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INDIVIDUALIZATION OF FINANCIAL SECTOR SERVICES: TRENDS AND ROSPATENT'S APPROACHES TO REGISTRATION OF DESIGNATIONS REPRESENTING NAMES OF CRYPTOCURRENCIES, CRYPTO SERVICES, CRYPTO PLATFORMS, AND CRYPTOCURRENCY EXCHANGES AS TRADE MARKS

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Among the relatively new and quite complex financial instruments for the Russian market, in the context of a rapidly developing digital economy, it is necessary to distinguish cryptocurrencies, which are of common interest and which have been discussed a lot recently. As per the CoinMarketCap (a popular cryptocurrency data aggregator), there are more than 4,000 different cryptocurrencies in the world now.

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In the last year, the world saw a rapid growth of the crypto market. In December 2021, its overall capitalization reached USD2.3 trillion. As per some estimates, Russian individuals' crypto transactions reach USD5 billion a year. Russian individuals are active users of online platforms trading in cryptocurrencies. In addition, Russia is among the global crypto mining capacity leaders (as per the report for public consultations entitled "Cryptocurrencies: Trends, Risks, and Measures" issued by the Central Bank of the Russian Federation on 20 January 2022).
It is clear that Russia is one of the key players in the crypto market and the legal regulation of crypto currencies in our country is an inescapable reality and is most vital as never before.

LEGISLATIVE REGULATION OF CRYPTO-CURRENCIES IN RUSSIA

On 1 January 2021, Federal Law No. 259-FZ dated 31 July 2020 On Digital Financial Assets, Digital Currency, and Amendments to Certain Legislative Acts of the Russian Federation (hereinafter referred to as the "DFA law") became effective in Russia, which, as per clause 1 of Article 1, "regulates the relations arising during the issue, accounting, and circulation of digital financial assets, specific features of the activities of an operator of the information system that issues digital financial assets and of an operator of the digital financial asset exchange as well as the relations arising during the circulation of a digital currency in the Russian Federation".
Before 1 January 2021, there was no legal definition of a cryptocurrency in the legislation of the Russian Federation, its essence or regulation of issue and circulation were not determined there as well.
What are the key aspects of the DFA law?
The first thing that catches the eye in the DFA law is that there is no term "cryptocurrency". Instead of the usual term "cryptocurrency", the legislature introduces another term — "digital currency", which, rather than making it clearer as expected, has created some confusion and uncertainty even at a level of the terminology, since a question immediately comes up: are cryptocurrency and digital currency the same thing or not? We can assume that the reason why the law authors have decided to "hide" cryptocurrencies under the term "digital currencies" is their frequent use in criminal activities and criminal schemes, for example, for money laundering or sale of drugs, for which reason the term "cryptocurrency" sounds negative and has a bad reputation, while the term "digital currency" has not smeared its name.
So, a digital currency is a cryptocurrency designation officially approved in the legislation of the Russian Federation. First and foremost, the DFA law clearly separates digital financial assets and digital currencies. As per the DFA law, these are two completely different things. In its current form, the DFA law focuses primarily on the regulation of digital financial assets. Since this article is about cryptocurrencies in their classical meaning, we will not dig into the analysis of digital financial assets but will focus specifically on cryptocurrencies (or digital currencies as per the DFA law).
As defined in the DFA law, a digital currency is a set of electronic data (a digital code or a designation) contained in an information system, which are offered and (or) can be accepted as a means of payment, which is not a currency of the Russian Federation, a currency of a foreign state and (or) an international currency or unit of account, and (or) as an investment, in respect of which there is no person obliged to each owner of such electronic data, except for the information system operator and (or) nodes obliged only to ensure compliance of a procedure for issuing this electronic data and carrying out actions with the same to make (change) records in such an information system with its rules (clause 3 of Article 1 of the DFA law).
In accordance with this definition, a digital currency can include all classic decentralized or pseudo decentralized cryptocurrencies, for example: Bitcoin (BTC), Litecoin (LTC), ZCash (ZEC), Monero (XMR), Ether or ETH (Ethereum blockchain platform's own cryptocurrency).
Among the key aspects of the DFA law relating to the digital currency, it is worth noting that, despite the fact that a digital currency is classified as a means of payment (which follows from its definition in the DFA law), clause 5 of Article 14 of the DFA law prohibits the acceptance of payment for goods, works, and services in a digital currency in Russia and clause 7 of Article 14 prohibits the dissemination of information about the offer and acceptance of a digital currency as a method of payment for goods, works, and services. It is also worth noting that a digital currency is now officially recognized as property, which allows it to be included in civil transactions.

In addition, the DFA law currently contains no procedure or rules for digital currency transactions, it merely makes a reference to other federal laws that do not exist yet: *"The organization of an issue and (or) the issue and (or) the organization of circulation of a digital currency in the Russian Federation shall be regulated in accordance with the federal laws"* (clause 4 of Article 14 of the DFA law).

Thus, in its current form, the DFA law is a sort of compromise solution between a complete ban on cryptocurrencies and their full legalization. The DFA law, which adoption has been waited for by the crypto community for about three years, should seemingly have brought legal certainty, after all, in terms of the Russian regulation of cryptocurrencies, but in fact it just has laid the foundations for the regulation of the crypto industry in our country. Currently, in Russia, there is no ban on cryptocurrency as, however, there never has been. You can make any cryptocurrency sale and purchase transactions or pledge, exchange, gift, and bequeath it. It is not quite clear what awaits the crypto market further on. The legislation on the regulation of cryptocurrencies is being elaborated at full speed; however, it is already obvious that the government has come to the conclusion that cryptocurrencies need regulation and strict control, not a ban in any way.

ROSPATENT'S PRACTICE IN EXPERT EXAMINATION OF DESIGNATIONS REPRESENTING NAMES OF CRYPTO SERVICES, CRYPTO PLATFORMS, CRYPTOCURRENCY EXCHANGES, OR CRYPTOCURRENCIES

But can there be any difficulties with registration of designations representing the names of cryptocurrencies, crypto services, platforms, and exchanges as trade marks in Russia? Yes, there can be.
Problems have also periodically occurred before the DFA law became effective and they still periodically occur.

The word "periodically" is used here for a reason since the Rospatent's position is often inconsistent and unpredictable when registering designations representing the names of cryptocurrencies, crypto services, platforms, and exchanges as trade marks, so it is impossible to assert in advance whether Rospatent will refuse to register such a designation as a trade mark or not. For example, below is a rather extensive list of the trade marks already registered in Russia, which are the names of cryptocurrencies, crypto services, platforms, and exchanges, that have been granted legal protection both before and after the DFA law became effective (the list is not exhaustive):

Trade mark	Registration number and date	Classes according to the International Classification of Goods and Services	Right holder
GEMINI	Russian registration No. 563383 dated 01 February 2016	09, 36	Gemini IP, LLC (US)
GEMINI	Russian registration No. 686042 dated 04 December 2018	36	
RIPPLE	Russian registration No. 543730 dated 26 May 2015	09, 36	Ripple Labs Inc. (US)
ZCASH	Russian registration No. 626956 dated 18 August 2017	36	Zcash Foundation (US)
ZCASH	Russian registration No. 782573 dated 10 November 2020	09, 42	
	Russian registration No. 629522 dated 08 September 2017	36	
TETHER	Russian registration No. 659313 dated 09 June 2018	36	Tether Operations Limited (VG)
tether	Russian registration No. 736211 dated 22 November 2019	36	
XAUt	Russian registration No. 776705 dated 28 September 2020	36	
EXMO	International registration No. 1431169 dated 25 April 2019	36	EXMO EXCHANGE LTD. (GB)
Huobi	Russian registration No. 702420 dated 11 March 2019	09, 35, 36, 38, 41, 42	HUOBI GLOBAL LIMITED (SC)
BINANCE	Russian registration No. 739011 dated 12 December 2019	09, 35, 36	Binance Holdings Limited (KY)
BINANCE DEX	Russian registration No. 806956 dated 13 April 2021	09, 35, 36	
EOSFINEX	Russian registration No. 731682 dated 16 October 2019	36	iFinex Inc. (VG)
BITFINEX	Russian registration No. 714789 dated 05 June 2019	36	
BITFINEX	Russian registration No. 714788 dated 05 June 2019	36	

Trade mark	Registration number and date	Classes according to the International Classification of Goods and Services	Right holder
BITFINEX	Russian registration No. 791888 dated 13 January 2021	35	iFinex Inc. (VG)
BETFINEX	Russian registration No. 813760 dated 03 June 2021	09, 36, 41, 42	
ETHEREUM	International registration No. 1444094 dated 27 February 2020	09, 36, 41, 42	Stiftung Ethereum (Foundation Ethereum) (CH)
LIBRA	Russian registration No. 770277 dated 05 August 2020	36, 45	Libra Association (CH)
ДИЕМ	Russian registration No. 834148 dated 25 October 2021	09, 35, 36, 42, 45	
DIEM	Russian registration No. 834147 dated 25 October 2021	09, 35, 36, 42, 45	
BULLISH	Russian registration No. 824860 dated 17 August 2021	09, 36, 42	Bullish Global (KY)
BULLISH	Russian registration No. 824861 dated 17 August 2021	09, 36, 42	
CHIA	Russian registration No. 839764 dated 01 December 2021	09, 36, 41, 42	Chia Network Inc. (US)
chia	Russian registration No. 839765 dated 01 December 2021	09, 36, 41, 42	
bybit	Russian registration No. 848651 dated 18 January 2022	09, 36, 42	Bybit Fintech Limited (SC)
BYBIT	Russian registration No. 848652 dated 18 January 2022	09, 36, 42	

It is worth noting that the overwhelming majority of the above trade marks have been registered without preliminary refusals to register by the expert examination panels.

However, despite the fact that Rospatent has already registered a considerable number of trade marks containing the names of cryptocurrencies, crypto services, platforms, and exchanges (the above list is not exhaustive) in the name of various right holders, including for the goods and services directly related to the cryptocurrencies (i.e., the lists of goods and services contain items that directly indicate that the right holder's activities are related to the crypto market, for example: "downloadable computer software for digital currency and cryptocurrency exchange" or "financial exchange services, namely exchange transactions for trading and selling digital currency and cryptocurrency"), the latest practice shows that the probability of Rospatent's refusal to register such marks is still quite high.

Applicants trying to register trade marks in Russia, which are the names of cryptocurrencies, crypto services, platforms, and exchanges, still periodically face the Rospatent's refusal to register such designations as trade marks referring to subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia, under which "No state registration of designations representing or containing elements that contradict the public interest, principles of humanity and morality as trade marks is allowed". The expert examination panel's arguments are:

- The claimed designation is the name of a crypto service or the name of a cryptocurrency;
- As per the press centre of the Central Bank of Russia, due to the lack of security and legally binding entities, transactions in "virtual currencies" are speculative. The Bank of Russia warns that the provision by legal entities of services in the exchange of "virtual currencies" for Russian rubles and foreign currencies as well as for goods (works, services) will be considered as potential involvement in shady transactions in accordance with the legislation on anti-money laundering and combating the financing of terrorism.

As a source, the expert examination panel refers to the press releases of the Bank of Russia On the Use of "Virtual Currencies", in particular, Bitcoin in Transactions dated 27 January 2014 (http://www.cbr.ru/press/PR/?file=27012014_1825052.htm) and On the Use of Private "Virtual Currencies" (Cryptocurrencies) dated 4 September 2017 (http://www.cbr.ru/press/pr/?file=04092017_183512if2017–09–04T18_31_05.htm).

In this regard, the claimed designation cannot be registered as a trade mark (service mark) based on the provisions provided for in clause 2 of clause 3 of Article 1483 of the Civil Code of Russia, since such registration of the designation as a trade mark (service mark) and its use in civil transactions as a means of individualization of goods and (or) services are qualified by the expert examination panel as contradicting the public interest.

The press releases of the Bank of Russia On the Use of "Virtual Currencies", in particular, Bitcoin in Transactions dated 27 January 2014 (http://www.cbr.ru/press/PR/?file=27012014_1825052.htm) and On the Use of Private "Virtual Currencies" (Cryptocur-

rencies) dated 4 September 2017 (http://www.cbr.ru/press/pr/?file=04092017_183512if2017–09–04T18_31_05.htm) referred to by Rospatent are issued as press releases by the press centre of the Bank of Russia, are not signed by anyone, are not registered and, accordingly, cannot be considered as regulations binding upon federal state authorities, state authorities of constituent entities of the Russian Federation and local authorities, all legal entities and individuals, since such regulations must be issued in the form of directions, statutes, and instructions and must be duly registered (Article 7 of Federal Law No. 86-FZ dated 10 July 2002 (as amended on 30 December 2021) On the Central Bank of the Russian Federation (Bank of Russia) (as amended, effective from 11 January 2022)). Thus, the press releases always referred by Rospatent in support of its refusal under subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia cannot be legally considered to have legislative effect or to be applicable when interpreting the legislation, for which reason it can be concluded that there is no regulatory position of the Bank of Russia on this issue.

In addition, these press releases do not contain any direct statements that cryptocurrencies are quasi-money and are banned in Russia, on which basis the expert examination panel could qualify the registration of designations representing the names of cryptocurrencies, crypto services, platforms, and exchanges as a trade mark and their use in civil transactions as means of individualization of goods and (or) services as contradicting the public interest, and that the registration and use of such trade marks may result in a violation of the legislation of the Russian Federation in other areas of legal regulation. Moreover, in its press release dated 4 September 2017, the Bank of Russia even reports that "along with interested federal state authorities, the Bank of Russia monitors the crypto market and develops approaches to the definition and regulation of cryptocurrencies in the Russian Federation", thereby indicating the government's intent to put the crypto market in order at the legislative level in the near future.

Thus, it seems that the above press releases of the Bank of Russia cannot be sufficient to support the Rospatent's position when making decisions about the contradiction of designations representing the names of cryptocurrencies, crypto services, platforms, and exchanges to the Russian public interest.

In addition, as per the draft law on the regulation of cryptocurrencies brought by the Ministry of Finance of Russia in the Government of Russia on 18 February 2022, which has been prepared based on the previously approved Framework of Legislative Regulation of Mechanisms for Organizing the Circulation of Digital Currencies, the changes proposed in the draft law are aimed at forming a legal market for digital currencies establishing the rules for their circulation and pool of members (more details on the Ministry's website: https://minfin.gov.ru/ru/press-center/?id_4=37774-minfin_rossii_napravil_v_pravitelstvo_rossii_proekt_federalnogo_zakona_o_tsifrovoi_valyute). The new draft law explicitly indicates the government's position aimed at legalizing the crypto market, not completely banning. Thus, such designations cannot contradict the public interest, since the balanced position of the official Russian government, reflecting the public sentiment, as we see, is in no case aimed at banning the circulation of cryptocurrencies; on the contrary, the official government is after legalizing and streamlining relations in the crypto market.

It is also worth noting that the rule of law specified as a ground for refusal to register designations, namely, subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia, provides for contradiction to the public interest of the designation itself or its elements. As a rule, the names of cryptocurrencies, crypto services, platforms, and exchanges are either fantasy words, such as BINANCE or ETHEREUM, or words that are semantically neutral with respect to the goods and services related to cryptocurrencies, such as RIPPLE or GEMINI. Obviously, such designations for goods and services related to a cryptocurrency cannot actually contradict the public interest, since they contain neither direct nor associative calls for purchase or use of cryptocurrencies in transactions, do not form positive attitude to cryptocurrencies, have no offensive meaning, etc. In other words, it is apparent that such designations themselves do not contradict the legal foundations of public order and cannot cause any negative associations with the goods and services for which the protection of designations is claimed. In fact, this is confirmed by the position of Rospatent itself that has registered both these particular marks and other marks, including for the goods and services related to a cryptocurrency.

If you follow the Rospatent's logic, the expert examination panel should also refuse to register trade marks representing the names of tobacco or alcoholic beverages based on contradiction to the public interest just because there are a number of restrictions related to tobacco smoking, consumption of nicotine containing products and alcoholic beverages, and their sale under the current legislation in Russia.

The court practice of challenging the Rospatent's decisions to refuse to register designations representing the names of cryptocurrencies, crypto services, platforms, and exchanges as trade marks based on subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia is too small and is limited to two decisions of the Intellectual Property Rights Court dated 10 September 2021 in case No. SIP-387/2021 and dated 31 January 2022 in case No. SIP-386/2021. Both cases involve parallel applications in the name of one applicant: No. 2019721082 for classes 09, 35, 38, and 42 and No. 2019721067 for class 36. At the same time, it is worth noting that the applicant's activity is not related to cryptocurrencies and the claimed goods and services do not contain any items directly related to cryptocurrencies but, according to the information found by the expert examination panel on the Internet, the claimed designations include a designation that is the name of a cryptocurrency, for which reason it has been refused to register the claimed designations, including based on subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia with references to the above press releases of the Bank of Russia.

In the above decisions of the Intellectual Property Rights Court, the judicial chamber concludes that the Rospatent's conclusion on the contradiction of the designations, claimed for registration and containing the name of a cryptocurrency, to the public interest is not grounded enough, since Rospatent has not provided the reasons how the registration of the claimed designations for individualization of particular goods and services of classes 9, 35, 36, 38, and 42 according to the International Classification of Goods and Services

will be perceived as contradicting the public interest. The court also "draws special attention to the inconsistent position of Rospatent when analysing the designations containing the name of cryptocurrencies for compliance with subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia" noting that "Rospatent has registered trade marks containing the names of cryptocurrencies in the name of various right holders for various goods and services, including financial services of class 36 according to the International Classification of Goods and Services". Also, the judicial chamber "takes into account that the records on each application are kept independently, while this circumstance does not exempt Rospatent from its obligation to take into account the decisions already taken in similar or same situations" and notes that "when refusing to register the disputed trade mark, Rospatent has not reasoned the existence of circumstances serving as a basis for making a different decision" pointing out that "state authorities are obliged to perform the functions imposed on them subject to the principle of protection of legitimate expectations. Predictable behaviour of a state authority that has official power is one of the factors that control the arbitrary rule, create conditions for implementing the principle of legal certainty, and contribute to forming trust in the law and state actions among parties to legal relations".

It is noteworthy that "in the court session, the Rospatent's representative has explained in response to the court's question that the applicants may have provided documents on the admissibility of such registration during other registrations of the trade marks, which include the names of cryptocurrencies". The court has objected to this statement that the arguments not documented cannot be taken into account and also has noted that "the contradiction of the designation to the public interest is an absolute ground for refusal to register the trade mark if the relevant circumstances are revealed; in connection with the above, it is impossible to overcome the ban on such registration by providing authorization documents".

Thus, the court has concluded that "the Rospatent's conclusions that the claimed designation contradicts the public interest do not comply with the current legislation and the registration practice of the administrative authority".

It is worth noting that, unfortunately, the lawfulness of Rospatent's use of references to the above press releases of the Bank of Russia in support of the refusals to register designations under subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia has not been challenged by the claimant and has not been considered in these cases by the court.

It is noteworthy that Rospatent has filed a cassation appeal against the decision of the Intellectual Property Rights Court dated 10 September 2021 in case No. SIP-387/2021; however, Rospatent does not challenge in it the above court's conclusions on subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia (note that the subject matter of consideration of the cassation appeal is the court's conclusions on other grounds for refusal). We can only assume that Rospatent has no arguments other than those previously presented, for which reason Rospatent has concluded that it has been futile to challenge the court decision in this part. As a result, the cassation appeal filed by Rospatent has been dismissed.

Despite the position already indicated by the court regarding the Rospatent's conclusions that the designations claimed for registration and containing the name of the cryptocurrency contradict the public interest, Rospatent still refuses to register such designations as trade marks based on subclause 2 of clause 3 of Article 1483 of the Civil Code of Russia. In such cases, in its decisions on international applications, Rospatent does not even refer to the press releases of the Bank of Russia but simply indicates that the claimed designation contradicts the public interest since it is the name of a cryptocurrency, which circulation is not allowed in Russia, referring to the official website of the Bank of Russia www.cbr.ru. Perhaps the Rospatent's position is that if something is not yet allowed at the legislative level, then it should be considered as banned. However, this position is not unchallengeable. The legislation actually cannot and should not describe all possible things and actions with the same, unless certain activities or operations with certain things require special regulation or banning. The only thing prohibited by the effective DFA law with regard to cryptocurrencies is to accept payment for goods, works, and services in a digital currency (cryptocurrency) in Russia and to disseminate information about the offer and acceptance of a digital currency as a method of payment for goods, works, and services in Russia. At the same time, under the DFA law, the organization of an issue and (or) the issue and (or) the organization of circulation of a digital currency in the Russian Federation will be regulated in accordance with the federal laws, which are currently being actively prepared. In addition, the Russian Government is not considering the option of banning cryptocurrency.

It is obvious that the official website of the Bank of Russia, to which Rospatent refers as the source, contains no information that the cryptocurrency circulation in Russia is not allowed or banned.

Summing up the above, the Rospatent's arguments that designations containing the name of cryptocurrencies, crypto services, platforms, and exchanges contradict the public interest based on the apparently outdated press releases of the Bank of Russia, which, apart from not being bank regulations, do not either correspond to the current plans of the Russian government aimed at forming a legal crypto market and not at their banning, or even based on an entirely unclear statement that the crypto circulation in Russia is not allowed, can be considered as ungrounded and unlawful. Moreover, the Rospatent's position is at variance with the position of the Russian Government, which, as mentioned above, does not consider the option of banning cryptocurrency in Russia.

It is also worth noting that Rospatent, along with refusing to register designations containing the name of cryptocurrencies, crypto services, platforms, and exchanges based on their contradiction to the public interest, has increasingly begun to ground its refusals also on the impossibility to fix the exclusive right to cryptocurrency names because they can be used by the general public as a means of payment, but it is yet probably too early to say that this trend of Rospatent becomes sustainable. In any case, whether such a ground for refusal is lawful or not should be separately analysed and such an analysis can be performed in an individual article.

OVERVIEW OF NEWS IN THE FIELD OF INTELLECTUAL PROPERTY (RUSSIA, CIS)

(SEPTEMBER 2021 TO FEBRUARY 2022)

INTERNATIONAL TREATIES OF THE RUSSIAN FEDERATION

The law on Russia's accession to the Lisbon System for the International Registration of Appellations of Origin and Geographical Indications was adopted

On December 30, 2021, the President signed and published the Federal Law On Accession of the Russian Federation to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (No. 450-FZ).
The Geneva Act of the Lisbon Agreement was adopted at the diplomatic conference in Geneva (Switzerland) on May 20, 2015, and became effective February 26, 2020. At the end of 2021, 9 countries (Albania, Hungary, Cambodia, Democratic People's Republic of Korea, Laos, Oman, Samoa, France, and Switzerland) and the European Union as an intergovernmental organization were the members of the Geneva Act; from February 3, 2022, the Act will also become effective for Ghana.
Russia's participation in the Lisbon System will make protection of foreign appellations of origin and geographical indications in Russia and of Russian appellations of origin and geographical indications in the member countries of the Geneva Act considerably easier.
Accession to the Geneva Act will allow registering in the international register the Russian appellations of origin and geographical indications included in the state register, thereby obtaining protection in the member countries of the Geneva Act.
As per the Lisbon System, international registration of appellations of origin and geographical

indications is permanent, provided that there is still protection in the country of origin. There is no need to pay any extra fees for registration extension.
By joining the Lisbon System, Russia will have to grant protection provided for by the Act to appellations of origin and geographical indications from the member countries of the Act, including to those already included in the international register at the time of Russia's accession. However, Rospatent will conduct an examination of all appellations of origin and geographical indications, for which protection will be claimed in Russia, and will be able to refuse to grant such protection if it considers, for example, that the relevant designation has already turned into a specific one in Russia or if there are earlier conflicting (confusingly similar) trademarks in Russia.
As per the adopted law, when acceding to the Geneva Act, Russia makes several statements concerning the procedure for implementing the mechanism of the Lisbon Agreement:
• First, legal protection in Russia for international registration will be granted from the date of the Rospatent's decision to grant such protection.
• Second, for international registration, for which protection is claimed in Russia, the so-called individual fees must be paid: a fee for examination and a fee for granting the right to use the protected geographical indication or appellation of origin.
• Third, the period within which Rospatent may notify WIPO of its refusal to grant protection for international registration is 2 years.
• Fourth, for international registration, for which protection is claimed in Russia, a description of the properties of the goods related to their geographical origin should be provided.
The law on the Russia's accession to the Geneva Act provides for its entry into force one year after its official publication. Taking into account the period required to transfer an instrument of accession to the WIPO Director General and the procedure provided for by the Act for it to become effective for the acceding party, it is most practical to expect Russia to accede to the Geneva Act in spring 2023. During this time, the necessary amendments will be made to Part IV of the Civil Code and the necessary by-laws will be adopted for Rospatent to perform its functions in accordance with the Geneva Act.

LAWS AND DRAFT LAWS

Amendments to the law on patent attorneys

On December 21, 2021, Federal Law No. 416-FZ On Amendments to the Federal Law On Patent Attorneys was signed by the President and published.
The law provides for amendments to most articles of the Law On Patent Attorneys. In accordance with the amendments:
• The patent attorneys' activities are defined.
• The forms of the patent attorneys' activities are specified.
• The requirements for a potential patent attorney in terms of work experience change. That is to say, internship of a potential patent attorney is introduced as an option that makes it possible to reduce the work experience required for the potential patent attorney down to two years.
• The duties of the patent attorney are specified, and his rights are expanded. In particular, it establishes the right of a patent attorney to request from state authorities, local authorities, and organizations any information necessary to perform the principal's assignment and provides for a duty of public authorities and other organizations to respond to the patent attorney's request.
• The client-patent attorney privilege concept is introduced. No information received by the attorney and his employer from the principal can be demanded from the patent attorney or the patent attorney's employer, transferred, or disclosed by them to any third parties.
• Conflicts of interest, where the patent attorney is not entitled to accept the principal's assignment, are regulated in more detail.
• The concept of a responsible patent attorney is introduced, the information on whom is to be entered into the state registers of registered intellectual property subject matters and who, if necessary, can be notified by state authorities of any procedure in respect of the relevant intellectual property subject matter. The responsible patent attorney must notify the applicant or the right holder of a request to them by the state authority even if the period of the relevant assignment has expired and the patent attorney's powers are terminated.
The law will enter into force one year after its publication, that is, on December 22, 2022.

The Government proposes to expand the range of trademark right holders and provides for additional guarantees to banks lending on the pledge of intellectual property

On January 31, 2022, the Government introduced before the State Duma draft Federal Law No. 63528–8 On Amendments to Part IV of the Civil Code of the Russian Federation (in terms of Expanding the Range of Trademark Right Holders) (hereinafter referred to as the "draft law") — https://sozd.duma.gov.ru/bill/63528–8.
Currently, as per Article 1478 of the Civil Code, a legal entity or an individual entrepreneur only may own the exclusive right to a trademark. Therefore, individuals without the status of an individual entrepreneur are deprived of the opportunity to register a trademark. The draft law proposes to remove this restriction and to secure a possibility to acquire the right to a trademark for legal entities and individuals, including self-employed ones.
In addition, the draft law provides for mandatory state registration of a pledge of an exclusive right to a registered computer program or database. Such registration, in the Government's view, would provide additional guarantees for creditors (primarily banks) lending on the pledge of intellectual property. No registration of pledge is provided for unregistered programs and databases.
The draft law stipulates that its amendments become effective one year after the draft law is published.

The Government submitted to the State Duma a draft law aimed at VAT exemption of transactions in transfer of rights to use intellectual property subject matters under franchise agreements

The draft law (No. 74851–8) proposes to exempt from value added tax transactions in the transfer of exclusive

rights to inventions, utility models, industrial designs, integrated circuits topographies, know-how and of rights to use these results of intellectual activity based on a franchise agreement.
This exemption is proposed to apply provided that a fee is allocated in the franchise agreement price for the transfer of exclusive rights to inventions, utility models, industrial designs, integrated circuit topographies, know-how, as well as rights to use these results of intellectual activity. The exemption will not apply to transactions in transfer of trademark rights or other intellectual property that may be transferred under a franchise agreement, such as a right to business name.
Thus, the adoption of the draft federal law will ensure equal conditions for VAT taxation in the circulation of the results of intellectual activity based on a license agreement and a franchise agreement.

GOVERNMENT ENACTMENTS AND DEPARTMENTAL ENACTMENTS

The court found the Recommendations adopted by Rospatent to be contradicting the Law on Patent Attorneys in the part establishing the rules for calculating the work experience of potential patent attorneys (decision of the IP Court dated February 09, 2021, resolution of the Presidium of the IP Court dated June 07, 2021, ruling of the Supreme Court dated September 27, 2021, on case No. SIP-660/2020)

In accordance with Clause 4 of Part 2 of Article 2 of Federal Law No. 316-FZ dated December 30, 2008, On Patent Attorneys, one of the requirements for candidates to acquire the patent attorney status is at least 4-year work experience as a patent attorney in accordance with the specialization, in which an individual wishes to be certified and registered as a patent attorney.
The twentieth paragraph of the Recommendations for the Preparation and Execution of Documents to Confirm Four-Year Work Experience as a Patent Attorney (approved by the Assessment Board of Rospatent on July 21, 2019) stipulates that, when calculating 4 years of work experience of a potential patent attorney in any of the specializations, the period of work after obtaining higher education should be taken into account.
Considering the Recommendations in this part to be contradicting the Law on Patent Attorneys, one of potential patent attorneys turned to the IP Court (hereinafter the "IP Court") filing a claim to invalidate the Recommendations in this part.
Having considered the claim, the IP Court found that this provision of the Recommendations, where appropriate, actually served as a basis for Rospatent to refuse to admit to the qualifying examination. At the same time, as pointed out by the court, the provisions of Part 2 of Article 2 of the Law on Patent Attorneys require the legal fact of obtaining higher education and the legal fact of four-year experience as a patent attorney and the Recommendations adopted by Rospatent establish in this part different rules for calculating work experience of candidates, i.e., contradict the law that prevails.
These facts established by the court allowed the IP Court to recognize the Recommendations in this part as inconsistent with the provisions of Part 2 of Article 2 of the Law On Patent Attorneys, which are clarified by them, and to be ineffective in this part from the date of their adoption.
The Supreme Court, where Rospatent filed a cassation appeal, did not review the decision of the IP Court.

The Government approved the Methods for Determining a Compensation for the Use of Invention without Patent Holder's Consent (Decree of the Government No. 1767 dated November 17, 2021)

The methods establish a procedure for determining the compensation to be paid to a patent holder when the Government decides to use an invention without the patent holder's consent and a procedure for paying this compensation.
The compensation is 0.5% of the actual revenue of the person who exercised the right to use the invention without the patent holder's consent from the manufacturing and sale of the goods for which manufacturing this invention was used. When several inventions are used for the manufacturing of goods, the above compensation should be distributed in shares pro rata to the number of patents owned by the right holders whose inventions the Government decided to use.
The compensation is determined in the form of annual payments during the period of validity of the Government's decision to use the invention without the patent holder's consent.
Within 30 days from the end of the calendar year in which the actual revenues from the sale of goods are gained, the person who has exercised the right to use the invention without the patent holder's consent for the manufacturing of the relevant goods may place the funds necessary for the payment of compensation on the bank account in the form of an irrevocable confirmed letter of credit and notify the patent holder thereof or may send the patent holder an offer to conclude an agreement for the payment of compensation specifying the conditions and terms for payment of compensation.

The right of JSC Pharmasyntez to produce remdesivir using the inventions protected in Russia by Eurasian patents without the patent holders' consent was extended until the end of 2022 (Government Order No. 3915-r dated December 28, 2021)

Under Article 1360 of the Civil Code, on December 28, 2021, the Government adopted Order No. 3915-r allowing JSC Pharmasyntez to use the inventions protected by Eurasian patents Nos. EA025252, EA025311, EA029712, EA020659, EA032239, EA038141, and EA028742 owned by the Gilead Group of Companies for one year without the patent holders' consent in order to provide the population of the Russian Federation with pharmaceutical drugs

under the international non-proprietary name Remdesivir (the previous similar authorization was issued to Pharmasyntez on December 31, 2020, by Order No. 3718-r). The Ministry of Health is instructed to notify thereof the patent holders until January 31, 2022, and the Ministry of Industry and Trade is obliged to ensure control over the payment of a compensation to the patent holders by Joint-Stock Company Pharmasyntez in accordance with the Methods previously approved by the Government.

Rospatent published Guidelines for Consideration of Applications for Geographical Indications and Appellations of Origin of Goods

On February 9, the Guidelines were published on the Rospatent's website in order to provide methodological support for the examination of applications for geographical indications and appellations of origin of goods. The Guidelines are intended to ensure uniform examination practice when applying the Code, the Regulations, the Rules, and the Requirements. The Guidelines reflect the existing approaches to the consideration of applications for geographical appellations of origin of goods. The provisions of the Guidelines are non-regulatory. It is addressed, first of all, to the experts, whose competence includes the issues of providing legal protection to geographical indications and appellations of origin of goods, but it can also be used by the applicants and their representatives when dealing with Rospatent in connection with the examination of an application for a geographical indication and an appellation of origin of goods.

A new Head of Rospatent was appointed

Order of the Government No. 271-r dated February 17, 2022, appointed Yury Zubov, who previously was the Deputy Head of Rospatent, as the Head of Rospatent.

DISPUTES OVER GRANTING AND TERMINATION OF PROTECTION

Payment of a fee for trademark registration and even its registration do not prevent the applicant from filing an objection to the decision; the key point is to meet the deadline for filing such an objection (Resolution of the Presidium of the IP Court dated October 15, 2021, on case No. SIP-260/2021)

An individual entrepreneur turned to Rospatent filing application No. 2019767912 for trademark registration. Rospatent decided to register the trademark for the goods of class 30 according to the ICGS "coffee; coffee-based beverages; tea-based beverages." Registration of the designation for the rest of the goods of class 30 according to the ICGS and all services of class 43 according to ICGS was declined. Based on the decision on state registration and information on the payment by the applicant of the relevant fees, Rospatent performed state registration of trademark No. 795242.

The Applicant filed an objection to the Rospatent's decision on refusal to register the trademark for the goods and services. Rospatent refused to accept the objection for consideration based on Clauses 14 and 13 of the Rules for Consideration of Disputes by Rospatent (Order of the Ministry of Education and Science and the Ministry of Economic Development No. 644/261 dated April 30, 2020).

In the Rules of the Chamber for Patent Disputes (Clause 13), the registration of an application is stated as a ground for refusal to accept an objection for consideration.

Having disagreed with the refusal to consider the objection, the Applicant turned to the IP Court.

Recognizing the Rospatent's refusal as illegal, the IP Court stated the following points.

The Rospatent's arguments are based on incorrect interpretation by this administrative body of Clause 1 of Article 1500 of the Civil Code.

According to the literal meaning of this norm, the right to challenge the Rospatent's decision on registration of a trademark by filing an objection is limited only by the deadline for filing such an objection: four months from the date of such a decision.

To the extent where the trademark registration raises no objections of Rospatent, the trademark may be registered, which does not prevent from challenging the rest of the decision of the administrative body.

There is no other meaning in the norm of Clause 1 of Article 1500 of the Civil Code.

Rospatent disagreed with this point and challenged the decision in the Presidium of the IP Court.

The Presidium dismissed the Rospatent's claims and upheld the decision of the court of first instance.

At the same time, the Presidium of the IP Court noted that, in the case under consideration, Rospatent actually made two decisions: the very decision to register the trademark for a number of goods and the decision to refuse to register the trademark for the remaining goods and all claimed services. Therefore, for those goods and services, for which registration of the trademark was refused, the trademark is not considered as registered. Accordingly, the Applicant retains the right to challenge the decision to refuse to register the claimed designation before the expiration of the period established by law. For this reason, Rospatent had no grounds to assert that "the status of the claimed designation has changed to a registered trademark."

In this case, the Rospatent's decision regarding the refusal to register the trademark is challenged based on Article 1500 of the Civil Code. Moreover, the registration (not challenged by the Applicant for trademark registration) for any other goods does not prevent such challenging.

When registering a trademark, including the name of a saint, for goods and services not related to the religious activities, finding the fact that the existence of saints with the relevant name is known in the religious culture is sufficient to recognize this trademark to be contradicting the public interest (resolution of the Presidium of the IP Court dated October 29,

2021, ruling of the Supreme Court dated January 13, 2022, on case No. SIP-181/2021)

SAINT-VINCENT
Trademark No. 196200

By the decision of Rospatent, which satisfied the appeal of Wine Style LLC, the registration of trademark No. 196200 registered in the name of Alexander Cellars LLC for goods of classes 16 and 33 and services of classes 35, 39, and 42 according to the ICGS was canceled.

The appeal was reasoned by the fact that the registration of the disputed trademark reproducing the name of the saint contradicts the public interest and insults the feelings of religious believers as well as forms a false attitude of consumers to alcohol products as the products approved by the church and therefore contradicts the principles of humanity and morality.

Rospatent based its decision to satisfy the appeal, inter alia, on the letter received in response to its requests from the Legal Department of the Moscow Patriarch's Office and the opinion of the Moscow Theological Academy.

Upon the right holder's claim, the IP Court (first instance) invalidated the Rospatent's decision and obliged it to reconsider the appeal (we wrote about this case previously: see https://www.gorodissky.com/publications/newsletters/overview-of-news-in-the-field-of-intellectual-property-russia-cis-january-to-august-2021/.

The court of first instance considered that the conclusion about the semantic meaning of the disputed trademark was made by Rospatent in an incomplete examination of the evidence available in the case files and without taking into account the facts objectively existing at the time of consideration of the appeal (historical data and special knowledge), which exclude the conclusion about unambiguous associations of the "SAINT VINCENT" designation with any Christian saint and, as a result, the conclusion about the religious undertone of its semantic meaning. The court has pointed out that the conclusion of Rospatent that the disputed designation can offend the feelings of believers is based on single evidence, which is evaluated by the court critically, since it is refuted by other evidence submitted to the files of the case, including the opinions of specialists. The said conclusion of the administrative body is made without investigating and evaluating other evidence submitted to the files of the case as well as without taking into account the actual content of the public interests and principles (in particular, religious ones), which allegedly could be violated through the use of the disputed designation.

The IP Court's decision was appealed in the Presidium of the IP Court by both Rospatent and the person who filed the appeal against the mark.

The Presidium of the IP Court granted the cassation appeals stating the following points.

As per the law, no registration of designations contradicting the public interest and the principles of humanity and morality as trademarks or their elements is allowed. The designations contradicting the public interests and the principles of humanity and morality include, in particular, obscene words and images, antihuman appeals that insult human dignity and religious feelings, etc. Moreover, the list of cases when state registration of a trademark may contradict the public interest is not exhaustive.

The prohibition to register the said designations as trademarks is reasoned by the need to keep order, protect the historical and cultural valuables of society, and protect the moral feelings and values of goods consumers.

Having ascertained the actual existence of saints with the name of Vincent in the Christian culture, the court of first instance erroneously failed to take into account the position stated in the responses of the Legal Department of the Moscow Patriarch's Office and the Moscow Theological Academy that the use of the name of a saint recognized by the religious denomination registered in accordance with the prescribed procedure or of his image cannot be covered by the exclusive right of any individual or legal entity that is not a religious organization or not established by it.

In the case under consideration, for the goods and services not related to the religious activities, the fact that the existence of saints with the name of Vincent found by Rospatent and confirmed by the court of first instance is known in the religious culture is sufficient to recognize the non-compliance of the disputed trademark with the requirements of Clause 2 of Article 6 of the Law on Trademarks.

By the decision of the Presidium of the IP Court, the cassation appeals were satisfied, the decision of the court of first instance was reversed, and the right holder's claim to invalidate the Rospatent's decision to satisfy the appeal against the grant of legal protection to the trademark under certificate of the Russian Federation No. 196200 was dismissed.

The Supreme Court refused to refer the cassation appeal to the Collegium on Economic Disputes for consideration.

DISPUTES OVER INFRINGEMENT OF THE EXCLUSIVE RIGHT

If a compensation for the infringement of the exclusive rights is reduced below the minimum limit, the defendant's court costs may not be imposed on the right holder (Resolution of the Constitutional Court dated October 28, 2021, No. 46-P)

The Constitutional Court considered the constitutionality of Part 1 of Article 110 of the Commercial Procedure Code, which establishes that, in case the claim is satisfied in part, the court costs should be charged to the parties to the case pro rata to their satisfied claims.

The reason for this was the claim of the right holder, in whose favor the decision of the commercial court recovered compensation for the infringement of the exclusive rights to the trademarks belonging to him. However, due to the fact that, following consideration of the case, the court concluded that the compensation should be reduced (although the right holder claimed the minimum compensation), the claimant's court costs were reimbursed in part. In addition, the relevant proportion of the court costs incurred by the defendant was recovered from the claimant, and the amount awarded to the defendant exceeded the compensation received by the claimant.

The claimant believed that the challenged norm does not comply with the Constitution, since it allows the court to impose the defendant's court costs on the right holder while the defendant was recognized as an infringer of the exclusive rights.

The Constitutional Court came to the conclusion that the reduction by the court of the compensation for the infringement of exclusive rights in cases where the claim for its recovery is filed by the right holder in the minimum amount provided for by the law cannot be treated as satisfaction of the claims in part. The adoption of such a judgment actually means that the infringement is proven, and the reduction in the compensation is not due to the illegality (excess) of the claim but to the need to respect the principles of justice and adequacy.
In this regard, the challenged norm is recognized as not contradicting the Constitution since in its meaning it does not imply in these circumstances recovery from the right holder of the court costs incurred by the infringer of the exclusive rights.
As a reminder, in situations where the court satisfies in part the right holder's claim for compensation claimed in the amount exceeding the minimum amount provided for by law, the court practice proceeds from the fact that the defendant's court costs may be charged to the right holder in a reasonable amount not exceeding the compensation recovered (Clause 47 of the Review approved by the Presidium of the Supreme Court on July 22, 2020).

The right holder's court costs should be reimbursed pro rata to the satisfied claims (Ruling of the Constitutional Court No. 2486-O dated November 30, 2021)

Citizen D. V. Konstantinov challenged the constitutionality of Part I of Article 98 "Apportionment of Court Costs between the Parties to the Case" of the Civil Procedure Code in conjunction with the third paragraph of Clause 3 of Article 1252 "Protection of Exclusive Rights" of the Civil Code.
The claim of D. V. Konstantinov for recovery of compensation amounting to 15,000 rubles for each infringement of the exclusive right to the work, libretto of the performance entitled "Khanuma," totaling 2,340,000 rubles, was satisfied in part: the awarded compensation was reduced based on the provisions of Article 1252 of the Civil Code and amounted to 1,084,497.52 rubles. The decision of the court of first instance was upheld by the court of appeal and the court of cassation. The ruling rendered by the Judge of the Supreme Court of the Russian Federation refused to refer the appellant's cassation appeal for consideration in the court session of the Collegium on Civil Cases of the Supreme Court of the Russian Federation.
According to the claimant, Part I of Article 98 of the Civil Procedure Code of the Russian Federation does not comply with the Constitution to the extent that the provisions of this Part in conjunction with the third paragraph of Clause 3 of Article 1252 of the Civil Code allow the courts to attribute to the right holder in whose favor the court recovered the compensation for the infringement of his exclusive rights the court costs pro rata to the satisfied claims, taking into account the reduction by the court of the compensation below the limits established by the Civil Code.
When refusing to accept the complaint for consideration, the Constitutional Court stated the following points.
The apportionment of court costs between the parties to cases on infringement of exclusive rights to intellectual property, which are resolved within commercial proceedings, was considered by the Constitutional Court. In Resolution No. 46-P dated October 28, 2021, the Constitutional Court recognized Part 1 of Article 110 "Apportionment of Court Costs between the Parties to the Case" of the Commercial Procedure Code of the Russian Federation as not contradicting the Constitution of the Russian Federation, since in its constitutional and legal meaning in the system of the current legal regulation it does not imply recovery of the court costs incurred by the infringer of exclusive intellectual property rights from the right holder of such rights, when, having established the infringement of the exclusive rights and satisfying the right holder's claims for payment of the compensation for their infringement asserted in the minimum amount provided for by the law for the relevant infringement, the commercial court decides to reduce such a compensation.
The provisions of Article 98 of the Civil Procedure Code of the Russian Federation, by providing for the procedure for the apportionment of court costs between the parties, ensure the implementation of guarantees for the effective legal remedies of the parties in this regard. These provisions considered inter alia in conjunction with the provisions of the third paragraph of Clause 3 of Article 1252 of the Civil Code (taking into account the fact that the compensation asserted by D. V. Konstantinov for the infringement of exclusive rights was not the minimum amount established by the law and the court dismissed one of the claims of the claimant) may not be considered as violating the constitutional rights of the claimant in the regard specified by him.

OTHER DISPUTES

Any additional patent certifying the extension of the validity period of the exclusive right, issued in violation, may be challenged by the interested party in the IP Court based on Sub-clause 1 of Clause 1 of Article 1398 of the Civil Code. This norm is to be applied by analogy, since a possibility to challenge an illegally issued additional patent has the same meaning as a possibility to challenge the master patent (Resolution of the Presidium of the IP Court dated October 18, 2021, on case No. SIP-461/2020)

Patent for the invention "Insulin Derivatives" No. 2352581 was issued to Danish company Novo Nordisk on April 20, 2009, valid until July 22, 2024. Upon the patent holder's application filed based on Clause 2 of Article 1363 of the Civil Code, **by the Rospatent decision dated May 19, 2014,** the validity period of the patent was extended.
On **May 29, 2020,** Russian company Geropharm filed a claim with the IP Court to **recognize as illegal the actions of Rospatent** to extend the validity period of patent of the Russian Federation No. 2352581, since, in the opinion of Geropharm (the "Claimant"), the extension of the validity period of the disputed patent contradicts the provisions of Article 1363 of the Civil Code.
The IP Court dismissed the claims pointing out the omission of the three-month time limit provided for by Part 4 of Article 198 of the Commercial Procedure Code to challenge the Rospatent's decision. The Presidium of the IP Court, where the Claimant filed a cassation appeal, supported the position of the court of first instance regarding the Claimant's omission of the limitation period.

While upholding the decision of the court of first instance, the Presidium of the IP Court, nevertheless, expressed its position as to whether the failure to comply with the conditions for the extension of the patent validity, as the Claimant insisted, could be an independent ground for challenging the validity of the additional (extended) patent.

The Presidium of the IP Court pointed out that Clause 5 of Article 1363 of the Civil Code states that an additional (extended) patent should be challenged on the grounds provided for by Article 1398 of the Civil Code, but such special grounds are not set out in Article 1398 of the Civil Code. Article 1398 of the Civil Code applies to an additional (extended) patent only to the extent that the master patent is challenged (general conditions for challenging the patent validity), but, in violation of Clause 5 of Article 1363 of the Civil Code, Article 1398 of the Civil Code does not set out any grounds for challenging an additional (extended) patent.

This fact points to a gap in the legislation in terms of the grounds for challenging additional patents. Therefore, an additional patent issued in violation of the conditions of Clause 2 of Article 1363 of the Civil Code may be challenged. For these reasons, Clause 1 of Article 6 and Sub-clause 1 of Clause 1 of Article 1398 of the Civil Code should be applied by analogy of law.

A possibility to verify the compliance of an additional (extended) patent with the special conditions for its issue is guaranteed by Article 46 of the Constitution of the Russian Federation and may not be restricted solely because the law states no special grounds for such verification.

ROSPATENT PRACTICE

1. Well-Known Trade Marks

For the period from September 2021 to March 2022, Rospatent recognized the following trademarks as well-known.

Trade Mark	
Right Holder	JSC Izhevsky Mekhanichesky Zavod, Izhevsk
Goods/Services	pistols; airgun pistols
Date of Becoming Well-Known	April 18, 2017

Trade Mark	госуслуги
Right Holder	Russia represented by the Ministry of Digital Development, Communications and Mass Media
Goods/Services	access to public and municipal services on the Internet
Date of Becoming Well-Known	January 01, 2021

Trade Mark	Российская Академия Наук
Right Holder	Federal State Budgetary Institution Russian Academy of Sciences, Moscow
Goods/Services	appliances for scientific purposes; printed goods; publishing; training of specialists, advanced training, libraries handing out books, holding of symposia, seminars, conferences, meetings; research and development, human sciences research, technical research, professional consulting not related to business operations; computer programming; medical services
Date of Becoming Well-Known	February 08, 1999

Trade Mark	
Right Holder	Saint Petersburg State Unitary Enterprise St. Petersburg Metropoliten
Goods/Services	rapid transit services
Date of Becoming Well-Known	January 01, 2018

Trade Mark	Московский провансаль
Right Holder	Fats and Oil Integrated Works, JSC, Ekaterinburg
Goods/Services	mayonnaise
Date of Becoming Well-Known	August 01, 2021

Trade Mark	befree
Right Holder	Melon Fashion Group
Goods/Services	29 – sausage products
Date of Becoming Well-Known	December 31, 2019

Trade Mark	Чебупели
Right Holder	Myasnaya Galereya CJSC, Vladimir
Goods/Services	ready-made frozen fresh dough products with filling
Date of Becoming Well-Known	January 01, 2021

Trade Mark	О'КЕЙ
Right Holder	O'KEY LLC
Goods/Services	services of stores for retail sale of goods
Date of Becoming Well-Known	January 01, 2016

Trade Mark	Горячая штучка!
Right Holder	Myasnaya Galereya CJSC, Vladimir
Goods/Services	frozen dough products with filling and frozen ready-made breaded chicken products
Date of Becoming Well-Known	September 01, 2021

Trade Mark	РУССКОЕ ЛОТО
Right Holder	GSL JSC
Goods/Services	lotteries, lottery tickets, lottery organization
Date of Becoming Well-Known	December 31, 2017

Trade Mark	СПОРТЛОТО
Right Holder	Sportloto LLC
Goods/Services	lotteries, lottery tickets, lottery organization
Date of Becoming Well-Known	December 31, 2016

During the same period, upon the appeal of the interested party, Rospatent reversed its decision to recognize the HIGHSCREEN designation (No. 158) as well-known.

2. Appellations of Origin and Geographical Indications

During the period from September 2021 to March 2022, Rospatent registered six geographical indications and two appellations of origin:

Number in the Register of Geographical Indications and Appellations of Origin	Geographical indication/ appellation of origin	Goods	Geographic location
270 (GI)	**COD LIVER IN THE MURMANSK STYLE**	canned cod liver	Murmansk, Murmansk Region
271 (GI)	**KUBAN. TAMAN PENINSULA**	wines, sparkling wines	Kuban.Taman Peninsula wine and wine-producing region of Krasnodar Territory
272 (GI)	**ORDYNSKAYA PAINTING**	decorative and utilitarian painted woodware	Ordynsky District, Novosibirsk Region
273	**KARACHAY MUTTON**	meat, meat products, mutton by-products	Karachay-Cherkess Republic
274	**KARACHI MUD**	therapeutic mud	Ozero-Karachi Health Resort Area, Chanovsky District, Novosibirsk Region, within the Lake Karachi Field
275 (GI)	**KUBAN. NOVOROSSIYSK**	wines, sparkling wines	Kuban. Novorossiysk wine and wine-producing region of Krasnodar Territory
276	**CUBA**	rum	Cuba
277 (GI)	**KUBAN. GELENDZHIK**	wines	Napa Valley wine-producing region located in Napa County, California, USA
278 (GI)	**NAPA VALLEY**	wines	Republic of Altai
279 (GI)	**NOVOROSSIYSK CEMENT**	cement	Novorossiysk of Krasnodar Territory
280 (GI)	**MAYKOP VODKA**	vodka	Maykop, Republic of Adygeya

INTELLECTUAL PROPERTY NEWS OF THE EURASIAN ECONOMIC UNION AND NEIGHBORING COUNTRIES

1. EAPO and EAEU

The first Eurasian patent for industrial design was published

October 25, 2021 The Eurasian Patent Office (EAPO) published Eurasian patent for industrial design number 000001 owned by the Russian Federation, on which behalf State Space Corporation Roscosmos is acting.
The publication of information about the issue of Eurasian patents for industrial designs is provided for by Article 15(3) of the Protocol on the Protection of Industrial Designs to the Eurasian Patent Convention.
The information about Eurasian patents for industrial designs will be published using the continuous publication technology in the EAPO Bulletin Industrial Designs (Eurasian Applications and Eurasian Patents). The published information will include bibliographic data as well as the title, priority data, and images of the industrial design.

The Protocol on the Protection of Industrial Designs became effective for the Republic of Tajikistan

On November 30, 2021, the Protocol on the Protection of Industrial Designs to the Eurasian Patent Convention adopted on September 9, 2019, at a diplomatic conference in Nur-Sultan, Republic of Kazakhstan, became effective for the Republic of Tajikistan.
In accordance with the notice from the depositary of the Protocol (the Director General of the World Intellectual Property Organization) and Article 22(4) of the Protocol, this interna-

tional treaty became effective for the Republic of Tajikistan three months after the said state had deposited the relevant instrument of ratification with the depository for storage. Therefore, Eurasian patents for industrial designs issued upon Eurasian applications filed from November 30, 2021, will be valid in the Republic of Tajikistan.

The EAPO expanded its participation in the WIPO DAS for industrial designs

Starting from December 1, 2021, the Eurasian Patent Office (EAPO) provides a possibility to use the Digital Access Service for priority documents of the World Intellectual Property Organization (WIPO DAS) with regard to applications for industrial designs.
Starting from this date, when applying for priority on a Eurasian application for industrial design as per Rule 80(1) of the Patent Regulations to the Eurasian Patent Convention based on the prior application previously placed in the WIPO DAS digital library, applicants may, instead of submitting a certified copy of the prior application to the EAPO, submit an access code to this application in the WIPO DAS.
An applicant may deposit a prior application for industrial design in the WIPO DAS digital library through the International Bureau of the World Intellectual Property Organization or another industrial property office that accepts the relevant applications for industrial designs for depositing in the WIPO DAS digital library.
The EAPO also acts as a depositing office in the WIPO DAS by placing in this digital library Eurasian applications for industrial designs based on requests from the applicants.

The PPH program between EAPO and KIPO became permanent

The Eurasian Patent Office (EAPO) informs that, since January 1, 2022, the Patent Prosecution Highway (PPH) program between the EAPO and the Korean Intellectual Property Office (KIPO) became permanent.
The PPH program is based on the Memorandum of Understanding on the Pilot Patent Prosecution Highway between the EAPO and KIPO signed on September 25, 2018.

The annual report of the Eurasian Patent Organization for 2021 was published

Examination of Eurasian applications for inventions. Effect of Eurasian patents for inventions
In 2021, the EAPO received **3,643** applications for Eurasian patents for inventions, of which **657** applications (**18**%) were filed by the applicants from the EAPO member countries. In 2021, there were **8**% submitted applications more than in 2020.
The international applications accounted for the bulk of Eurasian applications received in 2021: **2,764** applications.
In 2021, **2,416** Eurasian patents were issued. Of these, **1,925** patents (**79.68**%) were granted to the applicants from non-EAPO member states.
As of December 31, 2021, there were 17,642 Eurasian patents effective in the territory of the EAPC member states and the Republic of Moldova.
Examination of Eurasian applications for industrial designs
Admission of Eurasian applications for industrial designs started on June 1, 2021. In total, **92** Eurasian applications for industrial designs were received in 2021, while the total number of applied industrial designs amounted to **190**. Of these, **77** (**83.7**%) were submitted by the applicants from the EAPO member countries, while **15** (**16.3**%) were submitted by the applicants from other countries.
7 Eurasian patents were issued, with the total number of registered industrial designs being **16**.

New president of the Eurasian Patent Office

Grigory Ivliev (former Head of Rospatent) took up office as the EAPO President. Saule Tlevlesova, who has held this position since 2016, left her office. The EAPO President changed as a result of the regular elections held on August 9–10, 2021, during the meeting of the EAPO Administrative Council.

2. Belarus

Information about protection of intellectual property rights

The official website of the State Customs Committee of the Republic of Belarus now has a section entitled "Protection of Intellectual Property Rights," where you can find the information included in the National Customs Register of Intellectual Property Subject Matters and learn more about the measures taken by the customs authorities to protect intellectual property rights.
In addition, this section provides the information about the procedure for filing applications for these measures of protection and about the obligation to compensate for property damage as well as about the work of the Eurasian Economic Commission and customs services of the member states of the Eurasian Economic Union on this issue.

The codification of legislation in the field of intellectual property was considered

On November 3, 2021, a meeting of the Council on Issues of Legal and Judicial Activity under the President of the Republic of Belarus was held.
The meeting considered the issue "On improvement of national legislation in the field of intellectual property law and its codification."
It was noted that the State Committee on Science and Technology concluded that it is advisable to perform codification. Its main advantages include that it will make it possible to systematize legislation in the field of intellectual property, to exclude doubling in legal regulation of provisions contained in different laws, to eliminate existing regulatory gaps and contradictions between regulations, and also to unify the terminology of regulations.

The Strategy in the field of intellectual property until 2030 was approved.

Decree of the Council of Ministers of the Republic of Belarus dated November 24, 2021, No. 672 established the following: how the state policy in the field of intellectual property will be formed up, what goals and objectives are set, and what ways of implementation are planned.
The Strategy determines areas of improvement of the national intellectual property system and goals and objectives of the state policy in this area. Its implementation provides for the transformation of intellectual property into an effective tool for innovative and socio-cultural development of Belarus.

The Plenum of the Supreme Court of the Republic of Belarus rendered Resolution No. 10 dated December 23, 2021, On the Application of Legislation in the Consideration of Civil Cases in Disputes Related to the Creation, Legal Protection, and Use of Inventions, Utility Models, and Industrial Designs

The rendered resolution of the Plenum may be roughly divided into two sections. The **first section** explains how to apply the provisions of procedural law in such disputes. The explanations deal with the jurisdiction over cases, the requirements for procedural documents when applying for judicial protection, compliance with the procedure for resolving disputes and the time limits of recourse to a court, the legal consequences of non-compliance with these requirements, the grounds and procedure for applying injunctive reliefs.
The **second section** explains how to apply the provisions of substantive law governing the creation, legal protection, and use of inventions, utility models, and industrial designs. These explanations relate to the grounds and procedure for acquiring exclusive rights, the specific features of their protection, the procedure for disposing of the exclusive right, and the legal consequences of non-compliance with the legal requirements in this regard. It also explains how to apply legislation on employee's subject matters, the grounds and procedure for payment of remuneration, the validity period of patents, the conditions and procedure for issuing a compulsory license.

Belarus accedes to the Protocol on the Protection of Industrial Designs to the Eurasian Patent Convention

On December 31, 2021, the President of the Republic of Belarus signed the Law of the Republic of Belarus On Accession of the Republic of Belarus to the Protocol on the Protection of Industrial Designs to the Eurasian Patent Convention dated September 9, 1994.
On January 19, 2022, at the headquarters of the World Intellectual Property Organization (WIPO), the instrument of accession of the Republic of Belarus to the Protocol on the Protection of Industrial Designs to the Eurasian Patent Convention was delivered to the depositary of the Protocol on the Protection of Industrial Designs — the WIPO Director General.
The Protocol on the Protection of Industrial Designs will become effective for the Republic of Belarus on April 19, 2022.

3. Kazakhstan

About amendments to the legislation in the field of intellectual property

On December 10, the Central Communications Service held a press conference dedicated to the amendments to the legislation in the field of intellectual property.
According to the participants, in order to further improve the legislation, the deputies of the Mazhilis of the Parliament of Kazakhstan initiated amendments on intellectual property (a draft law is under consideration in the Mazhilis).
The amendments are aimed at increasing the transparency and efficiency of collective organizations, introducing protection of a new industrial property subject matter being a geographical indication, providing short-term protection for non-registered industrial designs, introducing an "opposition" system, and regulating the activities of patent attorneys.

4. Tajikistan

Results of the Patent Office's operations for 2021

On January 10, the results of the Office's work in 2021 were summarized at the National Center for Patents and Information (Patent Office of Tajikistan).
In 2021, the Office received 121 applications for obtaining a minor patent for invention, 9 applications for granting a patent for invention, and 6 applications for obtaining a Eurasian patent.
The number of Eurasian patents valid in Tajikistan is 6,459.
42 applications indicating Tajikistan were registered under the Hague System for the International Registration of Industrial Designs. Since joining the Hague System (in 2012), a total of 843 applications indicating Tajikistan were submitted, of which 599 were registered.
The Office received 593 applications for trademark registration in accordance with the national procedure, including 253 applications from national applicants and 340 applications from foreign applicants.
In 2021, the Office received 2,022 applications for international registration of trademarks, 2,671 applications were considered. Of these, there were 1,716 applications fully registered, 254 applications with non-protectable elements, 184 applications registered with regard to some of the goods and services specified in the international registration, and 517 applications fully rejected.

5. Uzbekistan

Some laws of Uzbekistan on intellectual property were amended

The Law of the Republic of Uzbekistan On Amendments to Certain Legislative Acts of the Republic of Uzbekistan in Connection with Improvement of Legislation on Intellectual Property Subject Matters (No. ZRU-749 dated February 02, 2022) was adopted.
The amendments were made to the following laws.
The law On Inventions, Utility Models, and Industrial Designs was supplemented with a section on fines for violation of the legislation on industrial property.
In the law On Trademarks, Service Marks, and Appellations of Origin of Goods:
- The right to register a trademark is granted to any individuals, not only to those engaged in business activities.
- The law is supplemented with an article on fines on legal entities for violation of the legislation on trademarks and appellations of origin of goods.

In the law On Trade Names:
- The law is supplemented with an article on fines for violation of the law on trade names.

The agreement between the CIS countries was ratified

On February 7, the President of Uzbekistan signed the Law of the Republic of Uzbekistan On Ratification of the Agreement on Cooperation of CIS Member States on Prevention and Suppression of Use of False Trademarks and Geographical Indications (Minsk, May 28, 2021).

NEWS

9 DECEMBER 2021

ILLUSTRATED BOOKS FOR WEAK-EYED CHILDREN

Gorodissky & Partners keeps participating for the 16th year in a row in the charity program "Books for Gifts". This year 15 weak-eyed children received subscriptions to illustrated embossed books with interactive and multimedia supplements.

4 FEBRUARY — 4 FEBRUARY 2022

VIDEO SEMINAR "PRIVACY: DEFINITION AND TYPES"

"Consultant Plus" legal assistance system published the first video seminar "Privacy: definition and types" by Stanislav Rumyantsev, Ph.D., CIPP/E, Senior Lawyer (Gorodissky & Partners, Moscow).

The series of workshops on privacy will include five video seminars.

PHOTO: STANISLAV RUMYANTSEV, PH.D., CIPP/E, SENIOR LAWYER (GORODISSKY & PARTNERS, MOSCOW)

11 FEBRUARY 2022

PRAVO-300

8 practitioners of Gorodissky & Partners are recommended among the best in Russia by the Federal rating of law firms "Pravo-300" in following nominations: IP consulting, IP registration, IP litigation, and TMT.

Our congratulations to: Yuri Kuznetsov, Partner, Russian Patent Attorney, Eurasian Patent & Design Attorney, Evgeny Aleksandrov, Ph.D., Partner, Russian Trademark & Design Attorney, Eurasian Design Attorney, Sergey Medvedev, Ph.D., LL.M., Partner, Russian Trademark & Design Attorney, Sergey Vasiliev, Ph.D, Partner, Russian Trademark Attorney,

ПРАВО 300

Alexey Kratiuk, Partner, Russian Trademark & Design Attorney, Eurasian Design Attorney, Viacheslav Rybchak, Partner, Russian Trademark & Design Attorney, Eurasian Design Attorney, Stanislav Rumyantsev, Ph.D., CIPP/E, Senior Lawyer, and Anton Melnikov, LL.M, Senior Lawyer.

17 FEBRUARY 2022

EDUCATIONAL PROGRAM "DESIGN WEEK 2022"

Nikolay Ptitsyn, Regional Director, Trademark Attorney, (Gorodissky & Partners, Vladivostok) made a presentation on the protection of corporate intellectual property, corporate RIA and organization of the internal patent department in the frame of the educational program "Design Week 2022", organized by the Russian Foundation for Educational Programs "Economics and Management".

PHOTO: NIKOLAY PTITSYN, REGIONAL DIRECTOR, TRADEMARK ATTORNEY (GORODISSKY & PARTNERS, VLADIVOSTOK)

24 FEBRUARY 2022

ONLINE TRAINING "INTRODUCTION TO THE INTERNATIONAL PATENT SYSTEM"

Yuri Kuznetsov, Partner, Russian Patent Attorney, Eurasian Patent & Design Attorney, Sergey Dorofeev, Partner, Russian & Eurasian Patent Attorney, Valentin Kirillov, Partner, Russian & Eurasian Patent Attorney (all — Gorodissky & Partners, Moscow) and Arman Sauganbayev, Kazakh Patent Attorney, Regional Director (Gorodissky & Partners, Nur-Sultan city) lectured for the online training seminar "Introduction to the international patenting system" held by Gorodissky & Partners for the Kazakhstan Science Fund.

The lecturers delivered presentations on: "International patent system — essence, institutions, procedures, features" and "Eurasian patent system as an example of a regional patent system".

10 MARCH 2022

ONLINE MEETING "NEW EXPLOITATION STRATEGY OF IP IN THE POST COVID-19 ERA"

Yury Kuznetsov, Partner, Russian & Eurasian Patent Attorney (Gorodissky & Partners, Moscow) spoke at the Online Meeting of IP Collegium "New Exploitation Strategy of IP in the Post Covid-19 Era" held by Japan Institute for Promoting Invention and Innovation (JIPII).

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