The Managerial Perspective upon the Importance of Intellectual Property in Modern Society in Romania as a Member State of the European Union

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Abstract: Inventiveness and creativity are essential features that made possible the distinction between man, throughout his evolution, and all the other creatures alive. The ability of attributing those features a productive utility continues to be of utmost importance in the social and economic structures of human societies. The survival, of each man, of each enterprise, organization and even of a nation definitely depends on the ability of maintaining permanent contact with the development and progress in all respects. Intellectual property is composed of legal rights which result from the activity of intellectual creation in the following fields: scientific, literary and artistic field. The impossibly of protection through more possession over the object of intellectual property represents the basis of the entire notion of normative regulations regarding this kind of property whose purpose is to defend creators and other goods makers and intellectual services by means of assignment, limited period, the right of usage of these works or services.

Keywords: rights of intellectual property; the management of activities of preventing delinquencies; plagiarism; forgery; piracy

1. Brief Introduction to Intellectual Property Rights

The human spirit is able to reflect, think, rationalize and promote by means of creation. The latter requires time and effort which is assimilated by the physical product that is the material. The creation, the original ideas must be protected in order to make sure that whoever might have created them is rewarded for activity they have performed. It is in the interests of society to create conditions so that all the products of human intelligence be as accessible as possible and, at the same time, make the creation of the new in scientific, literary and artistic fields easier by getting rid of the obstacles of any kind. How can society motivate people to create? Especially when a creator fails to provide himself, this including the necessary things for living, with the result of his own work, of his own ideas? It goes without

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saying that the moment a creator cannot make a living by means of products of his own mind, he is to seek for other sources of living and give up the creative activity.

The impact the digitalization has on human kind, the extraordinary development of science system and that of the Internet pushes democratic states to promote the activities of the spirit, creativity and human inventiveness, which have as a result the scientifically-technological discoveries, work of literature and art and to protect, at the same time, by means of juridical standards, the rights born out of intellectual creation. The evolution of the society economically, socially and culturally speaking is based on generation and transmission of knowledge in the information and more than that, on the spiritual activity of the individual, which most often results in consumer goods and cultural works. The relation between the level of development of each kind of society and the creating activity of its members is in direct proportion, needless to say that nowadays the developed countries are those in which the creating activity, the activity of the spirit are efficiently appreciated, encouraged and protected.

Intellectual property is composed of legal rights which result from the activity of intellectual creation in the following fields: scientific, literary and artistic field. The impossibly of protection through more possession over the object of intellectual property represents the basis of the entire notion of normative regulations regarding this kind of property whose purpose is to defend creators and other goods makers and intellectual services by means of assignment, limited period, the right of usage of these works or services. Traditionally, intellectual property divides in two branches: “copyright and connected rights” and “industrial property”.

The right to intellectual property is that law branch whose purpose is represented by the juridical standards that settles the reports regarding the protection of intellectual creation with literary, artistic or scientific feature and also the intellectual creation with industrial application and distinctive signs of an activity of this kind. The right of intellectual property provides the legal background for creating and spread of music, literature, art, movies, software and other shapes of creative works.

We also consider the right to intellectual property to be the economic foundation of all creative activities and cultural industries, which result from a mere notion: people who create, produce or invest in original works should be those that decide how the result of the research concluded with works of art, literature, inventions,

brands and such other products that cover this kind of rights should be reproduced and made public.

The first known legal regulations were made public in the field of property in general and became a fact in respect with goods, expressing the right of possession of goods, the right of disposal over the object of property, the right of household, administration and management of good and the right to achieve the result of usage of property. Economically speaking, property represents "the freedom or agreement to enjoy the benefits of a fortune….that including taking over the costs that come out of acquirement of these benefits ".Even though the regulations regarding the field of property first covered the field of tangible goods, it is interesting to know that the intellectual property, which is connected only with the human being, and the result of this activity concluded in scientific works or works of art, was later on legislated and recognized.

Copyright means that the author of the right decides how the copying, distribution, transmission and other usages of his works can take place. This fact makes the endowed people create outstanding works, and gives the business men the right reasons to invest in them. The astonishing growth of artistic, cultural industries and other creative industries from nowadays economy would not have been possible without the powerful levels of the protection of copyright that the states developed throughout decades. What is more, the connected rights must also be taken into consideration, which have appeared during the works with copyright and develop similar rights, much limited at times and of shorter period of time for: artists who perform (like actors or musicians) in their shows, the producers of records (for instance, records on the cassette and CDs) in their records, radio transmission and television organization, in their radio and TV programmers.

2. From the Doctrine of "*Fair Use*" to the "*Public Interest*"

Copyright has been initially created to insure the control over the spread of writings and ideas, an answer to the question being found, at the same time,–how can a writer be motivated -. The solution that has been found, that of allowing monopoly temporary, was and is still submitted to some more and obvious critics. The idea of monopoly is a direct attack to a fundamental right of the individual, that is the right of having unlimited access to information, as a way of insuring progress and civilization. The digital technology, specific to the informational

system, opens new opportunities in criticizing this solution, since a piece of work can be copied in a couple of seconds and then reproduced by almost anyone who uses the computer connected to the Internet. In the last years, the legislator provided this issue with an answer by introducing much more restrictive laws, so that the smallest infringement be called a crime/offence. This fact caused nothing but a discrepancy between reality and law, since the public agrees with the idea that, regarding the individual infringements, the copyright is out of the question. The society must find a way to solve these two issues: the unlimited access's to information of its members and the protection of the genuine works so that the individuals with creative spirit be motivated to carry on like that.

In the current article we will be analyzing the most trusted perspectives, from the point of view of management that can be composed of viable solutions capable of finding a balanced resolution. Starting with the correct use of " fair use " doctrine and that of " public interest ", we would like to point out some aspects connected with the right to intellectual property, through the protection of both an organizational managerial strategy up to the organism of collective administration or up to the antipiracy organism and also a national strategy.

The correct usage of works and products that cover the right to intellectual property, in a society of various aims, such as critics, comments, news, teaching for educational purposes (this including pupils for usage in the classrooms), the scholarships or research, is possible and guaranteed. In order to verify whether the usage is a correct one, more indicators of structure will be taken into account, among which:

- the purpose and the nature of usage – it also includes whether this usage is commercial or used for educational means ;
- the nature of scientific, literary or artistic work – if the work has a application, a minor impact on the society's life, then the protection can be restrictive; in case the work has a major social impact (for instance, the discovery of some medicine against cancer) then the restriction of protection and some rights given to consumers are vital for the strategy to work efficiently;
- the quantity of product used in comparison with the entire work, that benefits from the protection of legal standards from the field of intellectual property – this represents the most sensitive issue, since the plagiarism and forgery can be defined according to this report. It makes it hard to make a distinction between

a different saying and plagiarism. The derived works, for instance those that stand for other works, are even more difficult to define. The general idea of a work of this kind is usually a meta-idea, in other words, somebody has already written about it. Also piracy and forgeries can cause serious damage to the right holders.

- the effect of usage over the potential market or the value of copyright-to which extent the restriction of protection can lead to restriction of works, by the decrease of the copyright value under a limit that allows the creative effort-(what is the point in keep creating, since I earn nothing as a writer?)

While some clues are pretty unclear, the jurisprudence starts from the general premise that the right to intellectual property cannot allow the right holders absolute control over their work, but it is also out of the question that a work be automatically declared of public interest. At least, at the level of regulation, a strategy can derive from here.

Regarding the intellectual property, we assume that management of activities connected with the legal protection of copyright should include regulatory, institutional and actional elements. In every modern society, this kind of protection is complex and deal not only with the interior construction-the way in which the law regulates this activity and the way in which this juridical protection is connected with social, institutional or with strategic management imperatives. Starting with this premise of work, we proposed ourselves to observe the ways of construction of this architecture which means the right to intellectual property, the architecture seen in its integrity directly connected with the strategic management, the politics and programmers' of actions destined to give it substance and efficiency. Nowadays, this fundamentally depends on the technology information. Now, more than never, the architecture of the right to intellectual property modifies structurally and functionally through the new informational paradigm connected with the appearance of digital technology.

A. Kerever, a prestigious specialist in the subject, has tried to draw the background of the evolution of the right to intellectual property, especially of the copyright and the connected rights, referring to the technologic revolution. We must start from the idea of Krever in order to understand that these backgrounds of theoretic and methodological analysis, specific in any subject, for instance dynamic, precise such that of the copyright, may present constant aspects which allow the elaboration of some efficient strategies. The presentation was visionary and its scientific analyses

shows us how important is to use the instruments of the science when we tackle with predictions on long term. Regarding the content, the main idea of exposure rises from the fact that the information technology will play a tremendous role in the strategic thinking and the projection of a European copyright. As a consequence, any strategy in the subject must take into consideration four factors: the background created by the technologic revolution, its consequences, that may appear in the way of this adaptation. In order to provide its exposure a more powerful force, the author starts from the background of reference and more general, settling the action conjugated by four revolutions at the birth of the copyright:

- the technologic revolution, the invention of printing which is replaced by the revolution of information technology, the invention of computer and the Internet;
- the cultural revolution, the appearance of the public interested in culture;
- the political-psychological revolution, the consciousness of the rights of individual, the freedom of ideology and of juridical equality
- the economic revolution, the appearance of capitalism and the market economy

These "revolutions" are still developing, that is a fact, in different ways than it used to 20 years ago, but the pressures it exerts must be analyzed and examined. The greatest impact is represented by the technology of digital information. It has opened the road to illegal usage of works in an ordinary, almost uncontrolled manner. The measures of precautions taken by those in need are in contradiction with the fact that their users might decipher them much easier, which leads to new measures that will oversize the security and might have undesired effects. The most important, of interest for the current study, are: the restriction of autonomy and the freedom of speaking of users, the inhibition of dialogue, the restriction of the correct usage and access limitation to the works from public field. Keeping up this way, we are on the verge of opening Pandora's Box, which will question either the right of the creator of taking benefit from his work, or the right of the society to insure a fundamental right to its members - free access to information. This way, a construction, from the point of view of the strategic management and of its politics, may, logically speaking, place itself on a scale which starts from the premise that any work must first pass through public field, coming up to the idea that the one who creates can do whatever he likes with it because he must take benefit from the legal protection. They are both extreme options and it goes without saying that a

balance must be found through which the undesired effects we have already exposed should not appear. Strategies that will be built must start from the fundamental idea of the new informational society that allows direct and unlimited access to information for the individual.

The aspects presented are available for both categories of rights that compose, on the one hand, the intellectual property, respectively the copyright and connected rights and, on the other hand, the rights to industrial property (inventions, brands, drawing and industrial models, geographic recommendations, etc.). The private-public report must be analyzed in the new context. It must be clearly distinguished what is allowed in the private area of works consuming and products which have rights to intellectual property - the paradigm of private, family use-and what is allowed in the public area of consuming of this kind of works and products-the paradigm of good usage, of the right usage. It is true that these differences must be clear enough in order to fulfill the logic of digital era. However, it must be comprehensible the fact that it is all about economic senses on the last resort.

3. Guiding Activities in Intellectual Property Management

The notion of management of activities shows some differences of shape compared with the classic notion of management. The understanding of this difference is useful in the analysis and research we are presenting. To us, the management of activities refers to the manner in which we can use the specific notions of management in a particular way, following the three major coordinates:

- the regulative coordinate (normative and legislative);
- the institutional coordinate (structures, levers, mechanism);
- the actional coordinate (methodology, instructions, procedures).

The normative pillar contains regulations of legislative order which juridical protects the subject submitted to attention, respectively the rights to intellectual property. Depending on the situation, the legislative pillar may include national, European or international legislation, treaties, conventions, etc. From the point of view of legislative efficiency, we can come up with the problem of national-international (or communal) duality, either under the form of taking over an international legislation, or under the form of harmonization of the national legislation with the European or the international one.

The institutional pillar tackles especially with structures or institutions, which have skills in the subject of rights to intellectual property, instruments, mechanism, programmers and methodologies that provide the possibility of building an infrastructure and starting some actions.

The last pillar, the actional one, deals with practical actions that can take the shape of politics, procedures, projects, activities and measures.

By respecting these theoretic conditions, the management of activities may refer to modalities of planning, organization, implementation and strategic check, functional analysis of the organism and structures involved in this subject, the cooperation between these structures, the elaboration of some methodologies and work procedures that allow the achievement of the strategic objective-the protection of rights of intellectual property.

The paradigm of the principle of balance from a social point of view starts from the premise that a social balance is indispensable to the creation of public order by measuring the conflicts and maintaining under limit order the collision of interests, in this case of the creators-right holders and users. The administration strategy of the right to intellectual property must take this into account. We consider a mistake those that claim that technology encourages citizens to steal, as the representatives of American Association of recording industry stated, and it is also a mistake to say that the Internet and the digital technology, in general, is "nobody's country" where everyone is free to do whatever they want. The measure of usages allowed for the consumers or that of restriction of the right for the creator is very important because it will be part of the following European or global right of the user. Professor David Vaver is right when he says that "the rights of the user are not only legislative cracks, on the contrary, they must be weighted and interpreted through the logic of the right". The standardization of the "allowed usages" by claims regarding exceptions and restrictions of the copyright represents the basis of a strategy in the field. Thanks to digitalization, this standardization should be revalued according to the philosophy of the digital era. This means a bigger permission given to the user who has direct access to the work.

An interesting idea expressed by specialists is that copyright has slowly steadily passed from the direct creator to the commercial intermediate, either if we are talking about publishing house or production house. The digitalization creates premises so that the intermediate be avoided. Nowadays, the right holders are not dealing with the greatest problems from the field of rights of intellectual property,

but the intermediates. For this reason, the strategies that are shaped belong to the intermediates and, with some exceptions, to the governmental organizations and public authorities. The investigations made by the intermediate must be recovered, especially the proper profit so that it can move on with its activity. The strategies must adapt in order to face the new technologic challenges. B. Hugenholts points out that, on these conditions, from social reasons, we must expect to more emphasized restrictions of the rights of intellectual property, and to the three classic reasons that are at the basis of the compromise between the right holders and the users-respectively the respect for the fundamental rights, the public interest (according to the society's need) and the private copy-we can also add the facilities brought by the Internet that offer the possibly to copy, re-compose, enumerate and restructure different materials, creating something new in a matter of minutes. This possibility should be allowed without restriction and included in the category of applicable research, of the intellectual concerns. Even if it is given to commercialization, it is very unlike to punish the guilty and it seems a fight against the windmill.

During a yearly meeting of the international Association of Publishers, held in Frankfurt, 2004, Rede Gunter has systematized the main attacks on the intellectual property, resuming to three important theses:

- the intellectual property is rather a recent development, the concept remains unfamiliar to our society and law
- much more people would have access to ideas if the protection of copyright would be diminished;
- to end up with the intellectual property, as an individual right, would mean more content and more creativity released.

Even though the thesis have been elaborated by Gunter in order to protest against them, we have to say that they hide painful truths and they are composed of obvious stimulants' for those who fights against the rights of intellectual property. From this point of view, the strategies must not only be achievable, but also realistic, they must express a need of the social reality in order to achieve the expected success. Another argument against those that consider this issue to be simple enough and diminish its importance to legislative coordinates refers to what happened in the EU in the last 15 years, connected with the necessity of harmonization of national legislations and the elaboration of recommendations and instructions in the field of intellectual property. From this point of view, the

theoretic and methodological construction of a strategy, irrespective of the beneficiaries, will focus on organizations rather than nations. The greatest problem of strategies is about the consciousness of the public opinion, their ability of drawing the sense of responsibility to the people. Strategies must focus on opportunities and not on threats, to allow projects and pro-active programmers', to identify partners and not to seek competitors. The rights to intellectual property do not cover facts, dates or information, but only a specific shape of expression of a scientific, literary, or genuine artistic work. Of course, this contains facts, dates and information, but the one remained protected is the expression of the work. Information is generally seen as a public good. Public goods have two main characteristics : one-they do not compete-this means that there are no costs for a person to use a good as long as it is public and second-they are not exclusive-once the information is made public, no one will be excluded from its usage.

The rights of intellectual property are shown in the article 27 from the Universal Declaration of Human Rights that stipulates that "each individual must benefit from the protection of moral and material rights which develop from every scientific, literary or artistic work whose author is". To make it short, the intellectual property covers legal rights which result from the activity of intellectual creation in the following fields : industrial, scientific or artistic, and the impossibility of protection by simple possession of the object of intellectual property represents the basis of the entire notion of normative regulations regarding this kind of property, whose purpose is defending the creators and other producers of goods and intellectual services through assignment, limited period of the right of usage of these works or services. On the other hand, the article presented above suggests two aspects which, at first sight, are opposite. This way, on the one hand, each is entitled to join the cultural life of the community, to be independent, to enjoy art and share the benefits of the scientific evolution while, on the other hand, each has the right to protection of materials resulted from scientific, literary and artistic production whose author is. This aspect is important for strategy. Each solution to the problem of rights of intellectual property, even at a strategic level, which does not allow a convenient rank of freedom, is about to fail. Few consumers believe that information should be free. People will pay as long as they will be convinced that information is worth paying for. But, once the information is bought, the client will want to have the freedom of doing whatever he may like with it, just like in case he would buy any other good. The projection of strategies in the fields of rights of intellectual property must take this into account.

4. Theoretical Construction of a Management Strategy in the Field of Intellectual Property Rights

The force idea of a strategy is that it allows the organization to manage and coordinate the activity on long term. Starting with this idea, G. Wohe asserts that strategy also uses, outside the rational-economic reasons, determined by the internal approach, aspects connected with the environment, sociologic and social background. To put it other way, strategy uses an approach outside the organization. The author states this aspect to be the second essential force idea in defining a strategy. It is very important to draw some lines in the operational definition of a strategy, of academic style the managerial world. This reality will allow us to analyze in contrast some definitions of strategy and build up a definition that will not contradict the theoretic fundaments of specialty and, at the same time, to allow us an opening towards analysis and research. It is essential especially to make the connection with the external part, since the new informational society makes the organizations functions as open systems. This fact firstly means the addiction to resources that the author named resumes it at the point that organizations depend on the background when it comes to capital, raw material and human resource. Secondly, we are talking about uncertainties of background, a situation that shows up when the external background is unclear, difficult to decipher and unpredictable. From this point of view, any strategy in the field must take into account that there is a great uncertainty of background, from the lack of harmonized legislation up to the consciousness of public opinion regarding the rights of intellectual property. In this kind of background, the strategy can be nothing more than a qualified reply, based on the fundamentals of management. In practice, the strategy is, according to the majority of theorists and practitioners, the instrument through which management seeks to handle the threats and opportunities that show up in the middle of organization.

An interesting element of construction of the strategy is the systematic promotion of the opportunities in comparison with the perils. To put it other way, the accent does not fall on the avoidance of perils, but on taking advantages of the opportunities' .We must understand that there is a clear analysis of the peril, but the philosophy of building a strategy does not directly affect the peril, but the opportunity. In this respect, J. Massie's position, who claims that "the strategy consists of the managing wire of thinking in order to handle risks and uncertainty,

observing (and seeing) the opportunities offered by the background and using the right skills regarding the resources of the organization", is convincing.

This idea is important for our theoretical construction because, keeping on these coordinates, the defining elements of strategies in our field of interest will be based on measure of prevention rather than fighting, on elements of consciousness of public opinion or improvement of human resources. According to George T., Milkovich and John W. Boudreau, the strategies of human resources of an organization refers to its fundamental concept regarding its employees, emphasizing the kind of decisions from the field of human resources, decisions that are directly connected with the organizational conditions and the background. As the authors emphasize, the definition presented brings up three issues of utmost importance: the decision made by managers regarding the relations of employment, the effects of background pressures over the organization and over the human resources and the connection between the organizational conditions and the managers' decisions regarding human resources. To sum up, the strategies from the field of human resources must start not only from the organizational objectives, but also from the content of management of human resources and to use an appropriate methodology of investigation to insure a rational way of efforts from this field of activity. Also, according to specialized literature, the essential issues that may have a high impact on the strategies from the field of human resources include:

- growth of intentions, admission, diversification and focus and also of development of the market or production;
- proposals regarding growth of competition or the organizational efficiency
- the need to develop a positive culture, inclined to performance
- another cultural purpose of management associated with changes in the organization philosophy, in fields such as implication and training, communications, team work, development of a "climate successes".
- other factors of extreme background (opportunities and threats) that can have influence on the organization, such as governmental interventions, European legislation, competition or the economic pressures.

Theoretic, methodological and managerial interesting issues show up the moment we analyze the implications of the informational society over the strategies in the field of rights of intellectual property. The informational digital technology has generated plenty of conflicts connected with the disobedience of these kinds of rights, conflicts in which the libraries, communication networks and other forms of

revealing information have also been involved. In their nature, these are quite close to the interests of information consumers. At the same time, they are forced to respect the copyright, even though their main objective is to support the informational wave inside and between all the segments of community, this way becoming the accelerator of the informational wave in the community and also the "teacher" of users connected with the copyright and usage of t documents protected by the law of copyright.

For example, the specialists that work in libraries all over the world believe that some exceptions are essential in order to guarantee the unlimited access to information and cultural heritage. Without these exceptions, the copyright would become a monopoly. When a work is no longer protected, it becomes of public interest, a field where, generally speaking, the contents are devoid of rights of property and are treated as such. Lots of countries are worried about the extension of the term of protection which reduces materials (books, music, films, etc.) out of the public field. - The copyright directive of EU has extended its protection during life plus 70 years. (The term has already been applied in Germany and is developing in other countries as well).

The architecture of copyright in the informational society, according to the European directive regarding the harmonization of some aspects of the copyright and connected rights in the informational society covers three ways:

- the defining list of the rights recognized in chapter II (articles 2, 3 and 4). These are the copyrights and the connected rights regarding the papers which had to deal with the way of function of informational society (digital reproduction and usage of network communication)
- the harmonization of exceptions, which is required by the member states for their adoption in their national legislation and also those that are exceptions. There must be a right balance between the rights and interests of different categories of right holders, and also between these and the rights and interests of users of protected objects;
- the obligation of member states to provide "a proper juridic protection" (chapter III) The directive number 29/2001/CE claims a proper juridic protection of member states against the disobedience of any efficient technique measures, that the respective person is completely aware of working with or having powerful reasons to know that she seeks this objective.

The legislation must evolve at the same time and in the same way as the society. Irrespective from which perspective is taken into account the balance between the rights of beneficiaries and those of the users, as position at the same level of two interests confirmed by the society, regarding the insurance of the fundamental human rights, the necessity of keeping a proper balance is more important in the new informational era.

The highest peril that becomes a threat for the society of knowledge is that of extension of the privacy of knowledge to the max. There must be found a balance between the economic usage and the moral usage of knowledge. The sphere of management of moral usage of scientific knowledge must be found in the globalised society. What now concerns all the modern societies (and should concern Romania at the same time) is not only the way should use more efficient and to continuously develop the technology of information, but also to establish the legal background in which interactions in this field should develop.

The digital technology has erased the classic boundaries, the temptation of illicit use of intellectual property being this way big. To create products based on knowledge and to own them are very important aspects, precisely because the savings developed are being built around information and knowledge. The notion of copyright, which initially has been created to protect the rights of authors and publishers, has increased in order for other notions to be included, such as computer programmes and movies. Copyright is the most important means through which innovations and the products based on knowledge are rewarded and it will be the main instrument for the industries that are counting on the knowledge in 21st century. Those that have control over copyright have a significant advantage in the new global economy.

There are more actors on the "research field" of rights of intellectual property: the organizations of commercial intermediates, creators or their representative associations, the state representative for regulation, the state representatives for insuring protection and fighting. These actors develop their own organizational strategies and help the foundation of a national strategy.

We will move on with the means of foundation and the methodological clues of a strategy and, at the same, we will focus our attention on the elaboration of a strategic work option, whose purpose is to stay at the basis of the entire organizational strategies that correspond to the actors involved. The elaboration of this strategy "dresses" various forms, from analyses and precise means of

fundamental options up to lists, more or less tiring, that can be put at disposal to the strategic management. Regarding the complexity, diversity, dynamic and the background impossible to keep under control, we have chosen to present a list of options, obviously arranged, by important clues of structure for intellectual property that we have identified in the article.

We must say that, even if there's a clear distinction between public authorities responsible for the appliance of rights of intellectual property and operators or partners who act according to the present rules, at the level of organizational strategies or at the level of national strategies, no difference should be made because it is vital for the elaborated strategies to be complementary, to find common solutions for the respective issue in order for it to be used in the benefit of all "actors", starting with creators, commercial intermediates, wide public and the state. This means there are no particularities that are worth to be analyzed.

Regarding the field of copyright, the connected rights and the right holders of data bases, at the level of associations or organizations - mechanism of collective administration-we are dealing with the management of collective rights, the management of "orphan works" and the specific management of connected rights. The individual right holders must come to an arrangement in order to promote their rights efficiently. Under these conditions, the collective administration societies become important organizations in the management of profile activities. The definition given in the Instruction to those entities is very wide and covers: "each organization that manages or administrates the copyrights or the connected rights as the sole purpose or as one of the main purposes; this includes societies of collective administration of any kind, no matter they are unregulated or whether they work under a status of license or monopoly. Moreover, this also includes organizations such as trade unions, which engage in collective contracts of administration of rights of their members. A literal interpretation would also allow the "organizations" that tackle with the management of individual rights, such as agents or publishers, to work as "societies of collective administration". The strategic premise the Instruction contains on is at article 9, line 1 and stipulates the fact that the right of re-transmission by cable cannot be executed individually by its owners and by means of a society of collective administration. The organizations or the societies of collective administration act in the name of the copyright owner or in the name of the connected rights and administrates only a few or all their rights, in the name of its members or in the name of the members of a society, which is unaware of the rights associated to them. There are many associations

specialized for different types of rights, such as: copyright fields and connected rights field.

The main function of these societies is to act as "license mechanism" on behalf of their members. The position of a member from an organization of collective administration is open for all the copyright holders or that of connected rights, be them authors, composers, publishers, writers, musicians or editors. The organizations of collective administration allow and meet deadlines for using their works in their repertory. After the deduction of administrative expenses (15% of the income), the collected debt is periodically distributed to the copyright holders and that of connected rights. The issue of "orphan works" consists, on the whole, in finding the right holders. The important aspect, from the point of view of the management of "orphan works" shows up in a moment when, after reasonable research, made by a possible user of the work, the authors remain unknown. In this case, a means of juridical and procedural regulation must be found.

The unapproachable and the unregulation of the "orphan works" regime could cause unpleasant situations in which a work with potential could not be investigated or when an abusive investigation could take place, without the consent of the owner. A solution for this problem should take into account the public interest as well of having at its disposal an entire work, but also the author's personal right for their work to be investigated. In order to maintain a balance between these interests, a solution must be found to protect both the kind users and the interests connected with the authors or right holders. By approaching the orphan works there are a lot of options that can be taken into account. It goes without saying that these options may not cover all the particular cases that we encounter in reality, but they may be important clues in the attempt of solving these situations, from the point of view of management.

The object of connected rights is not the work itself, the product of the creative mind, but its interpretation, the audio or video record or the radio or television transmission of the work. Although these objects also exist under an immaterial structure, the protection specific to the connected rights aims at a particular object of economic value. Regarding the connected rights, the feature of originality of copyright is not required, suffice it to exist the action of acting a play, of broadcasting a show or creating a collage of images and sounds for these actions to be protected. The protection through connected rights aims exclusively at the performance, the record and the respective show. You cannot obtain the restriction

that someone else perform an action or an identical record or to broadcast a similar or identical show. The aims of this protection are different, as well, which leads to various measures from a managerial and action point of view. If things are easier at the level of creator, the aims of protection are connected with the fourth principles we referred to, the aims of the connected rights protection differ according to their owner.

Aspects that aim at the collective administration are not applicable in the domain of rights of industrial property, since there is a particularity, we are talking about the obligation of the right holders of registrations any kind of discovery or innovation at the State Official for Inventions and Marks. This aspect, specific to the rights of industrial property, makes it that, by obtaining a title (for example: License of intention, Mark Certificate), the right holders benefit from protection, according to the present legal standards, their administration being made individually by each right holder in part.

5. Conclusions

The state, with its public authorities and prerogatives, is one of the most important "actors" in the managerial regulation of criminality in the rights of intellectual property. The managerial ability of providing this issue an answer and of building a strategy meant to draw the strategic aims, plans and precise programmes is composed, in our opinion, by three important ways:

- The direction of education and prevention in the field of rights of intellectual property, resulted in messages and programmes meant to form attitudes or to encourage the respect for these categories of rights on behalf of the citizens or the users and also to discourage any intention of avoiding the law regarding these rights;
- The direction of fighting criminality in the field of rights of intellectual property, resulted in judicial activities of discovery, investigation and punishment for those who disobey the law;
- The inter-international cooperation in the field of rights of intellectual property, starting from the premise that this phenomenon is a complex one and exceeded the possibilities of one institution, the connected effort of everyone being requested in order to keep things under control.

Any research, including from the perspective of prevention and fighting criminality towards the rights of intellectual property and their development, must take into consideration the very important play of copyright and that of industries based on it (advertisement, movie, radio, music and, what is new, the computer programmes) in producing and spread of knowledge and products which have the knowledge at the top. The prevention of unauthorized copy has always been the main aim behind the development of national and international regulations regarding copyright, and nowadays, the situation remains unchanged.

In conclusion, the main hypotheses of work which build this article are the following:

- the architecture of rights of intellectual property will encounter structural and functional modifications in comparison with the dynamic of digital era.
- the digital information will fundamentally modify the idea of monopoly in the field of rights of intellectual property;
- the strategy in the field of rights of intellectual property has to be based on three pillars : normative or regulative, institutional or actional;
- the architecture of rights of intellectual property must be based on paradigm of the principle of balance of interests between creator and user;
- the strategy must not only be achievable but also realistic, it has to express a need of the present social reality;
- the strategies in the field of rights of intellectual property are based on two major categories of actors : public authorities and associations or the organizations that depend on the copyright;

The particularities that exist at the level of the two categories of actors must be in rapport of complementarity rather than independent in order to develop a coherent strategy of managerial regulation of intellectual property.

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***Council Directive. 29/2001/CE article 6, Obligations concerning technological measures.