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## LEGAL REGIME OF SOME ATYPICAL COPYRIGHT OBJECTS: PROBLEMATIC ISSUES

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*The purpose of this article is to consider problematic issues regarding the legal regime of some atypical copyright objects. For this purpose, the concepts of "atypical objects of civil law", "atypical objects of intellectual property law" and "atypical objects of copyright" were analyzed. As a result of the analysis, the peculiarities of the legal protection of atypical copyright objects and the problems of their protection in court were considered. The methodological basis of the research is general scientific and special methods of scientific knowledge. The use of these methods made it possible to analyze the legal regime of some atypical copyright objects and describe the problems of their legal protection. Results: the atypicality of copyright objects requires not only meaningful certainty, but also a formal and logical one, designed for stable practical application. Despite the presence of separate studies on this issue, atypicality requires analysis in the context of copyright objects, and the contradiction and ambiguity of the current legislation and the practice of its application affects the understanding of a certain object and its legal regime. Discussion: with the development of information technologies, their spread to all spheres of people's lives, without exception, there is a modification of already existing traditional objects of copyright, as well as the appearance of new atypical objects of copyright. Therefore, the specified objects require a detailed study, and the identification of their features will allow the introduction of norms into the current legislation for their effective legal protection and protection of authors' rights.*

**Key words:** intellectual property law; copyright; copyright objects; atypical copyright objects; legal regime; computer program; data compilation; database; website.

**Problem statement and its relevance.** The modern level of science and technology makes it possible to create new objects of copyright or to modernize existing ones. This applies, for example, to complex works in which several forms are combined, for example, cinema and television films (literary text, music, scenery, etc.). However, independent objects of copyright in an audiovisual work

can be the script, music, explanatory text, the work of the main cameraman, the production designer, which are an integral part of the work. Along with this, questions arise regarding the legal protection of such works as a whole, as well as its individual parts. There are also changes in the form of expression of works. And as you know, the form of expression of the work is protected by copyright.

With the development of information technologies, various computer programs, types of data compilation (databases) are also becoming more and more popular, the expression of a work is becoming more and more diverse, it can have both a material form and be expressed as an intangible object of copyright, which a person cannot directly see or touch them or can be expressed in digital form. Such objects of copyright relatively recently became known to civil law.

That is, along with traditional (typical) objects of copyright, new, non-typical (non-traditional) objects appear, which require detailed research in order to implement effective legal regulation and protection of such legal relations.

#### **Analysis of recent research and publications.**

The problems of legal protection of atypical copyright objects were investigated by such scientists as: Androschuk G.O., Atamanova Yu.E., Glotov S.O., Zerov K.O., Lytvyn S.Y., Petrenko A.V., Pihurets O.V., Selivanov M.O., Sokolova V.V., Matskevich O.V., Uliina O.V., Shishka R.B., Shtefan A.S. and other. The problems of the legal regime of atypical objects of civil law were studied by the following scientists: Diduk A.G., Zhukov V.I., Kokhanovska O.V., Krat V.I., Spasibo-Fateeva I.V. and other.

However, the specified scientists in their scientific works considered only part of the problematic issues that arise in relation to the legal protection and protection of atypical objects of copyright.

Also, due to the growing influence of information technologies on modern life, when the process of creating and functioning of computer programs, databases (data compilation), websites is one of its constituent parts, sometimes turning into means of satisfying human needs, consideration of some issues of legal regulation and protection of the participants of these social relations is extremely relevant, and the topic is currently not exhaustive and requires further and comprehensive research.

#### **Presentation of basic material of the research.**

As you know, the objects of copyright are published or unpublished works of science, literature, art, which are the result of creative activity regardless of their purpose, positive qualities and content, as well as the method and form of their expression, provided that these results are embodied in objec-

tive form that enables their perception by other people [1, p. 223].

In the provisions of the World Copyright Convention of 1952, each state, as a party to the treaty, undertook to take all measures necessary to ensure sufficient and effective protection of the rights of authors and all other copyright holders in relation to literary, scientific, and artistic works, such as: works of writing, musical, dramatic and cinematographic, works of painting, graphics and sculpture. Article II provides for the provision of legal protection to both published and unpublished (published) works.

The Berne Convention for the Protection of Literary and Artistic Works defines the term "Literary and Artistic Works", which covers all works in the field of literature, science and art, in whatever ways and in whatever form they are expressed, such as: books, pamphlets and other written works, lectures, appeals, sermons and other similar works; dramatic and musical-dramatic works; choreographic works and pantomimes, musical works with or without text; cinematographic works, to which are equated works expressed in a way similar to cinematography; drawings, works of painting, architecture, sculpture, graphics and lithography; photographic works, to which are equated works expressed in a way analogous to photography; works of applied art; illustrations, geographical maps, plans, sketches and plastic works related to geography, topography, architecture or sciences.

Translations, adaptations, musical arrangements and other adaptations of a literary or artistic work are protected equally with the original works, without prejudice to the rights of the author of the original work.

According to the legislation of the countries of the European Union, the right is reserved to determine the protection that will be given to official texts of a legislative, administrative and judicial nature and to official translations of such texts.

Collections of literary and artistic works, for example, encyclopedias and anthologies, which are the result of intellectual creativity by the selection and placement of materials, are protected as such, without prejudice to the rights of the authors of each of the works that are part of such collections.

According to general national legislation, the objects of intellectual property rights, in particular, include: literary and artistic works; computer programs; compilation of data (databases); implementation; phonograms, videograms, broadcasts (programs) of broadcasting organizations; scientific discoveries; inventions, utility models, industrial designs; layout of semiconductor products; rationalizing proposals; varieties of plants, breeds of animals; commercial names, trademarks (service marks), geographical indications; trade secrets (know-how) (Article 420 of the Civil Code of Ukraine) [2].

The special Law, which is the Law of Ukraine "On Copyright and Related Rights" [3], adds such works as works of architecture, urban planning and garden and park art to the specified list; scenic treatments of works, and treatments of folklore, suitable for stage performance; derivative works; translation texts for dubbing, dubbing, subtitling in Ukrainian and other languages of foreign audiovisual works.

The list of copyright objects given in the current legislation (Article 8 of the Law of Ukraine "On Copyright and Related Rights") would seem to be wide enough, but it is not exhaustive, since life in its development generates new and new forms of objective expression creative activity of people. And in paragraph 17 of part 1 of article 8 of the Law of Ukraine "On copyright and related rights" it is stated, along with the listed objects of copyright, that these may also be other works. And that's true. Because it is impossible to predict all objects of copyright and limit them to a clear list. Moreover, with the development of science and technology, more and more new copyright objects (websites, NFTs, etc.) appear, which have other properties-characteristics that differ from typical (traditional) copyright objects. Therefore, such objects are considered atypical. It is also necessary to understand what non-typical copyright objects are. And for this, it is necessary to understand the term "atypical object".

Investigating this problem, V. Krat points out that the modern civil doctrine is only at the stage of ascertaining the need to explain the phenomenon of atypicality without developing adequate and substantiated proposals regarding its role in civil

law. This is, in particular, due to the lack of understanding of atypicality itself, analysis of its essential aspect, interrelationship and influence on related legal phenomena. However, it is obvious that atypicality requires not only substantive certainty, but also a formal and logical one, designed for stable practical application. However, despite the presence of separate studies on this issue, atypicality needs analysis in the context of civil rights objects. Consideration of atypicality in this perspective should be connected with at least two reasons. First of all, it is the intensive development of social relations and, thanks to this, the determination of the appearance of new or transformation or even modification of certain objects of law. Examples can be electronic money or the "transformation" of the Internet from a technical network to a market for the circulation of intellectual property rights. Secondly, it is the contradiction and ambiguity of the current legislation, which affects the understanding of a certain object and its legal regime [4, p. 62].

But atypicality is not necessarily marked by the use of unusual and non-civilistic terms, they can only additionally emphasize the peculiarity, similarity or similarity of a certain legal phenomenon, its development or inconsistency from the standpoint of modern means of legal regulation [5, p. 135].

In all cases, there is a tendency when there is a main legal phenomenon, next to which another legal phenomenon appears and develops. Moreover, the latter can be built both on the basis of complete similarity to the main one, and be opposed to it.

The authors of modern scientific works give various examples of atypical objects of civil law and intellectual property rights in general, as well as objects of copyright, in particular.

Yes, Glotov S.O. defines as an atypical object of civil law a work embodied through a digital environment, which is characterized by such natural "properties/characteristics" that are not known to civil law and are not regulated by current legislation and significantly distinguish it from a work embodied through an analog environment [6, p. 256]. Such a position is quite interesting and deserves special attention. However, the presence of only a distinctive form of expression of the

object of copyright does not make this object atypical. Therefore, the opponents of this theory indicate that the electronic or digital form of the work is a means of its fixation and/or publication, it is one of those objective forms that enables the perception of the work by other people and does not affect the definition of the work as an object of copyright.

Placing works on the Internet in a form available for public viewing of their content and their further use is bringing the works to the general public in such a way that it is possible to access the works from any place and at any time for their by own choice in accordance with clause 9 of part 3 of article 15 of the Law of Ukraine "On copyright and related rights" [3].

And therefore, the issue of classifying a work that has a digital form as a non-typical object of intellectual property law in general and as an object of copyright law, in particular, is quite controversial and requires detailed study.

But a computer game has been created, for example, which, along with a special form of expression, contains a number of other features, in particular, it may include several traditional objects of copyright, such as a script, a drawing, a musical piece, etc., which in as a result of the creative work of the author, combined into one work, can already be considered an atypical object of copyright.

At the same time, as already mentioned, the term "unusual objects" itself, although widely used, has neither a clear definition nor a clear understanding of this phenomenon from the point of view of civil law. However, it is obvious that the concept of atypicality needs not only substantive certainty, but also a formal and logical one, designed for stable practical application.

The atypicality of the object itself means non-compliance with a certain type, species, sample, etc. But the atypicality of the object does not necessarily have to be marked by the use of unusual, non-copyright terms. In our opinion, non-typicality consists in the difference of the object of copyright from the generally accepted concept of one or another type of object of copyright, the presence of such an object of certain features, but with observance of the basic conditions inherent in typical objects of copyright. That is, it is an object

that has its own specific features, features, characteristics or form, which can additionally emphasize its features and is different from traditional (typical) copyright objects.

Most often, as examples of atypical objects of intellectual property law in general and copyright law, in particular, modern scientists cite precisely objects that do not have a certain material form, such as computer programs, data compilations (databases), information resources, etc.

A computer program is a set of instructions in the form of words, numbers, codes, diagrams, symbols or in any other form, expressed in a form suitable for reading by a computer (desktop computer, laptop, smartphone, game console, smart TV, etc.), which activate it to achieve a certain goal or result, in particular, an operating system, an application program, expressed in source or object codes (Article 1 of the Law of Ukraine "On Copyright and Related Rights") [3].

Based on the definition of a computer program and a database, depending on whether a computer game contains a collection of works or is exclusively a single work, it can be defined as a computer program or as a compilation of data in which there is a computer program and other works.

A computer program itself is also a complex subject of copyright. The size of the program, the number of programming languages, files or lines of code used is irrelevant to copyright protection. But the same program can be written in different programming languages, but using the same algorithms, methods or other technical solutions. Thus, copyright does not extend to ideas, processes, systems, methods of operation, mathematical concepts, even if a computer program is based on them. Copyright protects the text (code) of the program, not the functions it performs.

Along with this, there may be separate copyright objects and functionally complete program elements created and used for software development. In this regard, scientific circles are already expressing an opinion about the feasibility of registering certain elements of such objects as the program code, without which the functioning of the program is impossible.

It is worth noting that the definition of a computer program is quite complicated, because it contains many technical characteristics, at the same time, such an object of copyright is protected in the same way as literary works. That is, only the form of expression of a computer program is protected by copyright, which creates a threat to the author regarding the use of other results of his intellectual activity, such as the algorithm of the computer program for solving this or that problem, calculation methods, way of functioning, etc. In order to protect these developments, authors often use such a method of protection as the registration of the right to an invention, since an invention is the result of a person's intellectual activity in the field of technology. But then the same object of intellectual property falls under different spheres of legal regulation, which complicates both the proper registration of the author's rights and the protection of his rights.

In our opinion, such a specific copyright object as a computer program also requires specific legal regulation of legal relations related to it. Not only the form of expression of a computer program, but also its technical component should be subject to legal protection.

At the same time, in the modern conditions of the development of information technologies, the term computer program is already too narrow. Increasingly, in this professional field, the terms "software product" or "software" are used, which include such components as a computer program, a data compilation (database), and others.

The concept of "data compilation" ("data base") is given in the Directive of the European Parliament and the Council "On the legal protection of databases" of March 11, 1996 (hereinafter - the Directive), which should be understood as including literary, artistic, musical or other compilations of works or compilations of other materials such as texts, sounds, images, figures, facts and data, provided that it must include a collection of independent works, data or other materials that are systematically or methodically arranged and for which a separate access; whereas this means that recordings or audiovisual, cinematographic or musical works as such do not fall within the scope of this Directive (paragraph 17).

Paragraph 4 of the said Directive indicates that copyright protection for databases exists in different forms in the Member States in accordance with legislation or precedent practice, and also considering that if differences in legislation regarding the scope and conditions of protection remain between Member States, such inconsistent intellectual property rights may lead to obstacles to the free movement of goods or services within the Community.

In general, a database can be characterized as a single, large data store that is defined once and then used simultaneously by many users. An example of data compilation can be a university database with information about students, the courses they attend, the scholarships they receive, the subjects they have already studied, the results of various exams, etc.; a database hosted on the bookstore's Web server, thanks to which visitors have the opportunity to search for books by various categories, browse them, get information about the availability of a book in a retail network, finally, buy books, and so on.

From a copyright point of view, a database is an objective form of presentation and organization of a set of data, systematized in such a way that they can be found and processed using an electronic device. At the same time, databases, which are the result of creative work on the selection and organization of data, are defined by law as an object of copyright and are protected regardless of whether the data on which they are based or which they include are objects of copyright or not [7, p. 60].

At the same time, copyright protection does not extend to the ideas and principles underlying the database and to the databases themselves, if the latter are not characterized by signs of originality, otherwise, their creation is not due to the creative work of its creator, but is related with the use of standard or mechanical techniques and significant contributions to its creation. The merit of such databases lies not so much in the way the material is classified, but in its volume and the possibility of quick access. An example of such databases can be telephone directories, directories, address books, etc., which do not have signs of the object of copyright.

Copyright remains a proper form of exclusive right of the authors who created the databases, but the criteria used to determine whether a database should be protected by copyright should be established on the basis that the selection or arrangement of the contents of the database is the author's own intellectual creation and such protection must cover the structure of the database. No criterion other than originality in the sense of the author's intellectual creation should be used to determine whether a database is copyrightable and, in particular, no aesthetic or qualitative criteria should be applied other than an attempt to protect the copyright of the original selection and arrangement of the content. databases.

However, in scientific circles, the issue of legal protection of databases that do not meet the criteria of originality is already spreading. Based on the definitions provided by the authors, we are talking about databases that exist to process information in electronic form in order to meet certain needs of users. But such a database has features of a computer program and is subject to legal protection as an object of copyright, provided the criteria of originality and novelty are met.

In scientific circles, the issue of legal protection of databases that do not meet the criteria of originality is also quite controversial. Such bases are protected within the limits of sui generis law, or "peculiar law", "law of a special kind". In this connection, the question arises of the legal nature of the specified "special right", its content in the objective and subjective sense, signs of "uniqueness", which should directly reflect the properties of such databases. The specified right establishes a monopoly, albeit limited, but sufficient for the introduction of the object into economic circulation, and allows the use of this right, as well as its protection by means largely similar to those used for absolute rights. The peculiarity of the sui-generis right is that it can belong to the same object independently and independently to several persons, each of whom can use the specified object (non-original database). All third parties are not able to do this, the latter can use only with the permission of the right holder. The latter has the right to transfer (alienate) or grant permission to use the database to another

person. Therefore, the mentioned right can be an independent object of civil legal relations [8, p. 145].

This issue is also being investigated by other national scientists, including Androschuk G., Avramova O., Yefimenko M., Petrenko A. and others [9]. Thus, Petrenko A. defines databases as a compilation of data that users need, and complex processes of data compilation, their processing (taking into account the fact that the mass of information is constantly increasing, as well as its consumption) and use (in particular, regarding the movement, collection, counting, sorting and arrangement of information) is a guarantee of the competitiveness of the corresponding database [10, p. 128].

In accordance with part 1, 5 of article 433 of the Civil Code of Ukraine [2], art. 8 of the Law of Ukraine "On Copyright and Related Rights" [3] objects of copyright are data compilations (databases), if they are the result of intellectual activity by selection or arrangement. Compilations of data (databases) or other material are protected as such. This protection does not extend to the data or material as such and does not affect the copyright in the data or material constituting the compilation.

The definition of the term "data compilation" ("data base") is fixed in Art. 1 of the Law of Ukraine "On Copyright and Related Rights", according to which a database (data compilation) is a collection of works, data or any other information in an arbitrary form, located in a systematized or ordered form, which can be accessed using a special search engine and/or based on electronic means (computer) or other means [3].

According to Article 5 of the Copyright Treaty of the World Intellectual Property Organization adopted on December 20, 1996 (hereinafter - the Treaty) in Geneva, compilations of data or other information in any form, which, by the selection and placement of the content, are the result of intellectual creativity, are protected as such. Such protection does not extend to the data or information itself and does not limit any copyright that applies to the data or information contained in the compilation itself.

The scope of protection of the compilation of data (databases) in accordance with this article, including Article 2 of this Agreement, coincides with Article 2 of the Berne Convention and the corresponding provisions of the TRIPS Agreement.

Thus, the result of creative activity during compilation is the selection, organization, systematization of certain works or other information in an objective form.

In accordance with part 1 of Article 19 of the Law of Ukraine "On Copyright and Related Rights", the author of a collection and other compiled works (compiler) owns the copyright for the selection and arrangement of works and (or) other data that is the result of creative work (compilation).

From the point of view of the application of the specified legal norms, the decision of the Court of Appeal of Kyiv dated May 21, 2013 in case No. 22-ts/796/4436/2013 is interesting. In the specified case, the plaintiff had a duly registered copyright for a compilation of images and titles, namely a compilation of Tarot cards with engravings of Biblical scenes by Gustave Dore, to which the plaintiff assigned the name "Dore Bible Tarot". This compilation of the plaintiff was laid out in one of the Internet resources and was widely available. The defendant, with the help of another Internet resource, carried out the distribution and sale of the author's work "Biblical Tarot of Gustav Dore". To confirm that the specified work is the result of his creative intellectual work, the defendant Romanov R.O. cites certain discrepancies between the compilations cited, namely, the traditional number of tarot cards he used and the traditional names used.

The appellate court, having analyzed the specified works, pointed out that there is a complete coincidence of the maps and illustrations of 78 maps, that is, there is the same selection, location, arrangement of the same constituent parts in the compilations of the plaintiff and the defendant. Yes, the systematization of the Tarot Cards and the illustrations to the Bible by Gustave Dore are not subject to copyright due to the expiry of the terms, but the specified compilation is the result of creative intellectual activity and, according to the norms of current legislation, is the object of

copyright. In this regard, the court came to the conclusion that the plaintiff's compilation, which was posted on the Internet site, is an objective form of such a work, while the distribution of this compilation by the defendants on the site is such that it violates the plaintiff's copyright for using the work without her consent.

It should be noted that such an object of copyright as a compilation of data is still only becoming widespread, and the practice of its protection is also just being developed, therefore it is important to develop at the theoretical level unified approaches and criteria for determining which compilations are subject to legal protection defined by legislation.

The rapid and rapid cultural development also led to the emergence of new types of art, which are created and published via the Internet. For example, when fans of popular literary, cinematic, artistic and other works create works based on the original works of their favorite authors. Such works are called fan fiction, fan fiction, fan art.

Fan fiction is the literary creation of fans (admirers) of original works of art (literary works, cinematographic works, serials, comics, games, etc.) as a whole. Fan fiction is a literary work based on an original work, while fan art is a work of visual art that was created based on an original work (literary, cinematic, series, comic, game, etc.).

The main features of these works are that they are created on the basis of another original work, but have their own originality and the author applied intellectual and creative activity when creating them.

Based on the provisions of the Law of Ukraine "On Copyright and Related Rights", the specified works can be classified as derivative works, since this is a work that is a creative adaptation of another existing work without harming its protection or its creative translation into another language. But it should be noted that the main condition defined by the Law is the absence of damage to an existing work. Also, the main provision of this Law is the presumption of primary authorship and the protection of the author's right. The creation of a fanfiction affects the interests of the rightful owner of the original work, or can its creation be considered a violation of his rights, as

this promotes the original work, but on the condition that a reference is made to the original author.

In this new direction of culture, there are already certain developments of national scientists. Yes, Ulitina O.V. believes that the creation of fan fiction does not always affect the interests of the original owner of the original work, moreover, sometimes fan fiction is created in the interests of consumers. Therefore, it is very important to try to maintain a balance, to understand the essence of phenomena and to apply the law correctly. If the author of the fan fiction does not aim to make a profit, does not distort the work in such a way that it can affect the honor and reputation of the author, then there is no need to talk about any violations. However, it is necessary to pay attention to the author of the original work, because his rights must be protected [11, p. 14].

In order for a fan work not to be considered simply plagiarism, it must have a certain originality, i.e. be the author's intellectual work, be a product of his creative activity. With this in mind, it should be noted that not every fan-made image can be considered a separate subject of copyright, even if permission to use the original work has not been obtained. A simply redrawn character or any image will be considered a violation, that is, plagiarism [12, 13].

Currently, there is no judicial practice in Ukraine regarding copyright violations in the creation of fan fiction, that is, it is impossible to trace how the rights holders treat such cases, as well as to distinguish the position of the court. But modern trends towards the emergence of specific objects of creativity, in one way or another, intersect with the main basic principles of copyright and require the legal community to define clear limits of their legal application and implement effective protection of all subjects of such legal relations.

As an atypical object, you can also cite photographic images that are improved by using certain computer programs. The question of the availability of original and unique techniques that would distinguish these photographs from others and give them the status of an object of copyright is problematic.

Directive 93/98/EEC states that a photographic work should be considered original if it is the product of the individual creativity of the author, reflecting his personality, but without taking into account other criteria such as value or purpose, but Member States may provide for the protection and for other photos.

Article 6 of Directive 2006/116/EU of the European Parliament and of the Council of December 12, 2006 on the term of protection of copyright and certain related rights establishes a criterion that determines which photograph is subject to copyright protection: only a distinctive original photograph that constitutes an intellectual work of the author.

Such a feature as the presence of the results of creative activity is unconditional for determining the object of copyright. However, a creation that is not the result of creative work is mainly technical work without a creative component, such as copying, reprinting, etc. Thus, non-original photographic works include reproductions of drawings, maps, plans, drawings, tapestries, stained-glass windows and other derivative photographs that convey the essence of the photographed object without introducing a creative component into the image.

In case No. 755/11029/15-ts, the subject of the dispute was the defendant's commercial use of the photo taken by the plaintiff. The appellate court pointed out that in this case, the photographs contain images of a person at certain moments of his life, which reflect his mood and the significance of the event, and therefore it cannot be claimed that there is no creative component in their creation. In addition, the case materials do not contain evidence that testified to the lack of originality of these works or their copying.

In this case, there was no question of using computer programs that improve photographs when creating a photographic work. At the same time, such application can also have a creative character, since the final result is the achievement of the physical person - the author, the result of his intellectual and creative activity.

Today, the issue of legal protection and judicial protection of such objects as the title of the work and the character are gaining more and more

importance, since more and more often fans of popular literary, cinematographic, artistic and other works create works based on the original works of their favorite authors, so-called fan fiction, fan fiction, fan art and distribute them on the Internet. Despite the existence of separate works on this issue, atypicality needs to be analyzed precisely in the context of copyright objects, and the contradiction and ambiguity of the current legislation and the practice of its application affects the understanding of a certain object and its legal protection. Therefore, legal doctrine and judicial practice should move together with the development of creativity in society in order to ensure the rights of authors and encourage such development in the future.

**Conclusions.** One of the priority directions of development of Ukraine today is intellectual property, in particular copyright. The most important driver of changes in the field of protection and protection of copyright is human creativity, which is constantly changing under the influence of technical and cultural development of mankind. That is why specific, non-typical objects of creativity, which in one way or another intersect with the main basic principles of copyright, appear more and more often.

Therefore, with the development of information technologies, their spread in all spheres of people's lives without exception, there is a modification of already existing traditional objects of copyright, as well as the appearance of new atypical objects of copyright. Therefore, the specified objects require a detailed study, and the identification of their features will allow the introduction of norms into the current legislation for their effective legal protection and protection of authors' rights.

However, it is obvious that the atypicality of copyright objects requires not only substantive certainty, but also formally logical, designed for stable practical application. Despite the presence of separate studies on this issue, atypicality requires analysis in the context of copyright objects, and the contradiction and ambiguity of the current legislation and the practice of its application affects the understanding of a certain object and its legal regime.

Modern civil doctrine is only at the stage of ascertaining the need to explain the phenomenon of

atypicality without developing adequate and substantiated proposals regarding its role in civil law.

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## ПРАВОВИЙ РЕЖИМ ДЕЯКИХ НЕТИПОВИХ ОБ'ЄКТІВ АВТОРСЬКОГО ПРАВА: ПРОБЛЕМНІ ПИТАННЯ

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*Метою статті є розгляд проблемних питань щодо правового режиму деяких нетипових об'єктів авторського права. Для цього було проаналізовано поняття «нетипові об'єкти цивільного права», «нетипові об'єкти права інтелектуальної власності» та «нетипові об'єкти авторського права». В результаті аналізу було розглянуто особливості правової охорони нетипових об'єктів авторського права та проблеми їх захисту в судовому порядку. **Методологічною основою** дослідження є загальнонаукові та спеціальні методи наукового пізнання. Використання цих методів дало можливість проаналізувати правовий режим деяких нетипових об'єктів авторського права та описати проблеми їх правової охорони. **Результати:** нетиповість об'єктів авторського права потребує не тільки змістовної визначеності, а й формально-логічної, розрахованої на стабільне практичне застосування. Незважаючи на наявність окремих напрацювань із цієї проблематики, нетиповість потребує аналізу і в контексті об'єктів авторських прав, а суперечливість та неоднозначність чинного законодавства та практики його застосування впливає на розуміння певного об'єкта та його правового режиму. **Обговорення:** з розвитком інформаційних технологій, їх поширенням в усі без винятку сфери життя людей відбувається модифікація вже існуючих традиційних об'єктів авторського права, а також поява нових нетипових об'єктів авторського права. Тому вказані об'єкти потребують детального дослідження, а виявлення їх особливостей дозволить забезпечити впровадження в чинне законодавство норм задля їх ефективної правової охорони та захисту прав авторів.*

***Ключові слова:** право інтелектуальної власності; авторське право; об'єкти авторського права; нетипові об'єкти авторського права; правовий режим; комп'ютерна програма; компіляція даних; база даних; веб-сайт, NFT.*

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