

## ORIGINAL PAPER



DOI: 10.26794/2220-6469-2021-15-1-6-13  
UDC 338(045)  
JEL O3, O34

## Intellectual Property: Issues of Introduction into Circulation

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### ABSTRACT

The article discusses organisational and economical methods of implementing intellectual property into civil circulation. The introduction of intellectual property will be legal and can be used for commercial purposes in the future. The ultimate goal of commercialisation of intellectual property is to profit from scientific, technical and innovative activities by organising the production of high-tech competitive products. It is necessary to have a qualified team of managers capable of developing and implementing the most optimal business strategy, within which a large number of tasks related to market research (marketing and patent research), the formation of a portfolio of intellectual property objects, the choice of economical ways of their maximum legal protection will be solved, as well as the choice and implementation of specific ways of introducing the IPO into civil circulation, continuous monitoring on the market and, if necessary, the adoption of protective measures.

**Keywords:** intellectual capital; intellectual asset; copyright; intellectual property; intellectual property; results of intellectual activity; commercialisation

**For citation:** Kupriyanova L.M., Sokolinskaya N.E. Intellectual property: Issues of introduction into circulation. *Mir novoi ekonomiki = The World of New Economy*. 2021;15(1):6-13. DOI: 10.26794/2220-6469-2021-15-1-6-13

The practice of the developed and developing nations of the world demonstrates that the commercialization of R&D should be undertaken by technology transfer professionals working in the structures directly created for the task. They were named TTO [Technology Transfer Offices]. TTO perform the following functions:

- pay annual fees for patents, fees for services charged on patent applications;
- protect property rights against possible violations of these rights;
- issue licenses for patented IP;

Assign royalties in relation to a previously defined distribution pattern between the inventor(s) IP and TTO, the university or institute where the IP was created [1].

European practice shows that, hypothetically, after 6–9 years, TTO can become self-sufficient, although they are not created as self-supporting centers. The gross collection of royalties and royalties may amount to 1–3% of the annual budget for the R&D of the respective university, institute or other research centres with a well-functioning TTO. The economic benefit of the work of TTO is not in the form of substantial royalties, but in the fact that new high-technology medium — and small-sized organizations end up with commercialization

procedures, for high-quality jobs are created with high pay, and tax revenue increases as a result of additional economic activity. In the Russian Federation the development of TTO is just beginning. In the USSR, patent offices and other structural units of research institutes and universities were the prototype of the TTO. But these departments did not look for buyers, partners, and commercialization. Their function was to file patents, obtain patents, assess the patentability of inventions. This list of functions has been retained to date. In fact, the number of technologies purchased remains very low, despite the successful development of the patenting process [2].

Currently, the Russian Federation makes extensive use of various State regulatory mechanisms in the field of science and innovation (*see fig. 1*). As can be seen from Fig. 1, these mechanisms are mainly of a legal nature.

However, the establishment of economic and institutional mechanisms to regulate the introduction of intellectual property into economic circulation should not be overlooked. The establishment of an economic mechanism is closely linked to the cost-effectiveness of the introduction of intellectual property into economic circulation, profitability and profitability in their direct operation, the way

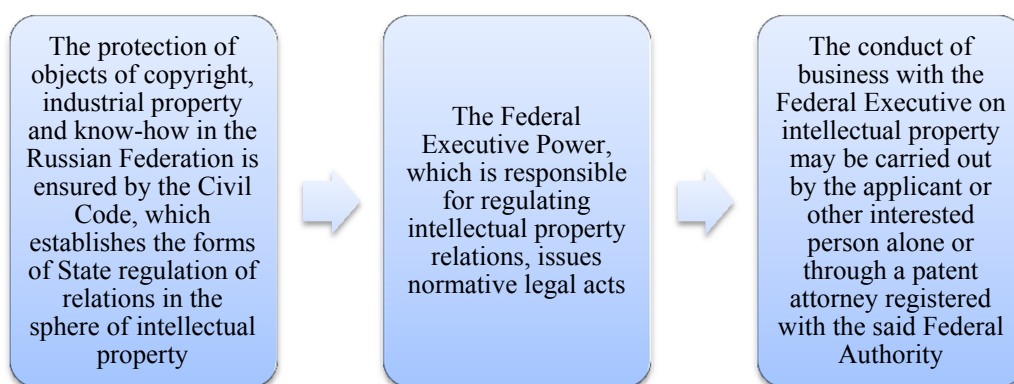


Fig. 1. The legal mechanism for regulating relations in the field of intellectual property

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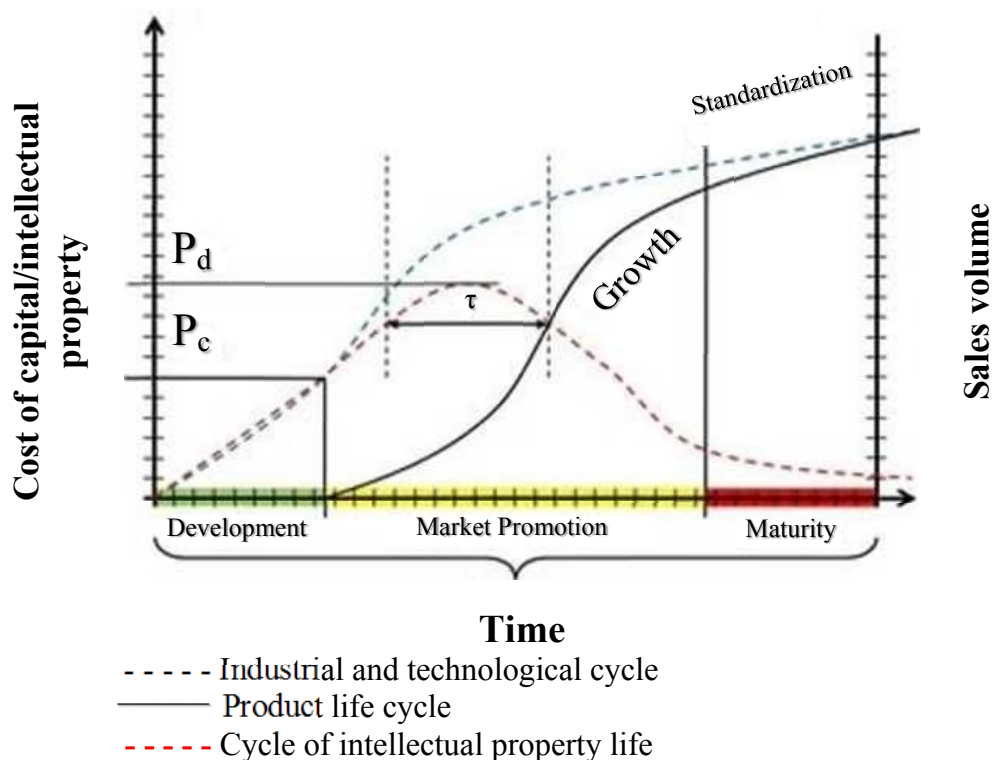


Fig. 2. Changes in the value of IP and technology over the life cycle

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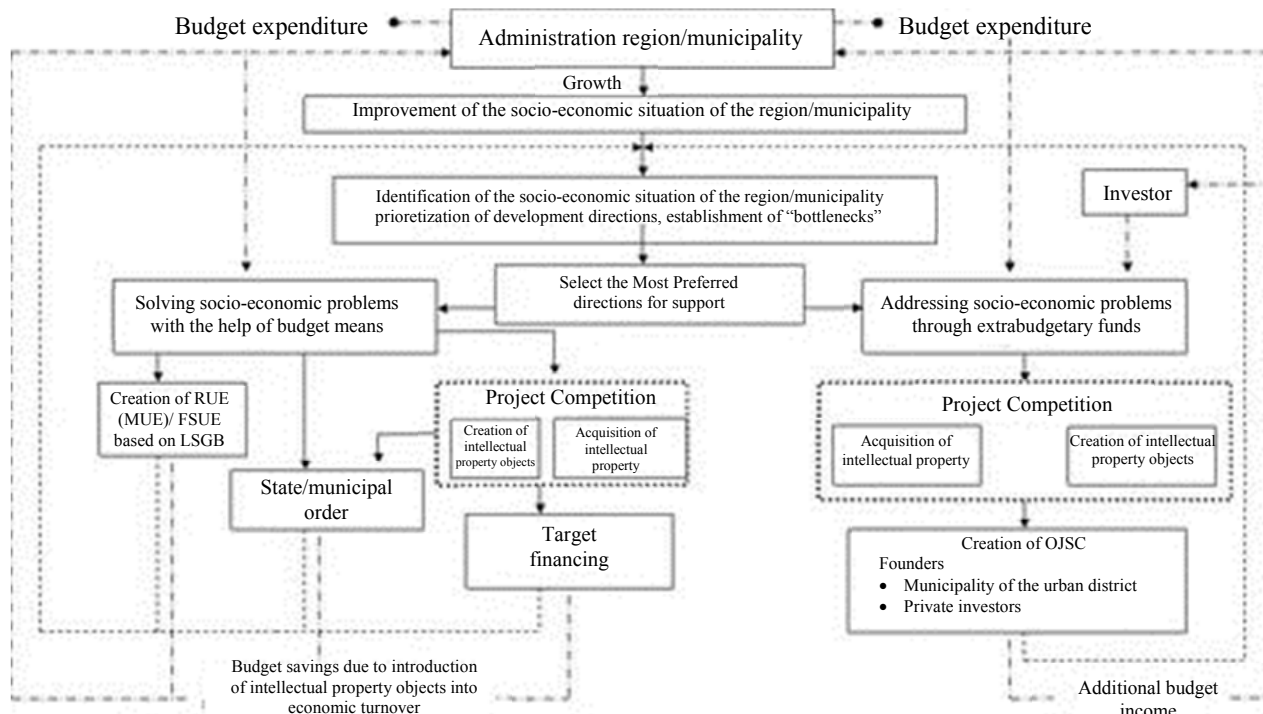


Fig. 3. Participants in the process of introducing IP into circulation

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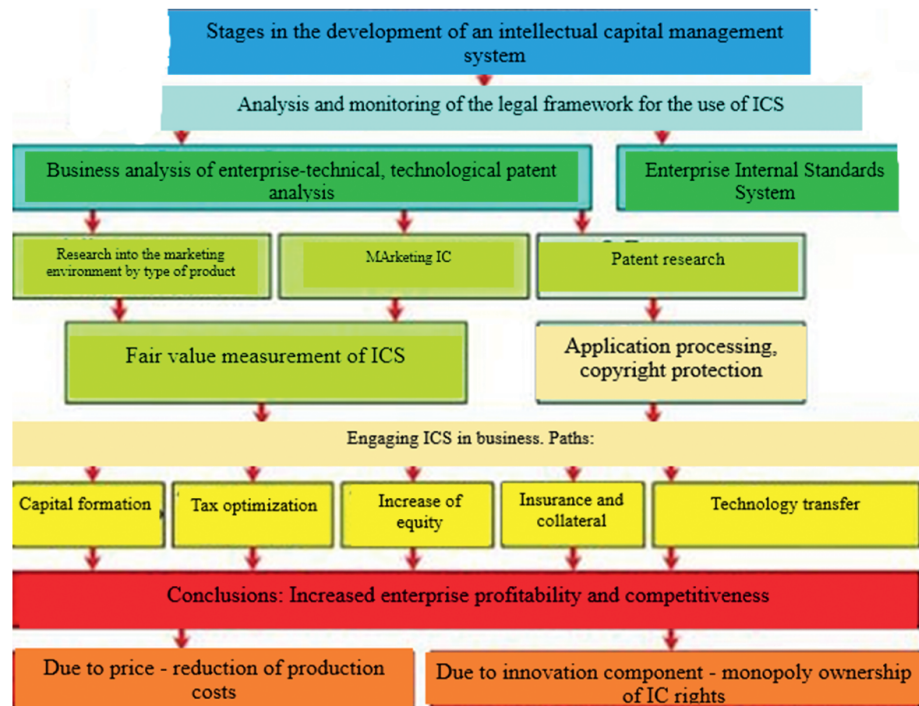


Fig. 4. Management system for intellectual property objects at a single enterprise

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in which intellectual property objects are valued and revalued, with changes in the cost of IP and technology over the life cycle (see fig. 2).

The institutional mechanism should identify organizational structures and their relationships with each other, stakeholders, sources of resources, documents, documents circulation and job descriptions with deadlines for the processing of documents on the introduction of intellectual property objects into the economic turnover (see fig. 3).

It is also a matter of principle to establish a system for managing the intellectual property of a single enterprise (see fig. 4).

To date, it can only be said that intellectual property objects are related to a certain type of document (see fig. 5).

The current set of mechanisms, fundamentally different in nature from one another, illustrates the ambivalence and degree of imperfection of current public innovation policies.

Improvement of Russian science and strengthening of its innovation orientation

should be based on effective legislative and regulatory application of commercialization of intellectual property (CIP).

Incorporation of intellectual property rights into civil circulation is considered an integral part of the intellectual property management process [3].

The process of introducing intellectual property into civil society in the world is developing rather intensively. As the world practice demonstrates, the price of some CIPs reaches up to tens of billions of rubles.

Intellectual property accounts for more than 50 per cent of the total money of industrial companies and organizations, and the amortization of intangible assets can be considered a sustainable source of funds for reproduction on a current technological basis.

The establishment of a suitable legal framework for the promotion of CIP civil traffic, created with public funds, purposefully requires special mechanisms (methods) to ensure cooperation between developers and customers, as well as legal

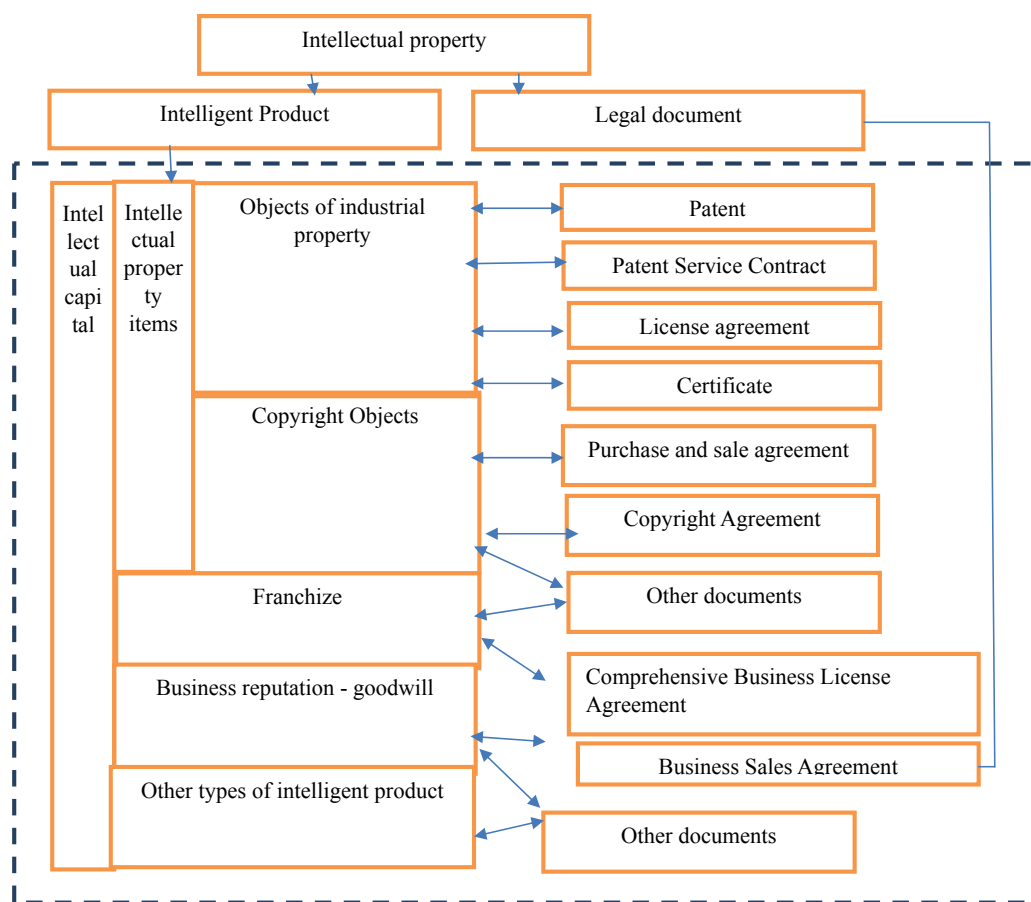


Fig. 5. The interrelation of intellectual property objects with issued documents

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mechanisms for the transfer of innovations that promote the effective commercialization of CIPs. The main variations of the introduction of intellectual property in civil traffic are considered to be:

- transfer of rights to implement CIPs in coordination with licensing agreements, right to use business secrets (know-how) and complex business licensing agreements (franchising);
- increase in equity capital from intangible assets;
- pledge or surrender of rights.

Next, consider in more detail how to introduce intellectual property objects into civil circulation (see fig. 6).

Forms of introduction of CIP may include manufacture, use, storage, offer for sale,

import, sale, repair, lease, maintenance, leasing, etc.

One way is to use CIP in their own production, usually as part of a defensive and motivational strategy, as well as a strategy to optimize financial and economic activities. This method is aimed at increasing the competitiveness of the enterprise as well as stimulating the creative activity of the staff. It allows full control over the use of the results (including the necessary adjustments for any stage of production), and maximize economic benefits in the production of final products [4].

The creation of an intellectual property licence contract enables:

- establish a statutory fund of a sizeable size, without drawing on money or other property;

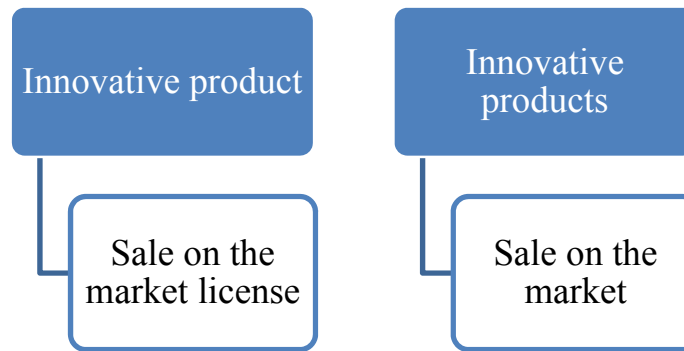


Fig. 6. Methods of conducting intellectual property objects into civil circulation

Source: the authors' compilation.

- amortize intellectual property and replace it with real money;
- use intellectual property in their activities, including in the form of credit security or rights of use to third parties.

If the company or firm has decided to transfer the rights to use the intellectual property under a licence or other agreement, they should take the following actions:

- to ensure once again that they are the sole rights holders of CIP;
- where there are several CIP rights holders, each right holder must give written consent to the licensing;
- to estimate the value of CIP rights and the value of the licence, for which purpose to hire an experienced valuer;
- recognize the value of CIP in accounting as intangible assets if they have not been previously recognized;
- to draw up a licence or other contract for which an experienced professional or contract preparation is to be contracted by a consulting company specializing in this field;
- draw up an agreement on the right to use CIP itself (recommended if the owner has experience);
- register a license agreement signed by the parties for the right to use industrial property [5].

The need for a monetary assessment of such intangible contributions leads to the need to verify the valuation of property

contributed as a non-monetary contribution to the statutory fund of the legal entity. In addition to including a specific reference to the nature of the contribution in the statutes, either a licence agreement or an assignment of an exclusive right under the law is negotiated.

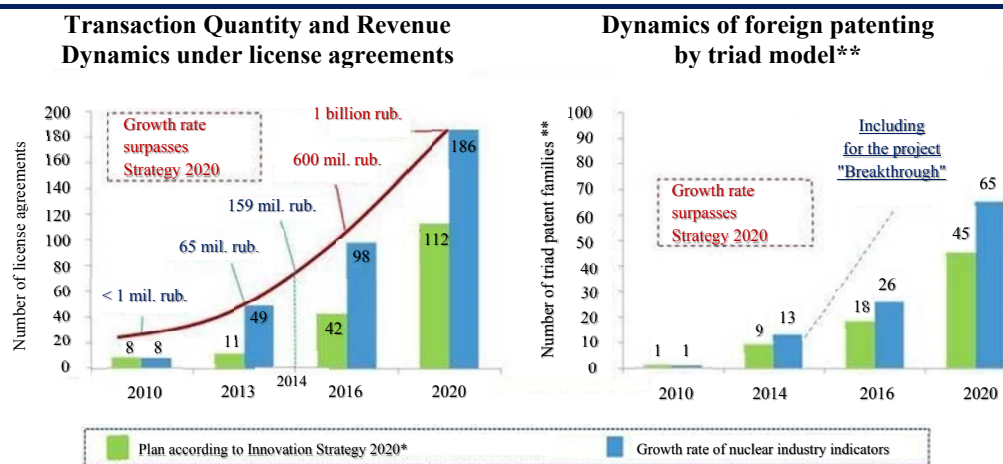
Proper valuation of intellectual property rights and their reflection in the accounting of an enterprise are considered important requirements for entry into civil circulation [6].

The pledge of rights in some intellectual property may be made for the purpose of obtaining loan funds from the right holder, but this practice has not yet been widely applied. Intellectual property rights are granted under a patent and licensing strategy. This means transferring CIP property rights to a new right holder.

Documentary evidence of the creation of CIP, the valuation of CIP and the competitiveness of the CIP product, the existence of CIP rights are considered important for the introduction of intellectual property into civil circulation. Documentary evidence of the formation of an intellectual property object means that the CIP should be described in an amount sufficient for its practical realization or be materialized in some other known way.

The right to the outcome of scientific and technical work (including intellectual property) must be evidenced by documentary evidence:





«Historical» risks		New Intellectual Property Management Rules	
A.	Non-availability of patent portfolio of technologies and products	A.	All decisions regarding the results of intellectual activity are made <u>taking into account the appearance of the final product</u>
B.	A substantial amount of information disclosed	B.	Strategy of protection and commercialization of the results of intellectual activity already at the stage of ordering products of research and development works <u>taking into account corporate and state interests</u>
C.	Terms of patent protection abroad expired	C.	The decision to obtain a patent is made taking into account foreign patenting <u>in all potential countries of supply</u> (competition)
D.	Legal risks: relations with authors and third persons are not settled	D.	Building an efficient <u>corporate IP management system</u>

\* The level of growth envisaged by the strategy of innovative development of the Russian Federation for the period up to 2020

\*\* Triad Patent Families - patents obtained in the USA, Europe and Japan and applications filed for patenting in the territory of these countries

Fig. 7. New IP management model until 2020

Source: URL: [http://images.myshared.ru/24/1272142/slide\\_4.jpg](http://images.myshared.ru/24/1272142/slide_4.jpg).

- license contract;
- contract for the creation of scientific and technological products;
- contracts with the municipal customer or other administrator of municipal funds for the management of the scientific and technical work generated from these funds; договора уступки прав;
- other treaty(s) affirming the rights of an individual or organization to CIP [7].

The assessment of the competitiveness of a product containing CIP is developed through promotional and patent research to determine the financial feasibility of placing it on the market.

Results of intellectual property valuation are reported in the evaluation report: evaluation task, method of estimation, basis

of estimation (type of estimated value), evaluation characterization (calculation and initial data, characterization of the object and results of its use), value of intellectual property.

It is important to provide comprehensive support for the implementation of intellectual property. For example, Rosatom proposes a new IP management model (see fig. 7), assessing the negative side of the existing practice (which includes historical risks) and inviting all decisions on Results of Intellectual Activity (RIA) only taking into account the final product and foreign patenting in all potential competitor countries under a rigid corporate system of intellectual property management. This proposal is the same as the authors' submission.

## REFERENCES

1. Biryukov P.N. Intellectual property law. 3<sup>rd</sup> ed. Moscow: Yurait; 2019. 315 p. (In Russ.).
2. Boguslavskii M.M. International private law. 7<sup>th</sup> ed. Moscow: Norma; INFRA-M; 2019. 672 p. (In Russ.).
3. Kupriyanova L.M., Nikolyukin S.V. On the issue of some aspects of the legal regime of industrial property. *Sovremenniy yurist = The Modern Lawyer*. 2020;(3):28–35. (In Russ.).
4. Kupriyanova L.M. Effective model of intellectual property commercialization. *Mir novoi ekonomiki = The World of New Economy*. 2019;13(1):104–110. (In Russ.). DOI: 10.26794/2220–6469–2019–13–1–104–110
5. Nikolyukin S.V., Kupriyanova L.M. Turnover of intellectual results: The economic and legal aspect. *Sovremenniy yurist = The Modern Lawyer*. 2020;(1):81–92. (In Russ.).
6. Gavrilov E.P. Legal protection of intellectual property as an integral part of civil law. *Patenty i litsenzii = Patents & Licenses*. 2004;(5):9–15. (In Russ.).
7. Kupriyanova L.M., Nikolyukin S.V. On the issue of liability for violations of copyright, related and patent rights. *Sovremenniy yurist = The Modern Lawyer*. 2019;(2):53–67. (In Russ.).

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*The article was received on 29.10.2020; revised on 23.11.2020 and accepted for publication on 15.12.2020.*

*The authors read and approved the final version of the manuscript.*