

PROTECTION OF COPYRIGHT IN THE FIELD OF CARTOGRAPHY IN THE REPUBLIC OF CROATIA

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Abstract:

Although a map is protected by the Act on copyrights and related rights (ZASP) there are still serious problems referring to copyright prevailing in practice. The paper presents an overview of institutions and organisations dealing with copyrights in the Republic of Croatia and the comparison made between copyright for cartographic works and other copyrights (musical works, architectural works, works of art and industrial design and audiovisual arts) the protection and usage of which is regulated by additional regulations.

There are also the examples of maps given a s original copyright work protected by ZASP, then the map as original copyright work not protected by ZASP, and at the of the map not being a copyright work.

Studying of available data about legal proceedings and verdicts in the Republic of Croatia has shown that the infringement of copyrights in the field of cartography is not a rare case. The most frequent infringements of copyrights in cartography are connected with the usurpation of authorship, permitted usage of copyright, publishing of maps without quoting the author, electronic and other map copying.... and the works of commercial cartography are mostly exposed to this kind of infringement.

If there should be any judicial proceedings it is usually not the problem of defining the violation of individual cartographer's copyright, but the problem of defining the height of compensation. We therefore suggest the establishment of standards for the evaluation of cartographic works, which would significantly contribute to copyright protection in the field of cartography.

The Act on libraries is also paid attention to in the work. The delivery of an «obligatory copy» to the National and University Library would establish a unique base of published cartographic works, and thus a more easy definition of copyright violation.

1. Introduction

Copyright is one of basic human rights. Article 27. of the Universal declaration of Human Rights says: *Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.*

The foundation for the protection of human rights was laid in 1710 by passing the British Statute of Anne (Fig. 1)) (URL 1). Cartographic works as original copyright works have been protected ever since the US Copyright Act was passed in 1790 (URL 2), (URL 3) until the present modern Copyright Acts.



Figure 1: British Statute of Anne, from 1710 (URL 1)

In the Republic of Croatia the roots of copyright protection date as far as 1884 when the Hungarian-Croatian Copyright Act entered into force (URL 4). Today the Republic of Croatia is a signatory of the universal convention on copyright, and today the Act on Copyrights and Related Rights (ZASP) is valid (National Gazette 197/03 and 79/07).

2. More important institutions for copyright protection in the Republic of Croatia

2.1. State Intellectual Property Office (DZIV)

State Intellectual Property Office (DZIV) of the Republic of Croatia is a body of state administration dealing with the issued in the field of intellectual property protection ((URL 5), National Gazette 92/96). The activity of DZIV in legal and professional area includes also the area of copyright and related rights. A very important part of DZIV are information and service activities in the field of intellectual property, as well as the collaboration with economic and scientific and research subjects ((URL 5).

Within the frame of DZIV there is Intellectual Property Information Centre operating – INCENTIV (URL 6) offering professional information help to all who want to protect, use, i.e. manage with their intellectual property. In INCENTIV one can get professional

information free of charge about the manner in which their own intellectual property can be protected in the homeland and abroad, how to use other people's rights, i.e. how to avoid the violation of other people's rights.

2.2. Croatian Copyright Agency (HAA)

Croatian Copyright Agency – Centre for Intellectual Property d.o.o. (HAA-CIV) (URL 7) is a specialized organisation for the realization of copyrights and related rights, it has been active ever since it was founded in 1955 up to the present time continuously in spite many changes in the forms of its organisation.

HAA-CIV d.o.o. is a private company acting on the basis of DZIV authorization in the field of implementing copyright, it represents the authors and copyright bearers, offers services in obtaining authorization and in entering into copyright contracts, monitors the usage of works in connection with meeting legal and contractual obligations, it offers legal advice, deposit copyright works, offers legal help, etc.

2.3. HDS ZAMP

HDS ZAMP (Croatian Composers' Society – Musician Copyright) (URL 8) is a professional service offering collective copyright on the basis of DZIV authorisation. HDS ZAMP deal with the exercise and protection of musical copyrights for about 300 full and 5000 associate members, and for more than 2 million foreign authors.

HDS ZAMP is engaged in activities of executing copyrights for all kinds of using music publicly in the field of the Republic of Croatia, collects copyright fees and distributes the collected funds to authors, and on the basis of the contract with the Croatian performance copyright association (HUZIP), Association for protection, collection and distribution of phonographic copyright fees (ZAPRAF) and the Croatian Film Director's Guild, HDP ZAMP collects in the name of the mentioned associations the fees for the copyrights of performing artists, producers of sound records and film copyrights.

Continuous work of HDS ZAMP on the jobs of copyright protection last for 60 years already, and long-term experience, as well as good international collaboration have resulted in raising the quality of collective musicians' copyright protection (URL 8).

2.4. Croatian Association of Fine Arts Artists (ULUPUH)

ULUPUH is a professional association of fine art artists in Croatia and it represents a roof organisation at the state level for all branches of fine arts having certain application (usable value); theatre and film architecture, horticulture, photography, caricature,

illustration, comic strips, cartoons and fine arts, industrial design, dressing design, textile craft, graphic design and visual communication, applied sculpture, fine metal modelling, restoration etc.

Pursuant to the Statute (URL 9) ULUPUH is dealing with the protection of fine art works and copyrights of its members, as well as with the development of the collaboration with other artists' associations in Croatia and abroad, especially with the protection of artistic creation freedom, copyrights and protection of moral artist integrity.

3. Map as copyright work

The authorship in cartography results from knowledge, ability and fine art skills of individuals or group of experts in modelling spatial data and in their generally accepted graphic presentation.

The author produces a project and a map, defines the basic map elements (type of projection, selection of signs, colours, the objects that will be collected, processed and presented on a map, etc.) taking into consideration the accuracy, legibility and integrity of a cartographic work.

Today, cartographers have the possibility to approach various types of spatial data, and it is generally believed that they can produce high-quality map very quickly and cheaply. However, experienced cartographers know that it is not quite true. The process of map production itself can be divided into two parts:

- professional collection, processing and compilation of data, and
- map graphics selection.

Map graphics is the way of presenting spatial data, and selecting the most appropriate map graphics makes it possible for a cartographer to define visual identity of his/her map (Frangeš, 2003). However, professional collection, processing and compilation of data are the most demanding part of map production. For this research work implying serious and conscientious approach of a cartographer it is necessary to invest even 70% of the time needed for the production of a new map. Thus, the production of the City Plan of Zagreb (Fig. 2) requires even 3 years of work done by experienced cartographer.

The first problem that cartographers are faced with in the implementation of a new cartographic idea is to collect cartographic original sources and analyse their reliability. The errors in original data can be easily transferred and made larger in the process of map production, and the quality of original data is not always the clear (Robinson et al, 1995, Poslončec-Petrić, Birin, 2006), so the quality of a new map depends on the selection of reliable original sources of high quality.

The authors of maps, apart from special rights and authorities connected with maps, have got certain duties and responsibilities with regard to maps (Lovrić, 1988). Published map, as a part of cultural heritage and the document of time in which it is made, puts authors under the obligation to be maximally accurate in data presentation.

However, not every map is a copyright work. Further on, we present three cases:

- map – original copyright work protected by ZASP,
- map – original copyright work but not protected by ZASP, and
- map that is not copyright work

3.1. Map – original copyright work protected by ZASP

We can consider a map to be an original copyright work if it was produced as a result of a scientific and/or professional research work, and the presented objects and features are the result of author's creativity and selection. Original copyright work is also the map that was made on the basis of official maps, but in its production a new system of signs is used, one's own artistic solutions and the data that change essentially the information value of the map (Fig. 2) (Lovrić, 1988).

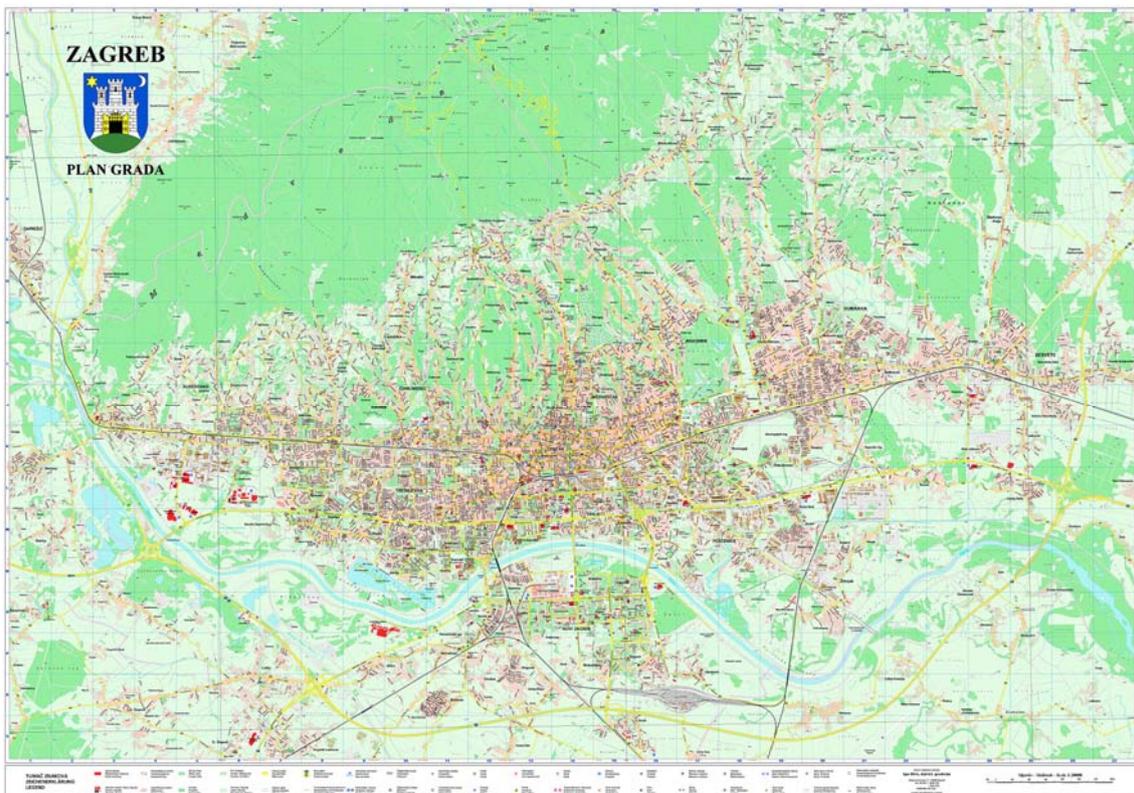


Figure 2: City plan of Zagreb, by Igor Birin, grad. eng. made in 2006

3.2. Map – original copyright work not protected by ZASP

Although moral rights of the author are inalienable and last as long as the author lives, even 70 years after his death (National Gazette 197/03, 79/07). We can therefore say that the maps become some kind of «cultural heritage» 70 years after author's death, and the reproduction of such maps, being either facsimile editions, published in monographs, etc. is regulated by special rules. The example of such a map is Tabula Peutingeriana, the map made in the 4. Century (Fig. 3).



Figure 3: Tabula Peutingeriana – Vignette of Cibal on the antique itinerary

3.3. Map that is not copyright work

Official works and their collections published for the purpose of informing public are not subject of copyright (National Gazette 197/03, 79/07), hence, cartographic works of official cartography are also not copyright works. Apart from that, the production of official maps is defined by the *Act of State Survey and Real Estate Cadastre* (National Gazette 16/07), there is a special *Book of Rules on Topographic Survey and Production of State Maps* (National Gazette, 109/08), cartographic key, map generalisation (Paj et al 2003), colours and other cartographic procedures are made thoroughly and defined in advance, so one cannot talk about copyright work and the freedom of authors to express themselves.

The compensation for using official maps is defined by the *Book of Rules on Defining Real Expenses for Using the State Survey and Real Estate Data* (National Gazette

19/03) having the *Catalogue of State Survey and Real Estate Cadastre Data* and *The Pricelist of State Survey and Real Estate Cadastre Data* as its integral part.

The map produced on the basis of official map without essential remodelling of original map and entering new data is also not considered to copyright (Lovrić, 1988). The map «imitating» the map made by some other author is also not considered to be a copyright work.

4. Problems in obtaining copyright in cartography

The development of new technologies and scientific solutions have largely facilitated and accelerated the work of cartographers, and cartography has become more and more present in the society. We can say that today there is no activity that does not use some of the forms of cartographic presentation. It leads to ever greater competition, the number of map producers is getting larger, which also leads to more frequent infringement of copyrights.

The analysis of available data on judicial proceedings and verdicts connected with cartography in the Republic of Croatia it has been found out that there are only few cases in connected with cartographic works of state institutions. The works of commercial cartography as e.g. thematic, tourist and road maps being most frequent and most available in the market are mostly exposed to violations.

The violations of copyrights in commercial cartography refer mostly to:

- problem with taking other peoples' copyright,
- permitted usage of copyright,
- publishing of maps without quoting the author,
- permitted map copying (mechanical, electronic or any other)...

Legal proceedings are mostly instituted due to usurping other people's copyrights and permitted usage of copyrights.

Namely, due to the fact that even up to 70% of time invested in producing maps is spent in collecting and processing the data, the usage of existing maps as primary cartographic sources is very common. Even after certain interventions are made in map graphics, one cannot talk about original copyright work, but about plagiarism and *usurpation of other people's copyright*.

The usage of copyright is exclusively the violation of author's property rights caused by publisher of cartographic works reproducing maps in larger number than agreed upon, and the authors obtain no compensation for it.

5. Proposal for solving the problem

Legal proceedings are very expensive and long lasting, hence the cartographers are not very eager to institute such proceedings. If the author decides to institute legal proceedings, the judicial practice shows that it is not the problem of defining the infringement, but the problem of defining the amount of compensation. Therefore, the standards for the evaluation of cartographic works should be established (Birin, Poslončec-Petrić, 2006), which would significantly contribute to the protection of copyrights in the field of cartography.

Apart from defining the compensation for damaged authors, the existence of standards in cartography would make it possible to create a real price of cartographic work in the market more easily.

The protection of copyrights in cartography would help in observing the Act on Libraries (National Gazette 105/97, 05/98, 69/00, 104/00). Namely, the Act on Libraries produces the regulation about obligatory copy and prescribes regular, free of charge delivery of nine copies of all printed and not printed publications on time to the National and University Library (NSK) (URL 10). The basis of this Act is historical and cultural obligation of the Croatian people to preserve its cultural heritage, and the first regulations connected with the regular delivery of obligatory copy date as far as 1816 (URL 11). Strict observation of this Act has made it possible to create a unique base of published works, and thus made it easier to define possible infringements.

6. Conclusion

Although a map as copyright work is protected the Act on Copyrights and Related Rights, there are still serious problems in practice. Croatia has got experience indicating that legal proceedings mostly do not pay off, are very expensive and long lasting.

The existing legal regulations are not complete and sufficient concerning at least cartography, and the copyright works like musical, fine arts, industrial design and audiovisual works, architectural works and others are much better protected than cartographic works. It is partly due to more complete legal regulations, and partly due to protection offered by certain professional associations (e.g. ZAMP, ULUPUH).

The proposal to improve the protection of copyrights in cartography is to establish unique standards for the evaluation of cartographic works and to insist on observing the Act on Libraries.

The establishment of the National development strategy of intellectual property system of the Republic of Croatia 2005-2010 (URL 12) has created the conditions to provide the protection of intellectual copyright similar as in EU. Along with the State Institute

for Intellectual Property there are also the State Inspectorate, Police and Ministry of Justice, as well as the state bodies and institutions participating that are competent for certain aspects of economic, scientific and technological and cultural development.

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