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**The role and importance  
of intellectual property in the  
Concept of Development  
"Azerbaijan 2020: A glance  
at the future"**

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## **The role and importance of intellectual property in the Concept of Development "Azerbaijan 2020: A glance at the future"**

Ladies and gentlemen!

Allow me to greet all participants of the traditional international conference of Ombudsmen in Baku and express gratitude to its organizers for the remarkable contribution that facilitates the exchange of views. My speech is connected with the steadily growing role of intellectual property (IP) rights in the modern world and the projection of this phenomenon in the dynamically developing Azerbaijan. The idea that modern society and its economy are not based on "iron and concrete" but rely on "knowledge and intellect" is by no means new. Just like the modern definitions about the "knowledge society", "digital or creative economy" or "human or intellectual capital". However, the important dominant motive of such definitions, connected with knowledge and intellect and their correlation with property called – intellectual. It's no secret that like every country owes its unique appearance to its nation, just as what is now called IP or IP rights is due to the achievements of its creators. Creativity and innovation, being universal and natural human resources, always determined the heights of intellectual activity. It is thanks to them that the results of intellectual activity (RIA) have turned into an area of unknowing boundaries, have become a sphere where the center is everywhere, and the circumference is not found anywhere.

IP is filled with meaning due to knowledge and even more important, according to the great Einstein, the human imagination, which allows to generating new

knowledge from the available knowledge. However, primordial knowledge is the object of the non-material world and only when they are clothed in an objective form, into a material shell, they become material goods. Thus, objectively expressed RIAs are transformed from subjective, individual-owned knowledge into objective knowledge, accessible to all. The objectification of knowledge allows third parties to use it and acquiring economic content is involved in turnover, becoming a specific commodity. This is IP, born in the cycle of knowledge. As for the desire to know as quickly as possible the content of the necessary information product, use the knowledge and information available in the necessary object of intellectual property, is satisfied at the expense of information technologies that facilitate the acceleration of its receipt and processing. At the heart of this desire of the market subject is his desire to get ahead of the competitor, before him to learn and use the available opportunities for his business.

Thus, IP is a special kind of property that complements our traditional understanding of property ownership. Since it is initially intangible and ephemeral, then owning this property means having rights to it, and therefore the concepts of IP and IP rights are synonymous, bear the same meaning.

Emphasizing the special importance of intelligence and knowledge and the benefits they generate, the outstanding philosopher of the twentieth century, Karl Popper, cited a remarkable example demonstrating how much more fundamental and valuable than any material thing.

The philosopher proposed to imagine a situation when our economy as a whole, including industrial and social structures, was destroyed or disappeared. Only

scientific and cultural knowledge is preserved. Popper wrote that in this case, in a short time, mankind, thanks to intelligence and the knowledge that has been preserved, will be able to restore the material and social objects that have disappeared. Otherwise, the philosopher noted, if all the accumulated knowledge had disappeared, and the material world would have been preserved, the picture would remind the abandoned industrial world with the wild tribes who settled here.

And what exactly is IP itself, as the field of knowledge, the sphere of science, culture and practice? The syncretic nature of knowledge associated with IP leads to the fact that it is not possible to give a full-scale definition of this phenomenon. And therefore, IP as a field of knowledge is often determined through its content, form and purpose.

Being a complex multi-vector phenomenon, the content of IP is a managerial, technical and humanitarian-cultural notion. According to the form of IP is a legal design, and by designation – an exclusively economic concept. Strategically, this phenomenon in the long run generates a number of large and small effects, which consistently lead first to economic, then to social and, finally, to political advantages. This determines the cultural significance of IP, its role as an instrument of economic development and an important tool in the development of the information society. Awareness of these advantages by the state in turn leads to recognition of these rights, support for their implementation and measures to protect them.

We would like to give some examples.

The modern understanding of culture is expressed in its recognition as "cultural diversity" and interaction with society within a complex system. The growth of

diversity in culture, which is the upper level, the superstructure of this system always leads to the restriction of diversity at the lower social level. Growing the same diversity at the lower level – society reduces the cultural diversity of the upper level, which is fraught with an increase in the entropy (uncertainty) of the system as a whole. However, the growth of the entropy of the system as a whole leads to a violation of the fundamental principle of the theory of information and control – the law of "necessary diversity" of Ashby. It turns out that either it is necessary "to wait" when the potential for self-regeneration of the culture (and this occurs on a long time interval) will lead to the restoration of such a desirable balance for the society or to take adequate legislative and regulatory decisions of the state, including those that rely on tradition. That is why it is so important to apply the appropriate mechanisms that ensure the realization of cultural rights.

The policy pursued in Azerbaijan by the President of Azerbaijan Ilham Aliyev in the sphere of supporting cultural diversity and following from the multiculturalism of pluralism and tolerance, the protection of cultural rights has received its support at the traditional Baku World Forum on Intercultural Dialogue. As President Ilham Aliyev noted, the adoption of the right state decisions in this sphere is a policy based on the political wave of the country's leadership and the traditions of the Azerbaijani people. Cultural diversity does not disunite, but unites precisely when the policy of preserving and developing cultural differences, supporting the tradition of multiculturalism and ensuring the cultural rights of all the inhabitants, is supplemented by communicative bridges of understanding the essence of the tangible and intangible cultural heritage of "others", respect for

"stranger" traditions and interchange in the process of intercultural dialogue, in communication.

With great pleasure I want to emphasize that in Azerbaijan there are 10 laws on the protection and enforcement of IP rights, which are an integral part of cultural rights and Azerbaijan is a participant to all international conventions in this field, under the patronage of the World Intellectual Property Organization (WIPO) and UNESCO. If the recognition and preservation of cultural diversity serves as a source of "cultural capital", so the exercise of cultural rights is a stimulus of creativity and innovation. Just like every individual is the bearer of information about value orientations and the material and intangible heritage of his family, region of residence and in the whole country, similarly, each country in the international plan carries information about different personalities, families, social values and, finally, about the material and intangible heritage of its ethnos and nation.

That is why IP at the level of each individual, represented by traditional IP objects (works, inventions, etc.) ensures the protection of individual creativity, and IP at the level of ethnos, the people in the form of non-traditional IP objects (traditional cultural expressions and traditional knowledge) solves the issues of protection of collective creativity. The cultural traditions are most clearly expressed in traditional cultural expressions (TCEs) and traditional knowledge (TK). The Republic of Azerbaijan is one of the few countries in the world that legally protects TCEs and TK. And this takes place not only in relation to the IP of the titular nation, but also all the small peoples that make up the Azerbaijani family. What is the essence of such legal protection? Firstly, TCEs and TK, having been declared IP, acquire the

possibility of their free use on the territory of Azerbaijan, provided they do not cause damage (no distortion) with respect to their substance, content. Secondly, their use outside of Azerbaijan is possible only with the consent of a special authorized body (Copyright Agency). Wherein, the cases when TCEs and TK can serve as the basis for creating new IP objects in the form of works, databases or inventions are clearly specified.

Why do we focus on these aspects? The fact is that cultural traditions, in particular folklore, in modern understanding are not just a humanitarian, but also a natural science phenomenon.

For a long time, the methodological monism, which followed from ideological monopolism, triumphed in folklore studies, as a result of which this science was referred to literary criticism. However, the researches has always shown that folklore studies patterns of folklore through cultural traditions, ethical and moral issues, value systems and mentality closely interact with culturology. However, as it turned out, folklore has a natural scientific justification. Karl Popper first drew attention to the fact that in public knowledge, unlike the natural sciences, the "Oedipus effect" acts, when the prediction affects the predicted event, and Friedrich von Hayek was managed to show that morality and tradition are not the creation of reason, but having natural origins of development, themselves represent a separate tradition between instinct and reason. The psychologists Freud, Jung looked into the unconscious and eventually linked the mechanisms of dreams with ancient myths, ideas, rituals, and argued that archetypes play an important role in the collective unconscious.

The ethnologists L.Gumilev, Holden linked the cultural tradition with the landscape, the geographical



niche of habitation and thus presented the ethnos with its cultural traditions as a natural science category. The ethology and sociobiology (K.Lorenz), revealed the evolutionary mechanism of morality and morality that underlie the cultural tradition. In a word, the natural scientific preconditions for the protection of folklore have clearly shown the absence of a clear line between humanitarian and natural knowledge.

If we follow the Nobel laureate Hayek, culture can't be considered either a natural product or an artificial formation, it is not genetically transmitted and is not created rationally. The evolution of culture and morality by Hayek, this is what "lies between instinct and reason". As an instinct is an ancient custom and tradition, and the latter is more ancient than reason. "Custom and tradition are between instinct and reason in a logical and temporal sense", and further, according to Hayek, "moral traditions exceed our reasonable abilities". According to Hayek, traditions arise naturally, as well as climate, vegetation, deposits of minerals in a certain geographical niche, and the course of the historical process makes them an important resource and part of national wealth. But this is only the first conclusion of F.Hayek, substantiating the economic significance of cultural traditions. Another conclusion is connected with the fact that it is necessary to take into account the influence of traditions and other elements of cultural heritage on the operation of certain laws and at the same time the traditions themselves can be studied by natural-science paths. In addition, according to Hayek, it is generally impossible to study any social institutions without regard to public consciousness, because only it fills them with meaning. Consequently, the laws of economics or sociology, by analogy with legal laws, act to the extent that they are

recognized by the population. This is another conclusion of modern science.

Focusing on modern scientific understanding of cultural traditions, we note with pain that 20% of the territory of Azerbaijan is still under occupation despite the decisions of authoritative international organizations, contrary to the existing norms of international law. And this means that a whole generation of indigenous people of the Azerbaijani land was deprived of the right to develop their cultural traditions, to enrich the accumulated cultural heritage in the ecological and geographical niche of their ancestors. In return, the international community is treated by Armenian nationalists with political mythology and historical and geographical fabrications, the constant appropriation of the material and intangible cultural traditions of neighbors, ethnic cleansing and xenophobia. The scheme of plagiarism and cultural theft that was elaborated for centuries has been turned into an Armenian tradition of appropriating Azerbaijani cultural traditions. The territorial claims and practices of appropriation of foreign cultural traditions are organically inscribed into each other, since the apologists of the new ethnic group, trying to reanimate the mythologize about the "great Armenia", are eagerly searching for opportunities to privatize the cultural achievements of their neighbors in order to present them as absurd proofs of their own autochthonism. I would like to recall in this connection the well-known statement of the Nobel laureate, one of the founders of the classical liberalism of Friedrich von Hayek: "the condition for living together is the ability to live according to established rules, a meaningful change in habits of accepted norms and the adherence to these legal norms".

And if this cannot be done for one reason or another, we have to recall the saying of another classic of the liberal law school, Jeremiah Bentham: "the nations who refuse to follow the principles, sooner or later will be forced to submit to force."

And now would like to dwell on the mighty economic power of IP as a whole.

In a figurative expression, of the general-director of WIPO, Dr. Francis Garry, "the IP determines its position in that it is both an engine of innovation and a source of competitive advantage" and "battlefield for an active competition"; "Being one of the most important elements of the innovation ecosystem, IP allows to keep the economic value of innovation" and "creates reliable conditions for carrying out the idea in a complex way towards commercialization". Along with this, it is necessary to form a deeper understanding of the role of intellectual property as a balancing mechanism between the competing interests that surround innovation and creativity, the interests of the individual author and the interests of society, the interests of the producer and the interests of the consumer; interest in the promotion of innovation and creativity and the interest in sharing the benefits arising from them.

IP is an integral mechanism that allows transforming knowledge into commercial assets – IP rights, creating a safe environment for investments in innovations and serving as a legal and regulatory framework for trade in intellectual assets.

"The Investments in generating knowledge and maintaining a strong and balanced IP system must be prominent in any strategy to ensure sustainable economic growth" (F.Garry).

Let's give some examples.

The studies of the World Bank have shown that the protection and enforcement of IP rights is beneficial for all categories of countries. In particular, in low-income countries, IP has the most fruitful impact on the agricultural sector, in middle-income countries, the greatest effect is in industry, and in high-income countries, in services.

According to international structures, the volume of the economy based on IP is about 15% of the total volume of the world economy (4 trillion US dollars), and in 2008 its European volume was 1.186 billion US\$. According to the European Commission's Memorandum of 2012, in the next 5 years, the creative or digital economy will outperform all other spheres of the economy 7 times in its development.

Interesting data can also be cited from the UN report for 2012 under the title "Creative Economy", meaning the economy, based on objects protected by copyright and related rights. So, in the years 2002-2008 trade in creative industry products has doubled and reached 600 billion US\$. Under the conditions of the global economic crisis, while the total volume of world trade fell by 12%, the trade in creative industry products grew by 14% annually. Hence the UN recommendations:

- the development of the creative industry is the provision of social and economic development in general;
- the development of the creative industry implies the consideration of social, educational, cultural and economic tasks, ensuring the intersection of interests and the mutual integration of art, culture, business, creativity and innovation. No less interesting is the WIPO report for 2012, which emphasizes that "copyright plus creativity is equal to jobs plus economic development".

I would like to say a few words about the role of IP in the development of the information society. IP objects have long become a virtual digital network market. Online sales of e-com. more than 50% consist of them, and out of every 5 IP objects sold, 4 are protected by copyright and related rights. And this is in the conditions when e-com. has a 19% annual growth rate, and such that by 2015 should reach 1.4 trillion US dollars.

By 2010, the volume of digital information was 1.2 Zettabyt ( $10^{21}$ byt) and only the digital European library was represented 135 million digitized works. Online book sales increased by 200% and digital music by 13%.E-commerce, related to IP annually increases by 40-50%, annually in the process participate in addition to 1 million users and each e-shop monthly carries out up to 1.2 million transactions.

The main problem arising in this situation is the search for a balance to ensure the digital rights of rights holders. The choice must be made between ensuring their rights and the possibility of free access to information by users. Therefore, along with the coordination policy of WIPO, each country seeks to develop its own models. The reason for this is the steady growth of piracy. According to the 6th World Congress of WIPO and Interpol, the annual damage caused by this phenomenon is estimated at over 1 billion\$, and the economic turnover of counterfeit materials exceeds 200 billion \$. The forecasts for the near future are also disappointing. According to the World Chamber of Commerce in 2015 the damage caused by piracy and counterfeiting will exceed 1.7 trillion USD, at the level of 2011 in the amount of 850 million \$, and it will lead to a loss of 2.5 million jobs, including In the EU, 1.2 million people will be left without a job. And this is in the

situation when the losses in the EU due to piracy amount to 240 billion euros, although in 2008 they amounted to 10 billion euros with the loss of jobs of 186 thousand people.

It should be noted that all this happens when the legislative initiatives taken by the international community in the form of ASTA lose their meaning in the European Union, just like in the USA, legislative projects in the form of SOPA and PIPA have failed. Along with this, the level of piracy in social networks is steadily growing: only in 2012 due to violations of user rights in Twitter there were registered 3,378 calls from 23 countries, of which 38% were satisfied and 5275 tweets and media files were closed. In 2012 in Google for 6 months, more than 1,000 applications from governments of different countries were registered and more than 50% of which were executed, of which 68% were executed on the basis of decisions of 461 court decisions (68%) (see: Global Transparency Report).

So, as we can see, the world is changing significantly and the main task is to understand the paradigm of these changes and to predict the actions for the future.

The concept of "Azerbaijan 2020" is a unique document, based on system analysis and modern forecasting. Here is how its significance is shaped by the words of the President of the Republic of Azerbaijan, Ilham Aliyev: "We comprehensively develop our country. I believe that in the coming years, thanks to the implementation of the "Azerbaijan 2020" concept, our country must enter the list of developed countries. That is, this is our main goal".

The concept provides for a double increase in the country's economic potential through the non-oil sector. At the same time, the ICT sector will increase 4-5 times.

Already today, out of 417 state services planned for transfer to electronic, 35% are in electronic form.

By 2020, it is planned to fully complete the electronization of services and provide access to electronic services for about 80% of the country's population.

Over the next 3 years, the Internet speed in cities will be brought up to 100 Mbit/s, and in rural areas to 30 Mbit/s, so that by 2017 85% of the population would have access to high-speed Internet. And all this will become possible due to the rapid economic achievements of the country achieved in recent years. According to the ILO, Azerbaijan is already classified as a country with higher than average income. As the President of Azerbaijan Ilham Aliyev noted: "Today the Azerbaijani economy competitively takes the 46th place among the world economies. Today, all financial indicators of Azerbaijan can serve as an example for any country. The unemployment is 5.2%, poverty – 6%, strategic foreign exchange reserves – 70% of gross domestic product, and external public debt – 7% of gross domestic product. More than one million new jobs have been opened. All this is reality. Of course, the basis of these achievements is the oil factor. But not just as an oil factor, but as a state policy that successfully uses oil. Since there are many countries in the world that produce and export oil and gas. I think that the experience of Azerbaijan is worthy of great approval".

Indeed, the reforms of Azerbaijan are highly appreciated by international structures. During the

financial crisis, Fitch, Moody's and S&P raised the credit rating of Azerbaijan.

The President of Azerbaijan Ilham Aliyev, speaking at the Azerbaijani-American forum "A look into the future", emphasized the importance of innovative, knowledge-based and human development potential.

Despite the huge importance of economic success, threefold GDP growth, I would like to note other indicators that reflect the diversification and innovation of development. In particular, we are talking about an indicator that reveals the cost of goods and services produced for each unit of energy expended (most often the amount of energy consisting of 1 kg of oil). And if this figure in Azerbaijan in 2003 was 2.1 US dollars, according to international statistics by 2010 the cost of goods and services for such a unit of energy was already 7.6\$. And this is 2-3 times higher than that of most oil and gas exporting countries, with the growth dynamics, being the leading among all exporting countries in the world. This, combined with a strong social policy, when the level of poverty decreased more than 8 times (from 50% to 6%) suggests that such a rate of decline is associated not only with the correction due to the rate of inflation, as is done in many countries, and also in developed countries. This is a social policy, of which part is not only the poverty reduction, but also aimed at improving people's well-being. In other words, here, too, we see, as in the example of culture, the implementation of such state decisions that contribute to the implementation of priority tasks.

All this gives grounds to envisage in the Concept "Azerbaijan 2020" the elevation of the importance of IP as a factor of stimulating creativity and innovation and as a means of supporting market competition. Therefore,



this sphere is recognized as a priority. Thus, the political leadership of Azerbaijan demonstrating the innovative approach opens the "green street" to the "economy based on knowledge" or "creative economy". The essence of this view is expressed in the following words of the President of the Republic of Azerbaijan, Ilham Aliyev: "The human capital and intellect as new qualitative factors play a decisive role in the progress of modern civilization. The path to the rise and prosperity of every state passes through the development, which based on science and innovation". That is why the thesis of the President of Azerbaijan-"to turn black gold into human capital" is a bright support of creativity and innovation.

The concept of "Azerbaijan 2020" in the section "towards a highly competitive economy" provides for the predominant creation of conditions for the spread and growth of the contribution of investments in the creativity and innovation of the results of intellectual activity. The necessity of sustainable development of the creative economy based on IP is emphasized, and in this connection the implementation of measures to increase its contribution to the GDP countries.

It should be noted that only in the last 5 years the contribution to GDP, based on copyright and related rights of the economy, has grown in the country from 3.1% in 2008 to 4.5% in 2012 and has now come close to the average level of a similar contribution to developed countries.

As for the innovation index according to Solow's stable economic growth model, its growth was 13% and is currently estimated at almost 22%. The Concept provides for the completion of the long-term National IP

Strategy, the development and implementation of the following State Programs.

Based on the priority development of ICT, the Concept provides for accelerating the transition to an information society "active interaction of ICT-IP, and taking into account the fact that most IP objects are transferred to a global digital network, the creation of a digital rights management system in the online licensing mode and in the "one-stop-shops" format for the provision of electronic services". The foundations of such a system have already been laid in the framework of Azerbaijan's cooperation with a number of EU countries. They follow from the law "On the enforcement of IP rights and the fight against piracy", adopted in Azerbaijan and created by a decision of the Government under the Copyright Agency of the Center for Enforcement of IP Rights. Along with digital rights management, the Center provides for the organization of regulation of the mandatory availability of special control marks on copyright-based products (books, audio, video, CD, DVD, software, etc.). The peculiarity of the system lies in the fact that it is equipped with a special Smart technology that allows you to trace the "life cycle" of each control brand and assess its legitimacy through remotely remote smart phone mobile phones.

The Concept 2020 focuses on the interaction education – ICT and IP. In particular, it provides for the creation of educational resources in the network that are not burdened with payment of the property rights of its right holders. In other words, such training resources, being originally endowed for students with copyright licenses, will allow them to be integrated into the educational process. Creation of such electronic textbooks and manuals for students will be achieved by

encouraging licensing licenses for use in the form of Creative Commons (CC).

Improvement of legislation aimed at ensuring copyrights, combating piracy and other violations of IP rights in the "Azerbaijan 2020" Concept has also been given special attention. It is enough to note that in the near future it is expected to adopt a number of fundamental governmental resolutions in this sphere and, at the same time, have been introduced or are ready to introduce changes and additions to the Code on Administrative Violations and the Criminal Code of the country. Along with this, I would like to note that only in the last 5 years the level of piracy in various segments has decreased by 9-28% and is expected to bring it to the level of developed countries. Already today, to combat the violations of IP rights are operating the hotline 960, public legal advice, and online e-services in the Agency. Azerbaijan has been withdrawn from the "black list" of the US Program 301 since 2006 as a country that does not have serious problems in piracy. One of the important tasks formulated by the Concept is the problem of preservation, legal protection and effective management of cultural heritage. Measures are envisaged for the preservation and legal protection of certain components of the intangible cultural heritage and the implementation of additional measures to counteract their loss and misappropriation. Along with this, it is planned to complete the transfer to digital content of most of the elements of cultural heritage stored in museums, libraries and archives, all that belongs to the public domain. That is why the protection of traditional cultural expressions and traditional knowledge, the creation of multimedia databases of digitized cultural heritage and international exchange in

this field have been and will continue to be one of the most important directions in the activities of the State Copyright Agency. "The cultural traditions are such a past without which the present has no future."

Thank you for attention!

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of the Republic of Azerbaijan.