



Research Article

## ISSUES OF APPLICATION OF NEW CONTRACTUAL FRAMEWORK ON EVALUATION AND COMMERCIALIZATION OF RESEARCH WORKS

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### ABSTRACT

In the genuine sense of the reforms carried out in our country in recent years lies the expanding the country's deserving place in the world community, effective protection of individuals' rights and freedoms, as well as the full support of business entities.

### KEYWORDS

Intellectual property law, commercialization of intellectual property rights, organization of research, contractual and legal basis of research work.

### INTRODUCTION

Specific novel approaches to the protection of intellectual property rights are represented in legislation and are receiving attention at the state level in this regard.

The international community's recognition of the Republic of Uzbekistan as an independent subject of international law has opened up opportunities for scientific research in the fields of international



public and private law, and the demand for these studies has grown.

Our country joined the World Intellectual Property Organization in 1991, and the Berne Convention for the Protection of Literary and Artistic Works entered into force in our country on April 19, 2005.

The Berne Convention, signed on September 9, 1886, is an international legal instrument that governs the relations arising from the creation and use of works of science, literature, and art, as well as copyright protection. The fact that our country has joined this convention has opened up a lot of doors for authors and other equal rights holders.

Resolution of the President of the Republic of Uzbekistan “On additional measures to improve the efficacy of commercialization of the products of scientific and scientific-technical activity” (dated July 14, 2019 No PP-3855) has been adopted in order to ensure the rapid implementation of local scientific-practical and innovative projects and developments, increase the contribution of science in strengthening the country’s economic competitiveness, as well as

create effective mechanisms to promote potential local scientific and technological achievements.

This Resolution lists a number of steps that should be implemented to commercialize the outcomes of scientific and scientific-technical research.

Special attention is paid to the development of intellectual property in our country. In addition to the restoration and delivery to our people of priceless spiritual riches and cultural monuments inherited from our forefathers, all of the necessary conditions for contemporary artists and inventors to operate freely and effectively are being developed.

It is no secret that the twenty-first century is one in which intellectual riches reigns supreme. If we do not grasp the meaning of this in a timely manner, if intellectual understanding and the pursuit of intellectual wealth do not become the content of daily life for any nation or state, that nation or state will be left behind in the global growth process.

When we consider the concept of intellect, we should note that “intellect” is a Latin term that means “mind”. Creative activity is the product of intellectual activity. These are frequently the



works of cognitively active people, such as writers, poets, painters, scientists, engineers, technicians, and others. These items will have their own freshness or originality, as well as distinct indicators. Many of these products are ideological - intangible, according to the law. For this reason, the norms of law applicable to them, the ordinary thing, the material object, cannot be applied to them.

First and foremost, the state bears a significant obligation in teaching the future generation to become educated, intelligent, and well-rounded individuals. Because the country's bright future will undoubtedly necessitate competent, smart, and educated workers.

We must concentrate on the widespread adoption of new information and pedagogical technologies in the educational process, as well as on paying more attention to teachers and educators who are dedicated to raising our children to be perfect people, in order to bring the educational system to a completely new level.

We must first implement new information and computer technologies, the Internet, and modern

digital and wide-format telecommunications in the sphere of education in order to further research.

The contractual and legal basis of research work is defined as a contract, according to Article 631 of the Civil Code of the Republic of Uzbekistan.

Under the terms of the contract, one party (contractor) agrees to accomplish a specific task on behalf of the other party (customer) and deliver the output to the customer within a defined time frame, while the client agrees to accept and pay for the job. Unless otherwise specified by law or the parties' agreement, the contractor is responsible for the work's completion.

In fact, research means theoretical and experimental work is carried out over time in order to determine the technical feasibility of a new technique. Research work is separated into two categories: fundamental (the acquisition of new knowledge) and practical (application of new knowledge to solve specific problems)<sup>1</sup>.

The creation of fresh outcomes is one of the key purposes of implementing a research contract.

stimulating innovative activity // Russian Justice, 2010, No. 1, p.83.

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<sup>1</sup> Pisenko K.A. Protection of objects of exclusive rights by public law means of antimonopoly legislation and legislation on intellectual property as a mechanism for





New scientific studies, new technology, and so on are examples of them.

According to international experience, the contractual and legal basis for research activity is supplied in the form of a contract. According to Article 702 of the Civil Code of the Russian Federation, under the contract, one party (contractor) agrees to do a specific task on behalf of the other party (customer) and submit the result to the order, while the customer agrees to accept and pay for the result.

Unless the requirements of this Code on such contracts state differently, certain types of contracts (domestic contract, construction contract, design or prospecting contract, subcontracting for public use) are subject to the rules set forth in this paragraph.

Contracts for research, development, and technology are governed under Article 769 of the Civil Code of the Russian Federation. According to him, the contract executor for the implementation of research activity is obligated to do scientific study as defined in the customer's work. The development of a new product sample, its design documentation, the development of a new technology, or a copy of the sample is covered by the contract for experimental design and technological work, and the customer agrees to accept and pay for the work<sup>2</sup>.

Present article of the Russian Federation is interpreted in the same sense as Article 693 of the Civil Code of the Republic of Uzbekistan.

Research work is supplied for the performance of scientific research defined in the assignment given by the contractor (executor) client under the contract, according to Article 693 of the Civil Code. Under the terms of an experimental design and technological work contract, the contractor will create a sample of a new product, necessary design documentation, new technology development, or a copy of the sample. In this situation, the customer agrees to provide the contractor (executor) a technical assignment, accept the work, and pay for it.

The contract with the Contractor may cover the entire process of research, development and preparation of samples, as well as some of their stages (elements).

Similarly, also in the Civil Code of Kazakhstan, Belarus, Ukraine and the Kyrgyz Republic research work is defined as a type of contract. According to it, the research contractor (executor) carries out scientific research, experimental design and technology work specified in the assignment given by the customer. The contract stipulates the obligation to develop a new product sample, related design documentation, new technology or a sample copy,

<sup>2</sup> "Civil Code of the Russian Federation (Part Two)" dated 01/26/1996 N 14-FZ) //

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_9027/0ee419ba85ccba3a856846751c1e208007aa9b05/](http://www.consultant.ru/document/cons_doc_LAW_9027/0ee419ba85ccba3a856846751c1e208007aa9b05/)



in turn the customer undertakes to accept the work and pay the contractor.

The contractor shall comply with the criteria connected to the legal protection of intellectual property under the contract of research work, experimental design, and technological work, according to Article 698 of the Civil Code of the Republic of Uzbekistan.

The courts are required by law to protect intellectual property. In the protection of intellectual property rights, judicial protection is crucial. In civil law, courts frequently safeguard intellectual property rights. Civil rights protection of intellectual property rights can be divided into general and specific methods.

Article 44 of the Constitution of the Republic of Uzbekistan provides for the protection of each person's rights and freedoms through the courts, as well as the right to appeal to the court against any unlawful action of state bodies, officials and public associations. Any interested party has the right to file an application with the court in the way established by law in order to protect his or her violated or contested legal rights or interests.

In recent scientific research, certain Russian Federation scientists have proposed the establishment of a special Patent Court to resolve intellectual property conflicts<sup>3</sup>. We are aware that special patent courts exist in developed countries.

The evolution of social relations, as well as the growing importance of intellectual property in the state and society, may necessitate the establishment of such specialized courts in our country.

Disputes emerging from the contractual connection of research activity can also be brought before these Patent Courts, which play a unique role in the effective protection of the legitimate interests of parties whose rights and freedoms have been violated.

Thus, the effective protection of exclusive rights is a critical safeguarding in the protection of the rights and interests of the right holder in relation to the object of intellectual property, in the prevention of cultural piracy, in strengthening the powers of creators and owners of intellectual property, together with expanding the introduction of scientific and technical achievements in the economic development of the country.

The identification of a subject is a key requirement of the contract for research activity. The level of accuracy, however, varies depending on the nature of work:

- Research is more abstract;
- Experimental design and technological work is more accurate (focused on certain technical

<sup>3</sup> <http://rozhkova-ma.narod.ru>





solutions, the creation of specific models of products used in the economy)<sup>4</sup>.

These distinctions are reflected not only in the contract's subject matter, but also in the legal regulation of the contract's other terms (taking into account the level of risk, negative consequences or consequences of creative failure, the procedure for accepting the contract and taking into account the responsibilities of the parties).

The contract's subject matter is determined by the parties' agreed-upon terms of reference. The customer creates the terms of reference based on the needs for the work output. These research requirements are based on the research topic (direction), the primary issues (problems) to be solved by the contractor, the contractor's work objectives, and the contractor's conclusions and recommendations (availability of the necessary calculations, compliance of the conclusions and recommendations with regulatory documents, technical regulations, standards and other requirements)<sup>5</sup>.

The performance of works with an intangible item as a result of the contract's special character is the product of intellectual activity, which may

include elements of intellectual property protected by law.

Because the subject of research is the subject of a contract, i.e. the acquisition of information, it can have properties that safeguard the intellectual product.

The level of future research or development is a key criterion of the contract under consideration. It is based on the parties' technical qualities, scientific requirements, and economic requirements<sup>6</sup>.

According to Russian legislation, the executor of a research contract can be any individual or legal body, and the law does not provide for licensing of their operations. At the same time, the research contract's executors are frequently recognized as special research organizations that conduct research<sup>7</sup>.

The contractor must personally perform scientific study, according to Article 694 of the Civil Code of the Republic of Uzbekistan. Unless the contract for research work expressly states otherwise, he has the right to include third parties in the performance of the contract with the customer's approval.

<sup>4</sup> Koval D.V. Intellectual property: constitutional and legal aspect // Constitutional and municipal law, 2013, No. 8, p. 28.

<sup>5</sup> Trakhtengerts L.A. The result of the work, the rights to which are assigned to the customer under the R&D contract, is determined by the terms agreed by the parties on the

subject of the contract // Comments of judicial practice / ed. K.B. Yaroshenko. - M., 2011, p. 69.

<sup>6</sup> Andreeva L.R. Essential terms of the contract: disputes dictated by theory and practice // Economy and Law, 2012, No. 12, p.46.

<sup>7</sup> Sergeev A.P., Tolstoy Yu.K. Civil law. Textbook. - M., 2013, p. 358.





First and foremost, the growth of science is given priority in the world's most powerful countries. The significance of research in this field is also critical.

At the same time, by effectively commercializing science and technology, the world's most powerful nations have effectively improved their political and economic positions. As a result, the advancement of science and technology in the country will undoubtedly be critical to the country's long-term viability.

Today, the United States is one of the world's most powerful scientific and industrial nations. As a result, it is useful to think of the United States as a true mirror of the most advanced global trends in science and technology development.

For example, in a huge global market for chemical products with an annual turnover of more than \$ 1.5 trillion - the U.S. share is 25 percent and the annual export turnover is \$ 70 billion. In the United States, there are enough research groups to do precisely that. Private foundations have aided in the development of the United States' scientific capacity.

In this area, the Russian Federation has made tremendous progress in developing research. From a legislative standpoint, it is worth noting that the Federal Law "On Science and State Science Policy" was passed on August 23, 1996.

The essential ideas of research work, its subjects, researchers of research organizations engaged in research activity, and other related issues are all described in depth in this law.

Article 8 of the Act establishes the legal foundation for forming contracts (agreements) for the creation, delivery, and use of scientific and (or) scientific and technical products, which is one of the most essential features of the Law.

According to it, scientific organization, customer and other consumers of scientific and (or) scientific and technical products, including federal executive bodies, the main legal form of relations between the executive bodies of the constituent entities of the Russian Federation, contracts for the creation, delivery and use of scientific works (or) scientific and technical products, scientific, scientific-technical engineering-consulting and other services.

Research and development for the state's needs is carried out on the basis of these agreements. In such circumstances, the client government agency and the executive organization enter into agreements (contracts).

The Russian Federation's government has the authority to issue a required state order requiring federal state scientific bodies to conduct research and development.

Terms of possession, use and disposal of scientific and (or) scientific and technical results are



stipulated by the legislation of the Russian Federation, as well as agreements (contracts) of the parties being the subject of scientific and (or) scientific and technical activities and scientific and (or) scientific determined by the technical products<sup>8</sup>.

As can be seen, a separate statute regulates the legal basis of research and development work in the Russian Federation:

**First**, taking into account the fact that the development of research in our country requires a modern approach to its development, establishment of research organizations (centers) engaged in research in all state and government bodies, responsible for the creation of new technologies (using the experience of the United States and other advanced foreign countries);

**Second**, to increase the country's focus on science, to further increase the next generation's excitement for science and education, and to speed up important research in this area;

**Third**, in order to clearly define the science and research policy of the state, it is expedient to develop and adopt an appropriate draft law in this area, which includes the contractual and legal

basis of research (in the light of the experience of the legislation of the Russian Federation);

**Fourth**, in order to improve the specialization of the courts, the efficient protection of intellectual property rights as well as the creation of an effective mechanism for resolving disputes originating from the contractual relationship of research work it is proposed to study the possibility of creating patent courts in our country and learn from advanced other countries' experiences.

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