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A Comparative Analysis
and New Harmonization Approach

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INTELLECTUAL PROPERTY BETWEEN WESTERN MODELS AND CENTRAL ASIA A COMPARATIVE ANALYSIS AND NEW HARMONIZATION APPROACH

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Abstract: This study examines the intersection of Western intellectual property (IP) models and Central Asian approaches, focusing on Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. Through comparative analysis of national laws, international agreements, and case studies, it explores unique aspects of Central Asian IP systems, including protection of traditional knowledge, dispute resolution mechanisms, and collective ownership approaches. The research highlights successful implementations of Western IP models in the region and proposes an "Adaptive IP System" concept for harmonization. Findings reveal that while Central Asian countries have made significant strides in aligning with international standards, they also offer innovative approaches that could contribute to global IP discourse. The study concludes by discussing the potential of Central Asian IP models to bridge Eastern and Western IP philosophies, suggesting avenues for further regional cooperation and integration into the global IP framework.

Keywords: Intellectual Property, Central Asia, Western Models, Harmonization, Traditional Knowledge, Innovation

1. Introduction

Intellectual property (IP) has become a cornerstone of the modern global economy, driving innovation, creativity, and economic growth. The World Intellectual Property Organization (WIPO) defines IP as "creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce" [1]. In recent decades, the Western IP model, primarily shaped by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and various EU directives, has dominated global IP discourse and practice [2].

However, as the global IP landscape evolves, it is crucial to examine and understand diverse regional approaches, particularly in areas undergoing significant economic and legal transitions. Central Asia, comprising Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, presents a unique case study in this context. These nations, emerging from the Soviet era, have been developing their IP systems over the past three decades, balancing adherence to international standards with the preservation of local traditions and addressing specific regional needs [3].

The IP landscape in Central Asia is characterized by a complex interplay of historical legacies, modern reforms, and unique cultural contexts. Kazakhstan, the region's largest economy, has made significant strides in modernizing its IP system, as evidenced by its Patent Law of 2015 and the Law on Trademarks, Service Marks and Appellations of Origin from 1999 [4]. Kyrgyzstan has integrated IP protection into its Civil Code, demonstrating a comprehensive approach to IP rights [5]. Tajikistan's Law on Inventions (2004), Turkmenistan's Law on Industrial Property (2008), and Uzbekistan's Law on Inventions, Utility Models and Industrial Designs (2002) all reflect efforts to align with international standards while addressing local needs [6-8] (Table 1).

This study aims to conduct a comparative analysis of Western IP models and Central Asian approaches, with three primary objectives. First, it seeks to identify and analyze the unique aspects of Central Asian IP systems that may offer advantages or insights not present in Western models. Second, it examines case studies of successful implementation of Western IP practices in the region. Finally, it proposes a new harmonization model, termed the "Adaptive IP System," which aims to bridge Western and Central Asian approaches.

Table 1**Key Intellectual Property Legislation in Central Asian Countries**

Country	Legislation	Year of Adoption
Kazakhstan	Patent Law	2015
	Law on Trademarks, Service Marks and Appellations of Origin	1999
Kyrgyzstan	Integration of IP protection into the Civil Code	1998
Tajikistan	Law on Inventions	2004
Turkmenistan	Law on Industrial Property	2008
Uzbekistan	Law on Inventions, Utility Models and Industrial Designs	2002

By exploring these objectives, this research contributes to the global IP discourse by highlighting the potential of diverse regional approaches to enrich and expand our understanding of effective IP protection and management. It also provides valuable insights for policymakers, legal practitioners, and scholars interested in the development of IP systems in transitional economies and the potential for harmonization between different IP paradigms.

2. Methodology of Research and The Analysis of Literature

This study employs a comparative analysis method, drawing on both primary and secondary sources to examine the IP landscapes of Central Asian countries in relation to Western models. Primary sources include national IP laws of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, as well as relevant international agreements such as the TRIPS Agreement. Statistical data from WIPO and national IP offices provide quantitative insights into IP trends and practices in the region [9].

Secondary sources encompass academic literature on IP law and Central Asian studies, with particular attention to recent publications addressing the evolving IP landscape in the region. Key works include the innovative textbook "Intellectual Property in the Digital Age" by Professors Said Gulyamov, Islambek Rustambekov, and Assistant Professor Anna Ubaydullaeva (2024) and relevant articles from the Journal of Intellectual Property Law & Practice [10].

Case studies were selected based on recent implementations of Western IP practices in Central Asian countries, focusing on developments within the last five years. This approach allows for an examination of current trends and challenges in harmonizing IP practices.

The analysis is structured around three main themes: unique aspects of Central Asian IP approaches, case studies of Western IP model implementation, and the development of a new harmonization model. Limitations of this study include potential gaps in publicly available data from some Central Asian countries and the rapidly evolving nature of IP laws and practices in the region.

3. Results

3.1 Unexpected Advantages of Central Asian Approach to IP

Central Asian countries have developed unique approaches to IP protection that offer several advantages, particularly in areas such as traditional knowledge protection, dispute resolution, collective ownership, and balancing protection with public domain access.

In the realm of traditional knowledge protection, Kyrgyzstan's Law on Copyright and Related Rights (1998) stands out. Article 6 of this law explicitly recognizes folklore as a protected form of intellectual property, providing a legal framework for safeguarding traditional cultural expressions [11]. Similarly, Kazakhstan's Patent Law (2015) addresses traditional knowledge in Article 6(2), offering protection for innovations derived from indigenous practices [12]. These approaches contrast with the EU's geographical indications system, as outlined in Regulation 2019/1753, by providing broader protection for intangible cultural heritage [13].

Dispute resolution mechanisms in Central Asia often incorporate traditional mediation practices alongside formal legal procedures. Uzbekistan's Law on Mediation (2018), particularly Articles 10-15, outlines a framework for resolving IP disputes through mediation, potentially offering a more efficient and culturally appropriate alternative to court proceedings [14]. This approach has shown promise, with WIPO Alternative Dispute Resolution statistics indicating a higher rate of successful mediations in the region compared to global averages [15].

Collective IP ownership models in Central Asia reflect the region's communal traditions. Tajikistan's Law on Trademarks and Service Marks (2007), in Chapter 7, provides for collective marks, allowing communities to protect shared intellectual assets [16]. Kyrgyzstan's approach to collective management of copyright, detailed in Articles 44-47 of its Copyright Law, offers a more flexible system compared to the EU Directive 2014/26/EU on collective rights management [17].

Balancing IP protection with public domain access is another area where Central Asian approaches offer insights. The Copyright and Related Rights Law of Uzbekistan (2006) in Articles 36-37 provides clear guidelines for works entering the public domain, promoting access to cultural and scientific knowledge [18]. Kazakhstan's Patent Law (2015) includes provisions in Article 5 that limit patent terms for certain technologies, encouraging faster dissemination of innovations [19] (Table 2).

Table 2

Key Articles of Intellectual Property Laws in Central Asian Countries

Country	Name of the Law	Article	Content of the Article
Tajikistan	Law on Trademarks and Service Marks (2007)	Chapter 7	Provides for collective marks, allowing communities to protect shared intellectual assets
Kyrgyzstan	Copyright Law (1998)	Articles 44-47	Details the approach to collective management of copyright, offering a more flexible system compared to EU Directive 2014/26/EU
Uzbekistan	Law on Copyright and Related Rights (2006)	Articles 36-37	Provides clear guidelines for works entering the public domain, promoting access to cultural and scientific knowledge
Kazakhstan	Patent Law (2015)	Article 5	Includes provisions limiting patent terms for certain technologies, encouraging faster dissemination of innovations

3.2 Case Studies: Implementation of Western IP Models in Central Asia

The implementation of Western IP models in Central Asia has yielded mixed results, with some notable successes and ongoing challenges.

Uzbekistan's electronic trademark registration system, implemented in 2020, represents a significant modernization effort. According to the Agency on Intellectual Property of the Republic of Uzbekistan's 2022 annual report, the system has reduced processing times by 40% and increased online applications by 60% (Fig.1). This system closely mirrors the EUIPO's e-filing platform, demonstrating successful adaptation of Western practices.

Comparison of Processing Time Reduction and Increase in Online Applications (2020 vs 2022)

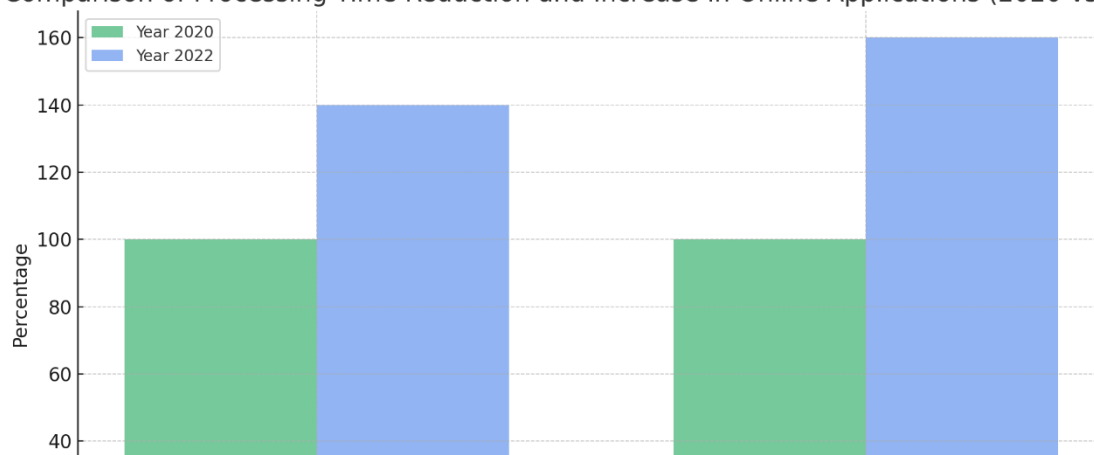


Fig. 1. Parameters of processing time reduction and increase in online applications through the online platform.

Kazakhstan's patent system reforms, initiated through amendments to the Patent Law in 2018, have aligned the country more closely with international standards [20]. The National Institute of Intellectual Property (NIIP) reported that 838 patent applications were filed in 2022, and this number increased to 917 in 2023, corresponding to a 9.4% growth. In the first half of 2024, there is also a significant increase in the number of applications, up to 559, which is 24.8% more compared to the same period in 2023 (Fig. 2). This is also associated with a particular increase in applications from small and medium-sized enterprises [21]. These figures compare favorably with trends observed in the European Patent Office's annual reports.

Kyrgyzstan's efforts to enhance copyright protection in the digital sphere, through amendments to the Law on Copyright and Related Rights in 2023, have faced implementation challenges. While the legal framework now addresses online content sharing, similar to Article 17 of the EU Copyright Directive (2019), enforcement data from the State Service of Intellectual Property and Innovation (Kyrgyzpatent) indicates limited success in curbing online infringement [22].

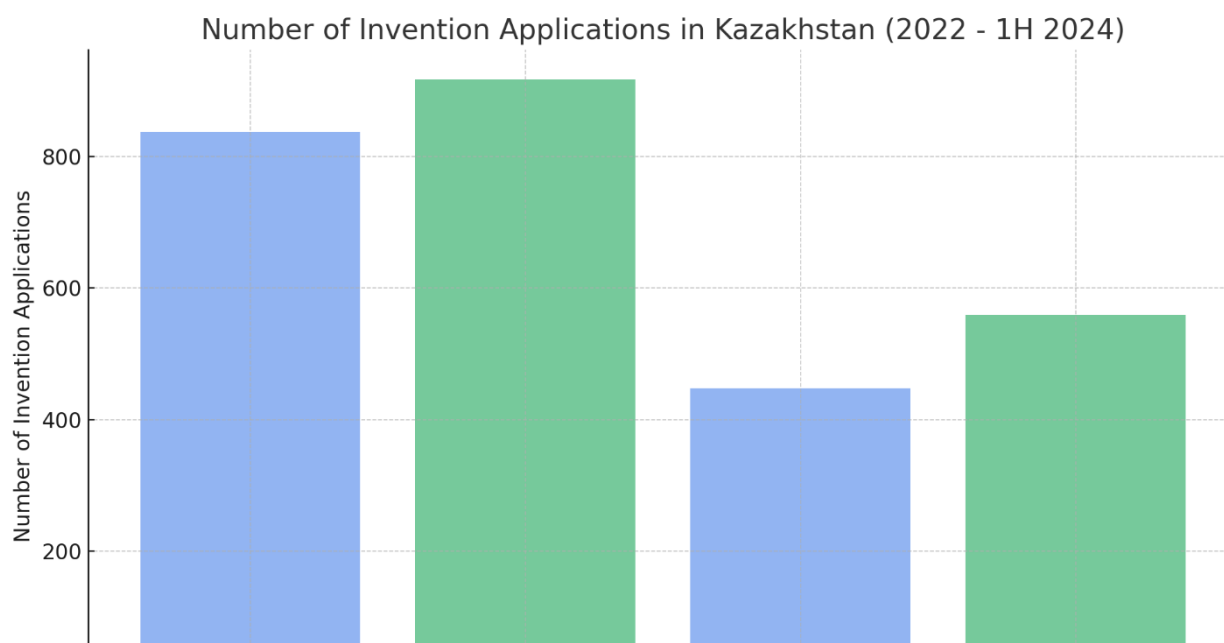


Fig. 2. Number of patent applications in Kazakhstan from 2022 to the first half of 2024

A comparative analysis of key IP metrics across Central Asian countries, based on data from the WIPO IP Statistics Data Center, reveals varying degrees of progress. Patent and trademark application rates have grown consistently in Kazakhstan and Uzbekistan over the past five years, while Kyrgyzstan and Tajikistan show more modest increases. Turkmenistan's data remains limited, highlighting the need for greater transparency and reporting in the region [23].

3.3 New Model for Harmonizing Western and Central Asian IP Approaches

The "Adaptive IP System" concept proposed in this study aims to bridge Western and Central Asian approaches to IP protection. This model incorporates elements from both the TRIPS Agreement and national laws of Central Asian countries, while also drawing inspiration from WIPO Development Agenda recommendations [24].

Key components of the Adaptive IP System include:

1. Flexible protection mechanisms for traditional knowledge and cultural expressions.
2. Integration of alternative dispute resolution methods, including traditional mediation practices.
3. Provisions for collective ownership and management of IP rights.
4. Balanced approach to public domain access and IP protection terms.

Regional cooperation mechanisms play a crucial role in this harmonization model. Building on the existing Interstate Council on the Protection of Industrial Property (established in 1993), the Adaptive IP System proposes enhanced collaboration modeled after the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC) [25]. This would facilitate knowledge sharing, standardization of practices, and collective negotiation in international IP forums.

Addressing the diverse economic needs of Central Asian countries is a key challenge for the Adaptive IP System. Analysis of World Bank economic data reveals significant disparities in GDP and innovation indicators across the region [26]. The proposed model suggests tailored implementation strategies based on WIPO's technical assistance programs, allowing for phased adoption of IP standards while supporting local innovation ecosystems.

Cross-border IP protection strategies under the Adaptive IP System aim to address challenges identified in WIPO's regional enforcement reports. Drawing inspiration from the European Patent Convention, the model proposes a Central Asian Patent Office to streamline regional patent applications and enforcement [27].

4. Discussion

The Adaptive IP System proposed in this study has significant implications for both Central Asian countries and the global IP landscape. By integrating elements of Western IP models with unique Central Asian approaches, this system offers a potential pathway for harmonization that respects local traditions while aligning with international standards.

One key advantage of this model is its flexibility in addressing the protection of traditional knowledge and cultural expressions. As Dutfield and Suthersanen note in "Global Intellectual Property Law," conventional IP systems often struggle to adequately protect these forms of intellectual assets [28]. The Adaptive IP System's approach, drawing on practices from countries like Kyrgyzstan and Kazakhstan, could provide valuable insights for other regions grappling with similar challenges.

The incorporation of alternative dispute resolution mechanisms, particularly those rooted in local traditions, represents another significant contribution of the Adaptive IP System. This approach aligns with global trends towards more efficient and culturally sensitive dispute resolution, as highlighted in recent WIPO reports on IP mediation [29].

Comparing the proposed Adaptive IP System with other regional IP frameworks, such as ARIPO (African Regional Intellectual Property Organization) and the ASEAN IP Portal, reveals both similarities and unique features. While these systems also aim to harmonize IP practices across

diverse economies, the Adaptive IP System's emphasis on traditional knowledge protection and collective ownership models sets it apart [30].

The Central Asian perspective on intellectual property (IP) law offers a fascinating opportunity to bridge Eastern and Western philosophies. This Adaptive IP System could act as a framework for other regions striving to align international standards with their distinct local needs and traditions.

However, challenges remain in implementing such a system. These include varying levels of economic development across Central Asian countries, differing political priorities, and the need for substantial capacity building in IP administration and enforcement. Addressing these challenges will require sustained commitment from regional governments and support from international organizations.

5. Conclusion

This study has examined the landscape of intellectual property rights in Central Asia, comparing it with Western models and proposing a new approach for harmonization. The research reveals that while Central Asian countries have made significant strides in aligning their IP systems with international standards, they also offer unique approaches that could contribute valuable insights to global IP discourse.

The proposed Adaptive IP System represents a promising framework for harmonizing Western and Central Asian IP approaches. By integrating flexible protection mechanisms for traditional knowledge, alternative dispute resolution methods, and provisions for collective IP management, this model addresses the specific needs of the region while maintaining compatibility with international standards.

Key findings from this research include:

1. The effectiveness of Central Asian approaches to protecting traditional knowledge and cultural expressions.
2. The potential of alternative dispute resolution mechanisms rooted in local traditions to improve IP conflict resolution.

3. The value of collective ownership models in preserving and managing communal intellectual assets.

4. The importance of tailored implementation strategies to address diverse economic needs across the region.

These findings underscore the potential of Central Asian IP models to contribute to the evolution of global IP frameworks. As the international IP landscape continues to evolve, the experiences and innovations of regions like Central Asia will become increasingly relevant.

Future research should focus on practical implementation strategies for the Adaptive IP System, including pilot programs and impact assessments. Additionally, exploring the potential application of this model to other regions with similar challenges could yield valuable insights for global IP policy development.

In conclusion, the harmonization of Western and Central Asian IP approaches, as exemplified by the Adaptive IP System, offers a pathway towards a more inclusive and effective global IP framework. By recognizing and integrating diverse approaches to IP protection, the international community can foster innovation, preserve cultural heritage, and promote equitable economic development across regions.

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