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PROSPECTS FOR LEGAL REGULATION OF COPYRIGHT OBJECTS IN COMPLIANCE WITH INTERNATIONAL STANDARDS

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Abstract

Purpose: *The purpose of our research is an analysis of ways to improve legal protection of copyright and related rights in accordance with current legislation, major threats and areas for improvement in the context of European integration.* ***Methods:*** *Using the methods of comparison and analysis in conjunction with formal legal determined by the nature and content of the legal protection of copyright. Application of the method of analysis, induction, analogy and formal-legal method allowed to determine the legal means of protection of copyright. The use of formal legal method, comparative analysis and synthesis grounded proposals to address the shortcomings in the current legislation.* ***Results:****. In the context of bringing national laws in line with EU legislation, the author considers it appropriate to finalize the draft Law of Ukraine "On Amendments to the Law of Ukraine" On Copyright and Related Rights "(relating to activities of collective management organizations)" in order to protect the proprietary rights of copyright and related rights proprietors. A computer game should be given a definition and included in Article 2 of the Law of Ukraine "On Copyright and Related Rights". In addition, it is necessary to amend other acts governing liability for infringements of rights to this object. Until the definition of a computer game as an object of intellectual property rights is given and the above laws and the Code of Administrative Offences are amended, there is no legal basis to bring any persons to administrative responsibility.* ***Discussion:*** *In this article the author examines special aspects of legal protection of copyright objects in accordance with current legislation. At the same time, in the process of research the author places greater focus on shortcomings in current legislation and proposes the main directions of improvement of current legislation in accordance with international law in the context of protection of copyright objects. Special attention is paid to analysis of the major threats to infringements of copyright and possible solutions of these problems.*

Keywords: computer program; copyright; copyright objects; current legislation; legal protection; literary work; Web site**.**

1. Introduction

The policy of integration into the European Union proclaimed by Ukraine and accession to the World Trade Organization require the development of proper enforcement and protection mechanisms to ensure the protection of copyright and related rights at the level of developed countries. In the framework of reform of intellectual property laws one of the topical issues in Ukraine is improvement of legal regulation of copyright protection as the most profitable area of commercialization of intellectual property objects. In addition, the problem of legal regulation of intellectual property right protection and safeguard, in particular, copyright, is associated with a shift in emphasis from industrial property to copyright, emergence of digital rights management software, new intellectual property objects and their placement on the Internet.

It is well known that effective protection of intellectual property objects, in particular copyright objects, associated to some extent with digital technologies is one of the major problems in Ukraine today. Literary, audiovisual, musical, photographic works, computer programs and other copyright objects reproduced in digital form are increasingly becoming offence objects. The problem is aggravated by the fact that every year Ukraine

holds a leading place among all countries in the world in terms of software piracy, circumvention of technological protection. Each year, the US Trade Representative prepares a "Special 301" Report which determines the countries creating obstacles to the development of American business. Ukraine has been included into this list since 1997. In 2001, Ukraine was given the status of priority country (priority foreign country). As a result, some products imported from Ukraine were put under economic sanctions, and preferential customs import conditions in the US were repealed. In those turbulent years the main claim involved the fact that Ukraine was the largest producer and exporter of counterfeit CD products in Eastern Europe [1]. However, in 2006, the status of Priority foreign country in the "Special 301" Report was removed from Ukraine that made it possible to intensify the innovation process, attract foreign capital and innovation projects. However, in 2013, the Office of the United States Trade Representative (USTR) criticized protection of intellectual property rights on the Internet in Ukraine, situation with collection and distribution of royalties and the number of unlicensed software on the officials' computers, including Ukraine into Priority foreign country "Special 301". The reference to Ukraine in this list has a negative impact on the investment attractiveness of the country. These are huge reputational risks for the state, as for investors the status as a Priority Foreign Country in the "Special 301" is a wake-up call. Economic losses are borne by business entities whose business is related to the export of certain goods to the US, they lose access to the US generalized system of preferences [2].

Taking into account the challenges and criticism of copyright safeguard and protection, Ukrainian authorities adopted a number of changes of economic and legal nature, which led to the fact that in 2015 the status of Ukraine in the "Special 301" Report was changed to Priority watch list, which is a certain status weakening and evidence of some progress in the legal protection. Thus, according to A. Zharikova, "positive changes include implementation of EU directives, which provide for transparency, control, public access to all information of collective management organizations. The directives have been implemented in the corresponding draft law, as was stated above. But since conciliation process dragged on, we decided to test implementation of directives using the example of the collective management organization, which is controlled by the State Intellectual Property Service of Ukraine - Ukrainian Agency for Copyright and Related Rights (UACRR). The Web site of the Services started to publish information on the organization activities: the amount of funds collected, distributed and spent on their own needs, information on contractual partners, etc. European mechanisms are being tested in practice" [2].

2. Analysis of the latest research and publications

Legal protection of intellectual property was investigated in the works of such legal scholars as Ch.N. Azimov, G.O. Androshchuk, S.S. Alekseyev, A.V. Dzera, V.S. Drob'yazko, R.V. Drob'yazko, L.O. Glukhivsky, E.P. Gavrilov, M.M. Boguslavsky, O.P. Sergeev, O.A. Pidoprigora,O.O. Pidoprigora, O.M. Pastukhov, but fragmented results of existing research, multiple instances of theoretical legal problems and imperfection of legislation in the absence of problem-solving proposals, obsolescence of certain research indicate the need for radical changes in approaches to understanding legal protection of copyright in the pursuance of integration, and necessitate further research in this area.

3. Research tasks

All the above mentioned shows the relevance of research related to major prospects of improvement of copyright safeguard and protection in Ukraine in the context of European integration. Thus, the subject of our research is an analysis of ways to improve legal protection of copyright and related rights in accordance with current legislation, major threats and areas for improvement in the context of European integration.

4. Research results

In general, creative people create a variety of intellectual property objects with the purpose to provide a decent life for themselves and their relatives. Thus, a writer creates his work in order to sell it and get an adequate remuneration, a composer creates a piece of music with a similar aim, but there are cases when scientific works are created not for commercial purposes, that is evidence that creativity is not always commercially-based. At the same time, creativity is a type of socially useful activity resulting in emergence of valuable works that bring great benefits to society over the years. According to S. Bondarenko, intellectual activity constitutes a

significant part of creative activity in total, the level of which depends on the welfare of society as a whole. The experience of countries with developed market economies indicates that those areas of creative activity that are covered by the term "intellectual activity" are becoming highly influential, priority-oriented and valuable [3, c. 16].

Copyright objects hold a special place among all intellectual property objects. Legal regulation of this group of objects is carried out on the basis of the Constitution of Ukraine, but the basis of legal regulation is the Civil Code of Ukraine [4], international legal acts, the Law of Ukraine "On Copyright and Related Rights" [5], and other legal acts of Ukraine.

It should be noted that despite extensive legal framework of Ukraine, international legal acts on copyright, there is no clear definition of a copyright object. Although legal acts contain the list of copyright objects and requirements to their protection, the definition in unmistakable terms is absent.

Thus, according to V.L. Musiyaka, "an object of copyright is a product of an author's creative activity embodied into known definite form ". He further notes: "The very form is always meaningful: it is a content as a set of all elements of the phenomenon that expresses specific demonstration of its essence" [6, p. 15].

Similar definition of a copyright object is given by O.P. Orlyuk and O.D. Svyatotsky, namely: an object of copyright is a material embodiment, some material form of intellectual, creative activity, i.e. objectification of the work [7].

The main objects of copyright are literary and artistic works. As for the term "work", according to O. Dzera, it is defined as an author's result of creative activity, a set of ideas, images, views, etc. [8, p. 80]. Moreover, the work must be suitable for reproduction and its perception by others. However, the legislation uses the term "literary works", which comes from the Latin word "litera", that is, works expressed in letters, in a written form. [9, p. 14]. In accordance with the Berne Convention for the protection of literary and artistic works, the term "literary and artistic works" includes all works in the field of literature, science and art, expressed in whatever way and form. These are books, brochures and other writings; lectures, appeals, sermons and other similar works; dramatic and musical-dramatic works; pantomimes and choreographic works; musical works with or without text; cinematographic works and works in the nature of cinematography; pictures, drawings, paintings, the works of architecture, sculpture, graphic arts and lithography; photographic works and works in the nature of photography; works of applied art; illustrations, maps, plans, sketches and plastic works relating to geography, topography, architecture or science (p. 2, Art. 2 of the Berne Convention) [6, p. 130]. Written literary works include such traditional works as novels, fairy tales, poems, articles, research papers, etc., as well as non-traditional works, works for more practical purpose: advertising texts, operating instructions, technical specifications, provisions on labor remuneration, user guides and other works recorded on tangible media using symbols and marks.

Oral works include lectures, speeches, sermons and other oral works. Peculiarity of an oral literary work is the fact that it has no such material object like a copy of the work.

In addition, according to the types of creative activity literary works are divided into the following types: scientific literature, fiction and art works. Artistic works include mainly works of fine art, such as pictures, drawings, paintings and other works.

Works of fiction include books, magazines, brochures of various genres [9, p. 14]. In order to be legally protected, the work must meet certain criteria specified in legislation, and only in the presence and compliance thereof it may become a proper object of copyright. All works, whether published or not, expressed in any objective form, regardless of the purpose and scope of the work, are considered to be objects of copyright. In general, we can distinguish four criteria of legal protection for works being objects of copyright:

- a criterion of creative nature of the work means that the work may be an object of legal protection if it is the result of intellectual and creative activity of its author;
- a criterion of physical form of expression means that the work may be an object of legal protection if it is expressed in a physical form;
- a criterion of the content of the work means that the work of any content may be an object of legal protection with some restrictions defined by law;
- a criterion of publication of the work means that the work may be an object of legal protection, regardless of whether it is removed from the private sphere or not [10, c. 102].

Analysis of judicial practice shows that in order to establish presence or absence of creative character

of a derivative work an examination is inevitable, which, of course, complicates legal proceedings, significantly increases legal costs of the parties and results in long-running litigation. As rightly been said byV.G. Rotan, "an extensive and restrictive interpretation of civil laws in the national legal system is unacceptable, as it is not provided by the Constitution and laws of Ukraine. The Court should literally interpret and apply acts of civil legislation [11, c. 13]. Therefore, all rules of law, including definitive ones that specify the author's powers shall be applied only to the extent clearly defined by law.

In the field of copyright and related rights national legislation of Ukraine also applies a criterion of the work completion. The work is an object of legal protection, regardless of whether it is completed or not. A completed work is subject to legal protection to the same extent as uncompleted one. According to O.A. Pidoprygora, a derivative work is inextricably associated with the presence of two criteria - creative nature of the work and physical form of expression [9, p. 154].

Despite simplicity and obviousness of described legal protection criteria for scientific, literary and artistic works, we consider appropriate to conduct their brief analysis. First, legal protection extends to works created due to intellectual creative activity of one or more authors. The concept of creativity is not defined by legislation, as creativity is a universal category. Creative nature of the work is characterized by its originality or novelty, and novelty and originality may find expression both in the content of the work and in its form [6, p. 171]. O.O. Pidoprygora, for example, considers "creativity" as a purposeful human activity resulting in something totally new that is distinct in uniqueness, originality and historical uniqueness [9, p. 230].

Second, in order to gain legal protection, an author's creative result must be expressed in a physical form. This requirement is enshrined in Article 2 of the Law of Ukraine "On Copyright and Related Rights" [5]. Therefore, legal protection may be ensured if the work is expressed in any material form, allowing its use. For example, a literary work is usually recorded on paper using handwritten, typewritten or computer-aided means. A musical work may be recorded on paper using musical notation, and performance of this work - on magnetic or optical media using analog or digital recording. A sculptural work is created from material medium.

Particular attention should be paid to the fact that Article 433 of the Civil Code of Ukraine [4] and Article 8 of the Law of Ukraine "On Copyright and Related Rights" [5] limit the scope of copyright: copyright does not apply to ideas, processes, methods of activity or mathematical concepts as such.

Third, independence of legal protection of the genre, scope, objective and purpose of the work means that legal protection does not depend on the content of the work. So, nobody has the right to demand prohibition, removal, destruction of the work, even if its content is contrary to the interests of such persons.

Fourth, publication of the work is any action by which the work is made publicly available. The main forms of making the work available to the public are publication, public performance, public display, announcement for information purposes using radio and television, the Internet or other means. However, none of these actions are necessary to ensure that legal protection is applicable to the work [6, p. 230].

It is interesting that literary and artistic copyright does not always coincide with the right of ownership to physical medium in which the work is embodied, for example, a literary work the content of which is embodied in a book. Thus, a separate right of ownership, right of use (lease), etc. to a physical medium in which the work is embodied may apply, but not copyright. However, sales of books, paintings and sculptures do not deprive the authors of their copyright [9, p. 233]. It should be emphasized that acquisition of copyright and its implementation are not associated with any formality.

Another conflict of law is a need to improve legal regime of computer programs. A computer program, which a few decades ago was merely recognized as a new copyright object in many countries, now can give place to the most recent object of copyright: a Web site. Academic circles are more and more confident that a Web site should be recognized as an object of copyright, along with literary, musical and other works, and a person who created it should be recognized as an author.

In most cases a Web site is created on a by-order basis by persons who have certain skills in web design and computer programming. Thus, a Web site is destined to become an object of copyright, which usually will be recognized a company's work (if the person created the site under an employment

agreement) or an object of copyright created on a by-order basis (if the site was created under works (services) agreements.

As for the most outrageous infringements of rights to software, not all facts of infringements were confirmed, according to A. Zharikova. Thus, at the recent Parliament hearings organized by the Committee of the Verkhovna Rada of Ukraine for information and communication the figure of 80% of illegal software in government agencies was mentioned. We have other data: in the agencies where audits were conducted the figure amounted to 38-40%. The audit process is ongoing. Let me give you some data on the results of audits: illegal software in the State Statistics Service - 0%, in the State Agency of Fishery - 98.6%, in the State Inspectorate of educational institutions - 94.1%, in the Antimonopoly Committee of Ukraine - 16.4%, in the Ministry of Defense of Ukraine - 42.4%, in the State Migration Service - 64%.

The audit started with the State Intellectual Property Service of Ukraine to work out the plan of action. It was found 10% of illegal software. Now we (and the agencies controlled by the State Intellectual Property Service of Ukraine) are purchasing licensed software and constantly updating our "stock." In 2015, the State Intellectual Property Service of Ukraine purchased software for a total amount of 99,000 UAH.

Another aspect of the problem is a procedure and compensation for infringement of copyright and related rights. Thus, according to E. Kompanets's opinion expressed in his report at IV International Legal Judicial Forum, there is a problem regarding an ambiguous approach to calculation of property damage caused by infringement of intellectual property rights, which is one of the key aspects that gives rise to contradictory court judgments and decisions for this category of cases. The following documents were adopted under civil procedure: Resolution No. 5 of the Plenum of the Supreme Court dated 04 June 2010 "On application by courts of legislation in cases involving protection of copyright and related rights", but it applies only to the scope of copyright / related rights; Resolution No. 12 of the Plenum of the Higher Commercial Court of Ukraine dated 17 October 2012 "On certain issues of dispute settlement related to protection of intellectual property rights", which, in particular, established that when calculating property damage the courts should assume that at the time of offence one counterfeit product / copy of the work drives out of the market an original product / licensed copy of the work.

This problem is known in the field of science and jurisprudence, but unambiguous solution has not found yet. I.B. Lavrovska notes that issues resolved differently by pre-trial investigation agencies and courts include an assessment of material damage caused by illegal use of intellectual property rights. In particular, the courts assess and calculate such damage in different ways. Analysis of judicial practice related to intellectual property offences shows: different approaches and methods of calculating material damage caused by illegal use of intellectual property rights apply to similar wrongful acts under similar circumstances, which leads to unequal classification of wrongful acts, imposition of different penalties, wrong adjudication of a civil claim in the criminal case with regard to the amount of compensable material damage. She proposes to distinguish between: the amount of damages caused by illegal use of intellectual property objects; the amount of proprietary rights of intellectual property; total amount of proprietary and non-proprietary intellectual property rights [12, p. 36].

G. Androshchuk proposes to apply the principle of doubling the size of royalty to the copyright and related rights. He proposes to use double size of royalty as an appropriate measure of compensation. According to the author, this provision, as well as the principle of proportionality should be reflected in the Law of Ukraine "On Copyright and Related Rights" in the form of de lega ferenda in the case of compensation for damages caused due to infringement of intellectual property rights on the Internet. This is especially relevant in view of constant growth of the number of such infringements on the Internet [13].

From another point of view, there is a problem of terminological gaps in the current copyright legislation. Such a gap was highlighted by the Supreme Court of Ukraine in the general conclusions concerning "Application by the courts of legislation on administrative offences in the field of intellectual property (Article 51-2, 164-9 of the Code of Administrative Offences)" when interpreting the term "computer game", which leads to misidentification of the offence object and lies in the fact that Article 1 of the Law of Ukraine "On Copyright and Related Rights" defines a computer program, not a computer game, which is not the same thing.

Computer game is created for the purpose to entertain, spend free time. A computer game may involve simultaneous or sequential operation of two or more computer programs which artificially create gaming multivariate opportunities to move to a higher level, to achieve victory in the game (or suffer defeat).

5. Conclusions

Thus, in the context of bringing national laws in line with EU legislation, we consider it appropriate to finalize the draft Law of Ukraine "On Amendments to the Law of Ukraine" On Copyright and Related Rights "(relating to activities of collective management organizations)" in order to protect the proprietary rights of copyright and related rights proprietors. A computer game should be given a definition and included in Article 2 of the Law of Ukraine "On Copyright and Related Rights". In addition, it is necessary to amend other acts governing liability for infringements of rights to this object. Until the definition of a computer game as an object of intellectual property rights is given and the above laws and the Code of Administrative Offences are amended, there is no legal basis to bring any persons to administrative responsibility.

References

[1] Why has the status of Ukraine been changed in the anti-piracy "Special 301". legal column [Electronic resource]. Access: http://ain.ua/2015/05/14/580275.

[2] Has Ukraine fulfilled requirements of the Office of US Trade Representative on the "Special 301" [Electronic resource]. Access: http://pravo.ua/article.php?id=100112779#print.

[3] *Bondarenko S.* Lawful use of copyright objects. S. Bondarenko, Yu. Korotaeva. Intellectual Property. 2001. No. 11. P. 16.

[4] Civil Code of Ukraine dated 19 January 2013 No. 435-IV. Bulletin of the Verkhovna Rada. 2016. No. 9. P. 89.

[5] On Copyright and Related Rights: Law of Ukraine dated 23 December 1993 No. 3792- XII. Bulletin of the Verkhovna Rada of Ukraine. 2015. No. 6. P. 61.

[6] *Musiyaka V.L.* Criteria of the objects of copyright relations. V.L. Musiyaka. Kharkov, 1988. P. 356.

[7] Academic course: Coursebook for students of higher educational institutions. A.P. Orlyuk, G.A. Androshchuk, O.B. Butnik-Seversky and others; Edited by. A.P. Orlyuk, O.D. Svyatotsky. Kyiv, Publishing house «In Jure», 2007. P. 696.

[8] Civil Law of Ukraine. Textbook in 2 Books: 1. Edited by prof. A.V. Dzera, prof. N.S. Kuznetsova. K., Yurinkom Inter. 2002. P. 640.

[9] *O.A. Pidoprygora*. Intellectual Property Law: Coursebook for students of higher educational institutions/ O.A. Pidoprygora, O.D. Svyatotsky, O.M. MelnyKyiv K.: Publishing house “In Jure”», 2002. P. 624.

[10] *Sudarikov S.A.* Basics of copyright. S.A. Sudarikov. Minsk: Amalfea, 2000. P. 102-103.

[11] Problematic issues in the application of the Civil and Commercial Codes of Ukraine. edited by A.G. Yarema, V.G. Rotan. K.: Abstract, 2005. P. 336.

[12] *Lavrovska I.B.* Material damage and lost profit in judicial practice relating to intellectual property offences/ I.B. Lavrovska. Bulletin of the Supreme Court of Ukraine. 2013. No.7(155). P. 35-47.

[13] *Androshchuk G.* Compensation for damages caused due to infringement of intellectual property on the Internet, double-sized model of royalty [Electronic resource]. Access: http://www.justinian.com.ua/article.php ?id=4033.

[14] *Sopilko I.* Copyright protection on the Internet: theory and practice [monograph]. Slovak Republic, Podhájska : Východoeurópska agentúra pre rozvoj, n.o. Eastern European Development agency n. o. 2015.P. 138.

[15] *Gordon V. Smith & Russel L. Parr*, "Intellectual Property: Valuation, Exploitation, and Infringement Damages," John Wiley & Sons, 2005, pp 617–630.

[16] *Lehman, Bruce A.* (1995-10-01). Intellectual Property and the National Information Infrastructure: The Report of the Working Group on Intellectual Property Rights. DIANE Publishing. P. 104. ISBN 978-0-7881-2415-0. Retrieved 2012-06-23.

[17] Basics of Intellectual Property Protection in Ukraine: Coursebook for students of non-legal higher educational institutions. Edited by O.A. Pidoprigora, O.D. Svyatotsky. Kyiv, Concern “Publishing house “In Jure”, 2003. P. 235.

[18] EU Directive implemented in the draft law on copyright and related rights [Electronic resource]. Access mode: http://sips.gov.ua/ua/zakonoproekt-26062015.

[19] Draft law on collective management organizations. another step to solving the problem of "Special 301” [Electronic resource].- Access mode: http://sips.gov.ua/ua/zakonoproekt-oku20052015.

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Перспективи правового регулювання об'єктів авторського права у відповідності до міжнародних стандартів

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Мета: Метою дослідження є аналіз шляхів вдосконалення правової охорони об'єктів авторського та суміжних прав у відповідності до норм чинного законодавства, основні загрози та напрямки вдосконалення в умовах інтеграції до ЄС. **Методи:** За допомогою методів порівняння та аналізу у взаємозв'язку із формально-юридичним методом визначено сутність і зміст правової охорони авторських прав. Застосування методу аналізу, індукції, аналогії та формально-юридичного методу дозволило визначити правові засоби охорони авторських прав. Застосування формально-юридичного методу, порівняльного аналізу та синтезу дозволило обґрунтувати пропозиції щодо усунення недоліків у чинному законодавстві. **Результати:** Автор вважає за доцільне в контексті вдосконалення законодавства до законодавства ЄС доопрацювання проекту Закону України «Про внесення змін до Закону України «Про авторське право і суміжні права» (щодо діяльності організацій колективного управління)» з метою забезпечення захисту майнових прав суб'єктів авторського та суміжного права. Для комп'ютерної гри має бути надане визначення, яке необхідно включити до ст. 2 Закону України «Про авторське право та суміжні права». Крім того, необхідно внести зміни до інших актів, що регулюють питання відповідальності за порушення прав на цей об'єкт. До того часу, поки не дано визначення комп'ютерної гри як об'єкта права інтелектуальної власності і не внесені зазначені зміни до перелічених вище законів та КпАП, немає правових підстав притягувати осіб до адміністративної відповідальності. **Обговорення:** У цій статті автор досліджує особливості правової охорони об'єктів авторського права у відповідності до норм чинного законодавства. В той же час, в процесі дослідження акцентується увага на недоліках чинного законодавства, та формуються основні напрямки вдосконалення чинного законодавства у відповідності до міжнародно-правових норм в контексті охорони об'єктів авторського права. Окрему увагу присвячено аналізу основних загроз порушень авторського права та шляхи їх подолання.

Ключові слова: авторське право; Інтернет-сайт; комп'ютерна програма; літературний твір; об'єкти авторського права; правова охорона; чинне законодавство**.**

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Перспективы правового регулирования объектов авторского права в соответствии с международными стандартами.

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Цель: Целью исследования является анализ путей совершенствования правовой охраны объектов авторского и смежных прав в соответствии с нормами действующего законодательства, основные угрозы и направления совершенствования в условиях интеграции в ЕС. **Методы:** С помощью методов сравнения и анализа во взаимосвязи с формально-юридическим методом определена сущность и содержание правовой охраны авторских прав. Применение метода анализа, индукции, аналогии и формально-юридического метода позволило определить правовые средства охраны авторских прав. Применение формально-юридического метода, сравнительного анализа и синтеза позволило обосновать предложения по устранению недостатков в действующем законодательстве. **Результаты**: Автор считает целесообразным в контексте совершенствования законодательства к законодательству ЕС доработки проекта Закона Украины «О внесении изменений в Закон Украины «Об авторском праве и смежных правах» (относительно деятельности организаций коллективного управления)» с целью обеспечения защиты имущественных прав субъектов авторского и смежного права. Для компьютерной игры должно быть дано определение, которое необходимо включить в ст. 2 Закона Украины «Об авторском праве и смежных правах». Кроме того, необходимо внести изменения в другие акты, регулирующие вопросы ответственности за нарушение прав на этот объект. К тому времени, пока не дано определение компьютерной игры как объекта права интеллектуальной собственности и не внесены указанные изменения в перечисленные выше законы и КоАП Украины, нет правовых оснований привлекать лиц к административной ответственности. **Обсуждение:** В данной статье автор исследует особенности правовой охраны объектов авторского права в соответствии с нормами действующего законодательства. В то же время, в процессе исследования акцентируется внимание на недостатках действующего законодательства, и формируются основные направления совершенствования действующего законодательства в соответствии с международно-

правовыми нормами в контексте охраны объектов авторского права. Особое внимание посвящено анализу основных угроз нарушений авторского права и пути их преодоления.

Ключевые слова: авторское право; действующее законодательство; Интернет-сайт; компьютерная программа; литературное произведение; объекты авторского права; правовая охрана.

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