Research article[1]

Implementation and Protection of the Rights of Creative Industry Entities: Experience of the USA and China

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Abstract

The contribution of creative industries to the GDP and the overall economy of states is increasing daily, occupying a growing share of societal economic activity and requiring greater attention from authorities. It is important to consider the specificity of the creative economy and implement policies aimed at ensuring the protection of the rights and legitimate interests of creative industry entities. Russian legal regulation of creative industries is currently at an embryonic stage, making it necessary to analyze foreign experience to adopt the most successful practices in law enforcement and management in this field.

This article analyzes financial, legal, and social forms of protection of the rights of creative industry entities existing in foreign practice and reviews foreign management and law enforcement experience in the creative economy. The authors identify the problem of a low level of self-regulation in the creative industries and note the insufficient financial support for creative industry entities from both the state and private investments. Measures are substantiated to combine state support and private investment, strengthen legal regulation, and increase the participation of self-regulatory organizations in the creative industries.

This article was prepared based on the results of research work on the topic: "Development of a Legal Model Concept for Regulating Creative Industries."

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Keywords: creative industries, creative economy, foreign legislation, law enforcement, managerial practice

Introduction

The contemporary development of the global economy is increasingly determined by the dynamics of creative industries, which have become a key driver of innovation, cultural diversity, and socio-economic progress. Creative industries, encompassing fields such as

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cinema, music, design, publishing, advertising, digital technologies, and others, create new markets and contribute to the transformation of traditional sectors. However, their specificity, related to the intangible nature of products and strong dependence on intellectual property, generates unique challenges in legal regulation, management, and protection of the rights of entities in this sector.

In the context of globalization and digitalization, ensuring effective law enforcement and managerial practice in creative industries is particularly relevant. Foreign countries with advanced creative economies have accumulated significant experience in creating legal and institutional mechanisms aimed at supporting and protecting the rights of creative workers, entrepreneurs, and organizations. Analyzing this experience represents an important resource for improving national strategies and policies in this area.

Analysis of Law Enforcement and Managerial Practices in the USA

The United States of America is a leader in the development of creative industries. As a leading promoter, American creative industry entities contribute substantial funds to the global economy annually due to the scale of their film, music, animation, video game, and software production industries (Buneev & Zayonchkovskiy, 2023). Despite considerable government support, since the 2010s, creative industries have largely been financed by private investments (Kamenskikh, 2013). Platforms such as Kickstarter and Indiegogo play a significant role, allowing emerging creators to raise funds for launching their creative activities, alongside large transnational corporations investing in the development of human creative potential (Google, Apple, Microsoft). For instance, in early 2025, Google invested over $1 billion in the American company Anthropic to create new artificial intelligence (Google, 2025).

Several specialized state funds and institutions also support creative industries. A prominent example is the National Endowment for the Arts, which provides grants to artists, musicians, writers, and other creative professionals. In 2024, this fund allocated $110 million to grants for various purposes, ranging from supporting low-income and emerging artists, including Indigenous and rural creators, to financing public art projects such as alebrije, a traditional Mexican folk art form (National Endowment for Arts, 2024).

Large businesses and consumers tend to focus on creating new objects of creative industries that have high demand, while American authorities focus more on preserving unique cultural objects that might otherwise disappear without financial support. Thus, one management practice for protecting the rights of creative industry entities is providing financial support, which is offered equally to all applicants.

Another method of protection is judicial protection. In the USA, the United States Patent and Trademark Office (USPTO) and U.S. Copyright Office play a significant role in registering patents, trademarks, and copyrights. USPTO maintains strict procedures: almost half (48.3%) of trademark applications are rejected. Over the last five years, successful trademark application rates dropped from 59.1% to 51.7%, compared to 90% in the EU and 78.7% in the UK (Demcak, n.d.). USPTO requires proof of commercial use within one year of registration and continuous use after five years, controlling market stability and preventing litigation from destabilizing newcomers.

If an applicant disagrees with USPTO's refusal, they may appeal in court. Notable cases include **Booking.com vs. USPTO**, where the Supreme Court ruled that adding ".com" to a generic term could create a protectable trademark. Another case, **Madonna vs. Dan Parisi**, established precedent against cybersquatting, where unauthorized domain registration was used maliciously (Safonenkov & Zubach, 2023). These examples show that U.S. jurisdictional protection involves both administrative and judicial channels with strict enforcement.

Self-regulation in the U.S. creative economy is handled by non-profit organizations aimed at preventing social exclusion. Examples include the **Writers Guild of America**, **Recording Industry Association of America**, **American Federation of Arts**, **The American Film Institute**, and **Motion Picture Association (MPA)**. These associations represent members' interests to the government and engage in law enforcement, e.g., the MPA's reporting of piracy and copyright violations (Kulikova, 2023).

In conclusion, the rapid development of creative industries in the USA is ensured by robust legal frameworks, judicial practice, and managerial infrastructure. For Russia, establishing private investment platforms, stricter domain registration regulation, and enhanced self-regulatory organization participation could emulate the U.S. model to support creative sectors.

Analysis of Law Enforcement and Managerial Practices in China

Creative industries are a significant driver of economic growth and cultural development in the People's Republic of China (PRC). The sector has been expanding steadily, with creative industries contributing 4.6% to China's GDP in 2024, leading among BRICS countries (UNCTAD, 2024). China ranked second globally in art market size in 2023, behind only the USA.

The Chinese government emphasizes regional development, using strategies to stimulate local innovations before scaling successful models nationally. The **National Cultural Industries Innovation Experimental Zone (NCIIEZ)** in Beijing (est. 2014) exemplifies this approach, targeting six key sectors: creative design, gaming, entertainment, art transactions, digital culture, and cultural trade (China's first culture industry innovation experimental zone inaugurated in Beijing, 2014). Cities specialize in sectors: Hong Kong—fashion, Beijing—literature, Shanghai—video games.

China's regulatory model integrates top-down state initiatives and bottom-up private sector participation. Digital platforms, such as **Tencent Video, iQiyi, and Youku**, act as distribution channels and support cultural projects, including funding for emerging filmmakers (Gumerova et al., 2023). Grants, subsidies, and collaboration schemes like the **Hong Kong-Asian Film Collaboration Funding Scheme** provide financial incentives for local creative entities (Hong Kong Film Development Council, 2022).

Judicial practice in China enforces intellectual property rigorously. Notable cases include **Tencent vs. ByteDance** (2020) over music copyright on TikTok and **NetEase vs. 4399** (2019) regarding game content, resulting in significant compensations. High-profile litigation between Huawei and Samsung demonstrates enforcement of patent rights internationally and domestically (Huawei vs. Samsung, 2018).

Conclusions

The specificity of creative industries, characterized by intangible products and intellectual property reliance, necessitates effective legal regulation and rights protection.

USA: Creative industries are financed by both public (National Endowment for the Arts) and private investment (Kickstarter, Indiegogo, corporations). USPTO and U.S. Copyright Office regulate trademarks and copyrights strictly, ensuring market stability. Non-profit associations (e.g., MPA) actively protect industry rights.

China: Emphasis on regional development, followed by scaling successful models nationally. Large platforms (Tencent Video, iQiyi, Youku) facilitate industry growth and support young authors. Grants and incentive programs are widely used.

Russia: To foster creative industries, recommendations include:

- Expanding and modernizing domestic digital platforms (Rutube, VK Video);
- Developing state programs to support young authors and their collaboration with platforms;
- Encouraging participation in the **Agency and Federation of Creative Industries**;
- Implementing grants/subsidies for local startups, scalable nationally;
- Strengthening collaboration between government institutions and private platforms;
- Adopting a long-term "Cultural Construction" policy inspired by China.

Successful development requires combining state support, private investment, strict legal regulation, and active self-regulatory organizations. U.S. and Chinese experiences demonstrate that such measures foster economic growth, preserve cultural heritage, and stimulate innovation.

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