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PROTECTION OF INTELLECTUAL PROPERTY OBJECTS IN ECONOMIC COURTS: THEORY AND PRACTICE

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Abstract

This article pays special attention to the development of the field of intellectual property in our country, reliable protection of the legitimate interests of authors and other copyright holders; the number of disputes related to intellectual property is increasing every year. In this regard, there is a need to improve the relevant knowledge and skills of judges, and the features of consideration of cases related to the protection of intellectual property in economic courts are highlighted. In addition, the article provides proposals and recommendations for improving legislation to ensure reliable legal protection of intellectual property in economic courts.

Keywords Objects of intellectual property, dispute, protection, economic court, problems, solutions, organizational and legal support, prospects, improvement.

INTRODUCTION

In recent years, consistent work has been carried out in our country to further improve the legal system, to strengthen measures to reliably protect the rights and legal interests of individuals and legal entities, to provide effective justice and to increase the role of the community of judges. In recent years, more than 60 laws, decrees and decisions have been adopted regarding the priority issues of judicial reform.

Guaranteeing the protection of human rights, increasing the standard of living of the population, ensuring freedom in economic activity, and improving the material and procedural norms in the judicial and legal sphere have led to an increase in the indicators of our country in international ratings and indexes. Article 1 of the Civil Code of the Republic of Uzbekistan states that civil legislation is based on the need to ensure the unhindered

implementation of civil rights and legal interests, the restoration of violated rights, and their protection through court. In the system of civil rights, it can be said that the rights and legal interests in respect of intellectual property objects have emerged recently compared to the traditional civil rights, property rights, liability rights, and delict obligations. In the national legal system, special laws have been adopted on each object of intellectual property. The types of rights of various subjects and their content were summarized in them. However, it should be recognized that the owners of intellectual property rights themselves have not yet fully understood the content of these rights and the ability to use them effectively. Not to mention the legal awareness and culture of other actors involved in the use of intellectual property objects in this area. However, despite this, it should

be recognized that the situation is seriously improving. A certain revival is felt in this area, both in law enforcement practice and in judicial practice. If we take into account that intellectual property is the main driving force in our social and spiritual life and economic development, we should take serious and systematic measures in this area. Among these systematic activities, the formation of effective practices and skills of legal protection through court in relation to intellectual property objects occupies a central place. In this field, any mistakes and disputes regarding self-protection, administrative protection, and non-judicial protection of one's rights can be resolved only in the judicial protection system.

In particular, the specific features of the intellectual and creative activities that create them, are important in the formation of an effective system of judicial protection.

Our country has an institutional system of pre-trial and non-trial settlement of disputes for the protection of rights and legal interests. These include, for example, settlement based on a request, settlement of disputes through mediation, arbitration courts and international commercial arbitration courts.

The best way to protect rights is through court. In this case, the rights and legal interests of the owners of intellectual property are protected through administrative, civil, economic, criminal, and constitutional courts. In general, in the implementation of any protection, two legal bases are relied on.

A) material legal basis.

B) procedural legal basis.

At this point, it is worth noting that the substantive legal basis is the basis of any protection. The system of substantive legal frameworks is the Constitution of the Republic of Uzbekistan, the Civil Code, the Labor Code and special laws, i.e. "On

Copyright and Related Rights", "On Inventions, Utility Models and Industrial Samples", "On Programs and Databases for Electronic Computing Machines", "On Selection Achievements", "On Topologies of Integrated Circuits", "On Company Names", "On Trademarks, Service Marks, Right to the Place of Origin", "On Geographical Indications" and other legislation. These laws embody the legal regime of intellectual property objects, the grounds for the creation of rights, the types and content of rights, the grounds and forms of liability for their violation.

Procedural legal bases define the organization and implementation of the court process, the legal status of the participants in the process, and the procedure for making decisions by the court. In cases where the court process participants and the court follow certain formal rules, they will have the opportunity to protect the violated rights by applying material norms, and to apply appropriate legal and fair measures against the offenders.

Procedural legislation stipulates that the disputes regarding the violation of the property rights to the objects of intellectual activity and to the means, goods, works and services reflecting the private signs of the participants of the civil transaction shall be resolved by the economic court.

Protection of exclusive rights to results of intellectual activity and means of individualization is carried out in an administrative or judicial procedure, depending on the nature of the dispute. That is, there are two forms of protection of intellectual property rights, the first of which is the participation of state authorities in the protection of these rights, and the second is the court.

The judicial procedure for resolving disputes is the most democratic and perfect form of protection of subjective rights, because only the judicial process fully ensures the equality of the parties and the independence of the body considering the case.

The specificity of relations related to the protection of intellectual property objects requires a complex of special legal and technical knowledge to ensure the correct and fair resolution of this type of disputes, and this creates the need for special legal training of judges.

In other words, litigation related to intellectual property is laborious, time-consuming and requires special knowledge, therefore, to ensure that such issues are considered at a high professional level, appropriate specialization of both judges and persons involved in the case is necessary.

Legal protection of intellectual property objects occurs as a result of their creation or as a result of being granted legal protection by an authorized state body in the cases and procedure provided for by law.

At this point, the procedural norm for the protection of intellectual property rights in economic courts is provided for in Article 26 of the Economic Procedural Code of the Republic of Uzbekistan, according to which the category of disputes resolved by the economic court includes objects of intellectual activity and tools, goods, works reflecting the private signs of participants in civil transactions. and disputes regarding infringement of proprietary rights to the Services.

From the content of this norm, regardless of the composition of the persons participating in the case, disputes related to means of individualization should be considered in economic courts. Such disputes, in particular, do not include disputes related to the application of legislation on the protection of consumer rights, inheritance and the division of marital property.

In accordance with Article 1032 of the Civil Code of the Republic of Uzbekistan, legal protection of intellectual property objects occurs as a result of their creation by the authorized state body.

Violation of the absolute rights of the participants of the civil transaction in relation to personalizing means is considered as a basis for civil legal liability, and these cases are defined in special legislation. Professor A.P. Sergeev said that the right to the name of the place of origin of goods does not acquire absoluteness. Therefore, it cannot belong to one or more persons. The right to use the names of the place of origin of the goods, like the exclusive right to the trademark, cannot be transferred to another person under a license agreement.

According to the Law of the Republic of Uzbekistan "On Company Names", the illegal use of a company name is recognized as a violation of the exclusive right to a company name. Unlawful use of the company name means the representation of the company name on counterfeit goods, labels, containers and packaging. For example, if the brand name "NIKE" is printed on counterfeit sports suits and a product is developed, or if the label of the company "Nestle" is affixed to the packaged dairy products, such cases are considered a violation of the exclusive rights to the brand name if they are carried out without the consent of the owner of the exclusive right to the brand name.

In the Civil Code of the Republic of Uzbekistan, means of personalization are equated with the results of intellectual activity, and the rights of a person in relation to it are considered as absolute rights.

M.V.Osipov, who researched the uniqueness of this institute, includes advertising among the goods, works and services that are means of personalization. Researcher D.A.Ogay admits that advertising cannot be viewed as a means of personalization and states that, unlike other means of personalization, advertising cannot be an object of absolute right.

Advertising, by its social nature, serves as a means of popularizing the same product, work or service

to the consumer through these and other means of personalization, such as a trademark, a service mark.

Professor O.Oktyulov also touched on the uniqueness of personalization tools, and these tools do not have to be the product of creative activity, be new, original (unique), and the most important thing is that they should not repeat other similar tools, they should not be exactly the same, and therefore they should not mislead others about the owner of the mark, and should not give wrong information.

The absolute right of a person has the possibility to enter into a civil-legal relationship through a personalized tool, to carry out activities related to the production of goods, performance of work and earning income in service relations.

According to Article 1034 of the Civil Code of the Republic of Uzbekistan, the owner of property rights to the results of a person's intellectual activity or a means of reflecting private signs has the right to use this object of intellectual property in any form and in any way. The owner of the absolute right has the right to use the means of personalization in any way, in particular, to present the trademark to other persons for the production of goods through a license agreement.

The increase in the number of disputes related to the protection of intellectual property rights requires the formation of a uniform judicial practice in the protection of intellectual property rights in the field of business.

Protection of intellectual property objects in court is provided by studying court practice, summarizing, preparing proposals for legislation and other regulatory legal documents, and analyzing court statistics.

When assigning the protection of intellectual property objects in court, it is necessary to solve the following organizational and legal issues:

First, the question of the qualifications of the judges. In the protection of intellectual property, the court corps should be formed based on the tasks assigned to it. In addition to the requirements established by the legislation, a judge must have certain skills in the field of intellectual property.

Improvement of legislation on intellectual property, introduction of new objects requires special knowledge in this field. Taking into account that no evidence has a pre-determined force for the court, the involvement of persons assisting justice in the court - specialists and experts, the admissibility of the conclusions and explanations given by them, requires sufficient qualification of the judge.

For this reason, it is necessary to define as a special criterion that a judge should undergo special training and have completed professional development courses to handle cases in the field of intellectual property. The need for this is explained by the fact that the judge can put qualified questions to the specialist or expert without any difficulties and has the ability to objectively evaluate the conclusions presented by them.

The presence of special knowledge of judges in the field of intellectual property allows to assess the technical aspects of ensuring legal protection of intellectual property objects. For example, it is necessary to have technical or other natural knowledge to assess the novelty, inventive step, and industrial applicability of an object designated as an invention.

The Republic of Uzbekistan, adopted on January 24, 2018, may not form a single and correct opinion for a judge who does not have special knowledge.

Secondly, for the purpose of protecting intellectual property rights in the field of entrepreneurship, in order to form a unified judicial practice, it is necessary to receive scientifically based explanations and conclusions

and recommendations of the Scientific Advisory Council at the Supreme Court regarding the application of international agreements, laws and other regulatory legal documents.

It will be possible to prepare proposals aimed at improving the legislation in the field of intellectual property protection while solving the problems that have arisen in judicial practice.

Thirdly, the method of resolving disputes arising in the process of intellectual property protection with the help of a mediator based on their voluntary consent in order for the parties to reach a mutually acceptable decision - the absence of a professional subject composition of the use of mediation, leads to the settlement of disputes in this area only by the court.

It is appropriate to pay attention to the formation of professional mediators in this field in order to ensure that conflicts in the field of intellectual property in the economic procedural legislation are resolved based on the rules of procedure.

In our opinion, the use of alternative methods of pre-trial dispute resolution in this area is an effective mechanism for resolving the issue between the parties.

Fourth, it requires increasing the level of legal protection by economic courts in the implementation of their tasks in the field of intellectual property protection. For this, it is necessary to create a procedural mechanism for reviewing cases of this category in a collegial structure.

Fifth, there are no mechanisms for applying uniform procedural methods through the analysis of judicial practice on disputes arising in the field of intellectual property. For this reason, it is necessary to prepare a training manual entitled "Protection of intellectual property in economic courts" for judges and candidates for the position of judges in order to develop their skills regarding

the specific features of handling disputes related to intellectual property.

In addition, the legal framework and system of intellectual property rights is very complex and requires special knowledge. From this except intellectual property from the right efficient use as a result economic of profit understanding level increase resulting intellectual property with depends of disputes in court solution to do directed appeals the number to increase take is coming

Therefore, this complicated task solution reach for is available the situation take looking after it's fair trial done increasing judicial corps representatives this in the field enough to qualification have that they are not to see because it is possible study in programs intellectual property to them to the right about basic education to give in the process attention not directed.

That's it according to the judge to the position candidates and judges' intellectual property in the field special from preparation transitions fair trial good quality done increase from the factors one is considered

Judicial Corps representatives of intellectual property system, legislation they know society interests and development issues in consideration received without disputes solution reach to the skill have will be intellectual property about legislation must level not knowing and intellectual property about disputes in court efficient solution to do obstacle divisor reason to be can.

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