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Consideration of intellectual property law in the context of European Union practice

Artem Polishchuk*
Postgraduate Student
National University of Bioresources and Nature Management of Ukraine
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine
https://orcid.org/0009-0009-2901-0329

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Abstract

The development of effective legislation on intellectual property in the context of shaping a digital society is an important issue for ensuring the stable development of innovation and protecting creators' rights. The aim of the work is to analyse the constitutional and international principles of legislative regulation in the field of intellectual property law in the European Union to improve its legal regulation in Ukraine. The scientific basis was the application of the dialectical method as a way to delve deeper into the issues of intellectual property law, as well as the use of methods such as detailing and synthesis, abstraction, analysis and synthesis, and comparative legal method. The peculiarities of legislation on intellectual property in Ukraine and the European Union have been studied, revealing the lack of unified legal regulation of intellectual property issues. Experience confirms that institutional support is necessary for the field of intellectual property in Ukraine. To determine an effective state policy, it is necessary to develop and implement new terminology in the field of copyright protection. In the past, insufficient international cooperation has led to Ukrainian legislation not meeting modern requirements, especially in actively developing areas that require special terms and designations for the protection of intellectual

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*Corresponding author

work results. Based on the results of the conducted research, it has been established that the system of intellectual property protection in Ukraine is developing and requires constant improvement. The existence of violations of intellectual property rights indicates the need for the implementation of a programme to improve this system, as state protection of intellectual property is the main aspect of developing an innovative economy and increasing Ukraine's competitiveness. In other words, due to significant gaps in legislation, manufacturers of innovative products will not rush to introduce them to the Ukrainian market, and high-tech start-ups are not protected from unfair copying of ideas. Also, based on the research results, gaps have been identified in the regulation of legal regimes for texts, music, and images generated by artificial intelligence. The research results can be useful for legislators working on improving legislation on intellectual property and for the development of strategies for managing intellectual property, which will contribute to increasing competitiveness and innovative development of business

Keywords: protection of rights; protection of rights; legal regulation; legal support; Artificial Intelligence; normative legal acts; useful model

Introduction

In modern conditions of shaping the digital society, there is a pressing issue of forming effective legislation concerning the regulation of intellectual property matters in all spheres of human activity. Unlike previous decades, there is a production of tens of times more copyrighted works, the rights to use of which are easier to compromise due to the availability of their digital copies. Consequently, it becomes more challenging for copyright holders to track violations and prove them in court. This challenge is particularly pronounced due to the widespread use of artificial intelligence, as legally such systems operate as they are – placing all risks and copyright responsibilities on users.

To thoroughly examine the problematic nature of the issue, it's worth noting that intellectual property rights essentially constitute a set of legal norms that define what can be considered intellectual property, as well as the grounds for the emergence, modification, and termination of rights (Chepis *et al*., 2023). Additionally, it describes the procedures and methods for protecting intellectual property rights and the specifics of state regulation policies in the field of intellectual property rights protection. Essentially, this whole set of measures arises when creative activity results in the emergence of non-property or property rights to a newly created unique object.

Researching the fundamentals of defining and forming the right to intellectual property at the constitutional level establishes the theoretical prerequisites for further scientific research into the practical aspects of this field. Such studies can only be conducted by combining a thorough analysis of the constitutional principles of the functioning of the institution of intellectual property rights, the establishment of its principles within the framework of constitutional provisions, and further reconsideration of the peculiarities of contemporary democratisation of society, as well as the growth and adaptation of the economy to new socio-economic standards of legal society formation (Topolevsky & Fedina, 2020; Stetsiuk, 2022).

In Ukraine, the main law that defines the directions and foundations of the use of its provisions is primarily the Constitution. According to paragraph 3 of Article 8 of the Constitution of Ukraine, the direct effect of its norms allows recourse to the court in cases of violation of at least one provision. Thus, the Constitution of Ukraine stands out for its extensive regulation and influence. This leads to an examination of the state's attitude and its ideological influence on intellectual and creative activity through the prism of constitutional legal foundations. The basic principles of developing the legislative framework in this area are determined by individual provisions of the Constitution, namely those highlighted in articles: 15, 23, 26, 34-37, 41, 54, 55, 124 (Constitution of Ukraine, 1996).

According to paragraph 1 of Article 54 of the Constitution, in Ukraine, there is the possibility to engage in creative and intellectual activities without limitations in scientific, artistic, literary, and technical spheres. In cases where there are grounds for the formation of unique objects of intellectual property, measures are taken at the state level to protect, ensuring the legal interests of creators that arise in the implementation of these objects and their copyrights. It is important to consider the political, economic, and ideological diversity in Ukraine, according to Article 15 of the Constitution of Ukraine, which manifests in the freedom of speech and expression of thoughts and words, as well as the opportunity to freely express personal beliefs and views, in line with Article 34, paragraph 1 of the Constitution of Ukraine, supported by the absence of censorship at the state level, according to Article 15 of the Constitution of Ukraine. Thus, the possibility for the existence of various independent ideas is created, as conditions are formed for the accumulation, collection, and dissemination of information without restrictions (Valle, 2010).

Furthermore, the Constitution establishes the principle of free circulation of property objects related to creative and intellectual activities (according to Article 41), while the legal aspects of ownership, use, and disposal of property objects are guaranteed under Article 54 of the Constitution of Ukraine, paragraph 2, which ensures everyone's right to the results of creative or intellectual work. This includes ownership, use, and various ways of dissemination and use by third parties, as the same paragraph of the article prohibits unauthorised use of such materials without the consent of the creator or their authorised person, except as provided by law. In addition, Article 55, paragraph 6 of the Constitution of Ukraine defines the right to take action related to the protection of rights and freedoms of individuals from unlawful actions in judicial proceedings. According to paragraph 5 of Article 55, if a person has already exhausted all possible legal protection at the national level, they may apply to the relevant international judicial organisation for the protection of rights and freedoms (Komarnytska & Butsyak, 2023; Kravchenko & Kuznetsova, 2023).

Taking into account the issues of international legislative formation and studying practical mistakes and experience in implementing the system of rights protection in other countries, the state is capable of developing a more effective legal framework for rights protection. By implementing international principles and standards of regulation in the field of intellectual property into its legislation, Ukraine promotes the powerful development of this area in the context of creating perfect mechanisms for the protection of intellectual property rights. The purpose of the study was to analyse the constitutional and international principles of legislative regulation in the

field of intellectual property law in the European Union (EU) in order to improve its legal regulation in Ukraine.

Literature Review

In the global context, intellectual property law is subject to numerous international agreements, each of which is based on principles that define the system of protecting rights to intellectual works at the international, intergovernmental level. Understanding the context of these agreements is the basis for the formation of effective national legislation in the field of intellectual property protection. In particular, one of the key agreements in the field of copyright and intellectual property is the Berne Convention for the Protection of Literary and Artistic Works, which was essentially formed in 1886. It envisages the principle of national treatment, under which creative results created in a member country are automatically protected within the competence of all states that have signed the convention. Importantly, the convention also guarantees automatic protection of intellectual property rights for all participating states, meaning that protection is automatically recognised by national treatment, without the need for formal registration. Another important principle is independent protection, which ensures that protection is provided to member countries regardless of whether protection exists in the country where the work originates (Berne Convention for the Protection…, 1886).

The Hague Agreement concerning the International Deposit of Industrial Designs regulates all issues related to one-time patenting. It eliminates the need to file a patent application for an industrial design in various countries to ensure its legal protection, and it is sufficient to file a single application for the right to an industrial design in one of the member countries (The Hague Agreement…, 1925). On the other hand, the Universal Copyright Convention, adopted in 1952, establishes the allocation of issues concerning the observance of copyright based on the principle of preference for the author's country, where the work first published is subject to protection. This convention establishes the use of a special symbol, the "©" mark, as evidence of copyright protection for a product or work (Universal Copyright Convention, 1952).

It is also essential to mention that the foundation of the International Convention regulating issues of copyright protection and the interests of performers, producers of phonograms, and broadcasting organisations, adopted in 1961, is based on the principle of national treatment. Therefore, it is considered that for a country to accede to the Rome Convention, it must be a member not only of the United Nations (UN) but also of the Berne Union, as effective protection of neighbouring rights is possible only in the presence of effective copyright protection (Rome Convention, 1961: International Convention for the Protection…, 1961; Kosiachenko, 2022).

Furthermore, in 1994, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) began operating on a global scale, regulating intellectual property rights in trade relations. Signing this agreement is a mandatory condition for countries to join the World Trade Organisation. The TRIPS Agreement defines interactions related to the protection of patents, copyrights, related rights, geographical indications, industrial designs, integrated circuits, and trade secrets – objects that can be commercialised – and provide owners with a competitive advantage in their commercial sales for profit. It is important to mention that the TRIPS Agreement also establishes principles for regulating discriminatory issues, provided that foreign persons own

and dispose of intellectual property rights in other countries (Agreement on Trade-Related..., 1994).

According to the text of the Madrid Agreement, which regulates international registration of trademarks, adopted in 1891, the country of origin of the trademark is considered to be the state that is a member of the Special Union. It is particularly important that the applicant in this state has a genuine, not fictitious industrial or commercial enterprise (Article 5 of the Agreement, paragraph 3). The Agreement establishes twenty years of validity for international registration of a trademark. Under the terms of registration, trademarks for goods or services acquire international status and are effective in the territories of countries that have signed the agreement (Madrid Agreement..., 1891). The Paris Convention for the Protection of Industrial Property plays a significant role in shaping the list of objects that may be considered industrial property in national legislation. It considers objects such as agriculture, mining, and objects of natural or industrial origin (Paris Convention for the Protection..., 1883). V.D. Bazilevich and V.V. Ilyin (2008) indicated in their study that member countries are granted the right to conclude agreements and treaties that do not contradict the key issues highlighted in the Paris Convention. The principle of national treatment, enshrined in the Convention, plays a significant role in resolving disputes related to the protection of industrial property. Obviously, the idea that the Paris Convention contributed to the development of the international system of legal protection of industrial property objects is correct.

Materials and Methods

The scientific foundation and methodological basis for the study of the issue was the application of the dialectical method as a way to delve more deeply into and comprehend the issues of intellectual property rights from the perspective of forming their constitutional principles and interrelationships. During the research, the following methods were also used: detailing and synthesis to explore the subject of intellectual property law and the relationship of its components: constitutional and international principles of legislative regulation; abstraction, which revealed the legal principles of international agreements on intellectual property rights; analysis and synthesis, including the formal-legal method for analysing cases of the Constitutional Court of Ukraine and the Court of the European Union; comparative legal method, which involved a comparative assessment of the features of legislative regulation of intellectual property rights in Ukraine.

Furthermore, the question of the various aspects of the legal study of the manifestation of intellectual property rights and their protection is widely represented in the works of scholars such as H.O. Androshchuk and L.I. Rabotiahova (2019), O.M. Korotun (2019), Yu.L. Boshytskyi (2020), and others. The works of these scholars formed the material base during the preparation of the research. In Ukraine, the following laws are directly in force: Law of Ukraine No. 3116-XII (1993), Law of Ukraine No. 3688-XII (1993), Law of Ukraine No. 3689-XII (1994), Law of Ukraine No. 3687-XII (1994), Law of Ukraine No. 621/97-VR (1997), Law of Ukraine No. 752-XIV (1999), Law of Ukraine No. 2811-IX (2022), which relate to various aspects of the protection of copyright and related rights. Therefore, relevant legislative acts were used to study the issue. Norms regulating intellectual property relations and being part of Ukrainian legislation were also used. In particular, these norms are contained in the laws Law of Ukraine No. 3322-XII (1993), Law of Ukraine No. 3691-XII (1993),

Law of Ukraine No. 123/96-VR (1996), Law of Ukraine No. 1587-III (2000), Law of Ukraine No. 2953-III (2002).

Moreover, for the study of aspects of regulating intellectual property relations, it should be noted that in cases of necessity, international treaties in this field are used, to which the Verkhovna Rada of Ukraine gives its consent to be binding. The list of such treaties can be found in Information Letter No. 01-8/1199 of the Supreme Economic Court of Ukraine (2003). Additionally, in the Civil Code of Ukraine (2003), the section "Intellectual Property Law" contains the majority of norms on the protection of intellectual property rights, which were also taken into account during the research.

Results and Discussion

The EU (European Union) is implementing the principles of a single policy aimed at creating a single market, forming the prerequisites for free activity for all market participants, and special economic zones of the EU. This is achieved, in particular, by creating a single legislative system and judiciary, including the Court of Justice of the European Union, which consolidates the judicial power of the EU. According to Article 19 of the Treaty on the European Union, "The Court of Justice of the European Union shall comprise the Court of Justice, the General Court, and specialised courts". The term "Court of Justice of the European Union" encompasses the entire judicial system of the EU, including the European Court of Justice – the highest level of the EU's judicial system, and the General Court.

The key task of the European Court is to ensure compliance with the norms of law in the application of treaties. In other words, the European Court is the highest court of the European Union in matters of Union law, but not national law. Decisions of national courts cannot be appealed to the European Court, but national courts refer questions of EU law to the ECJ (European Court of Justice) for consideration. It is the national court that must apply the interpretation received to the facts of any specific case, although only courts of final appeal are obliged to refer to questions of EU law when they are being considered. At present, Ukraine is harmonising its legislation for accession to the European Union, and on June 23, 2022, the European Council recognised Ukraine as a candidate country with certain obligations, including orientation towards the decisions of the European Court and the creation and implementation of relevant legislation (Haliantych & Harmash, 2023).

European Union legislation, in comparison with Ukrainian laws in the field of intellectual property, meets modern needs, so national legislation is being harmonised with EU requirements. Following the conclusion of the EU-Ukraine Association Agreement, the state has a list of secondary EU legislation whose provisions are to be implemented in Ukrainian legislation. The decisions of the EU Court of Justice on intellectual property rights are of particular importance, as the European Union has achieved significant results in this area, and the legislation of EU member states is adapted to modern realities (Androshchuk & Rabotiahova, 2019). For example, Law of Ukraine No. 2811-IX (2022) requires the indication of the name of the author and the source of the work (Article 21), while Directive 2001/29/EC (2001) allows for restrictions unless this is not possible (Article 5). In the case of copyright infringement in Ukraine, lawsuits are considered under the domestic legislation of the country. Only when the state refers to the case law of the EU Court of Justice can it respond more flexibly to potential copyright infringements than is provided for in the Law of Ukraine "On Copyright and Related

Rights". Thus, according to the materials of the claim against Auto-Optimal LLC (Limited Liability Company) from PJSC (Private Joint Stock Company) Research and Development Institute of Enamelled Chemical Equipment and New Technologies Kolan, a case was considered to stop the infringement of intellectual property rights during the sale of M FILTER TF23 oil filters. The Commercial Court of Cassation as part of the Supreme Court found that the sale of goods manufactured abroad is not evidence of a violation of the plaintiff's right due to the validity of the Ukrainian patent for the invention, the permission to use which was obtained by the plaintiff (Resolution of the Supreme Court in Case No. 910/5438/17, 2019).

An example of this is the case of Mrs. Eva Maria Painer, where the European Court ruled that societal needs may outweigh the interests of the author. In Mrs. Painer's case, photographs of children in orphanages and preschools were used to search for missing children. The European Court recognised that portrait photos may be protected by copyright, but an exception regarding reproduction allows for citation under the condition of "fair use" and within the limits of a specific purpose (Judgement of the European Court..., 2011).

In the context of the formation of Ukrainian legislation on the protection of intellectual property rights in Ukraine, there is a practise of forming and improving the regulatory framework as issues of intellectual property are addressed in response to individuals' appeals (Bilousova *et al*., 2021). This means that not all legal norms are regulated in the presence of contradictions, sometimes it is necessary to establish the constitutionality of legal norms, detail the application of certain provisions, or explain the peculiarities of their application in practise. In such cases, it becomes evident that key terms used in the legal practise of European countries are absent in the valid legislation. Therefore, due to the absence of many necessary terms in the valid legislation (Law of Ukraine No. 1315-VII, 2014), it is recommended to start forming a specialised terminological dictionary for objects falling under the scope of intellectual property law. This will help avoid collisions in the development of new legislative projects with relevant sectoral codes and will also avoid the need for a new reconsideration of the system of definitions for the protection of such objects. The creation of a regulatory act that establishes official definitions and interpretations of intellectual property terms will simplify the procedure for developing legislation on the protection of these objects.

Considering the practise of the Constitutional Court of Ukraine, it can be noted that it would be expedient to create new terminology for copyright. The Constitutional Court does not address violations of copyright to objects of material and non-material intellectual property. Thus, in 2020, the court adopted 507 acts related to the judiciary and the judicial system, law enforcement agencies, anti-corruption policy, and human rights violations. In 2021, the Constitutional Court of Ukraine adopted 609 acts related to constitutional appeals and complaints, while in 2022, no such materials were submitted to the court, and it continued to consider cases from previous years that were pending in constitutional proceedings (Annual information report..., 2022).

In contrast to the Constitutional Court, consideration of the practise of the Supreme Court is impossible, as this court is not capable of independently determining the constitutionality of individual articles or laws and other legal acts, but only acts as a subject of constitutional referral to the Constitutional Court. It is also important to note that several issues related to the protection of copyright are regulated by various legislative

acts of Ukraine, including the Economic Procedural Code, the Code of Administrative Offences, the Criminal Procedural Code, as well as the Civil Procedural and Criminal, Civil, Customs Codes of Ukraine, the Code of Administrative Procedure, the Labour Code of Ukraine, as well as laws such as the Law "On Protection of Rights to Trademarks for Goods and Services", "On Protection of Rights to Industrial Designs", "On Effective Management of Property Rights of Copyright and Related Rights Holders", "On Legal Protection of Geographical Indications", "On Protection of Rights to Inventions and Utility Models", "On Copyright and Related Rights", "On Protection of Rights to Semiconductor Topographies", "On Protection of Rights to Plant Varieties" (Korotun, 2019).

Regarding the definition of the concepts of "protection" and "defence" of rights, even scholars have not developed a unified approach to resolving their classification, with some identifying concepts while others include one studied concept in the composition of another. Others emphasise that these are different terms (Bulat & Pichko, 2020; Dobrovolska, 2021). Indeed, the concepts of "defence" and "protection", as well as "legal assistance" and "representation", define the functioning of state bodies, public and other organisations aimed at preventing or overcoming harm, or in another version, one can consider "protection of rights" as a complex of measures aimed at preventing violations of intellectual property rights in various forms, while the term "defence" includes measures aimed at restoring the rights of intellectual property owners (Boshytskyi, 2020). There is also the opinion of scholars that "legal protection" and "legal defence" are subsequent steps of one stage when from the protection of copyright, the respective structures move on to the active phase of their defence (Kravchenko & Kuznetsova, 2023). It is considered that legal defence is a form of restoring violated legal relations, while protection involves the resolution of a narrower issue – the protection of a specific object, in this case – copyright. In this interpretation of terms, one can fully agree; moreover, according to the decision of the Cassation Economic Court as part of the Supreme Court, the method of protecting one's rights and legitimate interests is chosen at the discretion of the person concerned, depending on the possibility of effectively eliminating infringements of rights to inventions (Resolution of the Supreme Court in Case No. 910/17205/17…, 2019). Thus, the court already assumes based on its decisions that in case of violation of rights and interests, the affected person chooses the method of their defence, not protection.

Concerning ownership of intellectual property rights, there is a certain degree of uncertainty because it is not always possible to unequivocally determine whether the rights to intellectual property themselves, the object, or the protective document for it should be registered (Popelyushko, 2010). An illustrative example of this can be a plant variety, as an object of intellectual property created by a breeder, whereby in Ukraine there is a Registry of applications for plant varieties (Law of Ukraine No. 757-2018-p, 2018), a Registry of patents for plant varieties (Law of Ukraine No. 755-2018-p, 2018), and the issue of authorship of the variety is regulated by Law of Ukraine No. 3116-XII (1993). Additionally, Ukraine has acceded to the International Convention for the Protection of New Varieties of Plants (Law of Ukraine No. 60-V, 2006), which clearly declares that for inclusion in the Registry, a variety must be: new, distinct, uniform, and stable. Furthermore, intellectual property rights extend to both the creation of the variety as a unique material and to the variety's name. The legal collision lies in the fact that the

right to distribute the variety is considered separately from personal intellectual property rights to the plant variety and to the initial material from which this variety was created. Registration of the initial material of the variety is voluntary, and in cases of unfair competition, it is difficult for the breeder to prove ownership rights specifically to the genetic material of the variety. There are also cases where counterfeit goods are sold under the name of a well-known and widespread variety, which does not correspond in quality to the original. Therefore, it is necessary to develop a unified approach where registration is specifically for intellectual property rights, and it is important to precisely define registration procedures.

It is also worth mentioning that patents for utility models are granted without undergoing qualification examination procedures, limiting the assessment solely to the novelty of the patent application itself rather than its essence (Soroka, 2017). This leads to a significant number of excessive intellectual property rights and effectively reduces the level of protection for honest patent owners. It is also considered that in every scientific discovery, there is a fundamental and applied component, which should be registered as a utility model or invention (Bulat & Pichko, 2020). According to the authors of this research, this is not entirely correct, as sometimes the theoretical component is much more valuable than the applied aspect reflected in the finished product.

Thus, the legal framework for intellectual property rights in Ukraine includes a series of regulatory acts, including those harmonised with international standards (Normative legislative acts..., n.d.). However, in modern legislation, the main attention is paid to material norms, while digital works and copyrights remain overlooked. Evidence of this is the issue of copyright regarding texts, music, and images created by artificial intelligence (AI), which in Ukraine may be considered as information and require grounds for regulating property rights (Kapitsa, 2021a; 2021b; Butnik-Siverskyi, 2023). Even in international law, these works are perceived ambiguously because it is impossible to endow artificial intelligence with property rights, and the declaration by many platforms of transferring authorship rights to the user who created it using artificial intelligence is questionable from a legal point of view.

According to the basic principles of copyright – freedom of creativity, automatic protection, independence, and exclusivity of copyright – the person who created a certain work using artificial intelligence should automatically acquire copyright to it (Shtefan, 2022). However, according to the authors, the generation of texts by a student in artificial intelligence systems does not lead to successful learning and serves only to deceive teachers. Systems for checking works for plagiarism are equipped with modules capable of establishing the authorship of a text. However, Ukrainian legislation does not provide legal recognition of a work by the person who generated it or a legally correct definition of borrowed intellectual works created using artificial intelligence. Also, an effective solution to the presented problem has not been found in the legislation of the European Union.

A relevant issue, which also belongs to the problems of regulating intellectual property rights, is the functioning of various technological start-ups and idea incubators in Ukraine, where ideas of varying degrees of embodiment in a finished product are evaluated. Various start-up competitions, idea incubators, and schools involve not only exchanging ideas but also generating commercially viable ideas of non-material and material intellectual property by teams. At the same time, it is difficult to prove the priority of the idea's emergence in specific authors if there is no

practise of documenting these ideas, patenting, or embodying them in finished products. Therefore, as society becomes more active in terms of generating new ideas and high-tech solutions, the issue of establishing copyright for these ideas becomes more complicated. Thus, alongside the harmonisation of Ukrainian legislation in the field of copyright protection for intellectual property, work should be carried out on creating new directions for the legal protection of authorship. Even the example of the rapid development of artificial intelligence shows the weaknesses of traditional regulation of authorship issues.

Conclusions

In modern conditions, the issue of research and the creation of effective legislation on intellectual property becomes relevant. This can be achieved through a thorough analysis of constitutional intellectual property law, taking into account the processes of forming its constitutional principles. In the context of shaping and spreading the digital economy and democratisation of society, as well as building a rule of law state, a detailed study of this issue is of paramount importance. Although the Constitution of Ukraine serves as the basic law, guaranteeing a free space for the realisation of intellectual creative potential, a comparative analysis of intellectual property legislation of Ukraine and the European Union reveals the absence of unified legal regulation of intellectual property issues. Experience confirms the need for institutional support for the field of intellectual property in Ukraine, in order to define an effective state policy, it is necessary to develop and implement new terminology in the field of copyright protection. Insufficient cooperation with other countries in the past has led to Ukrainian legislation not meeting the requirements of modernity, particularly in the areas of protecting the results of intellectual work in rapidly developing fields that require the use of special terms and designations.

The results of the research indicate that the system of intellectual property protection in Ukraine is in the stage of formation and requires constant improvement. The presence of numerous violations of intellectual property rights indicates the need for the implementation of a programme to improve this system, as state protection of intellectual property is a key aspect of the development of an innovative economy and increasing the competitiveness of Ukraine. In other words, due to significant gaps in legislation, manufacturers of innovative products will not rush to distribute them in the Ukrainian market, and high-tech start-ups are not protected from unfair copying of ideas. Urgent resolution is also needed regarding the regulation of legal regimes for texts, music, and images generated by artificial intelligence. Further research into the harmonisation of Ukrainian legislation in the field of intellectual property with international standards, the development of modern terminology, and new directions in the legal protection of authorship are crucial.

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Conflict of Interest

None.

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Розгляд права інтелектуальної власності в контексті практики Європейського Союзу

Артем Едуардович Поліщук
Аспірант
Національний університет біоресурсів і природокористування України
03041, вул. Героїв Оборони, 15, м. Київ, Україна
https://orcid.org/0009-0009-2901-0329

Анотація

Розробка ефективного законодавства з питань інтелектуальної власності в контексті формування цифрового суспільства є важливим питанням для забезпечення стабільного розвитку інновацій та захисту прав творців. Мета роботи – проаналізувати конституційні та міжнародні принципи законодавчого регулювання сфери права інтелектуальної власності в Європейському Союзі з метою удосконалення його правового врегулювання в Україні. Науковим підґрунтям було застосування діалектичного методу як способу більш глибоко опрацювати питання права інтелектуальної власності, а також застосовували такі методи: деталізація та синтез, абстрагування, аналіз та синтез, порівняльно-правовий метод. Вивчено особливості законодавства про інтелектуальну власність України та Європейського Союзу, виявлено відсутність єдиного правового регулювання питань інтелектуальної власності. Досвід підтверджує, що для галузі інтелектуальної власності в Україні необхідне інституційне забезпечення. Для визначення ефективної державної політики слід розробляти та впроваджувати нову термінологію у сфері охорони авторського права. У минулому недостатня міжнародна співпраця призвела до того, що українське законодавство не відповідає сучасним вимогам, особливо у сферах, що активно розвиваються, і потребують спеціальних термінів та позначень для охорони результатів інтелектуальної праці. На основі результатів проведеного дослідження встановлено, що система захисту інтелектуальної власності в Україні розвивається і потребує постійного вдосконалення. Наявність порушень прав інтелектуальної власності свідчить про необхідність впровадження програми для поліпшення цієї системи, оскільки державна охорона інтелектуальної власності є головним аспектом розвитку саме інноваційної економіки та збільшення конкурентоспроможності України. Іншими словами – за значних прогалин в законодавстві виробники інноваційних продуктів не поспішатимуть поширювати їх на ринок України, а хай тек стартапи не захищені від недобросовісного копіювання ідей. Також за результатами досліджень виявлено прогалини в питаннях регулювання правових режимів текстів, музики, зображень генерованої штучним інтелектом. Результати дослідження можуть бути корисні для законодавців, які працюють над удосконаленням законодавства з питань інтелектуальної власності, а також для розробки стратегій управління інтелектуальною власністю, що сприятиме збільшенню конкурентоспроможності та інноваційного розвитку бізнесу

Ключові слова: захист прав; охорона прав; правове регулювання; правове забезпечення; штучний інтелект; нормативно-правові акти; корисна модель