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## COPYRIGHT OR FREEDOM FROM THE PERSPECTIVE OF GLOBALIZATION

<b>Abstract:</b>	<i>The intentions of copyright during its existence are grinded by various factors, which have determined the emergence and the support of the existence of anti-copyright. Thus, copyright is not used by some subjects according to its purpose, but as an effective means of creating a monopoly and obtaining financial profit by using copyright in their own interests, speculating with it, limiting the poor man's access to culture, education, medicine and so on. The limitation that causes the loss of the ability to learn from others, experience and observations is the ability that only man possesses.</i>
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### Introduction

The intellectual property recently emerged as a valuable commodity and is being used as collateral in secured transactions with increasing frequency<sup>1</sup>. If the inventor of the wheel had patented his invention, he would have been the richest man on the planet. But we do not know him, as we do not know many other ancient craftsmen who created amazing things. We do not know those in whose period creation was considered a gift of Gods and did not represent the result of mental activity or the dexterity of hands. Socrates retold Plato, Ivan Krâlov

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<sup>1</sup> *Intellectual Property as Security*, [https://www.ipandlegalfilings.com/intellectual-property-as-security#\\_ftn18](https://www.ipandlegalfilings.com/intellectual-property-as-security#_ftn18), (28.07.2021)

borrowed some stories from Jean de La Fontaine. Everyone knows about the dispute between Thomas Alva Edison and Pavel Iabločkin regarding the incandescent bulb, between Aleksandr Popov and Guglielmo Marconi regarding the radio etc.

The new stages of human development pose new problems for societies, including the use of copyright in the digital world.

*The material and method.* In order to achieve the goals and objectives outlined, taking into account the specificity and complex character of the investigated topic, the logical, systematic, comparison methods were used as research methods. The research undertaken is based on the study of the doctrine, of the national and the international law.

*The result of the discussion.* The first known legal regulations appeared in the field of property in general and were materialized with regard to property, expressing the right of possession of property, the right to dispose the object of property, the right to run, administer and manage the property and the right to collect the rewards of using property. The American economist Irwin Fisher mentions that, from an economic point of view, property represents "the freedom or acceptance to enjoy the benefits of a fortune ... with the assumption of the costs arising from obtaining these benefits"<sup>1</sup>.

Although the property regulations were first materialized in the field of tangible goods, it is interesting that the intellectual property, which is related only to the human being and the result of this activity, is materialized in scientific or artistic works, has been legislated and recognized later.

The intellectual property from a historical perspective has had a complex dynamic course, shown by different attitudes towards human creation, but also towards the legal norms that protected or should protect each category of rights, respectively the copyright, related rights and industrial property<sup>2</sup>.

Taking into account the historical periods of intellectual property development, we aim to know the basis causes for the development of the intellectual property field and the determination of the factors that support the existence of anti-copyright.

The specialized literature mentions the existence of four historical periods of intellectual property evolution<sup>3</sup>:

1. *The period of privileges and monopolies.* The first intellectual property right object that has been recognized and protected since antiquity is the trademark. These figurative signs appeared in the form of letters (usually initials), combinations of lines, natural motifs, other symbolic signs etc. which were placed on bricks, leather articles, ceramic vessels, fabrics,

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<sup>1</sup> Mihai Dincă, *Analiza juridico-penală a infracțiunilor privind drepturile de proprietate intelectuală*, Chișinău, 2012, p. 45

<sup>2</sup> *Ibidem*

<sup>3</sup> Mihai Dincă, *Op. cit.*, p. 46

weapons etc. Thus, the brand has the aim to identify a good, individualise a product, at the same time, having the function for a quality certificate. Later the application of the mark became mandatory and represented a privilege granted by king, emperor. This privilege, in our opinion, generated the emergence of a monopoly in the field. From now on, the emphasis was not only on quality and customer protection, but also on the financial aspect.

At the beginning of the 16<sup>th</sup> century the first attempts to defend this right against the violations concerned, materialized by the action of the plastic artist Albrecht Dürer, who demanded a payment of copyright for unauthorized reproduction of engraving "Apocalypse" and who obtained the recognition of the right to prohibit printing and sale of his forged works for a period of ten years, throughout the Roman-German Empire<sup>1</sup>.

2. *The period of national regulations.* The industrial revolution has also left its mark on the intellectual property. Together with the emergence of a movable type printing, according to the intellectual property expert Roş Viorel, the human genius is becoming more productive: new books are multiplying, the author's work too, the bookstore industry is becoming more profitable and, at the same time, more active and more shameful is becoming the job of plagiarists and perpetrators of counterfeiting. That is why all those who, more or less directly, obtain a transitory profit from the intellectual activity feel the need to require social protection<sup>2</sup>.

The author Jules-Marc Baudel in his work "La Législation des Etats-Unis sur le droit d'auteur" mentions that Gutenberg's invention was the exclusive cause of copyright birth<sup>3</sup>.

During this period printing and sale of books had to be authorized, in this sense there were privileges. It is important that the privileges of bookstore, the granting of printing monopoly and work distribution had the protection purpose not of the authors, but the printing houses, against their competitors. The author who released the manuscript to a printer lost any right over it, the printing houses being the ones that acquired the property right over the manuscript, as well as the right to exploit and broadcast the work<sup>4</sup>.

The copyright system appears and the copyright protection depends on the registration in a special register, the copyright register. Thus, it is obvious that a material advantage is pursued, ignoring almost entirely the moral rights and interests of the author, giving priority to the industrial interest. During this period there is a change in the values and the purpose of intellectual work. Writers (authors of books) who, more than anyone, understand the value of education, become the people who use literature as a means of making money.

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<sup>1</sup> Mihai Dincă, *Op. cit.*, p. 47

<sup>2</sup> Viorel Roş, *Dreptul proprietăţii intelectuale*, Global Lex, Bucureşti, 2001, p. 35

<sup>3</sup> *Ibidem*, p.35

<sup>4</sup> Viorel Roş, *Op.cit.*, p. 36

To eradicate this opinion it must be solved the problem of literature that anti-copyright identifies as a means of profit for one class to the detriment of another, and therefore the process of educating and schools spreading represent a means of consolidating book product sales – how much does it cost to rent books in primary school, how often do textbooks change? Does this exploit the society through books – a compulsory education is a new tax on the population exploitation in favour of the scribes, "homo homini lupus". People participate in the literary work only with money and not with mind and soul; it remains only work and mental entertainment (which is given to popularization).

Starting from such a definition of literature, we find that it does not aim to educate and spread healthy social values. Therefore, the analysis of the conditions of literary works' sale is used in order to determine those characteristics that amplify the increase of sales, namely are defined those properties required by a literary work that would bring profit to its author. Pope John Paul II mentioned in this context: "If you want to educate children in the spirit of humanism, show them Soviet cartoons - they are good and teach you to be wise"<sup>1</sup>, which are not popular with children.

In the pursuit of profit, "the tax for thoughts and words", there is a complete loss of understanding of the essence and importance of science, culture, education etc. This fact was also mentioned by the great M. Eminescu: "It's easy to write lyrics/When you have nothing to say,/Stringing empty words/What in the queue will sound"<sup>2</sup>.

Lev Tolstoy characterizes the given epoch as: "The time of the prodigal sons, the epoch of the loss of meaning and purpose, when writers and scholars form a special caste. As long as there is a separation between learned and uneducated man, so long will this immoral trade exist, and the literature will increasingly have the characteristics of an industry, which offers entertainment, which will therefore not be a necessity, and people will only see it as a pleasure"<sup>3</sup>.

3. *The period of internationalization.* It is characterized by the establishment of an international protection of intellectual property rights. The United Nations International Bureau for the Protection of Intellectual Property appears, than it became the World Intellectual Property Organization (WIPO), later it is recognized as a specialized agency within the United Nations (UN).

4. *Globalization.* It has generated a faster evolution of trade and financial flows. There are legal and criminal regulations that protect intellectual property and try to stop the phenomenon of counterfeiting and piracy. Thus, every person has the right to benefit from the protection of moral and material rights deriving

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<sup>1</sup> <http://nrnews.ru/news/kultura/55621-.html>, (28.07.2020)

<sup>2</sup> Mihai Eminescu, *Criticilor mei*, [https://www.versuri.ro/versuri/mihai-eminescu-criticilor-mei-\\_aly1.html](https://www.versuri.ro/versuri/mihai-eminescu-criticilor-mei-_aly1.html), (28.07.2020)

<sup>3</sup> Nikolay Fedorov, *Plata za tsitaty, ili velikaya budushchnost' literaturnoy sobstvennosti, literaturnogo tovara i avtorskogo prava*, [http://chaskor.ru/js/img/N\\_Fedorov\\_2.doc](http://chaskor.ru/js/img/N_Fedorov_2.doc), (28.07.2020)

from any scientific, literary or artistic work of which he is the author. However, there are currently few individuals who hold patents on their inventions.

The evolution of Intellectual Property laws and standards are all in the direction of maximizing private rights and not give importance to public interests<sup>1</sup>

The stability in the field of intellectual property protection, during this period, is disturbed by the emergence of the Internet, which is the greatest product of democracy. Thus, not only access but also the generation of information and knowledge is democratized and liberalized. There is no longer a simple consumer, but a contributor who wants to improve or contribute to the appearance of the final product (for example, does a remix, a translation, posts elsewhere slightly modified etc.). The phenomenon of social creativity appears - everyone creates.

Globalization intensifies the need for an instrument of justice, especially when each party has its own justice.

Copyright as a tool that regulates the right to copy or rather the right to limit copying is a real and objective necessity. Thus, copyright ensures that the author is remunerated for his intellectual activity and provides money for new creations. At the same time, the Copyright, in the opinion of anti-copyright supporters, is a monopoly that, even if in some areas it brings benefits, taken as a whole, it only harms society. Mankind loses the quality that differentiates it from animals, namely the ability to learn not only from one's own activities and observations, but from others experiences and observations.

Now we have a new way of disseminating information: computers and networks. They are useful in facilitating the copying and information processing, including programs, music, books and movies. With their help, an informational utopia has become achievable: unlimited access to all kinds of data. An obstacle stands in the way – the copyright. Readers and listeners who have used the new ability to copy and share published information are people who have violated penal law. The same law, which in the past acted as a useful rule for publishers, serving them began to limit the society.

In conditions of democracy, a law banning popular and rewarding activities soon becomes milder. But not where the corporations have the political power. Pro-publisher forces have firmly decided not to let people use the power of their computers and have found that copyright is a convenient tool for this. Under their influence, instead of adapting the legislative provisions to the new circumstances, states made them stricter than ever, imposing heavy sanctions on data exchange practice.

Computers can be powerful tools of influence. Publishers have realized that by publishing papers in an encrypted format, that can be viewed only by a specially authorized program, they can gain unprecedented power: they can make readers pay and identify each time they want to read a book, listen to a song or watch a video. This is the dream of publishers: "*a paid universe*".

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<sup>1</sup> IP&Legal Filings, *Intellectual Property as Security*, [https://www.ipandlegalfilings.com/intellectual-property-as-security#\\_ftn1](https://www.ipandlegalfilings.com/intellectual-property-as-security#_ftn1), (28.07.2021)

We still have the same old freedoms when we read paper books and other analogous media. But if e-books replace printing books, these freedoms will no longer exist. Imagine: you can no longer buy a book in a store, borrow a book from a friend or borrow from a public library - there are no "gaps" to give someone the opportunity to read for free.

In order to argue the necessity of the existence of copyright, the anti-copyright followers' theses must be solved, which plead for the abolition of copyright based on the following arguments:

1. the sectors such as the development of information technologies, medicine, education etc., the most important for the society development and humanity as a whole, in which copyright has an important position, are in the sphere of influence of corporations. In these sectors the rent belongs to the corporations and the copyright is used in own interests and not of the humanity;

2. third parties who obtain copyright speculate with them;

3. the development of the above-mentioned fields have to be done through microfinance, grants (from state, public organizations, private funds etc.). If creative people sold or spread their intellectual work for free on the Internet, they would not be poorer, the necessity of their existence would not disappear, and corporations would lose their sense of existence;

4. the illegal copying brings "losses". That statement is largely inaccurate, as it suggests that an acquaintance or friend would buy a copy from the publisher. This is, in some cases, true, but more often is false. And when this is not true, there is no alleged loss. Likewise, the statement is partly misleading, because the word "loss" implies completely different events – is lost what exists. For example, if a bookstore's warehouse burns or cashes out, it would be a real "loss." But when your friend avoids the need to buy a copy of the book, the bookstore and the publisher don't lose anything they had. It would be fairer to say that the store and the publisher receive less income than they could. In other words, "losses" arise from the copyright system and are not an integral part of the copy. Copying does no harm to anyone;

5. it is not correct to limit the human access to culture, science, education, medicine etc. because he is poor. The vast majority of humanity does not have financial resources to pay the rent of those who parasitize based on the author.

## **Conclusions**

Generalizing those recorded in the actual content of the paper, we present the conclusions:

1. The intellectual property is given increased attention because:
  - sales of the material product decrease and sales of the intellectual property object increase – a financial reason;
  - as in the case of Gutenberg, the inventor of mobile printing, new simple means of multiplying intellectual activity have appeared;
  - copyright is a catalyst in the fight against piracy.

2. Modern society must identify new mechanisms for the protection of intellectual property, so that the purpose of the law to be not the enrichment.

3. The word tax, in our opinion, represents the highest stage of individualism, which prevents the spread of thoughts and its efficient use - of education in general.

4. The issue of copyright has two positions at its base. On the one hand, everything that is invented and created is the treasure of humanity that everyone can use. And on the other hand, there is the author who alone wants to receive payment for the work done and does not want to be rewarded by someone, somehow, someday. Between these two positions appears the third element – the society, which is not rich, but which wants to use the fruits of culture, science, education, medicine etc. at a minimum price or even better for free. This is the problem not only of developing countries, but also the developed ones, where people want to buy a quality product at a low price. This is a social problem, because a state must think about the insurance of the intellectual values accessibility that exist in the world, but also must take into account the rights of the author.

5. The author must be independent of the state or any public organization, but dependent on the audience watching his film, reading his book or not watching and not reading anything of the authors' creation.

6. Today there is no clear mechanism in the field of intellectual property protection that would suit all parties (the author wants the payment, the company wants intellectual properties and third parties want to protect the product that is not created by them).

We believe that this situation will be solved someday, somehow, and until then we will not make illegal copies and downloads, we will not deal with piracy and we hope that we will not read, watch, create less till now.

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