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TRADEMARK PROTECTION IS A PRESSING ISSUE

Javlonbek Juraev

Senior Lecturer at the Training Institute for lawyers
under the Ministry of Justice

Email: javlon-juraev@mail.ru

Annotation

The article reflects proposals and recommendations related to the legal protection of trademarks within the framework of intellectual property rights, its protection document, national and international legal bases for trademark protection, some issues related to offences and liability in the field, especially ways to adapt national legislation to international norms.

Keywords: trademark, exclusive right, trademark owner, license agreement, counterfeit, material and moral damage, seizure and destruction, fine.

Аннотация

В статье отражены предложения и рекомендации, связанные с правовой охраной товарных знаков в рамках права интеллектуальной собственности, его охранным документом, национальными и международно-правовыми основами охраны товарных знаков, некоторыми вопросами, связанными с правонарушениями и ответственностью в этой области, особенно с способами приведения национального законодательства в соответствие с международными нормами.



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Ключевые слова: товарный знак, исключительное право, владелец товарного знака, лицензионный договор, контрафакт, материальный и моральный ущерб, изъятие и уничтожение, штраф.

A **trademark** is a name, logo, emblem, or other designation that distinguishes goods or services from others, belonging to a legal entity or individual.

These features play an important role in increasing brand value, gaining consumer recognition, and ensuring competitiveness in the market. Therefore, the problems of legal protection of trademarks and their solutions are one of the most pressing issues.

A trademark is one of the main components of a business's intellectual property and must be protected within the framework of the law to prevent its illegal use. Protection of trademarks in Uzbekistan is carried out on the basis of the Law of the Republic of Uzbekistan "**On trademarks, service marks and appellations of origin of goods.**"

According to it, the trademark must **undergo state registration** in the prescribed manner. After registration, the trademark right holder is granted **an exclusive right** for a period of **10 years**. This period may be extended at the initiative of the respective right holder.

According to the legislation, the use of a trademark is considered to be the use of a trademark by the owner of the trademark or a person who has been granted such a right under a license agreement, on goods registered for its use, on their packaging and wrapping.

Accordingly, when a trademark or a mark similar to it to the point of confusion is illegally used on goods, labels, or packaging of goods, they are considered counterfeit.

In the case of illegal use of a trademark, first of all, the rights of the owner of intellectual property are violated.



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In accordance with the Civil Code and the Law "On Trademarks, Service Marks and Appellations of Origin," this is a civil offence.

The subject of the trademark right - i.e., the person or organisation that registered the trademark - may grant the right to use the trademark to others only by themselves or with their permission. Therefore, the unauthorised use of the mark is assessed as material and the commission of moral damage.

Products manufactured as a result of such use, having no relation to the actual manufacturer, create a false impression in the consumer, disturb the competitive environment and cause an increase in counterfeit goods in the market.

Therefore, as an effective method of eliminating violations, a measure is applied, namely, the seizure and destruction of goods manufactured by the violator, their packaging or labelling. This is a material expression of legal liability, which is not limited to a fine or compensation, but also implies the actual removal from circulation of illegal products.

After a decision is made by a court or an authorised body, such goods are subject to compulsory seizure through the executive authorities.

The Law "On Trademarks, Service Marks and Appellations of Origin of Goods" includes a norm defining the grounds and procedure for imposing a fine for violation of legislation on trademarks and appellations of origin of goods, as well as the procedure for payment of the fine by legal entities.

In particular, the illegal use of a trademark, the name of the place of origin of the goods, or designations for homogeneous goods similar to them to the point of confusion is 100 times the BRV. Entails a fine of up to 200 times. It should also be noted that the amounts of fines are set separately for each type of offence.

Also, according to Article 177 of the Code of the Republic of Uzbekistan On Administrative Responsibility, the illegal use of another's trademark, service mark, geographical indication, name of the place of origin of goods or signs



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similar to them to the point of confusion in relation to similar goods (services) entails the imposition of a fine from fifteen to thirty times the basic calculated value with confiscation of the objects of the offence.

The same offences, committed repeatedly within a year after the application of administrative penalties, entail the imposition of a fine of thirty to fifty times the base calculation amount, with confiscation of the objects of the offence.

It should be emphasised that trademark protection should be ensured not only at the national level but also at the international level. For this purpose, Uzbekistan joined the 2006 Madrid Agreement and Madrid Protocol in 2006, and through this system, it is possible to protect trademarks in several countries simultaneously.

Different methods of their destruction - such as processing, destruction, or burning - may be used in this process. Destruction costs are covered by the violator, i.e., by the person who illegally used the sign. This practice is carried out in the field of law based on the principles of "restitution" and "compensation." In addition, the right holder has the right to demand not only the destruction of products, but also compensation for damages, recovery of illegal profits, and compensation for moral damages. If the manufacturer or seller repeats the violation, administrative or criminal liability may also be applied.

This norm is also consistent with international practice, including the requirements of the TRIPS Agreement (Intellectual Property Rights Agreement) and the Paris Convention within the framework of the World Trade Organisation. According to them, the exclusion from circulation and destruction of infringing goods is the main guarantee of protection of intellectual property rights.

Legal protection of trademarks plays an important role in ensuring market competitiveness, protecting consumer rights, and combating counterfeit products.



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More effective trademark protection can be achieved by improving legislation, taking strict measures against offences, and strengthening international cooperation.

Thus, the legal essence of this change is that now a person who illegally uses a trademark will be deprived not only of financial penalties, but also of the products they manufactured or prepared for sale.

This is an important legal step in the real protection of the rights of intellectual property owners and the restriction of the circulation of counterfeit products.