

THE IP COURT OF RUSSIA IN ACTION

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The first specialised IP rights court has been operating for almost a year in Russia. Altogether, nearly 600 cases had been filed by the end of March 2014.

Trademark owners and practitioners alike are curious to learn how the IP Court has succeeded in its task to create uniform practice in IP matters and how effectively the IP Court has managed to operate.

In 2011, Russia unexpectedly showed its commitment to IP protection by introducing a specialised IP Court. The relevant legislative changes were adopted in December 2011 and the IP Court was officially formed in February 2013. The IP Court started to operate at the beginning of July 2013.

The creation of the IP Court has been a positive improvement in the field, especially as the knowledge and experience of the Russian civil and commercial courts in IP matters had been more or less questionable. From day one, the IP Court had a special role in the Russian court system as it has a twofold role in IP matters, which is something new in the Russian court system.

The IP Court acts as both a first instance court and as a cassation (appeal) court. As a first instance court it handles, for example, cancellation and invalidation actions of all IP rights, except copyright. As the cassation (appeal) court it reviews its own cases, as well as other IP cases handled by Rospatent, the patent office (appeals against the decisions of Rospatent) and commercial (arbitration) courts (mainly infringement cases).

The main difference in the jurisdiction of the IP Court compared with previous processes is that there is no possibility to appeal against the subject matter of decisions at the IP Court. The IP Court as the cassation (appeal) court examines only the procedural and normative aspects of decisions, ie, that the rules and law have been followed.

The lack of a possibility to appeal against the subject matter means that cases filed at the IP Court need to be well prepared beforehand so that there is no need to appeal against the decision in the first place.

How it all works

During 2013, 456 claims were filed at the IP Court, of which 362 were accepted for consideration. Overall, 149 cases were heard and completed last year. Due to a lack of subject matter appeals, no appeals were accepted at the cassation (appeal) court.

The IP Court has very tight terms for the consideration of cases. Within one month of receiving a claim, the IP Court must hold a preliminary hearing at which all the documents and arguments are evaluated. The main hearing is, as a rule, held one month after the preliminary one. The main hearing

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can be postponed, but not for submitting further evidence as all evidence must be submitted simultaneously with the claim. After the main hearing, the decision will be issued and published within five working days.

During its first year, the IP Court has managed to follow these terms pretty well. In fact, the current average time for the proceedings has been three to five months from the moment of filing the claim to the moment of issuing a decision. If this is not effective, nothing is!

General summary

In general, the creation of the IP Court has been a positive development in the IP field in Russia. In addition to the effective process, the specialised court with qualified experts and judges definitely increases trademark owners' trust in protecting, and especially enforcing, their IP rights in Russia.

It is still too early to estimate whether the IP Court has changed, or will change and unify, general practice in IP matters, but the signals have been very positive. Already, the fact that the IP Court publishes all its decisions online helps others to follow the practice and possible changes in it. ■

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