

Patents, trade marks, copyright and designs in the Russian Federation: overview

by Nikolay Bogdanov, Gorodissky & Partners

Country Q&A | Law stated as at 01-Nov-2020 | Russian Federation

A guide to intellectual property law in the Russian Federation. The Main IPRs Q&A gives an overview of the protection and enforcement of the following IPRs: patents, trade marks, registered designs, unregistered designs, copyright and confidential information.

Patents

Utility models

Trade marks

Copyright

Registered designs

Unregistered designs

Trade secrets and confidential information

Contributor profile

Nikolay Bogdanov, Counsel and Registered patent and trade mark attorney

Patents

1. What are the legal requirements to obtain a patent?

An invention will be afforded patent protection if it:

- Relates to a product or a process.
- Is new.
- Involves an inventive step.
- Is capable of industrial application.

- Does not fall under one of the excluded categories (see [Question 2](#)).

2. What categories are excluded from patent protection?

The following categories are excluded from patent protection:

- Discoveries, scientific theories and mathematical methods.
- Aesthetic creations.
- Rules and methods for games and intellectual or business activity.
- Computer programs.
- Presentations of information.
- Plant and animal varieties and biological methods for producing them, except for microbiological methods and products produced by such methods.
- Topologies of integrated circuits.
- Methods of human cloning and human clones.
- Methods of genetic modification of human stem cells.
- The use of human embryos for industrial and commercial purposes.
- Solutions contrary to the public interest and to humanitarian principles and morality.

3. Which authority registers patents? Does its website provide guidance on the application procedure?

The Federal Service for Intellectual Property (Rospatent) registers patents in Russia. Guidance on the application procedure and forms are available online in Russian (<https://rospatent.gov.ru>) (<https://new.fips.ru>).

Once the application is submitted, it will be examined formally and then substantively. The formal examination determines whether the application contains all the documents mentioned and whether these comply with all the requirements. The substantive examination will assess whether the application meets the disclosure and legal requirements of a patent.

The substantive examination of a utility model application begins straight after the formal examination. However, the substantive examination of an invention application begins only after the applicant or a third party has submitted an examination request. The request must be made within three years from the filing date of the invention application, otherwise the application will be withdrawn.

An application will be rejected if one or more of the following apply:

- The invention or utility model relates to one of the excluded categories (*see Question 2*).
- The information provided in the application does not meet the disclosure requirements.
- At least one of the patentability criteria is not met (*see Question 1*).

4. On what grounds and when can third parties oppose a patent application?

Patent applications cannot be opposed by third parties. However, observations can be filed with Rospatent after the application is published. The validity of an issued patent can be challenged by a third party during the lifetime of the patent if the:

- Subject matter of the patent is not patentable.
- Invention is insufficiently disclosed in the patent.
- Patent object extends beyond the content of the originally filed application.
- Patent is granted to an applicant not entitled to the patent or incorrectly identifies the inventors.
- Patent was granted when there were several applications outstanding for identical subject matter with the same priority date.

After the patent has expired or been terminated early, its validity can be challenged on the above grounds but only by an interested person (for example, a person accused of patent infringement).

5. When does patent protection start and how long does it last?

Provisional patent protection starts from the date of publication of the application. Therefore, any person using the invention while an application is pending may have to pay compensation to the patent owner, if the patent is granted.

Full patent protection starts from the grant of the patent and can last 20 years from the date of filing of the application, subject to the payment of maintenance fees. The term of protection of patents for pharmaceuticals and agrichemicals can be extended for up to five years.

6. On what grounds can a patent infringement action be brought?

Third parties are prohibited from carrying out the following acts without authorisation of the patent owner:

- Importing into Russia, making, using, offering for sale, selling, putting on the Russian market by any means, or keeping for such purposes, an item incorporating a patented product.
- Importing into Russia, making, using, offering for sale, selling, putting on the Russian market by any means, or keeping for such purposes, a product obtained directly from a patented process.
- Importing into Russia, making, using, offering for sale, selling, putting on the Russian market by any means, or keeping for such purposes, a device implementing a patented process.
- Using a patented process.

Further, a patent may be infringed by taking active steps creating a threat of direct infringement.

An invention will be deemed used in a product or in a process if the product contains and the process involves each feature of the invention stated in an independent claim contained in the patent claims, or an equivalent feature, and known as such in the given field of technology before the invention's priority date.

7. Which courts deal with patent infringement actions? Is there a fast-track and/or a small-claims procedure?

The following courts deal with patent infringement actions:

- First instance: a district court of general jurisdiction (if at least one of the parties is an individual, but not registered as an entrepreneur).
- First instance: a commercial court (when all parties to the case are legal entities or private entrepreneurs).
- Appeals: appeal courts examine cases after the corresponding courts of instance.
- The Intellectual Property Rights Court hears cassation appeals from the commercial courts.

There are no fast-track or small-claims procedures for patent infringement actions.

8. What are the defences to patent infringement actions?

The defences to patent infringement actions include:

- Non-infringement.
- Private non-commercial use.
- Experimental use (including trials and studies performed for the purposes of obtaining a marketing authorisation).
- Exhaustion of exclusive rights.
- Preparation of medicinal products in a pharmacy.
- Prior user's right.
- The claim is time barred under the statute of limitations.

9. What are the remedies in patent infringement actions?

The remedies in patent infringement actions include:

- Injunctions (including preliminary).
- Damages or statutory monetary compensation.
- Delivery up and destruction of the infringing goods.
- Destruction of tools mainly used or intended for the production of infringing goods.
- Publication of the infringement judgment.

Utility models

10. What are the legal conditions to obtain utility model protection?

Technical solutions relating to devices will be afforded utility model protection if they:

- Are new.
- Are capable of industrial application.
- Do not fall under one of the excluded categories (*see Question 2*).

11. Which authority grants utility model protection? Does its website provide guidance on the application procedure?

Rospatent registers utility models in Russia. Guidance on the application procedure and forms are available online in Russian (<https://rospatent.gov.ru>) (<https://new.fips.ru>).

Once the application is submitted, it will be examined formally and then substantively. The formal examination will determine whether the application contains all the documents mentioned and whether the documents provided comply with all the requirements. The substantive examination will assess whether the application meets the disclosure and legal requirements of a utility model patent.

An application will be rejected if one or more of the following apply:

- The utility model relates to one of the excluded categories (*see Question 2*).
- The information provided in the application does not meet the disclosure requirements.
- At least one of the criteria is not met (*see Question 10*).

12. On what grounds and when can third parties oppose a utility model application?

A utility model application cannot be opposed by third parties.

13. When does utility model protection start and how long does it last?

Protection of utility models can last ten years from the date of filing of the application, subject to the payment of maintenance fees.

14. On what grounds can a utility model infringement action be brought?

See [Question 6](#).

15. Which courts deal with utility model infringement actions? Is there a fast-track and/or a small-claims procedure?

See [Question 7](#).

16. What are the defences to utility model infringement actions?

See [Question 8](#).

17. What are the remedies in utility model infringement actions?

See [Question 9](#).

Trade marks

18. What are the legal requirements to obtain a trade mark?

A trade mark can be any sign (word, symbolic, three-dimensional, or otherwise) that:

- Is capable of representing the goods and services of legal entities and individual entrepreneurs.
- Is distinctive (or in some cases capable of acquiring distinctiveness).
- Is non-descriptive.
- Is non-deceptive.
- Is not otherwise excluded from protection on absolute grounds (for example, not contrary to public policy, principles of morality or not a sign excluded from protection under an international treaty to which the Russian Federation is a party).
- Does not conflict with other parties' earlier exclusive rights.

19. Is it necessary or advisable to register trade marks?

The registration of a trade mark is absolutely necessary and highly advisable to acquire the exclusive right to use it, that is, the right to prohibit or permit (to license) any third party the use of the trade mark. Only a well-known mark can be protected without registration, but only after it is recognised as well-known mark by Rospatent and included in the List of Marks Well-Known in the Russian Federation.

20. Which authority registers trade marks? Does its website provide guidance on the application procedure?

Rospatent registers trade marks in Russia. Guidance on the application procedure and forms are available online in Russian (<https://rospatent.gov.ru>) (<https://new.fips.ru>).

Within one month of filing, there is a formal examination of the application to check that the application and the accompanying documents comply with the statutory requirements. After the formal examination, there is a substantive examination where the mark is assessed to see if it complies with the legal requirements for trade mark protection (see [Question 18](#)).

21. On what grounds can the regulatory authority refuse to register a trade mark?

Rospatent can refuse to register a trade mark if the sign:

- Lacks distinctiveness.
- Consists only of elements generally used for the indication of certain goods or those that characterise the goods.
- Contains elements that are false or misleading to the consumer in respect of a product or its manufacturer, or that are contrary to public interests and the principles of humanity and morality.
- Is identical or confusingly similar to official names and images of particularly valuable objects of the cultural heritage of the Russian people, or of worldwide cultural or natural heritage.
- Contains, represents or imitates some official symbols, names, and insignia.
- Contains or consists of a geographical indication protected in a WTO member state with respect to wines or spirits, if the sign is applied for wines or spirits not having the appropriate geographical origin.
- Is identical or confusingly similar to another person's earlier trade mark protected in Russia, or applied for registration in Russia, with respect to the same or similar goods, or contains elements that are identical or confusingly similar to the earlier trade mark.
- Is identical or confusingly similar to geographical indications or appellations of origin protected in Russia with respect to any goods, or contains elements identical or confusingly similar to a protected geographical indication or appellation of origin.
- Is identical or confusingly similar to an earlier registered industrial design, or contains elements identical or confusingly similar to a protected industrial design.

22. On what grounds and when can third parties oppose a trade mark application?

Third parties cannot oppose trade mark applications (although observations can be filed with Rospatent after the application is published). A registered trade mark can be challenged at any time during its validity by an interested person (for example, a person accused of infringement) on the grounds that:

- It does not meet the absolute requirements for registration.
- It conflicts with another person's earlier right (copyright, registered design, personal name, company name, commercial designation, compliance mark, name of a plant or animal variety).
- The trade mark owner is not a legal person or an individual entrepreneur.
- It is registered in the name of the owner's agent or representative without the owner's consent.
- The use of the trade mark would indicate a connection between the goods or services designated with the trade mark and the owner of an earlier well-known mark, and the interests of the owner of the well-known mark are likely to be damaged by this use.

Within five years of the official publication of a registered trade mark, an interested person can file a request for trade mark invalidation with Rospatent, if the trade mark:

- Is confusingly similar to a geographical indication or an appellation of origin protected in Russia.
- Is identical or confusingly similar to an existing trade mark in respect of identical or similar goods or services.
- Contains elements that conflict with another person's earlier right.

An interested party can apply to have the protected trade mark cancelled if it is not genuinely used during any consecutive three-year period after registration. This application must be made to the Intellectual Property Rights Court.

23. When does trade mark protection start and how long does it last?

Trade mark protection starts from the date of registration and is valid for ten years from the date of filing of the trade mark application. The registration can be renewed indefinitely for further ten-year periods on payment of a renewal fee.

24. On what grounds can a trade mark infringement action be brought?

A trade mark infringement action can be brought in Russia if all of the following applies:

- Another person is using or has used a sign that is identical or similar to the registered trade mark without authorisation from the owner of the registered trade mark.
- The sign is used or was used in relation to goods or services that are identical or similar to the goods and services relating to the registered trade mark.
- There is a likelihood of consumer confusion.

In the case of a well-known trade mark, an infringement action can be brought in circumstances where the goods and services are not similar, provided that both the following apply:

- Customers are likely to associate the infringer's mark with the owner of the well-known mark.
- The interests of the owner of the well-known trade mark are likely to be damaged by this use.

25. Which courts deal with trade mark infringement actions? Is there a fast-track and/or a small-claims procedure?

See [Question 7](#).

26. What are the defences to trade mark infringement actions?

The defences to trade mark infringement actions include:

- Exhaustion of the right.
- Use of an earlier registered trade mark, company name or trade name.
- Use is necessary to indicate the intended purpose of the goods or services (in particular as accessories or spare parts, or for maintenance or repair services).
- Abuse of right on the owner's part.
- The claim is time barred under the statute of limitations.

27. What are the remedies in trade mark infringement actions?

See [Question 9](#).

Copyright

28. What is the scope of copyright protection?

The copyright owner has the exclusive right to use and allow other persons to use the work. Use of the work includes:

- Reproduction of the work.
- Dissemination of the work, through sale or otherwise.
- Public display of the work.
- Import of copies of the work for the purpose of circulation.
- Lease.
- Broadcasting and rebroadcasting.
- Translation or other reworking of the work.
- Practical embodiment of an architectural, a design, town planning or gardening project.

Copyright also covers parts of the work, its title, and its characters if they can be recognised as the independent result of the author's creative work.

29. What categories of subject matter are eligible for protection?

Copyright subject matter includes works of science, literature and art regardless of their purpose and value or means of expression.

30. Are moral rights protected?

Moral rights are protected. These include the rights to:

- Claim authorship of the work.
- Use or allow the use of the work under their name, a pseudonym or anonymously.
- Object to any modifications, abridgements or additions to a work without the author's prior consent.
- Disclose the work, that is, take or authorise an action that makes the work available to the public through publication, public demonstration, public performance, broadcast, or any other way. The author who assigned the work to another person for use is deemed to have given consent to disclosure of the work.

The right of authorship, the right to one's own name and the right of integrity subsist for an indefinite period of time and are non-assignable. The waiver of such rights is void. After the author's death, their moral rights are protected by their successor or, in the absence of successor, other interested parties.

31. What are the legal requirements to obtain copyright protection?

Copyright protection subsists in works of science, literature (including computer programs and databases) and art that:

- Result from a person's creative activity.
- Are fixed in a tangible medium.
- Meet the relevant requirements regarding nationality or domicile of the author and the country of first publication (works first published in Russia or works first published outside Russia provided that the author(s) are citizens of Russia, a WTO member state or other states participating with Russia in international treaties providing copyright protection).

32. Can copyright be registered?

Registration of copyright is not required. However, copyright owners have the option to register software and databases in the Register of Computer Programs and Register of Databases of Rospatent. Guidance on the registration procedure and forms are available online in Russian (<https://rospatent.gov.ru>) (www.fips.ru).

33. When does copyright protection start and how long does it last?

Copyright protection starts from the creation of the work and lasts:

- For the author's lifetime plus 70 years.
- In the case of anonymous or pseudonymous works, 70 years after publication.
- In the case of a work published within 70 years from the author's death, 70 years from the date of first publication.

34. On what grounds can a copyright infringement action be brought?

An action for copyright infringement can be brought on the following grounds:

- Violation of an author's moral rights.
- Failure of the collecting organisation to pay the remuneration collected to the right owner.
- Violation of the exclusive rights of a copyright owner in respect of their works. This includes unauthorised reproduction, distribution, derivation, public display, import, rental to the public, public performance, broadcasting, rebroadcasting, or making available to the public of the work.

35. Which courts deal with copyright infringement actions? Is there a fast-track and/or a small-claims procedure?

See [Question 7](#).

36. What are the defences to copyright infringement actions?

The defences to copyright infringement include:

- Non-infringement.
- The work used is in the public domain.
- The use of the work falls under the statutory exceptions to exclusive rights.
- Exhaustion of exclusive rights.
- The claim is time barred under the statute of limitations.

37. What are the remedies in copyright infringement actions?

See [Question 9](#).

There are no fast-track or small-claims procedures for copyright or related rights infringement actions. However, preliminary injunctive relief (that is, blocking access to the infringing content on internet) can be obtained in the Moscow City Court.

Registered designs

38. What are the legal conditions to obtain a registered design?

To be eligible for patent protection, a design must:

- Relate to industrial or handicraft articles.
- Be new.
- Be original.

A design patent cannot be granted for a design that:

- Consists only of the features solely dictated by the technical functions of an article.
- Misleads consumers.

39. Which authority registers designs? Does its website provide guidance on the application procedure?

Rospatent registers industrial designs and issues design patents in Russia. Guidance the application procedure and forms are available online in Russian (www.rupto.ru) (www.fips.ru).

A formal examination of the application is conducted to determine whether it contains all the documents mentioned in the application and whether the documents comply with the requirements.

A substantive examination of the application starts immediately after the formal examination is successfully completed. The examination will assess whether the design complies with the legal requirements for design right protection. The application will be rejected if at least one of the following applies:

- It relates to subject matter that cannot be protected.
- At least one of the patentability criteria is not met (*see Question 38*).

40. On what grounds and when can third parties oppose a registered design application?

Third parties are not able to oppose a design application. However, third parties can apply to invalidate a registered design right in whole or in part.

The validity of an issued design patent can be challenged by a third party during the lifetime of the patent if the:

- Subject matter of the design patent is not patentable, or the design includes official symbols, names, and other distinctive signs without the consent of the competent body or governmental organ.
- The patent adds or removes essential features of the design (as stipulated in the filed application).
- The patent was granted when there were several applications outstanding for identical subject matter with the same priority date.
- The patent was granted to an applicant not entitled to the patent, or incorrectly identifies the designer.

Invalidation actions on the first three grounds are filed with Rospatent, while invalidation actions on the last ground are filed with the Intellectual Property Rights Court

After the patent has expired or been terminated early, its validity can be challenged on the above grounds but only by an interested person (for example, a person accused of patent infringement).

41. When does registered design protection start and how long does it last?

On the applicant's request, Rospatent publishes the application in its *Official Bulletin*. The design will enjoy provisional protection from the date of publication of the application to the date of publication of the design patent grant. If the patent is not granted, the provisional protection will be deemed as not having occurred.

Any person using the industrial design during the provisional protection period (that is, while an application is pending), will have to pay compensation to the patent owner, if the patent is granted, in the amount agreed by the parties or, in case of dispute, in the amount decided by the court.

Following registration, a patented industrial design is protected for an initial five-year period from the filing date. Design protection can be renewed for further five-year periods on payment of a renewal fee, up to a maximum of 25 years from the filing date.

42. On what grounds can a registered design infringement action be brought?

Design infringement actions can be brought where a third party does any of the following without the design right owner's consent, in relation to a product that incorporates the registered design right or a design that gives the same overall expression to an informed user:

- Imports into Russia.
- Makes.
- Uses.
- Offers for sale.
- Sells.
- Otherwise puts on the Russian market.
- Keeps for any of the above purposes.

43. Which courts deal with registered design infringement actions? Is there a fast-track and/or a small-claims procedure?

See [Question 7](#).

44. What are the defences to registered design infringement actions?

Defences to design patent infringement include:

- Non-infringement.
- Private non-commercial use.
- Experimental use.
- Exhaustion of exclusive rights.
- Prior user's right.
- The claim is time barred under the statute of limitations.

45. What are the remedies in registered design infringement actions?

See [Question 9](#).

Unregistered designs

46. What are the legal conditions for unregistered design rights to arise?

Unregistered designs can be protected as a work of art under copyright law (see [Question 28](#) to 37) or the law on protection against unfair competition.

47. When does unregistered design protection start and how long does it last?

See [Question 46](#).

48. On what grounds can an unregistered design infringement action be brought?

See [Question 46](#).

49. What are the defences to unregistered design infringement actions?

See [Question 46](#).

50. What are the remedies in unregistered design infringement actions?

See [Question 46](#).

Trade secrets and confidential information

51. What are the legal conditions for rights in confidential information to arise?

Confidential information can be protected as a trade secret (know-how) if it:

- Relates to information about business methods or results of intellectual activity in the sphere of science and technology.
- Has a commercial value due to it being secret.
- Is not freely accessible to third parties on legal grounds.
- Is subject to reasonable measures to keep it secret.

52. On what grounds can an action for unauthorised use of confidential information be brought?

Grounds for action for unauthorised use of confidential information include:

- Unlawful acquisition and disclosure or use of information constituting a trade secret.

- Violation of a legal or contractual obligation of confidence.

53. Which courts deal with actions for unauthorised use of confidential information? Is there a fast-track and/or a small-claims procedure?

See [Question 7](#).

54. What are the defences to actions for unauthorised use of confidential information?

The defences to actions for unauthorised use of confidential information are that the confidential information:

- Is not eligible for trade secret protection.
- Is lawfully available to the public.
- Has been developed independently.
- Was used without the knowledge that the use is unlawful.

55. What are the remedies in actions for unauthorised use of confidential information?

The remedies in actions for unauthorised use of confidential information are injunctions and damages.

Contributor profile

Nikolay Bogdanov, Counsel and Registered patent and trade mark attorney

Gorodissky & Partners

T +7 495 937 6116
F +7 495 937 6123
E bogdanovn@gorodissky.com
W www.gorodissky.com

Professional qualifications. Patent and Trade mark Attorney

Areas of practice. IP protection, use and enforcement strategies; IP agreements, transactions and restructurings; IP due diligence and audits; unfair competition and false advertising; dispute resolution and litigation; anti-counterfeiting and anti-piracy.

END OF DOCUMENT

Related Content

Topics

[Trade Marks](#)
[Patents](#)
[General IP](#)
[Copyright](#)
[Confidentiality](#)
[Cross-border - IP&IT](#)
[Designs](#)

Practice note: overview

[Overview of trade marks](#) • [Maintained](#)
[Overview of patents](#) • [Maintained](#)
[Intellectual property \(joint ventures\): Cross-border](#) • [Law stated as at 30-Jun-2020](#)

Standard documents

[Confidentiality agreement \(joint ventures\): Cross-border](#) • [Maintained](#)

Country Q&A

[Pharmaceutical IP and competition law in the Russian Federation: overview](#) • [Law stated as at 01-Dec-2018](#)
[IP in business transactions: Russian Federation overview](#) • [Law stated as at 01-Nov-2020](#)