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Issues of Statutory Registration of Research Outcomes in the Education Sector of the Russian Federation

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Abstract: The study presents the outcomes of studies on topical issues concerning statutory registration of the research outcomes in the education sector. Informational support and virtualization of science and education has led to the fact that the objects of intellectual property present a significant share in all outcomes of business processes of the institution created at institutions of science and education that emphasizes the need to develop a single regulation mechanism of statutory sectorial registration of works of science developed by scientific workers and teachers for these institutions. The study has conducted an analysis of aninformative component of the concept "statutory registration" has formulated the meaning of the category "statutory registration of the research outcomes" has investigated the current system of statutory and optional registration of the research outcomes in Russia. The study offers a set of elective tasks which presenta vector of the development of modern society, science and education environment which the accounting, control and promotion systems of the research outcomes have. The study is based on a wide range of topical sources and literature on this issue.

Key words: Statutory, sectorial and optional registration, works of science, topical, Russia

INTRODUCTION

Rapidly developing trends of science and education, especially in the development of global information scientific educational space, reveal the need to improve legal regulation of relations arising atthe institution subjected to the general jurisdiction of the Ministry of Educationand Science in relation to the creation of the object of intellectual property, in particular, within sectorial registration of works of science.

In January 2016 at the meeting of the Council for Science and Education under the President of the Russian Federation there was announced that 10% of research institutions are responsible for 80% of the outcomes of scientific activities in the country. This report has caused a wide resonance in the scientific and pedagogical community. Now a days, the matter concerning what should be done to make this distribution more proportional is widely discussed and there are the ways to solve this problem. The vector of revolutionary changes in the near future in the global restructuring of educational concepts is actively discussed at various meetings and conferences both at subject ministries and departments and at the level of the President and the Government of the RF. So, for example, such projects as "Foresight: Education 2030" (Foresight: Education of 2030) and an interactive story map "Future of Global Education from 2015 to 2035" which caused hot discussion in modern scientific and educational environment were presented at the educational forum of the Agency for Strategic Initiatives and the School of Management Skolkovo "Routes and strategies of movement into new models of education" held in March 2016, were presented.

Now a days, there is asteady trend towards the growing number of the objects of intellectual property created at the institution subjected to the general jurisdiction of the Ministry of Education and Science that is caused by the need to achieve criteria indicators of the institution effectiveness one of which is innovative activity. Among these indicators arethe number of the objects of intellectual property created at the institution subjected to the general jurisdiction of the Ministry of Education and Science and the number of the objects of intellectual property belonging to the institution subjected to the general jurisdiction of the Ministry of

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Education and Science and so on. It should be noted that, despite the adoption of a number of regulatory legal acts important for regulation of innovative activity at the institution subjected to the general jurisdiction of the Ministry of Education and Science (the Federal Law from29.12.2012 No. 273-FZ "On Education in the Russian Federation" (The Federal Law), the RF Government Decree from 08.12.2011 N 2227-r "On approval of the Strategy of the innovative development of the Russian Federation for the period up to 2020" and others. By now many employeesof the institution subjected to the general jurisdiction of the Ministry of Education and Science do not have theformed system of the conceptual and categorical framework not only in the current system of legal protection of the objects of intellectual property created by them, but also in intellectual property in general.

So, for example, an analysis of appeals over the last five years tothe Joint Fund of Electronic Resources "Science and Education" (further, the JFERSaE) dealing with an assessment of novelty and priority of electronic projects created at educational institutions has showed that more than 70% appeals are directly or indirectly related to the problem of attribution and subsequent copyright protection on created resources (Galkina *et al*., 2015a,b) as one of the structural subdivisions of the FSBRI IEA of the RAE. Judicial reviews also testify to this fact.

An analysis of global practice shows that if up to 2015 in a number of education institutions the system of regulation of civil law relations connected with the objects of intellectual property (further, the OIP) created within the framework of work taskshad already started being developed, then the situation with the OIP created by employees of the institution subjected to the general jurisdiction of the Ministry of Education and Science outside of work tasks is quite complicated and contradictory.

By now domestic institutions have almost no practice of the execution of any agreements with employees and trainees in the field of management over the objectsof intellectual property created at the institution subjected to the general jurisdiction of the Ministry of Education and Science.

Informational support and virtualization of science and education has led to the fact that the OIP present a significant share in all outcomes of business processes of the organization created at the institution subjected to the general jurisdiction of the Ministry of Education and Science that emphasizes the need to develop a single mechanism of regulation of statutory sectorial registration of works of science developed by research workers and teachers.

An analysis of research studies conducted over the last years by modern civil law scholars allows to formulate the concept "statutory registration" in relation to works of science created by research workers and teachers within the framework of their professional occupation the following way: "statutory registration is an act of the competent public authority executed by inclusion of information about the created work into the Uniform State Register which allows to consider this work as the object of intellectual property".

Many domestic legal experts characterize statutory registration as one of the positive administrative procedures adjudged to normalize, regulate and stabilize core activity. The act of statutory registration by its legal nature has a civil law character because the subject of civil rights is created, further changes in the legal status which are of the essenceto characterize as a participant of civil turnover (Talapina and Tikhomirov, 2002).

The goal of research the outcomes of which are presented in this study is systematic study of the problems concerning peculiarities of statutorysectorial registration of works of science created at the institution subjected to the general jurisdiction of the Ministry of Education and Science. The target of research is sectorial registration of works of science createdat institutions subjected to the general jurisdiction ofthe state.

The subject of research is the problems of legal and administrative regulation of relations on the creation and use of works of science and peculiarities of regulation of these relations arising out of sectorial registration of these works.

Literature review: Research of source base on the issues of sectorial registration of works of science developed at institutions subjected to the general jurisdiction of the Ministry of Education and Science of the Russian Federationshould be started by analyzing the degree of reflection of the problem status in modern scientific literature.

The works of science created by research workers and teachers of the institution subjected to the general jurisdiction of the Ministry of Education and Science in the course of their professional occupation refer to legal categories "the outcomes of intellectual property" (further, the RIP) and after a series of procedures including registration to a category "the objects of intellectual property" (further, the OIP).

As a result of the conducted content analysis of domestic scientific publications devoted to the problems of legal regulation of the objects of intellectual property created at the institution subjected to the general

jurisdiction of the Ministry of Education and Science, presented on open and partially open access ona national bibliographic database of the Russian Science Citation Index (further, the RSCI) published over the periodfrom 2010-2016 in the formation of primary searchrequests usingsuch key words as "intellectual property", "education institutions", "legal regulation" in the analyzed chronological period, the system offers the user >5000 publications but their classification by relevance allows to presentwithin the order of hundreds of publications that can be characterized as "the resources on open access".

Most of them are devoted to the problems of management of the objects of intellectual property created at higher education institutions, only an insignificant part of scientific publications analyze the OIP of colleges and high schools. The content analysis has revealed no publications devoted to the OIP aerated at schools, colleges and vocational schools.

The researchers demonstrated outstanding interest to the problems concerning the commercialization of the OIO created at universities including the commercialization of projects created at small innovative enterprisesorganized on the basis of education institutions (Ilyin, 2014).

The study of Asfandiarov (2014) analyzes the general problems of intellectual property of universities. Dobryakova focuses on the legal aspects of the analyzed problem. Studies devoted to the problems of protection of the OIPwhich have an educational, methodical and organizational nature are much less.

At the same time, in 2015 institutes of the Russian Academy of Education (further, the RAE) are faced with the problem of legalization of works of science having another forms rather than the objects of statutory registration of the accounting system of research studies.

The electronic edition of the IEA of the RAE Research schools of the FSBRI "Management Institute of the RAE" (Neustroev *et al*., 2015) issued in 2015 which hadprojects of the RAE registered in the Joint Fund of Electronic Resources "Science and Education" (further, the JFERSaE) over the period from 2009-2015 presented such works of science such as "Diagnostic methodology of students'music creativity development in the process ofeducation based on digital tools," "methodological recommendations for use of information technology at mathematics lessons in the sixth grade", "lively school: from design to development. Part I", "Electronic tracking of the course of biology, the sixth grade. Methodological recommendations", Manual to the elective course "Oil and products of its processing" (10-11 grades)" and others. That means that there are works of science based on the outcomes of fundamental and applied research works (further, RW).

Thus, the actual result of RW in modern practice of the institution subjected to the general jurisdiction of the Ministry of Education and Science is often transformed not only into the classical scientific product of "Report on R&D", "monograph", "paper" but also intoelectronic learning resources which formnew modern knowledge.

At the same time, on the basis of a form-functional feature electronic learning resources are not subjected to registration of the statutorysystem for accounting the outcomes of research activity.

In recent years there are more studies analyzingthe variative aspects of the strategy and policy in management and protection of the OIP including electronic learning resources created by all participants in business processes of the education institution (further, the EI) who are research workers and teachers, administration, students (Bliznets, 2014).

Specialists of the JFERSaE over the last 5 year (according to the RSCI) have published about thirtyresearch papers directly or indirectly devoted to the current problems of sectorial registration of works of science (Galkina *et al*., 2015a, b; Belova, 2014; Galkina and Bobkova, 2016; Neustroev *et al*., 2015).

In general, the outcomes of a retrospective analysis of publications on the analyzed problem presented on open access on a national bibliographic database of the Russian Science Citation Index over the period from 2010-2015 show that the problem of sectorial registration of works of science created at the institution subjected to the general jurisdiction of the Ministry of Education and Science is one of the most topicalunder the conditions of rapidly developing trends of the modernization of education and a vectorof the improvement of the legal base of intellectual property protection.

MATERIALS AND METHODS

The methodological bases of research are the methods of scientific knowledge, the method of scientific and doctrinal interpretation of legal norms and also the methods of comparative law. Use of logical and formal-legal methods made it possible to systematize the available data and describe the outcomes obtained during research for the purpose of their further use. The legal basis is the regulations of the Russian Federation, international treaties of the Russian Federation, the regulations of some foreign countries, research works of Russian and foreign specialists and materials of judicial practice. The normative framework is regulation of the

Russian Federation: the Constitution ofthe Russian Federation, the Civil Code of the Russian Federation, other regulatory legal acts of the Russian Federation and international treaties governing relations in the sphere of the creation of the OIP. Texts of legal acts of the USSR and the Russian Federation, materials of judicial practice including the regulations of the Plenum of the Supreme Court of the Russian federation, the regulations of the Presidium of the Supreme Arbitration Court of the Russian Federation, materials of law enforcement practice present the empirical basis of research.

RESULTS AND DISCUSSION

Key research outcomes: A great part of the objects of intellectual property in research activity are created by employeesof the institution subjected to the general jurisdiction of the Ministry of Education and Science within work tasks formed according to established procedure as research and development work (further, R&D).

Legal regulation of this part of the RIA is quiet clear and particularly regulated. Now civil legislation allows to distinguish clearly situations in which the outcomesof research studies refer to works of science and are protected by copyright and cases when they are inventions and other objects of the right of patent. According toI. 5 of Art. 1259 of the Civil Code copyright does not extend to ideas, concepts, principles, methods, processes, systems, means, solutions of technical, organizational and other problems, discoveries, facts, programing languages. Thus, the outcomes of research studies will be recognized as the subjects of copyright only if they are expressed in a particular form.

A demonstrative example of assignment of rights to the OIP of the scientific field is described in the monograph of N.I. Dobryakova which says that "a developmental installation prototype is an object of copyright if it is described in the relevant documentation. But operation mechanisms of such an installation can be protected only by the right of patent which considers the content of this research project. If an installation prepared by another person will have at least some small differences in its shape, then from the point of view of copyright, it will be a new work and therefore, there will be no violations of copyright of an installation owner". In everyday practice the scholarly outcomes in the field of engineering and natural sciences are more effectively protected by the right of patent.

Now a days algorithms of the origin of rights for this type of the RIA in the field of research sphere and the specifics of their application are described in detail both in scientific legal literature and in documentation provided on the website of the Federal Service for Intellectual Property.

Now the greater part of the OIPundergoes uniform registration of the Center for Information Technologies and Systems of Executive Bodies (further, CITSEB). The R&D registration at the CITSEB is conducted in accordance to Russian Legislation. At the first stage a registrationcard on R & D (further, RC)is added to the Unified StateInformation System of R&D (further, USIS of R&D) for 30 day from the date of the beginning of R&D. The registration card completion (regardless of R&D authors) is made on the websitewww.rosrid.ru. There is there also the instructionon completion and presentation and the guide of the USIS of R&D which contains an exhaustive list of R&D types. Also, the system provides only six basis for R&D implementation. Further, within 30 days after the completion of registered R&D or its stage information cards about the Result of Intellectual Activity (RIA), Information about the State of Legal Protection (INSLP) and about the use of the RIA (ICSU) are completed on the website of the CITSEB. The system provides a certain exhaustive list of the RIA. The RIA preparation allows the following waysof entrenchment of rights on the RIA: only a customer, a customer and a performer together, only a performer, a performer and a co-performer together, only a co-performer. The INSLP completion provides several ways of the status (method) of legal protection of the RIA. Also, the INSLP has a shorter list of the RIA.

The INSLP mentions only the following two registering authorities: the Rospatent and the Ministry of Agriculture of the Russian Federation. The completion of the ICSU of the RIA provides certain exhaustive types of treaties.

Thus, despite significant simplification of the RIA registration of the research sphere, certain types of the OIPof this sphere (including monographs, research papers and so on) cannot be included intothe USIS of R&D.

According to the Federal Law [1] 77 from 29 December 1994 electronic publications also registered by such enterprisesas scientific and technical center "Informregistr" and the Presidential Library named after B. N. Yeltsin.

But, a legislator has obliged to register works of science which are "electronic publications" at these agencies. The law applies only to makers of documents, namely, to legal persons and only for the purposeof "the further distribution of electronic publications between library and information agencies". The exceptions are "electronic publications for the blind and visually impaired people, programs for electronic computing

engines and databases, audio visual and patent documents, official documents, standards on electronic media". These documents make, it possible to register electronic publicationsby the same way as their printed prototypes.

If an author-developer (an organization-developer) does not plan the distribution of electronic resources between library and information organizations and if an electronic resource has not undergone all stages of the preparation as an electronic publication, the registration process is not available. Now a days by an electronic publication is understood "an electronic document (a group of electronic documents) which has undergone form and editorial working for the distribution being unchanged and having imprint". Thus, it should be noted that only a publishing house officially registered can conduct form and editorial working.

Other organizations within the Russian Federation for 2016 do not deal with statutory registration of works of science. Thus, now the system of statutory registration of works of science created at the institution subjected to the general jurisdiction of the Ministry of Education and Science includes the following organizations: the CITSEB, Rospatent, Informregistr, Presidential Library named after B.N. Yeltsin.

At the same time many works of science developed within the performance of government task by scientific institutions subjected to the general jurisdiction of the Ministry of Education and Science are not the objects of statutory registration and accounting as they have a form different from the forms of the objects of registration of participants of the state system of accounting of works of science.

Such that research institutions of the education sector form a social procurement for the creation of the sectorial system of registration (accounting) of works of science which are not taken into account by the state system.

Rapidly developing trends of a vector of the scientific-technical progress have set a task for the sphere of science and education to train specialists and employees with actual knowledge, that is why, all programsof the last twenty years were focused on the solution of this problem such as distance education, continuing education, open education, individual education, advanced education and so on.

Such that education institutions and first of all, research universities aimed at training specialists with advanced knowledge, skill and ability within the performance of government tasks carry out the development of numerous works of science which present the components of scientific and educational environment of universities and solve the issue concerning the development of knowledge and competencies wanted at present.

The achievements of fundamental and applied research studies are transformed into electronic learning resources contributing to the formation of modern and relevant knowledge. These electronic learning resources after the end of their development are at once placed on the local area network of education institutions limiting access to them for the research and educational community.

All these facts complicate legal regulation of the OIP of the research field created atthe institution subjected to the general jurisdiction of the Ministry of Education and Science. An analysis of Article 1257 of the Civil Code (and many comments to it) shows that this Article establishes an assumption of authorship of a person mentioned on the original or copy of the work of science (monographs, papers and other OIP created outside the legal framework of CO (R&D). An author (or other original copyright holder) of the OIP of the research sphere is determined in accordance to legislation being in force at the time of the work creationthat Art. The 5 of the Introductory Act to the fourth part of the Civil Code provides. According to a letter of the law the emergence of copyright does not require any formalities including statutory registration.

At the same time, a legislator in Article 56 of the Civil Procedural Code of the Russian Federation notesin case of dispute an author must prove his authorship and those circumstances on which here lies as grounds for its claims and objections. This fact actualizes the need for optional registration for the OIP of the research sphere created outside the legal framework of CO R&D.

The term "optional registration" is found in many works of Russian legal scholars devoted to the problems of registration of copyright and allied rights. In order to obtain the evidence of copyright optional (voluntary) registration can be conducted by various ways also including by sectorial registration. It should be noted that regardless of the choice of a type of optional registration an applicant assumes responsibility for the information authenticity.

The system of education institutions' factors demands documentation record ofthe basic electronic characteristics of these resources including learning guides which allow their accounting on national basis. Thus, education institutions of the country and pedagogic community form a social procurement for the creation of the sectorial system of registration of works of science.

In Russia at presentthe only state-run entity carrying out optional registration of electronic resources created by research workers and teachers is the JFERSaE successfully functioning in this area for 25 year. An analysis of electronic resources optionally registered atthe JFERSaE demonstrates strong interest of the scientific and pedagogical community to registration of electronic resources which are works of science and their legalization by sectorial registration (Bobkova, 2014; Galkina and Bobkova, 2016, Galkina *et al*., 2015a, b Neustroev *et al*., 2015).

Long experience of sectorial registration of electronic resources was accompanied by the improvement of structuring, cataloging, categorization, classification of electronic resources including works of science. Now, structuring of information about works of science is carried out by automation means of the development of a model set of documents on the outcomes of intellectual activity followed by sectioning and classification of the outcomes of intellectual activity in the field of education by various criteria.

Cataloging of information about works of science is carried out and implemented through the network media located at the RSCI. Monitoring of registered developments on the basis of a form-functional feature confirms that 76% of works of science remain outside the system of statutory accounting of the outcomes of research works (Galkina and Bobkova, 2016). Thus, it may be concluded that the criterion system of an assessmentof the effectiveness of research activities of institutionsand academic and teaching staff is not completed and should be improved in terms of accounting of the outcomes of sectorial registration of works of science developed by institutions and academics subjected to the general jurisdiction of the Ministry of Education and Science of the Russian Federation. Works of science which are not taken into account by the system of statutory accounting, have >600 variations most of which hypertext, interactive, multimedia electronic manuals (Galkina *et al*., 2015a, b).

In the most common form all works of science forced now to undergo optional registration instead of statutory can be roughly classified into the following groups in terms of their purpose:

- To solve organizational tasks of the education system
- To solve economic tasks of the education system
- To solve organizational and economic tasks of the education system
- To implementthe process of education
- To support the processof education
- To support research activity of people who get learning service
- To support the research process at research and education institutions
- To be used in other areas of the community activity (except of science and education)

More detailed classification carried out by specialists of the JFERSaEwas published in open sources over the period from 2015-2016 (Galkina *et al*., 2015a, b; Bobkova, 2015; Galkina and Bobkova, 2016).

Over 25 years there were much experience in an assessment of electronic resources gained and first of all, works of science in the form of electronic learning resources gained.

In making an assessment of novelty and priority a set of general(title, full name of researchers, city of the project, date of the project, implementation language) for the purpose of the identification, software and hardware (ECM type, type and version of operating system, toolboxes) to support the technical implementation level, psychological and pedagogical (correspondence to the level of education, specialty, specialization profile, program track and educational program specialization,bulk of educational resources) to estimatean educational component, methodical (depth and level of methodological training, availability of reference materials, systems of formative,midterm, summative examination and so on) to estimate the methodological training, instructional (reasoning of modularization accompanied by checkup tests, tasks, lists of sources and literature) and ergonomic characteristics (a set of such graphic means assetting, used typestyles, colors, sound, buttons, navigation means, interactivity and so on) is considered. And if the content of the learning material is determined by education standards, a methodological component is always individual, original and innovative.

Full experience was generalized and implemented by the JFERSaE for sectorial registration of the RIA and today, it can be significantly automated that allows to offer the following model of sectorial registration of works of science (Fig. 1).

This model will allow to conduct sectorialaccounting of works of science with their simultaneous classification and categorization for subsequent cataloging and publication for complete and clear awareness about the outcomes of research activity of the scientific and

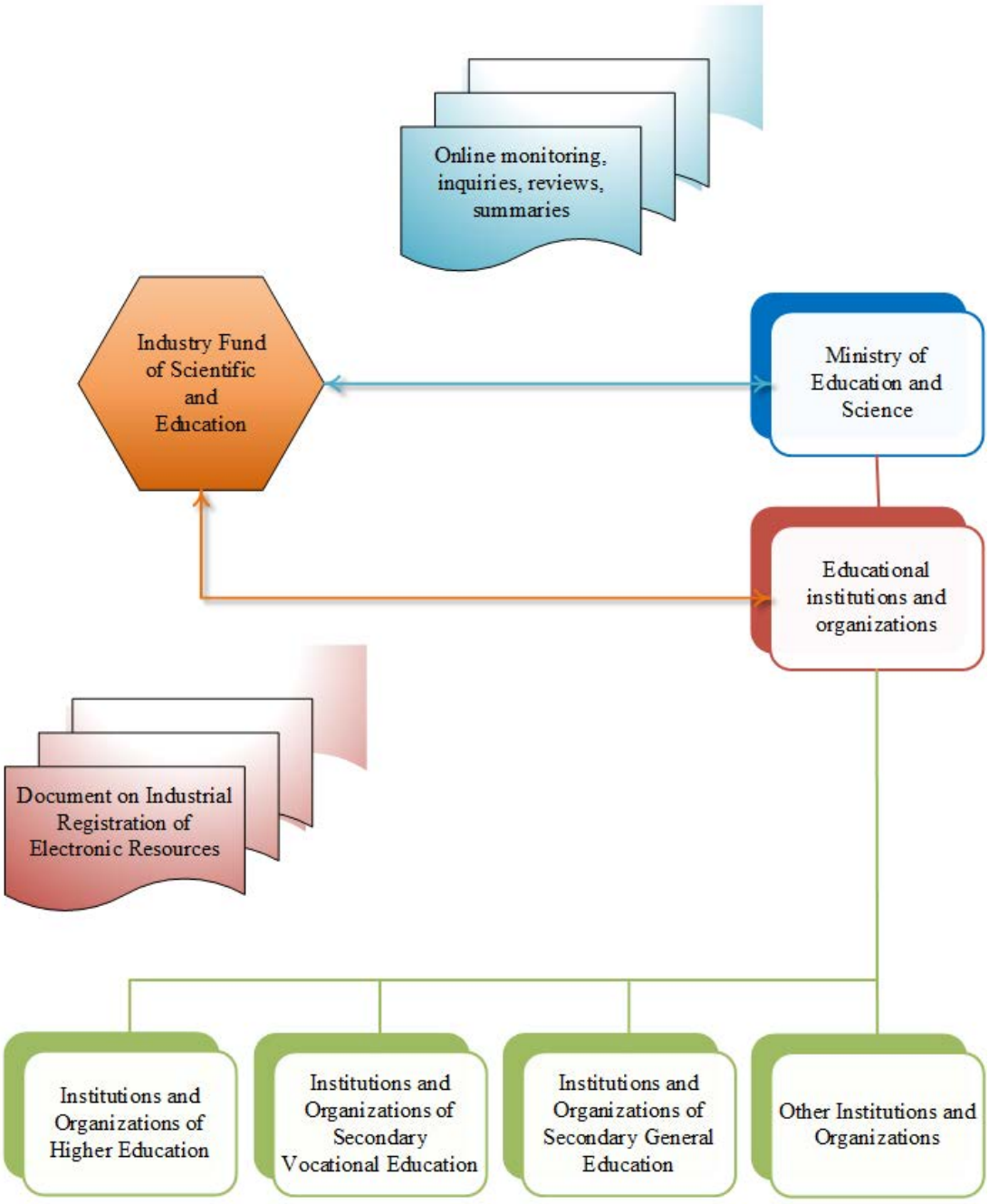

Fig. 1: Model of sectorial registration of works of science

pedagogical community and institutions subjected to the general jurisdiction of the Ministry of Education and Science of the Russian Federation.

The offered model of sectorial registrations of works of science must be implemented in the form of e registration of electronic documents with digital signatures with automation of assessment procedures of novelty and priority and followed complete and clear awareness of institutions of management of education and the scientific and educational community.

The most important element in the implementation of this model is the ability to search and subsequent analysis of necessary information. One of the basic objectives is to support the construction of

queries to public databases at the level of users without the involvement of relevant specialists.

A typical database contains much technological information, inessential details for users which can be excess for to solve user's problems. Therefore, there is theissue concerning only that information from a selection that is currently relevant for a user.

One more urgent requirement to the software implementation of the model of sectorial registration is the need for the presentation and formatting of output information for its subsequent processing and use in other information systems in particular in the RSCI.

It is obvious that the sectorial system of registration must be accompanied by online monitoring of education institutions subjected to the general jurisdiction of the Ministry of Education and Science of the Russian Federation that will allow to eliminate duplication in the formation of the government task, to consider the quality of research products for the education sector to revealin time prospective vectors of the development of pedagogical science, to provide interconnection between registration of works of science in the education sector with procedures of the certification of teachers and education organizations.

Outcomes: An analysis of the objective current problems of statutory registration of works of science in Russia allows to formulate a series of integrating propositions:

- Now a days, about 76% of the outcomes of research and education activity due to the specifics of the education sector do not refer to the objects considered in the system of statutory registration
- Quantitative characteristics of works of science used in the system of statutory registration do not completely allow to estimate the quality of scientific products for the education sector
- The current system of statutory registration does not allow to eliminate duplication in the formation of government tasks
- The current system of registration of works of science does not allow to reveal prospective vectors of the development of pedagogical science
- The current forms of registration does not completely provide interconnection between registration of works of science in the education sector with procedures of the certification of teachers and education organizations

CONCLUSION

Sectorial registration of works of science followed by sectorial classification and cataloging allows to reveal a vector of the prospective development of pedagogical science that will allow to solve current challenges concerning quality learning service support that provides acquiring of important knowledge and skill in accordance to state standards.

The development of the sectorial system of research product registration education institutions subjected to the general jurisdiction of the Ministry of Education and Science of the Russian Federation will allow to make management decisions more effective which are connected with the development of pedagogical science implementing methods and techniques of staff training wanted by time and labor market.

The decree of the Government of the Russian Federation from 20 August 2013 No. 719. "On the state information system of statutory supervision in the sphere of education" offers the system of statutory control in order to ensure the unity of the requirements for the implementation of statutory supervision in the sphere of education and accounting of its outcomes and its integral part is the sectorial system of registration of works of science. The Federal Service of Supervision in the Sphere of Education and Science organizes the formation and maintenance of the information system. Executive bodies of territorial entities of the Russian Federation which exercise the statutory supervision (control) powers in the sphere of education delegated by the Russian Federation, add information aboutactivities on the pointed supervision (control) implementation into the information system.

Statutory control in the field of education includes the federal state control of the quality of education and the federal government supervision in the sphere of education.

By the federal government control of the quality of education is understood activityon an assessment of the compliance of educational activity and training of students at the institution carrying out educational activity by using educational programs which have the state accreditation to the federal state educational standards' requirements by organization and checking of the quality of education and measures taken by Russian Legislation to combat and eliminate revealed violations of the federal state educational standards' requirements.

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