

# The Russian Intellectual Property Legal Framework

The key reforms in Russian IP laws are aimed at harmonization with international practice, Mr Belotcerkovskii a patent agent in Papula-Nevinpat, a firm based in Helsinki, Finland, provides us with more information relating to the Russian Intellectual Property Legal Framework.

## Please introduce yourself, your role and your firm.

I work as a patent agent in Papula-Nevinpat, a firm based in Helsinki, Finland. We offer services in patent, trademark and design protection all over the world and have offices in Finland, Russia, Ukraine, Belarus, Kazakhstan, Ukraine and Uzbekistan. Our staff includes local patent, design and trademark attorneys in all the above countries, as well as Eurasian and European attorneys. I work mainly in the field of nanotechnologies and telecommunications.

## Recent years have seen Russia implement several reforms to its IP laws and court system. What have been the key reforms?

The key reforms in Russian IP laws are aimed at harmonization with international practice. Generally, protection of IP rights is governed by Part 4 of the Russian Civil Code. Several changes have been made in this document during the last year, and an upcoming amendment that is supposed to come into force in October 2014 will further harmonize the Civil Code with TRIPS and, in some instances, the European Patent Convention (EPC).

On the other hand, one of the most important IP reforms in 2013 was the establishment of a new IP court, the first specialized commercial court which was discussed in our latest Lawyer Monthly publication in the June 2013 issue. Since its launch several hundred cases have been handled there and the work of the court has been well documented on the official website. However, the current biggest news related to Russian court reforms is the merger of higher courts in Russia which is planned to take place in August 2014. Until now civil, criminal and administrative cases have been handled at the Supreme Court as the highest instance, while commercial disputes have been within the jurisdiction of the High Commercial Court. The two higher courts sometimes issued overlapping and conflicting decisions; and so the new unified Supreme Court

is expected to provide more uniform application of laws.

## What will be/have been the main effects of these reforms?

Effects of the merger of higher courts on the position of the IP court remain to be seen. Some predict that the IP court will branch out of the "Arbitraj" system; i.e. it may not be part of the commercial courts in the future and function independently.

As to the changes in the Civil Code, they can be summarized as an attempt to harmonize it with international practice and at the same time provide applicants with more flexibility to choose between inventions, utility models and even industrial designs. With the new changes, any of these objects of IP protection can be searched as prior art with respect to each other. It should also become easier to transform applications into one another, for example a utility model application into a patent application and vice-versa. To register an industrial design, applicants have had to draft an application that included a description and a "list of essential features" which would define the scope of protection together with the drawings. When the reform comes into force this year, the list of essential features will no longer be necessary and the scope will be defined only by the figures, as it is in most countries that have design protection. Regarding inventions, smaller changes will be made, for example use-claims will become allowable. At the same time, more strict requirements to sufficient disclosure of an invention and its technical result in the specification will be introduced. Also, certain changes in patent prosecution are taking place, such as issue and publication of a search report during examination. Utility models will no longer have variants and include only one independent claim, and their validity period will be limited to a maximum of 10 years (as compared to current 13 years). More changes will follow in the year 2015.

## What are the main issues you deal with regarding IP in Russia?

We mainly deal with patent and design prosecution and trademark protection in Russia. This includes drafting and filing applications as well as handling them throughout their lifetime, responding to Office Actions, and consulting our clients on/in the best possible way to obtain strong IP protection in Russia that can be used efficiently after a patent or a trademark has been granted.

## What should foreigners be aware of in terms of IP protection when looking to invest/start a business in Russia?

If a company's business relies on IP Rights in any way, I would always recommend using the services of a patent/trademark firm that has attorneys proficient in Russian laws, rules and regulations to avoid pitfalls and unpleasant surprises in the long term. It is also important to realize that patent and trademark prosecution is not simply formal work that involves filing some documents at the Patent Office and getting the official papers back. As attorneys we strive to act in our client's best interest which includes recommendations related to local practices and advice on possible improvements in the application. **LM**

## Contact:



Aleksandr Belotcerkovskii

Email: [aleksandr.belotcerkovskii@papula-nevinpat.com](mailto:aleksandr.belotcerkovskii@papula-nevinpat.com)

PAPULA  NEVINPAT