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**«THE REGULATION OF COPYRIGHT PROTECTION
ON THE INTERNET IN PRIVATE INTERNATIONAL LAW»**

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In recent years the problem of copyright infringement has become particularly acute, which once again raises the question of the need to protect such rights. It is well known that the legislation does not keep up with the continuously developing technologies, which creates difficulties both for the legal protection of authors' rights and for the prevention of their violation as such. Consequently, copyright is constantly under threat.

Copyright can be defined as a set of legal rules governing the use of works of literature, science, and art. There are several different international legal acts on the issue of the protection of intellectual rights. The most significant conventions are considered to be the following [1]:

- Berne Convention for the Protection of Literary and Artistic Works of 1886, which was supplemented and revised by special conferences of 1896, 1908, 1914, 1928, 1948, 1967, 1971, 1979 [2];

- Universal Copyright Convention of 1952, revised in Paris in 1971, with additional protocols 1, 2, and 3, etc. [3].

Generally, the subject matter of copyright refers to works of science, literature, and art. Conventions approach the definition of international copyright subject matter with some differences.

The Berne Convention (Article 2 (1)) defines as objects of international copyright protection all works of literature, science, art, regardless of the form and manner in which they are expressed. However, the Convention reserves to the states the right not to protect the works, if they are not fixed in any material form, required by the national legislation (Article 2 (2)), but does not tie the protection of the objects to their form [4].

The Civil Code of the Republic of Kazakhstan states that "Copyright law applies to scientific, literary, and artistic works, which are the result of creative activity, regardless of their purpose, content, and dignity, as well as the mode or form of their expression. (Article 971(1)) [5].

The Universal Convention enshrines the protection of the rights of authors and all other copyright holders in literary, scientific, and artistic works while prescribing the specific forms in which they may be expressed: written, musical, dramatic, and cinematographic works, paintings, drawings, and sculptures (Article 1).

International instruments interpret the term "intellectual property" to include any intellectual property, as well as rights relating to literary, artistic, and scientific works, performing artists, sound recordings, the radio and television broadcasts, inventions in all fields of human activity, scientific discoveries, industrial designs, trademarks, service marks, trade names and commercial designations, protection against unfair competition, and all other rights relating to intellectual activity in the industrial, scientific, literary and artistic fields. The internationally accepted notion generally coincides with the interpretation of the legislation of the Republic of Kazakhstan [6].

At the moment, at the international level, no unified position on copyright protection on the Internet at the international level has been developed. This is since the legislation does not keep pace both at the national and international level with such a dynamically developing industry [7]. The following points of view have been expressed on this issue:

1. copyright protection on the Internet is unnecessary, as it hinders the development of information technologies and the formation of a single global information space. The only way out is the possibility to recognize and protect the author's non-property rights in the digital environment. The Internet is a self-regulating system, with unwritten rules and customs;

2. The Internet was created for the free exchange of information. Restriction of this freedom by enforcing copyright and related rights contradicts this purpose. According to this view, which has some similarities with the first one, the material interests of authors are sufficiently regulated by the rules governing copyright outside the network;

3. At present, the idea of protection of copyright and neighboring rights, based on the exclusive rights granted to authors and others, must be replaced, as far as the network is concerned, by a sole right, the right to remuneration. Regarding the Internet, it is suggested to replace the whole system of copyright and related rights with a system of compulsory licenses;

4. There should be full protection of copyright and related rights on the Internet, collective management of rights being one of its most effective tools;

5. The author should have the exclusive right to prohibit the unauthorized use of his works in the digital environment;

6. Copyright and related rights on the Web can be successfully protected by using the existing copyright law, with the necessary legislative changes.

Concerning the last statement, there are peculiarities in the regulation of relations on the Internet that should be taken into account when adopting legislative changes. Firstly, the question arises as to which conflict of laws clause should be used for online copyright infringement. The Berne Convention proposes the following bindings: "the place of origin of the work" and "the place where protection is claimed". However, their application to the protection of relations on the Internet is somewhat difficult, since in practice it is difficult to establish a specific place of origin of work and the place of infringement since the Internet does not belong to a specific territory. It is suggested that the problem be resolved as follows: the country of origin of the work must be identified by reference to the State in which the body responsible for registering top-level domains is located. Regarding the second principle, the place of the main infringement must be taken into account as it would be unreasonable to hold each infringer liable if the work is hosted on an internationally popular resource.

Secondly, another problem of copyright protection on the Internet remains the issue of determining the number of damages. There are two main approaches to solving this problem: determination of the damage caused by multiplying the value of a licensed copy of the work by the number of network users who have access to it or based on the corresponding value of the right to similarly use the work, established by the right holder [8].

It is also interesting to examine the mechanism of protection of rights on the Internet in the jurisprudence of various countries. In particular, the first court verdict under the French HADOPI (Supreme Authority for the Distribution and Protection of Intellectual Property on the Internet) system was handed down on 13 September 2012 in the city of Belfort in north-east France. This Committee aims to combat 'pirated' content on the World Wide Web. According to this system, a user receives three warnings and can then be subject to certain sanctions, including fines and restriction of access to the Internet [9]. According to the court decision, the copyright infringer was sentenced to a fine of €1500 and the original requirements were reduced tenfold. Another feature of this case is the approach chosen by the court to determine the subject of liability, in particular, it will not be the liable person himself, but the person to whom the connection is registered.

Having analyzed the regulatory sources, as well as the scientific literature and judicial practice concerning copyright protection in private international law, it can be concluded that additional legal regulation of the existing relations is needed. The following ways of a solution are possible:

1. Adoption of a new convention on intellectual property protection on the Internet;

2. Adoption of an annex to the Berne Convention, which would regulate the issues of copyright protection taking into account the peculiarities of the Internet.

The Berne Convention is a well-established international normative legal act, which has been successfully implemented in practice for many years, and covers a wide range of ratifying countries. However, it is obsolete and needs to be updated, which will be possible with the adoption of an annex entitled "Copyright protection on the Internet".

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