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## **LEGAL ASPECTS OF INTELLECTUAL PROPERTY AND MANAGEMENT TOOLS**

This study examines the legal aspects of intellectual property (IP) and management instruments. It is demonstrated that intellectual property represents the outcome of an individual's or collective's intellectual and creative activities, encompassing defined rights to innovative inventions, creative works, trademarks, designs, and other personal intellectual assets. The primary objects and subjects of intellectual property are identified. It is clarified that, considering the objects of ownership, the property rights of individuals or legal entities manifest in both ownership of tangible property and ownership of the results of creative activities. The legal regime governing the results of an individual's or collective's intellectual creativity aligns with the legal regime of property rights and comprises the following entitlements of the owner: the right of possession, the right of use, and the right of disposal. Conceptual principles within the system of intellectual property law are proposed. It is justified that the principles of intellectual property relate to the protection of the rights of subjects regarding the results of creative activities; therefore, they should demonstrate the rule of conduct within the framework of creation, possession, use, and disposal of intellectual property. It has been determined that the most critical economic process for intellectual property subjects is commercialization, as well as effective and efficient management of intellectual property objects. It is established that managing intellectual property involves a targeted process within a complex multi-component system with multifactorial relationships in the creation, possession, use, and distribution of intellectual property objects in the relevant environment. Intellectual property management should focus on effective planning, decision-making, and control regarding intellectual property objects in the appropriate economic environment. The stages of the intellectual property management process are proposed, along with the fundamental tools necessary for ensuring effective management within the economic system.

**Keywords:** intellectual property law, intellectual property management, management tools, controlling, monitoring, diagnostics, factor analysis, intellectual capital.

**Introduction.** The strategic objectives for the functioning of the national economy amid global challenges include the development of intellectual capital and the legal protection of intellectual property (IP). The advancement of intellectual capital in the face of global challenges necessitates significant changes in legal framework for intellectual property and the formation of effective management tools for intangible assets within the economic system. A strategic direction for the national economy is the enhancement of productivity in creative (intellectual) activities and the level of intensity under controlled and uncontrolled factors. In the context of military aggression, enhancing the country's defence capabilities will be facilitated by both quantitative and qualitative growth in intellectual potential within the national space. The active creation of innovations drives growth in volume and quality across all segments of the national economy's value addition. In extraordinary conditions, it is crucial to diagnose and adequately assess the legal framework for intellectual property within the national context, as well as to develop and implement an adaptive model for assimilating intellectual potential in both domestic and external markets. The most significant economic processes for subjects of intellectual property are commercialization and the effective management of intellectual property objects.

**Literature Review.** The theoretical and methodological foundation for researching the legal aspects of intellectual property and management tools in the macroeconomic environment is reflected across numerous scholarly works, including those by O. Silicon [1], L. Yerofeyenko [4], M. Maslak [5], O. Poberezhets [6], Y. Melnyk [7], and others. The analysis of research and publications concerning the legal protection of intellectual property, and the management processes has shown a need to investigate the current legal aspects of intellectual property and management tools that will facilitate the development of intellectual capital within the national context during wartime and the post-war recovery of the national economy.

**Objectives and Tasks.** The primary objective of this article is to identify and substantiate the legal aspects of intellectual property while delineating the management tools for intellectual property objects that will contribute to the development of intellectual capital in the national context during wartime and the post-war recovery of the national economy. The

tasks of this article include defining the main legal aspects of intellectual property; identifying the primary objects of intellectual property; clarifying the legal regimes for the results of intellectual creativity of individuals or collectives; exploring the principles of intellectual property law; proposing stages for the intellectual property management process; and suggesting basic tools for managing intellectual property within the economic system.

**Research Methods.** To conduct the research activities within the scope of this article, the following methods were employed: theoretical and methodological analysis and evaluation of scientific sources, systematization of information-analytical search concepts, substantive diagnostics of scholarly works, information grouping, summarize scholarly literature, online sources, system diagnostics and synthesis.

**Results and Discussion.** In the face of global challenges, human intellect, general and professional competencies, and individual's creative potential are strategic factors for the functioning and development of the national economy. The term "intellectual property" was first introduced in the Convention establishing the World Intellectual Property Organisation (WIPO), adopted in Stockholm on July 14, 1967, marking progress compared to the Berne Convention of September 9, 1886, which referred to "results of intellectual activity in industrial, scientific, literary, and artistic fields." Although the Stockholm Convention did not provide a clear definition of "intellectual property," this term has since become widely used in international conventions and the legislation of many countries [1].

Intellectual property encompasses the results of intellectual and creative activities of individuals or collectives, including defined rights to innovative inventions, creative works, trademarks, designs, and other personal intellectual assets. According to the Civil Code of Ukraine, "Intellectual property rights are the rights of an individual to the results of intellectual or creative activities or to any other object of intellectual property rights as defined by this Code and other laws. Intellectual property rights consist of personal non-property rights and/or property rights of intellectual property, the content of which concerning certain objects is defined by this Code and other laws. Intellectual property rights are inviolable. No one may be deprived of their intellectual property rights or restricted in their exercise except in cases provided by law" [2].

The primary objects of intellectual property include:

- Inventions;

- Utility models;
- Industrial designs;
- Commercial or trade names;
- Trademarks;
- Geographical indications;
- Trade secrets;
- Data compilations or databases;
- Computer programs;
- Literary and artistic works;
- Scientific discoveries;
- Rationalisation proposals;
- Plant varieties;
- Animal breeds;
- Phonograms and videograms;
- Broadcast programs;
- Other objects.

The subjects of intellectual property rights include the individual creator or collective of the intellectual property object, such as authors, performers, or inventors, and other individuals who hold personal non-property and property rights according to the Civil Code of Ukraine and other regulatory legal documents.

It is important to note that property rights are visualised in two aspects:

- the property rights of individuals or legal entities over tangible assets;
- the ownership rights to the results of the creative activities of individuals or legal entities.

Tangible property consists of material goods or property rights that are objects of real rights. Property rights in intellectual property relations can be either absolute (exclusive rights) belonging to the creator or other individuals or may have a binding nature in relations involving the transfer of these rights from the creator to another individual [1].

It is important to remember that intellectual property rights arise or are acquired based on specific grounds established by the Civil Code of Ukraine and other normative legal acts or contracts.

The legal regime governing the results of intellectual creativity aligns with the legal regime concerning property rights and consists of the following owner entitlements:

- right to possession;

- right to use;
- right to dispose.

Constitution of Ukraine provides for and protect property right: «every individual has the right to possess, use, and dispose of their property, as well as the results of their intellectual and creative activities, with private ownership rights being acquired in accordance with normative legal documents. No one may be unlawfully deprived of ownership rights, rendering private ownership rights inviolable» [3, art. 41].

A significant aspect of the theory of intellectual property law is the formulation of relevant principles. However, the question of clearly defining the list of principles remains a topic of debate. The definition of intellectual property principles is driven by the need to guarantee the protection of:

- personal property and non-property rights of intellectual property subjects;
- moral and material interests of creative individuals.

The principles of intellectual property are linked to the protection of rights for subjects of creative activity; thus they should demonstrate conduct of rules in the system of creation, ownership, use, and disposal of intellectual property. The principles of intellectual property law should consider the following aspects:

- compliance with the Constitution of Ukraine;
- consideration of the development of national society;
- adherence to relevant legal acts regulating intellectual property relations;
- alignment with the fundamental objectives of state institutions regulating intellectual property relations;
- conformance to national interests;
- consideration of humanism and moral standards;
- ensuring the protection of subjective rights for IP ownership.

Given the current global challenges and the evolution of IP relations, the following conceptual principles are particularly relevant:

- the principle of ensuring institutional innovative development within the intellectual sphere in the national context;
- the principle of unconditional equality of rights and legitimate interests for IP subjects;
- the principle of comprehensive information provision for all IP subjects;
- the principle of ethical conduct by applicants during the IP registration;
- the principle of IP valuation;

- the principle of comprehensive justification, argumentation, and evidential support for IP;
- the principle of unity between historical and logical aspects in the field of IP.

These proposed conceptual principles serve as fundamental vectors for the further development of intellectual property law within the national macroeconomic environment.

A characteristic feature of business entities and society as a whole is the underestimation of the importance of protecting intellectual property rights, largely due to the cultural and ethical legacies of the past, when state ownership of creative outputs predominated, and results in scientific and cultural spheres were regarded as societal assets [4].

Despite certain progress in the legal framework for the protection and enforcement of intellectual property rights, its shortcomings hinder the establishment of an effective and efficient system for subjective rights protection to intellectual property, thereby affecting the inflow of global investments and innovations into the national economy.

Between 2022 and 2024, there was a significant increase in the emigration of Ukrainian scientists and inventors, highlighting the threat to the development of intellectual capital within the national macroeconomic environment.

There is an urgent need to improve the legal framework of preventive measures in cases of intellectual property rights violations and to revise the regulatory documents governing intellectual property protection to align them with European Union legislation.

The most critical economic process for intellectual property owners is the commercialization and efficient management of intellectual property assets. Intellectual property management is a targeted process within a complex, multi-component system characterised by multifactorial connections in the creation, ownership, use, and dissemination of intellectual property objects within a relevant environment.

Intellectual property management should focus on effective planning, decision-making, and control over management decisions regarding intellectual property objects in the corresponding economic environment. It aims to coordinate, interact, and harmonize the relevant management segments to achieve the strategic goals and overall effectiveness of the economic system.

The intellectual property management process is focused on the following stages:

- the creation of an intellectual property object within the economic

environment of the entity;

- institutional registration of the intellectual property object to protect it from unauthorized encroachments by third parties;
- circulation of intellectual property objects, including monetization or self-use;
- ensuring the relevance of protective documents on the results of intellectual activity within the entity's economic environment;
- prevention and cessation of infringements of exclusive rights of the intellectual property owner, i.e., the protection process of the intellectual property object;
- alienation of the intellectual property object.

Typically, intellectual property management is a comprehensive process in which the creation, registration, monetization, control, and protection of rights are carried out simultaneously and regularly [5].

Based on a functional approach to management, the following functions of intellectual property management within the economic system are distinguished: forecasting, planning, organization, distribution, coordination, monitoring, and control.

The main tools for ensuring the intellectual property management process in the economic system include:

- management assurance tools: goals, tasks, principles, parameters, constraints, or criteria regarding intellectual property management;
- modeling tools: balanced scorecards, factor analysis, dynamic models of intellectual property objects, and optimization models of indicators;
- multi-parameter application tools: forecasting, planning, and budgeting;
- functionally directed tools: monitoring, diagnostics, audit, and controlling.

It is acknowledged that in the context of scientific research on the historical aspects of intellectual property management, three main management tools are identified: culture, hierarchy, and market [6].

Thus, the application of intellectual property management tools within the economic system allows the entity to adapt to the macroeconomic environment and significantly assists in making management decisions regarding the development of intellectual capital.

**Conclusions.** The conducted research established that the intellectual property rights of individuals or collectives are inviolable and belong to their subjects. According to legal acts, subjects cannot be deprived of their

intellectual property rights on the results of creative activities or restricted in exercising them, except under specific exceptions and limitations on proprietary rights as determined by judicial decisions. Individual or collective ownership represents a specific asset, and ownership relations are proprietary and valuable. Intellectual property, as part of ownership relations, enables the emergence of proprietary relations in the relevant environment. Despite some progress in the regulatory and legal framework for the protection and enforcement of intellectual property rights, its imperfections prevent the creation of an effective system for protecting subjective rights to intellectual property, impacting global investment and innovation inflows into the national economy. Intellectual property management within the economic system is a sequential, interconnected, relevant, and logical process that provides information on the creation, institutional registration, circulation, and alienation of an intellectual property object within the economic environment. Intellectual property management is focused on an integrated model of managerial decision-making, defining the overall direction for realising the potential development of intellectual capital in the corresponding economic system.

The effectiveness of intellectual property management tools reflects the set of elements within the subject's management system that ensure the search for optimal solutions to issues regarding the circulation and development of intellectual property objects in the economic system, which is reflected in the adoption of effective management decisions concerning intellectual property.

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## **ПРАВОВІ АСПЕКТИ ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ ТА ІНСТРУМЕНТИ УПРАВЛІННЯ**

Досліджено правові аспекти інтелектуальної власності та інструменти управління. Доведено, що інтелектуальна власність візуалізує результат інтелектуальної та творчої діяльності фізичної особи або колективу, охоплює визначені права на інноваційні винаходи, авторські результати діяльності, торгові марки, дизайн та інші особисті інтелектуальні надбання. Визначено основні об'єкти та суб'єкти інтелектуальної власності. З'ясовано, що з урахуванням об'єктів права власності візуалізується право власності фізичної або юридичної особи на майно та право власності на результати творчої діяльності фізичної або юридичної особи. Правовий режим результатів інтелектуальної творчості фізичної особи або колективу збігається із правовим режимом змісту права власності на майно та складається з наступних правомочностей власника: права володіння, права користування, права розпорядження. Запропоновані концептуальні принципи в системі права інтелектуальної власності. Обґрунтовано, що принципи інтелектуальної власності пов'язані із захистом прав суб'єктів права результатів творчої діяльності, тому вони повинні візуалізу-

вати правило поведінки в системі створення, володіння, користування та розпорядження інтелектуальною власністю. З'ясовано, що найбільш важливим господарським процесом для суб'єктів інтелектуальної власності є комерціалізація та результативне й ефективне управління об'єктами інтелектуальної власності. Доведено, що управління інтелектуальною власністю візуалізує цілеспрямований процес у складній мультикомпонентній системі з багатфакторними проявами зв'язків у створенні, володінні, користуванні та розповсюдженні об'єктів інтелектуальної власності у відповідному середовищі. Управління інтелектуальною власністю повинно бути сфокусовано на результативному й ефективно-му плануванні, прийнятті та контролю управлінських рішень щодо об'єктів інтелектуальної власності у відповідному господарському середовищі. Запропоновано етапи процесу управління інтелектуальною власністю. Запропоновані основні інструменти забезпечення процесу управління інтелектуальною власністю у господарській системі.

**Ключові слова:** право інтелектуальної власності, управління інтелектуальною власністю, інструменти управління, контролінг, моніторинг, діагностика, факторний аналіз, інтелектуальний капітал.

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