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## ***РАЗВИТИЕ ЗАЩИТЫ ИННОВАЦИОННОЙ ДЕЯТЕЛЬНОСТИ В ЦИФРОВУЮ ЭПОХУ***

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### **Аннотация**

В статье рассматриваются проблемы защиты инноваций и результатов интеллектуальной деятельности. Анализируются вопросы охраны интеллектуальной собственности в цифровую эпоху. Исследуется правовое регулирование в сфере инновационной деятельности на национальном и международном уровне.

Цель: проанализировать особенности защиты результатов инновационной деятельности. Методы: были использованы сравнительно-правовой и формально-юридический методы, а также методы анализа и синтеза. Результаты: рассмотрены положения действующего законодательства Российской Федерации и международных правовых актов по исследуемой теме. Сформулированы предложения по совершенствованию действующего законодательства. Установлено, что в целях создания наиболее эффективной охраны результатов инновационной деятельности, необходимо разработать ряд нормативных актов, которые бы регулировали взаимодействие государств в сфере использования инноваций и результатов интеллектуальной деятельности.

**Ключевые слова:** инновации, результаты интеллектуальной деятельности, интеллектуальные права, цифровая среда

***THE DEVELOPMENT OF INNOVATION ACTIVITIES PROTECTION  
IN DIGITAL AGE***

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**Abstract:**

The paper analyzes the problems of protection of innovation and intellectual activity results. The questions of intellectual property protection in digital age are examined. The legal regulation of innovation activities on national and international levels is analyzed. Purpose: to analyze the specific methods of protection of intellectual activity results. Methods: comparative-legal and formal-legal methods and such methods as analysis, synthesis are used. Results: the norms of national laws and international legislation are examined. The ways to improve legal regulation of intellectual property protection are suggested. It is suggested to work out a number of normative acts regulating interactions between the states in the sphere of innovation activities and intellectual activity results protection.

**Key words:** innovation, intellectual property results, intellectual property rights, digital sphere

Innovation activities are aimed to implement innovations. They refer to research and development. Innovation activities include scientific, research and technological actions which lead to creating intellectual activity results such as inventions, utility models, industrial designs and other intellectual property objects.

The ways of creating and publishing the results of intellectual activity develop, new types and forms of creative expression appear, and as a result, intellectual rights are also undergoing certain changes [1]. The current legislation in the sphere of

innovation and intellectual property rights protection does not correspond to the requirements of digital age and needs some improvement [2-4].

Due to the high level of development of digital technologies, there are many ways to misuse of intellectual activity results property objects and violate intellectual property rights. The largest amount of copyright infringement in most countries is related to computer programs, audio-visual works, phonograms, and books. While modern legislation does not always successfully cope with providing the effective protection of intellectual property objects listed in the Civil code of the Russian Federation, new results of intellectual activity appear, which are not even properly regulated.

At the same time recently the number of applications for registration of intellectual property objects increased significantly [5].

The analysis of Rospatent data shows the positive dynamics of registration of inventions—from 36,454 in 2017 to 37,957 applications in 2018. The number of trademark applications increased by 3.5%. This proves the effective development of Russian business enterprises and companies. It should be taken into account that revenues from patent fees and other payments form an important part of the budget of the Russian Federation. According to the business forecast Rospatent was supposed to provide 6425.7 million rubles budget revenues by 2018. But in fact in 2018 the total amount of Federal budget revenues administered by Rospatent grew by 671.6 million rubles and totaled 7097.3 million rubles. The income from the use and disposal of intellectual property rights on military, special and dual-use technologies owned by the Russian Federation formed the important part of the budget revenues. The main objects of intellectual property are creations, inventions, utility models, industrial designs, know how, trade marks, etc. At the same time official documents, state symbols, ideas, folk art, discoveries are not protected as intellectual property.

Some objects of intellectual property, such as inventions, utility models, industrial designs, require state registration. But many creations are not registered and

are protected by the authors themselves. Protection is aimed to stop violating rights and in practice mostly depends on the actions of the person himself.

Intellectual property rights are protected by the international and national law. Nowadays the implementation of various interests in the creative sphere, exchanging knowledge and information through technology is rather easy. This causes difficulties in legal regulation and intellectual property rights protection. Through telecommunications a creative work in any digital format can be immediately transmitted to any part of the world.

Along with the development of new methods of protection, there are also methods that allow to violate intellectual property rights by using the imperfection of laws and absence of appropriate legislation.

It is possible to reveal the following features of new technologies:

1) "dematerialization" of data, that is, the dissemination of information without a material carrier, the possibility of using data that is not attached to a certain object. A certain list of author's rights is related to the use and disposal of their rights through material carrier, containing the work and expressed through such material carrier, influence upon the modern system of intellectual property rights protection [6, 27].

2) "variability", a multiple increase in the possibilities for using data, caused by changing the qualitative as well as quantitative characteristics of copyright objects.

3) "accessibility", expressed in free access to intellectual activity results with a minimum of state and international restrictions and control. A lot of people have access to data that is "in ideal form" and is not linked to the carrier, and it makes its distribution easier. The restriction on distribution disappears when the content acquires digital form without the material carrier, that is, by uploading it to the Internet [7, 15]. These features prove the necessity to reform international agreements in the field of intellectual property rights protection.

The key reason for such reforms is the spread and development of the "world wide web". The Internet changes permanently while improving the legislation takes

time, because of the more complex procedures for making such changes and implementing them by the citizens [8].

Modern technologies play an important role in people's lives. Large-scale introduction of the Internet and other means of communication creates conditions for the implementation of any human activity virtually. By means of modern technologies, the author can carry out his activities without physically being at the point of such activity. It is possible to publish the results of their intellectual activity in one country while living in another. The author can live in one country, register rights in another country and carry out the activities anywhere.

It is possible to conclude that modern technologies allow to avoid a restriction of mandatory physical presence [9, 330].

A large number of computer programs and social network provide the distribution of counterfeit materials, even if they are not aimed at violating copyright and related rights. For example, "Facebook" - the international largest social network and "Vk" contains a huge amount of audio and video information, creations, intellectual property illegally distributed among the users. This is caused by the lack of a modern effective mechanism that restricts and eliminates this kind of offense. It is difficult to determine who is responsible for the illegal dissemination of information - the creators of such social networks and programs or the users.

It is rather difficult to track a user who has committed an offense using a social network and to determine the source of information dissemination. The users can use encryption, and forward their data through a VPN. It is assumed that the choice of liability should be attributed to the legislation of the country to which the offender, the original distributor of infringing information belongs. No responsibility for such breaches is installed at the international level.

It is important to develop effective methods of intellectual property rights protecting at the national legislative level taking as a basis decisions prepared within the framework of international legislation [10, 1035].

For example, the Agreement on trade-related aspects of intellectual property rights (TRIPs), which regulates the legal protection of intellectual property within the framework of the World Trade Organization, is aimed to promote the development of international trade and create a reliable legal framework for it.

International treaties and agreements are aimed to provide copyright protection on the territory of different states. The problem is that such treaties practically don't create a mechanism to solve conflicts, collisions and contradictions of national laws in the sphere of intellectual property rights protection [11-12]. A significant part of the international agreements signed by the Russian Federation were drawn up quite a long time ago and some of rules and norms are outdated.

Some researchers consider that international treaties and agreements ought to be revised and improved taking into account up-to date requirements [13-14]. The main reason is that they do not correspond to the contemporary requirements of modern economy and technical progress, do not solve the problems of intellectual property protection in digital sphere and the Internet [15-16].

Digital sphere do not belong to any state and form neutral sphere where any content can be used. It is important to create new international treaties and agreements able to regulate and protect international treaties and agreements able to regulate and protect intellectual property use in the Internet.

Some researchers suggest organizing the international public structures that will be responsible for resolving issues specifically related to intellectual property rights protection, as well as working out the solutions. Such organizations would be responsible for solving these problems.

New international agreements, conventions and treaties ought to be concluded to meet current requirements, to regulate innovation activities and intellectual property use in accordance with progress, including closing gaps related to the copyright infringement on the network.

The development of intellectual property protection within the framework of the established Eurasian Economic Union (EEU) is very important.

The protection of intellectual property in the digital space becomes one of the most serious problems of intellectual property rights protection [17, 2054]. In the absence of an international treaty that would regulate the actions of the states in the administration of various segments of the Internet in order to provide effective protection of intellectual property in cross-border relations, it is recommended to follow the principle of non-interference in the implementation of intellectual property rights outside the state borders. According to the territorial principle of protection the state should not take measures that restrict the exercise of intellectual property rights abroad.

The Paris Convention for the Protection of Industrial Property, the Constitution of Russia and the Civil Code of Russia form the main principles of intellectual property protection in the Russian Federation.

Copyright protection is carried out by means of civil, criminal, and administrative law. Sometimes the application of criminal and administrative liability measures as a way to protect copyright is more effective for the protection in relation to the exclusive rights.

The majority of illegal actions committed against intellectual property rights simultaneously violate both personal non-property rights and the exclusive rights of the right holder of the result of intellectual activity. For example, plagiarism is most often used for commercial purposes to obtain a very real material benefit, so both categories of intellectual property rights are simultaneously affected.

The main aim of legal regulation of intellectual property rights is to prevent and suppress infringements in the sphere of intellectual property.

For example the legal norms the Criminal Code and the Administrative Code of the Russian Federation install responsibility for any breach of intellectual property rights. Thus, article 7.12 and article 14.10 of the Administrative Code of the Russian

Federation establish liability for violation of intellectual property rights. Article 146 of the Criminal code of the Russian Federation, installs criminal liability for violation of copyright and related rights and the article 180 of the Criminal Code defines criminal liability for illegal use of means of identification, means of individualization of legal entities. The majority of crimes in the intellectual property sphere relate to counterfeit products, as well as the illegal use of means of individualization.

The Civil Code of Russia should be revised to allow to protect authorship and intellectual property rights in cases where it is impossible to establish the identity of a person who has unlawfully published or used someone's intellectual property on a particular site on the Internet information and telecommunications network. To achieve this goal, the plaintiff must be granted the right to submit a claim for recognition of his rights if the result of intellectual activity was anonymously published on an information and telecommunications resource in the Internet.

Some authors consider that nowadays a preventive way of intellectual property rights protecting should become the most effective [18]. Authors, owners, right holders are supposed to inform the others that the objects refer to intellectual property, and their legal protection is granted by the state. Digital watermarks, technical means can be used to protect works in digital form that make it impossible to copy the text without mentioning the author.

Also, a rather interesting way of protection is the use of an electronic depository. This is a kind of archive that stores information about the exact date of publication of intellectual property objects on the corresponding website or on a CDR-disk [19, 61].

This will allow determine the right holder of such objects, if necessary. The main aim of legal regulation of intellectual property rights is to prevent and suppress infringement in the sphere of innovation activities.



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