

Features of management decision making in the field of intellectual property of modern enterprise

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Abstract

The article considers features of making management decisions in the field of intellectual property of modern enterprise on the basis of integrated approach to processes of providing legal defense, protection and use of intellectual property; systemic relationship between stages of life cycle of intellectual property as an innovative product and general functions of management.

Keywords: INTELLECTUAL PROPERTY OBJECTS, MANAGEMENT SOLUTIONS, RIGHTS APPRAISAL, PROTECTION OF RIGHTS, COMMERCIALIZATION, ENTERPRISE, INNOVATIVE PRODUCTS

Scientific and technological progress, globalization of the economy, improvement of national systems for the protection of intellectual property determines the general trend of growth in the global intellectual

property market. Effective use of intellectual property in Ukraine is insufficient, despite the fact that the transfer of rights to use intellectual property through licensing agreements is one of the most effective world-

wide forms of commercialization of intellectual property. Therefore there is a need to improve the modern enterprise management system, particularly in decision-making on formation and use of intellectual property.

The question is topical because in Ukrainian business there is a lack of integrated approach to technology of owners' decision-making concerning protection of intellectual property rights, using the opportunities to obtain real, tangible material benefits from the ownership of protection documents on intellectual property even in adverse economic conditions and competition in the market of services.

The object of intellectual property is a specific result of creative efforts of a person in the relevant field of activity. Perception of the intellectual product that is the intellectual property object (copyright object or industrial property object, for instance inventions, utility models, designs, trademarks, etc.) as the property category allows legislatively regulate legal relations concerning decision making on their creation,

legal protection and use [1].

A major obstacle to the successful disposal of intellectual property rights is the lack of effective system of management decision making in the field of intellectual property, namely the lack of integrated approach to the processes of providing information, expertise, legal support, economic valuation and the use of intellectual property objects. As a result, strategic goals, objectives and priorities are focused primarily at solitary aspects. Intellectual property management nowadays actually ends at the stage of granting a patent, and, in fact, there is no management system addressing issues related to the valuation of objects of the intellectual property rights and putting them into economic circulation, i. e. the economic reward, profit or other benefits, which are the main reasons why these objects are created [2].

Regarding the management of intellectual property rights, it should be noted that the said process can be considered in three aspects (Figure 1) [3].

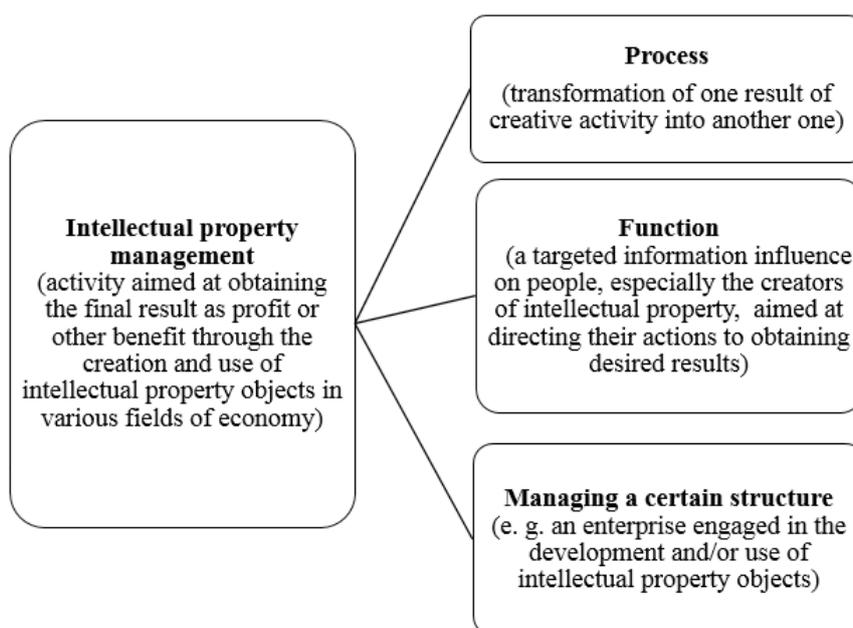


Figure 1. Intellectual property management

It is known that the process of decision-making includes not only selecting of the best option, but also searching alternatives, establishing evaluation criteria, selecting method for evaluation of alternatives etc. So, obviously it can be argued that managing decisions in the field of intellectual property result from management activity, which is to select interconnected, targeted and consistent administrative actions, the most effective ways of use of intellectual property rights on the basis of execution of management functions for solving the stated problem and achieving the

ultimate goal that is the commercialization of intellectual property, obtaining additional income and protecting them from illegal use.

Systemic management decision-making is a continuous process that takes place at all stages of the life cycle of intellectual property as a commodity: creating, acquiring the rights, using (commercialization), protecting the rights and utilization. In our view, it is appropriate to consider the intellectual property management considered according to the phases of the life cycle of the innovation product (intellectual property)

in conjunction with the basic functions of intellectual activity management (see. Table 1), which is the

planning, organization, motivation, implementation, accounting and control [1].

Table 1. Compliance of functions and stages of life cycle of management decision on the intellectual property object

Function	Life cycle stage	Management decision content
Planning	Creation	<ol style="list-style-type: none"> 1. Selection of ideas. 2. The decision to conduct patent research. 3. Figuring economic effect. 4. Decision to create an object of intellectual property rights. 5. Formation of the working group. 6. The agreement on the partition of future profits. 7. Creating conditions for commercialization in the future.
Organization for the acquisition of rights	Acquisition of rights	<ol style="list-style-type: none"> 1. The expediency of obtaining legal protection. 2. Selection of forms of protection: <ul style="list-style-type: none"> - a trade secret; - patenting; - obtaining a certificate; - registration of trade marks, others.
Motivation	Commercialization	<ol style="list-style-type: none"> 1. The use of intellectual property in the own production. 2. Transfer of the intellectual property rights. 3. Profiting from the use
Control	Protection of rights	The choice of form of protection: (1) non- jurisdictional; (2) jurisdictional, judicial procedure; administrative order.
Organization concerning the further destiny	Utilization	<ol style="list-style-type: none"> 1. Removal from balance. 2. Transition of intellectual property rights to the public domain. 3. Upgrade (modification).

The effectiveness of management decision made by the director is affected by many quantitative and qualitative factors. Each stage of management process has its own inherent specific purpose and situation, which, during its achievement, require adequate decisions in the process of management that is presented in figure 2. [4].

It is necessary not only to identify an existing intellectual property, but also to reveal who owns the rights to it, or to determine whether the portfolio of intellectual property is sufficient to ensure the patent purity of the product, which is produced by the enterprise. Placing new product that violates the rights of other owners on the market is a disaster for directors. Legal measures against the violation of intellectual property rights can lead to large and sometimes irreversible financial and moral losses [4].

Intellectual property rights have a certain economic

value and, in conditions of market economy, become a commodity that is sold on a contract basis. Commercialization of intellectual property of is a win-win (commercial) action of all participants of the process of transformation of intellectual work results into market goods. The aim of commercializing is a profit through the use of intellectual property in its own production or through sale or transfer of rights to use to other legal entities or individuals [5].

It should be noted that during the management decision making it is not obligatory for the innovation product owners to focus on a single way to commercialization. For example, during the use of intellectual property in its own production it is possible to issue non-exclusive licenses, which provide a plurality of licensees, or to use the equipment lease or franchise, or engineering in the form of consulting services. When transferring the holder does not lose the

right to object, and, depending on the type of license agreement, may use the facility within the permissible

limits [5]. Thus, the forms of commercialization can be combined.

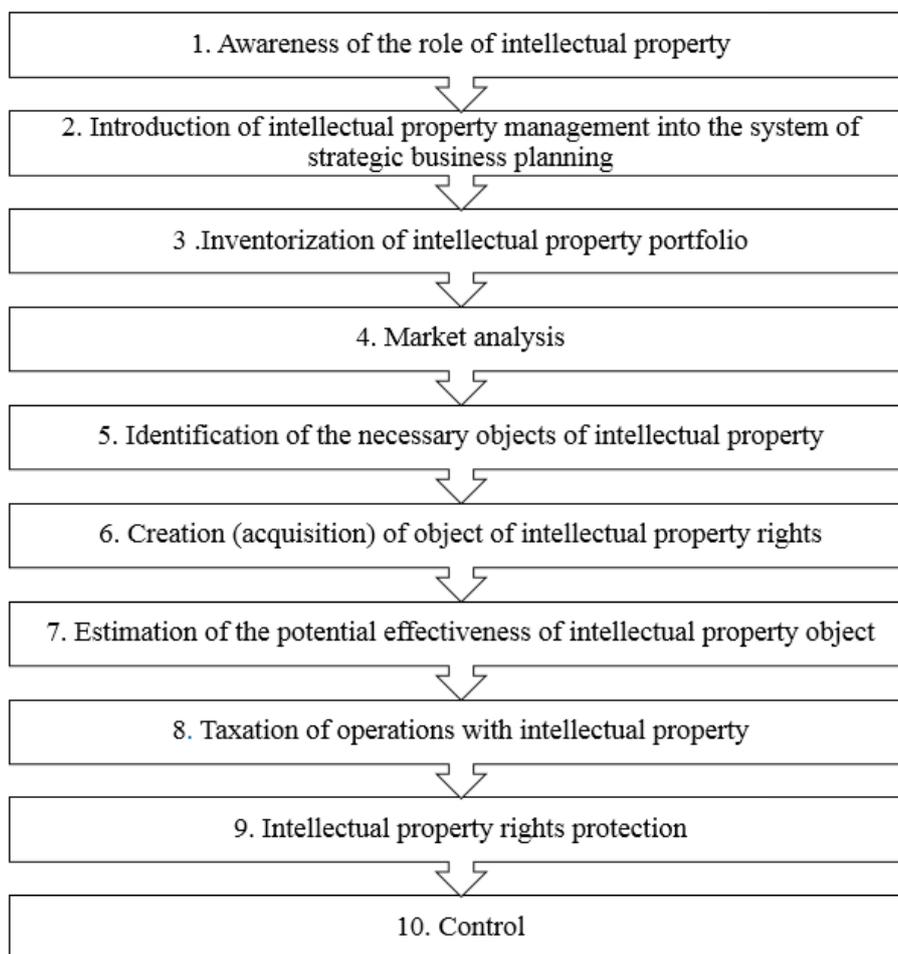


Figure 2. The process of intellectual property management in the company

The above-mentioned processes of commercialization and use of intellectual property objects (licensing and contractual relationships) are based on the valuation of the rights to these objects. It should be noted that the assessment of property rights is the process of determining their value at date of the measurement under the procedure established by legal and regulatory acts [6]. Figure 3 schematically presents a system of approaches, objectives and principles of assessment of the intellectual property rights that contributes to a balanced management decision making in this field of entrepreneurship.

Therefore, assessment of property rights is performed in result of management decision making based on a contract between a subject of assessment activity and a customer of the assessment or on the basis of a court order appointing an appropriate expertise with regard of assessing property rights.

The contract for the assessment of property rights is concluded in writing and may be bilateral or multi-lateral. Using intellectual property rights in its manage-

ment and financial accounting, the company can earn additional income, taking into account the possibility of their protection in a competitive market of innovative products.

It is necessary to distinguish between the concepts of protection and defense of intellectual property:

- The protection of intellectual property rights is the creation of intellectual achievements, acquisition of rights to them and to their use;
- The defense of these rights is a set of measures to identify their perpetrators, recognition and recovery in case of violation.

Legislation in the field of intellectual property should be developed through the implementation of modern international standards and resolving differences that exist in the current Law of Ukraine, including the provisions of Directive Council and the European Parliament. Therefore the legislator is constantly looking for ways and means of bringing the sphere of intellectual property to world standards and other improvements, because the level of socio-e-

conomic development of the country depends on adequate, reliable and efficient legislative protection of intellectual property. Unfortunately, the intellectual

property is often the subject of misconduct, abuse, and unauthorized use [7].

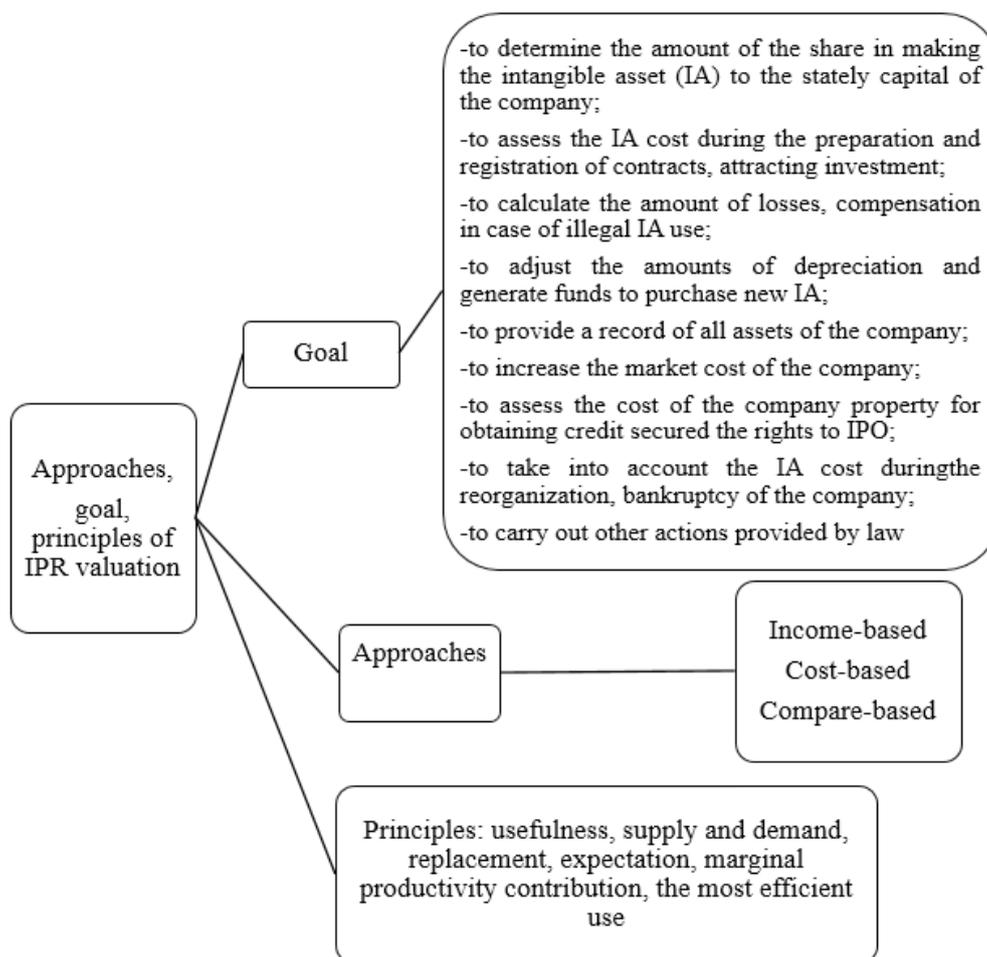


Figure 3. The content of the management decision making on the evaluation of rights to intellectual property objects

Persons, who are holders of acquired rights, should timely make appropriate decisions and be able to take action against violators of these rights in order to prevent future violations of, renewal rights and compensation for losses resulted from such violation.

In conclusion, we offer the following recommendations on improving of system of management decision making in the field of the intellectual property of modern enterprise:

- Awareness of the role of intellectual property in formation of the competitive advantages of the company;
- Improvement of the organizational structure of management of the intellectual property system of the enterprise;
- Generation of alternative solutions to problems in the process of management decisions making;
- Selection of the management strategy in the field of intellectual property of the company;

- Involving intellectual property areas in strategic business planning;
- Monitoring of information about competing intellectual property;
- Evaluation of commercial and market opportunities for the existing intellectual property;
- Correction of models of commercialization of intellectual property;
- Determining program of actions on implementation of management decisions during the life cycle of the object of intellectual property rights;
- Organization of implementation of decisions concerning management of the intellectual property portfolio;
- Assessment of the decision and obtained results, etc.

Given the above, we can conclude that in the process of managing a modern enterprise its competitive advantages are formed as existing objects of intellec-

tual property rights. These benefits are used by the company management, applying efficient algorithm for management decision making, particularly in the field of protection, defense and commercialization of intellectual property objects. Only under such conditions can venture have a success and prospects of development in the market of innovative products and services.

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