

Uzbekistan: Protection of Intellectual Property

In Uzbekistan the rights to intellectual property are protected by the following regulatory legal acts:

- Civil Code of the Republic of Uzbekistan of Aug. 29, 1996
- Law of the Republic of Uzbekistan “On Copyright and Allied Rights” of July 20, 2006
- Law of the Republic of Uzbekistan “On Inventions, Utility Models and Industrial Designs”
- Law of the Republic of Uzbekistan “On Trademarks, Service Marks and Appellations of Origin” of Aug. 30, 2001
- Law of the Republic of Uzbekistan “On Competition and Restriction of Monopoly Activity in the Commodity Market” of Dec. 27, 1997
- Law of the Republic of Uzbekistan “On the Protection of Consumer Rights” of April 26, 1996

Uzbekistan is a party to the following international treaties and agreements in the area of intellectual property protection:

1. Convention establishing the World Intellectual Property Organization
2. Paris Convention on the Protection of Industrial Property
3. Berne Convention for the Protection of Literary and Artistic Works
4. Patent Cooperation Treaty
5. Eurasian Patent Convention
6. Protocol under the Madrid Agreement on the International Registration of Marks

I. Copyright

In accordance with current Uzbekistan legislation, the following are copyright matters:

- Literary works
- Dramatics and scenarios
- Musical dramatics, musical works
- Choreography and pantomimes
- Audio-visual works
- Sculptures, pictorial art, graphics, lithographic and other works of fine arts
- Applied and decorative arts, and scenography
- Arts and crafts, and works of monumental arts
- Works of architectural, urban planning and garden art
- Photographic or similar works
- Maps, plans, design sketches, illustrations and other similar works relating to geography topography and other sciences
- Computer programs

Derived works (translations, processing and other revisions or remakes of science, literature and art works) and collections are also copyright matters. The author of a piece of work is a physical person, who has created it. The copyright arises by virtue of a work creation, and includes the author’s personal non-property and property rights. The copyright is effective throughout the author’s life and 50 years thereafter. The copyright to a work published anonymously or under a pen name is effective during 50 years of the date of its legal publishing.

Exclusive rights to a service work are owned by the employer, unless otherwise specified in a contract between employer and author. The copyright can be assigned under a copyright agreement or inherited. The author’s personal property rights are owned by the author, regardless of his or her property rights, and remain in the author’s ownership even if exclusive rights to a work are assigned.

Property rights may be assigned under a copyright agreement on the assignment of exclusive rights (the work may be used by the assignee only in a manner and for a period of time as specified in the agreement); or under a copyright agreement on the assignment of non-exclusive rights (the assignee may use the work on a par with the assignor). Any reproduction, distribution or other use of a work without

making an agreement with its author or an entity managing the property right to it, shall constitute a breach of the copyright except when the law allows such use without an agreement.

Copies of works reproduced or distributed in breach of the copyright are regarded as pirated. Also copies of works protected by the law, but imported without consent of copyright holders from a country where such works are no longer protected or were never protected are regarded as pirated. Copyright infringement entails civil, administrative or criminal liability. The copyright holder may demand that the infringer recognize his rights, cease infringement, indemnify, and make up the losses incurred with a seizure of counterfeit and pirated goods.

II. The Allied Rights

Performances, phonograms, on-air broadcastings and cable castings shall be regarded as objects of allied rights. Performers, phonogram producers, and on-air broadcasting and cable casting stations shall be regarded as allied right holders.

Like copyrights, allied rights comprise personal and property rights. The rights of a performer shall be in effect during 50 years of the date of the first performance. The rights of a phonogram producer shall be in effect during 50 years of the day it was made public for the first time, or during 50 years after its first recording. The rights of on-air broadcasting and cable casting stations shall be in effect during 50 years after the first broadcasting.

Any reproduction, distribution or other use of an allied rights object without making an agreement with its holder or an entity managing the property right to it, shall constitute a breach of the allied right except when the law allows such use without an agreement. Allied right objects reproduced or distributed in breach of the allied right shall be regarded as pirated. Also regarded as pirated shall be allied right objects protected by the law, but imported without consent of their holders from a country where such allied right objects are no longer protected or were never protected. Allied right infringement entails civil, administrative or criminal liability.

III. Inventions, Utility Models & Industrial Designs

In accordance with Uzbekistan legislation, the invention shall be a new engineering solution that complies with the level of invention and can be applied in industry. The constructive implementation of a device shall be regarded as utility model. An object claimed as utility model shall be granted protection, provided it is new and can be applied in industry.

The industrial design shall be a decorative and engineering solution, which determines the physical configuration of an industrial product. No solutions stipulated solely by the engineering feature of a product, printed matter as such, architecture objects (excluding hard landscaping), industrial, hydro-engineering and other fixed structures, objects of unstable form of liquid, gaseous, free flowing or similar substances, and products that which offend public interests, principles of humanity and morale shall be regarded as industrial designs.

The right to a piece of industrial property is held by its creator (co-creators) or their successor(s), and certified by a patent. Where several people create a piece of industrial property independently, the right to it goes to the person who is the first to file a patent application with the Patent Office. The patent for a piece of industrial property shall be granted after a state expert examination comprising a formalities examination, examination for a utility model, and substantive examination for an invention or industrial design.

The invention patent certifies the novelty and degree of invention and the exclusive right of the patent holder to own, utilize and dispose of the invention. The utility model patent certifies the novelty and exclusive right of the patent holder to own, utilize and dispose of the utility model. The industrial design patent certifies the novelty and originality of the industrial design and the exclusive right of the patent holder to own, utilize and dispose of the industrial design.

The exclusive right of a patent holder shall come into force the moment a notice of registration of the piece of industrial property is published in the Official Bulletin of the Patent Office. The invention patent shall be valid for 20 years, the industrial design patent for 10 years, while the utility model patent shall be valid for five years of the day of filing an application with the Patent Office. The validity of an invention patent may be extended by the Patent Office at the request of the patent holder for no more than five years as provided by applicable law.

The validity of an industrial design patent and a utility patent may be extended by the Patent Office at the request of the patent holder for five and three years respectively. The extent of protection granted by an invention patent and a utility model patent is defined by the formula, while in the case of an industrial design patent by a combination of its dominant features (dominant feature combination), shown in the picture of the product (dummy, figure).

The patent holder has the right to use its piece of industrial property at the holder's discretion, provided such use is not in breach of the rights of other patent holders, including the right to prohibit its use by other persons, except when such use does not constitute infringement of the right of the patent holder. The patent holder may assign his right to any legal or physical person/persons under an assignment agreement or a licence agreement. Such agreements are to be registered with the Patent Office.

Where the patent holder insufficiently uses its piece of industrial property during three years of its registration, any person desiring or willing to use the patented piece of industrial property may ask the court for a compulsory non-exclusive licence, where the patent holder refuses to enter into a licence agreement.

Any unauthorized manufacture, use, importation, offer for sale, sale, other introduction into free circulation, or storage for the purpose of a product manufactured using a patented piece of industrial property, and the use of a patented method of its manufacture, or introduction into free circulation or storage for the purpose of a product manufactured directly using a method protected by an invention patent, shall be regarded as a breach of the exclusive right of the patent holder.

Any person using a piece of industrial property in breach of the exclusive right of its holder shall be obliged at the request of the patent holder to:

- Discontinue any actions that infringe the rights of the patent holder.
- Make up any losses caused to the patent holder by the breach as prescribed by the law.

Under the Criminal Code appropriation of authorship, or coercion to co-authorship in relation to a piece of intellectual property, and disclosure without the consent of its owner information on the same prior to its registration or official publication shall be punished by a fine, deprivation of certain right for a period of up to five years, or by corrective labor for a period of up to three years, or by deprivation of freedom for a period of up to six months.

IV. Trademarks, Service Marks and Appellations of Origin

Verbal, graphic, three-dimensional, other designations, and their combinations can be registered as trademarks. The trademark can be registered in any color and color combination. The trademark shall be granted legal protection based on its registration. The holder of a trademark has the exclusive right to use and dispose of the trademark.

No descriptive mark, national coat of arms, emblems, flags and other signs and symbols, false marks or marks capable of misleading the public, or which are controversial to public interests, principles of morale and humanity; violating the rights of third parties (holders of trademarks, well-known trademarks, famous trade names, industrial designs, copyright infringement) shall be registered as trademarks. Descriptive marks may be registered as trademarks, provided it is proved they have become distinctive as a result of their use.

The right to a trademark shall be documented by a certificate of registration valid for 10 years with the possibility of renewal every 10 years. The exclusive right to a trademark shall be valid for the goods specified in the certificate of registration, and shall be exercised throughout the validity of the certificate counting of the date of publication in the Official Bulletin of the Patent Office.

The trademark holder must use the trademark. Otherwise, the registration of the trademark may be canceled at the request of any interested person on the grounds of its continuous non-use during any three years. The proof of trademark use shall be its use on goods for which it was registered, and/or the packing thereof by the owner or an entity to which such right has been granted under a licence agreement. The use of a trademark in advertisements, printed matter, on official letterheads, signboards or in the demonstration of goods in exhibitions held in the Republic of Uzbekistan shall be also considered as its use.

The trademark holder may assign the exclusive right to the trademark to a third party under an assignment agreement. No right to a trademark may be assigned if such assignment may mislead the public as to the goods or its manufacturer. The right of trademark use may be assigned under a license agreement that must have provisions ensuring that the quality of licensee's goods not be lower than that of licensor's goods, and that the licensor will see that the quality provisions are complied with. The assignment agreement and license agreement shall be registered with the Patent Office of Uzbekistan. Otherwise, the agreements shall be deemed null and void.

Beside that, the new law regulates relations in the area of protection of well-known trademarks. Any trademark protected in Uzbekistan without registration under an international agreement to which Uzbekistan is a party, or an unprotected mark used as trademark without protection, which has become widely known in Uzbekistan due to its extensive use on the date specified in the application, can be recognized as well-known. The legal protection of a well-known trademark shall be granted by decision of the Board of Appeals under the Patent Office of Uzbekistan. The legal protection of a well-known trademark shall be perpetual.

The name of a country, populated area, location or a geographic area used to mark a product whose peculiar characteristics are determined solely or mostly by the natural conditions of the area or other features or a combination of both shall be recognized as appellation of origin of the said product. The appellation of origin certificate shall be valid during 10 years of the day of filing an application, and can be extended for another 10 years at the request of its holder. The certificate's holder may not assign the right to use the appellation of origin or enter into any transactions involving the said right.

Any unauthorized manufacture, use, importation, offer for sale, sale, other introduction into free circulation or storage for the purpose of a trademark or product bearing such trademark or a mark confusingly similar to it in relation to homogeneous goods shall be regarded as a breach of the exclusive right of the trademark.

V. The Prospects

There are plans to amend the existing Customs Code to include provisions ensuring the protection of pieces of intellectual property by customs action.