

RESEARCH ARTICLE

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ISSUES OF ORGANIZATIONAL AND LEGAL SUPPORT FOR THE PROTECTION OF INTELLECTUAL PROPERTY IN ADMINISTRATIVE COURTS

U.M. Saydakhmedov

Acting professor of Tashkent State University of Law Judge, PhD, Uzbekistan

Abstract

In this article, consistent measures are being implemented in our country to improve the results of intellectual activity and the mechanisms of introducing innovations to economic sectors, to create regional brands, to ensure reliable legal protection of intellectual property, in particular, the specific features of considering cases related to intellectual property protection in administrative courts are highlighted. Also, the article provides suggestions and recommendations on improving the legislation to ensure reliable legal protection of intellectual property in administrative courts.

Keywords Objects of intellectual property, dispute, protection, administrative court, organizational and legal provision, perspective, improvement.

INTRODUCTION

According to the Constitution of the Republic of Uzbekistan, the judicial power is considered a separate branch of the state power and ensures the implementation of justice.

According to Article 4 of the Law "On Courts", the main task of the courts is to protect the rights and freedoms of citizens, state and public interests, rights and interests of legal entities and individual entrepreneurs.

Since intellectual property is created as a result of the intellectual activity of citizens and legal entities, property rights arise in relation to it, and it is one of the objects of civil rights, it is important to protect it through court.

In Uzbekistan, disputes related to the field of intellectual property belong to the category of

disputes considered in courts of all instances. For this reason, one of the urgent requirements of today is to improve the qualifications of judges and officials of all instance courts in the field.

Accordingly, in 2020, a special training program was developed in cooperation with the World Intellectual Property Organization (WIPO) to improve the knowledge and skills of the employees of judicial bodies dealing with disputes in the field, and according to it, experts from the WIPO, USAID and other international organizations will hold relevant training sessions in 2020-2021 was conducted.

As a result of these measures, the quality of court proceedings is improving.

Protection of intellectual property through administrative courts

According to the Code of Administrative Court Proceedings of the Republic of Uzbekistan, one of the main tasks of administrative court proceedings is to protect the violated or contested rights, freedoms and legal interests of citizens and legal entities in the field of administrative and other public legal relations.

It is understood from this that the administrative courts consider the disputes on complaints and petitions against the actions (decisions) of state bodies, citizens' self-governance bodies, as well as the actions (decisions) of their officials arising from public-legal relations.

According to the decision No. 15 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 19, 2018 "On some issues of the application of procedural law norms by the court of first instance in the consideration of administrative cases", administrative courts are subject to cases related to disputes arising from administrative and other public legal relations, including the following cases shown to be:

- on disputes over departmental regulatory legal documents of administrative bodies;
- on disputes over decisions of administrative bodies, citizens' self-government bodies that do not comply with legal documents and violate the rights and interests of citizens or legal entities protected by law;
- on disputes over actions (inaction) of officials of administrative bodies, citizens' self-government bodies that do not comply with legal documents and violate the rights and interests of citizens or legal entities protected by law;
- on disputes over actions (decisions) of election commissions;
- on the dispute regarding the refusal to perform a notarial act;
- on disputes over actions (inaction) of a notary public;
- on disputes regarding refusal to register civil status documents;
- on disputes over the actions (inaction) of the official of the body for writing civil status

documents;

- cases of appeals against refusal of state registration or evasion of state registration within the specified period.

At the same time, it was noted that the following cases do not apply to administrative court proceedings:

- cases on disputes arising from administrative and other public legal relations, which are determined by the law to be applicable to the Constitutional Court of the Republic of Uzbekistan, the court on civil cases, the economic and military court;
- the application is submitted to invalidate the document of an enterprise, organization, institution that is not an administrative body, or to find the action (inaction) of its official to be illegal, or the application (complaint) is submitted to an administrative body, but the action being complained about is based on labor relations .

Therefore, in order to have a detailed understanding of the disputes related to the activities of administrative bodies considered in administrative courts, first of all, it is very important to correctly interpret the concept of "administrative body".

The concept of "administrative body" is defined in detail in the Law of the Republic of Uzbekistan "On Administrative Procedures" adopted on January 8, 2018.

In accordance with Article 4 of this Law, administrative bodies are bodies authorized to administer administrative management in the field of administrative-legal activity, including state management bodies, local executive authorities, citizens' self-government bodies, as well as other organizations authorized to carry out these activities and specially created commissions are defined .

Accordingly, the Intellectual Property Agency (Agency) under the Ministry of Justice of the Republic of Uzbekistan is also considered an administrative body, and disputes arising in the process of its administrative proceedings related to the registration of intellectual property objects will be referred to administrative courts.

In general, administrative courts mainly consider the following cases in the field of intellectual property:

- Disputes related to the cancellation of decisions of the Ministry in the processes related to the state registration of intellectual property objects;
- Disputes regarding the expiry of the period of validity of the objects of intellectual property and their use (certificate or patent) previously registered by the Ministry and declaring them invalid;
- Disputes related to appeals against the decision made by the Appeal Board of the Ministry;
- Disputes related to the imposition of fines on legal entities for violation of the Ministry's legislation in the field of intellectual property.

At this point, if we talk directly about the processes of consideration of disputes related to the field of intellectual property by administrative courts, it should be noted that the lack of sufficient knowledge and skills of the judges in conducting relevant court cases leads to the correct resolution of the dispute and the prolongation of its consideration periods.

by the administrative body to refuse the registration of intellectual property objects, to find the relevant protection document invalid or to terminate its validity period, later these decisions lead to cancellation in administrative courts. One of the main reasons for this is the insufficient understanding of the requirements of international agreements and national legislation in the field, and misinterpretation of their norms.

It should be noted that until 2021, administrative courts will also consider cases of administrative offenses. Decree No. PF-6034 of the President of the Republic of Uzbekistan dated July 24, 2020

"On additional measures to further improve the operation of courts and increase the efficiency of justice" and the Decree of the Republic of Uzbekistan "In connection with the improvement of the Institute for Review of Court Decisions" adopted on January 12, 2021 In accordance with the Law "On Amendments and Additions to the Code of Administrative Responsibility" starting

from January 1, 2021, cases related to administrative offenses were reviewed in criminal courts.

Until the introduction of this new procedure, the Agency, the Anti-Monopoly Committee, the State Tax Committee, the State Inspectorate for Control in the field of Information and Telecommunications and the Department for Combating Economic Crimes in accordance with Articles 177, 177 1, 177 2 and 178 of the Code of Administrative Responsibility of the Republic of Uzbekistan formalized administrative case materials were submitted to administrative courts for review.

For information, 36 administrative case files were submitted to administrative courts by the Agency alone in 2020, and 18 persons were brought to administrative responsibility based on the relevant decisions of the courts.

Problems and solutions

The conducted analyzes showed that there are the following problems to be solved in the protection of intellectual property through the administrative court:

1) judges of administrative courts do not have sufficient knowledge and experience to properly resolve administrative disputes in the field of intellectual property;

Therefore, it is necessary to organize appropriate seminars and trainings for the officials of administrative courts on the consideration of disputes in the field of intellectual property and to develop appropriate methodological recommendations for their use in their activities.

2) there is no uniform approach and practice of uniform application of the norms of legal documents for effective resolution of disputes in the field of intellectual property by administrative courts;

Based on this, it is necessary to adopt the decision of the Plenum of the Supreme Court in order to uniformly apply the legal norms in the field of intellectual property by all courts of instance.

3) as a result of litigation by citizens and legal entities in court to protect their rights, the workload of administrative courts is increasing day

THE USA JOURNALS

THE AMERICAN JOURNAL OF POLITICAL SCIENCE LAW AND CRIMINOLOGY (ISSN- 2693-0803)

VOLUME 06 ISSUE07

by day, and this primarily causes citizens and legal entities to spend excessive time and incur financial costs;

For this reason, it is necessary to widely implement the procedures for the pre-trial settlement of these types of disputes, including the study of the inclusion of the institution of mediation in these processes.

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