Protection of intellectual rights in the international context: problems and prospects

Tatarinova Lola Furkatovna¹, Yessen Zhansaya Kanatkyzy²

¹ Candidate of Legal Sciences, Associate Professor; University of International Business; Republic of Kazakhstan
² 2nd year master's student; University of International Business; Republic of Kazakhstan

Abstract.
This article is devoted to the analysis of the problems of intellectual property rights protection in an international context and the study of the prospects for the development of this field. The article examines the main problems faced by copyright holders in international relations, as well as suggests ways to solve them. The author also reviewed existing international agreements such as WIPO and TRIPS, identifying their positive aspects, but also pointing out the problems that arise in their application. As a result of the study, ways to improve international intellectual property rights protection were proposed, including closer cooperation between countries, the development of a single international standard and the improvement of dispute resolution mechanisms.

Keywords:
intellectual property rights
international law
protection of copyright holders
problems
prospects
Introduction. In the modern world, the protection of intellectual property rights in an international context is a key aspect of ensuring innovative development and protection of creative potential.

The institute of intellectual property, which arose quite recently in the domestic legal system, has been used in world practice for more than two hundred years. During this time, it has shown its viability, and today few people have doubts about the legitimacy of its existence as such. Despite the use of the word «property» in the name, this institution does not fit into the classical triad of «possession - use - disposal», although intellectual property objects - the so-called intellectual product - acts in civil circulation as a special kind of product.

The term «intellectual property rights» (IP) is not new, it was coined back in 1879 by the Belgian lawyer E. Picard. According to his theory, intellectual property rights were considered rights outside the classical triad of property, obligation and personal rights adopted in Roman law. Any intellectual property right relates to the author's intention, and not to the material realization of this idea. According to the figurative expression of the author, real rights presuppose a material object and property, while intellectual rights are a mental object and exclusivity. The efforts of E. Picard's efforts were aimed at exposing the proprietary theory that identified material objects with ideal objects, extending the regime of property rights to the latter [1].

Today, IP is the basis of economic development and the main driving force of trans nationalization and internationalization. It is precisely because of the importance of this institution that the issue of IP protection at the legislative level becomes more acute every year.

Historically, the territorial nature of intellectual property law has become an integral feature and the main problem in all senses of the word. At the same time, creative activity could not be limited to territorial limits, which led to the emergence of such a special sphere of international cooperation between states as international cultural cooperation, and the principle of freedom of creativity entered the system of principles of the latter. However, the
The complexity of this task is due to differences in the legislation of different countries, insufficient effectiveness of international mechanisms and inconsistency of State actions. In this regard, the analysis of current problems and prospects for the development of intellectual property rights protection at the international level becomes relevant [2].

**Materials and methods.** The research used data on legal acts and international agreements related to the protection of intellectual property rights, as well as an analysis of judicial practice and scientific publications.

The main provisions. The main problems in the field of intellectual property rights protection in the international context are differences in the legislation of different countries, weak effectiveness of international agreements and insufficient coordination of actions between States. It is important to develop common standards and protection mechanisms that would be applicable to all countries.

**Literature review.** According to the research, there are several international agreements aimed at protecting intellectual property rights, such as the World Intellectual Property Organization (WIPO) and the Agreement on Trade in Aspects of Intellectual Property Rights (TRIPS). However, these agreements do not always function effectively due to differences in the interpretation and application of their provisions by different countries [3].

The urgency of the problems of international legal protection of intellectual property through the conclusion and execution of various international agreements, as well as Russia’s accession to the Berne Convention for the Protection of Literary and Artistic Works explains the increased interest in the topic chosen for research: It has received coverage in the works of such authors as B.S. Antimonov, M.M. Boguslavsky, E.P. Gavrilov, M.V. Gordon, Yu.G. Matveev, V.I. Serebrovsky, E.A. Fleishits, and others [4, 5].

A prerequisite for effective international cultural cooperation is the real protection of the rights of authors of scientific, literary and artistic works. The defining role in the international protection and protection of intellectual property rights belongs to multilateral
international agreements - Conventions, a brief overview of which was made above. The Berne Convention, in comparison with the World Convention, is characterized by a large number of subjective rights and material norms in general; the World Convention is of a compromise nature and, according to many researchers, is more «flexible». Both documents contain conflict of laws, administrative and partly substantive rules, but the issue of direct protection of international copyrights rests with the national legislation of the participating countries.

Serious steps in this direction have been taken in Russian legislation: the state has stopped considering copyright only as a means of protecting its cultural heritage from unjustified use by the capitalist West, having secured intellectual property rights constitutionally and adopted a number of progressive laws, and their effect, in accordance with the principle of freedom of creativity, which in itself knows no state borders, It now applies to all individuals (including foreign citizens) located on the territory of the Republic of Kazakhstan, or located in a foreign state, if the Republic of Kazakhstan has contractual relations with this state on the recognition of copyrights.

The main problem of international legal protection of intellectual property, which, in our opinion, has not yet been adequately resolved in domestic legislation, is the lack of effective and strict public law mechanisms for the prevention and suppression of offenses in the field of intellectual property. In this paper, an attempt is made to develop some of the most general recommendations, taking into account the successful experience of a number of foreign countries, but this problem requires a separate study.

Along with multilateral conventions and domestic legislation of States, bilateral international agreements play an important role in international copyright protection, which are ultimately extremely beneficial both for the contracting States and for the authors of works. As already noted, participation in international conventions does not prevent a country from signing bilateral treaties. A civilized State that cares about the interests of its authors and readers should make extensive use of the practice of such
agreements. Unfortunately, at the moment, in our opinion, not enough attention is paid to the problems of bilateral international treaties in the legal literature.

In general, the system of international copyright protection continues to develop, in connection with which it is possible to hope for the addition of the texts of multilateral conventions and the conclusion of new bilateral agreements, as well as for further improvement of the domestic legislation of States, thanks to which existing shortcomings would be eliminated.

This can be done in stages – first, the adoption of new bilateral and regional agreements, then the revision of the main multilateral conventions.

Thus, the text of the Berne and, in particular, the World Convention should include a more precise list of objects of conventional protection, corresponding to the level of modern achievements of social and technological progress, and definitions of the author and other subjects of copyright that are still missing in them, which are granted conventional protection, and in the World Convention, in addition, and provisions on the non-property rights of authors.

In the context of increasing integration processes, most pronounced in Europe, it is natural to expect unification of the legal protection of copyright and related rights, and, consequently, an increase in the content of substantive legal norms in the mentioned conventions, the accession of new members to them, or even the emergence of a new multilateral international agreement on the protection of copyright and related rights, which would really become worldwide.

Results and discussion. The study identified the main problems of intellectual property rights protection in the international context, such as difficulties in applying national legislation in other countries, differences in understanding and interpretation of international agreements, and insufficient effectiveness of dispute resolution mechanisms.

Every year, the IP market is only increasing its volume, outpacing the «material» markets in terms of growth rates. Today, it is he who determines the level of influence and development of a particular country. According to economists,
the main trends for the next 20 years can be considered as the following:

- The shift of innovation activity to Asian countries, which is directly related to the cost of R&D within the country. Due to the huge costs, in 2018 the number of patent applications from China and Japan in the international patent system is rapidly catching up with the leading position of the United States (Fig. 1).

![Top 10 countries of the international patent system according to WIPO statistics](image)

It should also be noted that in 2018, about 253 thousand international applications were submitted through this system, which is 3.9% more than in 2023, and, moreover, is the ninth year of continuous growth of this indicator [6].
- The rejection of high standards and total protection of individual entrepreneurs in favor of optimal regulation that can meet the interests of the national economy.

- The transition from the proprietary paradigm to the paradigm of constraints. The protection of IP rights has gone through a period of absoluteness and the next stage should be a trend towards limitation. The total control applied to intellectual property products was based on a person's attitude to material property, which was fundamentally wrong and only limited the possibilities of distributing know-how.

- The tendency towards differentiation, which consists in an individual approach of legislation to each object of IP, since different areas of exclusive law require a different approach.

- The tendency to move from national legislation on the protection of intellectual property rights to international legislation, which will reduce the number of disagreements and differences in the laws of different countries and simplify the regime of the IP market.

Summing up all the above, I would like to note that the formation of a legal framework in the field of intellectual property rights protection is an essential condition for the development of the world economy. Due to the fact that the third technological revolution is of an information technology nature, the development of potential in the field of cybernetics and innovation entails the need to develop a legal system and regulate relations between subjects not only at the national but also at the global level. The rapid development of the innovation sector requires the formation of a flexible regulatory system capable of adapting to the individual characteristics of emerging relationships and contributing to the effective development and dissemination of know-how.

**Conclusion.** Thus, the protection of intellectual property rights in an international context plays a key role in promoting innovative development, protecting creative potential and stimulating economic growth. Despite the difficulties and challenges faced by countries and organizations in this area, it is important to continue efforts to improve the system of intellectual property
Cooperation between countries, the development of mechanisms for the exchange of information and experience, as well as raising public awareness of the importance of intellectual property rights protection are important steps towards improving the effectiveness of intellectual property rights protection. Only through joint efforts and a global approach can we ensure the sustainable development of innovation, create a favorable environment for creativity and intellectual growth, and protect the interests of copyright holders around the world.

References: