

RUSSIA  
PATENT

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### RUSSIAN PATENT

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### **What can be protected?**

A technical solution in any field of technology, relating to a product or a method which is new, inventive and industrially applicable.

### **What cannot be protected?**

- Discoveries, scientific theories and mathematical methods.
- Aesthetic creations.
- Rules and methods of playing games and intellectual or economic activity.
- Computer programs.
- Presentations of information.
- Plant or animal varieties and biological means of obtaining them.
- Methods for cloning humans and modification of genetic integrity of cells of the embryonic line of a person.
- Use of human embryos in industrial or commercial purposes.
- Other inventions contrary to public policy and/or morality.

### **Who can file?**

Any natural or legal person. A local representative is required for foreign applicants.

### **In which language?**

To obtain a filing date, a patent application can be filed in any language. Translation into Russian is required within two months from filing.

### **Formalities for filing a patent application**

For PCT-cases the term limit for entering a national phase is 31 months from the earliest priority date; for a direct national filing the term is 12 months from the earliest priority date. Filing requirements include a disclosure with drawings, names and contact details of the applicant(s) and inventor(s). For a PCT national phase the PCT application number is sufficient. The Russian translation of the application and information on the number and filing date of the priority application can be filed within 2 months after the national phase entry date or filing date in Russia. For non-PCT cases a certified copy of the priority application must be filed within 16 months from the priority date.

### **Examination procedure**

The Russian Patent Office conducts both formal and substantive examinations of an application. The formal examination is carried out after the Russian translation of the application has been filed with the Patent Office. Substantive examination of a formally

accepted application has to be requested within 3 years from the (international) filing date. The first Office Action can be expected within a year after filing the substantive examination request. A response to an Office Action must be filed within 3 months from the Office Action issuance date. However, for applications having the national phase entry date or filing date in Russia before 1 October 2014, an Office Action has to be responded within 2 months from the date of its receipt by a local agent. The term for response can be extended month by month, the maximum extension being 10 months altogether. The application is published after 18 months following the national phase entry date or filing date in Russia. According to our experience, the patent is granted within 1 to 3 years after the substantive examination has been requested. The substantive examination may be expedited via the Global Patent Prosecution Highway program.

### **Payment of the granting fee**

After a granting decision has been issued, the official granting fee and the accumulated annuities must be paid within 6 months. The patent is granted and published after the payment.

### **Appeal procedure**

An appeal against a rejection decision can be filed with the Patent Disputes Chamber of the Patent Office within 6 months.

### **How long is the patent valid?**

A patent is valid for 20 years from the filing date. Inventions related to pharmaceuticals, agrochemicals and pesticides are subject to a patent term extension (Supplementary Protection Certificate) for a maximum of 5 years.

### **Opposition proceedings**

An opposition can be filed with the Patent Disputes Chamber at any time during the validity term of the patent. An appeal against the decision of the Chamber can be filed with the IP Court.

### **Use of the patent**

In Russia a patent holder is not obliged to use the patented invention. However, a nonexclusive compulsory license authorizing use of the patented invention may be granted to a third party if a patentee fails to use or insufficiently uses an invention within 4 years of the patent grant, leading to insufficient offer of corresponding goods or services on the market.

## **License and assignment agreements**

The agreements must be registered at the Russian Patent Office, otherwise they are considered to be invalid. In the Russian legislation, there are several special requirements for the agreements.

## **Utility models – new legislation effective from 1.1.2015**

Currently all Russian utility models have 10 years maximum term of protection, without possibility of a term extension. The Russian Patent Office conducts substantive examination of utility model applications in order to determine novelty. Substantive examination is conducted automatically, and filing a separate request for examination is not required.

The prosecution of a utility model application is kept as streamlined as possible. It is allowed to convert a utility model application into a patent application at any time before grant, or before a due date for appealing rejection decision.

## **Regional phase application in Eurasia instead of national application in Russia?**

Russia is a party to the Eurasian Patent Convention signed by nine former Soviet republics: Kyrgyz Republic, Russian Federation, Republic of Azerbaijan, Republic of Armenia, Republic of Belarus, Republic of Kazakhstan, Republic of Moldova, Republic of Tajikistan and Republic of Turkmenistan. The Eurasian Patent Office grants patents that are valid in said member states. After the grant of a Eurasian patent neither separate validations nor translations are required; the issued patent is automatically in force in those member states which the annuities are paid for. Enforcement of the Eurasian patent is obtained through the national courts of the member states.

In general, the Eurasian procedure is more cost efficient if patent protection is sought in at least two individual member states. Although the Eurasian official fees are significantly higher than those of the individual member states, they are partially compensated by the more flexible and efficient prosecution. The accepted claims of a Eurasian patent are usually broader than those of a Russian patent. Further, the whole procedure in the Eurasian Patent Office is 6-18 months shorter than that in the Russian Patent Office. Conversion of a Eurasian application to national patent applications is possible at any time during examination.

Papula-Nevinpat is a globally recognized patent, trademark and design agency. We represent a broad range of clients, from Fortune 500 companies to SME's and private individuals. We help our customers succeed through professional IP services rooted in the digital age. In addition to our Finland-based global operations, Papula-Nevinpat has a strong foothold in the Eurasian market with local offices in Russia, Belarus, Kazakhstan, Ukraine and Uzbekistan.

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