

MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE

KHARKIV NATIONAL UNIVERSITY OF ECONOMICS

**Guidelines to practical studies
of the academic discipline
"INTELLECTUAL PROPERTY"
for students of the speciality
8.14010301 "Study of Tourism"
of all forms of study**

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Compiled by O. Iastremska

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Methodical recommendations to practical studies of the given academic discipline are presented including questions for self-study, that will allow to form the modern thinking, special knowledge and competencies, necessary for the use of intellectual property objects by economic entities.

Recommended for students of the speciality 8.14010301 "Study of Tourism".

Наведено методичні рекомендації до практичних занять з даної навчальної дисципліни, включаючи питання для самостійної роботи, що дадуть можливість сформуванню сучасного мислення, спеціальні знання та компетентності, необхідні для використання об'єктів інтелектуальної власності суб'єктами господарювання.

Рекомендовано для студентів спеціальності 8.14010301 "Туризмознавство".

Introduction

Under conditions of innovative economy essential changes in technological basis of the social production are taking place. At the present stage intellectual capital, which appreciably defines the structure of national economy, quality of production and services, as well as efficiency of its functioning at all organizational levels, gets the special value. The level of intellectual capital development and the role it plays in production have become the important factor, which defines the competitiveness of the country in the world economy, its export opportunities and its share in the world monetary income. All over the world, the intellectual property is getting the increasing value, as the amount of rights on intellectual products in the internal and external commodity turnover is constantly increasing. Practically any commodity and service, somehow, comprise the intellectual property. The storming development of technical equipment and technologies, the intensification of engineering objects development, the necessity of creating entirely new technical systems in a short period of time, toughening requirements to them, and introducing the system of market relations in Ukraine assume further studying the issues of using and protecting objects of intellectual property. The sphere of intellectual property is an inseparable complex of rights and relations. The inventive, patent and license work is an integral part of scientific workers, engineers and technicians' activity in all spheres of the national economy since today the society as never before, is in a strong need of useful inventions.

Studying of theoretical question propositions requires consolidation. For this purpose, seminars and practical classes are conducted in order to assess students' knowledge of different topics. During seminars and practical classes the major and most complicated issues are dealt with. Students should process the rest of questions themselves. While preparing for seminars and practical classes it is necessary to get acquainted with the lecture notes on the corresponding theme, to learn the apparatus criticus and to realize the logic of the material. For more profound study of the material, it is necessary to study the references recommended for the corresponding theme, as well as the additional references available.

Module 1. Theoretical foundations for formation of intellectual property relations system

Theme 1. Intellectual property as an economic and legal category

Methodical recommendations concerning the theme

While studying the given theme it is necessary to pay attention to the following issues: treatment of "intellectual property" in the economic literature including different theoretical and methodological approaches, the sphere of intellectual property rights: industrial property, copyright and associated rights, subjects of relations of the intellectual property, objects of intellectual property.

The plan of seminars

1. The origin of the theory of property from the Ancient time and the Middle Ages.
2. The evolution of property theory in XVII – XIX centuries.
3. The modern theory of property.
4. The essence and structure of intellectual property.

Recommended references: [2; 12; 18 – 20; 28; 38; 43; 44; 47; 48; 51].

Themes of essays and papers

1. The category of property in the economic theory.
2. The ways of using intellectual property objects in the economic activity of an enterprise.
3. Intellectual products and material values: common and distinctive features.
4. The intellectual activity as an economic category.
5. Knowledge as an economic value.
6. The formation and development of intellectual capital of an enterprise.
7. Features of intellectual capital.
8. Property rights for objects of intellectual property and material values: common and distinctive features.

Questions for self-testing

1. How does the modern economic literature treat the essence of "the intellectual property" concept?
2. Characterize the evolution of scientific approaches to the essence of the intellectual property institute.
3. Describe the structure of intellectual property right.
4. Characterize the subjects of intellectual property relations.
5. How is it possible to classify the objects of intellectual property?
6. What are intrinsic attributes of the objects of intellectual property right?

Questions for discussion

1. The intellectual activity and intellectual capital as the economic basis of information society.
2. Types and results of intellectual activity.
3. The essence and specificity of intellectual capital.
4. The structure of intellectual capital.
5. Sources of intellectual property right.

Theme 2. The essence and structure of industrial property

Methodical recommendations concerning the theme

While studying the given theme it is necessary to pay attention to the following issues: the essence and structure of the industrial property, signs of objects of the industrial property, subjects of the industrial property relations, objects of the patent right (inventions, useful models, industrial samples) and conditions of their patentability, means of participants' individualization referring to the civil turnover of goods and services, nonconventional objects of the intellectual property.

The special attention should be paid to the definition of the profit made with the help of objects of industrial property (OIP), and a part of profit, which falls on the share of OIP, concerning the increase of the profit received due to use of new technology object.

In order to define the profit received by means of OIP, it is necessary to observe the following methodical recommendations.

1. The profit gained from realization of production (P) means the difference between the proceeds gained from sale of goods at established prices without the value added tax (VAT) and expenses for their manufacturing and sales:

$$P = S - E, \quad (2.1)$$

where S is sales proceeds including work, services without the VAT, UAH;

E stands for expenses of an enterprise for manufacturing and sales of products, UAH.

2. The proceeds of sales of products are defined according to the following formula:

$$S = Pr \times VP, \quad (2.2)$$

where Pr is the price per unit of production, UAH;

VP is volume of sales, natural units.

3. The enterprise's expenses for manufacturing and realization of products are defined according to the formula:

$$E = (CP + CC) \times VP, \quad (2.3)$$

where CP is the cost price per unit of production, UAH;

CC are specific (for a product unit) capital costs for creation of OIP, UAH.

4. Taking into account formulas (2.2) and (2.3), the formula for profit definition is as follows:

$$P = (Pr - CP - CC) \times VP. \quad (2.4)$$

5. The profit received within the settlement period from sales proceeds, made with the help of OIP (Prof), is defined according to the following formula:

$$\begin{aligned} \text{Prof} &= P_o - P_b = \\ &= (Pr_s - CP_s - CC_s) \times VP_s - (Pr_b - CP_b - CC_b) \times VP_b = \\ &= [(Pr_s - Pr_b) + (CP_b - CP_s) + (CC_b - CC_s)] \times VP_s, \end{aligned} \quad (2.5)$$

where P_o is the profit received from the sales within the settlement period of production, produced with using OIP, UAH;

P_b is the profit received from the sales within the base period of production, gained without OIP (profit to be received within the settlement period from the sales of the same quantity of products produced without OIP), UAH;

V_P s is volume of production realized within the settlement period, natural units;

P_{rs} , P_{rb} are unit prices accordingly within the settlement and base periods, UAH;

C_P s, C_{Pb} are the cost prices of a product unit accordingly in the settlement and base periods, UAH;

CC_s , CC_b are specific capital costs of the object created accordingly within the settlement and base periods, UAH/natural units.

6. In case of developing new technologies, means of mechanization and automation of manufacturing on the basis of OIP increase of profit at the settlement period is defined according to the following formula:

$$IP = [(C_{Pb} - C_{Pn}) + R_n \times (C_{Ib} - C_{Is})] \times P_s, \quad (2.6)$$

where IP is increase of profit, UAH;

C_{Pb} , C_{Pn} are the cost prices of a product unit gained using due to application of the base and new technological process accordingly, UAH;

C_{Ib} , C_{Is} are specific (for a product unit) capital investments accordingly within the base and settlement periods, UAH/natural unit;

R_n is a normative effectiveness ratio of capital investments (the norm of discount);

P_s is productivity of a new technological process within the settlement period, natural units.

7. In case new means of production (machines, devices, equipment, etc.) are developed on the basis of OIP the increase of profit share within the settlement period is defined according to the following formula:

$$IP = \{P_b \times (P_{rs} : P_{rb}) \times [(1 : SL_b + R_n) : (1 : SL_n + R_n)] + \\ + [(P_{rs} : P_{rb}) \times O_{Eb} - O_{Es}] : (1 : SL_n + R_n) + \\ + R_n \times [(P_{rs} : P_{rb}) \times C_{Ib} - C_{Is}] : (1 : SL_n + R_n) - P_s\} \times Q_s, \quad (2.7)$$

where P_b , P_s are accordingly the prices of the base and new machine (devices, equipment, etc.), UAH;

PR_b , PR_n are annual production rates of the base and new machine (devices, equipment, etc.) accordingly, natural units;

SL_b , SL_n are service lives of the base and new machine (devices, equipment, etc.) accordingly, years;

OE_b , OE_s are specific operational expenses per one machine (devices, etc.) accordingly within the base and settlement periods, UAH/year;

CI_b , CI_s are specific accompanying capital investments accordingly in the base and settlement periods, UAH;

Q_s is the quantity of new produced means of production within the settlement period, natural units.

8. In case of creating new subjects of labor (materials, tools, etc.) on the basis of OIP the profit share increase within the settlement period is defined according to the following formula:

$$IP = \{P_b \times (E_b : E_n) + [(E_b : E_n) \times OE_b - OE_n] : E_n + E_n \times [(E_b : E_n) \times CE_b - CE_s] : E_n - P_s\} \times V, \quad (2.8)$$

where P_b , P_s are prices of a base and new subject of labor per unit of output accordingly, UAH;

E_b , E_n are expenses of a base and new subject of labor for manufacturing a unit of production accordingly, natural units;

OE_b , OE_s are the operational expenditures for manufacturing a production unit accordingly within the base and settlement periods, UAH;

CE_b , CE_s are the resulted capital expenses for a production unit accordingly within the base and settlement periods, UAH;

V is the annual volume of manufacturing a new subject of labor, natural units.

The definition of a profit part, which falls on the share of OIP, concerning increase of the profit received with the help of an object of new technology, should be carried out on the basis of the following methodical recommendations.

1. If general output is the embodiment of one or several OIP protected in Ukraine, then the whole increase of profit received within the settlement period due to the introduction of this product, is admitted equal to the profit, received from using this (these) OIP:

$$P = IP, \quad (2.9)$$

where P stands for the profit received due to the application of one or several OIPs, UAH;

IP is the increase of profit received within the settlement period due to the introduction of production, which contains one or several OIPs, UAH.

2. If the production is a partial embodiment of one or several OIPs protected in Ukraine, then the part of the profit, falling on a specific OIP_i, in general increase of profit received within the settlement period due to the introduction of this production (IP_i), is defined according to the following formula:

$$IP_i = IP \times C_i, \quad (2.10)$$

where IP is profit increase gained within the settlement period due to the introduction of production which contains OIP, UAH;

C_i is the coefficient, which defines the part of OIP_i profit in general profit share increase.

3. Coefficient C_i can be defined on the basis of industrial indices of production, with the help of expert estimation and mixed methods.

3.1. Defining coefficient C_i on the basis of industrial indices is carried out according to the following formula:

$$C_i = E_i : E, \quad (2.11)$$

where E_i is an index value connected with all attributes of inventions, useful models, industrial samples, etc. (cost price, price, weight, productivity, capacity, etc.);

E is an index value connected with the object as a whole (cost price, price, weight, productivity, capacity, etc.).

3.2. The expert estimation method is applied to defining coefficient C_i in cases when for some reasons its value according to industrial indices is

impossible to define or the definition according to industrial indices coefficient does not display the real influence of OIP on received profit.

In case the expert estimation method is applied to define coefficient C_i it is necessary to do the following.

3.2.1. To create a group of experts comprising of competent specialists in the quantity, as a rule, of 3 – 7 people.

3.2.2. To divide the object, which contains OIP, into three groups of components according to their importance: important, basic, minor.

3.2.3. Experts estimate the weightiness of each element with a corresponding grade. The scale of grade values, used to estimate elements of weightiness, is established by an enterprise taking into account branch features and complexity of estimated objects. 3, 5, ..., 100 grade scale can be established for the estimation of each element.

3.2.4. The total estimation mark given by all experts is defined for each element. The total sum of grades given by experts for all elements is defined.

3.2.5. Coefficient C_i is defined according to the following formula:

$$C_i = \frac{\sum_{j=1}^m b_{ij}}{\sum_{i=1}^m \sum_{j=1}^n b_{ij}}, \quad (2.12)$$

where b_{ij} is the number of grades given by the j^{th} expert to the i^{th} element;

$i = 1, 2, \dots, m$ is the quantity of sorted elements of an object;

$j = 1, 2, \dots, n$ is the quantity of experts.

3.3. The mixed method of defining coefficient C_i is applied, if the profit share which falls on OIP in the total amount of the received increase of the profit, is defined according to industrial indices, but it is impossible to define the share of each of them with the help of this method. In that case, the share of each OIP is defined with the help of expert estimations method.

The plan of seminars

1. Objects of industrial property, their features.
2. The legal characteristic of inventions.
3. The legal protection of useful models.
4. The industrial sample as an object of the patent right.

5. The history of trade marks.
6. Know-how as a specific object of the intellectual property.

Recommended references: [3; 9; 10; 12; 19; 20; 24; 35; 36; 43; 48; 50].

Themes of essays and papers

1. The invention and useful models: common and distinctive features.
2. The patent as a form of objects of the industrial property protection.
3. National patent classifications.
4. The history of origin of firm names and trademarks of goods and services.
5. The difference between well-known and famous trademarks.
6. Features of know-how and trade secret.

Questions for self-testing

1. Characterize the essence and structure of industrial property.
2. Describe the features of inventions as objects of industrial property.
3. Under what conditions is the legal protection given to useful models?
4. Describe major characteristics of an industrial sample as an object of intellectual property.
5. What is the trademark? What kinds of trademarks are there?
6. Characterize the essence and purpose of firm names and names of places of goods origin.
7. Characterize nonconventional objects of intellectual property.

Questions for discussion

1. Ways of know-how protection.
2. The confidential information: criteria of definition.
3. The specificity of industrial property.
4. The features of modern branding.
5. The statements, which do not represent the trade secret.
6. The protection against the unfair competition.

Practical task 2.1

Define the annual profit increase due to the application of new technology, which contains patented inventions, taking into account the initial data, given in Table 1.

Table 1

**Initial data to define the annual profit increase
due to the application of new technology**

Factors	Base period	Settlement period
The cost price, one million UAH/year	144	165
Capital expenses, one million UAH/year	240	360
Annual production rate, thousand tons	24	30
Normative coefficient	0.15	0.15

Practical task 2.2

Define the annual profit increase due to the application of a new machine taking into account the initial data, given in Table 2.

Table 2

**Initial data to define the increase of the annual profit
due to the application of a new machine**

Factors	Base period	Settlement period
The price of machine, million UAH	18	20
Accompanying capital expenses, million UAH/year	30	25
Operational expenses, million UAH/year	190	200
Annual production rate, thousand tons	210	240
Term of use, years	0.12	0.12
Normative coefficient	380	380

Practical task 2.3

Define the annual profit of output on the OIP basis of a new subject of labor (material) taking into account the initial data, given in Table 3.

**Initial data for defining the annual profit
from the output of a new material**

Factors	Base period	Settlement period
The price of material, thousand UAH/kg	18	20
Expenses for material per a unit of production, kg	30	25
Current expenses for manufacturing a product unit, thousand UAH/ton	190	200
Specific capital expenses per product unit, thousand UAH/ton	210	240
Normative coefficient	0.12	0.12
Volume of the material output, tons/year	380	380

Practical task 2.4

Within the process of beverage manufacturing a new mixing unit has been applied, protected by the patent for the useful model. As a result, the quantity of beverage produced with the help of a new mixing unit increased from 100 decalitres up to 110 decalitres per hour. Other OIPs in the given operation (mixing) since the date of installation have not been used, as well as the organizational and industrial actions stimulating the capacity expansion per hour.

Define the part of profit, which falls on the new mixing unit used, concerning general increase of the profit received within the settlement period if acceleration of profit increase comprises 7 million UAH.

Practical task 2.5

While manufacturing a product at the cost price of 250 UAH a new technological mixture has been applied in which according to the rationalizational proposal new reagents have been used. The application of this mixture has led to reduction of expenses on materials, improvement of the production quality, which assisted defective production quantity reduction at the final technological operation. As a result, the cost price of a unit decreased by 2 UAH 50 kopecks.

Define the part of profit, which falls on the new technological mixture used, in general increase of profit received within the settlement period if the profit increase comprises 4.5 million UAH.

Practical task 2.6

The enterprise produced and started realizing a new model of microcalculator in which several OIPs were used. The similar production had not been produced by the enterprise before. To define the contribution of each OIP into the profit, received by the enterprise as a result of the realization of microcalculators, the expert group of five people had been created. According to the experts' conclusion, define the degree of weightiness it is necessary to consider such elements of the microcalculator as:

important: EB₁ is the design (appearance, arrangement of management elements), protected by the patent of Ukraine for industrial samples; EB₂ is a block of operative memory protected by the patent of Ukraine for a useful model; EB₃ is a microprocessor whose basis is a crystal protected by the patent of Ukraine for inventions; EB₄ is a block of the information indication (the videoblock on liquid crystals), not protected by valid protective documents of Ukraine;

basic: EB₅ stands for a power supply system including a power unit protected by the patent of Ukraine for a useful model; EB₆ is a system of permanent memory in which known technical solutions are used; EB₇ is a case of a microcalculator in which the rationalization proposal is used;

secondary: EB₈ is a buttons of the control panel, the button design is protected by the patent of Ukraine for industrial samples; EB₉ is the scheme of the operating mode switch of the microcalculator (battery) in which the rationalization proposal is used; EB₁₀ stands for other elements.

The weight estimation of elements EB₁ – EB₁₀ was carried out by experts in accordance with a three-grade scale, namely: important elements – 9 – 11 grades; basic elements – 6 – 8 grades; secondary elements – 3 – 5 grades.

The data of the expert estimation are presented in Table 4.

Table 4

Data of the expert estimation

Elements	Experts				
	1	2	3	4	5
1	2	3	4	5	6
EB ₁	10	10	9	11	11
EB ₂	11	11	11	11	10
EB ₃	11	11	11	11	11
EB ₄	9	9	9	9	9

The end of Table 4

1	2	3	4	5	6
EB ₅	7	7	7	7	7
EB ₆	8	8	8	8	8
EB ₇	6	6	6	6	6
EB ₈	4	4	4	4	4
EB ₉	3	3	3	3	3
EB ₁₀	3	3	3	3	3

Define the profit share which falls on each of designated elements from EB₁ to EB₁₀ if the common profit received by the enterprise from the realization of calculators, is equal to 1.7 million UAH.

Theme 3. Features of the formation and development of copyright and associated rights

Methodical recommendations concerning the theme

While studying the given theme it is necessary to pay attention to the following issues: the essence and specific attributes of copyright, the basic subjects and objects of the copyright, associated rights and their attributes, the subjects and objects of associated rights, the coordination of personal private and public interests as one of the basic purposes of copyright and associated rights.

The plan of seminars

1. The essence and nature of copyright.
2. The comparative characteristic of patent right and copyright.
3. The associated rights: the concept, subjects and objects.

Recommended references: [1; 7; 12; 16; 19; 20; 23; 43; 50].

Themes of essays and papers

1. The concept, principles and sources of copyright.
2. The responsibility for infringement of copyright and associated rights: the legislation and the procedure of protection of the rights.
3. The objects of copyright according to Civil Code of Ukraine.

Questions for self-testing

1. Characterize the essence of the category "copyright".
2. Describe general and distinctive attributes of copyright and patent rights.
3. Specify subjects and objects of copyright.
4. What is the essence of copyright main principles?
5. What are the essence and specificity of the category "associated rights"?
6. Characterize subjects and objects of associated rights.

Questions for discussion

1. The history of copyright.
2. Associated rights: the necessity of protection under conditions of digital technologies development.
3. The concept and attributes of co-authorship.
4. The property rights to literature, art and science works.
5. The official product and copyright to it.
6. The copyright protection in the Internet network.
7. The reasons of associated rights occurrence.

Module 2. Preconditions and stimuli of intellectual property development in market economy

Theme 4. Guarding and protection of intellectual property rights

Methodical recommendations concerning the theme

While studying the given theme it is necessary to pay attention to the following issues: the need for safety and protection of intellectual property rights, the essence of intellectual property rights protection and safety, the patent system of intellectual property rights protection, the protection of copyright and associated rights.

Special attention should be also paid to the problem of practical use of the legislative base of Ukraine concerning intellectual property for the

analysis of real life situations with the purpose of providing the effective guard and protection of the creative activity of citizens.

The plan of seminars

1. Patent right and its principles.
2. Subjects of patent right.
3. The procedure of a patent issue.
4. Foreign experience of copyright protection.

Recommended references: [12; 17; 19; 26; 29; 37; 38; 40; 43; 50].

Themes of essays and papers

1. The origin of patenting.
2. Features of the patenting process in the developed countries.
3. Problems of legal protection of intellectual property in Ukraine.

Questions for self-testing

1. What factors have caused the necessity to secure and protect intellectual property rights?
2. Describe the essence, basic features and principles of patent right.
3. Characterize the objects of patent right.
4. What is "counterfeiting", "piracy" in the sphere of intellectual property?
Are there methods of struggle against these phenomena?
5. Characterize the institute of protecting rights regarding the computer programs and databases.

Questions for discussion

1. The evolution of the modern system of intellectual property rights safety and protection.
2. The problem of correlation of intellectual property right protection subsystems: the patent right and the copyright.

Practical task 4.1

Ms Miroshnichenko addressed to the legal firm dealing with the intellectual property protection "Krylov and Partners". Ms Miroshnichenko, in

her opinion, had made the scientific discovery, described in her scientific work manuscript in physics. Ms Miroshnichenko wanted to get the consultation about the possibility of obtaining legal protection of her scientific work.

Prepare possible legal advice, paying attention to following issues:

1. What can the legal protection object in this case be?
2. What personal and property rights does Ms Miroshnichenko have?

And what legal facts are they grounded on?

3. What should Ms Miroshnichenko do to receive the legal protection concerning her intellectual property?

4. What state body does deal with the problems of copyright protection on the territory of Ukraine?

5. Specify the amount of granting legal protection concerning the intellectual property object of Ms Miroshnichenko.

Practical task 4.2

Ms Nikishina, the heir of Mr Nikishin, the author of scientific works on paleontology, addressed a Kiev court with the claim against Ms Trosheva concerning the compensation for publishing the works written in the co-authorship with Nikishin.

While hearing the case Trosheva appeared to have been Nikishin's pupil and used some of his ideas. In memory of the teacher, she put his name beside hers in some editions of educational character. All these works have been written after Nikishin's death.

1. Can the idea used in scientific literature be considered as co-authorship?

2. How are relations of co-authorship defined?

3. Did the relations of co-authorship between Nikishin and Trosheva take place?

4. Did Trosheva use Nikishin's name lawfully?

5. Does Nikishina have the right to the payment of the remuneration?

6. What judgement should be passed?

Practical task 4.3

The Limited company in the person of director Zorin who simultaneously was the editor-in-chief of the local TV, and the editorial board of the "The Time" newspaper concluded the contract according to which the

local TV undertook to provide the newspaper editorial board with its TV program for printing for 1 200 UAH per month. Later, the editorial board stopped printing programs, having informed about the termination of the contract in one of their newspaper articles.

The Limited company, due to the necessity of printing the TV program, started publishing "The Desyatochka" newspaper.

After some time "The Time" newspaper started printing the TV program again, without proper payment to the Limited company due to the fact that it obtained programs from other sources.

The Limited company, considering, that "The Time" newspaper had infringed their copyright and treaty obligations, demanded indemnification from the respondent in the amount of 55 143 UAH, including 50 000 UAH for the profit loss and 5 143 UAH of its costs for publishing "The Desyatochka" newspaper.

1. Is the TV program the result of the creative activity? Can it be considered as the copyright object?
2. Does the claimant have the right to the indemnification?
3. What decision should the court make?

Practical task 4.4

The Limited company addressed to the Commercial court with the claim against the private enterprise for the indemnification, caused by the infringement of the company's exclusive right to the feature film. The defendant sold videorecords of this feature film illegally, as the distribution of the movie had been transferred to the LC by the enterprise.

The private enterprise, objecting to the claim, referred to the contract concluded with the Limited company under which the film studio, the manufacturer of the audiovisual product, had the exclusive right to reproduce and distribute of this feature film copies. The film studio reproduced the film and sold videocassettes to the private enterprise by wholesale, and the private enterprise retailed videocassettes under the contract regarding transferring the exclusive right of the private enterprise to distribute feature film copies.

The contract between the film studio and the private enterprise did not contain any terms concerning the possibility or the prohibition to transfer the exclusive right to other persons.

1. Did the private enterprise have the right to transfer according to the contract the exclusive right to reproduce and distribute the audiovisual product copies?

2. Does the Limited company have the exclusive right to reproduce and distribute the audiovisual product?

3. Should the requirements of the claimant be satisfied?

4. What decision should the Commercial court make?

Practical task 4.5

Group "BB" concluded the contract with the recording company about their album release. Later the producer of the group found in a shop a musical collection created by above-mentioned company and containing some songs of group "BB". The terms that the group songs should be included in musical collections had not been settled under the contract between the group and the recording company.

1. Can the legal relationship emerged between the group and the company due to the concluded contract, be referred to as the copyright?

2. Did the recording company have the right to use the group's songs while making up the musical collection?

3. What actions should the producer take to protect the group's interests?

4. What requirements does the group have the right to put forward?

Practical task 4.6

Mr Savchenko, not being the actor by profession, liked reciting satirical products, performed by actors-satirists such as Petrosyan, Zhvanetskiy, Zadornov. His performance was successful, and Savchenko was repeatedly invited to participate in local amateur performances, in which Savchenko willingly took part.

Nevertheless, once Savchenko saw, that the records of these concerts including his performances, are on sale in the musical and audiovisual department of the local department store.

1. Is Savchenko the subject of the associated right?

2. Were Savchenko's rights violated and which one exactly?

3. Were Petrosyan, Zhvanetskiy, Zadornov's rights violated?

4. What responsibility is stipulated by the current legislation for infringement of the associated rights?

Practical task 4.7

Mr Dyachenko concluded the license contract with the joint-stock company "Plant Quasar" for his patented invention use within the term of 5 years.

According to the contract terms the plant should pay Dyachenko remuneration quarterly in the amount of 5 000 UAH. The fee concerning the support of the patent action should be paid by Dyachenko. Nevertheless, due to Dyachenko's medical treatment abroad, he could not pay the fee in full and timely that caused termination of the patent action. When the administration of the plant found out about this fact, they stopped paying the royalty, though the invention continued to be used in manufacturing.

Dyachenko addressed to the plant administration with the requirement to continue the remuneration payment. Eventually he received the refusal to satisfy his claim. It was also marked, that owing to Dyachenko's failure to provide the terms and termination of the patent action the plant had lost the exclusive right to use the invention, as a result the plant had beared losses, which the plant is going to collect from Dyachenko according to the judicial procedures.

1. What are the bases and consequences of the patent action termination?
2. Does the plant have the right to use Dyachenko's invention freely?
3. Should Dyachenko bear the responsibility for the loss which the plant sustained?
4. Does Dyachenko have the right to demand the remuneration payment?
5. Prove the answer.

Practical task 4.8

Mr Panasenکو designed the invention as the result of his official duties, patented by the employer "Virazh". The contract concerning the remuneration payment was concluded between Panasenکو and "Virazh".

Some time later Panasenکو decided to resign. The administration warned him about termination of the remuneration payment. Then Panasenکو claimed to withdraw his invention from manufacturing and reissue the patent for his name.

1. How are the relations between the employer and the inventor regarding the use of industrial property objects settled?
2. How is the remuneration paid in case of the inventor's resignation?
3. Are "Virazh" administration's actions lawful?
4. Should Panasenکو's requirements be satisfied?
5. How is it necessary to solve the dispute?
6. Prove the answer.

Practical task 4.9

Travel agency "Firm "SAM" registered the mark for the goods and services in the shape of an apple and the caption below in capital letters "SAM", and as well as the name of the agency "SAM". After a while the staff of the agency incidentally learned, that the private enterprise "Shoe factory "SAM" uses the similar sign for their goods and services.

Considering, that the presence of two legal persons with similar names and marks for the goods and services can lead to a mess and consumers' confusion, the travel agency seized the Commercial court with the claim to prohibit the use of the mark for the goods and services provided by the shoe factory and to rename the factory compulsory.

1. How is the registration of marks for the goods and services carried out?
2. Is using by the respondent the trademark similar to the trademark of the claimant illegal?
3. Are there any grounds for satisfying the claimant's requirements?

Practical task 4.10

The Director of an enterprise addressed to the legal adviser concerning the possibility and expediency to register the mark for goods manufactured by the enterprise so that no other person could use this or similar sign irrespectively of their activity sphere.

Prepare the grounded response of a legal adviser.

Theme 5. Actual issues of intellectual property commercialization

Methodical recommendations concerning the theme

While studying the given theme it is necessary to pay attention to the following issues: the essence of intellectual property commercialization, the basic subjects of relations concerning intellectual property commercialization, licensing agreements, subjects of licensing agreements, economic expediency of licensing.

Special attention should be also paid to the problem of estimating costs of intellectual property objects (IPO).

According to the method of cost price gain, it is necessary to measure the cost of IPO (S) by defining cost saving due to its use. The IPO cost, is estimated in this case according to the following formula:

$$S = P2 - P1, \quad (5.1)$$

where P2 is the profit received with the use of the intellectual activity results is estimated, UAH;

P1 is the profit gained without the use of intellectual activity results estimated, UAH.

Profits P1 and P2 can be calculated according to the following formula:

$$P_j = \sum_{i=1}^n \frac{P_{ji}}{(1+r)^i} = \sum_{i=1}^n (Pr_i - C_{ji}) \frac{V_{ji}}{(1+r)^i}, \quad (5.2)$$

where P_{ji} is the profit sale of the j^{th} product in the i^{th} year, UAH;

r is the discounting coefficient;

Pr_i is the price of a commodity unit in i^{th} year, UAH;

C_{ji} is the cost price of a product manufactured with the use of estimated IPO, produced in the i^{th} year, UAH;

C_j is the cost price of a product manufactured without the use of estimated IPO, made in the i^{th} year, UAH;

V_{ji} is the production volume of the j^{th} product in the i^{th} year, pieces;

n is the time necessary to manufacture and sale of goods, year.

According to the method of the advantage in profits, the essence of which comprise the fact that the owner of an object to be estimated, has the

possibility to receive additional profit in comparison with those who do not own an object; the definition of IPO (S) cost is carried out according to the following formula:

$$S = \sum_{i=1}^n \frac{P_{np_i} \times V_{nB_i} - P_{cp_i} \times V_{cp_i}}{(1+r)^i}, \quad (5.3)$$

where P_{np_i} , P_{cp_i} are the unit prices of new advanced technological production and production compared, in the i^{th} year (period), UAH;

V_{np_i} , V_{cp_i} are the sales volume of the new highly technological production realization and production compared, in the i^{th} year (period), pieces;

r is the discounting coefficient;

n is the term of object use, years (periods).

According to the method of license remuneration exemption it is necessary to count the sum of IPO (S) cost, estimated, by reducing the remuneration for the given right paid periodically in the form of royalty withing the term of its action. This reduction should be carried out with the help of a discounting coefficient according to the following formula:

$$S = \sum_{i=1}^n \frac{R_i}{(1+r)^i}, \quad (5.4)$$

where R_i is a part of license remuneration which would be paid in the i^{th} year in the form of royalty, UAH;

r is a discounting coefficient;

n is the term of object use (the action of the license duration), years.

The amount of license remuneration paid in the form of royalty (R_i), is defined according to the following formula:

$$R_i = P_i \times V_i \times R_i, \quad (5.5)$$

where P_i is the price of a product unit according to the license in the i^{th} year, UAH;

V_i is the volume of production according to the license in the i^{th} year of its action, natural units;

R_i is the share of royalty in the i^{th} year.

The plan of seminars

1. Intellectual property commercialization as a component of the intellectual capital turnover.
2. Economic and legal aspects of licensing.
3. Types of licenses.

Recommended references: [11; 12; 25; 39; 43; 47; 49].

Themes of essays and papers

1. Types of licensing, concerning the government's competitive policy.
2. Conclusion of the license contract according to the Civil Code of Ukraine.
3. Options and their role in the market of intellectual property objects.

Questions for self-testing

1. Describe the essence and mechanism of intellectual property commercialization.
2. What are the essence and practical value of license agreements?
3. Characterize subjects and objects of license agreements.
4. How can license agreements be classified?
5. Carry out the comparative analysis of methods of defining the license price.

Questions for discussion

1. Franchising as a way of trademarks licensing.
2. The methods of license price defining: the content, advantages and disadvantages.
3. The problems of using the foreign experience of the intellectual property commercialization in Ukraine.

Practical task 5.1

The object, to be estimated and protected legally, is the electrolytic way of receiving nitrile, its advantage is higher productivity. The competitive technology is the periodic way to obtain nitrile. The term of using the technological process of the electrolytic nitrile obtaining is 10 years. The

volume of production with application of the estimated object, is 50 000 tons. The production program of the object estimated, is as follows: the first 20 months should be spent on the shop construction to manufacture nitrile with the help of the electrolytic way, the equipment installation; the commercial use should start in 20 months. The data concerning volumes of nitrile manufacture are given in Table 5.

Table 5

Data concerning nitrile manufacture

Term of validity of the exclusive right	Production program, tons
1	0
2	2 000
3	6 800
4	6 950
5	6 950
6	6 950
7	6 450
8	6 000
9	4 000
10	3 900

During the launching term of production and manufacturing the reduction of nitrile price is supposed, namely: from the 1st to the 5th year as 1 500 conventional units, from the 6th to the 7th year as 1 300 conventional units, from the 8th to the 10th year as 1 100 conventional units.

The data concerning the nitrile manufacture costs are given in Table 6.

The discounting coefficient is 15 %.

Define the IPO cost by means of the method of cost price advantage.

Table 6

Data concerning expenses for nitrile manufacture

No.	Items of expenses	The periodic way of nitrile obtaining, conventional units	The electrolytic way of nitrile obtaining, conventional units
1	2	3	4
1	Raw material, materials	433.01	336.21
2	Amortization	251.75	167.65

The end of Table 6

1	2	3	4
3	Repair	70.4	54.35
4	Fuel and energy	90.63	43.88
5	Wages	151.05	64.79
6	Administrative expenses	10.7	9.3

Practical task 5.2

The object, estimated and protected by the patent, is of the automatic design device for arc welding. The automatic device for welding compared, has the greater weight, demands the top skills of welders. The volumes of manufacture and sales of welding automatic devices for five years are as follows: the 1st year – 200 units, the 2nd year – 1 000 units, the 3rd year – 1 000 units, the 4th year – 1 000 units, the 5th year – 800 units. The price of one new welding device is 1 200 conventional units, and the one, compared, is 970 conventional units. The discounting coefficient is 15 %.

Define the IPO cost by means of the method of advantage in profits.

Practical task 5.3

The object, which is estimated, is the technology of foundry molds filling characterized by the method of the fine purification of ferrous metals, filtering materials, the method of filtering cloth manufacture and installation of filtering material manufacturing. The inventions, used in the estimated object, are patented. The term of validity of the license is 8 years. The price of the filtering material is 5.7 conventional units. Starting from the 5th year of the license action, filtering material price reduction is supposed, namely: from the 1st to the 4th year – 6.8 conventional units, in the 5th year – 6.5 conventional units, in the 6th year – 6.0 conventional units, in the 7th year – 5.5 conventional units, in the 8th year – 5.0 conventional units.

The production program is as follows: the first year will be devoted to the development of filtering material manufacturing and preparation of the foundry manufacture to apply this technology estimated; the second year will be devoted to the beginning of commercial use. The data concerning manufacture volumes are given in Table 7.

Data concerning volumes of filtering material manufacturing

Term of validity of the exclusive right	Production program, tons
1	0
2	360 600
3	540 900
4	901 500
5	540 900
6	360 600
7	360 600
8	360 600

The base rate of royalty is accepted as 5 %. However taking into account the possibility of using the improved filtering material during the term of validity of the license it is expedient to provide the reduction of royalty rate, namely: from the 1st to the 4th year – 5 %, from the 5th to the 6th year – 4.5 %, in the 7th year – 4 %, in the 8th year – 3.5 %.

The discounting coefficient is 15 %.

Define the cost of OIP by means of the exemption of license remuneration method.

Theme 6. International cooperation in the sphere of intellectual property

Methodical recommendations concerning the theme

While studying the given theme it is necessary to pay attention to the following issues: problems of the international relations settlement in the sphere of the intellectual property, the World Organization of the Intellectual Property Rights and directions of its activity, the World Trade Organization and its role in regulating the international relations in the sphere of intellectual property, international cooperation in the sphere of patent right, international aspects of copyright and associated rights security and protection.

The plan of seminars

1. The global market of intellectual property objects rights.
2. The development of international cooperation in the sphere of patent right.
3. The international and legal protection of copyright and associated rights.

Recommended references: [12; 27; 41; 42; 50].

Themes of essays and papers

1. The newest practice of the intellectual property rights infringement.
2. The intellectual property as an object of international agreements.
3. The international agreements concerning industrial property protection.
4. The international and legal protection of signs for goods and services.
5. The insurance of intellectual property in Europe.
6. The World Organization of Intellectual Property: legal status, structure, functions and directions of its activity.
7. The organizational structure of the World Organization of Intellectual Property.

Questions for self-testing

1. Characterize major preconditions of forming the global market of the rights to intellectual property objects.
2. Name the conditions of granting the international and legal protection of intellectual property objects.
3. Describe the purpose and basic directions of the activity of the World Organization of Intellectual Property.
4. What role does the World Trade Organization play in regulation of international cooperation problems in the sphere of intellectual property?

Questions for discussion

1. Intellectual property in the Internet epoch.
2. The international and legal protection of intellectual property.

Theme 7. Formation of intellectual property institute in Ukraine

Methodical recommendations concerning the theme

While studying the given theme it is necessary to pay attention to the following issues: the significance of intellectual property in national innovative system formation, legal acts in the sphere of intellectual property in Ukraine, problems of intellectual property institute formation in Ukraine and the possible solutions.

The plan of seminars

1. The state system of intellectual property safety and protection in Ukraine.
2. Problems and prospects of intellectual property institute formation in Ukraine.

Recommended references: [8; 12; 17; 21; 22; 45; 46; 48].

Themes of essays and papers

1. Functions of the state bodies concerning intellectual property safety and protection in Ukraine.
2. The problem of piracy and distribution of counterfeit products in Ukraine.
3. The organization of state protection of intellectual property rights in Ukraine.
4. The legal status of the State department of intellectual property in Ukraine.

Questions for self-testing

1. Define the role and the place of Ukraine in the system of international relations concerning the rights to the intellectual property objects.
2. Characterize the major directions of improving intellectual property rights protection system in Ukraine.

Questions for discussion

1. The formation and development of intellectual property institute in Ukraine: problems and prospects.
2. The concept of the patent right of Ukraine and its sources.
3. The cooperation of the World Organization of Intellectual Property with Ukraine.

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