



## Protection Of Moral And Material Rights Of Copyright Subjects

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### ABSTRACT

This topic deals with the most common questions about the transfer of copyright to third parties. Violations in the field of copyright in terms of the participation of various subjects and their relationship to objects of copyright legal assessment of the interaction of the author of a work in the field of science, literature and art. Prevention of offenses in the field of copyright.

### KEYWORDS

Intellectual property, assignment rules, piracy, individualization, moral rights, author's powers.

### INTRODUCTION

One of the reasons for the appearance of this work is caused by the emergence of problems for teachers and students on the settlement of relations on the transfer of property rights of authors of works to other persons.

So, when selling works of fine art, questions arise on the re-execution of a previously sold one (painting, composition, design object), the same questions arise for authors when protecting intellectual property objects (idea,

trademark), both unpublished and brought to the attention of unidentified persons. In addition, decisions require the adoption of measures to regulate the rights of authorship to works in the field of art created by students in the course of their studies. In the developed countries of the European Union, this is regulated by the "Provision on the Transfer of Copyright", which reflects the rules for the assignment of property and non-property rights of the contracting parties, indicating mutual obligations. Thus, with a partial assignment, the material rights are transferred to the educational institution (with the moral rights reserved for the author) and end upon graduation. With a full assignment, the copyright for the work is transferred as the copyright holder to the institution.

### THE MAIN RESULTS AND FINDINGS

The next aspect in the regulation of legal relations arises among the employees of the institute who create works related to the objects of copyright (painting, drawing, miniature, composition of pottery, design projects, etc.). In order to ensure the protection of the rights of the above categories of authors, "Intellectual Property Centers" are created as a legal entity, the budget of which is formed both from the budget of the university and extra-budgetary funds (membership fees, grants, sponsorship, publishing, etc.). All these actions are reflected in the relevant laws of Republic of Uzbekistan and norms of international conventions.

Since gaining independence, Uzbekistan is actively building the foundations of the rule of law. In particular, work has been created and is continuing to create the foundations of legislation in the field of intellectual property, in particular, on copyright and related rights.

This takes into account the norms of international copyright law, the provisions of international copyright organizations and agreements. Since 1993 Uzbekistan is a member of the World Intellectual Property Organization (WIPO), covering more than 180 countries. The accession in 2005 of Uzbekistan as a sovereign state to the Berne Convention on Copyright was another important step in creating conditions for the development and protection of the rights of authors of our country in the international arena.

At the same time, poor awareness of the population in copyright issues leads to free handling of other people's intellectual property, which often takes the form of "piracy" on the intellectual property market in the republic, especially in the field of film and video distribution, and the mass media information, in publishing, in the field of fine arts, design, which leads to a nihilistic attitude towards legal norms and a significant loss of material benefits from the use of the results of the intellectual work of authors.

In this regard, there is an urgent need to disseminate knowledge on the main provisions of international and national legislation in the field of copyright. Studies carried out by the State Agency for Intellectual Property (AIS) under the Ministry of Justice of the Republic of Uzbekistan have shown that copyright infringements are one of the main obstacles to the activities of foreign companies in the Uzbek market. The elimination of these negative phenomena will undoubtedly lead to the expansion of economic and cultural cooperation of Uzbekistan with foreign partners.

Copyright is one of the forms of intellectual property protection, a set of legal norms

governing relations regarding creation and use.

According to the national (art. 5 of the KOAP) and international law (art 2 of the Convention) copyright applies to works of science, literature and art that are the result of creative activity, regardless of the purpose and merit of the work, as well as the way of its expression.

Copyright applies to both published and unpublished works in any objective form:

Written (manuscript, typescript, musical notation, etc.);

Oral (public speaking, public performance, etc.)

Sound or video recording (mechanical, magnetic, digital, optical, etc.);

Images (drawing, sketch, painting, plan, drawing, film, television, video or photo frame, etc.);

Volumetric-spatial (sculpture, model, model, structure, etc.);

Other forms.

Copyright applies to the form of expression, not to ideas, principles, methods, processes, systems, methods, or concepts as such. The use of the results of intellectual activity and means of individualization, which are the object of exclusive rights, can be carried out only with the consent of the copyright holder. According to the legislation for the emergence of copyright, the very fact of the appearance of an object in material form is sufficient.

Since copyright is a part of civil law, it follows that its norms regulate relations arising from the transfer of his property rights by the author

and takes directly under the protection of the author's rights.

According to the Uzbek intellectual property scientist, Doctor of Law, professor B.Tosheva "The use of the results of intellectual activity and means of individualization, which are the object of exclusive rights, can be carried out only with the consent of the copyright holder" [6, 13-p] The concept of intellectual property became widespread in the 20th century with the advent of book printing. It arose in the 18th century with the need to protect industrial property (1883 Paris Convention) and copyright (1886 Berne Convention) under the influence of the theory of natural law, which attributes a number of powers to natural, natural human rights.

It is enshrined in the norms of the Convention establishing the World Intellectual Property Organization (WIPO) (Article 2), and in the Civil Code of the Republic of Uzbekistan (Articles 97, 1031).

Article 15 of the International Covenant on Economic, Social and Cultural Rights, adopted by the 21st session of the UN General Assembly, provides for the right of every person, in particular, to the protection of moral and material interests arising in connection with any scientific, literary and artistic works of which he is the author. Copyright has been classified as a fundamental human right, as indicated in the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948.

Copyrights are divided into personal non-property (moral) rights and property (material) rights of authors that are protected by law. Moral rights cover such issues as permission to publish a work, the right to its inviolability and integrity, name, honor. The property rights of

the author in a narrower sense constitute the right of the author to monetary remuneration established by copyright.

The author's powers are manifested when using the work .

In article 1051 of the Civil Code of the Republic of Uzbekistan secured personal non-property (moral) rights.

The author of the work has the following personal rights:

- The right to be recognized as the author of a work and to demand such recognition, including by indicating the name of the author in a proper manner on copies of the work and in any of its public use, if practically possible (the right of co-authorship);
- The right to indicate and demand indication on copies of a work and in any of its public use, instead of the author's real name, his fictitious name (pseudonym) or to refuse to indicate the name (anonymous) (right to a name);
- The right to oppose any distortion, distortion or other alteration of the work, as well as any other encroachment that could damage the honor or reputation of the author (the right to protect the author's reputation).
- Moral rights belong to the author regardless of his property rights and are always reserved for him.

The personal rights of the author are not inherited. The specified powers of the heirs are not limited by the term. In addition, the author has the right, in the same order in which the executor of the is appointed, to indicate the person to whom he entrusts the protection of personal rights.

In contrast to the moral rights of authors, property rights have a specific term of protection of 50 years established by the legislator. One of the main features of modern copyright is the exclusivity of these rights. They are exclusive in the sense that only the author is entitled to authorize each new use of the work. The author's consent is required for each use. The author or copyright holder for the work belongs to the exclusive rights to use this work in any form and in any way. If copies of a lawfully published work are introduced into civil circulation through their sale, then their further distribution is allowed without the consent of the author and without payment of royalties.

The amount and procedure for calculating the author's remuneration for each type of use of the work are established in the author's agreement, as well as in agreements concluded by organizations that administer the property rights of authors on a collective basis with users.

Without the consent of the author or other copyright holder and without payment of royalties, it is allowed to reproduce or publicly communicate works of architecture, photography, fine art, which are permanently located in a place open to free access, in cases where the image of the work is the main object of such reproduction or public communication, or when the image of the works is used for commercial purposes.

More recently, the concept of "copyright" has affected a relatively small number of people in the world. Mostly writers, composers, artists, publishers. But with the development of scientific and artistic creativity, the rapid growth of the spiritual life of peoples, more and more copyright holders appeared, various

new directions for the use of works arose. More and more active "consumers" of works of literature and art have become radio broadcasting, television, theater, cinema, concert halls and the Internet. Now, hundreds of thousands of people in many areas of the use of works come into contact with copyright issues on a daily basis. In most countries of the world, as well as in our country, there is national legislation that protects the rights of the author. The international convention norms of copyright have been worked out, the basic legal conditions for the exchange of works of literature and art have been determined. Activities to protect the moral and material rights of the author are closely related to the development of international cultural cooperation. Life itself has put the concepts of "copyright" and "cultural values" on a par. The constitution places copyright on a par with the fundamental rights and freedoms of citizens, proclaimed and protected by the state. Uzbekistan is not yet a member of the Geneva Convention on Phonograms; therefore, sound recordings are completely unprotected. Joining the Berne Convention and the Geneva Convention on Phonograms, as well as granting protection to sound recordings, are Uzbekistan's obligations under a bilateral trade agreement that Uzbekistan ratified with the United States six years ago

In addition to this, Uzbekistan indefinitely grants protection to works that existed before. When Uzbekistan provides protection for foreign sound recordings, it should also provide protection for works and sound recordings that existed earlier, having at least 50 years from the date of publication in order to comply with the obligations of the bilateral agreement and international norms<sup>1</sup>.

The Law of the Republic of Uzbekistan "On Copyright and Related Rights contains clearly formulated provisions on the protection of copyright for computer programs and databases, which is required by a bilateral agreement. However, there are no known civil or criminal procedures for conducting ex parte searches that are necessary to provide effective enforcement of intellectual property rights against pirates using end products.

After the adoption of the 1996 Copyright Law, Uzbekistan did not amend the Criminal Code with a view to enacting provisions on penalties to prevent violations of intellectual property rights

This violates the country's obligations under a bilateral trade agreement to provide "adequate and effective" protection and enforcement of intellectual property rights. The Criminal Code (Article 149) provides for liability for violation of copyright and patent rights, but does not include liability measures for violation of related rights. In any case, the existing measures of liability are too weak and should be changed in order to consolidate and expand the provisions concerning violations in the field of copyright and related rights. Article 149 is reportedly pending. But no one saw any of the bills pending. The International Intellectual Property Alliance recommends amendments to the Criminal Code and the Criminal Procedure Code, within the framework of the reform of the criminal law, concerning the granting of ex officio (ex officio) powers to the internal affairs bodies to initiate proceedings against in a criminal procedure. Further, the Customs Code needs to be amended to give ex officio (ex officio) authority to customs officials to seize suspected counterfeit products at the border, as required by the Agreement on Trade-



Related Aspects of Intellectual Rights property and what is necessary for the effective enforcement of intellectual property rights at the border.

MAIS is aware of the Resolution № 215 of the Cabinet of Ministers dated April 19, 1994, according to which a licensing system was created for the production, reproduction and sale of recordings, cassettes and CDs. However, there is no information on how these provisions are implemented, if implemented at all, and how effective they are in the fight against illegal production enterprises, which is common in the region

Uzbekistan is not a party to the two new WIPO agreements. The Government of the Republic of Uzbekistan should be persuaded to ratify both the WIPO Copyright Agreement and the WIPO Performances and Phonograms Agreement (CIF). It is necessary to change the regime for the exercise of intellectual property rights in Uzbekistan to include the main civil administrative, criminal and customs remedies in order to bring this regime in line with international norms. At the moment Uzbekistan does not provide “adequate and effective” protection and enforcement of intellectual property rights in accordance with the obligations of the bilateral agreement. There are significant shortcomings in legislative reform. At the moment, the internal affairs bodies, prosecutors, judicial and customs authorities do not carry out effective work. Our government must undertake the necessary legislative reforms, including joining relevant agreements to protect foreign sound recordings. Thereafter, authorities should, at a minimum, initiate raids and arrests, and must act to stop the retail distribution of counterfeit products through administrative and criminal sanctions.

Currently, the Criminal Code does not provide for penalties to prevent violated intellectual property rights. In this connection, it is necessary to make changes to it. The Administrative Code does not provide for any sanctions for infringement of copyright or related rights. It also needs to be amended to include fines or revocation of business licenses from unauthorized retailers.

In Uzbekistan, enforcement of intellectual property rights at the border is as weak as in other countries in the region. This allows pirated copies to be freely transported across the border for sale in Uzbekistan and other countries. Which, in turn, cause significant harm to copyright industries, in particular the music industry.

According to the recording industry (International Federation of the Phonographic Industry, IFFP), most music piracy takes the form of counterfeiting audio cassettes. It is further reported that pirated music cassettes produced in neighboring countries, including Russia in particular, are being brought into Uzbekistan as a result of weak controls over the enforcement of intellectual property rights at the border. IFFP also reports that there are no optical media factories in Uzbekistan, although the existing climate and infrastructure is conducive to launching pirated CDs and cassettes. The recording industry estimates trade losses in Uzbekistan equal to US \$ 25 million in 1999 - significantly higher than in all other CIS countries. The music piracy rate is estimated at 90%.

There are no official figures for piracy or losses incurred as a result of piracy in the film, entertainment software, and publishing industries

Summing up the above, I would like to note that, unfortunately, in the Republic of Uzbekistan, the legal protection of copyright is implemented extremely ineffectively. Thus, in judicial practice, cases of appeal of authors of works, science and literature to the court for the protection of their violated rights are very rare. There are laws, and they are quite specific. Their proper execution is lacking. There are no provisions in the Criminal Code on penalties to prevent violations of intellectual property rights; also, it does not provide for any measures of responsibility for violation of related rights. It seems necessary to make appropriate amendments to the Criminal Code of the Republic of Uzbekistan.

It can also be said that all subjective copyrights, by their very nature, are exclusive. In other words, the sign of exclusivity is subject to any subjective copyright and expresses one of the main features inherent in them, namely, the ownership of this right only to its owner and to no one else. Creators of works have copyright, which, like property rights, consists of separate copyright rights. Only the owner of the copyright in a work can decide whether to exercise his copyright rights.

This means that the author not only decides on the publication of the work, but also determines from what moment, in what forms, volume and limits access to the work will be open to an indefinite circle of people. From the above it follows that the presence of legislative norms does not mean its strict implementation, if each person and society as a whole has a low legal awareness and legal culture, does not perceive the results of intellectual work as a product of no less value than any other consumer item by its attitude can and will negatively affect the further development of intellectual labor, the

introduction of new technologies, the attraction of investments, which in turn will lead to economic losses.

## CONCLUSION

To eliminate the negative impact on the system and order, in order to prevent violations in this area, it is necessary:

- Carry out a wide explanatory work among the population. Take measures to improve legal knowledge in the media with the involvement of scientists, cultural and art workers, lawyers.
- The creation of a special section in the journal to cover the issues raised would have a positive effect.
- Introduction of classes in this area not only in higher educational institutions, but also in schools, lyceums, colleges
- Organization of intellectual property centers in educational institutions,

At present, income from the use of the results of intellectual activity in some developed countries reaches from 7 to 15% of the total turnover, this means a significant replenishment of the budget of our republic from the effective use of the results of intellectual activity during all walks of life.

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