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## Modern Legal Ways in Regulating the Activities of Peer-To-Peer Networks, in the Context of Ensuring the Protection of Intellectual Rights

### Introduction

Therefore, the question arises, is it appropriate in modern conditions to talk about the need to protect copyright on the Internet? Is this legal institution relevant in the context of the modern information society? Is it possible that it is high time to recognize copyright as a relic of the past?

Such issues are increasingly of concern not only to modern researchers in the field of copyright, but also to owners of intellectual property rights and users who are in constant “confrontation” for the possibility of using these results.

The extension of copyright protection to works posted on the Internet raises many controversial issues, one of which is the question of the legality of functioning in the global information space of peer-to-peer networks and file-sharing resources. These means of information exchange mediate the spread of huge flows of information among the participants of network relations, which often include objects protected by copyright.

Attempts to restrict peer-to-peer networks have been made by many states since the advent of such resources in the United States. However,

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to date, a universal way of legal regulation of such sites has not been found. As part of this work, we will try to consider the experience of different countries in regulating this area and offer our own solutions.

## History and principle of operation of peer-to-peer networks

The term “peer-to-peer” comes from the English phrase “peer-to-peer” and literally translates as “peer to peer”. The etymology of the term allows us to identify one of the basic principles on which the functioning of any peer-to-peer network is based – it is equality and reciprocity of resource exchange among its participants. The user of the peer-to-peer network can receive the corresponding file only by presenting the possibility of simultaneous downloading of files stored on his personal computer to other users of such a network, i.e. by “distributing” files<sup>2</sup>.

Appearing only at the beginning of the XXI century, peer-to-peer networks have evolved rapidly from the simplest first generation networks based on a central server (Napster) to decentralized second generation networks (Gnutella) and partially decentralized third generation networks (KaZaA, eDonkey 2000). and later to torrent networks, which allowed to “distribute” files in small parts<sup>3</sup>.

Analyzing the theory and practice of various systems for exchanging large flows of information on the global Internet, torrent trackers are of particular interest at the moment due to the large number of disputes and the lack of a unified approach to regulating these relationships.

The idea of organizing the activities of these sites is as follows: there are a huge number of users, each of which has a certain set of results of intellectual activity. To ensure the exchange between them, a torrent tracker has been created – a site with a catalog of information about the results of intellectual activity on users’ computers. When creating torrent files, people pass information to the tracker about the works

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<sup>2</sup> ArtisMedia (2018), Piringovyie seti. Chto takoe Peer-to-peer? [Peer-to-peer networks. What is Peer-to-peer?]. Retrieved from: <http://artismedia.by/blog/chto-takoe-peer-to-peer/>.

<sup>3</sup> V. Chugunkov (2011), Chto takoe piringovyie seti? Printsip raboty i pravila faylovo obmena [What are peer-to-peer networks? The principle of operation and rules of file sharing.]. Retrieved from: [http://www.compbegin.ru/articles/view/\\_28](http://www.compbegin.ru/articles/view/_28).

(games, programs, etc.) that they have to share with other users. By downloading this torrent file and opening it through the client program, the user begins to download the results of intellectual activity. They are given for download in parts by all other users who contain them, as well as those people who do not have the whole work in full, but have some component. As a result of this process, the user receives the file he needs and at the same time passes it to other users, forming a similar request.

To understand the problems of legal regulation of these relations, it is necessary to analyze the existing legislation. First of all, let's turn to the norms of Ukrainian law.

### **Normative regulation of this activity in Ukraine and in other countries of the world**

The specifics of the functioning of the studied web resources allows us to talk about the commission by the user of the file sharing network at the same time three actions that infringe copyright and are regulated as illegal, in accordance with Articles 51–2 of the Code of Ukraine of Administrative Offenses<sup>4</sup> and 176 of the Criminal Code of Ukraine<sup>5</sup> depending on the amount of damage, namely:

- downloading a file containing object protected by copyright to the user's personal computer is unlawful reproduction of the work;
- participation in the «distribution» of files within the peer-to-peer network, i.e. unauthorized disclosure of the work to the public;
- distribution of the work by alienating its copies, in this case digital copies.

At the same time, for our country, protection against such actions is characterized by the practice of demanding protection of infringed copyrights not to individual users of peer-to-peer networks, but to hosting providers that provide the ability to place content on the Internet.

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<sup>4</sup> Kodeks Ukrayiny pro administratyvni pravoporushennya [Code of Ukraine of Administrative Offenses] Database "Legislation of Ukraine". Retrieved from: <https://zakon.rada.gov.ua/laws/show/80731-10>.

<sup>5</sup> Kryminal'nyj kodeks Ukrayiny [Criminal Code of Ukraine] Database "Legislation of Ukraine". Retrieved from: <https://zakon.rada.gov.ua/laws/show/2341-14>.

Adoption of amendments to the Law of Ukraine “On E-Commerce” and “On Protection of Copyright and Related Rights” allowed persons whose exclusive rights to audiovisual works are violated by illegal placement of these copyrights on the Internet, to apply to hosting providers and the court on taking measures aimed at protecting such rights. Subject to the conditions of Article 9 of the Law of Ukraine “On E-Commerce”, hosting providers are not responsible for infringement of intellectual property rights in peer-to-peer networks<sup>6</sup>. However, on the basis of Article 52-1 of the Law of Ukraine “On Copyright and Related Rights” they may be subject to requirements for the protection of intellectual property rights, not related to the application of civil liability measures<sup>7</sup>.

However, in the practice of torrent trackers, this mechanism has not found its application. Currently, even a small number of sites compromise with rights holders, establishing a mechanism based not on legal permission, but on notification in cases of violations. The owner of the work must contact the owners of the site with such a message.

Only after that, based on the results of data validation, the administration removes illegally placed copies of the work from the tracker.

Accordingly, it can be concluded that the rules governing this issue are ineffective, as they are essentially “dead” and unusable in practice, due to a number of reasons:

- communication with rights holders is very weak, especially in the case of a large number of them;
- due to lack of reliable information about the right holder;
- due to lack of sufficient knowledge of users.

It is obvious that the activity of peer-to-peer networks in Ukraine today is not based on a preventive permitting procedure, but on the subsequent reaction of the owners of such sites to copyright infringements that have already taken place.

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<sup>6</sup> Zakon Ukraïny “Pro elektronnu komerciju” [Law of Ukraine “On E-Commerce”]. Database “Legislation of Ukraine”. Retrieved from: <https://zakon.rada.gov.ua/laws/show/675-19>.

<sup>7</sup> Zakon Ukraïny “Pro avtors’ke pravo ì sumizhni prava” [Law of Ukraine “On Copyright and Related Rights”]. Database “Legislation of Ukraine”. Retrieved from: <https://zakon.rada.gov.ua/laws/show/3792-12>.

According to S. Darbynyan, the only way to stop the free exchange of works between users on the Internet today is to close the Internet and go back to the XIX century, to the good old days, when people paid for copyright to touch the beautiful<sup>8</sup>.

Despite some irony in the author's statement, it should be agreed that the transformational changes in modern society are associated with the growth of technological progress, general informatization and the spread of the Internet.

These changes are forcing the transformation of copyright, narrowing its exclusive boundaries to the objectively necessary in today's copyright monopoly. Of course, copyright has not lost its relevance in the XXI century, but today this legal institution is becoming something new – a means of achieving a balance of interests of all participants in information and digital exchange.

After analyzing foreign legislation, it is necessary to pay attention to a very diverse approach to regulating this problem, from the complete restriction of this exchange to the consolidation of its complete freedom. However, the emphasis is mainly on consolidating the circle of culprits and regulating the remuneration of the author.

Article 5 of the Directive of the Council of the European Community № 92/100 / EEC "On the right to rent and the right to rent and certain rights related to copyright in the field of intellectual property" enshrines the transition to the "right to fair remuneration". According to this provision, the work can be used without the consent of the owner, but with the payment of remuneration<sup>9</sup>.

In the United States, the DMCA (Digital Millennium Copyright Act) was adopted to regulate these relationships, aimed at protecting ISPs from liability for the actions of network users who distribute counterfeit materials. This act established a list of actions for which the provider can

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<sup>8</sup> S. Darbidyan (2013), *Nekommercheskoe piratstvo – dvigatel' informatsionnogo obschestva* [Non-commercial piracy – the engine of the information society]. Retrieved from: <https://elibrary.ru/item.asp?id=20274529>.

<sup>9</sup> Directive of the Council of the European Communities № 92/100 / EEC "On rental rights and rent rights and certain rights related to copyright in the field of intellectual property", Database "Legislation of Ukraine". Retrieved from: [https://zakon.rada.gov.ua/laws/show/994\\_360](https://zakon.rada.gov.ua/laws/show/994_360).

not be held liable. These include the transfer of material at the initiative of a person other than the service provider; the provider has no action to create copies of materials in the process of intermediate or instantaneous data transmission; transfer of materials over the network without changing their content etc<sup>10</sup>.

In the UK, this relationship is governed by the Digital Economy Act, which has developed a procedure to prevent copyright infringement. According to this act, the owners of the results of intellectual activity compile lists of users who, in their opinion, constantly violate their rights. These lists are provided to ISPs along with a report and statistics of violations. The provider must inform users about the consequences of continuing illegal actions. After that, the rights holders can request a list of all users who have continued their activities after warning the provider. With this list, the right holder can apply to the court for a court order to identify the user and with this information to initiate a normal lawsuit for infringement of his copyright<sup>11</sup>.

The most liberal attitudes towards users can be traced in the legislation of the Republic of Chile in connection with the amendments to the Law "On Communications", which formulated five provisions that guarantee citizens freedom of action in the global network:

- ISPs are prohibited from restricting access and discriminating in any way against network users with respect to any type of content, web application or service, except for measures to protect users, combat viruses and ensure network security;
- ISPs are obliged to provide "parental control" functions;
- ISPs should change contracts, make them more transparent and provide users with written additions and explanations so that subscribers can easily and clearly identify the list of services provided by the operator;
- ISPs are obliged to guarantee the confidentiality of users, protect them from viruses and ensure security while online;

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<sup>10</sup> Digital Millennium Copyright Act, Official web site of USA Congress. Retrieved from: <https://www.congress.gov/bill/105th-congress/house-bill/2281/text>.

<sup>11</sup> Digital Economy Act. Official web site of UK Government. Retrieved from: <http://www.legislation.gov.uk/ukpga/2017/30/contents/enacted/data.html>.

- ISPs should guarantee free access to all types of content, services and applications on the global network and when providing services do not recognize content downloaded by users, regardless of who owns it. And to prevent restrictions on the freedom of users to use content or services other than user-specific requests<sup>12</sup>.

### Other studies in this area

Also of interest is a study of the impact of piracy on box office receipts from experts from the University of Minnesota and Wellsley College (“Reel Piracy: The Effect of Online Film Piracy on International Box Office Sales”). Researchers have come to the interesting conclusion that the use of BitTorrent, although to some extent reduces the income of rights holders, but is by no means the main and only cause of lost profits.

According to the report, the decline in international box office receipts from movie rentals is largely due not so much to online piracy as to the time difference between the film’s release in the United States and elsewhere. Thus, it is in the interests of rights holders to minimize the time difference between the appearance of films around the world. If in 2004 the interval between the premiere of the film in the US and other countries averaged 10.5 weeks, then by 2007 this interval was reduced to 6 weeks, and in 2010 it was already a month.

In addition, the often unearned profits of rights holders from piracy on the Internet are calculated based on the presumption that the user would have visited the cinema if he had not had the opportunity to download an illegal copy of the film on the Internet. Meanwhile, this is not entirely true. According to the results of the study, if a potential viewer initially considered the price of a movie ticket to be too high compared to the value of the film itself, illegal downloading of audiovisual works, although a violation of film distributors’ rights, is not a significant reduction in box office.

Finally, researchers have found that illegally downloading movies can also increase box office fees, as introducing users to free content makes

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<sup>12</sup> Law of the Republic of Chile “On Communications”, Official web site of Chile Congress. Retrieved from: <https://legislacion-oficial.vlex.cl/vid/ley-n-septiembre-telecomunicaciones-277499799>.

them aware of the film's high artistic value and motivates them to visit a movie theater<sup>13</sup>.

Thus, the mere existence of counterfeit copies of audiovisual works on the Internet does not reduce the revenue from the sale of legal copies of films, while the unavailability of such copies to the average user is one of the main reasons for the increase in illegal downloads online.

We should agree with M. Radaikin's statement that file sharing of problematic content will remain until it becomes more profitable and easier to work officially than in the "gray" or "black" scheme<sup>14</sup>. That is why now, in our opinion, the development of the market for legal, accessible content is recognized as the best way to combat Internet piracy.

The progressive development of the Internet cannot be compared to the need to enter into traditional, license-oriented license agreements for users of agreements that require royalties for each download, image recording, or video viewing of the Internet. Modern needs of the information society dictate the need to create new, adapted to the digital environment means of interaction between rights holders and users.

Mark Mulligan, an analyst at Forrester, says that anti-piracy measures will only be successful if copyright owners create a user-friendly e-service that meets the needs of Internet users, especially young audiences. The expert points out that the current situation is greatly complicated by the fact that rights holders are very reluctant to enter into license agreements with some particularly popular Internet services among users<sup>15</sup>.

It should also be borne in mind that technical progress is not standing still. The future of file-sharing networks is linked to F2F (friend-to-friend) technology, which allows connections only to known users, while increasing the anonymity of the information transmitted. There are also completely anonymous networks (Nodezilla, Freenet, GUNet

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<sup>13</sup> J. Waldfogel (2012), Reel Piracy: The Effect of Online Film Piracy on International Box Office Sales. Retrieved from: [https://www.researchgate.net/publication/228120858\\_Reel\\_Piracy\\_The\\_Effect\\_of\\_Online\\_Film\\_Piracy\\_on\\_International\\_Box\\_Office\\_Sales](https://www.researchgate.net/publication/228120858_Reel_Piracy_The_Effect_of_Online_Film_Piracy_on_International_Box_Office_Sales).

<sup>14</sup> M. Radaikin (2013), Pravovoe polozhenie torrent-trekerov i ih pol'zovateley [Legal status of torrent trackers and their users Materials of the Internet publication]. Retrieved from: <https://elibrary.ru/item.asp?id=20282129>.

<sup>15</sup> E. Kuznetsova (2011), Borba za kontent [The struggle for content]. Retrieved from: <https://www.kommersant.ru/doc/1576801>.



etc.), which allow you to hide the network addresses of their users. The organizers of such web resources do not hide their interest in creating a higher level of file sharing secrecy, which makes it almost impossible to prove cases of piracy on the network<sup>16</sup>.

### **Suggestions for improving regulation in this area**

When developing measures of legal influence on peer-to-peer networks, it should be borne in mind that the emergence of such web resources is a natural and evolutionary process of formation of adequate to the modern information society means of data exchange. The solution to this problem is seen in the development of mechanisms for the adaptation of copyright institutions to these processes, which will give rights holders the opportunity to profit from the activities of such resources.

Given the importance of torrent trackers for the development of the culture of the population as an unlimited source of information, sometimes unavailable in any other format, and at the same time, the ineffectiveness of the existing method of regulation, it is proposed to implement the following measures to legalize torrent trackers.

At the first stage, taking into account the fact that the consent of the copyright holders was not taken into account when posting various works on torrent trackers and about 90% of torrent trackers content are low-quality copies of works that are illegal copies of intellectual property, it is proposed to close all existing sites. their complete reconstruction.

The first range of works, the regulation of which we will consider, and which we will focus on – are music, video works and various publications, including audiobooks (hereinafter – works). The application of torrent trackers to computer games and programs will be considered separately.

All works on the updated torrent trackers should be divided into two groups: free and paid. Paid works will have a special label for users with relevant payment information.

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<sup>16</sup> Motomac (2010), OneSwarm – polnostyu detsentralizovannaya piringovaya set [OneSwarm – a fully decentralized peer-to-peer network]. Retrieved from: <https://habr.com/ru/post/83976/>.

Initially, the new torrent trackers will be filled with free works, which include works that represent public domain. In addition, on the basis of license agreements, this group will be gradually supplemented by other works, the owners of which agree to their free distribution. As a rule, these are novice authors who have yet to gain popularity, and they want to offer users a free basis to get acquainted with their work.

Thus, theoretically, it is possible to keep the free mode of torrent trackers, but the amount of information on them will be quite limited. In the first place, the development of such resources may be influenced by the right holders themselves, who have the right to refuse remuneration and allow the distribution of their work free of charge, earning income from rental in cinemas, concerts or other sources. Torrent tracker for them will be a way to acquaint end users with the result of intellectual activity.

In that case, if the right holder does not agree to distribute his work free of charge, such work will fall into the second group of works, groups for which it is necessary to obtain the appropriate permission. Downloading this range of works will be done on a paid basis.

As it is often very difficult to connect torrent trackers and rights holders, it is proposed to create a single organization that would unite all rights holders and deal with copyright issues.

Since the Internet allows the exchange of works by both Ukrainian and foreign authors, and the exchange is possible between users of different countries, as a result, such an organization must be international in nature with units in individual countries (such powers in Ukraine, for example, may be endowed by Ukrainian Agency for Copyright and Related Rights “).

This organization will issue permits to all who have applied for this document. In addition, it will represent the interests of right holders in the event of possible disputes and, last but not least, engage in informational and educational activities in the field of copyright and legitimate interests of right holders, as the general level of understanding and awareness of this right.

Currently, examples of foreign organizations with a similar focus are The American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), the Society of European Stage Authors & Composers.

As a result of obtaining this permission, the tracker will be allowed to distribute either only that works whose authors do not require remuneration, or the full range of works. It is assumed that such permission will be paid, and the owners of these sites will receive income from their activities, while the distribution of works, the authors of which do not require remuneration, will be recognized as non-profit activities.

It is also proposed to keep the possibility of moving certain works from one category to another, as quite often there are situations when initially non-commercial works, designed for a small number of views, gain popularity, then rights holders do not want to lose expected profits and make access to them paid.

Most works will still be taught by users, not by copyright holders or their representatives, so it is necessary to introduce quality control of distributed copies of works. Control should be exercised by the tracker administration by checking each torrent that is placed, for the consent of the copyright owner (as evidenced by the permission obtained by the site), the quality of the proposed copy and the availability of all information about the work required by the user to download. After checking the torrent file is approval and notification to the person who wishes to place a piece on the tracker. The last stage is the placement of the torrent in the appropriate section marked, if necessary, that this resource is paid.

The information you need to provide to place a torrent file should be standardized based on the experience of most current trackers who have already produced such lists. The most important are the following data: title, author, country of origin, genre, format, quality, size, nature of the translation, performer, etc. This information will also simplify the process of checking files by the administrator.

To self-regulate the quality of works, it is proposed to introduce a system of their evaluation. Each user can score on different criteria to make it easier for other users to select a work and for administrators to remove works that do not match the quality.

Currently, only some trackers can find a general assessment of a work. And it is often not an objective indicator (so in a good script there may be poor acting or poor sound quality with an interesting melody etc.), then a score of 4 out of 10 will not inform the user about

the real advantages and disadvantages of the work. Based on this, for example, for films, it would be reasonable to highlight the following criteria: script, acting, special effects, etc., and then display the results in a small table for each of these criteria.

The most difficult and controversial question is how to organize the deduction of remuneration to right holders, what should be the amount of such remuneration and how users will be able to pay for the purchase of paid works.

The following mechanism is proposed. After clicking the download button, the user will be prompted to select a payment method from the list provided, which will include the following options:

- payment by SMS (by sending an SMS to a single number and subsequent withdrawal from the account of the corresponding amount);
- payment by credit card (as is done in online stores, by entering the card number and information about its user);
- payment by means of a receipt, which will come from the Internet provider, which can be paid similarly to the bills for cable TV and the Internet.

It is proposed to calculate the amount of payment from the amount that is distributed on the websites of official resellers on the Internet (Google Play Movies, Google Play Music, Google Play Books, Apple Books, Apple Music, Pinterest, etc.). If the price on such platforms is different, you should set the average cost for a particular object of intellectual property.

Describing a new way of organizing torrents for music, film and literary works, including audiobooks, I would like to highlight the following advantages for authors:

- authors will be able to distribute their works without the help of various intermediaries, which will help them save a lot of money;
- by paying for most popular works, it will be easier for young authors to start distributing their works for free, as most users will not be willing to pay for information that was previously provided free of charge;
- in the transition to legal distribution of works via the Internet, the cost of the works themselves will be lower, as the number of le-

gally purchased products increases, respectively, the cost of such products may be quite a small figure for users, but even with this cost, authors will receive due to the number of copies income from its activities.

The next range of intellectual products we reviewed, which are distributed using torrent trackers, will be computer games and programs. Given the specific nature of each game and program, it should be noted that it is virtually impossible to calculate any average cost. Depending on the developer and the content of the information, the price can vary dozens of times. At the same time, there are still a number of similar free programs. There may be another situation where the user is ready to buy a licensed version of the program or game, which costs a significant amount of money, but first he wants to make sure that it meets his expectations or fits the specifications.

To take into account all these situations, it is necessary to leave open only those programs that are distributed by their manufacturers for free. The rest is offered to be placed in the form of demo versions with a limited lifespan or a limited range of features with links to the official websites of the developers of these programs, where you can buy the full version.

The situation is similar with computer games, they are also offered to be posted in the form of demos with links to official sites, where you can download the full game for the price set by the copyright holder.

## Conclusions

Thus, the formation of a new legal mechanism for torrent trackers requires the participation not only of the administration of trackers, but also of the rights holders themselves. Only on such a bilateral basis will it be possible to achieve a tangible result in the protection of intellectual property.

Another important problem is the low level of legal awareness of users who at this stage of using the global Internet are not used to paying for the use of someone else's intellectual property. Moreover, due to the excess of free works, people stopped appreciating their quality, choosing from the proposed options really necessary and interesting to

them, which in turn slows down the development of culture and society in the modern world.

Only a reasonable organization of the information exchange system on the Internet, which will be built on two bases – paid and free depending on user needs, will take full account of all contradictions and create an effective mechanism for such a source of information as a torrent tracker.

Thus, peer-to-peer networks, in particular, torrent trackers, are an inevitable informational present and future that must not be fought against, but to which ways of adaptation must be sought, including in the legal sphere, as the process of information technology development must always be accompanied. and the evolution of law.

## Bibliography

- ArtisMedia (2018), Piringovyie seti. Chto takoe Peer-to-peer? [Peer-to-peer networks. What is Peer-to-peer?]. Retrieved from: <http://artis-media.by/blog/chto-takoe-peer-to-peer/>.
- Chugunkov V. (2011), Chto takoe piringovyie seti? Printsip raboty i pravila faylovogo obmena. [What are peer-to-peer networks? The principle of operation and rules of file sharing.]. Retrieved from: [http://www.compbegin.ru/articles/view/\\_28](http://www.compbegin.ru/articles/view/_28).
- Darbidyan S. (2013), Nekommercheskoe piratstvo – dvigatel' informatsionnogo obschestva [Non-commercial piracy – the engine of the information society]. Retrieved from: <https://elibrary.ru/item.asp?id=20274529>.
- Digital Economy Act. Official web site of UK Government. Retrieved from: <http://www.legislation.gov.uk/ukpga/2017/30/contents/enacted/data.html>.
- Digital Millennium Copyright Act. Official web site of USA Congress. Retrieved from: <https://www.congress.gov/bill/105th-congress/house-bill/2281/text>.
- Direktiva Radi 92/100/EES “Schodo prava na prokat ta prava na otrimannia rentnoi plati ta deyakih prav, pov'yazanih z avtors'kim pravom v galuzi intelektual'noi vlasnosti” [Directive of the Council of the

- European Communities № 92/100 / EEC “On rental rights and rent rights and certain rights related to copyright in the field of intellectual property”]. Database “Legislation of Ukraine”. Retrieved from: [https://zakon.rada.gov.ua/laws/show/994\\_360](https://zakon.rada.gov.ua/laws/show/994_360).
- Kodeks Ukrayiny pro administratyvni pravoporushennya [Code of Ukraine of Administrative Offenses] Database “Legislation of Ukraine”. Retrieved from: <https://zakon.rada.gov.ua/laws/show/80731-10>.
- Kryminal`nyj kodeks Ukrayiny [Criminal Code of Ukraine] Database “Legislation of Ukraine”. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2341-14>.
- Kuznetsova E. (2011), Borba za kontent [The struggle for content]. Retrieved from: <https://www.kommersant.ru/doc/1576801>.
- Law of the Republic of Chile “On Communications”. Official web site of Chile Congress. Retrieved from: <https://legislacion-oficial.vlex.cl/vid/ley-n-septiembre-telecomunicaciones-277499799>.
- Motomac (2010), OneSwarm – polnostyu detsentralizovannaya piringovaya set [OneSwarm – a fully decentralized peer-to-peer network]. Retrieved from: <https://habr.com/ru/post/83976/>.
- Nergelovic P. (1845), Davies-plagiarism. Materials of the court case. Retrieved from: <http://fredrickey.info/dms/DeptHeads/Davies-plagiarism.html>.
- Radaikin M. (2013), Pravovoe polozhenie torrent-trekerov i ih pol`zovateley [Legal status of torrent trackers and their users Materials of the Internet publication]. Retrieved from: <https://elibrary.ru/item.asp?id=20282129>.
- Waldfoegel J. (2012), Reel Piracy: The Effect of Online Film Piracy on International Box Office Sales. Retrieved from: [https://www.researchgate.net/publication/228120858\\_Reel\\_Piracy\\_The\\_Effect\\_of\\_Online\\_Film\\_Piracy\\_on\\_International\\_Box\\_Office\\_Sales](https://www.researchgate.net/publication/228120858_Reel_Piracy_The_Effect_of_Online_Film_Piracy_on_International_Box_Office_Sales).
- Zakon Ukrajiny “Pro avtors`ke pravo i sumizhni prava” [Law of Ukraine “On Copyright and Related Rights”]. Database “Legislation of Ukraine”. Retrieved from: <https://zakon.rada.gov.ua/laws/show/3792-12>.
- Zakon Ukrajiny “Pro elektronnu komerciju” [Law of Ukraine “On E-Commerce”]. Database “Legislation of Ukraine”. Retrieved from: <https://zakon.rada.gov.ua/laws/show/675-19>.

## Summary

The issue of intellectual property protection on the global information network the Internet has recently become a matter of serious concern on the part of rights holders. Copyright, which arose with the invention of book printing in medieval Europe, was originally planned and understood as an institution of exclusive author's monopoly on the production of material copies of works. In fact, it is in this context that the concept of copyright existed until the XXI century. On the eve of the new millennium, the emergence of an unprecedented phenomenon for its time – the World Wide Web, has significantly shaken traditional views on the concept of copyright and the limits of its regulation.

The effectiveness of the copyright approach to the protection of the legitimate interests of right holders was questioned as early as 1845 by the American judge in the case of Emerson V. Davies. In his opinion, the exclusive rights to the results of creative activity are inadmissible, given that these results themselves are the result of thoughts, ideas, images that were created and repeatedly used by other people<sup>17</sup>.

Indeed, creativity is impossible without attracting or borrowing from the “intellectual treasury” of civilization. With the development of modern information technology, such borrowing has become available to anyone with an Internet connection. With the proliferation of computer programs that allow you to record music, create images, animation, creativity is no longer an elite activity available only to the select few.

**Keywords:** Internet, torrent, tracker, file, web resource, computer, program, work, provider

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<sup>17</sup> P. Nergelovic (1845), Davies-plagiarism. Materials of the court case. Retrieved from: <http://fredrickey.info/dms/DeptHeads/Davies-plagiarism.html>.