



## INTELLECTUAL PROPERTY PROTECTION IN TIME AND SPACE

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### SUMMARY

The article is devoted to the current stage of development of intellectual property. Referring to the concept of intellectual property and its contents, it is noted that this category has a fairly long history of its development, as, in effect, and any other civil institution owes its appearance to the general laws of development of society, having a dominant evolutionary path. Stages of development of the institution of intellectual property are explained primarily by economic conditions and legal traditions of each country and are caused by them. Intellectual property protection promotes the use and further development of local inventive and creative talents and accomplishments, the maintenance and preservation of national capacities in the field of intellectual property, investment attraction.

**Key words:** intellectual property, patent, copyright, lawsuit, criminal liability.

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Статья посвящена современному этапу развития права интеллектуальной собственности. Обращаясь к понятию интеллектуальной собственности и его содержанию, отмечено, что данная категория обладает достаточно длительной историей своего развития, как, в сущности, и любой иной гражданско-правовой институт, обязанный своим появлением общим закономерностям развития общества, имеющим доминантой эволюционный путь. Этапы развития института интеллектуальной собственности объясняются прежде всего экономическими условиями и правовыми традициями каждой конкретной страны и обусловлены ими. Охрана интеллектуальной собственности способствует использованию и дальнейшему развитию местных изобретательских и творческих талантов и достижений, поддержанию и сохранению национального потенциала в сфере интеллектуальной деятельности, привлечению инвестиций.

**Ключевые слова:** интеллектуальная собственность, патент, авторское право, иск, уголовная ответственность.

*Statement of the Problem. Issues of intellectual property rights in the world today came to the fore and become not just a legal or commercial matter. Due to the comprehensive intellectualization of the world economy, they are increasingly becoming a political issue related to economic security and require strategic approaches to their solution. The processes of intellectualization reached extremely high intensity unthinkable a decade ago.*

*In Ukraine, the increased attention to the protection of intellectual property rights associated with obtaining its independence. Relations in the field of intellectual property are governed by separate provisions of the Constitution, civil, economic, customs and the Criminal Code, the Code of Administrative Offences, the procedural codes and special laws. In addition, Ukraine is a party to many international treaties on intellectual property.*

*During the transition of the country to a market economy legal system has undergone a sea change. This applies to the legal standards governing the creation, legal protection and use of the products of intellectual creativity, in particular copyright and related rights.*

*Nowadays, innovations account for most of human life. Innovations has become a profitable commodity, because they can pass on certain conditions for the use of others, or even to sell. This often leads to violations of intellectual property rights, and therefore it needs to be protected and the protection of that in the future we, and consider [1].*

*According to Art. 54 of the Constitution guarantees the freedom of literary, artistic, scientific and technical creativity, intellectual property protection of their copyrights, moral and material interests resulting from various types of intellectual activity. Every citizen has the right to the results of their intellectual and creative activity, no one can use or distribute them without their consent, except as provided by law [2].*

their rights. In order to prevent further infringement and compensate for the losses arising from the violation of these rights, they should be able to defend their rights.

After an object is created and intellectual property protection document attached to his right, there comes an important stage in its life cycle - inclusion into the economy [3]. At this stage the object of intellectual property rights holder brings profit or other benefit, in fact something for which he was created. However, once the information about the object of intellectual property becomes known unscrupulous competitors, they are tempted to use it to their advantage. In this case, the rights of the offender is in a more favorable terms than the right holder: it does not bear the costs at the stage of creation and protection of intellectual property. In addition, it can be finished production base for the study of intellectual property, while the franchisor must spend more time and resources to create it. Therefore infringer can quickly produce products with the use of intellectual property and promote it on the market at a lower price than the holder of the intellectual property. This development not only violates the rights of a particular copyright holder, but it also has serious implications for society in general, slowing its

From the first sources, it can be assumed that the premises of intellectual property rights in Ukraine already contained in the Bible - the ancient monument of literature, among other things, to date, has become the most common book in the world. The Bible indicates millennial development

of legal ideology and contains legal to install a fully material world.

There is no point in creating a complex security system and protection of the rights and the dissemination of information about the protective rights of intellectual property, if the owners of these rights will not be able to protect



social and economic development and complicating the civilized cooperation with other countries.

**Relevance.** Nowadays protection factor is particularly important, since the rapid development of technology, it is possible rights violations in such volumes that were not possible before. Therefore, without the proper law enforcement infrastructure to provide both protection and restricting access to other similar rights, the system of intellectual property protection can not be effective.

Disputes relating to the infringement of intellectual property under the jurisdiction of the courts of general jurisdiction, and the Supreme Economic Court.

In case of violation of the rights of the victim files a claim - a statement addressed to the court, sending the right - the judge in order to protect personal or property rights. In the search application must contain a form of protection (prohibition to do any act, damages, etc.), the size of the damage, are evidence of the validity of claims, any action, damages, etc.), the size of the damage, are evidence of the validity of claims .

As a general rule of civil procedure specific civil case is generally seen at the location of the defendant. In any proceedings for infringement of intellectual property rights addressed two main issues. The first is connected with the establishment or failure to the fact of use of intellectual property, protected. Second - the definition of the amount of damages to be recovered from the defendant to the plaintiff.

The owner of the rights under copyright may require the receiver:

- recognition of the rights of the owner;
- restore the situation that existed before the law;
- cessation of the acts that infringe or threaten to infringe;
- damages, including lost profits like.

If as a result of illegal use of intellectual property rights violator received the income, the victim has the right to claim compensation for loss of profits in the amount not less than the amount of such income.

If at the same time with the

violation of property rights violated the moral rights of the author, it may require property compensation for moral damages, the amount of which is determined by the court. Violation of the rights of authorship is to assign the results of someone else's creative work and an attempt to present the results of its own development.

The use of civil penalties for taking the time right under intellectual property rights are possible within the general term of the claim, that is, within three years from the date on which the holder knew or should have known about the violation of their rights.

In the UK, Germany and several other countries have specialized patent courts. This allows you to focus or center the experience of solving patent disputes, to create conditions for the proper and uniform application of the regulations to reduce the number of instances that are considered controversial.

In Ukraine there is no patent court, but there is a practice of creating judicial boards for intellectual property, for example, the Supreme Economic Court of Ukraine. In these colleges are working judges with special training in intellectual property and can therefore competent to settle disputes on intellectual property.

Along with the rules of civil rights under copyright, the legislation also provides for criminal liability

Ukraine's legislation also provides for criminal-law penalties for illegal encroachment on commercial secrets. Criminal offense is the illegal collection for the use of information constituting a trade secret (industrial espionage), if it causes damage to a business entity. As punishment, provided the use of a fine of 200 to 2000 tax-free minimum incomes, or imprisonment from 2 to 5 years, and so on.

Bringing to justice the perpetrators of specific crimes does not preclude claims for damages.

A special case - the protection of rights to "intellectual property object when crossing the border. Customs Code of Ukraine goods and other items made from the infringement of intellectual property rights can not be both imported and exported through the customs border of Ukraine.

In the judicial dispute resolution occupy an important place of proof. There are three forms of evidence, "documentary evidence" - evidence provided in writing or in the form of a document, "physical evidence" - evidence that exists in the form of objects, "witness" - the oral testimony of witnesses and experts. The presence of a title of protection - patent or certificate is an important proof.

So, the whole system of mutually agreed rules on the protection of intellectual property rights of current legislation of Ukraine does not. A significant drawback of the system of protection of intellectual property is also its very low efficiency. Infringers of intellectual property rights are not afraid to use them by the applicable laws of the sanctions. Sometimes proceeds from the misuse of someone else's work or object of related rights within the established penalties in the hundreds, if not thousands of times, and more than cover the costs incurred.

Want a more rigid system of intellectual property protection, the use of which has ever discourage the offender desire to use the product incorrectly or object of related rights.

The disadvantages of the current system of intellectual property protection is the lack of specialized courts and judges, there is a shortage of qualified professionals in this field, resulting in relatively long processing times even very complex cases concerning infringement of intellectual property rights.

Another reason for the lack of effective protection of intellectual property rights are numerous opportunities to avoid the responsibility of the offender for failure to have the court's decision on the case in favor of the plaintiff, which gives him the opportunity to delay implementation for many years.

Finally, it should be noted that among the main causes of insufficient effectiveness of intellectual property protection Ukrainian individuals and businesses is the lack of state funds for patenting and implementation of registration procedures abroad, a low level of legal culture in the country, lack of knowledge and information



on the procedure for the protection of intellectual establishments abroad [4].

Ukraine is a relatively young independent state, so we have some inconsistent legislation that regulations governing the same public relations contain contradictions in its standards. However, based on the experience of more developed countries, we have to overcome these gaps and inconsistencies and bring national legislation in the field of copyright and related rights in accordance with international law.

To resolve these problems we would like to identify the main areas of improvement:

Providing an international legal environment:

- To do this, add the existing program of Ukraine's integration into the European Union with regard to specifying the institutional and financial resources necessary for the implementation of measures aimed at protecting intellectual property;

- It is necessary to examine the feasibility of Ukraine's accession to several international conventions and agreements;

- It is necessary to develop a set of long-term measures to adapt the national patent system to the parameters of the European patent system and European trademark system.

2) Ensuring the development of the domestic legal framework:

- In this area, the number one priority - work to eliminate inconsistencies between different laws and regulations on intellectual property;

- A necessary and adopting a law on the establishment of the Patent Court of Ukraine as a body of special competence competent to deal with controversial issues in the field of intellectual property rights in administrative proceedings, including the protection against unfair competition related to intellectual property rights.

3) The organization of management and infrastructure development in the field of intellectual property:

- Important tasks in this area is to ensure an appropriate level of coordination between ministries and agencies through regular meetings of the Inter-Ministerial Committee on the protection of intellectual property,

as well as the adoption of a resolution on the establishment of ministries and departments of the divisions on issues of intellectual property rights;

- Necessary measures to expand the network of regional organizations in the provision of a wide range of services in the field of intellectual property, as well as measures to harmonize national statistics on intellectual property rights in accordance with international standards in this area;

- Intensify the process of creating non-governmental organizations for the protection of intellectual property.

**Conclusions.** Summarizing all the above, it should be noted that the implementation of these proposals will contribute to the further development and improvement of the system of protection of intellectual property rights in Ukraine, boost economic development and improve the international image of our country [5].

In Ukraine the right to intellectual property is a relatively new legal phenomenon, although based on the same principles as in other countries, but not yet secured properly either materially or structurally. One should not forget the reality: a significant criminalization of all branches of power, corruption, poor law-abiding population, low level of wealth of the general population, in particular young people and the problems of her employment, which leads to the forced purchase of counterfeit goods. Basically, the practice shows that violators of copyright and related rights are young people who know how to copy the technical features of the carriers. In addition, weakened public legal ways of protecting intellectual property rights.

The current legislation of Ukraine in the sphere of intellectual property principles laid a solid enough legal protection of intellectual creativity. However, in assessing the legislation was generally positive, though it should be noted some of its shortcomings.

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