ISSN 1998-7927(print) ISSN 2664-6498 (online)

DOI: https://doi.org/10.33216/1998-7927-2026-302-4-107-114

УДК 658.152

USING THE HOWEY TEST AS AN IDENTIFIER OF INNOVATIVE ACTIVITY

Kharkovyna O.H., Bielousov Ya.I.

ВИКОРИСТАННЯ HOWEY TEST ЯК ІДЕНТИФІКАТОРУ ІННОВАЦІЙНОЇ ДІЯЛЬНОСТІ

Харковина О.Г., Бєлоусов Я.І.

The article explores the applicability of the Howey test as an identifier of innovative activity in the field of digital intellectual property assets. The purpose of the study is to substantiate the classification of copyright-based digital intellectual assets as objects of innovative activity through a comprehensive analysis of compliance with all four conditions of the Howey test, taking into account the specifics of the digital economy and network-based market structures. It is established that investment in digital intellectual assets involves the allocation of financial and intangible resources to the creation, structuring, legal formalization and commercialization of digital media files, which, through the incorporation of ownership attributes and metadata, are transformed into full-fledged assets with measurable economic value. The study demonstrates that the common enterprise within this innovation process is represented by specialized network intermediaries whose portfolios are formed as an aggregation of individual authors' and investors' portfolios and function as a collective form of intellectual capital. The existence of profit expectation is justified by the mechanism of repeated licensing of digital assets, while the dependence of income on the activity of a promoter is confirmed by the intermediary's role in market exposure, pricing, promotion, transaction processing and copyright protection. It is shown that the uniqueness of digital intellectual assets, the non-standardized nature of demand and the high level of uncertainty significantly increase investment risk, which is a defining characteristic of innovative activity. The paper proposes an interpretation of the formation and continuous updating of internal, external and administrative metadata as a process of information quality enhancement that reduces uncertainty and increases the innovative attractiveness and revenue potential of digital intellectual assets. The obtained results contribute to the development of theoretical approaches to innovation studies in the digital economy and may be applied in designing models for evaluating and managing portfolios of digital intellectual assets.
***Keywords**: digital intellectual assets; innovative activity; Howey test; copyright; intellectual capital*

Introduction. The active development of the digital economy is leading to the formation of new forms of economic activity related to the creation, circulation, and commercialization of intellectual work in digital form. Digital intellectual assets protected by copyright are increasingly becoming the object of investment, a source of income, and a component of the intellectual capital of business entities. At the same time, their economic nature, institutional status, and relevance to innovative activity remain insufficiently defined both in scientific research and in the regulatory and legal sphere. The lack of clear criteria for identifying digital intellectual assets as objects of innovative activity complicates the formation of effective mechanisms for managing such assets, assessing investment risks and performance, and developing adequate instruments of state and corporate regulation.

Traditional approaches to the classification of innovations are usually focused on tangible assets, technological processes, or standardized financial instruments and do not take into account the specifics of digital intellectual assets, which are characterized by their intangible form of existence, individuality, multiple license use, and high dependence of income on the activities of network intermediaries. In these conditions, there is a need to apply alternative methodological approaches

capable of identifying the innovative nature of such activities, taking into account their riskiness, profit expectations, and institutional organization.

One such approach is the Howey test, which is traditionally used to determine the investment nature of transactions and assets, but its potential for analyzing digital intellectual assets as objects of innovative activity remains understudied. The question of whether digital intellectual assets of copyright meet the key conditions of the Howey test, taking into account the specifics of their creation, preparation for market circulation, and mechanisms for generating income, remains unresolved. This determines the relevance of scientific analysis of the applicability of the Howey test for identifying innovative activity in the field of digital intellectual assets and forming theoretical prerequisites for the further development of methods for evaluating and managing such assets in the context of the digital transformation of the economy.

Analysis of basic research and publications. In contemporary scientific research, digital intellectual assets are considered a component of intellectual capital and an important resource for the development of economic entities in the digital economy [1-8]. The main focus is on their intangible nature, ability to generate economic benefits, and role in shaping competitive advantages. A significant number of publications are devoted to the mechanisms of commercialization of copyright objects in the digital environment, in particular through licensing models, multiple sales of rights to use and operate network platforms and intermediaries that ensure the market circulation of such assets.

The works also emphasize the increased level of risk and uncertainty of investing in digital intellectual assets, which is due to their individuality, non-standardized demand, and the dependence of income on the activities of platforms. A separate area of research is related to the analysis of the role of metadata and digital description standards in shaping the legal status of assets, ensuring their searchability, and increasing their investment attractiveness.

At the same time, existing publications do not sufficiently address the issue of formalized identification of digital intellectual assets as objects of innovative activity. The innovative nature of such assets is mainly justified declaratively, without systematic verification of compliance with investment criteria, profit expectations, and income dependence on third parties. This necessitates the use of test approaches, in particular the Howey test, to deepen the methodological foundations of research on innovative activity in the field of digital intellectual assets.

The purpose of this article is to justify the applicability of the Howey test for identifying digital intellectual property assets as objects of innovative activity by analyzing the fulfillment of key conditions for investment, joint ventures, profit expectations, and the dependence of income received on the activities of network intermediaries in the digital economy.

Materials and results of the study. In the first half of the 20th century, the Howey test was developed to determine whether a particular transaction, security, or asset belongs to innovative activity. As part of this study, the Howey test was tested on digital intellectual assets and showed that the test conditions are also met for this class of assets. Thus, digital intellectual assets can be considered as objects of innovative activity. The initial provisions are very trivial at first glance—the test is considered positive (i.e., the transaction or instrument is recognized as an object of innovative activity) when the following four conditions are met:

1. There is a fact of investment of funds.
2. The invested funds are invested in a joint venture.
3. The innovation involves an expectation of profit.
4. The income from the innovation is directly related to the activities of a third party (promoter).

Next, we will consider the applicability of all the necessary conditions to the class of assets under study – digital intellectual assets.

The first condition is that there is a fact of investment of funds. To date, this condition has been considered in a broader sense. A number of regulatory documents, as well as scientific works, provide a broader interpretation of both possible forms of investment (non-cash and cash forms) and types of investment objects (various classes of assets, including intangible and tangible assets).

The digital intellectual assets studied in this work are a type of intellectual property that constitutes copyright in digital form, which, like any other property that has monetary value, undoubtedly belongs to assets. Digital intellectual assets represent digital media files (containing images, text, sound, video, including assets that contain a combination of several of the listed elements) prepared in a special way. The value of the assets under study correlates positively with the quality of the asset's preparation by the author (or investor) for market launch: the better the quality of preparation,

the higher the value of the asset. It is the preparation of the asset for market launch that transforms an ordinary media file into an intellectual asset with a monetary value. The issue of transforming «private» files into full-fledged assets was discussed in scientific literature until the mid-2010s. The most important question was whether a «private» media file could be considered an asset, and at what point the transformation of a «private» file into an asset occurs.

To date, we can confidently identify the stages of sequential actions taken by the author (investor) to transform ordinary "private" files into full-fledged intellectual assets. The first stage of such a transformation is to add ownership attributes (including the owner's name) to the documentary (information) structure of the file. To do this, the file must be structured in a certain way – for example, in accordance with electronic document standards. Such standards make it possible to include both content and descriptive sections with information (metadata) in the file structure, i.e., a document created in accordance with such a standard, in addition to the content itself (visual, literary, or musical data), includes metadata sections that, among other things, contain an indication of ownership attributes.

Some of the metadata for an electronic document file can be created automatically using modern technology, while some of it must be entered manually. There is also a "semi-automatic" mode, where metadata is entered manually for a large number of files (e.g., digital image files) that have the same properties, or the entry of this data is programmed. Such information may include, for example, information about the file owner.

In practice, when creating any image with a digital camera, the latter automatically generates a large amount of so-called metadata, recorded in standard generally accepted formats. In particular, when documenting a file in Exchangeable Image File Format (EXIF), a digital camera currently enters metadata about both its own parameters (camera data 1) and image parameters (camera data 2). When documenting a file in International Press Telecommunication Council (IPTC) format, the camera generates (but does not fill in) sections with additional information about the image itself (including keywords) and copyright data (Table 1).

Of course, it should be noted that any media files that have been created (formed) but not yet properly prepared may have a certain value and cost. The value of a file, in particular, largely depends on its purpose and potential for further use. For example, we can indirectly judge that an image created with an amateur camera or a mobile phone camera may be of less value than an image taken with a professional camera due to its smaller size and lower image quality. To put the created file into commercial circulation and maximize its value, it is necessary to add additional metadata attributes and record information about the author (owner) of the file. These additional attributes are entered in the descriptive part of the file (column «IPTC format» «Description» in Table 1). The most important attributes to be entered are as follows:

1. Copyright information.
2. Author/owner information.
3. Keywords.
4. Title.
5. Image subject.

Table 1

Structure of digital image metadata in EXIF and IPTC formats [compiled by the author]

Format EXIF		Format IPTC
Camera data 1	Camera data 2	Опис
Brand: Canon Model: Canon EOS 1200D Date: 2021-10-20T09:07:07+04:00 Exposure time: 1/60 sec Max. aperture value: f/3.5 Aperture value: f/5.0 Digital camera light sensitivity: 200 Lens focal length: 41.0 mm	Pixel size X: 6600 Y: 8400 Orientation: Vertical Resolution unit: Cm Resolution X: 300 Y: 381 Compressed bits per pixel: 5.0 File source: DSC Light source: Other Color space: Adobe RGB	Author Document title: Landscape Description: Sunset over the Dnieper River in autumn, panorama. Keywords: nature, sunset, Dnieper River, autumn, body of water. Copyright information address: - Copyright notice Copyright status: fixed

At present, technology is not capable of automatically filling in the complete list of the above data. However, scientists and practitioners are actively developing software for automatic metadata filling. In particular, computers are already capable of recognizing the subjects of digital images and assigning them a set of keywords. To create such software, a significant amount of already tagged data is required, on the

basis of which the computer will perform classification. Companies have already appeared that provide data tagging services for large file arrays.

Legal recognition of an asset and its sale become possible only after the metadata entry stage is complete. In addition, after this stage is complete, it becomes possible to search for an asset in a large array of similar assets by entering keywords and other attributes that allow searching among market aggregates (intermediaries) stored in author portfolios (databases) and in databases that organize the market circulation and innovation process of such assets. Looking ahead, we note that this is only the first stage of preparation for the market circulation of a digital intellectual asset.

The second condition of the Howey test is that the invested funds are invested in a joint venture. The basic option for fulfilling this condition involves investors pooling their funds (assets) into a single pool and then distributing the profits among the investors in proportion to their share of the venture. The innovation process of digital intellectual assets has its own specifics, so in order to verify the test condition, it is necessary to clarify who invests in the asset class under consideration and how the innovation process takes place. In the innovation process using digital intellectual assets, investors can be:

1. Creators of assets – their authors.
2. A person who, in accordance with the law, has acquired ownership rights (or who has acquired the right to possess or dispose of) the asset from the owner.
3. Enterprises specializing in the industrial (streamlined) creation of assets of this class. Such enterprises have professional equipment for creating photo, video, and audio assets on their balance sheets.
4. Enterprises that acquire rights to assets from owners (authors). It should be noted that some copyrights may remain with the authors for life, regardless of the sale of ownership rights to the asset.

The process of investing in digital intellectual assets is divided into a number of stages. The first stage of the process is the actual acquisition (creation or purchase) of the source digital file and its initial preparation, which consists of filling in the information in the asset's metadata sections. As mentioned earlier, it is after this stage that a digital intellectual asset acquires its full innovative characteristics, which is why this stage is an integral part of the innovation process.

The next stage of the innovation process is the conclusion of a contract for the market circulation of a digital intellectual asset with a network financial intermediary. Network financial intermediaries in contracts for market circulation impose a number of obligations on authors/investors, the key ones being requirements for the quality of preparation, content, and subject matter of digital intellectual assets. The quality of the asset preparation refers not only to its physical characteristics (e.g., optical resolution), but also to the quality of metadata preparation. In addition, agreements often include requirements for interaction with tax authorities and payment services. Under the terms of the contract, the owner of the rights to the asset has the right to transfer their digital intellectual asset to an intermediary. The transfer of the asset to the intermediary, like the first stage, begins with the completion of metadata. The procedure for transferring an asset to a portfolio in practice involves uploading a digital file to the intermediary's portfolio on its website. The process is organized in such a way that it is impossible to complete the file upload without filling in the metadata section. At this stage, the external metadata section is filled in, which is stored on the server of the network financial intermediary. The metadata filled in at this stage contains information about the thematic categories in which the file will be displayed; about the price categories for the types of licenses for using the file; about the physical characteristics offered for sale (file size, file format). This stage is mandatory, but the amount of metadata that must be filled in depends on the specific intermediary.

The third condition of the Howey test is that innovations involve the expectation of profit. After transferring the digital intellectual asset to an intermediary, the latter brings it to market, i.e., organizes its market circulation. It is after the completion of this stage that the author/investor has the right to expect to receive innovative income. In practice, income is generated when there is demand for the author/investor's assets. As a result, the third condition of the Howey test is also fulfilled. However, the innovation process using digital intellectual assets has its own individual characteristics due to a number of features inherent in such assets. First of all, it should be noted that each digital intellectual asset is individual, unlike traditional financial assets: securities, currency instruments, derivative financial instruments, which are characterized by their standardization. This is due to the fact that each digital intellectual asset is an author's work. Each creator (author) of an asset

has their own individual authorial style, individual genre preferences, and creative level. All these factors determine the individuality of digital intellectual assets. In addition, maintaining the individuality of an asset is one of the conditions for an intermediary. Therefore, in principle, there cannot be several completely identical assets in the portfolio of the same aggregator company. Based on the individuality of digital intellectual assets, it can be argued that the pool of assets managed by an intermediary is not depersonalized, unlike portfolios consisting of a specific currency or securities of a specific issue.

Another important feature concerns the author/investor's ability to manage their portfolio of digital intellectual assets. Once the agreement with the intermediary has been concluded, the author/investor gains access to a personal account on the intermediary's website, through which the author/investor can manage their assets: they can add new assets to the portfolio, remove existing assets from the portfolio, or choose not to take any action. After the first asset is added to the portfolio, the intermediary begins to perform its part of the work – it exposes the asset to the market on the website and promotes it. The intermediary performs this work for all assets at its disposal using modern network technologies. As a result of these actions by the author/investor and the intermediary, market supply and demand for digital intellectual assets are formed.

Licenses to use digital intellectual assets are sold on intermediary platforms, since ownership rights to digital intellectual assets in this case, in general (there are exceptions), remain with their owners (authors/investors). The mechanism for selling licenses for use provides that licenses for the use of an asset can be sold multiple times. The terms of the agreement between the intermediary and the investor stipulate the aggregator company's obligation to pay authors/investors a portion of the income received by the aggregator from the sale of licenses for assets belonging to the investor (minus commissions and other expenses specified in the agreement). The investor receives income only if the sale of assets belonging to him has taken place.

As noted earlier, this fact confirms the view that the risks and uncertainty of future income from both digital and other intellectual assets are among the highest in the economy. In our opinion, this circumstance also confirms that investing in digital intellectual assets is an innovative activity in terms of the risk of obtaining the expected innovative income from a joint venture. Moreover, the risk is inherent in both the investor's and the intermediary's activities. We would also like to note that the presence of risk and uncertainty in the results of the activities of the promoter (intermediary) or third party, according to a number of researchers, confirms the fulfillment of the fourth condition of the Howey test.

The fourth condition of the Howey test is that income from innovations is linked to the activities of a promoter (intermediary) or third party. In addition to the high risks inherent in the activities of an intermediary, the fourth condition is justified by the concept that an intermediary's portfolio consists of a collection of portfolios of individual authors/investors. Within this view, the intermediary's portfolio represents the aggregate intellectual capital of investors in digital form, which generates profit. To increase its competitiveness, the intermediary undertakes to promote the aggregate portfolio on the market and makes efforts that affect the success of the entire enterprise and the aggregate portfolio. Authors/investors who are participants (shareholders) in the intermediary's aggregate portfolio reasonably expect that the intermediary's actions will result in the promotion of their personal portfolio and the generation of their personal profit.

Despite the common goal of increasing profits both for the intermediary (the profit of the aggregate portfolio of assets of all authors/investors) and for individual authors/investors, there are also contradictions. One such contradiction is the intermediary's attraction of new participants. In order to increase the income of the aggregate portfolio, the intermediary is interested in expanding the portfolio, and one of the ways to achieve this goal is to attract new authors/investors. Increasing the total portfolio makes it possible to increase the competitiveness of the intermediary, as consumers (people who purchase image licenses) have more choices.

This strategy of the intermediary is confirmed by actual data: Shutterstock Ink alone has over 2.3 million registered authors, and this number continues to grow. However, increasing the intermediary's aggregate portfolio leads to a dilution of the shares of individual authors/investors, which is a contradiction in their activities, despite their common goals. A similar contradiction arises in ordinary joint-stock companies when the shares of individual participants are diluted. To mitigate the dilution effect of an individual portfolio within the aggregate portfolio, authors/investors have to build up their own individual portfolios. Despite the obviousness of this method of maintaining the previously achieved level of profitability of an

individual portfolio, increasing individual portfolios in proportion to the increase in the aggregate portfolio does not guarantee the preservation of profitability for authors/investors, since, as noted earlier, the field of digital intellectual assets is subject to other market factors. It should be noted that the activities of an intermediary are not limited to increasing the aggregate portfolio. Other significant aspects of its activities include:

First, the creation, development, maintenance, and improvement of a network platform on which digital intellectual assets are exhibited and agreements are concluded for their sale (sale of rights to their use, licenses). Authors/investors expect that these duties will be performed properly by the intermediary, as they are essential for attracting and retaining customers.

Second, intermediaries as such create and develop the market for digital intellectual assets. It is the intermediaries who are engaged in the formation of market prices for assets (prices are identical for groups of similar assets). In addition, intermediaries set quality requirements and rules for the trading of digital intellectual assets on each platform. It is also the intermediary that conducts transactions related to the market circulation of digital intellectual assets. As a result, the multifaceted activities of the intermediary ensure the trading turnover and liquidity of digital intellectual assets. Authors/investors, paying a commission on each sale of a license to use a digital intellectual asset that belongs to them, expect the intermediary to use these funds to promote the network platform, its expansion and modernization, which will ultimately increase the sales of each author/investor. In addition to performing these basic functions, the intermediary assumes responsibility for ensuring the smooth operation of the entire network, including protection against external cyber threats, and also performs copyright protection functions (intellectual property rights of digital intellectual asset owners).

Returning to the description of the algorithm of the innovation process for digital intellectual assets, let us dwell on the fact that authors/investors have the right to expect to receive the portion of income specified in the contract with the intermediary, but only if it occurs, i.e., if the sale of rights to use the assets has taken place. The moment of sale of the asset is significant in that after it, the third section of the metadata of the digital intellectual asset begins to form. This section is filled in automatically and is external (i.e., located in the intermediary's repository) and includes the following data:

keywords used by buyers to find the file and an indication of which keywords were included in the metadata section previously entered by the author (primary);

frequency of asset sales;

amount of revenue received from each sale (the amount depends on a combination of many factors and, as a result, may vary);

format of the sold asset, etc.

By forming this metadata section, after the sale of a digital intellectual asset, the value of this asset increases significantly. This happens because data on specific sales appear, which symbolize the transition of the asset to the next, higher probability category of demand. With each subsequent sale of the asset, the probability of future income increases, and the uncertainty regarding its innovative appeal decreases. This so-called administrative metadata section is constantly updated by the intermediary. The first two sections of metadata (internal and external), as already mentioned, are filled in before the digital intellectual asset is placed on the intermediary's platform – this is a mandatory requirement for all intermediaries, as without these sections, assets are difficult to identify. The third (administrative) section of metadata, unlike the first two, is filled in automatically by the intermediary and contains information that significantly increases the innovative appeal and, as a result, the profitability of the asset.

The process of forming and further improving the three sections (internal, external, and administrative) of the metadata of a digital intellectual asset can be called the process of «information enhancement» of the asset, by analogy with the financial term «credit enhancement». Improving the information quality of an asset, as well as changing its credit quality, can be both internal and external.

Conclusions and proposals. Thus, we argue that digital intellectual assets subject to copyright can be considered objects of innovative activity, since they meet all the conditions of the Howey test. An examination of the applicability of the test conditions to the class of assets under study showed the following:

1. The digital intellectual assets studied in this work are a type of intellectual property that constitutes copyright in digital form. Like any other property that has a monetary value, they definitely belong to assets. In the process of forming digital intellectual copyright assets and preparing them for market circulation, it is necessary to enter metadata, including those containing property attributes, into their information structure.

2. The joint venture in which the funds of the participants in the innovation process are invested is a specialized market intermediary – an aggregator of digital intellectual assets. Structurally, the aggregator's portfolio consists of all assets belonging to individual authors/investors. The aggregator's responsibilities include ensuring a smooth innovation process, the end result and goal of which is to generate profit for both individual authors/investors and the aggregator. The terms of the agreement between the intermediary and the investor stipulate the aggregator company's obligation to pay authors/investors a portion of the income received by the aggregator from the sale of licenses for assets belonging to the investor (minus commissions and other expenses specified in the agreement). The investor receives income only if the sale of the assets belonging to him has taken place.

Each digital intellectual asset is property with its own individual characteristics, and therefore, unlike conventional financial assets, it is not depersonalized property. This is one of the reasons why the risk of innovation in digital intellectual assets is characterized by greater uncertainty compared to traditional financial instruments.

References

1. Bird A., Mendenhall M. From cross-cultural management to global leadership: Evolution and adaptation // *Journal of World Business*. 2020. Vol. 55, №. 1. P. 101–109. DOI: https://doi.org/10.1016/j.jwb.2019.101109.
2. Stahl G. K., Björkman I. *Handbook of Research on International Human Resource Management*. 2nd ed. Cheltenham : Edward Elgar Publishing, 2021.
3. Schneider S. C., Barsoux J. L. *Managing Across Cultures*. 4th ed. Harlow : Pearson Education, 2021.
4. Belyaeva O. A., Kuznetsova N. V. Cross-cultural communication in business: Human resource management practices in international teams // *Business Inform*. 2022. No. 5. P. 75–81. DOI: https://doi.org/10.32983/2222-4459-2022-5-75-81.
5. Ivanova L. V. Formation of tolerance in multinational organizations: HR strategies and personnel adaptation // *Economic Journal of Lesya Ukrainka Volyn National University*. 2021. Vol. 28, no. 1. P. 122–128. DOI: https://doi.org/10.29038/2786-4618-2021-28-122-128.
6. Nguyen T. M., Ngo L. V., Ruël H. Enhancing cross-cultural competence through HRM practices: Evidence from multinational firms // *International Journal of Human Resource Management*. 2021. Vol. 32, no. 17. P. 3704–3732. DOI: https://doi.org/10.1080/09585192.2020.1744213.
7. Mäkelä K., Brewster C., Suutari V. Managing talented expatriates: A review and research agenda // *Journal of Global Mobility*. 2022. Vol. 10, no. 1. P. 1–18. DOI: https://doi.org/10.1108/JGM-10-2021-0057.
8. O'Neill T. A., Allen N. J., Hastings S. E. Examining the "cross-cultural" in cross-cultural research: The value of team-level assessments // *Group & Organization Management*. 2020. Vol. 45, no. 1. P. 3–44. DOI: https://doi.org/10.1177/1059601119835982

References

1. Bird A., Mendenhall M. From cross-cultural management to global leadership: Evolution and adaptation // *Journal of World Business*. 2020. Vol. 55, №. 1. P. 101–109. DOI: https://doi.org/10.1016/j.jwb.2019.101109.
2. Stahl G. K., Björkman I. *Handbook of Research on International Human Resource Management*. 2nd ed. Cheltenham : Edward Elgar Publishing, 2021.
3. Schneider S. C., Barsoux J. L. *Managing Across Cultures*. 4th ed. Harlow : Pearson Education, 2021.
4. Belyaeva O. A., Kuznetsova N. V. Cross-cultural communication in business: Human resource management practices in international teams // *Business Inform*. 2022. No. 5. P. 75–81. DOI: https://doi.org/10.32983/2222-4459-2022-5-75-81.
5. Ivanova L. V. Formation of tolerance in multinational organizations: HR strategies and personnel adaptation // *Economic Journal of Lesya Ukrainka Volyn National University*. 2021. Vol. 28, no. 1. P. 122–128. DOI: https://doi.org/10.29038/2786-4618-2021-28-122-128.
6. Nguyen T. M., Ngo L. V., Ruël H. Enhancing cross-cultural competence through HRM practices: Evidence from multinational firms // *International Journal of Human Resource Management*. 2021. Vol. 32, no. 17. P. 3704–3732. DOI: https://doi.org/10.1080/09585192.2020.1744213.
7. Mäkelä K., Brewster C., Suutari V. Managing talented expatriates: A review and research agenda // *Journal of Global Mobility*. 2022. Vol. 10, no. 1. P. 1–18. DOI: https://doi.org/10.1108/JGM-10-2021-0057.
8. O'Neill T. A., Allen N. J., Hastings S. E. Examining the "cross-cultural" in cross-cultural research: The value of team-level assessments // *Group & Organization Management*. 2020. Vol. 45, no. 1. P. 3–44. DOI: https://doi.org/10.1177/1059601119835982

Харковина О.Г., Бєлоусов Я.І. Використання Howey test як ідентифікатору інноваційної діяльності.

Статтю присвячено дослідженню можливостей використання Howey test як ідентифікатора інноваційної діяльності у сфері обігу цифрових інтелектуальних активів авторського права. Метою роботи є обґрунтування належності цифрових інтелектуальних активів до об'єктів інноваційної діяльності на основі аналізу виконання чотирьох умов Howey test з урахуванням специфіки цифрової економіки та мережевих форм організації ринку. У процесі дослідження встановлено, що інвестування у цифрові інтелектуальні активи передбачає вкладення

фінансових і нематеріальних ресурсів у підготовку, структуризацію та комерціалізацію цифрових медіафайлів, які після внесення атрибутів власності та інших метаданих трансформуються у повноцінні активи з грошовою оцінкою. Доведено, що спільним підприємством у межах такого інноваційного процесу виступають спеціалізовані мережеві фінансові посередники, портфелі яких формуються як сукупність індивідуальних портфелів авторів та інвесторів і функціонують як форма колективного інтелектуального капіталу. Обґрунтовано наявність очікування інноваційного прибутку, що реалізується через багаторазовий продаж ліцензій на використання цифрових інтелектуальних активів, а також залежність отриманого доходу від діяльності промоутера, який забезпечує ринкову експозицію, просування, ціноутворення та захист авторських прав. Показано, що індивідуальність цифрових інтелектуальних активів, нестандартизований характер попиту та високий рівень ризику зумовлюють підвищену невизначеність результатів інвестування, що є характерною ознакою інноваційної діяльності. Запропоновано трактування процесу формування та оновлення внутрішніх, зовнішніх і адміністративних метаданих як механізму підвищення інформаційної якості цифрового інтелектуального активу, що сприяє зростанню його інноваційної привабливості та дохідності. Отримані результати поглиблюють теоретичні засади дослідження цифрових інтелектуальних активів і можуть бути використані для розвитку підходів до управління інноваційними портфелями в умовах цифрової трансформації економіки.

***Ключові слова**: цифрові інтелектуальні активи; інноваційна діяльність; Howey test; авторське право; інтелектуальний капітал*

Харковина Олексій Григорович – докторант СНУ ім. В. Даля.
https://orcid.org/0009-0001-4224-3743
Бєлоусов Ярослав Ігорович – професор СНУ ім. В. Даля.
http://orcid.org/0000-0002-5830-7553

Дата першого надходження статті 18.02.2026.
Дата прийняття статті до друку після рецензування 25.03.2026.
Дата публікації 26.05.2026.