

## STILL A GOOD PLACE FOR IP PROTECTION



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Government ineffectiveness, bureaucracy and an unpredictable legislative environment are some of the challenges of doing business in Russia. Contrary to what is commonly thought, however, examination and registration of intellectual property rights by the Russian Federal Service for Intellectual Property (Rospatent) is done efficiently and without unnecessary delay.

Neither unpredictability nor complexity of the IP registration process was regarded as a problem by representatives of Finnish companies operating in Russia, according to a study conducted by Aalto University. Commissioned by Papula-Nevinpat, the study focused on Finnish companies' experience of the exploitation of IP rights in Russia and four Eurasian countries (Belarus, Ukraine, Kazakhstan and Uzbekistan).

The companies saw Russia's future economic development and political stability as the main challenge. Although sanctions have disrupted operations in Russia to a fair degree, it is the weakening of the Russian rouble late last year that has caused the biggest problems.

The companies reported that the effects of EU sanctions and counter sanctions have been mainly negative. The decreasing purchasing power of Russian companies and consumers caused by the weakening rouble seems to have had even greater negative effects than the sanctions on the companies' operations in Russia.

However, despite the weak rouble and continuing sanctions, foreign applicants have not lost their interest in Russia and continue to actively pursue IP protection. According to the annual report of Rospatent, the number of patent applications filed by foreign applicants grew each year from 2010 to 2014. The number of trademark applications also rose annually from 2010 to 2013, before decreasing by 10% in 2014.

The increase in IP filing activity by foreign applicants is also displayed by the growth in utility model applications and industrial design applications, which in 2014 increased by 89% and 48%, respectively, compared to 2010.

Since Russia's first patent law came into force in 1992, Russian IP legislation has undergone several major reforms. The improved legislation, which is a step closer to that of Western jurisdictions, is one of the positive experiences pointed out by the respondents to the Aalto University study. The Finnish companies also valued Russia's World Trade Organization membership, Rospatent's unbiased and high-quality substantive examination, and an unbiased and transparent IP Court.

### The IP Court

Operating in Moscow since July 2013, the court has raised awareness of IP matters among Russian companies. It reviews regulatory acts of Rospatent, decisions of the Federal Antimonopoly Service, disputes over IP ownership, and claims to invalidate IP registrations (except copyright and related rights).

In its second role as a cassation instance, the court reviews decisions issued by regional commercial courts in IP infringement cases. In addition

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to every decision, the court also publishes comprehensive statistics biannually. In 2014 and the first half of 2015, the success rates in appeals filed with the court were similar for both domestic appellants and parties outside the Commonwealth of Independent States region, suggesting that foreign and Russian companies are treated equally.

The respondents to the Aalto University study felt that the awareness of and respect for IP are growing among local companies, and reported that in certain cases it was possible to successfully stop patent or trademark infringement even without filing a lawsuit. On a general level, almost all respondents noted that in terms of meeting protection objectives, there were no differences between Russia and Eurasia and other countries. Also, they experienced no significant difference in the cost of filing and prosecuting IP applications in Russia and other Western or Asian countries.

The representatives of Finnish companies gave a clear message to those in the process of entering the Russian or Eurasian market that if a company intends to protect IP rights, it is absolutely necessary to take care of protective measures, such as trademark and domain name registrations, before entering the market.

Despite the challenging economic situation, Rospatent and the IP Court issue decisions on time and treat domestic and foreign applicants equally. A company's strategy and business goals, in addition to its competitors' location and patent practices, should dictate whether to pursue IP protection in Russia and the Eurasian region. ■

*The summary of the study can be accessed on Papula-Nevinpat's website at: <http://www.papula-nevinpat.com/en/news/all-news/aalto-university-study-experiences-in-the-exploitation-of-ipr-in-russia-and-four-eurasian-countries>*

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