

KAMRAN IMANOV

**COPYRIGHT IN AZERBAIJAN
(possibilities and perspectives)**

Baku – 2016

Kamran Imanov

Chairman of the Copyright Agency of the Republic of Azerbaijan

**Copyright in Azerbaijan (possibilities and perspectives).
Baku, 2016**

This brochure has been prepared on the basis of the presentation of the Chairman of the Copyright Agency of the Republic of Azerbaijan Kamran Imanov named "Copyright in Azerbaijan (possibilities and perspectives)" presented at the Second Global Symposium of Intellectual Property Authorities under organization of WIPO in Geneva on 16-17 of September, 2010.

**© The Copyright Agency of the Republic of Azerbaijan
2016**

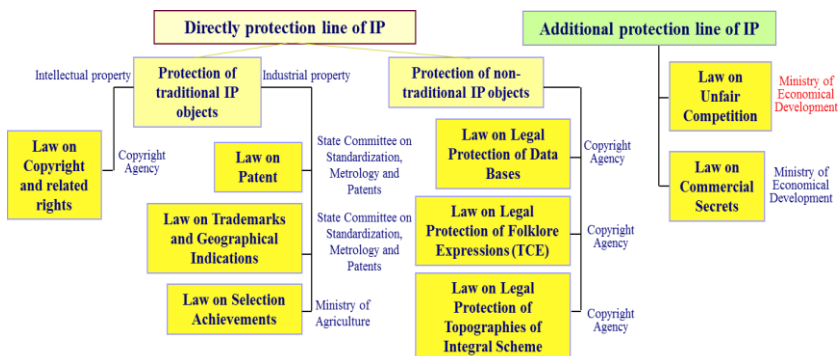
TABLE OF CONTENTS

	Distribution of authorities and information between competent bodies of intellectual property in Azerbaijan	5
I.	National legislation base, classification and management of IP	5
II.	The State Copyright Agency of the Republic of Azerbaijan	6
	Projects and collaboration possibilities?	20

DISTRIBUTION OF AUTHORITIES AND INFORMATION BETWEEN COMPETENT BODIES OF INTELLECTUAL PROPERTY IN AZERBAIJAN



I. National legislation base, classification and management of IP



Law Enforcement:

- Civil, Criminal, Procedure Codes and Code of Administrative Offences.
- Customs Code.

The copyright :

- Law on Enterprises;
- Law on Culture;
- Law on Theatres;
- Law on Cinematography;
- Law on Tele-radio broadcasting;
- Law on Advertising, etc.;
- Law on Electronic Commerce;
- Law on Digital Signature and Electronic Document Circulation.

International Treaties:

WIPO: Bern Convention

Geneva Phonograms Convention

Roma Convention

WIPO Internet Treaties

UNESCO: Convention for the Safeguarding of the
Intangible Cultural Heritage

CIS: 6 Bilateral Treaties

II. The State Copyright Agency of the Republic of Azerbaijan

1. Statute

Agency is the body of the central executive power that carries out the state policy in the field of traditional IP objects (copyright, related rights) and non-traditional IP objects (rights on TCE (folklore), topography of integral schemes, data bases (information collections)); provides the normative-legal regulation, development and coordination of this activity field

[“The Statute of the Agency” and “Structure” were affirmed by Decrees of the President of the Republic of Azerbaijan dated to 30.08.2005 with amendments and additions, 11.11.2008, 31.08.2009, 30.10.2009 and 21.12.2009].

2. Relation to Government

The State Agency is included into structure of the Cabinet of Ministers of the Republic of Azerbaijan. The Chairman of Agency is the member of the Cabinet of Ministers.

3. Leadership

The Chairman and the Deputy Chairman of Agency are appointed by the Order of the President of the Republic of Azerbaijan, the Chief of Staff and heads of departments are affirmed by consent of the Administration of the President. The board of Agency is affirmed by the Cabinet of Ministers of the Republic of Azerbaijan.



4. Participation in Governmental bodies

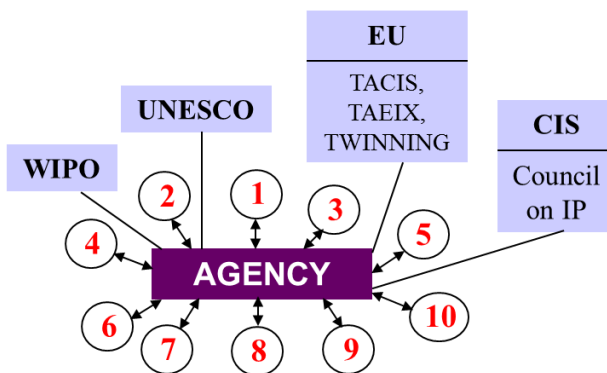
- ❖ State Commission on Cultural Rights;
- ❖ Governmental Commission on Integration with EU;
- ❖ Governmental Commission on WTO;
- ❖ Governmental Commission on Export-Import Control;
- ❖ Governmental Commission on Enforcement of IP Rights and Fight Against Piracy.



5. Cooperation with other bodies

- State Committee on Standardization, Metrology and Patent **1**
- State Customs Committee **2**
- Ministry of Economic Development **3**
- Ministry of Taxes **4**
- Ministry of Culture and Tourism **5**

- Ministry of Education **6**
- Academy of Science **7**
- Ombudsman Administration **8**
- Judicial and law enforcement powers **9**
- Organizations of right holders, non-governmental organizations, local self-government bodies **10**



6. Functional structure



7. Improvement of professional skill and retraining

On-line WIPO – 8 employees

On-line WTO – 14 employees

Courses and seminars (WIPO, USA, UK, South Korea) – 4 employees

The general purpose of the Agency

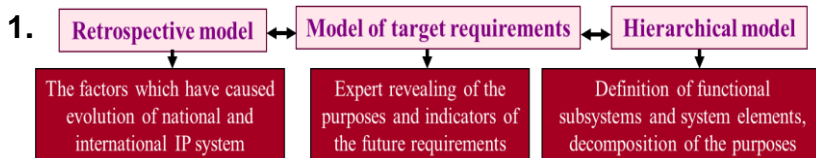
State policy implementation on using of IP potential, as tool of social-economic and cultural development and formation of IP culture.

Problem 1 (governmental body) State policy implementation.

- Developing of national strategy of IP development;
- Developing of State program on IP, system forecasts;
- Control over the current legislation and coordination of IP sphere;
- Drafts of laws and normative-legal acts on IP;
- Tariff policy in IP sphere;
- International cooperation in IP sphere;
- Others;

TOTAL 16 functions.

FRAGMENT OF NATIONAL STRATEGY OF LONG-TERM DEVELOPMENT OF IP SPHERE



Problem 2. Stimulation of RIA and creation of favorable environment for investments into creativity and innovations, distribution and enrichment of creative and innovative products and services.

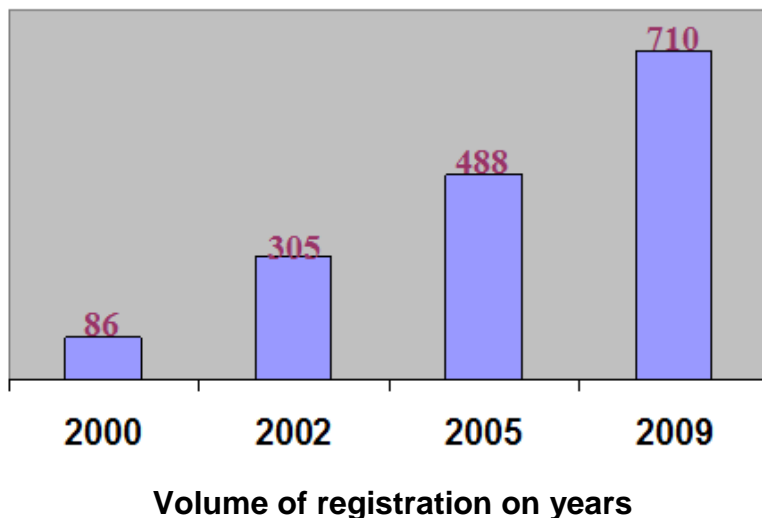
“Azerbaijani Authors” Unity – musical works

“Guild of Film directors” – audiovisual works

“Author” – related rights

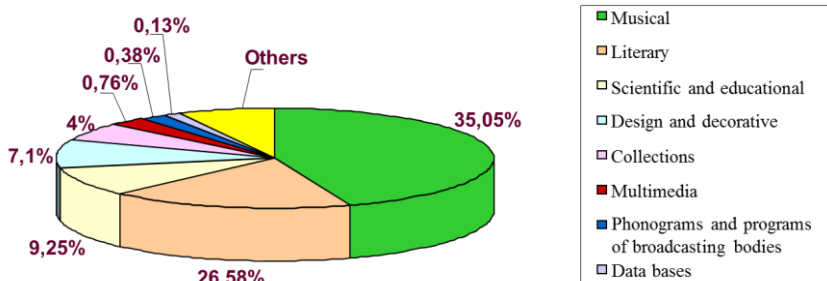
- Accreditation of collective management organizations, the methodological assistance, segments formation, control of the activities and dispute resolutions.

DIGITAL REGISTRATION, INCLUDING ONLINE

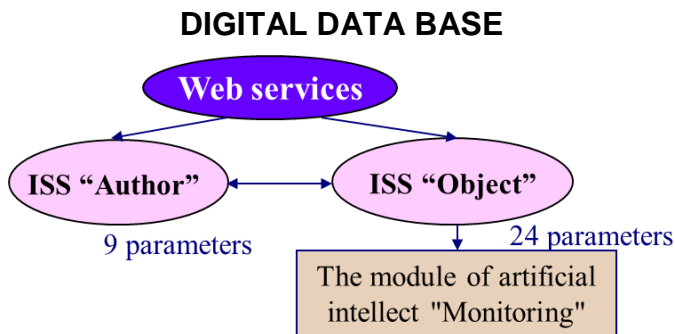


- Optional registration of IP objects, granting of certificates of the established form and the publication of the registered rights.
- Creation and conducting a national digital database and the depositor on authors (right holders) and IP objects.

DIGITAL REGISTRATION, INCLUDING ONLINE



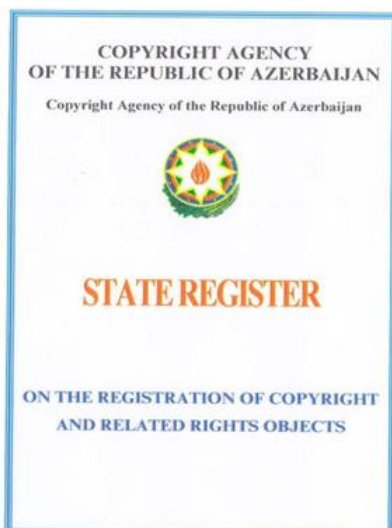
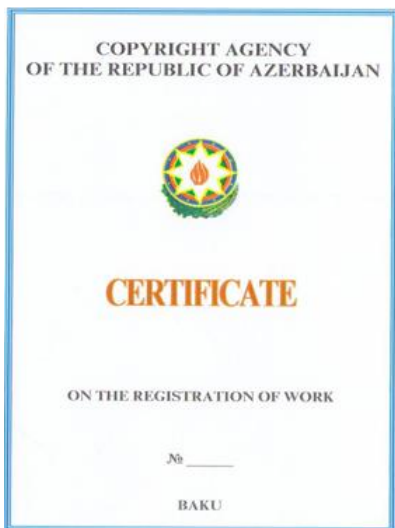
Types of the registered objects in % (total number 7087)



Programming environment: Delphi

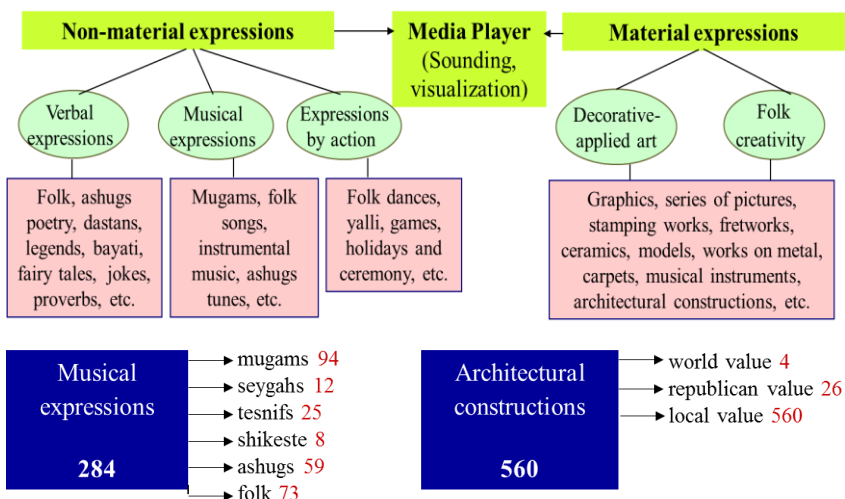
Language: Pascal, Search language - SQL

Output: Search on any parameters, accounting and statistical data.



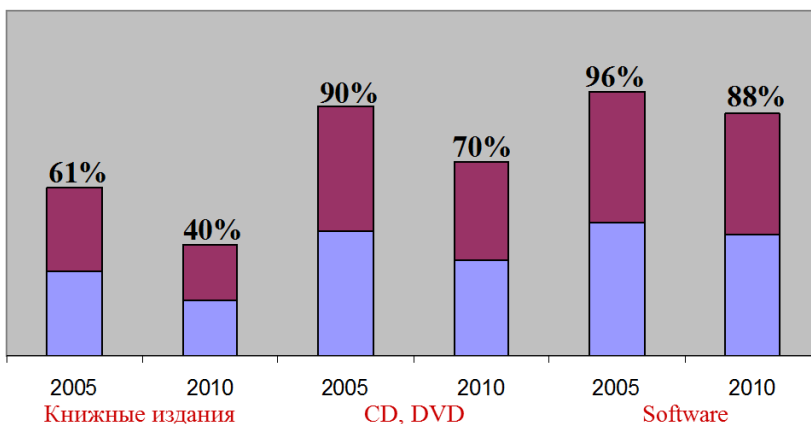
- Creation and conducting of multimedia digital library on TCE (folklore).

MULTIMEDIA DIGITAL LIBRARY “FOLKLORE”

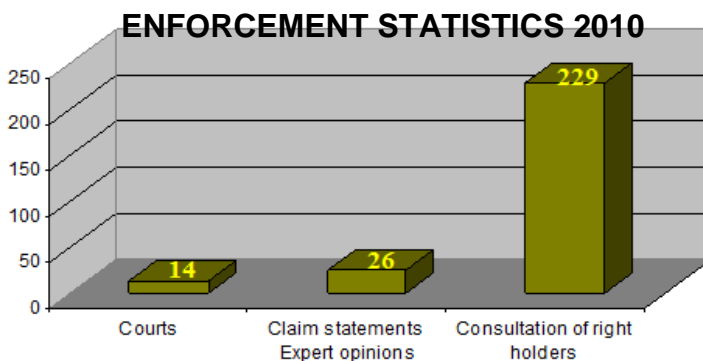


- ✓ Monitoring of the level of infringement of IP Rights and piracy, its estimation and carried out measures.
- ✓ Monitoring of using TCE (folklore) according to the legislation.

COMPARATIVE INDICATORS OF LEVEL OF A PIRACY

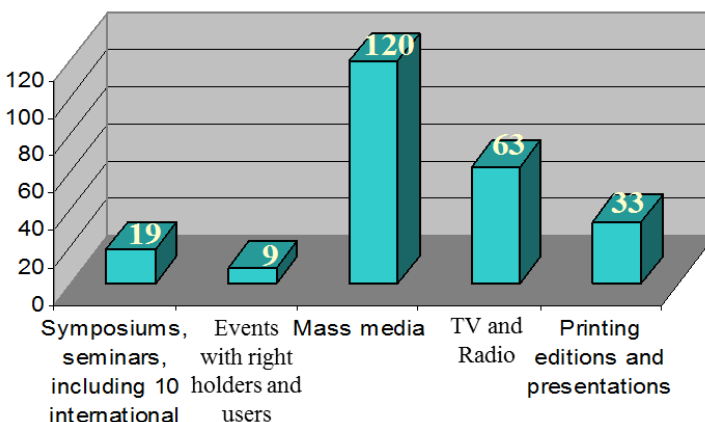


2010: 4 monitorings, withdrawn over 7000 piracy CDs, DVDs



- Representation of interests of the state in courts on infringement of use TCE, expert conclusions, the third party in questions of infringements of IP Rights.

FORMING IP CULTURE 2009-2010



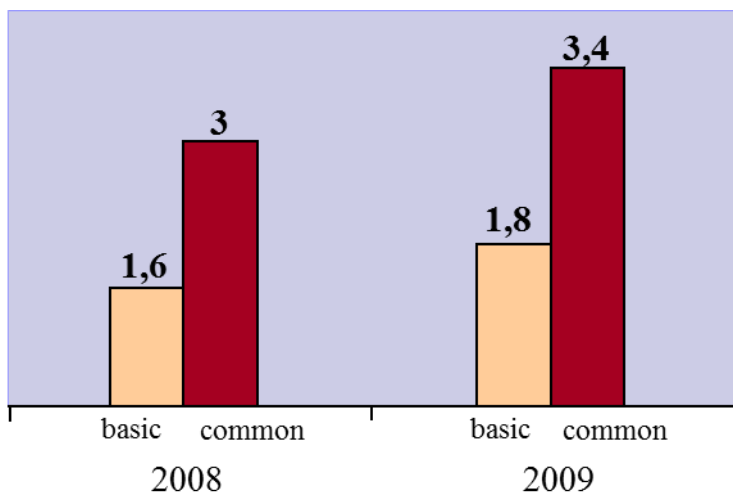
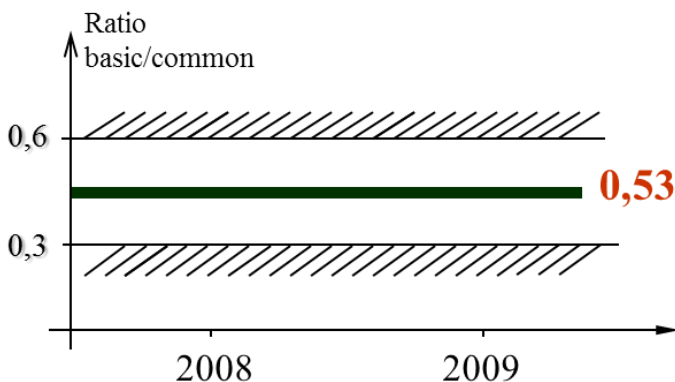
- Consultation of right holders and preparation of their claims, the methodological assistance in IP questions to law enforcement bodies, publications in IP sphere, radio and TV debates, symposiums, seminars, round tables, etc.
- Conducting statistics of court cases on IP, etc.

TOTAL 30 functions

Problem 3. Transformation of IP into the powerful development tool of the economy based on knowledge.

- Valuing of contribution of the industry based on the copyright (creative industry) in country GDP

SHARE OF THE CREATIVE INDUSTRY IN GDP



GDP of Azerbaijan in 2009 34,6 billion manats
(43,25 billion \$)

- Researches on an index of innovation in model of Solow.
- Revealing of a share of investments connected with IP.

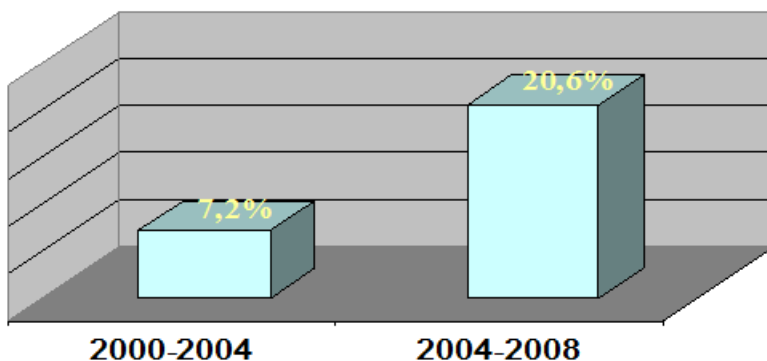
- Working out of methods of an valuing of IP actives on a microeconomic level, etc.

TOTAL 7 functions

INDEX OF INNOVATION (CREATIVITY) IN MODEL OF SOLOW

$$Y = A \cdot K^{\alpha} \cdot L^{\beta} \rightarrow \Delta Y / Y = \Delta A / A + \alpha \Delta K / K + \beta \Delta L / L \quad (\text{capital, labour, knowledge})$$

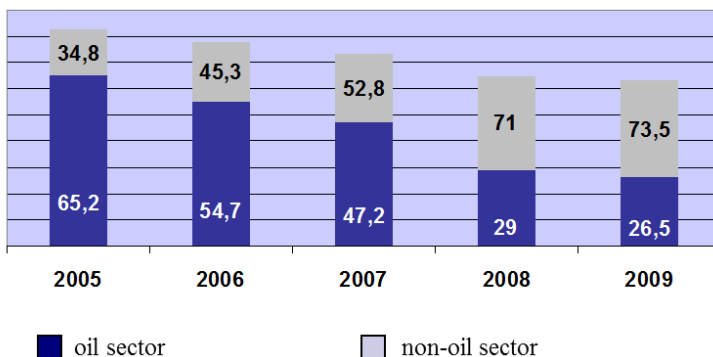
A – growth at the expense of innovations, K – capital, L – labour, $\alpha = \beta = 0,5$.



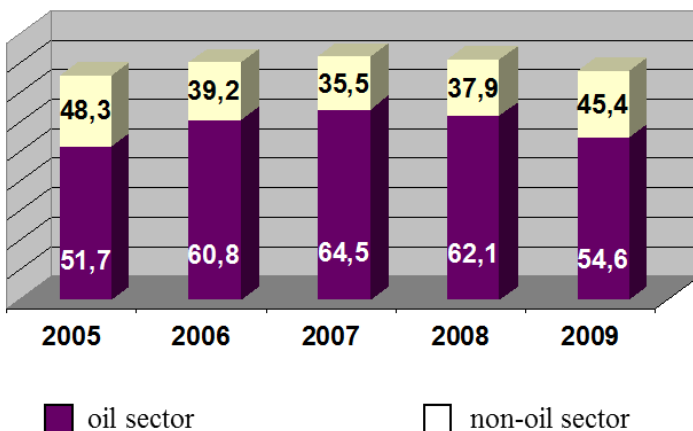
For 7 years of steady economic growth, pro-growth of GDP at the expense of innovations has grown on 13 %, GDP volume in 7 times.

I.Aliyev: *“The purpose is to convert our “black gold” into “human gold”.*

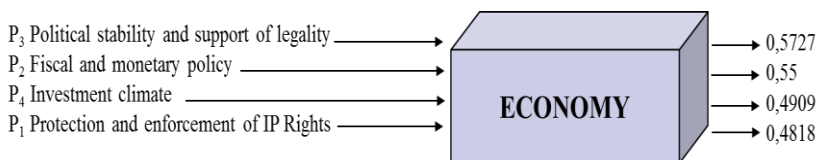
Parity of investments



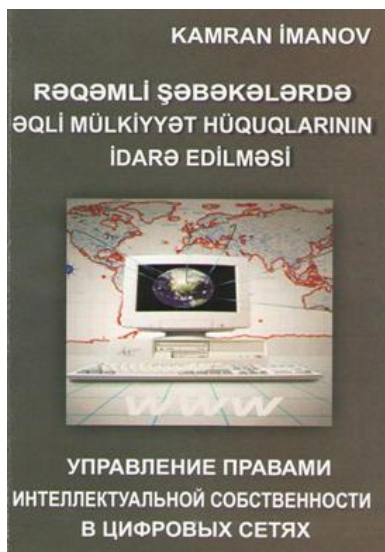
Share in GDP



Experton value of the governmental economic policy factors



Problem 4. Using of IP potential in forming of an information society.



Using of Internet: **44,4%**

Mobile phones: **61,9%**

Internet Service Provider : **> 30**

- Normative regulation and actions for forming of the mechanism of protection and implementation of the rights following from development of IT and e.com.
- Monitorings of using of the digital rights on the domain «.az».
- Working out of digital rights management methods, DRM.
- and etc.

TOTAL 6 functions.

The law “On Electronic Trade”:

The positive decision of a question on responsibility of the founder of the Internet resource and the provider.

The law “On Enforcement of IP Rights and Fight Against Piracy”:

Authorizes to observe the using of the digital rights, to control the activity of collective management organizations and to take measures on infringements to the executive power body in copyright sphere.

PROJECTS AND COLLABORATION POSSIBILITIES?

PRIORITIES

- 1. Strengthening of rights enforcement and target to infringements.**
- 2. The future of the digital copyright.**

1. Strengthening of enforcement of the rights.

Law of the Republic of Azerbaijan “On enforcement of intellectual property rights and fight against piracy”

The problems regulated by the law:

- Definition of judicial and administrative procedures and measures.
- Prevention of illegal manufacture and distribution of products, soundtracks and other objects of Intellectual property rights.

Chapter I

Substantive provisions:

- The basic concepts
- Law scope

Chapter II

Civil-law and administrative procedures and protection remedies at infringement of IP rights:

- Proof
- The information right
- Judicial interdictions
- Damage compensation
- The measures caused by the judgment
- Measures of publicity and the publication of judgments
- Provisional measures
- Border measures
- Administrative and criminal procedures

Chapter III

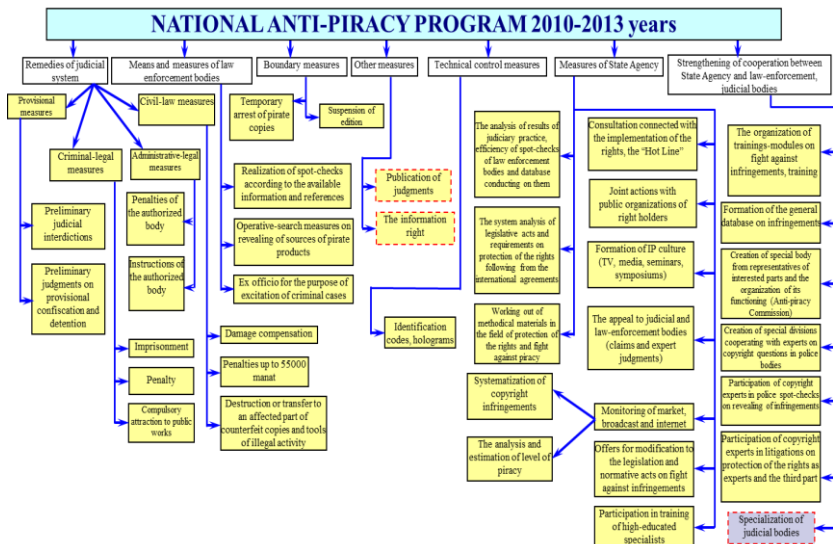
Administrative measures on fight against piracy:

- Identification codes
- Control marks
- Management of digital rights
- Control in practice
- Responsibility for illegal use of copies of objects of IP rights and control marks

Chapter IV

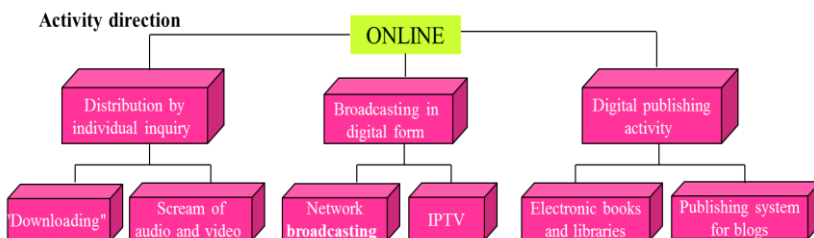
Final provisions:

- Implementation of the Law to the objects of IP rights at which has not expired protection term
- Coming into force of the Law



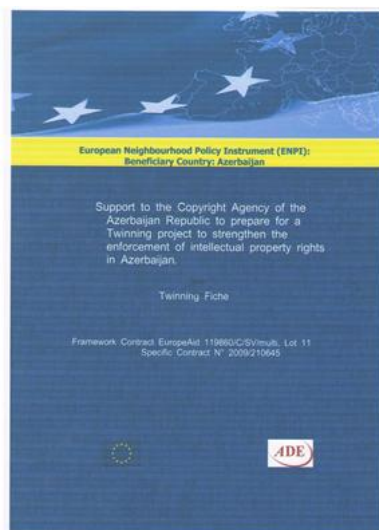
special state bodies on digital rights (Great Britain – Digital Rights Agency, Switzerland – the Center of licensing of products in a cyberspace).

ONLINE SERVICES IN DIGITAL NETWORKS



3. Creation of the Centre of IP enforcement .

- **Twinning project «Capacity development for enhancing enforcement of copyright and related rights in the Republic of Azerbaijan».**



Business model of IP enforcement Center

Purpose of creation	Legal enlighten and training in IP enforcement sphere, and also maintenance of production based on copyright and related rights by special antipiracy marks – hologrammes.
Basic functions	<ol style="list-style-type: none"> 1. Maintenance of functioning of the centre of training, exposition and library. 2. Conducting registration and delivery of digital codes to press products, soundtracks, audiovisual products, databases, and software extended in retail trade. 3. Delivery of special marks – hologrammes of production based on copyright and related rights. 4. Conducting the state registers of production admitted to distribution based on copyright and related rights, licenses between collectives of right holders and the broadcasting organizations and grant of certificates. 5. Examination on a subject of «clearing of the rights» of objects admitted to distribution in a trading network, on broadcasting and on a cable.
Resources	State support and own incomes.
The organizational form	Juridical body.

- **Efficiency of model “copyright in digital networks”.**
 - Alternative models (Ficher, Creative Commons, Dolgin, “copyleft”).
 - Substitution of copyright system?
 - Digital content: the form or the content (cloning, duplicating, decomposition).
 - Registration of digital content?
 - Prohibitive system of the exclusive right and content .
 - "Internet right" or the right of free uses of works by obtain the remuneration?
 - Technology, fund raising sources on remuneration and its distribution.
 - Changes made to the Law «On enforcement of IP rights and fight against piracy» (on Parliament discussion).

“Realization, including collective management of the rights in digital networks (the digital rights) is realized according to the current legislation.

The corresponding executive power body acting in copyright sphere carries out control over use of the digital rights, organizes collective management of them and takes within the limits of the powers of measures at their infringement, including at wrongful detour and breaking of means of protection, and also change or information destruction on management of the rights without the permission of the right holder”.

THE THREE-LEVEL TEST

LEVEL I	LEVEL II	LEVEL III
Limitations are set by copyright legislation (Art.17-24, 33-35)	Does not cause an unjustified damage to ordinary use (Art.15. p.5, Art.36. p.1)	Does not restrain legal interests of right holders unreasonably (Art.15. p.5, Art.36. p.1)

Collective management of digital rights: the compulsory license

- Business model of On-line monitoring and licensing of Enforcement Centre.

BUSINESS-MODEL OF SERVICE OF ON-LINE MONITORING AND LICENSING OF ENFORCEMENT CENTRE



Purpose of creation	Collective management of rights in a digital network by «one-stop-shops» principle with on-line licensing.
Basic functions	<ol style="list-style-type: none"> 1. Obligatory registration of a digital content by giving of a unique code-identifier. 2. Formation and conducting of a special site about stored content on conditions of its use and digital storage of objects. 3. Automatic identification of user's request, giving licensing and providing of electronic payments to individual and collective users. 4. Providing of tracing of the facts of using by means of the special automated mechanism of indexing of Internet resources and content search (like search systems: Google, Yahoo, Yandex, etc.) (cyber monitoring system). 5. Support of standards «Information on management of the rights» and «Technical measures of protection» and the digital codes of stored objects.

Prepared in the Copyright Agency of the Republic of
Azerbaijan

