

**THE LAW
OF THE DIGITAL ECONOMY – 2022**
Edition 18

Annual Anthology

Lead author and science editor

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The eighteenth edition of the “Modern Law Review / IP & Digital Law” series comprises articles devoted to legal protection of computer programmes (software), digital art objects, characters of works and video games, user content and other copyright items of computer games, as well as some aspects of legal regulation of addressing on the Internet and the EdTech problems. This annual book contains papers covering conceptual issues of intellectual property in the digital age, museum property rights, quantum technologies, and the legal personality of artificial intelligence. The book also considers the problems of antitrust regulation of digital platforms and the effect of antitrust prohibitions in the field of intellectual property, issues of legal protection of brand identity, and problematic aspects of the use of trademarks in advertising.

For judges, lawyers, legal practitioners, academics, lecturers, postgraduates and law students as well as all others interested in the development of the Russian law and issues related to the application of the current legislation.

See <http://asp.rozhkova.com> and <http://books.ipclub.in/asp.html> to find an invitation to participate in the forthcoming annual books of this series as well as information about them.

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TABLE OF CONTENTS

List of abbreviations and contractions	9
Marina Rozhkova The Term “Computer Program” in Russian Law (Detailed Commentary on Article 1226 of the Civil Code) (Moscow, Russia)	10
Anastasiya Snopkova Problems of Legal Protection of Digital Art Objects (Moscow, Russia)	62
Tatiana Tereshchenko Intellectual Property in the Digital Age: Soft Adaptation of the Classical Concept (St. Petersburg, Russia)	98
Marina Kozlova, Dmitriy Kozhemyakin, Olga Sergacheva Quasi-Exclusive Rights on Museum Objects in the Digital Age (Volgograd, Russia)	129
Bogustov A.A. To the Discussion about the Legal Personality of Artificial Intelligence (Grodno, Belarus)	154
Svetlana Chekhovskaya Quantum Technologies: Legal Aspects (Moscow, Russia)	172
Aleksei Churilov Issues of Antitrust Regulation of Digital Platforms (Tomsk, Russia)	187
Svetlana Burchik Admissibility of the Antitrust Regulation in the Sphere of Exercise of Exclusive Rights (Moscow, Russia)	202
Anastasiya Snopkova Trade Dress: Legal Remedies and Means of Legal Protection (Moscow, Russia)	235

Marina Sizova

Legal Protection of Trade Dress (Foreign and Russian Experience)
(Yoshkar-Ola, Russia) 264

Ramzan Khusainov

Problem Aspects of Trademarks Usage in Advertising
(Kazan, Russia) 278

Vladislav Khlapotin

Legal Aspects of Protection the Exclusive Rights of a Character
(Moscow, Russia) 292

Sergey Subbotin

Legal Protection of Video Game Characters (St. Petersburg, Russia) 314

Polina Kashtanova

Regulatory Challenges of Copyright Objects Within a Video Game
(Moscow, Russia) 335

Polina Bravanova

The Legal Regime of User-Generated Content in Videogames
(St. Petersburg, Russia) 353

Artem Nikiforov

Some Problems Arising in the EdTech Field (Moscow, Russia) 373

Vladislav Zhavnerchik

Law Regulation of the Internet Addressing: Comparative Law
Analysis of Belarusian and Foreign Legislation in the Context
of Constant Developing Anti Cyber Fraud Methods
(Minsk, Belarus) 387

Authors' profiles 401

Abstracts (Eng.) 408

TABLE OF CONTAINS

Marina Rozhkova

THE TERM “COMPUTER PROGRAM” IN RUSSIAN LAW (DETAILED COMMENTARY ON ARTICLE 1226 OF THE CIVIL CODE)

Abstract. The article studies the content of the concept of a computer program and considers its elements: source, object and executable code, data, preparatory design materials, etc. In addition, the author analyzes the related categories: user interface, algorithm, computer game, etc.

Keywords: computer program, source code, object code, executable code, data, preparatory design materials, software, user interface, algorithm, computer game.

Anastasiya Snopkova

PROBLEMS OF LEGAL PROTECTION OF DIGITAL ART OBJECTS

Abstract. The author explores the legal nature of digital art works and makes a conclusion about their qualification as complex objects of copyright. The article addresses the issue of paradigm shift in the understanding of authorship, specificity of cross-border copyright regulation as well as tendencies in the set of exclusive rights' development and trends in the sphere of the disposal of such rights in relation to digital art objects.

Keywords: copyright, complex object of copyright, digital art, international intellectual property law, conflict of laws regulation, non-fungible token, cryptoart.

Tatiana Tereshchenko

INTELLECTUAL PROPERTY IN THE DIGITAL AGE: SOFT ADAPTATION OF THE CLASSICAL CONCEPT

Abstract. This article analyzes the impact of Industry 4.0. for intellectual property.

Turning to the doctrine and law practice, the author illustrates the conclusion that the rethinking of the classical concept of intellectual property is already taking place in two directions: by clarifying the basic postulates of intellectual property (the criterion of creativity and its relationship with intellectual activity, the indisputability of the protection of form against content, the presence or absence of formalities, etc.) and by clarifying the conditions for the grant and exercise of exclusive rights in the context of a qualitatively different approach to the meaning and circulation of information.

Keywords: *Industry 4.0, communication and digital technologies, the classical concept of intellectual property, intellectual activity, legal monopoly, criterion of creativity, soft law, concept rethinking.*

Marina Kozlova, Dmitriy Kozhemyakin, Olga Sergacheva

QUASI-EXCLUSIVE RIGHTS ON MUSEUM OBJECTS IN THE DIGITAL AGE

Abstract. *The article is dedicated to analyzing the status of museums in the digital age, studying the legal nature of special quasi-exclusive rights that give the possibility to control the commercial use of images of museum objects. The conclusion is reached that museum law is dualistic in nature; it is derived from administrative regulation, yet it is realized by civil law means. The approach of the quasi-exclusive right on museum objects brings it closer to the early stages of establishing the legal protection of results of intellectual activity; it concerns the period of it being ensured based on the system of privileges. The necessity is underlined to change the legal regime of museum objects in the realities of the modern information society.*

Keywords: *museum, museum object, museum law, quasi-exclusive right, digital age.*

Andrey Bogustov

TO THE DISCUSSION ABOUT THE LEGAL PERSONALITY OF ARTIFICIAL INTELLIGENCE

Abstract. *The article is devoted to the analysis of the possibility of recognizing AI as a subject of law from the legal point of view. Based on the research, it is concluded that there was currently no basis for recognizing the AI as either a subject of law or a quasi-subject of law. Attempts to use the fictitious incorporated person theory to substantiate AI's legal personality are untenable. The effect is that the AI does not as such acquire legal autonomy but is part of the property of an incorporated person. The article illustrates that the subject of liability for damage caused by the actions of the AI is the person using the AI and receiving the benefit thereof. The article shows that rights for a primary subject on the works created by AI it is possible to examine as the special variety of the neighbouring rights.*

Keywords: *artificial intelligence, legal person, legal personality, quasi-subject of law.*

Svetlana Chekhovskaya

QUANTUM TECHNOLOGIES: LEGAL ASPECTS

Abstract. *The article is written for the purpose of identifying the main areas of legal research related to the use of quantum technologies, modeling potential*

risks and problems in this area, as well as identifying key ideas that can be used as the basis for legal support of their operation. The article offers five guidelines for the development and application of quantum technologies.

Keywords: *quantum technology, legal-ethical framework, guiding principles.*

Aleksei Churilov

ISSUES OF ANTITRUST REGULATION OF DIGITAL PLATFORMS

Abstract. *The paper analyzes properties of digital platforms. The author researched problems of antimonopoly regulation of digital platforms considering their economic model and market position and using domestic and foreign practice as an example. The conclusion is made about the need to improve legislation in this area.*

Keywords: *antitrust legislation; competition; digital platform, multisided market, cluster market.*

Svetlana Burchik

ADMISSIBILITY OF THE ANTITRUST REGULATION IN THE SPHERE OF EXERCISE OF EXCLUSIVE RIGHTS

Abstract. *The author proposes a concept for improving the current regulation aimed at counteracting the abuse of business entities in the sphere of exercise of exclusive rights based on the current value guidelines of modern antimonopoly regulation.*

Keywords: *antitrust law, antitrust immunity of the intellectual property, competition in the digital age, innovative markets, intangible assets regulation.*

Anastasiya Snopkova

TRADE DRESS: LEGAL REMEDIES AND MEANS OF LEGAL PROTECTION

Abstract. *Given the protection of trade dress is a problem in Russia due to its novelty – the institute of confusion within which the concept of trade dress emerged is a new form of unfair competition for Russian legislation – the author stands the task to generate an effective approach to restoration of the right owner's rights via different legal remedies and means of legal protection.*

Keywords: *trade dress, trademark, means of individualization, confusion, unfair competition, antimonopoly regulation.*

Marina Sizova

LEGAL PROTECTION OF TRADE DRESS (FOREIGN AND RUSSIAN EXPERIENCE)

Abstract. *In the article, the author pays attention on the importance of legal protection of trade dress, reflecting the uniqueness of the business, helping the*

buyer to associate products with a specific manufacturer. The international practice of legal regulation of this institution is studied, including a comparative legal study of the legislation of the countries of Europe, America, and China.

Keywords: trade dress, image, legal protection of trade dress.

Ramzan Khusainov

PROBLEM ASPECTS OF TRADEMARKS USAGE IN ADVERTISING

Abstract. *The use of intellectual property in advertising is quite common, to some extent even inevitable. At the same time, advertising itself is the field where different interests collide: business and the state, through competition authorities that monitor compliance with advertising and competition laws; interests of competing entities themselves; owners of well-known brands and companies using these brands in advertising their trading and service activities. The conflict of interests leads to administrative disputes and litigation that often revolve around trademarks. The author will consider the most pressing issues related to the use of trademarks in advertising.*

Keywords: trademark, trademark in advertising, advertising law, incorrect comparison, comparative advertising, unfair competition, trademark use, trademark infringement, trademarks as slogans, trademarks on internet, contextual advertising, trademarks as keywords, exhaustion of trademark rights.

Vladislav Khlapotin

LEGAL ASPECTS OF PROTECTION THE EXCLUSIVE RIGHTS OF A CHARACTER

Abstract. *The article devoted to the analysis of multiple problematic aspects associated with establishing the fact of violation of exclusive rights to a character. Discussion issues are raised, examples from judicial practice on violations of copyright for characters are considered. The main focus is on modern problems, issues and trends caused by the emergence of new types and forms of creativity in the digital environment.*

Keywords: intellectual property, digital economy, creative industries, character, exclusive rights, protection of exclusive rights.

Sergey Subbotin

LEGAL PROTECTION OF VIDEO GAME CHARACTERS

Abstract. *The article deals with the question of the place of the computer game in the system of intellectual property objects, as well as analyzes the main approaches to the determination of the legal nature of the character of a work. Based on the findings, certain problems of legal protection of video*

game characters, in particular the issue of ownership of copyrights of them, are investigated.

Keywords: *intellectual property, the character of a work, video games.*

Polina Kashtanova

REGULATORY CHALLENGES OF COPYRIGHT OBJECTS WITHIN A VIDEO GAME

Abstract. *This article focuses on various objects of copyright within a video game. The author analyses how being a part of a complex object affects them and which challenges have arisen as a result of it. A large part of the article is a review of the problem of the legal regime of a video game.*

Keywords: *video game, copyright, multimedia product, legal regulation.*

Polina Bravanova

THE LEGAL REGIME OF USER-GENERATED CONTENT IN VIDEOGAMES

Abstract. *This article is dedicated to content created by users of video games, its types and factors affecting its legal regulation. The author considers the compliance of user-generated content with the criterion of creativity and its belonging to copyright objects. In addition, four approaches to determine the legal regime of the content are given, from which the most optimal choice is made.*

Keywords: *user-generated content, video games, derivative work, intellectual property.*

Artem Nikiforov

SOME PROBLEMS ARISING IN THE EDTECH FIELD

Abstract. *The development of technology has also reached the field of education. But unlike other social spheres, too little time is devoted to EdTech issues in education. In this article, the author wants to draw public attention to some issues arising due to the existence of the Russian reality in the transition period between conventional and digital education and some legal problems arising in this connection.*

Keywords: *law, education, EdTech.*

Vladislav Zhavnerchik

LAW REGULATION OF THE INTERNET ADDRESSING: COMPARATIVE LAW ANALYSIS OF BELARUSIAN AND FOREIGN LEGISLATION IN THE CONTEXT OF CONSTANT DEVELOPING ANTI CYBER FRAUD METHODS

Annotation. *The article provides an analysis of the key aspects of law regulation of Internet addressing, implemented within the framework of Belarusian*

and foreign legislation. The increasing role of Internet technologies in the system of social relations and the resulting difficulties associated with the emergence of new forms of socially condemned behavior are noted. In particular, attention is focused on the growth of cases of cyber fraud, such as cybersquatting. In addition, a set of measures to improve legal relations on the Internet, aimed at reducing the scale of fraudulent actions on the Internet, has been identified and logically substantiated.

Key words: *Internet addressing, Internet technologies, domain name, domain, cyber fraud, cybersquatting, typesquatting, information technology law.*