

**CURRENT ISSUES OF ADAPTING UKRAINE'S INTELLECTUAL  
PROPERTY LEGISLATION TO THE EU-UKRAINE  
ASSOCIATION AGREEMENT**

**Stovpets Oleksandr Vasylovych**

*Dr.Hab. in Philosophical Sciences, Professor,  
Professor of the Criminal and Administrative Law department,  
Odessa National Maritime University  
Odessa, Ukraine*

**Stovpets Vasyl Grygorovych**

*Dr.Sc. in Philology, Professor,  
Director of the Educational Service Centre,  
Odessa National Maritime University  
Odessa, Ukraine*

An important step on Ukraine's path to full economic and legal integration into the EU is to bring Ukraine's intellectual property legislation in line with the EU *acquis*. In 2016, the Concept of reforming the current Ukrainian IP legislation and a roadmap for its implementation were adopted, and a number of draft laws were submitted to the Parliament. In general, our legislation in this area is in line with international standards and EU requirements, so the focus should be on mechanisms for its effective implementation.

Chapter 9 of the Association Agreement <sup>1</sup>, Title IV «Trade and Trade-Related Issues», provides for the simplification of the procedure for the creation and commercial use of innovative products and results of creative activity in the territory of the Parties, as well as the achievement of an appropriate and effective level of protection and enforcement of intellectual property rights. On our part, the Ministry of Economic Development and Trade of Ukraine organizes and controls the implementation of these rules and functions.

---

<sup>1</sup> Association Agreement between the European Union and Ukraine. (2014). Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони Міжнародний документ від 27.06.2014 р. Угоду ратифіковано Законом № 1678-VII від 16.09.2014 р. // Офіційний вісник України. – 26.09.2014 р. – № 75, том 1, стор. 83, стаття 2125 (зі змінами, в чинній редакції від 25.10.2022). – Розділ IV «Торгівля і питання, пов'язані з торгівлею», Глава 9. Інтелектуальна власність. URL: [https://zakon.rada.gov.ua/laws/show/984\\_011#n1198](https://zakon.rada.gov.ua/laws/show/984_011#n1198)

Here we will briefly consider the current state of adaptation of Ukrainian legislation and cooperation with the EU in the field of intellectual property. In terms of institutional support of the system of legal protection of intellectual property, in May 2018, the state organization «National Intellectual Property Office»<sup>2</sup> was established. Among its main tasks are: the registration of intellectual property rights in Ukraine, maintaining state registers in the intellectual property sphere, supporting the activities of collegial bodies (the Appeals Chamber, the «Ukraine» Commission, the Supervisory Board), attestation of patent attorneys (including their training, and maintaining the patent attorneys' Register), providing services and consultations in the IP sphere, supporting international cooperation, informational and publishing activities in the IP realm.

In July 2018, the Law of Ukraine «On Effective Management of Property Rights of Copyright Holders in the Field of Copyright and (or) Related Rights»<sup>3</sup> came into force, which ensures the rights of right-holders to fair remuneration and transparent activities of collective management organizations in accordance with international standards (Directive 2014/26/EU of the European Parliament and of the EU Council, on the collective management of copyright and related rights and the multiterritorial licensing of rights).

In October 2018, the Cabinet of Ministers of Ukraine adopted the Resolution «On approval of Criteria for assessing the degree of risk from conducting business activities in the field of Intellectual Property and determining the frequency of scheduled state supervision (control) measures by the Ministry of Economic Development and Trade of Ukraine»<sup>4</sup>. The Resolution puts into practice the provisions of the Laws «On copyright and related rights», «On distribution of copies of audiovisual works, phonograms, videograms, computer programs, databases» and «On peculiarities of state

---

<sup>2</sup> Ukrainian National Office for Intellectual Property and Innovations. (2018). IP Office (UANIPIO). URL official: <https://nipo.gov.ua/en/>

<sup>3</sup> On Effective Management of Property Rights of Copyright Holders in the Field of Copyright and (or) Related Rights. (2018). Закон України «Про ефективне управління майновими правами правовласників у сфері авторського права і (або) суміжних прав», № 2415-VIII від 15.05.2018 року (зі змінами, в чинній редакції від 31.03.2023). URL: <https://zakon.rada.gov.ua/laws/show/2415-19#Text>

<sup>4</sup> On approval of Criteria for assessing the degree of risk for business activities in the field of Intellectual Property. (2018). Постанова КМУ від 31.10.2018 р. № 912 «Про затвердження критеріїв, за якими оцінюється ступінь ризику від провадження господарської діяльності у сфері інтелектуальної власності та визначається періодичність проведення планових заходів державного нагляду (контролю) Міністерством економічного розвитку і торгівлі України» (зі змінами, в чинній редакції від 24.03.2023). URL: <https://zakon.rada.gov.ua/laws/show/912-2018-%D0%BF#Text>

regulation of business entities' activities related to production, export, import of disks for laser reading systems».

The Law of Ukraine «On amendments to certain legislative acts of Ukraine regarding improvement of protection of rights to semiconductor product layouts»<sup>5</sup> was adopted to simplify the conditions for obtaining and protecting the ownership of microchip designs for both large companies and ordinary citizens. Considering the importance of integrated circuits and all related technologies in the modern world, this legislative novelty should play a positive role in stimulating the development of the semiconductor industry in Ukraine.

The Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine are also working on other draft laws in the field of intellectual property rights protection. Among them: «On amendments to certain legislative acts of Ukraine on strengthening the protection and enforcement of rights to trademarks and industrial designs and combating patent trolling» (registration No. 2258 on 11.10.2019); «On amendments to certain legislative acts of Ukraine on the reform of patent legislation» (reg. No. 2259 on 11.10.2019); «On improvement of the state system of legal protection of intellectual property» (reg. No. 2255-1 dated 29.10. 2019); «On amendments to certain legislative acts of Ukraine regarding the acquisition, exercise and protection of intellectual property rights» (reg. No. 2659 dated 20.12.2019), aimed at ensuring an effective legal mechanism for the acquisition, exercise and protection of intellectual property rights in Ukraine, capable of ensuring a reasonable balance of rights and legitimate interests of creators of intellectual property rights, other right holders, and persons using these objects. It is expected that all these measures will facilitate the development of creative activity in the literary, scientific, technical and other fields, and the commercialization of the results of such activity.

In order to ensure the fulfillment of Ukraine's obligations in the field of European integration, in terms of harmonizing the requirements of the current legislation of Ukraine on the protection of geographical indications with the law of the European Union, the Law of Ukraine «On amendments to certain legislative acts of Ukraine regarding improvement of legal protection of geographical indications»<sup>6</sup> was adopted. Europeans protect their agricultural

---

<sup>5</sup> On amendments to certain legislative acts of Ukraine regarding improvement of protection of rights to semiconductor product layouts. (2019). Закон України «Про внесення змін до деяких законодавчих актів України відносно вдосконалення охорони прав на компонування напівпровідникових виробів» № 111-IX від 19.09.2019 р. URL: <https://zakon.rada.gov.ua/laws/show/111-20#Text>

<sup>6</sup> On amendments to certain legislative acts of Ukraine regarding improvement of legal protection of geographical indications. (2019). Закон України «Про внесення змін до деяких законодавчих актів України щодо вдосконалення правової охорони

products and brands from counterfeiting. Therefore, when entering into trade agreements with other countries, they ensure that other producers cannot mislead the buyer as to the place of origin of the goods. Thus, for instance, when buying Parmigiano Reggiano cheese, the buyer ought to be sure that it is produced in a certain region in Italy. Similarly, only a certain type of sparkling wine is called «champagne» around the world: the one produced in the region of France of the same name. However, for other countries, this can sometimes even be an advantage. For example, Spain abandoned the name «champagne» back in the 1970s and offered its own unique product; and now Spanish sparkling wine, Cava, is one of the most popular in the world. There are similar examples of new players in the wine market: Chile, New Zealand, Australia. Instead of calling their wine, for example «Madeira», they have created their own original brands, which explains their success both in terms of quality and marketing, because many consumers are attracted to the product authenticity.

The general conclusion about the prospects for completing reforms in the field of intellectual property in Ukraine is that integration into the European economic and legal space means a stricter attitude to intellectual property theft. There will be fewer opportunities to counterfeit branded products, download music and movies online for free, produce counterfeit goods, use pirated software, etc., but Ukrainian artists, writers and inventors may eventually have more resources for innovation. Integration with the EU will gradually limit the possibilities for abuse of intellectual property rights (including various cases of Internet piracy and counterfeiting). Stricter rules and legal regulations may cause problems in a society that is not used to paying for intellectual property rights. But without them, it appears impossible to develop our national economy in terms of stimulating innovation, inventions, and original audiovisual products. The established rules must work properly, and the interests of authors, inventors and other right-holders have to be protected in Ukraine in the same way as in the European Union.