

UDC 347.78

SOME ASPECTS OF THE LEGAL REGIME OF MULTIMEDIA WORKS

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The research deals with the current issues related to the legal regime of multimedia works and their characteristics. The article analyzes such features of a multimedia work as an electronic (digital) form; interactivity; virtuality; the presence of a computer program in the structure and others. The analysis of the current legislation in the sphere of multimedia works has been carried out. The study identifies individuals who take part in the creation of a multimedia work and can be recognized as its authors.

Introductory part. Despite the fact that multimedia works are used almost all over the world, their legal nature remains a matter of debate. The analysis of the doctrine and regulations demonstrates the lack of sufficient clarity and uniformity of terminology, which causes both theoretical and practical difficulties and actualizes the problem of separating the essential legally significant features of «multimedia work».

Features of a multimedia work. In relation to the solution of the task, there is the key concept of «work» for a multimedia work, as well as for other objects of copyright. Despite the active use of the term «work» in the national legislative acts, they do not disclose its content. The category «work» is absent in international unified agreements in the field of copyright.

The definition proposed by V.I. Serebrovsky is the most widespread in the doctrine: «A work is a set of ideas, thoughts, images being a result of the author's creative activity and expressed in a specific form that allows reproduction and is accessible to human perception» [1, p.32].

The Civil Code of the Republic of Belarus emphasizes that copyright extends to works of science, literature and art that are the result of creative activity, regardless of the purpose and value of the work, as well as the way of its expression.

At present, to provide the object with protection by copyright rules, a work must be the result of a creative activity and have an objective form of existence.

In Subparagraph 1.14 Paragraph 1 of Article 1 of the Code of Culture of the Republic of Belarus, the creative activity is defined as a kind of cultural activity that includes artistic creativity and other intellectual activity that ends in the creation of a new independent result of an intellectual activity, that have not existed before, in a branch of science [2].

The wording of the object of copyright gives the reason to say that it is not a creative activity that is under the legal protection, but namely the result of such activity, whose form of expression is the work.

The second criterion for the protection of a work is its expression in an objective form. In Paragraph 2 of Article 992 of the Civil Code of the Republic of Belarus there is an indication that copyright extends to both published and unreleased works existing in any objective form. The list of forms in accordance with this article is open, which means there is a possibility of the existence of a work in other forms.

Multimedia works are created using special computer programs. Their reproduction and perception is possible through the use of special technical devices – a computer, a mobile phone, a playstation. The digital form involves not only the possibility to watch or listen to, but also the user's impact on the product and proactive participation in the development of the plot. Thus, to recognize an object as a multimedia work, one shall express it in a digital form.

With regard to the objective form of expression of a multimedia work, there is no any unified approach in the doctrine. P.V. Babarykin points out the existence of a multimedia work in a machine-readable (digital) form [3, p.84]. S.V. Novackij describes the form of a multimedia work as electronic [4, p.10]. E.S. Kotenko notes that an electronic form can be called a digital form [5, p.25]. According to S.A. Sudarikov the important feature of a multimedia work is its existence in a digital form [6, p.188]. A similar position is taken by O.V. Kondakova [7, p.132], O.V. Lutkova, L.V. Terentyeva, B.A. Shahnazarov [8, p.171].

Based on the foregoing, it can be concluded that a multimedia work meets the criteria of an object of copyright, and, therefore, is a work protected on an equal basis with other results of intellectual activity.

For a coherent vision of the nature of a multimedia work, it seems to be necessary to identify its qualifying elements.

V.V. Lebed emphasizes that the classification of one or another object as a piece of multimedia work requires all of the following characteristics: the presence of several diverse creative results in the structure, including a computer program; interactivity; virtual reality [9, p.76]. V.P. Beliaev singles out the following identifying characteristics of a multimedia work: the provision of information through the combination of a plurality of environments perceived by a human; the presence of several story lines in the product content, artistic design of interface and navigation tools [10, p.28].

Summarizing the features of a multimedia work offered by the doctrine, the following can be considered to be the main qualifying elements of a multimedia work: the presence of several heterogeneous protected results of intellectual activity, which are the independent objects of copyright, in the structure; the availability of an electronic format (digital format); functioning in the process of interaction with the user (interactivity); the imitation of objective reality or display of the fictional world created by the author with the help of computer technology (virtuality); the presence of a computer program in the structure.

The legal regime of multimedia works. Nowadays multimedia works become more and more successful being the results of commercial activity. Their commercial use takes place not only within the country, but also at an international level. However, the legislation of the Republic of Belarus lacks special rules regulating the legal regime of multimedia works, there is no specification in respect of those subjects who can act as authors of a multimedia work.

Multimedia work is a single complex work which is the result of the creative activity of an authoring team. As V.A. Dozortsev notes, one cannot traditionally define the circle of authors of such objects, as long as there is a large number of authors carrying out heterogeneous activities, who are involved in the creation of complex works [11, p.146].

Among the persons, who participate in creating a multimedia work, I. Stamatudi singles out the following: the authors of those intellectual activity results that make up the content of this work (various artistic components, computer programs, music, etc.); employers, publishers, producers, editors, developers, owners of the rights to various objects [12, p.33]. S. Novatsky proposes to consider the following as authors of the work: a chief designer, a chief programmer, a script writer, and a composer [13, p.40].

The legislation of the Republic of Belarus lacks special rules related to the copyright to a multimedia work. There are no separate instructions on the legal status of persons who take part in the creation of a multimedia work.

In the context of the disjointed doctrinal positions regarding the legal regime of the multimedia work and the lack of a clear legal regulation at the legislative level, it seems to be necessary to consider the process of creating a multimedia work using the example of a computer game to determine the circle of authors of the work under study.

The development of a computer game is a unique creative activity, during which a large number of elements are combined into a final game product.

A game development process usually includes the following stages: preparation, production, testing, release and distribution of the finished product. However, these stages may vary depending on the preferences of the developers and the features of the project.

At the preparatory stage, the game conception, storyline, character design, the game prototype, the plan for creating the game are being developed and agreed upon. At this stage the concept and gameplay of the game are documented in a design document, which is usually developed by a game designer.

At the production stage of a computer game, the bulk of work is done - artists draw graphic components of the game, sound engineers develop realistic sound design, level designers produce the levels of the game, writers and script writers create the dialogues of the characters. Musical works are used to create the sound accompaniment of a computer game. Composers are involved into the work on the project in order to make such pieces of music.

An important function in the creation of games is performed by programmers who develop software for the game and also compile the work of all the authors involved in the process of creating a computer game into a single project. The project may involve several programmers who specialize in one key area, for example, graphics, sound or artificial intelligence. For instance, graphics programmers create software that manages the storage and display of graphics and animation; artificial intelligence programmers create sets of rules that determine the behavior of enemies or characters in different game situations; programmers of tools create software for artists, designers and sound designers [14, p.22].

A producer performs a coordinating function at all stages of the computer game creation.

As soon as the work on the game is completed, the testing phase begins. Software errors of the game are revealed by beta testers. The next stage is public testing. At this stage the computer game is tested by professional and ordinary users. After a public test, programmers conduct system testing, due to which all system errors are corrected. At the end of this stage, the computer game is considered to be complete and can be submitted for production and distribution [5, p.73].

Conclusion. Following the analysis of the computer game creation process, we can conclude that the key role in such a process is performed by a scriptwriter, a programmer, an artist and a composer. The result of the creative activity of these individuals is a computer game. Those participants who perform technical functions that do not have signs of creative activity cannot be recognized as authors of a multimedia work.

By analogy with the computer game E.S. Kotenko proposes to recognize the same circle of persons as authors of other varieties of multimedia work [5, p.73]. This position seems reasonable, since a computer game is one of the types of a multimedia work.

For qualification of an object as a multimedia work, there should be a combination of the following features: the presence in its structure of multiple heterogeneous protected results of intellectual activity that are independent objects of copyright; an electronic (digital) form; functioning during the interaction with a user (interactivity); the imitation of an objective reality or display of a fictional world created by the author through computer technologies (virtual reality); the presence of a computer program in the structure.

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