

**COPYRIGHT: PLAGIARISM, PIRACY, CITATIONS****АВТОРСЬКЕ ПРАВО: ПЛАГІАТ, ПІРАТСТВО, ЦИТАТИ**

**Koval O.M., PhD in Law, Associate Professor,  
Associate Professor at the Department of Private and Public Law  
Kyiv National University of Technology and Design**

The article considers some issues of the most common copyright infringements: piracy and plagiarism. In addition, the concept of proper citation is considered. Piracy is a copyright infringement punishable by several penalties, and plagiarism is the failure to provide a source and use someone else's work under one's own name. This article argues that open publication increases the need for protection against plagiarism. Copyright policy protects the ability of publishers to return on their investment and protect copyright. Scientific plagiarism is non-compliance with scientific standards for citing sources. Many users do not understand the difference between plagiarism and piracy. At the same time, these are the most popular intellectual property offenses. Many customers complain of copyright infringement, which can ultimately be classified as plagiarism. Plagiarism and piracy are a form of copyright infringement. Let us be clear. Plagiarism and piracy are always offenses. Both Plagiarism and piracy are prohibited by law, and there is responsibility for such violations. However, we encounter these phenomena so often in practice, firstly, because the responsibility for Plagiarism is not as painful in Ukraine as in European countries. Secondly, our trial can be difficult and time-consuming. Thirdly, people are not aware of offenses (although ignorance of the law does not absolve from responsibility). The common conversation with users looks like this. Isn't it posted on the site for free? If there is a free resource - why pay money? If it's free so I am free to download information and use it as I pleased. Such thoughts common in our society due to lack of law knowledge. That's why there is no cure for piracy and plagiarism. Plagiarism is the appropriation of authorship. Without the author's consent, it is allowed to publish the work in the font for blind and visually impaired people for distribution without commercial purpose.

**Key words:** plagiarism, piracy, copyright, intangible rights, citations.

У статті розглядаються окремі питання найпоширеніших порушень у сфері авторського права: піратство та плагіат. Окрім того розглянуто поняття належного цитування. Піратство – це порушення авторських прав за яке передбачено ряд покарань, а плагіат – це ненадання першоджерела та використання чужого доробку під власним іменем. У цій статті стверджується, що публікація у відкритому доступі підвищує потребу в захисті від плагіату. Політика щодо авторських прав захищає можливість для видавців отримувати прибуток від своїх інвестицій та захистити право автора. Науковий плагіат – це недотримання наукових стандартів щодо цитування джерел. Багато користувачів не розуміють різниці між плагіатом і піратством. Водночас це найпопулярніші правопорушення у сфері інтелектуальної власності. Багато клієнтів-авторів на приватних консультаціях скаржаться на порушення авторських прав, що зрештою можна кваліфікувати як плагіат. Плагіат і піратство є формою порушення авторських прав. Давайте будемо чіткі. Плагіат і піратство завжди є злочинами. Як плагіат, так і піратство заборонені законом, і за такі порушення передбачена відповідальність. Проте на практиці ми так часто стикаємося з цими явищами, по-перше, тому, що в Україні відповідальність за плагіат не така болюча, як у європейських країнах. По-друге, наш судовий процес може бути складним і тривалим. По-третє, люди не знають про правопорушення (хоча незнання закону не звільняє від відповідальності). Звичайна розмова з користувачами виглядає так. Хіба це не розміщено на сайті безкоштовно? Якщо є безкоштовний ресурс - навіщо платити гроші? Якщо це безкоштовно, я можу вільно завантажувати інформацію та використовувати її, як мені заманеться. Такі думки поширені в нашому суспільстві через брак знання законів. Через недостатній рівень освіченості у сфері інтелектуальної власності. Плагіат і піратство, інші порушення авторських прав є глобальним явищем.

**Ключові слова:** плагіат, піратство, авторське право, немайнові права, цитування.

**Formulation of the problem.** Many users do not understand the difference between plagiarism and piracy. At the same time, these are the most popular intellectual property offenses. Many customers complain of copyright infringement, which can ultimately be classified as plagiarism.

**Purpose of the work** is to consider the problematic issues of plagiarism, piracy and citations.

**Presentation of the main material.** Plagiarism and piracy are a form of copyright infringement. Let us be clear. Plagiarism and piracy are always offenses. Both Plagiarism and piracy are prohibited by law, and there is responsibility for such violations.

However, we encounter these phenomena so often in practice, firstly, because the responsibility for Plagiarism is not as painful in Ukraine as in European countries.

Secondly, our trial can be difficult and time-consuming. Thirdly, people are not aware of offenses (although ignorance of the law does not absolve from responsibility).

The common conversation with users looks like this. Isn't it posted on the site for free? If there is a free resource - why pay money? If it's free so I am free to download information and use it as I pleased. Such thoughts common in our society due to lack of law knowledge.

For example, citizens UK did not understand what a torrent is. They had no idea that the film could be watched and downloaded for free and without punishment, and the book could be downloaded for free.

You can get an unpleasant fine for browsing the network, and the provider is obliged to certify the fact of such browsing.

Infringements occur because intellectual property rights are local. That is, the rules of protection apply territorially. We will talk about that other time though.

Plagiarism and piracy, other copyright infringements are a global phenomenon. There are international organizations that try to unify the rules of intellectual property law and combat such phenomena; there are many international treaties.

That's why there is no cure for piracy and plagiarism. Plagiarism is the appropriation of authorship. It is the publication of another's work in whole or in part under his name [1]. It is also using someone else's work without reference to the author. This is an unscrupulous borrowing of fragments of works that belong to someone else. Is Will borrowing someone else's work always be illegal? No.

It is essential to mention quotations here. That is, conscientious borrowing of part of the work.

When asked about the number of citations, they believe that the law allows citations within 20%. It does not!

The volume of the citation in the law is specified as follows: "in the amount justified by the goal." That is, there is no apparent quote size "A quotation is a relatively short excerpt from a literary, scientific, or any other published work used, with obligatory reference to its author and sources of citation, by another person in his work to make his statements clearer or refer to the views of others. author in exact wording." [2].

The best-known case law on the scope of citations is disputes over the borrowing of a piece of music on television without attribution.

The practice of such disputes is very different. From the ban on quoting 10 seconds without identifying the author of a musical work to denying the claim and granting permission to quote 25 seconds, which were used for educational purposes in interviews with authors. That is, there is no apparent volume of legitimate citations. Some uniform size quotes - too.

However, there are several citation requirements for a citation to be considered bona fide. For conscientious citation, it is necessary to specify the author, title of the publication, place and year of publication of the work, where the citation or illustration comes from.

Scrupulous use or "fair use" is a copyright principle. Anyone is free to use quotations from works for criticism, commentary, news reporting, teaching, and research.

The quotation should not be used for commercial purposes. You can not advertise yourself with other people's words take part in someone else's work and make slogans on T-shirts, for example. (If copyright is still protected).

Such a quote should bring something new to the original form. The use should be creative. The last requirement applies to all quotations.

In the event of a dispute, whether the quotations were used in good faith or not will be determined exclusively by the court.

Court of Justice Authors Guild v. Google, Inc. 13-4829 (2d Cir. 2015) recognized the digitization of Google books and provided some access to limited viewing in good faith [3].

And in another well-known case, Google banned the use of part of the text, illustrations, and video content from the media when quoting in search engines without the author's consent.

A quote under our law is the use of a short excerpt of a published work. Note that repost and hyperlink are not considered to be a quote according to the latest case law. However, it is not a direct violation of copyright (except in cases of refutation of unreliable information)! There is currently no clearly established practice for resolving disputes over such innovations. There is only one case known to me. Moreover, it is still going on.

In addition to the usual Plagiarism, academic Plagiarism occurs (quite often).

Academic Plagiarism is the publication (in part or whole) of scientific results obtained by others as the result of one's research and reproduction of published texts by other authors without proper reference.

Now self-plagiarism has been settled as when a person takes parts of his work and inserts them into a new work. Yes, now self-plagiarism is forbidden. This is a short story. Let us see how it will be in practice.

In order to determine the presence of Plagiarism, the court will appoint an expert in the field of intellectual property (optional, but the case law follows this path).

In pre-trial and court proceedings, forensic experts are involved who have obtained the qualification of a forensic expert in the expert specialty 13.1.1 Research related to literary and artistic works and others [4]. During the forensic examination, coincidences in a fragment of the text of the original and dubious content are studied, and features that are characteristic of the source are highlighted.

Substitution of individual words within a synonymous series is not considered a creative achievement. The source,

the idea in the works may be the same, especially in scientific works, but the forms (sentences, paragraphs) - no! This is Plagiarism. Some innovation is also the recognition of the e-mail address of the source as a legitimate reference to the author.

In presentations, you can refer to the part of the work without the author's consent if it is a bona fide citation (concerning the e-mail address of the source). In the event of a dispute over academic Plagiarism, it is best for the author to file a lawsuit directly.

There is no precedent for proving stolen information as falsification, but there are precedents for proving it as Plagiarism.

The opinion of a forensic expert in such cases becomes one of the sources of evidence. However, the expert conducts research only on those objects contained in the case file.

So what else? Plagiarism is not considered to be: non-original title of the work, well-known knowledge and well-known information, non-original character. The presence of many correctly quoted quotations in work is no Plagiarism. For Plagiarism to become Plagiarism, it is necessary to publish the work with Plagiarism.

What is piracy? This is the import and distribution of counterfeit products, counterfeit copies of the work. It is also the publication of such works using the Internet.

Piracy and related rights: such as publication, reproduction, import or export into the customs territory of Ukraine, and distribution of counterfeit copies of phonograms, videograms, etc. as well as Internet piracy, ie, the commission of any actions that by this article are recognized as infringing copyright on the Internet. So piracy necessarily involves counterfeit products. Piracy violates only the property rights of the author.

**Conclusions.** Piracy and Plagiarism are different phenomena. Piracy does not raise the question of authorship. Piracy is thriving on the Internet.

If plagiarism disputes are usually civil (or commercial), criminal proceedings may be instituted against the pirate. Of course, sanctions from the state for pirates are entirely different.

Another issue related to Plagiarism and piracy is the lawful use of the work without the author's permission. When you can use the work, it will not be Plagiarism, piracy, and other violations.

The law establishes the following cases of free use of the work, namely: bona fide quotation; free reproduction by libraries and archives of copies of the work in a reprographic way; free reproduction of copies of the work for study; free copying, modification, and decompilation of computer programs; free reproduction of works for personal purposes (ie not for the public, but exclusively for themselves or their families).

Note that this list is exhaustive. These are the only exceptions when the work can be used freely, and it will not violate copyright.

Without the author's consent, it is allowed to publish the work in the font for blind and visually impaired people for distribution without commercial purpose.

Full list of free use of works is contained in Art. 21–25 <https://zakon.rada.gov.ua/laws/show/3792-12>

## REFERENCES

1. A History of Pen Names. URL: <https://electricliterature.com/infographic-a-history-of-pen-names/> (appeal date: 25.11.2022).
2. Therza L. Cyber Fraud: How to be aware, to protect yourself and your business. Podiatry Review. 2018. 75 (1). P. 32–34.
3. Kan-Min Lin. Understanding undergraduates' problems from determinants of Facebook continuance intention. Behaviour & Information Technology. 2016. 35 (9). P. 693–705.
4. Authors Guild v. Google, Inc. 2015. No. 13-4829. URL: <https://law.justia.com/cases/federal/appellate-courts/ca2/13-4829/13-4829-2015-10-16.html> (appeal date: 10.04.2022).
5. Koval O. Certain shading in the use of pen names in copyrights. Virtus: Scientific Journal / Editor-inChief M.A. Zhurba. 2021. № 58.
6. Optimization of Innovation Projects According To Criteria of Time and Resource Constraints. International Journal of Recent Technology and Engineering (IJRTE). 2019. P. 1431–1434.
7. Koval O. The right of publicity: some issues of legal regulation. Potere della ragione Editore. 2021. P. 344–346.