PATENT EVALUATION FOR ACCOUNTING REGISTRATION – STRATEGIC TOOL FOR BUSINESS DEVELOPMENT

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Following the evaluation proces, it is possible that some intangible assets, recorded in the economic entity' s accounting, have a higher value than accounting value. An example is the patent obtained by an economic entity, revealed at the overall cost of research and development, as well as the patent fees, but in view of the economic benefits, generated by its use in the production, has a higher fair value. The purpose of this paper is to show the good impact on the economic side of the entity which generates the productive patent, as representative of intellectual property, following the evaluation,resulting a value which leads to increase the overall economic entity. The evaluation of a productive patent aims to increase the market value of the economic entity on one hand, but on the other hand, looking ahead, the first order effect of this action is related to increasing opportunities for funding its activity.

Keywords: intellectual capital, intangible assets, patent, evaluation, economic benefits

1. Introduction

The global economic system tends to become a system of "ideas and technological innovations ".[61]

Intangible capital issues are a challenge to current economic thinking , intangible capital is not a concept strictly related to the accounting, a major interest for the accounting, but also for marketing specialists and human resources[62].

The existing of intangible capital is a prerequisite for the sustenable development of the companies, but also for the national economy. Thus , the issue of intangible assets cause the researchers's interest such as Mişu – Bărbuță Nicoleta , Nicolae Tabară, Bănacu Silviu, Feleagă, Niculae Oprean, but also the interest of European and international organizations.

Misu – Bărbuță Nicoleta in the paper entitled "*Intangible assets and financing company*" shows the good impact on the economic side of the entity which generates the intangible assets evaluation. Increasing the value of intangible assets, amid high returns, will increase the attractiveness of the economic entity regarding financing opportunity .

European Commission examines the concept of intangible assets, launching in this purpose a series of studies , actions and projects in order to understand the essence of the knowledge economy and the importance of intangible assets as factors of competitiveness. These intangible assets are internationally regulated by International Accounting Standards (IAS): IAS 38 " Intangible assets " (IAS 38), IAS 36 " Impairment of assets " (IAS 36), IFRS 3 " Business Combinations " (IFRS 3) .

The World Bank issued a report concluding that the wealth of a nation consists primarily of intangible capital. In that report, were analyzed many countries and in over 85% of these, intangible capital is more than 50% of total wealth, which confirms that intangible assets play an important role in economic development in the context of economic environmental transformation.

Thus, it is imperative to determine the market value of an economic entity when the internal and external conditions request, and when it holds an instrument acquired after strategic studies, which proves to be highly productive, the evaluation process can be successfully completed , the generator of added value for the entity.

In accounting, the term intangible capital is often confused with intangible assets, although they are only a part of intangible capital. Indeed, intangible assets are elements of intellectual capital likely to be recognized as an asset if certain criteria of recognition, imposed by the international accounting standards are met.

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[61]Bianchini, M.,apud Mironiuc,M., "*Social Responsibility and Environmental Ethics – Elements of the Ecological Culture in 21st Century Organizations: A study on Romanian companies*", Munich Personal RePEc Archive, 2008, p 245.
[62]Fădur, C.,I. Ciotină, D., „*OCKHAM'S RAZOR IN THE ANALYSIS OF INTANGIBLE CAPITAL*?", Analele Universității Ștefan cel Mare Suceava, Vol. 11, 2011.

Intangible capital or intangible assets held by an economic entity are divided into two categories :

- intangible assets that can be recognized for accounting purposes;
- intangible assets that can not be recognized for accounting purposes in an economic entity, except a merger of economic entities, in this case the elements are treated as goodwill. In this category are included: customers , reputation, location, technical skills, business and management, quality of products and services, the economic entity image to customers and credit institutions .

As part of intangible capital, intangible assets are very important for companies, being the pillar, the driving force of sustainable development. Among the many intangibles, that work stops to study the patents , a special category of intangible assets , a key resource companies.

2. Patents - key resource of brainpower protection

Since ancient times, man has been characterized by the tendency to improve his live, to facilitate his obligations, generally inventing objects, processes, using intellectual capital available. Today it is widely recognized that, because of the great inventors who made revolutionary discoveries, humanity has progressed . But these inventions required a good environement to grow, on the premise that the inventive step can be easily acquired by those who didn't contribute in this way.

Thus, the first continental law intended to provide protection of inventors was adopted in late of Venice's 1474.

The following table highlights the laws that relate to the protection of intellectual property.

Table 2.1

References in intellectual property law

Year of adoption of the law	***References***
1474	The venetians inventors' s status
1624	The English Law on Monopoly
1790	The first U.S. law on patents
1791	The first French law on patents
1800-1882	The adoption of patent laws in most of the European countries,
1860	The first romanian draft law on patents
1879	The first romanian law of trade marks
1883	Paris Convention for the Protection of Industrial Property
1884	The first Romanian law of registration of companies
1891	Madrid Agreement concerning the International Registration of Marks
1891	Madrid Agreement with respect to combat the false or misleading using of provenience indications
1906	The first romanian law on patents

Source: authors, based on information available on the website *http://www.mvcom.ro/Brevete-de-Inventie-in-publicitate.aspx*

In 1906, in Romania, was adopted the first law which presents the protection of inventions through patents

The patent is a title valid for a limited period of 20 years (subjected to the payment of maintenance fees in force) throughout the industrial property office which granted, regardless of the level which it protects the invention, national, european or international.

The patent is an exclusive right to an invention, which can be a product or a process that provides a new way of doing something or bring a new technical solution to solve a problem[63].

[63] Săvescu, D., Budală, A., *„Proprietatea intelectuală în România și în unele Țări din UE"*, Editura Lux Libris, Brașov, 2008, p. 47

Patent was the document of a successful inventor and inventions and Romanian history prove this. With the transition to market economy, economic entities that have developed research activities, completed with inventions registration and obtaining the patent, has acquired a strategic tool in business development on medium and long term, as a guarantee of novelty technical information contained in the patent.

Patent situates businessman in a favorable position compared to competitors, the benefits it offers, including:

- provide access to new foreign markets through foreign patents, today existing effective legal tools to protect in any country or region in the world, using the provisions of the Patent Cooperation Treaty and the European Patent Convention;
- offers a positive image of the patent owner, that is to be considered able to find viable solutions to problems that rises;
- patents obtained by an economic entity confer added value and benefits negotiations with the competition, in the event of obtaining research funding or in the event of its sale ; the economic entity, having a large number of patents granted, is deemed to be able to carry out research and to finalize getting new technical solutions and performance, and, therefore, it worth investing in it;
- offers to the owner exclusive rights of exploitation and commercialization of the invention. This means that the owner can prevent third parties throughout the duration of the patent, the use of his invention, which allows to obtain significant revenues, by going ahead of other competitors, by granting licenses or assignement of the patent;
- allow defending the rights that patent confers to holder, in case of counterfeit the products protected by patent,or by breaking the rights conferred by it.

The patent is a strategic tool in starting a new business or developing an existing business using the information contained and know-how related to areas of current interest, in priority directions such as energy and fuel, medicine, bioengineering, chemistry, agriculture, environment, industry .

National patent that protects inventions in Romania, being issued by the State Office for Inventions and Trademarks , OSIM , in accordance with Law 64/1991 on patents .

Patentable inventions must meet cumulatively three conditions of patentability :

- novelty ;
- the result of inventive activity ;
- susceptible of industrial application .

Novelty criterion refers to an invention different from existing ones. Is accepted if the invention is not entirely new to those in practice, but contains new elements such as combination, association, causation, new areas of use of existing inventions .

The prior art includes " the knowledge that has become available to the public until the recognition of the patent filing or priority "[64].

In order to obtain the patent, shall be made an application containing information about applicant, the legal basis under the applicant is entitled to the grant of a patent, the inventor identification, name of the subject invention patent application, what is the invention, its purpose and the innovations elements claimed.

The patent application along with the required documentation by OSIM patents are placed in a filing of the patent application, which introduce all related documents, written in Romanian, which is the official language .

The patent application may or may not be approved. If evaluation of the criteria patent ends successfully , the National Office for Inventions and Trademarks shall grant the patent to the applicant .

3. Initial registration in accounting patent

International Accounting Standard 38 (IAS 38) specifies the accounting treatment for the recognition, measurement and disclosure of intangible assets in the financial statements .

Patent, as potential intangible asset, is recognized in the financial statements if it meets the definition and recognition criteria simultaneously .

Definition of intangible assets is correlated with identificability , control over a resource and existence of future economic benefits .

Recognition of an intangible asset is made only if the economic entity owning estimates:

- generation of future economic benefits;
- reliable determination of the cost.

[64] Ştrenc, A., C., Ionescu, B., Gheorgiu, Gh.,, *„Dreptul brevetului"*, Editura Lumina Lex, 2005, p. 215.

Regarding the definition of intangible assets , IAS 38 states that they are identificable to distinguish it from goodwill . An intangible asset is identificable if :

- the asset is distinguished from other assets of the company and is available to be sold, transferred, rented or exchanged, either individually or together with a related contract, a identifiable asset or a liability.
- arises from contractual or other legal rights, regardless those rights are transferable or separable from the company or from other rights .

Regarding the control of an intangible asset, it arises when the entity is able to obtain future economic benefits from it and impose restrictions on future economic benefits to other companies , supported by legal rights in court[65] .

Future economic benefits from an intangible asset may include revenue from the sale of products, lowering the production cost and other benefits brought by the use of the asset.. These benefits can take the form of the income from the sale of goods, services or works which contribute those assets, the discount and others.[66]

4. The Evaluation patent

Along with obtaining a patent , an economic entity begins to exploit, to use in its productive activity the existing patent specifications . Assuming it proves to be efficient for the economic entity, by the fact that it provides a competitive advantage due to novelty implied by , the economic entity will derive substantial benefits and under the wing of legal protection, new product or process used will not be infringed by third parties. To be valid , must be paid fees at the State Office for Inventions and Trademarks.

If after a certain period of time, the economic entity decides, for whatever reason, to license the patent, in other words to give its utility right of a third party for a limited period, the patent evaluation is necessary in order to determine the fair value.

Sorin Stan in " Evaluation of Intangible Assets " presents the methods of evaluating intangibles assets. They fall into three categories:

- market approach ;
- income approach ;
- cost approach .

Also Sorin Stan specify the order of evaluating assets. First, determine the amount of invensted capital, respectively enterprise value, opting for cash flow capitalization method, less the market value of other asset classes, represented by land, buildings , equipment , vehicles, etc. The difference represents the total amount of intangible assets . After this stage, is applied one of the methods of evaluation intangible assets recognized separate from goodwill .

The following is the order of evaluation of intangible assets.

Table 3.1

Order of evaluation of intangible assets

1	2	3	4	5	6	7	8
Software	Patents	Trademarks	Licenses	Labor	Unpatented technology	Research and Development projects unfinished	Goodwill

Source: Stan., S., Evaluarea activelor necorporale, Editura Iroval, București, 2008, p. 148.

We proceed to the evaluation of a patent held by a particular economic entity recorded at the expense of development that met the criteria for recognition and patent fees , the aggregate amount of 52,500 .

The method used is the contribution to profit, which expresses the impact of the patent on the turnover, the impact may come from:

- ensure that the product has a higher quality, by using the patent, than the quality of similar products on the market, which gives possibility to be sold at a higher price;
- ensure monopoly position by selling the patented product , which can be harnessed to a higher price;

In this regard, the following hypotheses are defined :

- the estimated useful life of the patent applied by the economic entity is about 5 years;

[65]Moisescu, F., *„Standarde Internationale de Contabilitate"*, Editura Europlus, Galaţi, 2010, p. 53.
[66]Ristea, M., *„Contabilitatea financiară a întreprinderii"*, Editura Universitară, București, 2005, p.183

- the annual turnover is 60,000,000 with an estimated growth of 5% per year (growth in real terms, without taking into account the impact of inflation)
- patent turnover contribution is 1% ;.
- Income tax 16 %;
- 18 % updatingrate .

Table 3.2

The patent contribution to profit

Years	Turnover	Patent contribution in turnover	Net profit	Update factor20 %	Net profit updated
1	60,000,000	600,000	360,000	0.847	304,920
2	60,300,000	603,000	561,800	0.718	403,372
3	60,615,000	606,150	363,690	0.608	221,123
4	63,645,750	636,458	381,874	0.5158	196,970
5	66,828,038	668,280	400,968	0.43713	175,275
Total			2,068,332		1,301,660

Source: authors

It is noted that the patent value obtained by using the method of updating its net profit is about to 1,301,660 million . Subjective determination of this value was conditioned by the ability of intangible capital element to generate an annual net profit that can be quantified. Annual net income is correlated with the risk that assumes ownership of that asset .

Assuming that the conditions which led to the evaluation process will be maintained, is relevant.

Intellectual capital is used to create value in a economic entity , and in today's world , the success of any economic entity depends on its ability to manage these assets[67]. If the economic entity , the patent holder previously measured , exploit it to full capacity , it will hold long-term strategic advantages against competitors.

5. Conclusions

By applying the evaluation method that highlights the contribution of the patent to the profit of economic entity, results that its value is much higher than the value in which the patent figure in the financial situation. This allows the economic entity to hold a privileged status. Getting credits will be eased, amid a positive image with more credibility .

Should be emphasized that , under the wing of legal protection, resulting from patenting, economic entity is the holder of a strategic advantage and it could harness in different ways. Finally, the patent may be licensed if the economic entity chooses this , given that the assessor informs the estimated fair value.

In order to ensure long-term success, intangible assets prove real importance. It could influence, as we have seen, the financial results and, indirectly, the overall value . Intangible assets contribute significantly to ensure high rentability, but also the development of future activity, by generating sustained cash flow .

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