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CIVIL CODE OF THE RUSSIAN FEDERATION

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FOURTH PART

DIVISION VII. RIGHTS TO THE RESULTS OF INTELLECTUAL ACTIVITY AND TO MEANS OF  
INDIVIDUALIZATION

CHAPTER 69. GENERAL PROVISIONS

Article 1225. Protectable Results of Intellectual Activity and Means of Individualization

Results of intellectual activity and means equated to them of individualization of legal entities, goods, work, services, enterprises, and information services that are granted legal protection (intellectual property) are:

- works of science, literature, and arts;
- computer programs;
- databases
- performance;
- phonograms;
- broadcasting over the air or by cable of radio- or television transmissions (broadcast by organizations of over-the-air or cable broadcasting);
- inventions;
- utility models;
- industrial designs;
- plant varieties and animal breeds;
- topology of integrated circuits;
- secrets of production (know-how);
- firm names;
- trademarks and service marks;
- appellation of the origin of goods;
- commercial designations;
- domain names.

Article 1226. Intellectual Rights

Intellectual rights shall be recognized for the results of intellectual activity and means of individualization including an exclusive right that is a property right; and, in the cases and by the procedure established by this Code, also personal non-property rights and other rights (droit de suite, right of access, etc.).

Article 1227. Intellectual Rights and Ownership

1. Intellectual rights do not depend upon the right of ownership to the physical carrier (or thing) in which the respective result of intellectual activity (or means of individualization) is expressed.

2. The transfer of the right of ownership to a thing does not entail the transfer or granting of the intellectual rights to the result of intellectual activity (or means of individualization) expressed in this thing, with the exception of the case provided by Paragraph 2 of Article 1291 of this Code.

Article 1228. Author of a Result of Intellectual Activity

The author of a result of intellectual activity is the individual by whose creative work the result has been made.

Persons who have not made a personal creative contribution in the making of such a result, including those who have rendered merely technical, organizational, or financial support or assistance to the author or who have merely assisted in the formalization of rights to such a result and/or its use are not considered authors of the result of intellectual activity.

2. The right of authorship belongs to the author of a result of intellectual activity and, in the cases indicated in this Code, the right to the name and other personal nonproperty rights.

The right of authorship, the right to the name and other nonproperty intellectual rights of the author are inalienable and non-transferable. A renunciation of these rights is void.

Authorship and the name of the author are protected without limit of time. After the death of the author, protection of his authorship and name may be conducted by any interested person, except as provided in Paragraph 2 of Article 1267 and Paragraph 2 of Article 1316 of this Code.

3. The exclusive right to a result of intellectual activity made by creative work initially arises in its author. This right may be transferred by the author to another person by contract and also may pass to other persons on other grounds established by a statute.

4. The rights to a result of intellectual activity created by the joint creative work of two or more persons (co-authorship) belongs to the co-authors jointly.

#### Article 1229. Exclusive Right

1. The individual or legal person holding the exclusive right to a result of intellectual activity or to a means of individualization (the rightholder) has the right to use this result or means at his discretion in any manner not contrary to statute. The rightholder may alienate an exclusive right to a result of intellectual activity or to a means of individualization (Article 1233), unless provided otherwise by this Code.

The rightholder may at his discretion permit, or prohibit other persons from using the result of intellectual activity or means of individualization. Absence of prohibition shall not be considered to be consent (or permission).

Other persons may not use the corresponding result of intellectual activity or means of individualization without the consent of the rightholder, with the exception of cases provided by this Code. Use of the result of intellectual activity or means of individualization (such as the use thereof in ways specified in this Code), unless such use is made with the consent of the rightholder, shall be illegal and shall invoke liability under this Code or other laws, except where the use of the result of intellectual activity or means of individualization by persons other than the rightholder is allowed by this Code without asking for such consent.

2. The exclusive right in the result of intellectual activity or means of individualization (with the exception of the exclusive right in a trade name) may belong to one person or to several persons jointly.

3. In case the exclusive right to the result of intellectual activity or means of individualization belongs to several persons jointly each of the rightholders shall have the right to use such a result or such a means at his discretion, unless otherwise provided by this Code or an agreement between the rightholders. Relations between the persons to whom the exclusive right belongs jointly shall be determined by agreement among them.

Income from the joint use of the result of intellectual activity or means of individualization shall be distributed between all the rightholders equally, unless otherwise provided by an agreement between them.

Disposition of the exclusive right to the result of intellectual activity or to means of individualization shall be made by the rightholders jointly, unless otherwise provided by this Code.

4. In the cases provided by Paragraph 3 of Article 1454, Paragraph 2 of Article 1466, Paragraph 1 of Article 1510, and Paragraph 1 of Article 1519 of this Code, independent exclusive rights to one and the same result of intellectual activity or to one and the same means of individualization may belong simultaneously to various persons.

5. Restrictions on exclusive rights to results of intellectual activity and to means of individualization, including the use of the results of intellectual activity permitted without asking for the consent of the rightholder, subject, however, to the right of the rightholder to receive remuneration, are established by this Code.

The restrictions referred to above shall be established unless they cause unjustified harm to the ordinary use of the results of intellectual activity or means of individualization or unjustifiably infringe on the legitimate interests of the rightholders.

#### Article 1230. Duration of Exclusive Rights

1. Exclusive rights to the results of intellectual activity and means of individualization shall be effective during a specified term, with the exception of cases provided by this Code.

2. The length of the term of effectiveness of an exclusive right to the results of intellectual activity and means of individualization, the procedure for calculation of this term, the bases and procedure for extending it, and also the bases and procedure for terminating an exclusive right before the expiration of the term are established by this Code.

Article 1231. Duration of Exclusive and Other Rights on the Results of Intellectual Activity in the Territory of the Russian Federation

1. Exclusive rights to results of intellectual activity and to means of individualization established by this Code and international treaties of the Russian Federation are effective on the territory of the Russian Federation.

Personal nonproperty and other rights on the results of intellectual activity, which are not exclusive rights, shall be effective in the territory of the Russian Federation as provided in the fourth subparagraph of Paragraph 1, Article 2 of this Code.

2. In case of the recognition of an exclusive right to the result of intellectual activity or means of individualization in accordance with an international treaty of the Russian Federation, the content of the right, its effectiveness, restrictions, and the procedure for its exercise and protection shall be determined by this Code regardless of the provisions of the legislation of the country of origin of the exclusive right, unless otherwise provided by such international treaty or by this Code.

Article 1232. State Registration of the Results of Intellectual Activity and Means of Individualization

1. In cases provided by this Code, the exclusive right to a result of intellectual activity or means of individualization shall be recognized and protected upon condition of state registration of the result of intellectual activity or means of individualization.

2. In cases when the result of intellectual activity or means of individualization is subject in accordance with this Code to state registration, alienation of the exclusive right to the result or means by contract, pledge of this right, and granting of the right of use of the result or means by contract, and likewise the transfer of the exclusive right to such result or to such means without a contract are also subject to state registration as and on the terms directed by the Government of the Russian Federation.

3. State registration of the alienation of an exclusive right to a result of intellectual activity or means of individualization by contract, state registration of the pledge of this right, and also state registration of the granting of the right of use of such a result or means by contract shall be conducted by state registration of the respective contract.

4. In the case provided for by Article 1239 of this Code, the respective judicial decision shall be the basis for state registration of the granting of a right of use of the result of intellectual activity or means of individualization.

5. The basis for state registration of a transfer of an exclusive right to a result of intellectual activity or means of individualization by inheritance shall be a certificate of the right to inheritance, with the exception of the case provided for by Article 1165 of this Code.

6. Failure to comply with the requirement for a contract for alienation of the exclusive right to the result of intellectual activity or to means of individualization, or for a contract for granting to another person the right to use such a result or such means to be officially registered shall render such a contract null and void. Unless the requirement for state registration to be obtained for an exclusive right to be transferred without a contract is complied with, such a transfer shall be voided.

7. In cases provided by this Code, state registration of the result of intellectual activity may be conducted at the option of the rightholder. In such cases the rules of Paragraphs 2 to 6 of this Article shall accordingly apply to the registered result of intellectual activity and to the rights to such result, unless provided otherwise in this Code.

Article 1233. Disposition of the Exclusive Right

1. The rightholder may dispose of an exclusive right to a result of intellectual activity or to a means of individualization belonging to him in any manner not contrary to statute and the nature of such exclusive right, including by its alienation by contract to another person (contract on alienation of an exclusive right) or the provision to another person of the right to use the respective result of intellectual activity or means of individualization within the limits established by the contract (license contract).

Conclusion of a license contract shall not entail transfer of the exclusive right to the licensee.

2. The general provisions on obligations (Articles 307-419) and on contract (Articles 420-453) shall be applied to contracts for the disposition of the exclusive right to a result of intellectual activity or to a means of individualization, including to contracts for the alienation of the exclusive right and to

license (or sublicense) contracts, unless otherwise provided by the rules of the present Division or follows from the content or nature of the exclusive right.

3. A contract that does not indicate directly that the exclusive right in a result of intellectual activity or means of individualization is transferred in full shall be deemed as a license contract made in respect of the right to use the result of intellectual activity expressly designed or being designed for incorporation in a complex object (second subparagraph of Paragraph 1, Article 1240).

4. The terms of a contract for the alienation of an exclusive right or of a license contract that limit the right of an individual to create results of intellectual activity of a defined type or in a defined area of intellectual activity or to alienate the exclusive rights to such results to other persons are invalid.

5. In case of conclusion of a contract for the pledge of an exclusive right to the result of intellectual activity or to means of individualization, the pledgor shall have the right within the term of such contract to use the respective result of intellectual activity or means of individualization and has the right to dispose of the exclusive right to such result or the means without the consent of the pledgee, unless the contract provides otherwise.

#### Article 1234. Contract for the Alienation of an Exclusive Right

1. By a contract for the alienation of an exclusive right to the result of intellectual activity or means of individualization one party (the rightholder) transfers or is obligated to transfer its exclusive right to such a result or means in full scope to the other party (the recipient of the exclusive right).

2. A contract for the alienation of an exclusive right shall be concluded in written form and is subject to state registration in the cases provided by Paragraph 2 of Article 1232 of this Code. Unless the contract is made in writing or unless the requirement for state registration is met, the contract shall be voided.

3. Under the contract for the alienation of exclusive right, the recipient is obligated to pay the compensation provided by the contract unless otherwise provided by the contract.

If the amount of compensation is not provided in a contract and may not be determined proceeding from the terms of the contract, compensation shall be paid in an amount determined in accordance with Paragraph 3 of Article 424 of this Code.

4. The exclusive right to a result of intellectual activity or means of individualization passes from the rightholder to the recipient at the time of conclusion of the contract for alienation of an exclusive right, unless provided otherwise by an agreement between the parties. If the contract for alienation of an exclusive right is subject to state registration (Paragraph 2 of Article 1232), the exclusive right to the result of intellectual activity or means of individualization passes at the time of state registration of the contract for the alienation of the exclusive right.

5. In case of a substantial breach by the recipient of the obligation to pay, within the time established by the contract for alienation of an exclusive right, the compensation for obtaining the exclusive right to the result of intellectual activity or means of individualization (numbered subparagraph 1 of Paragraph 2 of Article 450), the former rightholder has the right to demand by judicial procedure the transfer to himself of the rights of the recipient of the exclusive right and the compensation for damages, if the exclusive right passed to its recipient.

If the exclusive right has not passed to the recipient, then in case of breach by the recipient of the obligation to pay, within the time established by the contract, compensation for obtaining the exclusive right, then the rightholder may unilaterally renounce the contract and demand compensation for damages caused by dissolution of the contract.

#### Article 1235. License Contract

1. Under a license contract, one party, the holder of an exclusive right to a result of intellectual activity or to a means of individualization (the licensor), grants or becomes obligated to grant to the other party (the licensee) the right of use of the result or means within the limits established by the contract.

The licensee may use the result of intellectual activity or means of individualization only within the limits of those rights and those means that are provided by the license contract. Rights to use a result of intellectual activity or means of individualization not directly indicated in a license contract are not considered to have been granted to the licensee.

2. A license contract shall be concluded in written form, unless otherwise established by this Code.

A license contract is subject to state registration in the cases provided in Paragraph 2 of Article 1232 of this Code.

Unless the license contract is made in writing or unless the requirement for state registration is met, the license contract shall be voided.

3. A license contract shall indicate the territory of permitted use of the respective result of intellectual activity or means of individualization. If the territory of permitted use of the result of intellectual activity or means of individualization is not indicated in the contract, the licensee shall have the right to exercise its use on the whole territory of the Russian Federation.

4. The period for which a license contract is made may not exceed the duration of the exclusive right in the result of intellectual activity or in means of individualization.

If the period of effectiveness of the license contract is not defined in the license contract, the contract shall be considered to be concluded for five years, unless otherwise provided by this Code.

In case of termination of the exclusive right, the license contract shall be terminated.

5. Under a license contract the licensee is obligated to pay the compensation provided by the contract unless otherwise provided by the contract.

If, in a license contract that does not exclude the payment of compensation, the amount of compensation is not provided and cannot be determined on the basis of the terms of the contract, compensation shall be paid in an amount determined in accordance with Paragraph 3 of Article 424 of this Code.

6. A license contract shall provide:

1) the subject of the contract by indicating the result of intellectual activity or means of individualization the right of (or permission for) the use of which is granted under the contract, including, in appropriate cases, the number and date of the issuance of a document confirming the exclusive right to such result or means (patent or certificate);

2) means of use of the result of intellectual activity or means of individualization.

7. The transfer of the exclusive right to a result of intellectual activity or to a means of individualization to a new rightholder is not a basis for change or dissolution of a license contract concluded by the previous rightholder.

#### Article 1236. Types of License Contracts

1. A license contract may provide:

1) granting to a licensee the right of use of a result of intellectual activity or means of individualization with retention by the licensor of the right of issuance of licenses to other persons (simple (nonexclusive license);

2) granting to a licensee of the right of use the result of intellectual activity or means of individualization without the licensor retaining the right to grant licenses to other persons (exclusive license).

2. If the contract does not provide otherwise, the license shall be assumed to be a simple (nonexclusive) one.

3. A single license contract with respect to different methods of the use of a result of intellectual activity or means of individualization may contain terms provided in Paragraph 1 of this Article for license contracts of different types.

#### Article 1237. Performance of a License Contract

1. The licensee must provide the licensor with reports on the course of use of the result of intellectual activity or means of individualization, unless otherwise provided by the contract. The times and procedure for providing reports shall be established by the contract. Where a license contract requiring reports to be submitted on the use of the result of intellectual activity or means of individualization does not set the time of, and procedure for, submission of reports, the licensee shall submit such reports to the licensor on demand.

2. During the term of the license contract, the licensor is obligated to refrain from any actions capable of hindering the conduct by the licensee of the rights granted to him for the use of the result of intellectual activity or means of individualization within the limits established by the contract.

3. Use a result of intellectual activity or means of individualization in a manner not provided by the license contract, or after the termination of the effectiveness of the license contract or in another manner beyond the limits of the rights granted to the licensee under the contract shall entail the responsibility for infringement of the exclusive right to the result of intellectual activity or means of individualization established by this Code, or other laws, or provided by the contract.

4. In case of breach by the licensee of the obligation to pay, within the term established by the license contract, compensation for the granting of the right of use of works of scholarship, literature, and art (Chapter 70) or of subjects matter of related rights (Chapter 71), the licensor may unilaterally reject the license contract and demand compensation for damages caused by the dissolution of the contract.

#### Article 1238. Sublicense Contract

1. With the written consent by the licensor the licensee shall have the right to grant under a contract the right of use of a result of intellectual activity or means of individualization to another person (sublicense contract).

2. Under a sublicense contract the sublicensee may be granted the right to use a result of intellectual activity or means of individualization only within the limits of those rights and those means of use that are provided by the license contract for the licensee.

3. A sublicense contract concluded for a term exceeding the term of the license contract shall be considered concluded for the term of the license contract.

4. The licensee shall bear responsibility to the licensor for actions of the sublicensee unless the license contract provides otherwise.

5. The rules of this Code on a license contract shall be applied to the sublicense contract.

#### Article 1239. Compulsory License

In cases provided by this Code, a court may, on demand of an interested person take a decision to grant this person, on conditions determined in the judgment, rights to the use of a result of intellectual activity, the exclusive right to which belongs to another person (a compulsory nonexclusive license).

#### Article 1240. Use of a Result of Intellectual Activity in the Composition of a Complex Object

1. A person who has organized the creation of a complex object including several protected results of intellectual activity (a motion picture, other audiovisual work, theatrical-audience presentation, a multimedia product, a n integrated technology) shall obtain the right of use of these results of intellectual activity on the basis of contracts on the alienation of exclusive rights to these results or license contracts concluded by such person with the holders of exclusive rights to the respective results of intellectual activity.

Where a person who has organized development of a complex object acquires the right to use the result of intellectual activity expressly developed or being developed for incorporation in such complex object, a relevant contract shall be deemed to be a contract for the alienation of the exclusive right, unless agreed otherwise by the parties.

A license contract on the use of the result of intellectual activity in the composition of a complex object shall be concluded for the whole term and for the whole territory covered by the corresponding exclusive right, unless provided otherwise in the contract.

2. The terms of the license contract restricting the use of a result of intellectual activity within a complex object shall be void.

3. In the use of the result of intellectual activity in the composition of a complex argument, the creator of the result of intellectual activity shall retain the right of authorship and other personal nonproperty rights to this result.

4. In the use of a result of intellectual activity within a complex object, the person who has organized its creation shall have the right to indicate his name or designation or to demand such an indication.

5. The rules of this Article shall be the right of use of results of intellectual activity in a system of integrated technology created at the expense of or with the use of funds from the federal budget, to the extent not otherwise provided in the rules of Chapter 77 of this Code.

#### Article 1241. Transfer of an Exclusive Right to Other Persons Without a Contract

Transfer to another person of an exclusive right to a result of intellectual activity or means of individualization without a contract being made with the rightholder is permitted when and as provided for by the law, including by way of universal legal succession (inheritance, reorganization of a legal person) and in the levying of execution on the property of a rightholder.

#### Article 1242. Organizations Conducting Collective Management of Copyrights and Related Rights

1. Authors, performers, producers of phonograms and other holders of copyright rights and neighboring rights, in cases when exercise of their rights individually is difficult or when this Code allows the use of protected objects without their consent but with the payment of compensation to them, may create noncommercial organizations to which, in accordance with authorizations granted to them by rightholders, is assigned the administration of the respective rights on a collective basis (organizations for the management of rights on a collective basis).

The creation of such organizations shall not hinder the realization of the representation of the holders of copyright rights and neighboring rights by other legal persons and individuals.

2. Organizations for the management of rights on a collective basis may be created for the management of rights relating to one or several types of objects of copyright rights and neighboring

rights, for the administration of one or more types of such rights or means of use of the respective objects or for administration of any copyright and neighboring rights.

3. The basis of the powers of an organization for the management of rights on a collective basis shall be a contract for the transfer of powers to manage the rights made between the organization and the rightholder in writing, except as provided by subparagraph 1 of Paragraph 3, Article 1244 of this Code.

This contract may be made both with rightholders who are members of the organization for the management of rights on a collective basis and with rightholders that are not members of such an organization. If that is the case, the organization managing the rights on a collective basis shall assume management of such rights if management of that category of rights falls within the statutory activity of that organization. The basis of the powers of an organization for the management of rights on a collective basis may also be a contract with another organization including a foreign organization conducting collective administration of intellectual rights.

The general provisions on obligations (Articles 307-419) and on a contract (Articles 420-453) shall apply to contracts referred to in the first and second subparagraphs of this paragraph, for otherwise does not follow from the scope or nature of the right transferred to management. The rules of this section applying to contracts for the alienation of exclusive rights and to license contracts shall not apply to the aforesaid contracts.

4. Organizations for the management of rights on a collective basis do not have the right to use of objects of copyright right and neighboring rights transferred to them for administration on a collective basis.

5. Organizations for the management of rights on a collective basis shall have the right, in the name of the rightholders or in their own name to present claims in court and also to take other legal actions necessary for the protection of rights the administration of which they are conducting on a collective basis.

Likewise, an accredited organization (Article 1244) may, on behalf of an unspecified number of rightholders, make claims in a court as may be necessary to protect the rights managed by that organization.

6. The legal position of organizations for the management of rights on a collective basis, the functions of these organizations, and rights and duties of members of these organizations shall be determined by this Code, statutes on noncommercial organizations, and the charters of the respective organizations.

#### Article 1243. Performance of Contracts With Rightholders by Organizations for the Management of rights on a Collective Basis

1. An organization for the management of rights on a collective basis shall conclude contracts with contracts on the granting of rights transferred to it for administration for the right holders, rights of use of objects of copyrights and related rights on the terms of a simple (nonexclusive) license and shall collect the compensation for use due from the users. In cases when objects of copyrights and related rights in accordance with this Code can be used without the consent of the rightholder but with payment of compensation to him, an organization for the management of rights on a collective basis shall conclude contracts with users for the payment of compensation and shall collect such compensation for such purposes.

An organization for the management of rights on a collective basis shall not have the right to refuse to conclude a contract with a user without sufficient bases.

2. In cases of conclusion of a license contract with a user directly by a rightholder, an organization for the management of rights on a collective basis may collect compensation for the use of objects of copyright and neighboring rights only under the condition that such a possibility is provided by the aforesaid contract.

3. Users are obligated on demand of the organization for the management of rights on a collective basis to provide it with reports on the use of objects of copyright rights and neighboring rights and also other information and documents necessary for the collection and distribution of compensation, a list and time periods for the provision of which information and documents are defined in a contract.

4. An organizations for the management of rights on a collective basis shall make the distribution and payment of the collected compensation to the holders of copyright and neighboring rights.

An organization shall have the right to withhold from the collected compensation amounts to cover necessary expenses for the collection, distribution and payment of such compensation and also amounts that are directed into special funds created by this organization with the consent and in the interests of the rightholders represented by it, in the amounts and by the procedure provided by the charter of the organization.

The distribution and payment of the collected amounts of compensation must be made regularly within the time periods determined by the charter of the organization and in proportion to the actual use of the respective objects of copyright rights and neighboring rights, determined on the basis of information received from users and also other data on the use of objects of copyright rights and other rights (including information of a statistical nature)..

Simultaneously with the payment of compensation the organization for managing rights on a collective basis shall be required to provide the rightholder with a report containing information on the use of his rights, including on the collected and withheld amounts of compensation.

5. An organization for the management of rights on a collective basis shall form registers containing information on rightholders, on rights transferred to it for collective administration and also on the objects of copyright rights and neighboring rights. The information contained in such registers shall be provided to all interested persons by the procedure established by the respective organization, with the exception of information that in accordance with law may not be divulged without the consent of the rightholder.

An organization for the management of rights on a collective basis shall place on an generally accessible information resource information on the rights transferred to it for collective administration, including the designation of the object of copyright rights or neighboring rights, and the name of the author or other rightholder.

#### Article 1244. Organizations for the Management of rights on a Collective Basis Having State Accreditation

1. An organization for managing rights on a collective basis may obtain state accreditation in the following areas:

1) management of exclusive copyrights for musical works that have been made public, with or without words and excerpts from musical-dramatic works with respect to their public performance and also communications for general reception by transmission over the air or by cable, including by way of rebroadcasting;

2) exercise of the rights of composers who are authors of musical works with or without words used in an audiovisual work to receive compensation for public performance of such audiovisual work or broadcasting thereof over the air or by cable (Paragraph 3 of Article 1263);

3) management by copyrights for works of fine arts and also manuscripts (autographs) of literary and musical works (Article 1293).

4) exercise of the rights of authors, performers, and producers of phonograms and video recordings to receive compensation for the reproduction of phonograms and video recordings for personal purposes (Article 1245);

5) exercise of the rights of performers to receive compensation for public performance and also transmission over the air or by cable of phonograms published for commercial purposes (Article 1326);

6) exercise of the rights of producers of phonograms to receive compensation for public performance and also transmission over the air or by cable of phonograms published for commercial purposes (Article 1326).

State accreditation shall be given on the principles of openness of the accreditation process and consideration for the views of interested persons, including rightholders, as directed by the Government of the Russian Federation.

2. In each of the areas of collective administration listed in Paragraph 1 of this Article only one organization for the management of rights on a collective basis may be accredited.

An organization for the management of rights on a collective basis may receive state accreditation for the conduct of activity in one, two, or more of the areas of collective administration indicated in Paragraph 1 of this Article.

No restrictions codified in antimonopoly laws shall be applied with respect to the operation of an accredited organization.

3. An organization for the management of rights on a collective basis that has received state accreditation (an accredited organization) shall have the right along with the administration of the rights of those rightholders with whom it has concluded contracts by the procedure provided for by Paragraph 3 of Article 1242 of this Code to exercise administration of the rights of the rightholders with whom it has not concluded such contracts.

The existence of an accredited organization shall not hinder the creation of other organizations for the management of rights on a collective basis, including those active in collective management referred to in Paragraph 1 of this Article. Such organizations shall have the right to conclude contracts with users only the interest of rightholders who have granted them authority for management of rights by the procedure provided by Paragraph 3 of Article 1242 of this Code.



4. A holder of copyright rights and neighboring rights who has not concluded a contract with an accredited organization for the transfer of authorization for the management of rights (Paragraph 3 of this Article) shall have the right at any time to completely or partially refuse its services for the management of rights. The rightholder must give the accredited organization written notification of his decision. If the rightholder intends to deny the accredited organization management of only some of the rights and/or objects of copyrights or related rights, he shall provide the accredited organization with a list of such rights and/or objects being denied.

Upon the expiration of three months from the day of receipt of the respective written notice from the rightholder the accredited organization shall have the duty to exclude his rights and/or subjects matter from the contracts with all users and to place information about this on a publicly accessible information resource. The accredited organization shall be obligated to pay the rightholder the compensation due him that was received from users under contracts concluded earlier and to present an accounting in accordance with the fourth subparagraph of Paragraph 4 of Article 1243 of this Code.

5. An accredited organization is obligated to take reasonable and sufficient measures to identify persons have the right to receive compensation under licensing contracts and contracts for the payment of compensation concluded by this organization. Unless provided otherwise by the law, the accredited organization may not admit to its membership a rightholder who is entitled to compensation in accordance with the license agreements and compensation payment agreements entered into by the organization.

6. An accredited organization shall operate under the supervision of an authorized Federal executive body.

Accredited organizations are required to submit annually to the authorized Federal executive body reports on their activities and also to publish them in a national mass medium. The form of the reports shall be established by the authorized Federal executive body.

7. A model charter of an organization for the administration of rights on a collective basis that has state accreditation shall be approved by the procedure determined by the Government of the Russian Federation.

#### Article 1245. Remuneration for Free Reproduction of Phonograms and Audiovisual Recordings for Personal Needs

1. Authors, performers, and producers of phonograms and audiovisual works shall be entitled to a reward for free reproduction of phonograms and audiovisual works for personal needs only. Such remuneration shall be in the nature of compensation and shall be paid to the rightholders from funds due from manufacturers and importers of equipment and recording media used for such reproduction.

The list of equipment and physical carriers and also the amount and procedure for collection of the respective funds shall be approved by the Government of the Russian Federation.

2. Funds for paying remuneration for free reproduction of phonograms and audiovisual works for personal needs shall be made by an accredited organization (Article 1244).

3. Remuneration for free reproduction of phonograms and audiovisual works for personal needs shall be distributed among rightholders in the following proportions: forty percent to the authors, thirty percent to the performers, and thirty percent to the producers of phonograms or audiovisual works. The remuneration shall be distributed among particular authors, performers, and producers of phonograms or audiovisual works in proportion to the actual use of the respective phonograms or audiovisual works. The procedure for distribution and payment of the remuneration shall be established by the Government of the Russian Federation.

4. Funds for paying the remuneration for free reproduction of phonograms or audiovisual works shall not be collected from the manufacturers of equipment and recording media which are produced for export, or from manufacturers and importers of commercial equipment which is not intended for home use.

#### Article 1246. State Regulation of Relations in the Area of Intellectual Property

1. If required by this Code, normative legal acts for purposes of regulation of relations in the area of intellectual property associated with subjects matter of copyrights and related rights shall be issued by the authorized Federal executive body enforcing normative-legal regulation in the area of copyrights and related rights.

2. In cases provided by this Code, the issuance of normative legal acts for purposes of regulation of relations in the area of intellectual property associated with inventions, utility models, industrial designs, computer programs, databases, topology of integrated circuits, trademarks, service marks, names of appellation of the origin of goods shall be done by the authorized Federal executive body conducting normative-legal regulation in the area of intellectual property.

3. Legally significant actions for state registration of inventions, utility models, industrial designs, computer programs, databases, topology of integrated circuits, trademarks, service marks, names of appellation of the origin of goods, including the receipt and expert examination of the respective applications and the issuance of patents and certificates confirming the exclusive right of their holders to these results of intellectual activity and means of individualization, and in cases provided by statute also other actions connected with the legal protection of results of intellectual activity and means of individualization shall be conducted by the authorized Federal executive body for intellectual property and in the cases provided for by Articles 1401-1405 of this Code also by the federal executive bodies authorized by the Government of the Russian Federation.

4. With respect to achievements of plant variety and animal breeding, the functions indicated in Paragraphs 1 and 2 of this Article shall be conducted respectively by the authorized Federal executive body conducting normative-legal regulation in the area of agriculture and the specially-authorized state institution for achievements plant variety and animal breeding.

#### Article 1247. Patent Agents

1. The conduct of proceedings with the Federal executive body for intellectual property may be conducted by the applicant, rightholder, other interested person independently or through a patent agent registered in this Federal agency or through another representative.

2. Individuals permanently residing beyond the boundaries of the Russian Federation and foreign legal persons shall conduct proceedings with the Federal executive body for intellectual property through patent agents registered with this Federal agency unless a treaty of the Russian Federation provides otherwise.

If an applicant, rightholder or another interested person conducts proceedings with the Federal executive body for intellectual property independently or through a representative other than a patent agent registered in this Federal agency, such person is obligated on demand of this Federal agency to indicate an address on the territory of the Russian Federation for correspondence.

The powers of a patent attorney or another representative shall be confirmed by a power of attorney issued by the applicant, rightholder, or another interested person.

3. An individual of the Russian Federation permanently residing on its territory may be registered as a patent agent. Other requirements for a patent agent, the procedure for his attestation and registration and also powers with respect to the conduct of proceedings connected with the legal protection of the results of intellectual activity and means of individualization shall be determined by the law.

#### Article 1248. Disputes Over Protection of Intellectual Rights

1. Disputes connected with the protection of infringed or appealed intellectual rights shall be considered and decided by a court (Paragraph 1 of Article 11).

2. In cases specified in this Code, intellectual rights in relations associated with the filing and examination of patent applications for inventions, utility models, industrial designs, plant variety and animal breeds, trademarks, service marks, and appellations of origin of goods shall, subject to state registration of those results of intellectual activity and means of individualization, issuance of appropriate title documents, and challenge of protection accorded to such results and means, or termination thereof, shall be protected in an administrative process (Paragraph 2 of Article 11) by the Federal executive body concerned with intellectual property and by the Federal executive body concerned with plant variety and animal breeds, respectively, or, in cases referred to in Articles 1401-1405 of this Code, by the Federal executive body authorized by the Government of the Russian Federation (Paragraph 2 of Article 1401). The decisions of these bodies shall enter into force on the day of their adoption. They may be appealed in court in accordance with the law.

3. The rules for examination and settlement of disputes indicated in Paragraph 2 of this Article, by the Federal executive body for intellectual property and the Chamber for Patent Disputes, and also by the Federal executive body concerned with plant variety and animal breeds shall be established, respectively, by the Federal executive body enforcing normative-legal regulation in the area of intellectual property and the Federal executive body enforcing normative-law regulation in the area of agriculture. The rules for examination and settlement of disputes related to secret inventions, as provided for in Paragraph 2 of this Article, shall be established by an authorized agency (Paragraph 2 of Article 1401).

#### Article 1249. Patent and Other Fees

1. For the taking of legally significant actions connected with a patent for an invention, an utility model, an industrial design, or an achievement of plant variety and animal breeding, with the state registration of a computer program, databases, topology of integrated circuits, trademark, service mark, with the state registration and grant of the right of use of the appellation of origin of

goods and also state registration of the transfer of exclusive rights to other persons and contracts for the disposition of these rights patent and other fees shall respectively be collected.

2. The list of legally significant actions, which are related to a computer program, a database, and integrated circuit topology and on which stamp taxes are imposed, the amounts of such taxes, the procedure and time limits for payment thereof, and also the reasons for exemption from stamp taxes, reduction in their amounts, and deferral of payment or refund thereof shall be enacted in the laws of the Russian Federation on taxes and levies.

A list of other legally significant actions, apart from those referred to in Paragraph 1 of this Article, on which patent and other fees are charged, the amounts of such taxes, the procedure and time limits for payment thereof, and also the reasons for exemption from fees, reduction in their amounts, and deferral of payment or refund thereof shall be established by the Government of the Russian Federation

#### Article 1250. Protection of Intellectual Rights

1. Intellectual rights shall be protected by the means provided by this Code, taking into account the essence of the infringed right and the nature of the consequences of its infringement.

2. The means of protection of intellectual rights established by this Code may be applied on demand of the holders of these rights, of the organizations conducting collective administration of intellectual rights, and also other persons in cases provided by statute.

3. The absence of fault of an infringer shall not free him from the obligation to stop infringement of intellectual rights and also shall not exclude the application to the infringer of measures directed to the protection of such rights. In particular, the publication of a judicial decision (Subparagraph 5 of Paragraph 1, Article 1252) and the termination of activities infringing the exclusive right to a result of intellectual activity or to means of individualization, or creating a threat of infringement thereof, shall be conducted regardless of the fault of the infringer and at his expense.

#### Article 1251. Protection of Personal Nonproperty Rights

1. In the case of infringement of personal nonproperty rights of an author, their protection shall be conducted, in particular, by the recognition of a right, reestablishment of the status existing before the infringement of the right, stopping the activities infringing the right or creating a threat of its infringement, compensation for moral harm, or publication of a judicial decision on the infringement committed.

2. Provisions of Paragraph 1 of this Article shall also be applied to the protection of rights provided by Paragraph 4 of Article 1240, Paragraph 7 of Article 1260, Paragraph 4 of Article 1263, Paragraph 3 of Article 1295, and Paragraph 1 of Article 1323, Paragraph 2 of Article 1333, and Subparagraph 2 of Paragraph 1, Article 1338 of this Code.

3. Protection of the honor, dignity, or business reputation of the author shall be conducted in accordance with the rules of Article 152 of this Code.

#### Article 1252. Protection of Exclusive Rights

1. Protection of exclusive rights to the results of intellectual activity and means of individualization shall be conducted in particular by the making of demands:

1) for the recognition of the right – against the person who denies or in another manner does not recognize the right, thereby diminishing the interests of the rightholder;

2) on the stopping of activities infringing the right or creating a threat of its infringement – against the person who has taken such actions or has made the preparations necessary for it;

3) on compensation for damage – against the person who has unlawfully used a result of intellectual activity or means of individualization without entering into an agreement with the rightholder (use without a contract) or in another manner has infringed his exclusive right and had caused damage to the rightholder;

4) on seizure of a recording medium pursuant to Paragraph 5 of this Article – against the producer of the recording medium, the importer, keeper, carrier, seller, or any other distributor thereof, or against a bad-faith acquirer thereof;

5) on the publication of a judicial decision on the infringement committed with an indication of the actual rightholder – against infringer of the exclusive right.

2. With the purpose of upholding an action against infringement of the exclusive rights, interim measures of protection enacted in the laws of procedure, including seizure of a recording medium, equipment or materials, may be applied to recording media, equipment, and materials alleged to infringe on the exclusive right to a result of intellectual activity or means of individualization.

3. In cases provided by this Code for individual types of results of intellectual activity or means of individualization, in case of infringement of the exclusive right its holder shall have the right, instead of compensation for damages, to demand from the infringer payment of compensation for the

infringement of these rights. Compensation shall be subject to recovery upon proof of the fact of infringement of a right. In such case the rightholder applying for protection of rights, shall be released from proving the amount of loss caused to him.

The amount of compensation shall be determined by the court within the limits established by this Code depending upon the nature of the infringement and other circumstances taking into account the requirements of reasonableness and justice.

The rightholder shall have the right to demand from the infringer payment of compensation for each case of unlawful use of the result of intellectual activity or means of individualization or for the infringements committed as a whole.

4. Where the manufacture, dissemination or other use, or importation, carriage or storage of recording media embodying the result of intellectual activity or means of individualization result in infringement of an exclusive right to such result or to such means, such recording media shall be regarded as counterfeits and, subject to a court ruling, be seized and destroyed without any compensation whatsoever, unless provided otherwise in this Code.

5. The equipment, other devices, and materials essentially used or intended to infringe on the exclusive right to a result of intellectual activity and to means of individualization shall, subject to a court ruling, be seized and destroyed at the expense of the infringer, unless the law requires the same to be sold for the benefit of the Russian Federation.

6. Where different means of individualization (trade name, trademark, service mark, commercial designation) are identical or similar to an extent of confusion, and consumers and/or partners may be misled because of such identity or similarity, priority shall be given to the means of individualization, the exclusive right to which arose first. The holder of such exclusive right may, pursuant to this Code, claim invalidation of the legal protection accorded to the trademark (service mark), or a full or partial ban to be imposed on the use of the trade name or commercial designation.

For the purposes of this paragraph, partial ban on any use means:

in respect of a trade name – a ban on the use thereof in certain types of business; and

in respect of a commercial designation – a ban on the use thereof within a specified territory and/or in specified types of business.

7. Where infringement of an exclusive right to a result of intellectual activity or to means of individualization has been lawfully recognized as unfair competition, the affected exclusive right may be protected by methods specified in this Code and in accordance with antimonopoly legislation.

#### Article 1253. Liability of Legal Entities and Individual Entrepreneurs for Infringements of Exclusive Rights

If a legal entity has repeatedly or grossly infringed on the exclusive rights to the results of intellectual activity and means of individualization, a court may, pursuant to Paragraph 2 of Article 61 of this Code, order the legal entity to be forced into liquidation at the request of a public prosecutor.

If such violations are committed by an individual, his activity as an individual entrepreneur may be terminated by a decision or sentence of a court in a process established by the law.

#### Article 1254. Specifics of Protection of the Rights of a Licensee

If infringement by third persons of an exclusive right to a result of intellectual activity of means of individualization, to the use of which an exclusive or full license has been given, affects the rights of the licensee received by him on the basis of a license contract, the licensee may protect these rights along with other means of protection also by the means established by Articles 1250, 1252, and 1253 of this Code.

### CHAPTER 70. COPYRIGHT

#### Article 1255. Copyrights

1. Intellectual rights to works of scholarship, literature, and art are copyright rights.

2. The following rights belong to the author of a work:

- 1) exclusive right to the work;
- 2) right of authorship;
- 3) right to the name;
- 4) right to inviolability of the work;
- 5) right to publication of the work.

3. In cases provided by this Code, other rights also belong to the author of the work along with the rights indicated in Paragraph 2 of this Article, including the right to compensation for the use an employment work, the right to recall, and droit de suite, and the right of access to works of figurative art.

Article 1256. Effectiveness of the Exclusive Right to Works of Scholarship, Literature, and Art on the Territory of the Russian Federation

1. The exclusive right to works of scholarship, literature, and art shall extend to works:

1) made public on the territory of the Russian Federation or not made public but existing in some objective form on the territory of the Russian Federation and shall be recognized for authors (or their legal successors) regardless of their individualship;

2) made public beyond the boundaries of the Russian Federation or not made public but existing in some objective form beyond the boundaries of the Russian Federation and shall be recognized for authors who are individuals of the Russian Federation (or their legal successors);

3) made public beyond the boundaries of the Russian Federation or not made public but existing in some objective form beyond the boundaries of the Russian Federation and shall be recognized, in accordance with international treaties of the Russian Federation, on the territory of the Russian Federation for authors (or their legal successors) who are individuals of other states and stateless persons.

2. A work also shall be considered first published in the Russian Federation if, in the course of thirty days after the date of first publication beyond the boundaries of the Russian Federation, it was published on the territory of the Russian Federation.

3. In provision of protection to a work on the territory of the Russian Federation in accordance with international treaties of the Russian Federation, the author of the work or another original rightholder shall be determined according to the law of the state on the territory of which the legal fact took place that served as the basis for obtaining copyright.

4. Provision of protection for a work on the territory of the Russian Federation in accordance with international treaties of the Russian Federation shall be done with respect to works that have not entered the public domain in the country of origin of the work as the result of the expiration of the term of effectiveness of the exclusive right to these works established in such country and have not entered into the public domain in the Russian Federation as the result of the expiration of the term established in this Code for the effectiveness of the exclusive right to the works.

In providing protection for a work in accordance with international treaties of the Russian Federation the period of effectiveness of the exclusive right on the territory of the Russian Federation may not exceed the period of effectiveness of the exclusive right established in the country of origin of the work.

Article 1257. Author of a Work

The author of a work of scholarship, literature, or art is the individual by whose creative labor the work was made. The person indicated as the author on the original or other copy of a work shall be considered its author, unless established otherwise.

Article 1258. Coauthorship

1. Individuals who have created a work by joint creative labor are coauthors regardless of whether such a work forms a single inseparable whole or consists of parts each of which has independent significance.

2. A work created in coauthorship shall be used by coauthors jointly, unless an agreement among them provides otherwise. If a work by coauthors forms an inseparable whole, then no one of the coauthors shall have the right to forbid the use of the work without sufficient bases.

Part of a work the use of which is possible independently of the other parts, i.e., that has an independent significance, may be used by its author at his discretion unless otherwise provided by an agreement among the coauthors.

3. The rules of Paragraph 3 of Article 1229 of this Code shall be applied respectively to relations of coauthors connected with the distribution of income from the use of the work and with the disposition of the exclusive right to the work.

4. Each of the coauthors shall have the right to take measures independently for the protection of his rights, including in the case when a work created by coauthors forms an inseparable whole.

Article 1259. Objects of Copyright

1. The objects of copyright are works of scholarship, literature, and art regardless of the worth and purpose of the work and also regardless of the mode of its expression:

- literary works;
- dramatic and musical-dramatic works, screenplay works;
- choreographic works and pantomimes;
- musical works with text or without text;
- audiovisual works;

works of painting, sculpture, graphics, design, graphic stories, comics, and other works of figurative art;  
 works of decorative-applied and stage-set art;  
 works of architecture, city planning, and park and garden art, including in the form of plans, drawings, and models;  
 photographic works and works obtained by means analogous to photography;  
 geographic, geological, and other maps, plans, sketches, and plastic works related to geography, topography, and other sciences; and  
 other works.

Objects of copyright also include computer programs, which are protected as literary works.

2. Objects of copyright rights include:

1) derivative works, i.e., works that are a reworking of another work;

2) compiled works, i.e. works that are by selection or placement of the materials the result of creative labor.

3. Copyright rights also extend to works that have been made public and also to works that have not been made public that are expressed in any objective form, including written, oral (in the form of a public speech, public performance, etc.), in the form of an image, a sound or video recording, or in a three-dimensional form.

4. For the arising, realization, and protection of copyright rights, neither registration of the work nor the observance of any other formalities is required.

With respect to computer programs and with respect to databases, registration is possible, conducted at the option of the rightholder in accordance with the rules established by Article 1261 of this Code.

5. Copyright rights do not extend to ideas, concepts, principles, methods, processes, systems, means, proposed solutions of technical, organizational or other tasks, inventions, facts, or programming languages.

6. The following are not objects of copyright rights:

1) official documents of state bodies and bodies of local government or municipalities, including statutes, other legal acts, judicial decisions, other materials of a legislative, administrative and judicial nature, official documents of international organizations, and also their official translations;

2) state symbols and emblems (flags, seals, insignia, money, and the like) and also symbols and emblems of municipalities;

3) works of folk creativity (folklore), which are not claimed by acknowledged authors;

4) reports on events and facts having an exclusively informational nature (reports on the news of the day, program listings for television broadcasts, schedules for the movement of means of transport, and the like).

7. Copyright rights extend to part of a work, to the name of the work, and to a character in a work if by virtue of their creative nature they can be recognized as an independent result of creative work of an author and they satisfy the requirements established in Paragraph 3 of this Article.

#### Article 1260. Translations, Other Derivative Works, Compiled Works

1. The translator and the author of another derivative work (reworking, motion picture version, arrangement, stage version, and the like) own the copyrights to a translation done by him or, respectively, to other reworking of another (original) work.

2. Copyrights to the selection or placement of materials (compilation) belong to the compiler of a collection and the author of another compiled work (anthology, encyclopedia, database, atlas, and the like).

A database is the objective form of the total of data (articles, accounts, regulatory acts, court decisions, and other similar materials) systematized in such a manner that these data may be found and processed on computer.

3. A translator, compiler, or other author of a derivative or compiled work shall exercise his copyright rights on the condition of observance of the rights of the authors of works used for the creation of the derivative or compiled work.

4. The copyright rights of the translator, compiler, or other author of a derivative or compiled work shall be protected as the right to an independent object of copyright regardless of the protection of the rights of the authors of the works on which the derivative or compiled work is based.

5. The author of a work placed in a collection or other compiled work has the right to use his work independently of the compiled work unless otherwise provided by contract with the creator of the compiled work.

6. Copyright rights to a translation, collection, or other derivative or compiled work shall not prevent other persons from translating or reworking the same original work, from creating his own compiled works by another selection or placement of the same materials.

7. To the publisher of encyclopedias, encyclopedic reference works, periodical and continuing collections of scholarly works, newspapers, magazines, and other periodical works shall belong the exclusive rights to the use of such publications. The publisher shall have the right upon any use of such publications to indicate its designation or to demand such an indication.

The authors or other holders of exclusive rights to works included in such publications shall reserve the such rights to the use of these publications as a whole independently from the right of the publisher or other persons, except where these exclusive rights have been transferred to the publisher or other persons, or have been acquired by the publisher or other persons on any other grounds justified by the law.

#### Article 1261. Computer Programs

Copyright for all types of computer programs (including for operating systems and program combinations), which may be expressed in any language in any form, including source code and object code shall be protected in the same way as copyright to works of literature. A computer program is an objective form of presentation of a totality of data and commands meant for the functioning of a computer or of other computer structures with the purpose of obtaining a specific result, including preparatory material obtained in the course of development of a computer program and audiovisual representations generated by it.

#### Article 1262. State Registration of Computer Programs and Databases

1. The rightholder, during the term of effectiveness of the exclusive right to a computer program or database may at his option register a computer program or database at the Federal executive body for intellectual property.

Computer programs and databases that contain information constituting a state secret are not subject to state registration. The person filing an application for state registration (applicant) shall be liable for disclosure of information about computer programs and databases containing an state secret in accordance with the laws of the Russian Federation.

2. An application for state registration of a computer program or database (registration application) must relate to one computer program or one database.

A registration application must contain:

an application for state registration of a computer program or database with an indication of the rightholder and also of the author if he has not refused to be mentioned as such and place of residence or place of location of each of them;

materials to be deposited identifying the computer program or database, including an abstract;

a document confirming the payment of the state fee in the established amount or the basis for exemption from the payment of the state fee or the reduction of its amount or extension of the time for its payment.

The rules for the formalization of the application for registration shall be determined by the Federal executive body exercising normative-legal regulation in the area of intellectual property.

3. On the basis of an application for registration the Federal executive body for intellectual property shall verify the presence of the necessary documents and their correspondence to the requirements stated in Paragraph 2 of this Article. Upon a positive result of the verification the aforesaid Federal agency shall enter the computer program or the database respectively into the Register of Computer Programs or Register of Databases, shall issue a certificate of state registration to the applicant and shall publish information on the registered computer program or database in an official gazette.

On the request of the Federal agency or on his own initiative, the author or another rightholder may before publication of the information in the official gazette to supplement, clarify, and correct the materials of the application for registration.

4. The procedure for state registration of computer programs and databases, the forms of certificates on state registration, the list of information indicated in them and also the list of information published in the official gazette of the Federal executive body concerned with intellectual property shall be established by the Federal executive body exercising normative-legal regulation in the area of intellectual property.

5. Contracts for the alienation of the exclusive right to a registered computer program or database, and also the transfer of the exclusive right to such a program or database to other persons without a contract shall be subject to state registration at the Federal executive body for intellectual property.

Information on a change of rightholder and on the burdening of the exclusive right shall be entered in the Register of Computer Programs or the Register of Databases on the basis of a registered contract or other right-establishing document and shall be published in the official gazette of the Federal executive body for intellectual property.

6. Information entered into the Register of Computer Programs or the Register of Databases shall be considered accurate unless proved otherwise. The applicant shall bear responsibility for the accuracy of the information presented for registration.

#### Article 1263. Audiovisual Work

1. An audiovisual work is a work consisting of a fixed series of interconnected illustrations (with or without their being accompanied by sound) meant for visual and aural (in the case of accompanying sound) perception with the aid of appropriate technical devices. Audiovisual works include cinematographic works and all works expressed by means analogous to cinematographic (television and video films, and other similar works) regardless of the means of their initial or subsequent fixation.

2. The authors of an audiovisual work are:

1) the director-producer;

2) the author of the script; and

3) the composer who is the author of a musical work (with or without text) specially created for this audiovisual work.

3. If an audiovisual work is performed in public, or broadcast over the air or by cable, the composer who is the author of a musical work (with or without text) used in the audiovisual work shall retain the right to compensation for the said uses of his musical work.

4. The rights of the producer of an audiovisual work, that is, the person (producer) who has organized the creation of such a work shall derive from Article 1240 of this Code.

The producer may have his name or designation indicated each time the audiovisual work is used. In the absence of proof to the contrary, the producer of an audiovisual work shall be the person whose name or designation is given on the work in the usual manner.

5. Each author of a work that has been integrated into an audiovisual work, both those that previously existed (the author of a work that was placed as the basis of a script, and others) and also created in the process of work on it (operator-producer, artist-producer and others) shall each reserve his exclusive right in his own work, except where the exclusive right has been assigned to the producer or other persons, or has passed to the producer or the other persons on other lawful grounds.

#### Article 1264. Drafts of Official Documents, Symbols, and Emblems

1. The right of authorship to a draft of an official document including to the draft of an official translation of such a document, and to the draft of an official symbol or emblem shall belong to the person who has created the draft (the developer).

The developer of the draft of an official document, symbol or emblem has the right to publish the draft unless it is forbidden by a state body or body of local government of a municipality, or an international organization upon whose order the draft was developed. Upon publication of the draft, the developer has the right to indicate his name.

2. The draft of an official document, symbol, or emblem may be used by a state body, body of local self-government, or international organization for the preparation of such an official document, symbol, or emblem without the consent of the developer if the draft has been made public by the developer for use by this body or organization or has been sent by the developer to the respective body or organization.

In the preparation of official documents and the development of official symbols and emblems on the basis of the draft, additions and changes may be made in it at the discretion of the state body, body of local self-government, or international organizations conducting the preparation of the official document or the development of the official symbol or emblem.

After official adoption for consideration of the draft by the state body, body of local self-government, or international organization, the draft may be used in the name of this body or organization without an indication of the name of the developer.

#### Article 1265. Right of Authorship and Right of an Author to a Name

1. The right of authorship, the right to be recognized as the author of a work and the right of the author to the name, the right to use or permit the use of a work under his own name, under an assumed name (pseudonym) or without an indication of name, i.e., anonymously, are inalienable and nontransferable, including in the case of transfer or passage to another person of the exclusive right to



a work and in the case of granting to another person the right of use of the work. A waiver of these rights shall be void.

2. In case of publication of a work anonymously or under a pseudonym (with the exception when the pseudonym of the author does not leave a doubt as to his identity) the publisher (Paragraph 1 of Article 1287), whose name or designation is indicated on the work, in the absence of proof to the contrary, shall be considered to be the representative of the author and in this capacity shall have the right to protect the rights of the author and to ensure their realization. This provision shall be effective until the time when the author of the work reveals his identity or declares his authorship.

#### Article 1266. Right to Inviolability of a Work and Protection of a Work from Distortions

1. The making of changes, abridgements, or additions to a work or the provision of a work in its use with illustrations, a foreword, or an afterword, commentaries or any explanations is not allowed without the consent of the author (the right to inviolability).

In the use of a work after the death of the author, the person possessing the exclusive right to the work has the right to permit the making of changes, abridgements or additions to the work, on the condition that this does not distort the thought of the author and does not disturb the completeness of the perceiving of the work and does not contradict the desire of the author specifically expressed by him in a will, letters, diaries, or in other written notes.

2. Corruption, distortion or other change in the work compromising the honor, dignity, or business reputation of the author and also an attempt at such actions shall give the author the right to demand protection of his honor, dignity or business reputation in accordance with the rules of Article 152 of this Code.

In such cases, protection is, on demand of interested persons, permitted for the honor and dignity of the author even after the death of the author.

#### Article 1267. Protection of Authorship, the Name of the Author, and the Inviolability of a Work After the Death of the Author

1. Authorship, the name of the author and the inviolability of the work shall be protected without limit of time.

2. The author shall have the right by the procedure provided for designating an executor of a will (Article 1134) to indicate the person to whom he entrusts the protection of authorship, name of the author, and inviolability of the work (second subparagraph of Paragraph 1, Article 1266) after his death. This person shall exercise his powers for life.

In the absence of such indications or in the case of refusal of the person designated by the author to exercise the corresponding powers and also after the death of this person, the protection of authorship, of the name of the author, and of the inviolability of the work shall be exercised by the heirs of the author, their legal successors and other interested persons.

#### Article 1268. The Right to Make a Work Public

1. The right to make his work public, i.e., the right to take an action or give consent to the taking of an action that for the first time would make the work accessible for general knowledge by its publication, public display, public performance, broadcasting over the air or in another manner shall belong to the author.

In such case publication (release to the world) is the release into circulation of copies of the work that are a reproduction of the work in any material form in a number sufficient for the satisfaction of the reasonable needs of the public proceeding from the nature of the work.

2. An author who has transferred a work for use to another party by contract shall be considered to have consented to the making public of this work.

3. A work not made public during the life of the author may be made public after his death by a person holding the exclusive right to the work only if the making public does not contradict the desire of the author of the work specifically expressed by him in written form (in a will, in letters, in diaries, and the like)

#### Article 1269. Right to Recall a Work

The author has the right to rescind a previously adopted decision making a work public (the right of recall) on the condition of compensation for damages caused by such a decision, to the person to whom the exclusive right to the work was alienated or to whom the right of the use of the work was granted. If the work has already been made public the author has the duty to give public notice of its recall. In such a case he has the right to take out of circulation the previously prepared copies of the work, having compensated for losses caused by this.

The provisions of this Article shall not apply to computer programs, on-the-job works, and works integrated into a complex object (Article 1240).

Article 1270. Exclusive Right to a Work

1. The exclusive right to use a work in accordance with Article 1229 of this Code in any form and any manner not contrary to statute (the exclusive right to the work), including in ways indicated in Paragraph 2 of this Article and to dispose of this right belongs to the author or another rightholder. The rightholder may exercise the exclusive right to the work.

2. The use of a work, regardless of whether or not the corresponding actions are taken for the purpose of extracting profit or without such a purpose shall include, in particular:

1) reproduction, i.e., the preparation of one or more copies of a work or of part of it in any material form, including in the form of audio or video recording, preparation in three dimensions of one or more copies of a two-dimensional work and in two-dimensions of one or more copies of a three dimensional work. Recording a work on an electronic medium, including computer storage, shall also be considered reproduction and shall constitute an integral and essential part of the process conducted with the sole purpose of lawfully using the recording or lawfully communicating the work to the general public;

2) distribution of a work by sale or other alienation of its original or of copies;

3) public display of a work, i.e. any showing of the original or of a copy of a work directly or on a screen with the aid of a film, transparency, television frame, or other technical means and also the demonstration of individual frames of an audiovisual work without observance of their sequence directly or with the aid of technical means at a place open for free visiting or at a place where a significant number of persons not belonging to the usual circle of a family is present, regardless of whether the work is perceived in the place of its communication or in another place simultaneously with the communication of a work;

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

5) renting out of the original or a copy;

6) public performance of a work, i.e., the presentation of the work in live performance or with the aid of technical means (television or radio broadcasting or other technical means) and also the showing of an audiovisual work (with or without the accompaniment of sound) in a place open for free visiting or at a place where a significant number of persons not belonging to the usual circle of a family is present, regardless of whether or not the work is perceived in the place of its communication or in another place simultaneously with the communication of a work;

7) communication over the air, that is, communication of a work to general public (including showing or performance) on radio or television (including rebroadcasting), with the exception of cable television. In this case, by communication is meant any action by means of which the work becomes accessible for aural and/or visual perception regardless of the actual response of the public. Where works are communicated via satellite, broadcasting over the air shall imply reception of ground station signals at the satellite and transmission of signals from the satellite to bring the work to the general audience regardless of whether or not it is actually received by the public. Communication of encoded signals shall be broadcasting over the air if decoding facilities are available to an unlimited number of people by, or with the consent of, the air broadcasting organization.

8) communication by cable, that is, communication of the work for general knowledge by its transmission by radio or television by cable, wire, optical fiber, or similar means (including rebroadcasting). communication of encoded signals is the broadcasting over the air if the means of decoding are granted to an unlimited group of people by the organization for over-the-air broadcasting or with its consent;

9) translation or other alteration of the work. In this case, alteration of a work implies creation of a derivative work (modification, screen adaptation, arrangement, dramatization, and so on). Alteration (or modification) of a computer program or a database is any changes in them, including the translation of a computer program or database from one language to another with the exception of an adaptation, i.e., the making of changes done solely for the purpose of functioning of computer program or database on the specific technical means of the user or under the management of specific programs of the user;

10) the practical implementation of an architectural, design, city planning, or park or garden plan;

11) the granting of access to a work in an interactive mode, i.e., in such a manner that a person wishing to use it may do this from any place and at any time of his own choosing (communication to the general public).

3. The practical application of the propositions constituting the content of a work, including propositions that are technical, economic, organizational or other solutions is not the use of a work with respect to the rules of the present Chapter, with the exception of the use provided in numbered subparagraph 10 of Paragraph 2 of this Article.

4. The rules of subparagraph 5 of Paragraph 2 of this Article shall not be applied with respect to a computer program if the program is not the basic object of renting out.

#### Article 1271. Symbol of Copyright Protection

The rightholder for notification of his exclusive right to a work shall have the right to use the symbol of protection, which shall be printed on each copy of the work and which shall consist of the following elements:

- the letter "C" in a circle;
- the name or designation of the rightholder; and
- the year of first publication of the work.

#### Article 1272. Distribution of the Original or Copies of a Published Work

If the original or copies of a lawfully published work have been released to the public in the territory of the Russian Federation by sale or other alienation, further distribution of the original or copies shall be allowed without the consent of the holder of the exclusive right to the work and without payment to him of compensation with the exception of the case provided in Article 1293 of this Code.

#### Article 1273. Free Reproduction of a Work for Personal Needs

An individual may, without requiring the consent of the author or another rightholder, or payment of compensation, reproduce a lawfully published work for personal needs, except for:

- 1) reproduction of works of architecture in the form of buildings and analogous structures;
- 2) reproduction of databases or significant parts of them;
- 3) reproduction of computer programs except for the cases provided in Article 1280 of this Code;
- 4) reproduction of books (in their entirety) and of sheet music;
- 5) video recording of an audiovisual work performed in public at a place open for free access, or at a place visited by a large number of people other than a normal family circle; and
- 6) reproduction of an audiovisual work on professional equipment unintended for use at home.

#### Article 1274. Free Use of a Work for Informational, Scientific, Education, or Cultural Purposes

1. The following are allowed without the consent of the author or other holder of the exclusive right to a work and without the payment of compensation but with an obligatory indication of the name of the author whose work is used and of the source of borrowing:

- 1) the citation in the original and in translation for scientific, polemical, critical, or information purposes of works lawfully made public in an amount justified by the purpose of citation, including the reproduction of excerpts from newspaper and magazine articles in the form of press surveys;
- 2) the use of works lawfully made public and excerpts from them as illustrations in publications, radio and television broadcasts, and sound and video recordings of an instructional nature in an amount justified by the purpose thereof;
- 3) the reproduction in newspapers, communications over the air or by cable of articles lawfully published in newspapers and magazines on current economic, political, social, and religious matters or transmitted over the air in cases when such reproduction, broadcasting over the air or by cable was not expressly prohibited by the author or another rightholder;
- 4) the reproduction in newspapers, broadcasting over the air or by cable of publicly delivered political speeches, addresses, papers, and other analogous works in an amount justified by the informational purpose. In such case the author shall retain the right to publication of such works in collections;
- 5) the reproduction or communication for general knowledge in surveys of current events by means of photography or cinematography or by way of broadcasting over the air or by cable of works that are seen or heard in the course of such events in an amount justified by the informational purpose;
- 6) reproduction without the extraction of profit of lawfully published works in raised dots (Braille) or other special means for the blind, except for works specially created for reproduction by such means.

2. In the case when a library provides copies of work lawfully introduced into turnover for temporary uncompensated use, such use shall be allowed without the consent of the author and without payment of author's compensation. However, copies of works expressed in digital form and provided for temporary uncompensated use by libraries, including by the procedure for mutual use of library resources may be provided only on the premises of the libraries on the condition of excluding the possibility of making copies of these works in digital form.

3. Creation of a work in the genre of literary, musical or other parody or caricature on the basis of another (original) lawfully published work and use of the parody or caricature shall be permitted

without requiring the consent of the author or another holder of exclusive right in the original work and without payment of compensation to the author or another holder of the exclusive right.

#### Article 1275. Free Use of a Work by Reproduction

1. Reproduction in a single copy without the extraction of profit is allowed without the consent of the author or other holder of the exclusive right to a work and without the payment of compensation, subject, however, to obligatory indication of the name of the author and the source of borrowing (subparagraph 4 of Paragraph 1, Article 1273) for:

1) reproduction by libraries and archives of a lawfully published work for restoration, replacement of lost or spoiled copies and for provision of copies of a work to other libraries that have lost for any reasons the work from their collections;

2) of individual articles and short works lawfully published in collections, newspapers and other periodical publications, of short excerpts from lawfully published written works (with illustrations or without illustrations) by libraries and archives on requests of individuals for instructional and scholarly purposes and also by educational institutions for classroom work.

2. Reproduction (reprographic copying) is facsimile reproduction with the use of any technical means not for the purpose of publication. However reprographic copying does into include the storage or reproduction of the aforesaid copies in electronic (including digital), optical, or other machine-readable form, except where temporary copies are created by technical facilities for purposes of reproduction.

#### Article 1276. Free Use of a Work Permanently Displayed at a Place Open to the Public

The reproduction, broadcasting over the air or by cable of a work of architecture, photography or figurative art that is permanently located in a place for free visiting is allowed without the consent of the author or other holder of the exclusive right to the work and without the payment of compensation, with the exception of cases when the image of the work thereby is the basic object of this reproduction, broadcasting over the air or by cable or when the image of the work is used for commercial purposes.

#### Article 1277. Free Public Performance of a Musical Work

The public performance of a musical work during an official or religious ceremony or funeral in the amount justified by the nature of such ceremonies is allowed without the consent of the author or other holder of the exclusive right to the musical work and without the payment of compensation.

#### Article 1278. Free Reproduction for Purposes of Application of the Law

Reproduction of a work for the conduct of proceedings in a case of an offense punishable administratively, for the conduct of an inquiry, preliminary investigation or court proceeding in the amount justified by this purpose is allowed without the consent of the author or other holder of the exclusive right to the work and without the payment of compensation.

#### Article 1279. Free Recording of a Work by an Organization for Over-the-air Broadcasting for the Purpose of Short-term Use

An organization of over-the-air broadcasting has the right without the consent of the author or other holder of an exclusive right to a work and without payment of additional compensation to make a recording for short-term use of a work in relation to which this organization has obtained the right to communication over the air, on the condition that such a recording shall be made by the organization of over-the-air broadcasting with the aid of its own equipment and for its own broadcasts. In such a case the organization shall be obligated to destroy such a recording within the course of six months after its preparation unless a longer term has been agreed upon with the holder of the exclusive right to the recorded work. Such a recording may be retained without the consent of this rightholder in state or municipal archives if the recording has an exclusively documentary nature.

#### Article 1280. Free Reproduction of Computer Programs and Databases. Decompilation of Computer Programs

1. A person (user) who lawfully possesses a copy of a computer program or a copy of a database shall have the right without the permission of the holder of the exclusive right to this work and without the payment of additional compensation:

1) to make changes in the computer program or database exclusively for the purpose of its functioning on the technical means of the user and take any actions necessary for the functioning of a computer program or database in connection with its purpose, including recording and storing in the memory of a computer (of one computer or of one user of a network) and also the correction of clear errors, unless otherwise provided by contract with the rightholder;

2) to prepare a copy of the computer program or database on the condition that this copy is meant only for archival purposes and for replacement of the lawfully obtained copy in cases when such copy has been lost, destroyed, or has become unusable. In this case the copy of the computer program or of the database may not be used for purposes other than indicated in numbered subparagraph 1 of the present Paragraph and must be destroyed if possession of a copy of this computer program or database ceases to be lawful.

2. A person lawfully possessing a copy of a computer program shall have the right without the permission of the holder of the exclusive right to this program and without payment of additional compensation to study, research, or test the functioning of the computer program for the purpose of determining the ideas and principles lying at the base of any element of the program by taking any of the actions provided for by the first numbered subparagraph 1 of Paragraph 1 of this Article.

3. A person lawfully possessing a copy of a computer program shall have the right without the consent of the holder of the exclusive right to this program and without payment of supplementary compensation to reproduce and transform the object code into source text (to decompile the computer program) or to delegate to other persons to take these actions if they are necessary for achievement of the capability for interaction of a computer program independently developed by this person with other programs that may interact with the decompiled program, upon the observance of the following conditions:

1) the information necessary for achieving the capability for interaction previously was not accessible for this person from other sources;

2) these actions are conducted with respect to only those parts of the decompiled computer program that are necessary for the achievement of the capability for interaction;

3) information obtained as the result of decompilation may be used only for achievement of the capability for interaction of an independently developed computer program with other programs, may not be transferred to other persons with the exception of cases when this is necessary for the achievement of the capability for interaction of an independently developed computer program with other programs, and also may not be used for the development of a computer program in its nature substantially similar to the decompiled computer program nor for any other activity infringing an exclusive right.

4. The application of the provisions of this Article must not cause unjustified harm to the normal use of a computer program or database and must not impair in an unjustified manner the lawful interests of the author or other holder of exclusive rights to the computer program or database.

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

1. The exclusive right to a work shall be effective in the course of the whole life of the author plus seventy years, counting from January 1 of the year following the year of death of the author.

The exclusive right to a work created in coauthorship shall be effective in the course of the whole life of the author outliving the other coauthors plus seventy years, counting from January 1 of the year following the year of his death.

2. For a work made publicly anonymously or under a pseudonym, the period of effectiveness of the exclusive right shall expire after seventy years counting from January 1 of the year following the year of its lawfully being made public. If in the course of the aforementioned term the author of the work made public anonymously or under a pseudonym reveals his identity or if his identity will no longer leave any doubts, the exclusive right shall be effective during the course of the period established in the first Paragraph of this Article.

3. The exclusive right to a work first made public after the death of the author shall be effective for the course of seventy years after the work was made public, counting from January 1 of the year following the year of its being made public, on the condition that the work was made public within the course of seventy years after the death of the author.

4. In the case in which the author was repressed and posthumously rehabilitated, the period of effectiveness of the exclusive right shall start to run from January 1 of the year following the year of rehabilitation.

5. If the author worked during the time of the Great Patriotic War or participated in it, the period of effectiveness of the exclusive right established by this Article shall be extended by four years.

#### Article 1282. Works that Have Passed into the Public Domain

1. Upon the expiration of the period of effectiveness of the exclusive right, a work of scholarship, literature or art, whether made public or not made public, shall enter the public domain.

2. A work that has entered the public domain may be used freely by any person without any consent or permission and without payment of author's compensation. In such a case authorship, the name of the author, and the inviolability of the work shall be protected.

3. A work that has not been made public that has entered the public domain may be made public by any person, unless making the work public would contradict the desire of the author specifically expressed by him in written form (a will, letters, diaries, and the like)

The rights of the individual who has lawfully made public such a work shall be determined in accordance with Chapter 71 of this Code.

#### Article 1283. Passage of the Exclusive Right to a Work by Inheritance

1. The exclusive right to a work passes by inheritance.

2. In the cases provided by Article 1151 of this Code an exclusive right to a work included in the composition of an inheritance shall be terminated and the work shall pass into the public domain.

#### Article 1284. Levy of Execution on the Exclusive Right and on the Right of Use of a Work Under a License

1. Levy of execution is not allowed on an exclusive right to a work belonging to the author. However, a right of claim by an author against other persons under contracts on the alienation of the exclusive rights to a work and under license contracts and also income obtained from the use of a work may be the subject of execution.

Execution may be levied on an exclusive right belonging not to the author himself but to another person and also on the right of use of a work belonging to a licensee.

The rules of the present Paragraph extend also to heirs of the author, their heirs, and so on within the limits of the term of effectiveness of the exclusive right.

2. In case of sale at public auction of the right of use of a work belonging to the licensee for the purpose of levying of execution on this right, the author shall be granted a preferential right to obtain it.

#### Article 1285. Contract for the Alienation of the Exclusive Right to a Work

Under a contract for the alienation of the exclusive right to a work the author or other rightholder transfers or becomes obligated to transfer in full to the recipient an exclusive right to a work belonging to him.

#### Article 1286. License Contract for the Granting of the Right of Use of a Work

1. Under a license contract one party – the author or other rightholder (the licensor) grants or becomes obligated to grant to the other party (the licensee) the right of use of this work within the limits established by the contract.

2. A license contract shall be concluded in written form. A contract on granting the right to use of a work in the periodical press may be concluded orally.

3. The conclusion of license contracts on granting the right of use of a computer program or database is allowed by the conclusion by each user with the respective rightholder of a contract of adhesion, the terms of which are stated on a copy of the computer program or database obtained or on the packaging of such a copy. The beginning of use of the program or database by the user as this beginning is defined by these terms shall signify the user's consent to the conclusion of the contract.

4. In a compensated license contract the amount of compensation for the respective method of use of the work or the method of calculating this compensation must be indicated.

The contract may provide for payment of compensation to the licensor in the form of fixed one-time or periodical payments, percentage transfers from income (or receipts) or in another form.

The Government of the Russian Federation may fix minimum remuneration to authors for individual uses of works.

#### Article 1287. Special Conditions of a Publication License Contract

1. Under a contract for granting the right to use a work concluded by the rightholder with a publisher, i.e. with a person upon whom the obligation to publish the work is imposed in accordance with the contract (a publication license contract), the licensee has the duty to begin the use of the work not later than the defined time period indicated in the contract. In case of nonperformance of this obligation the licensor has the right to renounce the contract without compensation to the licensee of the damages caused by such renunciation.

In case of the absence in the contract of a concrete time period, the use of the work must begin within the time period usual for such a type of works and the method of their use. Such a contract may be rescinded by the licensor on the basis and by the procedure provided by Article 450 of this Code.

2. In case of rescission of a publication license contract on the basis of Paragraph 1 of this Article, the licensor shall have the right to demand payment to him of the compensation provided by the contract in full amount.

#### Article 1288. Contract of Author's Order

1. Under a contract of author's order, one party (the author) has the duty on the order of another party (the customer) to create the work of scholarship, literature, or art provided by the contract on a material carrier or in another form.

The material carrier of the work shall be transferred to the customer in ownership unless the agreement of the parties provides for its transfer to the customer for temporary use.

The contract of author's order shall be compensated unless the agreement of the parties provides otherwise.

2. The contract of author's order may provide for the alienation to the customer of the exclusive right to a created work or the granting to him of the right of use of this work within the limits established by the contract.

3. In the case when the contract of author's order provides for the alienation to the customer on the basis of this contract of the exclusive right to a work that must be created by the author, the provisions of this Code on the contract on the alienation of an exclusive right shall be respectively applied to this contract, unless it otherwise follows from the nature of the contract.

4. If a contract of author's order is concluded with a term on the granting to the customer of the right of use of the work within the limits established by the contract, the provisions of Articles 1286 and 1287 of this Code shall be respectively applied to such contract.

#### Article 1289. Time Period for Performance of the Contract of Author's Order

1. A work whose creation is provided for by a contract of author's order must be transferred to the customer within the time period established by the contract.

A contract of author's order that does not provide for and does not make possible the determination of the time period for its performance shall not be considered concluded.

2. Upon the expiration of the time period for the performance of a contract of author's order, the author if necessary and in the presence of valid reasons shall be granted a supplementary grace time period for the completion of the work with the length of one quarter of the time period established for performance of the contract, unless an agreement of the parties establishes a longer grace time period. Unless provided otherwise in the contract, this rule shall not apply in cases referred to in Paragraph 1 of Article 1240 of this Code.

3. Upon expiration of the grace time period provided to the author in accordance with Paragraph 2 of this Article the customer shall have the right to unilaterally renounce the contract of author's order.

The customer shall have the right also to renounce the contract of author's order directly after the end of the time period for its performance as established in the contract if the contract has not been performed by this time and if it clearly flows from the contract that in case of violation of the time period for its performance the customer will lose interest in the contract.

#### Article 1290. Liability Under Contracts Concluded by the Author of a Work

1. The author shall be liable under a contract for alienation of the exclusive right in a work and under a license contract to the extent of actual harm caused to the other party, unless the contract gives a smaller amount of the author's liability.

2. In case of nonperformance or improper performance of a contract of author's order for which the author bears liability, the author shall be obligated to return to the customer an advance, and also to pay him a penalty if it is provided by the contract. However the overall amount of these payments shall be limited to the amount of the actual harm caused to the customer.

#### Article 1291. Alienation of the Original of a Work and the Exclusive Right to the Work

1. In case of alienation by the author of the original of a work (a manuscript, the original of a work of painting, sculpture, and the like) including in case of alienation of the original of a work under a contract of author's order, the exclusive right to the work shall be retained by its alienor, unless the contract provides otherwise.

In the case when the exclusive right to a work has not passed to the recipient of its original, this person shall have the right without the consent of the author and without the payment to him of compensation to display the original of the work obtained in ownership and to reproduce it in catalogs of exhibits and in publications dedicated to his collection and also to transfer this work for display at exhibits organized by other persons.

2. In case of alienation of the original of a work by its owner possessing an exclusive right to the work but not being the author of the work, the exclusive right to the work shall pass to the recipient of the original of the work unless the contract provides otherwise.

3. The rules of this Article shall also extend to the heirs of the author, to their heirs, and so on, within the limits of the period of effectiveness of the exclusive right.

#### Article 1292. Right of Access to Works

1. The author of a work of figurative art shall have the right to require from the owner of the original of the work the provision of the possibility of exercising the right to reproduction of his work (the right of access). However the owner may not be required to ship the work to the author.

2. The author of a work of architecture shall have the right to require from the owner of the original of the work the provision of the possibility of making photographs and video recordings of the work, unless otherwise provided by contract.

#### Article 1293. Droit de suite

1. In case of alienation by an author of the original of a work of figurative art, upon each public resale of the respective original in which a gallery of figurative art, art salon, store, and the like, participates as a seller, buyer, or intermediary, the author shall have the right to receive compensation from the seller in the form of a percentage deducted from the resale price (droit de suite). The amount of the percentage deduction, and also the conditions and procedure for their payment shall be determined by the Government of the Russian Federation.

2. Authors also shall enjoy the droit de suite by the procedure established by Paragraph 1 of this Article with respect to original manuscripts (those written by the author himself) of literature and musical works.

3. The droit de suite is inalienable, but shall pass for the period of effectiveness of the exclusive right to the heirs of the author.

#### Article 1294. Rights of the Author of a Work of Architecture, Landscape Architecture, or Landscape Gardening

1. The author of a work of architecture, landscape architecture, or landscape gardening shall have an exclusive right to use his work in accordance with Paragraphs 2 and 3 of Article 1270 of this Code, such as, among other things, by developing building design documents and by implementing an architectural, landscape architecture or landscape gardening project.

An architectural, landscape architecture or landscape gardening project may only be implemented once, unless provided otherwise in a contract under which the project has been developed. The project and building design documents executed on its basis may be used another time with the consent of the project author only.

2. The author of a work of architecture, landscape architecture, or landscape gardening may oversee the development of building design documents and supervise the construction of a building or structure, or implementation of the respective project otherwise. The author shall exercise oversight and supervision as directed by the Federal executive body concerned with architecture and landscape architecture.

3. The author of a work of architecture, landscape architecture, or landscape gardening may request the customer of the plan the granting of the right to participation in the implementation of his plan, unless otherwise provided by contract.

#### Article 1295. On-the-job work

1. The copyright for a work of science, literature, or arts created by an employee (author) in line of duty (an on-the-job work) shall belong to the author.

2. The exclusive right in an on-the-job work shall belong to the employer, unless provided otherwise in the employment agreement or another agreement between the employer and the author.

Unless the employer starts using an on-the-job work within three years from the day when the on-the-job work was put at his disposal, or transfers the exclusive right therein to another person, or notifies the author about the nondisclosure of the work, the exclusive right in the on-the-job work shall belong to the author.

Unless the employer starts using an on-the-job work or transfers the exclusive right therein to another person within the time limits referred to in the second subparagraph of this paragraph, the author shall be entitled to receive remuneration. The author shall also be entitled to receive remuneration when the employer has decided against disclosing the on-the-job work and has not, for this reason, started using the work within the time limits specified. The amount of the remuneration, and also the terms of, and procedure for, payment thereof by the employer shall be specified in the



agreement between the employer and the employee, or, should a dispute arise over royalty payment, by a court.

3. If, pursuant to Paragraph 2 of this Article, the exclusive right in an on-the-job work belongs to the author, the employer may use the work in ways subordinated to the purpose of the job and within limits required by the job, and also make the work public, unless provided otherwise in the agreement between the employer and the employee. In this case, the author's right to use the on-the-job work in a manner other than is required by the job, or, even if required by the job, beyond the scope of the job set by the employer, shall not be limited.

The employer using an on-the-job work may affix his name or require his name to be affixed thereto.

#### Article 1296. Computer Programs and Databases Created on Order

1. When a computer program or database is created under a contract for the creation thereof (on order), the exclusive right to such a computer program or database shall belong to the customer, unless a contract between the performer and the customer provides otherwise.

2. If the exclusive right to a computer program or database belongs in accordance with Paragraph 1 of this Article to the customer, the contractor (producer) shall have the right, to the extent that the contract does not provide otherwise, to use the program or database for his own needs on the terms of a free simple (non-exclusive) license for the entire duration of the exclusive right.

3. In the case when, in accordance with a contract between the performer and the customer, the exclusive right to a computer program or database belongs to the performer, the customer shall have the right to use this program or database for his own needs on the conditions of an uncompensated simple (nonexclusive) license for the entire duration of the exclusive right.

4. The author of a computer program or database who does not have the exclusive right to this program or database shall be entitled to remuneration in accordance with the third subparagraph of Paragraph 2, Article 1295 of this Code.

#### Article 1297. Computer Programs and Databases Developed During Work under a Contract

1. If a computer program or database is developed during performance of a contract or a contract for the conduct of science research, design, or engineering developments, which did not directly require development thereof, the exclusive right to the program or database shall belong to the contractor (producer), unless provided otherwise in the contract between the contractor (producer) and the customer.

In this case, the customer may, unless provided otherwise in the contract, use the program or database so developed for purposes for which the contract was made on the terms of a simple (non-inclusive) license for the entire duration of the exclusive right without paying extra remuneration for the use thereof. If the contractor (producer) transfers the exclusive right to the computer program or database to another person, the customer shall retain the right to use the program or database.

2. Where, pursuant to a contract between a contractor (producer) and a customer, the exclusive right in a computer program or database has been transferred to the customer or a designated third person, the contractor (producer) may use the program or database developed by him for his own needs on the terms of a free simple (non-exclusive) license for the entire duration of the exclusive right, unless provided otherwise in the contract.

3. The author of the computer program or database referred to in Paragraph 1 of this Article, who does not hold the exclusive right in the program or the database, shall be entitled to remuneration payable under the terms of the third subparagraph of Paragraph 2, Article 1295 of this Code.

#### Article 1298. Works of Science, Literature, and Arts Created Under a Government or Municipal Contract

1. The exclusive right to a work of science, literature or arts created under a government or municipal contract for government or municipal needs, shall belong to the producer who is the author, or by another person working under a government or municipal contract, unless the government or municipal contract provides that this right shall belong to the Russian Federation, to a Subject of the Russian Federation, or to the municipality in the name of which the government or municipal customer is acting, or jointly to the producer and the Russian Federation, the producer and a Subject of the Russian Federation, or the producer and a municipality.

2. If in accordance with a government or municipal contract the exclusive right to a work of science, literature or arts belongs to the Russian Federation, a Subject of the Russian Federation, or to a municipality, the producer shall, by entering into relevant contracts with his employees and third parties, purchase all the right, or cause the same to be purchased, for transfer to the Russian Federation, the Subject of the Russian Federation, or to the municipality, respectively. In this case,

the producer shall be entitled to compensation for the costs incurred by him in connection with the purchase of the respective rights from third persons.

3. If the exclusive right to a work of science, literature or arts created under a government or municipal contract for government or municipal needs does not belong, pursuant to Paragraph 1 of this Article to the Russian Federation, to a Subject of the Russian Federation, or to a municipality, the rightholder shall, if requested so by the government or municipal customer, grant the person named by the customer a free simple (non-exclusive) license for the use of the respective work of science, literature or arts for government or municipal needs.

4. If the exclusive right to a work of science, literature or arts created under a government or municipal contract for government or municipal needs belongs jointly to the producer and the Russian Federation, the producer and a Subject of the Russian Federation, or to the producer and a municipality, the government or municipal customer may grant a free simple (non-exclusive) license for the use of the work of science, literature or arts for government or municipal needs, subject to a notice to the producer.

5. An employee, whose exclusive right has, pursuant to Paragraph 2 of this Article, been transferred to the producer, shall be entitled to remuneration in accordance with the third subparagraph of Paragraph 2, Article 1295 of this Code.

6. The provisions of this Article shall also apply to computer programs and databases that were not contracted for to be developed for government or municipal needs, and were developed during the performance of the contract.

#### Article 1299. Technical Means of Protection of Copyright

1. Any technologies, technical means or their components controlling access to a work, preventing or limiting the conduct of actions that are not permitted by the author or other rightholder with respect to the work shall be recognized as technical means of protection of copyright rights.

2. With respect to works the following shall not be allowed:

1) taking without the permission of the author or other rightholder of actions directed at removing the limitations on the use of a work established by the application of technical means of protection of copyright rights.

2) preparation, distribution, renting out, providing for temporary uncompensated use, import, advertising of any technical device or its components, and their use for the purpose of obtaining income or rendering services when as the results of such actions it becomes impossible to use the technical means of protection of a copyright right or these technical means cannot ensure proper protection of the aforesaid right.

3. In case of violation of the provisions of Paragraph 2 of this Article, the author or other rightholder shall have the right to demand at his choice from the violator compensation for damages or payment of compensation accordance with Article 1301 of this Code, except where this Code authorizes the use of a work without obtaining permission of the author or another rightholder..

#### Article 1300. Information about Copyright

1. Information about copyright is any information that identifies a work, an author, or other rightholder or information about the terms of use of a work that is contained in the original on a copy of a work, is attached thereto, or appear in connection with broadcasting over the air or by cable, or by bringing such a work to general knowledge, and also any numbers and codes in which such information is contained.

2. With respect to works the following shall not be allowed:

1) removing or changing information about copyright without the permission of the author or other rightholder;

2) reproduction, distribution, import for purposes of distribution, public performance, broadcasting over the air or by cable, or bringing to general knowledge of works with respect to which information about copyright has been removed or changed without the permission of the author or another rightholder.

3. In case of violation of the provisions of Paragraph 2 of this Article, the author or other rightholder shall have the right to demand at his choice from the violator compensation for damages or payment of compensation accordance with Article 1301 of this Code.

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

In cases of infringement of the exclusive right to a work the author or other rightholder, along with the use of other applicable methods of protection and measures of liability established by this Code (Articles 1250, 1252, and 1253) shall have the right in accordance with Paragraph 3 of Article 1252 of this Code to demand at his option from the infringer instead of compensation for damages the payment of compensation:

of the amount of from 10,000 rubles to 5 million rubles determined at the discretion of the court;

of twice the price of the copies of the work or of twice the price of the rights to the use of the work determined proceeding from the price which in comparable circumstances is usually charged for the lawful use of the work.

#### Article 1302. Security for a Claim in Cases on the Infringement of Copyright

1. A court may forbid a defendant or other person with respect to whom there are sufficient bases to suppose that he is an infringer of copyright rights to take specific actions (preparation, reproduction, sale, renting out, import, or other use provided by this Code, and also transportation, storage, or possession) with the purpose of release to turnover of copies of a work with respect to which it is supposed that they are counterfeit.

2. The court may impose seizure and take all copies of a work with respect to which it is supposed that they are counterfeit and also materials and equipment meant for their preparation and reproduction.

In the presence of sufficient data on the infringement of copyright rights the bodies of inquiry or investigation shall be obligated to take measures for the finding and seizing of copies of a work with respect to which it is supposed that they are counterfeit and also of materials and equipment meant for preparation and reproduction of the aforesaid copies of the work, including in necessary cases measures for their taking and transfer for responsible storage.

### CHAPTER 71. RIGHTS RELATED TO COPYRIGHT

#### § 1. General Provisions

##### Article 1303. Basic Provisions

1. Intellectual rights to the results of performing activity (results of performance), to phonograms, to broadcasting over the air or by cable of radio and television transmissions (broadcasting by organizations of over-the-air and cable broadcasting), of the producer of databases, and also works of science, literature, or art first made public after their passage into the public domain are rights neighboring on copyright (neighboring rights.)

2. Neighboring rights include the exclusive right and, in cases provided by this Code, also personal nonproperty rights.

##### Article 1304. Subjects Matter of Related Rights

1. The following are objects of related rights:

1) results of performing activity (results of performance) of performing artists and directors, productions by director-producers of shows, and conductors, if these results are expressed in a form allowing their reproduction and distribution with the aid of technical means;

2) phonograms, that is, any exclusively sound recordings of performances or other sounds, or images thereof, except for sound recording included in the audiovisual work;

3) broadcasts by an organization of over-the-air or cable broadcasting – broadcasts created by the organization of over-the-air or cable broadcasting itself, and also by its order and at its expense by another organization;

4) databases – with respect their protection from unsanctioned extraction and repeated use of the materials constituting them;

5) works of scholarship, literature, or art that they were first made public after their passage into the public domain, with respect to the protection of the rights of the publishers of such works.

2. For the arising, exercise, and protection of neighboring rights neither registration of their object nor the observance of any other formalities is required.

3. The granting on the territory of the Russian Federation of protection for objects of neighboring rights in accordance with the international treaties of the Russian Federation shall be conducted with respect to the respective performers, phonograms, video recordings, transmissions over the air or by cable that have not gone into the public domain in the country of their origin as the result of the expiration of the period established in such country for the effectiveness of the exclusive right and have not come into the public domain in the Russian Federation as the result of the expiration of the period provided by this Code for the effectiveness of the exclusive right.

##### Article 1305. Symbol of Protection of Related Rights

The producer of a phonogram and the performer, and also another holder of the exclusive right to the phonogram or the result of a performance shall have the right for notification about his

rights to use the symbol of protection, which shall be placed on each original or copy of the phonogram or video recording and/or on each case containing it and shall consist of three elements: the Latin letter "P" in a circle, the name or designation of the holder of the exclusive right, and the year of first publication of the phonogram.

In this case, by a copy of the phonogram is meant a reproduction of it on any material carrier made directly or indirectly from the phonogram and including all the sounds or part of the sounds or their representation fixed in this phonogram. By representation of sounds is meant their presentation in digital form, the transformation of which into a form comprehensible by hearing requires the use of the appropriate technical means.

**Article 1306. Use of Objects of Related Rights Without the Consent of the Rightholder and Without Payment of remuneration**

The use of objects of related rights without the consent of the rightholder and without the payment of compensation shall be allowed in the cases of free use of works (provided by articles 1273, 1274, 1277, 1278, and 1279) and also in other cases provided by the present Chapter.

**Article 1307. Contract for the Alienation of the Exclusive Right to an Object of a Related Right**

Under a contract for alienation of the exclusive right to an object of a neighboring right one party – the performer, the producer of the phonogram the organization of over-the-air or cable broadcasting, the producer of a database, the publisher of a work of scholarship, literature, or art, or other rightholder transfers or becomes obligated to transfer his exclusive right to the respective object of a neighboring right in full to the other party – the obtainer of the exclusive right.

**Article 1308. License Contract for Granting the Right of Use of an Object of Related Rights**

Under a license contract, one party – the performer, producer of a phonogram, the organization of over-the-air or cable broadcasting, the producer of a database, the publisher of a work of scholarship, literature or art or other rightholder (the licensor) grants or becomes obligated to grant to the other party (the licensee) the right of use of the respective object of a neighboring right within the limits established by a contract.

**Article 1309. Technical Means of Protection of Related Rights**

With respect to any technical devices or their components that control access to an object of neighboring rights, protecting or limiting the conduct of actions that are not permitted by the rightholder with respect to such an object (technical means of protection of neighboring rights), Articles 1299 and 1311 of this Code, respectively, shall apply.

**Article 1310. Information on a Related Right**

With respect to any information that identifies an object of neighboring rights, the rightholder, or information on the conditions of use of this object that is contained on the respective material carrier, attached to it, or appears in connection with communication for general reception or by bringing of such an object to the general knowledge and also any ciphers and codes in which such information (information on the neighboring right) is contained there shall be applied the provisions of Articles 1300 and 1311 of this Code, respectively.

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

In cases of infringement of the exclusive right to an object of a neighboring right the holder of the exclusive right, along with the use of other applicable measures of protection and measures of liability established by this Code (Articles 1250, 1252, and 1253) shall have the right in accordance with Paragraph 3 of Article 1252 of this Code to demand at his option from the infringer instead of compensation for damages payment of compensation:

in the amount from 10 thousand rubles to 5 million rubles determined at the discretion of the court.

in double the amount of the value of copies of the phonogram or in double the amount of the value of the rights to the use of the object of neighboring rights determined on the basis of the price that in comparable circumstances is usually taken for lawful use of such an object.

**Article 1312. Security for a Suit in Cases against Infringements of Related Rights**

Measures referred to in Article 1302 of this Code shall, accordingly, apply to the defendant or a person, in respect of whom there is sufficient evidence to believe that he is the infringer of related rights, or to the subjects matter of related rights, in respect of which there is sufficient evidence to

believe that they are counterfeited, respectively, to secure a suit in cases filed against infringements of related rights.

## § 2. Rights to the Result of a Performance

### Article 1313. The Performer

The performer (author of the performance) is the individual by whose creative labor the result of a performance has been created, the performing artist (actor, singer, musician, dancer, or other person who plays a role, reads, declaims, sings, plays a musical instrument or in another way participates in the performance of a work of literature, art, or folk creativity, including a popular, circus, or puppet piece), the director-producer of a show, (the person conducting the production of a theatrical, circus, puppet, popular, or other theatrical-viewing presentation) and also the conductor.

### Article 1314. Related Rights to a Result of Joint Performance

1. Neighboring rights to a result of joint performance shall belong jointly to the members of the group of performers (actors, participants in a show, orchestra members, and so forth) who took part in its creation, regardless of whether such a result forms an indivisible whole or consists of elements each of which has independent significance.

2. Neighboring rights to a result of joint performance shall be exercised by the head of the group of performers and, in his absence, by the members of the group of performers jointly unless an agreement between them has provided otherwise. If a result of joint performance forms an indivisible whole, then no one of the members of the group of performers shall have the right without sufficient grounds to forbid its use.

An element of the result of joint performance that may be used independently of its other elements, i.e. that has independent significance may be used by the performer that created it at his discretion unless otherwise provided by an agreement among the members of the group of performers.

3. The rules of Paragraph 3 of Article 1229 of this Code shall be applied respectively to the relations of members of the group of performers connected with the distribution of income from the use of the result of joint performance.

4. Each of the members of a group of performers shall have the right to take measures independently for the protection of his neighboring rights to the result of joint performance including in the case when such a result forms an indivisible whole.

### Article 1315. Rights of the Performer

1. The following shall belong to the performer:

1) the exclusive right to the result of the performance;  
 2) the right of authorship – the right to be recognized as the author of the performance;  
 3) the right to the name -the right to the indication of his name or pseudonym on copies of the phonogram and in other cases of the use of the result of a performance, and in the cases provided in Paragraph 1 of Article 1314 of this Code, the right to the indication of the designation of the group of performers, except cases when the nature of the use of the performance excludes the possibility of indication of the name of the performer or the name of the group of performers.

4) the right to protection of the result of a performance from any distortion, i.e., from the making in the recording or over-the-air or cable communication of changes leading to the distortion of the meaning or to the violation of the integrity of the perception of the result of the performance

2. Performers shall realize their rights with observance of the rights of the authors of the works performed.

3. The rights of the performer shall be effective regardless of the effectiveness of the copyrights to the work performed.

### Article 1316. Protection of Authorship and the Name of the Performer and Inviolability of the Result of a Performance After the Death of the Performer

1. Authorship and the name of the performer and the inviolability of the result of a performance shall be protected without limit of time.

2. The performer shall have the right by the procedure provided for designating an executor of a will (Article 1134) to indicate the person to whom he entrusts the protection of his name and the inviolability of the result of a performance after his death. This person shall exercise his powers for life.

In the absence of such designations or in case of the refusal of the person named by the performer to exercise the corresponding powers and also after the death of this person the protection

of the name of the performer and the inviolability of the result of a performance shall be exercised by his heirs, their legal successors, and other interested persons.

#### Article 1317. Exclusive Right to the Result of a Performance

1. The exclusive right to use the result of a performance in accordance with Article 1229 of this Code in any manner not contrary to a statute (the exclusive right to the result of the performance) including by the means indicated in Paragraph 2 of this Article and to dispose of this right shall belong to the performer.

2. The following shall be considered as the use of the result of a performance:

1) communication over the air, i.e., communication of the result of a performance for general knowledge by its transmission by radio or television (including rebroadcasting), with the exception of cable television. In such case by communications is meant any action by means of which the result of a performance becomes accessible for aural and/or visual perception regardless of its factual perception by the public.

In communication of the result of a performance over-the-air through a satellite, broadcasting over the air means; reception of signals from a ground station at the satellite and transmission of signals from the satellite by means of which the result of a performance may be brought to general knowledge regardless of its actual reception by the public;

2) communication by cable, i.e., communication of a result of a performance for general knowledge by way of its transmission by radio or television with the aid of a cable, wire, optical fiber or analogous means (including rebroadcasting);

3) recording a performance, i.e., the fixation of sounds and/or images with the aid of technical means in some material form allowing the realization of their repeated perception, reproduction, or communication;

4) reproduction of a recording of a performance, i.e., the preparation of one or more copies of a phonogram or video recording or part thereof. In this case, a performance recorded on an electronic medium, including recording in computer storage, shall also be regarded as reproduction, except where the recording is only a temporary one and is an integral and essential part of the process undertaken with the sole purpose of lawfully using the record or lawfully bringing the performance to the general audience;

5) distribution of a recording of a performance by way of sale or other alienation of an original or copies that are a reproduction of such a recording on any physical medium;

6) an action carried out in respect of the performance record and referred to in subparagraphs 1 and 2 of this Paragraph;

7) a recorded performance is brought to the general audience so that anyone could receive access to the recorded performance from any place at any time of their choice (bringing to the general audience).

8) public performance of a recording, i.e., any communication of a recording of a performance with the aid of technical means in a place open for free visiting or in a place where a significant number of persons not belonging to the usual circle of the family are present, regardless of whether the recording of the result of a performance is perceived at the place of its communication or in another place simultaneously with its communication;

9) renting out of the original copies of the recording of the performance.

3. The exclusive right to a result of a performance shall not extend to the reproduction, broadcasting over the air or by cable or public performance of a recording in cases when the recording of the performance was made with the consent of the performer and the reproduction, broadcasting over the air or by cable or public performance of the recording was conducted for the same purposes for which consent of the performer was obtained at the time of the recording of the performance.

4. In conclusion of a contract with a performer on the creation of an audiovisual work, the consent of the performer to the use of the result of the performance in the composition of the audiovisual work shall be presumed unless otherwise provided by the contract. The consent of the performer to the separate use of sound or image fixed in the audiovisual work must be directly expressed in the contract.

5. In the use by a person other than the performer of the result of a performance, the rules of Paragraph 2 of Article 1315 of this Code shall be applied correspondingly.

#### Article 1318. Duration of the Exclusive Right to a Result of a performance, the Passage of this Right by Inheritance and Into the Public Domain

1. The exclusive right to a result of a performance shall be effective for the whole life of the performer, but for not less than fifty years counting from January 1 of the year following the year in

which the first public performance or recording of a performance or communication of a performance over-the-air or by cable took place.

2. In the case when a performer was repressed and posthumously rehabilitated, the duration of the exclusive right shall be considered extended and to run for fifty years beginning from January 1 of the year following the year of rehabilitation.

3. If the performer worked during the period of the Great Patriotic War or participated in it, the period of effectiveness of the exclusive right provided by Paragraph 1 of this Article shall be extended by four years.

4. The rules of Article 1283 of this Code shall apply, respectively, to the transfer of the exclusive right to a performance by inheritance.

5. Upon expiration of the duration of the exclusive right to a result of a performance it shall pass into the public domain and the rules of Article 1282 of this Code shall be applied correspondingly to it.

Article 1319. Levy of Execution upon the Exclusive Right to a Result of a Performance and upon the Right of Use of it Under a License

1. Levy of execution on the exclusive right to a result of a performance belonging to the performer shall not be allowed. However the right of a claim of the performer against other persons under contracts for the alienation of the exclusive right to a result of a performance and under license contracts and also income received from the use of a result of a performance may be the subject of execution.

Execution may be levied upon an exclusive right belonging not to the performer himself but to another person and also upon the right of use of a result of a performance belonging to a licensee.

The rules of the first subparagraph of this Paragraph shall also extend to heirs of the performer, to their heirs, and so on within the limits of the period of effectiveness of the exclusive right.

2. In case of sale of a right belonging to a licensee for the use of a result of a performance at public auction for the purpose of levying execution on this right the performer shall be granted a preferential right to obtain it.

Article 1320. A Result of a Performance Created by Way of Fulfillment of an Employment Task

The rules of Article 1295 of this Code shall be applied correspondingly to the rights to a result of a performance created by the procedure for fulfillment of an employment task including to the rights to a result of joint performance created in that way.

Article 1321. Effectiveness of the Exclusive Right to a Result of a Performance on the Territory of the Russian Federation

The exclusive right to a result of a performance shall be effective on the territory of the Russian Federation in cases when:

- the performer is a citizen of the Russian Federation;
- the performance first took place on the territory of the Russian Federation;
- the result of the performance was fixed in a phonogram protected in accordance with the provisions of Article 1328 of this Code;
- the result of a performance not fixed in a phonogram was included in a broadcasting over the air or by cable protected in accordance with the provisions of Article 1332 of this Code; and
- in other cases covered by the international treaties of the Russian Federation.

### § 3. Right to Phonograms

Article 1322. Producer of Phonograms

The producer of phonograms shall be considered to be the person that organized, and assumed responsibility for, the first recording of performance sounds or other sounds, or images of the sounds. In the absence of proof to the contrary, the producer of the phonogram shall be considered to be the person, whose name or designation is indicated in the usual manner on a copy of the phonograms and/or on its packaging.

Article 1323. Rights of the Producer of a Phonogram

1. The following belong to the producer of a phonogram:
  - 1) the exclusive right to the phonogram;

2) the right to an indication on copies of the phonogram and/or their packaging of his name or designation.

3) the right to protection of the phonogram from distortion in the course of its use;

4) the right to make public the phonogram i.e., to the conduct of an action that for the first time makes the phonogram accessible for general knowledge by way of its publishing, public showing, public performance, broadcasting over the air or by cable, or in another manner. Release into circulation of copies of a phonogram with the consent of the producer in a number sufficient for the satisfaction of the reasonable demand of the public shall be publication (dissemination).

2. The producer of a phonogram shall exercise his rights with observance of the rights of the authors of the works and the rights of the performers.

3. The rights of a producer of a phonogram shall be effective regardless of the effectiveness of copyright rights and performers' rights.

4. The right to indicate one's own name or designation on copies of a phonogram and/or packaging thereof, and the right to protection of the phonogram from corruption shall be effective and protected during the lifetime of an individual or until the termination of a legal person that was the producer of the phonogram.

#### Article 1324. The Exclusive Right to a Phonogram

1. The exclusive right to use a phonogram in accordance with Article 1229 of this Code in any manner not contrary to a statute (the exclusive right to a phonogram), including by the means indicated in Paragraph 2 of this Article and to dispose of this right shall belong to the producer of a phonogram.

2. The following shall be considered to be the use of a phonogram:

1) public performance, i.e., any communication of the phonogram with the aid of technical means at a place open for free visiting or at a place where a significant number of persons not belonging to the usual circle of a family are present, regardless of whether the phonogram is perceived in the place of its communication or in another place simultaneously with its communication;

2) communication over the air, i.e., communication of a phonogram for general knowledge by means of its transmission by radio or television (with the exception of cable television). In such case communication shall mean any action by means of which a phonogram becomes accessible for aural and/or visual perception regardless of its actual perception by the public.

In case of communication of a phonogram over the air through a satellite, broadcasting over the air means receipt of signals from a land station at the satellite and transfer of signals from the satellite by means of which the phonogram may be brought to general knowledge regardless of its actual reception by the public;

3) communication for general knowledge by cable, i.e., communication of a phonogram by means of its transmission by radio or television with the aid of a cable, wire, optical fiber or analogous means (including rebroadcasting);

4) granting of access to a phonogram in interactive mode, i.e., in such a manner that a person wishing to use it may do so from any place and at any time of his own choice. (bringing to the general audience);

5) reproduction, that is, making one or more copies of a phonogram in full or in part on an electronic medium, including recording to computer storage, shall also be regarded as reproduction, except when the record is temporary and constitutes an integral and essential part of the process carried out with the sole purpose of lawfully using the record or lawfully bring the phonogram to the general public;

6) distribution of a phonogram by way of sale or other alienation of the original or counterparts that copies of the phonogram on any physical medium;

7) importation of the original or copies of a phonogram for the purpose of distribution including copies prepared with the permission of the holder of the exclusive neighboring right;

8) renting out of the original and copies of a phonogram;

9) reworking of a phonogram.

3. A person lawfully conducting the reworking of a phonogram shall obtain a neighboring right to the reworked phonogram.

4. In case of the use of a phonogram by a person other than its producer, Paragraph 2 of Article 1323 of this Code shall be applied correspondingly.

#### Article 1325. Distribution of Copies of a Published Phonogram

If the original or copies of a lawfully published phonogram have been put into turnover in the territory of the Russian Federation by way of their sale or other alienation, the further distribution of the original or copies thereof shall be permitted without asking the consent of the holder of the exclusive right to the phonogram and without payment of compensation to him.



#### Article 1326. Use of a Phonogram Published for Commercial Purposes

1. Public performance of a phonogram published for commercial purposes and also its broadcasting over the air or by cable shall be allowed without the permission of the holder of the exclusive right to the phonogram and of holder of the exclusive right to the result of a performance fixed in this phonogram but with payment to him of compensation.

2. The collection and distribution of the compensation provided for in Paragraph 1 of this Article shall be conducted by organizations for the management of rights on a collective basis having state accreditation for the conduct of the respective types of activity (Article 1244).

3. The compensation provided for by Paragraph 1 of this Article shall be distributed between the rightholders in the following proportions: fifty percent to the performers and fifty percent to the producers of phonograms. The distribution of the compensation among specific performers, producers of phonograms shall be conducted in proportion to the actual use of the respective works. The procedure for the collection and distribution of compensation and its payment shall be established by the Government of the Russian Federation.

4. The users of phonograms must provide organizations for the management of rights on a collective basis with reports on the use of phonograms and also other information and documents necessary for the collection and distribution of compensation.

#### Article 1327. Duration of the Exclusive Right to a Phonogram, Transfer of this Right to Legal Successors and into the Public Domain

1. The exclusive right to a phonogram shall be effective for the course of fifty years, counting from January 1 of the year following the year in which the recording was made. In case of making public of the phonogram, the exclusive right shall be effective for the course of fifty years from the day of making it public, on the condition that the phonogram was made public within the course of fifty years after the making of the recording.

2. The right to a phonogram shall pass to the heirs and other legal successors of the producer of the phonogram within the limits of the remaining part of the periods indicated in Paragraph 1 of this Article.

3. Upon the expiration of the period of effectiveness of the exclusive right to a phonogram it shall pass into the public domain. The rules of Article 1282 of this Code shall be applied correspondingly to a phonogram that has passed into the public domain.

#### Article 1328. Effectiveness of the Exclusive Right to a Phonogram on the Territory of the Russian Federation

The exclusive right to a phonogram shall be effective on the territory of the Russian Federation in the cases in which:

the producer of the phonogram is an individual of the Russian Federation or a Russian legal person;

the phonogram was made public or copies thereof were first publicly distributed on the territory of the Russian Federation;

in other cases provided for by international treaties of the Russian Federation.

### § 4. Right of Air and Cable Broadcasting Organizations

#### Article 1329. Organizations of Over-the-air and Cable Broadcasting

A legal person that conducts broadcasting over the air or by cable of radio or television transmissions (totality of sounds and/or pictures, or their images) is an organization of over-the-air or cable broadcasting.

#### Article 1330. Exclusive Right to Transmission of Radio and Television Broadcasts

1. The exclusive right to use a lawfully conductible or conducted communication by it of radio or television transmissions in accordance with Article 1229 of this Code by any means not contrary to a statute (the exclusive right to radio or television transmission), including by the means indicated in Paragraph 2 of this Article. The air or cable broadcasting organization may dispose of the exclusive right to radio or television program transmission.

2. The following shall be considered to be the use of a radio or television transmission (broadcasting):

1) recording of a radio or television broadcast, i.e., the fixation of sounds and/or images with the aid of technical means in any material form that allows the realization of its repeated perception, reproduction, or communication;

2) reproduction of a recording of a communicated radio or television broadcast, i.e., the preparation of one or more copies of a of a radio or television transmission or of part of it. If that is the case, the recording of a transmitted radio or television program on an electronic medium, including recording to computer storage, shall also be regarded as reproduction, except when the recording is temporary and constitutes an integral and essential part of the process carried out with the sole purpose of lawfully using the record or lawfully bringing the message of the transmitted radio or television broadcast to the general audience;

3) distribution of radio or television broadcasts by sale or other alienation of the original or copies of a recorded radio or television broadcast;

4) rebroadcasting, that is, simultaneous transmission over the air (including satellite transmission), or by cable of a radio or television broadcast by one air or cable broadcasting organization simultaneously with reception by that organization of the broadcast transmitted by another such organization;

5) granting access to a radio or television transmission in an interactive mode, i.e., in such a way that a person wishing to use it may do this from any place and at any time of his own choice.

6) public performance, i.e., any communication of a radio or television transmission with the aid of technical means at places with paid entrance regardless of whether the radio or television transmission is received at the place of its communication or at another place simultaneously with its communication.

3. Both rebroadcasting over the air and also communication of a transmission by cable shall be considered as use of a radio or television transmission of an organization of over-the-air broadcasting.

Both rebroadcasting of a television transmission by cable and communication of a television transmission over the air shall be considered as use of a television transmission of an organization of cable broadcasting.

4. The rules of Paragraph 3 of Article 1317 of this Code shall be applied correspondingly to the right of use of a radio or television transmission.

5. An organization of over-the-air or cable broadcasting shall realize its rights with the observance of the rights of authors of the works, rights of performers and in appropriate cases – of holders of the rights to a phonogram or video recording and the rights of other organizations of over-the-air or cable broadcasting.

6. The rights of an air or cable broadcasting organization shall be recognized and remain in effect regardless of existence or validity of the rights of authors, rights of performers, or rights in the phonograms.

Article 1331. Duration of the Exclusive Right to a Radio or Television Broadcast, Transfer of this Right to Legal Successors and into the Public Domain

1. The exclusive right to a broadcasted radio or television transmission shall be effective during the course of fifty years, counting from January 1 of the year following the year in which broadcasting of the radio or television transmission over the air or by cable took place.

2. The exclusive right to a radio or television transmission shall pass to legal successors of an organization of over-the-air or cable broadcasting within the limits of the remaining part of the term indicated in Paragraph 1 of this Article.

3. Upon the expiration of the period of effectiveness of the exclusive right to a transmitted radio or television broadcast it shall pass into the public domain. The rules of Article 1282 of this Code shall apply to the transmitted radio or television broadcast that has passed into the public domain, respectively.

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

The exclusive right to a radio or television broadcasting shall be effective on the territory of the Russian Federation in cases when an organization of over-the-air or cable broadcasting has a place of location on the territory of the Russian Federation and such an organization conducts communication with the aid of transmitters located on the territory of the Russian Federation and also in other cases provided by international treaties of the Russian Federation.

## § 5. The Right of the Producer of a Database

### Article 1333. Producer of a Database

1. The producer of a database is the person who has organized the creation of a database and work for the collection, processing, and placing of the materials constituting it. In the absence of evidence to the contrary, the individual or legal person whose name or designation is indicated in the usual manner on a copy of the database and/or on its packaging shall be considered to be the producer of the database.

2. The producer of a database shall own:  
the exclusive right of the producer of the database; and  
the right to his name or designation being shown on copies and/or packaging thereof.

### Article 1334. Exclusive Right of the Producer of a Database

1. The producer of a database requiring significant financial, material, organizational or other expenses to produce (including processing or supply of appropriate materials) shall own the exclusive right to retrieve from the database any materials and to subsequently use the same in any form and in any manner (the exclusive right of the producer of the database). The producer of the database may dispose of this exclusive right. A database containing at least ten thousand independent information elements (materials) combined into the database content shall be recognized as a database, the creation of which requires significant inputs, in the absence of proof to the contrary (second subparagraph of Paragraph 2, Article 1260).

No person may retrieve materials from the database and use them thereafter without permission of the rightholder, except as provided for in this Code. In this context, retrieval means transfer of the entire content, or a significant part of the component materials, of a database to a different information medium using any technical means and in any form.

2. The exclusive right of the producer of a database shall be recognized and shall be effective regardless of the presence and effectiveness of copyright and other exclusive rights of the producer of the database and other persons to the materials constituting the database and also to the database as a whole as a compiled work.

3. A person lawfully using a database shall have the right without the permission of the holder of the exclusive right of the producer of the database to extract materials from such database and to conduct their reuse for personal, scholarly, educational, and other noncommercial purposes in an amount justified by the aforesaid noncommercial purpose and to the degree by which such actions do not infringe on the copyrights of the producer of the database and other persons.

The use of materials in a manner presuming receipt of access to them by an unlimited circle of people must be accompanied by an indication of the database from which these materials were extracted.

### Article 1335. Duration of the Exclusive Right of the Producer of a Database

1. The exclusive right of the producer of a database shall arise at the time of completion of its preparation and shall be effective for the course of fifteen years counting from January 1 of the year following the year of its preparation. The exclusive right of the producer of a database made public in the aforesaid period of time shall be effective in the course of fifteen years counting from January 1 of the year following the year of its being made public.

2. The time periods provided by Paragraph 1 of this Article shall be renewed upon each update of the database.

### Article 1336. The Effectiveness of the Exclusive Right of the Producer of a Database on the Territory of the Russian Federation

1. The exclusive right of the producer of a database shall be effective on the territory of the Russian Federation in cases when:

the producer of the database is a citizen of the Russian Federation or a Russian legal person;  
in cases provided by international treaties of the Russian Federation and in cases when the legislation of the respective foreign state on the territory of this state provides protection for the exclusive right of the producer of databases producers of which are individuals of the Russian Federation and Russian legal persons; and  
in other cases covered by the international treaties of the Russian Federation.

2. If the producer of a database is an stateless person, the rules of Paragraph 1 of this Article applying to individuals of the Russian Federation or foreign individuals shall apply, respectively,

depending on whether that stateless person resides in the territory of the Russian Federation or of a foreign country.

#### § 6. Right of the Publisher to Works of Science, Literature, or Arts

##### Article 1337. The Publisher

1. The publisher is the individual who lawfully made public or organized the making public of a previously unpublished work of scholarship, literature, or art that has gone into the public domain (Article 1282) or that is in the public domain by virtue of the fact that it is not protected by copyright.

2. The rights of the publisher shall extend to works that, regardless of the time of their creation, could have been recognized as objects of copyright in accordance with the rules of Article 1259 of this Code.

3. The provisions of the present Section do not extend to works that are in state and municipal archives.

##### Article 1338. Rights of the Publisher

1. The following shall belong to the publisher:

1) the exclusive right of the publisher to a work made public by him (Paragraph 1 of Article 1339);

2) the right to indicate his name on copies of a work made public by him and in other cases of its use including in translation or other reworking of a work.

2. On first making the work public, the publisher is obligated to observe the conditions provided by Paragraph 3 of Article 1268 of this Code.

3. The publisher during the period of effectiveness of the exclusive right of the publisher to a work shall possess the powers indicated in the second subparagraph of Paragraph 1 of Article 1266 of this Code. A person to whom the exclusive right of a publisher to a work has passed shall possess the same powers.

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

1. The exclusive neighboring right to use a work in accordance with Article 1229 of this Code (the exclusive right of a publisher in the work) by the means indicated in subparagraphs 1 to 8 and 11 of Paragraph 2 of Article 1270 of this Code. The publisher of the work may dispose of this exclusive right.

2. The exclusive right of a publisher to the work shall be recognized also in the case when the work was public in translation or in the form of some other reworking. The exclusive right of the publisher to the work shall be effective regardless of the copyright of the publisher or of other persons to the translation or other reworking of the work.

##### Article 1340. Duration of the Exclusive Right of the Publisher to a Work

The exclusive right of a publisher to a work shall arise at time of making the work public and shall be effective for the course of twenty-five years counting from January 1 of the year following the year of making the work public.

##### Article 1341. Effectiveness of the Exclusive Right of the Publisher to a Work on the Territory of the Russian Federation

1. The exclusive right of a publisher to works of scholarship, literature, or art shall extend to works:

1) made public on the territory of the Russian Federation regardless of the individualship of the publisher;

2) made public beyond the boundaries of the Russian Federation by a citizen of the Russian Federation;

3) made public beyond the boundaries of the territory of the Russian Federation by foreign individuals and persons without individualship in cases provided by the legislation of the respective foreign state recognizes on the territory of this state the exclusive rights of the publisher to works the publishers of which are individuals of the Russian Federation; and

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

2. In the case indicated in numbered subparagraph 3 of Paragraph 1 of this Article the period of effectiveness of the exclusive right of the publisher on the territory of the Russian Federation may not exceed the period of effectiveness of the exclusive right of the publisher established in the state on the territory of which the legal fact took place that served as the basis for obtaining the exclusive right of the publisher to the work.

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

The exclusive right of a publisher to a work may be terminated early by judicial procedure on a suit by an interested person in the case when in the use of the work the rightholder is violating the requirements of this Code with respect to the protection of authorship, the name of the author, and the inviolability of the work.

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

1. In case of alienation of the original of a work (manuscript, the original of a work of painting, sculpture, and the like) by its owner holding the exclusive right of publisher to the alienated work, this exclusive right to the work shall pass to the recipient of the original of the work unless a contract provides otherwise.

If the exclusive right of a publisher to a work has not passed to the recipient of the original of a work, this person shall have the right without the consent of the holder of such exclusive right to the work to use the original of the work in the manners indicated in the second subparagraph of Paragraph 1 of Article 1291 of this Code.

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

If the original or copies of a work first made public in accordance with the present Section have been lawfully put into turnover by means of their sale or other alienation, further distribution of the original or copies shall be allowed without the consent of the publisher and without payment of compensation to him.

### CHAPTER 72. PATENT LAW

#### § 1. Basic Provisions

##### Article 1345. Patent Rights

1. Intellectual rights to inventions, utility models, and industrial designs are patent rights.
2. The following rights shall belong to the inventor (hereinafter – author of an invention), author of utility model, or industrial design:
  - 1) the exclusive right;
  - 2) the right of authorship.
3. In cases provided by this Code, other rights also belong to the author, including the right to receipt of a patent, the right to reward for the use of an employment invention, utility model, or industrial design.

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

On the territory of the Russian Federation exclusive rights to inventions, utility models, and industrial designs shall be recognized if the rights are certified by patents issued by the Federal executive body for intellectual property or by patents in force 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 individual by whose creative work the corresponding result of intellectual activity has been created. The person indicated as the author in an application for the issuance of a patent shall be considered to be the author of the invention, utility model, or industrial design unless it is proved otherwise.

#### Article 1348. Coauthors of an Invention, Utility Model, or Industrial Design

1. Individuals who have made an invention, utility model, or industrial design by joint creative labor are coauthors.
2. Each of the coauthors shall have the right to use the invention, utility model, or industrial design at his discretion, unless an agreement among them has provided otherwise.
3. The rules of Paragraph 3 of Article 1229 of this Code shall be applied correspondingly to relations of coauthors connected with distribution of income from the use of an invention, utility model or industrial design and with the disposition of the exclusive right to an invention, utility model, or industrial design.

The disposition of the right to receipt of a patent on an invention, utility model, or industrial design shall be conducted by the authors jointly.

4. Each of the coauthors shall have the right to take measures independently for the protection of his rights.

#### Article 1349. Objects of Patent Rights

1. The objects of patent rights are the results of intellectual activity in the scientific and technical area that meet the requirements established by this Code for inventions and utility models and the results of intellectual activity in the area of artistic design that meet the requirements established by this Code for industrial designs.

2. The provisions extend to inventions containing information constituting a state secret (secret inventions), unless special rules of legal protection and use of secret inventions are established (Articles 1401-1405 of this Code).

3. Legal protection in accordance with this Code shall not be granted to utility models and industrial designs containing information constituting a state secret.

4. Patent rights shall not extend to:

- 1) methods of human cloning;
- 2) methods of modifying the genetic integrity of the embryonic line of humans;
- 3) use of human embryos for industrial and commercial purposes; and
- 4) any other solutions contrary to the interests of society and to principles of humanity and morality.

#### Article 1350. Conditions of Patentability of an Invention

1. A technical solution in any area related to a product (including a structure, substance, microorganism strain, or culture of cells of plants or animals) or a means (a process of conducting actions on a material object with the help of material means) shall be protected as an invention.

An invention shall be granted legal protection if it is new, has an inventive level, and is industrially applicable.

2. An invention is new if it is not known from the level of technology.

An invention has an inventive level if for a specialist it does not obviously follow from the level of technology.

The level of technology includes any information that became generally accessible in the world before the priority date of the invention.

In establishing the novelty of an invention the level of technology also includes, on the condition of their earlier priority, all applications for inventions and utility models filed in the Russian Federation by other persons with whose documentation any person has the right to be acquainted in accordance with Paragraph 2 of Article 1385 or Paragraph 2 of Article 1394 of this Code and inventions and utility models patented in the Russian Federation.

3. Disclosure of information relating to an invention by the author, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the invention became generally accessible shall not be a circumstance precluding the recognition of the patentability of the invention if an application for the issuance of a patent on the invention has been filed with the Federal executive body for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that this time period has not been exceeded shall rest on the applicant.

4. An invention is industrially applicable if it may be used in industry, agriculture, health care, other branches of the economy, or the social sphere.

5. The following are not inventions:

- 1) discoveries;
- 2) scientific theories and mathematical methods;
- 3) solutions involving only the external form of manufactures and directed at the satisfaction of esthetic needs;
- 4) rules and methods for games and for intellectual or economic activity;
- 5) computer programs
- 6) solutions consisting only of the presentation of information.

In accordance with the present Paragraph the possibility of categorizing the aforementioned objects as inventions shall be excluded only in the case when the application for the issuance of a patent for an invention involves the aforementioned objects as such.

6. Legal protection as inventions shall not be granted to:

- 1) varieties of plants and breeds of animals and biological methods of obtaining them, except for microbiological methods and products obtained by such methods; and
- 2) topologies of integrated circuits.

#### Article 1351. Conditions of Patentability of a Utility Model

1. A technical solution relating to a structure shall be protected as a utility model.

A utility model shall be granted legal protection if it is new and industrially applicable.

2. A utility model is new if the totality of its essential characteristics is not known from the level of technology.

The level of technology includes information published in the world on means for the same purpose as the utility model applied for and information on their application in the Russian Federation if such information become generally accessible before the priority date of the utility model. The level of technology also includes, on the condition of their earlier priority, all applications for inventions and utility models filed in the Russian Federation by other persons with whose documentation any person has the right to be acquainted in accordance with Paragraph 2 of Article 1385 or Paragraph 2 of Article 1394 of this Code and inventions and utility models patented in the Russian Federation.

3. Disclosure of information relating to a utility model by the author, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the utility model became generally accessible shall not be a circumstance preventing the recognition of the patentability of the utility model if an application for the issuance of a patent on the utility model has been filed with the Federal executive body for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that this time period has not been exceeded shall rest on the applicant.

4. A utility model is industrially applicable if it may be used in industry, agriculture, health care, other branches of the economy, or the social sphere.

5. Legal protection as utility models shall not be granted to:

1) solutions involving only the external form of manufactures and directed at the satisfaction of esthetic needs;

2) the topology of integrated microcircuits.

#### Article 1352. Conditions of Patentability of an Industrial Design

1. An artistic design solution of a manufacture of industrial or handicraft production defining its external form shall be protected as an industrial design.

An industrial design shall be granted protection if in its essential characteristics it is new and original.

The essential characteristics of an industrial design are the characteristics determining the esthetic and/or ergonomic features of the external form of the manufacture, including form, configuration, ornamentation, and combination of colors.

2. An industrial design is new if the totality of its essential characteristics reflected in images of the manufacture and included in the list of essential characteristics of the industrial design (Paragraph 2 of Article 1377) is not known from information that had become generally accessible in the world before the priority date of the industrial design.

In establishing the novelty of an industrial design all applications for industrial designs filed in the Russian Federation by other persons, on the condition of their earlier priority and with the documents for which any person has the right to be acquainted in accordance with Paragraph 2 of Article 1394 of this Code and industrial designs patented in the Russian Federation shall also be considered.

3. An industrial design is original if its essential characteristics are determined by the creative nature of the features of the manufacture.

4. Disclosure of information relating to an industrial design by the author, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the industrial design became generally accessible shall not be a circumstance preventing the recognition of the patentability of the industrial design if an application for the issuance of a patent on the industrial design has been filed with the Federal executive body for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that the circumstances by virtue of which disclosure of information does not prevent recognition of the patentability of an industrial design shall rest on the applicant.

5. Legal protection as an industrial design shall not be granted to:

1) solutions determined exclusively by the technical function of the manufacture;

2) objects of architecture (other than small architectural forms), industrial facilities, waterworks, and other stationary structures;

3) objects of instable form from liquid, gas, flowing or similar substances.

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

The exclusive right to an invention, utility model, or industrial design shall be recognized and protected on the condition of state registration of the respective invention, utility model, or industrial

design on the basis of which the Federal executive body for intellectual property shall issue a patent for an invention, a utility model, or an industrial design.

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

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

2. The scope of protection of intellectual rights to an invention or utility model granted on the basis of a patent shall be determined by the claims contained in the patent for the invention or utility model. The specification and drawings (Paragraph 2 of Article 1375, Paragraph 2 of Article 1376) may be used for interpreting the claims for an invention or utility model.

3. The scope of protection of intellectual rights for an industrial design granted on the basis of a patent shall be determined by the totality of its essential characteristics that have found expression in the images of the manufacture and are included in the list of essential characteristics of an industrial design (Paragraph 2 of Article 1377).

#### Article 1355. State Provision of Incentives for the Creation and Use of Inventions, Utility Models and Industrial Designs

The state shall provide incentives for the creation and use of inventions, utility models, and industrial designs, shall establish for their authors and also for patent holders and licensees using the respective inventions, utility models, and industrial designs favorable conditions for obtaining credit and shall also grant them other benefits in accordance with the legislation of the Russian Federation.

#### § 2. Patent Rights

##### Article 1356. The Right of Authorship to an Invention, Utility Model, or Industrial Design

The right of authorship – the right to be recognized as the author of an invention, utility model or industrial design – is inalienable and nontransferable, including upon transfer or passage of the exclusive right to an invention, utility model, or industrial design to another person and in the granting to another person of the right to its use. A waiver of this right is void.

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

1. The right to receipt of a patent for an invention, utility model or industrial design shall belong originally to the author of the invention, utility model, or industrial design.

2. The right to receive a patent may pass or be transferred to another person (the legal successor) in the cases and on the grounds established by a statute including by way of universal legal succession or by contract, including by labor contract.

3. A contract on alienating the right to receipt of a patent must be concluded in written form. Nonobservance of written form shall entail invalidity of the contract.

4. Unless otherwise provided by agreement of the parties to a contract for alienation of the right to receipt of a patent, the risk of nonpatentability shall be borne by the recipient of the right.

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

1. The exclusive right to use an invention, a utility model, or an industrial design in accordance with Article 1229 of this Code by any means not contrary to a statute (the exclusive right to an invention, utility model, or industrial design), including by the means indicated in Paragraphs 2 and 3 of this Article. The patent holder may dispose of the exclusive right in an invention, a utility model, or an industrial design.

2. The exclusive right to an invention, utility model or industrial design may be exercised in particular by:

1) import onto the territory of the Russian Federation, preparation, use, offer to sell, sale, other introduction into turnover or the storage for these purposes of a product in which the invention or utility model is used, or of a manufacture in which the industrial design is used.

2) the taking of activities indicated in the first subparagraph of the present Paragraph with respect to a product obtained directly by a patented method. If the product obtained by the patented method is new, an identical product shall be considered obtained by way of use of the patented method to the extent not proven otherwise.

3) the taking of the actions indicated in the second subparagraph of the present Paragraph with respect to devices during the functioning (use) of which in accordance with its purpose the patented method is automatically exercised;

4) the realization of a method in which the invention is used, in particular by the application of this method.



3. An invention or utility model shall be considered used in a product or method if the product contains or in the method there is used each characteristic of the invention or utility model stated in a separate claim contained in the claims for the invention or utility model in the patent, or a characteristic equivalent to it that has become known as such in the given area of technology before the taking with respect to the product or the method of the actions indicated in Paragraph 2 of this Article.

An industrial design shall be considered used in a manufacture if the manufacture contains all the essential characteristics of the industrial design that found expression in the illustrations of the manufacture and that were stated in the list of essential characteristics of the industrial design (Paragraph 2 of Article 1377).

In the case if in the use of an invention or utility model there are used all the characteristics stated in a separate claim of the claims contained in the patent of another invention or another utility model, and in the use of an industrial design, all the characteristics included in the list of essential characteristics of another utility model, the other invention, utility model, or industrial design shall be also considered to be used.

4. If the holders of a patent to one invention, one utility model, or one industrial design are two or more persons, the rules of Paragraphs 2 and 3 of Article 1348 of this Code shall be correspondingly applied to relations between them, regardless of whether or not any of the patent holders is the author of this result of intellectual activity.

Article 1359. Actions that are Not an Infringement of the Exclusive Right to an Invention, a Utility Model, or an Industrial Design

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

1) use of a product in which the invention or utility model is applied and use of manufacture in which an industrial design is applied in the construction, in the supplementary equipment, or in the exploitation of means of transport (water, air, automotive, and railroad transport) and space technology of foreign states on the condition that these means of transport or this space technology temporarily or accidentally is present on the territory of the Russian Federation and that the aforesaid product or manufacture is used exclusively for the needs of the means of transport or space technology. Such an action shall not be recognized as an infringement of the exclusive right of the patent holder with respect to the means of transport and space technology of those foreign states that provide the same rights with respect to means of transport and space technology registered in the Russian Federation;

2) the conduct of scientific study of a product or method in which the invention or utility model is used, or scientific study of a manufacture in which an industrial design is used or the conduct of an experiment on such a product, method, or manufacture;

3) the use of an invention, utility model, or industrial design in extraordinary circumstances (natural disasters, catastrophes, accidents) with notification of this use to the patent holder as soon as possible and with subsequent payment to him of proportionate compensation;

4) the use of an invention, utility model, or industrial design for the satisfaction of personal, family, home, or other needs not connected with entrepreneurial activity if the purpose of such use is not the receipt of profit (or income);

5) the one-time preparation in pharmacies on physicians' prescriptions of medicinal substances with the use of the invention;

6) the import onto the territory of the Russian Federation, the utilization, proposal for sale, sale, other introduction into turnover or storage for these purposes of a product in which the invention or utility model is used or of a manufacture in which the industrial design is used if this product or this manufacture was previously introduced into turnover on the territory of the Russian Federation by the patent holder or by another person with the consent of the patent holder.

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

The Government of the Russian Federation shall have the right in the interests of national security to permit the use of an invention, utility model, or industrial design without the consent of the patent holder with notification to him of this as soon as possible and with payment to him of proportionate compensation.

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

1. A person who before the priority date of an invention, utility model or industrial design (Articles 1381 and 1382) in good faith used on the territory of the Russian Federation the same solution created independently of the author or made the preparations necessary for this shall keep

the right to further uncompensated use of the same solution without expanding the volume of such use (the right of prior use).

2. The right of prior use may be transferred to another person only together with the production enterprise at which an identical solution was used or the necessary preparations had been made for this purpose.

#### Article 1362. Compulsory License to an Invention, Utility Model, or Industrial Design

1. If an invention or industrial design is not used or is used insufficiently by the patent holder during the course of four years from date of the issuance of a patent, or a utility model – during the course of three years from the date of issuance of the patent, which leads to insufficient offering of the respective goods, work or services on the market, any person wishing and prepared to use this invention, utility model, or industrial design in case of refusal by the patent holder to conclude with this person a license contract on conditions corresponding to established practice shall have the right to go to court with a suit against the patent holder for the granting of a compulsory non-exclusive license for the use on the territory of the Russian Federation of an invention, utility model, or industrial design. In the demands in the lawsuit, this person must indicate the proposed terms of the granting to him of such a license, including the scope of use, the amount, procedure, and times of payments.

If the patent holder does not show that his nonuse or insufficient use of the invention, utility model, or industrial design is based on valid causes, the court shall adopt a decision on the granting of the license indicated in the first subparagraph of the present Paragraph and on the conditions of its granting. A summary measure of payments for such a license must be established in the decision not lower than the price of a license determined in comparable circumstances.

The effect of a compulsory nonexclusive license may be terminated by judicial procedure on a suit by the patent holder if the circumstances that were the basis for the granting of such a license cease to exist and their reappearance is unlikely. In such a case the court shall establish the time and procedure for termination of use by the person who received the compulsory license of the rights that arose in connection with the receipt of this license.

2. If the patent holder cannot use the invention to which he has the exclusive right without infringing thereby the rights of the holder of another patent (first patent) to an invention or utility model who has refused to conclude a license contract on terms corresponding to established practice, the patent holder (holder of the second patent) shall have the right to go to court with a suit against the holder of the other patent for the granting of a compulsory nonexclusive license for the use on the territory of the Russian Federation of the invention or utility model of the holder of the other patent. In the demands in the lawsuit, there must be indicated the terms proposed by the patent holder of granting him such a license, including the scope of use, the amount, procedure, and times of payments. If the patent holder having the exclusive right to such a dependent invention shows that it is an important technical achievement and has a significant economic advantage over the invention or utility model of the holder of the other patent, the court shall adopt a decision on the granting to him of a compulsory simple (nonexclusive) license. *The right acquired under the license to use the invention protected by the first patent may not be transferred to any third persons, except where the second patent is alienated.*

A total amount of payments for such a license shall be established in the decision not lower than the price of a license determinable in comparable circumstances.

In the case of granting in accordance with the present Paragraph of a compulsory nonexclusive license, the holder of the patent to the invention or utility model the right to the use of which is granted on the basis of the aforesaid license shall have the right to the receipt of a nonexclusive license for the use of the dependent invention in connection with which the non-exclusive license was granted on conditions corresponding to established practice.

3. On the basis of the judicial decision provided for in Paragraphs 1 and 2 of this Article, the Federal executive body for intellectual property shall conduct state registration of the compulsory license.

#### Article 1363. Period of Effectiveness of the Exclusive Right to an Invention, Utility Model, or Industrial Design

1. The period of effectiveness of the exclusive right to an invention, utility model, or industrial design and of the patent certifying this right shall be calculated from the filing date of the original application for the issuance of a patent to the Federal executive body for intellectual property and, upon the condition of observance of the requirements established by this Code shall constitute:

- twenty years – for inventions;
- ten years – for utility models;
- fifteen years – for industrial designs.

Protection of the exclusive right certified by a patent may be realized only after state registration and issuance of the patent (Article 1393).

2. In the case when from the filing date of an application for an invention relating to therapeutic means, a pesticide, or an agrochemical, for the use of which the receipt by the procedure established by a statute of a permission is required, and until the day of receipt of the first permission for its application more than five years have elapsed, the period of effectiveness of the exclusive right to the invention and of the patent certifying this right shall be extended on request by the patent holder by the Federal executive body for intellectual property. This period shall be extended for the time that has passed from the filing date of the application for the invention to the day of receipt of the first permission for its use, minus five years. In such a case, the patent for the invention may not be extended for more than five years.

An application for extending the term shall be filed by the patent holder during the period of effectiveness of the patent and before the expiration of six months from the day of receipt of the permission for application of the invention or from the date of issuance of the patent, depending upon which of these terms expires later.

3. The period of effectiveness of the exclusive right to a utility model and the patent certifying this right shall be extended by the Federal executive body for intellectual property on application of the patent holder for the period indicated in the application but not for more than three years, and of the exclusive right and the patent to an industrial design – for a period indicated in the application but not for more than ten years.

4. The procedure for extending the period of effectiveness of a patent to an invention, utility model, or industrial design shall be established by the Federal executive body that conducts normative-legal regulation in the area of intellectual property.

5. The effectiveness of the exclusive right to an invention, utility model, or industrial design, and of the patent certifying this right may be terminated early on the bases and by the procedure provided by Articles 1398 and 1399 of this Code.

Article 1364. Passage of an Invention, Utility Model, or Industrial Design into the Public Domain

1) Upon the expiration of the period of effectiveness of the exclusive right, an invention, a utility model, or an industrial design shall pass into the public domain.

2) An invention, utility model or industrial design, that has passed into the public domain may be used freely by any person without any consent or permission whatsoever and without the payment of compensation for use.

### § 3. Disposal of the Exclusive Right in an Invention, a Utility Model or an Industrial Design

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

Under a contract for the alienation of the exclusive right to an invention, utility model, or industrial design (a contract for the alienation of a patent), one party – the author or other holder of the exclusive right to the invention, utility model, or industrial design (the patent holder) transfers or becomes obligated to transfer the exclusive right belonging to him to the corresponding result of intellectual activity in full scope to the other party – the recipient of the exclusive right (the recipient of the patent).

Article 1366. Public Proposal to Conclude a Contract for the Alienation of a Patent to an Invention

1. An applicant who is the author of an invention may, in the filing of an application for the issuance of a patent for the invention attach to the documents of the application a declaration to the effect that in the case of issuance of a patent he shall be obligated to conclude a contract for the alienation of the patent on conditions corresponding to established practice, with any individual of the Russian Federation or Russian legal person first declaring such a desire and notifying the patent holder and the Federal executive body for intellectual property of this. If such a statement is present, the patent fees provided by this Code shall not be collected from the applicant with respect to the application for the issuance of a patent for the invention nor with respect to the patent issued according to such an application.

The Federal executive body for intellectual property shall publish information about the aforesaid declaration in the official gazette.

2. A person who has concluded with the patent holder on the basis of his declaration indicated in Paragraph 1 of this Article, a contract on the alienation of a patent shall be obligated to pay all

patent fees from whose payment the applicant (or patent holder) was freed. In the future patent fees shall be paid by the established procedure.

For registration by the Federal executive body for intellectual property of the contract for alienation of the patent, a document confirming the payment of all patent fees from whose payment the applicant (or patent holder) was freed must be attached to the application for registration of the contract.

3. If within the course of two years from the day of publication of information on the issuance of a patent with respect to which the declaration indicated in Paragraph 1 of this Article was made, no written notice of the wish to conclude a contract on the alienation of the patent has come to the Federal executive body for intellectual property, the patent holder may submit to the aforesaid Federal agency a petition for the withdrawal of his declaration. In such a case the patent fees provided by this Code from the payment of which the applicant (or patent holder) was freed shall be subject to payment. In the future the patent fees shall be paid by the established procedure.

The Federal executive body for intellectual property shall publish in the official gazette information on the withdrawal of the aforesaid declaration.

#### Article 1367. License Contract on Granting the Right of Use of an Invention, Utility Model, or Industrial Design

Under a license contract one party – the patent holder (the licensor) grants or becomes obligated to grant to the other party (the licensee) within the limits established by the contract the right of use of an invention, utility model, or industrial design certified by a patent.

#### Article 1368. Open License to an Invention, Utility Model, or Industrial Design

1. The patent holder may submit to the Federal executive body for intellectual property a declaration on the possibility of granting to any person the right to use an invention, utility model, or industrial design (an open license).

In this case the amount of the patent fee for maintaining the patent in force shall be reduced by fifty percent beginning from the year following the year of publication by the Federal executive body for intellectual property of information on the open license.

The conditions on which the right of use of an invention, utility model, or industrial design may be granted to any person shall be communicated by the patent holder to the Federal executive body for intellectual property, which shall publish at the expense of the patent holder the corresponding information on the open license. The patent holder shall be obligated to conclude with a person who has expressed the desire to use the aforesaid invention, utility model, or industrial design, a license contract on the conditions of a simple (non-exclusive) license.

2. If the patent holder in the course of two years from the day of publication of information on an open license has not received written proposals for conclusion of a license contract on the conditions contained in his proposal, on the expiration of two years he may submit to the Federal executive body for intellectual property a petition for the withdrawal of his declaration. In this case the patent fee for the maintenance of the patent in force shall be subject to being paid up for the period that has passed from the day of publication of information on the open license and in the future shall be paid in full amount. The aforesaid Federal agency shall publish information on withdrawal of the declaration in the official gazette.

#### Article 1369. Form and State Registration of Contracts for the Disposition of the Exclusive Right to an Invention, Utility Model, or Industrial Design

A contract on the alienation of a patent, license contract, and also other contracts by means of which the disposition of the exclusive right to an invention, utility model, or industrial design is conducted must be concluded in written form and is subject to state registration at the Federal executive body for intellectual property.

### § 4. An Invention, Utility Model, or Industrial Design Created in Connection with the Performance of an Employment Task or in the Fulfillment of Work under a Contract

#### Article 1370. Employment Invention, Employment Utility Model, or Employment Industrial Design

1. An invention, utility model, or industrial design created by an employee in connection with the performance of his employment obligations or of a concrete task from the employer shall be recognized correspondingly as an employment invention, employment utility model, or employment industrial design.

2. The right of authorship to an employment invention, employment utility model or employment industrial design shall belong to the employee (to the author).

3. The exclusive right to an employment invention, employment utility model, or employment industrial design and the right to receipt of a patent shall belong to the employer unless a contract between him and the employee provides otherwise.

4. In the absence in the contract between the employer and employee of an agreement to the contrary (Paragraph 3 of this Article) the employee must notify the employer in writing of the creation in connection with the performance of his employment obligations or of a concrete task from the employer with respect to which legal protection is possible as an invention, utility model, or industrial design.

If the employer within four months from the day of notification by his worker does not submit an application for the issuance of a patent for the respective invention, utility model, or industrial design to the Federal executive body for intellectual property, does not transfer the right to receipt of a patent for an employment invention, employment utility model, or employment industrial design to another person, and does not communicate to the employee on the maintenance of information on the corresponding result in secrecy, the right to receipt of a patent on such an invention, utility model, or industrial design shall belong to the employee. In this case the employer during the term of effectiveness of the patent shall have the right to the use of the employment invention, employment utility model, or employment industrial design in his own production on conditions of a simple non-exclusive license with payment to the patent holder of compensation determined on the basis of a contract between the employee and the employer, or, should a dispute arise, by a court ruling.

If the employer receives a patent to an employment invention, employment utility model, or employment industrial design, or takes a decision to keep information on such an invention, such a utility model, or such an industrial design in secret and communicates about this to the employee or transfers the right to receipt of a patent to another person or does not receive a patent on an application filed by him due to circumstances for which he is responsible, the employee shall have the right to compensation. The amount of compensation, the conditions, and the procedure for its payment by the employer shall be determined by a contract between him and the employee and in case of a dispute – by a court.

The Government of the Russian Federation shall have the right to establish minimum rates of compensation for employment inventions, employment utility models, and employment industrial designs.

5. An invention, utility model, or industrial design created by an employee with the use of monetary, technical, or other material assets of the employer, but not in connection with the performance of his employment obligations or of a concrete task from the employer is not an employment invention, utility model, or industrial design. The right to receipt of a patent and the exclusive right to such invention, utility model, or industrial design shall belong to the employee. In this case the employer shall have the right at its option to demand the granting of a free simple (nonexclusive) license for the use of the created result of intellectual activity for his own needs for the entire duration of the exclusive right or compensation for the expenditures borne by him in connection with the creation of such invention, utility model, or industrial design.

#### Article 1371. Invention, Utility Model, or Industrial Design Created in Performance of Work Under a Contract

1. If an invention, utility model, or industrial design is created in the performance of a work contract or a contract for performance of scientific research, experimental design, or engineering jobs that did not directly pursue the making thereof, the right to receive a patent and the exclusive right to such an invention, utility model, or industrial design shall belong to the contractor (the producer) unless the contract between him and the customer provides otherwise.

In this case the customer shall have the right, unless otherwise provided by the contract, to use the invention, utility model, or industrial design created in such manner for the purposes for the achievement of which the corresponding contract was concluded on the conditions of a simple (non-exclusive) license during the course of the whole term of effectiveness of the patent without payment of supplementary compensation for this use. In case of transfer by the performer of the right to receipt of the patent or alienation of the patent itself to another person, the customer shall keep the right to use the invention, utility model or the industrial design on the terms specified.

2. In the case when in accordance with a contract between a contractor (producer) and a customer the right to receipt of a patent or an exclusive right to an invention, utility model, or industrial design has been transferred to the customer or to a third person designated by him, the performer shall have the right to use the created invention, utility model, or industrial design for his own needs on the conditions of an uncompensated simple (non-exclusive) license for the whole term of effectiveness of the patent unless provided otherwise by the contract.

3. The author of an invention, utility model, or industrial design referred to in Paragraph 1 of this Article who is not the patent holder shall be paid compensation in accordance with Paragraph 4 of Article 1370 of this Code.

#### Article 1372. Industrial Design Made Under an Order

1. If an industrial design is made under a contract (on order), the right to receive a patent and the exclusive right to such an industrial design shall belong to the customer, unless the contract between the contractor (producer) and the customer provides otherwise.

2. When the right to receive a patent for, and an exclusive right in, an industrial design as provided for in Paragraph 2 of this Article belongs to the customer, the contractor (producer) may, with nothing to the opposite provided in the contract, use the industrial design for his own needs under a free simple (nonexclusive) license over the entire lifetime of the patent.

3. In the case when in accordance with a contract between the contractor (producer) and the customer the right to receipt of a patent and the exclusive right to an industrial design belongs to the performer, the customer shall have the right to use the industrial design for his own needs on the terms of an uncompensated simple (non-exclusive) license during the course of the whole term of effectiveness of the patent.

4. The author of a utility model who is not the patent holder shall be paid compensation in accordance with Paragraph 4 of Article 1370 of this Code.

#### Article 1373. Invention, Utility Model, or Industrial Design Created in Performance of Work Under a Government or Municipal Contract

1. The right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design created in performance of work under a Government contract for state or municipal needs shall belong to the organization performing the government or municipal contract (the performer) unless the state or municipal contract has provided that this right shall belong to the Russian Federation, the Subject of the Russian Federation, or to the municipality in whose name the government or municipal customer is acting, or jointly to the producer and the Russian Federation, the producer and the Subject of the Russian Federation, or the producer and the municipality.

2. In the case when in accordance with a state or municipal contract the right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design belongs to the Russian Federation, the Subject of the Russian Federation, or the municipality, the government or municipal customer may file an application for the issuance of a patent in the course of six months from the day of his written notification by the performer of the receipt of a result capable of legal protection as an invention, utility model, or industrial design. If in the course of the aforesaid period the state or municipal customer does not file an application the performer shall have the right to receipt of the patent.

3. If the right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design should, on the basis of a state or municipal contract, belong to the Russian Federation, to a Subject of the Russian Federation, or to a municipal formation, the performer shall be obligated by the conclusion of corresponding agreements with his employees and third persons to obtain all the rights and ensure their being retained for transfer correspondingly to the Russian Federation, the Subject of the Russian Federation, or the municipal formation.

In such case, the contractor shall have the right to compensation for the expenditures borne by him in connection with obtaining the respective rights from third persons.

4. If a patent for an invention, utility model, or industrial design created in the performance of work under a state or municipal contract for state or municipal needs belongs in accordance with Paragraph 1 of this Article not to the Russian Federation, the Subject of the Russian Federation, or the municipal formation, the patent holder on demand of the state or municipal customer shall be obligated to present to the person indicated by it a simple (non-exclusive) uncompensated license for the use of the invention, utility model or industrial design for state or municipal needs.

5. In the case in which a patent to an invention, utility model or industrial design created in the performance of work under a state or municipal contract for state needs is obtained in the name of the performer jointly with the Russian Federation, a Subject of the Russian Federation, or a municipal formation, the customer shall have the right to grant a simple (nonexclusive) uncompensated license for the use of such invention, utility model, or industrial design for the purpose of performing work or conducting supply of products for state or municipal needs after having notified the performer of this.

6. In the case in which a performer who has received, in accordance with Paragraph 1 of this Article a patent in his own name, takes a decision for the early termination of the effectiveness of the patent, he shall be obligated to notify the state or municipal customer of this and on its demand to transfer the patent on an uncompensated basis to the Russian Federation, Subject of the Russian Federation, or municipal formation.

In the case of adoption of a decision on the early termination of the effectiveness of a patent obtained in connection with Paragraph 1 of this Article in the name of the Russian Federation, a Subject of the Russian Federation, or a municipal formation, the state or municipal customer shall be obligated to inform the performer of this and on his demand to transfer to him the patent on an uncompensated basis.

7. The author of the invention, utility model, or industrial design referred to in Paragraph 1 of this Article, who is not the patent holder, shall be paid compensation in accordance with Paragraph 4 of Article 1370 of this Code.

## § 5. Receipt of a Patent

### 1. Application for Issuance of a Patent, its Amendment, and Withdrawal

Article 1374. Filing an Application for the Issuance of a Patent for an Invention, a Utility Model, or an Industrial Design

1. An application for the issuance of a patent for an invention, utility model, or industrial design shall be filed with the Federal executive body for intellectual property by a person holding the right to receipt of a patent in accordance with this Code (the applicant).

2. A request for the issuance of a patent for an invention, utility model, or industrial design shall be presented in the Russian language. Other documents of the application shall be presented in the Russian language or another language. If the documents of the application are presented in another language, a translation of them into the Russian language shall be attached to the application.

3. A request for the issuance of a patent for an invention, utility model, or industrial design shall be signed by the applicant and in case of filing of a request through a patent agent or other representative, by the applicant or his representative filing the application.

4. Requirements for the documents of an application for issuance of a patent shall be established on the basis of this Code by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

5. To an application for an invention, utility model, or industrial design there shall be attached a document confirming the payment of the patent fee in the established amount or a document confirming the basis of freeing from payment of the patent fee or the reduction of its amount, or the delay of its payment.

Article 1375. Application for the Issuance of a Patent for an Invention.

1. An application for the issuance of a patent for an invention (an application for an invention) must relate to one invention or group of inventions connected with one another to the extent that they form a unified inventive idea (requirement of unity of the invention).

2. An application for an invention must contain:

1) a request for the issuance of a patent with an indication of the name of the author of the invention and of the person in whose name the patent is sought and also of the place of residence or place of location of each of them;

2) a description of the invention, disclosing it with a thoroughness sufficient for realization;

3) claims for the invention expressing its essence and fully based on its description;

4) drawings and other materials, if they are necessary for understanding the nature of the invention;

5) an abstract.

3. The filing date of an application for an invention shall be considered to be the date of receipt at the Federal executive body for intellectual property of an application containing a request for the issuance of a patent, a description of the invention, and drawings if there is a reference to them in the description, and if the aforesaid documents are not presented simultaneously, the date of receipt of the last of these documents.

Article 1376. Application for the Issuance of a Patent for a Utility Model

1. An application for the issuance of a patent for a utility model (application for a utility model) must relate to one utility model or to a group of utility models connected with one another to the extent that they form a unified creative idea (requirement of unity of the utility model).

2. An application for a utility model must contain:

1) a request for the issuance of a patent with an indication of the author of the utility model and of the person in whose name the patent is sought and also of the place of residence or place of location of each of them;

2) a description of the utility model, disclosing it with a thoroughness sufficient for realization;

3) claims for the utility model expressing its essence and fully based on its description;

- 4) drawings if they are necessary for understanding the nature of the utility model;
- 5) an abstract.

3. The filing date of an application for a utility model shall be considered to be the date of receipt at the Federal executive body for intellectual property of an application containing a request for the issuance of a patent, a description of the utility model, and drawings if there is a reference to them in the description, and if the aforesaid documents are not presented simultaneously, the date of receipt of the last of these documents.

#### Article 1377. Application for the Issuance of a Patent for an Industrial Design

1. An application for issuance of a patent for an industrial design (an application for an industrial design) must relate to one industrial design or to a group of industrial designs connected with one another to the extent that they form a unified creative idea (requirement of unity of the industrial design).

2. An application for an industrial design shall contain:

- 1) a request for the issuance of a patent with an indication of the author of the industrial design and of the person in whose name the patent is sought and also of the place of residence or place of location of each of them;
- 2) a set of depictions of the manufacture giving a full detailed representation of the external form of the manufacture;
- 3) a drawing of the general form of the manufacture, and ergonomic diagram, or a sewing pattern if they are necessary for the disclosure of the nature of the industrial design;
- 4) description of the industrial design;
- 5) list of the essential characteristics of the industrial design.

3. The filing date of an application for an industrial design shall be considered to be the date of receipt at the Federal executive body for intellectual property of an application containing a request for the issuance of a patent, a set of depictions of the manufacture, a description of the industrial design, and a list of the essential characteristics of the industrial design and, if the aforesaid documents are not presented simultaneously, the date of receipt of the last of these documents.

#### Article 1378. Making Amendments to the Documents of an Application for an Invention, a Utility Model, or an Industrial Design

1. The applicant shall have the right to make corrections and clarifications in the documents of the application for an invention, utility model, or industrial design until the taking with respect to this application of a decision on the issuance of a patent or on the refusal of issuance of a patent if these corrections and clarifications do not change the nature of the applied-for invention, utility model, or industrial design.

Additional materials change the nature of an applied-for invention or utility model if they contain characteristics subject to inclusion in the claims of the invention or utility model, which characteristics were absent on the priority date in the documents regarded as a reason for establishing the priority date or in the claims for the invention or utility model if the application contained claims for the invention or utility model on the priority date.

Additional materials change the nature of an applied-for industrial design if they contain characteristics subject to inclusion in the list of essential characteristics of the industrial design and absent on the filing date of the application in the depictions of the manufacture.

2. A change in the documents of an application of information on the applicant including in the transfer of the right to the receipt of the patent to another person or as the result of the change of the name or designation of the applicant and also correction in these documents of obvious and technical mistakes may be done before the registration of the invention, utility model, or industrial design.

3. If changes in documents of an application are made on the initiative of an applicant in the course of two months from the date of filing the application no patent fee shall be taken for the making of the changes.

4. Changes made by the applicant in the documents of an application for an invention shall be taken into consideration in the publication of information on the application, if such changes are presented to the Federal executive body for intellectual property in the course of twelve months from the filing date of the application.

#### Article 1379. Transformation of Applications for Inventions, Utility Models

1. Before the publication of information on an application for an invention (Paragraph 1 of Article 1385), but not later than the date of adoption of the decision on the issuance of a patent for an invention, the applicant shall have the right to transform it into an application for a utility model by submitting the corresponding request, with the exception of the case when the declaration on a



proposal to conclude a contract on alienation of the patent provided by Paragraph 1 of Article 1366 of this Code is attached to the application.

2. Transformation of an application for a utility model into an application for an invention is possible until the date of adoption of a decision on the issuance of a patent and in the case of taking a decision on refusal in the issuance of a patent – until the possibility of submitting an objection against this decision as provided by this Code is exhausted.

3. In case of the transformations of applications indicated in Paragraphs 1 and 2 of this Article, the priority of the invention or utility model and filing date of the application shall be maintained.

#### Article 1380. Withdrawal of an Application for an Invention, Utility Model, or Industrial Design

An applicant shall have the right to withdraw an application filed by him for an invention, utility model or industrial design until the registration of the invention, utility model, or industrial design in the corresponding register.

### 2. Priority of an Invention, Utility Model, or Industrial Design

#### Article 1381. Establishment of 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 of filing with the Federal executive body for intellectual property of an application to an invention, utility model, or industrial design.

2. Priority of an invention, a utility model, or an industrial design may be established by the date of receipt of supplementary materials if they are formalized by the applicant as an independent application that is filed before the expiration of a three-month period from the day of receipt by the applicant of notification from the Federal executive body for intellectual property on the impossibility of taking into consideration of supplementary materials in connection with the recognition of their changing the essence of a an applied-for solution and on the condition that on the filing date of such an independent application, the application containing the aforementioned supplementary materials has not been withdrawn and has not be recognized as withdrawn.

3. The priority of an invention, utility, model, or industrial design, may be established by the filing date by the same applicant to the Federal executive body for intellectual property of an earlier application disclosing this invention, utility model or industrial design on the condition that the earlier application has not been withdrawn and has not been recognized as withdrawn on the date of filing the application under which such priority is requested and the application for which priority is requested was filed within twelve months from the date of the earlier application for the invention or six months from the date of the earlier application for a utility model or industrial design.

Upon the filing of an application for which priority is requested, the earlier application shall be considered withdrawn.

Priority may not be established by the filing date of an application for which an earlier priority has already been requested.

4. The priority of an invention, utility model, or industrial design under a divisional application shall be established by the filing date by the same applicant to the Federal executive body for intellectual property of the initial application disclosing this invention, utility model, or industrial design, and in the presence of the right to the establishment of an earlier priority under the original application – by the date of this priority on the condition that on the filing date of the divisional application the original application for an invention, utility model, or industrial design has not been withdrawn and has not been recognized as withdrawn, and a divisional application is filed before the exhaustion of the possibility provided by this Code for the presentation of objections to a decision to refuse to issue a patent on the original application or before the date of registration of the invention, utility model, or industrial design, if a decision on the issuance of a patent has been adopted on the original application.

5. The priority of an invention, utility model, or industrial design may be established on the basis of several previously filed applications or supplementary materials to them with the observance for them correspondingly of the conditions indicated in Paragraphs 2, 3, and 4 of this Article and in Article 1382 of this Code.

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

1. The priority of an invention, utility model, or industrial design may be established as of the date of the first application for an invention, a utility model, or an industrial design in a state that is a participant in the Paris Convention for the Protection of Industrial Property (Convention priority) on the

condition of the filing with the Federal executive body for intellectual property of an application for an invention or a utility model in the course of twelve months from the aforementioned date and an application for an industrial design in the course of six months from the aforementioned date. If due to circumstances not dependant on the applicant, an application with a request for Convention priority cannot be filed within the indicated time period, this time period may be extended by the Federal executive body for intellectual property, but not for more than two months.

2. An applicant wishing to use the right of Convention priority with respect to an application for a utility model or an industrial design must communicate about this to the Federal executive body for intellectual property before the expiration of two months from the day of filing such application and must present a certified copy of the first application before the expiration of three months from the day of filing with the aforementioned Federal Agency of the application for which Convention priority is requested.

3. An applicant desiring to use the right of Convention priority with respect to an application for an invention is obligated to communicate about this to the Federal executive body for intellectual property and to present to this Federal agency a certified copy of the first application within sixteen months from the filing date thereof the patent office of a state that is a participant in the Paris Convention for the Protection of Intellectual Property.

In case of failure to present a certified copy of the first application within the time period the right of priority may nevertheless be recognized by the Federal executive body for intellectual property on petition of the applicant filed by him to this Federal agency before the expiration of the aforementioned time period on the condition that a copy of the first application has been requested by the applicant at the patent office at which the first application was filed within fourteen months from the day of filing of the first application and it is presented to the Federal executive body for intellectual property in the course of two months from the date of its receipt by the applicant.

The Federal executive body for intellectual property shall have the right to demand from the applicant the presentation of a translation of the first application into the Russian language only in the case when the verification of the validity of the claim to priority is connected with the establishment of the patentability of the applied-for invention.?

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

1. If in the process of examination it is established that different applicants have filed applications for identical inventions, utility models, or industrial designs, and that these applications have one and the same priority date, a patent for the invention, utility model, or industrial design may be granted only on one of these applications to the person determined by agreement among the applicants.

In the course of twelve months from the day of receipt from the Federal executive body for intellectual property of the corresponding notification, the applicants must inform this Federal agency of the agreement reached by them.

Upon the issue of the patent on one of the applications, all the authors indicated in the applications shall be recognized as coauthors with respect to identical inventions, utility models, or industrial designs.

In the case when such applications with one and the same priority date for identical inventions, utility models, or industrial designs have been filed by one and the same applicant, the patent shall be issued under the application chosen by the applicant. The applicant must communicate his choice within the time and in the manner which are provided in the second subparagraph of the present Paragraph.

If the aforementioned communication or petition for extending the established time period does not reach the Federal executive body for intellectual property from the applicants within the course of the established period in the manner determined by Paragraph 5 of Article 1386 of this Code, the applications shall be considered withdrawn.

2. In case of coincidence of the priority dates of an invention and of a utility model identical to it, with respect to which applications for issuance of patents have been filed by one and the same applicant, after issuance of a patent on one of these applications, issuance of a patent on the other application shall only be possible on the condition of submission to the Federal executive body for intellectual property by the holder of the earlier issued patent to an identical invention or identical utility model of a request for the termination of the effect of this patent. In this case the effectiveness of the earlier issued patent shall be terminated from the date of publication of information on the issuance of a patent on the other application in accordance with Article 1394 of this Code. Publication of information on the issuance of a patent on an application for an invention or utility model and publication of information on the termination of the effect of the earlier issued patent shall be conducted simultaneously.

### 3. Examination of an Application for the Issuance of a Patent to an Invention, Utility Model, or Industrial Design. Temporary Legal Protection of an Invention, Utility Model or Industrial Design

#### Article 1384. Formal Examination of an Application for an Invention

1. Formal examination of an application for an invention filed with the Federal executive body for intellectual property shall be conducted. In the process of this examination the presence of the documents provided for by Paragraph 2 of the 1375 of this Code and their compliance with existing requirements shall be verified.

2. In the case when the applicant has presented supplementary materials to the application for an invention in accordance with Paragraph 1 of Article 1378 of this Code it shall be verified whether they change the essence of the invention applied for.

Supplementary materials in the part changing the essence of the invention applied for shall not be taken into account in the consideration of the application for the invention, but may be presented by the applicant as independent applications. The Federal executive body for intellectual property shall inform the applicant of this.

3. The Federal executive body for intellectual property shall notify the applicant of a positive result of formal examination and of the filing date of the application for the invention immediately after the completion of formal examination.

4. The Federal executive body for intellectual property, for an application for an invention, which application does not meet the established requirements for documents of the application, shall send the applicant an inquiry with a proposal to present corrected or missing documents within two months from the date of its receipt. If the applicant does not present the requested documents or a petition for extending this period within the indicated time period, the application shall be considered withdrawn. The established period may be extended by the aforesaid Federal executive body, but not for more than ten months.

5. Under an application for an invention filed with the violation of the requirement of unity of an invention (Paragraph 1 of Article 1375), the Federal executive body for intellectual property shall propose to the applicant to communicate, within two months from the date of receipt by him of the respective notification, which of the applied for inventions is to be considered, and in case of necessity to make changes in the documents of the application. Other inventions applied for in this application may be formalized by divisional applications. If the case when the applicant does not communicate within the established time period which of the inventions applied for must be considered or does not present the corresponding documents, if they are necessary, the invention shall be considered that is indicated first in the claims for the invention.

#### Article 1385. Publication of Information on the Application for an Invention

1. The Federal executive body for intellectual property, upon the expiration of eighteen months from the day of submission of an application for an invention, which application has undergone formal examination with a positive result shall publish information on the application for the invention in the official gazette. The composition of the published information shall be determined by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

The author of the invention shall have the right to refuse to be indicated as such in the published information on the application for an invention.

On petition of an applicant filed before the expiration of twelve months from the day of submission of the application, the Federal executive body for intellectual property may publish information on the application for invention before the expiration of eighteen months from the day of its submission.

Publication shall not be made if before the expiration of twelve months from the day of submission of the application for the invention it was withdrawn or recognized as withdrawn or if on its basis registration of the invention took place.

2. Any person after publication of the information on the application for the invention shall have the right to become acquainted with the documents of the application unless the application has been withdrawn or recognized as withdrawn on the date of publication of information on it. The procedure for acquaintance with the documents of the application shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

3. In case of publication of information on an application for an invention, which application on the date of publication had been withdrawn or recognized as withdrawn, such information shall not be included in the level of technology with respect to subsequent applications of the same applicant filed with the Federal executive body for intellectual property before the expiration of twelve months from the day of publication of information on the application for an invention.

#### Article 1386. Examination of an Application for an Invention on Its Merits

1. On petition of the applicant or of third parties, which may be filed with the Federal executive body for intellectual property during the course of three years from the filing date of an application for an invention, and on the condition of completion of formal examination of this application with a positive result, examination of the application for an invention on its merits shall be conducted. The Federal executive body for intellectual property shall notify the applicant of petitions received from third parties.

The time period for submission of a petition for the conduct of substantive examination of an invention may be extended by the Federal executive body for intellectual property on petition of the applicant filed before the expiration of this time period, but not for more than two months, on the condition of presentation together with the petition of a document confirming payment of the patent fee.

If a petition for the conduct of a substantive examination of an invention has not been filed within the established time period, the application shall be considered withdrawn.

2. Examination of an application for an invention on its merits shall include:

an information search with respect to the invention applied to determine the level of technology in comparison with which the novelty and inventive level of the invention will be evaluated; verification of the correspondence of the invention applied for to the conditions of patentability established in Article 1350 of this Code.

An information search with respect to the invention applied for, relating to the objects that are indicated in Paragraph 4 of Article 1349 and in Paragraphs 5 and 6 of Article 1350 of this Code, shall not be conducted. The Federal executive body for intellectual property shall notify the applicant about this before the expiration of six months from the day of the start of substantive examination of the invention.

The procedure for conduct of an information search and the presentation of a report on it shall be established by the Federal executive body exercising normative-legal regulation in the area of intellectual property.

3. Upon the expiration of six months from the date of the start of the substantive examination of the application for an invention, the Federal executive body for intellectual property shall send the applicant a report on the information search, if a priority earlier than the filing date of the application was not requested for such application and if the petition on the conduct of substantive examination of the application for the invention was filed on the filing date of the application.

The time period for sending the applicant a report on the information search may be extended by the Federal executive body for intellectual property if the necessity has appeared of an inquiry to other organizations for a source of information absent in the collections of the aforesaid Federal agency or if the invention applied for is characterized in such a way that makes it impossible to conduct an information search by the established procedure. The aforesaid Federal agency shall notify the applicant of the extension of the term for sending the report on the information search and of the reasons for its extension.

4. The applicant and third persons shall have the right to petition for the conduct for an application for an invention that has undergone formal examination with a positive result, of an information search for determination of the level of technology in comparison with which the evaluation of the novelty and inventive level of the invention applied for will be conducted. The procedure and conditions for the conduct of such an information search and provision of information about its results shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

5. In the process of substantive examination of an application for an invention the Federal executive body for intellectual property may request from the applicant supplementary materials (including amended claims for the invention) without which the conduct of expert examination would be impossible. In this case supplementary materials without changing the essence of the invention must be presented within the course of two months from the day of receipt by the applicant of the inquiry or copy of materials set against the application, on the condition that the applicant has requested the aforesaid copies within the course of a month from the day of receipt by him of the inquiry from the aforesaid Federal agency. If within the established period the applicant does not present the requested materials or a petition on the extension of the established time period, the application shall be considered withdrawn. The time period established for presentation by the applicant of the requested materials may be extended by the aforesaid Federal agency not for more than ten months.

#### Article 1387. Decision on the Issuance or Denial of a Patent

1. If as the result of the substantive examination of an application for an invention it is established that the invention applied for, expressed by the claims proposed by the applicant corresponds to the conditions of patentability established in Article 1350 of this Code, the Federal executive body for intellectual property shall adopt a decision on the issuance of a patent to the invention with these claims. The priority date of the invention shall be indicated in the decision.

If in the process of substantive examination of the invention it is established that the invention applied as expressed by the claims proposed by the applicant does not correspond to the conditions of patentability established in Article 1350 of this Code, the Federal executive body for intellectual property shall adopt a decision to refuse the issuance of a patent.

Before the adoption of a decision on the issuance of a patent or on the refusal of the issuance of a patent, the Federal executive body for intellectual property shall send the applicant a notification of the results of the verification of the patentability of the invention applied for with a proposal to present his positions on the reasons presented in the notification. The Positions of the applicant shall be considered in the taking of a decision if they are presented within the course of six months from the day of receipt of notification by him.

2. An application for an invention shall be considered as withdrawn under the provisions of this Chapter on the basis of a decision of the Federal executive body for intellectual property, except where it is withdrawn by the applicant.

3. The decision of the Federal executive body to deny a patent for an invention, award a patent for an invention, or to consider an application for an invention as withdrawn may be appealed by the applicant by filing an objection with the Patent Dispute Office within six months from the receipt of the decision or, upon his request, copies of the materials cited against the application in the decision to deny a patent, provided, however, that the applicant has requested for copies of the materials within two months from the receipt of the decision made on the application for an invention.

#### Article 1388. Right of the Applicant to Inspect the Patent Materials

The applicant shall have the right to become acquainted with all the materials relating to the patenting of inventions to which there is a reference in inquiries, reports, decisions, and other documents received by him from the Federal executive body for intellectual property. Copies of the patent documents requested by the applicant from this federal agency shall be sent to him within a month from the day of receipt of the request.

#### Article 1389. Reinstatement of Missed Time Periods Connected With the Conduct of Examination of an Application for an Invention

1. A basic or extended time period missed by the applicant for presentation of documents or supplementary materials on a request of the Federal executive body for intellectual property (Paragraph 4 of Article 1384, Paragraph 5 of Article 1386), the time period for submission of a petition for the conduct of substantive examination of the application for an invention (Paragraph 1 of Article 1386), and the period of submission of an objection to the Chamber for Patent Disputes (Paragraph 3 of Article 1387) may be reinstated by the aforesaid Federal agency on the condition that the applicant presents proof of the validity of the reasons because of which the time period was not observed and of payment of the patent fee.

2. A petition for the reinstatement of a missed time period may be filed by the applicant during the course of twelve months from the date of expiration of the established time period. The petition shall be filed with the Federal executive body for intellectual property simultaneously either:

with documents or with supplementary materials for the presentation of which the reinstatement of the time period is necessary or with a petition for extending the time period for presenting these documents or materials;

with a petition for the conduct of substantive examination of the application for an invention;

with an objection to the Patent Disputes Office.

#### Article 1390. Examination of an Application for a Utility Model

1. For an application for a utility model received by the Federal executive body for intellectual property, an examination shall be conducted in the process of which the presence of the documents provided for by Paragraph 2 of Article 1376 of this Code shall be verified, as well as their correspondence to established requirements and the observance of the requirement of unity of the utility model (Paragraph 1 of Article 1376) and it also shall be established whether the decision applied for relates to the technical decisions capable of protection as a utility model.

Correspondence of the utility model applied for to the conditions of patentability provided for by Paragraph 1 of Article 1351 of this Code shall not be verified in the process of examination.

The provisions of Paragraphs 2, 4, and 5 of Article 1384, Paragraph 2 and 3 of Article 1387, Article 1388, and Article 1389 of this Code shall be applied correspondingly to the conduct of examination of an application for a utility model.

2. The applicant and third persons shall have the right to petition for the conduct of an information search with respect to a utility model that has been applied for in order to determine the level of technology in comparison with which the patentability of the utility model may be evaluated. The procedure and conditions for the conduct of the information search and the presentation of information on its results shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

3. If the claims filed by the applicant for a utility model contain features that were absent in the description of the utility model on the filing date of the application, and features that were absent in the utility model claims (if the application for a utility model contained such claims on the filing date), the Federal executive body for intellectual property shall send the applicant a request suggesting that those features be dropped from the claims.

4. If as the result of examination of an application for a utility model it is established that the application was filed for a technical solution capable of protection as a utility model and if the documents of the application correspond to the established requirements, the Federal executive body for intellectual property shall adopt a decision on the issuance of a patent with an indication of the filing date of the application for a utility model and of the established priority.

If as the result of the examination it is established that an application for a utility model has been filed for a solution not capable of protection as a utility model, the Federal executive body for intellectual property shall adopt a decision on refusal to issue a patent for a utility model.

5. In the case when, in the consideration at the Federal executive body for intellectual property it is established that the information contained in the application for a utility model constitutes a state secret, the documents of the application shall be treated as secret by the procedure established by the legislation on state secrecy. In this case the applicant shall be notified of the possibility of withdrawal of the application for a utility model or of transformation of it into an application for a secret invention. Consideration of such application shall be suspended until the receipt from the applicant of the corresponding request or until the declassification of the application.

#### Article 1391. Examination of an Application for an Industrial Design

1. For an application for an industrial design received at the Federal executive body for intellectual property a formal examination shall be conducted in the process of which the presence of the documents provided by Paragraph 2 of Article 1377 of this Code and their correspondence to established requirements shall be verified.

In case of a positive result of formal examination, substantive examination of the application for an industrial design shall be conducted, which examination shall include the verification of the correspondence of the industrial design applied for to the conditions of patentability established by Article 1352 of this Code.

2. The provisions of Paragraphs 2-5 of Article 1384, of Paragraph 5 of Article 1386, Paragraph 3 of Article 1387, and Articles 1388 and 1389 of this Code shall be applied, respectively, in the conduct of the formal examination of an application for an industrial design and the examination of this application on its merits.

#### Article 1392. Temporary Legal Protection of an Invention

1. An invention for which an application has been filed with the Federal agency for intellectual property shall be granted temporary legal protection in the scope of the published claims of the invention, but not greater than the scope determined by the claims contained in the decision of the aforesaid Federal agency on the issuance of a patent for the invention, from the date of publication of information on the application (Paragraph 1 of Article 1385) until the date of publication of information on the issuance of a patent (Article 1394).

2. Temporary legal protection shall be considered not to have occurred if the application for invention was withdrawn or recognized as withdrawn or if, with respect to the application for invention a decision on refusal to issue a patent has been taken and the possibility of filing an objection against this decision provided for by this Code has been exhausted.

3. A person who has used an invention that has been applied for during the period indicated in Paragraph 1 of this Article shall pay monetary compensation to the patent holder, after receipt by the latter of a patent. The amount of compensation shall be determined by agreement of the parties and, in case of a dispute, by a court.

#### 4. Registration of an Invention, a Utility Model, and an Industrial Design, and Issue of a Patent

##### Article 1393. Procedure for State Registration of an Invention, Utility Model, or Industrial Design and Issue of a Patent

1. On the basis of its decision to issue a patent for an invention, a utility model or an industrial design, the Federal executive body for intellectual property shall enter an invention, utility model, or industrial design respectively on an appropriate state register, in particular, the State register of Inventions of the Russian Federation, the State register of Utility Models of the Russian Federation, or the State register of Industrial Designs of the Russian Federation, and shall issue a patent for an invention, utility model, or industrial design.

If a patent is sought in the name of several persons, they shall be issued one patent.

2. State registration of an invention, utility model, or industrial design shall be conducted and the patent shall be issued on the condition of payment of the corresponding patent fee. In case of failure to present, by the established procedure, a document confirming the payment of the patent fee, registration of the invention, utility model, or industrial design and issuance of the patent shall not be conducted and the corresponding application shall be considered withdrawn.

3. The Federal executive body exercising normative-legal regulation in the area of intellectual property shall establish the form of the patent for an invention, a utility model, and industrial design, and the content of the information contained in it.

4. The Federal executive body for intellectual property shall enter corrections of obvious and technical errors in an issued patent for an invention, utility model, or industrial design, and/or in the corresponding state register.

5. The Federal executive body for intellectual property shall publish in the official gazette information on any changes of entries in the state registers.

##### Article 1394. Publication of Information on the Issue of a Patent for an Invention, a Utility Model, and Industrial Design

1. The Federal executive body for intellectual property shall publish in the official gazette information on the issuance of a patent, including the name of the author, unless the author has refused to be mentioned as such, the name or designation of the patent holder, the name and claims of the invention or utility model or list of essential characteristics of a utility model and its depiction.

The Federal executive body conducting normative-legal regulation in the area of intellectual property shall determine the composition of the published information.

2. After publication in accordance with this Article of information on the issuance of a patent for an invention, utility model, or industrial design, any person shall have the right to become acquainted with the documents of the application and the report on the information search.

The procedure for becoming acquainted with the documents of the application and the report on the information search shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

##### Article 1395. Patenting Inventions or Utility Models in Foreign States and in International Organizations

1. An application for a patent for an invention or a utility model created in the Russian Federation may be filed with a foreign state or with an international organization upon the expiration of six months from the day of filing of the corresponding application with the Federal executive body for intellectual property, unless within the aforesaid time period the applicant has been informed that the application contains information constituting a state secret. An application for an invention or utility model may be filed earlier than the aforesaid time period, but after the conduct on the request of the applicant of a verification whether the application contains information constituting a state secret. The procedure for verification of the application containing information constituting a state secret shall be established by the Government of the Russian Federation.

2. Patenting in accordance with the Patent Cooperation Treaty or the Eurasian Patent Convention of an invention or utility model created in the Russian Federation shall be allowed without prior filing of the corresponding application with the Federal executive body for intellectual property, if the application in accordance with the Patent Cooperation Treaty (the international application) was filed with the Federal executive body for intellectual property as the receiving Office and in the application the Russian Federation was indicated as a state in which the applicant intended to receive a patent or the Eurasian application was filed through the Federal executive body for intellectual property.

Article 1396. International and Eurasian Applications Having the Force of the Applications Provided For by this Code

1. The Federal executive body for intellectual property shall commence the consideration of an international application for an invention or a utility model that has been filed in accordance with the Patent Cooperation Treaty and in which the Russian Federation is named as a state in which the applicant intends to obtain a patent for an invention or utility model upon the expiration of the thirty-one months from the priority day requested in the international application. At the request of the applicant, an international application shall be examined before the expiration of this period on the condition that the application was filed in the Russian language or if the applicant before the expiration of the aforesaid period has filed to the Federal executive body for intellectual property a translation into Russian of the application for a patent for an invention or a utility model disclosed in an international application filed in a different language.

The presentation to the Federal executive body for intellectual property of a translation into the Russian language of a request contained in an international application for the issuance of a patent for an invention or utility model may be replaced by the presentation of the application for issuance of a patent provided for by this Code.

In the case when the aforementioned documents are not presented within the established period, the effectiveness of the international application with respect to the Russian Federation in accordance with the Patent Cooperation Treaty shall be terminated.

The time period established by Paragraph 3 of Article 1378 of this Code for the making of changes in the documents of an application shall be calculated from the day of beginning of consideration by the Federal executive body for intellectual property of the international application in accordance with this Code.

2. The consideration of a Eurasian application for an invention having in accordance with the Eurasian Patent Convention the effect of an application for an invention provided for by this Code shall be conducted beginning from the day when the Federal executive body for intellectual property has received a verified copy of the Eurasian application from the Eurasian Patent Office. The time period established by Paragraph 3 of Article 1378 of this Code for the making of changes in the documents of an application shall be calculated from this same date.

3. Publication of an international application in the Russian language by the International Bureau of the World Intellectual Property Organization in accordance with the Patent Cooperation Treaty or publication of the Eurasian application by the Eurasian Patent Office in accordance with the Eurasian Patent Convention shall substitute for the publication of information about the application provided for by Article 1385 of this Code.

Article 1397. Eurasian Patent and Patent of the Russian Federation to Identical Inventions

1. In the case when a Eurasian patent and a patent of the Russian Federation to identical inventions, or an identical invention and utility model, having one and the same priority date belong to different patent holders, such inventions or, respectively invention and utility model may be used only with the observance of the rights of all their patent holders.

2. If a Eurasian patent and a patent of the Russian Federation to identical inventions or to an identical invention and utility model having one and the same priority date belong to one and the same person, then this person may grant any person the right to use of such inventions or, respectively invention and utility model under license contracts concluded on the basis of these patents.

#### § 6. Termination and Reinstatement of the Effect of a Patent

Article 1398. Recognition of the Invalidity of a Patent to an Invention, Utility Model, or Industrial Design

1. A patent for an invention, utility model, or industrial design may be recognized, during the course of its term of effectiveness as invalid in whole or in part in cases of:

1) failure of the invention, utility model, or industrial design to correspond to the conditions of patentability established by this Code;

2) presence in the claims for the invention or utility model or in the list of essential characteristics of an industrial design that are contained in the decision on issuance of the patent of characteristics that were absent on the filing date of the application in the description of the invention or the utility model and in the claims for the invention or utility model (if the application for an invention or utility model contained such claims on the filing date) or in illustrations of a manufacture;

3) issuance of a patent in the presence of several applications for identical inventions, utility models, or industrial designs having one and the same priority date in violation of the conditions indicated in Article 1383 of this Code.



4) issuance of a patent with an indication in it as the author or patent holder of a person who is not such in accordance with this Code or without the indication in the patent as the author or patent holder of a person who is such in accordance with this Code.

2. The issuance of a patent for an invention, utility model or industrial design may be appealed by any person who has become aware of the violations provided by numbered subparagraphs 1 - 3 of Paragraph 1 of this Article by submission of an objection to the Chamber for Patent Disputes.

The issuance of a patent for an invention, utility model or industrial design may be appealed by judicial procedure by any person who has become aware of the violations covered by numbered subparagraph 4 of Paragraph 1 of this Article.

3. A patent for an invention, utility model or industrial design shall be recognized as invalid in full or in part on the basis of a decision of the Federal executive body for intellectual property adopted in accordance with Paragraph 2 and 3 of Article 1248 of this Code or of a decision of a court that has entered into legal force.

If a patent for an invention, a utility model or an industrial design is invalidated in part, a new patent shall be issued.

4. A patent for an invention, utility model, or an industrial design that is recognized as invalid in whole or in part shall be annulled as of the filing date of the application for a patent.

In this case license contracts concluded before the making of a decision on the invalidity of a patent shall maintain their effect to the extent that they were performed by that time.

5. Recognition of a patent as invalid shall signify the reversal of the decision of the Federal executive body for intellectual property on the registration of the invention, utility model, or industrial design and on the issuance of a patent on the invention, utility model, or industrial design (Article 1387) and annulling the corresponding entry in the state register (Paragraph 1 of Article 1393).

#### Article 1399. Early Termination of the Effectiveness of a Patent for an Invention, Utility Model, or Industrial Design

The effectiveness of a patent for an invention, utility model, or industrial design shall be terminated early:

on the basis of a request filed by the patent holder with the Federal executive body for intellectual property – from the day of receipt of the request. In the case when a patent has been issued for a group of inventions, utility models, or industrial designs, and the request of the patent holder is filed with respect to not all the objects of patent rights included in the group, the effect of the patent shall be terminated only with respect to the inventions, utility models, or industrial designs indicated in the request;

in case of failure to pay the patent fee for maintaining a patent for an invention, utility model, or industrial design in force within the established time period – from the date of expiration of the established time period for the payment of the patent fee for maintaining a patent in force.

#### Article 1400. Reinstatement of the Effectiveness of a Patent for an Invention, Utility Model, or Industrial Design. Right of Later Use

1. The effectiveness of a patent for an invention, utility model or industrial design, which effectiveness was terminated in connection with the fact that the patent fee for maintaining the patent in force was not paid within the established time period may be reinstated by the Federal executive body for intellectual property on petition of the person to whom the patent for an invention, utility model, or industrial design belonged. The petition for reinstatement of the effectiveness of a patent may be filed with the aforementioned Federal agency during the course of three years from the day of expiration of the time period for payment of the patent fee but before the expiration of the time period of effectiveness of a patent established in accordance with this Code. A document confirming payment in the established amount of the patent fee for reinstatement of the effectiveness of the patent must be attached to the petition.

2. The Federal executive body for intellectual property shall publish information on the reinstatement of the effectiveness of a patent for an invention, utility model, or industrial design in the official gazette

3. A person who has concluded a license contract for the use of an invention, utility model, or industrial design before the termination of the effectiveness of the patent, and also any person who in the period between the date of termination of the effectiveness of the patent for the invention, utility model, or industrial design and the date of publication in the official gazette of the Federal executive body for intellectual property of information on the reinstatement of the patent, began use of the invention, utility model or industrial design or made the preparations necessary for this within the indicated time period shall keep the right to its further uncompensated use without broadening the scope of its use (the right of later use).

## § 7. Specifics of Legal Protection and Use of Secret Inventions

### Article 1401. Filing and Examination of Applications for a Patent for Secret Inventions

1. Filing of applications for the issuance of a patent for secret inventions (applications for secret inventions), examination of these applications and dealing with them shall be conducted in accordance with the legislation on state secrets.

2. Applications for secret inventions for which the degree of secrecy "of extraordinary importance" or "top secret" is established, and also for secret inventions that relate to armaments and military technology and to methods and means in the area of intelligence, counterintelligence, and operational investigation activity and for which the degree of secrecy "secret" has been established shall be filed, depending upon their thematic category, with the Federal executive bodies authorized by the Government of the Russian Federation (the authorized bodies). Applications for other secret inventions shall be filed with the Federal executive body for intellectual property.

3. If in the course of consideration at the Federal executive body for intellectual property of an application for an invention it is established that the information contained therein constitutes a state secret, the application for an invention shall be classified as secret by the procedure established by the legislation on state secrecy and shall be considered to be an application for a secret invention.

Classifying as secret an application filed by a foreign individual or foreign legal person is not allowed.

4. In consideration of an application for a secret invention as secret the provisions of Articles 1384, 1386-1389 of this Code shall be applied respectively. Publication of information on the application for an invention shall not be done in this case.

5. In establishing the novelty of a secret invention secret inventions patented in the Russian Federation and secret inventions to which author's certificates have been issued in the USSR shall also be included in the level of technology (Paragraph 2 of Article 1350), on condition of their earlier priority, if the level of secrecy established for these inventions is not higher than the level of secrecy of the invention whose novelty is being established.

6. Objection against a decision taken under an application for a secret invention by an authorized agency shall be considered by the procedure established by this agency. A decision taken on such an objection may be appealed to court.

7. The provisions of Article 1379 of this Code on the transformation of an application for an invention into an application for a utility model shall not be applied to applications for secret inventions.

### Article 1402. Registration of a Secret Invention and Issuance of a Patent for it. Dissemination of Information on a Secret Invention

1. Registration of a secret invention in the State Registry of Inventions of the Russian Federation and issuance of a patent for a secret invention shall be done by the Federal executive body for intellectual property, or, if the decision on issuance of a patent for a secret invention has been adopted by an authorized agency, by this agency. An authorized agency that has registered a secret invention and has issued a patent for a secret invention shall inform the Federal executive body for intellectual property about this.

An agency that has conducted the registration of a secret invention and has issued a patent for it shall enter changes connected with the correction of obvious and technical errors in the patent for the secret invention and/or into the State register of Inventions of the Russian Federation.

2. Information on applications and patents for secret inventions and also about changes in the State register of Inventions of the Russian Federation relating to secret inventions shall not be published. Information about such patents shall be transferred in accordance with the legislation on state secrets.

### Article 1403. Change of the Level of Secrecy and Declassification of Inventions

1. Change of the level of secrecy and declassification of inventions and also change or removal of secrecy markings from the documents of an application and from a patent for a secret invention shall be conducted by the procedure established by the legislation on state secrecy.

2. In case of raising the level of secrecy of an invention, the Federal executive body for intellectual property shall transfer the documents of the application for a secret invention in accordance with their thematic category to the corresponding authorized agency. Further consideration of an application consideration of which at the time of raising the level of secrecy has not been completed by the aforesaid Federal agency shall be conducted by the authorized agency. In case of reduction of the level of secrecy of an invention, the further consideration of an application for the secret invention shall be conducted by the same authorized agency that previously was considering the application.

3. In case of declassification of an invention the authorized agency shall transfer the declassified documents of the application that it has to the Federal executive body for intellectual property. Further consideration of an application consideration of which has not been completed before the time of declassification by the authorized agency shall be conducted by the aforesaid Federal agency.

#### Article 1404. Recognition of the Invalidity of a Patent to a Secret Invention

An objection against the issuance by an authorized agency of a patent for a secret invention on the bases provided in numbered subparagraphs 1 - 3 of Paragraph 1 of Article 1398 of this Code shall be submitted to this authorized agency and shall be considered by the procedure established by it. The decision of the authorized agency taken on the objection shall be approved by the head of this agency, shall take effect from the date of its approval and may be disputed in court.

#### Article 1405. Exclusive Right to a Secret Invention

1. The use of a secret invention and also the disposition of the exclusive right to a secret invention shall be conducted with observance of the legislation on state secrecy.

2. A contract on alienation of a patent and also a license contract for the use of a secret invention are subject to registration in the agency that issued the patent to the secret invention or its legal successor and, in the absence of a legal successor, in the Federal executive body for intellectual property.

3. A public proposal to conclude a contract on alienation of a patent and a declaration on open license provided for respectively by Paragraph 1 of Article 1366 and Paragraph 1 of Article 1368 of this Code are not allowed with respect to a secret invention.

4. A compulsory license provided for by Article 1362 of this Code shall not be granted with respect to a secret invention.

5. Besides the activities provided for by Article 1359 of this Code, also the use of a secret invention by a person who did not know and could not know on lawful bases of the existence of a patent to the given invention shall not be an infringement of the exclusive right of the patent holder to a secret invention. Following the declassification of the invention or notification of the indicated person by the patent holder on the existence of a patent for the particular invention such person shall be obligated to terminate the use of the invention and to conclude a license contract with the patent holder except the case where the right of prior use was being exercised.

6. Levy of execution on the exclusive right to a secret invention is not allowed.

### § 8. Protection of the Rights of Inventors and Patent Holders

#### Article 1406. Disputes Arising in Connection with the Protection of Patent Rights

1. Disputes shall be settled by judicial procedure that are connected with the protection of the rights certified by a patent, including the following disputes over:

- 1) the authorship of an invention, utility model, or industrial design;
- 2) establishing the patent holder;
- 3) infringement of the exclusive right to an invention, utility model, or industrial design;
- 4) the conclusion, performance, amendment, and termination of contracts for the transfer of an exclusive right (or alienation of a patent) and license contracts for the use of an invention, utility model, or industrial design;
- 5) the right of prior use;
- 6) the right of later use;
- 7) the measure, time period, and procedure for payment of compensation to the author of an invention, utility model, or industrial design in accordance with this Code;
- 8) the amount, time period and procedure for payment of the compensations provided by this Code.

2. In circumstances referred to in Articles 1387, 1390, 1391, 1398, 1401 and 1404 of this Code, patent rights shall be protected in an administrative process as provided for in Paragraphs 2 and 3, Article 1248 of this Code.

#### Article 1407. Publication of a Judicial Decision on Infringement of a Patent

The patent holder shall have the right to require publication in the official gazette of the Federal executive body for intellectual property of a judicial decision on the unlawful use of an invention, utility model, industrial design or other infringement of his rights in accordance with Subparagraph 5 of Paragraph 1, Article 1252 of this Code.

## CHAPTER 73. THE RIGHT TO A PLANT VARIETY AND ANIMAL BREED

## § 1. Basic Provisions

### Article 1408. Rights to Achievements of Plant variety and animal breeding

1. The following intellectual rights shall belong to the author of a plant variety and animal breed that qualifies for legal protection under this Code (plant variety and animal breed):

- 1) the exclusive right;
- 2) the right of authorship.

2. In the cases provided for by this Code the author shall also have other rights, including the right to receipt of a patent, the right to the naming of the achievement of plant variety and animal breeding, and the right to compensation for the use of an employment achievement of plant variety and animal breeding.

### Article 1409. Effectiveness of Exclusive Rights to Plant variety and animal breed on the Territory of the Russian Federation

Exclusive rights shall be recognized on the territory of the Russian Federation to achievements of plant variety and animal breeding certified by patents issued by the specially authorized state agency for achievements of plant variety and animal breeding or by patents in force on the territory of the Russian Federation in accordance with international treaties of the Russian Federation.

### Article 1410. Author of a Plant variety and animal breed

A breeder, an individual by whose creative labor an achievement of plant variety and animal breeding has been derived, created, or discovered shall be recognized as the author of the plant variety and animal breed. The person indicated as an author in an application for issuance of a patent shall be considered the author of the achievement of plant variety and animal breeding unless proved otherwise.

### Article 1411. Coauthors of a Plant variety and animal breed

1. Individuals who have invented, developed or discovered a plant variety and animal breed by joint creative efforts shall be recognized as coauthors.

2. Each of the coauthors shall have the right to use the achievement of plant variety and animal breeding at his discretion unless an agreement among them provides otherwise.

3. The rules of Paragraph 3 of Article 1229 of this Code shall be applied correspondingly to the relations of coauthors connected with the distribution of income from the use of an achievement of plant variety and animal breeding and with the disposition of the exclusive right to an achievement of plant variety and animal breeding.

The disposition of the right to receipt of a patent for an achievement of plant variety and animal breeding shall be conducted by coauthors jointly.

4. Each of the coauthors shall have the right to take measures independently for the protection of his rights.

### Article 1412. Subjects Matter of Rights to a Plant variety and animal breed

1. The objects of intellectual rights to achievements of plant variety and animal breeding are varieties of plants and breeds of animals registered in the State Register of Protected Achievements of Plant variety and animal breeding if these results of intellectual activity meet the requirements for such achievements of plant variety and animal breeding established by this Code.

2. A variety of plants is a group of plants that, independently of capability of protection, is defined by characteristics distinguishing the given genotype or combination of genotypes and is distinguished from other groups of plants of the same botanical taxonomy by one or several characteristics.

A variety may be represented by one or several plants or a part or several parts of a plant on the condition that such a part or parts may be used for reproduction of whole plants of the variety.

A clone, line, first generation hybrid, and a population are categories of variety capable of protection.

3. A breed of animals is a group of animals that regardless of capability of protection possess genetically separate biological and morphological attributes and characteristics some of which are specific for the given group and distinguish it from other groups of animals. A breed may be represented by a female or a male or by pedigree material, i.e., by animals meant for reproduction of the breed (pedigreed animals), their gametes or zygotes (or embryos).

A type and a cross-breed are protected categories of breeds.

Article 1413. Conditions of Capability of Protection of an Achievement of Plant variety and animal breeding

1. A patent shall be issued for an achievement of plant variety and animal breeding that meets the criteria of capability of protection and relates to botanical and zoological breeds and types a list of which shall be established by the Federal executive body conducting normative-legal regulation in the area of agriculture.

2. Criteria of of patentability an achievement of plant variety and animal breeding are novelty (Paragraph 3 of this Article), distinction (Paragraph 4 of this Article), uniformity (Paragraph 5 of this Article), and stability (Paragraph 6 of this Article).

3. A variety or breed shall be considered new if on the filing date of the application for issuance of a patent, the seeds or plant variety and animal breeding material of the given achievement of plant variety and animal breeding have not been sold and have not be transferred in another manner to other persons by the breeder, his legal successors or with their consent for the use of the achievement of plant variety and animal breeding:

1) on the territory of the Russian Federation – earlier than one year before the aforesaid date;

2) on the territory of another state – earlier than four years or, if it involves a grape, decorative or fruit tree cultures or forest breeds, earlier than six years before the aforesaid date.

4. An achievement of plant variety and animal breeding must be clearly distinct from any other generally known achievement of plant variety and animal breeding existing at the time of filing the application.

A generally known achievement of plant variety and animal breeding is an achievement of plant variety and animal breeding found in official catalogs or a reference collection or having an exact description in one of the publications.

The filing of an application for the issuance of a patent shall also make an achievement of plant variety and animal breeding generally known from the date of filing the application on the condition that the achievement of plant variety and animal breeding was granted a patent .

5. The plants of the variety or the animals of the breed must be sufficiently uniform in their characteristics taking into account individual deviations that may take place in connection with the peculiarities of reproduction.

6. Achievements of plant variety and animal breeding shall be considered stable if their basic characteristics remain unchanged after repeated reproduction or, in the case of a special cycle of reproduction, at the end of each cycle of reproduction.

Article 1414. State Registration of Plant variety and animal breeds

The exclusive right to an achievement of plant variety and animal breeding shall be recognized and protected on the condition of state registration of the plant variety and animal breed on the basis of which a Federal executive body for plant variety and animal breeds shall issue a patent for a plant variety and animal breed to the applicant.

Article 1415. Patent to an Achievement of Plant variety and animal breeding

1. A patent for a plant variety and animal breed certifies the priority of an achievement of plant variety and animal breeding, the authorship, and the exclusive right to an achievement of plant variety and animal breeding.

2. The scope of protection of the intellectual rights to an achievement of plant variety and animal breeding provided on the basis of a patent shall be determined by the totality of essential characteristics fixed in the description of the achievement of plant variety and animal breeding.

Article 1416. Authorship Certificate

Every author of a plant variety and animal breed shall have the right to receive an authorship certificate, which shall be issued by the Federal executive body for plant variety and animal breeds and shall certify his authorship.

Article 1417. State Provision of Incentives for the Creation and Use of Achievements of Plant variety and animal breeding

The state shall provide incentives for the creation and use of plant variety and animal breeds and shall establish for their authors, and other holders of the exclusive right in a plant variety and animal breed (patent holders) and for licensees using plant variety and animal breeds benefits in accordance with the laws of the Russian Federation.

§ 2. Intellectual Rights to Achievements of Plant variety and animal breeding

Article 1418. Right of Authorship to an Achievement of Plant variety and animal breeding

The right of authorship – the right to be recognized as the author of an achievement of plant variety and animal breeding – is inalienable and nontransferable including in case of transfer or passage to another person of the exclusive right to an achievement of plant variety and animal breeding or in case of granting to another person of the rights to its use. A waiver of this right shall be void.

Article 1419. Right to the Name of a Plant variety and animal breed

1. The author or other applicant shall have the right to the name of an achievement of plant variety and animal breeding.

2. The name proposed for a plant variety and animal breed by the author or, on his behalf, by another person (applicant) filing an application for a patent shall be approved by the Federal executive body for plant variety and animal breeds.

If the name proposed by the applicant does not satisfy the requirements of this Article, then the applicant shall be obligated to change the name within a thirty-day period.

Unless the applicant proposes another name complying with the aforesaid requirements, or protests the denial of approval of the name of the plant variety and animal breed in court by the end of the aforesaid period, the Federal executive body shall be free to deny registration of the plant variety and animal breed.

Article 1420. Right to Obtain a Patent for a Plant variety and animal breed

1. The right to obtain a patent for an achievement of plant variety and animal breeding shall belong initially to the author of the achievement of plant variety and animal breeding.

2. The right to obtain a patent may pass or be transferred to another person (or legal successor) in cases and on the bases established by a statute, including by the procedure for universal legal succession or by contract, in particular, by labor contract.

3. A contract for the alienation of the right to receipt of a patent must be concluded in written form. Nonobservance of written form shall entail the invalidity of the contract.

4. Unless otherwise established by agreement of parties to the contract on the alienation of the right to receipt of a patent, the risk of unpatentability shall be borne by the recipient of the right.

Article 1421. Exclusive Right to an Achievement of Plant variety and animal breeding

1. The patentee shall hold the exclusive right to use a plant variety and animal breed in accordance with Article 1229 of this Code in ways referred to in Paragraph 3 of this Article. The patentee may dispose of the exclusive right to the plant variety and animal breed.

2. The exclusive right to an achievement of plant variety and animal breeding shall extend also to plant material, i.e. a plant or its parts used for purposes other than the purpose of reproduction of the variety, commodity animals, i.e., animals used for purposes other than the purpose of reproduction of the breed, that were received respectively from seeds or from plant variety and animal breeding animals if such seeds or plant variety and animal breeding animals were put into turnover without permission of the patent holder. In such case seeds shall mean a plant or a part of it used for reproduction of a variety.

3. Conduct of the following actions with seeds and plant variety and animal breeding material of an achievement of plant variety and animal breeding shall be considered to be use of the achievement of plant variety and animal breeding:

- 1) production and reproduction;
- 2) bringing to sowing conditions for later reproduction;
- 3) proposal for sale;
- 4) sale and other methods of introduction into civil commerce;
- 5) export from the territory of the Russian Federation;
- 6) import onto the territory of the Russian Federation;
- 7) storage for purposes named in subparagraphs 1 to 6 of this Paragraph.

4. The exclusive right to an achievement of plant variety and animal breeding shall also extend to seeds of a variety and plant variety and animal breeding material of a breed that:

in an essential way inherit the characteristics of the protected (source) variety or breed, if this protected variety or breed was not an achievement of plant variety and animal breeding itself, in an essential way inheriting the characteristics of other achievements of plant variety and animal breeding; are not clearly different from the protected variety or breed; require repeated use of the protected variety for the production of seeds.

An achievement of plant variety and animal breeding that, while clearly different from the source shall be recognized as an achievement of plant variety and animal breeding inheriting in an essential manner the characteristics of another (source) protected achievement of plant variety and animal breeding if it:

inherits the most essential features of the source achievement of plant variety and animal breeding or of the achievement of plant variety and animal breeding that itself inherits the essential characteristics of the source achievement of plant variety and animal breeding retaining in this case the basic characteristics reflecting the genotype or combination of genotypes of the source achievement of plant variety and animal breeding;

corresponds to the genotype or combination of genotypes of the source achievement of plant variety and animal breeding with the exception of deviations caused by such methods as individual selection from the source variety or breed, selection of an individual mutant, reverse cross-plant variety and animal breeding, or genetic engineering.

#### Article 1422. Activities that are Not an Infringement of the Exclusive Right to an Achievement of Plant variety and animal breeding

The following shall not be considered as an infringement of the exclusive right to an achievement of plant variety and animal breeding:

1) activities done in the satisfaction of personal, family, home or other needs not connected to entrepreneurial activity if the purpose of such use is not the receipt of profit (or income);

2) activities done for scientific research or experimental purposes;

3) use of the protected achievement of plant variety and animal breeding as the source material for the creation of other varieties and breeds, activities with respect to these created varieties and breeds, if such activities are listed in Paragraph 3 of Article 1421 of this Code with exception of the cases provided for by Paragraph 4 of Article 1421 of this Code;

4) use of plant material obtained at an enterprise during the course of two years as seeds for cultivating the plant variety from the plants on the list of families and types of plants to be specified by the Government of the Russian Federation on the territory of the farm;

5) reproduction of commodity animals for their use at the given enterprise;

6) any activities with seeds, plant material, plant variety and animal breeding material, and commodity animals that were introduced into commercial circulation by the patent holder or with his consent by another person except:

subsequent reproduction of the aforesaid variety or breed;

export from the territory of the Russian Federation of plant material or commodity animals that would allow the reproduction of the variety or breed to a country in which the given family or type is not protected, with the exclusion of export for the purpose of processing for later use.

#### Article 1423. Compulsory License for an Achievement of Plant variety and animal breeding

1. Upon the expiration of three years from the day of issuance of a patent for an achievement of plant variety and animal breeding any person desiring and able competently and effectively to use the achievement of plant variety and animal breeding in case of refusal of the patent holder to conclude a license contract for the production or sale of seeds or plant variety and animal breeding material on conditions corresponding to established practice shall have the right to apply to court with a suit against the patent holder for the grant of a compulsory nonexclusive license for the use of such achievement of plant variety and animal breeding on the territory of the Russian Federation. In his complaint, this person must indicate the terms proposed by him for the grant to him of such license, including the volume of use, the measure, procedure, and time periods for payments.

If the patent holder does not show that there are valid reasons preventing the granting to the applicant of the right to use the corresponding achievement of plant variety and animal breeding, the court shall adopt a decision on the grant of the license and on the conditions of its grant. An overall measure of payment for such a license must be established in the decision of the court not lower than the price of a license determined under comparable conditions.

2. On the basis of the judicial decision provided for in Paragraph 1 of this Article, the specially authorized state institution for achievements of plant variety and animal breeding shall conduct state registration of the compulsory simple (nonexclusive) license.

3. On the basis of the decision of the court on the issuance of a compulsory simple (nonexclusive) license the patent holder shall be obligated for payment and on conditions acceptable for him to provide the holder of the compulsory license with seeds of the variety or plant variety and animal breeding material of the breed in an amount sufficient for use of the compulsory simple (nonexclusive) license.

4. The effect of a compulsory simple (nonexclusive) license may be terminated by judicial procedure on suit of the patent holder if the holder of such license violates the conditions on the basis of which it was issued or if the circumstances that were the basis for the grant of such license have changed to the extent that if these circumstances had existed at the time of issuance of the

compulsory license it would not have been issued at all or would have been issued on significantly different terms.

Article 1424. Term of Effectiveness of the Exclusive Right to an Achievement of Plant variety and animal breeding

The term of effectiveness of the exclusive right to an achievement of plant variety and animal breeding and of the patent certifying this right shall be calculated from the date of state registration of the plant variety and animal breed in the State register of Protected Plant variety and animal breeds and shall be thirty years.

For varieties of grape, decorative and fruit tree cultures and forest varieties, including their stock, the period of effectiveness of the exclusive right and of the patent certifying this right shall be thirty-five years.

Article 1425. Passage of an Achievement of Plant variety and animal breeding into the Public Domain

1. Upon the expiration of the term of effectiveness of the exclusive right, the achievement of plant variety and animal breeding shall pass into the public domain.

2. An achievement of plant variety and animal breeding that has passed into the public domain may be used freely by any person without any consent or permission whatsoever and without payment of compensation for use.

§ 3. Disposition of the Intellectual Rights to an Achievement of Plant variety and animal breeding

Article 1426. Contract for Alienation of the Exclusive Right to an Achievement of Plant variety and animal breeding

Under a contract for the alienation of the exclusive right to an achievement of plant variety and animal breeding (a contract on alienation of the patent), one party (the patent holder), transfers or becomes obligated to transfer his exclusive right to the respective plant variety and animal breed in full to the other party acquiring the exclusive right (patent recipient).

Article 1427. Public Proposal for Conclusion of a Contract for Alienation of the Patent to an Achievement of Plant variety and animal breeding

1. An applicant, who is the author of a plant variety and animal breed, filing an application for a plant variety and animal breed, may attach a notice to the application documents to the effect that should a patent be issued he shall make a patent alienation contract on terms and conditions consistent with accepted practice with any individual of the Russian Federation or a Russian legal entity first to state his desire to do so by giving a notice thereof to the patentee and the Federal executive body concerned with plant variety and animal breeds. Subject to such notice, no patent fees specified in this Code shall be charged to the applicant in respect of the application for a patent for the plant variety and animal breed or in respect of the patent issued on the application.

The Federal executive body concerned with plant variety and animal breeds shall publish information about the aforesaid notice in the official gazette.

2. The person entering into a patent alienation agreement with the patentee on the basis of the patentee's notice referred to in Paragraph 1 of this Article shall be required to pay all patent fees from which the applicant (patentee) has been given an exemption, whereupon the patent fees shall be payable in the normal manner.

For the patent alienation agreement to be officially registered with the Federal executive body concerned with plant variety and animal breeds, the request for agreement registration shall be accompanied by a document evidencing payment of all patent fees from which the applicant (patentee) has been given an exemption.

3. Unless the Federal executive body concerned with plant variety and animal breeds has, within two years of the publication of the details of a patent, in respect of which the notice referred to in Paragraph 1 of this Article has been given, received a written notification of the desire to enter into a patent alienation agreement, the patentee may file a petition with the Federal agency for revocation of his notice. In that case, the patent fees from which the applicant (patentee) has been given an exemption shall be due and payable, whereupon the patent fees shall be payable in the normal manner.

Article 1428. License Contract for the Granting of a Right of Use of an Achievement of Plant variety and animal breeding



Under a license contract one party, the patentee (the licensor), grants or becomes obligated to grant to the other party, the user (the licensee), the right, certified by a patent, for the use of the respective achievement of plant variety and animal breeding within the limits established by the contract.

Article 1429. Open License for an Achievement of Plant variety and animal breeding

1. The patent holder may file with the specially authorized state institution for achievements of plant variety and animal breeding a declaration on the possibility of granting to any person the right of use of an achievement of plant variety and animal breeding (an open license).

In this case the amount of the patent fee for maintaining the patent in force shall be reduced by fifty percent starting from the year following after the year of publication by the specially authorized state institution for achievements of plant variety and animal breeding of information on the open license.

The conditions on which the right of use of the achievement of plant variety and animal breeding may be granted to any person shall be communicated to the specially authorized state institution for achievements of plant variety and animal breeding which in its official gazette shall publish at the expense of the patent holder the respective information on an open license. The patent holder shall be obligated to conclude a license contract on the conditions of a simple (nonexclusive) license with the person who has expressed a desire to use the aforesaid achievement of plant variety and animal breeding.

2. Upon the expiration of two years from the date of publication in the official gazette of information on an open license by the Federal executive body concerned with plant variety and animal breeds, the patent holder shall have the right to file with the specially authorized state institution for achievements of plant variety and animal breeding a petition for the withdrawal of his declaration.

If until this time, while the open license had not been withdrawn, no one had expressed the desire to use the aforesaid achievement of plant variety and animal breeding, the patent holder shall be obligated to pay the rest of the patent fee for the maintenance of the patent in force for the period that passed from the day of publication of the information on an open license, and in the future to pay it in full amount.

If before the withdrawal of the license corresponding license contracts were concluded on the terms of the open license, then the licensees shall keep their rights for the whole period of effectiveness of these contracts. In this case the patent holder shall be obligated to pay the patent fee for maintaining the patent in force in full amount from the day of withdrawal of the open license.

The specially authorized state institution for achievements of plant variety and animal breeding shall publish information on the withdrawal of a declaration on an open licenses in the official gazette.

§ 4. A Plant variety and animal breed, Invented, Developed, or Discovered on the Job or under Contact

Article 1430. On-the-Job Plant variety and animal breed

1. An achievement of plant variety and animal breeding created, derived, or discovered by an employee by way of performance of his work obligations or a specific task from the employer task shall be recognized as an employment achievement of plant variety and animal breeding.

2. The right of authorship to an employment achievement of plant variety and animal breeding shall belong to the employee (the author).

3. The exclusive right to an employment achievement of plant variety and animal breeding and the right to receive a patent shall belong to the employer, unless otherwise provided in a contract between him and the employee.

4. In the absence in the contract between the employer and the employee of an agreement to the contrary (Paragraph 3 of this Article), the employee shall notify the employer in writing of the creation, by way of performance of his work obligations or a specific task from the employer, of a result with respect to which legal protection as an achievement of plant variety and animal breeding is possible.

If the employer within the course of four months from the date of notification by his employee of the receipt by him of a result capable of legal protection as an achievement of plant variety and animal breeding, does not file a request for the issuance of a patent on this achievement of plant variety and animal breeding with the specially authorized state institution for achievements of plant variety and animal breeding, does not transfer the right to receipt of a patent for an employment achievement to another person, and does not inform the employee on keeping the information on the corresponding result in secrecy, the right to receipt of a patent on such achievement of plant variety and animal breeding shall belong to the employee. In this case the employer, during the term of

effectiveness of the patent shall have the right to use of the employment achievement of plant variety and animal breeding in his own production on the conditions of a simple nonexclusive license with payment to the patent holder of compensation, the amount, conditions and manner of payment of which shall be determined on the basis of a contract between the employee and the employer, or, in the event of a dispute, in court.

5. The employee shall have the right to receipt from the employer of compensation for the use of a created, derived, or discovered achievement of plant variety and animal breeding in the amount and on the conditions determined by an agreement between them, but not less than in the amount of two percent of the amount of the annual income from the use of the achievement, including the income from the issuance of licenses. A dispute on the amount, procedure, and conditions of payment by the employer of compensation in connection with the use of the achievement of plant variety and animal breeding shall be decided by a court.

Compensation shall be paid to the employee within six months after the end of each year in which the achievement of plant variety and animal breeding is used.

6. An achievement of plant variety and animal breeding created, derived, or discovered by an employee with the use of monetary, technical, or other material assets of the employer, but not by way of performance of his work obligations or a specific task from the employer is not an employment achievement of plant variety and animal breeding. The right to receipt of a patent and the exclusive right to such an achievement of plant variety and animal breeding shall belong to the employee. In this case the employer shall have the right at his option to demand the grant of an uncompensated simple (nonexclusive) license for the use of the achievement of plant variety and animal breeding for his own needs or compensation for expenditures borne by him in connection with the creation of such an achievement of plant variety and animal breeding.

#### Article 1431. Plant variety and animal breeds, Invented, Developed or Discovered on Order

1. If a plant variety and animal breed has been created, derived, or discovered on order, the subject matter of which was the invention, development or discovery of the plant variety and animal breed (on order), the right to receipt of a patent and the exclusive right to such an achievement of plant variety and animal breeding shall belong to the customer, unless the contract between the performer and the customer has provided otherwise.

2. If the right to receipt of a patent and the exclusive right to an achievement of plant variety and animal breeding belongs in accordance with Paragraph 1 of this Article to the customer, the contractor (the producer) shall have the right, unless provided otherwise by the contract, to use the achievement of plant variety and animal breeding for his own needs on the terms of an uncompensated simple (nonexclusive) license for the whole term of effectiveness of the patent. The contract, on the basis of which the work was performed may provide for another type of license.

3. In the case when, in accordance with the contract between the performer and the customer the right to receipt of a patent and the exclusive right to an achievement of plant variety and animal breeding belongs to the contractor (the producer), the customer shall have the right to use the achievement of plant variety and animal breeding for his own needs on the terms of an uncompensated simple (nonexclusive) license for the course of the whole term of effectiveness of the patent.

4. The author of a plant variety and animal breed, referred to in Paragraph 1 of this Article, who is not the patent holder shall be paid compensation in accordance with Paragraph 5 of Article 1430 of this Code.

#### Article 1432. A Plant variety and animal breed Invented, Developed or Discovered in the Performance of Work Under a Government or Municipal Contract

The rules of Article 1373 of this Code shall be applied correspondingly to achievements of plant variety and animal breeding created, derived or discovered in the performance of work under a government or municipal contract.

#### § 5. Award of a Patent for a Plant variety and animal breed. Termination of a Patent for a Plant variety and animal breed

##### Article 1433. Application for a Patent for a Plant variety and animal breed

1. An application for the issuance of a patent to an achievement of plant variety and animal breeding (a request for issuance of a patent) shall be submitted to the specially authorized state institution for achievements of plant variety and animal breeding by the person holding the right to receipt of a patent in accordance with this Code (the applicant).

2. An application for the issuance of the patent must contain:

1) a request for the issuance of a patent with an indication of the author of the achievement of plant variety and animal breeding and of the person in whose name the patent is requested and also the place of residence or place of location of each of them;

2) a form for the achievement of plant variety and animal breeding;

3) a document confirming the payment of the fee in the established amount or a document confirming the bases of freeing from the payment of the fee or of reduction of its amount or of delay of its payment.

3. The requirements for the documents of the application shall be established on the basis of this Code by the Federal executive body conducting normative-legal regulation in the area of agriculture.

4. An application for the issuance of a patent must relate to one achievement of plant variety and animal breeding.

5. The documents indicated in Paragraph 2 of this Article may be presented in Russian or another language. If the documents are presented in another language, their translation into the Russian language shall be attached to the application.

#### Article 1434. Priority of an Achievement of Plant variety and animal breeding

1. The priority of an achievement of plant variety and animal breeding shall be established as of the date of receipt at the specially authorized state institution for achievements of plant variety and animal breeding of an application for the issuance of patent or of an application.

2. If on one and the same day two (or more) applications for one and the same achievement of plant variety and animal breeding arrive at the specially authorized state institution for achievements of plant variety and animal breeding for one and the same achievement of plant variety and animal breeding, priority shall be established as of the earlier date of sending the application. If the examination establishes that these applications have one and the same date of sending, then the patent may be issued on the application having an earlier registration number of the specially authorized state institution for achievements of plant variety and animal breeding on the condition that an agreement among the applicants does not provide otherwise.

3. If an application filed by an applicant in a foreign state with which the Russian Federation has concluded a treaty on the protection of achievements of plant variety and animal breeding precedes an application filed with the specially authorized state institution for achievements of plant variety and animal breeding, then the applicant shall enjoy priority for the first application during the course of 12 months from its filing date.

In an application sent to the specially authorized state institution for achievements of plant variety and animal breeding, the applicant must indicate the priority of the first application. In the course of six months from the day of receipt of the application by the specially authorized state institution for achievements of plant variety and animal breeding, the applicant shall be obligated to present a copy of the first application, certified by a competent body of the respective state and its translation into the Russian language. In fulfilling these conditions the applicant shall have the right not to present supplementary documentation and the material necessary for testing for three years from the filing date of the first application.

#### Article 1435. Preliminary Examination of a Patent Application

1. In the course of the preliminary examination, the priority date, the presence of the documents provided for by Paragraph 2 of Article 1433 of this Code, and the correspondence of these documents to the established requirements shall be determined. Preliminary examination of an application for the issuance of a patent shall be conducted within a one month time period.

2. During the period of conduct of a preliminary expertise, the applicant shall have the right on his own initiative to supplement, clarify, or correct the materials of the application.

The specially authorized state institution for achievements of plant variety and animal breeding may request missing documents or clarifying materials, and the applicant shall be obligated to provide these within the established time period.

If the necessary clarifications were not made within the established time period or the documents missing on the date of receipt of the request were not provided, then the application shall not be accepted for consideration, and the applicant shall be notified of this.

3. The specially authorized state institution for achievements of plant variety and animal breeding shall inform the applicant of a positive result of the preliminary examination and of the date of filing the application for the issuance of a patent immediately after the completion of the preliminary examination.

Information on accepted applications shall be published in the official gazette of the aforesaid Federal agency..

4. In case of disagreement with the decision taken on the results of the preliminary examination, the applicant, within the course of three months from the date of receipt of the decision shall have the right to appeal it by judicial procedure.

Article 1436. Temporary Legal Protection of an Achievement of Plant variety and animal breeding

1. An achievement of plant variety and animal breeding for which an application was filed with the special state institution for achievements of plant variety and animal breeding shall be granted temporary legal protection as an achievement of plant variety and animal breeding from the filing date of the application and until the date of issuance of a patent to the applicant.

2. After the receipt of a patent for a plant variety and animal breed, the patent holder shall have the right to receive monetary compensation from a person who, without the permission of the applicant, has conducted, during the period of temporary legal protection of the achievement of plant variety and animal breeding, the activities indicated in Paragraph 3 of Article 1421 of this Code. The amount of compensation shall be agreed by the parties, or, in the event of a dispute arising, by a court.

3. During the period of temporary legal protection of an achievement of plant variety and animal breeding, the applicant shall be permitted to make a sale or other transfer of seeds or plant variety and animal breeding materials only for scientific purposes, and in cases if the sale or other transfer is connected with the assignment of the right to receipt of a patent for the achievement of plant variety and animal breeding or with the production of seeds or plant variety and animal breeding material on order of the applicant with the purpose of creating a supply of them.

4. Temporary legal protection shall be considered not to have occurred if the application for issuance of a patent was not taken into consideration (Article 1435) or, with respect to the application for the issuance of a patent, a decision was taken on the refusal to issue a patent and the possibility of objecting to this decision provided for by this Code was exhausted and also in case of violation by the applicant of the requirements indicated in Paragraph 3 of this Article.

Article 1437. Examination of an Achievement of Plant variety and animal breeding for Novelty

1. Any interested person in the course of six months from the day of publication of information on the application may send to the specially authorized state institution for achievements of plant variety and animal breeding a petition for the conduct of an examination with respect to the novelty of the achievement of plant variety and animal breeding applied for.

The specially authorized state institution for achievements of plant variety and animal breeding shall notify the applicant of the receipt of such a petition with a statement of the substance of the petition. The applicant shall have the right within a three-month period from the date of receipt of the notice to send to the specially authorized state institution for achievements of plant variety and animal breeding a reasoned response to the petition.

2. The specially authorized state institution for achievements of plant variety and animal breeding shall adopt a decision on the materials it has and shall report on it to the interested person.

If the achievement of plant variety and animal breeding does not correspond to the criterion of novelty, a decision shall be taken for the refusal of the issue of a patent for a plant variety and animal breed.

Article 1438. Tests of an Achievement of Plant variety and animal breeding for Distinction, Uniformity, and Stability

1. Tests of an achievement of plant variety and animal breeding for distinction, uniformity, and stability shall be conducted by the methodology and in the time limits established by the Federal executive body exercising regulatory powers under the law in agriculture.

The applicant shall be obligated to provide for testing the necessary quantity of seeds or plant variety and animal breeding material to the place and within the time indicated by the specially authorized state institution for achievements of plant variety and animal breeding.

2. The Federal executive body concerned with plant variety and animal breeds shall have the right to use, with the purposes referred to in Paragraph 1 of this Article, the results of tests conducted by authorized bodies of other states with which corresponding treaties have been concluded, the results of tests conducted by other organizations of the Russian Federation under contract with such a state institution, and also data presented by the applicant.

Article 1439. Registration of an Achievement of Plant variety and animal breeding and Issuance of a Patent

1. In case of compliance of an achievement of plant variety and animal breeding with criteria qualifying it for protection (Paragraph 2 of Article 1413) and upon the correspondence of the name of

the achievement of plant variety and animal breeding to the conditions provided by Article 1419 of this Code, the specially authorized state institution for achievements of plant variety and animal breeding shall adopt a decision on issuance of a patent for a plant variety and animal breed, and also shall compile a description of the plant variety and animal breed and enter the plant variety and animal breed on the State register of Protected Plant variety and animal breeds.

2. The following entries shall be made in the State Register of Protected Achievements of Plant variety and animal breeding:

- 1) the family and type of plant or animal;
- 2) the name of the variety or breed;
- 3) the date of registration of the achievement of plant variety and animal breeding and the registration number;
- 4) the name of the patent holder and his place of residence or place of location;
- 5) the name of the author of the achievement of plant variety and animal breeding and his address;
- 6) description of the plant variety and animal breed;
- 7) the fact of transfer of the patent to another person with an indication of his name or designation and residential address or location;
- 8) information about any license agreements made;
- 9) the date of termination of the patent with an indication of the cause.

3. The patent for a plant variety and animal breed shall be issued to the applicant. If several applicants are indicated in an application for the issuance of a patent, the patent shall be issued to the applicant indicated first in the application and shall be used by the applicants jointly by agreement among them.

#### Article 1440. Preservation of the Achievement of Plant variety and animal breeding

The patent holder shall be obligated to maintain the variety or breed during the course of effectiveness of the patent in such a way that the characteristics indicated in the description of the variety or breed compiled on the date of their registration in the State Register of Protected Achievements of Plant variety and animal breeding are preserved.

The patent holder shall be obligated on request of the specially authorized state institution for achievements of plant variety and animal breeding to send at his expense seeds of the variety or plant variety and animal breeding material for conduct of verification tests and to provide the possibility of conduct of on-site inspection.

#### Article 1441. Recognition of a Patent for an Achievement of Plant variety and animal breeding as Invalid

1. A patent for an achievement of plant variety and animal breeding may be recognized as invalid in the course of the period of its effectiveness if it is established that:

- 1) it was issued on the basis of unconfirmed data on the uniformity and stability of the achievement of plant variety and animal breeding that was presented by the applicant.
- 2) on the date of issuance of the patent the achievement of plant variety and animal breeding did not correspond to the criterion of novelty or of distinguishability;
- 3) the person indicated in the patent as the patent holder did not have lawful bases for receipt of a patent.

2. Issuance of a patent for an achievement of plant variety and animal breeding may be disputed by any person who has become aware of the violations provided for by Paragraph 1 of this Article by the filing of an objection with the specially authorized state institution for achievements of plant variety and animal breeding.

The specially authorized state institution for achievements of plant variety and animal breeding shall send a copy of the request to the patent holder who within the course of three months of the date of sending of the aforesaid copy may present a motivated response.

The specially authorized state institution for achievements of plant variety and animal breeding shall adopt a decision on the given question in the course of six months, unless additional tests are required.

3. A patent for an achievement of plant variety and animal breeding that is recognized as invalid shall be annulled as of the day of submission of the application for the patent.

In such case license contracts concluded before the making of a decision on the invalidity of the patent shall maintain their effect to the extent to which they were performed at that time.

4. Recognition of a patent as invalid shall mean the reversal of the decision of the specially authorized state institution for achievements of plant variety and animal breeding on the registration of the achievement of plant variety and animal breeding and the issuance of a patent on the

achievement of plant variety and animal breeding (Article 1439) and the annulment of the corresponding entry in the State register of Protected Plant variety and animal breeds.

Article 1442. Early Termination of the Effectiveness of a Patent to an Achievement of Plant variety and animal breeding

The effectiveness of a patent to an achievement of plant variety and animal breeding shall be terminated early if:

1) the achievement of plant variety and animal breeding no longer corresponds to the conditions of uniformity and stability;

2) the patent holder has not provided on request of the specially authorized state institution for achievements of plant variety and animal breeding within the course of 12 months seeds, plant variety and animal breeding material, documents, and information that are necessary for the verification of the preservation of the achievement of plant variety and animal breeding or has not provided the opportunity to conduct an on-site inspection of the achievement of plant variety and animal breeding for these purposes;

3) the patent holder has filed with the specially authorized state institution for achievements of plant variety and animal breeding an application for the early termination of the effect of the patent;

4) the patent holder has not paid the fee for maintaining the patent in force within the established time period.

Article 1443. Publication of Information on Achievements of Plant variety and animal breeding

1. The specially authorized state institution for achievements of plant variety and animal breeding shall publish an official gazette in which it shall publish information:

1) on applications received for the issuance of a patent with an indication of the priority date of the achievement of plant variety and animal breeding, of the name (or designation) of the applicant, the name of the achievement of plant variety and animal breeding, and the family name and initials of the author unless the latter has declined to be mentioned as such;

2) on decisions taken on the application;

3) on changes in the name of achievements of plant variety and animal breeding;

4) on recognition of patents as invalid and on their annulment;

5) other information concerning the protection of achievements of plant variety and animal breeding.

2. After publication of information on applications received for the issuance of a patent and on decisions taken under these applications, any person shall have the right to become acquainted with the materials of the applications.

Article 1444. Use of Achievements of Plant variety and animal breeding

1. Seeds and pedigree animals sold in the Russian Federation shall be provided with documents certifying their plant variety or animal breed and origins.

2. The document referred to in Paragraph 1 of this Article pertaining to the plant variety and animal breeds entered on the State register of Protected Plant variety and animal breeds shall only be issued by the patentee and the licensee.

Article 1445. Patenting of an Achievement of Plant variety and animal breeding in Foreign States

A request for the issuance of a patent for an achievement of plant variety and animal breeding may be filed in a foreign state. Expenses connected with protection of rights to achievements of plant variety and animal breeding beyond the boundaries of the Russian Federation shall be borne by the applicant.

§ 6. Protection of the Rights of Authors of Plant variety and animal breeds and Other Patent Holders

Article 1446. Infringement of the Rights of the Author of a Plant variety and animal breed or Another Patent Holder

The following in particular shall be an infringement of the rights of the author of a plant variety and animal breed or another patent holder:

1) use of an achievement of plant variety and animal breeding in violation of the requirements established by Paragraph 3 of Article 1421 of this Code;

2) the giving to produced and/or sold seeds or plant variety and animal breeding material of a name that is different from the registered name of this achievement of plant variety and animal breeding;

3) the giving to produced and/or sold seeds or plant variety and animal breeding material of the name of a registered achievement of plant variety and animal breeding if they are not the seeds or plant variety and animal breeding material of this achievement of plant variety and animal breeding;

4) the giving to produced and/or sold seeds or plant variety and animal breeding material of a name similar to the name of a registered achievement of plant variety and animal breeding to the level of confusion.

Article 1447. Publication of a Judicial Decision on the Infringement of the Exclusive Right to an Achievement of Plant variety and animal breeding

The author of a plant variety and animal breed or another patent holder shall have the right to demand the publication of a judicial decision concerning the unlawful use of an achievement of plant variety and animal breeding or on other violation of his rights in accordance with Paragraph 1 of Article 1252 of this Code in the official gazette of the specially authorized state institution for achievements of plant variety and animal breeding.

## CHAPTER 74. RIGHT TO INTEGRATED CIRCUIT TOPOLOGIES

Article 1448. Integrated Circuit Topology

1. An integrated circuit topology is the space and geometric placement of the totality of elements of an integrated microcircuit and the connections between them fixed on a material carrier. An integrated circuit is a microelectronic manufacture of final or intermediate form meant for the performance of the functions of an electronic circuit the elements and connections of which are inseparably formed in the volume and/or on the surface of the material on the base of which the manufacture was prepared.

2. The legal protection granted by this Code shall extend only to the original topology created as the result of creative activity of the author and being unknown to the author and/or specialists in the area of development of topologies on the date of its creation. The topology shall be considered original until the contrary has been proved.

Topologies consisting of elements that are known to specialists in the area of development of topologies on the date of creation of this topology shall be provided legal protection only in the case if the totality of such elements as a whole shall satisfy the requirement of originality.

3. The legal protection granted by this Code shall not extend to ideas, methods, systems, technology, or encoded information that may be embodied in the integrated circuit topology.

Article 1449. Rights to Integrated Circuit Topologies

1. The author of an integrated circuit topology qualifying for legal protection under this Code (topologies) shall hold the following intellectual rights:

the exclusive right; and  
the right of authorship.

2. In cases provided for by this Code, other rights, including the right to compensation for the use of an in-house topology, shall also belong to the author of the integrated circuit topology.

Article 1450. Author of an Integrated Circuit Topology

The author of an integrated circuit topology meeting the conditions for legal protection provided by this Code (a topology) is an individual by whose creative work such a topology was made. The person indicated as the author in the request for the issuance of a certificate of state registration of an integrated circuit topology shall be considered to be the author of this topology, unless shown otherwise.

Article 1451. Coauthors of an Integrated Circuit Topology

1. Individuals who have created a topology by joint creative work shall be recognized as coauthors.

2. Each of the coauthors shall have the right to use the topology at his discretion unless an agreement among them has provided otherwise.

3. The rules of Paragraph 3 of Article 1229 of this Code shall correspondingly apply to the relations of coauthors related to the distribution of income from the use of a protected topology and with the disposition of the exclusive right to the protected topology.

Disposition of the right to receipt of a certificate on the state registration of a topology shall be conducted by the coauthors jointly.

#### Article 1452. State Registration of an Integrated Circuit Topology

1. A rightholder, during the term of effectiveness of the exclusive right to the layout may at his option register the layout with the Federal executive body for intellectual property.

A topology containing information constituting a state secret shall not be subject to state registration. A person applicant shall be liable for disclosure of information about topologies containing an state secret in accordance with the legislation of the Russian Federation.

2. An application for state registration of an integrated circuit topology (registration application) may be filed in a time period not exceeding two years from the date of first use of the topology if it has taken place.

3. An application for registration must be related to one topology and must contain:

1) a request for state registration of the topology with an indication of the person in whose name state registration is solicited, and also of the author unless he has declined to be mentioned as such, of the place or residence or place of location of each of them, and of the date of first use of the topology if it has taken place;

2) materials to be deposited identifying the topology, including an abstract.

3) a document confirming the payment of the fee in the specified amount or the reasons for exemption from the fee, or for reducing its amount, or for delay in payment.

4. The rules for executing an application for registration shall be determined by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

5. On the basis of an application for registration, the Federal executive body for intellectual property shall verify the presence of the necessary documents and their correspondence to the requirements stated in Paragraph 3 of this Article. In case of a positive result of the verification, the aforesaid Federal agency shall enter the topology in the Register of Integrated Circuit Topologies, issue the applicant a certificate of the state registration of the integrated circuit topology, and publish information on the registered topology in the official gazette.

On request of the Federal executive body for intellectual property or on its own initiative the applicant shall have the right before publication of the information in the official gazette to supplement, clarify, and correct the materials of the application for registration.

6. The procedure for state registration of topologies, the forms of state registration certificates, the list of information to be stated in them, and also the list of information published in the official gazette by the Federal executive body for intellectual property shall be established by the Federal executive body exercising regulatory powers in the area of intellectual property.

7. Contracts for the alienation and pledge of the exclusive right to a registered topology, license contracts on the granting of the right of use of a registered topology, and also the transfer of the exclusive right to such a topology shall be subject to state registration with the Federal executive body for intellectual property.

Information on change of the rightholder and on the encumbrance of the exclusive right shall be entered on the Register of Integrated Circuit Topologies on the basis of a registered contract or other right-establishing document and shall be published in the aforesaid official gazette.

8. Information entered in the Register of Integrated Circuit Topologies shall be considered reliable, unless proved otherwise. The applicant shall be responsible for the accuracy of the information provided for registration.

#### Article 1453. The Right of Authorship to an Integrated Circuit Topology

The right of authorship, that is, the right to be recognized as the author of a topology, shall be inalienable and non-transferable, including in case of transfer or passage to another person of the exclusive right to a topology and in case of grant to another person of the right to its use. A waiver of this right shall be void.

#### Article 1454. The Exclusive Right to a Topology

1. The exclusive right to use a protected layout in accordance with Article 1229 of this Code in any manner not contrary to a statute (the exclusive right to the topology), including by the means indicated in Paragraph 2 of this Article. The rightholder may dispose of the exclusive right to the topology.

2. The use of topology shall imply actions directed at deriving profit, in particular:

1) reproduction of the topology in full or in part by including it in an integrated circuit or otherwise, with the exception of reproduction of only that part of the topology, which is not original;



2) importation onto the territory of the Russian Federation, sale and other introduction into commerce of the topology, or of an integrated circuit with this topology, or of a product containing such an integrated circuit.

3. A person who has independently created a topology identical to another protected topology shall possess an independent exclusive right to the topology.

#### Article 1455. Symbol of Legal Protection of Integrated Circuit Topology

The rightholder for notification of his exclusive right to an integrated circuit layout shall have the right to use the symbol of protection which shall be placed on the protected topology and also on products containing such a topology, and shall consist of a separate capital letter T ("T", [T], T <\*>, T\*, or T) the date of the start of the period of effectiveness of the exclusive right to a protected layout and information allowing identification of the rightholder.

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<\*> Letter "T" in a circle.

<\*\*> Letter "T" in a square.

#### Article 1456. Activities that are not an Infringement of the Exclusive Right to a Topology

The following shall not be an infringement of the exclusive right in a topology:

1) the conduct of the activities indicated in Paragraph 2 of Article 1454 of this Code with respect to an integrated circuit in which an unlawfully reproduced topology is included and also with respect to any product containing such an integrated circuit if the person who engaged in such activities did not know and did not have reason to know that an unlawfully reproduced topology was included in it. After receipt of notification on the illegal reproduction of the topology the aforesaid person may use up the available inventory of products containing the integrated circuit, which incorporates the illegally reproduced topology, and any such products that have been ordered up to that moment. If that proves to be the case, the aforesaid person shall pay the rightholder compensation for the use of the topology in proportion to the compensation that could have been paid in comparable circumstances for an analogous topology.

2) the use of a topology for personal needs other than receipt of profit, and also for the purposes of evaluation, analysis, research, or study;

3) distribution of integral microcircuits with a topology previously introduced into turnover in a lawful manner by a person holding the exclusive right to the topology, or by another person with the permission of the rightholder.

#### Article 1457. Duration of the Exclusive Right to a Topology

1. The exclusive right to a topology shall be effective for ten years.

2. The period of effectiveness of the exclusive right to a protected topology shall be calculated either from the date of the first use of the topology by which is meant the earliest documented date of the introduction into commerce in the Russian Federation or any foreign country of this topology, of an integrated circuit with this topology or of a manufacture including this integrated circuit, or from the date of registration of the topology with the Federal executive body for intellectual property depending upon which of these events came first.

3. In case of appearance of an identical original topology independently created by another author, the exclusive rights to both topologies shall be terminated upon the expiration of ten years after an exclusive right arose to the first of them.

4. Upon expiration of the period of effectiveness of the exclusive right, the topology shall pass into the public domain, i.e., it may be used freely by any person without any consent or permission whatsoever and without payment of compensation for use.

#### Article 1458. Contract for the Alienation of the Exclusive Right to a Topology

Under a contract for the alienation of the exclusive right to a topology, one party, the rightholder, shall transfer or undertake to transfer its exclusive right to a topology in full to the other party, the recipient of the exclusive right in the topology.

#### Article 1459. License Contract for the Right to Use a Topology

Under a license contract one party, the holder of the exclusive right to a topology (the licensor) grants or becomes obligated to grant to the other party (the licensee) the right to use this topology within the limits established by the contract.

Article 1460. Form and State Registration of the Contract for the Alienation of the Exclusive Right to a Topology and of a License Contract

1. The contract for the alienation of the exclusive right to a topology and the license contract must be concluded in written form.

2. In the case when the topology is registered (Article 1452) the contract on alienation of the exclusive right to a protected layout and a license contract shall be subject to state registration with the Federal executive body for intellectual property.

Article 1461. In-House Topology

1. A topology created by an employee in connection with the performance of his work responsibilities or a specific task from the employer shall be recognized as an in-house topology..

2. The right of authorship to an in-house topology shall belong to the employee.

3. The exclusive right to an in-house topology shall belong to the employer, unless provided otherwise in an agreement between him and the employee.

4. If the exclusive right to a topology belongs to the employer or has been transferred by him to a third person, the employee shall have the right to compensation. The amount of compensation and the conditions and procedure for its payment by the employer shall be determined by contract between the employer and employee and in case of dispute – by a court.

5. A topology created by an employee with the use of monetary, technical or other material assets of the employer, but not in connection the performance of his work obligations or a specific task from the employer is not an in-house topology. The exclusive right to such a layout shall belong to the employee. In this case, the employer shall have the right at his option to require the grant of an uncompensated simple (nonexclusive) license for the use of the topology that has been created for his own needs for the entire duration of the exclusive right, or the recovery of costs incurred by him in connection with the creation of this topology.

Article 1462. Topology Created in the Performance of Work Under a Contract

1. If a topology is created in performance of a work contract or a contract for the performance of scientific-research, experimental-design, or technological work, that did not directly imply creation thereof, the exclusive right to such topology shall belong to the contractor (the performer) unless provided otherwise by a contract between him and the customer.

In this case the customer shall have the right, unless provided otherwise in the contact to use the protected layout created in this manner for the purposes for which the corresponding contract was concluded on the conditions of a simple (nonexclusive) license in the course of the whole term of effectiveness of the patent, without payment of supplementary compensation for this use. If the contractor (producer) transfers the exclusive right in the topology to another person, the customer shall retain the right to use the topology on the terms specified herein.

2. In the case when, in accordance with a contract between the contractor (producer) and the customer, the exclusive right to the topology has been transferred to the customer or to a third person indicated by him, the contractor (producer) shall have the right to use the topology that has been created for his own needs on the conditions of a free simple (nonexclusive) license for the entire duration of the exclusive right to the topology, unless provided otherwise by the contract.

3. The author of a protected topology, referred to in Paragraph 1 of this Article, who does not hold the exclusive right to such a topology shall be paid compensation in accordance with Paragraph 4 of Article 1461 of this Code.

Article 1463. Topology Created on Order

1. If a topology is created on order, the subject matter of which was developing the topology, the exclusive right to such topology shall belong to the customer, unless a contract between the performer and the customer provides otherwise.

2. In the case when the exclusive right to a topology belongs, under Paragraph 1 of this Article, to the customer or to a third person designated by him, the contractor (producer) shall have the right, unless provided otherwise by the contract, to use this topology for his own needs on the terms of a free simple (nonexclusive) license for the entire duration of the exclusive right.

3. In the case when, in accordance with a contract between the contractor (producer) and the customer, the exclusive right to a topology belongs to the contractor (producer), the customer shall have the right to use the topology for his own needs on the terms of a free simple (nonexclusive license) for the entire duration of the exclusive right.

4. The author of the topology created on order, who is not the rightholder, shall be paid compensation in accordance with Paragraph 4 of Article 1461 of this Code.

Article 1464. Topology Created in the Performance of Work under a Government or Municipal Contract

The rules of Article 1298 of this Code shall apply correspondingly to a topology created in performance of work under a government or municipal contract.

#### CHAPTER 75. RIGHT IN A SECRET OF PRODUCTION (KNOW-HOW)

Article 1465. Secret of production (Know-How)

A secret of production is information of any type (manufacturing, technical, economic, organization, or other), including information about the results of intellectual activity in the area of science and technology and also on means of conducting professional activity that has an actual or potential commercial value by virtue of its being unknown by third persons, to which third persons do not have free access on a lawful basis and with respect to which the holder of such information has introduced a regime of commercial secrecy.

Article 1466. Exclusive Right to a secret of production

1. The exclusive right to use a secret of production in accordance with Article 1229 of this Code in any manner not contrary to a statute (the exclusive right to a secret of production), including in the making of products and in the achievement of economic and organizational solutions belongs to the holder of the secret of production. The holder of a secret of production may dispose of the aforesaid exclusive right.

2. A person that has in good faith and independently from other holders of the secret of production became the holder of information constituting the subject matter of the protected secret of production shall acquire an independent exclusive right to this secret of production.

Article 1467. Duration of the Exclusive Right to a secret of production

The exclusive right to a secret of production is effective as long as the confidentiality of the information of which it consists is maintained.

From the time of loss of confidentiality of the respective information, the exclusive right to the secret of production shall be terminated for all rightholders.

Article 1468. Contract for the Alienation of the Exclusive Right to a Secret of Production

1. By the contract for the alienation of the exclusive right to a secret of production, one party, the rightholder, transfers or undertakes to transfer the exclusive right belonging to him to a secret of production in full to the other party, the recipient of the exclusive right in the aforesaid secret of production .

2. In case of alienation of the exclusive right to a secret of production, the person who has disposed of his right shall be obligated to preserve the confidentiality of the secret of production until the termination of the effectiveness of this right.

Article 1469. License Contract on the Granting of the Right to Use the Secret of Production

1. Under a license contract one party, the holder of the exclusive right to a secret of production (the licensor), grants or is obligated to grant another party (the licensee) the right of use of the respective secret of production within the limits established by the contract.

2. A license contract may be concluded both with an indication and without an indication of its term. If the term for which a license contract is concluded is not indicated in the contract, either of the parties shall have the right to cancel the contract at any time, after giving the other party of this not less than six months' notice, unless the contract provides for a longer term.

3. In granting the right of use of a secret of production, the person who has disposed of his right shall be obligated to maintain the confidentiality of the secret of production during the whole term of effectiveness of the license contract.

Persons who have obtained the respective rights under a contract are obligated to maintain the confidentiality of the secret of production until the termination of the effectiveness of the exclusive right to a secret of production.

Article 1470. Employment Secret of Production

1. The exclusive right to the secret of production, if the result was created by an employee in the fulfillment of his work obligations or of a concrete task from the employer (an employment secret of production) shall belong to the employer.

2. An individual to whom, in connection with the performance of his work obligations or of a concrete task from the employer, a secret of production became known is obligated to maintain the

confidentiality of the secrets obtained until the termination of the effectiveness of the exclusive right to the secret of production.

**Article 1471. Secret of Production Created in the Performance of Work Under a Contract**

If a secret of production is obtained in performance of a work contract or a contract for the performance of scientific research, experimental design, or technological work or under a state or municipal contract for government or municipal needs, the exclusive right to such a secret shall belong to the contractor (producer) unless provided otherwise by the respective contract (government or municipal contract).

If a secret of production is obtained in the performance of a contract concluded by the main distributor or a distributor of budgetary funds with a federal state institution, the exclusive right to such a secret shall belong to the performer (or contractor) unless the contract establishes that this right belongs to the Russian Federation.

**Article 1472. Liability for Infringement of the Exclusive Right to a Secret of Production.**

1. An infringer of the exclusive right to a secret of production, including a person who has unlawfully received information constituting a secret of production and who has disclosed or used this information and also a person obligated to maintain confidentiality of a secret of production by virtue of Paragraph 2 of Article 1468, Paragraph 3 of Article 1469, and Paragraph 2 of Article 1470 of this Code, is obligated to compensate for the damages caused by infringement of the exclusive right in the secret of production, unless the law or contract with such person provides for a different liability.

2. A person who has used a secret of production and was not required to know that his use thereof was unlawful, including accidental access to it or access by mistake, shall not be liable in accordance with Paragraph 1 of this Article.

**CHAPTER 76. RIGHTS TO MEANS OF INDIVIDUALIZATION OF A LEGAL PERSON, GOODS, WORKS, SERVICES, AND ENTERPRISES**

**§ 1. Right to a Trade Name**

**Article 1473. Trade Name**

1. A legal person that is a profit making organization shall act in turnover under its firm name, which is defined in its founding documents and is included in the single state register of legal persons upon state registration of a legal person.

2. The trade name of a legal person shall include an indication of its organizational-legal form and the actual name of the legal person, which may not consist solely of words designating the type of activity.

3. A legal person shall have a full name and has the right to have an abbreviated name, both in the Russian language. A legal person has the right to also have a full and/or abbreviated name in the languages of the peoples of the Russian Federation and/or foreign languages.

It is permissible to use foreign borrowings in Russian transcription or in transcription to the corresponding language of a people of the Russian Federation in the firm name of a legal person in the Russian language and in the languages of the peoples of the Russian Federation, with the exception of terms and abbreviations reflecting the organizational-legal form of the legal person.

4. The firm name of a legal person may not include:

1) the full or abbreviated official name of the Russian Federation, or of foreign states, and also words derived from these names;

2) the full or abbreviated official names of Federal executive bodies, bodies of government in the subjects of the Russian Federation, and bodies of local government;

3) the full or abbreviated names of international and intergovernmental organizations;

4) the full or abbreviated names of societal amalgamations;

5) designations contradictory to societal interests and also to principles of humanity and morality.

The trade name of a state unitary enterprise may contain an indication that such an enterprise belongs respectively to the Russian Federation or to a Subject of the Russian Federation.

Inclusion in the firm name of a joint-stock company of the official name of the Russian Federation or of words derived from such a name shall be allowed with the permission respectively of the Government of the Russian Federation or of the empowered agency of state authority of a Subject of the Russian Federation if over 75 percent of the shares of the company belong respectively to the Russian Federation or to a Subject of the Russian Federation. Such a permission shall be granted without an indication of the time period of its effectiveness and may be withdrawn in case of

disappearance of the circumstances by virtue of which it was granted. The procedure for grant and withdrawal of permissions shall be established by statute.

In case of withdrawal of permission to the inclusion in the firm name of a joint-stock company of the official name of the Russian Federation or of words derived from such a name, the joint-stock company shall be obligated within the course of three months to adopt a decision on changing its firm name and to enter the corresponding changes in its charter.

5. In the case when the firm name of a legal person does not correspond to the requirements of Paragraphs 3 and 4 of this Article, the agency conducting state registration of legal persons shall have the right to bring a suit against such a legal person to compel a change of firm name.

#### Article 1474. Exclusive Right to a Trade Name

1. A legal person shall have the exclusive right to use its trade name as its means of individualization in any manner not contrary to a statute (the exclusive right to a firm name) including by its indication on signs, letterheads, bills and other documentations, in announcements and advertising, and on goods and their packaging.

Abbreviated firm names, and also firm names in the in the languages of the peoples of the Russian Federation and foreign languages shall be protected as an exclusive right on the condition of their inclusion in the single state register of legal persons.

2. Disposition of the exclusive right to a firm name (including by its alienation or the granting to another person of the right of use of the firm name) is not allowed.

3. Use by a legal person of a firm name identical to the firm name of another legal person or similar to it to the point of confusion is not allowed if the aforesaid legal persons conduct similar activity and the firm name of the second legal person was included in the single state register of legal persons earlier than the firm name of the first legal person.

4. A person who has violated the requirements of Paragraph 3 of this Article shall be obligated on demand of the rightholder to cease the use of the firm name identical to the firm name of the rightholder or similar to it to the point of confusion with respect to types of activity analogous to types of activity conducted by the rightholder and shall compensate the rightholder for damages caused.

#### Article 1475. Effect of the Exclusive Right to a Firm Name on the Territory of the Russian Federation

1. The exclusive right to a firm name included in the single state register of legal persons shall be in effect on the territory of the Russian Federation.

2. The exclusive right to a firm name shall arise from the date of state registration of the legal person and shall be terminated at the time of the exclusion of the firm name from the single state register of legal persons in connection with the termination of the legal person or change of its firm name.

#### Article 1476. Relationship of Rights to a Firm Name to Rights to a Commercial Designation and to a Trademark and a Service Mark

1. A firm name or separate elements thereof may be used by the rightholder in the composition of a commercial designation belonging to it.

A firm name included in a commercial designation shall be protected independently of the protection of the commercial designation.

2. A firm name or individual elements thereof may be used by the rightholder in a trademark and a service mark belonging to it.

A firm name included in a trademark and a service mark shall be protected independently of the protection of the trademark or a service mark.

### § 2. Right to a Trademark and the Right to a Service Mark

#### 1. Basic Provisions

#### Article 1477. Trademark and Service Mark

1. An exclusive right certified by a trademark certificate (Article 1481) shall be attached to a trademark, i.e., an indication serving the individualization of goods of legal persons or individual entrepreneurs.

2. The rules on trademarks contained in this Code shall correspondingly apply to service marks – indications serving to individualize work performed or services rendered by legal persons or individual entrepreneurs.

#### Article 1478 Holder of the Exclusive Right to a Trademark

The holder of the exclusive right to a trademark may be a legal person or an individual entrepreneur.

#### Article 1479 Effectiveness of the Exclusive Right to a Trademark on the Territory of the Russian Federation

The exclusive right to a trademark registered with the Federal executive body for intellectual property shall be effective on the territory of the Russian Federation, and in other cases covered by an international treaty of the Russian Federation.

#### Article 1480. State Registration of a Trademark

A trademark is state registered by the Federal executive body for intellectual property in the State register of Trademarks and Service Marks of the Russian Federation (the State register of Trademarks), as provided for in Articles 1503 and 1505 this Code.

#### Article 1481. Trademark Certificate

1. A trademark certificate shall be issued for a trademark registered in the State register of Trademarks.

2. The trademark certificate shall certify the priority of the trademark and the exclusive right to the trademark with respect to the goods indicated in the certificate.

#### Article 1482. Types of Trademarks

1. Verbal, pictorial, three-dimensional, and other indications or their combinations may be registered as trademarks.

2. A trademark may be registered in any color or color combination.

#### Article 1483. Bases for Denial of State Registration of a Trademark

1. State registration as trademarks is not allowed for indications not having the capability of distinguishing or consisting only of elements:

- 1) that have gone into general use for indication of goods of the specific type;
- 2) that are generally accepted symbols and terms;
- 3) that characterize goods, including indicating their type, quality, quantity, nature, purpose, or value and also the time, place, or means of their production or sale;
- 4) consisting of the form of goods that is determined exclusively or mainly by the nature or purpose of the goods.

Elements indicated in the present Paragraph may be included in the trademark as unprotected elements if they do not occupy a dominant position in it.

The provisions established in the present Paragraph shall not be applied with respect to indications that have obtained the ability to distinguish as the result of their use.

2. In accordance with an international treaty of the Russian Federation state registration as trademarks shall not be allowed for indications consisting only of elements that are:

- 1) state emblems, flags, or other state symbols and insignia;
- 2) abbreviated or full indications of international intergovernmental organizations, their state emblems, flags, or other symbols and insignia;
- 3) official verification, guaranty, or sample seals, stamps, awards, and other marks of quality;
- 4) designations resembling, to the point of confusion, the elements referred to in subparagraphs 1 to 3 of this paragraph.

Such elements may be included as unprotected elements in a trademark if there is consent by the corresponding competent agency.

3. State registration as trademarks is not allowed for indications that are or contain elements:

1) that are false or capable of leading a consumer into deception concerning goods or their producer;

2) contradictory to societal interests, or to principles of humanity or morality.

4. State registration as trademarks is not allowed for indications the same as, or similar to the point of confusion with, the official names and images of particularly valuable objects of the cultural heritage of the peoples of the Russian Federation or objects of world cultural or natural heritage, and also with images of cultural valuables kept in special, general, and reserve collections, if registration is sought in the name of persons who are not their owners and who do not have the consent of their owners or of the persons authorized thereto by the owners for the registration of such indications as trademarks.

5. In accordance with an international treaty of the Russian Federation, state registration as trademarks is not allowed for indications that are or contain elements that are protected in one of the states party to this international treaty as indications making it possible to identify wines or alcoholic beverages as coming from its territory (or produced within the boundaries of a geographic object of this state) and have a particular quality, reputation, or other characteristics that are mainly determined by its origin, if the trademark is meant for the indication of wines or alcoholic beverages not coming from the territory of the given geographic object.

6. Indications may not be registered as trademarks that are the same as, or similar to the point of confusion with:

1) trademarks of other persons presented for registration (Article 1492) with respect to goods of the same type and having earlier priority if the application for state registration of the trademark has not been withdrawn or is considered as withdrawn;

2) trademarks of other persons protected in the Russian Federation, including in accordance with an international treaty of the Russian Federation with respect to goods of the same type and having an earlier priority date.

3) trademarks of other persons that, by the procedure established by this Code have been found to be generally known in the Russian Federation as trademarks with respect to goods of the same type.

Registration as a trademark with respect to goods of the same type of an indication that is similar to the point of confusion with a trademark indicated in the present Paragraph shall be allowed only with the consent of the rightholder.

7. Indications may not be registered as trademarks with respect to any goods if the indications are the same as, or similar to the point of confusion with, the names of appellation of the origin of goods protected in accordance with this Code, with the exception of cases when these indications are included as unprotected elements into trademarks registered in the name of persons having the exclusive right of use of such names with respect to those goods for which the appellation of the origin of goods is registered, if the trademark is registered in respect of the same goods that have been identified by registration of the appellation of origin of the good.

8. Indications may not be registered as trademarks if they are the same as, or similar to the point of confusion with, to a firm name or commercial designation (or individual elements of such a name or designation), or with the name of a plant variety and animal breed registered in the State register of Protected Plant variety and animal breeds, the rights to which in the Russian Federation arose to other persons before the priority date of the trademark filed for registration;

9. There may not be registered in the Russian Federation designations that are the same as;

1) a name well-known in the Russian Federation on the filing date of the application for state registration of the trademark (Article 1492) of a work of science, literature or art, a character or quotation from such a work, a work of art or a fragment thereof without the consent of the rightholder, if the rights to the respective work arose earlier than the priority date of the trademark undergoing registration;

2) a name (Article 19), a pseudonym (Paragraph 1 of Article 1265) or an indication derived therefrom, a portrait or image of a person well-known in the Russian Federation on the filing date of the application without the consent of this person or his heir;

3) an industrial design, a compliance mark, or a domain name, the rights in which arose before the priority date of the trademark filed for registration.

10. No legal protection is granted either, for reasons provided in this Article, to designations recognized as trademarks under international treaties of the Russian Federation.

## 2. The Use of a Trademark and the Disposition of the Exclusive Right to a Trademark

### Article 1484. Exclusive Right to a Trademark

1. The exclusive right to use a trademark in accordance with Article 1229 of this Code in any manner not contrary to a statute (the exclusive right to a trademark), including by the means indicated in Paragraph 2 of this Article. The rightholder may dispose of the exclusive right to the trademark.

2. The exclusive right to a trademark may be exercised for identifying goods, works, or services with respect to which the trademark is registered, in particular by the placement of the trademark:

1) on goods including on labels and packaging of goods, that are produced, proposed for sale, sold, displayed at exhibits and fairs, or otherwise introduced into turnover on the territory of the Russian Federation or are kept or transported for this purpose, or are imported on the territory of the Russian Federation;

2) in performance of work or rendering of services;

- 3) in documentation connected with the introduction of goods into civil commerce;
  - 4) in proposals for the sale of goods, performance of work, and rendering of services, and also in announcements, on signs, and in advertising;
  - 5) in the Internet, including in a domain name and for other means of addressing;
3. No one has the right to use, without the permission of the rightholder, indications similar to his trademark with respect to the goods for the individualization of which the trademark was registered or goods of the same type, if as the result of such use a likelihood of confusion will arise.

#### Article 1485. Symbol of Legal Protection of a Trademark

The rightholder for giving notice of his exclusive right to a trademark shall have the right to use the symbol of protection, which shall be placed alongside the trademark and consists of the Latin letter "R" or the letter "R" in a circle <\*> or the verbal indication "trademark" or "registered trademark" and which symbol indicates that the indication used is a trademark registered in the Russian Federation.

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<\*> The letter "R" in a circle.

#### Article 1486. Consequences of the Nonuse of the Trademark

1. Legal protection of a trademark may be terminated early with respect to all or part of the goods for the individualization of which the trademark was registered as the result of the uninterrupted nonuse of the trademark in the course of any three years after its registration. A request for the early termination of the legal protection of a trademark as the result of its nonuse may be filed by any person with the Chamber for Patent Disputes upon the expiration of the aforesaid three years on the condition that the trademark has not been used right up to the filing of such request.

2. For the purposes of this Article the use of a trademark is its use by the rightholder or other person to whom this right has been granted on the basis of a license contract in accordance with Article 1489 of this Code, or by another person using the trademark under the oversight of the rightholder, provided that the trademark is used in accordance with Paragraph 2 of Article 1484 of this Code, except where the relevant actions are unrelated directly to the sale of the good, and also the use of a trademark with the alteration of individual elements thereof that do not affect its recognizable identity or restrict the scope of protection accorded to the trademark.

3. The burden of proof of the use of the trademark shall rest upon the rightholder.

When deciding the question of early termination of legal protection of trademark as a result of its nonuse, evidence presented by the rightholder of the fact that the trademark was not used due to circumstances beyond his control may be taken into account.

4. Termination of the protection of a trademark shall mean the termination of the exclusive right to this trademark.

#### Article 1487. Extinction of the Exclusive Right to a Trademark

Use of a trademark by other persons with respect to goods that were introduced into turnover on the territory of the Russian Federation directly by the rightholder or with his consent is not an infringement of the exclusive right to a trademark.

#### Article 1488. Contract for the Alienation of the Exclusive Right to a Trademark

1. Under a contract for alienation of the exclusive right to a trademark, one party – the rightholder – transfers or undertakes to transfer the exclusive right belonging to him in full scope to the corresponding trademark with respect to all or part of the goods for the individualization of which it is registered to the other party – the recipient of the exclusive right.

2. Alienation of the exclusive right to a trademark by contract is not allowed if it can be the cause of the confusion of the consumer with respect to the goods or their manufacturer.

3. Alienation of the exclusive right to a trademark including as an unprotected element an appellation of origin of goods for which legal protection (Paragraph 7 of Article 1483) is provided in the Russian Federation shall be allowed only if the recipient has an exclusive right in such a name.

#### Article 1489. License Contract for the Grant of the Right of Use of a Trademark

1. Under a license contract one party – the holder of the exclusive right to a trademark (the licensor) grants or undertakes to grant to the other party (the licensee) the right of use of a trademark within the limits determined by the contract with an indication or without an indication of the territory of use with respect to the defined area of entrepreneurial activity.

2. The licensee is obligated to ensure the correspondence of the quality of goods produced or sold by him on which he places the licensed trademark to the quality of analogous goods of the licensor. The licensor has the right to conduct verification of the observance of this condition.



If the quality of goods that are indicated by the licensed trademark is lower than the quality of the analogous goods of the licensor, the licensee and the licensor shall bear joint and several liability to consumers.

3. Granting of right of use of trademark including as an unprotected element an appellation of origin of goods for which legal protection (Paragraph 7 of Article 1483) is provided in the Russian Federation shall be allowed only if the licensee has an exclusive right of use of such a name.

Article 1490. Form and State Registration of Contracts for the Disposition of the Exclusive Right to a Trademark

1. A contract for the alienation of the exclusive right to a trademark, a license contract, and also other contracts by which disposition of the exclusive right to a trademark is exercised must be concluded in written form and are subject to state registration with the Federal executive body for intellectual property.

2. The procedure for registration of the contracts indicated in Paragraph 1 of this Article shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

Article 1491. Period of Effectiveness of the Exclusive Right to a Trademark

1. The exclusive right to a trademark shall be effective for the course of ten years from the day of filing an application for state registration of a trademark to the Federal executive body for intellectual property.

2. The period of effectiveness of the exclusive right to a trademark may be extended for ten years on a request of the rightholder filed during the last year of effectiveness of this right.

Extension of the term of effectiveness of the right to a trademark is possible an unlimited number of times.

On petition of the rightholder for extension of the term of effectiveness of the right to a trademark a six months period after the expiration of the period of effectiveness of this right may be granted on condition of payment of the fee.

3. An entry on the extension of the term of effectiveness of the exclusive right to a trademark shall be made by the Federal executive body for intellectual property in the state register and on the trademark certificate.

### 3. State Registration of a Trademark

Article 1492. Application for a Trademark

1. An application for state registration of a trademark (a trademark application) shall be filed with the Federal executive body for intellectual property by a legal person or individual entrepreneur (the applicant).

2. An application for a trademark must relate to one trademark.

3. An application for a trademark must contain:

1) a request for registration of the indication as a trademark with an indication of the applicant and also of his place of location or place of residence;

2) the indication applied for;

3) a list of goods with respect to which registration of a trademark is requested, grouped according to classes of the International Classification of Goods and Services for the Purposes of Registration of Marks;

4) a description of the indication applied for;

4. The application shall be signed by the applicant, and in case of filing of the application through a patent agent or another representative, by the applicant or his representative who has filed the application.

5. The following must be attached to a trademark application:

1) a document confirming payment of the application filing fee in the established amount;

2) the charter for a collective mark if the application is filed for a collective mark (Paragraph 1 of Article 1511).

6. The trademark application shall be filed in the Russian language.

The documents attached to the application shall be presented in Russian or another language. If these documents are presented in another language, their translation into the Russian language shall be attached to the application. The translation into the Russian language may be presented by the applicant in the course of two months from the day of sending to him by the Federal

executive body for intellectual property of notification of the necessity of fulfilling the given requirement.

7. Requirements for the documents contained in the trademark application and attached to it (to the application documents) shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

8. The filing date of a trademark application shall be considered to be the date of receipt at the Federal executive body for intellectual property of the documents referred to in subparagraphs 1 to 3 of Paragraph 3 of this Article, and if the aforesaid documents are not filed simultaneously, the day of the receipt of the last document.

#### Article 1493. Right to be Acquainted with the Documents of a Trademark Application

1. After the filing of a trademark application with the Federal executive body for intellectual property, any person shall have the right to become acquainted with the application documents presented on its filing date.

2. The procedure for becoming acquainted with the application documents shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

#### Article 1494. Priority of a Trademark

1. The priority of a trademark shall be established as the filing date of the trademark application with the Federal executive body for intellectual property.

2. The priority of a trademark under an application filed by an applicant in accordance with Paragraph 2 of Article 1502 of this Code (a divisional application) on the basis of another application of this applicant and for the same indication (the initial application) shall be established as the date of filing with the Federal executive body for intellectual property of the initial application, and in case of the presence of the right to an earlier priority for the initial application – as the date of this priority if on the date of filing of the divisional application the initial application has not been withdrawn and has not been recognized as withdrawn and if the divisional application was filed before the adoption of a decision on the original application.

#### Article 1495. Convention and Exhibition Priority of a Trademark

1. Priority of a trademark may be established as the date of filing of the first application for the trademark in a member state of the Paris Convention for the Protection of Industrial Property (convention priority), if the application for a trademark was filed with the Federal executive body for intellectual property within six months from the aforesaid date.

2. Priority of a trademark placed at display of official or officially recognized international exhibitions organized on the territory of one of member states of the Paris Convention for the Protection of Industrial Property may be established as the date of the beginning of open showing of the display at the exhibition (exhibition priority) if the trademark application is filed with the Federal executive body for intellectual property within six months from the aforesaid date.

3. An applicant desiring to use the right of convention or exhibit priority must indicate this upon filing a trademark application or within two months from the date of its filing with the Federal executive body for intellectual property and must attach the necessary documents confirming the lawfulness of such a request or must present these documents to the aforesaid Federal agency within the course of three months from the date of filing the application.

4. The priority of a trademark may be established as the date of international registration of the trademark in accordance with international treaties of the Russian Federation.

#### Article 1496. Consequences of the Coincidence of Trademark Priority Dates

1. If different applicants have filed applications for identical trademarks with respect to lists of goods that overlap in whole or in part and if these applications have the same priority date, the trademark applied for may be registered with respect to the goods for which the aforesaid lists overlap only in the name of one of the applicants, determined by agreement between them.

2. If applications for identical trademarks with respects to lists of goods that overlap in whole or in part and having one and the same priority date, are filed by the same applicant, the trademark with respect to the goods for which the aforesaid lists overlap may be registered only with respect to the one of the applications selected by the applicant.

3. In the case when the applications for identical trademarks have been filed by different applicants (Paragraph 1 of this Article), they must in the course of six months from the date of receipt from the Federal executive body for intellectual property of the corresponding notice communicate to this agency on the agreement reached by them on under which of the applications registration of a

trademark will be sought. During the course of the same time period, an applicant who has filed applications for identical trademarks (Paragraph 2 of this Article) must communicate about his choice.

If, during the course of the established period, the aforesaid communication or a petition for extending the established period does not arrive at the Federal executive body for intellectual property, the trademark applications shall be recognized as withdrawn.

#### Article 1497. Examination of a Trademark Application and Entry of Changes in the Documents of a Trademark Application

1. Examination of a trademark application shall be conducted by the Federal executive body for intellectual property.

Examination of an application shall include formal examination and examination of the indication applied for as a trademark (the indication applied for).

2. During the period of conduct of examination of a trademark application the applicant shall have the right until the taking of a decision on it to supplement, clarify, or correct the materials of the application, for example, by filing additional materials.

If the additional materials contain a list of goods that are not named in the application on the filing date or the trademark indication applied for is significantly changed, such supplementary materials shall not be accepted for consideration. They may be formalized and filed by the applicant as an independent application.

3. Change in the application for a trademark of information on the applicant, including in the case of transfer or passage of the right to registration of a trademark or as a result of change of the indication or name of the applicant and also correction in the documents of obvious and technical errors may be done until registration of the trademark (Article 1503).

4. During the period of conduct of examination of the trademark application, the Federal executive body for intellectual property shall have the right to request from the applicant additional materials without which the conduct of the examination would be impossible.

Supplementary materials must be presented by the applicant within the course of two months from the date of receipt by the applicant of the corresponding request or of copies of materials indicated in the reply request of the applicant on the condition that the given copies were requested by the applicant in the course of a month from the day of receipt by him of a request from the Federal executive body for intellectual property. If the applicant, within the aforesaid time period, does not present the requested supplementary materials or a petition for extension of the time period established for their presentation, the application shall be considered as withdrawn on the basis of a decision made by the Federal executive body for intellectual property. On petition of the applicant the time period established for presentation of supplementary materials may be extended by the aforesaid Federal agency, but not for more than six months.

The rules established by Paragraph 2 of this Article shall apply to supplementary materials that contain a list of goods not indicated in the application on its filing date or which substantially change the indication of the trademark applied for.

#### Article 1498. Formal Examination of a Trademark Application

1. Formal examination of a trademark application shall be conducted in the course of a month from the filing date of the application with the Federal executive body for intellectual property.

2. During the course of conduct of formal examination of a trademark application the presence of the necessary application documents shall be verified and also their correspondence to the established requirements. According to the results of the formal examination the application shall be accepted for consideration or a decision shall be adopted on refusal to accept it for consideration. The applicant shall be notified of the results of formal examination by the Federal executive body for intellectual property.

Simultaneously with notification on a positive result of formal examination the applicant shall be informed of the filing date of the application established in accordance with Paragraph 8 of Article 1492 of this Code.

#### Article 1499. Examination of a Indication Applied for as a Trademark

1. Examination of a indication applied for as a trademark (examination of a indication applied for) shall be conducted after completion of the formal examination of the application accepted for examination.

In the course of conduct of the examination, the correspondence of the indication applied for to the requirements established in Articles 1477 and 1483 of this Code shall be verified and the priority of the trademark shall be established.

2. The Federal executive body for intellectual property shall adopt a decision on the registration of the trademark or on the refusal of its registration in accordance with the results of the examination of the indication applied for.

3. Before the adoption of a decision on the results of the examination of the indication applied for, the applicant may be sent a notice in written form on the results of verification the correspondence of the indication applied for to the requirements indicated in the second subparagraph of Paragraph 1 of this Article with a proposal to present his positions with respect to the grounds adduced in the notice. The positions of the applicant shall be taken into consideration in the adoption of a decision on the results of the examination of the indication applied for if they are presented in the course of six months from the date of sending the aforesaid notice to the applicant.

4. A decision on the state registration of a trademark may be reconsidered by the Federal executive body for intellectual property before the registration of the trademark in connection with:

1) receipt of an application having an earlier priority in accordance with Articles 1494, 1495, and 1496 of this Code for indication that is identical or similar to it to the point of confusion with respect to goods of the same type.

2) registration as the appellation of the origin of goods of an indication the same as to the trademark indicated in the decision on registration or similar to it to the point of confusion;

3) discovery of an application containing the same trademark or discovery of the same protected trademark with respect to lists of goods that overlap in whole or in part and with the same or an earlier trademark priority.

4) change of the applicant that in case of registration of the indication applied for as a trademark may lead to the confusion of consumers with respect to the goods or their manufacturer.

#### Article 1500. Appeal of Decisions on a Trademark Application

1. In case of disagreement with the decision of the Federal executive body for intellectual property adopted on the basis of the results of the formal examination of a trademark application, on refusal to accept it for consideration, or with a decision adopted on the basis of the results of examination of the trademark indication applied for, or with a decision on the recognition of the application as withdrawn, the applicant may file an objection with the Chamber for Patent Disputes within the course of three months from the day of receipt of the corresponding decision or of copies of materials against the application requested from the aforesaid Federal executive body, on the condition that the applicant requested these copies in the course of a month from the day of receipt by him of the corresponding decision.

2. During the period of considering the objection, before the adoption by the Chamber for Patent Disputes of a decision, the applicant may make the changes that are allowed, in accordance with Paragraph 2 of Article 1497 of this Code, in the materials of the application, if such changes remove the reasons that were the sole basis for refusal of registration of the trademark and their introduction makes possible the taking of a decision to register the trademark.

#### Article 1501. Reinstatement of Exceeded Time Periods Connected with the Conduct of Examination of a Trademark Application

The time periods provided in Paragraph 4 of Article 1497 and in Paragraph 1 of Article 1500 of this Code, if exceeded by the applicant, may be reinstated by the Federal executive body for intellectual property on petition of the applicant filed in the course of two months from the day of completion of these time periods on the condition of confirmation of the validity of the reasons for which the time period was not observed and payment of the respective fee. A petition for the reinstatement of an exceeded time period shall be filed with the aforesaid Federal agency simultaneously with the supplementary materials requested in accordance with Paragraph 4 of Article 1497 of this Code or with a petition on extending the time period for their presentation or simultaneously with an objection filed to the Chamber for Patent Disputes on the basis of Article 1500 of this Code.

#### Article 1502. Withdrawal of a Trademark Application and Division of Another Application From It

1. A trademark application may be withdrawn by the applicant at any stage of its consideration, but not later than the registration of the trademark.

2. During the period of examination of the trademark application, the applicant shall have the right until the adoption of a decision under it to file to the Federal executive body for intellectual property a divisional application for the same indication of a trademark containing a list of goods from those indicated in the initial application on the date of its filing with the aforesaid Federal agency and not of the same kind as other goods on the list contained in the initial application, in connection with which the initial application shall remain in force.

#### Article 1503. Procedure for State Registration of a Trademark

1. On the basis of a decision to issue an state registration for a trademark (Paragraph 2 of Article 1499), the Federal executive body for intellectual property within the course of a month from the day of receipt of a document on the payment of the fee shall conduct state registration of the trademark in the State Register of Trademarks and Service Marks.

The trademark, information on the rightholder, the priority date of the trademark, the list of goods for identifying which the trademark is registered, the date of its registration, and other information relating to the registration of the trademark, and also later changes in this information shall be entered on the State register of Trademarks.

2. In case of failure to present, by the established procedure, a document confirming payment of the fee referred to in Paragraph 1 of this Article for trademark registration and for the issuance of a certificate for it, trademark registration shall not be done, and the corresponding application shall be recognized as withdrawn on the basis of a decision made by the Federal executive body for intellectual property..

#### Article 1504. Issuance of a Trademark Certificate

1. A trademark certificate shall be issued by the Federal executive body for intellectual property within the course of a month from the day of registration of the trademark in the State register of Trademarks.

2. The form of a trademark certificate and the composition of the information indicated in it shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

#### Article 1505. Entry of Changes into the State register of Trademarks and into the Trademark Certificate

1. The rightholder must inform the Federal executive body for intellectual property on any changes relating to a trademark registration including on the designation or name of the rightholder, on a reduction in the list of goods with respect to which the trademark was registered, on the change of individual elements of the trademark not changing its essence.

2. In case of a appeal of the grant of legal protection to a trademark (Article 1512), on request of the rightholder a separate registration of this trademark for one of the goods or some of the goods from those indicated in the initial registration that is not of the same kind as the goods the list of which remains in the original registration may be divided from the registration of a trademark in effect with respect to various goods. Such a request may be filed by the rightholder before the adoption of a decision on the results of consideration of a dispute on registration of the trademark.

3. Changes relating to the a trademark registration shall be entered into the state register and the trademark certificate on the condition of the prior payment of the fee.

4. The Federal executive body for intellectual property may, on its own initiative enter changes in the state register and in the trademark certificate for correction of obvious and technical mistakes, after giving prior notice of this to the rightholder.

#### Article 1506. Publication of Information about a Trademark Registration

Information relating to a trademark registration and entered into the State register of Trademarks in accordance with Article 1503 of this Code shall be published by the Federal executive body for intellectual property in the official gazette promptly after the registration of the trademark in the State register of Trademarks and after making corresponding changes in the State register of Trademarks.

#### Article 1507. Registration of a Trademark in Foreign States and International Registration of a Trademark

1. Russian legal persons and individuals of the Russian Federation shall have the right to register a trademark with foreign states or to conduct its international registration.

2. An international trademark registration application shall be filed through the Federal executive body for intellectual property.

### 4. Specifics of the Legal Protection of a Well Known Trademark

#### Article 1508. Well Known Trademark

1. On the request of a person considering that the trademark used by him or the indication used as a trademark is a trademark well known in the Russian Federation, a trademark protected on

the territory of the Russian Federation on the basis of its registration or in accordance with an international treaty of the Russian Federation or an indication used as a trademark but not having legal protection on the territory of the Russian Federation may be, by a decision of the Federal executive body for intellectual property be recognized as a trademark generally known in the Russian Federation if the trademark or indication as the result of intensive use had become widely known in the Russian Federation among the corresponding consumers with respect to goods of this person on the date indicated in the request.

A trademark and an indication used as a trademark may not be recognized as a well known trademark if they have become widely known after the priority date of a trademark of another person which is identical or similar to it to the point of confusion and which is meant for use with respect to goods of the same type.

2. A well known trademark shall be granted the legal protection provided by this Code for a trademark.

Granting legal protection to a well known trademark means recognizing the exclusive right in the well known trademark.

A well known trademark is granted protection *ad interim*.

3. Legal protection of a well known trademark shall also extend to goods that are different from those with respect to which it was recognized as well known if the use of that trademark with respect to the aforesaid goods by another person is associated by consumers with the holder of the exclusive right in the well known trademark and may infringe the lawful interests of that holder.

#### Article 1509. Granting Legal Protection to a Well Known Trademark

1. Legal protection for a well known trademark shall be granted on the basis of a decision of the Federal executive body for intellectual property adopted in accordance with Paragraph 1 of Article 1508 of this Code.

2. A trademark recognized as well known shall be entered by the Federal executive body for intellectual property in the List of Trademarks Well Known in the Russian Federation (The List of Well Known Trademarks).

3. A certificate for a well known trademark shall be issued by the Federal executive body for intellectual property within the course of a month from the day of entry of the trademark in the List of Well Known Trademarks.

The form of a certificate for well known trademark and the composition of information indicated therein shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

4. Information relating to a well known trademark shall be published by the Federal executive body for intellectual property in the official gazette promptly after the entry of the information in the List of Well Known Trademarks.

### 5. Specifics of Legal Protection of a Collective Mark

#### Article 1510. Right to a Collective Mark

1. An amalgamation of persons the creation and activity of which does not contradict the legislation of the state in which it was created shall have the right to register a collective mark in the Russian Federation.

A collective mark is a trademark meant for the indication of goods produced or sold by persons included in the given amalgamation and which goods possess uniform characteristics of their quality or other common characteristics.

A collective trademark may be used by each of the persons included in the amalgamation.

2. The right to a collective trademark may not be alienated and may not be the subject of a license contract.

3. A person included in the amalgamation that registered the collective mark shall have the right to also use his own trademark along with the collective mark.

#### Article 1511. State Registration of a Collective Mark

1. The charter of the collective mark shall be attached to an application for the registration of a collective mark (collective mark application) filed with the Federal executive body for intellectual property and must contain:

- 1) the name of the amalgamation authorized to register the collective mark in its own name (the rightholder);
- 2) a list of persons having the right to use this mark;
- 3) the purpose of registration of the collective mark;

4) a list of and uniform characteristics of quality or other common characteristics of goods that will be designated by the collective mark;

5) the conditions for use of the collective mark;

6) provisions on the procedure for supervision of the use of the collective mark;

7) provisions on responsibility for violation of the charter of the collective mark.

2. Information on the persons having the right to use the collective mark shall be entered in the state register and in the collective mark certificate in addition to the information provided for in Articles 1503 and 1504 of this Code. This information and also an extract from the charter of the collective mark on the uniform characteristics of quality and other uniform characteristics of goods with respect to which this mark was registered shall be published by the Federal executive body for intellectual property in the official gazette.

The rightholder shall inform the Federal executive body for intellectual property of changes in the charter of the collective mark.

3. In case of the use of the collective mark on goods not possessing the uniform characteristics of their quality or other uniform characteristics, legal protection of the collective mark may be terminated early in whole or in part on the basis of the decision of a court taken at the request of any person.

4. The collective mark and a collective mark application may be transformed respectively into a trademark and a trademark application and vice-versa. The procedure for such transformation shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

## 6. Termination of the Exclusive Right to a Trademark and of its Legal Protection

Article 1512. Bases for Contesting and Recognizing as Invalid the Grant of Legal Protection to a Trademark

1. Contesting the grant of legal protection to a trademark shall signify the contesting of a decision on the registration of a trademark (Paragraph 2 of Article 1499) and of the confirmation of the exclusive right to a trademark based upon it (Articles 1477 and 1481).

Recognition of the invalidity of the grant of legal protection to a trademark shall entail the invalidity of a decision of the Federal executive body for intellectual property on the registration of a trademark.

2. The grant of legal protection to a trademark may be appealed and recognized as invalid:

1) in full or in part during the course of the whole term of effectiveness of the exclusive right to a trademark if legal protection was granted to it in violation of the requirements established in Paragraphs 1 to 5, 8 and 9 of Article 1483 of this Code;

2) in full or in part in the course of five years from the date of publication of information on the state registration of the trademark in the official gazette (Article 1506) if legal protection was granted to it in violation of the requirements established in Paragraphs 6 and 7 of Article 1483 of this Code;

3) in full during the course of the whole term of effectiveness of the exclusive right to a trademark if legal protection was granted to it in violation of the requirements established in Article 1478 of this Code;

4) in full during the course of the whole term of effectiveness of legal protection if it was granted to a trademark with later priority with respect to a recognized well known registered trademark of another person, the legal protection of which is exercised in accordance with Paragraph 3 of Article 1508 of this Code;

5) in full or in part during the whole term of effectiveness of the exclusive right to the trademark if legal protection was granted to it in the name of an agent or representative of a person who is the holder of this exclusive right in one of the member states of the Paris Convention for the Protection of Industrial Property in violation of the requirements established by the aforesaid Convention.

6) in full or in part during the course of the whole term of effectiveness of legal protection if actions of the rightholder connected with the registration of the trademark are recognized by the established procedure as abuse of right or unfair competition.

3. The grant of legal protection to a well known trademark by its registration in the Russian Federation may be appealed and recognized as invalid in full or in part during the course of the whole term of effectiveness of the exclusive right to this trademark if legal protection was granted to it in violation of the requirements established in Paragraph 1 of Article 1508 of this Code.

Article 1513. Procedure for Contesting and Recognizing as Invalid the Grant of Legal Protection to a Trademark

1. The grant of legal protection to a trademark may be appealed on the bases and within the time periods that are indicated in Article 1512 of this Code by the filing of an objection against such a grant with the Patent Disputes Office or with the Federal executive body for intellectual property.

2. Objections against the grant of legal protection to a trademark on the bases that are provided in numbered subparagraphs 1-4 of Paragraph 2 and in Paragraph 3 of Article 1512 of this Code may be filed with the Chamber for Patent Disputes by any person.

3. An objection against the grant of legal protection to a trademark on the ground provided in numbered subparagraph 5 of Paragraph 2 of Article 1512 of this Code may be filed with the Chamber for Patent Disputes by an interested holder of the exclusive right to the trademark in one of the member states of the Paris Convention for the Protection of Industrial Property.

An objection to the granting of legal protection to a trademark on the basis provided by numbered subparagraph 6 of Paragraph 2 of Article 1512 of this Code shall be submitted by the interested person to the Federal executive body for intellectual property.

4. Decisions of the Federal executive body for intellectual property on the recognition of the grant of legal protection to a trademark as invalid or on refusal of such recognition shall enter into force in accordance with the rules of Article 1248 of this Code and may be appealed in court.

5. In case of recognition of the grant of legal protection to a trademark as invalid in full, the trademark certificate and the entry in the State register of Trademarks shall be annulled.

In case of recognition of the grant of legal protection to a trademark as partially invalid, a new trademark certificate shall be issued and the corresponding changes shall be made in the State register of Trademarks.

6. License contracts concluded before the making of a decision on the recognition of the invalidity of the grant of legal protection to a trademark shall remain effective to the extent to which they were performed by the time when the decision is made.

#### Article 1514. Termination of Legal Protection for a Trademark

1. Legal protection of a trademark shall be terminated:

1) in connection with the expiration of the period of effectiveness of the exclusive right to a trademark;

2) on the basis of a decision of a court rendered in accordance with Paragraph 3 of Article 1511 of this Code on the early termination of the legal protection of a collective trademark in connection with the use of this mark on goods not having the uniform characteristics of their quality or other uniform characteristics;

3) on the basis of a decision taken in accordance with Article 1486 of this Code on the early termination of legal protection of a trademark in connection with its nonuse;

4) on the basis of a decision of the Federal executive body for intellectual property on the early termination of the legal protection of a trademark in case of termination of the legal person - the rightholder or the termination of the entrepreneurial activity of the individual -the rightholder;

5) in case of refusal by the rightholder of the right to the trademark;

6) on the basis of a decision of the Federal executive body for intellectual property adopted at the request of any person on the early termination of the legal protection of the trademark in case of its transformation into an indication that has gone into general use as the indication of goods of the specific type.

2. Legal protection of a well known trademark shall be terminated on the grounds established in numbered subparagraphs 3 - 6 of Paragraph 1 of this Article and also on the basis of a decision of the Federal executive body for intellectual property in case of loss by the well known trademark of the characteristics established in the first subparagraph of Paragraph 1 of Article 1508 of this Code.

3. In case of passage of the exclusive right to a trademark without the conclusion of a contract with the rightholder (Article 1241) the legal protection of the trademark may be terminated on decision of a court on suit by an interested person if it is shown that such a passage leads to significant confusion concerning the goods or their manufacturer.

4. Termination of the legal protection of a trademark shall mean the termination of the exclusive right to this trademark.

### 7. Protection of the Right to a Trademark

#### Article 1515. Liability for Unlawful Use of a Trademark

1. Goods, labels, and packaging of goods on which a trademark or an indication similar to it to the point of confusion is used unlawfully are counterfeit.

2. The rightholder shall have the right to demand withdrawal from the market and destruction of counterfeit goods, labels, and packaging of goods bearing an unlawfully used trademark, or the sign



similar to it to the point of confusion at the expense of the infringer. Where promotion of such goods to the market is essential in public interests, the rightholder may demand from the infringer, at the infringer's expense, removal of the unlawfully used trademark or sign similar to it to the point of confusion from the counterfeit goods, labels, or packaging.

3. A person who has infringed the right to a trademark in the performance of work or rendering of services shall be obligated to remove the trademark or indication similar to the trademark to the point of confusion from the materials that accompanied the performance of such work or the rendering of services (documentation, advertising, signs, and the like).

4. The rightholder shall have the right to demand at his option from the infringer instead of compensation for damages payment of compensation:

1) in the amount from 10 thousand rubles to 5 million rubles determined at the discretion of the court proceeding from the nature of the infringement;

2) in double the amount of the value of the goods on which the trademark was illegally placed or in double the amount of the value of the rights of the use of the trademark determined proceeding from the price that in comparable circumstances is usually taken for its lawful use.

5. A person who has made a warning marking with respect to a trademark not registered in the Russian Federation shall bear liability by the procedure provided by the legislation of the Russian Federation.

### § 3. Right to an Appellation of Origin of Goods

#### 1. Basic Provisions

##### Article 1516. Appellation of Origin of Goods

1. An appellation of origin of goods is an indication that is or contains a modern or historical, official or unofficial, full or abbreviated designation of the country, populated place, locality, or other geographic locale or derived from such a designation and having become known as the result of its use with respect to goods the special characteristics of which are exclusively or mainly determined by the natural conditions and/or human factors characteristic for the given geographic locale. An exclusive right (Articles 1229 and 1519) for the producers of such goods may be confirmed for this designation.

2. An indication, although it is or contains the name of a geographic locale, but has gone in the Russian Federation into general use as an indication of goods of a given type not connected with the place of its production shall not be recognized as an appellation of origin of goods.

##### Article 1517. Operation on the Territory of the Russian Federation of the Exclusive Right of Use of an appellation of origin of Goods

1. On the territory of the Russian Federation an exclusive right of use of an appellation of origin of goods shall have effect if it is registered with the Federal executive body for intellectual property, and in other case covered by an international treaty of the Russian Federation..

2. State registration as a appellation of the origin of goods of the name of a geographic locale that is located in a foreign state is allowed if the name of this locale is registered as such a designation in the country of origin of the goods. The holder of the exclusive right of use of the name of such an appellation of origin of goods may only be the person whose right to this designation is registered in the country of origin of the goods.

##### Article 1518. State Registration of the appellation of the origin of Goods

1. The appellation of the origin of goods shall be recognized and protected by virtue of state registration of such a designation.

A appellation of the origin of goods may be registered by one or more individuals or legal persons.

2. Persons who have registered a appellation of the origin of goods shall be granted the exclusive right of use of this designation certified by a certificate on the condition that the goods produced by these persons meet the requirements established by Paragraph 1 of Article 1516 of this Code.

The exclusive right to use an appellation of origin of goods with respect to the same designation may be granted to any person who, within the boundaries of the same geographic locale, produces goods having the same special qualities.

#### 2. Use of an appellation of Origin of Goods

#### Article 1519. Exclusive Right of Use of an appellation of origin of Goods

1. The rightholder shall have the exclusive right to use the appellation of the origin of the goods in accordance with Article 1229 of this Code in any manner not contrary to a statute exclusive right in the appellation of the origin of a good), including by the means indicated in Paragraph 2 of this Article.

2. The following placement of the designation shall in particular be considered to be the use of the appellation of the origin of goods:

1) on goods, including on labels and packaging of goods, that are produced, offered for sale, sold, shown at exhibits and fairs or in another manner introduced into turnover on the territory of the Russian Federation, or are stored or transported with this purpose, or are imported onto the territory of the Russian Federation;

2) on letterheads, bills and in other documentation and printed publications connected with introducing the goods in commerce;

3) in offerings to sell goods, and also in announcements, on signs, and in advertising;

4) on the Internet including in a domain name and by other means of addressing;

3. The use of a registered appellation of the origin of goods by persons not having a certificate is not allowed even if in this case the true appellation of the origin of goods is indicated or designation is used in translation or in connection with such words as "kind," "type," "imitation," and the like, and also the use of a similar designation for any goods that is capable of leading consumers in confusion concerning the appellation of the origin and the special qualities of the goods (unlawful use of a appellation of the origin of goods).

Goods, labels and packaging of these goods on which appellation of origin or designations similar to them to the point of confusion are used unlawfully are counterfeit.

4. Disposal of the exclusive right in the appellation of origin of a good, such as alienation thereof, or assignment of the right to use the appellation to another person, shall not be permitted.

#### Article 1520. Symbol of Legal Protection of Appellation of Origin of Goods

The holder of a certificate of the exclusive right of use of an appellation of origin of goods for notification of his exclusive right may place together with the name of appellation of the origin of goods a warning marking in the form of the verbal indication "registered appellation of the origin of goods or "registered DPOG," notifying that the indication used is the appellation of origin of goods registered in the Russian Federation.

#### Article 1521. Effect of Legal Protection of the Appellation of the Origin of Goods

1. The appellation of the origin of goods shall be protected without limit of time, i.e. during the whole time of the existence of the possibility of producing the goods, the particular characteristics of which are exclusively or mainly determined by the natural conditions and (or) human factors characteristic for the given geographic locale (Article 1516).

2. The period of effectiveness of a certificate of the exclusive right of use of the appellation of origin of goods and the procedure for extending this term shall be determined by Article 1531 of this Code.

### 3. State Registration of an appellation of Origin of Goods and Granting of the Exclusive Right of Use of an Appellation of Origin of Goods

#### Article 1522. Application for an appellation of Origin of Goods

1. An application for state registration of an appellation of origin of goods and for the granting of an exclusive right of use of this designation and also an application for the granting of an exclusive right of use of a previously registered appellation of origin of goods (an application for an appellation of origin of goods) shall be filed with the Federal executive body for intellectual property.

2. An application for an appellation of origin of goods must relate to one appellation of origin of goods.

3. An application for an appellation of origin of goods must contain:

1) a request for state registration of an appellation of origin of goods and for the granting of an exclusive right of use of such a designation or for the granting of an exclusive right of use of a previously registered appellation of origin of goods, with an indication of the applicant and also of his place of location or place of residence;

2) the designation applied for;

3) an indication of the goods with respect to which state registration of an appellation of origin of goods and granting of the exclusive right of use of this designation or only the granting of the exclusive right of use of a previously registered appellation of the origin of goods is sought;

4) an indication of the appellation of the origin (or production) of the goods (the boundaries of the geographic locale), the natural conditions and/or human factors of which exclusively or mainly determine or may determine the particular qualities of the goods;

5) a description of the special qualities of the goods.

4. An application for an appellation of origin of goods shall be signed by the applicant or in the case of filing of the application through a patent agent – by the applicant or a patent agent.

5. If a geographic locale, the designation of which is applied for as the appellation of the origin of goods, is located on the territory of the Russian Federation, there shall be attached to the application a conclusion of an agency authorized by the Government of the Russian Federation to the effect that the applicant, within the boundaries of the aforesaid geographic locale, produces goods, the special qualities of which are exclusively or mainly determined by the natural conditions and/or human factors characteristic for the given geographic locale.

To an application for the granting of an exclusive right of use of a previously registered appellation of origin of goods located on the territory of the Russian Federation there shall be attached a statement of a competent body, determined by the procedure established by the Government of the Russian Federation to the effect that the applicant produces, within the territory of the aforesaid geographic object, goods having the particular characteristics indicated in the State register of Appellations of Origin of Goods of the Russian Federation (State register of Names) (Article 1539).

In the case in which a geographic locale the designation of which is applied for as an appellation of origin of goods is located outside the boundaries of the Russian Federation a document confirming the right of an applicant to the appellation of origin of goods applied for in the country of origin of the goods shall be attached to the application.

A document confirming the payment of the application filing fee in the established amount shall be attached to the application.

6. A request for an appellation of origin of goods shall be filed in the Russian language.

Documents attached to an application shall be presented in the Russian language or in another language. If these documents are presented in another language, their translation into the Russian language shall be attached to the application. A translation into the Russian language may be presented by the applicant within the course of two months from the date of sending to him by the Federal executive body for intellectual property of notification of the necessity of fulfilling the given requirement.

7. Requirements for documents that must be contained in an application for an appellation of origin of goods or must be attached to the application (documents of the application) shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

8. The filing date of an application for an appellation of origin of goods shall be considered to be the date of receipt at the Federal executive body for intellectual property of the documents provided by Paragraph 3 of this Article, and if the aforesaid documents are not presented simultaneously – the date of arrival of the last document.

Article 1523. Examination of an Application for an appellation of Origin of Goods and Entry of Changes in the Documents of an Application for an Appellation of Origin of Goods

1. Examination of an application for an appellation of origin of goods shall be conducted by the Federal executive body for intellectual property.

Examination of the application shall include formal examination and examination of the indication applied for as a appellation of the origin of goods (the indication applied for).

2. During the period of conduct of the examination of an application for an appellation of origin of goods, the applicant shall have the right until the adoption of a decision on it to supplement, clarify, or correct the materials of the application.

If supplementary materials change an application in its essence, these materials shall not be taken into consideration and may be formalized by the applicant as an independent application.

3. During the period of conduct of the examination of an application for an appellation of origin of goods, the Federal executive body for intellectual property shall have the right to request from the applicant supplementary materials without which conduct of the examination is impossible.

Additional materials must be presented within two months from the date of receipt of the request by the applicant. On request of the applicant, this time period may be extended on the condition that the request arrived before the expiration of this time period. If the applicant has exceeded the aforesaid period or has left the request for supplementary materials without an answer, the application shall become withdrawn by a decision of the Federal executive body for intellectual property.

Article 1524. Formal Examination of an Application for an Appellation of Origin of Goods

1. Formal examination of an application for a appellation of the origin of goods shall be conducted within the course of two months from the date of its filing with the Federal executive body for intellectual property.

2. In the course of the conduct of formal examination of an application for an appellation of origin of goods, the presence of the necessary documents and also their correspondence to the established requirements shall be verified. On the results of formal examination, the application shall be accepted for consideration or a decision shall be adopted on refusal to accept the application for consideration. The applicant shall be notified of the results of formal examination.

Simultaneously with notification on a positive result of formal examination of the application the filing date of the application established in accordance with Paragraph 8 of Article 1522 of this Code shall be communicated to the applicant.

Article 1525. Examination of an Indication Applied for as a Appellation of the Origin of Goods

1. Examination of an indication applied for as an appellation of origin of goods (examination of an indication applied for) for the correspondence of such an indication to the requirements established by Article 1516 of this Code shall be conducted on an application adopted for consideration as the result of formal examination.

In the course of conduct of examination of an indication applied for, the basis for the selection of a appellation of the origin (or production) of goods on the territory of the Russian Federation shall also be verified.

For an application accepted for consideration for the granting of an exclusive right of use of a previously registered appellation of origin of goods, expert examination of the designation applied for shall be conducted for its correspondence to the requirements established by the second subparagraph of Paragraph 5 of Article 1522 of this Code.

2. Before the adoption of a decision on the results of the examination of an indication applied for the applicant may be sent a notification in written form of the results of verification of the correspondence of the indication applied for to the requirements established in Article 1516 of this Code, with a proposal to present his conclusions with respect to the reasons presented in the notification. The conclusions of the applicant shall be taken into consideration in the adoption of a decision on the results of examination of the indication applied for if they were presented in the course of six months from the day of sending the applicant the aforesaid notification.

Article 1526. Decision on the Results of the Examination of an Indication Applied for

On the basis of the examination results, the Federal executive body for intellectual property shall decide to issue a state registration for an appellation of origin of a good and to grant an exclusive right to the appellation, or to deny state registration of the appellation of the good and/or to refuse to grant an exclusive right to the appellation.

If an application for an appellation of origin of a good sought an exclusive right in a registered appellation, the Federal executive body shall decide to either grant or deny the exclusive right sought.

Article 1527. Withdrawal of an Application for an Appellation of Origin of Goods

An applicant may abandon an application at any stage of its consideration before entry into the State Register of Designations of Appellation of the Origin of Goods of the Russian Federation of information on the registration of an appellation of origin of goods and/or on granting an exclusive right of use of an appellation of origin of goods.

Article 1528. Appeal of Decisions on an Application for an Appellation of Origin of Goods. Reinstatement of Exceeded Time Periods

1. Decisions of the Federal executive body for intellectual property to reject an application for an appellation of origin of a good, or to consider the application as withdrawn, or decisions taken on the results of examination of a sign applied for (Article 1526), may be appealed by the applicant by filing an objection with the Patent Disputes Chamber within three months from the date of receipt of the respective decision.

2. The time periods provided in Paragraph 3 of Article 1523 of this Code and in Paragraph 1 of this Article that have been exceeded by the applicant may be reinstated by the Federal executive body for intellectual property on petition of the applicant filed within the course of two months from their expiration date, on the condition of confirmation of valid reasons due to which the time period was not observed and payment of the corresponding fee.

A petition on the reinstatement of an exceeded time period shall be presented by the applicant to the Federal executive body for intellectual property simultaneously with the supplementary materials requested in accordance with Paragraph 3 of Article 1523 of this Code or with a petition for

lengthening the time period for presenting them or simultaneously with the filing of an objection with the Federal executive body for intellectual property on the basis of Paragraph 1 of this Article.

Article 1529. Procedure for Registration of an appellation of origin of Goods

1. On the basis of a decision on the results of an examination of an indication applied for (Article 1526), the Federal executive body for intellectual property shall conduct registration of an appellation of the origin of goods in the State Register of Designations of Appellation of Origin of Goods (the state register).

2. The appellation of origin of goods, information about the holder of the certificate of the exclusive right in the appellation of origin of goods, identification and description of the special qualities of the goods for identifying which the appellation of origin of goods has been registered, and other information relating to state registration and to the granting of the exclusive right in the appellation of origin of goods, to the extension of the term of the certificate, and also subsequent changes in this information shall be entered on the State register of Names.

Article 1530. Issuance of a Certificate of the Exclusive Right of Use of an appellation of origin of Goods

1. A certificate of the exclusive right of use of an appellation of origin of goods shall be issued by the Federal executive body for intellectual property in the course of a month from the day of receipt of a document on the payment of the established fee.

In case of failure to present by the established procedure a document confirming the payment of the fee, the certificate shall not be issued.

2. The form of the certificate of the exclusive right of use of an appellation of origin of goods and the composition of the information contained in it shall be established by the Federal executive body conducting normative-legal regulation in the area of intellectual property.

Article 1531. Duration of a Certificate of the Exclusive Right to the Appellation of Origin of Goods

1. A certificate of the exclusive right to use an appellation of origin of goods shall be effective for the course of ten years from the filing date of an application for an appellation of origin of a good to the Federal executive body for intellectual property.

2. The period of effectiveness of a certificate of the exclusive right of use of an appellation of origin of goods may be extended on request of the holder of the certificate and on the condition of presentation by him of a conclusion of an agency authorized by the Government of the Russian Federation in which it is confirmed that the holder of the certificate produces, within the boundaries of the corresponding geographic locale, goods possessing the special qualities indicated in the state register.

With respect to an appellation of origin of goods that is the designation of a geographic object located beyond the boundaries of the Russian Federation, instead of the conclusion indicated in the first subparagraph of the present Paragraph the holder of the certificate shall present a document confirming his right to the use of the appellation of the origin of the goods in the country of origin of the goods on the filing date of an application for the extension of the time period of effectiveness of the certificate.

A request for the extension of the time period of effectiveness of a certificate shall be filed during the course of the last year of effectiveness of the certificate.

On petition of the holder of a certificate, he may be granted six months after the expiration of the time period of effectiveness of the certificate to file a request for the extension of this time period upon condition of payment of a supplementary fee.

The time period of effectiveness of a certificate shall be extended each time for ten years.

3. An entry on the extension of the time period of effectiveness of the certificate of the exclusive right to use an appellation of origin of goods shall be entered by the Federal executive body for intellectual property in the State register of Names and on the certificate.

Article 1532. Entry of Changes in the State Register and on the Certificate of the Exclusive Right to Use a appellation of the origin of Goods

1. The holder of a certificate of the exclusive right of use of an appellation of origin of goods must inform the Federal executive body for intellectual property of a change in his own designation or name and also on other changes relating to the registration of the appellation of origin of goods and to the grant of the exclusive right to the name (Paragraph 2 of Article 1529).

An entry on the change shall be made in the State register of Names and in the certificate on the condition of payment of the corresponding fee.

2. The Federal executive body for intellectual property may, on its own initiative enter changes in the State register of Names and on the certificate of the exclusive right of use of an appellation of origin of goods for the correction of obvious and technical errors, having previously informed the holder of the certificate of this.

Article 1533. Publication of Information on Registration of a appellation of the origin of Goods  
Information on the registration of a appellation of the origin of goods and on the grant of an exclusive right of use of this designation entered into the State register of Names in accordance with Articles 1529 and 1532 of this Code, with the exception of information containing a description of the special qualities of the goods shall be published by the Federal executive body for intellectual property in the official gazette immediately after their entry in the State register of Names.

Article 1534. Registration in Foreign States of an appellation of origin of Goods

1. Russian legal entities and individual of the Russian Federation shall have the right to register in foreign states a appellation of the origin of goods.

2. An application for registration in a foreign state of an appellation of origin of goods may be filed after the registration of an appellation of origin of goods and the grant of an exclusive right of use of this designation in the Russian Federation.

4. Termination of the Legal Protection of an appellation of origin of Goods and of the Exclusive Right of Use of a appellation of the origin of Goods

Article 1535. Bases for Contesting and Invalidating of Legal Protection to an appellation of Origin of Goods and the Exclusive Right of Use of this Designation

1. Contesting the grant of legal protection to an appellation of origin of goods shall mean contesting the decision of the Federal executive body for intellectual property on the state registration of an appellation of origin of goods and on the granting of the exclusive right to this appellation or a decision to grant a certificate of the exclusive right to this appellation.

Challenge of the exclusive right granted on a registered appellation of origin of a good means contesting the decision to grant the exclusive right in the registered appellation of a good and to issue a certificate of exclusive right in the appellation of origin of the good.

Invalidation of legal protection of an appellation of origin of a good shall be followed by reversal of the decision to issue an state registration for an appellation of origin of the good and to give an exclusive right to the appellation, and cancellation of the entry in the State register of Names and the certificate of the exclusive right in the appellation.

Invalidation of the exclusive right granted to a registered appellation of origin of a good shall be followed by reversal of the decision to grant an exclusive right in the registered appellation of origin of a good, and cancellation of the entry in the State register of Names and the certificate of exclusive right to the appellation.

2. Legal protection granted to an appellation of origin of a good may be disputed and invalidated during the entire term of protection if legal protection was granted in violation of the provisions of this Code. The exclusive right granted to a registered appellation of origin of a good may be disputed and invalidated during the entire term of the certificate of exclusive right in an appellation of origin of a good (Article 1531).

If the use of an appellation of origin of a good can mislead a consumer regarding the good or the producer thereof because of an existing trademark with an earlier priority date, legal protection given to that appellation may be disputed and invalidated within five years of the publication of information about the state registration of the appellation of origin of the good in the official gazette.

3. Any interested person may, for reasons referred to in Paragraph 2 of this Article, file an objection with the Federal executive body for intellectual property.

Article 1536. Termination of Legal Protection an appellation of Origin of Goods and of the Effectiveness of a Certificate of the Exclusive Right Such Appellation

1. Legal protection of an appellation of origin of goods shall be terminated in the case of:

1) disappearance of the conditions characteristic for the given geographic locale and impossibility of producing goods possessing the special qualities indicated in the State register of Names in respect of the appellation of origin of a good;

2) loss by a foreign legal person or individual, or an stateless person of the right in the use of the given appellation of the origin of goods in the country of origin of the goods.

2. The effectiveness of the certificate of the exclusive right of use of an appellation of origin of goods shall be terminated in the case of:

1) loss by the goods made by the holder of the given certificate of the special features indicated in the state register with respect to the given appellation of the origin of goods;

2) termination of legal protection of an appellation of origin of goods on the bases indicated in Paragraph 1 of this Article;

3) liquidation of the legal person or termination of the entrepreneurial activity of the individual entrepreneur - the holder of the certificate;

4) expiration of the term of effectiveness of the certificate;

5) filing by the holder of the certificate of a request to the Federal executive body for intellectual property.

3. Any person, on the grounds provided by Paragraph 1 and by the first and second subparagraphs of Paragraph 2 of this Article may file with the Federal executive body for intellectual property a request for the termination of legal protection of an appellation of origin of goods and of the effect of a certificate of the exclusive right of use of this name, and for the reason referred to in subparagraph 3 of Paragraph 2 of the Article, termination of the certificate of exclusive right in the appellation of origin of the good.

Legal protection of the appellation of origin of goods and the effectiveness of a certificate of the exclusive right of use of this designation shall be terminated on the basis of a decision of the Federal executive body for intellectual property.

## 5. Protection of an appellation of Origin of Goods

### Article 1537. Liability for Unlawful Use of an appellation of Origin of Goods

1. A rightholder may demand withdrawal from the market and destruction, at the expense of the infringer, of counterfeit goods, labels, and packaging bearing an unlawfully used appellation of origin of a good or a sign similar to it to the point of confusion. Where the promotion of such goods to the market is required in public interests, the rightholder may demand removal, at the expense of the infringer, of the unlawfully used appellation of origin of a good or sign similar to the same to the point of confusion, from the counterfeit goods, labels, and packaging of the goods.

2. The rightholder may demand at his option from the infringer instead of compensation for damages payment of compensation:

1) of the amount from 10 thousand rubles to 5 million rubles determined at the discretion of the court depending on the nature of the infringement;

2) in double the amount of the value of the goods on which the appellation of origin of goods was unlawfully placed.

3. A person who has made a warning marking with respect to an appellation of origin of goods not registered in the Russian Federation shall bear liability by the procedure provided by the legislation of the Russian Federation.

### § 4. Right to a Commercial Designation

#### Article 1538. Commercial Designation

1. Legal persons conducting entrepreneurial activity (including noncommercial organizations to which a right of conduct of such activity has been granted in accordance with a statute by their founding documents) and also individual entrepreneurs may use for individualization of trade, industrial and other enterprises belonging to them (Article 132) commercial designations that are not firm names and are not subject to obligatory inclusion in the founding documents nor in the single state register of legal persons.

2. A commercial designation may be used by the rightholder for individualization of one or several enterprises. Two or more commercial designations may not be used simultaneously for the individualization of one enterprise.

#### Article 1539. Exclusive Right to a Commercial Designation

1. The exclusive right to use a commercial designation in any manner not contrary to a statute (exclusive right to a commercial designation) shall belong to a person as a means of individualization of an enterprise belonging to him, including by its indication on signs, letterheads, bills and other documentation, in announcements and in advertising, and on goods and their packaging, if such a designation possesses sufficient distinguishing characteristics and its use by the rightholder for individualization of his enterprise is known within the boundaries of a specific territory.

2. The use of a commercial designation capable of leading into confusion with respect to the ownership of an enterprise by a specific person, in particular of a commercial designation similar to

the point of confusion with the firm name, trademark, or a commercial designation protected by an exclusive right and belonging to another person for whom the corresponding exclusive right arose earlier.

3. A person who has violated the requirements of Paragraph 2 of this Article shall be obligated on demand of the rightholder to terminate the use of the commercial designation and to compensate the rightholder for damages caused.

4. The exclusive right to a commercial designation may pass to another person (including by contract, by way of universal legal succession and on other grounds established by a statute) only in the composition of an enterprise for the individualization of which such designation is used.

In case the commercial designation is used by the rightholder for the individualization of several enterprises, the passage of the exclusive right to a commercial designation to another person in the composition of one of them shall deprive the rightholder of the right of use of this commercial designation for the individualization of all his remaining enterprises.

5. A rightholder may grant to another person the right of use of his commercial designation by the procedure and on the conditions provided by the contract of lease of an enterprise (Article 656) or the contract of franchise (Article 1027).

#### Article 1540. Effectiveness of the Exclusive Right to a Commercial Designation

1. The exclusive right to a commercial designation used for individualization of an enterprise located on the territory of the Russian Federation shall be effective on the territory of the Russian Federation.

2. The exclusive right to a commercial designation shall be terminated if the rightholder does not use it continuously in the course of a year.

#### Article 1541. Relationship of Rights to a Commercial Designation to Rights to a Firm Name and Trademark

1. The exclusive right to a commercial designation including the firm name of the rightholder or individual elements thereof shall arise and be effective independently of the exclusive right to the firm name.

2. A commercial designation or individual elements thereof may be used by the rightholder in a trademark belonging to him.

A commercial designation included in a trademark shall be protected independently of the protection of the trademark.

### CHAPTER 77. RIGHT TO USE THE RESULTS OF INTELLECTUAL ACTIVITY IN INTEGRATED TECHNOLOGY

#### Article 1542. Right to Technology

1. Integrated technology, in the sense of the Chapter, is the product of scientific and engineering activity, embodied in an objective form, which comprises various combinations of inventions, utility models, industrial designs, computer programs, or other results of intellectual activity qualifying for legal protection in accordance with the rules of this Division, and may serve as a technological basis for a certain practical activity in the civilian or military fields (integrated technology).

The integrated technology may also comprise the results of intellectual activity, such as technical data and other information, that do not qualify for legal protection under the rules of this Division.

2. The exclusive rights to the results of intellectual activity, which are incorporated into the integrated technology, shall be recognized and protected under the rules of this Code.

3. The right to use the results of intellectual activity within the integrated technology as a complex object (Article 1240) shall belong to the person who has organized the development of the integrated technology (the right in the technology) under agreements with the holders of exclusive rights to the results of intellectual activity incorporated into the integrated technology. The integrated technology may also comprise protected results of intellectual activity developed by the person who has organized development thereof.

#### Article 1543. Area of Application of the Rules on the Right to Technology

1. The rules of this Chapter shall be applied to relations connected with rights to technology of civil, military, special, or dual purpose, created at the expense or with the use of funds of the Federal budget assigned for payment for work under state contracts, under other contracts, for financing on budgets of receipts and expenditures, and also as subsidies.



The rules of the present Chapter shall not be applied to relations that have arisen in the creation of unified technology at the expense of or with the use of funds of the Federal budget on a compensated basis in the form of a budgetary credit.

Article 1544. The Right of a Person Who Has Organized Development of an Integrated Technology to the Use of the Results of Intellectual Activity Incorporated therein

1. A person who has organized the development of an integrated technology at the expense of, or from, the funds of the Federal budget or the budget of a subject of the Russian Federation (the producer) shall hold the right in the technology so developed, except as provided in Paragraph 1, Article 1546 of this Code, under which that right belongs to the Russian Federation or the subject of the Russian Federation.

2. The person who, pursuant to Paragraph 1 of this Article, holds the right in the technology shall promptly take measures provided by the laws of the Russian Federation to have his rights in the results of intellectual activity incorporated into the integrated technology recognized and granted to him (by filing applications for patents and state registration of the results of intellectual activity, imposing a secrecy order in respect of the relevant information, entering into agreements for the alienation of the exclusive rights and license agreements with the holders of the exclusive rights in the respective results of intellectual activity incorporated into the integrated technology, and taking other measures), unless such measures were taken before or during the technology development process.

2. In cases when this Code permits various methods to be used to protect the rights in the results of intellectual activity incorporated into the integrated technology, the person who holds the right in the technology shall choose the method of legal protection that suits his interests best and ensures practical application of the integrated technology.

Article 1545. Responsibility for Practical Application of Integrated Technology

1. A person for whom, in accordance with Article 1544 of this Code, a right to technology is recognized is obliged to conduct its effective practical application (implementation).

This obligation shall be borne by any person to whom this right is transferred or passes in accordance with the rules of this Code.

2. The content of the obligation of introduction of technology, the time periods, other conditions and the procedure for performance of this obligation, the consequences of its non-performance and the conditions of termination shall be determined by the Government of the Russian Federation.

Article 1546. The Right of the Russian Federation and Subjects of the Russian Federation in Technology

1. The right in technology developed at the expense, or with the funds, of the Federal Budget shall belong to the Russian Federation if:

1) integrated technology is directly related to the need of defense or security of the Russian Federation;

2) the Russian Federation before the creation of the integrated technology or thereafter undertook the financing work of bringing the integrated technology to the stage of practical application;

3) the producer did not ensure before the expiration of six months after finishing work for its creation the completion of all actions necessary for the recognition as his or the obtaining of the exclusive rights to the results of intellectual activity that are included in the system of the technology.

2. The right in a technology developed at the expense, or with the funds, of the budget of a subject of the Russian Federation shall belong to the subject of the Russian Federation if:

1) the subject of the Russian Federation undertook, before integrated technology was developed or thereafter, to finance the work of bringing the technology to the practical application stage;

2) the producer did not ensure, before the expiration of six months after completion of the work to develop the integrated technology, the taking of all actions necessary for the exclusive rights to the results of intellectual activity incorporated into the technology to be recognized as his own or for acquiring them.

3. In cases when, in accordance with Paragraph 1 of this Article, the right in integrated technology belongs to the Russian Federation or to a subject of the Russian Federation, the producer shall, pursuant to Paragraph 2 of Article 1544 of this Code, undertake measures for the respective results of intellectual activity to be recognized as his own and for acquiring them in order to subsequently transfer those rights to the Russian Federation and the subject of the Russian Federation, respectively.

4. The management of the right to technology belonging to the Russian Federation shall be conducted in the manner determined by the Government of the Russian Federation.

The right in a technology belonging to a subject of the Russian Federation shall be managed as directed by the executive bodies of the government in the subject of the Russian Federation concerned.

5. The right in a technology belonging to the Russian Federation or a subject of the Russian Federation shall be managed in accordance with the rules of this Code.

The specific procedure for managing the right in a technology belonging to the Russian Federation shall be as stipulated in the Federal technologies transfer law.

Article 1547. Alienation of the Right in Technology Belonging to the Russian Federation or to a Subject of the Russian Federation

1. In the cases provided by subparagraphs 2 and 3 of Paragraph 1 and Paragraph 2 of Article 1546 of this Code, not later than by the expiration of six months from the day of receipt by the Russian Federation or a subject of the Russian Federation of rights in the results of intellectual activity necessary for practical use of these results in the system of unified technology, the right to technology must be alienated to a person interested in the effective implementation of technology and possessing actual possibilities for its implementation.

In the case referred to in subparagraph 1 of Paragraph 1, Article 1546 of this Code, the right in a technology shall be alienated for the benefit of a persons interested in adopting the technology and possessing real potentialities for adopting it immediately after the Russian Federation has relinquished its interest in preserving that right for itself.

2. Alienation by the Russian Federation or by a subject of the Russian Federation of the right to technology belonging to it to third persons shall be conducted as a general rule for compensation upon the results of the conduct of a competition.

Where the right of the Russian Federation or of a subject of the Russian Federation in a technology cannot be alienated by a tender, that right shall be transferred through an auction.

The procedure for the conduct of tenders and auctions for the alienation of the right of the Russian Federation or a subject of the Russian Federation to a technology and also the possible cases and procedure for the transfer by the Russian Federation or a subject of the Russian Federation of a right to a technology without holding a tender or an auction shall be determined by the technologies transfer law.

3. A priority right to conclusion with the Russian Federation or a subject of the Russian Federation of a contract for obtaining the right to technology if other conditions are equal shall belong to the performers by whom the given results of intellectual activity included in the system of uniform technology were created.

Article 1548. Compensation for the Right to Technology

1. The right to technology shall be granted without compensation in the cases provided by Article 1544 and Paragraph 3 of Article 1546 of this Code.

2. In cases when the right to technology is alienated by contract, including on the results of a competition or auction, the amount and conditions of payment for this right shall be determined by agreement of the parties.

3. In cases when the implementation of technology has an important socio-economic significance or an important significance the defense or the security of the Russian Federation and the amount of expenditures for its implementation makes economically ineffective the compensated obtaining of technology, the transfer of rights to such technology by the Russian Federation, a subject of the Russian Federation, or another rightholder who have received the respective right without compensation also may be conducted without compensation. Cases in which the uncompensated transfer of rights to technology shall be determined by the Government of the Russian Federation.

Article 1549. The Right to Technology Belonging Jointly to Several Persons

1. The right in a technology developed with funds appropriated from the budget and funds provided by other investors may be held jointly by the Russian Federation, a subject of the Russian Federation, and other investors of the project in the course of which the technology was developed, the producer, and other rightholders.

2. If the right to technology belongs to several persons, they shall exercise this right jointly.

Disposition of a right to technology belonging jointly to several persons shall be conducted by them by common consent.

3. A transaction made by one of the persons to whom the right to technology belongs jointly for the disposition of this right may be recognized as invalid on demand of the remaining rightholders on the grounds of the absence for the person who made the transaction of the necessary authority

only in this case if it is shown that the other person knew or clearly should have known of the absence of authority.

4. The income from the use of technology, the right to which belongs to several rightholders and also from the disposition of this right shall be divided among them in equal shares unless provided otherwise by agreement among them.

5. If a part of the technology, the right in which belongs to several persons, may be important on its own, an agreement between the rightholders may identify the part of the technology the right in which is claimed by which of the rightholders. A part of the technology may be important on its own if it can be used independently of the other parts of this technology.

Each of the rightholders shall have the right as his discretion to sue the respective part of technology having independent significance unless otherwise provided by agreement among them. In such case the right to the technology as a whole and also the disposition of the right to it shall be conducted jointly by all the rightholders.

Income from the use of part of the technology shall go to the person have the rights to the given part of the technology.

#### Article 1550. General Conditions of the Transfer of Rights to Technology

Unless otherwise provided by this Code or other statute, a person having the right to technology may at his discretion dispose of this right by its transfer in full or in part to other persons by contract or other transaction including by contract on alienation of this right, by a licensing contract, or by any other contract containing the elements of a contract for alienation of a right or a licensing contract.

The right to technology shall be transferred with respect to all the results of intellectual activity included in a system of unified technology as a unified whole. Transfer of rights to separate ones of these results (a part of the technology) shall be allowed only if a part of the integrated technology may be important on its own in accordance with Paragraph 5, Article 1549 of this Code.

#### Article 1551. Conditions for Export of Integrated Technology

1. Integrated technology must have practical applications (be adopted) primarily in the territory of the Russian Federation.

The right to technology may be transferred for the use of the technology on the territory of foreign states with the consent of the state customer or the disburser of budgetary funds under the foreign economic activities legislation.

2. Transactions envisioning the use of the uniform technology beyond the boundaries of the Russian Federation shall be subject to state registration in the Federal executive body for intellectual property.

Nonobservance of the requirements for state registration of the transaction shall entail its invalidity.

Vladimir V. Putin  
President of the Russian Federation

The Kremlin, Moscow  
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