Symbiosis .The questions of this level aim to find out whether the adult seeks to unite with the child, or, on the contrary, tries to keep a psychological distance between themselves the child. This is a kind of sociability of the child and the adult.

Control. This level describes how adults control the behavior of the child, whether they are democratic or authoritarian in their attitude to the latter.

Attitude to the failures of the child. This level shows how adults treat the abilities of the child, to his strengths and weaknesses, successes and failures.

The results of the test are shown in the following table.

Table – The results of the test-questionnaire of parent-child relationship by A. Varga, V. Stolin

Children's names	Acceptance – rejection	Cooperation	Symbiosis	Authoritarian hypersocialization	"Little loser"
Kostia	16	7	5	7	4
Ksiusha K.	12	8	6	6	4
Maksim	11	7	5	7	3
Ksiusha G.	9	7	5	5	1
Lisa	11	8	7	4	3
Artiom	8	6	6	5	2
Vania	8	8	6	4	2
Uliana	8	8	5	4	2
Milisa	9	7	6	4	1
Polina	12	8	4	3	4
Lera	11	8	3	3	2
Ksiusha R..	12	6	2	2	0
Sasha	8	7	5	7	2

Thus, the majority of parents (61.3%) prefer a democratic parenting style, which is evident from the level of "cooperation" and "symbiosis", while only 31% prefer an authoritarian parenting style. opted for Only one family opted for the permissive parenting style (7.7%), this conclusion can be drawn from low scores on "cooperation", "symbiosis" and "control". A significant part of the parents (69.3%) take their children for what they are; they trust their children and do not ascribe personal and social inadequacy to them. At the level of "little loser" three parents of all (23%) refer to their child as a "loser" while the others believe in their children. This distribution of data for different types of child-parent relationship shows the significant role they play in family education and personal development of the preschool child in general.

REFERENCES

1. Воронов, В. В. Педагогика школы в двух словах [Электронный ресурс] / В. В. Воронов. – Режим доступа: http://pedagogik.mgou.ru/index.php?page=r691f2d5&directory=6. – Дата доступа: 20.11.2015.
2. Коджаспирова, Г. М. Педагогика / Г. М. Коджаспирова.– М. : Гуманист. изд. центр: ВЛАДОС,. 2003. – 352 с.
3. Жук, А. И. Основы педагогики / под общ. ред. А. И.Жук. – Минск : Аверсэв, 2003. – 349 с.
4. Ковалев, С. В. Психология современной семьи /С. В. Ковалёв. – М. : Просвещение, 1988. – 208 с.
5. Влияние атмосферы семейной жизни на процесс и результат воспитания личности [Электронный ресурс] – Режим доступа: http://psylist.net/pedagogika/vliat.htm. – Дата доступа: 23.10.2007.
6. Тест-опросник родительского отношения А.Я. Варга, В.В. Столин. Методика ОРО [Электронный ресурс] – Режим доступа: http://psycabi.net/testy/646-test-oprosnik-roditelskogo-otnosheniya-a-ya-varga-v-v-stolin-metodika-oro. – Дата доступа 30.12.2015.

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DAMAGE RECOVERY AND COMPENSATION AS METHODS OF JUDICIAL PROTECTION OF INDUSTRIAL PROPERTY ON THE INTERNET

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The paper investigates the possibility of applying such methods as damage recovery and compensation for judicial protection of industrial property right on the Internet. It is explained why damage recovery is ineffective to protect these rights. It is proposed to complement the legislation by such a new method of protection as compensation.

If there is no doubt about the fact of the violation of industrial property rights on the Internet, the rightholder can start choosing the methods of the protection of exclusive rights. A common method of protection is the compensation for the damages caused by the fact of violation. The process of proving the violation is very complicated as the guilt of the offender is to be proven in court (in the form of willful misconduct or failure to implement reasonable and sufficient measures to prevent the violation) and the amount of damage is to be estimated.

The purpose of the article is to determine the effectiveness of damage recovery and compensation for the judicial protection of industrial property on the Internet. We use the formal-logical method and the methods of system analysis and synthesis of legal material.

The complexity of the protection of exclusive rights violated on the Internet is caused by the difficulty in spotting the particular offender. As it is noted in the publications on the problem, the violation of industrial property rights on the Internet is usually the result of actions of several individuals [1, p. 3]. The «main» perpetrator, who places the object of industrial property online, the hosting provider (in simplified terms – the owner of the computer where the data involved in the violation is physically located), an organization which delegated the domain (the domain registrar), the owner of an Internet resource (domain administrator), where the disputed data is placed participate in the process [1, p. 3]

Unfortunately, it is not always possible to determine who the end-user of the violation of the rights is. However, it does not mean that it is impossible to protect them. The central figure, who is responsible to the owner for the illegal placement of information, is the owner of the Internet resource (website, blog, forum, etc.) where such placement is done. Information on this person can be obtained either directly from the information located on the Internet website, or in some other way – with the help of special "who is" service, and if necessary from the subsequent inquiries about the registrar of the domain name of the web provider that hosts the website (information on them is contained in 'who is' help menu). The complaint to the persons in question shall: 1) point out that the rights to the industrial property belong to the claimant, 2) state the fact that the violation of the rights by the recipient has taken place, and 3) to demand that the violation be stopped. Alongside with the actions against the owner of the web resources there might be demands to the hosting provider to suspend the provision of accommodation of online services and resources and to the domain registrar to suspend the domain name delegation to the owner of the online resource due to the presence of the illegal content.

The judicial practice of holding such persons liable in cases involving violations of industrial property rights is based on the fact that the failure to take actions aimed at stopping the violations may result in finding the hosting provider, registrar or the owner of an Internet resource guilty. This, in turn, allows an affected party to apply sanctions against these individuals in the form of the damage recovery or compensation for the breach of industrial property rights.

Damage recovery for protection of industrial property rights on the Internet requires the submission of evidence by the affected party: 1) the fact of illegal use of industrial property on the Internet, 2) losses caused as a result of such use (with justification of their size), 3) a causal link between the actions of the offender and the losses caused, 4) and the guilt of the offender. In practice, the greatest difficulties arise when proving the fact of causing losses and determining their size.

The losses will be reimbursed in full unless the law or the contract provides otherwise (the Civil Code of the Republic of Belarus (hereinafter – the Civil Code), Art. 14) [2]. This means that the actual damages and the possible profit will be compensated. However, due to their intangible nature, industrial property rights can't undergo destruction, damage or complete loss. Therefore, it is impossible to recover actual damages in this case.

Recovery of lost profits is more real. The basis for the legal use of industrial property rights by third parties is the acquisition of the consent of the right holder (the Civil Code, Art. 983) [2]. In this case, loss of profits will be the amount that the rightholder could receive if the offender had concluded a contract with him to use the object on a reimbursable basis.

It is difficult to calculate the loss of profits during non-consensual use of industrial property. The fact that the method of estimating the loss of profits is based on the cost of creating industrial property and the cost of a license for its use [3, p. 165]. We cannot know on what conditions a hypothetical license agreement has been made. Therefore, the amount received is probabilistic by nature. In connection with this the damage recovery is considered the most time-consuming way to protect industrial property rights [3, p. 164], [4, p. 125].

The amount of lost profits can be calculated at the rate of income received by the offender of non-contractual use of industrial property [2]. You need to know the cost and the number of counterfeit products sold by the infringer. For example, the exclusive right to an invention is violated by offering to sell goods made with the use of a patented invention through the Internet. The cost of goods is the price at which the product is introduced into the civil circulation [5, p. 45]. Let us assume that the information about the price of such product is known. It may be listed on the site where the goods are offered for sale. However, the right holders cannot determine the amount of the sold product by themselves. To do this, they must apply to the court for the recovery of the defendant accounting documents or seek the help of experts.

Industrial property rights may be violated not only by selling or by offering for sale counterfeit goods through the Internet, but also in other ways presupposing commercial use. An example of such a situation is the

use of a trade name on the Internet for commercial purposes without the consent of a right holder. It is considered as an infringement of the exclusive right. It does not matter whether goods or services that use this brand name have been sold on the Internet or not [6]. It is impossible to prove the fact and the amount of damages in such cases.

The request for the compensation of moral damages for the violation of the personal non-material rights of the author is an additional method of protection of industrial property rights. Vasjukova A. and Sbitnev Y. underline that "this method can only be used by an individual, who is a direct author of industrial property" [1, p. 3].

In our opinion, the Civil Code must guarantee right holders the right to an alternative way of protection, which is compensation. Currently the Civil Code does not guarantee such a protection method for industrial property. The main advantage of it is that the claimant is released from the obligation to confirm the losses and their amount. At the same time the defendant has the right to plead him/herself non guilty. This method of protection of the rights allows to restore the violated right whereas it entails additional property burdens for the offender. Consequently this measure makes it possible to prevent similar violations in future. We consider it necessary to legally consolidate the right holder's possibility to demand compensation for such violations instead of recovery of damages.

Moreover, there is the experience of applying this method of protection in our country. The Copyright Act (Art. 56) provides the right of the author or other holder of copyright or related rights, to demand at his option, a compensation to the tune of 10 to 50 base units from the infringer instead of recovery for damages. [7]. Judicial practice shows that right holders often use this method to protect copyright and related rights. In 2015 the Judicial Board on matters of intellectual property of the Supreme Court of the Republic of Belarus considered 36 disputes relating to copyright, 27 of them – on the claims for compensation for the breach of copyright. At the same time, claims for damages were not filed [8]. In our opinion, the amount of compensation paid for the violation of industrial property rights on the Internet can be the same as that provided by the Copyright Act, estimated from ten to fifty thousand base units.

REFERENCES

1. Vasyukhnova, A. Protection of the intellectual property rights in the Internet: practical aspects [Electronic resource] / A. Vasyukhnova, Y. Sbitnev // Vegaslex. – Mode of access: http://www.vegaslex.ru/upload/iblock/f9a/VEGAS%20LEX_Protection_of_the_intellectual_property_rights%20in_the_Internet.pdf. – Date of access: 09.01.2016.
2. Гражданский кодекс Республики Беларусь : Закон Респ. Беларусь, 7 дек. 1998 г., № 218-З ; с изм. и доп. : Закон Республики Беларусь, 31 дек. 2014 г., № 226-З // Национальный правовой Интернет-портал Республики Беларусь, 2/2224.
3. Костин, В. А. Оценка убытков правообладателей товарных знаков: опыт, противоречия и перспективы / В. А. Костин // Интеллектуальная собственность. Актуальные проблемы теории и практики : сб. науч. тр. / под ред. В. Н. Лопатина. – М. : «Изд-во «Юрайт», 2008. – Т. 1. – С. 161–171.
4. Цветкова, М. В. Гражданско-правовая защита прав на средства индивидуализации от недобросовестной конкуренции : дис. … канд. юрид. наук : 12.00.03 / М. В. Цветкова. – М., 2011. – 197 с.
5. Иванова, Д. В. Защита исключительного права на товарный знак [Электронный ресурс] / Д. В. Иванова // Бюллетень нормативно-правовой информации. юрид. мир. – 2008. – № 7. – С. 43–47. – Режим доступа: http://elib.bsu.by/handle/123456789/53804. – Дата доступа: 09.01.2016.
6. Intellectual property on the Internet: A survey of issues [Электронный ресурс] // WIPO. World Intellectual Property Organization. – Режим доступа: http://www.wipo.int/edocs/pubdocs/en/intproperty/856/wipo_pub_856.pdf. – Дата доступа: 09.01.2016.
7. Об авторском праве и смежных правах: Закон Респ. Беларусь, 17 мая 2011 г., № 262-З [Электронный ресурс] // Эталон-Беларусь / Нац. центр правовой информ. Респ. Беларусь. – Минск, 2016.
8. Сведения о работе судебной коллегии по делам интеллектуальной собственности Верховного Суда Республики Беларусь в 2015 году [Электронный ресурс] // Верховный Суд Республики Беларусь. – Режим доступа: http://court.by/justice/press_office/e6eecd4bb2e0ed90.html. – Дата доступа: 09.01.2016.

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EMOTIONAL COMPONENT INTRODUCED BY HUMOUR AS A WAY OF BUILDING MOTIVATION AND POSITIVE ENVIRONMENT IN FOREIGN LANGUAGE TEACHING

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Learning a second language requires a positive classroom atmosphere. Providing a relaxing learning environment assists learners in their concentration, absorption of information and language acquisition. This paper presents humour as an effective tool in creating the affective second language classroom, and in learning a second language. Past studies on the issue confirm that the use of humour in teaching reduces tension,