

GENERAL DESCRIPTION AND THE LAW NATURE OF THE COLLECTIVE MANAGEMENT OF PROPERTY RIGHTS IN COPYRIGHT

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Annotation

Within the framework of the subject, in the new technological conditions can not provide sufficient opportunities for public use of works and objects of related rights. Two basic schemes are used to overcome such situations: restriction of copyright and related rights with the opportunities provided by law for off-contract use of works and objects of related rights with payment to the right holders; the availability of different options for building systems of property copyright and related rights on a collective basis. Attention is paid to some urgent problems related to the improvement of this institution, international standards for copyright protection and comparative legal analysis of national legislation, as well as the opinions of scientists from Uzbekistan and other different countries. Suggestions and recommendations were put forward of scientific and practical importance for national copyright law.

Key words: right holders, copyright, to enforce copyright, royalty, copyright and related rights collective management, public performance or display of a work.

Since the advent of copyright, the essence of property rights to a work has often been understood as the obligation of the person using the work to obtain special permission from the author or other right holder for the relevant type of use of the work. Similar legal structures have been gradually formed in relation to the property rights of performers, phonogram producers, and television and radio broadcasters.

This “permitting-contractual” approach was gradually enshrined in the laws of all civilized countries.

However, with the emergence of new ways of using works and related rights, contradictions between new technical possibilities begin to emerge, allowing members of the public to make their cultural values known to the public and relatively cheap, and new ways of using their work make “legal purity” difficult. causes

The following is a simple example of a typical publication: More than a dozen songs per hour can be used to broadcast a radio station in "music format," each with at least one composer and one lyricist. Consequently, dozens of contracts with authors are required to ensure the legitimacy of an hour-long broadcast. In fact, such a calculation is far from the actual state of affairs. Consequently, recall the rights of performers (singers, musicians, conductors), phonogram producers, translators, arrangers, as well as the rights of these persons to their heirs or other legal successors, "division" between different agencies and employers, co-authors,

and other cases. need to get. But even with the most simplified version of the calculations, it is clear that it will be impossible to meet the requirements of a direct contract with each copyright owner, as the relevant “legal burden” is unbearable even for the most successful radio broadcast.

As a result, we must recognize that in some cases, while maintaining traditional approaches in building contractual relationships, the new technological environment may not provide sufficient opportunities for the public use of works and related rights.

Two basic schemes are used to overcome such situations:

- 1) restriction of copyright and related rights with the opportunities provided by law for off-contract use of works and objects of related rights with payment to the right holders;
- 2) the availability of different options for building systems of property copyright and related rights on a collective basis.

According to the first of these schemes, the work is allowed to be freely used in a number of cases, indicating the author's name and source, and without prejudice to the normal use of the work and the legitimate interests of the author (Law of the Republic of Uzbekistan "On Copyright and Related Rights") The rules referred to in Articles 26 and 39).

In various publications, including foreign publications, such legislation is often referred to as the “legal licensing regime” or “mandatory licensing regime” and thus the law deprives authors and other rights holders of certain opportunities, including works or related rights. banning the use of objects, giving them the right to demand from users only for a fee, that is, instead of "absolute right" they will have only the "right to charge" itself.

It is this approach that has attempted to overcome the difficulties encountered in the last century in the exercise of copyright and, in particular, related rights in connection with the development of broadcasting (a typical example of such attempts is the provisions of Article 12 of the Rome Convention).

The main disadvantages of the "pay-as-you-go" mode have always been the difficulty in enforcing the rights of remuneration, as the rights holders (and therefore the collective management organizations protecting the interests of the right holders) must collect the rewards of copyrighted objects) prevents users from interacting effectively. As a result, the relevant legal provisions are often ineffective. Thus, according to Article 26 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights", the originals and translations of published works should be quoted in scientific, research, debating, critical and non-advertising information, including repetition of excerpts from articles in newspapers and magazines in the form of press reviews; use of published works or fragments of such works as examples in educational and educational publications, radio and television, audio and video recordings in the appropriate amount; duplication, broadcasting or cable transmission of articles published in newspapers and magazines on daily political, economic, social and religious issues or similar works broadcast or transmitted by cable, except in cases where such use is specifically

prohibited by the author; repetition, broadcasting or cable transmission of political speeches, appeals, speeches and similar works in public in the appropriate volume. In this case, the author retains the right to publish such works in collections; to reproduce or make available to the public the works that can be seen or heard in the course of daily events in the comments of such events by means of photography or cinematographic means by broadcasting or by cable. In this case, the author retains the right to publish such works in collections; duplication of works published by bubble-dotted letters or other means for the blind without the intention of making a profit, with the exception of works specially created for such repetition methods.

Also, according to this article, it is allowed to provide copies of works legally included in the civil circulation for temporary use by information and library institutions without the consent of the author or other right holder and without payment. Copies of copyrighted works in digital form, including copies of works submitted in the order of mutual use of resources of information and library institutions, may be provided for temporary use only in the premises of information and library institutions, except for the possibility of creating digital copies of these works.

According to Article 39 of this Law, even in the presence of provisions on the payment of fees to performers and producers of phonograms in most cases, it is not enforced in practice.

It has also become clear that in the context of accelerating technological development, it is necessary to gradually expand the possibilities of non-contractual use of copyright and related rights by seeking alternatives or payment, which will certainly be the basis for the emergence of all new forms of use. which leads to a further restriction of copyright and their exclusion from the general rules in practice.

Due to the possible difficulties in the implementation of copyright in new high-tech areas of use of works, various schemes of collective management of rights are becoming the basis for increasingly widespread use. As a result, users of works and related rights have the opportunity to enter into a contract with a specialized organization called "collective copyright management", which represents their interests, instead of contracting with many authors and other copyright holders. In many cases, such a scheme does not restrict the rights of authors to enter into direct contracts with users, but rather complements them with the possibility of collective exercise of copyright and related rights. Collective management organizations, often referred to as "copyright societies" or "copyright societies," collect and pay each copyright holder the money they receive from users, so that copyright holders can receive their dues and users can operate legally.

So why is this public administration necessary and on what principles should it be based? Copyright law gives the author the absolute right to use the work in any form, fully defines the permissible restrictions of this right, gives the right to use the work to others, and also defines the contract as a means and the mechanism of its implementation. If the work is protected by

copyright, then you can get access to it by concluding a contract with the author or his heirs. Similar rules apply to objects of related rights.

However, such a scheme is not feasible in practice in most cases. In this case, we mean that there is no real possibility, not the legal aspects, that is, some organizations can not conclude a contract with the author (right holder) of each used work (performance, phonogram), depending on the nature of their activities. This is because there are so many of these works and the rights holders, in turn, cannot physically solve it because their works or related rights objects are used by a large number of users. The solution to the problem is to create specialized organizations, ie collective management organizations, that simultaneously protect the interests of a large number of rights holders in dealing with those who use the works of the authors.

The essence of collective management is that the participating organizations enter into agreements with authors and other right holders, assume the responsibilities for the management of these rights; concludes agreements with right holders, persons using works (objects of copyright and related rights) on their behalf on the basis of the powers granted by collective management organizations; collection, distribution and payment of fees to copyright holders; in court, they perform the functions of protecting the rights of authors and other right holders, as well as some organizations perform the functions of social support of their members.

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