ABSTRACT: The Article is devoted to issues of innovative development of Ukrainian society in the context of more efficient use and intellectual property protection as important means of improving the national economy and the legal system. The general trend of development and some problems of optimization of intellectual property rights are considered, attention is accentuated on priority of the role of science, culture and technology in production. Since the adoption of the National Strategy for the development of intellectual property in Ukraine, at first, its comprehensive research and comments are made. Based on analysis of current legislation and this strategy, the main tasks and methods of elimination of weaknesses and creation of an effective and efficient legal mechanism for protection of intellectual property have been outlined.


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Building up of the statehood in Ukraine in contemporary difficult economical, social, military and political conditions determines the necessity of active improvement of the functioning of the institutions of the state and legal system in the country in general.

The national legal system – is the peculiar index of the constant economic, political, social, moral, legal development of each country, the achieved level of the rights, freedoms, and lawful interests of a person. While determining the law it is reasonable to go into the comparison of the precise legal system with the “legal” embodiment of freedom, equality and justice (Zayets, 1999).

The legal system of Ukraine shall correspond to the democratic, legal and social development of the state according to the Constitution.
In the contemporary conditions the national legal system gradually transforms into one of the important means of ensuring of the optimum unity of political and social stability and dynamism, preservation of the society’s integrity, interaction of personal and social, legal and public factors, which are always in the antonym relations, that is, interpenetration and inherent contradiction.

In general any legal system of the democratic social, law-governed state shall increase its influence on the social processes, on the regulation of social economic relations, on the development of political and social system, and figure as the interaction of different social communities (Deminenko, 1997). It is called for ensuring the practical realization of its main principles: living wage worthy of human dignity, social equality, and rise in the common living standards (Lukasheva, 1994).

The role of the legal system in the conditions of contemporary state is also determined by the necessity of ensuring of person’s self-determination, his/her development and socialization. By this, law figures as objectively possible scale of social freedom, that stimulates creative activity, person’s self-consciousness, guarantees society recognition that each individual born free and equal with others and the rule of law is considered as social phenomenon, which stipulates inalienable rights of a person and citizen to freedom, equality, worthy life, respect and inviolability (Kolesova, 2009).

The reforms in Ukraine, that are conducted impulsively, without necessary scientific grounding, resulted in one of the negative consequences such as shattering downfall of industry, closing and bankruptcy of businesses, disastrous budget deficit growth, social sphere collapse. The end of it is massive nation’s impoverishment, scientific and technical sphere recession, slow rates of inventive activity and accordingly creation and introduction of new intellectual property objects into production.

In connection with this today Ukraine is determined by the level of international sociological researches as a country with the repressive economy (Melehin, 2007), where, accordingly, fundamental rights are not protected (Onischenko, 2001).

Scientific and technical development of the whole civilization has extremely important and substantial influence on the tasks of the legal system. The state supports science, education, culture, uses their results, promotes the development and maintenance of the intellectual social potential (Marchenko, 2008).

As is generally known the meaning of the intellectual activity, especially its results for the social and economic development of any society rapidly changes. Thus, accounting the circumstance that intellectual property often becomes the object of illicit actions, abuse, unpermitted usage, that’s why it requires reliable and effective legal protection.

Intensification of the intellectual property legal protection is necessary because intellectual activity determines the strategy and tactics of the social and economic country’s development, as the experience of developed countries points out. Science, culture and engineering rather than production occupies determinant and priority place.
The development of the national system for the intellectual property protection in the context of the Ukrainian integration to the European community is considered to be an integral part of the international system of its protection. At present the National Strategy for Development of Intellectual Property in Ukraine for the period till 2020, in which general provisions of priorities and perspectives of the national system of intellectual property development are pointed out, in particular, the aim, strategic directions and main tasks. They have to be used for the activity directed to the realization of the state policy in the sphere of intellectual property. At the same time, a lot of unsettled tasks were left from its precursor – the Conception of Development of the State System of Intellectual Property Legal Protection for 2009-2014, which was approved by the decision of the Board of the State Department of Intellectual Property (Minutes of 11 March 2009 № 11) with the aim to determine the ways of further development and improvement of the state system of intellectual property legal protection. Its priorities are maximum entire, timely, qualitative ensuring natural and legal persons’ acquisition and protection of intellectual property rights according to the international norms and standards. Ensuring effective guarantees of the intellectual property legal protection, among them, is inalienable attribute of the statehood of any civilized country. There are enough grounds for that: provisions of the Constitution of Ukraine (Art. 41, 54), norms of the Civil Code of Ukraine (Book IV “Intellectual Property Law”), Commercial, Customs, Criminal Codes of Ukraine, Code of Ukraine on Administrative Offenses. Special laws in the sphere of intellectual property operate in Ukraine: “On Protection of Rights to Inventions and Utility Models”3, “On Protection of Rights to Industrial Designs”4, “On Protection of Rights to Trademarks for Goods and Services”5, “On Protection of Rights to Plant Varieties”6, “On Protection of Rights to Indication of Goods Origin”7, “On Protection of Rights to Integrated Circuit Designs”8, “On Copyright and Related Rights”9.

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As the practice and mass violations of the rights to intellectual property objects affirm this system has vulnerable spots. They are well-known to the professionals and reminding of this nobody get the things moving, until following the norms of the valid, not bad legislation becomes the norm for the owner of property rights, their users and state officials.

Today stimulation of investment initiatives in the intellectual property sphere is necessary for the development of new beginnings, support of innovations, especially introduction of the new and the best investments in the sphere of education, study, science on the basis of the usage of the works of art, scientific achievements and the latest developments in the field of information and communication technologies.

There is the need for the development of the efficient methods of prevention, counteraction, investigation of crimes in the intellectual property sphere, improvement of learning and development of the high culture for the wide sections of the population in the intellectual property sphere. The upgrading of the educational level in the intellectual property sphere, broadening the international partnership, cooperation, interrelation in the intellectual property sphere is needed for the achievement of all above mentioned. Another not less important issue is ensuring the high level of intellectual security, settling the question of utilization of products, in which intellectual property objects are realized, also financial, material and technical support of the introduction of innovative model for Ukrainian society’s development.

Developing the strategy of the innovative Ukrainian state’s progress, it is necessary to account also the problems of the globalization development, which needs theoretical comprehension of tendencies in the evolution of legal, cybernetic, psychological and economical sciences and special science of intellectual property law.

The most challenging issues in the above mentioned context are the next: formation of the efficient and effective legal and institutional system of intellectual property rights protection in Ukraine; expediency of the advanced experience of the countries of the East-Central Europe in the intellectual property sphere into the national legislation, and also its harmonization with the European and world standards.

\textsuperscript{10} The Law of Ukraine On Protection of Economic Competition, (Vidomosti Verkhovnoyi Rady Ukrainy (VVRU), 2001, N 12, p.64) // http://zakon2.rada.gov.ua/laws/show/2210-14
Challenging issue in the sphere of intellectual property remains the legislation’s codification on the objective values common for all intellectual property objects. The absence of the legislative preliminary works concerning the contractual transfer of “know-how” also should be referred to the existing problems in the sphere of intellectual property legislative gaps. Its definition is given in the Law of Ukraine “On State Regulation of Activity in the Sphere of Transfer of Technologies”13.

The contract of “know-how” transfer is similar to the license contract. But vital difference is that the rights to the patented objects are transferred under license contracts while “know-how” can objectively be not patented.

The law of Ukraine “On Scientific and Scientific Technical Activities”14 recently passed by the Verkhovna Rada of Ukraine will promote innovative perspectives of our state in the intellectual property sphere. It has to become the guaranty of the effective state’s usage of its intellectual potential. The present law creates efficient legal field for the development of the scientific and scientific technical sphere and its transformation into the driving force for the innovative progress of Ukraine. It should be admitted that the law will also promote the democratization of the academic life, transparent allocation of funding and upgrading of effectiveness of scientific establishments’ activity.

Though the advantages of this law can be diminished by the provisions of the Law of Ukraine On the State Budget of Ukraine for 201615. Its coming into force considerably deteriorates tough time of Ukrainian science. Under the law funding of the NASU shall be reduced to 2 billion 54 million hrn. At the same time a minimum total necessity for 2016 is almost 2 billion 780 million hrn. Such a considerable underfunding of almost 20 percent will have a negative effect on the activity of scientific institutions. It will result in the inevitable decrease of the number of researches in many priority areas, substantial reduction of the amount of the academic staff and subemployment. Under such circumstances the amount of young researchers will extremely decrease in the NASU16.

Ukrainian science as an area where different objects of intellectual property are created requires immediate reforms. Unfortunately, the best scientists have been leaving the country which is unacceptable in the view of the prospect of scientific and economic development. The Law On Science and Scientific and Technology Activities provides for the reforms in the scientific area. Its fundamental principles include decentralization of the management in the scientific area, demonopolization of the sources of its funding and European approaches.

16 BORYS Paton:Underfunding of the NASU will Result in Decrease of Research Projects and Reduction of Academic Staff //http://www.golos.com.ua/article/263445
This law allows to initiate there form of the scientific area and to create objects of intellectual property. This reform will bring hope to young scientists to fulfil their potential in Ukraine and for the welfare of Ukraine. It will give an opportunity to abandon bureaucratic outdated soviet supervision system of science on behalf of the development of creative environment contributing to inventions. This reform will popularize science in Ukraine and will help scientists to influence public opinion that will have effect on all areas of life in the country.

Taking into consideration the above mentioned it is necessary to improve legislation aimed at providing constitutional rights of citizens, protection of intellectual property, creation of favourable conditions to develop objects of intellectual property, development of civilized market of these objects. State contribution to the protection of intellectual property requires the implementation of procedural and institutional measures. For their implementation it’s necessary to join together the efforts of governmental bodies, non-governmental institutions and organizations, define further development path of the national system of legal protection of intellectual property in Ukraine. Economic renewal of our country, development of market relations, striving to become fully legitimate member of the world community require clearly defined prospects for further development and improvement of public relations in this important area.

REFERENCES