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LEGAL PROTECTION OF INTELLECTUAL PROPERTY

Abstract. Intellectual property is the result of only the mental activity of man. The subjects of the rights of this property can be both citizens (authors), including individual entrepreneurs, and legal entities - organizations. This often leads to conflict situations between creators and legal entities claiming to be the owners of the results of intellectual activity of the creator. Intellectual property is inherently new information and is valued, can be used simultaneously by an unlimited number of people, it is difficult to limit the territory of their use. However, crimes in the field of intellectual property often constitute an infringement of the author's rights without his consent, as described in detail by the authors of this article.

Keywords: property rights, intellectual property, civil law, innovation.

INTRODUCTION

Intellectual property - alternative means of legal entities, goods, works, services and enterprises that have the result of intellectual activity and legitimate protection. Intellectual property objects are copyright and industrial property.

The principal nature of intellectual property is the owner of intellectual property, primarily the author has the exclusive right to use it, and intellectual property may not be used without his or her permission.

Intellectual property is divided into the following types: literary, artistic and scientific works; performers, phonograms and radio programs; inventions in all areas of human activity; scientific novelties; industrial designs; trademarks, service marks and trade names and marks; Preventing unfair competition.

Intellectual property includes:

- copyright,
- Patent Law,
- Personalization tools,
- topology of integrated circuits, breeding achievements, trade secrets, production secrets (know-how) and others. the "non-traditional" intellectual property objects.

MAIN PART

These days, thanks to the right-to-know values, we can easily deal with legal entities, individual entrepreneurs, and physical persons. The legal personality of the individual and individual proprietary person may be arranged by the termination of a firm brand, trade mark, know-how, patent, or any kind of intellectual property. A physical or intellectual intellectual property can be represented in the documentary production, project documentation, music production, and so on. Use of fireworks and commercialization of protected intellectual property rights on the object of intellectual property, following: acquisition of the right to use intellectual property objects in the framework of licensed contracts; protection of production and utilization of the market for non-competitive competition, right of monopoly property right on object of intellectual property; authorship rewards of the author; (or composer) and many more..

To obtain the right to receive patents, trademarks, and intellectual property rights, the right to use the intellectual property rights (objects of authorship and patent right) shall be respected in the interests of protection of rights. For example, the exclusive right to purchase a patent is either a patent or a patent patent.

- The 5th Civil Code of the Republic of Kazakhstan (hereinafter - the Civil Code of the Republic of Kazakhstan), which is a legal document in the Republic of Kazakhstan, which is based on the right principles of the law and the right to protection of intellectual property. It is true that the Civil Code of the Republic of Kazakhstan defines special rights, such as the right to use material objects, the exclusion of the exclusive right and material objects created in the result of such an outbreak; Obvious Attestation, Included in the List of Controversial Rights, Included in the List of Legal Acts [1].

- • In the case of administrative offenses, the rights of the administrators are settled in the event of a criminal offense, unless otherwise stipulated by the laws and regulations of the Criminal Procedure Code of the Republic of Kazakhstan, as well as Articles 128, 129, 145 of the Code of Administrative Offenses of the Republic of Kazakhstan.

- • Actually, Article 128 of the Law of the Republic of Kazakhstan "On the right of access to inventions, industrial models, industrial designs, selective integration, integrated circuits of integrated circuits" establishes the use of non-simultaneous use of the invention, the optional model, the industrial product, the selection achievement, the integral microcircuits topologies, or an applicant of the invention, a sophisticated model, a productive image, selection achievement, integrated circuits from topology to official publications, and a list of the authorship or acquisition of such affiliation, if the action is incomplete or implied, shall be punished by a fine of one hundred and fifty to one hundred and fifty per cent, in the amount of one hundred and fifty per cent, for legal entities, or non-profit organizations - in a size from one-to-five to two, for legal entities, with a large number of entities, - in the amount of up to three-quarters of the month's calculated booklets.

- The penalty imposed on physical persons after deducting administrative penalties for a period of up to one year following the expiration of a period of one year prior to the expiration of a statutory period of up to five years from one year to five years from the date of entry into force of a statute of limitations; small or medium-size enterprises or non-commercial organizations, - in the amount of two-thirds of the total number of legal entities involved in small undertakings, - in size from sixth to seventy for the countable dehydrators [3]. Similarly, the administrative responsibility is to exploit the object of authorship and confidentiality of the objects, and to the extent necessary for the purchase, transfer, alteration or the production of counterfeit copies of objects of authorship and (or) the right to use of the right to use, in accordance with authorship or co-authorship.

- Additionally, the Code of Civil Procedure provides, that the confiscated exemptions of objects of authorship and (or) confiscation of property rights in the manner prescribed by Article 628 of this Code shall be excluded by the author's or his / her right of access to the file [3]. It also wants to clarify whether the confiscated items are either confiscated entirely by the "pirate" product, but not the products exposed by the rule of law enforcement [3].

Criminal liability is provided for by the Criminal Code of the Republic of Kazakhstan (hereinafter referred to as the Criminal Code of the Republic of Kazakhstan) for attribution of authorship or coercion to co-authorship, if this act caused significant damage to the author or other copyright holder or substantial harm to their rights or legitimate interests, illegal use of copyright or related rights , as well as the acquisition, storage, movement or manufacture of counterfeit copies of copyright and (or) related rights for marketing purposes, committed actual size. For violation of the rights to inventions, utility models, industrial designs, selection achievements or topologies of integrated circuits, liability is provided for under Article 184-1 of the Criminal Code of the Republic of Kazakhstan [4].

Disclosure without the consent of the author or applicant of the essence of the invention, utility model, industrial design, selection achievement or topology of an integrated circuit before the official publication of information about them, as well as attribution of authorship or coercion to co-authorship, if these acts caused significant damage to the author or other copyright holder or significant harm their rights or legitimate interests, the illegal use of an invention, utility model, industrial design, selection achievement or topology integrally the chip, perfect in a significant size.

Independent article 184-1 of the Criminal Code of the Republic of Kazakhstan includes industrial property objects. This was done due to the fact that the objects of copyright and related rights differ significantly in nature from the objects of industrial property rights. Copyright, for example, arises from the moment of creation of a work without its mandatory registration, while rights to objects of industrial property - from the moment of registration and issuance of a title of protection. Hence the different ways of committing crimes.

Crimes in the field of intellectual property constitute an infringement of the rights of authors and other copyright holders in the form of various types of use of works (duplication, sale and other distribution, etc.) without the consent of the author and other copyright holders, as a result of which they cause substantial harm.

This harm represents, in addition to the costs of restoring the violated right, the non-received amounts of remuneration due to the author. Moreover, the proposed construction of the article allows not establishing the amount of damage; it will be enough to establish the size of the act itself. So, in order to hold accountable, according to the wording of Articles 184 and 184-1 of the Criminal Code of the Republic of Kazakhstan, it is necessary that a crime is committed in a significant amount, i.e. when, for example, the cost of the “pirated” products sold is such a size or 100 MCI. Thus, in order to bring the violator to criminal responsibility, it is enough to identify the fact of the sale of “pirated” products worth 100 MCI.

In addition, liability is provided not only for the fact of sale or other distribution of “pirated” products, but even for the purchase, manufacture, storage or movement of “pirated” products for marketing purposes, committed on a large scale. So, according to the Order of the Ministry of Internal Affairs of the Republic of Kazakhstan dated February 29, 2000 No. 119, the Ministry of Justice of the Republic of Kazakhstan dated February 29, 2000 No. 23, the Ministry of State Revenues of the Republic of Kazakhstan dated March 1, 2000 No. 168 “On measures to ensure the property interests of authors of works and owners of related”, the illegal use of works and objects of related rights prevents the development of intellectual and cultural potential of the Republic of Kazakhstan, harms its international authority, strengthens criminalization society [5].

In accordance with Article 199 of the Criminal Code of the Republic of Kazakhstan, means of individualization also relate to intellectual property, and criminal liability is provided for their illegal use. Thus, today in Kazakhstani legislation there are a sufficient number of tools for the full protection of the results of intellectual activity. But after all, it is relevant in any way, since it is, as we see, the result of innovative activity can be any information that has a progressive impact on various areas of society.

If you use the concept of intellectual property in the field of protection of the results of innovation, then there is an ambiguous situation with the definition of the object of intellectual property, and hence the concept of intellectual property.

However, we will see what happens if we approach the concepts of “intellectual property” and “innovation” from the standpoint of the creativity criterion established by law.

The content of innovation, as previously mentioned, can be any information useful for the progress of various areas of production and the sphere of society management, including entrepreneurial information, that is, one that is useful for doing business, in the sense that it can affect production, the financial situation of the entrepreneur.

Such information (entrepreneurial) is information about various aspects of the production, trade, management, scientific, technical, financial activities of the enterprise, which should be protected in the interests of competition and economic security.

For example, information about clients, the content of the transaction, information about the fact of the conclusion of the transaction, the contents of the memorandum of association, the contents of the internal financial statements, information about discoveries, inventions, recipes, and technological methods and so on can be useful. This information can be divided into two groups: scientific and technical information and business information.

The concepts “results of innovation” or “innovation” and “intellectual property” are comparable, but do not always coincide: the concept of “innovation” is covered by the concept of “intellectual property” only in terms of information that is a product of intellectual creativity. Not every innovation is the result of creative intellectual work.

However, from the standpoint of recognizing the conditional nature of the concept of “intellectual property”, it can be recognized as fair that the innovation is classified as an intellectual property. But it is necessary to bring the legislative definition of the concept of intellectual property into line with a specific list of its objects.

So, based on the results of a review of relevant literature and current legislation, the following general conclusions can be drawn.

Genetically, the concept of “intellectual property” comes from the word “intelligence”. In other words, this type of property is associated with the human intellect - "the ability to think, rational knowledge of the world, creativity." The intellect itself, the ability to create are not influenced by legal and other social norms and external control. Law regulates public relations only regarding a product created as a result of intellectual activity.

In accordance with applicable law, the owner of the results of intellectual activity has the exclusive right, which has the following qualities. No one can commit actions that infringe on the rights of the owner. Intellectual property results may be used by third parties only with the consent of the copyright holder. The object of this right is individual, since it was created by the intellectual efforts of a particular person (or persons).

CONCLUSION

However, all objects of intellectual property are inherently new information (not necessarily created in the process of intellectual creative work) which is embodied in certain material media; they have a valuation, they can be goods, they don't wear out, over time they can become obsolete (but only morally), they can be used simultaneously by an unlimited circle of people, it is difficult to limit the territory of their use.

Thus, the owner of intellectual property cannot physically hold the object created by him. After the dissemination of information (ideas), it can no longer be in the exclusive possession of the author. Therefore, the issue of protecting copyright holders is acute. If we turn to the legislation in force in this area, then, as we have shown, we can draw ambiguous conclusions regarding the concept of intellectual property and intellectual property.

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ПРАВОВАЯ ЗАЩИТА ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ

Аннотация. Объекты интеллектуальной собственности являются следствием только мыслительной деятельности человека. Субъектами же права этой собственности могут быть как граждане (авторы), в том числе индивидуальные предприниматели, так и юридические лица – организации. Это и приводит часто к конфликтным ситуациям между творцами и юридическими лицами, претендующими быть собственниками результатов интеллектуальной деятельности творца. Объекты интеллектуальной собственности являются по своей природе новой информацией и имеют стоимостную оценку, могут одновременно использоваться неограниченным кругом лиц, трудно ограничить территорию их использования. Однако преступления в сфере интеллектуальной собственности зачастую представляют собой посягательства на права автора без его согласия, о чем подробно представлено авторами данной статьи.

Ключевые слова: права собственности, интеллектуальная собственность, гражданское право, инновации.

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ЗИЯТКЕРЛІК МЕНШІК ҚҰҚЫҒЫН ҚҰҚЫҚТЫҚ ҚОРҒАУ

Аннотация. Зияткерлік меншік - бұл адамның ақыл-ой әрекетінің нәтижесі ғана. Бұл меншік құқығының субъектілері азаматтар (авторлар), оның ішінде жеке кәсіпкерлер, заңды тұлғалар - ұйымдар бола алады. Бұл көбінесе жасаушының зияткерлік қызметі нәтижелерінің иесі болуға үміткер авторлар мен заңды тұлғалар арасындағы жанжалды жағдайларға әкеледі. Зияткерлік меншік - бұл мүлдем жаңа ақпарат және бағаланады, оны бір уақытта шектеусіз адамдар қолдана алады, оларды қолдану аумағын шектеу қиын. Алайда, зияткерлік меншік саласындағы қылмыстар көбінесе осы мақаланың авторлары егжей-тегжейлі сипаттаған оның келісімінсіз авторлық құқықты бұзу болып табылады.

Түйін сөздер: меншік құқығы, зияткерлік меншік, азаматтық құқық, инновация.

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