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[Maidanyk L. Limitations and exceptions of economic copyright: balance of private and public interests.](#)

P. 5-12

The article is devoted to the research of the balance between private and public interests through the concept of exceptions and limitations on economic rights of author. The concept of free use of works applied in the legislation of Ukraine is analyzed, as well as exceptions and limitations on copyrights inherent in the copyright of the European Union. It is concluded that the concept of «free use» in the context of copyright is not used in the legislation of most countries of the world, and is inherent in the Ukrainian Law of Ukraine «On Copyright and Related Rights». Copyright limitations and exceptions in the specific cases are envisaged in the laws of different countries of the world by the following two main systems: a system of general abstract principles implemented in common law countries ('fair use' in the US and 'fair dealing' in the UK, Canada). The first approach is characterized by the fact that a generally exhaustive list of ways of free use of works is provided for in a legislative act and does not allow for the consideration of additional general principles. The second, implies that the court applies the general principles (first and foremost the principle of fair use) and pre-established criteria to determine the lawfulness of a use. The three-step test of the Berne Convention and its relevance to the copyright of Ukraine and the EU are being analyzed. The three-step test, as one of the means of ensuring a balance of private and public interest in copyright, can be used both in law-making and in court-specific dispute resolution. The different approaches to copyright exceptions proposed in the draft Wittem Group's copyright code are

explored compared to those existing in the European Union Directive on the harmonization of certain aspects of copyright and related rights in the information society. It is noted that the draft Wittem Group's Copyright Code differs from that adopted in the EU and Ukraine in that it provides for an open list of cases of use of copyright objects, thereby altering the existing balance of interests towards the public. Copyright restrictions in the said Directive apply to specific proprietary rights under certain conditions, which may include the purpose, subjects and specific scope, which provides for a list of exceptions and restrictions that are considered to be closed and not subject to extended interpretation in their content.

Keywords: exceptions and limitations in copyright, free use of works, balance of interests

[Fedorova N. Teleformat or a television program?](#)

P. 13-20

The article touches upon basic issues for the legal regulation of visual art market in Ukraine. Nowadays works of visual art are regarded not only as objects for aesthetic enjoyment but also as commercial assets. Current trading relationships are being influenced by global geographical changes of business, digital transformation and IT development.

Attention is drawn to the fact that trading relations in art works should be based on such fundamental principles as equality of parties, autonomy of will, and reasonable transparency of commercial operations. It should also be defined the basic elements of trade dealings in the visual art market. They are parties to the relationships, subject matters, and certain content of rights and duties depending on type and nature of legal privity.

The comprehensive analysis of legal capacity and competence has been undertaken in the research. Therefore, market

participant should have legal ability to acquire and perform personal rights and obligations connected with art trading. They should be able to be held responsible for their unlawful actions as well. The creator of visual art work should also have creative capacity to be regarded as author and proper party to the transaction.

Besides, it is pointed out the main features of visual art works in case they are subject matter to trading activity. Currently, more and more contemporary art works are appearing on the market, for example, installations and computer generated art works. But commercial turnover accepts artistic results, which are unique, creative and aesthetically enjoyable. So, no art work should be considered as a subject matter to marketplace that does not contain intellectual and creative components. It should not be easily-reproducible too.

Also worth noting is that certain content of legal relations in the visual art market consists of two-dimensional authorities. Permitting competence is intended to determine the limit and procedure of voluntary conduct. Obligatory warranties establish some restrictions and prohibitions. They are meant to attach the liability for non-performance or improper performance of duties.

The article is concluded by saying that theoretical framework of visual art market is an important base for providing the suitable level of legal regulation of art trading relations.

Key words: art market, trade process, cultural relations, copyright, work of visual art

[Kodynets A., Sidorenko A. Legal protection of geographical indications: novelties under the legislation of Ukraine.](#)

The article deals with the features of legal protection of geographical indications in Ukraine. The basic international acts protecting geographical indications in Ukraine are outlined, including the Paris Convention for the Protection of Industrial Property of 1883, the Agreement on Trade-Related Aspects of Intellectual Property Rights in 1994. (TRIPS Agreement), which operates within the framework of the World Trade Organization and extends to goods originating in the Parties to the Agreement, Madrid Agreement 1891. and the Lisbon Agreement on the Protection of Designations of Origin and their International Registration in 1958, (Ukraine is not a party to the last two agreements). It also outlines the main national legal acts that protect this object of intellectual property, including the Civil Code of Ukraine, the Law of Ukraine «On the Legal Protection of Geographical Indications», the Law of Ukraine «On Protection against Unfair Competition» and others. The purpose of the study is to analyze changes in the legislation on the legal protection of geographical indications, which came into force on January 1, 2020 and became one of the ways to adapt the acts of national legislation to the law of the European Union in accordance with the commitments made by Ukraine after signing the Association Agreement with EU. These include changing the name of a special law that protects geographical indications. In addition, the change in terminology, the replacement of the term «indication of origin of goods» and its components by the term «geographical indication». The new also provides legal protection with homonymous geographical indications; submitting an application for a geographical indication in electronic form, and at the same time providing a product specification and a description of its basic provisions. The article also addresses issues that remain unresolved, a large number of European geographical indications protected under the EU Association Agreement and a very small number of registered geographical indications originating from the territory of Ukraine and the prospects of protecting national geographical indications in Ukraine and beyond.

Keywords: geographical indications, legal protection, Association Agreement with the European Union, name of place of origin, indication of origin, intellectual property rights, competitive products

Kovalenko T. Trademark as a means of communication.

P. 29-34

The whole modern world is imbued with signs. All processes are carried out by means of signs. The signs that surround us have various functions – they indicate the direction of movement, indicate the quality of the product, some have a hidden meaning. A person recognizes the signs and uses them every day. One of these types of marks is a trademark.

By accepting information in signs, a person not only reproduces, but also creates a subjective understanding, meaning, meaning based on the principles of one's culture, intelligence, emotions and experience. That is, everyone has the same information, but the meaning and content are different.

Modern trademarks are well-established forms of corporate culture. Such a culture extends to various aspects of social interconnections – legal, economic, commercial, cultural, and so on. Trademarks are business cards of companies. Trademarks, among other things, perform a communicative function. Trademarks should declare and represent their owners favorably, form the image of products and services, achieve consumer loyalty, and more. In the context of the expansion of trade and business network companies in the national and global markets, the trademark serves as an instrument for competitive confrontation. Understanding the importance of trademarks in the creating an overall corporate identity, their potential owners understand that the development of trademarks requires considerable effort.

The success of companies should be supported by a consistent communication policy.

The article discusses some of the communicative properties of a volumetric trademark (in the context of this article, packaging).

Through the trademark's communication functions, the relationship between the manufacturer and the potential consumer is established. The formation of relations between the trademark and the consumer is achieved precisely through an effective communication process between them. All elements and functions of communication between the trademark and the consumer should be aimed at providing objective and convincing information not only about the product itself, but also about the trademark. The trademark itself is an integrating element of the communication system, because it combines the goal – the formation of a need, the process – the implementation of the contemplation and the result – the formation of consumer loyalty.

Key words: communication, volumetric trademark, packaging

[Overkovskiy K. Features of foreclosure on industrial property rights as collateral.](#)

P. 35-49

The article is devoted to the features of foreclosure on industrial property rights as a pledged item. The purpose of the article is to substantiate proposals for improving the legislative regulation of the procedure for foreclosing property rights of industrial property as collateral. The article investigates the special legal literature and the current legislation in the field of pledging industrial property rights and foreclosure procedures. Based on the study, generalized methods of foreclosure are inherent to

secured industrial property rights: judicial – sale of pledge through electronic bidding, out-of-court – by concluding an agreement on satisfying the requirements of the pledge holder. All out-of-court methods of collection are analyzed, based on them a method is proposed that will correspond to the nature of industrial property rights, namely, conclusion of an agreement on satisfying the requirements of a pledge holder. Also, in the article, consider cases where the out-of-court method of foreclosure on property rights of industrial property cannot be applied, and foreclosure should only take place in a judicial proceeding, these cases are proposed to be fixed in the Law on pledges.

Given the specificity of industrial property rights, certain proposals are proposed to improve the collection of such rights in the enforcement proceedings. Thus, the assessment of intellectual property rights requires a different approach than the assessment of things, so it is proposed to supplement Part 3 of Art. 57 of the Law of Ukraine «On Enforcement Proceedings» is such an object of valuation as property rights of intellectual property.

In order to regulate the procedure for the realization and enforcement of industrial property rights, the legal bases for the transfer of these rights and their state registration require systematic refinement, in particular by supplementing the relevant state registers in the field of industrial property by such types grounds for the transfer of rights, such as: a fixed-price bidding act, an electronic bidding act, an ordinance and act of transfer of property to a debt collector, an agreement on satisfying the requirements of a pledge holder.

The conclusions suggest amendments to the current legislation regarding the issues discussed above.

Key words: collateral, property (exclusive) rights, industrial property, foreclosure, pre-trial method of foreclosure,

enforcement proceedings

Butnik-Siverskyi O. Theoretical principles of neutralization of internal and external sources of national security threats under the influence of the development of intellectual property sphere by synapse targeting.

P. 50-65

The article summarizes the theoretical issues of essence, interpretation, coverage of national security features, structure and factors as a systemic concept. The national interest of the state in national security is considered as the determining source of formation of strategic goal, strategic tasks, object of directions and directions of development of the nation.

Attention is drawn to the fact that intellectual and innovation security, scientific and technical security, as well as the neutralization of internal and external sources of national security threats are considered as separate constituent elements of the national security structure and those that permeate other elements of the structure on the principle of diffusion, depending on the existing ones tasks.

It is stated that neutralization of internal sources of threats and protection against external threats is impossible without the participation of the state as an independent institution, which implements the systemic target policy and implements it in the form of organizational mechanism for promoting the neutralization of threats, sending an effective impulse of the importance of carrying out appropriate organizational measures with obligatory feedback the result achieved. It is here that the synapse is traced in the form of a connection with the national security structure by giving signals to certain centers of creative and inventive activity, with a feedback signal to a certain center of perception of

national security targets at different levels of the hierarchy of public administration, which is the main condition for neutralization of internal and external sources of national security threats.

It achieves the establishment of a neural function (signaling) by analogy in the control system at the micro, meso and macro levels of the real economy and the national legal system of intellectual property related to the objectives of national security. The influence of the intellectual property sphere on the development of national security theory in the direction of two interrelated types of national security – internal and external, which each has its own peculiarities, is considered.

Keywords: security theory, national security, internal and external sources of threats, neutralization principles, intellectual property sphere, synopsis

[Chomakhashvili O. Protection of intellectual property for sound trend marks.](#)

P. 66-71

A trade mark – denotation that is used in an order to distinguish commodities or services of one producer from commodities or services of other producer.

Mainly there are two excellent properties of the registered trade mark. She must not mislead consumers in relation to a producer or place of production. By the legislation of Ukraine the set grounds for a refuse in registration of trade mark. These grounds are based, on indicated higher, properties of trade marks.

Procedure of registration of trade mark in Ukraine is certain Law of Ukraine “On the guard of rights on signs for commodities and services” and by Rules of serve and

consideration of requests.

To voice denotations take different sounds such, as fragments of pieces of music, industrial, domestic, natural noises and their arbitrary combinations. In the world mostly as voice trademarks a call-sign register and illuminations of TV and radio stations, pronounced slogans of companies. In regard to voice trademarks on the first plan the phonetic constituent of this denotation goes out exactly.

Sound denotations, as a rule, are represented as an ordinary musical record. Registration of verbal denotations is possible at the same time.

Similar trademarks are often used in TV and radio adverting segment. Such voice denotations are clearly associated with a certain producer. Practically all voice trademarks passing state registration are fragments the music in a musical record, sometimes complemented by small verbal part.

The terms of receipt of legal safeguard of voice trade marks are considered in the article. Practice of receipt of such rights is analyses. The examples of expediency of receipt of such guard are described. Problem aspects are educed in procedure of examining. The prognosis of probability of terms of increase of interest is done in voice trade marks. Set forth to recommendation on the improvement of some positions of normatively-legal acts in the field of rights on voice trade marks.

Keywords: voice denotations, trade mark, sign for commodities and services, intellectual property

[Tkalenko K. Theoretical Framework for the Legal Regulation of Visual Art Market in Ukraine.](#)

The article touches upon basic issues for the legal regulation of visual art market in Ukraine. Nowadays works of visual art are regarded not only as objects for aesthetic enjoyment but also as commercial assets. Current trading relationships are being influenced by global geographical changes of business, digital transformation and IT development.

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[Ivanytska K. Legal regulation on the creation and functioning of innovation clusters in Ukraine.](#)

P. 88-93

The article reviews the regulatory framework on the basis of which the creation and functioning of innovation clusters as an association of objects of innovative infrastructure of Ukraine.

During the research, the author concludes that it is advisable to classify the regulatory regulation of the activity of innovation clusters in Ukraine into two categories: general and special. The general regulatory framework is aimed at creating elements of innovation clusters as legal entities; special aimed at regulating issues of innovation and intellectual property.

At the same time, the basic principles of creation and functioning of the legal framework governing the issues of innovation clusters are highlighted: systematicity, accessibility and legality.

In the article it is stated that legislative regulation, covering the issues of the functioning of the innovation clusters is incomplete and fragmented, which in turn impedes

the full, strategic and cost-effective development of innovation clusters. Hence, the author advises to propose the legislator to regulate the investigated issue at the level of a separate legal act.

Besides proper legislative framework, the author pays attention to the necessity of the attraction of budgetary and extra-budgetary funding, including facilitating the participation of clusters in competitions and events conducted by state and regional development institutes, state authorities and local self-government bodies. It is also obvious that there is a need of facilitating the promotion and sale of innovative products of cluster participants in the domestic and world markets; implementation of projects of cluster participants with involvement of state and regional development institutes.

At the end of the research the author generates the basic directions of improvement of the policy of legal regulation of the cluster innovation system of Ukraine, proposes concrete measures in the direction of its improvement and modernization.

Keywords: innovation, cluster, innovation infrastructure, legal regulation

[Petrenko A. State land cadastre database objective composition.](#)

P. 94-100

The Land Cadastre in Ukraine is a database and a defined system of actions in relation to the accounting, description and evaluation of land, which are carried out by competent state bodies for the appropriate purpose. Against this background, within our research, we propose to understand the concept of «State Land Cadastre Database» (SLCD) as a set of

data placed in the corresponding unified state geoinformation system of land information. The outlined approach to understanding the concept allows us to fully agree that the considered unified state geoinformation system of land information is the primary tool for managing the Land Fund.

Analyzing the legislation, it can be noticed that the legislator understands under these specified objects not tables, queries, forms, reports, macros and modules, but rather land within the state border of Ukraine, land within the territory of administrative and territorial units, restrictions on the use of land, land plot. In view of this, it can be assumed that the objects of the State Land Cadastre and the objects of the SLCD are not identical, and, consequently, the position that the State Land Cadastre is actually identical to the concept of «SLCD» in the narrow sense of the land cadastre is erroneous.

This article shows results of analysis of the structure of SLCD and research about what meaning Ukrainian Legislator includes in the very noun of «State Land Cadastre objects». The main question, that author tries to answer in this research work is what is the differences between State Land Cadastre objects and objects of the State Geoinformation System which are both functioning in Ukraine but didn't have same level regulation in legislation.

Based on discovered regulation of the State Land Cadastre objects (lands inside Ukrainian borders, lands inside smaller administrative units, lands usage restrictions, land parcels) author makes an attempt to define the meaning of objects of State Geoinformation System and appropriate approaches to their regulation. In case of Civil Law, described objects can be not only set of traditional civil competences but can be complicated units of intellectual property.

Key words: database, State Border, State Land Cadastre, land parcel, database objects, accounting system, Geoinformation

System, administrative unit, cadastral accounting, land data