

RUSSIA
TRADE MARK
& DESIGN

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RUSSIAN TRADE MARK

What can be protected?

Any words, devices, sounds, smells, three-dimensional and other designations or combinations thereof.

What cannot be protected?

Non-distinctive marks, letter combinations consisting of consonants only, numerals, descriptive marks, colours, and marks contrary to public policy and/or morality.

Who can file?

Any natural or legal person. A local representative is required for foreign applicants.

In which language?

Application must be filed in the Russian language.

Latin or Cyrillic characters?

Only Cyrillic characters are used in daily life. A trade mark in Latin characters does not protect the Cyrillic version and vice versa. The widest possible protection is obtained by registering both versions.

Formalities for filing a trade mark application

- A multi-class application is available.
- The Russian Patent Office follows the International Classification of Goods and Services (the 9th edition).
- Class Heading does not automatically cover all the goods included in a class.
- Claiming priority is available.
- Patent Office does not require any basis for application (for example Intend-to-Use or home registration).

Examination procedure

The Russian Patent Office conducts a full examination (both on relative and absolute grounds). The examination proceedings take 10 to 18 months, after which an official action or an acceptance decision will be issued. The term for filing a response to the official action is 6 months. Extension of term is not possible.

Appeal proceedings are available. An appeal against the rejection decision can be filed at the Patent Disputes Chamber. A further appeal is possible at the Court.

Payment of the registration fee

A separate registration fee must be paid for the application. The term is 2 months from receiving the acceptance decision.

How long is the trade mark valid?

A trade mark is valid for 10 years from the filing date and can be renewed for an indefinite number of further 10-year periods.

Opposition proceedings

Opposition can be filed at the Patent Disputes Chamber. The opposition term is 5 years from the registration date based on relative grounds (prior mark). Opposition based on absolute grounds can be filed during the whole validity of the registration.

Use of the trade mark

The Russian trade mark system is based on registrations. No protection is obtained through use only. The registered trade mark must be used in the registered form by the owner or registered licensee. Also use by a third party under the control of the owner is regarded as sufficient use. No ex-officio control of use exists. Use must be proved only in the cancellation actions.

Cancellation action

The registered mark becomes vulnerable for cancellation due to non-use after 3 years from the registration date. The cancellation action can be filed by the interested party only. The burden of proof of use lies on the owner.

When is the mark considered as having been used?

The mark is considered as having been used if:

- it is affixed to the registered goods and/or their packages by the trade mark owner or registered licensee
- it is used under the control of the owner.

License and assignment agreements

The agreements must be registered at the Russian Patent Office, otherwise the agreements are considered to be invalid. In the Russian legislation, there are several special requirements for the agreements.

RUSSIAN DESIGN PATENT

What can be protected by design patents in Russia?

The outward appearance of industrial or handicraft products can be protected. Protectable are both decorative and useful products, their separate parts and detail features, all kinds of graphical issues, logos, user interfaces, fonts, etc. that are new (6 months grace period available from the disclosure) and original.

What cannot be protected?

- Designs that are exclusively dictated by their technical function.
- Designs of architecture (except small architectural forms), industrial, hydrotechnical, and other stationary structures.
- Designs of unstable form from liquid, gas-forming, free-flowing, and other similar designs.
- Designs contrary to public policy and/or morality.

Who can file?

Any natural or legal person. A local representative is required for foreign applicants.

In which language?

The application must be filed in the Russian language.

Particularities of the design patent protection in Russia

The scope of the protection is determined by the combination of the essential features of the design as shown in the pictures of the claimed design and mentioned in the list of the essential features of the design. This means that in Russia both graphic and verbal means are used in design protection. A patented design is deemed to be used in a product, if such a product includes all the features shown in the pictures and indicated in the list of the essential features of the design.

The pictures are important, but as important is the list of the essential features. It is advisable to carefully prepare the list of the essential features and avoid including unimportant details in order to get as wide protection as possible.

The design patent procedure

Both formal and substantive examination.

How long does it take?

About 12 months.

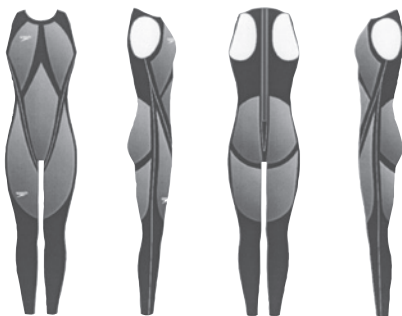
The opposition procedure

Opposition can be filed at the Patent Disputes Chamber after the design patent has been granted.

How long is the design patent valid?

A design patent is valid for 15 years from the filing date and can be renewed once for 10 years. Annuities need to be paid each year from the 3rd year onwards.

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