



LIABILITY OF LEGAL ENTITIES IN INTELLECTUAL PROPERTY LAW

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ABSTRACT

In all states, the problem of liability has had and still has its relevance. All areas of interaction between citizens are associated with responsibility. In order to analyze the concept of responsibility in depth, it is necessary to turn to the history of the emergence of the institution of the liability. This article analyses the history of the emergence of the institution of liability, its concept, and its role in the economic development of society.

L. Khachaturov and D.A. Lipinsky believe that “legal responsibility is a normative, guaranteed and secured by state coercion, persuasion or encouragement, a legal obligation to comply with and fulfill the requirements of the law, realized in the lawful behavior of subjects, approved or encouraged, and in case of its violation, the obligation of the offender to undergo condemnation, restriction of rights of a property or personal non-property nature and its implementation”. [1]

The origin of human society also determines the emergence of responsibility as a social phenomenon and an instrument of social regulation.

The evolution of man and society was marked by regulations and prohibitions. Under maternal clan systems, moral responsibility was formed, which placed prohibitions on marriage within the clan. An example is the incest taboo, which saw guilty men publicly tortured and hanged, and guilty women burned alive at the stake. If the relationship that was violated was not very close (for example, cohabitation with a cousin), the punishment was expulsion from the family. The end of expulsion from the clan in many cases was death.

Of particular interest when studying the above-mentioned issue is the formation of responsibility as a social phenomenon and a means of regulating social relations. The form of expression of social responsibility in the primitive communal system is represented by the ancient custom of blood feud, which arose in order to regulate inter-tribal and inter-tribal relations. The custom of blood feud, which developed under the clan system, is represented as a universal means of protecting the honor, dignity, and property of the clan. This custom obliges the relatives of the murdered to take revenge on the murderers or their relatives. Almost all the peoples of the world practiced blood feud; they believed that this custom was needed in order to protect the life and freedom of the tribal system. The duty of revenge is a high moral, and



with the advent of religion, a religious duty. If you forget this duty, then a punishment is applied, such as expulsion from the clan. Fulfilling the duty of revenge entails general honor.

The history of the origin of the term responsibility in 4 stages.

The earliest began in ancient societies because society realized that certain norms and rules had to be followed in order to ensure the order and well-being of the community. Different cultures and civilizations have used different forms and concepts of responsibility, such as moral, legal and social.

Ancient laws and codes, such as the laws of Hammurabi or the laws of the ancient Greek policies, included relevant norms and regulated liability for violating the law. Liability in these laws was mainly based on the principle of retribution or compensation: the person who committed a certain act had to bear some responsibility or was obliged to pay compensation to the victim

Stage 2 is characterized by the development of philosophy and legal ideas in Ancient Rome, as well as in medieval Europe, which led to the fact that the concept of responsibility began to be systematized. In the Middle Ages, in legal doctrine, for example, the introduction of the concept of guilt and the principle of "free will" became the foundation for determining responsibility before the law. At this time, the first inclinations of legal liability began to emerge.

The development of industry and the creation of large corporations in the 19th century gave the concept of responsibility completely different aspects, including responsibility to shareholders, consumers and the state. You can also see expansions in the areas where responsibilities can be applied. It is at stage 3 that responsibilities such as social and corporate responsibility appear. All these changes led to the regulation of relations in the field of labor, health and safety, and thus the formation of social responsibility in business activities.

According to Article 11 of the Civil Code of the Republic of Uzbekistan protection of civil rights is carried out by:

- recognition of law;
- restoration of the situation that existed before the violation of the right, and suppression of actions that violate the right or create a threat of its violation;
- declaring a transaction invalid and applying the consequences of its invalidity;
- invalidation of an act of a state body or self-government body of citizens;
- self-defense rights;
- awards to perform duties in kind;
- compensation for losses;
- collection of penalties;
- compensation for moral damage;
- termination or change of legal relationship;
- non-application by the court of an act of a state body or self-government body of citizens that is contrary to the law. [2]

Protection of civil rights may also be carried out in other ways provided by law.

Today, responsibility is considered a key element of any legal system, ethical norms and social relations in all states, and it is still undergoing evolution based on changing social needs and values.



The concept of responsibility consists of various types of social responsibility. “The term “responsibility” can have different meanings. In one case this term is represented by “duty”, “obligation”, and in the other case by “punishment”. In the first case, “duty” is characterized by the active aspect of responsibility as a kind of moral, political or legal regulator of the behavior of society at all times.

V.A. Rybakov identified two relatively independent types of responsibility: “responsibility to society (the state) and a person’s responsibility to himself, which is of great spiritual value”. [3] The second responsibility, in our opinion, can be considered a moral responsibility.

There are several types of legal liability:

- civil,
- criminal,
- administrative,
- disciplinary.

It should also be taken into account that one violation of the law in the field of intellectual property can lead to both civil and administrative (or criminal) liability at the same time. Intellectual property law protects the private rights of interested parties, while criminal law is an area of public law. In today's technological age, intellectual property violations, especially counterfeit violations, can affect the public interest. For this reason, there is a need to include in criminal law this kind of legal norms that ensure the enforcement of intellectual property rights. The intersection of intellectual property law and criminal law remains controversial, but very important, because it is a direct regulation of the private law sphere through the mandatory nature of public legislation, and therefore the legislature must clearly define this regulation. Intellectual property rights are designed to protect stakeholders from commercial exploitation of their ideas and information without their consent. The era of rapidly developing technological changes has opened the way to new forms of encroachment on this type of intangible benefit. Although there is no consensus in the literature regarding the extent to which criminal law is used to protect intellectual property, many countries recognize the severity of intellectual property crimes and its negative impact on the activities of entrepreneurs, creators and innovators.

According to the Article 33 of Law of the Republic of Uzbekistan «On inventions, utility models and industrial designs» unauthorized manufacture, use, import, offer for sale, sale, other introduction into civil circulation or storage for this purpose of a product or article containing a corresponding patented object of industrial property, 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 entails a fine on legal entities from one hundred to two hundred basic calculated amounts. The amount of fines is determined for each type of offense separately.

Fines are imposed by the justice authority on the basis of inspections carried out in the manner prescribed by part two of this article. In this case, an act on the offense identified during the inspection is drawn up, which is signed by officials of the justice authority and the legal entity - the offender, respectively (hereinafter referred to as the offender).[4]

The statement of claim of the authorized state body for the recovery of a fine from legal entities that have violated exclusive rights in relation to certain objects of intellectual property



(invention, utility model, industrial designs, selection achievement, trademark, appellation of origin of goods, brand name) is subject to the jurisdiction of economic courts. [5]

Therefore, many countries are developing their national legislation to enforce legal sanctions against intellectual property infringement and, more importantly, prevent future infringement, protect innovation and stimulate investment. In general, for an act to be considered a crime, not only in the field of intellectual property, but in any field, it must meet two conditions: - the action must be illegal and unlawful; - this act must be prohibited by criminal law. The interests of intellectual property holders or potential consumers or the health and safety of people may be harmed. Such damage cannot be remedied through civil remedies alone, since these remedies do not help prevent such damage in the future. However, if an intellectual property right is infringed by the intentional use of someone else's trademark or copyrighted work (usually for commercial purposes) without proper permission or license, it is considered a crime. In this case, the state sanctions the act and criminal procedures for such crime are applied. "Intentional use" means an intentional act, not just a mistake or accident. Such deception is a deliberate misrepresentation of the potential of users, thereby discrediting the brand of the owner of the intellectual property and deceiving potential buyers into believing that it is genuine when it is fake.

It is necessary to disclose these types of legal liability and find the relationship between the liability of legal entities in the field of intellectual property.

The application of any type of legal liability depends on the offense committed, but depending on the order of attraction, they can be of two types.

The first category is represented by liability, which can be imposed by a competent state body or official, include the most stringent measures of state coercive influence and are considered in a judicial or administrative manner: criminal law, administrative law, disciplinary.

The second category includes liability when a directly authorized person attracts an offender, which is typical for civil liability if a civil act has been committed. If the offender is brought to justice by authorized state bodies or officials, then in addition to the fact of committing an offense, a judicial act is also required that establishes the guilt of the offender, and in some cases, certain measures of state legal influence.

As a result of the analysis of the problems of liability for violation of intellectual property rights, we can conclude that the current level of legislation does not provide an adequate level of protection of intellectual rights, as evidenced by the presented statistics of offenses. All this necessitates further refinement and development of the legislative framework, the development of new qualifying features for a special subject of legal liability - corporations, the identification of new offenses in relation to individual objects of intellectual property and the improvement of the legislative framework regulating relations in the field of intellectual property in general. Otherwise, intellectual property risks remaining one of the unprotected types of property in the Republic of Uzbekistan.



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