In addition, Ukrainian and European legislation allow protecting trademarks under the ground of announcing them well known through courts. Such procedure isn't provided for commercial names but the law doesn't forbid to use the same commercial names by different entities in different kinds of activity. However, any entity may freely change or extend its activity without any special procedure and commercial names cannot be registered because there is no registration and even Paris Convention doesn't provide different classes of products and services for commercial names as it is done for trademarks (*Nice Classification under Nice Agreement*). Ukraine has more than 25 kinds of legal forms of entities and their unions all of them may have the same name despite of kind and sphere of their activity, this leads to troubles with protection against unfair competition and troubles with identification of different entities. Thus, the authors propose to protect only registered trademarks and commercial names and to provide unique names and unique commercial names for every entity.

Problems of domain names protection, defense against unfair competition and cybersquatting are investigated. In Ukraine exists ban for using in domain names the same or very similar signs with registered trademark in connection with the same or similar class of products and services. But there is no ban for using in domain names the same or very similar sign with existing commercial name. It needs revising both for protecting commercial name owners and consumer rights against mislead. It is also worth to provide a possibility to protest cybersquatting in meaning to protest the same with famous character or product trademark registration ones using of its sign preceded the trademark registration by another person than the person who registered it.

Key words: trademarks, signs for products and services, commercial names, trademarks registration, class of trades and services.

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FEATURES OF THE LEGISLATION OF THE REPUBLIC OF AZERBAIJAN IN THE SPHERE OF COPYRIGHT PROTECTION

One of the main directions of the intellectual property right is a copyright. In the modern world, no boundary can prevent the spread of creative works. Therefore, the copyright became such a field that its center point is in each part of the world and has no circle. All these are of utmost importance in the development of international trading of cultural blessings and such mutual performance security must be provided¹.

Protection of copyright is one of the top priorities in the protection of intellectual property rights, and the basis for the successful development of science, literature and art is not only the recognition of copyright, but also the provision of reliable protection of these rights. Copyright does not allow other persons to use the product of his creative activity without the permission of the author². On the other hand, in the context of globalization, with the expansion of innovation to a qualitatively new level, the pace of change of economic and industrial processes around the world, the spread of innovative novelties, the unprecedented acceleration of their application in industry, copyright infringement in many countries (Russia, China, Kazakhstan, Ukraine, Brazil, etc.) is growing rapidly. Experts note that the main reason for such violations in these countries is the economical factor³. Azerbaijan is a country with ancient and rich culture. There are rich traditions related to the preservation and promotion of spiritual culture traditions, intellectual property, creative achievements. The intellect, the most important wealth of the nation, is always based on creativity as its source. Creative, scientific, literary and artistic works have played a pivotal role in promoting human culture throughout history, and their preservation has led to cultural reproduction. From this point of view, it is necessary to note the centuries-old traditions of the Azerbaijani people. As you know, Gutenberg's discovery of the printing method is the beginning of the formation of modern copyright. Creation of rights to the results of intellectual activity has been shaped in the XV century, with the development of society and technical progress, on the one hand, the economic significance of the consequences of the activity of the radicalism, on the other, the simplification of copying of works of art and technology⁴. At that time, the books were published in a large scale in the Republic of Venice. Thanks to the active foreign relations of the countries of Ak Koyunlu and Safavid states with the Western European countries, especially the Republic of Venice, the work of the Azerbaijani author was published in 1594 in Rome in the "Medichi" printing house. This book was Tahriri-Oqilidis, which was written in 1248 by the great Azerbaijani scientist Nasreddin Tusi and was the best textbook on geometry and algebra in Asian and Eastern countries in the XIX century and in the case of manuscripts since 1248. This work was later re-published in 1598 in Medichi printing-house, then translated into Latin and re-published in 1657 in London. This book was used as a textbook in European schools until our time⁵. From the XVII century, in the Safavid era, which has been actively promoting book publishing, copyright in Azerbaijan was adopted in modern terms and its regulation was carried out under ordinary law. In the Safavid State, the book was first published in the Azerbaijani language in the 18th century, and then by the lithography method in Tabriz, and the first book published in Azerbaijani was "Leyli and Majnun" work by M. Fuzuli⁶. Apparently, the history of copyright and book publishing in Azerbaijan is about five centuries. Professor Kamran Imanov notes that these organic relationships "from the

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creator, author to manuscript, book”, “from manuscript, and book to the copyright” demonstrate the importance of copyright in creativity. Creativity products have put into action the human culture. Legislative acts protecting the rights of creative individuals have also emerged as a necessary condition for the preservation of national heritage⁷.

Modern copyrights of Azerbaijan have been completed and enriched with Latin and Anglo-Saxon legal traditions and the best practices of WIPO and developed countries. In this regard, to ensure the effective functioning, sustainable development and transparency of the copyright area, the protection of the cultural heritage of the Azerbaijani people, the fight against Armenian plagiarism, the role of the creative industry in the modern economy and the information society based on copyright and related rights, expansion, overall intellectual property protection and development is one of the priorities of state policy in the Republic of Azerbaijan.

Copyright is protected by law. According to Article 27 of the Universal Declaration of Human Rights, “Everyone has the right to take part in the cultural life of society, to enjoy the arts, to participate in scientific advancement and to enjoy his blessings, as well as the moral and material interests of scientific, literary and etiquette has the right to defense”⁸. According to Article 15 of the 1966 International Covenant on Economic, Social and Cultural Rights, intellectual property rights are an integral part of cultural rights, and States Parties should ensure that everyone has the right to participate in cultural life, the results of scientific advancement, and their practical application, acknowledges the right of the author to protect the moral and material interests of any scientific, literary or artistic work he authorizes. States Parties should take measures aimed at protecting, developing and disseminating science and culture so that people can exercise these rights. States Parties undertake to respect all rights necessary for scientific research and creative activities⁹.

Legislative acts protecting and defending the rights of creative individuals have also emerged as a necessary condition for the preservation of national heritage, cultural traditions and identity. The creation of a strong and independent cultural industry depends on the existence of such laws.

The constitutional legal recognition of intellectual property rights in the Republic of Azerbaijan was first established by the Constitution dated November 12, 1995. Article 30 of the Constitution of the Republic of Azerbaijan, which states the importance of these rights in the third chapter, “Everyone has the right to intellectual property.” Copyright, the right to invention and other types of intellectual property are protected by law¹⁰. Apparently, the Constitution guarantees the protection of intellectual property rights, and, as seen from these constitutional-legal norms, the legislation clearly defines the scope of rights and intellectual property protected by law.

By enacting Law on “Copyrights and Related Rights” in 1996 Azerbaijan was one of countries first created legislative base in this field in the former USSR. This law approved the principles of legal state building that declared by the government as a first Act in the field of copyright in the Azerbaijani history. This Act strengthens main directions of public policy in the field of copyright, regulates relations among the authors (holders of the right), works and users and provided the national legislative base of copyright. The following main directions of the Act were defined:

1. encouraging and stimulating creative performance regarding to creating scientific, literary and art works and increasing nation’s sentimental values;
2. Establishment of legislative base providing definition and protection of copyrights on the basis of advanced international experience;
3. Establishment of public administration in the field of copyright and related rights;
4. Protection of copyrights of the national right holders in the territory of other countries by developing international relations¹¹.

One of the traditional functions of each country is a wide international cooperation creating opportunity to provide national protection of the rights of the national authors internationally and rights international authors within the country. According to the international norms rights of participation in the cultural life, using and applying achievements of scientific development, protection of spiritual and material interests being the result of scientific, literary and artistic creativity which he/she is the author are recognized. The participated governments have to take actions directed to protection, development and spread of science and culture with the purpose of people executing these rights and respect to all necessary rights for scientific researches and creative activities.

Using the international experience in the field of copyright, taking into account the national traditions and features and interests of all parties are of special importance. Thus Azerbaijan government takes active part in the international cooperation in the field of intellectual property.

In this regard, in 1995, the legislative system connected with protection of intellectual property was improved, normative-legal base was established in Azerbaijan Republic that joined to WIPO, it has joined to all international conventions and agreements in the direction of protection of intellectual property and adaptation of legislation to international standards, bilateral agreements were concluded with regional states, institutional oversight mechanisms for the protection of intellectual property rights have been established¹².

One of the main features of modern democratic, legal states is the recognition of human and civil rights and freedoms and provision with their state protection. All works of art and inventions arise from human genius. They are a source of guarantee for decent life of human. “Reliable protection of all kinds of art and inventions is the duty of the state”. These important words belonging to Doctor Arpad Bogsha are written on the dome of WIPO’s Geneva headquarters¹³. These thoughts, in essence and from the standpoint of philosophically, determine brightly and comprehensively the role and importance of intellectual property in the modern world once again.

Protection of human and civil rights and freedoms, generally legal status of personality is realized on the account of various methods. Rights and freedoms that isn’t sufficient execution mechanism cannot be realized and individuals understand such rights as fiction simply, not as a behavioral opportunity that a state guaranteed¹⁴. Every

subjective civil right, including intellectual property rights must be protected. Carriers of these rights have an authority to protect that right through the means stipulated by the legislation. According to the words of author V.P. Gribanov: "Subjective right that is granted to the person, but not provided with necessary remedies is only a declarative right¹⁵. In this sense, copyright should not be declarative. Copyright infringement is accompanied by the creation of a copy of a work, its transfer, sale, etc. Copyright infringement causes both material and moral damage to authors. How is this material and moral damage expressed? Article 21.2 of the Civil Code of the Republic of Azerbaijan states that damage means expenses incurred or to be incurred by the person whose rights were violated to restore the infringed right, deprivation of property or damage to property (real damage), as well as incomes of the infringed person to be gained in ordinary civil turnover unless his rights were not violated (lost profits)¹⁶. Society faced this problem at a time when the circulation of information took place in electronic digital form, and existing laws were not sufficient to regulate the emerging public relations¹⁷. As a result, the threat to the material and creativity interests of the authors leads to their deprivation of financial incentives and, as a result, to a decrease in creative activity. For these reasons, the importance of copyright protection in almost all areas of science, literature and art in modern times is undeniable. As for the practical side of the problem, it is clear that in many cases it is not so easy to ensure copyright protection. From this point of view, the question arises: what copyright and the protection of these rights mean, and how can copyright be more effectively protected?

It is important to note that the legal literature traditionally separates the concepts of protection and defense of rights. These terms are sometimes used interchangeably in existing legal acts, often as synonyms. In civil law, protection usually means the establishment of a general legal regime of values that can benefit the right holder during its implementation, and protection means the measures taken in case of violation or dispute of subjective rights¹⁸.

In jurisprudence, the protection of copyright means a set of measures aimed at the restoration or recognition of copyright infringement and the protection of the interests of their owners in the event of infringement or dispute. Copyright doesn't just have to be real. The subjects of these rights must be able to prevent the violation of these rights, their restoration, compensation for losses incurred as a result of the violation of the rights of the subject. Article 1097.1 of the Civil Code of the Republic of Azerbaijan states that damage caused to the person or property of an individual as a result of a civil violation, as well as damage to the property and business reputation of a legal entity must be compensated in full by the injured party¹⁹.

Protection of intellectual property rights—is a system of complex measures considering the legislative, economic, organizational-technical and other methods applied for the purpose of providing various forms (judicial protection, self-protection of citizens etc.) of the protection of rights and freedoms, including realization of the subjective rights and freedoms stipulated by the national legislation. Legislation considers two types for the subject of the provision mechanism of rights and freedoms:

- 1) Protection mechanism through executive authorities.
- 2) Protection mechanism through the court;

The first type includes administrative-legal protection and self-defense and the second includes defense in various courts²⁰.

There are institutional control mechanisms in the field of the protection of intellectual property rights in the Republic of Azerbaijan. The protection mechanism, through the executive authorities that is an important mechanism for the protection of intellectual property rights, includes administrative procedures and remedies. Many legislative acts of the Republic of Azerbaijan, including the Law on Copyright and Related Rights, state that (Article 44) owners of copyright and related rights, as well as competent state bodies and organizations managing property rights on a collective basis violate copyright and related rights and or have the right to demand the cessation of actions that threaten to violate²¹.

In the pre-trial defense process, the right holder and the offender try to resolve the issue by mutual agreement and administrative procedures before going to court. As can be seen, pre-trial copyright protection (or remedies) means that both the holders of copyright and related rights, as well as the body established by the relevant executive authority (competent state bodies) and organizations managing property rights on a collective basis, have the right to prevent infringements. Therefore, the protection of violated rights can be carried out through various legal methods. The question arises here: what are the mechanisms for pre-trial copyright protection?

The author may apply to the relevant copyright protection organization (eg the Intellectual Property Agency in the Republic of Azerbaijan) for protection of infringed copyright in the country of residence or in the country where the work is registered.

Various executive authorities was authorized to protect rights and to regulate issues related to different types of intellectual property rights in the Republic of Azerbaijan. So, according to the Decree of the President of the Republic of Azerbaijan on the application of the Law No 365-IVQ dated 22 May 2012 of the Azerbaijan Republic "about Enforcement of the Intellectual Property Rights and Fight against Piracy", the responsible executive authorities for relevant issues provided by law are determined the Intellectual Property Agency of the Republic of Azerbaijan and the Ministry of Culture and Tourism of the Republic of Azerbaijan. With regard to the protection of intellectual property rights, the Ministry of Transport, Communications and High Technologies of the Republic of Azerbaijan is also competent²². As the central executive authority, the aforementioned public authorities carry out the state policy and governance in the field of copyright, related rights and other intellectual property rights and formed the close partnership relations with the WIPO.

According to Article 46 of the Law of the Republic of Azerbaijan on Copyright and Related Rights, authorized officials and bodies must take necessary measures in accordance with the legislation of the Republic of Azerbaijan to ensure the restoration of infringed copyright and related rights. It can also be considered as a means of pre-trial

settlement of the problem. Also, according to Part 3 of this article, the procedures for civil protection of copyright and related rights must be equal, fair and simple, not lead to inefficient delays and civil procedure of the Republic of Azerbaijan. shall be carried out in accordance with the legislation. This provision is also reflected in Article 3 of the Law of the Republic of Azerbaijan “On Ensuring Intellectual Property Rights and Combating Piracy” titled “Procedures for Ensuring Civil Legal Protection”²³.

The question arises as to what are the procedures provided for in the law to ensure the civil protection of copyright and related rights? According to Section 2 of the Charter of the Intellectual Property Agency of the Republic of Azerbaijan approved by the Decree of the President of the Republic of Azerbaijan No. 222 dated July 30, 2018 (titled “the purpose and directions of the activity of the Agency”), one of the main objectives of this body is to protect the rights of the holders of intellectual property rights. Also, the Agency’s activities to achieve this goal are as follows:

2.2.1. to participate in the formation of a unified state policy in the field of intellectual property rights and to ensure the implementation of this policy;

2.2.2. to carry out regulation in the field of intellectual property rights and control compliance with the legislation in force;

2.2.3. to ensure legal protection of intellectual property rights, to prevent their misappropriation and violation of rights related to their use, and to take appropriate measures in this regard²⁴.

According to Part 3 of the Charter titled the responsibilities and rights of the Agency, the main responsibilities of this body are to raise issues with international organizations to protect the rights of Azerbaijani authors and other right holders in the case of illegal use abroad, and to take appropriate measures to ensure legal protection of intellectual property rights, to consider petitions for their recognition and take appropriate decisions, as well as to organize expertise to determine the authenticity of copyright and related rights objects, data sets and integrated circuit topologies, to organize state registration of copyright objects, to take appropriate measures against violation and distortion of copyrighted works in use of state owned works, to settle disputed relations with authors and other right holders and organizations managing property rights on a collective basis. In addition, to ensure the receipt and delivery of royalties for the use of works of Azerbaijani authors and other rights holders and related rights abroad, to take measures in accordance with the Code of Administrative Offenses of the Republic of Azerbaijan in case of administrative violations in the field of intellectual property rights; to provide information accordingly in case of criminal indications.

According to the Charter, in accordance with the requirements of the time, the Agency together with other countries, creates a system and base of copyright protection on the Internet network, controls the use of property rights of authors, performers and phonogram producers in digital networks, in cases of legal violation, as well as illegal destruction of technical defense means ensuring the restrictions imposed on use of the rights takes measures to bring the offenders to justice, as well as to stop the use of their information resources, files claims and defend the interests of the right holders at the initiative of the right holders and in other cases in respect to restore the infringed rights; prepares expert opinions upon request of relevant state and judicial authorities, participates in court and other events as an expert and representative, keeps records and analyze cases related to violations of intellectual property rights, systematizes the information collected²⁵.

According to Article 12 of the Law of the Republic of Azerbaijan “On Enforcement of Intellectual Property Rights and Anti-Piracy”, unique digital codes are used in such objects to ensure legal protection of copyright and related rights, and these codes allow to identify the information on the origin of development of objects of copyright and related rights. (Article 12.2)²⁶.

In addition to the forms we have mentioned, the authorized subjects may independently protect their copyright. A traditional example of self-defense is the actions taken in the necessary defense and necessity. However, the range of means of self-defense in the area under discussion is quite narrow (for example, making additions and changes to a work that are not provided for in the author’s contract or refusing to perform it if the contract is invalid).

The legal regulation of results of intellectual activity and intellectual property rights is necessary in the process of realization and protection of human rights and freedoms. In accordance with generally accepted world practice and the legislation of Azerbaijan, the protection of intellectual property rights concerns the powers of the judicial authorities of the Azerbaijan Republic. According to the Law of the Republic of Azerbaijan “On Copyrights and Related rights”, holders of copyrights and related rights may apply to the court for the protection of their rights (Article 45)²⁷. Therefore depending on the degree of infringement, for the protection of their rights right holder (author) may raise a claim in the court in a civil manner, as well as make complaint to the court in the manner stipulated by the administrative and criminal procedural legislation. Issues related to the infringement of intellectual property rights in the Republic of Azerbaijan are considered in general courts and administrative-economic courts. One of the important issues for the protection of intellectual property right is also the legal responsibility issue. Legal responsibility – is a state coercion for non-execution of legal requirements²⁸. The legislation of the Republic of Azerbaijan provides 3 types of legal responsibility arising from the infringement of intellectual property right:

- 1) Civil responsibility;
- 2) Administrative responsibility ;
- 3) Criminal responsibility.

According to the Article 47 of the Law on Copyrights and Related Rights, for the violation of copyrights and related rights stipulated by this Law the civil, administrative and criminal responsibilities were considered in accordance with the legislation of the Republic of Azerbaijan. Legal responsibility related to the infringement of intellectual property right determines on the basis of the relevant judicial decision. Civil responsibility arises to compensate for pecuniary and non-pecuniary damage caused to the right holder by illegal actions. Thus, in the event

that the fact of law violation is proved in the court, in cases of a person who allowed to law violation didn't know that he/she was illegal of actions related to illegal use of intellectual property or there are no sufficient grounds to know it, the court is entitled to take a decision on compensation of the damage incurred by the right holder. The following shall be taken into account when calculating the damage caused to the right holder:

- a) income obtained or to be obtained by infringer as a result of illegal use of intellectual property of a person, whose rights were infringed;
- b) costs incurred and to be incurred by the right holder for restoration of his/her violated rights (including fee paid to the lawyer);
- c) incomes (lost profit) to be obtained by the right holder, through legal exploitation of intellectual property, if his/her rights weren't infringed²⁹.

Also, upon consideration of disputes connected with the copyright and related rights the court may in addition to general methods of civil-law protection, apply on demand of the claimant the following measures:

- 1) the surrender, in place of the payment of damages, of income derived by the infringer from the infringement of the copyright and related rights;
- 2) payment, in place of damages or the surrender of income, of an indemnity in an amount from 110 to 55,000 manats the conditional units;
- 3) confiscation of materials and equipment used for the duplication (production) of pirated copies based on a court decision, considering the gravity degree of law violation and legal interests of other persons;
- 4) confiscation or destruction of pirated copies in the judicial manner without payment any compensation to the party, whose his/her rights were infringed³⁰ [20].

Author or related rights holder are entitled to require from a person, whose rights were infringed, the payment of compensation, as well as realties to be obtained during the normal use of the work belonging to him/her or of other intellectual property right object³¹. According to the Article 1097.1 of the Civil Code of the Republic of Azerbaijan, any harm caused to a person or property of a private person, as well as harm caused to the property and business reputation of a legal entity, in result of a civil rights violation, shall be subject to complete compensation by the person, causing such harm³².

In addition to the civil responsibility measures we have noted in terms of copyright infringement, the legislation also provides for administrative and criminal responsibility. In accordance with the Law of the Republic of Azerbaijan "on Enforcement of intellectual property rights and fight against piracy", consideration of grounds of administrative responsibility for infringement of intellectual property rights, also administrative disputes related these rights is carried out accordance with provisions of the Code of Administrative Offences dated 11 July 2000 and Code of Administrative Procedure (Article 11). Considering the violation of the copyright and related rights (Article 185), violation of exclusive right for use of integrated-circuit layout (Article 186), illegal use of information collections (Article 188), illegal use of trademarks (Article 412), deliberate destruction, forgery, illegally manufacture, use and sale of control marks (Article 413) as an administrative law violations in the Code of Administrative Offences of the Republic of Azerbaijan, penalty sanction was determined. According to the requirement of the Article 185 titled "Violation of the copyright and related rights" of the Code of Administrative Offences, Violation of copyright and related rights, if a damage caused by this is insignificant (up to one thousand manats) – shall involve penalization at the rate of eighty to one hundred fifty manats, with confiscation of pirated copies, as well as materials, equipment used for making (production) and spreading of pirated copies and other means caused to law violation³³.

The grounds for criminal liability for infringement of copyright or related rights are defined in the current Criminal Code of the Republic of Azerbaijan as infringement of copyright or related rights (Article 165)³⁴.

According to the requirement of the 1st part of Article titled "Infringement of author's or related rights (Article 165)" in Chapter "Crimes against constitutional rights and freedoms of the person and the citizen" of the Criminal Code of the Republic of Azerbaijan, illegal use of author's or adjacent rights objects, that is edition under a name or different way in assignment of authorship of another's scientific, literary, art or other product, its illegal reprinting or distribution, as well as compulsion to co-authorship and as a result of these acts damage caused was in significant size – is punishable by the penalty at a rate from one thousand to two thousand manats or public works for the term from three hundred twenty to four hundred eighty hours. According to the requirement of the 2nd part of that Article, if the same acts committed repeatedly, also on preliminary arrangement by group of persons and by organized group – is punishable by the penalty at a rate from two thousand to four thousand manats or corrective works for the term of up to two years, or restraint of freedom for the term up to two years, or imprisonment for the term up to two years³⁵.

It is important to note that research on copyright protection shows that when it comes to the practical side of the problem, it is clear that in many cases legal remedies are not sufficient to protect copyright, and this should also be strengthened and ensured by technical protection. Despite all this, the role of law in the protection of copyright remains leading.

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Резюме

Сафаров А.Т. Особливості законодавства Азербайджанської Республіки в сфері захист авторських прав.

Захист авторських прав – це пріоритетний напрям у сфері захисту й охорони прав інтелектуальної власності. Авторські права не дозволяють іншим особам користуватися продуктом творчої діяльності автора без його дозволу. Порушення авторських прав заіває авторам як матеріальний, так і моральний збиток. У підсумку виникнення загрози матеріальним і творчим інтересам авторів призводить до втрати стимулу й зниженню рівня творчої активності.

Авторські права захищаються законом. У юриспруденції захист авторських прав передбачає сукупність заходів, спрямованих на відновлення й визнання авторських прав у разі їх порушення та на захист інтересів власника даних прав при порушенні або запереченні авторських прав. Захист авторських прав здійснюється у встановленому законом порядку, тобто шляхом застосування необхідних форм, коштів і методів захисту. Із цього погляду захист авторських прав підрозділяється на судову й позасудову (досудовий захист і захист у судовому порядку). За законом власники авторських і суміжних прав, компетентні державні органи й організації, що крують майновими правами на колективній основі, вправі запобігати порушенню авторських прав.

Дослідження щодо захисту авторських прав свідчать, що у багатьох випадках засобів правового захисту недостатньо, щомеає бути посилено й забезпечено технічними засобами захисту. Незважаючи на це, роль закону щодо захисту авторських прав залишається провідною.

Ключові слова: автор, авторське право, суміжні права, інтелектуальна власність, права інтелектуальної власності, права власності, піратський продукт, піратська копія, комп'ютерне програмне забезпечення, судовий захист, позасудовий захист, інтернет, авторські інтереси, суб'єктивні права, цивільно-правова відповідальність.

Резюме

Сафаров А.Т. Особенности законодательства Азербайджанской Республики в сфере защита авторских прав.

Защита авторских прав – это приоритетное направление в области защиты и охраны прав интеллектуальной собственности. Авторские права не позволяют другим лицам пользоваться продуктом творческой деятельности автора без его разрешения. Нарушение авторских прав причиняет авторам как материальный, так и моральный ущерб. В итоге возникновение угрозы материальным и творческим интересам авторов приводит к потере стимула и снижению уровня творческой активности.

Авторские права защищаются законом. В юриспруденции защита авторских прав подразумевает совокупность мер, направленных на восстановление и признание авторских прав при их нарушении и на защиту интересов владельца данных прав при нарушении или оспаривании авторских прав. Защита авторских прав осуществляется в установленном законом порядке, т.е. путем применения необходимых форм, средств и методов защиты. С этой точки зрения защита авторских прав подразделяется на судебную и внесудебную (досудебная защита и защита в судебном порядке). По закону владельцы авторских и смежных прав, компетентные государственные органы и организации, управляющие имущественными правами на коллективной основе, вправе предотвращать нарушения авторских прав.

Исследования по защите авторских прав показывают, что во многих случаях средства правовой защиты не являются достаточными, что должно быть усилено и обеспечено техническими средствами защиты. Несмотря на это, роль закона по защите авторских прав остается ведущей.

Ключевые слова: автор, авторское право, смежные права, интеллектуальная собственность, права интеллектуальной собственности, права собственности, пиратский продукт, пиратская копия, компьютерное программное обеспечение, судебная защита, внесудебная защита, интернет, авторские интересы, субъективные права, гражданско-правовая ответственность.

Summary

Azer Tofiq Safarov. Features of the legislation of the Republic of Azerbaijan in the sphere of copyright protection.

Copyright protection is a priority orientation in the field of protection of intellectual property rights. Copyright does not allow other people to use the products of creative activity of authors without their permission. Copyright violaton causes the authors both material and moral damage. The copyright protection in jurisprudence implies the set of measures aimed at the restoration and recognition of copyright in case of their violation and also it protects the interests of the owner of these rights in violation or contestation of copyrights. The copyright protection is carried out in accordance with the procedure established by law, i.e. by applying of necessary forms, means and methods of protection. From this point of view, the copyright protection is divided to judicial and non-judicial (pre-judicial protection and protection by judicial procedure).

Key words: author, copyright, related rights, property rights, intellectual property, intellectual property right, personal rights, pirated product, pirate copy, computer software, judicial protection, non-Judicial protection, The Internet, author's interests, subjective rights, civil liability.