

Relevance of increasing liability for copyright infringement in Uzbekistan

Abdumumin Yuldashov

Head of Department Agency on Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan

Abstract

This article describes the problems and threats to copyright in Uzbekistan, a comparative analysis of foreign countries and their improvement.

Nowadays, our government carries out extensive work on the material support of creative people. In turn, compliance with the legitimate interests of authors and subjects of co-law is one of the topical issues. In Particular.

Keywords: copyright, administrative responsibility, counterfeit, criminal liability, attribution authorship

Introduction

The President of the Republic of Uzbekistan Sh. Mirziyoyev during the pre-election program and the meeting with representatives of creative intelligent in Tashkent in August 2017, opinions were expressed on raising our culture and art, enriching the spiritual world of our people, closely acquainted our youth with masterpieces of national classical art and at the same time on other topical issues related to ensuring protection of property. In the innovative and economic development of the country, it is important first of all to what extent the legal protection of intellectual property objects plays an important role. It is known that currently, Uzbekistan is working on becoming a member of the World Trade Organization. One of the first necessity of membership in this international organization is to join the Agreement on legal trade aspects of real estate (TRIPS) of this organization. One of the main requirements of this agreement is that administrative and criminal liability measures for violations in the field of property should be established, enforced and in the legislation¹. In addition, in the “301 Special Report”, which is traditionally published by the US Department of Commerce every year, it is also characterized by the fact that the protection of real estate objects by Uzbekistan is not sufficiently protected, in particular, insufficient attention is paid to violations in the field of copyright and related rights².

According to the foregoing, two important tasks facing Uzbekistan today are, Firstly, the responsibility for the illegal use intellectual property objects, and Secondly, the issue of the adaptation of national legislation on the protection of intellectual property objects to international rules and norms is becoming important. With the law of the Republic of Uzbekistan dated May 2, 2019 №O`RQ-534, amendments were introduced to the code of Administrative responsibility of the Republic of Uzbekistan, which stipulates the right of authorship and responsibility measures for violation of related rights. In accordance with it, now the illegal use of works or objects of similar rights, as well as the duplication, distribution, bringing to the attention of all, of counterfeit copies of works or objects of similar rights, as well as showing false information about their preparers in copies of works or objects of similar rights, about

the places of their production, as well as about, – confiscation of counterfeit copies of works and objects of similar rights, as well as materials and equipment used for their reproduction and distribution, as well as weapons of committing other offenses, punishing citizens from one to five times the minimum wage, officials – from five to ten times the amount of fine.; if similar offenses were committed repeatedly for a year after the application of the administrative penalty measure, – it was determined that the confiscation of counterfeit copies of works and objects of similar rights, as well as materials and equipment used for their reproduction and distribution, as well as weapons of committing other offenses, caused citizens to be fined from five to ten times the minimum wage, and officials – from ten to twenty times the amount.

The experience and practice of countries such as Switzerland, The Netherlands, Sweden, the Kingdom of Denmark, the People's Republic of China, Estonia, the Russian Federation, the Republic of Belarus, Ukraine, Kazakhstan have been studied in the determination of the measure of responsibility for violation of copyright and related rights in the legislation of administrative responsibility. The damage caused by the distribution of counterfeit products in world practice is studied in the following several groups:

- negative impact on the foreign image of the country and violation of the investment climate;
- damage to the products of copyright holders;
- damage to the economy of the country as a result of the non-occurrence of taxes and other payments arising from the budget and non-budgetary funds of the state;
- the source of financing of organized crime³.

The definition of liability plays an important role in strengthening the protection of the exclusive rights of rights holders to property objects, in preventing and preventing the cases of circulation (disposal) of counterfeit products, in the Coordination of rules and norms in the field of intellectual property with international normative documents, and in the development of the field of science, literature and art. At the same time, the reflection of the above norms in the legislation on administrative responsibility contributes to the promotion of the work of the authors of science, literature and works of art, ensuring that authors and other rights holders receive remuneration for their work, further development of culture and art in our country, as well as prevention of cases of violation.

The current Criminal Code of the Republic of Uzbekistan Article №149 establishes responsibility for violation of copyright or inventive rights, in particular for the acquisition of copyright in relation to the object of the property of contemplation, co-ordination, as well as, disclosure of information on the objects of intellectual property without the consent of the author until they are officially registered or announced shall be punishable by a fine in the amount of twenty-five to seventy-five times the minimum monthly wage or by deprivation of certain rights for up to five years, or by compulsory public works for up to three hundred.

In the Criminal Code of the Russian Federation, a fine of up to two hundred thousand rubles or in the amount of the salary or other income of the convicted person for a period of 18 months, or engaging in compulsory work up to 480 hours, or imprisonment of up to six months, is imposed if, as a result of mastering the copyright. Illegal use of objects of copyright and related rights, in particular for the purpose of mastering, storage, realization of counterfeit copies of works or Phonograms, is punishable by a fine in the amount of up to two hundred thousand rubles or in the

amount of the salary or other income of the convicted person for 18 months, or by arrest for up to 480. If the above illegal actions are committed by a group of persons or an organized group of persons, or in a very large amount, or in the case of the use of his official office, in advance, a fine of up to five hundred thousand rubles or in the amount of the salary or other income of the accused, together with or without the According to Russian legislation, if a large amount of damage caused by the use of these Phonograms or copies of works or objects of copyright and related rights is estimated at one hundred thousand rubles, then a very large amount is estimated at up to one million rubles.

Also, in the Criminal Code of the Republic of Belarus, a fine is imposed on sending to public works for coercion into authorship or for mastering the author's right, or for sending to correctional labor for up to two years.

Illegal use or illegal distribution of objects of copyright and related rights in the event that the same action is committed repeatedly within one year after the application of the administrative penalty, or a large amount of income is received from the pursuit of this action, a fine of sending to public affairs or a fine of up to three years. Just like the legislation of the Russian Federation in the Republic of Belarus, this illegal act is punishable by a fine or imprisonment for a term of up to five years, restriction of freedom or imprisonment for a term of up to five years, if committed by a group of persons or an organized group of persons or as a result⁴.

According to the criminal legislation of Georgia, the imposition of a fine or correctional labor for up to two years is punishable by a co-authorship or co-authorship. Committing this act repeatedly is punishable by restraint of liberty for up to three years or by deprivation of liberty for up to this term⁵.

Experience of these countries in determining responsibility for violation of copyright law, as well as widespread cases of violation of copyright committed through the telecommunication network today, requires a review of the norms provided for in the current criminal legislation in this direction and its coordination based on the world experience. In particular, in the Criminal Code, it is necessary to include separate articles for the appropriation of authorship, as well as for violation of copyright and related rights. At the same time, measures of responsibility for violation of copyright and related rights should be increased.

True, now the Criminal Code of the Republic of Uzbekistan the number of criminal cases seen by Article 149 does not have a high figure at that level. This situation can still be assessed by the lack of legal culture and consciousness in the field of copyright protection in our society, the lack of qualified specialists in the field, the lack of knowledge and skills of law enforcement agencies in this regard.

In the following years, it is possible to get acquainted with the number of criminal cases seen in 2014-2018 under Article № 149 of the Criminal Code of the Republic of Uzbekistan. Based on the above, it is necessary to develop a clearly thought-out and solid-state policy to ensure copyright protection. Currently, in Uzbekistan there are also large-scale production enterprises in the field of copyright "piracy", in particular, aimed at the production of counterfeit products. At the same time, law enforcement agencies also cannot take measures to eliminate all counterfeit products on the market. One of the main reasons for this, as noted above, is the lack of personnel in the field of Justice, prosecutors and other competent organizations.

In order to avoid such negative phenomena as the above, the Russian lawyer is the researcher Yu.V.Tolchyonova. The following proposals were developed by Tolchyonova⁶:

Conclusion

1. In the system of law enforcement bodies, the organization of specialized departments on property. To do this, first of all, the organization of special courses on training and training of specialists in this field.

2. Development of new methods and methods of operational-search activity and improvement of the existing system (such as verification of purchases);

3. Conducting systematic reviews on the preparation and implementation of counterfeit products;

4. Monitor the persons who organized the robbery activity and managed it and ensure that they are brought to responsibility. To do this, of course, it is necessary to activate state and law enforcement bodies and develop clear and effective plans.

5. To conduct activities in the Internet to eliminate violations in the field of public property. Implementation of organizational and technical measures to identify rogue sites.

6. To stop the export and import of illegal materials, to develop measures aimed at preventing the entry of counterfeit products and the transition to civil legislation in the process of crossing the state border and in the internal territory, to put an end to the activities of international and regional transnational "channels".

7. To draw attention to the sphere of activity of officials on the determination of the source of counterfeit products arising from consumption, in particular, the courts conducting inspections, seeing disputes related to copyright law. Increasing liability to combat the activities of major illegal product producers;

8. Develop a unified methodology for the identification of counterfeit products. Training of specialists in the identification of counterfeit products. In order to facilitate the work of specialists, create a single base of products with license and the corresponding certificate.

9. To develop a system of continuous operational measures for the storage and disposal of counterfeit products;

10. Development of measures to improve the mutual activities of law enforcement bodies in the regions. Taking measures to implement joint measures to eliminate violations in the field of results of activities. Development and implementation of joint interregional orders for operational-prophylactic measures to eliminate the spread of counterfeit products.

11. Elimination of the occurrence of monopolism by the right holder in the process of reducing the account of the contract. This process at the state level, in a nutshell, ensures control over the process of setting prices for license products and has a positive impact on the ongoing measures to combat counterfeit products.

12. Review monitoring system (collection, analysis, evaluation and forecasting of information) of the situation of piracy in the field of copyright, its consequences and effective methods of combating it. Development and implementation of a form of maintaining a special statistical record of crimes and administrative offenses in the field.

13. To carry out measures to increase the legal consciousness of the population with the active use of the media in order to warn of economic crimes related to the creation and circulation of counterfeit products.

The provision of copyright protection is one of the important issues that many countries around the world are waiting for today to address. In this regard, the definition and implementation of responsibility measures for copyright and infringement of related rights, together with the protection of the legal interests and rights of the owners of

rights, are also of particular importance in the formation of a spirit of respect for copyright in society.

References

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⁴ <http://pravo.by/document/?guid=3871&p0=hk9900275>

⁵ <http://www.matsne.gov.ge>

⁶ Yu. V. Tolchenova. Criminal liability for violation of copyright and related rights. Diss. for the degree of can. jurid. sciences. Moscow 2010