

IMPROVING LEGAL MEASURES TO COMBAT TRADEMARK INFRINGEMENT IN THE REPUBLIC OF UZBEKISTAN

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In recent years, the pace of economic growth and foreign investment in the Republic of Uzbekistan has been rapidly increasing. From this perspective, the protection of intellectual property—particularly trademarks—has become a crucial factor in ensuring a fair competitive environment and safeguarding business interests.

Effective protection of trademarks contributes to the creation of a favorable business climate, as it is essential for local producers to be confident that their marks are shielded from unfair competition.

The famous trademarks of foreign companies are often evaluated as intangible assets that are several times more valuable than their tangible assets. For instance, in 2024, the Apple trademark was valued at USD 574.5 billion, Microsoft at USD 461.1 billion, and Google at USD 413 billion.¹

This trend, however, provides opportunities for unscrupulous entrepreneurs to engage in illegal use of trademarks, which in turn compels state authorities to introduce new mechanisms to combat such infringements.

Customs authorities play a vital role in monitoring counterfeit and parallel imports that may harm the rights of intellectual property holders. Examining the specific characteristics of trademark protection in import-export operations is crucial for maintaining border law and order, protecting local and international brands, complying with international obligations, and promoting foreign trade development.

The early detection of trademark infringements and the inevitability of liability for violations remain key factors in ensuring stable business development at both the national and international levels. Although Uzbekistan has developed a certain legal framework in this field, the issues of law enforcement in trademark protection remain complex. The implementation of liability measures for such infringements requires further study, as the absence of effective punitive mechanisms may foster unfair competition and undermine the rule of law in the field of intellectual property.²

¹ <https://www.finam.ru/publications/item/apple-priznali-samym-dorogim-brendom-v-mire-20250121-1534>.

² Ionicheva, Valentina. Intellectual Property: The Customs Aspect [Electronic resource]. URL: <http://www.tks.ru> (accessed: 10 August 2024)

As small and medium-sized businesses expand in Uzbekistan, both the creation and the unlawful use of trademarks—one of the types of intellectual property—have increased year by year.

Specifically, 394 violations were identified in 2021, 1215 in 2022, 886 in 2023, and 1556 in 2024.³

In recent years, customs officers have uncovered several violations involving the importation of “DDS28u” and “DDS28M” electric meters into Uzbekistan through routes not subject to customs control, accompanied by documentation falsely certifying them as domestically manufactured.⁴

However, these cases were not detected directly during customs control but rather after the goods had entered the national territory, through operational investigations conducted in cooperation with other law enforcement agencies.

Currently, customs authorities mainly identify counterfeit goods within domestic markets and deal with the consequences of such infringements rather than preventing them, thus limiting their preventive effectiveness.

Liability for violating trademark legislation is stipulated in the Code of Administrative Liability of the Republic of Uzbekistan and the Law “On Trademarks, Service Marks, and Appellations of Origin of Goods.”

Article 177 of the Code of Administrative Liability provides that the unlawful use of another’s trademark, service mark, or appellation of origin—or any sign confusingly similar thereto—for goods or services of the same type, or the unlawful use of another’s firm name, shall result in a fine ranging from fifteen to thirty base calculation units for individuals. If such an offense is repeated within one year after an administrative penalty, the offender shall be fined between thirty and fifty base units, with confiscation of the infringing goods.⁵

In practice, however, this provision is rarely applied by the courts. The main reason lies in the lack of legal authority for customs bodies to seize or inventory goods bearing infringing trademarks.

Chapter 56 of the Customs Code of the Republic of Uzbekistan sets forth provisions on the protection of intellectual property rights. Under these provisions, customs authorities may take temporary restrictive measures based on the right holder’s application, but they cannot, on their own initiative, identify trademark infringements or prepare procedural documents to submit to court. Only the trademark owner may file a claim in court.

³ Report of the Intellectual Property Department of the Ministry of Justice of the Republic of Uzbekistan, dated January 5, 2024.

⁴ As a result of inspections, it was established that this type of electric meter is manufactured by the joint venture “Elektr Hisoblagich” located in Tashkent; however, the seized goods did not belong to this enterprise. It was also revealed that the confiscated electric meters, bearing the inscription “Tashkent Electric Meter Plant” in Uzbek, were being imported from the People’s Republic of China.

⁵ <https://www.lex.uz/acts/97664>

It is important to emphasize that customs authorities are not empowered to determine that a trademark right has been violated; such competence belongs exclusively to the courts. Customs agencies may only temporarily suspend the release of goods from customs control areas as a protective measure.

Furthermore, according to Article 245 of the Code of Administrative Liability, criminal courts are authorized to hear administrative cases related to trademark infringements under Article 177 of the same Code.

According to Article 262 of the Code of Administrative Liability, customs authorities are competent to consider administrative offenses provided for in Articles 227, 227¹, 227², 227³, part five of Article 227⁴, as well as Articles 227⁵, 227⁶, 227⁷, 227¹⁰, 227¹¹, and 227¹² of the Code. It is also stipulated that the heads and deputy heads of customs authorities are entitled, on behalf of the customs service, to review cases concerning such administrative offenses and impose administrative penalties in the form of fines.

Although Chapter 56 of the Customs Code assigns customs bodies the authority to protect intellectual property rights, Articles 177–177² of the Code of Administrative Liability do not grant them the power to prepare administrative offense reports for such cases.

Due to these legal inconsistencies, customs authorities currently lack the authority to draw up official reports and confiscate goods imported in violation of trademark rights under Article 177 of the Code of Administrative Liability. Consequently, courts also cannot issue rulings on the confiscation of counterfeit products under this provision.

Supporting the idea of granting administrative authority to specialized bodies, Professor Graeme Dinwoodie (University of Oxford) notes: “Delegating administrative powers to an intellectual property agency strengthens the fight against infringements and enables swift enforcement action.”⁶

Based on international experience and academic opinion, it would therefore be appropriate to amend **Article 262 of the Code of Administrative Liability of the Republic of Uzbekistan to include Articles 177–177²** among the cases falling within the competence of customs authorities.

Granting customs authorities the power to prepare administrative offense reports in cases of trademark infringement would enhance the effectiveness of enforcement mechanisms and improve the protection of trademark owners’ rights. As a result, trademark protection in Uzbekistan would become more efficient and aligned with international standards.

In conclusion, it can be stated that effective protection of trademarks—a key form of intellectual property—requires aligning liability measures for infringements with international

⁶ Dinwoodie, G. Developing Defenses in Trademark Law / G. Dinwoodie // Lewis & Clark Law Review. - 2009. - Vol. 13, No. 1. - P. 99-153.

standards and best practices. Moreover, expanding the powers of state bodies authorized to identify such violations, and strengthening the judicial experience in line with contemporary demands, are crucial for ensuring robust trademark protection in Uzbekistan.

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