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COPYRIGHT PROTECTION FOR SPORTS AND ROBOTICS MOVES: NEW CHALLENGES

The purpose of this article is to identify issues of copyright protection for sports and robotics moves that requires an in-depth research and a definition of its specifics. The article justifies the need to study relevant issues such as pantomime and parody as elements of sports moves, modern sports and sports for people with disabilities, moves of emerging robots in terms of copyright, and stakeholders' awareness and willingness to commercialize copyright in the areas.

Keywords: sports, robotics, moves, copyright, expression.

Introduction. The celebration of intellectual property (IP) day on April 26th, 2019 was held under the slogan "Reach for Gold" with the goal of "to take a closer look inside the world of sports". WIPO emphasizes the value of patents, designs, trademarks, and copyright in the world of sport business. During the celebration, the copyright was only covered as a matter of broadcasting sports events. However, copyright in sports is not only broadcasting. Spectators pay to watch sports events not only to find out which of the athletes will be faster, stronger or higher. Today, in conditions of high competition in the sport business, the entourage of such events is a decisive factor. The functionality of sport cannot exist without its expression; and the more creative the expression, the more spectators will watch the event tomorrow.

Short moments of a full game such as the copying of Conor Macgregor's gait by Brad Marchand (Boston Bruins) in the NHL 2018/19 season, have more than 120,000 views (highlights of that game have no more than 40,000 views) on just the official League web page on YouTube alone. There are many such examples of high viewership from a small excerpt of a much longer game. All these aspects are not related to the functionality of the sport, rather they are the part of the game and beautiful packaging, for which viewers are willing to pay money. Could Connor McGregor's gait be the subject matter of copyright? It can be considered as a pantomime (copyright). At the same time, scientists [3; 9; 11; 13] consider sports moves as choreography (also copyright) and leave pantomime in the shadows. We see a lack of attention to pantomime and parody as elements of sports moves, although these are not the overlapping meanings.

Can gesture creator claim royalties from copyright use or should it be considered a parody (royalty-free usage)? Can Diego Simeone demand royalties from Cristiano Ronaldo for using his gesture in the Champions League playoffs 2018/19? Even if there is a creative component in this gesture, it is unlikely to be copyright, as it is contrary to public morality. Clearly, these issues can only be addressed through a holistic approach.

However, sport is not only celebration and attractive rituals. Athletes find a place for expression within the rules (slam dunk with cranking, front flip touchdown), and some sports even stimulate creativity (for example, rhythmic gymnastics, figure skating, or breakdancing, that can appear in the 2024 Olympic Games) leaving room for this in the rules. These facts are well-known [2], however, scientists have only considered a limited number of sports. Today, when some competitions are canceled and others are held without spectators, the issue of the entertainment aspect of sports events is more important than ever.

An athlete performs the trained movements, a dancer performs the scripted movements, and a robot performs the moves embodied in it by a programmer. We can infer explicit analogies. It is amenable to our ideas. Copyright not only serves the creative industries [21]. The issue of functionality and expression fits perfectly with robotics. Sports are just as useful a source for robotics as mechanics. We are already using robots, for example, in industry and surgery, applying their moves as functional.

In the film industry, stunt robots are in demand. Now European legislation in the field of artificial intelligence needs studies of the processes reified into solid facts and the theoretical underpinnings [14].

Honda's Asimo played football and even celebrates goals. The robot NAO from SoftBank Robotics entertained audiences with its dance [18]. An awesome video [24] of Boston Dynamics with the expressively dancing SpotMini has seven million views on the company's official YouTube web page and over 250,000 likes. Are these moves functional or expressive? Do creators own copyrights? The creators of the NAO robot have a great chance of doing so. On the other hand, many SpotMini moves are results of the unique design of this robot, that is to say, the expression is difficult to separate from functionality. Can the choreography or the pantomime or the parody of a robot-animal (not a humanoid) be considered as copyright, even if all the moves of the dance are invented by a programmer? But there is the paucity of information on the matter.

While using the laws of mechanics or cart-table models is unlikely to meet the requirement of originality, European studies [17] revealed that "further research would also be welcomed to determine whether the current application of IP rights sufficiently meets the needs of the robotic industry". At the same time, Directive (EU) 2019/790 (2019) [6] aimed at increasing the growth of the European digital economy establishes the need for to achieve a fair balance between the rights and interests of authors and other rightholders. These issues require in-depth analysis. In addition to the dance itself, it is quite obvious that, for example, the non-trivial solution of the problem of inverse kinematics and motion planning in the software algorithm of motion is an IP subject matter.

The purpose of this article is to identify issues of copyright protection for sports and robotics moves that requires an in-depth research and a definition of its specifics.

State-of-the-art. We are aware of studies in which Abromson (2003), Roessler (2015), and Weber (2000) argue that sports celebrations refer to copyright [1; 19; 25]. At the same time, as it was mentioned in previous paragraphs, emphasis is placed on choreography, partly emphasis is placed on pantomime [7]. We see a lack of attention to pantomime and parody as elements of sports moves, although these are not the overlapping meanings. Moreover, we have not been able to identify scientific works that clearly formulate the difference in terms choreography, pantomime and parody as IP in the context of European legislation.

"Copyright law has held a strong influence on the industry and its development of games" Quagliariello (2019) noted [15] but "exclusive rights in dance moves is flawed" [5] in videogames, and copyright for creative moves of an athlete could be commercialized there. Perhaps extending the athletes' copyright would resolve some scholars' doubts about the existence of copyright in creative sports moves. Scientists have only considered a limited number of sports. In this context, they do not pay attention to modern sports and sports for people with disabilities. Most of the questions of the utmost importance raised are seldom taken into account in European literature as well as in the Compendium of U.S. Copyright Office Practices [4].

In light of the fact that the recently published book by Anthea Kraut [10] received positive criticism, it would be necessary to take a look at gender issues in the context of cultural differences. "Copyright and choreography productively illuminate one another and the workings of race and gender in American dance" wrote the author. Therefore, we see the importance of this issue. Equally important is the expression of sports for people with disabilities. We are aware of studies in which researchers created a sign language theatre laboratory, in which deaf actors combined sign language with gesture and pantomime [8]. But information is sparse about the connection of IP and this area. The study of the dichotomy of functionality and expression in the implementation of sports moves of people with disabilities would be relevant. Additionally, the athletes with disabilities would receive an understanding of the directions of vesting ownership of copyright and commercializing the products of their creativity obtained by dint of their hard work.

Regarding robotics Palmerini et al. (2014) noted that "the ambition of the European Union to promote innovation in the internal market and foster competitiveness makes robotics a strategic sector, to which the European institutions are devoting considerable attention" [17]. Scientists argue over who is the rightful owner of photographs, musical and artistic works made by artificial intelligence (AI) [22]. Unfortunately, this problem eclipses all other issues in the scientific literature. On the other hand, the movement is one of the most useful functions of a robot. In order to share rights between a person and AI, someone must have these rights first. A question that needs to be addressed – what kind of IP rights belong to the developers of robots-humanoids. To keep abreast of any developments, studies and existing laws, there is no need to consider AI as a copyright owner; that means we agree with the central tenet that, at this juncture, copyright belongs to the human intelligence (to developer or someone else at work for hire).

There is the paucity of information on movement copyright in robotics. Unlike the first part, in which it would be justified the compliance or non-compliance with the established rules and clarified many aspects, in the second part it would have to be developed the prerequisites, furnished details, and given compelling argu-

ments. Now, while software provides the ability to qualitatively impose the face of an outsider on a moving object, increase age, and provide other bandwagons, such results will make it possible to evaluate the amount of copyright infringement on creative movement, not only in the field of sports and robotics. It is necessary to show to what extent moves of robots are expressive and functional. These accents are also interesting for science.

Copyright protects expression. Therefore, the copyrightable subject matter may be a movement and its creative script. Is it possible to adjust the code without violating the rights of a developer? Probably, yes, but the protection of the set of moves will preserve the rights of a creator. There is a need to find the answer to the question, whether the written scenario of a sports game (set of moves) and the game per se is the subject matter of copyright in conjunction with the answer to the question whether the program code and the activities of a robot are the subject matter of copyright.

Discussion. Movement is a permanent component of evolution. In addition to a common value, new, expressive and creative moves should give more advantages to their creators. Copyright is one of these advantages. But today, in many areas of activity, copyright for movement is still only an abstract opportunity.

Based on the issues discussed, there is a need to identify copyrightable subject matter in athletes' and robots' moves and justify whether the commercialization of copyright will be a barrier to competition and/or entertainment or will be a way of improving the well-being of stakeholders [20; 23]. The main obstacle to obtaining copyright – the fact that expression in sports and robotics is seen as secondary to functionality – should be considered. We see a clear need for raising awareness and interacting among creators, innovators, other potential copyright owners, and consumers, and delivering mechanisms to increase the competitiveness of SMEs and individuals. The overall need of a study could be achieved through the following methods:

– to review current use of copyright law for protecting creative moves in both sport and robotics;

– to do an in-depth investigation of the potential for such protections in sport;

– to undertake a case study of applying the findings in robotics.

During the review, it is necessary to determine the extent of the law coverage creative moves in both sport and robotics. As a result of in-depth investigation of the potential for such protections in sport, it is necessary to assess whether existing legal frameworks and environment provide the ability to obtain and commercialize the copyright of sports moves; and identify the level of stakeholders' awareness of the issue. Within the case study, it would be possible to review the current and promising areas in which a robot's moves may imply copyright; and identify the level of commercial attractiveness of copyright for movements of mass production robots.

Previously unanswered questions such as the existence of copyright in modern sports, the applicability of choreography, pantomime and parody to sports moves, the expression of athletes with disabilities, and attitudes of the spectators and participants to such enforcement should be considered. Gender studies in this area also needs to be complemented.

With respect to robotics, copyright should be considered in the context of the robots' movement and the importance of its expression. The movement is one of the most important functions of robots. The expression of a robot` moves has not previously been in the spotlight, although this issue is relevant to current trends in European legislation.

Actions that can be regarded as a copyright infringement, taking into account the trends of the digital era should be studied. To achieve the overall aim, the following methods would be appropriate: literature review and patent search, observations, interviews, and surveys.

On the basis of literature review (general scientific literature, sports rules, patents, current laws, bills, and case studies) current use of copyright law for protecting creative moves in both sport and robotics should be studied. This stage establishes the foundation for the remainder of the investigation.

On the next stage, the potential for protecting creative moves in sports in several directions should be determined. These directions include answers to the following questions: Do moves comply with the strict rules? Is the move a single move or a set of moves? Are moves aimed to achieve a competitive result? Are moves the only possible and / or simplest in a particular situation? Are they peculiar? Do moves comply with the public morality? This algorithm might be slightly improved. In this way, it is possible to separate melded functionality (not copyright) and expression (copyright), determine their balance, basic requirements for obtaining copyright, and, consequently, the existence of copyright in the moves.

The degree to which creative moves in sports might correspond to moves in choreography, pantomime and parody, where copyright is more common, should be identified. It is necessary to study the kinematics and diversity of sports moves through unstructured observations, and to conduct interviews with sports coaches. Data on the extent to which bodily expression can be obtained from the content of training programs, including schools. It could provide great educational implication.

Together with the creators, it would be necessary to try to register the most expressive sports moves in public institutions in order to study the registration pitfalls.

Copyright registration is voluntary but useful in many aspects. It can constitute a test of the existence of the IP rights. The registration of documents in the field of copyright is a common practice regardless of the field of human activity [21]. The registration shows the creators the opportunities in the area.

On the basis of European legislation, it is necessary to establish whether the copyright on scripted sport exists. To evaluate the attitude of spectators and participants to the possible copyright enforcement, developing a questionnaire and conducting a self-administered survey with closed-ended questions and open-ended questions among athletes, coaches, and spectators within stratified random sampling would be appropriate, wherein the samples may be formed in groups of regions with population characterizing similar features of creativeness and particularity of expression and body language [12].

Under the issue the relationship of copyright and robotics it is necessary to describe the sequences of creative moves of robots-humanoids and other robots to establish similar and different characteristics in the copyright projection. On the basis of real-life breakthroughs in the field of robotics, based on advanced patent search and study of relevant videos from social media, it would be important to describe the areas in which the copyright can exist as well as to describe actions that can be considered as copyright infringement of the robots' moves. Such cases may serve as a basis for future legislative improvements on the copyright enforcement by the developers and other copyright holders.

The relevance of robots whose movement can have elements of expression in the society should be shown. Such ideas can be implemented through a survey; these results would reflect the level of commercial attractiveness of copyright for movements of mass production robots. According to well-known research [16], robots are characterized by different novelty, imminence, social pervasiveness and utility. In a self-administered survey, it should be suggested evaluating the significance of the expressiveness of movements of only those robots, movements of which are intrinsic to a design (for example, some of social, educational, care, companion, and sex robots). For the reflection of core preferences, stratified random sampling would be applied.

Conclusion. Solutions to the questions posed will be pioneering in the consideration of the potential for creative moves in performing arts, sports and robotics to be copyrighted. The originality which would enable the solutions to go beyond the state of the art includes the following aspects:

– Attention to pantomime and parody as elements of sports moves;

– Analysis of modern sports and sports for people with disabilities;

– Consideration of the moves of emerging robots in terms of copyright;

– Determination of stakeholders' awareness and willingness to commercialize copyright in the relevant areas.

Design of such a study will touch on important social issues such as morality, freedom of expression, and well-being. The particular value lies in the fact that the solutions cover a wide variety of areas: sports, business, entertainment, law, and innovation.

RESOURCES

1. Abromson, H. M. (2003). The Copyrightability of Sports Celebration Moves: Dance Fever or Just Plain Sick. *Marquette Sports Law Review, 14, 571–601.*
2. Best, D. (1980). Art and Sport. Journal of Aesthetic Education, 14(2): 69–80. DOI: http://doi.org/10.2307/3332478.
3. Bussey, A. (2013). Stretching Copyright to its Limit: On the Copyrightability of Yoga and Other Sports Movements in Light of the US Copyright Office's New Characterization of Compilations. Jeffrey S. Moorad Sports Law Journal, 20(1), 1–34.
4. Compendium of U.S. Copyright Office Practices (3rd ed. 2017). URL: https://www.copyright.gov/comp3/docs/compendium.pdf.
5. Crane, Z. (2019). Fortnite Is 'Dropping'Into Legal Land: A Proposal to Amend the Copyright Act to Address Artists' and Game Developers' Concerns Over Dance Moves As Purchasable Emotes in Video Games. Available at SSRN 3314693. URL: http://dx.doi.org/10.2139/ssrn.3314693.
6. Directive (EU) 2019/790 (2019). On copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. European Parliament, Council of the European Union. URL: http://data.europa.eu/eli/dir/2019/790/oj.
7. Elam, V. (2015). Sporting Events as Dramatic Works in the UK Copyright System. Entertainment & Sports Law Journal, 13: 1–13. DOI: http://doi.org/10.16997/eslj.1.
8. GRAMBY (The Grammar of the Body: Revealing the Foundations of Compositionality in Human Language) (2019), (Fin. Rep.).
9. Griffith, W. T. (1998). Beyond the Perfect Score: Protecting Routine Oriented Athletic Performance with Copyright Law. *Connecticut Law Review, 30: 675–730.*

10. Kraut, A. (2016). Choreographing Copyright: Race, Gender, and IP Rights in American Dance. Oxford University Press.
11. Kunstadt, R. M., Kieff, F. S., & Kramer, R. G. (1996). Are sports moves next in IP law. *National Law Journal, 20.*
12. Lewis, R. (2010). When cultures collide. London: Nicholas Brealey Publishing
13. Mezei, P. (2017). Copyright protection of sport moves. Enrico Bonadio & Nicola Lucchi (eds.): Non-Conventional Copyright, 271–298. Cheltenham: Edward Elgar Publishing. DOI: http://doi.org/10.4337/9781786434074.00021.
14. Nevejans, N. (2016). European civil law rules in robotics. European Union.
15. Quagliariello, J. (2019). Applying Copyright Law to Videogames: Litigation Strategies for Lawyers. Harv. J. Sports & Ent. L., 10, 263–276.
16. Palmerini, E., Azzarri, F., Battaglia, A. et al. (2014). D6.2 – Guidelines on regulating robotics. Pisa, Italy: Robolaw project.
17. ROBOLAW (Regulating Emerging Robotic Technologies in Europe: Robotics facing Law and Ethics) (2014), (Fin. Rep.).
18. Robotronica 2015, ABC News, 23-08-15. URL: https://www.youtube.com/watch?v=pblTNI0dAhg.
19. Roessler, V. (2015). College Athlete Rights after O'Bannon: Where Do College Athlete IP Rights Go from Here. *Vanderbilt Journal of Entertainment and Technology Law, 18, 935.*
20. Sharma, S. (2019). A Copyright Incentive for Promoting Aesthetic Sports in India. *Entertainment and Sports Law Journal, 17(1), 1–12*. DOI: https://doi.org/10.16997/eslj.232.
21. Shmatkov, D. (2020). Does Copyright Only Serve the Creative Industries? International Conference on Business Management, Innovation & Sustainability (ICBMIS) 2020. DOI: http://dx.doi.org/10.2139/ssrn.3709072.
22. Stokes, S. (2019). Digital copyright: law and practice. Bloomsbury Publishing.
23. Venkatesan, V. (2021). Creative v. Purposive Sports: Need for Recognizing Sports Persons as Performersunder Copyright Law. *International Journal of Modern Agriculture, 10(2), 319–326.*
24. UpTown Spot. URL: https://www.youtube.com/watch?v=kHBcVlqpvZ8.
25. Weber, L. J. (2000). Something in the Way She Moves: The Case for Applying Copyright Protection to Sport Moves. *Columbia Journal of Law and Arts, 23: 317–361.*

REFERENCES

1. Abromson, H. M. (2003). The Copyrightability of Sports Celebration Moves: Dance Fever or Just Plain Sick. *Marquette Sports Law Review, 14, 571–601* [in English].
2. Best, D. (1980). Art and Sport. *Journal of Aesthetic Education, 14(2), 69–80.* DOI: http://doi.org/10.2307/3332478 [in English].
3. Bussey, A. (2013). Stretching Copyright to its Limit: On the Copyrightability of Yoga and Other Sports Movements in Light of the US Copyright Office's New Characterization of Compilations. Jeffrey S. *Moorad Sports Law Journal, 20(1), 1–34* [in English].
4. Compendium of U.S. Copyright Office Practices (3rd ed. 2017). URL: https://www.copyright.gov/comp3/docs/compendium.pdf [in English].
5. Crane, Z. (2019). Fortnite Is «Dropping» Into Legal Land: A Proposal to Amend the Copyright Act to Address Artists' and Game Developers' Concerns Over Dance Moves As Purchasable Emotes in Video Games. Available at SSRN 3314693. URL: http://dx.doi.org/10.2139/ssrn.3314693 [in English].
6. Directive (EU) 2019/790 (2019). On copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. European Parliament, Council of the European Union. URL: http://data.europa.eu/eli/dir/2019/790/oj [in English].
7. Elam, V. (2015). Sporting Events as Dramatic Works in the UK Copyright System. *Entertainment & Sports Law Journal, 13, 1–13.* DOI: http://doi.org/10.16997/eslj.1 [in English].
8. GRAMBY. The Grammar of the Body: Revealing the Foundations of Compositionality in Human Language. (2019). (Fin. Rep.) [in English].
9. Griffith, W. T. (1998). Beyond the Perfect Score: Protecting Routine Oriented Athletic Performance with Copyright Law. *Connecticut Law Review, 30, 675–730* [in English].
10. Kraut, A. (2016). Choreographing Copyright: Race, Gender, and IP Rights in American Dance. Oxford University Press [in English].
11. Kunstadt, R. M., Kieff, F. S., & Kramer, R. G. (1996). Are sports moves next in IP law. *National Law Journal, 20* [in English].

12. Lewis, R. (2010). When cultures collide. London: Nicholas Brealey Publishing [in English].
13. Mezei, P. (2017). Copyright protection of sport moves. Enrico Bonadio & Nicola Lucchi (Eds.). Non-Conventional Copyright. Cheltenham: Edward Elgar Publishing, *271–298*. DOI: http://doi.org/10.4337/9781786434074.00021 [in English].
14. Nevejans, N. (2016). European civil law rules in robotics. European Union [in English].
15. Quagliariello, J. (2019). Applying Copyright Law to Videogames: Litigation Strategies for Lawyers. *Harv. J. Sports & Ent. L., 10, 263–276* [in English].
16. Palmerini, E., Azzarri, F., Battaglia, A. et al. (2014). D6.2 – Guidelines on regulating robotics. Pisa, Italy: Robolaw project [in English].
17. ROBOLAW. Regulating Emerging Robotic Technologies in Europe: Robotics facing Law and Ethics. (2014). (Fin. Rep.) [in English].
18. Robotronica 2015, ABC News, 23-08-15. URL: https://www.youtube.com/watch?v=pblTNI0dAhg [in English].
19. Roessler, V. (2015). College Athlete Rights after O'Bannon: Where Do College Athlete IP Rights Go from Here. *Vanderbilt Journal of Entertainment and Technology Law, 18, 935* [in English].
20. Sharma, S. (2019). A Copyright Incentive for Promoting Aesthetic Sports in India. *Entertainment and Sports Law Journal, 17(1), 1–12*. DOI: https://doi.org/10.16997/eslj.232 [in English].
21. Shmatkov, D. (2020). Does Copyright Only Serve the Creative Industries. International Conference on BusinessManagement, Innovation & Sustainability (ICBMIS) 2020. DOI: http://dx.doi.org/10.2139/ssrn.3709072.
22. Stokes, S. (2019). Digital copyright: law and practice. Bloomsbury Publishing [in English].
23. Venkatesan, V. (2021). Creative v. Purposive Sports: Need for Recognizing Sports Persons as Performersunder Copyright Law. *International Journal of Modern Agriculture, 10(2), 319–326*.
24. UpTown Spot. URL: https://www.youtube.com/watch?v=kHBcVlqpvZ8 [in English].
25. Weber, L. J. (2000). Something in the Way She Moves: The Case for Applying Copyright Protection to Sport Moves. *Columbia Journal of Law and Arts, 23, 317–361* [in English].

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ЗАЩИТА АВТОРСКИХ ПРАВ НА ДВИЖЕНИЯ В СПОРТЕ И РОБОТОТЕХНИКЕ: НОВЫЕ ВЫЗОВЫ

Цель данной статьи – выявить вопросы защиты авторских прав на спортивные и робототехнические движения, требующие дополнительных исследований, и определение его специфики. В статье обосновывается необходимость изучения актуальных вопросов, таких как пантомима и пародия как элементов спортивных движений, современные виды спорта и спорт для людей с ограниченными возможностями, движения новых роботов в контексте авторского права, а также осведомленность и готовность заинтересованных сторон коммерциализировать авторское право в этих областях.

Ключевые слова: спорт, робототехника, движения, авторское право, выражение.

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ЗАХИСТ АВТОРСЬКИХ ПРАВ НА РУХИ У СПОРТІ ТА РОБОТОТЕХНІЦІ: НОВІ ВИКЛИКИ

Постановка проблеми. Святкування дня інтелектуальної власності (ІВ) 26 квітня 2019 року проходило під гаслом «Досягти золота» з метою «ближче заглянути у світ спорту». ВОІВ підкреслює значення патентів, дизайнів, торговельних марок та авторських прав у світі спортивного бізнесу. Але авторські права висвітлювались лише у

контексті трансляції спортивних подій. Однак авторські права у спорті – це не лише канали інформаційного мовлення. Сьогодні, в умовах високої конкуренції у спортивному бізнесі, антураж таких заходів є вирішальним фактором.

Огляд літератури. Ми констатуємо відсутність уваги до пантоміми та пародії як елементів спортивних ходів, хоча ці терміни не перекривають зміст хореографії, існування якої у спорті аналізується ученими. Більше того, не виявлено наукових праць, які чітко розділяють терміни «хореографія», «пантоміма» та «пародія» як ІВ в контексті європейського законодавства. Можливо, розширення авторських прав спортсменів дозволить вирішити сумніви деяких науковців щодо існування авторських прав у творчих спортивних рухах. Учені у зазначеному контексті розглядали лише обмежену кількість видів спорту та практично не аналізували спорт для людей з обмеженими можливостями.

Сьогодні, коли деякі змагання скасовуються, а інші проводяться без глядачів, питання розважального аспекту спортивних заходів є як ніколи важливим.

Зараз європейське законодавство у галузі штучного інтелекту потребує вивчення процесів, перетворених на суцільні факти та теоретичні основи. Чи можна вважати хореографію, пантоміму чи пародію на робота-тварину (а не на гуманоїда) авторським правом, навіть якщо всі рухи танцю придумані програмістом? Але інформація з цього питання є обмеженою.

Директива (ЄС) 2019/790 (2019), спрямована на прискорення зростання європейської цифрової економіки, встановлює необхідність досягнення справедливого балансу між правами та інтересами авторів та інших правовласників. Ці питання вимагають глибокого аналізу. На додаток до хореографії, цілком очевидно, що, наприклад, нетривіальне рішення проблеми зворотної кінематики та планування руху в програмному алгоритмі руху є об’єктом ІВ.

Мета цієї статті – визначити нерозкриті питання захисту авторських прав на спортивні та робототехнічні рухи, що вимагають глибокого дослідження, та визначення його специфіки.

Виклад основного матеріалу. Рух є постійною складовою еволюції. На додаток до загальної цінності, нові, виразні та креативні рухи повинні дати більше переваг своїм творцям. Авторське право – одна з цих переваг. Але сьогодні в багатьох сферах діяльності авторське право на рухи все ще є лише абстрактною можливістю. У контексті питання встановлено нагальну потребу у наступному:

– аналіз застосування законодавства про авторське право для захисту творчих рухів як у спорті, так і в робототехніці;

– дослідження потенціалу такого захисту у спорті;

– тематичне дослідження щодо застосування результатів за попередніми пунктами у робототехніці.

Рішення поставлених питань будуть новаторськими у розгляді потенціалу творчих рухів у спорті та робототехніці. Для визначення обсягу авторських прав у зазначеному контексті запропоновано здійснення аналізу за наступними напрямами: Чи відповідають рухи чітким встановленим правилам? Розглядається один рух чи сукупність рухів? Чи спрямовані рухи на досягнення конкурентного результату? Чи є рухи єдино можливими та / або найпростішими у конкретній ситуації? Чи є рухи креативними? Чи відповідають рухи суспільній моралі?

Висновки. Оригінальність, яка дозволить рішенням вийти за межі сучасного рівня, включає такі аспекти:

– увага до пантоміми та пародії як елементів спортивних ходів;

– аналіз сучасного спорту та спорту для людей з обмеженими можливостями;

– розгляд рухів нових роботів з точки зору авторських прав;

– визначення обізнаності та готовності зацікавлених сторін комерціалізувати авторські права у відповідних сферах.

Ключові слова: спорт, робототехніка, рух, авторське право, вираження.

За ДСТУ 8302:2015 цю статтю слід цитувати:

Shmatkov D. I. Copyright protection for sports and robotics moves: new challenges. *Law and Innovations.* 2021. № 2 (34). P. 23–29.