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Ukraine - Intellectual Property

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Ukraine - Intellectual Property

The years 2024–2025 have been a turning point for the intellectual property (IP) sector in Ukraine. Despite the challenges of wartime, legislation continues to align with European and international standards. The market shows increasing demand for high-quality legal support in IP matters from both domestic and international businesses.

Against the backdrop of business globalisation and growing technological challenges, Ukraine remains one of the most dynamic jurisdictions for IP law, where new legal approaches are being formed, competition is encouraged, and the groundwork is being laid for full integration into the global system of IP protection.

1. What is the current legal landscape for Intellectual Property in your jurisdiction?

The Ukrainian IP sector is undergoing an active reform process, accelerated by wartime realities and the country's aspiration to integrate into the European legal space.

Over the past year, the following legislative developments have significantly impacted the balance between the interests of rights holders, businesses, and consumers:

1. Repeal of the wartime IP term extension law:

The most significant legislative reform of 2025 was the repeal of Law No. 2174, which suspended all IP terms from April 2022 (the introduction of martial law). Its primary purpose was to prevent the loss of IP rights at the most critical stage of the war, when widespread power outages, disruptions in the banking system, and the inability of state authorities to function properly made it objectively impossible for rightholders to renew and extend their IP rights.

The ambiguous wording of the law allowed courts, particularly lower courts, to interpret it as permitting patents to remain in force beyond 20 years, or 25 years for pharmaceuticals. This significantly restricted the introduction of generic products onto the Ukrainian market and negatively affected competition.

The new law, adopted in April 2025, restored all IP terms and completely abolished “evergreen” patents in Ukraine. The new law provides rights holders with a 75-day transitional period to fulfill all obligations, such as paying annual fees, filing petitions, and other applications that were suspended.

This reform reinstated predictability in protection periods, eliminated the possibility of perpetual patents, and restored market balance between patent holders' rights and the needs of businesses and consumers.

2. Implementation of the Bolar exemption:

In May 2025, another revolutionary change was the adoption of bill of the “Bolar exemption, a rule long applied in most EU jurisdictions. It allows manufacturers of generic medicines to complete the registration process for their products before the expiry of a patent on the original drug, provided there is no

advertising, promotion, sale, or any other commercialisation.

Previously, Ukrainian legislation did not explicitly permit the submission of generic drug registration applications before the patent expiry date, leading to litigation. The prevailing court position, including that of the Supreme Court, prohibited such registration even without commercialisation, effectively rejecting the Bolar exemption.

The new law now expressly permits both the conduct of necessary studies (physicochemical, pre-clinical, clinical, and others) and the submission of registration applications prior to patent expiry. It also provides that a marketing authorisation for a generic may be issued before the original patent expires, subject to a strict prohibition on any commercialisation before that date.

3. Strengthening IP protection for military developments:

Ukraine has found itself at the center of the most technologically advanced war in history, which inevitably raises critical questions about the protection of intellectual property rights on several levels:

- a. **Protection of Ukrainian advances domestically and abroad** – Modern defense-related technologies developed in Ukraine require strong protection both nationally and in foreign jurisdictions.
- b. **Protection of IP in Ukraine for international technologies used during the conflict** – Establishing clear legal rules for the use and protection of such technologies within Ukraine is essential to ensure respect for foreign IP rights, maintain trust with allies, and encourage further technology transfers.
- c. **Regulation of creation and transfer of IP rights generated by the Armed Forces** – A recently adopted law establishes the legal framework for the creation of IP by servicemen during active duty and provides for the transfer of proprietary rights to the Armed Forces of Ukraine.

Strengthening the IP protection framework not only safeguards the country's technological advances but also encourages innovation, facilitates international cooperation, and supports the sustainable development of dual-use technologies with significant post-war commercial potential.

Sui Generis Rights and Artificial Intelligence

Within the evolving legal landscape of intellectual property, a new and notable development has been the first-time registration of copyright for works that include images generated by artificial intelligence.

Ukrainian legislation recognizes the category of sui generis ("of its own kind") rights, which extends to objects that do not meet the criteria of traditional copyright but are the result of significant investment. While AI cannot be a subject of copyright, as it is not a human creator, the Ukrainian IP Office recently registered copyright for the first time for works that include images generated by artificial intelligence. This applies to compilations such as "Easter Postcards," where a human compiler created a unified work using the generated images as a supplementary tool. In this case, legal protection extends only to the creative part created by the human (composition, selection), and not to the images themselves that were generated by the AI.

In summary, the past year has brought significant positive legislative changes to the Ukrainian IP landscape. These reforms mark a new stage of development characterized by transparency, enhanced

competition, and alignment with international standards, creating a stable and predictable environment crucial for foreign investors and facilitating Ukraine's integration into the European legal community.

2. What three essential pieces of advice would you give to clients involved in Intellectual Property matters?

- **Prioritize Proactive Protection:** Ukraine offers a range of robust mechanisms to prevent IP infringements. One particularly effective tool is the Customs Register of Intellectual Property Objects, which enables the suspension of customs clearance for counterfeit goods or goods imported in violation of IP rights. In recent years, this register has been instrumental in blocking numerous infringing imports. Another essential method is to engage hosting providers and domain name registrars to take down infringing websites.
- **Leverage Legislative Changes Strategically:** The recent repeal of “evergreen” patents and the implementation of the Bolar exemption provide both defensive and competitive advantages. For pharmaceutical companies, early preparation for generic drug registration will enable immediate market entry after patent expiry, ensuring a competitive edge. All rights holders should review and renew their IP portfolios in a timely manner to avoid loss of rights as a result of the reinstated statutory deadlines.
- **Think Globally, Act Locally:** In a globalized business environment, companies should consider securing IP rights both in Ukraine and in key foreign markets, such as the EU and the United States. The absence of protection in any given jurisdiction creates opportunities for counterfeit production, which can harm your brand's reputation and market share.

3. What are the greatest threats and opportunities in Intellectual Property law in the next 12 months?

Despite rapid legal development and growing business interest in IP protection, the next year is set to bring both significant opportunities and substantial risks for rights holders. On the one hand, legislative reforms create tools for more flexible and efficient use of IP rights. On the other, they require swift business adaptation and strategic planning to avoid losses and maximise emerging opportunities.

Key threats:

- **Loss of Rights** — Rights holders must complete all formalities within the 75-day transitional period after the repeal of the wartime IP term extension law or risk losing rights retroactively (non-payment of IP rights prolongation, non-responding to the IP office request, etc.). This imposes considerable pressure on businesses and legal advisors to act promptly.
- **Impact of the Bolar exemption on pending litigation** — Ukrainian courts are currently hearing cases concerning alleged patent infringements based on the early filing of generic drug registration applications. While the new law states such actions are no longer deemed infringements, in the two months since its enactment, first-instance courts have held that the new law does not have retroactive effect and cannot nullify an infringement that existed before its adoption. The Supreme Court will be required to establish a unified approach and set binding precedent on this matter.
- **Growth of online infringements** — The expansion of e-commerce has increased the volume of unauthorised use of trademarks, copyrighted works, and patented inventions in the digital

environment, requiring rapid response measures and advanced digital enforcement tools.

Key opportunities:

- **Use of the Bolar exemption** – For pharmaceutical companies, this is a chance to prepare for market entry in advance and launch a generic product immediately upon expiry of the original patent.
- **Repeal of the wartime IP term extension law** – This will result in the expiry of patents that should have lapsed between 2022 and 2025 but remained in force due to the previous law. The availability of generic equivalents will stimulate competition and bring an end to the “evergreen patents” concept that emerged during 2022–2025.
- **Development of Defence and Dual-Use Technologies** – Inventions in the fields of security and defence created during wartime are likely to have substantial commercial potential beyond military applications, particularly in international markets.
- **Expansion into international markets** – Globalisation and growing demand for Ukrainian technologies and brands create favourable conditions for securing IP protection simultaneously in Ukraine and abroad.

4. How do you ensure high client satisfaction levels are maintained by your practice?

We maintain a high level of client satisfaction through deep sector expertise and a proactive approach. Our team directly contributed to drafting the legislation repealing Law No. 2174 and introducing the Bolar exemption. This involvement provides us with unique insight, enabling us to offer clients advice grounded in first-hand legislative experience.

Clients in the IP field expect not only flawless legal representation but also strategic vision to protect and grow their intangible assets. To maintain trust and satisfaction, we adhere to the following principles:

- **Preventive approach** – Identifying potential risks at the project planning stage to avoid future disputes, including preliminary patent and trademark searches, risk assessments, and tailored recommendations.
- **Individual strategies** – Providing each client with a customised IP protection roadmap based on industry specifics, commercial goals, and international expansion plans.
- **Ongoing communication and transparency** – Regular updates on case progress and legislative developments affecting clients' rights.
- **International coordination** – Accompanying clients across multiple jurisdictions provides a significant advantage, as it enables the observation of trends in IP protection in different markets, and ensures awareness of the latest practices. Such an approach allows the application of acquired knowledge and experience proactively in other markets where similar changes have not yet taken place.
- **Responsiveness in crisis** – Our team's experience in wartime and unstable economic conditions ensures continuity of IP protection under the most challenging circumstances.

5. What technological advancements are reshaping Intellectual Property law and how can

clients benefit from them?

Rapid technological progress is reshaping the way IP assets are created, registered, and protected. In the coming years, the most notable trends will include:

- **Artificial Intelligence (AI)** – AI-driven tools are already used for patent searches, legal risk analysis, and online infringement detection. These can accelerate evidence gathering, reduce costs, and improve decision-making accuracy.
- **Big Data and analytics** – Large-scale data analysis enables forecasting of market trends, evaluation of commercial potential, and optimization of jurisdictional protection strategies, providing a more data-informed approach to IP management.
- **Blockchain** – Blockchain offers new opportunities for proof of rights, authorship, and authenticity of digital assets.
- **Digital monitoring platforms** – Specialized online services allow for real-time monitoring of trademark, copyright, and patent usage. This enables swift and targeted enforcement actions against infringers, protecting a client's brand and revenue.
- **Defence and dual-use technologies** – Innovations developed for defense often have significant civilian applications. Securing IP rights for such inventions can deliver substantial commercial value and open up new markets.

Combining these technological tools with strategic legal support allows clients not only to strengthen IP protection but also to gain a competitive advantage in the global market.

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