

кожен заклад вищої освіти, який прагне відповідати сучасним тенденціям світового та вітчизняного ринків.



Рис. 2. Динаміка змін витрат підприємств на інноваційну діяльність упродовж 2010-2019 років

Наразі гостро постає потреба модернізації механізмів забезпечення права інтелектуальної власності шляхом узгодження інтересів усіх суб'єктів сфери інноваційної діяльності.

Узгодження інтересів суб'єктів інноваційної діяльності у процесі формування державної політики сприятиме забезпеченню її ефективності та зростанню суспільної довіри до державних інститутів.

Список використаної літератури:

1. Дяченко Н. П. Публічне управління у сфері інтелектуальної діяльності в Україні: стан та перспективи. Наукові записки Інституту законодавства Верховної ради України, 2019. № 2. С.151-161.

Ключові слова: інтелектуальна власність, інноваційна діяльність, суспільна довіра, державна політика.

Ключевые слова: интеллектуальная собственность, инновационная деятельность, общественное доверие, государственная политика.

Key words: intellectual property, innovation activity, public trust, public policy.

MAZURENKO SVITLANA VIKTORIVNA

*National University "Odesa Law Academy",
Associate Professor of the Department of Intellectual Property Law,
PhD in Law, Associate Professor*

RELATIONS ON THE INTERNET: PROBLEMS OF LEGAL REGULATION

In today's context, there is a rapid growth of the global and Ukrainian segment of the global Internet information network, both in quantitative (number of operators and users) and qualitative (expansion of the range of

services provided) in relation. Similar to the legal systems of other countries, including the United States and European Union countries, Ukrainian special legislation on the Internet is at its very beginning. However, it is largely possible to speak about the absence of an effective regulatory framework in this area, despite the existence of general rules of constitutional, civil and administrative law and a number of other legislative acts. The reasons for this are both insufficient theoretical elaboration of some fundamental regulations and subjective precautionary treatment of the Internet by law enforcement agencies.

However, the lack of legislation on the Internet, as well as the possibility of their effective application, adversely affects the development of public relations (for example, in the area of citizens' rights to information, prevention of dissemination of information that affects the honor and dignity of citizens, protection of intellectual property objects property, in other spheres of social and political life) not only in Ukraine but also abroad. In this regard, the urgency of the issues chosen is that, having appeared more than fifty years ago, the Internet is still considered a "white spot" from the point of view of law. The constant increase in the number of subscribers, the increasing importance of information exchange through the Network, attract the attention of the public to the problems of regulation, elaboration of rules of fair, legal functioning of the Internet from the state side.

Today it is difficult to imagine the existence of human civilization without a world wide web. The Internet is the largest repository of publicly available data, the most up-to-date media, the territory of many e-shops, interest clubs and more. The Internet has become a virtual space in which millions of network users enter into different relationships every day, unaware of it. The types of social relationships that emerge and develop on the Internet are as diverse as they are in the ordinary physical world. This situation makes it necessary to pay more attention to Internet relations. Today in the scientific literature it is quite common to find the terms "Internet relations", "Internet legal relations", "legal relations on the Internet", "legal relations in the electronic sphere", "information legal relations on the Internet", etc. We believe that the most appropriate term is the term "Internet relations".

Public relations arising from the use of global computer networks are special informational relations aimed at organizing the movement of information in the society. Internet relations are conditioned by the information nature of communications in the information society, which can only be accessed through a computer connected to a computer network. The peculiarity of these relationships is also the presence of a technical component, information content, special subject composition. Internet relations are public relations that exist in electronic and digital form in cyberspace. It should also be noted that the subjects of these relations may be located in different countries, and their activities are governed by the laws of different countries. Internet relationships cannot exist without the use of information and telecommunications technologies and networks. These relationships are informative, that is, they are about information on the Internet.

With the development of the Internet and Internet relations, one of the most pressing problems has been the problem of identifying users on the

Internet. This problem is multidimensional and has many manifestations. The task of user identification does not lose its relevance due to the constant race of information security technologies and technologies of unauthorized access to information. The urgency of this task for the Internet is increasing through the use of unsecured data channels.

First of all, it should be noted that the issue of identification already arises at the stage of connection to the Internet. It is associated with a number of basic terms that characterize network relationships at the technical level and subsequently flow into the legal plane: account (an account usually contains the information required to identify the user when connected to the system, authorization and accounting information); domain (a means of identifying a resource area on the Internet); domain name (the name that identifies the computer or computers on the Internet); identifier (a unique combination of a user name and password to ensure his / her identification process); identification (matching the recognized object to its image) and the like.

The problem of identification on the Internet is not only a technical dimension, but also a social and legal dimension. According to the author with the spread of broadband networks and the advent of Web 2.0 technology, which is a modern concept of Internet development on the basis of collective content creation by any user of the network, the number of Internet users has increased and the software supporting group interactions has increased. The emergence of social networks on the Internet – that is, communities of people related to a common interest or business existing on the Internet, using specialized software services, websites, and portals to engage people in a group or group. Accordingly, there was a need to identify users of social networks. However, without going into the specifics of such identification, it can be argued that the scientist speaks about the various social roles that users of the Internet and social networks can acquire (for example, a man can portray himself as a woman, a humane person chooses a mask of a cruel being, etc.). However, for the law, the complexities are quite different – the problem becomes relevant only when the rights of others or the law are violated. For example, when an account was stolen on a social network and the information is being distributed on behalf of that user that violates the rights of others. However, the owner (real) of this account does not know about it.

For example, an identification problem may arise in the event of a breach of a contract concluded via the Internet. Thus, today the questions of the possibility of identification of the parties to a contract concluded electronically remain unresolved. It is possible to determine that the contract signed by those persons who have identified themselves on the Internet is possible only by means of an electronic-digital signature, which in modern conditions can also be forged.

Particularly urgent problem of identification of users on the Internet becomes in case of copyright infringement. The relative anonymity of Internet users is twofold. On the one hand, such activity contributes in some way to copyright infringement and other infringements. On the other hand, the question of the anonymity of Internet users must be considered in the light of the principle of proportionality between intellectual property rights and the

right to freedom of expression, the right to respect for privacy and family life. In addition, the anonymity of connections does not interfere with publicly useful activities (such as the legitimate distribution of works).

The process of identification of a person who has committed copyright infringement for works published on the Internet has been divided into three scientific stages in foreign scientific literature. The first stage involves the right holder (his representative) acting to identify and collect IPs and other information that will help identify the offender. To determine and collect the IP address of a copyright infringer in the field of P2P networks, copyright holders use the following methods: indirect identification of users, which relies on a set of data on the money returned from the torrent tracker; the direct definition is to connect via torrent tracker to users who distribute certain files and then share files with them.

The second stage is to match the IP address to the designated subscribers (users) of individual Internet intermediaries. For example, in 2010, the Law on Telecommunications was amended in Ukraine, in particular to Part 2 of Art. 39: "Operators, telecommunication providers shall store and provide information about the connection of their subscriber in the manner prescribed by law."

The third stage consists in informing or forwarding the claims to the persons about their copyright infringement and the possibility of filing (or filing directly) against them. This stage is the most difficult because it requires two components to be proven, namely: to establish a connection between the person to whom a particular IP address is delegated and the violation; Proof that the IP address was actually used in unauthorized distribution of works.

Thus, according to paragraph 13 of the Information Letter of the Supreme Economic Court of Ukraine "On some issues of the practice of application by the economic courts of information legislation" of March 28, 2007 No. 01-8 / 184, information about the owner of the website may be required from the Limited Liability Company Hostmaster, which currently administers the domain name registration and registration system and the address of the Ukrainian segment of the Internet. Following the implementation of measures related to the delegation of administrative rights, these functions should be performed by the Association of Enterprises of the Ukrainian Network Information Center "(hereinafter referred to as "UMIC"). According to Article 56, paragraph 3 of the Law of Ukraine "On Telecommunications", the administration of the Internet address space in the UA domain is carried out by a non-governmental organization formed by self-governing organizations of Internet operators / providers and registered in accordance with international requirements.

According to the decree of the Cabinet of Ministers of Ukraine of July 22, 2003 No. 447-p "On domain administration" ".UA ", authority to manage the address space of the Ukrainian segment of the Internet, maintenance and administration of the system registry and system of top-level domain names ".UA " carried out by OP "UMIC". In practice, a person who believes that his or her rights have been violated attempts to obtain information on the domain name registrant (proper defendant) through the WHOIS service. However, such information is often hidden in accordance with the Law of Ukraine "On

Personal Data Protection". Also, such persons independently attempt to send appropriate requests to OP "UMIC", and in return may also receive information that the relevant data are hidden domain name registrant in accordance with the Law of Ukraine "On Protection of Personal Data". Therefore, persons interested in filing a lawsuit apply to the court for a statement of evidence and a statement of precautionary measures (requiring evidence). In addition, the party has the right after filing a claim to request the seizure of evidence.

Even more difficult is the problem of proving a crime through the Internet. One of the problems that a law enforcement officer faces in investigating crimes committed through the Internet is identifying a computer user of a network from whom criminal activity (cybercrime) was committed. IP-based identification errors (until recently, accounting was the primary method of identification) consist of transmission errors and computer usage errors. For example, when users work through the root server, the entire subnet behind it will, in most cases, have a single IP address. On the other hand, when working through a dial-up connection, the user will receive a new IP address, etc., each time the connection is made.

Ключові слова: Інтернет, веб-сайт, кібербезпека, кіберзахист.

Ключевые слова: Интернет, веб-сайт, кибербезопасность, киберзащита.

Key words: Internet, website, cyber security, cyber defense.

МАКАРИШЕВА ТЕТЯНА СТЕПАНІВНА

*Національний університет «Одеська юридична академія»,
доцент кафедри інтелектуальної власності та цивільно-правових дисциплін
Київського інституту інтелектуальної власності та права,
кандидат технічних наук*

СТЕЦЕНКО КАРІНА СЕРГІЇВНА

*Національний університет «Одеська юридична академія»,
студентка Київського інституту інтелектуальної власності та права*

ПОРОДА СОБАК ЯК ОБ'ЄКТ ПРАВА ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ

Статтею 180 Цивільного кодексу України (далі – ЦК України) встановлено, що тварини є особливим об'єктом цивільних прав, на який поширюється правовий режим речі, крім випадків, встановлених законом. Виокремлення тварин з-поміж інших об'єктів цивільних прав фактично означає, що тваринам, як об'єктам цивільних прав, має приділятися особлива увага під час визначення їх правового режиму. Незважаючи на те, що ЦК України тварини розглядаються як особливий об'єкт цивільних прав, законодавець не дотримався надалі цієї особливості в актах цивільного законодавства. Це, безперечно,