



# LEGAL PROTECTION OF INTELLECTUAL PROPERTY

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## PROTECTION OF INTELLECTUAL PROPERTY UNDER CONDITIONS OF THE INFORMATION SOCIETY DEVELOPMENT

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**Introduction.** *The development of the information component of society, the extensive use of technologies aiming at the free access, use and transfer of information, significantly affects the intellectual property sphere.*

**Problem Statement.** *The purpose is to form a balanced model of the interests of society and the creators of the intellectual property.*

**Purpose.** *To reveal the problems of the protection of intellectual property rights in development conditions of the information society, to define the correlation model of public interests and those of creators in the use of objects of intellectual and creative activity.*

**Materials and Methods.** *General scientific and special legal methods were used to research legal phenomena and categories.*

**Results.** *It is proved that the subject's monopoly right for the intellectual property requires significant restrictions, both in time and in spatial dimensions, in the conditions of information society, development of scientific and technical activity. It emphasizes the fact that it is impossible to safeguard intellectual property in the modern information environment, other than through increased accountability measures. It is determined that the paradigm of the legalization model for the use of intellectual property objects in information networks and systems, may be the payment model for their free use, the analog of which has been used for a long time by radio and television organizations or other similar users.*

**Conclusions.** *The right to information and other non-proprietary information rights are not only rapidly developing, but also in the last few years are very closely associated with problems arising from the development of information technology and artificial intelligence. These processes should be taken into account in developing legislation right now, remembering that the legal legalization of processes taking place in society in the process of developing the information society should be based on the well-being of people as the highest dignity.*

*Keywords:* intellectual property, information, virtual, copyleft, and electronic library.

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In today's world, it is difficult to imagine man's existence without any means of external communication, perception and transfer of information. New means of accessing information, its use and processing are emerging due to the development of information technology.

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gies. Everyone is able to find necessary information and use it for their needs and interests thanks to Global Information Networks. The expansion of information technology, the advent of television, computers, information networks and systems – all these phenomena have fundamentally changed the conditions of our daily lives. It is no coincidence, scholars from different fields of knowledge, characterizing the modern stage of humanity's development as an era of information society, are pointing to an increase in the communicative capacity of a person, and, at the same time, its ever-increasing dependence on sources for receiving and transmitting information. Accessibility, reliability, completeness of information – these factors determine the information orientation of a person's legal capacity to acquire, disseminate and use information.

The development of the information component of society, the wide use of technologies aimed at the free access, use and transfer of various kinds of information, significantly affects different aspects of humanity's life, man's behavior in society, but perhaps the greatest impact is in the sphere of intellectual property. It is well known that the purpose of the protection of intellectual property is to achieve a balance between the opposite interests of the creator (author, inventor) in receiving remuneration for the achieved creative result by securing a monopoly and the interests of society in the use of the object of intellectual, creative activity.

In modern conditions, the technological limits of access, duplication and dissemination of the results of intellectual, creative activity have expanded considerably, and as a consequence it becomes much more complicated, and in some places it is impossible to control the use of such result by other persons. In these circumstances, an author who has only published his work or revealed the essence of technology can almost immediately expect its use by other people, as a rule, free of charge and without any consent.

In this case, there is a contradiction between the intellectual property right system and the in-

formation capacity of the individual to collect, store, disseminate and use the information freely. Under the conditions of the information society, the development of scientific and technical activities, the monopoly right of the intellectual property requires significant restrictions in both temporal and spatial dimensions.

In this context, one might recall the famous saying: "your rights end where the rights of others begin." However, we believe that this approach is too simplistic and not conducive to addressing these issues. The search continues for the best balance between intellectual property rights and the interests of the public in the free use of information that is the object of intellectual property rights.

In modern conditions, the situation that arose from the signing and implementation of the provisions of the Anti-Counterfeiting Trade Agreement is an example of the inability of the legal system to ensure the protection of intellectual property by simply strengthening accountability measures. (ACTA) [1].

The said Agreement establishes the strict supervision of copyright on the Internet and in the information market, information technology and IT-based products. According to the Agreement, customs officers may inspect laptops, MP3 players and mobile phones for the storage of files related to copyright infringement. The project also foresees the possibility of blocking subscribers' access to the network after detecting repeated facts of the use of illegal content. It also provides for the introduction of new requirements for ISPs including the partial disclosure of information related to user activity and the introduction of methods for the full identification of any subscriber, including mandatory user identification.

The ACTA was signed by 22 Member States of the European Union. It has also been supported by the United States, Australia, Canada, Japan, Morocco, New Zealand, Singapore and South Korea. However, after numerous protests, several countries refused to support the Agreement [2].

In early February 2012, Poland, the Czech Republic, and Slovakia postponed the Agreement's ratification, after facing a wave of civil protests on the streets, as well as hacking attacks on government agencies' websites. On February 11, 2012, nearly 200,000 people in many major cities in Europe attended rallies and demonstrations against ACTA, citizens took to the streets in Poland, the Czech Republic, Germany, Austria, Finland, France, Bulgaria, Slovakia, as well as other Central and East European countries. As a result, the EU Parliament listened to the wishes of the public, and on July 04, 2012 rejected the ACTA that threatened restrictions on civil liberties and the right of free access to information. 478 MPs voted against the adoption of ACTA, 146 abstained and 39 voted in its favor, thus, it was virtually a unanimous vote [3].

An example of the implementation of ACTA shows that it is impossible to solve the problem of the correlation between the rights of an author and the information capabilities of a person solely through responsibility. In modern information conditions, strengthening responsibility for the use of intellectual property can cause a public resonance and rejection of these measures among citizens of countries, which are developed in the information sense. Forming a balanced correlation model of public interests in information exchange and the interests of intellectual property entities in their monopolistic use is a promising task of the legal system.

In order to talk about the problems of legal regulation, the role of information as a phenomenon and object of subjective rights in this process, information relations, virtuality, robotics, artificial intelligence, and particularly the information rights complex, headed by the personal non-property right of a private individual regarding information in the context of the development of modern theories of virtuality and post-humanism, it is first necessary to return to the origin of the emergence of these very concepts in society and science.

Explaining the phenomenon of virtuality is important in terms of the search for the right legal

approaches to resolving the issues of guilt and legal liability when it comes to harm caused by a person – a living being, an individual and his/her creation – automatic device, robot, information machine, mechanism, artificial intelligence, etc. The competition of ideas regarding the essence of “human” on the one hand, and “cybernetic”, “information”, “virtual” on the other – is now at the forefront of science as never before, because many fantastic ideas are now being implemented.

Legal science and practice cannot ignore these truly global and all-inclusive processes, since the principles, tools, history and philosophy of law, centuries-old practice of human rights implementation and protection can and should support the humane solution of many contentious issues in today's information-changing world.

In the meantime, in order to formulate an understanding of the theoretical trends related to the problems of virtuality, information, the right to information, information rights in the post-human era, one should not only read the articles of modern legal scholars, and their legislative initiatives, but also take into account their works in philosophy, psychology, sociology, biology, cybernetics, physics and to analyze the considerable list of articles, literary sources and cinematographic works, including books and motion pictures in the fiction and sci-fi genres.

These are the works of outstanding scientists Victor Glushkov, Vladimir Vernadsky, Norbert Wiener, Claude Shannon and many others, as well as works of classics of the genre of the twentieth century, including the “golden age of science fiction”: Isaac Asimov, Alfred van Vogt, Clifford Simak, John W. Campbell, Hugo Gernsback, Paul Anderson, Alfred Bester, James Blish, Frederic Brown, Ray Bradbury, Arthur Clarke, Arcady and Boris Strugatsky and many others.

Moreover, it should be noted that many of the words that we use today to speak the modern language of the latest technological revolution and some of which are introduced into special legislation, were thought up by science fiction writers, such as: android, blaster, cyberspace, clone, space-

ship, cryonics, multi-universe, science fiction, post-human, force field, superhero, telepathy, teleportation, terraforming and a number of others [4].

The concept of “virtual” has many meanings, which is associated with its English origin: such as “conditional” and “possible”, “imaginary”, “potential”, “valid”. The word itself appeared in early Byzantine philosophy of the 4th century, it has Latin roots and means an object or state that does not really exist, but can occur under certain conditions (appearing due to software – English); in philosophy, the term “virtuality” has been known since the 13th century and belongs, according to sources, to Thomas Aquinas, who stated that man is the unity of body and soul. In the information environment, the term “virtuality” attains a new meaning related to so-called virtual reality and is understood in philosophy, psychology, aesthetics, and generally in culture, as a certain state in which the subject loses the distinction between the real and the constructed (virtual) world, which is a characteristic of the consciousness and perception of a subject [5].

Today, this concept is mentioned when talking about “post-humanism”, “post-human”, so it is imperative that it is taken into consideration in the law, which should be based on morality, ethics and psychology of man and society. The world that engenders human imagination can be characterized as conditional or possible, creating a certain image that, under certain conditions, can be realized in a specific form. Since it is necessary to convey this image to society and its individual representatives, it is embodied in human society in signs that bear the meanings defined in this society and they are broadcasted in this form. Linguists and philosophers believe that it is important not only to understand the meaning of signs, but also their interconnection, so that learning in human society becomes the property of each individual’s culture. Thus, the images we see in cinema are perceived as real, and sometimes it takes effort to understand that they are virtual. The image is, in fact, a form of reflection of the surrounding reality, which is generated by human

mental activity. However, it is extremely important to remember that the phenomenon of virtuality, as we have seen above, did not emerge with the invention of any technical devices or with the invention of computers, but most likely with the advent of the sign system of mankind. Today, researchers around the world are wondering: what exactly do we need to talk about – the virtualization of the material world or the materialization of the virtual one. A number of additional issues are connected with this: what is virtuality, which is called a phenomenon of the present; does it have something to do with the nature of mankind, particularly, with his/her mental component; what is the nature of virtuality, etc. Virtuality as a subject of study is so interesting that it causes, among other things, a significant emotional response in people, becomes the basis of literary works and films, inspires artists and finds response in philosophy, sociology, cybernetics and psychology. Cyberneticists, mathematicians and physicists have made a unique contribution to the study of the virtuality phenomenon in the 20<sup>th</sup> – 21<sup>st</sup> centuries.

Thus, with the advent of the new century, one central problem has emerged that requires a modern explanation – what is virtuality, what are the features that characterize the virtual world, in view of the many controversies that have arisen around it. Specialists also pay attention to the historical conditionality and gradual change (improvement) of the human psyche as the main causes for the appearance of virtuality, with technical devices, including the computer, which have only contributed to the process of man’s understanding of human nature and essence that have become particularly noticeable in the era of the information society.

It is possible to agree that “... every time, the fear it causes, is connected more with the nature of man, the specific features of his/her psyche that work on the awareness of himself/herself as a person ...”, as well as the fact that “... virtuality is a fundamental attribute of mental awareness (a specific form of the reflection of reality)” [6, p. 9–19]. At the same time, when talking about

reaching scientific progress, there are always fascinated voices of praise, but also the stern voices of sceptics, who draw attention to the possible negative effects of their use. Discussions, for example, are conducted around everything characterized by such a part of language as “post-”. Thus, articles and TV shows, books and films are more abundant today, more than in previous times, with the concepts of “post-industrial society”, “post-Soviet countries”, “post-modernism”, “post-apocalypse” and even “post-science”. Meanwhile, at the heart of all these concepts are new, previously unknown opportunities that can carry both positive and negative points.

It is believed that the English word “post-human” appeared for the first time in the story written by Howard Phillips Lovecraft, the classic of horror literature, namely “Beyond the Times” published in 1936, and Lovecraft’s meaning of this concept is somewhat different from what it is perceived as today: the author uses it to describe the creatures that will come after us, not to describe the transformation of humans. It was more or less at this time, that the word “post-humanism” emerged - a trend in philosophy, the followers of which believe that human evolution is not yet complete. Initially, this term, introduced by trans-humanists in 1999, was perceived positively in mass culture; meanwhile, in a sealed doctrine, a perfect person is gradually deprived of emotions, aging, and even ignorance that can be regarded as a gift from God – a reward for ethical conduct. In turn, after the publication of Charles Darwin’s works on the origin of species, it became clear that man cannot be considered the pinnacle of the development of living beings, just an intermediate link, and according to Friedrich Nietzsche’s theory, a superhuman must be formed from man, described later in many of his works [7]. Quite a sad conclusion follows from this: man is changing and a cyborg’s projection could become a post-human. In the modern sense, post-humanism is an outlook based on the notion that human evolution is incomplete and may continue in the future; evolutionary development

should lead to the creation of a post-human – a hypothetical stage in the evolution of the human species, whose structure and capabilities would be different from current human beings as a result of the active use of advanced technologies and human transformation; this worldview recognizes the inalienable human rights of improving human capacities (physiological, intellectual, etc.) and achieving physical immortality.

Hans Morawetz called the human personality an information system/structure, believing that human consciousness must be embedded in a computer and simulated in order to prove that it is possible in principle. He stated that machines can become the repository of human consciousness and that machines can become human beings for any practical purpose, that is, humans can actually be identified as a cyborgs, and vice versa. In conjunction with this, it is worth mentioning that in general mechanical beings were described by humans long before the words “android” and “cyborg” appeared [8].

There is a well-known story that Albert the Great, a Catholic priest, from the 13<sup>th</sup> century, created a mechanical head that could answer questions [9], and in 1728, Ephraim Chambers, a famous encyclopedist, combined the Greek prefix “andr-“ (“man”) with the suffix “oid” (“to be shaped, to be like”) for describing Albert’s machine.

It is interesting that at first the study of the issue concerned the difference in thinking between men and women: scholars stated that if it was impossible to determine who wrote the text – man or woman, then it would be even more difficult to do so when it concerns man and machine; taking into consideration this it was possible to assume that the machine can think. It was one of Hans Morawitz’s tasks to find the difference between the processes of “think like a man” and “think like a machine”. It should also be noted that, along with these studies, the formation of basic principles of the information society began and the basis of the liberal perception of the world was formed. Today it is the sacred right of a person living in a civilian democratic society. Viewing



the boundaries between the machine and the person expectedly replaced the question “who can think” with the question “what can think”; in order to make the decisive difference between the physical, real-life human body on one side of the computer screen and the body “represented” in the electronic environment. According to the researchers, the described state of things necessarily “makes a cyborg from the subject, since both entities merge through the technologies that unite them” [6, p. 18]. And this means that scientists who believe that from the very first look at a monitor screen, the human being has already become a post-human, i.e. a hypothetical prototype of a future person who has abandoned the usual human appearance as a result of the introduction of advanced technologies: computer science, biotechnology, medicine, and so on are right.

In the current conditions of information society's development, the creation of high-tech opportunities for information exchange, the consumption and dissemination of information, the urgent need is the transformation of classical legal institutions, including those within the intellectual property system. The first directions of such changes have already been secured in legislation, however, a considerable number of scientists and practitioners emphasize the inertia of the intellectual property sphere and its inability to adapt to new information conditions.

There is an interesting pattern in the system of the protection of intellectual property rights – on the emergence of the protection of intellectual property, legal protection was given not to the authors of creative results, but first and foremost to their successors (as a rule, they were book publishers and owners of manufactories). Only later were the rights of the creator, not intellectual property holder protected in legislation. Thus, in 1710, Queen Anne adopted a special provision for the protection of authors' rights in England, the Statute of Anne. The main provision of this Statute was to recognize the author's exclusive right to print and publish his book within 14 years from the date of its first publication. In fact, the

author who did not own a printing press when publishing a book, gave the publisher the right to subsequent copies [10, p. 112]. The word “copyright” which is used to refer to an author's rights in the Anglo-American legal system, means essentially only the right to reproduce the object. That is, the protection of the author's rights was intended to confer the exclusive right to the reproduction of a book to its first publisher. The French Revolution abolished all pre-established privileges, including those of publishers, and secured intellectual property rights for the creators.

Currently, there is also a similar situation where intellectual property rights aimed at protecting property interests not of the creators of creative property (programmers, journalists, inventors, etc.) but their contractual successors (IT companies, periodicals, film companies, TV channels, etc.). They are the ones who receive the maximum profit from the implementation, commercialization and use of creative results. Therefore, it is natural that any changes in the review of the foundations of the classical intellectual property law face a significant resistance.

It should be noted that the main tenet of intellectual property rights is to grant the subject a legal monopoly to use the creative result, i.e., to assert exclusive rights to one person or a group of persons and to impose on all other members of society the obligation not to violate the monopoly rights of the owners. However, in the current conditions of the information society, the development of scientific and technical activities, the indicated monopoly right of the intellectual property subject requires significant restrictions, both in terms of time and spatial dimensions.

The pattern of changes in the development of intellectual property protection can be traced on the level of changes in the term of copyright protection. Thus, in 1791, a decree in France granted the author the right to public realization (any publication of the work) throughout his life and 5 years after his death to heirs and other assignees. At present, in Ukrainian legislation, the validity of a copyright covers the life of the author

plus 70 years after his death [11]. That is, an increase in the validity period of intellectual property rights was the general tendency of the copyright protection regime before the beginning of the 21<sup>st</sup> century. However, the reverse is now the case – the copyright term for individual entities has begun to shrink, which is understandable given the needs of information and cultural exchange, the development of the scientific field and information technology.

Chapter 9, Section 4 of the Association Agreement [12] concluded between Ukraine and the European Union, contains the requirements and standards for the protection of intellectual property rights. A particular provision of the Agreement that must be implemented in the national law is the requirement to protect critical and scientific publications of works that have become the public property. The maximum protection term for such rights is 30 years of the date on which the work was first lawfully published. For the time being, the issue of reducing the copyright term for computer programs is also under discussion. This approach is worthy of support, since in a period of rapid information technology development, the existence of an extensive copyright term for computer programs will not contribute to the development and implementation of the basic principles of an information society that is based on comprehensive information exchange and free access to information resources.

Another important trend in the development of the regulation of intellectual activity in the information society is the initiative of the creators themselves to gradually weaken the intellectual property protection system.

The realization of this pattern was the emergence of “copyleft” and the wide introduction of “open (public) general licenses”.

Information sources define “copyleft” as a method of using copyright mechanisms in such a way as to make a copyright object free to distribute and improve, as well as to ensure that modified versions and derivative works are also free [13]. Primarily, “copyleft” originated as a licensing me-

thod for free software, but can also be applied to other copyright objects. The concept of “copyleft” originated from Richard Stallman’s work on the Lisp interpreter. At the request of “Symbolics”, a computer manufacturer, for the use of an interpreter written by Stallman, he agreed to provide them with a work in the public domain. “Symbolics” has expanded and refined that interpreter, but when Stallman wanted to obtain access to the changes made to the code written by him, the company denied it to him – and Stallman could do nothing but prevent this from happening in the future [13].

The essence of “copyleft” is as follows. A copyright subject allows the free use, modification and distribution of his/her work or any derivatives, provided that the principles of distribution are not altered (that is, any reproduction of the work will also be subject to copyleft) [14].

Statistics show that in early 2008, over 2,000 projects were licensed under GPL v3, more than 6,000 products support multiple licensing options that include GPL v3 [15].

Another specific feature of the functioning of intellectual property rights in the information age is the wide emergence and implementation of electronic libraries and other databases formed through the combination of a large number of copyright and related rights (online movie databases, audio recordings, etc.)

Thus, according to the Vernadsky National Library, the number of portal users is growing exponentially, increasing by 30–40% a year (in 2004, the number of portal users was 2300 with different Internet addresses, and in 2012 – 62 600) [16]. There is a tendency for increased demand for full-text resources, leading to faster traffic growth (volume of information provided to users). The most popular is the repository of electronic versions of the scientific periodicals of Ukraine – it is turned to by 80% of users, who are given 0.3 million articles a day (3 articles per second) [17].

It should be emphasized that a significant number of electronic libraries use the literary works of contemporary authors without the consent of

their creators. Although as a rule, at the author's first request, such works are excluded from the library and removed from the website, but from a legal point of view this could pose a copyright violation [18]. At present, current copyright law only allows the use of a work in any other form with the consent of the author or his successor. In other words, creating an electronic form of a literary work (digitization) is an independent way of using a copyright object, consent for which must be obtained from the author or other right holder.

We believe that, in today's information environment, access to the resources of literature, history and culture must be ensured, including through electronic means of communication, information networks and systems. Under these conditions, it is necessary to change the legal regulation of the use of copyright for educational and scientific purposes by making it possible for users of information networks to have an access to complete electronic forms of literature, science and art works.

The paradigm of the legalization model for the use of intellectual property objects in information networks and systems may be the use of the mechanism of related rights objects, which has been used for a long time in domestic legal realities. In particular, the activities of individual entities (radio organizations, cafes, restaurants, etc.) provides for the continuous use of audio recordings (phonograms) of famous modern artists. Such a playback is carried out legally without the consent of the author or his/her successors, but with subsequent payment of the remuneration to the author or his/her successors. Collection of remuneration for the use of phonograms (videograms) and control of their legitimate use are carried out by authorized collective management organizations. Of course, there are many problems and shortcomings in the field of collective management in Ukraine, but such a system has been used in Ukraine and abroad for a long time and has proven effective.

In today's world, we are also seeing similar trends: the advent of the digital environment has led to a sharp decline in printed publications, fal-

ling sales of phonograms and audiovisual works recorded on discs for laser reading systems or other such forms. As a result, copyright holders are beginning to actively combat the use of their works, phonograms or videograms in information networks, but such resistance has no positive effects: the level of free illegal information sharing is increasing, new file sharing sites and electronic libraries are being launched, works are being actively exchanged on social networks, etc.

In these circumstances, we believe that the concept that will ensure the proper use of intellectual property objects in information systems should be a model of free payment use, the analogue of which has been applied for a long time within the system of related rights, the objects of which are used by radio and television organizations or other similar users.

The essence of this approach lies in the possibility of free use of electronic forms of creative results (i.e. the ability to create a digital version of the work, its placement in information networks and systems) without the consent of the author or other copyright holders, but with the obligatory payment of remuneration to them. The remuneration amount can be determined depending on the amount of money paid by users for access to the information resource where the electronic form of the work is placed, the number of downloads of the electronic document or other factors. If access to the electronic resource and the ability to use the digital form of the work are provided to users free of charge, the source of payment for the authors and other right holders may be the revenue generated through advertising by the owner of the information system.

The right holder should have the right to remove the electronic form of a work from an information resource, the right to prohibit any distortion, disfigurement or alteration of a work, to create derivative works on its basis by any persons, etc. Collective management or other organizations may perform the functions of intermediary structures for collecting and remunerating an author or other copyright subject for the use of works in information networks. The author should also be



able to directly receive remuneration from the owner of the information resource, if he/she does not entrust the performance of these functions to relevant intermediaries.

## Conclusions

1. In the context of the information society, the development of scientific and technical activity, the subject's monopoly right of the intellectual property requires significant limitations in both temporal and spatial dimensions. Emphasis is placed on the inability to safeguard intellectual property in today's information environment by strengthening accountability measures alone.

2. The model of free payment use, the analog of which has been used for a long time by radio and tele-organizations or other similar users may be the paradigm for the legalization model of intellectual property object use in information networks and systems. The essence of the approach lies in the possibility of the free use of electronic forms of creative results (i.e., the ability to create a digital version of a piece of its placement in information networks and systems) without the consent of the author or other right holders, but with the obligatory payment of remuneration.

3. In order to realize the free payment concept for use of works in information systems, it is necessary to amend legislation by implementing in the form of its transformation in the protection of intellectual property rights, its adaptation to the regulation of relations in conditions of the active development of information systems and networks and technical means for the accumulation, processing and sharing of information.

4. The right for information, other non-property information rights of individuals are not only developing at a noticeable rate, but in the last few years they are very closely related to the problems that arise from the development of information technologies, robots and artificial intelligence. Never before has virtuality has been so similar to reality, and post-humanity has not seemed so close in perspective. These processes must be taken into account in the formulation of legislation right now, at the level of principles and individual articles, but "we must hurry up slowly", bearing in mind that the legal legalization of the processes taking place in the development of the information society shall be based on the "well-being of people as a superior dignity", as noted by Aristotle, as well as on "morality in law", as reasonably insisted on by J.O. Pokrovsky.

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## ОХОРОНА ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ В УМОВАХ РОЗВИТКУ ІНФОРМАЦІЙНОГО СУСПІЛЬСТВА

**Вступ.** Розвиток інформаційної складової суспільства, широке використання технологій, спрямованих на вільний доступ, використання та передачу відомостей суттєво впливає на сферу інтелектуальної власності.

**Проблематика.** Формування моделі збалансованого співвідношення суспільних інтересів та інтересів творців на об'єкти інтелектуальної власності.

**Мета.** Розкрити проблеми охорони інтелектуальної власності в умовах розвитку інформаційного суспільства, визначити модель кореляції інтересів творців та інтересів суспільства у використанні об'єктів інтелектуальної, творчої діяльності.

**Матеріали й методи.** Використано загальнонаукові та спеціально-юридичні методи дослідження правових явищ та категорій.

**Результати.** Доведено, що в умовах інформаційного суспільства, розвитку наукової та науково-технічної діяльності монопольне право суб'єкта інтелектуальної власності потребує істотних обмежень як у часовому, так і у просторовому вимірах. Акцентовано увагу на неспроможності лише за рахунок посилення заходів відповідальності забезпечити охорону інтелектуальної власності у сучасних інформаційних умовах. Визначено, що парадигмою моделі легалізації використання в інформаційних мережах та системах об'єктів інтелектуальної власності може бути модель вільного оплатного використання, аналог якої вже тривалий час застосовується радіо- і телеорганізаціями чи іншими подібними користувачами.

**Висновки.** Право на інформацію, інші немайнові інформаційні права фізичних осіб не тільки розвиваються швидкими темпами, але в останні кілька років дуже тісно пов'язані з проблемами, які породжуються розвитком інформаційних технологій та штучного інтелекту. Враховувати ці процеси при формуванні законодавства необхідно вже зараз, пам'ятаючи про те, що правова легалізація процесів, що відбуваються в соціумі в процесі розвитку інформаційного суспільства, повинна ґрунтуватися на благополуччі людей як вищої гідності.

*Ключові слова:* інтелектуальна власність, інформація, віртуальний, копілефт, електронна бібліотека.