

AUTOMATION OF MANAGEMENT BY THE INTELLECTUAL THE RIGHTS IN GLOBAL COMPUTER NETWORKS

УДК 347.77

Anatoly P. Yakimaho,

Candidate of Technical Sciences, scientific secretary of the Minsk branch of the Moscow state university of economy, statistics and informatics

Тел. (8029) 197-07-92

E-mail: apyakimaho@tut.by

Victoriya V. Bessarabova,

Senior teacher of chair of the Humanities of the Minsk branch of the Moscow state university of economy, statistics and informatics

Тел.: (8029)-771-17-74

E-mail: vbessarabova@mfmesi.ru

In article authors analyze problems of use of objects of intellectual property in global computer networks. The main attention is concentrated on effective ways of the solution of the problems arising for users. The special attention is paid to questions of creation of system of automatic control by property rights of authors and owners in global computer networks.

Keywords: intellectual rights, objects of intellectual property, copyright, global computer networks, information society.

Анатолий Петрович Якимахо,

к.т.н., уч. секретарь Минского филиала Московского государственного университета экономики, статистики и информатики (МФ МЭСИ)

Тел. (8029) 197-07-92

Эл. почта: apyakimaho@tut.by

Виктория Викторовна Бессарабова,

ст. преподаватель каф. Гуманитарных наук Минского филиала Московского государственного университета экономики, статистики и информатики (МФ МЭСИ)

Тел. (8029)-771-17-74

Эл. почта: vbessarabova@mfmesi.ru

АВТОМАТИЗАЦИЯ УПРАВЛЕНИЯ ИНТЕЛЛЕКТУАЛЬНЫМИ ПРАВАМИ В ГЛОБАЛЬНЫХ КОМПЬЮТЕРНЫХ СЕТЯХ

В статье авторы анализируют проблемы использования объектов интеллектуальной собственности в глобальных компьютерных сетях. Основное внимание сосредоточено на эффективных способах решения проблем, возникающих у пользователей. Особое внимание уделяется вопросам создания системы автоматического управления имущественными правами авторов и правообладателей в глобальных компьютерных сетях.

Ключевые слова: интеллектуальные права, объекты интеллектуальной собственности, авторские права, глобальные компьютерные сети, информационное общество.

1. Introduction

The processes happening in the modern world is clearly testifying about continuous development of information and communication technologies.

Information innovations not only considerably expand possibilities of users, but also intensively develop information exchange, including an exchange of objects of intellectual property.

Authors set the task on search of effective ways of automation of management by objects of intellectual property in global computer networks.

Serious national researches of a problem of automation controls of the intellectual rights in global computer networks still weren't exercised. Ignoring of obviously obvious problems connected with violation of an exclusive right of the owner, already systematically leads to unauthorized use of the intellectual rights.

According to article 1226 of the Civil code of the Russian Federation the intellectual rights to results of intellectual activity and the means of an individualization equated to them include:

- exclusive property right,
- and also personal non-property rights
- and other rights.

All these rights extend on objects of copyright and the adjacent rights – works of science, literature and art, the program for electronic computers, databases, executions, soundtracks, and the message in air or on a cable of broadcasts or telecasts.

The exclusive right gives the chance to the owner for work use in any form and any way which isn't contradicting the law. Use is a reproduction, distribution, public display, work propagation for all persons and other actions.

The Civil code of the Russian Federation provides possibility of collective management of copyrights and the adjacent rights when realization of these rights in an individual procedure is difficult and in other cases (article 1242 of the Civil code of the Russian Federation). The main objective of system of collective management of copyrights consists in observance of property rights of the author or other owner in each case of use of its work.

2. Realization of the intellectual rights in global computer networks

The special problem is represented by use of works of science, literature and art in global computer networks.

Agreements of the World Intellectual Property Organization of December 20, 1996 (WIPO Copyright Treaty), which regulate copyright, provide to authors of the right to propagation of the product in any way, including through global computer networks. Violation of these rights for the economic reasons and owing to low legal culture of users became the behavior rule, the unwritten law.

So far the world community didn't invent an effective way of protection of copyrights in global computer networks. Exceptional cases of punishment for unauthorized use of objects of copyright and the adjacent rights emphasize powerlessness of law enforcement agencies and don't bring practical benefit in the solution of this problem.

Traditional ways of collective management don't work with copyrights in global computer networks for two reasons. First, the number of works used in a network does almost impossible the conclusion of contracts between each user and each owner. Secondly, owners can't supervise and stop illegal use of the works.

It is necessary to develop qualitatively new system of collective management of copyrights in global computer networks. This system has to be capable to protection of also non-material rights of authors.

The seeming impossibility of creation of such control system led to denial by a number of researchers of the idea of protection of works in a network. Today the mankind has to answer a difficult question: use of objects of intellectual property in networks is a purchase and sale? If it not so, we are compelled to refuse systems

of protection of the rights of authors and owners of intellectual property.

In modern literature the question of a way of use of objects of intellectual property in global computer networks is one of the most debatable. Part of experts rejects idea that the objects of intellectual property which are placed in a network become available to all. No rights in relation to these objects should be observed. Such point of view reflects a position of users and contradicts economic interests of authors and owners.

The main problem of protection of the intellectual rights consists in difficulty of a ban of unauthorized use of objects of intellectual property in computer networks. It seems that it is almost impossible to overcome social and technical difficulties in this question.

At the same time need of creation of system of protection of the intellectual rights in the Internet increases because of development of information society. Global computer networks in information society become one of the main ways of receiving by consumers of an intellectual product. Within ten years the main way of receiving these objects there will be computer networks.

Predicted volumes and data transmission speeds, and also technical characteristics and opportunities will promote receiving all objects of copyright and the adjacent rights on the Internet. The Internet will be the main place of sale of all objects protected by intellectual property right.

The Internet already became the most important channel of social communications. The Internet carries out communication function, function of mass media and performs commercial operations.

3. Control of use of objects of intellectual property

Global networks are the basic "the disturber of tranquility" in protection of copyrights. Volumes of trade and bank operations grow with development of global computer networks. Now the Internet became a basis for development of market processes.

Global networks are an ideal place for the organization of collective management of copyrights in the world. The Internet is the instrument of collective management of copyrights. Methods of electronic trading should be used for purchase of objects of copyright and the adjacent rights in a network. This way

is successfully used upon purchase of any goods in a network.

The idea of creation of the special software product for control of use of objects of intellectual property on each site can be realized through creation of the new direction of electronic trading.

The essence of idea consists in the simple scheme the user – the author. For implementation of this scheme it is necessary to attach the identifying file to each file. The identifying file bears information on the owner and on his settlement account where the provider has to transfer part of remuneration. The user has to pay for acquaintance, preservation, use, distribution and other similar actions.

Thus, any case of use of object in global computer networks becomes the act of sale by means of electronic trading. Because of big number of transactions within such system, it can work only in an automatic mode. System effectiveness will be so provided, but the conclusion of the relevant agreement is required.

Realization of the principles of automatic control by copyright in global computer networks requires the new international agreement on copyright and the adjacent rights in information society.

The automatic control system of intellectual property has to be constructed on the following principles:

- recognition of objects of the intellectual rights by goods,
- existence of the organizations registering objects by assignment by him of identifiers,
- existence of the organization registering objects by creation of their identifiers,
- obligatory use of a digital signature,
- automation of the protocol of use of objects by means of the special software,
- impossibility of use of objects without the identifier in global computer networks,
- automatic transfer of money to accounts of authors from use of a traffic of provider,
- establishment by providers of the different countries of identical terms of payment,
- application of sanctions for non-performance of conditions of the agreement.

4. Conclusion

Thus, introduction of an automated control system by the intellectual rights represents almost uncontested way of the organization of collective management of copyrights in global computer networks.

Completion of creation of an automated control system by the intellectual rights in the next decade will coincide with formation of the market founded on global computer networks and electronic commerce.

References

1. WIPO Copyright Treaty: accepted by Diplomatic conference on December 20, 1996. URL: http://www.wipo.int/treaties/en/ip/wct/trtdocs_wo033.html (address date: 20.08.2013).
2. The civil code of the Russian Federation (part fourth) of 18.12.2006 No. 230-FZ, in an edition the Federal law of 01.12.2007 No. 318-FZ, with the changes brought by the Federal law of 30.06.2008 by No. 104-FZ//Collection of the legislation of the Russian Federation, 25.12.2006, No. 51 (1p.) Art. 1226, Art 1242.
3. Management of intellectual property: manual/N.V. Tikhomirova, A.P.Yakimakhov, S. N. Malchenko, E.L.Gerasimov, V.V. Bessarabova. – M: NP "Center of Development of Modern Educational Technologies", 2010. – 390 pages.

Литература

1. Договор ВОИС по авторскому праву и согласованные заявления в отношении договора ВОИС по авторскому праву: приняты Дипломатической конференцией 20 декабря 1996 г. URL: <http://www.wipo.int/treaties/ru/ip/wct/wct.html> (дата обращения: 20.08.2013).
2. Гражданский кодекс Российской Федерации (часть четвертая) от 18.12.2006 г. № 230-ФЗ, в ред. Федерального закона от 23.07.2013 г. № 222-ФЗ // Собрание законодательства РФ, 25.12.2006, № 51(1ч.), ст. 5496 // <http://base.consultant.ru/cons/cgi/online>.
3. Менеджмент интеллектуальной собственности: учебное пособие / Н.В. Тихомирова, А.П. Якимахов, С.Н. Мальченко, Е.Л. Герасимов, В.В. Бессарабова. – М.: НП «Центр развития современных образовательных технологий», 2010. – 390 с.