



Public Administration in the Field of Intellectual Property in The USA and The Republic of Uzbekistan

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ABSTRACT

This article provides a comparative analysis of public administration in the field of intellectual property of the United States of America and the Republic of Uzbekistan. For this purpose, first of all, the procedure of public administration on intellectual property in these countries has been disclosed and then a comparative analysis between them was provided

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Public Administration in Uzbekistan.

Starting from the public administration in Uzbekistan, firstly, it should be noted that in general, the field of intellectual property is new in the country, as special attention has been paid to it since about 2019. Consequently, we can say that the mechanism of public administration in Uzbekistan in this area is still quite young. Turning directly to the administration system, the main body in this mechanism is the Ministry of Justice of the Republic of Uzbekistan (hereinafter – the Ministry), which has a special department and offices that regulate issues related to intellectual property. The Ministry was transferred powers, functions and tasks on intellectual property issues in accordance with the Decree of the President of the Republic of Uzbekistan dated 17.03.2022 No. UP-89 “*On measures to further improve the efficiency of the activities of bodies and institutions of justice in ensuring the rights and freedoms of citizens, as well as in the provision of legal services*”.¹ Thus, the Ministry was entrusted with the tasks of developing a unified state policy in the field of intellectual property, as well as the protection and security of rights to objects of intellectual property. Thus, this Ministry is the main authorized body of state administration of the Republic of Uzbekistan, implementing a unified state policy in the field of intellectual property. Moreover, it is worth noting that it is also the representative body of Uzbekistan in all international organisations in the field of intellectual property, including the World Intellectual Property Organisation (WIPO).

Among the main tasks of the Ministry in the field of intellectual property are the following:

- state registration of objects of intellectual property;
- state expertise of the relevant intellectual property objects;

¹ Para. 1.

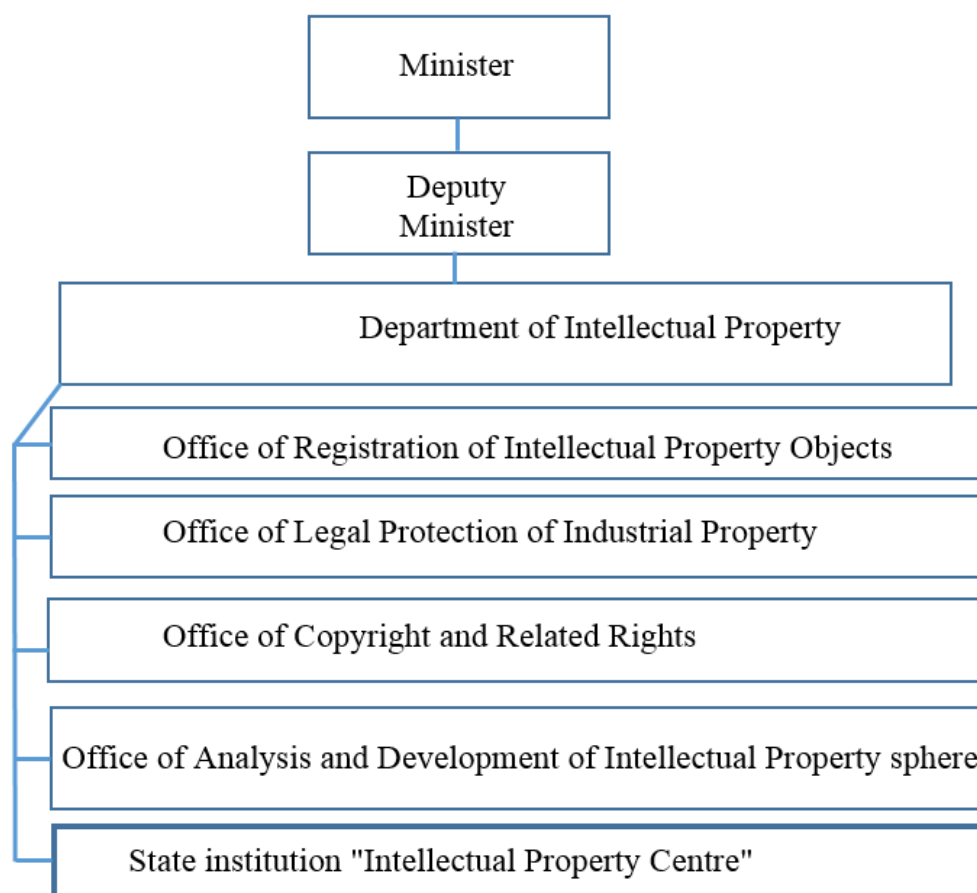
- registration of license agreements, as well as agreements on assignment of rights to use intellectual property objects;
- formation of a database of registered intellectual property objects, ensuring conditions for their preservation and use;
- authorized and publication of bulletins and other official publications in the field of intellectual property;
- attestation and registration of patent attorneys (also maintains the state register of patent attorneys);
- establishment of a uniform form of security and other necessary documents;
- elaboration of the main directions for the development of the field of intellectual property;
- study and analysis of compliance with legislation in the field of intellectual property, as well as taking measures to eliminate offences in this area;
- consideration of applications from individuals and legal entities on the issues of legal protection of intellectual property objects and protection of rights to intellectual property objects;
- imposition of fines on legal entities for intellectual property offences;
- monitoring the fulfilment of international obligations of Uzbekistan in the field of intellectual property;
- ensuring fulfilment of the depositary functions;
- Taking measures to maintain the reputation of Uzbekistan in the international arena.

Based on the above, we can determine that the Ministry is responsible for the development of the country's intellectual property policy, starting from the definition of the procedure for the protection and defence of intellectual property rights up to the compliance with international obligations in this field. In other words, this body is in charge of the whole spectrum of issues in the field of intellectual property.

In its turn, the Ministry includes certain structural subdivisions on intellectual property (the scheme of the central apparatus of the Ministry in this area can be seen in Table No. 1). The main one is the specially authorized state institution "Intellectual Property Centre" (hereinafter referred to as the Centre), which directly deals with the issue of registration of intellectual property objects, from the acceptance of the application to the publication of the official bulletin. Furthermore, in the structure of the central office of the Ministry, there are Department of Intellectual Property, Office of Registration of Intellectual Property Objects, Office of Legal Protection of Industrial Property, Office of Copyright and Related Rights and Office of Analysis and Development of Intellectual Property sphere. These offices coordinate the activities of the Centre on certain issues. For example, Office of Registration of Intellectual Property Objects oversees the Centre's activities related to the registration of intellectual property and the issuance of patents for them. The Department, in turn, is the main managing structural unit in the central office of the Ministry in the field of intellectual property, which is directly accountable to the Deputy Minister of Justice. Thus, it is possible to reveal the hierarchy in this structure.

Table No. 1

The structure of the central office of the Ministry of Justice of the Republic
of Uzbekistan



Furthermore, the Ministry has an Appeal Board, which is a pre-trial method of resolving disputes related to the legal protection of intellectual property objects, chaired by the Minister of Justice.² For example, if the Centre has not granted a patent for an invention and the person does not agree with this decision, he/she can file a complaint to the Board of Appeal within 3 months. If the decision of the Board is not satisfactory to the person, the person can file an application to the court (in particular, to the administrative courts) against the decision within 6 months from the date of its adoption.

It should also be noted that other government agencies and institutions are obliged to detect infringements and monitor the observance of intellectual property rights in the course of their activities. For example, *the State Customs Committee* should send a notification on revealing a violation of the requirements of the legislation on trademarks owned by right holders, as well as conduct propaganda work among participants in foreign economic activity on the observance of intellectual property rights. In addition, *the Agency for Technical Regulation* is obliged to observe intellectual property rights in the process of product certification, issuance of certificates and conformity marks; and *the Agency for the Development of the Pharmaceutical Industry* is obliged to observe intellectual property rights in the process of state registration of medicines, medical devices and medical equipment.³

The Ministry in order to effectively detect violations of intellectual property law may also cooperate with a number of other government agencies, such as: the Antimonopoly Committee, the Department for Combating

² Para. 33 of the Decree of the President of the Republic of Uzbekistan “On measures to further improve the efficiency of the activities of justice authorities and institutions in ensuring the rights and freedoms of citizens, as well as in the provision of legal services” dated 17.03.2022 No. DP-89.

³ Para. 2 of the Resolution of the President of the Republic of Uzbekistan “On additional measures for further development of the intellectual property sphere” dated 26.04.2022 No. RP-221.

Economic Crimes under the General Prosecutor's Office, the Ministry of Internal Affairs and the Ministry for the Development of Information Technology and Communications.

Public administration in the United States

Starting with public administration in the US, it should be noted that the US intellectual property system is one of the first and well-developed in the world, and therefore has its own peculiarities. One of them is that in the USA, intellectual property matters are under the jurisdiction of two authorities based on objects: 1) Patent and Trademark Office 2) US Copyright Office.

The United States Patent and Trademark Office (hereinafter – the Office) is part of the U.S. Department of Commerce and deals with the issuance of patents, registration of trademarks and other intellectual property objects. Briefly, the main functions of the Office include:

- examination of applications to register and obtaining patents for intellectual property objects;
- registration of these objects;
- examination of appeals relating to patents and trademarks;
- examination of the subject matter;
- administration of the laws relating to patents and trademarks;
- advising the Secretary of Commerce, the President of the United States and his administration on patent, trademark and copyright matters;
- advising on trade-related aspects of intellectual property;
- and others.

Under US law, the Office grants patents for inventions, industrial designs, and plants (breeding achievements), and issues certificates of registration for trademarks, geographical indications, and etc. The Office has two appeal boards:

- Patent Trial and Appeal Board, which handles appeals relating to patents;
- Trademark Trial and Appeal Board, which handles appeals against applications for registration of trademarks, appeals against exclusion or re-examination proceedings against registrations, and court proceedings of various kinds relating to applications or registrations.

If the appellant is not satisfied with the decision of the Board, he/she may appeal to the competent judicial authority.

The United States Copyright Office (hereinafter – the Office), which deals exclusively with copyright matters, is a structural unit of the Library of Congress, that is part of the legislative branch of government.

The Office's responsibilities include:

- examining applications for registration of original works;
- examining renewals of copyright claims;
- registering copyrighted works (including keeping a record of them);
- publishing the Copyright Catalogue;
- advising and assisting the Congress in the development of national and international copyright policy;
- participating in the drafting of laws and preparing technical studies on copyright issues related to the laws; and etc.

The Office can register copyrighted works such as literary works, music, photographs, computer programs, works of art, etc. The Office also has a dispute resolution body, the Copyright Board. The dispute resolution procedure is similar to that of the Office's Boards of Appeal, i.e. the decision of the Board can be appealed to the courts.

Comparative analysis

Moving directly to the comparative analysis, the main difference between the two countries' IP administration systems is the competent authorities of these countries. Although in Uzbekistan intellectual property issues are dealt with by a single body – the Ministry of Justice, represented by the Centre for Intellectual Property, in the USA there are two competent bodies – the Patent and Trademark Office and the Copyright Office, which belong to different branches of the government. On this basis, it can be noted that in the United States, differently from Uzbekistan, the issues of protection and defence of intellectual property objects are under the jurisdiction not only of the executive, but also of the legislative branch. This is because, as noted above, in

Uzbekistan the executive branch (the Ministry of Justice) is responsible for the protection and defence of objects, while in the United States – the Patent and Trademark Office, which is part of the executive branch (namely, the U.S. Department of Commerce) and the Copyright Office, which in turn operates under the Library of Congress (in other words, under the U.S. Parliament).

However, this separation does not affect or differentiate intellectual property in any way. In both countries, in order to obtain protection for an invention, utility model or industrial design, it is necessary to obtain a patent.⁴ The same applies to trademarks, trade names, appellations of origin (AOI) and geographical indications (GI), which must be registered to be protected.⁵ However, there is a slight difference in the case of copyright: under Uzbek law, the protection of copyright objects begins at the moment of their creation, and the registration procedure is not provided for at all.⁶ In the United States, on the other hand, protection also begins from the moment of creation, but there is also a procedure of registration of the object in the Copyright Office, which gives additional rights (opportunities) to the author, namely, if the author does not apply for registration, he will not be able to defend his rights in court. Thus, it can be said that copyright in both countries gives the author the same rights, but in the USA, unlike in Uzbekistan, the author must go through the registration procedure to enjoy all rights.

It can be said that the mechanisms for resolving intellectual property disputes are similar in both countries, as both provide for a method of pre-trial resolution of disputes through appeal boards. However, there are differences in the liability measures in these countries. For example, Uzbekistan provides for penalties in the form of a fine, deprivation of a right, compulsory community service or correctional labour. The US legislation, on the other hand, provides for penalties up to imprisonment (up to a maximum of 10 years).⁷ This factor underlines the extent to which the intellectual property law is embedded in the public legal consciousness of the US population, so that its violation is considered a rather serious offence.

Thus, we can conclude that, despite the fact that intellectual property law, including public administration in this area, is quite young in Uzbekistan, it is at a stage of development. Many parallels can be drawn with the public administration of the United States, which is currently one of the best developed in the world.

⁴ Article 5 of the Law of the Republic of Uzbekistan “On inventions, utility models and industrial designs” dated 29.08.2002 No. 397-II; 35 U.S. Code § 101 - Inventions patentable.

⁵ Article 4 of the Law of the Republic of Uzbekistan “On trademarks, service marks and names of place of origin of goods” dated 30.08.2001 No. 267-II; 17 U.S. Code § 408 - Copyright registration in general.

⁶ Article 10 of the Law of the Republic of Uzbekistan “On copyright and related rights” dated 20.07.2006 No. ZRU-42.

⁷ 18 U.S. Code § 2319 - Criminal infringement of a copyright.

List Of Reference

1. Law of the Republic of Uzbekistan “On inventions, utility models and industrial designs” dated 29.08.2002 No. 397-II.
2. Law of the Republic of Uzbekistan “On trademarks, service marks and names of place of origin of goods” dated 30.08.2001 No. 267-II.
3. Law of the Republic of Uzbekistan “On copyright and related rights” dated 20.07.2006 No. ZRU-42.
4. Decree of the President of the Republic of Uzbekistan “On measures to further improve the efficiency of the activities of justice authorities and institutions in ensuring the rights and freedoms of citizens, as well as in the provision of legal services” dated 17.03.2022 No. DP-89.
5. Resolution of the President of the Republic of Uzbekistan “On additional measures for further development of the intellectual property sphere” dated 26.04.2022 No. RP-221.
6. 35 U.S. Code - Inventions patentable.
7. 17 U.S. Code - Copyright registration in general.
8. 18 U.S. Code - Criminal infringement of a copyright.