



MAIN DIRECTIONS OF THE STATE LEGAL POLICY FOR THE PROTECTION OF INTELLECTUAL PROPERTY IN UZBEKISTAN

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Abstract

The article analyzes the essence of intellectual property rights, the status of objects of intellectual property, the characteristics of international legal documents related to this area, the improvement of the legal framework for the protection of intellectual property rights, the problems of protecting intellectual property, the ideas of improving the system of protecting intellectual property and strengthening responsibility are proposed.

Keywords: intellectual property, legislation, international convention, absolute rights, civil sanction, counterfeiting, administrative responsibility, criminal liability.

ЎЗБЕКИСТОНДА ИНТЕЛЛЕКТУАЛ МУЛКНИ ҲИМОЯ ҚИЛИШНИНГ ДАВЛАТ-ҲУҚУҚИЙ СИЁСАТИНИНГ АСОСИЙ ЙЎНАЛИШЛАРИ

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Аннотация

Мақолада интеллектуал мулкнинг ҳуқуқи табиати, интеллектуал мулк объектларининг мақоми, соҳага оид халқаро-ҳуқуқий ҳужжатларнинг хусусиятлари, интеллектуал мулк ҳуқуқини ҳимоя қилишнинг ҳуқуқий асосларининг такомиллаштирилиши, интеллектуал мулк ҳуқуқини ҳимоя қилишдаги муаммолар таҳлил қилинган, интеллектуал мулкни ҳимоя қилиш тизимини такомиллаштириш ва жавобгарликни кучайтириш билан боғлиқ ғоялар таклифи берилган.





Калит сўзлар: интеллектуал мулк, қонунчилик, халқаро конвенция, мутлак ҳуқуқлар, фуқаролик-ҳуқуқий санкция, контрафакция, маъмурий жавобгарлик, жинойий жавобгарлик.

ОСНОВНЫЕ НАПРАВЛЕНИЯ ГОСУДАРСТВЕННО-ПРАВОВОЙ ПОЛИТИКИ ОХРАНЫ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ В УЗБЕКИСТАНЕ

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Аннотация. В статье анализируются сущность прав интеллектуальной собственности, статус объектов интеллектуальной собственности, характеристика международно-правовых документов, относящихся к данной сфере, совершенствование правовой базы защиты прав интеллектуальной собственности, проблемы защиты интеллектуальной собственности, предложены идеи совершенствования системы защиты интеллектуальной собственности и усиление ответственности.

Ключевые слова: интеллектуальная собственность, законодательство, международная конвенция, абсолютные права, гражданско-правовая санкция, контрафакция, административная ответственность, уголовная ответственность.

Introduction

Implementation of consistent measures for legal protection of intellectual property objects, their commercialization, and provision of reliable legal protection of intellectual property is becoming the main priority policy of our state. In order to develop a modern economy based on innovations, the rights of subjects participating in legal relations regarding the creation and use of intellectual property should be fully protected. Failure effectively protect the rights of intellectual property owners can seriously harm the development of scientific and technical development.

The legal foundations of intellectual property as a civil legal institution are established in the Civil Code. Chapter IV of the Civil Code provides for the right to inventions, utility models, industrial samples, the right to new varieties of plants and new breeds





of animals, copyright, related rights, protection of undisclosed information from illegal use, participants in civil transactions, means of personalization of goods, works and services protection is defined.

In Uzbekistan, the legal system of intellectual property rights does not consist only of national normative legal documents. In the development of national legislation in this field, the international conventions and agreements to which the Republic of Uzbekistan has joined and ratified in the prescribed manner serve as an important factor. For example, on April 19, 2005, Uzbekistan became a member of the Berne Convention "On the Protection of Literary and Artistic Works", and today more than one hundred and eighty countries in the world must ensure the protection of works of science, literature and art in Uzbekistan. In the same way, the rights of the authors of Uzbekistan are ensured in the countries that are members of the Berne Convention.

As B. Toshev rightly stated, there is a need to create a modern and effective system of copyright protection, to adapt the legislation of the field to international standards, to create a convenient and effective system of protection of authors' rights in order to eliminate the existing problems.

In national legislation and international documents, unauthorized use (without a contract) or illegal disposal of intellectual property objects is recognized as a crime. One of the main reasons for violations occurring in the field of intellectual property rights is the absence of direct civil legal sanctions in the legislation on civil rights. In the legislation of the developed countries of the world, it can be seen that civil liability is established in the national legislation as the most effective measure.

According to the decision of the President of the Republic of Uzbekistan dated February 8, 2019 "On measures to improve state management in the field of intellectual property", the priority tasks of identifying the cases of the formation of the "secret economy" and putting an end to the production of counterfeit products were determined, while PQ (Presidential Decree)-4380 of July 1, 2019 - the main tasks of the Intellectual Property Agency are to ensure the implementation of a unified state policy in the field of intellectual property, legal protection of inventions, utility models, industrial samples, trademarks and other intellectual property objects, comprehensive analysis of the state of legal protection of intellectual property objects, intellectual important tasks such as the implementation of measures to ensure consistent and uniform practice of law enforcement in the field of property were defined.

In particular, the adoption of the Decree of the President of the Republic of Uzbekistan on March 17, 2022 "On measures to further increase the effectiveness of judicial bodies and institutions in ensuring the rights and freedoms of citizens and providing





legal services" PF (Presidential Decree) - № 89 marked the beginning of major reforms in the field shows. According to the decree, the existing Intellectual Property Agency terminated, the Intellectual Property Center established under the Ministry of Justice, and the activity of the department established within the Ministry. Therefore, the Ministry of Justice entrusted with a number of additional tasks, including:

b) In the direction of legal protection and protection of intellectual property:

Development of a unified state policy in the field of intellectual property and protection of rights to inventions, trademarks, copyright and other intellectual property objects.

The Ministry designated as the authorized state management body implementing the unified state policy in the field of intellectual property (protection and protection of rights to intellectual property objects) and representing the Republic of Uzbekistan in the World Intellectual Property Organization and other international organizations in the field of intellectual property.

According to the current legislation, copies made and distributed because of violation of intellectual property rights recognized as forged (counterfeit) copies. The word "counterfeit" is derived from the French word "contrefacson" which means infringement of intellectual property. In the essence of this term, there is another concept - the concept of "fake".

Counterfeit copies mean such works and phonograms or copies of works and phonograms (recordings) that are protected in the republic without the consent of the owners of copyright and similar rights from countries where protection has been suspended. Civil, administrative and criminal liability arises because of such illegal use of intellectual property objects.

Recently, in order to ensure the protection of intellectual property rights in our republic, some norms of the Customs, Administrative Responsibility, and Tax Codes have been improved. In the Customs Code of the Republic of Uzbekistan, the issues of protection of rights to intellectual property objects by the customs authorities are strengthened in detail. In particular, in order to ensure the protection of rights to intellectual property objects brought into the customs territory and under customs control, it is established to suspend the export of goods with signs of violation of rights to intellectual property objects.

On December 3, 2019, Article 177 of the Code of Administrative Responsibility (Illegal use of another's trademark, service mark, name of the place of origin or name of the company) was adopted in a new version. Article 177¹ (Infringement of copyright and related rights), Article 177 (Infringement of rights to inventions, utility models and industrial designs) of this code have been supplemented with new articles.





Unauthorized preparation, use, import, offering for sale, sale, introduction into civil circulation in any other way, or keeping for this purpose a product or article containing the relevant patented invention, utility model, industrial sample in these articles, as well as using the method protected by the invention patent or it was recognized as an offense to directly introduce the product made by the method protected by the invention patent into civilian circulation or to keep it for this purpose.

The European Parliament signed the Anti-Counterfeiting Trade Agreement (ACTA-The Anti-Counterfeiting Trade Agreement) on January 26, 2012 in Warsaw. ACTA has been signed by all the other countries of the European Union except Cyprus, Estonia, Slovakia, Germany and the Netherlands. The United States, Australia, Canada, Japan, Morocco, New Zealand, Singapore and South Korea also signed this document later. It can be seen that intellectual property rights are strictly protected around the world. If we pay attention to the legislative experience of foreign countries, it can be seen that relations related to criminal responsibility in the field of intellectual property are regulated by clearly defined material norms.

The practice of applying the law shows that there is a need to develop and put into practice the necessary new norms with the analysis of national and international experiences in improving the legislation in this regard. In particular, it is appropriate to establish new rules and amendments that provide for administrative or criminal liability, to strengthen responsibility for violations of the law in relation to intellectual property objects. In our opinion, it is necessary to introduce new criminal-punishment norms on copyright and similar rights violation in order to gain profit into the current Criminal Code.

To sum up, the analysis of the law enforcement practice showed that the work on timely detection and elimination of violations in the field of intellectual property was not properly performed, the inefficiency of the state service delivery system, the absence of strong inter-agency cooperation, the lack of qualified personnel in the field of intellectual property, as well as the high level of patent duties and fees has a negative impact on the development of this industry.

Observance of intellectual property rights on the territory of the country, regulation of legal use of objects, protection of the rights and legal interests of authors and other rights holders, creation of a system of legal exchange of objects, ensuring the integrity of works, production of unauthorized audio, video, printing and other (counterfeit) products prevention, obtaining appropriate privileges and priority in joining international legal agreements, bringing national legislation in the field closer to international law remains relevant.





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