



INDUSTRIAL DESIGNS AS AN OBJECT AND AN INTEGRAL PART OF INTELLECTUAL PROPERTY

Satvaldieva Yulduzkhon Khatamjan kizi,

Lecturer of Civil Law Department of Tashkent State University of Law

ANNOTATION

This article discusses a number of issues regarding the legal regulation of industrial designs as an object of industrial property rights, as well as an integral part of intellectual property rights. The requirements relating to both inventions and industrial designs were also considered in order to obtain a patent and legal protection for them. In the third part of the article, the issues of liability for violations of the rights of copyright holders to industrial designs were considered.

KEYWORDS: *Intellectual property, intellectual property law, exclusive right, patent law, copyright, industrial property right, industrial property objects, industrial design, invention, utility model, inventive step, technical solution.*

Since our Republic gained independence, the basis for the formation and development of a system of national legislation in the field of intellectual property has been laid down the basic provisions and principles enshrined in international legal acts and recognized throughout the world regarding the protection of the rights and legitimate interests of citizens. Since, the development of the modern world is impossible without the use of the achievements of science, literature, the use of high technologies in production. Without the development of intellectual and creative activity and their respective legal protection, the progress and prosperity of society is impossible. Issues of legal regulation of relations related to intellectual property are becoming increasingly important. Today their importance is equated to relations in the field of material production, which were previously the only sphere of civil regulation.

The Civil Code of the Republic of Uzbekistan provides property owners with a triad of rights of authority as the right to own, use and dispose of their thing and his property right in any way that does not contradict the law. Intellectual property objects such as works of literature, science, inventions, utility models, industrial designs, as well as other results of creative activity, along with the objects specified in Article 8 of the Civil Code, can act as an object of property rights and property, and personal non-property rights apply to them. . As stated in Article 97 of the Civil Code, we

understand intellectual property as an exclusive right, that is, the absolute right of an individual to his creative result, as well as commercial firms to means of individualization and other objects.

As indicated above, the results of the creative activity of both a citizen and the means of individualization of a legal entity, which law protects, are objects of intellectual property.

As a rule, the results of intellectual activity as objects of civil rights are intangible. As noted in the Civil Code, ownership is the right of a person to own, use and dispose of his property at his discretion and in his interests, as well as to demand the elimination of any violations of his property right. The transfer of ownership of a thing, as a rule, does not entail the transfer or grant of intellectual rights to the result of intellectual activity or to the means of individualization expressed in this thing. However, the rules on the right of ownership or other property rights do not apply to intellectual rights, with the exception of those cases expressly specified in the legislation

Historically, copyright and industrial property are the earliest branches of intellectual property law.

According to Section 10 of the Law "On Copyright and Related Rights" the author's right to the result of his creative activity arises from the moment such an object is created and does not require specific registration, unlike industrial rights, since legal



protection for industrial property objects arises from the moment of receipt document, that is, a patent for them.

Is it possible to invent a mixer for whipping products? Can. Is it possible to register this invention and get a patent for it? It is possible if the technical solution related to the mixer will be patentable. In modern conditions of technological progress, the owners of each successful technical production are actively introducing their products into civil turnover. It is extremely important for each manufacturer to secure an advantage in the market due to new devices and high-tech products. Summing up, we can say that not every technical solution, which is an artistic and design solution, can be registered as a protected object of patent rights. Patent law is a civil law institution that regulates material and personal non-material relations in the field of creativity within the technical space associated with the emergence, official recognition, distribution and protection of inventions, utility models and industrial designs. Copyright and patent law have a similar space, as the result of the object of patent right creates a designer who is covered by copyright. The above Law "On Inventions, Utility Models and Industrial Designs" and other legislative acts of the Republic of Uzbekistan regulate relations arising in connection with the emergence, distribution and protection of industrial property objects.

New devices and products can receive legal protection in the space of the Republic of Uzbekistan as utility models. To benefit from a utility model created by the author, it is necessary to register (patent a utility model) with the Department of Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan the absolute right to a utility model (an object of creative activity). In order to protect your technical solutions from encroachments by third parties and become the first in your field, you need to get the appropriate patent document for new objects created by utility model designers in time. The Department for Intellectual Property, in accordance with the said Law, is the only body that implements supervision and expertise in the field of protection of industrial property objects. The right to register, that is, to obtain a patent for an industrial property object, belongs to the author of the invention, the designer of the industrial design or their employer, if the object was created as part of the performance of work duties. A patent is a document

certifying exclusive rights issued based on state registration of an object. It gives the right holder all the rights specified in the legislation.

Can all industrial designs be protected by patent? Not all. In accordance with the Law of the Republic of Uzbekistan "On Inventions, Utility Models and Industrial Designs", we are aware of a number of restrictions, which lead to the conclusion that not every new invention or its sample can receive a patent that gives an exclusive right. Innovation acts as such restrictions, that is, the result of a person's creative activity referred to as an invention should not be known until the moment of filing an application. The middle requirement is its inventive step, which indicates that not every new thing can be called an invention. Finally, the third requirement is the applicability of the invention in industry. This requirement is a very important requirement not only for specialists who check the compliance of the invention with all three requirements, but also for the applicant himself. Since if an invention does not have functionality, then there is no need to recognize it as an invention and to obtain a patent for it.

Scientific theories and mathematical methods are not recognized as inventions, since a person does not use his creativity to reveal them, but makes a discovery. The rules and methods of mental operations, schedules, methods and management of the economy are also not recognized as inventions. Decisions regarding the appearance of the product, as well as design projects for buildings and structures, do not belong to inventions, because these objects are recognized as industrial designs. In plant varieties and animal breeds there is no invention and intervention of human mental labor, since they are revealed from nature and therefore are not recognized as inventions.

The patentability conditions of a utility model are recognized its novelty and industrial applicability. There is no such condition as an inventive step compared with the invention. The conditions for patentability of an industrial design are its novelty and originality. An industrial design must be original, namely, firstly, be the result of creative activity and not be repeated. From this, we can conclude that the level of novelty is a sign of patent law, and the condition of originality is a sign of copyright. Industrial design - the decision of the appearance of the product of industrial or handicraft production: form, configuration, ornament and color



combination. The difference between an industrial design and an invention or utility model is that utility models and inventions are designed to solve some important technical problem, and an industrial design distinguishes a product thanks to a fundamentally new design approach, which often allows you to significantly expand the range of similar purpose products and significantly increase their competitiveness in the market.

Solutions can be recognized as an industrial design in various fields of activity: furniture industry, interior items, various devices, fabrics, packaging products, confectionery products of an original form, etc. Patent law is a subject to their novelty and originality, protects industrial designs in the Republic of Uzbekistan. The form, configuration, color combination, pattern or ornament, as well as the decorative elements of the product are subject to protection. As mentioned earlier, the document certifying and giving the exclusive right to the applicant in Uzbekistan is a patent, as in many other states. A patent for an invention in Uzbekistan is issued for a period of 20 years, for an industrial design a patent is issued for a period of 10 years and for a utility model for a period of 5 years. This period can be extended in accordance with the law by the Department of Intellectual Property, for example, the term of an industrial design can be extended by 5 years and is generally 15 years. These terms at first glance seem short-term, but are very reasonable. Since, industrial designs do not live up to 10 years and require updating if one or another industrial design wants to get along in an entrepreneurial environment.

A patent for an industrial design certifies the priority, authorship and absolute right of the patent holder to dispose of it. Among them, there are products for long-term use - machines, machine tools, automobiles, as well as "short-lived" industrial designs, the shape and appearance of which undergoes frequent changes in accordance with the requirements of fashion. This primarily concerns the vast majority of light industry products and household goods (seasonal clothes and jewelry, fabrics, shoes, furniture fabrics for upholstery, leather goods).

In case of violation of their rights, the author and the performer are also entitled to demand compensation from the violator for moral damage.

In case of violation of the rights of the author or holder of a patent for an industrial design, he has the right to present a claim to the infringer for compensation for harm. It should be noted that according to Article 149 of the Criminal Code, the patent holder has the right to demand protection of his violated rights, and as a sanction a fine of 25 to 75 percent of the basic units of account is imposed, or corrective labor up to three years, can be replaced by the deprivation of certain rights for a period of 5 years or the imposition of compulsory work for up to one year. The category of sanction depends on the level of infringement of the rights of the patent owner.

In the context of liability for violation of intellectual property rights, I would like to dwell on foreign experience in this area. Responsibility for copyright infringement is provided for in the United States Code of Laws - a collection of basic and permanent federal laws of the United States (United State Code, U.S. Code or U.S.C.). The Copyright Act incorporated into the U.S. Code of Law and contained in Title 17 of the Code.

In the UK, criminal liability for copyright infringement was first established with the adoption of the Theft Act of 1968. The Copyright Act provides criminal liability for copyright infringement in 1988. Art. 107 of the Law criminalizes the illegal manufacture and circulation of copyright objects.

In Spain, there is a punishment in the form of imprisonment for a term of 1 to 4 years, a fine of 8 to 24 monthly salaries and a special deprivation of the right to engage in certain activities related to the commission of a crime for a period of 2 to 5 years.

In Italy, for copyright infringement, imprisonment for 1 to 4 years and a fine of 5 to 30 million lire is punishable by illegal actions (including import) of more than 50 copies or copies of works protected by copyright and (or) related right.

In France, counterfeiting of works, including their illegal sale, export and import, is punishable by imprisonment of 3 months to 2 years and a fine of 6,000 to 120,000 francs, or just one of these two types of sentences.

In Germany, for the illegal use of the author's signature is punishable by imprisonment of up to 3 years or a fine.



Relations in the field of legal protection of industrial designs are regulated by the Law of the Republic of Uzbekistan "On inventions, utility models and industrial designs", international treaties of the Republic of Uzbekistan and other regulatory acts in the field of protection of industrial designs to which Uzbekistan is attached. Namely, the Paris Convention for the Protection of Industrial Property of March 20, 1883, of which Uzbekistan is a member to this day. Uzbekistan has also been a member of the World Intellectual Property Organization since 1991 and of a number of fundamental treaties and agreements.

Department of intellectual property of the Republic of Uzbekistan together with the World Intellectual Property Organization is working on the development of a national intellectual property strategy. In particular, in 2019, in November, a seminar was organized to study the peculiar experience in the field of intellectual property. In particular, in February 2022, amendments were made to the Law "On Inventions, Utility Models and Industrial Designs, namely, it was supplemented with rules on liability for infringement of the rights of a patent owner. There was no such norm in the Law until 2022.

Summarizing, it should be noted that the main purpose of protecting industrial design rights is to ensure the exclusive rights of the right holder. Namely, providing the right holder with the right not only to own, but also to dispose of his object, and to be sure that the Law will provide protection from the encroachment of other persons. An entrepreneur, starting his activity in the field of business, must be sure that his idea, embodied in an object of intellectual property, will not be stolen. Since a new product, which has no analogues, has an important role for business development, its appearance, as far as its design is aesthetic. Without legal protection, an invention or industrial design may serve to complete the activities of an entrepreneur. Some economists believe that the legal protection of intellectual property may slow down the development of the country. An example of this opinion can serve as China, where there is a constant theft of ideas and objects of intellectual activity by small entrepreneurs. But we can give a different point of view, ensuring the legal protection of intellectual property objects over which entrepreneurs operate leads to the expansion of business on a large scale and territorially. This factor is

also a way of developing the country's economy. This explains the importance of legal protection of intellectual property.

LIST OF USED LITERATURES

1. *Гражданский кодекс Республики Узбекистан // lex.uz (Civil Code of the Republic of Uzbekistan // lex.uz);*
2. *Закон Республики Узбекистан «Об авторском праве и смежных правах» от 20 июня 2006 года № ЗРУ-42 // Собрание законодательства Республики Узбекистан, 2006 г., № 28-29. ст. 260 (Law of the Republic of Uzbekistan "On Copyright and Related Rights" No. LRU-42, July 20, 2006 // Collection of legislation of the Republic of Uzbekistan, 2006, No. 28-29. Art. 260);*
3. *Закон Республики Узбекистан «Об изобретениях, полезных моделях и промышленных образцах» от 6 мая 1994 года № 397-II // Ведомости Олий Мажлиса Республики Узбекистан, 2002 г., № 9, ст. 158. (Law of the Republic of Uzbekistan "On inventions, utility models and industrial designs" No. 397-II, May 5, 1994 // Bulletins of the Oliy Majlis of the Republic of Uzbekistan, 2002, No. 9, Art. 158);*
4. *Постановление Президента Республики Узбекистан от 1 июля 2019 года №ПП-4380 «О мерах по организации деятельности Агентства по интеллектуальной собственности при Министерстве Юстиции Республики Узбекистан» // Национальная база данных законодательства, 02.07.2019 г., № 07/19/4380/3360 (Decree of the President of the Republic of Uzbekistan "On measures to organize the activities of the Agency for Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan" No. PP-4380, July 1, 2019 // National Legislation Database, 07/02/2019, No. 07/19/4380/3360);*
5. *Уголовный кодекс Республики Узбекистан // lex.uz. (Criminal Code of the Republic of Uzbekistan // lex.uz.);*
6. *О.Окюлов. Интеллектуал мулк ҳуқуқи: умумий қоидалар ва алоҳида объектлар. – Тошкент: ТДЮИ. 2003. – 206 с. (O. Okiyulov. Intellectual Property Law: General Provisions and Specific Objects. – Tashkent: TSIL. 2003. – 206 p.)*
7. *Гражданское право: учебник для студентов вузов, обучающихся по специальности «Юриспруденция» / под ред. М.М.Рассолова, А.Н.Кузбагарова. – М.: ЮНИТИ-ДАНА, 2018. – 712 с. (Civil law: a textbook for university students*



- enrolled in the specialty "Jurisprudence" / ed. M.M.Rassolova, A.N. Kuzbagarova. - M.: UNITY-DANA, 2018. - 712 p.)*
8. *Гражданское право: учебник: в 2 т./ под. Ред. С.А.Степанова. - 2-е изд., перераб. и доп. - Москва: Проспект, 2019. - 928 с. (Civil law: textbook: in 2 volumes / under. Ed. S.A. Stepanova. 2nd ed., Revised. and add. - Moscow: Prospect, 2019. - 928 p.)*
 9. *Мушкет С.И. Ответственность третьих лиц за нарушения авторского права по законодательству США // Вестник Санкт-Петербургского Университета. 2012. 2-выпуск. - С. 101-107. (Mushket S.I. Third Party Liability for Copyright Violations under US Law // Bulletin of St. Petersburg University, 2nd edition, 2012. p. 101-107)*
 10. *Кравчук О.В. Зарубежный опыт в противодействии преступлениям, связанных с нарушением авторского права и смежных прав // Matters Of Russian And International Law. 2013. - № 4. - С. 92-111. (Kravchuk O.V. Foreign experience in countering crimes related to violation of copyright and related rights // Matters Of Russian And International Law. 2013. - № 4. p. 92-111)*
 11. <http://islam-risalyat.ru/>.
 12. *YKQ Satvaldieva THE LEGALISATION OF INDUSTRIAL DESIGNS - ... : Innovative, educational, natural and social sciences, 2022*
 13. *Yakubova I., Satvaldieva Y. Comparative legal analysis civil-law protection of honor, dignity and business reputation in the civil legislation of Uzbekistan and Japan //European Journal of Molecular & Clinical Medicine. - 2020. - T. 7. - №. 2. - С. 584-594.*