

Intellectual property law policy in Uzbekistan

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Annotation: This article discusses ongoing reforms in the field of intellectual property protection in Uzbekistan. In particular, the issues of administrative responsibility for violation of intellectual property rights, the process of judicial protection are covered. Opinions were also expressed on the procedure for resolving disputes in the field of intellectual property by administrative, civil and criminal courts. At the same time, based on the types of intellectual property objects (industrial property objects, means of individualization, copyright), the features of resolving conflict situations related to them are revealed. Based on the results of the article, the author concluded that it is necessary to specialize courts in resolving disputes in the field of intellectual property, expand the mechanisms of alternative ways of resolving disputes in the field of intellectual property, and improve the system of enforcement of judgments on intellectual property.

Key words: intellectual property, patent law, patent law, case practice, civil circulation, counterfeit products, dispute.

Today, significant work is being done in the Republic of Uzbekistan to reform the system of intellectual property protection, protect the legitimate interests of authors and copyright holders. In particular, the legislative base in this area has been formed and the state policy is being effectively implemented. As a result of improving public administration in the field of intellectual property, the Ministry of Justice of the Republic of Uzbekistan has made significant progress in recent years in ensuring the implementation of a unified state policy in the field of intellectual property, legal protection of intellectual property objects, and implementation of measures to ensure consistent and uniform practice of applying legislation in this area. .

The current legislation of the Republic of Uzbekistan provides for comprehensive measures to protect intellectual property – they can include all types of protection of civil rights. In the last three years, these measures have been radically improved. Thus, since 2019, a mechanism has been introduced to terminate early, in whole or in part, the invalidation of a law enforcement document for an intellectual property object solely on the basis of a court decision, and measures have been taken for pre-trial settlement of disputes in the Appeals Council of the Ministry of Justice of the Republic of Uzbekistan. In the new edition of the Code of Civil Procedure, the court was given the opportunity to allow immediate execution in full or in part of the decision to award remuneration due to the author for the use of the results of his intellectual activity. In the Economic Procedural Code of the Republic of Uzbekistan, disputes on violation of property rights to objects of intellectual activity and means of individualization of participants in civil circulation, goods, works and services were classified as economic disputes. In accordance with articles 10, 11 and 1040 of the Civil

Code of the Republic of Uzbekistan, ways of protecting intellectual property rights are provided, among which judicial protection of rights is of particular importance. In general, the protection of intellectual property involves:

1. *Civil courts and economic courts.* The development of economic relations, the expansion of the scale of trade and the provision of services dictate the need to protect the economic interests of business entities, as well as individuals (authors and copyright holders). Especially intellectual property in the implementation of activities by business entities has a significant role. As a rule, the owner of the exclusive right to an object of intellectual property has the right to transfer this right to another person in whole or in part, to allow another person to use the object of intellectual property and has the right to dispose of it in another way, if this does not contradict the rules of the Civil Code of the Republic of Uzbekistan and other laws [1]. Violation of this requirement entails civil liability. In turn, when creating a service object of intellectual property, relevant disputes may arise between the employee and the employer. These and other disputes between individuals are resolved within the framework of civil proceedings. Economic courts, on the other hand, consider disputes between business entities related to intellectual property (for example, disputes arising from non-performance of a license agreement). If you pay attention to the statistics for 2020 and the first half of 2021, the courts of the Republic of Uzbekistan considered 310 cases in the field of intellectual property, a significant part of which are related to trademarks and service marks (266 cases - 86%) [2].

Of particular note, the Law of the Republic of Uzbekistan dated August 20, 2021 No. 709 amended the Law "On Copyright and Related Rights" on the payment of compensation in the amount of twenty (20) to one thousand (1000) basic calculated values instead of compensation for damages, paid regardless of the fact of causing damages, based on the nature of the violation and the degree of guilt of the offender, taking into account the customs of business. These changes are of great importance in securing copyright protection in Uzbekistan today. In particular, this mechanism in the law is very effectively implemented by organizations managing property rights on a collective basis.

In particular, according to an open database, collective management organization – "UzAvtor" (www.uzavtor.uz), from the end of 2020 to the present day, has conducted 43 controversial copyright cases to restore the violated rights of authors and performers [3].

2. *Administrative courts.* As you know, objects of patent law (inventions, utility models, industrial designs), breeding achievements (new varieties of plants, new breeds of animals), trademarks and service marks, appellations of origin of goods receive legal protection after receiving the appropriate document certifying the rights to the object intellectual property (patent, certificate). In some cases, refusal to register intellectual property rights does not allow potential copyright holders to protect their rights and defend legitimate interests. In this case, the applicant, upon receiving a refusal to register and issue a law enforcement document, may appeal the decision of the state institution "Center for Intellectual Property" under the Ministry of Justice of the Republic of Uzbekistan to the Appeal Board of the Ministry of Justice of the Republic of Uzbekistan. In case of dissatisfaction with the decision of the Board of Appeal, the applicant has the right to apply to the administrative court. Consequently, administrative proceedings are the final instance of resolving a public dispute related to objects of intellectual property.

3. *Criminal courts.* The application of this civil liability does not exclude the possibility of applying measures of administrative-legal or criminal liability for these violations. According to the norms of the Code of Administrative Offenses and the Code of Criminal Procedure of the Republic of Uzbekistan, administrative offenses and crimes in the field of intellectual property are considered by criminal courts. At the same time, criminal courts protect the interests of intellectual property owners from encroachments, in particular from:

illegal use of someone else's trademark, service mark, appellation of origin of goods or confusingly similar designations for homogeneous goods (services) or illegal use of someone else's trade name (Article 177 of the Code of Administrative Offenses);

illegal use of works or objects of related rights, as well as reproduction, distribution, communication to the public of counterfeit copies of works or objects of related rights, or indication of false information on copies of works or objects of related rights about their manufacturers, about the places of their production, as well as about the owners of copyright law and related rights (Article 177¹ Code of Administrative Offenses);

unauthorized manufacture, use, import, offer for sale, sale, other introduction into civil circulation or storage for this purpose of a product or article containing the corresponding patented invention, utility model, industrial design, as well as the use of a method protected by a patent for an invention, or introduction into civil circulation or storage for this purpose of a product manufactured directly by a method protected by a patent for an invention (Article 177² of the Code of Administrative Offenses) [4];

appropriation of authorship, coercion to co-authorship on objects of intellectual property, as well as disclosure without the consent of the author of information about these objects before their official registration or publication (Article 149 of the Criminal Code).

It should be noted that counterfeit copies of works and objects of related rights, as well as materials and equipment used for their manufacture and reproduction, and other tools for committing an offense are subject to confiscation in court in accordance with the legislation on administrative responsibility.

In particular, in the Criminal Code it is necessary to include separate articles for the appropriation of authorship, as well as for violation of copyright and related rights. At the same time, liability measures for violation of copyright and related rights should be increased [5].

As we can see, the system of intellectual property protection is well organized in Uzbekistan: expert examination of intellectual property and other procedures are carried out effectively. However, judicial protection of intellectual property remains a painful issue [6]. So far, judicial practice on the protection of property rights has not been fully formed. The existing experience in resolving trademark disputes is not sufficient. The courts rarely consider cases on disputes regarding objects of copyright and industrial property. In this regard, the issues of cardinal improvement of this area is of great importance. The reform of the system of judicial protection of intellectual property received a new impetus with the adoption of the Decree of the President of the Republic of Uzbekistan dated January 28, 2021 No. 4965 "On measures to improve the system for the protection of intellectual property objects". By the specified decision, the Supreme Court, the Ministry of Justice and the Antimonopoly Committee, with the involvement of international experts, were instructed to develop a training program for judges in the field of intellectual property. At the same time, by the end of 2021, it

is planned to introduce a system of training judges in practice. Particular attention was paid to the creation, with the assistance of international organizations, of an in-depth training program for judges considering disputes in the field of intellectual property. This is one of the first steps to strengthen the mechanism of judicial protection, the improvement of which can subsequently be carried out in the following ways:

Firstly, the possible specialization of courts to resolve disputes in the field of intellectual property, in particular, the creation of special courts for the protection of intellectual property. According to the data of the International Institute for Intellectual Property (International Intellectual Property Institute), the number of countries in the world that create specialized courts for the protection of intellectual property is growing [7]. Such a step is interpreted as the implementation of the obligation under the TRIPS Agreement and WTO accession [8]. In the United States, there is a special court (appellate) for resolving patent disputes and disputes arising from trademarks. A similar procedure exists in Mexico. In Japan, there is the Supreme Court for Intellectual Property, which operates in 6 prefects, exercising judicial protection of objects of copyright and industrial property. Since 2008, the Regional Intellectual Property Court began its work in Mexico. In some countries, for example, in China, since 2010, specialized intellectual property courts have been tested.

The advantage of creating specialized courts is to ensure uniform judicial practice, ensure the professionalism of judges, and increase the effectiveness of protecting rights to intellectual property.

Secondly, it is necessary to expand the mechanisms of alternative ways of resolving disputes in the field of intellectual property - mediation, negotiations, conciliation. The adopted general legislative acts in the field of alternative dispute resolution can also be involved in the protection of intellectual property. The activity of a mediator or intermediary in resolving a dispute in the field of intellectual property will certainly help to reduce the number of offenses regarding intellectual property, improve the legal culture in terms of handling intellectual property, and create an atmosphere of respect for intellectual property in society.

Thirdly, the system of enforcement of judgments on intellectual property should be improved. A court decision is effective precisely if it is possible to enforce it, which also applies to intellectual property. When discussing the issue of establishing a specialized court for intellectual property, it is necessary to specify the rules for the enforcement of judgments on intellectual property, taking into account the specifics of the area under consideration (for example, enforcement of a court decision on a compulsory license in case of refusal to voluntarily enforce, specifying the powers of state executors). According to Article 56 of the Law of the Republic of Uzbekistan "On the execution of judicial acts and acts of other bodies", the procedure for exercising rights to the results of intellectual activity and means of individualization is determined by the Cabinet of Ministers of the Republic of Uzbekistan. Therefore, it is necessary to determine the mechanism for the implementation of enforcement proceedings in cases related to intellectual property, as part of the decision of the Government of the Republic of Uzbekistan.

References

1. Civil Code of the Republic of Uzbekistan. National Database of Legislation, 03/30/2022, No. 03/22/761/0250.

2. Statistical and analytical data by the Agency for Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan. <http://ima.uz/ru/services/statisticheskie-i-analiticheskie-dannye/>
3. Open database on the protection of copyright. <https://uzavtor.uz/copyright-database?page=0&size=50>
4. Code of the Republic of Uzbekistan On Administrative Responsibility. National Legislation Database, March 14, 2022, No. 03/22/759/0213.
5. Yuldashov A., Usmonov V. Copyright Protection in Uzbekistan by The Collective Management Organizations //Miasto Przyszłości. – 2022. – T. 25. – С. 185-188.
6. Yuldashov A.A. Abstract of diss... doctor of philosophy in jurisprudence. “Contractual and legal basis for the protection of copyright”. Tashkent. 2020.
7. Specialized intellectual property courts worldwide. <http://iipi.org/map/map.htm>
8. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). <https://wipolex.wipo.int/en/text/329636>.
9. Юлдашов А., Чориев М. Договорно-правовые отношения в области авторского права и ответственности за нарушение авторского права: национальный и зарубежный опыт //Общество и инновации. – 2020. – Т. 1. – №. 1/с. – С. 511-522.
10. Юлдашов А. Интеллектуал мулк бўйича миллий стратегияларнинг аҳамияти ва бутунжаҳон интеллектуал мулк ташкилотининг бу борада тутган ўрни //Юрист ахборотномаси. – 2020. – Т. 1. – №. 2. – С. 53-59.
11. Юлдашов А. Географик кўрсаткич тушунчаси ва иқтисодий мустақамлашда унинг тутган ўрни //Юрист ахборотномаси. – 2021. – Т. 2. – №. 1. – С. 249-257.
12. Yuldashov, A. A. “Government policies related to social protection of disabled persons in Uzbekistan: National and international aspects.” (2012): 186-191.
13. Abdugopirovich, Yuldashov Abdumumin. “Types Of Legal Protection Of A Trademark (Service Mark) In Foreign Countries: The Example Of The Madrid System.” Turkish Journal of Computer and Mathematics Education (TURCOMAT) 12.4 (2021): 1068-1073.
14. Abdumumin Yuldashov, Sreenivasulu N Shanmuka Raqamli muhitda mualliflik huquqi muhofazasi // Central Asian Academic Journal of Scientific Research. 2022. №6. URL: <https://cyberleninka.ru/article/n/raqamli-muhitda-mualliflik-huquqi-muhofazasi> (дата обращения: 04.09.2022).
15. Юлдашов Абдумумин Важные аспекты международной охраны авторского права и развитие договорно-правовой базы // Review of law sciences. 2020. №Спецвыпуск. URL: <https://cyberleninka.ru/article/n/vazhnye-aspekty-mezhdunarodnoy-ohrany-avtorskogo-prava-i-razvitie-dogovorno-pravovoy-bazy> (дата обращения: 04.09.2022).
16. Абдумумин Юлдашов Ўзбекистонда муаллифлик ва турдosh ҳуқуқларни бузганлик учун жавобгарлик кучайтирилишининг долзарблиги // Review of law sciences. 2020. №2. URL: <https://cyberleninka.ru/article/n/zbekistonda-mualliflik-va-turdosh-u-larni-buzganlik-uchun-zhavobgarlik-kuchaytirilishining-dolzarbli> (дата обращения: 04.09.2022).

17. Тўракулова Н., Юлдашов А. Интеллектуал мулк ҳуқуқи ҳимоя қилиш механизмини такомиллаштиришда халқаро шартномаларнинг ўрни ва аҳамияти //Conferencea. – 2022. – С. 467-471.
18. ЮЛДАШОВ А. А. Необходимость участия республики узбекистан в международных рейтингах и индексах в области интеллектуальной собственности //Электронный инновационный вестник. – 2021. – №. 1. – С. 18-20.
19. Yuldashov A., Usmonov V. Copyright protection in telecommunications networks: the example of blockchain technology //European Journal of Interdisciplinary Research and Development. – 2022. – Т. 4. – С. 22-29.
20. ЮЛДАШОВ А. Ўзбекистон Республикасининг интеллектуал мулк, алоқа ва ахборот соҳасидаги норматив-ҳуқуқий ҳужжатларда муаллифлик ҳуқуқини муҳофаза қилишга доир нормаларни такомиллаштириш масалалари //Юрист ахборотномаси. – 2022. – Т. 2. – №. 5. – С. 58-64.