

Berezhna A. Peculiarities of the public use of musical works as an object of copyright: analysis of legislation

The simplicity and availability of modern technical aids that give their owners the real opportunity to seamlessly use the results of intellectual activity in music field, including the possibility of their "digital" copying in an unlimited number, has led to a large increase in cases of copyright law violations and related rights. Musical works are both the result of creative activity and objects of copyright and related rights that in commercial relations act as a subject of sale and have their price equivalent, therefore, their illegal use causes not only moral damage but also considerable material damage to the copyrighters.

Business entity for the use of musical works in a public institution, in addition to obtaining the author's permission, must also pay the remuneration to the owner of the related rights (phonograms), provided that they are commercially used. After all, from the contents of Articles 435, 440, 441, 443 of the Civil Code of Ukraine and Articles 7, 15, 31-33 of the Law it is understood that the right to use the work belongs to the author or another person who has received the corresponding property right in the permitted manner; the use of the work is carried out only subject to the author's consent or the person to whom the corresponding property right has been transferred (except for cases, the limiting list of which is established by law). Use of work without the permission of the copyrighter is a breach of copyright (related rights) provided for in Article 50 of the Law, for which according to Article 52 the possibility of bringing a guilty person to responsibility is prescribed.

Investigating the theoretical provisions in the field of intellectual property, as well as the regulatory legal acts governing the relevant relations, it may be concluded that the practical application of the collective management of property rights transferred to the organizations of collective management by the authors and other subjects of copyright and (or) related rights based on agreements. At present, the operation of collective management organizations of property copyright and related rights is stipulated by the Law of Ukraine "On Copyright and Related Rights". However, unfortunately, the said Law does not cover the legal nature, special aspects of the functioning of collective management organizations, the order of their interaction with the subjects of copyright and related rights, users, other organizations and public authorities, control over the activities of collective management organizations, etc. This, in turn, leads to the ineffective operating of existing collective management organizations, a wide field for abuse by officials of the aforementioned organizations, the lack of a transparent system for collecting and distributing rewards in favor of copyright and related rights subjects, and the refusal of users to make payments in the framework of collective management systems and, as a result, mass breach of copyright and related rights.

Key words: copyright, adjacent rights, musical works, exclusive right, organization of collective management.