Forms of Legal Protection of Computer Programs

The purpose of the thesis was to present a comprehensive overview of various methods of computer programs’ legal protection. Those methods were ranging from accepted to purely hypothetical ones. Accordingly, the outlined methodology was construed to comply with this scheme. First form, the copyright protection as the most accepted one was therefore dealt with mostly from the perspective of its practical applicability. Further, a proper balance between the interests of computer program’s author and its users was also analyzed. Second form, patent protection as the highly controversial one was thus dealt with from the perspective of its convenience, taking into account various pros and cons. Moreover, the essentials of this form of protection were analyzed and followed by their practical consequences. Other forms of protection of computer programs, inter alia, trade secret protection, were described to show how they could play a supplementary role to other two basic forms. Finally, the alternative forms of protection were also introduced and analyzed. Three hypothetical models, namely protection of computer programs by utility models, Paley’s small patent model and Manifesto, were held to be an excellent source of information; however, their practical implementation was found to be very problematic.

The two basic model were considered by author of this thesis not ideal, as both have to face theoretical and also practical problems. Nevertheless, their removal would not be of practical interest. First, copyright protection could at least protect the investment into writing the program itself and through Berne Convention and TRIPs enjoys a relatively broad worldwide acceptance. Second, the removal of the patent protection of computer programs would be very difficult, as the companies and patent attorneys would always find the way how to cover a computer program into other patentable invention due to its malleability. Finally, the replacement of the current models by hypothetical ones would be dangerous, as it would be hard to anticipate their practical implications.

To sum up, the importance was found in developing current models of computer programs’ legal protection, namely through copyright law and patent law. It was also stated that we could hope for alternatives that could emerge in autonomous system, Internet, which would have a major importance: it could go beyond the barriers given by the state-centristic view on law.