

Problems Of Copyright Protection In The National Legislation Of Uzbekistan

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Abstract. At this work is discussed the problems arising in the implementation of copyright and its protection. There are civil-legal, administrative-legal, criminal-legal forms of copyright protection. To ensure copyright, the Department of Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan has done significant work in the shortest possible time.

Keywords: copyright, property rights, personal non-property rights, code of administrative responsibility, copyright holders, authors, intellectual property agency, criminal code, civil code, compensation, punishment.

Intraduction

To date, the implementation of measures to improve the mental knowledge of the younger generation, to familiarize students with the cultural and educational heritage requires comprehensive measures. [1, 95].

With the independence of our country, the development of the system of national legislation in the field of intellectual property was based on the main provisions and principles enshrined in national and international acts in the field of protecting the rights and legitimate interests of citizens. In the field of copyright, they are regulated by separate norms of the Constitution of the Republic of Uzbekistan, the Civil Code, the Code of Administrative Liability, the Criminal Code of the Republic of Uzbekistan and other legal norms.

One of the main legal documents in the field of copyright is the Law of the Republic of Uzbekistan "On Copyright and Related Rights" dated July 20, 2006. Since 2005, Uzbekistan has

been a party to the Berne Convention for the Protection of Artistic and Literary Works, and there are a number of bilateral agreements aimed at protecting copyright and related rights. On January 28, 2022, President of the Republic of Uzbekistan Shavkat Mirziyoyev signed Decree No. PF-60 "On the development strategy of New Uzbekistan for 2022-2026", which defines the next five-year period for the development of the country. The decree set 100 goals, the 97th goal is joining the World Trade Organization and deepening integration processes with the Eurasian Economic Union, the task of developing appropriate proposals for harmonizing national legislation in the field of intellectual property protection with the requirements of the World Trade Organization agreements.

Almost all major trading countries are members of the World Trade Organization. The system created by this organization has a positive impact on the political and social situation in the member states, as well as on improving the

welfare and standard of living of citizens, achieved by reducing barriers to free trade [2, 74]. The benefits of the WTO trading system are manifested at all levels - in an individual citizen, in a country and in the world community as a whole.

By reducing protectionist trade barriers, the cost of goods and services is reduced, and the standard of living of people is raised. Uzbekistan's membership in the WTO increases the volume of exports of goods and services [3, 28]. One of the two important requirements for joining the World Trade Organization is to ensure adequate protection of intellectual property rights in the member state [4, 915]. The implementation of international standards, in particular, the requirements of the Agreement on Trade Aspects of Intellectual Property Rights in the national legislation, is defined in the Decree of the President of the Republic of Uzbekistan dated February 8, 2019 PP-4168 "On measures to improve public administration in the field of intellectual property".

The implementation of the provisions of these requirements of the copyright law is entrusted to the Department for the Protection of Copyright and Related Rights of the Agency for Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan. This department has shown significant results despite being founded in 2021, as well as a limited staff, that is, the number of 2 employees. In 2021, the Department for the Protection of Copyright and Related Rights of the Agency (this department was created on the basis of the Decree of the President of the Republic of Uzbekistan No. 4965 PP - January 28, 2021) considered about 90 appeals related to the protection of authors' rights, about 70 or 82 percent of them were satisfied.

We can list some of these cases as examples below: 1. The translation of the work "Green Night" by Rashad Nuri Gyuntekin, owned by YANGI ASR AVLADI LLC on the basis of an agreement, was published in a circulation of 3000 copies without the permission of the copyright holder and without concluding an agreement in the appropriate manner, and the court imposed a fine on the violator;

2. At the request of the author Zhovliev Zh., through the telegram "ima_monitoring_bot", appropriate measures were taken against persons distributing the work called "Kÿrkma" on social networks without the consent of the author, and fake copies of this work were removed from social networks; According to the relevant decree of the head of our state dated March 18, 2022, the Intellectual Property Agency was reorganized into the Department of Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan.

Materials and Methods

If the department for the protection of copyright and related rights previously employed 2 employees, and now an entire Office of Copyright and Related Rights has been created under this department [5, 4]. There are non-jurisdictional and jurisdictional forms of copyright protection: a non-jurisdictional form is a form in which legal entities and individuals independently exercise copyright in their work, apply to state authorities or relevant bodies; jurisdictional form is a form in which the activities of state bodies that are responsible for violated or contested rights are considered.

In this case, a person whose rights are violated as a result of illegal actions applies to specially authorized state bodies for the protection of their rights [6, 7]. The jurisdictional form of copyright protection is carried out in a civil law, administrative law, criminal law order.

The purpose of civil law is to restore rights and compensate for the harm caused, unlike administrative law and criminal law, the offender is not punished. To bring the offender to civil liability, it is necessary to apply to a civil court. [7, 12]. In accordance with Article 1032 of the Civil Code of the Republic of Uzbekistan, legal protection of intellectual property objects arises by virtue of the fact of their creation or as a result of the provision of legal protection by an authorized state body in cases and in the manner prescribed by law.

To determine legal liability issues, it is first necessary to understand what constitutes an

infringement of intellectual property rights. Thus, according to Article 62 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights", the violation of copyright and related rights is the following: violation of the personal non-property rights of authors; violation of the rights of the performer to the name and protection of the performance from any distortion or any other encroachment; reproduction, distribution or other use of works or objects of related rights without concluding an agreement with the right holder or an organization managing property rights on a collective basis, except for cases when, in accordance with this Law, such use is allowed without concluding an agreement; violation of requirements for the payment of remuneration in the cases provided for by this Law; use of works or objects of related rights in excess of the powers received under an agreement concluded with the right holder or an organization managing property rights on a collective basis; and other violation of the property rights of copyright holders. Article 11 of the Civil Code of the Republic of Uzbekistan defines ways to protect civil rights, which can be carried out by recognizing the right, restoring the situation that existed before the violation of the right, and suppressing actions that violate the right or threaten to violate it, compensate for losses, recover a penalty and compensate for moral damage and etc.

In addition, according to Article 1040 of the Civil Code of the Republic of Uzbekistan, the protection of exclusive rights to intellectual property objects can also be carried out by: withdrawal of material objects with the help of which exclusive rights are violated, and material objects created as a result of such a violation; obligatory publication of the committed violation, with the inclusion in it of information about who owns the violated right; in other ways provided by law. Article 65 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights" also clarifies the issues of protection of copyright and related rights.

Results

So, according to the said Law, the author, owner of related rights or other owner of exclusive rights has the right to demand from the infringer: recognition of rights; restoration of the situation that existed before the violation of the right, and termination of actions that violate the right or create a threat of its violation; compensation for losses in the amount of lost income that the right holder would have received under normal conditions of civil circulation if his right had not been violated. If the infringer received income as a result of violation of copyright or related rights, the right holders have the right to demand compensation, along with other losses, for lost profits in an amount not less than these incomes; payment of compensation instead of compensation for losses, paid regardless of the fact of causing losses, based on the nature of the violation and the degree of guilt of the violator, taking into account the customs of business; adoption of other measures provided by the legislation related to the protection of their rights established by this Law. Administrative and legal norms provide for punishment for the actions of the offender; An administrative penalty is a measure of bringing to responsibility, which consists in educating the offender in the spirit of obedience and respect for the law, as well as preventing the commission of a new offense by the offender himself. The following articles and paragraphs of the Code of Administrative Responsibility of the Republic of Uzbekistan correspond to copyright:

- Article 155 (Violation of the rules for the use of information) 4-point. The release under one's own name of someone else's program for electronic computers or a database, or the illegal reproduction or distribution of such works - entails a fine on citizens from one to three, and on officials - from three to five basic calculated values.
- Article 167. Violation of the rules for the sale of video cassettes and the functioning of video institutions

Sale of cassettes with video recordings that have not passed the assessment of the expert commission - entails a fine from one to three basic settlement values with confiscation of video cassettes.

Opening without proper permission of video institutions (video cassette rentals, video halls, cable television studios) or their operation after a decision has been made to close them - entails a fine on citizens from one to three, and on officials - from three to five basic calculated values. The use of video cassettes in video institutions that have not passed the assessment of an expert commission - entails a fine of two to five basic settlement values with confiscation of video cassettes.

The commission of the offenses provided for by parts one, two or three of this article, repeatedly within a year after the application of an administrative penalty - entails a fine on citizens in the amount of five, and on officials - from five to ten basic settlement rates with confiscation of video cassettes and video equipment. • Article 1771. Violation of copyright and related rights

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 - entails the imposition of a fine on citizens from one to five, and on officials - from five to ten basic settlement values with confiscation of counterfeit copies of works and objects of related rights, as well as materials and equipment used for their reproduction and distribution, and other instruments of committing an offense.

The same offenses committed repeatedly within a year after the application of an administrative penalty - entail a fine on citizens from five to ten, and on officials - from ten to twenty basic settlement units with confiscation of counterfeit copies of works and objects of related rights, as well as materials and equipment used for their reproduction and distribution, and other instruments of committing an offense. [8, 165]. Article 245 of Chapter 28 on the consideration of cases of administrative offenses provides that these four articles are subject to consideration by judges in criminal cases.

Discussion

In accordance with Article 245, criminal courts consider cases of the above four administrative offenses. The offense report is drawn up by employees of the Department of Intellectual Property of the Ministry of Justice of the Republic of Uzbekistan [9, 50]. The application is then submitted to the court. My suggestion is that the jurisdiction of the above four articles should be transferred to the Department of Intellectual Property and not to the courts. In this case, it is advisable to transfer 50% of the fine to the state budget, 50% to the budget of the Agency for Intellectual Property. Drawing up a protocol on the commission of an offense should be defined as a duty, and not a power of the Intellectual Property Agency. This achieves the principle of equality of citizens before the law and the inevitability of responsibility. If the offender denies the fact of committing an offense, then it is advisable to establish that these articles will be considered by the courts in criminal cases in administrative disputes. It should be noted that in the Republic of Uzbekistan, copyright infringement also provides for criminal liability. Article 149 of the Criminal Code of the Republic of Uzbekistan provides for criminal liability for infringement of copyright or invention rights. So, based on this article, the assignment of authorship, coercion to co-authorship of intellectual property objects, as well as disclosure of information about these objects without the consent of the author before their official registration or publication, is punishable by a fine of twenty-five to seventy-five basic settlement units or deprivation of a certain right five years, or compulsory public works up to three hundred and sixty hours, or correctional labor up to three years. A study of the sources of foreign legislation showed that, despite editorial differences in the definition of a criminal law prohibition, infringements on objects of copyright and related rights are criminally punishable in almost all states.

Conclusions

At the same time, there is a different approach to determining the place of the norm on criminal

liability for violation of copyright and related rights in the system of criminal law. In most foreign countries, crimes in the field of copyright and related rights are classified as crimes against property. This emphasizes the inherent property nature of these acts. The problem is that there is no widespread practice of rights holders filing civil suits in courts compared to the volume of violations in the field of intellectual property. The norms of criminal and administrative law that protect the rights to objects of intellectual property are rarely and not fully applied by the courts in practice. The main goal of copyright protection is to promote the development of creative and scientific potential, which will lead to the dissemination of the national cultural heritage. [10, 184].

In summary, I would like to note that the enrichment of the national cultural heritage directly depends on the level of protection of works of literature and art. The higher this level, the more incentive the authors receive for their creativity. The greater the number of such works, the higher the prestige of the country and the popularization of the works of contemporary authors, both in our country and abroad. In order for the authors of creative work to realize their abilities and contribute to the development of society, it is necessary to create favorable conditions. The author who created the work must be sure that his creation will be reliably protected and will receive a reward for his work. In this regard, an important function of the state is to ensure the legal protection of semi-objects of copyright.

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