

Institutional Trust in Modern Society (On the Example of Intellectual Property)

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Abstract

In article the economical and sociological analysis of a problem of trust in the sphere of intellectual property in Russia is offered. The special attention is given to the analysis of an institutionalizing of the relations in the sphere of intellectual property with emphasis on the reasons of emergence, efficiency, forms, problems, the main interested parties in development of this institute in pre-revolutionary Russia, the Soviet Union, at the present stage. Questions of the general and special in the ratio «result of intellectual work - a product of intellectual property» in aspect of progressive development of society of knowledge, reproduction processes at different levels are mentioned. The conclusion about need to consider the relation in the sphere of intellectual property not only from the point of view of legal rules and norms, but also from positions of its influence on a full development of the person, harmonization of reproduction processes in society in education, sciences etc. as extra historical humanistic ideals is drawn.

Keywords: *intellectual property, author's law, patent law, trust, social and economic development, reproduction of society.*

1. Introduction

Problems with social and economic reforms, social transformations and social instability in the Russian society are related to distrust of the significant social institutions. A certain part of erroneous resolutions made by the state is accounted for by lack of attention to the development of systemic, institutional and social trust, which caused structural and functional reproduction of social deformations in the Russian society. Almost immediately there were destroyed both the institutions of trust themselves and the institutional constituent of trust. Taking into account the fact that in the Soviet state there was no private property and different activities related to commerce in various spheres were criticized and pursued juridically, it is obvious why in today's Russia the birth of intellectual property institution, forming of legislative norms and as a whole inclusion of our society in the worldwide civilization experience of legal regulation in this sphere are being put into practice with so many complications and contradictions. However the causes are not limited by those given above. Juridically confirmed borders of intellectual property institution exist, however many complications that emerge during application of this law in practice indicate the necessity of viewing these norms and rights from the positions of sociology, economics and philosophy. It is necessary to view the establishment of this social institution in history of the Russian state, to find out its characteristic features and peculiarities at each historical period in connection with the available practices of trust relationship in the society. It is also necessary to answer this question: who in the first place needs legislative confirmation of intellectual property right, first of all copy right and patent right, and formation of intellectual property institution and who benefits from it today? One considers as very urgent today the question of potential to restore trust as a qualitative characteristic of our society, favoring social and economic progress and contributing to the construction of socially oriented constitutional market state.

2. Trust in Sociology

Trust is a complicated social phenomenon that is interpreted in different ways by many sciences: sociology, anthropology, culturology, philosophy, psychology, economics and law.

Separate aspects of concept of trust are analysed in P. Blau, A.Giddens, R. Darendorf, J. Koulmen, N. Luman, A.Seligmen, P. Sztompka, F.Fukuyama, T.Yamagishi's works, which studied it from the point of view of designing and

development of a social order, social institutes, interpersonal, intergroup and conflict interactions and the relations. So, N. Luman carried out important distinction of concepts of system trust and personal trust; also he put forward criterion of distinction of trust and confidence — depending on ability of the individual to distinguish dangers and risks (Luhman, 2000). F. Fukuyama in a context of a paradigm of the social capital stated idea of “the trust radius” according to which efficiency of this or that national economy depends on the radius of the trust inherent in society (Fukuyama, 2003). J. Buchanan, M. Granovetter, J. Knight, O. Williamson conducted trust researches within institutional and contract theories. B. Gukha-Haznobis, R. Kanbur, E. Ostrom studied trust in a context of an interlacing of elements of formal and informal economy; they understood trust as “the social capital out of the government”, unlike institutes which they understood as “the social capital in the government” (Guha-Khasnobis, Kanbur, Ostrom, 2006). The interfaced subjects of low level of system trust, high transactional expenses, opportunism and corruption became one of the new directions of social and economic studying of trust. Within this conceptual field the trust role in transitional societies in G. Kertman, Y. Kornay's works, etc. is investigated.

Russian sociologists Y. Veselov, T. Zaslavskaya, R. Ryvkina and others contributed much to the development of this theme; the scientists emphasize low level of institutional trust in Russia, which causes discrepancy between formal norms and individual expectations. The conception of trust is used to explain relatively new class of phenomena, namely, loyalty of consumers, organizational interactions, corruption; it is also used to study forced, reputation, network and other types of trust as components of market relations.

It should be specially noted that since 2000s big contribution to the studies of trust subjects has been made by St. Petersburg school of economic sociology. The group of researchers under leadership of Y. Veselov and with participation of E. Kapustkina, M. Sinutin, V. Minina have released the work entitled “Economics and sociology of trust” which with economic and sociological approach discloses public nature of trust, the meaning of its economic and social functions, the essence of trust transformation, great attention being paid to research of trust in today's Russian society. Quite recently in 2011 they published a monograph by Y. Veselov “Trust and justice: moral base of modern economic society”, which demonstrates permanent interest to this problem in the system of Russian sociological knowledge in general.

3. The Problem of Trust in Modern Society

Current societies are differentiated in accordance with culture of trust. F. Fukuyama was the first to work out this notion: according to his conception culture of trust is the product of a definite period in history of any country; during this period trust and distrust are accumulated in various social practices due to definite social purposes, norms and values (Fukuyama, 2003). R. Coase connects the problem of property with the phenomenon of trust and as well as F. Fukuyama comes to conclusion that trust is one of the most significant institutional fundamentals of business (Coase, 1978). According to economic and sociological approach culture of trust is permanently “reproduced in social practices and can be planned and regulated” (Veselov, 2011). However culture as a whole and culture of trust in particular are not created all of a sudden. This is preceded by long term; transformation of a society with low level of trust will require life spans of several generations. Sztompka emphasizes that absence of culture of trust will cause formation of culture of distrust in which everyone distrusts one another at different levels of interaction: interpersonal, institutional, public (Sztompka, 1999). Trust tendencies begin to form gradually in the process of transformation of the Russian society into the market one.

Current transnational corporations and the institution of intellectual property that is being formed in Russia are connected much more tightly than it can seem from the first sight. In many countries of the world there is understanding of inadequacy both in corporate relations that add to decrease of trust and in partner relations that imply trust and stimulate it: paternalism in these countries is related to partner relations only, while corporations are not given any privileges or benefits. Unfortunately current Russian economy is an exception out of the common rule. As a matter of fact this explains high level of monopolization of our economy, its low efficiency and overall deficit of trust in it.

4. Property Right to an Intellectual Product and Trust Problem

Regulatory legislation in relation to intellectual property has been worked out by analogy with legislation in the sphere of material property. If we accept the understanding of intellectual property as a social institution and rely on the current legal norms we may find ourselves in a predicament. On the one hand the main public function of intellectual property as a social institution is to stimulate regulation control and distribution of knowledge, information and ideas in a society. On the other hand the functions of this institution have to be aimed at stimulating creative activity granting exclusive rights to the author of intellectual property and guarantying protection against encroachment on knowledge, ideas, information

from the side of other members of society. It is an objective situation that is observed in the present historic period, however, one can state that this situation represents quite a distorted picture. In current society the formula made from the position of corporate economy – “those who are stronger run the show” – is urgent because economy possesses opportunities to affect both the sphere of morals and the sphere of justice and form them in its own image (Veselov, 2005). Institution of private (or corporate) property acts as the key obstacle in the way of building up trust relationship towards social institutions of current society and to some extent in the way of free distribution of new knowledge.

As a rule birth of intellectual property institution is viewed as natural evolutional development in understanding how important it is to establish and protect authorship etc. They say that inventors, authors of discoveries and research works were the first who got aware of necessity to protect their rights against encroachment of other people and they started to demand guarding and protection (Lebedintseva, 2010). And as capitalism develops further it gives opportunities for economic exchange of intellectual products and we feel insistent need for implementation of regulating, coordinating and legislative functions by state in this sphere, we feel need for municipal protection and international legal safeguard of “intellectual rights”. But as a matter of fact the factors determining social and economic progress prove to be more complicated. From the beginning governments of different countries were involved in registration of intellectual property rights. Juridically confirmed intellectual property rights were necessary for just one definite subject, that is the state acting at the market due to which institution of intellectual property starts to develop. It is stated that juridical registration of creative work was not paid much attention partly because necessity to sell the products of intellectual activity emerged comparatively not long ago but before it such production was distributed out of the market without being object of market relations. Some significant reasons of this situation can be as follows - low cultural level of subjects involved in economic activity and the fact that realization of intellectual production has been carried out very slowly during lifetime of many generations. It seemed that products of intellectual activity did not have any practical value (i.e. economic turnover). In fact the things would stay as they used to be unless the state took the initiative. In the current world leadership was taken over by organizations whose turnover competes with GDP of some countries – we mean transnational corporations and their interests at the market. The question is why at a definite historic moment the state took interest in development of a new social institution.

Russia in the second half of the XVIII – in the beginning of the XIX centuries being isolated and having a number of relatively self-sufficient economic sectors begins to face lag in scientific and technical sphere. However lag in economic area was not so obvious in comparison with western countries: according to gross measures in the middle of the XVIII century cast iron smelted in Russia exceeded by one a half the amount of cast iron smelted in the then world economic leader – Britain, and most of the metal was exported (Lebedintseva, 2010). But inventive activity was widely spread in western countries: according to encyclopedia by Brockgauz published in 1898 it is obvious that activity aiming at making inventions and patenting them gained wide popularity and it had steady tendency for expansion (see the Table).

Table. Number of the granted patents in the different countries, including Russia in the XIX century.

Country	Number of the granted patents till 1870	Number of the granted patents with 1870 - 1895
France	100 905	161 796
Great Britain	51 337	171 746
Belgium	33 433	85 746
Germany	8 833	92 763
Italy	3 744	33 654
Sweden	1 557	8 208
Switzerland	0	10 738
Russia	1379	4 720

Source: By data.Brockhaus F.AEfron, I.A. (1898). The Encyclopedic Dictionary. St. Petersburg. Patents for Inventions.

Level of patent protection of inventions corresponded to the might of the country and contributed to its steady position at the world's arena and created opportunities to establish rules in relationship regulations. Great Britain, the USA, Holland and France (since 1791) granted several hundred patents for various sorts of inventions and technical innovations. For the same period (1812 included) Russia granted only 76 privileges legalized various “crafts and trades” along with the patent right. It was 1812 when Russia passed the law of privileges for inventions, arts and crafts. From these positions the information presented in the Table gives quite positive picture per se but it does not seem so positive when it comes to comparison with other countries.

Thus, by the time of the beginning of work of the Parisian convention on protection of industrial property at the end of the XIX century it was obvious that the developed states use the control concept, in the necessary course structuring idea of how the market works. This concept reflected institutionalized agreements also peculiar to these market between actors of different level concerning the principles of action concerning the objects which are subject to patent regulation. It allowed to keep leading positions not only in creation of new inventions, but also in their patent protection operating in as much as possible extensive trade and economic space.

Technical progress and innovative activity by the end of the XIX century allowed inventors to improve not only cars, tools, adaptations, but also technological processes, methods of application of these means, and that is especially important, production of industrial production, i.e. means of mass consumption. As result, because of already created streams of assignment of objects of property, there was one more basic change of a situation: high-quality redistribution of these streams between the different principles of assignment. As inventive activity gains mass character, the products made by the industry, so all share of a stream of this new production become inventions starts being appropriated any more by the traditional principle, and on the basis of the principles entered by patent system.

Up to 1870 there was some ambiguity as on necessary conditions for issue of the patent, and on the bodies responsible for it. To estimate work of patent system of the Russian Empire it is represented rather difficult: in archives not enough ordered documents as patent activity was divided on many ministries and departments, the uniform patent bureau appeared only in 1896. However, on attestations of eyewitnesses, it is possible to draw a conclusion that process of issue of privileges was extremely long and bureaucratized. Business of patent agents, "accepted" to the officials responsible for privileges prospered. More than 80% of privileges were given out to foreigners that indirectly speaks about a priority of import of technologies. However, by the end of the XIX century, many patent agents were representatives of the multinational companies so the patent application could move at the same time, say, the American in Paris, London, New York and St. Petersburg.

M. Veber states that in a traditional society the economic player is guided by irrational purposes, the example of this can be scientists who made scientific achievements at that period but did not want any commercial profit but at the same time they assumed and wished so that their inventions could be practically applied. What were the things that encouraged and motivated them to stay involved in scientific and innovative activity? There is an opinion that "it was an original project (with resemblance to Plato's state) and it was not clear if this project could be ever realized" (Philosophy of Technics, 1997). Other motives must be taken into consideration as well, these are: undeveloped market could not offer sufficient economic stimuli for application of scientific inventions, in this sense they present little economic value in comparison with universal significance of fundamental scientific achievements; craftwork, manufacturing, commerce were considered to be the lot of people who did not belong to upper-class; scientists made their living due to their status in society or due to the patronage of powerful titled personalities who expressed state interests. Economic thinking of the traditional society as a whole did not acknowledge modern economic institutions. Perception of property rights and attitude to property in general are viewed as natural conditions of management. Land, for example, was not treated as the object of legal rights but as the object of labor – it was the process of labor that confirmed moral right for property. Private property of land was hardly recognized, nothing to say of intellectual property. Later this logic finds reflection in legislation system of the Soviet Union.

After the revolution in 1917 the Soviet state granted exclusive rights for technical decision to inventors, technical decision began to be called invention. Accordingly authors were granted authorship, but it had no relation to the property right for material object, in which author's work was embodied. As a result there was set up a system which stimulated innovative activity not by means of market mechanisms but through moral and financial compensation which, as it meant, had to be proportional to social value of inventions (technical decisions) or author's works. In spite of the fact that in the Soviet state traditional trust based on personal characteristics begins to acquire rationalized features, the fundamentals remained the same: trust in monarchy was transformed into trust in communist leaders and the state as a whole. Therefore there were no obstacles for planning and regulating property forms by state (Shchennikova, 1995). Approaches to the institution of ownership, to its structure and to mechanisms of its regulation changed dramatically in 1990 when new legislation was adopted stating that property in the USSR exists in the forms of private property, community property and state property. In that period the term "intellectual property" emerges: the law stated that "relations in the sphere of producing and applying inventions, discoveries, works of science, literature, art and other objects of intellectual property are regulated by legislation of the Union of Soviet Socialistic and autonomous republics" (The Law On Property in the USSR, 1990).

Low level of institutional trust in economic institution of intellectual property observed in the current society can be explained by "exclusion" of the inventor from the process of practical application of his invention. This was the weakest point in inventive work inherited from the former USSR. Many inventions were not introduced in industry; they could not

find any practical implementation. Since the state was the only subject of law and owned the right for inventions protected by authorship certificate all the inventions were considered national heritage. Enterprises (companies, organizations) produced such inventions had no right to claim ownership for these inventions, they could only act as applicants for patents of invention.

Implementation of inventions was carried out in the terms of "intrusion". Since the exclusive right for implementation of any invention nominally belonged to the state it meant practically that the state granted the right to implement any invention to any enterprise, organization or institution without any permit from the organization produced this invention. Centrally arranged "intrusion" of inventions into industry occurred, as a rule, under the guidance but more often it did not occur at all. The author could not be the master of his invention even if he wished to, but the state could fulfill this function but more often (frequently because of inertia of some officials) it did not want to get engaged in implementation of innovations or contribute to the development of economy as there were no stimuli to do it with no competition at all. As a result the problem with implementation of inventions and research work products was one of the most painful for the Soviet economy: implementation terms were too long especially if we compare similar implementation terms and starting points of practical use of an invention in other countries. In such countries as the USA and Germany period between the date of application for invention and the date of its first practical implementation in economy took a bit more than a year in 1990 while in the USSR it took four years (Lebedintseva (1), 2012).

5. Institutional Trust in Modern Russia

Thus the USSR formed and put into practice two systems of stimulation and development of intellectual innovative activity: the first one was based on authorship certificates, that is so-called authorship right that was intended for domestic use because there was no institution of private property; the second one was based on patents and it was intended for interaction with capitalist countries at foreign market. At the international arena the soviet state performed as a gigantic innovator, a capitalist of state scale due to patent system.

The Soviet Union realized two essentially opposite systems of state stimulation and development of intellectual innovative activity: use of patent system meant that innovations (inventions, works) were viewed as material objects (like in the rest of world), which made the soviet system compatible with foreign countries in international relations; use of authorship certificates domestically meant that innovations were viewed as immaterial objects, which made the system compatible with basic socialistic principle of prohibition on private property. Soviet trust is explained by "subordination of personality to community in the name of public good", and top leaders of the country pointed both to significance of trust in society and to lack of it. It was not done by accident as there were circumstances indicating of a gap between interests of soviet working people and administrative bureaucracy.

However, in contemporary Russia the situation has not improved, but greatly deteriorated. So, if in 1980 more than 85 thousand contracts have passed the state registration, 115 205 of the results of intellectual activity, more than 100 000 reports on Research&Development, then after 20 years, the annual volume of state registration dropped significantly respectively: 12 072 (7 times), 9 872 (12 times), 5 780 (18 times). This approach has caused extremely negative consequences for the country, first of all, the leakage of the «brains» and technologies. Thus, in the 1990s there was not the creation of a new trust, but only the destruction of the old type: the trust has been replaced by coercion, distrust to the authorities and other people became a common feature. New trust was in process of formation.

All this has not helped to create a relationship of trust between the inventors and the state. The culture of disbelief in this context is expressed in ingrained during the years of Soviet power stereotype: «I have an idea and the goal of the realization. When I carry out the idea, the result appears, we publish it or patent. On this I calm down. More is not my business to implement all of this, it is so hard. As a result, there are several firms on our developments and they use our achievements» (excerpts from studies of the European University at Saint-Petersburg «History of technical breakthroughs in the Russian Empire in XVIII - early XX century: lessons for the twenty-first century»). So to commercialize innovative idea, to build a working chain from idea to product, combining the role of the inventor and the manager is the task that is traditionally difficult for scientists from Russian innovation sector. Representation among domestic innovators about the division on those who «carries the idea» and those who «introduces», are transferred from the past to the present and broadcasted in the future. The trouble of Russian mentality is in denial of the private property for a long time and, in particular, the positive attitude to the commercialization of scientific developments. With regret we have to state that regardless of the direction of the institutional development the frequent changes in the institutions always undermine the already established relationship of trust.

In modern Russia the Expert Council on legal regulation and protection of intellectual property in the State Duma is developing a social-state concept of development of the market of intellectual property in Russia, creation of new public

institutions that protect the interests of the participants, the occupation of Russia a worthy place on the international market of intellectual property. However, in our opinion, that is the problem, as long as we treat the information and knowledge as to objects of a market economy, generated and exchanging according to the laws of commodity production, the Russian state will not be able to take the place in the world economic system, in which she rightly claim to take. Low efficiency of the functioning of the new Institute testifies not only about the weakness of the institutional framework, but also allows you to doubt the adequacy of its basic principles. If you start from the goals of social development, then in general they have the desire of the company to harmonize their reproduction, and the category of trust and fairness are here as an important tool of giving the public reproduction of the humanist sense. Not being an absolute norm in the public relations, trust and fairness are manifested in the social, economic, legal and other forms in which they have their own nature, mechanism of implementation and functions. The specific historical conditions affect their design by society, who the most influential figure in the design is.

The Russian state continues to recreate that system of the social and economic relations which, on the one hand, strongly differs from capitalism in the developed countries as it is directly imposed by them as leaders on the international labor market, on the other hand, is very limited in opportunities of the development.

Since in the social sciences an indication of the role of knowledge and information as a key resource in the modern workplace has long become a common place, as far as the problem of private intellectual property is receiving increasing attention. Recently a lot has been said and written about the formation of a new type of society that is called in different ways: post-industrial, information or knowledge society. However, in the basis of a new society are all the same principles of economics of capitalism. The main imperatives of the market economy remain the same, therefore, when analyzing the development of information, intellectual sphere we should take this into account. Any innovations somehow or other connected with information and knowledge, fall under the effect of the laws of market criteria of commodity production: one should buy them, sell to make a profit (Webster, 2004). The market dictates the direction of development: the information should be transformed into a commodity, that is, access to it will increasingly be possible only on the commercial basis. Only as a result of the global economic development the world capitalist economy has evolved into a stage of corporate capitalism. In the so-called economy of knowledge or information sphere the interests of transnational corporations are dominated, which are characterized by the high concentration of capital, which, as a rule, can dictate their interests or, at least, to exert pressure on the state, and even on the international community. The basis of their competitiveness is the development and effective use of social, innovation and organizational and managerial capacity.

The ownership of the knowledge allows capital to acquire control over the products of intellectual work. This control is used to monopolize the use of the new knowledge by capital, not to allow competitors to use this knowledge in production. For capital it, of course, is the condition of rent extraction from controlled by it intellectual products, but severely limits the scope of involvement of the results of creative activity of the people in the development and improvement of production (Lebedintseva, (1) 2012). Thus, the ownership of the knowledge is one of the most important economic basis for the transformation of knowledge and information in the objects of commercial secrets.

The key to capitalism issue is the question of the role of the market. The main principle of the market is the desire to maximize profits, which effects in the sphere of information on the quantity and quality of information, which depends directly on the possibility of selling it profitably. It is logical to assume that the market will somehow influence the decision about the kind of information to produce and under what conditions to do it. Intellectual property, patenting and protection of author's rights are the areas of law, which thrive in the information age that is an indication of how important the property rights to the information are in our days. According to G. Schiller, the information revolution was not only for the use of the corporate sector; it was ruled and promoted by the corporate capital. On the first place in their list of priorities is the development of information and information technologies in the interests of private business and not in the interests of society as a whole (Webster, 2004). Therefore, information technologies carry the stamp of the corporate capital, and then any other interest groups in the modern society. The production of knowledge, as the training of creative workers, subordinated to the interests of self-increasing capital. Creative abilities and knowledge are sent to areas where the recoverable income has the highest values. In the realities of the late modern capitalism, it is first of all a giant bubble of the financial market, the state bureaucracy, military production, mass culture. And in the real sector the potential of the intellectual labor is also subjected to the interests of the corporations.

In fact the system of intellectual rights to the results of creative activity is created only for the protection of the economic interests of producers of objects of the copyright, and not the interests of authors, and so much the more society as a whole. The modern doctrine is unanimous of recognition of the dual (mixed) the nature of copyright and patent rights, including in its membership both personal and property rights. This fact is reflected in the legislation on the protection of intellectual property of the majority of countries of the world. However, in the modern legal practice the word «property rights» already means something entirely different than what we invested in this concept initially. "In our

(American - author's note) tradition,- writes L. Lessig, - intellectual property is a tool. It lies in the basis of the active community of the authors, but it remains subordinate to the value of creativity. The current controversy turned all upside down. We are so concerned about the protection of the tool, that we have lost sight of the value. The source of this confusion lies in the fact of delimitation that the law no longer troubles to conduct, - between republishing someone else's work, on the one hand, and the taking of the foundation and its transformation, on the other hand. The law on copyright from the moment of its birth was only used for publication, but today it regulates "that and the other" (Lessig, 2007). The estimated approval of the surrounding any modern professional practice and existing at the level of myths, in respect of copyright do not withstand criticism. For example, when they say that copyright fosters creativity, they mean the economic compensation of the results of labor (or costs) of the author. Indeed, the author can sometimes get a fee for his work. However, is this fee base or incentive of new creativity of the authors? And as far legally compare, for example, received social benefits with the costs incurred or expenses that have no direct relationship to him? Social life can't fit the economic idea of the equivalence of costs and results. The achievement of exceeding of the costs of social result can be explained from the standpoint of the economy of the social sphere, and not from a position of market efficiency. If the financial position could influence the creativity, the most creative people would be the richest people. However, this happens very rarely. Between income and creativity there is no direct connection. From the standpoint of the market economy, fees or compensation for creative intellectual work pays the physical costs of energy of the author as of the workforce. Another no less important question is whether legal system contributes to the creativity. One of the main elements of the copyright system (as well as of the whole system of intellectual property) is the possibility of transfer of property rights to other persons in whole or in part. Such exclusive transmission of rights is contrary to the principles of human rights on the results of the creative intellectual activity. The universal Declaration of human rights has article 27(2) declares that every person has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. In 1998 there was a conference «Intellectual property and human rights», organized by the world intellectual property organization (WIPO) in cooperation with the Commission on human rights the United Nations, devoted to the 50-year-old anniversary of the adoption of the universal Declaration of human rights (Intellectual Property and Human Rights, 1999). As a result the allocation of intellectual property for human rights came to be regarded as recognition of the exceptional importance of intellectual property for development of any society. However, if we identify the intellectual property with some of the human rights, this leads to a number of contradictions. Human rights cannot be transferred to other persons and they are during the whole life of man. Moreover, it is impossible to abandon their human rights even in the event of a terminal illness, and physical suffering. Thus, human rights belong to everyone for all of his life, and under no circumstances can be transferred to anyone. In the system of intellectual property there is another position because property rights can be fully transferred to other persons. So called personal non-property rights remains for the author or, in other words, the fact that on the cover of the book there will be standing your last name, and not someone else's. Supporters of the modern system of intellectual property defend also the need for continued protection of the products of intellectual work, which, for example, in accordance with the Berne Convention is the whole life of the author and fifty years after his death (Bern convention, 1990). They try to convince the public that the continuous protection corresponds to the interests of the close family members of the author. However, as a rule, these rights do not belong to the author or his relatives, but to entirely different individuals and legal entities. Avoid contradictions to human rights principles of modern intellectual property system is possible only in case of refusal from the exclusive transfer of the property rights, or the understanding of intellectual property as a human right.

Any sensible person understands that created product does not appear by itself and has its basis in the many other works. This is especially true in science and technology, where any achievement is based on the already known results. There is continuity between the new achievements and the existing level of development of a science or technology. The isolation of scientists and engineers from the results achieved by the others, leads to the degradation of science and technology. The so-called commercial secret is the essential point of the functioning of the capitalist system, because it protects the possibility to gain additional profit, and profit is the main motive of the entrepreneurial activity. The commercial secret is in contradiction with the other fundamental principle of the market economy - the principle of universal awareness of market agents and producers of the state and potential of production. With a rapid increase of the role of knowledge and information in the process of production private intellectual property of the conditions of the development of capitalist production begins to turn in the brake, because it makes the barriers to the broadest possible use of the basic resource of modern production (Kolganov, 2002; Lebedintseva, 2010).

This situation is compared with the existence of the feudal privileges and economic boundaries between the feudal possessions in the era of capitalist economy. At that time the privileges and borders created barriers for free movement of goods, capital and labor, and interfered with the involvement of the land into economic circulation, ultimately, impeded economic progress. Only the struggle for the elimination of these barriers has allowed the capitalist system of economy

expand all pledged in its potency. Without the free movement of knowledge and information it becomes impossible to output on a new stage of social and economic progress. "The free culture is not a culture without property, it is not a culture, where the work of artist is not paid. A culture without property, in which the creators do not get payment, is anarchy, but not freedom. On the contrary, the free culture is a balance between anarchy and control. Free culture, as well as the free market, relies on the property. It is driven by the laws of property and contractual relations, adopted by the state. But as feudal property distorts the free market, modern property rights cripple free culture" (Lessig, 2007).

Thus, access to information and use of information is absolutely essential not only for the progress of science and technology, but also for any other spheres of public activities.

In order to harmonize their reproduction society should use social trust as specifically historical way to the mainstreaming of humanistic ideals, which is obvious to be outside of history; as the society's ability to save itself, being in a harmonious dynamic equilibrium. In the modern world there is a complicated problem: on the one hand, the growing role of non-material production (first of all intellectual and educational activities), and, on the other hand, intellectual property as a stop on the way to a harmonious development, as a expresser of the strengthening of inequality in the area of movement of knowledge, information and education. From these positions Law of the Bay – Dole, adopted in the USA in 1980, is not a progressive, which allowed the universities to patent the results of research conducted at the expense of budget funding and extra-budgetary funds, as well as in their commercialization. Getting patents in the hope of income, they put obstacles in the path of the exchange of ideas, so important for the development of science and true innovation. Moreover, for the majority of universities maintaining of units on technology transfer and registration of patents is unprofitable.

The economic markets play an essential role in the course of a choice of a way of scientific and technical development. Acceleration of formation of the arising interested groups is promoted by such factors, as increase of a role of economic and social networks and transformation of objects of scientific and technological researches (Callon, Rabeharisoa, 2008). The network model as a form of coordination and the organization of the market becomes dominating in the field of economy. The similar model promotes formation of "a new innovative mode". For this mode interaction of such diverse actors representing different regions and the countries, as the academic research laboratories, consulting agencies, the public coordination centers, governmental services, firms contractors, local administrative bodies, consumers is characteristic. The relations of cooperation are accompanied by the competition not between the separate companies, as earlier, and between networks. Representatives of each network seek to advance an own innovative product. On the one hand, techno and economic networks are in process of continuous evolution: their management tries to adapt for changing social and economic conditions. At the same time acceleration of innovative process is accompanied by concentration of research projects. As well as during previous eras, the management of the research centers prefers to use rather existing ideas and development, than to look for new ways of development of science and equipment (Lebedintseva L., Khvatova T., 2013).

6. Conclusion

If the results of intellectual labor create public fund of knowledge, knowledge will become thus in the public domain (Lebedintseva (2), 2012). This will not mean infringement of the personal non-property (e.g., intellectual property) rights of creative workers. Information freedom can to some extent make carriers of knowledge from the employees the free individuals who get a truly wide public prestige. The role of the state can be the stimulation of the innovation process, it is necessary to support and encourage the commercialization of ideas. Russia is facing a serious problem - to modern economy in a large scale, and the need to re-institutionalize confidence, ensuring its gradual evolution does not cause doubt. The uniqueness of the situation consists in the possibility to look into the issues of intellectual property "from scratch", to take advantage of the weak patent system and, thus, serve as an example to the rest of the world.

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