

# Right of Access to Information and Media Security

**Viktor P. Kirilenko**

Head of the Department of International and Humanitarian Law, North-West Institute of Management of RANEPA, St. Petersburg, Russian Federation, Doctor of Law, Professor, Honored Lawyer of Russian Federation; vvaas@yandex.ru

**Georgy V. Alekseev**

Associate Professor of Department of Law, North-West Institute of Management of RANEPA, St. Petersburg, Russian Federation, PhD in Juridical sciences, Associate Professor; Deltafox1@yandex.ru

## ABSTRACT

The right of access to information in post-industrial society is of fundamental importance for achieving the goals of sustainable development. Changes in the system of realization of rights to intellectual property reflect the main trends in the formation of cultural capital. Firstly, the production and sale of copies of works remains an actual way of exercising intellectual rights, but is complemented by interactive formats of interaction between authors and their audience. Secondly, the popularity of specific authors and rightholders allows them to exercise subjective rights in the global information space. Thirdly, the role of the author — an individual will decrease as the modules of artificial intelligence become more and more integrated into the creative industry. With the development of virtual law institutions, the priority of media security is to preserve the superiority of creative works created by man over the results of computer processing of information. In this sense, the right of individuals to access information technologies, as well as the possibility of direct evaluation of the authors' creativity by a mass audience, may become critical interests for humane technical progress in the global information society.

**Keywords:** intellectual property, copyright law, contract, freedom of speech, human rights, humanism, producer, artwork.

**Introduction.** The works by the Western lawyer Daniel J. Gervais demonstrate that “with transfer of various activities related to creation, distribution and consumption of content from the physical medium to the digital online space, copyrights are no longer sold exclusively by professionals such as authors, issuers, producers and distributors and among them. Innovations in the field of digital technologies allow Internet users to participate actively in modification, distribution, adaptation of works and thus to become authors of derivative works”.<sup>1</sup> It is practically undoubtful that “as the Internet continues to change our world online, the structure of copyright in its current state becomes inadequate and inappropriate for use”.<sup>2</sup> At the same time, national governments adopted the idea of “the right to access information” or “freedom of information” as “the most important element of civil rights to freedom of expression required for credibility of public discourse and transparent, accountable and open government”.<sup>3</sup> Professor V. P. Talimonchik clearly demonstrates the existence of legal obligations of “nations not to prevent human freedom to search for, obtain and distribute information”,<sup>4</sup> while a famous expert in intellectual property E. A. Voynikanis argues that “issues concerning free access to information and knowledge and development of information technologies are closely interrelated”.<sup>5</sup>

Information transfer technologies and forms of implementation of creative projects establish the essence of legal relations required for effective protection of intellectual activity results and regulation of various informational legal relations.<sup>6</sup> Legislative recognizance of the economical importance of intellectual activity result largely depends on the format of interaction with authors which is generally practised by their potential target audience on the national level.

<sup>1</sup> Gervais D. J. The Economics of Collective Management / Research Handbook on the Economics of Intellectual Property Law: Vol. 1: Theory. Vol. 2: Analytical Methods / ed. Ben Depoorter, David Schwartz, Peter S. Menell. 2019. 1512 p.; Gervais D. J. The Machine as Author // Iowa Law Review, Vol. 105, 2019. PP. 1–61; Gervais D. J. (Re) structuring Copyright: A Comprehensive Path to International Copyright Reform. Edward Elgar Publ., 2017. P. 185.

<sup>2</sup> Gervais D. J. (Re)structuring Copyright: A Comprehensive Path to International Copyright Reform. Edward Elgar Publ., 2017. P. 3.

<sup>3</sup> Shepherd E. Freedom of Information, Right to Access Information, Open Data: Who is at the Table? // The Round Table. The Commonwealth Journal of International Affairs 2015. Vol. 104, Iss. 6: Freedom of Information in the Commonwealth. P. 715.

<sup>4</sup> Talimonchik V. P. The human right to information: international legal aspects [Pravo cheloveka na informatsiyu: mezhdunarodno-pravovye aspekty] // News of Higher Educational Institutions. Jurisprudence [Izvestiya vysshikh uchebnykh zavedenii. Pravovedenie]. 2009. No. 5 (286). P. 13. (In rus)

<sup>5</sup> Voynikanis E. A. Providing free access to information as a direction of legal policy and its influence on the paradigm of intellectual rights [Obespechenie svobodnogo dostupa k informatsii kak napravlenie pravovoi politiki i ego vliyaniye na paradigmat intellektual'nykh prav] // State and Law [Gosudarstvo i pravo]. 2015. No. 5. P. 105. (In rus)

<sup>6</sup> Alekseev G. V. Classification of information relations [Klassifikatsiya informatsionnykh pravootnoshenii] // Information law [Informatsionnoe pravo]. 2008. No. 3. PP. 9–12. (In rus)

Practical application of the rules of law on security to intellectual property issues is conditioned by some peculiarities of the modern creative process, which are regarded as quite perspective objects of comprehensive doctrinal analysis. Russian scientists V. B. Naumov and V. V. Arkhipov, when investigating legal relations in the virtual world, note that “the Internet of Things is regarded as a phenomenon which in general expands the information space to the world of physical objects acting as “a bridge” between various levels of human development in the information society”.<sup>7</sup> The paradigm of “the Internet of Things”<sup>8</sup> is actively developing towards commercialization of relations in the virtual world<sup>9</sup> and provision of security in the information space;<sup>10</sup> however, the issues concerning the right to access information and protection of intellectual rights are developing independently which often gives rise to collisions and anachronisms.

In accordance with Federal Law of Russian Federation No. 149-FZ of July 27, 2006, “On Information, Information Technologies and On Protection of Information” (as amended on March 18, 2019), citizens and organizations are entitled to search for and obtain any information in any forms and from any sources provided that legal requirements are observed (art. 8). A liberal approach to information resources is widely adopted in the global practice of regulating informational relations. The countries of the Anglo-American system of law were the first to formalize free access to information. Thus, in Canada the 1985 Access to Information Act has been adopted; in Great Britain the 2000 Freedom of Information Act is valid. Recently, developing countries have been passing laws on free access to information. Thus, for example, the Islamic Republic of Pakistan passed the 2017 Right of Access to Information Act, and in Sierra Leone a similar law has been effective since 2013.<sup>11</sup> Under the conditions of general recognition of free distribution of information, protection of intellectual rights may remain a legal implement for restricting access to intellectual property and creative information just as it was in the last quarter of the 20th century.<sup>12</sup> Modern studies of intellectual property issues show that the right to access information and intellectual property are closely interrelated.<sup>13</sup> A more detailed study of political and legal regulation of enjoyment of the access right usually touches upon special issues of communications networking, for example, connected with the use of print and electronic educational information resources,<sup>14</sup> or functioning of scientific mass media.<sup>15</sup>

For comprehensive analysis of the problem concerning provision of the right to access information with effective guarantees of protection of the right holders’ legal interests, it is necessary to account for the interests of all participants of information exchange in a balanced way as well as the social and economic circumstances which allow for the earning of an income from the results of intellectual work, with bypassing most of intermediaries emerging between the authors and producers of artistic works. The protectability of creative and technical solutions directly depends on the form of an artistic solution used for its creation and publication. The peculiarities of the intellectual property legal regime in the post-industrial society are determined by the nature of legal relations in the virtual space. The following thesis formulated by V. V. Arkhipov is of certain interest: “the main subject of virtual law is legal aspects of virtual worlds — spaces simulated by computer-aided means which ensure the possibility for interac-

<sup>7</sup> Naumov V. b., Arkhipov V. V. Pervasive Legal Problems of the Internet of Things and the Limits of Law: Russian Perspective // Proceedings of the Institute of State and Law of the Russian Academy of Sciences [Trudy Instituta gosudarstva i prava Rossiiskoi akademii nauk]. 2018. Vol. 13. No. 6. P. 95.

<sup>8</sup> Costigan S. S., Lindstrom G. Policy and the Internet of Things // Connections 2016. Vol. 15. No. 2. PP. 9–18; Gershenfeld N., Krikorian R., Cohen D. The Internet of Things // Scientific American 2004. Vol. 291. No. 4. PP. 76–81; Ornes S. The Internet of Things and the Explosion of Interconnectivity // Proceedings of the National Academy of Sciences of the United States of America 2016. Vol. 113. No. 40. PP. 11059–11060.

<sup>9</sup> Op. cit. Ornes S. The Internet of Things and the Explosion of Interconnectivity.

<sup>10</sup> Op. cit. Costigan S. S., Lindstrom G. Policy and the Internet of Things.

<sup>11</sup> The Right to Access Information Act, 2013 Supplement to the Sierra Leone Gazette Vol. CXLIV. No. 62. 31 October, 2013.

<sup>12</sup> Dovey J. Copyright as Censorship-Notes on “Death Valley Days” // Screen 1986. Vol. 27. Iss. 2. PP. 52–56.

<sup>13</sup> Bors C., Christie A., Gervais D., Clayton E. W. Improving Access to Medicines in Low-Income Countries: A Review of Mechanisms // The Journal of World Intellectual Property 2015. Vol. 18. Iss. 1–2. PP. 1–28.

<sup>14</sup> Arkhipov V. V., Lukyanov V. V., Naumov V. B. Intellectual property in the innovative activity of a russian university: issues of management and perspectives of legislative developments [Intellektual’naya sobstvennost’ v innovatsionnoi deyatel’nosti rossiiskogo universiteta: voprosy upravleniya i perspektivy razvitiya zakonodatel’sstva] // News of Higher Educational Institutions. Jurisprudence [Izvestiya vysshikh uchebnykh zavedenii. Pravovedenie]. 2017. № 5 (334). PP. 52–67. (In rus).

<sup>15</sup> Kirilenko V. P., Alekseev G. V. Political technologies and international conflict in the information space of the Baltic sea region [Politicheskie tekhnologii i mezhdunarodnyi konflikt v informatsionnom prostranstve Baltiiskogo regiona] // Baltic region [Baltiiskii region]. 2018. Vol. 10. No. 4. PP. 20–38. (In rus)

tion between the users”.<sup>16</sup> Certain legal points of view from the perspective of which virtual worlds are regarded are of significant scientific interest as they predetermine the conditions of development of modern creative industry.

**1. The multimedia format** of modern works makes it difficult to differentiate between literature and audiovisual works as the perspective of reworking and screen adaptation of any successful creative project is a subject of focus for the market. Modern journalism perceives visualization as a creative technique which allows attracting attention of a broader target audience. The group of Russian scientists have reason to believe that “spreading of digital devices, their integration into all spheres of everyday life has led to emergence of a new professional field — designing and programming of human-computer interfaces”.<sup>17</sup> An interface is a creative solution within the field of copyright; at the same time, multimedia systems touch upon a set of economic issues<sup>18</sup> and an information security problem.<sup>19</sup>

Art studies provide the idea that “direct and virtually uncontrolled influence on the human physiology and mind is realized on the backs of interactivity of modern electronic processes. Art allows creating any imaginary associative environment providing the ability to work way through the most fantastic spaces and experience sensations in no way different from real ones”.<sup>20</sup> New capabilities of digital technologies transform old and create new intellectual property which should be seamlessly integrated into the field of civil law.

**2. The interactive character** of digital television and the Internet will provide for the development of new forms of co-authorship involving the audience and developers of media projects. Further updating of the problem concerning protection of the audience’s interests against the developers’ abused discretion may lead to the creation of “virtual justice”<sup>21</sup> aimed at introduction of fairness into the social reality of digital networks. By accepting the obviousness of the fact that “a game responds to deep needs of a person being a contemporary of post-modernity”,<sup>22</sup> the Russian scientist I. I. Volkova fairly notes that “active development of interactive game projects at information portals is inevitable; this reflects both the nature of the World-Wide Network and the nature of virtual space”.<sup>23</sup>

It is quite rational that social interaction in multimedia projects gives rise to peculiar sets of rights and obligations in the global information space, which are not completely regulated by international law and national legislation. Thus, for example, “we can hardly speak about a well-established system of international contracts aimed at protection of copyright in TV broadcasting as system relationships between contracts are not always clearly traced. The basis of international protection of copyright in radio broadcasting, television and in the use of electronic telecommunications is one and the same author’s authority — the right to disclosure for general public”.<sup>24</sup> Protection of computer program authors’ and developers’ rights must be in harmony with guarantees of the rights belonging to consumers of interactive works of art.

<sup>16</sup> Arkhipov V. V. Virtual law: the main problems of the new direction of legal research [Virtual’noe pravo: osnovnye problemy novogo napravleniya yuridicheskikh issledovaniy] // News of Higher Educational Institutions. Jurisprudence [Izvestiya vysshikh uchebnykh zavedeniy. Pravovedenie]. 2013. No. 2 (307). P. 93. (In rus)

<sup>17</sup> Balkansky A. A., Karpushina A. O., Korpan L. M., Lavrov A. V., Smolin A. A., Sopronenko L. P. Design of human-computer systems as a new professional field of activity [Dizain cheloveko-komp’yuternykh sistem kak novaya professional’naya oblast’ deyatel’nosti] // Information Age [Vek informatsii]. 2018. Vol. 1. No. 2. P. 175. (In rus)

<sup>18</sup> Alekseev G. V. Extension of Information Technology’s Application Areas and Information Security of the State. [Rasshirenie oblastei primeneniya informatsionnykh tekhnologii i informatsionnaya bezopasnost’ gosudarstva] // Administrative consulting [Upravlencheskoe konsul’tirovanie]. 2017. No. 5 (101). PP. 8–19. (In rus)

<sup>19</sup> Alekseev G. V., Kolobova E. Yu. Economic and legal aspects of cooperation and competition in the global film industry [Ekonomicheskie i pravovye aspekty sotrudnichestva i konkurentsii v mirovoi kinoindustrii] // Administrative consulting [Upravlencheskoe konsul’tirovanie]. 2014. No. 12 (72). PP. 67–78. (In rus)

<sup>20</sup> Shustrova O. I. Cyborg as a work of multimedia art (to the problem of human expansion) [Kiborg kak proizvedenie iskusstva mul’timedia (k probleme rasshireniya cheloveka)] // Vestnik of Saint Petersburg University. Arts [Vestnik Sankt-Peterburgskogo universiteta. Iskusstvovedenie]. 2011. No. 1. P. 114. (In rus)

<sup>21</sup> Lastowka G. Virtual Justice: The New Laws of Online Worlds. Yale University Press Publ., 2011. 241 p.

<sup>22</sup> Volkova I. I. Game formats of multimedia journalism [Igrovye formaty mul’timediinoi zhurnalistiki] // RUDN Journal of Studies in Literature and Journalism. Series: Literary Studies, Journalism [Vestnik Rossiiskogo universiteta druzhby narodov. Seriya: Literaturovedenie, zhurnalistika]. 2014. No. 1. P. 106. (In rus)

<sup>23</sup> Volkova I. I. Computer games and new media: a gaming approach to communications in the virtual space [Komp’yuternye igry i novye media: igrovoi podkhod k kommunikatsiyam v virtual’nom prostranstve] // RUDN Journal of Studies in Literature and Journalism. Series: Literary Studies, Journalism [Vestnik Rossiiskogo universiteta druzhby narodov. Seriya: Literaturovedenie, zhurnalistika]. 2017. Vol. 22. No. 2. P. 318. (In rus)

<sup>24</sup> Talimonchik V. P. International Protection of Copyright in Telecasting [Mezhdunarodnaya okhrana avtorskogo prava v televeshchaniy] // Vestnik of Saint Petersburg University. Law [Vestnik Sankt-Peterburgskogo universiteta. Pravo]. 2016. No. 3. P. 50. (In rus)

**3. The creative potential of artificial intelligence** is updated with the development of technical progress towards creation of large-scale neuronets and smart machines.<sup>25</sup> The legal standing of artificial intelligence elements will always be open to question, despite their ability to learn and create. The competition between authors and technologies of artificial intelligence can destroy fragile trusted and naive space where the author communicates with the spectator and the reader; at the same time, collaboration of a competent author with smart machines is able to provide for a jump in the development of technologies, artistic works and new technical solutions.

Interestingly, “after several years of working with robots on stage, the actress Midzuho Nodzima thinks that gradually actors begin to treat their mechanical colleagues as if they were flesh and blood”.<sup>26</sup> Indeed, the following question is currently topical: “in perspective, should the most advanced free-standing robots get a special legal status of electronic persons — with their special rights and obligations, including the obligations to compensate for any harm inflicted by them”,<sup>27</sup> but, of course, this problem does not have a simple solution. Legal doctrine features “certain background for considering a possible similarity between robots and legal entities”;<sup>28</sup> however, artificial intelligence can provide for empowerment of transnational corporations in the cultural sphere of social life and facilitate discrimination of authors and other workers in intellectual property industry.

**4. Software (soft)** is quite often represented as an item of property of its developers. An absurd idea of appropriation of intangible items does not top corporations which produce computer programs in their intent to justify the exclusivity of their own rights for the source code, interface and design. The interests of free access to the technologies on the part of software programmers, designers and users do not have special commercial significance, and at the same time turn out to be well protected by natural properties of information and communication practices.

In the practical plane of the problem concerning software legal protection it is noted that “recently, there has been an increased number of copyright items based on information and communication technologies, namely: ... programs for computers, databases, multimedia products, among which are video games”.<sup>29</sup> The law-maker’s attitude to programs as to works of literature does not reflect the role of software in the development of institutions of the information society.

If “objects in the external world are phenomena formed in the process of their intentional perception by the subject”,<sup>30</sup> there is no doubt that the reality formed by computer software can become the domain of legal rules. By acknowledging exclusive rights for commonly available software, the law-maker involuntarily excludes a considerable and least well-to-do part of members of the society from the list of subjects acting in the legal field of the virtual world.

**5. Exclusive rights of producers** has considerable social and economic and cultural significance. Producers are legal entities: artels, companies, business entities and transnational corporations. Economic capabilities of producers are of crucial significance as the competition among global business structures and local enthusiasts of artistic endeavor is developing only in the professional field. Preferences of mass viewing audience are shaped under the influence of the most well-to-do in economic respect producers which dominate at the high end market.

On the one hand, it is no wonder that “Russian case law cannot give examples of claims for acknowledgment of a person who organized the creation of a complex object as the author of such object. Unambiguous interpretation of statutory regulations is explained by the fact that complex items covered

<sup>25</sup> Gervais D. J. The Machine As Author // Iowa Law Review. Vol. 105, 2019. PP. 1–61.

<sup>26</sup> Basalaeva O. G. Features of the relationship of intellectual culture, artificial intelligence and the creative process [Osobennosti vzaimosvyazi intellektual'noi kul'tury, iskusstvennogo intellekta i tvorcheskogo protsessa] // Bulletin of Kemerovo State University of Culture and Arts [Vestnik Kemerovskogo gosudarstvennogo universiteta kul'tury i iskusstv]. 2017. No. 40. P. 143. (In rus)

<sup>27</sup> Tsukanova E. Yu., Skopenko O. R. Legal aspects of liability for causing damage by a robot with artificial intelligence [Pravovye aspekty otvetstvennosti za prichinenie vreda robotom s iskusstvennym intellektom] // Matters of Russian and International Law [Voprosy rossiiskogo i mezhdunarodnogo prava]. 2018. Vol. 8. No. 4a. P. 44. (In rus)

<sup>28</sup> Arkhipov V. V., Naumov V. B. On some issues of theoretical foundations of the development of legislation on robotics: aspects of the will and legal personality [O nekotorykh voprosakh teoreticheskikh osnovanii razvitiya zakonodatel'stva o robototekhnike: aspekty voli i pravosub'ektnosti] // Law [Zakon]. 2017. No. 5. P. 157. (In rus)

<sup>29</sup> Lebed V. V. Multimedia products in terms of the adaptation of French copyright laws to informational realities [Mul'timediinye produkty v usloviyakh adaptatsii frantsuzskikh zakonov ob avtorskom prave k informatsionnym realiyam] // State and Law [Gosudarstvo i pravo]. 2014. No. 5. P. 72. (In rus)

<sup>30</sup> Razuvayev N. V. The state as a legal construct [Gosudarstvo kak pravovaya konstruktsiya] // News of Higher Educational Institutions. Jurisprudence [Izvestiya vysshikh uchebnykh zavedenii. Pravovedenie]. 2016. No. 2 (325). P. 110. (In rus)

by copyright must be “freely transferable”, and attempts to establish whether a certain subject is the author of the item, correspondingly, prevent this”.<sup>31</sup> On the other hand, no claims to the authorship do not exclude acknowledgment of neighboring rights of legal entities and producers.

Research in the field of international intellectual property law showed that “the availability of uniform standards for protection of intellectual property rights guarantees that companies can maintain a high level of financing of research activities to repair economic losses caused by investments which do not lead to the creation of a commercial product”;<sup>32</sup> exclusive rights, however, must not limit vital interests of the public, for example, the right to access medical technologies.<sup>33</sup>

**6. Artistic merits of works** are a legally indifferent circumstance only from the formally legal perspective, while in practice novelty and originality are indisputable advantages of any result of intellectual work. Courts and other judiciary bodies proceed from the provision that originality of a creative solution is necessary for its legal safeguard, and the attention of the audience and professional community defines economic and reputational effects from a rational creative project. It is obvious that the quality of creative work results has considerable legal significance when providing state support to creative projects.<sup>34</sup>

Novelty of artistic solutions and extensive public interest to creative ideas and endeavors do not guarantee public utility of an intellectual work result, but under modern economic conditions popularity can provide a considerable and stable income. The informal character of people’s likes and media interest gives rise to abuse of artistic freedom on the part of authors and performers. The creative sphere of social life being attractive from the economic point of view creates possibilities for corrupt conduct, which may manifest itself both in the performers’ inability to do their job to a high quality and effectively and in the producers’ striving to fraud against investors.

Possible criminalization of the creative sphere and intellectual property industry in general jeopardizes media security. Openness of information about creative projects is also rather dangerous as the right to access the information may be used for assessment of intellectual work results only after their making available to the public for the first time. Intellectually intensive projects are usually confidential at the development stage. Under the conditions of criminalization of the information space, confidentiality can become a means for disguising evil deeds. Actually, only authors’ and producers’ goodwill enables them to protect their works against destructive impact of economic maleficence. High quality and artistic merits of projects in the creation of intellectual property ensure security of investments in culture and technical progress.

**7. The price of intellectual rights** is a material provision of license contracts in relation to intellectual property, while being extremely difficult for accurate estimation. After the rights for the intellectual property have been exercised, their price becomes obvious for the majority of post-industrial market professionals. At the same time it is extremely difficult to evaluate works of art and technical solution at the stage of their creation as exposure to loss in the field of intellectual property with increasing competition at the information technology market remains persistently high.

The venture character of producers’ business creates multifaceted threats, including criminal manifestations: fraud, laundering of illegal earnings, corrupt delicts. A considerable possibility for creative failures and a high probability of misuse of creative freedom condition a high value of success for creative projects. It seems rational that “methods based on the assessment of competition and assessment of utility makes prices for information products and services flexible by using various systems of discounts and markups: for the novelty, additional features, reductions for corporate accounts, etc.”;<sup>35</sup>

<sup>31</sup> Grin E. S., Alekseeva V. A. Organizer of Creation of a Complex Object of Intellectual Property Rights: Problems of Theory and Practice [Organizator sozdaniya slozhnogo ob"ekta intellektual'nykh prav: problemy teorii i praktiki] // Actual problems of Russian law [Aktual'nye problemy rossiiskogo prava]. 2018. No. 7 (92). P. 123. (In rus)

<sup>32</sup> Abashidze A. Kh., Malichenko V. S. The Activities of International Organizations on the Ensuring of a Universal Access to Medicine in the conditions of the Development of Mechanisms protecting Intellectual Property Rights [Deyatel'nost' mezhdunarodnykh organizatsii po vseobshchemu obespecheniyu dostupa k lekarstvennym sredstvam v usloviyakh razvitiya mekhanizmov zashchity prav intellektual'noi sobstvennosti] // Moscow Journal of International Law [Moskovskii zhurnal mezhdunarodnogo prava]. 2017. No. 2 (106). P. 107. (In rus)

<sup>33</sup> Op. cit. Abashidze A. Kh., Malichenko V. S.

<sup>34</sup> Kolobova E. Yu. The system of state support of cinematography as a condition for the development of the market environment of cinema services [Sistema gosudarstvennoi podderzhki kinematografii kak uslovie razvitiya rynochnoi sredy kinozrelishchnykh uslug] // Petersburg Economic Journal [Peterburgskii ehkonomicheskii zhurnal]. 2017. No. 3. PP. 140–154. (In rus)

<sup>35</sup> Proshchalykina A. N. Features of pricing on informational products and services [Osobennosti tsenoobrazovaniya na informatsionnye produkty i uslugi] // Business. Education. Right [Biznes. Obrazovanie. Pravo]. 2014. No. 2 (27). P. 34. (In rus)



at the same time, it is quite difficult to formalize the cost of an intellectual property item prior to its entry into the market. High prices for intellectual property have a negative impact on the right to access high-tech items.

**8. Copyright neighboring rights** often turn out to be even more importance when it comes to provision of the right to access a work than exclusive rights of the author. In patent law, the problem of manufacturing application of a technical solution has always been central and is likely to remain such. Neighboring rights in the information society are closely connected not only with masterly performance but also with the title to real property.<sup>36</sup> The renown and popularity of performers only partly define the location of a work in the cultural sphere of social life and the value of the author's work. The expenses, renown and technical capabilities of motion picture companies and recording studios quite often make a landmark contribution to the success of directors, composers, actors and musicians.

A conceptional question is the possibility for appropriation of intangible results of acting skills; the answer to this question is especially ambiguous considering the popularity of imitations and impressions. The mass audience always has a natural right to access creative work of those who, on the basis of someone else's intellectual property, create rather interesting items of neighboring rights and derivative works. It would be unfair to deprive the mass audience of the pleasure to get acquainted with (maybe, unsuccessful) attempts to ridicule and do an imitation of the work of authors, performers and producers. There is no doubt that derivative works can influence earnings of the right holders of original works; however, in a number of cases it is incomprehensible why the state should legislatively protect entrepreneurs against possible decline in profits caused by the fact that their competitors also demonstrate their ability to effectively interact with readers, spectators and other users of intellectual property.

**9. Extremistic discourse** associated with intellectual property always influence the perception of results of authors' creative activities. The right to access political information should not be limited under the pretence of its extremistic content; on the contrary, while prohibiting felonious propaganda, it is necessary to assess extremistic materials fairly with safeguarding of interests of mass audience representatives against specific messages constituting a critical threat to media security. It is obvious that extremist communities overindulge into freedom of expression;<sup>37</sup> at the same time, certain people of art feature remonstrative thinking, which can be rationally explained and is based on real-life examples. Epigrams and epatage do not only lie in the legal plane of art but are also its most interesting part. The emotionality of cynics and radicals should not be equated to criminal attempts to destroy the constitutional order. Culturology has proven the psychological nature of creative remonstrance. Thus, for example, "an unprecedented act was needed to return self-esteem to Mandelstam and to make a stir. Such an act was the creation of the poem "We live without feeling the country beneath our feet..."".<sup>38</sup> When analyzing the works of the Silver Age thoroughly, it is argued that "Yesenin and Mandelstam, when being refracted in Pushkin's Stanzas and in this refraction being dissonant with literary and pseudoliterary interpretations of the personality and works of Pushkin, hinder the propaganda machine from making Pushkin 'an insider' roughly and quickly, from shaping an 'appropriate' image of him".<sup>39</sup> In this context we can acknowledge the accuracy of Professor N. V. Razuvaev's observations on how Plato "condemned Homeric poetry severely";<sup>40</sup> though it is obvious that such condemnation in the information society must not limit the mass audience's right to access debatable information.

**10. Securitization of creative activities** occurs in two directions. On the one hand, earning from intellectual property can facilitate redistribution of power in the structure of government bodies and civic institutions.<sup>41</sup> On the other hand, the competition between nations and corporations in the global media space can create social and political conditions under which the existence of a national culture

<sup>36</sup> Murray J. C. Options and Related Rights with Respect to Real Estate: An Update // *Real Property, Trust and Estate Law Journal* 2012. Vol. 47, No. 1. PP. 63–140.

<sup>37</sup> Kirilenko V. P., Alekseev G. V. Actual problems of extremist crime counteraction [Aktual'nye problemy protivodeistviya prestupleniyam ehkstremskoi napravlenosti] // *Russian Journal of Criminology* [Vserossiiskii kriminologicheskii zhurnal]. 2018. Vol. 12. No. 4. PP. 561–571. (In rus)

<sup>38</sup> Galinskaya I. L. Osip Mandelstam: "I am ready for death" [Osip Mandel'shtam: "Ya k smerti gotov"] // *Culturology* [Kul'turologiya]. 2007. No. 2 (41). P. 51. (In rus)

<sup>39</sup> Pyatkin S. N. Stanzas as a dialogue with the authorities: Pushkin, Yesenin, Mandelstam [Stansy kak dialog s vlast'yu: Pushkin, Esenin, Mandel'shtam] // *Philological Sciences. Issues of Theory and Practice* [Filologicheskie nauki. Voprosy teorii i praktiki]. 2014. No. 8–1 (38). P. 152. (In rus)

<sup>40</sup> Razuvaev N. V. Reflections on personal identity in ancient literature [Razmyshleniya o lichnostnom samosoznani v antichnoi literature] // *Platon*. 2017. No. 2. P. 20. (In rus)

<sup>41</sup> Kirilenko V. P., Alekseev G. V. Modern Democracy and Political Leaders [Sovremennaya demokratiya i politicheskie lidery] // *Administrative consulting* [Upravlencheskoe konsul'tirovanie]. 2018. No. 7 (115). PP. 17–31. (In rus)

in the plane of global policy will directly depend on the competitiveness of national creative projects.<sup>42</sup> The development of the information sovereignty doctrine shows that the supremacy of power and the quality of mass information are in a direct political dependence.<sup>43</sup>

Participation of extremist movements in creation of multimedia content also contributes to securitization of the media sphere and limitation of access to information based on the public law rules.<sup>44</sup> Recessionary manifestations in neoliberalism, however, highlight the significance of natural law rules for sustainable development of the modern society.<sup>45</sup> State institutions, by intruding into the space of the virtual world, can expect to succeed only provided their actions would be regarded by the media community as rational and fair when it comes to guaranteeing free access to information. Media security is inseparably connected with the state of national economy as high-quality creative projects require considerable costs of resources and highly skilled labor.

**Conclusion.** The access right and intellectual rights have the common object of legal protection — new and original approaches to solving artistic, business and technical tasks. Exercise of the right to access information impacts the subjective aspect when assessing novelty of intellectual property. Recognition of an artistic or technical solution as new for certain specialists may be accompanied by the fact that for other members of the professional community such technology would be trivial and self-evident. Moreover, the content of intellectual rights is defined by constructive attention of the viewership ready to pay for and consume intellectual property, rather than by actual novelty of intellectual activity results.

Modernization of a universal intellectual property right is implemented in the information society in order to create formal rules ensuring more fair legal communications based on the flexible and balanced interests of all parties in legal respect<sup>46</sup> [11]. Interrelations between intellectual property legal doctrines, virtual things (Internet of Things) and the right to access information reflect a critical state of the knowledge infrastructure in the modern society. Provision of media security is associated with sustainable development of digital economy which, as it grows, needs more extensive legislative formalization of the rules and regulations according to which social relations are successfully realized in the virtual world.

Inclusion of producers, software developers, active users of virtual resources and other stakeholders in the development of national legislation reflects the ability of the state to adapt to new realities of the digital era. Flawed and unfair rules can have a depressive impact on the development of virtual structures in the information society. Loss of the competitive capacity of national culture project at the global intellectual property market is the most obvious and dangerous threat to media security in developing countries; developed states, however, cannot completely rely on the accumulated cultural capital.

Criminal motives of many art entrepreneurs and ultimate striving to deconstruction of the state and civic institutions on the part of extremist communities create legal conditions under which aberrations of legislative and executive powers in their battle with the evident evil lead to threats to sustainable development. The right to access information in the open society guarantees each of its members an opportunity to use the results of technical and cultural progress, contributes to the development of critical thinking required for further progress, ensures fair social and economic evaluations as legislatively accepted forms of intellectual property's being as well as the being of new items which inevitable emerge due to the development of artificial intelligence technologies.

## References

1. Abashidze A. Kh., Malichenko V. S. The Activities of International Organizations on the Ensuring of a Universal Access to Medicine in the conditions of the Development of Mechanisms protecting Intellectual Property Rights [Deyatel'nost' mezhdunarodnykh organizatsii po vseobshchemu obespecheniyu dostupa k lekarstvennym sredstvam

<sup>42</sup> Alekseev G. V., Kolobova E. Yu. Economic and legal aspects of cooperation and competition in the global film industry [Ehkonomicheskie i pravovye aspekty sotrudnichestva i konkurentsii v mirovoi kinoindustrii] // Administrative consulting [Upravlencheskoe konsultirovanie]. 2014. No. 12 (72). PP. 67–78. (In rus)

<sup>43</sup> Jordan T. Securitisation of the Internet. In *Information Politics: Liberation and Exploitation in the Digital Society*. London: Pluto Press Publ., 2015. PP. 98–119.

<sup>44</sup> Maguire M., Frois C., Zurawski N. (eds). *The Anthropology of Security: Perspectives from the Frontline of Policing, Counter-terrorism and Border Control*. London: Pluto Press Publ., 2014.

<sup>45</sup> Kirilenko V. P., Alekseev G. V., Pacek M. Natural Law and the Crisis of the Liberal legal Order [Estestvennoe pravo i krizis liberal'nogo pravoporyadka] // Vestnik of Saint Petersburg University. Law [Vestnik Sankt-Peterburgskogo universiteta. Pravo]. 2019. Vol. 10. No 1. PP. 38–54. (In rus)

<sup>46</sup> Voynikanis E. A. Intellectual property law in the digital age: a paradigm of balance and flexibility [Pravo intellektual'noi sobstvennosti v tsifrovuyu ehpokhu: paradigma balansa i gibkosti]. M.: Yurisprudentsiya Publ., 2014. 550 p. (In rus)

- v usloviyakh razvitiya mekhanizmov zashchity prav intellektual'noi sobstvennosti] // Moscow Journal of International Law [Moskovskii zhurnal mezhdunarodnogo prava]. 2017. No. 2 (106). PP. 107–117. (In rus)
2. Alekseev G. V. Classification of information relations [Klassifikatsiya informatsionnykh pravootnoshenii] // Information law [Informatsionnoe pravo]. 2008. No. 3. PP. 9–12. (In rus)
  3. Alekseev G. V. Extension of Information Technology's Application Areas and Information Security of the State. [Rasshirenie oblastei primeneniya informatsionnykh tekhnologii i informatsionnaya bezopasnost' gosudarstva] // Administrative consulting [Upravlencheskoe konsul'tirovanie]. 2017. No. 5 (101). PP. 8–19. (In rus)
  4. Alekseev G. V., Kolobova E. Yu. Economic and legal aspects of cooperation and competition in the global film industry [Ekonomicheskie i pravovye aspekty sotrudnichestva i konkurentsii v mirovoi kinoindustrii] // Administrative consulting [Upravlencheskoe konsul'tirovanie]. 2014. No. 12 (72). PP. 67–78. (In rus)
  5. Arkhipov V. V. Virtual law: the main problems of the new direction of legal research [Virtual'noe pravo: osnovnye problemy novogo napravleniya yuridicheskikh issledovaniy] // News of Higher Educational Institutions. Jurisprudence [Izvestiya vysshikh uchebnykh zavedenii. Pravovedenie]. 2013. No. 2 (307). PP. 93–114. (In rus)
  6. Arkhipov V. V., Lukyanov V. V., Naumov V. B. Intellectual property in the innovative activity of a russian university: issues of management and perspectives of legislative developments [Intellektual'naya sobstvennost' v innovatsionnoi deyatel'nosti rossiiskogo universiteta: voprosy upravleniya i perspektivy razvitiya zakonodatel'stva] // News of Higher Educational Institutions. Jurisprudence [Izvestiya vysshikh uchebnykh zavedenii. Pravovedenie]. 2017. № 5 (334). PP. 52–67. (In rus)
  7. Arkhipov V. V., Naumov V. B. On some issues of theoretical foundations of the development of legislation on robotics: aspects of the will and legal personality [O nekotorykh voprosakh teoreticheskikh osnovanii razvitiya zakonodatel'stva o robototekhnike: aspekty voli i pravosub'ektnosti] // Law [Zakon]. 2017. No. 5. PP. 157–170. (In rus)
  8. Balkansky A. A., Karpushina A. O., Korpan L. M., Lavrov A. V., Smolin A. A., Sopronenko L. P. Design of human-computer systems as a new professional field of activity [Dizain cheloveko-komp'yuternykh sistem kak novaya professional'naya oblast' deyatel'nosti] // Information Age [Vek informatsii]. 2018. Vol. 1. No. 2. PP. 175–176. (In rus)
  9. Basalaeva O. G. Features of the relationship of intellectual culture, artificial intelligence and the creative process [Osobennosti vzaimosvyazi intellektual'noi kul'tury, iskusstvennogo intellekta i tvorcheskogo protsessa] // Bulletin of Kemerovo State University of Culture and Arts [Vestnik Kemerovskogo gosudarstvennogo universiteta kul'tury i iskusstv]. 2017. No. 40. PP. 140–145. (In rus)
  10. Voynikanis E. A. Providing free access to information as a direction of legal policy and its influence on the paradigm of intellectual rights [Obespechenie svobodnogo dostupa k informatsii kak napravlenie pravovoi politiki i ego vliyanie na paradigmat intellektual'nykh prav] // State and Law [Gosudarstvo i pravo]. 2015. No. 5. PP. 103–105. (In rus)
  11. Voynikanis E. A. Intellectual property law in the digital age: a paradigm of balance and flexibility [Pravo intellektual'noi sobstvennosti v tsifrovuyu epokhu: paradigma balans i gibkosti]. M.: Yurisprudentsiya Publ., 2014. 550 p. (In rus)
  12. Volkova I. I. Game formats of multimedia journalism [Igrovyye formaty mul'timediinoi zhurnalistiki] // RUDN Journal of Studies in Literature and Journalism. Series: Literary Studies, Journalism [Vestnik Rossiiskogo universiteta družby narodov. Seriya: Literaturovedenie, zhurnalistika]. 2014. No. 1. PP. 105–112. (In rus)
  13. Volkova I. I. Computer games and new media: a gaming approach to communications in the virtual space [Komp'yuternye igry i novye media: igrovoi podkhod k kommunikatsiyam v virtual'nom prostranstve] // RUDN Journal of Studies in Literature and Journalism. Series: Literary Studies, Journalism [Vestnik Rossiiskogo universiteta družby narodov. Seriya: Literaturovedenie, zhurnalistika]. 2017. Vol. 22. No. 2. PP. 312–320. (In rus)
  14. Galinskaya I. L. Osip Mandelstam: "I am ready for death" [Osip Mandel'shtam: "Ya k smerti gotov"] // Culturology [Kul'turologiya]. 2007. No. 2 (41). PP. 50–52. (In rus)
  15. Grin E. S., Alekseeva V. A. Organizer of Creation of a Complex Object of Intellectual Property Rights: Problems of Theory and Practice [Organizator sozdaniya slozhnogo ob"ekta intellektual'nykh prav: problemy teorii i praktiki] // Actual problems of Russian law [Aktual'nye problemy rossiiskogo prava]. 2018. No. 7 (92). PP. 123–128. (In rus)
  16. Kirilenko V. P., Alekseev G. V. Actual problems of extremist crime counteraction [Aktual'nye problemy protivodeistviya prestupleniyam ehkstremistskoi napravlenosti] // Russian Journal of Criminology [Vserossiiskii kriminologicheskii zhurnal]. 2018. Vol. 12. No. 4. PP. 561–571. (In rus)
  17. Kirilenko V. P., Alekseev G. V. Political technologies and international conflict in the information space of the Baltic sea region [Politicheskie tekhnologii i mezhdunarodnyi konflikt v informatsionnom prostranstve Baltiiskogo regiona] // Baltic region [Baltiiskii region]. 2018. Vol. 10. No. 4. PP. 20–38. (In rus)
  18. Kirilenko V. P., Alekseev G. V. Modern Democracy and Political Leaders [Sovremennaya demokratiya i politicheskies lidery] // Administrative consulting [Upravlencheskoe konsul'tirovanie]. 2018. No. 7 (115). PP. 17–31. (In rus)
  19. Kirilenko V. P., Alekseev G. V., Pacek M. Natural Law and the Crisis of the Liberal legal Order [Estestvennoe pravo i krizis liberal'nogo pravoporyadka] // Vestnik of Saint Petersburg University. Law [Vestnik Sankt-Peterburgskogo universiteta. Pravo]. 2019. Vol. 10. No 1. PP. 38–54. (In rus)
  20. Kolobova E. Yu. The system of state support of cinematography as a condition for the development of the market environment of cinema services [Sistema gosudarstvennoi podderzhki kinematografii kak uslovie razvitiya rynochnoi sredy kinozrelishchnykh uslug] // Petersburg Economic Journal [Peterburgskii ehkonomicheskii zhurnal]. 2017. No. 3. PP. 140–154. (In rus)
  21. Lebed V. V. Multimedia products in terms of the adaptation of French copyright laws to informational realities [Mul'timediinye produkty v usloviyakh adaptatsii frantsuzskikh zakonov ob avtorskom prave k informatsionnym realiyam] // State and Law [Gosudarstvo i pravo]. 2014. No. 5. PP. 72–77. (In rus)



22. Proshchalykina A. N. Features of pricing on informational products and services [Osobennosti tsenoobrazovaniya na informatsionnye produkty i uslugi] // Business. Education. Right [Biznes. Obrazovanie. Pravo]. 2014. No. 2 (27). PP. 34–38. (In rus)
23. Pyatkin S. N. Stanzas as a dialogue with the authorities: Pushkin, Yesenin, Mandelstam [Stansy kak dialog s vlast'yu: Pushkin, Esenin, Mandel'shtam] // Philological Sciences. Issues of Theory and Practice [Filologicheskie nauki. Voprosy teorii i praktiki]. 2014. No. 8–1 (38). PP. 152–156. (In rus)
24. Razuvayev N. V. The state as a legal construct [Gosudarstvo kak pravovaya konstruktsiya] // News of Higher Educational Institutions. Jurisprudence [Izvestiya vysshikh uchebnykh zavedenii. Pravovedenie]. 2016. No. 2 (325). PP. 110–121. (In rus)
25. Razuvayev N. V. Reflections on personal identity in ancient literature [Razmyshleniya o lichnostnom samosoznanii v antichnoi literature] // Platon. 2017. No. 2. PP. 20–33. (In rus)
26. Talimonchik V. P. International Protection of Copyright in Telecasting [Mezhdunarodnaya okhrana avtorskogo prava v televeshchanii] // Vestnik of Saint Petersburg University. Law [Vestnik Sankt-Peterburgskogo universiteta. Pravo]. 2016. No. 3. PP. 50–64. (In rus)
27. Talimonchik V. P. The human right to information: international legal aspects [Pravo cheloveka na informatsiyu: mezhdunarodno-pravovye aspekty] // News of Higher Educational Institutions. Jurisprudence [Izvestiya vysshikh uchebnykh zavedenii. Pravovedenie]. 2009. No. 5 (286). PP. 13–23. (In rus)
28. Tsukanova E. Yu., Skopenko O. R. Legal aspects of liability for causing damage by a robot with artificial intelligence [Pravovye aspekty otvetstvennosti za prichinenie vreda robotom s iskusstvennym intellektom] // Matters of Russian and International Law [Voprosy rossiiskogo i mezhdunarodnogo prava]. 2018. Vol. 8. No. 4a. PP. 42–48. (In rus)
29. Shustrova O. I. Cyborg as a work of multimedia art (to the problem of human expansion) [Kiborg kak proizvedenie iskusstva mul'timedia (k probleme rasshireniya cheloveka)] // Vestnik of Saint Petersburg University. Arts [Vestnik Sankt-Peterburgskogo universiteta. Iskusstvovedenie]. 2011. No. 1. PP. 110–115. (In rus)
30. Bors C., Christie A., Gervais D., Clayton E. W. Improving Access to Medicines in Low-Income Countries: A Review of Mechanisms // The Journal of World Intellectual Property 2015. Vol. 18. Iss. 1–2. PP. 1–28.
31. Costigan S. S., Lindstrom G. Policy and the Internet of Things // Connections 2016. Vol. 15. No. 2. PP. 9–18.
32. Dovey J. Copyright as Censorship-Notes on “Death Valley Days” // Screen 1986. Vol. 27. Iss. 2. PP. 52–56.
33. Gershenfeld N., Krikorian R., Cohen D. The Internet of Things // Scientific American 2004. Vol. 291. No. 4. PP. 76–81.
34. Gervais D. J. The Economics of Collective Management / Research Handbook on the Economics of Intellectual Property Law. Vol. 1: Theory Vol. 2: Analytical Methods / Ed. Ben Depoorter, David Schwartz, Peter S. Menell. 2019. 1512 p.
35. Gervais D. J. The Machine As Author // Iowa Law Review. Vol. 105, 2019. PP. 1–61.
36. Gervais D. J. (Re)structuring Copyright: A Comprehensive Path to International Copyright Reform. Edward Elgar Publishing, 2017. 384 p.
37. Jordan T. Securitisation of the Internet. In Information Politics: Liberation and Exploitation in the Digital Society. London: Pluto Press Publ., 2015. PP. 98–119.
38. Kostova N. (Re)structuring Copyright: A Comprehensive Path to International Copyright Reform by Daniel J. Gervais // International Journal of Law and Information Technology 2018. Vol. 26. Iss. 2. PP. 185–188.
39. Lastowka G. Virtual Justice: The New Laws of Online Worlds. Yale University Press Publ., 2011. 241 p.
40. Maguire M., Frois C., Zurawski N. (eds). The Anthropology of Security: Perspectives from the Frontline of Policing, Counter-terrorism and Border Control. London: Pluto Press Publ., 2014.
41. Murray J. C. Options and Related Rights with Respect to Real Estate: An Update // Real Property, Trust and Estate Law Journal 2012. Vol. 47, No. 1. PP. 63–140.
42. Naumov V. B., Arkhipov V. V. Pervasive Legal Problems of the Internet of Things and the Limits of Law: Russian Perspective // Proceedings of the Institute of State and Law of the Russian Academy of Sciences [Trudy Instituta gosudarstva i prava Rossiiskoi akademii nauk]. 2018. Vol. 13. No. 6. PP. 94–123.
43. Ornes S. The Internet of Things and the Explosion of Interconnectivity // Proceedings of the National Academy of Sciences of the United States of America 2016. Vol. 113, No. 40. PP. 11059–11060.
44. Shepherd E. Freedom of Information, Right to Access Information, Open Data: Who is at the Table? // The Round Table. The Commonwealth Journal of International Affairs 2015. Vol. 104. Iss. 6: Freedom of Information in the Commonwealth. PP. 715–726.