

Part 4

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Section VII Rights in the Results of Intellectual Activities and Means of Individualisation

Chapter 69. General Provisions

Article 1225. The Protected Results of Intellectual Activities and Means of Individualisation

1. Below are the results of intellectual activities and the means of individualisation of legal entities, goods, works, services and enterprises which qualify as such which enjoy legal protection (by intellectual property):

- 1) scientific, literary and artistic works;
 - 2) programmes for computers (computer programmes);
 - 3) databases;
 - 4) performances;
 - 5) sound recordings;
 - 6) broadcasting and cable radio and television programmes (the transmissions of broadcasting or cable organisations);
 - 7) inventions;
 - 8) utility models;
 - 9) industrial designs;
 - 10) breeding achievements;
 - 11) integrated circuit layout-designs (topography);
 - 12) know-how;
 - 13) firm names;
 - 14) trademarks and service marks;
 - 15) the appellation of origin of goods;
 - 16) commercial names.
2. Intellectual property is protected by law.

Article 1226. Intellectual Rights

For the results of intellectual activities and the means of individualisation qualifying as such (the results of intellectual activities and means of individualisation) intellectual rights are recognised as including an exclusive right deemed a property right, and also in the cases specified by the present Code personal non-property rights and other rights (artists resale right, right of access and others)

Article 1227. Intellectual Rights and the Right of Ownership

1. Intellectual rights do not depend on the right of ownership to the material medium (thing) in which the result of an intellectual activity or the means of individualisation is expressed.
2. The transfer of the right of ownership to the thing does not cause the transfer or granting of intellectual rights to the results of the intellectual activity or the means of individualisation expressed in the thing, except for the case described in [Item 2 of Article 1291](#) of the present Code.

Article 1228. The Author of the Result of an Intellectual Activity

1. The author of the result of an intellectual activity is the citizen by whose creative labour such result has been created.

The following shall not be deemed authors of a result of an intellectual activity: citizens who have not made a personal creative contribution in the creation of such result, for instance, who have rendered only a technical, consultative, organisational or material assistance to the author thereof or who have only assisted in the completion of formalities for such result or for the use thereof, and also citizens who have supervised the performance of relevant works.

2. The author of the result of an intellectual activity holds the right of attribution, and in the cases envisaged by the present Code a right to the name and other personal non-property rights.

The right of authorship, the right to the name and other personal non-property rights of the author are unalienable and unassignable. A waiver of these rights shall be deemed null and void.

The right of authorship and the name of the author shall be protected in perpetuity. After the author's death any person concerned may protect his authorship and name, except for the cases set out in [Item 2 of Article 1267](#) and [Item 2 of Article 1316](#) of the present Code.

3. The exclusive right to the result of an intellectual activity created by creative labour is initially vested in the author. This right may be transferred by the author to another person under a contract, and it may also be transferred to other persons on the other grounds established by a law.

4. Rights in the result of an intellectual activity created jointly by the creative labour of two and more citizens (co-authorship) are jointly owned by the co-authors.

Article 1229. Exclusive Right

1. The citizen or legal entity holding the exclusive right to the result of an intellectual activity or a means of individualisation (right holder) is entitled to use such result or such means at his own discretion by any means that does not conflict with the law. The right holder may dispose of the exclusive right to the result of the intellectual activity or means of individualisation ([Article 1233](#)), unless otherwise envisaged by the present Code.

The right holder may at his own discretion permit or prohibit other persons to use the result of the intellectual activity or means of individualisation. The lack of prohibition shall not be deemed consent (permission).

Other persons shall not use the relevant result of the intellectual activity or means of individualisation without the right holder's consent, except for the cases envisaged by the present Code. If taking place without the right holder's consent, the use of the result of an intellectual activity or means of individualisation (including the use thereof by the methods envisaged by the present Code) is deemed illegal and it shall cause the liability established by the present Code and other laws, except for cases when the use of the result of an intellectual activity or means of individualisation by persons other than the right holder without his consent is permitted by the present Code.

2. The exclusive right to the result of an intellectual activity or means of individualisation (except for an exclusive right to a firm name) may be held by one person or jointly by several persons.

3. Where the exclusive right to the result of an intellectual activity or means of individualisation is jointly held by several persons each of the right holders may use the result or means at his own discretion, unless otherwise envisaged by the present Code or agreement between the right holders. Relationships between the persons jointly holding the exclusive right shall be defined by agreement between them.

Incomes from the joint use of the result of an intellectual activity or means of individualisation shall be distributed among all right holders in equal parts, except as otherwise envisaged by agreement between them.

Right holders shall jointly dispose of the exclusive right to the result of an intellectual activity or means of individualisation, except as otherwise envisaged by the present Code.

4. In the cases envisaged by [Item 3 of Article 1454](#), [Item 2 of Article 1466](#), [Item 1 of Article 1510](#) and [Item 1 of Article 1519](#) of the present Code independent exclusive rights in one and the same result of an intellectual activity or one and the same means of individualisation may simultaneously be held by different persons.

5. Restrictions on exclusive rights in the results of intellectual activities or means of individualisation, in particular, in cases when the use of the results of intellectual activities is permitted without the right holders' consent but when they retain their rights to a fee shall be established by the present Code.

These restrictions shall be established on the condition that they neither inflict an unjustified damage to the ordinary use of the results of the intellectual activities or means of individualisation nor infringe without a good reason the lawful interests of the right holders.

Article 1230. The Effective Term of Exclusive Rights

1. Exclusive rights in the results of intellectual activities or means of individualisation shall be effective for a certain term, except for the cases envisaged by the present Code.

2. The duration of the effective term of an exclusive right to the result of an intellectual activity or means of individualisation, the procedure for counting the term, the grounds and procedure for extending the term, and also the grounds and procedure for terminating the exclusive right before the expiry of the term are established by the present Code.

Article 1231. The Effect of Exclusive and Other Intellectual Rights on the Territory of the Russian Federation

1. The exclusive rights in the results of intellectual activities and means of individualisation established by international treaties of the Russian Federation and the present Code are effective on the territory of the Russian Federation.

The personal non-property and other intellectual rights not deemed exclusive are effective on the territory of the Russian Federation in accordance with [Paragraph 4 of Item 1 of Article 2](#) of the present Code.

2. When the exclusive right to the result of an intellectual activity or means of individualisation is recognised in accordance with an international treaty of the Russian Federation the content of the right, its effect, restriction, procedure for exercising and protecting the right shall be defined by the present

Code irrespective of the provisions of the legislation of the country where the exclusive right came into being, unless otherwise envisaged by the international treaty or the present Code.

Article 1232. The State Registration of the Results of Intellectual Activities and of Means of Individualisation

1. In the cases envisaged by the present Code the exclusive right to the result of an intellectual activity or means of individualisation is recognised and protected on the condition that the result or means is registered by the state.

2. In cases when the result of an intellectual activity or means of individualisation is subject to state registration under the present Code the alienation of the exclusive right to such result or means under a contract, the pledge of the right and the granting of a right to use the result or means under a contract, and equally the transfer of the exclusive right to the result or means without a contract are also subject to a state registration for which the [procedure](#) and terms are established by the Government of the Russian Federation.

3. The state registration of alienation of the exclusive right to the result of an intellectual activity or means of individualisation under a contract, the state registration of pledge of the right, and also the state registration of the assignment of a right to use the result of means under a contract shall be accomplished by means of the state registration of the relevant contract.

4. In the case envisaged by [Article 1239](#) of the Code the ground for the state registration of provision of the right of using the result of an intellectual activity or means of individualisation is the relevant court's decision.

5. The ground for the state registration of assignment of the exclusive right to the result of an intellectual activity or means of individualisation in line of succession shall be a certificate of inheritance, except for the case envisaged by [Article 11657](#) of the present Code.

6. The non-observance of the provision requiring state registration for a contract of alienation of the exclusive right to the result of an intellectual activity or means of individualisation or a contract of assignment to another person of a right to use such result or means shall cause the invalidity of the relevant contract. If the provision requiring state registration for the assignment of the exclusive right without a contract is not observed such assignment shall be deemed unaccomplished.

7. In the cases envisaged by the present Code the state registration of the result of an intellectual activity or means of individualisation may be accomplished if the right holder so wishes. In these cases, the registered result of an intellectual activity or means of individualisation and the rights in such result are subject to the rules set out in [Items 2-6](#) of the present article, except as otherwise envisaged by the present Code.

Article 1233. Disposing of an Exclusive Right

1. The right holder may dispose of his exclusive right to the result of an intellectual activity or means of individualisation in any manner not contradicting a law and the essence of such exclusive right, including its alienation under a contract to another person (a contract of alienation of the exclusive right) or the granting to another person of the right of using the relevant result of the intellectual activity or means of individualisation within the limits set by a contract (licence contract).

The conclusion of the licence contract shall not cause the assignment of the exclusive right to the licensee.

2. Contracts of disposing of the exclusive right to the result of an intellectual activity or means of individualisation, including contracts of alienation of an exclusive right and licence (sublicence) contracts are subject to the general provisions on obligations ([Articles 307-419](#)) and on the contract ([Article 420-453](#)) in as much as otherwise is not established by the rules of the present section or ensue the content or nature of the exclusive right.

3. A contract that does not expressly state that the exclusive right to the result of an intellectual activity or means of individualisation is assigned in full shall be deemed a licence contract, except for a contract concluded in respect of the right of using the result of an intellectual activity or means of individualisation that has been specifically created or is being created for being included into a complex object ([Paragraph 2 of Item 1 of Article 1240](#)).

4. The terms of a contract of alienating an exclusive right or of a licence contract limiting a citizen's right to create the results of an intellectual activity of a certain kind or in a certain area of intellectual activity or to alienate the exclusive right to such results to other people are deemed null and void.

5. Where a contract of pledge of the exclusive right to the result of an intellectual activity or means of individualisation is concluded the pledgor is entitled to use the result of the intellectual activity or means of individualisation during the effective term of the contract and dispose of the exclusive right to such result or means without the pledgee's consent, except as otherwise envisaged by the contract.

Article 1234. The Contract of Alienation of an Exclusive Right

1. Under a contract of alienation of an exclusive right one party (right holder) assigns or undertakes to assign its exclusive right to the result of an intellectual activity or means of individualisation to another party (acquirer) in full.

2. The contract of alienation of the exclusive right shall be made in writing and it shall be subject to state registration in the cases envisaged by [Item 2 of Article 1232](#) of the present Code. The nonobservance of the written form or of the provision requiring state registration shall cause the invalidity of the contract.

3. Under the contract of alienation of the exclusive right the acquirer undertakes to pay the fee envisaged by the contract to the right holder, except as otherwise envisaged by the contract.

If a contract of alienation of an exclusive right concluded on a compensation basis does not comprise a clause concerning the amount of fee or procedure for determining it the contract shall be deemed unconcluded. In this case, the rules envisaged by [Item 3 of Article 424](#) of the present Code for price-setting shall not be applicable.

4. The exclusive right to the result of an intellectual activity or means of individualisation is transferred from the right holder to the acquirer of the right as of the time of conclusion of a contract of alienation of the exclusive right, except as otherwise established by agreement of the parties. If the contract of alienation of the exclusive right is subject to state registration ([Item 2 of Article 1232](#)) the exclusive right to the result or means is transferred from the right holder to the acquirer of the right as of the time of state registration of the contract.

5. If the acquirer has significantly failed to observe his duty to pay to the right holder within the term established by the contract of alienation of the exclusive right a fee for the acquisition of the exclusive right to the result of the intellectual activity or means of individualisation ([Subitem 1 of Item 2 of Article 450](#)) the previous right holder shall be entitled to claim in the court that the rights of the acquirer of the exclusive right be assigned to the previous right holder and also a payment of damages, if the exclusive right has been transferred to the acquirer thereof.

If the exclusive right has not been transferred to the acquirer then, if he has failed to execute his duty to pay within the term set by the contract a fee for the acquisition of the exclusive right the right holder may waive the contract unilaterally and claim a payment of damages due to the rescission of the contract.

Article 1235. The Licence Contract

1. Under the licence contract one party being the holder of the exclusive right to the result of an intellectual activity or means of individualisation (licensor) undertakes to grant to the other party (licensee) the right of using the result or means within the limits set out in the contract.

The licensee may use the result of the intellectual activity or means of individualisation only within the limits of the rights and in the manner set out in the licence contract. The right of using the result of the intellectual activity or means individualisation not expressly mentioned in the licence contract shall not be deemed granted to the licensee.

2. Except as otherwise envisaged by the present Code, the licence contract shall be concluded in writing.

The licence contract shall be subject to state registration in the cases envisaged by [Item 2 of Article 1232](#) of the present Code.

The non-observance of written form or of the provision requiring state registration shall cause the invalidity of the licence contract.

3. The licence contract shall make reference to the territory on which the use of the result of the intellectual activity or means of individualisation is permitted. If the contract does not comprise reference to the territory on which the use of the result of the intellectual activity or means of individualisation is permitted the licensee is entitled to use them throughout the territory of the Russian Federation.

4. The term for which the licence contract is concluded shall not exceed the effective term of the right to the result of the intellectual activity or means of individualisation.

If the licence contract does not define its effective term the contract shall be deemed concluded for a five-year term, except as otherwise envisaged by the present Code.

If the exclusive right is terminated the licence contract shall be terminated.

5. Under the licence contract the licensor undertakes to pay to the licensee the fee specified in the contract, except as otherwise envisaged by the contract.

If an onerous licence contract does not comprise a clause on the amount of fee or on the procedure for setting it the contract shall be deemed unconcluded. In this case the pricing rules set out in [Item 3 of Article 424](#) of the present Code are not applicable.

6. The licence contract shall set out the following:

1) the subject matter of the contract, by referring to the result of the intellectual activity or means of individualisation which may be used under the contract, and in relevant cases to the number and date of issue of a document certifying the exclusive right to the result or means (a patent or certificate);

2) the manner in which the result of the intellectual activity or means of individualisation is going to be used.

7. The transfer of the exclusive right to the result of an intellectual activity or means of individualisation to the new right holder shall not be deemed a ground for modifying or rescinding the licence contract concluded by the previous right holder.

Article 1236. The Types of Licence Contracts

1. A licence contract may serve to:

1) grant to a licensee the right of using the result of an intellectual activity or means of individualisation, with the licensor's retaining his right of issuing licences to other persons (a simple (nonexclusive) licence);

2) grant to the licensee the right of using the result of an intellectual activity or means of individualisation, with the licensor's not retaining the right of issuing licences to other persons (an exclusive licence).

2. Except as otherwise established by the licence contract, the licence is deemed simple (non-exclusive).

3. In respect of various types of using the result of an intellectual activity or means of individualisation one licence contract may comprise the terms set out in [Item 1](#) of the present article for licence contracts of various types.

Article 1237. Performing the Licence Contract

1. The licensee shall provide reports to the licensor on the use of the result of the intellectual activity or means of individualisation, except as otherwise established by the licence contract. If a licence contract requiring the making of reports on the result of an intellectual activity or means of individualisation lacks a clause concerning the term and procedure for the provision of reports, the licensee shall present such reports to the licensor if requested by him.

2. During the effective term of the licence contract the licensor shall abstain from committing actions capable of impeding the licensee's exercising his right of using the result of the intellectual activity or means of individualisation within the limits set by the contract.

3. Using the result of the intellectual activity or means of individualisation in a manner not envisaged by the licence contract or upon the termination of such contract or otherwise beyond the limits of the rights granted to the licensee under the contract shall cause the accountability for a breach of the exclusive right to the result of the intellectual activity or means of individualisation established by the present Code, other laws or the contract.

4. If the licensee fails to execute his duty to pay to the licensor within the term set by the licence contract a fee for the granting of the right of using scientific, literary or artistic works ([Chapter 70](#)) or objects of allied rights ([Chapter 71](#)) the licensor may unilaterally waive the licence contract and claim a payment of the damages caused by the rescission of the contract.

Article 1238. The Sublicence Contract

1. Given the licensor's consent in writing, the licensee may grant under a contract the right of using the result of the intellectual activity or means of individualisation to another person (a sublicence contract).

2. Under the sublicence contract a sublicensee may obtain the rights of using the result of the intellectual activity or means of individualisation only within the limits of the rights and the manners of use set out in the licence contract for the licensee.

3. A sublicence contract concluded for a term exceeding the effective term of the licence contract shall be deemed conclude for the effective term of the licence contract.

4. The licensee shall be liable before the licensor for the actions of a sublicensee, except as otherwise established by the licence contract.

5. A sublicence contract shall be subject to the rules of the present Code governing the licence contract.

Article 1239. The Enforced Licence

In the cases envisaged by the present Code a court may take a decision on the claim of a person concerned to grant to the person on the terms specified in the court's decision the right of using the result of an intellectual activity in which the exclusive right is held by another person (enforced licence).

Article 1240. Using the Result of an Intellectual Activity as Part of a Complex Object

1. The person that has organised the creation of a complex object incorporating several protected results of intellectual activities (a film, another audiovisual work, theatre performance show, multimedia product, comprehensive technology) acquires the right of using these results under contracts of exclusive

right alienation or licence contracts concluded by the person with the holders of the exclusive rights in the relevant results of the intellectual activities.

If the person that has organised the creation of a complex object acquires the right of using the result of an intellectual activity that has been specifically created or is being specifically created for being included in the complex object the relevant contract shall be deemed a contract exclusive right alienation, except as otherwise envisaged by agreement of the parties.

A licence contract having a provision for using the result of an intellectual activity within a complex object shall be concluded for the whole term and in respect of the whole territory of effect of the relevant exclusive right, except as otherwise envisaged by the contract.

2. The terms of a licence contract that impose limitations on the use of the result of an intellectual activity within a complex object shall be deemed invalid.

3. If the result of an intellectual activity is used within a complex object the author of the result shall retain the right of attribution and other personal non-property rights to the result.

4. While using the result of an intellectual activity within a complex object the person that has organised the creation of the object shall be entitled to indicate his/its name or claim that such indication be made.

5. The rules of the present article shall be applicable to the right of using the results of an intellectual activity within a comprehensive technology created entirely or partially with federal budget funds, except as otherwise established by the rules of [Chapter 77](#) of the present Code.

Article 1241. The Transfer of an Exclusive Right to Other Persons without a Contract

The transfer of the exclusive right to the result of an intellectual activity or means of individualisation to another person without the conclusion of a contract with the right holder is admissible in the cases and on the grounds established by a law, for instance, in line of universal succession (inheritance, the reorganisation of a legal entity) and in the event of the levy of execution of the right holder's property.

Article 1242. The Organisations Collectively Managing Copyright and Allied Rights

1. The authors, performers and manufacturers of sound recordings and other owners of copyright and allied rights, when it is difficult for them to exercise their rights individually or when the present Code permits the use of objects of copyright and allied rights without the consent of the owners of the relevant rights but with a fee being paid to them, may form membership-based non-commercial organisations which have the powers granted thereto by right holders and the duty to manage the relevant rights on a collective basis (organisations managing rights on a collective basis).

The formation of such organisations shall not impede the representation of the owners of copyright and allied rights by other legal entities and citizens.

2. Organisations managing rights on a collective basis may be formed to manage the rights classified as one or several types of objects of copyright and allied rights, manage one or several types of such rights in respect of certain manners in which the relevant objects may be used or to manage any copyright and/or allied rights.

3. A ground underlying the powers of an organisation managing rights on a collective basis shall be a contract of assignment of rightmanagement powers concluded by the organisation with a right holder in writing, except for the case envisaged by [Paragraph 1 of Item 3 of Article 1244](#) of the present Code.

The said contract may be concluded with the right holders being members of the organisation and with the right holders not being members thereof. In this case, the organisation managing rights on a collective basis shall undertake to manage these rights if the management of this category of rights falls within the charter activities of the organisation. Also a ground underlying the powers of an organisation managing rights on a collective basis may be a contract with another organisation, including foreign one, managing rights on a collective basis.

The contracts mentioned in [Paragraphs 1](#) and [2](#) of the present item are subject to the general provisions on obligations ([Articles 307-419](#)) and on the contract ([Articles 420-453](#)), in as much as otherwise ensues the content or nature of the right put in management. The rules of the present section on contracts of alienation of exclusive rights and on licence contract are not applicable to the said contracts.

4. Organisation managing rights on a collective basis are not entitled to use the objects of copyright and allied rights for which exclusive rights have been transferred thereto for management.

5. Organisation managing rights on a collective basis are entitled to present claims in the court either on behalf of right holders or on their own behalf, and also to commit the other legal actions required for protecting the rights that have been transferred thereto for being managed on a collective basis.

An accredited organisation ([Article 1244](#)) is also entitled to present claims in the court on behalf of an indefinite circle of right holders as might be required for protecting the rights managed by this organisation.

6. The legal status of organisations managing rights on a collective basis, the functions of such organisations, the rights and duties of their members are defined by the present Code, laws on noncommercial organisations and the charters of the relevant organisations.

Article 1243. The Performance of Contracts with Right Holders by an Organisation Managing Rights on a Collective Basis

1. An organisation managing rights on a collective basis shall conclude licence contracts with users for the provision to them of the rights transferred by right holders to the organisation for management concerning relevant manners of use of objects of copyright and allied rights on the terms of a simple (non-exclusive) licence and collect fees for the use of these objects. In cases when objects of copyright and allied rights according to the present Code may be used without the right holder's consent but with a fee thereto the organisation managing rights on a collective basis shall conclude contracts with users for the payment of a fee and collect funds for the purpose.

The organisation managing rights on a collective basis is not entitled to refuse to conclude a contract with a user without a sufficiently good reason.

2. If a licence contract with a user is concluded directly by a right holder the organisation managing rights on a collective basis may collect fees for the use of objects of copyright and allied rights only if there is an expressly stated provision to this effect in the said contract.

3. On the request of the organisation managing rights on a collective basis users shall present their reports thereto on the use of objects of copyright and allied rights as well as the other information and documents required for the purpose of fee collection and distribution, with the list thereof, and term for the provision thereof, being defined in the contract.

4. The organisation managing rights on a collective basis shall distribute the fee for the use of objects of copyright and allied rights among right holders, and also pay out the said fee thereto.

The organisation managing rights on a collective basis is entitled to withhold from the fee amounts of money to cover the necessary expenses relating to the collection, distribution and disbursement of the fee as well as the amounts of money posted to the special funds set up by this organisation with the consent and in the interests of the right holders it represents, in the amounts and procedure set out in the charter of the organisation.

Fee distribution and disbursement shall take place on a regular basis on the dates set by the charter of the organisation managing rights on a collective basis pro rata to the actual use of relevant objects of copyright and allied rights determined on the basis of the information and documents received from users, and also other information on the use of the objects of copyright and allied rights, including statistical data.

Simultaneously with fee disbursement the organisation managing rights on a collective basis shall present a report to the right holder on the use of his rights, including the amount of fee collected and on the sums withheld from it.

5. The organisation managing rights on a collective basis shall maintain registers with information on right holders, the rights transferred to the organisation for management, and also objects of copyright and allied rights. The information found in the registers shall be provided to all persons concerned in the procedure established by the organisation, except for the information that according to a law cannot be disclosed without the consent of the right holder.

The organisation managing rights on a collective basis shall place information in a public information system on the rights transferred to the organisation for management, including the title of the object of copyright and allied rights and the name of the author or other right holder.

Article 1244. The State Accreditation of Organisations Managing Rights on a Collective Basis

1. An organisation managing rights on a collective basis may get a state accreditation for the pursuance of activities in the below areas of collective management:

1) managing the exclusive rights in published musical works (with or without a text) and segments of dramatico-musical works in respect of the public performance thereof, broadcast or cable transmission, including re-transmission ([Subitems 6-8 of Item 2 of Article 1270](#));

2) exercising the rights of the composers being the authors of the musical works (with or without a text) used in an audiovisual work to receive a fee for the public performance or broadcast or cable transmission of the audiovisual work ([Item 3 of Article 1263](#));

3) managing the artists resale right in respect of artistic works, and also the author's manuscripts (autographs) of literary and musical works ([Article 1293](#));

4) exercising the rights of the authors, performers and manufacturers of sound recordings and audiovisual works to receive a fee for the reproduction/playback of the sound recordings and audiovisual works for personal purposes ([Article 1245](#));

5) exercising the rights of performers to receive a fee for a public performance, and also for a broadcast or cable transmission of sound recordings that are published for commercial purposes ([Article 1326](#));

6) exercising the rights of manufacturers of sound recordings to receive a fee for a public performance and also for a broadcast or cable transmission of sound recordings published for commercial purposes ([Article 1326](#)).

The state accreditation shall be accomplished on the basis of a transparent procedure and of account being taken of the opinion of persons concerned, including right holders, in the procedure defined by the Government of the Russian Federation.

2. A state accreditation for the pursuance of an activity in each of the collective management areas specified in [Item 1](#) of the present article may be obtained by only one organisation managing rights on a collective basis.

An organisation managing rights on a collective basis may obtain a state accreditation for the pursuance of activities in one, two and more collective management areas specified in [Item 1](#) of the present article.

The activities of an accredited organisation are not subject to the restrictions envisaged by the antimonopoly legislation.

3. An organisation managing rights on a collective basis which has obtained a state accreditation (an accredited organisation) is entitled, apart from managing the rights of the right holders with which it has concluded contracts in the procedure set out in [Item 3 of Article 1242](#) of the present Code, to manage rights and collect fees for the right holders with which it has not concluded such contracts.

The existence of an accredited organisation shall not impede the formation of other organisations to manage rights on a collective basis, including those in the collective management areas specified in [Item 1](#) of the present article. Such organisations are entitled to conclude contracts with users only in the interests of the right holders which have conferred thereon right management powers in the procedure envisaged by [Item 3 of Article 1242](#) of the present Code.

4. A right holder that has not concluded a contract with an accredited organisation for the transfer of right management powers ([Item 3](#) of the present article) is entitled at any time to waive in full or in part the management of his rights by that organisation. The right holder shall notify in writing the accredited organisation of his decision. If the right holder intends to waive the management by the accredited organisation of only part of copyright or allied rights and/or objects of these rights he shall present thereto a list of such removed rights and/or objects.

Upon the expiry of three months after the receipt of the relevant notice from the right holder the accredited organisation shall remove the rights and/or objects specified by him from contracts with all users and post information about it in a public information system. The accredited organisation shall pay to the right holder the fees he is entitled to that have been received from users under the contracts concluded earlier and present a report in compliance with [Paragraph 4 of Item 4 of Article 1243](#) of the present Code.

5. The accredited organisation shall take reasonable and sufficient measures for identifying the right holders entitled to receive fees under the licence contracts and contracts of disbursement of fees concluded by this organisation. Except as otherwise established by a law, the accredited organisation is not entitled to refuse to admit as its member a right holder entitled to receive a fee in accordance with the licence contracts and contracts of disbursement of fees concluded by this organisation.

6. Accredited organisations shall pursue their activities under the supervision of the empowered federal executive governmental body.

Every year, accredited organisations shall present their reports to the empowered federal executive governmental body about their activities, and also publish them in an all-Russia mass medium. The form of the report shall be established by the empowered federal executive governmental body.

7. The model charter of an accredited organisation shall be approved in the procedure defined by the Government of the Russian Federation.

Article 1245. The Fee for Free Reproduction/Playback of Sound Recordings and Audiovisual Works for Personal Purposes

1. The authors, performers and manufacturers of sound recordings and audiovisual works are entitled to receive a fee for a free reproduction/playback of the sound recordings and audiovisual works exclusively for personal purposes. Such fee is of compensatory nature, and it is payable to right holders from the funds payable by the manufacturers and importers of the equipment and material media used for the reproduction/playback.

A list of the equipment and material media, and also the amount of, and procedure for collecting, the funds shall be approved by the Government of the Russian Federation.

2. The collection of the funds intended for disbursing fees for the free reproduction/playback of sound recordings and audiovisual works for personal purposes is the responsibility of the accredited organisation ([Article 1244](#)).

3. A fee for a free reproduction/playback of sound recordings and audiovisual works for personal purposes shall be distributed among the right holders in the following proportion: 40 per cent to the authors, 30 per cent to the performers, 30 per cent to the manufacturers of the sound recordings or

audiovisual works. The distribution of the fee among specific authors, performers, manufacturers of sound recordings or audiovisual works shall be made pro rata to the actual use of the relevant sound recordings or audiovisual works. The procedure for distributing the fee and for paying it out shall be established by the Government of the Russian Federation.

4. No amounts of money for the purpose of paying out the fee for the free reproduction/playback of sound recordings and audiovisual works for personal purposes shall be collected from the manufacturers of the equipment and the material media which are deemed a subject matter of exportation, or from the manufacturers and importers of professional equipment not intended for home use.

Article 1246. The State Regulation of Relationships in the Area of Intellectual Property

1. In the cases envisaged by the present Code the enactment of normative legal acts for the purpose of regulating relationships in the area of intellectual property which are relating to objects of copyright and allied rights is the responsibility of the empowered federal executive governmental body charged with normative legal regulation in the area of copyright and allied rights.

2. In the cases set out in the present Code the enactment of normative legal acts to regulate the relationships in the area of intellectual activity which are relating to inventions, utility models, industrial designs, computer programmes, databases, integrated circuit layout-designs, trademarks and service marks and the appellation of origin of goods is the prerogative of the empowered federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. The legally-significant actions of state registration of inventions, utility models, industrial designs, computer programmes, databases, integrated circuit layout-designs, trademarks and service marks and the appellation of origin of goods, including the acceptance and expert examination of relevant applications, of the issuance of patents and certificates certifying the exclusive right of their right holders in the said results of intellectual activity and means of individualisation, and in the cases envisaged by a law, also other actions relating to the legal protection of the results of an intellectual activity and means of individualisation shall be committed by the federal executive governmental body charged with intellectual property matters. In the cases envisaged by [Articles 1401-1405](#) of the present Code the actions mentioned in the present item may also be committed by the federal executive governmental bodies empowered by the Government of the Russian Federation.

4. In respect of breeding achievements the functions specified in [Items 2](#) and [3](#) of the present article shall be carried out by the empowered federal executive governmental body charged with normative legal regulation in the area of agriculture, and the federal executive governmental body charged with breeding achievements respectively.

Article 1247. Patent Attorneys

1. Dealings with the federal executive governmental body charged with intellectual property matters may be carried out by an applicant, right holder, another person concerned on his/its own or through a patent attorney registered with the said federal body or through another representative.

2. The citizens who permanently reside outside of the territory of the Russian Federation and foreign legal entities shall carry out their dealings with the federal executive governmental body charged with intellectual property matters through patent attorneys registered with the said federal body, unless otherwise envisaged by an international treaty of the Russian Federation.

If an applicant, right holder or another person concerned carries out dealings with the federal executive governmental body charged with intellectual property matters on his/its own or through a representative not being a patent attorney registered with the said federal body they shall provide an address on the territory of the Russian Federation for correspondence purposes on the request of the said federal body.

The powers of a patent attorney or another representative shall be certified by a power of attorney issued by the applicant, right holder or other person concerned.

3. A patent attorney may be a registered citizen of the Russian Federation who permanently resides on the territory thereof. The other requirements applicable to a patent attorney, the procedure for attestation and registration thereof, and also his powers in respect of dealing with cases relating to the legal protection of the results of an intellectual activity and means of individualisation shall be established by a law.

Article 1248. Disputes Relating to Intellectual Right Protection

1. Disputes relating to the protection of violated or disputed intellectual rights shall be examined and resolved by the court ([Item 1 of Article 11](#)).

2. In the cases envisaged by the present code the protection of intellectual rights in relationships that have to do with the filing and examining patent applications for inventions, utility models, industrial designs, breeding achievements, trademarks and service marks and the appellation of origin of goods with the state registration of these results of intellectual activities and means of individualisation, the

issuance of relevant right-establishing documents, the disputing of granting legal protection to, or termination of the legal protection of, these results and means shall be carried out by administrative means ([Item 2 of Article 11](#)) by the federal executive governmental body charged with intellectual property matters and the federal executive governmental body charged with breeding achievements, respectively, and in the cases envisaged by [Articles 1401-1405](#) of the present Code, by the federal executive governmental body empowered by the Government of the Russian Federation ([Item 2 of Article 1401](#)). Decisions of these bodies shall take effect starting from the date when they are taken. They may be challenged in the court in the procedure established by a law.

3. Rules for the examination and resolution of disputes in the procedure set out in [Item 2](#) of the present article by the federal executive governmental body charged with intellectual property matters and by a patent disputes chamber set up under it, and also the federal executive governmental body charged with breeding achievements shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property, and the federal executive governmental body charged with normative legal regulation in the area of agriculture respectively. The rules for the examination in the procedure set out in [Item 2](#) of the present article of disputes relating to secret inventions shall be established by an empowered body ([Item 2 of Article 1401](#)).

Article 1249. Patent Fee and Other Fees

1. Relevant patent and other fees shall be charged for the commission of legally-significant actions relating to a patent to an invention, utility model, industrial design or breeding achievement, the state registration of a computer programme, database, integrated circuit layout-design, trademark and service mark, the state registration and granting of the exclusive right to the appellation of origin of goods, and also the state registration of transfer of exclusive rights to other persons and of contracts of disposing of such rights.

2. A list of the legally-significant actions which are related to a computer programme, database and integrated circuit layout-design, and for the commission of which state fees are levied, the rate, procedure and term of payment, and grounds for being relieved from the duty to pay, the state fees, rebate, payment deferment or refund shall be established by the [legislation](#) of the Russian Federation on taxes and fees.

A list of the other legally-significant actions, apart from those specified in [Item 1](#) of the present article, for the commission of which patent and other fees are charged, the rates thereof, procedure and term for payment, and also grounds for being relieved from the duty to pay fees, rebate, deferment of payment or refund shall be established by the Government of the Russian Federation.

Article 1250. The Protection of Intellectual Rights

1. Intellectual rights shall be protected by the remedies envisaged by the present Code, with account taken of the essence of the right violated and of the consequences of the infringement of the right.

2. The remedies set out in the present Code for intellectual rights shall be applicable on the request of right holders, organisations managing rights on a collective basis, and also other persons in the cases established by a law.

3. The lack of fault of an infringer shall neither render him harmless in respect of the duty to stop infringement of intellectual rights nor preclude the imposition of the sanctions on the infringer to protect the rights. For instance, the publication of a court's decision on an infringement committed ([Subitem 5 of Item 1 of Article 1252](#)) and the stopping of the actions infringing on the exclusive right to the result of an intellectual activity or means of individualisation or creating the threat of infringement on the right shall take place irrespective of the infringer's fault and on the account of the infringer.

Article 1251. Protecting Personal Non-Property Rights

1. If the personal non-property rights of an author are violated they shall be protected in particular by means of recognising the right, restoring the status quo as it was before the infringement of the rights, stopping the actions infringing on the right or creating the threat of infringement thereon, compensating for a moral harm and publishing the court's decision on the infringement committed.

2. The provisions of [Item 1](#) of the present article are also applicable to protection of the rights mentioned in [Item 4 of Article 1240](#), [Item 7 of Article 1260](#), [Item 4 of Article 1263](#), [Item 3 of Article 1295](#), [Item 1 of Article 1323](#), [Item 2 of Article 1333](#) and [Subitem 2 of Item 1 of Article 1338](#) of the present Code.

3. The author's honour, dignity and business reputation shall be protected in accordance with the rules set out in [Article 152](#) of the present Code.

Article 1252. Protecting Exclusive Rights

1. The protection of the exclusive rights in the result of an intellectual activity and means of individualisation shall be, in particular, carried out by means of presenting a claim for:

1) recognition of the right: to a person that denies or otherwise does not recognise the right and by doing so violates the interests of the right holder;

2) stopping the actions that infringe on the right or create the threat of infringement thereon: to a person committing such actions or making the necessary preparations for such actions;

3) a payment of damages: to a person that has illegally used the result of the intellectual activity or means of individualisation without concluding an agreement with the right holder (use without a contract) or otherwise has violated the right holder's exclusive right and inflicted a damage thereto;

4) seizure of a material medium in accordance with [Item 5](#) of the present article: to its manufacturer, importer, keeper, carrier, seller, another distributor or non-bona fide acquirer;

5) publication of a court's decision on the infringement committed with reference to the actual right holder: to a violator of the exclusive right.

2. In the arrangement of provision of a security for a claim in a case of infringement of exclusive rights the material media, equipment and materials which are allegedly involved in an infringement of the exclusive right to the result of an intellectual activity or means of individualisation may be subjected to the security measures established by the procedural legislation, for instance, seizure of the material media, equipment and materials.

3. In the cases envisaged in the present Code for certain types of results of intellectual activity or means of individualisation when an exclusive right is infringed upon the right holder is entitled to claim a compensation from the infringer for the infringement of the said right. The compensation shall be collected if the fact of the infringement is proven. In this case, the right holder that has applied for a remedy shall be relieved from the duty to prove the amount of the damage inflicted thereto.

The amount of the compensation shall be determined by the court within the limits set by the present Code, depending on the nature of the infringement and of the other circumstances of the case with due regard to the requirements of reasonability and justice.

The right holder is entitled to claim a compensation from the infringer for each case when the result of the intellectual activity or means of individualisation has been used or for the infringement in its entirety.

4. If the manufacture, distribution or another use, and also the importation, carriage or storage of the material media in which the result of an intellectual activity or means of individualisation is expressed cause an infringement of the exclusive right to the result or means such material media shall be deemed counterfeit and subject under a court's decision to withdrawal from circulation and destruction without any compensation whatsoever, except as other circumstances are envisaged by the present Code.

5. The equipment, other apparatus and materials primarily used or intended for infringing the exclusive rights in the result of an intellectual activity and means of individualisation shall be subject under a court's decision to withdrawal from circulation and destruction on the infringer's account, except as their being subject to be converted into a revenue of the Russian Federation.

6. If various means of individualisation (a firm name, trademark, service mark or commercial name) turn out to be identical or similar to a degree of confusion, and as a result of this identity or similarity consumers and/or parties under a contract may be misled then preference shall be for the means of individualisation in which the exclusive right came into being earlier. In the procedure established by the present Code the owner of this exclusive right may claim as invalid the granting of legal protection to the trademark (service mark) or claim a full or partial ban on the use of the company name or commercial name.

For the purposes of the present item "partial ban on use" has the following meaning:

in respect of a firm name: a ban on the use thereof in certain types of activity;

in respect of a commercial name: a ban on the use thereof within a certain territory and/or in specific types of activity.

7. When an infringement of the exclusive right to the result of an intellectual activity or means of individualisation has been recognised in the established procedure to be an unfair competition then the protection of the exclusive right infringed may be ensured both in the manner envisaged by the present Code and in accordance with the antimonopoly legislation.

Article 1253. The Liabilities of Legal Entities and Individual Entrepreneurs for the Infringement of Exclusive Rights

If a legal entity infringes several times or bluntly the exclusive rights in the results of an intellectual activity and means of individualisation the court may take a decision in accordance with [Item 2 of Article 61](#) of the present Code on liquidating the legal entity on the demand of a prosecutor.

If such infringements are committed by a citizen his activity as an individual entrepreneur may be terminated by a court's decision or judgement in the procedure established by a law.

Article 1254. The Details of Protection of a Licensee's Rights

If an infringement by third persons of the exclusive right to the result of an intellectual activity or means of individualisation of which the use is covered by an exclusive licence affects the licensee's rights

obtained by the licensee under a licence contract then the licensee apart from other remedies may protect his/its rights by the methods envisaged by [Articles 1250, 1252 and 1253](#) of the present Code.

Chapter 70. Copyright Law

Article 1255. Copyrights

1. The intellectual rights subsisting in scientific, literary and artistic works are copyrights.
2. The author of a work has the following rights:
 - 1) an exclusive right to the work;
 - 2) the right of attribution;
 - 3) the author's right to the name;
 - 4) a right to integrity of the work;
 - 5) a right to publish the work.
3. Apart from the rights mentioned in [Item 27](#) of the present article in the cases envisaged by the present Code the author of the work has other rights, including the right to a fee for the use of a service work, the right of withdrawal, the artists resale right, the right of access to artistic works.

Article 1256. The Effect of the Exclusive Right in Scientific, Literary and Artistic Works on the Territory of the Russian Federation

1. The exclusive right to scientific, literary and artistic works extends to:
 - 1) the works promulgated on the territory of the Russian Federation or non-promulgated but located in any objective form on the territory of the Russian Federation, and it is recognised to be held by authors (their successors) irrespective of the citizenship thereof;
 - 2) the works promulgated outside of the territory of the Russian Federation or non-promulgated but located in any objective form outside of the territory of the Russian Federation, and it is recognised to be held by authors being citizens of the Russian Federation (their successors);
 - 3) the works promulgated outside of the territory of the Russian Federation or non-promulgated but located in any objective form outside of the territory of the Russian Federation, and it is recognised on the territory of the Russian Federation to be held by authors (their successors) being citizens of other states or stateless persons in accordance with international treaties of the Russian Federation.
2. A work is also deemed promulgated for the first time by publication in the Russian Federation is within 30 days after the date of the first publication outside of the territory of the Russian Federation it is published on the territory of the Russian Federation.
3. When in accordance with international treaties of the Russian Federation protection is provided to a work on the territory of the Russian Federation the author of the work or another initial right holder shall be determined by the law of the state on whose territory the legal fact serving as a ground for the acquisition of copyright has taken place.
4. On the territory of the Russian Federation protection shall be granted to works in accordance with international treaties of the Russian Federation in respect of the works which have not passed into the public domain in the country of origin of the work due to the expiry of the exclusive right's duration established in that country for these works, and which have not passed into the public domain in the Russian Federation due to the expiry of the effective term of exclusive right thereto envisaged by the present Code.

When protection is granted to works under international treaties of the Russian Federation the effective term of the right to these works on the territory of the Russian Federation shall not exceed the effective term of the exclusive right established in the country of origin of the works.

Article 1257. The Author of a Work

The author of a scientific, literary or artistic work is the citizen by whose creative work it has been created. The person indicated as an author on the original or a copy of a work shall be deemed its author, except as otherwise proven.

Article 1258. Co-Authorship

1. The citizens who have created a work by their joint creative work shall be deemed co-authors irrespective of this work's being an integral entity or being composed of parts each having an independent significance.
2. A work created through co-authorship shall be used by the coauthors jointly, except as otherwise envisaged by agreement between them. If the work is an integral entity neither of the co-authors is entitled to ban the use of the work without a sufficiently good reason.

A work's part that cannot be used independently of other parts, i.e. a part having independent significance may be used by its author at his own discretion, except as otherwise envisaged by agreement among the co-authors.

3. The co-authors' relationships relating to the distribution of incomes from the use of the work and to the disposition of the exclusive right to the work are subject to the rules of [Item 3 of Article 1229](#) of the present Code respectively.

4. Each of the co-authors is entitled to take measures on his own to protect his rights, in particular, when the work created by the coauthors makes up an integral entity.

Article 1259. The Objects of Copyrights

1. The objects of copyright are scientific, literary and artistic works, irrespective of the merit and significance of the work or the method whereby it is expressed:

literary works;
dramatic and dramatico-musical works, script works;
choreographic works and dumb shows;
musical works with or without a text;
audiovisual works;
painting, sculpture, graphic, design, graphic stories, comics and other works of the arts;
artistic craftsmanship and scenographic works;
works of architecture, city planning and landscaping, including designs, drawings, images and models;
photographic works and works produced by methods similar to photography;
geographic, geological and other maps, layouts, sketches and plastic works that have to do with geography, topography and other sciences;
other works.

Also computer programmes protected as literary works are deemed objects of copyright.

2. The following shall be deemed objects of copyright:

1) derivative works, i.e. works being a remake of other works;
2) composite works, i.e. works being the result of a creative work in terms of selection or arrangement of materials.

3. Copyright extend both to promulgated and non-promulgated works expressed in any objective form, including a written or oral forms (in the form of a public pronouncement, public performance and in another similar form), in the form of an image, in the form of a sound or video recording or in a three-dimension spatial form.

4. The occurrence, exercising and protection of copyright require neither registration of the work nor observation of any formalities.

In respect of computer programmes and databases registration is possible which takes place if the right holder so wishes in accordance with the rules of [Article 1262](#) of the present Code.

5. Copyrights do not extend to ideas, concepts, principles, methods, processes, systems, manners or the resolution of technical, organisational or other problems, inventions, facts, programming languages.

6. The following is not objects of copyright:

1) the official documents of state bodies and the local selfgovernment bodies of municipal formations, including laws, other normative acts, courts' decisions, other materials of legislative, administrative and judicial nature, the official documents of international, and also the official translations thereof;

2) state symbols and signs (flags, coats-of-arms, orders, banknotes and coins etc.) and also the symbols and signs of municipal formations;

3) the popular creative works (folklore) having no specific authors;

4) the announcements about events and facts which have exclusively informative nature (news-of-the-day announcements, television programme timetables, transport timetables etc.).

7. Copyright extends to a part of a work, to the name of a work, a character in a work if by the nature thereof they may be deemed an independent result of the author's creative work and meet the requirements set out in [Item 3](#) of the present article.

Article 1260. Translations and Other Translated Works. Composite Works

1. The translator and also the author of another derivative work (remake, screen version, arrangement, dramatisation or another similar work) own copyrights in the translation and the other processing of another (original) work respectively.

2. The compiler of a collection and the author of another composite work (anthology, encyclopaedia, database, atlas or another similar work) shall own copyrights in the selection or arrangement of materials (compilation).

A database is an aggregate, presented in an objective form, of independent materials (articles, calculations, normative acts, courts' decisions and other similar materials) which are systematised so that these materials could be found and processed by means of a computer.

3. The translator, compiler or other author of a derivative or composite work shall exercise his copyrights on the condition that the rights of authors of the works used to create the derivative or composite work are observed.

4. The copyrights of the translator, compiler or other author of a derivative or composite work are protected as rights in independent objects of copyright, irrespective of the protection of the rights of the authors of the works on which the derivative or composite work is based.

5. The author of a work placed in a collection or another composite work is entitled to use his work independently of the composite work, except as otherwise envisaged by a contract with the creator of the composite work.

6. Copyrights in a translation, collection, another derivative or composite work shall neither bar other persons from translating or processing the same original work nor create their own composite works by means of another selection or arrangement of the same materials.

7. The publisher of encyclopaedias, encyclopaedic dictionaries, periodical and serial collections of scientific works, newspapers, magazines/journals and other periodical editions have the right of using these editions. Every time the edition is used the publisher is entitled to have his name mentioned or to demand that it be mentioned.

The authors or other owners of exclusive rights in the works included in such editions shall preserve their rights, irrespective of the publisher's or other person's right, to use such editions as a whole, except for cases when these exclusive rights have been assigned to the publisher or other persons or have been transferred to the publisher or other persons on the other grounds envisaged by a law.

Article 1261. Computer Programmes

Copyrights in all and any types of computer programmes (including the operational systems and software complexes) which may be expressed in any language and in any form, including the initial text and compiled code are protected in the same way as copyrights in literary works. A computer programme is an aggregate of data and commands presented in an objective form and intended for the operation of a computer and other computer apparatus for the purpose of obtaining a certain result, including the preparatory materials produced in the course of elaboration of the computer programme, and the audiovisual representations generated by it.

Article 1262. The State Registration of Computer Programmes and Databases

1. Within the effective term of the exclusive right to a computer programme or database, the right holder, if he so wishes, may register the programme or database with the federal executive governmental body charged with intellectual property matters.

The computer programmes and databases containing information classified as **state secret** are not subject to state registration. The person that files a state registration application (applicant) shall be accountable for disclosing information on the computer programmes and databases containing information classified as state secret, under the **legislation** of the Russian Federation.

2. An application for the state registration of a computer programme or database (a registration application) shall cover one computer programme or one database.

The registration application shall comprise the following:

an application for the state registration of the computer programme or database including reference to the right holder and the author, unless he has refused to be mentioned in this capacity, and the place of residence or whereabouts of each of them;

the deposited materials identifying the computer programme or database, including a synopsis;

a document confirming that a state duty has been paid at the established rate or that grounds exist for relieving from the payment of a state duty or for reducing the rate thereof or deferring the payment thereof.

The **rules** for drawing up a registration application shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. On the basis of the registration application the federal executive governmental body charged with intellectual property matters shall verify the availability of the necessary documents and materials, their compliance with the requirements set out in **Item 2** of the present article. If the results of the verification are positive, the said federal body shall enter the computer programme or database in the Register of Computer Programmes and the Register of Databases respectively, issue a certificate of state registration to the applicant and publish information on the computer programme or database registered in an gazette of that body.

On a request of the said federal body or on his own initiative the author or other right holder is entitled to do the following until the publication of the information in the gazette: amending the documents and materials mentioned in the registration application.

4. The **procedure** for the state registration of computer programmes and databases, the forms of certificates of state registration, a list of the details to be indicated therein and a list of the details to be

published in the gazette of the federal executive governmental body charged with intellectual property matters shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

5. Contracts of alienation of the exclusive right to a registered computer programme or database and the transfer of the exclusive right to such programme or databases to other persons without a contract shall be subject to state registration with the federal executive governmental body charged with intellectual property matters.

Information on the change of the owner of an exclusive right shall be entered in the Register of Computer Programmes or the Register of Databases on the basis of a registered contract or another rightholding document and it shall be published in the gazette of the federal executive governmental body charged with intellectual property matters.

6. The details entered in the Register of Computer Programmes or the Register of Databases shall be deemed reliable in as much as otherwise is not proven. Responsibility for the reliability of the information provided for state registration purposes shall be borne by the applicant.

Article 1263. The Audiovisual Work

1. An audiovisual work is a work made up of a fixed series of interrelated images (accompanied or not accompanied by sound) and intended for visual and audio (if accompanied by sound) perception by means of relevant technical apparatus. Audiovisual works include cinematographic works, and also all works expressed by means similar to cinematographic ones (television and video films and other similar works), irrespective of the method whereby they are initially or subsequently fixed.

2. The following are the authors of an audiovisual work:

1) director;

2) the author of the script;

3) the composer being the author of a musical work (with or without a text) specifically created for the audiovisual work.

3. In the event of a public performance or broadcasting or cable transmission of an audiovisual work the composer being the author of a musical work (with or without a text) used in the audiovisual work shall retain a right to a fee for the said types of use of his musical work.

4. The rights of the manufacturer of an audiovisual work, i.e. the person that has organised the creation of the work (producer) shall be defined in accordance with [Article 1240](#) of the present Code.

Every time the audiovisual work is used the manufacturer is entitled to have his/its name indicated or to demand that it be indicated. Unless otherwise proven, the manufacturer of an audiovisual work is the person whose name is indicated on the work in an ordinary manner.

5. Each author of a work that is incorporated in an audiovisual work, either existing before (the author of the work that underlies the script, and others) or created in the course of working on it (photography director, art director and others) shall retain an exclusive right to his work, except for cases when this exclusive right has been assigned to the manufacture or other persons or has been transferred to the manufacture or other persons on the other grounds set out in a law.

Article 1264. Draft Official Documents, Draft Designs of Symbols and Signs

1. The right of attribution in a draft official document, including a draft official translation of such document, and also a draft design of an official symbol or sign shall be owned by the person that has created the draft (designer/author).

The designer/author of a draft official document or a draft design of a symbol or sign is entitled to promulgate the draft, unless it is prohibited by the state body or the local self-government body of a municipal formation or the international organisation on whose order the draft has been elaborated. When the draft is promulgated the designer/author is entitled to indicate his/its name.

2. A draft official document or a draft design of a symbol or sign may be used by the state body or local self-government body or international organisation for the preparation of a relevant official document, elaboration of the symbol or sign without the designer's/author's consent if the draft has been promulgated by the designer/author for being used by the body or organisation or has been sent by the designer/author to the relevant body or organisation.

When an official document or an official symbol or sign is being elaborated on the basis of the relevant draft amendments may be made thereto at the discretion of the state body or local self-government body or international organisation that prepares the official document or elaborates the official symbol or sign.

After the draft has been formally accepted for consideration by the state body or local self-government body or international organisation the draft may be used without mentioning the name of the designer/author.

Article 1265. The Right of Attribution and the Author's Right to the Name

1. The right of attribution, i.e. the right of being recognised as the author of a work, and the author's right to the name, i.e. the right of using or permitting the use of a work under the author's name, a pseudonym or without an indication of a name, i.e. anonymously, are unalienable and unassignable, for instance, when the exclusive right to the work is assigned to another person or transferred to another person, and when the right of using the work is granted to another person. The waiver of these rights is deemed null and void.

2. When a work is published anonymously or pseudonymously (except for cases when the author's pseudonym leaves no doubts as to his identity) the publisher ([Item 1 of Article 1287](#)) whose name is indicated on the work shall be deemed the author's representative, unless otherwise proven, and in this capacity is entitled to protect the author's rights and ensure the exercising of such rights. This provision shall remain effective until the author of the work discloses his identity or announces his authorship.

Article 1266. The Right to the Integrity of a Work and the Protection of a Work against Distortions

1. Without the author's consent it is prohibited to make modifications, cuts and addenda in the work, to attach illustrations, a preface, afterword, comments or any explanations (the right of integrity of the work).

When a work is used on the author's death the person owning the exclusive right to the work is entitled to permit modifications, cuts or addenda in the work, provided the author's idea is not distorted and the integrity of perception remains intact, and it does not conflict with the author's will expressly stated in a will, letters, diaries or in another written form.

2. A perversion, distortion or another modification of a work that denigrates the honour, dignity or business reputation of the author, and equally, an attempt at committing such actions empowers the author to claim protection for his honour, dignity or business reputation in accordance with the rules of [Article 152](#) of the present Code. In these cases, the protection of the honour and dignity of an author is for instance admissible after his death if persons concerned so claim.

Article 1267. Protecting Authorship, Author's Name and Integrity of a Work on Author's Death

1. The authorship, the name of the author and the integrity of a work shall be protected infinitely.

2. In the procedure set out for designating the executor of a will ([Article 1134](#)) the author may indicate the person in which he vests the duty to protect authorship, name of the author and the integrity of a work ([Paragraph 2 of Item 1 of Article 1266](#)) upon the author's death. The person shall execute his duties for life.

If there is no such indication or if the person designated by the author has refused to execute these powers, and also after the death of the person the protection of authorship, the name of the author and the integrity of the work shall be carried out by the author's heirs, their successors and other persons concerned.

Article 1268. The Right to Promulgate a Work

1. The author is entitled to promulgate his work, i.e. a right to commit the action or to consent to the commission of the action which opens the work to the public for the first time by means of publication, public show, public performance, broadcast or cable or in any other manner.

In this case, the publication (issuing) is the release for circulation of copies of the work which are copies of the work in any material form in a quantity sufficient for meeting the public's reasonable needs depending on the nature of the work.

2. An author who has transferred a work to another person for use shall be deemed to have agreed to the promulgation of the work.

3. A work that has not been promulgated in the author's lifetime may be promulgated on his death by the person having the exclusive right to the work, unless promulgation is contrary to the author's will expressly stated by the author in writing (in a will, letters, diaries etc.).

Article 1269. The Right of Withdrawal

The author is entitled to waive a decision on promulgation of a work taken earlier (the right of withdrawal), provided a compensation is provided to the person to which the exclusive right to the work has been alienated or to which a right to use the work has been granted for the damage caused by the decision. If the work has been promulgated the author shall make a public announcement of the withdrawal. In this case the author is entitled to withdraw from circulation the copies of the work released earlier, having provided a payment of the damages caused by this.

The rules of the present article are not applicable to computer programmes, service works and the works incorporated in a complex object ([Article 1240](#)).

Article 1270. The Exclusive Right to a Work

1. The author of a work or another right holder owns an exclusive right to use the work in accordance with [Article 1229](#) of the present Code in any form and in any manner not conflicting with a law (the exclusive right to the work), including the methods specified in [Item 2](#) of the present article. The right holder may dispose of the exclusive right to the work.

2. Irrespective of relevant actions being or not being committed for the purpose of getting a profit or without such purpose, the use of a work means the following:

1) the reproduction of the work, i.e. the manufacturing of one and more copies of the work or a part thereof in any material form, including the form of a sound or video recording, the manufacturing of one and more three-dimension copies of a two-dimension work and of one and more two-dimension copies of a three-dimension work. In this case, a recording of the work on an electronic medium, including saving in a computer memory, shall also be deemed reproduction, except for cases when such saving is temporary and is an integral and significant part of a technological process solely intended for legally using a record or legally making the work known to the public;

2) the distribution of the work by sale or another alienation of its original or copies;

3) the public show of the work, i.e. any show of the original or a copy of the work directly either on a screen by means of a film, transparency, television still or other technical facilities, and also the show of separate stills of an audiovisual work without the observance of sequence thereof directly by technical facilities in a place open to the public or in a place where a significant number of persons are present who do not belong to the ordinary family circle, irrespective of the work's being perceived in the place where it is shown or in another place simultaneously with the show of the work;

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

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

6) the public performance of the work, i.e. the presentation of the work through live performance or technical facilities (radio, television and other technical facilities), and also the show of an audiovisual work (with or without a sound) in a place open to the public or in a place

where a significant number of persons are present who do not belong to the ordinary family circle, irrespective of the work's being perceived in the place where it is performed or shown or in another place simultaneously with the performance or show of the work;

7) the radio or television broadcasting (including retransmission), i.e. making the work known to the public (including the show or performance thereof), except for cable communication. In this case, the communication means any actions whereby the work becomes open for audio and/or visual perception, irrespective of its being actually perceived by the public. When a work is broadcast via a satellite the broadcasting means the reception of signals from a ground station at a satellite and transmission of signals from the satellite, such signals being capable of making the work known to the public, irrespective of the signals' being actually received by the public. An encoded signal transmission is deemed broadcast if decoders are provided to an unlimited circle of persons by a broadcasting organisation or on the consent thereof;

8) the cable communication, i.e. the transmission of the work for the public's notice, by radio or television via a cable, wire, optical fibre or similar facilities (including re-transmission). An encoded signal transmission shall be deemed cable communication if decoders are provided to an unlimited circle of persons by a cable services organisation or on the consent thereof;

9) the translation or another processing of the work. In this case, the processing of a work means the creation of a derivative work (remake, screen version, arrangement, dramatisation etc.). The processing (modification) of a computer programme or database means any change therein, including the translation of the programme or database from one language into another, except for adaptation, i.e. amendment made exclusively for the purposes of running the computer programme or database on a specific hardware of a user or under the control of specific programmes of a user;

10) the practical implementation of an architectural, design, townplanning or landscaping project;

11) bringing the work to the notice of the public so that any person can get access to the work from any place and at any time as the person chooses (bringing it to the notice of the general public).

3. The practical implementation of the provisions making up the content of a work, including the provisions being a technical, economic, organisational or another solution, shall not be deemed a use of the work as much as the rules of the present chapter are concerned, except for the use envisaged by [Subitem 10 of Item 2](#) of the present article.

4. The rules of [Subitem 5 of Item 2](#) of the present article are not applicable to a computer programme, except for cases when such programme is the main object of hiring-out.

Article 1271.The Copyright Mark

For the purpose of warning of his exclusive right to a work the right holder is entitled to use a copyright mark that is placed on each copy of the work and is composed of the following components:

the Latin letter "C" in a circle;

the name of the right holder;

the year of the first publication of the work.

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

If the original or copies of a legally published work have been introduced in civil-law transactions on the territory of the Russian Federation as they were sold or otherwise alienated the further distribution of the original or copies of the work may take place without the consent of the right holder and without a fee being paid to the right holder, except for the case envisaged by [Article 1293](#) of the present Code.

Article 1273. Free Reproduction for Personal Purposes

A citizen may reproduce, without the author's or other right holder's consent and without paying out a fee, exclusively for personal purposes a legally promulgated work, except for the following:

- 1) the reproduction of works of architecture in the form of buildings and similar structures;
- 2) the reproduction of databases or significant parts thereof;
- 3) the reproduction of computer programmes, except for the cases envisaged by [Article 1280](#) of the present Code;
- 4) the reproduction ([Item 2 of Article 1275](#)) of books (in full) and musical notation texts;
- 5) the video recording of an audiovisual work when it is publicly performed in a place open to the public or in a place attended by a significant number of persons who do not belong to the ordinary family circle;
- 6) the reproduction of an audiovisual work by means of a professional equipment not intended for home use.

Article 1274. The Free Use of a Work for Information, Scientific, Educational or Cultural Purposes

1. The following is admissible without the consent of the author or other right holder and without paying out a fee but with a compulsory reference to the name of the author whose work is used and of the source as well:

- 1) quoting in the original and in a translation in scientific, discussion, critical or information purposes of legally promulgated works within a scope justified by the purpose of the quotation, including the reproduction of excerpts from newspaper and magazine articles in the form of press reviews;
- 2) using legally promulgated works and excerpts from them as illustrations in educational editions, radio and television programmes, sound and video recordings within a scope justified by the purpose set;
- 3) reproducing in the press, broadcasts or cable programmes the articles legally published in newspapers or magazines on current economic, political, social and religious issues or broadcast works of the same nature, unless such reproduction or announcement has been specifically prohibited by the author or other right holder;
- 4) reproducing in the press, broadcasts or cable programmes publicly pronounced political speeches, addresses, reports and other similar works within a scope justified for information purposes. In this case, the authors of such works retain a right to publish them in collections;
- 5) reproducing or communicating for the general public in current events reviews by means of photography, cinematography, by broadcasts or cable programmes the works which get seen or heard in the course of these events, as justified for information purposes;
- 6) reproducing without profit-making by a raised-point type or another special method for blind people legally published works, except for the works specifically created for being reproduced by such methods.

2. When a library provides copies of the works legally introduced in civil-law transactions for temporary-free-of-charge use such use is permitted without the author's or other right holder's consent and without paying out a fee. In this case, the digital copies of works provided by libraries for temporary free-of-charge use, for instance, in line of mutual use of library resources, may be provided only on the premises of libraries on the condition that no copies thereof can be made in a digital form.

3. The creation of a work in the genre of literary, musical or other parody or in the genre of cartoon on the basis of another (original) legally promulgated work, and the use of the parody or cartoon is permitted without the consent of the author or other owner of the exclusive right to the original work and without a fee being paid thereto.

Article 1275. The Free Use of a Work by Reproduction

1. The reproduction ([Subitem 4 of Item 1 of Article 1273](#)) of the following in a single copy without profit-making is admissible without the author's or other right holder's consent and without paying out a fee but with compulsory reference to the name of the author whose work is used and of the source as well:

- 1) a legally published work: by libraries and archives for the purpose of restoring and replacing lost or damaged copies of the work and of providing copies of the work to other libraries which have somehow lost them from their stock;

2) specific articles and small-size works legally published in collections, newspapers and other periodical editions, short excerpts from legally published written works (with or without illustrations): by libraries and archives on citizens' requests for the purpose of being used for educational or scientific purposes, and also by educational institutions for being used in class-room studies.

2. Reproduction (reprographic copying) means the facsimile reproduction of a work by any technical means accomplished for purposes other than publishing. Reproduction does not include the reproduction of a work or storage of copies thereof in electronic (including digital), optical or another machine-readable form, except for cases when temporary copies are created by technical facilities for the purpose of reproduction.

Article 1276. The Free Use of a Work Permanently Located in a Place Open for the Public

A photographic work, an architectural work or an artistic work that permanently located in a place open for the public may be reproduced, broadcast or transmitted by cable without the consent of the author or other right holder and without paying out a fee, except for cases when the imaging of the work in this way is a main object of the reproduction, broadcast or cable transmission or when an image of the work is used for commercial purposes.

Article 1277. The Free Public Performance of a Musical Work

A musical work may be performed without the author's or other right holder's consent and without paying out a fee during an official or religious ceremony or funeral within a scope justified by the nature of the ceremony.

Article 1278. The Free Reproduction of a Work for Law-Enforcement Purposes

A work may be reproduced without the author's or other right holder's consent and without paying out a fee for the purpose of implementing proceedings in a case of administrative offence, of inquiring, preliminary investigation or legal proceedings within a scope justified by the purpose.

Article 1279. The Free Recording of a Work by a Broadcasting Organisation for the Purpose of Short-Term Use

A broadcasting organisation is entitled to make a record, without the author's or other right holder's consent and without paying out a fee, for the purpose of short-term use of the work in respect of which the organisation has obtained a right of broadcast communication, provided the record is made by the broadcasting organisation by means of its own equipment and for its own broadcasts. In this case, the organisation shall destroy the record within six months after it was made, unless a longer term has been agreed upon with the right holder or established by a law. Such record may be preserved without the consent of the right holder in state or municipal archives if it has an exclusively documentary nature.

Article 1280. The Free Use of Computer Programmes and Databases. Decompiling Computer Programmes

1. The person that legally possesses a copy of a computer programme or database (user) is entitled to do the following without the author's or other right holder's consent and without paying out a fee:

1) making amendments to the computer programme or database exclusively for the purpose of running it on the user's hardware and, and committing the actions required for running the computer programme or database in accordance with the intended purpose thereof, including storing and saving in a computer memory (of one computer or one network user), and also correcting apparent errors, except as otherwise envisaged by the contract concluded with the right holder;

2) making a copy of the computer programme or database, provided this copy is intended only for archiving purposes or for replacing the legally acquired copy if the copy is lost, destroyed or inoperable. In this case, the copy of the computer programme or database shall not be used for purposes other than those mentioned in [Subitem 1](#) of the present item, and it shall be destroyed if the possession of the copy of the computer programme or database is not longer legal.

2. The person legally possessing a copy of a computer programme is entitled to do the following without right holder's consent and without paying out a fee: to study, research or test the operation of the programme for the purpose of assessing the ideas and principles underlying any component of the computer programme by means of committing the actions envisaged by [Subitem 1 of Item 1](#) of the present article.

3. The person legally possessing a copy of a computer programme is entitled to do the following without the right holder's consent and without paying out a fee: to reproduce and convert the compiled code into the initial text (to decompile the computer programme) or to instruct other persons to commit such actions if the are needed for enabling a programme independently developed by this person for a

computer to interact with the other programmes which can interact with the programme decompiled, provided the following conditions are observed:

1) the information required for enabling the interaction has not been available for this person from other sources;

2) the said actions are committed only in respect of those portions of the decompiled computer programme which are needed for enabling the interaction;

3) the information obtained as the result of the decompilation may only be used to enable the interaction of the independently developed computer programme with other programmes, it shall neither be transferred to other persons, except for cases when it is required for enabling the interaction of the independently developed computer programme with other programmes, nor be used for developing a computer programme of a kind significantly similar with the computer programme decompiled or for committing another action infringing the exclusive right to the computer programme.

4. The application of the provisions of the present article shall neither cause an unjustified damage to the normal use of a computer programme or database nor infringe without ground on the lawful interests of the author or another right holder.

Article 1281. The Duration of the Exclusive Right to a Work

1. The exclusive right to a work shall be effective during the whole author's lifetime and 70 years, counting from January 1 of the year following the year of the author's death.

The exclusive right in a work created by co-authors shall be effective during the whole lifetime of the author who survives the other co-authors and 70 years, counting from January 1 of the year following the year of his death.

2. For a work promulgated anonymously or pseudonymously the effective term of the exclusive right shall expire after 70 years, counting from January 1 of the year following the year of its legal promulgation. If within the said term the author of the work promulgated anonymously or pseudonymously discloses his identity or if his identity is no longer in doubt the right shall be effective for the term established by [Item 1](#) of the present article.

3. The exclusive right to a work promulgated after the author's death shall be effective during 70 years after the promulgation thereof, counting from January 1 of the year following the year of the promulgation, provided the work is promulgated within 70 years after the death of the author.

4. If the author of a work has been subjected to repression and posthumously rehabilitated the effective term of the exclusive right shall be deemed extended, and 70 years shall be counted from January 1 of the year following the year of rehabilitation of the author of the work.

5. If an author worked during the Great Patriotic War or took part in it the effective term of the exclusive right established in the present article is extended by four years.

Article 1282. The Passing of a Work into the Public Domain

1. Upon the expiry of effective term of the exclusive right a scientific, literary or artistic work, be it promulgated or not, shall pass into the public domain.

2. A work that has passed into the public domain may be freely used by any person without nobody's consent or permission and without paying out a royalty. In this case, the attribution, name of the author and integrity of the work are preserved.

3. A non-promulgated work that has passed into the public domain may be promulgated by any person, unless the promulgation thereof is contrary to the author's will expressly stated by the author in writing (in a will, letters, diaries etc.).

The rights of the citizen who has legally promulgated such work are determined in accordance with [Chapter 71](#) of the present Code.

Article 1283. The Transfer of the Exclusive Right to a Work in Line of Succession

1. The exclusive right to a work is inheritable.

2. In the cases envisaged by [Article 1151](#) of the present Code the exclusive right to a work included in a heritage 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 the Right of Using a Work under a Licence

1. Levy of execution is prohibited on the exclusive right to a work owned by the author. However, the author's things in action in respect of other persons under contracts of alienation of the exclusive right to the work and under licence contracts, and also the incomes received from the use of the work are subject to levy of execution.

The exclusive right owned by a person other than the author and the right of using the work owned by a licensee are subject to levy of execution.

The rules of [Paragraph 1](#) of the present item extend to the heirs of the author, their heirs and so on within the effective term of the exclusive right.

2. If the right of using a work owned by a licensee is sold at a public sale for the purpose of levying execution on the right the author shall have a priority right to acquire it.

Article 1285. A Contract of Alienation of the Exclusive Right in a Work

Under a contract of alienation of the exclusive right to a work the author or other right holder shall assign or undertake to assign his exclusive right to the work in full to the acquirer of the right.

Article 1286. A Licence Contract Granting the Right of Using a Work

1. Under a licence contract one party, the author or other right holder (licensor), grants or undertakes to grant to the other person (licensee) a right to use the work within the limits set by the contract.

2. The licence contract shall be made in writing. A contract granting a right to use a work in a periodical printed edition may be concluded in an oral form.

3. A licence contract granting a right to use a computer programme or database may be concluded by means of concluding a contract of accession between each user and the relevant right holder, the terms of the contract being available on the acquired copy of the programme or database or on the package thereof. The beginning of use of the programme or database by the user as it is defined in the terms shall be deemed the user's consent to the conclusion of the contract.

4. An onerous licence contract shall comprise the amount of fee charged for the use of the work or the procedure for calculating it.

A provision may be made in the contract for the licensor to receive a fee in the form of fixed one-off or periodical payments, interest on incomes (earnings) or in another form.

The Government of the Russian Federation is entitled to establish [minimum rates of royalty](#) for specific uses of works.

Article 1287. The Special Terms of a Publisher's Licence Contract

1. Under a contract of granting a right to use a work concluded by the author or other right holder with a publisher, i.e. the person which under the contract undertakes to publish the work (publisher's licence contract) the licensee shall commence the use of the work within the term set in the contract. If this duty is not observed the licensor is entitled to waive the contract without a compensation to the licensee for the damages due to such waiver.

If the contract does not contain a specific term for commencing the use of the work it shall be commenced within the term which is ordinary for this type of work and the method of use. Such contract may be rescinded by the licensor on the grounds and in the procedure set out in [Article 450](#) of the present Code.

2. Where a publisher's licence contract is rescinded on the basis of the provisions set out in [Item 1](#) of the present article the licensor is entitled to claim that the fee envisaged by the contract be paid out thereto in full.

Article 1288. The Contract of Author's Order

1. Under a contract of author's order one party (author) undertakes to create on the order of the other party (customer) the scientific, literary or artistic work stipulated by the contract on a material medium or in another form.

The material medium of the work shall be transferred to the customer for ownership, unless its being transferred to the customer for temporary use is required by agreement of the parties.

The contract of author's order is onerous, unless otherwise envisaged by agreement of the parties.

2. The contract of author's order may include a clause whereby the exclusive right to the work that has to be created by the author is going to be alienated to the customer or that the customer is going to obtain a right to use the work within the limits set by the contract.

3. Where a contract of author's order requires the alienation of the exclusive right to the work that has to be created by the author to the customer such contract is subject accordingly to the rules of the present Code on exclusive right alienation, except otherwise ensues the essence of the contract.

4. If a contract of author's order is concluded on the condition that the customer acquires the right of using the work within the limits set by the contract such contract shall be subject accordingly to the provisions of [Articles 1286](#) and [1287](#) of the present Code.

Article 1289. The Term for Discharging the Contract of Author's Order

1. The work that has to be created under a contract of author's order shall be transferred to the customer within the term established by the contract.

A contract that neither specifies no term for the discharge thereof nor allows to determine the due date of the discharge thereof shall be deemed uncompleted.

2. Upon the onset of the due date of discharge of a contract of author's order the author -- if necessary and if there is a good reason for completing the work -- shall be given an additional grace period of one quarter of the term set for the discharge of the contract, unless a longer grace period is envisaged by agreement of the parties. In the cases envisaged by [Item 1 of Article 1240](#) of the present Code this rule shall apply, unless otherwise envisaged by the contract.

3. Upon the expiry of the grace period granted to the author under [Item 2](#) of the present article the customer shall be entitled to unilaterally waive the contract of author's order

Also the customer is entitled to waive the contract of author's order immediately upon the expiry of the term set by the contract for the discharge thereof, unless the contract has been discharged by that time, if it ensues the terms of the contract that the customer loses his interest in the contract if the term for discharge of the contract is broken.

Article 1290. Liabilities under the Contracts Concluded by the Author of a Work

1. The liability of an author under a contract of alienation of the exclusive right to a work and under a licence contract shall be limited by the sum of the real damage caused to the other party, unless a smaller sum of the author's liability is envisaged by the contract.

2. In the event of the default on, or the improper performance of, a contract of author's order for which the author is responsible the author shall refund to the customer the advance payment and also to pay a forfeit money amount if envisaged by the contract. In this case, the sum total of these disbursements shall be limited by the sum of the real damage sustained by the customer.

Article 1291. Alienating an Original Work and the Exclusive Right to a Work

1. When alienation is effected by the author of an original work (manuscript, original work of painting, sculpture etc.), for instance, when an original work is alienated under a contract of author's order the exclusive right to the work shall be retained by the author, unless otherwise envisaged by the contract.

If the exclusive right to the work has not been transferred to the acquirer of the original thereof the acquirer is entitled to do the following without the author's consent and without paying out a fee to the author: to show the original work acquired and reproduce it in the catalogues of exhibitions and in editions dedicated to his collection, and also to hand over the original work for being exhibited at exhibitions organised by other persons.

2. If an original work is alienated by its owner holding the exclusive right to the work but not being the author thereof the exclusive right to the work is transferred to the acquirer of the original work, unless otherwise envisaged by the contract.

3. The rules of the present article concerning the author of a work also extend to the heirs of the author, their heirs and so on within the effective term of the exclusive right to the work.

Article 1292. The Right of Access

1. The author of a work of fine arts is entitled to claim from the owner of an original work that an opportunity be given to him to exercise his right to reproduce his work (right of access). In this case, the owner of the original work shall not be asked to deliver the work to the author.

2. The author of a work of architecture is entitled to claim from the owner of the original work that an opportunity be given to him to make photographic pictures and video shooting of the work, unless otherwise envisaged by the contract.

Article 1293. The Artists Resale Right

1. If alienation is effected by the author of an original work of fine arts every time the original is publicly re-sold and the seller, buyer or mediator is an arts gallery, an arts shop, store or another similar organisation the author is entitled to receive a fee from the seller in the form of interest on re-sale price (artists resale right). The rate of the interest and also the terms and procedure for paying out the interest shall be defined by the Government of the Russian Federation.

2. Authors shall exercise the artists resale right in the procedure established by [Item 1](#) of the present article, and also in respect of the authors' manuscripts (autographs) of literary and musical works.

3. The artists resale right is unalienable but it shall pass to the heirs of the author for the effective term of the exclusive right to the work.

Article 1294. The Rights of the Author of a Work of Architecture, Town Planning or Landscaping

1. The author of a work of architecture, town planning or landscaping has an exclusive right to use his work in accordance with [Items 2 and 3 of Article 1270](#) of the present code, including by means of elaborating construction documentation and by means of implementing an architectural, town-planning or landscaping project design.

The use of an architectural, town-planning or landscaping project design is only admissible as one-off event, except as otherwise established by the contract under which the project is created. The

project and the construction documentation prepared on the basis thereof may be used again only on the consent of the author of the project design.

2. The author a work of architecture, town planning or landscaping is entitled to carry out the author's control in respect of construction documentation elaboration and the author's supervision over the construction of a building or structure or another implementation of the project design. The procedure for exercising author's control and author's supervision shall be established by the federal executive governmental body charged with architecture and town planning matters.

3. The author of a work of architecture, town planning or landscaping is entitled to demand from the customer of an architectural, town-planning or landscaping project that he be given a right to take part in implementing his project design, unless otherwise established by a contract.

Article 1295. The Service Work

1. Copyrights to a scientific, literary or artistic work created within the job description limits established for an employee (author) (a service work) are owned by the author.

2. The employer has an exclusive right to a service work, unless otherwise envisaged by the labour contract or another contract between the employer and the author.

If within three years after the date when a service work was given to him to be at his disposal the employer did not start to use the work or did not assign the exclusive right to it to another person or did not inform the author that the work is kept in secret, the exclusive right to the service work shall be owned by the author.

If within the term mentioned in [Paragraph 2](#) of the present item the employer starts to use the service work or assigns the exclusive right to another person the author shall be entitled to a fee. Also the author shall acquire the said right to a fee if the employer has decided to keep the service work in secret, and accordingly did not start to use the work within the said term. The rate of the fee, the terms and procedure for the employer to pay it out shall be defined by a contract between the employer and the employee, or by the court in the case of a dispute.

3. If according to [Item 2](#) of the present article the exclusive right to a service work is owned by the author the employer is entitled to use the work by the methods depending on the aim of the service assignment, and within the limits ensuing the assignment, and also to promulgate the work, except as otherwise envisaged by a contract between the employer and the employee. In this case, the author's right to use the service work by a method not depending on the aim of the service assignment, or even though by the method depending on the aim of the assignment but beyond the limits ensuing the employer's assignment is not limited.

While using a service work the employer may indicate his/its name or claim that it be indicated.

Article 1296. The Computer Programmes and Databases Created on Order

1. If a computer programme or database has been created under a contract having the creation thereof as its subject matter (on order) the exclusive right to the programme or database is owned by the customer, unless otherwise envisaged by a contract between the contractor (performer) and the customer.

2. If according to [Item 1](#) of the present article the exclusive right to a computer programme or database is owned by the customer the contractor (performer) is entitled, in as much as otherwise is not envisaged by a contract, to use the programme or database for his own needs on the terms of a fee-free (non-exclusive) licence over the whole effective term of the exclusive right.

3. If according to a contract concluded between a contractor (performer) and a customer the exclusive right to a computer programme or database is owned by the contractor (performer) the customer is entitled to use the programme or database for his/its own needs on the terms of a fee-free (non-exclusive) licence over the whole effective term of the exclusive right.

4. The author of a computer programme or database who does not own an exclusive right to the programme or database is entitled to a fee in accordance with [Paragraph 3 of Item 2 of Article 1295](#) of the present Code.

Article 1297. The Computer Programmes and Databases Created When Works Were Performed under a Contract

1. If a computer programme or database has been created when a contractor's contract or a contract for the performance of research and development works or technological works was performed, such contracts not expressly requiring the creation thereof, the exclusive right to the programme or database is owned by the contractor (performer), except as otherwise envisaged by a contract between him and the customer.

Unless otherwise envisaged by a contract, in this case the customer is entitled, to use the programme and database so created for the purposes for which the relevant contract has been concluded, on the terms of a simple (non-exclusive) licence over the whole effective term of the exclusive right without paying out an additional fee for the use. If the exclusive right to the programme or database

has been assigned by the contractor (performer) to another person the customer retains a right of using the programme or database.

2. If according to a contract between the contractor (performer) and the customer the exclusive right to the computer programme or database has been assigned to the customer or to the third person indicated by the customer then the contractor (performer) is entitled to use the programme or database he has created for his own needs on the terms of a fee-free (non-exclusive) licence over the whole effective term of the exclusive right, except as otherwise envisaged by a contract.

3. The author of the computer programme or database mentioned in [Item 1](#) of the present article who does not own an exclusive right to the programme or database is entitled to a fee in accordance with Paragraph 3 of [Item 2 of Article 1295](#) of the present Code.

Article 1298. The Scientific, Literary and Artistic Works Created under a State or Municipal Contract

1. The exclusive right to a scientific, literary or artistic work created under a state or municipal contract for state or municipal need is owned by the contractor being the author or by the other person performing the state or municipal contract, unless according to the state or municipal contract this right is owned by the Russian Federation, the subject of the Russian Federation or the municipal formation on whose behalf the state or municipal customer is acting, or is owned jointly by the contractor and the Russian Federation, the contractor and the subject of the Russian Federation or the contractor and the municipal formation.

2. If according to the state or municipal contract the exclusive right to the scientific, literary or artistic work is owned by the Russian Federation, the subject of the Russian Federation or the municipal formation the contractor shall acquire all rights by means of concluding relevant contracts with his/its employees and third persons or have them acquired for the purpose of assigning to the Russian Federation, the subject of the Russian Federation and the municipal formation respectively. In this case, the contractor is entitled to a compensation for the costs incurred in connection with the acquisition of the relevant rights from third persons.

3. If the exclusive right to a scientific, literary or artistic work created under a state or municipal contract for state or municipal needs is owned according to [Item 1](#) of the present article by a person other than the Russian Federation, a subject of the Russian Federation or a municipal formation then if the state or municipal customer requests so the right holder shall grant to the person designated by the customer a fee-free simple (non-exclusive) licence for the use of the scientific, literary or artistic work for state or municipal needs.

4. If the exclusive right to a scientific, literary or artistic work created under a state or municipal contract for state or municipal needs is jointly owned by the contractor and the Russian Federation, the contractor and a subject of the Russian Federation or the contractor and a municipal formation then the state or municipal customer is entitled to grant a fee-free simple (non-exclusive) licence for the use of the scientific, literary or artistic work for state or municipal needs, having notified the contractor accordingly.

5. The employee whose exclusive right according to [Item 2](#) of the present article has been transferred to a contractor is entitled to a fee according to [Paragraph 3 of Item 2 of Article 1295](#) of the present Code.

6. The rules of the present article are also applicable to computer programmes and databases whose creation has not been envisaged by a state or municipal contract for state or municipal needs but which have been created when the contract was performed.

Article 1299. Technical Facilities Intended for Copyright Protection

1. Technical facilities intended for copyright protection are any technologies, technical apparatus or components thereof controlling access to a work, preventing or limiting the commission of the actions not permitted by the author or other right holder in respect of a work.

2. The following is prohibited in respect of a work:

1) the commission of actions without a permission of the author or other right holder aimed at eliminating the limits imposed on the uses of the work by means of using technical facilities intended for copyright protection;

2) manufacturing, distributing, hiring out, granting for temporary free-of-charge use, importing and advertising any technology, any technical apparatus or components thereof, using such technical facilities for profit-making or providing relevant services if such actions make it impossible to use technical facilities intended for copyright protection or to disable them in terms of ensuring the appropriate protection of the copyright.

3. In the event of a breach of the provisions of [Item 2](#) of the present article the author or other right holder is entitled to claim at his discretion from the infringer a payment of damages or a compensation according to [Article 1301](#) of the present Code, except for cases when the present Code permits the use of a work without the author's or other right holder's consent.

Article 1300. Information on Copyright Law

1. Information on copyright law is any information that identifies a work, an author or another right holder or the information on the terms of using a work available on the original work or a copy of the work, is attached thereto or appears in connection with a broadcast or cable programme or in connection with the bringing of the work to the notice of the general public, and also any figures and codes containing such information.

2. The following is prohibited in respect of a work:

1) deleting or modifying without the author's or other right holder's consent information on copyright law;

2) the playback/reproduction, distribution, importation for the purpose of distribution, public performance, broadcasting or cable transmission, bringing to the notice of the general public of the work in respect of which information on copyright law has been deleted or modified without the author's or other right holder's consent.

3. In the event of a breach of the provisions of [Item 2](#) of the present article the author or other right holder is entitled at his discretion to claim from the infringer a payment of damages or a compensation in accordance with [Article 1301](#) of the present Code.

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

In the event of a breach of the exclusive right to a work the author or other right holder may claim a compensation from the infringer instead of a payment of damages apart from the use of the other applicable remedies and measures of liability established by the present Code ([Articles 1250](#), [1252](#) and [1253](#)), in accordance with [Item 3 of Article 1252](#) of this Code, at his choice, from the violator the payment of compensation instead of the recovery of damages:

in an amount from 10,000 to 5,000,000 roubles as determined at the discretion of the court;

in the amount equal to the double value of copies of the work or double value of the right of using the work determined on the basis of the price normally charged in comparable circumstances for the legal use of the work.

Article 1302. A Security for a Claim in a Copyright Violation Case

1. To a defendant or a person believed on a sufficient ground to be an infringer of copyright the court may interdict the commission of certain actions (manufacture, reproduction, sale, hiring out, importation or the other use envisaged by the present Code, and also transportation, storage or possession) of copies of a work for the purpose of introducing them in civil-law transactions if the copies are assumed to be counterfeit.

2. The court may order a seizure of all copies of a work which are assumed to be counterfeit, and also of materials and equipment used or intended for the manufacture or reproduction/playback thereof.

If sufficient information is on hand concerning an infringement of copyright the inquiry or investigation bodies shall take measures for searching and seizing the copies of the work assumed to be counterfeit, and also material and equipment used or intended for the manufacture or reproduction/playback of the said copies of the work, including where necessary, measures for seizing them and putting in custody.

Chapter 71. The Rights Allied to Copyrights

§1. General Provisions	(Articles 1303-1312)
§2. Rights to a Performance	(Articles 1313-1321)
§3. Right to a Sound Recording	(Articles 1322-1328)
§4. The Right of Broadcasting and Cable-Services Organisations	(Articles 1329-1332)
§5. The Right of the Manufacturer of a Database	(Articles 1333-1336)
§6. The Right of a Publisher to a Scientific, Literary or Artistic Work	(Articles 1337-1344)

1. General Provisions

Article 1303. Basic Provisions

1. Intellectual rights to the results of a performance activity (performance), sound recordings, broadcast or cable-transmitted radio and television programmes (the services of broadcasting and cable services organisations), to the contents of databases, and also to the scientific, literary and artistic works promulgated for the first time after they have passed into the public domain are deemed rights allied to copyright (allied rights).

2. Allied rights include the exclusive right, and also personal nonproperty rights in the cases envisaged by the present Code.

Article 1304. The Objects of Allied Rights

1. The objects of allied rights are as follows:

1) the performances by performers and conductors, the productions of directors (performances) if these performances are expressed in a form allowing its reproduction and distribution by technical facilities;

2) sound recordings, i.e. any exclusively sound records of performances or of other sounds or of their representations, except for a sound recording included in an audiovisual work;

3) the transmission of programmes of broadcasting or cable-services organisations, including programmes created by the broadcasting or cable-services organisation proper or on its order with its funds by another organisation;

4) databases in as much as it concerns their protection against an unauthorised retrieval and repeated use of the materials available in the contents thereof;

5) scientific, literary and artistic works promulgated after they have passed into the public domain, in as much as it concerns the rights of publishers of such works.

2. For the purposes of the occurrence, exercising and protecting of allied rights neither their objects need registration nor any other formalities need be completed.

3. The granting of protection on the territory of the Russian Federation to objects of allied rights in accordance with international treaties of the Russian Federation shall take place in respect of the performances, sound recordings, transmissions of programmes of broadcasting or cable-services organisations which have not passed into the public domain in their countries of origin due to the expiry of the effective term of exclusive rights to such object established in those countries, and which have not passed into the public domain in the Russian Federation due to the expiry of the effective term of exclusive right envisaged by the present Code.

Article 1305. The Mark of Legal Protection of Allied Rights

For the purpose of warning of his exclusive right the manufacturer of a sound recording and a performer, and also another owner of the exclusive right to a sound recording or a performance is entitled to use a mark of protection of allied rights that is placed on each original or copy of the sound recording and/or on each case containing it, the mark being composed of the following three elements: the Latin letter "P" in a circle, the name or company name of the owner of the exclusive right and the year of the first publication of the sound recording. In this case, a copy of the sound recording means its copy on any material medium manufactured directly or indirectly from the sound recording and including all the sounds or part of the sounds or a representation of the sounds fixed in the sound recording. The representation of sounds means their being represented in a digital form that required appropriate technical facilities to convert it into an audible form.

Article 1306. Using Objects of Allied Rights without the Consent of the Right Holder and without Paying Out a Fee

The use of objects of allied rights without the consent of the right holder and without paying out a fee is admissible in the cases of free use of works ([Articles 1273](#), [1274](#), [1277](#), [1278](#) and [1279](#)), and also in the other cases envisaged by the present chapter.

Article 1307. The Contract of Alienation of the Exclusive Right to an Object of Allied Rights

Under a contract of alienation of the exclusive right to an object of allied rights one party being a performer, the manufacturer of a sound, recording, a broadcasting or cable-services organisation, the manufacturer of a database, the publisher of a scientific, literary or artistic work or another right holder assigns or undertakes to assign his/its exclusive right to the relevant object of allied rights in full to the other party being an acquirer of the exclusive right.

Article 1308. The Licence Contract for Granting the Right of Using an Object of Allied Rights

Under a licence contract one party, a contractor, the manufacturer of a sound recording, a broadcasting or cable-services organisation, the manufacturer of a database, the publisher of a scientific, literary or artistic work or another right holder (licensor) grants or undertakes to grant to the other party (licensee) a right to use the relevant object of allied rights within the limits established by the contract.

Article 1309. Technical Facilities Intended for Protecting Allied Rights

Any technologies, technical apparatus or components thereof controlling access to an object of allied rights, preventing or restricting the commission of the actions not permitted by the right holder in respect of the object (technical facilities intended for protecting allied rights) respectively are subject to the provisions of [Articles 1299](#) and [1311](#) of the present Code.

Article 1310. Information on an Allied Right

In respect of any information that identifies an object of allied rights or a right holder or information on the terms for using the object and that is available on the relevant material medium, is attached thereto or appears in connection with the broadcast or cable transmission of the object to the notice of the general public, and also any figures and codes comprising such information (information on a allied right) respectively is subject to the provisions of [Articles 1300](#) and [1311](#) of the present Code.

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

In the event of a breach of an exclusive right to an object of allied rights the owner of the exclusive right is entitled, apart from the use of other applicable remedies and measures of liability established by the present Code ([Articles 1250](#), [1252](#) and [1253](#)), to claim in accordance with [Item 3 of Article 1252](#) of the present Code from the infringer at the owner's discretion a compensation instead of payment of damages:

in an amount of 10,000 to 5,000,000 roubles as determined at the court's discretion;

in the amount of double value of copies of the sound recording or double the value of the right of using the object of allied rights determined on the basis of the price normally charged in comparable circumstances for the legal use of the object.

Article 1312. A Security for a Claim in a Case of Infringement of Allied Rights

For the purpose of provision of a security for a claim in a case of infringement of allied rights a defendant or a person believed on a sufficient ground to be an infringer of allied rights, and also the objects of allied rights believed to be counterfeit are respectively subject to the measures set out in [Article 1302](#) of the present Code.

§ 2. Performance Rights

Article 1313. The Performer

The performer (the author of a performance) is the citizen by whose creative labour a performance has been created, i.e. a performing actor (actor, singer, musician, dancer or another person playing a role, reading, reciting, singing, playing a musical instrument or otherwise taking part in the performance of a literary, artistic or folklore work, including a variety, circus or puppet show), and also the director of a play (the person who has staged a theatrical, circus, puppet, variety or another theatrical performance) and the conductor as well.

Article 1314. Allied Rights to a Joint Performance

1. Allied rights to a joint performance are owned jointly by the members of the performing team who have taken part in the creation thereof (the actors engaged in the play, members of the orchestra and the other members of the performing team), irrespective of this performance being an integral entity or being composed of elements each having an independent significance.

2. Allied right to a joint performance shall be exercised by the head of the performing team, or if there is no such head, jointly by the members of the performing team, unless otherwise envisaged by agreement among them. If a joint performance is an integral entity neither of the members of the performing team is entitled without a good reason to ban the use thereof.

An element of a joint performance which can be used independently of the other elements, i.e. an element having an independent significance may be used by the performer who has created it at his own discretion, unless otherwise envisaged by agreement among the members of the performing team.

3. The relationships of the members of a performing team which have to do with distributing earnings from a joint performance are subject respectively by the rules of [Item 3 of Article 1229](#) of the present Code.

4. Each member of a performing team is entitled to take measures on his own to protect his allied rights to a joint performance, including in a case when such performance is an integral entity.

Article 1315. Performer's Rights

1. The performer owns the following rights:

- 1) an exclusive right to the performance;
- 2) the right of attribution, i.e. the right to be recognised as the author of the performance;

3) a right to the name, i.e. the right to have his name or pseudonym indicated on copies of a sound recording and in other cases when the performance is used, and in the case described in [Item 1 of Article 1314](#) of the present Code a right to have the name of the performing team indicated, except for cases when the nature of the use of a work makes it impossible to indicate the name of the performer or the name of the performing team;

4) a right to the integrity of the performance, i.e. a right to have the performance protected against any distortion, i.e. against modifications in a record, broadcast or cable transmission leading to a perversion of the sense or a break in the integrity of perception of the performance.

2. Performers shall exercise their rights in the observance of the rights of the authors of the works performed.

3. The rights of a performer shall be recognised and shall have their effect irrespective of the existence or effect of copyrights in the work performed.

Article 1316. The Protection of Attribution, Performer's Name and Integrity of a Performance on the Death of a Performer

1. The attribution, the name of the performer and the integrity of a performance are protected infinitely.

2. A performer is entitled, in the procedure envisaged for designating the executor of a will ([Article 1134](#)), to designate the person in whom he vests responsibility for protecting his name and integrity of performance on the death of the performer. That person shall execute his powers for life.

If no such indications have been made or if the person designated by the performer has refused to execute these powers, and also on the death of that person the protection of the name of the performer and the integrity of the performance shall be ensured by his heirs, their successors or other persons concerned.

Article 1317. The Exclusive Right to a Performance

1. The performer owns an exclusive right to use the performance in accordance with [Article 1229](#) of the present Code in any manner that does not conflict with a law (the exclusive right to a performance), including the methods specified in [Item 2](#) of the present article. The performer may dispose of the exclusive right to the performance.

2. The following is deemed the use of a performance:

1) the broadcasting, i.e. communicating of the performance for the notice of the general public, by means of its being broadcast by radio or television (including re-transmission), except for cable television. In this case, the communication means any action whereby the performance is made available for audio and/or visual perception, irrespective of its being actually perceived by the public. When the performance is broadcast via a satellite the broadcasting means the reception of the signals from a ground station at the satellite and the transmission of the signals from the satellite, such signals serving to bring the performance to the notice of the general public, irrespective of its actually being received by the public;

2) the cable communication, i.e. the communication of the performance for the notice of the general public by means of transmitting it by radio or television by means of a cable, wire, optical fibre or similar facilities (including re-transmission);

3) the recording of the performance, i.e. the fixation of sounds and/or an image or of representations thereof by means of technical facilities in any material form that allows their perception, reproduction/playback or communication more than once;

4) the reproduction of a record of the performance, i.e. the making of one and more copies of a sound recording or of a part thereof. In this case, a record of the performance on an electronic medium, including a record made in the memory of a computer, is also deemed reproduction, except for cases when such record is temporary and is an integral and significant part of a technological process solely aimed at legally using the record or legally bringing the performance to the notice of the general public;

5) the distribution of a record of the performance by means of selling or another alienation of its original or of copies being copies of the record on any material medium;

6) an action committed in respect of a record of the performance and envisaged by [Subitems 1 and 2](#) of the present item;

7) the bringing of a record of the performance to the notice of the general public so that any person may get access to the record of the performance from any place and at any time at his own discretion (bringing to the notice of the general public);

8) a public playback of a record of the performance, i.e. any communication of the record by means of technical facilities in a place open for the public or in a place where a significant number of people are present who do not belong to the ordinary family circle, irrespective of the record's being perceived in the place where it is communicated or in another place simultaneously with the communication thereof;

9) the hiring out of an original record of the performance or of copies thereof.

3. The exclusive right to a performance does not extend to the reproduction, broadcasting or cable transmission, and a public playback of a record of the performance in cases when such record has been made on the consent of the performer, and its reproduction, broadcasting or cable transmission or public playback takes place for the same purposes for which the performer's consent was obtained when the performance was recorded.

4. If a contract is concluded with a performer for the creation of an audiovisual work the performer's consent to the use of the performance within the audiovisual work is assumed. The performer's consent to the separate use of the sound or image fixed in the audiovisual work shall be expressly stated in the contract.

5. When a performance is used by a person other than the performer thereof the rules of [Item 2 of Article 1315](#) of the present Code are applicable respectively.

Article 1318. The Effective Term of the Exclusive Right to a Performance, the Inheritance of the Right and the Passing of the Performance into the Public Domain

1. The exclusive right to a performance is in effect during the whole life of the performer but at least during fifty years, counted from January 1 of the year following the year in which the performance took place or a record of the performance was taken or the communication of the performance by means of a broadcast or cable service took place.

2. If a performer has been subjected to repression and posthumously rehabilitated the effective term of the exclusive right shall be deemed extended, and fifty years shall be counted from January 1 of the year following the year in which the performer was rehabilitated.

3. If a performer worked during the Great Patriotic War or took part in it the effective term of the exclusive right established by [Item 1](#) of the present article shall be extended by four years.

4. The transfer of the exclusive right to a performance in line of succession is subject to the rules of [Article 1283](#) of the present Code.

5. Upon the expiry of the effective term of the exclusive right to a performance the right shall pass into the public domain. A performance that has passed into the public domain is subject to the rules of [Article 1282](#) of the present Code.

Article 1319. Levy of Execution on the Exclusive Right to a Performance and on the Right of Using a Performance under a Licence

1. The exclusive right to a performance owned by a performer is not subject to levy of execution. However, the things in action of a performer in respect of other persons under contracts of alienation of the exclusive right to a performance and under licence contracts, and also in respect of incomes received from the use of a performance are subject to levy of execution.

An exclusive right owned by a person other than the performer proper and the right of using a performance owned by a licensee are subject to levy of execution.

The rules of [Paragraph 1](#) of the present item extend to the heirs of the performer, their heirs and so on within the limits of the effective term of the exclusive right.

2. In the event of a public sale of a right of using a performance owned by a licensee for the purposes of levy of execution on the right the performer enjoys a priority right to acquire it.

Article 1320. A Performance Created in Line of Duty

The rights to a performance that has been created by a performer in line of duty, including the rights to a joint performance created in this line are subject to the rules of [Article 1295](#) of the present Code respectively.

Article 1321. The Effect of the Exclusive Right to a Performance on the Territory of the Russian Federation

The exclusive right to a performance is effective on the territory of the Russian Federation if:

the performer is a citizen of the Russian Federation;

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

the performance is fixed as a sound recording protected in accordance with the provisions of [Article 1328](#) of the present Code;

the performance that has not been fixed as a sound recording is included in a broadcast or cable transmission protected under the provisions of [Article 1332](#) of the present Code;

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

§ 3. The Right to a Sound Recording

Article 1322. The Manufacturer of a Sound Recording

The manufacturer of a sound recording is the person which has initiated, and is responsible for, the first recording of the sounds of a performance or other sounds or representations of these sounds. Unless otherwise proven, the manufacturer of a sound recording is the person whose name is indicated in an ordinary manner on a copy of the sound recording and/or on the package thereof.

Article 1323. The Rights of the Manufacturer of a Sound Recording

1. The manufacturer of a sound recording owns:

1) an exclusive right to the sound recording;

2) a right to indicate his/its name on copies of the sound recording and/or on the package thereof;

3) a right to have the sound recording protected against distortions as it is being used;

4) a right to have the sound recording promulgated, i.e. to commit the action that makes the sound recording available for the first time to the general public by means of its publication, public show,

public performance, broadcast or cable transmission or otherwise. In this case, the publication (issuance) is the release for circulation of copies of the sound recording on the consent of the manufacturer in a quantity sufficient for meeting the public's reasonable needs.

2. The manufacturer of a sound recording shall exercise his/its rights in the observance of the rights of the authors of works and of the rights of performers.

3. The rights of the manufacturer of a sound recording are recognised and are effective, irrespective of the existence and effect of copyrights and performers' rights.

4. A right to indicate one's name on copies of a sound recording and/or on the package thereof and a right to have a sound recording protected against distortions are effective and protected during the whole life of the citizen or until the termination of the legal entity being the manufacturer of the sound recording.

Article 1324. The Exclusive Right to a Sound Recording

1. The manufacture of a sound recording owns an exclusive right to use the sound recording according to [Article 1229](#) of the present Code in any manner that does not conflict with a law (exclusive right to a sound recording), including the methods specified in [Item 2](#) of the present article. The manufacturer of a sound recording may dispose of the exclusive right to the sound recording.

2. The uses of a sound recording are as follows:

1) a public performance, i.e. any communication of the sound recording by technical facilities in a place open for the public or in a place where a significant number of people are present who do not belong to the ordinary family circle, irrespective of the sound recording's being perceived in the place where it is communicated or in another place simultaneously with the communication thereof;

2) a broadcast, i.e. the communication of the sound recording to the notice of the general public by means of its being broadcast by radio or television (including re-transmission), except for cable communication. In this case, the communication means any action whereby the sound recording is made available for audio perception, irrespective of its being actually perceived by the public. When the sound recording is broadcast via a satellite the broadcasting means the reception of the signals from a ground station at the satellite and the transmission of the signals from the satellite, such signals making it possible for the sound recording to be brought to the general public's notice, irrespective of its being actually received by the public;

3) a cable communication, i.e. the communication of the sound recording to the notice of the general public by a radio or television cable, wire, optical fibre or similar facilities (including retransmission);

4) the bringing of the sound recording to the notice of the general public so that a person may get access to the sound recording from any place and at any time at the person's own discretion (bringing to the notice of the general public);

5) reproduction, i.e. the manufacturing of one and more copies of the sound recording or of a part thereof. In this case, the recording of the sound recording or a part thereof on an electronic medium, including saving into the memory of a computer, is also deemed reproduction, except for cases when such record is temporary and is an integral and significant part of a technological process solely aimed at legally using the record or legally bringing the sound recording to the notice of the general public;

6) the distribution of the sound recording by means of a sale or another alienation of the original or copies which are copies of the sound recording on any material medium;

7) the importation of the original or copies of the sound recording for the purpose of distribution, including the copies manufactures on the permission of the right holder;

8) the hiring out of the original and copies of the sound recording;

9) the processing of the sound recording.

3. A person that has legally processed a sound recording acquires an allied right to the processed sound recording.

4. When a sound recording is used by a person other than the manufacturer thereof the rules of [Item 2 of Article 1323](#) of the present Code are applicable.

Article 1325. Distributing the Original or Copies of a Published Sound Recording

If the original or copies of a legally published sound recording have been released for civil-law transactions on the territory of the Russian Federation by means of a sale or another alienation the further distribution of the original or copies is admissible without the consent of the owner of the exclusive right to the sound recording and without a fee being paid thereto.

Article 1326. Using a Sound Recording Published for Commercial Purposes

1. The public performance of a sound recording published for commercial purposes, and also the broadcasting or cable transmission thereof is admissible without a permission of the owner of the exclusive right to the sound recording and of the owner of the exclusive right to the performance fixed in the sound recording, but with a fee being paid thereto.

2. The collection of the fee described in [Item 1](#) of the present article from users and the distribution of the fee shall be carried out by organisations managing rights on a collective basis and holding a state accreditation for the pursuance of relevant types of activity ([Article 1244](#)).

3. The fee described in [Item 1](#) of the present article shall be distributed among the right holders according to the following proportion: 50 per cent to performers, 50 per cent to the manufacturers of sound recordings. Fee distribution among specific performance and manufacturers of sound recordings shall be carried out pro rata to the actual use of the relevant sound recordings. The procedure for collecting, distributing and paying out a fee is established by the Government of the Russian Federation.

4. The users of sound recordings shall file their reports with the organisation managing rights on a collective basis on the uses of sound recordings, and also provide the other information and documents required for fee collection and distribution.

Article 1327. The Effective Term of the Exclusive Right to a Sound Recording, the Transfer of the Right to Successors and the Passing of a Sound Recording into the Public Domain

1. The exclusive right to a sound recording is in effect for 50 years, counted from January 1 of the year following the year in which the recording took place. In the event of promulgation of a sound recording the exclusive right is in effect for 50 years, counted from January 1 of the year following the year in which it was promulgated, provided the sound recording is promulgated within 50 years after the recording took place.

2. The heirs and other successors of the manufacturer of a sound recording the exclusive right to the sound recording is transferred within the limits of the remaining portions of the terms specified in [Item 1](#) of the present article.

3. Upon the expiry of the effective term of the exclusive right to a sound recording it shall pass into the public domain. A sound recording that has passed into the public domain is subject to the rules of [Article 1282](#) of the present Code.

Article 1328. The Effect of the Exclusive Right to a Sound Recording on the Territory of the Russian Federation

The exclusive right to a sound recording is effective on the territory of the Russian Federation if: the manufacturer of the sound recording is a citizen of the Russian Federation or a Russian legal entity;

the sound recording has been promulgated or its copies have been publicly distributed for the first time on the territory of the Russian Federation.

§ 4. The Rights of Broadcasting and Cable-Services Organisations

Article 1329. The Broadcasting or Cable-Services Organisation

The broadcasting or cable-services organisation is a legal entity communicating radio or television programmes (an aggregate of sounds and/or images or of representations thereof) by broadcasting or by cable.

Article 1330. The Exclusive Right to the Communication of Radio or Television Programmes

1. A broadcasting or cable-services organisation owns an exclusive right to use its legal communication of broadcast or cable programmes in accordance with [Article 1229](#) of the present Code in a manner that does not conflict with a law (the exclusive right to the communication of a radio or television programme), including the methods specified in [Item 2](#) of the present article. A broadcasting or cable-services organisation may dispose of the exclusive right to the communication of a radio or television programme.

2. The following is deemed the communication of a radio or television programme (broadcasting/transmitting):

1) the recording of the communication of a radio or television programme, i.e. the fixation of sounds and/or image or of representations thereof by technical facilities in any material form that makes it possible to be perceived, reproduced or communicated several times;

2) the reproduction of a record of a radio or television programme, i.e. the manufacturing of one and more copies of the record of the radio or television programme or of a part thereof. In this case, the recording of the communication of a radio or television programme on an electronic medium, including saving into the memory of a computer, is also deemed reproduction, except for cases when such record is temporary and is an integral and significant part of a technological process solely aimed at legally using the record or legally bringing the communication of the radio or television programme to the notice of the general public;

3) the distribution of the communication of a radio or television programme by selling or another alienation of the original or copies of a record of the communication of the radio or television programme;

4) the re-transmission, i.e. the communication by broadcasting (for instance via a satellite) or by cable of a radio or television programme by one broadcasting or cable-services organisation simultaneously with its receiving such communication of the programme from another such organisation;

5) the bringing of the communication of a radio or television programme to the notice of the general public so that every person can get access to the communication of the radio or television programme from any place and at any time at the person's own discretion (bringing to the notice of the general public);

6) the public performance, i.e. any communication of a radio or television programme by technical facilities in places where an entry fee is charged, irrespective of its being perceived in the place where communicated or in another place simultaneously with the communication.

3. The use of the communication of a radio or television programme of a broadcasting organisation is both its re-transmission by broadcasting and by cable.

The use of the communication of a radio or television programme of a cable-services organisation is both its re-transmission by cable and by broadcasting.

4. The right of using the communication of a radio or television programme is subject respectively to the rules of [Item 3 of Article 1317](#) of the present Code.

5. Broadcasting and cable-services organisations exercise their rights in the observance of the rights of authors of works, the rights of performers, and in relevant cases of owners of the rights to a sound recording and the rights of other broadcasting and cable-services organisations to the communication of radio and television programmes.

6. The rights of a broadcasting and cable-services organisation are recognised and are effective independently of the existence and effect of copyrights, performers' rights, and also the rights to a sound recording.

Article 1331. The Effective Term of the Exclusive Right to the Communication of a Radio or Television Programme, the Transfer of This Right to Successors and the Passing of the Communication of a Radio or Television Programme into the Public Domain

1. The exclusive right to the communication of a radio or television programme is effective for 50 years, counted from January 1 of the year following the year in which the communication of the radio or television programme by broadcasting or by cable took place.

2. The exclusive right to the communication of a radio or television programme is transferred to the successors of the broadcasting and cable-services organisation within the limits of the remaining portion of the term specified in [Item 1](#) of the present article.

3. Upon the expiry of the effective term of the exclusive right to the communication of a radio or television programme it shall pass into the public domain. A communication of a radio or television programme that has passed into the public domain is subject to the rules of [Article 1282](#) of the present Code respectively.

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

The exclusive right to the communication of a radio or television programme is effective on the territory of the Russian Federation in the broadcasting and cable-services organisation is located on the territory of the Russian Federation and carries out the communication by means of transmitters located on the territory of the Russian Federation, and also in the other cases envisaged by international treaties of the Russian Federation.

§ 5. The Right of the Manufacturer of a Database

Article 1333. The Manufacturer of a Database

1. The manufacture of a database is the person that has organised the creation of the database and the work of gathering, processing and arranging the materials making up the database. Unless otherwise proven, the manufacturer of a database is the citizen or legal entity whose name is indicated in an ordinary manner on a copy of the database and/or on the package thereof.

2. The manufacturer of a database owns the following:

the exclusive right of the manufacturer of the database;

a right to indicate his/its name on copies of the database and/or on the package thereof.

Article 1334. The Exclusive Right of the Manufacturer of a Database

1. The manufacturer of a database whose creation (including the processing or presentation of the relevant materials) requires significant financial, material, organisational or other costs owns an exclusive right to retrieve materials from the database and subsequently use them in any form and in any manner (the exclusive right of the manufacturer of the database). The manufacturer of the database may dispose of the said exclusive right. Unless otherwise proven, the database whose creation requires

significant cost is a database comprising at least 10,000 independent information elements (materials) making up the content of the database ([Paragraph 2 of Item 2 of Article 1260](#)).

Nobody is entitled to retrieve materials from a database and subsequently use them without a permission of the right holder, except for the cases described in the present Code. In this case, the retrieval of materials means the transfer of the whole content of the database or of a significant portion of the materials making it up to another information medium through the use of any technical facilities and in any form.

2. The exclusive right of the manufacturer of a database is recognised and is effective independently of the existence and effect of the copyrights and other exclusive rights of the manufacturer of the database and of other persons to the materials making up the database, and also to the database as a whole as a composite work.

3. A person legally using a database is entitled without a permission of the right holder to retrieve materials from the database and subsequently use them for personal, scientific, educational and other non-commercial purposes within a scope justified by these purposes and to the extent in which such actions do not infringe the copyrights of the manufacturer of the database and of other persons.

The use of materials retrieved from a database in a manner that presumes that an indefinite circle of persons have access thereto shall be accompanied with reference to the database from which the materials are retrieved.

Article 1335. The Effective Term of the Exclusive Right of the Manufacturer of a Database

1. The exclusive right of the manufacturer of a database comes into being as of the time of completion of creation thereof and it shall be in effect for 15 years, counted from January 1 of the year following the year in which it was created. The exclusive right of the manufacturer of a database promulgated within the said period is effective for 15 years, counted from January 1 of the year following the year in which it was promulgated.

2. The terms set out in [Item 1](#) of the present article shall be resumed every time the database is updated.

Article 1336. The Effect of the Exclusive Right of the Manufacturer of a Database on the Territory of the Russian Federation

1. The exclusive right of the manufacturer of a database is effective on the territory of the Russian Federation if:

the manufacturer of the database is a citizen of the Russian Federation or a Russian legal entity;
the manufacturer of the database is a foreign citizen or a foreign legal entity, provided that the legislation of the relevant foreign state grants on the territory thereof protection to the exclusive right of the manufacturer of database manufactured by a citizen of the Russian Federation or a Russian legal entity;

in the other cases set out in international treaties of the Russian Federation.

2. If the manufacturer of a database is a stateless person, depending on his having his place of residence on the territory of the Russian Federation or a foreign state, is respectively subject to the rules of [Item 1](#) of the present articles concerning citizens of the Russian Federation or foreign citizens.

§ 6. The Right of a Publisher to a Scientific, Literary or Artistic Work

Article 1337. The Publisher

1. The publisher is a citizen who has legally promulgated or organised the promulgation of a scientific, literary or artistic work that has not been promulgated earlier and that has not passed into the public domain ([Article 1282](#)) or that is being in the public domain due to its having not been protected by copyright.

2. The rights of a publisher extend to the works which irrespective of the time of creation thereof could be deemed objects of copyright in accordance with the rules of [Article 1259](#) of the present Code.

3. The provisions of the present paragraph do not extend to the works kept in state and municipal archives.

Article 1338. The Rights of the Publisher

1. The publisher owns the following:

1) the exclusive right of the publisher to a work he has promulgated ([Item 1 of Article 1339](#));
2) a right to have his name indicated on copies of a work he has promulgated and in other cases when it is used, including cases when it is translated or otherwise processed.

2. When a work is being promulgated the publisher shall observe the terms set out in [Item 3 of Article 1268](#) of the present Code.

3. Within the effective term of the exclusive right of the publisher to a work the publisher has the powers set out in [Paragraph 2 of Item 1 of Article 1266](#) of the present Code. The same rights are owned by the person to which the exclusive right of a publisher to a work has been transferred.

Article 1339. The Exclusive Right of the Publisher to a Work

1. The publisher of a work owns the exclusive right of suing the work in accordance with [Article 1229](#) of the present Code (the exclusive right of the publisher to the work) in the manners described in [Subitems 1-8](#) and [11 of Item 2 of Article 1270](#) of the present Code. The publisher of the work may dispose of the said exclusive right.

2. The exclusive right of the publisher to a work is also recognised if the work has been promulgated by the publisher in a translation or in another processed form. The exclusive right of the publisher to a work is recognised and is effective independently of the existence and effect of the copyright of the publisher or of other persons to a translation or another processed form of the work.

Article 1340. The Effective Term of the Exclusive Right of the Publisher to a Work

The exclusive right of the publisher to a work comes into being as of the time when the work is promulgated, and it is in effect for 25 years, counted from January 1 of the year following the year in which it was promulgated.

Article 1341. The Effect of the Exclusive Right of the Publisher to a Work on the Territory of the Russian Federation

1. The exclusive right of the publisher extends to a work:

1) promulgated on the territory of the Russian Federation, irrespective of the publisher's citizenship;

2) promulgated outside of the territory of the Russian Federation by a citizen of the Russian Federation;

3) promulgated outside of the territory of the Russian Federation by a foreign citizen or stateless person, provided that the legislation of the foreign state where the work was promulgated grants on the territory thereof protection to the exclusive right of a publisher being a citizen of the Russian Federation;

4) in the other cases envisaged by international treaties of the Russian Federation.

2. In the case specified in [Subitem 3 of Item 1](#) of the present article the effective term of the publisher's exclusive right to a work on the territory of the Russian Federation shall not exceed the effective term of the publisher's right to a work established in the state on whose territory the legal fact servicing as ground for the acquisition of the exclusive right took place.

Article 1342. The Early Termination of the Exclusive Right of the Publisher to a Work

The exclusive right of the publisher to a work may be terminated before due time in a judicial procedure on a complaint of a person concerned if in the use of the work the right holder violates the requirements set out in the present Code concerning the protection of attribution, name of the author or integrity of the work.

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

1. When the original of a work (manuscript, original work of painting, sculpture or another similar work) is alienated by its owner holding a exclusive right of publisher to the work alienated this exclusive right is transferred to the acquirer of the original work, except as otherwise envisaged by a contract.

2. If the exclusive right of the publisher to a work has not been transferred to the acquirer of the original of a work the acquirer is entitled without the consent of the holder of the exclusive right of the publisher to use the original work in the manners specified in [Paragraph 2 of Item 1 of Article 1291](#) of the present Code.

Article 1344. Distributing the Original or Copies of a Work Protected by the Exclusive Right of the Publisher

If the original or copies of a work promulgated in accordance with the present paragraph have been legally put in civil-law transactions by means of being sold or otherwise alienated the further distribution of the original or copies is admissible without the consent of the publisher and without a fee being paid to the publisher.

Chapter 72. The Patent Law

§1. Basic Provisions	(Articles 1345-1355)
§2. Patent Rights	(Articles 1356-1364)
§3. Disposing of the Exclusive Right to an Invention, Utility Model or Industrial	(Articles 1365-1369)

<u>Design</u>	
<u>§4. An Invention, Utility Model and Industrial Design Created in Line of Execution of a Service Assignment or when Works Were Performed under a Contract</u>	(Articles 1370-1373)
<u>§5. Obtaining a Patent</u>	(Articles 1374-1397)
<u>§6. Terminating and Reinstating a Patent</u>	(Articles 1398-1400)
<u>§7. The Details of the Legal Protection and Use of Secret Inventions</u>	(Articles 1401-1405)
<u>§8. The Protection of the Rights of Authors and Patent Holders</u>	(Articles 1406-1407)

§ 1. Basic Provisions

Article 1345. Patent Rights

1. Intellectual rights to inventions, utility models and industrial designs are patent rights.
2. The author of an invention, utility model or industrial design owns the following rights:
 - 1) an exclusive right;
 - 2) the right of attribution.
3. In the cases envisaged by the present Code the author of an invention, utility model or industrial design also owns other rights, including a right to obtain a patent, a right to a fee for the use of a service invention, utility model or industrial design.

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

The following is recognised on the territory of the Russian Federation: the exclusive rights to inventions, utility models and industrial designs certified by patents issued by the federal executive governmental body charged with intellectual property matters or by patents effective 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 labour the relevant result of intellectual activity has been created. Unless otherwise proven, the person mentioned as author in a patent application filed for an invention, utility model or industrial design shall be deemed the author of the invention, utility model or industrial design.

Article 1348. The Co-Authors of an Invention, Utility Model or Industrial Design

1. The citizens who have created an invention, utility model or industrial design are deemed co-authors.
2. Each of the co-authors is entitled to use the invention, utility model and industrial design at his own discretion, except as otherwise envisaged by agreement between them.
3. The relationships of the co-authors that have to do with the distribution of incomes from the use of the invention, utility model and industrial design and with the disposing of the exclusive right to the invention, utility model and industrial design are subject respectively to the rules of [Item 3 of Article 1229](#) of the present Code.

The co-authors shall jointly dispose of a right to obtain a patent to the invention, utility model and industrial design.

4. Each of the co-authors is entitled to take measures on his own to protect his rights to the invention, utility model and industrial design.

Article 1349. The Objects of Patent Rights

1. The objects of patent rights are the results of intellectual activities in the area of science and technology that meet the requirements established by the present Code as applicable to inventions and utility models, and the results of intellectual activities in the area of artistic design that meet the requirements established by the present Code as applicable to industrial designs.

2. The inventions comprising information constituting a state secret (secret inventions) are covered by the provisions of the present Code, except as otherwise envisaged by the special rules of [Articles 1401-1405](#) of the present Code and the other legal acts enacted in accordance with them.

3. The utility models and industrial designs comprising information constituting a [state secret](#) shall not have legal protection in accordance with the present Code.

4. The following shall not be objects of patent rights:
 - 1) human cloning techniques;
 - 2) the techniques for modifying the genetic integrity of human embryo cells;

- 3) the uses of human embryos for industrial and commercial purposes;
- 4) the other solutions inconsistent with public interest and humane and moral principles.

Article 1350. The Conditions of the Patentability of an Invention

1. As an invention a technical solution is protected in any area that is relating to a product (including a device, substance, strain of microorganisms, plant or animal cell culture) or a method (the process of carrying out actions in respect of a material object by material means).

An invention is provided with legal protection if it is novel, has an inventive step and is industrially exploitable.

2. An invention is novel if it is not known from the state of the art.

An invention has an inventive step if for a specialist it does not obviously ensue the state of the art.

The state of the art includes any information that has become available to the public in the world before the priority date of the invention.

When the novelty of an invention is being assessed the state of the art shall also include all patent applications filed for inventions and utility models by other persons in the Russian Federation if they have earlier priority dates and if any person is entitled to read the documents related thereto in accordance with [Item 2 of Article 1385](#) or [Item 2 of Article 1394](#) of the present Code, and the inventions and utility models patented in the Russian Federation.

3. The disclosure of information concerning an invention by the author of the invention, by an applicant or any person that has received this information from them directly or indirectly which made the essence of the invention available to the general public shall not be deemed a circumstance precluding the recognition of the invention's patentability, provided a patent application was filed with the federal executive governmental body charged with intellectual property matters within six months after the date of the disclosure. The burden of proving the existence of the circumstance due to which the information disclosure does not preclude the recognition of the invention's patentability shall be borne by the applicant.

4. An invention is deemed industrially exploitable if it can be used in industry, agriculture, public health and other branches of economy or in the social sphere.

5. The following shall not be deemed inventions:

- 1) discoveries;
- 2) scientific theories and mathematical methods;
- 3) solutions concerning only the appearance of articles and aimed at meeting aesthetical needs;
- 4) the rules and methods of games and of intellectual or economic activities;
- 5) computer programmes;
- 6) solutions consisting in the presentation of information only.

In accordance with the present item these objects cannot be deemed inventions only when a patent application for an invention concerns these objects per se.

6. No legal protection shall be provided to the following as inventions:

- 1) varieties of plants, breeds of animals and the biological methods for producing them, except for microbiological methods and products produced by such methods;
- 2) integrated circuit layout-designs.

Article 1351. The Conditions for the Patentability of a Utility Model

1. A technical solution relating to an apparatus is protected as a utility model.

A utility model is given legal protection if it is novel and industrially exploitable.

2. A utility model is deemed novel if the aggregate of its significant features is not known from the state of the art.

The state of the art includes the information published in the world concerning the facilities having the same intended purpose as the utility model declared, and information on the application thereof in the Russian Federation, if such information had become available to the general public before the priority date of the utility model. Also the state of the art includes all patent applications filed for inventions and utility models by other persons in the Russian Federation if they have earlier priority dates and if any person is entitled to read the documents related thereto in accordance with [Item 2 of Article 1385](#) or [Item 2 of Article 1394](#) of the present Code, and the inventions and utility models patented in the Russian Federation.

3. The disclosure of information concerning a utility model by the author thereof, applicant or another person that has directly or indirectly obtained this information from them making information on the essence of the utility model available to the public shall not be deemed a circumstance precluding the recognition of patentability of the utility model, provided a patent application for the utility model was filed with the federal executive governmental body charged with intellectual property matters within six months after the disclosure. The burden of proving the existence of the circumstances due to which the

information disclosure does not preclude the recognition of patentability of the utility model shall be borne by the applicant.

4. A utility model is industrially exploitable if it can be used in industry, agriculture, public health and other branches of economy or in the social sphere.

5. No legal protection is granted to the following as utility models:

- 1) solutions concerning only the appearance of articles and aimed at meeting aesthetic needs;
- 2) integrated circuit layout-designs.

Article 1352. The Conditions for the Patentability of an Industrial Design

1. The following is protected as an industrial design: the artistic and design solution of a factory-made or home-made article which determines the appearance of the article.

An industrial design enjoys legal protection if it is novel and original in terms of its significant features.

The significant features of an industrial design are the features determining the aesthetic and/or ergonomic details of the appearance of an article, including the form, configuration, decoration and colour pattern.

2. An industrial design is deemed novel if the aggregate of its significant features reflected on images of the article and available in a list of the significant features of the industrial design ([Item 2 of Article 1377](#)) is not known from the information that had been made available to the public in the world before the priority date of the industrial design.

When the novelty of the industrial design is being established also account shall be taken of all industrial design applications filed in the Russian Federation by other persons, provided they have earlier priorities and the documents concerning them have been made available to any person under [Item 2 of Article 1394](#) of the present Code, and of the industrial designs patented in the Russian Federation.

3. An industrial design is deemed original if its significant features are stipulated by the creative nature of the article's features.

4. The disclosure of information on an industrial design by the author thereof, an applicant or any person that has directly or indirectly received this information from them which made information on the essence of the industrial design available to the public shall not be deemed a circumstance precluding the recognition of patentability of the industrial design, provided a patent application was filed for the industrial design with the federal executive governmental body charged with intellectual property matters within six months after the disclosure. The burden of proving the existence of the circumstances due to which the disclosure of information does not preclude the recognition of patentability of the industrial design shall be borne by the applicant.

5. No legal protection is granted to the following as industrial designs:

- 1) solutions exclusively due to the technical function of an article;
- 2) objects of architecture (except for small-form architecture), industrial, hydraulic engineering and other immovable structures;
- 3) objects of an unstable form from fluid, gaseous, free-flowing or similar substances.

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

The exclusive right to an invention, utility model or industrial design is recognised and protected on the condition of the state registration of the relevant invention, utility model or industrial design, such registration serving as a ground for the federal executive governmental body charged with intellectual property matters to issue a patent for the invention, utility model or industrial design.

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

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

2. Protection of intellectual rights to an invention or utility model is granted under a patent within the scope defined by the invention or utility model claim respectively contained in the patent. A description and drawings ([Item 2 of Article 1375](#) and [Item 2 of Article 1376](#)) may be used for the purpose of construing the invention claim and the utility model claim.

3. Protection of intellectual rights to an industrial design is granted under a patent within the scope defined by the aggregate of its significant features reflected images of the article and available in a list of the significant features of the industrial design ([Item 2 of Article 1377](#)).

Article 1355. Provision of State Incentives for Creating and Using Inventions, Utility Models and Industrial Designs

The state shall provide incentives for the creation and use of inventions, utility models or industrial designs, and grant privileges in accordance with the legislation of the Russian Federation to

their authors and also to the patent holders and licensees which use the relevant inventions, utility models or industrial designs.

§ 2. Patent Rights

Article 1356. The Right of Attribution in Respect of an Invention, Utility Model or Industrial Design

The right of attribution, i.e. the right of being recognised as the author of an invention, utility model or industrial design is unalienable and unassignable, for instance, when this right or the exclusive right to the invention, utility model or industrial design is transferred to another person and when the right of using it is granted to another person. The waiver of this right is null and void.

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

1. The right to obtain a patent for an invention, utility model or industrial design initially is owned by the author of the invention, utility model or industrial design.

2. The right to obtain a patent for an invention, utility model or industrial design may pass to another person (successor) or may be assigned thereto in the cases and on the grounds established by a law, including in line of universal succession or under a contract including a labour contract.

3. A contract of alienation of a right to obtain a patent to an invention, utility model or industrial design shall be concluded in writing. The non-observance of a written form shall cause the invalidity of the contract.

4. Except as otherwise envisaged by agreement of the parties to a contract of alienation of a right to obtain a patent for an invention, utility model or industrial design, the risk of non-patentability shall be borne by the acquirer of the right.

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

1. The patent holder owns the exclusive right of using the invention, utility model or industrial design in accordance with [Article 1229](#) of the present Code in any manner that does not conflict with a law (the exclusive right to an invention, utility model or industrial design), for instance, by the methods described in [Items 2](#) and [3](#) of the present article. The patent holder may dispose of the exclusive right to the invention, utility model or industrial design.

2. The following is deemed, without limitations, to be the use of an invention, utility model or industrial design:

1) the importation into the territory of the Russian Federation, manufacturing, application, offer for sale, sale, another introduction in civil-law transactions or storage for such purposes of a product in which the invention or utility model is used or of an article in which the industrial design is used;

2) the commission of the actions described in [Subitem 1](#) of the present item in respect of a product produced directly by a patented method. If the product produced by the patented method is novel then an identical product shall be deemed produced by the patented method, unless otherwise proven;

3) the commission of the actions described in [Subitem 2](#) of the present item in respect of an apparatus in whose operation (exploitation) the patented method is automatically implemented;

4) the implementation of the method in which the invention is used, for instance, by means of applying the method.

3. An invention or utility model shall be deemed to be used in a product or by a method if the product contains and the method uses each feature of the invention or utility model that had been stated in an independent item of the invention or utility model claim, or a feature equivalent thereto, and that had become known as such in the given field of technology before the actions described by [Item 2](#) of the present article were committed in respect of the relevant product or method of action.

An industrial design shall be deemed to be used in an article if this article contains all the significant features of the industrial design which are reflected in images of the article and stated in a list of the significant features of the industrial design ([Item 2 of Article 1377](#)).

If in the use of an invention or utility model all the features are also used which are stated in an independent item comprised by the subject of another invention or another utility model in a patent, and in the use of an industrial design all the features stated in a list of the significant features of another industrial design then the other invention, the other utility model and the other industrial design shall also be deemed to be used.

4. If the owners of a patent for one invention, one utility model or one industrial design are two and more persons the relationships between/among them respectively shall be governed by the rules of [Items 2](#) and [3 of Article 1348](#) of the present Code, irrespective of any of the patent-owners being or not being the author of this result of intellectual activity.

Article 1359. The Actions Not Deemed an Infringement of the Exclusive Right to an Invention, Utility Model or Industrial Design

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

1) the use of a product in which the invention or utility model is used, and the use of an article in which the industrial design is used, in the design, in auxiliary equipment or in the operation of vehicles (water, air, road and rail means of transport) or spacecraft of foreign states, provided these vehicles or spacecraft are temporarily or incidentally located on the territory of the Russian Federation and the said product or article is used solely for the needs of the vehicles or spacecraft. Such action shall not be deemed an infringement of the exclusive right in respect of vehicles or spacecraft of the foreign states which grant the same rights in respect of the vehicles or spacecraft registered in the Russian Federation;

2) the carrying out of a scientific research of a product or method in which the invention or utility model is used or of a scientific research of an article in which the industrial design is used or the carrying out of an experiment in respect of such product, method or article;

3) the using of the invention, utility model or industrial design in emergency circumstances (natural calamities, disasters, accidents), with the patent holder being notified of this use as soon as possible and with a commensurate compensation being paid henceforth out to the patent holder;

4) the use of the invention, utility model or industrial design for meeting personal, family, household or other needs other than entrepreneurial activity, unless profit-making or earnings-making is the purpose of the use;

5) the one-off manufacturing of medicines with the use of the invention in a chemist's shop on a physician's prescription;

6) the importation into the territory of the Russian Federation, the application, offer for sale, sale, another introduction in civil-law transactions or storage for such purposes of a product in which the invention or utility model is used or of an article in which the industrial design is used, if the product or article has been earlier introduced in civil-law transactions on the territory of the Russian Federation by the patent holder or by another person on a permission of the patent holder.

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

In the interests of national security the Government of the Russian Federation is entitled to permit the use of an invention, utility model or industrial design without the consent of the patent holder, with the patent holder being notified as soon as possible and with a commensurate compensation being paid out to the patent holder.

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

1. The person that prior to the priority date of an invention, utility model or industrial design ([Articles 1381](#) and [1382](#)) had been bona fide using on the territory of the Russian Federation an identical solution created independently of the author or had made the necessary preparations for this shall retain the right of further free use of the identical solution without broadening the scope of the use (the right of prior use).

2. The right of prior use may be assigned to another person only with the enterprise in which the use of the identical solution took place or the necessary preparations were made for it.

Article 1362. The Compulsory Licence for an Invention, Utility Model or Industrial Design

1. If an invention or industrial design is not used or is insufficiently used by the patent holder within four years after the issuance of the patent, and a utility model within three years after the issuance of the patent which leads to the insufficient offer of relevant goods, works or services in the market, any person willing and ready to use the invention, utility model or industrial design -- if the patent holder refuses to conclude a licence contract with this person on the terms meeting the prevailing practices -- is entitled to file a claim with the court for the patent holder to issue a compulsory simple (nonexclusive) licence for the use of the invention, utility model or industrial design on the territory of the Russian Federation. In its claim the person shall set out terms for the provision of the licence, including the scope of use of the invention, utility model or industrial design, the amount of, procedure and term for, payments.

Unless the patent holder proves that his/its non-use or insufficient use of the invention, utility model or industrial design was due to a good reason, the court shall take a decision on granting the licence specified in [Paragraph 1](#) of the present Item and on the terms for the granting thereof. The sum total of payments for the licence shall be set in the court's decision at least as equal to a licence price determined in comparable circumstances.

A compulsory simple (non-exclusive) licence may be terminated in a judicial procedure on a claim of the patent holder, if the circumstances due to which the licence has been issued are no longer existing and it is unlikely that they are going to appear again. In this case the court shall establish a term and procedure for termination of the compulsory simple (non-exclusive) licence and of the rights that have come into being due to the receipt of the licence.

2. Unless a patent holder cannot use an invention to which he/it has an exclusive right, without infringing on the rights of the holder of another patent (first patent) for an invention or utility model which have refused to conclude a licence contract on the terms complying with the prevailing practices, the holder of the patent (second patent) is entitled to file a claim with the court against the holder of the first patent for the issuance of a compulsory simple (non-exclusive) licence for the use of the invention or utility model of the holder of the first patent on the territory of the Russian Federation. In the claim the holder of the second patent shall indicate his/its terms for granting thereto such licence, including the scope of use of the invention or utility model, the amount of, procedure and term for, payments.

If the patent holder having an exclusive right to such dependent invention manages to prove that it is an important technical achievement and that it has significant economic advantages over the invention or utility model of the holder of the first patent the court shall take a decision on granting a compulsory simple (non-exclusive) licence thereto. The right of using the invention protected by the first patent obtained under such licence shall not be assigned to other persons, except for the case of alienation of the second patent.

The sum total of payments for a compulsory simple (non-exclusive) licence shall be set in the court's decision at least as equal to a licence price determined in comparable circumstances.

When a compulsory simple (non-exclusive) licence is granted in accordance with the present item the holder of the patent for the invention or utility model which may be used under the right granted on the basis of the said licence also has a right to obtain a simple (nonexclusive) licence for the use of the dependent invention in connection with which the compulsory simple (non-exclusive) licence was issued, on the terms complying with the prevailing practices.

3. Under the court's decision described in [Items 1](#) and [2](#) of the present article the federal executive governmental body charged with intellectual property matters shall grant state registration to the compulsory simple (non-exclusive) licence.

Article 1363. The Effective Term of Exclusive Rights to an Invention, Utility Model and Industrial Design

Article 1363. The Effective Term of Exclusive Rights to an Invention, Utility Model and Industrial Design

1. The effective term of the exclusive right to an invention, utility model, industrial design, and of the patent certifying this right shall be counted from the day when the initial patent application was filed with the federal executive governmental body charged with intellectual property matters, and it shall be as follows, provided the requirements established by the present Code are met:

- 20 years for inventions;
- 10 years for utility models;
- 15 years for industrial design.

The protection of a patented exclusive right may be exercised only after the state registration of the invention, utility model, industrial design and the issuance of the patent ([Article 1393](#)).

2. If more than five years have elapsed from the filing of a patent application for an invention relating to a medicine, pesticide or agrochemical substance which require that a permission be secured in the procedure established by a law to the receipt of the first permission for using it the effective term of the exclusive right to the relevant invention and the patent certifying this right shall be extended on an application of the patent holder by the federal executive governmental body charged with intellectual property matters. The said term shall be extended by the period that had elapsed since the filing of the patent application for the invention to the date of receipt of the first permission for using the invention, less five years. In this case, the effective term of the patent for the invention shall not be extended by a term exceeding five years.

A term-extension application shall be filed by the holder of a patent within the effective term of the patent before the expiry of six months after the receipt of a permission for using the invention or the date of issue of the patent, whichever of these terms expires the latest.

3. The effective term of the exclusive right to a utility model and the patent certifying this right shall be extended by the federal executive governmental body charged with intellectual property matters on an application of the patent holder by the term specified in the application but in any case not exceeding three years, and the exclusive right to an industrial design and the patent certifying this right by the term specified in the application but in any case not exceeding ten years.

4. The [procedure](#) for extending the effective term of a patent for an invention, utility model, industrial design shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.]!BLOCKEND

5. The exclusive right to an invention, utility model, industrial design and the patent certifying this right shall be deemed invalid or shall be terminated before due date on the grounds and in the procedure set out in [Articles 1398](#) and [1399](#) of the present Code.

Article 1364. The Passing of an Invention, Utility Model, Industrial Design into the Public Domain

1. Upon the expiry of the effective term of the exclusive right the invention, utility model, industrial design shall pass into the public domain.

2. An invention, utility model, industrial design that has passed into the public domain may be freely used by any person without anybody's consent or permission and without a fee being paid for the use thereof.

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

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

Under a contract of alienation of the exclusive right to an invention, utility model, industrial design (contract of alienation of a patent) one party (patent holder) assigns or undertakes to assign his/its exclusive right to the relevant result of intellectual activity in full to the other party, the acquirer of the exclusive right (acquirer of the patent).

Article 1366. The Public Offer for Concluding a Contract of Alienation of a Patent for an Invention

1. While filing a patent application for an invention the applicant being the author of an invention may attach to the application documents a statement to the effect that if a patent is issued he/it undertakes to conclude a contract of alienation of the patent on the terms complying with the prevailing practices with any citizen of the Russian Federation or Russian legal entity which was first to express such will and has notified accordingly the patent holder and the federal executive governmental body charged with intellectual property matters. If such application exists the patent duties envisaged by the present Code shall not be collected from the applicant for the patent application for the invention and for the patent issued under the application.

The federal executive governmental body charged with intellectual property matters shall publish information on the said application in the [gazette](#).

2. A person that has concluded a contract of alienation of a patent for an invention with the holder of the patent on the basis of his/its application described in [Item 1](#) of the present article shall pay all the patent duties from which the applicant (patent holder) was relieved. Henceforth, patent duties shall be paid in the established procedure.

For the purpose of registering a contract of alienation of a patent with the federal executive governmental body charged with intellectual property matters a document shall be attached to the contract registration application to confirm that all the patent duties from which the applicant (patent holder) was relieved have been paid.

3. Unless during two years after the publication of information on the issuance of a patent for an invention in respect of which the application specified in [Item 1](#) of the present article has been made the federal executive governmental body charged with intellectual property matters received a notice in writing of a will to conclude a contract of alienation of the patent, the holder of the patent may file a petition with the said federal body withdrawing his/its application. In this case, the patent duties specified by the present Code from which the applicant (patent holder) was relieved shall be payable. Henceforth, patent duties shall be paid in the established procedure.

The federal executive governmental body charged with intellectual property matters shall publish information on the withdrawal of the application specified in [Item 1](#) of the present article in the [gazette](#).

Article 1367. The Licence Contract of Granting a Right to Use an Invention, Utility Model or Industrial Design

Under the licence contract one party, patent holder (licensor) shall grant or undertakes to grant within the limits established by the contract to the other party (licensee) the right of using an invention, utility model or industrial design certified by a patent.

Article 1368. The Open Licence for an Invention, Utility Model or Industrial Design

1. The holder of a patent may file an [application](#) with the federal executive governmental body charged with intellectual property matters on the possibility of granting to any person a right to use the invention, utility model or industrial design (open licence).

In this case, the rate of patent duty for keeping the patent for the invention, utility model or industrial design in effect shall be cut by 50 per cent starting from the year following the year of publication by the federal executive governmental body charged with intellectual property matters of information on the open licence.

The licence terms on which a right to use the invention, utility model or industrial design may be granted to any person shall be announced by the patent holder to the federal executive governmental body charged with intellectual property matters which shall publish on the patent holder's account relevant information on the open licence. The patent holder shall conclude a licence contract on the terms of a simple (non-exclusive) licence with a person expressing his/its will to use the said invention, utility model or industrial design.

2. If within two years after the publication of information about the open licence did not receive offers in writing to conclude a licence contract on the terms comprised by his/its application, then upon the expiry of two years he/it may file a petition with the federal executive governmental body charged with intellectual property matters withdrawing his/its open licence application. In this case, a patent duty for keeping the patent in effect shall be additionally paid for the period that has elapsed since the publication of information on the open licence, and henceforth it shall be payable in full. The said federal body shall publish information on the withdrawal of the application in the gazette.

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

A contract of alienation of a patent, a licence contract, and also the other contracts whereby one disposes of the exclusive right to an invention, utility model or industrial design shall be concluded in writing and shall be subject to state registration with the federal executive governmental body charged with intellectual property matters.

§ 4. An Invention, Utility Model and Industrial Design Created in Line of Execution of a Service Assignment or when Works Were Performed under a Contract

Article 1370. The Service Invention, Service Utility Model and Service Industrial Design

1. An invention, utility model or industrial design created by an employee in the course of his duties or a specific assignment of the employer shall be deemed a service invention, utility model or industrial design.

2. The right of attribution in respect of a service invention, service utility model or service industrial design is owned by the employee (author).

3. The exclusive right to a service invention, service utility model or service industrial design and the right of obtaining a patent are owned by the employer, except as otherwise envisaged by a labour contract or another contract between the employee and the employer.

4. Unless a contract between the employer and the employee comprises agreement to the contrary ([Item 3](#) of the present article), the employee shall notify in writing the employer that a result that can be legally protected has been created in the course of execution of his duties or of a specific assignment.

Unless within four months after being notified by the employee files a patent application for the relevant service invention, service utility model or service industrial design with the federal executive governmental body charged with intellectual property matters, assigns the right of obtaining a patent to the service invention, service utility model or service industrial design to another person or notifies the employee that information on the relevant result of intellectual activity is kept secret, the right to obtain a patent for the invention, utility model or industrial design shall be owned by the employee. In this case within the effective term of the patent the employer shall be entitled to use the service invention, service utility model or service industrial design in the employer's production facilities on the terms of a simple (non-exclusive) licence, with a compensation being paid to the holder of the patent of which the rate, terms and payment procedure are defined by a contract between the employee and the employer, or by the court in the case of a dispute.

If the employer obtains a patent for the service invention, service utility model or service industrial design or decides to keep information about the invention, utility model or industrial design secret and notify the employee accordingly or assigns the right of obtaining a patent to another person or does not receive a patent on an application filed by the employer for reasons under the employer's control the employee shall be entitled to a fee. The amount of the fee, the terms and procedure for the employer to pay it out shall be defined by a contract between the employer and the employee, or by the court in the case of a dispute.

The Government of the Russian Federation is entitled to set minimum rates of the fee payable for service inventions, service utility models or service industrial designs.

5. An invention, utility model or industrial design created by an employee through the use of money, technical or other material means of the employer but other than in line of duty or a specific assignment of the employer shall not be deemed service. The right to obtain a patent and the exclusive right to such invention, utility model or industrial design are owned by the employer. In this case the employer is entitled at his/its own discretion to claim a free-of-charge simple (nonexclusive) licence for the use of the created result of intellectual activity for his/its own needs for the whole effective term of the exclusive right or a compensation for the expenses incurred by the employer in connection with the creation of the invention, utility model or industrial design

Article 1371. An Invention, Utility Model or Industrial Design Created When Works Were Performed under a Contract

1. If an invention, utility model or industrial design has been created in the course of performance of a contractor's contract or a contract of performance of research and development or technological works which did not directly require the creation thereof the right to obtain a patent and the exclusive right to the invention, utility model or industrial design are owned by the contractor (performer), except as otherwise envisaged by a contract between the contractor and the customer.

In this case the customer is entitled, except as otherwise envisaged by the contract, to use the invention, utility model or industrial design so created for the purposes for which the relevant contract was concluded, on the terms of a simple (non-exclusive) licence during the whole effective term of the patent without an additional fee being charged for the use. If the contractor (performer) assigns the right to obtain a patent or to alienate the patent proper to another person the customer shall retain the right of using the invention, utility model or industrial design on the said terms.

2. If under the contract between the contractor (performer) and the customer the right to obtain a patent or the exclusive right to the invention, utility model or industrial design is assigned to the customer or to the third person designated by the customer the contractor (performer) is entitled to use the created invention, utility model or industrial design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the patent, except as otherwise envisaged by the contract.

3. In accordance with [Item 4 of Article 1370](#) of the present Code a fee shall be paid to the author of the invention, utility model or industrial design described in [Item 1](#) of the present article who is not the holder of the patent.

Article 1372. The Industrial Design Created on Order

1. If an industrial design is created under a contract which had the creation thereof as its subject matter (on order) the right to obtain a patent and the exclusive right to the industrial design is owned by the customer, except as otherwise envisaged by a contract between the contractor (performer) and the customer.

2. If according to [Item 1](#) of the present article the right to obtain a patent and the exclusive right to an industrial design is owned by the customer the contractor (performer) is entitled, except as otherwise envisaged by a contract, to use the industrial design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the patent.

3. If according to a contract between the contractor (performer) and the customer the right to obtain a patent and the exclusive right to the industrial design is owned by the contractor (performer) the customer is entitled to use the industrial design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the patent.

4. In accordance with [Item 4 of Article 1370](#) of the present Code a fee shall be paid to the author of an industrial design created on order who is not the holder of the patent.

Article 1373. The Invention, Utility Model and Industrial Design Created when Works Were Performed under a State or Municipal Contract

1. The right to obtain a patent and the exclusive right to an invention, utility model or industrial design created when works were performed under a state or municipal contract for state or municipal needs are owned by the organisation performing the state or municipal contract (contractor), unless according to the state or municipal contract these rights are owned by the Russian Federation, the subject of the Russian Federation or the municipal formation on whose behalf the state or municipal customer is acting or jointly by the contractor and the Russian Federation, the contractor and the subject of the Russian Federation or the contractor and the municipal formation.

2. If under a state or municipal contract a right to obtain a patent and an exclusive right to an invention, utility model or industrial design is owned by the Russian Federation, a subject of the Russian Federation or a municipal formation then the state or municipal customer may file a patent application within six months after the customer was notified in writing by the contractor that a result of intellectual activity had been obtained capable of being entitled to legal protection as an invention, utility model or industrial design. Unless within the said term the state or municipal customer files the application, the contractor shall own a right to obtain a patent.

3. If under a state or municipal contract a right to obtain a patent and an exclusive right to an invention, utility model or industrial design is owned by the Russian Federation, a subject of the Russian Federation or a municipal formation the contractor shall either acquire all rights by means of concluding relevant agreements with his/its employees and third persons or ensure the acquisition thereof to be transferred to the Russian Federation, the subject of the Russian Federation or the municipal formation respectively. In this case the contractor is entitled to a compensation for the expenses he/it has incurred in connection with the acquisition of the relevant rights from third persons.

4. If a patent for an invention, utility model or industrial design created when works were performed under a state or municipal contract for state or municipal needs is owned according to [Item 1](#) of the present article to a person other than the Russian Federation, a subject of the Russian Federation

or a municipal formation then if requested by the state or municipal customer the holder of the patent shall grant to the person designated by the customer a free-of-charge simple (nonexclusive) licence 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 when works were performed under a state or municipal contract for state or municipal needs is obtained jointly in the name of the contractor and the Russian Federation, the contractor and the subject of the Russian Federation or the contractor and the municipal formation then the state or municipal customer is entitled to grant a free-of-charge simple (non-exclusive) licence for the use of the invention, utility model or industrial design for the purpose of carrying out works or product delivery for state or municipal needs, having notified the contractor accordingly.

6. If the contractor that has obtained a patent for an invention, utility model or industrial design in accordance with [Item 1](#) of the present article in his/its name decides that the patent be terminated before due date then he/it shall notify accordingly the state or municipal customer, and on a request thereof to transfer the patent free of charge to the Russian Federation, the subject of the Russian Federation or the municipal formation.

If a decision is taken on early termination of a patent obtained in accordance with [Item 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 notify the contractor accordingly and in his/its request to transfer the patent thereto on a free-of-charge basis.

7. The author of the invention, utility model or industrial design mentioned in [Item 1](#) of the present article not being a patent holder is entitled to a fee according to [Item 4 of Article 1370](#) of the present Code.

§ 5. Obtaining a Patent

- [1. The Patent Application, Its Amendment and \(Articles 1374-1380\) Revocation](#)
- [2. The Priority of an Invention, Utility Model \(Articles 1381-1383\) and Industrial Design](#)
- [3. The Expert Examination of a Patent Application. \(Articles 1384-1392\) The Temporary Legal Protection of an Invention, Utility Model and Industrial Design](#)
- [4. The Registration of an Invention, Utility \(Articles 1393-1397\) Model and Industrial Design, and the Issuance of a Patent](#)

1. The Patent Application, Its Amendment and Revocation

Article 1374. Filing a Patent Application for an Invention, Utility Model and Industrial Design

1. A patent application for an invention, utility model or industrial design shall be filed with the federal executive governmental body charged with intellectual property matters by a person entitled to obtain a patent according to the present Code (applicant).

2. The patent application for an invention, utility model or industrial design shall be filed in the Russian language. The other documents of the application shall be filed in the Russian language or in another language. If the documents of the application are filed in another language a translation thereof into Russian shall be attached to the application.

3. The patent application for an invention, utility model or industrial design shall be signed by the applicant, or if filed through a patent agent or another representative, by the applicant or his/its representative filing the application.

4. The requirements applicable to patent application documents for an invention, utility model or industrial design shall be established on the basis of the present Code by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

5. The patent application for an invention, utility model or industrial design shall be accompanied by a document confirming that a patent duty has been paid at the established rate or a document confirming the grounds for being relieved from a patent duty or for a patent duty rebate or deferment.

Article 1375. The Patent Application for an Invention

1. A patent application for an invention (invention application) shall be relating to one invention or a group of invention interconnected to the extent that they form a united inventive concept (the concept of the unity of an invention).

2. The invention application shall comprise the following:

1) a patent [application](#) including an indication of the author of the invention and of the person for whose name the patent is sought, and also the residence or whereabouts of each of them;

- 2) a [description of the invention](#) that discloses it in a completeness sufficient for implementation;
- 3) the [invention claim](#) expressing the essence thereof and fully based on its description;
- 4) drawings and other [materials](#) if required for understanding the essence of the invention;
- 5) a [synopsis](#).

3. The date of filing of the invention application is the date when the federal executive governmental body charged with intellectual property matters receives an application comprising a patent application, a description of the invention and drawings if the description comprises reference thereto, and the date of receipt of the last document if the said documents were not filed simultaneously.

Article 1376. The Patent Application for a Utility Model

1. A patent application for a utility model (a utility model application) shall be relating to one utility model or a group of utility models interrelated to the extent that they form a united creative concept (the requirement for the unity of a utility model).

2. The utility model application shall comprise the following:

- 1) a patent [application](#) including an indication of the author of the utility model and the person for whose name the patent is sought, and also the residence or whereabouts of each of them;
- 2) a [description of the utility mode](#) disclosing it with a completeness sufficient for implementation;
- 3) the utility model [claim](#) expressing its essence and fully based on its description;
- 4) [drawings](#) if required for understanding the essence of the utility model;
- 5) a [synopsis](#).

3. The date of filing of the utility model application is the date when the federal executive governmental body charged with intellectual property matters receives an application comprising a patent application, a description of the utility model and drawings if the description comprises reference thereto, and the date of the last of documents if the said documents were not filed simultaneously.

Article 1377. The Patent Application for an Industrial Design

1. A patent application for an industrial design (industrial design application) shall be relating to one industrial design or a group of industrial designs interrelated to the extent of forming a united creative concept (the concept of the unity of an industrial design).

2. The industrial design application shall comprise the following:

- 1) a patent [application](#) with an indication of the author of the industrial design and the person for whose name the patent is sought, and also the residence or whereabouts of each of them;
- 2) a [set of images of the article](#) that provide a complete detailed idea of the article's appearance;
- 3) a general view drawing of the article, an ergonomic sketch, a building layout if they are required for disclosing the essence of the industrial design;
- 4) a [description of the industrial design](#);
- 5) a [list](#) of the significant features of the industrial design.

3. The date of filing of the industrial design application is the date when the federal executive governmental body charged with intellectual property matters receives an application comprising a patent application, a set of images of the article, a description of the industrial design and a list of the significant features of the industrial design, and the date of receipt of the last of the documents if these document were not filed simultaneously.

Article 1378. Amending the Documents of an Invention, Utility Model or Industrial Design Application

1. The applicant is entitled to amend the documents of the invention, utility model or industrial design application, for instance by means of filing additional materials, until a decision on issuing a patent or refusing to issue a patent is taken on the application, unless the amendment changes the essence of the declared invention, utility model or industrial design.

The additional materials are deemed to change the essence of the declared invention, utility model or industrial design if they comprise the features which are supposed to be included in the invention or utility model claim but which had not been disclosed as of the priority date in the documents serving as the ground for the establishment thereof, and also in the invention or utility model claim if as of the priority date the application contained the invention or utility model claim.

The additional materials are deemed to change the essence of the declared industrial design if they comprise the features which were supposed to be included in the list of significant features of the industrial design but which are lacking on the images of the article when the application is filed.

2. A change in the details of the applicant, for instance when a right to obtain a patent is assigned to another person or due to the change of name of the applicant, and also the correction of obvious and technical errors may be made to the documents of the application until the registration of the invention, utility model or industrial design.

3. If the documents of an application are amended on the initiative of the applicant within two months after the filing of the application no patent duty shall be levies for the amendments.

4. The amendments made by the applicant to the documents of an invention application shall be taken into account when information on the application is [published](#) if such amendments are presented to the federal executive governmental body charged with intellectual property matters within 12 months after the filing of the application.

Article 1379. Transforming an Invention or Utility Model Application

1. Until the publication of information on an invention application ([Item 1 of Article 1385](#)) but not later than the date of a decision on the issuance of a patent the applicant is entitled to transform it into a utility model application by means of filing an appropriate application with the federal executive governmental body charged with intellectual property matters, except for cases when the application is accompanied by an application proposing to conclude a contract for alienation of patent described in [Item 1 of Article 1366](#) of the present Code.

2. The transformation of a utility model application into an invention application is permitted until the date of a decision on the issuance of a patent, or if a decision on refusing to issue a patent is taken, until the completion of the appeal against such decision envisaged by the present Code.

3. If an invention or utility model application is transformed in accordance with [Items 1](#) or [2](#) of the present article the priority of the invention or utility model and the date of filing of the application shall keep intact.

Article 1380. Withdrawing an Invention, Utility Model or Industrial Design Application

An applicant is entitled to withdraw his/its invention, utility model or industrial design application until the registration of the invention, utility model or industrial design in the relevant register.

2. The Priority of an Invention, Utility Model and Industrial Design

Article 1381. Establishing 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 when the invention, utility model or industrial design application is filed with the federal executive governmental body charged with intellectual property matters.

2. The priority of an invention, utility model or industrial design may be established by the date when additional materials are received, if they are provided by the applicant as an independent application filed before the expiry of three months after the applicant's receipt of a notice from the federal executive governmental body charged with intellectual property matters stating that additional materials could not be taken into account because they were deemed to change the essence of the solution declared, unless as of the date of filing of the independent application the application containing the said additional materials had been withdrawn or deemed withdrawn.

3. The priority of an invention, utility model or industrial design may be established by the date when the same applicant filed with the federal executive governmental body charged with intellectual property matters an earlier application disclosing the invention, utility model or industrial design, unless the earlier application had been withdrawn or deemed withdrawn as of the date of filing of the application whereby the priority is sought, provided the application whereby the priority is sought was filed within 12 months after the filing of the earlier application concerning the invention, or six months after the filing of the earlier application concerning the utility model or industrial design.

Once an application seeking priority is filed the earlier application shall be deemed withdrawn.

Priority shall not be established by the date of filing of an application whereby an earlier priority has been sought.

4. The priority of an invention, utility model or industrial design under a divisional application shall be established by the date when the same applicant filed with the federal executive governmental body charged with intellectual property matters his/its initial application disclosing the invention, utility model or industrial design or if a right exists to establish an earlier priority, by the initial application by the date of that priority, unless the initial invention, utility model or industrial design application had not been withdrawn or deemed withdrawn, provided the divisional application had been filed before the completion of the appeal envisaged by the present Code against the decision on refusing to issue a patent under the initial application or the date of registration of the invention, utility model or industrial design if a decision on issuing a patent was taken on the initial application.

5. The priority of an invention, utility model or industrial design may be established on the basis of several applications filed earlier or of additional materials to such applications, given the observance of the conditions set out in [Items 2](#), [3](#) and [4](#) of the present article and [Article 1382](#) of the present Code respectively.

Article 1382. The Convention Priority of an Invention, Utility Model or Industrial Design

1. The priority of an invention, utility model or industrial design may be established by the date of filing of the first application for the invention, utility model or industrial design in a member state of the

[Paris Convention](#) for the Protection of Industrial Property (conventional priority), provided an application for the invention or utility model is filed with the federal executive governmental body charged with intellectual property matters within 12 months after the said date or an application for the industrial design within six months after the said date. If due to reasons beyond the applicant's control an application seeking a convention priority could not be filed within the said term that term may be extended by the federal executive governmental body charged with intellectual property matters by up to two months.

2. An applicant willing to exercise the right of convention priority in respect of a utility model or industrial design application shall notify accordingly the federal executive governmental body charged with intellectual property matters within two months after the filing of the application and present an attested copy of the first application specified in [Item 1](#) of the present article within three months after the filing with the said federal body of the application whereby a convention priority is sought.

3. An applicant willing to exercise the right of convention priority in respect of an invention application shall notify accordingly the federal executive governmental body charged with intellectual property matters and file a copy of the first application with that federal body within 16 months after it was filed with the patent department of the member state of the [Paris Convention](#) for the Protection of Industrial Property.

If within the said term no attested copy of the first application is filed, the priority right may nevertheless be recognised by the federal executive governmental body charged with intellectual property matters on the applicant's petition filed by him/it with that federal body within the said term, provided a copy of the first application was requested by the applicant from the patent department to which the first application has been submitted, within 14 months after the filing of the first application and was submitted to the federal executive governmental body charged with intellectual property matters within two months after its receipt by the applicant.

The federal executive governmental body charged with intellectual property matters is entitled to demand that the applicant files a Russian translation of the first application of the invention only if the verification of the validity of the claim for the priority of the invention has to do with assessing the patentability of the invention declared.

Article 1383. The Consequences of the Coincidence of Priority Dates of an Invention, Utility Model or Industrial Design

1. If an expert examination has established that various applicants have filed applications for identical inventions, utility models or industrial designs, and that these applications have one and the same priority date then a patent for an invention, utility model or industrial design may be issued only on one of these applications to the person designated by agreement among the applicants.

Within 12 months after the receipt of a relevant notice from the federal executive governmental body charged with intellectual property matters the applicants shall inform that federal body of the agreement reached by them.

When a patent is issued on one of the applications all the authors mentioned in the application shall be deemed co-authors in respect of the identical inventions, utility models or industrial designs.

If applications for identical inventions, utility models or industrial designs having one and the same priority date have been filed by one and the same applicant a patent shall be issued on the application chosen by the applicant. About his/its choice the applicant shall notify within the term and in the procedure set out in [Paragraph 2](#) of the present article.

Unless within the established term the federal executive governmental body charged with intellectual property matters receives from the applicants the said notice or [petition](#) for extension of the established term in the procedure set out in [Item 5 of Article 1386](#) of the present Code, the applications shall be deemed withdrawn.

2. In the event of coincidence of the priority dates of an invention and a utility model identical thereto for which patent applications have been filed by one and the same applicant when a patent is issued under one of the applications a patent under the other application shall be possible only on the condition that an application for termination of that patent is filed with the federal executive governmental body charged with intellectual property matters by the owner of the earlier patent for the identical invention or the identical utility model. In this case the patent issued earlier shall be terminated starting from the date of publication of information on the issuance of the patent on the other application in keeping with [Article 1394](#) of the present Code. Information on the issuance of the patent for the invention or the utility model and information on the termination of the earlier patent shall be published simultaneously.

3. The Expert Examination of a Patent Application. The Temporary Legal Protection of an Invention, Utility Model and Industrial Design

Article 1384. The Formal Expert Examination of an Invention Application

1. A formal expert examination shall be carried out in respect of an invention application received by the federal executive governmental body charged with intellectual property matters to verify the availability of the documents mentioned in [Item 2 of Article 1375](#) of the present Code, and their compliance with established requirements.

2. If the applicant has filed additional materials for the invention application in keeping with [Item 1 of Article 1378](#) of the present Code it shall be verified if they change the essence of the invention declared or not.

In as much as they change the essence of the invention declared the additional materials shall not be taken into account during the examination of the application but they may be presented by the applicant as an independent application. The federal executive governmental body charged with intellectual property matters shall notify the applicant accordingly.

3. Immediately after the completion of the formal expert examination the applicant shall be notified by the federal executive governmental body charged with intellectual property matters of the positive result of the formal expert examination and of the date of filing of the invention application.

4. If the invention application does not comply with the established requirements applicable to application documents the federal executive governmental body charged with intellectual property matters shall send a request to the applicant asking him/it to file corrected or missing documents within two months upon the receipt of the request. Unless the applicant files the documents so requested within the established term or files a petition for extension of the term, the application shall be deemed withdrawn. The term may be extended by the said federal executive governmental body by up to ten months.

5. If the invention application is filed in breach of the concept of the unity of invention ([Item 1 of Article 1375](#)) the federal executive governmental body charged with intellectual property matters shall suggest that the applicant within two months after the receipt of the relevant notice tell which of the inventions declared is to be examined, and if necessary amend application documents. The other inventions declared by means of that application may be formalised under divisional applications. Unless within the established term the applicant notifies which of the inventions declared has to be examined and if necessary files relevant documents, the invention indicated in the invention claim first shall be considered.

Article 1385. The Publication of Information on an Invention Application

1. Upon the expiry of 18 months after the filing of an invention application that has passed a formal expert examination with a positive result the federal executive governmental body charged with intellectual property matters shall publish information on the invention application in the gazette. The composition if the details published shall be determined by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

The author of the invention is entitled to refuse to be mentioned as such in the published information on the invention application.

On a petition of the applicant filed before the expiry of 12 months after the filing of the invention application the federal executive governmental body charged with intellectual property matters may publish information on the application until the expiry of 18 months after the filing thereof.

No publication shall take place if before the expiry of 12 months after the filing of the invention application it is withdrawn or deemed withdrawn or the invention is registered on the basis of the application.

2. After the publication of information on the invention application any person is entitled to get acquainted with the documents of the application, unless the application is withdrawn or deemed withdrawn as of the date of publication of information concerning it. The procedure for reading application documents and for the issuance of copies of such documents shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. When information is published on an invention application which has been withdrawn or deemed withdrawn as of the date of publication such information shall not be included in the state of the art for the subsequent applications of the same applicant filed with the federal executive governmental body charged with intellectual property matters until the expiry of 12 months after the publication of information on the invention application.

Article 1386. The Expert Examination of an Invention Application on the Merits Thereof

1. On a petition of an applicant or third persons that may be filed with the federal executive governmental body charged with intellectual property matters when an invention application is filed or within three years after the filing of the application, provided a formal expert examination is completed in respect of the application with a positive result, the application shall undergo an expert examination on the merits thereof. The federal executive governmental body charged with intellectual property matters shall notify the applicant of the third persons' petitions received.

The term for filing a petition for an expert examination of an invention application on the merits thereof may be extended by the federal executive governmental body charged with intellectual property

matters on a petition of the applicant filed before the expiry of the term, by up to two months, provided a document confirming that a patent duty has been paid is submitted together with the petition.

Unless a petition for expert examination of the invention application on the merits thereof is filed within the established term, the application shall be deemed withdrawn.

2. The expert examination of an invention application on the merits thereof includes the following:
information retrieval concerning the declared invention to assess the state of the art in comparison with which the novelty and inventive level of the invention is going to be assessed;
verifying the compliance of the declared invention with the patentability conditions set out in [Article 1350](#) of the present Code.

No information retrieval shall be carried out in respect of a declared invention deemed one of the objects specified in [Item 4 of Article 1349](#) and in [Items 5 and 6 of Article 1350](#) of the present Code, with the applicant being notified accordingly by the federal executive governmental body charged with intellectual property matters before the expiry of six months after the commencement of the expert examination of the invention application on the merits thereof.

The procedure for carrying out an information retrieval and for filing a report on it shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. Upon the expiry of six months after the commencement of the expert examination of the invention application on the merits thereof the federal executive governmental body charged with intellectual property matters shall send a report to the applicant on the information retrieval, unless an earlier priority is claimed under the application in comparison with the date of filing of the application, and unless a petition for expert examination of the invention application on the merits thereof was filed when the application was filed.

The term for sending a report on information retrieval to the applicant may be extended by the federal executive governmental body charged with intellectual property matters if the need has been discovered for requesting information from other organisations from a source lacking among the resources of the said federal body or if the declared invention is characterised so that the conduct of an information retrieval in the established procedure is impossible. The applicant shall be notified by the said federal body of the extension of the term for sending a report on the information retrieval and on the reasons for the extension.

4. The applicant and third persons are entitled to petition for an information retrieval concerning an invention application that has undergone a formal expert examination with a positive result in order to assess the state of the art in comparison with which the novelty and inventive level of the invention declared is going to be assessed. The procedure and conditions for such information retrieval and provision of information on the results thereof shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

5. In the course of an expert examination of an invention application on the merits thereof the federal executive governmental body charged with intellectual property matters may request from the applicant additional materials (including a modified invention claim) without which the expert examination is impossible. In this case, additional materials without a change in the essence of the invention shall be provided within two months after the applicant's receipt of the request or copies of the materials contradicting the application, provided the applicant has asked for the said copies within one month after having received the request from the said federal body. Unless within the established term the applicant provides the requested materials or files a petition for extension of this term, the application shall be deemed withdrawn. The term established for the applicant's submitting the materials requested may be extended by the said federal body by up to ten months.

Article 1387. A Decision on the Issuance of a Patent for an Invention or on Refusing to Issue It

1. If as the result of an expert examination of an invention application on the merits thereof it is established that the declared invention expressed in the invention claim proposed by the applicant meets the conditions of patentability set out in [Article 1350](#) of the present Code the federal executive governmental body charged with intellectual property matters shall take a decision on issuing a patent for the invention with this invention claim. The decision shall comprise the priority date of the invention.

If in the course of the expert examination of the invention application on the merits thereof it is established that the declared invention expressed in the invention claim proposed by the applicant does not comply with the conditions of patentability set out in [Article 1350](#) of the present Code the federal executive governmental body charged with intellectual property matters shall take a decision on refusing to grant a patent.

Until the taking of a decision on issuing a patent or on refusing to issue a patent the federal executive governmental body charged with intellectual property matters shall send a notice to the applicant of the results of verification of patentability of the invention declared with a proposal for presenting its arguments concerning the reasons set out in the notice. The applicant's arguments shall be taken into account in decision-making if they are provided within six months after the receipt of the notice.

2. The invention application shall be deemed withdrawn under the provisions of the present chapter on the basis of a decision of the federal executive governmental body charged with intellectual property matters, except for cases when it is withdrawn by the applicant.

3. Decisions of the federal executive governmental body charged with intellectual property matters on refusing to grant a patent for the invention, on issuing a patent for the invention or on deeming the invention application withdrawn may be challenged by the applicant by means of filing his/its objection with the chamber of patent disputes within six months after the applicant's receipt of the decision or of the copies of materials contradicting the application requested from the said federal body and mentioned in the decision on refusal to grant a patent, provided the applicant requested copies of these materials within two months after the receipt of the decision taken on the invention application.

Article 1388. The Applicant's Right to Read Patent Materials

The applicant is entitled to read all the materials relating to invention patenting to which reference is made in the requests, reports, decisions, notices or other documents received by the applicant from the federal executive governmental body charged with intellectual property matters. Copies of the patent documents requested by the applicant from the said federal body shall be sent thereto within one month after the receipt of the request.

Article 1389. The Renewal of Term in the Case of Laches Concerning the Expert Examination of an Invention Application

1. In the event of the applicant's laches in respect of the main term or extended term for filing documents or additional materials on a request of the federal executive governmental body charged with intellectual property matters ([Item 4 of Article 1384](#) and [Item 5 of Article 1386](#)), the term for filing a petition for expert examination of an invention application on the merits thereof ([Item 1 of Article 1386](#)) and the term for filing an objection with the chamber of patent disputes ([Item 3 of Article 1387](#)) the terms may be renewed by the said federal body, provided the applicant presents a proof of the good reason existing for the laches and a document confirming that a patent duty has been paid.

2. A petition for renewal of term in case of laches may be filed by the applicant within 12 months after the expiry of the established term. The petition shall be filed with the federal executive governmental body charged with intellectual property matters simultaneously with:

the documents or additional materials whose filing requires that the term be renewed or with a petition for extending the term for filing these documents or materials;
or with a petition for expert examination of the invention application on the merits thereof;
or with an objection with the chamber of patent disputes.

Article 1390. The Expert Examination of a Utility Model Application

1. An expert examination shall be carried out in respect of a utility model application received by the federal executive governmental body charged with intellectual property matters to verify the availability of the documents mentioned in [Item 2 of Article 1376](#) of the present Code, their compliance with established requirements and the observance of the unity of the utility model ([Item 1 of Article 1376](#)), and also it shall be established if the declared solution is a technical solution protectable as a utility model.

The compliance of the utility model declared with the conditions of patentability set out in [Item 1 of Article 1351](#) of the present Code shall not be verified in the course of the expert examination.

The expert examination of a utility model application is subject to the provisions established by [Items 2, 4 and 5 of Article 1384](#), [Items 2 and 3 of Article 1387](#), [Articles 1388](#) and [1389](#) of the present Code respectively.

2. The applicant and third persons are entitled to petition for an information retrieval in respect of the utility model declared intended for assessing the state of the art in comparison with which the patentability of the utility model can be assessed. The procedure and term for carrying out the information retrieval and the provision of information on the results thereof shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. If the utility model claim proposed by the applicant comprises features that were lacking as of the date of filing of the application in the description of the utility model and features that were lacking in the utility model claim (if the utility model application as of the date of filing thereof contained such claim) the federal executive governmental body charged with intellectual property matters shall send a request to the applicant to delete these features from the claim.

4. If as the result of the expert examination of the utility model application it is established that the application is filed for a technical solution protected as a utility model, and the documents of the application meet established requirements the federal executive governmental body charged with intellectual property matters shall take a decision on issuing a patent with an indication of the date of filing of the utility model application and the priority established.

If as the result of the expert examination it is established that the utility model application is filed for a solution not protected as a utility model the federal executive governmental body charged with intellectual property matters shall take a decision on refusing to issue a patent for the utility model.

5. If as the result of the examination of a utility model application by the federal executive governmental body charged with intellectual property matters it is established that the information contained therein is deemed a state secret the documents of the application shall be classified as secret in the procedure established by the [legislation](#) on state secrets. In this case the applicant shall be informed that the utility model application may be withdrawn or transformed into a secret invention application. The examination of the application shall be suspended until a relevant application is received from the applicant or until the application is classified as non-secret.

Article 1391. The Expert Examination of an Industrial Design Application

1. An industrial design application received by the federal executive governmental body charged with intellectual property matters shall be subjected to a formal expert examination to verify the availability of the documents mentioned in [Item 2 of Article 1377](#) of the present Code and their compliance with established requirements.

If the result of the formal expert examination is positive an expert examination of the industrial design application on the merits thereof shall be carried out as including the verification of the declared industrial design's compliance with the conditions of patentability established by [Article 1352](#) of the present Code.

2. In the course of the formal expert examination of the industrial design application and the expert of the application on the merits thereof the provisions of [Items 2-5 of Article 1384](#), [Item 5 of Article 1386](#), [Item 3 of Article 1387](#), [Articles 1388](#) and [1389](#) of the present Code shall be respectively applicable.

Article 1392. The Temporary Legal Protection of an Invention

1. An invention for which an application has been filed with the federal executive governmental body charged with intellectual property matters shall enjoy a temporary legal protection starting from the date of publication of information on the application ([Item 1 of Article 1385](#)) until the date of publication of information on the issuance of a patent ([Article 1394](#)), within the scope of the invention claim published but not exceeding the scope defined in the claim contained in the decision of the said federal body on the issuance of the patent for the invention.

2. The temporary legal protection shall be deemed non-existent if the invention application has been withdrawn or deemed withdrawn or if in respect of the invention application a decision has been taken to refuse to issue a patent and the possibility of appealing against this decision envisaged by the present Code has been exhausted.

3. The person that uses a declared invention during the period specified in [Item 1](#) of the present article shall pay a monetary compensation to the patent holder after a patent is received. The amount of the compensation shall be set by agreement of the parties or in the case of a dispute, by the court.

4. The Registration of an Invention, Utility Model and Industrial Design, and the Issuance of a Patent

Article 1393. The Procedure for the State Registration of an Invention, Utility Model and Industrial Design, and the Issuance of a Patent

1. On the basis of a decision on issuing a patent for an invention, utility model or industrial design the federal executive governmental body charged with intellectual property matters shall enter the invention, utility model or industrial design in the relevant state register, i.e. the State Register of Inventions of the Russian Federation, the State Register of Utility Models of the Russian Federation and the State Register of Industrial Designs of the Russian Federation, and it shall issue a patent for the invention, utility model or industrial design.

If a patent has been sought for the names of several persons one patent shall be issued thereto.

2. The state registration of an invention, utility model or industrial design, and the issuance of a patent shall be completed if the relevant patent duty has been paid. If the applicant has not filed a document in the established procedure confirming that the patent duty had been paid the invention, utility model or industrial design shall not be registered, and the relevant application shall be deemed withdrawn.

3. The form of a patent for an invention, utility model or industrial design, and the composition of the details available therein shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

4. The federal executive governmental body charged with intellectual property matters shall enter corrections of obvious and technical errors in a patent issued for invention, utility model or industrial design and/or in the relevant state register.

5. The federal executive governmental body charged with intellectual property matters shall publish information in the gazette about any amendments made to entries in the state registers.

Article 1394. The Publication of Information on the Issuance of a Patent for an Invention, Utility Model or Industrial Design

1. The federal executive governmental body charged with intellectual property matters shall publish information in the gazette on the issuance of a patent for an invention, utility model or industrial design, including the name of the author (unless the author has refused to be mentioned as such), the name of the holder of the patent, the title and invention or utility model claim or a list of the significant features of an industrial design and an image thereof.

The composition of the details to be published shall be defined by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

2. After information has been published according to the present article about the issuance of the patent for the invention, utility model or industrial design any person is entitled to read the documents of the application and the report on information retrieval.

The procedure for reading the documents of the application and the report on information retrieval shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

Article 1395. Patenting Inventions or Utility Models in Foreign States and in International Organisations

1. A patent application for an invention or utility model created in the Russian Federation may be filed in a foreign state or with an international organisation upon the expiry of six months after the filing of the relevant application with the federal executive governmental body charged with intellectual property matters, unless within the said term the applicant is notified that the application comprises information deemed a [state secret](#). An invention or utility model application may be filed earlier than indicated above but after the completion of a verification of the application's comprising information deemed a state secret on the applicant's request. The procedure for carrying out such verification shall be established by the Government of the Russian Federation.

2. The patenting under the Patent Cooperation [Treaty](#) or the [Eurasian Patent Convention](#) of an invention or utility model created in the Russian Federation is admissible without the prior filing of a relevant application with the federal executive governmental body charged with intellectual property matters if the application has been filed in accordance with the Patent Cooperation [Treaty](#) (international application) with the federal executive governmental body charged with intellectual property matters as a receiving department and in that application the Russian Federation is referred to as the state in which the applicant intends to obtain a patent, and the Eurasian application has been filed through the federal executive governmental body charged with intellectual property matters.

Article 1396. The International and Eurasian Applications Having the Effect of the Applications Envisaged by the Present Code

1. The federal executive governmental body charged with intellectual property matters shall commence the examination of an international application for an invention or utility model which is filed in accordance with the Patent Cooperation [Treaty](#) and in which the Russian Federation is referred to as the state in which the applicant intends to obtain a patent for the invention or utility model, upon the expiry of 31 months after the priority date sought in the international application. On the applicant's request the international application shall be considered before the expiry of this term if the application is filed in the Russian language or if before the expiry of the said term the applicant has submitted with the federal executive governmental body charged with intellectual property matters a Russian translation of the patent application for the invention or utility model which is contained in the international application filed in another language.

The filing with the federal executive governmental body charged with intellectual property matters of a Russian translation of the patent application for the invention or utility model contained in the international application may be replaced with the submission of the patent application envisaged by the present Code.

Unless the said documents are filed within the established term, the effect of the international application in accordance with the Patent Cooperation [Treaty](#) shall be terminated in respect of the Russian Federation.

For the purposes of making amendments to application documents the term set out in [Item 3 of Article 1378](#) of the present Code shall be counted from the day of commencement of consideration of the international application by the federal executive governmental body charged with intellectual property matters in accordance with the present Code.

2. The consideration of an Eurasian invention application having under the [Eurasian Patent Convention](#) the effect of the invention application envisaged by the present Code shall be commenced from the day when the federal executive governmental body charged with intellectual property matters

receives an attested copy of the Eurasian application from the Eurasian Patent Department. The term set out in [Item 3 of Article 1378](#) of the present Code for making amendments to application documents shall be counted from the same date.

3. The publication in the Russian language of an international application by the International Office of the World Organisation Intellectual Property Organisation under the Patent Cooperation [Treaty](#) or the publication of a Eurasian application by the [Eurasian Patent Department](#) in accordance with the Eurasian Patent Convention shall replace the publication of information on an application envisaged by [Article 1385](#) of the present Code.

Article 1397. The Eurasian Patent and the Patent of the Russian Federation for Identical Inventions

1. If an Eurasian patent and a patent of the Russian Federation for identical inventions or an identical invention and utility model having one and the same priority date are owned by different patent holders such inventions or the invention and utility model may be used only in the observance of rights of all patent holders.

2. If an Eurasian patent and a patent of the Russian Federation for identical inventions or an identical invention and utility model having one and the same priority date are owned by one and the same person that person may grant a right to any person to use the inventions or the invention and utility model under licence contracts concluded on the basis of these patents.

§ 6. Terminating and Reinstating a Patent

Article 1398. The Deeming as Invalid of a Patent for an Invention, Utility Model or Industrial Design

1. A patent for an invention, utility model or industrial design may be declared invalid in full or in part during the effective term thereof if:

1) the invention, utility model or industrial design does not comply with the conditions of patentability established by the present Code;

2) the invention or utility model claim or the list of significant features of the industrial design available in the decision on issuance of the patent contains features which were lacking as of the date of filing of the application in the description of the invention or utility model and in the invention or utility model claim (if the invention or utility model application contained such claim as of the date when it was filed) or on the images of the article;

3) the patent has been issued when there were several applications for identical inventions, utility models or industrial designs having one and the same priority date, in breach of the conditions envisaged by [Article 1383](#) of the present Code;

4) the patent has been issued indicating as the author or patent holder a person not being such in accordance with the present Code or without an indication in the patent as the author or patent holder of the person being such in accordance with the present Code.

2. The issuance of a patent for an invention, utility model or industrial design may be challenged by any person that has learned about the irregularities set out in [Subitems 1-3 of Item 1](#) of the present article, by means of filing an objection with the chamber for patent disputes.

The issuance of a patent for an invention, utility model or industrial design may be challenged in the court by any person that has learned about the irregularities set out in [Subitem 4 of Item 1](#) of the present article.

3. A patent for an invention, utility model or industrial design shall be deemed invalid in full or in part under a decision of the federal executive governmental body charged with intellectual property matters adopted in accordance with [Items 2](#) and [3 of Article 1248](#) of the present Code or a court's decision that has become final.

If the patent is deemed partially invalid a new patent shall be issued for the invention, utility model or industrial design.

4. A patent for an invention, utility model or industrial design that has been declared invalid in full or in part shall be annulled from the date when the application for the patent was filed.

The licence contracts concluded on the basis of a patent that was later deemed invalid shall remain effective in as much as they have been discharged as of the time when the decision on the patent's invalidity was issued.

5. The deeming of a patent as invalid shall mean the revocation of the decision of the federal executive governmental body charged with intellectual property matters on the issuance of the patent for the invention, utility model or industrial design ([Article 1387](#)) and the annulment of the entry made in the relevant state register ([Item 1 of Article 1393](#)).

Article 1399. The Early Termination of a Patent for an Invention, Utility Model or Industrial Design

A patent for an invention, utility model or industrial design shall be terminated before due date:

on the basis of an application filed by the holder of the patent with the federal executive governmental body charged with intellectual property matters, as of the date of receipt of the application.

If the patent is issued for a group of inventions, utility models or industrial designs, and the patent holder's application is not filed in respect of all the objects of patent rights included in the group the patent shall be terminated only in as much as it concerns the inventions, utility models or industrial designs indicated in the application;

if a patent duty was not paid when due for the maintenance of the patent for the invention, utility model or industrial design in effect, as of the date of expiry of the term established for the payment of the patent duty for the maintenance of the patent in effect.

Article 1400. Reinstating a Patent for an Invention, Utility Model or Industrial Design

1. A patent for an invention, utility model or industrial design terminated due to the fact that no patent duty has been paid when due for the maintenance of the patent in effect may be reinstated by the federal executive governmental body charged with intellectual property matters on a petition of the person who owned the patent. A petition of reinstatement of the patent may be filed with the said federal body within three years after the expiry of the patent duty payment term but before the expiry of the effective term of the patent envisaged by the present Code. A document shall be attached to the petition confirming that a patent duty has been paid in the established amount for the reinstatement of the patent.

2. The federal executive governmental body charged with intellectual property matters shall publish information in the gazette on the reinstatement of the patent for the invention, utility model or industrial design.

3. A person that started to use an invention, utility model or industrial design within the period between the termination of the patent for the invention, utility model or industrial design and the date of publication in the gazette of the federal executive governmental body charged with intellectual property matters of information on the reinstatement of the patent or that made the necessary preparations for it within the said period shall retain the right of further free-of-charge use thereof without the broadening of the scope of such use (right of after-use).

§ 7. The Details of the Legal Protection and Use of Secret Inventions

Article 1401. Filing and Considering a Patent Application for a Secret Invention

1. The filing of a patent application for a secret invention (a secret invention application), the consideration and the handling of such application shall take place in the observance of the [legislation](#) on state secret.

2. Applications for secret inventions for which the secrecy classifications "special importance" or "top secret" have been established, and also the secret inventions deemed means of weaponry and military machinery and methods and means in the area of intelligence, counter-intelligence and operative search activities and for which the secrecy classification "secret" has been established shall be filed depending on their topical belonging with the federal executive governmental bodies empowered by the Government of the Russian Federation (empowered bodies). Applications for other secret inventions shall be filed with the federal executive governmental body charged with intellectual property matters.

3. If it has been established when the federal executive governmental body charged with intellectual property matters considered an invention application that the information contained therein is classified as state secret such application shall be classified as secret in the procedure established by the [legislation](#) on state secret, and it shall be deemed a secret invention application.

It is prohibited to classify as secret an application filed by a foreign citizen or a foreign legal entity.

4. When a secret invention application is being examined the provisions of [Articles 1384, 1386-1389](#) of the present Code shall be applicable respectively. In this case no information shall be published concerning the application.

5. While establishing the novelty of a secret invention the state of the art ([Item 2 of Article 1350](#)) shall also include -- if having an earlier priority -- the secret inventions patented in the Russian Federation and the secret inventions for which certificates of authorship have been issued in the USSR, unless the degree of secrecy established for these inventions exceeds that of the invention whose novelty is being assessed.

6. An objection against a decision taken on a secret invention application by the empowered body shall be considered in the procedure established by it. A decision taken on such objection may be challenged in the court.

7. The secret invention applications are not subject to the provisions of [Article 1379](#) of the present Code on the transformation of an invention application into a utility model application.

Article 1402. The State Registration of a Secret Invention and the Issuance of a Patent for It. Propagating Information on a Secret Invention

1. The state registration of a secret invention in the State Register of Inventions of the Russian Federation and the issuance of a patent for the secret invention shall be carried out by the federal executive governmental body charged with intellectual property matters, or if the decision on the issuance

of a patent for the secret invention has taken by an empowered body, by that body. The empowered body that has registered a secret invention and issued a patent for a secret invention shall notify accordingly the federal executive governmental body charged with intellectual property matters.

The empowered body that has registered a secret invention and has issued a patent for it shall make introduce amendments relating to the correction of obvious and technical errors in the patent for the secret invention and/or the State Register of Inventions of the Russian Federation.

2. No information shall be published on applications and patents for secret inventions and also on the amendments relating thereto made to the State Register of Inventions of the Russian Federation. Information about such patents shall be passed in accordance with the [legislation](#) on state secret.

Article 1403. Changing the Degree of Secrecy and Declassifying Inventions

1. The change of the degree of secrecy and the declassification of inventions, and also the change and removal of secrecy stamps from the documents of a secret invention application or patent shall take place in the procedure established by the [legislation](#) on state secret.

2. When the degree of secrecy of an invention is stepped up the federal executive governmental body charged with intellectual property matters shall hand over the documents of application for the secret invention according to their topical belonging to the relevant empowered body. The further consideration of the application of which examination has not been completed by the said federal body shall be the responsibility of the empowered body. When the degree of secrecy of an invention is stepped down the further examination of the application for the secret invention shall be carried out by the same empowered body which had been considering it before.

3. When an invention is declassified the empowered body shall hand over the declassified application documents it has to the federal executive governmental body charged with intellectual property matters. The further examination of the application of which examination has not been completed by the empowered body shall be the responsibility of the said federal body.

Article 1404. Deeming as Invalid a Secret Invention Patent

An objection against the issuance by an empowered body of a patent for a secret invention on the grounds set out in [Subitems 1-3 of Item 1 of Article 1398](#) of the present Code shall be filed with the empowered body and it shall be considered in the procedure established by it. A decision of the empowered body taken on the objection shall be confirmed by the head of that body, and it shall enter into force on the day when it is confirmed and it may be challenged in the court.

Article 1405. The Exclusive Right to a Secret Invention

1. The use of a secret invention and the disposal of an exclusive right to a secret invention shall take place in the observance of the [legislation](#) on state secret.

2. A contract of alienation of a patent and also a licence contract for the use of a secret invention shall be subject to registration with the body that has issued the patent for the secret invention or the successor thereof, and if there is no successor, with the federal executive governmental body charged with intellectual property matters.

3. In respect of a secret invention it is prohibited to make a public offer to conclude the contract of alienation of a patent and an open licence statement envisaged by [Item 1 of Article 1366](#) and [Item 1 of Article 1368](#) of the present Code respectively.

4. The compulsory licence envisaged by [Article 1362](#) of the present Code shall not be granted in respect of a secret invention.

5. The following shall not be deemed a breach of the exclusive right of the holder of a patent for a secret invention: the actions envisaged by [Article 1359](#) of the present Code, and also the use of the secret invention by a person which on legal grounds did not know or could not know of the existence of a patent for the invention. After the invention is declassified or after the said person is notified by the holder of the patent that the patent for the invention exists that person shall stop using the invention or conclude a licence contract with the holder of the patent, except for cases when a right of prior use existed.

6. The exclusive right to a secret invention is not subject to levy or execution.

8. The Protection of the Rights of Authors and Patent Holders § 8. The Protection of the Rights of Authors and Patent Holders

Article 1406. Disputes Relating to the Protection of Patent Rights

1. Disputes relating to the protection of patent rights shall be considered by the court. Such disputes include without limitation disputes:

- 1) on the authorship of an invention, utility model or industrial design;
- 2) on the establishment of the patent holder;
- 3) on a breach of the exclusive right to an invention, utility model or industrial design;

4) on the conclusion, performance, amendment and termination of contracts of assignment of an exclusive right (alienation of a patent) and licence contracts for the use of an invention, utility model or industrial design;

5) on a right of prior use;

6) on a right of after-use;

7) on the amount of, term and procedure for paying out, a fee to the author of an invention, utility model or industrial design in accordance with the present Code;

8) on the amount of, term and procedure for paying out, the compensations envisaged by the present Code.

2. In the cases specified in [Articles 1387, 1390, 1391, 1398, 1401 and 1404](#) of the present Code the protection of patent rights is carried out on administrative lines in accordance with [Items 2 and 3 of Article 1248](#) of the present Code.

Article 1407. The Publication of a Court's Decision on an Infringement of a Patent

In accordance with [Subitem 5 of Item 1 of Article 1252](#) of the present Code a patent holder is entitled to demand that a court's decision on an illegal use of an invention, utility model or industrial design or another infringement of his/its rights in the gazette of the federal executive governmental body charged with intellectual property matters.

Chapter 73. The Right to a Breeding Achievement

[§ 1. Basic Provisions](#) (Articles 1408-1417)

[§ 2. Intellectual Rights to Breeding Achievements](#) (Articles 1418-1425)

[§ 3. Disposing of the Exclusive Right to a Breeding Achievement](#) (Articles 1426-1429)

[§ 4. A Breeding Achievement Created, Developed or Discovered in Line of Duty or when Works Were Performed under a Contract](#) (Articles 1430-1432)

[§ 5. Obtaining a Patent for a Breeding Achievement. Terminating a Patent for a Breeding Achievement](#) (Articles 1433-1445)

[§ 6. Protecting the Rights of Authors of Breeding Achievements and of Other Patent Holders](#) (Articles 1446-1447)

§ 1. Basic Provisions

Article 1408. Rights to Breeding Achievements

1. The author of a breeding achievement that complies with the conditions for provision of a legal protection set out in the present Code (breeding achievement) owns the following intellectual rights:

1) an exclusive right;

2) the right of attribution.

2. In the cases set out in the present Code the author of a breeding achievement also has other rights, including a right to obtain a patent, a right to give a name to the breeding achievement, a right to a fee for the use of a service breeding achievement.

Article 1409. The Effect of an Exclusive Right to a Breeding Achievement on the Territory of the Russian Federation

The following shall be recognised on the territory of the Russian Federation: an exclusive right to a breeding achievement certified by a patent issued by the federal executive governmental body charged with breeding achievements matters or a patent effective on the territory of the Russian Federation in accordance with international treaties of the Russian Federation.

Article 1410. The Author of a Breeding Achievement

The author of a breeding achievement is the citizen by whose creative labour the breeding achievement has been created, developed or discovered. Unless otherwise proven, the person specified as the author in a patent application for a breeding achievement is deemed the author of the breeding achievement.

Article 1411. The Co-Authors of a Breeding Achievement

1. The citizens who have created, developed or discovered a breeding achievement by their joint labour are deemed co-authors.

2. Each of the co-authors is entitled to use the breeding achievement at his/its own discretion, except as otherwise envisaged by agreement between them.

3. The Relationships of the co-authors relating to the distribution of incomes from the use of the breeding achievement and to the disposing of an exclusive right to the breeding achievement are subject to the Rules of [Item 3 of Article 1229](#) of the present Code respectively.

The co-authors shall jointly dispose of the right of obtaining a patent for the breeding achievement.

4. Each of the co-authors is entitled to take measures on his/its own to protect his/its rights.

Article 1412. The Objects of Intellectual Rights to Breeding Achievements

1. The objects of intellectual rights to breeding achievements are the plant varieties and animal breeds registered in the State Register of Protected Breeding Achievements if these results of intellectual activity meet the requirements established by the present Code as applicable to such breeding achievements.

2. The plant variety is a group of plants which irrespective of protectability is defined by the traits characteristic for a given genotype or combination of genotypes, and differs from other groups of plants of the same botanical taxon by one or several traits.

A variety may be represented by one or several plants, a part or several parts of a plant, provided the part or parts can be used to reproduce entire plants of the variety.

The clone, line, first-general hybrid and population are the protected categories of a plant variety.

3. For animals the breed is a group of animals that, irrespective of protectability, possesses genetically-specific biological and morphological properties and traits, some of these being specific for the given group and distinguishing it from other groups of animals. A breed may be represented by a female or male individual animal or by a breeding material, i.e. by animals (pedigree animals), their gametes or zygotes (embryos).

For animals the protected categories of breed are the type and cross of lines.

Article 1413. The Conditions of Protectability of a Breeding Achievement

1. A patent shall be issued for a breeding achievement that meets the protectability criteria and concerns the botanical and zoological genera and species whose list is established by the federal executive governmental body charged with normative legal regulation in the area of agriculture.

2. The criteria of protectability of a breeding achievement are as follows: novelty ([Item 3](#) of the present article), distinctness ([Item 4](#) of the present article), uniformity ([Item 5](#) of the present article) and stability ([Item 6](#) of the present article).

3. A plant variety and an animal breed are deemed novel if when a patent application is filed the seeds or breeding material of this breeding achievement neither had been on sale nor had been otherwise transferred by the breeder, his successor or on their consent to other persons for the breeding achievement to be used:

1) on the territory of the Russian Federation more than one year before the said date;

2) on the territory of another state more than for years, or for varieties of vine, arboreal decorative and arboreal fruit cultures, more than six years before the said date.

4. A breeding achievement shall be clearly different from any other generally known breeding achievement in existence as of the time of filing of a patent application.

The generally-renowned breeding achievement is a breeding achievement about which information is available in official catalogues or reference information stock or which has a precise description in a published material.

The filing of a patent application also makes a breeding achievement generally known starting from the date of filing of the application, provided a patent has been issued for the breeding achievement.

5. Plants of one variety, animals of one breed shall be sufficiently uniform in terms of their traits, with account taken of individual deviations that can take place due to the specific features of reproduction.

6. A breeding achievement shall be deemed stable if its basic traits remain unchanged after several reproduction cycles or in the case of a special reproduction cycle, at the end of each reproduction cycle.

Article 1414. The State Registration of a Breeding Achievement

The exclusive right to a breeding achievement shall be recognised and protected on the condition of state registration of the breeding achievement in the State Register of Protected Breeding Achievements according to which the federal executive governmental body charged with breeding achievements matters issue a patent to the application for the breeding achievement.

Article 1415. A Patent for a Breeding Achievement

1. A patent for a breeding achievement shall certify the priority of the breeding achievement, authorship and the exclusive right to the breeding achievement.

2. The scope of the protection of intellectual rights to the breeding achievement granted under the patent is defined by the entirety of significant traits recorded in a description of the breeding achievement.

Article 1416. The Certificate of Authorship

The author of a breeding achievement is entitled to obtain a certificate of authorship that is issued by the federal executive governmental body charged with breeding achievements matters and certifies authorship.

Article 1417. State Incentives for the Creation and Use of Breeding Achievements

The state shall provide incentives for the creation and use of breeding achievements, and it shall provide the authors thereof and other holders of exclusive rights to breeding achievements (patent holders) and the licensees using the breeding achievements with privileges in accordance with the legislation of the Russian Federation.

§ 2. Intellectual Rights to Breeding Achievements

Article 1418. The Right of Attribution in Respect of a Breeding Achievement

The right of attribution, i.e. the right of being recognised as the author of a breeding achievement, is unalienable and unassignable, for instance when the exclusive right to the breeding achievement is assigned or transferred to another person or when a right to use it is granted to another person. The waiver of this right is null and void.

Article 1419. The Right to the Name of a Breeding Achievement

1. The author is entitled to give name to the breeding achievement.
2. The name of the breeding achievement shall allow the identification of the breeding achievement, it shall be brief and different from the names of existing breeding achievements of the same or similar botanical or zoological species. It shall neither be made up of figures only nor be misleading as to the properties, origin, significance of the breeding achievement, the personality of its author nor be conflicting with the principles of humanity and moral principles.
3. The name of the breeding achievement suggested by the author or on the consent thereof by another person (applicant) filing a patent application shall be approved by the federal executive governmental body charged with breeding achievements matters.

If the name suggested does not meet the requirements established by [Item 2](#) of the present article the applicant shall suggest another name within 30 days on a request of the said federal body.

Unless within the said term the applicant suggests another name meeting the said or disputes the refusal to approve the name of the breeding achievement in the court, the federal executive governmental body charged with breeding achievements matters shall be entitled to refuse to register the breeding achievement.

Article 1420. The Right of Obtaining a Patent for a Breeding Achievement

1. A right to obtain a patent for a breeding achievement is initially owned by the author of the breeding achievement.
2. A right to obtain a patent for a breeding achievement may be transferred to another person (successor) or be assigned thereto in the cases and on the grounds established by a law, for instance, in the line of universal succession or under a contract, including a labour contract.
3. A contract of alienation of a right to obtain a patent for a breeding achievement shall be concluded in writing. The non-observance of written form shall cause the invalidity of the contract.
4. Unless otherwise established by agreement of the parties to a contract of alienation of a right to obtain a patent for a breeding achievement, the risk of unprotectability is borne by the acquirer of the right.

Article 1421. The Exclusive Right to a Breeding Achievement

1. The holder of a patent owns the exclusive right of using a breeding achievement in accordance with [Article 1229](#) of the present Code in the manner specified in [Item 3](#) of the present article. The patent holder may dispose of the exclusive right to the breeding achievement.
2. The exclusive right to a breeding achievement also extends to plant material, i.e. to a plant or a part thereof used for purposes other than the purposes of reproducing a variety, to commercial animals, i.e. animals used for purposes other than the purposes of reproducing a breed, which have been obtained from seeds or from pedigree animals respectively if such seeds or pedigree animals have been introduced in civil-law transactions without a permission of the patent holder. In this case, the seeds mean a part or its part used to reproduce the variety.
3. The use of a breeding achievement means the commission of the following actions with seeds and breeding materials of the breeding achievement:
 - 1) production and reproduction;
 - 2) bringing to planting condition for subsequent multiplication;
 - 3) offering for sale;

- 4) sale and other methods of introduction in civil-law transactions;
- 5) exportation from the territory of the Russian Federation;
- 6) importation into the territory of the Russian Federation;
- 7) storage for the purposes set out in [Subitems 1-6](#) of the present item.

4. Also the exclusive right to the breeding achievement extends to the seeds and breeding materials which:

essentially inherit the characters of another protected (initial) plant variety or animal breed, unless the protected variety or breed, of its own, is a breeding achievement essentially inheriting the characters of other breeding achievements;

differ not obviously from a protected plant variety or animal breed;

require the use of a protected plant variety several times to produce seeds.

The following shall be deemed a breeding achievement that essentially inherit the characters of another protected (initial) breeding achievement: a breeding achievement which has an obvious distinction from the initial one and which:

inherits the most essential characters of the initial breeding achievement or of a breeding achievement which, of its own, inherits the essential characters of the initial breeding achievement while retaining the basis traits reflecting the genotype or the combination of genotypes of the initial breeding achievement;

correspond to the genotype or the combination of genotypes of the initial breeding achievement, except for the deviations caused by the use of such methods as individual selection from the initial plant variety or animal breed, selection of an induced mutant, back-cross and genetic engineering.

Article 1422. The Actions Not Deemed an Infringement of the Exclusive Right to a Breeding Achievement

The following is not deemed an infringement of the exclusive right to a breeding achievement:

1) actions committed to meet personal, family, household or other needs not relating to entrepreneurial activity, unless the purpose of such activities is profit-making or earnings;

2) actions committed for scientific-research or experimental purposes;

3) the use of the protected breeding achievement as an initial material for creating other plant varieties and animal breeds, and also the actions in respect of these created varieties and breeds specified in [Item 3 of Article 1421](#) of the present Code, except for the cases described in [Item 4 of Article 1421](#) of the present Code;

4) the use of a vegetable material produced on a farm during two years as seeds for growing on the area of the farm a plant variety available on the list of genera and species established by the Government of the Russian Federation;

5) the reproduction of commercial animals for being used on the given farm;

6) any actions involving seeds, vegetable materials, breeding materials and commercial animals which have introduced in civil-law transactions by a patent holder or by other persons on his/its consent, except for:

the subsequent multiplication of the plant variety and animal breed;

the exportation from the territory of the Russian Federation of the vegetable materials or commercial animals that allow to multiply the plant variety or animal breed to a country where this genus or species is not protected, except for exportation for the purpose of processing for subsequent consumption.

Article 1423. The Compulsory Licence for a Breeding Achievement

1. Upon the expiry of three years after the issuance of a patent for a breeding achievement any person willing and ready to use the breeding achievement, provided the holder of the patent has refused to conclude a licence contract for the production or sale of seeds, breeding material on terms that comply with the prevailing practices, is entitled to file a complaint with the court claiming a compulsory simple (non-exclusive) licence from the holder of the patent for the use of the breeding achievement on the territory of the Russian Federation. In his claim the person shall indicate the terms he has offered for the grant of such licence, including the scope of use of the breeding achievement, the rate of, and the procedure and term for, payment.

Unless the patent holder proves that there is a good reason for refusing to grant to the applicant a right to use the breeding achievement, the court shall take a decision on granting the said licence and on the terms for the grant thereof. The sum total of payments for the licence shall be set by the court's decision at least at a licence price defined in comparable circumstances.

2. On the basis of the court's decision envisaged by [Item 1](#) of the present article the federal executive governmental body charged with breeding achievements matters shall carry out the state registration of the compulsory simple (non-exclusive) licence.

3. On the basis of the court's decision on granting the compulsory simple (non-exclusive) licence the patent holder shall provide the holder of the licence for a payment and on the terms acceptable

thereto seeds or breeding materials respectively in quantities sufficient for the use of the compulsory simple (non-exclusive) licence.

4. The compulsory simple (non-exclusive) licence may be terminated in a judicial procedure on a complaint of the patent holder if the holder of the licence is in breach of the terms on which the licence has been granted, or if the circumstances due to which the licence was granted have changed so that if they were in existence as of the time when the licence was granted it would not have been granted at all or it would have been granted on significantly different terms.

Article 1424. The Effective Term of Exclusive Right to a Breeding Achievement

1. The effective term of exclusive right to a breeding achievement and of a patent certifying such right shall be counted from the date of state registration of the breeding achievement in the State Register of Protected Breeding Achievements and it is equal to 30 years.

2. For varieties of vine, arboreal decorative, fruit cultures and forest varieties, including their stock the effective term of exclusive right and of a patent certifying such right is equal to 35 years.

Article 1425. The Passing of a Breeding Achievement into the Public Domain

1. Upon the expiry of effective term of the exclusive right the breeding achievement shall pass into the public domain.

2. A breeding achievement that has passed into the public domain may be freely used by any person without anybody's consent or permission and without a fee being paid for use.

§ 3. Disposing of the Exclusive Right to a Breeding Achievement

Article 1426. The Contract of Alienation of Exclusive Right to a Breeding Achievement

Under a contract of alienation of exclusive right to a breeding achievement (contract of alienation of a patent) one party (patent holder) assigns or undertakes to assign his/its exclusive right to the breeding achievement in full to the other party being the acquirer of the exclusive right (the acquirer of the patent).

Article 1427. A Public Offer to Conclude a Contract of Alienation of a Patent for a Breeding Achievement

1. While filing a patent application for a breeding achievement the applicant being the author of the breeding achievement may attach to the documents of the application his/its application to the effect that if a patent is issued he/it undertakes to conclude a contract of alienation of the patent on the terms complying with the prevailing practices with any citizen of the Russian Federation or a Russian legal entity that is the first to express his/its wish to do so and to notify the holder of the patent and the federal executive governmental body charged with breeding achievements matters. If such application is filed the patent duties envisaged by the present Code shall be charged to the applicant neither for the patent application for the breeding achievement nor for the patent issued under such application.

The federal executive governmental body charged with breeding achievements matters shall publish information about the said application in the gazette.

2. A person that has concluded a contract of alienation of the patent with the patent holder on the basis of his/it application specified in [Item 1](#) of the present article shall pay all the patent duties from which the applicant (patent holder) has been relieved. Henceforth, patent duties shall be payable in the established procedure.

For the purposes of state registration of the contract of alienation of the patent with the federal executive governmental body charged with breeding achievements matters a document shall be attached to the contract registration application to confirm that all the patent duties from which the applicant (patent holder) has been relieved have been paid.

3. Unless within two years after the publication of information on the issuance of the patent in respect of which the application specified in [Item 1](#) of the present article has been filed the federal executive governmental body charged with breeding achievements matters received a notice in writing of somebody's will to conclude a contract of alienation of the patent, the patent holder may file a petition for withdrawal of his/its application with the said federal body. In this case the patent duties envisaged by the present Code from which the applicant (patent holder) has been relieved shall be come payable. Henceforth, patent duties shall be payable in the established procedure.

The federal executive governmental body charged with breeding achievements matters shall publish information on the withdrawal of the said application in the gazette.

Article 1428. The Licence Contract for Grant of the Right of Using a Breeding Achievement

Under the licence contract one party being the holder of a patent (licensor) grants or undertakes to grant to the other party being a user (licensee) the right of using the breeding achievement certified by the patent, within the scope established by the contract.

Article 1429. The Open Licence for a Breeding Achievement

1. The holder of a patent may file an application with the federal executive governmental body charged with breeding achievements matters to the effect that any person may obtain a right to use the breeding achievement (open licence).

In this case the rate of duty for the maintenance of the patent in effect shall be cut by 50 per cent starting from the year following the year in which the federal executive governmental body charged with breeding achievements matters published information on the open licence in the gazette.

The terms on which the right of using the breeding achievement may be granted to any person shall be sent to the federal executive governmental body charged with breeding achievements matters which shall publish relevant information on the open licence in the gazette on the account of the patent holder. The patent holder shall conclude a licence contract with the person that has expressed his/its desire to use the breeding achievement, on the terms of a simple (non-exclusive) licence.

2. Upon the expiry of two years after the publication by the federal executive governmental body charged with breeding achievements matters in the gazette of information concerning the open licence the patent holder shall be entitled to file a petition with the said federal body for withdrawal of his/its open licence application.

Unless until the withdrawal of the open licence somebody had expressed his/its will to use the breeding achievement, the patent holder shall additionally pay a duty for the maintenance of the patent in effect for the period of time elapsed since the publication of information about the open licence, and henceforth shall pay it in full.

If until the withdrawal of the open licence relevant licence contracts had been concluded on the terms of an open licence the licensees shall retain their rights over the whole effective term of these contracts. In this case the patent holder shall pay a duty for the maintenance of the patent in effect in full starting from the date of withdrawal of the open licence.

The federal executive governmental body charged with breeding achievements matters shall publish information on the open licence in the gazette.

§ 4. A Breeding Achievement Created, Developed or Discovered in Line of Duty or when Works Were Performed under a Contract

Article 1430. The Service Breeding Achievement

1. A breeding achievement created, developed or discovered by an employee in line of duty or a specific assignment of the employer shall be deemed a service breeding achievement.

2. The right of attribution in respect of the breeding achievement is owned by the employee (author).

3. The exclusive right to the service breeding achievement and the right of obtaining a patent are owned by the employer, except as otherwise envisaged by a labour contract or another contract between the employee and the employer.

4. Except as otherwise agreed by the employer and the employee in a contract ([Item 3](#) of the present article), the employee shall notify the employer in writing of the creation, development or discovery in line of the employer's duty or a specific assignment of the employer, of a result which can enjoy legal protection as a breeding achievement.

Unless within four months after the employee's notice of the result created, developed or discovered which can enjoy legal protection as a breeding achievement the employer files a patent application for the breeding achievement with the federal executive governmental body charged with breeding achievements matters or assigns the right of obtaining a patent for the service breeding achievement to another person or informs the employee that information about that result is to be kept secret, the employee shall own the right of obtaining a patent for the breeding achievement. In this case, the employer shall be entitled over the effective term of the patent to use the service breeding achievement on the employer's own production facilities on the terms of a simple (non-exclusive) licence, with the patent holder being entitled to a compensation of which the amount, payment terms and procedure shall be defined by a contract between the employee and the employer or by the court in the case of a dispute.

5. The employee is entitled to receive a fee from the employer for the use of the service breeding achievement created, developed or discovered, in the amount and on the terms defined by agreement between them but below two per cent of the sum of annual income from the use of the breeding achievement, including incomes from licence granting. A dispute concerning the amount of, procedure or terms for payment of, a fee in connection with the use of the service breeding achievement shall be referred to the court to be resolved by it.

A fee shall be paid to the employee within six months after the expiry of each year in which the breeding achievement was used.

6. A breeding achievement created, developed or discovered by an employee with the use of monetary, technical or other material means of the employer but otherwise than in line of duty or a

specific assignment of the employer shall not be deemed a service breeding achievement. The employee owns the right of obtaining a patent for the breeding achievement and the exclusive right to the breeding achievement. In this case, the employer is entitled at his/its own discretion to claim a free-of-charge simple (non-exclusive) licence for the use of the breeding achievement for the employer's own needs for the whole effective term of the exclusive right to the breeding achievement or a compensation for the expenses incurred by the employer in connection with the creation, development or discovery of the breeding achievement.

Article 1431. Breeding Achievements Created, Developed or Discovered on Order

1. If a breeding achievement has been created, developed or discovered under a contract whose subject matter was the creation, development or discovery of such breeding achievement (on order) the customer owns the right of obtaining a patent for the breeding achievement and the exclusive right to the breeding achievement, except as otherwise envisaged by a contract between the contractor (performer) and the customer.

2. If the customer owns the right of obtaining a patent for the breeding achievement and the exclusive right to the breeding achievement under [Item 1](#) of the present article the contractor (performer) is entitled, unless otherwise envisaged by a contract, to use the breeding achievement for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the patent. A licence of another type may be envisaged by the contract on the basis of which the work was carried out.

3. If according to a contract between the contractor (performer) and the customer the right of obtaining a patent for the breeding achievement and the exclusive right to the breeding achievement are owned by the contractor (performer) the customer is entitled to use the breeding achievement for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the patent.

4. The author of the breeding achievement described in [Item 1](#) of the present article who is not the holder of the patent is entitled to a fee under [Item 5 of Article 1430](#) of the present Code.

Article 1432. Breeding Achievements Created, Developed or Discovered When Works Were Performed under a State or Municipal Contract

Breeding achievements created, developed or discovered when works were performed under a state or municipal contract are subject to the rules of [Article 1373](#) of the present Code respectively.

§ 5. Obtaining a Patent for a Breeding Achievement. Terminating a Patent for a Breeding Achievement

Article 1433. The Patent Application for a Breeding Achievement

1. A patent application for a breeding achievement (patent application) shall be filed with the federal executive governmental body charged with breeding achievements matters by a person having a right to obtain a patent in accordance with the present Code (applicant).

2. The patent application shall comprise the following:

1) a patent [application](#) including an indication of the author of the breeding achievement and the person for whose name the patent is sought, and also the place of residence or whereabouts of each of them;

2) a breeding achievement [questionnaire](#);

3) a document confirming that a [duty](#) has been paid in the established amount or the grounds for relief from duty or a duty rebate or duty payment deferment.

3. The requirements applicable to a patent application shall be established on the basis of the present Code by the federal executive governmental body charged with normative legal regulation in the area of agriculture.

4. The patent application shall cover one breeding achievement.

5. The documents specified in [Item 2](#) of the present article shall be filed in the Russian or in another language. If the documents are filed in another language their Russian translations shall be attached to the patent application.

Article 1434. The Priority of a Breeding Achievement

1. The priority of a breeding achievement is established by the date on which the federal executive governmental body charged with breeding achievements matters received the patent application.

2. If on one and the same day the federal executive governmental body charged with breeding achievements matters receives two or more patent applications for one and the same breeding achievement the priority shall be established by the earlier application dispatching date. If according to an expert examination these applications have one and the same dispatch date a patent may be issued on

the application having an earlier registration number assigned by the federal executive governmental body charged with breeding achievements matters, unless otherwise envisaged by agreement between the applicants.

3. If a patent application received by the federal executive governmental body charged with breeding achievements matters was preceded by an application filed by an applicant in a foreign state with which the Russian Federation has concluded an agreement on the protection of breeding achievements the applicant shall use the priority of the first application for 12 months after the filing thereof.

In the application sent to the federal executive governmental body charged with breeding achievements matters the applicant shall indicate the priority date of the first application. Within six months after the receipt of the application by the federal executive governmental body charged with breeding achievements matters the applicant shall file a copy of the first application attested by a competent body of the relevant foreign state, and its Russian translation as well. While meeting these requirements the applicant need not file additional documents and materials for testing within three years after the filing of the first application.

Article 1435. The Preliminary Expert Examination of a Patent Application

1. During a preliminary expert examination of a patent application it is necessary to establish priority date, verify the availability of the documents required according to [Item 2 of Article 1433](#) of the present Code, and their compliance with established requirements. The preliminary expert examination of the patent application shall be completed within one month.

2. During the preliminary expert examination the applicant is entitled to add, update or correct the documents of the application on his/its own initiative.

The federal executive governmental body charged with breeding achievements matters may request the provision of missing or updating documents which have to be filed by the applicant within the established term.

Unless the documents missing as of the time of receipt of the application are filed when due, the application shall not be accepted for consideration, with the applicant being informed accordingly.

3. Immediately on the completion of the preliminary expert examination the applicant shall be informed by the federal executive governmental body charged with breeding achievements matters about a positive result thereof and of the date of filing of the patent application.

Information on accepted applications shall be published in the gazette of the said federal body.

4. If the applicant disagrees with the decision of the federal executive governmental body charged with breeding achievements matters taken on the results of the preliminary expert examination of the patent application he/it is entitled to challenge it in a judicial procedure within three months after the receipt of the decision.

Article 1436. The Temporary Legal Protection of a Breeding Achievement

1. A breeding achievement for which an application has been filed with the federal executive governmental body charged with breeding achievements matters shall enjoy temporary legal protection starting from the date of filing of the application to the date of issuance of a patent for the breeding achievement to the applicant.

2. Having received a patent for a breeding achievement the holder of the patent is entitled to a monetary compensation from a person that committed the actions specified in [Item 3 of Article 1421](#) of the present Code within the term of temporary legal protection of the breeding achievement. The amount of the compensation shall be defined by agreement of the parties, or by the court in the case of a dispute.

3. During the period of temporary legal protection of the breeding achievement the applicant is permitted to sell and otherwise transfer seeds or breeding materials only for scientific purposes, and also in cases when the sale and other transfer are relating to the alienation of the right of obtaining a patent for the breeding achievement or with the production of seeds or breeding materials on the applicant's order for the purpose of stockpiling.

4. The temporary legal protection of a breeding achievement shall be deemed non-occurred if the patent application has not been accepted for consideration ([Article 1435](#)) or if a decision has been taken on the application to refuse to issue a patent, and if the possibility of filing an objection against such decision envisaged by the present Code has been exhausted, and also if the applicant has committed a breach of the provisions of [Item 3](#) of the present article.

Article 1437. The Expert Examination of a Breeding Achievement for the Novelty Thereof

1. Within six months after the publication of information about a patent application any person concerned may send a petition to the federal executive governmental body charged with breeding achievements matters for an expert examination of the breeding achievement declared to assess the novelty thereof.

The applicant shall be notified of the receipt of the petition by the federal executive governmental body charged with breeding achievements matters, with the essence of the petition being provided. Within three months after the receipt of the notice the applicant is entitled to send a substantiated objection against the petition to the federal executive governmental body charged with breeding achievements matters.

2. On the materials it has on hand the federal executive governmental body charged with breeding achievements matters shall take its decision and inform the person concerned about it. If the breeding achievement does not qualify under the novelty criterion a decision shall be taken to refuse to issue a patent for the breeding achievement.

Article 1438. Testing a Breeding Achievement for Distinctness, Uniformity and Stability

1. A breeding achievement shall be tested for distinctness, uniformity and stability by the methods and within the term established by the federal executive governmental body charged with normative legal regulation in the area of agriculture.

For testing the applicant shall provide the necessary quantity of seeds or breeding material to the address and within the term specified by the federal executive governmental body charged with breeding achievements matters.

2. For the purposes set out in [Item 1](#) of the present article the federal executive governmental body charged with breeding achievements matters is entitled to use the results of tests carried out by competent bodies of other states with which relevant contracts have been concluded, the results of tests carried out by other Russian organisations under a contract with the said federal body, and also the information provided by the applicant.

Article 1439. The Procedure for State Registration of a Breeding Achievement, and the Issuance of a Patent

1. If a breeding achievement meets the protectability criteria ([Item 2 of Article 1413](#)) and the name of the breeding achievement meets the requirements set out in [Article 1419](#) of the present Code the federal executive governmental body charged with breeding achievements matters shall take a decision on the issuance of a patent for the breeding achievement, and it shall also draw up a description of the breeding achievement and enter the breeding achievement in the State Register of Protected Breeding Achievements.

2. The following details shall be entered in the State Register of Protected Breeding Achievements:

- 1) the genus and species of the plant or animal;
- 2) the name of the plant variety or animal breed;
- 3) the date of state registration of the breeding achievement and registration number;
- 4) the name of the patent holder and his place of residence or its whereabouts;
- 5) the name of the author of the breeding achievement and his place of residence;
- 6) a description of the breeding achievement;
- 7) the fact of the patent for the breeding achievement being assigned to another person with an indication of the name thereof, place of residence or whereabouts;
- 8) information on the licence contracts concluded;
- 9) the date of expiry of the patent for the breeding achievement with an indication of reason.

3. The patent for the breeding achievement shall be issued to the applicant. If in the patent application several applicants were mentioned the patent shall be issued to the applicant that stands first in the application, and it shall be used by the applicants jointly by agreement among them.

Article 1440. Preserving a Breeding Achievement

1. The holder of a patent shall maintain the plant variety or animal breed during the effective term of the patent for the breeding achievement so as to preserve the characters specified in the description of the plant variety or animal breed drawn up as of the date of inclusion of the breeding achievement in the State Register of Protected Breeding Achievements.

2. On a request of the federal executive governmental body charged with breeding achievements matters the patent holder shall dispatch on his/its own account seeds or breeding materials for check testing and allow a field inspection.

Article 1441. Deeming a Patent for a Breeding Achievement Invalid

1. A patent for a breeding achievement may be deemed invalid during its effective term if it is established that:

- 1) the patent has been issued on the basis of unconfirmed information on the uniformity and stability of the breeding achievement provided by the applicant;
- 2) as of the date of issuance of the patent the breeding achievement did not meet the novelty or distinctness criterion;

3) the person mentioned in the patent of the holder thereof did not have legal grounds for obtaining a patent.

2. The issuance of a patent for a breeding achievement may be challenged by any person that has learned about the irregularities described in [Item 1](#) of the present article, by means of filing an application with the federal executive governmental body charged with breeding achievements matters.

The federal executive governmental body charged with breeding achievements matters shall send a copy of the said application to the patent holder which may submit a substantiated objection within three months after the dispatch of such copy thereto.

The federal executive governmental body charged with breeding achievements matters shall take a decision on the said application within six months after the submission of the application, unless additional testing is required.

3. A patent for a breeding achievement that is deemed invalid shall be annulled as of the date of filing of the patent application. In this case, the licence contracts concluded before the taking of the decision on the invalidity of the patent shall keep effective to the extent in which they have been discharged by that date.

4. The deeming of a patent for a breeding achievement invalid shall mean the revocation of the decision of the federal executive governmental body charged with breeding achievements matters on the issuance of the patent ([Article 1439](#)) and the annulment of the relevant entry in the State Register of Protected Breeding Achievements.

Article 1442. The Early Termination of a Patent for a Breeding Achievement

A patent for a breeding achievement shall be terminated before due date in the following cases:

- 1) the breeding achievement no longer complies with the uniformity and stability criteria;
- 2) on the request of the federal executive governmental body charged with breeding achievements matters the holder of the patent did not provide seeds or breeding materials, the documents and information required for verifying the preservation of the breeding achievement or did not allow a field inspection of the breeding achievement for such purposes within 12 months;
- 3) the patent holder has filed an early patent termination application with the federal executive governmental body charged with breeding achievements matters;
- 4) the patent holder did not pay when due a duty for the maintenance of the patent in effect.

Article 1443. Publishing Information on Breeding Achievements

1. The federal executive governmental body charged with breeding achievements matters shall publish a gazette in which it shall publish information on:

- 1) received patent applications including an indication of the priority date of the breeding achievement, the name of the applicant, the name of the breeding achievement, and also the name of the author of the breeding achievement, unless the latter has refused to be mentioned as such;
- 2) the decisions taken on the patent application;
- 3) the changes that have taken place in the names of breeding achievements;
- 4) deeming patents for breeding achievements invalid;
- 5) other information concerning protection of breeding achievements.

2. After the publication of information on a received patent application for a breeding achievement and on the decision taken on this application any person is entitled to read the materials of the application.

Article 1444. Using Breeding Achievements

1. The seeds and breeding materials sold in the Russian Federation shall have a documents certifying their variety, breed and origin.

2. The document mentioned in [Item 1](#) of the present article shall be issued for the breeding achievements included in the State Register of Protected Breeding Achievements only by the patent holder and a licensee.

Article 1445. Patenting a Breeding Achievement in Foreign States

A patent application for a breeding achievement may be filed in a foreign state. The expenses relating to the protection of a breeding achievement outside of the Russian Federation shall be borne by the applicant.

§ 6. Protecting the Rights of Authors of Breeding Achievements and of Other Patent Holders

Article 1446. The Infringement of Rights of the Author of a Breeding Achievement or of Another Patent Holder

The following shall be deemed without limitation an infringement of the rights of the author of a breeding achievement or of another patent holder:

- 1) the use of the breeding achievement in breach of requirements set out in [Item 3 of Article 1421](#) of the present Code;
- 2) the assigning to produced and/or sold seeds or breeding materials of a name different from the name of the relevant registered breeding achievement;
- 3) the assigning of the name of the relevant registered breeding achievement to produced and/or sold seeds or breeding materials which are not seeds or breeding materials of that breeding achievement;
- 4) the assigning to produced and/or sold seeds or breeding materials of a name similar with the name of a registered breeding achievement to the degree of confusion.

Article 1447. Publishing a Court's Decision on an Infringement of the Exclusive Right to a Breeding Achievement

The author of a breeding achievement or another patent holder is entitled to demand that the federal executive governmental body charged with breeding achievements matters publish in the gazette a court's decision on an illegal use of the breeding achievement or on another infringement of the patent holder's rights in accordance with [Item 1 of Article 1252](#) of the present Code.

Chapter 74. The Right to Integrated Circuit Layout-Designs

Article 1448. The Integrated Circuit Layout-Design

1. The integrated circuit layout-design (topology) is the spatial-geometric arrangement of an array of integrated circuit elements fixed on a material medium and the interconnections thereof. Here, the integrated circuit is a microelectronic article of a final form or an intermediate form intended for performing the functions of an electronic circuit whose elements and connections are integrally formed in, and/or on the surface of, the material on the basis of which the article is manufactured.

2. The legal protection granted by the present Code extends only to an original integrated circuit layout-design created as the result of a creative activity of the author and unknown to the author and/or specialists in the field of integrated circuit topography development as of the date when it was created. An integrated circuit layout-design shall be deemed original, unless otherwise proven.

An integrated circuit layout-design composed of the elements known to specialists in the field of in the field of integrated circuit topography development as of the date of creation thereof shall enjoy legal protection if the entirety of such elements as a whole meets the originality requirement.

3. The legal protection granted by the present Code does not extend to the ideas, methods, systems, technologies or encoded information that can be embodied by an integrated circuit layout-design.

Article 1449. Rights to an Integrated Circuit Layout-Design

1. The author of an integrated circuit layout-design that qualifies for legal protection under the criteria set out in the present Code (layout-design) owns the following intellectual rights:

- 1) an exclusive right;
- 2) the right of attribution.

2. In the cases specified by the present Code the author of an integrated circuit layout-design also owns other rights, including a right to a fee for the use of the service layout-design.

Article 1450. The Author of an Integrated Circuit Layout-Design

The author of an integrated circuit layout-design is the citizen by whose creative labour the layout-design has been created. The person indicated as the author in an application for a certificate of state registration of an integrated circuit layout-design is deemed the author of the layout-design, unless otherwise proven.

Article 1451. The Co-Authors of an Integrated Circuit Layout-Design

1. The citizens who have created an integrated circuit layoutdesign by joint creative labour shall be deemed co-authors.

2. Each of the co-authors is entitled to use the layout-design at his own discretion, except as otherwise envisaged by agreement between them.

3. The relationships of the co-authors that have to do with the distribution of incomes from the use of the layout-design and with the disposing of the exclusive right to the layout-design respectively are subject to [Item 3 of Article 1229](#) of the present Code.

The co-authors shall jointly dispose of the right of obtaining a certificate of state registration of the integrated circuit layoutdesign.

Article 1452. The State Registration of an Integrated Circuit Layout-Design

1. Within the effective term of the exclusive right to an integrated circuit layout-design ([Article 1457](#)) the right holder may at his own discretion to register the layout-design with the federal executive governmental body charged with intellectual property matters.

A layout-design containing information deemed [state secret](#) is not subject to state registration. The person that has filed an application for a certificate of state registration of a layout-design (applicant) is accountable for the disclosure of information on the layout-design containing a state secret in accordance with the [legislation](#) of the Russian Federation.

2. If prior to the filing of an application for a certificate of state registration of a layout-design (registration application) the layout-design has been used the application may be filed within a term not exceeding two years after the first time the layout-design was used.

3. The registration [application](#) shall cover one layout-design and it shall comprise the following:

1) an application for state registration of the layout-design with reference to the person for whose name the state registration is sought, and also the name of the author, unless he has refused to be mentioned as such, the place of residence or whereabouts of each of them, the date on which the layout-design was used for the first time if any;

2) deposited materials intended to identify the layout-design, including a synopsis;

3) a document confirming that a duty has been paid at the established rate or the grounds for being relieved from the duty or for duty rebate or for duty payment deferment.

4. The rules for drawing up the registration application shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

5. On the basis of the registration application the federal executive governmental body charged with intellectual property matters shall verify the availability of the necessary documents and their compliance with the requirements set out in [Item 3](#) of the present article. If the result of the verification is positive the said federal body shall enter the layout-design in the Register of Integrated Circuit Layout-Designs, issue a certificate of state registration of the integrated circuit layout-design and publish information on the registered layout-design in the gazette.

On a request of the federal executive governmental body charged with intellectual property matters on his own initiative the applicant is entitled to add, update and correct the materials of the registration application until the publication of information in the gazette.

6. The procedure for state registration of layout-designs, the forms of certificates of state registration, a list of the details entered in certificates and a list of the details published by the federal executive governmental body charged with intellectual property matters in the gazette shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

7. Contracts of alienation and of pledge of the exclusive right to a registered layout-design, licence contracts for the grant of a right to use a registered layout-design and the transfer of the exclusive right to such layout-design to other persons without a contract are subject to state registration with the federal executive governmental body charged with intellectual property matters.

Information on the change of right holder and on an encumbrance on the exclusive right to a layout-design shall be entered in the Register of Integrated Circuit Layout-Designs on the basis of a registered contract or another right-establishing document and it shall be published in the said gazette.

8. The information entered in the Register of Integrated Circuit Layout-Designs shall be deemed trustworthy, unless otherwise proven. Responsibility for the trustworthiness of the information provided for registration purposes shall be borne by the applicant.

Article 1453. The Right of Attribution in Respect of an Integrated Circuit Layout-Design

The right of attribution, i.e. the right of being recognised as the author of a layout-design is unalienable and unassignable, including in the event of the assignment to another person or transfer to another person of the exclusive right to the layout-design and of granting the right of using it to another person. The waiver of this right is null and void.

Article 1454. The Exclusive Right to a Layout-Design

1. A right holder owns an exclusive right to use a layout-design in accordance with [Article 1229](#) of the present Code in any manner not conflicting with a law (exclusive right to a layout-design), including by the methods specified in [Item 2](#) of the present article. The right holder may dispose of the exclusive right to the layout-design.

2. Actions aimed at making a profit are deemed the uses of a layoutdesign, including the following without limitation:

1) the reproduction of the layout-design in full or in part by means of including in an integral circuit or otherwise, except for the reproduction of only the part of the layout-design which is not original;

2) the importation into the territory of the Russian Federation, the sale and another introduction in civil-law transactions of the layout-design or an integrated circuit incorporating the layout-design or an article including such integrated circuit.

3. A person that has independently created a layout-design identical to another layout-design is deemed to own an independent exclusive right to that layout-design.

Article 1455. The Sign of Protection of Integral Circuit Layout-Design

For the purpose of warning of his exclusive right to a layout-design the right holder is entitled to use a protection sign which shall be placed on the layout-design and also on articles incorporating the layout-design, and which is composed of the accentuated capital letter "T" ("T", [T], (T), T* or [T]), the date of commencement of the effective term of the exclusive right to the layout-design and information allowing to identify the right holder.

Article 1456. The Actions Not Deemed an Infringement of the Exclusive Right to a Layout-Design

The following is not deemed an infringement of the exclusive right to a layout-design:

1) the commission of the actions specified in [Item 2 of Article 1454](#) of the present Code in respect of an integrated circuit incorporating an illegally reproduced layout-design, and also in the respect of any article incorporating such integrated circuit if the person that commits such actions did not know and did not have to know that the integrated circuit incorporated the illegally reproduced layout-design. Having received a notice of the illegal reproduction of the layout-design the said person may use the available stock of the articles incorporating the integrated circuit that incorporates the illegally reproduced layout-design, and such articles that had been ordered before that time. In this case, the said person shall pay a compensation to the right holder for the use of the layout-design commensurate to the fee that might be paid out in comparable circumstances for a similar layout-design;

2) the use of a layout-design for non-profit making personal purposes, and also for the purpose of assessing, analysing, researching or teaching;

3) the distribution of the integrated circuits with a layout-design that have been earlier introduced in civil-law transactions by the person having an exclusive right to the layout-design or by another person on the permission of the right holder.

Article 1457. The Effective Term of Exclusive Right to a Layout-Design

1. The exclusive right to a layout-design is effective for ten years.

2. The effective term of exclusive right to a layout-design shall be counted either from the date of the first use of the layout-design, i.e. the earliest documented date of introduction in civil-law transactions in the Russian Federation or in any foreign state of the layout-design or an integrated circuit incorporating the layout-design or an article incorporating such integrated circuit or from the date of registration of the layout-design with the federal executive governmental body charged with intellectual property matters depending of which of these events came about first.

3. In case there appears an identical original topology created independently by another author, then the exclusive rights to both topologies shall terminate upon the expiry of ten years from the day of the origin of the exclusive right to the first one of them.

4. Upon the expiry of the effective term of the exclusive right the layout-design shall pass into the public domain, i.e. it may be freely used by any person without anybody's consent or permission and without a fee being paid out for use.

Article 1458. The Contract of Alienation of Exclusive Right to a Layout-Design

Under a contract of alienation of the exclusive right to a layout-design one party (right holder) assigns or undertakes to assign his/its exclusive right to the layout-design in full to the other party being the acquirer of the exclusive right to the layout-design.

Article 1459. The Licence Contract for the Grant of the Right of Using an Integrated Circuit Layout-Design

Under the licence contract one party being the owner of an exclusive right to a layout-design (licensor) grants or undertakes to grant to the other party (licensee) a right to use the layout-design within the scope established by the contract.

Article 1460. The Form and State Registration of a Contract of Alienation of Exclusive Right to a Layout-Design and of a Licence Contract

1. A contract of alienation of the exclusive right to a layout-design and a licence contract shall be made in writing.

2. If the layout-design has been registered ([Article 1452](#)) the contract of alienation of the exclusive right to the layout-design and the licence contract shall be subject to state registration with the federal executive governmental body charged with intellectual property matters.

Article 1461. The Service Layout-Design

1. A layout-design created by an employee in line of duty or a specific assignment of the employer shall be deemed a service layout-design.
2. The right of attribution in respect of the service layout-design is owned by the employee.
3. The employer owns an exclusive right to the service layoutdesign, except as otherwise envisaged by agreement between the employer and the employee.
4. If the exclusive right to the layout-design is owned by the employer or if it has been assigned by the employer to a third person the employee is entitled to receive a fee from the employer. The rate of the fee, the terms and procedure for paying out the fee shall be defined by a contract between the employee and the employer, or by the court in the case of a dispute.
5. A layout-design created by an employee through the use of monetary, technical or other material means of the employer but other than in line of his duty or a specific assignment of the employer shall not be deemed a service layout-design. The employee owns an exclusive right to such layout-design. In this case the employer is entitled at his/its discretion to claim a free-of-charge simple (non-exclusive) licence for the use of the created layout-design for the employer's own needs for the whole effective term of the exclusive right to the layoutdesign or a compensation for the expenses incurred by the employer in connection with the creation of the layout-design.

Article 1462. The Layout-Design Created When Works Were Performed under a Contact

1. If a layout-design has been created when a contractor's contract or a contract of research and development or technological work was performed which did not expressly envisaged the creation thereof then the contractor (performer) owns an exclusive right to the layoutdesign, except as otherwise envisaged by a contract between him/it and the customer.

In this case, the customer is entitled, except as otherwise envisaged by a contract, to use the layout-design so created for the purposes for the attainment of which the relevant contract has been concluded, on the terms of a simple (non-exclusive) licence during the whole effective term of the exclusive right, without an additional fee being payable for the use. If the contractor (performer) assigns the exclusive right to the layout-design to another person the customer shall retain the right of using the layout-design on the said terms.

2. If according to a contract between the contractor (performer) and the customer the exclusive right to the layout-design has been assigned to the customer or to the third person designated by him/it the contractor (performer) is entitled to use the created layout-design for his/its own need on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the exclusive right to the layout-design, except as otherwise envisaged by the contract.

3. The author of the layout-design mentioned in [Item 1](#) of the present article who does not own the exclusive right to the layoutdesign is entitled to a fee in accordance with [Item 4 of Article 1461](#) of the present Code.

Article 1463. The Layout-Design Created on Order

1. If a layout-design has been created under a contract whose subject matter was the creation thereof (on order) the customer owns an exclusive right to the layout-design, except as otherwise envisaged by the contract between the contractor (performer) and the customer.

2. If according to [Item 1](#) of the present article the exclusive right to the layout-design is owned by the customer or the third person designated by him/it the contractor (performer) is entitled, except as otherwise envisaged by a contract, to use the layout-design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the exclusive right.

3. If a according to the contract between the contractor (performer) and the customer the contractor (performer) owns an exclusive right to the layout-design the customer is entitled to use the layout-design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the exclusive right.

4. According to [Item 4 of Article 1461](#) a fee is payable to the author of a layout-design created on order.

Article 1464. A Layout-Design Created when Works Were Performed under a State or Municipal Contract

A layout-design created when works were performed under a state or municipal contract is subject to the rules of [Article 1298](#) of the present Code respectively.

Chapter 75. The Right to a Production Secret (Know-How)

Article 1465. The Production Secret (Know-How)

The production secret (know-how) is information of any nature (production, technological, economic, organisational and others), including information on the results of intellectual activities in the area of science and technology and also information on the methods of carrying out professional activities

which has a real or potential commercial value due to its not being known by third persons, which is not freely accessible for third persons on a legal ground, and which are covered by a [commercial secret](#) regime introduced by the owner of that information.

Article 1466. The Exclusive Right to a Production Secret

1. The owner of a production secret has an exclusive right to use it in accordance with [Article 1229](#) of the present Code in any manner not conflicting with a law (exclusive right to a production secret), including the case of manufacturing articles and realising economic and organisational solutions. The owner of the production secret may dispose of the said exclusive right.

2. A person that has become bona fide and independently of other owners of a production secret an owner of the information constituting the content of the protected production secret acquires an independent exclusive right to this production secret.

Article 1467. The Effect of Exclusive Right to a Production Secret

The exclusive right to a production secret shall keep effective as long as the confidentiality of the information making up its content exists. Once the relevant information are no longer confidential the exclusive right to the production secret is terminated for all right holders.

Article 1468. The Contract of Alienation of Exclusive Right to a Production Secret

1. Under a contract of alienation of the exclusive right to a production secret one party (right holder) assigns or undertakes to assign his/its exclusive right to the production secret in full to the other party being the acquirer of the exclusive right to the production secret.

2. In the event of alienation of an exclusive right to a production secret the person that has disposed of his/its right shall keep the production secret confidential until the termination of the exclusive right to the production secret.

Article 1469. The Licence Contract for the Grant of a Right to Use a Production Secret

1. Under the licence contract one party being the owner of an exclusive right to a production secret (licensor) assigns or undertakes to assign to the other party (licensee) a right to use the production secret within the scope established by the contract.

2. A licence contract may be concluded either with or without an indication of its effective term. Unless the effective term of the licence contract is not specified therein, any of the parties may waive the contract at any time, having notified the other party at least six month in advance, except as a longer term is envisaged by the contract.

3. In the event of grant of the right of using a production secret the person that has disposed of his/its right shall keep the confidential nature of the production secret during the whole effective term of the licence contract.

The persons that have acquired relevant rights under a licence contract shall keep the confidential nature of the production secret until the termination of the exclusive right to the production secret.

Article 1470. The Service Production Secret

1. The exclusive right to a production secret created by an employee in line of duty or a specific assignment of the employer (service production secret) is owned by the employer.

2. A citizen who has learned a production secret in connection with his carrying out labour duties or a specific assignment of the employer shall keep the confidential nature of the information so received until the termination of the exclusive right to the production secret.

Article 1471. The Production Secret Produced When Works Were Performed under a Contract

If a production secret has been produced when a contractor's contract, a contract for the performance of research and development or technological works or a state or municipal contract for state or municipal needs was performed the contractor (performer) has an exclusive right to the production secret, except as otherwise envisaged by the relevant contract (state or municipal contract).

If a production secret has been produced when works were performed under a contract concluded by a chief manager of budget funds or a manager of budget funds with federal state institutions the contractor (performer) owns an exclusive right to the production secret, unless according to the contract this right is owned by the Russian Federation.

Article 1472. Liability for an Infringement of Exclusive Right to a Production Secret

1. The perpetrator of an infringement of an exclusive right to a production secret, including a person that has illegally received the information constituting a production secret and has disclosed or used the information, and also a person whose duty was to keep a production secret confidential according to [Item 2 of Article 1468](#), [Item 3 of Article 1469](#) or [Item 2 of Article 1470](#) of the present Code

shall compensate the damages caused by the infringement of the exclusive right to the production secret, unless another liability is set out in a law or in the contract concluded with the person.

2. A person that has used a production secret but did not know and did not have to know that the use thereof was illegal, for instance after having got access to the production secret incidentally or by mistake, is not accountable in accordance with [Item 1](#) of the present article.

Chapter 76. Rights to the Means of Individualisation of Legal Entities, Goods, Works, Services and Enterprises

§ 1. The Right to a Company Name	(Articles 1473-1476)
§ 2. The Right to a Trademark and the Right to a Service Mark	(Articles 1477-1515)
§ 3. The Right to an Appellation of Origin	(Articles 1516-1537)
§ 4. The Right to a Commercial Name	(Articles 1538-1541)

§ 1. The Right to a Company Name

Article 1473. The Company Name

1. A legal entity being a commercial organisation acts in civil-law transactions under its own company name which is defined in its constitutive documents and is included in the comprehensive state register of legal entities at the state registration of the legal entity.

2. The company name of the legal entity shall comprise reference to its organisational legal form and the name of the legal entity proper which cannot be composed only of words designating a kind of activity.

3. The legal entity shall have a full company name and is entitled to have a brief company name in Russian. Also the legal entity is entitled to have a full and/or an abbreviated company name in the languages of peoples of the Russian Federation and/or in foreign languages.

The company name of the legal entity in Russian and in the languages of peoples of the Russian Federation may comprise borrowed foreign words in a Russian transcription or in a transcription of the languages of peoples of the Russian Federation, except for the terms and abbreviations reflecting the legal entity's organisational legal form.

4. The following shall not be included in the company name of a legal entity:

- 1) the full or abbreviated official names of the Russian Federation, foreign states, and also derivative words from such names;
- 2) the full or abbreviated official names of federal governmental bodies, governmental bodies of subjects of the Russian Federation and local self-government bodies;
- 3) the full or abbreviated names of international and intergovernmental organisations;
- 4) the full or abbreviated names of public associations;
- 5) designations inconsistent with the public interests and also with humane and moral principles.

The company name of a state unitary enterprise may contain reference to the enterprise's belonging to the Russian Federation and to a subject of the Russian Federation respectively.

The official name of the Russian Federation and the words derivative from that name may be included in the company name of a jointstock company on a permission of the Government of the Russian Federation if over 75 per cent of its shares belong to the Russian Federation. Such permission shall be issued without an indication of a specific effective term of the permission and it may be revoked if the circumstances due to which it has been issued no longer exist. The procedure for issuing and revoking permissions shall be established by a law.

If a permission for inclusion of the official name of the Russian Federation or derivatives from it in the company name of a joint-stock company has been revoked the joint-stock company shall amend its charter accordingly within three months.

5. If the company name of a legal entity does not comply with the provisions of [Items 3](#) or [4](#) of the present article the body responsible for the state registration of legal entities is entitled to file a claim against such legal entity whereby it is forced to change its company name.

Article 1474. The Exclusive Right to a Company Name

1. A legal entity owns an exclusive right to use its company name as a means of individualisation in any manner not conflicting with a law (exclusive right to a company name), for instance by posting it on billboards, letterhead papers and other documents, in announcements and advertisements, on goods or the packages of goods.

Abbreviated company names and also company names in the languages of peoples of the Russian Federation and in foreign languages are protected by an exclusive right to a company name if they are included in the comprehensive state register of legal entities.

2. The disposal of an exclusive right to a company name (for instance by means of the alienation or grant to another person of a right to use the company name) is prohibited.

3. It is prohibited for a legal entity to use a company name identical to the company name of another legal entity or similar to such name to the degree of confusion if the said legal entities pursue similar activities and if the latter's company name had been included in the comprehensive state register of legal entities earlier than the former's.

4. If a right holder so demands a legal entity in breach of the rule set out in [Item 3](#) of the present article shall stop using a company name identical to the company name of the right holder or similar thereto to the extent of confusion in respect of the types of activity similar to those pursued by the right holder, and he/it shall compensate the right holder for the damages inflicted.

Article 1475. The Effect of Exclusive Right to a Company Name on the Territory of the Russian Federation

1. The exclusive right to a company name included in the comprehensive state register of legal entities is effective on the territory of the Russian Federation.

2. An exclusive right to a company name comes into being as of the date of state registration of the legal entity and is terminated as of the time when the company name is deleted from the comprehensive state register of legal entities in connection with the termination of the legal entity or a change in its company name.

Article 1476. Correlation Between Rights to a Company Name and Rights to a Commercial Name, a Trademark and a Service Mark

1. A company name or specific elements thereof may be used by the right holder as a part of a commercial name owned by the right holder.

A company name included in a commercial name is protected irrespective of the protection of the commercial name.

2. A company name or specific elements thereof may be used by the right holder in his/its trademark and service mark.

A company name included in a trademark or service mark shall be protected irrespective of the protection of the trademark or service mark.

§ 2. The Right to a Trademark and the Right to a Service Mark

1. Basic Provisions	(Articles 1477-1483)
2. Using a Trademark and Disposing of Exclusive Right to a Trademark	(Articles 1484-1491)
3. The State Registration of a Trademark	(Articles 1492-1507)
4. The Details of Legal Protection of a Generally-Renowned Trademark	(Articles 1508-1509)
5. The Details of Legal Protection of a Collective Mark	(Articles 1510-1511)
6. Terminating the Exclusive Right to a Trademark	(Articles 1512-1514)
7. The Protection of a Right to a Trademark	(Article 1515)

1. Basic Provisions

Article 1477. The Trademark and the Service Mark

1. An exclusive right certified by a certificate of a trademark ([Article 1481](#)) is recognised for the trademark, i.e. a designation serving for individualising goods of legal entities or individual entrepreneurs.

2. The rules of the present Code concerning trademarks are applicable to service marks, i.e. to designations serving for individualising the works or services performed/provided by legal entities or individual entrepreneurs respectively.

Article 1478. The Owner of an Exclusive Right to a Trademark

A legal entity or an individual entrepreneur may be the owner of an exclusive right to a trademark.

Article 1479. The Effect of Exclusive Right to a Trademark on the Territory of the Russian Federation

An exclusive right to a trademark registered by the federal executive governmental body charged with intellectual property matters is effective on the territory of the Russian Federation as well as in the other cases envisaged by an international treaty of the Russian Federation.

Article 1480. The State Registration of a Trademark

The state registration of a trademark shall be carried out by the federal executive governmental body charged with intellectual property matters in the State Register of Trademarks and Service Marks of the Russian Federation (the State Register of Trademarks) in the procedure established by [Articles 1503 and 1505](#) of the present Code.

Article 1481. The Trademark Certificate

1. A trademark certificate shall be issued for a trademark registered in the State Register of Trademarks.

2. A certificate of a trademark certifies the priority of the trademark and the exclusive right to the trademark in respect of the goods specified in the certificate.

Article 1482. The Types of Trademarks

1. Word, image, 3-dimension and other designations or combinations thereof may be registered as trademarks.

2. A trademark may be registered in any colour or in any colour-combination.

Article 1483. Grounds for Refusing to Grant State Registration to a Trademark

1. No trademark state registration shall be granted designations not having distinguishing capability or composed only of the elements:

1) that have come into general usage as designations for goods of a certain kind;

2) being generally-accepted symbols and terms;

3) that characterise goods, for instance indicating their kind, quality, quantity, properties, intended purpose, value, and the time, place and method of their manufacture or sale;

4) representing a form of goods that is defined exclusively or mainly by the properties or intended purpose of the goods.

The said elements may be included in a trademark as non-protected elements, unless they dominate therein.

The provisions of the present item are not applicable to designations that have acquired a distinctive capability as the result of use thereof.

2. In accordance with an international treaty of the Russian Federation no trademark state registration shall be granted to designations composed only of elements being:

1) state coats-of-arms, flags and other state symbols and signs;

2) the abbreviated or full names of international and intergovernmental organisations, their coats-of-arms, flags, other symbols and signs;

3) official control, guarantee or assay hall-marks, seals, decorations and other signs of distinction;

4) designations similar to the extent of confusion to the elements mentioned in [Subitems 1-3](#) of the present item.

Such elements may be included in a trademark as non-protected elements, if the relevant competent body has given its consent thereto.

3. No trademark state registration shall be granted to designations which are or comprise elements:

1) which are false or capable of misleading the consumer concerning goods or the manufacturer of goods;

2) which conflict with the public interests and with humanity and moral principles.

4. No trademark state registration shall be granted to designations identical or similar to the extent of confusion with the official names and images of the especially-precious objects of cultural heritage of the peoples of the Russian Federation or objects of the world cultural or natural heritage, and also with images of the cultural valuables preserved in collections, collected items and stocks if registration is sought for the names of persons not being owners without the consent of the owners or persons empowered by the owners for these designations being registered as trademarks.

5. In accordance with an international treaty of the Russian Federation no trademark state registration shall be granted to designations which are or which comprise elements protected in a member state of that international treaty as designations allowing to identify wines or alcoholic beverages as originating from its territory (produced within the borders of a geographical object of that state) and having a special quality, reputation or other characteristics predominantly defined by the origin thereof, if the trademark is intended for designating wines or alcoholic beverages not originating from the territory of the given geographical object.

6. No trademark registration shall be granted to designations identical or similar to the extent of confusion with:

1) other persons' trademarks declared for registration purposes ([Article 1492](#)) for uniform goods and having an earlier priority, unless the trademark state registration application is withdrawn or is deemed withdrawn;

2) other persons' trademarks protected in the Russian Federation, including under an international treaty of the Russian Federation for uniform goods and having an earlier priority;

3) other persons' trademarks that have been recognised in the procedure established by the present Code generally-renowned trademarks in the Russian Federation, for uniform goods.

The registration as a trademark for uniform goods of a designation similar to the extent of confusion with any of the trademarks mentioned in the present item is only admissible on the consent of the right holder.

7. No trademark registration shall be granted for any goods to any designations identical or similar to the extent of confusion with the appellation of origin of goods which is protected in accordance with the present Code, except for cases when such designation is included as a non-protected element in a trademark registered for the name of a person having an exclusive right to that name, if trademark registration takes place in respect of the same goods for the individualisation of which the appellation of origin of the goods has been registered.

8. No trademark registration shall be granted for uniform goods to designations identical or similar to the extent of confusion to a company name or a commercial name (specific elements of such names) protected in the Russian Federation or with the name of a breeding achievement registered in the State Register of Protected Breeding Achievements to which rights had emerged as owned by other persons in the Russian Federation prior to the priority date of the trademark being registered.

9. No trademark registration shall be granted to designations identical to:

1) the title/name of a scientific, literary or artistic work, a character or quotation from such work, known in the Russian Federation as of the date of filing of the trademark state registration application ([Article 1492](#)) or to an artistic work or a fragment thereof without the consent of the right holder, if rights to the relevant work had emerged prior to the priority date of the trademark being registered;

2) the name ([Article 19](#)), pseudonym ([Item 1 of Article 1265](#)) or a designation derivative from them, a portrait or facsimile of a person known in the Russian Federation as of the date of filing of the application, without the consent of that person or his heir;

3) an industrial design, mark of compliance, domain name in respect of which rights had emerged prior to the priority date of the trademark being registered.

10. Also on the grounds set out in the present article no legal protection is granted to designations deemed trademarks under international treaties of the Russian Federation.

2. Using a Trademark and Disposing of Exclusive Right to a Trademark

Article 1484. The Exclusive Right to a Trademark

1. A person for whose name a trademark has been registered (right holder) owns an exclusive right to use the trademark in accordance with [Article 1229](#) of the present Code in any manner not conflicting with a law (exclusive right to a trademark), including the methods specified in [Item 2](#) of the present article. The right holder may dispose of the exclusive right to the trademark.

2. The exclusive right to a trademark may be exercised to individualise the goods, works or services for which the trademark has been registered, for instance by placing the trademark:

1) on the goods including labels, the packages of goods which are manufactured, offered for sale, are sold, exhibited at exhibitions and fairs or are otherwise introduced in civil-law transactions on the territory of the Russian Federation or are stored or transported for that purpose or are imported into the territory of the Russian Federation;

2) when works are performed or services are provided;

3) on the document relating to the introduction of the goods in civil-law transactions;

4) in offers for the sale of goods, performance of works, provision of services, and also in announcements, billboards and in advertisements;

5) in the Internet, including in a domain name or in other address methods.

3. Nobody has a right to use without a right holder's permission designations which are similar to his/its trademark for the goods for the individualisation of which the trademark has been registered or of uniform goods if such use might result in confusion.

Article 1485. The Mark of Trademark Protection

For the purpose of warning of his/its exclusive right to a trademark the right holder is entitled to use a protection mark that is placed next to the trademark and is composed of the Latin letter "R" or the Latin letter "R" in a circle (R) or the word designation "trademark" or "registered trademark" and indicates that the designation used is a trademark protected on the territory of the Russian Federation.

Article 1486. The Consequences of the Non-Using of a Trademark

1. The legal protection of a trademark may be terminated before due date in respect of all the goods or part of the goods for the individualisation of which the trademark has been registered, due to the trademark's not being continuously used for any three years after its state registration. An application for

early termination of the legal protection of a trademark due to its not being used may be filed by a person concerned with the chamber of patent disputes upon the expiry of the said three years, provided the trademark has not been used until the filing of the application.

2. For the purposes of the present article the use of a trademark means its being used by the right holder or the person to which such right has been granted by a licence contract in accordance with [Article 1489](#) of the present Code or another person using the trademark under the control of the right holder, provided the trademark is used in accordance with [Item 2 of Article 1484](#) of the present Code, except for cases when relevant actions are not directly related to the introduction of goods in civil-law transactions, and also the use of the trademark involving a modification of specific elements thereof not affecting its distinguishing capability and not limiting the protection granted to the trademark.

3. The right holder shall bear the burden of proving that the trademark is in use.

While resolving an issue of an early termination of the legal protection of a trademark due to its non-use account may be taken of the evidence of the trademark's not being used due to circumstances beyond the right holder's control, such evidence being provided by the right holder.

4. The termination of legal protection of a trademark means the termination of the exclusive right to the trademark.

Article 1487. The Exhaustion of Exclusive Right to a Trademark

The exclusive right to a trademark shall not be deemed infringed if the trademark is used by other persons in respect of goods that have been introduced in civil-law transactions on the territory of the Russian Federation directly by the right holder or on the consent thereof.

Article 1488. The Contract of Alienation of Exclusive Right to a Trademark

1. Under a contract of alienation of an exclusive right to a trademark one party (right holder) assigns or undertakes to assign in full his/its exclusive right to the relevant trademark in respect of all the goods or in respect of a part of the goods for the individualisation of which it has been registered to the other party being the acquirer of the exclusive right.

2. The alienation of an exclusive right to a trademark is prohibited if it can mislead the consumer in respect of the goods or of the manufacturer thereof.

3. The alienation of an exclusive right to a trademark incorporating as non-protected element an appellation of origin that enjoys legal protection on the territory of the Russian Federation ([Item 7 of Article 1483](#)) is admissible only if the acquirer has an exclusive right to the appellation of origin.

Article 1489. The Licence Contract for the Grant of a Right to Use a Trademark

1. Under a licence contract one party being the owner of an exclusive right to a trademark (licensor) assigns or undertakes to assign to the other party (licensee) the right of using the trademark within the scope defined by the contract either with or without an indication of the territory on which the use is permitted as applicable to a certain area of entrepreneurial activity.

2. The licensee shall ensure the compliance of quality of the goods manufactured or sold by him/it on which he/it places the licensed trademark with the quality standard set by the licensor. The licensor is entitled to monitor the observance of this condition. The licensee and the licensor are jointly liable for the claims addressed to the licensee as the manufacture of the goods.

3. The grant of a right to use a trademark incorporating as nonprotected element an appellation of origin of goods that enjoys legal protection on the territory of the Russian Federation ([Item 7 of Article 1483](#)) is admissible only if the licensee has an exclusive right to use the appellation of original.

Article 1490. The Form and State Registration of Contracts for Disposing of Exclusive Right to a Trademark

1. A contract of alienation of an exclusive right to a trademark, a licence contract, and also the other contracts used to dispose of an exclusive right to a trademark shall be concluded in writing and they are subject to state registration with the federal executive governmental body charged with intellectual property matters.

2. The procedure for the state registration of the contracts specified in [Item 1](#) of the present article shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

Article 1491. The Effective Term of Exclusive Right to a Trademark

1. The exclusive right to a trademark is effective during ten days after the filing of the trademark state registration application with the federal executive governmental body charged with intellectual property matters.

2. The effective term of the exclusive right to the trademark may be extended by ten years on an application of the right holder filed during the last year of the right's effective term.

The effective term of exclusive right to the trademark may be extended an infinite number of times.

On a petition of the right holder a six-month term may be granted thereto upon the expiry of the effective term of the exclusive right to the trademark to file the said application, provided the duty is paid.

3. An entry on an extension of effective term of exclusive right to the trademark shall be made by the federal executive governmental body charged with intellectual property matters in the State Register of Trademarks and in the certificate of the trademark.

3. The State Registration of a Trademark

Article 1492. The Trademark Application

1. An [application](#) for state registration of a trademark (trademark application) shall be filed with the federal executive governmental body charged with intellectual property matters by a legal entity or individual entrepreneur (applicant).

2. The trademark application shall cover one trademark.

3. The trademark application shall comprise the following:

1) an application for the state registration of a designation as a trademark with reference to the applicant, his/its place of residence/whereabouts;

2) the designation being declared;

3) a list of the goods for which the trademark state registration is sought and which are classified under the classes of the International Classification of Goods and Services for Marks Registration;

4) a description of the designation being declared.

4. The trademark application shall be signed by the applicant or if the application is filed through a patent attorney or another representative, by the applicant or his/its representative who files the application.

5. The following shall be attached to the application:

1) a document confirming that a duty has been paid for the filing of the application at the established rate;

2) the charter of the collective mark if the application is filed for a collective mark ([Item 1 of Article 1511](#)).

6. The application for a trade mark shall be submitted in the Russian language.

The documents attached to the application shall be submitted in the Russian or another language. If such documents are submitted in another language, then their translation into Russian shall be attached to the application. The Russian translation may be submitted by the applicant within two months from the day of sending to him by the federal body of executive power for intellectual property of a notification about the necessity of fulfilling such a requirement.

7. The requirements applicable to the documents contained in the trademark application and the documents attached thereto (application documents) shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

8. The date of filing of a trademark application is the date when the documents envisaged by [Subitems 1-3 of Item 3](#) of the present article were received by the federal executive governmental body charged with intellectual property matters, or if these documents were not filed simultaneously, the date of receipt of the last document.

Article 1493. The Right of Reading the Documents of a Trademark Application

1. After a trademark application is filed with the federal executive governmental body charged with intellectual property matters any person is entitled to read the documents of the application filed as of the date of filing thereof.

2. The procedure for reading application documents and for issuing copies of such documents shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

Article 1494. The Priority of a Trademark

1. The priority of a trademark shall be established by the date of filing of the trademark application with the federal executive governmental body charged with intellectual property matters.

2. The priority of a trademark on an application filed by an applicant in accordance with [Item 2 of Article 1502](#) of the present Code (divisional application) on the basis of another application of the same applicant for the same designation (initial application) shall be established by the date of filing of the initial application with the federal executive governmental body charged with intellectual property matters, or if a right exists to an earlier priority on the initial application, by the date of that priority, unless as of the date of filing of the divisional application the initial application is withdrawn or deemed withdrawn, and if the divisional application had been filed prior to the decision taken on the initial application.

Article 1495. The Convention and Exhibition Priority of a Trademark

1. The priority of a trademark may be established by the date of filing of the first trademark application in a member-state of the [Paris Convention](#) for the Protection of Industrial Property (convention priority) if the trademark application is filed with the federal executive governmental body charged with intellectual property matters within six months after the said date.

2. The priority of a trademark placed on exhibits of the official or officially-recognised international exhibitions organised on the territory of a member-state of the [Paris Convention](#) for the Protection of Industrial Property may be established by the date of commencement of the open show of the exhibit at the exhibition (exhibition priority), if the trademark application is filed with the federal executive governmental body charged with intellectual property matters within six months after the said date.

3. An applicant willing to use a right of convention priority or a right of exhibition priority shall indicate that while filing a trademark application or within two months after it was filed with the federal executive governmental body charged with intellectual property matters and shall attach the necessary documents confirming the legality of such claim or file these documents with the said federal body within three months after the filing of the application.

4. The priority of a trademark may be established by the date of its international registration in accordance with international treaties of the Russian Federation.

Article 1496. The Consequences of Coincidence of the Priority Dates of Trademarks

1. If applications were filed by different applicants for identical trademarks in respect of fully coinciding or partially coinciding lists of goods, and these applications have one and the same priority date the trademark so declared for the goods of which lists coincide may be registered only in the name of one of the applicants to be chosen by agreement between them.

2. If applications for identical trademarks for fully or partially coinciding lists of goods have been filed by one and the same applicant, and these applications have one and the same priority date the trademark for the goods for which the said lists are coincident may be registered only under one of the applications to be chosen by the applicant.

3. If applications for identical trademarks have been filed by different applicants ([Item 1](#) of the present article) then within six months after the receipt of a relevant notice from the federal executive governmental body charged with intellectual property matters they shall notify that federal body of the agreement they have reached in choosing the specific application whereby the state registration will be sought for the trademark. During the same term the applicant that has filed applications for identical trademarks shall notify about his/its choice made ([Item 2](#) of the present article).

Unless during the established term the federal executive governmental body charged with intellectual property matters receives the said notice or a petition for extension of the established term, the trademark applications shall be deemed withdrawn on the basis of a decision of that federal body.

Article 1497. The Expert Examination of a Trademark Application and the Making of Amendments to Application Documents

1. An expert examination of a trademark shall be carried out by the federal executive governmental body charged with intellectual property matters.

The expert examination of the application shall include a formal expert examination and an expert examination of the designation declared as a trademark (declared designation).

2. During the expert examination of the trademark application the applicant is entitled to amend, update or correct the materials of the application, for instance by means of filing additional materials, until the time when a decision is taken on the application.

If the additional materials comprise a list of the goods not mentioned in the application as of the date when the application was filed or significantly modify the declared designation of the trademark such additional materials shall not be accepted for consideration. They may be arranged and filed by the applicant as an independent application.

3. A change in the details of the applicant is a trademark application, for instance in the event of assignment or transfer of the right of registering the trademark or due to a change in the name of the applicant, and also the correction of obvious and technical errors in application documents may be made until the state registration of the trademark ([Article 1503](#)).

4. During the expert examination of a trademark application the federal executive governmental body charged with intellectual property matters is entitled to request additional materials from the applicant without which the expert examination is impossible.

The additional materials shall be submitted by the applicant within two months after his/its receipt of the relevant request or copies of the materials specified in the applicant's reciprocal request, provided these copies have been requested by the applicant within one month after his/its receiving the request from the federal executive governmental body charged with intellectual property matters. Unless within the said term the applicant files the additional materials requested or a petition for extension of the term set for the filing thereof the application shall be deemed withdrawn under a decision of the federal

executive governmental body charged with intellectual property matters. On the applicant's petition the term set for the filing of the additional materials may be extended by the said federal body by up to six months.

The additional materials comprising a list of the goods not mentioned in the application as of the date when it was filed or significantly modifying the declared designation of the trademark are subject to the rules of [Item 2](#) of the present article.

Article 1498. The Formal Expert Examination of a Trademark Application

1. A formal expert examination of a trademark application shall be carried out within one month after it was filed with the federal executive governmental body charged with intellectual property matters.

2. During the formal expert examination of the trademark application the availability of the necessary application documents and their compliance with established requirements shall be verified. According to the results of the formal examination either the application shall be accepted for consideration or a decision shall be taken on refusal to accept it for consideration. The applicant shall be notified of the results of the formal expert examination by the federal executive governmental body charged with intellectual property matters.

Simultaneously with a notice of a positive result of the formal expert examination of the application information shall be sent to the applicant about the date of filing of the application established according to [Item 8 of Article 1492](#) of the present Code.

Article 1499. The Expert Examination of a Designation Declared as a Trademark

1. An expert examination of a designation declared as a trademark (expert examination of a declared designation) shall be carried out on an application accepted for consideration as the result of a formal expert examination.

During the expert examination the compliance of the declared designation with the requirements set out in [Article 1477](#) and [Items 1-7 of Article 1483](#) of the present Code shall be verified and the priority of the trademark shall be established.

2. According to the result of the expert examination of the declared designation the federal executive governmental body charged with intellectual property matters shall take a decision either on state registration of the trademark or on refusal to grant registration thereto.

3. Until the taking of a decision on the results of the expert examination of the declared designation a notice in writing may be sent to the applicant on the results of the verification of compliance of the declared designation with the requirements set out in [Paragraph 2 of Item 1](#) of the present article with a proposal to provide the applicant's arguments concerning the reasons set out in the notice. The applicant's arguments shall be taken into account when a decision is taken on the results of the expert examination of the declared designation, if they are submitted within six months after the dispatch of the said notice to the applicant.

4. A decision on the state registration of a trademark may be reviewed by the federal executive governmental body charged with intellectual property matters until the registration of the trademark, in connection with:

1) the receipt of an application having an earlier priority in accordance with [Articles 1494, 1495](#) and [1496](#) of the present Code for an identical designation or a designation similar thereto to the extent of confusion in respect of uniform goods;

2) the state registration as an appellation of origin of goods of a designation identical or similar to the extent of confusion with the trademark specified in the decision on registration;

3) the finding of an application comprising an identical trademark or the finding of a protected identical trademark in respect of fully or partially coinciding lists of goods having the same or an earlier trademark priority;

4) the change of applicant that can lead in the event of state registration of the declared designation as a trademark to the consumer's being misled concerning the goods or the manufacturer thereof.

Article 1500. Challenging Decisions on a Trademark Application

1. The decisions of the federal executive governmental body charged with intellectual property matters on refusal to accept for consideration a trademark application, on the state registration of a trademark, on refusal to grant state registration to a trademark and on deeming a trademark application withdrawn may be challenged by the applicant by means of filing an objection with the chamber of patent disputes within three months after the receipt of the relevant decision or of the copies of the materials opposing the application requested from the said federal executive governmental body, provided the applicant requested for copies of the materials within one month after his/its receipt of the relevant decision.

2. During the examination of the objection by the chamber of patent disputes the applicant may make to application documents the amendments permitted in accordance with [Items 2](#) and [3 of Article](#)

[1497](#) of the present Code if such amendments eliminate the reasons serving the only ground for refusal to grant state registration to the trademark, and if the making of these amendments allows to take a decision on granting state registration to the trademark.

Article 1501. The Renewal of Term in the Case of Laches Concerning the Expert Examination of a Trademark Application

In the event of the applicant's laches in respect of the term set out in [Item 4 of Article 1497](#) and [Item 1 of Article 1500](#) of the present Code the term may be renewed by the federal executive governmental body charged with intellectual property matters on a petition of the applicant filed within two months after the expiry of the term, if it is confirmed that the term has not been observed for a good reason and if the relevant duty has been paid. The petition for renewal of term in the case of laches shall be filed by the applicant with the said federal body simultaneously with the additional materials requested in accordance with [Item 4 of Article 1497](#) of the present Code or with a petition for extension of the term for the filing thereof or simultaneously with the filing of an objection with the chamber of patent disputes under [Article 1500](#) of the present Code.

Article 1502. Withdrawing a Trademark Application and Dividing the Application

1. A trademark application may be withdrawn by the applicant at any stage of examination thereof but not later than the date of state registration of the trademark.

2. During the expert examination of the trademark application the applicant is entitled until the taking of a decision on the application to file a divisional application with the federal executive governmental body charged with intellectual property matters for the same designation. Such application shall comprise a list of the goods from among those specified in the initial application as of the date of filing thereof with this federal body which are not uniform with the other goods mentioned in the list comprised by the initial application which will remain covered by the initial application.

Article 1503. The Procedure for State Registration of a Trademark

1. Under a decision on the state registration of a trademark ([Item 2 of Article 1499](#)) the federal executive governmental body charged with intellectual property matters shall complete the state registration of the trademark in the State Register of Trademarks within one month after the receipt of a document confirming that a duty has been paid for the state registration of the trademark and for the issuance of a certificate for it.

The entry in the State Register of Trademark shall comprise the trademark, information on the right holder, the priority date of the trademark, a list of the goods to be individualised by the registered trademark, the date of its state registration, other information relating to the registration of the trademark, and also subsequent amendments to these details.

2. Unless the document on the payment of the duty specified in [Item 1](#) of the present article is filed, the trademark shall not be registered and the relevant trademark application shall be deemed withdrawn under a decision of the federal executive governmental body charged with intellectual property matters.

Article 1504. The Issuance of a Trademark Certificate

1. A certificate of a trademark certificate shall be issued by the federal executive governmental body charged with intellectual property matters within one month after the state registration of the trademark in the State Register of Trademarks.

2. The [form](#) of a trademark certificate and a list of the details to be available therein shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

Article 1505. Making Amendments to the State Register of Trademarks and in a Trademark Certificate

1. The right holder shall notify the federal executive governmental body charged with intellectual property matters of any changes relating to the state registration of the trademark, including those in the name of the right holder, a reduction of the list of the goods to be individualised by the registered trademark, and a change in specific elements of the trademark that does not modify its essence.

2. If the provision of legal protection to a trademark is challenged ([Article 1512](#)) the state registration of the trademark effective in respect of several goods may be separated on an application of the right holder to make a separate registration of the trademark for one goods item or a part of the goods from among those specified in the initial registration as being non-uniform with the goods available on the list remaining in the initial registration. Such application may be filed by the right holder until a decision is taken on the results of consideration of the dispute on the registration of the trademark.

3. Entries concerning modifications relating to the state registration of a trademark shall be made to the State Register of Trademarks and in the trademark certificate if the relevant duty has been paid.

4. The federal executive governmental body charged with intellectual property matters may introduce amendments to the State Register of Trademarks and in a trademark certificate on its own initiative to correct obvious and technical errors, having notified accordingly the right holder in advance.

Article 1506. Publishing Information on the State Registration of a Trademark

Information concerning the state registration of a trademark and entered in the State Register of Trademarks in accordance with [Article 1503](#) of the present Code shall be published by the federal executive governmental body charged with intellectual property matters in the gazette immediately after the registration of the trademark in the State Register of Trademarks or after the relevant amendments have been made to the State Register of Trademarks.

Article 1507. Trademark Registration in Foreign States and International Trademark Registration

1. Russian legal entities and citizens of the Russian Federation are entitled to register a trademark in foreign states or to accomplish its international registration.

2. An [application](#) for international registration of a trademark shall be filed through the federal executive governmental body charged with intellectual property matters.

4. The Details of Legal Protection of a Generally-Renowned Trademark

Article 1508. The Generally-Renowned Trademark

1. On an application of a person that deems a trademark he/it uses or a designation used as a trademark to be "a trademark generally-renowned in the Russian Federation" the trademark protected on the territory of the Russian Federation on the basis of its state registration or under an international treaty of the Russian Federation or the designation used as a trademark but not having legal protection on the territory of the Russian Federation may be deemed "a trademark generally-renowned on the territory of the Russian Federation" by a decision of the federal executive governmental body charged with intellectual property matters, if as the result of an intensive use this trademark or this designation had become as of the date indicated in the application broadly known in the Russian Federation among relevant consumers in respect of the applicant's goods.

The trademark and the designation used as a trademark shall not be deemed "generally-renowned trademarks" if they have become broadly known after the priority date of another person's identical or similar to the extent of confusion trademark that is intended for being used in respect of uniform goods.

2. The legal protection envisaged by the present Code for a trademark shall be granted to a generally-renowned trademark.

The grant of legal protection to a generally-renowned trademark means the recognition of an exclusive right to the generally-renowned trademark.

The legal protection of a generally-know trademark has infinite duration.

3. The legal protection of a generally-renowned trademark also extends to goods which are not uniform with those for which it has been declared generally-renowned if the use of this trademark by another person in respect of the said goods is going to be associated for consumers with the holder of the exclusive right to a generally-renowned trademark and it may infringe the lawful interests of the holder.

Article 1509. The Grant of Legal Protection to a Generally-Renowned Trademark

1. Legal protection shall be granted to a generally-renowned trademark under a decision of the federal executive governmental body charged with intellectual property matters taken in accordance with [Item 1 of Article 1508](#) of the present Code.

2. A trademark deemed generally-renowned shall be entered by the federal executive governmental body charged with intellectual property matters in the List of the Trademarks Generally-Renowned in the Russian Federation (List of Generally-Renowned Trademarks).

3. A certificate of a generally-renowned trademark shall be issued by the federal executive governmental body charged with intellectual property matters within one month after the trademark is entered in the List of Generally-Renowned Trademarks.

The [form](#) of a certificate of a generally-renowned trademark and a list of the details that have to be available in the certificate shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

4. Information concerning a generally-renowned trademark shall be [published](#) by the federal executive governmental body charged with intellectual property matters in the gazette immediately after it is entered in the List of Generally-Renowned Trademarks.

5. The Details of Legal Protection of a Collective Mark

Article 1510. The Right to a Collective Mark

1. An association of persons whose creation and activity do not conflict with the legislation of the state in which it is formed is entitled to register a collective mark in the Russian Federation. The collective mark is a trademark intended for designating the goods which are manufactured or sold by the persons being members of the association and which have their uniform characteristics of quality or other common characteristics.

Each person being a member of the association may use the collective mark.

2. A right to a collective mark is unalienable and it shall not be the subject matter of a licence contract.

3. A person being a member of an association that has registered a collective mark is entitled to use his/its own trademark and the collective mark.

Article 1511. The State Registration of a Collective Mark

1. The application for registration of a collective mark (collective mark application) filed with the federal executive governmental body charged with intellectual property matters shall be accompanied by a charter of the collective mark comprising the following:

1) the name of the association empowered to register the collective mark in its name (right holder);

2) a list of the persons entitled to use the collective mark;

3) the purpose of registration of the collective mark;

4) a list of, the uniform characteristics of quality of, or other common characteristics of the goods which are going to be designated by the collective mark;

5) terms for using the collective mark;

6) provisions on the procedure for monitoring the use of the collective mark;

7) provisions on liability for a breach of the charter of the collective mark.

2. In addition to the details required by [Articles 1503](#) and [1504](#) of the present Code the following shall be entered in the State Register of Trademarks and a [certificate](#) of a collective mark: information on the persons entitled to use the collective mark. This information and also an abstract from the charter of the collective mark on the uniform characteristics of the quality of, and the common characteristics of the goods for which this mark is registered shall be [published](#) by the federal executive governmental body charged with intellectual property matters in the gazette.

The right holder shall notify the federal executive governmental body charged with intellectual property matters of the amendments made to the charter of a collective mark.

3. If a collective mark is used on goods not having uniform quality characteristics or other common characteristics the legal protection of the collective mark may be terminated before due date in full or in part under a court's decision adopted on an application of any person concerned.

4. A collective mark and a collective mark application may be transformed into a trademark and a trademark application respectively and vice versa. The procedure for such transformation shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

6. Terminating the Exclusive Right to a Trademark

Article 1512. Grounds for Challenging and Deeming Invalid the Grant of Legal Protection to a Trademark

1. Challenging the grant of legal protection to a trademark means challenging the decision on the state registration of the trademark ([Item 2 of Article 1499](#)) and the recognition of an exclusive right to the trademark based thereon ([Article 1477](#) and [1481](#)).

Deeming the grant of legal protection to a trademark invalid shall cause revocation of the decision of the federal executive governmental body charged with intellectual property matters on the registration of the trademark.

2. The grant of legal protection to a trademark may be challenged and deemed invalid:

1) in full or in part during the whole effective term of the exclusive right to the trademark if legal protection has been granted thereto in breach of provisions of [Items 1-5, 8](#) and [9 of Article 1483](#) of the present Code;

2) in full or in part within five years after the date of publication of information on the state registration of the trademark in the gazette ([Article 1506](#)) if legal protection has been in breach of provisions of [Items 6](#) and [7 of Article 1483](#) of the present Code;

3) in full during the whole effective term of the exclusive right to the trademark if legal protection has been granted thereto in breach of provisions of [Article 1478](#) of the present Code;

4) in full during the whole effective term of legal protection if it was granted to the trademark with a later priority in comparison with a another person's trademark recognised as generally-renown which is under legal protection in accordance with [Item 3 of Article 1508](#) of the present Code;

5) in full during the whole effective term of the exclusive right to the trademark if legal protection has been granted thereto in the name of an agent or a representative of the person being the holder of

that exclusive right in a member-state of the [Paris Convention](#) for the Protection of Industrial Property in breach of the provisions of the [Convention](#);

6) in full or in part during the whole effective term of legal protection if the right holder's actions relating to the state registration of the trademark have been recognised in the established procedure as an abuse of law or unfair competition.

3. The grant of legal protection to a generally-renown trademark by means of registration thereof in the Russian Federation may be challenged and deemed invalid in full or in part during the whole effective term of the exclusive right to this trademark if legal protection has been granted thereto in breach of provisions of [Item 1 of Article 1508](#) of the present Code.

Article 1513. Procedure for Challenging and Deeming Invalid the Grant of Legal Protection to a Trademark

1. The grant of legal protection to a trademark may be challenged on the grounds and within the term envisaged by [Article 1512](#) of the present Code by means of filing an objection against such grant with the chamber of patent disputed or with the federal executive governmental body charged with intellectual property matters.

2. Objections against the grant of legal protection to a trademark on the grounds set out in [Subitems 1-4 of Item 2](#) and [Item 3 of Article 1512](#) of the present Code may be filed with the chamber of patent disputes by a person concerned.

3. An objection against the grant of legal protection to a trademark on the ground set out in [Subitem 5 of Item 2 of Article 1512](#) of the present Code may be filed with the chamber of patent disputes by the concerned owner of the exclusive right to the trademark in a memberstate of the [Paris Convention](#) for the Protection of Industrial Property.

An objection against the grant of legal protection to a trademark on the ground set out in [Subitem 6 of Item 2 of Article 1512](#) of the present Code shall be filed by a person concerned with the federal executive governmental body charged with intellectual property matters.

4. Decisions of the federal executive governmental body charged with intellectual property matters on deeming invalid the grant of legal protection to a trademark or on refusing to deem it as such shall take effect in accordance with the rules of [Article 1248](#) of the present Code and they may be challenged in the court.

5. If the grant of legal protection to a trademark is deemed invalid in full the certificate of the trademark and the entry in the State Register of Trademarks shall be annulled.

If the grant of legal protection to a trademark is deemed partially invalid a new certificate for the trademark shall be issued and relevant amendments shall be made to the State Register of Trademarks.

6. The licence contracts concluded until a decision is taken on deeming invalid the grant of legal protection to a trademark shall remain in effect to the extent in which they had been discharged as of the time when the decision was taken.

Article 1514. Terminating the Legal Protection of a Trademark

1. The legal protection of a trademark shall be terminated:

1) in connection with the expiry of the effective term of the exclusive right to the trademark;

2) on the ground of a court's decision on early termination of the legal protection of the collective trademark in accordance with [Item 3 of Article 1511](#) of the present Code in connection with this mark being used on goods not having uniform quality characteristics or other common characteristics;

3) on the basis of a decision on early termination of the legal protection of the trademark due to its not being used, such decision being taken in accordance with [Article 1486](#) of the present Code;

4) on the basis of a decision of the federal executive governmental body charged with intellectual property matters on early termination of the legal protection of the trademark in the event of termination of the legal entity being the right holder or termination of the entrepreneurial activity of the individual entrepreneur being the right holder;

5) if the right holder has waived his/its right to the trademark;

6) on the basis of a decision taken by the federal executive governmental body charged with intellectual property matters on an application of a person concerned on early termination of the legal protection of the trademark if it has turned into a designation commonly used as a term for goods of a certain kind.

2. The legal protection of a generally-renown trademark shall be terminated on the grounds set out in [Subitems 3-6 of Item 1](#) of the present article, and also by a decision of the federal executive governmental body charged with intellectual property matters if the generally-renown trademark has lost the characters established by [Paragraph 1 of Item 1 of Article 1508](#) of the present Code.

3. When an exclusive right to a trademark is transferred without the conclusion of a contract with the right holder ([Article 1241](#)) the legal protection of the trademark may be terminated by a court's decision on a claim of a person concerned if it is proven that the transfer misleads consumers concerning goods or the manufacturer thereof.

4. The termination of legal protection of a trademark means the termination of the exclusive right to the trademark.

7. The Protection of a Right to a Trademark

Article 1515. Liability for the Illegal Use of a Trademark

1. The goods, labels, packages of goods on which a trademark or a designation similar thereto to the extent of confusion has been placed are counterfeit.

2. The right holder is entitled to claim withdrawal from transactions and destruction on the account of the infringer the counterfeit goods, labels, packages of goods on which the illegally used trademark or a designation similar thereto to the extent of confusion has been placed. If the putting of these goods in transactions is required for public interests the right holder is entitled to demand removal on the infringer's account of the illegally used trademark or a designation similar thereto to the extent of confusion that has been placed on the counterfeit goods, labels and packages of goods.

3. A person that has infringed an exclusive right to a trademark while carrying out works or providing services shall remove the trademark or a designation similar thereto to the extent of confusion from the materials involved in the performance of such works or the provision of such services, including from documents, advertisements and billboards.

4. The right holder is entitled to demand at his/it discretion that the infringer pay a compensation in place of reimbursement of damages:

1) in an amount of 10,000 to 5,000,000 roubles as defined at the court's discretion on the basis of the nature of the infringement;

2) in the amount equal to the double value of the goods on which the trademark has been illegally placed or to the double value of the right of using the trademark assessed on the basis of the price normally charged in comparable circumstances for the legal use of the trademark.

5. A person carrying out a preliminary marking in respect of a trademark not registered in the Russian Federation is liable in the procedure established by the legislation of the Russian Federation.

§ 3. The Right to the Appellation of Origin of Goods

<u>1. General Provisions</u>	<u>(Articles 1516-1518)</u>
<u>2. Using an Appellation of Origin</u>	<u>(Articles 1519-1521)</u>
<u>3. The State Registration of an Appellation of Origin and the Grant of Exclusive Right to an Appellation of Origin</u>	<u>(Articles 1522-1534)</u>
<u>4. Terminating the Legal Protection of an Appellation of Origin and of the Exclusive Right to an Appellation of Origin</u>	<u>(Articles 1535-1536)</u>
<u>5. The Protection of an Appellation of Origin</u>	<u>(Article 1537)</u>

1. General Provisions

Article 1516. The Appellation of Origin

1. The appellation of origin of a merchandise to which legal protection is granted means a designation being or containing a contemporary or historical, official or unofficial, full or abbreviated name of a country, urban or rural inhabited settlement, locality or another geographic object, and also a designation which is derivative from such name and which has become renown as the result of being used in respect of a merchandise whose special properties are exclusively or predominantly defined by the natural conditions and/or human factors characteristic for the given geographic object. The manufacturers of such merchandise may be recognised to own an exclusive right to use the appellation of origin (Article 1229 and 1519).

2. The following shall not be deemed an appellation of origin: a designation though being or containing a name of a geographic object that is generally used in the Russian Federation as a designation of goods of a certain kind but not relating to the place where manufactured.

Article 1517. The Effect of Exclusive Right to Use an Appellation of Origin on the Territory of the Russian Federation

1. An exclusive right to use an appellation of origin registered by the federal executive governmental body charged with intellectual property matters, and also in other cases envisaged by an international treaty of the Russian Federation is effective on the territory of the Russian Federation.

2. The state registration of a geographic object located in a foreign state as an appellation of origin for a merchandise is admissible if the name of the object is protected as an appellation of origin in the country of origin of the merchandise. The exclusive right to use the appellation of origin of the

merchandise shall only be owned by a person whose right to use the appellation of origin is protected in the country of origin of the merchandise.

Article 1518. The State Registration of an Appellation of Origin

1. An appellation of origin shall be recognised and protected by virtue of state registration thereof. An appellation of origin may be registered by one or several citizen or legal entities.

2. The persons that have registered an appellation of origin acquire an exclusive right to use the appellation of origin, provided the merchandise manufactured by these persons meets the requirements set out in [Item 1 of Article 1516](#) of the present Code.

An exclusive right to use an appellation of origin in respect of one and the same merchandise may be granted to any person manufacturing a merchandise having the same special properties within the boundary of the same geographic object.

2. Using an Appellation of Origin

Article 1519. The Exclusive Right to an Appellation of Origin

1. A right holder owns an exclusive right to use an appellation of origin in accordance with [Article 1229](#) of the present Code in any manner not conflicting with a law (exclusive right to an appellation of origin), including the methods specified in [Item 2](#) of the present article.

2. The use of an appellation of origin is the placement of the appellation of origin on/in the following, without limitation:

1) the goods, the labels, packages of the goods manufactured, offered for sale, sold, shown at exhibitions and fairs or are otherwise introduced in civil-law transactions on the territory of the Russian Federation or are stored or transported for this purpose or are imported into the territory of the Russian Federation;

2) the letterhead papers, bills, other documents and printed editions relating to the introduction of goods in civil-law transactions;

3) offers of sale of goods, and also in announcements, on billboards and in advertisements;

4) the Internet, for instance in a domain name or in other addressing methods.

3. A registered appellation of origin is prohibited for being used by persons not holder a relevant certificate even though the real place of origin of a merchandise is indicated or a name is used in translation either in combination with such words as "kind/genus", "type", "simulation" etc., and also the use of a similar designation for any goods that is capable of misleading consumers as to the place from which the goods originate and to the special properties of the goods (illegal use of an appellation of origin).

The goods, labels, packages of goods on which appellations of origin or designations similar thereto to the extent of confusion have been illegally used are deemed counterfeit.

4. It is prohibited to dispose of an exclusive right to an appellation of origin, for instance by means of alienating it or assigning a right to use the appellation of origin to another person.

Article 1520. The Mark of Protection of an Appellation of Origin

For the purpose of warning about his/its exclusive right the holder of a certificate of exclusive right to an appellation of origin may place the following next to the appellation of origin: a protection mark in the form of a word designation "registered appellation of origin" or "registered NMPT" indicating that the designation used is an appellation of origin registered in the Russian Federation.

Article 1521. The Effect of Legal Protection of an Appellation of Origin

1. An appellation of origin is protected during the whole period when it is possible to manufacture the merchandise whose special properties are exclusively or predominantly defined by the natural conditions and/or human factors characteristic for the relevant geographic object ([Article 1516](#)).

2. The effective term of a certificate of exclusive right to an appellation of origin and the procedure for extending this term are defined by [Article 1531](#) of the present Code.

3. The State Registration of an Appellation of Origin and the Grant of Exclusive Right to an Appellation of Origin

Article 1522. The Application for an Appellation of Origin

1. An application for state registration of an appellation of origin and for the grant of an exclusive right to such appellation of origin, and also an application for the grant of an exclusive right to an appellation of origin registered earlier (an application for an appellation of origin) shall be filed with the federal executive governmental body charged with intellectual property matters.

2. An application for an appellation of origin shall cover one appellation of origin.

3. The application for an appellation of origin shall comprise the following:

1) an application for state registration of the appellation of origin and for the grant of an exclusive right to the appellation of origin or only for the grant of an exclusive right to an appellation of origin that has been registered earlier, with an indication of the applicant, his/its place of residence/whereabouts;

2) the designation being declared;

3) an indication of the merchandise for which the state registration of the appellation of origin and the grant of an exclusive right to the appellation of origin is sought or only the grant of an exclusive right to an appellation of origin that has been registered earlier is sought;

4) an indication of the place of origin (production) of the merchandise (the boundary of the geographic object) whose natural conditions and/or human factors exclusively or predominantly define or can define the special properties of the merchandise;

5) a description of the special properties of the merchandise.

4. The application for an appellation of origin shall be signed by the applicant, or if the application is filed through a patent attorney or another representative, by the applicant or his/its representative who files the application.

5. If the geographic object whose name is being declared as an appellation of origin is located on the territory of the Russian Federation the application shall be accompanied by a statement of a body empowered by the Government of the Russian Federation to the effect that within the boundary of the given geographic object the applicant manufactures a merchandise whose special properties are exclusively or predominantly due to the natural conditional and/or human factors characteristic for the given geographic object.

Attached to the application for an exclusive right to an appellation of origin that has been registered earlier as the name of a place located on the territory of the Russian Federation shall be a statement of the competent body designated in the procedure established by the Government of the Russian Federation to the effect that within the boundary of the given geographic object the applicant manufactures a merchandise possessing the special properties specified in the State Register of Appellations of Origin of the Russian Federation (the State Register of Appellations of Origin) ([Article 1529](#)).

If the geographic object whose name is being declared as an appellation of origin for a merchandise is outside of the Russian Federation the application shall be accompanied by a document confirming the applicant's right in the country of origin of the merchandise to the appellation of origin being declared.

Also attached to the application shall be a document confirming that a duty has been paid for the filing of the application at the established rate.

6. The application for an appellation of origin shall be filed in the Russian language.

The documents attached to the application shall be filed in the Russian or another language. If these documents are filed in another language Russian translations thereof shall be attached to the application. A Russian translation may be submitted by the applicant within two months after a notice is sent thereto by the federal executive governmental body charged with intellectual property matters on the need for meeting this requirement.

7. The requirements applicable to the documents contained in an application for an appellation of origin or to the documents attached thereto (application documents) shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

8. The date of filing of the application for an appellation of origin is the date of receipt of the documents specified in [Item 3](#) of the present article by the federal executive governmental body charged with intellectual property matters, or if these documents were not filed simultaneously, the date of receipt of the last document.

Article 1523. The Expert Examination of an Application for an Appellation of Origin and the Making of Amendments to Application Documents

1. An expert examination of an application for an appellation of origin shall be carried out by the federal executive governmental body charged with intellectual property matters.

The expert examination of the application shall include a formal expert examination and an expert examination of the designation declared as the appellation of origin (declared designation).

2. During the term for completion of the expert examination of the application for an appellation of origin the applicant is entitled to amend, update or correct the materials of the application until a decision is taken on the application.

If additional materials modify the essence of the application these materials shall not be accepted for consideration, and they may be arranged by the applicant as an independent application.

3. During the term for completion of the expert examination of the application for an appellation of origin the federal executive governmental body charged with intellectual property matters is entitled to request from the applicant the provision of the additional materials without which the expert examination cannot be completed.

The additional materials shall be submitted by the applicant within two months after the receipt of the relevant request. On an application of the applicant this term may be extended if the petition is received before the expiry of the term. If the applicant did not observe the term or did not reply to the request for additional materials the application shall be deemed withdrawn under a decision of the federal executive governmental body charged with intellectual property matters.

Article 1524. The Formal Expert Examination of an Application for an Appellation of Origin

1. A formal expert examination of an application for an appellation of origin shall be completed within two months after the application was filed with the federal executive governmental body charged with intellectual property matters.

2. During the formal expert examination of the application for an appellation of origin the availability of the necessary application documents, and also their compliance with established requirements shall be verified. According to the results of the formal expert examination either the application shall be accepted for consideration or a decision shall be taken on refusal to accept the application for consideration. The applicant shall be notified of the results of the formal expert examination.

Simultaneously with a notice of the positive result of the formal expert examination of the application that applicant shall be informed of the date of filing of the application as established in accordance with [Item 8 of Article 1522](#) of the present Code.

Article 1525. The Expert Examination of a Designation Declared as an Appellation of Origin

1. An expert examination of a designation declared for a merchandise as an appellation of origin (expert examination of a declared designation) for the purpose of verifying the compliance of the designation with the provisions of [Article 1516](#) of the present Code shall be carried out on an application accepted for consideration as the result of a formal expert examination.

During the expert examination of the declared designation it shall also be verified if there is a good reason for indicating the place of origin (production) of the merchandise on the territory of the Russian Federation.

On an application accepted for consideration for the grant of an exclusive right to an appellation of origin that has been registered earlier an expert examination of the declared designation shall be carried out to verify its compliance with the provisions of [Paragraph 2 of Item 5 of Article 1522](#) of the present Code.

2. Until a decision is taken on the results of an expert examination of the declared designation in the event of anticipated refusal to grant state registration to an appellation of origin and/or to grant an exclusive right to such appellation of origin a notice in writing shall be sent to the applicant on the results of verification of the compliance of the declared designation with the provisions of [Article 1516](#) of the present Code and a proposal for submitting his/its arguments concerning the reasons available in the notice. The applicant's arguments shall be taken into account when a decision is taken according to the results of the expert examination of the declared designation, if they are submitted within six months after the said notice was sent to the applicant.

Article 1526. A Decision Taken on the Results of an Expert Examination of a Declared Designation

According to the results of an expert examination of a declared designation the federal executive governmental body charged with intellectual property matter shall take a decision on the state registration of the appellation of origin and on the grant of an exclusive right to such appellation of origin or on refusal to grant state registration of the appellation of origin and/or the grant of an exclusive right to such appellation of origin.

If the application for an appellation of origin sought the grant of an exclusive right to an appellation of origin that has been registered earlier the federal executive governmental body shall take a decision on the grant of or refusal to grant such exclusive right.

Article 1527. Withdrawing an Application for an Appellation of Origin

An application for an appellation of origin may be withdrawn by the applicant at any stage of its consideration until information on the state registration of the appellation of origin and/or on the grant of an exclusive right to it is entered in the State Register of Appellations of Origin.

Article 1528. Challenging Decisions on an Application for an Appellation of Origin. Renewal of Term in the Case of Laches

1. Decisions of the federal executive governmental body charged with intellectual property matters on refusal to accept for consideration an application for an appellation of origin, on deeming such application withdrawn, and also decisions of this body taken on the results of an expert examination of a declared designation ([Article 1526](#)) may be challenged by the applicant by means of filing an objection with the chamber of patent disputes within three months after the receipt of the relevant decision.

2. The periods envisaged by [Item 3 of Article 1523](#) of the present Code and [Item 1](#) of the present article in respect of which an applicant is in laches may be renewed by the federal executive governmental body charged with intellectual property matters on a petition of the applicant filed within two months after the expiry of the periods, provided it is proven that there is a good reason for the laches, and that the relevant duty has been paid.

The petition for renewal of a term in the case of laches shall be filed by the applicant with the federal executive governmental body charged with intellectual property matters simultaneously with the additional materials requested in accordance with [Item 3 of Article 1523](#) of the present Code or with a petition for extension of the term for the submission thereof simultaneously with the filing of an objection with the federal executive governmental body charged with intellectual property matters under [Item 1](#) of the present article.

Article 1529. Procedure for the State Registration of an Appellation of Origin

1. Under a decision taken on the results of an expert examination of a declared designation ([Article 1526](#)) the federal executive governmental body charged with intellectual property matters shall accomplish the state registration of the appellation of origin in the State Register of Appellations of Origin.

2. The entry in the State Register of Appellations of Origin shall comprise the appellation of origin, information on the holder of the certificate of exclusive right to the appellation of origin, an indication and description of the special properties of the merchandise for individualisation of which the appellation of origin was registered, other information concerning the state registration and the grant of exclusive right to the appellation of origin, extension of the certificate's effective term and also subsequent changes in these details.

Article 1530. Issuing a Certificate of Exclusive Right to an Appellation of Origin

1. A certificate of an exclusive right to an appellation of origin shall be issued by the federal executive governmental body charged with intellectual property matters within one month after the receipt of a document confirming that a duty has been paid for the issuance of the certificate of exclusive right to the appellation of origin.

Unless a document confirming that the established duty has been paid is submitted in the established procedure, no certificate shall be issued.

2. The form of a certificate of exclusive right to an appellation of origin and a list of the details that have to be available therein shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

Article 1531. The Effective Term of a Certificate of Exclusive Right to an Appellation of Origin

1. A certificate of exclusive right to an appellation of origin is effective for ten years after the date of filing of the application for the appellation of origin with the federal executive governmental body charged with intellectual property matters.

2. The effective term of a certificate of exclusive right to an appellation of origin may be extended on an application of the holder of the certificate and on the condition that the holder submits a statement of the competent body designated in the procedure established by the Government of the Russian Federation to the effect that the holder of the certificate manufactures within the boundary of the relevant geographic object a merchandise possessing the special properties indicated in the State Register of Appellations of Origin.

Form a merchandise in respect of such appellation of origin being the name of a geographic object located outside of the Russian Federation the holder of the certificate shall submit in place of the statement specified in [Paragraph 1](#) of the present item a document confirming his/its right to the appellation of origin in the country of origin of the merchandise as of the date of filing of an application for extension of the effective term of the certificate.

The application for extension of the effective term of the certificate shall be filed within the last year of its effective term.

On a petition of the holder of the certificate a six-month term may be granted thereto upon the expiry of the effective term of the certificate for filing an application for extension of the term, provided an additional duty has been paid.

Each time the effective term of the certificate shall be extended by ten years.

3. An entry on the extension of the effective term of a certificate of exclusive right to an appellation of origin shall be made by the federal executive governmental body charged with intellectual property matters in the State Register of Appellations of Origin and in the said certificate.

Article 1532. Making Amendments to the State Register of Appellations of Origin and to a Certificate of Exclusive Right to an Appellation of Origin

1. The holder of a certificate of exclusive right to an appellation of origin shall notify the federal executive governmental body charged with intellectual property matters of the changes occurring in his/its

name and the other changes relating to the state registration of the appellation of origin and the grant of exclusive right to the appellation of origin ([Item 2 of Article 1529](#)).

An entry on the change shall be made to the State Register of Appellations of Origin and in the certificate, provided the relevant duty has been paid.

2. The federal executive governmental body charged with intellectual property matters may on its own initiative make amendments to the State Register of Appellations of Origin and in a certificate of exclusive right to an appellation of origin for the purpose of correcting obvious and technical errors, having notified the holder of the certificate in advance.

Article 1533. Publishing Information on the State Registration of an Appellation of Origin

Information concerning the state registration of an appellation of origin and the grant of an exclusive right to it that has been entered in the State Register of Appellations of Origin in accordance with [Articles 1529](#) and [1532](#) of the present Code, except for information comprising a description of the special properties of goods, shall be published by the federal executive governmental body charged with intellectual property matters in the gazette immediately after it has been entered in the State Register of Appellations of Origin.

Article 1534. The Registration of an Appellation of Origin in Foreign States

1. Russian legal entities and citizens of the Russian Federation are entitled to register an appellation of origin in foreign states.

2. An application for registration of an appellation of origin in a foreign state may be filed after the state registration of the appellation of origin and the grant of an exclusive right to the appellation of origin in the Russian Federation.

4. Terminating the Legal Protection of an Appellation of Origin and of the Exclusive Right to an Appellation of Origin

Article 1535. Grounds for Challenging and Deeming Invalid the Grant of Legal Protection to an Appellation of Origin and an Exclusive Right to an Appellation of Origin

1. Challenging the grant of legal protection to an appellation of origin means challenging a decision of the federal executive governmental body charged with intellectual property matters on the state registration of the appellation of origin and on the grant of an exclusive right to the appellation of origin, and also challenging the issuance of a certificate of exclusive right to the appellation of origin.

Challenging the grant of an exclusive right to an appellation of origin that has been registered earlier means challenging a decision on the grant of the exclusive right to the appellation of origin that has been registered earlier and the issuance of a certificate of the exclusive right to the appellation of origin.

Deeming invalid the grant of legal protection to an appellation of origin shall cause revocation of a decision on the state registration of the appellation of origin and on the grant of an exclusive right to the appellation of origin, and the cancellation of entries in the State Register of Appellations of Origin and a certificate of exclusive right to the appellation of origin.

Deeming invalid the grant of an exclusive right to an appellation of origin that has been registered earlier shall cause revocation of a decision on the grant of the exclusive right to the appellation of origin that has been registered earlier, the cancellation of entries in the State Register of Appellations of Origin and in a certificate of the exclusive right to the appellation of origin.

2. The grant of legal protection to an appellation of origin may be challenged and deemed invalid during the whole term of protection if legal protection has been granted in breach of the provisions of the present Code. The grant of an exclusive right to an appellation of origin that has been registered earlier may be challenged and deemed invalid during the whole effective term of the certificate of the exclusive right to the appellation of origin ([Article 1531](#)).

If the use of an appellation of origin for a merchandise can mislead the consumer concerning the merchandise or the manufacturer thereof due to the existence of a trademark having an earlier priority the grant of legal protection to the said appellation of origin may be challenged and deemed invalid within five years after the publication of information on the state registration of the appellation of origin in the gazette.

3. On the grounds set out in [Item 2](#) of the present article a person concerned may file an objection with the federal executive governmental body charged with intellectual property matters.

Article 1536. Terminating the Legal Protection of an Appellation of Origin and a Certificate of Exclusive Right to Such Appellation of Origin

1. The legal protection of an appellation of origin of a merchandise shall be terminated if:

- 1) the conditions characteristic for the given geographic object have disappeared, and it impossible to manufacture the merchandise possessing the special properties indicated in the State Register of Appellations of Origin for this appellation of origin;

2) a foreign legal entity, foreign citizen or stateless person has lost his/its right to this appellation of origin in the country of origin of the merchandise.

2. The effect of a certificate of an exclusive right to an appellation of origin of a merchandise shall be terminated if:

1) the merchandise manufactured by the holder of the certificate has lost the special properties indicated in the State Register of Appellations of Origin for this appellation of origin;

2) the legal protection of the appellation of origin has been terminated on the grounds set out in [Item 1](#) of the present article;

3) the legal entity being the holder of the certificate has been wound up or the entrepreneurial activity of the individual entrepreneur being the holder of the certificate has been terminated;

4) the effective term of the certificate has expired;

5) the holder of the certificate has filed an application to this effect with the federal executive governmental body charged with intellectual property matters.

3. On the grounds set out in [Item 1](#) and [Subitems 1 and 2 of Item 2](#) of the present article any person may file an application with the federal executive governmental body charged with intellectual property matters asking for termination of the legal protection of an appellation of origin and of a certificate of exclusive right to such appellation of origin, and on the ground set out in [Subitem 3 of Item 2](#) of the present article, for termination of a certificate of exclusive right to the appellation of origin.

The legal protection of an appellation of origin and a certificate of exclusive right to such appellation of origin shall be terminated on the basis of a decision of the federal executive governmental body charged with intellectual property matters.

5. The Protection of an Appellation of Origin

Article 1537. Liability for the Illegal Use of an Appellation of Origin

1. A right holder is entitled to claim the withdrawal from transactions and destruction on the account of an infringer of counterfeit goods, labels and packages of goods on which an illegally used appellation of origin or a designation similar thereto to the extent of confusion is placed. Where the introduction of such goods in transactions is required for public interests the right holder is entitled to claim on the account of an infringer the removal of an illegally used appellation of origin or a designation similar thereto to the extent of confusion from counterfeit goods, labels and packages of goods.

2. A right holder is entitled to claim a compensation at his/it own discretion from an infringer in place of a reimbursement of damages:

1) in an amount of 10,000 to 5,000,000 roubles as determined at the court's discretion depending on the nature of the infringement;

2) in the amount of double value of the goods on which the appellation of origin was placed illegally.

3. A person applying warning marks to an appellation of origin that has not been registered in the Russian Federation shall be liable in the procedure set out in the legislation of the Russian Federation.

§ 4. The Right to a Commercial Name

Article 1538. The Commercial Name

1. The legal entities pursuing entrepreneurial activities (including the non-commercial organisations on which a right to pursue such activities has been conferred in accordance with a law by their constitutive documents) and also individual entrepreneurs may use commercial names to individualise their trade, industrial and other enterprises ([Article 132](#)), such names not being company names and not subject to compulsory inclusion in the constitutive documents and in the comprehensive state register of legal entities.

2. A commercial name may be used by the right holder to individualise one or several enterprises. Two and more commercial names shall not be simultaneously used to individualise one enterprise.

Article 1539. The Exclusive Right to a Commercial Name

1. A right holder owns an exclusive right to use a commercial name as a means of individualisation of his/its enterprise in any manner not conflicting with a law (exclusive right to a commercial name), including by means of posting the commercial name on billboards, letterhead paper, bills and other documents, in announcements and advertisements, on goods or on the packages thereof, if the name has sufficient distinctiveness characters and if its use by the right holder for the purpose of individualising his/its enterprise is renown within a certain territory.

2. It is prohibited to use a commercial name capable of misleading as to the belonging of an enterprise to a certain person, for instance a name similar to the extent of confusion with a company

name, trademark or a commercial name protected by an exclusive right that is owned by another person whose exclusive right had come into being earlier.

3. A person that has violated the rules of [Item 2](#) of the present article shall terminate on the right holder's demand to use the commercial name and reimburse the right holder for the damages caused.

4. An exclusive right to a commercial may pass to another person (for instance, under a contract, in line of universal succession or on the other grounds established by a law) only within the enterprise for whose individualisation it is being used.

If a right holder uses a commercial name to individualise several enterprises the transfer to another person of the exclusive right to the commercial name within one of the enterprises shall deprive the right holder of the use of this commercial name to individualise the rest of his/its enterprises.

5. A right holder may grant to another person a right to use his/its commercial name in the procedure and on the terms set out in a contract of lease of an enterprise ([Article 656](#)) or a contract of franchise ([Article 1027](#)).

Article 1540. The Effect of Exclusive Right to a Commercial Name

1. An exclusive right to a commercial name used to individualise an enterprise located on the territory of the Russian Federation is effective on the territory of the Russian Federation.

2. The exclusive right to a commercial name shall be terminated if the right holder has not been using it continuously for one year.

Article 1541. The Relationship of the Right to a Commercial Name with the Rights to a Company Name and to a Trademark

1. The exclusive right to a commercial name including the company name of the right holder or specific elements thereof comes into being and is effective irrespective of the exclusive right to the company name.

2. A commercial name or specific elements thereof may be used by the right holder in his/its trademark. A commercial name included in a trademark is protected irrespective of the protection of the trademark.

Chapter 77. The Right of Using the Results of Intellectual Activity within a Unified Technology

Article 1542. The Right to a Technology

1. For the sense of the present chapter, "unified technology" means the result of a scientific and technological activity expressed in an objective form that includes in a certain combination inventions, utility models, industrial designs, computer programmes or other results of intellectual activities subject to legal protection in accordance with the rules of the present section, and can serve as a technological foundation for a certain practical activity in the civilian or military field (unified technology).

A unified technology may also include the results of intellectual activities subject to legal protection on the basis of the rules of the present section, for instance, technical data and other information.

2. Exclusive right to the results of an intellectual activity which are incorporated in a unified technology are recognised and subject to protection in accordance with the rules set out in the present Code.

3. The right of using the results of intellectual activities within a unified technology as a complex object ([Article 1240](#)) is owned by the person that has organised the creation of the unified technology (right to a technology) under contracts with the owners of exclusive rights to the results of intellectual activities incorporated in the unified technology. Also the unified technology may incorporate protected results of intellectual activities created by the person that has organised the creation thereof.

Article 1543. The Applicability of the Rules Concerning the Right to a Technology

The rules of the present chapter are applicable to relationships relating to the right to a civilian, military, special or dual-purpose technology created on the account of or with the involvement of the funds of the federal budget or of the budgets of subjects of the Russian Federation allocated for paying for works under state contracts, other contracts, and for financing under revenue/expenditure estimates and also subsidies as well.

The said rules are not applicable to relationships that come into being when a unified technology is created on the account of or with the involvement of funds of the federal budget or of the budgets of subjects of the Russian Federation on a non-compensatory basis in the form of a budget credit.

Article 1544. The Right of the Person That Has Organised the Creation of Unified Technology to Use the Results of Intellectual Activities Incorporated Therein

1. The person that has organised the creation of a unified technology on the account of or with the involvement of funds of the federal budget or of the budget of a subject of the Russian Federation

(contractor) owns a right to the technology created, except for cases when this right in accordance with [Item 1 of Article 1546](#) of the present Code is owned by the Russian Federation or a subject of the Russian Federation.

2. A person owning in accordance with [Item 1](#) of the present article a right to a technology shall immediately take the measures set out in the legislation of the Russian Federation for being recognised as owning and for obtaining rights to the results of intellectual activity incorporated in the unified technology (file patent applications, applications for state registration of the results of intellectual activities, introduce non-disclosure regime for relevant information, conclude contracts of alienation of exclusive rights and licence contracts with the owners of exclusive rights to the relevant results of intellectual activities incorporated in the unified technology and take other measures), unless such measures have been taken before or during the process of creation of the technology.

3. In cases when the present Code allows different methods of legal protection for the results of intellectual activities incorporated in a unified technology the person owning a right to the technology shall choose the most suitable legal protection method corresponding for his/its interests and for the practical application of the unified technology.

Article 1545. The Duty to Implement a Unified Technology in Practice

1. A person having under [Article 1544](#) of the present Code a right to a technology has the duty of implementing it in practice (implementation).

The same duty shall be executed by any person to which this right is assigned or transferred in accordance with the rules of the present Code.

2. The content of the duty of implementing a technology, the term and other conditions and the procedure for executing the duty, the consequences of a default on the duty and the terms for terminating the duty shall be defined by the Government of the Russian Federation.

Article 1546. The Rights of the Russian Federation and of the Subjects of the Russian Federation

1. A right to a technology created on the account of or with the involvement of funds of the federal budget is owned by the Russian Federation when:

1) the unified technology is directly relating to the safeguarding of the defence and security of the Russian Federation;

2) prior to the creation of the unified technology or thereafter the Russian Federation had/has undertaken to finance the work of bringing the unified technology to the stage of practical implementation;

3) the contractor did not make sure that within six months after the termination of the work of creating the unified technology all the actions were committed as required for his/its being deemed to have exclusive rights or for his/its acquiring exclusive rights to the results of intellectual activities incorporated in the technology.

2. A right to a technology created on the account of or with the involvement of funds of the budget of a subject of the Russian Federation is owned by the subject of the Russian Federation if:

1) prior to the creation of the unified technology or thereafter the subject of the Russian Federation had/has undertaken to finance the work of bringing the technology to the stage of practical implementation;

2) the contractor did not make sure within six months after the termination of the work of creating the unified technology that all the actions were committed as required for his/its being deemed to have or for his/its acquiring exclusive rights to the results of intellectual activities incorporated in the technology.

3. In cases when according to [Items 1](#) and [2](#) of the present article a right to a technology is owned by the Russian Federation or a subject of the Russian Federation the contractor shall in accordance with [Item 2 of Article 1544](#) of the present Code take measures for being deemed to have rights and to acquire rights to the relevant results of intellectual activities for the subsequent assignment of these right to the Russian Federation and to the subject of the Russian Federation.

4. The right to a technology owned by the Russian Federation shall be administered in the procedure defined by the Government of the Russian Federation.

The right to a technology owned by a subject of the Russian Federation shall be administered in the procedure defined by executive governmental bodies of the subject of the Russian Federation.

5. The right to a technology owned by the Russian Federation or a subject of the Russian Federation shall be disposed of in the observance of the rules set out in the present section.

The details of disposing of the right to a technology owned by the Russian Federation shall be defined by a law on the transfer of federal technologies.

Article 1547. Alienating the Right to a Technology Owned by the Russian Federation or a Subject of the Russian Federation

1. In the cases envisaged by [Subitems 2](#) and [3 of Item 1](#) and [Item 2 of Article 1546](#) of the present Code within six months after the Russian Federation or a subject of the Russian Federation received the rights to the result of intellectual activity that are required for the practical use of the result within a unified

technology the right to the technology shall be alienated to a person interested in implementing the technology and having a real capability for implementing it.

In the case envisaged by [Subitem 1 of Item 1 of Article 1546](#) of the present Code the right to the technology shall be alienated to a person interested in implementing the technology and having a real capability for implementing it immediately after the Russian Federation's losing the need for retaining these rights.

2. The alienation by the Russian Federation or a subject of the Russian Federation of a right to a technology to third persons shall be carried out according to the general rule for a compensation according to the results of a tender.

If a right to a technology owned by the Russian Federation or a subject of the Russian Federation cannot be alienated by tender such right shall be assigned according to the results of an auction.

The procedure for holding a tender or auction for the alienation by the Russian Federation or subjects of the Russian Federation of a right to a technology and also the possible cases and procedure for the Russian Federation or a subject of the Russian Federation to assign a right to a technology without holding a tender or auction shall be defined by a law on transfer of technologies.

3. Given the other equal conditions, the contractor that has organised the creation of the results of intellectual activity incorporated in a unified technology has a priority right to conclude a contract for acquisition of a right to the technology with the Russian Federation or with the subject of the Russian Federation.

Article 1548. Fee for a Right to a Technology

1. A right to a technology is granted free of charge in the cases envisaged by [Article 1544](#) and [Item 3 of Article 1546](#) of the present Code.

2. When a right to a technology is alienated under a contract, for instance according to the results of a tender or auction, the rate of, terms and procedure for paying out, a fee for that right shall be defined by agreement of the parties.

3. When the implementation of a technology is of important socioeconomic significance or of important significance for the defence or security of the Russian Federation, and the amount of costs of implementing it makes the acquisition for a compensation of the right to the technology economically ineffective the transfer of the right to such technology by the Russian Federation, the subject of the Russian Federation or the other right holder that has received the right free of charge may also take place on a free-of-charge basis. The cases in which a right to a technology may be transferred free of charge shall be defined by the Government of the Russian Federation.

Article 1549. The Right to a Technology Owned Jointly by Several Persons

1. A right to a technology created with the involvement of budget funds and other investors' funds may be owned simultaneously by the Russian Federation, a subject of the Russian Federation, other investors in the project that has resulted in the technology, the contractor and other right holders.

2. If a right to a technology is owned by several persons they shall exercise the right jointly.

The several persons jointly owning a right to a technology shall dispose of the right by common agreement.

3. A transaction of disposing of a right to a technology accomplished by one of the persons that jointly own the right to the technology may be deemed invalid on a claim of the rest of the right holders due to the fact that the person that has accomplished the transaction lacks the necessary powers, if it is proven that the other party to the transaction knew or apparently was supposed to know of the lack of such powers.

4. Incomes from the use of a technology to which a right is owned jointly by several right holders, and also from the disposition of the right shall be distributed among the right holders by agreement between them.

5. If a part of a technology to which a right is owned by several persons can have an independent significance the right holders may agree among themselves as to each right holder's right to a specific part of the technology. A part of a technology may be of independent significance if it can be used independently of the other parts of the technology.

Each of the right holders is entitled to use at his/its own discretion the relevant part of the technology having an independent significance, except as otherwise envisaged by agreement between them. In this case, the right to the technology as a whole and also the disposition of the right to it shall be exercised jointly by all the right holders.

Incomes from the use of a part of the technology shall come to the person owning the right to this part of the technology.

Article 1550. The General Terms for Transferring the Right to a Technology

Except as otherwise envisaged by the present code or another law, the person owning a right to a technology may at his/its own discretion dispose of the right by assigning it in full or in part to other

persons under a contract or another transaction, including a contract of alienation of the right, a licence contract or another contract comprising the elements of a contract of alienation of right or of a licence contract.

A right to a technology shall be assigned simultaneously in respect of all the results of intellectual activity incorporated in the unified technology as a single whole. The assignment of rights to specific results from the said results (to a part of the technology) is only admissible in cases when the part of the unified technology can have an independent significance in accordance with [Item 5 of Article 1549](#) of the present Code.

Article 1551. The Terms for Exporting a Unified Technology

1. A unified technology shall be implemented in practice (implementation) predominantly on the territory of the Russian Federation.

The right to the technology may be assigned for the unified technology being used on the territories of foreign states on the consent of the state customer or the manager of budget funds in accordance with the legislation on foreign economic activity.

2. The transactions involving the use of a unified technology outside of the Russian Federation are subject to state registration with the federal executive governmental body charged with intellectual property matters.

The non-observance of the provision requiring state registration of a transaction shall cause the invalidity of the transaction.

President
of the Russian Federation

V. Putin

The Kremlin, Moscow