

Innovative and Strategic Aspects of Intellectual Property Management in State-Owned Enterprises of Georgia

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Abstract

Innovative, strategic management of IP is one of the currently urgent problems of the knowledge economy in Georgia. However, at this stage, many state-owned enterprises, organizations as well as enterprises where the state is partial shareholder, have not yet properly assessed the role of IP, as well as of other intangible assets, in creating sustainable competitive advantages, which are provided by the corporate governance standards as well as by the Guiding Principles (Guidelines) developed by the Organization for Economic Co-operation and Development (OECD), recommendations included in the World Bank's report on corporate governance of state enterprises and the recommendations and best practices related to the management of state-owned enterprises in EU member states.

The IP Management Strategy in State-Owned Enterprises simultaneously covers diverse areas of financial, technological, and marketing activities and is also destined to ensure the effective implementation and protection of IP rights.

Non-consideration of the IP's role in the technological development will lead in the near future to decreased investments in innovations, losses in budget accruals and the loss of the promising export trade directions.

The IP Management Strategy should mainly include such issues as: increasing the value of intangible assets and creating unique competitive advantages; ensuring technological leadership; providing of returns on investments in innovation; protection of IP rights on the IP objects; lobbying and promotion of trademarks, etc.

Keywords: State-Owned Enterprises, Intellectual Property, Innovation, Intellectual Property Management, Public Administration.

Introduction

The existence of state-owned enterprises in Georgia serves to various purposes. Such enterprises are used by the state to strengthen particular sectors of the economy, in order to implement the concrete state policy, to maintain state ownership on a strategic sphere for the state, or for the purpose of achieving some other goals (Tsukhishvili & Buadze, 2016; Shapiro & Globerman, 2012; Pargendler, 2012; OECD, 2015).

In the audit report on the effectiveness of the management and disposal of state enterprises, prepared by the State Audit Office of Georgia, it is stated that the main purpose of state ownership and management of enterprises is to ensure the effective performance of functions which are important for the state and / or to generate revenue from operations of these enterprises.

In Georgia, state-owned enterprises have not been successful and were massively privatized over the recent years. This was determined by high financial risks, low degree of transparency (including financial accountability) and low intensity of introduction of new technologies and modern technical equipment. This situation, by our opinion, was further worsened by the added low rate of the creation, introduction and protection of intellectual property, the rather limited portfolio of the available intangible assets, and the lack of any strategy focused on intellectual property.

In 2012, there were 1129 state-owned enterprises registered in Georgia and was started the process of privatizing, merging or liquidation of the significant part of state enterprises that existed under the State Property Management Agency. At the same time, the state in general was not trying to restrict the establishment of new state-owned enterprises, as such, across the country. The purpose was only to reduce the number of the state enterprises that were not making profit.

In 2016, according to official data, under the management of the National Agency for State Property were functioning 178 state-owned enterprises (the listing does not include non-entrepreneurial legal entities and enterprises established under the local self-governments, autonomous republics or those established by the other Legal Entities under Public Law (LEPLs).

According to data from the State Audit Office, as of 2013, among the total number of enterprises of this category, 111 companies were owned by various local self-governments and 63 enterprises were owned by the Autonomous Republic of Adjara. The state also owns share of the enterprise through means of the state joint stock company Partnership Fund. As of 2014, the fund owned 100 percent shares in 19 companies and 50 percent or less of shares in three companies around the country (Georgian Audit Office, 2015).

The Georgian government has attached a fiscal risk analysis of the year 2018 to the draft budget for 2019. According to this analysis, 68 state-owned companies ended 2017 with a loss of 562,937 million. Notably, during the period of 2012-2017, it was only in the year of 2012 when these companies managed to make a profit with their total revenue, while the loss was caused by the assets depreciation operation conducted by an audit firm. Particularly, in the case of the state company Georgian Railway, the audit company KPMG recognized the construction activities at a value of 382.6 million GEL that were carried out by GR in 2010-2012 to be a waste of assets, and in the case of the Georgian State Electric System, the similar assessment was given to the amount of 250.1 million GEL, as reads the relevant audit document (Maisuradze, 2016; Mikautadze, 2016; NASP of Georgia, 2020; n.ge, 2019).

According to the current report of the National Agency for State Property, as of 01.01.2020, the number of state-owned enterprises has decreased as a result of the relevantly targeted actions taken to minimize the existing number of non-profitable enterprises, and thus, their current number includes only 94 enterprises. However, significant portion of the still functioning state-owned enterprises remain under quite hard financial situation (Report of NASP, 2019).

The main text

The process of further integration of Georgian state-owned enterprises into the global system of labor distribution simultaneously provides for the creation and use of intellectual property objects as of a key factor in shaping the consumer values. In the selected areas of scientific and technological development, the implementation of a targeted scenarios (within scopes of both traditional and new markets) for developing concrete technologies, products and services, as well for elaboration of a unified national system for innovations, is impossible without reaching new levels in the economic turnover, creation of new knowledge, taking leading positions in the area of intellectual property, etc. (Chiladze, 2018).

It is impossible for the Georgian government to solve its strategic tasks without intensifying the activities of both the state and private businesses. This refers to intellectual property as a strategic resource and the direction of how to stimulate the increase of its usefulness and effectiveness; Neglecting to take into account the role of the intellectual property in the development of technologies will lead to reduced investments in innovation in the near future, the occurred losses in the budget savings and in the wasted opportunities for the Georgian businesses and the whole country to profitably utilize the perspective directions for exporting the local products and services, including the intellectual property objects.

At the current stage, under the conditions of COVID-19, economic measures to protect and develop Georgia will be very importance. They should be provided with strategic assets in relevant areas, among which a special place is occupied by intellectual property rights. That is why it is important for the country to be able to achieve technological leadership in particular areas.

Consideration of certain guiding principles of international organizations (such as Organization for Economic Co-operation and Development (OECD), World Bank, etc.) for the innovative management of state-owned enterprises in the Georgian reality

It is well known that the guidelines developed by the **Organization for Economic Co-operation and Development (OECD)** on corporate governance of state-owned enterprises, represent recommendations aimed at ensuring the effectiveness, transparency and accountability in the operations of state-owned enterprises. The guidelines set out an internationally agreed standard. According to the guidelines, there is no universal method of managing a state-owned enterprise which can be applied under any jurisdiction.

Therefore, Georgia, taking into account the legal traditions of the country and the established regulatory mechanisms, should choose by itself and implement the appropriate management model. The guidelines are results-oriented and thus Georgia itself can decide what types of activities are desired to be carried out by state-owned enterprises and what activities are more appropriate to be privatized, as well as how it will manage to achieve this result (Shapiro & Globberman, 2012; OECD, 2005; OECD, 2015).

Innovative management of state-owned enterprises in the country is currently related with the number of important challenges. In my opinion, among these challenges should be especially noted about taking the effective decisions in the process of developing standards for creation, introduction and protection of the Intellectual Property Objects, as well with regard to expanding the current portfolio of intangible assets and also what concerns the elaboration of the strategy for intellectual property development.

It is known that the third guideline developed by ETGO provides for ensuring competition on the market. I think it is necessary to put this principle into practice so that Georgian state-owned enterprises, by using their intangible assets, could more actively conduct specific economic activities, while the introduced regulations are to ensure existence of fair competition. At the same time, I would note that those expenditures of the state enterprise that are taken under activities which serve to the public purposes (especially when it concerns expenses for creating intellectual

property facilities, competitive and innovative products etc.) should be funded by the state so that the state enterprise does not find itself in a rather weak competitive position as compared to competitor private companies.

World Bank Report: Corporate Governance of State-Owned Enterprises

In 2014, the World Bank prepared a report on corporate governance of the state enterprises. The report focuses mainly on the state-owned enterprises engaged in entrepreneurial activities where the state participates as a majoritarian or important minoritarian partner / shareholder. The report provides the assessment mechanisms that can be used for study and evaluation of the standard for corporate governance of state-owned enterprises and also to assess the current conditions existing at the state-enterprises.

Studies have validated that the unsatisfactory performance of state-owned enterprises is mainly determined not by the external factors or the peculiarities of particular economic sectors, but rather by substantial shortcomings existing in the management of these state companies. I would note that this as well applies to the management of the intellectual property objects and other intangible assets.

In my opinion, there are actual fundamental flaws existing in the area of the intellectual property management in Georgia. That is why it is desirable to timely develop a standard or other relevant document for the management of the intellectual property so the enterprise managers can use it and also to make the state enterprises become subject under the relevant regulations.

I think it is necessary for a state enterprise to clearly define its goals and strategy in the area of intellectual property and also to appropriately document this goal and strategy. Based on the formulated goals and strategy, the enterprise should elaborate specific objectives and evaluation indicators in the area of intellectual property activities, which include both financial and non-financial aspects. Evaluation indicators allow us to evaluate activities and performance of the enterprise management, timely identify the problems existing in the sphere of creation, usage and management of intellectual property and also ensure the accountability of the enterprise management (Chiladze, 2019).

State-owned enterprises manage public finances. Therefore, it is important to control their financial activities and ensure fiscal discipline. At the same time, in the process of creating the intellectual property object, state-owned enterprises may perform public functions, for which they may as well receive a subsidy from the state so they do not suffer from competition

by the private sector; However, on the other hand, in order to carry out economic activities by using intellectual property objects, state-owned enterprises should not be given access to public finances, which could allow them to enjoy an unfair competitive advantage (Financing SOE, 2018; SOE in Georgia, 2016).

When regulating the state-owned enterprises and introducing reforms to their activities, the current situation should be assessed (including in terms of intangible assets on the balance sheet of the enterprise) and the main directions of the reform should be identified based on the relevant analysis. Since Georgia has a challenge to take a course on the country's innovative development, the role of the state-owned enterprises in economic activity, their successful reform should be based on the main driver of innovation - intellectual property. It is in this direction that it is important for the government to express its political will and carry out reforms in addressing the existing challenges.

In the process of creation of a centralized unit or of a unified coordination mechanism for managing state-owned enterprises in the country, the aspects related to intellectual property management should be equally taken into consideration.

Tasks and measures aimed at acceleration of technological development to be carried out in Georgian state-owned enterprises in connection with Intellectual Property

The state enterprises in Georgia need to implement relevant tasks and measures to accelerate their technological development, which, obviously, should be linked with the goals of the effective institutional increase of the Intellectual Property in the country. In particular, the tasks of accelerating technological development may include: creation of new high-tech enterprises in the public sector (startups); increasing the level of commercialization of scientific research and technologies developed by the relevant universities and research organizations; increase the patenting activity of applicants employed at the state-owned enterprises; increasing the financial assistance provided to innovative activities within the state enterprises, through means of the venture capital finance market; expanding the scope of participation of Georgian state enterprises in the process of the international transfer of patented technologies (Kalanje, 2020).

Measures to Improve the Institutional Effectiveness of Intellectual Property at the State Enterprises

In my opinion, measures to improve the institutional effectiveness of the Intellectual Property within state-owned enterprises in Georgia may have a selective character and can be attributed to the following: protecting the

results of intellectual activity, increasing patent activity and turnover; determining the functional criteria and requirements for development and implementation of programs for scientific-research, experimental-designing and technological works that address the state needs and their supporting with appropriate normative-legal acts and regulations, including conducting of patent-related research for scientific studies and test-design and technological works carried out with regard to the development of products and formulation of technical requirements; improving the mechanisms for achieving/ensuring the results of the intellectual activity carried out through the state budget financing or by attracting budget funds; Formation of a system for public services in the field of intellectual property, in order to create a comfortable environment for the intellectual property rights' holders; creating a system for transmitting / transferring the results of intellectual activities; the practice of application of trademarks, indication of place of origin and geographical locations for the products, to be introduced among the local state enterprises for the purpose of developing the distribution and export markets.

Conclusion

In Georgia, state-owned enterprises were not successful. Among various other factors, this was due to the low rate of creation, introduction and protection of the intellectual property objects, the limited current portfolio of intangible assets and the lack of any intellectual property strategy.

Neglecting to take into account the role of intellectual property in the area of technology development may in the near future lead to the reduced investments in innovation, the losses occurred in the budget savings and the wasted opportunities for local businesses and the whole country in general to successfully access the prospective international export markets.

Economic and political instruments for protecting Georgia from economic sanctions should be provided with strategic assets in the relevant areas, the special place among which belong to rights on the intellectual property.

In the process of innovative management of the state enterprises, it is important to make effective decisions to increase the current portfolio of intangible assets, as well as to develop an intellectual property strategy.

Unsatisfactory level of performance of the state-owned enterprises is mainly defined by the inefficient management. This also applies to the management of intellectual property and other intangible assets. A standard document for managing the intellectual property should be developed so that state-owned enterprises become subject to the relevant regulations. Based on the goals and strategy of the particular enterprise with regard to intellectual

property related activities, the relevant objectives and evaluation indicators should be developed, also to include both financial and non-financial aspects.

When developing the unified coordination mechanism for the management of state-owned enterprises in the country, issues of the intellectual property management should be necessarily taken into consideration.

Among the tasks related to acceleration of technological development can be emphasized the following: establishment of new high-tech enterprises in the public sector (startups); increase of the level of commercialization in the areas of scientific research and technology; increase the patent-related activity of applicants employed in the state-owned enterprises; increasing the degree of the financial assistance for innovative activities provided to state-owned enterprises through means of the venture capital financing market; expansion of the scale of participation of Georgian state enterprises in the activities connected with the international transfer of patented technologies.

Among the measures aimed to improve the institutional effectiveness of the Intellectual Property among the state enterprises in Georgia should be listed the following: increase of the patenting activity and its turnover; improving the mechanisms for ensuring the results of the intellectual activity in circulation; Creating a system for transmitting / transferring the results of intellectual activities; ensuring introduction and application of trademarks, trade names and geographical indications among the local state enterprises for the purpose of development of distribution and export markets, etc.

References:

1. Tsukhishvili N., Buadze S. (2016) State-Owned Enterprise Management, Transparency and Accountability in Georgia (Public Policy Document) // Georgian Young Lawyers Association (GYLA), Institute for Development of Freedom of Information (IDFI) / Tbilisi
2. Shapiro M Daniel, Globerman Steven (2012) The International Activities and Impacts of State-Owned Enterprises. In: Sauvant P Karl, Sachs E Lisa, Jonglboed Schmit Wouter P.F., Sovereign Investment, Oxford University Press, pp.. 110-111.
3. Pargendler M. (2012) State Ownership and Corporate Governance. 80 Fordham L. Rev. 2917: 4.
4. OECD (2015) Guidelines on Corporate Governance of State-Owned Enterprises, p. 12.
5. Georgian Audit Office (2015) Audit on the Efficiency of Management and Management of State-Owned Enterprises, pp. 23-24, <https://sao.ge/files/auditi/efeqtianobis-angarishi/2015/sacarmotamartva.pdf>.

6. Maisuradze D. (2016) State Share Participation in the Enterprise on the Example of Georgia. Property and Legal Stability: Transformation of the Concept of Property, Tamar Zarandia (Ed.), Ivane Javakhishvili Tbilisi State University Press, p. 203.
7. Mikautadze G. (2016) State-owned enterprises - invisible metastases of the economy.<http://forbes.ge/news/1367/ekonomikis-uCinari-metastazebi>]
8. National Agency of State Property of Georgia http://nasp.gov.ge/pages/?%E1%83%A1%E1%83%90%E1%83%AC%E1%83%90%E1%83%A0%E1%83%9B%E1%83%9D%E1%83%94%E1%83%91%E1%83%98=&page_id=22&lang=en
9. On.ge (2019) 68 state companies ended 2017 with a loss of 563 million (<https://on.ge/story/32211->). 2019 Report of the National Agency for State Property https://drive.google.com/file/d/1N_1Ppg3Ir_EdWkfMCETCjU99yKkFxfjP/view
10. Chiladze G. (2018) Government Program 2018 - 2020 "Freedom, Rapid Development, Welfare" And Some Aspects Related to The Innovative Development Challenge of the Country // 8th EURASIAN MULTIDISCIPLINARY FORUM, EMF, 6-7 September, Tbilisi, Georgia, pp. 84-94
11. Shapiro M Daniel, Globerman Steven (2012) The International Activities and Impacts of State-Owned Enterprises. In: Sauvant P Karl, Sachs E Lisa, Jonglboed Schmit Wouter P.F., Sovereign Investment, Oxford University Press, pp. 106-108.
12. OECD, Guidelines on Corporate Governance of State-owned Enterprises (2005). http://www.ecgi.org/codes/documents/oecd_soe_en.pdf.
13. OECD, Guidelines on Corporate Governance of State-owned Enterprises (2015). <https://www.oecd-ilibrary.org/docserver/9789264244160en.pdf?expires=1533797501&iid=id&accname=guest&checksum=920EFB8DC204E18B47D54F1CE6FD4DC4>
14. Corporate Governance of State-Owned Enterprises: A Toolkit (2014), World Bank Group, 391 pp. <http://documents.worldbank.org/curated/en/228331468169750340/pdf/Corporate-governance-of-state-owned-enterprises-a-toolkit.pdf>
15. Chiladze G. (2019) STATE INTELLECTUAL PROPERTY MANAGEMENT IN GEORGIA: SOME ASPECTS OF TRANSPARENCY, FUNCTIONS AND IMPORTANCE OF THE NATIONAL INTELLECTUAL PROPERTY CENTER // 4th Pan-

American Interdisciplinary Conference, PIC 2019, 6-8 November,
Mexico City, Mexico

16. Financing State-Owned Enterprises. An Overview of National Practices (2018). https://read.oecd-ilibrary.org/finance-and-investment/financing-state-owned-enterprises_9789264209091-en#page1
17. State-Owned Enterprises in Georgia: Transparency, Accountability and Prevention of Corruption Transparency International Georgia (2016). Transparency International Georgia, Tbilisi, 35 pp. https://www.transparency.ge/sites/default/files/post_attachments/state-owned-enterprises_in_georgia_eng.pdf
18. Kalanje C. M. Role of Intellectual Property in Innovation and New Product Development https://www.wipo.int/export/sites/www/sme/en/documents/pdf/ip_innovation_development.pdf