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FEATURES OF THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS FOR DESIGNATIONS ACCORDING TO THE LEGISLATION OF UKRAINE

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Abstract

Symbols that distinguish one business entity from another – such as signs, trademarks, and commercial or brand names – play a crucial role in ensuring fair competition and protecting consumer rights. Their proper use guarantees the declared origin and expected quality of goods, works, or services. The Convention Establishing the World Intellectual Property Organization (Stockholm, July 14, 1967) introduced an important distinction between "trademarks" and "designations." Under current Ukrainian legislation, designations may include words (including proper names), letters, numbers, images, colors, shapes of goods or packaging, and sounds, provided they are capable of distinguishing the goods or services of one person from those of another and can be represented in the Register with sufficient clarity to determine the scope of legal protection. Given these requirements, effective use and protection of designations necessitate a thorough understanding of how Ukrainian law regulates intellectual property rights in this area. The purpose of this article is to clarify the features of such protection by systematizing legislative provisions and relevant judicial practice. The methodological basis includes the documentary method, focused on analyzing court materials, and the formal-legal method, used to examine the legal positions of the Supreme Court concerning the protection of designations. The study leads to several conclusions: a designation itself is not an independent object of legal protection; it may acquire protection only when incorporated into a registered trademark; such protection is

limited by the rules applicable to marks; and, in special cases, courts may prohibit the use of a designation not as a trademark element but as a work of fine art.

Keywords

Intellectual property, trademarks, designations, legal protection, Law of Ukraine "On Protection of Rights to Signs for Goods and Services".

Resumo

Os símbolos que distinguem uma entidade empresarial de outra – tais como sinais, marcas registadas e nomes comerciais ou de marca – desempenham um papel crucial na garantia da concorrência leal e na proteção dos direitos dos consumidores. A sua utilização adequada garante a origem declarada e a qualidade esperada dos produtos, obras ou serviços. A Convenção que institui a Organização Mundial da Propriedade Intelectual (Estocolmo, 14 de julho de 1967) introduziu uma distinção importante entre «marcas registadas» e «designações». De acordo com a legislação ucraniana em vigor, as designações podem incluir palavras (incluindo nomes próprios), letras, números, imagens, cores, formas de bens ou embalagens e sons, desde que sejam capazes de distinguir os bens ou serviços de uma pessoa dos de outra e possam ser representadas no Registo com clareza suficiente para determinar o âmbito da proteção jurídica. Tendo em conta estes requisitos, a utilização e proteção eficazes das designações exigem uma compreensão profunda da forma como a legislação ucraniana regula os direitos de propriedade intelectual nesta área. O objetivo deste artigo é esclarecer as características dessa proteção, sistematizando as disposições legislativas e a prática judicial relevante. A base metodológica inclui o método documental, focado na análise de materiais judiciais, e o método formal-jurídico, utilizado para examinar as posições jurídicas do Supremo Tribunal relativamente à proteção das designações. O estudo leva a várias conclusões: uma designação em si não é um objeto independente de proteção jurídica; ela só pode adquirir proteção quando incorporada a uma marca registrada; tal proteção é limitada pelas regras aplicáveis às marcas; e, em casos especiais, os tribunais podem proibir o uso de uma designação não como elemento de marca, mas como obra de arte.

Palavras-chave

Propriedade intelectual, marcas registradas, designações, proteção jurídica, Lei da Ucrânia "Sobre a Proteção dos Direitos a Sinais para Produtos e Serviços".

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FEATURES OF THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS FOR DESIGNATIONS ACCORDING TO THE LEGISLATION OF UKRAINE

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Introduction

Salah Hassan Karim and Dr. Israa Khidir Khalil Alobaidy note that a well-known trademark is a unique trade for any commodity or service. It's usually a word, name, phrase, logo, symbol or image, or any combination of these signals which can be registered as a trademark. The well-known trademark is distinct from other intellectual property rights. As the well-known brand plays a significant role in economic growth, such has led to multiple infringements such as the forgery and imitation of the famous trademarks, which has become widespread (Salah Hassan Karim & Israa Khidir Khalil Alobaidy, 2024).

As G. Mykhailiuk notes, one of the main goals of marketing policy is to distinguish one's own products from similar products of competing manufacturers (Mykhailiuk, 2014). This becomes especially important in the conditions of the expected post-war Innovation and Investment Development of Ukraine (Kulikov et al., 2022; Nikonenko et al., 2022). Such differentiation may become necessary in information bases conducive to the development of an E-Commerce platform within modern socio-economic systems, operating amidst global digitalization and within legal constraints (Alazzam et al., 2023). Such differentiation can be achieved in various ways, but one of the oldest and most effective is the creation of a certain sign, name, symbol, which is depicted on the goods of this or that manufacturer, or under which this or that business entity performs work / provides services on the market. The above refers to the use of a commercial designation. Along

with the convenience and effectiveness of this marketing tool, which is also an object of intellectual property, the use of a commercial designation is associated with a group of risks that significantly limit the right of individuals to use certain commercial designations (Mykhailiuk, 2014).

The same article notes that the potential for separate legal protection for signs was provided in the Stockholm in World Intellectual Property Organization Convention of 1967, paragraph 8, Article 2, where point viii) of this article states that "intellectual property" includes rights relating to: literary, artistic and scientific works; performances of performers, phonograms and broadcasting; inventions in all spheres of human activity; scientific discoveries; industrial samples; trademarks, service marks, commercial names and designations, protection against unfair competition and all other rights resulting from intellectual activity in the fields of industry, science, literature or art (Convention, 1967). Also there was introduced the distinction between the concepts of "trademarks" and "designations".

At the same time, Leonid Belkin emphasizes that the protection of intellectual property rights to designation under the legislation of Ukraine is highly limited and has specific features. It is indicated that the exhaustive list of objects of intellectual property rights, which are subject to separate legal protection, is established in Part 1 of Article 420 of the Civil Code of Ukraine, including commercial (brand) names, trademarks (marks for goods and services). Thus, the designation is not defined as an independent object of legal protection (Belkin, 2019). Therefore, proper protection of the rights to use the relevant symbols (signs) is important and relevant. At the same time, a relatively small number of works are devoted to the issue of legal protection for designations (Mykhailiuk, 2014, 2015a, 2015b; Belkin, 2019; Rozghon, 2021). In addition, since the publication of these works, including the work of the co-author (Belkin, 2019), a number of new laws have been adopted, as well as new case law has been formed by the reformed Supreme Court. For example, on July 21, 2020, Law of Ukraine No. 815-IX "On Amendments to Certain Legislative Acts of Ukraine on Strengthening Protection and Protection of Rights to Trademarks and Industrial Designs and Combating Patent Abuse" was adopted (entered into force on August 16, 2020). Thus, there remains a large number of disputes in the specified area, which is connected with insufficient legal regulation of this area and confirms the relevance of this topic.

Presenting main materials

Civil law regulation of legal protection of designations

According to Part 1 of Article 492 of the Civil Code of Ukraine, a trademark can be any designation or any combination of designations that are suitable for distinguishing goods (services) produced (provided) by one person from goods (services) produced (provided) by other persons. Such designations can be, in particular, words, letters, numbers, pictorial elements, color combinations.

According to Part 1 of Article 1116 of the Civil Code of Ukraine, the subject of a commercial concession contract is the right to use objects of intellectual property rights

(trademarks, industrial designs, inventions, works, trade secrets, etc.), commercial experience and business reputation.

According to paragraph 1 Article 4 of the Law of Ukraine dated June 7, 1996 No. 236/96-VR "On Protection from Unfair Competition" it is illegal to use a name, commercial (brand name), trademark (a mark for goods and services), advertising materials, design of product packaging and periodicals, other designations without the permission (consent) of the business entity that previously started using them or similar designations in business activities, which has led or may lead to confusion with the activities of this business entity.

Thus, in the above-mentioned Part 1 of Article 420 of the Civil Code of Ukraine, as well as in the quoted norm of the Law of Ukraine "On protection against unfair competition", the concept of "trademark" was equated with the concept of "mark for goods and services". At the same time, trademarks are directly defined as the object of intellectual property law, and the designation has a derived meaning from the concept of "trademark".

According to Article 1 of the Law of Ukraine dated December 15, 1993 No. 3689 "On Protection of Rights to Marks for Goods and Services" (as amended until August 16, 2020), a mark is a designation by which goods and services of one person differ from goods and services of other persons; certificate – a certificate of Ukraine for a mark for goods and services. According to Part 2 of Article 5 of this Law, the object of a mark can be any designation or any combination of designations. Such designations may include, but are not limited to, words, including proper names, letters, numbers, pictorial elements, colors and combinations of colors, and any combination of such designations.

The term "trademark" is not used in this Law. Only upon adoption of the above-mentioned Law No. 815-IX dated July 21, 2020 in the text of the Law "On Protection of Rights to Marks for Goods and Services" the words "marks for goods and services" in all cases and numbers were replaced by the word "trademark" in the corresponding case and number; the words "registered mark" in all cases and numbers are replaced by the words "registered trademark" in the corresponding case and number; replace the word "mark" in all cases and numbers with the word "trademark" in the corresponding case and number. These changes entered into force on August 16, 2020. Under these conditions, the following legal regulation was introduced after August 16, 2020.

According to Article 1 of the Law of Ukraine "On Protection of Rights to Marks for Goods and Services" (as amended after August 16, 2020), a trademark is a designation by which the goods and services of one person differ from the goods and services of other persons; certificate – Ukrainian trademark certificate. According to Part 2 of Article 5 of this Law, the object of a trademark can be any designation or any combination of designations. Such designations can be, in particular, words, including proper names, letters, numbers, pictorial elements, colors, shape of goods or their packaging, sounds, provided that such designations are suitable for distinguishing the goods or services of one person from the goods or services of others persons and suitable for their display in the Register in such a way that it is possible to determine the clear and precise scope of the legal protection provided.

Therefore, with this legal regulation, the provisions of the Law of Ukraine "On the Protection of Rights to Marks for Goods and Services" began to formally correspond to the legal regulation under the Civil Code of Ukraine and the Law of Ukraine "On Protection from Unfair Competition" regarding the derivative meaning of the designation from the concept of "trademark".

At the same time, the peculiarities of legal regulation according to the previous legal protection have current significance, since the case law, which was compiled according to the previous legislation, is relevant even now, taking into account the terminological clarifications.

As noted in paragraph 59 of Resolution No. 12 of the Plenum of the Higher Economic Court of Ukraine dated October 17, 2012, "commercial courts need to keep in mind that the owner of the rights to a mark for goods and services has the right to prohibit other persons from using the same or similar to the degree of confusion with this mark is used only for those goods and services for which this mark is registered, or goods and services related to them. Therefore, in the case of the dispute over the termination of the violation of intellectual property rights for marks for goods and services, the commercial court should find out the list of goods and services for which the disputed marks are registered, and establish the actual circumstances of the use of the disputed marks by the defendants in the cases in terms of their actual image and the list of goods and services for which they are used".

Paragraph 4 of Clause 63 of the specified Resolution No. 12 dated October 17, 2012 states that, in particular, the introduction into civil circulation of designations that are identical or similar to the extent that they can be confused with marks is recognized as a violation of trademark rights.

Therefore, these clarifications confirm that, in the general case, designations do not have an independent status as an object of intellectual property.

In this regard, in particular, in the Resolution of November 8, 2022 in case No. 922/1966/18 of the Supreme Court as part of the panel of judges of the Commercial Court of Cassation, it is stated (Unified State Register of Court Decisions, 2025a).

> *"In itself, the "designation" is not an independent object with a status specially provided by law, which gives rise to certain rights and obligations, in connection with which it does not have specific (special) protection.*
>
> *According to competition legislation, namely, according to Article 4 of the Law of Ukraine "On Protection from Unfair Competition", the designation receives protection in competitive relations, and not as an independent object of intellectual property.*
>
> *The key, in this case, is the issue of good faith/bad faith in the use of such a designation by economic entities.*
>
> *The right to allow the use of a trademark (a sign for goods and services) and the right to prevent its improper use (or a designation similar to it), including*

prohibiting such use, are components of exclusive property rights to a trademark".

In the article (Belkin, 2019) the co-author also summarized the conclusions of the higher specialized court of the pre-reform period (2016-2017), according to which (conclusions) the legislation in general does not grant the right to protect the intellectual property right to designation, including the prohibition of its use. We are talking about the judicial reform of 2016–2017 in Ukraine, within the framework of which (reforms) the Supreme Court of Ukraine, higher specialized courts, as well as the procedure cassation review of cases.

However, there is an exception to the prohibition on independent protection of the designation. In accordance with Part 5 of Article 16 of the Law of Ukraine dated December 15, 1993 No. 3689 (as amended until August 16, 2020) "On Protection of Rights to Marks for Goods and Services" (taking into account the definition of the concept of "certificate" from Article 1 of this Law) certificate of Ukraine for a mark for goods and services gives its owner the exclusive right to prohibit other persons from using without his consent, unless otherwise provided by this Law:

- a registered mark for the goods and services specified in the certificate;

- a registered mark for goods and services related to those specified in the certificate, if as a result of such use it is possible to mislead about the person who produces goods or provides services;
- a designation similar to a registered mark in relation to the goods and services specified in the certificate, if as a result of such use, these designations and the mark can be confused;
- a designation similar to a registered mark in relation to goods and services related to those specified in the certificate, if as a result of such use it is possible to confuse the person who produces goods or provides services, or these designations and the mark can be confused.

Thus, the Law allowed the right holder the exclusive right to prohibit others from using, without the consent of that right holder, either a registered mark or a designation from that registered mark.

Instead, in accordance with Part 5 of Article 16 of the Law of Ukraine dated December 15, 1993 No. 3689 (as amended after August 16, 2020) "On Protection of Rights to Marks for Goods and Services" (taking into account the definition of the term "certificate" from Article 1 of this Law) certificate of Ukraine for a mark for goods and services gives its owner the exclusive right to prohibit other persons from using without his consent, unless otherwise provided by this Law:

- a designation identical to a registered trademark in relation to the goods and services specified in the certificate;

- a designation identical to a registered trademark, in relation to goods and services related to those specified in the certificate, if as a result of such use, this designation and the trademark can be confused, in particular, if an association of such a designation with the trademark may arise;

- a designation similar to a registered trademark in relation to the goods and services specified in the certificate, if as a result of such use these designations can be confused, in particular, if an association of such a designation with a trademark may arise;
- a designation similar to a registered trademark in relation to goods and services related to those specified in the certificate, if as a result of such use these designations may be confused, in particular, if an association of such designation with the trademark may arise.

Therefore, in this version of the law, the emphasis is on the protection of the right to use the designation, but on the condition that such designation is part of a registered trademark. On the other hand, the interested person is not obliged to prove the identity or similarity of the trademarks – it is enough to prove the identity or similarity of individual designations.

Thus, in case No. 924/526/22, the claim was satisfied by the decision of the commercial court of Khmelnytskyi region dated June 20, 2023. It was prohibited for "Agrain" LLC to use similar to registered trademarks word designation "AGRAIN" on the Internet on all web pages, in particular, at the link agrain.in.ua, facebook.com/agrain.ukraine, youtube.com/channel/UCkrpv-Sx8CquJdjBRkf1xGg; in advertising, in business documentation, in domain names, in particular, the domain name agrain.in.ua. The court of first instance agreed with the plaintiff's arguments about the similarity of the designation used by the defendant with the trademark. The plaintiff's trademarks according to the certificate dated November 25, 2020 consist of the verbal element "A GRAIN", which is executed in standard capital letters of the Latin alphabet and a dot after the first letter. The designation "AGRAIN" in all forms used by the defendant on the Internet, advertising and business documentation also consists of the verbal element "AGRAIN" in standard capital letters of the Latin alphabet. It is obvious that the designation used by the defendant, as well as the registered trademarks owned by the plaintiff, belongs to means of individualization. At the same time, the word mark "AGRAIN" used by the defendant is similar to the registered trademarks owned by the plaintiff to the extent that they can be confused.

Subsequently, the decision of the Economic Court of Khmelnytskyi Region was left unchanged by the Resolution of the North-Western Appellate Economic Court dated September 25, 2023. These court decisions are supported by the Resolution of November 30, 2023 in case No. 924/526/22 of the Supreme Court as part of the panel of judges of the Cassation Economic Court (Unified State Register of Court Decisions, 2025b).

Although the conclusion about the legality of the protection of the right to designation follows from the norm of a special law – Part 5 of Article 16 of the Law of Ukraine "On Protection of Rights to Marks for Goods and Services", but this conclusion does not contradict the Civil Code of Ukraine. In accordance with Part 1 of Article 495 of the Civil Code of Ukraine, intellectual property rights to a trademark are: 1) the right to use the trademark; 2) the exclusive right to allow the use of a trademark; 3) the exclusive right to prevent improper use of the trademark, including prohibiting such use; 4) other intellectual property rights established by law.

Therefore, the protection of property rights of intellectual property for designation as part of a trademark falls under the definition of "other property rights of intellectual property established by law", since these rights are established by law – Part 5 of Article 16 of the Law of Ukraine "On Protection of Rights to Marks for Goods and Services".

Instead, when protecting an intellectual property right for a designation as part of a mark for goods and services, the restrictions established for the protection of an intellectual property right for a mark for goods and services apply. In particular, according to the above norm, part 5 of Article 16 of the Law of Ukraine "On Protection of Rights to Marks for Goods and Services", the right to prohibit other persons from using without his consent, in particular, designation as part of the mark, is granted to the owner of this mark as an exclusive right.

It is crucial to recognize that the protection of designations under Ukrainian legislation does not operate in isolation but is fundamentally linked – or "nexused" – to the protection afforded to trademarks. This legal nexus implies that the exclusive rights granted under the Law of Ukraine "On Protection of Rights to Marks for Goods and Services" apply to designations only as integral components of a registered trademark. In other words, while a designation in itself may lack independent legal protection, its incorporation into a trademark framework creates a binding relationship that dictates both the scope and limitations of legal remedies against infringement.

Such an approach is supported by judicial practice, wherein courts have consistently underscored that any dispute regarding a designation must be resolved by examining its relationship with the corresponding trademark. For instance, in the case decided on June 20, 2023, the courts examined whether the unauthorized use of a designation undermined the distinctiveness of the trademark as a whole. This perspective reinforces the understanding that the legal nexus is not merely a theoretical construct but a practical tool that shapes the enforcement of intellectual property rights. For example, in the Resolution dated June 19, 2018 of the Commercial Court of Cassation as part of the Supreme Court in case No. 910/17631/16 (Unified State Register of Court Decisions, 2025c), attention is absolutely rightly drawn to the illegality of the fact that the appellate court, which supported the plaintiff regarding the protection of his right to designation, which is used by this plaintiff, left out of consideration the basis of the claim defined by the plaintiff, namely, that in substantiation of the stated claims, the plaintiff referred to his right to use the mark for goods and services according to the certificate of Ukraine dated February 17, 2003 No. 29714, the owner of which is not the plaintiff, but a Third party. Therefore, the plaintiff did not have the authority to protect the right to the designations, which were part of the registered trademark, while the plaintiff was not the right owner of this trademark.

In the Resolution dated April 03, 2018 of the Commercial Court of Cassation as part of the Supreme Court in case No. 918/560/16 (Unified State Register of Court Decisions, 2025d) it is noted that "in view of the factual circumstances established in the case and taking into account the above legislative prescriptions, the appellate court reached the correct conclusion that according to the Agreement, the Company received a non-exclusive license (non-exclusive rights) to use the trademark according to the certificate

of Ukraine dated February 10, 2012, while the right to allow the use of the trademark and the right to prevent the improper use of the trademark, including prohibiting such use, are components of exclusive property rights to the trademark. The appellate court also came to the correct conclusion that under the terms of the Agreement, the Company was granted the right to act on behalf of the licensor and seek protection of its violated rights as the owner of a certificate for a mark for goods and services, while the Company filed this lawsuit as a plaintiff".

The Supreme Court specifically noted that the Company's reference to the fact that the appellate court did not investigate the circumstances regarding the similarity of the designation used in the production of products by the Company and the Enterprise, although this issue belongs to the subject of evidence in the case, is subject to rejection in view of the fact that circumstances established by the court regarding the Company's lack of right to file this claim with the court on its own behalf are an independent and sufficient reason for rejecting the claim regardless of other circumstances of the case.

It is also worth noting that if the right holder of a mark for goods and services believes that the designation from his mark is illegally used in another mark, then the method of protection in this case may not be a prohibition on the use of the mark, but the cancellation of the certificate for another mark.

Features of the use of trademarks, service marks, commercial names and designations that reproduce works of fine art.

A special case of the possibility of judicial prohibition of the use of designations is its prohibition not as part of a mark for goods and services, but as a work of fine art. The relationship between the principles of legal protection of intellectual property rights to trademarks, service marks, commercial names and designations, on the one hand, and the protection of rights to works of fine art, on the other hand, has not been studied at all. In the article (Belkin, 2019) the co-author also summarized the conclusions of the higher specialized court of the pre-reform period (2016–2017) according to which (conclusions) a special case of the possibility of a court prohibition on the use of a designations is such a prohibition not as part of a sign for goods and services, but as a work of fine art. We are talking about the judicial reform of 2016–2017 in Ukraine, within the framework of which (reforms) the Supreme Court of Ukraine, higher specialized courts, as well as the procedure cassation review of cases. The legislative basis of this conclusion is the norms of Part 4 of Article 6 of the Law of Ukraine "On Protection of Rights to Marks for Goods and Services". According to this norm (as amended until August 16, 2020), shall not be registered as signs designations that reproduce: industrial designs, the rights to which belong to other persons in Ukraine; names of works of science, literature and art known in Ukraine or quotes and characters from them, works of art and their fragments without the consent of the copyright owners or their successors; surnames, first names, pseudonyms and their derivatives, portraits and facsimiles of famous people in Ukraine without their consent.

For example, in case No. 18/89-10, which was considered at the first instance by the economic court of the Sumy region, the plaintiff demanded to prohibit the designations from producing products, using on the packaging of such products notations borrowed from the collection of works of fine art "Sketches and drawings of a mouse, several mice, sketches and drawings of packages for treated and untreated sunflower seeds with the image of a mouse", the intellectual property right of which (assemblage) belonged to the plaintiff. During the first consideration of the case by the court of cassation, in its Resolution dated March 22, 2011 (Unified State Register of Court Decisions, 2025e), the Supreme Economic Court of Ukraine found it erroneous that the courts of previous instances did not pay attention to the fact that an image, that has received legal protection as a trademark, can also be a work of fine art in the sense Article 1 of the Law of Ukraine dated December 23, 1993 No. 3792 "On Copyright and Related Rights" [a work of fine art is a sculpture, painting, drawing, engraving, lithograph, work of artistic (including stage) design, etc.]; in this regard, they did not analyze the provisions of the Civil Code of Ukraine, in accordance with Articles 440, 441, 443 of which the use of works must be carried out only with the consent of the owners of the relevant property rights, except for cases of lawful use of the work without such consent, established by this Code and other laws, and Law No. 3792 "On Copyright and Related Rights", in accordance with Article 15 of which the exclusive right to use the work by the author (or another person holding the copyright) allows him to use the work in any form and in any way; the exclusive right of the author (or other person who holds the copyright) to permit or prohibit the use of the work by others gives him the right to permit or prohibit, in particular, the reproduction of the works.

The Supreme Economic Court of Ukraine sent the case for reconsideration. During the re-examination of the case, the Supreme Economic Court of Ukraine in its Resolution dated January 13, 2015 recognized (Unified State Register of Court Decisions, 2025f) that the courts of previous instances did not fully comply with the instructions of the Resolution of the Higher Economic Court of Ukraine dated March 22, 2011. As a result, the Higher Economic Court of Ukraine independently made a decision to prohibit the defendant from using the mark for goods and services according to the certificate of Ukraine for a sign for goods and services as infringing the plaintiff's intellectual rights to works of fine art.

According to Part 4 of Article 6 of the Law of Ukraine "On the Protection of Rights to Marks for Goods and Services" (as amended after August 16, 2020), designations that reproduce: industrial designs, the rights to which belong in Ukraine to other persons, are not registered as trademarks; names of works of science, literature and art known in Ukraine or quotes and characters from them, works of art and their fragments without the consent of the copyright owners or their successors; surnames, first names, pseudonyms and their derivatives, portraits and facsimiles of famous people in Ukraine without their consent.

Thus, in the Resolution dated September 27, 2023 in case No. 757/16255/20-ts, proceeding No. 61-2441sv23, of the Supreme Court as part of the panel of judges of the First Judicial Chamber of the Civil Court of Cassation, it is stated (Unified State Register of Court Decisions, 2025g):

> *"According to paragraph 2 of the sixth part of Article 6 of the Law of Ukraine "On the Protection of Rights to Marks for Goods and Services", reproducing the names of works of science, literature and art known in Ukraine or quotations and characters from them, works of art are not registered as marks and their fragments without the consent of the copyright holders or their successors.*
>
> *In accordance with paragraph 5 of the second part of Article 6 of the specified Law, designations that are misleading or may mislead regarding a product, service or a person who produces a product or provides a service cannot receive legal protection either...*
>
> *Violation of copyright and (or) related rights, which gives basis for the protection of such rights, including judicial rights, is the commission by any person of actions that violate the personal non-property rights of the subjects of copyright and (or) related rights, defined in articles 14 and 38 of the Law of Ukraine "On Copyright and Related Rights" and their property rights, defined in Articles 15, 17, 27, 39-41 of this Law, taking into account the conditions of use of objects of copyright and (or) related rights, provided for by Articles 21–25, 42, 43 of the Law...*
>
> *Given that there is a presumption of authorship in copyright, it must be rebutted by the defendant, that is, the person who, according to the author, violated his copyright, and such a person should not prove the presumption of authorship, since the said is presumed...*
>
> *However, the presumption of authorship of the plaintiff in this case was not refuted by the defendant. Therefore, the courts of previous instances came to a well-founded conclusion that the plaintiff has exclusive property rights to the work, including the exclusive right to grant permissions for use, processing and any other reproduction, and she did not grant the defendant PERSON_2 the right to use the name of the work, including the right to process and use it for registration as a mark for goods and services".*

The Supreme Court came to a similar conclusion in the Resolution (Unified State Register of Court Decisions, 2025h) dated March 4, 2020 in case No. 520/15449/16, proceeding No. 61-42206sv18, of the Supreme Court as part of the panel of judges of the First Judicial Chamber of the Cassation Civil Court.

Conclusion

Thus, regarding the features of the protection of intellectual property rights for designations according to the legislation of Ukraine the following conclusions can be reached:

- the designation is not an independent object of legal protection as an object of intellectual property;

- the designation may be the object of legal protection as an object of intellectual property if this designation is part of a registered mark for goods and services (trademark);
- such protection is provided with restrictions that apply to signs, namely: protection regarding the mark for goods and services (trademark) of use is granted to the right holders of this designation, in case of violation of the rights of the owner of this sign to fair economic activity and in relation to alternative objects of intellectual property that have not received proper legal protection;
- a special case of the possibility of a court prohibition on the use of a sign is such a prohibition not as part of a mark for goods and services (trademark), but as a work of fine art: if the designation and/or trademark reproduces the work of fine arts, the right to protection based on the Law of Ukraine dated December 15, 1993 No. 3689 "On the Protection of Rights to Marks for Goods and Services" is granted to the author of the work or to a person to whom the intellectual property right to such a work has been assigned, as a priority before the protection of a mark, even a registered one.

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