



THE CONCEPT AND SPECIFIC FEATURES OF ABSOLUTE RIGHTS

Abdurakhimov Abdumalik Rakhmonkulovich

Independent PhD Researcher

<https://doi.org/10.5281/zenodo.16760444>

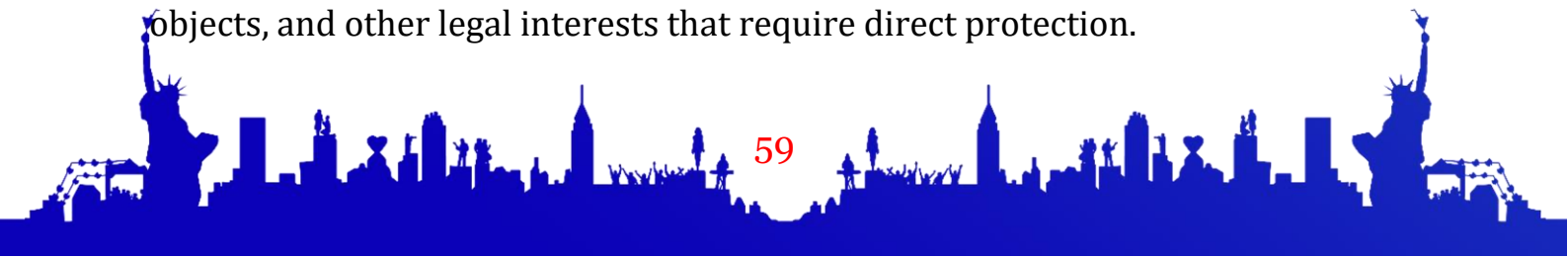
Abstract

This article explores the theoretical and legal foundations of absolute rights within the civil law framework, with a particular focus on their application in the domain of intellectual property. Absolute rights, distinguished by their enforceability against all third parties (*erga omnes*), represent a fundamental category of subjective rights that uphold legal certainty, personal autonomy, and proprietary protection. The paper analyzes the nature, scope, and structure of exclusive rights as a subtype of absolute rights and highlights their essential role in regulating intangible assets such as inventions, literary works, trademarks, and other intellectual creations. The dualistic nature of intellectual property comprising both moral and economic (exclusive) rights is examined in light of doctrinal debates and legislative approaches. Special attention is given to the challenges posed by digital technologies and artificial intelligence in determining authorship and ensuring effective rights enforcement. The article concludes that absolute rights, particularly in the context of intellectual property, are vital to safeguarding individual creativity and maintaining a just and innovation-driven legal order.

Keywords: absolute rights; exclusive rights; intellectual property; civil law; property rights; moral rights; legal monopoly; authorship; intangible assets; legal protection; AI-generated content; legal subjectivity

Civil law, as an independent branch of law, regulates property and personal non-property relations among individuals. It has developed a system of various legal institutions that ensure the free realization of the interests of legal subjects. Among these institutions, *absolute rights* hold a particularly significant place, as their legal nature is closely intertwined with the general principles and objectives of civil law.

Absolute rights are a category of rights that belong to a specific individual and impose an obligation on all other persons not to infringe upon those rights. Based on the content of civil law, absolute rights encompass an individual's proprietary supremacy (such as property rights), personal inviolability (including honor, dignity, and trade secrets), rights to intellectual property objects, and other legal interests that require direct protection.





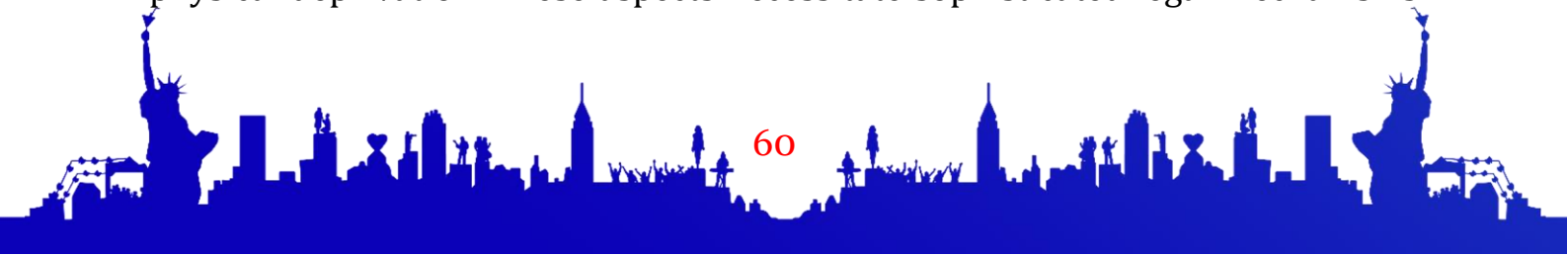
In civil law theory, absolute rights are characterized by their freedom of exercise, the ability to make universal claims against any violator, and the right to demand restoration or compensation in the event of infringement. These rights differ from relative rights in that they do not arise from contractual or obligatory relationships between specific parties; rather, they reflect the right-holder's supremacy over all other persons.

In civil law theory, the concept of property rights holds a central and foundational place. This legal institution fundamentally connects a person to their belongings by legally securing material assets in favor of the owner. The well-known triad of powers possession, use, and disposal provides a clear and intuitive framework that is easily grasped even by non-lawyers. Property law, therefore, serves as a mechanism to protect tangible goods and the legal relationships arising from their ownership.

Intellectual property law is intended to fulfill a similar function but through a different legal structure. While it parallels material property in terms of protecting the interests of the owner, it operates on the basis of exclusive rights to intangible creations. In this context, the term "intellectual property" is often used synonymously with "exclusive rights," a notion explicitly affirmed in Article 138 of the Civil Code of the Russian Federation. This article defines intellectual property as the exclusive right to results of intellectual activity. Thus, the law recognizes exclusive rights only for objects of intellectual creativity, not for material things.

The use of intellectual property objects such as inventions, literary works, trademarks, and other means of individualization is permitted to third parties solely with the consent of the right holder. This legislative approach underlines the exclusivity and monopoly-like control enjoyed by intellectual property owners. However, unlike material ownership, intellectual property is intangible. It cannot be physically possessed or handled, and its use differs significantly from that of a tangible object.

While a material owner can plainly state, "This is my thing; I can do whatever I want with it," the situation is far more complex in the domain of intellectual property. The intangible nature of such rights requires a more nuanced legal understanding and regulatory framework. Intellectual property is governed by special legal regimes that consider its unique characteristics such as non-depletability, reproducibility, and susceptibility to infringement without physical deprivation. These aspects necessitate sophisticated legal mechanisms





to ensure effective protection and enforcement of exclusive rights in a modern, innovation-driven economy.

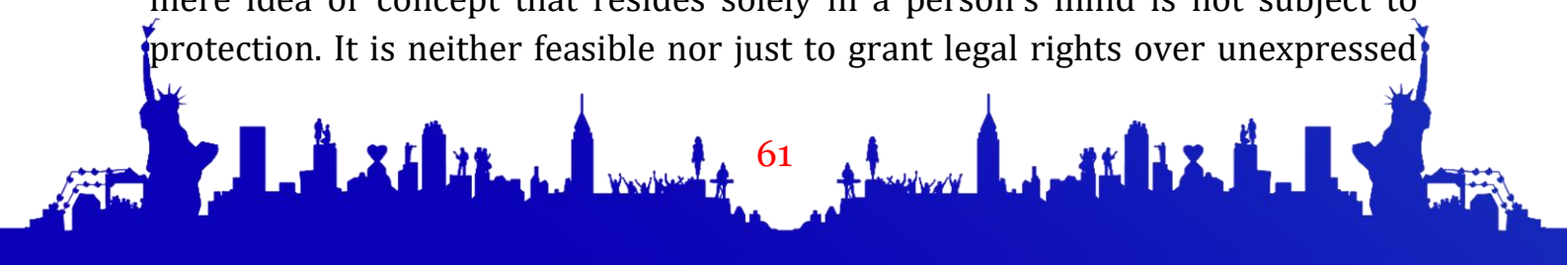
Moreover, a material product and an intellectual creation, when embodied in a single object, are inseparably linked and always coexist. One intellectual product can give rise to a multitude of material products. For example, the concept of a folding bicycle may be protected by a single intellectual solution, yet mass-produced in thousands of physical units. Conversely, a single tangible object can encapsulate numerous intellectual creations. Take, for instance, a castle as an architectural masterpiece it may embody various forms of intellectual property, including design, structural innovations, artistic expressions, and even brand elements.

This illustrates a key principle: every material good is first conceived in the mind before it takes physical form. The manufacturing process begins with the use of certain information technical knowledge, design principles, or functional concepts most of which may be publicly available and not necessarily owned by the producer. When such common knowledge is used, the resulting product, even if marketable, remains an ordinary commodity. However, when the producer introduces a novel idea or solution, the product gains added value and may enjoy increased consumer demand.

It is in this novel element the fresh intellectual contribution that genuine creativity lies. And by the principles of justice and intellectual property law, such creativity ought to belong to the person who originated it. Nonetheless, not all creative activity qualifies for legal protection. What the law protects is original intellectual property, which reflects a new and discernible level of creative input. This degree of creativity acts as a kind of "added value" an intangible surplus that can and should be assessed, measured, and legally safeguarded.

In copyright law, this creative value is manifested in the form of a new original work, and interestingly, the very fact of creativity is presumed by law. In the field of industrial property, creativity may be embodied in an innovative technical or design solution within a product or invention. Thus, the legal protection of intellectual property is not automatic for all efforts but is reserved for those that introduce a unique, original contribution something new that sets the product or work apart from existing ones.

The complexity lies in extending legal protection to the products of intellectual creativity. Not every act of creative thinking can be protected. A mere idea or concept that resides solely in a person's mind is not subject to protection. It is neither feasible nor just to grant legal rights over unexpressed



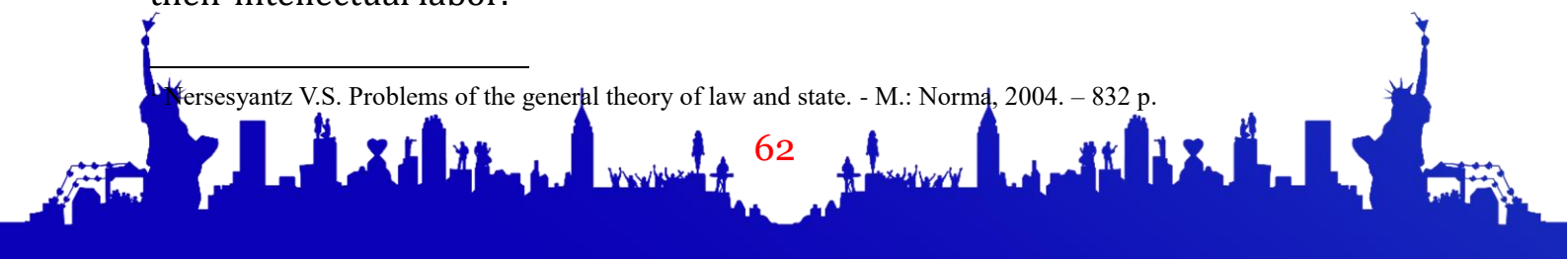


thoughts. However, once a creative idea is externalized expressed in a tangible or perceptible form it becomes eligible for protection. The law specifically requires that the expression of thought be fixed in an objective and visible form. Thus, intellectual property represents the legal recognition of a specific person's (or persons') rights to the products of their intellectual creativity, provided those products are embodied in a concrete form. Yet even that expression may not always be sufficient; often, official recognition in the form of state registration is required to establish new intellectual property rights. Every intellectual product originates from an author a creator who is invariably a natural person, since the capacity for creative thinking is rooted in human cognition. With the emergence of artificial intelligence, such as computer systems and software, new questions arise regarding authorship: Who is the true author of a machine-generated solution? Even in such cases, the law attributes authorship to the human programmer or the legal holder of rights. Importantly, the "author of an intellectual product" and its "rights holder" are not always the same. Given that intellectual property is treated as a marketable commodity, it is transferable and fluid among legal subjects. The legal framework that defines how rights to an intellectual creation are attributed to a particular holder is encapsulated in the concept of exclusive rights. These exclusive rights distinguish the rightful holder from the broader public and grant them legal authority over the use and control of the protected intellectual product.

Exclusive rights, as a unified legal construct linking the right holder and the object of intellectual creativity, are designed to uphold the principle of formal equality within the system of intellectual property law. Legal equality refers to the equal freedom of individuals the notion that all are equal in liberty and before the law, measured by a common standard and with equal scope for exercising their rights¹.

When discussing the essence of law, it should be noted that law fundamentally serves to regulate social relations by defining the boundaries of permissible and impermissible behavior. In other words, it establishes a normative "coordinate system" within which individuals, as legal subjects, operate. This regulatory function explains why certain creative results are granted legal protection while others are not, and why the law provides individuals with the legal capacity to protect, use, and dispose of the results of their intellectual labor.

¹Nersesyantz V.S. Problems of the general theory of law and state. - M.: Norma, 2004. – 832 p.





Intellectual property is traditionally classified as a sub-branch of civil law and encompasses three major legal institutions: copyright, industrial property, and the protection of so-called "non-traditional" objects. The term "non-traditional objects" is inherently conditional, used to denote subject matter that does not fall within the scope of classical institutions like copyright and industrial property. The latter two have become cornerstones of creative rights protection. The Paris Convention for the Protection of Industrial Property was adopted in 1883, and the Berne Convention for the Protection of Literary and Artistic Works was concluded in 1886 marking these objects as long-established pillars of intellectual property law in the 21st century. In contrast, the protection of non-traditional objects emerged relatively recently and includes such subject matter as the topographies of integrated circuits, plant variety rights, and other specialized intellectual assets.

The legal institutions of intellectual property are traditionally subdivided into several sub-institutions. One such sub-institution, which falls within the broader domain of industrial property, is the legal regulation of means of individualization—those designations used to distinguish goods, services, and the entities that produce or provide them. As indisputable objects of industrial property, these means of individualization are often referred to as "objects equated with the results of intellectual activity"².

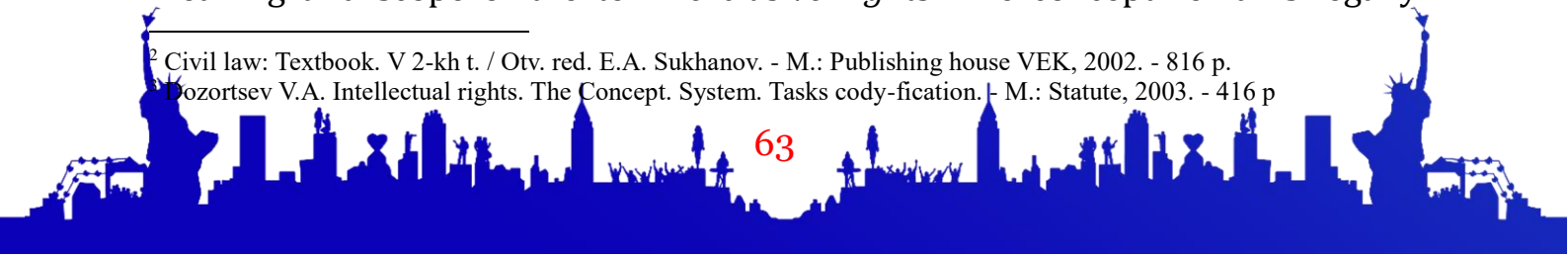
Unlike works of science, literature, or art, the primary value of these identifiers lies not in their intrinsic creative content, but in their function as tools for ensuring a healthy competitive environment by enabling the differentiation of producers and their offerings in the marketplace. As V.A. Dozortsev argues, the value of any object protected by exclusive rights is derived from its aesthetic or informational content³. In the context of means of individualization, this informational function also serves a stimulative purpose.

The information conveyed by trademarks and other individualizing signs is often deliberately crafted to influence consumer behavior. It targets specific social groups, delivers messages in a way that aligns with the producer's marketing strategy, and is aimed at encouraging consumption. As such, these identifiers perform not only a legal and commercial function but also play a psychological and communicative role in shaping market preferences and driving demand.

At present, it is difficult to arrive at a definitive interpretation of the meaning and scope of the term *exclusive rights*. The concept remains legally

² Civil law: Textbook. V 2-kh t. / Otv. red. E.A. Sukhanov. - M.: Publishing house VEK, 2002. - 816 p.

³ Dozortsev V.A. Intellectual rights. The Concept. System. Tasks codification. - M.: Statute, 2003. - 416 p





ambiguous, and despite its frequent usage in legislation, the term “exclusive right” is often reduced to two core components: the right to use an intellectual creation and the right to prohibit its use by others. However, the classification of exclusive rights as a distinct legal category stands in contrast to other types of civil rights such as property rights, contractual (obligatory) rights, patrimonial rights, and non-property personal rights.

Exclusive rights, as a special legal category, imply not merely the possession of rights that are not available to others (which is often the case in practice), but also the grant of a particular privilege to the right holder. Unlike traditional legal entitlements that may be shared or held concurrently, exclusive rights concentrate authority in a single subject, granting them a legal monopoly over the object of protection.

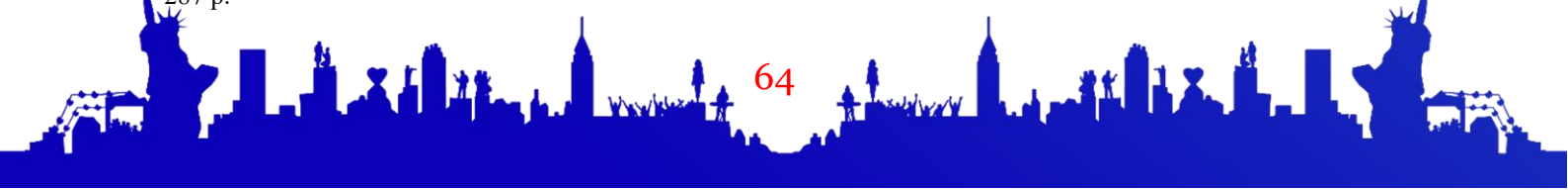
The legal literature offers a far more nuanced and comprehensive understanding of exclusive rights than statutory texts. Many scholars interpret this term predominantly as a legal expression of monopolization by the right holder. For example, A.P. Sergeev notes that in pre-revolutionary Russian legal doctrine, exclusivity was understood primarily as the author’s monopoly on the use of their work. In contemporary law, this meaning has been reaffirmed: the law now clearly recognizes that only the copyright owner may determine how the rights to their work are to be exercised⁴.

L.A. Trachtenhertz, in his analysis of exclusive rights in the field of industrial property, similarly emphasizes the monopolistic character of such rights: “The patent holder’s monopoly over protected objects provides the necessary legal foundation for integrating those objects into the system of economic relations”⁵. N.V. Makagonova also aligns exclusivity with the monopoly of the right holder, describing it as their sole and sovereign authority over the intellectual product⁶.

Thus, the concept of monopoly can be viewed as a secondary yet essential meaning of the term *exclusive rights*. The very notion of *exclusivity* implies the legal isolation of the right holder from the general category of persons who do not possess such rights. In other words, exclusive rights function to “exclude” the right holder from the group of non-holders, granting them a legally sanctioned privileged status.

⁴ Meggs P.B. Sergeev A.P. Intellectual property. - M.: Urist, 2000. - 400 p.

⁵ Trahtengerts L.A. Patent legislation. The regulations and the commentary track. - M.: The law faculty literature, 1994. - 287 p.





By their legal nature, exclusive rights are absolute. According to the well-established legal structure of these rights, the active subject the right holder is opposed by an indefinite circle of passive subjects, who are obligated to refrain from any actions involving the protected object unless authorized by the right holder. The legal recognition of exclusive rights thus confers upon the subject a special and exceptional legal status.

I.A. Zenin describes such rights as “author’s rights, neighboring rights, patent rights, and the like, being exclusive absolute rights, that confer upon their holders a lawful monopoly over various actions namely, the use and disposal of the results of their creativity while simultaneously prohibiting all other persons from performing such actions”⁷. Similarly, it is stated that “...exclusive rights are understood as subjective rights that grant their holders the ability to perform all legally permitted actions, while imposing a prohibition on all third parties from undertaking those same actions”⁸.

V.A. Dozortsev offers another interpretative layer, emphasizing that “exclusivity does not mean that the right belongs solely to one individual, but that it is assigned exclusively to a particular individual... as determined by law”⁹. This legal exclusivity affirms not merely the factual possession of the right but its formal recognition and enforceability as defined by statutory provisions.

Thus, another interpretation of the term *exclusive rights* emerges one that logically stems from the notion of monopoly: the *special legal status* of the right holder. Possession of exclusive rights effectively removes the individual from the general category of legal subjects, distinguishing them as a subject with exceptional entitlements. In this sense, these rights belong to an *exclusive subject*, who is granted privileges not accessible to others. This interpretation separates those who possess rights from those who do not.

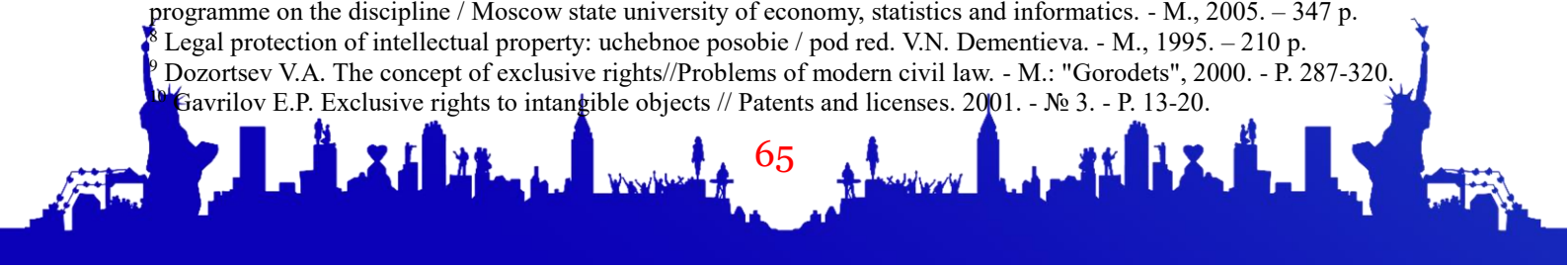
In legal scholarship, varying opinions exist regarding the moment when exclusive rights come into effect. E.P. Gavrilov, for example, identifies the following moments of origination: for copyright, the right arises at the moment of first publication of the work regardless of whether the publication occurred with or without the author's consent; for patent rights, it arises upon the official publication of information regarding the issuance of a registration certificate¹⁰. This view seeks to reflect principles of social and legal fairness, positing that the

⁷ Zenin I.A. Intellectual property and know-how: a Training manual, a guide to the study discipline, the training programme on the discipline / Moscow state university of economy, statistics and informatics. - M., 2005. – 347 p.

⁸ Legal protection of intellectual property: uchebnoe posobie / pod red. V.N. Dementieva. - M., 1995. – 210 p.

⁹ Dozortsev V.A. The concept of exclusive rights//Problems of modern civil law. - M.: "Gorodets", 2000. - P. 287-320.

¹⁰ Gavrilov E.P. Exclusive rights to intangible objects // Patents and licenses. 2001. - № 3. - P. 13-20.





key criterion for the emergence of rights is the point at which third parties are notified of legal protection and may be held accountable for infringement.

Current legislation conceptualizes intellectual property rights as a combination of *moral (non-property)* rights and *property-based* (economic or exclusive) rights. This dual nature is supported by R. Dumas in his seminal work on copyright, where he affirms: "...copyright consists simultaneously of both moral rights and economic rights"¹¹. This raises a fundamental question: does this structure represent a unique, unified legal construction, or is it simply a declared aggregation of separate moral rights (enshrined in Article 150 of the Civil Code of the Russian Federation) and exclusive property rights over a creative work?

The latter interpretation appears more logically consistent. Moral rights are explicitly codified in Article 150 of the Civil Code and reiterated in specialized intellectual property statutes. Otherwise, such a structure would lead to an unjustified inflation of legal constructs, where numerous legal institutions could be said to embody a similar "dualism." Even in material property law, an owner may possess both property rights and moral or personal rights but this does not mean that the latter are structurally integrated into the concept of ownership. For instance, the owner (as well as any other legal subject) of a residential dwelling enjoys the right to choose their place of residence. Yet, the Civil Code does not treat this personal right as part of the property right to the dwelling itself. These are distinct rights with different natures and separate legal regimes.

A similar explanation applies to the dualistic nature of rights concerning the products of intellectual creativity. The co-existence of personal (moral) and proprietary (exclusive) rights reflects not a unified construct, but rather the legal recognition of two separate categories of rights that govern the same subject matter under different principles and with different legal consequences.

Conclusion

In contemporary civil law theory, absolute rights constitute a distinct and foundational category of subjective rights that serve to ensure the autonomy and legal certainty of individuals. These rights, including the right to property, personality rights, and intellectual property rights, establish a direct legal relationship between the right-holder and an indefinite number of other subjects who are obligated to refrain from infringing upon these rights. Unlike relative rights, which arise out of specific obligations between identifiable

¹¹Dumas R. Literary and artistic property. Copyright France. - M., 1989. - 384 p.





parties, absolute rights are enforceable against the world at large (*erga omnes*), thereby affirming the legal supremacy of the right-holder within a given domain.

This article has emphasized that intellectual property rights represent a prime example of absolute rights in the digital age. As intangible assets, they require specialized legal mechanisms for recognition, protection, and enforcement. The concept of *exclusive rights* plays a central role in this framework. Despite lingering ambiguities in legislation and doctrine, scholarly discourse increasingly views exclusivity not merely as a right to use and prohibit others from using intellectual products, but as a legal monopoly that confers a special status upon the right-holder. This monopoly isolates the holder from the general pool of legal subjects, granting them privileged authority over their intellectual creations.

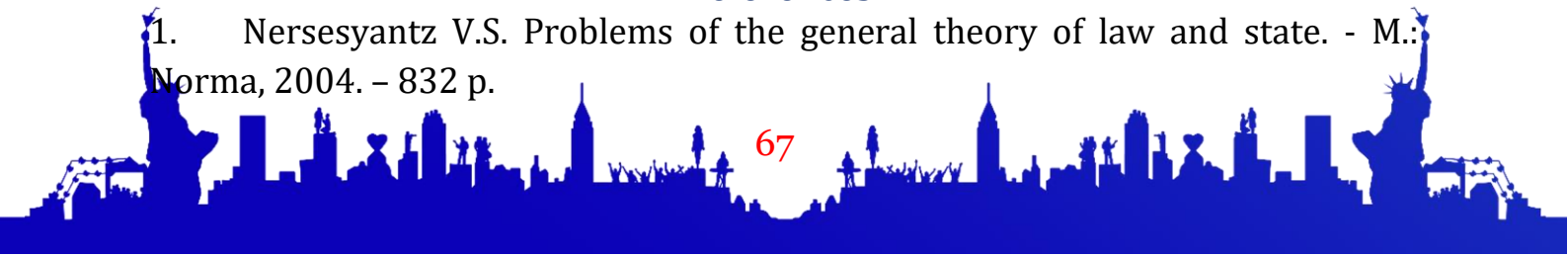
Furthermore, the dualistic structure of intellectual property combining moral (non-pecuniary) and proprietary (economic) rights presents a complex but functional model for balancing the personal interests of the creator with market-based considerations. While moral rights ensure personal attribution and integrity of the work, exclusive (economic) rights enable the commercialization and economic circulation of intangible goods. However, these dual components should not be mistaken for a unified legal construct; rather, they coexist within separate legal regimes, reflecting their differing natures and objectives.

The notion that ideas, once expressed in a tangible form, transform into legally protectable entities is central to understanding the logic of absolute rights in intellectual property. As such, legal protection is not extended to mere thoughts or concepts, but to the expressed, fixed, and original results of creative activity. In light of rapid technological advancement and the emergence of AI-generated content, new challenges to traditional authorship and ownership doctrines continue to arise, demanding nuanced legal responses that uphold both fairness and innovation.

In conclusion, absolute rights particularly those in the realm of intellectual property reinforce the core civil law principles of personal freedom, legal equality, and proprietary security. Their proper understanding, clear classification, and consistent legal treatment are essential for ensuring a functional and just legal order, especially in knowledge-driven and innovation-based economies.

References:

1. Nersesyantz V.S. Problems of the general theory of law and state. - M.: Norma, 2004. – 832 p.





2. Civil law: Textbook. V 2-kh t. / Otv. red. E.A. Sukhanov. - M.: Publishing house VEK, 2002. - 816 p.
3. Dozortsev V.A. Intellectual rights. The Concept. System. Tasks codification. - M.: Statute, 2003. - 416 p
4. Meggs P.B. Sergeev A.P. Intellectual property. - M.: Urist, 2000. - 400 p.
5. Trahtengerts L.A. Patent legislation. The regulations and the commentary track. - M.: The law faculty literature, 1994. - 287 p.
6. Makagonova N.V. Tutorial on copyright// red. E.P. Gavrilova. - M.: The law faculty literature, 1999. - 286 p.
7. Zenin I.A. Intellectual property and know-how: a Training manual, a guide to the study discipline, the training programme on the discipline / Moscow state university of economy, statistics and informatics. - M., 2005. - 347 p.
8. Legal protection of intellectual property: uchebnoe posobie / pod red. V.N. Dementieva. - M., 1995. - 210 p.
9. Dozortsev V.A. The concept of exclusive rights//Problems of modern civil law. - M.: "Gorodets", 2000. - P. 287-320.
10. Gavrilov E.P. Exclusive rights to intangible objects // Patents and licenses. 2001. - № 3. - P. 13-20.
11. Dumas R. Literary and artistic property. Copyright France. - M., 1989. - 384 p.

