

RUSSIA
TRADEMARK
& DESIGN

PAPULA  NEVINPAT

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RUSSIAN TRADEMARK

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 trademark 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 trademark application

- A multi-class application is available.
- The Russian Patent Office follows the International Classification of Goods and Services (the 10th 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 trademark valid?

A trademark 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 trademark

The Russian trademark system is based on registrations. No protection is obtained through use only. The registered trademark 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 trademark 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 (12 months grace period available from the disclosure) and original.

What cannot be protected?

- Designs that are exclusively dictated by their technical function.
- Designs contrary to public policy and/or morality, in particular designs which can mislead a user as to a manufacturer, a place of manufacturing, etc.

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.

About formalities for filing a design patent application

- Good pictures of the design, drawings or photos (perspective view must be filed if a three-dimensional design is filed); if priority is claimed the pictures must be identical with those filed in the priority application.
- Multiple design patent application possible (design and its parts and design variants, if they belong to the same Locarno subclass)
- A designer/designers must be mentioned.
- No assignment document needed, power of attorney is needed only if the Patent Office requests it separately.
- If priority is claimed, certified copy of the priority document must be filed (can be filed within 3 months time from the filing date).
- Set of claimed essential features is not needed anymore (from 1st of October 2014)

Examination

Both formal and substantial examination.

The whole process takes about 12 months.

An appeal against the rejection decision of the Patent Office can be filed at the Patent Office. A further appeal is possible at the IP Court.

Opposition

An opposition can be filed at the Patent Office after the design patent has been granted at any time during the validity term of the design patent.

Invalidation

A granted design patent which is in force can be invalidated in part or in full. Invalidation is requested from the Patent Office or IP Court depending on the ground.

How long is the design patent valid?

A design patent is valid 5 years from the filing date and can be renewed four times for 5 years (came into force 1st of January 2015), maximum term of protection is 25 years. Annuities need to be paid each year from the 3rd year onwards.

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