

THEORETICAL ASPECTS OF COPYRIGHT PROTECTION ON THE INTERNET IN THE EXAMPLE OF FOREIGN COUNTRIES

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Annotation:

This thesis covers the topic of copyright protection experience in different developed countries of the world. Apart from that, digital copyright management technologies are also subject to this thesis statement.

Key words: copyright, copyright protection, Internet, foreign practice, digital right management, DRM technologies.

The modern stage of society development is characterized by the increasing role of information technologies. In this regard, there is a need for legal regulation of relations in information and telecommunications networks, including the Internet, especially in terms of copyright and related rights protection. The scale of their violation on the Internet is huge. For example, in order to watch an illegal copy of a movie, it is enough to make an appropriate request in any search engine and select one of the many sites offered. Illegal content is very popular among Internet users because of its accessibility and free of charge. In these conditions, the problem of finding effective ways to protect the rights of copyright holders is more urgent than ever.

In the digital information environment, an incredible number of literary and artistic works, where they are all objects of copyright, but belonging to a certain category is not enough to be protected. In order to be able to protect any work, it is necessary to have some criteria. This concerns the presentation of the text in the "original" legal sense, as well as expressed in an "objective form".

For these reasons, it is not easy to ensure proper protection of the relevant rights in the digital environment. However, the rapidly increasing volume of copyright and related rights violations on the Internet encourages legislators of any country to look for ways to address these problems. The approach these countries take ranges from developing legislation and scientific background of copyright law to strengthening preventive measures on copyright protection by means of latest technological advances and so force.



According to practice formed in the courts of the Anglo-Saxon system, for instance, the criterion of "originality" is understood as a work that includes an independent work of the author and describes exactly the individual handwriting of the text. For example, in Bulgaria there is no legislative consolidation of such a criterion as an "original" text, but it is said about the creative nature.

In copyright, the concept of "originality" and "artistic value" are not synonymous. The US Court of Appeals responds to this judgment in a similar way, since in the Copyright Law "artistic originality is not the same as the legal concept of originality".¹

In continental Europe, countries in copyright laws provide that an object protected by law should be fixed regardless of the source of the information carrier. For example, in the Bulgarian copyright legislation, it is customary to protect those rights that are distributed by works that are perceived in an objective form, that is, by perception organs.

Along with oral, dramatic and choreographic works posted on the Internet, they meet the requirements established by law for presentation in an objective form and are protected by the copyright law in Bulgaria, regardless of their copying on a tangible medium.

In French copyright law, "dualism" is promoted. According to this theory, the rights of the author are divided into two – property rights and personal non-property rights. From this dualistic approach, the property rights of the author are divided into two, which are the right to demonstrate (disclose) and perform. The transfer of these two property rights for a fee was granted. In general, an author's contract refers to a contract that, according to French law, is concluded between the author and the user, regardless of the one hand, for the use of the work.

According to The Law of the Republic of Belarus of 17.05.2011 No. 262-3 "On Copyright and Related Rights", copyright for a work arises by virtue of the fact of its creation, i.e., for the emergence of copyright, no formalities are required. In addition, it should be noted that the placement of files containing copyrighted works (phonograms, performances, etc.) on the Internet with the possibility of free or restricted access to them does not cancel their legal protection and does not change the legal regime of their possible subsequent use.²

¹ <https://www.congress.gov/bill/105th-congress/house-bill/2281>

² <https://www.wipo.int/wipolex/en/legislation/details/6670>



According to national copyright law of People's Republic of China, it seems appropriate to consider the issues of responsibility of Internet service providers for the dissemination of information in violation of copyright.

In accordance with "Copyright and Related Rights Regulations" of Great Britain, "copyright for texts, except computer programs, databases, or sources in their original form: fiction, painting, music or films — will not be violated by the creation of a temporary copy, which is transitional or unforeseen, but not the main one and the only purpose of which is to allow: (a) transmission of the work over the Network between third parties by an intermediary or (b) legitimate use of the work. At the same time, the creation of such a copy should not pursue commercial purposes".³

The essential difference between the American approach and the English one is that in the USA the limitation of liability for copyright infringement is defined more specifically. In accordance with the Digital Millennium Copyright Act⁴ (sec. 202), all copyright objects located on the Internet are subject to protection. However, any person is exempt from liability for their violation due to ignorance of the violation. The method of notification of a violation can be a letter, telegram or an e-mail message. And only if the recipient of the warning ignores deleting the copyright object within a reasonable time, the norms of liability for violation may apply to it, and the provider is involved in removing it from the Internet. This means that the State, in case of violation of objective law, has the possibility of legal coercion. The mechanism of coercion is used in order to restore the violated right, has protective and educational functions, as well.

In the People's Republic of China, copyright on the Web is prohibitive, which, on the one hand, allows for more effective protection of copyright holders, and on the other hand, deprives the Internet of the basic principles of the organization of the Network: decentralization and freedom of information dissemination.

The grooming concerns with the issue of copyright protection on the Internet has led to the formation of digital right management technologies (or DRM) by concerned copyright holders⁵. The relevant expression is Technological Protection Measures (TPMs)⁶ or Right Management Information (RMI)⁷, that is, what in its combination form DRM. DRM technologies, in turn, can be described as a

³ <https://iclg.com/practice-areas/copyright-laws-and-regulations/united-kingdom>

⁴ <https://www.congress.gov/bill/105th-congress/house-bill/2281/text>

⁵ John Perry Barlow, The Economy Ideas: Selling Wine without Bottles on The Global Net, available at <https://projects.eff.org/~barlow/EconomyOfIdeas.html> (last visited Feb 21, 2015)

⁶ Directive 2001/29/EC on Copyright and Related Rights in the Information Society, Art 6.2 & 7.2.

⁷ WIPO Performances and Phonograms Treaty (WPPT), Art 18 & 19., WIPO Copyright Treaty (WCT), Art 11 & 12.



protection system consists of mathematics cryptography, encryption, watermark, metadata, languages and symbols (among the technologies) that greatly used to control access, exploitation and theft of digital copyright data.⁸

Primarily systems allow copyright owner to control user's facility to view, listen, modify, copy, download or transfer the content appropriate by copyright law. Furthermore, DRM can be seen as a technology, which is built varying grades certain authorization and restriction on access digital content.⁹

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