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The becoming and development of a system of protection of intellectual property rights in Europe and the USA

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This scientific article focuses on the establishment and development of a system of legal protection of intellectual property rights in Europe and the United States of America. It is pointed out that the first foundations of the modern European institution for the protection of intellectual property rights were developed in ancient Greece, namely during 257-180 BC. A considerable development of the printing business in Europe in the Middle Ages led to the further development of intellectual property rights. The development of science, technology, and capitalist relations in the UK has led to the development of a system of legal protection and protection of intellectual property rights. Subsequently, international regulations on the protection of intellectual property rights were adopted in Europe, which became the basis for the formation of modern EU intellectual property law. Another approach to the creation of an intellectual property rights system was initiated in the United States. There, a significant role was given to the protection of industrial property rights, namely technology, trademarks.

Keywords: Europe, US legislation, intellectual property, trademarks, copyright

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INTRODUCTION

As of now, Ukraine faces the need to adapt its national legal system to generally recognized democratic legal standards. This also applies to the protection of intellectual property rights. It is quite understandable that such adaptation is not possible without a study of legal experience in this field. It is this approach that will reveal all the positive and negative points for the Ukrainian legal system. In this study, we will focus on the development of a legal system for the protection of intellectual property rights in Europe and the United States. Our attention will be paid to the main stages of the genesis of the protection of the relevant right, from ancient Greece (Europe) to our time and from the moment of the formation of the US legal system to the present.

The first foundations of the modern European institution for the protection of intellectual property rights found their way back in ancient Greece, namely in the period of 257-180 BC. At the same time, the foundations of the modern European industrial property system, namely the first analogues of trademarks, were laid in Ancient Greece. Such analogues of the first European trademarks were to designate letters of products of the artisans of the time, who used letters or a group of letters to designate their own manufactured products. Along with the designation, the craftsmen of Ancient Greece used their own graphic symbols to individualize their own production. The significant development of the printing business in Europe during the Middle Ages led to the further development of intellectual property rights. The very first security documents were issued in the Venetian Republic (1469). In the territory of Europe, the becoming of copyright took place in the specified historical period.

The development of science, technology and capitalist relations in the UK has led to the development of a system of legal protection and protection of intellectual property rights. In 1624, the Statute of Monopolies was adopted in Great Britain. This regulation virtually abolished all existing monopolies, with the exception of inventions for the first new productions that became the basis for the British industry of that time. It is in the UK that the first lawsuits to protect the infringed intellectual property rights appear. Subsequently, international regulations on the protection of intellectual property rights were adopted in Europe, which became the basis for the formation of modern EU intellectual property law.

A system of protection of intellectual property rights in Europe & USA

In the EU, regulations (directives) on the protection of intellectual property rights in the digital environment have been adopted. Another approach to creating a system of protection of intellectual property rights was initiated in the United States. There, a significant role was given to the protection of industrial property rights, namely technology, trademarks. The development of modern digital technology in the US has also led to the necessity of developing legal approaches to protection of intellectual property rights in the digital space.

HISTORICAL OVERVIEW OF THE EMERGENCE OF THE INTELLECTUAL PROPERTY PROTECTION SYSTEM

The first principles of protection of intellectual property rights in the territory of modern Europe can be found in Ancient Greece. For example, Bruce Bugbee points out with regard to protecting the results of creative activity in Ancient Greece, there was the case when Vitruvius (257-180 BC) discovered the theft of poems at a competition held in Alexandria (Bugbee 1967).

In addition, it was the Ancient Greece where the legal foundations of the development of industrial property rights were laid, namely, the first analogues of trademarks. In Greece (2^{nd} millennium BC), local artisans used to label their products with a group of letters (Blavatskaya 1996). Analogues of the first trademarks in Europe. In Pompeii, plaques with a butcher's sign depicting a ham, a milk seller's plaque with a depiction goat were found (Hekl & Shunda 1969). The first analogues of trademarks include the family crests of the nobility of that time.

Subsequently, the development of crafts and technology became the impetus for the further development of industrial property rights and procedures for its protection. The emergence of copyright, as a component of intellectual property rights, contributed to the creation of guilds, which brought together masters of different industries of the time. It was at this time that the state began attempting to control such professional associations, and, above all, printers. It was during this period that the first copyright documents and inventions started to appear. Such documents were issued in the Venetian Republic. For example, in 1469 a patent was issued to the printer John Speyer for exclusive rights to print production (Prager 1994).

It can be said that it was during the Middle Ages in Europe that the first regulation aimed at protecting the rights of authors was adopted. In 1421, a regulation was enacted in Florence to protect the authorship of

architect Filippo Brunelleschi. This act protected the rights of the creator to architectural inventions and other results of intellectual activity. It is noteworthy that the mentioned act significantly expanded the boundaries of creative activity, its role in the territory of the Europe of that time (Moree & Himma 2011). Certainly, the development of culture and trade relations of the European cities of modern Italy is of little importance for the development of copyright in Europe; instead, a significant contribution to the development of intellectual property rights belongs to the United Kingdom.

In the United Kingdom, the first regulations were adopted to govern relations associated with the creation of an intellectual product, and this also concerned technology. In the United Kingdom (England), the privileges of creators started to emerge from the 12th century and to the 15th century. Privileges were granted by the royal authority (royal certificates). The establishment of new facilities with new technologies (at that time) was supported by special privileges. Royal privileges vested their owners with the exclusive right to use and profit from innovation (Shabalin 2018).

A considerable development of technology in the UK has led to an increase in privileges, which in turn has led to a number of abuses, including on the part of the royal power. Under pressure from industrialists, the authorities were forced to allow the courts to hear disputes over the granted privileges (Podoprigora & Svyatotsky 2002). By their very nature, privileges (certificates) have become the first security document (patent) for an intellectual product, and the procedure for judicial protection of privileges of owners of this privileges was represented by the first disputes concerning the protection of intellectual property rights and the first analogue of the activity of specialized courts in the field of intellectual property rights protection.

It should be noted that in the United Kingdom (other countries of old Europe), the principle of privilege extended to artistic and literary creativity and the procedure for the protection of authors' rights (Shabalin 2018). In 1624, the Statute of Monopolies was adopted in Great Britain. This regulation virtually abolished all existing monopolies, with the exception of inventions for the first new productions that became the basis for the British industry of that time. The Statute of 1624 had a positive impact as it expanded the boundaries of creative activity in the United Kingdom. In the presence of monopolies, artists could not work freely, as monopolies significantly restricted their activities.

Another important regulation in the field of copyright in the United Kingdom was the Statute of Anne, "An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned", which was adopted in 1710, and a copyright term was set – 21 years (An explanatory note… 2011). The said Statute became the first regulation in the field of copyright. The statutes of 1624 and 1709, the emergence of litigation (courts) aimed at resolving disputes related to the protection of intellectual property rights, have become the basis of formation and development for the intellectual property rights of the modern United Kingdom (the UK).

Along with the United Kingdom, copyright has also been actively developed in France. Thus, in 1566 was issued the Moulin Ordinance, which became the first regulation in the field of copyright in France. The document governs relations associated with book publishing, printing trade, and regulates issues connected with the issue of patents related to book publishing (Foreman 2012). Subsequently, the rights of authors in France began to be regulated in detail by the Act on Literary and Artistic Property of 1793 (Code de la propriété… 1793).

The emergence of the term "intellectual property" falls at the end of the 17th century. It first appeared in French legislation on the basis of the theory of natural law, which received its most consistent development precisely in the writings of French enlightenment philosophers. According to this theory, the right of the creator of any creative result is its inalienable natural right, which arises from the very essence of creative activity and "exists regardless of the recognition of this right by the state power".

And so, the law of the medieval cities-states of Italy, Great Britain and France (as well as Germany) became the basis for the further development of intellectual property rights in Europe, including the legal protection procedures. With regard to the new stage of the establishment of industrial property rights in Europe, it should be noted that the Middle Ages really gave a new impetus to the development of this right.

In the 13th century, the first watermarks appeared. This was conditioned upon the expansion of paper production, and therefore it became necessary for the masters to distinguish such paper. Production development has led to the creation of professional guilds in Europe. It is these public entities that have used different designations to distinguish their products in the market. The statutes of some professional associations have already made it mandatory to designate manufactured

products (goldsmiths, tin makers, etc.). Professional guilds existed until the 18th century. (Podoprigora & Svyatotsky 2002). Statutes of guilds, acts of authority (king) also provided protection for the designation of products.

The Edict of King Charles V (1544) stipulated responsibility – exclusion from the guild, and cutting off of the right hand. The French Royal Edict (1564) even imposed the death penalty for counterfeit product labelling (Podoprigora & Svyatotsky 2002). The further development of economic relations has led to considerable attention to the legal protection of trademarks. The first regulations establishing civil law protection of trademarks were adopted in Great Britain (1883), France (1857), and Germany (1884) (Podoprigora & Svyatotsky 2002). It was in the second half of the 19th century that the term "intellectual property" was first introduced in Europe by Alfred Nion in his treatise "Droits civils des auteurs, artistses et inventeurs" ("Civil Rights of Authors, Artists, and Inventors"), which was first published in 1846.

It is worth noting that the very term "intellectual property" itself has been embraced ambiguously by both scholars and practitioners. The term was either fully understood in theory and at the legislative level or was the cause of debate. In the second case, the discussion focused on whether it is possible to identify the legal regime of tangible and intangible objects, which are different kinds of copyrighted works and different technical innovations, with territorial, temporal and spatial restrictions on the rights of authors and inventors; with completely different methods of copyright and patent protection than those used to protect property rights. Also, the acquisition of rights to the results of intellectual activity is possible only if special security documents, which are different, are issued, in comparison with the documents certifying the conventional property right. Thus, in the second half of the 19th century, European legal foundations for industrial property rights were established (Dzera et al. 2010).

As a result, it can be stated that the periods of the Middle Ages and the second half of the 19th century were of great importance for the development of intellectual property rights in Western Europe. The further development of intellectual property rights in Western Europe was conditioned by the adoption of a number of important documents that formed the basis of modern international law in the field of protection and intellectual property rights.

In 1886, the Berne Convention for the Protection of Literary and Artistic Works was adopted, and subsequently the Paris Act (amended in

1979) (Berne Convention… 1971) was adopted under the 1971 Convention. The above international document established international legal protection for objects of literature, science and art. The preamble to the Berne Convention specifies that the states of the Union are inspired by an equal desire to protect the rights of authors of their literary and artistic works as effectively and equally as possible (Berne Convention… 1971). Article 3 of the said Convention establishes the legal regime for the protection of copyright. Thus, in particular, the protection stipulated in this Convention is established:

1. (a) for authors who are nationals of one of the countries of the Union in respect of their works, whether released or not; (b) for authors who are not nationals of one of the countries of the Union, in respect of their works published for the first time in one of these countries or simultaneously in a non-Union country and in a Union country.

2. Authors who are not nationals of one of the countries of the Union but who have their habitual residence in one of those countries shall be treated as nationals of that country for the purposes of this Convention.

3. "Released works" means works released with the consent of their authors, regardless of the way of producing copies, provided that those copies were put into circulation in an amount capable of meeting the reasonable needs of the public, considering the nature of the work. A dramatic, musical-dramatic, or cinematic performance, performance of a work of music, public reading of a literary work, messages on wires or broadcasting of literary or artistic works, display of a work of art and construction of a work of architecture do not fall into this category.

4. A work is considered to be released simultaneously in several countries if it has been released in two or more countries within thirty days after its first release (Berne Convention… 1971).

The Berne Convention defines clear criteria for legal protection as well as the rights of authors (creators). The Convention defines the use of a work without the author's consent and without payment to them – "free use" (Podoprigora & Svyatotsky 2002).

One of the most important principles underlying the Berne Convention is the principle of independent protection, according to which the rights of a foreign author from a member state of the Union are protected in another member state of the Union, regardless of whether they are protected at the author's home country (Podoprigora & Svyatotsky 2002). It is noteworthy that not all countries have acceded to the Berne Convention. In particular, the United States did not accede to the

Convention because of the need to protect its own printing industry (as argued by the US) and the USSR. Instead, virtually all Western European countries have acceded to the Berne Convention, as copyright and related rights were one of Europe's priorities.

Another important document on the protection of intellectual property rights was the Universal Copyright Convention 1952 (Universal Copyright Convention 1952). It should be noted that the World Copyright Convention was not fundamentally different from the Berne Convention, the main difference being that the World Convention does not contain such a wide scope of works to be protected. The World Convention also establishes the principle of the national legal protection regime (Articles IV-V). Importantly, the World Copyright Convention does not apply to works or rights to those works whose protection, at the time of the entry into force of this Convention in the Contracting State where protection is sought, has ceased to exist or has never existed (Article VI) (Universal Copyright Convention 1952). The United States and the USSR acceded to this Convention because it (the Convention) established a lower level of legal protection that was in conformity with the interests of those countries.

Subsequently, other international legal documents were adopted in the field of protection of intellectual property rights aimed at the development of creativity and technology. Thus, the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations – the Rome Convention – was adopted; Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms – 1971; Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite – 1974, etc. (Podoprigora & Svyatotsky 2002).

A considerable scope of international legal instruments was adopted for the purpose of protecting industrial property rights, in particular: the Paris Convention for the Protection of Industrial Property – 1883; Patent Cooperation Treaty (PCT) – Washington Treaty of 1970 (revised in 1979 and 1984); Strasbourg Agreement on the International Patent Classification (IPC Agreement) – 1971; Hague Agreement Concerning the International Registration of Industrial Designs – 1925; Locarno Agreement Establishing an International Classification for Industrial Designs – 1968 (Podoprigora & Svyatotsky 2002).

Means of individualization of members of the civil traffic, goods and services have also undergone international legal protection. The

following international documents may include: the Madrid Agreement Concerning the International Registration of Marks – 1891; Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks – 1957; Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks – 1973; Trademark Law Treaty – 1994, etc. (Podoprigora & Svyatotsky 2002).

The creation of the World Intellectual Property Organization (WIPO) was an important step in establishing the international legal protection of intellectual property rights. This international organization was created on the basis of a concept signed in Stockholm on July 14, 1967. WIPO is one of the specialized agencies of the United Nations. Over 160 countries are members of WIPO, including Ukraine. WIPO International Bureau is located in Geneva since 1974. (Permanent Mission… 2019).

WIPO performs the administrative functions of international agreements in the field of intellectual property. With the active involvement of Member States, WIPO pursues activities aimed at shaping global intellectual property policy, harmonizing national laws and procedures in this field; rendering services to international applicants for obtaining industrial property rights; information exchange; providing technical, organizational and advisory assistance to WIPO Member States; assistance in the resolution of intellectual property disputes between private law entities, etc.

The purpose of this international organization is to promote the protection of intellectual property worldwide by ensuring cooperation between States and ensuring the administrative management of multilateral treaties governing the legal and administrative aspects of intellectual property (Permanent Mission… 2019).

A significant breakthrough on the path of international commerce regarding the use of intellectual property results was the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (The Agreement… 1994). The TRIPS Agreement is a basic agreement, which has as its object the legal regulation of the commercial aspects of the results of intellectual activity. Intellectual property rights that fall under the TRIPS Agreement include virtually all copyright and related rights, trademarks, geographical indications, patents, integrated circuits, and more. The TRIPS Agreement establishes basic international standards for the commercial use of intellectual property rights. All the above

international legal instruments have become the basis for the creation of a pan-European regulatory framework in the field of protection of intellectual property rights.

ANALYSIS OF THE ACTIVITIES OF THE EUROPEAN UNION IN RELATION TO COPYRIGHT PROTECTION

The creation of the European Union (hereinafter referred to as the EU) has been the starting point for the creation and development of a new unified system of legal protection of intellectual property rights in the united continent. The legal foundation for the creation and operation of the EU is the basic documents, in particular: the 1957 Agreement establishing the European Economic Community; Treaty on European Union (Maastricht Treaty – 1992); Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community – 2007 (Tolstykh 2015).

The main statutory documents of the EU are directives. It is the directives that form the common European law, including intellectual property rights and legal procedures for the protection of the latter. The EU law model is a two-tier system: 1) pan-European legal documents (directives); 2) national legal documents. The basic tendency is that national legal documents are gradually being adapted to common European law, and this approach contributes to the development of a unified European legislation that gradually begins to prevail the law of EU Member States.

Let us turn to the basic European directives governing the relationship of intellectual property rights. One of the important EU documents in the field of protection of intellectual property rights was the EU Directive on the harmonisation of certain aspects of copyright and related rights in the information society of 22.05.2001 No 2001/29/EC. This Directive aims at developing a digital society in a united Europe, and also promotes the rights of authors, producers of content in a unified European market. All of the above primarily applies to the Internet (Article 1 of Directive 2001/29/EC). Notwithstanding the principle of harmonization, Directive 2001/29/EC also found its consolidation and priority for the national protection of authors' rights (paragraphs 18, 19 of the preamble). The said Directive also regulates the procedure for reproduction of works (Article 2); the right to public notice (Article 3); the right to distribute originals and copies of works by authors (Article 4);

exceptions to the restriction (temporary restriction) on the reproduction of works (Government Office… 2018).

Chapter III of Directive 2001/29/EC is the first to set out a procedure for the protection of information (works) against the use of unauthorized technological procedures aimed at obtaining information illegally. Directive 2001/29/EC imposes an obligation on Member States to ensure the proper legal protection of information (Article 7). Directive 2001/29/EC pays considerable attention to sanctions and the protection of the rights of owners. Thus, it is stated that Member States must ensure that the infringed law is properly protected, in particular in action proceedings (Article 8) (Government Office… 2018).

Another important pan-European document is Directive 2004/48/EC on the enforcement of intellectual property rights (hereinafter referred to as the Directive 2004/48/EC) (Corrigendum to Directive… 2004). The main objective of Directive 2004/48/EC is to ensure, within the framework of European Union law, the effective protection of the rights of creators and participants in intellectual property rights.

The significant development of digital technologies in the EU has led to the need to improve the legal procedure for the protection of authors' rights in the unified European digital market. To date, the digital product is quite profitable. In connection with the above, it became necessary to develop new legislative approaches to regulating commercial activity in the electronic sphere in the EU, namely to use the results of creative activity (content).

The European authorities have developed the Directive on Copyright in the Digital Single Market (Copyright in the Digital Single Market 2016/0280 (COD)) (Copyright in the Digital… 2019). The draft Directive was submitted by the Committee on Legal Affairs of the European Parliament on 20 June 2018. This document is aimed at improving the rights of authors in the digital European environment. It should be noted that the said Directive was controversial. Its adoption was postponed until after the amendments had been made, the document was adopted by the European Parliament in April 2019 (final version) (EU adjusts copyright… 2019). As stated by the main objective of Directive 2016/0280, it is to ensure fair payment for authors (writers, journalists, artists, etc.), as well as to establish clearer rules for the activities of aggregators and online platforms upon distributing content in the digital space. Notwithstanding the foregoing, European regulations do not restrict freedom of expression on the Internet (Parliament adopts… 2018).

We shall investigate the key innovative provisions of Directive 2016/0280. Thus, the aforementioned European document enshrines the authors' rights to receive payment from aggregators and online platforms for the use of copyrighted material (content). Small platforms and services are exempted from such payment. Non-profit non-commercial platforms like Wikipedia are also exempt. Issuance of collective licenses, registration of the right to a film, a piece of music directly on the platform is introduced. In accordance with Directive 2016/0280, the distribution of content for cultural, historical purposes, with the aim of implementing educational programs (online education) is free (not subject to copyright) – Art. 5, 14. Instead, resources that act as file-sharing entities must be properly licensed by the copyright holders (EU adjusts copyright… 2019). In addition, the so-called "technology filters" are introduced to prevent copyright infringement on the network (Copyright in the Digital… 2019).

The analysed Directive also establishes an institution of fair compensation for the illegal use of content. Such protection is pre-litigated for the purpose of promptness of defines, since the judicial procedure is much more bureaucratic. The main objective of Directive 2016/0280 is to introduce a unified European transborder copyright market (Article 2) (EU adjusts copyright… 2019).

It should be noted that the analysed Directive 2016/0280 has caused considerable debate both among European public figures and among business representatives. It is representatives of the IT business (Google, YouTube, etc.) who believe that the Directive 2016/0280 does not meet the basic principles of the free market, but instead is appreciated by representatives of the creative community (authors, artists, etc.). Currently, Directive 2016/0280 has not yet been ratified by the EU Member States, this process takes 24 months from the adoption of the document by the European Parliament. The ratification process is one of the difficult issues on the way to the introduction of a new European law in the field of copyright and related rights.

FEATURES OF INTELLECTUAL PROPERTY RIGHTS IN US LEGISLATION

Intellectual property rights have also been enshrined in US law. In this regard, it should be noted that the foundation for the formation of US legislation in the field of intellectual property rights is precisely the law of Europe. This is conditioned upon historical factors. It is well known that the modern USA was created by European immigrants who also brought

the European legal traditions of that time to the new lands. With that, intellectual property rights have their own features.

In the United States, the first copyright law was enacted in 1790. But it should be noted that the US regulatory document had a rather primitive level of copyright regulation compared to other countries, including the countries Europe (Drahos 1998). In 1909, a new law was adopted to regulate copyright in America. Upon describing the legal system of copyright of the United States, A.A. Tatarikova pointed out the following features:

1) copyright system in the USA from the end of the 18th to the middle of the 20th century was described by a multitude of sources of legal regulation to which belong the US Constitution, federal laws, state laws, and private acts adopted to protect a specific object of copyright;

2) the main tendency of US copyright law is that the legal protection of copyright objects has been steadily increasing;

3) Congress became the main legislative body in the field of copyright law (Tatarikova 2006).

A considerable part in the formation of American copyright belongs to the judicial branch. Thus, in a U.S. Supreme Court decision of 1834, judges stated that copyright was a legislative monopoly, the object of which was to secure the author's benefit (Tatarikova 2006).

In 1845, the term "intellectual property" first appeared in the United States. The term was applied by Massachusetts District Court Judge Charles Woodbury while considering the case of the protection of intellectual property outcomes (Case of DAVOLL… 1845). In 1891, the International Copyright Act of 1891 (Chace Act) was passed in the United States. This statutory document establishes legal protection for literary, musical works by foreign creators, but provided that such works were published in the United States. A significant step was the regulation of copyright by the Copyright Act of 1909 – the terms of copyright protection were changed, and this term was extended from 14 to 28 years. The development of digital technology necessitated the protection of US circuit developers in the US, the relevant regulation was adopted in 1964 (to protect the layout of the circuits).

In 1982, significant penalties for copyright infringement were introduced in US legislation. In 1995, the first litigation related to copyright protection on the Internet was held in the United States. The author tried to protect their copyright from being illegally placed on the server. In this case, the court upheld the defendant's position. In 1998,

changes to the legislation in the field of intellectual property extended the copyright term – for the life of the author and 70 years after their death.

In the US, industrial property rights were developing as well as in Europe, with the rapid development of industrial capitalism being the driver of such development. Therefore, there was a need to distinguish the products in the domestic market. In 1881, a document was adopted in the United States establishing the legal protection of trademarks. Earlier in the US, the first Patent Act was passed in 1790. In 1793, the said regulation was amended, according to which the patent was granted only to a US citizen. A significant part in the formation of intellectual property rights was played by the individual States, as indicated above, when investigating the features of American copyright in the late 18th to mid-20th centuries. Thus, in 1789, the law of the State of Massachusetts introduced the institution of ownership of the creator of the results of creative activity (Podoprigora & Svyatotsky 2002).

The role of trademarks has been gradually gaining weight in the United States. That is why in 1995 the Federal Law on Trademarks was adopted (Yolkin 2011). One of the basic legal documents for the protection of well-known trademarks in the United States is the Lanham Act (Federal Trademark Act) (Lanham (Trademark) Act 2016). This law regulates trademark issues in the United States. The law establishes a number of important trademark baselines in America. For example, the owner of a right to a "well-known" trademark, which may be distinguished in the market, has the right to establish a prohibition against its unauthorized use for commercial purposes. This is possible when the trademark has actually become well known. The said Law defines the unlawful use of a trade mark as a "reduction of its identification capacity" (dilution) (Lanham (Trademark) Act 2016).

Another feature of trademark protection in the US is that the legal protection of a trade dress is a type of trademark protection and extends to the appearance of the product (configuration, packaging, etc.). Also, the Lanham Act prohibits the use of a trade name when it is possible to confuse a name with a previously used trademark (Lanham (Trademark) Act 2016). Certainly, trademark protection in the US has other distinctive features.

It should be noted that the development of IT technologies has become a significant step towards the development of the system of protection of intellectual property rights. Thus, in US law enforcement, there is a known dispute between such giants as Apple and Microsoft

regarding the graphical interface of the Windows operating system. For a long time, Apple founder Steve Jobs believed that Microsoft (founder Bill Gates) actually illegally used a graphical interface designed for his company (Apple) in the course of developing the Windows operating system. But in the 1980s, the court did not recognize violation of Apple's graphical interface rights by Microsoft. The Federal Court of Appeal declared in its decision that the GUI (graphical user interface) was understandable to the user, allowing the user to freely use Apple's computer. GUI (externally) is a virtual desktop with windows, icons that are controlled by the "mouse". Therefore, Apple cannot patent the idea of a GUI and/or virtual desk. That is, the court said that it is impossible to patent the appearance of technology, as in to establish copyright (Isaacson 2015).

Upon exploring the legal system of protection of US intellectual property rights, it is worth noting the basic regulations in this field, which are still in force today. We shall focus on the main documents. This is the Computer Software Copyright Act of 1980. This rule provides for the consolidation of full legal protection for software (Computer Software… 1980). It should be noted that this Act has become the basis for the adoption of relevant laws in many other countries, such as India, Pakistan, Malaysia. It also became the basis for the creation of relevant legislation in the UK, the No Electronic Theft Act of 1997, which established criminal liability for large-scale copying without the proper permission of the owner and without economic compensation (No Electronic… 1997).

Another document is the Digital Millennium Copyright Act of 1997 provides for copyright protection in the context of the development of new digital technologies. This standard has been adopted to implement WIPO agreements, aiming to adapt copyright law to the particularities of relationships arising in the field of digital technology, and providing for the possibility of technical protection of the copyrighted product (eliminating circumvention of legal provisions through technical capabilities – anti-circumvention prohibitions) and establishing the liability of providers by allowing the databases to access the exchange file ("safe harbours") (Digital Millennium… 1997).

The system of legal protection of intellectual property rights in the United States is constantly evolving. It is worth mentioning a relatively new regulation, which was adopted in 2018 and was aimed at protecting the rights of owners (creators) of musical works – Music Modernization Act of 2018. This Act is aimed at improving the economic rights of

performers and producers. Thus, the Act greatly simplifies the receipt of an appropriate remuneration for the distribution (performance) of a work of music on the Internet (obtaining royalties). The Act also improves the procedure for producers to obtain fees for performing musical works. Technicians involved in creating a music product will also receive this fee. The law modernizes US legislation in the field of copyright law (section 115 of the U.S. Copyright Act) (Music Modernization Act 2018).

CONCLUSIONS

Thus, as is evident, the EU is currently undergoing a new phase in the reform of intellectual property rights, in light of the widespread introduction of new digital technologies. It is clear that this European experience will be interesting for Ukrainian law as well.

American intellectual property law is increasingly paying attention to the protection of Internet rights and the protection of intellectual property rights in the context of the latest technologies, which testifies to the increasing role of the latter in economic sense. Currently, the formation of legal protection of intellectual property rights of the United States is conditioned upon the development of digital technologies, just as in Europe.

The foregoing indicates that intellectual property rights have evolved in line with global trends. At the same time, it had its own nuances, in particular with regard to the development of copyright law.

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