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АВТОРСКОЕ ПРАВО В РОССИИ И В США

В работе дается сравнительный анализ состояния дел в области авторского права в России и США и обосновывается необходимость защиты интеллектуальной собственности на современном этапе развития правовой системы обеих стран.

Nowadays the problem of copyright is very important not only in Russia and the USA but all over the world. It touches upon the aspects of intellectual property which makes the above-mentioned subject a present-day and vital question.

In our report we are going to analyze the main aspects of copyright concerning both the USA and Russia and then try to find differences in the state of the question in these countries.

Copyright is the exclusive legal right to the reproduction, publication, or sale of the rights to literary, dramatic, musical, artistic works of software.

Creators can sell the rights to their works to individuals or companies best able to market the works in return for payment. These economic rights have a time limit, which enables to benefit financially.

Copyright protection does not extend to ideas, procedures, methods of operation or mathematical concepts as such.

Now we will apply to distinctions between American and Russian reality of copyright problems.

- First of all, Russia and the USA belong to different legal frameworks. Russia is referred to continental law system. This means in particular that if an international treaty, to which the Russian Federation is a party, establishes rules different from the Copyright law, rules of the treaty must be applied.

The USA adheres to common (or Anglo-Saxon) legal framing. This means that international obligations (treaties) do not have the priority as compared with national legislation and it is impossible to refer to international treaties in American courts during litigation.

Consequently US Congress converts and changes the copyright act every time when the USA become a party to an international treaty. The result is that American copyright acts are much more detailed and complicated as compared with Russian ones.

- Another distinction is history. The USA have much longer history of copyright development than Russia. Already the Constitution of the USA 1787 contains basic points of copyright regulation. Speaking about contemporary acts, US copyright law was revised in 1978 when an Act for the general revision of the copyright, title 17 of the US Code, and for other purposes came into a power. In 1998 was adopted the Digital Millennium Copyright Act (DMCA) which regulated different aspects of copyright in the area of information technologies.

At the same time real development of author's rights in Russia actually began only after 1991. The Constitution of the Russian Federation 1993 declares the main points of it. There also is the Copyright and related rights law 1995, securing basic terms.

- Alongside with the foregoing general discrepancies there are also some concrete details differing in the two countries. For instance, in the USA time constraints of copyright duration are much longer than in Russia.

- Another difference is related to registration of copyright. In Russia the registration is not an obligatory condition of copyright protection and therefore is accomplished voluntarily at any time. But in the USA registration of copyright is an especially important condition for the most effective legal protection in case it is infringed.
- Besides, the American legislation provides only property seals but not moral rights, which involves the right to claim authorship of a work, and to oppose changes to it that could harm the creator's reputation. Moral rights of cause have their protection but are not still secured by enforce acts. Russian law, inversely, contains such regulations.

Taking into account all the aforementioned aspects we can say that the USA have an older and more complicated system of copyright legislation. At the same time Russia also tends to develop copyright protection and improve the state of affairs. Nevertheless taking into account all the best achievements of the USA in this aspect we should not blindly copy American methods of regulation but apply them to Russian peculiarity and reality.

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