

Discussion on the Problems and Countermeasures of Risk Compensation Fund of Intellectual Property Pledge Financing

Linqi Li ^a, Yan Song ^b

School of Law, Henan Normal University, Xinxiang 453007, China

^a lilingqi726@126.com, ^b 18236122697@163.com

Abstract

Intellectual property has the characteristics of invisibility, uncertainty of value, and difficulty in realization, which makes intellectual property pledge financing a great risk, resulting in the low motivation of financial institutions to issue loans to small and medium-sized technology-based enterprises. The establishment of intellectual property pledge financing risk compensation fund is of positive significance for promoting the smooth development of intellectual property pledge financing activities, promoting the efficient utilization of intellectual property in the economic field, and effectively solving the financing problems of small and medium-sized technology-based enterprises. The establishment and operation of the risk compensation fund is still in the initial stage of exploration. In view of the problems existing in the risk compensation fund of intellectual property pledge financing, the source of fund should be expanded, the vertical fund pool should be set up internally, and the social funds should be absorbed externally; The operation of the fund should be optimized, and a market-oriented model should be established, supplemented by government supervision; Internal risk prevention and control should be improved, and the external risk supervision system should be strengthened.

Keywords

Intellectual property, Intellectual property pledge financing, Risk compensation fund.

1. Proposed Problems

In the process of market economy development, small and medium-sized technology-based enterprises need a large amount of capital due to the expansion of their own scale and the investment in research and development of products, and these enterprises lack fixed assets to obtain mortgage loans from financial institutions. Currently they can use intellectual property as collateral to obtain loans from banks. However, due to the intangibility of intellectual property and the uncertainty of value, it will bring great risks to financial institutions, and risk is an important factor for financial institutions to measure whether to issue loans or not. The relatively risky financing business of intellectual property pledge will undoubtedly discourage financial institutions from issuing loans to small and medium-sized technology-based enterprises. The establishment of intellectual property pledge financing risk compensation fund is aimed at sharing loan risks with financial institutions, helping small and medium-sized technology-based enterprises obtain loans, and prospering socialist market economy. Intellectual property pledge financing risk compensation fund is a special government fund jointly funded by the central and local finance departments or separately funded by the local finance departments in accordance with a certain proportion. The risk compensation fund is of great significance for innovating the way of using government funds, giving play to the amplification effect of fiscal capital leverage, making up for market failure or insufficient allocation of market resources, encouraging bank institutions to expand the credit loan scale of

small and medium-sized technology-based enterprises, and easing the financing difficulties of enterprises. Each pilot province and region, under the guidance of the national macro policy and in combination with the development status of the intellectual property pledge financing business in this region, has issued corresponding policies, so far has formed the operation mode of risk compensation fund, and has played a positive role in practice. In China, the risk compensation mechanism of intellectual property pledge financing is an active attempt to help promote the transformation of knowledge into scientific and technological productivity. At present, it is still in its infancy, and its application in practice has yet to be tested. It is also a new field worth exploring in academic research.¹Academic study of intellectual property pledge financing mainly concentrated on the pledge mode, value evaluation, risk prevention issues.²There is not enough attention to risk compensation funds, and the research is not in-depth. It is only mentioned when discussing related issues. The financing risk compensation fund is an important subject of current intellectual property research. Based on this, this article puts forward perfect suggestions for the problems existing in the intellectual property pledge financing risk compensation fund, in order to promote the improvement and development of the intellectual property pledge financing risk compensation mechanism at this stage, and effectively solve the problems existing in the intellectual property pledge financing process of small and medium-sized technology-based enterprise, so that the transformation of the intellectual property into intellectual capital can be done as soon as possible, and to promote enterprises to adapt to the new normal of the economy, to maintain sound development.

2. Problems Existing in Risk Compensation Fund of Intellectual Property Pledge Financing

2.1. Single Source of Funds, Excessive Dependence on Government Fiscal Expenditure

There are three main sources of foreign risk compensation funds. The first is the model of full government grant and direct administration represented by the United States. As the name implies, under this model, the risk compensation fund is fully distributed by the government's financial department, and a special agency of a subsidiary government agency is set up to manage the fund on a daily basis. The second is the mutual assistance model of members represented by Italy. This model is mainly in the form of a mutual guarantee organization. Members need to pay membership fees and a one-time deposit. The third is the government-society joint venture model represented by South Korea. This model is based on the principle of capital preservation and low profit. The fund is composed of the government, fund institutions and social organizations.³At present, China is mainly in the mode of full allocation by the central and local governments. Under this mode, the risk compensation fund pool is in a closed state, completely dependent on government financial allocation. If the economic downturn, government revenue will be reduced, is bound to affect the supply of capital pool. Once the problem of insufficient supply of compensation fund occurs, it will affect the interests of Banks, insurance institutions and guarantee institutions in a practical way, improve the risk of participants, and make it difficult to maintain the sound development of the operation mechanism of risk compensation fund.

2.2. Fund Operation and Supervision Mode Need to be Optimized

At present, two modes of government discretionary management and market management have been formed in the operation of risk compensation funds. Market-oriented management is generally the joint meeting of the regional technology-based SME development fund responsible for compensation fund decision-making, guidance, supervision and coordination, and the agency responsible for specific daily fund management work, the government

determines the entrusted professional through the establishment or bidding. Strong third-party fund managers carry out specific work such as corporate loans, post-loan tracking, fund compensation and loan loss write-off. The representative regions that adopt this model are mainly Shenyang, Zhuhai, Guangzhou, Shenzhen, Changsha, etc. The shortcomings of this model in actual operation, are mainly reflected in the lack of supervision on the management of the entrusted institutions. The government's discretionary management model is different from the market-based management model. All aspects of fund operations are directed to the government rather than professional fund managers. The representative regions that adopt this model include Shanghai Pudong New Area, Anshan, and Yuhang, Huizhou, etc., the main problem in the actual operation of this model is the lack of professionalism in the operation and management of the fund.

2.3. The Fund Lacks Sustainability, and the Risk Control System has Drawbacks

The operation of risk compensation mechanism of intellectual property pledge financing mainly centers on the role of the risk compensation fund. The sustainable development of the fund is inseparable from a sound risk prevention and control system. If "fund" is compared to "kite", then "risk prevention and control system" is like "kite line". Once the risk prevention and control system collapses, the risk compensation fund will be paralyzed, and the short-term compensation and long-term guidance function of the risk compensation fund cannot be realized. In order to ensure the sustainable development of the fund, it is urgent to face up to the loopholes in the risk prevention and control system. These holes are mainly manifested in the following aspects: the usage of funds is not clear, the management of the fund does not reach the designated position, and the dynamic adjustment between funds in different Banks is not flexible, the funds utilization degree is not high, the cooperative bank's performance appraisal is not comprehensive, the selection of supporting enterprises is not targeted, the perfect prevention and control of internal risk and external risk supervision system is lacked, etc.

3. Countermeasures to Improve the Risk Compensation Fund of Intellectual Property Pledge Financing

Risk compensation fund is an important basis for the operation of risk compensation mechanism. When the loan pledged by intellectual property rights is overdue, the cooperative guarantee institution, cooperative bank and risk compensation fund shall bear the principal loss of the overdue loan according to the proportion stipulated in the official documents issued by the government or according to the proportion agreed in advance by the above parties. Due to the great uncertainty and risk of financing the pledge of intellectual property rights, without the guarantee and subsidy of the risk compensation fund put forward by the government, financial institutions are often unwilling to take a risk in issuing loans to small and medium-sized technology enterprises. To improve the operation of intellectual property pledge financing risk compensation fund, we should start from the following aspects.

3.1. Establishing a Vertical Fund Pool Internally and Absorbing Social Funds Externally

In order to solve the problem of single fund source and strong dependence on national fiscal appropriation, internally, a vertical fund pool can be established from the central government to the grassroots government to expand the fund pool. Township and district governments with financial capacity can absorb part of the financial investment into the risk compensation fund pool. On the one hand, the risk compensation fund pool can be expanded to provide the most powerful financial support for the intellectual property pledge financing risk compensation mechanism. On the other hand, it can promote the effective use of government finance at all levels and make full use of government revenue to promote the development of science and

technology. It is of great significance to the construction of an innovative country and the improvement of national core competitiveness. Externally, a series of preferential policies can be adopted by means of marketization to encourage idle social funds to be invested in the risk compensation fund pool, and social capital can be guided to participate in the IPR pledge financing of small and medium-sized technology-based enterprises, so as to share the interests and responsibilities with the risk compensation subjects of IPR pledge financing. In addition, we can also use the Internet and news media to promote the use of intellectual property pledges to obtain loans and convert "knowledge" into "capital", which has a positive significance for creating an innovative country, thereby encouraging and attracting donations or investments from the community.⁵ Furthermore, the government should give full play to the guiding role of financial funds, attract the participation of insurance, guarantee and other intermediaries, and share the risks and investment returns with them.⁶

3.2. Establish a Market-oriented Model, Supplemented by Government Supervision

Aiming at the shortcomings of the operation and supervision models, we should focus on integrating the advantages of the market-based management model and the government's full-power management model, and form a mode with the market-oriented management as the leading role and supplemented by the government's supervision. The government departments shall employ professional fund managers in the form of public bidding to form a fund management team responsible for the daily management of the fund. For example, the specific work of reviewing the application conditions of the cooperative bank, handling fund compensation and loan loss write-off for the cooperative bank shall be completed by a professional fund manager. In this way, it can effectively solve the problem that the government's lack of professionalism in direct fund management leads to wrong decision-making or low fund management efficiency. The market operation of the fund does not mean to knock the government out, on the contrary, the government is an indispensable role in the operation of the fund. The government should guide and supervise the operation of the fund in general policy. The specific work of the government is to introduce corresponding regulatory policies and follow up and supervise the work of fund managers. On the one hand, it can guarantee the daily work of professional fund managers. On the other hand, it can regulate the behavior of fund managers and prevent corruption. At the same time, government agencies should also supervise the lending situation of cooperative banks. If it is detected that the enterprise has lost the ability to repay the loans and the banks have not stopped lending in time, the government will urge the cooperative banks to take immediate measures, otherwise the banks will bear the losses.⁷

3.3. Improving the Internal Risk Prevention and Control System and the External Risk Supervision System

The loopholes in the fund risk prevention and control system, which can be resolved by strengthening internal and external prevention and control. Internal prevention and control can be started from the aspects of fund usage, fund dynamic adjustment, fund financing scale, and fund management methods. Firstly, control risks from the use of funds. The government should establish a fund supervision department to supervise and verify the use of funds; assess and track the work of fund managers; understand and feed back the current status of fund operations. Secondly, control risks from fund adjustments. It is necessary to flexibly adjust the proportion of fund investment among different cooperative banks according to the assessment of the fund and the loan scale, payment schedule and allocation of recovery funds of the cooperative banks, so as to establish a fund dynamic adjustment mechanism. Thirdly, control risks from the scale of financing. The fund management department can start with the amount of a single loan, the accumulative amount of the loan each year and the term of the loan,

appropriately adjust and control the financing scale, and reduce the risk of the operation of the risk compensation fund. Finally, control risks from the perspective of fund management. On the one hand, supervise the fund managers to prevent them from improperly managing the funds. On the other hand, the fund management must be carried out in strict accordance with relevant regulations. External prevention and control can be started from the aspects of applicable enterprises, assessment of cooperative banks and establishment of elimination mechanism. The risk compensation fund should be applicable to small and medium-sized technology-based enterprises with legitimate intellectual property rights. Such enterprises not only have legitimate intellectual property rights that can be pledged, but also have certain innovation capacity, and have good enterprise credit. The cooperative banks should strengthen the assessment work and establish the elimination mechanism. Cooperative banks which are careless about pre-loan review of loan companies, unsuccessful in issuing loans in a timely manner, inadequate in post-loan supervision, inactive in bankruptcy recovery, should be knocked out. Only in this way can the using risk of the fund be reduced and the fund's undue loss can be prevented.

Acknowledgements

This study was supported by the intellectual property soft science research projects in Henan Province (Grant No. 20200106015).

References

- [1] F.Yang, D.Li, X.D.Zhao: Intellectual property pledge financing risk compensation fund: operation mode and development strategy, *Journal of Science and Technology Progress and Countermeasures*, Vol.12(2017).
- [2] Y.P. Zhou, H.Huang: Research on hot areas and development trend of intellectual property pledge financing -- visualization analysis based on CNKI journal database, *Journal of Shandong University of Science and Technology (Social Science Edition)*, Vol.05 (2018).
- [3] M Feng, H.J.Xu, Y. Zhao: The construction of foreign policy-based guarantee system, *Journal of China Rural Finance*, Vol.03(2015).
- [4] L. Li: Legal perfection of compensation rules in compensation fund of intellectual property pledge risk---an analysis of Zhuhai normative documents as an example, *Journal of Chongqing University (Social Science Edition)*, Vol.02 (2020).
- [5] S.H.Li: Full release of financing potential of intellectual property pledge, *Economic Daily*, 2015-05-24.
- [6] L.M. Ouyang: Development countermeasures of guangxi patent pledge financing, *Journal of Enterprise Technology and Development*, Vol.02 (2020).
- [7] X.H.Nan, J. Tian: Risk dispersion path of financing by pledge of intellectual property rights, *Journal of Science and Technology Management Research*, Vol.04 (2020).
- [8] X.S. Yang: Operation of government credit risk compensation fund: guangxi practice, *Journal of Wuhan Finance*, Vol.08 (2018).