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ХАЛҚАРО ХУСУСИЙ ҲУҚУҚ

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LEGAL ANALYSIS OF METHODS OF REALIZATION OF PROPERTY RIGHTS BY AUTHORS AND PRACTICE OF LAW ENFORCEMENT IN THE REPUBLIC OF UZBEKISTAN

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ANNOTATION

In the article, the author's right and its protection, the absolute recognition of the right of a person to his works and the fact that it cannot be violated in various ways, that they are inviolable and protected by law, and in case of disobedience, the threat of punishment a wider study of its existence and a broader acquaintance with the concept of this right in foreign countries and a comparison with national legislation, the shortcomings in the field of this right were analyzed. Currently, as this field is rapidly developing and entering our country, it was studied that it is becoming more difficult to provide protection and becoming a vital necessity. Also, today, the state and processes of copyright protection in Uzbekistan, the amount of fees paid on behalf of the rights holders, and other conditions for the conclusion of contracts issues such as the agreement with users, conclusion of contracts with users for the use of rights managed by such an organization, and agreement with users on the amount of fees were also discussed.

Keywords: copyright, property right, the practice of applying the right, non-property rights, fee amount, right holder, right recognition.

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ЎЗБЕКИСТОН РЕСПУБЛИКАСИДА МУАЛЛИФЛАР ТОМОНИДАН МУЛК ҲУҚУҚИНИ АМАЛГА ОШИРИШ УСУЛЛАРИ ВА ҲУҚУҚНИ ҚЎЛЛАШ АМАЛИЁТИНИНГ ҲУҚУҚИЙ ТАҲЛИЛИ

АННОТАЦИЯ

Мақолада муаллифлик ҳуқуқи ва уни ҳимоя қилиниши, шахснинг ўз асарларига бўлган ҳуқуқи мутлақ тан олиниши ҳамда уни турли тарзда бузиш мумкин эмаслиги, улар дахлсиз эканлиги ҳамда қонун билан қўриқланиши, бўйсунмаслик ҳолатларида эса жазо қўллаш таҳдиди мавжудлигини кенгроқ ўрганиш ҳамда хориж мамлакатларида мазкур ҳуқуқ тушунчаси билан кенгроқ танишиш ва миллий қонунчилик билан таққослаш, мазкур ҳуқуқ соҳасидаги камчиликлар таҳлил этилди. Ҳозирда ушбу соҳа мамлакатимизга тезлик билан ривожланиб кириб келаётганлиги сабабли, ҳимояни таъминлаш қийинлашиб ҳаётини заруратга айланаётганлиги ўрганилди. Шунингдек, бугунги кунда, Ўзбекистонда муаллифлик ҳуқуқи ҳимоясининг ҳолати ва жараёнлари, ўзи қайси ҳуқуқ эгаларининг номидан иш кўраётган бўлса, шу ҳуқуқ эгаларининг номидан ва улардан олинган ваколатлар асосида тўланадиган ҳақ миқдорини ва шартномаларнинг тузилишига доир бошқа шартларни фойдаланувчилар билан келишиб олиши, бундай ташкилот бошқараётган ҳуқуқлардан фойдаланиш учун фойдаланувчилар билан шартномалар тузиш ва ҳақ миқдорини фойдаланувчилар билан келишиб олиш каби масалалар ҳам муҳокама қилинди.

Калит сўзлар: муаллифлик ҳуқуқи, мулкӣ ҳуқуқ, ҳуқуқни қўллаш амалиёти, номулкӣ ҳуқуқлар, ҳақ миқдори, ҳуқуқ эгаси, ҳуқуқни тан олиш.

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ПРАВОВОЙ АНАЛИЗ СПОСОБОВ РЕАЛИЗАЦИЯ ПРАВ СОБСТВЕННОСТИ АВТОРА И ПРАВОПРИМЕНИТЕЛЬНАЯ ПРАКТИКА В РЕСПУБЛИКЕ УЗБЕКИСТАН

АННОТАЦИЯ

В статье авторское право и ее защита являющаяся абсолютным признанием прав человека на его произведения и то, поскольку, оно не может быть нарушено различными способами, они неприкосновенны и охраняются законом, а в случае неповиновения, угрозы наказания позволило широко изучить его существование и раскрытие понятия права в зарубежных странах по сравнению с национальным законодательством, тем самым проанализировав существующие недостатки в этой области. Учитывая стремительное развитие ее в нашей стране автор приходит к выводу, что данная область стремительно развивается в стране, и в свою очередь требует детального изучения обеспечения защиты собственности, потому как она становится жизненной необходимостью и создает трудности в исполнении. Кроме этого обсуждаются вопросы состояния и процессов охраны авторских прав в Узбекистане на сегодняшний день, размер вознаграждения, уплачиваемого от имени правообладателя и другие условия заключения договора на основании полученных от них прав, как согласование с пользователями на использование прав, находящихся в управлении организаций, и соглашение с пользователями о размерах вознаграждения.

Ключевые слова: авторское право, право собственности, правоприменительная практика, неимущественные права, размер вознаграждения, правообладатель, признание права.

Today, the element of learning in any field such as economics, politics or education is also that anything that happens in one region of the world affects another, it is a sign that we live in an era of globalization. An important factor in this phenomenon is technology, the development of which has allowed faster exchange than in any other period up to the present time.

It should also be taken into account that globalization includes many other aspects of increasing the interdependence and integration of human communities. In the matter of integration, in turn, due to the expansion of global and regional processes, we can bring to mind objects of intellectual property. In response to this, we are currently witnessing that special attention is paid to the protection and development of intellectual property rights in all countries.

In particular, in Uzbekistan, after independence, we can see the attention to the field of intellectual property and efforts for its development. That is, works, works of science, literature, works of art, as well as trademarks and service marks, as objects of intellectual property, are all objects created as a result of human mental activity, since in this field, efforts are being made to protect them, and even legal documents for their protection are being implemented was produced [1, P.12].

Also, our country became a member of international agreements and conventions for the further development of this field. While speaking in this field, it is clear that we will face actual problems that have arisen within the scope of the topic, and we will look for solutions to such problems one after another.

Currently, as this field is rapidly developing and entering our country, it is becoming more difficult to provide protection, and becoming a vital necessity. Also, today, the state and processes of copyright protection in Uzbekistan, the amount of fees paid on behalf of the rights holders, and other conditions for the conclusion of agreements issues such as agreement with users, conclusion of agreements with users for the use of rights managed by such an organization, and agreement with users on the amount of fees should also be discussed [2, P.16].

It is also important to find scientific-theoretical and practical solutions to improve the various tools and methods used in the management of authors' property rights on the international and national scale.

In today's computer age, everyone should be aware of intellectual property rights. If we understand its scope, we understand its need. However, the general public is still not fully aware of these rights. This right has many advantages and disadvantages. But the importance of intelligence acquired by nature or acquired by learning is undoubtedly emphasized by this right.

What do you think is the level of copyright enforcement, that is, works of literature, art, and visual arts in our country? Are copyrighted works used with the consent of the author or other rights holder? Unfortunately, many of these questions today may seem unanswerable. Yes, although the Law of the Republic of Uzbekistan "On Copyright and Related Rights" defines the scope of rights of the author or the right holder.

There are even provisions for paying for personal use of copyrighted works. According to Article 1056 of the Civil Code of the Republic of Uzbekistan, the author has the exclusive right to use the work in any form and in any way. In accordance with this code, the owner of the property right to the result of intellectual activity has the right to use this object of intellectual property in any form and in any way as he wishes [3, P.19].

If we take a look at the copyright once again, let's learn about its use and objective aspects.

We come to the interpretation that the author's right is a physical person who has a scientific approach to the works with author's creative work, and it follows that Copyright is also aimed at protecting the rights of persons who have done a certain scientific work or created works that others did not come up with the idea of such works.

As the main norms of copyright in Uzbekistan are the Civil Code of the Republic of Uzbekistan (Articles 1041-1073) and the laws of the Republic of Uzbekistan "On Copyright and Related Rights", let's continue our analysis based on these legal documents [4, P.3].

According to Article 4 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights".

to the works of authors who are citizens of the Republic of Uzbekistan or have permanent residence in the territory of the Republic of Uzbekistan or other original owners of copyright; to works published for the first time in the Republic of Uzbekistan, regardless of the author's citizenship and permanent residence;

If the work is protected in the territory of the Republic of Uzbekistan in accordance with the international treaties of the Republic of Uzbekistan, the legal fact in which the author of the work served as the basis for obtaining the copyright shall be determined by the law of that country.

This copyright, like other rights, is enforced in certain areas of the country.

Let's briefly touch on the objects of copyright, that is, what are the forms of copyright;

It can be in written form, what it can include, and what it can look like. a person or persons may be granted a copyright.

It may be in oral form, in such cases the performance of a melody composed or written by him in front of the public, which is left over from ancient times, in such cases copyright can be granted to that person for the melody performed.

It can be audio or video recording, which is how it works. We can take mechanical means as an example.

We can find pictures in such situations, for example, pictures drawn by a certain person, we can give an example of many such pictures in the world.

We can see a lot of such cases in terms of volume and space. Examples of these are statues and structures. There are many dissimilar sculptures in the world that differ from each other in various aspects. During their creation, property rights are given to the people who created them [5, P.7].

We can see many such objects.

We can include the above-mentioned cases in the list of copyright objects, that is, we can find them in scientific, artistic literary works, drama music works, musical drama works, audiovisual works, and many other cases.

We can write and analyze the following situations according to the Civil Code, that is, we can see in certain articles of this code. Let's talk about what we should understand by property rights. In our legislation, property rights are divided into property rights and non-property rights.

For those of us who divided intellectual property objects into private non-property and property rights, the difference is that a certain organization is divided into private non-property and property rights in relation to the results of intellectual activity.

Individual non-property rights belong to the author, with or without regard to his property rights. Regardless of the intellectual activity, we can understand that even if the property right is transferred to another person, it will remain and be preserved by the person who used the branch [6. P.10].

In the case of property rights, we can understand the right holders of the rights that reflect the private characteristics of the participants of civil transactions, goods, works or services, i.e., we can understand this as follows: these rights are a product of a different appearance, a means of production, which is unique in the world to a certain person, or has a different characteristic. Let's say that produced a car that is the best-known electric car.

The main reason I say this is that during the production of this car, a patent is obtained by the manufacturer campaign, and the owner of that company starts to own his property rights. If we return to the above situation, if in the future we will switch from an electric machine to a water machine, in such a case, the manufacturing company will receive a separate patent for the machine it has produced, and its ownership of the patent will begin. Property rights apply to such legal instruments; we can look at it.

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:

- confiscation of material objects in violation of absolute rights and material objects resulting from such violation;

- announcement of a mandatory violation, including information about the owner of 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 describes the issues of copyright and related rights protection [7, P.9].

Therefore, according to this law, the author, owner of similar rights or other owner of exclusive rights has the right to demand from the infringer: recognition of rights;

- restore the situation that existed before the violation of the right and terminate actions that violate or threaten the right;

- its violation;

- if his right has not been violated, compensation in the amount of lost income received by the right holder under normal conditions of civil dealings.

The property rights arising as a result of intellectual activity are clearly owned by the author, by whom the above-mentioned means belong to the persons who created them with the labor and intellect of a person.

We can also emphasize that the author’s ownership of property rights in most cases belongs to the person who created it, and no one can take it away from him, it remains with that person.

As a result of intellectual activity, or as a result of owning the means of reflection, private signs are available to that person, regardless of the property rights in relation to the material object on which private signs are expressed.

In addition, we can see that the periods of personal non-property rights apply to intellectual property objects, but in some cases, we should know that the validity of the Absolute right to intellectual property objects is canceled due to the fact that it is not used for a certain period of time [8, P.33].

In this case, we can take whatever trademark we want, let’s say that the company goes bankrupt, our example above can work for this, where after a certain period of time after the bankruptcy, it can be revived, but with some changes to it it will be necessary to enter news. Only in such cases, due to the violation of the term (cancellation), the property right can be transferred to another person.

If we talk about the personal property rights of the author, we can find many such cases and see that they are closely related to our above topic.

We can see that the author has the property right to use the work created by him in any form and in any way. He gives the right to interpret the work he has created as he wishes and avoids the consequences of saying that such an analysis of your work is not available to him. In other words, the author publishes his work according to his own wishes and daily life. You can say how the law can be biased, the author should also know that the work he created can be done according to the cultural traditions of the country where he is creating it, and how should he interpret his work to the people of this country we mean that they know that they can do it [9, P.44].

The works created by the author are natural and legal persons, under the age specified by the laws of that country, according to the agreement concluded with the legal owner of this work or the persons authorized to it, including the agreements concluded with organizations managing property rights on a collective basis or such organizations. in cases where such an organization does not, they can use it, print it, distribute it to the public, and exercise some of their rights in accordance with the agreements concluded with the bodies of other organizations that fulfill their duties and obligations [10, P.39].

We can see what else is included in these, reprinting the works, selling the original copy or copies of the work or distributing them by changing their ownership rights and transferring them to another person at a different age, distributing the work with various properties by cable or the like. includes rights of distribution to the public by similar means. In addition, we can also indicate that the work can be rented out to another person for a certain period of time. According to the contract, the author has the right to receive a fee for each and every use of his work [11, P.19].

If the copies of the work published on the basis of the contract were leased in violation of what we mentioned above, or if the rights to sell them, the property rights were included in a different age, if the author's citizenship was legally transferred to another person by means of transfer to another person, they further distribution is allowed without the consent of the author and without payment to him.

As we mentioned above, we could see cases of transfer of the author's property rights to other persons. Such cases can be realized only on the basis of the author's contract or on the basis of the author's contract on the transfer of non-exclusive rights to other persons, and in the case of transfer to another person, it can be considered that it is allowed to use within the limits specified in the contract. In case of transferring this work or techniques to another person, it is not allowed to sell it to another person or to use it for other purposes in violation of the contract.

Based on the above, we have to consider the responsibility, that is, what will be the responsibility? In such cases, we can find out that the party that did not fulfill the obligations under the copyright contract at all or to an adequate extent must compensate the other party for the damage caused, as well as the lost profit.

To sum up, nowadays, the implementation of measures to increase the intellectual knowledge of the young generation, and to familiarize students with the cultural and educational heritage requires complex measures. With the independence of our country, the development of the national legislative system in the field of intellectual property was based on the basic rules and principles established in national and international documents. They are regulated by separate norms in the field of copyright, which is an object of intellectual property. Including the Constitution of the Republic of Uzbekistan, the Civil Code, the Code of Administrative Responsibility, the Criminal Code of the Republic of Uzbekistan, and other legal norms.

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