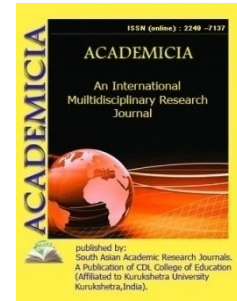




**ACADEMICIA**  
**An International**  
**Multidisciplinary**  
**Research Journal**  
 (Double Blind Refereed & Peer Reviewed Journal)



**DOI: 10.5958/2249-7137.2021.01693.1**

## METHODS OF COPYRIGHT PROTECTION

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### ABSTRACT

*Currently, the traditional objects of civil law are used in many areas, not only in terms of tangible assets (property and property rights), but also in the form of intangible - the results of intellectual activity. The main income of the economies of the developed countries of the world is obtained as a result of the creation of new intellectual property, their use in business relations. This requires a solid legal framework and a legal mechanism that guarantees the legitimate interests of right holders.*

**KEYWORDS:** *Legal And Non-Legal Form Of Protection Of Rights, Means Of Protection Of Civil Rights, Methods Of Civil Protection, The Right To Withdraw Evidence Without Prior Notice, The Requirement To Remove Copyright Infringing Information From The Internet.*

### INTRODUCTION

Guarantees of the exercise and protection of civil rights are provided by law, and in the event of violation of these rights, each person is given the opportunity to protect their rights. The formation of legal protection for each object of intellectual property will depend closely on how the issue of copyright is resolved.

The protection of copyright objects is equated with literary works. In particular, this rule is reflected in the TRIPS Agreement [1].

Unlike other areas of law (for example, criminal law), civil law regulates normal social relations between equal subjects, rather than "starting" when the protected legal relationship is violated, and its participants enter into civil law relations in their own interests. However, this does not lead to the misconception that there is no need to protect civil rights and interests. After all, a normal civil legal relationship requires not only the recognition and respect of certain civil rights and interests, but also the provision of its perfect and reliable legal protection.

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## THE MAIN FINDINGS AND RESULTS

Civil law in the broadest sense implies the existence of legal, economic, political, organizational and other forms of protection of civil rights aimed at creating the necessary conditions for the exercise of subjective rights. In the narrow sense, it includes legal measures aimed at the restoration and recognition of civil rights and interests in the event of violation of rights or disputes in this regard. The protection of civil rights is achieved through the use of forms, methods and means of protection. There are two forms of protection of rights - legal and non-legal [2, p. 253].

The legal form of law enforcement is carried out by the competent authorities (courts of general jurisdiction, economic courts, arbitration courts). Claims, applications, complaints are considered as a means of judicial protection of civil rights. The non-legal form of protection of civil rights is carried out without recourse to the state and other competent authorities.

The legislature provided an arsenal of material, procedural, and procedural means of protecting rights. These include the implementation of legal and factual actions to apply the rapid response measure; objection, claim, counterclaim, explanation, complaint, application and other right necessary to protect subjective civil rights.

The Civil Code of the Russian Federation does not use the phrase “civil-legal means of protection of subjective civil rights” and the term is used in civilization to mean “prevention of civil offenses; restoration of violated subjective civil rights, which allows law enforcement agencies to carry out factual and legal actions of a legal nature in the framework of law enforcement relations; system of means provided for in the sources of civil law” [3, p. 199].

Means of protection of civil rights (in the broadest sense) - prevention of illegal actions of the offender; methods aimed at restoring violated subjective civil rights, activities of institutions and legal entities to apply and use them, manifested in the form of action or inaction provided by the state. Means of protection of civil rights (in the narrow sense) is a system of elements consisting of the order and methods of protection of property and personal non-property rights of subjects of civil legal relations, methods, measures, forms of ensuring the fulfillment of obligations [4, p. 55].

Methods of protection of civil rights are understood as substantive measures, which have the nature of coercion, enshrined in law, through which the violated rights are restored and the offender is affected. A general list of such measures is set out in Article 11 of the Civil Code, which in the general case may also be applied directly to the protection of copyright; for example, the recognition of copyright in cases of copyright infringement. Applying these measures may at first glance seem complicated to apply to the author’s legal object.

The nature of civil litigation suggests that it is difficult to prove that a civil rights party has harmed an object.

Protection of civil rights may be exercised in other ways provided by law. For example, according to Article 1040 of the Civil Code, the protection of absolute rights by which material objects the absolute rights are violated; confiscation of those material objects and material objects created as a result of such violation, as well as compulsory publication of information on

the committed violation; it can be exercised by entering information about who the infringed right belongs to.

According to O.Okyllov, we need to bring our laws in line with the requirements of the TRIPS (*Agreement on Trade-Related Aspects of Intellectual Property Rights, TRIPS*). At the heart of this Agreement is the idea of improving the methods of protection of absolute rights and creating an effective mechanism. Therefore, these problems will be studied separately in the following chapters. At the same time, the Civil Code does not clearly state the legal protection of personal and non-property rights of authors and creators, and it would be appropriate to dedicate a separate article to this issue in the Civil Code [5, pp. 122-123]. In this regard, agreeing with the author, the personal non-property rights of the author, measures to protect these rights should be included in the current legislation of the Republic of Uzbekistan.

According to N.I. Fedoskina, the methods of protection of civil law fall into certain groups according to what kind of protection and application of copyright and related rights. Including:

- methods that can be used in the violation of any rights (recognition of the right, restoration of the pre-offense and prevention of actions that violate or threaten to violate the right, invalidation of the agreement and the consequences of its invalidity, compensation of damages, non-application by the court of an illegal act of a self-governing body);
- Methods of protection applied only in case of violation of exclusive rights (announcement of the court decision on violation of the right, use of technical methods of protection);
- Methods used only in case of violation of personal non-property copyright or related rights (compensation for moral damage);
- methods used only in the protection of exclusive rights (compensation for infringement of exclusive rights, seizure of counterfeit copies, seizure of devices, equipment and materials, liquidation of a legal entity, termination of the activities of an individual entrepreneur);
- Methods used only in the protection of relative copyright (compulsion to perform the duty in its original form, charging interest for the use of another's funds) [6, p. 6].

The methods of civil protection proposed by N.I. Fedoskina are divided into groups, including the methods used in violation of any rights, infringement of absolute rights, infringement of personal non-property rights of copyright; as well as the methods used in the protection of relative copyright are somewhat conditional. Because copyright and related rights are absolute rights. The category of absolute law (absolute law) is essentially applied to the category of property rights. The author has approached the methods used in the grouping only from the point of view of copyright and related rights subjects, depending on the types of copyright and related rights. It is also advisable to group the form of legal protection according to the types of intellectual property.

In our view, legal protection here can also be classified according to the protection of property and personal non-property rights of authors or right holders. It should be borne in mind that many methods are relatively convenient and can be used effectively by right holders in the protection of property and personal non-property rights.

In addition, some of the above methods, including liquidation of a legal entity, termination of individual entrepreneurial activity, although provided for in the legislation of the United States and other foreign countries, are not provided for in the legislation of the Republic of Uzbekistan.

According to Article 65 of the Law of the Republic of Uzbekistan “On Copyright and Related Rights”, the author, holder of related rights or other holder of exclusive rights must compensate the infringer for damages in the amount of income that he could receive under normal conditions of civil proceedings. . If the infringer has received income as a result of infringement of copyright or related rights, the right holders may demand, among other damages, compensation for the lost profit in an amount not less than such income. The author also has the right to demand compensation for damages, regardless of the fact of damage, depending on the nature of the offense and the degree of guilt of the offender, taking into account the customs of the offender. In this norm, the legislator gives the author the right to demand compensation for lost profits and damages. At this point, some expansion of copyright protection methods has been achieved.

Z.Akromkhujeva studies the issues of protection of intellectual property rights. In his view, the main way to protect rights is to recognize the right, restore the pre-infringed state, and prevent actions that violate or threaten to infringe the right [7, p. 13].

In this case, Z. Akromkhujeva does not disclose the scope of protection of rights provided by the legislature. In addition, all methods provided for in the legislation are applicable at the discretion and at the discretion of the right holder. Therefore, it is necessary to study the methods and means of protection of intellectual property rights in terms of their characteristics, individual and specific aspects.

According to B. Ahmadjanov, Article 63 of the Law of the Republic of Uzbekistan “On Copyright and Related Rights” restores the pre-infringed status and prevents actions that violate or threaten to infringe the right, confiscation of contract copies, disclosure of information about the right holder requirements should be included [8, p. 20].

However, the proposed norms are contained in these laws. For example, Article 66 of this law stipulates that counterfeit copies of works and objects of related rights, as well as materials and equipment used in their preparation and reproduction, as well as other means of the offense shall be confiscated in court in accordance with the law. Information about the real owner of the right is the same as the recognition of copyright and the protection of personal non-property rights of a citizen. Here we can support the author's ideas on the implementation of such methods in the protection of exclusive rights to intellectual property as “Anton Piller’s order”, “Mareva’s judicial ban”, “Norwich Farmakl tool” [8, pp. 17-18].

Here it is necessary to pay attention to the specificity between the legal systems and the characteristics of intellectual property. The mechanism of protection of intellectual property, their introduction into commercial circulation requires special attention to the rules for the implementation of certain legal protection measures.

For example, the British legal system has the *Anton Piller Order*, which gives the right to withdraw evidence without prior notice and is important when rights are violated. This serves to prevent the destruction of relevant evidence, including in cases of copyright or patent infringement. The procedure was named in 1975 as a dispute between “Anton Piller KG v

Manufacturing Processes limited”, in which a lawsuit was filed over the theft of trade secrets. The general application of this method has been somewhat suppressed by the passage of the General Civil Courts Act in 1997.

The main advantage of the Anton Piller Order is that this court order can be issued by the court without appealing to the defendant. As a general rule, a court order is issued during a trial initiated by the parties. This circumstance informs the other party in advance that the plaintiff is willing to obtain a court order through the court. This circumstance invalidates all the actions and attempts of the plaintiff to find the necessary evidence. Because the defendant will easily have enough time to destroy the evidence [9, p. 126].

If the Anton Piller Order can be applied in the protection of infringed rights, there will be an opportunity to prove the infringed status and the infringer will not be able to destroy the case and the evidence that is important for resolving the dispute. Therefore, it is expedient to establish a rule on written evidence in the Code of Civil Procedure of the Republic of Uzbekistan.

## CONCLUSION

Users or competitors receive information about copyright, property, and personal non-property rights directly through the Internet (e.g., members of the Internet community, clubs). Rejection of the dissemination of false, illegal information available here should be done in the same way. In this regard, Article 100 of the Civil Code stipulates that this information must be in the media, even if it provides for the rejection of information in the media, if the information that infringes on the honor, dignity or business reputation of a citizen is disseminated in the media; it cannot be applied directly. Although electronic media is also available under the law, resources on the Internet, users and other individuals do not always have this status.

Therefore, it is expedient to include the following norm in the tenth paragraph of Article 65 of the Law of the Republic of Uzbekistan “On Copyright and Related Rights”:

“If infringing information is available on the Internet after it has been disseminated, the infringer has the right to request the removal of the relevant information from the Internet, as well as a rebuttal to the extent that the information is available to Internet users”.

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