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COMPARATIVE ANALYSIS OF THE PROCEDURE FOR OBTAINING A PATENT FOR AN OBJECT OF INDUSTRIAL PROPERTY AND TERMINATION OF ITS VALIDITY IN THE USA AND THE REPUBLIC OF UZBEKISTAN

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ABSTRACT

The article discusses a comparative analysis of the procedure for obtaining a patent for an object of industrial property and the process of termination in the United States and the Republic of Uzbekistan. The study is based on a comparative analysis of the legal norms governing this process in both countries, taking into account their main legislative acts, Patent laws, established procedures and judicial decision practice. This analysis allows us to identify differences and similarities in the procedure for obtaining a patent and terminating its validity in the United States and Uzbekistan, identify the main stages and requirements, the roles of relevant authorities and authorities, as well as assess the degree of protection of intellectual property rights in both countries. The findings can be useful for lawyers, patent agents, innovative enterprises and government agencies interested in protecting and supporting intellectual property.

KEYWORDS

Patent law, procedure for obtaining a patent, comparative analysis, termination of a patent, object of industrial property, legal basis, intellectual property.

INTRODUCTION

Industrial property is one of the fields of intellectual property. In turn, intellectual property covers two branches of law, such as copyright and industrial property. As we know from history, the protection of intellectual property has a long history. The Declaration of the Republic of Venice of 1474 was the

first legislative act in the field of intellectual property protection. This document introduced the concept of "privilege". For example, the inventor of a new machine was granted legal protection for his development. During 10 years from the date of issuance of the document, other citizens were prohibited from manufacturing similar technical

devices. Several centuries later, the important role of intellectual property protection was first recognized in the Paris Convention for the Protection of Industrial Property, adopted in 1833, as well as in the Berne Convention for the Protection of Literary and Artistic Works, adopted in 1886. The broad significance of the application of industrial property was stipulated in the Paris Convention.

The Paris Convention includes issues related to industrial property, including patents, trademarks, industrial designs, utility models, trade names, geographical indications and the suppression of unfair competition. The general rules, including the rules on patenting, specified in the Convention must be observed by all Contracting States. It provides citizens of the participating countries with equal rights to protect their inventions, industrial designs, trademarks and other objects of industrial property in all participating countries. According to the Paris Convention, patents granted in different countries for the same invention are independent of each other. This means that refusal to grant a patent in one country does not mean that the patent will not be granted in another country. In addition, the Convention prohibits the rejection of a patent application or the revocation of a patent on the grounds that the sale of a patented product or a product manufactured in a patented manner is subject to prohibitions or restrictions arising from national legislation. This rule is aimed at protecting the interests of inventors and ensuring their right to receive remuneration for their inventions.

Today, the protection of industrial property is one of the important industries in many countries of the world, including the USA and the Republic of Uzbekistan. In turn, the question arises which objects are included in the industrial property industry. The objects of industrial property include inventions, industrial designs (artistic and aesthetic solutions

related to the appearance of an industrial product), trademarks, service marks, topologies of integrated circuits, brand names and commercial designations, geographical indications. An object of industrial property is a designation that informs consumers about goods and services offered on the market. The protection of industrial property is aimed at preventing the illegal use of such designations that can mislead the consumer.

In the USA and the Republic of Uzbekistan, the legal protection of industrial property is carried out through patenting. A patent is an exclusive right to an invention that gives its owner the right to decide how an invention can or can be used by other people. In exchange for this right, the patent holder discloses technical information about the invention in a published patent document. The State provides an official certificate that entitles the owner to use an invention or other object of industrial property for a certain period. Patenting of an object gives the patent holder the right to protect innovations and stimulates innovative activity. Further, in this paper we will consider the process of obtaining a patent for an object of industrial property and termination of its validity in the USA and the Republic of Uzbekistan and make a comparative analysis.

1. General information about patent law in the USA:

In the United States, patents are regulated by federal law and managed by the United States Patent and Trademark Office (USPTO). A patent in the United States can be granted for three types of industrial property objects: a utility model, a process or method, and a design. To obtain a patent in the United States, you must apply to the Patent and Trademark Office (USPTO). The application must contain a detailed description of the invention and its drawings. After the application is submitted, an examination takes place in

which the USPTO verifies the novelty and inventive level of the proposed object. If the application meets all the requirements and conditions specified in the law, then the patent is issued to the owner for 20 years.

After patenting an invention, the owner of industrial property is provided with the following advantages:

- intellectual property rights are protected by the state;
- in case of disputes, a patent is an essential proof of authorship;
- exclusive rights to use, own and dispose of the object of patenting arise;
- the possibility of transferring the right of use to third parties for a certain period of time, by concluding a license agreement or selling your invention;
- it is prohibited to use the object of patenting by third parties without the consent of the owner.

There are 3 types of patents in the USA: an invention patent, an industrial design patent, and a plant patent.

Utility patent, that is a patent for an invention, is issued for an invention, the process of operation, the composition of a substance or its production and is valid for 20 years. No one has the right to use an invention without the consent of the patent holder.

Design patent – this document protects the appearance of the product, for example, its color, shape or ornament. A patent for an industrial design is issued for 15 years and gives the patent holder the right to prohibit other persons from using his design without his permission.

Plant patent – protects a new variety and type of plant obtained by breeding. The patent is granted for 20 years and gives the patent holder the right to prohibit

other persons from propagating, selling or using a new variety without his consent.

In the USA, a utility model is not subject to patenting. This means that patents are not granted in the United States for technical solutions that are not inventions. Therefore, in order to patent a technical solution, it is necessary to apply for a patent for an invention. The application must meet the criteria of patentability, such as novelty, inventive step and usefulness.

There is a US Patent Law. Article 102 of this Law establishes the criteria for patentability. The law states that the claimed invention must necessarily meet the criteria of patentability; otherwise, it simply will not be registered. In the process of obtaining a patent, certain conditions are established that must be met without fail. The conditions of patentability include novelty, inventive step, usefulness and applicability of the development. Let us consider each condition in detail.

1) Novelty – in order for an invention to be patented in the USA, it must be new. This means that it should not be known to the world before the date of filing the patent application. An exception may be that if the invention was disclosed by the author himself, it does not lose its novelty if the author of the invention filed a patent application within 12 months from the date of disclosure.

2) Inventive level – is estimated based on the level of global technological progress. The invention must be original, that is, it must represent something new and useful that was not previously known.

3) Usefulness and applicability of the development – the invention must be useful to society, that is, it must have practical value and be suitable for its intended use. In the USA, they are quite loyal to the condition of usefulness. Almost any invention that does not contradict the principles of morality and does not

violate the legislation of the country is considered useful. This is due to the fact that the US patent system is aimed at stimulating innovation and technology development.

To obtain a patent, you must collect the necessary documents. All signs of the patented solution are indicated in a special document PriorAct, which is compiled after the examination. On its basis, a preliminary and then the main application is submitted. It is also necessary to provide an Information Disclosure Statement. In it, the developer indicates all the signs of a new solution, the level of technology that he has become aware of. The decision of the experts will depend on the composition of the documents, their completeness and literacy of filling. Next, you need to apply to the USPTO. The application must contain a description of the invention, the claims, drawings and a declaration of disclosure. After reviewing the application, the USPTO decides whether to grant a patent or refuse to grant it.

Next, let us look at the procedure for patenting industrial property in the United States. The first stage of registration is a preliminary patent search. It is carried out even before filing an application to determine the possibility of registering an object and identify potential obstacles to patenting, since after the search results, changes can be made to the claimed technical solution in order to reduce the possibility of rejection by the Office. After conducting a preliminary patent search, the applicant may submit a preliminary application. The preliminary application fixes the priority date of the application and provides the applicant with 12 months to improve its development. Within 12 months after submitting the preliminary application, the applicant may submit an official application, which must contain a description of the invention, the claim, drawings, a description of the best way to apply the invention, images that identify

the appearance of the product and a detailed description of the design. After submitting an official application, the USPTO conducts a formal examination, during which it verifies that the application meets the formal requirements.

After the formal examination, the USPTO conducts a substantive examination, in which it verifies that the invention meets the patentability requirements and legal requirements. The substantive examination may take several years.

After conducting a substantive examination, the USPTO decides whether to grant or refuse to grant a patent. A patent fee must be paid for the grant of a patent. Based on the results of the examination, the USPTO decides whether to grant a patent or refuse to grant it. The decision of the USPTO can be appealed on appeal.

The process of registering intellectual property objects in the United States differs in the amount of fees, the timing of the procedure, as well as the possibility of filing a Provisional Application exclusively for patenting inventions. The date of filing an application for an invention determines the time from which it is granted legal protection in the event of the grant of a patent. However, in order to keep the patent in force, government fees must be paid. For the entire period of validity of the security document, they are paid only three times, unlike the annual payment of duties in many countries of the world.

In accordance with U.S. law, a patent application may be rejected on the following grounds:

1) Disclosure of information. An invention cannot be patented if it was disclosed before the date of filing the patent application. The disclosure of information is considered to be the publication of the invention in the press, the use of the invention in industry, the offer of

the invention for sale or other communication about it to third parties.

2) The known state of the art. An invention cannot be patented if it is obvious to a specialist with an average level of knowledge in this field of technology. The fame of the invention is determined on the basis of an analysis of the state of the art, which includes information that was available to the public before the date of filing the patent application.

3) Lack of inventive step. An invention cannot be patented unless it is new and original. An invention is recognized as original if it is not obvious to a specialist with an average level of knowledge in this field of technology.

4) Lack of usefulness. An invention cannot be patented if it is not useful. An invention is recognized as useful if it can be used in industry or other fields of human activity.

5) Violation of the law. An invention cannot be patented if it violates applicable U.S. law.

In addition, a patent application may be rejected on other grounds provided for by U.S. law. For example, an application may be rejected if it does not contain all the necessary information or if it is made up with errors.

2. General information on patent legislation in the Republic of Uzbekistan:

In the Republic of Uzbekistan, a patent is a form of intellectual property protection and grants the owner the exclusive right to use and commercialize an invention, industrial design or utility model. It is valid for a certain period of time, protecting the owner from the misuse of his intellectual property. In Uzbekistan, the Law of the Republic of Uzbekistan «On Inventions,

Utility Models and Industrial Designs» regulates this industry.

To obtain a patent for an object of industrial property in the Republic of Uzbekistan, it is necessary to perform the following actions:

1. Prepare a patent application. According to the law "On Inventions, Utility Models and Industrial Designs", in order to obtain a patent, an application should be submitted to the Agency for Intellectual Property under the Ministry of Justice of the Republic of Uzbekistan. The application must contain a detailed description of the invention or industrial design, as well as the necessary drawings or samples. The application for the grant of a patent is submitted in Uzbek or Russian in the form. If the application documents are submitted in another language, then their translation into Uzbek or Russian is attached to the application, which can be submitted within two months from the date of filing the application with the Ministry.

A patent in the Republic of Uzbekistan can be granted for three types of objects of industrial property: a patent for an invention, a patent for a utility model and a patent for an industrial design. Let us take a closer look at the procedure for filing applications for patents.

The application for the grant of a patent must contain the following information: - Application for the grant of a patent. The application must specify the object of industrial property for which the patent is being sought, as well as information about the applicant.

- Description of the object of industrial property. In the description, it is necessary to reveal the essence of the object of industrial property, its distinctive features and purpose.

- The formula of the invention. The claim must contain the exact and complete characteristics of the invention.
- Drawings, diagrams, drawings or other materials necessary to understand the essence of the object of industrial property.

2. Pay the state fee for reviewing the application. The amount of the state fee is determined in accordance with Law of the Republic of Uzbekistan “On State Duty”. The amount of the state fee for consideration of a patent application is determined depending on the type of industrial property object for which a patent is being sought:

- Invention - 100 minimum wage (2,000,000 soums).
- Utility model - 50 minimum wage (1,000,000 soums).
- Industrial design - 25 minimum wage (500,000 soums).

3. Pass the examination of the application. The examination of the application includes the following stages:

- The entrance stage. At this stage, the compliance of the application with the requirements of the legislation of the Republic of Uzbekistan is checked.
- The preliminary stage. At this stage, it is checked whether the object of industrial property for which the patent is being sought meets the established requirements.
- The main stage. At this stage, an examination of the object of industrial property is carried out for its novelty, inventive step and industrial applicability.

The Agency conducts an examination of the application for its compliance with the requirements of the legislation of the Republic of Uzbekistan.

According to article 20 of the Law of the Republic of Uzbekistan "On Inventions, Utility Models and Industrial Designs", the Agency conducts a state examination on an application for a patent, consisting of a formal examination, examination of an application for a utility model and a scientific and technical examination on the merits of an application for an invention or industrial design. Within two months from the date of filing the patent application, the applicant has the right to make corrections, clarifications or additional materials to it without changing the essence of the claimed object of industrial property. The applicant is obliged to submit the necessary documents and materials within the prescribed period. The applicant is obliged to pay patent fees. Liability in accordance with the law is provided for the disclosure of information contained in the application materials before the official publication of information on the application for an invention or on the state registration of a utility model and an industrial design.

4. Get a patent. If the application meets the requirements of the legislation of the Republic of Uzbekistan, the Agency issues a patent for an object of industrial property. A patent is issued for a period of 5 to 20 years, depending on the type of industrial property object. After making a decision on the grant of a patent, the Agency performs state registration of an object of industrial property in the State Register of Inventions, in the State Register of Utility Models or the State Register of Industrial Designs. The issuance of a patent for an object of industrial property is carried out by the Agency after ten days from the date of publication of information on its registration in the official bulletin.

5. Termination of the patent. The patent may be terminated in the following cases:

- After the expiration of the patent. The validity period of the patent is indicated in the patent.

- By court order. The patent may be terminated by a court decision if:

1) the patent holder does not use the object of industrial property for 3 years from the date of its issuance.

2) the patent holder intentionally or negligently allowed the use of an object of industrial property in violation of the requirements of the legislation of the Republic of Uzbekistan.

- At the request of the patent holder. The patent holder has the right to terminate the patent upon his application. The application for termination of the patent is submitted to the Agency.

Comparative analysis of patent laws between the USA and Uzbekistan:

Patenting industrial property is one of the main ways to protect intellectual property. A patent grants the patent holder the exclusive right to use an object of industrial property for a certain period of time.

In both countries, the process of obtaining a patent includes filing an application, conducting an examination and research of inventions, as well as evaluating the degree of inventive level of the object. However, there are a number of differences that are worth noting.

The procedure for obtaining a patent for an object of industrial property and terminating its validity in the United States and the Republic of Uzbekistan has a number of common features. In both countries, a patent can be obtained for inventions, utility models and industrial designs. In both countries, a patent may

be terminated upon expiration of its validity, by a court decision or at the request of the patent holder. At the same time, there are significant differences between the procedure for obtaining a patent in the United States and the Republic of Uzbekistan.

In the United States, a patent application may be filed with the United States Patent and Trademark Office (USPTO) in electronic form or in writing. In the Republic of Uzbekistan, a patent application may be submitted to the Intellectual Property Agency of the Republic of Uzbekistan (Agency) in writing.

In the United States, the amount of the state fee for reviewing a patent application depends on the type of industrial property and the category of the applicant. In the Republic of Uzbekistan, the amount of the state fee for consideration of a patent application also depends on the type of industrial property object, but does not depend on the category of the applicant.

In the USA, the examination of a patent application is conducted by the USPTO within 18 months from the date of its filing. In the Republic of Uzbekistan, the examination of a patent application is carried out by the Agency within 6 months from the date of its filing.

In the USA, a patent is issued by the USPTO for a period of 17 to 20 years, depending on the type of industrial property object. In the Republic of Uzbekistan, a patent is issued by the Agency for a period of 5 to 20 years, depending on the type of industrial property object.

In the United States, a patent may be terminated by a court decision if:

- The patent holder does not use the object of industrial property for 3 years from the date of its issuance.

- The patent holder intentionally or negligently allowed the use of an object of industrial property in violation of the requirements of US law.

- The patent holder committed actions that led to the loss of patentability of the object of industrial property.

In the Republic of Uzbekistan, a patent may be terminated by a court decision if:

- The patent holder does not use the object of industrial property for 3 years from the date of its issuance.

- The patent holder intentionally or negligently allowed the use of an object of industrial property in violation of the requirements of the legislation of the Republic of Uzbekistan.

In addition, in the Republic of Uzbekistan, a patent may be terminated by a court decision at the request of a person who has the right to obtain a patent for an object of industrial property, if:

- The patent holder is not the author of an invention, utility model or industrial design.

- The patent holder has received a patent for an object of industrial property in violation of the requirements of the legislation of the Republic of Uzbekistan.

Based on all of the above, we conclude that, in general, the procedure for obtaining a patent in the United States and the Republic of Uzbekistan is similar. However, there are some differences, in particular, with regard to the method of filing the application, the amount of the state fee and the period of consideration of the application, which we discussed above.

Regulatory legal acts:

1. The Law of the Republic of Uzbekistan dated May 6, 1994 "On inventions, Utility models and industrial designs".

2. Order No. 22 of the Director of the State Patent Office dated April 21, 2004. RULES for the preparation, filing and consideration of an application for the grant of a patent of the Republic of Uzbekistan for an industrial design.

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