

Copyright Protection By The Collective Management Organizations in Uzbekistan

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Abstract

The article deals with the issues of ensuring the protection of copyright objects when using them in telecommunication networks. In particular, the role of blocking means in this direction, methods and technical requirements for protection, as well as the processes of regulation of legal relations in this direction are described. In addition, the article describes the world experience in this direction, the role of the "Internet contracts" of the WIPO, technical means of protecting copyright on the Internet, as well as the norms and practice of the legislation of Uzbekistan.

Keywords: *collective management organization, copyright, telecommunications network, right holders, copyright law, technical measures, Uzbek Copyright law.*

INTRODUCTION

In recent years, people's need for information and insight has reached a higher level than ever before. Indeed, as the need for a widespread development of telecommunication network is increasing, the regulations has become inevitable. After all, it is difficult to imagine such processes without the participation of copyright objects. It is important to legislatively regulate the use of copyright objects. In my opinion there are many legal mechanisms for protecting copyright. In fact, these mechanisms are: technical measures (1), collective management organizations (2) copyright agreement (3) etc.

What do you think is the level of copyright enforcement, ie. works of literature, art and fine arts, in our country? Are copyright works used with the consent of the author or other rightholder? Unfortunately, many of these questions today may seem like an unanswerable or "supernatural" question today. Yes, although the Law of the Republic of Uzbekistan "On Copyright and Related Rights" determines the scope of rights of the author or right holder [1]. There are even rules for paying for personal use of copyright works. According to Article No 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 [2]. According to this code, the owner of property rights in relation to the result of intellectual activity has the full right to use this object of intellectual property in any form and in any way at his discretion.

Most importantly, today the copyright objects are play an important role in the economy of developed foreign countries. In particular, in 2019, the share of the copyright industry in the US GDP will reach 2.5 trillion (2,568.23 billion) US dollars, which will be 11.99% of the country's economy [3, p.4].

Should be noted that in order to increase the share of copyright in the economic indicators of the country, first of all, it is necessary to ensure its legal protection. It should be recognized that the demand for copyright works of Uzbek authors and right holders are much higher in Central Asia. I think the time has come to apply the rules and mechanisms of copyright and economics to these processes. This is due to the fact that our regulations in this area fully comply with the requirements of international treaties and if possible, are “ideal”. However, in practice it is clear that the above legal norms and principles of copyright enforcement hardly work. In this regard, increasing the role of "intellectual property institutions" is an urgent task. These institutions include organizations, collective management organizations (CMO`s), technology and innovation support centers, patent attorneys, research and educational institutions, etc.

To implement WIPO “Internet treaties” and ensure the protection of IPR contained in bilateral cooperation agreements between Uzbekistan and the European Union on August 20, 2021, some additions and changes were made to the “Copyright Law” of Uzbekistan, which provide for the “payment of compensation in the amount from twenty to one thousand base reference value in lieu of damages paid regardless of the fact of infliction of losses, based on the nature of the violation and the degree of fault of the violator, taking into account the custom of business turnover”. Also, this law established the term of copyright protection at 70 years instead of 50 years after the death of the author.

After these changes, the protection of the rights of authors and copyright holders in the courts has become more effective. Also, the past three years, CMO activity has increased significantly in Uzbekistan. The number of these CMO`s has reached 4. According to Article 58 of the Uzbek Copyright law CMO`s are giving right to act on behalf of copyright holders on the basis of the powers received from them [4]. Also, according to Article 65 of this law, CMO`s shall have the right to apply to court on its own behalf for the protection of violated copyrights and related rights of persons whose property rights are managed by such organization.

On January 13, 2022 year, in the civil court of the Yakkasaray district of Tashkent, a trial was held on the claim of the plaintiff – the Society for the Protection of Copyright and Related Rights of the Republic of Uzbekistan (UzAvtor) in the interests of a member of this society, People's Poet of Uzbekistan Usmon Azimov in relation to the defendant – Sanjar Javberdiev to eliminate the violation copyright, recovery of compensation and moral damages for copyright infringement. It is noteworthy that this case, by its specifics, is one of the first court cases of this kind in Uzbekistan [5].

The plaintiff (UzAvtor), asked the court to recover from the defendant in favor of the plaintiff compensation in the amount of 1000 the base calculation amount and moral damage (100,000,000 million Uzbek soums), and also to remove the famous Uzbek poem "Karvon", which was performed by the defendant, from various sources (Youtube, Instagram and other, various telecommunications and social networks). It is known, by the Law of the Republic of Uzbekistan dated August 20, 2021 amended and supplemented to provide for the payment of compensation in the amount of 20 to one 1000 the base calculation amount, taking into account the habits of the defendant, depending on the degree of guilt of the defendant. These changes are of great importance in securing copyright protection in Uzbekistan today. In particular, this mechanism in the law is very effectively implemented

It can be said that the introduction of limits on the amount of compensation by the above norm into the legislation served as an important basis for determining the measure of responsibility for the courts. Before there was no such norm, and there were has no effective cases determination of compensation by the courts.

A representative of the defendant told the court that the CMO`s could not sue on behalf of the author. Certainly, the feature of this case is that the CMO`s filed the claim on behalf of the author. This process is observed in Uzbekistan for the first time. According to article No 58 of the Law Uzbekistan “On Copyright and Related Rights”, CMO`s is necessary to protect the rights that it manages on behalf of the right holders and, based on its authority, has the right to take any legal actions. Also, in accordance with article No 65 of this Law, CMO`s has the right to apply to the court on its own behalf in the manner prescribed by law to protect the violated copyright and related rights of persons exercised by such an organization. Thus, in accordance with the provisions of the Law “On Copyright and Related Rights”, it can be concluded that CMO`s have the right to perform all trial procedural actions to protect rights on behalf of their members.

In the resolution of the Plenum of the Supreme Court of Uzbekistan dated April 28, 2000 No. 7 was adopted about moral harm, physical pain, injury, discomfort, etc. (“On some issues of application of legislation on compensation for moral harm”). The object of unlawful actions (inaction) are the intangible interests of a citizen (life, health, personal dignity, business reputation, privacy, personal and family secrets), personal non-property rights (property, the right to use the name, copyright and other non-property rights may be a violation of the law (legal protection of the results of IP) and property rights (inviolability of the home, property rights, etc.) [6].

Should be noted last years that a number of reforms are currently underway in Uzbekistan to protect the property rights of authors and copyright holders. In particular, ensuring the legitimate rights and interests of authors, co-owners and other right holders, fair receipt of remuneration (royalties) by them. For example, during 2022, CMO “UzAvtor” participated as a plaintiff in various disputes in 52 cases of violations. In fact, the latter intervene in civil and administrative court cases. Some actions were suspended for “warning letters” issued from the competent authority (Ministry of Justice of the Republic of Uzbekistan) upon request of CMO “UzAvtor” [9]. Also according to statistics, during 2022, CMO “UzAvtor” (www.uzavtor.uz) recovered from violators through the court in the interests of authors and copyright holders approximately \$20,000 in lost profits and \$5,000 in moral damages.

In particular, according to an open database, collective management organization – “UzAvtor” (www.uzavtor.uz), from the end of 2020 to the present day, has conducted 43 controversial copyright cases to restore the violated rights of authors and performers [10]. The classification of these disputed cases can be fully familiarized with the table below:

Based on research in the field of copyright and related rights, the following conclusions can be drawn about the activities of CMO`s

First, CMO`s should exercise only the rights transferred by right holders on a contractual basis.

Secondly, authors (right holders) must be able to control CMO`s at all times.

Third, CMO`s should represent the interests of rights holders abroad.

Fourth, CMO`s may be structured around different areas of copyright.

Fifth, while CMO's are engaged in the management of property rights, that is, collecting fees for the use of works, they should not act as a commercial organization and cover their costs at the expense of rights holders [11].

Proper and systematic work on these proposals, we believe, will ensure copyright protection, thereby paying appropriate fees for the work of artists and the development of culture and art in accordance with copyright rules [12].

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