



The Establishment and Functioning of Collective Management Organizations of Copyright and Related Rights

Iroda Yakubova,

PhD (Doctor of Philosophy),

Associate Professor Department «Intellectual property law»
of Tashkent State University of Law

ABSTRACT

Developed systems of collective management of copyright began to be created from the middle of the 19th century. Within the framework of the subject, it was studied in detail how right holders enter into agreements with persons using works (objects of copyright and related rights) on their own behalf on the basis of powers granted by collective management organizations, as well as collection, distribution and payment of royalties to right holders. Attention is paid to some urgent problems related to the improvement of this institution, international standards for copyright protection and comparative legal analysis of national legislation, as well as the opinions of scientists from Uzbekistan and other different countries. Suggestions and recommendations were put forward of scientific and practical importance for national copyright law.

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The idea of the possibility of joint actions of creative workers was first revealed by Beaumarchais and in 1777 he called the "States General of Dramatic Art" in Paris[1]. Having gathered to discuss a certain financial problem, twenty-two famous writers of that time managed to raise the debate to the level of collective protection of their rights, appointed permanent "commissioners", held a "pen stroke" (a similar action took place only two centuries later in the United States), This created a basis for the authors of musical and dramatic works in the French society. All this led to the creation of the first society of authors in the world - the Bureau of Dramatic Legislation in 1777, which later became the Society of Dramatic Authors and Composers (BASO), which still exists today[2].

The Bureau of Pierre Beaumarchais was fully formed in 1829 and became the prototype of the French Society of Writers and Dramatists (SACD). In 1791, the Bureau became the chief agency for the protection of copyright. There was great opposition from the theater businessmen as about 70 authors entrusted the head of this organization, Frameri, to manage their affairs by handing over the relevant powers certified by a notary public[3]. However, despite this, contracts were signed with a number of theaters, and by 1829 a royalty system was established. Thus, the first union of creative workers became the society of authors.

On December 31, 1837, a general meeting of authors of literary works was held in France, which formed the "Society of Writers". The members of this organization were Honoré de Balzac, Alexandre Dumas and Victor Hugo, and the main purpose of its activity is to stop unauthorized and unpaid printing of authors' works[4]. The society collected royalties only for the press editions, which were enough to enrich many authors while the continuation novels typical of the era were developing.

Developed systems of collective management of copyright began to be created from the middle of the 19th century. One of the important events that contributed to this was in 1847, when two composers, Paul Enrion and Victor Parizo, as well as their publisher, Ernest Bourget, sued the Cafe "Ambassador" on the Champs Elysées in Paris for the unauthorized performance of their works. Authors felt that it was unfair that they had to pay for seats and food in the cafe, because no one would pay for their works to be performed in public by an orchestra[5]. Authors chose not to pay until they were paid. The authors won the lawsuit, and as a result, the owner of the cafe paid them a large royalty. This decision of the court opened up new opportunities for composers and songwriters, but it was immediately clear that authors cannot independently monitor all cases of use of their works and cannot exercise their rights when performing works in front of the public[6].

The first associations of authors in author societies appeared in the field of public performance of dramatic and musical-dramatic works.

However, we can talk about a complete system of collective management of copyright only if it covers the field of public performance of non-dramatic musical works. As a result, in 1850 a special society was created for the collection of prize money, the original purpose of which was to collect royalties for the performance of musical works in every public, and it was later replaced by the present French Society of Authors, Composers and Publishers of Music (SACEM).

This organization still exists today and is one of the largest collective management societies in the world[7].

This organization still exists today and is one of the largest collective management societies in the world. Prior to the creation of this organization, authors initiated a series of lawsuits defending their rights to receive fair compensation for the use of their works.

After France, such organizations were established in almost all Europe and some other countries of the world. The process of forming a collective copyright management system in the world began in the first half of the 19th century, which is primarily due to the emergence of new technologies that make it possible to use works on a large scale[8].

However, the development of events was not limited to the domestic stage. As collective management organizations flourished in their nation states, the need for international cooperation and coordination became apparent. In 1925, Romain Kulus established the committee for the organization of congresses of foreign authors' societies. This committee was formed to solve some intractable problems related to international problems[9]. Around the same time, Firmenu Geme managed to create a universal theater society. Both of these initiatives led to the convening of the Constituent Council of the International Confederation of Societies of Authors (CISAC) in 1926. The members of the Constituent Council emphasized the need to establish uniform principles and methods for the collection of royalties and the protection of works for each country, to ensure the recognition and protection of literary and artistic property throughout the world. Today, CISAC has 232 member societies in 121 countries, most of which grant licenses for the public performance and distribution of musical works or for the reproduction of these works[10]. Other CISAC members have the right to grant licenses for the display and reprographic reproduction of works of visual art and theatrical productions (so-called "substantive rights"). Many countries have contributed to the growth of collective management organizations through legislative initiatives, as these organizations in turn offer a suitable solution to the problem of individual licensing, collection and enforcement of copyright[11].

Although the formation of collective management organizations was once considered revolutionary, the key role it continues to play as an intermediary in the copyright system is described as evolutionary. Collective management promotes uniform methods of collecting and distributing royalties for organizations and negotiates licensing of works[12]. However, while licensing and royalty payments are important, collective governance is not the only concern for organizations. Over time, the role of collective management organizations has changed to protect copyright, fight piracy, and perform various social and cultural functions[13].

Collective management has allowed organizations as well as creatives to use the power of collective bargaining to gain more leverage in their work and negotiations. However, most collective management organizations value all works in their repertoire on the same economic basis, which can be unfair to the creators of works that may be of higher value in the eyes of users[14].

Although collective management organizations were initially promoted as an effective way to raise and pay compensation to copyright owners, collective management organizations have become increasingly established nationally and internationally, and questions have been raised about their effectiveness. In addition to these important structural challenges, market conditions and copyright owners' business trends are changing, and collective management organizations must adapt[15]. Having served both creators and users adequately in the past, the system now needs to adapt to be both efficient and relevant to the community.

It was the "music sector" that became the largest sector in terms of scope: a complex repertoire necessitated collective management of rights. In 1994, the Society of French Authors, Composers and Music Publishers (SACEM) distributed 2 billion 450 million francs among 60 thousand songwriters, composers and publishers (French and foreign, authors and their heirs) for the use of 550 thousand works[16]. The society manages more than 5 million registered musical works (150,000 new works every year), cooperates with 540,000 distributors, 200,000 of whom were considered regular users (organizers of radio and television stations, show programs, concerts and discos) [17].

The network of copyright societies has gradually spread throughout the world in different ways depending on the specific characteristics and cultural environment of the country[18]. During the end of the last century and the first decade of this century, similar copyright organizations (so-called public performance rights management societies) were established in almost all of Europe and some other countries.

Today, this prestigious international organization includes both "musical" copyright societies and societies that manage rights to works of visual art and audiovisual works. In some cases, high-profile authors' societies have drawing and graphics departments (in Belgium, Italy, Portugal). The status of authors of literary, audiovisual and theatrical works is different in different countries. Organizations are being created both for different rights and for different categories of rights holders. These are foreign copyright societies: Polish ZAIKS, French SACEM, Japanese JASRAC, English PRS, American ASCAP and BMI, etc.

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