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How to register copyrights in Kazakhstan



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Why to register copyrights is discussed in our previous [article](#), and how to register copyrights in the US. Now we shall show how to do this in Kazakhstan.

Objects of copyright are literary works; dramatic and musical-dramatic works; scripted works; works of choreography and pantomime; musical works with or without text; audiovisual works; works of painting, sculpture, graphics and other works of fine art; works of applied art; works of architecture, town planning, design and landscape art; Photographic works and works obtained in ways similar to photography; maps, plans, sketches, illustrations and three-dimensional works related to geography, topography and other sciences; computer programs.

Despite the fact that a “work” means all that is created directly by a person, any results of his mental and/or physical labor, it shall be protected only if it has a material embodiment. In other words, any works should be presented in any objective form: in the form of a manuscript, audio or video recording, in the form of a drawing, sculpture, etc. However, copyright does not extend to ideas, methods, processes, concepts, principles, since they can be implemented by different people with the creation of their own independent works.

Forms of the work are the objects of legal protection, but not the elements

of the content of the object.

In addition, official documents (laws, judgments, other texts of legislative, administrative, judicial and diplomatic nature) and their official translations are not subject to protection; state symbols and signs (flags, emblems, orders, banknotes and other state symbols and signs); works of folk art; reports on events and facts of an informational nature; works that are intended to distinguish the goods (services) of certain individuals or legal entities from the homogeneous goods (services) of other individuals or legal entities (means of individualization of participants in the civil turnover of goods, works or services) are not registered as objects of copyright.

What documents must be submitted for registration of copyright?

Our practice shows that the most popular and often registered subject of copyright is a computer program, and this is understandable, because, firstly, they are most often used and distributed without the consent of authors and title holders, secondly, the connection with the rapidly growing use of such works. Further let's consider what documents are needed in order to register copyrights for computer programs. It is required:

- application for registration;
- media (floppy disk or other electronic media) with the program and source code (source code) for the computer or database;
- the abstract of the computer program or database, including the name of the computer program or database, the name (surname, name, patronymic) of the applicant, the date of creation, scope, purpose, functionality, main technical features, programming language, type of implementing computer;
- a copy of the identity document of the applicant;
- the original document confirming the payment of the fee for state registration (3 MCI = 7215 KZT as of 2018).

Computer programs (software complexes), which include several computer programs are subject to registration in general.

When registering the rights to official works created in the course of performance of official duties or the official task of the employer, in addition to the documents submitted for registration, it is necessary to provide a copy of the employment contract, in the case of concluding an

additional agreement between the author and the employer on the ownership of property rights for the use of a work such agreement- a copy of such additional agreement, as well as a certificate of state registration (re-registration) of a legal entity, if the employer is an organization.

If the legal owner of the rights to the work is a legal entity, in addition to the documents submitted for registration, it is necessary to submit a certificate of state registration (re-registration) of the legal entity.

When registering the rights to composite or derivative works, a copy of the author's contract concluded with the author (authors) or the owner of the original work is represented.

It should be noted that the documents submitted for registration must be numbered, stitched and signed on a page by the author/ right owner.

The state registration of rights to works protected by copyright is carried out by the authorized body (the Ministry of Justice, Astana city) within twenty (20) working days from the date of receipt of the application of the author (s) or right owner, however, in the absence of any document or improper registration, The Ministry of Justice shall refuse to register, and the package of documents shall be returned to the Applicant until elimination of all discrepancies.

Upcoming changes to the Law on Copyright and Related Rights

So, what are property rights and what are they for? Property copyrights have an economic essence, expressed in that the author for financial compensation can grant or transfer to third parties the right to use their works. That is, property copyright is alienated and has a material nature. In other words, the property copyright for the author is the ability to authorize or prohibit third parties from using the work.

Currently, the Majilis is considering a draft law that shall make significant changes to Kazakhstan's legislation on intellectual property. In terms of copyrights, the amendments refer to the abolition of registration of property rights, while registration of non-proprietary copyrights will continue, it is possible. It is likely that this shall happen on July 1, 2018, after the planned entry into force of the amendments.

In this regard, we recommend now and, of course, before this date to

register already created works.

An alternative may over time be the registration of works in the US or other countries, although we hope that in our country such a system of registration of copyright property will exist, for example, on the basis of one of the state libraries, which, in particular, allowed the Library of Congress in the United States to become one of the largest libraries in the world.

[Julia Zavalko - June, 2018](#)