

LEGAL REGULATION OF INTELLECTUAL PROPERTY IN UKRAINE DURING MARTIAL LAW

КОЛОМОЄЦЬ Юлія Олександрівна - кандидат юридичних наук, доцент
кафедри менеджменту і права, Дніпровський державний аграрно-економічний
університет

<https://orcid.org/0000-0002-5379-5228>

УДК 347.956/958:347.961(477)

DOI: <https://doi.org/10.71404/LAW.UA.2025.1.43>

The objective of this study is to explore the legal regulation of intellectual property within Ukraine amidst the imposition of martial law. The research demonstrates the crucial importance of effectively managing the intellectual property landscape in Ukraine under these circumstances to mitigate potential legal challenges that may arise in the future. The preservation of data is further highlighted as a critical element for the safeguarding and enforcement of intellectual property rights in a post-war Ukrainian economy.

The research employed a range of methodologies including the examination of existing literature, synthesis, deduction, comparative analysis, meta-analysis, and other approaches. The findings emphasize the ongoing operation of "Ukrpatent," the entity responsible for administering intellectual property matters in Ukraine, despite the full-scale Russian invasion. "Ukrpatent" continues to fulfill its responsibilities and maintain the continuity of the state system dedicated to the legal protection of intellectual property. An analysis of data obtained from "Ukrpatent" revealed that the volume of registered industrial property objects in Ukraine for the initial six months of 2023 was 74.7% compared to the same period in 2022, indicating a commendable performance given the ongoing conflict.

Consequently, despite the extraordinary difficulties faced across various sectors of Ukrainian society under martial law, persistent legislative efforts are underway, particularly in the sphere of intellectual property. The ongoing functionality and phased improvement of intellectual property rights protection mechanisms during martial law, bolstered by the support of allied nations and the international com-

munity, are strategically aimed at reinforcing and furthering Ukraine's European integration goals.

During the period of widespread conflict, the Law of Ukraine No. 2265-IX, "On the Prohibition of Propaganda of the Russian Nazi Totalitarian Regime, Armed Aggression of the Russian Federation as a Terrorist State against Ukraine, Symbols of the Military Invasion of the Russian Nazi Totalitarian Regime in Ukraine," dated May 22, 2022, was enacted. This legislation established, for the first time within Ukrainian legal frameworks, key definitions, including: "terrorist state," "bodies of a terrorist state," "propaganda of the Russian Nazi totalitarian regime," "the armed aggression of the Russian Federation as a terrorist state against Ukraine," and "the symbols of the military invasion of the Russian Nazi totalitarian regime in Ukraine."

Keywords: academic integrity, copyright and related rights, intellectual property object, industrial property right, trademark, legal regulation.

Ukraine has been heroically resisting the military aggression of the Russian Federation for more than half a year. The life of Ukrainians was divided into "before" and "after". Ukrainians have united and are working together on their own front for the purpose of a common victory. Intellectual property, of course, is one of the areas that help the state to be developed economically in such an extremely difficult period of time.

Despite the economic downturn, the IT industry is one of the few areas that fill the state

budget of Ukraine. Thus, in the first half of 2022, its exports increased by 23% to USD 3.7 billion. It should be noted that there are about 5,000 technology companies in Ukraine that bring money to the Ukrainian economy.

It is proper management of the intellectual property portfolio under the conditions of martial law that is especially relevant to avoid future problems with potential court cases, and preservation of data is extremely relevant for protection and enforcement of intellectual property rights in Ukraine in the post-war economy.

Legal aspects of intellectual property protection in Ukraine were studied in scientific publications by Halaburda Nadiia, Leheza Yevhen, Chalavan Viktor, Yefimov Volodymyr, Yefimova Inna and others [1; 2; 3]. However, introduction of martial law in Ukraine requires an update of general developments regarding intellectual property.

More than half a year of full-scale war in Ukraine has vividly demonstrates that Ukraine is passing an extremely difficult trial, and is passing it with dignity and balance, step by step.

Ukraine has faced the enemy not only on the battlefield, but also in all spheres of life, including in the field of digital technologies (the number of cyber-attacks during a full-scale war has tripled), network attacks, fakes from the aggressor country, etc. Ukraine and its citizens has faced challenges in many spheres of social life, including in the field of intellectual property. Of course, overcoming such challenges would be impossible without support provided by the international community.

The research is based on the works of foreign and Ukrainian researchers regarding the legal regulation of intellectual property in Ukraine under martial law, etc.

Using the epistemological method, the legal regulation of intellectual property in Ukraine under martial law was clarified, etc., thanks to the logical-semantic method, the conceptual apparatus was deepened, the legal regulation of intellectual property in Ukraine under mar-

tial law conditions was defined etc. Thanks to existing legal methods, we managed to analyze the essence of the legal regulation of intellectual property in Ukraine under martial law etc.

After the proclamation of the Decree of the President of Ukraine No. 64/2022 “On the Introduction of Martial Law in Ukraine” (Law of Ukraine, 2022) the optimization of the activities of state authorities, local self-government bodies, and relevant state enterprises and institutions, including business structures, has been observed.

To date, the State Enterprise “Ukrainian Intellectual Property Institute” (Ukrpatent) (UIPI), which carries out the powers of the National Intellectual Property Authority in the field of state registration of copyright and contracts related to the author’s right to a work, protection of rights to trademarks, industrial designs, inventions, useful models, geographical indications, continues to work in difficult conditions, ensuring the necessary functions and continuous operation of the state system of intellectual property legal protection [4].

On 04 March, 2022, information about the activities of the Appeals Chamber of the National Intellectual Property Authority under martial law appeared on the website of “Ukrpatent”. Thus, in connection with the introduction of martial law and in order to prevent threats to the life and health of participants in the review of an objection, consideration of objections on the merits in the appeal session, in particular in the mode of video conference, was temporarily stopped. At the request of participants, consideration of an objection can be conducted in the order of written proceedings based on the available materials. However, already on 30 June, 2022, “Ukrpatent” resumed consideration of objections and applications for recognition of trademarks as well-known in Ukraine in fact in an appeal hearing [5].

For the first half of 2023, “Ukrpatent” has published indicators of receipt and consideration of applications and registration of industrial property objects

Objects of industrial property	The first half of 2022	The first half of 2023	2023 to 2022 (%)
Applications received			
<i>Received in total</i>	<i>24,250</i>	<i>13,740</i>	<i>56.7</i>

Inventions	1,597	1,224	76.6
	723	419	58.0
national procedure			51.2
<i>national</i>	594	304	89.1
<i>foreign</i>		115	
international procedure	129		
	874	805	92.1
Useful models	2,144	1,034	48.2
national procedure	2,141	1,033	48.2
<i>national</i>	2,099	1,015	48.4
<i>foreign</i>	42	18	42.9
international procedure	3	1	-
Industrial samples	890	439	49.3
<i>national</i>	799	390	48.8
<i>foreign</i>	91	49	53.8
Trademarks	19,619	11,043	56.3
national procedure	15,753	7,384	46.9
<i>national</i>	13,638	6,175	45.3
<i>foreign</i>	2,115	1,209	57.2
international procedure	3,866	3,659	94.6
Decisions made			
Inventions	1,233	1,090	88.4
Useful models	2,038	1,618	79.4
Industrial samples	835	505	60.5
Trademarks	14,253	12,862	90.2
Paperwork completed			
Inventions			
<i>formal examination</i>	1,793	1,545	86.2
<i>qualification examination</i>	1,712	1,333	77.9
Useful models	2,346	1,707	72.8
Industrial samples	938	774	82.5
Trademarks			
<i>national procedure</i>	17,449	15,783	90.5
<i>international procedure</i>	4,402	4,409	100.2
Registered			
Registered in total	16,668	12,534	75.2
Inventions	1,221	835	68.4
Useful models	2,355	1,198	50.7
Industrial samples	1,066	454	42.6
Trademarks	12,026	10,047	83.5
International registrations	4,412	4,292	100.6

When analyzing the data in Table 1, we can come to the conclusion that military aggression of the unwanted neighbor was certainly reflected in the field of industrial property, but despite this, the number of registered objects of industrial property in the first half of 2022 compared to the first half of 2023 is 75.2 %. We have high hopes that the number of registered objects of industrial property in the second half of the year will have significantly higher indicators [6].

On 01 April, 2022, the important Law of Ukraine No. 2174-IX "Protection of Interests of Persons in the Sphere of Intellectual Property during the Martial Law in connection with the Military Aggression of the Russian Federation against Ukraine" was adopted for the sphere of intellectual property. In accordance with paragraph 1, Part 1 of the above-mentioned Law, since the date of the introduction of martial law in Ukraine, introduced in connection with the armed aggression of the Russian Federation against Ukraine, expiration of time limits for taking actions related to the protection of intellectual property rights, as well as the time limits for the procedures for acquiring these rights, has stopped. From the day following the day of suspension or cancellation of martial law, the course of these terms shall continue taking into account the time that has passed before their suspension.

It is also determined that the rules for stopping expiration of time limits do not entail suspension of validity of certificates, patents, which certify existence of intellectual property rights in accordance with the legislation, as well as of the corresponding intellectual property rights. During martial law, intellectual property rights established by law continue to be valid and are fully exercised by the respective subjects of intellectual property rights [7].

Adoption of the above-mentioned Law ensured solution of such acute problems that would arise in relation to expiration of terms for taking actions related to protection of intellectual property rights, as well as terms concerning procedures for acquiring these rights for intellectual property objects, terms for filing an objection to an application or to an international registration on the territory of Ukraine, terms of appeal to the National Intellectual

Property Authority in court or to the Appeals Chamber on the recognition of invention rights as invalid, and terms during which missed deadlines can be renewed [8].

One of the main tasks facing Ukraine in the sphere of intellectual property consists in strengthening and implementation of European integration processes. Ukraine actively continues to develop the relevant direction. Evidence of the above is the adoption of the draft Law of Ukraine No. 2334-IX on Amendments to Certain Legislative Acts of Ukraine regarding Strengthening Protection of Intellectual Property Rights on 01 July, 2022.

According to the explanatory note of the above-mentioned Law of Ukraine, the main purpose of adopting such a legislative act consists in implementation into national legislation of the provisions of the Association Agreement... regarding general obligations, civil measures, procedures and means of protection of intellectual property rights, provided for by part three Chapter 9 Section IV of Agreement, and by the Directive 2004/48/EC of the European Parliament and the Council dated 29 April, 2004 on protection of intellectual property rights [9].

The main changes will concern the possibility of court's demanding information about the origin and distribution network of goods or services that violate intellectual property rights; application of preliminary court injunctions against intermediaries whose services are used by defendants in violation of intellectual property rights; the possibility of applying a one-time fine instead of methods of protection; the principles of compensation for property damage caused to the right holder by means of compensation for damages, including lost profit, or collection of income received by the infringer, or payment of compensation, and/or non-property (moral) damage indemnity; the possibility of publicizing information regarding violation of intellectual property rights and the content of the respective court decision .

In accordance with paragraph 4, Part 1 Art. 1 of the above-mentioned Law of Ukraine, the symbols of the military invasion of the Russian Nazi totalitarian regime in Ukraine are symbols that, in particular, include the following:

a) Latin letters "Z", "V", used as symbols of military invasion in Ukraine in the manner

and in accordance with the signs defined by Article 2 of this Law;

b) official or unofficial symbols (emblems) of the armed forces of the Russian Federation, including its ground forces, aerospace forces, navy, strategic missile forces, airborne forces, special operations forces, other armed formations and (or) bodies of the terrorist state (aggressor state).

Such symbols may not be used in printed materials, advertisements, in places where certain events are held, on television, radio, on the Internet, in social networks, in campaign materials, except for materials aimed at countering the armed aggression of the Russian Federation against Ukraine, in copyright objects and related rights created after 24 February, 2022 [10].

The relevant normative legal act provides for changes in the following Laws of Ukraine: “On printed Media (Press) in Ukraine”, “On Political Parties in Ukraine”, “On Combating Terrorism”, “On Television and Radio Broadcasting”, “On Public Associations”, “On State Registration of Legal Entities, Natural Persons – Entrepreneurs and Public Organizations”.

Also, it should be noted that the Verkhovna Rada of Ukraine adopted the Law of Ukraine No. 2310-IX “On Amendments to Certain Laws of Ukraine Regarding Support of the National Musical Product and Restriction of Public Use of the Musical Product of the Aggressor State” dated 19 June, 2022. (Kobrusieva *et al.*, 2021). The changes mainly concern the sphere of television, radio broadcasting and culture. For example, in accordance with the provisions of the Law, when conducting radio and TV broadcasting television and radio organizations shall provide at least 75 percent of the daily volume of broadcasts, including news and analytical blocks, entertainment programs (by announcers, radio presenters) in the state language [11]. Also, the above-mentioned regulatory act for the first time defined the concept of the national musical product, increased the share of songs in the national language during radio broadcasting to 40%, prohibited playing music, movie sounds or other sound signals in the bus cabin, except for information about the trip, and also prohibited playing music in

the cabin of taxi without the consent of all passengers [12].

Thus, despite extremely difficult conditions in various spheres of social life under martial law, painstaking legislative activity is going on, in particular in the sphere of intellectual property. Ensuring further functioning of intellectual property rights protection mechanisms and their gradual improvement under martial law with the support of friendly countries and the international community is aimed at strengthening and implementing European integration processes in Ukraine.

It has been established that during the period of the full-scale war, the Law of Ukraine No. 2265-IX “On the Prohibition of Propaganda of the Russian Nazi Totalitarian Regime, Armed Aggression of the Russian Federation as a Terrorist State against Ukraine, Symbols of the Military Invasion of the Russian Nazi Totalitarian Regime in Ukraine” dated 22 May, 2021 has been adopted. For the first time, the following concepts have been defined in Ukrainian legislation: a terrorist state; bodies of a terrorist state; propaganda of the Russian Nazi totalitarian regime, the armed aggression of the Russian Federation as a terrorist state against Ukraine; the symbols of the military invasion of the Russian Nazi totalitarian regime in Ukraine.

References

1. Halaburda, Nadiia. Leheza, Yevhen, Chalavan, Viktor. Yefimov, Volodymyr. YEFIMOVA, Inna. 2021. Compliance with the principle of the rule of law in guarantees of ensuring the legality of providing public services in Ukraine. *Journal of law and political sciences*. Vol. 29, Issue 4, 100-121.
2. Horbalinskiy, Volodymyr, Leshchenko, Oleksandr. Mashchenko, Olha. Leheza, Yevhen. Prymakov, Kamil. 2023. Ways to protect the rights of individuals in administrative proceedings: legal regulation and international experience international experience: Vías de protección de los derechos de las personas en los procesos administrativos: regulación jurídica y experiencia internacional. *Cuestiones Políticas*, 41(77), 324-334 DOI: <https://doi.org/10.46398/cuestpol.4177.22>
3. Indicators of receipt and consideration of applications and registration of industrial

property objects in the first half of 2023. 2023. The official website of the Ukrainian National Office of Intellectual Property and Innovation. URL: <https://ukrpatent.org/uk/articles/1h-2022>.

4. Kobrusieva, Yevheniia. Leheza, Yevhen. Rudoi, Kateryna. Shamara, Oleksandr. Chalavan, Viktor. 2021. International standards of social protection of internally displaced persons: administrative and criminal aspects. *Jurnal cita hukum indonesian law journal*. Vol 9, No 3, 461-484. DOI: <https://doi.org/10.15408/jch.v9i3.23752>

5. Law Of Ukraine. 2022. On the introduction of martial law in Ukraine: Decree of the President of Ukraine dated February 24, 2022 No. 64/2022. URL: <https://www.president.gov.ua/documents/642022-41397>.

6. Law Of Ukraine. 2022. On the prohibition of propaganda of the Russian Nazi totalitarian regime, armed aggression of the Russian Federation as a terrorist state against Ukraine, symbols of the military invasion of the Russian Nazi totalitarian regime in Ukraine: Law of Ukraine dated 05/22/2022 № 2265-IX. URL. <https://zakon.rada.gov.ua/laws/show/2265-20/ed20220522#n9>.

7. Law Of Ukraine. 2022. On the protection of the interests of persons in the field of intellectual property during the martial law introduced in connection with the armed aggression of the Russian Federation against Ukraine: Law of Ukraine dated 01.04.2022 № 2174-IX. URL: <https://zakon.rada.gov.ua/laws/show/2174-20#Text>.

8. Law Of Ukraine. 2022. Про внесення змін до деяких законів України щодо підтримки національного музичного продукту та обмеження публічного використання музичного продукту держави-агресора: Закон України від 19.06.2022 року № 2310-IX. URL: <https://zakon.rada.gov.ua/laws/show/2310-20#Text>.

9. Law Of Ukraine. 2023. On amendments to some legislative acts of Ukraine regarding strengthening the protection of intellectual property rights: Law of Ukraine dated March 20, 2023 No. 2974-IX. URL. <https://zakon.rada.gov.ua/laws/show/2974-IX#Text>

10. Leheza, Yevhen. Liudvik, Valentyn. Filipp, Anastasiia. 2023. Interacción de los

cuerpos y fuerzas de seguridad de ucrania en la revelación de delitos y crímenes: : normas internacionales y experiencia extranjera. *DIXI*, 25(2), 1–15. <https://doi.org/10.16925/2357-5891.2023.02.06>

11. Zadyraka, Nataliia. Leheza, Yevhen. Bykovskiy, Mykola. Zheliezniak, Yevhenii. Leheza, Yulia. 2023. Correlation of Legal Concepts of Administrative Procedure and Administrative Liability in the Sphere of Urban Planning. *Jurnal cita hukum indonesian law journal*. Vol. 11 No. 1, pp. 33-44, DOI: <https://doi.org/10.15408/jch.v11i1.31784>

12. Zhukova, Yevheniia. Bryl, Kostyantyn. Svystun, Larysa. Kobrusieva, Yevheniia. Leheza, Yevhen. 2023. Legal regulation of public administration of education and science: Regulación legal de la administración pública de educación y ciencia. *Cuestiones Políticas*, 41(76), 336-346. <https://doi.org/10.46398/cuestpol.4176.18>

ПРАВОВЕ РЕГУЛЮВАННЯ ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ В УКРАЇНІ ПІД ЧАС ВОЄННОГО СТАНУ

Метою цього дослідження є вивчення правового регулювання інтелектуальної власності в Україні в умовах запровадження воєнного стану. Дослідження демонструє вирішальну важливість ефективного управління інтелектуальною власністю в Україні за цих обставин для пом'якшення потенційних правових викликів, які можуть виникнути в майбутньому. Збереження даних також підкреслюється як критичний елемент захисту та забезпечення дотримання прав інтелектуальної власності в повоєнній українській економіці.

У дослідженні було використано низку методологій, включаючи вивчення існуючої літератури, синтез, дедукцію, порівняльний аналіз, метааналіз та інші підходи. Результати дослідження підкреслюють постійну діяльність «Укрпатенту», установи, відповідальної за управління питаннями інтелектуальної власності в Україні, незважаючи на повномасштабне російське вторгнення. «Укрпатент» продовжує виконувати свої обов'язки та підтримувати безперервність державної системи, присвяченої правовому захисту інтелектуальної власності. Аналіз даних, отриманих від «Укрпатенту», по-

казав, що обсяг зареєстрованих об'єктів промислової власності в Україні за перші шість місяців 2023 року становив 74,7% порівняно з аналогічним періодом 2022 року, що свідчить про похвальні результати, враховуючи триваючий конфлікт.

Відповідно, попри надзвичайні труднощі, з якими стикаються різні верстви українського суспільства в умовах воєнного стану, тривають наполегливі законодавчі зусилля, зокрема у сфері інтелектуальної власності. Постійне функціонування та поетапне вдосконалення механізмів захисту прав інтелектуальної власності під час воєнного стану, що підкріплюється підтримкою союзних держав та міжнародної спільноти, стратегічно спрямовані на зміцнення та подальше досягнення цілей європейської інтеграції України.

У період широкомасштабного конфлікту було прийнято Закон України № 2265-IX «Про за-

борону пропаганди російського нацистського тоталітарного режиму, збройної агресії Російської Федерації як терористичної держави проти України, символіки військового вторгнення російського нацистського тоталітарного режиму в Україну» від 22 травня 2022 року. Цей закон вперше в рамках українського законодавства встановив ключові визначення, зокрема: «терористична держава», «органи терористичної держави», «пропаганда російського нацистського тоталітарного режиму», «збройна агресія Російської Федерації як терористичної держави проти України» та «символіки військового вторгнення російського нацистського тоталітарного режиму в Україну».

Ключові слова: академічна доброчесність, авторське право та суміжні права, об'єкт інтелектуальної власності, право промислової власності, торгова марка, правове регулювання.