

THE VOLUNTARY CERTIFICATION SYSTEM OF THE INTELLECTUAL PROPERTY MANAGEMENT “CREATIVE CAPITAL”

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INTRODUCTION

The intellectual property is a key resource for the development of the innovation economy and the main advantage of the companies who pay due attention to the management of the intellectual assets.

The intellectual property has made its owners the richest people in the world - many people remember that the writer Joan Rowling earned millions of pounds in her Harry Potter books. And the inventor Joy Mangano made herself a fortune after patenting her idea of a self-squeezing mop. Rubik's Cube has become famous all over the world. This invention made a great impression on intellectuals, and also brought the fame and worthy existence to his inventor, sculptor, professor of architecture Erno Rubik. You can find thousands of such examples. The value of intellectual property is unquestionable, despite the fact that it is sometimes difficult to compute its value to the accuracy.

The fact of the protection of intellectual property is also very important. Recently, not only foreign but also Russian entrepreneurs have shown interest in protecting and commercializing intellectual property.

At the same time, the voluntary certification system of the intellectual property management does not have a legal framework. The regulatory framework is necessary to prevent the abuse of the income through the production of counterfeit products, as well as to protect the use of the logos of well-known brands.

The history of the discovery of the penicillin can be a vivid example of the importance of the timely provision of the copyright for the inventor. According to the official version, the medicine, which we now call an antibiotic, was developed by the Englishman Alexander Fleming at the beginning of the 20th century. But few people know that this medicine was developed by the Russian scientists Polotebnov and Manassein 70 years before Fleming. The Russian scientists already worked with this medicine long before Fleming, but did not certify this discovery on time. These truly revolutionary experiments of the Russian scientists have gone unnoticed. The official science did not give due attention to this fact.

The protection of intellectual property is regulated through the registration of patents or trademarks. The exclusive right, the authorship and the priority of the invention can be secured through a patent. The goods can be individualized due to the trademark. However, the entire field of the intellectual property, created on the basis of the copyright, remains outside of it. The legal framework in this area is not enough.

The process of commercialization of intellectual property is quite important. This process provides an increase in revenue to the developer. The emergence of a regulatory framework should facilitate the process of documenting a copyright, the subsequent protection and commercialization of an intellectual property object. This process will lead to an increase in the capitalization of a company and an increase in the country's GDP.

The competitive advantages and profits of the company depend on the effectiveness of the intellectual property management.

The activity of participants in the commercial turnover related to the protection and commercialization of their intellectual rights and public legal awareness in this area has grown significantly. The legislative regulation, the diversity of judicial practice, improving the quality of the registration and the transfer of commercial rights to the results of intellectual activity and means of the individualization has become more active in this regard.

FROM THE HISTORY

The first steps to protect intellectual property were taken in 1886. On September 9, 1886, the Bern Convention (Switzerland) was adopted, which establishes a set of principles of the international copyright. At the same time, the Berne Convention introduced the term "copyright", and the Paris Convention enshrined the notion of "industrial property".

The first parties to the convention were: Belgium, Germany, France, Spain, United Kingdom, Tunisia and Switzerland. When choosing the name of the convention, there were many disputes, which ended in a single accepted term: "On the protection of works". The administrative functions with respect to the Bern Convention are currently being implemented by the World Intellectual Property Organization since its founding in 1967.

The Russian Federation acceded to the Convention on March 13, 1995. The issue of creating and recognizing, protecting and commercializing the results of intellectual property is relevant and significant both in Russia and abroad.

The existing legislative framework in Russia includes:

1) Federal Law No. 184-FZ of December 27, 2002 (as amended on July 29, 2017) "On Technical Regulation", which covers relations arising in the application, the acceptance, the development, the performance on a mandatory and a voluntary basis of requirements for the products manufactured at the enterprises products and to the production processes. The transportation, the operation, the use, the sale, the storage of goods are also regulated. The law formulated the duties and the rights of all persons involved in the relationship, and provides for the use of the regulatory documents - rules. Technical regulations are adopted with a view to: protecting the life or health of citizens, property of individuals or legal entities, the state or municipal property; the environmental protection, the life or the health of animals and plants; the prevention of actions that mislead customers. It should be noted that the adoption of technical regulations for other purposes is not allowed. The standardization is an important element in the product quality management.

The standardization is the activity to establish norms, rules and characteristics (requirements) in order to ensure: the safety of products and services, the technical and the information compatibility, the interchangeability, the product quality, etc.

2) The Federal Law "On Standardization in the Russian Federation" No. 162-FZ of June 29, 2015 (the last version).

The law in question regulates the legal basis for the standardization and the functioning of the national standardization system.

The law defines measures of the state protection of interests of consumers and the state through requirements, rules, and norms introduced into the state standards when developing them, and state control over compliance with mandatory standards when applying them.

The essence of the standardization in the Russian Federation is interpreted by the law as activities aimed at determining the norms, rules, requirements, characteristics that must ensure the safety of products, works and services, their technical and information compatibility, the interchangeability, the quality of products (services) in accordance with the achievements of the scientific and technical progress. Norms and requirements of standards can also refer to the safety of economic facilities in emergency situations (for example, natural and man-made disasters); to the defense capability and mobilization readiness of the country.

In addition to this law, relations in the field of the standardization in Russia are regulated by the acts of the legislation of the Russian Federation published in accordance with it.

On March 1, 2018, the Russian President Vladimir Putin announced the Message to the Federal Assembly. The Head of State outlined the key issues in the development of the intellectual property field, including commercialization in his speech. He expressed the basic idea that the Russian economy can develop faster than others in the world, and it is important that all our initiatives and long-term plans go beyond the national borders to larger associations. For these

purposes, the standards are needed to regulate the transfer of technologies and protection of intellectual property.

The modern development of information communications requires a revision of the principles of the intellectual property protection, according to foreign experts. The number of objects of intellectual property is growing, as is the number of ways to use them. This fact led to the need to create global organizations that deal with the protection of intellectual property rights such as:

- The World Intellectual Property Organization (WIPO)
- The Paris Convention for the Protection of Industrial Property
- The International Union for the Protection of New Varieties of Plants or UPOV and others.

The protection of intellectual property in the Russian Federation is regulated by several acts, primarily:

- the fourth part of the Civil Code of the Russian Federation
- the federal laws No. 98-FZ of July 29, 2004 "On commercial secret"
- No. 149-FZ of July 27, 2006 "On the Information, Information Technologies and the Information Protection"
- No. 135-FZ of July 26, 2006 "On the Protection of the Competition", as well as the Code on Administrative Offenses of the Russian Federation, the Criminal Code of the Russian Federation and others.

The Federal Service for the Intellectual Property (Rospatent) carries out state regulation of this field.

ABOUT THE VOLUNTARY CERTIFICATION SYSTEM of the Intellectual Property Management «CREATIVE CAPITAL»

The rights to an invention or a work must be documented at the initial stage. The author or the inventor will have the difficulty in proving the ownership of an intellectual property object without prior documentation. The protection of an intellectual property object is ensured by patents, trademarks, copyright certificates and intellectual property certificates.

There is a certain procedure for registration of the authorship of intellectual property.

An author or an inventor must confirm the creation of an intellectual property object, design the copyright to this object or become its right holder after passing the procedure for transferring the rights. It is also necessary to assess the value of an intellectual property object and register this object as a non-material asset.

The certificate of an intellectual property object confirms that the result of intellectual property is created according to the requirements and rules, and this intellectual property object is new, useful and applicable in its field of activity.

The protection of the intellectual property means that the use of the results of the intellectual activity is possible only to those who have a copyright to the intellectual activity result or have a document on the ownership. Other cases of using these intellectual activity results are illegal. The commercialization of an intellectual property object, in other words, the valuation of its value transforms it into an intangible asset. Accounting for such intangible assets is determined in accordance with the Tax Code and the Regulations on Accounting 14/2007.

The confirmation that the IP object really corresponds to such parameters as novelty, utility and applicability makes it possible to issue a copyright certificate to the author. A certificate for an intellectual property object allows you to transfer all the property rights associated with this object to the right holder, protect the object from misuse. Many people ask themselves how to arrange it, evaluate it, etc.

So, the whole process is possible today with the help of the officially registered in the state register voluntary certification system of the intellectual property management "CREATIVE CAPITAL" (registration No. ROSS RU.31695.04), which was created for the certification and the certification of intellectual property.

The certification body is – "EC "Mir-Expo". The specialists of the professional IP management took part in the development of the VCS IPM "CREATIVE CAPITAL".

The main objective of the VCS IPM "CREATIVE CAPITAL" is organization of the commercial turnover of intangible assets in the intellectual property form, issued in accordance with the established procedure.

The VCS IPM "CREATIVE CAPITAL" includes a legal framework that allows you to document the creation of intellectual property for the purpose of the subsequent commercial turnover.

The voluntary certification system of the intellectual property management "Creative Capital" contains standards, rules and procedures for registration:

- Standard №01 Registration of legal relations of an employee and employer when creating intellectual property
- Standard № 02 Creation of the specification of the intellectual activity results
- Standard №03 Process of commercialization of the intellectual activity results
- Methods for assessing the compliance of the intellectual activity result with the terms of the copyright or the patent protection and the registration
- Methods of depositing their control copies
- Methods of their objective recognition.

The ultimate goal of this activity is:

- Provision to business entities of duly executed documents confirming the existence of an intellectual property object and the right of the ownership of intellectual property rights
- Evaluation of intellectual property rights, their property value
- Risk management and intellectual property insurance.

STRUCTURE OF the VCS IPM "CREATIVE CAPITAL"

The VCS certification body EC «Mir-Expo»

- Competencies:**
- Issue of the author's certificate
 - Issue of the certificate of the objects and confirmations of intellectual property
 - Objective recognition and certification of the technologies and the know-how
 - Assessment of the compliance of RIA with the terms of the protection of the copyright and the patent law
 - Approval of a report on the initial cost of an intellectual property object, etc.

The Organizational and Methodical Department of the VCS The National Consortium PIPM

Formed of interested persons and organizations on the terms of an agreement with the Certification Body of the VCS IPM "Creative Capital"

- Competencies:**
- Development of general principles and procedures for the registration of the intellectual property objects and their introduction into commercial circulation
 - Functions of the main competence center for voluntary certification systems
 - Quality control of the RIA conformity assessment to the legal norms of the Russian Federation
 - Quality control of the intellectual property passport
 - Coordination and quality control of the work of the experts in the assessment of compliance with RIA
 - Training and attestation of specialists in the field of intellectual property
 - Organizational and methodological assistance, technological assistance to the interested persons
 - Examination of documentation on the IP management, on the conformity assessment of RIA, the IP Passport, RIA specifications, etc.

A specialized branch and territorial VCS Competence Centers Legal entities and individual entrepreneurs

Under conditions of accreditation by the Certification Body of the VCS IPM "Creative Capital"

- Competencies:**
- Audit and outsourcing of the intellectual property management
 - Identification of violations, encumbrances and loss of intellectual property rights
 - Assessment of compliance with RIA, assessment of the conditions of protection (the copyright or the patent law)
 - Certification, preparation of the RIA specification, preparation of the report on the conformity assessment of the RIA legal norms, etc.

Experts on conformity assessment of the RI PIPM specialists who have been delegated the relevant authority

Under conditions of accreditation by the Certification Body of the VCS IPM "Creative Capital"

- Competencies:**
- Examination of the documentation on the RIA certification
 - Recognition and certification of intellectual property
 - Assistance to all the stakeholders on the IP management issues.

THE RESULTS OF THE INTELLECTUAL ACTIVITY ARE OBJECTS OF CERTIFICATION:

- Architectural, town-planning, design, landscape project
- Geographic, geological, geophysical, topographic and other maps
- Management of intellectual property and risk management
- Quality management of the research, design, development, management
- Methods of marketing, targeting, business processes and the risk management
- Methodology for holding a public event (exhibition, conference, congress)
- Methodology for the economic analysis of the property valuation, audit reporting
- Multimedia presentation, webinar, handout, photograph and album
- Report on the completion and the intellectual activity results
- Report on the completion of a research and development work
- Report on the results of audit, valuation (cost) and patent studies
- Report on assessing the conformity of the intellectual property results with the terms of the protection of the copyright and the patent law
- Passport and the form of an industrial product with intellectual property
- Computer program, software and hardware
- Design, engineering, technological documentation, settlements and transfers
- Publication, monograph, thesis of candidates for an academic degree
- Formulation, specification, database, catalog, description and reference
- Secrets of production (know-how), technology and innovation
- Composite (collection), production work and unified technology
- Script, play, performance, decorative-applied, stenographic installation
- Study manual, analytical review, guidelines and methodological manual
- Drawing, plan, sketch, make-up, layout, volumetric and plastic forms
- Other facilities in coordination with the VCS certification body.

THE CERTIFICATION: THE PREPARATION AND THE RESULT

1. The applicant concludes a certification agreement with the Certification Body of the VCS IPM "Creative Capital".
2. The applicant shall provide the object of the certification, the specification of the intellectual activity results and the package of documentation in an agreed package to the Authority:

- Employment contract (or an additional agreement with clause 3.1 of this standard)
- Statement of work
- Report on the intellectual activity result
- Act of work completion
- Act on the right of commercial use of the results of intellectual activity or on intellectual property itself
- Author's certificate of the intellectual activity result
- List of data that contains the information about the company's trade secret
- Author's agreement
- Application form

The composition of the working documentation should be prescribed in the agreement on the certification of the intellectual activity results. At the same time, the contract must include the applicant's guarantees for the creation, completion of the work or the invention. The contract

must also contain the information about the creator or creators of the intellectual activity results and on the observance of intellectual rights.

3. The certification body attracts experts to assess the compliance of the certification of the intellectual property results on the recognition issues:

- Intellectual activity and its results
- Intellectual property (of the legal protection of the intellectual activity results)
- Compliance, ownership, and encumbrance of intellectual property rights
- Possibilities of using intellectual property
- Possibilities for registration and compliance with a know-how (a commercial secret regime)
- Possibilities for assessing the value of intellectual property rights
- Correct purpose of using intellectual property.

For registration of the author's certificate and the certificate of the conformity of objects and the confirmation of the intellectual property, the Conformity Assessment shall be carried out with a confidence probability of expert opinions of not less than 95%.

4. The expert shall draw up a report on conformity assessment. The certification body issues a certificate for intellectual property on the basis of an expert opinion and the package of documents submitted by an applicant. The expert has the right and can participate in the preparation of a set of documents and of specifications.

Principles of work of experts:

- Experts have no right to disseminate the information about known technical solutions, know-hows, innovations, etc.
- Experts are responsible for the unreliability or the bias of expert assessments.

Deposit of control copies

The Certification Body VCS IPM "Creative Capital" carries out the deposition of a control copy of the certification object and of the specification of intellectual activity results in the electronic and paper form.

The deposited copy shall be kept in an envelope sealed by the Certification Body VCS IPM "Creative Capital". The envelope is signed and stamped by an authorized person. This copy is identified by the copyright protection symbol in accordance with the Article 1271 of the Civil Code of the Russian Federation.

The owner of the author's certificate keeps a deposit the copy and provides it to the interested parties in accordance with the terms of the agreement on the certification of intellectual activity results.

The electronic deposit is a public database. This database contains the information on the issued intellectual property certificates, that is, it is the register of intellectual property objects registered within the VCS IPM "Creative Capital".

LAWS AND NORMATIVE LEGAL ACTS FOR IMPLEMENTATION OF WORK WITH INTELLECTUAL PROPERTY

The activities related to the recognition, protection and commercialization of intellectual property objects are carried out in accordance with the set of laws of the Russian Federation, as well as regulated by certain regulatory and legal acts of the Russian Federation:

The Constitution / The basic law

The Constitution of the Russian Federation (as amended by Federal Constitutional Law No. 11-FCL of July 21, 2014) (2014)

The basic laws in the field of IP (adopted by the legislature)

- The legislation in the field of the intellectual property in Russia is fully codified in Parts 1, 2 and 4 of the Civil Code of the Russian Federation, enacted from 01.01.2008.
- The Federal Law No. 422-FL of the Russian Federation of 08.12.2011 "On Amending Certain Legislative Acts of the Russian Federation in Connection with the Establishment in the System of Arbitration Courts of the Intellectual Rights Court" (as amended by Federal Law No. 186- FZ of 28.06.2014) (2014)
- The legislation in the field of the intellectual property in Russia is fully codified in Parts 1, 2 and 4 of the Civil Code of the Russian Federation, enacted from 01.01.2008.
- The Federal Law No. 316-FL of December 30, 2008 "On Patent Attorneys" (as amended in accordance with Federal Law No. 185-FL of July 2, 2013) (2013)
- The Federal Law No. 284-FL of 25.12.2008 "On the transfer of rights to unified technologies" (as amended in accordance with Federal Law No. 401-FL of 06.12.2011) (2012)
- Federal Law No. 184-FL of December 27, 2002 (as amended on July 29, 2017) "On the Technical Regulation"
- The Federal Law "On the Standardization in the Russian Federation" No. 162-FL of June 29, 2015 (the last version)
- The Federal Law of the Russian Federation of July 29, 1998 No. 135-FL (as amended on 30.06.2008). "On Appraisal Activities in the Russian Federation"
- On the approval of the accounting regulations "The Accounting for intangible assets" (The Regulation on Accounting 14/2007): the order of the Ministry of Finance of the Russian Federation of December 27, 2007 No. 153n;
- On the approval of methodological recommendations on the inventory of rights to the results of scientific and technical activities: the order of the Ministry of Economic Development of the Russian Federation No. 1272-r, the Ministry of Industry and Science of the Russian Federation No. p-8, the Ministry of Justice of the Russian Federation No. 149 of 22.05.2002;
- On the approval of the qualification characteristics of the post "The Evaluator of The Intellectual Property": The Resolution of the Ministry of The Labor and Social Affair of the Russian Federation No. 52 of December 24, 1998;
- The order of the inclusion of the intellectual property in the intangible assets: approved. Ministry of Science of the Russian Federation No. OP22-2-64, Rospatent No. 10 / 2-20215 / 23 of 13.03.1995;
- On revaluation of fixed assets and intangible assets: Letter of the Federal Tax Service of the Russian Federation No. BE-6-16 / 836 of October 30, 2007;
- On the recognition of the intellectual property as an intangible asset: Letter No. 07-05-06 / 155 of the Ministry of Finance of the Russian Federation of June 22, 2006;

In addition to the above, there are normative-legal acts on certain areas and sectors.