

Mobile applications as objects of intellectual property

Tashkent, July 2020

Today, mobile phones and their applications, which we use to solve many problems, are quite firmly rooted in the everyday life of billions of people. Many millions of dollars earned by the creators of popular applications have become an object of general attention, which has led to increased competition in this industry. This article offers the reader a legal overview of mobile applications: creation and protection of intellectual property inherent in each mobile application in order to further protect their product from unscrupulous competitors.

According to the legislation of the Republic of Uzbekistan, intellectual property is the result of intellectual activity of an author who receives rights and privileges in using the result of his work. In the process of creation such an object, he makes efforts, uses his skills, creativity and spends a certain time. All these elements are the main components in determining the essence of such objects. For example, books, music, lyrics, program codes (including mobile applications), films, paintings, graphic elements and much more, which meets the principles of the essence of such works.

Due to the fact that the Republic of Uzbekistan is a member of many international conventions on the protection of intellectual property rights, their regulations and norms have been introduced into the legislation of the Republic, which brought this industry and internal processes to the international level.

For example, the Protocol to the Madrid Agreement concerning the International Registration of Marks was annexed to the legislation of Uzbekistan in 2006. This means that the marks registered in the Republic of Uzbekistan since 2006, as well as the requirements for them, comply with the international standard of the Protocol. Another

example of such an agreement is the 1996 Treaty of the World Intellectual Property Organization for Copyright concluded in Geneva. The Republic of Uzbekistan acceded to this Treaty in 2019. The Berne Convention for the Protection of Literary and Artistic Works of 1886 was introduced into the legislation of the Republic of Uzbekistan in 2005. The participation of Uzbekistan in such international conventions gives copyright holders the opportunity to protect their rights not only in the Republic of Uzbekistan, but also in countries that have also signed certain agreements along with Uzbekistan.

Mobile applications copyright

Mobile applications as such do not have a separate definition in the current legislation of the Republic of Uzbekistan. However, they are included in the group of computer programs and databases. The Law "On the Legal Protection of Programs for Electronic Computers and Databases" provides more specific definitions of such objects of intellectual property and copyright protection. The creators of mobile programs become the authors of such objects. A distinctive feature of copyrights is that they arise naturally. It is enough that the author noted his name or other personal signs. There is no matter to the fact of distribution or publication of a work. Intellectual property rights arise upon creation.

Attributes of mobile applications to be protected are its source code and object code, the database in the application, the graphic elements of the application including the icon, pictures and the like. However, it is worth considering that ideas and principles are not subject to copyright protection. In particular,

whether it is the idea of the application itself, interface design or programming language, they will not all be subject to intellectual property rights protection. Only a peculiar expression of that idea in some specific form, which will embody this idea. For example, you decided to design the application interface using red and similar tones. You draw up all the details, small attributes, the location of objects, and so on. If someone else decides to use the same color palette, he will be eligible. However, if he arranges his interface in such a way that there will be similarities not only in colors but also in other objects, which can cause confusions among users, then in this case you can use and protect your copyrights and force the offender to change those elements, or withdraw their application from circulation. This was a clear example of the difference between an idea and its expression.

The term of copyright is the life expectancy of the author and 50 years from the date of death of the author.

Registration of applications in the Agency for IP under the Ministry of Justice of the Republic of Uzbekistan

Mobile applications can also be registered with the Agency for Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan. Registration is optional, but it will serve as evidence of priority publication, which will contribute to more effective protection of one's rights in a lawsuit and beyond. Moreover, this will help in the future to prevent the registration of other applications that could infringe on someone else's copyright in advance. In addition, the fact of publication may serve as registration, which also indicates the priority date of the work. This in turn enhances your ability to protect your copyrights.

In the official lists of the IP Agency, you can find information about applications that were

submitted by the authors to register their programs. For example, in the official lists for April and May in you can also see applications for registration of mobile applications that provide electronic document transmission between individuals and government agencies, as well as an application for pilgrimage tourism. If registration is granted to these applications, their authors will receive all the rights and privileges to use their program and more reliable protection of these rights.

Co-authorship

One of the most important aspects in the creation and further monetization of mobile applications is the relationship between the authors of this application, if there are more than one. Section 12 of the Law "On Copyright and Related Rights" determines that co-authorship is the copyright of a work created by two or more persons. It is important to initially regulate the relationship between the co-authors by an agreement in order to avoid subsequent undesirable results. If such relations are not resolved, then in the event of a dispute, all co-authors will have equal rights to use the work or remuneration. The agreement can provide specific terms for all aspects of the relationship between the co-authors. The most important issues may be: sharing the revenue between the co-authors, the rights and conditions for joint and individual use of the application, making decisions on licensing third parties and individual rights of the co-authors. Therefore, drawing up an initial agreement is the recommended measure to avoid incidents.

Industrial Design Patent

A design of an application can be patented as the industrial design if it has sufficient functionality and is not too simple. The law prescribes that such a design must be new and original.

Novelty means the lack of similarity of the main elements of this design from other existing ones, including those that are also being considered by the agency on the basis of applications from other persons. Also, design is checked for distinctness not only from designs in Uzbekistan, but also in other countries that have signed conventions and agreements common with Uzbekistan on the protection of intellectual property rights. The requirement for originality implies that the author of the object made a certain level of creative effort to create the original object. The benefits of obtaining a patent for an industrial design will be the acquisition of exclusive rights and their protection for the use of your design. You will be able to authorize other persons to use your design on terms that you agree with each other. This can be seen as an additional source of income.

Trademark Registration

Another key attribute of applications is their logo and name. They may be registered separately and collectively as a trademark. Obtaining protection for a trademark is very important. Your consumers will recognize and talk about your application using its icon and name. Therefore, they can be called as the face of the application and, in order to protect it, you need to register a trademark. However, it is important to remember that natural persons cannot register a trademark. Thus, it will be necessary to register it in the name of a legal entity or individual entrepreneur. It is also useful to familiarize with a specific list of information that should be included in registration applications.

For example, the well-known Instagram mobile application also has registered trademarks in the form of its icon and several different forms of writing the word “Instagram”, including the corporate font.

Creating an application under employment

By default, if a mobile application is created under employment, then the property rights to the application (disposition of property, benefit, etc.) belong to the employer. The Law “On the Legal Protection of Programs for Electronic Computers and Databases” states that the author and the employer may determine property rights in an agreement between them at their sole discretion. In addition, the same contract will also provide for the procedure for payment and the amount of remuneration for the performance of work. Usually, employers in the contract prefer to indicate a one-time payment for the performance of official duties. Nevertheless, it is important to remember that applications can be profitable for many years. For this reason, we recommend authors to insist on receiving other long-term payments. For example, royalties in order to prevent an unfair outcome, when the application is very successful, but the author is paid pennies.

Conducting all registrations on behalf of a legal entity.

If the number of authors is more than one, then they are recommended, in addition to the agreement between themselves, to conduct registrations on behalf of the legal entity - the company. This solution will be optimal for further development in the industry and maximizing integrity and justice among themselves while minimizing unexpected outcomes. Creating a legal entity is a fairly simple process and does not require special skills, but its benefits can be long-term and reliable.

In conclusion, it should be noted that this industry is quite young in the market of Uzbekistan. The legislation has not yet paid special attention to this industry, but the pace of its development only indicates that a separate

procedure for the turnover of mobile and other applications of the same platform will probably be adopted.

It is important to keep in mind that this article is relevant at the time of writing. If, after its

publication, amendments were made to the current legislation of the Republic of Uzbekistan, then we do not exclude the possibility of inconsistency of the information in this article regarding new changes.

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