

## **COPYRIGHT ON CARTOGRAPHIC WORKS IN THE RUSSIAN FEDERATION**

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**Abstract.** The paper presents problems connected with copyright in Russia, especially in cartographic works. There are described Laws and Articles related to copyright in general and to copyright in cartographic works in detail. Some instructions, rules, legal and law regulating copyright in relation to cartographic works are described in the paper.

**Key words:** Copyright law, cartographic work, Roskartografiya

The bases for the copyright in the former USSR were developed as early as 1925. After the breakdown of the USSR the Law "On the copyright and allied rights" (No. 5351-1) was adopted in the Russian Federation on July 9, 1993. Later some verbal corrections were made in it in 1995 and 2004. Nowadays the Law "On the copyright and allied rights" operates with amendments as on July 20, 2004, No. 72-FZ.

Relations of protection and use of intellectual property objects in the Russian Federation, which cartographic works mostly refer to, are regulated by the Russian civil law based on the norms of the Civil Code of the Russian Federation.

The main sources of legal regulations concerning the protection and use of intellectual property objects, besides the Law "On the copyright and allied rights", include also the Patent Law of the Russian Federation (September 23, 1992) and the Law "On the legal protection of computer programs and databases" (September 23, 1992), as well as some other laws, for example "On architectural activity in the Russian Federation", and "On the mass media".

The main source of the Russian copyright is international treaties and agreements; their norms have priority over Russian laws, that is why their role in the regulation of copyright relations is enormously high.

The Law "On the copyright and allied rights" adopted on July 9, 1992 is the most important among the Russian Federation laws. By its legal nature this is a conglomerate law being a part of the Russian civil legislation. It has a common character and concerns with all works of science, literature, and art. The law is characterized by its market ori-

entation. Author property rights become a sort of commodity which can be alienated freely and transferred according to civil legal transaction.

Other sources of copyright on the same hierarchic level have more narrow spheres of regulation.

Thus, the Law of the Russian Federation "On the legal protection of computer programs and databases" refer only to relations occurring in connection with the creation, legal protection, and use of software. Article 2 of the Law emphasizes that computer programs and databases are also copyright objects and they are provided with legal protection: computer programs as literary works, and databases as collections. Their legal copyright protection is secured in Article 7 of the Russian Federation Law "On the copyright and allied rights".

Copyright law also includes separate items of enactments concerning, on the whole, the regulation of other social relations. For example it includes Article 146 of the Criminal Code of the Russian Federation prescribing criminal responsibility for copyright and allied laws piracy, Article 385 of the RSFSR Civil Code of Practice concerning the order of application about the author's fee, etc. Special attention should be paid to the matter of application of the Russian Federation Civil Code norms to copyright relations. As far as copyright – as it was already noted – is considered to be an integral part of the civil law, all general regulations of the Russian Federation Civil Code are applicable to copyright relations.

Besides laws, among sources of copyright are also bylaws which are based on the law and develop its norms and regulations. Bylaws are considered to be general if they are issued by common authorities (first of all by the Russian Federation Government) or by those bodies which are authorized to issue regulations obligatory to everyone including those, who are not within their direct jurisdiction.

The Law "On the copyright and allied rights" defines the object of copyright (Article 6):

1. Copyright covers works of science, literature, and art resulted from creative activity, regardless of the designation and appreciation of these works, as well as their kind of expression.
2. Copyright covers both published and unpublished works existing in any objective form. Among them images (depiction, sketch, picture, plan, drawing, photo, etc.) and three-dimensional works (for example, model, mock-up) are distinguished.

Article 7 gives the list of works which are the objects of copyright. Among others they include "geographical, geological, and other maps, plans, sketches, and figurative works dealing with geography, topography, and other sciences" as well as "photographic works and works made with methods analogous with photographic ones". Copyright objects include also derivative works.

Official documents are not objects of copyright. The works of science, literature, and art are protected by copyright due to the fact of their creation.

Copyright on a work produced by common creative activity of two or more persons (joint authorship) belongs to all co-authors collectively.

Copyright on a work produced in the execution of official duty or employer's task (work of duty) belongs to its author (Article 14). Exclusive rights to use works of duty belong to the person being in labor relations with the author (to the employer) except as otherwise provided in the agreement between them.

In relation to his/her work, the author enjoys personal non-property rights (Article 15):

- the right to be recognized as the author of a work (authorship right);
- the right to use the work under the true author's name, under a pseudonym, or anonymously (name right);
- the right to publish the work in any form (publishing right);
- the right to protect the work from any distortions capable of doing harm to author's honor and dignity (right on author's reputation protection).

The author enjoys his/her personal non-property rights irrespective of his/her property rights.

In relation to his/her work, the author enjoys exclusive rights to use his/her work in any form and by any method (Article 16. Property rights).

The amount and calculation procedure of author's fee for any form of the work use are determined by an agreement with the author as well as agreements concluded between users and authorities dealing with authors' property rights on a collective basis.

Copyright is in force all author's life long and 70 years posthumously, except cases provided by this article. The authorship right, the name right, and the right on author's reputation protection are perpetual.

These are the main principles of the law regulating copyright issues, including in relation to cartographic works.

What about the implementation of the Law "On the copyright and allied rights"?

As a rule, when thematic maps and complex atlases are published by private cartographic firms, by scientific institutions of the Russian Academy of Sciences, or by higher education institutions, such as Moscow Lomonosov State University, authors' names stand obligatorily on each map irrespectively, whether it is published separately or within an atlas. It is different with publishing of maps and atlases by institutions of Russia's Federal Service of Geodesy and Cartography (now Russia's Federal Agency of Geodesy and Cartography – Roskartografiya). Instead of map authors map compilers are usually noted in their cartographic works, thus the notion "authors" is substituted by the notion "compilers", but these notions can not be regarded equivalent. Besides that, there is no reference to authors or compilers of individual maps in atlases, instead of it only general information is given on persons participating in contents development or maps compilation. They are listed in an alphabetical order under the heading: "In map compilation took part...". In our opinion, such a practice is not consonant to the Law "On the copyright and allied rights". It is impossible to determine the authorship of each individual thematic map from such a phrase. This is an obvious infringing of the authorship right.

In 2003 Russia's Federal Service of Geodesy and Cartography issued special internal instructions "Methodical recommendations for the organization of legal protection of exclusive rights to use works within the system of Russia's Federal Service of Geodesy and Cartography. Part 1. Cartographic works." (approved by the director of *Roskartografiya* on April 11, 2003). To our mind these instructions put first the departmental interests of *Roskartografiya* in protecting its own production but not the interests of authors of cartographic works. The Law "On the copyright and allied rights" says that "author is a physical person" (Article 4), but not a legal entity. The departmental instructions of *Roskartografiya* try to make a corporate body (legal entity) a subject of copy-

right, and the notion "copyright" is often substituted by the notion "the right to use works of duty".

In general, what kinds of cartographic and other works published by *Roskartografiya* and some other departments can be referred to as objects of intellectual property and, according to this, fall under the copyright protection in the Russian Federation? This matter is complicated and controversial. It has repeatedly been put forward and discussed among specialists connected with cartographic activities and geoinformatics.

To our mind, symbols of state topographic maps, reference books and other materials on administrative division of the Russian Federation entities and foreign countries, state index of geographical names, catalogues of coordinates and heights of the state geodetic reference network, etc. can not be regarded as objects of copyright because all of them are official documents. And according to Article 8 of the Law "On the copyright and allied rights" official documents are not objects of copyright. In this connection state topographic and geological maps, made according to unified official instructions and at unified scales, and using unified map symbols, can also be classified as "official documents".

Besides that, all products of automated remote sensing also could not be regarded as objects of intellectual property, because automatic devices discretely or continuously recording the radiation of the Earth features can not be defined as "authors" of obtained images and other data.

Thus, although copyright on cartographic works is legally accepted in Russia, nevertheless it remains indefinite in relation to some objects and, in our opinion, is not always observed in terms of its protection.

## PRAWO AUTORSKIE W KARTOGRAFII W ROSJI

**Streszczenie.** Artykuł omawia zagadnienia związane z prawem autorskim w Rosji, a szczególnie koncentruje się na prawie autorskim w kartografii. Podano prawa, ustawy i artykuły dotyczące praw autorskich w ogólności oraz szczegółowo omówiono te, które dotyczą dzieł kartograficznych. W artykule zamieszczone są fragmenty instrukcji, zasad, reguł i regulacji prawnych dotyczących prawa autorskiego odnoszącego się do dzieł kartograficznych.

**Słowa kluczowe:** prawo autorskie, dzieło kartograficzne, Roskartografia

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