**Unofficial translation**

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# CIVIL CODE OF THE RUSSIAN FEDERATION

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## PART IV

## SECTION VII

## RIGHTS TO THE RESULTS OF INTELLECTUAL ACTIVITY AND MEANS OF INDIVIDUALIZATION

## CHAPTER 69. GENERAL PROVISIONS

Article 1225. **Results of Intellectual Activity and Means of Individualization subject to protection**

1. The results of intellectual activity and means equated to them of individualization of legal entities, goods, work, services, and enterprises that are granted legal protection (intellectual property) shall be as follows:

1) works of science, literature, and art;
2) computer programs;
3) databases;
4) performances;
5) phonograms;
6) broadcasting or diffusion of radio- or television transmissions via cable;
7) inventions;
8) utility models;
9) industrial designs;
10) selection attainments;
11) topographies of integrated circuits;
12) secrets of production (know-how);
13) trade names;
14) trademarks and service marks;
15) appellations of origin;
16) commercial names.

[1] The English translation of the Part IV of the Civil Code of the Russian Federation, prepared by the specialists of Rospatent, is an unofficial one intended to inform the international community, in particular, multilateral organizations, foreign IP offices, and also professionals dealing with the issues of protection and enforcement of IP rights both in the country and abroad.

2. Intellectual property shall be protected by statute.

Article 1226. **Intellectual Rights**

Intellectual rights shall be recognized for the results of intellectual activity and means of individualization equated to them (results of intellectual activity and means of individualization), which include an exclusive right that is a proprietary right; and, in cases provided for by the present Code, also personal non-proprietary rights and other rights (droit de suite, right of access, and others).

Article 1227. **Intellectual Rights and the Right of Ownership**

1. Intellectual rights shall not depend upon the right of ownership to the material carrier (a thing) which has embodied the respective result of intellectual activity or means of individualization.

2. The transfer of the right of ownership to a thing shall not entail the transfer or granting of the intellectual rights to the result of intellectual activity or to means of individualization embodied in this thing, except the case provided for by Paragraph 2 of Article 1291 of the present Code.

Article 1228. **Author of a Result of Intellectual Activity**

1. The author of a result of intellectual activity shall be deemed a citizen whose creativity has led to the creation of such a result.

Citizens who have not made a personal creative contribution in achieving such a result, including those who have rendered merely technical, consulting, organizational, or financial support or assistance to the author or who have merely assisted in the formalization of rights to such a result or its use, as well as citizens who have exercised supervision over the process of the relative work, shall not be considered as the authors of the result of intellectual activity.

2. The right of authorship belongs to the author of a result of intellectual activity and, in cases provided for by the present Code, the right to the name and other personal non-proprietary rights.

The right of authorship, the right to the name and other personal non-proprietary rights of the author shall be inalienable and non-transferable. A waiver of these rights is void.

Authorship and the name of the author shall be protected interminably. After the death of the author, protection of his authorship and the name may be maintained by any interested person, except the cases provided for by Paragraph 2 of Article 1267 and Paragraph 2 of Article 1316 of the present Code.

3. The exclusive right to a result of intellectual activity made by creativity shall initially appear in its author. This right may be transferred by the author to another person under the contract and may also be passed to other persons on other grounds provided for by the law.

4. The rights to a result of intellectual activity created by the joint creativity of two or more citizens (co-authorship) belong to the co-authors jointly.

Article 1229. **Exclusive Right**

1. The citizen or legal entity possessing the exclusive right to a result of intellectual activity or to means of individualization (the rightholder) shall have the right to use this result or this means at his discretion in any legitimate manner. The rightholder may dispose an exclusive right to a result of intellectual activity or to

means of individualization (Article 1233), unless otherwise provided for by the present Code.

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

Other persons shall not use the respective result of intellectual activity or means of individualization without the consent of the rightholder, except the cases provided for by the present Code. The use of a result of intellectual activity or means of individualization (including their use in ways provided for by the present Code) without the consent of the rightholder, shall be illegal and shall entail the liability as provided for by the present Code and other laws, except where the use of a result of intellectual activity or means of individualization by persons other than the rightholder without the consent by the latter is allowed by the present Code.

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

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

The income from the joint use of the result of intellectual activity or means of individualization shall be shared among all the rightholders equally, unless otherwise provided for by an agreement among them.

The disposition of the exclusive right to the result of intellectual activity or to means of individualization shall be effected by the rightholders jointly, unless otherwise provided by the present Code.

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

5. Limitations on exclusive rights to results of intellectual activity and to means of individualization, including the case when use of the results of intellectual activity is allowed without the consent of the rightholders, but with retention for them of the right to remuneration, shall be determined by the present Code.

In such cases limitations on exclusive rights to the works of science, literature, and art, objects of related rights, inventions and industrial designs, trademarks shall be set forth with the observance of the conditions provided for by the subparagraphs 3, 4 and 5 of the present Paragraph.

Limitations on exclusive rights to the works of science, literature, and art or to objects of related rights shall be set forth in certain special cases under the condition that such limitations do not contradict the common use of the works or objects of related rights and do not impair in an unjustified manner the legitimate interests of the rightholders.

Limitations on exclusive rights to inventions or industrial designs shall be set forth in specific cases under the condition that such exceptions do not unjustifiably contradict the normal use of inventions or industrial designs and with the account of

the third party interests do not impair in an unjustified manner the legitimate interests of the rightholders.

Limitations on exclusive rights to trademarks shall be established in specific cases under the condition that they take into account the legitimate interests of the rightholders and third parties.

Article 1230. **The Term of Exclusive Rights**

1. Exclusive rights to the results of intellectual activity and to means of individualization shall be effective within a certain period of time, except the cases provided by the present Code.

2. The term of an exclusive right to the result of intellectual activity or to means of individualization, the procedure for calculation of this term, the grounds and procedure for extending it, as well as the grounds and procedure for terminating an exclusive right before the expiration of the term shall be determined by the present Code.

Article 1231. **Validity of Exclusive and Other Intellectual Rights within the Territory of the Russian Federation**

1. Exclusive rights to results of intellectual activity and to means of individualization established by virtue of international treaties of the Russian Federation and by the present Code shall be valid within the territory of the Russian Federation.

Personal non-proprietary rights and other intellectual rights not subject to exclusivity, shall be valid within the territory of the Russian Federation in accordance with the fourth subparagraph of Paragraph 1 of Article 2 of the present Code.

2. In the recognition of an exclusive right to a result of intellectual activity or to means of individualization in accordance with an international treaty of the Russian Federation, the content of the right, its validity, limitations, and the procedure for its realization and enforcement shall be determined by the present Code regardless of the provisions of the legislation of the country of origin of the exclusive right, unless such international treaty or the present Code have provided otherwise.

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

1. In cases provided for by the present Code, the exclusive right to a result of intellectual activity or to means of individualization shall be recognized and protected under the condition of official registration of such result or such means.

2. In cases when the result of intellectual activity or means of individualization is subject in accordance with the present Code to official registration, contracted alienation of the exclusive right to such result or such means, pledge of this right, and contracted granting of the right to use such result or such means, and likewise the non-contracted transfer of the exclusive right to such result or such means shall also be subject to official registration which terms and conditions to be set forth by the Government of the Russian Federation.

3. Official registration of the contracted alienation of an exclusive right to a result of intellectual activity or to means of individualization, official registration of the pledge of this right, as well as the official registration of the contracted granting of the right of use of such result or such means shall be effected by official registration of the respective contract.

4. In case provided for by Article 1239 of the present Code, the relative judicial decision shall be the ground for the official registration of granting a right to use the result of intellectual activity or means of individualization.

5. The ground for the official registration of a transfer of an exclusive right to a result of intellectual activity or to means of individualization by inheritance shall be a certificate of the right to inherit, except the case provided for by Article 1165 of the present Code.

6. Failure to meet the requirements of official registration of a contract for the alienation of an exclusive right to a result of intellectual activity or to means of individualization or of a contract for the granting to another person of the right to use such result or such means shall entail the invalidity of the respective contract. In case of failure to meet the requirement for official registration of the non-contracted transfer of an exclusive right, such transfer shall be regarded as not effected.

7. In cases provided for by the present Code, official registration of the result of intellectual activity shall be effected at the rightholder's wish. In such cases the provisions of Paragraphs 2-6 of the present Article shall apply to the registered result of intellectual activity and to the rights to such result, unless otherwise provided for by the present 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 means of individualization belonging to him in any legitimate manner according to the nature of such exclusive right, including by its alienation by virtue of contract to another person (contract on alienation of an exclusive right) or providing another person with the right to use the respected result of intellectual activity or means of individualization under the terms and conditions of the contract (license contract).

The conclusion of a license contract per se shall not entail the transfer of the exclusive right to the licensee.

2. The general provisions on obligations (Articles 307-419) and on contract (Articles 420-453) shall apply to contracts for the disposition of the exclusive right to a result of intellectual activity or to means of individualization, including to contracts for the alienation of the exclusive right and to license (sublicense) contracts, unless otherwise provided for by the provisions of the present Section or follows from the content or nature of the exclusive right.

3. A contract with no direct indication on transfer an exclusive right in full scope to a result of intellectual activity or to means of individualization shall be considered as a license contract, except when a contract concluded with respect to the right to use a result of intellectual activity specially created or to be created for inclusion in a complex object (second subparagraph of Paragraph 1 of Article 1240).

4. The terms and conditions of a contract for the alienation of an exclusive right or of a license contract introducing limitations of the right of a citizen 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 shall be invalid.

5. In case of conclusion of a contract for the pledge of an exclusive right to a result of intellectual activity or to means of individualization, the pledgor shall have the right during the validity period of this contract to use such result of intellectual activity or such means of individualization and to dispose of the exclusive right to

such result or such means without the consent of the pledgee, unless the contract provides otherwise.

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

1. Under the contract for the alienation of an exclusive right, one party (the rightholder) shall transfer or shall undertake commitment to transfer the exclusive right belonging to him to a result of intellectual activity or means of individualization in full scope to the other party (the recipient).

2. The contract for the alienation of an exclusive right shall be concluded in written form and shall be subject to official registration in the cases provided for by Paragraph 2 of Article 1232 of the present Code. Failure to conclude the contract in written form or to meet the requirement of official registration shall entail the invalidity of the contract.

3. Under the contract for the alienation of exclusive right, the recipient shall be committed to pay the rightholder the remuneration provided for by the contract unless the contract provides otherwise.

In case of absence in a remunerated contract for the alienation of an exclusive right of the terms and conditions, as well as provisions on the amount of remuneration or the procedure for its determination, the contract shall be considered as not concluded. In such case the provisions on determination of the price provided for by Paragraph 3 of Article 424 of the present Code shall not apply.

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

5. In case of a substantial breach by the recipient of the obligation to pay the rightholder, within the time-frames specified by the contract for the alienation of the exclusive right, the remuneration for obtaining the exclusive right to the result of intellectual activity or to means of individualization (subparagraph 1 of Paragraph 2 of Article 450), the former rightholder shall have the right to invoke the judicial procedure to demand the transfer to himself of the rights of the recipient of the exclusive right and the reimbursement of losses, if the exclusive right has been passed to its recipient.

If the exclusive right has not been passed to the recipient, then in case of breach by him of the obligation to pay, within the time-frames specified by the contract, the remuneration for obtaining the exclusive right, the rightholder may unilaterally renounce the contract and demand reimbursement of losses caused by the 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 means of individualization (the licensor), shall grant or shall undertake the commitment to grant to the other party (the licensee) the right to use such result or such means within the limits provided for by the contract.

The licensee shall use the result of intellectual activity or means of individualization only within the limits of those rights and those means as provided for by the license contract. The right to use a result of intellectual activity or means of

individualization not indicated expressly in a license contract shall not be considered as granted to the licensee.

2. The license contract shall be concluded in written form, unless otherwise provided for by the present Code.

The license contract shall be subject to official registration in cases provided for by paragraph 2 of Article 1232 of the present Code.

Failure to conclude the license contract in a written form or to meet the requirement on official registration shall entail the invalidity of the license contract.

3. The license contract shall contain the indication of the territory within which the use of the result of intellectual activity or means of individualization is permitted. If the territory within which use of such result or such means is permitted is not indicated in the contract, the licensee shall have the right to exercise its use throughout the territory of the Russian Federation.

4. The duration of the license contract shall not exceed the term of validity of the exclusive right to the result of intellectual activity or to means of individualization.

In case the duration 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 for by the present Code.

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

5. Under a license contract the licensee shall be committed to pay the licensor the remuneration provided for by the contract unless the contract provides otherwise.

In case of absence in a remunerated license contract of provisions on the amount of remuneration or on the procedure for determining it, the contract shall be considered as not concluded. In this case the provisions for determination of the price provided for by Paragraph 3 of Article 424 of the present Code shall not apply.

6. The license contract shall provide for:

1) the subject of the contract by indicating the result of intellectual activity or means of individualization, the right of the use of which to be granted under the contract, with an indication, in appropriate cases, of the reference number and date of the granting a document confirming the exclusive right to such result or to such means (patent, certificate);

2) ways 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 means of individualization to a new rightholder shall not be the ground for change or dissolution of a license contract concluded by the previous rightholder.

Article 1236. **Types of License Contracts**

1. The license contract shall provide for:

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

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

2. Unless otherwise provided by the license contract, the license shall be presumed to be simple (non-exclusive).

3. One license contract with respect to different ways of use a result of intellectual activity or means of individualization shall contain provisions provided for by Paragraph 1 of the present Article for license contracts of different types.

Article 1237. **Implementation of License Contract**

1. The licensee shall be committed to provide the licensor with reports on the use of the result of intellectual activity or means of individualization, unless otherwise provided by the license contract. If the license contract requiring submission of reports on the use of the result of intellectual activity or means of individualization does not specify the time-frames and procedure for such submission, the licensee shall be committed to submit such reports to the licensor at his request.

2. Within the duration of the license contract, the licensor shall be committed to refrain from any actions capable to impede the realization by the licensee of the right to use the result of intellectual activity or means of individualization within the limits specified by the contract.

3. The use of a result of intellectual activity or means of individualization in a manner not provided for by the license contract, or after the expiry of the duration of the license contract or in another manner beyond the limits of the rights granted to the licensee under the contract shall entail the liability for infringement of the exclusive right to the result of intellectual activity or means of individualization set forth by the present Code, other laws, or the contract.

4. In case of breach by the licensee of the commitment to pay to the licensor, within the time-frames specified by the license contract, the remuneration for granting the right to use a work of science, literature, or art (Chapter 70) or items of related rights (Chapter 71), the licensor may unilaterally renounce the license contract and demand the reimbursement of losses caused by the dissolution of such 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 to use a result of intellectual activity or a means of individualization to another person (sublicense contract).

2. Under a sublicense contract the sublicense shall 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 as provided for by the license contract for the licensee.

3. The sublicense contract concluded for a time period exceeding the duration of the license contract shall be considered as concluded for the duration of the license contract.

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

5. The provisions of the present Code on a license contract shall apply to the sublicense contract.

Article 1239. **Compulsory License**

In cases provided for by the present Code, a court may, at the request of an interested person, take a decision to provide this person, on conditions determined in the judicial decision, with rights to use a result of intellectual activity, the exclusive right to which belongs to another person (a compulsory 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 containing several protected results of intellectual activity (cinematographic work, other audio-visual work, theatrical-audience presentation, a multimedia product, a single technology) shall obtain the right to use these results under the contracts for the alienation of the exclusive right or license contracts concluded by such person with the holders of exclusive rights to the respective results of intellectual activity.

In case when the person who has organized the creation of a complex object obtains the right of use of a result of intellectual activity specially created or to be created for inclusion in such complex object, the corresponding contract shall be considered to be a contract for the alienation of the exclusive right unless otherwise provided by agreement of the parties.

The license contract providing for the use of a result of intellectual activity in the composition of a complex object shall be concluded for the whole time period and with respect to the whole territory of the validity of the respective exclusive right, unless otherwise provided for by the contract.

2. The provisions of the license contract restricting the use of a result of intellectual activity in the composition of a complex object shall be invalid.

3. In the use of the result of intellectual activity in the composition of a complex object, the creator of such a result shall retain the right of authorship and other personal non-proprietary rights to such a result.

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

5. The provisions of the present Article shall apply to the right of use of results of intellectual activity in a system of single technology created at the expense of the Federal budget totally or partially, to the extent not otherwise provided for by the provisions of Chapter 77 of the present Code.

Article 1241. **Non-contracted transfer of Exclusive Right to Other Persons**

The transfer of an exclusive right to a result of intellectual activity or to means of individualization to another person without concluding a contract with the rightholder shall be allowed in cases and on the grounds stipulated by the law, including by virtue of universal legal succession (inheritance, reorganization of a legal entity) and in the levying of execution on the property of a rightholder.

Article 1242. **Organizations of Collective Management of Copyright and Related Rights**

1. Authors, performers, producers of phonograms and other holders of copyright and related rights, in cases when exercise of their rights individually is difficult or when the present Code allows the use of the objects of copyright and related rights without the consent of the holders of the respective rights, but with the payment of remuneration to them, may establish non-commercial partnership organizations aimed at management of the respective rights on a collective basis, in accordance with terms of reference defined by the rightholders (organizations for collective management of rights).

The establishment of such organizations shall not impede the realization of the representation of the holders of copyright and related rights by other legal persons and citizens.

2. Organizations for collective management of rights may be established to manage the rights relating to one or several types of objects of copyright and related

rights, as well as for management of one or more types of such rights with respect to particular ways of use of the respective objects or for management of any copyright and/or related rights.

3. The grounds for terms of reference of an organization for collective management of rights shall be a contract for the transfer of powers for management of rights concluded by the organization with the rightholder in written form except the case provided for by the first subparagraph of Paragraph 3 of Article 1244 of the present Code.

This contract shall be concluded with the rightholders being the members of such an organization as well as with non its members. In doing so, the organization for collective management of rights shall undertake the commitment to manage these rights if the management of such category of rights relates to the charter activity of this organization. The grounds for terms of reference of an organization for collective management of rights may be as well a contract with another organization, including a foreign organization conducting collective management of rights.

The general provisions on obligations (Articles 307-419) and on contract (Articles 420-453) shall apply to the contracts indicated in the first and second subparagraphs of the present paragraph, to the extent that it does not follow otherwise from the content or the nature of the right transferred for management. The provisions of the present Section on contracts for the alienation of exclusive rights and on license contracts shall not be applied to such contracts.

4. Organizations for collective management of rights shall not have the right to use of objects of copyright and related rights the exclusive rights to which have been transferred to them for management.

5. Organizations for collective management of rights shall have the right, in the name of the rightholders or in their own name, to submit claims to court and also to take other legal actions necessary for the protection of rights transferred to them for collective management.

The accredited organization (Article 1244) shall also have the right, in the name of the unlimited number of rightholders, to submit claims to court necessary for the protection of rights entrusted for management.

6. The legal status of organizations for collective management of rights, the functions of these organizations, as well as the rights and obligations of members of these organizations shall be determined by the present Code, laws on non-commercial organizations, and the charters of the respective organizations.

Article 1243. **Implementation of Contracts with Rightholders by Organizations of Collective Management of Copyright and Related Rights**

1. An organization for collective management of rights shall conclude license contracts with the users for granting them the rights entrusted for management by the rightholders, the rights to the respective ways of use of objects of copyright and related rights on conditions of a simple (non-exclusive) license and shall collect from the users remuneration for the use of these objects. In cases when objects of copyright and related rights in accordance with the present Code may be used without the consent of the rightholder but with payment to him of remuneration, an organization for collective management of rights shall conclude contracts with users for the payment of remuneration and shall collect fees for such purposes.

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

2. If the rightholder directly concludes a license contract with a user, an organization for collective management of rights may collect remuneration for the use of objects of copyright and related rights only under the condition that this is explicitly provided by the aforesaid contract.

3. Users shall be committed at the request of the organization for collective management of rights to submit reports to it on the use of objects of copyright and related rights as well as other information and documents necessary for the collection and distribution of remuneration, a list and time tables to submit them shall be defined in a contract.

4. An organization for collective management of rights shall share the remuneration for the use of objects of copyright and related rights among the rightholders and also shall effect payment to them of the indicated remuneration.

An organization for collective management of rights shall have the right to deduct amounts from the remuneration to cover necessary expenses for the collecting, sharing and payment of such remuneration, as well as the amounts to be contributed to special funds created by this organization with the consent and in the interests of the rightholders represented by it, to the amounts and by the procedure that are provided for by the charter of the organization.

The sharing and payment of remuneration shall be made regularly within the time periods provided for by the charter of the organization for collective management of rights and in proportion to the actual use of the respective objects of copyright and related rights, defined on the basis of information and documents submitted by users as well as on other data on the use of objects of copyright and related rights including information of a statistical nature.

Simultaneously with the payment of remuneration the organization for collective management of rights shall be committed to provide the rightholder with a report containing information on the use of his rights, including on the amount of the collected remuneration and on the amounts deducted.

5. An organization for collective management of rights shall maintain registers containing information on rightholders, on rights entrusted for management and also on the objects of copyright and related rights. The information contained in such registers shall be provided to all interested persons under the procedure established by the organization, except where information by virtue of the law shall not be disclosed without the consent of the rightholder.

An organization for collective management of rights shall place on a generally- accessible information system on the rights transferred to it for management, including the designation of the object of copyright or related rights, and the name of the author or other rightholder.

Article 1244. **State Accreditation of Organizations for Collective Management of Copyright and Related Rights**

1. An organization for collective management of rights may have official accreditation to fulfill its activity in the following areas of collective management:

1) management of exclusive rights to musical works (with or without accompanying text ) that have been made public and excerpts from musical and dramatic works with respect to their public performance, broadcasting or diffusion by cable including by way of retransmission (subparagraphs 6-8 of Paragraph 2 of Article 1270);

2) exercise of the rights of composers who are authors of musical works (with or without accompanying text ) used in an audiovisual work for the remuneration for

public performance or broadcasting or diffusion by cable of such audiovisual work (Paragraph 3 of Article 1263);

3) management of the droit de suite with respect to works of fine arts and also of authors' manuscripts (autographs) of literary and musical works (Article 1293).

4) exercise of the rights of authors, performers, and producers of phonograms and audiovisual works to the remuneration for the reproduction of phonograms and audiovisual works for private use (Article 1245);

5) exercise of rights of performers to the remuneration for public performance and also for broadcasting or diffusion by cable of phonograms published for commercial purposes (Article 1326);

6) exercise of the rights of producers of phonograms to the remuneration for public performance and also for broadcasting or diffusion by cable of phonograms published for commercial purposes (Article 1326);

Official accreditation shall be made on the basis of the principles of transparency of procedure with due account of the opinion of interested persons, including rightholders, in accordance with the procedure set forth by the Government of the Russian Federation.

2. Official accreditation for exercising the activity in each of the areas of collective management indicated in Paragraph 1 of the present Article may be obtained by only one organization for collective management of rights.

An organization for collective management of rights shall have official accreditation for exercising the activity in one, two, or more of the areas of collective management indicated in Paragraph 1 of the present Article.

No limitations provided for by the antimonopoly legislation shall apply to the activity of an accredited organization.

3. An organization for collective management of rights that has had official accreditation (an accredited organization) shall have the right along with the management of the rights of those rightholders with whom it has concluded contracts following the procedure provided for by Paragraph 3 of Article 1242 of the present Code to exercise management of the rights and collection of remuneration for those rightholders with whom it has not concluded such contracts.

The existence of an accredited organization shall not impede the establishment of other organizations for collective management of rights, including in areas of collective management indicated in Paragraph 1 of the present Article. Such organizations shall have the right to conclude contracts with users only following the interests of rightholders who authorized them to manage the rights in accordance with the procedure provided for by Paragraph 3 of Article 1242 of the present Code.

4. The rightholder who has not concluded a contract with an accredited organization to authorize it to manage the rights (Paragraph 3 of the present Article) shall have the right at any time to total or partial renounce the management of his rights by this organization. The rightholder shall notify the accredited organization in a written form of his decision. In case the rightholder intends to renounce management by the accredited organization only of part of copyright or related rights and/or objects of these rights, he shall submit to the accredited organization a list of such excluded rights and/or objects.

Upon the expiration of three months from the date of the receipt from the rightholder of the respective notice, the accredited organization shall be committed to exclude the rights and/or objects indicated by him from contracts with all the users and to place information on this on a generally-accessible information system. The accredited organization shall be committed to pay to the rightholder due remuneration

collected from users in accordance with previously concluded contracts and to submit the report in accordance with the fourth subparagraph of Paragraph 4 of Article 1243 of the present Code.

5. An accredited organization shall take reasonable and sufficient measures to identify rightholders having the right for remuneration in accordance with license contracts and contracts for remuneration concluded by this organization. Unless otherwise provided for by the laws, the accredited organization shall not have the right to refuse membership in this organization of a rightholder having the right for remuneration in accordance with license contracts and contracts for remuneration concluded by this organization.

6. Accredited organizations shall exercise their activity under the supervision of the authorized federal executive body.

Accredited organizations shall annually submit to the authorized federal executive body a report on their activity as well as publish it in All-Russian mass media. The form of the report shall be specified by the authorized federal executive body.

7. The model charter of an accredited organization shall be approved in accordance with the procedure set forth by the Government of the Russian Federation.

Article 1245. **Remuneration for Free Reproduction of Phonograms and Audiovisual Works for Private Use**

1. Authors, performers, and producers of phonograms and audiovisual works shall have the right to remuneration for free reproduction of phonograms and audiovisual works exclusively for private use. Such remuneration shall be of a compensatory character and shall be paid to the rightholders from fees to be paid by producers and importers of equipment and material carriers used for such reproduction.

The list of equipment and material carriers as well as the amount and procedure for collection of the respective fees shall be approved by the Government of the Russian Federation.

2. Collection of fees for payment of remuneration for free reproduction of phonograms and audiovisual works for private use shall be effected by an accredited organization (Article 1244).

3. The remuneration for free reproduction of phonograms and audiovisual works for private use shall be shared among the rightholders in the following proportions: forty percent to authors, thirty percent to performers, and thirty percent to producers of phonograms or audiovisual works. The sharing of remuneration among specific authors, performers, and producers of phonograms or audiovisual works shall be effected in proportion to the actual use of the respective phonograms or audiovisual works. The procedure for sharing the remuneration and for its payment shall be set forth by the Government of the Russian Federation.

4. The fees for payment of remuneration for free reproduction of phonograms and audiovisual works for private use shall not be collected from the manufacturers of that equipment and those material carriers produced for export as well as from manufacturers and importers of professional equipment not designed for home use.

Article 1246. **Official Regulation of Relations in the Area of Intellectual Property**

1. In cases provided for by the present Code, the adoption of normative legal acts in order to regulate the relations in the area of intellectual property with respect to

the objects of copyright and related rights shall be done by the authorized federal executive body responsible for normative and legal regulation in the area of copyright and related rights.

2. In cases provided for by the present Code, the adoption of normative legal acts in order to regulate the relations in the area of intellectual property with respect to the inventions, utility models, industrial designs, computer programs, databases, topographies of integrated circuits, trademarks and service marks, appellations of origin, shall be done by the authorized federal executive body responsible for normative and legal regulation in the area of intellectual property.

3. Legally significant actions for official registration of inventions, utility models, industrial designs, computer programs, databases, topographies of integrated circuits, trademarks and service marks, appellations of origin, including filing and examination of the respective applications and the grant of patents and certificates confirming the exclusive right of their holders to these results of intellectual activity and to means of individualization, and in cases provided for by the laws as well as other actions connected with the legal protection of results of intellectual activity and means of individualization shall be exercised by the federal executive authority for intellectual property. In cases provided for by Articles 1401-1405 of the present Code the actions indicated by the present Paragraph may also be exercised by the federal executive authority duly authorized by the Government of the Russian Federation.

4. With respect to selection attainments, the functions indicated in Paragraphs 2 and 3 of the present Article shall be exercised respectively by the authorized federal executive body responsible for normative and legal regulation in the area of agriculture and the federal body of executive power for selection attainments.

Article 1247. **Patent Attorneys**

1. The proceedings with the federal executive authority for intellectual property shall be exercised by the applicant, the rightholder, another interested person personally or through a patent attorney, registered in this federal authority or through another representative.

2. Citizens permanently residing out of the territory of the Russian Federation and foreign legal entities shall exercise proceedings with the federal executive authority for intellectual property through patent attorneys, registered by this federal authority, unless otherwise provided for by an international treaty of the Russian Federation.

If an applicant, a rightholder, or another interested person exercise proceedings with the federal executive authority for intellectual property personally or through a representative not registered by the this federal authority as a patent attorney, they shall be committed at the request of the this federal authority to communicate the address within the territory of the Russian Federation for correspondence.

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

3. The citizen of the Russian Federation permanently residing within its territory may be registered as a patent attorney. Other requirements for a patent attorney, the procedure for his certification and registration as well as his legal powers to exercise the proceedings on the legal protection of the results of intellectual activity and means of individualization shall be specified by the law.

Article 1248. **Disputes Connected with the Enforcement of Intellectual Rights**

1. Disputes connected with the enforcement of infringed or contested intellectual rights shall be considered and resolved by a court (Paragraph 1 of Article 11).

2. In cases provided by the present Code, enforcement of intellectual property rights as concerns filing and processing of applications to grant the patents for inventions, utility models, industrial designs, selection attainments, trademarks, service marks, and appellations of origin, official registration of these results of intellectual activity and means of individualization, the grant of the appropriate right-establishing documents, the contesting of granting legal protection for these results and means, or its termination shall be made under administrative procedure (Paragraph 2 of Article 11) correspondingly by the federal executive authority for intellectual property and by the federal executive authority for selection attainments, and in cases provided for by Articles 1401-1406 of the present Code, by the federal executive authority body authorized by the Government of the Russian Federation (Paragraph 2 of Article 1401). The decisions of these authorities shall enter into force on the date of their adoption. They may be contested in a court following the procedure set forth by the law.

3. The procedures for consideration and resolution of disputes, as specified in Paragraph 2 of the present Article, for the federal executive authority for intellectual property and the Chamber for Patent Disputes established under it, as well as for the federal executive authority for selection attainments shall be adopted correspondingly by the federal executive authority responsible for normative and legal regulation in the area of intellectual property and by the federal executive authority responsible for normative and legal regulation in the area of agriculture. The procedures for consideration and resolution of disputes connected with secret inventions as specified in Paragraph 2 of the present Article shall be adopted by the authorized body (Paragraph 2 of Article 1401).

Article 1249. **Patent and Other Fees**

1. Patent and other fees shall respectively be collected for taking legally-significant actions with respect to a patent for an invention, an utility model, an industrial design, or selection attainments, the official registration of a computer program, databases, topographies of integrated circuits, trademark and service mark, the official registration and grant of the exclusive right to an appellation of origin and also official registration of the transfer of exclusive rights to other persons and contracts for the disposition of these rights.

2. The list of legally-significant actions as regards a computer program, databases, and the topographies of integrated circuits subject for payment of official fees, their amounts, procedure and time-frames for payment, as well as grounds to free from payment of the official fees, reduction of their amounts, postponement of payment or return of fees shall be set forth by the taxation legislation of the Russian Federation.

The list of legally-significant actions other than those indicated in subparagraph 1 of the present Paragraph subject to payment of patent and other fees, their amounts, the procedure and time-frames for payment, as well as grounds to free from payment of the fees, reduction of their amounts, postponement of payment or return of fees shall be set forth by the Government of the Russian Federation.

Article 1250. **Enforcement of Intellectual Rights**

1. Intellectual rights shall be enforced by the means provided for by the present Code with due account of the substance of the infringed right and the consequences of the infringement of this right.

2. The means of enforcement of intellectual rights provided for by the present Code shall be applied at the request of the rightholders, organizations for collective management of rights, as well as other persons in cases set forth by the law.

3. The absence of fault of an infringer shall not excuse him from the obligation to cease infringement of intellectual rights and also shall note exclude the application to the infringer of measures aimed at the enforcement of such rights. In particular, the publication of a judicial decision on an infringement committed (subparagraph 5 of Paragraph 1 of Article 1252) and the prevention of the infringement of the exclusive right to a result of intellectual activity or to means of individualization or threat of infringement of such right, shall be made regardless of the fault of the infringer and at his expense.

Article 1251. **Enforcement of Personal Non-proprietary Rights**

1. In case of infringement of personal non-proprietary rights of an author, their enforcement shall be exercised, in particular, by the recognition of a right, restoration of the situation existing before the infringement of the right, prevention of the activities infringing the right or creation of a threat of its infringement, remuneration for moral damages, publication of the decision of a court on the infringement committed.

2. The provisions provided for by Paragraph 1 of the present Article shall also be applied to the enforcement of rights provided for by Paragraph 4 of Article 1240, Paragraph 7 of Article 1260, Paragraph 4 of Article 1263, Paragraph 3 of Article 1295, Paragraph 1 of Article 1323, Paragraph 2 of Article 1333, and subparagraph 2 of Paragraph 1 of Article 1338 of the present Code.

3. Protection of the honor, dignity, or business reputation of the author shall be exercised in accordance with the provisions of Article 152 of the present Code.

Article 1252. **Enforcement of Exclusive Rights**

1. Enforcement of exclusive rights to the results of intellectual activity and to means of individualization shall be exercised in particular by putting forward a claim as regards:

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

2) preventing the actions infringing the right or creating a threat of its infringement – against the person being taken such actions or being prepared to take them;

3) reimbursement of damages – against the person who has unlawfully used a result of intellectual activity or means of individualization without the conclusion of an agreement with the rightholder (non-contracted use) or has infringed his exclusive right in another manner and has inflicted damage to him;

4) seizure of the physical carrier in accordance with Paragraph 5 of the present Article – against its producer, importer, depositor, carrier, seller, other distributor, or bad faith buyer;

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

2. In line to secure a claim within suits on infringements of the exclusive rights with regard to material carriers, equipment and materials to be presumed as infringing the exclusive right to a result of intellectual activity or to means of individualization, the security measures set forth by the procedural legislation shall be applied, including seizure of material carriers, equipment, and materials.

3. In cases provided for by the present Code for certain types of results of intellectual activity or means of individualization, when the infringement of the exclusive right is being made the rightholder shall have the right, instead of reimbursement of damages, to demand from the infringer payment of compensation for the infringement of the aforesaid right. The compensation shall be subject to recovery upon proof of the fact of infringement of a right. In such a case the rightholder applying for enforcement of a right, shall not bear the burden to proof the amount of damages inflicted.

The amount of compensation shall be determined by the court within the limits as provided for by the present Code depending upon the nature of the infringement and other circumstances of the case with due account of the requirements of reasonability and justice.

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

4. In case when the production, distribution, or other use, as well as importation, transportation, or storage of material carriers embodied the result of intellectual activity or means of individualization lead to infringement of the exclusive right to such a result or to such means, the material carriers concerned shall be considered counterfeit and upon the decision of a court shall be removed from circulation and destructed without any compensation whatsoever unless other consequences are provided for by the present Code.

5. Equipment, other facilities and materials mainly used or aimed for the infringement of exclusive rights to results of intellectual activity and to means of individualization, upon the decision of a court shall be removed from circulation and destructed at the expense of the infringer, unless the legislation provides for their transfer to the income of the Russian Federation.

6. If various means of individualization (trade name, trademark, service mark, commercial name) are identical or confusingly similar and as a result of such identity or similarity the consumers and/or contract partners may be confused, the means of individualization with prior date of appearance of the exclusive right shall prevail. The holder of such exclusive right may in accordance of the present Code demand the recognition as invalid the granting of legal protection to a trademark (or service mark) or the full or partial prohibition of the use of a trade name or commercial name.

For the purposes of the present Paragraph, the meaning of the partial prohibition of use shall be as follows:

with respect to a trade name – prohibition of its use in certain types of activity;

with respect to a commercial name – prohibition of its use within the boundaries of a certain territory and/or in certain types of activity.

7. In cases when an infringement of an exclusive right to a result of intellectual activity or to means of individualization has been recognized under the established procedure as an act of unfair competition, the enforcement of the infringed exclusive right shall be exercised both by the means provided by the present Code and in accordance with antimonopoly legislation.

Article 1253. **Liability of Legal Persons and Individual Entrepreneurs for the Infringement of Exclusive Rights**

If a legal entity repeatedly or severe infringes exclusive rights to results of intellectual activity or to means of individualization, the court may as provided by Paragraph 2 of Article 61 of the present Code adopt a decision on the liquidation of such legal entity at the request of the public prosecutor.

If such infringements are made by a citizen, his activity as an individual entrepreneur may be terminated by the decision or verdict of a court as provided for by the laws.

Article 1254. **Aspects of Enforcement of Licensee's Rights**

If infringement by third parties of an exclusive right to a result of intellectual activity or to means of individualization under the exclusive license affects the rights of the licensee under a license contract, the licensee shall have the opportunity to enforce his rights along with other enforcement measures as provided by Articles 1250, 1252, and 1253 of the present Code.

CHAPTER 70. COPYRIGHT

Article 1255. **Copyright**

1. Intellectual rights in works of science, literature, and art are considered as copyright rights.

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

1) the exclusive right in the work;

2) authorship right;

3) the right of the author in his name;

4) inviolability of the work;

5) the right to make the work public.

3. In cases provided by the present Code, other rights belong to the author of the work along with the rights indicated in Paragraph 2 of the present Article, including the right to demand remuneration for the use of an employee's work, withdrawal right, droit de suite, and the right of access to works of art.

Article 1256. **Validity of the Exclusive Right in Works of Science, Literature, and Art within the Territory of the Russian Federation**

1. The exclusive right in works of science, literature, and art shall extend:

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

2) to works made public outside the territory of the Russian Federation or not made public but existing in some objective form outside the territory of the Russian Federation and shall be recognized for authors who are citizens of the Russian Federation (or their legal successors);

3) to works made public outside the territory of the Russian Federation or not made public but existing in some objective form outside the territory of the Russian Federation and shall be recognized, in accordance with international treaties of the Russian Federation, within the territory of the Russian Federation for authors (or their legal successors) who are citizens of other states and persons without citizenship.

2. A work also shall be considered first made public by publication in the Russian Federation if, within thirty days after the date of first publication outside the territory of the Russian Federation, it was published within the territory of the Russian Federation.

3. In the grant of protection to a work within the territory of the Russian Federation in accordance with international treaties of the Russian Federation, the author of the work or other initial rightholder shall be determined according to the law of the country within the territory of which the legal fact took place that served as the basis for obtaining copyright.

4. Provision of protection to works within 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 validity of the exclusive right in 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 the present Code for the validity of the exclusive right thereto.

In the grant of protection for works in accordance with international treaties of the Russian Federation the term of validity of the exclusive right in these works within the territory of the Russian Federation may not exceed the term of validity 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 science, literature, or art is the person 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 proved otherwise.

Article 1258. **Coauthorship**

1. Persons 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 otherwise provided by an agreement among. In case when such work forms an inseparable whole, no coauthor shall have the right to prohibit the use of such work without sufficient basis.

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

3. The rules of Paragraph 3 of Article 1229 of the present Code shall apply 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 in the work.

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

Article 1259. **Objects of Copyright**

1. The objects of copyright are works of science, literature, and art regardless of the value and purpose of the work as well as of the mode of its expression:

literary works;

dramatic and musical-dramatic works, screenplay works;

choreographic works and pantomimes;

musical works with 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, depiction, 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;

other works.

Computer programs are also considered as objects of copyright and are protected as literary works.

2. Objects of copyright also include:

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

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

3. Copyright also extends 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 in written, oral form (in the form of a public speech, public performance, and in any other form), in the form of a depiction, a sound or video recording, or in a three-dimensional form.

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

At the discretion of the rightholder computer programs and databases can be registered in accordance with the rules of Article 1262 of the present Code

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

6. The following are not objects of copyright:

1) official documents of state bodies and bodies of local government of municipal formations, including statutes, other normative 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 municipal formations;

3) works of folk creativity (folklore) which do not have specific 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 extends to part of a work, to its name, and to a character in the work if by their nature they can be recognized as an independent result of the creative work of the author and they satisfy the requirements established by Paragraph 3 of the present Article.

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

1. The translator and also the author of another derivative work (reworking, motion picture version, arrangement, stage version or other similar work) shall own the copyright correspondingly to a translation done by him and to other reworking of another (original) work.

2. Copyright in the selection or placement of materials made by them (compilation) belongs to the compiler of a collection and the author of another compiled work (anthology, encyclopedia, database, atlas, or other similar work).

A database is the totality of independent materials (articles, accounts, normative acts, judicial decisions, and other similar materials) presented in an objective form and systematized in such a manner that these materials may be found and processed with the use of a computer.

3. A translator, compiler, or other author of a derivative or compiled work shall exercise his copyright 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 of the translator, compiler, or other author of a derivative or compiled work shall be protected as the right in 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 the contract with the creator of the compiled work.

6. Copyright to a translation, collection, or other derivative or compiled work shall not prevent other persons from translating or reworking the same original work, nor from creating their 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 right in the use of such publications. The publisher shall have the right upon any use of such a publication to indicate its designation or to demand its indication.

The authors or other holders of exclusive rights in the works included in such publications shall retain these rights independently of the right of the publisher or other persons to the use of such works as a whole, with the exception of the cases when these exclusive rights were transferred to the publisher or other persons or went to the publisher or other persons in other cases provided by law.

Article 1261. **Computer Programs**

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

Article 1262. **Official registration of Computer Programs and Databases**

1. The rightholder, during the term of validity of the exclusive right in a computer program or database may at his option register such program or such database at the Federal executive authority for intellectual property.

Computer programs and databases that contain information constituting a state secret are not subject to official registration. A person who has submitted an application for official registration (the applicant) shall bear responsibility for disclosure of information on computer programs and databases in which information

constituting a state secret is contained in accordance with the legislation of the Russian Federation.

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

A registration application must contain:

an application for official 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 presence of basis for exemption from the payment of the state fee or for reduction of its amount or for extension of the time for its payment.

The rules for the formalization of the application for registration shall be established by the federal executive authority exercising normative-legal regulation in the area of intellectual property.

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

On request of the abovementioned federal executive authority or on his own initiative, the author or other rightholder shall have the right before publication of the information in the official gazette to supplement, clarify, and correct the documents and materials contained in the application for registration.

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

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

Information on a change of the holder of the exclusive right shall be entered in the Register of Computer Programs or in 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 authority for intellectual property.

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

Article 1263. **Audiovisual Work**

1. An audiovisual work is a work consisting of a fixed series of interconnected illustrations (with or without sound) and meant for visual and aural (in the case of accompanying sound) perception with the use of appropriate technical devices. Audiovisual works include cinematographic works and also 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 screenplay;

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

3. In case of public performance or communication by wireless means or by wire of an audiovisual work the composer who is the author of a musical work (with or without words) used in the audiovisual work shall retain the right to demand remuneration for the abovementioned types of use of his musical work.

4. The rights of the producer of an audiovisual work, i.e., of the person who organized the creation of such work (the producer) shall be determined in accordance with Article 1240 of the present Code.

The producer shall have the right in case of any use of an audiovisual work to indicate his name or designation or to demand such an indication. In the absence of proof to the contrary, the producer of an audiovisual work shall be recognized to be the person whose name or designation is indicated on this work in the usual manner.

5. Each author of a work that has been included as a constituent part in an audiovisual work, whether it existed previously (the author of a work used as the basis of a film screenplay and others), or it was created in the process of work on it (the operator-director, art-director, and others) shall keep the exclusive right in his work with the exception of cases when this exclusive right was transferred to the producer or other persons in other cases provided by law.

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

1. Authorship rights in a draft of an official document including to the draft of an official translation of such a document, and also to the draft of an official symbol or emblem shall belong to the person who has created the corresponding draft (the developer).

The developer of the draft of an official document, symbol or emblem has the right to make the draft public unless this is forbidden by a state body, body of local government of a municipal formation or 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 government, or international organization for the creation of the corresponding official document or the development of a symbol or emblem without the consent of the developer if the draft has been made pubic by the developer for use by this body or organization or has been sent by the developer to the corresponding body or organization.

In the creation of an official document and in the development of an official symbol or emblem on the basis of the corresponding draft, additions and changes may be made in it at the discretion of the state body, body of local government, or international organization that has conducted the creation 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 government, or international organization, the draft may be used without indication of the name of the developer.

Article 1265. **Authorship Right and Right of Author in his Name**

1. The right of authorship, the right to be recognized as the author of a work and the right of the author to his 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 the name, i.e., anonymously, are inalienable and nontransferable, including in the case of transfer to another person or passage to him of the exclusive right in a work and in the case of granting to another person of 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 of the case 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 was 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 execution. This provision shall be effective until the time when the author of the work reveals his identity or declares his authorship.

Article 1266. **Inviolability of a Work and Protection of a Work from Distortion**

1. The 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 shall be not allowed without the consent of the author (inviolability of a work).

In the use of a work after the death of the author, the person possessing the exclusive right in the work shall have the right to allow 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 perception of the work and does not contradict the desire of the author specifically expressed by him in a will, letters, diaries, or other written form.

2. Perversion, distortion or other change in the work impugning the honor, dignity, or business reputation of the author and 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 the present Code. In these cases, on demand of interested persons, protection is permitted for the honor and dignity of the author even after his death.

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 time limits.

2. The author shall have the right in the course of the procedure provided for designation 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 of 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 an action that for the first time would make the work accessible to the public by its publication, public display, public performance, communication by wireless means or by wire or in any other 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 to another person by contract for use shall be considered to have consented to making this work public.

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 in the work if the making of the work 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. **Withdrawal Right**

The author shall have the right to rescind a previously adopted decision to make a work public (withdrawal right) on the condition of compensation for damages caused by such a decision, to the person to whom the exclusive right in 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 shall also have the duty to give public notice of its withdrawal. In such a case the author shall have the right to withdraw from circulation the previously released copies of the work, having compensated for damages caused by this.

The rules of the present Article shall not apply to computer programs, to employee's works and to works that have entered into a complex object (Article 1240).

Article 1270. **Exclusive Right in a Work**

1. The exclusive right to use a work in accordance with Article 1229 of the present Code in any form and any manner not contrary to law (the exclusive right in the work), including by the methods indicated in Paragraph 2 of the present Article shall belong to the author of the work. The rightholder may dispose of the exclusive right in 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 of the work , i.e., the creation 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, creation 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. In this case the fixation of the work on an electronic carrier, including fixation in the memory of a computer shall also be considered reproduction, except for the case when such

fixation is temporary and constitutes an inseparable and essential part of a technological process having the sole purpose of lawful use of the fixation or lawful communication of the work to the 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 use 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 use of technical means at a place open for free attendance 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 demonstration or in another place simultaneously with the demonstration of a work;

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

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

6) public performance of a work, i.e., the presentation of the work in live performance or with the use of technical means (radio, television, and other technical means) and also the showing of an audiovisual work (with or without the accompaniment of sound) at a place open for free attendance 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 demonstration or showing or in another place simultaneously with the demonstration or showing of a work;

7) communication by wireless means, i.e., communication of a work to the public (including showing or performance) by radio or television (including by way of retransmission), with the exception of communication by wire. In this case, communication means any action by which the work becomes accessible for aural and/or visual perception regardless of its actual perception by the public. In case of communication of works by wireless means via satellite, communication by wireless means the receipt of signals from a ground station by the satellite and transmission of signals from the satellite by means of which the work may be communicated to the public regardless of its actual reception by the public. Communication of coded signals is communication by wireless means if the means of decoding are granted to an unlimited group of people by the broadcasting organization or with its consent;

8) communication by cable, i.e., communication of the work to the public by radio or television with the use of a cable, wire, optical fiber, or analogous means (including by way of retransmission). Communication of coded signals is communication by cable if the means of decoding are granted to an unlimited group of people by the cablecasting organization or with its consent;

9) a translation or other reworking of the work. In this case, reworking of a work means the creation of a derivative work (adaptation, screen version, arrangement, stage version, or the like). Reworking (or modification) of a computer program or a database means any changes made in them, including the translation of such a computer program or such a database from one language to another with the exception of an adaptation, i.e., changes made solely for the purpose of applicability of a computer program or a database to 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) communicating a work to the public in such a way that any person may obtain access to the work from any place and at any time of his own choosing (communication to the public).

3. The practical application of the provisions constituting the content of a work, including provisions that are a technical, economic, organizational or other solution 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 the present Article.

4. The rules of subparagraph 5 of Paragraph 2 of the present Article shall not apply with respect to a computer program with the exception of the case when such program is the basic object of renting out.

Article 1271. **Copyright Protection Symbol**

The rightholder for notification of the exclusive right in a work belonging to him shall have the right to use the symbol of protection of the copyright, which shall be placed on each copy of the work and which shall consist of the following elements:

Latin letter "C" in a circle;

name or designation of the rightholder;

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 introduced into commercial circulation within the territory of the Russian Federation by means of their sale or other alienation, further distribution of the original or copies of the work shall be allowed without the consent of the rightholder and without payment of remuneration to him with the exception of the case provided by Article 1293 of the present Code.

Article 1273. **Free Reproduction of a Work for Personal Purposes**

1. Reproduction by a person when necessary and exclusively for personal purposes of a work lawfully made public is allowed without the consent of the author or other rightholder with the exception for:

1) reproduction of works of architecture in the form of buildings and analogous structures;

2) reproduction of databases or their significant parts;

3) reproduction of computer programs except for the cases provided by Article 1280 of the present Code;

4) reproduction (Paragraph 2 of Article 1275) of books (in their entirety) and of sheet music.

5) video recording of an audiovisual work in case of its public performance at a please open for free attendance or at a place where there are a significant number of persons present not belonging to the usual circle of a family;

6) reproduction of an audiovisual work with the use of professional equipment not meant for use in home conditions.

2. In case when reproduction of phonograms and audiovisual works is done exclusively for personal purposes, the authors, performers, producers of phonograms and audiovisual works shall have the right to remuneration provided for by Article 1245 of the present Code.

Article 1274. **Free Use of a Work for Informational, Scientific, Educational, or Cultural Purposes**

1. The following uses are allowed without the consent of the author or other rightholder and without the payment of remuneration but with an obligatory indication of the name of the author whose work is used and of the source of borrowing:

1) 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) 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) reproduction in the press, communications by wireless means or by wire of articles lawfully published in newspapers and magazines on current economic, political, social, and religious matters or of works of the same nature transmitted by wireless means in cases when such reproduction or communication was not specially forbidden by the author or other rightholder;

4) the reproduction in the press, communication by wireless means or by wire of publicly delivered political speeches, addresses, papers, and other analogous works in an amount justified by the informational purpose. In such case the authors of such works shall retain the right to their publication in collection of works;

5) the reproduction or communication to the public in surveys of current events by means of photography or cinematography or by way of communication by wireless means or by wire 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 in dot-relief type or other special means for the blind of lawfully published works, except for works specially created for reproduction by such means.

2. In the case when a library provides copies of work lawfully introduced into commercial circulation for temporary free use, such use shall be allowed without the consent of the author or other rightholder and without payment of remuneration. However, copies of works expressed in digital form provided by libraries for temporary free use, including in the cases of 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. The creation of a work in the genre of a literary, musical, or other parody, or in the genre of caricature on the basis of another (original) work lawfully made public and the use of this parody or caricature shall be allowed without the consent of the author or other holder of the exclusive right in the original work and without payment of remuneration to him.

Article 1275. **Free Use of a Work by Way of Reproduction**

1. Reproduction (subparagraph 4 of Paragraph 1 of Article 1273) in a single copy without the extraction of profit shall be allowed without the consent of the author or other rightholder and without the payment of remuneration, but with obligatory indication of the name of the author whose work is being used and of the source of borrowing for:

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

2) 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 persons for use for instructional and scholarly purposes and also by educational institutions for classroom work.

2. Reproduction (reprographic copying) means the facsimile copying of a work with the use of any technical means made not for the purpose of publication. Reproduction does not include copying of a work or storage of copies thereof in electronic (including digital), optical or other machine-readable form, with the exception of cases of the creation with the use of technical means of temporary copies meant for the conduct of reproduction.

Article 1276. **Free Use of a Work Permanently Located at a Place Open for Public**

The reproduction, communication by wireless means or by wire of a photographic work, a work of architecture, or a work of figurative art that is permanently located in a place open for free attendance shall be allowed without the consent of the author or other rightholder and without payment of remuneration, with the exception of cases when the depiction of the work by this method is the basic object of the reproduction, communication by wireless means or by wire 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 a ceremony shall be allowed without the consent of the author or other rightholder and without the payment of remuneration.

Article 1278. **Free Reproduction for Purposes of Law Enforcement**

Reproduction of a work for the conduct of proceedings in a case of an administrative offense, for the conduct of an inquiry, preliminary investigation or implementation of court proceedings in the amount justified by this purpose shall be allowed without the consent of the author or other rightholder and without the payment of remuneration.

Article 1279. **Free Fixation of a Work by a Broadcasting Organization for Short-term Use**

A broadcasting organization shall have the right without the consent of the author or other rightholder and without payment of additional remuneration to make a fixation for the purpose of short-term use of a work in relation to which this organization has obtained the right to communicate by wireless means, on the condition that such a fixation shall be made by the broadcasting organization using its own equipment and for its own broadcasts. In such a case the organization shall be obligated to destroy such a fixation within months from the day of its creation unless a longer term has been agreed upon with the rightholder or has been established by law. Such a fixation may be retained without the consent of this rightholder in state or municipal archives if it has an exclusively documentary nature.

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

1. A person who lawfully possesses a copy of a computer program or a copy of a database (a user) shall have the right without the permission of the author or other rightholder and without the payment of additional remuneration:

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 actions necessary for the functioning of such computer program or database in connection with its purpose, including fixation and storing in the memory of a computer (of one computer or of one user of a network) and also to conduct correction of clear errors, unless otherwise provided by the contract with the rightholder;

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

2. A person lawfully possessing a copy of a computer program shall have the right without the consent of the rightholder and without payment of additional remuneration to study, research, or test the functioning of such computer program for the purpose of determining the ideas and principles underlying any element of the program by taking the actions provided for by the first numbered subparagraph of Paragraph 1 of the present Article.

3. A person lawfully possessing a copy of a computer program shall have the right without the consent of the rightholder and without payment of additional remuneration 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 other activity infringing an exclusive right in the computer program.

4. The application of the provisions provided by the present 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 rightholder.

Article 1281. **Validity of the Exclusive Right in a Work**

1. The exclusive right in a work shall be effective for 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 in a work created in coauthorship shall be effective for 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 term of validity 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 term established in Paragraph 1 of the present Article.

3. The exclusive right in a work made public after the death of the author shall be effective during 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 pubic, on the condition that the work was made public within the course of seventy years after the death of the author.

4. If the author of a work was repressed and posthumously rehabilitated, the term of validity of the exclusive right shall be considered extended and the seventy-year period shall be calculated from January 1 of the year following the year of rehabilitation of the author of the work.

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

Article 1282. **Passage of a Work into the Public Domain**

1. Upon the expiration of the term of validity of the exclusive right, a work of science, 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 remuneration. 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 (in a will, letters, diaries, and the like).

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

Article 1283. **Passage of the Exclusive Right in a Work by Inheritance**

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

2. In the cases provided by Article 1151 of the present Code an exclusive right in 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 in a Work and on the Right of Use of a Work Under a License**

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

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 first subparagraph of the present Paragraph extend to heirs of the author, their heirs, and so on, within the limits of the term of validity of the exclusive right.

2. In case of sale of the right of use of a work belonging to the licensee at public auction 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 Alienation of Exclusive Right in a Work**

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

Article 1286. **License Contract for the Granting of the Right to Use 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 to use a work within the limits established by the contract.

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

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 such program or database obtained or on the package of such a copy. The beginning of use of such 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 remuneration for the use of the work or the procedure for calculating this remuneration must be indicated.

In such a contract payment to the licensor of remuneration may be provided 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 shall have the right to establish minimum rates of author's remuneration for separate types of use of works.

Article 1287. **Specific Conditions of a Publication License Contract.**

1. Under a contract for granting the right to use a work concluded by the author or other 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 term indicated in the contract. In case of nonperformance of this

obligation the licensor has the right to renounce the contract without remuneration to the licensee of the damages caused by such renunciation.

In case of the absence in the contract of a concrete term for the beginning of the use of the work, such use of the work must begin within the term usual for the given type of works and the method of their use. Such a contract may be rescinded by the licensor in cases and by the procedure that are provided by Article 450 of the present Code.

2. In case of rescission of a publication license contract on the basis of the provisions provided by Paragraph 1 of the present Article, the licensor shall have the right to demand payment to him of the remuneration 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 science, 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. A contract of author's order may provide for the alienation to the customer of the exclusive right in a work that must be created by the author or the grant to the customer 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 of the exclusive right in a work that must be created by the author, the provisions of the present Code on the contract on the alienation of an exclusive right shall be respectively applied to this contract, unless from the nature of the contract it follows otherwise.

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 provided by Articles 1286 and 1287 of the present Code shall be respectively applied to such contract.

Article 1289. **Term 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 term established by the contract.

A contract that does not provide for and does not make possible the determination of the term for its performance shall not be considered concluded.

2. In the case when the term for the performance of a contract of author's order has ended, the author if necessary and in the presence of valid reasons for completion of the work shall be granted a supplementary grace term with the length of one quarter of the term established for performance of the contract, unless an agreement of the parties establishes a longer grace term.

In the cases provided by Paragraph 1 of Article 1240 of the present Code, this rule shall apply unless otherwise provided by the contract.

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

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

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

1. The liability of the author under a contract for the alienation of an exclusive right in a work and under a license contract shall be limited to the amount of the actual harm caused to the other party unless the contract provides for a lower amount of liability of the author.

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. Exclusive Right in 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 in the work shall be retained by its author, unless the contract provides otherwise.

In the case when the exclusive right in a work has not passed to the recipient of its original, the recipient shall have the right without the consent of the author and without the payment to him of remuneration 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 the original of 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 in the work but not being the author of the work, the exclusive right in the work shall pass to the recipient of the original of the work unless the contract provides otherwise.

3. The rules of the present Article relating to the author of the work shall also extend to the heirs of the author, to their heirs, and so on, within the limits of the term of validity of the exclusive right.

Article 1292. **Right of Access**

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 of the original 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 the 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, or other similar organization participates as a seller, buyer, or intermediary, the author shall have the right to receive remuneration 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 shall enjoy the droit de suite by the procedure established by Paragraph 1 of the present Article also 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 to the heirs of the author for the term of validity of the exclusive right.

Article 1294. **Rights of the Author of a Work of Architecture, City Planning, or Garden or Park Art**

1. The author of work of architecture, city planning, or garden or park art shall have the exclusive right to use his work in accordance with Paragraphs 2 and 3 of Article 1270 of the present Code including by developing documentation for construction and by implementation of the architectural, city-planning, or garden or park plan.

The use of the architectural, city-planning, or garden or park plan for implementation is allowed only one time, unless otherwise established by the contract in accordance with which the plan was created. The plan and documentation made on its basis for construction may be used repeatedly only with the consent of the author of the plan.

2. The author of a work of architecture, city planning or garden or park art shall have the right to exercise author's checking of the development of documentation for construction and the right of author's supervision of the construction of a building or structure or other realization of the respective plan. The procedure for exercise of author's checking and author’s supervision shall be established by the federal executive authority for architecture and city planning.

3. The author of a work of architecture, city planning, or garden or park art shall have the right to require from the customer of the architectural, city-planning or garden or park plan the granting of the right to participate in the implementation of his plan, unless otherwise provided by the contract.

Article 1295. **Employee’s work**

1. The copyright to a work of science, literature, or art created within the limits of the labor obligations established for an employee (author) (an employee’s work) shall belong to the author.

2. The exclusive right in an employee’s work shall belong to the employer unless a labor contract or other contract between the employer and the author has provided otherwise.

If the employer within the course of three years from the day when the employee’s work was put at its disposition does not begin the use of this work, does not transfer the exclusive right in it to another person, or does not inform the author of keeping the work in secrecy, the exclusive right in the employee’s work shall belong to the author.

If the employer, within the term provided in the second subparagraph of the present Paragraph begins the use of an employee’s work or transfers the exclusive

right in another person, the author shall have the right to demand remuneration. The author shall obtain the abovementioned right to demand remuneration also in the case when the employer has taken the decision to keep the employee's work in secrecy and for this reason has not begun the use of this work within the abovementioned term. The amount of remuneration, the conditions and procedure for its payment by the employer shall be defined by the contract between him and the employee and, in case of dispute, by a court.

3. In the case when in accordance with Paragraph 2 of the present Article the exclusive right in an employee's work belongs to the author, the employer shall have the right to use such work by methods dependent upon the purpose of the employment task and within the limits deriving from the task as well as to make such work public unless otherwise provided by the contract between him and the employee. In this case, the right of the author to use an employee's work in a manner not dependent upon the purpose of the task and also even in a manner dependent upon the purpose of the task but beyond the limits deriving from the task of the employer shall not be limited.

The employer may in use of an employee's work indicate his own name or the designation or require such an indication.

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

1. In the case when a computer program or database is created by a contract the subject of which was its creation (on order), the exclusive right in such computer program or such database shall belong to the customer, unless provided otherwise by a contract between the contractor (the performer) and the customer.

2. In the case when the exclusive right in a computer program or database in accordance with Paragraph 1 of the present Article belongs to the customer, the contractor (the performer) shall have the right, to the extent it is not provided otherwise by the contract, to use the program or database for its own needs on the condition of an free simple (non-exclusive) license during the course of the whole term of validity of the exclusive right.

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

4. An author of a computer program or database created on order, to whom the exclusive right in this program or database does not belong shall have the right to demand remuneration in accordance with the third subparagraph of Paragraph 2 of Article 1295 of the present Code.

Article 1297. **Computer Programs and Databases Created in the Course of Work Under a Contract**

1. If a computer program or database was created in performance of a work contract or a contract for the performance of scientific-research, experimental-design or technological works that did not directly provide for its creation, the exclusive right in such program or such database shall belong to the contractor (performer), unless the contract between the contractor and the customer provides otherwise.

In this case, the customer shall have the right, unless the contract has provided otherwise, to use the program or database created in this manner for the purposes for the achievement of which the corresponding contract was concluded on the basis of a

simple (nonexclusive) license during the whole term of validity of the exclusive right without payment of additional remuneration for this use. In case of transfer by the contractor (or performer) of the exclusive right in the computer program or database to another person, the customer shall retain the right of use of the program or database.

2. In the case when, in accordance with a contract between the contractor (or performer) and the customer, the exclusive right in a computer program or database has been transferred to the customer or to a third person indicated by the customer, the contractor (the performer) shall have the right to use the program or database created by him for his own needs on conditions of an free simple (nonexclusive) license during the course of the whole term of validity of the exclusive right, unless the contract provides otherwise.

3. An author of the computer program or database indicated in Paragraph 1 of the present Article to whom the exclusive right in such program or such database does not belong shall have the right to demand remuneration in accordance with the third subparagraph of Paragraph 2 of Article 1295 of the present Code.

Article 1298. **Works of Science, Literature, and Art Created Under a State or Municipal Contract**

1. The exclusive right in a work of science, literature, or art created under a state or municipal contract for state or municipal needs shall belong to the performer who is the author or other person performing the state or municipal contract unless the state or municipal contract provides that this right shall belong to the Russian Federation, to the subject of the Russian Federation, or to the municipal formation in whose name the state or municipal customer is acting, or jointly to the performer and the Russian Federation, to the performer and the subject of the Russian Federation, or to the performer and the municipal formation.

2. If in accordance with the state or municipal contract the exclusive right in the work of science, literature, or art belongs to the Russian Federation, a subject of the Russian Federation, or a municipal formation, the performer shall be obligated by way of the conclusion of respective contracts with his employees and third parties to obtain all rights right or to ensure their being obtained for transfer correspondingly to the Russian Federation, the subject of the Russian Federation, and the municipal formation. In this case, the performer shall have the right to demand remuneration for the expenditures borne by him in connection with obtaining the corresponding rights from third persons.

3. If the exclusive right in a work of science, literature, or art created under a state or municipal contract for state or municipal needs belongs in accordance with Paragraph 1 of the present Article not to the Russian Federation, not to the subject of the Russian Federation, or not a municipal formation, the rightholder on demand of the state or municipal customer shall be obligated to provide the person indicated by him with an free simple (nonexclusive) license for the use of the respective work of science, literature, or art for state or municipal needs.

4. If the exclusive right in a work of science, literature, or art created under a state or municipal contract for state or municipal needs belongs jointly to the performer and the Russian Federation, the performer and the subject of the Russian Federation, or the performer and the municipal formation, the state or the municipal customer shall have the right to grant an free simple (nonexclusive) license for the use of such work of science, literature, or art for state or municipal needs, after informing the performer of this.

5. An employee, whose exclusive right on the basis of Paragraph 2 of the present Article has passed to the performer shall have the right to demand remuneration in accordance with the third subparagraph of Paragraph 2 of Article 1295 of the present Code.

6. The rules of the present Article shall also apply to computer programs and databases the creation of which was not provided for by a state or municipal contract for state or municipal needs, but which were created in the course of performance of such a contract.

Article 1299. **Technical Protection Measures**

1. Any technology, technical devices or their components controlling access to a work, preventing or limiting actions that are not permitted by the author or other rightholder with respect to the work shall be recognized as technical protection measures.

2. With respect to works it shall not be allowed:

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

2) creation, distribution, renting out, providing for temporary free use, import, advertising of any technology, any technical device or its components, and use of such technical means for the purpose of obtaining profit or rendering corresponding services, if as the result of such actions the use of technical means of protection of copyright becomes impossible or these technical means cannot ensure proper protection of the abovementioned rights.

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

Article 1300. **Copyright Management Information**

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 or on a copy of a work, is attached to it or appears in connection with communication by wireless means or by wire or by the bringing of such a work to the public and also any numbers or 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, communication by wireless means or by wire, or bringing to the public of works with respect to which information about copyright has been removed or changed without the permission of the author or other rightholder.

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

Article 1301. **Liability for Infringement of an Exclusive Right in a Work**

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

in the amount from ten thousand rubles to five million rubles determined at the discretion of the court;

in double the amount of the value of the copies of the work or of two times the amount of the value of the right of the use of the work determined proceeding from the price which in comparable circumstances is usually taken for the lawful use of the work.

Article 1302. **Security for a Claim in Cases of Copyright Infringement**

1. A court may forbid a defendant or other person with respect to whom there are sufficient grounds to suppose that he is an infringer of copyright to take specific actions (creation, reproduction, sale, renting out, import, or other use provided by the present Code, and also transportation, storage, or possession) with the purpose of introducing into commercial circulation copies of a work suspected to be counterfeit.

2. The court may impose seizure on all copies of a work suspected to be counterfeit and also on materials and equipment used or meant for their creation or reproduction.

In the presence of sufficient data on the infringement of copyright 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 used or meant for creation or reproduction of the abovementioned copies of the work, including in necessary cases measures for their taking and transfer for responsible storage.

## CHAPTER 71. RELATED RIGHTS

### § 1. General Provisions

Article 1303. **General Provisions**

1. Intellectual rights in the results of performing activity (performances), phonograms, communication by wireless means or by wire of radio and television transmissions (broadcasting by broadcasting and cablecasting organizations), in the content of databases, and also works of science, literature, or art first made public after they fall into the public domain shall be rights related to copyright (the related rights).

2. The related rights include the exclusive right and, in cases provided for by the present Code, they also include personal nonproprietary rights.

Article 1304. **Objects of Related Rights**

1. Objects of related rights are:

1) performances of performing artists and conductors, productions of director-producers of shows (performances) if these performances are expressed in a form allowing their reproduction and distribution by technical means;

2) phonograms, i.e. any solely sound recordings of performances or other sounds or representations thereof, with the exception of sound recording included in an audiovisual work;

3) communications of transmissions of broadcasting and cablecasting organizations, including broadcasts created by a broadcasting or cablecasting organization itself or on its order and at its own expense by another organization;

4) databases - with respect to their protection from unauthorized extraction and repeated use of the data constituting their content;

5) works of science, literature, and art that are made public after they fall into the public domain, with respect to the protection of rights of publishers of such works.

2. Related rights, their exercise and protection shall not be subject to any registration of their object or any other formalities.

3. The granting of protection within the territory of the Russian Federation for objects of related rights in accordance with the international treaties of the Russian Federation shall be conducted with respect to performances, phonograms, communication of transmissions of broadcasting or cablecasting organizations that have not fallen into the public domain in the country of their origin as the result of the expiration of the term established in such country for the validity of the exclusive right to these objects and have not fall into the public domain in the Russian Federation as the result of the expiration of the term provided for by the present Code for the validity of the exclusive right.

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

The producer of a phonogram and the performer, and any other holder of the exclusive right in the phonogram or performance shall have the right to use for notification of the exclusive right belonging to him by the symbol of protection of related rights, which shall be placed on each original or copy of the phonogram 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. For such purposes, a copy of the phonogram should mean a reproduction thereof on any material carrier made directly or indirectly from the phonogram and including all the sounds or part of the sounds or their representations fixed in this phonogram. A representation of sounds means their presentation in digital form, the transformation of which into a form comprehendible by hearing requires the use of appropriate technical means.

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

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

Article 1307. **Contract for the Alienation of the Exclusive Right in an Object of Related Rights**

Under a contract for alienation of the exclusive right in an object of related rights one party, the performer, the producer of the phonogram, the broadcasting or cablecasting organization, the manufacturer of a database, the publisher of a work of science, literature, or art, or other rightholder transfers or becomes obligated to

transfer his exclusive right in a respective object of related rights in totality to the other party – the recipient of the exclusive right.

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

Under a license contract, one party, the performer, producer of a phonogram, the broadcasting or cablecasting organization, the manufacturer of a database, the publisher of a work of science, literature or art or other rightholder (the licensor) grants or becomes obligated to grant the other party (the licensee) the right to use the respective object of related rights within the limits established by a contract.

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

The provisions of Articles 1299 and 1311 of the present Code shall be applied correspondingly to any technologies, technical devices or their components that control access to an object of related rights, precluding or limiting the conduct of actions that are not permitted by the rightholder with respect to such an object (technical means of protection of related rights).

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

The provisions of Articles 1300 and 1311 of the present Code shall apply correspondingly with respect to any information that identifies an object of related rights or the rightholder, or information on the terms of use of this object that is contained on the respective material carrier, is attached to it, or appears in connection with communication by wireless means or by wire or by bringing of this object to the public and also any numbers and codes in which such information (information on the related right) is contained.

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

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

in the amount of from ten thousand rubles to five million rubles determined at the option 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 right of use of the object of related rights determined on the basis of the price which, in comparable circumstances, is usually taken for the lawful use of such an object.

Article 1312. **Security for a Claim in Cases on the Infringement of Related Rights**

For the purpose of security for a claim in cases on the infringement of related rights against a defendant or a person with respect to whom there are sufficient grounds to suppose that he is an infringer of related rights, and also for a claim regarding objects of related rights with respect to which it is suspected that they are

counterfeit, the measures provided by Article 1302 of the present Code shall be applied correspondingly.

§ 2. Rights in the Performance

Article 1313. **Performer**

Performer (author of the performance) is a person by whose creative labor 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), and also the director-producer of a show (the person conducing the production of a theatrical, circus, puppet, popular, or other theatrical-viewing presentation), and also the conductor.

Article 1314. **Related Rights in a Joint Performance**

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

2. Related rights in a 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 among them provides otherwise. If a joint performance forms an indivisible whole, no member of the group of performers shall have the right to prohibit its use without sufficient grounds thereto.

An element of a joint performance the use of which is possible independently of other elements, i.e. an element of independent significance, may be used by the performer that created it at his discretion unless an agreement among the members of the group of performers provides otherwise.

3. The rules of Paragraph 3 of Article 1229 of the present Code shall apply correspondingly to the relations of members of the group of performers connected with the distribution of income from the use of a joint performance.

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

Article 1315. **Performer's Rights**

1. The performer shall have:

1) the exclusive right in 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 indicate his name or pseudonym on copies of the phonogram and in other cases of the use of the performance, and in the case provided by Paragraph 1 of Article 1314 of the present Code, the right to indicate the designation of the group of performers, except for cases when the nature of the use of the work excludes the possibility of indication of the name of the performer or the name of the group of performers.

4) the right to inviolability of the performance – the right to protection of the performance from any distortion, i.e., from the making changes in the fixation or in

the communication by wireless means or by wire leading to the distortion of the meaning or to the violation of the integrity of the perception of the performance.

2. Performers shall execute their rights with respect to the rights of the authors of the works performed.

3. The rights of the performer shall be recognized and shall remain effective regardless of the presence and validity of the copyright to the work performed.

Article 1316. **Protection of Authorship, the Name of the Performer and Inviolability of a Performance after the Death of the Performer**

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

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

In the absence of such designations or in case of 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 performance shall be exercised by his heirs, their legal successors, and other interested persons.

Article 1317. **Exclusive Right in the Performance**

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

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

1) communication by wireless means, i.e., communication of a performance to public by its transmission by radio or television (including by retransmission), with the exception of cable television. In such case communication means any action by means of which a performance becomes accessible for aural and/or visual perception regardless of its factual perception by the public. In communication of a performance by wireless means through a satellite, communication by wireless means is the reception of signals from a ground station at the satellite and transmission of signals from the satellite by means of which a performance may be communicated to public regardless of its actual reception by the public;

2) communication by wire, i.e., communication of a performance to public by way of its transmission by radio or television with the aid of a cable, wire, optical fiber or analogous means (including by retransmission);

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

4) reproduction of a fixation of a performance, i.e., the creation of one or more copies of a phonogram or its part. In this case, the fixation of a performance on an electronic carrier, including fixation in the memory of a computer shall also be considered as reproduction except for cases when such a fixation is temporary and constitutes an inseparable and essential part of a technological process having the sole purpose of lawful use of the fixation or lawful communication of the performance to the public;

5) distribution of a fixation of a performance by way of sale or other alienation of its original or of copies that are reproductions of such a fixation on any material carrier;

6) an action taken with respect to the fixation of a performance and provided for by subparagraphs 1 and 2 of the present Paragraph.

7) bringing the fixation of a performance to the public in such a manner that any person may access the fixation of the performance from any place and at any time at his own choice (communication to the public);

8) public performance of a fixation of a performance, i.e., any communication of the fixation with the aid of technical means in a place open for free attendance 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 fixation is perceived at the place of its communication or in another place simultaneously with its communication;

9) renting out of the original or copies of the fixation of the performance.

3. The exclusive right in a performance shall not extend to the reproduction, communication by wireless means or by wire or public performance of a fixation of a performance in cases when such a fixation was made with the consent of the performer and its reproduction, communication by wireless means or by wire or public performance was conducted for the same purposes for which the consent of the performer was obtained at the time of the fixation 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 performance in the composition of the audiovisual work shall be presumed. The consent of the performer to the separate the use of sound or image fixed in the audiovisual work must be directly expressed in the contract.

5. In cases of use of a performance by a person who is not the performer, the rules of Paragraph 2 of Article 1315 of the present Code shall apply correspondingly.

Article 1318. **The Term of Validity of the Exclusive Right in a Performance, the Passage of this Right by Inheritance and the Falling of the Performance into Public Domain**

1. The exclusive right in a performance shall be valid 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 performance or fixation of a performance or communication of a performance by wireless means or by wire took place.

2. If a performer was repressed and posthumously rehabilitated, the term of validity of the exclusive right shall be considered extended and the fifty years shall be calculated from January 1 of the year following the year of rehabilitation of the performer.

3. If the performer worked during the time of the Great Patriotic War or participated in it, the term of validity of the exclusive right established by Paragraph 1 of the present Article shall be extended by four years.

4. The rules of Article 1283 of the present Code shall be applied correspondingly to the passage of the exclusive right in a performance by inheritance.

5. Upon expiration of the term of validity of the exclusive right in a performance this right shall pass into the public domain. The rules of Article 1282 of the present Code shall be applied correspondingly to a performance that has passed into the public domain.

Article 1319. **Levy of Execution upon the Exclusive Right in a Performance and upon the Right of Use of a Performance under a License**

1. The exclusive right in a performance belonging to the performer shall not be subject to any levy of execution. However execution may be levied upon the right of a claim of the performer against other persons under contracts for the alienation of the exclusive right in a performance and under license contracts and also upon income received from the use of a performance.

Execution may be levied upon an exclusive right belonging to a person other than the performer and upon the right of use of a performance belonging to a licensee.

The rules of the first subparagraph of the present Paragraph shall also extend to heirs of the performer, heirs of the heirs, and so on, within the limits of the term of validity of the exclusive right.

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

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

The rules of Article 1295 of the present Code shall apply correspondingly to the rights in a performance created by a performer in the course of fulfillment of an employment task including the rights in a joint performance created in such a way.

Article 1321. **Validity of the Exclusive Right in a Performance within the Territory of the Russian Federation**

The exclusive right in a performance shall be valid within the territory of the Russian Federation in the following cases:

the performer is a citizen of the Russian Federation;

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

the performance was fixed in a phonogram protected in accordance with the provisions of Article 1328 of the present Code;

the performance not fixed in a phonogram was included in a communication by wireless means or by wire which is protected in accordance with the provisions of Article 1332 of the present Code;

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

§ 3. Right in a Phonogram

Article 1322. **Producer of Phonogram**

Producer of a phonogram is a person, which undertook the initiative and responsibility for the first fixation of the sounds of a performance or other sounds or representations of these 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 phonogram and/or on its package.

Article 1323. **Rights of the Producer of Phonogram**

1. The producer of a phonogram shall have:

1) the exclusive right to the phonogram;

2) the right to indicate on copies of the phonogram and/or their package his name or designation;

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

4) the right to make the phonogram public, i.e., to conduct an action that for the first time makes the phonogram accessible to public by way of its publishing, public showing, public performance, communication by wireless means or by wire or in another manner. In such a case publication (release) is the release into circulation of copies of a phonogram with the consent of the producer in a number sufficient for the satisfaction of the reasonable requirements of the public.

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

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

4. The right to indicate one's own name or designation on copies of a phonogram and/or their package and the right to protect the phonogram from distortion shall be effective and protected in the course of the whole life of a person or until the termination of a legal entity that was the producer of the phonogram.

Article 1324. **The Exclusive Right in a Phonogram**

1. The exclusive right to use a phonogram in accordance with Article 1229 of the present Code in any manner not contrary to law (the exclusive right to a phonogram), including by the means indicated in Paragraph 2 of the present Article shall belong to the producer of the phonogram. The producer of a phonogram may dispose of the exclusive right to 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 attendance 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 by wireless means, i.e., communication of a phonogram to public by means of its transmission by radio or television (including by retransmission) with the exception of communication by wire. In such case communication shall mean any action by means of which a phonogram becomes accessible for aural perception regardless of its actual perception by the public. In case of communication of a phonogram by wireless means through a satellite, communication by wireless means receipt of signals from a land station at the satellite and transmission of signals from the satellite by means of which the phonogram may be brought to public regardless of its actual reception by the public;

3) communication by wire, i.e., communication of a phonogram to public means of its transmission by radio or television with the aid of a cable, wire, optical fiber or analogous means (including by way of retransmission);

4) communication of a phonogram to the public in such a manner that a person may obtain access to the phonogram from any place and at any time of his own choice (communication to the public);

5) reproduction, i.e., the creation of one or more copies of a phonogram or a part of a phonogram. In such case the fixation of a phonogram or a part of a phonogram on an electronic media, including fixation in the memory of a computer shall also be considered as reproduction, except for cases when such fixation is temporary and constitutes an inseparable and essential part of a technological process

having as its sole purpose the lawful use of the fixation or lawful communication of the phonogram to public;

6) distribution of a phonogram by way of sale or other alienation of the original or copies that are a copy of the phonogram on any material carrier;

7) import of the original or copies of a phonogram for the purpose of distribution including copies prepared with the permission of the rightholder;

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 related right to the reworked phonogram.

4. In case of the use of a phonogram by a person other than its producer, the rules of Paragraph 2 of Article 1323 of the present Code shall apply correspondingly.

Article 1325. **Distribution of the Original or Copies of a Published Phonogram**

If the original or copies of a lawfully published phonogram have been introduced into commercial circulation within the territory of the Russian Federation by way of their sale or other alienation, further distribution of the original or copies shall be allowed without the consent of the holder of the exclusive right in the phonogram and without payment of remuneration 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 communication by wireless means or by wire shall be allowed without the permission of the holder of the exclusive right in the phonogram and of the holder of the exclusive right in the performance fixed in this phonogram, but with payment of remuneration to them.

2. The collection of remuneration from users provided for in Paragraph 1 of the present Article and the distribution of this remuneration shall be conducted by collective management organizations having state accreditation for the respective types of activity (Article 1244).

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

4. The users of phonograms must provide the collective management organization with reports on the use of phonograms and also other information and documents necessary for the collection and distribution of remuneration.

Article 1327. **The Term of Validity of the Exclusive Right in a Phonogram, Passage of this Right to Legal Successors and Falling of the Phonogram into the Public Domain**

1. The exclusive right in a phonogram shall be valid during the course of fifty years, counting from January 1 of the year following the year in which the fixation was made. In case of making the phonogram public, the exclusive right shall be valid during the course of fifty years, counting from January 1 of the year following the

year in which it was made public, on the condition that the phonogram was made public within the course of fifty years after the fixation.

2. The exclusive right in 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 terms indicated in Paragraph 1 of the present Article.

3. Upon the expiration of the term of validity of the exclusive right in a phonogram, it falls into public domain. The rules of Article 1282 of the present Code shall be applied correspondingly to a phonogram that has fallen into public domain.

Article 1328. **Validity of the Exclusive Right in a Phonogram within the Territory of the Russian Federation**

The exclusive right in a phonogram shall be valid within the territory of the Russian Federation in cases when:

the producer of the phonogram is a citizen of the Russian Federation or a Russian legal entity;

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

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

§ 4. Rights of Broadcasting and Cablecasting Organizations

Article 1329. **Broadcasting and Cablecasting Organizations**

A legal entity that conducts communication by wireless means or by wire of radio or television transmissions (the totality of sounds and/or images or their representations) shall a broadcasting or cablecasting organization.

Article 1330. **Exclusive Right to Communicate Radio or Television Transmissions**

1. A broadcasting or cablecasting organization shall possess the exclusive right to use a lawfully conductible or conducted communication by it by wireless means or by wire of transmissions in accordance with Article 1229 of the present Code by any means not contrary to the law (the exclusive right communicate radio or television transmissions), including by the means indicated in Paragraph 2 of the present Article. A broadcasting or cablecasting organization may dispose of the exclusive right to communicate radio or television transmissions.

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

1) fixation of the communication of a radio or television transmission, i.e., the fixation of sounds and/or an image or their representations using technical means in any material form that allows the execution of its repeated perception, reproduction, or communication;

2) reproduction of a fixation of a communication of a radio or television transmission, i.e., the creation of one or more copies of a fixation of a communication of a radio or television transmission or of part thereof. In this case the fixation of a communication of a radio or television transmission on an electronic carrier, including fixation in the memory of a computer shall also be considered to be a reproduction with the exception of the case when such fixation is temporary and constitutes an inseparable and essential part of a technological process having as its sole purpose the

lawful use of a fixation or lawful bringing of communication of a radio or television transmission to the public;

3) distribution of the communication of a radio or television transmission by sale or other alienation of the original or copies of the communication fixation of a radio or television transmission;

4) retransmission, i.e. communication by wireless means (including via satellite) or by wire of a radio or television transmission by one broadcasting or cablecasting organization simultaneously with the receipt by it of the communication of this transmission from another such organization;

5) bringing a communication of a radio or television transmission to to the public in such a way that any person may obtain access to the communication of the radio or television transmission from any place and at any time of his own choosing (communication to the public);

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 it is received at the place of communication or at another place simultaneously with communication.

3. Both retransmission of a radio or television transmission by wireless means and also communication of it by wire shall be considered to be use of a communication of a radio or television transmission of a broadcasting or cablecasting organization.

Both retransmission of a radio or television transmission by wire and also communication of it by wireless means shall be considered as use of a communication of a radio or television transmission of a cablecasting organization.

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

5. A broadcasting and cablecasting organization shall execute its rights with the respect to the rights of authors of the works, the rights of performers and in appropriate cases – of holders of the rights to a phonogram and the rights of other broadcasting and cablecasting organizations to communications of radio and television transmissions.

6. The rights of broadcasting or cablecasting organizations shall be recognized and shall be effective regardless of the presence and validity of copyright rights, performers' rights, and also rights in a phonogram.

Article 1331. **The Term of Validity of the Exclusive Right to Communicate a Radio or Television Transmission, Passage of this Right to Legal Successors and Falling of Communication of a Radio or Television Transmission into the Public Domain**

1. The exclusive right in a communication of a radio or television transmission shall be valid during the course of fifty years, counting from January 1 of the year following the year in which communication of the radio or television transmission by wireless means or by wire took place.

2. The exclusive right in a communication of a radio or television transmission shall pass to legal successors of a broadcasting or cablecasting organization within the limits of the remaining part of the term indicated in Paragraph 1 of the present Article.

3. Upon the expiration of the term of validity of the exclusive right in a communication of a radio or television transmission it shall falls into the public domain. The rules of Article 1282 of the present Code shall apply correspondingly to

the communication of a radio or television transmission that has fallen into the public domain.

Article 1332. **Effect of the Exclusive Right to Communication of a Radio or Television Transmission within the Territory of the Russian Federation**

The exclusive right in a communication of a radio or television transmission shall be effective within the territory of the Russian Federation if a broadcasting or cablecasting organization is located within the territory of the Russian Federation and conducts communication using transmitters located within the territory of the Russian Federation and also in other cases provided for in international treaties of the Russian Federation.

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

Article 1333. **Maker of a Database**

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

2. The maker of a database shall possess:

the exclusive right of the maker of a database;

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

Article 1334. **Exclusive Right of the Maker of a Database**

1. The exclusive right to extract materials from a database and to conduct their subsequent use in any form and by any means (the exclusive right of the maker of a database) shall belong to the maker of a database the creation of which (including the processing or presentation of the corresponding data) requires substantial financial, material, organizational, and other expenditures. The maker of the database may dispose of the aforesaid exclusive right. In the absence of proof of the contrary, a database containing not less than ten thousand independent information elements (or materials) constituting the content of the database (second subparagraph of Paragraph 2 of Article 1260) shall be recognized as a database the creation of which requires substantial expenditures.

No one shall have the right to extract materials from a database and to conduct their subsequent use without the permission of the rightholder except in the cases provided by the present Code. In this case extraction of materials means the transfer of the whole content of a database or of a significant part of the materials constituting it into another information carrier with the use of any technical means and in any form.

2. The exclusive right of the maker of a database shall be recognized and shall be effective regardless of the presence and validity of copyright and other exclusive rights of the maker 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 rightholder to extract materials from such database and to conduct their subsequent use for personal, scholarly, educational, and other noncommercial

purposes in an amount justified by the aforesaid purposes and to the degree by which such actions do not infringe the copyright rights of the maker of the database and other persons.

The use of materials extracted from a database, in a way presupposing the receipt of access thereto by an unlimited group of people must be accompanied by an indication of the database from which these materials were extracted.

Article 1335. **The Term of Validity of the Exclusive Right of the Maker of a Database**

1. The exclusive right of the maker of a database shall arise at the time of completion of its creation and shall be effective during the course of fifteen years counting from January 1 of the year following the year of its creation. The exclusive right of the maker of a database made public in the aforesaid term shall be effective during the course of fifteen years counting from January 1 of the year following the year of its being made public.

2. The terms provided by Paragraph 1 of the present Article shall be renewed upon each renewal of the database.

Article 1336. **Validity of the Exclusive Right of the Maker of a Database within the Territory of the Russian Federation**

1. The exclusive right of the maker of a database shall be effective within the territory of the Russian Federation in the following cases:

when the maker of the database is a citizen of the Russian Federation or a Russian legal person;

when the maker of the database is a foreign citizen or a foreign legal person on the condition that the legislation of the respective foreign state provides on its territory protection for the exclusive right of the maker of databases the maker of which is a citizen of the Russian Federation or a Russian legal person;

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

2. If the maker of the database is a person without citizenship, depending upon whether this person has his place of residence within the territory of the Russian Federation or within the territory of a foreign state, the rules of Paragraph 1 of the present Article relating to citizens of the Russian Federation or to foreign citizens shall be applied correspondingly.

§ 6. Right of the Publisher in Works of Science, Literature, or Art

Article 1337. **Publisher**

1. Publisher is a person who lawfully made public or organized the making public of a work of science, literature, or art previously not made public and that has fallen 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 the present Code.

3. The provisions provided by the present Section do not cover 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 making the work public, the publisher is obligated to observe the conditions provided by Paragraph 3 of Article 1268 of the present Code.

3. The publisher during the term of validity 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 the present 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 in a Work**

1. The exclusive right to use a work in accordance with Article 1229 of the present Code (the exclusive right of a publisher to a work) by the means provided for by subparagraphs 1-8 and 11 of Paragraph 2 of Article 1270 of the present Code shall belong to the publisher of a work. The publisher of a work may dispose of the aforesaid exclusive right.

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

Article 1340. **The Term of Validity of the Exclusive Right of the Publisher in a Work**

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

Article 1341. **Validity of the Exclusive Right of the Publisher in a Work within the Territory of the Russian Federation**

1. The exclusive right of a publisher shall extend to works:

1) made public within the territory of the Russian Federation regardless of the citizenship of the publisher;

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

3) made public outside the territory of the Russian Federation by a foreign citizen or a person without citizenship on the condition that the legislation of the foreign state in which the work was made public provides for protection on its territory for the exclusive right of a publisher who is a citizen of the Russian Federation;

4) In other cases provided for by international treaties of the Russian Federation.

2. In the case indicated in numbered subparagraph 3 of Paragraph 1 of the present Article the term of validity of the exclusive right of the publisher to a work within the territory of the Russian Federation may not exceed the term of validity of the exclusive right of the publisher to a work established in the state within the territory of which the legal fact took place that served as the basis for obtaining such exclusive right.

Article 1342. **Pre-term Termination of the Exclusive Right of a Publisher in a Work**

The exclusive right of a publisher in a work may be pre-term terminated by judicial procedure on a suit by an interested person if in the course of the use of the work the rightholder is violating the requirements of the present Code with respect to the protection of authorship, the name of the author, or the inviolability of the work.

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

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

2. If the exclusive right of a publisher in a work has not passed to the recipient of the original of a work, the recipient shall have the right without the consent of the holder of the exclusive right of the publisher to use the original of the work in the manners indicated in the second subparagraph of Paragraph 1 of Article 1291 of the present 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 made public in accordance with the present Section have been lawfully introduced into commercial circulation 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 remuneration to him.

## CHAPTER 72. PATENT LAW

§ 1. General Provisions

Article 1345. **Patent Rights**

1. Intellectual rights to inventions, utility models, and industrial designs shall be patent rights.

2. The following rights shall belong to the author of an invention, utility model, or industrial design:

1) the exclusive right;

2) the right of authorship.

3. In cases provided for by the present Code, other rights also belong to the author of an invention, utility model, or industrial design including the right to obtain a patent, the right to remuneration for the use of an employee's invention, utility model, or industrial design.

Article 1346. **Validity of Exclusive Rights to Inventions, Utility Models, and Industrial Designs within the Territory of the Russian Federation**

Within the territory of the Russian Federation exclusive rights shall be recognized to inventions, utility models, and industrial designs certified by patents granted by the federal executive authority for intellectual property or by patents valid

within the territory of the Russian Federation by virtue of the international treaties of the Russian Federation .

Article 1347. **Author of an Invention, Utility Model, or Industrial Design**

The author of an invention, utility model, or industrial design shall be deemed a citizen whose creativity has led to the creation of such a result. The person indicated as the author in patent application for an invention, utility model, or industrial design shall be deemed the author of the invention, utility model, or industrial design, unless it is proved otherwise.

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

1. Citizens who have made an invention, utility model, or industrial design by joint creative work shall be deemed the joint authors.

2. Each of the co-authors 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 the present Code shall be applied to inter relations of the co-authors connected with sharing the income received from 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 obtain a patent for an invention, utility model, or industrial design shall be fulfilled by the co-authors jointly.

4. Each of the co-authors shall independently have the right to enforce his rights to the invention, utility model or industrial design.

Article 1349. **Objects of Patent Rights**

1. The objects of patent rights shall be the results of intellectual activity in the scientific and technical area that meet the requirements, provided for by the present Code, for inventions and utility models and the results of intellectual activity in the area of artistic design that meet the requirements for industrial designs set forth by the present Code.

2. The provisions of the present Code extend to inventions containing information constituting a state secret (the secret inventions), unless otherwise provided for by the special provisions of Articles 1401-1405 of the present Code and by legal acts issued in accordance with them.

3. Legal protection under the present Code shall not be granted to utility models and industrial designs containing information constituting a state secret.

4. The following shall not be the objects of patent rights:

1) methods of cloning of a human being;

2) methods of modification of the genetic integrity of cells of the embryonic line of a human being;

3) use of human embryos for industrial and commercial purposes;

4) other proposals that are contrary to public interest, 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 device, substance, microorganism strain, cell culture of plants or animals) or method (process of affecting a material object using material means) shall be protected as an invention.

An invention shall be granted the legal protection if it is new, involves an inventive step, and is industrially applicable.

2. An invention shall be deemed new if it is not anticipated by prior art

An invention shall involve an inventive step, if having regard to the state of the art, it is not obvious to a person skilled in the art.

The state of the art shall include any information published anywhere in the world, and made available to the public, before the priority date of the invention. When the novelty of an invention is determined, the state of the art shall also include, under condition of their earlier priority, all applications filed in the Russian Federation by other applicants for inventions and utility models, to the documents of which any person is entitled to get access as per Paragraph 2 of Article 1385 or Paragraph 2 of Article 1394 of the present Code, and inventions and utility models that have been patented in the Russian Federation.

3. Disclosure of information relating to an invention by the author of the invention, applicant, or other person having received this information directly or indirectly from them, that made information on the essence of the invention public shall not be a circumstance precluding the recognition of the patentability of the invention if a patent application for the invention has been filed with the federal executive authority for intellectual property within six months from the date of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the invention shall be on the applicant.

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

5. The following shall not be deemed inventions:

1) discoveries;

2) scientific theories and mathematical methods;

3) proposals concerning solely the outward appearance of manufactured articles and intended to satisfy aesthetic requirements;

4) rules and methods of games and for intellectual or business activity;

5) computer programs;

6) ideas on presentation of information.

In accordance with the present Paragraph these objects shall not be deemed inventions only if the patent application refers to the above subject matter per se.

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

1) varieties of plants, breeds of animals and biological methods of obtaining thereof with the exception of microbiological methods and products obtained by the use of such methods;

2) layout-designs (topographies) of integrated circuits.

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

1. A technical solution relating to a device 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 shall be new if the sum of its essential features is not anticipated by prior art.

The state of the art shall include any kind of information published anywhere in the world and made available to the public, before the priority date of the claimed

utility model, concerning devices of similar function and the use thereof in the Russian Federation. The state of the art shall also include, on condition of their earlier priority, all applications filed in the Russian Federation by other applicants for inventions and utility models, to the documents of which any person is entitled to get access as per Paragraph 2 of Article 1385 or Paragraph 2 of Article 1394 of the present Code, and inventions and utility models that have been patented in the Russian Federation.

3. Disclosure of information relating to a utility model by the author of the utility model, applicant, or other person having received this information directly or indirectly from them, that made information on the essence of the utility model public shall not be a circumstances precluding the recognition of the patentability of the utility model if an application for the grant of a patent for the utility model has been filed with the federal executive authority for intellectual property within six months from the date of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the utility model shall be on the applicant.

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

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

1) proposals concerning solely the outward appearance of manufactured articles and intended to satisfy aesthetic requirements;

2) layout-designs (topographies) of integrated circuits.

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

1. An artistic and design presentation of an article, manufactured industrially or by artisans, that defines its outward appearance, shall be protected as an industrial design.

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

The essential features of an industrial design shall include features determining the esthetic and/or ergonomic characteristics of the outward appearance of the article, including shape configuration, ornament, and combination of colors.

2. An industrial design shall be deemed new if the sum of its essential features manifested in representation of the article and included in the list of essential features of the industrial design (Paragraph 2 of Article 1377) is not known from information generally available in the world before the priority date of the industrial design.

When determining the novelty of an industrial design all applications for industrial designs filed in the Russian Federation by other persons, provided they have earlier priority and to the documents for which any person is entitled to get access as per Paragraph 2 of Article 1394 of the present Code and industrial designs that have been patented in the Russian Federation, shall also be taken into account.

3. An industrial design shall be deemed original if its essential features are determined by the creative nature of the special aspects of the article.

4. Disclosure of information relating to an industrial design by its author, applicant, or other person having received this information directly or indirectly from them, that made information on the essence of the industrial design public shall not be a circumstance preventing the recognition of the patentability of the industrial design if an application for the grant of a patent for the industrial design has been filed with

the federal executive authority for intellectual property within six months from the date of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the industrial design shall be on the applicant.

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

1) solutions that are determined exclusively by the technical function of an article ;

2) solutions that relate to works of architecture (with the exception of minor architectural forms), industrial, hydro technical, and other stationary structures;

3) solutions that relate to objects of instable shape such as liquids, gaseous, dry substances and the like.

Article 1353. **Official Registration of Inventions, Utility Models, and Industrial Designs**

The exclusive right to an invention, utility model, or industrial design shall be recognized and protected subject to official registration of the respective invention, utility model, or industrial design on the basis of which the federal executive authority for intellectual property shall issue a patent for the invention, utility model or industrial design.

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

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

3. Protection of intellectual rights for an industrial design shall be granted on the basis of a patent and the scope of protection shall be determined by the sum of its essential features as shown on the representation of the article and included in the list of essential features of an industrial design (Paragraph 2 of Article 1377).

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

The State shall offer incentives for the creation and use of inventions, utility models, and industrial designs, by providing their authors, patent holders and licensees using the respective inventions, utility models, and industrial designs with benefits under 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, i.e., the right to be deemed the author of an invention, utility model or industrial design shall be an inalienable and nontransferable, including when assigning to a third person or conveying the exclusive right to an invention, utility model, or industrial design and in conferring another person the right to its use. A waiver of this right shall be void.

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

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

2. The right to obtain a patent for an invention, utility model, or industrial design may be conveyed to another person (the legal successor) or may be transferred in the cases and on the grounds provided for by the legislation including within the framework of an universal legal succession or under the contract, including labor contract.

3. A contract on alienation of the right to obtain a patent for an invention, utility model or industrial design shall be concluded in a written form. Failure to observe the requirements of a written form shall entail invalidity of the contract.

4. Unless otherwise is provided for by the agreement of the parties of a contract on alienation of the right to obtain a patent for an invention, utility model, or industrial design, the risk of non-patentability shall be burned 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 of an invention, utility model, or industrial design under Article 1229 of the present Code by any means not contrary to legislation (the exclusive right to an invention, utility model, or industrial design), including by the means provided for in Paragraphs 2 and 3 of the present Article shall belong to the patent holder. The patent holder may dispose the exclusive right to an invention, utility model, or industrial design.

2. The use of an invention, utility model or industrial design shall include in particular:

1) import into the territory of the Russian Federation, manufacturing, exploitation, offer for sale, sale, other introduction into civil circulation or the storage for such purposes of a product that incorporate the invention or utility model, or articles incorporating the industrial design.

2) performance of acts provided for by subparagraph 1 of the present Paragraph in respect to a product obtained directly by a patented process. If the product obtained by the patented process is new, an identical product shall be considered as derived from the patented process in the absence of proof of the contrary;

3) performance of the acts provided for by the subparagraph 2 of the present Paragraph in respect to a device, the functioning (use) of which in accordance with its purpose automatically involves a patented process;

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

3. An invention or utility model shall be deemed used in a product or process if the product contains or the process involves each feature of the invention or utility model stated in an independent claim contained in the claims for the invention or utility model, or a feature equivalent thereto that has become known as such in this art prior to performance in respect to the respective product or process of the actions provided for by Paragraph 2 of the present Article.

An industrial design shall be deemed used in an article if such article contains all the essential features of the industrial design manifested in the representation of the article and stated in the list of essential features of the industrial design (Paragraph 2 of Article 1377).

In the event that the use of an invention or utility model involves also the use of all the characteristics listed in an independent claim of the claims contained in the patent of another invention or another utility model, and in the case of use of an industrial design, all the features included in the list of essential features of another industrial design, the other invention, the other utility model, or the other industrial design shall also be deemed used.

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

Article 1359. **Acts which Shall Not an Infringement of the Exclusive Right to an Invention, Utility Model, or Industrial Design**

The performance of the following acts shall not constitute an infringement of the exclusive right to an invention, utility model, or industrial design:

1) use of a product incorporating the invention or utility model and use of a device incorporating an industrial design in the structure, in auxiliary equipment, or in the exploitation of transportation vehicles (river and marine, air, automobile, and railway transport) and space crafts of foreign states provided that such transportation vehicles or this space crafts are located within the territory of the Russian Federation, temporally or accidentally, and that the aforesaid product or device is used solely for the needs of transportation vehicles or space crafts. Such an acts shall not be recognized as an act of infringement of the exclusive right of the patent holder with respect to the transportation vehicles and space crafts of those foreign states that grant similar rights with respect to transportation vehicles and space crafts registered in the Russian Federation;

2) scientific research of a product or process incorporating an invention or utility model, or scientific research of a device incorporating an industrial design or the conduct of an experiment with such a product, process, or device;

3) use of an invention, utility model, or industrial design in emergency situations (natural calamities, catastrophes, accidents) provided that the patent holder is notified as soon as possible and payment to him a reasonable remuneration;

4) use of an invention, utility model, or industrial design for private, family, domestic, or other needs not related with business activity, if the purpose of such use is not to make profit or revenue;

5) occasional preparation in pharmacies based on physicians' prescriptions of medicaments using the invention;

6) import into the territory of the Russian Federation, utilization, offer for sale, selling, other introduction into civil circulation or storage for these purposes of a product, incorporating the invention or utility model or of a device, incorporating the industrial design if such product or device had been early introduced into civil circulation within 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, Utility Model, or Industrial Design in the Interests of National Security**

In the interests of national security the Government of the Russian Federation shall have the right to permit the use of an invention, utility model, or industrial design without the consent of the patent holder provided that he is notified as soon as possible and payment to him a reasonable remuneration.

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

1. Any person who before the priority date of an invention, utility model or industrial design (Articles 1381 and 1382) had conceived and was using in good faith within the territory of the Russian Federation the identical solution or made the necessary preparations for such use shall have the right to proceed with that use gracious provided that the scope thereof is not extended (the right of prior use).

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

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

1. If an invention or industrial design fails to be used or is insufficiently used by the patent holder during the four years from date of the issuance of a patent, or a utility model – during three years from the date of granting the patent, which leads to insufficient offer of respective goods, works or services on the market, any person willing and ready to use such invention, utility model, or industrial design, given the refusal of the patent holder to conclude with such a person a license contract on terms corresponding to common practice shall have the right to initiate a legal action against the patent holder for the granting of a compulsory simple (non-exclusive) license for the use within the territory of the Russian Federation of an invention, utility model, or industrial design. In the writ, this person shall indicate the proposed terms of the granting to him of such a license, including the scope of use of the invention, utility model, or industrial design, the amount, procedure, and terms of payments.

If the patent holder does not prove that nonuse or insufficient use by him of the invention, utility model, or industrial design is based on valid excuses, the court shall rule the granting of the license indicated in the first subparagraph of the present Paragraph and the terms of its granting. A total amount of payments for such a license shall be determined in the decision of the court on the level not lower than the cost of a license determined in similar cases.

The effect of a compulsory simple (nonexclusive) license may be terminated by judicial procedure on a suit initiated by the patent holder if the circumstances that resulted in granting of such a license cease to exist and their reappearance is unlikely. In such a case the court shall fix the time and procedure for termination of the compulsory simple (nonexclusive) license and of the rights that arose under this license.

Granting in accordance with the rules of the present Paragraph of a compulsory simple (nonexclusive) license for the use of an invention related to the semiconductor technology, shall be allowed exclusively for its noncommercial use in state, social or other public interests or for the purpose of changing the situation

which in due course is considered to be violating the requirements of the anti-monopoly legislation of the Russian Federation.

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 (the first patent) to an invention or utility model who has refused to conclude a license contract on terms corresponding to common practice, the patent holder shall have the right to initiate court action against the holder of the patent (the second patent) for the granting of a compulsory simple (nonexclusive) license for the use within the territory of the Russian Federation of the invention or utility model of the holder of the first patent. The terms of granting such a license proposed by the holder of the second patent, including the scope of use of the invention or utility model, the amount, procedure, and schedule of payments shall be indicated in the lawsuit. If this patent holder having the exclusive right to such a dependent invention proves that it is an important technical achievement and has a significant economic advantage over the invention or utility model of the holder of the first patent, the court shall rule the granting compulsory simple (nonexclusive) license. A right obtained under this license to use the invention protected by the first patent may not be transferred to other persons except in case of alienation of the second patent.

A total amount of payments for such a compulsory simple (nonexclusive) license shall must be determined in the decision court on the level not lower than the cost of a license determined in similar cases.

In the case of granting under the present Paragraph of a compulsory simple (nonexclusive) license, the holder of the patent for the invention or utility model, the right to use of which is granted on the basis of the aforesaid license shall also have the right to obtain a simple (nonexclusive) license for use of the dependent invention in connection with which the compulsory simple (nonexclusive) license was granted on terms corresponding to the common practice.

3. On the basis of the court ruling provided for by Paragraphs 1 and 2 of the present Article, the federal executive authority for intellectual property shall effect official registration of the compulsory simple (nonexclusive) license.

Article 1363. **Validity Term of the Exclusive Rights to an Invention, Utility Model, and Industrial Design**

1. The validity term of the exclusive right to an invention, utility model, or industrial design and of the patent certifying this right shall be counted from the filing date of the initial application for the grant of a patent with the federal of executive authority for intellectual property provided the meeting the requirements set forth by the present Code shall constitute:

twenty years – for inventions;

ten years – for utility models;

fifteen years – for industrial designs.

The exclusive right certified by a patent shall be enforced only after official registration of the invention, utility model or industrial design and grant of the patent (Article 1393).

2. If from the filing date of an application for the grant of patent for an invention relating to medication, a pesticide, or an agrochemical, the use of which requires duly granted permission, and until the date of granting the first permission for its application more than five years have elapsed, the validity term of the exclusive right to the respective invention and the patent certifying this right shall be extended

upon request from the patent holder by the federal executive authority for intellectual property. The said validity term shall be extended for a period counted from the filing date of the application for grant of the patent for the invention to the date of receipt of the first permission for the use of the invention, minus five years. In such a case, the validity term of the patent for the invention may be extended for a period not exceeding five years.

The request for extension of the term shall be submitted by the patent holder during the validity term of the patent within six months from the date of receipt of the permission for application of the invention or date of patent grant, depending on which expires later.

3. The validity term of the exclusive right to a utility model and the patent certifying this right shall be extended by the federal executive authority for intellectual property upon request of the patent holder for a period indicated in the application but not exceeding three years, and of the exclusive right to an industrial design and of the patent certifying this right – for a period indicated in the application but not exceeding ten years.

4. The procedure for extending the validity term of a patent for an invention, utility model, or industrial design shall be established by the federal executive authority responsible for normative and legal regulation in the area of intellectual property.

5. The validity of the exclusive right to an invention, utility model, or industrial design, and of the patent certifying this right shall be deemed invalid or pre-term terminated on the basis and by virtue of the procedure provided for by Articles 1398 and 1399 of the present Code.

Article 1364. **Falling of an Invention, Utility Model, or Industrial Design into Public Domain**

1. Upon the expiration of the validity term of the exclusive right, an invention, a utility model, or an industrial design shall fall into public domain.

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

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

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

Under a contract on alienation of the exclusive right to an invention, utility model, or industrial design (a contract on alienation of the patent), one party (the patent holder) transfers or undertakes commitment to transfer the exclusive right owning by him to the respective complete results of intellectual activity to the other party - the recipient of the exclusive right (the recipient of the patent).

Article 1366. **Public Offer to Conclude a Contract on Alienation of the Patent for an Invention**

1. An applicant who is the author of an invention, when filing an application for grant of a patent for the invention may attach to the materials of the application a declaration to the effect that in the event of patent grant he shall be committed to conclude a contract on alienation of the patent under the terms, corresponding to common practice, with any citizen of the Russian Federation or Russian legal entity

who first declared such a willingness and notified this to the patent holder and the federal executive authority for intellectual property. Where such a declaration is submitted, the patent fees stipulated under the present Code shall not be charged from the applicant with respect to the application for the grant of a patent for the invention or the patent grant based on such an application.

The federal executive authority for intellectual property shall publish o notice on such declaration in the official gazette.

2. A person concluding a contract on alienation of a patent for an invention with the patent holder on the basis of his declaration under Paragraph 1 of the present Article, shall be obligated to pay all the patent fees, from which the applicant (or the patent holder) was relived. Further patent fees shall be paid as per the established procedure.

To get the contract on alienation of the patent registered by the federal executive authority for intellectual property, the request for the registration of the contract shall be supported by a document confirming the payment of all patent fees from which the applicant (or the patent holder) was relieved.

3. In the event that within two years from the date of publication of notice on the grant of a patent for the invention with respect to which the declaration under Paragraph 1 of the present Article was submitted, failure to receive any written notice on the wish to conclude a contract on alienation of the patent by the federal executive authority for intellectual property, the patent holder may submit to the said federal authority a request for the withdrawal of his declaration. In such a case, the patent fees provided for by the present Code, from the payment of which the applicant (or patent holder) was relieved, shall be paid. Further patent fees shall be paid as per established procedure.

The federal executive authority for intellectual property shall publish in the official bulletin a notice on the withdrawal of the declaration under Paragraph 1 of the present Article.

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

Under a license contract one party - the patent holder (the licensor) grants or undertakes commitment to grant to the other party (the licensee) within the limits under the contract the right to use 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 authority for intellectual property a statement concerning the possibility of granting to any person the rights to use an invention, utility model, or industrial design (an open license).

In this case the amount of the patent fee for maintenance of the patent for an invention, utility model, or industrial design shall be reduced by fifty percent starting from the year following the year of publication by the federal executive authority for intellectual property of notice on the open license.

The terms of the license under which the right to use an invention, utility model, or industrial design may be granted to any person shall be notified by the patent holder to the federal executive authority for intellectual property, which shall publish at the expense of the patent holder the respective notice on the open license. The patent holder shall be obligated to conclude with a person who has expressed the

willingness to use the aforesaid invention, utility model, or industrial design, a license contract under the terms of a simple (non-exclusive) license.

2. If the patent holder in the course of two years from the date of publication of a notice on an open license fails to receive any written proposals to conclude of a license contract on the terms under his declaration, on the expiration of two years he may submit to the federal executive authority for intellectual property a request for the withdrawal of his declaration on an open license. In this case the maintenance patent fee patent shall be paid for the whole period following the date of publication of notice on the open license and in the future shall be paid in full. The said federal authority shall publish a notice on withdrawal of the declaration in the official gazette.

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

A contract on the alienation of a patent, license contract, and other contracts by means of which the disposition of the exclusive right to an invention, utility model, or industrial design is effected shall be concluded in written form and shall be registered by the federal executive authority for intellectual property.

§ 4. **An Invention, Utility Model, or Industrial Design Created in Line of Duty while Performing Labor Task or the Fulfillment of Work under a Contract**

Article 1370. **Employee's Invention, Employee's Utility Model, or Employee's Industrial Design**

1. An invention, utility model, or industrial design created by an employee in line of his employment duties or of a specific task set by the employer shall be deemed an employee's invention, employee's utility model, or employee's industrial design, respectively.

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

3. The exclusive right to the employee's invention, employee's utility model, or employee's industrial design and the right to obtain a patent shall belong to the employer unless otherwise provided for by a labor or other contract between the employee and the employer.

4. In the absence in the contract between the employer and employee of the provisions to the contrary (Paragraph 3 of the present Article) the employee shall notify the employer in writing of the creation in connection with the performance of his employment obligations or of a specific task set by the employer of any results with respect to which granting of legal protection is capable.

Where the employer within four months from the date of notification by employee fails to file an application for the grant of a patent for the respective employee's invention, employee's utility model, or employee's industrial design with the federal executive authority for intellectual property, fails to transfer the right to obtain a patent for an employee's invention, employee's utility model, or employee's industrial design to another person, and fails to inform the employee on keeping the information on the respective result of intellectual activity in secrecy, the right to obtain a patent for such an invention, utility model, or industrial design shall belong to the employee. In such a case the employer during the validity term of the patent shall have the right to use the employee's invention, employee's utility model, or employee's industrial design in his own business under a simple (non-exclusive)

license and pay remuneration to the patent holder, the amount, terms, and method of payment shall be determined by contract between the employee and the employer and in case of dispute settled by a court.

If the employer obtains a patent for an employee's invention, employee's utility model, or employee's industrial design, or takes a decision to keep information on such an invention, such a utility model, or such an industrial design in secrecy and informs this to the employee or transfers the right to obtain a patent to another person or fails to obtain a patent on the basis of the application filed by him due to circumstances for which he is responsible, the employee shall have the right to remuneration. The amount of remuneration, the terms, and the procedure for payment by the employer shall be determined by a contract between him and the employee and in case of a dispute settled by a court.

The Government of the Russian Federation shall have the right to establish minimum rates of remuneration for employee's inventions, employee's utility models, and employee's industrial designs.

5. An invention, utility model, or industrial design created by an employee with the use of financial, technical, or other material assets of the employer, but not in line of his employment duties or of a specific task set by the employer shall not be deemed an employee's invention, utility model, or industrial design. The right to obtain 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 grant of a free simple (nonexclusive) license for the use of the created result of intellectual activity for his own needs during the whole validity term of the exclusive right or to reimbursement of the costs incurred 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. In the case when an invention, utility model, or industrial design is created in performing a contract of work and labor or a contract for performance of R&D, that does not specially provided for its creation, the right to obtain a patent and the exclusive right to such an invention, utility model, or industrial design shall belong to the contractor (the performer) 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 to which the respective contract was concluded under a simple (non-exclusive) license during the whole validity term of the patent without payment of supplementary remuneration for this use. In case of transfer by the contractor (the performer) of the right to obtain a patent or alienation of the patent as such to another person, the customer shall retain the right of use of the invention, utility model or industrial design on the aforesaid terms.

2. In the case when under a contract between a contractor (a performer) and a customer the right to obtain a patent or an exclusive right to an invention, utility model, or industrial design has been transferred to the customer or to a third party designated by him, the contractor (the performer) shall have the right to use the created invention, utility model, or industrial design for his own needs under a free simple (non-exclusive) license during the whole validity term of the patent unless provided otherwise by the contract.

3. The author of an invention, utility model, or industrial design indicated in Paragraph 1 of the present Article who is not the patent holder shall be paid remuneration under Paragraph 4 of Article 1370 of the present Code.

Article 1372. **Industrial Design Made on Order**

1. In the case an industrial design is made under a contract, the subject of which was its creation (on order), the right to obtain a patent and the exclusive right to such an industrial design shall belong to the customer, unless the contract between the contractor (the performer) and the customer provides otherwise.

2. In the case when the right to obtain a patent and the exclusive right to an industrial design under Paragraph 1 of the present Article belongs to the customer, the contractor (the performer) shall have the right, to the extent that the contract does not provide otherwise, to use such industrial model for its own needs under a free simple (nonexclusive) license during the whole validity term of the patent.

3. In the case when under a contract between the contractor (performer) and the customer the right to be granted a patent and the exclusive right to an industrial design belongs to the contractor (the performer), the customer shall have the right to use the industrial design for his own needs under a free simple (non-exclusive) license during the whole validity term of the patent.

4. The author of a utility model created on order who is not the patent holder shall be paid remuneration under Paragraph 4 of Article 1370 of the present Code.

Article 1373. **Invention, Utility Model, or Industrial Design Created in Performance of Work under a State or Municipal Contract**

1. The right to obtain a patent and the exclusive right to an invention, utility model, or industrial design created in performance of work under a State or municipal contract for state or municipal needs shall belong to the organization performing the state or municipal contract (the performer) unless the State or municipal contract stipulates that this right shall belong to the Russian Federation, the subject of the Russian Federation or the municipal unit on behalf of which the State or municipal customer acts, or jointly to the performer and the Russian Federation, the subject of the Russian Federation or the municipal unit.

2. If in accordance with a state or municipal contract the right to obtain a patent and the exclusive right to an invention, utility model, or industrial design belongs to the Russian Federation or municipal unit, the State or municipal customer may file an application for the patent grant within six months from the date of his written notification by the performer of the receipt of a result of intellectual activity eligible for legal protection as an invention, utility model, or industrial design. If within the said period the State or municipal customer fails to file an application the right to obtain of the patent shall belong to the performer.

3. If the right to obtain a patent and the exclusive right to an invention, utility model, or industrial design under a State or municipal contract, belongs to the Russian Federation, to a subject of the Russian Federation, or to a municipal unit, the performer shall be obliged, by the conclusion of corresponding agreements with his employees and third persons, to obtain all the rights and ensure their being retained for transfer respectively to the Russian Federation, the subject of the Russian Federation, or the municipal unit. In such case, the contractor shall have the right to remuneration for covering expenses incurred 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 under Paragraph 1 of the present Article not to the Russian Federation, not to a subject of the Russian Federation, and not to a municipal unit, the patent holder on demand of the State or municipal customer shall be obliged to grant to the person indicated by him a free simple (non-exclusive) license for the use of the invention, utility model or industrial design for state or municipal needs.

5. If a patent for an invention, utility model or industrial design created in the performance of work under a State or municipal contract for State needs is granted jointly in the name of the performer and the Russian Federation, or of the performer and a subject of the Russian Federation, or of the performer and a municipal unit, the State or municipal customer shall have the right to obtain a free simple (nonexclusive) license for the use of such invention, utility model, or industrial design for the purpose of performing work or supplying products for State or municipal needs after having notified the performer of this.

6. If a performer who has obtained a patent for an invention, utility model or industrial design under Paragraph 1 of the present Article in his own name, takes a decision for the pre-term termination of the validity of the patent, he shall be obliged to notify the State or municipal customer and on its demand to transfer the patent on a free-of-charge basis to the Russian Federation, subject of the Russian Federation, or municipal unit.

In the case of adoption of a decision on the pre-term termination of the validity of a patent granted under Paragraph 1 of the present Article in the name of the Russian Federation, a subject of the Russian Federation, or a municipal unit, the State or municipal customer shall inform the performer and on his demand to transfer to him the patent on a free-of-charge basis.

7. The author of an invention, utility model, or industrial design indicated in Paragraph 1 of the present Article who is not the patent holder shall be paid remuneration under Paragraph 4 of Article 1370 of the present Code.

## § 5. Patent Grant

### 1. Application for a Patent Grant, Amendment, and Withdrawal Thereof

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

1. An application for the grant of a patent for an invention, utility model, or industrial design shall be filed with the federal executive authority for intellectual property by a person entitled to obtain a patent under the present Code (the applicant).

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

3. A request for the grant 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 attorney or other representative, by the applicant or his representative filing the application.

4. Requirements for the documents of an application for grant a patent for an invention, utility model or industrial design shall be determined on the basis of the

present Code by the federal executive authority responsible for normative and legal regulation in the area of intellectual property.

5. The document confirming the payment of the prescribed patent fee or document confirming the grounds for non-payment of the patent fee or its reduction, or the delay for its payment shall be attached to the application for the grant of a patent for an invention, utility model, or industrial design.

Article 1375. **Application for the Grant of a Patent for an Invention.**

1. An application for the grant of a patent for an invention (an application for an invention) shall relate to one invention or to a group of inventions so linked as to form a single inventive concept (requirement of unity of the invention).

2. An application for an invention shall contain:

1) the request for the grant of a patent, stating the name of the author of the invention and of the person in whose name the patent is sought and also of the legal or actual residence of each of them;

2) the description of the invention, disclosing it in sufficient details for it to be carried out;

3) the claims stating its essential features and fully supported by description;

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

5) the abstract.

3. The filing date of an application for an invention shall be the date of receipt by the federal executive authority for intellectual property of an application containing a request for the patent grant, a description of the invention, and drawings if there is a reference to them in the description, and if the all the said documents were not presented at the same time, the date of receipt of the final document.

Article 1376. **Application for the Grant of a Patent for a Utility Model**

1. An application for the grant of a patent for a utility model (application for a utility model) shall relate to one utility model or to a group of utility models so linked as to form a single creative concept (requirement of unity of the utility model).

2. An application for a utility model shall contain:

1) the request for the grant of a patent, stating the name 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) the description of the utility model, disclosing in sufficient details for it to be carried out;

3) the claims stating its essential features and fully supported by description;

4) the drawings if they are necessary for understanding the essence of the utility model;

5) the abstract.

3. The filing date of an application for a utility model shall be the date of receipt by the federal executive authority for intellectual property of an application containing a request for the patent grant, a description of the utility model, and drawings, if there is a reference to them in the description, and, if the all said documents were not presented at the same time, the date of receipt of the final document.

Article 1377. **Application for the Grant of a Patent for an Industrial Design**

1. An application for the grant of a patent for an industrial design (an application for an industrial design) shall relate to one industrial design or to a group of industrial designs so closely associated as to form a single creative concept (requirement of unity of the industrial design).

2. An application for an shall contain:

1) a request for the grant of a patent, stating the name 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 representations of the article giving a full and detailed perception of the outward appearance of the article;

3) a drawing of the general view of the article, and ergonomic scheme, a flow chart if they are needed for the disclosure of the essence of the industrial design;

4) the description of the industrial design;

5) the list of the essential features of the industrial design.

3. The filing date of an application for an industrial design shall be the date of receipt by the federal executive authority for intellectual property of an application containing a request for the grant of a patent, a set of representations of the article, a description of the industrial design, and a list of the essential features of the industrial design and, if all the said documents were not presented at the same time, the date of receipt of the final document.

Article 1378. **Amendments of an Application for an Invention, Utility Model, or Industrial Design**

1. The applicant shall have the right to make corrections and clarifications, including by the way of submission of supplementary materials, in the documents of the application for an invention, utility model, or industrial design prior to the decision on the grant of a patent or decision on the refusal of patent grant if these corrections and clarifications are not changing the essence of the claimed invention, utility model, or industrial design.

Supplementary materials shall change the essence of the claimed invention or utility model if they contain features that shall be included into the claims of the invention or utility model, which were not disclosed on the priority date in the documents provided for a basis for its establishment, or in the claims for the invention or utility model in event that on the priority date the application contained the claims of the invention or utility model.

Supplementary materials shall change the essence of the claimed industrial design if they contain features that are to be included in the list of essential features of the industrial design and that were missing on the filing date of the application in the representation of the article.

2. Change of the applicant including in case of transferring the right to be granted the patent to another person or in case of the change of the name of the applicant and also correction of obvious and technical errors in the documents of the application may be done prior to the registration of the invention, utility model, or industrial design.

3. In the event that changes in documents of an application were made on the initiative of an applicant within two months from the filing date, no patent fee shall be charged for such 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 were presented to the federal of executive authority for intellectual property within twelve months after the filing date of the application.

Article 1379. **Conversion of an Application for an Inventions, Utility Model, or Industrial Design**

1. Prior to the publication of information on an application for an invention (Paragraph 1 of Article 1385), but not later than the date of the decision to grant a patent for an invention (Paragraph 1 of Article 1387), the applicant shall have the right to convert it into an application for a utility model by submitting the respective request to the federal executive authority for intellectual property, with the exception of the case when the declaration on a proposal to conclude a contract on alienation of the patent provided for by Paragraph 1 of Article 1366 of the present Code is attached to the application.

2. Conversion of an application for a utility model into an application for an invention is allowed prior to the date of a decision on the grant of a patent and in the case a decision on refusal to grant a patent, prior to the possibility of submitting an objection against this decision as provided by the present Code is exhausted.

3. In case of the conversion of an application for an invention or utility model under Paragraphs 1 and 2 of the present Article, the priority date of the invention or utility model and filing date shall be not changed.

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 not later the registration of the invention, utility model, or industrial design in the respective Register.

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

Article 1381. **Establishment of the Priority of an Invention, Utility Model or Industrial Design**

1. The priority of an invention, utility model, or industrial design shall be established as per the date of filing with the federal executive authority for intellectual property of an application to an invention, utility model, or industrial design.

2. The priority of an invention, utility model, or industrial design shall be determined by the date of receipt of supplementary materials if they are submitted by the applicant as a separate application provided that it has been filed within three month following the date of receipt by the applicant of notification from the federal executive authority for intellectual property to the effect that supplementary materials cannot be taken into consideration since they are not recognized as changing the essence of the claimed solution and on condition that on the filing date of such an separate 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, shall be established as per the filing date by the same applicant to the federal executive authority 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 for 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 as withdrawn.

Priority may not be established as per 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 as per the filing date by the same applicant to the federal executive authority for intellectual property of the initial application, disclosing this invention, utility model, or industrial design, and in the presence of the right to get an earlier priority under the original application, as per the date of this priority on the condition that 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 was filed before the exhaustion of the possibility provided for by the present Code, for lodging appeals against a decision to refuse to grant a patent under the original application or prior to the date of registration of the invention, utility model, or industrial design, if a decision on the patent grant has been adopted on the basis of the original application.

5. The priority of an invention, utility model, or industrial design may be established on the basis of several earlier applications or supplementary materials thereto in compliance with conditions stipulated by Paragraphs 2, 3, and 4 of the present Article and by Article 1382 of the present Code, respectively.

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

1. The priority of an invention, utility model, or industrial design shall be established as per the date of the first application for the invention, utility model, or industrial design filing in a Member-State of the Paris Convention for the Protection of Industrial Property (Convention priority), subject to the filing with the federal executive authority for intellectual property of an application for an invention or a utility model within twelve months from the above date and an application for an industrial design - within six months from the above date. If due to circumstances beyond the applicant, an application for which Convention priority is sought cannot be filed within the indicated time period, such period may be extended by the federal executive authority for intellectual property, but for not more than two months.

2. An applicant willing to use the right of Convention priority with respect to an application for a utility model or an industrial design shall communicate thereon to the federal executive authority for intellectual property within two months from the date of filing such application and present a certified copy of the first application under Paragraph 1 of the present Article within three months from the date of filing with the aforesaid federal authority of the application in which wiliness to use the right of Convention priority with respect to an application for an invention shall communicate thereon to the federal executive authority for intellectual property and to present to this federal authority a certified copy of the first application within six months from the date of its submission to the patent office of the member-state of the Paris Convention for the Protection of Industrial Property.

In case of failure to present a certified copy of the first application within the aforementioned time period the right of priority may nevertheless be recognized by the federal executive authority for intellectual property on request of the applicant submitted by him to this federal authority before the expiration of the aforementioned time limit provided that a copy of the first application has been requested by the applicant from the patent office with which the first application was filed within fourteen months from the date of filing of the first application and is presented to the federal executive authority for intellectual property within two months from the date of its receipt by the applicant.

The federal executive authority for intellectual property shall have the right to demand from the applicant the presentation of a translation into Russian of the first application for the invention only in the case when the verification of the validity of the claim to priority of the invention involves examination of the patentability of claimed invention.

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

1. In the event that the examination process reveals that several applicants have filed applications for identical inventions, utility models, or industrial designs, and that these applications have the same priority date, a patent for the invention, utility model, or industrial design shall be granted only on one of these applications to the person determined by agreement among the applicants.

Within twelve months from the date of receipt from the federal executive authority for intellectual property of the respective notification, the applicants shall inform to the said federal agency of the agreement reached among them.

Upon the grant of the patent on one of the applications, all the authors indicated in the applications shall be recognized as the co-authors with respect to identical inventions, utility models, or industrial designs.

In the case when such applications having the same priority date for identical inventions, utility models, or industrial designs have been filed by the same applicant, the patent shall be granted on the application chosen by the applicant. The applicant shall inform of his choice within the time and in the manner provided for by the second subparagraph of the present Paragraph.

If the aforementioned communication or request for extending the established time period fails to be received by the federal executive authority for intellectual property from the applicants within the established time period in the manner provided for by Paragraph 5 of Article 1386 of the present Code, the applications shall be considered as withdrawn.

2. In case of coincidence of the priority dates of an invention and an identical utility model, with respect to which applications for patents grant have been filed by the same applicant, after grant of a patent on one of these applications, grant of a patent on the other application shall be possible only on the condition of submission to the federal executive authority for intellectual property by the holder of the earlier patent for an identical invention or identical utility model of a request for the termination of the validity of this patent. In this case the validity of the earlier patent shall be terminated from the date of publication of information on the patent grant on the other application under Article 1394 of the present Code. Information on the grant of a patent on an application for an invention or utility model and information on the termination of the validity of the earlier patent shall be published concurrently.

## 3. Examination of an Application for the Grant of a Patent for 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 that has been filed with the federal executive authority for intellectual property shall be carried out. In the process of such examination the presence of the documents provided for by Paragraph 2 of the 1375 of the present Code and their conformity to prescribed requirements shall be verified.

2. In the case when the applicant has presented supplementary materials to the application for an invention under Paragraph 1 of Article 1378 of the present Code it shall be ascertained whether they change the essence of the claimed invention.

Supplementary materials that change the essence of the claimed invention shall not be taken into account for the purposes of examination of the application for the invention, but may be filed by the applicant as separate application. The federal executive authority for intellectual property shall inform it to the applicant.

3. The federal executive authority for intellectual property shall notify the applicant of a favorable result of formal examination and of the filing date of the application for the invention, promptly after the completion of formal examination.

4. If an application for an invention fails to meet the prescribed requirements for documents of the application, the federal executive authority for intellectual property, shall invite the applicant to furnish corrected or missing documents within two months from the date of the receipt by him of such invitation. If the applicant fails to furnish the documents in question or to file a request for extending this period within the prescribed time limit, the application shall be considered as withdrawn. This time limit may be extended by the federal executive authority, but by no more than ten months.

5. If an application for an invention has been filed with non-fulfillment of the requirement of unity of invention (Paragraph 1 of Article 1375), the federal executive authority for intellectual property shall invite of the applicant to communicate, within two months from the date of receipt by him of the respective notification, which of the claimed inventions should be examined, and if necessary, to correct the documents of the application. Other inventions claimed in the original application may be submitted as divisional applications. If the applicant fails to communicate within the prescribed time limit which of the claimed inventions should be examined or fails to furnish, if necessary, the appropriate documents, the examination of the invention shall carried out in respect of the invention that is indicated first in the claims.

### Article 1385. **Publication of Information on the Application for an Invention**

1. The federal executive authority for intellectual property, upon the expiration of eighteen months from the filing date of an application for an invention, in respect of which the formal examination finding is favorable, shall publish information on the application for the invention in the official gazette. The list of the published data shall be determined by the federal executive authority responsible for normative and legal regulation in the area of intellectual property.

The author of the invention may waive his right to be indicated as such in the published information on the application for an invention.

At the request of an applicant filed before the expiration of twelve months from the filing date of the application for an invention, the federal executive authority for intellectual property may publish information on the application for an invention before the expiration of eighteen months from the day of its filing.

Publication shall not be made if before the expiration of twelve months from the day of filing the application for the invention it was withdrawn or recognized as withdrawn or if on its basis the registration of the invention was effected.

2. Any person after publication of the information on the application for the invention shall have the right to learn the documents of the application unless the application has been withdrawn or recognized as withdrawn on the date of publication of information on invention. The procedure governing access to the documents of the application and making copies of such documents shall be established by the federal of executive authority responsible for normative and 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 prior art in the processing of subsequent applications of the same applicant filed with the federal executive authority for intellectual property before the expiration of twelve months from the date of publication of information on the application for an invention.

Article 1386. **Substantive Examination of an Application for an Invention**

1. At the request of the applicant or of third parties, which may be filed with the federal executive authority for intellectual property when filing of the application for an invention or within three years from the filing date of this application, and on the condition of successful completion of formal examination of this application, substantive examination of the application for an invention shall be conducted. The federal executive authority for intellectual property shall notify the applicant of request received from third parties.

The time period for filing the request for the conduct of substantive examination of an invention may be extended by the federal executive authority for intellectual property at the request of the applicant filed before the expiration of this time period, but for not more than two months, provided that the request be accompanied by a document confirming payment of the patent fee.

If the request for the conduct of a substantive examination of an invention has not been filed within the prescribed time limit, the application shall be considered as withdrawn.

2. Substantive examination of an invention shall include:

a prior art search with respect to the claimed invention to check the novelty and inventive step of the invention;

checking the fulfillment of the claimed invention to the criteria of patentability stipulated by Article 1350 of the present Code.

A search with respect to the claimed invention, relating to the objects indicated in Paragraph 4 of Article 1349 and in Paragraphs 5 and 6 of Article 1350 of the present Code, shall not be conducted. The federal executive authority for intellectual property shall notify it to the applicant before the expiration of six months from the date of the start of substantive examination of the invention.

The procedure for conduct of the search and the presentation of the search report shall be established by the federal executive authority responsible for normative and 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 authority for intellectual property shall send to the applicant a search report, unless the application claims a priority earlier than the filing date of the application and if the request for 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 search report may be extended by the federal executive authority for intellectual property if the necessary information source has to be obtained from other organizations in case when information is missing in the collections of the said federal authority or the characterization of the claimed invention in such as to make a search impossible under the established procedure. The said federal authority shall notify the applicant of the extension of the time period for sending the search report and of the reasons for of extension.

4. The applicant and third persons shall have the right to request for the conduct for an application for an invention that has passed formal examination with a favorable result, of an prior-art search in order to determine whether the claimed invention meets the criteria of novelty and inventive step. The procedure and modalities for the conduct of such a search and communication of its results shall be established by the federal authority responsible for normative and legal regulation in the area of intellectual property.

5. In the process of substantive examination of an application for an invention the federal executive authority for intellectual property may request the applicant furnishing supplementary materials (including amended claims for the invention) without which the conduct of examination is impossible. In this case supplementary materials without changing the essence of the invention shall be presented within two months from the day of receipt by the applicant of the request or copy of materials cited in request, provided that the applicant has requested the aforesaid copies within one month from the day of receipt by him of the request from the said federal authority. If within the established time limit the applicant fails to present the requested materials or a request on the extension of this time limit, the application shall be considered as withdrawn. The time limit established for presentation by the applicant of the requested materials may be extended by the said federal authority not for more than ten months.

Article 1387. **Decision on the Grant of a Patent for an Invention or of Refusal of its Issuance**

1. If as the result of the substantive examination of an application for an invention is that the claimed invention, as defined in the claims by the applicant meets the criteria of patentability under Article 1350 of the present Code, the federal executive authority for intellectual property shall decide to grant a patent for the invention corresponding to the said 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 claimed invention, as defined in the claims by the applicant, does not meet the criteria of patentability under Article 1350 of the present Code, the federal executive authority for intellectual property shall decide to refuse the grant of a patent.

Before a decision on the grant of a patent or on the refusal of the grant of a patent is taken, the federal executive authority for intellectual property shall send the applicant a notification of the results of the check of the patentability of the claimed invention along with an invitation to present the comments on the motivation

presented in the notification. The counter-arguments of the applicant shall be taken into account when a decision is taken if they are presented within six months from the date of receipt of notification.

2. An application for an invention shall be recognized as withdrawn under the provisions of the present Chapter on the decision of the federal executive authority for intellectual property with the exception of the case when it is withdrawn by the applicant.

3. A decision of the federal executive authority for intellectual property on refusal of the grant of a patent for an invention, on the grant of a patent for an invention, or on recognition of an application for an invention as withdrawn, may be opposed by the applicant by submitting an appeal to the Chamber for Patent Disputes within six months from the date of receipt of the decision or of copies of materials requested from the aforesaid federal authority that were cited in notice of opposition and referred to in the decision on refusal of the grant of a patent, provided that the applicant requested copies of these materials within two months from the date of receipt of the decision taken in respect on the application for the invention.

Article 1388. **Right of the Applicant to Learn the Patent Materials**

The applicant shall have the right to learn all the materials related to the patenting of inventions to which there is a reference in requests, reports, decisions, notices, and other documents received from the federal executive authority for intellectual property. Copies of the patent documents requested by the applicant from the said federal authority shall be sent to him within one month from the day of receipt of the request.

Article 1389. **Reinstatement of Missed Time Limits during Examination of an Application for an Invention**

1. A basic or extended time limit missed by the applicant for furnishing of documents or supplementary materials at the request of the federal executive authority for intellectual property (Paragraph 4 of Article 1384 and Paragraph 5 of Article 1386), the time limit for submission of a request for the conduct of substantive examination of the application for an invention (Paragraph 1 of Article 1386), and the time limit for submission of an appeal to the Chamber for Patent Disputes (Paragraph 2 of Article 1387) may be reinstated by the said federal authority, provided that the applicant presents proof of the validity of the reasons for the delay and a document confirming payment of the patent fee.

2. The request for the reinstatement of a missed time period shall be filed by the applicant within twelve months following the expiry of the established time limit. The request shall be filed with the federal executive authority for intellectual property at the same time with:

documents or supplementary materials for the presentation of which the reinstatement of the time period is necessary or with a request for extending the time limit for the furnishing of these documents or materials;

a request for the conduct of substantive examination of the application for an invention;

appeal to the Chamber for Patent Disputes.

Article 1390. **Examination of an Application for a Utility Model**

1. In respect of the application for a utility model filed with the federal executive authority 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 the present Code shall be verified, as well as their compliance with established requirements and the meeting the requirement of unity of the utility model (Paragraph 1 of Article 1376) and it also shall be established whether the claimed solution relates to the technical decisions which are protectable as a utility model.

Check of the claimed utility model to the criteria of patentability provided for by Paragraph 1 of Article 1351 of the present Code shall not be verified in the process of examination.

The provisions under Paragraphs 2, 4, and 5 of Article 1384, Paragraphs 2 and 3 of Article 1387, 1388, and 1389 of the present Code respectively shall be applied to the conduct of examination of an application for a utility model.

2. The applicant and third persons shall have the right to request the conduct of an prior art search with respect to a claimed utility model in comparison with which the patentability of the utility model shall be checked. The procedure and conditions for the conduct of the prior art search and the communicating of information on results shall be established by the federal executive authority responsible for normative and legal regulation in the area of intellectual property.

3. If the claims for a utility model proposed by the applicant include the features missing in the description of the utility model and features missing in the claims of the utility model (if the application for the utility model on the filing date contained such claims), the federal executive authority for intellectual property shall invite the applicant to exclude the said features 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 is protectable as a utility model and the documents of the application meet the established requirements, the federal executive authority for intellectual property shall decide to grant of a patent with a filing date of the application for a utility model and a priority date is taken.

If as the result of the examination it is established that an application for a utility model has been filed for a solution not protectable as a utility model, the federal executive authority for intellectual property shall decide on refusal to grant a patent for a utility model.

5. In the case when, in the process of examination of an application for a utility model the federal executive authority for intellectual property finds that the information contained in it constitutes a state secret, the documents of the application shall be classified as secret by the procedure provided for by the official secrets legislation. In this case the applicant shall be notified of the possibility of withdrawal of the application for a utility model or of conversion into an application for a secret invention. The examination of such application shall be suspended pending until the receipt from the applicant of the appropriate request or until the declassifying of the application.

Article 1391. **Examination of an Application for an Industrial Design**

1. In respect of the application for an industrial design filed with the federal executive authority for intellectual property a formal examination shall be conducted in the process of which the presence of the documents provided for by Paragraph 2 of Article 1377 of the present Code and their correspondence to established requirements shall be verified.

In case of a favorable result of formal examination, substantive examination of the application for an industrial design shall be conducted, including the check of the claimed industrial design the criteria of patentability under Article 1352 of the present Code.

2. The provisions provided for by Paragraphs 2-5 of Article 1384, by Paragraph 5 of Article 1386, by Paragraph 3 of Article 1387, and by Articles1388-1389 of the present Code shall be applied respectively in the conduct of the formal examination of an application for an industrial design and the substantive examination of this application.

Article 1392. **Provisional Legal Protection of an Invention**

1. An invention for which an application has been filed with the federal executive authority for intellectual property shall enjoy provisional legal protection within the scope of the published claims of the invention, but not more than in the scope determined by the claims contained in the decision of the aforesaid federal authority on the grant of a patent for the invention, during period between the date of publication of information on the application (Paragraph 1 of Article 1385) and the date of publication of information on the grant of a patent (Article 1394).

2. Provisional legal protection shall be considered as 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 grant a patent has been taken and the possibility of filing an appeal against this decision provided for by the present Code has been exhausted.

3. Any person using the claimed invention during the period specified in Paragraph 1 of the present Article shall pay remuneration to the patent holder, after the grant of a patent. The amount of remuneration shall be determined by agreement of the parties and, in case of a dispute, by a court.

## 4. Registration of an Invention, Utility Model, or Industrial Design and Issuance of a Patent

Article 1393. **Procedure for Official Registration of an Invention, Utility Model, or Industrial Design and Grant of a Patent.**

1. On the basis of a decision on grant of a patent for an invention, utility model, or industrial design, the federal agency of executive authority for intellectual property shall register the invention, utility model, or industrial design into the respective official register – the State Register of Inventions of the Russian Federation, the Official Register of Utility Models of the Russian Federation, or the Official Register of Industrial Designs of the Russian Federation and shall grant a patent for an invention, utility model, or industrial design.

Where patent protection is sought by several persons, only one patent shall be granted.

2. The official registration of an invention, utility model, or industrial design shall be conducted and the patent shall be granted provided by payment of the prescribed patent fee. In case of failure to present by the applicant under the established procedure, a document confirming the payment of the patent fee, registration of the invention, utility model, or industrial design and the patent shall not be granted and the respective application shall be considered as withdrawn.

3. The form of the patent for an invention, utility model or industrial design and the list of the particulars contained therein shall be determined by the federal

executive authority responsible for normative and legal regulation in the area of intellectual property.

4. The federal executive authority for intellectual property shall rectify obvious and technical errors in the granted patent for an invention, utility model, or industrial design, and/or in the corresponding official register.

5. The federal executive authority for intellectual property shall publish in the official bulletin the information on any changes of records in the state registers.

Article 1394. **Publication of Information on the Grant of a Patent for an Invention, a Utility Model, or an Industrial Design**

1. The federal executive authority for intellectual property shall publish in the official bulletin the information on the grant of a patent, utility model, or industrial design including the name of the author (unless the author has waived the right to be mentioned as such), the name of the patent holder, the title and claims of the invention or utility model or list of essential features of a utility model and its graphic representation.

The federal executive authority responsible for normative and legal regulation in the area of intellectual property shall determine the particulars of the published information.

2. After making publication, under the present Article, of information on the grant of a patent for an invention, utility model, or industrial design, any person shall have the right to learn the documents of the application and the search report.

The procedure for learning the documents of the application and the search report shall be determined by the federal executive authority responsible for normative and 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 the grant of a patent for an invention or utility model created in the Russian Federation may be filed with a foreign state or with an international organization upon the expiry of six months from the day of filing of the respective application with the federal executive authority for intellectual property, provided that within the said period the applicant has not been informed that the application contains information constituting an official secret. An application for an invention or utility model may be filed before the said time limit, but after the conduct at the request of the applicant of a check for presence in the application of information constituting an official state secret. The procedure for conducting a check of the application containing information constituting an official secret shall be determined by the Government of the Russian Federation.

2. Patenting under the Patent Cooperation Treaty or the Eurasian Patent Convention of an invention or utility model created in the Russian Federation shall be allowed without the prior filing of the respective application with the federal executive authority for intellectual property, provided that the application under the Patent Cooperation Treaty (the international application) was filed with the federal executive authority for intellectual property as the Receiving Office and the Russian Federation has been designated as a state in which the applicant intends to obtain a patent and provided that the Eurasian application has been filed through the federal executive authority for intellectual property.

Article 1396. **International and Eurasian Applications Having the Effect of the Applications Provided for by the Present Code.**

1. The federal executive authority for intellectual property shall begin the processing of an international application, filed under the Patent Cooperation Treaty, for an invention or a utility model in which the Russian Federation is designated as a state in which the applicant intends to obtain a patent for an invention or utility model before the expiry of the thirty one months from the date of the priority claimed in the international application. At the request of the applicant, the international application shall be processed before the expiry of this time limit provided that the international application was filed in Russian or if the applicant before the expiry of the said time limit furnished to the federal executive authority for intellectual property of a translation into Russian of the application for the grant of a patent for the invention or utility model making part of the international application filed in a different language.

The furnishing to the federal executive authority for intellectual property of a translation into Russian of a request contained in an international application for the grant of a patent for an invention or utility model may be replaced by the submission of the request for grant of a patent provided for by the present Code.

Failure to submit the said documents are not presented within the established time limit, the validity of the international application with respect to the Russian Federation under the Patent Cooperation Treaty shall be terminated.

The time limit established by Paragraph 3 of Article 1378 of the present Code for the making changes in the documents of an application shall begin on the date of starting of processing of the international application by the federal executive authority for intellectual property of the international application in accordance with the present Code.

2. The processing of an Eurasian application for an invention having in accordance with the Eurasian Patent Convention the effect of an application for an invention provided for by the present Code shall begin from the date when the federal executive authority for intellectual property has received a certified copy of the Eurasian application from the Eurasian Patent Office. The time limit provided for by Paragraph 3 of Article 1378 of the present Code for the making changes in the documents of an application shall begin on the same date.

3. The publication of an international application in Russian by the International Bureau of the World Intellectual Property Organization pursuant to the Patent Cooperation Treaty or publication of the Eurasian application by the Eurasian Patent Office pursuant to the Eurasian Patent Convention shall replace the publication of information on the application provided for by Article 1385 of the present Code.

Article 1397. **Eurasian Patent and Patent of the Russian Federation for Identical Inventions**

1. In the case when a Eurasian patent and a patent of the Russian Federation for identical inventions, or an identical invention and utility model, having the same priority date belong to different patent holders, such inventions or, respectively invention and utility model may be used only if the rights of all the patent holders are observed.

2. If a Eurasian patent and a patent of the Russian Federation for identical inventions or to an identical invention and utility model having the same priority date belong to the same person, this person may grant any other person the right to use such inventions or, respectively invention and utility model under license contracts concluded on the basis of these patents.

§ 6. Termination and Reinstatement of the Validity of a Patent

Article 1398. **Recognition of the Invalidity of a Patent for an Invention, Utility Model, or Industrial Design**

1. A patent for an invention, utility model, or industrial design may be recognized, at any time during its period of validity as invalid in full or in part in the following cases:

1) failure of the invention, utility model, or industrial design to meet the criteria of patentability stipulated by the present Code;

2) the claims for the invention or utility model or in the list of essential features of an industrial design that were cited in the decision to grant the patent contain features that were missing 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 on the graphic representation of the article;

3) grant of a patent in case of several applications for identical inventions, utility models, or industrial designs having the same priority date in breach of the conditions provided for by Article 1383 of the present Code.

4) grant of a patent with an indication in it as the author or patent holder of a person who is not such under the present Code or without the indication in the patent as the author or patent holder of a person who is such under the present Code.

2. The grant of a patent for an invention, utility model or industrial design may be opposed by any person who has become aware of the violations provided for by subparagraphs 1 - 3 of Paragraph 1 of the present Article by submission of an appeal to the Chamber for Patent Disputes.

The grant of a patent for an invention, utility model or industrial design may be opposed by judicial procedure by any person who has become aware of the violations under subparagraph 4 of Paragraph 1 of the present 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 authority for intellectual property adopted in accordance with Paragraphs 2 and 3 of Article 1248 of the present Code or of a decision of a court that has entered into force.

In case of recognition of a patent for an invention, utility model, or industrial design as invalid in part, a new patent shall be granted.

4. A patent for an invention, utility model, or an industrial design that is recognized as invalid in full or in part shall be voided as of the filing date of the application for a patent.

Licensing contracts concluded on the basis of the patent later recognized as invalid shall maintain their effect to the extent that they were performed by the time of the decision on the invalidity of the patent.

5. Recognition of a patent as invalid shall signify the reversal of the decision of the federal executive authority for intellectual property on the registration of the invention, utility model, or industrial design and on the grant of a patent for the invention, utility model, or industrial design (Article 1387) and annulations of the record in the corresponding official register.

Article 1399. **Pre-term Termination of the Validity of a Patent for an Invention, Utility Model, or Industrial Design**

The validity of a patent for an invention, utility model, or industrial design shall be pre-term terminated:

on the basis of a request filed by the patent holder with the federal executive authority for intellectual property – from the day of receipt of such request. If a patent was granted 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 validity 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 in due time the maintenance fee for an invention, utility model, or industrial design – from the date of expiry of the prescribed time limit for the payment of the maintenance fee.

Article 1400. **Reinstatement of the Validity of a Patent for an Invention, Utility Model, or Industrial Design. Right of Posterior Use**

1. The validity of a patent for an invention, utility model or industrial design, which was terminated because of non-payment of the maintenance patent fee in due time may be reinstated by the federal executive authority for intellectual property at the request of the person who owned the patent. The request for reinstatement of the validity of a patent shall be filed with the said federal authority within three years from the date of expiry of the time limit for payment of the patent fee but before the expiration of the period of validity of a patent provided for by the present Code. A document confirming payment in the prescribed amount of the patent fee for reinstatement of the validity of the patent shall be attached to the request.

2. The federal executive authority for intellectual property shall publish information on the reinstatement of the validity of a patent for an invention, utility model, or industrial design in the official bulletin.

3. Any person that during the period between the date of termination of the validity of the patent for the invention, utility model, or industrial design and the date of publication in the official bulletin of the federal executive authority for intellectual property of information on the reinstatement of the patent, began using the invention, utility model or industrial design or made the preparations necessary for this within the indicated time limit shall retain the right to its free posterior use without expanding the scope of such use (the right of posterior use).

## § 7. Peculiarities of Legal Protection and Use of Secret Inventions

Article 1401. **Filing and Processing of Applications for the Grant of a Patent for a Secret Invention**

1. Filing of an application for the grant of a patent for a secret invention (an application for a secret invention), examination and processing of such an application shall be conducted in accordance with the procedure established by legislation on the official secrets.

2. Applications for secret inventions classified by degree of secrecy "extraordinary important" or "top secret", as well as for secret inventions in the field of armaments and military technology, intelligence, counterintelligence, operative and investigative activity and classified as "secret" shall be filed, depending upon the respective subject mater with the federal executive authority authorized by the Government of the Russian Federation, the State Corporation on Nuclear Power (Rosatom) (the authorized agencies). Applications for other secret inventions shall be filed with the federal executive authority for intellectual property.

3. If in the course of examination the federal executive authority for intellectual property of an application for an invention it is found that the information contained therein constitutes an official secret, such application shall be classified as secret under the procedure established by the legislation on official secrets and shall be considered to be an application for a secret invention.

Classifying as secret of the application filed by a foreign citizen or foreign legal entity shall not be allowed.

4. In processing of an application for a secret invention the provisions of Articles 1384, 1386-1389 of the present Code shall be applied, respectively. There shall not be publication of information on the application for an invention provided for by Paragraphs 1 and 2 of Article 1385 of the present Code.

5. In the determination of novelty of a secret invention, the secret inventions patented in the Russian Federation and secret inventions to which inventor's certificates have been granted in the USSR shall also be included in the prior art (Paragraph 2 of Article 1350), provided that the classification rating of secrecy for these inventions is not higher than that of the invention, whose novelty is being determined.

6. The appeal against a decision taken on the application for a secret invention by an authorized agency shall be considered under the procedure established by it. A decision taken on such an appeal may be contested in the court.

7. The provisions of Article 1377 of the present Code on the conversion of an application for an invention into an application for a utility model shall not be applied to applications for secret inventions.

Article 1402. **Official Registration of a Secret Invention and the Grant of a Patent. Disclosure of Information on a Secret Invention**

1. The official registration of a secret invention in the Official State Register of Inventions of the Russian Federation and grant of a patent for a secret invention shall be carried out by the federal executive authority for intellectual property, or, if the decision to grant a patent for a secret invention has been taken by an authorized agency, by the said agency. An authorized agency that has registered a secret invention and granted a patent for a secret invention shall notify the federal executive authority for intellectual property to that effect.

The authorized agency that has registered a secret invention and granted a patent for it shall rectify obvious and technical errors in the patent for the secret invention and/or into the Official Register of Inventions of the Russian Federation.

2. Information on applications and patents for secret inventions as well as changes in the registers relating to secret inventions shall not be published in the Official Register of Inventions of the Russian Federation. Any disclosure of information about such patents shall be in line with the legislation on the official secrets.

Article 1403. **Change of the Classification Rating of Secrecy and Declassification of Inventions**

1. Change in classification rating of secrecy and declassification of inventions as well as change or removal of secrecy classification stamps from the documents of an application and a patent for a secret invention shall be carried out under the procedure established by the legislation on official secrets.

2. In case of raising the classification rating of secrecy of an invention, the federal executive authority for intellectual property shall communicate the documents

of the application for a secret invention depending on the subject matter to the appropriate authorized agency. Subsequent processing of an application proceedings in respect of which at the time of raising the classification rating of secrecy has not been completed by the said federal authority shall be carried out by the authorized agency. In case of reduction of the classification rating of secrecy of an invention, the subsequent processing of an application for the secret invention shall be carried out by the same authorized agency that previously processed the application.

3. In case of declassification of an invention the authorized agency shall communicate the declassified documents of the application to the federal executive authority for intellectual property. The subsequent processing of an application proceedings in respect of which has not been completed before the time of declassification by the authorized agency shall be carried out by the said federal authority.

Article 1404. **Recognition of the Invalidity of a Patent for a Secret Invention**

An appeal against the grant by an authorized agency of a patent for a secret invention on the grounds provided for in subparagraphs 1 - 3 of Paragraph 1 of Article 1398 of the present Code shall be submitted to this authorized agency and shall be processed in accordance with its procedure. The decision of the authorized agency in respect of which an appeal shall be approved by the head of the said agency, shall become effective from the date of such approval and may be contested in the court.

Article 1405. **Exclusive Right to a Secret Invention**

1. The use of a secret invention and the disposition of the exclusive right to a secret invention shall conform to the legislation on official secrets.

2. A contract on alienation of a patent as well as a license contract for the use of a secret invention shall be registered in the agency that granted the patent for the secret invention or its legal successor and, in the absence of a legal successor, in the federal executive authority for intellectual property.

3. A public offer 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 the present Code are not allowed with respect to a secret invention.

4. A compulsory license provided for by Article 1362 of the present Code shall not be granted with respect to a secret invention.

5. The activities provided for by Article 1359 of the present Code, as well as the use of a secret invention by a person that was not aware and could not be reasonably aware of the existence of a patent for the given invention shall not be deemed as an infringement of the exclusive right of the holder of a patent for a secret invention. Following the declassification of the invention or notification of the said person by the patent holder on the existence of a patent for the particular invention such person shall be obligated to cease using the invention and to conclude a license contract with the patent holder except the case where the right of prior use has been existed.

6. Levy of execution on the exclusive right to a secret invention is not allowed.

§ 8. Enforcement of the Rights of Inventors and Patent Holders

Article 1406. **Disputes Connected With the Protection of Patent Rights**

1. Disputes connected with the protection of patent rights shall be settled by a court. Such disputes include in particular, disputes over:

1) the authorship of an invention, utility model, or industrial design;

2) the identification of the patent holder;

3) infringement of the exclusive right to an invention, utility model, or industrial design;

4) the conclusion, on the execution, on the amendment, and on the 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 posterior use;

7) the amount, time, and procedure for payment of remuneration to the author of an invention, utility model, or industrial design under the present Code;

8) the amount, time and procedure for payment of the remuneration provided for by the present Code.

2. In the cases listed in Articles 1387, 1390, 1391, 1398, 1401, and 1404 of the present Code, enforcement of patent rights shall be effected under administrative procedure in accordance with Paragraphs 2 and 3 of Article 1248 of the present Code.

Article 1407. **Publication of a Decision of a Court on Infringement of a Patent**

The patent holder shall have the right, under subparagraph 5 of Paragraph 1 of Article 1252 of the present Code, to request the publication in the official bulletin of the federal executive authority for intellectual property of a decision of a court on the unlawful use of an invention, utility model, industrial design or other infringement of his rights under Paragraph 1 of Article 1251 of the present Code.

## CHAPTER 73. THE RIGHT TO A SELECTION ATTAINMENT

### § 1. General Provisions

Article 1408. **Rights to Selection Attainments**

1. The following intellectual rights shall belong to the author of a selection attainment that meets the conditions of obtaining of legal protection provided by the present Code (a selection attainment):

1) the exclusive right;

2) the right of authorship.

2. In cases provided for by the present Code the author of a selection attainment shall also have other rights, including the right to obtain a patent, the right to name the selection attainment, and the right to remuneration for use of a selection attainment, obtained in the line of duty.

Article 1409. **Validity of the Exclusive Right to Selection Attainments within the Territory of the Russian Federation.**

Within the territory of the Russian Federation the exclusive right shall be recognized to a selection attainment certified by a patent granted by the federal executive authority for selection attainments or by a patent valid within the territory

of the Russian Federation by virtue of the international treaties of the Russian Federation.

Article 1410. **Author of a Selection Attainment**

The breeder is a citizen, whose creativity has led to the creation, deriving or discovering of a selection attainment shall be deemed as an author of a selection attainment. The person indicated as an author in an application for the grant of a selection attainment patent shall be deemed as the author of the selection attainment, unless it is proved otherwise.

Article 1411. **Co-authors of a Selection Attainment**

1. Natural persons, whose joint creativity has led to the creation, deriving or discovering of a selection attainment shall be deemed as co-authors.

2. Each of the co-authors shall have the right to use the selection attainment at his discretion unless an agreement among them provides otherwise.

3. The provisions of Paragraph 3 of Article 1229 of the present Code shall apply respectively to the inter relations of co-authors with regard to sharing the income from use of a selection attainment and the disposition of the exclusive right to a selection attainment.

Co-others shall jointly dispose the right to obtain a selection attainment patent.

4. Each of the co-authors shall have the right to enforce his rights independently.

Article 1412. **Objects of Intellectual Rights to Selection Attainments**

1. The objects of intellectual rights to selection attainments shall be varieties of plants and breeds of animals registered in the State Register of Protected Selection Attainments if these results of intellectual activity meet the requirements for such selection attainments set forth by the present Code.

2. A group of plants that, regardless of protectability, being defined by distinguishing features of the given genotype or combination of genotypes and being distinct from other groups of plants of the same botanical taxonomy by one or several features shall be deemed as a variety of plants.

A variety may be represented by one or several plants or a part or several parts of a plant provided that such a part or such parts can be used for reproduction of the whole plants of variety.

Clone, line, first generation hybrid, and population shall be protectable categories of plant variety.

3. A group of animals that regardless of protectability have genetically caused biological and morphological attributes and features some of which are specific for the said group and distinguish it from other groups of animals shall be deemed as a breed of animals. A breed may be represented by a female or a male individual or by pedigree material i.e. by animals assigned for reproduction of the breed (pedigreed animals), their gametes or zygotes (or embryos).

Type and cross-breed shall be protectable categories of animal breed.

Article 1413. **Conditions of Protectability of a Selection Attainment**

1. A patent shall be granted for a selection attainment if the latter meets the criteria of protectability and is included in the list of botanical and zoological breeds and types provided for by the federal executive authority responsible for normative and legal regulation in agricultural area.

2. Criteria of protectability of a selection attainment shall be novelty (Paragraph 3 of the present Article), distinctness (Paragraph 4 of the present Article), uniformity (Paragraph 5 of the present Article), and stability (Paragraph 6 of the present Article).

3. A variety of plants or breed of animals shall be deemed new if in filing date of the patent application, the seeds or breeding material of the said selection attainment have not been sold and have not been transferred in another manner by the breeder, his legal successors or with their consent to other persons for using the selection attainment:

1) within the territory of the Russian Federation – earlier than one year before the aforesaid date;

2) within the territory of another State – earlier than four years or, if it concerns varieties of grape, decorative tree or fruit tree cultures or forest tree breeds, earlier than six years before the aforesaid date.

4. A selection attainment shall be clearly distinct from any other selection attainment well-known at the time of filing of patent application.

The selection attainment, entered to official bulletins or a reference collection or precisely described in one of the publications, shall be deemed a well-known selection attainment.

Patent application filing shall also provide that a selection attainment is considered as well-known from the filing date provided that the selection attainment patent was granted;

5. Plants of one variety or animals of one breed shall be sufficiently uniform in their features taking into account individual deviations that may take place in connection with the peculiarities of reproduction;

6. Selection attainments shall be deemed stable if their basic features 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. **Official Registration of a Selection Attainment**

The exclusive right to a selection attainment shall be recognized and protected under the condition of official registration of the selection attainment in the State Register of Protected Selection Attainments pursuant to which the federal executive authority for selection attainments shall grant a selection attainment patent to the applicant.

Article 1415. **Selection Attainment Patent**

1. Selection attainment patent shall certify the priority of a selection attainment, authorship as well as the exclusive right to a selection attainment.

2. The scope of the intellectual rights to a selection attainment provided on the ground of a patent shall be specified by the sum of essential features indicated in the description of the selection attainment.

Article 1416. **Author's Certificate**

The author of a selection attainment shall have the right to obtain an author's certificate, which shall be issued by the federal executive authority for selection attainments and shall certify his authorship.

Article 1417. **State Incentives for Creation and Use of Selection Attainments**

The State shall provide incentives for creation and use of selection attainments and shall grant their authors as well as other holders of the exclusive right to a selection attainment (patent holders) and licensees using these selection attainments advantages by virtue of the legislation of the Russian Federation.

§ 2. Intellectual Rights to Selection Attainments

Article 1418. **Right of Authorship to a Selection Attainment**

The right of authorship, i.e., the right to be deemed the author of a selection attainment shall be inalienable and nontransferable including when the exclusive right to a selection attainment transferred or passed to another person or when the rights to its use granted to another person. A waiver of this right shall be void.

Article 1419. **Right to Name a Selection Attainment**

1. The author or other applicant shall have the right to name the selection attainment.

2. The name of a selection attainment shall enable to identify the selection attainment, be short, and be distinct from the names of existing selection attainments of the same or close botanical or zoological type. It shall not consist only of digits, lead into confusion concerning the features, origin, or significance of the selection attainment, or the identity of its author, and shall not contradict the principles of humanity and morality.

3. The name of a selection attainment proposed by the author or with his consent by another person (by the applicant) filing the patent application shall be approved by the federal executive authority for selection attainments.

Where the proposed name does not satisfy the requirements provided for by Paragraph 2 of the present Article, the applicant at the request of the aforementioned federal authority shall be committed to propose another name within thirty day.

Where before the expiry of the aforesaid time period the applicant have not proposed another name meeting the aforesaid requirements and does not contest judicially a refusal to approve the name of a selection attainment, the federal executive authority for selection attainments shall have the right to refuse to register the selection attainment.

Article 1420. **Right to Obtain a Selection Attainment Patent**

1. The right to obtain a selection attainment patent shall initially belong to the author of the selection attainment.

2. The right to obtain a selection attainment patent may be passed to another person (legal successor) or be transferred to him in cases and on the ground provided for by laws, including through the procedure of universal legal succession or under the contract, in particular, labor contract.

3. A contract on alienation of the right to obtain a selection attainment patent shall be done in written form. Failure to do the contract in written form shall entail the invalidity of the contract.

4. The risk of non-protectability shall be incurred by the person obtained the right, unless otherwise provided by the agreement among the parties to the contract on alienation of the right to obtain a selection attainment patent.

Article 1421. **Exclusive Right to a Selection Attainment**

1. The exclusive right to use a selection attainment under Article 1229 of the present Code by the methods provided for in Paragraph 3 of the present Article shall belong to the patent holder. The patent holder may dispose the exclusive right to a selection attainment.

2. The exclusive right to a selection attainment shall also extend to plant material, i.e. to a plant or its part using for purposes other than reproduction of the variety, to commodity animals, i.e., to animals using for purposes other than reproduction of the breed, which were derived respectively from seeds or from breeding animals if such seeds or breeding animals were introduced into civil circulation without permission of the patent holder. In such case seeds shall be deemed as a plant or a part of it used for reproduction of a variety.

3. The following actions being done with seeds and breeding material of a selection attainment shall be considered as use of the selection attainment:

1) production and reproduction;

2) conditioning for further reproduction;

3) offer for sale;

4) sale and other introduction into civil circulation;

5) export from the Russian Federation;

6) import into the Russian Federation;

7) stocking for any of the purposes mentioned in subparagraphs 1 to 6 above.

4. The exclusive right to a selection attainment shall also extend to seeds of a variety and breeding material of a breed that:

essentially inherit the features of other protected (source) variety of plants or breed of animals, if this protected variety or breed is not a selection attainment essentially way inheriting the features of other selection attainments itself;

are not clearly distinguished from the protected variety of plants or breed of animals;

require the repeated use of the protected variety for the production of seeds.

A selection attainment essentially inheriting the features of another protected (source) selection attainment shall be deemed as a selection attainment if it is clearly distinguished from the source:

inherits the most essential features of the source selection attainment or of the selection attainment that inherits the essential features of the source selection attainment itself retaining the basic features reflecting the genotype or combination of genotypes of the source selection attainment;

complies to the genotype or combination of genotypes of the source selection attainment save the deviations caused by applying of the methods as individual selection from the source variety of plants or breed of animals, selection of an individual mutant, reverse cross-breeding, or genetic engineering.

Article 1422. **Activities Not Infringing the Exclusive Right to a Selection Attainment**

The exclusive right to a selection attainment shall not be infringed by:

1) activities to satisfy private, family, domestic or other needs not connected with entrepreneurial activity and executed for non-commercial purposes;

2) activities executed with purposes of scientific research or with experimental purposes;

3) using of the protected selection attainment as the source material for the creation of other varieties of plants and breeds of animals, as well as activities on the subject of these created varieties and breeds, specified in Paragraph 3 of Article 1421

of the present Code except the cases provided for by Paragraph 4 of Article 1421 of the present Code;

4) using of plant material obtained at a farm during two years as seeds for growth of the variety of plants on the territory of this farm, entered in a list of families and types set forth by the Government of the Russian Federation.

5) reproduction of commodity animals for their use at the given farm;

6) any actions being done with seeds, plant material, breeding material, and commodity animals that were introduced into civil circulation by the patent holder or by another person with his consent except:

further reproduction of the variety of plant or breed of animals;

export from the Russian Federation of plant material or commodity animals that allows the reproduction of the variety of plants or breed of animals to a country where the given family or type is not protected, except export for processing for subsequent consumption.

Article 1423. **Compulsory License for a Selection Attainment**

1. On the expiry of three years from the date of granting a selection attainment patent any person willing and capable to use the selection attainment, in case of refusal of the patent holder to conclude a license contract for the production or sale of seeds or breeding material under conditions in accordance with the common practice, shall have the right to bring a legal action against the patent holder for the grant of a simple compulsory (nonexclusive) license for the use of such selection attainment within the territory of the Russian Federation. In his claims this person shall determine the proposed terms of such license, including the scope of use of the selection attainment, amount, method, and terms of payments.

Where the patent holder fails to prove that there are valid reasons preventing to grant the right to use of the respective selection attainment to the applicant, the court shall make a decision on grant of the indicated license and on the terms of this grant. Total amount of payment under such license determined by the decision of the court shall not be lower than the price of a license determined under similar circumstances.

2. On the ground of the decision of a court provided for by Paragraph 1 of the present Article, the federal executive authority for selection attainments shall effect the official registration of the simple compulsory (nonexclusive) license.

3. On the ground of the decision of the court on the grant of a simple compulsory (nonexclusive) license the patent holder shall be committed to provide the holder of such license with seeds or corresponding breeding material, for payment and under conditions acceptable for him, in a quantity sufficient for exercise of the simple compulsory (nonexclusive) license.

4. The validity of a simple compulsory (nonexclusive) license may be terminated judicially upon action of the patent holder if the holder of such license violates the terms on which it was granted or if the circumstances that stipulated the ground for grant of such license have changed and if these circumstances had existed at the time of grant of the compulsory license, it would not have been granted or would have been granted on significantly different terms.

Article 1424. **The Term of the Exclusive Right to a Selection Attainment**

The term of the exclusive right to a selection attainment and of the patent certifying this right shall be calculated from the date of official registration of the

selection attainment in the State Register of Protected Selection Attainments and shall be equal to thirty years.

For varieties of grape, decorative and fruit tree cultures and forest tree breeds, including their stock, the term of the exclusive right and of the patent certifying this right shall be thirty five years.

Article 1425. **Falling of a Selection Attainment into the Public Domain**

1. On the expiry of the term of the exclusive right, the selection attainment shall fall into the public domain.

2. A selection attainment that has fall into the public domain may be used freely by any person without any consent or permission and without payment of remuneration for use.

§ 3. Disposition of the Exclusive Right to a Selection Attainment

Article 1426. **Contract for Alienation of the Exclusive Right to a Selection Attainment**

Under a contract for alienation of the exclusive right to a selection attainment (a contract on alienation of the patent), one party (the patent holder), transfers or undertakes commitment to transfer the exclusive right to the respective selection attainment in full scope to the other party, the recipient of the exclusive right (the recipient of the patent).

Article 1427. **Public Offer to Conclude a Contract for Alienation of the Selection Attainment Patent**

1. An applicant who is the author of a selection attainment along with the application for the grant of a selection attainment patent may submit a declaration that, in case of granting a selection attainment patent it shall be committed to conclude a contract on alienation of the patent under terms in accordance with common practice with any citizen of the Russian Federation or Russian legal entity, which first declared such a willingness and notified the patent holder and the federal executive authority for selection attainments. Where such a declaration was submitted, the patent fees provided for by the present Code for application for the grant of a selection attainment patent and for patent granted in accordance with such application shall not be paid by the applicant.

The federal executive authority for selection attainments shall publish information on the aforesaid declaration in the official bulletin.

2. A person who has concluded a contract on the alienation of a patent with the patent holder on the ground of the declaration specified in Paragraph 1 of the present Article shall be committed to pay all the patent fees from which the applicant (the patent holder) was relieved. Further patent fees shall be paid in accordance with the established procedure.

For official registration of the contract on alienation of the patent in the federal executive authority for selection attainments, a document certifying the payment of all patent fees from which the applicant (patent holder) was relieved shall be attached to the request for registration of the contract.

3. If within two years from the date of publication of the information on patent grant, with respect to which the declaration specified in Paragraph 1 of the present Article was made, a written notification of the willingness to conclude a contract on the alienation of the patent was not submitted to the federal executive authority for

selection attainments, the patent holder may submit to the aforesaid federal authority a request for withdrawal of his declaration. In this case the patent fees provided for by the present Code, from which the applicant (the patent holder) was relieved are subject to payment. Further fees shall be paid in accordance with the established procedure.

The federal executive authority for selection attainments shall publish information on withdrawal of the aforesaid declaration in the official bulletin.

Article 1428. **License Contract for Granting a Right to Use a Selection Attainment**

Under a license contract one party, the patent holder (the licensor) grants or is undertaking commitments to grant to the other party, the user (the licensee), the right to use the respective selection attainment, certified by a patent, with the limitations under the contract.

Article 1429. **Open License for a Selection Attainment**

1. The patent holder may file a declaration on the possibility of granting to any person the right to use a selection attainment (an open license) with the federal executive authority for selection attainments.

In this case the amount of the maintenance patent fee shall be reduced by fifty percent starting from the year following the year of publication of information on the open license by the federal executive authority for selection attainments.

The terms on which the right to use the selection attainment may be granted to any person shall be submitted to the federal executive authority for selection attainments, which shall publish the respective information on an open license in its official bulletin at the expense of the patent holder. The patent holder shall be committed to conclude a license contract under the conditions of a simple (nonexclusive) license with a person who has expressed willingness to use the aforesaid selection attainment.

2. On the expiry of two years following the date of publication of the information on an open license by the federal executive authority for selection attainments in the official bulletin, the patent holder shall have the right to file a request for withdrawal of his declaration on an open license with the aforementioned federal authority.

Where no one person had expressed the willingness to use the selection attainment before the withdrawal of the open license, the patent holder shall be committed to pay the rest of the patent maintenance fee for the period following the date of publication of the information on an open license, and to pay it in full amount in future.

Where the respective license contracts were concluded on the terms of the open license before the withdrawal of the open license, the licensees shall own their rights for the whole term of validity of these contracts. In this case the patent holder shall be committed to pay patent maintenance fee in full amount following the date of withdrawal of the open license.

The federal executive authority for selection attainments shall publish information on the withdrawal of a declaration on an open license in the official bulletin.

§ 4. A Selection Attainment Created, Derived, or Discovered in the Line of Duty while Carrying out Labor Task or under a Contract

Article 1430. **Employee's Selection Attainment**

1. A selection attainment created, derived, or discovered by an employee in the line of his working duty or a specific task set by the employer shall be deemed as a employee's selection attainment.

2. The right of authorship to the employee's selection attainment shall belong to the employee (the author).

3. The exclusive right to the employee's selection attainment and the right to obtain a patent shall belong to the employer, unless otherwise provided in a labor or other contract between the employee and the employer.

4.The employee shall notify the employer in writing on the creation, derivation, or discovery in the line of his working duties or a specific task set by the employer, of a result with respect to which the granting of legal protection as a selection attainment is capable, unless the contract between the employer and the employee provides otherwise (Paragraph 3 of the present Article).

Where the employer during four months following the date of notification by the employee of creation, derivation, or discovery of a result with respect to which the granting of legal protection as a selection attainment is capable, fails to file a patent application for this selection attainment with the federal executive authority for selection attainments, to transfer the right to obtain a patent for an attainment obtained in the line of duty to another person, and to inform the employee on keeping the information on the respective result in secrecy, the right to obtain a patent for such selection attainment shall belong to the employee. In this case the employer, during the term of the patent shall have the right to use the selection attainment obtained in the line of duty in his own production on the terms of a simple (nonexclusive) license and pay the remuneration to the patent holder, the amount, terms, and method of payment shall be determined by contract between the employee and the employer and, in case of dispute – by a court.

5. The employee shall have the right to remuneration paid by employer for use of a selection attainment created, derived, or discovered in the line of duty in the amount and on the terms that are determined by an agreement between them, but not less than in an amount constituting two percent of the amount of the annual income from use of the attainment, including the income from the granting of licenses. A dispute on the amount, method, or on terms of remuneration paid by the employer for use of the employee's selection attainment shall be ruled by a court.

Remuneration shall be paid to the employee within six months after the end of each year in which the selection attainment is used.

6. A selection attainment created, derived, or discovered by an employee using monetary, technical, or other material assets of the employer, but not in the line of his working duties or a specific task set by the employer shall not be deemed as a employee's selection attainment. The right to obtain a patent for the selection attainment and the exclusive right to such selection attainment shall belong to the employee. In this case the employer shall have the right on his discretion to demand the grant of a free simple (nonexclusive) license for the use of the selection attainment for his own needs during the term of the exclusive right for a selection attainment or to reimbursement of the costs incurred by him with regard to creation, derivation or discovery of such selection attainment.

Article 1431. **Selection Attainments Created, Derived, or Discovered on Order**

1. In the case when a selection attainment has been created, derived, or discovered under a contract, on the subject of creation, derivation or discovery of such selection attainment (on order), the right to obtain a patent for the selection attainment and the exclusive right to such selection attainment shall belong to the customer, unless otherwise provided by the contract between the contractor (the performer) and the customer.

2. In the case when the right to obtain a selection attainment patent and the exclusive right to a selection attainment belong to the customer under Paragraph 1 of the present Article, the contractor (the performer) shall have the right to use the selection attainment for his own needs on the terms of free simple (nonexclusive) license during the term of the patent, whereas otherwise is not provided by the contract. The contract, stipulating the ground for the work, may provide for another type of license.

3. Where, under the contract between the performer and the customer, the right to obtain a selection attainment patent and the exclusive right to a selection attainment belong to the contractor (the performer), the customer shall have the right to use the selection attainment for his own needs on the terms of a free simple (nonexclusive) license during the term of the patent.

4. An author of a selection attainment specified in Paragraph 1 of the present Article who is not the patent holder shall receive remuneration in accordance with Paragraph 5 of Article 1430 of the present Code.

Article 1432. **Selection Attainments Created, Derived, or Discovered Under a State or Municipal Contract**

The provisions of Article 1371 of the present Code shall apply respectively to selection attainments created, derived or discovered under a State or municipal contract.

§ 5. Grant of a Selection Attainment Patent. Termination of Selection Attainment Patent

Article 1433. **Application for the Grant of a Selection Attainment Patent**

1. An application for the grant of a selection attainment patent (patent application) shall be filed with the federal executive authority for selection attainments by the person having the right to obtain a patent under the present Code (applicant).

2. A patent application shall contain:

1) the request for the grant of a patent, stating the author of the selection attainment and the person in whose name the patent is requested and their places of permanent or actual residence;

2) the form for the selection attainment;

3) a document certifying the payment of the fee in the prescribed amount or a document certifying the ground for exemption from the fee or for reduction of its amount or its deferment payment.

3. The requirements for the documents constituting the patent application shall be determined on the ground of the present Code by the federal executive authority responsible for normative and legal regulation in the agricultural area.

4. A patent application shall relate to one selection attainment only.

5. The documents specified in Paragraph 2 of the present Article may be submitted in Russian or other language. If the documents are submitted not in Russian, their translation into Russian shall be attached to the patent application.

Article 1434. **Priority of a Selection Attainment**

1. The priority of a selection attainment shall be established as per the date of patent application filing with the federal executive authority for selection attainments.

2. Where on the same date two (or more) applications for the same selection attainment were filed with the federal executive authority for selection attainments, priority shall be established as per the earlier date of filing the application. If the examination finds that these applications have the same date of filing, the patent shall be granted on the application with an earlier registration number conferred by the federal executive authority for selection attainments unless otherwise provided by the agreement between the applicants.

3. If an application filed with the federal executive authority for selection attainments was preceded by an earlier application filed by the applicant in a foreign State with which the Russian Federation has concluded a treaty on protection of selection attainments, the applicant shall enjoy priority of the first application during twelve months from its filing date.

The applicant shall indicate the priority of the first application in the application filed with the federal executive authority for selection attainments. Within six months from the day of receipt of the application by the federal executive authority for selection attainments, the applicant shall be committed to submit a copy of the first application, certified by a competent authority of the respective foreign state and its translation into Russian. Where these conditions are fulfilled, the applicant shall have the right not to submit supplementary documentation and the material necessary for testing during three years from the date of filing of the first application.

Article 1435. **Preliminary Examination of a Patent Application**

1. In the course of preliminary examination of a patent application, the priority date shall be established; the presence of the documents provided for by Paragraph 2 of Article 1433 of the present Code, and their conformity to the prescribed requirements shall be verified. Preliminary examination of a patent application shall be completed within one month.

2. During the preliminary examination the applicant shall have the right to supplement, clarify, or correct the documents of the application on his initiative.

The federal executive authority for selection attainments may invite the applicant to furnish missing or clarifying documents, and the applicant shall be committed to provide them within the prescribed time limit.

Where the documents missing on the application filing date were not furnished within the prescribed term, the application shall not be accepted for processing and the applicant shall be notified on it.

3. Upon completion of the preliminary examination the federal executive authority for selection attainments shall promptly notify the applicant on favorable results of the preliminary examination and the filing date.

Information on accepted applications shall be published in the official bulletin of the aforesaid federal authority.

4. Where the applicant wishes to appeal the decision of the federal executive authority for selection attainments on the results of the preliminary examination, he

shall have the right to appeal it judicially within three months following the date of receipt of the decision.

Article 1436. **Provisional Protection of a Selection Attainment**

1. A selection attainment for which an application was filed with the federal executive authority for selection attainments shall enjoy provisional protection as a selection attainment from the filing date until the date of a patent grant.

2. After the grant of selection attainment patent, the patent holder shall have the right to receive monetary remuneration paid by a person who, without a permission of the applicant, has executed the activities provided for in Paragraph 3 of Article 1421 of the present Code, during the term of provisional protection of the selection attainment. The amount of remuneration shall be determined by agreement of the parties and, in case of a dispute, by a court ruling.

3. During the term of provisional protection of a selection attainment, the applicant shall be permitted to sale or transfer seeds or breeding materials in other manner for scientific purposes only, and in cases when the sale or transfer is connected with alienation of the right to obtain a selection attainment patent or with the production of seeds or breeding material for stocking on order of the applicant.

4. The provisional protection of a selection attainment shall be deemed not to have occurred where the patent application was not accepted for processing (Article 1435) or, a decision to refuse to grant a patent has been taken in respect of the patent application and the possibility to appeal it provided for by the present Code has been exhausted or in case if the requirements of Paragraph 3 of the present Article have been violated by the applicant.

Article 1437. **Examination of a Selection Attainment for Novelty**

1. Any interested person may submit a request for carrying out examination for novelty of the claimed selection attainment within six months following the date of publication of information on the patent application to the federal executive authority for selection attainments.

The federal executive authority for selection attainments shall notify the applicant on the receipt of such a request and on its subject matter. The applicant shall have the right to submit a grounded objection to the notification to the federal executive authority for selection attainments within three months following the date of receipt of the notification.

2. The federal executive authority for selection attainments shall take a decision in accordance with the materials at its disposal and notify the interested person on it. If the selection attainment does not confirm the criterion of novelty, a decision to refuse a grant of a patent shall be taken.

Article 1438. **Tests of a Selection Attainment for Distinctness, Uniformity, and Stability**

1. Tests of a selection attainment for distinctness, uniformity, and stability shall be conducted according to the methodology and in the time limits set forth by the federal executive authority responsible for normative and legal regulation in the agricultural area.

The applicant shall be committed to provide necessary quantity of seeds or breeding material for testing to the place and within the time period specified by the federal executive authority for selection attainments.

2. For the purposes provided for by Paragraph 1 of the present Article, the federal executive authority for selection attainments, shall have the right to use the results of tests conducted by competent authority of other states with which the respective treaties have been concluded, the results of tests conducted by other Russian organizations under contract with the aforesaid state authority, and the data provided by the applicant.

Article 1439. **Registration of Selection Attainment and Grant of Patent**

1. Where a selection attainment confirms the criteria of protectability (Paragraph 2 of Article 1413) and where the name of the selection attainment confirms the requirements of Article 1419 of the present Code, the federal executive authority for selection attainments shall grant a selection attainment patent, prepare a description of the selection attainment, and record the selection attainment into the State Register of Protected Selection Attainments.

2. The following information shall be specified in the State Register of Protected Selection Attainments:

1) the genus and type of plant or animal;

2) the name of the variety of plants or breed of animals;

3) the date of official registration of the selection attainment and the registration number;

4) the name or designation of the patent holder and his place of permanent or actual residence;

5) the name of the author of the selection attainment and his place of residence;

6) a description of the selection attainment;

7) the fact of transfer of the selection attainment patent to another person with an indication of his name and place of permanent or actual residence;

8) information on license contracts that have been concluded;

9) the date of termination of validity of the selection attainment patent with an indication of the cause of termination.

3. The selection attainment patent shall be granted to the applicant. Where several applicants are indicated in patent application the patent shall be granted to the first indicated applicant and shall be used by the applicants jointly under the agreement between them.

Article 1440. **Preservation of the Selection Attainment**

The patent holder shall be committed to maintain the variety of plants or breed of animals during the term of the selection attainment patent to preserve the features specified in the description of the variety of plants or breed of animals compiled on the date of the inclusion of the selection attainment in the State Register of Protected Selection Attainments.

The patent holder shall be committed to send at his own expense seeds or breeding material for verification tests and to provide the possibility of conduct of on-site inspection upon request of the federal executive authority for selection attainments.

Article 1441. **Invalidation of a Selection Attainment Patent**

1. A patent for selection attainment may be recognized as invalid during its term of validity if is established that:

1) the patent was granted on the ground of unconfirmed data on the uniformity and stability of the selection attainment presented by the applicant.

2) on the date of patent grant the selection attainment did not confirm the criteria of novelty or distinctness;

3) the person indicated in the patent as the patent holder was not entitled to obtain a patent.

2. The grant of patent for a selection attainment may be appealed by any person who has become aware of the violations provided for by Paragraph 1 of the present Article by filing a request with the federal executive authority for selection attainments.

The federal executive authority for selection attainments shall communicate a copy of the aforesaid request to the patent holder who may submit grounded response within three months following the date of sending the aforesaid copy.

The federal executive authority for selection attainments shall take a decision on the said matter within six months following the date of submission of the aforesaid request unless the supplementary tests are required.

3. A selection attainment patent deemed as invalid shall be deemed as void as from the date of submission of the patent application. In such case the license contracts concluded before the decision on the invalidation of the patent shall maintain their effect insofar they were executed by that date.

4. Invalidation of a patent for a selection attainment shall mean the reversal of the decision of the federal executive authority for selection attainments to grant a patent (Article 1439) and the revocation of the corresponding entry in the State Register of Protected Selection Attainments.

Article 1442. **Pre-term Termination of a Patent for a Selection Attainment**

The validity of a patent for a selection attainment shall be subject to pre-term termination in the following cases:

1) the selection attainment no longer confirms the criteria of uniformity and stability;

2) the patent holder has not provided seeds, breeding material, documents, and information necessary to verify the preservation of the selection attainment upon request of the federal executive authority for selection attainments within twelve months or has not provided the possibility of on-site inspection of the selection attainment for these purposes;

3) the patent holder has filed an application for the pre-term termination of the patent with the federal executive authority for selection attainments;

4) the patent holder failed to pay the maintenance patent fee within the prescribed time limit.

Article 1443. **Publication of the Information on Selection Attainments**

1. The federal executive authority for selection attainments shall publish an official bulletin containing information:

1) on patent applications with indication of the priority date of the selection attainment, the name of the applicant, the name of the selection attainment, and the name of the author of the selection attainment unless the latter has declined to be mentioned as such;

2) on decisions taken on the patent application;

3) on changes in the names of selection attainments;

4) on invalidation of patents for selection attainments;

5) other information with respect to the protection of selection attainments.

2. After publication of information on a filed application for the grant of a selection attainment patent and on the decision taken with respect of this application, any person shall have the right to learn the materials of the application.

Article 1444. **Use of a Selection Attainment**

1. Seeds and breeding material sold within the Russian Federation shall be provided along with a document certifying their variety or breed and origin.

2. For selection attainments entered into the State Register of Protected Selection Attainments, the document specified in Paragraph 1 of the present Article shall be granted only to the patent holder and licensees.

Article 1445. **Patenting of a Selection Attainment Abroad**

An application for the grant of a selection attainment patent may be filed abroad. Expenses with respect to protection of a selection attainment abroad the Russian Federation shall be borne by the applicant.

§ 6. Enforcement of Rights of Authors of Selection Attainments and Other Patent Holders

Article 1446. **Infringement of Rights of Author of Selection Attainments or Another Patent Holder**

The rights of the author of a selection attainment or other patent holder shall be infringed by, in particular:

1) use of a selection attainment violating the requirements of Paragraph 3 of Article 1421 of the present Code;

2) naming of the produced and/or selling seeds or breeding material in a way different from the name of the respective registered selection attainment;

3) naming of the produced and/or selling seeds or breeding material with a name of the respective registered selection attainment if they are not the seeds or breeding material of this selection attainment;

4) naming of produced and/or selling seeds or breeding material with a name confusingly similar to the name of a registered selection attainment.

Article 1447. **Publication of a Court Decision on the Infringement of the Exclusive Right to a Selection Attainment**

The author of a selection attainment or other patent holder shall have the right to demand the publication by the federal executive authority for selection attainments in the official bulletin of a decision of a court on the illegal use of a selection attainment or on other infringement of the rights of a patent holder under Paragraph 1 of Article 1252 of the present Code.

CHAPTER 74. RIGHT TO TOPOGRAPHIES (LAYOUT-DESIGNS) OF INTEGRATED CIRCUITS

Article 1448. **Topography of Integrated Circuit**

1. Topography (layout-design) of integrated circuit shall mean the three-dimensional layout of all the elements constituting an integrated circuit and their interconnections fixed on a physical medium. Integrated circuit shall mean a

microelectronic product in its final or intermediate form intended to perform the functions of an electronic circuit, the elements and interconnections of which are integrated in the interior and/or on the surface of the material acting as the basis for manufacturing the product.

2. The legal protection afforded by the present Code shall apply solely to an original topography of integrated circuit created as the result of the creative activity of an author and being unknown to the author and/or specialists in the area of development of topography of integrated circuit on the date of its creation. A topography of integrated circuit shall be deemed original unless proved otherwise.

Topographies of integrated circuit consisting of elements that are used by specialists in the area of development of topographies of integrated circuits on the date of its creation shall obtain legal protection if those elements are original as a whole.

3. The legal protection afforded by the present Code shall not extend to any concept, process, system, technique or encoded information, which may be embodied in the topography of integrated circuit.

Article 1449. **Right to Layout-Design (Topography) of Integrated Circuit**

1. The following intellectual rights shall belong to the author of a topography of integrated circuit meeting the requirements of obtaining of legal protection provided by the present code (topography):

1) the exclusive right;

2) the right of authorship.

2. In cases provided for by the present Code the author of the topography of integrated circuit shall also have other rights, including the right to remuneration for use of a employee's topography.

Article 1450. **Author of a Topography of Integrated Circuit**

A natural person whose creativity has led to the creation of a topography of integrated circuit is deemed the author of a topography. The person indicated as the author in the application for official registration of a topography of integrated circuit shall be deemed the author of this layout unless proved otherwise.

Article 1451. **Co-authors of a Topography of Integrated Circuit**

1. Natural persons whose joint creativity has led to the creation of a topography of integrated circuit shall be deemed co-authors.

2. Each of the coauthors shall have the right to use the topography at his discretion unless an agreement between them has provided otherwise.

3. The provisions of Paragraph 3 of Article 1229 of the present Code shall be applied respectively to the inter relations of co-authors with regard to the sharing the income from use of a topography of integrated circuit and with the disposition of the exclusive right to the topography.

Co-authors shall jointly dispose the right to obtain a certificate on the official registration of topography of integrated circuit.

Article 1452. **Official Registration of Topography of Integrated Circuit**

1. The rightholder on his discretion may register the topography of integrated circuit with the federal executive authority for intellectual property during the term of the exclusive right to the topography (Article 1457).

A topography, which incorporates state secret, shall not be officially registered. A person who has filed an application for official registration of topography (the applicant) shall be liable for the disclosure of information on topography, which incorporates state secret in accordance with the legislation of the Russian Federation.

2. Were the topography was used before filing the application for official registration of a topography (application for registration) the application can be filed in term not exceeding two years following the date of the first use of the topography.

3. An application for registration shall relate to one topography and shall contain:

1) request for official registration of the topography, stating the person in whose name the official registration is requested and the author, unless he waived the right to name, their place of permanent and actual residence, and the date of the first use of the topography if it has taken place;

2) materials to be deposited identifying the topography, including an abstract;

3) either a document certifying the payment of the prescribed fee, or a document certifying the ground for exemption from the fee, or for reduction of its amount, or delay to payment.

4. The regulations on drafting the application for registration shall be determined by the federal executive authority responsible for normative and legal regulation in the intellectual property area.

5. On the ground of an application for registration, the federal executive authority for intellectual property shall verify the presence of the required documents and their conformity to the requirements of Paragraph 3 of the present Article. Where the result of the verification is favorable, the aforesaid federal authority shall enter the topography in the Register of Topographies of Integrated Circuits, issue a certificate on the official registration of the topography of integrated circuit to the applicant, and publish information on the registered topography in the official bulletin.

Upon request of the federal executive authority for intellectual property or on his own initiative the applicant shall have the right to supplement, clarify, and correct the materials of the application for registration before publication of the information in the official bulletin.

6. The procedure of the official registration of topographies of integrated circuits, the forms of certificates on official registration, the list of data to be indicated in the certificates, and also the list of data to be published by the federal executive authority for intellectual property in the official bulletin shall be set forth by the federal executive authority responsible for normative and legal regulation in the intellectual property area.

7. Contracts for alienation and pledge of the exclusive right to a registered topography, license contracts on obtaining the right to use a registered topography and the transfer of the exclusive right to such topography to other persons without conclusion of the contract shall be registered by the federal executive authority for intellectual property.

Information on change of the rightholder and on legal burden of the exclusive right shall be entered in the Register of Topographies of Integrated Circuits on the ground of a registered contract or other right-establishing document and shall be published in the aforesaid official bulletin.

8. Information entered in the Register of Topographies of Integrated Circuits shall be considered reliable, unless it is proved otherwise. The applicant shall be responsible for reliability of the information submitted for registration.

Article 1453. **The Right of Authorship to a Topography of Integrated Circuit**

The right of authorship, i.e. the right to be deemed the author of a topography, shall be inalienable and non-transferable including case of transfer to another person or passage to him of the exclusive right to a topography 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 Topography**

1. The exclusive right to use a topography in accordance with Article 1229 of the present Code in any manner unrepugnant to a law (the exclusive right to the topography), in particular by the means specified in Paragraph 2 of the present Article, shall belong to the rightholder. The rightholder may dispose the exclusive right to the topography.

2. Actions aimed to earn a profit shall be considered as use of the topography, in particular:

1) reproduction of the topography as a whole or particularly by inclusion in an integrated circuit or otherwise, except reproduction of a part of not original topography;

2) import into the territory of the Russian Federation, sale, and other introduction into civil circulation of the topography or of an integrated circuit, including this topography, or of a product including such an integrated circuit.

3. A person who has independently created a topography identical to another topography shall have an independent exclusive right to this topography.

Article 1455. **Indication of Legal Protection of Topographies of Integrated Circuit**

In order to notify of the exclusive right to a topography of integrated circuit the rightholder shall have the right to use the sign of protection which shall be placed on the topography and on the products containing such a topography, and shall consist of a capital letter “T”, the date of the beginning of the term of the exclusive right to a topography, and information for identification of the rightholder.

Article 1456. **Actions not Infringing the Exclusive Right to a Topography**

The following actions shall not infringe the exclusive right to a topography:

1) activities specified in Paragraph 2 of Article 1454 of the present Code with respect to an integrated circuit including an illegally reproduced topography and with respect to any product including such an integrated circuit where the person executing such activities did not aware and did not have a reason being aware that an illegally reproduced topography was included into the integrated circuit. Upon receipt of the notification on the illegal reproduction of the topography, the aforesaid person may use the on-hand stock of products, including the integrated circuit with the illegally reproduced topography and products ordered up to this time. In this case the aforesaid person shall be committed to pay the remuneration for use of the topography to the rightholder proportional to the remuneration that could have been paid in similar circumstances for an analogous topography.

2) use of a topography for private purposes not pursuer a profit earning and also for the purposes of evaluation, analysis, research, or training;

3) distribution of integrated circuits with a topography which previously was legally introduced into civil circulation by the person having the exclusive right to the topography or by another person with the permission of the rightholder.

Article 1457. **The Term of the Exclusive Right to a Topography**

1. The exclusive right to a topography shall be valid during ten years.

2. The term of the exclusive right to a topography shall be calculated either from the date of the first use of the topography, which means the earliest proved by documents the date of the introduction into civil circulation of this topography in the Russian Federation or in any foreign state, of an integrated circuit with this topography or of a product including this integrated circuit, or from the date of registration of the topography by the federal executive authority for intellectual property depending on which of these events occurred earlier.

3. Where the identical original topography was independently created by another author, the exclusive rights to such topographies shall be terminated upon the expiration of ten years from the day of accrual of the exclusive right to the first of them.

4. Upon expiration of the term of the exclusive right, the topography shall fall into the public domain, i.e., it may be used freely by any person without any consent or permission and without payment of remuneration for use.

Article 1458. **Contract for Alienation of the Exclusive Right to a Topography**

Under a contract for alienation of the exclusive right to a topography, one party, the rightholder, transfers or is undertaking commitment to transfer the exclusive right to a topography in full scope to other party, the recipient of the exclusive right to the topography.

Article 1459. **License Contract on Granting the Right to Use a Topography**

Under a license contract one party, the author or other holder of the exclusive right to a topography (the licensor) grants or is undertaking commitment to grant to the other party (the licensee) the right to use this topography with the limitations determined by the contract.

Article 1460. **Form and Official Registration of the Contract for Alienation of the Exclusive Right to a Topography and of a License Contract**

1. The contract for alienation of the exclusive right to a topography and the license contract shall be done in written form.

2. If the topography is registered (Article 1452) the contract on alienation of the exclusive right to a topography and a license contract shall be officially registered with the federal executive authority for intellectual property.

Article 1461. **Employee's Topography**

1. A topography, created by an employee in the line of his working duty or a specific task set by the employer, shall be deemed an employee's topography.

2. The right of authorship to an employee's topography, shall belong to the employee (to the author).

3. The exclusive right to an employee's topography shall belong to the employer, unless otherwise provided by a contract between him and the employee.

4. If the exclusive right to a topography belongs to the employer or has been transferred by him to a third person, the employee shall have the right to receipt the remuneration from the employer. The amount of remuneration and the terms and procedure of its payment shall be determined by contract between the employer and employee and, in case of dispute, by the court.

5. A topography created by an employee using financial, technical or other material assets of the employer, but not in the line of his working duty or a specific task set by the employer shall not be considered as an employee's topography. The exclusive right to such topography shall belong to the employee. In this case the employer shall have the right at his discretion to demand the grant of an free simple (nonexclusive) license for use for his own needs during the term of the exclusive right to the topography or to remuneration of the costs incurred by him with regard to the creation of this topography.

Article 1462. **Topography Created During Fulfillment of the Work under the Contract**

1. Where a topography is created during fulfillment of the work under a labor contract or a scientific-research contract, experimental-design or technological works, which do not contemplate its creation, the exclusive right to such topography shall belong to the contractor (the performer) unless otherwise provided by a contract between him and the customer.

In this case the customer shall have the right to use the topography created in this way for the purposes for which the corresponding contract was done on the conditions of a simple (nonexclusive) license during the term of the validity of the rights, without payment of supplementary remuneration for use unless otherwise provided by the contact. Upon transfer of the exclusive right to the topography by the contractor (performer) to another person, the customer shall retain the right to use the topography under the indicated conditions.

2. Where, in accordance with a contract between the contractor (performer) and the customer, the exclusive right to the topography has been transferred to the customer or to a third person indicated by him, the performer shall have the right to use the topography that has been created for his own needs under the terms of a free simple (nonexclusive) license during the term of the exclusive right to the topography, unless otherwise provided by the contract.

3. The author of a topography specified in Paragraph 1 of the present Article who does not have the exclusive right to such topography shall have the right to remuneration in accordance with Paragraph 4 of Article 1461 of the present Code.

Article 1463. **Topography Created on Order**

1. Where a topography is created under an contract, the subject of which was its creation (on order), the exclusive right to such topography shall belong to the customer unless a contract between the contractor (performer) and the customer provides otherwise.

2. Where, in accordance with a paragraph 1 of the present Article, the exclusive right to a topography shall belong to the customer or to a third person indicated by him, the performer shall have the right, to use this topography for his own needs under the conditions of a free simple (nonexclusive) license during the term of the exclusive right, unless otherwise provided by the contract.

3. Where, in accordance with a contract between the contractor (performer) and the customer, the exclusive right to a topography belongs to the performer, the

customer shall have the right to use the topography for his own needs under the conditions of a free simple (nonexclusive license) during the term of the exclusive right.

4. The author of a topography created on order, who is not the rightholder shall be paid a remuneration in accordance with Paragraph 4 of Article 1459 of the present Code.

Article 1464. **Topography Created under a State Contract**

The provisions of Article 1298 of the present Code shall be applied respectively to a topography created under a State contract.

## CHAPTER 75. RIGHT TO SECRETS OF PRODUCTION (KNOW-HOW)

Article 1465. **Secret of Production (Know-How)**

A secret of production shall mean information of any type (production, technological, economic, organizational, and others), including information on the results of intellectual activity in the area of science and technology and information on methods of carrying out the professional activity having real or potential commercial value because it is unknown to third persons, to which such persons have no legal open access and with respect to which the owner of such information has introduced a regime of trade secret.

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 the present Code in any manner unrepugnant to a law (the exclusive right to a secret of production), including manufacturing and implementation of economic and organizational solutions shall belong to the owner of the secret of production. The owner of a secret of production may dispose the aforesaid exclusive right.

2. A person, who has received the information constituting the content of the protected secret of production in good faith and independently from other holders of the secret of production, shall acquire an independent exclusive right to this secret of production.

Article 1467. **Validity of the Exclusive Right to a Secret of Production**

The exclusive right to a secret of production shall be valid as long as the confidentiality of the information constituting its content is maintained. From the time of disclosure of the respective information, the exclusive right to the secret of production shall be terminated for all the rightholders.

Article 1468. **Contract for Alienation of the Exclusive Right to a Secret of Production**

1. Under the contract for alienation of the exclusive right to a secret of production, one party (the rightholder), transfers or is undertaking commitment to transfer the exclusive right to a secret of production in full scope to other party, the recipient of the exclusive right to the said secret of production.

2. In case of alienation of the exclusive right to a secret of production, the person who has disposed his right shall be committed to keep the confidentiality of the secret of production until termination of the validity of the exclusive right to the secret of production.

Article 1469. **License Contract on Granting 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 undertaking commitment to grant to another party (the licensee) the right to use the respective secret of production with the limitations determined by the contract.

2. A license contract may be concluded with an indication or without an indication of the term of its validity. Where the term of validity of a license contract is not indicated in the contract, each of the parties shall have the right to repudiate the contract at any time, notifying the other party not later than six months before the repudiation, unless a longer time period is provided by the contract.

3. In case of granting the right to use a secret of production, the person who has disposed of his right shall be committed to maintain the confidentiality of the secret of production during the whole time period of validity of the license contract.

Persons who have obtained the respective rights under a license contract are committed to maintain the confidentiality of the secret of production until termination of the validity of the exclusive right to the secret of production.

Article 1470. **Employee's Secret of Production**

1. The exclusive right to a secret of production, created by an employee in the line of his working duty or a specific task set by the employer (employee's secret of production) shall belong to the employer.

2. A natural person, who with regard to his working duties or a specific task set by the employer has award a secret of production, is committed to maintain the confidentiality of the obtained information until termination of the validity of the exclusive right to the secret of production.

Article 1471. **Secret of Production Obtained Concurrently the Work under a Contract**

Where a secret of production is obtained concurrently the work under a labor contract or a R&D contract or under a state or municipal contract for state or municipal needs, the exclusive right to such secret of production shall belong to the contractor (performer) unless otherwise provided by the respective contract (or state or municipal contract).

Where a secret of production is obtained concurrently the work under a contract concluded by the manager-in chief of a manager of budget funds with a federal state institutions, the exclusive right to such secret shall belong to the contractor (performer) 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 illegally received information constituting a secret of production and who has disclosed or used this information as well as a person committed to maintain confidentiality of a secret of production in accordance with Paragraph 2 of Article 1468, Paragraph 3 of Article 1469, or Paragraph 2 of Article 1470 of the present Code, shall be obliged to pay damages caused by infringement of the exclusive right

to the secret of production unless other responsibility is provided by law or by contract with this person.

2. A person who has used a secret of production and did not aware and shall not have a reason to aware that the using is illegal, including with regard to the fact that he has obtained access to the secret of production accidentally or by mistake, shall not bear responsibility in accordance with Paragraph 1 of the present Article.

## CHAPTER 76. RIGHTS TO THE MEANS OF INDIVIDUALIZATION OF A LEGAL ENTITY, GOODS, WORKS, SERVICES, AND ENTERPRISES

### § 1. Right to a Trade Name

Article 1473. **Trade Name**

1. A legal entity that is a commercial organization shall act in civil circulation under its trade name, which is defined in its by-law documents and is included in the Single State Register of Legal Entities upon official registration of a legal entity.

2. The trade name of a legal entity shall contain an indication of its organizational and legal form and the actual name of the legal entity, which shall not consist solely of words designating a kind of activity.

3. A legal entity shall have a full name and has the right to have an abbreviated name, both in the Russian language. A legal entity shall have the right to have also a full and/or abbreviated trade name in the languages of the peoples of the Russian Federation and/or foreign languages.

A trade name of the legal entity in the Russian language and the languages of the peoples of the Russian Federation may contain foreign borrowings in Russian transcription or in transcriptions of the languages of the peoples of the Russian Federation correspondingly, with the exception of terms and abbreviations reflecting the organizational and legal form of the legal entity.

4. A trade name of the legal entity shall not consist of:

1) full or abbreviated official names of foreign states, and also words derived from such names;

2) full or abbreviated official names of federal bodies of state authority, bodies of state authority of subjects of the Russian Federation and bodies of local self-government;

3) full or abbreviated names of international and intergovernmental organizations;

4) full or abbreviated names of public unions;

5) signs that are contrary to public 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 to the Russian Federation or to a subject of the Russian Federation correspondingly.

Inclusion in the trade name of a legal entity of the official name of the Russian Federation or Russia, and also of words derived from this name shall be allowed with the permission issued in accordance with the procedure set forth by the Government of the Russian Federation if over seventy-five percent of the shares of stock of the joint-stock company belong to the Russian Federation. Such permission shall be

granted without an indication of its validity period and may be withdrawn in case of disappearance of the circumstances by virtue of which it has been granted. The procedure for grant and withdrawal of permissions shall be provided for by law.

In case of withdrawal of permission for the inclusion in the trade name of a legal entity of the official name of the Russian Federation or Russia, and also words derived from this name, the legal entity within three months shall be obliged to introduce the changes in its by-law documents.

5. If a trade name of the legal entity does not comply with the requirements of Paragraphs 3 or 4 of the present Article, the body effecting official registration of legal entities has the right to bring a suit against such a legal entity to compel a change of the trade name.

Article 1474. **Exclusive Right to a Trade Name**

1. A legal entity has the exclusive right of use its trade name as means of individualization in any manner not contrary to a law (the exclusive right to a trade name) including by its indication on signs, letterheads, bills and other documentations, in announcements and advertising, and on goods and their packaging.

Abbreviated trade names, and also trade names in the languages of the peoples of the Russian Federation and foreign languages shall be enforced as an exclusive right to the trade name provided that they are included in the Single State Register of Legal Entities.

2. Disposition of the exclusive right to a trade name (including by its alienation or granting to another person the right to use the trade name) shall not be allowed.

3. Use by a legal entity of the trade name identical to the trade name of another legal entity or confusingly similar to it shall not be allowed if the aforesaid legal entities conduct similar activity and the trade name of the second legal entity was included in the Single State Register of Legal Entities earlier than the trade name of the first legal entities.

4. A legal entity who has violated the provisions of Paragraph 3 of the present Article shall be obliged on demand of the rightholder to discontinue the use of the trade name identical to the trade name of the rightholder or confusingly similar to it with respect to kinds of activity analogous to kinds of activity conducted by the rightholder and shall remunerate the rightholder for damages caused.

Article 1475. **Validity of the Exclusive Right to a Trade Name within the Territory of the Russian Federation**

1. The exclusive right to a trade name included in the Single State Register of Legal Entities shall be valid within the territory of the Russian Federation.

2. The exclusive right to a trade name shall arise from the date of official registration of the legal entity and shall be terminated at the time of the exclusion of the trade name from the Single State Register of Legal Entities in connection with the liquidation of the legal entity or change of its trade name.

Article 1476. **Relationship of Rights to a Trade Name with Rights to a Commercial Name and to a Trademark and Service Mark**

1. A trade name or separate elements thereof may be used by the rightholder in the composition of a commercial name belonging to him.

A trade name included in a commercial name shall be protected independently of the protection of the commercial name.

2. A trade name or individual elements thereof may be used by the rightholder in a trademark or service mark belonging to him.

A trade name included in a trademark or service mark shall be protected independently of the protection of the trademark or service mark.

## § 2. Right to a Trademark and the Right to a Service Mark

### 1. General Provisions

Article 1477. **Trademark and Service Mark**

1. An exclusive right certified by a trademark certificate (Article 1481) shall be recognized to a trademark, i.e., to a sign capable of individualizing of goods of legal entities or individual entrepreneurs.

2. The provisions of the present Code related to trademarks shall be applied correspondingly to service marks, i.e., to signs capable of individualizing work performed or services rendered by legal entities or individual entrepreneurs.

Article 1478. **Holder of the Exclusive Right to a Trademark**

The holder of the exclusive right to a trademark shall be a legal entity or an individual entrepreneur.

Article 1479. **Validity of the Exclusive Right to a Trademark within the Territory of the Russian Federation**

The exclusive right to a trademark registered by the federal executive authority for intellectual property shall be valid within the territory of the Russian Federation, and also in other cases provided for by an international treaty of the Russian Federation.

Article 1480. **Official Registration of a Trademark**

Official registration of a trademark shall be effected by the federal executive authority for intellectual property in the State Register of Trademarks and Service Marks of the Russian Federation (State Register of Trademarks) by the procedure provided by Articles 1503 and 1505 of the present 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 a trademark and the exclusive right to the trademark with respect to the goods indicated in the certificate.

Article 1482. **Types of Trademarks**

1. Word, figurative, three-dimensional, and other signs or combinations thereof may be registered as trademarks.

2. A trademark may be registered in any color or color combination.

Article 1483. **Grounds for Refusal of Official Registration of a Trademark**

1. The following signs shall not be registered as trademarks if they are not capable of distinguishing or consisting only of elements that:

1) have fallen into public domain to indicate the goods of a certain kind;

2) are generally accepted symbols and terms;

3) characterize goods, including indication of their type, quality, quantity, properties , purpose, or value and also the time, place, or means of their production or sale;

4) represent the configuration of goods that is determined exclusively or mainly by the properties or purpose of the goods.

The indicated elements may be incorporated in the trademark as non-protected elements if they do not prevail.

The provisions of the present Paragraph shall not be applied with respect to signs that have acquired the distinctiveness as the result of their use.

2. By virtue of an international treaty of the Russian Federation the signs shall not be registered as trademarks if they consist only of elements that are:

1) state armorial bearings, flags, or other state symbols and marks;

2) abbreviations or full names of international and intergovernmental organizations, their armorial bearings, flags, or other symbols and marks;

3) official signs or hallmarks of control and warranty, seals, awards, and other distinguishing signs;

4) signs confusingly similar to the elements indicated in subparagraphs 1-3 of the present Paragraph.

Such elements may be included in a trademark as non-protected elements provided there is consent of an appropriate competent authority.

3. The signs shall not be registered as trademarks that are or contain the elements:

1) that are false or capable of misleading a consumer in respect of goods or their producer;

2) that are contrary to public interests, or to principles of humanity or morality.

4. The signs identical or confusingly similar to 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 values stored in special, general, and reserve collections shall not be registered as trademarks if registration is sought in the name of persons who are not their owners, without the consent of their owners or of the persons authorized by the owners for the registration of such signs as trademarks.

5. By virtue of an international treaty of the Russian Federation, the signs shall not be registered as trademarks that are or contain elements that are protected in one of the States party to this international treaty as signs identifying wines or spirits as originating from its territory (or produced within the boundaries of a geographical object of this state) and have a particular quality, reputation, or other characteristics that are mainly determined by its origin, if the trademark shall be used for the indication of wines or spirits that not originating from the territory of the geographical object concerned.

6. The signs shall not be registered as trademarks if they are identical, or confusingly similar to:

1) trademarks of other persons applied for registration (Article 1492) with respect to similar goods with an earlier priority, unless the application for official registration has been withdrawn or has been deemed withdrawn;

2) trademarks of other persons protected in the Russian Federation, including by virtue of an international treaty of the Russian Federation with respect to similar goods.

3) trademarks of other persons recognized under the present Code as well-known marks in the Russian Federation with respect to similar goods with an earlier priority.

The sign confusingly similar to any of the trademarks indicated in the present Paragraph shall be registered as a trademark with respect to similar goods only with the consent of the rightholder.

7. The signs identical or confusingly similar to an appellation of origin protected under the present Code shall not be registered as trademarks with respect to any goods except for the case when such a sign is included as an non-protected element in a trademark registered in the name of person having the exclusive right to use such an appellation, if the registration of the trademark is applied with respect to those goods for individualization of which the appellation of origin is registered.

8. The signs identical or confusingly similar to a trade name or commercial name protected in the Russian Federation (or individual elements of such a trade name or commercial name), or to the names of selection attainment registered in the State Register of Protected Selection Attainment, rights to which arose in the Russian Federation earlier than the priority date of the trademark to be registered shall not be registered as trademarks with respect to similar goods.

9. The signs shall not be registered as trademarks if they are identical to:

1) a title of work of science, literature, or art, a character or quotation from such a work, a work of art or a fragment thereof known in the Russian Federation on filing date of the application for official registration of a trademark (Article 1492), without the consent of the rightholder, if the rights to the respective work arose earlier than the priority date of the trademark to be registered;

2) a name (Article 19), a pseudonym (Paragraph 1 of Article 1265) or their derivatives, a portrait or facsimile of a person 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 correspondence sign, the rights to which arose earlier than the priority date of trademark to be registered.

10. On the grounds provided for in the present Article the legal protection also shall not be granted to signs recognized as trademarks by virtue of 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. A person in whose name the trademark is registered (the rightholder) shall enjoy the exclusive right to use a trademark in accordance with Article 1229 of the present Code in any manner not contrary to a law (the exclusive right to a trademark) including by the means indicated in Paragraph 2 of the present Article. The rightholder may dispose of the exclusive right to the trademark.

2. The exclusive right to a trademark may be disposed for the individualization of the goods, work, or services with respect to which the trademark has been registered, in particular by using a trademark:

1) on goods including labels and packaging of goods, that are produced, offered for sale, sold, displayed at exhibitions and fairs, or otherwise introduced into

civil circulation within the territory of the Russian Federation, or are kept or transported for this purpose, or imported into the territory of the Russian Federation;

2) while performing work or rendering of services;

3) on documents introducing goods into civil circulation;

4) while offering goods for sale, work for performance, and services for rendering as well as in announcements, on signboard, 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, signs similar to his trademark with respect to the goods for the individualization of which the trademark has been registered or similar goods if such use would result in a likelihood of confusion.

Article 1485. **Symbol of Legal Protection of a Trademark**

The rightholder for giving notice of his exclusive right to a trademark has the right to use the symbol of protection, which shall be placed alongside the trademark and consists of the Latin letter "R" or the Latin letter "R" in a circle ® or the verbal indication "trademark" or "registered trademark" and which indicates that the sign used is a trademark protected within the territory of the Russian Federation.

Article 1486. **Consequences of Nonuse of a Trademark**

1. Legal protection of a trademark may be early terminated with respect to all goods or part of the goods for the individualization of which the trademark has been registered as the result of the nonuse of the trademark continuously within any three years after its official registration. A request for the pre-term termination of the legal protection of a trademark as the result of its nonuse may be filed by any interested person with the Chamber for Patent Disputes upon the expiration of the aforesaid three years provided that the trademark has not been used before such request was filed.

2. For the purposes of the present Article the use of a trademark shall be considered to be used by the rightholder or other person to whom such a right has been granted on the ground of a license contract in accordance with Article 1489 of the present Code, or by another person using the trademark under the supervision of the rightholder provided that the use of the trademark is conducted in accordance with Paragraph 2 of Article 1484 of the present Code, with the exception of cases when the respective actions are not directly connected with the introduction of the goods into civil circulation and also the use of a trademark with the alteration of individual elements not affecting its capability of distinguishing and not limiting the protection granted to the trademark.

3. The burden of proof of the use of the trademark shall be on the rightholder.

In settling the issue of the pre-term termination of legal protection of a trademark as a result of its nonuse, a proof presented by the rightholder of the fact that the trademark has not been used due to circumstances beyond his control may be taken into consideration.

4. Termination of legal protection of a trademark shall mean the termination of the exclusive right to this trademark.

Article 1487. **Exhaustion of the Exclusive Right to a Trademark**

Use of a trademark by other persons with respect to goods that have been introduced into civil circulation within the territory of the Russian Federation directly

by the rightholder or with his consent shall not be considered to be 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) shall transfer or shall undertake commitment to transfer in full scope the exclusive right belonging to him to the corresponding trademark with respect to all the goods or with respect to part of the goods for the individualization of which it has been registered to the other party – the recipient of the exclusive right.

2. Alienation of the exclusive right to a trademark under contract shall not be allowed if it can mislead the consumer with respect to the goods or their producer.

3. Alienation of the exclusive right to a trademark including as a non-protected element an appellation of origin for which legal protection has been granted within the territory of the Russian Federation (Paragraph 7 of Article 1483) shall be allowed only if the recipient has an exclusive right of use of such an appellation.

Article 1489. **License Contract for the Grant of the Right of Use to a Trademark**

1. Under a license contract one party, the holder of the exclusive right to a trademark (the licensor) shall grant or shall undertake the commitment to grant to the other party (the licensee) the right to use a trademark within the limits provided for by the contract with an indication or without an indication of the territory on which use shall be allowed with respect to the certain area of business activity.

2. The licensee shall be obliged to ensure the correspondence of the quality of goods produced or sold by him on which he fixes the licensed trademark to the requirements for quality established by the licensor. The licensor has the right to conduct verification on complying with this condition. The licensee and the licensor shall accept joint and several liability on requirements the licensee as a producer of the goods.

3. Grant of right to use a trademark including as a non-protected element an appellation of origin for which legal protection has been provided for within the territory of the Russian Federation (Paragraph 7 of Article 1483) shall be allowed only if the licensee has the exclusive right to use such an appellation.

Article 1490. **Form and Official 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 means of which disposition of the exclusive right to a trademark is exercised shall be made in a written form and are subject to official registration by the federal executive authority for intellectual property.

2. (Point 2 is deemed to have lost force (by Federal Law of 21 Feb., 2010 # 13-FZ)

Article 1491. **The Term of the Exclusive Right to a Trademark**

1. The exclusive right to a trademark shall be valid during ten years from the filing date of an application for official registration of a trademark with the federal executive authority for intellectual property.

2. The term of the exclusive right to a trademark shall be extended for ten years at the request of the rightholder filed during the last year of validity of this right.

The term of the exclusive right to a trademark may be extended without unlimited number of times.

At the request of the rightholder he shall be granted six months after expiration of the term the exclusive right for filing of the aforesaid request provided that an appropriate fee is paid.

3. A record on the extension of the term of the exclusive right to a trademark shall be made by the federal executive authority for intellectual property in the State Register of Trademarks and in the trademark certificate.

### 3. Official Registration of a Trademark

Article 1492. **Application for a Trademark**

1. An application for official registration of a trademark (a trademark application) shall be filed with the federal executive authority for intellectual property by a legal entity or individual entrepreneur (an applicant).

2. An application for a trademark shall relate to one trademark.

3. An application for a trademark shall contain:

1) a request for official registration of the sign as a trademark with an indication of the applicant, his legal or actual residence;

2) the claimed sign;

3) a list of goods with respect to which official registration of a trademark is sought and which are grouped according to classes of the International Classification of Goods and Services for the Purposes of Registration of Marks;

4) a description of the claimed sign;

4. An application for a trademark shall be signed by the applicant, and in case of filing of the application through a patent attorney or other representative– by applicant or his representative filing the application.

5. An application for a trademark shall be accompanied:

1) a document certifying payment of the prescribed fee for filing an application ;

2) the charter of a collective mark if the application is filed for registration of a collective mark (Paragraph 1 of Article 1511).

6. A trademark application shall be filed in Russian.

The documents accompanying an application shall be filed in Russian or another language. If these documents are filed in another language, the application shall be accompanied by their translation into Russian. The translation into Russian shall be submitted by the applicant within two months from the date of notification of the necessity to meet this requirement sent to him by the federal executive authority for intellectual property.

7. Requirements for the documents contained in the trademark application and accompanying thereof (documents of the application) shall be established by the federal executive authority responsible for normative and legal regulation in the field of intellectual property.

8. The filing date of a trademark application shall be the date of receipt by the federal executive authority for intellectual property of the documents provided for in subparagraphs 1-3 of Paragraph 3 of the present Article and if the aforesaid documents are not filed at the same time, the date of filing of the last document.

Article 1493. **Right to Learn the Documents of a Trademark Application**

1. After filing a trademark application with the federal executive authority for intellectual property, any person has the right to learn the application documents submitted on its filing date.

2. The procedure for learning the application documents and issuing of copies of such documents shall be determined by the federal executive authority responsible for normative and legal regulation in the field of intellectual property.

Article 1494. **Priority of a Trademark**

1. The priority of a trademark shall be determined as of the filing date of the trademark application with the federal executive authority for intellectual property.

2. The priority of a trademark application filed by an applicant in accordance with Paragraph 2 of Article 1502 of the present Code (divisional application) on the ground of another application of this applicant for the same sign (initial application) shall be established as of the filing date of the initial application with the federal executive authority for intellectual property, and when there is the right to an earlier priority for the initial application – as of this priority date, provided that the initial application has not been withdrawn and has not been deemed withdrawn on the date of filing of the divisional application, and when the divisional application was filed prior to taking a decision on the initial application.

Article 1495. **Convention and Exhibition Priority of a Trademark**

1. Priority of a trademark shall be determined as of 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), provided that the application for a trademark has been filed with the federal executive authority for intellectual property within six months from the aforesaid date.

2. Priority of a trademark affixed to exhibits of official or officially recognized international exhibitions organized within the territory of one of member states of the Paris Convention for the Protection of Industrial Property shall be determined as of the date on which the display of the exhibit began (exhibit priority) provided that the trademark application is filed with the federal executive authority for intellectual property within six months from the aforesaid date.

3. An applicant wishing to enjoy the right of convention or exhibit priority shall make the statement to the effect at filing a trademark application or within two months from its filing date with the federal executive authority for intellectual property and shall submit the necessary documents in support of lawfulness of such a request, or shall submit these documents with the aforesaid federal authority within three months from the filing date of the application.

4. The priority of a trademark shall be determined as of the date of international registration of the trademark by virtue of international treaties of the Russian Federation.

Article 1496. **Consequences of the Coincidence of Trademark Priority Dates**

1. If applications for identical trademarks with respect to fully or partially concurrent lists of goods have been filed by different applicants and these applications have the same priority date, the claimed trademark with respect to the goods for which the aforesaid lists concur shall be registered only in the name of one of the applicants, on the ground of the agreement reached between them.

2. If applications for identical trademarks with respects to fully or partially concurrent lists of goods have been filed by the same applicant, and these applications have the same priority date, the trademark with respect to the goods for which the aforesaid lists concur shall be registered only with respect to one of the applications selected by the applicant.

3. If applications for identical trademarks have been filed by different applicants (Paragraph 1 of the present Article), within six months from the date of receipt from the federal executive authority for intellectual property of the respective notification they shall inform this federal authority of the agreement reached by them in respect of the applications for which the official registration of a trademark is claimed. Within the same period of time, an applicant who filed applications for identical trademarks (Paragraph 2 of the present Article) shall inform of his choice.

If within the time limit respected federal executive authority for intellectual property fails to receive the aforesaid information or a request on the extension of the time limit concerned the trademark applications shall be deemed withdrawn on the ground of a decision of such federal authority.

Article 1497. **Examination of a Trademark Application and Introduction of Changes into Documents of the Application**

1. Examination of a trademark application shall be carried out by the federal executive authority for intellectual property.

Examination of an application shall include formal examination and examination of the sign claimed as a trademark (claimed sign).

2. During the period of examination of a trademark application the applicant has the right to supplement, clarify, or correct the materials of the application, including by submission of supplementary materials before the decision on it is taken.

If the supplementary materials contain a list of goods not indicated in the application on its filing date or the claimed sign of a trademark has been essentially changed, such supplementary materials shall not be accepted for examination. They shall be drawn 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 acquisition of the right to registration of a trademark or as a result of change of the designation or name of the applicant and also correction in the documents of the application of obvious and technical errors shall be introduced before the official registration of the trademark (Article 1503).

4. During the examination of the trademark application, the federal executive authority for intellectual property has the right to invite the applicant to submit supplementary materials without which the examination would be impossible.

Supplementary materials shall be submitted by the applicant within two months from the date of receipt by him of the corresponding notification or of copies of materials indicated in the return request of the applicant provided that the copies were requested by the applicant within one month from the date of receipt by him of the notification from the federal executive authority for intellectual property. If the applicant, within the time limit concerned, does not submit the requested supplementary materials or a request for extension of the time limit concerned, the application shall be deemed withdrawn on the ground of a decision of the federal executive authority for intellectual property. At the request of the applicant the time limit set forth for submission of supplementary materials may be extended by the aforesaid federal authority, but not for more than six months.

The provisions of Paragraph 2 of the present 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 sign claimed as a trademark.

Article 1498. **Formal Examination of a Trademark Application**

1. Formal examination of a trademark application shall be carried out within one month from the date of its filing with the federal executive authority for intellectual property.

2. During the formal examination of a trademark application the necessary application documents shall be checked for their compliance with the prescribed requirements. Based on the results of the formal examination the application shall be accepted for further examination or a decision on refusal to accept it for further examination shall be taken. The federal executive authority for intellectual property shall notify the applicant of the results of formal examination.

Along with the notification on a favorable result of formal examination the applicant shall be informed of the filing date of an application set under Paragraph 8 of Article 1492 of the present Code.

Article 1499. **Examination of a Sign Claimed as a Trademark**

1. Examination of a sign claimed as a trademark (examination of the claimed sign) shall be carried out on an application accepted for further examination after formal examination is over.

During the examination a claimed sign shall be checked for its compliance with the requirements of Article 1477 and Paragraphs 1-7 of Article 1483 of the present Code and the priority of the trademark shall be fixed.

2. Based on the results of the examination of the claimed sign the federal executive authority for intellectual property shall adopt a decision either to register the trademark or to reject its official registration

3. Before the adoption of a decision on the results of the examination of the claimed sign, the applicant may be notified in written form on the results of checking the compliance of the claimed sign with the requirements of the second subparagraph of Paragraph 1 of the present Article with an invitation to furnish his opinion with respect to the grounds adduced in the notification. The applicant's opinion shall be taken into consideration in the adoption of a decision on the results of the examination of the claimed sign provided that they have been submitted within six months from the date of sending the aforesaid notification to the applicant.

4. A decision on the official registration of a trademark may be revised by the federal executive authority for intellectual property prior to the registration of the trademark in connection with:

1) the receipt of an application with an earlier priority in accordance with Articles 1494, 1495, and 1496 of the present Code for identical or confusingly similar sign with respect to similar goods;

2) the official registration, as an appellation of origin, of a sign identical or confusingly similar to the trademark indicated in the decision on registration;

3) the finding of an application containing an identical trademark, or of a protected identical trademark with respect to fully or partially concurrent lists of goods with the same or an earlier priority of a trademark.

4) the change of the applicant that in case of official registration of the sign claimed as a trademark shall mislead a consumer with respect to the goods or their producer.

Article 1500. **Appeal Proceeding against Decisions on a Trademark Application**

1. Decisions of the federal executive authority for intellectual property on the refusal to examine an application for a trademark, on official registration of a trademark, on refusal of official registration of a trademark, and on recognition of an application for a trademark as withdrawn shall be appealed by the applicant by filing an appeal with the Chamber for Patent Disputes within three months from the date of receipt of the respective decision or of copies of materials opposed to the application requested from the aforesaid federal executive authority, provided that the applicant requested copies of these materials within one month from the date of receipt by him of the respective decision.

2. During the period of hearing an appeal by the Chamber for Patent Disputes, the applicant may introduce into the documents of the application the changes that are allowed, in accordance with Paragraphs 2 and 3 of Article 1497 of the present Code, provided that such changes remove the reasons that were the single ground for refusal of official registration of the trademark and the introduction of these changes makes it possible to take a decision to register the trademark.

Article 1501. **Restoration of Missed Time Limits Related to the Examination of a Trademark Application**

The time limits provided for by Paragraph 4 of Article 1497 and by Paragraph 1 of Article 1500 of the present Code, and missed by the applicant, shall be restored by the federal executive authority for intellectual property at the request of the applicant filed within six months from the date of their expiration provided that there is a confirmation in support of the reasons for the failure to comply with the time limits concerned and a respective fee is paid. A request for the restoration of a time limit concerned shall be filed by the applicant with the aforesaid federal authority along with the supplementary materials requested in accordance with Paragraph 4 of Article 1497 of the present Code or with a request on extension of the time limit for their submission or along with an appeal filed to the Chamber for Patent Disputes in accordance with Article 1500 of the present Code.

Article 1502. **Withdrawal of a Trademark Application and Division of Application**

1. A trademark application may be withdrawn by the applicant at any stage of examination, but not later than on the date of official registration of the trademark.

2. During the period of examination of the trademark application, the applicant has the right until the adoption of decision to file a divisional application for the same sign with the federal executive authority for intellectual property. Such an application shall contain a list of goods from those indicated in the initial application on the date of its filing with the said federal authority and not similar with the other goods from the list contained in the initial application, in regard to which the initial application shall remain in force.

Article 1503. **Procedure for Official Registration of a Trademark**

1. Based on the decision to effect official registration of a trademark (Paragraph 2 of Article 1499), the federal executive authority for intellectual property shall within one month from the date of receipt of a document certifying the payment

of the fee for official registration of the trademark and of issuance of the certificate for it, effect official registration of the trademark in the State Register of Trademarks.

The trademark, information on the rightholder, the priority date of the trademark, the list of goods for individualization of which the trademark has been registered, the date of its official registration, and other information relating to the registration of the trademark, and also later changes of this information shall be entered into the State Register of Trademarks.

2. In case of failure to submit, in accordance with established procedure, a document certifying the payment of the fee indicated in Paragraph 1 of the present Article, the trademark shall not been registered, and the application concerned shall be deemed withdrawn based on decision of the federal executive authority for intellectual property.

Article 1504. **Issuance of a Trademark Certificate**

1. A trademark certificate shall be issued by the federal executive authority for intellectual property within one month from the date of official registration of the trademark in the State Register of Trademarks.

2. The form of a trademark certificate and data contained in it shall be established by the federal executive authority responsible for normative and legal regulation in the field of intellectual property.

Article 1505. **Entry of Changes in the State Register of Trademarks and in the Trademark Certificate**

1. A rightholder shall inform the federal executive authority for intellectual property of any changes relating to official registration of a trademark including in designation or name of the rightholder, limitation in the list of goods for the individualization of which the trademark has been registered, change of individual elements of the trademark not changing its essence.

2. When the grant of legal protection for a trademark (Article 1512) is appealed 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 not similar with the goods the list of which remains in the original registration may be divided from the official registration of a trademark in effect with respect to several goods. Such a request shall be filed by the rightholder before the decision on the results of dispute settlement on registration of the trademark is taken.

3. Changes relating to official registration of a trademark shall be entered into the State Register of Trademarks and into the trademark certificate provided an appropriate fee has been paid.

4. The federal executive authority for intellectual property has the right, on its own initiative, introduce changes into the State Register of Trademarks and into the trademark certificate to correct evident and technical errors, after sending to the rightholder the notification concerned.

Article 1506. **Publication of Information on the Official Registration of a Trademark**

Information relating to official registration of a trademark and entered in the State Register of Trademarks in accordance with Article 1503 of the present Code shall be published by the federal executive authority for intellectual property in the official gazette promptly after the registration of the trademark in the State Register of

Trademarks or after corresponding changes have been entered in the State Register of Trademarks.

Article 1507. **Registration of a Trademark in Foreign States and International Registration of a Trademark**

1. Russian legal entities and citizens of the Russian Federation have the right to register a trademark in the foreign states or to effect its international registration.

2. An application for the international registration of a trademark shall be filed through the federal executive authority for intellectual property.

## 4. Aspects of Legal Protection of a Well-Known Mark

Article 1508. **Well-Known Mark**

1. On the request of a person considering that the trademark used by him or the sign used as a trademark is well-known in the Russian Federation, a trademark protected within the territory of the Russian Federation on the ground of its official registration or by virtue of an international treaty of the Russian Federation or a sign used as a trademark but not enjoying legal protection within the territory of the Russian Federation by a decision of the federal executive authority for intellectual property may be recognized as a well-known mark in the Russian Federation if this trademark or this sign as the result of intensive use on the date, indicated in the application, have become widely known in the Russian Federation among the corresponding consumers with respect to goods of this applicant.

A trademark and a sign used as a trademark shall not be considered as well-known marks if they have become widely known after the priority date of an identical or confusingly similar trademark of another person, intended to be used with respect to similar goods.

2. A well-known mark shall be granted the legal protection provided for by the present Code for a trademark.

The grant of legal protection to a well-known mark shall mean the recognition of the exclusive right to the well-known mark.

The legal protection of a well-known mark shall be valid within indefinite period of time.

3. The legal protection of a well-known mark shall also extend to goods non-similar to those with respect to which it was considered as well-known provided that the use by another person of the trademark with respect to the aforesaid goods will be associated by consumers with the rightholder of the exclusive right to the well-known mark and infringe the lawful interests of such a holder.

Article 1509. **Granting Legal Protection to a Well-Known Mark**

1. Legal protection shall be granted to a well-known mark based on the decision of the federal executive authority for intellectual property adopted in accordance with Paragraph 1 of Article 1508 of the present Code.

2. A trademark recognized as well-known mark shall be entered by the federal executive authority for intellectual property in the List of Well-Known Marks in the Russian Federation (List of Well-Known Marks).

3. A certificate for a well-known mark shall be issued by the federal executive authority for intellectual property within one month from the date of entering the trademark in the List of Well-Known Marks.

The form of the certificate for well-known mark and data to be included into this certificate shall be established by the federal executive authority responsible for normative and legal regulation in the field of intellectual property.

4. The data related to a well-known mark shall be published by the federal executive authority for intellectual property in the official gazette promptly after they are entered in the List of Well-Known marks.

## 5. Aspects of Legal Protection of a Collective Mark

### Article 1510. **Right to a Collective Mark**

1. An association of persons the foundation and activity of which do not contravene the legislation of the state where it has been founded has the right to register a collective mark in the Russian Federation.

A collective mark is a trademark intended for marking the goods produced or sold by persons which are the members of the said association and possessing common characteristics of their quality or other general properties.

A collective mark shall be used by each of the persons which is a member of the association.

2. The right to a collective mark shall not be alienated and shall not be the subject of a license contract.

3. A person which is a member of the association that registered the collective mark has the right to use his own trademark along with the collective mark.

### Article 1511. **Official Registration of a Collective Mark**

1. An application for registration of a collective mark (application for a collective trademark) filed with the federal executive authority for intellectual property shall be accompanied by a charter of a collective trademark which shall contain:

1) the name of the association authorized to register the collective mark on its name (the rightholder);

2) a list of persons having the right to use this collective mark;

3) the purpose of registration of the collective mark;

4) a list of and common characteristics of quality or other general properties of goods that are to be designated by the collective mark;

5) the terms of 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. Data on the persons having the right to use the collective mark shall be entered in the State Register of Trademarks and in the collective mark certificate in addition to the information provided for by Articles 1503 and 1504 of the present Code. This data as well as an extract from the charter of the collective mark on the common characteristics of quality and of other general properties of goods with respect to which this mark has been registered shall be published by the federal executive authority for intellectual property in the official gazette.

The rightholder shall inform the federal executive authority for intellectual property of changes in the charter of the collective mark.

3. In case where the collective mark is used on goods not possessing the common characteristics of their quality or other general properties, legal protection of

the collective mark shall be early terminated fully or in part based on the decision of a court taken at the request of any interested person.

4. The collective mark and an application for a collective mark may be transformed respectively into a trademark and a trademark application and *vice versa*. The procedure for such a transformation shall be established by the federal executive authority responsible for normative and legal regulation in the field of intellectual property.

### 6. Termination of the Exclusive Right to a Trademark

Article 1512. **Grounds for Appeal and Recognizing as Invalid the Grant of Legal Protection to a Trademark**

1. Appeal against the grant of legal protection to a trademark shall be considered as an appeal against a decision on the official registration of a trademark (Paragraph 2 of Article 1499) and of the recognition 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 revocation of the decision of the federal executive authority for intellectual property on registration of the trademark.

2. The grant of legal protection to a trademark may be appealed and recognized as invalid:

1) fully or in part during the whole period of validity of the exclusive right to a trademark provided that legal protection has been granted to it in contravention of the requirements of Paragraphs 1–5, 8 and 9 of Article 1483 of the present Code;

2) fully or in part within a period of five years from the date of publication of information about the official registration of the trademark in the official gazette (Article 1506) provided that the legal protection has been granted to it in contravention of the requirements of Paragraphs 6 and 7 of Article 1483 of the present Code;

3) fully during the whole period of validity of the exclusive right to a trademark provided that the legal protection has been granted to it in contravention of the requirements of Article 1478 of the present Code;

4) fully during the whole period of validity of legal protection provided that the legal protection has been granted to a trademark with later priority with respect to a recognized well-known registered mark of another person, the legal protection of which is exercised in accordance with Paragraph 3 of Article 1508 of the present Code;

5) fully during the whole period of validity of the exclusive right to the trademark provided that the legal protection has been granted to it in the name of an agent or representative of a person who is deemed to be the holder of this exclusive right in one of the member states of the Paris Convention for the Protection of Industrial Property in contravention of the requirements of the said Convention;

6) fully or in part during the whole period of validity of legal protection provided that actions of the rightholder connected with the official registration of the trademark are recognized by the established procedure as abuse of rights or an act of 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 fully or in part during the whole period of validity of the exclusive right to this trademark provided

that the legal protection has been granted to it in contravention of the requirements of Paragraph 1 of Article 1508 of the present Code.

Article 1513. **Procedure of Appealing 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 grounds and within the time limits provided by Article 1512 of the present Code by the filing of an appeal against such a grant with the Chamber for Patent Disputes or the federal executive authority for intellectual property.

2. Appeals against the grant of legal protection to a trademark on the grounds provided for by subparagraphs 1, 2, 3, and 4 of Paragraph 2 and by Paragraph 3 of Article 1512 of the present Code may be filed with the Chamber for Patent Disputes by any interested person.

3. An appeal against the grant of legal protection to a trademark on the ground provided for by subparagraph 5 of Paragraph 2 of Article 1512 of the present 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 appeal against the grant of legal protection to a trademark on the ground provided for by subparagraph 6 of Paragraph 2 of Article 1512 of the present Code shall be filed by an interested person with the federal executive authority for intellectual property.

4. Decisions of the federal executive authority 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 provisions of Article 1248 of the present Code and may be appealed in a court.

5. In case of recognition of the grant of legal protection to a trademark as invalid fully, the trademark certificate and the entry in the State Register of Trademarks shall be cancelled.

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 introduced into the State Register of Trademarks.

6. License contracts concluded before taking a decision on the recognition of the grant of legal protection to a trademark invalid shall be maintained to such an extent to which they have been implemented by the time when the decision concerned was taken.

Article 1514. **Termination of Legal Protection of a Trademark**

1. Legal protection of a trademark shall be terminated:

1) in connection with the expiration of the period of validity of the exclusive right to a trademark;

2) on the grounds of a court ruling rendered in accordance with Paragraph 3 of Article 1511 of the present Code on the pre-term termination of the legal protection of a collective trademark in connection with the use of this mark on goods that do not possess common characteristics of their quality or other general properties;

3) on the grounds of a decision taken in accordance with Article 1486 of the present Code on the pre-term termination of legal protection of a trademark in connection with its nonuse;

4) on the grounds of a decision of the federal executive authority for intellectual property on the pre-term termination of the legal protection of a trademark

in case of liquidation of the legal entity - the rightholder or the termination of the business activity of the natural person - the rightholder;

5) when the rightholder abandons the right to the trademark;

6) on the grounds of a decision of the federal executive authority for intellectual property taken at the request of an interested person on the pre-term termination of the legal protection of the trademark in case of its transformation into a sign that has fallen into public domain as the sign used to designate goods of a certain kind.

2. Legal protection of a well-known mark shall be terminated on the grounds provided for by subparagraphs 3-6 of Paragraph 1 of the present Article and also by a decision of the federal executive authority for intellectual property in case the well-known mark looses the features provided for by the first subparagraph of Paragraph 1 of Article 1508 of the present Code.

3. In case of transfer 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 court ruling on suit by an interested person provided that there is a proof that such a transfer misleads consumers with respect to the goods or their producer.

4. Termination of the legal protection of a trademark shall mean the termination of the exclusive right to this trademark.

## 7. Enforcement of the Right to a Trademark

### Article 1515. **Liability for Illegal Use of a Trademark**

1. Goods, labels, and packaging of goods on which a trademark or a confusingly similar sign are fixed illegally shall be deemed counterfeits.

2. The rightholder has the right to demand of removing from civil circulation and destroying at the expense of an infringer of counterfeit goods, labels, and packaging of the goods on which a trademark or confusingly similar sign is illegally used. In those cases when the introduction of such goods into circulation is necessary in public interests, the rightholder has the right to demand removal of the illegally used trademark or confusingly similar sign from the counterfeit goods, labels, and packaging of the goods at the expense of the infringer illegally using the trademark or confusingly similar sign.

3. A person who has infringed the exclusive right to a trademark in the performance of work or rendering of services shall be obliged to remove the trademark or confusingly similar sign from the materials that accompanied the performance of such work or rendering of services, including documentation, advertising, and signboards.

4. The rightholder has the right to demand at his option from the infringer instead of remuneration for damages payment of remuneration:

1) in the amount of from ten thousand rubles to five million rubles determined at the discretion of the court based on the nature of the infringement;

2) in double amount of the value of the goods on which the trademark is illegally fixed or in double amount of the value of the rights of the use of the trademark determined starting from the price that in comparable circumstances is usually taken for lawful use of the trademark.

5. A person who has made a precautionary marking with respect to a trademark not registered in the Russian Federation shall bear liability in accordance with the procedure provided by the legislation of the Russian Federation.

## § 3. Right to an Appellation of Origin

### 1. General Provisions

Article 1516. **Appellation of Origin**

1. An appellation of origin to which legal protection is granted is a sign that represents or contains a contemporary or historical, official or unofficial, full or abbreviated name of the country, city or rural settlement, locality, or other geographical object and also a derivative of such appellation which became known as the result of its use to designate the special properties of goods which are defined exclusively or mainly by the natural conditions and/or human factors specific for the geographical object concerned. The producers of such goods shall enjoy the exclusive right (Articles 1229 and 1519) to use this appellation.

The provisions of this Paragraph shall accordingly be applied to a sign which allows for the identification of the goods as originating from the territory of a certain geographic object, and, though it does not contain the name of that object, became known as the result the use of such sign in respect of the goods, the special properties of which correspond to the requirements set forth in subparagraph 1 of the present Paragraph.

2. A designation, which represents or contains the name of a geographical object but has fallen into public domain in the Russian Federation as a designation of goods of a certain kind not connected with the place of their production shall not be recognized as an appellation of origin.

Article 1517. **Validity of the Exclusive Right to Use an Appellation of Origin within the territory of the Russian Federation**

1. An exclusive right to use an appellation of origin shall be valid within the territory of the Russian Federation provided that it is registered by the federal executive authority for intellectual property and also in other cases provided for by an international treaty of the Russian Federation.

2. The name of a geographical object that is located in a foreign state shall be registered as an appellation of origin provided that the name of this place is protected as such an appellation in the country of origin of the goods. The holder of the exclusive right to use the aforesaid appellation of origin shall be only the person whose right to such an appellation is protected in the country of origin of the goods.

Article 1518. **Official Registration of an Appellation of Origin**

1. An appellation of origin shall be recognized and protected by virtue of official registration of such an appellation.

An appellation of origin may be registered by one or more citizens or legal entities.

2. Persons who have registered an appellation of origin shall be granted the exclusive right to use this appellation verified by a certificate provided that the goods produced by these persons meet the requirements established by Paragraph 1 of Article 1516 of the present Code.

The exclusive right to use the same appellation of origin shall be granted to any person who, within the boundaries of the same geographical object, produces goods having the same special properties.

## 2. Use of an Appellation of Origin

Article 1519. **Exclusive Right to an Appellation of Origin**

1. The rightholder shall have the exclusive right to use an appellation of origin in accordance with Article 1229 of the present Code in any manner not contrary to a law (the exclusive right to an appellation of origin), including by the means indicated in Paragraph 2 of the present Article.

2. An appellation of origin shall be considered as used if it is fixed in particular:

1) on goods, on labels, and on packaging of goods, that are produced, offered for sale, sold, shown at exhibitions and fairs or in another manner introduced into civil circulation within the territory of the Russian Federation, or are stored or transported with this purpose, or are imported into the territory of the Russian Federation;

2) on letterheads, invoices, and in other documentation and in printed publications connected with introducing the goods into civil circulation;

3) in offerings for sale of goods, and also in announcements, on signboards, and in advertising;

4) on the Internet including in a domain name and by other means of addressing;

3. Persons who do not have the respective certificate shall not use the registered appellation of origin even if in this case the real place of origin is indicated or appellation is used in translation or in connection with such words as "kind," "type," "imitation," and the like, and also the use of a similar appellation for any goods that is capable of misleading consumers with respect to the place of origin and the special properties of goods (illegal use of an appellation of origin).

Goods, labels, and packaging of goods on which appellations of origin or confusingly similar appellations are used illegally shall be deemed counterfeits.

4. Disposition of the exclusive right to use an appellation of origin, including by way of its alienation or granting to another person the right of use of this appellation shall not be allowed.

Article 1520. **Symbol of Protection of an Appellation of Origin**

The holder of a certificate on the exclusive right to an appellation of origin for notification of his exclusive right may fix along with the appellation of origin (AO) the symbol of protection in the form of the a word sign "registered appellation of origin or "registered AO", indicating that the used name is an appellation of origin registered in the Russian Federation.

Article 1521. **Validity of Legal Protection of an Appellation of Origin**

1. An appellation of origin shall be protected within the whole time of the possibility of producing the goods, the specific properties of which are exclusively or mainly determined by the natural conditions and (or) human factors specific for the geographical object concerned (Article 1516).

2. The term of a certificate of the exclusive right to an appellation of origin and the procedure for renewal shall be determined by Article 1531 of the present Code.

## 3. Official Registration of an Appellation of Origin and Grant of the Exclusive Right to an Appellation of Origin

Article 1522. **Application for an Appellation of Origin**

1. An application for the official registration of an appellation of origin and grant of the exclusive right to this appellation and also an application for the grant of the exclusive right to an earlier registered appellation of origin (an application for an appellation of origin) shall be filed with the federal executive authority for intellectual property.

2. An application for an appellation of origin shall relate to one appellation of origin.

3. An application for an appellation of origin shall contain:

1) a request for the official registration of an appellation of origin and grant of the exclusive right to such an appellation or only for the grant of the exclusive right to an earlier registered appellation of origin, indicating the applicant and also his legal or actual residence;

2) the claimed sign ;

3) the kind of goods with respect to which official registration of an appellation of origin and grant of the exclusive to such a name or only the grant of the exclusive right to the registered appellation of origin is claimed ;

4) indication of the place of origin (or production) of the goods (the borders of the geographical object), the natural conditions and/or human factors of which exclusively or mainly determined or may determine the specific properties of goods;

5) a description of the specific properties of the goods.

4. An application for an appellation of origin shall be signed by an applicant or in case of filing of the application through a patent attorney or the other representative – by the applicant or by his representative filing the application.

5. If a geographical object, the name of which is claimed as an appellation of origin, is located within the territory of the Russian Federation, an application shall be accompanied by the opinion of an authority empowered by the Government of the Russian Federation to the effect that the applicant, within the borders of the geographical object concerned, produces goods, the specific properties of which are exclusively or mainly determined by the natural conditions and/or human factors specific for the geographical object concerned.

An application for the grant of the exclusive right to an earlier registered appellation of origin located within the territory of the Russian Federation shall be accompanied by the opinion of a competent authority, 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 geographical object, goods having the specific properties indicated in the appellation of origin in the State Register of Appellations of Origin of the Russian Federation (State Register of Appellations) (Article 1529).

If a geographical object the name of which is claimed as an appellation of origin is located outside the territory of the Russian Federation an application shall be accompanied by a document which certifies the right of an applicant to the claimed appellation of origin in the country of origin.

An application shall also be accompanied by a document certifying the payment of the prescribed fee for application filing.

6. An application for an appellation of origin shall be filed in the Russian.

Documents accompanying the application shall be filed in Russian or another language. If these documents are filed in another language, the application shall be accompanied by their translation into Russian. A translation into Russian shall be submitted by the applicant within two months from the date of notifying him by the federal executive authority for intellectual property of the necessity to fulfill the said requirement.

7. The requirements to the documents contained in the application for an appellation of origin or accompanying it (application documents) shall be established by the federal executive authority responsible for normative and legal regulation in the field of intellectual property.

8. The filing date of an application for an appellation of origin shall be the date of receipt by the federal executive authority for intellectual property of the documents provided by Paragraph 3 of the present Article, and if the aforesaid documents are not filed at the same time – the filing date of the last document.

Article 1523. **Examination of the Application for an Appellation of Origin and Introduction of Changes into the Documents of an Application**

1. Examination of an application for an appellation of origin shall be carried out by the federal executive authority for intellectual property.

Examination of the application shall include a formal examination and examination of the name claimed as an appellation of origin (the claimed name).

2. During the examination of an application for an appellation of origin, the applicant has the right before the decision on it is taken to supplement, clarify, or correct the materials of the application.

If the supplementary materials change an application to its essence, these materials shall not be accepted for examination and may be filed by the applicant as an independent application.

3. During the examination of the application for an appellation of origin, the federal executive authority for intellectual property has the right to invite the applicant to submit supplementary materials without which the examination shall not be carried out.

Supplementary materials shall be submitted by the applicant within two months from the date of receipt by him of the notification concerned. On request of the applicant, this time limit may be extended provided that the request has been received prior to the expiration of the time limit concerned. If the applicant fails to comply with the time limit concerned or to reply to the notification to submit supplementary materials, the application shall be deemed withdrawn based on a decision of the federal executive authority for intellectual property.

Article 1524. **Formal Examination of the Application for an Appellation of the Place of Origin**

1. Formal examination of the application for an appellation of origin shall be carried out within two months from the date of its filing with the federal executive authority for intellectual property.

2. During the formal examination of the application for an appellation of origin, the availability of the necessary documents of the application and also their compliance with the statutory requirements shall be checked. On the results of the formal examination, the application shall be accepted for further examination or a

decision on refusal to accept the application for further examination shall be taken. The applicant shall be informed of the results of the formal examination.

Along with the notification on a positive result of formal examination of the application the applicant shall be informed of the filing date of the application established in accordance with Paragraph 8 of Article 1520 of the present Code.

Article 1525. **Examination of the Sign Claimed as an Appellation of Origin**

1. Examination of the sign claimed as an appellation of origin (examination of a claimed sign) for compliance of such a sign with the requirements of Article 1516 of the present Code shall be carried out with respect to an application accepted for further examination as the result of formal examination.

During the examination of a claimed sign, the grounds for the indication of a place of origin (or production) of goods within the territory of the Russian Federation shall also be checked.

On the application accepted for examination for the grant of the exclusive right to an earlier registered appellation of origin, shall be carried out the examination of the claimed sign for its compliance with the requirements of the second subparagraph of Paragraph 5 of Article 1522 of the present Code.

2. Before taking a decision on the results of the examination of the claimed sign in the case of an assumed refusal of official registration of an appellation of origin and/or of a grant of the exclusive right to such an appellation the applicant shall be sent a notification in written form of the results of checking the compliance of the claimed sign with the requirements of Article 1516 of the present Code, with a proposal to adduce his arguments for the reasons given in the notification. The arguments of the applicant shall be taken into consideration in taking a decision on the results of examination of the claimed sign provided that they are submitted within six months from the date of forwarding the notification concerned to the applicant.

Article 1526. **Decision Taken on the Results of the Examination of the Claimed Sign**

Based on the results of the examination of a claimed sign, the federal executive authority for intellectual property shall adopt a decision either on the official registration of the appellation of origin and on grant of the exclusive right to this appellation or refusal of official registration of the appellation of origin and/or grant of the exclusive right of use of such an appellation.

If the application for an appellation of origin contained a request to grant the exclusive right to an earlier registered appellation, the federal executive authority shall adopt a decision either to grant or refuse of granting such an exclusive right.

Article 1527. **Withdrawal of the Application for an Appellation of Origin**

An application for an appellation of origin may be withdrawn by the applicant at any stage of examination before receiving information on the official registration of the corresponding appellation of origin and/or on grant of the exclusive right to such an appellation entry in the State Register of Appellations.

Article 1528. **Appeal against Decisions on the Application for an Appellation of Origin. Restoration of Missed Time Limit**

1. Decisions of the federal executive authority for intellectual property on the refusal to accept the application for an appellation of origin for examination, on the recognition of such an application as withdrawn, and also the decisions of this

authority adopted on the results of the examination of a claimed sign (Article 1526) may be appealed by the applicant by filing an appeal with the Chamber for Patent Disputes within three months from the date of receipt of the respective decision.

2. Time limits provided by Paragraph 3 of Article 1523 of the present Code and by Paragraph 1 of the present Article and missed by the applicant shall be restored by the federal executive authority for intellectual property on request of the applicant filed within two months from the date of their expiration, provided there is a reasonable excuse for the failure to comply with the time limits concerned and a respective fee is paid.

A request on the restoration of a missed time limit shall be submitted by the applicant to the federal executive authority for intellectual property along with the supplementary materials requested in accordance with Paragraph 3 of Article 1523 of the present Code or with a request to extend the time limit for their submission or at the same time with filing an appeal with the federal executive authority for intellectual property on the grounds of Paragraph 1 of the present Article.

Article 1529. **Procedure for Official Registration of an Appellation of Origin**

1. Following a decision adopted on the results of the examination of a claimed sign (Article 1526), the federal executive authority for intellectual property shall effect the official registration of an appellation of origin in the State Register of Appellations.

2. In the State Register of Appellations there shall be entered the appellation of origin, information on the holder of the certificate of the exclusive right to the appellation of origin, an indication and description of the specific properties of goods for the individualization of which the appellation of origin has been registered, and other information relating to registration and the grant of the exclusive right to the appellation of origin, the renewal of the term of the certificate and also subsequent changes in this information.

Article 1530. **Issuance of a Certificate of the Exclusive Right to an Appellation of Origin**

1. The federal executive authority for intellectual property shall issue a certificate attesting the exclusive right to an appellation of origin within one month from the date of receipt of a document certifying payment of an appropriate fee for the issuance of a certificate of the exclusive right to an appellation of origin.

In case of failure to submit by the established procedure a document attesting to the payment of an appropriate fee, the certificate shall not be issued.

2. The form of the certificate of the exclusive right to an appellation of origin and the list of data contained in such a certificate shall be established by the federal executive authority responsible for normative and legal regulation in the field of intellectual property.

Article 1531. **Term of a Certificate of the Exclusive Right to an Appellation of Origin**

1. A certificate of the exclusive right to an appellation of origin shall be valid within ten years from the filing date of an application for an appellation of origin with the federal executive authority for intellectual property.

2. The term of the certificate of the exclusive right to an appellation of origin shall be renewed at the request of the holder of the certificate and provided that a

decision of a competent authority determined by the procedure established by the Government of the Russian Federation is submitted by him to certify that the holder of the certificate produces, within the borders of the corresponding geographical object, the goods with specific properties indicated in the State Register of Appellations.

With respect to a name that is the appellation of a geographical object located out of the territory of the Russian Federation, instead of the decision indicated in the first subparagraph of the present Paragraph the holder of the certificate shall submit a document attesting his right to the appellation of origin in the country of origin as of the filing date of an application for the renewal of the term of the certificate.

A request for the renewal of the term of a certificate shall be filed during the last year of its validity.

On request of the holder of a certificate, he shall be granted six months after the expiration of the term of the certificate to file a request to renew this term provided that an additional fee is paid.

The term of a certificate shall be renewed each time for ten years.

3. A record on renewal of the term of a certificate of the exclusive right to an appellation of origin shall be entered by the federal executive authority for intellectual property in the State Register of Appellations and the aforesaid certificate.

Article 1532. **Introduction of Changes in the State Register of Appellations and the Certificate of the Exclusive Right to an Appellation of Origin**

1. The holder of a certificate of the exclusive right to an appellation of origin shall inform the federal executive authority for intellectual property of a change in his designation or name and also any other changes relating to the official registration of the appellation of origin and to the grant of the exclusive right to this appellation (Paragraph 2 of Article 1529).

A record on change in the State Register of Appellations and the certificate shall be made subject to payment of an appropriate fee.

2. The federal executive authority for intellectual property has the right, on its own initiative, to enter changes in the State Register of Appellations and the certificate of the exclusive right to an appellation of origin to correct obvious and technical errors, having previously informed of it the holder of the certificate.

Article 1533. **Publication of Information on Official Registration of an Appellation of Origin**

Information relating to the official registration of an appellation of origin and the grant of the exclusive right to such an appellation and entered in the State Register of Appellations in accordance with Articles 1529 and 1532 of the present Code, with the exception of information containing a description of the specific properties of the goods shall be published by the federal executive authority for intellectual property in the official gazette promptly after their entry in the State Register of Appellations.

Article 1534. **Registration of an Appellation of Origin in Foreign States**

1. Russian legal entities and citizens of the Russian Federation shall have the right to register an appellation of origin in foreign states.

2. An application for registration of an appellation of origin in a foreign state shall be filed after the official registration of an appellation of origin and the grant of the exclusive right to such an appellation in the Russian Federation.

## 4. Termination of the Legal Protection of an Appellation of Origin and of the Exclusive Right to an Appellation of Origin

Article 1535. **Grounds to Appeal and Recognize as Invalid the Grant of Legal Protection to an Appellation of Origin and the Exclusive Right to such Appellation**

1. Appeal of the grant of legal protection to an appellation of origin shall mean an appeal of the decision of the federal executive authority for intellectual property on the official registration of an appellation of origin and grant of the exclusive right to this appellation and also the issuance of a certificate on the exclusive right to an appellation of origin.

Appeal of the grant of the exclusive right to an earlier registered appellation of origin shall mean an appeal of the decision on the grant of the exclusive right to an earlier registered appellation of origin and the issuance of a certificate on the exclusive right to an appellation of origin

Recognition of the grant of legal protection to an appellation of origin as invalid shall lead to the rescission of the decision on the official registration of an appellation of origin and on the grant of the exclusive right to an appellation concerned, the cancellation of the record in the State Register of Appellations and of the certificate of the exclusive right to this appellation.

Recognition of the invalidity of granting the exclusive right to an earlier registered appellation of origin shall entail the rescission of the decision on granting the exclusive right to an earlier registered appellation of origin, the cancellation of the record in the State Register of Appellations and also of the certificate of the exclusive right to this appellation.

2. The grant of legal protection to an appellation of origin shall be appealed and recognized as invalid within the whole term of protection provided that the legal protection has been granted in violation of the requirements established by the present Code. The grant of the exclusive right to an earlier registered appellation of origin shall be appealed and recognized as invalid within the whole term of the certificate of the exclusive right to an appellation of origin (Article 1531).

If the use of an appellation of origin is capable to mislead a consumer with respect to the goods or their producer in connection with the a trademark having an earlier priority, the grant of legal protection to the aforesaid appellation shall be appealed within five years from the date of publication of information on the official registration of the appellation of origin in the official gazette.

3. Any interested person, on the grounds provided in Paragraph 2 of the present Article, may file an appeal with the federal executive authority for intellectual property.

Article 1536. **Termination of Legal Protection for an Appellation of Origin and Validity of a Certificate of the Exclusive Right to such Appellation**

1. Legal protection of an appellation of origin shall be terminated if:

1) specific conditions characterizing the geographical object concerned disappear and the goods having specific properties indicated in the State Register of Appellations with respect to the said appellation of origin can not be produced;

2) a foreign legal entity, foreign citizen, or person without citizenship looses the right to the appellation of origin concerned in the country of origin .

2. The validity of the certificate of the exclusive right to an appellation of origin shall be terminated if:

1) the goods produced by the holder of the certificate have lost the specific properties indicated in the State Register of Appellations with respect to the appellation of origin concerned;

2) the legal protection of an appellation of origin has been terminated on the grounds indicated in Paragraph 1 of the present Article;

3) the legal entity has been liquidated or business activity of the individual entrepreneur has been terminated - the holders of the certificate;

4) the term the certificate has been expired;

5) the holder of the certificate files the respective request with the federal executive authority for intellectual property.

3. Any person, on the grounds provided by Paragraph 1 and by subparagraphs 1 and 2 of Paragraph 2 of the present Article may file with the federal executive authority for intellectual property a request for the termination of the legal protection of an appellation of origin and validity of a certificate of the exclusive right to the appellation concerned, and, on the grounds, provided by subparagraph 3 of Paragraph 2 of the present Article for the termination of the validity of the certificate of the exclusive right to an appellation of origin.

Legal protection of the appellation of origin and validity of the certificate of the exclusive right to the appellation concerned shall be terminated on the ground of a decision of the federal executive authority for intellectual property.

### 5. Enforcement of an Appellation of Origin

Article 1537. **Liability for Illegal Use of an Appellation of Origin**

1. A rightholder has the right to demand the removal from circulation and the destruction at the expense of an infringer of counterfeit goods, labels, and packaging on which an illegally used appellation of origin or a sign confusingly similar to it are fixed. In those cases when the introduction of such goods into circulation is determined by public interests, the rightholder has the right to demand the removal at the expense of an infringer from the counterfeit goods, labels, and packages of goods, an illegally used appellation of origin or a sign confusingly similar to it.

2. The rightholder has the right to demand at his option from the infringer instead of remuneration for damages payment of remuneration:

1) in the amount of from ten thousand rubles to five million rubles determined at the discretion of the court proceeding from the nature of the infringement;

2) in double amount of the value of the goods on which the appellation of origin has been illegally fixed.

3. A person who has made a precautionary marking with respect to an appellation of origin not registered in the Russian Federation shall bear the liability by the procedure provided by the legislation of the Russian Federation.

## § 4. Right to a Commercial Name

Article 1538. **Commercial Name**

1. Legal entities conducting business activity (including noncommercial organizations to which a right to conduct of the activity concerned has been granted in accordance with a law by their charter documents) and also individual entrepreneurs

for individualization of trade, industrial and other enterprises belonging to them (Article 132) have the right to use commercial names that do not constitute trade names and are not subject to obligatory inclusion in the charter documents nor the Single State Register of Legal Entities.

2. A commercial name may be used by the rightholder for individualization of one or several enterprises. Two or more commercial names shall not be used at the same time for the individualization of one enterprise.

Article 1539. **Exclusive Right to a Commercial Name**

1. The rightholder has the exclusive right of use of a commercial name in any manner not contrary to a law (exclusive right to a commercial name) as a means of individualization of an enterprise belonging to him, including by fixing the commercial name on signs, letterheads, bills and other documentation, in announcements and in advertising, and on goods and their packaging, if such a name possesses sufficient distinguishing features and its use by the rightholder for individualization of his enterprise is known within a specific territory.

2. The use of a commercial name capable of misleading with respect to the ownership of an enterprise to a specific person, in particular of a commercial name confusingly similar to a trade name, trademark, or a commercial name protected by the exclusive right and belonging to another person for whom the corresponding exclusive right has been arisen earlier.

3. A person who has violated the provisions of Paragraph 2 of the present Article shall be obliged on demand of the rightholder to terminate the use of the commercial name and to remunerate the rightholder for damages caused.

4. The exclusive right to a commercial name may be transferred to another person (including by contract, by way of universal legal succession and on other grounds established by a law) only as a part of an enterprise for the individualization of which the name concerned is used.

If the commercial name is used by the rightholder for the individualization of several enterprises, the transfer to another person of the exclusive right to a commercial name as a part of one of the enterprises shall deprive the rightholder of the right of use of this commercial name for the individualization of all his remaining enterprises.

5. A rightholder may grant to another person the right of use of his commercial name by the procedure and on the conditions provided by the contract of rent of an enterprise (Article 656) or contract of commercial concession (franchise) (Article 1027).

Article 1540. **Validity of the Exclusive Right to a Commercial Name**

1. The exclusive right to a commercial name used for individualization of an enterprise located within the territory of the Russian Federation shall be valid within the territory of the Russian Federation.

2. The exclusive right to a commercial name shall be terminated provided that the rightholder does not use it uninterruptedly within one year.

Article 1541. **Relationship of the Right to a Commercial Name with Rights to a Trade Name and Trademark**

1. The exclusive right to a commercial name including the trade name of the rightholder or individual elements thereof shall arise and be effective independently of the exclusive right to the trade name.

2. A commercial name or individual elements of this name may be used by the rightholder in his trademark. A commercial name included in a trademark shall be protected independently of the protection of the trademark.

## CHAPTER 77. RIGHT OF USE OF THE RESULTS OF INTELLECTUAL PROPERTY IN THE SYSTEM OF SINGLE TECHNOLOGY

### Article 1542. **Right to Technology**

1. Single technology in the meaning of the present Chapter shall be a result of technical and scientific activity expressed in objective form that includes in one or another combination the inventions, utility models, industrial designs, computer programs or other results of intellectual activity subject to legal protection in accordance with the provisions of the present Section and may serve as the technological basis for a specific practical activity in the civil or military field (single technology).

A system of single technology may also include results of intellectual activity not subject to protection on the ground of the provisions of the present Section, including technical data, and other information.

2. The exclusive rights to the results of intellectual activity that are a part of the single technology shall be considered to be and shall be subject to enforcement in accordance with the provisions of the present Code.

3. The right to use the results of intellectual activity in a system of single technology as in the system of complex object (Article 1240) shall belong to the person that organized the development of the single technology (the right to technology) based on the contracts with the holders of the exclusive rights to the results of intellectual activity included in the system of single technology. A single technology may also include protectable results of intellectual activity created by the person who has organized its creation.

### Article 1543. **Scope of the Application of the Provisions on the Right to Technology**

The provisions of the present Chapter shall be applied to relations connected with right to technology of civil, military, special, or dual purpose, created at the expense or with the involvement of funds of the federal budget or the budgets of the subjects of the Russian Federation assigned for payment for works under state contracts, under other contracts, for financing on budgets of receipts and expenditures, and also as subsidies.

The indicated provisions shall not be applied to relations that have arisen in the development of a single technology at the expense of or with the use of funds of the federal budget or the budgets of the subjects of the Russian Federation in the form of onerous budget credit.

### Article 1544. **Right of a Person, who has Organized the Development of Single Technology, to the Use of the Results of Intellectual Activity Included thereto**

1. A person who has developed a single technology at the expense of or with the involvement of funds of the federal budget or of the budget of a subject of the Russian Federation (the performer) shall enjoy the right to the developed technology with the exception of the cases when this right, in accordance with Paragraph 1 of Article 1546 of the present Code, belongs to the Russian Federation or to a subject of the Russian Federation.

2. A person, enjoying in accordance with Paragraph 1 of the present Article the right to technology, shall be obliged promptly to take the measures provided for by the legislation of the Russian Federation for recognition and receipt of his rights to the results of intellectual activity included in the system of single technology (to file applications for the grant of patents, for official registration of the results of intellectual activities, implementation with respect to the corresponding information of a secrecy regime, to conclude contracts on the alienation of the exclusive rights and license contracts with the holders of the exclusive rights to the respective results of intellectual activity included in the system of single technology, and to take other measures), if such measures have not been taken before or in the process of development of the technology.

3. In cases when the present Code shall allow different methods of legal protection of rights to results of intellectual activity included in the system of single technology, a person enjoying the right to the technology shall chose the means of protection that to the highest degree corresponds to his interests and ensures the most effective application of the single technology in practice.

Article 1545. **Obligation to Use Single Technology in Practice**

1. A person enjoying in accordance with Article 1544 of the present Code the right to technology shall be obliged to use it in practice (implementation).

Any person to whom this right is transferred or who acquires it in accordance with the provisions of the present Code shall have the same obligation.

2. The content of the obligations for implementation of technology, the time limits, other terms and the procedure for performance of this obligation, the consequences of its non-performance and the terms of termination shall be determined by the Government of the Russian Federation.

Article 1546. **Rights to Technology of the Russian Federation and Subjects of the Russian Federation**

1. The right to technology developed at the expense or with the involvement of funds of the federal budget shall belong to the Russian Federation in cases when:

1) a single technology is directly connected with ensuring the defense and security of the Russian Federation;

2) the Russian Federation before the single technology has been developed or thereafter undertook the financing of work to bring the single technology to the stage of practical application;

3) a performer fails to ensure, before the expiration of six months after finishing work for the development of the single technology, to complete all actions necessary for recognition or obtaining his exclusive rights to the results of intellectual activity that are included in the system of the technology.

2. The right to technology developed at the expense or with the involvement of funds of the budget of a subject of the Russian Federation shall belong to the subject of the Russian Federation in cases when:

1) the subject of the Russian Federation before the single technology has been developed or thereafter undertook the financing of work to bring the single technology to the stage of practical application;

2) the performer fails to ensure, before the expiration of six months after finishing works for the development of the single technology, to complete all actions necessary for recognition or obtaining his exclusive rights to the results of intellectual activity that are included in the system of the technology.

3. In cases when, in accordance with Paragraphs 1 and 2 of the present Article, the right to technology belongs to the Russian Federation or to a subject of the Russian Federation, the performer shall be obliged in accordance with Paragraph 2 of Article 1544 of the present Code to take measures for recognition and obtaining his right to the corresponding results of intellectual activity for further transfer of these rights to the Russian Federation or the subject of the Russian Federation, respectively.

4. The administration of the right to technology belonging to the Russian Federation shall be exercised in the manner determined by the Government of the Russian Federation.

The management of the right to technology belonging to a subject of the Russian Federation shall be exercised in the manner determined by the executive authorities of the corresponding subject of the Russian Federation.

5. Disposition of the right to technology belonging to the Russian Federation or a subject of the Russian Federation shall be exercised following the provisions of the present Section.

Aspects of disposition of the right to technology belonging to the Russian Federation shall be determined by the law on the transfer of the federal technologies.

Article 1547. **Alienation of the Right to Technology Belonging to the Russian Federation or to a Subject of the Russian Federation**

1. In the cases provided for by subparagraphs 2 and 3 of Paragraph 1 and by Paragraph 2 of Article 1546 of the present Code, not later than by the expiration of six months from the date of receipt by the Russian Federation or by a subject of the Russian Federation of the rights to the results of intellectual activity necessary for use of these results in the system of single technology in practice, the right to technology shall be alienated to a person interested in the implementation of the technology and possessing actual possibilities for its implementation.

In the case provided for by subparagraph 1 of Paragraph 1 of Article 1546 of the present Code, the right to technology shall be alienated to a person interested in the implementation of the technology and possessing actual possibilities for its implementation immediately after the Russian Federation loses the necessity of keeping this right for itself.

2. Alienation by the Russian Federation or by a subject of the Russian Federation of the right to technology to third parties shall be exercised onerously following a general rule upon the results of the tender.

In case if the alienation of the right belonging to the Russian Federation or a subject of the Russian Federation on the grounds of a tender, such a right shall be transferred according to the results of an auction.

The procedure for conducting a tender or auction for the alienation by the Russian Federation or a subject of the Russian Federation of the right to technology and also possible cases and procedure of transfer by the Russian Federation or a subject of the Russian Federation without conducting a tender or an auction shall be determined by the law on transfer of technology.

3. A performer who has developed the results of intellectual activity included in a system of single technology shall enjoy on the other equal conditions the priority right to the conclusion with the Russian Federation or a subject of the Russian Federation of a contract for obtaining the right to the technology.

Article 1548. **Remuneration for the Right to Technology**

1. The right to technology shall be granted without remuneration in the cases provided for by Article 1544 and Paragraph 3 of Article 1546 of the present Code.

2. In cases when the right to technology is alienated under the contract, including on the results of a tender or auction, the amount, terms, and procedure of payment for this right shall be determined by the agreement of the parties.

3. In cases when the implementation of technology has an social and economic significance or an significance for the defense or security of the Russian Federation and the amount of expenditures for its implementation makes an onerous acquisition of the right to technology economically ineffective, the transfer of rights to such technology by the Russian Federation or other rightholder who have received the respective right gratis also may be exercised gratis. Cases in which the transfer of rights to technology can be exercised gratis shall be determined by the Government of the Russian Federation.

Article 1549. **Right to Technology Belonging Jointly to Several Persons**

1. The right to technology developed with the involvement of budget funds and funds of other investors may belong at the same time to the Russian Federation, a subject of the Russian Federation, other investors in the project, the performer and other rightholders as the result of implementation of which the technology has been developed.

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 exercised by them by common consent.

3. A transaction for disposition of the right to technology made by one of the persons who jointly enjoy the right to technology shall be deemed invalid on demand of the other rightholders provided that a person who has made the transaction was not duly empowered in the case if there is a proof that the other party was aware or should have been aware of the absence of these powers.

4. The income from the use of technology, the right to which several rightholders enjoy jointly, and also from the disposition of this right shall be divided among the rightholders by the agreement among them.

5. If a part of the technology, the right to which belongs to several persons, may have original significance, an agreement among the rightholders shall determine the rights to which part of the technology belong to each of the rightholders. Part of the technology may have original significance if it shall be used independently of the other parts of this technology.

Each of the rightholders has the right as his discretion to use the respective part of the technology having original significance except as 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 exercised jointly by all the rightholders.

Income from the use of part of the technology shall go to the person possessing the rights to the part of the technology concerned.

Article 1550. **General Conditions of Transfer of Rights to Technology**

Except as otherwise provided by the present Code or other law, a person having the right to technology may at his discretion dispose of this right by its transfer fully or in part to other persons under contract or other transaction including contract on alienation of this right, license contract, or any other contract containing the elements of a contract for the alienation of right or a license contract.

The right to technology shall be transferred with respect to all the results of intellectual activity included in a system of single technology as a single whole. Transfer of rights to separate results of the number of indicated results (to a part of the technology) shall be allowed only in cases when a part of single technology shall have original significance in connection with Paragraph 5 of Article 1549 of the present Code.

Article 1551. **Conditions for Export of a Single Technology**

1. Single technology shall have practical application (implementation) primarily within the territory of the Russian Federation.

The right to technology may be transferred for the use of a single technology within the territories of foreign states with the consent of the state customer or the manager of budgetary assets in accordance with the legislation on external economic activity.

2. Transactions providing the use of a single technology outside the territory of the Russian Federation shall be subject to the official registration in the federal executive authority for intellectual property.

Nonobservance of the requirements for the official registration of the transaction shall entail its invalidity.

President of the Russian Federation
V. Putin

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