

MODELING OF ECONOMIC AND LEGAL SUPPORT OF INTELLECTUAL ENTREPRENEURSHIP

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The authors study modern aspects of the formation and development of intellectual entrepreneurship, analyse the theoretical provisions on the legal support of intellectual entrepreneurship, establish the features of legislative and regulatory support for the regulation of legal relations in the field of intellectual entrepreneurship. As a result of the research, the priority types of enterprises in the intellectual sphere are identified and the main shortcomings of legal support that need to be addressed are formulated.

I. INTRODUCTION

The relevance of the study is due to the fact that in the information society, the results of intellectual activity play a priority role, occupying a significant share in the social product. Activation of innovative activity of scientific and industrial spheres is an important task and condition of formation of economic independence of Ukraine. Not only the production sphere but also market relations are undergoing qualitative transformations, as new objects with specific features and unique properties appear alongside traditional objects of exchange.

The object of research is the relations that develop in the field of intellectual entrepreneurship.

The subject of the research is normative legal acts and practice of their application, as well as scientific views, ideas, concepts of domestic scientists on the issues of law enforcement support of the introduction of intellectual property rights by entrepreneurship.

The purpose of the study is to study the organizational, economic and legal aspects of intellectual entrepreneurship and directions of its further development in Ukrainian realities to obtain competitive advantages and increase the efficiency of enterprises in this field.

Theoretical aspects regarding the definition of "intellectual property" are reflected in the works of such scientists as: Bazylevich V.D., Kraynev P.P., Rybalkin V.O., Ulyanov R.V., Chukhno A.A., Tsybulov P.M.

The research mechanisms of intellectual property commercialization are devoted to the scientific works of the following economists: G.O. Androshchuk, O.B. Butnik-Siversky, K.A. Veselska, K.I. Dmitriv, N.O. Krikun, S.M. Makhnusha, N.M. Myronenko, O.P. Orlyuk, and A.Yu. Rykunich, V.B. Strutinsky, N.O. Shpak, O.S. Kharchenko, etc. [1]

The main component of innovative entrepreneurship should be the acquisition of intellectual property rights, which is essential for understanding the interests of entrepreneurship, which if ignored by these legal requirements can lead to significant losses, loss of assets and bondage to owners of intellectual property rights registered their rights before those who tried to acquire these rights. The results of intellectual activity become objects of intellectual property rights only if they are recognized by the law of Ukraine as such, and their involvement in economic circulation significantly increases the efficiency of the production system as a whole. The right to use intellectual property rights means the legal possibility to remove from this object its useful qualities, the profits that it can bring as a result of its use, and other useful effects [2, p. 54].

The theory of entrepreneurship was developed through the works of such scientists as A. Marshall, R. Cantillon, A.R. Chervitz, Y. Schumpeter, I. Kirzner, etc.

The modern world is in a situation where a new type of society is formed, which is based on knowledge and information, which focuses on innovation management. The winner in the competition will be the one who was able to adapt their strategy, taking into account the strengths and weaknesses, to the development and implementation of innovations. Therefore, the study was conducted taking into account the following features:

- dissemination of the knowledge economy in combination with the constant improvement of IT technologies and informatization of society;

- mutual penetration between social organizations, economic enterprises, scientific institutions, production and cultural sphere, the flow of knowledge from one sphere to another due to the speed of information exchange;

- high rates of change lead to the lag of legal support for the activities of enterprises of intellectual and innovative spheres, significant contradictions in cultural, ethical, moral and legal regulation need to be resolved and studied by scientists.

- the orientation of entrepreneurship in the knowledge economy to increase the market value of companies through intangible assets, which are due to the efficient use of intellectual capital.

Thus, the relevance of the study is due to the understanding of the interests of intellectual entrepreneurship, the need to study the nature, features and directions of intellectual entrepreneurship in Ukraine, primarily through the acquisition of intellectual property rights to protect them in Ukraine and abroad, and through the introduction of modern flexible organizational management structures in the enterprise.

II. RESULTS OF THE STUDY.

Definition of the concepts "entrepreneurship" and "intellectual entrepreneurship" is presented in table 1.

Table 1

Definition of the concepts "entrepreneurship" and "intellectual entrepreneurship"*

No.	Definition	Scientist
1	He found that the discrepancy between supply and demand in the market creates an opportunity to buy cheaper and sell more expensive. The people who took the opportunity to profit from this, Cantillon called "entrepreneurs", which translated from French means "mediator" [3]	Cantillon R.

End of the Table 1

2	"Specialized layer of entrepreneurs" as a "highly qualified category of participants in production", which combine the necessary capital for production and labour; they compile or "construct" its general plan, exercise control over its secondary details" [4]	Marshall A.
3	Entrepreneurship is a brilliant, creative, bold, inventive innovation. Entrepreneur is the driver of economic transformation. It is he who carries out "new combinations", which means that he introduces innovations such as a new invention, a new production process, technological changes in the "old" production process, opening new markets or sources of supply, taylorization of works, improving material handling, and creation of new business organizations - ie any innovations in economic life [5]	Schumpeter J.
4	"Pure Entrepreneur" was not the owner: "The important point ... is that it is necessary to distinguish between ownership and entrepreneurship as completely separate functions. As soon as we accepted the hypothesis of the concentration of all elements of entrepreneurship in the hands of pure entrepreneurs, we automatically deprived the owner of the asset of a business role "[6]	Kirtzner I.
5	Identified four values that serve as the basis of intellectual entrepreneurship: vision and discovery (vision and discovery), ownership and accountability (ownership and accountability), integrated thinking and action (integrative thinking and action), cooperation and teamwork (collaboration and teamwork) [3]	Chervitz A.R.

(*compiled by authors)

The term "intellectual entrepreneurship" is relatively new, and was first proposed in 2002 by American Professor A. Chervitz in the article "Intellectual Entrepreneurship. Vision in the context of the higher education system ". In his study,

A. Chervitz identified four values, which act as the basis of intellectual entrepreneurship (see Table 1) [3]. Thus, as can be seen from this definition, smart business needs to be viewed from different angles, from the generation of new ideas and innovations, from intellectual property and legal support, from marketing management, to the effective management and application of marketing tools, from personnel management.

Let's consider in more detail the main directions for ensuring the activities of intelligent enterprises.

Intellectualization of entrepreneurship is due to the fact that the product of entrepreneurial activity is an intellectual product.

Intelligent product is a kind of innovation and has the following specific features: inalienability of knowledge in the sales process, increasing returns from the product (each subsequent copy of the product is significantly cheaper and more profitable), dominance in the product R&D costs, the presence of a network effect (the next consumer of the product brings great value to all consumers), the ability to bring intellectual rent in the form of payments for its use (license fee) [7].

On the other hand, the market of innovations, competition and capital creates a sphere of intellectual activity, which is defined as the activity of a team of people to bring scientific and technical ideas, inventions to a result suitable for practical application and their implementation in the market to meet society's needs in competitive goods and services [8, p. 69].

It is important to identify how the innovation market, the smart product and the smart business are connected. Ensuring intellectual entrepreneurship and the environment that surrounds it are schematically presented in fig. 1.

As can be seen from fig. 1, the infrastructure of intellectual entrepreneurship includes different types of enterprises, but according to the authors, it is intellectual entrepreneurship represented by venture enterprises and enterprises of patent support for the provision of services for registration of intellectual property rights. The latter is the least researched and, at the same time, important for the functioning of the

innovation market. Therefore, it is advisable to focus on their functioning and ensuring their effective operation.

Thus, consider the activities of patent support companies to provide services for registration of intellectual property rights from the standpoint of the definition provided by A. Chervitz (see table 1). One of the values that serve as the basis of intellectual entrepreneurship, above all, in addition to generating new ideas, is the protection of intellectual property rights and legal support of this process.

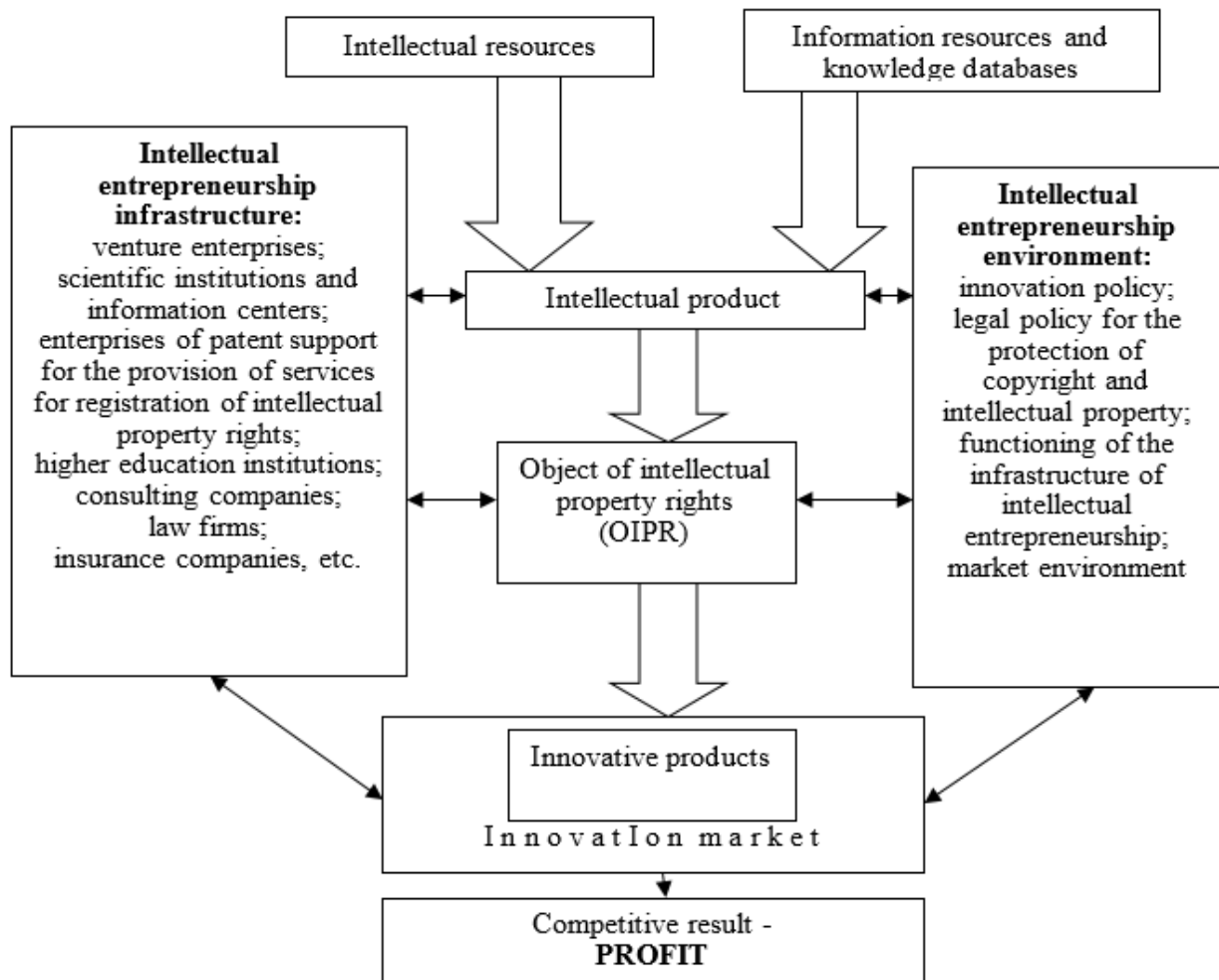


Fig. 1. Relationship of intellectual product with intellectual entrepreneurship and innovation market (*authors' development*)

Objects of intellectual property rights include: literary and artistic works; computer programs; data compilation (database); implementation; phonograms, video grams, broadcasts (programs) of broadcasting organizations; scientific

discoveries; inventions, utility models, industrial designs; layout (topography) of integrated circuits; innovation proposals; plant varieties, animal breeds; commercial (brand) names, trademarks (signs for goods and services), geographical indications; trade secret [9, p. 68-69]

The Decree of the President of Ukraine "On Sustainable Development Goals of Ukraine until 2030" [10] provides the main guidelines for achieving Ukraine's long-term sustainable development goals until 2030. The basis of structural and innovative transformations should be: the innovation axis of priority industries, which will be domestic leaders in the introduction of innovative technologies and around which modern clusters will be formed, the sector of start-ups, which in developed countries is mainly a leader in scientific and technological progress and development of the competitive environment of the economy, small and medium enterprises. The formation of positive development trends will take place through the development of intellectual entrepreneurship.

The national strategy in the field of intellectual property for the period 2020 - 2030 (hereinafter - the Strategy) defines the vision and prospects of the national intellectual property system, strategic goals, ways of their achievement and action on their implementation [11, p. 2].

Despite the current achievements in the field of intellectual property (IP) in the past decades, Ukraine continues to face a number of problems: insufficient development of the results of intellectual creativity and innovation, which is the basis of a competitive digital knowledge economy; extremely low use of IP potential by small and medium enterprises; insufficiently effective level of public administration in the field of legal protection of IP, due to the incompleteness of institutional reform in this area; low level of interaction of state, professional and public institutions in the field of legal protection and protection of IP; high level of piracy and counterfeiting, which poses an increased risk to the economic security of the country and the health of domestic consumers; insufficient participation of owners of intellectual property in actions to protect intellectual property rights, which significantly reduces the effectiveness of measures to protect intellectual property

rights; incomplete process of establishing a specialized court on IP issues; patent trolling; lack of transparency in the activities of organizations for collective management of copyright and related rights; lack of consistent IP policy in the science and education system; low level of culture in the field of IP, etc. As a result, intellectual property in Ukraine is not yet considered as one of the key factors in the economic, social and cultural development of the country [11].

In Ukraine, attention to the development of innovation began in 1991-1998, with the adoption in 1991 of the first among the newly independent countries of the law "On scientific and scientific-technical activities", the introduction of tax benefits for scientific and technical activities, the deployment of the State Innovation Fund of Ukraine. However, since 1999, the abolition of tax benefits, the liquidation of the State Innovation Fund, the departure from the focus on programs of structural change in industry and the predominant focus on foreign credit borrowing. Despite the adoption of the laws of Ukraine "On Innovation" (2002) [12] and "On state regulation in the field of technology transfer" (2006) [13], "On priority areas of innovation in Ukraine" (2011) [14], the provisions of these laws relating to financial support for innovation and technology transfer were stopped by the following acts with no significant impact of the adopted laws on economic development.

According to Article 42 of the Economic Code of Ukraine, entrepreneurship is an independent, initiative, systematic, at its own risk economic activity carried out by business entities (entrepreneurs) in order to achieve economic and social results and profit [15].

The main legal act in the field of intellectual property is the Civil Code (CC) of Ukraine [16], Chapter 75 "Disposal of intellectual property rights," Book four "Intellectual Property Right," as well as the provisions of the Economic Code of Ukraine, namely section 36 "Use of the rights of other management entities in entrepreneurial activity," Chapter 16 "Use of intellectual property rights in economic activity" [15].

Intellectual property law is a separate institution of civil law. Its norms are enshrined in the fourth book of the Civil Code of Ukraine - "Intellectual Property

Law" (12 chapters, combining 90 articles). According to Art. 418 of the Civil Code of Ukraine, the right of intellectual property - is the right of a person to the result of intellectual, creative activity or other object of intellectual property rights, defined by the Civil Code and other law. Even the placement of this institution in the Civil Code of Ukraine immediately after the book "Property Rights and Other Real Rights" once again testifies to the importance of the social value of intellectual property [16].

Special legislation in the field of protection of intellectual property rights, protection of competition, responsibility for the quality of goods and protection of consumer rights should also be taken into account. These are the following Laws of Ukraine: "On protection of rights to inventions and utility models" [17]; "On the protection of rights to marks for goods and services" [18]; "On protection of rights to industrial designs" [19]; "On protection against unfair competition" [20] and others.

According to Article 8 of the Constitution of Ukraine in Ukraine, the principle of rule of law [21] is recognized and operates, so the regulatory and legal framework of Ukraine in the field of intellectual property is presented in fig. 2.

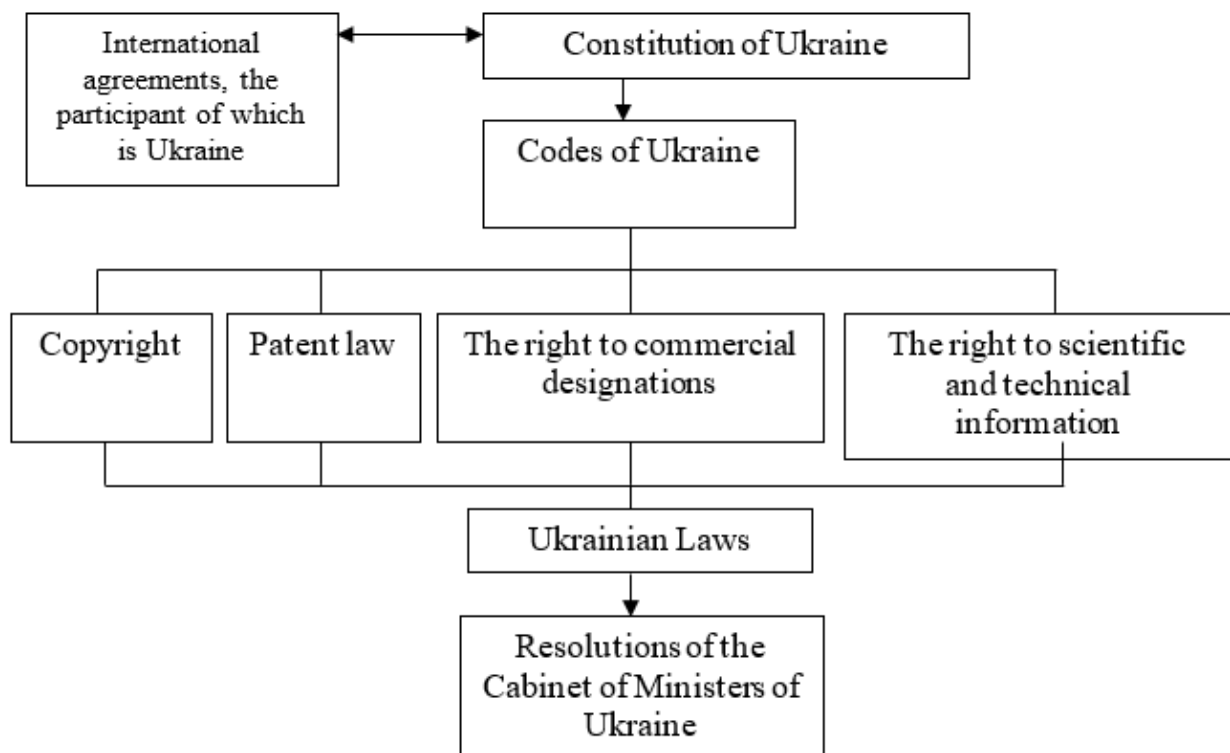


Fig. 2. Legislation of Ukraine in the field of intellectual property

Table 2 considers the legislative framework in the field of protection of objects of intellectual property rights (OIPR).

Table 2

Legislative base of Ukraine in the field of OIPR protection*

Name	Contents
Constitution of Ukraine Article 41	Everyone has the right to own, use and dispose of their property, the results of their intellectual and creative activities. The use of property cannot harm the rights, freedoms and dignity of citizens, the interests of society; worsen the environmental situation and natural qualities of the land [21]
Law of Ukraine "On Innovation Activities"	Innovations: newly created and (or) improved competitive technologies, products or services, as well as organizational and technical solutions of production, administrative, commercial or other nature, which significantly improve the structure and quality of production and (or) social sphere. State support is provided to business entities of all forms of ownership that implement innovative projects in the country, and enterprises of all forms of ownership that have the status of innovative ones. The law establishes that the main purpose of state innovation policy is to create socio-economic, organizational and legal conditions for effective reproduction, development and use of scientific and technical potential of the country, ensuring the introduction of modern environmentally friendly, safe, energy and resource-saving technologies, production and implementation of new types of competitive products [12]
Economic Code of Ukraine	Innovative activity in the field of management is the activity of participants in economic relations, carried out on the basis of investments to implement long-term scientific and technical programs with long payback periods and the introduction of new scientific and technical achievements in production and other spheres of public life [15]
Law of Ukraine "On Innovation Activities"	Innovative activity is a set of measures aimed at creating, implementing, disseminating and implementing innovations in accordance with the Law of Ukraine "On Innovation" in order to obtain commercial and / or social effect, which are carried out by investing in objects of innovation [22]

*(compiled by the authors)

In the Law of Ukraine "On Development and State Support of Small and Medium Enterprises" in Art. 20, item 1 there is a question of the state support of subjects of small and average business in the field of innovations, science and industrial production [23]:

granting of financial support for formation of objects of infrastructure of support of small and average business in the field of innovations, science and industrial production , including business incubators, innovative business incubators, science and technology centres, technology transfer centres; promoting the development of venture entrepreneurship; creation of a system of economic incentives for economic development based on technological innovations; transfer of scientific products created at the expense of budget funds for its introduction into production; creating conditions for the involvement of small and medium enterprises in the conclusion of subcontracts in the field of innovation and industrial production; stimulating the attraction of foreign investments and the development of mutually beneficial international innovation cooperation; creating conditions for the spread of cooperation between small and medium enterprises and large enterprises [23].

The legal framework for venture financing in Ukraine is limited, as there are no special regulations that would regulate these relations. In 2012, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Joint Investment Institutions" [24]. According to part 10 of Art. 7 of this Law, venture funds are non-diversified closed-end mutual investment institutions that carry out exclusively private placement of securities among individuals and legal entities.

According to the authors of the article [25, p. 59], the generally accepted obligation in world practice is to finance innovative projects. There is an urgent need for reorientation of Ukrainian venture funds, which unjustifiably enjoy a special tax regime and other preferences provided for them. It is necessary that business entities, in particular venture funds, and other participants in economic relations carry out their activities within the legal economic order, which will serve to meet the needs of not only individual entities, but also the society as a whole. It is for the country's economy to develop in an innovative way that the role of the state as a coordinator of all kinds of relations is crucial, because the spirit of law, which is formed, based on the priority of public interests, depends on its will.

Also, Ukrainian venture funds do not take into account the nature of venture investment. This may lead to the fact that venture investors will still ignore the

organizational and legal forms stipulated by Ukrainian legislation and create funds in the countries and territories with the most favourable legal system [25, p. 59].

Fig. 3 provides a scheme of regulation of intellectual and innovative activities in Ukraine.

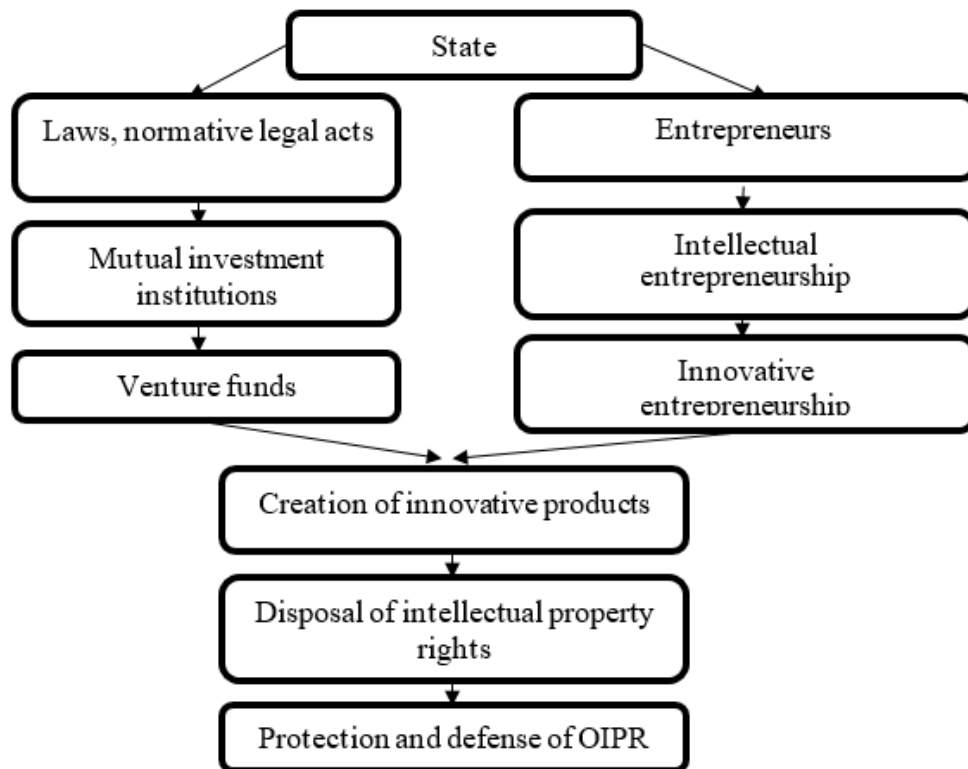


Fig. 3. Scheme of regulation of intellectual and innovative activity (*compiled by the authors*)

Entrepreneurs seek to conquer not only the domestic market of innovative products, but also foreign markets. Ukraine has a number of international agreements in the field of intellectual property, such as: the Paris Convention for the Protection of Industrial Property; Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS); Madrid Agreement Concerning the International Registration of Marks; Patent Cooperation Agreement; Locarno Agreement Establishing the International Classification of Industrial Designs; Hague Agreement Concerning the International Deposit of Industrial Designs; Lisbon Agreement on the Protection of Appellations of Origin and their International Registration; Strasbourg Agreement

Concerning the International Patent Classification; Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks; Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks; World Copyright Convention; Berne Convention for the Protection of Literary and Artistic Works; Rome International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations; Nairobi Treaty on the Protection of the Olympic Symbol; Protocol to the Madrid Agreement Concerning the International Registration of Marks.

Valuation of intellectual property objects is a rather complex process, due to the need to take into account many factors that affect the final result. There are several approaches to the valuation of intellectual property objects: market (comparative analysis of sales), cost and revenue. The choice of one or another approach depends on the availability of the necessary information, the requirements of owners or buyers of intellectual property, the purpose of the assessment, the economic situation at the time of assessment [26, p. 53]. If OIPR is considered as part of the value of an existing enterprise, the assessment is to determine the amount of their contribution to the assets and profits of the enterprise. Then certain types of surplus assets are considered, and based on the analysis their most effective use is determined under the condition of sale on the open market.

Valuation of intellectual property objects makes it possible to compensate for damages from the illegal use of intellectual property through insurance. Unlike compensation, which is based on judicial protection, insurance makes it possible to compensate for losses much faster, because the court decision does not mean that it will be immediately executed by the infringer. Therefore, compensation for damages through insurance is a more acceptable form of protection of property rights of the owner of intellectual property. But, unfortunately, the practical aspects of OIPR insurance remain unresolved by Ukrainian insurance companies, requires a

meaningful analysis of the possibility of introducing this type of insurance in the practice of innovative entrepreneurship and business.

III CONCLUSIONS

Analysis of the legislation of Ukraine showed that it is characterized by incompleteness and inconsistency of legal regulation, does not take into account the specifics of objects and subjects of innovation processes, mandatory participation in them of material results of intellectual property, not disclosed issues of intellectual property a systematic approach to the formation of competitive advantages of business.

The state should legislate benefits and other guarantees of economic security for enterprises and organizations engaged in the implementation of intellectual innovations in all spheres of society, which can give impetus to the emergence and development of intellectual entrepreneurship in Ukraine.

The study obtained the following results:

1. The essence of the concepts "entrepreneurship" and "intellectual entrepreneurship" is studied and clarified, it is proposed to use the definition introduced by A.R. Chervitz in four main areas, such as: problem solving and stages of generating new ideas; protection of intellectual property rights and legal support of intellectual entrepreneurship; effective management based on marketing principles; formation and development of human capital and personnel as the main intellectual resource of the enterprise.

2. The connection between the innovation market, intellectual product and intellectual enterprise in the process of commercialization of intellectual product from the standpoint of process approach and its transformation into innovative products that can bring economic effect in the form of profit.

3. The infrastructure of intellectual entrepreneurship, which includes different types of enterprises, is studied, it is emphasized that venture companies and patent support enterprises for the provision of intellectual property rights are the main

representatives of intellectual entrepreneurship, and they should focus further research.

4. The legislative and legal environment in which the enterprises of intellectual and innovative sphere operate is analyzed. The legislation of Ukraine in the field of intellectual property is studied. The legal framework in the field of protection of objects of intellectual property rights (OIPR) is considered, taking into account the special legislation in this field. Problematic places faced by intellectual entrepreneurship have been identified.

5. A critical analysis of the regulatory framework of venture financing in Ukraine. The limitations due to the lack of special regulations that would regulate these relations are shown.

6. The scheme of regulation of intellectual and innovative activity is developed and it is shown that the cost estimation of objects of intellectual property gives the chance of realization of compensation of losses from illegal use of intellectual property by means of insurance.

Thus, for the effective use of intellectual property, the state needs to provide authors with reliable protection of their rights, create favourable conditions for doing business, support the development of intellectual entrepreneurship, introduce preferential lending to small and medium businesses, banking system development, venture financing, improve the commercialization of intellectual property activities, to promote the emergence of innovative products on the market with the use of intellectual property, to improve the regulatory framework for innovation and investment activities, to protect the rights of investors.

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