putting limitations on the circle of personnel who may work with it, etc.).

One of the effective measures for protecting commercial secrets is depositing several documents with a notary, who is not allowed to render them to third parties. This may secure information indicated in such documents from leakage because of uncontrolled handling.

Substantial advantages of choosing concealment as a method of technology protection are:

— lack of necessity to interact with state bodies;

— short time of taking appropriate measures;

— possibility to broaden the subject of technology without necessity to obtain additional permits/other documents from state bodies.

On the other hand the important disadvantage of such a scheme is the probability of leakage which would result in practical impossibility to protect intellectual property rights because of two reasons:

— a third person may refer to lack of its fault regarding obtaining the commercial secret which should result in impossibility of claiming damages;

— a third person may refer to the fact that the arguable information has lost the status of a commercial secret because of such leakage which should result in impossibility of state guaranteed prohibition to use the technology.

The said problems may be solved by applying the other method of technology protection — patenting. The main concept of it is to disclose invention with the purpose to show the third parties what they are not allowed to use without a special permit.

To obtain a patent as a title of protection inventor should submit an application to the specially authorized body — State Service on Intellectual Property (hereinafter — SSIP) — which is about to verify the bulk of documents rendered and carry out expert examination of the invention which may result in issuing/refusal in issuing a patent.

There are two basic patentable objects:

— invention;

— useful model.

The main difference is that to be patentable an invention should meet 3 criteria — novelty (i.e. at least some aspects of its must be new), industrial application (i.e. susceptibility to industrial purposes) and inventive step (i.e. it should not be obvious for the specialist in a certain area) while useful model may meet only two of them — novelty and industrial application.

Since the invention is regarded as more profound the law:

— grants twice as long for its legal protection (20 years instead of 10 years for useful model) and

— allows inventors to combine several connected technologies within single patent which is not allowed in case of useful models.

Nevertheless, the procedure of obtaining a title in case of invention is much more complicated: the inventor should take not only the stages of preliminary and formal expert examination

## COMMENTS

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By virtue of the special features of results of intellectual activity (their non-material nature), commercialization of objects of intellectual property directly and exceptionally depends on those legal guarantees, which are obtained by a subject of intellectual property rights.

National legislation on protection of the rights on inventions has been changing incessantly in recent years in its approach to European standards; however, there are quite a lot of problems in this area today. For example, it is possible to name among them the absence of clear regulation of terms within the procedure of patenting inventions. In connection to the above, the patenting procedure in Ukraine can last for more than 5 years, while, for example, in the USA it lasts up to 2 years.

Also, the clear, justified and approved with worldwide practice criterias and methods of determination of an actual economic value of inventions are absent in Ukraine. This causes problems with evaluation of financial losses of subjects of the right on an invention in case of breach by a third party.

The legal regulation of relationships regarding on-duty inventions is imperfect as well. For example, the provisions of the ***On Protection of the Rights on Inventions and Useful Models Act of Ukraine*** are not concerted with the ***Civil Code of Ukraine*** in the part of distribution of rights between an employer and an employee. In turn, in the USA an employee has the advantage in order to stimulate an invention.

Moreover, the existing provisions of the legislation regarding on-duty inventions do not provide a balance of interests among an employer and an employee: they do not set the criterias of evaluation of economic value of inventions, the size of an employee's reward, the contents and the order of implementation of an employer's preemptive right to purchase a license, etc.

We believe that the abovementioned problems result in a lack of profit and major risks of innovative activity for the majority of subjects of private-legal relationships in Ukraine.