INNOVATIVE TECHNOLOGIES FOR VOICE ACTING OF CONTENT, LEGISLATIVE REGULATION UNDER THE LEGISLATION OF UKRAINE AND FRANCE

Yulia Kedya

https://orcid.org/
0000-0002-9479-8927
Postgraduate Research Fellow (PhD) of
The Institute of Intellectual Property of
The National Academy of Legal Sciences of Ukraine
(specialty 12.00.03. - civil law and civil procedure; family law; private international law)

The scientific article deals with the research of latest technologies for the voice acting/voicing of content, TV programs, audiovisual advertising materials and other materials used on television and their legislative regulation. The comparative analysis with the legislation of France makes provides an opportunity to analyze in more detail the disadvantages and advantages of the Ukrainian legislation with regard to the specified task. Analysis of the legal framework of Ukraine and France provides an opportunity to distinguish between the author - an individual and artificial intelligence to reflect the necessary provisions in the legislation of Ukraine.

Key words: *author, copyright, artificial intelligence, technology, voice acting.*

The problem statement in general terms and its correlation with important scientific and practical tasks.

The number of achievements associated with the use of the latest generation of software, artificial intelligence, is increasing day by day. With the super-fast development of technology and artificial intelligence, which is increasingly taking place in the daily life of ordinary citizens, humanity in practice is faced with a number of issues that need to be solved. Currently, artificial intelligence is gradually, step by step, displacing people from many professions. Among the issues that need to be addressed at the development stage, what exactly should be provided to humanity at this stage so that artificial intelligence does not become a disaster for humanity and how the legal field addresses issues when artificial intelligence is involved in providing certain services and works execution. It is also necessary to find out in which case we are talking about artificial intelligence and in which it is about software.

This work aims to formulate a holistic view of the specifics of legal regulation in the application of basic methods of content voice acting on television (audiovisual works, multimedia, etc.) using the innovative technologies through comparative analysis of various software. The research aims to clarify the main issues regarding the rights that arise from the content voice acting. The results of this research will identify the shortcomings and advantages of current legislation of Ukraine in this area, as well as contribute to find ways for improving the legal regulation of these specific legal relations.

An analysis of recent researches and publications that have begun to solve this problem.

This issue has been the subject matter of separate consideration in the publications of many studiesrs such as A.S. Stefan, V.S. Drobiazko, R.V. Drobiazko, O.P Orlyuk, O.S. Onishchenko, V.M. Gorovy and others.

Formulation of the goals of the scientific article (task statement)

The purpose of this work is to study the legislation of Ukraine and France to determine the specifics of legal regulation of relations arising in the use of new technologies in voice acting of content, television programs, audiovisual advertising materials and other materials used in television. Achieving the goal leads to the implementation of the following tasks:

- to analyze the main legal approaches to the use of software in the voice acting of content, television programs, audiovisual advertising materials and other materials used on television;
- determine what is the subject of contracts for the voice acting of content, TV programs, audiovisual advertising materials and other materials used on television through software and / or artificial intelligence;
- understand which rights (copyright or related, property or moral) arise when broadcasting content on television and remain the subject of related rights.

to conduct a comparative analysis of the legislation of Ukraine and France in this aspect.

Presentation of the main scientific research material with full justification of the obtained scientific conclusions.

The primary subject of the rights to the work, both tangible and intangible, or as they are called, moral, is the author.

According to Article 421 of the Civil Code of Ukraine, the subjects of intellectual property rights are: creator (creators) of the object of intellectual property rights (author, copyright owner, inventor, etc.) and other persons who own personal moral and (or) property intellectual property rights in accordance with this Code, another law or contract [1].

The nature of authorship is defined in more detail in the Law of Ukraine "On Copyright and Related Rights", namely: Article 1 of this Law provides that the author is a natural person who created a work with his creative work [2].

Thus, two groups of copyright subjects are distinguished: the primary - author of the work, the secondary - copyright holder/owner, heir and others.

At the same time, the Intellectual Property Code of France does not provide for a direct rule that would certify the imperative belonging of authorship to the natural person, but from Article L. 113-1 implies that authorship belongs, unless otherwise proven, to the person or persons under whose name this work is issued.

To understand the nature of the author, first of all it is necessary to determine what is the work under the legislation of France. Article L. 112-1 of the Intellectual Property Code defines a copyrighted work that is the result of mental activity, regardless of genre, form of expression, quality or purpose [3]. Since mental activity cannot be carried out by a legal entity, we conclude that the legislation of France recognizes the author of the work as a natural person.

According to P. Y. Gauthier, a work is any innovative result of the human mind activity, which leads to the creation of an appropriate product that can be aimed at meeting practical needs [4].

This definition, in more detail than that it is enshrined in the Intellectual Property Code of France, gives an understanding of who can be the author of a work. It means, it is not just a human, a natural person who creates as a result of his creative, intellectual work, but a person who creates a work as an object of copyright, able to satisfy practical needs and achieve the goal set by its author.

As already mentioned, the primary subject of copyright is the author, who as a result of his intellectual, creative work, creates the object of copyright - a work. In modern civilization development, artificial intelligence, in accordance with the provisions of both national legislation and international legal acts, is not equated to the author, natural person/individual (human). Artificial intelligence cannot create works and other objects of intellectual activity, and if it creates, the authorship belongs to the natural person who created the software. However, with the development of artificial intelligence, it will become increasingly difficult to track authorship of works created with the support of artificial intelligence and determine the boundaries of the result of using software. In this case, it is necessary to determine in which case we use the concept «artificial intelligence" or "software".

Currently, programmers have created and create dozens of programs that are used in the voice acting of audiovisual works, advertising, etc.

Yes, there is and is widely used software that allows not only the written, printed work to be transformed into the voiced one, but also to create an audiobook, read the text, such as "Torohtiyka", "Talalaika" and others. That is, the use of such programs allows to change the form of expression of the work and contribute to the emergence of a new work (derivative) as an object of copyright.

Recently, the company "Verbit" has formed, which is engaged in the transformation of voice into the text. At the same time, this "voice-to-text" company widely uses artificial intelligence technology and commands of transcribing people.

There is also a program "Respeecher», which is used for voice acting in different countries. This program allows to voice texts with the voices of prominent people (celebrities), journalists, authors, presidents, even if their lives are over. However, all you need is a voice, which will be digitized by the program for further use.

At the same time, it is necessary to determine whether the voice in the voice acting is a separate object of copyright or related rights?

According to Jiri Toman, the gift of speech is one of the greatest abilities of human being, which glorifies him above the world of all living beings and makes him human [5].

There are many definitions of the voice, but one of the classics is that it is a sound, a sound that is created as a result of the passage of air between the vibrating vocal folds; or a set of sounds of various pitch, strength and timbre, which a person makes using a voice apparatus [6].

Based on the above, the voice is a natural phenomenon, data endowed by a person that is not the item subject to copyright or related rights in the general sense. On the other hand, for a good voice, the performer has to work on himself, develop abilities, approach to the process of voice acting creatively. Thus, the voice itself is not the item subject to copyright or related rights, as there is no major component - creativity and the work itself. In the case when the text is voiced acted, it is necessary to identify the main participants in this process:

1) Authors of a work that is item subject to copyright. The list of authors is determined by current legislation. For example, an audiovisual work of art.

2) Translator who translates a work for voice acting in Ukraine. He owns the copyright to the translation.

3) Actors - performers who voice this work. They have related rights.

4) Post-production, technical staff that edits the film.

Consequently, performers with their tone of voice, who are selected to voice the work, act as legal_subjects of related rights. It is necessary to determine what rights and responsibilities go (accrue) to performers after voice acting of content, because the innovative technologies used in modern voicing of content, TV programs, audiovisual advertising materials and other materials used on television indicate the need_of_finding_out under what conditions you can use the voice of the performer and when, in turn, the concept "artificial intelligence" can be used.

Regarding the use of the performer's voice in voice acting process of content, television programs, audiovisual advertising materials and other materials used on television, it is necessary to take into account the terms of protection of related rights. In accordance with Article 44 of the Law of Ukraine "On Copyright and Related Rights", the property rights of performers are subject to protection for 50 years from the date of the first recording of work's voice acting. It should be noted, that the personal moral rights of performers, which include, in particular, the right to object to any mutilation, deformation or other modification of, or other derogatory action in relation to, the work that would be prejudicial to the performers' honor or reputation (Article 38), are protected indefinitely.

After the expiration of this period of validity of property rights, the voice acting becomes a part of the public domain.

Regarding the use of artificial intelligence, such as "Respeecher" and similar software, it can only be about software without its association with human intelligence, not artificial intelligence. The use of such software in the voice acting of content, TV programs, audiovisual advertising materials and other materials used on television, on the one hand, can facilitate the work of people involved in the voicing process, and on the other, may violate the related rights of performers. In the event that the voice acting of works is performed by the voices of prominent figures and other individuals, it is necessary to comply with the legislation of the territory of use of this program, make sure that the company has permission to use the voice of an individual and transfer to third parties the possibility of recording media works with the participation of its voice.

If more than 50 years have passed after voicing, as noted, the performer does not have the right to prohibit the use of his voice, because it already belongs to the public domain, but, at the same time, it belongs to non-property (moral) rights, so it is mandatory to ask the permission of the performer (copyright holder, heir, etc.) for further reproduction and use of his voice (voice imitation) using the software. After voicing the work and the need to use the reproduced voice of the performer to voice other works, it is necessary to determine when signing an agreement on the transfer of copyright to third parties, what will be the subject of the contract and what - the object. That is, it is necessary to determine what is transferred - the rights to the technology with the ability to record a certain voice or the voice itself, which is reproduced using software or using artificial intelligence.

In the case of using a program that is freely available to all who wish to convert written text into audio, we will consider what steps should be taken in order to comply with the requirements of copyright legislation. Thus, first of all, you should familiarize yourself with the license conditions on the site, if the use of the software is possible on the basis of free licenses. At the same time, the use of the software may provide for monetization of the results of work, which may be provided by the terms of the license. The most common practice is the use of software on the basis of free licenses solely for your own personal purposes. In the case of monetization, you must additionally obtain additional permission and pay for software use services. It can be an offer or an accession agreement. It should be noted that the legislation of Ukraine does not expressly provide for the use of free licenses, because the license agreement must be paid and concluded in writing as opposed to the Intellectual Property Code of France. The article L122-7 provides for some types of rights that can be transferred free of charge (reproduction, representation). At the same time, French law also does not provide for the possibility of transferring the rights to all works. For example, article L131-3 CPI stipulates that audiovisual adaptations should provide for rewards and in writing.

It remains to find out what is the difference between the use of software and artificial intelligence in the voice acting of content, TV programs, audiovisual advertising materials and other materials used on television.

Wikipedia gives the definition of artificial intelligence as follows:

Artificial intelligence (AI) is a section of computer linguistics and computer science aimed at formalizing problems and tasks that are similar to human actions.

Artificial intelligence - the ability of the engineering system to process, apply and improve the acquired knowledge and skills [7].

In the State Standard of Ukraine DSTU 2938-94 ("Information Processing Systems"), artificial intelligence is defined as "the ability of data processing systems to perform functions associated with human intelligence - logical thinking, learning and self-improvement" [8].

Historically, the first definition of "artificial intelligence" is the definition proposed by J. McCarthy in 1956 as part of the Dartmouth Conference, namely: artificial intelligence is the science and technique of

making (creating) intelligent machines, especially intelligent computer programs [9].

In the domestic professional literature, it is mentioned that artificial intelligence is engaged in the study of intelligent behavior (in humans, animals and machines) and tries to find ways to model such behavior in any type of artificially created mechanism [10].

Note that in order to use the concept of "artificial intelligence" in contracts, it is necessary for the software to meet certain criteria: self-improvement, logical thinking and modeled intelligent behavior, in particular, people, were present.

Note that in order to use the concept of "artificial intelligence" in contracts, it is necessary for the software to meet certain criteria: self-improvement, logical thinking and modeled intelligent behavior, in particular, people, were present.

Therefore, based on the above mentioned, the item object of the copyright agreement in the voice acting process will be software that was created by individuals, and the subject matter - property copyrights or part thereof transferred to the use of this software. The voice acting itself, separately is not subject to copyright protection, because it is not an item object of its protection.

Propose to distinguish between the concepts of "artificial intelligence" and "previous artificial intelligence". Software that does not reproduce logical thinking and all the necessary conditions of "artificial intelligence" can be called "previous artificial intelligence". With regard to the participation of performers, these related rights are related to copyright. Article L211-1 of the French Intellectual Property Code provides that related rights must not infringe copyright or restrict the exercise of copyright by copyright holders.

In accordance with Article 2 of the Law of Ukraine "On Copyright and Related Rights" the performer may be an actor (theater, cinema, etc.), singer, musician, dancer or other person who performs, sings, reads, recites, plays a musical instrument, dances or in any other way performs works of literature, art or works of folk art. The French Intellectual Property Code also does not provide for a definition of an individual as an performer. This rule of law indicates the creative profession of man. A person carries out his professional activity on the basis of either an employment contract or a civil law agreement. But in order for, for example, the customer to get the result – the voicing of a particular material, he may not involve people, and use artificial intelligence, such as voicing of content.

At the same time, a need to distinguish between copyrights and related rights arises in the process of voice acting content, TV programs, audiovisual advertising materials and other materials used on television. In this case, the difference will be that neither an artificial intelligence nor a program cannot act as authors, but only to be performers.

This conclusion is supported by practice, for example, the voice of actor Val Kilmer, who lost his voice after his illness, Sonantic was reproduced using previous artificial intelligence. At the same time, the actor's team provided very few materials, so the program Voice Engine began training previous artificial intelligence with less data than is usually used in such projects [11].

As we can see, there is currently no understanding of where the boundary between artificial intelligence and software lies across.

As you can see, there is currently no understanding of where the line is between artificial intelligence and software.

Based on the above regulatory definitions, the definition contained in the state standard of Ukraine DSTU 2938-94 is the most complete, and therefore, in order for the software to be recognized as artificial intelligence, it is necessary that this program is associated with human intelligence - logical thinking, learning and self-improvement. However, it should be borne in mind that DSTU is not a normative act, but are technical and legal norms, state classifiers of technical, economic and social information.

Otherwise, it was too early to talk about artificial intelligence, which is used in the voicing of content and audiovisual works, but we can use a separate concept of "previous artificial intelligence" as software developed by individuals and aimed at fast and up-to-date voicing of content on television.

(P) Conclusions from this study and prospects for further research in this direction

Research and comparative analysis of legislative regulation of the subject matter in Ukraine and France made it possible to formulate the following conclusions:

1. The author of the work can be exclusively a natural person (individual) who, due to his intellectual creativity and originality of approaches to solving the problem, creates new and unique item objects of copyright that are subject to legal protection in accordance with the legislation.

2. The Intellectual Property Code of France does not provide for direct recognition of the author of work to be a natural person (individual), but in the theory of intellectual property rights, authorship is recognized by the individual.

3. At concluding the agreements for the transfer of rights to works created using artificial intelligence, it is necessary to take into account that artificial intelligence is not an author, and only software created by individuals is subject to protection.

4. It is necessary to distinguish between such concepts as "software" and "artificial intelligence". Programs used in the voicing of content, TV programs, audiovisual advertising materials and other materials used on television are not inherently artificial intelligence, as they are created by individuals and cannot improve themselves, imitate human behavior and learn to think logically.

5. At this stage of development, humanity can use the concept of previous artificial intelligence, which is close to artificial intelligence, but cannot yet independently think and improve itself.

6. It is necessary in the legislation of Ukraine introduce the rules of law for the use of free licenses, including software, because the free licenses are the fairly common practice of exchange between natural person (individuals) and legal entities for the development and improvement of software.

References

1. Civil Code of Ukraine// www.rada.gov.ua
2. The Law of Ukraine "On Copyright and Related Rights" of 2001// www.rada.gov.ua
3. Intellectual Property Code of France// https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006069414/2020-10-25/
4. https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006069414/LEGISCTA000006133323/#LEGISCTA000006133323
5. Toman Irji. The art of speaking. - K., 1998.
6. https://pidru4niki.com/89986/ritorika/harakteristika_elementiv_tehniki_movlennya
7. https://uk.wikipedia.org/wiki/Штучний_інтелект
8. Baranov O.A. Internet of Things and artificial intelligence: the origins of the problem of legal regulation. IT law: problems and prospects of development in Ukraine: collection. Materials II International. scientific-practice. Confer. (Lviv, August 17, 2017). Lviv: Lviv. Polytechnic, 2017. S.
9. Kozlova O.V. Advantages of expert systems over traditional systems of artificial intelligence//Weapons systems and military equipment. – 2011. – № 1(25). - PP. 104-106.
10. Kryvytskyi Yu. V. Artificial intelligence as a tool of legal reform: potential, trends and prospects, ISSN 2410-3594. Naukovij visnik Nacional'noi akademii vnutrisnih sprav. 2021. № 2 (119)
11. AND. Sitnikova "Artificial intelligence was able to recreate the voice of actor Wil Kelmer. Because of laryngeal cancer, he could not speak as before, e-link: https://hromadske.ua/posts/shtuchnij-intelekt-zmig-vidtvoriti-golos-aktora-vela-kilmera-cherez-rak-gortani-cholo