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LEGAL ASPECTS OF COPYRIGHT PROTECTION FOR DIGITAL CONTENT IN THE CONTEXT OF GLOBALIZATION

Abstract. Purpose. The purpose of the article is to examine the legal aspects of copyright protection for digital content in the context of globalization and to identify the key trends in the development of legal regulation of digital content based on an analysis of contemporary challenges arising from the global accessibility of digital works. **Methods.** The study employs the analysis method to comprehensively examine scientific approaches and legal provisions related to the protection of intellectual property for digital content in the context of globalization. The synthesis method is applied to integrate diverse aspects and conclusions derived from various sources and studies. The deduction method is used to formulate general statements and conclusions based on the analysis of specific facts and data. The comparison method enables the identification of similarities and differences among approaches and practices concerning copyright protection for digital content. The generalization method is employed to develop overarching conclusions through the analysis, synthesis, and comparison of specific viewpoints, legislative provisions, trends, and empirical data. **Results.** The study demonstrates that globalization has a profound impact on the legal regulation of copyright, simultaneously creating favorable conditions for the dissemination of works and generating new threats, particularly those related to piracy and authorized copying. In the context of globalization, new forms of intellectual property emerge, requiring specific approaches to their legal regulation. The application of advanced technologies can significantly enhance the effectiveness of copyright protection by ensuring control over the distribution of digital content and facilitating the detection of copyright infringements. **Conclusions.** Digital content, as an object of intellectual property, possesses distinctive features that necessitate the adaptation of national legislation to international standards. Globalization simultaneously creates opportunities for the broader dissemination of creative works and poses threats to authors' rights through unauthorized copying and digital piracy. The application of advanced technologies, such as digital watermarks and encryption, can increase the effectiveness of copyright protection. Nevertheless, comprehensive protection requires close international cooperation among states, technology companies, and rights holders to develop and implement effective mechanisms of legal regulation in the digital era.

Key words: copyright, digital content, globalization, intellectual property, legal regulation.

1. Introduction

Copyright encompasses both the author's personal non-property rights and the proprietary rights of copyright holders. It safeguards the author's creative works and is internationally recognized as a fundamental human right. The legal protection of copyright promotes creativity and innovation while ensuring the development of a fair and transparent copyright market in which creators have the opportunity to receive equitable remuneration for their intellectual efforts.

The mechanisms and methods of copyright protection have evolved through different eras. For a long time, the level of copyright protec-

tion depended exclusively on the development of national legal systems. However, in the 20th century, technological and media progress stimulated the international harmonization of copyright legislation. The emergence of international treaties and standards laid the groundwork for the global recognition of the importance of copyright.

In the digital age, copyright faces new challenges, including piracy and the illegal distribution of content, which necessitate the adaptation of legal norms and the search for innovative technological solutions. Changes in legislation and technological advancement are reshaping the modern approach to copyright protection.

Technological progress has given rise to a new phenomenon – digital content – which has fundamentally transformed the ways in which information is created, disseminated, and consumed. Digital content encompasses a wide range of objects, including text documents, images, audio and video files, software, and other forms of electronic data. Similar to traditional creative works, digital content represents an essential outcome of intellectual and artistic activity and therefore requires appropriate protection. Such protection is crucial for fostering innovation, encouraging creators to develop new works, and looking for unique creative solutions and ways of self-expression. With the growing accessibility, speed, and quality of Internet connections, the issue of effective copyright protection for digital content has become increasingly relevant. Illegal copying, piracy, and copyright infringement have become widespread challenges that demand new approaches and solutions. In response, international and national legislation is gradually adapting to these realities, aiming to ensure an adequate level of protection of creators' rights in the digital environment.

Globalization has a profound impact on the protection of digital content rights, creating both opportunities and threats for creators and rights holders. On the one hand, it facilitates the broader dissemination and accessibility of creative works, enabling authors to reach audiences across the world. On the other hand, globalization complicates the control over the use of digital content, as access to such content can be obtained from virtually any location. Technological progress continues to outpace the development of legislative regulations of copyright legislation at both international and national levels, resulting in regulatory gaps that may be exploited to violate rights. Globalization also contributes to the rapid proliferation of illegal content on the Internet, which significantly hampers the fight against piracy. The extensive use of digital platforms and social networks greatly simplifies the distribution of unauthorized copies of works, while anonymizing offenders or making their identification exceedingly difficult. Therefore, effective protection of digital rights in the context of globalization necessitates close international cooperation among key technological actors, digital platforms, social networks, authors, as well as international organizations and national authorities.

In this regard, the scientific examination of the legal aspects of copyright protection for digital content amid globalization becomes relevant. Scholarly insights serve as a foundation for developing legal mechanisms aimed at brid-

ing regulatory gaps and ensuring adequate protection of creators' rights in the digital era. The analysis of international experience and judicial practice enables the identification of best practices and their adaptation to national legal frameworks. Furthermore, research fosters a comprehensive understanding of emerging technological phenomena that may influence copyright protection. The rapid advancement of artificial intelligence has already provoked widespread debate and a series of strikes, raising the global question of whether humans as creators will be able to compete with AI technologies in the near future.

2. Globalization as a factor in copyright development

Globalization has a profound impact on the evolution of legal regulation of copyright. Although globalization is not a term inherent to legal science, it is an objective global phenomenon that influences legal processes and therefore requires doctrinal thinking.

The scientific literature offers various approaches to defining the concept of "globalization". In general terms, globalization can be understood as a process of integration among states and the unification of their activities. It brings countries closer together, strengthens their interconnections, and stimulates progress – but mainly for developed countries. The unification of legislation leads to the establishment of common rules governing intellectual property relations, which enables the protection of creators' rights beyond national borders (Hrihorians, 2016).

Globalization is a complex but objective phenomenon that exists independently of individual assessments and attitudes towards it. Globalization generates both favorable trends for copyright protection and poses new risks and threats.

A range of common factors can be identified through which globalization positively influences intellectual property law. For instance, globalization intensifies international cooperation aimed at establishing international organizations and institutions for the protection of intellectual property rights and adopting uniform international rules in copyright. Since threats such as piracy and other forms of copyright infringement are shared gradually, globalization encourages states to develop common approaches and mechanisms to combat these offenses.

Globalization creates a common market characterized by the intensive circulation of copyrights and the exchange of information according to uniform principles. This process is further facilitated by standardized rules for the registration of intellectual property rights.

At the same time, as already noted, globalization generates qualitatively new risks for copyright protection. As markets globalize, the nature of intellectual property offenses also become global. This is driven, in particular, by the growing market value of copyrights and the disappearance of boundaries for digital content on the Internet, which allows such content to be transmitted instantly to any part of the world.

There is no doubt that the pace of globalization accelerated dramatically with the emergence and development of the Internet. Previously, copyrighted works were expressed through physical media, which, while not immune to illegal copying, imposed natural limitations on their distribution. The advent of the Internet, however has given rise to a new type of copyright and related-rights objects that exist solely in digital form. These objects are easily transmitted across the network, but this the very mobility makes them particularly vulnerable to infringement.

Taking into account the above, it is necessary to clarify the concept and essence of digital content as a new form of copyright object which has emerged as a result of globalization and the development of the Internet.

3. Digital content: concept and essence

Until 2023, Ukraine had no specific legislation defining the concept of digital content or regulating the peculiarities of its circulation. However, approaches to understanding this phenomenon had been already been established at the international level. According to Article 2 of the Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services, digital content means data that are produced and supplied in digital form (Directive, 2019). In particular, computer programs, mobile applications, games, music, audiovisual files, and texts can act are recognized as digital content, regardless of whether such data are accessed through downloading or streaming (Directive, 2011).

A key feature of digital content is the ability to exist and be part of economic circulation both on physical (tangible) media and independently of them. In the latter case, its external form of expression is represented by program code. The program code is a unique and original result of human creative and intellectual activity, which makes it possible to clarify digital content as a type of creative work (Savanets, Stakhira, 2019).

It is important to clearly distinguish between a work that itself constitutes digital content (for example, a computer game created

as a result of creative activity) and digital content that merely represents a work in digital form (digital recording on a certain medium). When the information carrier of a work has a tangible form, the material rights to that carrier and the author's proprietary rights to the digital content exist separately and independently. At the same time, a number objects of civil circulation that previously existed only in tangible form have adapted to the latest trends of the digital environment, thereby transforming and losing their physical embodiment. Hyperlinks, e-books, computer games, software, and other intangible digital objects are becoming increasingly widespread.

At the legislative level, the concept of digital content was enshrined recently. First, the Law of Ukraine "On Electronic Commerce" No. 675-VIII dated September 3, 2015, introduced the notion of an electronic form of information presentation – a method of documenting information that involves its creation, recording, transmission, or storage in digital or other intangible form using electronic, magnetic, electromagnetic, optical, or other means capable of reproducing, transmitting, or storing information. The electronic form of information presentation is regarded as a way of documenting information that enables its reproduction in a visual form suitable for human perception. This the groundwork for the subsequent development of legislation regulating the legal validity of information activities on the Internet.

However, the most significant step in regulating digital content was taken on August 10, 2023, with the adoption of the Law of Ukraine "On Digital Content and Digital Services" No. 3321-IX. According to Art. 2 of this Law, digital content refers to data created and provided in digital form. Such content includes, but is not limited to, software, applications, video and audio files, music files, digital games, and e-books.

The legislator prudently refrains from limiting the list of objects recognized as digital content, as the dynamic development of the modern world and rapid technological progress leave no doubt that new forms of such objects will continue to emerge. In this regard, non-fungible tokens (NFTs) serve as a notable example. The introduction of these cryptographic tokens has created new opportunities for participants in the sphere of intellectual property. In particular, right holders are relieved of the bureaucratic burden associated with the registration of intellectual property and the acquisition of protection documents. Furthermore, there is no need for judicial recognition of intellectual property rights in case of dispute or non-recognition. NFTs enable owners to obtain rights to assets

that exist exclusively in the digital environment while simultaneously securing intellectual property rights to works of crypto art. Through the use of tokens, ideas and rights to intellectual property objects can be monetized (Lebedieva, 2021).

When analyzing the phenomenon of digital content, it is also essential consider related legal categories that, although interconnected, possess independent legal significance. Among such categories, particular attention should be paid to the notion of “digital environment”. This concept has been normatively defined by the legislator. According to para. 10 of part 1 of Art. 2 of the Law of Ukraine “On Digital Content and Digital Services”, the digital environment refers to hardware, software, and any network connection used to access digital content and/or digital service, providing the possibility of their use by the consumer.

The digital environment is sometimes compared with related concept of the “information environment”. However, these terms are not synonymous. The notion of the “information environment” primarily emphasizes access to information within the global network, whereas the “digital environment” focuses on the form of presentation, storage, and dissemination of such information (Trotska, 2021).

Another essential category in the context of digital content dissemination and copyright protection on the Internet is “social networks”. From a legal perspective, a social network can be understood as an open-access platform for publishing information that facilitates communication among an unlimited number of users. Unlike ordinary Internet users, social media groups are typically formed according to specific criteria. Such associations arise from different types of social interaction, including personal acquaintance, collaborative work or study, shared hobbies or occupations, similarity of viewpoints, sports interests, etc. (Ohneviuk, 2016).

Social networks possess specific properties that create a favorable environment for the dissemination of digital content. Within these platforms, works protected by copyright and related rights can rapidly reach a wide audience. This is a popular mechanism for creators to increase their visibility. The publication of such works generally does not involve complex bureaucratic procedures. In most cases, authors simply place a link to their intellectual property on their social media profiles. Compared with other traditional distribution channels, such as television, radio, or public events, social networks offer the advantage of enabling the free distribution of digital content to a potentially global audience.

Thus, intellectual property rights have undergone significant changes in recent years: new types of copyright objects have emerged, and the scope and value of intellectual activity have increased substantially. Authors and rights holders now can distribute their works internationally, generating considerable income. These positive changes have enhanced the recognition of intellectual property’s importance in society and underscored its influence across multiple domains, including the economy, politics, legislation, and social relations.

4. Copyright protection for digital content

The development and refinement of relevant legislation have also been driven by the rise in copyright-related offenses, among which piracy is particularly prevalent.

The Law of Ukraine “On Copyright and Related Rights” No. 2811-IX dated 1 December 2022, defines piracy as the reproduction, import into the customs territory of Ukraine, export from the customs territory of Ukraine, and distribution of pirated copies (including software and databases), phonograms, videograms, illegal use of broadcasting programs, camcording, as well as Internet piracy, which refers to the unlawful use of copyright and/or related rights via the Internet.

Online piracy refers to the use and distribution of illegal content for profit or other gain. Such activities cause significant harm on the interests of authors and rights holders. A notable characteristic of piracy, particularly in domestic society, is the widespread social acceptance – or even approval – of the unauthorized use of digital works.

An Internet pirate is not constrained by national borders. The nature of the digital space the use of modern technologies to conduct illegal activities rapidly and on a global scale. This considerably complicates the fight against this phenomenon by states.

The foregoing underscores the importance of proper and effective copyright protection for digital content, encompassing both material and procedural aspects. The material aspect refers to a set of measures that ensure the full restoration of the rights of the copyright holder. In contrast, the procedural aspect is reflected in the actions of state authorities, local self-government bodies, and non-governmental organizations aimed at safeguarding copyright within their respective competences.

To date, Ukraine has established a legislative framework for the effective protection of intellectual property. The methods for safeguarding copyright and related rights are enshrined in the Law of Ukraine “On Copyright and Related Rights” No. 2811-IX dated December 1, 2022. Thus, copyright holders are entitled

to seek protection of copyright and/or related rights before the court through claims not prohibited by law. Such claims may include, inter alia, recognition of copyright or related rights; restoration of the pre-violation status; cessation and/or prohibition of actions that infringe or threaten upon copyright and/or related rights.

Ukrainian legislation also guarantees the right to seek material compensation for violations of rights to digital content, for example, by filing claims for the recovery of remuneration established under the legislation on copyright and related rights, as well as compensation for moral harm and damage resulting from such violations. The list of available remedies is not exhaustive.

At the same time, the legally enshrined civil-law mechanisms are insufficient to ensure effective protection of copyright given contemporary technological challenges. Moreover, domestic legislation still contains inconsistencies and contradictions that undermine the effectiveness of copyright protection for digital content. It is also advisable to assess whether the current version of the Criminal Code of Ukraine corresponds to the large-scale changes that have occurred in the field of copyright in recent years. Evident contradictions between the Criminal and Civil Codes further complicate the legal landscape (Kravchenko, Kuznetsova, 2023). As long as copyright violations persist, the improvement of legal protection mechanisms remain a pressing task.

Strengthening the legal protection regime for creative works should be a priority in the development of Ukrainian legislation on intellectual property, particularly regarding copyright. The scientific literature emphasizes the need to adopt a specific legislative act that would regulate copyright aspects on the Internet, as effective protection requires a clear state mechanism to prevent and halt violations, streamline the process of proving infringements, and ensure the accountability of offenders (Kiryliuk, 2017).

The adoption of a special Law "On Digital Content and Digital Services" is an important step. However, the law primarily addresses the regulation of digital services rather than the protection of copyright for digital content. Consequently, it is crucial to introduce clearer and more stringent rules governing the use of intellectual property online, as well as to formalize effective sanctions for violators in case of piracy or other infringements of digital content rights. Some scholars advocate for the establishment of clearly defined boundaries for the use of intellectual property on the Internet without the explicit consent of the rights holder, while remaining within the framework

of existing legislation (Timashov, Lysenko, 2020).

In the context of Ukraine, martial law presents a significant challenge to the effective protection of digital content copyright. The active phase of the war in certain territories of Ukraine significantly complicates the process of protecting the rights of digital content creators. As a result, it is crucial to consider alternative mechanisms for resolving disputes and conflicts on intellectual property. Such mechanisms may include negotiations, mediation, and arbitration, which can help mitigate delays in litigation and facilitate efficient resolution of conflicts under challenging circumstances in the country. Nowadays, they can align with their original purpose: to support the judicial system in ensuring effective protection of rights (Halupova, 2022).

I. Sopilko, V. Filinovich, L.O. Pankova, S.V. Obshalov, K.O. Chaplynskyi (2023) emphasize the expediency of primarily applying out-of-court methods for resolving disputes arising from violations of intellectual property rights and name the following: sending a takedown notice to the violator, the registrant of the domain name and, if necessary, the service provider. As the scholars rightly note, although judicial protection remains a more effective jurisdictional form of safeguarding intellectual property rights, it requires time, effort, and considerable resources.

In our view, the prevention of violations of digital content rights should be based on preventive measures aimed at counteracting copyright infringement on the Internet. To prevent piracy of copyright and related rights online, it is proposed to use Internet authorization mechanism, license agreements, digital watermarks, the provision of a free trial version of software, and technical protection measures (such as encryption and obfuscation of program code). Furthermore, most of these techniques can facilitate the process of evidence collection in court proceedings (Hrihoriant, 2016).

In addition to strictly legal instruments, one should remember about the importance of moral and ethical influence in combating violations of digital content rights. Moral pressure and public condemnation can become decisive factors in reducing mala fide actions in the field of digital content, such as piracy, illegal copying and distribution of copyright materials, and plagiarism. Strategies that engage not only experts and influencers in the field but also active public participation can significantly enhance awareness of the importance of protecting intellectual property rights. Moreover, the use of open databases of violators may contribute to greater transparency and accountability in the digital environment.

5 Conclusion

Thus, the development of digital technologies and globalization significantly affect copyright, simultaneously creating new opportunities for the international dissemination of works and generating threats such as piracy and illegal copying. Contemporary challenges necessitate the adaptation of national legislation to international standards in order to ensure effective copyright protection within the digital environment. Digital content, as an object of intellectual property, possesses distinctive characteristics that require specific approaches to its legal regulation.

The use of advanced technologies can significantly improve the effectiveness of copyright protection, particularly through mechanisms designed to monitor and control the distribution of digital content. Given the rapid pace of technological development in the context of globalization, legislative initiatives concerning digital content and digital services require continuous refinement and improvement to ensure that the rights of creators and right holders are adequately protected and relevant to the contemporary challenges of the digital age.

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ПРАВОВІ АСПЕКТИ ЗАХИСТУ АВТОРСЬКИХ ПРАВ НА ЦИФРОВИЙ КОНТЕНТ В УМОВАХ ГЛОБАЛІЗАЦІЇ

Анотація. Мета. Метою статті є дослідження правових аспектів захисту авторських прав на цифровий контент в умовах глобалізації, виявлення основних тенденцій розвитку правового регулювання цифрового контенту на підставі аналізу сучасних викликів, що виникають у зв'язку з глобальною доступністю цифрових творів. **Методи дослідження.** У дослідженні застосовується метод аналізу для всебічного розкриття наукових підходів та положень законодавства, що стосується захисту інтелектуальної власності на цифровий контент в умовах глобалізації. Метод синтезу був використаний для поєднання різних аспектів та висновків з різних джерел і досліджень. Метод дедукції використовувався для формулювання загальних тверджень та висновків на основі аналізу конкретних фактів та даних. Метод порівняння використовується для визначення схожостей та відмінностей між різними підходами та практиками, пов'язаними з захистом авторських прав на цифровий контент. Метод узагальнення використовувався для формулювання загальних висновків на основі аналізу, синтезу та порівняння конкретних поглядів, законодавчих положень, тенденцій та даних. **Результати.** Дослідження показало, що глобалізація суттєво впливає на правове регулювання авторських прав, створюючи як сприятливі умови для розповсюдження творів, так і нові загрози, зокрема піратство та нелегальне копіювання. В умовах глобалізації виникають нові об'єкти інтелектуальної власності, які вимагають особливих підходів до їх правового регулювання. Використання новітніх технологій може значно підвищити ефективність захисту авторських прав, забезпечуючи контроль за розповсюдженням цифрового контенту та виявлення порушників авторських прав. **Висновки.** Цифровий контент як об'єкт інтелектуальної власності має унікальні особливості, що вимагають адаптації національного законодавства до міжнародних стандартів. Глобалізація створює як можливості для ширшого розповсюдження творчих робіт, так і загрози для прав авторів через нелегальне копіювання та піратство. Використання новітніх технологій, таких як цифрові водяні знаки та шифрування, може підвищити ефективність захисту авторських прав. Однак, для повноцінного захисту необхідна тісна міжнародна співпраця між державами, технологічними компаніями та правовласниками для розробки та впровадження ефективних механізмів правового регулювання в умовах цифрової епохи.

Ключові слова: авторські права, цифровий контент, глобалізація, інтелектуальна власність, правове регулювання.

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