

THE LAW OF THE DIGITAL ECONOMY – 2020

Annual Anthology

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Marina Rozhkova

PROPERTY RIGHTS TO NEW NON-MATERIAL OBJECTS IN THE SYSTEM OF ABSOLUTE RIGHTS

Abstract. *The article is dedicated to the legal issues of new objects of property right. The author holds the view that the most acceptable position is the recognition of this rights as a new (third) group of property rights.*

Keywords: *a new objects of property right, absolute rights.*

Kirill Nam

ELECTRONIC FORM TRANSACTIONS IN THE LAW OF EUROPEAN UNION AND GERMANY

Abstract. *The development of digital technology and the spread of e-commerce raise the question of finding new ways and forms for adequate legal regulation of these processes in the Russian legal system. Studying relevant developments that have taken place in other legal systems, e.g., in Germany and in the EU as a whole, is of interest to Russian legal researchers and practitioners. The article explores legal approaches to the regulation of electronic transactions in the EU and German legislation.*

Keywords: *European Union law, German law, electronic transactions; e-commerce.*

Daria Motovilova

CONCLUSION AND TERMINATION OF CONTRACTS MADE BY ELECTRONIC MEANS UNDER EUROPEAN UNION LAW AND FRENCH LAW

Abstract. *The article studies the contract formation and cancellation process in e-commerce in France. Despite the fact that French law of obligations has undergone considerable changes due to the reform of 2016, the provisions related to the contracts concluded by electronic means have not changed significantly because they resulted from the implementation of EU Directives. The comparative analysis of French law and relevant EU Directives shows that the EU law determines the substantive provisions on distance contract formation as well as consumers' right of withdrawal while national law imposes sanctions on traders that fail to exercise his obligations.*

Keywords: *contract.; contract formation, distance contract, e-commerce, right of withdrawal, consumer, trader, consumer protection.*

Linar Safargaleev

SMART CONTRACTS: LEGAL AND LEGISLATIVE ISSUES

Abstract. The article is devoted to the legal issues of smart contracts. The paper analyzes the approaches to the legal understanding of smart contract. The author also deals with the regulation of smart contracts in Russia and abroad.

Keywords: Smart contract, contract, agreement, contract form.

Anna Gapanovich

SMART CONTRACTS IN THE REGULATORY SYSTEM OF CONTRACTUAL RELATIONS

Abstract: The author analyzes different view-points of smart contract definition. It is concluded that this category should be considered in the terms of civil regulation by means of integration of such relations in the existing civil categories. The author proves that smart contract and form of the contract are different legal categories; the smart contract are to be a computer technology for enforcing obligation.

Keywords: smart contract, digital economics, contract law, contract, electronic form, computer technology.

Elizaveta Martyanova

CONTRACTS MEDIATING THE USE OF OBJECTS OF ONLINE GAMES

Abstract. The article deals with the question of qualification of contractual relations mediating the use of objects of online games. In order to solve this problem, the analysis of the basic concepts of determining the legal regime of virtual game objects is given. It reveals legal consequences of the choice of this or that model of legal regulation of the studied objects. It is concluded that the most acceptable position is the recognition of game objects of online games as an object of intellectual property rights.

Keywords: virtual object, game property, online game, virtual space.

Marina Kozlova, Olga Sergacheva

PECULIARITIES OF ELECTRONIC TRADING IN THE RUSSIAN FEDERATION AND SELECTED COUNTRIES OF THE EUROPEAN UNION

Abstract. The article presents an analysis of the electronic trading system: a study of the concept, classification of trades, peculiarities trades in electronic form, particular spheres of electronic trading in Russia and abroad, ways of countering digital cartels at auction. The legal doctrine, legislation and law enforcement practice of Russia, Italy, the European Union are researched.

Keywords: *electronic trading system, electronic auctions, operator of the trading platform, public procurement, government needs, Italian Republic, bankruptcy, digital cartels.*

Oleg Ksenofontov

E-COMMERCE: ASPECTS OF LEGAL REGULATION OF TARGETED ADVERTISING IN RUSSIA

Abstract. *A comprehensive study of legal regulation of targeting in Russia is carried out. The author offers a legal definition of targeted advertising, as well as analyzes legal aspects of its elements such as profiling, parsing, DPI, use of cookies, IP addresses and the device's fingerprint.*

Keywords: *targeted advertising, targeting, online behavioral advertising, geotargeting, profiling, parsing, cookie, IP address, DPI, device fingerprint.*

Elena Ostanina

IS THERE ANY VIOLATION OF PRIVACY AND REPUTATION IN THE CREATION OF RATING SITE AND POSTING REVIEWS ABOUT PEOPLE ON THIS SITE?

Abstract. *The Internet promotes widespread communication. And this communication is often anonymous. How to draw a line between freedom of speech and privacy? Some problems of protecting privacy and business reputation against violation by rating sites are analyzed in the article. The question, whether rating sites need any special legal regulation, is discussed.*

Keywords: *freedom of speech, protection of reputation, privacy, site, hosting provider, site owner.*

Marina Rozhkova, Vera Glonina

PERSONAL AND NON-PERSONAL DATA AS PART OF BIG DATA

Abstract. *In this article authors write about big data in the context of the legal regime of the various types of data involved in big data analytics. The authors analyze the concepts of "big data", "personal data", "non-personal data", "anonymized data", their characteristics, basic approaches to their interpretation and main practical problems arising related to the use of big data. Based on the analysis of the foreign and domestic legal theory, legislation and court practice, authors conclude that both personal and non-personal data are valuable for big data analytics, at the same time it is necessary to adapt personal data legislation to big data analytics, in particular introduce data anonymization.*

Keywords: *big data, personal data, non-personal data, anonymized data.*

Elena Shcherbakova

BIG DATA: ISSUES OF LAWFUL USE

Abstract. The paper is dedicated to the issues of legal regulation of Big Data use in terms of provisions of European Union General Data Protection Regulation and Russian legislative initiatives existing in 2019. The author upholds an opinion that there is no pressing need in special regulation of Big Data use in the Russian Federation.

Keywords: Big Data, personal data, data pseudonymization, protection of consumers' rights, competition protection.

Andrey Bogustov

ON THE DELIMITATION OF INTELLECTUAL PROPERTY LAW FROM INFORMATION LAW

Abstract. The article analyzes the relationship between intellectual property law and information law. The possibility of recognizing the objects of intellectual property law information is investigated and the conclusion is made about the difference between these objects.

Keywords: information law, intellectual property, object of law.

Anastasiya Semenova

THE «PIE IN THE SKY» FOR COPYRIGHT ON INFORMATION

Abstract. The article is dedicated to the issue of creative and informational aspects of a work of art. Is it possible for news items, guidance or official texts to be copyrightable?

Keywords: copyright, copyrightable object, information.

Andrey Alekseichuk

LEGAL APPROACHES TO QUALIFICATION OF COMPLEX SOFTWARE

Abstract. In this article the author considers various options for the legal qualification of complex software in order to solve the problem of managing rights to the software.

Keywords: computer program, software, copyright law, complex object.

Sergey Shutkin

LEGAL REGIME OF INTELLECTUAL PROPERTY GENERATED BY ARTIFICIAL INTELLIGENCE

Abstract. The author raised questions such as the legal nature of artificial intelligence, the problem of its legal capacity, the legal regime of works created by artificial intelligence. The author tried to identify the fair ways of distribution

of rights to such works. The author considered experience of Anglo-Saxon law systems and analyzed various market practices.

Keywords: intellectual property, information technologies, copyright, autho,; artificial intelligence, intellectual rights, art.

Artem Levashov

THE LIMITATIONS OF LIABILITY OF PARTICIPANTS IN INFORMATION SYSTEMS BASED ON DISTRIBUTED LEDGER TECHNOLOGIES

Abstract. The article deals with the perspectives of regulation of relationships arising in peer-to-peer distributed ledger-based information networks. This paper is devoted to the analysis of features of blockchain technology using with regard to the varieties of its implementation. The author focuses on the exploration of mechanisms of control under creation and following using of blockchain-networks through the prism of the concept of information intermediary.

Keywords: information law, blockchain, peer-to-peer technologies, information intermediaries.

Dmitrii Arnautov

LEGAL STATUS OF DECENTRALIZED AUTONOMOUS ORGANIZATIONS (DAO)

Abstract. The development of technology leads to the emergence of new subjects of civil rights, such as decentralized autonomous organizations (DAO). DAOs represent the most convenient form of doing business in a “cryptoeconomy,” since they allow several individuals to combine their digital assets to manage them and determine the direction of investment. The Author analyses the legal status of the DAO and provides an answer to the question of whether it is a legal entity; it compares the five key features of a corporation.

Keywords: decentralized autonomous organization, DAO, features of a corporation, digital assets, legal personality of a legal entity.