



FINAL DOCUMENT¹

Recommendations of the participants of the XI International Forum «Innovative development through the intellectual property market»

Moscow

April 23, 2019

The participants of the XI International Forum «Innovative development through the intellectual property market», that was held in Moscow as part of the International Days of Intellectual Property under the auspices of the United Nations on April 23, 2019 (on the basis on MGIMO (University) run by the Ministry of Foreign Affairs of Russia), which represented WIPO, SCO, CIS, Eurasian Economic Commission of the EEU, Union State, state authorities, institutions of science and education, business and public organizations, mass media of all EEU member states and 17 regions of Russia, including via videoconference on the regional sites (on the basis of the Ural State Economic University, Yekaterinburg, the Crimean Federal University named after Vernadsky, Simferopol), as well as delegations of the Arab countries,

having discussed the experience and problems of the transition to an innovative and digital economy through the formation and development of the Eurasian intellectual property market within the framework of the third stage (2016-2020) of the CIS Economic Development Strategy, the Cooperation Strategy in establishment and development of the information society for the period up to 2025, the Program of development of the intellectual property market of the CIS member states, the Concept for the creation of the CIS patents' and innovations' database, the Agreement on the creation of the information infrastructure of the innovative activities of the CIS member states, as well as the conditions and the main directions of the digital agenda of the EEU until 2025, practice of the application of the EEU Customs Code since February 1, 2018, which is fully focused on electronic technologies, the prospects for the commercialization of intellectual property in order to create a common financial market within the EEU and start carrying out activities under the common rules in the service sectors (banking sector, insurance sector, services sector on the securities market) from January 1, 2025;

supporting the signing and entry into force of the Agreement on the Formation and Development of the Intellectual Property Market of the CIS Member States (Dushanbe, June 1, 2018), the implementation of which provides for:

improvement of legislation in the field of intellectual property in terms of increasing the level of protection, protection, commercialization of rights to intellectual property (hereinafter - IP) and the use of IP;

development of systems for assessing the value of IP rights using world experience;

improvement of the rights management system for IP;

building an interstate system of legal, financial, and institutional mechanisms for the commercialization of IP rights and the use of IP;

formation of a system of human resourcing in the areas of protection and enforcement of IP rights, innovation management, technology commercialization, intellectual property valuation;

¹ The final document was discussed and approved during a joint meeting of the Supervisory Board and the Scientific Council of the RSRIIP with the participation of the Forum's Program Committee, as well as during the plenary and in-session meetings of the XI International Forum "Innovative Development through the Intellectual Property Market" under the auspices of the United Nations, accepted by its participants on April 23, 2019, finalized on the basis of public discussion, including on the Internet, and sent to international and intergovernmental organizations (WIPO, WTO, UNESCO, SCO, CIS, EEU, Union State) and national authorities and academies of sciences of the CIS and EEU countries.

noting as positive changes having occurred in 2018 the incorporation and implementation of the recommendations of previous international forums at the interstate and national levels, including within the framework of the adjustment of innovation strategies, programs and policies at the national and corporate levels in the CIS and the EEU countries in the field of intellectual property; the creation of an international CIS innovation foundation in order to form a digital technology platform of interstate innovation cooperation; the creation of the Eurasian Engineering Center for machine-tool construction; approval of Eurasian technology platforms; continuation of work on building cooperation chains, the formation of specific cooperation projects, including with financing from the Eurasian Development Bank; preparation and adoption of a package of interstate and national standards within the framework of the activities of the Interstate Technical Committee for Standardization “Intellectual Property” (ITC-550) and a similar national technical committee (TC481) in the Russian Federation as regulators of “soft power” in the context of persistent contradictions of legislation in the EEU and CIS countries;

welcoming the readiness of the Executive Committee of the CIS, the EEC and the national governments of Russia and other CIS and EEU countries to use the recommendations of this Forum when preparing government decisions to increase the level of coordination and interaction of all interested parties in the development of the intellectual property market as a condition for ensuring digital leadership and competitiveness of the EEU within the framework of the new international division of labor;

taking into account the discussion that took place, **the following decisions** are unanimously made:

I. To make public recognition to the heads of international and intergovernmental organizations (WIPO, SCO, CIS, EAEU, Union State), public authorities, national academies of sciences and organizations of Belarus, Russia, Kazakhstan, Kyrgyzstan for their greetings, attention and participation in the Forum, and also the Russian Foundation for Basic Research (RFBR) - for support in its conduct (grant of the RFBR No. 19-011-20019).

II. To hold the XII International Forum “Innovative Development through the Intellectual Property Market” **on April 23, 2020** in Moscow as part of the International Days of Intellectual Property under the auspices of the United Nations.

To propose to governing bodies of international organizations of WIPO, SCO, CIS, EAEU, Union State, Eurasian Patent Organization, as well as national authorities, academies of sciences and specialized organizations of the EAEU and CIS countries, organizations - members of the Organizing Committee of the Forum to include participation in the preparation and conduct of this event in their work plans for 2020.

III. To recommend to the Council of the Eurasian Economic Commission, as a co-organizer of the Forum, when preparing the decision of the Supreme Eurasian Economic Council “On Main Directions of the International Activities of the Eurasian Economic Union for 2020”, in the framework of interaction with the international business and expert community, provide for direct interaction with the International Forum “Innovative Development through Intellectual Property Market” on topical issues of the development of Eurasian economic integration, including the formation and development of the Eurasian intellectual property market.

IV. Take as a basis the draft final document of the Forum. To instruct the Forum Directorate to place this document on the Forum website; the Program and Organizational Committees of the Forum to finalize and generally adopt, taking into account the comments and suggestions received following public discussion; to inform WIPO and the WTO, UNESCO and the European Commission of the European Union, the SCO, the Executive Committee of the CIS, the Eurasian Economic Commission the EEU Commission and the Standing Committee of the Union State, national parliaments and governments of the EEU member states on the results of the Forum’s work, its conclusions and **adopted recommendations**:

1. Eurasian intellectual property market and competitiveness in the digital economy.

In the conditions of the growing crisis of further globalization of political, economic and social relations in the world, the strengthening of regionalization of alliances, including integration processes in the Eurasian direction (SCO, BRICS, Eurasian Economic Union created in 2015 based on the

experience of international regional integration and accumulated cooperation potential over 26 years within the CIS). The competitiveness of such unions is influenced by both general processes and new integration challenges, as well as the specific conditions and risks associated with the transition to a digital economy and with the turnover of intellectual property.

Eurasian integration, having gone from the free trade zone through the Customs Union and the single economic space to the EEU, aims to create the Eurasian Union by 2030. Within the framework of the Union (Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia) from January 1, 2018 the EEU Customs Code is in force. By 2025 along with a single market of goods (since 2010), works / services (since 2015 - 42 service sectors and 21 sectors by 2025), a common market for medicines and medical devices (since 2017), a single electricity market should be formed (since July 1, 2019), the common market for oil, oil products and gas, a single transport space and the development of Eurasian transport corridors; common financial market and coordinated agro-industrial policy.

The Memorandum on deepening cooperation between the Eurasian Economic Commission and the CIS Executive Committee dated November 27, 2018 expanded the list of areas of cooperation, as well as interaction mechanisms. According to expert estimates and results of opinion polls, the representatives of Tajikistan, Turkmenistan and Uzbekistan most often express the integration preferences in favor of the EEU, the most favorable forecast of the possibilities of deepening cooperation with the EEU is observed in Uzbekistan and Turkmenistan. Cooperation in the field of science and technology (joint research, the exchange of research, technology and scientific ideas) in all countries is associated with Russia (40% of respondents). Following the free trade zone between the EEU and Vietnam (from 2015, the trade volume increased by more than 1/3), the agreement on a free trade zone with Iran was ratified (2018), priorities for the formation of free trade zones of the EEU with Serbia, India, Israel, Singapore, Egypt, as well as on trade and economic cooperation with China.

According to the Global Competitiveness Index, the EEU ranks 40th (2017) in a ranking of 137 economies (2016 – 44th). Considering the proclaimed priorities of Eurasian integration in accordance with the Main areas of industrial cooperation based on the “Own Center of Strength” within the framework of the implementation of the EEU digital agenda until 2025, 30% of the markets of the “industries of the future” is allocated to the information and communication technology (ICT) sector. According to the EEC, digital transformation, like global electrification of the 1920s and 30s, will change the well-established state of affairs in the economies of the EEU member states.

At the same time, to achieve by 2025 the declared targets of the EEU member states in building a digital market (at least 20% is the share of the digital economy in GDP, the share of personnel employed in the high-tech segment of the economy and the share of exports of digital goods and services), it is necessary to eliminate differences and contradictions regarding the terms, scope and priorities of its formation and development.

In the key world ICT development ranking for 176 countries, calculated under the aegis of the UN – ICT Development Index, the countries of the EEU take: the Republic of Belarus – 32nd place, Russia – 45th, the Republic of Kazakhstan – 52nd (goal: 25th place by 2025 and 15th – by 2050), the Republic of Armenia – 75th, the Kyrgyz Republic – 109 (goal: 50th place)².

Within the framework of a single Union, all EEU member states have strategic, program and regulatory documents on the digital agenda which are different in terms and scope, which undoubtedly makes it difficult today and in the future to coordinate and implement them in order to achieve a single competitiveness (“Agenda of Armenia’s Digital Transformation by 2030”, State Program of Development of the Digital Economy and Information Society in the Republic of Belarus for 2016–2020, State Program “Digital Kazakhstan” for 2018–2022, National Program for Digital Transformation and “Taza Koom” by 2040 – “Digital Kyrgyzstan” – 2019-2023”, Strategy for Information Society Development in the Russian Federation for 2017-2030 and the Program “Digital Economy of the Russian Federation” (2018-2024).

At the same time, *there are significant differences in the structure of the IT market in the EEU*, where it is customary to distinguish three large segments: equipment, licensed software and IT services with a constant increase in the share of the latter in the world. If the share of IT services in the total national IT market is 47% - in the UK, France - 44%, the Czech Republic - 35%, Poland - 33%, then in

² Annual EEC Report - 2017 “Forming a digital space” // <http://www.eaeunion.org>

the EEU, where services account for the largest share of GDP (32,3%), the share of IT services in the ICT market in Russia is less than a quarter (23,8%), in Kazakhstan the total volume of the IT market is constantly decreasing with the share of IT services being 11%, in Belarus the same number of employees in the ICT sector should grow from 30 000 (2017) to 100 000 of people (2030), with a five times increase in annual export revenue (to 4,7 billion US dollars).

Noting as a positive experience in order to ensure the functioning and development of an integrated information system and a cross-border trust space in the EEU, the development of 14 subsystems and the creation of an integration segment of the Commission (platform for building and providing access to shared information resources), the formation and maintenance of 48 common information resources, “digitization” of more than 50 general processes of information interaction, as well as the approved Procedure for developing initiatives in the framework of the implementation of the agenda of the EAEU until 2025 and the list of such initiatives (digital traceability, digital transport corridors, digital cooperation, digital trade), it should be recognized that so far, with the stated development priorities, the ICT industry has not been included in the list of economic sectors of the EEU that showed the best growth rates of production volumes, exports to third countries, as well as the volume of cooperative supplies between the member states.

In accordance with the methodology for separating obstacles in the EEU internal market, the Register includes 64 obstacles (10 barriers, 17 exemptions and 37 restrictions), of which 13 barriers were eliminated in 2017 and a road map was implemented to eliminate exemptions and restrictions for 2018-2019 in relation to 17 obstacles most restricting the free movement of goods, services, capital and labor.

Although in 2017 intellectual property was included in the list of priority areas for the development and integration within the in the EEU, and in the final documents – 2015-2018 recommendations of this international Forum – obstacles for integration in this area were repeatedly pointed out and proposals were made for the development of a corresponding roadmap, a plan of measures to eliminate barriers, exemptions and restrictions on the formation of the intellectual property market is still absent in the EEU, as well as a market itself.

In order to successfully develop economic relations at regional and national levels, including within the framework of innovative cooperation and safe development, it is necessary to take into account existing patterns, including:

- a significant increase, driven by the transition of development to the sixth technological order and digital economy, of the role and value of intellectual property as a measure of the economic value of this intellectual creativity;
- conditionality of further innovation development by the presence of a civilized market of intellectual property;
- the structure of world trade is changing in favor of the growth of the share of the “fourth basket” – the intellectual property market (more than 15% of GDP in the present) with the restructuring of this sector of market relations, which, given the ongoing global crisis of the patent system and an increase in the share of non-patent sales (currently more than 80%) predetermines the need to change the state policy in this area.

The development of informatization and the digital economy involves the active use of digital technologies and information systems based on the results of intellectual activity (protected primarily as objects of copyright, related rights and know-how).

The need to take into account both global patterns and national features of the development of the Eurasian intellectual property market in the EEU countries during the transition to a digital economy with a view to common competitiveness implies:

- increased coordination in adjusting (in time, scope, priorities and indicators) strategic, program and regulatory documents on the digital agenda in the countries of the EEU and the CIS;
- development and adoption of the Intellectual Property Development Strategy and a special program for the formation and development of the Eurasian intellectual property market, as an integral part of the global intellectual property market and the necessary basic conditions for technological modernization and digitalization;
- a significant adjustment of state strategies, programs and policies of corporations / organizations in the formation of accounting policies, the choice of method of legal protection of the

results of intellectual activity in the scientific and technical sphere created with budget financing in the interests of further commercialization of intellectual property;

- preparation of a roadmap for the harmonization of legislation, removal of barriers, exemptions and restrictions of the EEU member states in the field of intellectual property, in accordance with the methodology for separating obstacles in the internal market of the EEU and taking into account the proposed delineation of levels and regulatory mechanisms.

2. Intellectual property risks in the digital economy. The main risks of intellectual property in the digital economy by its levels in the countries of the EEU and the CIS include:

a) *markets and sectors of the economy* where interaction takes place between the subjects (suppliers and consumers of goods, works, services):

- lack of intellectual property market;
- the growth of unfair competition and immunities from antitrust regulation in the field of intellectual property;
- the growth of contradictions between private and public interests in the movement of goods across a single customs border in conditions of application of various principles of exhaustion of exclusive rights and national legal regimes of intellectual property protection;

b) *platforms and technologies* where competencies are formed for the development of markets and industries (big data, neurotechnology and artificial intelligence, distributed registry systems, quantum technologies, new production technologies, industrial Internet, components of robotics and sensor technology, wireless communication technologies, virtual and augmented reality):

- preferential use of foreign software, incl. free of charge;
- “leaky” accounting policy with respect to intellectual property used in information technologies and information systems (PC, databases, know-how - PC algorithms) and their use;
- lack of intellectual property share in the pricing of digital products and the creation of value added during its turnover;

c) *an environment* that creates conditions for the development of platforms and technologies and effective interaction of the subjects (regulations, information infrastructure, personnel, information security):

- high level of legal and economic illiteracy in matters of intellectual property and information security, including when using someone else's software;
- preservation of legal conflicts at the national level and their growth, taking into account the rule-making on the part of the EEC and other supranational bodies of the EAEU on intellectual property issues within the cross-border trust space
- lack of professional personnel in information security and intellectual property.

Based on the law of information development (*the higher the level of organization of social systems, the greater the role of self-regulation of these systems*), in order to ensure uniformity in approaches when national legal systems converge in the EEU countries, three levels and corresponding basic regulatory methods and mechanisms can be distinguished:

- high level of self-regulation (professional codes of conduct);
- average level of self-regulation (standards as “soft power” regulating mechanisms, where it is possible to use the potential of the national (ITC 481) and interstate (ITC 550) “Intellectual property” technical committees on standardization;
- low level of self-regulation (legal acts prevail in the regulation).

With a low level of self-regulation in this area in all countries of the Union, there is not enough coordination in law-making at the national and interstate levels on general issues of Eurasian integration, which leads to the creation of artificial barriers and restrictions.

An example is the introduction of a general ban on the procurement of foreign software by Order No. 1236 of the Government of the Russian Federation as part of orders for the creation and modernization of state and corporate information systems, which has hindered access to the government procurement market software providers of other EEU member states. Although the ban was formally cancelled by the Decree of the Government of the Russian Federation on January 1, 2018, in fact it was only lifted in April 2019 (after 3,5 years), when the uniform Register of computer programs and databases of the EEU Member States was introduced, which allows their rightholders

from the EAEU countries to participate in public procurement in Russia on a par with Russian companies.

In the national strategies and programs of innovative development and intellectual property of the countries of the EEU and the CIS, the above regularities and conditions for the formation of a civilized market of intellectual property are not always taken into account. Most of the regulatory legal acts in all EEU countries in the field of innovation development are still not linked to the documents regulating the sphere of the formation of the intellectual property market, and the documents adopted in full do not work effectively yet, there is still no such strategy in the Russian Federation.

In order to implement the Agreement on the formation and development of the intellectual property market of the CIS member states in terms of enhancing the development and implementation of measures for the formation and development of the intellectual property market of the CIS member states (Article 3) and the Memorandum of Understanding in the field of intellectual property between the EEC EEU and WIPO, to minimize and manage risks and ensure competitiveness in the digital agenda, to recommend:

– *EEC to consider the creation of a system for the coordination of law-making activities with the participation of representatives of all EEU countries, including: the development of criteria for evaluating the effectiveness of its activities (ensuring competitiveness while reducing legal conflicts and obstacles in this area); using the experience of the Republic of Belarus in creating a system of legal informatization with ranking and identification of information resources using digital technologies and capabilities of IIS (Integrated Information System) in the EEU; increasing the effectiveness of post-monitoring by the EEC with the unification and harmonization of national legislation in this area;*

– *Interstate Councils on Standardization, Metrology and Certification, on the Legal Protection and Protection of Intellectual Property of the CIS and the EEC of the EAEU to provide for active use of the institution of interstate standardization based on the interstate technical committee for standardization “Intellectual Property” (ITC 550), taking into account the fact that it is growing the role and importance of standardization as a “soft power” regulator with the possibility of subsequent application of the rule of “normative reference”, in which the application of the standard becomes from mandatory voluntary;³*

– *confirm the relevance of the conclusions and recommendations of the participants of the International Forum “Innovative Development through the Intellectual Property Market” in 2017-2018 to minimize the risks of using foreign software and the transition to a digital economy in the countries of the EEU and the CIS, including joint research and development, technical platforms, engineering centers and technology transfer.*

3. Ranking and performance indicators of research and development. A significant risk that can have a negative impact on the implementation of most of the activities of the state innovation development programs in the CIS and the EEU is the lack of economic indicators of research performance, since with increasing domestic spending on research and development, the main indicators of their performance are information indicators of the so-called “knowledge economy” including the number of publications, patent applications and patent by which we notify the world about the results of these studies free of charge.

Publications. In the 21st century, in all CIS and EEU countries, the list of scientometric indicators of the effectiveness of scientific organizations and universities and the effectiveness of scientific research was limited by bibliometric indicators, which are dominated by publicity indicators in publications included in the world databases and Scopus⁴); citation, incl. Hirsch index; rankings of

³ In 2018 in the Russian Federation 104 references to standards were made in 49 regulatory legal acts of federal executive bodies.

⁴ The owner of the Web of Science search platform is Clarivate Analytics, an American company founded in 2016 that manages various databases, information systems and collections on intellectual property and is funded on the basis of a subscription to its services. At the same time, in accordance with the terms of use of the Web of Science, the subscriber “has no right to do anything that could lead to a violation of the terms of the contract between your organization and Thomson Reuters See: <http://wokinfo.com/terms/>. Thomson Reuters is an American-Canadian media holding specializing in analytical information that combines abstract databases of publications in scientific journals and patents, including databases that take into account the mutual citation of publications, and covers materials on the natural, technical,

journals, where works are published, including journal impact factor, etc. At the same time, there was a monopolization of the activity of assessing the effectiveness of Russian science (according to publications and quotations) in private companies, including overseas, and the creation on this basis of a special business sector, often based on unfair competition. These bibliometric indicators (e.g., in Russia) are also currently applied to candidates for dissertation councils and in assessing the activities of scientific organizations and members of dissertation councils, and from January 1, 2019 are applied to applicants for academic degrees in scientific specialties by the decisions of the Higher Attestation Commission of the Ministry of Education and Science of Russia. In April 2019 more than 100 dissertation councils, whose members do not meet these requirements, were closed in the Russian Federation.

According to the results of the examination of the current situation with the participation of leading scientists of the Russian Federation (meeting of the Scientific Council of the Russian Academy of Sciences on Competition Protection (February 21, 2017), a joint meeting of the Scientific Council of the Russian Academy of Sciences on Competition Protection, the Expert Council of the Higher Attestation Commission of the Ministry of Education and Science of the Russian Federation (October 24, 2017), an expert round table on “Developing Competition in Science: Law, Economics, and Security” at Moscow State University named after M.V. Lomonosov (April 2, 2019), concluded that it is necessary to revise existing approaches to the assessment of science. In the scientific field conducted by scientific and educational organizations, there is a situation of false competition, when both state and private scientific and educational organizations (and in some cases the researchers themselves), on the one hand, are forced to bear the ever-increasing costs of translation into foreign languages and subsequent publication in foreign editions of the results of their intellectual activities (thereby ensuring the priority development of foreign scientific publishing houses and science in foreign countries), and on the other hand, increase funding for government and non-state procurement related to the acquisition of access to relevant international databases. At the same time, national reference databases and corresponding technologies do not develop or develop very slowly, and the results of intellectual activity obtained with state support are not properly protected.

Based on the strategy of providing world-class research and development and global competitiveness by 2020 according to national science and technology priorities, as well as national strategies for the development of competition and antitrust regulation in the EEU countries, competition in science is a way to fight for resources; a way to stimulate the increase in the efficiency of activity of subjects of the scientific and technical sphere, as well as a key motivation for their innovative behavior. *To ensure it, a transition from information indicators (publications and patents through which we notify the whole world for free about our achievements) to indicators of the economy of intellectual property is necessary in the system of assessments and indicative indicators, including at the supranational, national, strategic, program, regional and corporate levels.*

To this end, it is necessary to make adjustments in all intergovernmental and national programs for the development of science and technology, digitalization and innovation development, as well as to the highest-level regulatory legal acts in the EEU countries, defining publications indexed in the Web of Science and Scopus, as key indicators (for example, Decree of the President of the Russian Federation as of May 7, 2012 No. 599).

Publication activity can be attributed to the criteria and indicators for evaluating the effectiveness of the activities of a scientific organization only on condition of preliminary examination of the results of scientific research according to the criterion of economic expediency and information security, their legal protection as objects of intellectual property. At the same time, budgeting of these processes in the interests of foreign campaigns, as copyright holders of big data, should be resolutely stopped, not encouraged.

social sciences and art. The Scopus database belongs to the publishing house of scientific literature *Elsevier* (the Netherlands), as a rule, does not take into account publication activity in scientific journals *not published by Elsevier* and does not index scientific publications in a number of branches of science, in particular, in the field of jurisprudence. The Internet has recorded over 230 million messages about the possibility of obtaining paid services for publishing scientific articles in publications included in Scopus and Web of Science with the cost of such services an average of 55 000 RUB (as of April 10, 2019).

It should be recognized as useful to stimulate priority publication of research results obtained in the EEU countries or at the expense of state or municipal budgets of all levels by all categories of subjects of such activities in national periodical and other peer-reviewed publications of the EEU countries regardless of their registration in certain international databases, concluding agreements with the authors, ensuring adequate protection of copyright and exclusive rights. At the same time, it is advisable to create incentives for publishing the results of research and development activities obtained in the EEU countries in those foreign publications that are registered in the Russian peer-reviewed databases. There is an objective need to create such a single database in the EEU.

Patents and patent applications. According to the Strategy for the Development of Intellectual Property of the Republic of Belarus, the main goal of the policy in the field of intellectual property is to ensure the competitiveness of the economy, the indicator of which when budgeting R&D is an increase by 2020 of the number of patents – by 30% and by 100% of patents under the PCT procedure.

A similar and only indicator on the R&D section (the number of filed international patent applications from residents of the Republic of Kazakhstan) is included in the state-run Digital Kazakhstan program and provides for growth over five years by 20% (up to 1 500 applications), although this indicator does not allow to evaluate the solution of such tasks as with the planned growth for 5 years in 3 times of the IT services market to increase the share of local content also by 3 times (up to 70% in 2022). The formation of a national registry of trusted software and products of the electronic industry of the Republic of Kazakhstan, the use of which will become a priority in the formation and development of the country's information infrastructure, requires other indicators related primarily to objects of copyright and know-how.

In the Digital Economy of the Russian Federation Program, this indicator is also stated as key: by 2024, the number of published patent applications of Russian applicants in ICT technology areas should increase by 40% (from 2005 to 3230).

At the same time, the share of commercialization of intellectual property protected by patents is negligible for all EEU countries. For 27 years, only 1,4 million patents have been issued in the EEU countries, of which only 350 000 patents are valid, and 1-2% are sold annually. In the absence of profitability, the results of intellectual activity, often obtained with budget financing, with a possible term of legal protection of 20 years, become free to use 3 years after non-payment of patent fees. This leads to scientific and technical loss, economic losses and the preservation of dependence on imports. At the same time, in the context of the ongoing global patent system crisis, the share of non-patent sales increased several times (more than 80% in the present), which does not require patenting and mandatory state registration of transactions. When using these developments only in their own production, patenting is generally at odds with the interests of the competitiveness of their products of the enterprise / industry.

This means that the stated priorities of state policy in the countries of the EAEU and in the interstate program of innovative cooperation of the CIS with an emphasis on patenting are not real, ensuring competitiveness in this market.

The main negative consequences of using information transparency indicators as the main target indicators (number of publications and their quoting, number of patent applications and patents) in the CIS and EEU countries include the following:

- failure to achieve the key objectives of innovative development and ensuring the competitiveness of domestic developments and innovative products created on the basis of them, national rightholders and goods producers;
- maintaining the current structure of expenditures on R&D with small business participation;
- high corruption potential of public procurement for R&D;
- “leaky” accounting policy with respect to the results of R&D created with budget financing, which leads to an increase in “gray” and “black” turnover and exports of such intellectual property and rights to them.

As a result, declaring the strategy of innovative development, in fact we are building an “original” economy based on the export of raw materials (information) and the import of technologies, often based on the knowledge of domestic scientists. Thus, the EEU and the CIS countries finance the innovative development of foreign countries from the taxpayer's pocket, often to the detriment of their own national interests.

This implies a significant adjustment of policies when choosing a method of legal protection (in favor of know-how, objects of copyright and related rights) and the subsequent commercialization of rights to them. This will lead to a decrease in the formal indicators of national patent authorities, but will ensure the greatest effectiveness of the legal protection of technologies and the economic effectiveness of their use in the interests of national technological competitiveness.

The economic indicators of intellectual property should characterize the processes of managing the rights to intellectual property objects at all stages of its life cycle, including economic indicators characterizing:

- *volume of funds for R&D and the number of created intellectual property objects;*
- *processes of transfer of exclusive rights and granting the right to use intellectual property in the public sector /for military, special, dual-use technologies in the civilian sector of the economy;*
- *commercialization of intellectual property rights;*
- *intellectual property in the scientific and technical sphere as a mechanism for creating value added;*
- *intellectual property as a means of recapitalization of intangible assets of enterprises and organizations;*
- *intellectual property as an investment resource, including through loans secured by intellectual property.*

4. Intellectual property and financial market. In order to create a common financial market within the EEU and implementation from January 1, 2025 of activities in accordance with common rules in the service sectors (banking sector, insurance sector, services sector on the securities market) and non-discriminatory access to the financial markets of the EEU Member States to confirm the relevance of the conclusions and recommendations of the participants of the International Forum “Innovative Development through the Intellectual Property Market” in 2017-2018.

To support, taking into account the discussion at the session of the Forum, the draft national standards GOST R (in final form) “Intellectual property. Management in a credit institution”, “Intellectual property. Management in the stock market”.

To boost lending processes secured by intellectual property, increase interest, and form the responsibility of credit organizations for their participation in creating innovative mechanisms for such lending, government support is needed, including encouraging credit organizations (improvement of the policies of Central banks with regard to reduction of reserves for possible losses in credit institutions), training and the formation of relevant competencies in credit institutions for the use of such financial instruments based on the best foreign and domestic experience.

Recommend EEC to provide for:

- *when planning budget expenditures for 2020–2021, expenditures on research in the preparation of interstate standards “Intellectual Property. Management in a credit institution”, “Intellectual property. Management in the stock market” and “Intellectual property. Risk Insurance”, the development of which is provided for by the Interstate Standardization Program in this area;*
- *during the development of the Concept for the formation of a common financial market of the EEU, there are special sections regarding the definition of goals, principles and objectives for creating mechanisms for managing intellectual property in the banking sector, the insurance sector and the services sector in the securities market until 2020;*
- *to consider the issue of expanding the functions of the Eurasian Development Bank (EDB) as an investment and innovative bank to provide major pilot projects on loans secured by intellectual property in the EEU countries.*

5. Pricing, taxation and accounting of intellectual property. According to the global competitiveness ranking from 140 countries for 2018 (113 indicators in 12 groups) from the CIS countries Azerbaijan takes – 69th place, Russia – 43rd, Kazakhstan – 59th, Armenia – 70th, Tajikistan –

102nd, Ukraine – 83rd, Moldova – 88th, Kyrgyzstan – 97th ⁵. In many of these indicators (innovation potential, competitiveness of the companies, level of technological development, depth of the value chain, competitiveness of the production process) intellectual property is an important component.

The conditions and model of intellectual property turnover should ensure the motivation of all participants in the innovation process (from the author - right holder to the customer - the investor) in improving the created technologies for the production and sale of competitive products. The use of prior intellectual property at all stages of the innovation process from R&D to production should be accompanied by the conclusion of a licensing agreement with the copyright holder (on a reimbursable basis - if intellectual property is created using extrabudgetary funds), which will allow the inclusion of intellectual property in the pricing of final products.

In order to strengthen the competitive positions of the industries and enterprises of the EEU countries in the global world while enhancing innovation through the use of intellectual property, it is advisable to highlight key technological competencies while ensuring an appropriate form of legal protection for each technology element on an integrated basis.

A serious obstacle to the formation and development of the Eurasian intellectual property market can be the attribution of relations in the field of R&D and intellectual property to the service sector. According to the Decision of the Supreme Eurasian Economic Council of December 23, 2014 No. 110, the service related to the infrastructure of the digital economy can be provided according to the rules of the single market of services. These service sectors include: software application services; data processing services; database related services. As part of the implementation of liberalization plans in 2017, it was confirmed that there is substantive equivalence in regulating market access for all or part of the Member States in ten service sectors, including: those related to the production and distribution of cinema and video films; video demonstrations; to conduct research and implementation in the field of social sciences and humanities; to conduct research and the creation of experimental developments in the field of natural sciences. According to the EEC, “the presence of substantive equivalence in regulating access to the market will make it possible in the near future to connect these services to a single market”. The persistence of differences in approaches entails the creation of difficulties not only in the development of the intellectual property economy, but also in the related processes of innovative motivation of the authors and right holders of such objects, budget and accounting of exclusive rights and taxation in this area.

With this in mind, to confirm the relevance of the conclusions and recommendations of the participants of the International Forum “Innovative Development through the Intellectual Property Market” in 2017-2018.

To support, taking into account the results of the discussion at the Forum session, the draft national standard GOST R “Intellectual property. Intangible assets” (final edition).

Recommend EEC to provide:

– *making adjustments to the regulatory and policy documents of the EEU on the exclusion of R&D and intellectual property from the service sector with the subsequent assignment of R&D to work and the separation of the economy of intellectual property into an independent market sector;*

– *when planning budget expenditures for 2020–2021, expenditures on research in the preparation of the intergovernmental standard “Intellectual Property. Management in a credit institution”, “Intellectual property. Intangible assets”, the development of which is provided for by the Interstate Standardization Program in this area;*

– *using not only the competitive advantages of the national economy of each state, but also the accumulated economic potential in the implementation of innovative programs and projects of the Union State, the EEU and the CIS, which involves consideration of this issue at the level of higher authorities in order to determine the mechanisms for recording and evaluating intellectual property rights created at the expense of the budgets of these intergovernmental entities at the national level and the organization of such interaction by order obtained the exclusive rights to results of intellectual activity, including in the framework of the implementation of a joint import substitution policy;*

⁵ Global Competitiveness Index. Humanitarian encyclopedia: Research [Electronic resource] // Center for Humanitarian Technologies, 2006–2019 (last revised: 03/30/2019). URL: <https://gtmarket.ru/ratings/global-competitiveness-index/info>;

– *preparation and public discussion with the participation of the expert community of the pricing methodology for innovative products using intellectual property objects, and its further use for accounting and taxation, including for cases of a compensated / gratuitous license for the use of intellectual property for the purposes of fulfilling a state contract.*

6. Protection of intellectual property from unfair competition and antitrust regulation.

According to the analysis of legislation and law enforcement practice in the field of production, trafficking and protection of intellectual property in the Russian Federation and other countries of the EAEU and the CIS in 2015-2018 during the transition to a digital economy, it has been established that there is a direct interdependence between the growth of unfair competition and the lack of an intellectual property market in the EEU and the CIS countries. In the transition to a digital economy, the share of value added from the turnover of intellectual property in the pricing of goods produced, work / services and finance will only increase, which in turn will increase competition in this area, including unfair competition.

Ensuring a balance between the interests of right holders of exclusive rights and public and private interests protected by antitrust laws is today one of the real problems of the formation and development of modern competition law. In accordance with the Treaty on the EEU (Appendix No. 26) and with the adoption and entry into force on January 1, 2018 of the new Customs Code in the EEU has a regional principle of exhaustion of rights, while in the Russian Federation - the national principle of exhaustion of rights (Article 1487 of the Civil Code of the Russian Federation), which prohibits the import into Russia of goods with trademarks placed on them without the permission of the right holders. Under these conditions, the foreign right holder may unfairly use the exclusive right to a trademark and restrict the import of specific goods into the domestic Eurasian market or implement a pricing policy consisting in overpricing prices in this market.

In order to ensure uniformity of approaches to resolving conflicts of private and public interests in anti-monopoly regulation and protection against unfair competition, as well as legalization of “parallel” imports in relation to certain types of goods in the EEU, taking into account the explanations of the Constitutional Court of the Russian Federation (Resolution as of February 13, 2018 P-8), *to support the prepared changes to the Treaty on the Union, according to which the Eurasian Intergovernmental Council will be able to introduce the international principle of exhaustion of rights for certain types of demanded goods (which are not available or either are in insufficient quantities or at inflated prices) with the consent of all the participating countries. To recommend to consider the possibility of their use for certain categories of goods with the use of objects of copyright and related rights.*

Taking into account the experience of the Russian Federation in the development of competition policy and the role of antitrust authorities in addressing socio-economic issues, in order to improve antitrust regulation and increase its effectiveness in protecting intellectual property, recommend to the Eurasian Economic Commission (EEC), the CIS Executive Committee, national parliaments and governments of members of the EEU to extend antitrust regulation to the sphere of intellectual property related to abuses and threats. However, the use of intellectual property when introducing such goods (work, services) into turnover, as well as intellectual property turnover, which is especially important for preventing abuse by customers when using previous intellectual property at subsequent stages of work within the organization of the innovation process, where the object of turnover at different stages of R&D-production can only be the exclusive right to intellectual property, created / used within this R&D.

The results of the analysis of the Treaty on the EEU, as well as the legislation on administrative offenses and the criminal legislation of the EEU Member States in terms of liability for unfair competition related to the use of intellectual property, leads to the following conclusions:

The Treaty on the EEU (clause 2.1 Article 76 and clause 16.1 of Appendix No. 19 to the Treaty on EAEU) contains an exhaustive list of unfair competition forms subject to administrative liability in cross-border markets, among which (unlike from the antitrust laws of Russia) unfair competition associated with the use of the results of intellectual activity (hereinafter referred to as intellectual property) *is not listed*. At the same time, in accordance with clause 21.1 of Annex No. 26 to the Treaty on the EEU, *member states provide for legal measures that allow interested parties to prevent any use*

that is an act of unfair competition within the meaning of Article 10 bis The Paris Convention for the Protection of Industrial Property of March 20, 1883;

despite the unity of the economic space of the EEU member states, the differences in the levels of administrative and criminal liability for unfair competition associated with the use of intellectual property *are critical under national law*. Thus, at present unfair competition with the use of intellectual property (without taking into account the rules on liability for intellectual piracy) can be considered as a crime only under the Criminal Code of the Republic of Kazakhstan (Article 221 of the Criminal Code of the Republic of Kazakhstan).

In connection with the above, recommend the EAEU Council to decide on the need for interstate consultations on the appropriateness of:

- additions of paragraphs 1 to 2 of Article 76 of the Treaty on the EEU indicating such a form of unfair competition as unfair competition with the use of intellectual property;

- the inclusion in the Treaty of the provisions on the assignment to the competence of the Union of issues of conducting a coordinated policy in the field of administrative and criminal responsibility for economic offenses (including administrative offenses and crimes in the field of competition).

7. Customs protection of intellectual property and countering counterfeit in the EEU. In 2018, the EEU completed work on creating a regulatory framework for customs protection of intellectual property: the EEU Customs Code, the Agreement on trademarks, service marks and appellations of origin of the EEU goods, the Agreement on the Unified Procedure for Managing Copyright and Related Rights on a Collective Basis EEU (from December 11, 2017) and the Regulations for the maintenance of a single customs register of intellectual property (ETROIS). The introduction of the subsystem of identification of subjects of foreign economic activity has begun, which will provide the information technology base for the Unified system of identification of participants of foreign economic activity being created in the customs territory of the EEU.

At the same time, the results of the analysis of the practice established in 2010–2018 in the countries of the Customs Union show that the organization of customs protection of intellectual property is still in its infancy. Under the conditions of a single customs territory and a single economic area of the EEU, the existence of national registries in each state with different approaches and procedures for their maintenance and the actual absence of a single registry creates prerequisites for the growth of counterfeit products and smuggling through the single customs border within the EEU.

In order to improve the mechanisms for identifying and holding accountable the perpetrators and introducing systemic measures to reduce the volume of illegal trafficking in counterfeit industrial products as a matter of priority, *to recommend to the Eurasian Economic Commission:*

- *to speed up the work on the introduction of industrial product marking systems with control (identification) marks in all EEU member states;*

- *to support the proposals initiated by the Russian Federation on amending the technical regulations of the Customs Union in terms of eliminating conditions conducive to the implementation of the illicit traffic in industrial products, including the production and distribution of counterfeit products;*

- *to continue to harmonize the risk management system in the field of intellectual property and ensure its uniform application in the framework of customs control on the territory of the EEU.*

To support, following a public discussion, the draft GOST “Intellectual Property. Customs Protection”, prepared at RSRIIP in accordance with the Interstate Standardization Program for 2018, recommend that developers take into account their comments and suggestions when preparing and adopting the Interstate CIS Councils on Standardization, Metrology and Certification with the participation of the Council of Heads of Customs Services of the CIS member states.

To confirm the relevance of the conclusion of this Forum in 2010-2018, that in the interests of preventing unfair competition under the guise of combating counterfeit and forming a new, more rational international economic order, common transparent and generally accepted methodologies and methods for measuring counterfeitness in different countries are needed. The objectivity of understanding counterfeit and unfair competition in all its manifestations can be based only on a clear regulatory classification of offenses and determining their exhaustive comparable national lists (civil-law delicts, disciplinary offenses, administrative offenses and crimes) and a single statistical record

regarding the illegal use of intellectual property in case of turnover of goods, works, services, finance, as well as in circulation of exclusive rights to results of intellectual activity obtained / used in the framework of R&D, including with international cooperation.

To recommend the Economic Council of the CIS and the Executive Committee of the CIS, the Board of the Eurasian Economic Commission of the EAEU:

- support the proposals of the Russian Federation and Belarus on the preparation of a “roadmap” for harmonizing the legislation of the countries - members of the EEU in the field of protecting intellectual property from unfair competition and countering counterfeit;*
- envisage when planning budget expenditures for 2019–2020 the costs of research to prepare national and intergovernmental standards for determining counterfeit level in the Russian Federation and EEU countries, containing principles, basic criteria and indicators, institutions and mechanisms for measuring counterfeit level by types of goods, works, services within the framework of the single economic area of the EAEU; the ranking structure and monitoring bodies measure the level of counterfeit as a powerful lever for preventing unfair competition and ensuring the priority development of national, Eurasian and regional intellectual property markets;*
- to conduct a public discussion and public examination of the draft of these documents in the framework of the next International Forum “Anti-counterfeit”.*

8. Management and personnel for the intellectual property market. The growing role and importance of state regulation in shaping the development of the intellectual property market, unlike other trade sectors, implies further centralization and specialization of state administration of these processes at all levels (creation of unified intergovernmental and state bodies with the unification of administrative functions of copyright, related, patent and other intellectual property rights in relation to all major categories of intellectual property). Although this conclusion and recommendations for its implementation are annually contained in all the final documents of this International Forum, and the public declaration of the goals and objectives of the Federal Service for Intellectual Property (Rospatent) for 2016-2018 provided for the formation of a “single regulator” in the field of intellectual property for the development of civil legal rights to intellectual property, Russia is still the only country in the world where the functions of state administration and regulation in intellectual property are distributed among more than 20 federal agencies, which greatly reduces the possibility of forming a single market for intellectual property and competitive advantage in the implementation of innovative development strategy until 2020.

Most enterprises and organizations in the countries of the EEU and the CIS still lack a unified system for managing the life cycle of intellectual property from the selection of intellectual property and their expertise to the assessment, insurance and commercialization of exclusive rights to the intellectual property as part of the use of prior intellectual property at all stages of the innovation process and ensuring balance of interests and motivation of its participants.

In order to overcome formalism and enhance the role of boards of directors of companies and their effectiveness in addressing the problems of commercialization of intellectual property, recommend to national governments to adopt directives when making decisions for meetings of shareholders of campaigns with state participation, as well as relevant documents of the regulatory legal level, including such measures as:

- adjustment of strategies and programs for the long-term and innovative development of companies, taking into account both national and interstate sectoral strategies and programs, as well as regional documents in this area, highlighting intellectual property commercialization as a priority (strategy committee);*
- creation of a system for identifying, assessing and managing intellectual property risks, incl. in the framework of innovation, investment and budgetary policies (risk management committee, audit committee);*
- change of key performance indicators (KPIs) from informational to economic (remuneration committee, nominations committee);*

– granting powers to determine the intellectual property management policy of an independent director and create a special committee within the structure of the Board of Directors (intellectual property management committee).

To confirm the recommendations of the participants of the International Forum “Innovative Development through the Intellectual Property Market” in 2017-2018 with regard to monitoring information on the work of national universities in this area, the creation of basic and network specialized departments; ensuring inter-university and inter-regional cooperation in creating a system for training and re-training personnel for the field of intellectual property; the formation and implementation of state orders in the field of scientific research in the preparation and defense of dissertations for the degree of Doctor and Candidate of Science, the work of postgraduate and doctoral studies with their budget financing; Dissemination of this experience through intergovernmental bodies, including the EEC EEU, and specialized scientific journals, including the “Intellectual Property Law”.

To improve the level of literacy in the field of intellectual property, it is necessary to make appropriate adjustments to the state educational standards in the field of higher education in the areas of bachelor’s studies in Economics, Management and Jurisprudence: to include in the basic part of bachelor’s curriculum “Intellectual Property Basics”; introduce intellectual property profiles corresponding to these areas (in the “Economics” field of study – the “Intellectual Property Economics” profile; in the “Management” field of preparation – “Intellectual Property Management” profile, and in the “Jurisprudence” field of study – “Intellectual Property Law” profile). To recommend universities in these areas in the preparation of masters to open master programs in the field of intellectual property. When forming the state assignment for the term to 2024 in the field of higher education in the EEU and the CIS countries, increase the number of budget places within the specified areas of training, both at the undergraduate level and at the master’s degree level.

To provide for mechanisms for the participation of business structures, first of all, industrial organizations, in the educational process of higher education institutions that prepare students for these profiles and master programs in the field of intellectual property in the following areas: participation in the development of work programs for specialized disciplines; participation in the formation of research topics at the level of undergraduate, graduate and postgraduate studies; implementation of the target order for the training of specialists of a specific profile; organization of internships and internships for students in specialized fields in the field of intellectual property; sending their employees for advanced training and retraining in the field of intellectual property; participation of qualified experts in the field of intellectual property on the part of the organization in the conduct of workshops, master classes, support the preparation of the graduation thesis.

In order to further develop integration within the EEU, the CIS and the SCO, it is necessary to **consistently** create a single and secure information space – a single legal space – a single economic space, where the role and importance of the “fourth” basket – the intellectual property market in the digital economy, electronic state and global Information Society will only grow.