

SURVEYING IMPORTANCE OF INTELLECTUAL PROPERTY PROTECTION IN INNOVATIVE ACTIVITIES OF ENTERPRISES FROM THE SME SECTOR IN LOWER SILESIA

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Abstract: *Decisions concerning intellectual property protection depend largely on business goals and strategy of the owner of intellectual goods. At the same time, they are largely limited by the size of an enterprise, possessed technological and manufacturing potential, present shape of the market and trends prevailing on it, as well as the level of knowledge about the meaning of this protection in business activities. The article presents findings of surveys conducted among entrepreneurs from the SME sector in Lower Silesia, aimed to diagnose the level of knowledge of the principles and procedures of intellectual property protection and management of those resources in the course of the conducted business activities.*

Keywords: *enterprises, intellectual property, management, business, innovation*

JEL Classification: *M11, O31, O32*

1. INTRODUCTION

In Poland, in the recent period, much has been said about importance of innovation and intellectual capital for future development of the country. At the same time, little attention is paid to research on such a fundamental area for the economy as intellectual property, especially in an area of operations of micro, small and medium-sized enterprises (SMEs) ¹. In the modern economy these enterprises may play an important role in creating and disseminating innovations, all the more so because competitive advantage of enterprises depends less and less frequently on the size of factories and traditional tangible capital components. As early as in 1989, Gordon V. Smith and Russel L. Parr concluded that the next decade of the 20th century would be a decade of intellectual property and intangible assets and, as we can see, they were right.

For small and medium-sized enterprises the condition of effective functioning on the market covers innovative activities, introduction of advanced changes, not only in products and manufacturing technologies, but also in the sphere of organization and functioning of an enterprise, in business management and market operations.

Successful development and operation of new ideas transformed into innovative and market-useful products,

technologies and services, requires involvement of time and organization, and, first of all, often financial expenditures. The SME sector in Poland, like in the entire world economy, is dominated by microenterprises that, by nature, are weak in terms of capital, which is reflected in investment and innovative weakness of these organizations². Their innovation is based most often on the fact that they attempt to offer rather than manufacture the latest products and services they deliver mainly to local markets [9]. Most small and medium-sized enterprises are not preliminary creators of new technologies, but their users who play an important role in creating imitations³. In this situation, a mechanism is necessary that would constitute for entrepreneurs a special incentive to conduct research and development activities and would guarantee profitability of investing in innovative projects. This mechanism is a system of intellectual property rights, protecting various kinds of intellectual products, characterized by: innovative character (inventions, utility designs, industrial designs, integrated circuit topographies),

¹According to the data of the Central Statistical Office (GUS) companies operating in Poland generate nearly three fourths of the Polish gross domestic product (GDP). The result at the level of 73.0% in 2012, after a small drop in 2010 and 2011, may mean restoring the upward trend observed in the period 2006–2009. The SME sector generates every second zloty (48.5%), including micro enterprises generating nearly every third (29.7%). The share of medium-sized entities is three times smaller (11.0%) than of micro enterprises, and small – almost four times (7.8%). In 2012, in relation to 2011, the share of microenterprises and medium-sized enterprises in generating GDP increased, whereas the share of small and large enterprises remained at the same level. See Raport PARP o stanie sektora małych i średnich przedsiębiorstw w Polsce w latach 2012 – 2013, Warszawa 2014, <http://www.parp.gov.pl/files/74/81/713/21789.pdf>. (access on 12.07.2015).

²The smallest innovation characterizes small enterprises (10-49 employees), from among which only nearly 10 have introduced innovations to the market in recent years. Furthermore, the percentage of enterprises introducing innovations is much higher in the public sector than in the private sector. It applies both to industry and services. In the years 2010-12, in the public sector innovations were introduced by 28.7% of industrial companies and 23.5% of services-oriented companies, whereas in the private sector the figures were 17.5% and 13.2%, respectively. This disproportion was present already in the previous surveys of enterprises, and sometimes was even more significant. See http://www.outsourcingportal.pl/pl/userfiles/image/raporty/2014/10/2/Raport_Przedsiębiorczosc_w_Polsce_www_ost_2014_0925. (access on 12.07.2015).

³ In the EU, only 3 percent of all operating SMEs can be called technology pioneers, namely enterprises that were the first to introduce and offer the most recent technological and logical solutions. See Avermaete T., Viaene J., Morgan E.J., Pitts E., Crawford N., Mahon D., Determinants of product and process innovation in small food manufacturing firms, "Trends in Food Science & Technology", 15, 2004.

capacity of distinguishing (trademarks, marks distinguishing enterprises, geographic names), economic value (business secret). Intellectual property rights, protecting indicated products, are a legal tool of protecting innovative solutions and compensation for expenditures incurred on innovative activities.

2. CHARACTERISTICS OF THE SYSTEM OF INTELLECTUAL PROPERTY RIGHTS

The system of ownership rights is structuralized by two important principles, decisive for their meaning for innovative processes. Firstly, intellectual property rights are exclusive rights. The exclusive character of intellectual property rights means that the entity for which such a right was created or to which it was granted obtains monopoly in the use of protected good for professional and economic purposes, on the territory of protection. The exclusivity arising from protecting intellectual property rights guarantees that the entitled enterprise, as the only on the market, may use protected product, technology, service, which enables entering a niche market or increasing competitiveness and position on the market. As a tool of competitive fight, intellectual property rights are therefore an important element of business activities of enterprises, supporting its business and marketing strategy. In addition, protection of intellectual property rights makes it also possible to prevent other entities effectively from using such a solution illegally.

With regard to enforcement of intellectual property rights, the entitled party is granted a number of claims with which they may apply to the court in the case when a competitor or other third party uses their trademark, industrial design or invention in a manner breaching the entitled party's rights. In this case, the entitled party may request not only stopping further breaches or removing their effects, but also transferring benefits obtained as a result of unlawful operation of the protected solution as well as covering damage arising as a result of activities that breach their right.

An important feature of intellectual property rights is their tangible and transferable character. These rights may be the object of economic trade and a tool of generating income. An enterprise, having the exclusivity in the use of the protected solution, may decide on their commercial operation, including it may transfer to other entities intellectual property right or give to other companies the consent to using the protected solution (the so-called licenses). Licensing is a commonly applied form of commercial operation of intellectual property rights which enables the entitled company to obtain permanent revenues under other entities using intellectual property protected for their benefit. Just as other corporate assets, intellectual property rights are a material component of enterprise, often of great economic value.

As property rights, intellectual property rights are subject not only to sale or licensing, but they can also be contributed in kind to a company as well as be object of pledge. As intangible assets in the form of intellectual property rights may also become a guarantee for credits incurred by entrepreneurs, including credits for innovative projects. The presence of properly protected and managed

intellectual capital of an enterprise has also a significant meaning in the case of applying for different forms of financing or co-financing for innovative projects and investments necessary to prepare, produce, test and launch a product or service. Intellectual property rights are "value added" for investors when an enterprise applies for external funding. It is also worth emphasizing that an enterprise that protects its innovative solutions has a better image in the eyes of the financing institution, and hence greater chances of co-financing. In such cases, a business plan of the applicant, taking into account the strategy of intellectual property protection, is better assessed.

Conducting innovative activities should entail naturally protection of intellectual capital worked out in this way. Inventions or designs left without protection may be lost for larger competitors who have funds to beneficially commercialize a product or service, leaving the real innovator or creator without any financial benefits or remuneration. Investing in intellectual property protection and managing this protection are the source of creating a strong competitive advantage on the market, and hence contributes to better competitiveness of a company. Appropriate protection of inventions, trademarks, designs and other solutions of a company is a move decisive for stopping potential breach of rights and actually a change of idea in economic resources that can be used on the market.

Full use of the system of industrial and intellectual property protection facilitates companies to derive benefits from their innovative and creative ability and helps and encourages further innovations. This system, on the one hand, protects interests related to the development of innovative solutions, on the other hand - enables other to take them over, without sustaining own intellectual, financial and organizational outlays for the development of innovations. In order to make it possible, knowledge is necessary, enabling the selection of relevant tools of legal protection of such solutions, adapted to their specific nature, market life span and financial possibilities of enterprises with regard to financing formal protection of intellectual property rights.

3. THE IMPORTANCE OF INTELLECTUAL PROPERTY PROTECTION IN BUSINESS ACTIVITIES OF COMPANIES FROM THE SME SECTOR

In the contemporary economy, competitive advantage of companies less frequently depends on the size of factories and traditional material capital components. It is indicated repeatedly that the basis for economic success of companies are intangible. In the contemporary economy, competitive advantage of companies less frequently depends on the size of factories and traditional material capital components. It is indicated repeatedly that the basis for economic success of companies are intangible components, such as human capital, distribution network, advanced technologies used by companies, brands, etc. Along with increasing competition on the market, also the need for strategic management of intellectual property rights, their protection and lifting also increases. Lack of proper understanding of the role of these right in the comprehensive strategy of running business operations may

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result in wasting opportunities for business development and significantly weaken competitiveness of a company.

In the context of SME, it should be taken into account that intellectual property rights allow to ensure exclusivity exactly with regard to intangible components of a company. They include quite a wide thematic range, i.e. patents, protective rights including industrial models and trademarks, copyright and ancillary rights.

A common feature of all intellectual property rights is that they give the entitled party the possibility to prohibit others from some activities related usually to business operation of goods which are the object of protection. This prohibitive character of rights has important practical consequences. Often entrepreneurs resign from protection because they believe that nobody will be willing to breach their rights anyway, or believe that the acquisition of rights and then their judicial enforcement are too expensive. When undertaking such a business decision it should be borne in mind that intellectual property rights are not only an instrument of offence, but also a tool of defence.

In 1793, Jeremy Bentham wrote: "without legal protection, an invention would be always pushed from the market by competitor who, taking possession of invention without outlays would be able to deprive the inventors of any fair profits, by sale at a lower price". According to this view, intellectual property rights are intended to correct market deficiencies consisting in the fact that without existence of respective protections actions of imitators reduce an incentive being for inventors the possibility of commercial use of their invention. To stop such abuses, intellectual property right should increase innovation, which is favourable for public good

Proper disposal of intellectual property in SME requires appropriate management of those resources. For this purpose, it is required to fulfil relevant conditions, create adequate procedures of actions, have trained personnel. For many enterprises from the SME sector this is a major organizational and financial barrier. In this situation, the held qualities should be used, i.e. small size of these enterprises and the lack of formalized organizational structure which will allow effective management of the possessed intellectual property. The main responsibility in SME for disposal of intellectual property resources is borne by the owner of an enterprise, who has a large scope of freedom in deciding about the form and scope of protection of those goods. First of all, they decide whether this good will be really protected, and if so – whether the protection is actual or formal. They fix directions of business development, supervises work in an enterprise, bears full responsibility for its functioning. They decide about introducing innovations in an enterprise.

Effective management of intellectual property resources includes – apart from the scope of protection of those goods – also actions aiming at their commercialization, especially by granting licenses and permits to their use by third parties, making available know-how and selling rights or interest in these rights. For small and even middle-sized enterprises it is typically a difficult task, due to a limited number of these resources, the need to have specialized services, large costs of promotion, competition on the part

of large business entities and many other factors. It does not mean, however, that these difficulties cannot be overcome. Having own invention staff can be replaced with orders for patent attorney's offices, costs of promotion can be reduced using existing forms of promotion, such as e.g. the National System of Services for SMEs kept by PARP, or also under technology parks, incubators of entrepreneurship, also within various kinds of fairs, salons, exhibitions, etc. After all, some companies support SMEs in promoting their solutions, also on foreign markets. The possibilities held in this respect by organizations involved in support for industrial and intellectual property, including bodies of economic local government, are not fully used, either.

According to G. Osbert-Pociecha, innovation is a continuous readiness to implement changes, which is the necessary condition for existence and functioning of the company. Innovation defined in the Innovative Economy Operational Program means "implementation of novelties into business practice: a new or significantly improved solution with regard to product (goods or service), process, marketing or organization. An innovative solution may be a result of own R&D activities of an enterprise, cooperation with other enterprises and institutions or can be a result of acquisition of knowledge in intangible or tangible form [...]"

Introduction and development of innovative projects or research and development activities in an enterprise should be a process based on innovative strategy. Then, acquisition and use of innovations will be an intentional and aware action that may generate the expected effects and benefits. A significant component of this strategy is protection of intellectual property. Depending on the type of business activities, strategies of intellectual property protection differ significantly. The extent to which intellectual property protection will constitute a part of a comprehensive strategy of a given company depends on its development phase – whether it only starts activities itself or is well-developed, as well as whether product, technology or solution itself is new on the market.

Enterprises use intellectual property rights for different objectives, e.g. maximization of revenues by deriving benefits from the portfolio of intellectual property rights as a result of giving licenses, increasing its attractiveness for potential partners, mutual licenses or locking access of competition to the market. Owing to meaning of the SME sector in the development of innovation in Poland, enlargement of the extent and enrichment of any sources of information on intellectual property protection in these enterprises was acknowledged as necessary. may result in wasting opportunities for business development and significantly weaken competitiveness of a company.

4. SYNTHETIC CHARACTERISTICS OF RESEARCH

To determine the real level of knowledge about the need to protect intellectual potential of a company, which is real capital, allowing to obtain a competitive position on the market, surveys were conducted in a group of enterprises from the SME sector. The purpose of the surveys was to diagnose, based upon data obtained from questionnaires, knowledge about intellectual property, use of intellectual property protection rights and corporate strategies of conduct in this scope.

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The surveys of entrepreneurs having and/or applying for protection rights for intellectual property were conducted by experimental method, by way of computer-supported direct questionnaire interviews in the CAPI technology (*Computer Assisted Personal Interview*) on the target sample. A base list of 200 enterprises from the SME sector, entitled from patents or intending to apply for intellectual property protection, was prepared. This list was drawn up on the basis of review of publicly available materials containing information about entities having protection rights for inventions:

- rankings of innovative companies of the Lower Silesian Province (published by Gazeta Prawna and the journal Rzeczpospolita),
- information available on websites,
- bases (lists) of companies in the Incubator of Entrepreneurship
- of the Lower Silesia Agency of Economic Cooperation, Bulletin of the Patent Office of the Republic of Poland, Wiadomości Urzędu Patentowego RP, and on-line databases made available by patent offices.

From the prepared bases a random sample of 170 enterprises was selected and surveyed. Unfortunately, in the course of the survey, it turned out that a considerable part of the selected entities refused to take part in the survey. Finally, the conducted survey was carried out in the period from 1 May to 1 July 2015 on the sample of 137 entities. In addition, qualitative research was conducted and it covered patent attorneys. The research was conducted by way of individual in-depth interviews – with 5 patent attorneys from Lower Silesia. It should be noted that methodological difficulties arose when preparing research findings. Information provided by the respondents with regard to particular thematic issues were not always fully comparable (some questions were interpreted in a different manner).

Questions addressed to entrepreneurs were raising such issues as:

- knowledge of procedures of obtaining intellectual property protection at the national and international level,
- the use of intellectual property protection in business activities, including own business,
- terms of implementation of the procedures of intellectual property protection in a company,
- planning of intellectual property protection
- meaning of license contracts in the business management process,
- estimation of intellectual property in business activities,
- purpose and barriers in the development of innovation and intellectual property protection,
- level of available information about intellectual property protection.

5. CONCLUSION

The completed survey was addressed to the group of enterprises from the SME sector with and/or applying for intellectual protection rights. On the whole, the knowledge of SMEs about industrial protection and arising benefits is

very low. On the other hand, knowledge about managing intellectual property protection, declared on the part of the surveyed enterprises also differs far from the expectations in this respect. The conducted analysis enabled indicating basic barriers in using intellectual property as an effective tool of taking and conducting innovative activities. First of all, these are limited funds of enterprises from the SME sector, ignorance of the procedures of intellectual property protection both in national and international terms, unavailability of unpaid consulting in this respect. Due to the presence of these barriers and constraints, many enterprises, having often substantial intellectual property resources, do not register them and do not protect them. This situation is not without effect on the overall level of innovation of the Polish SME sector and slowed down process of building knowledge-based economy.

Improving the level of knowledge and interest of enterprises in the issues of intellectual property protection is inseparably associated with innovation. Innovations and fresh ideas are the most valuable product in the knowledge-based economy, and even in the traditional economy their role becomes more and more important. For each enterprise, lack of original ideas and solutions means marginalization. An innovative company aims not only at systematizing the process of creation and trying out of new ideas, but also makes this process suitable for widespread use in practically each context. Its essence is good organization and adequate attitude of employees, rather than cherishing lone geniuses.

Implementation of innovations in a company can be perceived as a process of using knowledge to process it into new products, services and technologies. Presently, innovations are among the most important factors that affects the development and greater competitiveness of a company and its position on the market. Introducing innovative solutions is beneficial not only for a company, but also the whole economy. Like talents bring profit to the holder only as a result of "issuing them", intellectual property may bring the entitled party benefit as a result of competent management of exclusive rights. Management includes actions involving registration, purchase, maintenance, exercising and use of intellectual property rights. These actions have serious consequences for the entrepreneur operating on the market, but properly taken can lead to obtaining advantage over competition, which is unable to copy innovative solutions without breaching the exclusive rights. On the other hand, conscious and sound use of solutions available in the digital era may prevent us from incurring unnecessary costs of defence against charges concerning breaching someone else's rights.

REFERENCES

- [1] AFUAH, A. 2004. *Business models. A Strategic Management Approach*, Boston: McGraw-Hill Irwin, 2004.
- [2] BLAIR, R.D., COTTER, T.V. 2005. *Intellectual property: economic and legal dimensions of rights and remedies*, New York: Cambridge University Press, 2005,
- [3] DEREŃ, A. 2014. *Zarządzanie własnościami intelektualną w transferze technologii*, Warsaw: Wyd. Difin, 2014.
- [4] HARGADON, A.R., SUTTON, R. I. 2003. *Building an Innovation Factory*, Harvard Business Review 2003, no. 9.
- [5] GOŁĘBIEWSKI T. i in., 2008. *Modele biznesu polskich przedsiębiorstw*, Warsaw: SGH, 2008,
- [6] GOSBERT-POCIECHA, G. 2003. *Innowacyjność przedsiębiorstwa*, [in:] LICHTARSKI J. (ed.), *Podstawy nauki o przedsiębiorstwie*, Wrocław: Wydawnictwo Akademii Ekonomicznej we Wrocławiu, 2003.
- [7] SLYWOTZKY, A. MORRISOM, D. ANDELMAN, B. 2000. *Strefa zysku. Strategiczne modele działalności*, Warsaw: PWE, 2000.
- [8] SZABŁOWSKI, J. (ed.) 2006. *"Zarządzanie innowacjami. Teoria i praktyka"*, Białystok: Higher School of Finance and Management, 2006.
- [9] VERHEES, F.J.H.M. 2005. *Market-Oriented Product Innovation in Small Firms*, Wageningen University, 2005.

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