Phonograms, encouraging continued protection of related rights at the international level.

A characteristic feature of this convention is the obligation to protect the interests of foreign producers of phonograms from illegal importation, copying and

distribution of phonograms, going beyond the principle of national regime for all parties to the agreement. It is the duty of each state to independently determine the necessary measures to protect the rights of phonogram producers. With regard to the latter, the Convention does not impose any restrictions, thereby giving legal freedom to States parties to the Convention to choose specific protective measures.

The main characteristic of the adopted conventions is the independent determination of additional liability measures for the violation of copyright and related rights at the national level of the participating countries.

Conclusions.

As a result, international protection of intellectual property rights is assumed to be sufficiently developed by the middle of the 20th century.

The 1886 Berne Convention for the Protection of Literary and Artistic Works and the 1928 Havana Convention for the Protection of Literary and Artistic Property laid the foundation for the multilateral international system of copyright protection. The main goals of the Berne Convention are to strengthen the principle of national regime and ensure the minimum level of copyright protection. According to the provisions of the Berne Convention, the Berne Union was created to protect the rights of the authors of the participating countries (Boldyrev, 2016).

A unique result of the development of the American legal regulation of relations in the field of copyright was the Havana Convention of 1928. Both the above conventions had essentially similar provisions. The difference between these provisions was that they extended their influence in different parts of the world. Thus, it was necessary to prepare a single worldwide convention for the protection of copyright. The result was the adoption of the Universal Copyright Convention in 1952, which was non-retroactive (unlike the Berne Convention). Many countries lacked the ability to achieve the high level of protection required by the Berne Convention. This led to the adoption of this multilateral international convention on copyright protection. It was believed that with the adoption of the World Convention Berne's position was to be weakened. At the same time, some of its norms are aimed at strengthening the provisions of the Berne Convention (Berezhnaya, 2021).

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