

**Mirjana POLENAK AKIMOVSKA, PhD**  
Professor at the Faculty of Law, University in Skopje

**Goce NAUMOVSKI, PhD**  
Assistant Professor at the Faculty of Law, University in Skopje

## **HISTORICAL DISCOURSE OF INTELLECTUAL PROPERTY LAW**

### **Summary**

*The occurrence and development of intellectual property has a long way. Although intellectual property consists of two segments: industrial property and copyright with related rights, which vary among themselves, they have a shared aim, and that is the object of protection in a global sense from a theoretical point of view. From historical viewpoint, industrial property and copyright have their own particularities. The common thing among them is that, though in rudimentary form, the subject of protection of both segments of intellectual property occurs far in the past. But, intellectual property is a new right; it appeared in the 17<sup>th</sup> century. With the establishment of WIPO, which is one of the specialized organizations of the UN, through the TRIPS agreement, UNESCO, WTO and other international organizations, development, promotion and protection of intellectual property is provided.*

**Key words:** *industrial property, copyright, Roman law, Paris Convention, WIPO.*

## I Introduction

The history of intellectual property has a long way of development.<sup>1</sup> It began with the appearance of human society. When it comes to industrial property as part of the intellectual property, we can mention the standpoint of Roubier, saying that three possible bases are attached to the industrial property rights: order, justice and progress.<sup>2</sup> According to him, these three characteristics are also related to the historical development of industrial property, but he still makes a difference whether it comes to patents and designs on one side or marks and geographical indications on the other. Specificity is certainly the development of copyright and related rights as part of intellectual property. The basic feature of the intellectual property right is that it is a new right which appeared in the 17<sup>th</sup> or 18<sup>th</sup> century, while in the 19<sup>th</sup> and 20<sup>th</sup> centuries many states have adopted their national laws, depending on the segment of intellectual property: industrial property or copyright. However, in the social relations, seeds of the content of this property existed since the beginning of human civilization.

## II Development of the Industrial Property Law

We will begin the historical elaboration of intellectual property with the historical development of industrial property. The fact is that invention is a fruit of the human mind and as Stanislas de Boufflers says "... if there is real property for a man, it is his thinking..."<sup>3</sup> Invention is a creation of the human mind, but it is also a result of the spiritual work of the society; the genesis and development of human society are linked to the development of innovation. Although, as Cornish says<sup>4</sup>, invention is a crucial key to economic development, yet the awareness of society and the individual for the significance of the invention are linked to the industrial revolution and liberalism, all in order to develop new industrial and capitalist society. In this regard is a declaration signed by Louis XV in 1762, which aims to regulate or consolidate privileges to ... stimulate the development of the inventive spirit and progress of the industry... The first philosophical considerations originate from the standpoints of Rousseau "...The invention is based on the natural right of the

1 Мирјана Поленак Акимовска, Јадранка Дабовиќ Анастасовска, Владо Бучковски, *Основи на правото на индустријска сојсјивеносќ*, Скопје, 2000, p. 20.

2 Paul Roubier, *Droits intellectuels ou de clientèle*, Paris, 1935, p. 288.

3 Joanna Schmidt-Szalewski, Jean-Luc Pierre, *Droit de la propriété industrielle*, Paris, 2007, p. 5.

4 William R. Cornish, "The international relation of intellectual property", *Cambridge Law Journal*, Vol. 52, 1993, p. 49.

the inventor and the social contract...”<sup>5</sup> This is the beginning of the modern notion of intellectual property. But even before that, far in history, there were seeds of the content of intellectual property. However, the ancient society had a negative attitude towards the invention and the rationalization of production. The social division of labour to slaveholders, who fought wars, ran the state, practiced philosophy, law, arts, rhetoric and mental labour in general, and slaves, who were engaged in physical work on the latifundia, workshops and mines, minimizing the contribution of the free citizens and other free people, did not contribute to a positive attitude of this society towards innovation. However, in the ancient world, the ancient Greek civilization formed the opinion of the philosopher Aristotle, who in his work „Politics“ emphasizes the idea of a special tribute to those who found something useful for the country, and according to Aristotle the name of the architect Hippodamus is stressed. Aristotle sowed the seeds of unilateralism, but also of the philosophical issue that stands out to this day in patent systems, which is an immanent opposition to the interests of the individual versus the interests of society.

Nevertheless, the ancient world provides data for relics of the first patents, for example in ancient Greece in the second century Filarcus provides information about the colony Sibaris where someone found a plate which no one had the right to produce for one year except for the inventor.<sup>6</sup> In ancient Rome there was no positive attitude towards invention, except to improve the luxurious life of the slaveholders. It is widely known that floor heating was discovered to warm luxury villas of the slaveholding class, or for easier functioning of the robust temple doors. But according to tradition, the inventor of the unbreakable glass was killed, so as not to reduce the value of the gold and silver. Roman emperors, such as Constantine who brought a decree which released all creative citizens from obligations, or Zeno who published a decree that no monopolies relating to clothing or food would be in place, seems to have become aware of the importance of the “new” that will acquire right of citizenship much later. Lex Cornelia de fabricis provided for criminal law protection of the name of the person. The illegal use of someone else’s name was protected by a special action *actio iniuriarum*, while property damage was compensated by *actio doli*. This protection was of personal legal nature and was provided for the authors of commodity signs.

Archaeological excavations have brought to light artefacts which testify that the design was typical for the ancient civilizations, not only for the Greek and Roman but also for all other known civilizations. Aesthetics and production, in their commonality, created unique works, masterpieces of the naïve

5 Joanna Schmidt-Szalewski, Jean-Luc Pierre, *Droit de la propriété industrielle*, Paris, 2007, p. 5.

6 Валентин Пепељугоски, *Заштитна на индустрискајна сојсјвеност*, Скопје, 1996, p. 10.

art, items which testify that the design was important for the everyday life of ancient peoples. The labelling of products is as old as human civilization. Products were marked to identify the maker or manufacturer. The stones that were used for the buildings, frescoes, icons, iconostasis, but not only the objects that exalted the cult and religion, but also objects of everyday life, such as cutlery or other everyday objects testify to something new that will enter the historical scene in full flow many centuries later.

Data on the labelling of products, which popularity was due to the location and origin, the geographical area, region, city or village is found even in ancient times. Thus, there are well-known indications for wines from Corinth, honey from Sicily, marble from Paros and Carrara. Manufacturers and craftsmen have created signs to mark their products, and later signs that guaranteed not only the place from which the product originated, but also the special quality. Thus, the sign B was used for tapestries, for products originating from the city Bruges; the letter E was used for products that originated from the city of Eugene.<sup>7</sup>

It is typical for the medieval economy that it depended on the political division to fiefdoms, city-states. With the development of mercantilism, commodity production, trade and crafts, momentum was created for the development of invention, while the development of trade and competition have created conditions for more products to be labelled with signs in order to distinguish them. Legal protection of inventions and marking signs was in sight.

## **1. Development of Legal Protection of Industrial Property and the Adoption of the First Laws on Industrial Property**

The adoption of the first regulations for the protection of industrial property is marked by the adoption of the first patent law in the United States. But it does not mean that there were no regulations until then which governed the matter of protection of industrial property. The period of the Middle Ages does not mean regression of humanity, but rather that period is characterized by significant events and movements, such as the Renaissance and Enlightenment, strengthening of the commodity and money relationships, development of handicrafts and trade. The period of early mercantilism is characterized in that the city authorities were trying to attract capable and

<sup>7</sup> Љиљана Варга, “Компаративен приказ на заштитата на географските називи на производите во одделни земји и нивните искуства”, *Семинар организиран од сѐојанска комора на Македонија, ЗЗИС*, Скопје, 1995, р. 27; Мирјана Поленак Акимовска, Јадранка Дабовиќ Анастасовска, Владо Бучковски, Валентин Пепељугоски, Љиљана Варга, *Право на индустријска сојсѝвеносѝ – ѝпраќѝикум*, Скопје, 2005, р. 326.

inventive individuals to their environments, who would contribute to the development of commodity production with their findings. For such individuals who were inventors, special privileges were provided, even an exclusive right to use such invention, or exclusive use of the newly discovered activity. The privilege was granted to the inventor, so that he could use the invention for a certain period of time, and to acquire material benefits from the invention. The privilege was of exceptional character, because it was granted only to the one who requested it and it was time-limited. The privilege provided an exclusive right of use and exclusive right to trade. When giving the privilege, the right of priority was applied, because it could have only been requested by the first inventor or the one who would first use the invention. Historically speaking, the first case of granting privilege to an inventor is to the person who found the device for water drainage from a mine. This privilege was given by the Czech king in 1315.

The right of the inventor was first provided in a Venetian statute of March 19, 1474. It provided a general right of privilege for the protection of inventions for a period of 10 years. The privilege was granted for the common good, an invention had to be new and applicable, it had to be reported and protected against unauthorized use on the territory on which it had been reported. The time limits regarding the protection, sanctions in cases of violation and compulsory license were determined. The first legal regulation that standardised legal protection of inventions was adopted in England in 1624. It was the Statute of Monopolies.<sup>8</sup> It provided the protection of inventions by a way of privilege; monopoly was forbidden except for a new invention or new procedure. This statute established the patent as a legal protection of the invention.

The first industrial property laws were adopted in late 18<sup>th</sup> and early 19<sup>th</sup> century. It was already mentioned that the first patent law was enacted in the U.S. in 1790. In Europe, the first patent law was enacted in France in 1791. These laws recognized the right of patent to the inventor as an exclusive right, valid during a specified period. Later, all developed countries have adopted legislation in this area. In the mid-19<sup>th</sup> century, national patent laws have already been adopted in Brazil, Russia, Prussia, Belgium, the Netherlands, Spain and Italy. However, the Austrian Patent Law of 1820 represents novelty in the patent law; modern patent law is created, since the the master could not be the one to decide whether a patent would be granted or not, and thus the invention steps in on the historical stage as a legal right.

The protection of the industrial design (models and samples) begins with the provisions of the Guilds of Florence in 1418, which prohibited the guild members to imitate other models and samples. However, the protection

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8 J. Ch. Galloux, *Droit de la propriété industrielle*, Paris, 2003, p. 16.

of models and samples undoubtedly begins in France with the ordinance of Louis XI of November 29, 1466 in Lyon, by establishing the first manufactory of gold and silk fabric.<sup>9</sup> The history of models and samples occurred in the context of the European textile industry. The first one to occur was the right to samples. The strong silk industry in Lyon requested the use of silk samples to be protected, as it was no longer a question of pure art, but a need to determine the exclusive right to industrialists, by a special regulation, to use the aesthetic creations in the economic production and circulation without restrictions. Therefore, in 1711 the Lyon Consulate brought an ordinance for the protection of the silk samples. The historical path of protecting the design took place through the regulations of the Lyon Guild Corporation from 1737 to 1744, followed by a decision of the Privy Council in 1787 which provided for the deposition of the draft samples and for the first time it provided right of ownership over the samples. Later, the Law on Protection of Textile Samples from 1806 was enacted, which was valid for the city of Lyon and provided for filing an application for the sample. Afterwards, these provisions also applied to other parts of France and other models. The French law of 1806 was an example for almost all European laws for the protection of models and samples that were later enacted in Europe.<sup>10</sup> A new law was later adopted in France that protected models and samples (1909). Under this law, the right to a model and sample occurs with their very creation, while the deposit only had declaratory character. The protection lasted for 50 years.

The legal protection of commodity signs – marks, begins with the Manufactures, Factories and Workshops Act in 1802 in France. The law foresaw legal protection of the registered marks, i.e. sanctions in case of unauthorized imitation of another mark. By all means, France is the cradle of the first trademark law of June 23, 1857. Exclusivity of the trademark right was based on the use, without registration. The formalities for the publication of the marks were regulated by law later in 1890, while with the law of 1964, the right no longer based on use, but on registration (a special regime of the notorious marks is provided, which are not based on registration). In England, the Law on trademarks entered into force in 1785; in the United States the first federal law on trademarks was passed in 1870, but the first law found in the archives is that of 1837 in Massachusetts. In 1845, the first court dispute on trademarks occurred in the same state.

The legal protection of the appellation of origin is linked to the French law. Appellations of origin and geographical indications were formally protected in the ordinance of King John in 1350 and 1395 in Burgundy by the Duke Philip. But, if we go back to the ancient times, the Roman artefacts in

9 J. Ch. Galloux, *Droit de la propriété industrielle*, Paris, 2003, p. 17.

10 Jozo Čizmić, Dragan Zlatović, *Komentar zakona o žigu*, Zagreb, 2002, p. 11.

the form of amphorae that were used for transportation of wine and cereals, indications of origin of the wine may be found.

The certificates for the protection of plant varieties are of a more recent date. Nevertheless, the edict of the Pope Gregory XVI of 3 September 1833 testifies to the exclusive ownership of new plant varieties, or the procedure for growing crops.<sup>11</sup>

The laws that regulate unfair competition are newer. They were adopted in the 19<sup>th</sup> century. The rudiment of the protection against unfair competition is the French law, derived from two articles of the French Civil Code. Nonetheless, the first law for the suppression of unfair competition was introduced in Germany in 1896. The revision of the catalogue of the Paris Convention for the Protection of Industrial Property, by which the unfair competition was also incorporated in this catalogue, contributed to the adoption of laws on protection against unfair competition in many countries in the world.

Nevertheless, the middle of the last century is a period when, under the influence of the liberal trends in the production, economy and society, negative attitude towards industrial property appears. It is believed that invention is a result of the social community as a whole and the accumulation of knowledge throughout the centuries; while distinguishing signs, models and samples, particularly marks, were considered as an obstacle to free trade, free markets and entrepreneurship. This movement spread, became dominant and therefore, there was a tendency for the abolition of patent laws (e.g. the Netherlands in 1896 abolished the Patent Law, while a new law was enacted in 1910). But the economic crisis in the late 19<sup>th</sup> century, contributed to the renewal of the national protectionism, which had a positive impulse for the development of industrial property. Then, several national laws and international conventions were adopted, which established the right to industrial property, both on national and international level.<sup>12</sup>

### III Historical Development of Copyright<sup>13</sup>

The first rudiments of copyright are supposed to be sought very far in the past. The data are not very reliable, as well as everything that extends far into history. Thus, the difference made by Gaius and Justinian between what is written or drawn on someone else's paper (parchment or papyrus) and what is major and what a minor thing, is found in the basis of the differ-

11 *Idem*, p. 16.

12 Мирјана Поленак Акимовска, Јадранка Дабовиќ Анастасовска, Владо Бучковски, Валентин Пепељугоски, *Интелектуална сојсјивеност 1, Индустриска сојсјивеност*, Скопје, 2004, p. 41.

13 The word *author* comes from the Latin verb *augere*.

ence between the genesis of literary works and artworks. The fact is that Roman law recognized the exclusive right over the work, or material on which the work was applied. For example Ulpian (D, 34, 2, 19, 130) says *accessio cedit principali*. Yet, there are authors who believe that copyright existed in Rome, but in an abstract form and without a practical sanction.<sup>14</sup> The famous epigram of Marcial to Fidencio referring to his words “keep them, what they say about you, buy them, they do not belong to me any more...” is even the boundary of negation of the copyright. The Roman poet Marcial, called the poets who published other people’s poems under their own name *plagiarius* – thieves of people.<sup>15</sup> Nevertheless, the early origins of copyright may be found in the town of Sybaris in Sicily in 510 BC.<sup>16</sup>

In ancient times, especially during the classical Roman state, literature and art were very much developed. But for the writers and scholars, as well as the educated people in Rome in general, today’s meaning of publishing was unknown. They created their works at home and in the houses of their patrons (*maecenas*, the term comes from ancient Rome, Maecenas, patron of the poet Horace, the man who cared about his work and paid the fees) and gifted them to friends or sold them. Besarovic states that the Egyptian papyrus was particularly suitable for the development of the replication of books, and activity was done in bibliopoles where books were reproduced and sold and in *librariuses* where books were reproduced, but only for a specific person and work and they had transcribers or stenographers, while the bibliopoles were some kind of public associations for publishing.<sup>17</sup> Cicero confided his discussions and treatises to Atticus and he produced them in his workshop. Caesar founded the first public bookstore, and subsequently other bookstores were established in the provinces. This contributed to the appearance of many booksellers – publishers, among them the family Sosius was most prompted. The entire profit of the booksellers – publishers went to their account, because the author did not receive any fees for departing from his work in order for it to be reproduced. The right of publication and the right of display of the work were united with the right of ownership of the item to which the work was pressed or applied. The Roman principle was applied; each *accessorium* is part of the main item. However, the eminent writers of ancient Rome (such as Horace, Virgil, Ovid),<sup>18</sup> regardless of whether they

14 Marie-Claude, Dock, *Etude sur le droit d’auteur*, Paris, 1963, p. 7.

15 Goce Naumovski, “Die Beziehungen zwischen Crimen Plagii und zeitgenoessischen Verbrechen in mazedonischen Recht”, *Internationale Rechtswissenschaftliche Tagung, Universitat Wien, Vienna*, 2008.

16 J. CH. Galloux, *Droit de la propriete industrielle*, 2003, p. 16.

17 Ibid.

18 Jerome Carcopino, *La vie quotidienne a Rome*, 1939, p. 192.

wrote on papyrus or parchment, their works were considered *accessorium* of the material on which they were fixed. But Justinian expressed a different standpoint when the *picturae* (painting a picture on someone else's material) was at stake; he says *ridiculum est enim picturam Appelis vel Pharhasii in accessionem vilissimae tabulae cedere* – it is funny for a painting of Appelo or Phasilius to be considered<sup>19</sup> as something belonging to a worthless slab.<sup>20</sup> So, there was already some awareness about the different regime of the painted work from the material on which it was painted.

With the discovery of the printing, Guttenberg gives the impulse for the development of the publishing business. The publishing and printing business developed, while in order to protect this business activity, the state authorities issued individual privileges to the publishers, who received monopolistic rights to print and sell books for a specified period of time. The authors received compensation for their manuscript and thus lost the right to ownership of the manuscript, the manuscript became ownership of the publisher. The name of the publisher was marked in a visible place on the printout and it was more important than the name of the author. The first publishing privilege was granted in Venice in 1495 for the printing of a work of Aristotle in Greek and then in England, France, Germany. One hundred years later, in 1603 the Privileges Act was adopted in Italy, which recognized exclusive right to the publishers to print and publish a work for a certain period of time. The next phase was the granting of copyright privileges to famous authors as recognition for their work. Then, territorial privileges appeared, which prohibited a certain group of persons to do reprinting for a specified period of time. It is generally known that privileges, as the first form of legal protection in copyright, occurred not as legal protection for authors, but to protect the interests of certain publishers or printers. Complementary to the system of privileges was the system of censorship, since the rulers only gave privileges to those books whose content they agreed with. Publishers' privileges differed from the privileges of the authors who depended on the will of the ruler. The main driving force and merit for the the adoption of regulations concerning copyright were the publishers, not the authors, since the former were dissatisfied with "...the arbitrary and temporary nature of the

19 The regime of things was different for writing on someone else's material and painting on someone else's material. As for painting on someone else's material there were two standpoints. The first one was represented by Paulus (D, 6,1,23,3), who thought that both for the painting on someone else's material and writing on someone else's material the same regime applied. But Gaius and Paulus advocated contrary opinions, although Gaius found no reason for it. According to Paulus, who thought that the painting should belong to the painter rather than the owner of the material, the reason was that the value of the painting was larger than the value of the material. Compare Bertold Eisner, Marjan Horvat, *Rimsko pravo*, Zagreb, 1948, 251

20 I, 2,1 34.

privileges.”<sup>21</sup> Nevertheless, the main characteristic of the privileges was the economic goal, to provide income for the publishers and bookshops owners.

In France, the first privilege was released in 1503 by Louis XII to Antoine Verard for the letter of St. Paul.<sup>22</sup> Afterwards, the mercy of the sovereign was inclined towards music and artistic works.

## 1. Statutory Regulation of Copyright

In the 18<sup>th</sup> century, the period of statutory regulation of copyright began. The first regulation for the protection of copyright was enacted in England in 1710 (Copyright Act). This Act recognized the right of the author to his work for the first time, as an exclusive right for a period of 21 years from publication.

If the work was published before the entry into force of the law, the exclusive right of the author lasted 14 years since the publication of the work, and if the author was alive during the first 14 years, he had exclusive rights for another 14 years. All books were recorded in a registry and the authors had an obligation to deposit 10 copies in a library. Anna Stewart's Law was applied together with the common law until 1911. This law is contrary to the principles of natural justice for copyright, contained in the aforementioned system of law, under which it was applied up to the first edition of the work, and then legal provisions were applied. In England until 1911 and in the U.S. until 1976, "...statutory copyright protection existed only for published works, and the creation of the legal protection was tied to certain formalities". So, as Besarovic says, most commonly, the holder of the protection was the publisher.<sup>23</sup> In France, the legislative activity for copyright begins in 1777, with a Decree brought by the State Council. These were privileges for publishing and selling of the work, without time limit and with the right of inheritance, and then the legislative movement extends from 1771 to 1793 when the copyright work is proclaimed as the holiest and most personal form of ownership, as subjective copyright, so that the authors had exclusive right to exploit and manage their work, while their heirs 10 years after their death, until 1957 when the modern copyright law was adopted.

Under the influence of the first legislation on copyright, which was adopted in England and France, other European countries also brought laws, such as Denmark in 1741, while the U.S. Copyright Law was enacted in 1791. Nevertheless, worth noting are the copyright laws of Germany, the UK and

21 Vesna Besarović, *Intelektualna svojina, Industriska svojina i autorsko pravo*, Beograd, 2005, p. 48.

22 A. Lucas, H. J. Lucas, *Traite de la propriete litteraire et artistique*, Paris, 1994.

23 Vesna Besarović, *Intelektualna svojina, Industriska svojina i autorsko pravo*, p. 48.

the Copyright Law of France from 1957 until the Code de la propriété intellectuelle which is of a later date, passed in 1992, but which regulates industrial property and copyright in one code. Quite significant is also the copyright law of the United States from 1976.

Hence, the development path of the legal protection for copyright was long. The notion of a copyrighted work also took time to generate. The main difference starts with Grotius and Pufendorf, who calling upon the Roman jurists and the theory of *accessorium*, in regard to the writing a work on someone else's parchment and painting on someone else's canvas, distinguish between the writing and the painting from the material of which they were created.<sup>24</sup>

#### IV Development of the International Intellectual Property Law

In the late 19<sup>th</sup> century, intellectual property was internationalized; it is the age when international conventions are adopted. In 1883, the Paris Convention for the Protection of Industrial Property was enacted. The idea of international protection of industrial property was manifested even in 1873, when the universal exhibition was held in Vienna; foreign exhibitors refused to participate for fear that their findings may be copied and exploited for commercial purposes in another state. The movement became a worldwide process, as globalization became one of the basic features of the technological society. The spread-out of the industrial property and its international harmonization is a major undertaking of the 20<sup>th</sup> century. This role was primarily played by the World Intellectual Property Organization. Then, the legislative activity was developed in the national laws of the Western countries and the developing countries. At the same time, industrial property was strengthened with new rights.

Since 1994, the hopes of intellectual property rest with the World Intellectual Property Organization, the World Trade Organization and the Marrakesh Agreement, which integrates these rights in the global issues of world trade.

As far as the the globalization of copyright legal protection is concerned, the bilateral agreements gave ineffective results. Then, during many literary conventions, like the one in Brussels and particularly the one in Paris, a professional association of authors was established, called the International Association of Literature and Arts (*Association Littéraire et Artistique Internationale*). Two conferences were called and on the third one in Berne, the Berne Convention for Literary and Artistic Works was signed in 1886. On the American continent, in Montevideo in 1889, the American multilateral

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24 *Ibid.*

Agreement Concerning the Protection of Literary and Artistic Works was signed.

Historically speaking, in 1893 the United International Bureaux for the Protection of Intellectual Property (BIRPI) was established, which unites industrial property and copyright. The World Intellectual Property Organization, founded in 1967, unified industrial property and copyright legal protection with the convention of 1970. The name of this organization, which is one of the specialized UN organizations, differs depending on the language (WIPO, OMPI, COIC, in English, French or Russian). This organization takes care of the promotion, development and protection of intellectual property in general, not only in the Western world countries, but also in the transition countries. We have to emphasize that the rights to industrial property and copyright have common historical roots, yet with some specifics.

### **V Important Components for the Development of Intellectual Property in Macedonia**

The occurrence and development of intellectual property in the Republic of Macedonia should be viewed in context of the general development movements, but there are some specifics nonetheless. The territory of Macedonia was part of the Kingdom of Yugoslavia until 1945, and then up until 1991 it was part of former Yugoslavia, as one of its socialist republics. Since 1991, Macedonia is an independent state.

In the period when Macedonia was part of the Kingdom of Yugoslavia, several laws were adopted. The Kingdom of Yugoslavia, as a legal successor of Serbia, which was one of the initial signatories, accepted the Paris Convention. Industrial property rights were regulated on the basis of a Royal Decree for the Protection of Industrial Property of 1920; subsequently, the Law on Protection of Industrial Property was adopted in 1922, as a result of some revisions to the Paris Convention and Madrid Agreement.<sup>25</sup> For this legislation, it was distinctive that it was strongly influenced by the Austrian and German law. The first copyright law was enacted in 1932, while the Law Against Unfair Competition was adopted in 1930.

In the period when Macedonia was part of the former SFRY, several laws were applicable to copyright and industrial property. The Copyright Law of 1976 was valid in independent Macedonia, as well; in accordance with the Constitution of the Republic of Macedonia from 1991, it was taken over as a state regulation. As regards the industrial property when Macedonia was part of former Yugoslavia, the protection was provided through several federal

25 Slobodan Popović, *Pravni režim robnog i uslužnog žiga po jugoslovenskom pravu*, Pravni fakultet Univerziteta u Beogradu, Beograd, 1969.

regulations of the former state. The first law was passed in 1948; it was the Law on the Inventions and Technical Improvements. The signs of differentiation were regulated by the Law of 1922. It is characteristic that the individual industrial property rights were regulated in separate regulations. The disintegration of former Yugoslavia and the creation of an autonomous and independent Republic of Macedonia were marked by an independent development path of the intellectual property. The Constitution of the Republic of Macedonia was adopted in 1991, according to which some laws were taken over as state laws, among which the laws that regulated intellectual property.

Under Article 47 of the Constitution, the rights deriving from scientific, artistic and other kinds of intellectual work are guaranteed, meaning that the country encourages, assists and protects the scientific and technological development. Under Article 55 of the Constitution, the freedom of the market and entrepreneurship are guaranteed and commitment is determined for the Republic to provide equal legal position of all parties in the market. In 1993, the Law on the Industrial Property of the Republic of Macedonia was passed.

With the Declaration submitted by the Republic of Macedonia to the World Intellectual Property Organization, on 23.7.1993 our country became the 138<sup>th</sup> member of this organization, which is one of the specialized UN organizations. In late 1993, the Office for the Protection of Industrial Property was established, which later became the State Office of Industrial Property, as a separate body with a status of a legal person. To date, many amendments, supplements or new laws have been adopted, dealing with the complexity of intellectual property, where international standards in this area are incorporated.

Lastly, we may conclude that the historical development of intellectual property has a long development path. Although intellectual property consists of two segments, industrial property and copyright with related rights, which vary among themselves, they still have common grounds and that is the subject of protection from a theoretical point of view. The historical path of industrial property on one hand, and copyright with related rights on the other, have their own attributes. What is common is that although in rudimentary form the subject of protection of both segments of intellectual property occurs far in the historical past, still a new right is in question, which is immanent to its content and which, due to the connection with international conventions and treaties, directives and regulations, has international features.

др *Мирјана ПОЛЕНАК АКИМОВСКА*  
редовни професор Правног факултета Универзитета у Скопљу

др *Гоце НАУМОВСКИ*  
доцент Правног факултета Универзитета у Скопљу

## ИСТОРИЈСКИ ПОГЛЕД НА ПРАВО ИНТЕЛЕКТУАЛНЕ СВОЈИНЕ

### Резиме

*Настајанак и развој права интелектуалне својине моју се пра-  
тишти деценијама уназад. Иако се право интелектуалне својине може  
проследиати одвојено кроз своја два семеншта – ауторско право и  
право индустријске својине, оба семеншта деле исти циљ који је ис-  
товремено њихов предмет заштити. Са историјске тачке гледишта,  
право индустријске својине и ауторско право имају своје посебности.  
Заједничко им је то што се њихов предмет заштити јавља у рудимен-  
тарном облику у давној прошлости. Међутиим, право интелектуалне  
својине је нова правна област, која се јавила тек у седамнаестом веку.  
Са успостављањем Светске организације за интелектуалну својину,  
као специјализоване агенције Уједињених нација, преко Споразума о  
проvincим аспектима права интелектуалне својине, конвенција  
UNESCO-а, Светске провинске организације и других организација,  
развој, промоција и заштити интелектуалне својине су засигурно  
обезбеђени.*

**Кључне речи:** *индустријска својина, ауторско право, римско право, Па-  
риска конвенција, Светска организација за интелекту-  
алну својину.*