

LEGAL AND BUSINESS ASPECT OF FRANCHISE AND FRANCHISE BUSINESS AND MEASURES DURING THE COVID - 19 PANDEMIC

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ABSTRACT

Franchise is a business privilege defined by franchise law through which the franchisee operates, performs the franchise activity of selling certain products or performing defined services by the franchisor. The franchisee uses the trademark, the service mark of the franchisor, all based on his work and methods in the defined activity, use of franchise privilege. Based on the franchise agreement, the franchisee pays the franchisor a franchise fee. A franchise agreement is based on the principles of contract law, concluded with the consent of the will of the contracting parties and belongs to unnamed contracts and by its nature is a mixed contract, since it also contains elements of some other contracts. National and international regulations affect the protection of intellectual property rights and determine the content and manner of performing franchise activities. Franchising as a segment of entrepreneurship is a complex legal and economic business model, created between two independent economic entities. Franchise business can be viewed from several business aspects, such as: the manner and method of growth of economic entities that are geographically conquering new markets; enable growth of production and distribution capabilities of franchisors and recipients; form of new entrepreneurial activity of economic entities towards winning and starting a business activity with the creation of new jobs; the emergence of a new organizational form and a new form of restructuring in organizational terms with the beginning of new distribution channels and finding new sources of funding. At the same time, franchise business from the aspect of the theoretical concept gained its practical verification of business success through the operationalization of franchising as a way and method, "Know-how"; a concept that ensures the development and sustainable growth of the business entity in accepting franchising as a new opportunity in the economic development of the business entity. Also, today in these times of lockdown and closed stores and restaurants, franchisors and franchisees were and still are affected by the COVID-19 pandemic and requested to adapt their sales model, planning and implementation to the circumstances, because a whole franchise system has been challenged.

Keywords: *trade, franchise, patent, license, franchisor, franchisee, intellectual property, "know – how", COVID - 19*

1. INTRODUCTION

The progress of civilization is based on intellectual activity, as a reflection of creativity and invention in all domains of human creativity. The progress of civilization has imposed the need for legal regulation and protection of intellectual property, and especially the work that refers to the author's work as an intellectual creation of the human mind. Legal standardization of creativity has led to the creation of intellectual property, which has its own defined property title and enjoys regulated legal protection, both, from the spectrum of national regulations and from the international legal aspect, by adopting certain international conventions that provide international legal framework. overall regulation and protection of intellectual property rights. There are two key reasons for international legal protection of intellectual property: defining intellectual creation as a form of intellectual property imposes the need to standardize the moral and economic rights of authors, as well as harvesting the economic effects, but at the same time regulating the manner and conditions of availability of these rights, through their circulation or otherwise; in this way, intellectual property based on a certain creation of the human mind also appears as Intellectual Capital - which can therefore appear as a participant in payment transactions and in the realization of certain economic movements and flows of trade and other economic activities. In this way, Intellectual Capital also performs its own promotion as a factor that can significantly affect the economic growth and development of a society and civilization in general. Through its creation expressed in certain defined inventions and innovations, intellectual creation can appear as intellectual property in the free exchange of intellectual goods on national and international markets, which in fact becomes a form of capital, in the form of intellectual capital of the bearer of intellectual creation and enables it to freely and fairly exchange its intellectual value (creation) as an intellectual work contained in a certain economic expression as a product, service or some other economic activity. By protecting the created intellectual work as a newly created intellectual property, the creator is enabled to voluntarily and fairly exchange the products of the author's intellectual effort. In this way, the creator receives adequate compensation for his author's work through exchange, as a quantification of his intellectual achievements and realized creations, while the users receive the basis for useful application through the realized exchange. In this way, intellectual capital has a dual function, the bearer of the idea gets satisfaction of his work in a certain compensation of a defined value, and the user realizes certain benefits either on the market or for some other useful use of the acquired intellectual work as a determined value of intellectual capital (Petrović AD, 2019). In this way, Intellectual Capital appears as a defined value in economic flows and realized trade exchange through trade in intellectual property rights and this contributes to each participant in the exchange, and at the same time provides a crucial incentive to achieve new achievements in creating new discoveries. With the development of international trade, the place and share of Intellectual Capital from the aspect of the new classification of this economic category is becoming more and more important. At the same time, this type of exchange gives impetus to new technical and technological development. Competition in the market imposes a constant need for manufacturers to improve their products and realize new products that will provide a rival relationship in a competitive market. This is achieved by continuous improvement and refinement of existing products and the creation of completely new products either through the content of innovation, new design or a new product as a novelty in the market (Petrović A D, 2019). National legislation regulates intellectual property rights based on international regulations in this area, adopted conventions and agreements. The task of international regulations is to harmonize the diversity of legislative solutions of national legislations and in that way to ensure the uniqueness of legal protection of intellectual property and that the realization of protection is done practically on the basis of one registration of intellectual work in several countries at the same time.

Out of such a need, the World Intellectual Property Organization was founded „WIPO” – World Intellectual Property Organization, which was founded in 1967 "to encourage creative activity as well as to promote the protection of intellectual property in the world" (Convention Establishing the World Intellectual Property Organization, 1967, amended 1979). WIPO is becoming an important source of intellectual property rights from the international legal aspect and the basis for the harmonization of national legislation. The WIPO agency has 193 member states and is based in Geneva, Switzerland. WIPO is one of fifteen specialized agencies that perform various functions on behalf of the United Nations. Every business organization that has intellectual capital at its disposal actually realizes newly created value through intellectual property, expressed as intangible value, intellectual capital. At the same time, the increase in capital can be much more valuable than other material assets and equipment of the business entity. Intellectual property also includes: trademarks, design, know-how, copyrights and patents. The effects of the spread of the COVID - 19 virus which were felt in various spheres of social life, changing the way of doing business, education, and performing daily activities, redirecting them to the possibilities that the Internet and digital age opened the door to (Čović, 2020), in the franchise business has caused the biggest crises in the last decades. Different countries have tried in different ways and with different measures to mitigate the consequences of the negative effect of the pandemic on franchise business.

2. THE FORMS OF INTELLECTUAL PROPERTY PROTECTION

New product design and innovation due to the constant struggle for presence and survival in the market have emerged as a constant need for businesses to produce new product types and ever more perfect models innovated by the advancement of creative ideas realized as products of intellectual creations and efforts of inventors and innovators. Also, all business processes that contribute to the improvement of competitiveness and sustainable growth of economic entities are innovated and improved. All these creations are the product of intellectual capacities and efforts of employees in the organization with the aim of realizing a concrete appearance of intellectual property, which can be expressed through concretized contents, which are conceptually expressed in science: copyright and related rights; trademark rights; geographical indication rights; industrial model and design rights; patent rights; real schemes; rights to the protection of undisclosed information, and rights to control the practice of restricting competition in license agreements (Čović D, 2014). An author's work is an original spiritual work of the author, expressed in a certain form, regardless of its artistic, scientific or other value, its purpose, size, content and manner of manifestation. The general ideas, principles, principles and instructions contained in the author's work are not covered by copyright protection. An author's work is published when it is communicated to the public for the first time in any way and anywhere in the world by the author, ie a person authorized by him. The author enjoys moral and property rights in respect of his copyright work from the moment the copyright work is created. The author has the exclusive right to be recognized as the author of his work, to publish his work and to protect the integrity of his work as well as the right to its economic exploitation. The author has the exclusive right to prohibit or allow another to place copies of his work on the market or to lease them or to allow the performance, presentation and broadcasting of his work. The manner of using certain types of author's works is done in a special way, by showing or performing those works by performers or performers, by recording on means for mechanical reproduction of sound (phonogram) and image and broadcasting via radio broadcasting network. In such situations, there are often disputable situations between the users of copyright works and authors, which are not regulated by positive regulations, so a new branch of law has been created, which has been named related to copyright. Related rights also include the right of the database, which regulates the position of the database producer, conditions of use, manner of use, legal protection and the like.

In addition, the right of the first publisher of a free work has recently been included in related rights, in order to provide legal protection to publishers who are the first to publish or communicate a work that has not been published or announced before, after the author's property rights expire. An invention in any field of technology, which is new, inventive and industrially applicable is a patent and is governed by patent law. A patent right protects an invention in the form of a product or process. They are not considered discoveries of discovery, scientific theory, mathematical theory, aesthetic creations and the like, because they have a general social significance, benefit and value. An invention is considered new if it is not contained in the prior art. The invention has an inventive step if, for the person skilled in the art, it does not follow, obviously, from the state of the art. It is industrially applicable if the object of the invention can be produced or used in any branch of industry and agriculture. The inventor has the right to enjoy the economic benefits of his claimed invention, ie of the invention protected by a patent. The rights of the inventor who created the invention in employment and the rights of the organization in which the invention originated are determined by law, general acts and the contract between the employer and the employee, or their representatives. The invention can also refer to certain knowledge and experiences that can be applied in production and in economic life. A generally accepted term for this knowledge is know-how. Due to its generally known meaning, the term is no longer translated, but is uniquely used in the professional literature to denote a set of specific knowledge and experiences. In modern international trade, the share of knowledge and experience transfer is increasing - the so-called technology transfer for several reasons such as levels of investment in research programs, constantly present economic matches to raise competitiveness, the growing importance of Total Quality Management in achieving business goals and market requirements and the need for efficiency and effectiveness in achieving and achieving goals of Total Quality Management. Know-how still does not enjoy legal protection through international conventions or national laws as a form of intellectual property, but as a right related to patent law, it has the treatment of business secrets in the defined protection of business capital - the so-called. knowledge capital. Sometimes even the industrial application of a patent is not possible without the transfer of special knowledge and experience of know-how by transfer through a license agreement. The TRIPS Agreement on Trade-Related Aspects of Intellectual Property Rights obliges all member states to ensure the protection of the topography of integrated circuits in accordance with the Convention on the Protection of Intellectual Property on Integrated Circuits. A number of inventions do not have the necessary inventive step required to define it as a patent, but they have creative work that represents the realization of an inventive idea, which is confirmed as useful for production - a "useful" model. International registration of industrial designs is performed in accordance with the provisions of the Hague Agreement Concerning the International Registration of Models and Samples of November 28, 1960. and the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs of June 2, 1999. years. Design is a creative creation in the field of production and must be characterized by novelty and individual character. The author of the design has moral and property rights - moral law consists in the author's right to have his name mentioned in the application, writings and documents relating to the design he has created, and the property right of the author consists in enjoying the economic benefit from the exploitation of an object that has been reported as a new design and which is protected. A trademark is a right that protects a sign that is used in trade to distinguish goods or services of one person or corporation from the same or similar goods or services of another. The trademark can be individual or collective, and the trademark is not considered to be a seal, stamp and punch (official sign marking precious metals, measures, etc.). A trademark protects a sign that serves to distinguish goods or services in circulation, which can be represented graphically.

A sign may consist, for example, of words, slogans, letters, numbers, pictures, drawings, color schemes, three-dimensional shapes, combinations of these signs, and musical phrases that can be displayed graphically. Geographical indications are names of origin and geographical indications. Geographical indications are used to denote natural, agricultural and industrial products, handicrafts and services. The name of origin is the geographical name of a country, region or locality that serves to denote a product originating there, whose quality and special properties are exclusively or essentially conditioned by the geographical environment, which includes natural and human factors and whose production, processing and preparation take place as a whole. specific area. A geographical indication is a designation that identifies a particular good as goods originating in the territory of a particular country, region or locality in that territory, where a particular quality, reputation or other characteristics of the goods can be essentially attributed to its geographical origin.

3. FRANCHISE BUSINESS AND FRANCHISE

Intellectual property has an extremely strong impact on foreign direct investment and technology transfer, strongly encourages them, which affects the huge growth of franchise business and the impact of franchise turnover on gross national income and is reflected in the growth of trade in patent rights and licenses - production technique; technological equipment; organizational methods; management methods, and created innovative services. All this leads to the need to create a new style of management, management based on the Total Quality Management, which with the emergence of globalization and the progress of scientific and technological development, contributes to the realization and success of a specific program in the global market. That is why we say that the excellence achieved by Total Quality Management enables the concept of adapting the organization to changes to function and achieve the required level of competitiveness, based primarily on the concept of intellectual creation of change, including all elements of technical, market, economic, organizational and ethical aspects (Čović AD, 2019). Therefore, Total Quality Management, implies the concept of adapting the organization to change and achieving competitiveness, as a concept of intellectual creation of change that combines technical, market, economic, organizational and must contain the ethical aspect of business. In the context of what is presented in the distribution channels, a franchise appears as a form of vertical marketing system. Based on it, the franchisor is a market entity that has successfully developed the expansion of its product or service and built a cooperative relationship with another market entity - the franchisee, which on the basis of that legal transaction has acquired a legal basis to operate under a trademark. The franchisor, which continues to enable and provide him with continuous support and special control, whereby the franchisee regularly fulfills the obligation of the agreed fee for the transferred licensed rights. From the beginning of 2020 till today, the COVID-19 pandemic will have a big impact on the franchise sector, so action is needed to help the sectors directly affected by the COVID-19 pandemic, including catering franchises (Calligaro & Caballero, 2021). According to the principle "*pacta sunt servanda*", contracts must be honored despite the COVID-19 pandemic, and as a contract may be affected by the COVID-19 pandemic, there exist exceptions to this principle (Sturzenegger & Buetler, 2021). A fundamental change of the circumstances after conclusion of a contract, may allow the contract to be adapted: right to adjust the contract, right to adjust the price or even right to extraordinarily terminate contract, but ""this will always depend on an assessment of the contract and the circumstances of the individual case"" (Sturzenegger & Buetler, 2021).

3.1. The concept of franchise

The franchise represents the franchise right as a business privilege, by which the franchisee operates, by selling certain franchise products or performing franchise services of another

business entity that appears as a franchisor by using its trademark, or service mark, all based on the experience of the franchise provider, its method and manner of work in a particular production or performance of certain services in the so-called Franchising. By obtaining a franchise through a regulated business relationship and contract, the franchisee pays a certain amount of compensation to the franchisor for this privilege in accordance with the business arrangement. That is why it is said that franchising as a business activity and activity from the aspect of entrepreneurship in fact represents a complex business-legal business model, as a complex of business relations and arrangements between two independent economic entities. Franchising as a business arrangement contains a variety of business aspects, which are defined in advance by the franchise agreement, which regulates the diversity of arrangements and business relationships, such as:

- The manner and method of doing business of economic entities, which provides them with sustainable development and growth, and with the help of which new geographical areas, ie new markets are conquered at the same time;
- The franchisor and user of the franchise is provided with sustainable development and growth of production and provision of services, and at the same time improves the distribution capacity;
- Franchising provides, through franchising, the conquest of a new form of entrepreneurial activity which initiates a new activity;
- The franchise also contributes to the emergence of new forms of organizational structures of economic entities with the restructuring of the organization and the launch of new distribution channels, as well as the definition of new sources of financing.

Franchising as a business activity confirms its importance through the realization of qualitative changes in the realization of the profit of the business entity, which is reorganized and restructured organization, in order to find a new position in the state development and growth of the organization. Franchising business implies a new strategy of a certain direction of development, emphasizing the national level of business, as well as the commitment to inclusion in the international division of labor and presence in the global market. At the same time, franchising contains a new level of technical and technological innovation of the organization and its ability to raise existing resources to a higher level of complexity of finished products and services. Thus, franchising affects a new place and role in economic life, and at the same time contributes to the further economic development of national economies. Therefore, it is important that the system of economic measures in the economic policy of each economy is dedicated to special encouragement and improvement of franchise business, which allows franchisees a new perspective as a new economic activity, which opens the content to new economic flows in qualitative terms. This further implies that franchising at the national level encourages national economies to be more active in global markets, especially for the reason that it imposes the need to harmonize national regulations with international conventions governing the matter of franchising and franchising and its international legal protection. Sustainable development is becoming a necessary need, which is based, among other things, on the component of the need to further strengthen franchise business in Serbia, which gives a new contribution, among other things, in the place and new role of Total Quality Management, as a requirement that changes, leads to a change in the organizational structure of economic entities, changes in the educational levels of employees and the need for continuous professional development. This in turn leads to changes in the organization of work, the need for productivity growth, the establishment of new business capacities with a higher level of complexity of business processes and performance of activities, either in the manufacturing sector or in the service sector (Petrović AD, 2019).

The concept of franchise business, which finds its confirmation in the operationalization of business activities that lead to the newly realized value expressed in the profit of the organization, which proves the success of franchising economically. Carrying out a franchise business model based on defined planned business assumptions and provided organizational structure with the necessary capacities prepared represents the necessary business elements to bring all business activities and processes to competitive market potentials and expected business results. Also, the franchise business model and the way to "Know-How" represent a new significant intellectual capital of the organization. The implementation of a franchise business project implies the training of the necessary staff, so that the totality of business processes and activities at the micro level can be projected simultaneously as an entrepreneurial business activity and business venture at the macro level, as the franchise and franchising in new markets and geographical areas. Franchising in a lucrative sense has a significant economic function, because it affects the business results of the organization, franchisor and recipient, provides sustainable development and growth of the organization, as intellectual capital reflected in an innovative way, method and business model, which in a new manner sets and changes the existing manner of performing business activities and processes and contributes to the formation of a new philosophy of business activities that include Total Quality Management with a new entrepreneurial concept in making primarily adequate business decisions. That is, the subject model of franchising, influences the formation of business decisions that various stakeholders further transfer to their entrepreneurial activities in the adoption of new models of doing business and performing franchising activities. Of course, this includes professional training of the required workforce to perform all necessary business processes and activities. Franchise business also imposes the necessity that in the new business strategy of the organization, the achievement of "excellence" must be created by achieving the required level of quality with the use of all necessary management tools. Application of the principles of Total Quality Management and business in the conditions of TQM, that all this defines the justification of determining the necessary investment funds in the implementation of a franchising business project. In this way, the franchise becomes a new business opportunity for the organization. If we look at the success of franchising or franchise business of the organization that has adopted this business system from the aspect of economic principles, starting from profitability, productivity and economy, where the starting criteria for comparison are the achieved production capacity and services with planned cost savings, defined as a labor economy, then the rate of profitability is a determining precondition for the success of a business venture. Based on the presented franchise, it therefore represents a strategy based on innovation, which as an intellectual right is protected as a license right, a license of a business method and business procedures. These franchise licenses impose a justified need to protect them by developing and improving legal patent protection. The economic indicator expressed through labor economics, the achieved productivity should show a realistic picture of all business performance indicators, with the proportion of productivity in the direction of maximum results with minimum investment. Also, the achieved profitability is realized as a business result in relation to the invested capital. All this is achieved by optimizing all business activities and processes as a business strategy in a new way through the franchise method and mode of operation with the application of all management tools and defined changes in the management of activities and processes and organization management in general. The business outcome of the franchise business in accordance with the franchise project is the ability of the organization to increase its business result by placing the franchise products or services. The growth of the organization's business result in franchising through franchising is defined as the realization of a license through a franchise project, obtained by franchising through the protection of a protected patent. If the organization confirms the success of the franchise project with a new business result, then it can be considered a business success, which ensures

sustainable growth and development of the organization. In this way, the franchise license as a method of growing business success confirms the following motives: success and further growth and development of economic indicators of the organization; confirmed the success of the new business strategy of the organization; the organization records further growth of intellectual capital, that is, an organization that learns and progresses with respect for all political and legal factors

3.2. The effects of Franchise law

Intellectual property, namely a patent, a franchise license with the creation of innovation and achieved legal patent and license protection becomes not only the "capital knowledge" of the organization, but also a commodity that has a defined value in the market and can to be performed through placement in trade business relations. Thus, knowledge as a commodity becomes a specific form of capital as capital knowledge, a new business model and way of doing business activities and processes not only as a franchise product, but also as a franchise medium of performing franchise services. This type of trade as capital knowledge is increasingly occupying an increasing volume of trade and is in great expansion both in national markets and in the global market. The franchise contains Know-how, which appears as a special form of intellectual property, which through the franchise as a franchise right through a license and patent is materialized as a franchise product and service, and thus appears on the market as a business method and model with its adequate value in traffic. A franchise defined as a patent and a license right that is recognized in the protection procedure by both national and international regulations, becomes a property right, which can be fully realized, because:

- The holder of the franchise right may transfer it by legal transaction in accordance with the franchise agreement;
- Franchise right provides the right holder with the right to use it and reap all the fruits of that right, with franchise production and services, but only within the regulated rights and obligations arising from national and international regulations, especially having in mind the temporal and territorial limitation of franchise law;
- The franchise is protected by regulations and the envisaged sanctions for violation of the franchise right, especially in situations of unauthorized use by some legal user;
- The transfer of franchise rights from the right holder as the grantor of rights to the franchisee is done with the definition of all franchise rights and obligations, especially the right to franchise compensation in accordance with special criteria and criteria established by special regulations.

The franchisor action does not end with the introduction of the franchisee to the business, because he is still interested in promoting the franchise in question and in monitoring and controlling the franchisee's conduct and what is done to preserve reputation of its business and intellectual property (Čović et al., 2019a). The franchise is very important in the economy of the United States, because more than 780.000 franchise companies employ more than 8.8 million people with 890 billion dollars in direct economic output (Bekhouché & Kahlessenane, 2018). In some countries, there is no a legal definition of "franchise", nor a codified franchise law, and franchise law is set out by different areas of law, civil, commercial and corporate law, as in Austria (Lager M, 2021).

4. THE CHALLENGES DURING THE COVID - 19 PANDEMIC AND THE CRISIS MITIGATION MEASURES

In the current situation of the COVID-19 pandemic has had a significant financial impact on global companies, including franchising operations due to locking measures and restrictions implemented by governments. During the COVID-19 pandemic, virus can be considered an

unavoidable elementary event which exclude liability for possible damages (Lager M, 2021). The French Government has put in place subventions, eg. solidarity fund, freezing of penalty clauses for a certain period, to support businesses, and some companies with less than ten employees have been able to temporary deferral of commercial rents (Féraud - Courtin & Methamem, 2021). In Germany some courts affirmed full payment obligation, and other courts argued that the lessee may claim a reduction, as it is "unreasonable to continue the unchanged agreement given the circumstances", but the extent to which a reduction may be claimed is dependent on balancing of interests and all circumstances of the individual case (Reif & von Hauch, 2021). Some franchises faced a positive impact during the COVID-19 pandemic, because "either sell products tailored to the new environment or have adapted to a new business model during the crisis" - such as food deliveries, clothing and footwear, and cosmetic products sold via online stores (Koimtzoğlu & Gkouti, 2021). The Saudi Arabian Government has introduced relief measures in connection with tax payments, corporate compliance, value added tax, customs and excise, and deferral of loan payments (Idrees R, 2021). Similar to that, the Singapore government has introduced the COVID-19 (Temporary Measures) Act 2020 which offer temporary relief to businesses and individuals who are unable to fulfil contractual obligations because of COVID-19, (in connection to leases /licenses for non-residential immovable property, construction, provision of and contracts for the sale of goods and services, and loan agreements) (Idrees R, 2021), which could be a model for overcoming the current franchise crisis. Some of the measures also included moratoriums on bank loans, and (in certain cases) moratoriums on lease payments (Kastelec & Zavašnik, 2021). For a period of time in Sweden, there were also support in the form of temporarily reduced employer contributions and deductibles and increased provision for accruals fund. Still current support are: sales support to sole traders and trading companies; adjustment support to companies based on turnover loss; short - term layoffs for reduced wage costs; rental support; event support; increased state responsibility for sick pay costs; deferment of tax payments; government loan guarantee for small and medium-sized enterprises; tax reduction for investments in equipment; reduces employer and deductibles for young people; temporarily abolished benefit taxation for gifts to employees (Friberg & Fjellström, 2021). In order to mitigate the negative impacts of the pandemic, in Turkey all enforcement and bankruptcy proceedings at execution offices have been suspended to prevent the spread of the COVID-19 epidemic from 22 March 2020 until 30 April 2021. (Lerzan & Burcu, 2021). However, in some countries franchise fees are not covered by legislations to address labor issues and relief packages to alleviate the impact of the pandemic and therefore, has to be paid continuously, eg. Taiwan (Chen & Lee, 2021). The Covid - 19 impact on franchising market in U.S. was the most visible in the hospitality and restaurant industries, followed by personal services and retail (FRANdata, 2020). As of the end of August 2020, an estimated 32,700 franchised businesses are closed; 10,875 businesses of them are closed permanently (FRANdata, 2020). As of August 31st, 2020, the franchising market experienced an estimated total loss of 1.4 million jobs due to COVID-19 (59.8% were temporary, and 40.2% were permanent), and states that were most negatively affected by COVID-19 were New York, New Jersey, California and Washington (FRANdata, 2020).

5. CONCLUSION

Franchise as intellectual property expressed in a patent and license in trade appears as a commodity-knowledge that is defined as intellectual property or intellectual capital-knowledge, which as knowledge-model and way of working as a commodity with its market price, whose turnover is by concluding a franchise agreement. Knowledge in trade as a commodity becomes a specific capital, capital-knowledge and now participates in the market with a significant percentage of total turnover, not only nationally but also globally. We must know that the significance and impact of franchise rights in the world trade has grown significantly over the

past 20 years, and has grown by about 50% (Čović et al., 2019b). Each franchise contains a special form of intellectual property, as a related right expressed in the elements of "know-how", which right in itself contains adequate value in the market and the right as "know-how", or model-knowledge and way of working-knowledge. For the security of trade, intellectual property rights, including patent law and license law, imply the obligation to establish adequate legal protection, not only at the national level, but through the conclusion of international treaties and conventions and from the international legal aspect. The organization expresses its intellectual capital by protecting the patent in the defined regulations of patent law, which simultaneously protects the trademark, as well as copyright based on the copyright of the franchised product or service. Such a procedure creates and obtains an appropriate license by which to exercise ownership rights over certain processes, information or technology, which as a new franchise form is used as a new method of growth of the organization, performing franchise production and franchise services. Franchisor acquires the right to receive franchise compensation by the franchisee. Failure to meet expectations is the most common cause of dispute and generally occurs between six and eighteen months after the conclusion of the contract (Čović et. al., 2019c). With efforts in developing the system and strengthening the support that franchisees receive in order to "survive the crisis and minimize risks, the franchising market is expected to experience a steady and stronger recovery from the Covid - 19 pandemic" (FRANdata, 2020). On the other hand, some authors consider that "even though the businesses are reopening, the franchise will never be the same after COVID-19, because even when the short- term effects end, the long-term economic impact will ripple for years" (Thuy Dung, 2020).

LITERATURE:

1. Bekhouche Eddine, I. & Kahlessenane Salah, S. (2018). An Overview of Franchising Law: Why is it Important? *International Journal of Law and Public Administration*, Vol. 1, No. 1, 41 - 47. DOI:10.11114/ijlpa.v1i1.3355
2. Calligaro, C. P. Caballero, P. (2021). Argentina. *International Franchise Handbook*. Deloitte Legal, 10-15. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
3. Chen, J. & Lee, E. (2021). Taiwan. *International Franchise Handbook*. Deloitte Legal, 252 - 257. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
4. Convention Establishing the World Intellectual Property Organization, 1967, amended 1979.
5. Čović, D. (2013). The concept of intellectual property, forms of its protection and the impact on the total quality of management, *European Legislation*, no. 43/44, 199 - 220.
6. Čović, A. Petrović, A. D. Ilić Čović A. (2019a). Franchise Agreement and Mutual Obligations Between the Franchisor and Franchisee, *Middle – East Journal of Scientific Research*, Volume 27 (7), 580 – 586. Available at [https://www.idosi.org/mejsr/mejsr27\(7\)19/8.pdf](https://www.idosi.org/mejsr/mejsr27(7)19/8.pdf)
7. Čović, A. Petrović, A. D. Ilić Čović, A. (2019b). Franchise Trade from the Aspect of Intellectual Property, Patents, Licenses and Related Rights „Know How“, *Middle – East Journal of Scientific Research*, Volume 27 (8), 630 – 636. Available at [https://www.idosi.org/mejsr/mejsr27\(8\)19/7.pdf](https://www.idosi.org/mejsr/mejsr27(8)19/7.pdf)
8. Čović, A. Petrović, A. D. Ilić Čović, A. (2019c). Trade Secrets, Franchising and International Franchise Disputes, *World Applied Sciences Journal*, Volume 37 (9), 746 – 752. Available at [https://www.idosi.org/wasj/wasj37\(9\)19/5.pdf](https://www.idosi.org/wasj/wasj37(9)19/5.pdf)

9. Čović, A. (2020). Domestic Violence in the Age of the COVID – 19 Pandemic. *Archibald Reiss Days*, Belgrade, 489 - 500. Available at <http://eskup.kpu.edu.rs/dar/article/view/180/127>
10. Féraud - Courtin, M. Methamem, J. (2021). France. *International Franchise Handbook*. DeloitteLegal, 72-81. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
11. FRANdata. (2020). *Six-Month COVID-19 Impact Analysis on Franchising Market*. Virginia. Available at https://www.franchise.org/sites/default/files/2020-10/Six-Month%20COVID%20Impact%20on%20Franchising_Final.pdf
12. Friberg, J. & Fjellström, J. (2021). Sweden. *International Franchise Handbook*. Deloitte Legal, 238-245. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
13. Idrees, R. (2021). Saudi Arabia. *International Franchise Handbook*. Deloitte Legal, 196 - 201. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
14. Idrees, R. (2021). Singapore. *International Franchise Handbook*. Deloitte Legal, 208 - 213. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
15. Kastelec, A. Zavašnik, L. Slovenia. *International Franchise Handbook*. Deloitte Legal, 214 - 221. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
16. Koimtzoglou, I. Kouti, K. Greece. *International Franchise Handbook*. Deloitte Legal, 88 - 93. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
17. Lager, M. (2021). Austria. *International Franchise Handbook*. Deloitte Legal, 16 - 19. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
18. Lerzan, N. & Burcu, T. (2021). Turkey. *International Franchise Handbook*. Deloitte Legal, 264-268. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
19. Petrović A. D. (2019). Franchise management in TQM conditions. Doctoral dissertation. Business Management, University "Union - Nikola Tesla", Faculty of Business and Law, Belgrade.
20. Reif, M. Von Hauch, C. (2021). Germany. *International Franchise Handbook*. Deloitte Legal, 82- 87. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
21. Sturzenegger, U. & Buetler, B. (2021). Switzerland. *International Franchise Handbook*. Deloitte Legal, 246-251. Available at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-international-franchise-handbook-2021-vf.pdf>
22. Thuy Dung, T. T. (2020). COVID-19 pandemic impact on Franchise industry and Franchise dispute resolution. *Advances in Social Science, Education and Humanities Research (Proceedings of the Research Technologies of Pandemic Coronavirus Impact (RTCOV 2020))*. Vol. 486, 239 - 244.