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MECHANISM OF «VOLUNTARY» APPROACH TO THE REGULATION OF INTELLECTUAL PROPERTY

Abstract: *In the article, we argue that it is expedient to use not only administrative but also voluntary approach to the management of intellectual property, using the administrative approach, which is one of the scientific approaches of management in affirming the relationship between copyright and patent law subjects and the results of intellectual activity.*

Key words: *intellectual property, intellectual capital, intangible asset, patent, income, expense, property value, copyright, related rights, administrative, voluntary.*

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Introduction

Within the framework of the theory of property rights, the concept of "property" is usually interpreted as a set of rights that are distributed in different shares between different persons. Studying the organizational and legal basis of property, it is determined that it should be economically managed as an asset (both tangible and intangible), and also that it is an economic category that determines the indicator of socio-economic efficiency as a factor of production. In our republic, there are certain stages in the creation of organizational and economic mechanisms for regulating the intellectual property market in the republic, and in each period the issues of organizational, legal and economic protection of the use of intellectual property wealth are being improved.

As a result of the study, the author studied the features of the management of intellectual property in scientific, technical and industrial spheres in relation to the bundle of property rights, developed the subjective side of intellectual property relations, that is, the scheme for the distribution of powers between the participants in these relations.

The legal framework for intellectual property (IPO) objects is not always the same. The system of absolute rights sometimes does not cover the OIP, it

includes creative results, for example, trade secrets (know-how). In the opinion of some scientists, a special system of absolute rights is applied to know-how. The expediency of approving the application of the administrative scientific approach to managing intellectual property in the regulation of intellectual property on the basis of an "arbitrary" approach in protecting the corresponding rights and distribution of powers between the subjects of copyright and patent rights has been substantiated (Table 1).

A trade secret (know-how) is an unprotected object. Information recognized as know-how is usually a trade secret and is not disclosed to third parties, in other words, the know-how has only a legal monopoly. If the author wants, he can open it "arbitrarily". In this case, depending on the method of transferring property rights, powers are distributed among the subjects.

The personal non-property rights of the author to an invention created in the course of fulfilling official duties or a job assignment shall remain with the author of the invention, and the exclusive rights to use the work of a service belong to the employer, unless otherwise provided by the agreement between the author and the employer. It is administratively established in the national legislation that, regardless of the contract with the employer, the author assigns

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the right to use and receive remuneration in full after ten years from the date of disclosure of the work, and even earlier with the consent of the employer.

Although service inventions, utility models, and industrial designs belong to the employer, the “arbitrary” representation of the authorization for use will help to improve the system of interaction in the future of the enterprise / organization.

It is proposed to finance advanced innovations in the intellectual property market through the “collective contribution of people” to attract foreign investment, international organizations and entrepreneurs in the commercialization of information technology projects with a high sales flow.

The implementation of this scientific novelty in practice leads to the development of healthy competition, ensuring the formation of an intellectual property market and the development of a startup ecosystem, and, in turn, will create a Central Asian startup hub. The role of digital infrastructure is

important in determining the growth of the national economy and the country's influence on the global world.

In the rapidly developing and modern world, raising funds via the Internet is becoming an alternative and promising scheme for financing projects. In particular, the mechanism for placing and financing projects in the field of information technology through a crowdfunding platform has an important place. This scheme provides young entrepreneurs and start-ups with the opportunity to attract investment and find sources of funding.

In recent years, the global crowdfunding market has been actively developing. In 2018, the total number of such platforms in the world reached 2948. Most of them have 1231 platforms in the European Union, 900 in the USA and 431 in Asia. In the CIS, crowdfunding projects are relatively active in Russia, Belarus and Kazakhstan.

Table 1. Administrative and arbitrary approach to the regulation of intellectual property objects*

Intellectual Property (IP)	Protected object	Registration (administrative and arbitrary)	Security document	Duration of absolute rights
Copyright	Works of literature, science and art	Not required	x	Throughout life and for 50 years after the date of death of the author (Based on Law No. 709 of August 20, 2021 Marked 70 years)
	Derivative and composite works		x	
	Computer programs	Mandatory	Certificate	
	Database			
Related rights	Performance, phonogram, broadcast	Not required	x	Production, broadcast for 50 years after the date of performance
	Production database		x	15 years after the date of development
	Publications		x	Within 25 years after publication
Patent Law	Inventions	Mandatory	Patent	20 years
	Utility models			10 years (extension up to 3 years)
	Industrial designs			15 years (extension up to 10 years)
The Right to Breeding Achievements	Plant varieties	Mandatory	Patent	30 years (35 years for selected species)
	Breeds of animals			30 years
IC Layout Rights	x	По желанию	Certificate	10 years
Trade secrets law (know-how).	x	Not required	x	Until the mystery is revealed
Personalization rights	Company name	Not required	x	Until the exclusion of legal entities from the unified state register

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	Brand name and place of origin of goods	Mandatory	Certificate	10 years with the right to renew each innovation for 10 years
	trade secret	Not required		Unlimited
<i>*Developed by the author</i>				

The market for advanced technologies, including artificial intelligence, blockchain, fifth generation mobile communications (5G), robotics, drones, genetic engineering, nanotechnology and solar photovoltaic systems, is ushering in a new era of digital economy and collaboration. 90% of these technologies belong to intellectual property. As you know, all over the world a new network in the field of production and services is being formed and is developing, which is called the "Information of an intellectual product" network.

Among such terms as "smart car", "smart home", "smart city", the phrase "smart people" is also often found in the achievements of science. Consequently, the improvement of mechanisms for supporting projects initiated by smart people and organizations, the introduction of the results of scientific and technical developments into production is accelerated, and the creation and development of a sustainable chain of systems for the release of innovative products to the international market is ensured.

To date, not enough attention is paid to the role and importance of the use of intellectual property (OIP) in commercial organizations of Uzbekistan, in particular, its institutional foundations. In addition, existing sources are trying to understand using various approaches and methods, such as "intangible objects", "intellectual property", "intellectual capital". This creates additional complexities both economically and

institutionally. On the basis of the study, a diagram of the relationship between the concepts of "intellectual property", "intangible assets" and "intellectual capital" has been developed. Comparison of intellectual property and fixed assets allowed us to determine the similarities and differences between IP and fixed assets (PF). The use of IP in the above areas allows you to increase the production capacity and production efficiency of the enterprise. The correct use of the IPO increases the income and profitability of the enterprise, as a result of which its value increases. In this chapter, the main criteria for the similarities and differences between intellectual property and fixed assets are developed.

There are a number of basic principles for assessing intellectual property: the principle of profitability, the principle of substitution (change), the principle of expectation, the principle of conformity, the principle of supply and demand, the principle of competition, principles that depend on the macroeconomic situation or the economic development of the region. Since the intellectual property object is presented as a commodity, it must have its own market value. At the same time, it is required to effectively use the institutional structures of the market for IP valuation services.

A methodology has been developed for the advantages of approaches to the assessment of intellectual property (IP) and intangible assets (IA) (Table 2).

Table 2. Preferred Approaches to Valuing Intellectual Property and Intangible Assets*

Types of intangible assets and intellectual property	Selected approaches		
	First	Second	Third
Patents and technologies	Profitable	Comparative (market)	Costly
Trade marks	Profitable	Comparative (market)	Costly
Objects of copyright	Profitable	Comparative (market)	Costly
Skilled workforce	Costly	Profitable	Comparative (market)
Providing information program management	Costly	Comparative (market)	Profitable
Software products	Profitable	Comparative (market)	Costly
Distribution (distribution) networks	Costly	Profitable	Comparative (market)
Basic deposits	Profitable	Comparative (market)	Profitable
Franchising rights	Profitable	Comparative (market)	Profitable

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Corporate practices and procedures	Costly	Profitable	Comparative (market)
Copy rights	Profitable	Comparative (market)	Profitable
<i>*Developed by the author</i>			

An assessment of intellectual property is necessary when an enterprise / organization is liquidated, when conducting a merger and acquisition, when submitting an official report to the court, when assessing damage caused as a result of a violation of property rights, when determining the right paid to authors, and if it is necessary when issuing and licensing rights intellectual property, and the valuation of intangible assets - when making contributions to the authorized capital of an enterprise / organization, making decisions on investing in an intangible asset, acquiring and selling property rights, valuing and acquiring a business, as well as for International Financial Reporting Standards.

The Commonwealth of Independent States (CIS), including Uzbekistan and a number of developed, developing and undeveloped countries are also members of the World Intellectual Property Organization (WIPO). WIPO acts as an international arbitration tribunal in the resolution of commercial disputes related to the protection of intellectual property.

Copyright and related rights, as well as international patent conventions, are fundamental to equal and fair relations between countries. Based on the analysis, it was determined that the intellectual property market of the Republic of Uzbekistan needs to be managed in total in accordance with 14 international agreements that are members of the

World Intellectual Property Organization (WIPO), as well as treaties administered by WIPO, the International Organization for the Protection of New Varieties of Plants UPOV (International Union for the Protection of New Varieties of Plants, UPOV), the World Trade Organization (WTO) and the United Nations (UN).

Research on improving the institutional management of the intellectual property market has shown that in practice there is no state that would regulate or manage intellectual property on the basis of a single state body. In practice, 6.8% of the state resolves this issue through a specific ministry or organization. Improving the mechanism for regulating the intellectual property market in the economy is, first of all, state policy, and today the state is taking measures to improve the system for protecting intellectual property objects.

As you know, a common goal in developing a strategy in the field of intellectual property is in itself not enough; it is necessary to initially determine for what and for whom it is being developed. In this case, not only responsible employees will have to take part, but also other interested parties. Improving the legislation in this area, the issues of protecting personal intellectual property, bringing scientific achievements to each department and industry are raised.

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