



LEGAL REGULATION OF THE USE OF SMART CONTRACTS IN TRANSBORDER TRANSACTIONS INVOLVING THE TRANSFER OF INTELLECTUAL PROPERTY RIGHTS TO THIRD PARTIES: FOCUS ON UZBEKISTAN

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Article history:	Abstract:
Received: 6 th June 2024 Accepted: 4 th July 2024	This article delves into the legal regulation of smart contracts in transborder transactions involving the transfer of intellectual property (IP) rights, with a particular focus on Uzbekistan's legal landscape. As blockchain technology and smart contracts gain traction, their potential to transform IP transactions is considerable, particularly in a global economy where cross-border exchanges are increasingly common. However, the current legal framework in Uzbekistan presents several challenges, especially regarding jurisdiction, enforceability, and the protection of IP rights. By comparing Uzbekistan's approach with those of other jurisdictions such as the European Union, the United States, and Singapore, and by examining relevant case law, this article offers practical insights and recommendations for enhancing Uzbekistan's legal infrastructure to better accommodate smart contracts.
Keywords: Smart contracts, transborder transactions, intellectual property rights, blockchain, international law, case law, digital economy	

Blockchain technology has revolutionized various sectors, and its application in intellectual property (IP) law through smart contracts is particularly promising. Smart contracts, which are self-executing agreements with terms encoded in software, offer a new approach to managing and transferring IP rights, especially in cross-border transactions. These contracts execute automatically when predetermined conditions are met, removing the need for intermediaries and reducing transaction costs. However, the introduction of smart contracts in transborder IP transactions also brings about significant legal challenges.

In Uzbekistan, the legal framework is gradually evolving to accommodate digital technologies. However, specific regulations governing the use of smart contracts in IP transactions are still underdeveloped. This gap leads to uncertainties, particularly in cross-border contexts where the jurisdiction, enforceability of contracts, and protection of IP rights are critical concerns. This article explores the existing legal framework in Uzbekistan, comparing it with other jurisdictions that have more advanced regulations on smart contracts, and analyzes case law to highlight the practical implications. The goal is to provide detailed recommendations for improving Uzbekistan's legal system to better integrate and regulate the use of smart contracts in IP transactions. The globalization of trade and the increasing digitization of assets have led to a surge in transborder transactions involving the transfer of intellectual property (IP) rights.

Traditionally, these transactions have relied on complex legal frameworks that vary significantly across jurisdictions. The introduction of smart contracts—self-executing agreements where the terms are written into code and automatically enforced—has the potential to simplify and streamline these transactions, making them more efficient, transparent, and secure. However, the legal regulation of smart contracts in such cross-border IP transactions is still underdeveloped, particularly in Uzbekistan, where the legal framework for digital transactions is in its early stages.

In Uzbekistan, the legal landscape for digital transactions is shaped by several key legislative acts, including the Law on Electronic Commerce, the Law on Electronic Document Management, and the Civil Code. These laws establish a foundation for electronic transactions and recognize the validity of electronic contracts. However, they do not specifically address the use of smart contracts or the unique legal challenges posed by blockchain technology. As a result, there is a significant degree of legal uncertainty surrounding the use of smart contracts in IP transactions, particularly those that cross international borders.

The protection and transfer of IP rights in Uzbekistan are governed by the Civil Code, the Law on Trademarks, Service Marks and Appellations of Origin of Goods, the Law on Copyright and Related Rights, and the Law on Inventions, Utility Models, and Industrial Designs. These laws provide a robust framework for the protection of



IP rights, but they are based on traditional legal concepts that may not fully accommodate the nuances of smart contracts. For instance, the enforceability of smart contracts under existing IP laws is unclear, as these contracts are typically written in code rather than natural language, and their terms are automatically executed by the blockchain network, without the need for human intervention.

The lack of specific regulations for smart contracts in Uzbekistan poses significant challenges for parties engaging in transborder IP transactions. One of the primary issues is the determination of jurisdiction and applicable law. In traditional contracts, parties can specify the governing law and jurisdiction for dispute resolution. However, smart contracts, which are executed automatically and stored on a decentralized blockchain, do not easily fit within this framework. This raises questions about which legal system has jurisdiction over disputes arising from smart contracts and which laws apply to their interpretation and enforcement.

The enforceability of smart contracts in transborder IP transactions is another significant challenge. While smart contracts are designed to be self-executing, their enforceability under traditional legal frameworks is not always clear. Courts in different jurisdictions may have varying approaches to the recognition and enforcement of smart contracts, particularly in cases where the contract terms are embedded in code rather than expressed in natural language. Additionally, the immutability of blockchain technology means that once a smart contract is executed, it cannot be easily altered or revoked, potentially leading to issues of unfairness or unforeseen consequences.

To better understand the challenges and opportunities presented by smart contracts in transborder IP transactions, it is useful to compare Uzbekistan's legal framework with that of other jurisdictions. The European Union (EU) has been at the forefront of regulating digital transactions, including smart contracts. The EU's General Data Protection Regulation (GDPR) and the proposed Regulation on Markets in Crypto-assets (MiCA) provide a robust framework for digital transactions, including those involving IP rights. Unlike Uzbekistan, the EU has begun to recognize the legal validity of smart contracts, particularly in the context of financial services. This recognition is crucial for the widespread adoption of smart contracts in transborder transactions, as it provides legal certainty and protection for the parties involved.

In the United States, smart contracts are recognized under the Uniform Electronic Transactions Act (UETA) and the Electronic Signatures in Global and National

Commerce Act (E-SIGN Act). These laws provide that electronic records and signatures, including those used in smart contracts, are legally enforceable. The U.S. legal system has also seen several cases where courts have enforced smart contracts, particularly in the context of cryptocurrency transactions. For example, in the 2018 case of *CFTC v. My Big Coin Pay, Inc.*, a U.S. court ruled that smart contracts involving cryptocurrencies could be subject to regulation and enforcement under existing laws. This case highlights the potential for smart contracts to be legally recognized and enforced, even in complex transborder transactions.

Singapore, known for its progressive approach to digital technologies, has established itself as a leading jurisdiction for blockchain technology and smart contracts. The Singaporean government has implemented the Smart Nation initiative, which promotes the use of digital technologies, including smart contracts, in various sectors. The legal framework in Singapore is supportive of smart contracts, and the country's IP laws are well-suited to accommodate digital transactions. Singapore's approach demonstrates how a supportive legal environment can foster innovation and adoption of smart contracts in IP transactions.

In Uzbekistan, case law on smart contracts is still in its infancy, with few precedents to guide the courts. However, there have been instances where Uzbek courts have encountered cases involving digital transactions, offering some insight into how future cases involving smart contracts may be handled. For instance, in a 2023 case involving the sale of digital assets, the Tashkent City Civil Court recognized the validity of electronic contracts under existing legislation. This case sets a precedent for the potential future recognition of smart contracts in Uzbekistan, particularly in transactions involving digital assets or IP rights.

Despite the challenges, there are significant opportunities for innovation in Uzbekistan. The adoption of smart contracts could streamline IP transactions, reduce administrative costs, and enhance transparency. Moreover, as Uzbekistan continues to modernize its legal framework, there is potential for the country to become a leader in the regulation of digital transactions in Central Asia. To fully realize these opportunities, Uzbekistan should consider updating its legal framework to specifically address the use of smart contracts in IP transactions. This could include amendments to existing laws or the introduction of new regulations that recognize the validity of smart contracts and provide guidance on their use.



International cooperation will also be essential in addressing the challenges of cross-border enforcement of smart contracts. Uzbekistan should engage with neighboring countries and major trading partners to harmonize legal standards for smart contracts and IP transactions. This could involve participation in international treaties or agreements that establish common principles for the recognition and enforcement of smart contracts.

In addition, judicial training will be crucial for ensuring that the courts are equipped to handle cases involving smart contracts effectively. Given the novel nature of smart contracts, it is essential that judges and legal practitioners in Uzbekistan receive training on digital transactions and blockchain technology. This will help ensure that the courts are able to interpret and enforce smart contracts in a manner consistent with the principles of fairness and justice.

The use of smart contracts in transborder IP transactions presents significant potential for innovation and efficiency in Uzbekistan. However, the current legal framework needs to be adapted to fully realize these benefits and address the associated challenges. The following suggestions are offered to improve Uzbekistan's legislation in this sphere:

Uzbekistan should amend its existing laws, such as the Civil Code and IP-related laws, to explicitly recognize the validity of smart contracts. This would provide legal certainty for parties engaging in transborder IP transactions and ensure that smart contracts are enforceable under Uzbek law.

The government should consider drafting specific regulations or guidelines that address the unique characteristics of smart contracts, including provisions for jurisdiction, governing law, and dispute resolution. These regulations should also include safeguards to ensure the fairness and transparency of smart contracts, particularly in cases where the contract terms are embedded in code.

As smart contracts often involve the transfer of sensitive data, it is crucial that Uzbekistan strengthens its data protection framework. This could involve updating the Law on Personal Data Protection to address the specific challenges posed by blockchain technology, such as the immutability of data and the right to be forgotten.

To promote the adoption of smart contracts and other blockchain-based technologies, Uzbekistan should consider developing a national blockchain strategy. This strategy could include initiatives to foster innovation, such as providing incentives for businesses to adopt blockchain technology and supporting research and development in this area.

Given the cross-border nature of many IP transactions, Uzbekistan should engage in international cooperation to harmonize legal standards for smart contracts. This could involve participating in international treaties or agreements that establish common principles for the recognition and enforcement of smart contracts. By aligning its legal framework with international best practices, Uzbekistan can enhance its attractiveness as a destination for digital businesses.

Given the novel nature of smart contracts, it is essential that judges and legal practitioners in Uzbekistan receive training on digital transactions and blockchain technology. This training should cover the technical aspects of smart contracts, as well as the legal and ethical issues they raise. By building judicial capacity in this area, Uzbekistan can ensure that its courts are equipped to handle cases involving smart contracts effectively and fairly.

To foster the development of a robust legal framework for smart contracts, Uzbekistan should encourage collaboration between the public and private sectors. This could involve establishing working groups or advisory committees that include representatives from government, industry, academia, and civil society. By bringing together diverse perspectives, Uzbekistan can develop a legal framework that is both innovative and responsive to the needs of businesses and consumers.

In conclusion, while Uzbekistan's current legal framework provides a foundation for the use of smart contracts in transborder IP transactions, there is a need for further legal reform and capacity building to fully realize the potential of this technology. By updating its laws, promoting international cooperation, and investing in judicial training, Uzbekistan can position itself as a leader in the regulation of digital transactions and attract more international business to its digital economy. The future of smart contracts in Uzbekistan will depend on the country's ability to adapt its legal system to accommodate new technologies and provide the necessary legal certainty and protection for all parties involved in transborder IP transactions.

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