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R.V. Okorokov, A.A. Timofeeva

**PRINCIPLES AND METHODS OF INTELLECTUAL PROPERTY
OBJECTS' COMMERCIALIZATION**

Р.В. Окорокров, А.А. Тимофеева

**ПРИНЦИПЫ И МЕТОДЫ КОММЕРЦИАЛИЗАЦИИ ОБЪЕКТОВ
ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ**

It is shown that the formation of innovative economy in our country and increase of requirements to the quality and competitiveness of production of domestic enterprises stipulate the development of principles and methods of the process of intellectual property objects' commercialization and active implementation of the results of intellectual activity in economic operations.

INTELLECTUAL PROPERTY. INTELLECTUAL ASSETS. INTELLECTUAL CAPITAL. OBJECTS OF INTELLECTUAL PROPERTY. COMMERCIALIZATION OF OBJECTS OF INTELLECTUAL PROPERTY. INNOVATIVE ECONOMY.

Показано, что становление инновационной экономики в нашей стране и повышение требований к качеству и конкурентоспособности продукции отечественных предприятий обуславливают разработку принципов и методов процесса коммерциализации объектов интеллектуальной собственности и активное внедрение результатов интеллектуальной деятельности в практику хозяйствования.

ИНТЕЛЛЕКТУАЛЬНАЯ СОБСТВЕННОСТЬ. ИНТЕЛЛЕКТУАЛЬНЫЕ АКТИВЫ. ИНТЕЛЛЕКТУАЛЬНЫЙ КАПИТАЛ. ОБЪЕКТЫ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ. КОММЕРЦИАЛИЗАЦИЯ ОБЪЕКТОВ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ. ИННОВАЦИОННАЯ ЭКОНОМИКА.

As a result of innovative activity of enterprises the new ideas, information and knowledge, new advanced products, new production and management technologies are born leading to increase of productivity of social activities. These innovations can have concrete material and immaterial forms intending for commercial and non-commercial realization.

For protection of innovations their founders get on them the copyright in the form of rules, norms and regulating acts owing to such legal concept as «Intellectual Property». According to materials of the Convention that has founded the World Intellectual Property Organization (WIPO) in 1967 with the Russian Federation as a member, the intellectual property (IP) is understood as the conditional (virtual) collective term including the rights relating to results of the intellectual activity in production, scientific, literary and art spheres [1].

According to modern views, IP is the right of some persons (owners) established by legal laws on the results of intellectual activity of the same or other persons [2].

IP, unlike other types of property, has the following specific features:

- its object is the creations of human reason, his intelligence, and the subject – the information and new knowledge as its intrinsic form presented on the material carrier in some form;
- it possesses a sign of priority and can be deposited;
- concerning IP the rights of the owner (the non-property rights) and the exclusive copyright (rights to use) can be allocated;
- some specific restrictions (duration of action of the copyright and patents in time) extend on it.

The results of intellectual activity to which the legal protection is provided become the

objects of intellectual property. The protection of the objects of copyright and the adjacent rights comes from the moment of their creation, and the objects of industrial property – from the moment of their registration and obtaining the security document [2].

The Objects of Intellectual Property (OIP) carry out the following main functions in the course of their use [3]:

- saturation of the goods made on their basis by the special consumer characteristics;
- maintenance the competitive advantage of an enterprise in the market;
- monopolizations of the effective creative decisions used in business;
- excess profit obtaining by means of monopolization of the new ideas and knowledge of business;
- business socialization by the possibility of solution of the society social problems or its separate groups;
- formation of the special creative culture of the personnel of enterprises;
- rise of the national wealth of countries by realization of the specified functions.

The need of estimation of the cost of OIP is defined by the essential growth of their specific weight as a part of assets of the enterprises in the conditions of new technological way of information (innovative) economy.

The object of an assessment of IP is the set of the rights to its elements having territorial, temporary and valid character not violating the rights of the third parties.

The subject of an assessment of IP is the direct result of creative activity of the person such as scientific and technical achievements in the form of production and administrative technologies, design elaborations, business and production secrets, professional knowledge and experience.

In other words, the assessment of OIP is a process of determination of the potential cost of volume of the rights to concrete results of the intellectual activity possession of which provides to the owner the certain benefits of direct and indirect economic character [3].

The purposes of an assessment of OIP are as follows [3]:

- purchase/sale of the rights on the objects of intellectual property;
- compulsory licensing and damage assessment from the violation of the rights of the owner of the object of intellectual property;

- introduction of the objects of intellectual property as a contribution to the authorized capital;
- definition of a share of intellectual property in investments;
- purchase/sale of the enterprise, enterprise restructuring;
- revaluation of intangible assets of the enterprise;
- minimization of the taxes paid by the enterprise;
- crediting on the security;
- insurance of the intellectual property;
- donation and inheritance of the rights on the objects of intellectual property.

The assessment of IP is made according to the international standards of the property assessment and standards of the Russian society of appraisers.

According to the «Methodical recommendations on determination of the market cost of intellectual property» (Section 2), the basic principles of determination of its cost are as follows [4]: principle of usefulness; principle of demand and supply; principle of replacement; principle of expectation; principle of change; principle of external influence; principle of the most effective use; principle of uniqueness of an object; risks of development; other factors.

Many factors have impact on the market cost of IP of the enterprises including the reliability of legal protection, the patent purity, the technical and economic importance and industrial readiness of object; the expenses on creation and patenting (registration) of the object of industrial property; the expenses on maintenance of the security documents in force; the expenses on utilization of object; the expenses on insurance of the risks connected with an object; the expenses on resolution of conflicts on estimated object; the expenses connected with a need of payment of taxes and fees; the expected receipts of royalties on this object of industrial property; the expected receipts in the form of compensation (penal) payments at confirmation of the fact of violation of exclusive rights of the owner of object of industrial property; the period of validity of the security document (the patent, the certificate) at the time of its cost assessment or period of validity of the license contract; period of use of an object; the average rates of a royalty for this type of objects of legal protection.

The procedure of an assessment of IP includes some stages as follows [5]:

- 1) OIP examination;

- 2) examination of the security documents;
- 3) examination of the intellectual property rights;
- 4) carrying out the estimated calculations: the choice of assessment methods; the collection and analysis of information necessary for object assessment; the cost calculation for the chosen methods; the coordination of the calculations received by various methods; writing of the assessment report.

The distinctive feature of OIP is their suitability for the consumption and use (for satisfaction of production, household and cultural people's requirements, education, commercial activity, etc.), so they possess a certain consumer cost. Under market conditions, with the demand and possibility of realization, it also has the market price.

The results of intellectual activity can be for sale or used as a contribution to the authorized capital, etc. providing to the owner the possibility of commercial benefit.

However for IP market formation the objective cost assessment of the enterprise's OIP or the product use rights is necessary for the purpose of the effective realization of results of intellectual activity.

At the same time, the considerable part of enterprise's OIP is not considered or not estimated completely now (for example, the intellectual and business personnel qualities – educational and professional level, creativity, etc.). There are no approved and practical particular techniques of an assessment of the specific OIP types.

The sphere of an assessment of the intellectual capital (OIP are part of it) is insufficiently studied. However in the modern economy based on knowledge and innovations where the intellectual property, intangible assets and the intellectual capital become the new competitive dominants, their market assessment is the extremely essential.

Not only the assessment of IP market cost and the commercialization of exclusive rights, but also all aspects of derivation of IP use benefits are of great importance by involvement of the intellectual assets or IP in commercial and economic circulation.

The problems listed above cause the necessity of specification of the essence and features of the considered concepts.

First of all, it is necessary to emphasize that such concepts as «Intellectual Capital», «Intellectual Assets», «Intellectual Property» are incorporated, i. e., one concept is a component of another.

According to the International Financial Reporting Standards (IFRS), the resources controlled

by the organization as a result of last period events from which it expects economic benefits in the future, represent the organization assets.

More than 100 terms characterizing the asset separate types are in use in the economic theory and practice connected with the assets [3].

The three main asset types are detached – material, non-material and financial assets.

The intangible assets are understood as the property of the organization that doesn't have a material form, but taking part in economic activity and generating profit. The exclusive rights to using patents, licenses, trademarks, know-how, etc. are of great importance as a form of intangible assets.

The intellectual capital that is identified, fixed and available inside the enterprise, represents the intellectual assets.

The intellectual capital includes all the knowledge of the enterprise [6]: knowledge and skills of employees; processes, ideas, R&D, projects, inventions, used technologies, software, doing business methods; infrastructure providing use, transfer and storage of all above-mentioned.

The approximate structure of the intellectual capital and types of enterprise's intellectual assets are presented in the Tab. 1.

Table 1

Structure of the enterprise's intellectual capital [5]

Capital structure	Intellectual asset types
Human capital	Educational and professional level of workers, skills, competences, ability to innovations, know-how and experience, ability to team work, motivation, training ability, loyalty, professional certification (recognition, initiative), psychological compatibility, etc.
Organizational (structural) capital	Philosophy and management concepts, administrative processes, organizational and financial structures, information system, organizational culture, decision-making systems; objects of intellectual property; patents, trademarks, service marks, copyright, other exclusive rights, etc.
Client (relational) capital	Loyalty of consumers, list of orders, communications and contacts, agreements, brands, ratings, suppliers, distribution channels, business partnership, alliances and cooperation, license agreements, franchise agreements, administrative resource, etc.

Dozens of methods and models of the market cost assessment of the intellectual capital at the enterprise level are developed nowadays.

The essence and the comparative analysis some of these methods and models are described in detail in [7].

Each of the analyzed methods and models, as can be seen from the Tab. 2, has certain advantages and disadvantages that must be taken into account in the assessment of intellectual capital.

The OIP commercialization is understood as a process of involvement of the results of intellectual activity into economic circulation with the purpose to earn income.

The efficiency of this process comes on to the market. It depends on many factors, first of all, as

far as the nature of demand for a specific result of intellectual activity will be considered and the market demand for such result will be revealed by the statement and implementation of the objectives of commercialization.

The main principles of IP commercialization should be considered as follows [6]:

- client-oriented approach;
- comprehensiveness;
- flexibility and adaptability;
- concentration of the efforts and resources;
- program-target approach;
- orientation towards the practical result (growth of the newly added value).

The analysis of the existing methodological approaches to IP commercialization shows that this process should be carried out step by step.

Table 2

Comparative analysis of the intellectual capital assessment methods [7]

Title	Main advantages	Main shortcomings
Market-to-Book Ratio and Tobin's Q	Simplicity; Reliable initial data; Convenience of use in panel studies	The majority of external factors is neglected; Conceptual contradictions; Need for developed financial market
Technology Broker	Instrumental-practical orientation; Empirical testing	Controversial move to quantitative results; Considerable degree of subjectivity of procedure
Scandia Navigator	First taxonomy of the intellectual capital; Inclusion of the clients capital in model; Fundamental latitude	Internal contradiction of a number of indicators; Dependence of indicators; Complexity of model
EVA Model	Simplicity of methodical principles	Aggregate assessment of the intellectual capital; Negative empirical results
Intangible Asset Monitor	Strategic orientation; Empirical testing	Subjectivity of the choice of indicators; Considerable linking to the organizational culture
Knowledge Capital Earnings	Empirical support; Similarity to the traditional method of goodwill assessment	Fundamental weakness of the main assumptions; Subjectivity of a significant number of initial data
Value Chain Scoreboard	Accounting of the stages of innovative cycle; Unique non-financial indicators	Conceptual essence of the model; Lack of empirical support
Value Added Intellectual Coefficient	Standardized evaluation of the efficiency of intellectual capital; Reliable initial data	Conflicting empirical results; Weakness of the structural capital assessment
Citation-Weighted Patents	Vast empirical support	Only one aspect of the intellectual capital is evaluated
Value Explorer Method	Strategic orientation; Instrumental methodology	Subjective transition from qualitative assessments to quantitative indicators; Insufficiently developed diagnostic part
Real Options Model	Nonlinear model; Accounting of the strategic flexibility of intellectual capital	Complex mathematical technique; Lack of the developed methodology for the intellectual capital assessment

At the first stage the analysis of internal and external environment is carried out; the development of strategy of IP commercialization; marketing, patent research; building plans for commercialization; search of partners and investors, suppliers and consumers of the intellectual product.

The important role belongs to the subsequent stage – the dynamic assessment of commercial potential of the results of intellectual activity. The following important stages are the choice of a basic form of an economic circulation and settlement of the property relations with the results of intellectual activity.

The implementation of the subsequent stage – the intellectual capital assessment and all its components – predetermines the further steps on commercialization.

The final stage consists of the recommendation development and strategy correction of IP commercialization.

With the OIP commercialization the acquisition of income should be taken into account both from their internal and external use [7].

The external use of OIP (intellectual assets) requires the involvement such forms as the contribution of intellectual assets to the authorized capital of other enterprises, franchising of intellectual assets, leasing of intellectual assets, the transfer of rights to the intellectual assets of the licensing contracts, the sale of intellectual assets.

The internal use of OIP involves their participation in the internal business processes of the enterprise with reception of the income in the form of indirect result of increase of business efficiency as a whole.

To a large extent the success of OIP commercialization depends also on the formation of an effective legal system of their protection and use (system of specialized laws of the Russian Federation, legal acts of the international law, etc.)

The most important element of the system of legal protection of OIP is the patent law which regulates property, as well as the related non-property relations arising in connection with creation of objects of patent rights (inventions, useful models, industrial samples, etc.).

The patent, not being the object of IP, provides the formal protection document certifying the priority of an invention or other object, the authorship on it and the exclusive rights to use the object during its validity period (for example, for a patent for an invention in 20 years, for an industrial design – 10 years) [6].

Thus, the formation of market economy in the Russian Federation and increase of requirements to the quality and competitiveness of production of the industrial enterprises cause the necessity of development of the principles, methods and instruments of the process of commercialization of the objects of intellectual property and active OIP introduction in practice of business activity.

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OKOROKOV, Roman V. – *Saint-Petersburg State Polytechnical University.*

195251, Politekhnikeskaya str. 29. St. Petersburg. Russia. E-mail: roman_okorokov@mail.ru

ОКОРОКОВ Роман Васильевич – профессор кафедры международных экономических отношений Инженерно-экономического института Санкт-Петербургского государственного политехнического университета, доктор экономических наук.

195251, Россия, Санкт-Петербург, ул. Политехническая, д. 29. E-mail: roman_okorokov@mail.ru

TIMOFEEVA, Anna A. – *Saint-Petersburg State Polytechnical University.*

195251, Politekhnikeskaya str. 29. St. Petersburg. Russia. E-mail: anna_ti@mail.ru

ТИМОФЕЕВА Анна Анатольевна – доцент кафедры международных экономических отношений Инженерно-экономического института Санкт-Петербургского государственного политехнического университета, кандидат экономических наук.

195251, Россия, Санкт-Петербург, ул. Политехническая, д. 29. E-mail: anna_ti@mail.ru
