



CIVIL LAW OF INTELLECTUAL PROPERTY RIGHTS PROTECTION ISSUES

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Annotation

This article comparatively and scientifically analyzes topical issues of research on intellectual property rights, the experience of developed countries in the field of intellectual property and innovation development, some topical issues of comparative legal research in the field of intellectual property rights, the legislative system in this area, as well as the system of civil law protection of intellectual property rights.

Keywords: intellectual property, international agreements, conventions, patent, patent, license, copyright, property rights, non-property rights, author, foreign experience, international treaty, industrial property, inventions, utility models.

Globalization processes, development of digital technologies and in the context of the transition to an innovative economy, intellectual property objects are gaining significant economic value at both the national and international levels.

Intellectual property rights are a set of rights arising in relation to the products of human intellect. The existence and effective protection of these rights form the basis of a modern innovative economy.

In the global economy, the value of intellectual property objects is constantly increasing compared to material assets. For example, according to the World Intellectual Property Organization, in 2024, the value of intangible assets of corporations worldwide broke records, reaching 80 trillion dollars[1].

The legal basis of intellectual property rights in the Republic of Uzbekistan is regulated by the Constitution, the Civil Code, the Laws "On Copyright and Related Rights," "On Inventions, Utility Models and Industrial Designs," "On Breeding Achievements," and "On Trademarks, Service Marks, and Appellations of Origin," as well as other regulatory legal documents.

Also important are a number of international conventions and treaties ratified by Uzbekistan in the field of intellectual property protection, including the Stockholm Convention on the Establishment of the World Intellectual Property Organization (WIPO), the Paris Convention on the Protection of Industrial Property, the Washington Agreement on Patent Cooperation, the TRIPS Agreement, the WIPO Geneva Copyright Treaty, and others.

From the perspective of the theoretical foundations of civil-legal protection of intellectual property objects, this field has formed as an independent branch of civil law and has its own specific characteristics.

Intellectual property rights differ fundamentally from material property rights in that they arise in relation to intangible, i.e., abstract objects. Intellectual property objects can be used simultaneously by an unlimited number of subjects, they do not become obsolete as they are



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used, do not lose their qualitative and functional properties, and require special legal protection mechanisms.

The types of intellectual property infringement are very diverse.

Among the most common copyright infringements are plagiarism, unauthorized publication, illegal distribution of digital content, and unauthorized use of works.

In the sphere of industrial property, there are such violations as counterfeiting trademarks, infringement of patents, illegal production of products similar to inventions, and disclosure of trade secrets. With the development of digital technologies, the problem of illegal distribution of intellectual property objects through the internet has become even more acute.

Civil law methods play an important role in the system of intellectual property protection. "Methods of protection of absolute rights are understood as legal means, measures, and ways that ensure the universal recognition, observance, implementation, protection of such rights, restoration in case of their violation, and elimination of the consequences of violation" [2].

Intellectual property rights, as a civil law institution, can be protected by **the general** methods of protection provided for in Article 11 of the Civil Code and by **the special** methods established in Article 1040, as well as **by other** methods provided for by law [3].

Special methods, primarily the requirement for recognition of rights, are of great importance. This method is used when there is a dispute about the existence of a right or its content. For example, if a person claims copyright for a work, the actual author can have their rights recognized through court.

The claim for restoration of violated rights is a widely used method of protection in the field of intellectual property. This includes the restoration of rights registration data, the confiscation of counterfeit products, the destruction of copies of counterfeit products, and other measures. In practice, the application of this method is often manifested in such measures as the removal of counterfeit products from the market, the destruction of illegal production equipment.

The requirement to stop an offense has a preventive character and is aimed at preventing the continuation of the offense.

For example, if an enterprise produces counterfeit products, the right holder can appeal to the court and issue a decision to stop production. This method prevents further actions that violate intellectual property rights.

The claim for damages is one of the most important financial protection methods. Damage caused as a result of the infringement of intellectual property rights includes real damage and unrealized income.

In practice, proving damages often becomes a complex issue, as it is difficult to calculate specific financial losses due to the intangible nature of intellectual property objects. Therefore, in many countries, the institution of statutory compensation has been introduced, in which the amount of damage is predetermined by law.

From 2021, a mechanism **for compensation for damages** to the right holder was introduced, first in the Law "On Copyright and Related Rights," and then in other legislative acts in the field of intellectual property.

The introduction of compensation as an alternative to compensation for losses is due to the fact that counterfeit products are produced, as a rule, by hidden means, that is, without reflection in official accounting or with partial indication. As a result, proving the damage (*including the income received by the violator*) by the right holder is very difficult or practically impossible



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in practice, and there are no clear criteria for determining and measuring the damage caused to the right holders.

In the comments to the Civil Code of the Republic of Uzbekistan, it is noted that the methods of protecting civil rights can be divided depending on the mechanism of their implementation, and the following features are indicated:

methods used only by the court, and in some cases by other authorized state bodies, which implies the need to apply to them for protection through a specific method;

methods independently applied by the participant in the legal relationship, for example, self-defense, termination of the legal relationship by unilateral refusal to fulfill obligations, if provided for by law or contract;

methods used with the assistance of judicial bodies and independently, in particular, compensation for damages, collection of penalties, etc. [4].

Methods of protecting civil rights are also reflected in the civil codes of Uzbekistan, Russia, Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Georgia, and Ukraine.

The civil codes of these countries define a list of methods for protecting civil rights. It enshrines the most common civil law methods in law enforcement and judicial practice. At the same time, it is noted that civil rights can be protected by other methods provided for by law. Also, in practice, it is allowed to use several methods of protecting civil rights simultaneously. In some cases, it is protected by a specific method based on legal requirements or the nature of the law.

Unlike other states, the Civil Code of the Republic of Azerbaijan does not clearly define the general methods of protecting civil rights. Article 18 of the Civil Code is a reference norm, according to which the protection of civil rights is carried out in the manner prescribed by law, in ways that do not contradict laws, public order, and moral norms.

Disputes on intellectual property rights are considered in courts to civil and economic courts. As a result of judicial and legal reforms in Uzbekistan, in connection with the creation of administrative courts authorized to consider disputes arising from public law relations, in the future, disputes related to certain intellectual property will be considered by the administrative court. For example, in accordance with

An intellectual property owner who disagrees with the decision of the Intellectual Property Agency may appeal to the administrative court.

Civil-legal methods of protecting intellectual property rights Article 989 of the Belarusian Civil Code establishes special methods of protecting exclusive rights. According to it, for the protection of exclusive rights, along with the general methods of civil rights, the following methods can be used:

seizure of material objects used in violation of absolute rights, as well as material objects created as a result of the violation of rights;

mandatory publication of a violation of exclusive rights and entry of information about whom the violated rights belong to;

in other ways established by law.

This article also establishes the application of general rules of liability for violation of obligations as a result of violation of the agreement on the use of intellectual property rights.

As can be seen from the foregoing, the relevant articles of the Civil Code of the Republic of Uzbekistan and the Civil Code of the Republic of Belarus contain the same norms. A similar



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situation can be found in the civil codes of the republics of Armenia, Kyrgyzstan, and Kazakhstan.

It is known that most civil law methods of protection of intellectual property rights are carried out in a jurisdictional form. Consequently, the reliable protection of the rights of intellectual property owners will largely depend on the judicial system, on judicial practice related to the consideration of intellectual property disputes.

In recent years, it can be said that judicial practice on intellectual property rights has been developing in the CIS countries. This, on the one hand, indicates the growing turnover of intellectual property objects in these countries, and on the other hand, is associated with the formation of a special judicial system in the field of intellectual property.

A claim is a means of judicial protection of intellectual property rights. The plaintiff, appealing to the court, on the one hand, asks for the restoration of violated rights by administering justice, and on the other hand, asks the defendant to perform certain actions or satisfy material claims. Also, in the protection of exclusive rights, sometimes the court may consider it in the form of an application or complaint.

Professor O.Okyulov, reflecting on the problems of intellectual property protection, notes: "At first glance, it seems that a legislative system has been created in our country both in the field of intellectual property and in the field of services. However, it should be noted that the question of how well this system is adapted for use in specific situations is a scientific problem requiring special attention" [5].

One of the special methods of protecting intellectual property rights is the ability of the exclusive right holder to demand compensation from the infringer instead of compensation for damages.

For example, in Russia, demanding compensation for violated rights is most common in judicial practice. The widespread use of this method is due to the fact that the plaintiff is exempt from the obligation to prove in court the exact amount of damage caused to him or the amount of his illegal income by the defendant. Because it is not always possible to determine the amount of damage or the offender's income. For the payment of compensation, it is sufficient to prove the damage caused as a result of the offense, and it is not required to prove the exact amount of damage on the basis of evidence.

The plaintiff may, at their discretion, demand compensation from the defendant for damages, including the recovery of lost profits or income received by the defendant as a result of the offense, or the payment of compensation.

In accordance with Article 1253 of the Civil Code of the Russian Federation, the court, upon a reasoned submission by the prosecutor, may decide on the liquidation of a legal entity or the termination of the status of an individual entrepreneur as a result of a single or repeated gross violation of intellectual property rights.

In this case, the court may establish compensation as a measure of general liability.

When determining the exact amount of compensation, the court proceeds from the nature of the infringement of intellectual property rights.

Also, compensation may be established for the offender in the amount of twice the price of the counterfeit goods or the cost of using the work or industrial design. In other words, the amount of compensation proceeds from the amount determined if the exclusive right is used in accordance with the law.



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Legislation may specify a specific method of protection for certain objects of intellectual property rights.

When the owner of an intellectual property object applies to the court, the court must immediately stop the relevant violation and take measures to preserve the evidence. The court may demand that the defendant refrain from certain actions.

For example, it requires the cessation of production, use, distribution, transportation, or storage of the relevant intellectual property object for the purpose of sale.

To terminate the infringement of intellectual property rights, the court may decide:
prohibit the movement of the corresponding intellectual property object across the customs border;

Withdrawal of goods from circulation;
seizure of goods considered counterfeit, as well as materials and equipment used in the production, reproduction, and sale of such goods;
payment of one-time monetary compensation instead of compensation for damage caused as a result of infringement of intellectual property rights;
publication in the mass media of information about the violation of intellectual property rights and the content of the court decision on this issue.

In addition, if the violation of intellectual property rights is grounds for criminal liability, the court may seize the following to secure a civil claim:

in relation to products or goods that are considered counterfeit;
in relation to materials and equipment intended for the production, use or sale of counterfeit goods;
documents, accounts, and other documents, objects that can prove actions that entail criminal liability in accordance with criminal law.

The court obliges the person accused of violating intellectual property rights to perform the following actions:

satisfy all claims arising from the infringement of intellectual property rights;
compensation for losses caused as a result of the offense, including lost profits;
return the income or profit received as a result of the offense to the exclusive right holder in full;

compensation to the owner of intellectual property rights for moral damages in the amount determined by the court.

In recent years, serious attention has been paid to the issues of protection and ensuring the protection of intellectual property in the countries of the Commonwealth of Independent States. This issue was considered a guarantee of innovative development of the economy.

Currently, as a result of the development of information technologies, a different approach to the principles of protection of intellectual property rights is required. The types of intellectual property objects are increasing, and the procedures for their use are expanding. As a result, the possibilities of their illegal use are also increasing. Such a trend, in turn, indicates the relevance of protecting intellectual property rights through civil law methods.

At the same time, the effective solution of existing problems, the development of economic integration processes of the CIS countries require each state in the region to improve its national legislation and develop international relations in this area.



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