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CIVIL-LEGAL REGULATION OF THE RELATIONSHIPS IN THE INTERNET

Research object: civil relationships in a global network the Internet, them adjusting by a positive legislation.

The subject of research is civil relationships in the Internet, them legal nature, essence, adjusting in a current legislation.

Purpose of work: theoretical comprehension, exposure of theoretical principles and directions of adjusting of civil relationships in the Internet, exposure of blanks and their reasons in adjusting of legal relationships, development of practical recommendations for increasing of level of their adjuste.

Actuality of theme: conditioned development of civil legislation, cardinal change of doctrine of property law, incorporeal right, presence of failings and blanks in the positive adjusting of legal relationships.

A lot of agreements consist over the Internet, there are virtual bank, all spheres of business life in the Internet. Due to world prevalence of the Internet the user from Ukraine have possibility obtain information from the Library of Congress of the USA. All of it takes a place through one of biggest-selling functions of the Internet - WWW (World Wide Web). It a basic brick is Internet site which has all of this information on.

Determination of the legal mode of Internet site is very important, as a legal adjusting of it remained outside a current legislation, without regard to that Internet sites become more developed and scale.

Scientists, practitioner, official of different grades, insist on the decision of this problem, necessity of bringing a national legislation over international norms.

Many scientists (Ch.N. Azimov, Ya.M. Shevchenko, Yu.L. Boshickiy, R.B. Cone, O.V. Dzera, A.S. Dovgert) which probe the problems of incorporeal right repeatedly turned their attention to separate problems which arise up during application of traditional copyright to new information technologies, in particular to the Internet. However complex research of problems of legal safeguard of Internet site in the modern theory of copyright was'nt carried out.

Obviously, that the Internet today grew into the important factor of public, political and economic life of country, consequence was growing of the state and society interest to the Internet in general and to commerce in the Internet. Gradually a global network becomes an important sphere of economic activity of society. In this connection with study of the legal adjusting of CPLD from the Internet of public relations has large social meaningfulness.

The internet is the new phenomenon in our life. Even today, it's marked higher, it owns enormous influence as on separate relations in society and on development of society in whole. For legal science it means the necessity of study of this phenomenon in its intercommunication with public relations, well-regulated laws.

It is necessary to find out a presence or absence of changes in these relations, which developing in use their participants the Internet, can require making alteration in an current legislation.

Yes, for example, use the Internet in the process of entrepreneurial activity already brought over to appearance in our lexicon such concept as "electronic commerce". In legal con-

templation today is carried out engulfed these concepts by the use the Internet activity, directed on the systematic receipt of income from using property, sale of commodities, implementation of works, grant of services, or, in other words, it's carried out by the use the Internet entrepreneurial activity. Electronic commerce differs from entrepreneurial activity, carried out in ordinary physical space of our world, which in same queue results in insufficiency of the existent legal adjusting with enterprise relations which arise up and develop at the use the Internet.

Concept of the Internet can be defined as:

a) informative computer system, which consists of aggregate of separate informative computer networks, incorporated on the basis of the unique internetwork protocol; b) informative space; c) place of existence of subjects of society; g) an aggregate of informative public relations in a virtual environment.

Structure of the Internet, is examined as an aggregate of informative public relations in a virtual environment, is determined as intercommunication of informative public relations and virtual environment.

According to legal nature the Internet is the object of legal action of norms of the different branches of law, and most public relations, which are formed and developed in the Internet, concern to the subject of the civil adjusting. From civil positions legal nature of the Internet can not be certain in framework of existent institutes, as he is neither the subject of civil relationships nor object of civil laws, and can not be fully attributed to the subject of the civil adjusting.

A civil relationship in the Internet is an informative relation, which exists in the Internet, concern to the subject of civil law, and consequently, participants of which legally levels.

The specific of civil matters in the Internet consists in a presence of untraditional pre-condition (only users of the Internet can be subjects, which own necessary access to the Internet), virtualness (exist only in the environment artificially created and supported computers

at the use of the special programmatic and technical providing), existence in indefinite physical limits space.

For realization of possibility of accomplishment of operations in an outage of writing form acceptance of additional norms, regulative the use in a virtual environment the Internet of electronic digital signature is needed in the Internet.

For firmness of civil matters in the Internet, application of electronic digital signature, turn into the Internet of advertising and other specially certain information it is necessary to make alteration in a current legislation. In connection with it offered:

- to set prohibition on anonymous access to the Internet;

- to complement the article 641 of the Civil code [1] the text of the following maintenance: "Suggestion to conclude competence, signed the analogue of sign manual, and also answer of other side about acceptance of this suggestion, signed the same analogue, acknowledged achievement of agreement sides about the use during realization of this competence of this analogue";

- indention 2 of the second article of Law of Ukraine "About advertising" to form in the following release: "Advertising - expandable any facilities and methods, is addressed to the unlimited circle of persons information about the object, which contains suggestion to do related with this object offers and enter into the agreeably relationships" [2];

- work aut and carry aut the program providing which allows to limit the information supply from the Internet according to the definite categories of data. (for instance advertising).

Taking into account the features of such software to develop and accept legal acts, which set the duties of persons all expandable by them information in the Internet and specially certain in the indicated acts information, distribution of which is limited in time or on certain territories, mark the special signs which allow browser to

identify such information and dissociate it from other expandable in the Internet information and do not display data on peripheral units.

Suggestion about author determination of term "Internet site", as the separated, logically completed element of the Internet, created on the basis of technology of hyperlinks, which is located on a server (host), has an unique address (url) due to it can get access any user of the Internet, and in the basis contains Internet pages which have a graphic kind and can be revised by the special computer programs (browser s) and it is suggested to bring to the article 1 of Law of Ukraine "About a copyright and allied rights" for addition in part of this determination [3].

Conclusion that Internet site is the object of copyright to in compliance with the legislation Ukraine, as is a result of creative work of author and answers to signs, which concern to the object of copyright, which in the composition can contain other objects of copyright in quality of component parts.

Basicical normative act, which regulate the uses which are formed on a base of Internet public relations, is Constitution of Ukraine of 1996 [4]. Norms of the real act, not only fasten and regulate a public and state device, proper economic and social relations in Ukraine but also fix initial positions of informative activity in the country, human right on information as one of fundamental rights [5]. A basic condition which is designated by a Constitutions is obligatory for free and positive development of information telecommunication technologies, informatively social environment, and consequently the Internet. In the article 34 of Constitutions are set that everybody has a right freely to search, to get, to pass, to conduct and diffuse information in any legal way, and also that freedom of mass information is guaranteed and prohibition of censorship. Positions of Constitution are created a necessary legal base for development of publicly social connections of informative character and determine the vector of the proper development of the legal adjusting of these connections.

From the aggregate of legal acts it is separately necessary to single out CC. Exactly this legal act set possibility of use of information in civil circulation, defining it as one of types of objects of civil laws (the article 177 CC of Ukraine). However, determining information as object of civil laws and presuming possibility of its free alienation or transition from one person to other, CC does not contain positions which determine methods and forms of use of information in civil circulation, except for information which makes a commercial secret.

In the article 2 of Laws of the USSR "About a press and other mass medias" [6] is resulted determination of basic terms, in particular "mass information", "medium of communication", "printing magazine", which foresee possibility of presence of other reports and materials, except for audio- and audio-visual., other forms of periodic distribution of mass information, than printing edition, radio-, TV-, TV shows, cinemachronicle program, other editions, than newspaper, magazine, almanac, bulletin.

Positions of the indicated act set determination of row of basic concepts and allow legitimately to assume that mass medias can be created and spread with the use of the indicated higher new achievements of scientific and technical progress. This law is determine terms and forms of distribution of information, but only in relation to those cases, when an eventual user of such information comes forward unlimited circle of persons.

In Russian Federation on 23.09.1992 by the president of RF signed the Patent law, Law "About the legal safeguard of the programs for electronic calculable machines and database" and Law "About the legal safeguard of layout of integral microcircuits" [7]. In Ukraine conformable Law of Ukraine "About copyright and contiguous rights" was accepted in 23.12.1993. Public relations was the subject of legal control, related with creation and use of different components of new telecommunication technologies, for example, as a telecommunication equipment, integral microcircuits, and also software and databases. It is

used in adjusting of public relations, the object of which are the programs for computer, salient here as works of literature, and databases, collection.

The Law of Ukraine "About telecommunications" regulates the vast area of public relations which arise up in passing of information on communications channel [8]. To the subject of legal control of this Law concern relations, related to activity after the giving of services and to implementation of works in the areas of connection, public authorities, operators of connection, post individuals, and also users of connection, take part in which, behave to the article of the legal adjusting of this law (physical and legal persons). In obedience to this law the Internet, as a technological system which provides an exchange information between COMPUTER is the network of telecommunications.

A row of Laws of Ukraine can be applicably to the legal relationships, which arise up under direct influence of the Internet and, accordingly, obligatory for implementation. Among them it is possible to name Laws of Ukraine "About information" [9], "About a priv in the informatively telecommunication systems" [10], "About telecommunications" [11], Law of the USSR "On a press and other mass medias" [12] etc. It's goes process of adaptation of legislation to the separate aspects of existence of the Internet. As M. V. Yakushev specifies the decision of problems of the legal adjusting of Internet relations impossible without development of the new going near theoretical legal questions and them real fixing in the proper normative acts [13].

Law "About information" regulates relations which arise up at: forming and using of informative resources on the basis of creation, collection, treatment, accumulation, storage, search, distribution and grant the user of the documented information; created and used information technologies and facilities of their providing; protection of subjects' rights which take part in informative processes and informatization (article 1 the indicated Law). In our view, indicated Law necessary for a country, but however, has certain

failings: absence of flexible mechanism of defence of the broken rights, does not provide the necessary guarantees of protection in the Internet. In Ukraine, unfortunately, is absent alw, as for example, Law of Russian Federation "About participating in an international informative exchange" [14], which fastens the row of major principles which to a full degree are provided the Internet.

Working out the research it is possible to do next conclusions.

An informative legislation needs perfection in part of determination of priority of private interest to information, adjusting of different types of information, adjusting of obligation relations, which arise up concerning a transmission and distribution of information, defence of right on information and compensation of the caused harm.

In accordance with an article 4 of CC to bring an informative legislation over to the unique legal criterion will make basis on CC of Ukraine and developing Informative on its basis.

Complication the Internet as predetermines the phenomena difficulty in his determination. With accents on different sides of its objective display, the Internet is determined as: informative computer system, which consists of aggregate of separate informative computer networks, incorporated on the basis of the unique internet-work protocol. Informative space - allows to find out such essence description the Internet, as appearance of him as based on the action of the computer programs of form of existence of information.

Virtual place of existence of subjects of society. This determination allows to see sweep, that is pursued in the process of development the Internet, and also the Internet characterizes the use by society at carried out presently socio technical revolutions.

In obedience to legal nature the Internet is the object of legal action of norms of the different fields of law. From civil positions legal nature of the Internet is neither the subject of civil relationships nor object of civil laws, and can not be fully attributed to the article of the civil legal adjusting.

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Table 1 Receipt of cases and matters to the county courts of the Ukrainian courts

Year	The 1st half of 2007		The 1st half of 2008		Change
	Number	Value	Number	Value	
2007	1000	1000	1000	1000	0
2008	1000	1000	1000	1000	0
2009	1000	1000	1000	1000	0
2010	1000	1000	1000	1000	0
2011	1000	1000	1000	1000	0
2012	1000	1000	1000	1000	0
2013	1000	1000	1000	1000	0
2014	1000	1000	1000	1000	0
2015	1000	1000	1000	1000	0
2016	1000	1000	1000	1000	0
2017	1000	1000	1000	1000	0
2018	1000	1000	1000	1000	0
2019	1000	1000	1000	1000	0
2020	1000	1000	1000	1000	0
2021	1000	1000	1000	1000	0
2022	1000	1000	1000	1000	0
2023	1000	1000	1000	1000	0
2024	1000	1000	1000	1000	0
2025	1000	1000	1000	1000	0
2026	1000	1000	1000	1000	0
2027	1000	1000	1000	1000	0
2028	1000	1000	1000	1000	0
2029	1000	1000	1000	1000	0
2030	1000	1000	1000	1000	0