

COPYRIGHT IN UKRAINE: NEW LAW

On January 1, 2023, the Law of Ukraine On Copyright and Related Rights No. 2811-IX of December 1, 2022, which was adopted to replace the previous law of the same name, entered into force in Ukraine ("**the Law**"). This Law is aimed at harmonizing the legislation of Ukraine with the provisions of the legislation of the European Union in regards to ensuring the legal protection of objects of copyright and related rights.

The Law contains a number of provisions that are worthy of attention not only of creators, but also of businesses, in particular companies involved in the IT sector. The Law:

- Specifies that by default and with some exceptions **property rights to a work** (e.g., a computer program) **created by an employee or a contractor** according to an order on the basis of a contract pass to the employer/client, respectively; personal non-property rights (for example, the right to recognize the authorship) remain with the employee/contractor and cannot be alienated;
- Provides for the regulation of **sui generis rights to non-original objects generated by a computer program**; such rights arise in relation to an object that differs from existing similar objects and was created as a result of the functioning of a computer program without the direct participation of a natural person in the creation of this object; the scope of property rights of the subject of such sui generis rights is determined according to the general rules established for works; personal non-property rights do not arise in this case;
- Regulates the peculiarities of **sui generis rights also to other non-original objects** such as databases; in particular, under certain circumstances, sui generis rights are granted to the creator of the database, who made a significant, in quality and/or quantity, contribution to obtaining, checking or submitting the content of the database, to prevent removal and/or reuse;
- Establishes rules for **the use of works by placing hyperlinks and/or framing**; for example, the use of a work is considered the placing of a hyperlink and/or framing, if the work was previously lawfully placed with access restrictions on the website (web page) to which the hyperlink and/or framing directs, and the hyperlink and/or framing allows bypassing such access restrictions;
- Identifies **examples of actions that create a threat of violation of personal non-property and property copyright and related rights**, which are the basis for their protection; in particular, such a threat can be created by computer program settings

that provide access to copyright objects without the permission of the relevant copyright subjects (including when the computer program uses signals from other Internet resources).

In addition to the above, the Law contains many other new, amended and improved provisions related to the regulation of copyright and related rights in Ukraine.

In particular, the Law contains provisions on **the right of resale** (author's right to remuneration for the resale of the original work); the remuneration to the author is determined as a percentage of the price of each subsequent resale, but cannot exceed an amount equivalent to 12,500 euros; the payment of the remuneration should be made, in particular, directly by persons making a public offer for the sale of the original work using the Internet (e.g., through social networks, Internet forums, etc.) and **other provisions** (e.g., about orphan works).

If you are interested in learning more, please contact us.



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