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The problems of formation of the intellectual property market in the agricultural sphere

Scientific problem. A significant part of the objects of the intellectual property rights, which is not involved in the turnover of the Ukrainian market, is a stock of the economic advance today. Today Ukraine, having considerable achievements in the development of new technologies, engineering projects, plant sorts, animal breeds that can compete in the world market, uses this potential not enough, which is primarily due to the insufficient funding for further implementation and commercialization of the development results.

Analysis of recent researches and publications. Fundamental aspects of the given scientific problem are reflected in the works of national scientists: V. Bazilevich, V. Heyets, A. Butnik-Seversky, A. Kendyukhov A. Chukhno and the others. In the agricultural sphere, these issues have been studied by Yu. Lupenko, A. Shpykulyak, A. Zaharchuk, and other scientists. M. Mohylovoyu. The intellectual property is a structural element of the intellectual capital and along with the human resources makes the intellectual resource of the enterprise, branch and state. Despite the existence of a large number of studies, it cannot be stated that the meaningful and accomplished theory of the intellectual capital was created. The issues of the state and the contents of the intellectual

capital of the agricultural sphere, the esteem of the real state of the intangible assets in the agriculture, the commercialization of the objects of the intellectual property rights require attention.

It is known that the agricultural industry has certain characteristics, which are determined, in particular, by dependence of the production methods on the natural climatic conditions, by a large share of non-traditional objects of the intellectual property rights and other factors.

The objective of the article is to disclose the problems of forming of the intellectual property market and a way of solving them, taking into consideration the industry features.

Statement of the main results of the study. The intellectual property like a system of rights is characterized by certain features:

- It is created by the author or group of authors, whose non-property rights are kept permanently;
- during the sale (transfer) the alienation of knowledge belonging to the author or team of developers doesn't happen;
- it can be used simultaneously by several legal entities and individuals without physical deterioration;
- it is constantly linked with the features of patent and copyright, the legislation on the protection of commercial secret, selection achievements.

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The objects of the intellectual property rights are determined by the Civil Code of Ukraine, and, depending on the area of application, can be divided into three groups: the objects of the industrial property, artificially distinguished non-traditional objects of the intellectual property and the objects of copyright and associated rights. The intellectual property market should be understood as a mechanism of transfer of the rights to the products (results) of the intellectual activity and related to them interests, the conduct of price formation and their usage in the economic turnover. The system of exclusive rights to the results of the intellectual activity (intellectual product) is a feature in the establishment and somehow set aside functioning of the intellectual property market. The contractual agreements on such a market are executed as a transfer of exclusive rights to the intellectual property or a transfer of the objects of legal protection that slightly distinguishes it from the other markets [2].

The feature of the intellectual property market in the agriculture is that, on the one hand the new varieties and breeding stock, etc., i.e. the material component of the intellectual work, on the other hand – the rights to the selection achievements stand as the goods. The principal issue for the functioning of this market is the selection of the objects and the subjects of the market, since the economic turnover includes the products of the intellectual activity and they are a subject to the alienation from an owner-creator, although they continue to be his property.

The creator (the creators) of the object of the intellectual property rights and other persons who own the non-property and (or) property rights of the intellectual property are the subjects of the intellectual property rights. Among the subjects of the intellectual property rights, a special place belongs to the creators: the author, the maker, the inventor, the innovator. These are the creators who can transfer this right to a legal entity.

The important points of sale of the intellectual property is that the seller (in most cases) knows those whom he alienates the object because the seller's image depends on the efficiency of the usage of the object, also a special agreement is made that commits to not only the mutual obligations of the parties, but all the fol-

lowing actions on the protection of the mutual interests, risk insurance and ensuring guarantees.

In the overall scheme of functioning of the intellectual property two aspects: legal and economic can be distinguished. The legal aspect includes the legal security and protection of the intellectual property, and the economic one runs the gamut of activities: the investment in the objects on the development stage of practical usage; the estimation of the rights on the objects of the intellectual property; the introduction of the rights on the objects of the intellectual property to the authorized capital; the consumer promotion of the intellectual property, etc..

In order to provide the conditions for a successful functioning of the intellectual property in Ukraine it is necessary to create the favorable conditions for every member of the market to obtain the benefits in carrying out the operations of purchase and sale, subject to the active legislation.

According to the annual report [3] NAAS the scientific institutions in 2014 drew up and sent 337 applications for receiving the protection documents for the objects of the intellectual property rights and received 451 protective documents. 101 new varieties and hybrids were taken to Ukrainian Institute of the expertise of plant varieties of the Ministry of Agrarian Policy of Ukraine for the variety trial, and 227 protective documents were received. Moreover, the main innovative achievements in 2014 include: the development of a number of resource-saving technologies of cultivation of grain, forage and vegetable crops; new technologies, technological equipment (for food and processing industries) and technical instructions; the examining of 603 completed scientific research results and the introduction of the scientific research results in 593 agricultural enterprises and 1133 contracts were signed worth 12,238.85 thousand of UAH.

Overall, NAAS scientific institutions received 22.6 million UAH for 1908 license contracts and 51.3 million UAH for 4151 economic ones from the signed contracts for the usage of the objects of the intellectual property rights. The leadership in the sphere of commercialization of the scientific achievements belongs to

Selection and Genetics Institute - National Center of Seed Farming and Variety Examination (6.6 million UAH) and the Institute of Crop Productionn. a. V.Y. Yuryev (4.6 million), funds were received to a special fund for the licensecontracts [3].

The low effectual demand for the intellectual products is the negative impact on the de-

velopment of the innovative processes in the agriculture of Ukraine. The lack of money that most of the agricultural producers have does not allow them to implement new technologies.

The innovativeness of the industry as a whole can be characterized by the indicators presented in table.

Table 1. The indicators of innovation of the agricultural sector of Ukraine

| Indicators | 2005 | 2010 | 2011 | 2012 | 2013 |
|---|-----------|-----------|------------|------------|------------|
| The total of scientific and technical works, thousand UAH | 4818580,9 | 9867092,4 | 10349890,0 | 11252692,0 | 11781106,5 |
| in % toGDP | 1,1 | 0,9 | 0,8 | 0,8 | 0,8 |
| <i>among others</i> | | | | | |
| <i>public sector</i> | 1493743,2 | 3302899,6 | 3683560,1 | 4312482,6 | 4339851,7 |
| <i>business sector</i> | 3075785,2 | 5990198,7 | 6054628,6 | 6210347,0 | 6741287,6 |
| <i>higher education sector</i> | 249052,5 | 573925,8 | 611689,6 | 729849,5 | 699967,2 |
| <i>private non-profit sector</i> | - | 68,3 | 11,7 | 12,9 | - |
| The total of scientific and technical work aimed at the agriculture, hunting, forestry thousand UAH | 259443,6 | 533008,3 | 558765,4 | 609155,3 | 576497,1 |
| in % to GVA of agriculture | 0,6 | 0,6 | 0,5 | 0,6 | 0,5 |
| <i>among othersbasic researches</i> | 37,0 | 36,6 | 34,7 | 40,1 | 42,3 |
| <i>applied researches</i> | 28,9 | 41,4 | 40,1 | 43,7 | 40,9 |
| <i>developments</i> | 15,3 | 12,4 | 14,1 | 4,8 | 4,8 |
| <i>scientific and technical services</i> | 18,8 | 9,6 | 11,1 | 11,4 | 12,0 |
| Introduced scientific and technical works, overall in Ukraine, % | 54,2 | 68,9 | 69,9 | 71,7 | 64,0 |
| Funding for agricultural science, thousand UAH. | 256196,8 | 521050,9 | 541067,5 | 612644,9 | 583490,3 |
| % of total funding | 5,0 | 5,8 | 5,6 | 5,8 | 5,2 |
| Number of agricultural enterprises, in which innovations were carried out | 1508 | 1087 | 1203 | 680 | 1076 |

The scientific and technical works worth about 577 million UAH, which is 0.5% of gross value added in agriculture, including the basic research accounted for 42.3%, applied research - 40.9%, scientific and technical development and services - 16.8% were sent to the agriculture, hunting and forestry in 2013. The distribution by a type of work with a high share of the undertaken basic researches does not correspond to the suchlike distribution in the economically developed countries (F: E: P = 15: 25: 60). The state must encourage the formation and the expansion of the cluster models, within which the form of a dialogue between the economic agents, academic and government institutions is created.

The formation of the infrastructure of the intellectual property is one of important directions of activation of the national innovation policy. The activation of the market researches

in this area, the auction sellings, and the innovative exchange markets- all this should contribute to stimulation and meeting the demand for the objects of the intellectual property.

The ownership of the intangible assets is an important factor for the agricultural enterprises that increases the efficiency of the economy management, of their cost, creditworthiness and investment appeal, the fact that the leaders of these structures are becoming aware of gradually. The growth of the intangible assets as a part of the assets of the agriculture can be observed. In addition, the commercialization of the land leasehold and the display of the ownership of these rights as an intangible asset in the balance of the agricultural enterprises create confidence in their leaders in the implementation of the strategic development plans, they are a prerequisite for the development of the mortgage credit in the agriculture. Fully agreeing

with the statement of academic N.Ya. Dem'yanenko about the absence of the institution of leasehold in the country, scientists L.I. Mikhailova, O.V. Kyrychok consider the implication of the land leasehold as a tool of mortgage credit possible [4].

The process of commercialization of the intellectual property sphere faces the obstacles caused not only by financial and economic crisis which led to a decrease in the creditworthiness of the economic entities of all the sectors, including the agriculture, but also such factors as:

- increasing the expenses on the protection of the objects of the intellectual property rights that has been marked during the past four years and implicates the threat of possible closing up of the patent activity in Ukraine...;
- the problems with the uncertainty concerning the distribution of the property rights to the objects of the intellectual activity when these are created for the public funds. The legal uncertainty of the owner reduces a possibility of disposal of the rights to the products of the intellectual activity.

The state regulation in the sphere of the intellectual property involves a complex of the organizational, economic and legal measures that are carried out by the state to use the objects of the intellectual property effectively. In Ukraine, the government regulation of the intellectual property is accomplished in the following areas of regulation: the results of the creative activity; the relationship with private individuals who are the creators or the users of the objects of the intellectual property rights; the relations with the organizations that develop or use the objects of the intellectual property rights.

The research of the problems of state regulation of the relations in the field of the intellectual property gives grounds to classify the methods of the state regulation as the methods of direct and indirect action. The methods of direct action are such that have the imperative contents in their basis that are, by their legal subject matter the administrative methods. These methods are: of the legislative and normative initiatives, institutional and organizational, of fiscal management, of the government orders, government loans and state guarantees, of the export-import quotas. The indirect meth-

ods include the indirect influence of the state on the regulation of the relations in the sphere of the intellectual property. These are the economic methods, which include the methods of economic planning and economic forecasting, of the mechanisms of the depreciation policy, of economic encouragement, of the share participation in the funding of the scientific researches.

The state must actively influence all the components of the process of creation, legal protection, transfer of the intellectual property in order to increase the competitiveness of the national intellectual production. As it has already been noted, the mechanism of development of the intellectual property in the agricultural sphere must include three components: economic, legal and regulatory; organizational.

The economic component must be provided by the state through the definition of priority directions of science and technology; ordering of the objects of the intellectual property by public funds; stimulating and supporting of the inventive activity.

The legal and regulatory part must be directed at:

- harmonization of the national legislation with the international, in particular that of the EU;
- Improvement of the legal regulation of economic component of the intellectual property rights that provides a system of payment of the customs duties and fees related to the protection of the objects of the intellectual property rights;
- strengthening of the legal protection of the intellectual property rights, in particular through strengthening the legal responsibility for the copyright infringement (criminal, administrative, civil);
- improvement of regulatory support of the activity of patent attorneys, strengthening of state control over the quality of their services;
- improvement of the patent-information support related to the acquisition of the intellectual property rights;
- implementation of the measures for activation of participation of Ukraine in the activities of WIPO and improving the country's image in the international processes about protection of the intellectual property.

The organizational component must provide the commercialization of the objects of the intellectual property rights through the development of innovative infrastructure and business function.

The necessary condition for the innovative development is the conscious formation of the national innovation system, which requires a clear policy of the government and balanced actions of the state, regions and public. The national innovation system will provide the favorable innovative climate, conditions, and incentives for all parts of the innovation mechanism.

Conclusions. The mechanism of the state support for the objects of the intellectual property rights, which is practically absent today in Ukraine, does not promote the export of the production of national commodity producers, despite their high competitiveness. The state policy in the sphere of the intellectual property must provide an effective and efficient protection of its rights, which requires along with the further research of the economic component the

creation of the legal mechanisms for its implementation – in particular, solving the following issues:

- creation of business environment for successful functioning of the innovation activity and the market of the objects of the intellectual property rights;
- development of a concept of interaction of education, science, industry and state;
- creation of powerful system for financing innovation activity;
- encouragement of the development of research and development and innovation activity, commercialization of the research results;
- protection of the intellectual property;
- creation of a state system of informative and consultative support of the innovation activity at all stages of innovation.

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Новини АПК

Аграрна продукція відповідає світовим трендам

Ми переходимо від адміністративного регулювання ринку до вільної конкуренції. Тільки вільна конкуренція може забезпечити значне зростання аграрного сектору. Про це повідомив Міністр аграрної політики та продовольства України Олексій Павленко. «Експортний сезон зараз активний. Йому сприяє проведена нами дерегуляція, скасування сертифікації в портах. Ми вийшли на рекордний експорт 34,6 млн т зерна. У минулому році було близько 33 млн т. Якщо обсяг виробництва становитиме 58-60 млн т, то ми можемо легко наростити обсяги експорту до 36 млн т», – повідомив Міністр.

За словами очільника Міністерства, Україна вдвічі збільшила імпорتنі поставки до Китаю. «90% кукурудзи, яка закуповується нами – українська. Ми активно співпрацюємо у цьому напрямі з Саудівською Аравією. Чекаємо коли відкриється ринок Ірану. Ця країна готова купувати до 3 млн т нашого зерна. Європа також закуповує у нас величезну кількість зернових. Загальний експорт продуктів харчування в ЄС за 8 місяців 2015 року становить майже 2 млрд дол. Основні імпортери нашої продукції – Іспанія, Італія, Голландія. Ми працюємо на відкритому ринку і відповідаємо світовим трендам», – зауважив Олексій Павленко.

Прес-служба Мінагрополітики України