

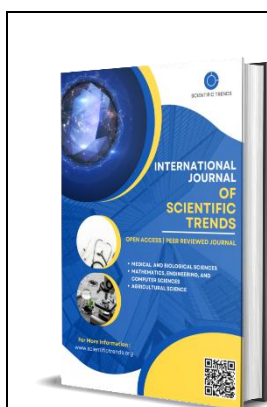
The Genesis of the Development of Invention Rights: The Experience of Uzbekistan

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Abstract

This article analyzes the genesis and development of rights related to inventions in the Republic of Uzbekistan. It examines the historical evolution of patent law during the former Soviet period, the formation of national legislation after independence, and the reforms implemented in the field of intellectual property. Particular attention is given to the mechanisms of legal protection of inventions, the role of laws and subordinate legal acts, and the legal framework governing the activities of the Intellectual Property Agency. The article also emphasizes the importance of taking into account international experience and legal standards in improving national legislation.

Keywords: Invention, patent law, intellectual property, industrial property, patent system, innovation, legal protection.

Introduction

The protection of inventions occupies a special place within the system of intellectual property law. Inventions, as a result of human scientific and technical creativity, contribute to the innovative development of society, the improvement of production processes, and economic growth. Therefore, ensuring legal protection of inventions, safeguarding the rights and interests of inventors, and improving legal mechanisms regulating the effective use of intellectual property objects constitute one of the important tasks of every state.

In the Republic of Uzbekistan, particular attention is also paid to the development of the intellectual property sector. In the country, the legal regulation of rights related to inventions is carried out on the basis of national legislation, while international legal norms and advanced foreign experience are also taken into account. During the years of independence, the legal foundations for the protection of intellectual property objects have been established, and the national patent system has been gradually improved.

From this perspective, analyzing the stages of formation and development of rights to inventions in Uzbekistan, studying the genesis of the national patent system, and conducting scientific research on the legal mechanisms in this field are of particular importance. This article examines the formation of the system for the legal protection of inventions in Uzbekistan, its main stages, and the specific features of the development of national legislation in this area.

In the past, particularly during the period of the former Soviet Union, a number of regulatory legal acts were adopted in the field of legal protection of inventions. In particular, on June 30, 1919, the “Regulation on Inventions” was approved on the basis of a decree¹.

It should be noted that according to the legal framework in force during the period from 1917 to 1919, the patent law adopted during the Tsarist Russian era remained valid. However, with the adoption of the decree in 1919, the previously existing legislation was abolished, and as a result, the practice of protecting inventions through the patent system was terminated.

Although the decree did not provide a precise legal definition of the concept of an “invention,” it allowed for the recognition of useful technical innovations. At the same time, it was stipulated that such innovations could be legally recognized regardless of their degree of novelty. This indicates that the system for the legal protection of inventions at that time differed significantly from the classical patent model.

Subsequently, certain changes were introduced into the system of legal protection of inventions. In particular, on September 12, 1924, the “Regulation on Patents for Inventions” was adopted, according to which inventors’ rights were to be protected exclusively on the basis of patents. This regulation was aimed at reintroducing the patent system for the legal protection of inventions².

According to the provisions of the Regulation, any new invention that could be applied in industry was eligible for patent protection. However, patent protection was not granted to certain categories of objects. In particular, medicinal products, food products, substances possessing flavoring properties, as well as certain materials obtained through chemical methods were excluded from the scope of patent protection.

At the same time, the possibility of obtaining patents was preserved not for the substances themselves but for the methods of their preparation or production. This approach served as one of the legal mechanisms aimed at encouraging technological development in specific fields and supporting industrial progress.

On June 9, 1965, the USSR acceded to the relevant international convention, thereby introducing a system for the legal protection of industrial designs and approving the “Regulation on Industrial Designs.”³

According to the Regulation, industrial designs were recognized as new artistic and design solutions that determine the external appearance of a product. In this context, an industrial design encompassed both the artistic solution expressing the aesthetic characteristics of a product and the design solution incorporating its functional and technical aspects.

In order to recognize an industrial design as an object of legal protection, the criterion of novelty was considered essential. Under the provisions of the Regulation, it was sufficient for an artistic solution to possess local novelty, meaning that it had not previously been known within the territory of the Union. This indicates that the principle of national (local) novelty was applied in the legal protection of industrial designs.

Subsequently, with the aim of improving the legal regulation in this field, a new “Regulation on Industrial Designs” was approved on July 8, 1981 by the Council of Ministers of the former Soviet

¹ Сергеев А. П. Патентное право. Учебное пособие. – М.: Издательство БЕК, 1994. –202 с. 15-6.

² Об истории принятия Патентного закона 1924 г. см.: Колесников А.Л. Об истории разработки Патентного закона 1924 г. //ВИ. 1989. № 8. С. 18—22.

³ СП. 1965. № 9. С. 43—45.

Union. This document was brought closer to international standards compared to the previous legal framework and aimed at introducing more advanced provisions in the field of legal protection of industrial designs. In particular, the new Regulation strengthened the novelty requirement for recognizing an industrial design as an object of legal protection by introducing the criterion of worldwide novelty. Moreover, the external appearance of light industry products also began to be recognized as objects eligible for legal protection as industrial designs. In addition, the term of protection for patents granted for industrial designs was extended to up to 10 years, which served to encourage creators of artistic and design solutions.

According to Article 53 of the Constitution of the Republic of Uzbekistan, everyone is guaranteed the freedom of scientific, technical, and artistic creativity, as well as the right to enjoy the achievements of culture⁴.

This provision ensures the legal opportunities of individuals in the creation and use of the results of intellectual activity. At the same time, the Constitution stipulates that objects of intellectual property are protected by law, which implies that the state guarantees the legal protection of the results of intellectual labor. The constitutional guarantee of freedom of creativity thus serves as an important legal foundation for stimulating scientific and technological progress and supporting new ideas and innovations.

On May 31, 1991, the Law “On Inventions” was adopted in the former Soviet Union. Shortly thereafter, on July 30 of the same year, the Law “On Industrial Designs” was also adopted almost simultaneously. These laws constituted important regulatory legal acts aimed at regulating the legal protection of intellectual property objects. However, soon after the dissolution of the Soviet Union, the newly independent states faced the task of independently regulating these legal relations on the basis of their national legislation.

On August 29, 2002, the Law of the Republic of Uzbekistan No. 397-II “On Inventions, Utility Models and Industrial Designs” (new edition) was adopted⁵. Currently, the existing legislation plays a significant role in regulating relations in the field of protection of intellectual property objects. The law regulates not only civil law relations but also certain administrative and procedural relations. In addition, it contains references to other regulatory legal acts.

In terms of its scope, the law is relatively concise, consisting of 39 articles. Most of these articles contain several independent legal provisions. Furthermore, the majority of these norms are directly applicable, meaning that their implementation does not require the adoption of additional regulatory acts. The relatively compact structure of the law can be explained by several factors. First, the effective application of legal protection mechanisms based on patents requires a certain level of legal and practical experience. Moreover, in some countries the protection of intellectual property objects is regulated not by separate laws but within the framework of civil legislation. For example, in the Russian Federation these relations are regulated by the provisions of Part IV of the Civil Code.

It should also be emphasized that the creation of a comprehensive legislative system requires time, practical experience, and the gradual implementation of legal norms into practice. In this process, it is important to further improve legal mechanisms and provisions that have proven effective in

⁴ O‘zbekiston Respublikasining Konstitutsiyasi. –Toshkent: O‘zbekiston, 2023. -80-b.

⁵ The Law of the Republic of Uzbekistan No. 397-II “On Inventions, Utility Models and Industrial Designs” (new edition). Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2002, No. 9, Article 158.

practice. At the same time, it can be observed that the legal status of industrial property objects created in the course of performing official duties, providing services for remuneration, or within other contractual relationships has not yet been sufficiently developed in legislation.

This law should be recognized as an important regulatory legal act adopted under complex socio-economic conditions of its time. Undoubtedly, certain legal gaps and shortcomings existed within the law. Nevertheless, it should be noted that until the adoption of the Civil Code, this law served as the principal legal source regulating relations in this field. The adoption of the law created an opportunity for effective legal regulation of relations in the sphere of intellectual property.

Furthermore, this law laid the foundation for introducing international experience and standards into the national legal system, promoting the entry of inventions created by Uzbek inventors into the global market, developing technology and innovation, and forming a national intellectual property market. This has played an important role in encouraging innovation and supporting scientific and technological development in the country.

At the same time, from the perspective of the structure of the law, certain aspects require further improvement. For example, it would be advisable to allocate a separate chapter within the law to define more clearly the legal status and powers of the authorized state body. In practice, however, only a single provision—Article 3—is devoted to this issue, which indicates that it is insufficient for fully reflecting the legal status of the authorized body.

At the same time, in recent years a number of important regulatory legal acts have been adopted in the Republic of Uzbekistan aimed at developing the intellectual property sector and improving its legal framework. In particular, the following documents adopted by the President of the Republic of Uzbekistan have marked the beginning of a new stage in this field:

Resolution of the President of the Republic of Uzbekistan No. PQ-4168 “On Measures to Improve Public Administration in the Field of Intellectual Property”;

Resolution of the President of the Republic of Uzbekistan No. PQ-4380 “On Measures for the Organization of the Activities of the Intellectual Property Agency under the Ministry of Justice of the Republic of Uzbekistan”;

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 609 “On Approval of the Regulation on the Intellectual Property Agency under the Ministry of Justice of the Republic of Uzbekistan”;

Resolution of the President of the Republic of Uzbekistan No. PQ-4965 of January 28, 2021 “On Measures to Improve the System for the Protection of Intellectual Property Objects.”

These regulatory legal acts contribute to improving public administration in the field of intellectual property, further developing the system of legal protection of inventions and other intellectual property objects, and strengthening institutional mechanisms in this sphere.

According to I. Nasriyev, the provisions concerning the author’s right to publish a work are not fully and clearly expressed in the Civil Code and therefore do not cover all types of works. In analyzing this issue, the author primarily focuses on aspects related to the publication of a work within the provisions governing the objective form of copyright objects⁶. However, in regulating

⁶ Насриев. И. Шахсий номулккий ҳуқуқлар мазмуни, уларни амалга ошириш ва кенгайтириш истиқболларини фуқаролик ҳуқуқий масалалари. Юридик фанлар доктори илмий даражасини олиш учун ёзилган диссертация автореферати. –Т.: 2006. -51 б.

such relations, it is important to systematize rights and define them through clear legal mechanisms.

N.F.Imomov emphasizes that such a situation may lead to various legal disputes and controversies in practice. Indeed, the establishment of clear and consistent legal mechanisms is of great importance in regulating intellectual property objects. At the same time, different approaches to regulating these relations have been applied in some CIS countries, including the Russian Federation. The development of scientific and technological progress, as well as legal relations, constantly requires the elaboration of new legal solutions. From this perspective, it may be considered appropriate to establish general provisions concerning intellectual property objects within the Civil Code, while regulating specific norms relating to industrial property objects through separate special laws⁷.

At the same time, some countries have succeeded in establishing a unified system for granting patents and regulating it on the basis of uniform legal rules. This demonstrates the importance of creating a system consistent with international standards in the field of legal protection of intellectual property objects. Therefore, taking into account international legal experience is of particular importance in improving national legislation.

Professor Q. Mekhmonov, however, notes that it is difficult to agree with the views expressed by M. Tadjibayeva and X. Rajabov—who conducted research in the field of competition law—that the norms concerning unfair competition related to intellectual property objects should not be regulated within the framework of the Law “On Competition.”⁸ According to Q. Mekhmonov, cases of unfair competition are closely connected with industrial property objects, and therefore it is necessary to apply universal legal mechanisms for their protection. In turn, this requires comprehensive protection of such relations in accordance with the international legal principles established within the framework of the Paris Convention for the Protection of Industrial Property⁹.

The existence of subordinate legal acts is a natural phenomenon, since it is not possible to fully regulate all legal relations within the framework of a single law. In particular, certain issues—such as the rules governing the preparation and submission of application documents—are of a technical nature, and therefore it is appropriate to regulate them through separate normative acts. At the same time, legislation should maintain a certain degree of stability; however, some provisions may need to be amended promptly in response to changing circumstances. In such cases, the clarification of the content of the law and the disclosure of the mechanisms for its implementation are ensured through subordinate legal acts.

Subordinate legal acts adopted in the field of intellectual property primarily serve to regulate the activities of the Intellectual Property Agency from a legal perspective. These acts define the organizational structure of the agency, the scope of its powers, its legal status in implementing state policy, and other important issues.

⁷ Имомов Н.Ф. Интеллектуал мулк ҳуқуқининг янги объектлари /Масъул муҳаррир ю.ф.д., проф. О.Оқюлов. –Тошкент: ТДЮИ нашриёти, 2011. 37-38 б. (-215 бет).

⁸ Tadjibayeva M.R. Insofsiz raqobatga qarshi kurashishning fuqarolik-huquqiy vositalari va oqibatlari. Yuridik fanlar bo'yicha falsafa doktori (PhD) dissertatsiyasi. T. TDYU. 2023. 152-b.; Раджапов Х. Правовые основы формирования конкуренции в сфере естественных монополий. Review of Law Sciences. 2020. №3. 111-115-с.

⁹ Мехмонов Қ. Саноат мулки объектларининг фуқаролик ҳуқуқий мақоми: назария ва амалиёт. юридик фанлари доктори (Doctor of Science) илмий даражасини олиш учун тайёрланган диссертация. Т.: ТДЮУ, 2024. 61, 62 бетлар.

In the field of legal protection of industrial property objects, separate subordinate legal acts have been adopted for each specific object. For instance, the “Rules for the Preparation, Submission and Examination of an Application for the Grant of a Patent of the Republic of Uzbekistan for an Invention” (March 22, 2004, registration No. 1329) establish the procedures for preparing, submitting, and examining patent applications¹⁰.

The activities of entities participating in the process of formalizing rights to industrial property objects are also regulated by specific subordinate legal acts. For example, the “Regulation on Patent Attorneys,” approved by Resolution No. 298 of the Cabinet of Ministers of the Republic of Uzbekistan dated July 1, 2003, establishes the procedures for individuals to carry out activities as patent attorneys, their registration with the authorized state body, and the exercise of their relevant powers¹¹.

In addition, the procedure for the certification and registration of candidates for patent attorney status is regulated by a separate normative legal act. In particular, the “Rules for the Certification and Registration of Candidates for Patent Attorney Status and the Certification of Patent Attorneys” (December 13, 2019, registration No. 3203) establish the procedures governing this process, including qualification requirements for applicants, the timeframes for conducting certification, and the legal consequences arising from it¹².

The above analysis demonstrates that the formation and development of rights related to inventions in Uzbekistan encompasses a long historical process. Initially, this process was shaped by regulatory legal acts adopted during the period of the former Soviet Union, while after gaining independence it entered a new stage within the framework of the national legal system. As a result, solid legal foundations of national legislation for the protection of intellectual property objects were established.

The results of the study show that during the years of independence, laws, subordinate legal acts, and institutional reforms aimed at developing the intellectual property sector have played an important role in improving the patent law system. In particular, measures taken to strengthen the mechanisms for the legal protection of intellectual property objects, improve the activities of authorized state bodies, and introduce international standards in this field have contributed to the effective functioning of this system.

At the same time, in the process of improving legislation in the field of intellectual property, the coherence between laws and subordinate legal acts is also of particular importance. Subordinate legal acts serve as an important legal mechanism for regulating practical issues related to the registration of intellectual property objects, the granting of patents, and their legal protection. In turn, this ensures the effective implementation of legal provisions.

¹⁰ “Ихтирога Ўзбекистон Республикаси патентини бериш учун талабнома тузиш, топшириш ва кўриб чиқиш қоидалари”. //Ўзбекистон Республикаси Давлат патент идорасининг 2005 йил 30 мартдаги 27-сон буйруғига мувофиқ хатбоши тўлдирилган, (27.04.2005 й 1329-1-сон)- 2005 й., 17-18-сон, м. 136), Ўзбекистон Республикаси Давлат патент идорасининг 2011 йил 26 августдаги 26-сон буйруғига мувофиқ хатбоши тўлдирилган, (30.09.2011 й 1329-3-сон)- 2011 й., 40-сон.

¹¹ Ўзбекистон Республикаси Вазирлар Маҳкамасининг 2003 йил 1 июлдаги 298-сон қарорига 2-илова билан тасдиқланган “Патент вакиллари тўғрисида”ги низом //Ўзбекистон Республикаси қонун ҳужжатлари тўплами, 2003 й., 13-сон, 103-модда.

¹² Патент вакилликка номзодларни аттестациядан ва рўйхатдан ўтказиш ҳамда патент вакиллари аттестациядан ўтказиш қоидалари (2019 йил 13 декабрь, рўйхат рақами 3203) // Қонун ҳужжатлари маълумотлари миллий базаси, 13.12.2019 й., 10/19/3203/4155-сон.

In the context of globalization, improving the system of protection of intellectual property rights in accordance with international standards has become one of the pressing tasks of the present day. From this perspective, studying international experience and incorporating it into national legislation is of great importance for further developing the system of legal protection of inventions in Uzbekistan, stimulating innovative activity, and strengthening the role of intellectual property in the national economy.