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MORAL RIGHTS INVOLVED IN COPYRIGHT:

PHILOSOPHICAL ASPECTS

The main problem in this study is the following: what rights are available for intellectuals as creators of informational resources? A violation of the moral rights involved in the ownership of copyright is a violation of human rights. And this is not only a legal or moral problem, it is philosophical also. That's why this paper is devoted to the philosophical aspects of the problem, mentioned above.

It is asserted in this work that the most available of rights of intellectuals are moral rights. This conclusion is arrived at through an analysis of specific and general features of moral rights involved in ownership of copyright.

The most important reason for the topicality of researched theme is that the copyright (as a kind of intellectual property rights) is stated mostly for publishers, booksellers, owners of mass-media, investors, etc. But intellectuals as creators can get moral rights involved in the copyright.

In England the Copyright Act (the Statute of Anne) was introduced for published works at 1709 (but Charter of Incorporation for printers and booksellers was passed in England in 1556-1557¹). So rights of printers and booksellers were defended earlier than rights of authors.

In comparison now (for example), in India "Copyright is a form of intellectual property protection granted under Indian law to the creators of original works of authorship such as literary works (including computer programs, tables and compilations including computer databases which may be expressed in words, codes, schemes or in any other form, including a machine readable medium), dramatic, musical and artistic works, cinematographic films and sound recordings"².

Now in Russia and in India any author enjoyed moral rights (right of authorship, right to a name, right to public disclosure, right to protect author's reputation) and proprietary rights (right of reproduction, distribution, import, public demonstration, public performance, translation, revision etc.). Infringement of copyright entailed civil, criminal and/or administrative liability. But as for any published literary work, its author is the potential victim of intellectual rights violations because of common negative attitude to any legal proceedings.

¹http://www.lawdit.co.uk/reading_room/room/view_article.asp?name=../articles/The%20History%20of%20Copyright.htm

² <http://www.legalserviceindia.com/article/1195-Copyright-Law-in-India.html>

So many unknown authors prefer to be so-called literary slaves (i. e. intellectuals hired for writing some works, especially so-called pop-fiction novels; understandably, names of these actual authors are never mentioned).

Some former freelancers (i. e. independent creators of software as a kind of copyright objects) prefer to be hired by some large corporations, even in the field of IT (information technology).

International concepts of moral rights involved in ownership of copyright are realized in Indian legislative acts on a basis of the Universal Declaration of Human Rights.

Kala Thairani asserted that `those rights should be afforded legal protection in order to prevent unlawful reproduction of their works. ... The moral justification for providing legal protection is based on principle that as in the case of any other form of property in any article or substance acquired through mechanical labor, a man is entitled to the fruits of his intellectual creation which is the result of his talent and hard work. ... the Universal Declaration of Human Rights (Article 27) says: "Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author"³.

From this general (Universal) basis of the concepts of moral rights different legislative acts in many countries derive several kinds of moral rights.

This European continental idea of moral rights was adopted in the Indian Copyright Law also. In comparison in India: `Section 57 of the Act defines the two basic "moral rights" of an author. These are:

- (i) Right of paternity, and
- (ii) Right of integrity.

The right of paternity refers to a right of an author to claim authorship of work and a right to prevent all others from claiming authorship of his work. Right of integrity empowers the author to prevent distortion, mutilation or other alterations of his work, or any other action in relation to the said work, which would be prejudicial to his honor or reputation⁴.

At the same time, intellectuals became hired workers in the field of intellectual activity. And as other workers intellectuals have no meaningful resource except their own work⁵. The main possible property for intellectuals is the

³ Thairani, Kala. Copyright: Indian Experience. Mumbai, 1987. P. 3.

⁴ <http://www.legalserviceindia.com/article/I195-Copyright-Law-in-India.html>

⁵ Latypov I.A. Social-philosophical aspects of moral rights of authors// Science. Philosophy. Society. Proceedings of the 5-th All-Russia philosophical congress. Novosibirsk, 2009. Vol.2. P. 459-460. (in Russian).

intellectual property. For intellectuals creating works of art, science and literature, ownership of a copyright is the only way to safeguard their intellectual rights.

And the most available of rights of intellectuals are moral rights.

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