

MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE  
SUMY STATE UNIVERSITY  
Academic and Research Institute of Business, Economics and Management  
Department of International Economic Relations

Korotcha Nataliya Maksymivna

## **QUALIFICATION PAPER**

on the topic "TRADEMARKS IN THE WORLD MARKET STRUCTURE OF  
INTELLECTUAL PROPERTY"

Specialty 292 "International Economic Relations"

Student 4<sup>th</sup> course  
group ME-71an

Korotcha Nataliya

It is submitted for the Bachelor's degree requirements fulfillment.

Qualifying Bachelor's paper contains the results of own research. The use of the ideas, results and texts of other authors has a link to the corresponding source.

Korotcha Nataliya Maksymivna

Research advisor :  
Associate Professor of  
International Economic  
Relations Department,

PhD in Economics, Associate Professor

\_\_\_\_\_

Shkola V. Yu.

Sumy, 2021

## ABSTRACT

on bachelor's degree qualification paper on the topic  
«TRADEMARKS IN THE WORLD MARKET STRUCTURE OF  
INTELLECTUAL PROPERTY »

student Korotcha Nataliya Maksymivna

The main content of the bachelor's degree qualification paper is presented on 44 pages, including references consisted of 40 used sources, which is placed on 6 pages.

Keywords: TRADE MARK, LOGO, BRAND, INTELLECTUAL PROPERTY, LEGAL REGULATION.

The objective of the research is to examine trademarks in the world market structure of intellectual property.

Object of study is trademark in the world market structure of intellectual property.

Subject of study is the set of relations arising in the world market of intellectual property.

The following research methods were used to achieve the goal of the study: abstract-logical, deduction, induction, theoretical generalization, statistical method, comparative analysis etc.

Information base of research is official statistics, international and national legal framework, as well as scientific papers of domestic and foreign scientists regarding the studied issues were used.

The main scientific results are:

1. The analysis of trademarks that act as a component in estimating the value of financial transactions in the acquisition or merger of companies have a large value.

2. An analysis scientific substantiation of trademarks may be the subject of license agreements for the transfer of rights use them

3. The scientific and methodical tools of research of the the growing role of brands in business company also means that the company may have risks associated with losses from violating it exclusive trademark rights

Scientific novelty of the study is the author's approach to trademarks regulation and protection has been proposed.

Results of approbation of the basic provisions of the qualification Bachelor work was considered at: International scientific and practical conference "International economic relations and sustainable development" (21 May 2021, Sumy, Ukraine) [1].

The research results can be used to improve trademarks regulation mechanism in Ukraine.

The year of qualifying paper fulfillment is 2021.

The year of paper defense is 2021.

MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE  
SUMY STATE UNIVERSITY  
Academic and Research Institute of Business, Economics and Management  
Department of International Economic Relations

APPROVED BY  
Head of the Department

\_\_\_\_\_  
(academic degree, academic rank)

\_\_\_\_\_  
(signature) (full name)

«\_\_» \_\_\_\_\_ 20\_\_ .

TASKS FOR BACHELOR'S DEGREE QUALIFICATION PAPER

(specialty 292 " International Economic Relations " )  
4<sup>th</sup> year course, group ME-71an

Korotcha Nataliya Maksymivna

1. The theme of the paper is «Trademarks in the world market structure of intellectual property» approved by the order of the university from « 19 »\_ 04\_\_ 2021 № 0193 VI.
2. The term of completed paper submission by the student is 14.06. 2021
3. The purpose of the qualification paper is to examine trademarks in the world market structure of intellectual property.
4. The object of study is trademark in the world market structure of intellectual property.
5. The subject of the research is the set of relations arising in the world market of intellectual property
6. The qualification paper is carried out on materials of international and national legal framework, publications of Ukrainian and foreign scholars and practitioners, statistical databases.
7. Approximate qualifying bachelor's paper plan, terms for submitting chapters to the research advisor and the content of tasks for the accomplished purpose is as follows:  
Chapter 1 Trademark in the system of international economic relations  
deadline – 30.04.2021

Chapter 1 deals with studying the role and practice of the use of the trademark in international economic relations, as well as types and legal significance of trademarks

Chapter 2 Trademark as an object of international legal regulation

deadline – 24.05.2021

Chapter 2 deals with the concept of a trademark, its objects and terms of provision of legal protection, valuation of trademarks

Chapter 3 protection of intellectual property rights in the international environment

deadline – 10.06.2021

Chapter 3 deals with the general provisions regarding the protection of intellectual property rights; the experience of Ukrainian and foreign companies in protection of Rights to Trademarks.

#### 8. Supervision on work:

Chapter	Full name and position of the advisor	Date, signature	
		task issued by	task accepted by
1	Shkola V.Y., Assoc.Professor		
2	Shkola V.Y., Assoc.Professor		
3	Shkola V.Y., Assoc.Professor		

9. Date of issue of the task: « \_\_\_\_ » \_\_\_\_\_ 20 \_\_

Research Advisor:

\_\_\_\_\_

(signature)

Shkola V.Yu.

The tasks has been received:

\_\_\_\_\_

(signature)

Korotcha N.M.

# CONTENT

INTRODUCTION	7
1 TRADEMARK IN THE SYSTEM OF INTERNATIONAL ECONOMIC RELATIONS .....	9
1.1 The role and practice of the use of the trademark in international economic relations .....	9
1.2 Trademarks: types and legal significance.....	11
2 TRADEMARK AS AN OBJECT OF INTERNATIONAL LEGAL REGULATION .....	21
2.1 The concept of a trademark, its objects and terms of provision of legal protection .....	21
2.2 Legal framework of trademarks valuation .....	25
3. PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN THE INTERNATIONAL ENVIRONMENT.....	28
3.1 General provisions regarding the protection of intellectual property rights.....	28
3.2 Protection of Rights to Trademarks: the experience of Ukrainian and foreign companies.....	30
Conclusions .....	36
References .....	38
Appendix.....	44

## INTRODUCTION

The growing attention to the problems of formation and promotion of brands of Ukrainian firms is determined by the fact that well-known brands become a necessary condition for the stable position of the firm in the market, a factor of its competitiveness in both national and global markets.

The experience of Western corporations shows that in today's competitive environment, in fact, there is a struggle between brands, not goods, for their place in the minds of consumers. Non-branded goods are losing ground in various product categories, while the number of consumers willing to buy branded goods is also increasing among Ukrainian buyers of most product groups.

One of the most important areas of development of modern society is to increase the efficiency of intellectual property. Over time, the value of intellectual work increases, and today without its application it is impossible to imagine the continued existence and development of most areas of human life. The result of such activities is considered not only works of art or music, the creation of which, of course, is one of the most important drivers of progress in today's society. In addition, the fruits of intellectual work are scientific developments, concepts that optimize production, trademarks, brands, logos, business models and more. A trademark is a way to distinguish one's own product from a number of other analogues invented by humans. The task of a trademark is to show the advantages and "highlight" of a product so that it becomes in demand among the target audience. The trademark emerged after market relations reached a high level of development, and there was a need to individualize the product.

Theoretical and practical issues of investment management and governance have been examined in the studies of domestic and foreign scholars, such as Brauweiler H.-Ch. [1], Domashenko M. [2, 3], Ivanova T. [4], Khvorost O. [4], Omelyanenko V. [5], Prokopenko O. [6-9], Scherbachenko V. [6-19], Shkola V. [1-21], Troyan M. [2, 3] etc.

**The objective of the research** is to examine trademarks in the world market structure of intellectual property. In accordance with the purpose of the qualification work, the following **tasks** were set:

- 1) to study the role and practice of the use of the trademark in international economic relations;
- 2) consider the concept of a trademark, its objects and terms of provision of legal protection;
- 3) analyze the influence of aggregate factors on the formation of the brand;
- 4) exam legal framework of trademarks valuation;
- 5) explore general provisions regarding the protection of intellectual property rights;
- 6) study the experience of Ukrainian and foreign companies in protection of rights to trademarks.

**Object of study** is trademark in the world market structure of intellectual property.

**Subject of study** is the set of relations arising in the world market of intellectual property.

**Research methods.** The following research methods were used to achieve the goal of the study: abstract-logical, deduction, induction, theoretical generalization, statistical method, comparative analysis etc.

**Information base of research.** During writing the research paper, official statistics, international and national legal framework, as well as scientific papers of domestic and foreign scientists regarding the studied issues were used.

**Scientific novelty of the study.** Author's approach to trademarks regulation and protection has been proposed.

Results of approbation of the basic provisions of the qualification Bachelor work was considered at: International scientific and practical conference "International economic relations and sustainable development" (21 May 2021, Sumy, Ukraine) [1].



# 1 TRADEMARK IN THE SYSTEM OF INTERNATIONAL ECONOMIC RELATIONS

## 1.1 The role and practice of the use of the trademark in international economic relations

The modern trademark has largely lost its purpose as an indication of the source of origin of goods, which was an important function of such trademarks in the Middle Ages. With the expansion of markets and changes in the structure of production and the spread of goods and services, brands began to identify goods and later no longer indicate the source of origin. The trademark is used to personalize the goods or services of the manufacturer in relation to similar goods (services) of another manufacturer.

Accordingly, it is also an object of intellectual and intangible property. A recognizable and well-promoted brand is able to declare without additional words about the popularity and quality of a product. A well-known trademark is even a kind of self-promotion, which in itself increases its significance. This is one of the win-win ways to attract the consumer. In today's world, a company can own an unlimited number of trademarks, often referred to as a "brand". On the packaging, the brand acts as a carrier of information, a guarantor of product quality. The practice of assigning brand names has become so widespread that today almost any product has them. Manufacturers pack salt in the original packaging, put a stamp on the oranges with the name of the person who grew them, ordinary nuts and bolts are placed in cellophane bags with the distributor's label, and spare parts for cars spark plugs, tires and filters bear brand names that distinguish them from similar products of other car companies. Now the life of business is much more complex and multifaceted than before. The need for its own brand arises in the manufacturer, when he realizes that he is no longer a monopolist, and around his product on the market there is a very tough competitive situation. The market enters the stage of commodity concentration, and here the name acquires an important role. The

mission of the brand today is to remove the product range from competing products through verbal or visual image. In other words, they buy what they know and why they believe. But it's not enough to just have a name - a brand that needs advertising. Only in the context of a comprehensive campaign to promote the brand there is a chance to become a real brand, ie to gain popularity and trust of customers, today the promotion of brands are specially created marketing agencies that help companies develop strategies to promote their product in the market. stocks and properly designed brands [22]. When developing a marketing strategy for specific products, the seller or manufacturer must decide whether to offer them as branded. Representing a product as branded can increase its value, and therefore such a decision is an important aspect of product policy. This is especially true for companies working in the field of industrial marketing, because the value plays a special role here, due to fierce competition, a wide range. Recently, there has been a trend towards the abandonment of brands for a number of basic consumer goods and medicines. These products are sold under their generic names in a simple one-color package, which does not have the manufacturer's designation. The point of offering unbranded goods is to reduce their price for the consumer by saving on packaging and advertising, but such goods are considered to be of lower quality and arouse suspicion among consumers. So the problem of the presence or absence of brand names on the product is on the agenda today.

Thus, as a result of studying the historical development of the concept of trademark, its main functions and modern role in trade allows us to conclude that the brand as a social reality appears in the Middle Ages, as a legal category became known in the second half of the XIX century. among other means of individualization of the product and the manufacturer such as signature, stamp, etc.

The brand emerged at a time when there was a need for it, when the cultural sphere of the economy, which was based on the principles of competition, could no longer do without it. The growing role and importance of the trademark has necessitated the creation of a system of legal regulation of public relations in the field of implementation and protection of the right to a trademark. Thus, the brand

can be called a socio-cultural phenomenon, and the allocation of this concept, the development of the brand occurred gradually, along with the development of society itself. And today the brand is an important tool of any company, which is its hallmark and guarantor of quality, which forms the image of the subconscious of each person, and guarantees the popularity of its products. Thus, analyzing all the above, we can conclude that the brand has a long historical origin and originated thousands of years ago as a means of personalization of their products.

However, over time, brands have acquired other functions, in particular, have become a feature not only of a particular manufacturer, but also began to characterize the quality of products. Today, the brand is important for manufacturers, as it is a guide for the buyer, who when choosing a product primarily seeks it on visual grounds, the key of which is the brand.

## 1.2 Trademarks: types and legal significance

The general definition of the concept of trademark can not be formulated without the establishment and study of different types of trademarks and the importance of species classification of trademarks for the application of legal and rule-making practice. Trademarks can be classified by type depending on their appearance, as well as depending on the subjects of trademark rights. And this is reflected in the current legislation of Ukraine. Yes, Art. 492 of the Civil Code of Ukraine provides that a trademark can be any designation or combination of designations, namely: words, letters, numbers, pictorial elements, colors, color combinations [5].

A trademark may be represented by any designation that is made graphically, "especially words, including names, pictures, letters, numbers, shape of goods or their packaging." The condition for the protection of such designations as trademarks is their ability to distinguish goods or services of one manufacturer from

homogeneous goods and services of another manufacturer. The main thing is that the sign, which is presented for registration as a trademark, must be presented graphically and perceived by consumers visually. The external form of expression of the idea embedded in the brand may be different. But with all the variety of types of trademarks, we can say about five groups of trademarks allowed by the laws of almost all countries, including Ukraine, namely:

- 1) verbal,
- 2) visual,
- 3) three-dimensional,
- 4) combined (ie different elements of the above types, which combine) and
- 5) brands of a special kind - sound, light, smell and etc.

However, no law contains an exhaustive list that would indicate specific ways of exterior design. For example, US law, in addition to the use of the terms "word" and "name" operates only with generic concepts - symbol, emblem and their connection, but they are covered by the last five types. In the UK, as trademarks can be considered all the symbols that can be represented graphically and have the ability to distinguish goods or services of one company from similar other companies [15].

The widest list of types of material embodiment of the mark is contained in the new German law "On the reform of trademark law" according to which, trademarks are designations, in particular, words, including names, pictures, letters, numbers, acoustic signals, images in three dimensions, including the shape of the product or its packaging, as well as other properties of appearance, including color, or a combination of colors that can distinguish the goods or services of one company from the goods or services of another company [15].

It should be noted that the possibility of only the visual perception of the trademark narrows the scope of legal protection of the trademark. And what about sounds, smells? Sounds can be defined not only as musical phrases, but also as noises of any origin that cannot be expressed by notes (for example, the growl of a lion for a famous film company, the noise of water, etc.). Of course, there are difficulties in the graphical reproduction of such symbols.

Verbal brands differ in the most various ways. Undoubtedly, verbal trademarks have an advantage because of the greatest simplicity of development and execution. The excellent power of a word mark is represented by both the semantics of the word (semantic meaning) and the phonetic sound. The word mark is individualized by these features, regardless of its external artistic (graphic) performance. In world practice, verbal trademarks make up about 80% of all brands used. As a trademark can be used not only fictional, but also any known word; it is only important that it is not ordinary in relation to the marked object and has an element of originality. A significant number of trademarks are verbal designations, but they are used arbitrarily and with such a meaning that does not arise directly between the meaning of the word in the dictionary and the goods to which the mark is used. In general, all words that can be registered as a trademark are divided into four categories:

Words that do not contain information about the product (arbitrary, fantasy), and therefore they are inherently distinctive. These can be both real words and fictional ones.

Words that hint at the nature of the product (associative). Initially, they are not distinctive, but can acquire it through long-term and widespread use;

Words that provide direct information about the product description. Due to long-term and long-term use, they can become suitable for registration;

Words that are general terms (generic) that simply refer to goods. They are not subject to protection at all as trademarks [22].

Surnames are widely used in trademarks. If the surname is used together with other original words or images, then the question of the validity of such a combined brand does not arise. The issue of using a surname as the only element of a trademark is more difficult to resolve, as the recognition of the validity of such a trademark may be an obstacle to the use of the surname in commercial circulation by all namesakes.

An object that can act as a trademark from the standpoint of trademark law may at the same time be slightly different if considered in a different aspect. This

fact makes it the object of a dual legal regime. If, for example, an entrepreneur uses his surname as a trademark, then this surname under one legal regime is subject to regulation as a trademark, and within another - as a surname. These legal regimes exist independently of each other, and if, for example, an entrepreneur changes his trademark, it does not mean that he must change his name. Theoretically, the rights and obligations of trademarks should not affect the rights and obligations that exist within other institutions of law.

In the Civil Law of Ukraine there is a tendency to protect the interests of the consumer from confusion or deception, when a person claiming a trademark has created a situation in which the trademark consists of his name and identifies and distinguishes his goods. Such restrictions and rules on the use of surnames as a trademark are intended to protect the interests of future entrepreneurs involved in the manufacture of homogeneous goods, on the use of their surnames in the process of production or trade [25].

In principle, any citizen can register his name, surname, patronymic and image (portrait) as a trademark if the exclusive right to them does not belong to another. Otherwise, you must obtain the consent of the person who "signed" first or if this person is a famous person. According to the Law "On Protection of Rights to Marks for Goods and Services" are not registered as trademarks that reproduce surnames, names, pseudonyms and their derivatives, portraits and facsimiles of famous people in Ukraine without their consent and who do not have the ability to these designations are the property of the history and culture of the state (for example, the designation "Taras Shevchenko") [7].

Regarding the resolution of surnames, the following can be stated. Surnames as a trademark can be given legal protection in the case when they are not only their own name, but also have a semantic, lexical meaning. If the designation is only a surname and has no other meaning disclosed in dictionaries, reference books, encyclopedias, etc., it can be concluded that the surname has no distinctiveness. This conclusion is more convincing, due to the spread of the registered name. In this case, the conclusion about the lack of recognizability can not depend on the fact that the

name is specified in the plural, such as "Trumpeters", or in any case with an adjective, such as "From Fesenko". In the case where the designation consists of a surname and other elements, it is necessary to assess its meaning and position in space (it occupies a dominant or non-dominant position) and excellent ability in general. It should be borne in mind that the inclusion in the designation next to the name of the name enhances the excellent ability to denote. Can enhance the excellent ability of designations containing surnames, visual elements or descriptions of goods in the original graphic manner, while reducing the dominant influence of the surname. As for known surnames, such designations are not subject to registration if there is no permission of the person to whom it belongs. Thus, the Ontario Supreme Court banned the use of the well-known name Rothschild tobacco trader Th. Hinds, who named his store "Rothschild at Yorkville." Th. Hinds knew that the Rothschild surname was associated with wealth and was world famous. To demonstrate the quality and prestige of his products, he named the store "Rothschild at Yorkville". The court found Th.Hinds' actions illegal [21].

If individual letters are used as a trademark, the general requirements apply to them, but with some caveats. It is possible to register the designations as a trademark if they are easily pronounced words have a special conceptual meaning, as well as when they have acquired a different meaning due to use. In addition, the registration of letters as a trademark does not preclude the use of these letters in words or in the form of abbreviations. Difficulties for the future owner of the brand may arise when the abbreviation appeared in the dictionary before the application and a similar combination of letters was submitted for registration. A possible way out of this situation may be to turn the brand into a free brand that is used by everyone. In the United Kingdom, a combination of three or more letters is registered only if it is proven by a party. In the case of Vuitton "was recognized distinctiveness of individual letters "LV" as a trademark [21]. If a person can prove that for a long time used the trademark throughout the country, and it had a different meaning, the designation of two or more letters have a right to exist.

Geographical indications are especially difficult among verbal trademarks. As a general rule, geographical terms are not covered by trademark law. Such a ban is aimed at restricting the preemptive right of an individual to use geographical names that are in the public domain. But it is possible that their long-term use may lead to the geographical brand becoming secondary. The following geographical indications may be allowed for registration as a trademark:

If a geographical indication is used as a trademark arbitrarily and with imagination for certain goods, then there is no reason to refuse (for example, "Pole" for chocolate bars);

- When the geographical indication is the name of a small village or town that does not have industrial enterprises;

When a geographical indication becomes secondary, it is much better known than a geographical name. In the countries of continental law, in the event that a trademark consisting of a geographical name acquires a secondary meaning as a result of widespread exclusive use, the applicant's right may be recognized. In Germany, trademarks are not registered, which consist exclusively of indications of the place of production, as all manufacturers and sellers who are in this place must have the right to use this name [8].

The use of such names creates a very accurate idea of the place of origin of the product and certain of its qualities. Labeling with such brands of goods produced elsewhere would mislead consumers, would be, in fact, erroneous or deceptive. But if such a designation truly reflects the place of origin, it cannot be assumed that its use for the labeling of goods is monopolized by one enterprise to the detriment of all others located in the area. Thus, the mayor of the French city of Vance filed a lawsuit banning the use of the city name in a series of trademarks declared by the entrepreneur in the registration, arguing that as a trademark can not be registered city name, which is a geographical name associated with brand reputation [21].

Trademarks can sometimes be used as certain phrases - advertising slogans that contain an appeal, an original idea about the product. Such slogans



are seldom used on goods, usually in advertising. However, their registration as a trademark is allowed only on condition of resolution.

Fine trademarks are subject to the same requirements as verbal ones. French law defines figurative designations as drawings, labels, prints, marks, reliefs, holograms, logos, synthetic images of forms, in particular forms of goods or their packaging, or forms characterizing services; location, combination or combination of colors and their shades.

Outline images and drawings must also have a resolution. Ordinary geographical drawings cannot be recognized as a trademark. Concerning visual brands, conflicts sometimes arise, the image can be considered as a trademark, or it is just an element that adorns. In the case of "In the Schenectady Varnish Company, Inc." the applicant applied for registration as a trademark for synthetic resin an image consisting of a cloud and lighting on it and the word "Schenectady" written in capital letters across the central horizontal segment of the lighting. Denying registration, the Trademark Appeals Commission stated that the background and the word "Schenectady" are so mixed that they can make only one impression and the consumer will not consider the visual background as a separate means of identification. However, at the request of the applicant, eleven persons from its industrial customers stated that they perceived the image used for many years by the applicant as a trademark identifying only the applicant's goods, and that a number of buyers had chosen the applicant's goods on the basis of that image. the applicant's registration image [21].

Colors must be excluded from protection as a trademark, ie they cannot be monopolized by anyone. But it is allowed to register color combinations and color combinations with other images. One of the conditions for providing protection is proof of the fact that consumers identify the product due to this color design. The color in combination with any emblem is quite acceptable for registration: blue, red triangle. Yes, in the case of "Smith, Kline and French Laboratories Ltd." against "Sterling-Winthrop Group Ltd." the plaintiff was allowed to register 10 characteristic color combinations for the trademark for a long-acting painkiller sold

in round capsules, deciding that it is the color and not the shape of the capsule is a hallmark of the drug [21].

As for the three-dimensional designations, the approaches of legal systems in this area are very different. In France, the original and distinguishable form of the product is subject to protection, provided that it is not related to the functional characteristics of the product. In the UK, packaging is not registered as a trademark, but it is allowed to register the emblem in the form of the original form of a bottle or other packaging, as such, which may have a distinctive character can be purchased [16].

The form of packaging for products, although not functional, but can be registered if it identifies the product and distinguishes it from similar products from other manufacturers. Yes, in the case of " Haigand Haig Ltd. " the well-known whiskey bottle with indentations was recognized as distinctive due to its acquisition of a different meaning. Obtaining protection in the form of a trademark depends on the presence of cognitive properties, ie on the ability of the sample or its individual features to indicate the origin of the product associated with a particular source [21].

The form of the product is not covered by the trademark definition. According to the legislation of Ukraine, the form cannot be registered as a trademark at all. Since the function of legal protection provided by registration is to ensure the protection of a mark, but not the goods marked by it or its packaging, cannot be monopolized. The trademark must be such that it is possible to present it visually and use it on the surface of the product or include it in the structure of the product.

Thus, in the case of " In re James Mark " the plaintiff sold graphite in various forms, including dome-shaped, which was the most popular with buyers. The company's labels began to depict a black dome. The plaintiff was allowed to register a trademark with a black dome, refusing to register the actual shape of the product itself. The decision of the House of Lords of May 8, 1986 to deny registration to Coca-Cola as a trademark of the bottle for its famous drink was similar, as the bottle itself has no distinctiveness and therefore cannot be monopolized [21].

In addition to the above types of trademarks in some countries are allowed to protect a special type of brand - sound, smell, light, etc. Sound brands are practically recognized, and only in the USA - it is applied to service marks. Special call signs identify the NBC radio station and are registered as a trademark, and the floral scent acts as a trademark for threads and sewing. Sound signs are defined as sounds and musical phrases. Audio markings are also recognized in France, where they are subject to registration as trademarks, sounds and musical phrases. In Germany, sound markings can be registered as trademarks if they have the necessary distinctiveness [15].

Depending on the subject of the right to designate, trademarks may be individual or collective. An individual trademark is a designation registered in the name of an individual legal entity or individual.

A collective trademark is a designation used by members of any association of producers of goods and services (Article 7bis of the Paris Convention). Under the collective designation understand the marks of the union, associations, ie associations that have legal capacity and are commercial or legal entities under public law (Chambers of Commerce and the like), goods used for designation, and services, entities that they are made. In this case, the trademark is used to denote the goods and services of enterprises of all members of the association. The regulations of the association on the collective mark must provide information on the name, location, purposes and representations of the association, the range of persons entitled to use the trademark, the conditions of use.

International standards provide the classification of goods that may be subject to labeling, but the classification in each country is the importance given to it in this country, including the classification does not bind any country to determine the extent of the protection of the mark or service marks regarding recognition [4].

For a trademark to perform its functions, it must be original and expressive. In appearance, it can be any. Conventionally, trademarks can be divided into verbal, visual, three-dimensional, combined, etc.

Summarizing the above, we can conclude that with the development of the brand as a means of individualization of goods and its popularity among business entities there is a need to accurately define its legal status and consolidate a single formulation of its concept. Also with the development of the trademark appeared a large number of its types, which differ from each other and are also separate objects of legal regulation of both national and international law.

## **2 TRADEMARK AS AN OBJECT OF INTERNATIONAL LEGAL REGULATION OF ITS FUNCTION AND TYPES**

2.1 The concept of a trademark, its objects and terms of provision of legal protection

The concept of trademark, trademark are variants of the translation of the English word "trademark". "Trademark" (trademark, trademark, trademark) - the same as a trademark, ie a designation that can distinguish the goods of some legal entities or individuals from the homogeneous goods of other legal entities or individuals. Such symbols can be words, numbers, pictorial elements, color combinations.

In the Civil Code of Ukraine, the term "trademark" is used in relation to the mark for goods and services [5]. The term "trademark" is a direct borrowing from the English language. In essence, the terms "mark for goods and services" and "trademark" mean the same thing and can therefore be used interchangeably. The science of civil law does not directly study the trademark. The rule of law only takes into account certain of its natural properties, which are established by other sciences, and connects with them the emergence, change or termination of certain rights and responsibilities. Taking into account certain properties of the trademark allows the presence of its definition [25, p. 433].

There is currently no single definition of a trademark. And this is understandable, a trademark is a capacious and multifaceted phenomenon. First of all, consider the definition of a trademark in regulations. It should be noted that the definition did not remain unchanged as the principles of trademark protection improved. The Regulations on Trademarks, approved by the Resolution of the Committee on Inventions and Discoveries of the Council of Ministers of the USSR of July 23, 1962, gave the following definition: it is an original decorated artistic image and pictures in combination with letters, numbers, words or without them, etc.), which serves to distinguish goods and services of one company from

homogeneous goods and services of other companies and for their advertising [11, p. 217].

It is easy to see that there were several weaknesses in this definition. First, the definition of "originally designed artistic image" formally excluded from the range of objects subject to protection as trademarks, the world's common form - verbal in standard font. Secondly, the perception of this definition causes some difficulties, because the list of specific types of brands is in principle incorrect, because it is about defining the concept. And the cognitive value of the concept is that it must distinguish in the subject essential, general (property, feature, function, etc.), abstracting from the individual, private; due to this, the concept usually characterizes not one or another individual object, but a whole class of objects that are united by a certain feature. In addition, end the wording with an indefinite "etc." generally unacceptable. The subsequent definition of a trademark was contained in paragraph 13 of the Regulations on Trademarks, approved by the State Committee of the Council of Ministers of the USSR for Inventions and Discoveries of January 8, 1974. It stated that a trademark is a duly registered designation used for differences of goods (services) of some enterprises from homogeneous goods (services) of other enterprises. As you can see, in comparison with the previous definition there is no external characteristics of the brand, and it is not about its advertising function [11, p. 220]. Article 1 of the Law of Ukraine "On Protection of Marks for Goods and Services" defines a trademark as a designation by which the goods and services of some persons differ from the goods and services of others [7]. It should also be noted that a similar definition is contained in Art. 492 of the Civil Code of Ukraine where it is stated that this is any designation or any combination of designations suitable for distinguishing goods (services) produced (provided) by one person from goods (services) produced (provided) by other persons [5]. Comparing these statements, it is easy to see that the legal definition of a trademark emphasizes the importance of only one of its functions - distinctive. But there are two others, no less important. Scientists also did not ignore the problem of defining the concept of trademark. Yes, M.O. Aliyev defines a trademark as a duly registered designation intended for

individualization and for distinguishing products or services of some enterprises from homogeneous products or services of other enterprises [10]. In our opinion, there is no need to single out a separate individualizing and distinct function of the brand, especially since there is no reason for such a section. It is also necessary to mention the definition given by S.O. Bondarenko, that these are brands that are used in the prescribed manner by enterprises and organizations to denote certain types of goods (services) for the purpose of their advertising and differences from homogeneous goods (services) of other enterprises [13]. According to the author, this definition, on the one hand, reflects the possibility of trademark protection not only on the basis of legislation in a particular country, but also on the basis of international agreements, on the other hand, emphasizes the legal significance of trademark use in business. But even in this definition there are some contradictions. First, from this definition we can conclude that the basis for the right to a trademark is its use in economic turnover. The author's desire to reflect in the definition the importance of the use of the brand will lead to ambiguity that is unacceptable in the normative definition.

In general, there is no need to include in the legal definition of a trademark the grounds for acquiring the right to a trademark, it is sufficient that the definition includes an indication that the trademark is a protected object. A.A. Hertz proposes to divide the definition of a trademark as a social reality and as a legal phenomenon.

A trademark as a social reality is proposed as follows: a trademark is a reflection in the public imagination of the objectively existing stable relationship between the specific consumer properties of a product of a certain kind and the characteristic feature of the external of this product or its packaging [15].

There are some controversial points in this definition, as it follows that a trademark will be what the consumer recognizes as such, and not necessarily what the manufacturer offers for this role, as the consumer may distinguish in the product some other features by which he will recognize it: color, shape, etc., but it will no longer be a trademark in the conventional and legal sense of the term. This can be

explained by the fact that the manufacturer as an active element fell out of the definition.

One of the modern definitions of the trademark, formulated by EL Golovleva defines a trademark as a means of individualizing the results of economic activities of economic entities through the use of certain symbols that can cause the consumer certain associations with the person of the manufacturer or the person who provides services [16, p. 12]. With which it is also impossible to agree, because the purpose of the trademark is to distinguish certain homogeneous goods (services), rather than the source of their origin, ie producers. Therefore, to include in the definition of a trademark the function of identifying the source of origin of goods, we believe, is not appropriate. In general, it can be noted that there are many different definitions of the brand, but they are all similar in nature, so it is enough to cite one of them, namely: the brand is a duly registered designation by which the goods and services of one person differ from homogeneous goods and services of others. Semiotics distinguishes in the brand a plan of expression and a plan of content. In a trademark, the plan of expression is a sensory object that acts as a trademark, and the components of the content plan can be labeled goods and their properties, and sometimes their manufacturer. Each brand represents the unity of the plan of expression and the plan of content. Naturally, the brand is important only if there is another integral element of the sign situation - the one whom the brand sends, in our case - a person.

Thus, as for the differences in the definition of a trademark as a social reality and as a legal phenomenon, according to the author, the only distinguishing feature of the latter should be the reflection of the fact of recognition, while for a trademark as a social reality the fact of recognition is not significant.



## 2.2 Legal framework of trademarks valuation

Forecasting a brand's value is an important part of convincing investors and leadership to invest in brand development. Most trademark valuation is based directly on its projected future earning power, based on income history. For a new brand with no history, evaluators must apply experience and common sense to predict the brand's earning potential. They can also use feedback from industry experts, market surveys, and other studies.

Though goodwill is intangible, it forms a substantial portion of the brand's value. Many variables must be considered to estimate the value of goodwill. These include future opportunities for the trademark value to be increased and competitive risks that may threaten the value of the trademark.

Common methods used to determine a trademark's value include the following:

- Using past and expected future profits (the income approach)
- Using comparative transaction with similar assets (the market approach)
- Using the cost of creating a trademark (the cost approach)
- Estimating royalty savings created by trademark ownership (the relief from royalty approach).

The latter idea comes from the concept that a company does not have to rent an asset it owns. This approach measures the net profitability of this intangible asset, which would otherwise be subject to royalty payments and a trademark licensing agreement. When using this approach to value a trademark, you'll need to assume the discount and royalty rates and the revenue base. Steps of the royalty approach to valuation include the following:

1. Determine how the trademark will be used in the future, whether it will remain critical, and will be phased out over time, and how management's expectations in this regard may differ from those in the market.

2. Determine the projected profit to be generated by the trademark, including trademarks or product names for multiple services lines and products. This includes the length of time for which they will generate revenue, which may be for just a few years or for the foreseeable future.

3. Figure out the royalty rate for this profit stream, based on what it would cost for another company to license a similar trademark. Review market data for royalty rates in legal agreements, SEC filings, and the Royalty Source Intellectual Property Database.

4. Estimate the discount rate, which indicates how much your company saves by avoiding royalty payments on the trademark it owns. Consider the risks associated with a trademark, whether branding and rebranding will occur, the strength of the brand, your company's current position in the marketplace, and historical financial performance.

With the income approach, estimate future profits to be derived from the trademark and adjust them to present value. With the market approach, you'll use indicators of value that include a transaction price, bid, or offer for a similar product in the current market.

The cost-based brand approach accounts for individual aspects of the brand to determine overall value. For example, the value of the brand would be based on the historical costs of advertising, promotion, campaign creation, and licensing and registration. This is an ideal method if you've recently created your brand. When doing so, make sure to update actual expenditures to current costs. Keep in mind that the figure you arrive at doesn't necessarily indicate how much the brand would be worth in the current market. You may want to consult a professional who specializes in the valuation of trademarks.

Risks that are related to a trademark can be different from the risk a business experiences as a whole. Figuring out extra benefits or risks makes sure a measurement that's more accurate of the fair value is taken for the trademark. For telecommunications companies, the issue is about how much remaining life is used for the acquired trademarks.

Particular co-branding and rebranding that are related to the acquisition can't be included. The acquirer's intention can't be taken into account, with the exception of a particular circumstance that proves participants in the market would have acted similarly. This must be supported by strict documentation.

### **3. PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN THE INTERNATIONAL ENVIRONMENT**

#### **3.1 General provisions regarding the protection of intellectual property rights**

Intellectual property is information that has value due to the fact that it contains creative ideas. This information contains commercial value. The main legal instruments for the protection of intellectual property rights are patents, copyrights, trademarks, industrial designs, indications of geographical affiliation. Many countries also protect trade secrets, which are undisclosed information that gives a competitive advantage to its owner. The first international agreements in the field of intellectual property rights - the Paris Convention for the Protection of Industrial Property and the Bern Convention for the Protection of Literary and Artistic Works - appeared in the 1880s. Since then, they have been revised several times, and other agreements. Their implementation is monitored by the World Intellectual Property Organization (WIPO), which in 1967 was a UN unit. The Madrid Agreement Concerning the International Registration of Marks was signed in 1891. For about 100 years, its effect extended only to European countries.

But after the signing of an additional protocol to the agreement (1989), the procedures began to suit most countries, and the number of participants in the agreement began to grow. In particular, the Madrid Protocol was joined by the United States, Great Britain and Japan, which for a long time refused to become members of the Madrid Agreement. Ukraine has been a party to the Madrid Agreement since 1991, and the protocol to it - since 2000 [18, p. 43].

The existence of any, even highly developed system of legal protection of certain objects, loses its meaning if their owners are not provided with a real opportunity to protect their rights. In this regard, there is always a need for a clear settlement at the legislative level of issues related to the exercise of the owner's right to protection. Therefore, covering the problems of harmonization of the legislation of Ukraine on trademarks of international norms, it is impossible to ignore the study

of the legal situation that has developed in the current domestic legislation on the protection of trademark ownership.

Analysis of foreign legislative and judicial practice shows that in order to effectively protect the rights of the owner of the designation protected by law, the legislator must determine at least what actions should be considered a violation of his rights, provide an effective mechanism to stop the offense, give the owner compensation property and non-property nature, as well as to provide the latter with the opportunity to take measures to prevent further violation of its ownership of the mark by third parties.

The main international documents, the norms of which concern the legal protection of trademarks, either do not indicate in any form in which the trademark may be misused (TRIPS Agreement), or contain a very generalized list of actions that should be considered a violation of the rights of the certificate holder (EU Trademark Directive). However, none of them indicates whether the participating countries should provide the above list in their own legislation. As a result, there is no single approach to resolving this issue in foreign legislative practice. But in all cases, it is common that even if such a list exists, it is not exhaustive. In some countries, the legal rules governing the relationship under study, is a simple reproduction of Art. 5 of the EU Trademark Directives to address this issue. This approach is typical, in particular, of German law. If we analyze the content of the prohibited features of the owner of the mark, which are set out in paragraph 3 § 14 of the German Law "On Trademarks", the violation of the owner's rights to the protected designation should be considered: application of identical or similar designation on goods or their packaging; offer of goods under this designation, putting into circulation or storage for this purpose; offering or providing services under this designation; export and import of goods under this designation; use of such designation in business documentation or advertising.

Other forms of violation of the right to a mark occur in those countries where when developing the relevant legal norms, the legislator proceeds primarily from the generalization of their own case law. An example is the French Intellectual Property

Codes, according to which a violation of the trademark owner's rights is recognized as: absolute (full) or partial reproduction of the mark; affixing a mark on products to which a third party has no right to affix such a mark; imitation of a sign; illegal use of the mark; storage, sale or sale of goods or services marked with a counterfeit mark; replacement by a marked mark of a good or service, as well as destruction of another's trademark [18, p. 54].

### 3.2 Protection of Rights to Trademarks: the experience of Ukrainian and foreign companies

The Law of Ukraine "On Protection of Rights to Marks for Goods and Services" provides the owner of a registered mark with an extremely wide range of opportunities to respond to violations of his ownership of the mark by third parties. According to this Law, any encroachment on the rights of the holder of the certificate is considered a violation of his rights, entails liability under current legislation of Ukraine [7]. Thus, the national legislature is not limited to indicating which specific types of infringement of the right to a mark are, on the one hand, a positive factor, as the owner has a real opportunity to oppose a very wide range of illegal actions. At the same time, such a legislative position complicates law enforcement practice, as quite often even the owners themselves do not realize that certain actions committed by third parties already affect their exclusive rights to the registered designation. Given these circumstances, in order to improve the practice of application of this legislation, it is necessary to supplement it with an approximate list of specific forms of infringement of trademark ownership provided for, in particular, by the EU Trademark Directive. This will allow faster and more effective protection of the rights of trademark owners for goods and services. However, in order to prevent possible abuse, such a list must contain a mandatory indication that

"... encroachment in any form other than those expressly provided by law entails liability under current Ukrainian legislation."

The Law of Ukraine "On Protection of Rights to Marks for Goods and Services" obliges violators of the right of ownership of a registered trademark to reimburse the owner of the certificate for this mark damages. Since the above Law does not specify what damages should be compensated in case of infringement of trademark ownership, to address this issue should refer to the general rules on damages, which are enshrined in the Civil Code of Ukraine [11 p. 258] Article 20 of the Law of Ukraine "On Protection of Rights to Marks for Goods and Services" recognizes any encroachment on the rights of the certificate holder as a violation of his rights [7]. Thus, the Law does not contain a list of actions that can be considered violations. He refers to Art. 16, provides a list of rights granted to the holder of the certificate and the violation of which entails civil liability. The law does not specify what exactly the infringer's right to a trademark should bear. It only emphasizes that the violation of the rights to marks entails liability under current legislation of Ukraine. Still, the law in paragraph 2 of Art. 20 establishes the consequences of the offense. In particular, at the request of the owner, this violation must be stopped, and the violator is obliged to compensate the owner of the certificate for the damage caused. The law gives the owner the right to demand from the infringer to remove from the goods, its packaging illegally used mark or designation similar to it to the extent of confusion, or destruction of manufactured images of the mark or designation similar to it to the degree of identification. The person who acquired the license may also demand the restoration of the violated rights of the certificate holder, unless otherwise provided by the license agreement. The given norms on protection of the right to a trademark cause separate critical remarks.

They do not, in fact, establish due liability for infringement of the rights to the mark. First of all, the question arises: what should be understood by the term Any encroachment on the rights of the certificate holder. The term "encroachment" in this context is vague, vague, it can be given a different meaning, which can lead to ambiguous interpretation. Thus, according to dictionaries, encroachment is "an

attempt to seize something, to harm someone, something, to deprive someone of something."

The word "attempt" corresponds to these expressions, because they, in addition to the desire, intention and the like to do a certain action, also contain the meaning of diligence, a real attempt to do so. This indicates not only the diversity of the meaning of the term "encroachment", but also the fact that it does not cover all actions that can be recognized as infringement of the right to a trademark. Invasion is always intention, intentional action.

But the violation of this right may be unintentional actions. Therefore, the Law should clearly define which specific actions are recognized as infringements of the right to a trademark, as is done in the legislation of many foreign countries. Thus, according to the French Trademark Law, the main types of violations of the right to this mark are:

- Counterfeiting - reproduction of another's mark, registered for identical or similar goods and services;
- Deceptive imitation - similar reproductions of someone else's sign, which can cause the danger of confusion between the original and the imitated sign; Use of marks without the permission of interested persons and use of imitated trademarks;
- Misleading: the use by an unjust person, for commercial purposes today, of another person's original mark to indicate his goods and services;
- Substitution of goods and services: supply of goods or offer of services other than those declared in a registered acquaintance.

Japanese trademark law, in addition to generally recognized actions that violate the right to such marks, also recognizes them: Actions related to the possession of the specified or similar goods for the purpose of transfer or delivery, on which or on the packaging of which a registered or similar mark is used ; Actions related to the possession of goods contain images of a registered or similar mark, for the purpose of its use on the specified or similar goods; Actions related to the transfer, supply or possession for the purpose of transferring or supplying goods containing an image of a registered or similar mark in order to facilitate its use on



the specified or similar goods; Actions related to the production or import of goods containing images of a registered or similar mark, for the purpose of its application or to promote use on the specified or similar goods; Actions related to the production, transfer, supply or import of items used exclusively for the production of goods containing images of a registered mark or similar [15, p. 66]. An interesting rule on trademark infringement is contained in the US Trademark Act. Any person, without the permission of the owner, conducts, counterfeits, copies or imitates a registered trademark and uses such production, counterfeits, copies or imitations on labels, inscriptions, prints, packaging, wrappers, bags, or in connection with the sale, offer the sale, distribution or advertising of goods services or in connection with which the use may cause error, confusion or misleading may be subject to civil liability. Such detailed rules that determine the list of actions that are recognized as violations of the right to these marks, including other laws on trademarks. The above provisions of foreign legislation on trademarks on actions that are recognized as violations of rights to them, indicate that these illegal actions can not be covered by a single term "encroachment", as done in the Law of Ukraine on Trademarks. However, it is important not only to determine the list of these offenses, but also to establish effective responsibility for them. The reference to the Law of Ukraine on Trademarks with current legislation seems somewhat naive. This is not a liability for violation of the rights to these marks. When the Law obliges to stop violations or even to compensate for the damages caused by it, it is not a liability. If, for example, the debtor is forced to repay the debt, then is it a responsibility. It is only a compulsion to fulfill obligations. However, the current legislation provides for legal liability for infringement of trademark rights. It can be criminal, administrative or civil. The legislation of Ukraine does not provide for criminal liability for this violation. It is obviously necessary to establish liability for trademark infringement from criminal liability. Now the number of violations of these rights has increased significantly. The saturation of the market with goods encourages infringers to look for ingenious ways to use someone else's trademark, which has gained widespread

recognition among consumers. This necessitates increased liability for such violations, including criminal ones.

From the above it can be seen that in foreign countries the legislation on trademarks establishes strict liability for violation of rights to them in comparison with the legislation of Ukraine. It would be more than naive to justify the more toothless efficiency of the trademark rights protection system under the legislation of Ukraine by the fact that the rights mentioned in it are not violated or their violation is not large-scale.

Trademark rights in Ukraine need reliable and effective protection. The latter should be aimed not only at restoring violated rights. After all, compensation for damages of a legal nature is nothing more than the restoration of violated rights. The protection of trademark rights must also be punitive. This should be provided by criminal and civil law. Law of Ukraine on protection of rights to marks for goods and services, which are decided in court.

Article 21 of it establishes: disputes related to the application of this Law shall be resolved by a court in the manner prescribed by the current legislation of Ukraine. However, paragraph 2 of this article provides a list of those disputes, namely those considered by the courts: Establishment of the owner of the certificate; Conclusion and execution of license agreements; Violation of the rights of the certificate holder [7]. The order and protection of the right to a trademark in the administrative order is a special order of protection.

The general procedure for protection of infringed rights to a trademark is their civil protection, which is implemented within the general, ie judicial order. Currently, all disputes related to the violation of these rights belong to the jurisdiction of the courts that resolve all disputes related to business activities. By agreement of the parties, the dispute may be referred to arbitration.

Thus, after analyzing the ways of legal protection of intellectual property rights to trademarks, we can conclude that with the spread of the trademark there is a need to protect its owners from various encroachments, including anticompetitive actions, by other business entities. Today in the world practice there are many ways

to protect the right to trademarks, but according to the author the key role should be the establishment of severe sanctions, including those provided by criminal law, which would provide reliable protection against counterfeiting and other anti-competitive actions.

## CONCLUSIONS

Based on the above material, we can conclude that the trademark, as a separate element of intellectual property rights has deep historical roots, and existed in ancient times. Its emergence is associated with the development of commodity relations, when the market appeared a large number of producers who needed some means of individualization of their goods, such a tool was a brand. At that time, it had a primitive form and had only one function - to show that the product belongs to a particular manufacturer.

With the development of market relations there was a development of the brand and the transformation of its functions, the brand began to characterize not only the affiliation of the product, but also became a sign of product quality, and began to play the function of advertising the product, guaranteeing its quality. After the spread of the use of a trademark as a means of promoting goods on the market, there was a need for legal regulation of relations related to its use. The first normative acts, which enshrined the legal status of a trademark, only regulated the relations concerning its application, but did not contain mechanisms of its protection against unfair competition.

Over time, the shortcomings of the legislation were eliminated, and the procedure for acquiring intellectual property rights to the trademark was established, which consisted in analyzing the entire volume of trademarks that were registered in the appropriate manner, and eliminating the possibility of copying it by other business entities. Today, the legal regulation of intellectual property rights to a trademark is carried out both nationally and internationally.

International regulations establish general provisions on the use of intellectual property rights to trademarks and trademarks in particular and establish the procedure for registration of trademarks at the international level. National legislation regulates the use of a trademark within each country, and the procedure for its registration and use differs, as do the requirements for business entities when

acquiring ownership of a trademark, and the period for which a certificate of exclusive use is issued.

As a general rule, the intellectual property right to a trademark by international business entities must be registered in each country where it will be used, separately and in accordance with the national legislation of each country, in countries where the trademark is not registered by an international business entity, any business entity has the right to register the mark and use it as the rightful owner of this right. It is because of cases of unfair competition, which consist in copying trademarks of business entities that have a certificate that gives them the exclusive right to use it, other business entities, there is a need to protect the exclusive intellectual property rights to the trademark by its rightful owners. Today, there are measures to enable the exercise of the right to protection and safeguard of intellectual property rights to trademarks, they are determined by both domestic and international law. The purpose of these measures is to determine the most effective way to protect the right to trademarks. Today, there are international institutions in which the rightful owner of a trademark right can challenge illegal actions that impede or violate that right. At the national level, protection is provided by bodies designated by law. However, the existence of any, even highly developed system of legal protection of certain objects, loses its meaning if their owners are not provided with a real opportunity to protect their rights.

Thus, summarizing the above, we can conclude that the legal regulation of trademark status, despite its deep historical origin, is not yet perfect, and needs further development and modernization to provide more effective ways and methods of legal regulation.

## REFERENCES

1. Brauweiler H.-Ch., Shkola V.Y., Korotcha N. Trade mark regulations: the European Union Experience for Ukraine. *International Economic Relations and Sustainable Development (Міжнародні економічні відносини та сталий розвиток)* : матеріали II Міжнародної науково-практичної конференції, м. Суми, 21 травня 2021 року / за заг. ред. Ю.М. Петрушенко. – Суми : Сумський державний університет, 2021.
2. Shkola V.Y., Troyan M.Y., Domashenko M. D., Vavilichev M.D. Global Competitiveness of the Economy and Intellectual Capital Index: Case of the EU Countries and Ukraine // *Mechanism of Economic Regulation*. 2021. № 1. pp. 108-119.
3. 3. Troyan M.Yu., Shkola V.Yu., Domashenko MD, Makarenko T.Yu. The impact of COVID-19 on market capital on the example of the tourism industry: the experience of EU countries. *Bulletin of SSU*, 2021, №1, P.111-121. Retrieved from [https://visnyk.fem.sumdu.edu.ua/issues/1\\_2021/13.pdf](https://visnyk.fem.sumdu.edu.ua/issues/1_2021/13.pdf)
4. 4. Hvorost OO, Ivanova T.I., Shkola V.Yu. International economic and legal aspects of the use of intellectual property. *The mechanism of economic regulation*. - 2009. - № 4 (44). - Vol. 2. - P.274-280.
5. Shkola V., Omelyanenko V., Petrenko S. Scientific and technical cooperation between Ukraine and China in the context of globalization: synergy of intellectual capital. *Black sea economic studies*. 2020. Issue 59. C. 36-40.
6. Prokopenko OV, Shkola V.Yu., Shcherbachenko VO Intellectual capital as the basis of the national economic system. *Bulletin of Donetsk University of Economics and Law: Coll. Science. ex / ed. Qty: VK Mamutov, OI Amosha, A.Ya. Bersutsky, etc .; Goal. ed. J.G. Bersutsky*. - Donetsk: DonUEP, 2011. - № 2. - P. 31-36
7. Prokopenko O., Shkola V., Shcherbachenko V. Paradigm of the Intellectual Capital Estimation at the Microlevel // *Beskidzkie dziedziectwo: Praca*

zbiorowa pod redakcją ks. dr. S. Cadra i dr. S. Ciupki. – Łodygowice, 2017. – V. – S. 63–73.

8. Prokopenko OV, Shkola V.Yu., Shcherbachenko VO Estimation of intellectual capital in the national economy. Capitalization of enterprises and financial organizations: theory and practice: thesis add. And report. Between the people. scientific-practical conf. (Donetsk, May 27, 2011) / National Academy of Sciences of Ukraine, Institute of Industrial Economics; editor: I.P. Buleev (ed.) And others. - Donetsk, 2011. - P.174-175.

9. Prokopenko O.V., Shkola V.Yu., Shcherbachenko VO Improving the methodological approach to the assessment of intellectual capital. Marketing of innovations and innovations in marketing: Proceedings of the V International Scientific and Practical Conference (Sumy, September 29 - October 1, 2011). - Sumy, 2011. - P. 177-179.

10. Shkola V., Shcherbachenko V. Comprehensive approach to intellectual capital management // Human Capital Management: innovative aspects of transformational economies : monograph / edited by Dr. of Economics, Prof. Prokopenko O., Dr. of Technology and Social Change Holmberg R., Ph.D in Economics Kotenko O. – Ruda Śląska : Drukarnia i Studio Graficzne Omnidium, 2018. – P. 17-26

11. Shkola V., Shcherbachenko V. Basis of intellectual capital management providing innovation development // Humanistic and social conditions of modern business. monograph / edited by Aleksander Sapiński, Sabina Sanetra-Półgrabi. – Norwich : Radosław Karas NORWICH, 2018. – pp. 139-156

12. Shkola V. Yu., Shcherbachenko V. O. The estimation of intellectual capital as an innovative driver of economic security // Economic Processes Management: International Scientific E-Journal. – 2018. – № 1. – Available [https://essuir.sumdu.edu.ua/bitstream-download/123456789/70704/1/Shcherbachenko\\_Shkola\\_epm2018\\_1\\_2.pdf](https://essuir.sumdu.edu.ua/bitstream-download/123456789/70704/1/Shcherbachenko_Shkola_epm2018_1_2.pdf)

13. Shkola V.Yu., Shcherbachenko VO Economic substantiation of the role of intellectual capital in the formation of an innovative economic system. Innovation management and marketing. - Sumy, 2011. - №3. - Vol.1. - P. 72-78.

14. Shkola V.Yu., Shcherbachenko VO Intellectual capital as the basis of an innovative economic system. Innovative ideas of youth in the socio-economic development of Ukraine in the XXI century: materials of the V International Study. conf., April 14-15. 2011 - Zaporozhye: Zaporozhye National University, Vol.2. - 2011. - P. 262-263.

15. Shkola V.Yu., Shcherbachenko VO The role of intellectual capital in ensuring the development of innovative socio-economic system // Socio-economic motivation of innovative development of the region / for general. ed. monograph O.B. Prokopenko. - Sumy: Sumy State University, 2012. - P. 76-80.

16. Shkola V.Yu., Shcherbachenko VO Levels of intellectual capital management. Mechanism of potential management of innovative development of industrial enterprises: monograph / edited by Ph.D., Assoc. Y.S. Shipulina. - Sumy: LLC "DD" Papyrus ", 2012. - P. 235-242.

17. Shkola V.Yu., Shcherbachenko VO Approaches to defining the essence of intellectual capital in the context of increasing globalization processes // State and Law: Problems of Formation and Development Strategy: Proceedings of the V International Scientific and Practical Conference (Sumy, May 19-20, 2012). Part II / Sumy branch of Kharkiv National University of Internal Affairs. - Sumy: LLC "Printing House" PAPHYRUS ", 2012. - P. 217-220.

18. Shkola V.Yu., Shcherbachenko VO Innovative approaches to the management of the production process and intellectual capital of the enterprise. Innovations in marketing and management: a monograph / ed. Doctor of Economics, Professor S.M. Ilyashenko. - Sumy: LLC "Printing House" Papyrus ", 2013. - P. 229-234.

19. Shkola V.Yu., Shcherbachenko VO Methodical approaches to the assessment of intellectual capital of the enterprise. Marketing aspects of innovation



development management: monograph / for general. ed. Doctor of Economics, Prof. S.M. Ilyashenko. - Sumy: Papyrus Printing House LLC, 2014. - P.217-223

20. Shkola V. Advanced development and Intellectual capital: an Influential assessment. Socio-Economic Challenges: Proceedings of the International Scientific and Practical Conference, Sumy, November 3–4, 2020 / edited by Prof., Dr. Vasilyeva Tetyana. – Sumy: Sumy State University, 2020. pp. 482-487

21. Shkola V. Intellectual capital as an driver of advanced innovative development - Socio-Economic Challenges: Proceedings of the International Scientific and Practical Conference, Sumy, March 22–23, 2021 / edited by Prof., Dr. Vasilyeva Tetyana. – Sumy : Sumy State University, 2021.

22. The Constitution of Ukraine of 28.06.1996 № 254k / 96-VR with the following changes and additions [Electronic resource]

23. Civil Code of Ukraine of January 16, 2003 № 435-IV with the following changes and additions [Electronic resource].

24. Economic Code of Ukraine 16.01.2003 № 436-IV subsequent changes and additions [Electronic resource].

25. Law of Ukraine On Protection of Rights to Marks for Goods and Services of 15.12.1993 № 3689-XII with the following changes and additions [Electronic resource]

26. Law of Ukraine "On protection of rights to indicate the origin of goods" from 16.06.1999 № 752-XIV with the following changes and additions [Electronic resource]

27. Rules for drawing up and submitting an application for the issuance of a certificate of Ukraine for a mark for goods and services approved by the Ministry of Justice of Ukraine dated August 2, 1995 N 276/812 with the following changes and additions

28. Androschuk GA Legal protection of well-known trademarks: foreign experience and domestic practice - Legal protection of commercial designations in Ukraine: problems of theory and practice: Science. Articles / Ed. Yu. S.

Shemshuchenko, Yu. L. Boshytsky, - K: Inst. Of State and Law. VM Koretsky NAS of Ukraine: Legal Publishing House Publishing House, 2010. - 577 p.

29. Androschuk GA "Legal protection of well-known trademarks: foreign experience and domestic practice" -"Legal protection of commercial designations in Ukraine: problems of theory and practice: 36. Science. Articles ”- Ed. Yu. S. Shemshuchenko, Yu. L. Boshytsky, - K: Inst. Of State and Law. VM Koretsky NAS of Ukraine: LLC "Publishing House" "Legal Thought", 2010. - 577 p.

30. Brovchenko VA Own trademarks in retail trade / V.A. Brovchenko // Economic Bulletin of the National Technical University of Ukraine "Kyiv Polytechnic Institute". 2010. Vip. 20.5. Pp. 143–148.

31. Karpenko Yu.M. Tendencies of private label development on the Ukrainian market / Yu.M. Karpenko // Economic Bulletin of the National Technical University of Ukraine "Kyiv Polytechnic Institute". 2016. № 13. URL: <http://ev.fmm.kpi.ua/article/view/80355/75993>.

32. Udyanska G.M. Own trademarks in retail trade / G.M. УДЯНСЬКА, С.В. Chernobrovkina. Bulletin of NTU "KhPI". 2014. № 64 (1106). Pp. 177–181.

33. Kakodey A.O. Prospects for the development of own brands (RTM) in retail trade [Electronic resource]. Access mode: <http://www.vestnik-econom.mgu.od.ua/journal/2016/22-2016/20.pdf>.

34. Kosar N.S., Kuzio N.E. Research of prospects for the development of trade networks in Ukraine. Actual problems of economy. № 7. 2016. S. 97–109.

35. Dankeeva O.M. Peculiarities of using elements of merchandising of own trade marks [Electronic resource]. Access mode: [https://alldocs.net/the-philosophy-of-money.html?utm\\_source=osoblivost-vikoristannya-elementv-merchandayzingu-vlasnihtorgovih-marok](https://alldocs.net/the-philosophy-of-money.html?utm_source=osoblivost-vikoristannya-elementv-merchandayzingu-vlasnihtorgovih-marok).

36. Sevruk I.M. Anti-crisis marketing of international retail FMCG networks in Ukraine. Economy and State. № 12. 2013, p. 83–86.

37. WIPO IP Statistics Data Center. Last updated: January 2021. [Electronic resource]. Access mode: <https://www3.wipo.int/ipstats/index.htm?tab=trademark>

38. EUIPO Statistics in European Union Trade Marks. 1996-01 to 2021-05 Evolution. [Electronic resource]. Access mode: [https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document\\_library/contentPdfs/about\\_euipo/the\\_office/statistics-of-european-union-trade-marks\\_en.pdf](https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/about_euipo/the_office/statistics-of-european-union-trade-marks_en.pdf)

39. USPTO. United States patent and trademark office. Statistics. [Electronic resource]. Access mode: <https://www.uspto.gov/learning-and-resources/statistics>

40. Методичні вказівки до написання, оформлення та захисту кваліфікаційної роботи освітнього ступеня «бакалавр» для студентів денної форми навчання спеціальності 292 «Міжнародні економічні відносини»: / укладач: Л. І. Хомутенко. – Суми: Сумський державний університет, 2020. – 89 с.

## APPENDIX

### SUMMARY

Korotcha N.M. Trademarks in the world market structure of intellectual property. – Bachelor's qualification paper. Sumy State University, Sumy, 2021.

The final paper is devoted to studying the trademarks in the world market structure of intellectual property in terms of globalization. The main features defining a trademark as a protected object of legal relations of intellectual property are analyzed. The author's approach to trademarks regulation and protection in the globalizing world is proposed.

Keywords: trademark, logo, brand, intellectual property, legal regulation.

### Анотація

Коротча Н.М. Товарні марки в структурі світового ринку об'єктів інтелектуальної власності. – Кваліфікаційна бакалаврська робота. Сумський державний університет, Суми, 2021.

Кваліфікаційна бакалаврська робота присвячена дослідженню торгових марок в структурі світового ринку об'єктів інтелектуальної власності. Проведено аналіз основних ознак, що визначають торгіву марку як об'єкт охорони об'єктів правовідносин інтелектуальної власності. Запропоновано авторський підхід до регулювання та захисту торгових марок в умовах глобалізаційних процесів світової економіки.

Ключові слова: торгова марка, логотип, бренд, інтелектуальна власність, правове регулювання.