

SPECIFIC FEATURES OF THE MODERN INTELLECTUAL PROPERTY MARKET: EXPERIENCE FOR UKRAINE

ОСОБЛИВОСТІ СУЧАСНОГО РИНКУ

ОБ'ЄКТІВ ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ: ДОСВІД ДЛЯ УКРАЇНИ

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The article is concerned with studying the specific features of the modern market of intellectual property objects, and substantiates the directions of development of the processes of protection and commercialisation of intellectual property rights for Ukraine. The authors reveal the role of intellectual property in the development and competitiveness of companies, industries, and countries. The key trends that determine the formation of intellectual property markets are highlighted. The directions of improvement of the existing regulatory framework in the field of intellectual property implemented in Ukraine are outlined. To describe the dependence of the GDP of the largest leading countries on the indicators of their exports, the number of patent applications and the number of grants received, an econometric model has been made. The general trends in the dynamics of applications for intellectual property rights in Ukraine at the present stage are singled out. A number of suggestions for further reform of the intellectual property sphere in the context of post-war recovery are made.

Key words: intellectual property, intellectual property objects, innovative development, intellectual property protection, commercialisation of intellectual property objects.

Стаття присвячена вивченню особливостей сучасного ринку об'єктів інтелектуальної власності, обґрунтуванню напрямів розвитку процесів охорони та комерціалізації об'єктів права інтелектуальної власності для України. Показано роль інтелектуальної власності для розвитку та забезпечення розвитку і конкурентоспроможності компаній, галузей та країн. Виділено ключові тенденції, що визначають формування ринків об'єктів інтелектуальної власності та економічну сутність реалізації результатів інтелектуальної діяльності. Показано провідні форми міжнародного економічного співробітництва у сфері інтелектуальної власності. Висвітлено напрями удосконалення існуючої нормативно-правової бази у галузі правової охорони інтелектуальної власності, що реалізується в межах України, та наголошено на важливості вивчення досвіду провідних країн світу та країн-членів ЄС у досліджуваній сфері. Побудована економічна модель, що описує залежність ВВП окремих найбільших країн-лідерів від показників обсягів їхнього експорту, кількості заявок на патенти та кількості отриманих грантів. Розглянута новітня парадигма інноваційного та науково-технологічного розвитку, обумовлена трендами сучасних процесів техноглобалізму, що спостерігаються на міжнародних ринках. Висвітлено загальні тенденції динаміки надходження заявок на об'єкти інтелектуальної власності в Україні на сучасному етапі у розрізі видів об'єктів, походження замовників та регіонів. Показано, що в умовах повномасштабної російсько-української війни вітчизняна економіка показує стійкість, що дає можливість сфері інтелектуальної власності розпочати відновлення та розвиток і продемонструвати тенденцію поступового повернення показників до рівня довоєнної активності. Запропоновано низку пропозицій щодо подальшого реформування сфери інтелектуальної власності в умовах післявоєнного відновлення, що передбачають удосконалення інституційного забезпечення, фінансування програм публічно-приватного партнерства для формування сприятливих передумов у сфері розробки, захисту та комерціалізації об'єктів інтелектуальної власності.

Ключові слова: інтелектуальна власність, об'єкти інтелектуальної власності, інноваційний розвиток, охорона інтелектуальної власності, комерціалізація об'єктів інтелектуальної власності.

Formulation of the problem. Modern achievements in the scientific and technological sphere are primarily embodied in the fact that the driving force behind social and economic development is intellectual potential. It has already been proven that the modern economy of developed countries is based on knowledge and the application of innovative solutions. The main source and mechanism of development is intellectual activity, which ultimately ensures the creation of material values for society. In the context of globalisation and the rapid development of the knowledge economy, intellectual property is seen as the main resource that can ensure the competitiveness of companies, industries, and countries.

Intensification of scientific, innovative and technological activities is a key factor influencing the growth rate of the number of intellectual property objects and their quality. Intellectual property

combines legal and economic components; it deals with utility, application, and acquisition of rights; it is aimed at economic use in modern competitive business activities, production processes, and trade.

Analysis of recent research and publications. Issues that reveal the essence, purpose and role of intellectual property objects are in the focus of attention of many scholars. Thus, the scientific and theoretical foundations of creation and use of intellectual property are studied by A. Aksiutina, O. Nestertsova-Sobakar, V. Tropin, H. Androshchuk, V. Virchenko, V. Mikulonok, P. Pererva, T. Kobelieva, M. Hliznutsa, N. Horbova. The theoretical aspects and economic essence of the concept of "intellectual property" are studied by T. Moiseienko, O. Korohodova, N. Chernenko.

Development trends and contradictions of the modern market of intellectual property are considered by V. Bazylevych, H. Bratus, T. Husakovska,

L. Rybalko-Rak, N. Kuzhel, V. Diundin, A. Maslylo, S. Holubka, M. Hliznutsa, L. Morhai, I. Chynytska, O. Bondaruk.

M. Hliznutsa and L. Morhai distinguish three components in the structure of intellectual property: intellectual product as a result of creative activity; intellectual property as property rights to the results of intellectual activity; intangible assets. At the same time, the authors identify the steps to form and implement an effective domestic innovation policy, including creating conditions for the use of intellectual property; development of human resources; updating the rules governing intellectual property rights; promoting the development of venture capital business; participation in international technology transfer; and stimulating the development of the research and innovation sector [3].

P. Pererva, T. Kobelieva and M. Hliznutsa describe the specific features of intellectual goods in terms of their relation to market support. The researchers emphasise that intellectual goods to some extent reveal the features of public goods by their non-competitive use and non-exclusivity in consumption [8].

At the same time, I. Chynytska and O. Bondaruk emphasise the need for effective functioning of the intellectual property market, which requires ensuring an appropriate level of investment in scientific and innovative research, in the development of projects and their implementation; development of human intellectual resources; state regulation of compliance with the rules of protection of market participants; and a reliable mechanism for selling products in market conditions [11].

Domestic scientists are studying the principles of formation of an institutional mechanism for the protection of intellectual property rights in the context of integration into the EU markets. In particular, L. Ivashova, L. Antonova, and M. Ivanov argue that the process of reforming the intellectual property sphere is seen as a matter of ensuring market competition, expanding trade flows, attracting foreign direct investment, and ensuring development on an innovative basis [4]. According to H. Androshchuk, inventors play an important role in the innovative development of the economy as carriers of technologies and know-how, generating knowledge and initiating innovative transformations in the technological sector and industry. At the same time, the author notes a rather unfavourable environment for inventive activities and use of inventions in Ukraine [1].

Thus, the scientific debate on the essence, characteristics and role of intellectual property is the subject of active discussions among researchers.

Formulation of the goals of the article (Setting objectives). Since 24 February 2022, Ukraine has been subjected to armed Russian aggression and

full-scale military intervention, which has caused significant human, infrastructural, material and technical losses for the country. Therefore, attention should be paid to the reform of the intellectual property system, which will enable the national economy to develop and restore industrial and civilian infrastructure during the post-war recovery period. This is especially true for the protection and commercialisation of intellectual property rights, as well as the development of effective mechanisms for the implementation of creative and innovative projects.

For Ukraine, improving its intellectual property legislation is becoming a part of its economic restructuring and reorientation towards innovation-based development. Ensuring proper protection of intellectual property will be evidence of the state's support for domestic creators, developers and innovative businesses, a condition for attracting foreign investment resources to Ukraine, as well as evidence of integration priorities. Accordingly, the state should create a favourable environment for developers and businesses to be interested in ensuring the protection of intellectual property rights. The reform of the intellectual property system should help domestic scientists, business representatives, and companies to implement innovative solutions.

The purpose of the article is to study the specific features of the modern intellectual property market and to substantiate the directions of development of the processes of protection and commercialisation of intellectual property rights for Ukraine.

Presentation of the main research material. Intellectual property is considered to be an important component of modern society, encompassing a set of objects. This sphere continues to play an important role in the process of protecting innovative solutions, creativity, and competitiveness of entities at the national or international level. Intellectual property guarantees remuneration for authors and stimulates the development of their scientific potential. Such processes stimulate the development of science, technology, art, and culture, contributing directly to the overall progress of society.

When examining the importance of intellectual property for the successful operation of economic entities, it is worth noting that companies that carry out research and development activities in practice not only create intellectual property, but also gain other competitive advantages. The availability of modern intellectual property objects and their effective management not only protects business activities, but also contributes to the growth of the company's value, increases the size of assets, and provides additional income through the conclusion of licensing agreements.

A common characteristic of most successful companies is their focus on innovation and a certain

awareness of the value of their intellectual property rights. Companies are well aware of the role that patents and trademarks play in achieving a high level of competitiveness and strengthening their market positions. In general, from 45 to 75% of the value of individual successful companies is formed by their intellectual property rights [2].

Intellectual property management is becoming an important modern element of corporate governance. In global practice, the content of a shareholder's portfolio of intellectual property assets is important for mergers and acquisitions, joint development agreements, and licensing agreements. Intellectual assets encourage companies to make strategic decisions regarding their implementation in existing production processes and increase their presence in the markets of new goods, services and technologies.

The development strategies of economically developed countries stipulate that the following key trends have an impact on the intellectual property markets: globalisation, digitalisation, convergence, politicisation of intellectual property, and expansion of the intellectual property sphere.

Globalisation is manifested in the day-to-day operations of companies, which involve international patent and licensing transactions. Global practice shows that awareness of common international practices concerning commercialisation of intellectual property is a key factor in the success of companies. The leading forms of international economic cooperation in the field of intellectual property are as follows:

- international research and development cooperation;
- dissemination of inventions, acquired technical experience and scientific and technological information in the form of descriptions in patents, licences, and contracts;
- international technical assistance;
- international trade in various high-tech goods;
- provision of a range of professional, technical and information services;
- departure of highly skilled personnel and representatives of the scientific community from the country;
- information and technological support for international production of transnational companies.

Today, international trade in high-tech products is growing faster than trade in lower-tech products. Further development of the international exchange of intellectual property is impossible without proper regulatory and legal support and interstate cooperation to ensure the protection of intellectual property rights.

International economic organisations have long developed and implemented a powerful set of international agreements relating to the protection of intellectual property rights. However, in general, the

degree of protection and enforcement of intellectual property rights in different countries is not the same. As intellectual property is becoming increasingly important in international trade, such inconsistencies or discrepancies may lead to tensions in the overall system of international economic relations. Accordingly, well-consistent intellectual property rules and regulations between countries are now seen as the fundamental basis for achieving order and using the possibilities of legal resolution of intellectual property disputes.

Thus, the economic essence of the implementation of intellectual property results is to obtain an appropriate level of income. Firstly, intellectual property can be considered as a production factor, part of the company's resource potential or its intangible assets. Secondly, they can be an independent commodity, i.e. a subject of sale and purchase. Thirdly, in the process of industrial sale of intellectual property, the value of intangible objects is gradually transferred to the value of manufactured products, where the income is a part of the profit received from the sale of finished products created on the basis of modern innovative solutions.

As a rule, a new scientific idea or proposal that appears on the market in the form of an intellectual property object is not always fully understandable for businessmen, investors, or manufacturers and cannot provide a full guarantee of its practical implementation and the expected profit from the implementation. This requires practical implementation and testing of the received innovative proposals, development of new technologies, manufacturing and testing of prototypes in real production conditions, and economic analysis of costs and potential revenues. It is necessary to have a link between the field of science and manufacturers that can turn ideas into a real effective project for the manufacture of finished innovative products, competitive goods, and new types of services [9].

Ukraine, following the example of other developed countries, has chosen the innovative way of development as a priority in determining its own vector of social and economic development in the current geo-economic conditions and competitive space. Ukraine has created and accumulated a comprehensive regulatory framework as a hierarchical system of legal norms on the functioning of intellectual property. As noted by domestic scientists, despite all the challenges, 2022 was marked by a number of important events for the intellectual property sector. Thus, the national institution "Ukrainian National Office of Intellectual Property and Innovation" worked to improve the existing regulatory framework in the field of legal protection of intellectual property. A set of proposals was submitted to the National Bank of Ukraine to preserve the totality of intellectual property rights of domestic individuals and legal

entities, to ensure practical possibilities of paying international fees for filing international applications for intellectual property rights, etc. In addition, considerable work was done to prepare a set of proposals to the draft Law of Ukraine "On Peculiarities of Regulation of Relations in the Field of Intellectual Property during the Period of Martial Law" [11].

Consequently, along with military operations, Ukraine faces a number of other important tasks, including strengthening and supporting European integration processes, i.e. protecting intellectual property that requires harmonisation with the current customs legislation of EU member states.

The EU-Ukraine Association Agreement provides for the protection of intellectual property. Chapter 9 "Intellectual Property" sets out the main objectives [10]:

- simplification of the creation and commercial use of innovative products and products resulting from creative activity in the territory of the Parties;
- achieving an appropriate and effective level of protection and enforcement of all intellectual property rights.

For Ukraine, it remains important to study the experience of EU member states in forming an effective system of intellectual property rights protection, when there are unified registration, information and institutional components that ensure a reliable level of intellectual property protection and the development of a pan-European innovation space, as well as the experience of the United States, which is characterised by the most effective national system of intellectual property protection.

Any economic dependencies can be substantiated by applying modern tools of correlation and regression analysis. We have created an econometric model that describes the dependence of the GDP of the largest leading countries on their exports, the number of patent applications and the number of grants received. The composition of the countries included in the list of world leaders in terms of gross domestic product in 2022 is shown in Figure 1.

The data used to build the model relates to such countries as the United States, China, Japan, Germany, the United Kingdom, France, Italy, Canada, Republic of Korea, Australia, Spain, Netherlands, Turkey and Switzerland.

Thus, we have conducted an analysis to determine the impact of various indicators on GDP: exports of goods and services, the number of patent applications, and the amount of grants received. For this purpose, we used the Python programming language with the scikit-learn machine learning library.

First, we have performed a correlation analysis between these indicators and GDP. The results are presented in the form of correlation coefficients in Table 1.

The results show that all these indicators – exports of goods and services, number of patent applications and number of grants received – have almost the same correlation coefficients with GDP. The number of patent applications, however, demonstrates leadership with a slight difference, having a coefficient of 0.87, compared to the other coefficients, which are 0.79 and 0.78 respectively. The present analysis suggests that all of the above indicators have roughly

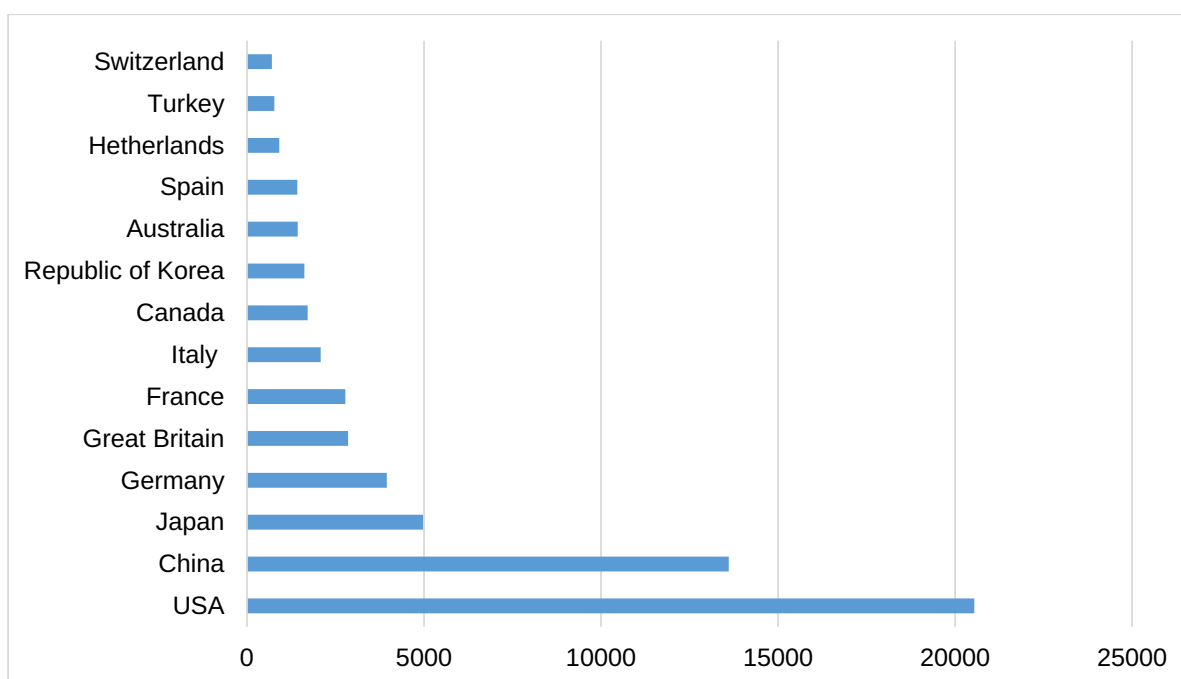


Figure 1. Countries that are world leaders in terms of gross domestic product in 2022

Source: [7]

Table 1

Correlation of the studied indicators with GDP

Exports of goods and services in 2022, billion US dollars	Number of patent applications	Number of grants
0,79	0,87	0,78

the same impact on GDP. However, it is generally difficult to draw such conclusions based solely on correlation coefficients, so additional visual analysis is recommended.

To simplify the visual analysis, it is recommended to normalise all GDP indicators and values. The normalised values are shown in Figure 2.

A visual analysis shows that the number of patent applications and the number of grants awarded better reflect the overall GDP trend, but fluctuate significantly around lower GDP values. Exports of goods and services, on the other hand, show smaller fluctuations around lower GDP values. Nevertheless, the latter are not able to properly reflect the overall GDP trend, as is the case in the US, China and Germany. A new paradigm of innovation and scientific and technological development is currently being formed, driven by the trends of modern technoglobalisation processes observed in international markets. The field of engineering and technology has undergone dramatic changes as a result of scientific and technological progress and the interaction of different technological modes. This newest technological paradigm, in particular its essence and prospects, is determined by promising scientific and technological achievements that have emerged as a result of a successful combination of investment resources and innovative solutions.

The previous well-known paradigm was based on the fact that innovations are produced in the process of the activities of powerful companies or in the environment of a long value chain based on close relationships between the participants in the production process. At the same time, the new paradigm demonstrates that modern production is based on modular knowledge-intensive technologies developed by small and medium-sized companies. Another difference between the paradigms is the following: in the previous paradigm, the key source of knowledge resources is internal structural units of companies, while the new paradigm involves external sources. Consequently, innovative solutions are an international commodity that can be used in practice by business entities in different countries.

Let's move on to Ukraine. A rather important prerequisite for strengthening the competitiveness of domestic intellectual property in global markets is the growth of the scientific and technical level of development and the formation of a truly competitive environment in the domestic market, and the creation of market exchanges in the field of commercialisation of intellectual property.

Today, scientists note a positive trend of gradual return of many domestic indicators to the level of pre-war activities. Consequently, it is advisable to consider the dynamics of the development of the

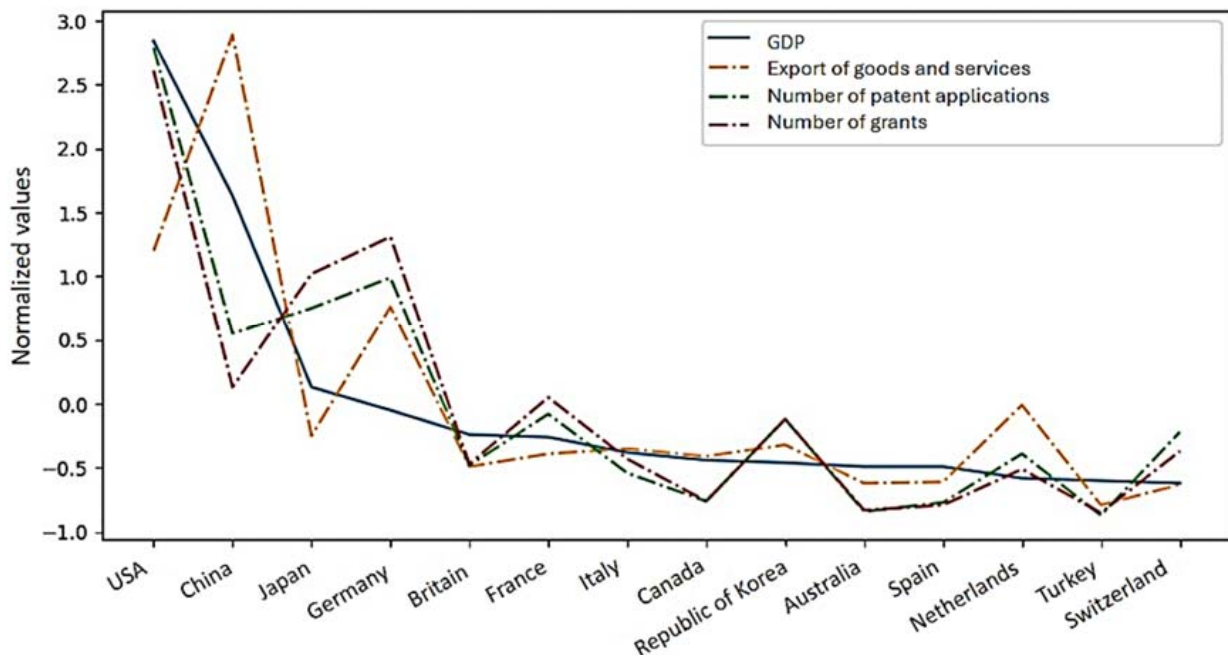


Figure 2. Normalised values of the studied indicators and GDP

domestic intellectual property market through the prism of economic indicators, figures and graphics. Thus, in the context of the exhausting full-scale Russian-Ukrainian war, the national economy shows impressive resilience, which enables the intellectual property sector to start recovery and development.

Let's start with an overview of general trends. Thus, in the first half of 2023, we can observe a significant increase in intellectual property activities, which demonstrates a noticeable trend towards a gradual return of certain indicators describing the field to the level of pre-war indicators. This is shown by the officially published data of the report of the Ukrainian National Office of Intellectual Property and Innovation.

Thus, in the first six months of 2023, more than 15,000 applications for industrial property rights were filed, with the total number of such applications increasing by 51.2% compared to the first half of 2022, including: for inventions +16.2%; for utility models +70.5%; for industrial designs +29.7%; for trademarks (under the national procedure) +55.5%.

The most striking and noticeable trends of returning to the observed level of pre-war indicators can be seen on the basis of statistical data on invention, where there is an increase in activity flows from national applicants, namely by 63%. The total number of applications has almost caught up with the figures for the first half of 2021 (1421 against the previous 1592) [5].

The largest number of foreign applicants came from the United States (26%), followed by Switzerland – 14.1%, the United Kingdom – 12.2%, Germany – 11.4%, Luxembourg – 4.1%, France – 3.6%, the Republic of Korea – 3.2%, China – 2.6%, the Netherlands – 2.5%, Sweden – 2.4%, Japan – 2.2%, Italy – 1.9%, India – 1.8%, Belgium – 1.7%, and other countries, which accounted for 10.3%.

By regions of Ukraine, the distribution of applications for inventions and utility models is as follows: Kyiv city – 26.3%, Kharkiv region – 13.7%, Vinnytsia region – 9.6%, Dnipro region – 8.7%, Lviv region – 7.2%, Kyiv region – 4.5%, Odesa region – 3.3%, Ternopil region – 2.7%, Poltava region – 2.6%, other regions – 21.4% [5].

National applicants are the most active in registering trademark applications (89.1% in 2019, 89.7% in 2023). The mere fact of trademark registration provides an opportunity to increase business awareness and strengthen the competitiveness of goods and services not only within Ukraine but also in foreign markets. During the first half of 2023, the share of trademark applications filed by national applicants under the national procedure increased by 66.6% (compared to the first half of last year) and, accordingly, amounted to 72.3% of the total number of applications filed [5].

We agree that in order to successfully ensure the implementation of innovative projects or programmes, it is advisable, first of all, to create a set of attractive economic preconditions for the commercialisation of intellectual property at the state level. Ukraine should also use the unique opportunity to adapt the best international practices and develop an effective plan for the development of the intellectual property sector. The policy at the state level should include a system for improving the economic, legal, social, organisational, information and other important aspects of research and innovation. Reforming the intellectual property sphere remains an important issue of ensuring a high level of competition, expanding trade, increasing foreign direct investment and the country's scientific and innovative development. Particular attention is paid to the aspects of improving the institutional support for the enforcement of intellectual property rights, which are becoming more relevant in the context of European integration and the implementation of European norms in domestic legislation.

Today, in order to intensify the processes of creating intellectual property objects, the United States and a number of European countries are implementing a set of measures that includes financing public and private partnership programmes between research institutions, universities and industrial companies; creating a network of venture capital funds; tax support for research and innovation and technological activities; compensation for innovation costs; development of infrastructure for research and innovation and transfer of technology; implementation of start-up support projects by various

Table 2

Dynamics of applications for objects of intellectual property rights

	2019	2020	2021	2022	2023 (first six months period)	2023 to 2022
Total	24414	17537	20291	10064	15213	131,2%
Inventions	2021	1453	1592	1223	1421	116,2%
Utility models	5366	2482	2148	1039	1770	170,5%
Industrial designs	1412	991	881	437	567	129,7%
Trademarks (under the national procedure)	15813	12647	15670	7366	11455	155,5%

Source: [5]

institutions, including by research organisations and educational establishments.

At the same time, it should be noted that the national experience in developing and adopting the National Economic Strategy of Ukraine until 2030, which sets out the priority areas for the development of intellectual property in the context of European integration processes, looks positive. Thus, Ukraine is taking effective steps to streamline a number of issues related to the protection and practical use of intellectual property.

Conclusions from the conducted research.

In the context of the global economy, developed countries focus on promising areas of technological development aimed at improving social welfare and ensuring sustainable economic growth. Intellectual products as a result of intellectual activities are the basis for the formation of innovation chains and are considered to be a factor in the development of a competitive economy. The functioning of the intellectual property market involves investing in the implementation of scientific, research and development projects and the implementation of the results obtained in a particular industry; the existence of powerful human intellectual resources; the establishment of rules for the protection of market participants and their state regulation; and an effective mechanism for implementing the introduction of products on the market.

The new challenges for our country, which we view as modern, innovation-oriented and striving to build a strong competitive economy, are the adoption of legislation and the creation of an effective management system based on the best European practices in the context of post-war recovery, as well as the successful implementation of a number of effective measures to support inventive activities and the practical use of intellectual property.

The rapid growth of competition in the international field of patenting leading scientific, innovative and technological solutions, as well as the involvement of new partners in the processes of scientific and technological exchange, increase the importance of compliance of the structure, scope and directions of domestic patenting with international trends and the participation of domestic entities in the processes of international scientific and technological exchange on a parity basis.

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