

## ISSUES OF INTELLECTUAL PROPERTY PROTECTION IN INTERNATIONAL TECHNOLOGY TRANSFER

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### Abstract:

This article explores the challenges and complexities surrounding intellectual property protection in international technology transfer. It analyses the various issues that arise when transferring technology across borders, including differences in legal frameworks, enforcement mechanisms, and cultural attitudes towards intellectual property. Additionally, the article examines the role of multinational corporations, governments, and international organisations in addressing these challenges and promoting innovation and cooperation in the global marketplace.

**Keywords:** Intellectual property, international technology transfer, legal frameworks, enforcement mechanisms, multinational corporations, innovation, cooperation.

### Introduction

In an increasingly interconnected world, the transfer of technology across borders has become a vital component of global economic development and innovation. However, this transfer of valuable intellectual property brings with it a host of challenges and complexities, particularly in the realm of intellectual property protection. As technology continues to advance at a rapid pace, the need for robust mechanisms to safeguard intellectual property rights has never been more pressing. This article delves into the critical issues surrounding intellectual property protection in international technology transfer, examining the various hurdles that must be overcome to promote innovation, cooperation, and sustainable economic growth on a global scale.

When considering the foreign experience of conflict regulation of relations on cross-border transfer of rights to objects of industrial property, attention is drawn to the adoption of conflict rules regulating relations of intellectual property protection in general in many countries.

For example, According to the provisions of the Swiss Federal Law on Private International Law of 1987, the law of the country in which protection is sought shall apply in the area of intellectual property rights (Article 110, Clause 1). Such an approach related to the application of the "status of obligations" is very common, and not only in several countries, it is the reason for the existence of rules for determining the applicable law in the absence of an agreement on the choice of law between the parties for contracts whose subject is industrial property.<sup>1</sup>

Provisions for the application of the legislation of the requested state are contained in the

<sup>1</sup> § 25 Указа о международном частном праве 1979 г. N 13 Президиума Венгерской Народной Республики, ст. 117 Федерального Закона Швейцарии о международном частном праве 1987 г., Модельный Закон ГК СНГ 1996 г. Согласно п. 1 ст. 1232.



legislation of several CIS countries, for example, in the Civil Codes of Belarus in 1998 (Article 1132), Armenia in 1998 (Article 1291), as well as in the legislation of several other foreign countries, for example, Hungary (International Private Section 19 of the Decree No. 13 of 1979 on law): In the national legislation, in particular, in the sixth section of the Civil Code of the Republic of Uzbekistan, there are no such conflict norms in the field of intellectual property.

Challenges of Intellectual Property Protection in International Technology Transfer:

1. Differences in Legal Frameworks: Each country has its own laws and regulations governing intellectual property rights. This can create confusion and legal uncertainties for companies engaging in technology transfer across borders. Harmonizing these legal frameworks can be a daunting task.

2. Enforcement Mechanisms: Ensuring effective enforcement of intellectual property rights in foreign jurisdictions can be challenging. Weak enforcement mechanisms in certain countries may encourage infringement and piracy, undermining the value of IP assets.

3. Cultural Attitudes Towards Intellectual Property: Cultural differences in attitudes towards intellectual property can also impact technology transfer. Some countries may have a less stringent view on IP rights, making it difficult to protect valuable innovations during the transfer process.

At the current stage of technological competition, in our opinion, it is necessary to pay attention to the experience of countries whose foreign economic policy has contributed to the active positive exchange of technologies. These countries include Asian countries - India and China. In the policy of these countries, the priority methods of state regulation of the import and export of technologies are as follows: creation of favourable economic conditions for foreign direct investments in technology; Creating a preferential taxation system for venture funds investing in the development of the information technology industry in India and China; providing tax incentives for technology export; liberalization of the import system of information technology products. A.N. Toskanova “noted that these countries adapted their legislation to international practice promptly and adopted normative documents on the relevant directions of foreign economic activity”.<sup>2</sup>

Objects of intellectual property are created before they are transferred, the rights relative to them are also created in accordance with the procedure established here, after which they are transferred. Therefore, reforms in the field of intellectual property protection will serve to further develop technology transfer and ultimately expand export opportunities.<sup>3</sup>

As A. Gutterman and J. Ehrlich correctly stated, intellectual property rights are not only an integral aspect of the legal regulation of technology transfer, but also an important aspect of technological development in general, creation, adaptation, introduction and use of existing and new technologies.<sup>4</sup>

The successful development of international cooperation will be possible only with legal regulation of the creation and use of intellectual property. These include high information technologies, biotechnology, robotics, pharmaceuticals, medicine, artificial intelligence, and

<sup>2</sup> Тосканова А. Государственное регулирование сферы информационно-коммуникационных технологий— URL: [https://www.unec.org/fileadmin/DAM/ceci/ppt\\_presentations/2009/ic/ict/toxanova\\_paper\\_r.pdf](https://www.unec.org/fileadmin/DAM/ceci/ppt_presentations/2009/ic/ict/toxanova_paper_r.pdf)

<sup>3</sup> Maskus, Keith E. and Lei Yang. The Impacts of Post-TRIPS Patent Reforms on the Structure of Exports, mimeo. 2013.

<sup>4</sup> Gutterman, A. and J. Erlich, 1997. Technology development and transfer. Quorum Books, Westport, Conn. –P.215.



others.

One of the primary challenges in international technology transfer is the disparity in legal frameworks governing intellectual property rights across different countries. Each nation has its own set of laws, regulations, and enforcement mechanisms related to IP protection. Navigating this complex web of legal frameworks can be daunting for companies involved in technology transfer, leading to legal uncertainties and potential risks of infringement. Furthermore, the effectiveness of enforcement mechanisms for intellectual property rights varies widely across countries. In some jurisdictions, weak enforcement of IP rights can result in rampant infringement and piracy, undermining the value of the technology being transferred. Lack of robust enforcement mechanisms can also deter companies from engaging in technology transfer activities, fearing potential IP theft and loss of competitive advantage. Cultural attitudes towards intellectual property also play a significant role in international technology transfer. Some countries may have more relaxed views on IP protection, leading to challenges in safeguarding valuable innovations during the transfer process. These cultural differences can complicate the negotiation of IP rights and licensing agreements, further adding to the complexities of technology transfer.

To address these challenges and promote a conducive environment for international technology transfer, various solutions and recommendations can be considered. Strengthening international IP agreements and fostering cross-border cooperation can help harmonize legal frameworks and enforcement mechanisms related to intellectual property rights. Companies engaging in technology transfer should also develop comprehensive IP strategies, including conducting thorough IP due diligence and securing appropriate patents and trademarks.

Determination and strict observance of international legal norms in this field is considered a mandatory condition for cooperation in the world arena. Intellectual property rights regimes have been political instruments influencing the creation, transfer and implementation of technologies, and the focus of international norm-making has increasingly focused on the protection of intellectual property rights. The analysis of the policy of the most developed countries in the field of legal protection and implementation of state rights to the results of scientific and technical activities funded from the state budget shows that many developed countries direct the results of state-funded scientific research to increase the competitiveness of national industry by quickly absorbing, introducing and commercializing them, as well as such in the states, the rights to the object are being provided to the person or organization that created the new technology.

As a result of the analysis, it can be concluded that technology transfer is knowledge, technologies, information and technological experience (scientific, scientific and technical and other knowledge, including the results of scientific, scientific and technical activities and the rights to such results, developed both in the country and abroad technology) is a process consisting of a set of activities aimed at the transfer of technology to the field of practical application, which involves the creation and use of innovations by concluding a contract between the persons who created the technology and use it for commercialization.

It can be concluded that the interests of the world development through the transfer, introduction and use of technologies should influence the gradual development of the international system of protection of intellectual property rights in the direction of flexibility, and through this, the gradual development of the international transfer of technologies creates prospects for the positive development of the international transfer system.



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