Exploitation of GI, AO, TSG

- Observance of Rights [1]
  The holder of the right to use a protected geographical indication, a protected appellation of origin or a right relating to a traditional specialty guaranteed shall be offered a range of efficient and effective means to ensure observance of its rights and the persons violating these rights shall be sanctioned. Thus, the holder of the right to use a protected geographical indication, a protected appellation of origin or a right relating to a traditional specialty guaranteed has the following procedures / methods to protect its rights and interests:

  - **civil procedures –** the disputes concerning infringement of rights conferred by the registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed, as well as the actions to defend the right to use a protected appellation of origin or a protected geographical indication shall be resolved by the Chisinau Court of Appeal;
  - **administrative procedures -** provide a quick mechanism to penalize the persons involved in:
  - the direct or indirect commercial use of a registered appellation of origin / geographical indication or of an unregistered appellation of origin / geographical indication, protected under the bilateral agreements to which the Republic of Moldova is party, in respect of products not covered by the registration insofar as those products are comparable to the products registered under that name or insofar as this use exploits the reputation of the protected name, as well as any misuse, imitation or evocation of associations related to a registered appellation of origin / geographical indication, even if the true origin of the product is indicated or if the protected name is translated or accompanied by an expression such as "like", "type", "style", "imitation" or other similar expressions, any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising, and the packing of the product in a container liable to convey a false impression as to its origin, any other practice liable to mislead the consumers as to the true origin of the product, as well as inciting third parties to perform these actions;
  - any practice liable to mislead the consumer as to the designation of a traditional specialty guaranteed, any imitation of a registered name, any commercial use of product names which could be confused with the names of the registered traditional specialties guaranteed, any deceptive misuse of the indication "traditional specialty guaranteed" and the national symbol associated therewith as well as inciting third parties to perform these actions;
  - **criminal procedures -** provide the possibility of harsher sanctioning, including the imprisonment of persons involved in the above mentioned actions, which caused large-scale damages (over 50 000 lei);
  - **cross-border protection of rights** – is provided by the Customs Service of the Republic of Moldova. Close [1]

- Valuation of GI, AO, TSG [1]
  In a market economy, the valuation is an imminent condition of involving intellectual property in the economic circuit. The opportunity of IP valuation derives from the fact that in recent decades it has turned into a sector of crucial importance to the economic growth and an extremely important segment of the national and world markets.

  The need to value intellectual property manifests itself in an impressive variety of purposes for which, typically, its results are used. They arise from the current economic activity for efficient use of intellectual resources and are divided into two categories: *caused by the need for financial reporting and aimed to facilitate integration of intellectual property in the economic circuit*. We will mention the most important objectives of intellectual property

valuation:

- IPO marketing through assignment and licensing procedures, and also in the *in corpore* alienation of business;
- IPO integration in the economic circuit within the holder enterprise and the management thereof under conditions and through instruments of market economy;
- determination of efficiency of investment projects in which IPO are embedded;
- IPO inclusion in the registered capital of companies by setting patrimonial quotas equivalent to the value of the objects concerned;
- IPO accounting by integrating their value in the balance sheets of the companies;
- tax rate determination of the income derived from intellectual property as patrimonial elements or as income sources subject to taxation;
- estimation of the amount of damage due to unlawful use of IPO;
- use of intellectual property as collateral for pledging in order to obtain bank loans;
- insurance of intellectual property objects and the patrimony which includes such objects;
- merger, division, separation, liquidation, bankruptcy, reorganization of the enterprises that have IPO portfolios;
- privatization of the enterprises holding patents, trademarks and other IPOs.

Intellectual property valuation operates with several types of value, of which the most commonly used are: the balance sheet value; the initial value; the market value; the investment value; the liquidation value; the insurance value; the tax value; the replacement value; the reproductive value of the object under evaluation; the contract value. The multiplicity of valuation purposes and types of intellectual property objects, largely determines the value diversity. Among the most commonly used are the balance sheet value and the market value.

Intellectual property valuation methods represent an extremely wide variety of specific expressions of calculation methods and techniques applicable to the valuation practice. The most common methods of IP valuation used in the valuation practice and reflected in the literature are:

- *Creation cost method* consists in summing all the historical expenditures on the creation, protection, promotion, implementation, dispute settlement related to the object under valuation for the previous period by updating them to the valuation date. It includes wage costs, depreciation, consumption of raw materials, of prototype construction, of testing, of certification, protection fees, launch fees and advertising fees, general and administrative expenses etc. The method shall be applied in the absence of information on comparative costs and effects of subsequent application of the object.
- *Restoration cost method* involves summing the actual costs necessary for the establishment of a similar asset (a copy) to the assessed one. As a general rule, it is applied in the absence of adequate records of the creation costs.
- *Replacement cost method* considers the creation costs of an asset with a similar or close utility to the asset under valuation. It shall be applied in the acquisition of intangible assets, the price of which must not exceed the value of the analogue object.
- *Sales comparison method* is based on the selection of similar object transactions carried out in transparent conditions, which have the same utility by comparing the properties thereof with those of the object to be valued. It is very important in this case the choice of truthful comparison parameters and accurate weight of each in the value of objects.
- *Royalty relief method* assumes that the company which buys an asset would be exempt from payment for the licensing of a similar object.
- *Additional profit method* includes the profits generated by the application of the object under valuation.

The preferences in selecting the methods proposed to be applied in the valuation of a concrete intellectual property object differ, depending on the valuation purposes and technological and economic information available concerning the elaboration and

exploitation of the object concerned.

Close [1]

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