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THE CONCEPT AND SIGNIFICANCE OF INTERNATIONAL LEGAL RECOGNITION AND PROTECTION OF INTELLECTUAL PROPERTY

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Abstract:

This article discusses the issues of international legal regulation of intellectual property. The international normative legal acts in the field of intellectual property are analyzed. The activity of international bodies in the field of intellectual property has been studied. Based on the analysis, practical proposals are given to improve the current legislation in the field of intellectual property.

Keywords: intellectual property, copyright, patent law, trademarks, World Intellectual Property Organization, World Trade Organization, TRIPS Agreement.

INTRODUCTION

The development of modern society implies the presence of intellectually enriched and creative individuals, whose works and activities are of increasing importance in almost all spheres of civil law relations. Such a concept as "intellectual property" was highlighted in the Convention on the Establishment of the World Intellectual Property Organization, signed in Stockholm on July 14, 1967.

Relations in the field of intellectual property at the international level are regulated by a number of international treaties. And the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the TRIPS Agreement) plays a special role among international standards for the legal protection of intellectual property. The functions of this agreement are regulated by the World Trade Organization (hereinafter referred to as the WTO).

To determine the directions and trends in the development of the concept of intellectual property law, it is necessary, first of all, to identify the various stages of its evolution and formulate their main characteristics, taking into account the fact that such development occurs at two levels - international and national.

MATERIALS AND METHODS

If we trace the history of the emergence of international agreements in the field of copyright, we can see that they were bilateral. For example, in the period from 1827 to 1829, 32 agreements on mutual copyright protection were concluded between Prussia and other German states, which were rather formal in nature, since the tendencies towards integration were very strong. But already in 1832, a single copyright law was introduced throughout Germany.

Further, in 1840, Sardinia (Italy) concluded an agreement (convention) with Austria, and in 1843 - with France. Subsequently, France concluded a number of such agreements, the most important of which were the agreement with Great Britain (1851) and with Belgium (1852). In total, from 1852 to 1862, France concluded 23 bilateral copyright agreements, they gave a list of copyright objects that were protected under the contract, contained rules on the national regime, on the duration of copyright protection.

Scientists have put forward a theory in which the basic rule of bilateral conventions was usually that only those copyrights that originally originated in another country were recognized on the territory of one country.[1]

However, at present, all issues of mutual copyright protection are resolved in international relations based on the generally recognized territorial nature of copyright in international practice and on the provisions of the domestic legislation of States on the copyright of foreign citizens. In simple words, copyright was applied in the territory where this object was created. The norm of the Conventions on mutual copyright Protection plays an important role: it "contributes to the deepening and improvement of organizational forms of cooperation ..., is designed to increase the moral and material interest of creators of works of science, literature and art in the development of this cooperation".

In order to give a general assessment of international agreements on mutual copyright protection, we draw attention to the fact that, based on publishing plans, they allow the parties to better inform each other about new works being prepared for publication, and, if necessary, influence the selection of works intended for publication and performance in another country.

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Agreements on the harmonization of the terms of use of works by authors of one country in another open up wide opportunities for studying and analyzing the reader and viewer demand for works by authors of another country.

Bilateral international agreements in the field of copyright are concluded within the framework of general cultural cooperation between the countries participating in the agreement. They are an integral part of their scientific and cultural cooperation, and the conclusion of intergovernmental agreements in order to ensure practical solutions to issues of mutual protection of authors' rights in the new conditions can be supplemented by a so-called working agreement. This agreement is signed between specialized copyright organizations (societies) of the contracting States.

RESULTS AND DISCUSSION

According to M.M. Boguslavsky, there are specific forms of such cooperation: it "may primarily consist in the fact that... these organizations will undertake to ensure, in accordance with the current legislation in the territory of their activities, the mutual collection, distribution and transfer of royalties due to authors of another country in all cases of managing the rights of authors on a collective basis: public performance of works, reproduction of records, use of works of fine and decorative arts, as well as obtaining additional remuneration for films and television films, the publication of works (collecting remuneration for the heirs of the authors)". [2]

Article 2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) The "nature and scope of the obligations" shows that "for the purposes of this Agreement, the term "intellectual property" means all intellectual property objects that fall within the scope of Sections 1-7 of Part II".[3]

Thus, the objects of intellectual property (hereinafter referred to as IP) in the TRIPS Agreement include:

- copyright and related rights;
- trademarks;
- geographical values;
- industrial designs;
- patents;
- layout (topography) of the integrated circuit;
- undisclosed information.[4]

The provisions set out in the TRIPS Agreement are not new, they are based on the provisions of long-standing international treaties on the legal protection of intellectual property. For example, the TRIPS Agreement includes provisions on the legal protection of inventions and trademarks, which are contained in the Paris Convention for the Protection of Industrial Property (hereinafter - the Paris Convention). With regard to the protection of intellectual property rights, the TRIPS Agreement requires WTO member countries to establish fair and equal procedures for the protection of rights that are not unreasonably burdensome, complex or costly, and are not limited in time to take action. I.e., the protection of intellectual property rights for all countries should be equal and fair in all aspects.

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Prescriptions (orders to one or another party to stop the violation) are one of the means of protecting rights applied in accordance with the TRIPS Agreement. Therefore, based on the meaning of the TRIPS Agreement, WTO member countries should provide conditions for the implementation of civil, criminal and administrative methods of protecting intellectual property rights, as well as for appropriate measures at customs control. Also, WTO member countries should ensure not only conditions for intellectual property rights holders to receive "adequate compensation" for losses caused by violation of their rights, but also should provide conditions for prompt response to offenses, including taking preventive measures such as arrest (confiscation) of illegally produced goods or means of production, which are used mainly in the process of manufacturing illegal goods.

There are many ways to ensure the protection of intellectual property rights.

A number of factors influence the choice of countries to protect intellectual property rights, listed below:

- the level of ensuring the implementation of private property rights in the relevant country;
- the effectiveness and predictability of the judicial system and/or government agencies in relation to proceedings in cases related to intellectual property;
- the ability of law enforcement agencies to investigate such cases, and the ability of individuals to take preventive measures.

The legislation of the WTO member countries will be adjusted taking into account these provisions.

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Based on the TRIPS agreement, a mechanism for global intellectual property protection and enforcement of intellectual property rights is being formed, provided by a mechanism of legal liability.

The development of the concept of intellectual property law is an evolutionary process involving progressive changes, improvement of approaches to the legal regulation of relations regarding the creation and use of the results of intellectual activity and objects equated to them.

The process of Uzbekistan's accession to the WTO began with the implementation of a policy of liberalization of foreign economic activity. The Republic of Uzbekistan submitted its first request for membership as a full member of the organization in 1994. In our opinion, Uzbekistan's accession to the WTO will depend on the means and mechanisms for implementing institutional reforms in the industry, its individual sectors in the economy, as well as the adoption of laws that comply with WTO regulations.[6]

The modern structure of the traditional international legal system for the protection of intellectual property is a set of international conventions and treaties on the protection and protection of intellectual property operating under the auspices of the World Intellectual Property Organization, as well as international agreements of the global mechanism for the protection of intellectual property rights in trade and economic relations based on a package of WTO agreements.

An international document as an Agreement on Trade-related Aspects of Intellectual Property Rights has changed the approach to the problems of intellectual property protection in the modern world.

Innovations in the field of intellectual property have not been ignored by the Republic of Uzbekistan, which has begun to adopt international experience in regulating relations in these areas. The amendments have increased the freedom of action of the parties to resolve relations in this area. Decisive steps are being taken in regulatory legal acts to strengthen the protection of intellectual property rights.

The modern structure of the international legal system for the protection of intellectual property is a set of international conventions and treaties on the protection and protection of intellectual property, operating under the auspices of WIPO and within the framework of the global mechanism for the protection of intellectual property rights in trade and economic relations, created on the basis of a package of agreements of the World Trade Organization (WTO).

Let's list a number of conventions and treaties:

The Paris Convention for the Protection of Industrial Property, adopted in 1883, is a document that applies to industrial property, including inventions, industrial designs and trademarks, utility models, trade names, with the aim of simplifying the mutual protection of rights to protected objects for citizens and legal entities.

The Madrid Agreement, adopted in 1891, and the Madrid Protocol (dated 1989) introduce new elements into the registration system and eliminate difficulties that prevented some countries from joining the Madrid Agreement.

A special place and importance is occupied by the Nice Agreement on the International Classification of Goods and Services for the Registration of Marks, adopted in 1957, which approved the classification of goods and services for the purpose of registration of trademarks and service marks.

The International Convention for the Protection of New Plant Varieties (UPOV), adopted in 1961, which recognizes a new plant variety as intellectual property and describes the rights of the breeder.

The WIPO Convention, adopted in 1970, establishes WIPO and promotes the protection of intellectual property worldwide through cooperation between States, as well as through the implementation of administrative functions of various multilateral treaties related to legal and administrative aspects of intellectual property.

The Geneva Convention on the Protection of the Interests of Producers of Phonograms from Illegal Reproduction of Their Phonograms, adopted in 1971, which regulates the obligation of each signatory State to protect the interests of producers of phonograms who are citizens of other participating States from reproducing duplicate phonograms without the consent of the producer, as well as from the import of such duplicates.

The WIPO Treaty on Performers and Phonograms (FEF), adopted in 1996, regulates the legal status of two groups of beneficiaries: performers (actors, singers, musicians, artists, etc.) and producers of phonograms.

The European Patent Convention, adopted in 1977, grants protection only to inventions.

But now it must be recognized that within the framework of the European Convention, so far there is no single security document - the European patent. If the European Patent Office decides to grant a patent, the applicant receives a package of national patents, each of which operates independently of the other.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), adopted in 1994 In fact, it sets minimum standards for the recognition and protection of the main objects of intellectual property.

The WIPO Copyright Treaty (WPA), adopted in 1996, extends copyright protection to two additional objects: computer programs and any form of compilation

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of data or other information ("databases") in which the selection and arrangement of content is the result of intellectual creativity.

The Geneva Act of the Hague Agreement on the International Registration of Industrial Designs, adopted in 1999, ensures the accession of countries whose industrial design systems do not allow them to join the Hague Act of 1960.

The Patent Law Treaty (RT), adopted in 2000, provides for the systematization and simplification of formal procedures in relation to national and regional patent applications and patents. Taking into account the significant reduction in the requirements regarding the filing date of the application, the RP prescribes a set of requirements that should be applied by the parties to the Agreement: the parties are not entitled to establish any other formal requirements regarding issues regulated by this Agreement.[7]

Based on all of the above, it can be said that in the implementation of international economic, cultural, scientific and technical cooperation, issues of international intellectual property protection are of great importance. The general feature of intellectual property rights is that they are territorial in nature, i.e. they are recognized and protected in the territory of the State where they originally originated.[8]

Considering the above, it should be noted that the Vienna Convention on the Law of Treaties of 1969 defines an international treaty as an agreement governed by international law concluded by States and other subjects of international law in writing, regardless of whether such an agreement is contained in one, two or several related documents, as well as regardless of its specific names.[9]

International treaties form a system of sources regulating the status of intellectual property. These agreements are divided into groups, depending on some characteristics.

International treaties in the field of intellectual property can traditionally be classified as:

- contracts of general importance (with an unlimited number of participants. For example, the Paris Convention for the Protection of Industrial Property, the Agreement on Trade-Related Aspects of Intellectual Property Rights (1994), the Nairobi Treaty on the Protection of the Olympic Symbol (1981));

- regional or specific agreements (with a limited number of participants. For example, the Agreement on the Establishment of the African Intellectual Property Organization);

- bilateral (agreements in which two States participate, or agreements when one State acts on one side and several on the other).

The Paris Convention establishes fundamental provisions for the legal protection of not only inventions, utility models and industrial designs, but also trademarks, service marks, appellations of origin, trade names, and also indicates the content of the concept of "industrial property": "Industrial property is understood in the broadest sense and extends not only to industry and trade in the proper sense of the word, but also in the field of agricultural production and extractive industries and all products of industrial or natural origin.

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The Agreement on Intellectual Property Rights (1994) has a universal character. Special agreements regulate a relatively narrow area of relations. Such agreements include, for example, the Trademark Law Treaty (1994), which applies to marks consisting of visual designations, provided that only those of the Contracting Parties that accept three-dimensional marks for registration are obliged to extend the contract to such marks.

International agreements can be divided according to the nature of legal norms. Let's list these 4 groups:

1) declarative international legal acts

An example is the Universal Declaration of Human and Civil Rights, approved by the UN General Assembly on

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December 10, 1948, Article 27 of which solemnly proclaims: "Everyone has the right to freely participate in the cultural life of society, enjoy art, participate in scientific progress and enjoy its benefits. Everyone has the right to the protection of his moral and material interests resulting from scientific, literary or artistic works of which he is the author", International Covenant on Economic, Social and Cultural Rights of December 19, 1966 (Articles 6, 15, Part 3), the Final Document of the Vienna Meeting, etc.

This group of sources contains norms, the main function of which is to proclaim the official recognition of the institute of intellectual property by the States parties to these acts and the need for its legislative support[10];

2) agreements on the protection of intellectual property

This group includes: The Paris Convention for the Protection of Industrial Property (1883), the Berne Convention for the Protection of Literary and Artistic Works (1886), the Madrid Agreement on the Suppression of False and Misleading Indications of Origin on Goods (1891), the World Copyright Convention (1951), the Rome Convention for the Protection of Performers, Producers of Phonograms and broadcasting Organizations (1961), the International Convention for the Protection of Plant Varieties (1961), The Geneva Convention for the Protection of Producers of Phonograms from Unauthorized Reproduction of Their Phonograms (1971), the Brussels Convention on the Distribution of Program-Carrying Signals Transmitted via Satellites (1974), the Nairobi Treaty on the Protection of the Olympic Symbol (1981), the Agreement on Trade Aspects of Intellectual Property Rights (1994), the Treaty on the Laws of Trademarks Trademarks (1994), the WIPO Copyright Treaty (1996), the WIPO Performances and Phonograms Treaty (1996), the Patent Law Treaty (2000), Singapore Trademark Law Treaty (2006);

3) agreements on registration of intellectual property objects

A number of examples can be attributed to this group: the Madrid Agreement on the International Registration of Marks (1891) and the Protocol to the Madrid Agreement on the International Registration of Trademarks (1989), the Hague Agreement on the International Registration of Industrial Designs (1925), the Lisbon Agreement on the Protection of Indications of Origin and their International Registration, the Patent Protection Treaty Cooperation (1970), Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977);

4) agreements on the classification of intellectual property objects.

A number of agreements belong to this group: the Nice Agreement on the International Classification of Goods and Services for the Registration of Marks (1957), the Locarno Agreement on the Establishment of an International Classification of Industrial Designs (1968), the Strasbourg Agreement on International Patent Classification (1971), the Vienna Agreement on the Establishment of an International Classification of Pictorial Elements of Marks (1973) The World Intellectual Property Organization (WIPO) performs administrative functions in relation to most of the above-mentioned treaties. The World Trade Organization (WTO) performs such functions in relation to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (1994). UNESCO performs administrative functions in relation to the World Copyright Convention (1952).

Administrative functions in relation to the Rome Convention are performed by UNESCO and the ILO jointly with WIPO, and in relation to the International Convention for the Protection of Breeding Achievements – by the International Union for the Protection of Breeding Achievements.[11]

CONCLUSION

The existing treaties listed above form the international intellectual property system. However, it must be recognized that at the moment not all international documents in the field of intellectual property have been ratified and are being implemented by the Republic of Uzbekistan.

The Republic of Uzbekistan effectively implements the requirements of international treaties and conventions in the field of intellectual property in the legislation of foreign countries. This is evident from the ongoing reforms and the result justifies all changes in legislation. However, you should not stop at this level.

It also seems advisable to implement the necessary measures to improve IP protection, and these measures could be achieved by joining the following relevant international treaties in the field of intellectual property:

a) The Singapore Treaty on Trademark Laws (March 27, 2006);

b) The Geneva Act of the Hague Agreement on the International Registration of Industrial Designs (July 2, 1999);

c) The Rome Convention on the Protection of the Rights of Performers, Producers of Phonograms and Broadcasting Organizations (October 26, 1961) .

It should be noted that the Republic of Uzbekistan follows the trends of modernity and is consistently moving towards this, since the state assumes any obligations at the international level, and it must take into account the need to prepare a regulatory, organizational and material base and conditions for this.

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Consequently, the consistent policy of the Republic of Uzbekistan in this direction is correct and the state has all the prospects for successful development in terms of improving legislation in the field of intellectual property.

It should be noted, that international acts regarding the legal regulation of intellectual property largely contribute to the legal policy pursued in the country, the impact of which can be discussed if we analyze the specifics of the civil turnover of intangible things.

International acts ensure a balance of intellectual property protection, create a supranational legal framework that can be applied to in the presence of difficult-to-resolve disputes, or disputes that cannot be implemented within the Republic of Uzbekistan alone.

The very essence of the international intellectual property framework is to create a regulatory framework that is supreme for States, which meets the requirements of most States, and allows to regulate the weakest aspects of the status of intellectual property objects.

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