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OBJECTS OF COPYRIGHT AND OBJECTS NOT PROTECTED BY COPYRIGHT LAW AND COPYRIGHT INFRINGEMENT

Abstract

Copyright is a form of intellectual property law, protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation. Objects of copyright and not objects of regulates with Law of the Republic of Azerbaijan on Copyright and Related Rights and other normative legal acts. Copyright Infringement is the legal word for breach or violation of the rules in the copyright law and we will investigate how copyright is protected and what the legal liability for copyright infringement is in this area.

Key words: *Objects of copyright, copyright, infringement, not protected by copyright, Copyright violation, lawsuits.*

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Müəlliflik hüququ obyektləri və müəllif hüquqları qanunu ilə qorunmayan obyektlər və müəllif hüquqlarının pozulması

Xülasə

Müəlliflik hüququ əqli mülkiyyət hüququnun bir forması olmaqla, şeir, roman, film, mahnı, kompüter proqramı və memarlıq kimi ədəbi, dramatik, musiqi və bədii əsərlər də daxil olmaqla orijinal müəllif əsərlərini qoruyur. Müəlliflik hüququ faktları, ideyaları, sistemləri və ya əməliyyat üsullarını qorumur. Müəlliflik hüququ obyektləri və müəlliflik hüququ ilə qorunmayan obyektlər Müəlliflik hüququ və əlaqəli hüquqlar haqqında Azərbaycan Respublikasının Qanunu və digər normativ hüquqi aktlar ilə tənzimlənir. Müəllif Hüquqlarının pozulması, müəllif hüququ qanununda qaydaların pozulması, müəllif hüquqlarının necə qorunduğunu və bu sahədə müəllif hüquqlarının pozulmasına görə hüquqi məsuliyyətin nə olduğunu araşdıracağıq.

Açar sözlər: *Müəllif hüquqlarının obyektləri, müəllif hüquqları, pozuntular, müəllif hüquqları ilə qorunmayan obyektlər, hüquqlarının pozulması, məhkəmə iddiaları.*

Introduction

Copyright is a type of intellectual property that the relations arising in connection with the creation and use of works of science, literature and art. There are three basic requirements for copyright protection:

- 1) copyright protected must be a work of authorship;
- 2) it must be original;
- 3) and it must be fixed in a tangible medium of expression.

Everyone can be a copyright owner. Once you create an original work and fix it, like taking a photograph, writing a poem or blog, or recording a new song, you are the author and the owner.

Companies, organizations, and other people besides the work's creator can also be copyright owners. Copyright law allows ownership through "works made for hire," which establishes that works created by an employee within the scope of employment are owned by the employer. The work made for hire doctrine also applies to certain independent contractor relationships, for certain types of commissioned works.

Copyright ownership can also come from contracts like assignments or from other types of transfers like wills and bequests. Copyright does not require registration of the work in various ways. Both disclosed and undisclosed works can be copyright applies are written (manuscript, typewritten, musical, etc.), oral (public speaking, public performance, etc.), audio or video recording (mechanical, magnetic, digital, optical and etc.), description (drawing, sketch, picture, plan, cartoon, film, TV, video, or photo frame, etc.), volumetric - spatial (sculpture, model, model, building, etc.). Copyright refers to a form of expression, not to ideas, processes, working methods, or mathematical concepts.

According to Law of the Republic of Azerbaijan on Copyright and Related Rights, objects of copyright are as follows:

a) literary works- original intellectual creations in the literary and artistic domain are copyrightable. Literary works include nondramatic textual works with or without illustrations. They may be published or unpublished. Computer programs and databases also are considered literary works. Plays, dramas, and screenplays are not in the literary works category (manuscripts, poetry, contributions to collective works, compilations of data or other literary subject matter, dissertations, theses, reports, speeches, bound or looseleaf volumes, secure tests, pamphlets, brochures, textbooks, online works, reference works, directories, catalogs, advertising copy, single, pages of text, tracts, games, automated databases, computer programs and so on. Lectures, sermons, addresses, dissertations prepared for oral delivery are copyrightable.

b) drama, musical-drama and other stage productions- Musical theatre is a form of theatrical performance that combines songs, spoken dialogue, acting and dance. A drama is a type of literature that is written for the purpose of being performed in front of an audience. This type of writing is written in the form of a script, and the story is told through the lines of the characters played by actors. A comedy is a type of drama that is written to be entertaining or amusing for the audience.

c) choreographic works and pantomimes- Choreography and pantomimes are therefore copyrightable dramatic works. Choreography is the composition and arrangement of dance movements and patterns usually intended to be accompanied by music. Pantomime is the art of imitating or acting out situations, characters, or other events. To be protected by copyright, pantomimes and choreography need not tell a story or be presented before an audience. Each work, however, must be fixed in a tangible medium of expression.

d) textual or non-textual musical works- Musical text facilitates a multimodal learning experience as it combines the verbal and aural modes, and is often accompanied by the visual mode. In addition, studies have shown that there is a strong connection between music, visual mental imagery and memory, which is beneficial for language learning.

e) audiovisual works (films, TV and video films, slides, slides and other films and TV works)- A film, also called a movie, motion picture or moving picture, video films is a work of visual art used to simulate experiences that communicate ideas, stories, perceptions, feelings, beauty, or atmosphere through the use of moving images.

f) sculpture, painting, graphics, design, lithography, graphic stories, comics and other works of fine art- sculpture, an artistic form in which hard or plastic materials are worked into three-dimensional art objects, Graphics are visual images or designs on some surface, such as a wall, canvas, screen, paper, or stone, to inform, illustrate. Painting is the practice of applying paint, pigment, color or other medium to a solid surface. The medium is commonly applied to the base with a brush, but other implements, such as knives, sponges, and airbrushes, can be used.

g) works of decorative application and stage design, hand-woven carpets- The decorative arts are arts or crafts whose object is the design and manufacture of objects that are both beautiful and functional. It includes most of the arts making objects for the interiors of buildings, and interior design, but not usually architecture. Ceramic art, metalwork, furniture, jewellery, fashion, various forms of the textile arts and glassware are major groupings. Azerbaijani folk-applied art and its branch, carpet weaving, have a special place in the history of the national culture of the people. Azerbaijani carpets were included in the UNESCO Intangible Cultural Heritage List in November 2010.

h) works of architecture, urban planning and garden-park art - Architects create designs for new construction projects, alterations and redevelopments. They use their specialist construction knowledge and high-level drawing skills to design buildings that are functional, safe, sustainable and aesthetically pleasing.

i) photographic works and works created in a similar way-a work of art which incorporates photographic material; a work of photographic art. The action or process of taking, developing, or otherwise working with photographs.

j) maps, plans, sketches, illustrations and plastic works related to geography, topography and other sciences-Topographical plans and maps are drawings which show the main physical features on the ground, such as buildings, fences, roads, rivers, lakes and forests, as well as the changes in elevation between land forms such as valleys and hills. Computer programs are protected as literary works. The protection of computer programs extends to all types of programs, including operating systems, in any language and form, including source text and object code.

The U.S. Copyright Act of 1976, in general, protects original works of authorship fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The U.S. Copyright Act protects works of authorship which fall within different categories. These different categories include literary works (e.g., a book), musical works (e.g., a musical score), dramatic works (e.g., a play), motion pictures and other audiovisual works (e.g., a movie or television show), and sound recordings (e.g., a song). So long as the work is original, falls within one of the eligible categories, and is fixed on a type of medium (paper, hard drive, file, etc.), that particular work may be eligible for copyright protection.

However, the mere fact that a work is copyrighted does not mean every element of the work is protected. Rather, the Copyright Act sets certain limitations on the scope of copyright protection available to original works of authorship. One of these limitations is expressed in the second section of the Copyright Act, stating that any ideas, procedures, processes, systems, methods of operation, concepts, principles, or discoveries, regardless of the form in which it is described, explained, illustrated, or embodied in such work, are not eligible for copyright protection.

According to Article 7 of the Law on Copyright and Related Rights, objects that are not protected by copyright are as follows:

a) official documents, as well as their official translations (for example: Code of Administrative Offenses of the Republic of Azerbaijan, Civil Code of the Republic of Azerbaijan, Law of the Republic of Azerbaijan on Copyright and Related Rights, decisions of the constitutional court, decisions of the plenum of the Supreme Court, decisions of district and city courts:

b) state symbols and signs (flags, coats of arms, anthems, orders, banknotes, other state symbols and emblems, manar, dollar, Music of the National Anthem of the Republic of Azerbaijan;

c) examples of folk art (tales, epics, wise sayings, Songs such as "Three-horned crane", "Like Ahu", "Flower opened", "Partridge", "Nightingales sing", examples of verbal art, folk music, games and dances, folk art, examples of folk art such as silk-making, carpet-weaving, coppersmithing, jewelry-making, tanning, embroidery, basket-making, garments, butas, clothes, ornaments, patterns, musical instruments, carpentry, architectural works and other such examples, folk dances, yallılar, games, ceremonies and holidays);

d) information of the day, information about various events and facts.

What is copyright infringement? Copyright infringement typically involves someone using another person's original creative work, or a copyrighted work, without permission. There are many types and forms of copyright infringement. These are some examples of activities that would constitute copyright infringement if you carry them out without first obtaining permission from the owner, creator, or holder of the copyrighted material:

-Recording a film in a movie theater;

-Posting a video on your company's website which features copyrighted words or songs;

-Using copyrighted images on your company's website;

-Using a musical group's copyrighted songs on your company's website;

- Modifying an image and then displaying it on your company's website;
- Creating merchandise for sale which features copyrighted words or images;
- Downloading music or films without paying for their use;
- Copying any literary or artistic work without a license or written agreement;
- To reproduce the work in copies;
- To prepare derivative works based upon the work;
- To distribute copies of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- To perform the work publicly;
- To display the copyrighted work publicly

In the case of sound recordings, to perform the work publicly by means of a digital audio transmission. If you copy, reproduce, display, or otherwise hold out another's work (such as an image, musical recording, article, or any other type of work that you did not create) as your own, you are undoubtedly infringing on copyrighted material. This is true whether you benefited financially from the use or not.

How Do I Report and Address Copyright Infringement?

Copyright is a type of legal protection for original work such as writing, music, or photography. Like trademarks and patents, copyrights are a type of property with specific rights. Only the owner of the copyright can reproduce the work, sell it, or publicly display it. If someone violates these rights, which is known as copyright infringement, you can file a lawsuit against them or use a new, easier process.

Definition and Examples of Copyright Infringement. Copyright infringement is violating the intellectual property rights of a copyright holder. The copyright owner holds the exclusive right to use their work, including:

- Copying the work
- Adapting, transforming, translating, or creating other works from the original one
- Distributing the work to the public by sale or other methods
- Performing the work in public, including digital audio transmission
- Publicly displaying the work

The copyright owner can also allow others to use their work. If you are not the copyright holder and you don't have their permission to do one of the above activities, you may be committing copyright infringement.

Examples of Copyright Violation Lawsuits

1. In *Rogers v. Koons* (1992), Art Rogers owned a copyrighted photograph called "Puppies." Inspired by the photograph, Jeff Koons created a sculpture called "String of Puppies," which he displayed at a gallery. He also sold copies to collectors. When Rogers sued him for copyright infringement, Koons claimed that his work wasn't violating the copyright because it was a parody and social commentary. The 2nd U.S. Circuit Court of Appeals denied the defense, saying the copies were made in "bad faith, primarily for profit-making motives."

2. The case of *Fairey v. Associated Press (AP)* involved a photo of former president Barack Obama. Artist Shepard Fairey created the ubiquitous "HOPE" poster for Obama's first presidential campaign in 2008. The AP claimed one of its freelancers had taken the photo Fairey used for the poster, and the organization wanted to be paid for its use. Fairey claimed fair use. The case was settled privately, with the two parties splitting the profits.

Conclusion

How Does Copyright Infringement Work?

If you think your rights to your copyrighted work have been violated, register the copyright. Registration helps you gain an advantage in court and prove your damages. To claim copyright infringement, you must be able to show that:

- You are the owner of a valid copyright.
- The defendant actually copied the work, either by direct evidence or because the work has a striking similarity to your own work.

- The copied sections of the work are protected by copyright.

Defenses Against a Claim of Copyright Infringement

Three common defenses are used to counter a copyright infringement claim:

- The work isn't covered by copyright, usually because it is factual, with no creative or expressive element.
- The work was independently created and any similarity to the plaintiff's work is coincidental.
- The work is permitted by fair use. Fair use allows someone to use limited parts of a work for news reporting, commentary, criticism, or scholarly reports. Whether something is fair use is decided in court on a case-by-case basis.

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