



## THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN CYBERSPACE

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**Abstract:** This article examines the importance of online IP protection, focusing on Uzbekistan's legal framework, international agreements, and foreign practices. Through comparative analysis, it highlights gaps in legislation and proposes practical improvements. The study offers insights into legal complexities and emphasizes the need for stronger digital rights protection, contributing to global discussions on intellectual property in the digital age.

**Key words:** Intellectual property rights, cyberspace, online protection, legislation, international agreements, digital piracy, copyright infringement, internet regulation, transnational challenges and jurisdiction.

**Аннотация:** В этой статье рассматривается важность защиты интеллектуальной собственности в Интернете с акцентом на законодательную базу Узбекистана, международные соглашения и зарубежную практику. На основе сравнительного анализа выявляются пробелы в законодательстве и предлагаются практические улучшения. Исследование дает представление о юридических сложностях и подчеркивает необходимость усиления защиты цифровых прав, способствуя глобальным дискуссиям об интеллектуальной собственности в цифровую эпоху.

**Ключевые слова:** Права интеллектуальной собственности, киберпространство, онлайн-защита, законодательство, международные



соглашения, цифровое пиратство, нарушение авторских прав, регулирование Интернета, транснациональные проблемы и юрисдикция.

**Annotatsiya:** Ushbu maqolada O'zbekistonning Qonunchilik bazasi, xalqaro shartnomalar va xorijiy amaliyotga e'tibor qaratgan holda intellektual mulkni onlayn himoya qilishning ahamiyati ko'rib chiqiladi. Qiyosiy tahlil asosida qonunchilikdagi bo'shliqlar aniqlanadi va amaliy yaxshilanishlar taklif etiladi. Tadqiqot huquqiy murakkabliklar haqida tushuncha beradi va raqamli asrda intellektual mulk bo'yicha global munozaralarga hissa qo'shish orqali raqamli huquqlarni himoya qilishni kuchaytirish zarurligini ta'kidlaydi.

**Kalit so'zlar:** intellektual mulk huquqlari, kiberhujum, onlayn himoya, Qonunchilik, xalqaro shartnomalar, raqamli qaroqchilik, mualliflik huquqining buzilishi, Internetni tartibga solish, transmilliy muammolar va yurisdiksiya.

In today's technological advanced world, the internet has become an integral part of daily life for millions worldwide, including a significant portion of Uzbekistan's population. At the beginning of 2021, about 4.66 billion people were users of the global network, which is 59.5% of the total population of the planet. <sup>1</sup> This is not surprising; internet gives us access to a vast amount of information and allows us to communicate easily with people worldwide. However, there are downsides too, particularly concerning the protection of intellectual property rights. In this context, individuals and entities often find their intellectual property rights infringed upon through various online means, such as plagiarism, content theft, and cybersquatting. These violations not only entail financial repercussions but also pose a threat to one's professional reputation and creative integrity. Compounding the issue is the transnational nature of cybercrime



and the inadequacy of national legal frameworks to address emerging digital threats effectively. Although these crimes are not common for Uzbek people due to lack of awareness, crimes are increasing significantly in recent years. Whereas, it is hard to protect intellectual property rights in the real world - outside from cyberspace. In the cyber world, cybercrimes arises tough challenges to safeguard intellectual property rights in cyberspace because the unique characteristics of cyberspace present distinct challenges to the enforcement of these rights. Issues digital piracy, online counterfeiting, and unauthorized use of copyrighted material have proliferated, posing significant threats to creators, innovators, and rights holders.

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In the context of Uzbekistan, the protecting intellectual property rights in cyberspace has become increasingly important in recent years. The protection of intellectual rights is established within the legal framework of Uzbekistan, including provisions within the Uzbekistan Civil Code, law of republic Uzbekistan on copyright and related rights and various other regulations. However, can these legislative measures serve as the foundation for safeguarding intellectual property rights in the digital realm and beyond? The article aims to explore the landscape of intellectual property rights protection in Uzbekistan, focusing on key legal frameworks such as the civil code and the law on Copyrights and Related Rights. Additionally, we will examine foreign experiences and international agreements relevant to intellectual property rights. By analyzing these regulations, experiences, and agreements along with their implications, we seek to understand the extent to which intellectual property rights are safeguarded in Uzbekistan's evolving digital landscape. Through this comprehensive examination, we aim to identify areas for improvement and propose recommendations to enhance the protection of intellectual property rights in Uzbekistan.



## **Methods**

The constitution of Uzbekistan article 53 says that everyone shall be guaranteed the freedom of scientific, technical and artistic creativity, the right to enjoy the achievements of culture. Law shall protect intellectual property. The state shall take care of the cultural, scientific and technical development of society. One key component of the Uzbekistan republic settlement is the Uzbekistan Civil Code, which provides the foundational legal framework for intellectual property rights protection. The IV – department of Civil code reflected intellectual property rights' rules. The article 1031 of the Civil Code identifies three primary types of objects subject to intellectual property rights:

1. **Results of Intellectual Activity:** This category encompasses creations resulting from human intellect, including inventions, literary and artistic works, scientific discoveries, and industrial designs.

2. **Manifestations Reflecting the Private Characteristics of Transaction Participants:** These include goods, works, and services that reflect the personal characteristics or attributes of individuals involved in physical transactions. Examples may include personalized products, customized services, or bespoke artworks.

3. **Other Results of Intellectual Activity and Means Reflecting Private Signs of Transaction Participants:** In cases specified by the Code or other laws, this category covers additional results of intellectual activity and means reflecting private signs of participants in civil transactions, goods, and services. This may include trademarks, trade names, logos, slogans, and other distinctive signs used to identify and distinguish products or services in commerce.

Within the Civil Code, provisions related to copyright, trademarks, patents, and other forms of intellectual property rights establish the legal basis for protecting creative works, inventions, and proprietary assets in cyberspace. Furthermore, the



law of the Republic of Uzbekistan on Copyright and Related Rights received on March 23 in 2006 plays a crucial role in safeguarding intellectual copyright and related rights. This law outlines the rights and responsibilities of creators, rights holders, and users of copyrighted works, providing mechanisms for enforcement and dispute resolution in cases of infringement. This law is crucial for application in the digital realm, as many cybercrimes center on copyright infringement. Activities like plagiarism, piracy, counterfeiting, and more commonly occur online. The penalties for violating copyright and related rights are outlined in administrative law. Article 177, paragraph 1, specifies the punishment for such infringements. Additionally, penalties for violations of laws concerning new models, inventions, and industrial samples are addressed in administrative law under Article 178<sup>4</sup>. There is also criminal punishment for infringement of copyrights and invention rights. In the Criminal Code, Article 149 specifies the penalties for violating copyright and invention rights.<sup>5</sup>

## **Results**

In the rapidly evolving landscape of the cyber world, the protection of intellectual property rights (IPRs) has become a paramount concern, necessitating international cooperation and harmonization of legal frameworks. At the forefront of this endeavor are various international conventions, treaties, and agreements dedicated to safeguarding intellectual property in cyberspace. The Berne Convention of 1886 stands as a cornerstone in this domain, extending protection to literary and artistic works worldwide, with tailored provisions to accommodate the needs of developing nations.<sup>6</sup> Complementing this, the Madrid Agreement of 1891 simplifies the international registration of trademarks, while the Hague Agreement of 1925 facilitates the registration of international designs, streamlining the process for design owners. The Rome Convention of 1961 further strengthens protections



by covering creative works and physical indicators of intellectual property, allowing for domestic implementation by member countries. Meanwhile, the Patent Cooperation Treaty of 1970 simplifies the patent application process across multiple jurisdictions, ensuring streamlined protection for inventors on a global scale. Importantly, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1994 serves as a comprehensive multilateral agreement, setting minimum standards for intellectual property protection and covering a wide range of rights, including copyrights and related rights. In the digital era, the World Intellectual Property Organization Copyright Treaty and the World Intellectual Property Organization Performances and Phonograms Treaty of 1996 address emerging digital copyright issues, ensuring the rights of creators and performers in the digital environment. Finally, the Uniform Domain Name Dispute Resolution Policy of 1999 provides a mechanism for resolving conflicts related to internet domain names, mitigating issues such as cybersquatting and trademark infringement. Collectively, these international agreements constitute a robust framework for protecting intellectual property rights in the cyber world, fostering global cooperation and innovation while safeguarding the rights of creators and innovators alike. Uzbekistan is participant in several key international agreements such as Berne convention for protection of literary and artistic works, WIPO copyright treaty and WIPO performances and phonograms treaty. These agreements have a profound impact on intellectual property rights domestically within Uzbekistan.

WIPO (World Intellectual Property Organization) plays a central role in shaping global standards for copyright protection in cyberspace. WIPO, the World Intellectual Property Organization, is a specialized agency of the United Nations dedicated to promoting the protection of intellectual property (IP) worldwide. Established in 1967, WIPO serves as a global forum for cooperation, policy



development, and capacity building in the field of intellectual property. Administering the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonogram Treaty (WPPT), also known as the "Internet Treaties," WIPO sets international norms to prevent unauthorized access and use of creative works on the internet.

The WCT protects authors of literary and artistic works, while the WPPT safeguards the rights of performers and producers of phonograms. These treaties update and complement existing WIPO agreements to address challenges posed by digital technologies. Given that previous conventions like the Berne and Rome Conventions were established decades ago, the WCT and WPPT respond to evolving markets and dissemination methods, particularly the internet's role in sharing copyrighted material. As a result, they are often dubbed the "Internet treaties." WIPO's aim is to ensure that copyright protections remain relevant and effective in the digital age.

### **Foreign experiences**

Learning from how other countries handle protecting intellectual property rights (IPRs) in cyberspace can help Uzbekistan improve its own strategies. Several nations have effective approaches in this area.

The U.S. has strong laws like the Digital Millennium Copyright Act (DMCA) to tackle online copyright infringement. They also have the U.S. Patent and Trademark Office (USPTO) to assist rights holders in protecting their IP online. The EU has directives like the EU Copyright Directive and the General Data Protection Regulation (GDPR) to safeguard IP rights and personal data online. These rules make online platforms responsible for preventing copyright infringement and protecting user data. Japan has strict enforcement measures against online piracy. They have special agencies to enforce intellectual property laws and work closely with industry stakeholders to combat digital piracy



effectively. India has implemented the Information Technology Act, 2000, which provides safeguards for online intermediaries against liability for third-party content. Additionally, they have introduced the Information Technology (Intermediaries Guidelines) Rules 2021 to ensure intermediaries follow diligent practices to be exempt from liability.

When comparing foreign experiences with the situation in Uzbekistan, there are differences and similarities. While some countries have strong legal frameworks and enforcement, Uzbekistan may still be developing its laws and capabilities. Cultural, economic, and technological factors may also affect strategies' effectiveness.

### **Discussion**

Jurisdictional issues in cyberspace make it tricky to protect intellectual property (IP) rights. Since the internet has no borders, IP disputes can involve many countries, making it hard to decide which court should handle a case. Countries can make laws to prosecute crimes that affect them, even if they happened outside their borders. Courts can also use international law to prosecute cybercriminals, even if they are in another country. Jurisdictional issues in cyberspace make it tricky to protect intellectual property (IP) rights. Since the internet has no borders, IP disputes can involve many countries, making it hard to decide which court should handle a case. Countries can make laws to prosecute crimes that affect them, even if they happened outside their borders. Courts can also use international law to prosecute cybercriminals, even if they are in another country. There are different legal ideas to handle these problems. For example, the Minimum Contacts Test looks at whether the people involved in a case have connections to the state where the court is. The Effects Test looks at where the harm from a cybercrime is felt. In addition, the Sliding Scale Test looks at whether there are commercial interactions



over the internet that involve people outside the court's jurisdiction. However, even with these ideas, it is still tough to figure out who should handle IP disputes in cyberspace. Technology keeps changing, and it is not always clear where a crime happened or which laws should apply. To deal with these challenges, countries might use different legal principles. They might consider where the harm from a crime is felt or whether the people involved have connections to a certain jurisdiction. In short, dealing with jurisdictional issues in cyberspace means understanding legal rules, technology, and working together internationally.

In conclusion, safeguarding intellectual property rights in Uzbekistan's digital landscape is crucial amid technological advancements. However, challenges arise due to cyberspace's borderless nature and digital formats. To protect these rights, individuals, organizations, and the government must work together. Using strong passwords and antivirus software can help reduce risks. Resolving disputes outside of court, such as through takedown notices, can be quicker. Collaboration among various stakeholders is key to strengthening Uzbekistan's digital environment and promoting innovation and economic development.

Protecting intellectual property rights in the digital world requires action from both the government and the public. The government needs to make new rules and strengthen existing laws against cybercrimes that steal intellectual property. They also need to enforce these laws better. Since cybercrimes often cross borders, international cooperation is essential. People also need to be educated about preventing these kinds of cybercrimes. They must understand the risks involved and stay updated. By being aware and informed, individuals can help avoid unintentional violations of intellectual property rights online.



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