

Law of the Russian Federation on the Legal Protection of Computer Programs and Data Bases

(No. 3523-1 of September 23, 1992)

CHAPTER 1 GENERAL PROVISIONS

Article 1. Basic Concepts

1. The following basic concepts are used in this Law:

- computer program - means the representation in an objective form of the whole body of data and instructions designed to make a computer or other data processing machine operate to produce a specific result, including the preparatory literature produced while the computer program is being developed and the audiovisual displays generated by the program itself;
- data base - means an objective form for the representation and organization of a body of data (relating to articles, accounts, etc.), so systematized as to be susceptible of retrieval and processing with a computer;
- adaptation of a computer program or data base - means the modification thereof for the sole purpose of enabling them to function on the user's own equipment or in connection with specific operating programs of the same user;
- alteration (conversion) of a computer program or data base - means any alteration thereof that is not an adaptation;
- decompilation of a computer program - means a technical operation including the conversion of an object code into a source code for the purposes of the study of the structure and coding of the computer program;
- reproduction of a computer program or data base - means the making of one or more copies of the computer program or data base in any form, and the storage thereof in a computer memory;
- distribution of a computer program or data base - means the fact of giving access to the reproduction, in whatever form, of the computer program or data base, including by such means as networking, and also by sale, rental, leasing and lending, or again by importation for one of the said purposes;
- publication of a computer program or data base - means the fact of making copies thereof available, with the author's consent, to an indeterminate circle of persons (including by storage in a computer memory or distribution of a printed text), provided that the number of copies meets the needs of that circle of persons, given the nature of the works concerned;
- use of a computer program or data base - means the publication, reproduction or distribution thereof or any other act intended to place them on the market (including in altered form); the transmission by mass communication media of information on a published computer program or data base shall not be regarded as use of a computer program or data base.

2. For the purposes of this Law, *holder (of rights)* - means the author, his heir or any other natural person or legal entity enjoying exclusive economic rights under the Law or a treaty.

Article 2. Relations Governed by This Law

1. This Law and the legislation enacted under it by the Republics of the Russian Federation shall govern the relations deriving from the creation, legal protection and exploitation of computer programs and data bases.

2. Under this Law, computer programs and data bases are subject matter eligible for copyright. Computer programs shall enjoy legal protection as literary works, data bases as collections.

Article 3. Subject Matter of Copyright

1. Copyright extends to all computer programs and data bases, published or unpublished, which are represented in an objective form, regardless of the medium in which they are embodied, their purpose and their merit.

2. Copyright extends to computer programs and data bases that are the result of creative work on the part of the author thereof. The work of the author shall be deemed to be creative in character until proved otherwise.

3. The legal protection provided for in this Law shall extend to all types of computer program (including operating systems and software packages), regardless of the language and form in which they are expressed, including the source code and the object code.

4. The legal protection provided for in this Law shall extend to data bases which, by reason of the selection and organization of the data, constitute the result of creative effort. Data bases shall be protected whether or not the data on which they are based or which they include are themselves protected by copyright.

5. The legal protection provided for in this Law shall not extend either to the ideas or principles underlying the creation of a computer program or data base or to any element thereof, or to the ideas or principles that determine the structure of the interface and the algorithm, or to the programming languages.

6. The copyright in computer programs and data bases is independent of the ownership of the material object in which they are incorporated. The transfer of the ownership of the said material object shall not in itself constitute transfer of any rights in the computer programs or data bases.

Article 4. Conditions for the Recognition of Copyright

1. Computer programs and data bases shall be eligible for copyright by virtue of the mere fact of the creation thereof. The recognition and exercise of the copyright in a computer program or data base shall not require either deposit or a registration or compliance with any other formality.

2. In order to have his rights recognized, the owner may, on the first publication of the computer program or data base, use a copyright notice which should consist of the following three elements:

- a circled or bracketed capital letter C;
- the name of the owner;
- the year of first publication of the computer program or data base.

Article 5. Copyright in Data Bases

1. The copyright in a data base consisting of elements not protected by copyright shall belong to the persons who created the said data base.

2. The data base is eligible for copyright subject to respect for the copyright protecting each work included in it.

3. The copyright in each of the works included in the data base shall subsist. Those works may be exploited independently of the data base.

4. Notwithstanding the copyright in the data base, any third party may make an independent selection and arrangement of the works and material included in the data base.

Article 6. Term of Copyright

1. Copyright shall have effect from the date of the creation of the computer program or data base, throughout the life of the author thereof and for 50 years following the first of January following the year of his death.

2. The end of the term of the copyright in a computer program or data base created jointly shall be determined according to the date of the death of the last surviving co-author.

3. The copyright in a computer program or data base published anonymously or pseudonymously shall have effect for 50 years following the date of publication thereof. If, prior to the expiration of that period, the author of the computer program or data base reveals his identity or if the pseudonym chosen by him leaves his identity in no further doubt, the term of protection shall be as provided in paragraph 1 of this Article.

4. The moral rights of the author in the computer program or data base shall be protected without limitation in time.

Article 7. Scope of This Law

The copyright in a computer program or data base first published on the territory of the Russian Federation, or unpublished but existing in an objective form on the said territory, shall have effect thereon. It is accorded to the author and his successors and to other successors in title regardless of their nationality.

Copyright is also accorded to nationals of the Russian Federation whose computer programs or data bases have been published or exist in an objective form on the territory of another State, or to their successors in title.

The other persons whose computer programs or data bases have been first published or exist in an objective form on the territory of another State shall be granted copyright in accordance with the international treaties to which the Russian Federation is party.

CHAPTER 2 EXCLUSIVE RIGHTS OF THE AUTHOR

Article 8. Authorship

1. The natural person whose creative effort has brought about the creation of the computer program or data base shall be considered the author thereof.

Where the computer program or data base is the product of the joint creative work of two or more persons, each of those persons shall be considered the author of the said computer program or data base, regardless of whether it is composed of parts each with an individual relevance, or constitutes an indivisible whole.

2. Where various parts of the computer program or data base have a relevance of their own, each of the authors thereof shall enjoy authorship in the part created by him.

Article 9. Moral Rights

The author of the computer program or data base shall enjoy the following moral rights independently of his economic rights:

- the right of authorship, that is, the right to be considered the author of the computer program or data base;
- the right to have his name mentioned, that is, the right to cause his true name or pseudonym to appear in connection with the computer program or data base, or to remain anonymous;
- the right to the integrity of the work, that is, the right to protection of the computer program or data base itself, including the title thereof, against any distortion or other act liable to prejudice his honor or dignity.

Article 10. Economic Rights

The author of the computer program or data base or any other owner of rights therein shall enjoy the right to perform or authorize the following acts:

- publication of the computer program or data base;
- reproduction of the computer program or data base (in its entirety or in part) in any form and by any means;
- distribution of the computer program or data base;
- alteration of the computer program or data base, including translation from one computer language into another;
- use of the computer program or data base in any other way.

Article 11. Transfer of Economic Rights

1.The economic rights in a computer program or data base may be transferred in their entirety or in part, by contract, to other natural persons or legal entities.

The contract shall be in writing and shall contain the following essential clauses: mode and scope of use of the computer program or data base; amount of remuneration and conditions of payment; term of the contract.

2.The economic rights in a computer program or data base may be transferred by succession according to the procedure laid down by law.

Article 12. Economic Rights in a Computer Program or Data Base Created in Connection With Service Relations

1.The economic rights in a computer program or data base created in connection with service relations or in the performance of an assignment expressly given by the employer shall belong to the said employer unless otherwise provided in the contract between the employer and the author.

2.The amount of remuneration and the procedure for the payment thereof shall be laid down in the contract concluded between the author and the employer.

Article 13. Right to Registration

1.Throughout the term of the copyright, the owner of all the economic rights in the computer program or data base may, either directly or through a representative, apply to the Russian Agency for the Legal Protection of Computer Programs, Data Bases and Topographies of Integrated Circuits (hereinafter referred to as e Agency) for registration of the computer program or data base.

2.The application for official registration of the computer program or data base (hereinafter referred to as e application for registration) shall relate to one computer program or data base only.

The application for registration shall comprise:

- a request for official registration of the computer program or data base, which shall state the name of the owner of rights and of the author, unless the latter does not wish to be named as such, and their place of business or residence;
- documents enabling the computer program or data base to be identified, including an abstract;
- a document proving payment of the prescribed registration fee or the existence of circumstances justifying exemption from that fee or a reduction in the amount thereof.

The rules for the completion of the application for registration shall be laid down by the Agency.

3. After receiving the application for registration, the Agency shall verify that the required documents are all present and that they meet the conditions set forth in paragraph 2 of this Article. If the outcome of the verification is favorable, the Agency shall enter the computer program or data base in the Register of Computer Programs or the Register of Data Bases, as the case may be, issue the applicant a certificate of official registration and publish the particulars of the registered computer program or data base in its Official Bulletin.

Before the particulars are published in the Official Bulletin, the applicant shall have the possibility, if invited to do so by the Agency or on his own initiative, of supplementing, specifying or correcting elements of the application.

4. The procedure for official registration and the presentation of the official registration certificates and the list of particulars to be shown thereon shall be laid down by the Agency. The Agency shall also draw up the list of particulars to be published in the Official Bulletin.

5. The contract by which all the economic rights in a registered computer program or data base are fully assigned shall be registered with the Agency. Contracts transferring economic rights in a computer program or data base may be registered with the Agency where the parties so agree.

6. The particulars entered in the Register of Computer Programs or the Register of Data Bases shall be deemed authentic until proved otherwise.

The applicant shall be answerable for the correctness of the particulars stated.

7. Performance of the acts relating to the official registration of computer programs, data bases and contracts, and the publication of particulars, shall give rise to the payment of registration fees.

The amounts of registration fees and the time limits for the payment thereof, and also the conditions governing exemption from such fees or a reduction in the amount thereof, shall be laid down by the Government of the Russian Federation.

CHAPTER 3 USE OF COMPUTER PROGRAMS AND DATA BASES

Article 14. Use of a Computer Program or Data Base Under a Contract With the Owner of the Rights

1. The use of a computer program or data base by third parties (users) shall be subject to the conclusion of a contract with the owner of the rights, except in the cases referred to in Article 16 of this Law.

2. The contract for the use of a computer program or a data base shall be made in writing.

3. Contracts for the sale of computer programs or data bases and contracts for large-scale access to computer programs or data bases may be concluded according to special procedures, which shall for instance consist in specifying the clauses of a standard contract on copies placed on sale.

Article 15. Free Reproduction and Adaptation of Computer Programs and Data Bases

1. Any person lawfully in possession of a copy of a computer program or data base may, without other permission from the owner of the rights, perform any act in relation to the operation of the computer program or data base according to its intended purpose, including any inputting or storing in a computer memory, and also the correction of obvious errors. Inputting or storing in the memory of a single computer or for the purposes of a single user of a network shall be permissible unless otherwise provided in a contract with the owner of the rights.

2. Notwithstanding the provisions of the third paragraph [second subparagraph] of Article 10 of this Law, any person lawfully in possession of a copy of a computer program or data base may, without permission from the owner of the rights and without paying any additional remuneration,

- make an adaptation of the computer program or data base;
- make a copy of the computer program or data base or cause such a copy to be made, on condition that the said copy is intended solely for archiving and for the replacement of a lawfully acquired copy in case of need (if the original of the computer program or data base has been lost, destroyed or rendered useless), on the understanding that the copy of the computer program or data base may not be used for other purposes and must be destroyed where any new use of the computer program or data base ceases to be lawful.

3. Any person lawfully in possession of a copy of a computer program may, without permission from the owner of the rights and without paying any additional remuneration, decompile the program or have it decompiled with a view to analyzing the coding and structure thereof, provided that the following conditions are fulfilled or observed:

- the information necessary for a computer program independently created by the person concerned to interact with other programs cannot be obtained elsewhere;
- the information obtained by decompilation may only be used to make the computer program independently created by the person concerned capable of interaction with other programs, and may not be used for the making of a new computer program of a type essentially comparable to the decompiled computer program, or for the performance of any other act prejudicial to copyright;
- the decompilation is done only in relation to the parts of the computer program the decompilation of which is essential to the achievement of the interactive capability.

Article 16. Free Resale of a Copy of the Computer Program or Data Base

The resale of a copy of a computer program or data base or the transfer by other means of the ownership rights or other real rights in that copy after the first sale or other transfer of ownership thereof shall be permissible without the consent of the owner of the rights and without payment of additional remuneration to the said owner.

CHAPTER 4 SANCTIONS FOR THE PROTECTION OF RIGHTS

Article 17. Violations of Copyright. Counterfeit Copies of Computer Programs and Data Bases

1. Any person, whether natural person or legal entity, who fails to meet the requirements of this Law relating to the exclusive rights of the owner shall be infringing copyright, including where that person imports into the Russian Federation copies of computer programs or data bases manufactured without the authorization of the owner of the rights.

2. Copies of a computer program or data base that are manufactured or used in violation of copyright shall be deemed counterfeit copies.

3. Copies of computer programs or data bases protected in the Russian Federation under this Law that are imported into the Russian Federation from a State in which the said computer programs or data bases have never been protected by law or have ceased to be so protected shall also constitute counterfeit copies.

Article 18. Sanctions Protecting the Rights in Computer Programs and Data Bases

1. The author of a computer program or data base or any other owner of rights therein shall have the right to request:

- recognition of his rights;
- restoration of the situation obtaining prior to the infringement of his rights and cessation of the acts that infringe his rights or are liable to infringe them;
- payment of damages, the amount of which shall also include the amount of any unlawful income realized by the infringer;
- payment, in place of damages, of an indemnity in an amount specified by the court or arbitration tribunal, which shall be between 5,000 and 50,000 times the minimum monthly salary laid down by law, where the infringement has been committed for profit-making purposes;
- in addition to the payment of damages or of an indemnity, the court or arbitration tribunal may decide to impose a fine, to be credited to the budget of the Russian Federation, equivalent to 10% of the amount awarded to the plaintiff;
- the adoption, in connection with the defense of his rights, of other measures provided by legislation.

2.The owner may bring a court action or apply for arbitration in defense of his rights.

3.The court or arbitration tribunal may order the confiscation of the counterfeit copies of computer programs or data bases, and that of the materials and equipment used for their reproduction; it may also order their destruction or transfer either to the credit of the budget of the Russian Federation or to the plaintiff, at his request, as damages.

Article 19. Seizure of Counterfeit Copies of Computer Programs or Data Bases

Copies of a computer program or data base that have been made, reproduced, distributed, sold, imported or otherwise used in violation of the rights of the author of the computer program or data base or any other owner of rights, or are intended to be so used, may be seized according to the procedures laid down by law.

Article 20. Other Sanctions

The publication under his own name of the computer program or data base of a third party or the unlawful reproduction or distribution of such a work shall make the offender liable to criminal sanctions in accordance with the law.