

Legal Aspects in Spatial Information Management in Russian Federation

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ABSTRACT

The problem of usage of digital spatial databases in Russian Federation has multivariable nature because of the following reasons. First, the digital maps grow out creative activities and are defended by the copyright law (The Law of Russian Federation "About the copyright and neighboring rights"). Secondly, the digital maps correspond to computer databases both their distribution and usage are regulated by the law on protection of databases (The Federal Law "About legal protection of the computer programs and database "). Thirdly, in Russian Federation in 1995 the Federal Law "About geodesy and cartography" is adopted and digital maps are although subject of this Law. In - fourth, as an information product, the digital maps fall under operating of the laws about the information (The Law of Russian Federation " About the information, informatization and protection of the information", The Federal Law "About international exchange of the information"). In - fifth, for distribution at the foreign market domestic geoinformation production should correspond to the international standards. The situation is complicated by absence of the legal documents uniquely adjusting usage of cartographical production, and also practically by absence of judiciary practice in this area. Now Federal service of a geodesy and cartography of Russia is engaged in filling of the gaps in the legislation in this area.

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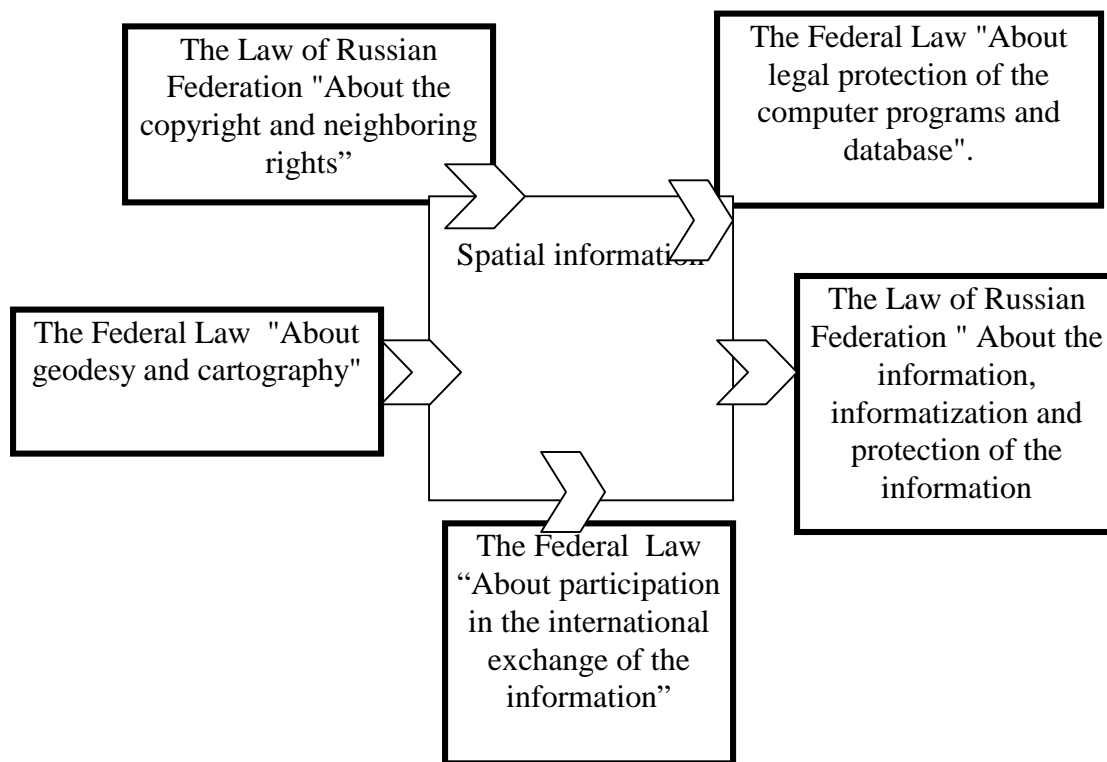
The problem of usage of digital spatial information in Russian Federation has multivariable nature. First, the digital maps grow out creative activities and are defended by the copyright law. Secondly, the digital maps are computer databases both their distribution and usage is regulated by the law on protection of databases. Thirdly, in Russian Federation in 1995 the Federal Law "About geodesy and cartography" is adopted and digital maps are although subject of this Law. In - fourth, as an information product, the digital maps fall under operating of the laws about the information.

The international treaties and agreements are the major source of the copyright regulation in Russian Federation . The Article 3 of the Law of the Russian Federation " About the copyright and neighboring rights " fixes basic norm: "... If the international treaty in which the Russian Federation participates, establishes other rules than containing in the present Law, rules of the international contract are applied". Since 1994. Russia as the independent state participates in the international conventions under the copyright according to the decision of the Government of the Russian Federation from 1994 N1224 "About connection of the Russian Federation to the Berne Convention for the Protection of Literary and Artistic Works in edition of 1971, the Worldwide copyright treaty in edition of 1971 both to additional reports 1 and 2, convention of 1971 for the protection of interests of producers of phonograms against unauthorized duplication of their phonograms".

According to the item 1 of Article 2 of the Berne Convention for the Protection of Literary and Artistic Works term "literary and artistic works" include "every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as ... photographic works to which are assimilated works expressed by a process analogous to photography;... maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science." Thus, digital topographical maps which may be referred to a modern kind of geographical maps, are protected according to principles of the international copyright. The protection stipulated by the Berne Convention is applied to " authors who are nationals of one of the countries of the Union, for their works, whether published or not;"(Article 3), hence productions (including digital topographical maps) of the Russian authors being participants of the Berne convention, in other countries are protected according to the norms established by Berne Convention. The Berne convention contains two categories of norms: on the one hand, positions which proclaim a principle of assimilation of conventional and national modes, and on the other hand, the conventional norms providing the minimal protection. According to item 1 of Article 5 of the Convention "Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention."

However, the practice of copyright application to digital maps in the different countries shows that national legislations of the majority of the countries till now have no precise legal documents on this question (probably, excepting Great Britain). Three basic kinds of the legal Acts are applied to the decision of questions of creation and usage of the digital cartographical information in foreign countries, these Acts are on: the copyright, protection of databases and a competition. In the Russian Federation the main legislative acts regulating questions of creation and usage of digital maps are:

- The Law of Russian Federation "About the copyright and neighboring rights"
- The Federal Law "About legal protection of the computer programs and database "
- The Federal Law "About geodesy and cartography"
- The Law of Russian Federation " About the information, informatization and protection of the information"
- The Federal Law "About participation in the international exchange of the information".



The Federal Law " About geodesy and cartography " only ascertains, that "questions of the copyright on cartographical materials, including topographical, hydrographic and space materials, are protected by the appropriate legislation of the Russian Federation. "(Article 10 "Copyright on geodetic and cartographic materials") Therefore the organic laws regulating questions of authorship with reference to digital maps are the Law of the Russian Federation "About the copyright and adjacent rights " (further - the law on the copyright) and the Law of Russian Federation "About legal protection of the computer programs and databases" (further - the law on protection of databases). According to Article 6 of the law on the copyright: "The

copyright is distributed to products of a science, the literature and the arts which are growing out of creative activity, irrespective of assignment and advantage of product, and also from a way of its expression. The copyright is distributed both to the published products, and on the unpublished products existing in any objective form:...sound- or video recording (mechanical, magnetic, digital, optical and so on); images (figure, the sketch, a picture, the plan, the drawing, cinema-, a body-, video- or the photo picture and so on); volumetric - spatial (a sculpture, model, a breadboard model, a construction and so on); in other forms. ". Hence the topographical maps submitted in the digital form on magnetic carriers or in Internet, may be object of the copyright. Under the contents, digital maps are also protected by the copyright according to Article 7 of the specified law which says, that, objects of the copyright are: " ... Geographical, geological and other maps, plans, sketches and the plastic products concerning geography, topography and to other sciences; ". At the same time, digital maps represent databases according to the definition in the law on protection of databases "Database is an objective form of representation and the organization of a data set (for example, articles, calculations), systematized so that these data might be found and processed with help of computer". In this connection, between the law on the copyright and the law on protection of databases concerning digital maps there is some different interpretation as with reference to the law on the copyright digital topographical maps may be referred to geographical maps and be initial object of the copyright, and with reference to the law on protection of databases, may have protection as it is given to collections.

The digital map which is made of various layers, authorship on which belongs to different persons, for example, layers of a topographical basis and a thematic layer, may be considered as the collection. In this case the copyright to a database as a whole admits " under condition of observance of the copyright to each of the products included in this database ".

On the other hand, digital topographical maps in some cases may be considered as derivatives from traditional topographical maps. Such approach may be applicable in the case when a digital topographical map is the result of digitizing existing traditional map. In this case according to the law on the copyright " the author.. of derivative product has the copyright on the product created by him under condition of observance of rights of the author on the product which have been undergone to translation, alteration, arrangement or other processing." But in all cases the copyright arises by virtue of creation of product. For a recognition and realization of the copyright it is not required depositions, registration or observance of other formalities. The legal owner for the notification about the rights may use since the first appearance of the digital map a mark of protection of the copyright.

Questions of use and distribution of digital maps are necessary to consider both from the point of view of cartographical production, and from the point of view of information production. In The Federal Law "About participation in the international exchange of the information" information product is considered as object of the international information exchange and is determined as " the documentary information prepared in conformity to needs of users and intended or used for satisfaction of needs of users ". The international information exchange - transfer and reception of information products, and also rendering of information services through Frontier of the Russian Federation (Article 2). In article 6 of the

law it is stated, that " information products are the goods if it does not contradict the international treaties of Russian Federation and the legislation of Russian Federation ". The digital cartographical information of open using may be referred to the documentary information for which export from the Russian Federation is not limited, since export is not limited for " the documents accrued in opened allocations of libraries and other information systems; mass information and other information according to the legislation of the Russian Federation. " (Article 7).

At the same time by deliveries of the digital topographical information abroad it is necessary to classify precisely a level of confidentiality of the information as according to article 8 " export from the Russian Federation of the documentary information referred to: the state secret or other confidential information...is limited". Confidential information - the documentary information, access to which is limited according to the legislation of Russian Federation.

In Article 9 of The Federal Law "About a geodesy and cartography" principles of using cartographical materials" are defined: "For using materials and the data of the state cartographic-geodetic fund of the Russian Federation for profit works , except for the works financed accordingly from the federal budget, budgets of subjects of the Russian Federation and local budgets, the payment including expenses for creation, storage and delivery of the specified materials and the data, and also on services in selection of the specified materials and the data, on manufacturing their copies is raised. " Transferring to the third parties of the received materials and data of the state cartographic-geodetic fund of the Russian Federation and copying are not allowed without the permission of the appropriate enforcement authority in which conducting these materials are. " But in some cases free reproduction of databases is authorized by the law on protection of databases: "... The person legally owning a copy of the computer program or a database, has the right without the consent of the legal owner and without payment to him of an extra fee: to carry out adaptation of the computer program or a database; to make or charge manufacturing a copy of ... databases provided that this copy is intended only for the archival purposes... ". Thus, as follows from the carried out analysis of the legislative base applied to the geoinformation, in commercial contracts on delivery of geoinformation production, including abroad, the special attention should be given questions of the copyright and protection of databases.

A special problem is distribution of the spatial information (cartographical products) by means of Internet. Questions of the right regulation of copyrights in Internet now are a subject of active discussions in the Russian Federation. Offered decisions full may be applied to cartographical products. They concern two basic directions:

- A legal protection of products
- A legal defense of products.

On the first direction experts in the field of the copyright first of all aspire to give exact interpretation to terms reproduction, coping and distribution of products with reference to Internet.

On the second direction, experts give practical recommendations for copyright defense in court, namely: application of such institute as a notary, for providing the proof of that product is created by the author earlier, than placed in the Internet; representation of the proof of the fact of wrongful distribution of maps in the Internet by manufacturing their material copies etc.

The Federal service of a geodesy and cartography of Russia is developing the normative documents devoted to questions of legal protection of materials of federal cartographic-geodetic fund numbering more than 70 million units of storage.

REFERENCES

- The Federal Law "About legal protection of the computer programs and database "Sept. 23, 1992, N 3523-1
The Law of Russian Federation "About the copyright and neighboring rights", July 9, 1993, N 5351-1
The Federal Law "About geodesy and cartography", Dec. 26, 1995, N209
The Law of Russian Federation " About the information, informatization and protection of the information" Febr. 20, 1995 N24
The Federal Law "About participation in the international exchange of the information", July 4, 1996 N85

BIOGRAPHICAL NOTES

Dr. Raisa Iakovleva - The head of the department of cartographic-geodetic funds and intellectual property of The Federal service of geodesy and cartography of Russia.

Graduated from the Moscow State University named by. M.V.Lomonosov (the geographical department, cartographer). Her candidate thesis (1991) was in the field of digital mapping. Since 1992 she works for the Federal service of geodesy and cartography of Russia. In 1997 graduated from the All-Russia Academy for Foreign Trade. Has the degree in economics, specialty "world trade". Dr.Iakovleva has more than 50 publications. She is the secretary of the National Technical Committee on standardization "Geographical information/ Geomatics". Since 1995 she participates in work of ISO/TC211 "Geographic information/ Geomatics", as the member of Working group and Advisory group.