parameters, which characterize a potential opportunity for adaptation of a company to conditions, when real characteristics of an external environment considerably differ from predicted ones (i.e., characteristics, which allow planning the strategy and the company structure), should play the significant role in the structure of criteria of efficiency of strategic and structural decisions.

Strategic «flexibility» as the most specific way for determination of corporate development priorities related to overcoming uncertainty and non-predictability of an external environment is one of the mentioned goals. In the process of development of a JCS strategy, which constitute participation in integrational processes, managers should take notice of this goal because of very considerable turbulence of a business environment impacted by chaotic modern transformational processes, which are accompanied by crisis phenomena in the national economy. The flexibility can be external (application of a differentiated model of investments) as well as internal (providing liquidity of resources).

UDCC 339.166.5:347.77/.78

DEVELOPMENT OF LEGAL PRACTICES AND LEGISLATIVE NOVELTIES IN THE CONTEXT OF INTELLECTUAL PROPERTY PROTECTION

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In Ukraine, the business more and more frequently understands that it is not possible to promote a good or a service in a market and to compete effectively without protection and preservation of intellectual property rights (thereinafter — IP). *Protection* is referred to as preventive measures. *Preservation* is active actions in a case of violation of IP rights. In providing protection and preservation of IP rights (PPIPR), costs (for receiving legal protection as well as providing maintenance of rights) are highlights. One of the basic principles of IP protection is the following: costs for PPIPR should not be compared to probable benefits from obtaining exclusive rights. Processes, which are subjects to protection, comprise the following: formation and development of intellectual assets; movement of information flows at a company, between companies and an external environment; formation of a portfolio of rights for IP objects; usage of intellectual assets. The government creates only frame conditions for PPIPR. Further, each copyright owner should act by himself. To some extent, development of legal

practices conduces to settling corresponding business problems in Ukraine. Types of the legal firm services in the IP field are listed below.

1. *«Standard services»:* trade mark registration, submission of application for obtaining a patent, drawing up a contract with a distributor regarding trade mark registration, maintenance of validation, prolongation of a validation term of protection documents, etc. However, a mechanistic approach and neglecting specificity of relations in the IP field result in risks of providing «ineffective» service.

2. *Transactional* services, which are applied in order to enhance efficiency of usage of IP by a company, contracts and agreements on IP and IP commercialization (license agreements, agreements on alienation of rights and optimization of taxation regarding IP).

3. *Development of a strategy of complex protection of a business (a project) based on the system approach.* Formation of an IP portfolio and schemes of protection of the portfolio. The service consists of the following elements: patent and information search; due diligence, protection document expertise; analysis of results, revealing risks and determination of ways of their minimization; development of anti-pirate, anti-counterfeit, and other strategies. Each strategy is unique and developed before a company or a product enters a market. There are many types of IP rights violation, mechanisms of protection (a patent, know how, a trade mark; there are own field of application and expediency of usage for each of the mentioned objects), different technologies of application of particular instruments (umbrella-type, blocking patents, etc.) as well as their combination (e.g., trade dress — complex protection of a brand). A choice depends on a set of factors: company goals (usage IP rights in own production, licensing, or the sale of rights), a life cycle stage of IP objects, a product type (patenting is expedient for equipment because of opportunities of re-engineering; a commercial secret regime is expedient for perfumes, et al.), an area (an internal or an external market), a type of contacts with customers (direct contacts; contacts through the mediation of a distributor), etc. It is better to protect an intellectual product comprehensively. For instance, a priority for an idea in the form of an article can be protected by a copyright. Then, it is necessary to register a product in the form of a patent for a utility model, having presented the technical construction in a description. Having refined the model in order to achieve a version being useful for commercial usage, the author can obtain a patent for an invention. An industrial design patent can protect the product design. Further, the author should develop a trademark and use it to promote the product. Better and cheaper protection is prevention of problem arising.

4. A situation, when a problem has already arisen: *protection of rights to IP objects; ceasassion of violations, unfair competition*. For instance, it consists in representation of customer's interests in quarrels at law, in international arbitrage, at a custom service

regarding ceasassion of unfair competition. There are two most frequent types of situations: violation of a right of a client company; another company lays claims to a client company. Versions: a) there are real consequences of a mistake of the company or its former consultants; b) a customer is a victim of fraud scheme concerned with alienation of profits through application of PPIPR instruments (claims of a patent troll, a cybersquatter, an intellectual raider). Expansion of the second type of situations in Ukraine causes the unreasonable increase of expanses for IP protection and restrains its development. The examples are presented below.

Cybersquatter (capture of domain names) — registration of domain names, which coincide with means of individualization or are similar to them, subsequent unfair usage for the resale to owners of the respective individualization means, and gaining profit from parasitizing goodwill or a trademark belonged to another person. For example, Google was in litigation with a limited partnership «Go ogle», which had registered a domain google.ua. Usually, companies prefer to pay compensation (courts are not only an expensive way of renovation of violated rights, but also is that way, which can harm reputation). Lawyers advise two main methods of fighting against cybersquatter: a) demonstration of disinterest in a domain; b) the proof of unfair competition at court. Nevertheless, companies frequently act in the following way: for preventive purposes, a legal owner of a trademark registers all the domain names (close, accordant, or similar to its own). A consequence is *the increase of expanses* of a copyright owner, which will be placed on a customer of products. Such a process encourages counterfeiting, piracy, etc.

A patent troll (PT) is referred to as a company, which buys or registers an indefinite patent in order to file a claim against firms putting into production goods produced with the use of patented elements or to require drawing up a license agreement on extremely unbeneficial terms. In Ukraine, there is own specificity of this unfair competition technology. It is based on usage of gaps in the legislation, which constitutes a declaration principle (only a formal expertise) of obtaining a patent for a utility model («small invention») or industrial design (external appearance, design). The commodity is included in a custom list of IP objects. Importation of the commodity to the customs territory of Ukraine is blocked until an owner will meet requirements of a PT. Odious patents for matches, hanger, filament lamps, etc., are examples of such patents. Only a court can cancel such a patent. However, a PT registers new one and all stage repeat. A norm on reimbursement of losses of all parties by a plaintiff in a case of losing a case in the court was excluded from the Custom Code in 2012. Therefore, a PT anticipates that it is cheaper for a «victim» to pay than to litigate (blocking production output, border wait times, non-fulfillment of obligations, reputational losses, and court fees). There are several advices of lawyers regarding actions in similar situations. Firstly, you should indicate if a company really violates

rights, order an expertise on compliance with criteria of providing protection, and lay a claim on recognition of a PT patent as void one. Nevertheless, such a process needs time (1-1.5 yeas). Secondly, you should try to prove that the company had begun to use a product before the PT submitted an application. This enables to continue production and not to violate rights of «patent owners». However, lawyers state that obtaining analogical patents is the best way of protection (to obtain patents for all process needed for the activity first). *The increase of transactional costs* of producers, which are placed on customers, is a consequence of such «compulsory and protective patenting».

There are cases of application of other instruments for «intellectual racket» (trademarks, copyrights), intellectual raiding. A set of primary legislative novelties is able to considerably enhance a situation in the IP field. In 2015, the government affirmed a plan of reformation of the IP field in Ukraine. It consists in development of drafts of legislation in the following directions: regulation of copyrights on the Internet; regulation of matters related to collection and paying royalties to organizations for cooperative management of rights; patent tolling; simplification of IP protection in the IT field; strengthening the liability for violation of IP rights. The developed draft of legislation regarding patents for industrial designs contemplates more strict requirements for pretenders for such patents, the more thorough expertise, and electronic publication of an application after the formal expertise. It is expedient to implement a norm regarding prohibition of repetitive registration of the industrial design, which was already recognized as void one. Consequently, settling a set of problems of IP field functioning in Ukraine is possible owing to combination of further development of legal services in the IP field and public administration measures (primarily, quickening announced legislative novelties in the IP field).

UDCC 330.1:347(464)

PROBLEMS OF FIGHTING AGAINST CORRUPTION IN UKRAINE

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The Ukrainian society has discussed fighting against corruption for a long time. Corresponding laws, conceptions, and programs for fighting against this shameful phenomenon have been accepted on government level more than once. Nevertheless,