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THE ROLE OF INTELLECTUAL PROPERTY IN SHAPING THE INNOVATION POTENTIAL OF A COUNTRY

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The article examines the role of intellectual property as a key factor in shaping the innovative potential of a state. Intellectual property has become particularly important in the 21st century as a strategic resource for the development of national economies. Innovative products qualitatively change not only productive forces, but also production relations arising from intellectual property objects, which requires a deep legal (in particular, administrative and legal) understanding of this sphere of human activity, which forms the basis of innovative activity. At the same time, it should be emphasized that intellectual resources are a key factor in economic development—namely, knowledge and information. The competitiveness of our country in the global markets for knowledge-intensive and high-tech products largely depends on the effective use of intellectual property. As progressive foreign experience shows, it is intellectual property that increases the productivity of any activity, ensuring the dynamic development of society. Over the past decades, the governments of many countries have paid considerable attention to the effective implementation of intellectual property, constantly improving its legislative regulation.

Theoretical and legal approaches to understanding intellectual property in innovative development are analyzed. Based on modern scientific sources and international experience, the influence of an effective system of intellectual property rights protection on the stimulation of scientific and technical creativity, the commercialization of the results of intellectual activity, and the growth of the country's competitiveness are considered.

The article outlines the main problems of the functioning of the intellectual property system in Ukraine and proposes directions for its improvement. The formation of the innovative potential of the nation is impossible without the creation of an effective mechanism for stimulating scientific and technical creativity, patenting, technology transfer, commercialization of developments, and protection of the rights of their authors and rights holders. It is intellectual property that acts as a kind of “bridge” between science, business, and the state, providing legal guarantees for the development of innovative activity in all spheres of public life. In addition, systematic protection of intellectual property affects the country's investment climate and determines its position in global competitiveness and innovation development rankings, such as the Global Innovation Index or World Competitiveness Ranking.

Keywords: intellectual property, innovation, knowledge economy, innovation policy, patenting, state strategy.

Statement of the problem. In today's world, intellectual property is becoming important not only as a legal category, but also as a strategic resource for ensuring the competitiveness and dynamic growth of the national economy. The problem is that, despite the existence of a legal framework, Ukraine is not making sufficient use of intellectual property as a tool for innovative development. To date, our country has not yet developed a clear and well-thought-out policy in the field of intellectual property and demonstrates a somewhat simplistic approach to solving possible problems directly related to its use.

In addition, the intellectual property protection system often fails to provide adequate protection of the rights of entities, which hinders investment in innovative activities.

Analysis of the research problem. A significant contribution has been made by scholars who, considering various aspects of the complex issue of intellectual property, have studied this phenomenon in the following areas: economic, legal, historical, sociological, philosophical, social, etc. At the same time, the dominant area is legal. The study of intellectual property issues has been undertaken by legal scholars: H. Androshchuk, Y. Boshytsky, M. Galyantych, D. Getmakov, I. Dakhno, O. Dzer, V. Drobiazo, Y. Kapitsa, A. Kolodiy, O. Orlyuk, O. Podopryhora, O. Rokhitnitsky, O. Svyatotsky, R. Stefanchuk, R. Shishka, I. Khomyshyn, N. Khristinchenko, Yu. Shemshuchenko, I. Shopina, Kh. Yarmak, and others.

The purpose of the article is to comprehensively study the relationship between the development of intellectual property institutions and the innovative capacity of the state. To analyze scientific approaches to understanding intellectual property as a factor of innovative growth, to evaluate national policy in the field of intellectual property rights protection, to identify the main problems and to propose ways to improve the effectiveness of intellectual property use in innovative activities.

Presentation of the main material. A study of various approaches to the problem of defining the concept of “intellectual property” shows that, in many respects, terminological searches in this area are generated by the problems of building a new legal system, which is associated with European integration processes in our country.

In the context of the formation of the legal system of Ukraine, it seems fundamentally possible to maintain a situation where the legislator uses the terms “intellectual law” and “intellectual property law” as synonyms. The objective prerequisites for such “parallel” use of terminology today are created by international legal acts, as well as the system of current Ukrainian legislation itself.

Granting the results of intellectual work the status of intellectual property gives the creators of these results the exclusive right to them and the opportunity to dispose of them through commodity-money relations. Society, represented by the state, through the institution of exclusive rights, enables the author to receive remuneration for their creative work. This ensures the transformation of new knowledge into public property [58].

In the economic environment, the term “intellectual property” is a kind of expression for so-called “intangible assets”. That is, the part of an enterprise's capital that is necessary to generate its income, requires expenditure for its creation and/or maintenance, but is not expressed in any material objects – with the possible exception of title documents [1].

Intellectual property should be understood as objects that are the results of human creativity, human intellect, creative and intellectual activity, representing a set (complex) of rights that have utility.

The WIPO (World Intellectual Property Organization) Charter stipulates that intellectual property means creations of the human mind: inventions, literary and artistic works, symbols, names, images, and designs used in trade. According to Article 2(8) of the Convention establishing the WIPO, this includes all rights relating to intellectual activity in the fields of industry, science, literature, and art; the performance of artists, sound recordings, radio and television broadcasts; inventions in all fields of human activity; scientific discoveries; industrial designs; trademarks, service marks, trade names, and commercial designations; protection against unfair competition [2].

The Paris Convention for the Protection of Industrial Property states that industrial property is understood in the broadest sense of the term and extends not only to industry and commerce in the strict sense, but also to objects of agricultural production and extractive industries and to all products of industrial or natural origin [3]. It should be understood that industrial property refers to rights to various types of intellectual activity, which are given special legal protection due to their importance for economic activity, production, and trade.

Article 420 of the Civil Code of Ukraine states that: "Intellectual property rights include, in particular: literary and artistic works; computer programs; data compilations (databases); performances; phonograms, videograms, broadcasts (programs) of broadcasting organizations; scientific discoveries; inventions, utility models, industrial designs; layouts (topographies) of integrated circuits; rationalization proposals; plant varieties, animal breeds; commercial (brand) names, trademarks (signs for goods and services), geographical indications; trade secrets" [4].

Thus, we can identify the main features of intellectual property.

Intangible. That is, intellectual property objects are always ideal, not material in nature. In other words, we cannot physically or tactilely perceive them.

Objective expression. Intellectual property is expressed in some object, for example, a computer as an expression of an invention, a book as an expression of a work of literature.

Connection with property relations. This feature indicates that the results of intellectual activity can be used in civil circulation, for example, in sales contracts, mortgages, etc. This is where the connection lies.

Novelty. This condition means that the created object must be unique, fundamentally new, and previously unknown.

Artificial creation. The essence of this feature is that only objects created by humans can be intellectual property. That is, objects of natural origin cannot a priori be intellectual property.

Provision of legal protection. The most important feature enshrined in the Civil Code. International conventions contain an open list of objects, but the Civil Code provides an exhaustive list of objects. Therefore, protection applies only to them; other objects, although generally corresponding to the above characteristics, do not belong to intellectual property [5].

In the field of intellectual property, there is such a concept as exclusive rights. Exclusive rights to the results of intellectual activity or to a means of individualization mean the right to use such results or such means in any way that does not contradict the law. It also means the right to allow or prohibit other persons from using it at one's discretion.

Intellectual property can be considered in an objective and subjective sense.

Intellectual property in the objective sense is a set of rules that regulate relations related to the creation and use of a number of results of intellectual creative activity and means of individualization of participants in civil circulation.

The institution of intellectual property is unique because intellectual property is not a type of property right and cannot be regulated in the same way as property rights. This institution requires other, special rules and regulations for its protection, because it needs to be protected just as thoroughly.

Intellectual property in a subjective sense is a set of legal and personal rights and property rights belonging to the authors of creative achievements, rights holders, or persons who register means of individualization, their heirs, and other successors.

Civil law rules define the main forms of intellectual property implementation, establish the legal regime for the results of the creative process, and set the procedure for protecting the rights of authors and owners of these rights.

The following forms of intellectual property implementation can be distinguished.

1) Patent. Applies to inventions, industrial designs, and utility model certificates, trademarks. Moreover, an examination of originality is required only for industrial designs, while for all other objects of intellectual property, according to the law, an examination of novelty and industrial applicability is required.

An invention also requires a certain technical level of innovation, referred to in the law as “inventive step.” The patent owner has the right to dispose of their creation at their discretion, but the use of a patented design without the patent owner's permission is not permitted [5].

2) Copyright. On the contrary, it does not require an examination for novelty, since it is based on the assumption that it is impossible to independently create, for example, two completely identical texts on the same topic.

A distinctive feature of copyright is that, by its very nature, it does not require any confirmation. Copyright applies to works of science, literature, and art that are the result of creative activity, regardless of their purpose and advantages, as well as the method of their reproduction. Works must be expressed in written, oral, or other forms that allow for their reproduction [4].

Contemporary views of intellectual property as a socio-economic category and, ultimately, as the basis for the emergence of the “knowledge economy,” allow us to identify the following functions.

Innovative. This function means that intellectual property is a fundamental part of any innovation or development. It is very important to understand that it is intellectual property objects that are subject to protection under patent and copyright law, which, in fact, ensure the successful completion of an innovative project if such protection is in place, or call into question the success of the venture if such protection is absent or unreliable.

Commodity. The quality of goods and services based on intellectual property is determined by the novelty and intellectual perfection of these objects – works in various fields of creative activity, inventions, utility models, industrial designs, and other intellectual property objects. Thus, this function is a means of obtaining competitive advantages for the producer of goods and services, regardless of the field of entrepreneurial activity.

Technological. It consists in ensuring a technological advantage in production over competitors. In this case, technology should be understood as a set of techniques and secrets of production, management, marketing, advertising, etc., the content of which provides their owner with certain advantages over competitors.

Legal. This function means that intellectual property objects are impeccably and mandatorily protected by law.

Economic. The most important function of intellectual property. The economic function is realized in the process of managing intellectual capital with the aim of making a profit and increasing the value of this capital. The owner of exclusive rights has a temporary advantage over competitors until they create something newer and more perfect.

Advertising. The implementation of the advertising function of intellectual property has given rise to a new direction in marketing – branding, i.e., a set of advertising and marketing activities aimed at creating and consolidating in the mind of the buyer, customer, brand, trademark, and brand name that identifies a particular seller, manufacturer, or supplier.

Ideological. This function consists in the formation and development of a new – ideological – culture, which includes the recognition of the author's exclusive right to the results of his intellectual activity, respect for the right of private ownership of these results, recognition of the equality of intellectual property objects and material objects in the formation of enterprise assets, and an understanding of the leading role of intellectual capital in the modern economy [6].

Therefore, based on the above, we can say that the institution of intellectual property has developed over a long period of time and continues to evolve today. Realizing the importance of intellectual activity and property, humanity began to actively work on its protection and defense. Currently, the protection of the results of intellectual activity is carried out by a special UN agency and each state separately. This is quite understandable, because intellectual property is something without which the economy and society as a whole cannot develop today.

Intellectual property in state innovation policy has become one of the main resources of state policy, determining the vector of innovative development, increasing the competitiveness of the national economy, and technological sovereignty. State innovation policy provides for the creation of a favorable legal, institutional, and financial environment for the creation, protection, use, and commercialization of intellectual property. It is through the prism of innovation policy that intellectual property is transformed from a formal legal construct into an active instrument of socio-economic growth.

As for foreign experience, in developed countries (the US, Germany, Japan, South Korea), intellectual property is an integral part of national innovation development strategies. For example, South Korea's National Intellectual Property Plan provides for the integration of the patenting system into all stages of technology development, from scientific research to industrial production. A similar approach is used in the European Union, where the Europe 2020 Strategy places particular emphasis on the protection of IP rights as a means of stimulating innovative entrepreneurship and the commercialization of R&D results [7].

Asia is the real center of global activity in the field of IP rights registration applications. Asian countries continue to outpace other regions in terms of the number of applications filed for patents, utility models, trademarks, and industrial designs; these countries account for 66.8% of all global patent applications. Over the past decade, the share of Asian countries in the total number of applications filed worldwide for the registration of these four types of intellectual property rights has been growing [8].

In 2018, there were approximately 14 million active patents worldwide. The largest number of active patents are in the United States (3.1 million), China (2.4 million), and Japan (2.1 million). Of the 49.3 million active trademark registrations worldwide, China had the largest number (19.6 million), followed by the US (2.4 million), India (1.9 million), and Japan (1.9 million). China also accounts for the largest number of existing industrial designs in the world (40.4%). In addition, China accounts for 93% of all existing utility models in the world [9].

WIPO has repeatedly emphasized that effective innovation policy requires the active involvement of IP protection mechanisms at all levels: from basic education to state management of science and technology [10].

As for Ukraine, it has a number of strategic documents that outline the importance of developing an innovative economy. In particular, the National Economic Strategy until 2030 states that “state support for innovation should be based on the development of a system for the protection of intellectual property, its commercialization, and the protection of developers' rights” [11].

However, despite the declared goals, real steps towards the practical integration of IP into state innovation policy remain limited. Research by Podkovenko T. O. and Steshin B. V. shows that Ukraine lacks systemic mechanisms to stimulate patent activity by scientific institutions and higher education establishments, as well as support for economic entities in the field of IP [6].

The current situation in the field of intellectual property points to a number of systemic problems that hinder the effective use of intellectual property as a tool for innovative growth. The following problems can be identified in this regard. First, there is relatively low patent activity. According to the National Intellectual Property Authority (NOIP), 2,759 invention applications were filed in 2022, of which only 815 came from national applicants. For comparison, in 2010, the number of applications submitted exceeded 5,300, which indicates a decline of more than 48% over the last ten years [12].

This trend indicates a decline in domestic inventive activity. Even more alarming is the structure of applications – more than 70% in 2022 came from foreign applicants, demonstrating a low level of innovative activity in the Ukrainian scientific and technical environment [12].

Secondly, another significant problem is that the regulatory and legal framework for innovation and intellectual property in Ukraine remains insufficiently effective. Despite the existence of such regulatory acts as the Law of Ukraine “On the Protection of Rights to Inventions and Utility Models” and the Law of Ukraine “On Innovative Activity,” there is a lack of consistency between them, which leads to gaps and duplication of provisions.

In addition, intellectual property management mechanisms are in a state of transitional institutional instability. After the liquidation of the State Intellectual Property Service in 2019, for a long time there was no single stable executive body in Ukraine responsible for the formation and implementation of state policy in the field of IP. [13]

It was only in 2020 that Law of Ukraine No. 2255 “On Amendments to Certain Legislative Acts of Ukraine Regarding the Creation of a National Intellectual Property Authority” was adopted, providing for the creation of a single patent office of a new type. The National Intellectual Property Authority (NIPA) began to perform its functions in 2021 as a state-owned enterprise under the Ministry of Economy of Ukraine, which has helped to stabilize the situation to a certain extent [14].

However, despite these positive developments, the legislative framework remains unsystematic. Furthermore, unlike EU countries, Ukraine has virtually no tax incentives for innovation.

Unlike European Union countries, where tax incentives for innovation are widely used (in particular, *patent box*, reduced taxation of IP income, tax credits for R&D), such mechanisms are virtually non-existent in Ukraine. The legislation does not provide for any exemptions or reduced taxation of income received from the licensing or commercialization of IP objects. This significantly reduces the interest of businesses in developing and implementing innovations [15].

A World Bank study also indicates that in Ukraine, R&D expenditure accounts for less than 0.4% of GDP, while in OECD countries it is over 2–3% [4]. This means that the innovation sector is critically underfunded by both the state and business [16].

To effectively build an innovation ecosystem, Ukraine needs to implement proven institutional and financial mechanisms that have demonstrated their effectiveness in an international context.

One of the key tools for stimulating innovation development in Ukraine is grant support for startups in the early stages. An example of such support is the activity of the Ukrainian Startup Fund (USF), founded in 2019. The fund provides non-repayable funding of up to \$25,000 for projects at the pre-seed stage and up to \$50,000 for projects at the seed stage. As of March 2023, the fund has financed more than 229 startups for a total amount of over UAH 160 million [17].

The first grants were awarded in 2020, when eight innovative projects received between UAH 625,000 and UAH 1.25 million to develop their technological solutions [18].

An important element of the innovation infrastructure is technology parks and innovation hubs, which create conditions for interaction between business, science, and educational institutions. In particular, the BIONIC Hill project became the first innovation park in Ukraine, created based on the Silicon Valley model. Launched in 2011, it brings together business centers, R&D complexes, demonstration laboratories, as well as educational and residential facilities, forming a comprehensive ecosystem for the development of startups and the commercialization of intellectual property [19].

Another important mechanism for stimulating demand for innovative products, including intellectual property, is the Prozorro public procurement system. Its key principle is complete transparency (“everyone sees everything”), which ensures equal access to tenders and promotes fair competition between innovative suppliers. The “golden triangle” model – cooperation between the state, business, and the public – has enabled Prozorro to become a tool not only for the effective use of budget funds, but also for supporting technological innovation, particularly in the areas of electronic services, IT development, and the digitization of public administration [4].

Thus, comprehensive state support – through grants, innovation parks, and transparent procurement mechanisms – creates favorable conditions for the development of national innovation potential based on intellectual property.

Conclusion. Therefore, intellectual property is not just a legal term or a set of protective documents, but, above all, a tool that can transform ideas into real changes in the economy and society.

The development of grant programs, as in the case of the Ukrainian Startup Fund, the creation of innovation parks and technology hubs, as well as the introduction of transparent public procurement mechanisms such as Prozorro, demonstrate that comprehensive support for innovation works most effectively when it brings together the state, business, and science into a single ecosystem.

At the same time, in order to fully unlock the state's innovation potential, it is necessary to consistently address the issues that hinder this process: improving legislation on the protection of intellectual property rights, ensuring effective protection of these rights in court and administrative proceedings, and developing a culture of respect for the results of intellectual work among citizens and businesses.

Thus, the role of intellectual property in shaping the innovative potential of the state goes far beyond the legal sphere. It is not only a guarantee of copyright or patent privileges, but also a powerful socio-economic resource that can strengthen the country's competitiveness, create jobs, and stimulate economic growth. Ukraine, with its significant human capital and creative potential, can and should use intellectual property as a key driver of its innovative future.

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РОЛЬ ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ У ФОРМУВАННІ ІННОВАЦІЙНОГО ПОТЕНЦІАЛУ КРАЇНИ

У статті досліджується роль інтелектуальної власності як ключового чинника формування інноваційного потенціалу держави. Інтелектуальна власність у XXI столітті набула особливого значення як стратегічний ресурс для розвитку національних економік. Інноваційні продукти якісно змінюють не тільки продуктивні сили, але й виробничі відносини, які виникають з приводу об'єктів інтелектуальної власності, що вимагає глибокого правового (зокрема, адміністративно-правового) осмислення цієї сфери людської діяльності, яка становить основу інноваційної діяльності. Водночас, варто підкреслити, що інтелектуальні ресурси є ключовим чинником розвитку економіки – це знання та інформація. Від ефективного використання інтелектуальної власності багато в чому залежить і конкурентоспроможність нашої держави на світових ринках наукоємної і високотехнологічної продукції. Саме вона, як показує прогресивний зарубіжний досвід, підвищує

продуктивність будь-якої діяльності, забезпечуючи динамічний розвиток суспільства. Упродовж останніх десятиліть уряди багатьох держав світу приділяють значну увагу ефективній реалізації інтелектуальної власності, постійно вдосконалюючи її законодавче регулювання.

Проаналізовано теоретико-правові підходи до розуміння інтелектуальної власності в інноваційного розвитку. На основі сучасних наукових джерел і міжнародного досвіду розглянуто вплив ефективної системи охорони прав інтелектуальної власності на стимулювання науково-технічної творчості, комерціалізацію результатів інтелектуальної діяльності та зростання конкурентоспроможності держави.

У статті окреслено основні проблеми функціонування системи інтелектуальної власності в Україні та запропоновано напрями її удосконалення. Формування інноваційного потенціалу нації неможливе без створення ефективного механізму стимулювання науково-технічної творчості, патентування, трансферу технологій, комерціалізації розробок і захисту прав їх авторів та прав власників. Саме інтелектуальна власність виконує роль своєрідного «містка» між наукою, бізнесом і державою, забезпечуючи правові гарантії для розвитку інноваційної діяльності в усіх сферах суспільного життя. Крім того, системна охорона інтелектуальної власності впливає на інвестиційний клімат країни, визначає її позиції у глобальних рейтингах конкурентоспроможності та інноваційного розвитку, таких як Global Innovation Index або World Competitiveness Ranking.

Ключові слова: інтелектуальна власність, інновації, економіка знань, інноваційна політика, патентування, державна стратегія.