

MULTIDISCIPLINE PROCEEDINGS OF
**DIGITAL FASHION
CONFERENCE**

KOREA, REPUBLIC OF

Multidiscipline Proceedings of

DIGITAL FASHION CONFERENCE

December 2022 (*Volume 2, No.6*)

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Available at digitalfashionsociety.org
Published:
서울 합정역
파주출판도시
ISSN 2466-0744
Seoul
Korea, Republic of

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PROTECTION OF TRADEMARK RIGHTS

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Abstract: This article deals with the problems related to the protection of trademark rights. The main types of trademarks are listed. Types of liability for illegal use of rights to trademarks and service marks.

Keywords: trademark, types, ways of protecting rights, illegal use, responsibility.

Today, in connection with the development of the market for various types of products, one of the main tasks is to ensure the legal protection of business entities for trademarks and service marks.

The need to protect the rights of a trademark is due to the increasing cases of its illegal use, the increase in the growth of counterfeit products, as well as the violation of the rights of the manufacturer of the goods.

In the legislation of the Republic of Uzbekistan, a trademark and service mark are a duly registered designation that serves to distinguish goods and services of some legal entities and individuals from similar goods of other legal entities and individuals [1].

There are different types of trademarks. Thus, a registered trademark can be: individual, collective, figurative, verbal, three-dimensional and other designations or their combinations in any color or color combination.

Legal protection of a trademark is provided on the basis of its registration in the manner prescribed by the Law, as well as by virtue of international treaties of the Republic of Uzbekistan. Trademark registration is an essential way to protect it. Neglecting this procedure, legal entities and individual entrepreneurs cannot take advantage of the measures provided by law against unscrupulous persons who have registered their trademark in their name, in addition, proving and challenging trademark rights takes a long time.

According to the International Classification of Goods and Services (ICGS), trademarks are registered according to certain classes. That is, identical or similar in terms of confusion designations in different classes of the Nice Classification can be fully registered. The cost of trademark registration services is directly dependent on the number of selected classes of the Nice Classification.

Article 1103 of the Civil Code of the Republic of Uzbekistan. regulates the exclusive right to a trademark. The owner of the right to a trademark has the exclusive right to use and dispose of the mark belonging to him. The owner of the right to a trademark also has the exclusive right to make changes and additions to the trademark [2]. A trademark registration certificate is issued by the Department of the Ministry of Justice. This certificate certifies the exclusive right to a trademark in respect of the goods specified in the trademark certificate. If the trademark was registered on the territory of other states, registration is required in the Republic of Uzbekistan in order to ensure the proper rights to use and protect it.

The validity of the certificate is 10 years from the date of registration of the trademark, after this period the certificate can be extended for 10 years, this procedure can be performed an unlimited number of times. If a trademark has not been used for more than three years in a row, the rights to it may be transferred to another legal entity or individual entrepreneur who filed a claim for full or partial cancellation of registration

due to non-use of the trademark.

To avoid loss of rights, care should be taken to provide evidence to support the use of the trademark, such as advertising contracts, supply contracts, etc.

The transfer of rights to a trademark occurs under an agreement on the transfer of rights to a trademark, service mark. The transfer of a trademark to a third party is carried out only with the permission of the owner, which is a legal entity or entrepreneur. Alienation of rights to a trademark can occur both in full and for separate classes of the Nice Classification. If the rights to one trademark are transferred under different classes of the Nice Classification, then several persons will be able to own them. An agreement on the alienation of a trademark should be concluded only on a reimbursable basis.

To grant third parties the right to use a trademark, a license agreement is concluded. The conclusion of a license agreement does not transfer exclusive rights to the licensee. After the conclusion, the license agreement is subject to mandatory registration with the Department of the Ministry of Justice of the Republic of Uzbekistan.

In case of illegal use of a trademark, liability for violation of trademark rights is provided by Art. 1107 of the Civil Code of the Republic of Uzbekistan, Art. 177 of the Administrative Responsibility Code of the Republic of Uzbekistan, Art. 149 of the Criminal Code of the Republic of Uzbekistan.

As part of civil law protection, the owner, whose rights to a trademark and service mark have been violated, has the right to file a claim with the economic court. In the case of filing a claim, it is necessary to prove whether the rights to the trademark were really violated, and what losses the owner suffered. If the court recognized the violation of rights and made a positive decision on this claim, then the violator will have to compensate the losses incurred by the owner.

Pre-trial regulation can include such measures to protect trademark rights as an appeal to the Department of the Ministry of Justice and the Antimonopoly Committee of the Republic of Uzbekistan. At the request of interested parties, these bodies are within the right to take appropriate measures in relation to the unfair use of intellectual property. Therefore, if a legal entity or an individual entrepreneur considers that his exclusive right to a trademark has been violated by protecting the trademark of another business entity, then he has the right to file a complaint with the above authorities.

It should be noted that Article 149 of the Criminal Code of the Republic of Uzbekistan provides for criminal liability for violation of copyright or invention rights [3]. So, based on this article, the assignment of authorship, the assignment of authorship, coercion to co-authorship on objects of intellectual property, as well as disclosure of information about these objects without the consent of the author before their official registration or publication, is punishable by a fine of twenty-five to seventy-five basic settlement units or deprivation of a certain right up to five years, or by compulsory public works up to three hundred and sixty hours, or by corrective labor up to three years.

Summing up, we can conclude that at this point in time, the legislation provides for quite extensive systems of measures to protect trademark rights. The right to use which method of protecting trademark rights always remains with the copyright holder.

References:

1. Law of the Republic of Uzbekistan dated August 30, 2001 No. 267-II "On Trademarks, Service Marks and Appellations of Origin".
2. Civil Code of the Republic of Uzbekistan August 29, 1996 No. 256-I.
3. Criminal Code of the Republic of Uzbekistan September 22, 1994 No. 2012-XII