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**INTERNATIONAL EXPERIENCE OF
ADMINISTRATIVE PROTECTION
OF INTELLECTUAL PROPERTY RIGHTS
IN THE FIELD OF MEDICINE
AND BIOTECHNOLOGY**

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ABSTRACT

The article is devoted to acquaintance with the international experience of administrative ways of intellectual property rights protection in the field of medicine and biotechnology. The principles of insufficient development and imperfection of the economic system of Ukraine in the prism of medicine and biotechnology are highlighted. The concept of administrative protection in the system of intellectual property is characterized, the ways of protection of intellectual property rights and types of administrative protection measures are defined. The interpretation of the concept of *administrative and legal protection of*

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intellectual property rights is studied. The notion of medicine and its components, the state, the state of development of biotechnological progress, and the results of intellectual (creative) activity, which constitute the right of intellectual property, are singled out. The implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights into national legislation in order to provide citizens with qualified, affordable medicines and devices has been studied. The combination of mechanisms of harmonization of the legislation of the member states of the European Union and introduction of the EU documents protection for various objects of intellectual property is allocated. Emphasis is placed on the introduction and improvement of the strategy of intellectual property development in the national legal system. The international experience of administrative protection of intellectual property rights in the United States, Japan, and China is studied. It is recommended to implement the norms of international law into national legislation by harmonizing the provisions of European Union law. The importance of stopping and restoring violated rights, freedoms and legitimate interests of individuals and legal entities as a result of the creation of intellectual property and the proper establishment of an effective system of intellectual property rights protection in the field of medicine and biotechnology.

INTRODUCTION

Scientific, practical problems

The intellectual property system is a basic legal system that promotes the economic development of humanity, social progress, scientific and technological innovation and cultural prosperity. Intellectual property rights protection is gaining worldwide notoriety and requires the

application of the latest and the most advanced methods of rights protection in many areas.

However, the field of medicine and biotechnology is important and paramount among many areas, as the main subject is human, the preservation of human lives and the introduction of biotechnology, which has greatly simplified life.

Purpose of the study

The aim of the article is to study the administrative protection of intellectual property rights in the field of medicine and biotechnology and to determine the possibilities of implementing international experience in order to build an effective national legal system.

To achieve this goal, the following tasks were formulated:

1. characterize the concept of *administrative and legal protection* and its measures;
2. establish the place and role of medicine and biotechnology in the formation of national economic development;
3. study the possibilities of implementing effective measures and mechanisms of administrative protection of intellectual property rights in Ukraine on the example of foreign countries.

The object of the research is public relations related to the protection of intellectual property rights in the field of medicine and biotechnology.

The subject of the research is international law and research on the experience of administrative protection of intellectual property rights in the field of medicine and biotechnology.

Some aspects of international and Ukrainian experience of administrative protection of intellectual property rights in the field of

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medicine and biotechnology were the subject of research by the following scientists: K.O. Vorontsova, B. Yu. Rebrysh, O.L. Sokolenko, N.V. Trotsyuk, S.V. Yaroshenko and others.

Research Methods

Research methodology consists of structural-systemic, historical-legal, comparative-legal methods, as well as methods of analysis and synthesis.

Theoretical and practical usefulness of the suggested article is determined by the attempt to give directions to implement international experience of administrative protection of intellectual property rights in the field of medicine and biotechnology.

Key words: administrative and legal protection of intellectual property rights, intellectual property rights, international mechanism of administrative protection of intellectual property rights.

RESULTS AND DISCUSSION

THE FIRST TOPIC

CHARACTERISTICS OF THE CONCEPT OF ADMINISTRATIVE AND LEGAL PROTECTION AND ITS MEASURES

Transformation processes have already become almost commonplace in the modern world economy. Such processes are characterized by the development of new technologies, a significant level of intellectual capacity of the state, an accelerating globalization, an openness to cooperation of advanced economically developed countries and the process that directly determines the level of the country (political,

economic, socio-cultural) in the world rankings – international competition and economic potential.

However, despite the presence in Ukraine of a significant stock of natural, human, material resources and potentials, socio-economic and technological development is not sufficiently manifested and is not able to compete with the leading and developed countries of the European Union. This situation is formed over the years, manifested in the lack of modernization processes and underdeveloped levers of influence in the economic sphere, which accumulated during the period of development of independent Ukraine. Accordingly, the issue of innovation and structural changes is currently quite relevant.

The intellectual property system is a basic legal system that promotes the economic development of humanity, social progress, scientific and technological innovation and cultural prosperity. As science and technology develop rapidly around the world and the pace of economic globalization accelerates, the status of the intellectual property system in economic and social life has reached a historic high.

The need for the gradual development of new technologies and areas, the development of new and previously unknown material and technical bases, creates the need to ensure proper protection and security of objects that are the result of certain research. Such research is the result of mental and intellectual work of man, and therefore, have the characteristics of intellectual property and need proper protection and protection. In addition, the person who becomes the developer of such a product needs not only the realization of the right to such an object, but also the proper legal provision of inviolability of rights and restoration in case of violation.

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Analysis of the state of combating infringements in the field of intellectual property in Ukraine confirms that although the level of infringements remains high, recently there has been a marked intensification of intellectual property protection processes and improvement of ways to protect intellectual property rights.

According to O. Sokolenko, one of the most accessible and effective forms of protection of citizens' rights is the administrative and legal form.²³⁷

It is worth to agree with S.V.Yaroshenko on the interpretation of administrative and legal protection of intellectual property rights, which is a system of active administrative measures applied by the competent authorities, aimed at restoring the infringed right, eliminating infringements of intellectual property rights, creating conditions for enforcement to restore the violated right to the violator, as well as bringing him to justice.²³⁸ At the same time, administrative and legal protection is an integral part of the general legal mechanism for the intellectual property rights protection. With regard to the protection of these rights, the court, in accordance with the law, may rule on:

1) application of immediate measures to prevent infringement of intellectual property rights and preservation of relevant evidence;

²³⁷ Sokolenko O.L. *Protection of citizens' rights as the main function of the rule of law*. Journal of Kyiv University of Law. 2013. № 2. P. 119– 123.

²³⁸ Ярошенко С.В. Адміністративно-правовий захист прав інтелектуальної власності. URL: http://www.irbis-nbuv.gov.ua/cgi-bin/irbis_nbuv/cgiirbis_64.exe?C21COM=2&I21DBN=UJRN&P21DBN=UJRN&Z21ID=&Image_file_name=PDF%2Fadv_2009_6_8.pdf&IMAGE_FILE_DOWNLOAD=0