Intellectual Property as the Basis Scientific and Technical Cooperation States and Their Associations

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Abstract. This article is devoted to the problems of legal regulation of relations arising on the rights to the results of intellectual activity. Today it has become clear that intellectual property contributes to technological progress, economic growth and improvement of living standards of the population. In this regard, scientific research and technical achievements are given increased attention, both individual States and their associations. Moreover, some results of intellectual activity can be obtained only if the efforts of specialists from different countries are combined, and some projects can be implemented exclusively by joint means of States and business. All this leads to the idea of international scientific and technical cooperation, which can be effective in the development and adoption of balanced legislation that meets the interests of all stakeholders.

1. Relevance of the research topic
Currently, the actual strategic objective of the economy of Russia and all member States of the Eurasian economic Union [9] is the development of industrial high-tech production, development and development of new high-tech and information technologies and accelerated formation of market relations in the industry to obtain competitive products and ensure the interests of national economic security through the preservation and development of industrial and scientific and technical potential. In particular, the Annual report of the Integration club under the Chairman of the Federation Council for 2015 on "Scientific and technical cooperation as a factor of Eurasian economic integration" noted that "scientific and technical cooperation is of fundamental importance for the progressive development of Eurasian economic integration and the implementation of national interests of the EAEU and CIS member States. After all, today it is the achievements of science and technology that determine the dynamics of economic growth and the level of competitiveness of States, strengthen national security and expand opportunities to improve the quality of life of citizens" [2].

2. Problem statement
In order to further improve the Russian and international (within the framework of integration associations with the participation of Russia) legislation on scientific and technical cooperation, it is necessary to consider the experience of the European Union in the field of legal regulation of intellectual property, taking into account the fact that the European Union is the most successfully
functioning and dynamically developing international regional organization, having a significant specificity, both institutional plan and political and legal nature [1].

3. **Introduction**

The legislation of individual States and international acts do not contain a definition of "scientific and technical cooperation", since it is very difficult to give this definition in normative acts because of the variety of forms of such cooperation. The Civil code of the Russian Federation contains the concept relating to scientific and technical cooperation, but it is rather narrow as concerns only the contract for performance of research works according to which the contractor undertakes to carry out the scientific researches caused by the technical task of the customer (Art. 769). The terms of contracts for the execution of research works must comply with the laws and other legal acts on exclusive rights (intellectual property). The provisions of this rule are very stingy, but serve as a guide for entrepreneurs in negotiations with foreign partners.

In the doctrine of Russian legal science and practice, international scientific and technical cooperation means joint development of scientific and technical problems, mutual exchange of scientific achievements, production experience and training of qualified personnel [3]. Based on this definition, it should be noted that scientific and technical cooperation is closely related to the results of intellectual (creative) human activity.

Consequently, the further development of scientific and technical cooperation within the EAEU largely depends on the fundamental principles of legal regulation of intellectual property. A distinctive feature of modern legislation in this area is the recognition of the right to the result of intellectual activity as a product that has a certain value and allows its owner to receive a commensurate income from the use of this right, which is important and fair in a market economy.

4. **Theoretical section**

Legal norms of scientific and technical cooperation are formed in accordance with the General principles of international law on the basis of special principles emerging in relation to the field of intellectual activity, including science and technology [11, p. 27]. These principles include: the principle of freedom of scientific research; the principle of the division of scientific research between individual States, taking into account geographical, social, economic and historical factors; the principle of equality in the field of scientific and technological achievements; the principle of reciprocity and other principles, including the principles governing relations arising with respect to intellectual property rights.

The problem of developing the basis of legal regulation of intellectual property was particularly acute at the initial stage in the European Union. The European Union (EU) is an extraordinary attempt by 28 sovereign States to create a common market, an important part of which is intellectual property. From the very beginning was supposed to create a common market is difficult, because member States of the EU continued to exist different systems of intellectual property rights, despite the fact that the Treaty of Rome (the document on the establishment of the Community) [7] endorsed a common regulatory framework.

However, companies, especially manufacturers of knowledge-intensive and high-tech products, preferred to produce and sell their products in the EU country where the level of protection of intellectual property rights is the highest. In this regard, the European court of Justice tried to resolve the conflict and held that in cases where the goods were sold for export, these rights were "exhausted". The court declared that the meaning of intellectual property is the right to release goods to the market for the first time; subsequent transactions relating to these goods cannot be terminated on the basis of national intellectual property systems [5].

Despite the fact that the European court of Justice later limited its scope to some extent, the principle of "exhaustion of rights" as a limitation of intellectual property rights in the EU contributed to the strengthening of measures for harmonization and unification of legislation [6].
The EU’s efforts to strike a balance between the protection of intellectual property rights and the promotion of innovation, as well as attempts to avoid a negative impact on the economy, have Parallels in the UK national legislation [4, p. 70]. It should be noted, however, that some examples of the exercise of intellectual property rights have given rise to criticism. First of all, it was about the refusal of the Ford automobile company to grant a license to other companies to produce panels for their cars. The case was heard by the European Commission, which concluded that the company had abused its dominant position.

Thus, it can be stated that over the past half-century a rather complex mechanism of legal regulation of the freedom of movement of rights to the results of intellectual activity has been developed, the purpose of which is to ensure the effective functioning of the single internal market of the European Union. At the same time, the court of Justice of the EU is gradually moving away from its original practice of active application of the principle of "exhaustion of rights" in the interests of forming a single domestic market and is taking the side of the holders of intellectual property rights, thereby expanding the scope of territorially limited national laws of the EU member States [10, p. 97].

5. Practical significance
Analysis of the European jurisprudence leads to the conclusion that the company in a number of cases of abuse of intellectual property rights, leading to violation of consumer rights. At the same time, the courts recognized that the right to intellectual property may be less important than the public interest, and therefore, in some cases, in order to promote competition in the market, protection of intellectual property rights is not provided.

6. Conclusions
In conclusion, I would like to note that reliable legal protection of intellectual property is a key component of sustainable growth of any modern innovative economy, as well as a necessary condition for scientific and technical cooperation of States and their associations. In this regard, the considered provisions of the legislation of the European Union should be reflected in the Treaty on the Eurasian economic Union [9] and other documents adopted within the framework of this integration Association of States.

References
[1] Abdullin A I 2006 Intellectual property Law in the European Union: Genesis, unification, development prospects Thesis for the degree of doctor of law (Moscow) 407
[2] Annual report of the Integration club under the Chairman of the Federation Council of the Federal Assembly of the Russian Federation for 2015 on "Scientific and technical cooperation as a factor of Eurasian economic integration" 2015 (Moscow Publication Of The Federation Council of the Federal Assembly of the Russian Federation)
[3] Belov A P 2001 International industrial and scientific-technical cooperation: concept and legal forms Moscow: Law and Economics 5 40-48
[4] McQueen G L 1992 Innovation, competition and intellectual property: some problems of UK and UES legislation Foreign investment in the CIS and the UK Moscow: publishing house of IGIP Russian Academy of Sciences 70-74
[5] Pirogova V V 2002 Exhaustion of trademark rights Thesis for the degree of doctor of law (Moscow) 145
[6] Tikhomirov Yu A 1996 Course of comparative law Moscow: Publishing NORMA 432
[7] 2010 Treaty on the functioning of the European Union (Rome, 25 March 1957) (as amended by the Lisbon Treaty of 2007) Consolidated Version of the Treaty on the Functioning of the European Union Official Journal of the European Union L 83/49
[8] 2012 Treaty on European Union (Maastricht, 7 February 1992) (as amended by the Lisbon Treaty 2007) The Treaty entered into force on 1 November 1993 Consolidated Version of the Treaty on European Union Official Journal of the European Union L 326/13
[9] 2015 Treaty on the Eurasian economic Union of may 29, 2014 Official Internet portal of legal information http://www.pravo.gov.ru
[10] Yumashev Yu M 2009 Freedom of movement of goods in the EU (non-tariff restrictions) Moscow: Law. Journal of Higher school of Economics 3 84-97
[11] Zadumkin K A Terebova S V 2009 International scientific and technical cooperation: essence, content and forms Vologda: Problems of territory development Edition of Vologda scientific center of the Russian Academy of Sciences 1(47) 22-30

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