

Fyl Ruslan,

Doctor of Juridical Sciences, Head of
the Department, State Research Institute
MIA Ukraine, Kyiv, Ukraine

ORCID ID 0000-0002-5680-875X

CHARACTERISTICS OF FEATURES OF CRIMES AGAINST THE RIGHTS TO INDUSTRIAL PROPERTY OBJECTS

The article describes the features of the crime subject, stipulated in Art. 177, 229, 231 and 232 of the Criminal Code of Ukraine. It has been established that the invention, utility model, industrial design, topography of integrated circuits, plant variety can be the subject of crimes stipulated by Art. 177 of the Criminal Code of Ukraine, for such signs, in particular: obtaining on these objects patents or certificates or conclusions about the decision on their issue, which certify the property rights of their owners and the non-property rights of their creators; establishing the priority of applying for a patent or certificate; payment of annual fees for the maintenance of the specified security documents; in the case of the transfer of property rights to these objects to third parties who become their successors, or to grant permission to any persons the right to use these objects, the conclusion of civil agreements for the commission of such transactions. It is noted that a secret invention or a secret utility model generates a set of crimes on which the court receives the legal grounds to impose a more severe punishment than stipulated in Art.177 of the Criminal Code of Ukraine. It has been found out that the rationalization proposal is the subject of industrial property offenses if it is recognized as a legal entity by the legal entity and is accordingly executed. It has been discovered that trademarks, commercial names and geographical names are the subject of a crime under Art. 229 of the Criminal Code of Ukraine, subject to their registration or recognition of a trademark, is well-known in accordance with international treaties, or the first use of a commercial name. It is determined that commercial secrets are the subject of crimes under Art. 231 and 232 of the Criminal

Code of Ukraine, in case of acceptance by the subject of economic activity at its own discretion, the decision to enumerate its own results of intellectual activity to confidential information.

Key words: object of crime, objects of industrial property, intellectual property rights, the Criminal Code of Ukraine.

REFERENCES

1. Kryminalnyi kodeks Ukrainy. “The Criminal Code of Ukraine”: Law of Ukraine of April 5, 2001 No. 2341-III. Information of the Verkhovna Rada of Ukraine. 2001. No. 25–26. Art. 131. [in Ukrainian].
2. *Nersesian A.S.* (2010) Kryminalno-pravova okhrona prav intelektualnoi vlasnosti: monohrafiia. “Criminal law protection of intellectual property rights”: monograph. Khmelnytskyi: View. Hops. University of Management and Law. 192 p. [in Ukrainian].
3. *Kuts V.M.* (2013) Problemy kryminalnoi vidpovidalnosti: navch. posib. “Problems of criminal liability: teach. manual. K.: NAPU. 325 p. [in Ukrainian].
4. *Berzin P.S.* (2004) Nezakonne vykorystannia zasobiv indyvidualizatsii uchasykiv hospodarskoho oborotu, tovariv ta posluh: analiz skladiv zlochynu, peredbachenoho st. 299 CC Ukrainy. “Illegal use of means of individualization of participants in economic turnover, goods and services: analysis of the crime, provided for in Art. 299 of the Criminal Code of Ukraine”: abstract. diss. Cand. of Juridical Sciences: 12.00.08. Acad. Ukraine's legal profession. K. 22 p. [in Ukrainian].
5. Pro okhronu prav na vynakhody i korysni modeli. “On the protection of rights to inventions and utility models”: Law of Ukraine of December 15, 1993 № 3687-XII. Information of the Verkhovna Rada of Ukraine. 1994. No. 7. Art. 32. [in Ukrainian].
6. Tsyvilnyi kodeks Ukrainy: Zakon Ukrainy vid 16 sichnia 2003 r. “Civil Code of Ukraine”: Law of Ukraine of January 16, 2003 No. 435-IV. Information of the Verkhovna Rada of Ukraine. 2003. No. 40-44. Art. 356. [in Ukrainian].

7. Pro okhoronu prav na promyslovi zrazky. "On Protection of Industrial Design Rights": Law of Ukraine of December 15, 1994 No. 3688-XII. Information of the Verkhovna Rada of Ukraine. 1994. No. 7. Art. 34. [in Ukrainian].

8. Pro okhoronu prav na topohrafiu intehralnykh mikroskhem. "On the protection of rights to topographies of integrated circuits": Law of Ukraine of November 5, 1997 No. 621/97-VR. Information of the Verkhovna Rada of Ukraine. 1998. No. 8. Art. 28. [in Ukrainian].

9. Pro okhoronu prav na sorty Roslyn. "On the protection of plant variety rights": Law of Ukraine of April 21, 1993 No. 3116-XII. Kind of. Of the Verkhovna Rada of Ukraine. 21. No. 21. Art. 218. [in Ukrainian].

10. Bahatomovnyi yurydychnyi slovnyk-dovidnyk. "Multilingual Legal Dictionary Directory" / I.O. Holubovska, V.M. Silk, O.M. Lefterov et al. K.: Publishing and Polygraphic Center Center "Kyiv University", 2012. 543 p. [in Ukrainian].

11. *Dudorov O.O.* (2003) Zlochyny u sferi hospodarskoi diialnosti: kryminalno-pravova kharakterystyka: monohrafiia. "Business crimes: criminal characteristics": monograph. K.: Legal Practice. 924 p. [in Ukrainian].

12. Pro okhoronu prav na zaznachennia pokhodzhennia tovariv. "On the protection of the rights to indicate the origin of goods: Law of Ukraine of June 16, 1999 No. 752-XIV. Information of the Verkhovna Rada of Ukraine. 1999. No. 32. Art. 267. [in Ukrainian].

13. Pro perelik vidomostei, shcho ne stanovliat komertsii noi taiemnytsi. "About the list of information which is not kept secret": Resolution of the Cabinet of Ministers of Ukraine of August 9, 1993 No. 611. URL: <http://zakon2.rada.gov.ua/laws/show/611-93-p/card6#Public> (date of application: 28.03.2017) [in Ukrainian].

14. *Kharlamova S.O.* (2007) Kryminalna vidpovidalnist za nezakonni dii z vidomostiamy, shcho stanovliat komertsii nu abo bankivsku taiemnytsiu. "Criminal liability for unlawful activity with commercial or banking secrecy": author's abstract. Diss. Cand. of Juridical Sciences: 12.00.08. Kyiv National University of Internal Affairs. K. 20 p. [in Ukrainian].

15. *Zrazhevskyi O.V.* (2010) Kryminalno-pravova kharakterystyka porushennia zakonodavstva pro zakhyst roslyn. “The Criminal Law Characteristic of Violation of Plant Protection Legislation”: Abstract. Diss. Cand. of Juridical Sciences: 12.00.08. Kyiv National University of Internal Affairs. K. 19 p. [in Ukrainian].