

Таким образом, недавно установлено тесное сотрудничество между ЕРО и CNIPA, положительно влияет на количество и качество заявок поданных в соответствующие ведомства, что способствует охране и защите прав изобретателей, разработчиков, владельцев изобретений, связанных с компьютерной программой.

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СПЕЦИФИКА ПРАВОВОЙ БАЗЫ В ОБЛАСТИ ОХРАНЫ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ В ИНДИИ

Аннотация. Цель статьи – рассмотреть специфику становления и развития авторского права в Индии. Развитие правовой базы в области охраны интеллектуальной собственности в Индии имеет динамический характер; национальное законодательство обеспечивает сохранение равновесия между интересами создателей и потребителей медиапродукта, а также приводит нормативные акты в соответствие с международными стандартами. Особенности авторского права Индии детерминированы активной интеграцией этой страны в мировую экономику и курсом на развитие индийского общества. Исследование проводилось в рамках инициативной исследовательской работы кафедры теории и истории журналистики РУДН № 050737–2–000 «Исследование медиасистем и медиаиндустрии в России и мире: научно-образовательный компонент».

Ключевые слова: Индия, авторское право, Закон об авторском праве, первоначальный владелец, оригинал произведения, Бюро регистрации авторских прав, уголовная ответственность

THE SPECIFICITY OF THE LEGAL BASE IN THE FIELD OF INTELLECTUAL PROPERTY PROTECTION IN INDIA

Abstract. The purpose of the article is to consider the specifics of copyright formation and development in India. Development of intellectual property rights in India has a dynamic character; the national legislation is undergoing transformation in an effort to ensure the preservation of the balance between the interests of creators and consumers of media products, as well as to bring the legislative instruments to international standards. Particular qualities of copyright in India are determined with active integration of the country into the world economy and the course on the development of Indian society. The study was carried out within the framework of the initiative research work of the Theory and History of Journalism Department of the RUDN University No. 050737-2-000 "Research of media systems and the media industry in Russia and the world: a scientific and educational component".

Keywords: India, Copyright, Copyright Law, The original owner, The original creative product, The Copyright Office, Criminal liability

Introduction. The protection and encouragement of intellectual creativity is an obvious indicator of the social, economic and cultural development of any country, so the problem of regulating copyright as an object of intellectual property in specific national conditions is of undoubted research interest.

India is a country with enormous economic potential, having overcome decades of economic isolation and backwardness, has now become one of the world's leading powers. According to forecasts, in 2022 the economy of this country will grow by 6.4 %. For comparison, the EU economy this year will increase by 2.7 %, the US – 2.6 %, China – by 4.5 %. The average annual growth rate of India's real GDP was 7.1 %. India is already the second largest software exporter in the world. It exports technology worth \$ 150 billion annually [1].

The rich cultural heritage, creativity and rapid development of India's modern media industry has made India's government copyright enforcement activity one of the most significant not only in Asia but in the world.

Main part. Intellectual property laws in India are constantly under revision due to the fact that if copyright protection is too strict, it can hinder the development of Indian society. For this reason, copyright laws in India are adopted with the necessary exceptions and limitations to ensure that a balance is maintained between the interests of the creators and consumers of the product [2].

However, as a WTO signatory to the GATT (1) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), India is required to establish minimum norms and standards in the following areas of intellectual property:

- copyright and other related rights,
- trade marks,
- the origin of the goods,
- patents,
- industrial design.

India is a member of the major copyright conventions, the Berne Convention for the Protection of Literary and Artistic Works since 1928 and the Universal Copyright Convention since 1952 (2). The first copyright law in India appeared in 1914, modeled on the British Copyright Act of 1911, and was a kind of charter, which included 15 sections. After India gained independence in 1947, the 1914 Act continued until the new Indian Copyright Act (ICA) 1957 [3] was passed, the main provisions and articles of which were taken in their entirety from the UK Copyright Act 1956.

The Copyright Act of India is periodically amended (1983, 1984, 1992, 1994, 1999, 2010, 2012) to bring the regulation in line with the provisions of WIPO (3), which should protect copyright holders by providing sanctions against violators in the form of fines from 50 thousand to 200 thousand rupees (from 626 to 2 505 dollars) and (or) imprisonment from six months to three years (Chapter VIII, Article 63 of the Copyright Act of India, 1957). The law also stipulates the duration of copyright in a work (product), which is established throughout the life of the author and an additional sixty years from the date of his death [3; 6. P. 95]. With regard to co-authorship, the calculation of the specified period begins with the death of the last author. The effect of copyright on works of a state enterprise (enterprises) and international organizations is also calculated for sixty years from the beginning of the calendar year following the year when the work was first published [3].

The latest amendment to the Copyright Act of India was made in 2021. The Government of India has notified Copyright (Amendment) Rules, 2021 vide Gazette notification under reference G.S.R. 225(E) dated 30th March, 2021. It aims to ensure smooth and flawless compliance in the light of the technological advancement in digital era by adopting electronic means as primary mode of communication and working in the Copyright Office. A new provision regarding publication of a copyrights journal has been incorporated, thereby eliminating the requirement of publication in the Official Gazette. The said journal would be available at the website of the Copyright Office [5].

It is interesting to consider certain provisions of the Indian Copyright Act (ICA) that have national specificities.

ICA provides the owners of works with a number of exclusive rights, which allows them to receive monetary payments from the exercise of rights through reproduction, public display, translation, publication, transfer of rights, etc. If any of these acts are performed by a person other than the owner, without a license issued by the owner or competent authorities in accordance with the law, it is an infringement of copyright in the work.

ICA protects the original literary work from illegal use. Unlike patents, copyright protects the way of expression, not the ideas themselves. There is no copyright for ideas in India.

To obtain copyright protection, the work must be original. “Co-authored work” means a work created by the joint work of two or more authors, to which all contribute equally. Copyright extends to original literary works throughout India.

The original owner of the copyright in a work is the author himself. If the work is owned by the government, then the government will be the original owner of the copyright. If the work is owned by a state-owned enterprise, then that state-owned enterprise is accordingly the original owner of the copyright. If a literary work is created by the author in the course of work for the owner of a newspaper, magazine or other periodical publication under an employment agreement or contract for the purpose of publication in a newspaper, magazine or other periodical publication, then the above-mentioned owner, in the absence of an agreement to the contrary, will be the original the owner of the copyright in the work [4. P. 163].

The copyright owner of an existing work, or the potential copyright owner of a future work, has the right to transfer all or part of its copyright. This is done strictly in writing signed by the copyright holder or his authorized representative.

If the successor does not use the rights transferred to him within one year from the date of transfer of rights, the agreement on the transfer of rights to the work will be considered terminated after the end of the specified period, unless otherwise stipulated in the transfer agreement. If the period of transfer of rights is not specified, then the period of 5 years from the date of signing the agreement on the transfer of rights will be considered as such.

If the territorial limit of the agreement on transfer of rights is not specified, then the entire territory of India will be considered as such.

The author of a work may waive all or any of the rights included in the copyright in the work by notifying the registrar of the Copyright Office of India in the prescribed form. This Bureau was established to provide registration services for all forms of works. You can register both published and unpublished works.

All rights in the original work also extend to its translated versions. It is noteworthy that no one has the right to translate a work that is subject to copyright for subsequent reproduction without the permission of the copyright holder.

The right to reproduce usually means that no one has the right to copy a work or more than a quarter of it in one or more copies without the permission of the copyright owner. The most common type of reproduction is its publication [3].

Copyright comes into existence from the moment a work is created, and obtaining copyright does not require complex legal procedures. Entries made in the copyright register serve as a presumption of proof in a court of general jurisdiction. Copyright in works published before the entry into force of the ICA may also be registered, but on the condition that the right holder needs to exercise his copyright. If the work was registered before it was published and it was subsequently published, then the applicant can apply for changes to the copyright registry data in the prescribed form for a fixed fee.

Of course, no copyright owner of any work is able to control all the uses of his works by others, therefore, registered collective management societies for the protection of copyrights are actively created in India in order to effectively monitor the use of the works of the author throughout the country and collect the royalties due to him. The author of a work has the right to join several such societies by acquiring an appropriate license.

The Government of India has established the Copyright Enforcement Advisory Council (CEAC; <https://copyright.gov.in/frmcceac.aspx>) to periodically review compliance with copyright law and provide advice to the government on measures

to improve enforcement of the law. Enforcement offices have been established by all Indian state and union territory governments to oversee compliance with the ICA, and responsible persons have been appointed to address emerging issues within the framework of the ICA implementation. It should be noted that there are no special courts in India to deal with copyright issues. Such cases are heard in ordinary courts.

Knowingly infringing copyright is a criminal offence. Any officer of the Indian police with the rank of not less than a second lieutenant has the right to seize all copies of the work without a warrant, and the court has the right to order the transfer of all copies to the copyright owner [3].

Conclusion. Thus, it can be stated that the high growth of the Indian economy and a strong legislative framework imply a desire in practice to protect India's intellectual property as one of the primary sources for innovation.

It is important to note the nationally oriented orientation of all Indian laws without exception in the field of legal protection of intellectual property, as well as law enforcement practice in this area. Moreover, the Indian policy of upholding national and public interests in some cases prevails over the need for India to comply with its international legal obligations regarding the legal protection of intellectual property.

Notes

1. The General Agreement on Tariffs and Trade (GATT) is an international agreement of 1947, the predecessor of the WTO.

2. Universal Copyright Convention (UCC, 1952, Geneva) is an international agreement on the protection of copyright, operates under the auspices of UNESCO. If the Berne Convention proceeds from the fact of the creation of a work as a sufficient basis for the protection of copyright in it, the UCC provides for the fulfillment of certain formalities for the granting of such protection in individual member countries, related to the fact that in some countries, in order for a work to be protected, the deposit of copies is necessary, registration or other formal actions. Therefore, Article 3 of the UCC establishes that such requirements are considered to be satisfied if, starting from the first publication of a work, all copies of it will have a sign in the form of the Latin letter "C" enclosed in a circle (© – copyright mark) with the name of the owner of this work and an indication of the year of first publication. The minimum term of copyright protection set by the UCC is 25 years.

3. India is also an active member of the World Intellectual Property Organization (WIPO, since 1975) and participates in the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (since 1975).

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ПРОБЛЕМЫ ЗАЩИТЫ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ ОТ ПЛАГИАТА В СЕТИ ИНТЕРНЕТ

Аннотация. Интернет стал неотъемлемым компонентом жизни общества, привыкшего к быстрому обмену и доступу к информации. В работе проанализированы примеры нарушений прав интеллектуальной собственности и кражи авторского права, выявлены проблемы, связанные с защитой интеллектуальной собственности в прогрессирующих информационных сетях, в частности в Интернете. По результатам исследования предложены пути решений все чаще возникающих проблем для правообладателей уникальных идей, определены направления совершенствования действующего законодательства в сфере интеллектуальной собственности.

Ключевые слова: авторское право, плагиат, информационные сети, интернет, кража интеллектуальной собственности, интеллектуальная собственность, правообладатель

THE PROBLEMS OF PROTECTION INTELLECTUAL PROPERTY FROM THE INTERNET PLAGIARISM

Abstract. The Internet has become an integral part of the life of a society accustomed to the rapid exchange and access to information. The paper analyzes examples of violations of intellectual property rights and copyright theft, identifies problems associ-