



LEGAL PROTECTION OF INTELLECTUAL PROPERTY IN THE REPUBLIC OF UZBEKISTAN

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ABSTRACT

Scientific and technical development is currently becoming one of the determining factors of competitiveness of economic entities and the economy of each state. All these factors have prompted all states to pay great attention to intellectual property. Intellectual property is a relatively new and constantly evolving institution of civil law, plays a vital role and covers a wide range of areas of intellectual activity of society. This article analyses the institution of liability, its types, and its role in the Republic of Uzbekistan.

At the moment, a large number of scientific studies reveal a comprehensive study of the legal protection and defense of intellectual property. These scientific studies are aimed at studying civil liability in the field of intellectual property. While, according to some scientists, there is a need to consider liability for violations in the field of intellectual property as an interdisciplinary institute of law. Since this contributes to a more detailed study of its mechanism.

Intellectual property rights are protected within the framework of protective legal relations that restore the violated legal order in the field of intellectual property. As a result, civil, administrative or criminal liability measures are applied.

As we know, the copyright holder or author of intellectual property objects owns exclusive rights that are enshrined in regulatory legal acts. Violations of the exclusive rights of the author or copyright holder lead to liability.

However, the most common violations are considered to be violations of copyright and rights to means of individualization.

In the field of copyright and related rights, the most common is the use of works without the author's permission. The main reason for such a wide distribution of violations of these rights is characterized by the economic aspect. The price of intellectual property may be excessively high in relation to the material possibilities or expectations of the users of the works. Such a situation may lead to the distribution of counterfeit goods. In addition, one of the ideal places for rights violations is the Internet, which allows free and completely free use of copyrighted works.

In the field of rights to means of individualization, the most popular violation can be called plagiarism. Plagiarism is the deliberate appropriation of an idea, invention, work of science and art belonging to another person. For

example, an organization appropriates a trademark that is slightly different from the trademark of another enterprise. Such actions are aimed at deceiving buyers. As a result, the enterprise that originally owned the trademark may incur losses.

Of all the categories of legal liability, the most common is civil liability. The protection of intellectual rights is established by Articles 11 and 1040 of the Civil Code of the Republic of Uzbekistan, can be carried out by filing a claim:

- recognition of the right;
- restoration of the situation that existed before the violation of the right, and the suppression of actions that violate the right or create a threat of its violation;
- recognition of the transaction as invalid and application of the consequences of its invalidity;
- recognition of the act of a state body or a citizen's self-government body as invalid;
- self-defense of the right;
- awarding the performance of an obligation in kind;
- compensation for damages;
- collection of a penalty;
- compensation for moral damage;
- termination or change of legal relations;
- non-application by the court of an act of a state body or a citizen's self-government body that contradicts the law.
- seizure of material objects with the help of which exclusive rights were violated, and material objects created as a result of such violation;
- mandatory publication of the violation committed, with the inclusion of information about who owns the violated right;
- other methods provided for by law.

If we analyze the legislation of the Republic of Uzbekistan on intellectual property, several questions arise that require clarification.

According to Article 33¹ of the Law of the Republic of Uzbekistan "On Inventions, Utility Models and Industrial Designs", the 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 relevant patented industrial property object, as well as the use of a method protected by a patent for an invention, or the introduction into civil circulation or storage for this purpose of a product manufactured directly by a method protected by a patent for an invention, shall entail the imposition of a fine on legal entities from one hundred to two hundred basic calculation units. The amount of fines is determined for each type of offense separately. In accordance with paragraph 1 of Article 371 of the Law of the Republic of Uzbekistan "On Trademarks, Service Marks and Appellations of Origin of Goods", the illegal use of a trademark, appellation of origin of goods or confusingly similar designations for homogeneous goods shall entail the imposition of a fine on legal entities from one hundred to two hundred basic calculation units.

Based on the patent holder's application, the Ministry of Justice of the Republic of Karakalpakstan, the regional and Tashkent city justice departments (hereinafter referred to as justice authorities) conduct an inspection of compliance with the right to use industrial property objects. Inspections conducted in relation to business entities are carried out in agreement with the Commissioner under the President of the Republic of Uzbekistan for the

Protection of the Rights and Legitimate Interests of Business Entities in the manner prescribed by law.

Fines are imposed by the justice authority based on inspections. In this case, an act is drawn up on the violation identified during the inspection, which is signed by officials of the justice authority and the legal entity - the offender, respectively (hereinafter referred to as the offender).

If the offender (his representative) refuses to sign the act, the official of the justice authority must certify this fact with the help of a video recording attached to the said act, or in the presence of two witnesses. The same mechanism for imposing fines on legal entities that violate intellectual property rights is enshrined in the Law of the Republic of Uzbekistan "On Trademarks, Service Marks and Appellations of Origin of Goods" and "On Trade Names".

Based on these articles, questions arise about the amount of the fine imposed. The article specifies the maximum and minimum fines from 100 to 200 BRV. But it does not describe what the determination of the amount of fines depends on. In short, what will the justice authorities be guided by when determining the amount of the fine? How correct is it to impose a certain amount of fine when there are no criteria? For example, if the justice authorities imposed a fine of 150 BRV, then what did they refer to when determining this amount of fine.

It follows that the above-mentioned regulatory legal acts establish the amount and term of imposing fines. But there are no procedural aspects at all, i.e. the procedure for the activities of justice authorities.

For a more detailed analysis, let's imagine a situation: an employee of the Ministry of Justice received a statement that a legal entity is violating intellectual property rights. First of all, the employee of the justice authority must carry out an inspection. When carrying out an inspection, the Ministry of Justice must coordinate its actions with the Business Ombudsman. Further, what procedural actions must be performed by the justice employee are not legally established.

In accordance with paragraph 13 of Article 26 of the Economic Procedural Code, the economic court resolves disputes on the collection of fines from legal entities and citizens by regulatory authorities, unless the law provides for an uncontested (non-acceptance) procedure for their collection.

Also, in accordance with paragraph 7 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 19, a claim by an authorized state body to collect a fine from legal entities that have violated exclusive rights in relation to certain intellectual property objects (invention, utility model, industrial designs, selection achievement, trademark, name of the place of origin of goods, trade name) is under the jurisdiction of economic courts.

It should be noted that judges considering such disputes must have knowledge in the field of intellectual property law.

But questions also arise: does a judge considering a dispute on the collection of a fine from a legal entity have the right to reduce or increase the fine? The reason for this question is that sometimes legal entities may not be able to pay a fine of this size.

These procedural aspects are subject to revision and implementation into national legislation.

We must also find out whether a fine imposed by justice authorities excludes civil liability?

No, the application of such a measure as a fine should not exempt the offender from civil

liability.

To clarify, we must define what compensation is. Compensation is a measure of liability for violations of exclusive rights and is considered popular among copyright holders. However, the application of compensation entails a huge number of controversial issues, which are due to the noticeable instability of court cases. They can also lead to frequent changes in the content of clarifications of higher judicial authorities regarding the essence of this concept, as well as clarification of the provisions of the Civil Code of the Republic of Uzbekistan.

A fine can be called a sanction for an offense committed. Compensation is the provision of funds for damage caused.

Typically, this can be achieved by regulating normative postulates: inherent methods for calculating the damages of copyright holders or an approximate amount within which copyright holders do not need to prove the exact amount of their damages. In some legal systems, compensation is collected for violations of property rights not only to restore the position of copyright holders, but also to have a preventive effect on violators and third parties who can potentially contribute to the violation of exclusive rights in the future. The essence of such a measure of legal influence is that copyright holders can collect a certain amount from violators in the amounts provided by law, without the need to prove the amount of their losses.

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