

Ministry of Health of Ukraine  
Bogomolets National Medical University

GUIDELINES

to lectures

Educational discipline **“Fundamentals of patent law”**

Educational level	second (master’s) level of higher education
Branch of knowledge	22 “Health care”
Specialty	222 “Medicine”
Educational program	“Medicine”

**Department of Analytical, Physical and Colloid Chemistry**

Approved at the meeting of the department of Analytical, Physical and Colloid Chemistry,  
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## Lecture № 1 “Copyright and related rights”

*Type of lecture:* traditional (informational, problematic).

*Competencies:*

- 1) be aware of the importance of intellectual property in medicine;
- 2) understand the essence of the concept of "copyright" in medicine;
- 3) demonstrate the ability to abstract thinking, analysis and synthesis.

*Goals:*

1) *didactic goal* – to reveal the concept of "intellectual property" in the health care industry; to reveal the concept of "copyright" in medicine; analyze the occurrence and implementation of related rights.

2) *educational goal* – to promote the formation of a scientific outlook, increase the level of legal culture of the individual;

3) *development goal* – to develop intellectual abilities, thinking, independence.

*Lecture equipment:* computer and relevant software, multimedia system, screen for multimedia system.

*Tasks of the lecture:*

- 1) know general information of the intellectual property system;
- 2) to classify intellectual property objects in health care sector;
- 3) to be able to identify the objects of copyright in medicine.

*Lecture plan:*

1. The introductory part.
2. Main questions of the lecture.
  - 2.1. Intellectual property in the field of health care.
  - 2.2. General information about copyright and related rights.
  - 2.3. Copyright in the field of medicine.
3. Conclusions.

### *Description of the stages of the lecture*

Name of the stage	Content of the stage	Educational goal of the stage	Time
Introduction	<p>Modern researchers in the field of law define copyright infringement as actions aimed at the illegal use of objects of intellectual property rights belonging to other persons, intentionally committed by a person who understands the illegal nature of these actions, in order to obtain material benefit.</p> <p>Considering the legal and democratic path of development and the European integration aspirations of the Ukrainian state, we emphasize that among many</p>	<p>Reveal the relevance of the topic of the lecture; familiarize students with the lecture plan.</p>	2 min

	<p>factors, proper and effective copyright protection is also an important factor in this complex process. Protection of copyright and effective fight against various types of its violations will provide an opportunity for Ukraine to improve the relevant legislation and successfully cooperate in this field with developed countries of the world.</p>		
Intellectual property in the field of health care	<p>The right of intellectual property in the field of medicine is a set of rights that arise in a person, in relation to the result of intellectual, creative activity created by him in the industrial (production), scientific, literary, artistic and other spheres, rights that are protected by law for copyright objects, discovery rights, industrial property and other results of creative activity (trademark rights, commercial names, know-how) in the field of medicine.</p> <p>Classification of objects of intellectual property rights in the field of medicine:</p> <ol style="list-style-type: none"> <li>1) objects of copyright and related rights.</li> <li>2) objects of patent law (inventions, utility models, industrial designs).</li> <li>3) objects of intellectual property rights, which are designations (brand names, trademarks, and geographical indications);</li> <li>4) non-traditional objects of intellectual property law (scientific discoveries, innovative proposals, topographies of integrated microcircuits, breeding achievements, commercial secrets, etc.).</li> </ol> <p><i>Consider case 1.</i></p>	To acquire knowledge about the intellectual property system in accordance with the needs and interests of the health care industry.	15 min
General information about copyright and related rights.	<p>Copyright objects:</p> <ol style="list-style-type: none"> <li>1) literary works of fiction, journalistic, scientific, technical or other nature;</li> <li>2) performances, lectures, speeches, sermons and other oral works;</li> <li>3) computer programs;</li> <li>4) databases;</li> <li>5) musical works with and without text;</li> </ol>	To acquire knowledge about the basics of copyright and related rights.	10 min

	<p>6) dramatic, musical and dramatic works, pantomimes, choreographic and other works created for stage performance and their productions;</p> <p>7) audiovisual works;</p> <p>8) works of fine art;</p> <p>9) works of architecture, urban planning and garden and park art;</p> <p>10) photographic works, including works made by methods similar to photography;</p> <p>11) works of applied art;</p> <p>12) illustrations, maps, plans, drawings, sketches, plastic works;</p> <p>13) stage processing of works specified in point 1 and processing of folklore, suitable for stage performance;</p> <p>14) derivative works;</p> <p>15) collections of works, collections of folklore treatments, encyclopedias and anthologies, collections of ordinary data, other composite works;</p> <p>16) translated texts for dubbing, dubbing, subtitling in Ukrainian and other languages of foreign audiovisual works;</p> <p>17) other works.</p> <p>Copyright for a work arises as a result of the fact of its creation. The creation and exercise of copyright does not require the registration of a work or any other special design of it, as well as the fulfillment of any other formalities.</p> <p>Objects of related rights:</p> <p>a) performance of literary, dramatic, musical, musical-dramatic, choreographic, folklore and other works;</p> <p>b) phonograms, video grams;</p> <p>c) broadcasts (programs) of broadcasting organizations.</p> <p><i>Consider case 2.</i></p>		
Copyright in the field of medicine	In the form of an active dialogue/discussion/discussion together with the audience, identify copyright objects in the field of medicine.	To reveal the meaning of copyright in the field of	15 min

	<i>Consider case 3.</i>	medicine.	
Conclusions	<p>Copyright infringement is one of the acute problems for Ukraine. It remains unresolved and continues to cause serious economic damage to foreign and Ukrainian rights holders.</p> <p>Taking into account the improvement of various forms and means of copyright infringement in modern high-tech conditions of the development of society, which has a tendency towards globalization, and taking into account the ineffective system of countering this negative process in Ukraine, this problem is gaining additional relevance for our country today. In Ukraine, in recent years, unfortunately, there has been an increasing trend in the number and variety of copyright violations, in particular piracy and plagiarism. Also, the level of property copyright infringement on the Internet (Internet piracy) has not decreased for many years and remains one of the highest in the world.</p>	Summarize the acquired knowledge and focus attention on existing problems.	3 min

### ***Cases for discussion with students during the lecture***

#### ***Case 1 (to question 2.1)***

In the field of health care, the objects of intellectual property are: .

- ✦ original names of medicinal products;
- ✦ scientific works in the field of medicine;
- ✦ devices, tools used in diagnosis or treatment;
- ✦ logos of pharmaceutical companies;
- ✦ drug, form of its release;
- ✦ method of treatment, diagnosis or recovery.

Which of them are objects of:

- 1) copyright and related rights;
- 2) patent law;
- 3) designation?

#### ***Case 2 (to question 2.2)***

Classify objects of intellectual property from the list:

- ✦ inventions,
- ✦ utility models,
- ✦ industrial samples,

- ✦ layout (topography) of integrated microcircuits,
  - ✦ video grams,
  - ✦ phonograms,
  - ✦ artistic works,
  - ✦ innovative proposals,
  - ✦ data compilations (databases),
  - ✦ plant varieties,
  - ✦ animal breeds,
  - ✦ geographical indications,
  - ✦ commercial (brand) names,
  - ✦ trademarks ( marks for goods and services),
  - ✦ computer programs,
  - ✦ literary works,
  - ✦ commercial secrets,
  - ✦ performance,
  - ✦ transmission (programs) of broadcasting organizations;
- by type of legal protection into 2 groups:
- are protected by patent law,
  - are protected by copyright and related rights.

*Case 3 (to question 2.3)*

Based on the list of copyright objects in accordance with Article 8 of the Law of Ukraine " About Copyright and Related Rights", name the objects of copyright in the field of medicine:

**Article 8. Copyright Objects**

1. Copyright objects shall be works in the field of science, literature and art, namely:

- 1) literary written works of fiction, journalistic, scientific, technical or other nature (books, brochures, articles, etc.);
- 2) speeches, lectures, orations, sermons and other oral works;
- 3) computer software;
- 4) databases;
- 5) musical works with or without lyrics;
- 6) dramatic, musical drama works, pantomimes, choreographic and other works created for stage presentation and staging versions thereof;
- 7) audiovisual works;
- 8) works of fine art;
- 9) works of architecture, city construction, garden and park art;
- 10) photographic works, including works made by methods similar to photography;
- 11) works of applied art, including works of decorative weaving, ceramics, carving, casting, of art glass, jewellery, etc.;

12) illustrations, maps, layouts, drawings, sketches, plastic works relating to geography, geology, topography, engineering, architecture and other spheres of activity;

13) stage interpretations of works specified in clause 1 of this part, and folklore versions that can be presented on stage;

14) derivative works;

15) collections of works, collections of folklore versions, encyclopedias and anthologies, collections of regular data, and other composite works, provided that they result from creative work involving the selection, coordination or arrangement of the contents without prejudice to the copyright of works which are included thereto as the integrated parts;

16) texts of translations for dubbing, sound tracking of and adding Ukrainian and other language subtitles to foreign audiovisual works;

17) other works.

2. Protection under this Law shall be granted to all works specified in part one of this Article, both promulgated and non-promulgated, finished and unfinished, irrespective of their purpose, genre, volume, goals (education, information, advertising, propaganda, entertainment, etc.).

3. The legal protection stipulated in this Law shall be extended only to the form of expression of a work, and shall not apply to any ideas, theories, principles, methods, procedures, processes, systems, manners, concepts, or discoveries, even if they are expressed, described, explained or illustrated in a work.

### *Recommended Literature*

#### *Basic:*

1. G. Zaitseva, Ya. Pushkarova, S. Hozhdzinskyi. Fundamentals of patent law: methodical guide / Bogomolets National Medical University, 2022. – p. 5-10.

2. Civil Code of Ukraine: dated January 16, 2003 No. 435-IV, articles 418-426, 433-456 : as amended on 01.07.2022. URL: <https://cis-legislation.com/document.fwx?rgn=8896> (date of application: 08/27/2022).

3. On copyright and related rights: Law of Ukraine dated 23.12.1993 No. 3792-XII, articles 1, 7-10, 35-37: as amended on 15.12.2021. URL: <https://cis-legislation.com/document.fwx?rgn=9524> (date of application: 08/27/2022).

4. About scientific and technical activities: Law of Ukraine dated December 13, 1991 No. 1977-XII, articles 1 and 5: as amended on 24.12.2015. URL: <https://cis-legislation.com/document.fwx?rgn=11671> (date of application: 08/27/2022).

#### *Additional:*

1. State enterprise “Ukrainian intellectual property institute” (Ukrpatent). *Ukrpatent*. URL: <https://ukrpatent.org/en> (date of application: 27.08.2022).

2. World intellectual property organization. *IP Services and Resources*. URL: <http://www.wipo.int/portal/en/index.html> (date of application: 27.08.2022).

### *Questions for student self-preparation for the lecture*

1. Intellectual property system.
2. Objects and subjects of copyright and related rights.

*Developers:*

*Yaroslava Pushkarova* – Associate Professor of the Analytical, Physical and Colloid Chemistry Department, PhD, Associate Professor,

*Galyna Zaitseva* – Head of the Analytical, Physical and Colloid Chemistry Department, PhD, Associate Professor.



## Lecture № 2 “Patents for inventions”

*Type of lecture:* traditional (informational, problematic).

*Competencies:*

- 1) demonstrate knowledge and understanding of basic legal protection of inventions (utility models);
- 2) understand the concept of "invention (useful model)" in medicine;
- 3) demonstrate the ability to abstract thinking, analysis and synthesis.

*Goals:*

1) *didactic goal* – to form systematized knowledge regarding the legal protection of inventions (utility models); reveal the concept of "invention (useful model)" in medicine; analyze the difference between an invention and a utility model.

2) *educational goal* - to promote the formation of a scientific outlook, increase the level of legal culture of the individual;

3) *development goal* - to develop intellectual abilities, thinking, independence.

*Lecture equipment:* computer and relevant software, multimedia system, screen for multimedia system.

*Tasks of the lecture:*

- 1) know the basics of legal protection of inventions (utility models);
- 2) identify the objects of the invention (useful model) in medicine.

*Lecture plan:*

1. The introductory part.
2. Main questions of the lecture.
  - 2.1. General information about the invention (utility model).
  - 2.2. Difference between an invention and a utility model.
  - 2.3. Inventions (utility models) in medicine.
3. Conclusions.

### *Description of the stages of the lecture*

Name of the stage	Content of stages	Educational goal of the stage	Time
Introduction	<p>Patent law has a special place in the system of civil law for the field of medicine. The results of the intellectual activity of inventors and medical inventors are reflected in the objects of patent law.</p> <p>Industrial property is the results of scientific and technical creativity of a person, which can be used for the needs of society in any appropriate activity of people.</p> <p>All issues related to the acquisition and use of ownership rights to</p>	<p>Reveal the relevance of the topic of the lecture;</p> <p>familiarize students with the lecture plan.</p>	2 min

	inventions are regulated by the Law of Ukraine "On Protection of Rights to Inventions and Utility Models".		
General information about the invention (utility model).	<p>An invention (a utility model) is the result of human intellectual activity in any field of technology. The exclusive right to an invention (utility model) is certified by a patent. A patent is a protective document that certifies priority, authorship and exclusive legal invention (utility model).</p> <p>Legal protection is granted to an invention (utility model) that does not contradict public order, the principles of humanity and morality and meets the conditions of patentability.</p> <p>The object of the invention (utility model) can be: product (device, microorganism strain, plant and animal cell culture); process (method), as well as a new application of a known product or process.</p>	To acquire knowledge about the basics of legal protection of inventions (utility models).	15 min
Difference between an invention and a utility model.	<p>An invention meets the conditions of patentability if it is new, has an inventive step and is industrially suitable. An invention is recognized as new if it is not part of the state of the art. The level of technology includes all information that became publicly available in the world before the date of submission of the application. An invention has an inventive level if it is not obvious to a specialist, that is, it does not clearly follow from the level of technology.</p> <p>An invention (utility model) is recognized as industrially suitable if it can be used in industry or in another field of activity.</p> <p>What is the difference between a useful model and an invention? If the invention must meet the three conditions of patentability (if it is new, has an inventive step and is industrially</p>	Analyze the difference between the legal protection of an invention and a utility model.	10 min

	<p>suitable), then for a useful model there are only two conditions of patentability: world novelty; industrial suitability.</p> <p>The term of validity of a patent for an invention is 20 years, and the term of validity of a patent for a utility model is 10 years.</p>		
Inventions (utility models) in medicine	<p>In the form of an active dialogue/discussion/discussion together with the audience, identify an objective finding (useful model) in the field of medicine.</p> <p><i>Consider case 1.</i></p>	To reveal the meaning of inventions (utility models) in medicine.	15 min
Conclusions	<p>The problem is that in Ukraine the same results of intellectual activity can be protected as inventions and as utility models. However, obtaining a patent for a utility model has more advantages than obtaining a patent for an invention: less time and financial costs; fewer patentability requirements and, as a result, a higher level of protection of such a result; lower risks of invalidity.</p> <p>The legislation of Ukraine does not distinguish between objects that are subject to legal protection as inventions and as utility models, which leads to an increase in the number of patents that duplicate each other and has negative consequences for the realization of human rights in medicine.</p>	Summarize the acquired knowledge and focus attention on existing problems.	3 min

### ***Cases for discussion with students during the lecture***

#### ***Case 1 (to question 2.3)***

Determine which of the following objects are inventions in medicine:

- ✦ methods of performing mental operations,
- ✦ device,
- ✦ conventional designations,
- ✦ substance,
- ✦ scientific theories,
- ✦ strain of microorganism,
- ✦ culture of plant and animal cells,

- ✦ process,
- ✦ algorithms and programs for computing machines,
- ✦ schedules,
- ✦ method,
- ✦ methods of organization and economic management,
- ✦ a new application of a known product or process,
- ✦ rules,
- ✦ projects
- ✦ planning schemes for buildings and buildings.

### *Recommended Literature*

#### *Basic:*

1. G. Zaitseva, Ya. Pushkarova, S. Hozhdzinskyi. Fundamentals of patent law: methodical guide / Bogomolets National Medical University, 2022. – p. 10-19.

2. About protection of the rights to inventions and useful models: Law of Ukraine dated December 15, 1993 No. 3684-XII, articles 1, 6 and 7: as amended on 15.06.2020. URL: <https://cis-legislation.com/document.fwx?rgn=16976> (date of application: 08/27/2022).

3. About scientific and technical activities: Law of Ukraine dated December 13, 1991 No. 1977-XII, articles 1 and 5 : as amended on 24.12.2015. URL: <https://cis-legislation.com/document.fwx?rgn=11671> (date of application: 08/27/2022).

4. Civil Code of Ukraine: dated January 16, 2003 No. 435-IV, articles 418-426: as amended on 01.07.2022. URL: <https://cis-legislation.com/document.fwx?rgn=8896> (date of application: 08/27/2022).

#### *Additional*

1. State enterprise “Ukrainian intellectual property institute” (Ukrpatent). *Ukrpatent*. URL: <https://ukrpatent.org/en> (date of application: 27.08.2022).

2. World intellectual property organization. *IP Services and Resources*. URL: <http://www.wipo.int/portal/en/index.html> (date of application: 27.08.2022).

#### *Questions for student self-preparation for the lecture:*

1. Objects of the invention, utility model.
2. Criteria of patentability of invention, utility model.

#### *Developers:*

*Yaroslava Pushkarova* – Associate Professor of the Analytical, Physical and Colloid Chemistry Department, PhD, Associate Professor,

*Galyna Zaitseva* – Head of the Analytical, Physical and Colloid Chemistry Department, PhD, Associate Professor.

### Lecture № 3 “Industrial designs”

*Type of lecture: traditional (informational, problematic).*

*Competencies:*

- 1) demonstrate knowledge and understanding of the basic principles of legal protection of industrial designs;
- 2) understand the essence of the concept of "industrial designs" in medicine;
- 3) demonstrate the ability to abstract thinking, analysis and synthesis.

*Goals:*

1) *didactic goal* – to form systematized knowledge regarding the legal protection of industrial designs; to reveal the concept of "industrial designs" in medicine.

2) *educational goal* - to promote the formation of a scientific outlook, increase the level of legal culture of the individual;

3) *development goal* - to develop intellectual abilities, thinking, independence.

*Lecture equipment:* computer Criteria and relevant software, multimedia system, screen for multimedia system.

*Tasks of the lecture:*

- 1) know the basics of legal protection of industrial designs;
- 2) identify objects of industrial design in medicine.

*Lecture plan:*

1. The introductory part.
2. Main questions of the lecture.
  - 2.1. General information about the industrial design.
  - 2.2. Drafting and submission of an application for the issuance of a patent.
  - 2.3. Industrial designs in the field of medicine.
3. Conclusions.

#### *Description of the stages of the lecture*

Name of the stage	Content of the stage	Educational goal of the stage	Time
Introduction	An industrial designs is the result of a person's creative activity in the field of artistic design (industrial design). Thanks to the use of an industrial model. the product will gain external and consumer appeal; as a result, the commercial value of the product and the probability of its sale on the market increase.  The protection of an industrial design contributes to economic development, activating artistic creativity in industry and production, as well as in traditional spheres of art and artistic crafts.	Reveal the relevance of the topic of the lecture; familiarize students with the lecture plan.	2 min
General	Objects of industrial designs: shape,	To acquire	15

<p>information about the industrial design.</p>	<p>drawing, coloring or their combination, which determine the appearance of an industrial product and are intended to satisfy aesthetic and ergonomic needs. An industrial designs meets the conditions of patentability if it is new, that is, if the set of its essential features has not become publicly available in the world before the date of submission of the application to Ukrpatent or, if priority is claimed, before the date of its priority.</p> <p>The product should be easily amenable to industrial replication. Hence the name "industrial sample". If this criterion is not satisfied, the object qualifies as a work of art and is subject to protection under the law on copyright, and not on industrial property.</p> <p><i>Consider case 1.</i></p>	<p>knowledge about the basics of legal protection of industrial designs.</p>	<p>min</p>
<p>Drafting and submission of an application for the issuance of a patent</p>	<p>The application for patenting must contain: an application for the issuance of a patent in one copy; a set of images of the product, which give a complete idea of the appearance of the product, in two copies; a description of the industrial design in one copy; a drawing, a diagram, a map.</p> <p>The application for the issuance of a patent is submitted according to the established form, which indicates the name and place of residence of the applicant — a natural person and the full name of the Unified State Register of Enterprises and Organizations of Ukraine, the location of the applicant — a legal entity.</p> <p>A set of images of the product should give a complete picture of the appearance of the product.</p> <p>The description of the industrial design contains the following sections: the name of the industrial design; surname, initials of the author of the industrial design; purpose and field of application of the industrial design; a list of images, drawings and schemes, schemes and maps; the essence and essential features of an industrial design.</p> <p>Drawings, diagrams and maps are included in the application if necessary to</p>	<p>Analyze the procedure for submitting a patent application.</p>	<p>10 min</p>

	explain the essence of the industrial design, determine the dimensions and size ratios of the general appearance of the product or its elements, explain the ergonomic features of the appearance of the product, etc. <i>Consider case 2.</i>		
Industrial samples in the field of medicine	In the form of an active dialogue/discussion/discussion together with the audience, identify objects of an industrial model in the field of medicine.	To reveal the meaning of industrial samples in the field of medicine.	15 min
Results	In the field of medicine, for industrial samples, not so much the aesthetic, but the ergonomic component is important. It should be noted that the abuse of intellectual property rights to industrial designs is determined by the application principle of providing legal protection, that is, under the responsibility of the applicant.	Summarize the acquired knowledge.	3 min

### ***Cases for discussion with students during the lecture***

#### ***Case 1 (to question 2.1)***

Justify which of the following objects of intellectual property belong to objects of an industrial design:

- ✦ shape,
- ✦ industrial structures,
- ✦ drawings,
- ✦ objects of architecture,
- ✦ printed products,
- ✦ objects of gaseous substances,
- ✦ objects of loose substances?

#### ***Case 2 (to question 2.2)***

Select the components constituent parts necessary for submitting an application for patenting an industrial design:

- ✦ decision of the Society of Inventors of Ukraine,
- ✦ patent application,
- ✦ conclusion of the company where the applicant works, a set of product images,
- ✦ description of industrial
- ✦ sample
- ✦ drawing,
- ✦ certificate for the right to engage in entrepreneurial activity,
- ✦ scheme,
- ✦ map,
- ✦ permission of local self-government bodies.

### *Recommended Literature*

#### *Basic:*

1. G. Zaitseva, Ya. Pushkarova, S. Hozhdzinskyi. Fundamentals of patent law: methodical guide / Bogomolets National Medical University, 2022. – p. 20-23.

2. About protection of the rights to industrial designs: Law of Ukraine dated December 15, 1993 No. 3688-XII, articles 1, 5 and 6 : as amended on 16.06.2020. URL: <https://cis-legislation.com/document.fwx?rgn=14464> (date of application: 08/27/2022).

3. About scientific and technical activities: Law of Ukraine dated December 13, 1991 No. 1977-XII, articles 1 and 5 : as amended on 24.12.2015. URL: <https://cis-legislation.com/document.fwx?rgn=11671> (date of application: 08/27/2022).

4. Civil Code of Ukraine: dated January 16, 2003 No. 435-IV, articles 418-426 : as amended on 01.07.2022. URL: <https://cis-legislation.com/document.fwx?rgn=8896> (date of application: 08/27/2022).

#### *Additional:*

1. State enterprise “Ukrainian intellectual property institute” (Ukrpatent). *Ukrpatent*. URL: <https://ukrpatent.org/en> (date of application: 27.08.2022).

2. World intellectual property organization. *IP Services and Resources*. URL: <http://www.wipo.int/portal/en/index.html> (date of application: 27.08.2022).

#### *Questions for student self-preparation for the lecture:*

1. Objects of industrial design.
2. Criteria for protection capability of an industrial model.

#### *Developers:*

*Yaroslava Pushkarova* – Associate Professor of the Analytical, Physical and Colloid Chemistry Department, PhD, Associate Professor,

*Galyna Zaitseva* – Head of the Analytical, Physical and Colloid Chemistry Department, PhD, Associate Professor.



## Lecture № 4 “Trademarks for Goods and Services”

*Type of lecture:* traditional (informational, problematic).

*Competencies:*

- 1) demonstrate knowledge and understanding of the basic principles of legal protection of trademarks for goods and services;
- 2) understand the peculiarities of the names of medicinal products;
- 3) demonstrate the ability to abstract thinking, analysis and synthesis.

*Goals:*

- 1) *didactic goal* - to form systematized knowledge about the legal protection of trademarks for goods and services on the example of the pharmaceutical industry;
- 2) *educational goal* - to promote the formation of a scientific outlook, increase the level of legal culture of the individual;
- 3) *development goal* - to develop intellectual abilities, thinking, independence.

*Lecture equipment:* computer and relevant software, multimedia system, screen for multimedia system.

*Tasks of the lecture:*

- 1) know the basics of legal protection of trademarks for goods and services;
- 2) to be able to apply the acquired knowledge to the description of the names of medicinal products.

*Lecture plan:*

1. The introductory part.
2. Main questions of the lecture.
  - 2.1. The concept of a trademark for goods and services.
  - 2.2. Use of trademarks in medicine and pharmacy.
  - 2.3. The name of the medicinal product as an object of forensic examination research.
3. Conclusions.

### *Description of the stages of the lecture*

Name of the stage	Content of stages	Educational goal of the stage	Time
Introduction	Signs help the consumer to distinguish goods from different manufacturers. It was for this purpose that there was a need to provide legal protection to such a name or firm so that it could not be misused by other persons. In addition to trademarks, there was a need for another legal means of distinguishing goods of the same type. In the market, not only the quality of the product, its appearance, but also its manufacturer are important. That is, there	Reveal the relevance of the topic of the lecture; familiarize students with the lecture plan.	2 min

	<p>was a need to distinguish some products according to the place of production. Thus, the right to a commercial name, the right to a trademark, the right to a geographical indication arose.</p>		
<p>The concept of a trademark for goods and services</p>	<p>Trademark and service mark are markings for distinguishing, respectively, goods and services produced or provided by one natural or legal entity from similar goods and services produced or provided by other natural or legal entities.</p> <p>A sign is a designation by which the goods and services of one person differ from the goods and services of other persons.</p> <p>Trademark objects:</p> <ol style="list-style-type: none"> <li>1. Verbal in the form of words or combinations of letters.</li> <li>2. Pictorial in the form of graphic compositions of any shape on the plane.</li> <li>3. Volumetric in the form of figures or their compositions in three dimensions.</li> <li>4. Combinations of the above designations.</li> </ol> <p>A trademark can be registered in any color or color combination.</p> <p>Legal protection is granted to a sign that does not contradict public order, the principles of humanity and morality and that is not subject to the grounds for refusing to grant legal protection established by law.</p> <p>The value of a trademark sometimes exceeds the value of the entire property of the firm, so the trademark is carefully protected by its owner.</p> <p><i>Consider case 1.</i></p>	<p>To acquire knowledge about the basics of legal protection of marks for goods and services.</p>	<p>15 min</p>
<p>Use of trademarks in medicine and pharmacy</p>	<p>Leading pharmaceutical companies often involve linguists and semiotics (from the Greek - to assign a name, a sign) to develop the name of their new drug, because this process has great commercial and legal significance. Commercial significance lies in the ease of identification of the drug, its ability to differ from others, that is, its marketing success, pleasant and easy sound, possibly associative comparison.</p>	<p>Analyze the peculiarities of the names of medicinal products.</p>	<p>15 min</p>

	<p>It should be noted that the most common in this field are the verbal designations of medicinal products - at least this is what we can observe on the Ukrainian market of medicinal products, and if we consider that we are, to put it mildly, not deprived of foreign drugs, it is possible to conclusion that more than 80% are still verbal designations that have a graphic and phonetic form. True, very often these verbal designations are accompanied by graphic signs. For easy associations, chemical preparations are named traditionally for this field, the names consist of fragments of the chemical name or several chemical names (for combined preparations); sometimes the name indicates a disease (for example, "Antiangin"), often the names come from the names of plant components (physostigmine - from the plant physostigma), drugs of animal origin are consonant with the names of organs, tissues, enzymes (adrenaline, insulin, etc.), synthetic drugs means are more often called by parts of chemical names (paracetamol from para-acetaminophenol, dimedrol from dimethylaminoethyl ether benzhydrol), some names contain a hint of a therapeutic effect (No-Shpa from nosrasm Analgin - from analgos (denial and pain). Sometimes production methods are indicated names are combined.</p> <p><i>Consider case 2.</i></p>		
<p>The name of the medicinal product as an object of forensic examination research</p>	<p>The trade name of a medicinal product is a verbal designation under which a certain manufacturer registers, offers for sale and sells on the pharmaceutical market a medicinal (pharmaceutical) product produced by him, which has a certain qualitative and quantitative composition and pharmacological properties.</p> <p>The difference between the name of the medicinal product and the trademark lies in their functional purpose. A trademark performs the role of a distinguishing mark - a means of individualizing the goods of a</p>	<p>Analyze the differences between the drug name and the brand name.</p>	<p>10 min</p>

	<p>specific manufacturer on the market of homogeneous products. The name of the medicinal product performs a general informative function related to the prescription of certain drugs.</p> <p>Trade names of drugs (pharmaceutical preparations) registered as trademarks for goods are often the subject of litigation due to their similarity to the point of confusion. At the same time, sometimes court decisions contain opposite conclusions regarding the similarity of the same names of medicinal products. In most cases, initial and repeated forensic examinations are conducted, and in some cases, more forensic examinations and expert research conclusions are involved in the case.</p> <p>The peculiarity of the sale of medicines on the market determines the peculiarities of determining the similarity of their names registered as trademarks. In addition, not all general approaches to determining the similarity of marks can be applied to pharmaceuticals.</p> <p>When establishing the similarity of the names of medicinal products, it is necessary to take into account a large number of interrelated factors (semantic, phonetic, graphic similarity, etc.).</p>		
Conclusions	<p>The results of a person's intellectual activity in the medical field differ from the results of intellectual activity in other areas in terms of their specificity and significance, namely, their impact on human health and life. The need to create special rules for consideration of applications for inventions in the field of pharmaceuticals and medicine is now being widely discussed. As the conducted research shows, the same conclusion can be drawn regarding the need to create special rules for considering applications and conducting examination of trademarks - medicinal products.</p>	Focus attention on the peculiarities of the results of human intellectual activity in the medical field.	3 min

***Cases for discussion with students during the lecture***  
***Case 1 (to question 2.1)***

Determine which of the following can be protected by law “On Protection of Rights to Trademarks for Goods and Services”:

- ✦ verbal in the form of words or combinations of letters that do not have distinguishing ability;
- ✦ pictorial in the form of graphic compositions of any form on the plane;
- ✦ state coats of arms, flags and emblems;
- ✦ volumetric in the form of figures or their compositions in three dimensions;
- ✦ emblems;
- ✦ abbreviated or full names of international intergovernmental organizations;
- ✦ combinations of verbal, pictorial and volumetric designations;
- ✦ official control, guarantee and test stamps; stamps;
- ✦ official names of states;
- ✦ awards and honors.

*Case 2 (to question 2.2)*

In the pharmaceutical industry, a very important link in the process of creating medicines is its name. Three main groups of drug names can be distinguished:

- 1) chemical – derived from the molecular formulas of active substances and characterize the chemical structure of the molecule;
- 2) international non-patented – registered with the WHO, not subject to registration with national patent offices;
- 3) trademarks.

Can the chemical name of a medicinal product be registered as a trademark?  
How to find a new name for a generic drug?

*Recommended Literature:*

*Basic:*

1. G. Zaitseva, Ya. Pushkarova, S. Hozhdzinskyi. Fundamentals of patent law: methodical guide / Bogomolets National Medical University, 2022. – p. 23-27.
2. About protection of the rights to signs for goods and services: Law of Ukraine dated December 15, 1993 No. 3689-XII, articles 1, 5 and 6 : as amended on 16.06.2020. URL: <https://cis-legislation.com/document.fwx?rgn=14634> (date of application: 08/27/2022).
3. About scientific and technical activities: Law of Ukraine dated December 13, 1991 No. 1977-XII, articles 1 and 5 : as amended on 24.12.2015. URL: <https://cis-legislation.com/document.fwx?rgn=11671> (date of application: 08/27/2022).
4. Civil Code of Ukraine: dated January 16, 2003 No. 435-IV, articles 418-426 : as amended on 01.07.2022. URL: <https://cis-legislation.com/document.fwx?rgn=8896> (date of application: 08/27/2022).

*Additional:*

1. State enterprise “Ukrainian intellectual property institute” (Ukrpatent). *Ukrpatent*. URL: <https://ukrpatent.org/en> (date of application: 27.08.2022).
2. World intellectual property organization. *IP Services and Resources*. URL: <http://www.wipo.int/portal/en/index.html> (date of application: 27.08.2022).

*Questions for student self-preparation for the lecture*

1. Trademark objects.
2. Grounds for refusal to provide legal protection.

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