

COMPARATIVE TABLE

List of proposals for amendments and additions to some legislative acts of the Republic of Kazakhstan on copyright issues

№	The structural element	Current edition	Proposed edition	Justification
1	2	3	4	5
Civil Code of the Republic of Kazakhstan № 409 01 July 1999				
1	Article 970-1.	Not defined	<p>Article 970-1. Liability of Service Providers</p> <p>1. A service provider in the digital environment is liable for intellectual property rights violations on general grounds established by this Code.</p> <p>2. A service provider that transmits material in the digital environment is not liable for intellectual property violations resulting from such transmission if all of the following conditions</p>	<p>Kazakhstani legislation currently lacks sufficient justification for imposing liability on third parties for damages caused by copyright infringement. This is because the party causing harm and the party from whom damages are recovered may not coincide. Existing legal provisions do not extend to intermediaries such as ISPs or P2P networks. Kazakhstan's Copyright Law</p>

			<p>are met:</p> <ol style="list-style-type: none">1)it did not initiate the transmission and did not select the recipient;2)it did not alter the material, except for changes necessary for the technical process of transmission;3) it neither knew nor should have known that the use of the intellectual property by the initiating party was unlawful. <p>3. A service provider that provides the ability to post material in the digital environment is not liable for intellectual property violations resulting from such posting by a third party if both conditions are met:</p> <ol style="list-style-type: none">1) it neither knew nor should have known that the use of the intellectual property or means of individualization in the material was unlawful;2)upon receiving a written notice from the copyright holder identifying the web page and/or	<p>provides a definition of an “internet resource” as an electronic information resource presented in text, graphic, audiovisual, or other formats, identified by a unique network address and/or domain name, and operating on the internet. However, this definition is applied only in the context of regulating the activities of collective management organizations. The law contains no provisions assigning specific legal responsibilities to service providers. As a result, service providers in Kazakhstan remain without statutory safeguards, leaving them exposed to greater liability risks.</p>
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			<p>network address containing the infringing material, it promptly took the necessary and sufficient measures to stop the violation. The scope and procedure of such measures may be defined by law.</p> <p>4. The burden of proving the existence of an infringement of copyright and/or related rights, as well as the dispatch of a proper notice to the service provider, shall lie with the rightsholder. The burden of proving the good faith of its conduct and compliance with the obligations set out in paragraph 1 of this Article lie with the service provider.</p> <p>5. In the event of failure to comply with the conditions for exemption from liability, service providers shall bear responsibility for the damages caused in accordance with the procedures established by the Civil Code and the Criminal Code of the Republic of</p>	
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			Kazakhstan.	
2	Article 972 Types of Copyright Objects		<p>Article 972 Types of copyright objects</p> <p>1. The objects of copyright are:</p> <ol style="list-style-type: none"> 1) literary works; 2) dramatic, musical and dramatic works; 3) scenario; 4) works of choreography and pantomime; 5) musical works, with or without a text; 6) audio-visual works; 7) painting, sculpture, graphic and other works of art; 8) works of applied art; 9) works of architecture, urban construction, and landscape architecture; 10) photographic works and works, produced by methods similar to photography; 11) maps, plans, layouts, illustrations and three-dimensional works relative to geography, topography and other sciences; 	<p>Digitized works over past two decades represent a new form of expression of creative results, existing in electronic or code-based form and functioning within information and communication networks. Due to the mass digitization of works without notifying and the permission of authors and their heirs, both authors and their heirs have only recently begun to recognize the potential risks of copyright infringement, while entities engaged in digitization projects often do not fully realize that digitization and dissemination of works may violate exclusive rights.</p>

			<p>12) computer programs; 13) all types of digitized works;</p>	
3	Article 972 Types of Copyright Objects	Not defined	<p>Article 972 Types of copyright objects 1. The objects of copyright are: 14) works created with the use of AI systems, provided that such works involve a significant human creative contribution; 15) other works</p>	<p>On the basis of comparative legal research into the protection of AI-generated works, several conclusions may be drawn. First, the dissertation contends that copyright protection should extend to works produced with the assistance of AI systems, provided that such works involve substantial human creative input. This approach distinguishes AI-assisted creations from those autonomously generated by AI without meaningful human intervention. Accordingly, the traditional concept of human authorship remains the most appropriate and legally sound</p>

				<p>framework for determining authorship in cases involving AI-generated works.</p> <p>Second, with respect to ownership, given that an AI system functions merely as a technological tool, the user who makes a significant creative contribution to the resulting work should be recognized as the rightful owner. Conversely, the developer or owner of the AI system cannot be considered an author or owner, as they do not determine the final creative expression produced by the system.</p> <p>Consequently, users of AI systems bear the primary responsibility for the lawful use of such technologies and may be held liable for copyright infringements arising from the dissemination of use of AI-generated outputs.</p>
4	Article 980-1	Not defined	Article 980-1. The force of copyright on objects posted	It has been argued that the scope of copyright in the digital

			<p>on the Internet in a digital environment</p> <p>1. “Digital environment” means a set of infrastructure, technologies, and processes for the creation, circulation, storage, transmission and use of digital objects, as well as for the exercise and transfer of right to them, regardless of the territory where they are located or where the rights to them are registered;</p> <p>2. “Copyright in the digital environment” represents a distinct category of legal relations, encompassing a multifaceted legal framework that regulates relationships arising within the information and communication sphere among authors or right holders, internet intermediaries and user.</p>	<p>environment is broader than the scope of traditional copyrights for two reasons:</p> <ul style="list-style-type: none"> - The Internet is a space without borders, and in case of violations of the law, copyright objects are currently distributed all over the world, regardless of state borders. Consequently, the scope of copyright infringement in the digital age is also limitless, which distinguishes the relationship under consideration from copyright infringement in their traditional sense and infinitely expands the content of the terms “application” and “infringement” of copyright in the digital age. - The scope of copyright in the digital environment cannot be reduced to a simple “author–user” dichotomy, since Internet intermediaries (ISPs and content providers) play an active role in this relationship. They make it possible to widely
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				<p>distribute copyrighted works on the Internet, including through their uncontrolled digitization, which also entails massive copyright infringement in modern conditions.</p> <p>To ensure the effective protection of copyright in the digital environment, it is necessary to develop doctrinal or legal definitions of new phenomena of legal reality that objectively reflect the legal relations that have emerged in recent years.</p>
On Copyright and the Related Rights Law of the Republic of Kazakhstan № 6-І 10 June 1996				
1	Article 2. Basic definitions, used in this Law	Not defined	47) Service provider- is an entity that provides services of transmission, hosting, or public access to materials and information in a digital environment, including the Internet without changing the content transmitted or stored.	Currently, Kazakhstan's copyright law lacks a clear definition of service provider (or internet intermediary). This omission creates legal uncertainty in determining the liability of entities that provide access, transmission, hosting, or indexing services online. Without a statutory definition, courts and right holders face

				<p>difficulties in identifying responsible parties in cases of online copyright infringement. Introducing this definition will ensure consistency and predictability in law enforcement practice. service providers are central actors in the digital copyright system. They enable the digitization, transmission, and online distribution of works, effectively functioning as “gatekeepers” between right holders and users. WIPO and OECD studies emphasize their pivotal role, noting that most infringements in the digital environment occur through platforms operated by service providers. Defining them in law recognizes their active role and establishes a foundation for balancing responsibilities and rights. Introducing the definition of “service provider” into Article 1 of the Copyright Law creates legal certainty, aligns</p>
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				<p>Kazakhstan with international practice, strengthens the enforceability of proposed liability provisions (Article 970.1 of the Civil Code), and establishes a fair balance between right holders, intermediaries, and users in the digital environment.</p>
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