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CIVIL CODE OF THE RUSSIAN FEDERATION

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FOURTH PART

DIVISION VII. RIGHTS TO THE RESULTS OF INTELLECTUAL ACTIVITY AND TO MEANS OF INDIVIDUALIZATION

CHAPTER 69. GENERAL PROVISIONS

Article 1225. **Protectable Results of Intellectual Activity and Means of Individualization**

1. Results of intellectual activity and means equated to them of individualization of legal persons, goods, work, services, and enterprises that are granted legal protection (intellectual property) are:

1) works of scholarship, literature, and art;
2) computer programs;
3) databases;
4) performances;
5) phonograms;
6) communication over the air or by cable of radio- or television transmissions (broadcast by organizations of over-the-air or cable broadcasting);
7) inventions;
8) utility models;
9) industrial designs;
10) achievements of breeding;
11) topology of integrated circuits;
12) secrets of production (know-how);
13) firm names;
14) trademarks and service marks;
15) names of places of origin of goods;
16) commercial designations.

2. Intellectual property shall be protected by statute.

Article 1226. **Intellectual Rights**

Intellectual rights shall be recognized for the results of intellectual activity and means of individualization equated to them (results of intellectual activity and means of individualization), which include an exclusive right that is a property right; and, in the cases provided by the present Code, also personal non-property rights and other rights (droit de suite, right of access, and others).

Article 1227. **Intellectual Rights and the Right of Ownership**

1. Intellectual rights do not depend upon the right of ownership to the physical carrier (or thing) in which the respective result of intellectual activity (or means of individualization) is expressed.

2. The transfer of the right of ownership to a thing does not entail the transfer or granting of the intellectual rights to the result of intellectual activity or to the means of individualization expressed in this thing, with the exception of the case provided by Paragraph 2 of Article 1291 of the present Code.

Article 1228. **Author of a Result of Intellectual Activity**

1. The author of a result of intellectual activity is the citizen by whose creative work the result has been made.

Citizens who have not made a personal creative contribution in the making of such a result, including those who have rendered merely technical, consulting, organizational, or financial support or assistance to the author or who have merely assisted in the formalization of rights to such a result or its use, and also citizens who have exercised supervision of the performance of the corresponding work, are not considered authors of the result of intellectual activity.

2. The right of authorship belongs to the author of a result of intellectual activity and, in the cases provided by the present Code, the right to the name and other personal nonproperty rights.

The right of authorship, the right to the name and other personal nonproperty rights of the author are inalienable and non-transferable. A renunciation of these rights is void.

Authorship and the name of the author are protected without limit of time. After the death of the author, protection of his authorship and name may be conducted by any interested person, with the exception of the cases provided by Paragraph 2 of Article 1267 and Paragraph 2 of Article 1316 of the Present Code.

3. The exclusive right to a result of intellectual activity made by creative work shall initially arise in its author. This right may be transferred by the author to another person by contract and also may pass to other persons on other grounds established by a statute.

4. The rights to a result of intellectual activity created by the joint creative work of two or more citizens (co-authorship) belongs to the co-authors jointly.

Article 1229. **Exclusive Right**

1. The citizen or legal person holding the exclusive right to a result of intellectual activity or to a means of individualization (the rightholder) has the right to use this result or this means at his discretion in any manner not contrary to a statute. The rightholder may alienate an exclusive right to a result of intellectual activity or to a means of individualization (Article 1233), unless provided otherwise by the present Code.

The rightholder may at his discretion permit or prohibit other persons to use the result of intellectual activity or means of individualization. Absence of a prohibition shall not be considered to be consent (or permission).

Other persons may not use the corresponding result of intellectual activity or means of individualization without the consent of the rightholder, with the exception of cases provided by the present Code. The use of a result of intellectual activity or means of individualization (including their use in ways provided by the present Code), if such use is conducted without the consent of the rightholder, is unlawful and shall entail the responsibility established by the present Code and other statutes, with the exception of cases when the use of a result of intellectual activity or means of individualization by persons other than the rightholder without his consent is allowed by the present Code.

2. The exclusive right to a result of intellectual activity or to a means of individualization (except the exclusive right to a firm name) may belong to one person or to several persons jointly.

3. In the case when the exclusive right to the result of intellectual activity or means of individualization belongs to several persons jointly each of the rightholders shall have the right to use such a result or such a means at his discretion, unless the present Code or an agreement between the rightholders has provided otherwise. Relations of the persons to whom the exclusive right belongs jointly shall be determined by agreement among them.

Income from the joint use of the result of intellectual activity or means of individualization shall be distributed among all the rightholders equally, unless otherwise provided by an agreement among them.

Disposition of the exclusive right to the result of intellectual activity or to a means of individualization shall be made by the rightholders jointly, unless otherwise provided by the present Code.

4. In the cases provided by Paragraph 3 of Article 1454, Paragraph 2 of Article 1466, Paragraph 1 of Article 1510, and Paragraph 1 of Article 1519 of the present Code, independent exclusive rights to one and the same result of intellectual activity or to one and the same means of individualization may belong simultaneously to various persons.

5. Limitations on exclusive rights to results of intellectual activity and to a means of individualization including in the case when use of the results of intellectual activity is allowed without the consent of the rightholders, but with retention for them of the right to compensation, are established by the present Code.

The aforesaid limitations are established on the condition that they do not cause unjustified harm to the ordinary use of the results of intellectual activity or means of individualization and do not impair in an unjustified manner the lawful interests of the rightholders.

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Article 1230. **The Time Period of Effectiveness of Exclusive Rights**

1. Exclusive rights to the results of intellectual activity and to means of individualization shall be effective during the course of a defined time period, with the exception of cases provided by the present Code.

2. The length of the time period of effectiveness of an exclusive right to the result of intellectual activity or to a means of individualization, the procedure for calculation of this time period, the bases and procedure for extending it, and also the bases and procedure for terminating an exclusive right before the expiration of the time period are established by the present Code.

Article 1231. **Effectiveness of Exclusive and Other Intellectual Rights on the Territory of the Russian Federation**

1. Exclusive rights to results of intellectual activity and to means of individualization established by international treaties of the Russian Federation and by the present Code are effective on the territory of the Russian Federation.

Personal nonproperty rights and other intellectual rights that are not exclusive, are effective on the territory of the Russian Federation in accordance with the fourth subparagraph of Paragraph 1 of Article 2 of the present Code.

2. In the recognition of an exclusive right to a result of intellectual activity or to a means of individualization in accordance with an international treaty of the Russian Federation, the content of the right, its effectiveness, limitations, and the procedure for its realization and protection shall be determined by the present Code regardless of the provisions of the legislation of the country of origin of the exclusive right, unless such international treaty or the present Code has provided otherwise.

Article 1232. **State Registration of the Results of Intellectual Activity and Means of Individualization**

1. In cases provided by the present Code, the exclusive right to a result of intellectual activity or to a means of individualization shall be recognized and protected upon condition of state registration of such result or such means.

2. In cases when the result of intellectual activity or means of individualization is subject in accordance with the present Code to state registration, alienation of the exclusive right to such result or such means by contract, pledge of this right, and granting of the right of use of such result or such means by contract, and likewise also the transfer of the exclusive right to such result or such means without a contract are also subject to state registration on the terms and by the procedure to be established by the Government of the Russian Federation.

3. State registration of the alienation of an exclusive right to a result of intellectual activity or to a means of individualization by contract, state registration of the pledge of this right, and also state registration of the granting of the right of use of such result or such means by contract shall be conducted by state registration of the respective contract.

4. In the case provided for by Article 1239 of the present Code, the corresponding decision of a court shall be the basis for state registration of the granting of a right of use of the result of intellectual activity or means of individualization.

5. The basis for state registration of a transfer of an exclusive right to a result of intellectual activity or to a means of individualization by inheritance shall be a certificate of the right to inheritance, with the exception of the case provided for by Article 1165 of the present Code.

6. Nonobservance of the requirements of state registration of a contract for the alienation of an exclusive right to a result of intellectual activity or to a means of individualization or of a contract for the granting to another person of the right of use of such result or such means shall entail the invalidity of the respective contract. In case of nonobservance of a requirement for state registration of the transfer of an exclusive right without a contract such transfer shall be regarded as not having taken place.

7. In cases provided by the present Code, state registration of the result of intellectual activity may be conducted at the option of the rightholder. In such cases the rules of Paragraphs 2-6 of the present Article shall apply to the registered result of intellectual activity and to the rights to such result, unless provided otherwise by the present Code.

Article 1233. **Disposition of the Exclusive Right**

1. The rightholder may dispose of an exclusive right to a result of intellectual activity or to a means of individualization belonging to him in any manner not contrary to statute and the nature of such exclusive right, including by its alienation by contract to another person (contract on alienation of

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an exclusive right) or the provision to another person of the right to use the corresponding result of intellectual activity or means of individualization within the limits established by the contract (license contract).

Conclusion of a license contract shall not entail thereby the transfer of the exclusive right to the licensee.

2. The general provisions on obligations (Articles 307-419) and on contract (Articles 420-453) shall be applied to contracts for the disposition of the exclusive right to a result of intellectual activity or to a means of individualization, including to contracts for the alienation of the exclusive right and to license (or sublicense) contracts, unless otherwise provided by the rules of the present Division or follows from the content or nature of the exclusive right.

3. A contract in which it is not directly indicated that an exclusive right to a result of intellectual activity or to a means of individualization is transferred in full scope shall be considered to be a licensing contract, with the exception of a contract concluded with respect to the right of use of a result of intellectual activity specially created or to be created for inclusion in a complex object (second subparagraph of Paragraph 1 of Article 1240).

4. Terms of a contract for the alienation of an exclusive right or of a license contract that limit the right of a citizen to create results of intellectual activity of a defined type or in a defined area of intellectual activity or to alienate the exclusive rights to such results to other persons are invalid.

5. In case of conclusion of a contract for the pledge of an exclusive right to a result of intellectual activity or to a means of individualization, the pledgor shall have the right during the period of effectiveness of this contract to use such result of intellectual activity or such means of individualization and to dispose of the exclusive right to such result or such means without the consent of the pledgee, unless the contract provides otherwise.

Article 1234. **Contract for the Alienation of an Exclusive Right**

1. By a contract for the alienation of an exclusive right, one party (the rightholder) transfers or is obligated to transfer the exclusive right belonging to him to a result of intellectual activity or a means of individualization in full scope to the other party (the recipient).

2. A contract for the alienation of an exclusive right shall be concluded in written form and is subject to state registration in the cases provided by Paragraph 2 of Article 1232 of the present Code. Nonobservance of the written form or requirement of state registration shall entail the invalidity of the contract.

3. Under the contract for the alienation of exclusive right, the recipient shall have the duty to pay the rightholder the compensation provided by the contract unless the contract provides otherwise.

In case of the absence in a remunerated contract for the alienation of an exclusive right of a term on the measure of compensation or the procedure for its determination, the contract shall be considered not to have been concluded. In such case the rules on determination of the price provided by Paragraph 3 of Article 424 of the present Code shall not be applied.

4. The exclusive right to a result of intellectual activity or to a means of individualization shall pass from the rightholder to the recipient at the time of conclusion of the contract for the alienation of the exclusive right, unless otherwise provided by an agreement of the parties. If the contract for the alienation of an exclusive right is subject to state registration (Paragraph 2 of Article 1232), the exclusive right to such result or such means passes from the rightholder to the recipient at the time of state registration of this contract.

5. In case of a substantial breach by the recipient of the obligation to pay the rightholder, within the time period established by the contract for the alienation of the exclusive right, the compensation for obtaining the exclusive right to the result of intellectual activity or to the means of individualization (numbered subparagraph 1 of Paragraph 2 of Article 450), the former rightholder shall have the right to demand by judicial procedure the transfer to himself of the rights of the recipient of the exclusive right and the compensation for damages, if the exclusive right has passed to its recipient.

If the exclusive right has not passed to the recipient, then in case of breach by him of the obligation to pay, within the time established by the contract, the compensation for obtaining the exclusive right, the rightholder may unilaterally renounce the contract and demand compensation for damages caused by the dissolution of the contract.

Article 1235. **License Contract**

1. Under a license contract, one party, the holder of an exclusive right to a result of intellectual activity or to a means of individualization (the licensor), grants or becomes obligated to grant to the

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other party (the licensee) the right of use of such result or such means within the limits provided by the contract.

The licensee may use the result of intellectual activity or means of individualization only within the limits of those rights and those means that are provided by the license contract. A right of use of a result of intellectual activity or means of individualization not indicated expressly in a license contract shall not be considered to have been granted to the licensee.

2. A license contract shall be concluded in written form, unless otherwise provided by the present Code.

A license contract shall be subject to state registration in cases provided by paragraph 2 of Article 1232 of the present Code.

Nonobservance of the written form or of a requirement on state registration shall entail the invalidity of the license contract.

3. In a licensing contract the territory shall be indicated upon which use is permitted of the result of intellectual activity or means of individualization. If the territory on which use of such result or such means is permitted is not indicated in the contract, the licensee shall have the right to exercise its use on the whole territory of the Russian Federation.

4. The time period for which a license contract is concluded may not exceed the time period of effectiveness of the exclusive right to the result of intellectual activity or to the means of individualization.

In the case when the time period of effectiveness of the license contract is not defined in the license contract, the contract shall be considered to be concluded for five years, unless provided otherwise by the present Code.

In case of termination of the exclusive right, the license contract shall be terminated.

5. Under a license contract the licensee shall be obligated to pay the licensor the compensation provided by the contract unless the contract provides otherwise.

In case of the absence in a remunerated license contract of a term on the measure of compensation or the procedure for determining it, the contract shall be considered not to have been concluded. In this case the rules for determination of the price provided by Paragraph 3 of Article 424 of the present Code shall not be applied.

6. A license contract must provide:

1) the subject of the contract by indicating the result of intellectual activity or means of individualization the right of the use of which is granted under the contract, with an indication, in appropriate cases, of the number and date of the issuance of a document confirming the exclusive right to such result or to such means (patent or certificate);

2) ways of use of the result of intellectual activity or means of individualization.

7. The transfer of the exclusive right to a result of intellectual activity or to a means of individualization to a new rightholder is not a basis for change or dissolution of a license contract concluded by the previous rightholder.

Article 1236. **Types of License Contracts**

1. A license contract may provide:

1) a grant to the licensee of the right of use of a result of intellectual activity or a means of individualization with retention by the licensor of the right of issuance of licenses to other persons (simple (nonexclusive) license);

2) a grant to the licensee of the right of use of a result of intellectual activity or a means of individualization without retention by the licensor of the right of issuance of licenses to other persons (exclusive license).

2. Unless provided otherwise by the license contract, the license is presumed to be simple (nonexclusive).

3. One license contract with respect to different methods of the use of a result of intellectual activity or means of individualization may contain terms provided by Paragraph 1 of the present Article for license contracts of different types.

Article 1237. **Performance of a License Contract**

1. The licensee must provide the licensor with reports on the course of use of the result of intellectual activity or means of individualization, unless otherwise provided by the license contract. If the license contract requiring presentation of reports on the use of the result of intellectual activity or means of individualization does not establish the times and procedure for their presentation the licensee shall be obligated to present such reports to the licensor on his demand.

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2. During the time period of effectiveness of the license contract, the licensor is obligated to refrain from any actions capable of hindering the realization by the licensee of the right of use of the result of intellectual activity or means of individualization within the limits established by the contract.

3. Use a result of intellectual activity or means of individualization in a manner not provided by the license contract, or after the termination of the effectiveness of the license contract or in another manner beyond the limits of the rights granted to the licensee under the contract shall entail the responsibility for infringement of the exclusive right to the result of intellectual activity or the means of individualization established by the present Code, other statutes, or the contract.

4. In case of breach by the licensee of the obligation to pay to the licensor, within the time established by the license contract, the compensation for the grant of the right of use of a work of scholarship, literature, or art (Chapter 70) or of objects of neighboring rights (Chapter 71), the licensor may unilaterally renounce the license contract and demand compensation for damages caused by the dissolution of such contract.

Article 1238. **Sublicense Contract**

1. With the written consent by the licensor the licensee shall have the right to grant under a contract the right of use of a result of intellectual activity or a means of individualization to another person (sublicense contract).

2. Under a sublicense contract the sublicensee may be granted the right to use a result of intellectual activity or means of individualization only within the limits of those rights and those means of use that are provided by the license contract for the licensee.

3. A sublicense contract concluded for a time period exceeding the time period of effectiveness the license contract shall be considered concluded for the time period of effectiveness of the license contract.

4. The licensee shall bear responsibility to the licensor for actions of the sublicensee unless the license contract provides otherwise.

5. The rules of the present Code on a license contract shall be applied to the sublicense contract.

Article 1239. **Compulsory License**

In cases provided by the present Code, a court may, on demand of an interested person take a decision to grant this person, on conditions determined in the decision of the court, rights of use of a result of intellectual activity, the exclusive right to which belongs to another person (a compulsory license).

Article 1240. **Use of a Result of Intellectual Activity in the Composition of a Complex Object**

1. A person who has organized the creation of a complex object including several protected results of intellectual activity (a motion picture, other audiovisual work, theatrical-audience presentation, a multimedia product, a uniform technology) shall obtain the right of use of these results on the basis of contracts for the alienation of the exclusive right or license contracts concluded by such person with the holders of exclusive rights to the respective results of intellectual activity.

In the case when the person who has organized the creation of a complex object obtains the right of use of a result of intellectual activity specially created or to be created for inclusion in such complex object, the corresponding contract shall be considered to be a contract for the alienation of the exclusive right unless otherwise provided by agreement of the parties.

A license contract providing for the use of a result of intellectual activity in the composition of a complex object shall be concluded for the whole time period and with respect to the whole territory of the effectiveness of the corresponding exclusive right, unless otherwise provided by the contract.

2. Terms of the license contract that limit the use of a result of intellectual activity in the composition of a complex object shall be invalid.

3. In the use of the result of intellectual activity in the composition of a complex object, the creator of such a result shall retain the right of authorship and other personal nonproperty rights to such a result.

4. In the use of the result of intellectual activity in the composition of a complex object, the person who has organized the creation of this object shall have the right to indicate his name or designation or to demand such an indication.

5. The rules of the present Article shall be applied to the right of use of results of intellectual activity in a system of uniform technology created at the expense of or with the use of the funds from

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the Federal budget, to the extent not otherwise established by the rules of Chapter 77 of the present Code.

Article 1241. **Transfer of an Exclusive Right to Other Persons Without a Contract**

Transfer of an exclusive right to a result of intellectual activity or to a means of individualization to another person without the conclusion of a contract with the rightholder is allowed in the cases and on the bases that are established by a statute, including by way of universal legal succession (inheritance, reorganization of a legal person) and in the levying of execution on the property of a rightholder.

Article 1242. **Organizations Conducting Collective Administration of Copyright Rights and Neighboring Rights**

1. Authors, performers, preparers of phonograms and other holders of copyright rights and neighboring rights, in cases when exercise of their rights individually is difficult or when the present Code allows the use of the objects of copyright and neighboring rights without the consent of the holders of the respective rights, but with the payment of compensation to them, may create noncommercial organizations that are based on membership to which, in accordance with authorizations granted to them by the rightholders, is assigned the administration of the respective rights on a collective basis (organizations for the administration of rights on a collective basis).

The creation of such organizations shall not hinder the realization of the representation of the holders of copyright rights and neighboring rights by other legal persons and citizens.

2. Organizations for the administration of rights on a collective basis may be created for the administration of rights relating to one or several types of objects of copyright rights and neighboring rights, for the administration of one or more types of such rights with respect to particular ways of use of the respective objects or for administration of any copyright and/or neighboring rights.

3. The basis of the powers of an organization for the administration of rights on a collective basis shall be a contract for the transfer of powers for the administration of rights concluded by the organization with the rightholder in written form with the exception of the case provided for by the first subparagraph of Paragraph 3 of Article 1244 of the present Code.

This contract may be concluded with the rightholders that are the members of such an organization and with the rightholders that are not its members. In this case the organization for the administration of rights on a collective basis shall be obligated to undertake the administration of these rights if the administration of such category of rights relates to the charter activity of this organization. The basis of the powers of an organization for the administration of rights on a collective basis may also be a contract with another organization, including a foreign organization conducting collective administration of intellectual rights.

The general provisions on obligations (Articles 307-419) and on contract (Articles 420-453) shall be applied to the contracts indicated in the first and second subparagraphs of the present paragraph, to the extent that it does not follow otherwise from the content or the nature of the right transferred for administration. The rules of the present Division on contracts for the alienation of exclusive rights and on license contracts shall not be applied to such contracts.

4. Organizations for the administration of rights on a collective basis do not have the right to use of objects of copyright and neighboring rights the exclusive rights to which have been transferred to them for administration.

5. Organizations for the administration of rights on a collective basis shall have the right, in the name of the rightholders or in their own name to present claims in court and also to take other legal actions necessary for the protection of rights transferred to them for administration on a collective basis.

An accredited organization (Article 1244) shall also have the right, in the name of the unlimited number of rightholders, to present claims in court necessary for the protection of rights the administration of which is exercised by such an organization.

6. The legal position or organizations for the administration of rights on a collective basis, the functions of these organizations, and rights and duties of members of these organizations shall be determined by the present Code, statutes on noncommercial organizations, and the charters of the respective organizations.

Article 1243. **Performance by Organizations for the Administration of Rights on a Collective Basis of Contracts with Rightholders**

1. An organization for the administration of rights on a collective basis shall conclude license contracts with the users for the grant to them of the rights transferred to it for administration by the

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rightholders, rights to the respective ways of use of objects of copyright and neighboring rights on conditions of a simple (nonexclusive) license and shall collect from the users compensation for the use of these objects. In cases when objects of copyright rights and neighboring rights in accordance with the present Code may be used without the consent of the rightholder but with payment to him of compensation, an organization for the administration of rights on a collective basis shall conclude contracts with users for the payment of compensation and shall collect funds for such purposes.

An organization for the administration of rights on a collective basis shall not have the right to refuse to conclude a contract with a user without sufficient bases.

2. If the rightholder directly concludes a license contract with a user, an organization for the administration of rights on a collective basis may collect compensation for the use of objects of copyright and neighboring rights only under the condition that this is explicitly provided by the aforesaid contract.

3. Users shall be obligated on demand of the organization for the administration of rights on a collective basis to present reports to it on the use of objects of copyright rights and neighboring rights and also other information and documents necessary for the collection and distribution of compensation, a list and time periods for the providing of which are defined in a contract.

4. An organization for the administration of rights on a collective basis shall make the distribution of compensation for the use of objects of copyright and neighboring rights among the rightholders and also shall conduct payment to them of the indicated compensation.

An organization for the administration of rights on a collective basis shall have the right to withhold from the compensation amounts to cover necessary expenses for the collection, distribution and payment of such compensation and also amounts that are directed into special funds created by this organization with the consent and in the interests of the rightholders represented by it, in the amounts and by the procedure that are provided by the charter of the organization.

The distribution and payment of compensation must be made regularly within the time periods provided by the charter of the organization for the administration of rights on a collective basis and in proportion to the actual use of the respective objects of copyright rights and neighboring rights, determined on the basis of information and documents received from users and also other data on the use of objects of copyright and neighboring rights including information of a statistical nature.

Simultaneously with the payment of compensation the organization for the administration of rights on a collective basis is obligated to provide the rightholder a report containing information on the use of his rights, including on the amount of the collected compensation and on the sums withheld from it.

5. An organization for the administration of rights on a collective basis shall form registers containing information on rightholders, on rights transferred to it for administration and also on the objects of copyright rights and neighboring rights. The information contained in such registers shall be provided to all interested persons by the procedure established by the organization, with the exception of information that in accordance with a statute may not be divulged without the consent of the rightholder.

An organization for the administration of rights on a collective basis shall place on a generally accessible information system information on the rights transferred to it for administration, including the designation of the object of copyright or neighboring rights, and the name of the author or other rightholder.

Article 1244. **State Accreditation of Organizations for the Administration of Rights on a Collective Basis**

1. An organization for the administration of rights on a collective basis may receive state accreditation for the conduct of activity in the following areas of collective administration:

1) management of exclusive rights for musical works (with or without words) that have been made public and excerpts from musical-dramatic works with respect to their public performance, communications by transmission over the air or by cable including by way of retransmission (numbered subparagraphs 6-8 of Paragraph 2 of Article 1270);

2) exercise of the rights of composers who are authors of musical works (with or without words) used in an audiovisual work for the receipt of compensation for public performance or communication over the air or by cable of such audiovisual work (Paragraph 3 of Article 1263);

3) administration of the droit de suite with respect to works of fine arts and also of authors' manuscripts (in their own hand) of literary and musical works (Article 1293).

4) exercise of the rights of authors, performers, and preparers of phonograms and audiovisual works to the receipt of compensation for the reproduction of phonograms and audiovisual works for personal purposes (Article 1245);

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5) exercise of rights of performers to the receipt of compensation for public performance and also for communication over the air or by cable of phonograms published for commercial purposes (Article 1326);

6) exercise of the rights of preparers of phonograms to the receipt of compensation for public performance and also for communication over the air or by cable of phonograms published for commercial purposes (Article 1326);

State accreditation shall be conducted on the basis of the principles of openness of procedure and consideration of the opinion of interested persons, including rightholders, by the procedure determined by the Government of the Russian Federation.

2. State accreditation for the conduct of activity in each of the areas of collective administration indicated in Paragraph 1 of the present Article may be obtained by only one organization for the administration of rights on a collective basis.

An organization for the administration of rights on a collective basis may receive state accreditation for the conduct of activity in one, two, or more of the areas of collective administration indicated in Paragraph 1 of the present Article.

The limitations provided by antimonopoly legislation shall not be applied with respect to the activity of an accredited organization.

3. An organization for the administration of rights on a collective basis that has received state accreditation (an accredited organization) shall have the right along with the administration of the rights of those rightholders with whom it has concluded contracts by the procedure provided for by Paragraph 3 of Article 1242 of the present Code to exercise administration of the rights and collection of compensation for those rightholders with whom it has not concluded such contracts.

The presence of an accredited organization shall not hinder the creation of other organizations for the administration of rights on a collective basis, including in areas of collective administration indicated in Paragraph 1 of the present Article. Such organizations shall have the right to conclude contracts with users only the interest of rightholders who have granted them authority for administration of rights by the procedure provided by Paragraph 3 of Article 1242 of the present Code.

4. A rightholder who has not concluded a contract with an accredited organization for the transfer of authorization for the administration of rights (Paragraph 3 of the present Article) shall have the right at any time to completely or partially renounce the administration by this organization of his rights. The rightholder must give the accredited organization written notification of his decision. In the case in which the rightholder intends to renounce administration by the accredited organization only of part of copyright or neighboring rights and/or objects of these rights, he must present to the accredited organization a list of such excluded rights and/or objects.

Upon the expiration of three months from the day of receipt from the rightholder of the corresponding notice, the accredited organization pay shall have the duty to exclude the rights and/or objects indicated by him from contracts with all users and to place information on this on a generally-accessible information system. The accredited organization shall be obligated to pay the rightholder the compensation due to him that was received from users in accordance with previously concluded contracts and to present a report in accordance with the fourth subparagraph of Paragraph 4 of Article 1243 of the present Code.

5. An accredited organization is obligated to take reasonable and sufficient measures to identify rightholders having the right to receive compensation in accordance with license contracts and contracts for the payment of compensation concluded by this organization. Unless otherwise established by a statute, the accredited organization shall not have the right to refuse to accept into membership in this organization a rightholder having the right to receipt of compensation in accordance with license contracts and contracts for the payment of compensation concluded by this organization.

6. Accredited organizations shall conduct their activity under the supervision of the authorized Federal agency of executive authority.

Accredited organizations are obligated to present annually to the authorized Federal agency of executive authority a report on their activity and also to publish it in a general Russian medium of mass information. The form of the report shall be established by the authorized Federal agency of executive authority.

7. A model charter of an accredited organization shall be approved by the procedure determined by the Government of the Russian Federation.

Article 1245. **Compensation for Free Reproduction of Phonograms and Audiovisual Works for Personal Purposes**

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1. Authors, performers, and preparers of phonograms and audiovisual works shall have the right to compensation for free reproduction of phonograms and audiovisual works exclusively for personal purposes. Such compensation shall have a compensatory nature and shall be paid to the rightholders from funds that are subject to payment by preparers and importers of equipment and physical carriers used for such reproduction.

The list of equipment and physical carriers and also the amount and procedure for collection of the respective funds shall be approved by the Government of the Russian Federation.

2. Collection of funds for payment of compensation for free reproduction of phonograms and audiovisual works for personal purposes shall be conducted by an accredited organization (Article 1244).

3. Compensation for free reproduction of phonograms and audiovisual works for personal purposes shall be distributed among rightholders in the following proportions: forty percent to authors, thirty percent to performers, and thirty percent to preparers of phonograms or audiovisual works. The distribution of compensation among specific authors, performers, and preparers of phonograms or audiovisual works shall be conducted in proportion to the actual use of the respective phonograms or audiovisual works. The procedure for distribution of compensation and for its payment shall be established by the Government of the Russian Federation.

4. Funds for payment of compensation for free reproduction of phonograms and audiovisual works for personal purposes shall not be collected from the manufacturers of that equipment and those physical carriers that are produced for export as well as from manufacturers and importers of professional equipment that is not meant for home use.

Article 1246. **State Regulation of Relations in the Area of Intellectual Property**

1. In cases provided by the present Code, the issuance of normative legal acts for the purposes of regulation of relations in the area of intellectual property connected with objects of copyright and neighboring rights shall be done by the authorized Federal agency of executive authority conducting normative-legal regulation in the area of copyright and neighboring rights.

2. In cases provided by the present Code, the issuance of normative legal acts for the regulation of relations in the area of intellectual property connected with inventions, utility models, industrial designs, computer programs, databases, topology of integrated circuits, trademarks and service marks, names of places of origin of goods, shall be conducted by the authorized Federal agency of executive authority exercising normative-legal regulation in the area of intellectual property.

3. Legally significant actions for state registration of inventions, utility models, industrial designs, computer programs, databases, topology of integrated circuits, trademarks and service marks, names of places of origin of goods, including the receipt and expert examination of the respective applications and the issuance of patents and certificates confirming the exclusive right of their holders to these results of intellectual activity and to means of individualization, and in cases provided by statute also other actions connected with the legal protection of results of intellectual activity and means of individualization shall be conducted by the Federal agency of executive authority for intellectual property. In the cases provided for by Articles 1401-1405 of the present Code the actions indicated by the present Paragraph may also be conducted by the Federal bodies of executive power if authorized thereto by the Government of the Russian Federation.

4. With respect to achievements of breeding, the functions indicated in Paragraphs 2 and 3 of the present Article shall be conducted respectively by the authorized Federal agency of executive authority conducting normative-legal regulation in the area of agriculture and the Federal body of executive authority for achievements of breeding.

Article 1247. **Patent Agents**

1. The conduct of proceedings with the Federal agency of executive authority for intellectual property may be exercised by the applicant, rightholder, other interested person independently or through a patent agent registered in this Federal agency or through another representative.

2. Citizens permanently residing beyond the boundaries of the territory of the Russian Federation and foreign legal persons shall conduct proceedings with the Federal agency of executive authority for intellectual property through patent agents registered with this Federal agency unless a treaty of the Russian Federation provides otherwise.

If an applicant, rightholder, or other interested person conducts proceedings with the Federal agency of executive authority for intellectual property independently or through a representative who is not registered in the aforesaid Federal agency as a patent agent, he is obligated on demand of the aforesaid Federal agency to communicate an address on the territory of the Russian Federation for correspondence.

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The powers of a patent agent or other representative shall be confirmed by a power of attorney issued by the applicant, rightholder, or other interested person.

3. A citizen of the Russian Federation permanently residing on its territory may be registered as a patent agent. Other requirements for a patent agent, the procedure for his attestation and registration and also powers with respect to the conduct of proceedings connected with the legal protection of the results of intellectual activity and means of individualization shall be established by a statute.

Article 1248. **Disputes Connected with the Protection of Intellectual Rights**

1. Disputes connected with the protection of infringed or contested intellectual rights shall be considered and decided by a court (Paragraph 1 of Article 11).

2. In cases provided by the present Code, protection of intellectual property rights in relations connected with the submission and consideration of applications for the issuance of patents for inventions, utility models, industrial designs, achievements of breeding, trademarks, service marks, and designations of places of origin of goods, with state registration of these results of intellectual activity and means of individualization, with the issuance of the corresponding right-establishing documents, with the contesting of the granting for these results and means of legal protection or with its termination shall be conducted by administrative procedure (Paragraph 2 of Article 11) correspondingly by the Federal body of executive authority for intellectual property and by the Federal body of executive authority for achievements of breeding, and in cases provided by Articles 1401-1406 of the present Code, by the Federal body of executive authority authorized by the Government of the Russian Federation (Paragraph 2 of Article 1401). The decisions of these bodies shall enter into force on the day of their adoption. They may be disputed in a court by the procedure established by a statute.

3. The rules for consideration and resolution of disputes by the procedure indicated in Paragraph 2 of the present Article by the Federal agency of executive authority for intellectual property and the chamber for patent disputes formed at it, and also by the Federal body of executive authority for achievements of breeding shall be established correspondingly by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property and by the Federal agency of executive authority conducting normative-legal regulation in the area of agriculture. The rules for consideration and resolution of disputes connected with secret inventions in accordance with the procedure indicated in Paragraph 2 of the present Article shall be established by the authorized body (Paragraph 2 of Article 1401).

Article 1249. **Patent and Other Fees**

1. For the taking of legally significant actions connected with a patent for an invention, an utility model, an industrial design, or an achievement of breeding, with the state registration of a computer program, databases, topology of integrated circuits, trademark and service mark, with the state registration and grant of the exclusive right to a designation of a place of origin of goods and also with state registration of the transfer of exclusive rights to other persons and contracts for the disposition of these rights patent and other fees shall respectively be collected.

2. The list of legally-significant actions that are connected with a computer program, databases, and the topology of integrated circuits and for the taking of which state fees shall be collected, their amounts, procedure and times for payment, and also the bases for freeing from payment of the state fees, reduction of their amounts, postponement of payment or return of fees shall be established by the legislation of the Russian Federation on taxes and levies.

The list of legally-significant actions other than those indicated in Paragraph 1 of the present Article, for the taking of which patent and other fees are collected, their amounts, the procedure and times for payment, as well as the bases for freeing from payment of the fees, reduction of their amounts, postponement of payment or return of fees shall be established by the Government of the Russian Federation.

Article 1250. **Protection of Intellectual Rights**

1. Intellectual rights shall be protected by the means provided by the present Code, taking into account the essence of the infringed right and the consequences of the infringement of this right.

2. The means of protection of intellectual rights provided by the present Code may be applied on demand of the rightholders, organizations for the administration of rights on a collective basis, and also other persons in cases established by a statute.

3. The absence of fault of an infringer shall not free him from the obligation to stop infringement of intellectual rights and also shall note exclude the application to the infringer of measures directed to the protection of such rights. In particular, the publication of a judicial decision on

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an infringement that has been committed (subparagraph 5 of Paragraph 1 of Article 1252) and the termination of activities infringing the exclusive right to a result of intellectual activity or to a means of individualization or creating a threat of infringement of such right, shall be conducted regardless of the fault of the infringer and at his expense.

Article 1251. **Protection of Personal Nonproperty Rights**

1. In the case of infringement of personal nonproperty rights of an author, their protection shall be conducted, in particular, by the recognition of a right, reestablishment of the status existing before the infringement of the right, stopping the activities infringing the right or creating a threat of its infringement, compensation for moral harm, or publication of the decision of a court on the infringement committed.

2. The provisions provided by Paragraph 1 of the present Article shall also be applied to the protection of rights provided by Paragraph 4 of Article 1240, Paragraph 7 of Article 1260, Paragraph 4 of Article 1263, Paragraph 3 of Article 1295, Paragraph 1 of Article 1323, Paragraph 2 of Article 1333, and subparagraph 2 of Paragraph 1 of Article 1338 of the present Code.

3. Protection of the honor, dignity, or business reputation of the author shall be conducted in accordance with the rules of Article 152 of the present Code.

Article 1252. **Protection of Exclusive Rights**

1. Protection of exclusive rights to the results of intellectual activity and to means of individualization shall be conducted in particular by the making of demands:

1) for the recognition of the right – against the person who denies or in another manner does not recognize the right, thereby infringing upon the interests of the rightholder;

2) on the stopping of activities infringing the right or creating a threat of its infringement – against the person who has taken such actions or has conducted the preparations necessary for them;

3) on compensation for damages – against the person who has unlawfully used a result of intellectual activity or means of individualization without the conclusion of an agreement with the rightholder (noncontract use) or in another manner has infringed his exclusive right and has caused damage to him;

4) on the taking of the physical carrier in accordance with Paragraph 5 of the present Article – against the producer, importer, keepers, carrier, seller, other distributor, or bad faith recipient;

5) on the publication of the decision of a court on the infringement committed with an indication of the actual rightholder – against infringer of the exclusive right.

2. By the procedure for security for a suit in cases of the violation of the exclusive rights to physical carriers, equipment and materials with respect to which suspicion has been raised of the infringement of the exclusive right to a result of intellectual activity or to a means of individualization, the security measures established by procedural legislation may be applied, among which seizure may be applied to material carriers, equipment, and materials.

3. In cases provided by the present Code for individual types of results of intellectual activity or means of individualization, in case of infringement of the exclusive right the rightholder shall have the right, instead of compensation for damages, to demand from the infringer payment of compensation for the infringement of the aforesaid right. Compensation shall be subject to recovery upon proof of the fact of infringement of a right. In such case the rightholder applying for protection of a right, shall be freed from proof of the amount of damages caused to him.

The amount of compensation shall be determined by the court within the limits established by the present Code depending upon the nature of the infringement and other circumstances taking into account the requirements of reasonableness and justice.

The rightholder shall have the right to demand from the infringer payment of compensation for each case of unlawful use of the result of intellectual activity or means of individualization or for the infringement committed as a whole.

4. In the case when the preparation, distribution, or other use, and also the import, transportation, or storage of physical carriers in which the result of intellectual activity or the means of individualization is expressed lead to infringement of the exclusive right to such a result or to such means, such physical carriers shall be considered counterfeit and on decision of a court shall be subject to removal from circulation and destruction without any compensation whatsoever unless other consequences are provided by the present Code.

5. Equipment, other facilities and materials mainly used or meant for commission of infringements of exclusive rights to results of intellectual activity and to means of individualization, on decision of a court shall be subject to removal from circulation and destruction at the expense of the infringer, unless a statute provides for their being transferred to the income of the Russian Federation.

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6. If various means of individualization (firm name, trademark, service mark, commercial designation) are identical or similar to the point of confusion and as a result of such identity or similarity consumers and/or contract partners may be led into confusion, the means of individualization the exclusive right to which arose earlier shall have priority. The holder of such exclusive right may, by the procedure established by the present Code, demand the recognition as invalid of the granting of legal protection to a trademark (or service mark) or the full or partial prohibition of the use of a trade name or commercial designation.

For the purposes of the present Paragraph, by partial prohibition of use is meant:

with respect to a firm name – prohibition of its use in defined types of activity;

with respect to a commercial designation – prohibition of its use within the limits of a defined territory and/or in defined types of activity.

7. In cases when an infringement of an exclusive right to a result of intellectual activity or to a means of individualization has been recognized by the established procedure as bad faith competition, protection of the infringed exclusive right may be exercised both by the means provided by the present Code and in accordance with antimonopoly legislation.

Article 1253. **Liability of Juridical Persons and Individual Entrepreneurs for the Infringement of Exclusive Rights**

If a juridical person repeatedly or grossly violates exclusive rights to results of intellectual activity or to means of individualization, the court may, in accordance with Paragraph 2 of Article 61 of the present Code adopt a decision on the liquidation of such juridical person on demand of a procurator.

If such infringements are made by a citizen, his activity as an individual entrepreneur may be terminated by decision or sentence of a court by the procedure established by a statute.

Article 1254. **Peculiarities of Protection of the Rights of a Licensee**

If infringement by third persons of an exclusive right to a result of intellectual activity or to a means of individualization for the use of which an exclusive license has been given, affects the rights of the licensee received by him on the basis of a license contract, the licensee may protect his rights along with other means of protection also by the means established by Articles 1250, 1252, and 1253 of the present Code.

CHAPTER 70. COPYRIGHT

Article 1255. **Copyright Rights**

1. Intellectual rights to works of scholarship, literature, and art are copyright rights.

2. The following rights belong to the author of a work:

1) the exclusive right to the work;

2) the right of authorship;

3) the right of the author to his name;

4) the right to inviolability of the work;

5) the right to making public of the work.

3. In cases provided by the present Code, other rights belong to the author of the work along with the rights indicated in Paragraph 2 of the present Article, including the right to compensation for the use of an employment work, the right to recall, and droit de suite, and the right of access to works of figurative art.

Article 1256. **Effectiveness of the Exclusive Right to Works of Scholarship, Literature, and Art on the Territory of the Russian Federation**

1. The exclusive right to works of scholarship, literature, and art shall extend to works:

1) to works made public on the territory of the Russian Federation or not made public but existing in some objective form on the territory of the Russian Federation and shall be recognized for authors (or their legal successors) regardless of their citizenship;

2) to works made public beyond the boundaries of the Russian Federation or not made public but existing in some objective form beyond the boundaries of the Russian Federation and shall be recognized for authors who are citizens of the Russian Federation (or their legal successors);

3) to works made public beyond the boundaries of the Russian Federation or not made public but existing in some objective form beyond the boundaries of the Russian Federation and shall be recognized, in accordance with international treaties of the Russian Federation, on the territory of the

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Russian Federation for authors (or their legal successors) who are citizens of other states and persons without citizenship.

2. A work also shall be considered first made public by publication in the Russian Federation if, in the course of thirty days after the date of first publication beyond the boundaries of the territory of the Russian Federation, it was published on the territory of the Russian Federation.

3. In the grant of protection to a work on the territory of the Russian Federation in accordance with international treaties of the Russian Federation, the author of the work or other initial rightholder shall be determined according to the law of the state on the territory of which the legal fact took place that served as the basis for obtaining copyright rights.

4. Provision of protection to works on the territory of the Russian Federation in accordance with international treaties of the Russian Federation shall be done with respect to works that have not entered the public domain in the country of origin of the work as the result of the expiration of the time period of effectiveness of the exclusive right to these works established in such country and have not entered into the public domain in the Russian Federation as the result of the expiration of the time period established in the present Code for the effectiveness of the exclusive right thereto.

In the grant of protection for works in accordance with international treaties of the Russian Federation the time period of effectiveness of the exclusive right to these works on the territory of the Russian Federation may not exceed the time period of effectiveness of the exclusive right established in the country of origin of the work.

Article 1257. **Author of a Work**

The author of a work of scholarship, literature, or art is the citizen by whose creative labor the work was made. The person indicated as the author on the original or other copy of a work shall be considered its author, unless it is proved otherwise.

Article 1258. **Coauthorship**

1. Citizens who have created a work by joint creative labor are coauthors regardless of whether such a work forms a single inseparable whole or consists of parts each of which has independent significance.

2. A work created in coauthorship shall be used by coauthors jointly, unless an agreement among them provides otherwise. In the case when such work forms an inseparable whole, then no one of the coauthors shall have the right to forbid the use of such work without sufficient bases.

Part of a work the use of which is possible independently of the other parts, i.e., a part having an independent significance, may be used by its author at his discretion unless an agreement among the coauthors has provided otherwise.

3. The rules of Paragraph 3 of Article 1229 of the present Code shall be applied respectively to relations of coauthors connected with the distribution of income from the use of the work and with the disposition of the exclusive right to the work.

4. Each of the coauthors shall have the right to take measures independently for the protection of his rights, including in the case when a work created by coauthors forms an inseparable whole.

Article 1259. **Objects of Copyright**

1. The objects of copyright are works of scholarship, literature, and art regardless of the worth and purpose of the work as well as of the mode of its expression:

literary works;

dramatic and musical-dramatic works, screenplay works;

choreographic works and pantomimes;

musical works with text or without text;

audiovisual works;

works of painting, sculpture, graphics, design, graphic stories, comics, and other works of figurative art;

works of decorative-applied and stage-set art;

works of architecture, city planning, and park and garden art, including in the form of plans, depiction, and models;

photographic works and works obtained by means analogous to photography;

geographic, geological, and other maps, plans, sketches, and plastic works related to geography, topography, and other sciences;

other works.

Objects of copyright rights also include computer programs, which are protected as literary works.

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2. Objects of copyright rights also include:

1) derivative works, i.e., works that are a reworking of another work;

2) compiled works, i.e. works that are by selection or placement of the materials the result of creative labor.

3. Copyright rights also extend to works that have been made public and also to works that have not been made public that are expressed in any objective form, including in written, oral form (in the form of a public speech, public performance, and in any other form), in the form of a depiction, a sound or video recording, or in a three-dimensional form.

4. For the arising, realization, and protection of copyright rights, neither registration of the work nor the observance of any other formalities is required.

With respect to computer programs and databases, registration is possible, conducted at the option of the rightholder in accordance with the rules of Article 1262 of the present Code.

5. Copyright rights do not extend to ideas, concepts, principles, methods, processes, systems, means, solutions of technical, organizational or other tasks, inventions, facts, or programming languages.

6. The following are not objects of copyright rights:

1) official documents of state bodies and bodies of local self-government of municipal formations, including statutes, other normative acts, judicial decisions, other materials of a legislative, administrative and judicial nature, official documents of international organizations, and also their official translations;

2) state symbols and emblems (flags, seals, insignia, money, and the like) and also symbols and emblems of municipal formations;

3) works of folk creativity (folklore) which do not have specific authors;

4) reports on events and facts having an exclusively informational nature (reports on the news of the day, program listings for television broadcasts, schedules for the movement of means of transport, and the like).

7. Copyright rights extend to part of a work, to its name, and to a character in the work if by their nature they can be recognized as an independent result of the creative work of the author and they satisfy the requirements established by Paragraph 3 of the present Article.

Article 1260. **Translations, Other Derivative Works, Complied Works**

1. The translator and also the author of another derivative work (reworking, motion picture version, arrangement, stage version or other similar work) shall own the copyright rights correspondingly to a translation done by him and to other reworking of another (original) work.

2. Copyright rights to the selection or placement of materials made by them (compilation) belong to the compiler of a collection and the author of another compiled work (anthology, encyclopedia, database, atlas, or other similar work).

A database is the totality of independent materials (articles, accounts, normative acts, judicial decisions, and other similar materials) presented in an objective form and systematized in such a manner that these materials may be found and processed with the aid of a computer.

3. A translator, compiler, or other author of a derivative or complied work shall exercise his copyright rights on the condition of observance of the rights of the authors of works used for the creation of the derivative or complied work.

4. The copyright rights of the translator, compiler, or other author of a derivative or complied work shall be protected as the right to an independent object of copyright regardless of the protection of the rights of the authors of the works on which the derivative or compiled work is based.

5. The author of a work placed in a collection or other complied work has the right to use his work independently of the complied work unless otherwise provided by the contract with the creator of the complied work.

6. Copyright rights to a translation, collection, or other derivative or complied work shall not prevent other persons from translating or reworking the same original work, nor from creating their own complied works by another selection or placement of the same materials.

7. To the publisher of encyclopedias, encyclopedic reference works, periodical and continuing collections of scholarly works, newspapers, magazines, and other periodical works shall belong the right to the use of such publications. The publisher shall have the right upon any use of such a publication to indicate its designation or to demand its indication.

The authors or other holders of exclusive rights to the works included in such publications shall retain these rights independently of the right of the publisher or other persons to the use of such works as a whole, with the exception of the cases when these exclusive rights were transferred to the

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publisher or other persons or went to the publisher or other persons on other bases provided by a statute.

Article 1261. **Computer Programs**

Copyright for all types of computer programs (including for operating systems and program combinations), which may be expressed in any language and in any form, including source code and object code shall be protected in the same way as copyright to works of literature. A computer program is a totality of data and commands presented in an objective from and meant for the functioning of a computer or of other computer facilities for the purpose of obtaining a specific result, including preparatory materials obtained in the course of development of a computer program and audiovisual representations generated by it.

Article 1262. **State Registration of Computer Programs and Databases**

1. The rightholder, during the time period of effectiveness of the exclusive right to a computer program or database may at his option register such program or such database at the Federal agency of executive authority for intellectual property.

Computer programs and databases that contain information constituting a state secret are not subject to state registration. A person who has submitted an application for state registration (the applicant) shall bear responsibility for disclosure of information on computer programs and databases in which information constituting a state secret is contained in accordance with the legislation of the Russian Federation.

2. An application for state registration of a computer program or database (registration application) must relate to one computer program or to one database.

A registration application must contain:

an application for state registration of a computer program or database with an indication of the rightholder and also of the author if he has not refused to be mentioned as such and place of residence or place of location of each of them;

materials to be deposited identifying the computer program or database, including an abstract;

a document confirming the payment of the state fee in the established amount or the presence of bases for exemption from the payment of the state fee or for reduction of its amount or for extension of the time for its payment.

The rules for the formalization of the application for registration shall be established by the Federal agency of executive authority exercising normative-legal regulation in the area of intellectual property.

3. On the basis of an application for registration the Federal agency of executive authority for intellectual property shall verify the presence of the necessary documents and materials and their correspondence to the requirements provided by Paragraph 2 of the present Article. Upon a positive result of the verification the aforesaid Federal agency shall enter the computer program or the database respectively into the Register of Computer Programs and into the Register of Databases, shall issue a certificate of state registration to the applicant and shall publish information on the registered computer program or database in an official gazette of this agency.

On request of the aforesaid Federal agency or on his own initiative, the author or other rightholder shall have the right before publication of the information in the official gazette to supplement, clarify, and correct the documents and materials contained in the application for registration.

4. The procedure for state registration of computer programs and databases, the forms of certificates on state registration, the list of information indicated in them and the list of information published in the official gazette of the Federal agency of executive authority for intellectual property, shall be established by the Federal agency of executive authority exercising normative-legal regulation in the area of intellectual property.

5. Contracts for the alienation of the exclusive right to a registered computer program or database, and the transfer of the exclusive right to such a program or database to other persons without a contract shall be subject to state registration at the Federal agency of executive authority for intellectual property.

Information on a change of the holder of the exclusive right shall be entered in the Register of Computer Programs or in the Register of Databases on the basis of a registered contract or other right-establishing document and shall be published in the official gazette of the Federal agency of executive authority for intellectual property.

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6. Information entered into the Register of Computer Programs or the Register of Databases shall be considered accurate, unless it is proved otherwise. The applicant shall bear responsibility for the accuracy of the information presented for state registration.

Article 1263. **Audiovisual Work**

1. An audiovisual work is a work consisting of a fixed series of interconnected illustrations (with or without their being accompanied by sound) and meant for visual and aural (in the case of accompanying sound) perception with the aid of appropriate technical devices. Audiovisual works include cinematographic works and also all works expressed by means analogous to cinematographic (television and video films, and other similar works) regardless of the means of their initial or subsequent fixation.

2. The authors of an audiovisual work are:

1) the director-producer;

2) the author of the script;

3) the composer who is the author of a musical work (with or without words) specially created for this audiovisual work;

3. In case of public performance or communication over the air or by cable of an audiovisual work the composer who is the author of a musical work (with or without words) used in the audiovisual work shall keep the right to compensation for the aforesaid types of use of his musical work.

4. The rights of the preparer of an audiovisual work, i.e., of the person who organized the creation of such work (the producer) shall be determined in accordance with Article 1240 of the present Code.

The preparer shall have the right in case of any use of an audiovisual work to indicate his name or designation or to demand such an indication. In the absence of proof to the contrary, the preparer of an audiovisual work shall be recognized to be the person whose name or designation is indicated on this work in the usual manner.

5. Each author of a work that has entered as a constituent part in an audiovisual work, whether it existed previously (the author of a work used as the basis of a film script and others), and also of a work created in the process of work on it (the operator-director, art-director, and others) shall keep the exclusive right to his work with the exception of cases when this exclusive right was transferred to the preparer or other persons on other bases provided by a statute.

Article 1264. **Drafts of Official Documents, Symbols, and Emblems**

1. The right of authorship to a draft of an official document including to the draft of an official translation of such a document, and also to the draft of an official symbol or emblem shall belong to the person who has created the corresponding draft (the developer).

The developer of the draft of an official document, symbol or emblem has the right to make the draft public unless this is forbidden by a state body, body of local self-government of a municipal formation or international organization upon whose order the draft was developed. Upon publication of the draft, the developer has the right to indicate his name.

2. The draft of an official document, symbol, or emblem may be used by a state body, body of local self-government, or international organization for the preparation of the corresponding official document or the development of a symbol or emblem without the consent of the developer if the draft has been made pubic by the developer for use by this body or organization or has been sent by the developer to the corresponding body or organization.

In the preparation of an official document and in the development of an official symbol or emblem on the basis of the corresponding draft, additions and changes may be made in it at the discretion of the state body, body of local self-government, or international organization that has conducted the preparation of the official document or the development of the official symbol or emblem.

After official adoption for consideration of the draft by the state body, body of local self-government, or international organization, the draft may be used without an indication of the name of the developer.

Article 1265. **Right of Authorship and Right of Author to his Name**

1. The right of authorship, the right to be recognized as the author of a work and the right of the author to his name - the right to use or permit the use of a work under his own name, under an assumed name (pseudonym) or without an indication of the name, i.e., anonymously, are inalienable and nontransferable, including in the case of transfer to another person or passage to him of the

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exclusive right to a work and in the case of granting to another person of the right of use of the work. A waiver of these rights shall be void.

2. In case of publication of a work anonymously or under a pseudonym (with the exception of the case when the pseudonym of the author does not leave a doubt as to his identity) the publisher (Paragraph 1 of Article 1287), whose name or designation was indicated on the work, in the absence of proof to the contrary, shall be considered to be the representative of the author and in this capacity shall have the right to protect the rights of the author and to ensure their realization. This provision shall be effective until the time when the author of the work reveals his identity or declares his authorship.

Article 1266. **Right to Inviolability of a Work and Protection of a Work from Distortions**

1. The making of changes, abridgements, or additions to a work or the provision of a work in its use with illustrations, a foreword, or an afterword, commentaries or any explanations shall be not allowed without the consent of the author (the right to inviolability of a work).

In the use of a work after the death of the author, the person possessing the exclusive right to the work shall have the right to permit the making of changes, abridgements or additions to the work, on the condition that this does not distort the thought of the author and does not disturb the completeness of the perception of the work and does not contradict the desire of the author specifically expressed by him in a will, letters, diaries, or other written form.

2. Perversion, distortion or other change in the work impugning the honor, dignity, or business reputation of the author and an attempt at such actions shall give the author the right to demand protection of his honor, dignity or business reputation in accordance with the rules of Article 152 of the present Code. In these cases, on demand of interested persons, protection is permitted for the honor and dignity of the author even after the his death.

Article 1267. **Protection of Authorship, the Name of the Author, and the Inviolability of a Work After the Death of the Author.**

1. Authorship, the name of the author and the inviolability of the work shall be protected without limit of time.

2. The author shall have the right by the procedure provided for designating an executor of a will (Article 1134) to indicate the person to whom he entrusts the protection of authorship, name of the author, and inviolability of the work (second subparagraph of Paragraph 1 of Article 1266) after his death. This person shall exercise his powers for life.

In the absence of such indications or in the case of refusal of the person designated by the author to exercise the corresponding powers and also after the death of this person, the protection of authorship, of the name of the author, and of the inviolability of the work shall be exercised by the heirs of the author, their legal successors and other interested persons.

Article 1268. **The Right to Make a Work Public**

1. The right to make his work public, i.e., the right to take an action or give consent to the taking of an action that for the first time would make the work accessible for general knowledge by its publication, public display, public performance, communication over the air or by cable or in any other manner shall belong to the author.

In such case publication (release to the world) is the release into circulation of copies of the work that are a reproduction of the work in any material form in a number sufficient for the satisfaction of the reasonable needs of the public proceeding from the nature of the work.

2. An author who has transferred a work to another person by contract for use shall be considered to have consented to making this work public.

3. A work not made public during the life of the author may be made public after his death by a person holding the exclusive right to the work if the making of the work public does not contradict the desire of the author of the work specifically expressed by him in written form (in a will, in letters, in diaries, and the like).

Article 1269. **Right to Recall**

The author shall have the right to rescind a previously adopted decision to make a work public (the right to recall) on the condition of compensation for damages caused by such a decision, to the person to whom the exclusive right to the work was alienated or to whom the right of the use of the work was granted. If the work has already been made public the author shall also have the duty to give public notice of its recall. In such a case the author shall have the right to take out of circulation the previously released copies of the work, having compensated for damages caused by this.

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The rules of the present Article shall not be applied to computer programs, to employment works and to works that have entered into a complex object (Article 1240).

Article 1270. **Exclusive Right to a Work**

1. The exclusive right to use a work in accordance with Article 1229 of the present Code in any form and any manner not contrary to a statute (the exclusive right to the work), including by the methods indicated in Paragraph 2 of the present Article shall belong to the author of the work. The rightholder may dispose of the exclusive right to the work.

2. The use of a work, regardless of whether or not the corresponding actions are taken for the purpose of extracting profit or without such a purpose shall include, in particular:

1) reproduction of the work , i.e., the preparation of one or more copies of a work or of part of it in any material form, including in the form of audio or video recording, preparation in three dimensions of one or more copies of a two-dimensional work and in two-dimensions of one or more copies of a three dimensional work. In this case the recording of the work on an electronic carrier, including recording in the memory of a computer shall also be considered reproduction, except for the case when such recording is temporary and constitutes an inseparable and essential part of a technological process having the sole purpose of lawful use of the recording or lawful bringing of the work to general knowledge;

2) distribution of a work by sale or other alienation of its original or of copies;

3) public display of a work, i.e. any showing of the original or of a copy of a work directly or on a screen with the aid of a film, transparency, television frame, or other technical means and also the demonstration of individual frames of an audiovisual work without observance of their sequence directly or with the aid of technical means at a place open for free attendance or at a place where a significant number of persons not belonging to the usual circle of a family is present, regardless of whether the work is perceived in the place of its demonstration or in another place simultaneously with the demonstration of a work;

4) the import of the original or of copies of a work for the purpose of distribution;

5) renting out of the original or a copy of the work;

6) public performance of a work, i.e., the presentation of the work in live performance or with the aid of technical means (radio, television, and other technical means) and also the showing of an audiovisual work (with or without the accompaniment of sound) at a place open for free attendance or at a place where a significant number of persons not belonging to the usual circle of a family is present, regardless of whether or not the work is perceived in the place of its demonstration or showing or in another place simultaneously with the demonstration or showing of a work;

7) communication over the air, i.e., communication of a work for general knowledge (including showing or performance) by radio or television (including by way of retransmission), with the exception of communication by cable. In this case, by communication is meant any action by means of which the work becomes accessible for aural and/or visual perception regardless of its actual perception by the public. In case of communication of works over the air via a satellite, communication over the air means the receipt of signals from a ground station at the satellite and transmission of signals from the satellite by means of which the work may be brought to general knowledge regardless of its actual reception by the public. Communication of coded signals is communication over the air if the means of decoding are granted to an unlimited group of people by the organization of over-the-air broadcasting or with its consent;

8) communication by cable, i.e., communication of the work for general knowledge by radio or television with the aid of a cable, wire, optical fiber, or analogous means (including by way of retransmission). Communication of coded signals is communication by cable if the means of decoding are granted to an unlimited group of people by the cable broadcasting organization or with its consent;

9) a translation or other reworking of the work. In this case, by reworking of a work is meant the creation of a derivative work (adaptation, screen version, arrangement, stage version, or the like). By reworking (or modification) of a computer program or a database is meant any changes made in them, including the translation of such a computer program or such a database from one language to another with the exception of an adaptation, i.e., the making of changes done solely for the purpose of functioning of computer program or database on the specific technical means of the user or under the management of specific programs of the user;

10) the practical implementation of an architectural, design, city planning, or park or garden plan;

11) bringing a work to general knowledge in such a way that any person may obtain access to the work from any place and at any time of his own choosing (bringing to general knowledge).

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3. The practical application of the propositions constituting the content of a work, including propositions that are a technical, economic, organizational or other solution is not the use of a work with respect to the rules of the present Chapter, with the exception of the use provided in numbered subparagraph 10 of Paragraph 2 of the present Article.

4. The rules of subparagraph 5 of Paragraph 2 of the present Article shall not be applied with respect to a computer program with the exception of the case when such program is the basic object of renting out.

Article 1271. **Symbol of Protection of Copyright**

The rightholder for notification of the exclusive right to a work belonging to him shall have the right to use the symbol of protection of the copyright, which shall be placed on each copy of the work and which shall consist of the following elements:

the Latin letter "C" in a circle;

the name or designation of the rightholder;

the year of first publication of the work.

Article 1272. **Distribution of the Original or of Copies of a Published Work**

If the original or copies of a lawfully published work have been introduced into civil commerce on the territory of the Russian Federation by means of their sale or other alienation, further distribution of the original or copies of the work shall be allowed without the consent of the rightholder and without payment of compensation to him with the exception of the case provided by Article 1293 of the present Code.

Article 1273. **Free Reproduction of a Work for Personal Purposes**

1. Reproduction by a citizen exclusively for personal purposes of a work lawfully made public is allowed without the consent of the author or other rightholder with the exception of:

1) reproduction of works of architecture in the form of buildings and analogous structures;

2) reproduction of databases or their significant parts;

3) reproduction of computer programs except for the cases provided by Article 1280 of the present Code;

4) reproduction (Paragraph 2 of Article 1275) of books (in their entirety) and of sheet music.

5) video recording of an audiovisual work in case of its public performance at a please open for free attendance or at a place where there are a significant number of persons present not belonging to the usual circle of a family;

6) reproduction of an audiovisual work with the aid of professional equipment not meant for use in home conditions.

Article 1274. **Free Use of a Work for Informational, Scholarly, Instructional, or Cultural Purposes**

1. The following are allowed without the consent of the author or other rightholder and without the payment of compensation but with an obligatory indication of the name of the author whose work is used and of the source of borrowing:

1) citation in the original and in translation for scientific, polemical/critical, or information purposes of works lawfully made public in an amount justified by the purpose of citation, including the reproduction of excerpts from newspaper and magazine articles in the form of press surveys;

2) use of works lawfully made public and excerpts from them as illustrations in publications, radio and television broadcasts, and sound and video recordings of an instructional nature in an amount justified by the purpose thereof;

3) reproduction in the press, communications over the air or by cable of articles lawfully published in newspapers and magazines on current economic, political, social, and religious matters or of works of the same nature transmitted over the air in cases when such reproduction or communication was not specially forbidden by the author or other rightholder;

4) the reproduction in the press, communication over the air or by cable of publicly delivered political speeches, addresses, papers, and other analogous works in an amount justified by the informational purpose. In such case the authors of such works shall retain the right to their publication in collection of works;

5) the reproduction or communication for general knowledge in surveys of current events by means of photography or cinematography or by way of communication over the air or by cable of works that are seen or heard in the course of such events in an amount justified by the informational purpose;

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6) reproduction without the extraction of profit in dot-relief type or other special means for the blind of lawfully published works, except for works specially created for reproduction by such means.

2. In the case when a library provides copies of work lawfully introduced into civil commerce for temporary uncompensated use, such use shall be allowed without the consent of the author or other rightholder and without payment of compensation. However, copies of works expressed in digital form provided by libraries for temporary uncompensated use, including in the cases of mutual use of library resources may be provided only on the premises of the libraries on the condition of excluding the possibility of making copies of these works in digital form.

3. The creation of a work in the genre of a literary, musical, or other parody, or in the genre of caricature on the basis of another (original) work lawfully made public and the use of this parody or caricature shall be allowed without the consent of the author or other holder of the exclusive right to the original work and without payment of compensation to him.

Article 1275. **Free Use of a Work by Way of Reproduction**

1. Reproduction (subparagraph 4 of Paragraph 1 of Article 1273) in a single copy without the extraction of profit shall be allowed without the consent of the author or other rightholder and without the payment of compensation, but with obligatory indication of the name of the author whose work is being used and of the source of borrowing for:

1) lawfully published work - by libraries and archives for restoration, replacement of lost or spoiled copies of the work and for provision of copies of a work to other libraries that have lost them for any reasons from their collections;

2) individual articles and short works lawfully published in collections, newspapers and other periodical publications, of short excerpts from lawfully published written works (with illustrations or without illustrations) - by libraries and archives on requests of citizens for use for instructional and scholarly purposes and also by educational institutions for classroom work.

2. By reproduction (reprographic copying) is meant the facsimile copying of a work with the use of any technical means made not for the purpose of publication. Reproduction does not include copying of a work or storage of copies thereof in electronic (including digital), optical or other machine readable form, with the exception of cases of the creation with the aid of technical means of temporary copies meant for the conduct of reproduction.

Article 1276. **Free Use of a Work Permanently Located at a Place Open for Public Visiting**

The reproduction, communication over the air or by cable of a photographic work, a work of architecture, or a work of figurative art that is permanently located in a place open for free attendance shall be allowed without the consent of the author or other rightholder and without the payment of compensation, with the exception of cases when the depiction of the work by this method is the basic object of the reproduction, communication over the air or by cable or when the image of the work is used for commercial purposes.

Article 1277. **Free Public Performance of a Musical Work**

The public performance of a musical work during an official or religious ceremony or funeral in the amount justified by the nature of such a ceremony shall be allowed without the consent of the author or other rightholder and without the payment of compensation.

Article 1278. **Free Reproduction for Purposes of Application of the Law**

Reproduction of a work for the conduct of proceedings in a case of an offense punishable administratively, for the conduct of an inquiry, preliminary investigation or the implementation of court proceedings in the amount justified by this purpose shall be allowed without the consent of the author or other rightholder and without the payment of compensation.

Article 1279. **Free Recording of a Work by an Organization of Over-the-air Broadcasting for the Purpose of Short-term Use**

An organization of over-the-air broadcasting shall have the right without the consent of the author or other rightholder and without payment of additional compensation to make a recording for the purpose of short-term use of a work in relation to which this organization has obtained the right to communication over the air, on the condition that such a recording shall be made by the organization of over-the-air broadcasting with the aid of its own equipment and for its own broadcasts. In such a case the organization shall be obligated to destroy such a recording within the course of six months from the day of its preparation unless a longer time period has been agreed upon with the rightholder or has been

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established by a statute. Such a recording may be retained without the consent of this rightholder in state or municipal archives if it has an exclusively documentary nature.

Article 1280. **Free Reproduction of Computer Programs and Databases. Decompilation of Computer Programs**

1. A person who lawfully possesses a copy of a computer program or a copy of a database (a user) shall have the right without the permission of the author or other rightholder and without the payment of additional compensation:

1) to make changes in the computer program or database exclusively for the purpose of its functioning on the technical means of the user and take actions necessary for the functioning of such computer program or database in connection with its purpose, including recording and storing in the memory of a computer (of one computer or of one user of a network) and also to conduct correction of clear errors, unless otherwise provided by the contract with the rightholder;

2) to prepare a copy of the computer program or database on the condition that this copy is meant only for archival purposes or for replacement of the lawfully obtained copy in cases when such a copy has been lost, destroyed, or has become unsuitable for use. In this case the copy of the computer program or of the database may not be used for other purposes than those indicated in the numbered subparagraph 1 of the present Paragraph and must be destroyed if possession of a copy of such computer program or database has ceased to be lawful.

2. A person lawfully possessing a copy of a computer program shall have the right without the consent of the rightholder and without payment of additional compensation to study, research, or test the functioning of such computer program for the purpose of determining the ideas and principles underlying any element of the program by taking the actions provided for by the first numbered subparagraph of Paragraph 1 of the present Article.

3. A person lawfully possessing a copy of a computer program shall have the right without the consent of the rightholder and without payment of additional compensation to reproduce and transform the object code into source text (to decompile the computer program) or to delegate to other persons to take these actions if they are necessary for achievement of the capability for interaction of a computer program independently developed by this person with other programs that may interact with the decompiled program, upon the observance of the following conditions:

1) the information necessary for achieving the capability for interaction previously was not accessible for this person from other sources;

2) these actions are conducted with respect to only those parts of the decompiled computer program that are necessary for the achievement of the capability for interaction;

3) information obtained as the result of decompilation may be used only for achievement of the capability for interaction of an independently developed computer program with other programs, may not be transferred to other persons with the exception of cases when this is necessary for the achievement of the capability for interaction of an independently developed computer program with other programs, and also may not be used for the development of a computer program in its nature substantially similar to the decompiled computer program nor for other activity infringing an exclusive right to the computer program.

4. The application of the provisions provided by the present Article must not cause unjustified harm to the normal use of a computer program or database and must not impair in an unjustified manner the lawful interests of the author or rightholder.

Article 1281. **The Time Period of Effectiveness of the Exclusive Right to a Work**

1. The exclusive right to a work shall be effective for the whole life of the author plus seventy years, counting from January 1 of the year following the year of death of the author.

The exclusive right to a work created in coauthorship shall be effective for the whole life of the author outliving the other coauthors plus seventy years, counting from January 1 of the year following the year of his death.

2. For a work made publicly anonymously or under a pseudonym, the time period of effectiveness of the exclusive right shall expire after seventy years counting from January 1 of the year following the year of its lawfully being made public. If in the course of the aforementioned time period the author of the work made public anonymously or under a pseudonym reveals his identity or if his identity will no longer leave any doubts, the exclusive right shall be effective during the course of the time period established in Paragraph 1 of the present Article.

3. The exclusive right to a work made public after the death of the author shall be effective during the course of seventy years after the work was made public, counting from January 1 of the year

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following the year of its being made pubic, on the condition that the work was made public within the course of seventy years after the death of the author.

4. If the author of a work was repressed and posthumously rehabilitated, the time period of effectiveness of the exclusive right shall be considered extended and the seventy year period shall be calculated from January 1 of the year following the year of rehabilitation of the author of the work.

5. If the author worked during the time of the Great Patriotic War or participated in it, the time period of effectiveness of the exclusive right established by the present Article shall be extended by four years.

Article 1282. **Passage of a Work into the Public Domain**

1. Upon the expiration of the time period of effectiveness of the exclusive right, a work of scholarship, literature or art, whether made public or not made public, shall enter the public domain.

2. A work that has entered the public domain may be used freely by any person without any consent or permission and without payment of author's compensation. In such a case authorship, the name of the author, and the inviolability of the work shall be protected.

3. A work that has not been made public that has entered the public domain may be made public by any person, unless making the work public would contradict the desire of the author specifically expressed by him in written form (in a will, letters, diaries, and the like).

The rights of the citizen who has lawfully made public such a work shall be determined in accordance with Chapter 71 of the present Code.

Article 1283. **Passage of the Exclusive Right to a Work by Inheritance**

1. The exclusive right to a work passes by inheritance.

2. In the cases provided by Article 1151 of the present Code an exclusive right to a work included in the composition of an inheritance shall be terminated and the work shall pass into the public domain.

Article 1284. **Levy of Execution on the Exclusive Right to a Work and on the Right of Use of a Work Under a License**

1. Levy of execution is not allowed on an exclusive right to a work belonging to the author. However, execution may be levied on a right of claim by an author against other persons under contracts on the alienation of the exclusive rights to a work and under license contracts and also on income obtained from the use of a work.

Execution may be levied on an exclusive right belonging not to the author himself but to another person and also on the right of use of a work belonging to a licensee.

The rules of the first subparagraph of the present Paragraph extend to heirs of the author, their heirs, and so on, within the limits of the time period of effectiveness of the exclusive right.

2. In case of sale of the right of use of a work belonging to the licensee at public auction for the purpose of levying of execution on this right, the author shall be granted a preferential right to obtain it.

Article 1285. **Contract for the Alienation of the Exclusive Right to a Work**

Under a contract for the alienation of the exclusive right to a work the author or other rightholder transfers or becomes obligated to transfer in full an exclusive right to a work belonging to him to the recipient of such right.

Article 1286. **License Contract for the Granting of the Right of Use of a Work**

1. Under a license contract one party – the author or other rightholder (the licensor) grants or becomes obligated to grant to the other party (the licensee) the right of use of this work within the limits established by the contract.

2. A license contract shall be concluded in written form. A contract on granting the right of use of a work in a periodical press publication may be concluded in oral form.

3. The conclusion of license contracts on granting the right of use of a computer program or database is allowed by the conclusion by each user with the respective rightholder of a contract of adhesion, the terms of which are stated on a copy of such program or database obtained or on the packaging of such a copy. The beginning of use of such program or database by the user as this beginning is defined by these terms shall signify the user's consent to the conclusion of the contract.

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4. In a compensated license contract the amount of compensation for the use of the work or the procedure for calculating this compensation must be indicated.

In such a contract payment to the licensor of compensation may be provided in the form of fixed one-time or periodical payments, percentage transfers from income (or receipts) or in another form.

The Government of the Russian Federation shall have the right to establish minimum rates of author's compensation for separate types of use of works.

Article 1287. **Basic Conditions of a Publication License Contract.**

1. Under a contract for granting the right to use a work concluded by the author or other rightholder with a publisher, i.e. with a person upon whom the obligation to publish the work is imposed in accordance with the contract (a publication license contract), the licensee has the duty to begin the use of the work not later than the time period indicated in the contract. In case of nonperformance of this obligation the licensor has the right to renounce the contract without compensation to the licensee of the damages caused by such renunciation.

In case of the absence in the contract of a concrete time period for the beginning of the use of the work, such use of the work must begin within the time period usual for the given type of works and the method of their use. Such a contract may be rescinded by the licensor on the bases and by the procedure that are provided by Article 450 of the present Code.

2. In case of rescission of a publication license contract on the basis of the provisions provided by Paragraph 1 of the present Article, the licensor shall have the right to demand payment to him of the compensation provided by the contract in full amount.

Article 1288. **Contract of Author's Order**

1. Under a contract of author's order, one party (the author) has the duty on the order of another party (the customer) to create the work of scholarship, literature, or art provided by the contract on a material carrier or in another form.

The material carrier of the work shall be transferred to the customer in ownership unless the agreement of the parties provides for its transfer to the customer for temporary use.

The contract of author's order shall be compensated unless the agreement of the parties provides otherwise.

2. A contract of author's order may provide for the alienation to the customer of the exclusive right to a work that must be created by the author or the grant to the customer of the right of use of this work within the limits established by the contract.

3. In the case when the contract of author's order provides for the alienation to the customer of the exclusive right to a work that must be created by the author, the provisions of the present Code on the contract on the alienation of an exclusive right shall be respectively applied to this contract, unless from the nature of the contract it follows otherwise.

4. If a contract of author's order is concluded with a term on the granting to the customer of the right of use of the work within the limits established by the contract, the provisions provided by Articles 1286 and 1287 of the present Code shall be respectively applied to such contract.

Article 1289. **Time Period for Performance of the Contract of Author's Order**

1. A work whose creation is provided for by a contract of author's order must be transferred to the customer within the time period established by the contract.

A contract that does not provide for and does not make possible the determination of the time period for its performance shall not be considered concluded.

2. In the case when the time period for the performance of a contract of author's order has ended, the author if necessary and in the presence of valid reasons for completion of the work shall be granted a supplementary grace time period with the length of one quarter of the time period established for performance of the contract, unless an agreement of the parties establishes a longer grace time period.

In the cases provided by Paragraph 1 of Article 1240 of the present Code, this rule shall be applied unless otherwise provided by the contract.

3. Upon expiration of the grace time period provided to the author in accordance with Paragraph 2 of the present Article the customer shall have the right to unilaterally renounce the contract of author's order.

The customer shall also have the right to renounce the contract of author's order directly after the end of the time period for its performance as established in the contract if the contract has not been

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performed by this time and if it clearly flows from its terms that in case of violation of the time period for performance of the contract the customer will lose interest in the contract.

Article 1290. **Liability Under Contracts Concluded by the Author of a Work**

1. The liability of the author under a contract for the alienation of an exclusive right to a work and under a license contract shall be limited to the amount of the actual harm caused to the other party unless the contract provides for a lower amount of liability of the author.

2. In case of nonperformance or improper performance of a contract of author's order for which the author bears liability, the author shall be obligated to return to the customer an advance, and also to pay him a penalty if it is provided by the contract. However the overall amount of these payments shall be limited to the amount of the actual harm caused to the customer.

Article 1291. **Alienation of the Original of a Work and the Exclusive Right to the Work**

1. In case of alienation by the author of the original of a work (a manuscript, the original of a work of painting, sculpture, and the like) including in case of alienation of the original of a work under a contract of author's order, the exclusive right to the work shall be retained by its author, unless the contract provides otherwise.

In the case when the exclusive right to a work has not passed to the recipient of its original, the recipient shall have the right without the consent of the author and without the payment to him of compensation to display the original of the work obtained in ownership and to reproduce it in catalogs of exhibits and in publications dedicated to his collection and also to transfer the original of this work for display at exhibits organized by other persons.

2. In case of alienation of the original of a work by its owner possessing an exclusive right to the work but not being the author of the work, the exclusive right to the work shall pass to the recipient of the original of the work unless the contract provides otherwise.

3. The rules of the present Article relating to the author of the work shall also extend to the heirs of the author, to their heirs, and so on, within the limits of the time period of effectiveness of the exclusive right.

Article 1292. **Right of Access**

1. The author of a work of figurative art shall have the right to require from the owner of the original of the work the provision of the possibility of exercising the right to reproduction of his work (the right of access). However the owner of the original may not be required to ship the work to the author.

2. The author of a work of architecture shall have the right to require from the owner of the original of the work the provision of the possibility of making photographs and video recordings of the work, unless otherwise provided by the contract.

Article 1293. **Droit de suite**

1. In case of alienation by an author of the original of a work of figurative art, upon each public resale of the respective original in which a gallery of figurative art, art salon, store, or other similar organization participates as a seller, buyer, or intermediary, the author shall have the right to receive compensation from the seller in the form of a percentage deducted from the resale price (droit de suite). The amount of the percentage deduction, and also the conditions and procedure for their payment shall be determined by the Government of the Russian Federation.

2. Authors shall enjoy the droit de suite by the procedure established by Paragraph 1 of the present Article also with respect to original manuscripts (those written by the author himself) of literature and musical works.

3. The droit de suite is inalienable, but shall pass to the heirs of the author for the time period of effectiveness of the exclusive right.

Article 1294. **Rights of the Author of a Work of Architecture, City Planning, or Garden or Park Art**

1. The author of work of architecture, city planning, or garden or park art shall have the exclusive right to use his work in accordance with Paragraphs 2 and 3 of Article 1270 of the present Code including by developing documentation for construction and by implementation of the architectural, city-planning, or garden or park plan.

The use of the architectural, city-planning, or garden or park plan for implementation is allowed only one time, unless otherwise established by the contract in accordance with which the plan

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was created. The plan and documentation made on its basis for construction may be used repeatedly only with the consent of the author of the plan.

2. The author of a work of architecture, city planning or garden or park art shall have the right to exercise author's checking of the development of documentation for construction and the right of author's supervision of the construction of a building or structure or other realization of the respective plan. The procedure for exercise of author's checking and authors supervision shall be established by the Federal agency of executive authority for architecture and city planning.

3. The author of a work of architecture, city planning, or garden or park art shall have the right to require from the customer of the architectural, city-planning or garden or park plan the granting of the right to participation in the implementation of his plan, unless otherwise provided by the contract.

Article 1295. **Employment Work**

1. The copyright rights to a work of scholarship, literature, or art created within the limits of the labor obligations established for an employee (author) (an employment work) shall belong to the author.

2. The exclusive right to an employment work shall belong to the employer unless a labor contract or other contract between the employer and the author has provided otherwise.

If the employer within the course of three years from the day when the employment work was put at its disposition does not begin the use of this work, does not transfer the exclusive right to it to another person, or does not inform the author of keeping the work in secrecy, the exclusive right to the employment work shall belong to the author.

If the employer, within the time period provided in the second subparagraph of the present Paragraph begins the use of an employment work or transfers the exclusive right to another person, the author shall have the right to compensation. The author shall obtain the aforesaid right to compensation also in the case when the employer has taken the decision to keep the employment work in secrecy and for this reason has not begun the use of this work within the aforesaid time period. The amount of compensation, the conditions and procedure for its payment by the employer shall be defined by the contract between him and the employee and, in case of dispute, by a court.

3. In the case when in accordance with Paragraph 2 of the present Article the exclusive right to an employment work belongs to the author, the employer shall have the right to use such work by methods dependent upon the purpose of the employment task and within the limits deriving from the task as well as to make such work public unless otherwise provided by the contract between him and the employee. In this case, the right of the author to use an employment work in a manner not dependent upon the purpose of the task and also even in a manner dependent upon the purpose of the task but beyond the limits deriving from the task of the employer shall not be limited.

The employer may in use of an employment work indicate his own name or the designation or require such an indication.

Article 1296. **Computer Programs and Databases Created on Order**

1. In the case when a computer program or database is created by a contract the subject of which was its creation (on order), the exclusive right to such computer program or such database shall belong to the customer, unless provided otherwise by a contract between the contractor (the performer) and the customer.

2. In the case when the exclusive right to a computer program or database in accordance with Paragraph 1 of the present Article belongs to the customer, the contractor (the performer) shall have the right, to the extent it is not provided otherwise by the contract, to use the program or database for its own needs on the condition of an uncompensated simple (non-exclusive) license during the course of the whole time period of effectiveness of the exclusive right.

3. In the case when, in accordance with a contract between the contractor (the performer) and the customer, the exclusive right to a computer program or database belongs to the contractor (the performer), the customer shall have the right to use this program or database for his own needs on the conditions of an uncompensated simple (nonexclusive) license during the course of the whole time period of effectiveness of the exclusive right.

4. An author of a computer program or database created on order, to whom the exclusive right to this program or database does not belong shall have the right to compensation in accordance with the third subparagraph of Paragraph 2 of Article 1295 of the present Code.

Article 1297. **Computer Programs and Databases Created in the Performance of Work Under a Contract**

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1. If a computer program or database was created in performance of a work contract or a contract for the performance of scientific-research, experimental-design or technological works that did not directly provide for its creation, the exclusive right to such program or such database shall belong to the contractor (performer), unless the contract between the contractor and the customer provides otherwise.

In this case, the customer shall have the right, unless the contract has provided otherwise, to use the program or database created in this manner for the purposes for the achievement of which the corresponding contract was concluded on the bases of a simple (nonexclusive) license during the whole time period of effectiveness of the exclusive right without payment of additional compensation for this use. In case of transfer by the contractor (or performer) of the exclusive right to the computer program or database to another person, the customer shall retain the right of use of the program or database.

2. In the case when, in accordance with a contract between the contractor (or performer) and the customer, the exclusive right to a computer program or database has been transferred to the customer or to a third person indicated by the customer, the contractor (the performer) shall have the right to use the program or database created by him for his own needs on conditions of an uncompensated simple (nonexclusive) license during the course of the whole time period of effectiveness of the exclusive right, unless the contract provides otherwise.

3. An author of the computer program or database indicated in Paragraph 1 of the present Article to whom the exclusive right to such program or such database does not belong shall have the right to compensation in accordance with the third subparagraph of Paragraph 2 of Article 1295 of the present Code.

Article 1298. **Works of Scholarship, Literature, and Art Created Under a State or Municipal Contract**

1. The exclusive right to a work of scholarship, literature, or art created under a state or municipal contract for state or municipal needs shall belong to the performer who is the author or other person performing the state or municipal contract unless the state or municipal contract provides that this right shall belong to the Russian Federation, to the subject of the Russian Federation, or to the municipal formation in whose name the state or municipal customer is acting, or jointly to the performer and the Russian Federation, to the performer and the subject of the Russian Federation, or to the performer and the municipal formation.

2. If in accordance with the state or municipal contract the exclusive right to the work of scholarship, literature, or art belongs to the Russian Federation, a subject of the Russian Federation, or a municipal formation, the performer shall be obligated by way of the conclusion of respective contracts with his employees and third parties to obtain all rights right or to ensure their being obtained for transfer correspondingly to the Russian Federation, the subject of the Russian Federation, and the municipal formation. In this case, the performer shall have the right to compensation for the expenditures borne by him in connection with obtaining the corresponding rights from third persons.

3. If the exclusive right to a work of scholarship, literature, or art created under a state or municipal contract for state or municipal needs belongs in accordance with Paragraph 1 of the present Article not to the Russian Federation, not to the subject of the Russian Federation, or not a municipal formation, the rightholder on demand of the state or municipal customer shall be obligated to provide the person indicated by him with an uncompensated simple (nonexclusive) license for the use of the respective work of scholarship, literature, or art for state or municipal needs.

4. If the exclusive right to a work of scholarship, literature, or art created under a state or municipal contract for state or municipal needs belongs jointly to the performer and the Russian Federation, the performer and the subject of the Russian Federation, or the performer and the municipal formation, the state or the municipal customer shall have the right to grant an uncompensated simple (nonexclusive) license for the use of such work of scholarship, literature, or art for state or municipal needs, after informing the performer of this.

5. An employee, whose exclusive right on the basis of Paragraph 2 of the present Article has passed to the performer shall have the right to compensation in accordance with the third subparagraph of Paragraph 2 of Article 1295 of the present Code.

6. The rules of the present Article shall also be applied to computer programs and databases the creation of which was not provided for by a state or municipal contract for state or municipal needs, but which were created in the performance of such a contract.

Article 1299. **Technical Means of Protection of Copyright**

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1. Any technology, technical devices or their components controlling access to a work, preventing or limiting the conduct of actions that are not permitted by the author or other rightholder with respect to the work shall be recognized as technical means of protection of copyright rights.

2. With respect to works it shall not be allowed:

1) taking without the permission of the author or other rightholder of actions directed at eliminating the limitations on the use of a work established by the application of technical means of protection of copyright rights.

2) preparation, distribution, renting out, providing for temporary uncompensated use, import, advertising of any technology, any technical device or its components, and use of such technical means for the purpose of obtaining profit or rendering corresponding services, if as the result of such actions the use of technical means of protection of copyright rights becomes impossible or these technical means cannot ensure proper protection of the aforesaid rights.

3. In case of violation of the provisions provided by Paragraph 2 of the present Article, the author or other rightholder shall have the right to demand at his choice from the violator compensation for damages or payment of compensation in accordance with Article 1301 of the present Code, except for the cases in which by the present Code the use of a work without the consent of the author or other rightholder is authorized.

Article 1300. **Information about Copyright**

1. Information about copyright is any information that identifies a work, an author, or other rightholder or information about the terms of use of a work that is contained in the original or on a copy of a work, is attached to it or appears in connection with communication over the air or by cable or by the bringing of such a work to general knowledge and also any numbers or codes in which such information is contained.

2. With respect to works the following shall not be allowed:

1) removing or changing information about copyright without the permission of the author or other rightholder;

2) reproduction, distribution, import for purposes of distribution, public performance, communication over the air or by cable, or bringing to general knowledge of works with respect to which information about copyright has been removed or changed without the permission of the author or other rightholder.

3. In case of violation of the provisions provided by Paragraph 2 of the present Article, the author or other rightholder shall have the right to demand at his choice from the violator compensation for damages or payment of compensation accordance with Article 1301 of the present Code.

Article 1301. **Liability for Infringement of the Exclusive Right to a Work**

In cases of infringement of the exclusive right to a work the author or other rightholder, along with the use of other applicable methods of protection and measures of liability established by the present Code (Articles 1250, 1252, and 1253) shall have the right in accordance with Paragraph 3 of Article 1252 of the present Code to demand at his option from the infringer instead of compensation for damages the payment of compensation:

in the amount from ten thousand rubles to five million rubles determined at the discretion of the court;

in double the amount of the value of the copies of the work or of two times the amount of the value of the right of the use of the work determined proceeding from the price which in comparable circumstances is usually taken for the lawful use of the work.

Article 1302. **Security for a Claim in Cases on the Infringement of Copyright**

1. A court may forbid a defendant or other person with respect to whom there are sufficient bases to suppose that he is an infringer of copyright rights to take specific actions (preparation, reproduction, sale, renting out, import, or other use provided by the present Code, and also transportation, storage, or possession) with the purpose of introducing into civil commerce copies of a work with respect to which it is supposed that they are counterfeit.

2. The court may impose seizure on all copies of a work with respect to which it is suspected that they are counterfeit and also on materials and equipment used or meant for their preparation or reproduction.

In the presence of sufficient data on the infringement of copyright rights the bodies of inquiry or investigation shall be obligated to take measures for the finding and seizing of copies of a work with respect to which it is supposed that they are counterfeit and also of materials and equipment used or

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meant for preparation or reproduction of the aforesaid copies of the work, including in necessary cases measures for their taking and transfer for responsible storage.

CHAPTER 71. RIGHTS NEIGHBORING ON COPYRIGHT

§ 1. General Provisions

Article 1303. **Basic Provisions**

1. Intellectual rights to the results of performing activity (performances), phonograms, to communication over the air or by cable of radio and television transmissions (broadcasting by organizations of over-the-air and cable broadcasting), to the content of databases, and also to works of scholarship, literature, or art first made public after their passage into the public domain are rights neighboring on copyright (neighboring rights).

2. Neighboring rights include the exclusive right and, in cases provided by the present Code, they also include personal nonproperty rights.

Article 1304. **Objects of Neighboring Rights**

1. Objects of neighboring rights are:

1) performances of performing artists and conductors, productions of director-producers of shows (performances) if these performances are expressed in a form allowing their reproduction and distribution with the aid of technical means;

2) phonograms, i.e. any exclusively sound recordings of performances or other sounds or representations thereof, with the exception of sound recording included in an audiovisual work;

3) communications of transmissions of organizations of over-the-air or cable broadcasting, including broadcasts created by the organization of over-the-air or cable broadcasting itself or on its order and at its expense by another organization;

4) databases - with respect to their protection from unsanctioned extraction and repeated use of the materials constituting their content;

5) works of scholarship, literature, and art that were made public after their passage into the public domain - with respect to the protection of the rights of the publishers of such works.

2. For the arising, exercise, and protection of neighboring rights neither registration of their object nor the observance of any other formalities shall be required.

3. The granting on the territory of the Russian Federation of protection for objects of neighboring rights in accordance with the international treaties of the Russian Federation shall be conducted with respect to performances, phonograms, communication of transmissions of organizations of over-the-air or cable broadcasting that have not gone into the public domain in the country of their origin as the result of the expiration of the time period established in such country for the effectiveness of the exclusive right to these objects and have not gone into the public domain in the Russian Federation as the result of the expiration of the time period provided by the present Code for the effectiveness of the exclusive right.

Article 1305. **Symbol of Protection of Neighboring Rights**

The preparer of a phonogram and the performer, and also another holder of the exclusive right to the phonogram or performance shall have the right for notification of the exclusive right belonging to him to use the symbol of protection of neighboring rights, which shall be placed on each original or copy of the phonogram and/or on each case containing it and shall consist of three elements - the Latin letter *"P"* in a circle, the name or designation of the holder of the exclusive right, and the year of first publication of the phonogram. In such case, by a copy of the phonogram is meant a reproduction thereof on any material carrier made directly or indirectly from the phonogram and including all the sounds or part of the sounds or their representations fixed in this phonogram. By a representation of sounds is meant their presentation in digital form, the transformation of which into a form comprehendible by hearing requires the use of the appropriate technical means.

Article 1306. **Use of Objects of Neighboring Rights Without the Consent of the Rightholder and Without Payment of Compensation**

The use of objects of neighboring rights without the consent of the rightholder and without the payment of compensation shall be allowed in cases of free use of works (articles 1273, 1274, 1277, 1278, and 1279) and also in other cases provided by the present Chapter.

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Article 1307. **Contract for the Alienation of the Exclusive Right to an Object of Neighboring Rights**

Under a contract for alienation of the exclusive right to an object of neighboring rights one party – the performer, the preparer of the phonogram, the organization of over-the-air or cable broadcasting, the preparer of a database, the divulger of a work of scholarship, literature, or art, or other rightholder transfers or becomes obligated to transfer his exclusive right to the respective object of neighboring rights in full to the other party – the recipient of the exclusive right.

Article 1308. **License Contract for Granting the Right of Use of an Object of Neighboring Rights**

Under a license contract, one party – the performer, preparer of a phonogram, the organization of over-the-air or cable broadcasting, the preparer of a database, the divulger of a work of scholarship, literature or art or other rightholder (the licensor) grants or becomes obligated to grant to the other party (the licensee) the right of use of the respective object of neighboring rights within the limits established by a contract.

Article 1309. **Technical Means of Protection of Neighboring Rights**

The provisions of Articles 1299 and 1311 of the present Code shall be applied correspondingly to any technologies, technical devices or their components that control access to an object of neighboring rights, precluding or limiting the conduct of actions that are not permitted by the rightholder with respect to such an object (technical means of protection of neighboring rights).

Article 1310. **Information on a Neighboring Right**

The provisions of Articles 1300 and 1311 of the present Code shall be applied correspondingly with respect to any information that identifies an object of neighboring rights or the rightholder, or information on the conditions of use of this object that is contained on the respective material carrier, is attached to it, or appears in connection with communication over the air or by cable or by bringing of this object to the general knowledge and also any ciphers and codes in which such information (information on the neighboring right) is contained.

Article 1311. **Liability for Infringement of the Exclusive Right to an Object of Neighboring Rights**

In cases of infringement of the exclusive right to an object of neighboring rights, the holder of the exclusive right, along with the use of other applicable measures of protection and measures of liability established by the present Code (Articles 1250, 1252, and 1253) shall have the right in accordance with Paragraph 3 of Article 1252 of the present Code to demand at his option from the infringer instead of compensation for damages payment of compensation:

in the amount from ten thousand rubles to five million rubles determined at the discretion of the court.

in double the amount of the value of copies of the phonogram or in double the amount of the value of the right of use of the object of neighboring rights determined on the basis of the price which, in comparable circumstances, is usually taken for the lawful use of such an object.

Article 1312. **Security for a Suit in Cases on the Infringement of Neighboring Rights**

For the purpose of security for a suit in cases on the infringement of neighboring rights against a defendant or a person with respect to whom there are sufficient bases to suppose that he is an infringer of neighboring rights, and also for a suit regarding objects of neighboring rights with respect to which it is suspected that they are counterfeit, the measures provided by Article 1302 of the present Code shall be applied correspondingly.

§ 2. Rights to the Performance

Article 1313. **The Performer**

The performer (author of the performance) is the citizen by whose creative labor a performance has been created, the performing artist (actor, singer, musician, dancer, or other person who plays a role, reads, declaims, sings, plays a musical instrument or in another way participates in the performance of a work of literature, art, or folk creativity, including a popular, circus, or puppet

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piece), and also the director-producer of a show (the person conducing the production of a theatrical, circus, puppet, popular, or other theatrical-viewing presentation), and also the conductor.

Article 1314. **Neighboring Rights to a Joint Performance**

1. Neighboring rights to a joint performance shall belong jointly to the members of the group of performers (actors, participating in a show, orchestra members, and other members of the group of performers) who took part in its creation, regardless of whether such a performance forms an indivisible whole or consists of elements each of which has independent significance.

2. Neighboring rights to a joint performance shall be exercised by the head of the group of performers and, in his absence - by the members of the group of performers jointly unless an agreement between them has provided otherwise. If a joint performance forms an indivisible whole, no one of the members of the group of performers shall have the right to forbid its use without sufficient grounds thereto.

An element of a joint performance the use of which is possible independently of other elements, i.e. that is an element of independent significance, may be used by the performer that created it at his discretion unless an agreement among the members of the group of performers provides otherwise.

3. The rules of Paragraph 3 of Article 1229 of the present Code shall be applied correspondingly to the relations of members of the group of performers connected with the distribution of income from the use of a joint performance.

4. Each of the members of a group of performers shall have the right to take measures independently for the protection of his neighboring rights to the joint performance including in the case when such performance forms an indivisible whole.

Article 1315. **Rights of the Performer**

1. The following shall belong to the performer:

1) the exclusive right to the performance;

2) the right of authorship - the right to be recognized as the author of the performance;

3) the right to the name - the right to the indication of his name or pseudonym on copies of the phonogram and in other cases of the use of the performance, and in the case provided by Paragraph 1 of Article 1314 of the present Code, the right to the indication of the designation of the group of performers, except cases when the nature of the use of the work excludes the possibility of indication of the name of the performer or the name of the group of performers.

4) the right to inviolability of the performance – the right to protection of the performance from any distortion, i.e., from the making in the recording or in the communication over the air or by cable of changes leading to the distortion of the meaning or to the violation of the integrity of the perception of the performance.

2. Performers shall realize their rights with observance of the rights of the authors of the works performed.

3. The rights of the performer shall be recognized and shall remain effective regardless of the presence and effectiveness of the copyrights to the work performed.

Article 1316. **Protection of Authorship, the Name of the Performer and Inviolability of a Performance After the Death of the Performer**

1. Authorship and the name of the performer and the inviolability of the performance shall be protected without limit of time.

2. The performer shall have the right by the procedure provided for designating an executor of a will (Article 1134) to indicate the person to whom he entrusts the protection of his name and the inviolability of a performance after his death. This person shall exercise his powers for life.

In the absence of such designations or in case of the refusal of the person named by the performer to exercise the corresponding powers and also after the death of this person the protection of the name of the performer and the inviolability of the performance shall be exercised by his heirs, their legal successors, and other interested persons.

Article 1317. **Exclusive Right to the Performance**

1. The exclusive right to use a performance in accordance with Article 1229 of the present Code in any manner not contrary to a statute (the exclusive right to the performance) including by the means indicated in Paragraph 2 of the present Article shall belong to the performer. The performer may dispose of the exclusive right to the performance.

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2. The following shall be considered as the use of a performance:

1) communication over the air, i.e., communication of a performance for general knowledge by its transmission by radio or television (including by retransmission), with the exception of cable television. In such case by communications is meant any action by means of which a performance becomes accessible for aural and/or visual perception regardless of its factual perception by the public. In communication of a performance over the air through a satellite, communication over the air means reception of signals from a ground station at the satellite and transmission of signals from the satellite by means of which a performance may be brought to general knowledge regardless of its actual reception by the public;

2) communication by cable, i.e., communication of a performance for general knowledge by way of its transmission by radio or television with the aid of a cable, wire, optical fiber or analogous means (including by retransmission);

3) recording of a performance, i.e., the fixation of sounds and/or of an image or their representations with the aid of technical means in some material form allowing the realization of their repeated perception, reproduction, or communication;

4) reproduction of a recording of a performance, i.e., the preparation of one or more copies of a phonogram or part thereof. In this case, the recording of a performance on an electronic carrier, including recording in the memory of a computer shall also be considered reproduction except for cases when such a recording is temporary and constitutes an inseparable and essential part of a technological process having the sole purpose of lawful use of the recording or lawful brining of the performance to general knowledge.;

5) distribution of a recording of a performance by way of sale or other alienation of its original or of copies that are reproductions of such a recording on any material carrier;

6) an action taken with respect to the recording of a performance and provided for by subparagraphs 1 and 2 of the present Paragraph.

7) bringing the recording of a performance to general knowledge in such a manner that any person may obtain access to the recording of the performance from any place and at any time of his own choosing (bringing to general knowledge);

8) public performance of a recording of a performance, i.e., any communication of the recording with the aid of technical means in a place open for free attendance or in a place where a significant number of persons not belonging to the usual circle of the family are present, regardless of whether the recording is perceived at the place of its communication or in another place simultaneously with its communication;

9) renting out of the original or copies of the recording of the performance.

3. The exclusive right to a performance shall not extend to the reproduction, communication over the air or by cable or public performance of a recording of a performance in cases when such a recording was made with the consent of the performer and its reproduction, communication over the air or by cable or public performance was conducted for the same purposes for which the consent of the performer was obtained at the time of the recording of the performance.

4. In conclusion of a contract with a performer on the creation of an audiovisual work, the consent of the performer to the use of the performance in the composition of the audiovisual work shall be presumed. The consent of the performer to the separate use of sound or image fixed in the audiovisual work must be directly expressed in the contract.

5. In the use of a performance by a person who is not its performer, the rules of Paragraph 2 of Article 1315 of the present Code shall be applied correspondingly.

Article 1318. **The Time Period of Effectiveness of the Exclusive Right to a Performance, the Passage of this Right by Inheritance and the Passage of the Performance into the Public Domain**

1. The exclusive right to a performance shall be effective for the whole life of the performer, but for not less than fifty years counting from January 1 of the year following the year in which the performance or recording of a performance or communication of a performance over the air or by cable took place.

2. If a performer was repressed and posthumously rehabilitated, the time period of effectiveness of the exclusive right shall be considered extended and the fifty years shall be calculated from January 1 of the year following the year of rehabilitation of the performer.

3. If the performer worked during the time of the Great Patriotic War or participated in it, the time period of effectiveness of the exclusive right established by Paragraph 1 of the present Article shall be extended by four years.

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4. The rules of Article 1283 of the present Code shall be applied correspondingly to the passage of the exclusive right to a performance by inheritance.

5. Upon expiration of the time period of effectiveness of the exclusive right to a performance this right shall pass into the public domain. The rules of Article 1282 of the present Code shall be applied correspondingly to a performance that has passed into the public domain.

Article 1319. **Levy of Execution upon the Exclusive Right to a Performance and upon the Right of Use of a Performance Under a License**

1. Levy of execution on the exclusive right to a performance belonging to the performer shall not be allowed. However execution may be levied upon the right of a claim of the performer against other persons under contracts for the alienation of the exclusive right to a performance and under license contracts and also to income received from the use of a performance.

Execution may be levied upon an exclusive right belonging not to the performer himself but to another person and upon the right of use of a performance belonging to a licensee.

The rules of the first subparagraph of the present Paragraph shall also extend to heirs of the performer, their heirs, and so on, within the limits of the time period of effectiveness of the exclusive right.

2. In case of sale of a right belonging to a licensee for the use of a performance at public auction for the purpose of levying execution on this right the performer shall be granted a preferential right to obtain it.

Article 1320. **A Performance Created by Way of Fulfillment of an Employment Task**

The rules of Article 1295 of the present Code shall be applied correspondingly to the rights to a performance created by a performer by way of fulfillment of an employment task including to the rights to a joint performance created in that way.

Article 1321. **Effectiveness of the Exclusive Right to a Performance on the Territory of the Russian Federation**

The exclusive right to a performance shall be effective on the territory of the Russian Federation in cases when:

the performer is a citizen of the Russian Federation;

the performance first took place on the territory of the Russian Federation;

the performance was fixed in a phonogram protected in accordance with the provisions of Article 1328 of the present Code;

the performance not fixed in a phonogram was included in a communication over the air or by cable which is protected in accordance with the provisions of Article 1332 of the present Code;

in other cases provided by international treaties of the Russian Federation.

§ 3. Right to a Phonogram

Article 1322. **Preparer of a Phonogram**

The preparer of a phonogram shall be considered to be the person that undertook the initiative and responsibility for the first recording of the sounds of a performance or other sounds or representations of these sounds. In the absence of proof to the contrary, the preparer of the phonogram shall be considered to be the person, whose name or designation is indicated in the usual manner on a copy of the phonogram and/or on its packaging.

Article 1323. **Rights of the Preparer of a Phonogram**

1. The following shall belong to the preparer of a phonogram:

1) the exclusive right to the phonogram;

2) the right to an indication on copies of the phonogram and/or their packaging of his name or designation;

3) the right to protection of the phonogram from distortion in the course of its use;

4) the right to make public the phonogram, i.e., to the conduct of an action that for the first time makes the phonogram accessible for general knowledge by way of its publishing, public showing, public performance, communication over the air or by cable or in another manner. In such a case publication (release to the world) is the release into circulation of copies of a phonogram with the consent of the preparer in a number sufficient for the satisfaction of the reasonable requirements of the public.

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2. The preparer of a phonogram shall exercise his rights with observance of the rights of the authors of the works and the rights of the performers.

3. The rights of a preparer of a phonogram shall be recognized and shall be effective regardless of the presence and effectiveness of copyright rights and performers' rights.

4. The right to indicate one's own name or designation on copies of a phonogram and/or their packaging and the right to protection of the phonogram from distortion shall be effective and protected in the course of the whole life of a citizen or until the termination of a legal person that was the preparer of the phonogram.

Article 1324. **The Exclusive Right to a Phonogram**

1. The exclusive right to use a phonogram in accordance with Article 1229 of the present Code in any manner not contrary to a statute (the exclusive right to a phonogram), including by the means indicated in Paragraph 2 of the present Article shall belong to the preparer of the phonogram. The preparer of a phonogram may dispose of the exclusive right to a phonogram.

2. The following shall be considered to be the use of a phonogram:

1) public performance, i.e., any communication of the phonogram with the aid of technical means at a place open for free attendance or at a place where a significant number of persons not belonging to the usual circle of a family are present, regardless of whether the phonogram is perceived in the place of its communication or in another place simultaneously with its communication;

2) communication over the air, i.e., communication of a phonogram for general knowledge by means of its transmission by radio or television (including by retransmission) with the exception of communication by cable. In such case communication shall mean any action by means of which a phonogram becomes accessible for aural perception regardless of its actual perception by the public. In case of communication of a phonogram over the air through a satellite, communication over the air means receipt of signals from a land station at the satellite and transmission of signals from the satellite by means of which the phonogram may be brought to general knowledge regardless of its actual reception by the public;

3) communication by cable, i.e., communication of a phonogram for general knowledge by means of its transmission by radio or television with the aid of a cable, wire, optical fiber or analogous means (including by way of retransmission);

4) bringing of a phonogram to general knowledge in such a manner that a person may obtain access to the phonogram from any place and at any time of his own choice (bringing to general knowledge);

5) reproduction, i.e., the preparation of one or more copies of a phonogram or a part of a phonogram. In such case the recording of a phonogram or a part of a phonogram on an electronic carrier, including recording in the memory of a computer shall also be considered as reproduction, except for the case when such recording is temporary and constitutes an inseparable and essential part of a technological process having as its sole purpose the lawful use of the recording or lawful bringing of the phonogram to general knowledge;

6) distribution of a phonogram by way of sale or other alienation of the original or copies that are a reproduction of the phonogram on any material carrier;

7) import of the original or copies of a phonogram for the purpose of distribution including copies prepared with the permission of the rightholder;

8) renting out of the original and copies of a phonogram;

9) reworking of a phonogram.

3. A person lawfully conducting the reworking of a phonogram shall obtain a neighboring right to the reworked phonogram.

4. In case of the use of a phonogram by a person other than its preparer, the rules of Paragraph 2 of Article 1323 of the present Code shall be applied correspondingly.

Article 1325. **Distribution of the Original or Copies of a Published Phonogram**

If the original or copies of a lawfully published phonogram have been introduced into civil commerce on the territory of the Russian Federation by way of their sale or other alienation, the further distribution of the original or copies shall be allowed without the consent of the holder of the exclusive right to the phonogram and without payment of compensation to him.

Article 1326. **Use of a Phonogram Published for Commercial Purposes**

1. Public performance of a phonogram published for commercial purposes and also its communication over the air or by cable shall be allowed without the permission of the holder of the

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exclusive right to the phonogram and of the holder of the exclusive right to the performance fixed in this phonogram, but with payment of compensation to them.

2. The collection from users of the compensation provided for in Paragraph 1 of the present Article and the distribution of this compensation shall be conducted by organizations for the administration of rights on a collective basis having state accreditation for the conduct of the respective types of activity (Article 1244).

3. The compensation provided for by Paragraph 1 of the present Article shall be distributed among the rightholders in the following proportion: fifty percent to the performers, fifty percent to the preparers of the phonograms. The distribution of the compensation among specific performers and preparers of phonograms shall be conducted in proportion to the actual use of the respective phonograms. The procedure for the collection, distribution, and payment of compensation shall be established by the Government of the Russian Federation.

4. The users of phonograms must provide the organization for the administration of rights on a collective basis with reports on the use of phonograms and also other information and documents necessary for the collection and distribution of compensation.

Article 1327. **The Time Period of Effectiveness of the Exclusive Right to a Phonogram, Passage of this Right to Legal Successors and Passage of the Phonogram into the Public Domain**

1. The exclusive right to a phonogram shall be effective during the course of fifty years, counting from January 1 of the year following the year in which the recording was made. In case of making public of the phonogram, the exclusive right shall be effective during the course of fifty years, counting from January 1 of the year following the year in which it was made public, on the condition that the phonogram was made public within the course of fifty years after the making of the recording.

2. The exclusive right to a phonogram shall pass to the heirs and other legal successors of the preparer of the phonogram within the limits of the remaining part of the time periods indicated in Paragraph 1 of the present Article.

3. Upon the expiration of the time period of effectiveness of the exclusive right to a phonogram, it shall pass into the public domain. The rules of Article 1282 of the present Code shall be applied correspondingly to a phonogram that has passed into the public domain.

Article 1328. **Effectiveness of the Exclusive Right to a Phonogram on the Territory of the Russian Federation**

The exclusive right to a phonogram shall be effective on the territory of the Russian Federation in the cases in which:

the preparer of the phonogram is a citizen of the Russian Federation or a Russian legal person;

the phonogram was made public or copies thereof were first publicly distributed on the territory of the Russian Federation;

in other cases provided for by international treaties of the Russian Federation.

§ 4. Rights of Organizations of Over-the-Air and Cable Broadcasting

Article 1329. **An Organization of Over-the-air or Cable Broadcasting**

A legal person that conducts communication over the air or by cable of radio or television transmissions (the totality of sounds and/or images or their representations) is an organization of over-the-air or cable broadcasting.

Article 1330. **Exclusive Right to Communication of Radio or Television Transmissions**

1. An organization of over-the-air or cable broadcasting shall possess the exclusive right to use a lawfully conductible or conducted communication by it over the air or by cable of transmissions in accordance with Article 1229 of the present Code by any means not contrary to a statute (the exclusive right to communication of radio or television transmissions), including by the means indicated in Paragraph 2 of the present Article. An organization of over-the-air or cable broadcasting may dispose of the exclusive right to communication of radio or television transmissions.

2. The following shall be considered to be the use of a communication of a radio or television transmission (of a broadcast):

1) recording of the communication of a radio or television transmission, i.e., the fixation of sounds and/or an image or their representations with the aid of technical means in any material form that allows the realization of its repeated perception, reproduction, or communication;

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2) reproduction of a recording of a communication of a radio or television transmission, i.e., the preparation of one or more copies of a recording of a communication of a radio or television transmission or of part thereof. In this case the recording of a communication of a radio or television transmission on an electronic carrier, including recording in the memory of a computer shall also be considered to be a reproduction with the exception of the case when such recording is temporary and constitutes an inseparable and essential part of a technological process having as its sole purpose the lawful use of a recording or lawful bringing of communication of a radio or television transmission to general knowledge;

3) distribution of the communication of a radio or television transmission by sale or other alienation of the original or copies of the communication recording of a radio or television transmission;

4) retransmission, i.e. communication over the air (including via satellite) or by cable of a radio or television transmission by one organization of over-the-air or cable broadcasting simultaneously with the receipt by it of the communication of this transmission from another such organization;

5) bringing a communication of a radio or television transmission to general knowledge in such a way that any person may obtain access to the communication of the radio or television transmission from any place and at any time of his own choosing (bringing to general knowledge);

6) public performance, i.e., any communication of a radio or television transmission with the aid of technical means at places with paid entrance regardless of whether it is received at the place of communication or at another place simultaneously with communication.

3. Both retransmission of a radio or television transmission over the air and also communication of it by cable shall be considered to be use of a communication of a radio or television transmission of an organization of over-the-air broadcasting.

Both retransmission of a radio or television transmission by cable and also communication of it over the air shall be considered to be use of a communication of a radio or television transmission of an organization of cable broadcasting.

4. The rules of Paragraph 3 of Article 1317 of the present Code shall be applied correspondingly to the right of use of a communication of a radio or television transmission.

5. An organization of over-the-air and cable broadcasting shall realize its rights with the observance of the rights of authors of the works, the rights of performers and in appropriate cases – of holders of the rights to a phonogram and the rights of other organizations of over-the-air and cable broadcasting to communications of radio and television transmissions.

6. The rights of an organization of over-the-air or cable broadcasting shall be recognized and shall be effective regardless of the presence and effectiveness of copyright rights, performers' rights, and also rights to a phonogram.

Article 1331. **The Time Period of Effectiveness of the Exclusive Right to Communication of a Radio or Television Transmission, Passage of this Right to Legal Successors and Passage of Communication of a Radio or Television Transmission into the Public Domain**

1. The exclusive right to a communication of a radio or television transmission shall be effective during the course of fifty years, counting from January 1 of the year following the year in which communication of the radio or television transmission over the air or by cable took place.

2. The exclusive right to a communication of a radio or television transmission shall pass to legal successors of an organization of over-the-air or cable broadcasting within the limits of the remaining part of the time period indicated in Paragraph 1 of the present Article.

3. Upon the expiration of the time period of effectiveness of the exclusive right to a communication of a radio or television transmission it shall pass into the public domain. The rules of Article 1282 of the present Code shall be applied correspondingly to the communication of a radio or television transmission that has passed into the public domain.

Article 1332. **Effect of the Exclusive Right to Communication of a Radio or Television Transmission on the Territory of the Russian Federation**

The exclusive right to a communication of a radio or television transmission shall be effective on the territory of the Russian Federation if an organization of over-the-air or cable broadcasting is located on the territory of the Russian Federation and conducts communication with the aid of transmitters located on the territory of the Russian Federation and also in other cases provided by international treaties of the Russian Federation.

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§ 5. The Right of the Preparer of a Database

Article 1333. **Preparer of a Database**

1. The preparer of a database is the person who has organized the creation of a database and work for the collection, processing, and placing of the materials constituting it. In the absence of proof to the contrary, a citizen or legal person whose name or designation is indicated in the usual manner on a copy of the database and/or on its packaging shall be considered to be the preparer of the database.

2. The preparer of a database shall possess:

the exclusive right of the preparer of a database;

the right to indication on copies of the database and/or packaging thereof of its name or designation.

Article 1334. **Exclusive Right of the Preparer of a Database**

1. The exclusive right to extract materials from a database and to conduct their subsequent use in any form and by any means (the exclusive right of the preparer of a database) shall belong to the preparer of a database the creation of which (including the processing or presentation of the corresponding materials) requires substantial financial, material, organizational, and other expenditures. The preparer of the database may dispose of the aforesaid exclusive right. In the absence of proof to the contrary, a database containing not less than ten thousand independent information elements (or materials) constituting the content of the database (second subparagraph of Paragraph 2 of Article 1260) shall be recognized as a database the creation of which requires substantial expenditures.

No one shall have the right to extract materials from a database and to conduct their subsequent use without the permission of the rightholder except in the cases provided by the present Code. In this case by extraction of materials is meant the transfer of the whole content of a database or of a significant part of the materials constituting it onto another information carrier with the use of any technical means and in any form.

2. The exclusive right of the preparer of a database shall be recognized and shall be effective regardless of the presence and effectiveness of copyright and other exclusive rights of the preparer of the database and other persons to the materials constituting the database and also to the database as a whole as a compiled work.

3. A person lawfully using a database shall have the right without the permission of the rightholder to extract materials from such database and to conduct their subsequent use for personal, scholarly, educational, and other noncommercial purposes in an amount justified by the aforesaid purposes and to the degree by which such actions do not infringe the copyright rights of the preparer of the database and other persons.

The use of materials extracted from a database, in a way presupposing the receipt of access thereto by an unlimited group of people must be accompanied by an indication of the database from which these materials were extracted.

Article 1335. **The Time Period of Effectiveness of the Exclusive Right of the Preparer of a Database**

1. The exclusive right of the preparer of a database shall arise at the time of completion of its creation and shall be effective during the course of fifteen years counting from January 1 of the year following the year of its creation. The exclusive right of the preparer of a database made public in the aforesaid time period shall be effective during the course of fifteen years counting from January 1 of the year following the year of its being made public.

2. The time periods provided by Paragraph 1 of the present Article shall be renewed upon each renewal of the database.

Article 1336. **Effectiveness of the Exclusive Right of the Preparer of a Database on the Territory of the Russian Federation**

1. The exclusive right of the preparer of a database shall be effective on the territory of the Russian Federation in the following cases:

when the preparer of the database is a citizen of the Russian Federation or a Russian legal person;

when the preparer of the database is a foreign citizen or a foreign legal person on the condition that the legislation of the respective foreign state provides on its territory protection for the exclusive

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right of the preparer of databases the preparer of which is a citizen of the Russian Federation or a Russian legal person;

in other cases provided by international treaties of the Russian Federation.

2. If the preparer of the database is a person without citizenship, depending upon whether this person has his place of residence on the territory of the Russian Federation or on the territory of a foreign state, the rules of Paragraph 1 of the present Article relating to citizens of the Russian Federation or to foreign citizens shall be applied correspondingly.

§ 6. Right of the Divulger to Works of Scholarship, Literature, or Art

Article 1337. **The Divulger**

1. The divulger is the citizen who lawfully made public or organized the making public of a work of scholarship, literature, or art previously not made public and that has gone into the public domain (Article 1282) or that is in the public domain by virtue of the fact that it is not protected by copyright.

2. The rights of the divulger shall extend to works that, regardless of the time of their creation, could have been recognized as objects of copyright in accordance with the rules of Article 1259 of the present Code.

3. The provisions provided by the present Section do not extend to works that are in state and municipal archives.

Article 1338. **Rights of the Divulger**

1. The following shall belong to the divulger:

1) the exclusive right of the divulger to a work made public by him (Paragraph 1 of Article 1339);

2) the right to indicate his name on copies of a work made public by him and in other cases of its use including in translation or other reworking of a work.

2. On making the work public, the divulger is obligated to observe the conditions provided by Paragraph 3 of Article 1268 of the present Code.

3. The divulger during the time period of effectiveness of the exclusive right of the divulger to a work shall possess the powers indicated in the second subparagraph of Paragraph 1 of Article 1266 of the present Code. A person to whom the exclusive right of a divulger to a work has passed shall possess the same powers.

Article 1339. **Exclusive Right of the Divulger to a Work**

1. The exclusive right to use a work in accordance with Article 1229 of the present Code (the exclusive right of a divulger to a work) by the means provided by numbered subparagraphs 1-8 and 11 of Paragraph 2 of Article 1270 of the present Code shall belong to the divulger of a work. The divulger of a work may dispose of the aforesaid exclusive right.

2. The exclusive right of a divulger to the work shall be recognized also in the case when the work was made public by the divulger in a translation or in the form of some other reworking. The exclusive right of the divulger to the work shall be recognized and shall be effective regardless of the presence and effectiveness of copyright of the divulger or of other persons to the translation or to other reworking of the work.

Article 1340. **The Time Period of Effectiveness of the Exclusive Right of the Divulger to a Work**

The exclusive right of a divulger to a work shall arise at the time of making the work public and shall be effective during the course of twenty-five years counting from January 1 of the year following the year of making it public.

Article 1341. **Effectiveness of the Exclusive Right of the Divulger to a Work on the Territory of the Russian Federation**

1. The exclusive right of a divulger shall extend to works:

1) made public on the territory of the Russian Federation regardless of the citizenship of the divulger;

2) made public beyond the boundaries of the territory of the Russian Federation by a citizen of the Russian Federation;

3) made public beyond the boundaries of the territory of the Russian Federation by a foreign citizen or a person without citizenship on the condition that the legislation of the foreign state in which

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the work was made public provides on its territory protection for the exclusive right of a divulger who is a citizen of the Russian Federation;

4) In other cases provided by international treaties of the Russian Federation.

2. In the case indicated in numbered subparagraph 3 of Paragraph 1 of the present Article the time period of effectiveness of the exclusive right of the divulger to a work on the territory of the Russian Federation may not exceed the time period of effectiveness of the exclusive right of the divulger to a work established in the state on the territory of which the legal fact took place that served as the basis for obtaining such exclusive right.

Article 1342. **Early Termination of the Exclusive Right of a Divulger to a Work**

The exclusive right of a divulger to a work may be terminated early by judicial procedure on a suit by an interested person if in the course of the use of the work the rightholder is violating the requirements of the present Code with respect to the protection of authorship, the name of the author, or the inviolability of the work.

Article 1343. **Alienation of the Original of a Work and the Exclusive Right of the Divulger to a Work**

1. In case of alienation of the original of a work (manuscript, the original of a work of painting, sculpture, or other like work) by its owner holding the exclusive right of the divulger to the alienated work, this exclusive right shall pass to the recipient of the original of the work unless a contract provides otherwise.

2. If the exclusive right of a divulger to a work has not passed to the recipient of the original of a work, the recipient shall have the right without the consent of the holder of the exclusive right of the divulger to use the original of the work in the manners indicated in the second subparagraph of Paragraph 1 of Article 1291 of the present Code.

Article 1344. **Distribution of the Original or Copies of a Work Protected by the Exclusive Right of a Divulger**

If the original or copies of a work made public in accordance with the present Section have been lawfully introduced into civil commerce by means of their sale or other alienation, further distribution of the original or copies shall be allowed without the consent of the divulger and without payment of compensation to him.

CHAPTER 72. PATENT LAW

§ 1. Basic Provisions

Article 1345. **Patent Rights**

1. Intellectual rights to inventions, utility models, and industrial designs are patent rights.

2. The following rights shall belong to the author of an invention, utility model, or industrial design:

1) the exclusive right;

2) the right of authorship.

3. In cases provided by the present Code, other rights also belong to the author of an invention, utility model, or industrial design including the right to receipt of a patent, the right to reward for the use of an employment invention, utility model, or industrial design.

Article 1346. **Effectiveness of Exclusive Rights to Inventions, Utility Models, and Industrial Designs on the Territory of the Russian Federation**

On the territory of the Russian Federation exclusive rights to inventions, utility models, and industrial designs shall be recognized if the rights are certified by patents issued by the Federal agency of executive authority for intellectual property or by patents in force on the territory of the Russian Federation in accordance with international treaties of the Russian Federation.

Article 1347. **The Author of an Invention, Utility Model, or Industrial Design**

The author of an invention, utility model, or industrial design is the citizen by whose creative work the corresponding result of intellectual activity has been created. The person indicated as the author in an application for the issuance of a patent for an invention, utility model, or industrial design shall be considered to be the author of the invention, utility model, or industrial design, unless it is proved otherwise.

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Article 1348. **Coauthors of an Invention, Utility Model, or Industrial Design**

1. Citizens who have made an invention, utility model, or industrial design by joint creative labor are coauthors.

2. Each of the coauthors shall have the right to use the invention, utility model, or industrial design at his discretion, unless an agreement among them has provided otherwise.

3. The rules of Paragraph 3 of Article 1229 of the present Code shall be applied correspondingly to relations of coauthors connected with distribution of income from the use of an invention, utility model or industrial design and with the disposition of the exclusive right to an invention, utility model, or industrial design.

The disposition of the right to receipt of a patent for an invention, utility model, or industrial design shall be conducted by the authors jointly.

4. Each of the coauthors shall have the right to take measures independently for the protection of his rights to the invention, utility model or industrial design.

Article 1349. **Objects of Patent Rights**

1. The objects of patent rights are the results of intellectual activity in the scientific and technical area that meet the requirements established by the present Code for inventions and utility models and the results of intellectual activity in the area of artistic design that meet the requirements established by the present Code for industrial designs.

2. The provisions of the present Code extend to inventions containing information constituting a state secret (secret inventions), unless otherwise provided by the special rules of Articles 1401-1405 of the present Code and by legal acts issued in accordance with them.

3. Legal protection in accordance with the present Code shall not be granted to utility models and industrial designs containing information constituting a state secret.

4. The following may not be objects of patent rights;

1) methods of cloning of a human being;

2) methods of modification of the genetic integrity of cells of the embryonic line of a human being;

3) use of human embryos for industrial and commercial purposes;

4) other solutions contradicting societal interests, principles of humanity and morality.

Article 1350. **Conditions of Patentability of an Invention**

1. A technical solution in any area related to a product (including a structure, substance, microorganism strain, or culture of cells of plants or animals) or a means (a process of conducting actions on a material object with the help of material means) shall be protected as an invention.

An invention shall be granted legal protection if it is new, has an inventive level, and is industrially applicable.

2. An invention is new if it is not known from the level of technology.

An invention has an inventive level if for a specialist it does not obviously follow from the level of technology.

The level of technology includes any information that became generally accessible in the world before the priority date of the invention.

In establishing the novelty of an invention the level of technology also includes, on the condition of their earlier priority, all applications for the issuance of patents for inventions and utility models filed in the Russian Federation by other persons with whose documentation any person has the right to be acquainted in accordance with Paragraph 2 of Article 1385 or Paragraph 2 of Article 1394 of the present Code and inventions and utility models patented in the Russian Federation.

3. Disclosure of information relating to an invention by the author of the invention, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the invention became generally accessible shall not be a circumstance precluding the recognition of the patentability of the invention if an application for the issuance of a patent for the invention has been filed with the Federal agency of executive authority for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the invention shall rest on the applicant.

4. An invention is industrially applicable if it may be used in industry, agriculture, health care, other branches of the economy, or the social sphere.

5. The following are not inventions:

1) discoveries;

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2) scientific theories and mathematical methods;
3) solutions involving only the external form of manufactures and directed at the satisfaction of esthetic needs;
4) rules and methods for games and for intellectual or economic activity;
5) computer programs;
6) solutions consisting only of the presentation of information.

In accordance with the present Paragraph the possibility of categorizing the aforementioned objects as inventions shall be excluded only in the case when the application for the issuance of a patent for an invention involves the aforementioned objects as such.

6. Legal protection as inventions shall not be granted to:
1) varieties of plants, breeds of animals and biological methods of obtaining them, with the exception of microbiological methods and products obtained through the use of such methods;
2) the topology of integrated circuits.

Article 1351. **Conditions of Patentability of a Utility Model**

1. A technical solution relating to a structure shall be protected as a utility model.

A utility model shall be granted legal protection if it is new and industrially applicable.

2. A utility model is new if the totality of its essential characteristics is not known from the level of technology.

The level of technology includes information published in the world on means for the same purpose as the utility model applied for and information on their application in the Russian Federation if such information become generally accessible before the priority date of the utility model. The level of technology also includes, on the condition of their earlier priority, all applications for the issuance of patents for inventions and utility models filed in the Russian Federation by other persons with whose documentation any person has the right to be acquainted in accordance with Paragraph 2 of Article 1385 or Paragraph 2 of Article 1394 of the present Code and inventions and utility models patented in the Russian Federation.

3. Disclosure of information relating to a utility model by the author of the utility model, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the utility model became generally accessible shall not be a circumstances precluding the recognition of the patentability of the utility model if an application for the issuance of a patent for the utility model has been filed with the Federal agency of executive authority for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the utility model shall rest on the applicant.

4. A utility model is industrially applicable if it may be used in industry, agriculture, health care, other branches of the economy, or the social sphere.

5. Legal protection as utility models shall not be granted to:
1) solutions involving only the external form of manufactures and directed at the satisfaction of esthetic needs;
2) the topology of integrated circuits.

Article 1352. **Conditions of Patentability of an Industrial Design**

1. An artistic design solution of a manufacture of industrial or handicraft production defining its external form shall be protected as an industrial design.

An industrial design shall be granted legal protection if in its essential characteristics it is new and original.

The essential characteristics of an industrial design are the characteristics determining the esthetic and/or ergonomic features of the external form of the manufacture, including form, configuration, ornamentation, and combination of colors.

2. An industrial design is new if the totality of its essential characteristics reflected in images of the manufacture and included in the list of essential characteristics of the industrial design (Paragraph 2 of Article 1377) is not known from information that had become generally accessible in the world before the priority date of the industrial design.

In establishing the novelty of an industrial design all applications for industrial designs filed in the Russian Federation by other persons, on the condition of their earlier priority and with the documents for which any person has the right to be acquainted in accordance with Paragraph 2 of Article 1394 of the present Code and industrial designs patented in the Russian Federation shall also be considered.

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3. An industrial design is original if its essential characteristics are determined by the creative nature of the features of the manufacture.

4. Disclosure of information relating to an industrial design by its author, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the industrial design became generally accessible shall not be a circumstance preventing the recognition of the patentability of the industrial design if an application for the issuance of a patent for the industrial design has been filed with the Federal agency of executive authority for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the industrial design shall rest on the applicant.

5. Legal protection as an industrial design shall not be granted to:

1) solutions determined exclusively by the technical function of the manufacture;

2) objects of architecture (other than small architectural forms), industrial, hydrotechnical, and other stationary structures;

3) objects of instable form from liquid, gas, flowing or similar substances.

Article 1353. **State Registration of Inventions, Utility Models, and Industrial Designs**

The exclusive right to an invention, utility model, or industrial design shall be recognized and protected on the condition of state registration of the respective invention, utility model, or industrial design on the basis of which the Federal agency of executive authority for intellectual property shall issue a patent for the invention, utility model or industrial design.

Article 1354. **Patent for an Invention, Utility Model, or Industrial Design**

1. A patent for an invention, utility model or industrial design shall certify the priority of an invention, utility model, or industrial design, the authorship, and the exclusive right to an invention, utility model, or industrial design.

2. The protection of intellectual rights to an invention or utility model shall be granted on the basis of a patent in the scope determined by the claims contained in the patent for the invention or correspondingly the utility model. The specification and drawings (Paragraph 2 of Article 1375, Paragraph 2 of Article 1376) may be used for interpreting the claims for an invention or utility model.

3. Protection of intellectual rights for an industrial design shall be granted on the basis of a patent in a scope determined by the totality of its essential characteristics that have found expression in the images of the manufacture and are included in the list of essential characteristics of an industrial design (Paragraph 2 of Article 1377).

Article 1355. **State Provision of Incentives for the Creation and Use of Inventions, Utility Models and Industrial Designs**

The state shall provide incentives for the creation and use of inventions, utility models, and industrial designs, provide their authors and also patent holders and licensees using the respective inventions, utility models, and industrial designs with benefits in accordance with the legislation of the Russian Federation.

§ 2. Patent Rights

Article 1356. **The Right of Authorship to an Invention, Utility Model, or Industrial Design**

The right of authorship, i.e., the right to be recognized as the author of an invention, utility model or industrial design – is inalienable and nontransferable, including upon transfer to a third person or passage to him of the exclusive right to an invention, utility model, or industrial design and in the granting to another person of the right to its use. A waiver of this right is void.

Article 1357. **The Right to Receipt of a Patent for an Invention, Utility Model, or Industrial Design**

1. The right to receipt of a patent for an invention, utility model or industrial design shall belong originally to the author of the invention, utility model, or industrial design.

2. The right to receipt of a patent for an invention, utility model, or industrial design may pass to another person (the legal successor) or may be transferred to him in the cases and on the grounds that have been established by a statute including by way of universal legal succession or by contract, including by labor contract.

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3. A contract on alienating the right to receipt of a patent for an invention, utility model or industrial design must be concluded in written form. Nonobservance of written form shall entail invalidity of the contract.

4. Unless otherwise provided by agreement of the parties to a contract for alienation of the right to receipt of a patent for an invention, utility model, or industrial design, the risk of nonpatentability shall be borne by the recipient of the right.

Article 1358. **The Exclusive Right to an Invention, Utility Model, or Industrial Design**

1. The exclusive right of use of an invention, utility model, or industrial design in accordance with Article 1229 of the present Code by any means not contrary to a statute (the exclusive right to an invention, utility model, or industrial design), including by the means provided in Paragraphs 2 and 3 of the present Article shall belong to the patent holder. The patent holder may dispose of the exclusive right to an invention, utility model, or industrial design.

2. The use of an invention, utility model or industrial design shall include in particular:

1) import onto the territory of the Russian Federation, preparation, use, offer to sell, sale, other introduction into civil commerce or the storage for these purposes of a product in which the invention or utility model is used, or of a manufacture in which the industrial design is used.

2) the taking of the actions provided by the numbered subparagraph 1 of the present Paragraph with respect to a product obtained directly by a patented method. If the product obtained by the patented method is new, an identical product shall be considered obtained by way of use of the patented method to the extent not proven otherwise;

3) the taking of the actions provided by the numbered subparagraph 2 of the present Paragraph with respect to a device during the functioning (use) of which in accordance with its purpose the patented method is automatically exercised;

4) the realization of a method in which the invention is used, in particular by the application of this method.

3. An invention or utility model shall be considered used in a product or method if the product contains or in the method there is used each characteristic of the invention or utility model stated in a separate claim contained in the claims for the invention or utility model in the patent, or a characteristic equivalent thereto that has become known as such in the given area of technology before the taking with respect to the corresponding product or the method of the actions provided by Paragraph 2 of the present Article.

An industrial design shall be considered used in a manufacture if the manufacture contains all the essential characteristics of the industrial design that found expression in the illustrations of the manufacture and that were stated in the list of essential characteristics of the industrial design (Paragraph 2 of Article 1377).

If in the use of an invention or utility model there are used all the characteristics stated in a separate claim of the claims contained in the patent of another invention or another utility model, and in the use of an industrial design, all the characteristics included in the list of essential characteristics of another industrial design, the other invention, the other utility model, or the other industrial design shall be also considered to be used.

4. If the holders of a patent for one invention, one utility model, or one industrial design are two or more persons, the rules of Paragraphs 2 and 3 of Article 1348 of the present Code shall be correspondingly applied to relations between them, regardless of whether or not any of the patent holders is the author of this result of intellectual activity.

Article 1359. **Actions that are Not an Infringement of the Exclusive Right to an Invention, Utility Model, or Industrial Design**

The following are not an infringement of the exclusive right to an invention, utility model, or industrial design:

1) use of a product in which the invention or utility model is utilized and use of a manufacture in which an industrial design is utilized in the construction, in the supplementary equipment, or in the exploitation of means of transport (water, air, automotive, and railroad transport) and space technology of foreign states on the condition that these means of transport or this space technology is present temporarily or accidentally on the territory of the Russian Federation and that the aforesaid product or manufacture is used exclusively for the needs of the means of transport or space technology. Such an action shall not be recognized as an infringement of the exclusive right of the patent holder with respect to the means of transport and space technology of those foreign states that provide the same rights with respect to means of transport and space technology registered in the Russian Federation;

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2) the conduct of scientific study of a product or method in which the invention or utility model is utilized, or scientific study of a manufacture in which an industrial design is utilized or the conduct of an experiment on such a product, method, or manufacture;

3) the utilization of an invention, utility model, or industrial design in extraordinary circumstances (natural disasters, catastrophes, accidents) with notification of this use to the patent holder as soon as possible and with subsequent payment to him of proportionate compensation;

4) the utilization of an invention, utility model, or industrial design for the satisfaction of personal, family, home, or other needs not connected with entrepreneurial activity if the purpose of such utilization is not the receipt of profit or income;

5) the one-time preparation in pharmacies on physicians' prescriptions of medicinal substances with the use of the invention;

6) the import onto the territory of the Russian Federation, the utilization, proposal for sale, sale, other introduction into civil commerce or storage for these purposes of a product in which the invention or utility model is utilized or of a manufacture in which the industrial design is utilized if this product or this manufacture was previously introduced into civil commerce on the territory of the Russian Federation by the patent holder or by another person with the consent of the patent holder.

Article 1360. **Use of an Invention, Utility Model, or Industrial Design in the Interests of National Security**

The Government of the Russian Federation shall have the right in the interests of national security to permit the use of an invention, utility model, or industrial design without the consent of the patent holder with notification to him of this as soon as possible and with payment to him of proportionate compensation.

Article 1361. **Right of Prior Use of an Invention, Utility Model, or Industrial Design**

1. A person who before the priority date of an invention, utility model or industrial design (Articles 1381 and 1382) in good faith used on the territory of the Russian Federation the same solution created independently of the author or made the preparations necessary for this shall keep the right to further uncompensated use of the same solution without expanding the volume of such use (the right of prior use).

2. The right of prior use may be transferred to another person only together with the enterprise at which the use of the same solution took place or on which the necessary preparations had been made.

Article 1362. **Compulsory License to an Invention, Utility Model, or Industrial Design**

1. If an invention or industrial design is not used or is used insufficiently by the patent holder during the course of four years from date of the issuance of a patent, or a utility model – during the course of three years from the date of issuance of the patent, which leads to insufficient offering of the respective goods, work or services on the market, any person wishing and prepared to use such invention, utility model, or industrial design in case of refusal by the patent holder to conclude with this person a license contract on conditions corresponding to established practice shall have the right to go to court with a suit against the patent holder for the granting of a compulsory simple (non-exclusive license) for the use on the territory of the Russian Federation of an invention, utility model, or industrial design. In the demand in the lawsuit, this person must indicate the proposed terms of the granting to him of such a license, including the scope of use of the invention, utility model, or industrial design, the amount, procedure, and times of payments.

If the patent holder does not show that nonuse or insufficient use by him of the invention, utility model, or industrial design is based on valid causes, the court shall adopt a decision on the granting of the license indicated in the first subparagraph of the present Paragraph and on the conditions of its granting. A summary measure of payments for such a license must be established in the decision of the court not lower than the price of a license determined in comparable circumstances.

The effect of a compulsory simple (nonexclusive) license may be terminated by judicial procedure on a suit by the patent holder if the circumstances that were the basis for the granting of such a license cease to exist and their reappearance is unlikely. In such a case the court shall establish the time and procedure for termination of the compulsory simple (nonexclusive) license and of the rights that arose in connection with the receipt of this license.

2. If the patent holder cannot use the invention to which he has the exclusive right without infringing thereby the rights of the holder of another patent (the first patent) to an invention or utility model who has refused to conclude a license contract on terms corresponding to established practice, the patent holder shall have the right to go to court with a suit against the holder of the patent (the

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second patent) for the granting of a compulsory simple (nonexclusive) license for the use on the territory of the Russian Federation of the invention or utility model of the holder of the first patent. The terms proposed by the holder of the second patent granting him such a license, including the scope of use of the invention or utility model, the amount, procedure, and times of payments shall be indicated in the lawsuit. If this patent holder having the exclusive right to such a dependent invention shows that it is an important technical achievement and has a significant economic advantage over the invention or utility model of the holder of the first patent, the court shall adopt a decision on the granting to him of a compulsory simple (nonexclusive) license. A right obtained under this license to use the invention protected by the first patent may not be transferred to other persons except in case of alienation of the second patent.

An overall measure of payments for such a compulsory simple (nonexclusive) license must be established in the decision court not lower than the price of a license determinable in comparable circumstances.

In the case of granting in accordance with the present Paragraph of a compulsory simple (nonexclusive) license, the holder of the patent for the invention or utility model the right to the use of which is granted on the basis of the aforesaid license shall also have the right to the receipt of a simple (nonexclusive) license for the use of the dependent invention in connection with which the compulsory simple (nonexclusive) license was granted on conditions corresponding to the established practice.

3. On the basis of the decision of the court provided for by Paragraphs 1 and 2 of the present Article, the Federal agency of executive authority for intellectual property shall conduct state registration of the compulsory simple (nonexclusive) license.

Article 1363. **Time Periods of Effectiveness of the Exclusive Rights to an Invention, Utility Model, and Industrial Design**

1. The time period of effectiveness of the exclusive right to an invention, utility model, or industrial design and of the patent certifying this right shall be calculated from the filing date of the original application for the issuance of a patent to the Federal agency of executive authority for intellectual property and, upon the condition of observance of the requirements established by the present Code shall constitute:

twenty years – for inventions;

ten years – for utility models;

fifteen years – for industrial designs.

Protection of the exclusive right certified by a patent may be realized only after state registration of the invention, utility model or industrial design and issuance of the patent (Article 1393).

2. If from the filing date of an application for the issuance of patent for an invention relating to therapeutic means, a pesticide, or an agrochemical, for the use of which the receipt by the procedure established by a statute of a permission is required, and until the day of receipt of the first permission for its application more than five years have elapsed, the time period of effectiveness of the exclusive right to the corresponding invention and of the patent certifying this right shall be extended on request by the patent holder by the Federal agency of executive authority for intellectual property. This time period shall be extended for the time that has passed from the filing date of the application for issuance of the patent for the invention to the day of receipt of the first permission for the use of the invention, minus five years. In such a case, the time period of effectiveness of the patent for the invention may not be extended for more than five years.

An application for extending the term shall be filed by the patent holder during the time period of effectiveness of the patent and before the expiration of six months from the date of receipt of the permission for application of the invention or from the date of issuance of the patent, depending upon which of these time period expires later.

3. The time period of effectiveness of the exclusive right to a utility model and the patent certifying this right shall be extended by the Federal agency of executive authority for intellectual property on application of the patent holder for the time period indicated in the application but not for more than three years, and of the exclusive right to an industrial design and of the patent certifying this right – for a time period indicated in the application but not for more than ten years.

4. The procedure for extending the time period of effectiveness of a patent for an invention, utility model, or industrial design shall be established by the Federal agency of executive authority that conducts normative-legal regulation in the area of intellectual property.

5. The effectiveness of the exclusive right to an invention, utility model, or industrial design, and of the patent certifying this right may recognized as invalid or be terminated early on the bases and by the procedure that are provided by Articles 1398 and 1399 of the present Code.

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Article 1364. **Passage of an Invention, Utility Model, or Industrial Design into the Public Domain**

1. Upon the expiration of the time period of effectiveness of the exclusive right, an invention, a utility model, or an industrial design shall pass into the public domain.

2. An invention, utility model or industrial design, that has passed into the public domain may be used freely by any person without any consent or permission whatsoever and without the payment of compensation for use.

§ 3. Disposition of the Exclusive Right to an Invention, Utility Model or Industrial Design

Article 1365. **Contract for the Alienation of the Exclusive Right to an Invention, Utility Model, or Industrial Design**

Under a contract for the alienation of the exclusive right to an invention, utility model, or industrial design (a contract for the alienation of a patent), one party (the patent holder) transfers or becomes obligated to transfer the exclusive right belonging to him to the corresponding result of intellectual activity in full scope to the other party - the recipient of the exclusive right (the recipient of the patent).

Article 1366. **Public Proposal to Conclude a Contract for the Alienation of a Patent for an Invention**

1. An applicant who is the author of an invention, in the filing of an application for the issuance of a patent for the invention may attach to the documents of the application a declaration to the effect that in the case of issuance of a patent he shall be obligated to conclude a contract for the alienation of the patent on conditions corresponding to established practice, with any citizen of the Russian Federation or Russian legal person who first has declared such a desire and ahs notified the patent holder and the Federal agency of executive authority for intellectual property of this. If such a statement is present, the patent fees provided by the present Code shall not be collected from the applicant with respect to the application for the issuance of a patent for the invention nor with respect to the patent issued according to such an application.

The Federal agency of executive authority for intellectual property shall publish information about the aforesaid declaration in the official gazette.

2. A person who has concluded with the patent holder on the basis of his declaration indicated in Paragraph 1 of the present Article, a contract on the alienation of a patent for an invention shall be obligated to pay all patent fees from whose payment the applicant (or patent holder) was freed. In the future patent fees shall be paid by the established procedure.

For registration at the Federal agency of executive authority for intellectual property of the contract for alienation of the patent, a document confirming the payment of all patent fees from whose payment the applicant (or patent holder) was freed must be attached to the application for registration of the contract.

3. If within the course of two years from the day of publication of information on the issuance of a patent for the invention with respect to which the declaration indicated in Paragraph 1 of the present Article was made, no written notice of the wish to conclude a contract on the alienation of the patent has come to the Federal agency of executive authority for intellectual property, the patent holder may submit to the aforesaid Federal agency a petition for the withdrawal of his declaration. In such a case the patent fees provided by the present Code from the payment of which the applicant (or patent holder) was freed shall be subject to payment. In the future the patent fees shall be paid by the established procedure.

The Federal agency of executive authority for intellectual property shall publish in the official gazette information on the withdrawal of the declaration indicated in Paragraph 1 of the present Article.

Article 1367. **License Contract on Granting the Right of Use of an Invention, Utility Model, or Industrial Design**

Under a license contract one party - the patent holder (the licensor) grants or becomes obligated to grant to the other party (the licensee) within the limits established by the contract the right of use of an invention, utility model, or industrial design certified by a patent.

Article 1368. **Open License to an Invention, Utility Model, or Industrial Design**

1. The patent holder may submit to the Federal agency of executive authority for intellectual property a declaration on the possibility of granting to any person the rights of use of an invention, utility model, or industrial design (an open license).

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In this case the amount of the patent fee for maintaining the patent for an invention, utility model, or industrial design in force shall be reduced by fifty percent beginning from the year following the year of publication by the Federal agency of executive authority for intellectual property of information on the open license.

The terms of the license on which the right of use of an invention, utility model, or industrial design may be granted to any person shall be communicated by the patent holder to the Federal agency of executive authority for intellectual property, which shall publish at the expense of the patent holder the corresponding information on the open license. The patent holder shall be obligated to conclude with a person who has expressed the desire to use the aforesaid invention, utility model, or industrial design, a license contract on the conditions of a simple (non-exclusive) license.

2. If the patent holder in the course of two years from the day of publication of information on an open license has not received proposals in written form for conclusion of a license contract on the conditions contained in his declaration, on the expiration of two years he may submit to the Federal agency of executive authority for intellectual property a petition for the withdrawal of his declaration on an open license. In this case the patent fee for the maintenance of the patent in force shall be subject to being paid up for the period that has passed from the day of publication of information on the open license and in the future shall be paid in full amount. The aforesaid Federal agency shall publish information on withdrawal of the declaration in the official gazette.

Article 1369. **Form and State Registration of Contracts for the Disposition of the Exclusive Right to an Invention, Utility Model, and Industrial Design**

A contract on the alienation of a patent, license contract, and also other contracts by means of which the disposition of the exclusive right to an invention, utility model, or industrial design is conducted shall be concluded in written form and is subject to state registration at the Federal agency of executive authority for intellectual property.

§ 4. An Invention, Utility Model, or Industrial Design Created in Connection with the Performance of an Employment Task or in the Fulfillment of Work under a Contract

Article 1370. **Employment Invention, Employment Utility Model, or Employment Industrial Design**

1. An invention, utility model, or industrial design created by an employee in connection with the performance of his employment obligations or of a concrete task from the employer shall be recognized correspondingly as an employment invention, employment utility model, or employment industrial design.

2. The right of authorship to an employment invention, employment utility model or employment industrial design shall belong to the employee (to the author).

3. The exclusive right to an employment invention, employment utility model, or employment industrial design and the right to receipt of a patent shall belong to the employer unless by a labor or other contract between the employee and the employer provides otherwise.

4. In the absence in the contract between the employer and employee of an agreement to the contrary (Paragraph 3 of the present Article) the employee must notify the employer in writing of the creation in connection with the performance of his employment obligations or of a concrete task from the employer of such a result with respect to which legal protection

If the employer within four months from the day of notification by his worker does not submit an application for the issuance of a patent for the respective employment invention, employment utility model, or employment industrial design to the Federal agency of executive authority for intellectual property, does not transfer the right to receipt of a patent for an employment invention, employment utility model, or employment industrial design to another person, and does not communicate to the employee on the maintenance of information on the corresponding result of intellectual activity in secrecy, the right to receipt of a patent for such an invention, utility model, or industrial design shall belong to the employee. In this case the employer during the time period of effectiveness of the patent shall have the right to of use of the employment invention, employment utility model, or employment industrial design in his own production on conditions of a simple (non-exclusive) license with payment to the patent holder of compensation, the amount, terms, and procedure for payment of which shall be determined by contract between the employee and the employer and in case of dispute – by a court.

If the employer receives a patent for an employment invention, employment utility model, or employment industrial design, or takes a decision to keep information on such an invention, such a utility model, or such an industrial design in secret and communicates about this to the employee or transfers the right to receipt of a patent to another person or does not receive a patent on an application

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filed by him due to circumstances for which he is responsible, the employee shall have the right to compensation. The amount of compensation, the conditions, and the procedure for its payment by the employer shall be determined by a contract between him and the employee and in case of a dispute - by a court.

The Government of the Russian Federation shall have the right to establish minimum rates of compensation for employment inventions, employment utility models, and employment industrial designs.

5. An invention, utility model, or industrial design created by an employee with the use of monetary, technical, or other material assets of the employer, but not in connection with the performance of his employment obligations or of a concrete task from the employer is not an employment invention, utility model, or industrial design. The right to receipt of a patent and the exclusive right to such invention, utility model, or industrial design shall belong to the employee. In this case the employer shall have the right at its option to demand the grant to him of an uncompensated simple (nonexclusive) license for the use of the created result of intellectual activity for his own needs for the whole time period of effectiveness of the exclusive right or for compensation for the expenditures borne by him in connection with the creation of such invention, utility model, or industrial design.

Article 1371. **Invention, Utility Model, or Industrial Design Created in Performance of Work Under a Contract**

1. In the case when an invention, utility model, or industrial design is created in the performance of a work contract or a contract for performance of scientific research, experimental design, or technological work, that does not directly envision its creation, the right to receipt of a patent and the exclusive right to such an invention, utility model, or industrial design shall belong to the contractor (the performer) unless the contract between him and the customer provides otherwise.

In this case the customer shall have the right, unless otherwise provided by the contract, to use the invention, utility model, or industrial design created in such manner for the purposes for the achievement of which the corresponding contract was concluded on the conditions of a simple (non-exclusive) license during the course of the whole time period of effectiveness of the patent without payment of supplementary compensation for this use. In case of transfer by the contractor (the performer) of the right to receipt of the patent or alienation of the patent itself to another person, the customer shall retain the right of use of the invention, utility model or industrial design on the aforesaid terms.

2. In the case when in accordance with a contract between a contractor (a performer) and a customer the right to receipt of a patent or an exclusive right to an invention, utility model, or industrial design has been transferred to the customer or to a third person designated by him, the contractor (the performer) shall have the right to use the created invention, utility model, or industrial design for his own needs on the conditions of an uncompensated simple (non-exclusive) license during the course of the whole period of effectiveness of the patent unless provided otherwise by the contract.

3. The author of an invention, utility model, or industrial design indicated in Paragraph 1 of the present Article who is not the patent holder shall be paid compensation in accordance with Paragraph 4 of Article 1370 of the present Code.

Article 1372. **Industrial Design Made on Order**

1. In the case an industrial design is made under a contract, the subject of which was its creation (on order), the right to receipt of a patent and the exclusive right to such an industrial design shall belong to the customer, unless the contract between the contractor (performer) and the customer provides otherwise.

2. In the case when the right to receipt of a patent and the exclusive right to an industrial design in accordance with Paragraph 1 of the present Article belongs to the customer, the contractor (the performer) shall have the right, to the extent that the contract does not provide otherwise to use such industrial model for its own needs on conditions of uncompensated simple (nonexclusive) license during the whole time period of effectiveness of the patent.

3. In the case when in accordance with a contract between the contractor (performer) and the customer the right to receipt of a patent and the exclusive right to an industrial design belongs to the contractor (the performer), the customer shall have the right to use the industrial design for his own needs on the terms of an uncompensated simple (non-exclusive) license during the course of the whole time period of effectiveness of the patent.

4. The author of a utility model created on order who is not the patent holder shall be paid compensation in accordance with Paragraph 4 of Article 1370 of the present Code.

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Article 1373. **Invention, Utility Model, or Industrial Design Created in Performance of Work Under a State or Municipal Contract**

1. The right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design created in performance of work under a state or municipal contract for state or municipal needs shall belong to the organization performing the state or municipal contract (the performer) unless the state or municipal contract has established that this right shall belong to the Russian Federation, the subject of the Russian Federation or the municipal formation in whose name the state or municipal customer is acting, or jointly to the performer and the Russian Federation, the subject of the Russian Federation or the municipal formation.

2. If in accordance with a state or municipal contract the right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design belongs to the Russian Federation or municipal formation, the state or municipal customer may file an application for the issuance of a patent in the course of six months from the day of his written notification by the performer of the receipt of a result of intellectual activity capable of legal protection as an invention, utility model, or industrial design. If in the course of the aforesaid time period the state or municipal customer does not file an application the right to receipt of the patent shall belong to the performer.

3. If the right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design , on the basis of a state or municipal contract, belongs to the Russian Federation, to a subject of the Russian Federation, or to a municipal formation, the performer shall be obligated by the conclusion of corresponding agreements with his employees and third persons to obtain all the rights and ensure their being retained for transfer correspondingly to the Russian Federation, the subject of the Russian Federation, or the municipal formation. In such case, the contractor shall have the right to compensation for the expenditures borne by him in connection with obtaining the respective rights from third persons.

4. If a patent for an invention, utility model, or industrial design created in the performance of work under a state or municipal contract for state or municipal needs belongs in accordance with Paragraph 1 of the present Article not to the Russian Federation, not to a subject of the Russian Federation, and not to a municipal formation, the patent holder on demand of the state or municipal customer shall be obligated to present to the person indicated by it an uncompensated simple (non-exclusive) license for the use of the invention, utility model or industrial design for state or municipal needs.

5. If a patent for an invention, utility model or industrial design created in the performance of work under a state or municipal contract for state needs is obtained jointly in the name of the performer and the Russian Federation, or of the performer and a subject of the Russian Federation, or of the performer and a municipal formation, the state or municipal customer shall have the right to grant a compensated simple (nonexclusive) license for the use of such invention, utility model, or industrial design for the purpose of performing work or conducting supply of products for state or municipal needs after having notified the performer of this.

6. If a performer who has received a patent for an invention, utility model or industrial design in accordance with Paragraph 1 of the present Article in his own name, takes a decision for the early termination of the effectiveness of the patent, he shall be obligated to notify the state or municipal customer of this and on its demand to transfer the patent on an uncompensated basis to the Russian Federation, subject of the Russian Federation, or municipal formation.

In the case of adoption of a decision on the early termination of the effectiveness of a patent obtained in connection with Paragraph 1 of the present Article in the name of the Russian Federation, a subject of the Russian Federation, or a municipal formation, the state or municipal customer shall be obligated to inform the performer of this and on his demand to transfer to him the patent on an uncompensated basis.

7. The author of an invention, utility model, or industrial design indicated in Paragraph 1 of the present Article who is not the patent holder shall be paid compensation in accordance with Paragraph 4 of Article 1370 of the present Code.

§ 5. Receipt of a Patent

1. Application for Issuance of a Patent, its Amendment, and Withdrawal

Article 1374. **Filing an Application for the Issuance of a Patent for an Invention, a Utility Model, or an Industrial Design**

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1. An application for the issuance of a patent for an invention, utility model, or industrial design shall be filed with the Federal agency of executive authority for intellectual property by a person holding the right to receipt of a patent in accordance with the present Code (the applicant).

2. A request for the issuance of a patent for an invention, utility model, or industrial design shall be presented in the Russian language. Other documents of the application shall be presented in the Russian language or another language. If the documents of the application are presented in another language, a translation of them into the Russian language shall be attached to the application.

3. A request for the issuance of a patent for an invention, utility model, or industrial design shall be signed by the applicant and in case of filing of a request through a patent agent or other representative, by the applicant or his representative filing the application.

4. Requirements for the documents of an application for issuance of a patent for an invention, utility model or industrial design shall be established on the basis of the present Code by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

5. To an application for the issuance of a patent for an invention, utility model, or industrial design there shall be attached a document confirming the payment of the patent fee in the established amount or a document confirming the basis of freeing from payment of the patent fee or the reduction of its amount, or the delay of its payment.

Article 1375. **Application for the Issuance of a Patent for an Invention.**

1. An application for the issuance of a patent for an invention (an application for an invention) must relate to one invention or to a group of inventions connected with one another to the extent that they form a unified inventive idea (requirement of unity of the invention).

2. An application for an invention must contain:

1) a request for the issuance of a patent with an indication of the name of the author of the invention and of the person in whose name the patent is sought and also of the place of residence or place of location of each of them;

2) a description of the invention, disclosing it with a thoroughness sufficient for realization;

3) claims for the invention expressing its essence and fully based on its description;

4) drawings and other materials, if they are necessary for understanding the nature of the invention;

5) an abstract.

3. The filing date of an application for an invention shall be considered to be the date of receipt at the Federal agency of executive authority for intellectual property of an application containing a request for the issuance of a patent, a description of the invention, and drawings if there is a reference to them in the description, and if the aforesaid documents are not presented simultaneously - the date of receipt of the last of these documents.

Article 1376. **Application for the Issuance of a Patent for a Utility Model**

1. An application for the issuance of a patent for a utility model (application for a utility model) must relate to one utility model or to a group of utility models connected with one another to the extent that they form a unified creative idea (requirement of unity of the utility model).

2. An application for a utility model must contain:

1) a request for the issuance of a patent with an indication of the author of the utility model and of the person in whose name the patent is sought and also of the place of residence or place of location of each of them;

2) a description of the utility model, disclosing it with a thoroughness sufficient for realization;

3) claims for the utility model expressing its essence and fully based on its description;

4) drawings if they are necessary for understanding the nature of the utility model;

5) an abstract.

3. The filing date of an application for a utility model shall be considered to be the date of receipt at the Federal agency of executive authority for intellectual property of an application containing a request for the issuance of a patent, a description of the utility model, and drawings, if there is a reference to them in the description, and, if the aforesaid documents are not presented simultaneously, the date of receipt of the last of these documents.

Article 1377. **Application for the Issuance of a Patent for an Industrial Design**

1. An application for issuance of a patent for an industrial design (an application for an industrial design) must relate to one industrial design or to a group of industrial designs connected with

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one another to the extent that they form a unified creative idea (requirement of unity of the industrial design).

2. An application for an industrial design must contain:

1) a request for the issuance of a patent with an indication of the author of the industrial design and of the person in whose name the patent is sought and also of the place of residence or place of location of each of them;

2) a set of depictions of the manufacture giving a full detailed representation of the external form of the manufacture;

3) a drawing of the general form of the manufacture, and ergonomic diagram, or a sewing pattern if they are necessary for the disclosure of the nature of the industrial design;

4) description of the industrial design;

5) list of the essential characteristics of the industrial design.

3. The filing date of an application for an industrial design shall be considered to be the date of receipt at the Federal agency of executive authority for intellectual property of an application containing a request for the issuance of a patent, a set of depictions of the manufacture, a description of the industrial design, and a list of the essential characteristics of the industrial design and, if the aforesaid documents are not presented simultaneously - the date of receipt of the last of these documents.

Article 1378. **Making Amendments to the Documents of an Application for an Invention, Utility Model, or Industrial Design**

1. The applicant shall have the right to make corrections and clarifications, including by way of submission of supplementary materials, in the documents of the application for an invention, utility model, or industrial design until the taking with respect to this application of a decision on the issuance of a patent or on the refusal of issuance of a patent if these corrections and clarifications do not change the nature of the applied-for invention, utility model, or industrial design.

Supplementary materials change the nature of an applied-for invention or utility model if they contain characteristics subject to inclusion in the claims of the invention or utility model, which characteristics not revealed on the priority date in the documents serving as the basis for its establishment, or not revealed in the claims for the invention or utility model in the case if on the priority date the application contained claims for the invention or utility model.

Supplementary materials change the nature of an applied-for industrial design if they contain characteristics subject to inclusion in the list of essential characteristics of the industrial design and absent on the filing date of the application in the depictions of the manufacture.

2. Changes in the documents of an application of information on the applicant including in the transfer of the right to the receipt of the patent to another person or as the result of the change of the name or designation of the applicant and also corrections of obvious and technical mistakes may made in the documents of the application before the registration of the invention, utility model, or industrial design.

3. If changes in documents of an application are made on the initiative of an applicant in the course of two months from the date of filing the application no patent fee shall be taken for the making of the changes.

4. Changes made by the applicant in the documents of an application for an invention shall be taken into consideration in the publication of information on the application, if such changes are presented to the Federal agency of executive authority for intellectual property in the course of twelve months from the filing date of the application.

Article 1379. **Transformation of an Application for an Inventions, Utility Model, or Industrial Design**

1. Before the publication of information on an application for an invention (Paragraph 1 of Article 1385), but not later than the date of adoption of the decision on the issuance of a patent for an invention (Paragraph 1 of Article 1387), the applicant shall have the right to transform it into an application for a utility model by submitting the corresponding request to the Federal agency of executive authority for intellectual property, with the exception of the case when the declaration on a proposal to conclude a contract on alienation of the patent provided by Paragraph 1 of Article 1366 of the present Code is attached to the application.

2. Transformation of an application for a utility model into an application for an invention is allowed until the date of adoption of a decision on the issuance of a patent and in the case of taking a decision on refusal in the issuance of a patent – until the possibility of submitting an objection against this decision as provided by the present Code is exhausted.

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3. In case of the transformation of an application for an invention or utility model in accordance with Paragraphs 1 and 2 of the present Article, the priority of the invention or utility model shall be maintained.

Article 1380. **Withdrawal of an Application for an Invention, Utility Model, or Industrial Design**

An applicant shall have the right to withdraw an application filed by him for an invention, utility model or industrial design until the registration of the invention, utility model, or industrial design in the corresponding register.

2. Priority of an Invention, Utility Model, and Industrial Design

Article 1381. **Establishment of the Priority of an Invention, Utility Model or Industrial Design**

1. The priority of an invention, utility model, or industrial design shall be established by the date of filing with the Federal agency of executive authority for intellectual property of an application to an invention, utility model, or industrial design.

2. The priority of an invention, utility model, or industrial design may be established by the date of receipt of supplementary materials if they are formalized by the applicant as an independent application that is filed before the expiration of a three-month period from the day of receipt by the applicant of notification from the Federal agency of executive authority for intellectual property on the impossibility of taking into consideration of supplementary materials in connection with the recognition of their changing the essence of a an applied-for solution and on the condition that on the filing date of such an independent application, the application containing the aforementioned supplementary materials has not been withdrawn and has not be recognized as withdrawn.

3. The priority of an invention, utility, model, or industrial design, may be established by the filing date by the same applicant to the Federal agency of executive authority for intellectual property of an earlier application disclosing this invention, utility model or industrial design on the condition that the earlier application has not been withdrawn and has not been recognized as withdrawn on the date of filing the application under which such priority is requested and the application for which priority is requested was filed within twelve months from the date of the earlier application for the invention or six months from the date of the earlier application for a utility model or industrial design.

Upon the filing of an application for which priority is requested, the earlier application shall be considered withdrawn.

Priority may not be established by the filing date of an application for which an earlier priority has already been requested.

4. The priority of an invention, utility model, or industrial design under a divisional application shall be established by the filing date by the same applicant to the Federal agency of executive authority for intellectual property of the initial application disclosing this invention, utility model, or industrial design, and in the presence of the right to the establishment of an earlier priority under the original application – by the date of this priority on the condition that on the filing date of the divisional application the original application for an invention, utility model, or industrial design has not been withdrawn and has not been recognized as withdrawn, and a divisional application is filed before the exhaustion of the possibility provided by the present Code for the presentation of an objection to a decision to refuse to issue a patent on the original application or before the date of registration of the invention, utility model, or industrial design, if a decision on the issuance of a patent has been adopted on the original application.

5. The priority of an invention, utility model, or industrial design may be established on the basis of several previously filed applications or supplementary materials to them with the observance for them correspondingly of the conditions provided correspondingly by Paragraphs 2, 3, and 4 of the present Article and by Article 1382 of the present Code.

Article 1382. **Convention Priority of an Invention, Utility Model, or Industrial Design**

1. The priority of an invention, utility model, or industrial design may be established as of the date of the first application for the invention, utility model, or industrial design in a state that is a participant in the Paris Convention for the Protection of Industrial Property (Convention priority) on the condition of the filing with the Federal agency of executive authority for intellectual property of an application for an invention or a utility model in the course of twelve months from the aforementioned

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date and an application for an industrial design in the course of six months from the aforementioned date. If due to circumstances not dependant on the applicant, an application for which Convention priority is sought cannot be filed within the indicated time period, this time period may be extended by the Federal agency of executive authority for intellectual property, but not for more than two months.

2. An applicant wishing to use the right of Convention priority with respect to an application for a utility model or an industrial design must communicate about this to the Federal agency of executive authority for intellectual property before the expiration of two months from the day of filing such application and must present a certified copy of the first application indicated in Paragraph 1 of the present Article before the expiration of three months from the day of filing with the aforesaid Federal agency of the application for which Convention priority is requested.

3. An applicant desiring to use the right of Convention priority with respect to an application for an invention must communicate about this to the Federal agency of executive authority for intellectual property and to present to this Federal agency a certified copy of the first application within the course of six months from the day of its submission to the patent office of a state that is a participant in the Paris Convention for the Protection of Industrial Property.

In case of failure to present a certified copy of the first application within the aforementioned time period the right of priority may nevertheless be recognized by the Federal agency of executive authority for intellectual property on petition of the applicant filed by him to this Federal agency before the expiration of the aforementioned time period on the condition that a copy of the first application has been requested by the applicant at the patent office at which the first application was filed within fourteen months from the day of filing of the first application and it is presented to the Federal agency of executive authority for intellectual property in the course of two months from the date of its receipt by the applicant.

The Federal agency of executive authority for intellectual property shall have the right to demand from the applicant the presentation of a translation into the Russian language of the first application for the invention only in the case when the verification of the validity of the claim to priority of the invention is connected with the establishment of the patentability of the applied-for invention.

Article 1383. **Consequences of the Coincidence of the Priority Dates of an Invention, Utility Model, or Industrial Design**

1. If in the process of examination it is established that different applicants have filed applications for identical inventions, utility models, or industrial designs, and that these applications have one and the same priority date, a patent for the invention, utility model, or industrial design may be granted only on one of these applications to the person determined by agreement among the applicants.

In the course of twelve months from the day of receipt from the Federal agency of executive authority for intellectual property of the corresponding notification, the applicants must report to this Federal agency of the agreement reached by them.

Upon the issue of the patent on one of the applications, all the authors indicated in the applications shall be recognized as coauthors with respect to identical inventions, utility models, or industrial designs.

In the case when such applications having one and the same priority date for identical inventions, utility models, or industrial designs have been filed by one and the same applicant, the patent shall be issued under the application chosen by the applicant. The applicant must communicate his choice within the time and in the manner which are provided by the second subparagraph of the present Paragraph.

If the aforementioned communication or petition for extending the established time period does not reach the Federal agency of executive authority for intellectual property from the applicants within the course of the established time period in the manner provided by Paragraph 5 of Article 1386 of the present Code, the applications shall be considered withdrawn.

2. In case of coincidence of the priority dates of an invention and of a utility model identical to it, with respect to which applications for issuance of patents have been filed by one and the same applicant, after issuance of a patent on one of these applications, issuance of a patent on the other application shall only be possible on the condition of submission to the Federal agency of executive authority for intellectual property by the holder of the earlier issued patent for an identical invention or identical utility model of a request for the termination of the effect of this patent. In this case the effectiveness of the earlier issued patent shall be terminated from the date of publication of information on the issuance of a patent on the other application in accordance with Article 1394 of the present Code. Information on the issuance of a patent on an application for an invention or utility model and

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information on the termination of the effect of the earlier issued patent shall be published simultaneously.

3. Examination of an Application for the Issuance of a Patent for an Invention, Utility Model, or Industrial Design. Temporary Legal Protection of an Invention, Utility Model or Industrial Design

Article 1384. **Formal Examination of an Application for an Invention**

1. Formal examination of an application for an invention that has reached the Federal agency of executive authority for intellectual property shall be conducted. In the process of this examination the presence of the documents provided for by Paragraph 2 of the 1375 of the present Code and their correspondence to established requirements shall be verified.

2. In the case when the applicant has presented supplementary materials to the application for an invention in accordance with Paragraph 1 of Article 1378 of the present Code it shall be verified whether they change the essence of the invention applied for.

Supplementary materials in the part changing the essence of the invention applied for shall not be taken into account in the consideration of the application for the invention, but may be presented by the applicant as independent applications. The Federal agency of executive authority for intellectual property shall inform the applicant of this.

3. The Federal agency of executive authority for intellectual property shall notify the application of a positive result of formal examination and of the filing date of the application for the invention immediately after the completion of formal examination.

4. If an application for an invention does not meet the established requirements for documents of the application, the Federal agency of executive authority for intellectual property, shall send the applicant an inquiry with a proposal to present corrected or missing documents within two months from the date of the receipt by him of the request. If the applicant does not present the requested documents or a petition for extending this period within the established time period, the application shall be considered withdrawn. This period may be extended by the aforesaid Federal agency of executive authority, but not for more than ten months.

5. If an application for an invention has been filed with the violation of the requirement of unity of an invention (Paragraph 1 of Article 1375), the Federal agency of executive authority for intellectual property shall propose to the applicant to communicate, within two months from the date of receipt by him of the respective notification, which of the applied for inventions is to be considered, and in case of necessity to make changes in the documents of the application. Other inventions applied for in this application may be formalized by divisional applications. If the applicant does not communicate within the established time period which of the inventions applied for must be considered or does not present in case of necessity the corresponding documents, the invention shall be considered that is indicated first in the claims for the invention.

Article 1385. **Publication of Information on the Application for an Invention**

1. The Federal agency of executive authority for intellectual property, upon the expiration of eighteen months from the day of submission of an application for an invention, which application has undergone formal examination with a positive result shall publish information on the application for the invention in the official gazette. The composition of the published information shall be determined by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

The author of the invention shall have the right to refuse to be indicated as such in the published information on the application for an invention.

On petition of an applicant filed before the expiration of twelve months from the day of submission of the application for an invention, the Federal agency of executive authority for intellectual property may publish information on the application for an invention before the expiration of eighteen months from the day of its submission.

Publication shall not be made if before the expiration of twelve months from the day of submission of the application for the invention it was withdrawn or recognized as withdrawn or if on its basis registration of the invention took place.

2. Any person after publication of the information on the application for the invention shall have the right to become acquainted with the documents of the application unless the application has been withdrawn or recognized as withdrawn on the date of publication of information on it. The procedure for acquaintance with the documents of the application and for issuance of copies of such documents shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

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3. In case of publication of information on an application for an invention, which application on the date of publication had been withdrawn or recognized as withdrawn, such information shall not be included in the level of technology with respect to subsequent applications of the same applicant filed with the Federal agency of executive authority for intellectual property before the expiration of twelve months from the day of publication of information on the application for an invention.

Article 1386. **Substantive Examination of an Application for an Invention**

1. On petition of the applicant or of third parties, which may be filed with the Federal agency of executive authority for intellectual property with the submission of the application for an invention or during the course of three years from the filing date of this application, and on the condition of completion of formal examination of this application with a positive result, substantive examination of the application for an invention shall be conducted. The Federal agency of executive authority for intellectual property shall notify the applicant of petitions received from third parties.

The time period for submission of a petition for the conduct of substantive examination of an invention may be extended by the Federal agency of executive authority for intellectual property on petition of the applicant filed before the expiration of this time period, but not for more than two months, on the condition of presentation together with the petition of a document confirming payment of the patent fee.

If a petition for the conduct of a substantive examination of an invention has not been filed within the established time period, the application shall be considered withdrawn.

2. Substantive examination of an invention shall include:

an information search with respect to the invention applied to determine the level of technology in comparison with which an evaluation will be made of the novelty and inventive level of the invention;

verification of the correspondence of the invention applied for to the conditions of patentability provided by Article 1350 of the present Code.

An information search with respect to the invention applied for, relating to the objects indicated in Paragraph 4 of Article 1349 and in Paragraphs 5 and 6 of Article 1350 of the Present Code, shall not be conducted. The Federal agency of executive authority for intellectual property shall notify the applicant about this before the expiration of six months from the day of the start of substantive examination of the invention.

The procedure for conduct of an information search and the presentation of a report on it shall be established by the Federal agency of executive authority exercising normative-legal regulation in the area of intellectual property.

3. Upon the expiration of six months from the date of the start of the substantive examination of the application for an invention, the Federal agency of executive authority for intellectual property shall send the applicant a report on the information search, if a priority earlier than the filing date of the application was not requested for such application and if the petition on the conduct of substantive examination of the application for the invention was filed on the filing date of the application.

The time period for sending the applicant a report on the information search may be extended by the Federal agency of executive authority for intellectual property if the necessity has appeared of an inquiry to other organizations for a source of information absent in the collections of the aforesaid Federal agency or if the invention applied for is characterized in such a way that makes it impossible to conduct an information search by the established procedure. The aforesaid Federal agency shall notify the applicant of the extension of the time period for sending the report on the information search and of the reasons for of its extension.

4. The applicant and third persons shall have the right to petition for the conduct for an application for an invention that has undergone formal examination with a positive result, of an information search for determination of the level of technology in comparison with which the evaluation of the novelty and inventive level of the invention applied for will be conducted. The procedure and conditions for the conduct of such an information search and provision of information about its results shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

5. In the process of substantive examination of an application for an invention the Federal agency of executive authority for intellectual property may request from the applicant supplementary materials (including amended claims for the invention) without which the conduct of expert examination would be impossible. In this case supplementary materials without changing the essence of the invention must be presented within the course of two months from the day of receipt by the applicant of the inquiry or copy of materials set against the application, on the condition that the applicant has requested the aforesaid copies within the course of a month from the day of receipt by

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him of the inquiry from the aforesaid Federal agency. If within the established time period the applicant does not present the requested materials or does not present a petition on the extension of this time period, the application shall be considered withdrawn. The time period established for presentation by the applicant of the requested materials may be extended by the aforesaid Federal agency not for more than ten months.

Article 1387. **Decision on the Issuance of a Patent for an Invention or of Refusal of its Issuance**

1. If as the result of the substantive examination of an application for an invention it is established that the invention applied for, expressed by the claims proposed by the applicant corresponds to the conditions of patentability provided by Article 1350 of the present Code, the Federal agency of executive authority for intellectual property shall adopt a decision on the issuance of a patent for the invention with these claims. The priority date of the invention shall be indicated in the decision.

If in the process of substantive examination of the invention it is established that the invention applied for, as expressed by the claims proposed by the applicant, does not correspond to the conditions of patentability provided by Article 1350 of the present Code, the Federal agency of executive authority for intellectual property shall adopt a decision to refuse the issuance of a patent.

Before the adoption of a decision on the issuance of a patent or on the refusal of the issuance of a patent, the Federal agency of executive authority for intellectual property shall send the applicant a notification of the results of the verification of the patentability of the invention applied for with a proposal to present his positions on the reasons presented in the notification. The Positions of the applicant shall be considered in the taking of a decision if they are presented within the course of six months from the day of receipt of notification by him.

2. An application for an invention shall be recognized as withdrawn in accordance with the provisions of the present chapter on the basis of a decision of the Federal agency of executive authority for intellectual property with the exception of the case when it is recalled by the applicant.

3. A decision of the Federal agency of executive authority for intellectual property on refusal of the issuance of a patent for an invention, on the issuance of a patent for an invention, or on recognition of an application for an invention as withdrawn, may be contested by the applicant by submitting an objection with the chamber for patent disputes in the course of six months from the day of his receipt of the decision or of copies of materials requested from the aforesaid Federal agency that were set against the application and referenced in the decision on refusal of the issuance of a patent on the condition that the applicant requested copies of these materials within two months from the date of receipt of the decision adopted on the application for the invention.

Article 1388. **Right of the Applicant to Become Acquainted With the Patent Materials**

The applicant shall have the right to become acquainted with all the materials relating to the patenting of inventions to which there is a reference in inquiries, reports, decisions, notices, and other documents received by him from the Federal agency of executive authority for intellectual property. Copies of the patent documents requested by the applicant from the aforesaid Federal agency shall be sent to him within a month from the day of receipt of the request.

Article 1389. **Reinstatement of Missed Time Periods Connected With the Conduct of Examination of an Application for an Invention**

1. A basic or extended time period missed by the applicant for presentation of documents or supplementary materials on a request of the Federal agency of executive authority for intellectual property (Paragraph 4 of Article 1384 and Paragraph 5 of Article 1386), the time period for submission of a petition for the conduct of substantive examination of the application for an invention (Paragraph 1 of Article 1386), and the time period for submission of an objection to the chamber for patent disputes (Paragraph 2 of Article 1387) may be reinstated by the aforesaid Federal agency on the condition that the applicant presents proof of the validity of the reasons because of which the time period was not observed and a document confirming payment of the patent fee.

2. A petition for the reinstatement of a missed time period may be filed by the applicant during the course of twelve months from the date of expiration of the established time period. The petition shall be filed with the Federal agency of executive authority for intellectual property simultaneously either:

with documents or with supplementary materials for the presentation of which the reinstatement of the time period is necessary or with a petition for extending the time period for presenting these documents or materials;

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with a petition for the conduct of substantive examination of the application for an invention;
with an objection to the Chamber for Patent Disputes.

Article 1390. **Examination of an Application for a Utility Model**

1. For an application for a utility model received by the Federal agency of executive authority for intellectual property, an examination shall be conducted in the process of which the presence of the documents provided for by Paragraph 2 of Article 1376 of the present Code shall be verified, as well as their correspondence to established requirements and the observance of the requirement of unity of the utility model (Paragraph 1 of Article 1376) and it also shall be established whether the decision applied for relates to the technical decisions capable of protection as a utility model.

Correspondence of the utility model applied for to the conditions of patentability provided for by Paragraph 1 of Article 1351 of the present Code shall not be verified in the process of examination.

The provisions established by Paragraphs 2, 4, and 5 of Article 1384, Paragraphs 2 and 3 of Article 1387, 1388, and 1389 of the present Code correspondingly shall be applied to the conduct of examination of an application for a utility model.

2. The applicant and third persons shall have the right to petition for the conduct of an information search with respect to a utility model that has been applied for in order to determine the level of technology in comparison with which the patentability of the utility model may be evaluated. The procedure and conditions for the conduct of the information search and the presentation of information on its results shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

3. If in the claim proposed by the applicant for a utility model there are characteristics that were absent from the description of the utility model and characteristics absent from the claims of the utility model (if the application for the utility model on the date of its application contained such claims), the Federal agency of executive authority for intellectual property shall send the applicant a request with a proposal to exclude the aforesaid characteristics from the claim.

4. If as the result of examination of an application for a utility model it is established that the application was filed for a technical solution capable of protection as a utility model and if the documents of the application correspond to the established requirements, the Federal agency of executive authority for intellectual property shall adopt a decision on the issuance of a patent with an indication of the filing date of the application for a utility model and of the established priority.

If as the result of the examination it is established that an application for a utility model has been filed for a solution not capable of protection as a utility model, the Federal agency of executive authority for intellectual property shall adopt a decision on refusal to issue a patent for a utility model.

5. In the case when, in the consideration at the Federal agency of executive authority for intellectual property of an application for a utility model it is established that the information contained in it constitutes a state secret, the documents of the application shall be treated as secret by the procedure established by the legislation on state secrecy. In this case the applicant shall be notified of the possibility of withdrawal of the application for a utility model or of transformation of it into an application for a secret invention. Consideration of such application shall be suspended until the receipt from the applicant of the corresponding request or until the declassification of the application.

Article 1391. **Examination of an Application for an Industrial Design**

1. For an application for an industrial design received at the Federal agency of executive authority for intellectual property a formal examination shall be conducted in the process of which the presence of the documents provided by Paragraph 2 of Article 1377 of the present Code and their correspondence to established requirements shall be verified.

In case of a positive result of formal examination, substantive examination of the application for an industrial design shall be conducted, which examination shall include the verification of the correspondence of the industrial design applied for to the conditions of patentability established by Article 1352 of the present Code.

2. The provisions provided by Paragraphs 2-5 of Article 1384, by Paragraph 5 of Article 1386, by Paragraph 3 of Article 1387, and by Articles1388-1389 of the present Code shall be applied correspondingly in the conduct of the formal examination of an application for an industrial design and the substantive examination of this application.

Article 1392. **Temporary Legal Protection of an Invention**

1. An invention for which an application has been filed with the Federal agency of executive authority for intellectual property shall be granted temporary legal protection in the scope of the published claims of the invention, but not more than in the scope determined by the claims contained in

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the decision of the aforesaid Federal agency on the issuance of a patent for the invention, from the date of publication of information on the application (Paragraph 1 of Article 1385) until the date of publication of information on the issuance of a patent (Article 1394).

2. Temporary legal protection shall be considered not to have occurred if the application for invention was withdrawn or recognized as withdrawn or if, with respect to the application for invention a decision on refusal to issue a patent has been taken and the possibility of filing an objection against this decision provided for by the present Code has been exhausted.

3. A person who has used an invention that has been applied for during the period indicated in Paragraph 1 of the present Article shall pay monetary compensation to the patent holder, after receipt by the latter of a patent. The amount of compensation shall be determined by agreement of the parties and, in case of a dispute, by a court.

4. Registration of an Invention, Utility Model, or Industrial Design and Issuance of a Patent

Article 1393. **Procedure for State Registration of an Invention, Utility Model, or Industrial Design and Issuance of a Patent.**

1. On the basis of a decision on issuance of a patent for an invention, utility model, or industrial design, the Federal agency of executive authority for intellectual property shall enter the invention, utility model, or industrial design into the corresponding state register – in the State Register of Inventions of the Russian Federation, the State Register of Utility Models of the Russian Federation, or the State Register of Industrial Designs of the Russian Federation and shall issue a patent for an invention, utility model, or industrial design.

If a patent is requested in the name of several persons, they shall be issued one patent.

2. State registration of an invention, utility model, or industrial design shall be conducted and the patent shall be issued on the condition of payment of the corresponding patent fee. In case of failure to present by the applicant, by the established procedure, a document confirming the payment of the patent fee, registration of the invention, utility model, or industrial design and issuance of the patent shall not be conducted and the corresponding application shall be considered withdrawn.

3. The form of the patent for an invention, utility model or industrial design and the composition of the information contained in it shall be established by Federal agency of executive authority exercising normative-legal regulation in the area of intellectual property.

4. The Federal agency of executive authority for intellectual property shall enter corrections of obvious and technical errors in an issued patent for an invention, utility model, or industrial design, and/or in the corresponding state register.

5. The Federal agency of executive authority for intellectual property shall publish in the official gazette information on any changes of entries in the state registers.

Article 1394. **Publication of Information on the Issuance of a Patent for an Invention, a Utility Model, or an Industrial Design**

1. The Federal agency of executive authority for intellectual property shall publish in the official gazette information on the issuance of a patent, utility model, or industrial design including the name of the author, unless the author has refused to be mentioned as such, the name or designation of the patent holder, the name and claims of the invention or utility model or list of essential characteristics of a utility model and its depiction.

The Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property shall determine the composition of the published information.

2. After publication in accordance with the present Article of information on the issuance of a patent for an invention, utility model, or industrial design, any person shall have the right to become acquainted with the documents of the application and the report on the information search.

The procedure for becoming acquainted with the documents of the application and the report on the information search shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

Article 1395. **Patenting Inventions or Utility Models in Foreign States and in International Organizations**

1. An application for the issuance of a patent for an invention or utility model created in the Russian Federation may be filed with a foreign state or with an international organization upon the expiration of six months from the day of filing of the corresponding application with the Federal agency of executive authority for intellectual property, unless within the aforesaid time period the

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applicant has been informed that the application contains information constituting a state secret. An application for an invention or utility model may be filed earlier than the aforesaid time period, but after the conduct on the request of the applicant of a verification for presence in the application of information constituting a state secret. The procedure for verification of the application containing information constituting a state secret shall be established by the Government of the Russian Federation.

2. Patenting in accordance with the Patent Cooperation Treaty or the Eurasian Patent Convention of an invention or utility model created in the Russian Federation shall be allowed without prior filing of the corresponding application with the Federal agency of executive authority for intellectual property, if the application in accordance with the Patent Cooperation Treaty (the international application) was filed with the Federal agency of executive authority for intellectual property as the receiving office and the Russian Federation was indicated in it as a state in which the applicant intended to receive a patent or the Eurasian application was filed through the Federal agency of executive authority for intellectual property.

Article 1396. **International and Eurasian Applications Having the Force of the Applications Provided For by the Present Code.**

1. The Federal agency of executive authority for intellectual property shall commence the consideration of an international application filed in accordance with the Patent Cooperation Treaty for an invention or a utility model in which the Russian Federation is named as a state in which the applicant intends to obtain a patent for an invention or utility model upon the expiration of the thirty-first month from the day of the priority requested in the international application. On request of the applicant, the international application shall be considered before the expiration of this time period on the condition that the international application was filed in the Russian language or if the applicant before the expiration of the aforesaid time period has presented to the Federal agency of executive authority for intellectual property of a translation into Russian of the application for the issuance of a patent for the invention or utility model contained in an international application filed in a different language.

The presentation to the Federal agency of executive authority for intellectual property of a translation into the Russian language of a request contained in an international application for the issuance of a patent for an invention or utility model may be replaced by the presentation of the application for issuance of a patent provided for by the present Code.

If the aforementioned documents are not presented within the established time period, the effectiveness of the international application with respect to the Russian Federation in accordance with the Patent Cooperation Treaty shall be terminated.

The time period established by Paragraph 3 of Article 1378 of the present Code for the making of changes in the documents of an application shall be calculated from the day of beginning of consideration of the international application by the Federal agency of executive authority for intellectual property of the international application in accordance with the present Code.

2. The consideration of a Eurasian application for an invention having in accordance with the Eurasian Patent Convention the effect of an application for an invention provided for by the present Code shall be conducted beginning from the day when the Federal agency of executive authority for intellectual property has received a verified copy of the Eurasian application from the Eurasian Patent Office. The time period provided by Paragraph 3 of Article 1378 of the present Code for the making of changes in the documents of an application shall be calculated from this same date.

3. Publication of an international application in the Russian language by the International Bureau of the World Intellectual Property Organization in accordance with the Patent Cooperation Treaty or publication of the Eurasian application by the Eurasian Patent Office in accordance with the Eurasian Patent Convention shall substitute for the publication of information about the application provided for by Article 1385 of the present Code.

Article 1397. **Eurasian Patent and Patent of the Russian Federation to Identical Inventions**

1. In the case when a Eurasian patent and a patent of the Russian Federation to identical inventions, or an identical invention and utility model, having one and the same priority date belong to different patent holders, such inventions or, respectively invention and utility model may be used only with the observance of the rights of all their patent holders.

2. If a Eurasian patent and a patent of the Russian Federation to identical inventions or to an identical invention and utility model having one and the same priority date belong to one and the same

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person, then this person may grant any person the right of use of such inventions or, respectively invention and utility model under license contracts concluded on the basis of these patents.

§ 6. Termination and Reinstatement of the Effect of a Patent

Article 1398. **Recognition of the Invalidity of a Patent for an Invention, Utility Model, or Industrial Design**

1. A patent for an invention, utility model, or industrial design may be recognized, during the course of its time period of effectiveness as invalid in whole or in part in cases of:

1) failure of the invention, utility model, or industrial design to correspond to the conditions of patentability established by the present Code;

2) presence in the claims for the invention or utility model or in the list of essential characteristics of an industrial design that are contained in the decision on issuance of the patent of characteristics that were absent on the filing date of the application in the description of the invention or the utility model and in the claims for the invention or utility model (if the application for an invention or utility model contained such claims on the filing date) or in illustrations of a manufacture;

3) issuance of a patent in the presence of several applications for identical inventions, utility models, or industrial designs having one and the same priority date in violation of the conditions provided by Article 1383 of the present Code.

4) issuance of a patent with an indication in it as the author or patent holder of a person who is not such in accordance with the present Code or without the indication in the patent as the author or patent holder of a person who is such in accordance with the present Code.

2. The issuance of a patent for an invention, utility model or industrial design may be contested by any person who has become aware of the violations provided by numbered subparagraphs 1 - 3 of Paragraph 1 of the present Article by submission of an objection to the chamber for patent disputes.

The issuance of a patent for an invention, utility model or industrial design may be contested by judicial procedure by any person who has become aware of the violations covered by numbered subparagraph 4 of Paragraph 1 of the present Article.

3. A patent for an invention, utility model or industrial design shall be recognized as invalid in full or in part on the basis of a decision of the Federal agency of executive authority for intellectual property adopted in accordance with Paragraphs 2 and 3 of Article 1248 of the present Code or of a decision of a court that has entered into legal force.

In case of recognition of a patent for an invention, utility model, or industrial design as invalid in part, a new patent shall be issued.

4. A patent for an invention, utility model, or an industrial design that is recognized as invalid in whole or in part shall be annulled as of the filing date of the application for a patent.

Licensing contracts concluded on the basis of the patent later recognized as invalid shall maintain their effect to the extent that they were performed by the time of rendering of the decision on the invalidity of the patent.

5. Recognition of a patent as invalid shall signify the reversal of the decision of the Federal agency of executive authority for intellectual property on the registration of the invention, utility model, or industrial design and on the issuance of a patent for the invention, utility model, or industrial design (Article 1387) and annulling the entry in the corresponding state register.

Article 1399. **Early Termination of the Effectiveness of a Patent for an Invention, Utility Model, or Industrial Design**

The effectiveness of a patent for an invention, utility model, or industrial design shall be terminated early:

on the basis of a request filed by the patent holder with the Federal agency of executive authority for intellectual property – from the day of receipt of the request. If a patent was issued for a group of inventions, utility models, or industrial designs, and the request of the patent holder is filed with respect to not all the objects of patent rights included in the group, the effect of the patent shall be terminated only with respect to the inventions, utility models, or industrial designs indicated in the request;

in case of failure to pay the patent fee for maintaining a patent for an invention, utility model, or industrial design in force within the established time period – from the date of expiration of the established time period for the payment of the patent fee for maintaining a patent in force.

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Article 1400. **Reinstatement of the Effectiveness of a Patent for an Invention, Utility Model, or Industrial Design. Right of Later Use**

1. The effectiveness of a patent for an invention, utility model or industrial design, which effectiveness was terminated in connection with the fact that the patent fee for maintaining the patent in force was not paid within the established time period may be reinstated by the Federal agency of executive authority for intellectual property on petition of the person to whom the patent belonged. The petition for reinstatement of the effectiveness of a patent may be filed with the aforementioned Federal agency during the course of three years from the day of expiration of the time period for payment of the patent fee but before the expiration of the time period of effectiveness of a patent provided by the present Code. A document confirming payment in the established amount of the patent fee for reinstatement of the effectiveness of the patent must be attached to the petition.

2. The Federal agency of executive authority for intellectual property shall publish information on the reinstatement of the effectiveness of a patent for an invention, utility model, or industrial design in the official gazette

3. A person who in the period between the date of termination of the effectiveness of the patent for the invention, utility model, or industrial design and the date of publication in the official gazette of the Federal agency of executive authority for intellectual property of information on the reinstatement of the patent, began use of the invention, utility model or industrial design or made the preparations necessary for this within the indicated time period shall keep the right to its further uncompensated use without broadening the scope of its use (the right of later use).

§ 7. Peculiarities of Legal Protection and Use of Secret Inventions

Article 1401. **Filing and Consideration of Applications for the Issuance of a Patent for a Secret Invention**

1. Filing of an application for the issuance of a patent a for secret invention (an applications for a secret invention), consideration of such an application and dealing with it shall be conducted in accordance with the legislation on state secrecy.

2. Applications for secret inventions for which the degree of secrecy "of extraordinary importance" or "top secret" is established, and also for secret inventions that relate to armaments and military technology and to methods and means in the area of intelligence, counterintelligence, and operational investigation activity and for which the degree of secrecy "secret" has been established shall be filed, depending upon their thematic category, with the Federal agencies of executive authority authorized by the Government of the Russian Federation (the authorized agencies). Applications for other secret inventions shall be filed with the Federal agency of executive authority for intellectual property.

3. If in the course of consideration by the Federal agency of executive authority for intellectual property of an application for an invention it is established that the information contained therein constitutes a state secret, such application shall be classified as secret by the procedure established by the legislation on state secrecy and shall be considered to be an application for a secret invention.

Classifying as secret an application filed by a foreign citizen or foreign legal person is not allowed.

4. In consideration of an application for a secret invention as secret the provisions of Articles 1384, 1386-1389 of the present Code shall be applied respectively. Publication of information on the application for an invention provided for by Paragraphs 1 and 2 of Article 1385 of the present Code shall not be done in this case.

5. In establishing the novelty of a secret invention secret inventions patented in the Russian Federation and secret inventions to which author's certificates have been issued in the USSR shall also be included in the level of technology (Paragraph 2 of Article 1350), on condition of their earlier priority, if the level of secrecy established for these inventions is not higher than the level of secrecy of the invention whose novelty is being established.

6. Objection against a decision taken under an application for a secret invention by an authorized agency shall be considered by the procedure established by it. A decision taken on such an objection may be disputed to court.

7. The provisions of Article 1377 of the present Code on the transformation of an application for an invention into an application for a utility model shall not be applied to applications for secret inventions.

Article 1402. **State Registration of a Secret Invention and Issuance of a Patent for it. Dissemination of Information on a Secret Invention**

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1. State registration of a secret invention in the State Registry of Inventions of the Russian Federation and issuance of a patent for a secret invention shall be done by the Federal agency of executive authority for intellectual property, or, if the decision on issuance of a patent for a secret invention has been adopted by an authorized agency, by this agency. An authorized agency that has registered a secret invention and has issued a patent for a secret invention shall inform the Federal agency of executive authority for intellectual property about this.

The authorized agency that has conducted the registration of a secret invention and has issued a patent for it shall enter changes connected with the correction of obvious and technical errors in the patent for the secret invention and/or into the State Register of Inventions of the Russian Federation.

2. Information on applications and patents for secret inventions and also about changes in the registers relating to secret inventions shall not be published in the State Register of Inventions of the Russian Federation. Transfer of information about such patents shall be conducted in accordance with the legislation on state secrecy.

Article 1403. **Change of the Level of Secrecy and Declassification of Inventions**

1. Change of the level of secrecy and declassification of inventions and also change or removal of secrecy markings from the documents of an application and from a patent for a secret invention shall be conducted by the procedure established by the legislation on state secrecy.

2. In case of raising the level of secrecy of an invention, the Federal agency of executive authority for intellectual property shall transfer the documents of the application for a secret invention in accordance with their thematic category to the corresponding authorized agency. Further consideration of an application consideration of which at the time of raising the level of secrecy has not been completed by the aforesaid Federal agency shall be conducted by the authorized agency. In case of reduction of the level of secrecy of an invention, the further consideration of an application for the secret invention shall be conducted by the same authorized agency that previously was considering the application.

3. In case of declassification of an invention the authorized agency shall transfer the declassified documents of the application that it has to the Federal agency of executive authority for intellectual property. Further consideration of an application consideration of which has not been completed before the time of declassification by the authorized agency shall be conducted by the aforesaid Federal agency.

Article 1404. **Recognition of the Invalidity of a Patent for a Secret Invention**

An objection against the issuance by an authorized agency of a patent for a secret invention on the bases provided in numbered subparagraphs 1 - 3 of Paragraph 1 of Article 1398 of the present Code shall be submitted to this authorized agency and shall be considered by the procedure established by it. The decision of the authorized agency taken on the objection shall be approved by the head of this agency, shall take effect from the date of its approval and may be disputed in court.

Article 1405. **Exclusive Right to a Secret Invention**

1. The use of a secret invention and the disposition of the exclusive right to a secret invention shall be conducted with observance of the legislation on state secrecy.

2. A contract on alienation of a patent and also a license contract for the use of a secret invention are subject to registration in the agency that issued the patent for the secret invention or its legal successor and, in the absence of a legal successor, in the Federal agency of executive authority for intellectual property.

3. A public proposal to conclude a contract on alienation of a patent and a declaration on open license provided for respectively by Paragraph 1 of Article 1366 and Paragraph 1 of Article 1368 of the present Code are not allowed with respect to a secret invention.

4. A compulsory license provided for by Article 1362 of the present Code shall not be granted with respect to a secret invention.

5. The activities provided for by Article 1359 of the present Code, also the use of a secret invention by a person who did not know and could not know on lawful bases of the existence of a patent for the given invention shall not be an infringement of the exclusive right of the holder of a patent for a secret invention. Following the declassification of the invention or notification of the indicated person by the patent holder on the existence of a patent for the particular invention such person shall be obligated to terminate the use of the invention and to conclude a license contract with the patent holder except the case where the right of prior use was being exercised.

6. Levy of execution on the exclusive right to a secret invention is not allowed.

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§ 8. Protection of the Rights of Inventors and Patent Holders

Article 1406. **Disputes Connected With the Protection of Patent Rights**

1. Disputes connected with the protection of patent rights shall be considered by a court. Such disputes include in particular, disputes:

1) on the authorship of an invention, utility model, or industrial design;

2) on establishing the patent holder;

3) on infringement of the exclusive right to an invention, utility model, or industrial design;

4) on the conclusion, on the performance, on the amendment, and on the termination of contracts for the transfer of an exclusive right (or alienation of a patent) and license contracts for the use of an invention, utility model, or industrial design;

5) on the right of prior use;

6) on the right of later use;

7) on the measure, time period, and procedure for payment of compensation to the author of an invention, utility model, or industrial design in accordance with the present Code;

8) on the amount, time period and procedure for payment of the compensations provided by the present Code.

2. In the cases indicated in Articles 1387, 1390, 1391, 1398, 1401, and 1404 of the present Code, protection of patent rights shall be conducted by administrative procedure in accordance with Paragraphs 2 and 3 of Article 1248 of the present Code.

Article 1407. **Publication of a Decision of a Court on Infringement of a Patent**

The patent holder shall have the right, in accordance with numbered subparagraph 5 of Paragraph 1 of Article 1252 of the present Code to require publication in the official gazette of the Federal agency of executive authority for intellectual property of a decision of a court on the unlawful use of an invention, utility model, industrial design or other infringement of his rights in accordance with Paragraph 1 of Article 1251 of the present Code.

CHAPTER 73. THE RIGHT TO AN ACHIEVEMENT OF BREEDING

§ 1. Basic Provisions

Article 1408. **Rights to Achievements of Breeding**

1. The following intellectual rights shall belong to the author of an achievement of breeding that meets the conditions for granting legal protection provided by the present Code (an achievement of breeding):

1) the exclusive right;

2) the right of authorship.

2. In the cases provided for by the present Code the author of an achievement of breeding shall also have other rights, including the right to receipt of a patent, the right to the naming of the achievement of breeding, and the right to compensation for the use of an employment achievement of breeding.

Article 1409. **Effectiveness of the Exclusive Right to Achievements of Breeding on the Territory of the Russian Federation.**

Exclusive rights to shall be recognized on the territory of the Russian Federation to achievements of breeding certified by a patent issued by the Federal agency of executive authority for achievements of breeding or by a patent in force on the territory of the Russian Federation in accordance with international treaties of the Russian Federation.

Article 1410. **Author of an Achievement of Breeding**

The citizen by whose creative labor an achievement of breeding has been created, derived, or discovered shall be recognized as an author of an achievement of breeding. The person indicated as an author in an application for issuance of a patent for an achievement of breeding shall be considered the author of the achievement of breeding, unless it is proved otherwise.

Article 1411. **Coauthors of an Achievement of Breeding**

1. Citizens by whose joint creative work an achievement of breeding has been created, derived, or discovered shall be recognized as coauthors.

2. Each of the coauthors shall have the right to use the achievement of breeding at his discretion unless an agreement among them provides otherwise.

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3. The rules of Paragraph 3 of Article 1229 of the present Code shall be applied correspondingly to the relations of coauthors connected with the distribution of income from the use of an achievement of breeding and with the disposition of the exclusive right to an achievement of breeding.

The disposition of the right to receipt of a patent for an achievement of breeding shall be conducted by coauthors jointly.

4. Each of the coauthors shall have the right to take measures independently for the protection of his rights.

Article 1412. **Objects of Rights to an Achievement of Breeding**

1. The objects of intellectual rights to achievements of breeding are varieties of plants and breeds of animals registered in the State Register of Protected Achievements of Breeding if these results of intellectual activity meet the requirements for such achievements of breeding established by the present Code.

2. A variety of plants is a group of plants that, independently of capability of protection, is defined by characteristics distinguishing the given genotype or combination of genotypes and is distinguished from other groups of plants of the same botanical taxonomy by one or several characteristics.

A variety may be represented by one or several plants or a part or several parts of a plant on the condition that such a part or such parts may be used for reproduction of whole plants of the variety.

A clone, line, first generation hybrid, and a population are categories of plant variety capable of protection.

3. A breed of animals is a group of animals that regardless of capability of protection possess genetically separate biological and morphological attributes and characteristics some of which are specific for the given group and distinguish it from other groups of animals. A breed may be represented by a female or a male or by pedigree material, i.e., by animals meant for reproduction of the breed (pedigreed animals), their gametes or zygotes (or embryos).

A type and a cross-breed are protected categories of animal breed.

Article 1413. **Conditions of Capability of Protection of an Achievement of Breeding**

1. A patent shall be issued for an achievement of breeding that meets the criteria of capability of protection and relates to botanical and zoological breeds and types a list of which shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of agriculture taking into account the international obligations of the Russian Federation.

2. Criteria of capability of protection of an achievement of breeding are novelty (Paragraph 3 of the present Article), 2) distinguishability (Paragraph 4 of the present Article), and uniformity (Paragraph 6 of the present Article).

3. A variety of plants or breed of animals shall be considered new if on the filing date of the application for issuance of a patent, the seeds or breeding material of the given achievement of breeding have not been sold and have not be transferred in another manner to other persons by the breeder, his legal successors or with their consent to other persons for the use of the achievement of breeding:

1) on the territory of the Russian Federation – earlier than one year before the aforesaid date;

2) on the territory of another state – earlier than four years or, if it involves varieties of grape, decorative tree or fruit tree cultures or forest tree breeds, earlier than six years before the aforesaid date.

4. An achievement of breeding must be clearly distinct from any other generally known achievement of breeding existing at the time of filing the application for issuance of a patent.

A generally known achievement of breeding is an achievement of breeding data on which is found in official catalogs or a reference collection or that has an exact description in one of the publications.

The filing of an application for the issuance of a patent or for inclusion in the Sate Register of Achievements of Breeding shall also make an achievement of breeding generally known from the date of filing the application on the condition that the achievement of breeding was granted a patent or that the achievement of breeding was allowed for use;

5. Plants of one variety or animals of one breed must be sufficiently uniform in their characteristics taking into account individual deviations that may take place in connection with the peculiarities of reproduction;

6. Achievements of breeding shall be considered stable if their basic characteristics remain unchanged after repeated reproduction or, in the case of a special cycle of reproduction, at the end of each cycle of reproduction.

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Article 1414. **State Registration of an Achievement of Breeding**

The exclusive right to an achievement of breeding shall be recognized and protected on the condition of state registration of the achievement of breeding in the State Register of Protected Achievements of Breeding in correspondence with which the Federal agency of executive authority achievements of breeding shall issue a patent for the achievement of breeding.

Article 1415. **Patent for an Achievement of Breeding**

1. A patent for an achievement of breeding certifies the priority of an achievement of breeding, authorship, and the exclusive right to an achievement of breeding.

2. The scope of protection of the intellectual rights to an achievement of breeding provided on the basis of a patent shall be determined by the totality of essential characteristics fixed in the description of the achievement of breeding.

Article 1416. **Author's Certificate**

The author of an achievement of breeding shall have the right to receipt of an author's certificate, which shall be issued by the Federal agency of executive authority for achievements of breeding and shall certify his authorship.

Article 1417. **State Provision of Incentives for the Creation and Use of Achievements of Breeding**

The state shall provide incentives for the creation and use of achievements of breeding and shall grant their authors as well as other holders of the exclusive right to an achievement of breeding (patent holders) and licensees using these achievements of breeding favorable conditions for receiving credit and also grant them other privileges in accordance with the legislation of the Russian Federation.

§ 2. Intellectual Rights to Achievements of Breeding

Article 1418. **Right of Authorship to an Achievement of Breeding**

The right of authorship, i.e., the right to be recognized as the author of an achievement of breeding shall be inalienable and nontransferable including in case of transfer to another person or passage to him of the exclusive right to an achievement of breeding or in case of granting to another person of the rights to its use. A waiver of this right shall be void.

Article 1419. **Right to the Name of an Achievement of Breeding**

1. The author or other applicant shall have the right to the name of an achievement of breeding.

2. A name of an achievement of breeding must make possible the identification of the achievement of breeding, be short, be distinct from the names of existing achievements of breeding of the same or a close botanical or zoological type. It must not consist of numbers alone, lead into confusion concerning the qualities, origin, or significance of the achievement of breeding, or the identity of its author, and must not contradict the principles of humanity and morality.

3. The name of an achievement of breeding proposed by the author or with his consent by another person (by the applicant) submitting the application for the issuance of a patent must be approved by the Federal agency of executive authority for achievements of breeding.

If the proposed name does not satisfy the requirements established by Paragraph 2 of the present Article, then the applicant on demand of the aforementioned Federal agency shall be obligated to propose another name within a thirty-day time period.

If by the expiration of the aforesaid time period the applicant does not propose another name meeting the aforesaid requirements and does not contest a refusal to approve the name of an achievement of breeding by judicial procedure, the Federal agency of executive authority for achievements of breeding shall have the right to refuse the registration of the achievement of breeding.

Article 1420. **Right to Obtain a Patent for an Achievement of Breeding**

1. The right to obtain a patent for an achievement of breeding shall belong initially to the author of the achievement of breeding.

2. The right to obtain a patent for an achievement of breeding may pass to another person (legal successor) or be transferred to him in cases and on the bases that are established by a statute, including by the procedure for universal legal succession or by contract, in particular, by labor contract.

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3. A contract for the alienation of the right to receipt of a patent for an achievement of breeding must be concluded in written form. Nonobservance of written form shall entail the invalidity of the contract.

4. Unless otherwise established by agreement of parties to the contract on the alienation of the right to receipt of a patent for an achievement of breeding, the risk of non-protectability shall be borne by the recipient of the right.

Article 1421. **Exclusive Right to an Achievement of Breeding**

1. The exclusive right of use an achievement of breeding in accordance with Article 1229 of the present Code by the methods indicated in Paragraph 3 of the present Article. The patent holder may dispose of the exclusive right to an achievement of breeding.

2. The exclusive right to an achievement of breeding shall extend also to plant material, i.e. to a plant or part of it used for purposes other than the purpose of reproduction of the variety, to commodity animals, i.e., to animals used for purposes other than the purpose of reproduction of the breed, that were received correspondingly from seeds or from breeding animals if such seeds or breeding animals were introduced into civil commerce without permission of the patent holder. In such case seeds shall mean a plant or a part of it used for reproduction of a variety.

3. Conduct of the following actions with seeds and breeding material of an achievement of breeding shall be considered to be use of the achievement of breeding:

1) production and reproduction;

2) bringing to sowing conditions for later reproduction;

3) proposal for sale;

4) sale and other methods of introduction into civil commerce;

5) export from the territory of the Russian Federation;

6) import onto the territory of the Russian Federation;

7) storage for the purposes indicated in numbered subparagraphs 1-6 of the present Paragraph.

4. The exclusive right to an achievement of breeding shall also extend to seeds of a variety and breeding material of a breed that:

in an essential way inherit the characteristics of an other protected (source) variety of plants or breed of animals, if this protected variety or breed was not an achievement of breeding itself, in an essential way inheriting the characteristics of other achievements of breeding;

are not clearly different from the protected variety of plants or breed of animals;

require repeated use of the protected variety for the production of seeds.

An achievement of breeding inheriting in an essential manner the characteristics of another protected (source) achievement of breeding, shall be recognized as an achievement of breeding if it, while clearly different from the source:

inherits the most essential features of the source achievement of breeding or of the achievement of breeding that itself inherits the essential characteristics of the source achievement of breeding retaining in this case the basic characteristics reflecting the genotype or combination of genotypes of the source achievement of breeding;

corresponds to the genotype or combination of genotypes of the source achievement of breeding with the exception of deviations caused by such methods as individual selection from the source variety of plants or breed of animals, selection of an individual mutant, reverse cross-breeding, or genetic engineering.

Article 1422. **Activities that are Not an Infringement of the Exclusive Right to an Achievement of Breeding**

The following shall not be considered as an infringement of the exclusive right to an achievement of breeding:

1) activities done in the satisfaction of personal, family, home or other needs not connected to entrepreneurial activity if the purpose of such activities is not the receipt of profit or income;

2) activities done for scientific research or experimental purposes;

3) use of the protected achievement of breeding as the source material for the creation of other varieties of plants and breeds of animals, and also activities with respect to these created varieties and breeds, if such activities are listed in Paragraph 3 of Article 1421 of the present Code with exception of the cases provided for by Paragraph 4 of Article 1421 of the present Code;

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4) use of plant material obtained at a farm during the course of two years as seeds for the growth of the variety on the territory of this farm of a variety of plants, a list of families and types of which shall be established by Government of the Russian Federation.

5) reproduction of commodity animals for their use at the given farm;

6) any activities with seeds, plant material, breeding material, and commodity animals that were introduced into civil commerce by the patent holder or with his consent by another person except:

later reproduction of the aforesaid variety of plant or breed of animals;

export from the territory of the Russian Federation of plant material or commodity animals that would allow the reproduction of the variety of plants or breed of animals to a country in which the given family or type is not protected, with the exclusion of export for the purpose of processing for subsequent use.

Article 1423. **Compulsory License for an Achievement of Breeding**

1. Upon the expiration of three years from the day of issuance of a patent for an achievement of breeding any person desiring and prepared to use the achievement of breeding, in case of refusal of the patent holder to conclude a license contract for the production or sale of seeds or breeding material on conditions corresponding to established practice, shall have the right to apply to court with a suit against the patent holder for the grant of a compulsory simple (nonexclusive) license for the use of such achievement of breeding on the territory of the Russian Federation. In his complaint, this person must indicate the terms proposed by him for the grant to him of such license, including the volume of use of the achievement of breeding, the measure, procedure, and time periods for payments.

If the patent holder does not show that there are valid reasons preventing the grant to the applicant of the right of use of the corresponding achievement of breeding, the court shall adopt a decision on the grant of the indicated license and on the conditions of its grant. An overall measure of payment for such a license must be established by the decision of the court not lower than the price of a license determined under comparable conditions.

2. On the basis of the decision of a court provided for by Paragraph 1 of the present Article, the Federal agency of executive authority for achievements of breeding shall conduct state registration of the compulsory simple (nonexclusive) license (Paragraph 2 of Article 1232).

3. On the basis of the decision of the court on the grant of a compulsory simple (nonexclusive) license the patent holder shall be obligated for payment and on conditions acceptable for him to provide the holder of such license with seeds or corresponding breeding material in an amount sufficient for use of the compulsory simple (nonexclusive) license.

4. The effect of a compulsory simple (nonexclusive) license may be terminated by judicial procedure on suit of the patent holder if the holder of such license violates the conditions on the basis of which it was granted or if the circumstances that were the basis for the grant of such license have changed to the extent that if these circumstances had existed at the time of the grant of the compulsory license it would not have been granted at all or would have been granted on significantly different terms.

Article 1424. **The Time Period of Effectiveness of the Exclusive Right to an Achievement of Breeding**

The time period of effectiveness of the exclusive right to an achievement of breeding and of the patent certifying this right shall be calculated from the date of state registration of the achievement of breeding in the State Register of Protected Achievements of Breeding and shall constitute thirty years.

For varieties of grape, decorative and fruit tree cultures and forest varieties, including their stock, the time period of effectiveness of the exclusive right and of the patent certifying this right shall be thirty-five years.

Article 1425. **Passage of an Achievement of Breeding into the Public Domain**

1. Upon the expiration of the time period of effectiveness of the exclusive right, the achievement of breeding shall pass into the public domain.

2. An achievement of breeding that has passed into the public domain may be used freely by any person without any consent or permission whatsoever and without payment of compensation for use.

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§ 3. Disposition of the Exclusive Right Rights to an Achievement of Breeding

Article 1426. **Contract for Alienation of the Exclusive Right to an Achievement of Breeding**

Under a contract for the alienation of the exclusive right to an achievement of breeding (a contract on alienation of the patent), one party, the (patent holder), transfers or becomes obligated to transfer the exclusive right belonging to him to the corresponding achievement of breeding in full scope to the other party, the recipient of the exclusive right (the recipient of the patent).

Article 1427. **Public Proposal for Conclusion of a Contract for Alienation of the Patent for an Achievement of Breeding**

1. An applicant who is the author of an achievement of breeding upon the submission of an application for a patent for an achievement of breeding to append to the documents of the application a declaration that, in case of grant of a patent for an achievement of breeding he shall be obligated to conclude a contract on alienation of the patent on conditions corresponding to established practice with any citizen of the Russian Federation or Russian juridical person, who first declared such a desire and notified the patent holder and the Federal agency of executive authority for achievements of breeding. In the presence of such a declaration, the patent fees provided by the present Code with respect to an application for the grant for an achievement of breeding and with respect to a patent issued on such application shall not be collected from the make of the declaration.

The Federal agency of executive authority for achievements of breeding shall publish information on the aforesaid declaration in the official gazette.

2. A person who has concluded with the patent holder on the basis of his declaration indicated in Paragraph 1 of the present Article a contract on the alienation of a patent, shall be obligated to pay all the patent fees from payment of which the applicant (the patent holder) was freed. In the future, patent fees shall be paid by the established procedure.

For state registration in the Federal agency of executive authority for achievements of breeding of the contract on alienation of the patent, to the application for the registration of the contract must be attached a document confirming the payment of all patent fees from payment of which the applicant (patent holder) was freed.

3. If in the course of two years from the day of publication of information on the issuance of a patent with respect to which there was made the declaration indicated in Paragraph 1 of the present Article, a written notification of the wish to conclude a contract on the alienation of the patent has not reached the Federal agency of executive authority for achievements of selection, the patent holder may submit to the aforesaid Federal agency a petition for the withdrawal of his declaration. In this case the patent fees provided by the present Code, from payment of which the applicant (the patent holder) was freed are subject to payment. In the future the fees shall be paid by the established procedure.

The Federal agency of executive authority for achievements of selection shall publish in the official bulletin information on the withdrawal of the aforesaid declaration.

Article 1428. **License Contract for the Granting of a Right of Use of an Achievement of Breeding**

Under a license contract one party - the patent holder (the licensor), grants or becomes obligated to grant to the other party – the user (the licensee), the right, certified by a patent, for the use of the respective achievement of breeding within the limits established by the contract.

Article 1429. **Open License for an Achievement of Breeding**

1. The patent holder may file with the Federal agency of state authority for achievements of breeding a declaration on the possibility of granting to any person the right of use of an achievement of breeding (an open license).

In this case the amount of the patent fee for maintaining the patent in force shall be reduced by fifty percent starting from the year following after the year of publication by the Federal agency of state authority for achievements of breeding of information on the open license.

The conditions on which the right of use of the achievement of breeding may be granted to any person shall be communicated to the Federal agency of executive authority for achievements of breeding, which in its official gazette shall publish at the expense of the patent holder the respective information on an open license. The patent holder shall be obligated to conclude a license contract on the conditions of a simple (nonexclusive) license with a person who has expressed a desire to use the aforesaid achievement of breeding.

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2. Upon the expiration of two years from the date of publication by the Federal agency of executive authority for achievements of breeding in the official gazette of information on an open license, the patent holder shall have the right to file with the specially authorized state institution for achievements of breeding a petition for the withdrawal of his declaration.

If before the withdrawal no one had expressed the desire to use the achievement of breeding, the patent holder shall be obligated to pay the rest of the fee for the maintenance of the patent in force for the period that passed from the day of publication of the information on an open license, and in the future to pay it in full amount.

If before the withdrawal of the open license corresponding license contracts were concluded on the terms of the open license, then the licensees shall keep their rights for the whole period of effectiveness of these contracts. In this case the patent holder shall be obligated to pay the fee for maintaining the patent in force in full amount from the day of withdrawal of the open license.

The Federal agency of executive authority for achievements of breeding shall publish information on the withdrawal of a declaration on an open licenses in the official gazette.

§ 4. An Achievement of Breeding Created, Derived, or Discovered by the Procedure for Performance of an Employment Task or In Performance of Work Under a Contract

Article 1430. **Employment Achievement of Breeding**

1. An achievement of breeding created, derived, or discovered by an employee by way of performance of his work obligations or a specific task from the employer task shall be recognized as an employment achievement of breeding.

2. The right of authorship to an employment achievement of breeding shall belong to the employee (the author).

3. The exclusive right to an employment achievement of breeding and the right to receive a patent shall belong to the employer, unless otherwise provided in a labor or other contract between the employee and the employer and the employee.

4. In case of the absence in the contract between the employer and the employee of an agreement to the contrary (Paragraph 3 of the present Article), the employee must notify the employer in writing of the creation, derivation, or discovery by way of performance of his work obligations or a specific task from the employer, of a result with respect to which the granting of legal protection as an achievement of breeding is possible.

If the employer within the course of four months from the date of notification by his employee of creation, derivation, or discovery by him of a result with respect to which the granting of legal protection as an achievement of breeding is possible, does not file a request for the issuance of a patent for this achievement of breeding with the Federal agency of executive authority for achievements of breeding, does not transfer the right to receipt of a patent for an employment achievement to another person, and does not inform the employee on keeping the information on the corresponding result in secrecy, the right to receipt of a patent for such achievement of breeding shall belong to the employee. In this case the employer, during the time period of effectiveness of the patent shall have the right to use of the employment achievement of breeding in his own production on the conditions of a simple nonexclusive license with payment to the patent holder of compensation, the amount, conditions, and procedure for payment of which shall be determined by contract between the employee and the employer and, in case of dispute – by a court.

5. The employee shall have the right to receipt from the employer of compensation for the use of a created, derived, or discovered employment achievement of breeding in the amount and on the conditions that are determined by an agreement between them, but not less than in an amount constituting two percent of the amount of the annual income from the use of the achievement, including the income from the granting of licenses. A dispute on the amount, procedure, or on conditions of payment by the employer of compensation in connection with the use of an employment achievement of breeding shall be decided by a court.

Compensation shall be paid to the employee within six months after the end of each year in which the achievement of breeding is used.

6. An achievement of breeding created, derived, or discovered by an employee with the use of monetary, technical, or other material assets of the employer, but not by way of performance of his work obligations or a specific task from the employer is not an employment achievement of breeding. The right to receipt of a patent for the achievement of breeding and the exclusive right to such an achievement of breeding shall belong to the employee. In this case the employer shall have the right at his option to demand the grant to it of an uncompensated simple (nonexclusive) license for the use of

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the achievement of breeding for his own needs or compensation for the whole time period of effectiveness of the exclusive right for the achievement of breeding for expenditures borne by him in connection with the creation, derivation or discovery of such an achievement of breeding.

Article 1431. **Achievements of Breeding Made, Derived, or Discovered on Order**

1. In the case when an achievement of breeding has been created, derived, or discovered under a contract, the subject of which was the creation, derivation or discovery of such achievement of breeding (on order), the right to receipt of a patent for the achievement of breeding and the exclusive right to such an achievement of breeding shall belong to the customer, unless the contract between the contractor (the performer) and the customer has provided otherwise.

2. In the case when the right to receipt of a patent for an achievement of breeding and the exclusive right to an achievement of breeding belong in accordance with Paragraph 1 of the present Article to the customer, the contractor (the performer) shall have the right, to the extent not otherwise provided by the contract, to use the achievement of breeding for his own needs on the terms of an uncompensated simple (nonexclusive) license during the course of the whole time period of effectiveness of the patent. The contract, on the basis of which the work was performed may provide for another type of license.

3. If, in accordance with the contract between the performer and the customer the right to receipt of a patent for an achievement of breeding and the exclusive right to an achievement of breeding belong to the contractor (the performer), the customer shall have the right to use the achievement of breeding for his own needs on the terms of an uncompensated simple (nonexclusive) license for the course of the whole time period of effectiveness of the patent.

4. An author of an achievement of breeding indicated in Paragraph 1 of the present Article who is not the patent holder shall be paid compensation in accordance with Paragraph 5 of Article 1430 of the present Code.

Article 1432. **Achievements of Breeding Created, Derived, or Discovered in the Performance of Work Under a State or Municipal Contract**

The rules of Article 1371 of the present Code shall be applied correspondingly to achievements of breeding created, derived or discovered in the performance of work under a state or municipal contract.

§ 5. Receipt of a Patent for an Achievement of Breeding. Termination of the Effectiveness of a Patent for an Achievement of Breeding

Article 1433. **Application for Issuance of a Patent for an Achievement of Breeding**

1. An application for the issuance of a patent for an achievement of breeding (a request for issuance of a patent) shall be submitted to the Federal agency of executive authority for achievements of breeding by the person holding the right to receipt of a patent in accordance with the present Code (by the applicant).

2. An application for the issuance of the patent must contain:

1) a request for the issuance of a patent with an indication of the author of the achievement of breeding and of the person in whose name the patent is requested and also the place of residence or place of location of each of them;

2) a form for the achievement of breeding;

3) a document confirming the payment of the fee in the established amount or a document confirming the bases for freeing from the payment of the fee or for reduction of its amount or for delay of its payment.

3. The requirements for the documents of the application for issuance of a patent shall be established on the basis of the present Code by the Federal agency of executive authority conducting normative-legal regulation in the area of agriculture.

4. An application for the issuance of a patent must relate to one achievement of breeding.

5. The documents indicated in Paragraph 2 of the present Article may be presented in Russian or another language. If the documents are presented in another language, their translation into the Russian language shall be attached to the application for issuance of a patent.

Article 1434. **Priority of an Achievement of Breeding**

1. The priority of an achievement of breeding shall be established as of the date of receipt at the Federal agency of executive authority for achievements of breeding of an application for the issuance of patent or of an application for inclusion in the State Register of Achievements of Breeding.

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2. If on one and the same day two (or more) applications for one and the same achievement of breeding arrive at the Federal agency of executive authority for achievements of breeding for one and the same achievement of breeding, priority shall be established as of the earlier date of sending the application. If the examination establishes that these applications have one and the same date of sending, then the patent may be issued on the application having an earlier registration number assigned by the Federal agency of executive authority for achievements of breeding on the condition that an agreement among the applicants does not provide otherwise.

3. If an application filed by the applicant in a foreign state with which the Russian Federation has concluded a treaty on the protection of achievements of breeding preceded an application filed with the Federal agency of executive authority for achievements of breeding, then the applicant shall enjoy priority for the first application during the course of twelve months from its filing date.

In an application sent to the Federal agency of executive authority for achievements of breeding, the applicant must indicate the priority of the first application. In the course of six months from the day of receipt of the application by the Federal agency of executive authority for achievements of breeding, the applicant shall be obligated to present a copy of the first application, certified by a competent agency of the respective foreign state and its translation into the Russian language. In fulfilling these conditions the applicant shall have the right not to present supplementary documentation and the material necessary for testing for three years from the filing date of the first application.

Article 1435. **Preliminary Examination of an Application for the Issuance of a Patent**

1. In the course of the preliminary examination of an examination for the issuance of a patent , the priority date, the presence of the documents provided for by Paragraph 2 of Article 1433 of the present Code, and the correspondence of these documents to the established requirements shall be determined. Preliminary examination of an application for the issuance of a patent shall be conducted in the course of one month.

2. During the period of conduct of a preliminary expertise, the applicant shall have the right on his own initiative to supplement, clarify, or correct the documents of the application.

The Federal agency of executive authority for achievements of breeding may request missing documents or clarifying documents, and the applicant shall be obligated to provide these within the established time period.

If the documents missing on the date of receipt of the request were not provided within the established time period, then the application shall not be accepted for consideration, of which the applicant shall be notified.

3. The Federal agency of executive authority for achievements of breeding shall inform the applicant of a positive result of the preliminary examination and of the date of filing the application for the issuance of a patent immediately after the completion of the preliminary examination.

Information on accepted applications shall be published in the official gazette of the aforesaid Federal agency.

4. If the applicant does not agree with the decision of the Federal agency of executive authority for achievements of breeding taken on the results of the preliminary examination of the application for issuance of a patent, he, within the course of three months from the date of receipt of this decision shall have the right to dispute it by judicial procedure.

Article 1436. **Temporary Legal Protection of an Achievement of Breeding**

1. An achievement of breeding for which an application was filed with the Federal agency of executive authority for achievements of breeding shall be granted temporary legal protection as an achievement of breeding from the filing date of the application and until the date of issuance to the applicant of a patent for the achievement of breeding.

2. After the receipt of a patent for the achievement of breeding, the patent holder shall have the right to receive monetary compensation from a person who, without the permission of the applicant, has conducted, during the period of temporary legal protection of the achievement of breeding, the activities indicated in Paragraph 3 of Article 1421 of the present Code. The amount of compensation shall be determined by agreement of the parties and, in case of a dispute – by a court.

3. During the period of temporary legal protection of an achievement of breeding, the applicant shall be permitted to make a sale or other transfer of seeds or breeding materials only for scientific purposes, and also in cases when the sale or other transfer is connected with the alienation of the right to receipt of a patent for the achievement of breeding or with the production of seeds or breeding material on order of the applicant for the purpose of creating a supply of them.

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4. Temporary legal protection of an achievement of breeding shall be considered not to have occurred if the application for issuance of a patent was not taken into consideration (Article 1435) or, if with respect to the application for the issuance of a patent, a decision was taken on the refusal to issue a patent and the possibility of objecting to this decision provided for by the present Code was exhausted and also in case of violation by the applicant of the requirements of Paragraph 3 of the present Article.

Article 1437. **Examination of an Achievement of Breeding for Novelty**

1. Any interested person in the course of six months from the day of publication of information on an application for issuance of a patent may send to the Federal agency of executive authority for achievements of breeding a petition for the conduct of an examination of the applied-for achievement of breeding for novelty.

The Federal agency of executive authority for achievements of breeding shall notify the applicant of the receipt of such a petition with a statement of the substance of the petition. The applicant shall have the right in the course of three months from the date of receipt of the notice to send to the Federal agency of state authority for achievements of breeding a reasoned objection against the petition.

2. The Federal agency of state authority for achievements of breeding shall adopt a decision on the materials it has and shall report on it to the interested person. If the achievement of breeding does not correspond to the criterion of novelty, a decision shall be taken for the refusal of the issuance of a patent for the achievement of breeding.

Article 1438. **Tests of an Achievement of Breeding for Distinguishability, Uniformity, and Stability**

1. Tests of an achievement of breeding for distinguishability, uniformity, and stability shall be conducted by the methodology and in the time limits that are established by the Federal agency of executive authority conducting normative legal regulation in the area of agriculture.

The applicant shall be obligated to provide for testing the necessary quantity of seeds or breeding material to the place and within the time period indicated by the Federal agency of state authority for achievements of breeding.

2. The Federal agency of executive authority for achievements of breeding, for the purposes provided by Paragraph of the present Article, shall have the right to use the results of tests conducted by competent bodies of other states with which corresponding treaties have been concluded, the results of tests conducted by other Russian organizations under contract with such the aforesaid state agency, and also data presented by the applicant.

Article 1439. **Procedure for Registration of an Achievement of Breeding and Issuance of a Patent**

1. If an achievement of breeding corresponds to the criteria of capability of protection (Paragraph 2 of Article 1413) and the name of the achievement of breeding corresponds to the requirements of Article 1419 of the present Code, the Federal agency of executive authority for achievements of breeding shall adopt a decision on issuance of a patent for the achievement of breeding and also shall compile a description of the achievement of breeding and enter the achievement of breeding in the State Register of Protected Achievements of Breeding.

2. The following information shall be entered in the State Register of Protected Achievements of Breeding:

1) the family and type of plant or animal;

2) the name of the variety of plants or breed of animals;

3) the date of state registration of the achievement of breeding and the registration number;

4) the name or designation of the patent holder and his place of residence or place of location;

5) the name of the author of the achievement of breeding and his place of residence;

6) a description of the achievement of breeding;

7) the fact of transfer of the patent for the achievement of breeding to another person with an indication of his name or designation, and place of residence or place of location;

8) information on license contracts that have been concluded;

9) the date of termination of the effectiveness of the patent for the achievement of breeding with an indication of the cause.

3. The patent for the achievement of breeding shall be issued to the applicant. If several applicants are indicated in an application for the issuance of a patent, the patent shall be issued to the applicant indicated first in the application and shall be used by the applicants jointly by agreement among them.

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Article 1440. **Preservation of the Achievement of Breeding**

The patent holder shall be obligated to maintain the variety of plants or breed of animals during the course of effectiveness of the patent for the achievement of breeding in such a way that the characteristics indicated in the description of the variety of plants or breed of animals compiled on the date of the inclusion of the achievement of breeding in the State Register of Protected Achievements of Breeding are preserved.

The patent holder shall be obligated on request of the Federal agency of executive authority for achievements of breeding to send at his expense seeds or breeding material for conduct of verification tests and to provide the possibility of conduct of on-site inspection.

Article 1441. **Recognition of a Patent for an Achievement of Breeding as Invalid**

1. A patent for an achievement of breeding may be recognized as invalid in the course of the period of its effectiveness if it is established that:

1) the patent was issued on the basis of unconfirmed data on the uniformity and stability of the achievement of breeding that was presented by the applicant.

2) on the date of issuance of the patent the achievement of breeding did not correspond to the criterion of novelty or of distinguishability;

3) the person indicated in the patent as the patent holder did not have lawful bases for receipt of a patent.

2. Issuance of a patent for an achievement of breeding may be disputed by any person who has become aware of the violations provided for by Paragraph 1 of the present Article by the filing of a request with the Federal agency of executive authority for achievements of breeding.

The Federal agency of executive authority for achievements of breeding shall send a copy of the aforesaid request to the patent holder who within the course of three months of the date of sending of the aforesaid copy to him may present a motivated response.

The Federal agency of executive authority for achievements of breeding must adopt a decision on the given question in the course of six months from the day of submission of the aforesaid request unless the conduct of supplementary tests is required.

3. A patent for an achievement of breeding that is recognized as invalid shall be annulled as of the day of submission of the application for the patent. In such case license contracts concluded before the adoption of a decision on the invalidity of the patent shall maintain their effect to the extent to which they were performed by that day.

4. Recognition of a patent for an achievement of breeding as invalid shall mean the reversal of the decision of the Federal agency of state authority for achievements of breeding on the issuance of a patent (Article 1439) and the annulment of the corresponding entry in the State Register of Protected Achievements of Breeding.

Article 1442. **Early Termination of the Effectiveness of a Patent for an Achievement of Breeding**

The effectiveness of a patent for an achievement of breeding shall be terminated early in the following cases:

1) the achievement of breeding no longer corresponds to the criteria of uniformity and stability;

2) the patent holder, on request of the Federal agency of executive authority for achievements of breeding within the course of twelve months has not provided seeds, has not provided breeding material, has not provided documents, and information that are necessary for the verification of the preservation of the achievement of breeding or has not provided the possibility of conducting an on-site inspection of the achievement of breeding for these purposes;

3) the patent holder has filed with the Federal agency of executive authority for achievements of breeding an application for the early termination of the effect of the patent;

4) the patent holder has not paid the fee for maintaining the patent in force within the established time period.

Article 1443. **Publication of Information on Achievements of Breeding**

1. The Federal agency of state authority for achievements of breeding shall publish an official gazette in which it shall publish information:

1) on applications received for the issuance of a patent with an indication of the priority date of the achievement of breeding, of the name or designation of the applicant, the name of the

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achievement of breeding, and also the names of the author of the achievement of breeding unless the latter has declined to be mentioned as such;

2) on decisions taken on the application for issuance of a patent;

3) on changes in the names of achievements of breeding;

4) on recognition of patents on achievements of breeding as invalid and on their annulment;

5) other information concerning the protection of achievements of breeding.

2. After publication of information on an application received for the issuance of a patent for an achievement of breeding and on the decision taken on this application, any person shall have the right to become acquainted with the materials of the application.

Article 1444. **Use of Achievements of Breeding**

1. Seeds and breeding material sold in the corresponding region of the Russian Federation must be provided with a document certifying the variety or breed to which they belong and their source

2. For achievements of breeding included in the State Register of Protected Achievements of Breeding, the document indicated in Paragraph 1 of the present Article shall be issued only to the patent holder and licensees.

Article 1445. **Patenting of an Achievement of Breeding in Foreign States**

A request for the issuance of a patent for an achievement of breeding may be filed in a foreign state. Expenses connected with protection of AN achievement of breeding beyond the boundaries of the Russian Federation shall be borne by the applicant.

§ 6. Protection of the Rights of Authors of Achievements of Breeding and Other Patent Holders

Article 1446. **Infringement of the Rights Authors of Achievements of Breeding and Other Patent Holders**

The following in particular shall be an infringement of the rights of the author of an achievement of breeding or other patent holder:

1) use of an achievement of breeding in violation of the requirements of Paragraph 3 of Article 1421 of the present Code;

2) the giving to produced and/or sold seeds or breeding material of a name that is different from the name of the corresponding registered achievement of breeding;

3) the giving to produced and/or sold seeds or breeding material of a name of the corresponding registered achievement of breeding if they are not the seeds or breeding material of this achievement of breeding;

4) the giving to produced and/or sold seeds or breeding material of a name similar to the name of a registered achievement of breeding to the level of confusion.

Article 1447. **Publication of a Decision of a Court on the Infringement of the Exclusive Right to an Achievement of Breeding**

The author of an achievement of breeding or other patent holder shall have the right to demand the publication by the Federal agency of executive authority for achievements of breeding in the official bulletin of a decision of a court on the unlawful use of an achievement of breeding or on other violation of the rights of a patentholder in accordance with Paragraph 1 of Article 1252 of the present Code.

CHAPTER 74. RIGHT TO INTEGRATED CIRCUIT LAYOUTS

Article 1448. Integrated Circuit Layouts

1. Integrated circuit layouts are the geometric and special positioning of the total of the elements of an integrated circuit and the connections between them, that are fixed on a material carrier. The integrated circuit is a microelectronic manufacture of final or intermediate form that is meant for performing the function of an electronic circuit, the elements and connections of which are inseparably formulated in the interior and/or on the surface of the materials on the basis of which such manufacturer has been prepared.

2. The legal protection granted by the present Code shall extend only to an original integrated circuit layout created as the result of the creative activity of an author and/or specialists unknown to the author in the area of integrated circuit layout development on the date of its creation. An integrated circuit layout shall be presumed to be original as long as not shown otherwise.

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Integrated circuit layouts consisting of elements that are known to specialist in the area of development of integrated circuit layouts on the date of its creation shall be granted legal protection of the totality of such elements as a whole meets the requirements of originality.

3. The legal protection granted by the present Code does not extend to ideas, methods, systems, technology, or the coding of information that may be embodied in the layout of an integrated circuit.

Article 1449. **Right to Layout of an Integrated Circuit**

1. The following intellectual rights shall belong to the author of an integrated circuit layout meeting the requirements for granting legal protection provided by the present code (a layout):

1) the exclusive right;

2) the right of authorship.

2. In cases provided for by the present Code other rights, including the right to compensation for the use of an employment layout shall also belong to the author of the integrated circuit layout.

Article 1450. **Author of an Integrated Circuit Layout**

The author of an integrated circuit layout is the citizen by whose creative work such topology was made. The person indicated as the author in the request for the issuance of a certificate on state registration of an integrated circuit layout shall be considered to be the author of this layout unless shown otherwise.

Article 1451. **Coauthors of an Integrated Circuit Layout**

1. Citizens who have created an integrated circuit layout by joint creative work shall be recognized as coauthors.

2. Each of the coauthors shall have the right to use the layout at his discretion unless an agreement among them has provided otherwise.

3. The rules of Paragraph 3 of Article 1229 of the present Code shall correspondingly apply to the relations of coauthors connected with to the distribution of income from the use of a layout and with the disposition of the exclusive right to the layout.

Disposition of the right to receipt of a certificate on the state registration of an integrated circuit layout shall be conducted by the coauthors jointly.

Article 1452. **State Registration of an Integrated Circuit Layout**

1. The rightholder, during the time period of effectiveness of the exclusive right to the layout (Article 1457) may at his option register the layout with the Federal agency of executive authority for intellectual property.

A layout containing information constituting a state secret shall not be subject to state registration. A person who has submitted an application for issuance of a certificate of state registration of a layout (the applicant) shall bear responsibility for divulgence of information on layouts containing a state secret in accordance with the legislation of the Russian Federation.

2. If use of the layout took place before the submission of the application for the issuance of a certificate of state registration of a layout (a registration application) may be filed in a time period not exceeding two years from the date of first use of the layout if it has taken place.

3. An application for registration must be related to one layout and must contain:

1) a request for state registration of the layout with an indication of the person in whose name state registration is requested and also of the author unless he has declined to be mentioned as such, of the place or residence or place of location of each of them, and of the date of first use of the layout if it has taken place;

2) materials to be deposited identifying the layout, including an abstract.

3) a document confirming the payment of the state fee in the established amount or the bases for freeing from payment of the state fee or for reducing its amount or for delay in its payment shall be attached to the application for state registration.

4. The rules for formalizing the application for registration shall be determined by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

5. On the basis of an application for registration, the Federal agency of executive authority for intellectual property shall verify the presence of the necessary documents and their correspondence to the requirements of Paragraph 3 of the present Article. In case of a positive result of the verification, the aforesaid Federal agency shall enter the layout in the Register of Integrated Circuit Layouts, issue the applicant a certificate of the state registration of the integrated circuit layout, and publish information on the registered layout in the official gazette.

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On request of the Federal agency of executive authority for intellectual property or on its own initiative the applicant shall have the right before publication of the information in the official gazette to supplement, clarify, and correct the materials of the application for registration.

6. The procedure for the state registration of integrated circuit layouts, the forms of certificates on state registration, the list of information to be stated in the certificates, and also the list of information to be published by the Federal agency of executive authority for intellectual property in the official gazette shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

7. Contracts for the alienation and pledge of the exclusive right to a registered layout, license contracts on the granting of the right of use of a registered layout and the passage of the exclusive right to such a layout to other persons without a contract shall be subject to state registration at the Federal agency of executive authority for intellectual property.

Information on change of the rightholder and on burdening of the exclusive right shall be entered in the Register of Integrated Circuit Layouts on the basis of a registered contract or other right-establishing document and shall be published in the aforesaid official gazette.

8. Information entered in the Register of Integrated Circuit Layouts shall be considered reliable, unless it is proved otherwise. The applicant shall bear responsibility for the accuracy of the information presented for registration.

Article 1453. **The Right of Authorship to an Integrated Circuit Layout**

The right of authorship, i.e. the right to be recognized as the author of a layout – shall be inalienable and non-transferable including in case of transfer to another person or passage to him of the exclusive right to a layout and in case of grant to another person of the right to its use. A waiver of this right shall be void.

Article 1454. **The Exclusive Right to a Layout**

1. The exclusive right to use a layout in accordance with Article 1229 of the present Code in any manner not contrary to a statute (the exclusive right to the layout), including by the means indicated in Paragraph 2 of the present Article shall belong to the writer. The rightholder may dispose of the exclusive right to the layout.

2. Actions directed at the extraction of profit shall be recognizes as use of the layout, in particular:

1) reproduction of the layout as a whole or in part by inclusion in an integrated circuit or in another manner, with the exception of reproduction of only that part of the layout that is not original;

2) import onto the territory of the Russian Federation, sale, and other introduction into civil commerce of the layout or of an integrated circuit in which this layout is included, or of a manufacture including such an integrated circuit.

3. A person who has independently created a layout identical to another layout shall possess an independent exclusive right to this layout.

Article 1455. **Symbol of Legal Protection of Integrated Circuit Layouts**

The rightholder for notification of his exclusive right to an integrated circuit layout shall have the right to use the symbol of protection which shall be placed on the layout and also on manufactures containing such a layout, and shall consist of a separate capital letter T ("T", [T], T<*>, T*, or T<**>), the date of the start of the time period of effectiveness of the exclusive right to a layout and information allowing identification of the rightholder.

<*> Letter "T" in a circle.

<**> Letter "T" in a square.

Article 1456. **Activities that are not an Infringement of the Exclusive Right to a Layout**

The following shall not be an infringement of the exclusive right to a layout:

1) the conduct of the activities indicated in Paragraph 2 of Article 1454 of the present Code with respect to an integrated circuit in which an unlawfully reproduced layout is included and also with respect to any manufacture including such an integrated circuit in the case if the person who engaged in such activities did not know and did not have reason to know that an unlawfully reproduced layout was included in the integrated circuit . After receipt of notification on the illegal reproduction of the layout the aforesaid may use the on-hand stock of manufacturers including the integrated circuit in which the unlawfully reproduced layout is reproduced and also manufactures ordered up to this time. In such case the aforesaid person shall be obligated to pay the rightholder compensation for use of the layout

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proportionate to the compensation that could have been paid in comparable circumstances for an analogous layout.

2) the use of a layout for personal purposes not directed at the receipt of profit and also for the purposes of evaluation, analysis, research, or study;

3) distribution of integral microcircuits with a layout previously introduced into civil commerce in a lawful manner by the person having the exclusive right to the layout or bay another person with the permission of the rightholder.

Article 1457. **The Time Period of Effectiveness of the Exclusive Right to a Layout**

1. The exclusive right to a layout shall be effective during the course of ten years.

2. The time period of effectiveness of the exclusive right to a layout shall be calculated either from the date of the first use of the layout by which is meant the earliest documented date of the introduction into civil commerce of this layout in the Russian Federation or in any foreign state, of an integrated circuit with this layout or of a manufacture including this integrated circuit, or from the date of registration of the layout with the Federal agency of executive authority for intellectual property depending upon which of these events occurred earlier.

3. In case of appearance of an identical original layout independently created by another author, the exclusive rights to both layouts shall be terminated upon the expiration of ten years from the day after the arising of the exclusive right to the first of them.

4. Upon expiration of the time period of effectiveness of the exclusive right, the layout shall pass into the public domain, i.e., it may be used freely by any person without any consent or permission whatsoever and without payment of compensation for use.

Article 1458. **Contract for the Alienation of the Exclusive Right to a Layout**

Under a contract for the alienation of the exclusive right to a layout, one party, the rightholder, transfers or becomes obligated to transfer an exclusive right belonging to it to a layout in full scope to the other party – the recipient of the exclusive right to the topology.

Article 1459. **License Contract on the Granting of the Right of Use of a Layout**

Under a license contract one party – the author or other holder of the exclusive right to a layout (the licensor) grants or becomes obligated to grant to the other party (the licensee) the right of use of this layout within the limits established by the contract.

Article 1460. **Form and State Registration of the Contract for the Alienation of the Exclusive Right to a Layout and of a License Contract**

1. The contract for the alienation of the exclusive right to a layout and the license contract must be concluded in written form.

2. If the layout is registered (Article 1452) the contract on alienation of the exclusive right to a layout and a license contract shall be subject to state registration with the Federal agency of executive authority for intellectual property.

Article 1461. **Employment Layout**

1. A layout created by an employee in connection with the performance of his work obligations or a specific task from the employer shall be recognized as an employment layout.

2. The right of authorship to an employment layout shall belong to the employee (to the author).

3. The exclusive right to an employment layout shall belong to the employer, unless otherwise provided by a contract between him and the employee.

4. If the exclusive right to a layout belongs to the employer or has been transferred by him to a third person, the employee shall have the right to receipt of compensation from the employer. The measure of compensation and the conditions and procedure for its payment by the employer shall be determined by contract between the employer and employee and in case of dispute – by a court.

5. A layout created by an employee with the use of monetary, technical or other material assets of the employer, but not in connection the performance of his work obligations or a specific task from the employer is not an employment layout. The exclusive right to such a layout shall belong to the employee. In this case the employer shall have the right at his option to require the grant of an uncompensated simple (nonexclusive) license for the use for his own needs for the whole time period of effectiveness of the exclusive right to the layout or to compensation for expenditures borne by him in connection with the creation of this layout.

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Article 1462. **Layout Created in the Performance of Work Under a Contract**

1. In the case when a layout is created in performance of a work contract or a contract for the performance of scientific-research, experimental-design, or technological work, that does not directly envision its creation, the exclusive right to such layout shall belong to the contractor (the performer) unless otherwise provided by a contract between him and the customer.

In this case the customer shall have the right, unless provided otherwise by the contact to use the layout created in this manner for the purposes for which the corresponding contract was concluded on the conditions of a simple (nonexclusive) license in the course of the whole time period of effectiveness of the right, without payment of supplementary compensation for this use. Upon transfer by the contractor (performer) of the exclusive right to the layout to another person, the customer shall retain the right of use of the layout on the indicated conditions.

2. In the case when, in accordance with a contract between the contractor (performer) and the customer, the exclusive right to the layout has been transferred to the customer or to a third person indicated by him, the performer shall have the right to use the layout that has been created for his own needs on the conditions of an uncompensated simple (nonexclusive) license in the course of the whole time period of effectiveness of the exclusive right to the topology, unless otherwise provided by the contract.

3. The author of a layout indicated in Paragraph 1 of the present Article to whom the exclusive right to such layout does not belong shall have the right to compensation in accordance with Paragraph 4 of Article 1461 of the present Code.

Article 1463. **Layout Created under an Order**

1. In the case when a layout is created under an contract, the subject of which was its creation (on order), the exclusive right to such a layout shall belong to the customer unless a contract between the contractor (performer) and the customer provides otherwise.

2. In the case when, in accordance with a contract between the performer and the customer, the exclusive right to a layout belongs to the customer or to a third person indicated by him, the performer shall have the right, unless otherwise provided by the contract, to use this layout for his own needs on the conditions of an uncompensated simple (nonexclusive) license in the course of the whole time period of effectiveness of the exclusive right.

3. In the case when, in accordance with a contract between the contractor (performer) and the customer, the exclusive right to a layout belongs to the performer, the customer shall have the right to use the layout for his own needs on the conditions of an uncompensated simple (nonexclusive license) during the whole time period of effectiveness of the exclusive right.

4. The author of a layout created on order who is not the rightholder shall be paid compensation in accordance with Paragraph r of Article 1459 of the present Code.

Article 1464. **Layout Created in the Performance of Work under a State Contract**

The rules of Article 1298 of the present Code shall be applied correspondingly to a layout created in performance of work under a state contract.

CHAPTER 75. RIGHT TO SECRETS OF PRODUCTION (KNOW-HOW)

Article 1465. **Production Secret (Know-How)**

A secret of production is information of any type (production, technical, economic, organization, and others), including information on the results of intellectual activity in the area of science and technology and also information on means of conducting professional activity that has an actual or potential commercial value by virtue of its being unknown by third persons, to which third persons do not have free access on a lawful basis and with respect to which the holder of such information has introduced a regime of commercial secrecy.

Article 1466. **Exclusive Right to a Secret of Production**

1. The exclusive right of use a secret of production in accordance with Article 1229 of the present Code in any manner not contrary to a statute (the exclusive right to a secret of production), including in the making of products and in the achievement of economic and organizational solutions belongs to the holder of the secret of production. The holder of a secret of production may dispose of the aforesaid exclusive right.

2. A person that has in good faith and independently from other holders of the secret of production became the holder of information constituting the content of the protected secret of production shall acquire an independent exclusive right to this secret of production.

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Article 1467. **Effectiveness of the Exclusive Right to a Secret of Production**

The exclusive right to a secret of production is effective as long as the confidentiality of the information of which it consists is maintained. From the time of loss of confidentiality of the respective information, the exclusive right to the secret of production shall be terminated for all rightholders.

Article 1468. **Contract for the Alienation of the Exclusive Right to a Secret of Production**

1. By the contract for the alienation of the exclusive right to a secret of production, one party (the rightholder), transfers or undertakes to transfer the exclusive right belonging to him to a secret of production in full to the other party, the recipient of the exclusive right to this secret of production.

2. In case of alienation of the exclusive right to a secret of production, the person who has disposed of his right shall be obligated to preserve the confidentiality of the secret of production until the termination of the effectiveness of the exclusive right to the secret of production.

Article 1469. **License Contract on the Granting of the Right to Use the Secret of Production**

1. Under a license contract one party, the holder of the exclusive right to a secret of production (the licensor), grants or is obligated to grant another party (the licensee) the right of use of the respective secret of production within the limits established by the contract.

2. A license contract may be concluded both with an indication and without an indication of the time period of its effectiveness. In the case when the time period for which a license contract is concluded is not indicated in the contract, either of the parties shall have the right to cancel the contract at any time, after giving the other party of this not less than six months' notice unless a longer time period has been provided by the contract.

3. In granting the right of use of a secret of production, the person who has disposed of his right shall be obligated to maintain the confidentiality of the secret of production during the whole time period of effectiveness of the license contract.

Persons who have obtained the respective rights under a licensing contract are obligated to maintain the confidentiality of the secret of production until the termination of the effectiveness of the exclusive right to a secret of production.

Article 1470. **Employment Secret of Production**

1. The exclusive right to a secret of production, created by an employee in the fulfillment of his work obligations or of a concrete task from the employer (an employment secret of production) shall belong to the employer.

2. A citizen to whom, in connection with the performance of his work obligations or of a concrete task from the employer, a secret of production became known is obligated to maintain the confidentiality of the secrets obtained until the termination of the effectiveness of the exclusive right to the secret of production.

Article 1471. **Secret of Production Obtained in the Performance of Work Under a Contract**

In the case when a secret of production is obtained in performance of a work contract or a contract for the performance of scientific research, experimental design, or technological work or under a state or municipal contract for state or municipal, the exclusive right to such a secret of production shall belong to the contractor (performer) unless otherwise provided by the respective contract (or state or municipal written contract).

In the case when a secret of production is obtained in the performance of a contract concluded by the main distributor or a distributor of budgetary funds with a Federal state institution, the exclusive right to such a secret shall belong to the contractor (performer) unless the contract establishes that this right belongs to the Russian Federation.

Article 1472**. Liability for Infringement of the Exclusive Right to a Secret of Production.**

1. An infringer of the exclusive right to a secret of production, including a person who has unlawfully received information constituting a secret of production and who has disclosed or used this information and also a person obligated to maintain confidentiality of a secret of production in accordance with Paragraph 2 of Article 1468, Paragraph 3 of Article 1469, or Paragraph 2 of Article 1470 of the present Code, is obligated to compensate for the damages caused by infringement of the exclusive right to the secret of production unless other responsibility is provided by law or by contract with this person.

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2. A person who has used a secret of production and did not know or have reason to know that his use unlawful, including in connection with the fact that he obtained access to the secret of production accidentally or by mistake, shall not bear responsibility in accordance with Paragraph 1 of the present Article.

CHAPTER 76. RIGHTS TO MEANS OF INDIVIDUALIZATION OF A LEGAL PERSON, GOODS, WORKS, SERVICES, AND ENTERPRISES

§ 1. Right to a Firm Name

Article 1473. **Firm Name**

1. A legal person that is a commercial organization shall act in civil commerce under its firm name, which is defined in its founding documents and is included in the single state register of legal persons upon state registration of a legal person.

2. The firm name of a legal person must contain an indication of its organizational-legal form and the actual name of the legal person, which may not consist solely of words designating the type of activity.

3. A legal person must have a full name and has the right to have an abbreviated name, both in the Russian language. A legal person has the right to also have a full and/or abbreviated firm name in the languages of the peoples of the Russian Federation and/or foreign languages.

A firm name of a legal person in the Russian language and the languages of the peoples of the Russian Federation may contain foreign borrowings in Russian transcription or correspondingly in transcriptions of the languages of the peoples of the Russian Federation, with the exception of terms and abbreviations reflecting the organizational-legal form of the legal person.

4. In the firm name of a legal person there may not included:

1) the full or abbreviated official names of the Russian Federation, of subjects of the Russian Federation, or of foreign states, and also words derived from such names;

2) the full or abbreviated official names of Federal bodies of state authority, bodies of state authority of subjects of the Russian Federation and bodies of local self-government;

3) the full or abbreviated names of international and intergovernmental organizations;

4) the full or abbreviated names of societal amalgamations;

5) indications contradictory to societal interests and also to principles of humanity and morality.

The firm name of a state unitary enterprise may contain an indication that such an enterprise belongs correspondingly to the Russian Federation or to a subject of the Russian Federation.

Inclusion in the firm name of a joint-stock company of the official name of the Russian Federation and also of words derived from this name shall be allowed with the permission of the Government of the Russian Federation of over seventy-five percent of the shares of stock of the joint-stock company belong to the Russian Federation Such a permission shall be granted without an indication of the time period of its effectiveness and may be withdrawn in case of disappearance of the circumstances by virtue of which it was granted. The procedure for grant and withdrawal of permissions shall be established by statute.

In case of withdrawal of permission to the inclusion in the firm name of a joint-stock company of the official name of the Russian Federation, of a subject of the Russian Federation or of words derived from this name, the joint-stock company shall be obligated within the course of three months to adopt a decision on changing its firm name and to enter the corresponding changes in its charter.

5. If the firm name of a legal person does not correspond to the requirements of Paragraphs 3 or 4 of the present Article, the agency conducting state registration of legal persons shall have the right to bring a suit against such a legal person to compel a change of firm name.

Article 1474. **Exclusive Right to a Firm Name**

1. A legal person shall have the exclusive right of use its firm name as means of individualization in any manner not contrary to a statute (the exclusive right to a firm name) including by its indication on signs, letterheads, bills and other documentations, in announcements and advertising, and on goods and their packaging.

Abbreviated firm names, and also firm names in the in the languages of the peoples of the Russian Federation and foreign languages shall be protected as an exclusive right to the firm name on the condition of their inclusion in the single state register of legal persons.

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2. Disposition of the exclusive right to a firm name (including by its alienation or the granting to another person of the right of use of the firm name) is not allowed.

3. Use by a legal person of a firm name identical to the firm name of another legal person or similar to it to the point of confusion is not allowed if the aforesaid legal persons conduct similar activity and the firm name of the second legal person was included in the single state register of legal persons earlier than the firm name of the first legal person.

4. A legal person who has violated the rules of Paragraph 3 of the present Article shall be obligated on demand of the rightholder to cease the use of the firm name identical to the firm name of the rightholder or similar to it to the point of confusion with respect to types of activity analogous to types of activity conducted by the rightholder and shall compensate the rightholder for damages caused.

Article 1475. **Effectiveness of the Exclusive Right to a Firm Name on the Territory of the Russian Federation**

1. The exclusive right to a firm name included in the single state register of legal persons shall be in effect on the territory of the Russian Federation.

2. The exclusive right to a firm name shall arise from the date of state registration of the legal person and shall be terminated at the time of the exclusion of the firm name from the single state register of legal persons in connection with the termination of the legal person or change of its firm name.

Article 1476. **Relationship of Rights to a Firm Name to Rights to a Commercial Designation and to a Trademark and Service Mark**

1. A firm name or separate elements thereof may be used by the rightholder in the composition of a commercial designation belonging to it.

A firm name included in a commercial designation shall be protected independently of the protection of the commercial designation.

2. A firm name or individual elements thereof may be used by the rightholder in a trademark or service mark belonging to it.

A firm name included in a trademark or service mark shall be protected independently of the protection of the trademark or service mark.

§ 2. Right to a Trademark and the Right to a Service Mark

1. Basic Provisions

Article 1477. **Trademark and Service Mark**

1. An exclusive right certified by a trademark certificate (Article 1481) shall be recognized to a trademark, i.e., to an indication serving the individualization of goods of legal persons or individual entrepreneurs.

2. The rules of the present Code on trademarks contained in the present Code shall be applied correspondingly to service marks, i.e., to indications serving to individualize work performed or services rendered by legal persons or individual entrepreneurs.

Article 1478 **Holder of the Exclusive Right to a Trademark**

The holder of the exclusive right to a trademark may be a legal person or an individual entrepreneur.

Article 1479 **Effectiveness of the Exclusive Right to a Trademark on the Territory of the Russian Federation**

On the territory of the Russian Federation there shall be effective the exclusive right to a trademark registered by the Federal agency of executive authority for intellectual property and also in other cases provided by provided by an international treaty of the Russian Federation.

Article 1480. **State Registration of a Trademark**

State registration of a trademark shall be conducted Federal agency of executive authority for intellectual property in the State Register of Trademarks and Service Marks of the Russian Federation

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(the State Register of Trademarks) by the procedure established by Articles 1503 and 1505 of the present Code.

Article 1481. **Trademark Certificate**

1. A trademark certificate shall be issued for a trademark registered in the State Register of Trademarks.

2. The trademark certificate shall certify the priority of the trademark and the exclusive right to the trademark with respect to the goods indicated in the certificate.

Article 1482. **Types of Trademarks**

1. Verbal, pictorial, three-dimensional, and other indications or their combinations may be registered as trademarks.

2. A trademark may be registered in any color or color combination.

Article 1483. **Bases for Refusal of State Registration of a Trademark**

1. State registration as trademarks is not allowed for indications not having the capability of distinguishing or consisting only of elements:

1) that have gone into general use for indication of goods of the specific type;

2) that are generally accepted symbols and terms;

3) that characterize goods, including indicating their type, quality, quantity, nature, purpose, or value and also the time, place, or means of their production or sale;

4) consisting of the form of goods that is determined exclusively or mainly by the nature or purpose of the goods.

The indicated elements may be included in the trademark as unprotected elements if they do not occupy a dominant position in it.

The provisions of the present Paragraph shall not be applied with respect to indications that have obtained the ability to distinguish as the result of their use.

2. In accordance with an international treaty of the Russian Federation state registration as trademarks shall not be allowed for indications consisting only of elements that are:

1) state coats of arms, flags, or other state symbols and marks;

2) abbreviated or full indications of international and intergovernmental organizations, their coats of arms, flags, or other symbols and marks;

3) official verification, guaranty, or sample seals, stamps, awards, and other marks of quality;

4) indications similar to the point of confusion with the elements indicated in numbered subparagraphs 1-3 of the present Paragraph.

Such elements may be included in a trademark as unprotected elements in a trademark if there is consent by the corresponding competent agency.

3. State registration as trademarks is not allowed for indications that are or contain elements:

1) that are false or capable of leading a consumer into deception concerning goods or their producer;

2) contradictory to societal interests, or to principles of humanity or morality.

4. State registration as trademarks is not allowed for indications the same as, or similar to the point of confusion with, the official names and images of particularly valuable objects of the cultural heritage of the peoples of the Russian Federation or objects of world cultural or natural heritage, and also with images of cultural valuables kept in special, general, and reserve collections, if registration is sought in the name of persons who are not their owners without the consent of their owners or of the persons authorized by the owners for the registration of such indications as trademarks.

5. In accordance with an international treaty of the Russian Federation, state registration as trademarks is not allowed for indications that are or contain elements that are protected in one of the states party to this international treaty as indications making it possible to identify wines or alcoholic beverages as coming from its territory (or produced within the boundaries of a geographic object of this state) and have a particular quality, reputation, or other characteristics that are mainly determined by its origin, if the trademark is meant for the indication of wines or alcoholic beverages not coming from the territory of the given geographic object.

6. Indications may not be registered as trademarks that are the same as, or similar to the point of confusion with:

1) trademarks of other persons presented for registration (Article 1482) with respect to goods of the same type and having earlier priority, unless the application for state registration has been withdrawn or has been recognized as withdrawn;

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2) trademarks of other persons protected in the Russian Federation, including in accordance with an international treaty of the Russian Federation with respect to goods of the same type.

3) trademarks of other persons that, by the procedure established by the present Code have been found to be generally known in the Russian Federation as trademarks with respect to goods of the same type and having earlier priority.

Registration as a trademark with respect to goods of the same type of an indication that is similar to the point of confusion with any of the trademarks indicated in the present Paragraph shall be allowed only with the consent of the rightholder.

7. Indications may not be registered as trademarks with respect to any goods if the indications are the same as, or similar to the point of confusion with a designation of the place of origin of goods protected in accordance with the present Code, with the exception of the case when such indication is included as an unprotected element in a trademark registered in the name of person having the exclusive right of use of such designation, if the registration of the trademark is conducted those very goods for whose individualization the designation of the place of origin of goods is registered.

8. With respect to goods of the same type, indications may not be registered as trademarks if they are the same as, or similar to the point of confusion with, to a firm name or commercial designation (or individual elements of such a name or designation) registered in the Russian Federation, or with the name of an achievement of selection registered in the State Register of Protected Achievements of Selection, rights to which arose in the Russian Federation for other persons earlier than the priority date of the trademark undergoing registration;

9. There may not be registered in the Russian Federation designations that are the same as;

1) the name of a work of scholarship, literature, or art well known in the Russian Federation on the date of submission of the application for state registration of a trademark (Article 1482), a character or quotation from such a work, a work of art or a fragment thereof, without the consent of the rightholder, if the rights to the respective work arose earlier than the priority date of the trademark undergoing registration;

2) a name (Article 19), a pseudonym (Paragraph 1 of Article 1265) or an indication derived therefrom, a portrait or image of a person well-known in the Russian Federation on the filing date of the application without the consent of this person or his heir.

3) an industrial design, a mark of correspondence, or a domain name the rights to which arose earlier than the priority date of trademark to be registered.

10. On the bases provided in the present Article legal protection also may not be granted to designations recognized as trademarks in accordance with international treaties of the Russian Federation.

2. The Use of a Trademark and the Disposition of the Exclusive Right to a Trademark

Article 1484. **Exclusive Right to a Trademark**

1. The exclusive right of use a trademark in accordance with Article 1229 of the present Code in any manner not contrary to a statute (the exclusive right to a trademark) including by the means indicated in Paragraph 2 of the present Article shall belong to the person in whose name the trademark is registered (the rightholder). The rightholder may dispose of the exclusive right to the trademark.

2. The exclusive right to a trademark may be realized for the individualization of the goods, work, or services with respect to which the trademark is registered, in particular by the placement of the trademark:

1) on goods including on labels and packaging of goods, that are produced, proposed for sale, sold, displayed at exhibits and fairs, or otherwise introduced into civil commerce on the territory of the Russian Federation or are kept or transported for this purpose, or are imported on the territory of the Russian Federation;

2) in performance of work or rendering of services;

3) in documentation connected with the introduction of goods into civil commerce;

4)in proposals for the sale of goods, for performance of work, and for rendering of services, and also in announcements, on signs, and in advertising;

5) in the Internet, including in a domain name and for other means of addressing;

3. No one has the right to use, without the permission of the rightholder, indications similar to his trademark with respect to the goods for the individualization of which the trademark was registered or goods of the same type, if as the result of such use a likelihood of confusion will arise.

Article 1485. **Symbol of Legal Protection of a Trademark**

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The rightholder for giving notice of his exclusive right to a trademark shall have the right to use the symbol of protection, which shall be placed alongside the trademark and consists of the Latin letter "R" or the Latin letter "R" in a circle ® or the verbal indication "trademark" or "registered trademark" and which symbol indicates that the indication used is a trademark protected on the territory of the Russian Federation.

Article 1486. **Consequences of the Nonuse of the Trademark**

1. Legal protection of a trademark may be terminated early with respect to all goods or part of the goods for the individualization of which the trademark was registered as the result of the uninterrupted nonuse of the trademark in the course of any three years after its state registration. A request for the early termination of the legal protection of a trademark as the result of its nonuse may be filed by any person with the chamber for patent disputes upon the expiration of the aforesaid three years on the condition that the trademark has not been used right up to the filing of such request.

2. For the purposes of the present Article the use of a trademark is its use by the rightholder or other person to whom this right has been granted on the basis of a license contract in accordance with Article 1489 of the present Code, or by another person conducting the use of the trademark under the supervision of the rightholder on the condition that the use of the trademark is conducted in accordance with Paragraph 2 of Article 1484 of the present Code, with the exception cases when the respective actions are not directly connected with the introduction of the goods into civil commerce and also the use of a trademark with the alteration of individual elements not influencing its capability of distinguishing and not limited the protection granted to the trademark.

3. The burden of proof of the use of the trademark shall rest upon the rightholder.

When deciding the question of early termination of legal protection of trademark as a result of its nonuse, evidence presented by the rightholder of the fact that the trademark was not used due to circumstances beyond his control may be taken into account.

4. Termination of the right of protection of a trademark shall mean the termination of the exclusive right to this trademark.

Article 1487. **Exhaustion of the Exclusive Right to a Trademark**

Use of a trademark by other persons with respect to goods that were introduced into civil commerce on the territory of the Russian Federation directly by the rightholder or with his consent is not an infringement of the exclusive right to a trademark.

Article 1488. **Contract for the Alienation of the Exclusive Right to a Trademark**

1. Under a contract for alienation of the exclusive right to a trademark, one party (the rightholder) transfers or undertakes to transfer in full scope the exclusive right belonging to him to the corresponding trademark with respect to all the goods or with respect to part of the goods for the individualization of which it is registered to the other party – the recipient of the exclusive right.

2. Alienation of the exclusive right to a trademark by contract is not allowed if it can be the cause of bringing the consumer into confusion with respect to the goods or their manufacturer.

3. Alienation of the exclusive right to a trademark including as an unprotected element a designation of a place of origin of goods for which legal protection is provided on the territory of the Russian Federation (Paragraph 7 of Article 1483) shall be allowed only if the recipient has an exclusive right of use of such a name.

Article 1489. **License Contract for the Grant of the Right of Use of a Trademark**

1. Under a license contract one party – the holder of the exclusive right to a trademark (the licensor) grants or undertakes to grant to the other party (the licensee) the right of use of a trademark within the limits determined by the contract with an indication or without an indication of the territory on which use is allowed with respect to the defined area of entrepreneurial activity.

2. The licensee shall be obligated to ensure the correspondence of the quality of goods produced or sold by him on which he places the licensed trademark to the requirements for quality established by the licensor. The licensor has the right to conduct verification of the observance of this condition. On claims made to the licensee as preparer of the goods, the licensee and the licensor shall bear joint and several liability.

3. Granting of right of use of trademark including as an unprotected element a designation of a place of origin of goods for which legal protection is provided on the territory of the Russian Federation (Paragraph 7 of Article 1483) shall be allowed only if the licensee has an exclusive right of use of such a name.

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Article 1490. **Form and State Registration of Contracts for the Disposition of the Exclusive Right to a Trademark**

1. A contract for the alienation of the exclusive right to a trademark, a license contract, and also other contracts by which disposition of the exclusive right to a trademark is exercised must be concluded in written form and are subject to state registration with the Federal agency of executive authority for intellectual property.

2. The procedure for state registration of the contracts indicated in Paragraph 1 of the present Article shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

Article 1491. **The Time Period of Effectiveness of the Exclusive Right to a Trademark**

1. The exclusive right to a trademark shall be effective during the course of ten years from the day of filing an application for state registration of a trademark with the Federal agency of executive authority for intellectual property.

2. The time period of effectiveness of the exclusive right to a trademark may be extended for ten years on a request of the rightholder filed during the last year of effectiveness of this right.

Extension of the time period of effectiveness of the exclusive right to a trademark is possible an unlimited number of times.

On petition of the rightholder he may be granted six months after the expiration of the time period of effectiveness of the exclusive right for the filing of the aforesaid request on condition of payment of the fee.

3. An entry on the extension of the time period of effectiveness of the exclusive right to a trademark shall be made by the Federal agency of executive authority for intellectual property in the State Register of Trademarks and on the trademark certificate.

3. State Registration of a Trademark

Article 1492. **Application for a Trademark**

1. An application for state registration of a trademark (a trademark application) shall be filed with the Federal agency of executive authority for intellectual property by a legal person or individual entrepreneur (the applicant).

2. An application for a trademark must relate to one trademark.

3. An application for a trademark must contain:

1) a request for state registration of the indication as a trademark with an indication of the applicant and also of his place of residence or place of location;

2) the indication applied for;

3) a list of goods with respect to which state registration of a trademark is requested and which are grouped according to classes of the International Classification of Goods and Services for the Purposes of Registration of Marks;

4) a description of the indication applied for;

4. The application for a trademark shall be signed by the applicant, and in case of filing of the application through a patent agent or other representative– by applicant or his representative filing the application.

5. The following must be attached to a trademark application:

1) a document confirming payment of the application filing fee in the established amount;

2) the charter for a collective mark if the application is filed for a collective mark (Paragraph 1 of Article 1511).

6. The trademark application shall be filed in the Russian language.

The documents attached to the application shall be presented in Russian or another language. If these documents are presented in another language, their translation into the Russian language shall be attached to the application. The translation into the Russian language may be presented by the applicant in the course of two months from the day of sending to him by the Federal agency of executive authority for intellectual property of notification of the necessity of fulfilling the given requirement.

7. Requirements for the documents contained in the trademark application and attached to it (documents of the application) shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

8. The filing date of a trademark application shall be considered to be the date of receipt at the Federal agency of executive authority for intellectual property of the documents provided in numbered

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subparagraphs 1-3 of Paragraph 3 of the present Article and if the aforesaid documents are not presented simultaneously, the day of the receipt of the last document.

Article 1493. **Right to be Acquainted with the Documents of a Trademark Application**

1. After the filing of a trademark application with the Federal agency of executive authority for intellectual property, any person shall have the right to become acquainted with the application documents presented on its filing date.

2. The procedure for becoming acquainted with the application documents and for the issuing of copies of such documents shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

Article 1494. **Priority of a Trademark**

1. The priority of a trademark shall be established as the filing date of the trademark application with the Federal agency of executive authority for intellectual property.

2. The priority of a trademark under an application filed by an applicant in accordance with Paragraph 2 of Article 1502 of the present Code (a divisional application) on the basis of another application of this applicant and for the same indication (the initial application) shall be established as the date of filing with the Federal agency of executive authority for intellectual property of the initial application, and in case of the presence of the right to an earlier priority for the initial application – as the date of this priority if on the date of filing of the divisional application the initial application has not been withdrawn and has not been recognized as withdrawn and if the divisional application was filed before the adoption of a decision on the original application.

Article 1495. **Convention and Exhibition Priority of a Trademark**

1. Priority of a trademark may be established as the date of filing of the first application for the trademark in a member state of the Paris Convention for the Protection of Industrial Property (convention priority), if the application for a trademark was filed with the Federal agency of executive authority for intellectual property within the course of six months from the aforesaid date.

2. Priority of a trademark placed at display of official or officially recognized international exhibitions organized on the territory of one of member states of the Paris Convention for the Protection of Industrial Property may be established as the date of the beginning of open showing of the display at the exhibit (exhibit priority) if the trademark application is filed with the Federal agency of executive authority for intellectual property within the course of six months from the aforesaid date.

3. An applicant desiring to use the right of convention or exhibit priority must indicate this upon filing a trademark application or within two months from the date of its filing with the Federal agency of executive authority for intellectual property and must attach the necessary documents confirming the lawfulness of such a request or must present these documents to the aforesaid Federal agency within the course of three months from the date of filing the application.

4. The priority of a trademark may be established as the date of international registration of the trademark in accordance with international treaties of the Russian Federation.

Article 1496. **Consequences of the Coincidence of Trademark Priority Dates**

1. If applications for identical trademarks with respect to lists of goods that overlap in whole or in part have been filed by different applicants and if these applications have one and the same priority date, the trademark applied for may be registered with respect to the goods for which the aforesaid lists overlap may be registered only in the name of one of the applicants, determined by agreement between them.

2. If applications for identical trademarks with respects to lists of goods that overlap in whole or in part are filed by the same applicant, and these applications have one and the same priority date, the trademark with respect to the goods for which the aforesaid lists overlap may be registered only with respect to the one of the applications selected by the applicant.

3. If the applications for identical trademarks have been filed by different applicants (Paragraph 1 of the present Article), they must in the course of six months from the date of receipt from the Federal agency of executive authority for intellectual property of the corresponding notice communicate to this Federal agency on the agreement reached by them on under which of the applications state registration of a trademark will be sought. During the course of the same time period, an applicant who has filed applications for identical trademarks (Paragraph 2 of the present Article) must communicate about his choice.

If, during the course of the established time period, the aforesaid communication or a petition for extending the established time period does not arrive at the Federal agency of executive authority

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for intellectual property, the trademark applications shall be recognized as withdrawn on the basis of a decision of such Federal agency.

Article 1497. **Examination of a Trademark Application and Entry of Changes in the Documents of the Application**

1. Examination of a trademark application shall be conducted by the Federal agency of executive authority for intellectual property.

Examination of an application shall include formal examination and examination of the indication applied for as a trademark (the indication applied for).

2. During the period of conduct of examination of a trademark application the applicant shall have the right until the taking of a decision on it to supplement, clarify, or correct the materials of the application, including by submission of supplementary materials.

If the supplementary materials contain a list of goods not indicated in the application on its filing date or the trademark indication applied for is significantly changed, such supplementary materials shall not be accepted for consideration. They may be formalized and filed by the applicant as an independent application.

3. Change in the application for a trademark of information on the applicant, including in the case of transfer or passage of the right to registration of a trademark or as a result of change of the indication or name of the applicant and also correction in the documents of the application of obvious and technical errors may be entered until state registration of the trademark (Article 1503).

4. During the period of conduct of examination of the trademark application, the Federal agency of executive authority for intellectual property shall have the right to request from the applicant additional materials without which the conduct of the examination would be impossible.

Supplementary materials must be presented by the applicant within the course of two months from the date of receipt by it of the corresponding request or of copies of materials indicated in the reply request of the applicant on the condition that the given copies were requested by the applicant in the course of a month from the day of receipt by him of a request from the Federal agency if executive authority for intellectual property. If the applicant, within the aforesaid time period, does not present the requested supplementary materials or a petition for extension of the time period established for their presentation, the application shall be recognized as withdrawn on the basis of a decision of the Federal agency of executive authority for intellectual property.. On petition of the applicant the time period established for presentation of supplementary materials may be extended by the aforesaid Federal agency, but not for more than six months.

The rules of Paragraph 2 of the present Article shall apply to supplementary materials that contain a list of goods not indicated in the application on its filing date or which substantially change the indication of the trademark applied for.

Article 1498. **Formal Examination of a Trademark Application**

1. Formal examination of a trademark application shall be conducted in the course of a month from its filing with the Federal agency of executive authority for intellectual property.

2. During the course of conduct of formal examination of a trademark application the presence of the necessary application documents and their correspondence to the established requirements shall be verified. According to the results of the formal examination the application shall be accepted for consideration or a decision shall be adopted on refusal to accept it for consideration. The Federal agency of executive authority for intellectual property shall notify the applicant shall be notified of the results of formal examination .

Simultaneously with notification on a positive result of formal examination the applicant shall be informed of the filing date of the application established in accordance with Paragraph 8 of Article 1492 of the present Code.

Article 1499. **Examination of a Indication Applied for as a Trademark**

1. Examination of a indication applied for as a trademark (examination of a indication applied for) shall be conducted on an application accepted for consideration after completion of the formal examination.

In the course of conduct of the examination, the correspondence of the indication applied for to the requirements of Article 1477 and Paragraphs 1-7 of Article 1483 of the present Code shall be verified and the priority of the trademark shall be established.

2. The Federal agency of executive authority for intellectual property shall adopt a decision on the registration of the trademark or on the refusal of its state registration in accordance with the results of the examination of the indication applied for.

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3. Before the adoption of a decision on the results of the examination of the indication applied for, the applicant may be sent a notice in written form on the results of verification the correspondence of the indication applied for to the requirements of the second subparagraph of Paragraph 1 of the present Article with a proposal to present his positions with respect to the grounds adduced in the notice. The positions of the applicant shall be taken into consideration in the adoption of a decision on the results of the examination of the indication applied for if they are presented in the course of six months from the date of sending the aforesaid notice to the applicant.

4. A decision on the state registration of a trademark may be reconsidered by the Federal agency of executive authority for intellectual property before the registration of the trademark in connection with:

1) receipt of an application having an earlier priority in accordance with Articles 1494, 1495, and 1496 of the present Code for indication that is identical or similar to it to the point of confusion with respect to goods of the same type.

2) state registration as the name of a place of origin of goods of an indication the same as to the trademark indicated in the decision on registration or similar to it to the point of confusion with the trademark indicated in the decision on registration;

3) discovery of an application containing the same trademark or discovery of the same protected trademark with respect to lists of goods that overlap in whole or in part and with the same or an earlier trademark priority.

4) change of the applicant that in case of state registration of the indication applied for as a trademark may lead to the confusion of consumers with respect to the goods or their manufacturer.

Article 1500. **Dispute of Decisions on a Trademark Application**

1. Decisions of the Federal agency of executive authority for intellectual property on the refusal to accept an application for a trademark for consideration, on state registration of a trademark, on refusal of state registration of a trademark, and on recognition of an application for a trademark as withdrawn may be disputed by the applicant by filing an objection with the chamber for patent disputes within the course of three months from the day of receipt of the corresponding decision or of copies of materials against the application requested from the aforesaid Federal agency of executive authority, on the condition that the applicant requested copies of these materials in the course of a month from the day of receipt by him of the corresponding decision.

2. During the period of considering the objection, by the chamber for patent disputes, the applicant may make the changes that are allowed, in accordance with Paragraphs 2 and 3 of Article 1497 of the present Code, in the documents of the application, if such changes remove the reasons that were the sole basis for refusal of state registration of the trademark and the introduction of these changes makes possible the taking of a decision to register the trademark.

Article 1501. **Reinstatement of Exceeded Time Periods Connected with the Conduct of Examination of a Trademark Application**

The time periods provided by Paragraph 4 of Article 1497 and by Paragraph 1 of Article 1500 of the present Code, if exceeded by the applicant, may be reinstated by the Federal agency of executive authority for intellectual property on petition of the applicant filed in the course of two months from the day of completion of these time periods on the condition of confirmation of the validity of the reasons for which these time periods were not observed and payment of the respective fee. A petition for the reinstatement of an exceeded time period shall be filed by the applicant with the aforesaid Federal agency simultaneously with the supplementary materials requested in accordance with Paragraph 4 of Article 1497 of the present Code or with a petition on extending the time period for their presentation or simultaneously with an objection filed to the chamber for patent disputes on the basis of Article 1500 of the present Code.

Article 1502. **Withdrawal of a Trademark Application and Division of Another Application From It**

1. A trademark application may be withdrawn by the applicant at any stage of its consideration, but not later than the date of state registration of the trademark.

2. During the period of examination of the trademark application, the applicant shall have the right until the adoption of a decision under it to file to the Federal agency of executive authority for intellectual property a divisional application for the very same indication. Such an application must contain a list of goods from those indicated in the initial application on the date of its filing with the Given Federal agency and not of the same kind as other goods of the list contained in the initial application, in connection with which the initial application shall remain in force.

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Article 1503. **Procedure for State Registration of a Trademark**

1. On the basis of a decision on state registration of a trademark (Paragraph 2 of Article 1499), the Federal agency of executive authority for intellectual property within the course of a month from the day of receipt of a document on the payment of the fee for state registration of the trademark and of issuance of the certificate for it shall conduct state registration of the trademark in the State Register of Trademarks and Service Marks of the Russian Federation.

The trademark, information on the rightholder, the priority date of the trademark, the list of goods for individualization of which the trademark is registered, the date of its state registration, and other information relating to the registration of the trademark, and also later changes in this information shall be entered into the State Register of Trademarks.

2. In case of failure to present, by the established procedure, a document on the payment of the fee indicated in Paragraph 1 of the present Article, registration of the trademark shall note been done, and the corresponding application shall be recognized as withdrawn on the basis of a decision of the Federal agency of executive authority for intellectual property.

Article 1504. **Issuance of a Trademark Certificate**

1. A trademark certificate shall be issued by the Federal agency of executive authority for intellectual property within the course of a month from the day of state registration of the trademark in the State Register of Trademarks.

2. The form of a trademark certificate and the list of the information indicated in it shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

Article 1505. **Entry of Changes into the State Register of Trademarks and into the Trademark Certificate**

1. The rightholder is obligated inform the Federal agency of executive authority for intellectual property on any changes relating to state registration of a trademark including on the designation or name of the rightholder, on a reduction in the list of goods for the individualization of which the trademark was registered, on the change of individual elements of the trademark not changing its essence.

2. In case of a contest of the grant of legal protection to a trademark (Article 1512), on request of the rightholder a separate registration of this trademark for one of the goods or some of the goods from those indicated in the initial registration that is not of the same kind as the goods the list of which remains in the original registration may be divided from the state registration of a trademark in effect with respect to various goods. Such a request may be filed by the rightholder before the adoption of a decision on the results of consideration of a dispute on registration of the trademark.

3. Entries on changes relating to state registration of a trademark shall be entered into the State Register of Trademarks and into the trademark certificate on the condition of the prior payment of the fee.

4. The Federal agency of executive authority for intellectual property may, on its own initiative enter changes in the State Register of Trademarks and in the trademark certificate for correction of obvious and technical mistakes, after giving prior notice of this to the rightholder.

Article 1506. **Publication of Information about the State Registration of a Trademark**

Information relating to state registration of a trademark and entered into the State Register of Trademarks in accordance with Article 1503 of the present Code shall be published by the Federal agency of executive authority for intellectual property in the official gazette promptly after the registration of the trademark in the State Register of Trademarks or after making corresponding changes in it.

Article 1507. **Registration of a Trademark in Foreign States and International Registration of a Trademark**

1. Russian legal persons and citizens of the Russian Federation shall have the right to register a trademark with foreign states or to conduct its international registration.

2. An international trademark registration application shall be filed through the Federal agency of executive authority for intellectual property.

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4. Peculiarities of the Legal Protection of a Generally-Known Trademark

Article 1508. **Generally-Known Trademark**

1. On the request of a person considering that the trademark used by him or the indication used as a trademark is a trademark generally-known in the Russian Federation, a trademark protected on the territory of the Russian Federation on the basis of its state registration or in accordance with an international treaty of the Russian Federation or an indication used as a trademark but not having legal protection on the territory of the Russian Federation by a decision of the Federal agency of executive authority for intellectual property may be recognized as a trademark generally known in the Russian Federation if this trademark or this indication as the result of intensive use had become widely known in the Russian Federation among the corresponding consumers with respect to goods of this applicant on the date indicated in the request.

A trademark and an indication used as a trademark may not be recognized as generally-known trademarks if they have become widely known after the priority date of a trademark of another person which is identical or similar to it to the point of confusion and which is meant for use with respect to goods of the same type.

2. A generally-known trademark shall be granted the legal protection provided by the present Code for a trademark.

The grant of legal protection to a general known trademark signifies the recognition of the exclusive right to the generally known trademark.

The legal protection of a generally known trademark shall be effective without limit of time.

3. The legal protection of this generally-known trademark shall also extend to goods not of the same kind as those with respect to which it was recognized as generally-known if the use by another person of the trademark with respect to the aforesaid goods will be associated by consumers with the holder of the exclusive right to the generally-known trademark and may impair lawful interests of such holder.

Article 1509. **Granting Legal Protection to a Generally-Known Trademark**

1. Legal protection shall be granted to a generally-known trademark on the basis of a decision of the Federal agency of executive authority for intellectual property adopted in accordance with Paragraph 1 of Article 1508 of the present Code.

2. A trademark recognized as generally-known shall be entered by the Federal agency of executive authority for intellectual property in the List of Trademarks Generally-Known in the Russian Federation (The List of Generally-Known Trademarks).

3. A certificate for a generally-known trademark shall be issued by the Federal agency of executive authority for intellectual property within the course of a month from the day of entry of the trademark in the List of Generally-Known Trademarks.

The form of a certificate for generally-known trademark and the list of information indicated by this certificate shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

4. Information relating to a generally-known trademark shall be published by the Federal agency of executive authority for intellectual property in the official gazette promptly after the entry of the information in the List of Generally-Known Trademarks.

5. Peculiarities of Legal Protection of a Collective Mark

Article 1510. **Right to a Collective Mark**

1. An amalgamation of persons the creation and activity of which does not contradict the legislation of the state in which it was created shall have the right to register a collective mark in the Russian Federation.

A collective mark is a trademark meant for the indication of goods produced or sold by persons included in the given amalgamation and which goods possess uniform characteristics of their quality or other common characteristics.

A collective mark may be used by each of the persons included in the amalgamation.

2. The right to a collective mark may not be alienated and may not be the subject of a license contract.

3. A person included in the amalgamation that registered the collective mark shall have the right to use his own trademark along with the collective mark.

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Article 1511. **State Registration of a Collective Mark**

1. The charter of the collective mark shall be attached to an application for the registration of a collective mark (collective mark application) filed with the Federal agency of executive authority for intellectual property and must contain:

1) the name of the amalgamation authorized to register the collective mark in its own name (the rightholder);

2) a list of persons having the right of use of this collective mark;

3) the purpose of registration of the collective mark;

4) a list of and uniform characteristics of quality or other common characteristics of goods that will be designated by the collective mark;

5) the conditions for use of the collective mark;

6) provisions on the procedure for supervision of the use of the collective mark;

7) provisions on responsibility for violation of the charter of the collective mark.

2. Information on the persons having the right of use of the collective mark shall be entered in the State Register of Trademark sand in the collective mark certificate in addition to the information provided for by Articles 1503 and 1504 of the present Code. This information and also an extract from the charter of the collective mark on the uniform characteristics of quality and on other common characteristics of goods with respect to which this mark was registered shall be published by the Federal agency of executive authority for intellectual property in the official gazette.

The rightholder shall inform the Federal agency of executive authority for intellectual property of changes in the charter of the collective mark.

3. In case of the use of the collective mark on goods not possessing the uniform characteristics of their quality or other common characteristics, legal protection of the collective mark may be terminated early in whole or in part on the basis of the decision of a court taken at the request of any interested person.

4. The collective mark and a collective mark application may be transformed respectively into a trademark and a trademark application and vice-versa. The procedure for such transformation shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

6. Termination of the Exclusive Right to a Trademark

Article 1512. **Bases for Contesting and Recognizing as Invalid the Grant of Legal Protection to a Trademark**

1. Contesting the grant of legal protection to a trademark shall signify the contesting of a decision on the state registration of a trademark (Paragraph 2 of Article 1499) and of the recognition of the exclusive right to a trademark based upon it (Articles 1477 and 1480).

Recognition of the invalidity of the grant of legal protection to a trademark shall entail the rescission of the decision of the Federal agency of executive authority for intellectual property on registration of the trademark.

2. The grant of legal protection to a trademark may be contested and recognized as invalid:

1) in full or in part during the course of the whole time period of effectiveness of the exclusive right to a trademark if legal protection was granted to it in violation of the requirements of Paragraphs 1–5, 8 and 9 of Article 1483 of the present Code;

2) in full or in part in the course of five years from the date of publication of information on the state registration of the trademark in the official gazette (Article 1506) if legal protection was granted to it in violation of the requirements of Paragraphs 6 and 7 of Article 1483 of the present Code;

3) in full during the course of the whole time period of effectiveness of the exclusive right to a trademark if legal protection was granted to it in violation of the requirements of Article 1478 of the present Code;

4) in full during the course of the whole time period of effectiveness of legal protection if legal protection was granted to a trademark with later priority with respect to a recognized generally-known registered trademark of another person, the legal protection of which is exercised in accordance with Paragraph 3 of Article 1508 of the present Code;

5) in full or in part during the whole time period of effectiveness of the exclusive right to the trademark if legal protection was granted to it in the name of an agent or representative of a person who is the holder of this exclusive right in one of the member states of the Paris Convention for the Protection of Industrial Property in violation of the requirements of the given Convention.

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6) in full or in part during the course of the whole time period of effectiveness of legal protection if actions of the rightholder connected with the state registration of the trademark are recognized by the established procedure as abuse of right or unfair competition.

3. The grant of legal protection to a generally-known trademark by its registration in the Russian Federation may be contested and recognized as invalid in full or in part during the course of the whole time period of effectiveness of the exclusive right to this trademark if legal protection was granted to it in violation of the requirements of Paragraph 1 of Article 1508 of the present Code.

Article 1513. **Procedure of Contesting and Recognizing as Invalid the Grant of Legal Protection to a Trademark**

1. The grant of legal protection to a trademark may be contested on the bases and within the time periods that are provided by Article 1512 of the present Code by the filing of an objection against such a grant with the chamber for patent disputes or the Federal agency of executive authority for intellectual property.

2. Objections against the grant of legal protection to a trademark on the bases that are provided by numbered subparagraphs 1, 2, 3, and 4 of Paragraph 2 and by Paragraph 3 of Article 1512 of the present Code may be filed with the chamber for patent disputes by any interested person.

3. An objection against the grant of legal protection to a trademark on the ground provided by numbered subparagraph 5 of Paragraph 2 of Article 1512 of the present Code may be filed with the chamber for patent disputes by an interested holder of the exclusive right to the trademark in one of the member states of the Paris Convention for the Protection of Industrial Property.

An objection to the granting of legal protection to a trademark on the basis provided by numbered subparagraph 6 of Paragraph 2 of Article 1512 of the present Code shall be submitted by the interested person to the Federal agency of executive authority for intellectual property.

4. Decisions of the Federal agency of executive authority for intellectual property on the recognition of the grant of legal protection to a trademark as invalid or on refusal of such recognition shall enter into force in accordance with the rules of Article 1248 of the present Code and may be disputed in a court.

5. In case of recognition of the grant of legal protection to a trademark as invalid in full, the trademark certificate and the entry in the State Register of Trademarks shall be annulled.

In case of recognition of the grant of legal protection to a trademark as partially invalid, a new trademark certificate shall be issued and the corresponding changes shall be made in the State Register of Trademarks.

6. License contracts concluded before the making of a decision on the recognition of the invalidity of the grant of legal protection to a trademark shall remain effective to the extent to which they were performed by the time of making of the decision.

Article 1514. **Termination of Legal Protection of a Trademark**

1. Legal protection of a trademark shall be terminated:

1) in connection with the expiration of the time period of effectiveness of the exclusive right to a trademark;

2) on the basis of a decision of a court rendered in accordance with Paragraph 3 of Article 1511 of the present Code on the early termination of the legal protection of a collective trademark in connection with the use of this mark on goods not having the uniform characteristics of their quality or other common characteristics;

3) on the basis of a decision taken in accordance with Article 1486 of the present Code on the early termination of legal protection of a trademark in connection with its nonuse;

4) on the basis of a decision of the Federal agency of executive authority for intellectual property on the early termination of the legal protection of a trademark in case of termination of the legal person that is the rightholder or the termination of the entrepreneurial activity of the individual entrepreneur that is the rightholder;

5) in case of renunciation by the rightholder of the right to the trademark;

6) on the basis of a decision of the Federal agency of executive authority for intellectual property adopted at the request of an interested person on the early termination of the legal protection of the trademark in case of its transformation into an indication that has gone into general use as the indication of goods of the specific type.

2. Legal protection of a generally-known trademark shall be terminated on the grounds established by numbered subparagraphs 3-6 of Paragraph 1 of the present Article and also By a decision of the Federal agency of executive authority for intellectual property in case of loss by the

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generally-known trademark of the characteristics established by the first subparagraph of Paragraph 1 of Article 1508 of the present Code.

3. In case of passage of the exclusive right to a trademark without the conclusion of a contract with the rightholder (Article 1241) the legal protection of the trademark may be terminated on decision of a court on suit by an interested person if it is shown that such a passage leads consumers into confusion concerning the goods or their manufacturer.

4. Termination of the legal protection of a trademark shall mean the termination of the exclusive right to this trademark.

7. Protection of the Right to a Trademark

Article 1515. **Liability for Unlawful Use of a Trademark**

1. Goods, labels, and packaging of goods on which a trademark or an indication similar to it to the point of confusion are placed unlawfully are counterfeit.

2. The rightholder shall have the right to demand removal from commerce and destruction at the expense of the infringer of counterfeit goods, labels, and packaging of the goods on which an unlawfully used trademark or indication similar to it to the point of confusion. In those cases when the introduction of such goods into commerce is necessary in societal interests, the rightholder shall have the right to demand removal of the unlawfully used trademark or designation similar to it to the point of confusion from the counterfeit goods,, labels, and packaging of the goods at the expense of the infringer unlawfully using the trademark or indication similar to it to the point of confusion.

3. A person who has infringed the exclusive right to a trademark in the performance of work or rendering of services shall be obligated to remove the trademark or indication similar to the trademark to the point of confusion from the materials that accompanied the performance of such work or the rendering of services, including from documentation, advertising, and signs.

4. The rightholder shall have the right to demand at his option from the infringer instead of compensation for damages payment of compensation:

1) in the amount from ten thousand rubles to five million rubles determined at the discretion of the court proceeding from the nature of the infringement;

2) in double the amount of the value of the goods on which the trademark was illegally placed or in double the amount of the value of the rights of the use of the trademark determined proceeding from the price that in comparable circumstances is usually taken for lawful use of the trademark.

5. A person who has made a warning marking with respect to a trademark not registered in the Russian Federation shall bear liability by the procedure provided by the legislation of the Russian Federation.

§ 3. Right to a Designation of the Place of Origin of Goods

1. Basic Provisions

Article 1516. **Designation of the Place of Origin of Goods**

1. A designation of the place of origin of goods to which legal protection is granted is an indication that is or contains a modern or historical, official or unofficial, full or abbreviated designation of the country, city or rural settlement, locality, or other geographic locale and also a designation derived from such an indication and having become known as the result of its use with respect to goods the special characteristics of which are exclusively or mainly determined by the natural conditions and/or human factors characteristic for the given geographic locale. An exclusive right (Articles 1229 and 1519) for the producers of such goods may be recognized for the use of this designation.

2. An indication, although it is or contains the designation of a geographic locale, but has gone in the Russian Federation into general use as an indication of goods of a given type not connected with the place of its production shall not be recognized as a designation of a place of origin of goods.

Article 1517. **Effectiveness on the Territory of the Russian Federation of the Exclusive Right of Use of a Designation of a Place of Origin of Goods**

1. On the territory of the Russian Federation an exclusive right of use of a designation of a place of origin of goods shall be effective if it is registered with the Federal agency of executive authority for intellectual property shall be effective and also in other cases provided by an international treaty of the Russian Federation.

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2. State Registration as a designation of the place of origin of goods of the designation of a geographic locale that is located in a foreign state is allowed if the designation of this locale is protected as such a designation in the country of origin of the goods. The holder of the exclusive right of use of the designation of the aforesaid place of origin of goods may only be the person whose right to this designation is protected in the country of origin of the goods.

Article 1518. **State Registration of the Designation of the Place of Origin of Goods and Granting of the Exclusive Right of Use of the Designation of the Place of Origin of Goods.**

1. The designation of the place of origin of goods shall be recognized and protected by virtue of state registration of such a designation or in accordance with an international treaty of the Russian Federation.

A designation of the place of origin of goods may be registered by one or more citizens or legal persons.

2. Persons who have registered a designation of the place of origin of goods shall be granted the exclusive right of use of this designation verified by a certificate on the condition that the goods produced by these persons meet the requirements established by Paragraph 1 of Article 1516 of the present Code.

The exclusive right of use of a designation of a place of origin of goods with respect to the same designation may be granted to any person who, within the boundaries of the same geographic locale, produces goods having the same special qualities.

2. Use of a Designation of the Place of Origin of Goods

Article 1519. **Exclusive to a Designation of a Place of Origin of Goods**

1. The rightholder shall have the exclusive right to use the designation of the place of origin of the goods in accordance with Article 1229 of the present Code in any manner not contrary to a statute (the exclusive right to a designation of a place of origin of goods), including by the means indicated in Paragraph 2 of the present Article.

2. The following placement of the designation shall in particular be considered to be the use of the designation of the place of origin of goods:

1) on goods, on labels, and on packaging of goods, that are produced, offered for sale, sold, shown at exhibits and fairs or in another manner introduced into civil commerce on the territory of the Russian Federation, or are stored or transported with this purpose, or are imported onto the territory of the Russian Federation;

2) on letterheads, invoices, and in other documentation and in printed publications connected with introducing the goods into civil commerce;

3) in offerings for the sale of goods, and also in announcements, on signs, and in advertising;

4) on the Internet including in a domain name and by other means of addressing;

3. The use of a registered designation of the place of origin of goods by persons not having the corresponding certificate is not allowed even if in this case the true place of origin of goods is indicated or designation is used in translation or in connection with such words as "kind," "type," "imitation," and the like, and also the use of a similar designation for any goods that is capable of leading consumers in confusion concerning the place of origin and the special qualities of the goods (unlawful use of a designation of the place of origin of goods).

Goods, labels, and packaging of goods on which designations of place of origin or indications similar to them to the point of confusion are used unlawfully are counterfeit.

4. Disposition of the exclusive right of use of a designation of place of origin of goods, including by way of its alienation or the grant to another person of the right of use of this designation is not allowed.

Article 1520. **Symbol of Protection of Designation of Place of Origin of Goods**

The holder of a certificate on the exclusive right to a designation of a place of origin of goods for notification of his exclusive right may place together with the name of place of origin of goods the symbol of protection in the form of the verbal indication "registered designation of the place of origin of goods or "registered DPOG", showing that the indication used is the designation of a place of origin of goods registered in the Russian Federation.

Article 1521. **Effect of Legal Protection of the Designation of the Place of Origin of Goods**

1. The designation of the place of origin of goods shall be protected without limit of time, i.e. during the whole time of the existence of the possibility of producing the goods, the particular

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characteristics of which are exclusively or mainly determined by the natural conditions and (or) human factors characteristic for the corresponding geographic locale (Article 1516).

2. The time period of effectiveness of a certificate of the exclusive right to a designation of a place of origin of goods and the procedure for extending this time period shall be determined by Article 1531 of the present Code.

3. State Registration of a Designation of a Place of Origin of Goods and Granting of the Exclusive Right to a Designation of a Place of Origin of Goods

Article 1522. **Application for a Designation of a Place of Origin of Goods**

1. An application for the state registration of a designation of a place of origin of goods and for the granting of an exclusive right to this designation and also an application for the granting of an exclusive right to a previously registered designation of a place of origin of goods (an application for a designation of a place of origin of goods) shall be filed with the Federal agency of executive authority for intellectual property.

2. An application for a designation of a place of origin of goods must relate to one designation of a place of origin of goods.

3. An application for a designation of a place of origin of goods must contain:

1) a request for the state registration of a designation of a place of origin of goods and for the granting of an exclusive right to such a designation or only for the granting of an exclusive right to a previously registered designation of a place of origin of goods, with an indication of the applicant and also of his place of residence or place of location;

2) the designation applied for;

3) an indication of the goods with respect to which state registration of a designation of a place of origin of goods and granting of the exclusive to such designation or only the granting of the exclusive right to a previously registered designation of the place of origin of goods is sought;

4) an indication of the place of origin (or production) of the goods (the boundaries of the geographic locale), the natural conditions and/or human factors of which exclusively or mainly determine or may determine the particular qualities of the goods;

5) a description of the special qualities of the goods.

4. An application for a designation of a place of origin of goods shall be signed by the applicant or in the case of filing of the application through a patent agent or the other representative – by the applicant or by his representative submitting the application.

5. If a geographic locale, the designation of which is applied for as the designation of the place of origin of goods, is located on the territory of the Russian Federation, there shall be attached to the application a conclusion of an agency authorized by the Government of the Russian Federation to the effect that the applicant, within the boundaries of the given geographic locale, produces goods, the special qualities of which are exclusively or mainly determined by the natural conditions and/or human factors characteristic for the given geographic locale.

To an application for the granting of an exclusive right to a previously registered designation of a place of origin of goods located on the territory of the Russian Federation there shall be attached a statement of a competent body, determined by the procedure established by the Government of the Russian Federation to the effect that the applicant produces, within the territory of the aforesaid geographic object, goods having the particular characteristics indicated in the State Register of Designations of Place of Origin of Goods of the Russian Federation (the State Register of Designations) (Article 1529).

If a geographic locale the designation of which is applied for as a designation of a place of origin of goods is located outside the boundaries of the Russian Federation a document confirming the right of an applicant to the designation of a place of origin of goods applied for in the country of origin of the goods shall be attached to the application.

A document confirming the payment of the application filing fee in the established amount shall be attached to the application.

6. A request for a designation of a place of origin of goods shall be filed in the Russian language.

Documents attached to an application shall be presented in the Russian language or in another language. If these documents are presented in another language, their translation into the Russian language shall be attached to the application. A translation into the Russian language may be presented by the applicant within the course of two months from the date of sending to him by the Federal agency

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of executive authority for intellectual property of notification of the necessity of fulfilling the given requirement.

7. The requirements for documents contained in an application for a designation of a place of origin of goods or attached to it (documents of the application) shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

8. The filing date of an application for a designation of a place of origin of goods shall be considered to be the date of receipt at the Federal agency of executive authority for intellectual property of the documents provided by Paragraph 3 of the present Article, and if the aforesaid documents are not presented simultaneously – the date of arrival of the last document.

Article 1523. **Examination of an Application for a Designation of a Place of Origin of Goods and Entry of Changes in the Documents of an Application**

1. Examination of an application for a designation of a place of origin of goods shall be conducted by the Federal agency of executive authority for intellectual property.

Examination of the application shall include formal examination and examination of the indication applied for as a designation of the place of origin of goods (the indication applied for).

2. During the period of conduct of the examination of an application for a designation of a place of origin of goods, the applicant shall have the right until the adoption of a decision on it to supplement, clarify, or correct the materials of the application.

If supplementary materials change an application in its essence, these materials shall not be taken into consideration and may be formalized by the applicant as an independent application.

3. During the period of conduct of the examination of an application for a designation of a place of origin of goods, the Federal agency of executive authority for intellectual property shall have the right to request from the applicant supplementary materials without which conduct of the examination is impossible.

Supplementary materials must be presented by the applicant in the course of two months from the date of receipt by him of the corresponding e request. On petition of the applicant, this time period may be extended on the condition that the petition arrived before the expiration of this time period. If the applicant has exceeded the aforesaid time period or has left the request for supplementary materials without an answer, the application shall be recognized as withdrawn on the basis of a decision of the Federal agency of executive authority for intellectual property.

Article 1524. **Formal Examination of an Application for a Designation of the Place of Origin of Goods**

1. Formal examination of an application for a designation of the place of origin of goods shall be conducted within the course of two months from the date of its filing with the Federal agency of executive authority for intellectual property.

2. In the course of the conduct of formal examination of an application for a designation of a place of origin of goods, the presence of the necessary documents of the application and also their correspondence to the established requirements shall be verified. On the results of formal examination, the application shall be accepted for consideration or a decision shall be adopted on refusal to accept the application for consideration. The applicant shall be notified of the results of formal examination.

Simultaneously with notification on a positive result of formal examination of the application the filing date of the application established in accordance with Paragraph 8 of Article 1520 of the present Code shall be communicated to the applicant.

Article 1525. **Examination of an Indication Applied for as a Designation of the Place of Origin of Goods**

1. Examination of an indication applied for as a designation of a place of origin of goods (examination of an indication applied for) for the correspondence of such an indication to the requirements of Article 1516 of the present Code shall be conducted on an application adopted for consideration as the result of formal examination.

In the course of conduct of examination of an indication applied for, the basis for the selection of a place of origin (or production) of goods on the territory of the Russian Federation shall also be verified.

For an application accepted for consideration for the granting of an exclusive right to a previously registered designation of a place of origin of goods, expert examination of the designation applied for shall be conducted for its correspondence to the requirements of the second subparagraph of Paragraph 5 of Article 1522 of the present Code.

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2. Before the adoption of a decision on the results of the examination of an indication in the case of a proposed denial of state registration of a place or origin of goods and/or of a grant of an exclusive right to such designation, the applicant shall be sent a notification in written form of the results of verification of the correspondence of the indication applied for to the requirements of Article 1516 of the present Code, with a proposal to present his conclusions with respect to the reasons presented in the notification. The conclusions of the applicant shall be taken into consideration in the adoption of a decision on the results of examination of the indication applied for if they where presented in the course of six months from the day of sending the applicant the aforesaid notification.

Article 1526. **Decision Taken on the Results of the Examination of an Indication Applied for**

On the basis of the results of the examination on an Indication Applied for, the Federal agency of executive authority for intellectual property shall adopt a decision on the state registration of the designation of the place of origin of goods and on granting the exclusive right to this designation or on refusal of state registration of the designation of the place of origin of goods and/or on granting an exclusive right of use of such a designation;

If in the application for a designation of a place of origin of goods, there is requested the exclusive right to a previously registered designation, the Federal agency of executive authority shall adopt a decision on the granting or on the refusal of the granting of such exclusive right.

Article 1527. **Withdrawal of an Application for a Designation of a Place of Origin of Goods**

An application for a designation of a place of origin of goods may be withdrawn by the applicant at any stage of its consideration before entry into the State Register of information on the state registration of the corresponding designation of a place of origin of goods and/or on granting an exclusive right to such designation.

Article 1528. **Contest of Decisions on an Application for a Designation of a Place of Origin of Goods. Reinstatement of Exceeded Time Periods**

1. Decisions of the Federal agency of executive authority on the refusal to accept the application for a designation of a place of origin of goods for consideration, on the recognition of such application as withdrawn, and also a decision of this agency adopted on the results of expert examination of an indication (Article 1526) may be disputed by the application by the submission of objections to the chamber for patent disputes within the course of three months from the date of receipt of the respective decision.

2. Time periods provided by Paragraph 3 of Article 1523 of the present Code and by Paragraph 1 of the present Article that have been exceeded by the applicant may be reinstated by the Federal agency of executive authority for intellectual property on petition of the applicant filed within the course of two months from the day of expiration of these time periods, on the condition of confirmation of valid reasons due to which the time period was not observed and payment of the corresponding fee.

A petition on the reinstatement of an exceeded time period shall be submitted by the applicant to the Federal agency of executive authority for intellectual property simultaneously with the supplementary materials requested in accordance with Paragraph 3 of Article 1521 of the present Code or with a petition for lengthening the time period for presenting them or simultaneously with the filing of an objection with the Federal agency of executive authority for intellectual property on the basis of Paragraph 1 of the present Article.

Article 1529. **Procedure for State Registration of a Designation of a Place of Origin of Goods**

1. On the basis of a decision adopted on the results of an examination of an indication applied for (Article 1526), the Federal agency of executive authority for intellectual property shall conduct state registration of a designation of the place of origin of goods in the State Register of Designations .

2. In the State Register of Designations there shall be entered the designation of the place of origin of goods, information on the holder of the certificate of the exclusive right to the designation of the place of origin of goods, an indication and description of the special qualities of the goods for the individualization of which the designation of the place of origin of goods is registered, and other information relating to registration and to the grant of the exclusive right to the designation of place of origin of goods, to the extension of the time period of effectiveness of the certificate and also subsequent changes in this information.

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Article 1530. **Issuance of a Certificate of the Exclusive Right to a Designation of a Place of Origin of Goods**

1. A certificate of the exclusive right a designation of a place of origin of goods shall be issued by the Federal agency of executive authority for intellectual property in the course of a month from the day of receipt of a document on the payment of the established fee for the issuance of a certificate of the exclusive right to a designation of a place of origin of goods.

In case of failure to present by the established procedure a document confirming the payment of the fee, the certificate shall not be issued.

2. The form of the certificate of the exclusive right to a designation of a place of origin of goods and the composition of the information contained in such certificate shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

Article 1531. **The Time Period of Effectiveness of a Certificate of the Exclusive Right to a Designation of the Place of Origin of Goods**

1. A certificate of the exclusive right to a designation of a place of origin of goods shall be effective during the course of ten years from the filing date of an application for a designation of the place of origin of goods to the Federal agency of executive authority for intellectual property.

2. The time period of effectiveness of a certificate of the exclusive right to a designation of a place of origin of goods may be extended on request of the holder of the certificate and on the condition of presentation by him of a conclusion of a competent agency determined by the procedure established by the Government of the Russian Federation that the holder of the certificate produces, within the boundaries of the corresponding geographic locale, goods possessing the special qualities indicated in the State Register of Designations.

With respect to a designation that is the designation of a geographic object located beyond the boundaries of the Russian Federation, instead of the conclusion indicated in the first subparagraph of the present Paragraph the holder of the certificate shall present a document confirming his right to the designation of the place of origin of the goods in the country of origin of the goods on the filing date of an application for the extension of the time period of effectiveness of the certificate.

A request for the extension of the time period of effectiveness of a certificate shall be filed during the course of the last year of its effectiveness.

On petition of the holder of a certificate, he may be granted six months after the expiration of the time period of effectiveness of the certificate to file a request for the extension of this time period upon condition of payment of a supplementary fee.

The time period of effectiveness of a certificate shall be extended each time for ten years.

3. An entry on the extension of the time period of effectiveness of the certificate of the exclusive right to a designation of a place of origin of goods shall be entered by the Federal agency of executive authority for intellectual property in the State Register of Designations and on the aforesaid certificate.

Article 1532. **Entry of Changes in the State Register Designations and on the Certificate of the Exclusive Right to a Designation of the Place of Origin of Goods**

1. The holder of a certificate of the exclusive right to a designation of a place of origin of goods must inform the Federal agency of executive authority for intellectual property of a change in his own designation or name and also on other changes relating to the state registration of the designation of a place of origin of goods and to the grant of the exclusive right to this designation (Paragraph 2 of Article 1529).

An entry on the change shall be made in the State Register of Designations and the certificate on the condition of payment of the corresponding fee.

2. The Federal agency of executive authority for intellectual property may, on its own initiative enter changes in the State Register of Designations and the certificate of the exclusive right to a designation of a place of origin of goods for the correction of obvious and technical errors, having previously informed the holder of the certificate of this.

Article 1533. **Publication of Information on State Registration of a Designation of the Place of Origin of Goods**

Information relating to the state registration of a designation of the place of origin of goods and the granting of an exclusive right to such designation entered into the State Register of Designations in accordance with Articles 1529 and 1532 of the present Code, with the exception of

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information containing a description of the special qualities of the goods shall be published by the Federal agency of executive authority for intellectual property in the official gazette immediately after their entry in the State Register of Designations.

Article 1534. **Registration in Foreign States of a Designation of a Place of Origin of Goods**

1. Russian legal persons and citizens of the Russian Federation shall have the right to register a designation of the place of origin of goods in foreign states.

2. An application for registration of a designation of a place of origin of goods in a foreign state may be filed after the state registration of a designation of a place of origin of goods and the grant of an exclusive right to such designation in the Russian Federation.

4. Termination of the Legal Protection of a Designation of a Place of Origin of Goods and of the Exclusive Right to a Designation of the Place of Origin of Goods

Article 1535. **Bases for Contesting and Recognizing as Invalid the Grant of Legal Protection to the Designation of a Place of Origin of Goods and the Exclusive Right to Such Designation**

1. Contesting the grant of legal protection to a designation of a place of origin of goods means contesting the decision of the Federal agency of executive authority for intellectual property on the state registration of a designation of a place of origin of goods and on the grant of an exclusive right to this designation and also the issue of a certificate on the exclusive right to a designation of the place of origin of goods.

Contesting the granting of an exclusive right of an exclusive right to a previously registered designation of the place of origin of goods means contesting the decision on the granting of an exclusive right to a previously registered designation of the place of origin of goods and the issuance of a certificate on the exclusive right to a designation of the place of origin of goods

Recognition of the grant of legal protection to a designation of a place of origin of goods as invalid shall lead to the rescission of the decision on the state registration of a designation of a place of origin of goods and on the grant of an exclusive right to designation, the annulment of the entry in the State Register of Designations and of the certificate of the exclusive right to this designation.

Recognition of the invalidity of the granting of the exclusive right to a previously registered designation of the place of origin of goods, shall entail the rescission of the on granting an exclusive right to a previously registered designation of the place of origin of goods, the annulment of the entry in the State Register of Designations and also of the certificate of the exclusive right to this designation.

2. The grant of legal protection to a designation of a place of origin of goods may be disputed and recognized as invalid in the course of the whole time period of protection if the legal protection was granted in violation of the requirements established by the present Code. The granting of an exclusive right to a previously registered designation of the place of origin of goods may be disputed and recognized as invalid in the course of the whole time period of effectiveness of the certificate of exclusive right to designation of a place of origin of goods (Article 1531).

If the use of a designation of the place of origin of goods is capable of bringing a consumer into confusion concerning the goods or its preparer in connection with the presence of a trademark having an earlier priority, the granting of legal protection to the aforesaid designation may be disputed in the course of five years from the date of publication of information on the state registration of the designation of the place of origin of goods in the official gazette.

3. Any interested person, on the bases are provided in Paragraph 2 of the present Article, may file an objection with the Federal agency of executive authority for intellectual property.

Article 1536. **Termination of the Legal Protection of a Designation of a Place of Origin of Goods and of the Effectiveness of a Certificate of the Exclusive Right of Use of Such a Designation**

1. Legal protection of a designation of a place of origin of goods shall be terminated in the case of:

1) disappearance of the conditions characteristic for the given geographic locale and the impossibility of producing goods possessing the special qualities indicated in the State Register of Designations with respect to the given designation of place of origin of goods;

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2) loss by a foreign legal person, foreign citizen, or person without citizenship of the right to the given designation of the place of origin of goods in the country of origin of the goods.

2. The effectiveness of the certificate of the exclusive right to a designation of a place of origin of goods shall be terminated in the case of:

1) loss by the goods made by the older of the given certificate of the special features indicated in the State Register of Designations with respect to the given designation of the place of origin of goods;

2) termination of legal protection of a designation of a place of origin of goods on the bases indicated in Paragraph 1 of the present Article;

3) liquidation of the legal person or termination of the entrepreneurial activity of the individual entrepreneur that is the holder of the certificate;

4) expiration of the time period of effectiveness of the certificate;

5) filing by the holder of the certificate of the corresponding request with the Federal agency of executive authority for intellectual property.

3. Any person, on the grounds provided by Paragraph 1 and by numbered subparagraphs 1 and 2 of Paragraph 2 of the present Article may file with the Federal agency of executive authority for intellectual property a request for the termination of legal protection of a designation of a place of origin of goods and of the effect of a certificate of the exclusive right to such designation, and, on the grounds provided by numbered subparagraph 3 of Paragraph 2 of the present Article for the termination of the effectiveness of a certificate on the exclusive right to a designation of the place of origin of goods.

Legal protection of the designation of a place of origin of goods and the effectiveness of a certificate of the exclusive right to such designation shall be terminated on the basis of a decision of the Federal agency of executive authority for intellectual property.

5. Protection of a Designation of a Place of Origin of Goods

Article 1537. **Liability for Unlawful Use of a Designation of a Place of Origin of Goods**

1. A rightholder shall have the right to demand the removal from circulation and the destruction at the expense of the infringer of counterfeit goods, labels, and packaging on which there is placed an unlawfully used designation of place of origin of goods or an indication similar to it to the point of confusion. In those cases when the bringing of such goods into circulations is necessary in societal interests, the rightholder shall have the right to demand removal at the expense of the infringer from the counterfeit goods, labels, and package of goods, the unlawfully used designation of place or origin of goods or an indication similar to it to the point of confusion.

2. The rightholder shall have the right to demand at his option from the infringer instead of compensation for damages payment of compensation:

1) of the amount from ten thousand rubles to five million rubles determined at the discretion of the court proceeding from the nature of the infringement;

2) in double the amount of the value of the goods on which the designation of a place of origin of goods was unlawfully placed.

3. A person who has made a warning marking with respect to a designation of a place of origin of goods not registered in the Russian Federation shall bear liability by the procedure provided by the legislation of the Russian Federation.

§ 4. Right to a Commercial indication

Article 1538. **Commercial indication**

1. Legal persons conducting entrepreneurial activity (including noncommercial organizations to which a right to conduct of such activity has been granted in accordance with a statute by their founding documents) and also individual entrepreneurs may use for individualization of trade, industrial and other enterprises belonging to them (Article 132) commercial indications that are not firm names and are not subject to obligatory inclusion in the founding documents nor in the single state register of legal persons.

2. A commercial indication may be used by the rightholder for individualization of one or several enterprises. Two or more commercial indications may not be used simultaneously for the individualization of one enterprise.

Article 1539. **Exclusive Right to a Commercial Indication**

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1. The exclusive right of use a commercial indication in any manner not contrary to a statute (exclusive right to a commercial indication) shall belong to a rightholder as a means of individualization of an enterprise belonging to him, including by its indication of the commercial indication on signs, letterheads, bills and other documentation, in announcements and in advertising, and on goods and their packaging, if such a designation possesses sufficient distinguishing characteristics and its use by the rightholder for individualization of his enterprise is known within the boundaries of a specific territory.

2. The use of a commercial indication capable of leading into confusion with respect to the ownership of an enterprise by a specific person, in particular of a commercial indication similar to the point of confusion with the firm name, trademark, or a commercial indication protected by an exclusive right and belonging to another person for whom the corresponding exclusive right arose earlier.

3. A person who has violated the rules of Paragraph 2 of the present Article shall be obligated on demand of the rightholder to terminate the use of the commercial indication and to compensate the rightholder for damages caused.

4. The exclusive right to a commercial indication may pass to another person (including by contract, by way of universal legal succession and on other grounds established by a statute) only in the composition of an enterprise for the individualization of which such designation is used.

If the commercial indication is used by the rightholder for the individualization of several enterprises, the passage to another person of the exclusive right to a commercial indication person in the composition of one of the enterprises shall deprive the rightholder of the right of use of this commercial indication for the individualization of all his remaining enterprises.

5. A rightholder may grant to another person the right of use of his commercial indication by the procedure and on the conditions that are provided by the contract of lease of an enterprise (Article 656) or the contract of franchise (Article 1027).

Article 1540. **Effectiveness of the Exclusive Right to a Commercial indication**

1. The exclusive right to a commercial indication used for individualization of an enterprise located on the territory of the Russian Federation shall be effective on the territory of the Russian Federation.

2. The exclusive right to a commercial indication shall be terminated if the rightholder does not use it continuously in the course of a year.

Article 1541. **Relationship of the Right to a Commercial indication to Rights to a Firm Name and Trademark**

1. The exclusive right to a commercial indication including the firm name of the rightholder or individual elements thereof shall arise and be effective independently of the exclusive right to the firm name.

2. A commercial indication or individual elements of this designation thereof may be used by the rightholder in a trademark belonging to him. A commercial indication included in a trademark shall be protected independently of the protection of the trademark.

CHAPTER 77. RIGHT OF USE OF THE RESULTS OF INTELLECTUAL PROPERTY IN THE SYSTEM OF UNIFIED TECHNOLOGY

Article 1542. **Right to Technology**

1. Uniform technology in the sense of the present chapter is a result of technical and scientific activity expressed in objective form that includes in one or another combination inventions, utility models, industrial designs, computer programs or other results of intellectual activity subject to legal protection in accordance with the rules of the present Division and that may serve as the technological basis for a specific practical activity in the civilian or military (unified technology).

A system of unified technology may also include results of intellectual activity not subject to protection on the basis of the rules of the present Division, including technical data and other information.

2. The exclusive rights to the results of intellectual activity in the system of this technology that are included in the unified technology shall be recognized and shall be subject to protection in accordance with the rules of the present Code.

3. The right of use of the results of intellectual activity in a system of unified technology as in the system of complex object (Article 1240) shall belong to the person that organized the creation of the unified technology (the right to technology) on the basis of contracts with the holders of the

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exclusive rights to the results of intellectual activity included in the system of unified technology. A unified technology may include also protected results of intellectual activity created by the very person organizing its creation.

Article 1543. **Area of Application of the Rules on the Right to Technology**

The rules of the present Chapter shall be applied to relations connected with rights to technology of civil, military, special, or dual purpose, created at the expense or with the use of funds of the Federal budget or the budgets of the subjects of the Russian Federation assigned for payment for work under state contracts, under other contracts, for financing on budgets of receipts and expenditures, and also as subsidies.

The indicated rules shall not be applied to relations that have arisen in the creation of a unified technology at the expense of or with the use of funds of the Federal budget or the budgets of the subjects of the Russian Federation on a compensated basis in the form of a budgetary credit.

Article 1544. **Right of a Person Who has Organized the Creation of a Unified Technology to the Use of the Results of Intellectual Activity in its System**

1. The right to the technology created shall belong to the person who has organized the creation of unified technology at the expense of or with the involvement of funds of the Federal budget or of the budget of a subject of the Russian Federation (the performer), with the exception of the cases when this right, in accordance with Paragraph1 of Article 1546 of the present Code belongs to the Russian Federation or to a subject of the Russian Federation.

2. The person to whom, in accordance with Paragraph 1 of the present Article, the right to technology belongs, shall be obligated to promptly take the measures provided by the legislation of the Russian Federation for recognition as his and receipt of the rights to the results of intellectual activity included in the system of unified technology (to submit applications for the issuance of patents, for state registration of the results of intellectual activities, introduction with respect to the respective information of a system of keeping secrecy, conclude contracts on the alienation of exclusive rights and licensing contracts with the holders of the exclusive rights to the respective results of intellectual activity included in the system of unified technology and to take other measures), if such measures were not taken before or in the process of creation of the technology.

3. In cases when the present Code allows different methods of legal protection of rights to results of intellectual activity included in the system of unified technology, the person to whom the right to the technology belongs shall select the means of protection of this rights that to the highest degree corresponds to his interests and ensures the most effective practical application of the technology.

Article 1545. **Obligation of Practical Application of Uniform Technology**

1. A person to whom, in accordance with Article 1544 of the present Code, the right to technology belongs shall be obliged to conduct its practical application (implementation).

The same obligation shall be borne by any person to whom this right is transferred or passes in accordance with the rules of the present Code.

2. The content of the obligation of introduction of technology, the time periods, other conditions and the procedure for performance of this obligation, the consequences of its non-performance and the conditions of termination shall be determined by the Government of the Russian Federation.

Article 1546. **Rights of the Russian Federation and of Subjects of the Russian Federation to Technology**

1. The right to technology created at the expense or with the involvement of funds of the Federal budget shall belong to the Russian Federation in cases in which:

1) a uniform technology is inseparably connected with ensuring the defense and security of the Russian Federation;

2) the Russian Federation before the creation of the unified technology or thereafter undertook the financing undertook work for bringing the unified technology to the stage of practical application;

3) the performer did not ensure before the expiration of six months after finishing work for the creation of the unified technology did not ensure the completion of all actions necessary for the recognition as his or the obtaining of the exclusive rights to the results of intellectual activity that are included in the system of the technology.

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2. The right to technology created at the expense or with the involvement of funds of the budget of a subject of the Russian Federation shall belong to the subject of the Russian Federation in cases in which:

1) the subject of the Russian Federation before the creation of the unified technology or thereafter undertook the financing undertook work for bringing the unified technology to the stage of practical application;

2) the performer did not ensure before the expiration of six months after finishing work for the creation of the unified technology did not ensure the completion of all actions necessary for the recognition as his or the obtaining of the exclusive rights to the results of intellectual activity that are included in the system of the technology.

3. In cases when, in accordance with Paragraphs 1 and 2 of the present Article, the right to technology belong to the Russian Federation or a subject of the Russian Federation , the person who has created or organized the creation of the technology is obligated in accordance with Paragraph 2 of Article 1544 of the present Code to take measures for recognition for him and receipt of the right to the corresponding results of intellectual activity for later transfer of these rights correspondingly to the Russian Federation or the subject of the Russian Federation.

4. The administration of a right to technology belonging to the Russian Federation shall be conducted in the manner determined by the Government of the Russian Federation.

The administration of a right to technology belonging to a subject of the Russian Federation shall be conducted in the manner determined by the bodies of executive authority of the corresponding subject of the Russian Federation.

5. Disposition of the right to technology belonging to the Russian Federation or to a subject of the Russian Federation shall be conducted with observance of the rules of the present Division.

Peculiarities of the disposition of the right to technology belonging to the Russian Federation shall be determined by the statute on the transfer of Federal technologies.

Article 1547. **Alienation of the Right to Technology Belonging to the Russian Federation or to a subject of the Russian Federation**

1. In the cases provided by numbered subparagraphs 2 and 3 of Paragraph 1 and by Paragraph 2 of Article 1546 of the present Code, not later than by the expiration of six months from the day of receipt by the Russian Federation or by a subject of the Russian Federation of rights to the results of intellectual activity necessary for practical use of these results in the system of unified technology, the right to technology must be alienated to a person interested in the implementation of the technology and possessing actual possibilities for its implementation.

In the case provided by numbered subparagraph 1 of Paragraph 1 of Article 1546 of the present Code, the right to technology must be alienated to a person interested in the implementation of the technology and possessing actual possibilities for its implementation immediately after the Russian Federation loses the necessity of keeping this right for itself.

2. Alienation by the Russian Federation or by a subject of the Russian Federation of the right to technology to third persons shall be conducted as a general rule for compensation upon the results of the conduct of a competition.

In case of the impossibility of the alienation on a competition basis of the rights belonging to the Russian Federation or a subject of the Russian Federation, such rights shall be transferred according to the results of the conduct of an auction.

The procedure for the conduct of the competition or the auction for the alienation by the Russian Federation or a subject of the Russian Federation of the right to technology without the conduct of a competition or an auction shall be determined by the statute on transfer of technology

3. A priority right to conclusion with the Russian Federation or a subject of the Russian Federation of a contract for obtaining the right to technology if other conditions are equal shall belong to the performers by whom the given results of intellectual activity included in a system of uniform technology were created.

Article 1548. **Compensation for the Right to Technology**

1. The right to technology shall be granted without compensation in the cases provided by Article 1544 and Paragraph 3 of Article 1546 of the present Code.

2. In cases when the right to technology is alienated by contract, including on the results of a competition or auction, the amount, conditions, and procedure of payment for this right shall be determined by agreement of the parties.

3. In cases when the implementation of technology has an important socio-economic significance or an important significance for the defense or the security of the Russian Federation and

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the amount of expenditures for its implementation makes economically ineffective the compensated obtaining of the right technology, the transfer of rights to such technology by the Russian Federation or other rightholders who have received the respective right without compensation also may be conducted without compensation. Cases in which the uncompensated transfer of rights to technology shall be determined by the Government of the Russian Federation.

Article 1549. **Right to Technology Belonging Jointly to Several Persons**

1. The right to technology created with the involvement of budget assets and assets of other investors may belong simultaneously to the Russian Federation, a subject of the Russian Federation, and other investors in the project, the performer and other rightholders as the result of whose conduct the technology was created.

2. If the right to technology belongs to several persons, they shall exercise this right jointly.

Disposition of a right to technology belonging jointly to several persons shall be conducted by them by common consent.

3. A transaction for the disposition of the right to technology made by one of the persons to whom the right to technology belongs may be recognized as invalid on demand of the remaining rightholders on the grounds of the absence for the person who made the transaction of the necessary authority only in this case if it is shown that the other party knew or clearly should have known of the absence of this authority.

4. The income from the use of technology, the right to which belongs jointly to several rightholders and also from the disposition of this right shall be divided among the rightholders by agreement among them.

5. If part of a unified technology, the right to which belongs to several persons, may have independent significance, an agreement among the rightholders may determine the rights to which part of the technology belong to each of the rightholders. Part of the technology may have independent significance if it may be used independently of the other parts of this technology.

Each of the rightholders shall have the right as his discretion to use the corresponding part of technology having independent significance unless otherwise provided by agreement among them. In such case the right to the technology as a whole and also the disposition of the right to it shall be conducted jointly by all the rightholders.

Income from the use of part of the technology shall go to the person possessing the rights to the given part of the technology.

Article 1550. **General Conditions of the Transfer of Rights to Technology**

Unless otherwise provided by the present Code or other statute, a person having the right to technology may at his discretion dispose of this right by its transfer in full or in part to other persons by contract or other transaction including by contract on alienation of this right, by a licensing contract, or by any other contract containing the elements of a contract for alienation of a right or a licensing contract.

The right to technology shall be transferred with respect to all the results of intellectual activity included in a system of unified technology as a unified whole. Transfer of rights to separate results of the number of indicated results (to part of the technology) shall be allowed only in cases when part of a unified technology may have independent significance in connection with Paragraph 1549 of the present Code.

Article 1551. **Conditions for Export of a Unified Technology**

1. A Unified technology must have practical application (implementation) primarily on the territory of the Russian Federation.

The right to technology may be transferred for the use of the unified technology on the territories of foreign states with the consent of the state customer or the disposer of budgetary assets in accordance with the legislation on foreign economic activity.

2. Transactions envisioning the use of a uniform technology beyond the boundaries of the Russian Federation shall be subject to state registration in the authorized Federal agency of executive authority for intellectual property.

Nonobservance of the requirements for state registration of the transaction shall entail its invalidity.

President of the Russian Federation
V. Putin
Moscow, the Kremlin December 18, 2006 No. 230-FZ

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