

ПРАВОВА ОСБИТА

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PROBLEMS OF TRAINING SPECIALISTS IN THE FIELD OF INTELLECTUAL PROPERTY LAW: EUROPEAN EXPERIENCE

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*The purpose of this article is to consider problematic issues regarding the training of specialists in the field of intellectual property law, taking into account the European experience. The situation with regard to the specified problem in Ukraine, in particular, the acquisition of knowledge in the field of intellectual property law in national institutions of higher education, was also investigated. The training of these specialists is extremely important for Ukraine, given the increase in violations in the field of intellectual property rights. It is also important to increase respect for intellectual property rights, protection of intellectual property rights, and generally the culture of using objects of intellectual property rights, which is ensured directly in the process of obtaining general knowledge in this field. **The methodological basis** of the research is general scientific and special methods of scientific knowledge. The use of these methods made it possible to analyze the problems of training specialists in the field of intellectual property law in Ukraine and to describe the peculiarities of their training in European countries. **Results:** Ukraine should create the proper conditions to ensure quality higher education in intellectual property law, based on an interdisciplinary approach. The level of knowledge of intellectual property law should be increased as part of the acquisition of relevant competencies in other specialties with the aim of increasing competitive intellectual capital for the sake of high-tech, innovative development of the country, creating conditions for self-realization and creativity of the individual, ensuring the needs of society, the labor market and the state in qualified personnel. **Discussion:** the lack of intellectual property law disciplines in higher education institutions, which are part of the national education system, adapted for relevant specialties, which would contribute to the acquisition of knowledge in the field of intellectual property law not only at the level of specialized master's degrees in intellectual property law (in law, management), but also other specialties. There are also no joint master's programs in intellectual property law with the World Intellectual Property Organization in Ukraine. There is also no ongoing work on training and upgrading the qualifications of the teaching staff involved in teaching courses on intellectual property law both within the framework of specialized master's programs and disciplines on intellectual property law for various fields of knowledge in general.*

Key words: *intellectual property; intellectual property law; intellectual property specialists; higher education; creative activity; inventive activity; protection of intellectual property rights; knowledge in the field of intellectual property law.*

Problem statement and its relevance. In the conditions of building an innovative society, which should be based on the support of the nation's intellectual potential, it is important to train specialists in various fields of knowledge who will be involved in the innovation process at its various stages. Therefore, the national education system should contribute to the training of such specialists, especially specialists in the field of intellectual property law. Acquiring knowledge in the field of intellectual property law in the system of higher education, in compliance with the principle of continuity of the process of obtaining higher education, will create conditions for the development of an innovative society that understands the value of its own achievements and benefits that can be obtained through innovations and the use of rights to the results of intellectual, creative activity, will contribute to the activation of innovations and commercialization, professional provision of instrumental use of intellectual property rights as a purposeful component of innovation policy, quality provision of protection of intellectual property rights.

The acquisition of knowledge in the field of intellectual property law by students of various specialties and the direct acquisition of competences in intellectual property law in the higher education system will contribute to the combination of education with science and production in order to prepare competitive intellectual capital for the high-tech and innovative development of Ukraine, self-realization of the individual, meeting the needs of society, the labor market and the state in qualified specialists. This will also contribute to the international integration of young professionals and, in general, the integration of the higher education system of Ukraine into the European educational space and scientific space, taking into account the preservation and development of the achievements and progressive traditions of the national higher school. Such an education will contribute to the formation of a creative thinking style in young

professionals who will be able to create and solve complex interdisciplinary tasks, as well as effectively and timely respond to modern social demand.

Presentation of basic material of the research. The importance of intellectual property rights in the innovation policy of our country is recognized both at the level of international institutions and at the level of national policy. This is evidenced by the reports of the World Intellectual Property Organization (WIPO) in countries that reflect the role of intellectual property rights in their national systems of innovation activity [1], as well as analytical reports (for example, "The Intersection of IPRights and Innovation Policy-Making — A Literature Review", prepared by the Manchester Institute for Innovative Research, the University of Manchester and others [2]).

The importance of this is also confirmed by national strategic documents and legal acts of the Verkhovna Rada of Ukraine, as well as national analytical reports. Ukraine announced an innovative path of state development, the driving force of which is intellectual potential and, in particular, intellectual property. Therefore, the goal of the state policy in the field of education is to promote the sustainable development of society by training competitive specialists, as well as creating conditions for obtaining quality education for young people. Thus, the Sustainable Development Strategy of Ukraine, which defines the vectors, directions, and top-priorities of implementation in order to introduce European standards of living in Ukraine, as well as Ukraine's rise to a leading position in the world, was laid as the basis for the form of education and reform of the protection of intellectual property rights; this Strategy provided for the implementation of the development program for youth and the attraction of talents and the program for the development of innovations. The project of the Sustainable Development Strategy of Ukraine until 2030 [3] recognizes that a high intellectual level of human potential should ensure the country's competitiveness in the future.

Among the goals of sustainable development of Ukraine for the period until 2030, which are defined by the Decree of the President of Ukraine dated 30.09.2019 No. 722/2019, are provided for: provision of comprehensive and fair quality education and encouragement of lifelong learning opportunities for everyone; promoting progressive, inclusive and sustainable economic growth, full and productive employment and decent work for all; creation of sustainable infrastructure, promotion of comprehensive and sustainable industrialization and innovation [4].

In order to realize these goals, Ukraine must provide the national labor market with specialists who have a high level of training and who have knowledge in various fields of knowledge. But such specialists must also have knowledge in the field of intellectual property law. It can be said that Ukraine has experience in training specialists in the field of intellectual property law on the basis of a number of leading educational institutions and institutes of postgraduate education.

Thus, Ukraine has already trained a large number of specialists in patent science and intellectual property law who work in various spheres of activity.

With the introduction of the master's degree in higher education institutions of Ukraine in 2010, master's training was also introduced in the field of intellectual property law, as well as in the specific category "Intellectual property". So, for example, in 2014, the volume of state orders for the training of specialists at the educational and qualification level of a master's degree in the specialty "Intellectual property" and "Innovative activity management" increased, compared to 2011.

An important role in the formation of knowledge and culture in the field of intellectual property law was played by the Decree of the President of Ukraine "On measures to protect intellectual property in Ukraine" [5], which provided for the introduction of a course on the basics of intellectual property law in higher educational institutions of Ukraine. The introduction of this course and state-ordered training of specialists in the field of intellectual property law was carried out in accordance with the decision of the board of the Ministry of Education and Science of Ukraine from, and later

issued by the order of the Ministry of Education and Science of Ukraine "On the introduction of the educational discipline "Intellectual property" in higher educational institutions". The need to introduce special courses "Fundamentals of Intellectual Property Law" in institutions of higher education as part of the reform of the education system in Ukraine was confirmed later in the resolution of the Verkhovna Rada of Ukraine "On the Recommendations of the Parliamentary Hearings "Protection of Intellectual Property Rights in Ukraine: Problems of Legislative Support and Law Enforcement" [6].

It should also be noted that recently, under the auspices of the Ministry of Education and Science, Ukraine has introduced the practice of holding annual All-Ukrainian Olympiads on intellectual property law and All-Ukrainian student work competitions on intellectual property law, which are successfully held on the basis of leading national universities of Ukraine in various cities. However, a negative impact on the training of specialists in the field of intellectual property law was caused by the updated Law of Ukraine "On Higher Education" [7], which introduced new approaches to the formation of educational programs and established criteria for educational activity, as well as emphasized the distribution of intellectual property rights for institutions of higher education. In the decision of the hearings initiated by the Committee on Science and Education of the Verkhovna Rada of Ukraine on the topic "Intellectual property in Ukraine. The state and conceptual foundations of development" [8] was recommended to the Cabinet of Ministers of Ukraine for the purpose of popularizing knowledge and taking into account the policy of the World Intellectual Property Organization to support the initiatives of national institutions of higher education and academic scientific institutions in terms of opening centers of university coordinators on intellectual property law, conducting summer schools on intellectual property law, etc. In order to improve the quality of education and training of specialists from various fields of knowledge in the field of intellectual property law, we consider it necessary to teach the courses "Intellectual Property Law" and "Intellectual Property" as mandatory subjects.

Later, this approach was confirmed in the Recommendations of the hearings in the Committee of the Verkhovna Rada of Ukraine on Science and Education regarding the need to introduce the subject "Intellectual Property" into the educational process. Also, in the Recommendations of the hearings in the Committee of the Verkhovna Rada of Ukraine on Science and Education "Legislative support for the development of the National Innovation System: state and solutions" it was determined the need to open a master's degree in higher education in the specialty "Management of creativity", further distribution of master's degrees in "Intellectual property", "Management of innovative activities", etc., the introduction of teaching courses on information law, intellectual property law and legal support for innovative development, and the restoration of compulsory teaching of the course on intellectual property. According to the results of the parliamentary hearings "National innovation system: state and legislative support for development", it was once again recognized the need to provide Ukraine with specialists capable of professionally providing innovative development of Ukraine, its informational and creative components. It was emphasized the need to establish at the legislative level the criteria for defining high-tech industries, products and professions, their codification according to European standards; conducting popular science and educational programs for the formation of innovative culture, development of social innovations and creative industries through mass media; as well as the introduction for scientists, inventors, employees of scientific institutions and institutions of higher education of training courses on innovations, in particular on technology transfer, project management, communications, finance, marketing, etc.

In general, the activity of training specialists of higher education institutions who understand the issues of intellectual property law (educational level bachelor, master) is extremely important both in the medium and long term, and is designed to promote the assimilation of new knowledge and modern technologies in the fields by specialists of various specialties their activities, improve their competence in the relevant field of knowledge (taking into account professional qualities, profile and spe-

cifics of work), as well as train new specialists in the field of legal protection and protection of intellectual property rights, patent audit, management, intellectual property management. It should be noted that the training of specialists in intellectual property law by institutions of higher education is a widespread practice that has proven beneficial in the last decade in providing an innovative environment with professional personnel. Such training is carried out as part of obtaining higher education on the basis of bachelor's and master's degrees in both intellectual property and intellectual property law by many universities around the world.

The World Intellectual Property Organization uses the experience of introducing joint master's programs in intellectual property law. Examples can be Masters in Intellectual Property of the World Intellectual Property Organization, opened in Italy (Turin), Turkey (Ankara), Poland (Krakow), Zimbabwe (Mutara), China (Shanghai), Cameroon (Yaounda), Argentina (Buenos Aires), Australia (Brisbane) and other countries. For a long time, the World Intellectual Property Organization held Summer Schools on Intellectual Property in Ukraine, which are not held now due to the political situation in the country. Previously, such schools were held under the program of the Academy of the World Intellectual Property Organization on the basis of Taras Shevchenko Kyiv National University, later on the basis of Mechnikov Odesa National University, with the active participation of the National Office of Intellectual Property.

Article 252 (2) of the Association Agreement between Ukraine and the European Union defines the spheres of cooperation between the parties, including such activities as capacity development; exchange and training of personnel (d); promoting and disseminating information about intellectual property rights, inter alia among business circles and in civil society; wide awareness of consumers and rights holders (e), etc. Having adopted the new Law of Ukraine "On Higher Education", our country has taken steps aimed at modernizing the system of higher education taking into account the processes of European integration and the development of a single European area of higher education. The integration of Ukrainian higher education into it is carried out through the implementation of the pro-

visions and principles of the Bologna process, in particular, through the introduction of a level organization of higher education in accordance with the National Qualifications Framework. In addition, the decision of the board of the Ministry of Education and Culture of Ukraine (protocol dated 22.03.2018 No. 3/1-7) approved the Road Map of the Integration of Ukraine into the European Research Area (ERA-UA) [12].

At the same time, the existing situation in the field of higher education in terms of acquiring knowledge on intellectual property law allows us to state the following problems. First, the low level of knowledge and culture in the field of intellectual property law. State authorities also note the insufficient level of public awareness of intellectual property rights. In particular, it is noted that a general assessment of the level of awareness of the population regarding intellectual property rights in Ukraine has not been carried out, therefore it is suggested to carry out relevant sociological surveys.

It is also emphasized the need to increase the level of awareness of innovators in the field of legal protection and protection of intellectual property rights and to increase quality education in the field of intellectual property law for all. Absence in higher education institutions, which are a component of the national education system, of intellectual property law disciplines adapted for relevant specialties, which would contribute to the acquisition of knowledge in the field of intellectual property law not only at the level of specialized master's degrees in intellectual property law (in law, management), but also other specialties. This situation was the result of certain rule-making actions of the government of Ukraine.

Thus, the study of the academic disciplines "Intellectual Property Law" and "Intellectual Property" was excluded from the curricula of higher educational institutions, after which the teaching of intellectual property knowledge actually stopped or was reduced to formal teaching within other disciplines (for example, "Methodology of scientific research with fundamentals of intellectual property" in most institutions of higher education of Ukraine. Educational institutions that operate under the right of autonomy independently choose educa-

tional courses, so only a few faculties left full courses on intellectual property law (for example, philological, journalism, legal, and some technical faculties).

Along with this, the educational and professional programs of all specializations in the field of knowledge "Management and Administration" underwent changes, to which the discipline "Innovation Management" (at the bachelor's level) and "Innovation Management" - for the specialty "Management of innovative activities" were included in the reform of higher education » (at the master's level) as normative.

After the reform, these programs were also subject to changes. Significant changes have also taken place with regard to the preparation of master's degrees in intellectual property law. In particular, the training of specialists in intellectual property law was removed from specific categories, instead it was decided to transfer it to the following specializations: intellectual property management — in the field of knowledge Management and administration, specialty — management; intellectual property - in the field of knowledge Management and administration, specialty - entrepreneurship, trade and stock market activity; intellectual property - in the field of knowledge Law, specialty Law.

After that, the number of institutions of higher education, which previously provided training of specialists in the field of intellectual property law (specific categories), sharply decreased. Moreover, graduates of other specialties have stopped enrolling in interdisciplinary programs on intellectual property law accredited within the specialty "Law" in connection with the mandatory requirement for admission to a master's degree in law to pass a law exam based on external independent evaluation. The lack of training of specialists in the field of intellectual property law within technical specialties, in turn, not only deprives national industries of appropriate professional support, but also actually makes it impossible to further attest patent attorneys who specialize in objects of patent law (in the first place), due to the lack of appropriate higher education in the field of intellectual property law.

Currently, the training of masters in intellectual property law is carried out only in a small number of institutions of higher education, if we take into

account the needs of the country. In particular, in Kyiv, such training is carried out only at Taras Shevchenko Kyiv National University (at the Faculty of Law), at the Kyiv Institute of Intellectual Property and Law of the Odesa Law Academy. Regionally, the training of masters in the field of intellectual property law is carried out at Sumy State University (at the Educational and Scientific Institute of Law), at the Cherkasy National University named after Bohdan Khmelnytskyi (at the Educational and Scientific Institute of Economics and Law), at the Dnipropetrovsk Metallurgical Academy (at the Faculty of Humanities).

Teaching of courses and programs on intellectual property law is carried out mainly within other specialties (technical sciences, law, computer science, economics, etc.), the number of higher education institutions that provide full-fledged teaching of courses on intellectual property law is also significantly reduced. Despite the fact that at annual professional conferences on intellectual property law held in Ukraine in various institutions of higher education, the need to train specialists in the field of intellectual property law is invariably confirmed.

In Ukraine, there are still no joint master's programs in intellectual property law with the World Intellectual Property Organization. Also, there is no permanent work on training and upgrading the qualifications of the teaching staff involved in teaching courses on intellectual property law both within the framework of specialized master's programs and intellectual property law disciplines for various fields of knowledge in general.

Conclusions. As part of the adoption of the National Intellectual Property Strategy of Ukraine, which received the support of the World Intellectual Property Organization, and as part of its implementation, Ukraine should create appropriate conditions for ensuring high-quality higher education in intellectual property law, based on an interdisciplinary approach.

The level of knowledge of intellectual property law must be increased as part of the acquisition of relevant competencies in other specialties with the aim of increasing competitive human capital for the sake of high-tech, innovative development of the country, creating conditions for self-realization and individual creativity, ensuring the needs of society,

the labor market and the state in qualified personnel.

Steps to solve these problems should be: ensuring high-quality higher education in the field of intellectual property law by further opening master's programs in intellectual property law and innovations (law, governance, management) in higher education institutions of Ukraine, with priority given to an interdisciplinary systemic approach in the development of such programs; spread of fields of knowledge (in addition to the existing ones) from which higher education in the field of intellectual property law can be provided, with priority given to technical fields; renewal of teaching knowledge in the field of intellectual property law for all specialties in higher education institutions of Ukraine at the bachelor's level; distribution of targeted training of specialists in the field of intellectual property law, with the agreement with potential future employers of the professional competencies of educational programs, which will influence the development of related educational programs, for example, "Innovative Engineering"; organization of professional training courses in the field of intellectual property law for teachers of higher education institutions of various specialties in order to increase the potential of the teaching staff; operation of the training center in Ukraine from the Academy of the World Intellectual Property Organization, training of national trainers; the opening of a master's program in intellectual property law jointly with the World Intellectual Property Organization on the basis of a leading institution of higher education in Ukraine; creation and distribution of distance courses on general and special issues of intellectual property law with the involvement of the National Office of Intellectual Property, professional specialized institutions, leading specialists in the field of intellectual property law, etc.; implementation of a consistent policy on academic integrity in higher education and science with the introduction of appropriate mechanisms and tools, including the prevention of plagiarism, in particular, taking into account the positive experience of cooperation between the Ministry of Education and Science of Ukraine, higher education institutions, scientific institutions and Unicheck; dissemination of

scientific research in the field of intellectual property law in institutions of higher education and scientific institutions for the purpose of preparing dissertations to provide the field of science and education with highly qualified personnel; conducting a professional scientific discussion on the expediency of conducting scientific research at the level of Doctor of Philosophy and Doctor of Science based on an interdisciplinary approach, taking into account global trends and goals of sustainable development, with the aim of promoting the formation of new, interdisciplinary scientific directions based on the convergence of various sciences and knowledge (nano-technologies; biotechnology; Computer Science; cognitive sciences; socionics; ecology; genetics); initiating before the World Intellectual Property Organization the issue of holding a regional Colloquium of the World Intellectual Property Organization for teachers specializing in the field of intellectual property law representing Ukraine and Eastern European countries.

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ПРОБЛЕМИ ПІДГОТОВКИ ФАХІВЦІВ У СФЕРІ ПРАВА ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ: ЄВРОПЕЙСЬКИЙ ДОСВІД

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*Метою даної статті є розгляд проблемних питань щодо підготовки фахівців у сфері права інтелектуальної власності, з урахуванням європейського досвіду. Також досліджено ситуацію щодо вказаної проблеми в Україні, зокрема, отримання знань у галузі права інтелектуальної власності в національних закладах вищої освіти. Підготовка вказаних фахівців для України є надважливою, враховуючи збільшення порушень у сфері права інтелектуальної власності. Також важливо, щоб підвищувалася повага до прав інтелектуальної власності, захисту прав інтелектуальної власності, загалом культура використання об'єктів права інтелектуальної власності, що забезпечується безпосередньо у процесі отримання загальних знань у даній сфері. **Методологічною основою** дослідження є загальнонаукові та спеціальні методи наукового пізнання. Використання цих методів дало можливість проаналізувати проблеми підготовки фахівців у сфері права інтелектуальної власності в Україні та описати особливості їх підготовки в європейських країнах. **Результати:** Україна має створити належні умови для забезпечення якісної вищої освіти з права інтелектуальної власності, заснованої на міждисциплінарному підході. Має бути підвищений рівень знань із права інтелектуальної власності в рамках набуття відповідних компетентностей за іншими спеціальностями з метою зростання конкурентоспроможного інтелектуального капіталу задля високотехнологічного, інноваційного розвитку країни, створення умов для самореалізації й креативності особистості, забезпечення потреб суспільства, ринку праці і держави у кваліфікованих кадрах. **Обговорення:** відсутність у закладах вищої освіти, що є складовою національної системи освіти, дисциплін із права інтелектуальної власності, адаптованих для відповідних спеціальностей, які б сприяли набуттю знань у сфері права інтелектуальної власності не лише на рівні спеціалізованих магістратур права інтелектуальної власності (з права, менеджменту), але й інших спеціальностей. Також в Україні поки відсутні спільні магістерські програми по праву інтелектуальної власності з Всесвітньою організацією інтелектуальної власності. Відсутня також постійна робота щодо підготовки та підвищення кваліфікації педагогічного складу, задіяного до викладання курсів з права інтелектуальної власності як в рамках спеціалізованих магістерських програм, так і дисциплін з права інтелектуальної власності для різних галузей знань у цілому.*

***Ключові слова:** інтелектуальна власність; право інтелектуальної власності; фахівці з інтелектуальної власності; вища освіта; творча діяльність; винахідницька діяльність; охорона права інтелектуальної власності; захист прав інтелектуальної власності; знання у сфері права інтелектуальної власності.*

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