

## Copyright Protection in Uzbekistan by The Collective Management Organizations

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**Abstract:** What do you think is the level of copyright enforcement, ie. works of literature, art and fine arts, in our country? Are copyright works used with the consent of the author or other rightholder? Unfortunately, many of these questions today may seem like an unanswerable or "supernatural" question today. Yes, although the Law of the Republic of Uzbekistan "On Copyright and Related Rights" determines the scope of rights of the author or right holder. There are even rules for paying for personal use of copyright works. According to Article No 1056 of the Civil Code of the Republic of Uzbekistan, the author has the exclusive right to use the work in any form and in any way. According to this code, the owner of property rights in relation to the result of intellectual activity has the full right to use this object of intellectual property in any form and in any way at his discretion.

**Key words:** management, copyright works, educational institutions.

Most importantly, today the copyright objects are play an important role in the economy of developed foreign countries. In particular, in 2019, the share of the copyright industry in the US GDP will reach 2.5 trillion (2,568.23 billion) US dollars, which will be 11.99% of the country's economy. (source: <https://www.iipa.org/files/uploads/2020/12/2020-IIPA-Report-FINAL-web.pdf>)

Should be noted that in order to increase the share of copyright in the economic indicators of the country, first of all, it is necessary to ensure its legal protection. It should be recognized that the demand for copyright works of Uzbek authors and right holders are much higher in Central Asia. I think the time has come to apply the rules and mechanisms of copyright and economics to these processes. This is due to the fact that our regulations in this area fully comply with the requirements of international treaties and if possible, are "ideal". However, in practice it is clear that the above legal norms and principles of copyright enforcement hardly work. In this regard, increasing the role of "intellectual property institutions" is an urgent task. These institutions include organizations, collective management organizations (CMO's), technology and innovation support centers, patent attorneys, research and educational institutions, etc.

On January 13, 2022 year, in the civil court of the Yakkasaray district of Tashkent, a trial was held on the claim of the plaintiff – the Society for the Protection of Copyright and Related Rights of the Republic of Uzbekistan (UzAvtor) in the interests of a member of this society, People's Poet of Uzbekistan Usmon Azimov in relation to the defendant - Sanjar Zhavberdiev to eliminate the violation copyright, recovery of compensation and moral damages for copyright infringement. It is noteworthy that this case, by its specifics, is one of the first court cases of this kind in Uzbekistan.

The plaintiff (UzAvtor), asked the court to recover from the defendant in favor of the plaintiff compensation in the amount of 1000 the base calculation amount and moral damage (100,000,000 million Uzbek soums), and also to remove the famous Uzbek poem "Karvon", which was performed by the defendant, from various sources (Youtube, Instagram and other, various telecommunications and social networks). It is known, by the Law of the Republic of Uzbekistan dated August 20, 2021 amended and supplemented to provide for the payment of compensation in the amount of 20 to one 1000 the base calculation amount, taking into account the habits of the defendant, depending on the degree of guilt of the defendant.

It can be said that the introduction of limits on the amount of compensation by the above norm into the legislation served as an important basis for determining the measure of responsibility for the courts. Before there was no such norm, and there were has no effective cases determination of compensation by the courts.

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A representative of the defendant told the court that the CMO`s could not sue on behalf of the author. Certainly, the feature of this case is that the CMO`s filed the claim on behalf of the author. This process is observed in Uzbekistan for the first time. According to article No 58 of the Law Uzbekistan “On Copyright and Related Rights”, CMO`s is necessary to protect the rights that it manages on behalf of the right holders and, based on its authority, has the right to take any legal actions. Also, in accordance with article No 65 of this Law, CMO`s has the right to apply to the court on its own behalf in the manner prescribed by law to protect the violated copyright and related rights of persons exercised by such an organization. Thus, in accordance with the provisions of the Law “On Copyright and Related Rights”, it can be concluded that CMO`s have the right to perform all trial procedural actions to protect rights on behalf of their members.

In the resolution of the Plenum of the Supreme Court of Uzbekistan dated April 28, 2000 No. 7 was adopted about moral harm, physical pain, injury, discomfort, etc. (“On some issues of application of legislation on compensation for moral harm”). The object of unlawful actions (inaction) are the intangible interests of a citizen (life, health, personal dignity, business reputation, privacy, personal and family secrets), personal non-property rights (property, the right to use the name, copyright and other non-property rights may be a violation of the law (legal protection of the results of IP) and property rights (inviolability of the home, property rights, etc.).

The Agency for Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan (IPA) is also involved as a third party in this the case. According to the IPA, defendant – Sanjar Javberdiev used his work without the consent of the author, violated the requirements of the Law of Uzbekistan «On Copyright and Related Rights». It should be noted that the previously authorized body in the field of intellectual property – IPA did not participate in copyright disputes. This indicates that copyright disputes were rare in Uzbekistan in the past. This is evidenced by the following official reports of the IPA:

Table

2017 year						
Participation status	Invention	Trademark	Utility model	Industrial model	Copyright	Total
Defendant	1	13	-	5	-	19
Third person	-	62	-	4	-	66
Total:	1	75	-	9	-	85
2018 year						
Participation status	Invention	Trade-mark	Utility model	Industrial model	Copyright	Total
Defendant	1	22	-	2	-	25
Third person	-	61	1	-	-	62
Total:	1	83	1	2	-	87
2019 year						
Participation status	Invention	Trade-mark	Utility model	Industrial model	Copyright	Total
Defendant	-	30	-	-	-	30
Third person	5	64	-	-	-	70
Total:	5	94	-	-	-	100

By the decision of this court session, the claim of UzAvtor was partially satisfied. By a court decision, the defendant – Sanjar Javberdiev was awarded compensation to retain lost profits in the amount of 200 times the basic amount and 40,000,000 amount Uzbek soums in compensation for moral damage ([https://daryo.uz/2022/02/03/sanjaydan-shoir-usmon-azim-foydasiga-97-million-800-som-undiriladigan-boldi/?utm\\_source=@daryo\\_lotin](https://daryo.uz/2022/02/03/sanjaydan-shoir-usmon-azim-foydasiga-97-million-800-som-undiriladigan-boldi/?utm_source=@daryo_lotin)).

Copyright disputes have become more frequent in Uzbekistan in recent years. This in itself indicates that the CMO`s are actively working, and the authors understand their rights. In particular, on March 4, 2022, civil court of the Mirobod district of Tashkent, considered a lawsuit filed by UzAvtor in the interests of a member of the this CMO`s. The peculiarity of this lawsuit is that for the first time in Uzbekistan sued the restaurant for using the author's work without permission. According court decision the defendant was obliged to pay compensation (5 million Uzbek soums) in favor of the author (lost profit) (<https://daryo.uz/2022/03/24/toshkentdagi-mashhur-restoran-toir-qoziyevning-musiqasidan-ruxsatsiz-foydalangani-uchun-5-million-som-tovon-puli-tolaydigan-boldi/>).

Should be noted last years that a number of reforms are currently underway in Uzbekistan to protect the property rights of authors and copyright holders. In particular, ensuring the legitimate rights and interests of authors, co-owners and other right holders, fair receipt of remuneration (royalties) by them.

Based on research in the field of copyright and related rights, the following conclusions can be drawn about the activities of CMO`s

First, CMO`s should exercise only the rights transferred by right holders on a contractual basis.

Secondly, authors (right holders) must be able to control CMO`s at all times.

Third, CMO`s should represent the interests of rights holders abroad.

Fourth, CMO`s may be structured around different areas of copyright.

Fifth, while CMO`s are engaged in the management of property rights, that is, collecting fees for the use of works, they should not act as a commercial organization and cover their costs at the expense of rights holders.

Proper and systematic work on these proposals, we believe, will ensure copyright protection, thereby paying appropriate fees for the work of artists and the development of culture and art in accordance with copyright rules.

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