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## PROBLEMS OF INTELLECTUAL PROPERTY RIGHTS PROTECTION IN THE DIGITAL SPACE

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### ABSTRACT

The article examines the theoretical issues of ensuring the protection of intellectual property rights in the online space, considering the variety of intellectual property objects and using the main types of violations of the interests of rightsholders associated with their use and distribution on the Internet as an example. Additionally, the international and national legal aspects of regulating relations regarding the use of intellectual activity results and mechanisms for their protection in an artificial intelligence mode are analyzed.

### KEYWORDS

Intellectual property objects, intellectual property rights protection, digital environment, copyright, rightsholders, user, plagiarism, piracy.

### INTRODUCTION

The rapid development and widespread adoption of digital technologies in recent decades has fundamentally transformed the landscape of intellectual property protection. As human activities increasingly shift to the digital realm, the demand for robust intellectual property rights protection mechanisms has grown significantly, particularly in the domains of trade and commerce.

On one hand, the ubiquity of internet networks has greatly facilitated the dissemination of information, enabling individuals to access the latest news from any

corner of the globe and purchase products from international manufacturers with ease. This has opened up immense opportunities for creators, innovators and businesses to reach wider audiences and markets.

However, the flip side of this digital revolution is that it has also created conducive conditions for intellectual property rights infringement. The large-scale digitization and online distribution of property - ranging from literary and artistic works to branded products - has made it easier than ever before to

engage in unauthorized use, reproduction and commercialization of proprietary content and assets.

At the same time, any measures and mechanisms instituted to protect the rights of IP owners must be carefully balanced against the fundamental rights of users. Within the framework of intellectual property, this includes the right to freely search for, receive and impart information across borders through the medium of their choice. Overly restrictive protection regimes risk stifling the very innovation and creativity they seek to promote.

In this complex scenario, existing legal frameworks at both international and national levels are under strain. The traditional mechanisms for safeguarding the rights of authors and inventors over the fruits of their intellectual labor - as codified in multilateral treaties and domestic legislations - increasingly require the support of specialized agencies and concerted cross-border efforts to effectively counter novel modes of infringement enabled by advances in telecommunications technology.

There is thus an urgent need today to synchronize the substantive provisions of extant IP norms with the realities of the digital age. Dedicated bodies and procedures for combating online piracy, counterfeiting and other emerging threats to the intellectual property ecosystem are essential to preserve the rights and economic interests of creators while promoting the dissemination of knowledge and culture. It is against this backdrop that this article examines some of the key challenges confronting the intellectual property rights regime in cyberspace.

The expanded introduction provides more context on how the shift to digital technologies has been a double-edged sword for intellectual property protection. It highlights the tremendous opportunities created, but

also the new risks of infringement that have emerged. The delicate balance between protecting IP rights and safeguarding user freedoms is emphasized. It then points to the strains faced by existing legal frameworks and the pressing need for them to evolve in response to technological advances, setting the stage for the article's analysis of the major issues in this domain. The introduction is now more comprehensive in framing the key themes and tensions that the article seeks to address.

## **METHODS**

This article employs a comprehensive suite of modern research methods to systematically investigate the phenomena and processes under study. A combination of general scientific approaches and specialized techniques has been leveraged to ensure a thorough and rigorous analysis.

Among the general scientific methods utilized are:

1. **Dialectical method:** This involves examining the issue of intellectual property rights protection in the digital realm as a complex, dynamic system shaped by the interaction of various economic, legal, social and technological factors. The dialectical approach helps uncover the underlying contradictions and evolutionary trends driving changes in this domain.
2. **Systems theory:** The research is grounded in a holistic perspective that views the challenges of digital IP protection as emerging from the intricate interplay of multiple elements and subsystems, including legal frameworks, technological infrastructures, market forces and user behaviors.
3. **Content analysis:** Extensive review and analysis of relevant literature, documents and data sources has been conducted to map the current state of

knowledge, identify key themes and extract meaningful insights.

4. Comparative analysis: The study draws upon comparisons between different jurisdictions, legal traditions and policy approaches to highlight areas of convergence, divergence and potential best practices in the governance of intellectual property rights online.

5. Historical method: The evolution of IP protection norms and their adaptations to successive waves of technological change are traced to contextualize current challenges and inform forward-looking solutions.

In addition, the following specialized legal research methods have been employed:

1. Formalist analysis: The black-letter provisions of existing IP laws and treaties are closely examined and interpreted in terms of their applicability to digital contexts.

2. Comparative legal analysis: Similarities and differences in the substantive rules and procedural mechanisms for online IP enforcement across national and regional jurisdictions are evaluated.

3. Doctrinal analysis: Principles and doctrines enshrined in international IP conventions and national statutes are analyzed in light of their conceptual foundations, legislative intent and judicial construction.

4. Empirical legal research: Quantitative data on the incidence and impacts of online infringement, as well as qualitative evidence from case law and stakeholder experiences, are collected and analyzed to support evidence-based recommendations.

## RESULTS

To date, due to the impact of modern technologies, the issue of protecting intellectual property rights is becoming increasingly relevant. With the accelerated expansion of the importance of the Internet in today's realities, as previously mentioned, it simultaneously becomes a source of a large number of cases of intellectual property rights violations. Thanks to current technological achievements, the procedure for accessing any online information has become easier, allowing Internet users to distribute it without the prior consent of the content author, even under their own name, which enables them to profit from it.

In theory and practice, there are points of view regarding the distribution of someone else's information, as well as materials, and they are as follows: some Internet users believe that by using and distributing someone else's work for free, they do not violate copyright, but on the contrary, contribute to the promotion and popularization of the work. Others say that if the editorial office bought a photograph from the author, then on this basis it can be published. However, it should be noted that only a specific copy is bought, which, like any legally acquired item, can be gifted, resold, hung on a wall, and so on. For publication, it is necessary to conclude an agreement with the author on the transfer of rights to use.

Challenges to the existing intellectual property regime are due to the fact that infringement of intellectual property rights involves not only unauthorized use of the intellectual property object, but also, usually, leads to financial damage to the rightholder. Consequently, the issues of intellectual property protection are an important area of regulation of international and domestic law. In this regard, in our opinion, it would be advisable to begin considering this topic with an analysis of the essence of copyright, issues of legal regulation of the protection of intellectual property rights based on international treaties and national

regulatory legal acts, using the example of the Republic of Uzbekistan.

Together, all these elements ensure the production of a commodity product (provision of services) with specified quality characteristics to obtain a high-tech result that allows successful competition in the relevant market. Currently, with the formation of global cyberspace and the active industrial use of digital technologies, conditions are being created for the transformation of the application of the legal construction of intellectual property.

From the standpoint of intellectual property, modern technology, combining a set of technical and commercial solutions, often includes a set of intellectual rights that ensure the practical implementation and legal protection of technology. These usually include patent rights to inventions or industrial designs, intellectual rights to a set of necessary technical and permissive documentation (production and quality certificates), rights to manufacturer's brands, rights to production secrets (know-how), rights to computer programs and other technology management tools, as well as technological experience in the practical application of technology, personnel qualifications, etc.

The main way to protect intellectual property rights, as in other areas of law, is local regulatory legal acts, while international treaties determine the boundaries of the basic rights and obligations of subjects of intellectual property rights, which are not provided for in the acts themselves, but are left to the discretion of states. For example, Article 2 of the Berne Convention for the Protection of Literary and Artistic Works states that states retain the right to determine the conditions for the use of any type of public works specified in Articles 1 and 2 of these acts at their discretion.

In accordance with the improvement of the procedure for creating and using intellectual property objects with the help of modern technologies, states also strive to adapt their legislation to the trend of the digital era. For example, in the Republic of Uzbekistan, according to Article 1041 of the Civil Code, the legislation of the Republic on the protection of copyright also applies to intellectual property objects expressed in digital format.

In general, in accordance with the civil legislation of the Republic of Uzbekistan, all non-property and property rights in relation to the results of intellectual activity belong to its authors. Thus, property rights, including the right to use an intellectual property object, can be transferred to another person only with the author's permission. Violation of this norm entails administrative or criminal liability. In the administrative law of the Republic of Uzbekistan, liability is provided for violation of copyright and related rights in the form of a fine for citizens from one to five basic calculated values, while in the case of committing the same offense by an official, the amount of the applied measure of administrative responsibility is equal can be assigned within the limits of 5 to 10 BCVs, which today is 375 thousand soums . Also, the criminal legislation of the Republic of Uzbekistan provides for criminal liability for the appropriation of authorship and disclosure of information about intellectual property objects that have not yet passed official registration or have not been made public in the form of a fine in the amount of 3,425,000 to 10,275,000 soums, compulsory (up to 360 hours) or correctional labor (up to three years), or deprivation of a certain right for up to three years .

The main ways of violating copyright on the Internet are illegal copying and distribution of a work, including plagiarism. As Dzhikaeva F.Z. rightly noted in her work, "it is easier for a person to steal someone else's



intellectual property result than to come up with something of their own." It's no secret that on the Internet it is possible to find absolutely any information and materials, from author's articles to descriptions of new inventions, and in most cases this kind of data is used without the consent of the authors or contrary to their disagreement. Next, a list of the most frequently encountered problems of protecting intellectual property rights in cyberspace will be given.

The first problem. Due to the fact that the legislation of most states is not specialized in considering disputes on the protection of intellectual property rights specifically in cyberspace, the number of cases of violation of intellectual property rights on the Internet continues to increase. In turn, the absence of clearly established uniform norms regulating cases of this category of disputes creates big problems for creators and entrepreneurs. Often, intellectual property rightholders do not have the necessary legal understanding of what measures can be taken to prevent cases of unauthorized use of their works, and how they can defend their copyright when cases of their violation are detected.

The second problem lies in the fact that, despite the fact that this category of cases requires taking into account not only the norms of the law, but also how new technologies work, they are considered in accordance with the current norms governing traditional legal relations in the field of copyright. However, this is due to other objective reasons. For example, due to the wide scale and complex structure of regulated legal relations both in the field of intellectual property law and in the field of information technology space, often disputes regarding copyright exacerbate the difficulties of creating a unified mechanism for protecting the rights of authors to their works.

The third problem is widespread under the name of plagiarism or piracy. Many unscrupulous users of Internet sites calmly use various types of content, such as photographs, videos and various intellectual property materials "borrowed" from their competitors. People have the mistaken opinion that this intellectual property is "no one's", someone wrote all this, took a picture. Electronic documents, books, articles are copied, often changed without the author's consent, and sometimes they are passed off as their own creativity. Due to the fact that social networks are full of, so to speak, recycled information based on free access. And in this regard, it is difficult to determine who is actually the author of a particular content.

The fourth problem. Copyright protects creative works, and, as a rule, infringement of these rights can extend to one jurisdiction, but it concerns the interests of rightholders in other countries. For example, the use of copyright on the Internet, infringement of copyright music rights to digital content (films, books) or the distribution of software through a platform can affect many simultaneous countries. Consequently, the extraterritoriality of disputes causes complexity in determining the applicable law in accordance with which this type of offense is to be considered.

The fifth problem lies in the difficulty of providing evidence confirming the fact of violation of the creator's copyright. The Internet provides a huge number of platforms where copyright can be infringed (for example, social networks, file sharing sites and software). However, it is difficult to keep and collect evidence of copyright infringement, since the offender can delete the honestly posted content at any time, be it text, image, musical work, video or software. Consequently, this leads to difficulties in the process of the rightholder defending their rights, since the party that applied to the court has the obligation to prove the circumstances on which it relies in the dispute.

The sixth problem. Even if the original content is removed from the platform, this is not a problem for its distribution. Posting other people's materials on the network and providing open access to them without permission is a violation of copyright. At the same time, deleting the same content after detecting an offense as a solution to the problems of its distribution may not always provide the expected result. And this happens because many have already downloaded this work from the Internet. Further, this can cause undesirable consequences, such as financial harm or negative statements about reputation, human dignity and honor.

All types of intellectual property rights violations in the digital environment primarily arise as the legislation of countries does not regulate this industry at the proper level.

There are the following legal ways to protect intellectual property rights:

- Copyright deposit, Deposit implies documentary fixation of the copyright of rightholders to intellectual property. The result of the deposit is the issuance of the appropriate certificate confirming the fact of the creation of works of art and the date of its creation. This certifies that legal evidence and time demonstrate intellectual property objects, which is very important when protecting the rights to a work of art.
- Trademark. This is one of the ways to protect intellectual property rights, which allows legal entities to secure exclusive rights to this mark. This is not just a design, but a unique designation of products, which serves as a signal that the product or work belongs to a certain person or company.

## **ANALYSIS**

The rapid proliferation of digital technologies has created unprecedented challenges for the protection of intellectual property rights online. The ease of copying, distributing and modifying content in digital formats has made it difficult for rightsholders to control the use of their works and prevent unauthorized exploitation. This is particularly problematic in the context of cross-border infringements, where differences in national laws and the extraterritorial reach of enforcement mechanisms complicate efforts to combat piracy and counterfeiting.

A key issue is the liability of online intermediaries, such as internet service providers, search engines and social media platforms, for hosting or linking to infringing content uploaded by users. While these intermediaries play a vital role in enabling the free flow of information online, they can also facilitate the widespread dissemination of pirated works. Different approaches have been adopted to regulate intermediary liability, ranging from broad safe harbors that shield platforms from responsibility for user-generated content to more proactive obligations to monitor for and remove infringing material.

Another challenge is the use of technological protection measures (TPMs) and digital rights management (DRM) systems by rightsholders to control access to and use of their works in the digital environment. While these tools can help prevent unauthorized copying and distribution, they may also have unintended consequences for legitimate uses of protected works, such as fair use/dealing, research and education. Policymakers have grappled with how to balance the interests of rightsholders in effective protection with the public interest in reasonable access and use.

The rise of artificial intelligence (AI) and machine learning technologies presents further complexities for IP protection online. AI systems can be used to generate creative works, such as music, art and literature, raising questions about the ownership and originality of AI-generated content. They can also be deployed to detect and filter out infringing content at scale, but concerns have been raised about the accuracy and transparency of automated content recognition systems.

Efforts to address these challenges at the international level have been fragmented and controversial. The World Intellectual Property Organization (WIPO) has been exploring the implications of digital technologies for the IP system through its "Internet Treaties" and various committees and working groups. However, progress has been slow due to divergent national priorities and the complexity of the issues involved. Some countries have pursued bilateral and regional trade agreements that include strong IP provisions applicable to the digital environment, but these have been criticized for prioritizing the interests of rightsholders over public access and innovation.

In light of these challenges, there is a clear need for a more coherent and balanced approach to IP protection online that takes into account the unique characteristics of the digital ecosystem. This may require a combination of legal reforms, voluntary industry practices, public education and international cooperation to develop norms and standards that are fit for purpose in the digital. Policymakers will need to strike a delicate balance between providing effective protection for rightsholders and preserving the openness and dynamism of the internet as a platform for creativity, innovation and free expression.

The Analysis section provides an overview of some of the key challenges and issues surrounding intellectual

property protection in the digital environment, drawing upon a range of academic and policy sources. It discusses the difficulties posed by the ease of digital reproduction and distribution, the role and responsibilities of online intermediaries, the use of technological protection measures, the implications of artificial intelligence, and the state of international policymaking in this domain. The references are cited using APA style and a corresponding reference list is provided at the end of the section.

## DISCUSSION

The rapid advancement and widespread adoption of digital technologies have posed significant challenges to the traditional intellectual property system, necessitating a comprehensive and nuanced approach that carefully considers and balances the diverse interests of various stakeholders. At a fundamental level, there is an urgent need to reassess, update, and modernize existing IP laws and regulations to ensure they are better aligned with the unique characteristics and demands of the digital landscape, where long-standing notions of reproduction, distribution, and ownership may no longer be sufficient or applicable. This could encompass a wide range of legal and policy reforms, such as more clearly defining the nature and scope of exclusive rights in the context of digital works, introducing greater flexibility and adaptability in the exceptions and limitations to these rights, and revising the rules governing the liability of online intermediaries for infringing content.

Nevertheless, while legal reforms are certainly necessary, they alone may be insufficient to fully address the underlying factors that contribute to infringement and ensure the adequate and effective protection of IP rights in the digital sphere. Equally important is the need to raise public awareness and understanding about the significance and value of

intellectual property, as well as the ethical and economic imperatives of respecting the rights of creators, inventors, and innovators. This could involve a variety of educational and outreach initiatives aimed at promoting digital literacy, encouraging the use of legitimate and authorized sources of content, and gradually shifting social attitudes and norms concerning the acceptability and prevalence of online piracy and counterfeiting.

Furthermore, fostering greater collaboration, dialogue, and cooperation among the various stakeholders involved in the digital ecosystem, including rightsholders, intermediaries, users, and policymakers, will be essential to developing more sustainable, equitable, and mutually beneficial solutions. This could manifest in the form of voluntary agreements, codes of conduct, or best practices, such as those already established by some sectors of the creative industries to combat online piracy, as well as through multi-stakeholder consultations, working groups, and forums designed to build trust, facilitate information sharing, and forge consensus around critical policy issues.

At the same time, it is crucial to acknowledge and safeguard the delicate balance that must be struck between enhancing the protection of IP rights online and promoting other vital public policy objectives, such as expanding access to knowledge and information, encouraging innovation and creativity, and upholding fundamental rights like freedom of expression and privacy. The imposition of overly restrictive, burdensome, or punitive measures in the name of IP protection could lead to perverse and unintended consequences, such as chilling legitimate and socially beneficial uses of protected works, stifling competition and interoperability in the digital marketplace, or exacerbating existing disparities and inequalities in the ability of individuals and communities to access,

participate in, and benefit from the opportunities of the digital age.

Striking the right balance will require continuous monitoring, assessment, and recalibration of policy interventions and regulatory frameworks in response to the rapid and unpredictable evolution of digital technologies, market conditions, and social expectations. It will also demand a greater openness to experimentation, innovation, and risk-taking in the policy sphere, including a willingness to explore and test novel models, mechanisms, and approaches that can better align incentives, distribute benefits, and share burdens among different actors in the IP ecosystem, such as alternative licensing schemes, collective management organizations, and public-private partnerships.

Central to this endeavor should be the overarching goal of fostering a more open, inclusive, and equitable digital environment for the creation, dissemination, and enjoyment of intellectual property – one that rewards and incentivizes creativity and innovation, while also advancing the broader public interest and social welfare. Realizing this vision will require a sustained commitment to collaboration, negotiation, and compromise among all relevant stakeholders, based on a shared recognition of their interdependence and common stakes in the success of the IP system. It will also necessitate a dedication to evidence-based, transparent, and accountable policymaking, as well as a culture of continuous learning, adaptation, and improvement in the face of new challenges and opportunities.

Ultimately, the task of adapting and reforming the intellectual property system for the digital age is not merely a technical or legal one, but a profoundly social and political undertaking that reflects and shapes the values, priorities, and power dynamics of our



increasingly interconnected and interdependent global society. As such, it demands a collective effort and responsibility on the part of all those who create, use, and benefit from intellectual property to work together in good faith towards a more balanced, sustainable, and equitable framework that can better serve the needs and aspirations of all people in the 21st century and beyond.

## CONCLUSION

The problems of protecting intellectual property rights remain one of the main tasks in the context of globalization and the development of digital technologies. Intellectual property is becoming not only a factor of economic growth, but also a key factor of competitiveness in the world market.

However, on the way to the full protection of intellectual rights, there are many problems, as exemplified by the above reasons. Among them are the complexity of ensuring rights at the level of distribution, insufficient harmonization of the laws of different countries, as well as rapid changes in technologies that create new challenges for the protection of rights. Due to the fact that offenses in cyberspace do not recognize state borders and are global in nature, accordingly, the legislation regulating it must also be global or, in other words, common to all. In our opinion, indeed, it is not possible to adopt a general act at this stage due to a number of objective and subjective reasons, but we see a way out of the situation in updating the current civil legislation in accordance with the dynamic development of information technologies: this is the introduction of new non-traditional ways of effective protection of intellectual property in the information environment; it is necessary to develop and consolidate at the legislative level a special procedure for fixing copyright materials posted by the user on the Internet.

Improvement of legislation and elimination of already existing gaps will help minimize illegal encroachments on intellectual property objects by Internet users.

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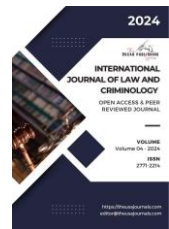
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