



Intellectual Property Rights in Digitally Based Education

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Abstract

The purpose of this paper is to consider the academic lecture as an object of IPR in the context of digitally based higher education. We focus on the lecture as an object of copyright protection and the problems faced to IPR in digitally based forms of teaching and training students.

According to the regulations at the national level and international level the main normative acts regulating the protection of works of science, literature and arts is the Copyright and Related Rights Act, 1993, updated, and Bern Convention for a protection of works of literature and arts, 1886.

The academic lecture is an indisputable creative product of the lecturer, in which he presents his ideological, scientific and methodological views, his/her practical experience and generalizations on a certain scientific or scientifically applied problem. Regardless of the form in which it exists – as a research product, materialized or not in a specific holder - on paper, on a CD or other, in the form of an article, monograph, study or other type of research result, as such a creative product the academic lecture is considered as an object of Copyright. In particular, based on the classification of copyright objects according to the LCRR.

In the context of digitally teaching and training, along with conventional copyright on a lecture, a number of other issues arises in the field of IPRs such as following:

- 1. Which is the student audience - the "audience" in the sense of Copyright regulations?*
- 2. Whether the lecture is used by the students only for the purposes of education or the lecture is distributed in the digital space without the consent of its author?*
- 3. Is there a kind of extension of "free use", in this case academic use by students for preparation to test, acquisition of knowledge and skills during this academic course?*
- 4. Is the lecture subsequently reproduced through various distribution channels, without the explicit consent of its author?*

The author's points of view to these questions will be given by referring to the legal framework, wide academic experience and good practices in higher education.

Keywords: *IP rights, teaching, training, digitally based higher education*

1. Introduction

According to the regulations at the international level, the main normative act regulating the protection of works of science, literature or art is the copyright law¹.

The academic lecture is an indisputable creative product of the lecturer, in which he presents his ideological and methodological views, his practical experience and generalizations on a certain scientific or scientifically applied problem. Regardless of the form in which it exists - a research product, materialized or not in a specific medium - on paper or on a diskette or other medium, in the form of an article, monograph, study or other type of research, as such a creative product the academic lecture is considered as an object of copyright.

The academic lecture is a subject of protection under copyright law which occurs automatically when one of the two conditions is met:

- the fact of materialization in the form of scientific publication;
- its objectification in front of an audience - in the form of a public lecture/ product presentation.

In the conditions of digital education, usually each lecture is presented in a digital hall – an online room, with pronunciation, visualization, examples and discussion, going in parallel by the lecturer who provides the lecture to the students.

In the context of digitally based educational process of teaching and training, along with conventional copyrights on an intellectual product, such as the lecture, a number of other issues arises in the field of academic lecture as IPR. For example:

1. Which is the student audience - the "audience" in the sense of copyright?

¹

Law on copyright and related rights, State gazette, Bulgaria, N 56, 1993



2. Whether it is used by the students only for the purposes of teaching or the lecture /PPP is distributed in the digital space without the consent of its author?
3. The extension of "free use", in this case of academic use by students for preparation, acquisition of knowledge and skills.
4. Is it legal if the lecture/ PPP subsequently reproduced through various distribution channels, without the explicit consent of its author?

2. Main methodological discussion points

Regarding p.1: This question is related to the determination of the legal category of "audience". The Copyright Law in general does not give a precise definition of the term "audience". There is a term "unlimited number of persons". Usually it is required at least 3 people in an audience to give an academic lecture.

The copyright law puts under protection the economic and moral interests of the creator /assignor. In the case of an academic lecture, along with the author's right to it, the rights of the employer /assignor over the created intellectual product are also realized.

Presentation of lecture by the lecturer can be realized in one of the following ways:

- Only through speech with or without the use of microphone equipment, chalk and board;
- By using a technical system for power point presentation /PPP as multimedia product [2]. ;
- By using overhead projection technique - the plates prepared by the lecturer are also subject to copyright.
- By using Internet-accessible space and sources – different platforms ZOOM, BBB, Teams, or using the official web sites of specialized institutions and organizations, etc.² For example during lectures on the subject "Intellectual Property"³ students study and test in practice the work with many specific sites such as: www.wipo.int; www.oami.europa.eu; www.epo.org and many others.⁴

The various technical and digital means help the lecturer to achieve maximum effect on the visual, auditory and motor memory of the student audience. However, the leading role belongs to the lecturer. Regarding p.2: The convenient use of the lecture by students most often is realized in following activities:

- the use of lectures by the student to develop the questions on which to prepare for the exam;
- the written presentation of the student at the exam, where the author's product of the lecturer has become knowledge about the student and thus the academic task has been realized: acquisition of theoretical knowledge and practical skills;
- the use of lectures to develop a course project or master's thesis.

The students note in their notes that what was said is from: / with author / - scientific title and scientific degree of the lecturer. Most often there is no problem in enforcing this non-property copyright.

Students should use correctly the academic lecture as a lecturer's intellectual product following the main principles: quoting the name of the author / lecturer /lectures on "title of the discipline", year and place where they heard this lecture. In practice, however, the author's rights is considered to be violated. In cases where the student presents another's or his own opinion on the same or a related issue, this becomes clear in the course of oral or written expression.

The property rights of the lecturer do not contradict the academic educational purpose of the lecture in front of the student audience. The rights of the academic audience are the following:

- the ability of the audience to keep notes on the subject matter;
- the ability of the audience to raise questions, comment and express a reasoned opinion;
- to use the notes for exam preparation and for enriching the individual knowledge and personal culture;
- to provide his notes to other persons without realizing a commercial benefit;
- to use his notes to create his own author's product under the conditions of correct citation.

The audience realizes the above-mentioned rights by correctly referring to the source of information - the names of the lecturer, lectures on a certain subject, year and place of presentation. The notes kept by the student essentially contain in a conceptual framework what the lecturer said. Very often, the

² Markova, M, Art property, book, Editorial complex of UNWE, Sofia, 2012

³ Markova, M., „Modern approach in the contemporary business education’, „International online conference on recent advancements in interdisciplinary research 6-th ICRAIR – 2020”, Asian Institute of technology, 2020

⁴ Paper in conference proceeding ‘Complex approach in teaching and training students in ‘Intellectual property and business’, master degree», Future of education, Pixel, Italy, 2019



intelligent, well-informed and curious student audience inspires new research and development of the lecturer. Therefore, in summary, we will say that the student-lecturer relationship is two-way and beneficial for both parties of the academic community. Unfortunately, considering the questions - subject of the discussion, we may form conclusions that will be presented at p.4

Regarding p.3: The stated exclusive copyrights of the lecturer on his lecture do not extend to the so-called free use. Free use, which does not require the consent of the copyright holder and without payment of remuneration, is any of the following actions:

- use of quotations from already published works;
- use of parts of published works for the purposes of analysis, commentary or otherwise for scientific or educational purposes;
- public presentation or performance of published works in schools or other educational institutions;
- reproduction of already published works from libraries, schools, museums and archival institutions, as well as reproduction in Braille.

Author/ authors of a collection of lectures, such as printed works presented on paper or digital media, as well as their publishers, are entitled to compensatory remuneration for transcription for personal use. Authors and publishers of printed works are also entitled to such remuneration when they are reproduced in a reprographic manner for personal use. This remuneration is due to persons who produce or import blank audio and video media and apparatus for recording and reproducing in a reprographic manner. The Ministry of Culture, Copyright Department collects the indicated compensation fees in a special fund and uses them for other scientific and cultural purposes.

Regarding p.4: Unfortunately, the student audience realizes the above-mentioned free use activities not always correctly referring to the source of information and through ways of personal academic use. We may come to the following conclusions:

1. The student audience is not unambiguously identifiable - students participate in Teams from their workplace, mobile phones and the presence of other people as listeners could not be identified;
2. The lecture /PPP is widely circulated - in various academic and non-academic channels, including such as 'Pomagalo', other sites to "help" students.
3. The lecture is used not only for a test preparation of the students in this discipline. Usually, by different technical means, the different formats are converted into a convenient text form and students "prepare" their individual tasks/ assignments, course thesis and others using lecture/PPP directly through 'copy – paste'.

The main basic principles of the Bern Convention⁵ nationality, automatically and independence of protection, allow us to comment on the legal protection of the academic lecture if it is presented not on the territory of our country, but outside it. The issue is relevant in connection with the academic exchange and the travel and presentation of lecturers abroad in many programs - Erasmus, Socrates, etc., as well as in bilateral agreements between various academic institutions.

A copyright work may be used only with the consent of the copyright holder, except in cases provided by law. Any unauthorized or unauthorized use of copyrighted works by special texts of the Law on Copyright and Related Rights is considered an offense. Any accurate reproduction of a work of artistic property is treated as "intellectual piracy" with all its consequences.

The Law on Copyright and Related Rights provides for the following ways of protection of the rights over the objects of artistic property: civil law, administrative law and criminal law.

3. Conclusion

Students and teachers must be informed and trained about their rights to is. To know the norms and to observe their requirements, to respect the intellectual property of themselves and other members of the academic community.

References:

- [1] Law on copyright and related rights, State gazette, Bulgaria, N 56, 1993
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- [5] www.wipo.int/treaties/en/ip/berne/

⁵ www.wipo.int/treaties/en/ip/berne/