

С. В. Гончаренко. – К.: Вид. центр Академії адвокатури України. – 2010. – 54 с.

3. Вишновецька С. В. Трудова компаративістика як складова предмета науки трудового права // Актуальні проблеми правової науки: збірник статей / кол. авт.; за заг. ред. Н. П. Шишкової; Київ. нац. ун-т ім. Т. Шевченка. – К.: Прецедент, 2014. – 256 с.

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FUNCTIONING OF COPYRIGHT IN FRENCH REPUBLIC

Introduction.

Copyright is an absolute and fundamental concept for any creator.

French copyright is a subgroup of intellectual property rights, assigned in the Constitution and in the Code of Intellectual Property.

According to Article L.111-1 of the Code of Intellectual Property, author of creative work, by virtue of its creation, has a relatively exclusive right to intangible property that might be opposed to any person. This right includes the elements of intellectual, moral and property nature.

Article L.112-2 of the Code of Intellectual Property contains a list of protected works, including literary, artistic, musical, cinematographic, decorative art's works, software, seasonal industrial products related to clothing and jewellery.

According to Article L.113-1 of the Code of Intellectual Property in the absence of evidence to the contrary authorship belongs to the person under whose name the work was published.

The general term works' protection established by Article L.123-1 of the Code of Intellectual Property. It was determined that the author during his lifetime has the exclusive right to use his work in any form and receive the profit from it. After the death of the author this right is used by his assignees during the current calendar year and the next seventy years. If the country of origin is defined as a country which is not a party to the European Union, and the author is not a citizenship of one of the Member States of the European Union, then the period of protection is the term given in the country of origin, which may not exceed the aforementioned general term of protection (Article L. 123-12 of the Code of Intellectual Property).

Concerning the reciprocity principle in the provision of legal protection to works of foreign authors, it is noted that in accordance with article L.111-4 of the Code of Intellectual Property «in accordance with international conventions in which France is a party, if it is established that a State does not provide sufficient and effective protection to works which were firstly published in

France, therefore that state shall not use protection recognized in French law of copyright».

Article L.122-3-1 of the Code of Intellectual Property established the principle of regional depletion of copyright. Therefore, if the first sale of a copy or copies of the work, denominated in material form, allowed by the author or his assignees in the territory of the Member States of the European Union, sales of copies of the work cannot be more prohibited in the aforementioned states.

The list of regulatory legal acts.

In France the only codified normative legal act in the field of intellectual property is Intellectual Property Code is used (Code de la propriété intellectuelle). Since its adoption special laws and regulations in this area of law have been abolished, while they were subjected to certain changes and finally formed the basis of the Code.

Copyright and Related Rights.

— Intellectual Property Code (Art. Art. L. 111-1L. 343-4 and R. 111-1 – R. 335-2);

— Law from August 1, 2006 № 2006-961 on copyright and related rights in the information society;

— EU Directive of 22 May 2001 № 2001/29 on the harmonization of certain aspects of copyright and related rights in the information society;

— European Parliament Directive on 29 April 2004 № 2004/48 on intellectual property rights.

Executive authorities.

Direction for regulatory authority for the legal regulation of copyright and related rights by Ministry of Culture and Communication (Le ministère de la culture et de la communication) are not fixed. However, in accordance with the Code of Intellectual Property, the General Secretariat ensures administrative activities of committees that are created solely with the purpose of copyright and related rights or licenses implementation:

1) Commission on copying for private use (la commission de la «copie privée») (Art. L311-5);

2) Commission for fair remuneration (la commission de la «rémunération équitable») (Art. L214-4);

3) Commission for protection of copyright and related rights for people with disabilities (Art. R122-16).

Attached to the Ministry, the Council for literary and artistic property operates (Le Conseil supérieur de la propriété littéraire et artistique, CSPLA), which advises the Minister of Culture and Communications on literary and artistic property. The Council also serves as the supervisory authority in the implementation and respect of copyright and related rights.

Peculiarities of copyright in France.

An interesting feature of copyright in France that is also quite detailed regulation of various types of copyright agreements: the public presentation,

publication, use of audio-visual works. It is identified the essential terms of such agreements, basic rights and responsibilities, and guarantees of copyright. Thus, for example, it is established that if the contract has the right to transfer the work on the air, it does not include a cable transmission or broadcasting via satellite (Art. 45) etc.

An important feature of French copyright law is the establishment of a copyright not only serious civil and criminal liability for counterfeiting measures and other copyright infringement, but also procedural measures that prevent or interrupt copyright infringement. Such measures include the seizure for unlawfully reproduced copies of a work and income received from the illegal use of the work.

Copyright protection in the Internet.

The French Republic is fighting against piracy on the web. Adopted in 2009, the Hadopi law was based on the concept of the three warnings, after which the user-recidivist had to disconnect from the Internet. This law caused much controversy and therefore it was subjected to review by the Supreme judicial body of the Republic (Constitutional Council) then it was recognized as such, which violates the constitutional rights of citizens: in France Internet access is declared as a basic right of any person.

An interesting application of the Hadopi law: during its existence it was just one person disconnected from the Internet access, and then in 15 days it has been appointed a fine of 150 euros. Now the agency Hadopi ceases its existence, integrating into the existing Supreme Council for multimedia.

Currently, the first warnings of copyright infringement via download or distribution of pirated files was received by 2000000 French. The second warning was received by 186 thousand users, while only 663 court hearings were held in connection with the third infringement, but to repression undergone only one person.

Now it is expected to punish violators just with fine, according to formal notice posted on the website of the Ministry of Culture of France. First fixed penalty is 60 euros, while recurrent transgressions will be fined more seriously and differentiated depending on the number of violations.

The main focus in the anti-piracy struggle on the Internet is to cover not individual users, but the mass, «commercial» piracy. It is meant the activity of sites which deliberately distribute pirated content.

Conclusion.

French government seeks to protect the copyrights and related rights as this activity is highly important in the country. The standards and practices, which are used, are issued in compliance with international ones, while there are several specific features. There is used serious civil and criminal liability for counterfeiting measures and other copyright infringement. With the expansion of new informational technologies, the government introduces new practices which are aimed on the dissolution of the pirated content on the internet, which

put in jeopardy the right of the works' authors. The intellectual property system is highly effective in terms of operation, while the content which is used in violation with the law can be easily detected and subjected to a fines or any legal liability.

Literature

1. Directive 2004/48/CE du Parlement européen et du Conseil du 29 avril 2004, relative au respect des droits de propriété intellectuelle// <http://www.wipo.int/wipolex/fr/details.jsp?id=1457>

2. Directive CE n°2001/29 du 22 mai 2001 relative à l'harmonisation de certains aspects du droit d'auteur et des droits voisins dans la société de l'informatio// <http://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A32001L0029>

3. <http://kitdesurvie.metiers-graphiques.fr/articles/comment-fonctionne-ledroit-d-auteur>

4. <http://www.culturecommunication.gouv.fr/Politiques-ministerielles/Propriete-litteraire-et-artistique/Conseil-superieur-de-la-propriete-litteraire-et-artistique/Structure-et-organisation>

5. <http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006069414&dateTexte=20131014>

6. http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CLT/diversity/pdf/WA_PO/ABC_Copyright_fr.pdf

7. Loi n 2006-961 du 1 août 2006 relative au droit d'auteur et aux droits voisins dans la société de l'information http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=2AC274849EFFF47B2458184269569EA.tpdjo16v_2?cidTexte=JORFTEXT000000266350&dateTexte=20131015

8. More functions of the committees can be found at: <http://www.culturecommunication.gouv.fr/Politiques-ministerielles/Propriete-litteraire-et-artistique>

9. Journées européennes du patrimoine: Accueil <http://www.culturecommunication.gouv.fr>

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ОСОБЕННОСТИ РЕШЕНИЯ ИМУЩЕСТВЕННЫХ СПОРОВ, ВОЗНИКАЮЩИХ В ГРУЗИНСКОМ СЕМЕЙНОМ ПРАВОВОМ ПРОСТРАНСТВЕ

Согласно верховному закону Грузии – Конституции, государство содействует благополучию семьи, а брак как добровольный союз основывается на равноправии супругов [3].

По гражданскому кодексу Грузии имущество, приобретенное супругами за время брака, является их общей собственностью, если