

# Chapter 9

## Creative Industries in the Context of the Global Digitalization of Copyright



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**Abstract** The transition to an intensive path of development of States in the modern world is not possible without investment in human beings. The absence of such investments can lead to a humanitarian crisis to preserve a single cultural space. All this dictates the need to develop traditional culture, intangible cultural heritage, historical identity, connections in the transfer of cultural, ethnic traditions and knowledge. At the same time, the result of this task in the context of widespread digitalization is the solution to such issues as the formation of a single register of cultural heritage objects. The registry should contain account information about the object in an online form. The creation of an interactive form of various cultural heritage objects is associated with the process of forming creative industries based on them. This article is devoted to solving the problem related to the protection of intellectual property, which also accompanies the development of digital creative industries while preserving historical heritage.

### 9.1 Introduction

Currently, in many countries of the world, a “creative economy” has begun to develop, which is increasingly influenced by digital technologies. This term was first introduced by John Hawkins. According to John Hawkins, “creative economics deals with ideas and money. This is the first kind of economy where imagination and ingenuity decide what people want to do and do. And what they want to buy” [1]. Russian creative economy is “an economy that is associated with intellectual property in various fields of activity” (The order of the Government of the Russian Federation of 20.09.2021 No. 2613-r about the development of the concept of the creative

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industries) [2]. At the moment, the creative industry in the Russian Federation does not have sufficient legal regulation, and in this regard, it needs to be developed and improved.

In the United States, creative industries focus on a sector more focused on works of art, while excluding the field of computer programming and scientific research not related to art. In the UK, the first place in the creative industry is put by digital technologies and use the concept of “creative and digital industry”, which allows the wide use of various copyright objects in digital form, online services. In Singapore, as a result of the digital revolution, digital marketing, the design and media arts industry are successfully developing.

The concept of “creative industries” is associated with tourism, with such areas of economics and culture as folk art crafts, design, theater, cinema, architecture, the fashion industry, television, their use and commercialization.

## 9.2 Methodology

The potential of creative industries is high, as noted in many Russian and foreign studies. Every year, the sphere of creative industries includes both new types of activities and various objects of intellectual property are used. As the main sector of the economy in many countries of the world, creative industries are associated with the formation of new creative ideas, their implementation and commercialization of results. Creative industries originated in the early nineties of the last century and in many countries are already a priority area of public policy. In countries such as Indonesia and the United Arab Emirates, the creative economy has shown rapid growth in the years 2017–2018. However, only 44 settlements on the territory of the Russian Federation have the status of a historical settlement of federal significance. Creative economy and creative industries are new terms that have existed for about twenty years around the world, but are widely used, established, and constantly developing.

## 9.3 Results

### 9.3.1 *Creative Industries as a Legal Phenomenon*

The creative industry is an activity in which subjects realize various economic and creative tasks. The term creative industries is multifunctional and interdisciplinary in nature. In article 3 of the Fundamentals of the legislation of the Russian Federation on culture, cultural activities are “activities for the preservation, creation, dissemination and development of cultural property” [3].

It should be noted that “cultural industries” and “creative industries” are replacing each other’s concepts, although the concept of “cultural industries” is more correlated with historical heritage, folk traditions, folklore, and the work of different nationalities. Creative industries are creative technologies, digital art, design projects, the result of which is profit and job creation through the distribution of copyright objects. Copyright objects are the basis of the creative economy, its main component, since creativity is increasingly becoming the engine of interesting ideas and innovations, the cultural development of society.

“The development of digital technologies will lead to a reduction in jobs, and thanks to creative industries, new ones will be created that are inextricably connected with creativity and cannot be automated” [3, 4]—as indicated in the concept of the development of creative industries in Russia. In this regard, a large role in the field of tourism, show entertainment, festivals, concerts is assigned to copyright objects, which are transformed into a massive market product of creative industries.

The concept of the development of creative industries in Russia to achieve national goals contributes not only to “opportunities for the self-realization and development of talents; decent, efficient work and successful entrepreneurship, but also digital transformation” [3, 3].

The global integration of digital technologies [5, 239] has especially influenced copyright objects, their creation and wide use, thereby developing different types of individual and folk art. New products, goods, services in digital form are emerging. A new phenomenon in cultural life was digital services and platforms, social networks, on which objects of museum funds, theater projects, entertainment television programs. Spectacular online projects and events of participants of many countries of the world increase every year and issues and problems of protection of copyright objects arise. The digital revolution has not just changed the creative potential and objects created in digital form, it has created opportunities for business development in this area. In the Resolution adopted by the UN General Assembly on December 19, 2019, 2021 is the International Year of the Creative Economy and for the Development of the Creative Economy, noted the need for “the development of digital technologies, an innovative and digital economy and electronic commerce, Establishing appropriate digital infrastructure and communication networks to promote sustainable development, Increasing public and private investment in creative industries and establishing appropriate normative base”.<sup>1</sup>

In the recommended manual of the World Intellectual Property Organization (WIPO), the creative industries “include a diverse group of activities, all of which rely to a greater or lesser degree on the contribution of original work and its protection through various IP rights” [6].

In the Russian concept of the development of creative industries, creative industries are associated with companies whose sphere of activity is intellectual property, manufactured goods and services with economic value, providing economic growth, cultural development, and art.

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<sup>1</sup> <https://undocs.org/pdf?symbol=ru/A/RES/74/198>.

### ***9.3.2 On the Identification of Objects of Creative Industries and the Register***

Currently, a significant part of the small towns of the Russian Federation is the center of unique monuments of cultural and natural heritage, which can be centers of cultural and cognitive tourism. In many countries of the world, as in Russia, a state register of cultural heritage objects (historical and cultural monuments) is maintained. Registers of objects [7] provide interaction of information systems. Therefore, the entry of the object into the register can be accompanied by an interactive link to its media characteristics in order to familiarize itself with it when taking an online tour, participating in certain projects. The development of the status of a historical settlement inevitably entails the creation on its basis of a creative economy based on the capitalization of intellectual property obtained during the design of an object of historical and cultural heritage for their involvement in scientific, tourist, and educational content. The uniform brand of the region which basis is formed by the trademark, the geographical indication or the name of the place goods origin has to unite development of creative clusters of historical objects (crafts, the gastronomic industry and the like). In addition, the brand can be based on such types of intellectual property that complement the brand with a unique combination of colors, original graphics of objects, a set of phrases and sounds. The above may be an integral part of the digital content of a historical object, and may also be protected as an industrial design or trademark. The name of the place of origin of the product and geographical indication are fixed assets indicating the unique properties of the product, determined by the natural or human factors of the geographical object. The trademark must also have a unifying meaning and be associated with the historical region and object.

The state is a key investor in the development of the creative industry of historical territories and regions. Extrabudgetary funds are the source of funding, and the mechanism for its creation is the trust capital fund (endowment funds). Endowment—this property, formed from donations, constitutes the target capital, which remains inviolable (“eternal capital”), and only income from the target capital is spent. This tool was most widely used in the countries of the Anglo-Saxon system: in the UK and the USA. It combines foreign models of endowment fund institutions with characteristic tax benefits that create attractiveness for investors and philanthropists. In the UK, the minimum period for which the fund is formed is not determined, as well as the minimum amount of fixed assets of the fund [8]. In the USA, since 2006, regulation has been carried out by the states on the basis of the Uniform Prudent Management of Institutional Funds Act (UPMIFA) [9]. Success of funding endowments is confirmed by examples of existing funds: Bolshoi Theater Fund (founded since 2002)<sup>2</sup>; A.S. Pushkin State Museum of Fine Arts (founded since 2015)<sup>3</sup>; the first in the regions of

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<sup>2</sup> <https://bolshoi.ru/partners/fund> (Accessed: 21.10.2021).

<sup>3</sup> [https://www.pushkinmuseum.art/museum/support\\_us/development\\_fund/index.php](https://www.pushkinmuseum.art/museum/support_us/development_fund/index.php) (Accessed: 21.10.2021).

Russia Museum Development Fund named after M.A. Vrubel, established by Omsk entrepreneurs and public figures (founded since 2016).<sup>4</sup>

The basis for creating targeted capital for the development of historical objects and the creative industry can not only be charity, but also co-investment in the framework of public–private partnership. At the same time, digital technologies allow not only to raise funds online, as noted in the scientific work on the financial algorithm of Internet investment [10, 1850], but also allow the investor to control the targeted use of investments. In the context of digital technologies, the blockchain of systems (distributed databases) can be a good basis for building a co-financing system, as well as accounting for created intellectual property objects as part of the development of the creative industry of a historical object, as this is shown by the example of the use of accounting for complex goods [11, 328].

**Digital platforms** In creative industries, digital platforms are not only ways to promote the results of creative activity, but also their monetization. Using digital platforms helps capture new, only emerging intellectual property objects. Digital content helps not only promote the creative industry, but also contributes to the growth of e-commerce. So, for example, in the UAE, various creative platforms are developing very quickly using historical heritage and modern cultural objects. The DED Trader license in Dubai allows you to start a business on the Internet that is open to entrepreneurs of different nationalities. The world leader of creative industries—Great Britain is a country with a developed system of licenses and advanced creative technologies. The basis of such contractual models for attracting online funds in the conditions of digitalization, as noted in the literature, can be a smart-contract [12, 459]. Global digitalization of processes can serve as the development of creative entrepreneurship platforms, both in Russia and in other countries. Noting the development of creative digital platforms, attention should be paid to the achievement of national IT companies [13, 273] in building an intelligent judicial system. Such advanced technologies will help to quickly respond to copyright violations in the field of digital creative industries.

## 9.4 Conclusion

The legal regulation of new institutions related to creative industries will solve many complex issues. For example, access to international digital creative platforms will expand international communications, help to conclude licenses faster, while reducing costs and expenses. We believe that global digitalization will be the connecting basis for building creative industries to restore historical heritage and create new creative results. In addition, this will not only strengthen the economy and provide work for the population, but will also attract international investors to small regions.

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<sup>4</sup> <https://fond.vrubel.ru/> (Accessed: 21.10.2021).

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