



**PROBLEMS OF DEVELOPING A RESPECTFUL ATTITUDE
TOWARDS INTELLECTUAL PROPERTY IN THE REPUBLIC OF
UZBEKISTAN**

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ABSTRACT

This scientific article analyzes the relationship between the motivational foundations of people's behavior and respectful attitudes towards compliance with the requirements of intellectual property legislation. In particular, the authors studied the following motivational postulates: respects when he knows, respects when there are interests, respects when he is afraid, respects when partners respect, respects when everyone respects. The study substantiates the conclusion that it is impossible to either absolutize or ignore each of these postulates. Not only in legislative activities, but also in the development and implementation of the Strategy for the Development of Intellectual Property of the country, it is imperative to take into account these motivational foundations of people's behavior in a differentiated form.

KEYWORDS

Intellectual property, copyright holder, piracy, public policy, strategy for the development of intellectual property, motivation for law-abidingness, legal culture, legal consciousness, inevitability of responsibility.

Introduction

The introduction of intellectual property into property circulation took place in many countries around the world in a unique way. Unlike material assets and even securities, objects of intellectual property were not immediately accepted by the average person as a benefit that belonged to someone. And therefore, in the recent past, even if there was a system of intellectual property legislation, it was not actually enforced. And no one was responsible for this. This position accurately reflects the saying from Tengiz Abuladze's film "When everyone is a criminal, no one will be punished". Intellectual piracy was a widespread phenomenon. As some authors note, its prevalence and glaring scale make it a sustainable phenomenon. The famous French thinker Voltaire said back in the 18th century that "no one feels remorse from actions that have become customary." The most depressing fact in this case is

not so much the very fact of the existence of piracy, but the attitude of the public towards this type of offense¹.

As E.V. Samokhvalova notes, modern researchers agree that the lack of a unified state policy aimed at creating a respectful attitude towards intellectual property has led not only to its widespread theft, but also to the justification of these actions by citizens, including the younger generation. Unfortunately, young people, like the whole society, are characterized by poor awareness of their rights, including copyrights, and complete disregard for others. The situation is aggravated by the difficult “legacy” of socialist ideology, which has led to the devaluation of intellectual work and its results².

In the early 90s of the last century, anecdotal incidents occurred in Uzbekistan. A new film is shown on television without the permission of the copyright holder. The copyright holder files a claim in court. The court's decision reads: the film was not damaged, no harm was caused, and the claim was denied. At the same time, it should be recognized that the Republic of Uzbekistan, just before its independence, became a member of WIPO, acceded to international conventions and agreements on the protection of intellectual property rights on its individual objects. But this was most likely a formally declarative act, to please developed countries, for which intellectual property is a source of income. Intellectual property legislation also developed due to the influence of external sources, mainly international agreements and conventions were entirely adopted into national law. However, the population's respectful attitude towards the personal and property rights of authors and holders of exclusive rights still left much to be desired.

The situation has radically improved in the current stage of development of the country, which is characterized as a new Uzbekistan and a third renaissance. The task has been set according to which science and the educational process should become the driver of the country's development. The President put forward the slogan “salvation in education, salvation in education, salvation in knowledge”³.

Respectful intellectual property rights have become an integral part of the economic and legal policy of our state. A targeted, systematic and consistent policy in this area is being developed. In the Decree of the President of the Republic of Uzbekistan No. UP-5997 dated May 19, 2020 “On measures to further improve the activities of justice bodies and institutions in the implementation of state legal policy”, for the first time, the main directions of implementation of state policy in the field of intellectual property were defined.

In particular, they provide for the improvement of national legislation in the field of intellectual property and the modernization of the intellectual property system aimed at protecting the rights of intellectual property rights holders (Patent Trolling), carrying out an educational policy to increase the respect and legal culture of citizens in the field of intellectual property.

¹ Intellectual property law: development prospects. Team of authors (Okyulov O., etc.). Tashkent. Adolat. 2012 – pp. 49-50.

² Samokhvalova E.V. State participation in the process of forming a respectful attitude of Russian youth towards intellectual property // MANAGEMENT IN THE XXI CENTURY. – 2016. – P. 265-270.

³ Message from the President of the Republic of Uzbekistan Shavkat Mirziyoyev to the Oliy Majlis and the people of Uzbekistan. 12/20/2022. <https://president.uz/ru/lists/view/5774>

Introduction of intellectual property disciplines into the personnel training system, including in educational institutions of the republic, centers for advanced training⁴.

According to E.V. Samokhvalov, in the current situation, the first priority task of the state should be to provide conditions for preparing the education of an independent tveror personality. The actions taken, first of all, must be aimed at eliminating the literacy of young people in matters of creating and protecting their own intellectual results and using others. Practical measures to clarify the basic provisions of intellectual property law include, for example:

- creation and demonstration of thematic educational programs in the media;
- publication in the press of comments on certain provisions of Russian intellectual property law;
- holding thematic meetings and performances by authors and performers with young people;
- carrying out creative events aimed at combating intellectual piracy⁵.

On April 26, 2022, Resolution of the President of the Republic of Uzbekistan No. PP-221 “On additional measures for the further development of the field of intellectual property” was adopted. This resolution approved the Strategy for the development of the field of intellectual property in the Republic of Uzbekistan for 2022-2026⁶.

It lists the main existing problems in the money sector, in particular:

- the involvement of intellectual property objects in production processes is very low;
- the population and business entities do not have sufficient knowledge and skills in the field of intellectual property;
- business entities are not interested in introducing the results of intellectual activity into their activities;
- favorable conditions have not been created for inventors and innovators;
- the level of introduction of scientific developments into civilian circulation is low;
- there is a shortage of highly qualified specialists in the field of “IP Management” (intellectual property management) who are able to actively engage in the development and transfer of intellectual property;
- legal protection of intellectual property is insufficient, there are not enough qualified specialists in this field, especially in government bodies and organizations;
- educational organizations do not take practical measures aimed at developing a sense of respect for the results of people’s intellectual activity;
- measures aimed at the correct use of other people’s intellectual property and the prevention of plagiarism in the educational process have not been sufficiently implemented;
- work to counter the sale of counterfeit products, as well as to provide legal protection of intellectual property for goods exported from the Republic of Uzbekistan and imported into its territory, is not organized at the proper level.

The strategy provides effective measures to address these above-mentioned problems. Without going into details, I would like to offer conceptual proposals for developing a respectful attitude towards intellectual property among subjects. It should be based on the following postulates: “they respect

⁴ Decree of the President of the Republic of Uzbekistan dated May 19, 2020 No. UP-5997 “On measures to further improve the activities of justice bodies and institutions in the implementation of state legal policy”. <https://lex.uz/ru/docs/4820075>

⁵ Samokhvalova E. V. State participation in the process of forming a respectful attitude of Russian youth towards intellectual property // MANAGEMENT IN THE XXI CENTURY. – 2016. – C. 265-270.

⁶ Resolution of the President of the Republic of Uzbekistan dated April 26, 2022 No. UP-221 “On additional measures for the further development of the field of intellectual property”. <https://lex.uz/uz/docs/5987125>

when they know”; “respect when interested”; “respected when his partner respects him”; “respect when everyone respects”; “respects when he is afraid.” This sequence of these postulates is built on the basis of their priority and significance in the formation and implementation of legal policy on compliance and enforcement of intellectual property.

The effectiveness of legal policy largely depends on the understanding of its essence by ordinary people. This aspect of the issue becomes even more important when we consider that compliance with intellectual property laws is a difficult issue in many countries around the world. It should be recognized that the Republic of Uzbekistan is one of such countries. Factors contributing to solving the problem in this area are the formation of legal consciousness, legal culture of the population, respect for the property and personal rights of others. State legal policy in this regard should be based on the postulate “knows - respects, knows - executes.” Propaganda alone will not solve this problem. It is inextricably linked with the educational process. First, people need to understand the general features and characteristics of property rights and intellectual property rights. Over the centuries, property rights in relation to material goods have been formed. From time immemorial, values such as not stealing other people's property and not touching other people's property without the owner's permission have been applied to material things. Of course, science, culture, and art also have their historical roots in our country. However, in the traditional Muslim legal system these values did not rise to the level of intellectual property. In addition, the 70-year Soviet era was based on a socialist economic system, and the results of creative activity were subject to the regime of public domain. For example, in the forties, a schoolgirl from Tajikistan, Mamlakat Nakhanova, invented picking cotton with an apron. In the past, cotton was collected in baskets, where one hand held the basket and the other hand picked the cotton. Naturally, productivity was low, that is, 30-35 kg of cotton were collected per day. Picking cotton with an apron increased labor productivity by at least four times. And one person could pick on average more than 100 kg of cotton. However, the Soviet state did not even think about issuing a patent to Mamlakt Nakhanova. She was awarded the Order of Lenin. In the market system, having received a patent, she would have become a millionaire. There are many such examples. Those who picked cotton through their aprons did not even think about who they should be grateful to. The inventor did not even think, or rather did not know, about the possibility of receiving a share from the results of his invention.

In the new Uzbekistan, the focus is on educating people. The Strategy for the Development of Intellectual Property in the Republic of Uzbekistan for 2020-2026 provides for practical measures aimed at creating a system of respect for the results of intellectual activity of people in educational organizations

In particular, the following tasks were set:

- support the widespread use of intellectual property in the activities of business entities, including establishing a constant exchange of views on eliminating problems that arise when using intellectual property in their activities;
- improvement of scientific programs in the field of intellectual property in order to respect the results of intellectual activity and develop inventive and innovative qualities among students of general education and vocational educational institutions;
- creation of a series of textbooks and teaching aids of a new generation in the field of intellectual property, including translation into Uzbek of foreign literature related to this area;

- ensure the translation of legal documents in the field of intellectual property into English to ensure the possibility of their use by foreigners;
- organization of foreign practice, seminars and advanced training courses for industry workers with the participation of international experts on current issues of intellectual property;
- organization of training courses “IP Management” (Intellectual Property Management) for residents and business entities that will help turn their intellectual property into a highly profitable instrument based on a payment agreement;
- organization of advanced training courses on a paid contract basis for journalists providing information in the field of intellectual property to the general public.

When forming laws in the field of intellectual property, the legislator must create a system of interest among people and other entities that ensures their implementation and compliance. In other words, to ensure compliance with laws in the field of intellectual property, it is necessary to approach based on the postulate “interested, will respect”. In Uzbekistan today, the formation of a layer of intellectual owners continues. Scientists, writers, composers, artists, painters and many other representatives of the intelligentsia form the core of this layer. They have their own public associations. These public associations should be at the forefront of enforcement of intellectual property laws. However, this does not happen. They do not pay attention to intellectual property protection. True, recently public organizations for the collective management of copyrights have been created, and some revival is felt in this area. In the economic system, in financial and economic activities, a legal basis has been created for considering intellectual property objects as goods, as property assets, treating them as a source of wealth and prosperity. This ultimately creates economic interest in the use of intellectual property. However, most business entities are engaged in raw materials and other traditional objects of material resources, and there is little interest in the business of intellectual property objects. Currently, a very narrow circle of businessmen are involved in this business.

At the initiative of the President of the Republic of Uzbekistan, measures are being taken to radically improve this industry. In particular, the “One Million Programmers” project is being implemented. IT parks and technology parks are being built not only in Tashkent, but also in the regions. Rights holders who benefit from intellectual property are considered to be the driving force behind the sustainability of an effective legal protection system. The presence of such a force in Uzbekistan is not yet felt.

The next tenet in enforcing laws in the field of intellectual property is expressed in the postulate that “If your partner respects intellectual property, then you should respect him.” Today, advanced equipment and technologies, innovative investments are imported into Uzbekistan. In this area, effective cooperation has been established with companies from foreign countries. Naturally, a foreign investor will import new equipment and technologies only into a country with an effective system of intellectual property protection. This means that a partner from Uzbekistan of a foreign investor is obliged to harmonize his values with the values of the foreign partner. This is considered a special factor in strengthening the intellectual property protection system.

The “Respect is Fear” rule, as expressed in the famous cartoon, is seen as the next factor in enforcing intellectual property laws. Of course, for this to happen, serious and effective sanctions against offenders must be expressed in the Criminal Code, the Code of Administrative Responsibility, the Customs Code, the Tax Code and even in civil legislation. There is a need to define the various forms of piracy as an offense and develop appropriate qualifying criteria for each of them. Such sanctions should include the effective use of traditional criminal sanctions, along with confiscation of the

products of the offence, imposition of large fines, awards of compensation and damages. The most important thing is to ensure the inevitability of liability for an offense. However, unfortunately, no serious changes have been observed in this area, the existing liability measures established by law are practically not applied, and many offenses remain latent. It should be recognized that there is widespread neglect and inattention to the implementation of laws in this area, both among ordinary people and among law enforcement agencies.

The final tenet is “respects intellectual property rights when everyone respects those rights.” There is a certain convention involved. The Republic of Uzbekistan participates in a number of economic and political communities, in particular, it is a member of the Commonwealth of Independent States, the Shanghai Development and Cooperation Organization, the organization of Turkish-speaking states, has observer status of the EurAsEC, and intensive work is underway for admission to WTO membership. One of the conditions for WTO membership is accession to the TRIPS agreement on intellectual rights. This means compliance with intellectual rights with all partner states of the Republic of Uzbekistan, as well as business and non-business entities operating in these countries. In other words, when everyone around you respects and observes intellectual rights, you will involuntarily also respect and comply. Of course, not everyone is ideal in this, but this situation will become a reality in the future, and the Republic of Uzbekistan must be prepared for this state of affairs.

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