

**THE CONCEPT AND LEGAL NATURE OF VIRTUAL PROPERTY IN THE
REPUBLIC OF UZBEKISTAN**

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Abstract. The article explores the phenomenon of virtual property as a fundamentally new object of civil rights that has emerged amid global digitalization and the transformation of information technologies. The author provides a systematic analysis of the legal nature of digital assets, including in-game items, cryptocurrencies, domain names, and social media accounts. Particular attention is paid to the specifics of the national legislation of the Republic of Uzbekistan, specifically regarding the potential for integrating virtual objects into the existing system of civil rights objects.

Keywords: Virtual property, digital assets, Republic of Uzbekistan, civil law, objects of civil rights, digital economy, cryptocurrency, cyberspace.

The current rapid development of information technology has led to the placement of property objects on the Internet. Thus, the processes of globalization of social relations lead to a significant complication of the entire system of economic, political, and social activity of various subjects and the formation of necessary mechanisms for their management and information support. At the same time, conducting system analysis, researching a number of operations is impossible today without properly organized information processes. The development of new information and communication technologies, their widespread introduction into all spheres of human life, has led to their serious restructuring and the emergence of new forms of social activity.

These include multi-user online games, social networks, electronic wallets, online stores, and others. As a result of submitting online applications to various government bodies and organizations, various trade operations are carried out, specifically through a virtual network. That is, a virtual environment is formed, an alternative to the real - material environment and in the virtual environment, or a unique property called virtual property is formed in cyberspace.

In Uzbekistan, this institution is only beginning to develop, in connection with which there is a pressing need to develop a conceptual approach to legislative regulation of the designated element of property rights. Undoubtedly, one of the key components of the effective implementation of these goals is the adequate and reliable legal support of these processes at the level of specialized legislative acts for individual objects of the entire set of intangible assets actively used directly in economic activity, in the digital and virtual space.

Considering the full economic attractiveness of intangible assets and their relevance as part of property rights objects, it is advisable to note that identifying the legal nature of this category and its specifics presents significant difficulties due to their amorphous, from a legal point of view, nature.

Civil law theory distinguishes a number of distinctive features of the considered category of benefits from other objects of civil rights. We will identify those that are relevant to the topic of our research, in other words, those that influence the process of their inclusion in the objects of property rights.¹

In this regard, it seems appropriate to conduct an analysis of the legal nature of such phenomena regarding the adequacy of the application of the legal regulation regime for traditional intangible asset objects in their electronic manifestation.

Virtual property includes intangible objects that have economic value, can be useful or used exclusively in virtual space. The list of virtual property seems quite extensive, but most importantly, it is open and the modern development of technologies allows for the emergence of new virtual objects that have property value.

Today, virtual property includes: game property, cryptocurrency, domain names, virtual property on social networks (channels, groups, etc.).

Each intangible object has specific characteristics that require certain specifics in legal regulation. In general, the term "virtual property" is used in most cases to denote what is called "game property" - weapons, equipment, artifacts, intra-game money.

Thus, the concept of "virtual property" encompasses a significant number of newly emerged objects, the rights to which, without any doubt, are classified as property, despite the "non-reality" of the objects themselves.

The fact that the listed objects are not directly mentioned or fixed in the legislation should not affect the recognition of their "status" as an object of civil rights. This is explained by the fact that Article 81 of the Civil Code of the Republic of Uzbekistan, what falls under the concept of "property," and the list contained therein is open, which allows us to draw the following conclusion: the concept of "property" encompasses everything that has economic value (has objective value) for participants in civil turnover and allows for the transfer (transfer) from one person to another.

But in modern reality, there is a need to give an appropriate legal assessment or create a new legal construct for a new property object arising in the virtual world.

To date, there is no consensus on the issue of legal qualification of virtual property, norms on the legal nature of virtual objects are absent in the legislation of most countries. In this regard, an objective question arises: how should virtual property be considered as the subject of a license agreement, as "other property" in the civil law sense, or apply the provisions of property rights to virtual property, or consider it solely in the context of intellectual law? In addition, proposals regarding the possibility of classifying relations in the field of virtual property as services are being considered.

As a result of the analysis of legal doctrines (primarily foreign) and judicial practice, 4 main possible variants of the qualification of relations arising in connection with the circulation of virtual objects were identified, these are:

1. Non-interference of law in such a relationship.

¹ Gulyamov S.S. Theoretical and practical aspects of the legal classification of intangible assets // Review of the legislation of Uzbekistan. -2006. -No2.

2. Applying analogy - extending the norms of property rights and property rights to virtual objects.

In some countries (for example, China, Taiwan), this approach is already being used, i.e., virtual property is equated to objects in the civil law sense, therefore it can be alienated and transferred.

The American doctrine implies the extension of common law norms on property rights to virtual objects. Some foreign scholars propose granting virtual objects the status of a thing.

3. Qualify these relationships within the context of existing licensing and other agreements. In this case, the relationship between the player and the game developer is formalized in the form of a license agreement.

4. Consider virtual property objects as "other property" and apply the norms regarding the corresponding types of contracts and deals to these relations.

Thus, Lisachenko A.V., having considered some examples, concludes that people perceive virtual objects as existing, that is, having real value and turnover; to date, the existence of such objects has not found proper reflection in law.

The author draws attention to the fact that if the question of the status of virtual property objects remains unanswered, the lack of regulation will be compensated by "self-made" rules within the game. Already now, there are rights to real non-existent objects, which the user not only owns, disposes of, and uses, but also derives income from and vindicates.

And, despite the fact that for the purpose of formalizing the rights to virtual property, a real-legal model is unconsciously used, i.e., property relations are copied, according to A.V. Lisachenko: "it is hardly worth equating them with real things (although the development of augmented reality technologies raises doubts about this as well), but it is quite possible to distinguish them as a special category of objects of civil rights using certain elements of the legal regime of things, as has been done, for example, with regard to undocumented securities".²

According to B. Semenyut, to regulate the relationship between the organizer and the user, it is proposed to use one of two models: a licensed contract or a fee-for-service contract.

Summarizing the above, we can conclude that there is currently no unified opinion on the qualification of the legal nature of virtual property. By giving preference to any option, researchers of this issue cannot claim that this option is the only correct one.

Due to the fact that relations in the "Internet" network are developing very rapidly, changes in legislation are also necessary, since uncertainty in the legal regime in matters of virtual property has negative consequences for both users and developers, as well as for the state.

It is impossible to stop the development of virtual spaces, and consequently, it is impossible to stop the development of the legal relations that arise in them. Therefore, one of the main tasks of domestic legislation is to reorganize legal institutions for the legal regulation of relations in the virtual space or to form new legal constructs.³ Consequently, virtual property, lacking

² Lisachenko A. V. "Virtual Worlds Law: New Objects of Civil Rights" 1, pp. 104-110

3. Semenyuta B. "Online Games: The Legal Nature of Relationships."

³ Imomov N. New objects of intellectual property law. T., 2011. (Uzbek language edition).

established traditions and established practices, requires the qualification of its legal nature and the determination of its place and role in the civil law system, and is of great scientific interest and significance.

As mentioned above, virtual property includes: game property, cryptocurrency, domain names, virtual property on social networks (channels, groups, etc.).

The real sphere of game relations is undoubtedly not subject to legislative regulation - on the game field, game participants are subject to the game rules proposed by the developers. Moreover, considering that the virtual world of the corresponding online game is created by the efforts of its developers themselves, the rules of the online game are exclusively their prerogative.

Virtual property can also include cryptocurrency, which is recognized as one of the virtual currencies. In foreign publications, one can find the gradation of existing virtual currencies into 4 groups:

1. mobile fiat currency (used when making bank payments);
2. Currency of corporate importance (rewards for loyalty, for example, discounts for clients expressed in points, credits, etc.);
3. virtual world currency (the mentioned intra-game currency) and
4. decentralized currency (primarily bitcoin, which is an alternative to a centralized bank currency).

Domain names also fall under the category of virtual property, if they are considered not as a means of redirection on the Internet, but as an identifier of a business or private person on the Internet.

A domain name can become a means of infringing on intellectual property on the Internet, based on which the domain names themselves can be attributed to intellectual property. This position was revealed by I. Rustambekov.⁴ At the same time, M. Rozhkova believes that a domain name is not an object of intellectual rights and there are no obstacles to classifying the rights to this intangible object as property rights, as well as to other virtual objects listed above.⁵

Domain names refer to the legally registered word-digital designation that replaces the digital address of a computer connected to the network.

It should be noted that this institution is an independent means of individualization, since it cannot be equated with commercial designations used by a legal entity in its commercial activities, advertising, etc., without registering them as trademarks and trade names.

We believe that the concepts under consideration differ fundamentally in their functions, the grounds for their emergence (commercial designations arise without registration due to their use,

⁴ Rustambekov I. Civil Law Regulation of Domain Names in Uzbekistan. Diss. cand. jurid. sciences. -T.: TSUL, 2011. - P.26.

⁵ Rozhkova M.A. Rights to a Domain Name // Law in the Sphere of the Internet: Collection of Articles / Hand. auth. col. and rev. ed. d.y.n. M.A. Rozhkova. M.: Statute, 2018. P. 195-223

domain names - only after registration) and the scope of application (the first category is applied only in the entrepreneurial sphere, and the second is unrestricted).

A distinctive feature of domain names is the absence of clear territorial limits. A domain name can be used to address a website of any content aimed at an audience of different countries.

In other words, access to a website with a specific domain name is possible from any country in the world, because even the presence of a geographic domain index in the website address does not mean the presence of any connection with the territory of the designated country.

Consider the most significant violations of the property interests of rights holders in the unlawful use of domain names. For example, cases where a domain name is registered but not used are quite common. As a result, the trademark owner is forced to "buy" it from such a holder. At the same time, limiting such actions is very difficult, because, firstly, it is necessary to agree that the registration of a domain name alone cannot be recognized as the use of a trademark. Secondly, it is required that the use of the trademark be carried out in relation to the goods for which the trademark is registered. Moreover, the website may not be related to the distribution of goods or the provision of services at all, but may be purely informational.⁶

In this case, a conflict situation arises regarding the priority of rights to a trademark or domain name. Foreign practice has already developed separate mechanisms for resolving conflicts related to these intangible assets of business entities. For example, a violation of property interests related to the use of a trademark is the receipt of a proposal from the domain name owner to sell it.⁷ Also, the fact that the right holder has registered many domains similar to well-known trademarks may indicate abuse of the domain name.⁸

Therefore, it is important to ensure a real balance of interests between the domain name registrar, their owners, and trademark rights holders. In global practice, the Unified Rules for Dispute Resolution on Domain Names (UDRP), developed by the World Wide Web, have gained significant importance, which provides grounds for domestic law enforcement to consider the accumulated experience in this area, as well as the theoretical recommendations developed by the international community on this issue, in the event of identified conflicts of intangible assets of legal entities.⁹

Thus, considering the diversity of intellectual property objects and their significance in the market economy of modern Uzbekistan, which is carrying out deep economic transformations, it is necessary to ensure proper legal regulation by national legislation.

⁶ It can also be clarified that today, in relation to domain names, there is no traditional limitation for trademarks to a specific list of goods or services, nor is there a means of individualization..

⁷ Thus, the owner of the quelle, ru name appealed to the owner of the German brand Quelle AG with a proposal to purchase this domain name for 60 thousand dollars. USA. Such introduction of a domain name into commercial circulation was recognized by the court as violating the interests of the plaintiff. See more details: Decision of the Arbitration Court of Moscow dated 13.07.2000 on the claim of "Quelle Aksiengesellschaft." <http://www.ripn.net:8080/press/2000/03.08.html> In the case concerning the domain name worldwrestlingfederation.com, the defendant requested only 1 thousand dollars for the domain name. USA. See: World Wrestling Entertainment Inc vs. Michael Bosman; WIPO Case No. D99-001.

⁸ For example, in the christiandiorfashions.com domain name case, the defendant's dishonesty was established due to the fact that 46 domain names, including the Gucci, Versace, Giorgio Armani, Levis, and other trademarks, were registered in his name.

⁹ Калятин В.О. Будущее доменных имен // Юридический мир. –2003. –№2. –С.9-14.