

Issues of Commercialization of Intangible Property Rights in Russia

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Abstract: The article considers trends in the development of the information economy. The analysis of the level of commercialization of intangibles in the medium and large Russian companies took place. Problems of commercialization of intangibles in the Russian Federation were detected.

Key words: Information economy • Commercialization • Intangible property • The brain drain

INTRODUCTION

In each historical period various forms of property dominated the economic development (Table 1). The property is a fundamental concept of economic science. Its backbone role tells about the form of the state structure and the direction of economic development.

In the information economy intangible value is the dominant and competitive advantage is achieved in the most developed countries of the world through knowledge, skills and creative solutions and hence intangible property.

We understand intangible property as the relations concerning property which does not have a material covering, or the cost of the covering is negligible, but the property has potential value or the ability to generate income and believe that intangible property consists of 3 groups: intangible assets, intellectual property and unidentifiable objects of intangible property.

Table 1: Dominants in economic relations in the societies of different type [1]

Before industrialization	Industrialized society	Information society
		physical assets
physical assets	physical assets	+
	+	financial assets
	financial assets	+
		intangible assets
		+
		information, knowledge, technology

Today, businesses connected not with production and post-industrial activities, where the main factor of production stands intangible property of the enterprise became the most profitable. Intellectual company currently can generally not allocate funds in their traditional sense, as tangible assets begin to supplant the intellectual assets and current assets are displaced information. This is confirmed by the market capitalization of the most expensive company in the world in 2012-American Apple Inc. in the course of trading in New York 10.04.2012 it for the first time exceeded 600 billion dollars [2]. Besides Apple, only five American companies reached similar cost-Microsoft, ExxonMobil, Intel, Cisco Systems and General Electric.

As you follow the way of information development, the ruling class in the information society becomes the class of netocrats-creators and owners of intangible property. Power is leaking from the hands of the owners of tangible capital and proceeds to the supervisors of the social information networks (Fig.1).

In the information economy a factor of production «work» is replaced by factor of production «intellectual capital», which explains the distribution of intellectual labour, information and knowledge.

Commercialization of Intangible Property: In our opinion the commercialization of intangible property will solve the serious problems of the modern Russian economy, such as low competitiveness of manufacturers, labor market problems and the brain drain, the increase in assets of the company. Commercialization of intangible

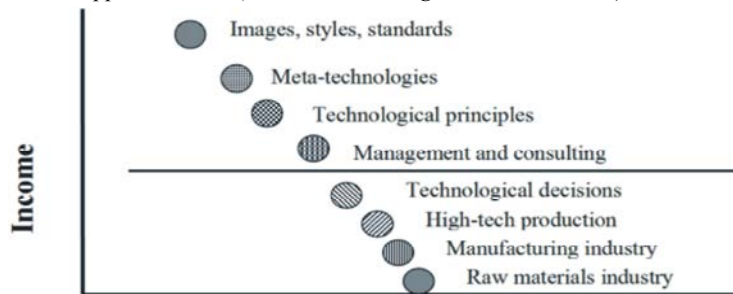


Fig. 1: Modern hierarchy of global business.

property allows increasing the amount of assets of the company, making it more attractive for investors and as a consequence more competitive.

Liquidity of intangible property grows together with its commercialization; the company may pay higher wages to the creators of intellectual goods in the commercialization of the property which reduces incentives to a brain drain.

Now in the USA the share of the information sector accounts for 60% to 75% of the country's GDP, the structure of employment in the global market is distributed as follows: 37%-the EU countries, 33%-USA, 15%-Japan and 15% to other countries [3]. British economists R. Brown and A. Julius claim on the basis of the conducted research that by 2020 the proportion of workers in the sphere of material production will be less than 10% of the total employment figures [4].

According to the estimates of the consulting company Interbrand the ratio of tangible and intangible assets in 2008 is: British Petroleum-30:70; the IBM company-17:83; Coca-Cola-4:96 [5].

The change of dominants in the structure of assets had not yet occurred in Russian companies. The share of intangible assets on July 1, 2013 makes not more than 0.29% of the property of domestic large and medium-sized enterprises (assets of large and medium-sized enterprises amounted to 122718 bln rubles and intangible assets-360 bln rubles on 1 July 2013) [6]. The information sector of Russia produces only 5-7% of GDP, which is 0.3-0.5% of world GDP [7]. Obvious underestimation of the total goodwill by domestic management, the lack of any meaningful effect of intangible values on financial and economic activity of Russian companies. In the structure of investment the share of intangible amounts to less than 0.5% [8]. According to experts only 10% of the research is being patented in Russia and only 2-3% of them commercialize, which leads to a huge underestimation of the intangible component of Russian business [9]. These figures show that the tendency towards a change on the issue of valuation of intangibles in the nearest future is missing. This is largely due to the lack of an

effective mechanism of identification, assessment and management of intangible property in general and intellectual property in particular. Subjective obstacles to the involvement of intangible property into the economic turnover contribute to the leak abroad and domestic economic environment and Russian business community are deprived of the most important competitive advantages.

External Problems of Commercialization of Intangible Property: We distinguish following external problems of commercialization of intangible property:

- Methods of valuation activity in parts of the valuation standard of intangibles are not implemented in Russia.

While selling the company it turns out that they are ready to buy it at a price much higher than its carrying value. According to the financial report of Microsoft, when in 2001 its market capitalization amounted to 380 billion, the own capital of the company amounted to 47,289 billion, i.e. approximately 8 times less [10].

Valuation of intangible property in general and its individual components is the subject of heated discussions. The variety of approaches proposed by different developers and implemented in the form of normative documents (methodologies), actually leaves no room for reaching a reasonable compromise of the parties. Unification of requirements for the assessment and strengthening of these requirements in the special standard would inevitably mean that outside of the standard there will be many of the currently used methods and even entire schools. Therefore, we have proposed the matrix method to determine the most appropriate methods. Matrix method does not rely on a single method of evaluation and uses multiple acceptable ones and determines the average level of applicability of the evaluation method, which reduces the error of the estimates. We consider it necessary to prescribe valuation techniques in the legal literature for resolving the

problems of assessment in the information economy; and the right of selection of a particular technique should be left for economic entities. We believe that the current value of the asset is estimated, as a rule. Appraisers tend to simplify and to reduce the task to determining the cost of an intangible asset at the current moment. For management specialists estimation is to determine the royalty rates or lump-sum payment, satisfying simultaneously the licensor and the licensee. The potential value and the possibility of its increase must be also considered when evaluating in the information economy.

The Complexity of Depreciation of Intangible Assets:

The law does not recognize the revaluation of intangible assets and as a result of depreciation, the situation is possible when the value of goodwill may become equal to zero, though it is actually only increased significantly. We believe that it is important to bring the accounting of depreciation and revaluation closer to the standards of IFRS, because there are assets that do not absorb, but change its value. Elimination of this contradiction is possible because of its dissension and subjectivity; the easiest way is the approximation of norms of accounting regulation to IFRS.

Imperfect Legislative Framework in the Russian Federation Concerning the Regulation of the Rights to Intangible Property:

Legal protection of intangible assets in Russia is far from perfect and creates the possibility of legal activity of professional «interceptors» of trademarks in the domestic market, from which neither foreign nor domestic owners of patents and brands are protected. Even in the case of protection of exclusive rights in the Chamber of patent disputes of Rospatent, in the Federal Antimonopoly service and/or in the court to determine the damage resulting from infringement of intellectual property rights and especially to recover it is hardly possible. It is very difficult to apply the category of «property» and standards of proprietary rights to results of intellectual activity. The attempts of their straight-line use in the information sphere have led and continue to lead to opposite results. The existing legislative base does not allow commercialize the whole array of intangible property rights in the information economy. Not even all intellectual property could become a part of intangible assets, non-identifiable part of intangible assets particularly. The way of overcoming is a gradual improvement of legislation and bringing it closer to the economic essence of intangible property manifested in the inclusion of larger part of the objects of

intangible property into the category of intangible assets. The perfect start ("intangible property" itself) and the form (real medium) practically do separate with the help of legal norms regulating the relations of intangible property. These restrictions limit the sphere of relations of the intangible property and do not adequately reflect their essence, which is one of the system-wide contradictions for this type of property (between economic substance and legal form). Buying the disk with the film, you get exactly the material carrier and the right to broadcast it on the public is not transferred to you as this right belongs to the creator of the film. Conflict resolution is quite real, because it is subjective and not antagonistic. As this main contradiction is the main, it generates the next ones.

Inner Problems of Commercialization of Intangibles Include

A Tax Increase: On the one hand an enterprise benefits from increasing assets in the information economy, on the other hand, when it does not set the task of attracting investment or loans, the increase in assets increases the tax base. The current size of intangible property is undervalued by the thousands. For example, according to an Interbrand study, the cost of MTS brand in 2008 was estimated at 6916, 91 million rubles [11] and on the balance of MTS intangible assets amounted to 378, 37 million rubles [12]. The figures show that the value of the trademark MTS is not considered in intangible assets or considered heavily discounted. The contradiction is also a subjective, non-core and not antagonistic, which means that there is a possibility of remedy by conducting a more balanced fiscal policy.

High Transaction Costs: The costs can not only be of a monetary nature, it is also a significant factor though (payments can be not only one-time, but repeated annually), but also costs associated with loss of time, preparation of documents, overcoming bureaucratic delays, etc. This contradiction is surmountable, not antagonistic, subjective, but the main one, which means the necessity to overcome it in the first place. The procedure of registration of intangible property must be accessible and comprehensible.

Overcoming of Problems of Commercialization of Intangible Property: These problems form a «network of effects» that blocks the benefits gained during the implementation of intangible property. To surmount the network of negative effects, it is necessary to resolve the problems considered as the main, such as: imperfection of legislative base, high transaction costs, complexity of the

evaluation-because they are the root for the other problems associated with intangible property. Elimination of the network of negative effects will allow Russia to build an efficient economy in the information society.

According to the famous Russian marketer A. Bravermann, only the marketing strategies represent a significant reserve for the growth of capitalization of Russian companies [13]. The Russian Association of Marketing (RAM) conducted a survey of more than 300 foreign companies from different sectors of the market, successfully working in Russia. Calculations made by RAM researchers, relating to the quantitative impact of marketing strategy on the level of capitalization, showed that the marketing strategy of satisfying the requirements of investors can increase the market value of Russian companies by 11% in the engineering industry, by 22% in trade and woodworking, by 19% in the food industry, by 16% in the textile industry; the average value of the marketing reserve capitalization amounted to 18%, according to the RAM Research Center [14].

CONCLUSIONS

In our opinion, this trend preserved today and the reserve of capitalization due to the active development of marketing strategies in recent years, has increased on average. We believe that using the intangible property will increase the market capitalization of the companies, which will provide them with a competitive advantage in the information economy and show the value of the companies realistically taking their market potential into account.

Neither capital nor inventories are the source of wealth and the resource of the modern enterprise in the information society. These are intangible resources that you need to multiply in the first place. Information and creative personality are becoming the basis of prosperity of modern corporations, while loyalty of leading scientists, engineers and managers for the production of science-intensive products has become a major problem of management of creative organizations.

The first is to take a notorious position and prohibit exit, which is incompatible with the scientific and technical creativity and looks like a complete anachronism in the age of informatization, globalization and development of the Internet. It will lead to nothing but to the termination of the activity on creation of intangibles and the final breakdown of the research teams with the loss of entitlement for the results of R and D, as well as provoking the further departure of Russian specialists to work abroad.

The second is to lead a historically inevitable process of inclusion of Russia's intellectual potential in the transnational structure of high-tech production of the global information society in order to take in the global labour market niche of one of the producers of non-material resources.

And here is no principle difference with the supplier of the raw materials. Finally, the third way is to establish a methodology to assess the intangible property and accounting of the value of companies, then intangible property would be an asset in the full sense of the word and will have greater liquidity, which will allow to pay decent price to the creator of intangible property, competitive on the world market, therefore the incentive to «brain drain» will no longer exist.

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