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Section I General Provisions

Article 1 Relations Governed by the Law

This Law shall govern relations arising in connection with legal protection and use of inventions, utility models and industrial designs.

Article 2 Federal executive authority on intellectual property

The Federal executive authority on intellectual property shall carry out government policy in the field of legal protection of inventions, utility models and industrial designs and shall perform functions in this field as provided hereunder.

The Federal executive authority on intellectual property in cases, stipulated hereunder, shall issue in accordance with its competence regulatory acts on the application of this Law.

Article 3 Legal Protection of Inventions, Utility Models and Industrial Designs

(1) The rights in inventions, utility models and industrial designs shall be protected by Law and shall be certified by invention patents, utility model patents and industrial design patents.

(2) The patent shall certify the priority date and the authorship of the invention, utility model or industrial design and the exclusive right to the invention, utility model or industrial design.

(3) The term of an invention patent shall be 20 years from the date of receipt of the application by the Federal executive authority on intellectual property.

The term of an invention patent for a medication, a pesticide or agrochemical, the utilization of which requires a duly issued permission, shall be extended by the Federal executive authority on intellectual property upon request from the patent owner, by a period counted from the date of the application for invention to the date of receipt of such first permission minus five years. Whereas the term of extension for the invention patent may not exceed five years. The said request shall be submitted during the validity term of the patent within six months from the date of receipt of such permission or date of patent grant depending on which expires later.

The term of a utility model patent shall be five years from the date of receipt of the application by the Federal executive authority on intellectual property. The term may be extended by the Federal executive authority on intellectual property, at the request of the patent owner, for a period not exceeding three years.

The term of an industrial design patent shall be 10 years from the date of receipt of the application by the Federal executive authority on intellectual property. The term of an industrial design patent may be extended by the Federal executive authority on intellectual property, at the request of the patent owner, for a period not exceeding five years. Procedures for extending the term of a patent for an invention, utility model or industrial design shall be established by the Federal executive authority on intellectual property.

When calculating the term, as provided hereunder, of a patent for an invention, utility model or industrial design, granted on the basis of divisional applications, the date of the application receipt shall be the date of receipt of the initial application by the Federal executive authority on intellectual property.

(4) The scope of the legal protection conferred by an invention patent or utility model patent shall be determined by the claims. The description and drawings may be used to interpret the claims.

The scope of the legal protection conferred by an industrial design patent shall be determined by the sum of its essential features as shown on the representations of the article and listed in the list of the industrial design's essential features.

(5) Provisions of this Law shall apply to secret inventions (inventions containing information that represents state secret) alongside with the special terms of their protection and utilization prescribed in Section VI-1 of the present Law.

No legal protection shall be granted under this Law for utility models and industrial designs that have been declared secret by the State.

Section II Conditions of Patentability

Article 4 Conditions of Patentability of Inventions

(1) A technical solution in any area, relating to a product (for instance a device, substance, microorganism strain, cell culture of plants or animals) or process (process of affecting a material object using material means) shall be protected as an invention.

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

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 consist of any kind of 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, 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 6 of Article 21 or as per part two of Article 25 of the present Law, and inventions and utility models that have been patented in the Russian Federation.

An invention shall be deemed industrially applicable if it can be used in industry, agriculture, public health and other sectors of the economy. Such disclosure of information, relating to the invention, by the author, applicant or any person having obtained the information directly or indirectly from them, that made information on the essence of the invention public, shall not be deemed as rendering the invention unpatentable, if the application for the invention were filed with the Federal executive authority on intellectual property within six months after said disclosure of information.

The burden of proof of the foregoing shall be on the applicant.

(2) The following shall not be recognized as patentable inventions under the present Law:

- discoveries, as well as scientific theories and mathematical methods;
- proposals concerning solely the outward appearance of manufactured articles and intended to satisfy aesthetic requirements;
- rules and methods of games, intellectual or business activities;
- computer software;
- proposals on presentation of information.

The present provisions mean that the above listed shall not be deemed

inventions only if the application for grant of patent for an invention refers to the above subject matter per se.

(3) The following shall not be deemed patentable under the present Law:

- plant varieties and animal breeds;
- topographies of integrated circuits;
- proposals that are contrary to public interest, humanitarian principles or morality.

Article 5 Conditions of Patentability of Utility Models

(1) A technical solution relating to a devise shall be protected as a utility model.

A utility model shall be recognized as patentable if it is new and industrially applicable.

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 6 of Article 21 or as per part two of Article 25 of the present Law, and inventions and utility models that have been patented in the Russian Federation.

A utility model shall be industrially applicable if it can be used in industry, agriculture, public health and other sectors of the economy. Disclosure of information, relating to the utility model, by the author, applicant or any person having obtained the information directly or indirectly from them, that made information on the essence of the utility model public, shall not be deemed as rendering the utility model unpatentable, if the application for the utility model were submitted to the Federal executive authority on intellectual property within six months after said disclosure of information. The burden of proof of the foregoing shall be on the applicant.

(2) The following shall not be protected as utility models:

- proposals concerning solely the outward appearance of manufactured articles and intended to satisfy aesthetic requirements;
- topographies of integrated circuits;
- proposals that are contrary to public interest, humanitarian principles or morality.

Article 6 Conditions of Patentability of Industrial Designs

(1) An artistic-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 protection if it is new and original. An industrial design shall be deemed new if the sum of its essential features, manifested in the representations of the article and listed in the list of the essential features of the industrial design, was not known from information generally available in the world before the priority date of the design.

When determining the novelty of an industrial design, all applications for industrial designs, provided they have earlier priority, filed in the Russian Federation by other persons, to the documents whereof any person is entitled to get access as per part two of Article 25 of the present Law, and industrial designs that have been patented in the Russian Federation, shall also be taken into account.

An industrial design shall be deemed original if its essential features determine the creative nature of the article's special aspects.

Essential features of an industrial design shall include features that determine the aesthetic and/or ergonomic characteristics of the article's outward appearance, in particular, the shape, configuration, ornament and combination of colors.

Disclosure of information, relating to the industrial design, by the author, applicant or any person having obtained the information directly or indirectly from them, that made information on the essence of the industrial design public, shall not be deemed as rendering the industrial design unpatentable, if the application for the industrial design were submitted to the Federal executive authority on intellectual property within six months after said disclosure of information. The burden of proof of the foregoing shall be on the applicant.

(2) The following shall not be recognized as patentable industrial designs:

- solutions that are determined exclusively by the technical function of an article;
- solutions that relate to architectural works (with the exception of minor architectural forms) and industrial, hydrotechnical and other stationary structures;
- solutions that relate to printed matter as such;
- solutions that relate to subject matter of unstable shape such as liquids, gaseous and dry substances and the like;
- articles that are contrary to the public interest, humanitarian principles or morality.

Section III Authors and Patent Owners

Article 7 Author of an Invention, Utility Model or Industrial Design

(1) A natural person whose creative work resulted in the invention, utility model or industrial design shall be recognized as the author thereof.

(2) Where an invention, utility model or industrial design results from joint creative work of two or more natural persons, those persons shall be recognized as the joint authors thereof. The conditions for exercising author's rights shall be determined by an agreement between them.

Natural persons shall not be recognized as joint authors where they have not made a personal creative contribution to the creation of an invention, utility model or industrial design, but have simply given the author (or authors) technical, organizational or material assistance or helped him (or them) in securing the legal rights in the industrial property subject matter or in using it.

(3) The authorship right shall be an inalienable personal right and shall be protected interminably.

Article 8 Patent Owner

(1) A patent shall be granted to:

- the author of the invention, utility model or industrial design;
- the employer in cases provided for in paragraph 2 of this Article;
- successors of the above persons.

(2) The right to be granted a patent for an invention, utility model or industrial design, created by an employee (author) in connection with the fulfillment of his employment obligations or a specific task of the employer (service invention, service utility model, service industrial design) shall belong to the employer, unless otherwise agreed in the contract between the parties.

In the event that, within four months from the date of the employer's notification by the employee (author) on the obtained result, protectable as an invention, utility model or industrial design, the employer fails to file a patent application for such invention, utility model or industrial design with the Federal executive authority on intellectual property, fails to transfer the right to be granted a patent for the service invention, utility model or industrial design to a third person, and fails to inform the employee (author) of keeping the information on the respective result secret, the right to be granted a patent for such invention, utility model or industrial design shall belong to the employee (author). In such case the employer, during the term of the patent, shall have the right to use the service invention, utility model or industrial design in his own

business, paying a compensation to the patent owner, as agreed in a contract. In the event that the employer is granted a patent for a service invention, service utility model or service industrial design, or decides to keep the information on such invention, utility model or industrial design secret, or transfers the right to be granted the patent to a third person, or fails to be granted a patent on the filed application due to reasons within his control, the employee (author), who does not have the right to be granted a patent for such invention, utility model or industrial design, shall have the right to remuneration. The amount of the remuneration and its payment procedures shall be defined in a contract between the employee (author) and the employer. In the event that the parties fail to reach an agreement on the contract terms within three months after a written proposal on these terms from one party to the other, the dispute on the remuneration may be settled in court.

The government of the Russian Federation is entitled to establish minimal rates of remuneration for service inventions, service utility models and service industrial designs.

Article 9 The right to be granted a patent for an invention, utility model or industrial design, created during the fulfillment of a state contract

(1) The right to be granted a patent for an invention, utility model or industrial design, created while carrying out work under a state contract for federal state purposes or the purposes of a state entity of the Russian Federation, shall belong to the contractor, unless the state contract stipulates that this right shall belong to the Russian Federation or a state entity of the Russian Federation, on behalf of which the state customer acts.

In case that, in accordance with the state contract, the right to be granted a patent belongs to the Russian Federation or its entity, the state customer may file a patent application within six months after a written notification from the contractor on results eligible for protection as an invention, utility model or industrial design. In the event that the state customer fails to file an application within the above time period, the contractor shall have the right to be granted a patent.

(2) In the event that a patent for an invention, utility model or industrial design, created while carrying out work under a state contract for federal state purposes or the purposes of a state entity of the Russian Federation, in accordance with Paragraph 1 hereunder, was not granted to the Russian Federation or its entity, the patent owner shall, on request of the state customer, provide to a person (persons) indicated by the customer a nonexclusive free-of-charge license to use the said invention, utility

model or industrial design to carry out work or supply products for federal state purposes or purposes of an entity of the Russian Federation.

(3) The author of an invention, utility model or industrial design, who is not the patent owner, shall be paid a remuneration by the patent owner under paragraph 1 hereunder. Provisions of Paragraph 2 Article 8 of the present Law shall apply in the payment of such remuneration.

In the event of granting a nonexclusive free-of-charge license, as provided in Paragraph 2 hereunder, remuneration to the author shall be paid by the state customer on whose request the license was granted. The remuneration shall be paid out of funds allocated to the state customer to carry out work under the state contract.

Section IV The Exclusive Right to the Invention, Utility Model or Industrial Design

Article 10 Rights and Obligations of the Patent Owner

(1) The patent owner shall have an exclusive right to the invention, utility model or industrial design. No one shall have the right to use a patented invention, utility model or industrial design without permission from the patent owner, nor to do the following, except for cases, when such actions, under the present Law, do not violate the exclusive right of the patent owner:

- import into the Russian Federation, manufacturing, exploitation, offer for sale, sale, other introduction into civil circulation or storage for such purposes of products that incorporate a patented invention, utility model, or articles incorporating a patented industrial design;
- performance of acts, listed in subparagraph two hereunder, in respect to a product obtained directly derived by a patented process. Given that, 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;
- performance of acts, stated in subparagraph two hereunder, in respect to a device, the functioning (exploitation) of which in accordance with its purpose automatically involves a patented process;
- performance of a process that uses a patented invention.

Procedures for the use of an invention, utility model or industrial design, if the patent for the invention, utility model or industrial design is shared by several persons, shall be defined in a contract between such persons. In the absence of such a contract, each of the patent owners may use the patented invention, utility model or industrial design at his discretion, but may not grant a license or assign the exclusive right (assign the patent) to a third person without consent from the other patent owners.

(2) A patented invention or utility model shall be deemed used in a product or a process, if the product contains, and the process involves each feature of the invention or utility model stated in an independent claim of the invention or utility model, or a feature equivalent to it and having become known as such in this art, prior to performance of actions stated in Paragraph 1 of this Article in respect to the product or process.

A patented industrial design shall be deemed used in an article, if such article contains all essential features of the industrial design, reflected in the representations of the article and listed in the list of essential features of the industrial design.

In the event that the use of a patented invention or utility model involves also the use of all features, listed in an independent claim of another patented invention or utility model, and in the case of use of a patented industrial design - all features, listed in the list of essential features of another patented industrial design, the other patented inventions, utility models and industrial designs shall also be deemed used.

(3) In the event that a patented invention or industrial design fail to be used or are insufficiently used by the patent owner and persons, to whom the rights thereon had been transferred, for four years from patent grant, and for a patented utility model - for three years from patent grant, which leads to insufficient offer of respective goods or services on the goods or services markets, any person, willing and ready to use the patented invention, utility model or industrial design, given the patent owner's refusal to conclude with such person a license agreement on generally accepted terms in the practice, shall have the right to start a legal action against the patent owner for a compulsory nonexclusive license to use, on the territory of the Russian Federation, such invention, utility model or industrial design, stating in his claims his proposed license terms, including the scope of use, the amount, procedures and terms of payment. In the event that the patent owner fails to prove that the non-use or insufficient use of the invention, utility model or industrial design is caused by valid reasons, the court shall decide on the grant of such license and its terms. The total amount of payments shall be established as at least the license price set in similar circumstances.

The effect of a compulsory nonexclusive license may be terminated by court upon a suit from the patent owner, if circumstances that caused the grant of such license cease to exist and their recurrence is unlikely. In such event the court shall establish the terms and procedures for cessation of use by the person, who acquired the compulsory nonexclusive license, of the rights arising from the acquirement of such license.

(4) In the event that a patent owner is unable to use an invention, to which he has an exclusive right, without infringing on the rights of an owner of another patent for an invention or utility model, who has refused to conclude a license agreement on generally accepted terms, such patent owner shall have the right to start a court action against the owner of the other patent for a compulsory nonexclusive license to use, on the territory of the Russian Federation, the invention or utility model of the owner of the other patent, stating in his claim his proposed license terms, including the scope of use, the amount and terms and procedures of payment, if the invention, to which he has an exclusive right, represents

a important technical achievement with significant economic advantages over the invention or utility model of the owner of the other patent. When granting, as per the court decision, the said license, the total amount of payments shall be established at no less than the license price, normally determined under similar circumstances. In the event of grant, as provided hereunder, of a compulsory nonexclusive license, the owner of the patent for invention or utility model, the right to use which was granted under the said license, shall also have the right to get a nonexclusive license to use the invention, in connection with which the compulsory nonexclusive license was granted, on generally accepted terms in the practice.

(5) A patent owner may transfer the exclusive right to an invention, utility model or industrial design (assign the patent) to any individual or to a legal entity. The agreement on the transfer of the exclusive right (assignment of patent) shall be registered with the Federal executive authority on intellectual property and shall not be valid without such registration.

(6) The invention, utility model or industrial design patent and also the right to obtain the same shall be transferable by succession.

Article 11 Acts Not Recognized as Infringements on the Exclusive Right of the Patent Owner

The performance of the following acts shall not constitute an infringement of the exclusive rights of the patent owner:

- use of a product, incorporating a patented invention or utility model, or of a device, incorporating a patented industrial design, in the structure, in auxiliary equipment or in the operation of transportation vehicles of foreign countries (river and marine, air, automobile and railway transport, space crafts), provided that such transportation vehicles are located on the territory of the Russian Federation temporarily or accidentally and that the said product or device are used solely for the needs of the transportation vehicle. Such acts shall not constitute an infringement of the exclusive rights of the patent owner in relation to the transportation vehicles of such foreign countries that grant similar rights in relation to transportation vehicles registered in the Russian Federation;
- scientific research on a product or process, incorporating a patented invention or utility model, or on a device, incorporating a patented industrial design, or experiments with such product, process or device;
- use of a patented invention, utility model or industrial design in emergency situations (natural calamities, catastrophes, accidents),

provided that the patent owner is notified as soon as possible and paid a commensurate compensation;

- use of a patented invention, utility model or industrial design for private, family, domestic or other needs, not related to business activities, if the purpose of such use is not to make profit (revenue);
- occasional preparation in pharmacies, based on physicians' prescriptions, of medicaments using a patented invention;
- import into the Russian Federation, utilization, offer for sale, selling, other introduction into civil circulation or storage for these purposes of a product, incorporating a patented invention, utility model, or of a device, incorporating a patented industrial design, if such product or device had been introduced into circulation in the Russian Federation earlier by the patent owner or by another person, authorized by the patent owner.

Article 12 Right of Prior Use

Any person, whether a natural person or a legal entity, who, before the priority date of the patented invention, utility model or industrial design and independently of the inventor, had conceived and was using in good faith in the territory of the Russian Federation a solution similar to the patented invention, utility model or industrial design or was making the necessary preparations for such use, shall have the right to proceed with that use free of charge, provided that the scope thereof is not extended. The right of the prior user may only be transferred by the said prior user to another natural person or legal entity together with the production unit in which the use or the necessary preparations for use have been made.

Article 13 Grant of the Right to Use the Invention, Utility Model or Industrial Design

(1) Any natural person or legal entity wishing to use a patented invention, utility model or industrial design shall be required to obtain authorization from the owner thereof (on the basis of a license contract). Under a license contract the owner of a patent (the licensor) grants, within the limits specified in the contract, the right to use the protected invention, utility model or industrial design to another person (the licensee) and the latter undertakes to pay the licensor the amounts and/or perform other acts stipulated in the contract.

An exclusive license contract affords the licensee the exclusive right to use the invention, utility model or industrial design within the limits specified in the contract, beyond which the licensor retains the right

to use the above mentioned in so far as it was not transferred to the licensee; a nonexclusive license allows the licensor, while granting the licensee the right to use the invention, utility model or industrial design, to retain all the rights deriving from the patent, including the right to grant licenses to third parties.

(2) A patent owner may file with the Federal executive authority on intellectual property a petition to grant to any person the right to use an invention, utility model or industrial design (open license). The amount of the patent maintenance fee in such case shall be reduced by 50% starting from the year following the year in which the Federal executive authority on intellectual property published the information on such petition. The person, wishing to use the said invention, utility model or industrial design, shall conclude an agreement on payments with the patent owner. In the event that the patent owner, for two years from the date of such publication, fails to receive any written proposals to conclude a payments agreement, he may, upon the expiration of two years, file a request with the Federal executive authority on intellectual property to revoke his petition. In such case the patent maintenance fee shall be paid for the whole period, since the publication on the petition, in full and further on it shall be paid in full. The Federal executive authority on intellectual property shall publish a notice on the revocation of the petition.

(3) An applicant, who is the author of an invention, when filing a patent application for an invention, may attach to it a declaration that, in the event of patent grant he undertakes to transfer the exclusive right to the invention (assign the patent), on generally practiced conditions, to the first person who expresses such a wish and conveys it to the patent owner and the Federal executive authority on intellectual property - a national of the Russian Federation or a Russian juridical person.

In the event of such declaration, the patent fees, stipulated under the present Law, in respect to the application for invention and the patent, granted on such application, shall not be charged. The Federal executive authority on intellectual property shall publish a notice on such declaration. The patent owner shall be obliged to conclude an agreement on the transfer of the exclusive right to the invention (patent assignment) with the person, expressing such wish.

The person, concluding the agreement on the transfer of the exclusive right to the invention (patent assignment) with the patent owner, shall be obliged to pay all the patent fees, from which the patent owner was relieved. From then on, the patent fees shall be paid as per the established procedures.

To get the agreement on the transfer of the exclusive right to the invention

(patent assignment) registered by the Federal executive authority on intellectual property, the request for the registration of the agreement should be supported by a document, certifying the payment of all patent fees, from which the patent owner was relieved.

In the event that, for two years from the publication on the grant of such patent, the Federal executive authority on intellectual property fails to receive any written notice on the wish to conclude an agreement on the transfer of the exclusive right to the invention (patent assignment), the patent owner may, upon expiration of two years, file a petition with the Federal executive authority on intellectual property for the revocation of his declaration. In such case, the patent fees, provided under the present Law, from the payment of which the patent owner was relieved, shall be paid.

From then on the patent fees shall be paid as per the established procedures. The Federal executive authority on intellectual property shall publish in an official bulletin a notice on the revocation of the said declaration.

(4) In the interests of national security the Government of the Russian Federation may authorize the use of an invention, utility model or industrial design without authorization from the patent owner, notifying him promptly thereon and paying him a reasonable monetary compensation.

(5) A license agreement on the use of a patented invention, utility model or industrial design shall be registered with the Federal executive authority on intellectual property. Without such registration the license agreement shall not be valid.

Article 14 Patent Infringement

(1) Any natural person or legal entity using a patented invention, utility model or industrial design in a manner contrary to this Law shall be deemed to be infringing the patent.

(2) The patent owner shall have the right to demand:

- cessation of patent infringement;
- compensation for losses, as per the civil legislation, by the patent infringer;
- publication of the court ruling to protect his business reputation;
- other remedies as provided under the Russian legislation.

(3) The exclusive licensee may also bring an action against the infringer of the patent, except where the license contract provides otherwise.

Section V Patent Grant

Article 15 Filing of Patent Application for an Invention, Utility Model or Industrial Design

(1) The application for the grant of a patent for an invention, utility model or industrial design shall be filed with the Federal executive authority on intellectual property by the person entitled to receive the patent as provided under the present Law (hereinafter - the applicant).

(2) Communication with the Federal executive authority on intellectual property may be carried out by the applicant, the patent owner or other interested person directly or through a patent attorney, registered with the Federal executive authority on intellectual property, or another representative.

Individuals with permanent residence outside the Russian Federation, or foreign legal entities or their patent attorneys shall deal with the Federal executive authority on intellectual property through patent attorneys, registered with the Federal executive authority on intellectual property. In cases, stipulated under international treaties of the Russian Federation, individual, permanently residing outside the Russian Federation, or foreign legal entities may themselves file applications, pay patent fees and carry out other acts, as provided in the international treaties of the Russian Federation.

In case that, as provided hereunder, an applicant, patent owner or other interested party deal with the Federal executive authority on intellectual property themselves or through a representative other than a patent attorney, registered with the Federal executive authority on intellectual property, the Federal executive authority on intellectual property may request an address in the Russian federation for correspondence.

The authority of the patent attorney or other representative shall be certified by a power of attorney, issued by the applicant, patent owner or other interested party.

A Russian national, permanently residing in the Russian Federation, may be registered as a patent attorney. Other requirements to a patent attorney, procedures for his registration and assessment of qualifications, as well as authority to deal with affairs, relating to the protection of inventions, utility models or industrial designs, shall be determined by the Government of the Russian Federation.

(3) A petition for the grant of a patent for an invention, utility model or industrial design shall be filed in Russian. Other documents of the application may be presented in Russian or in another language. In the event that the documents of the application are presented in another

language, their Russian translation shall be attached to the application.
(4) The petition for the grant of a patent shall be signed by the applicant, and in the event of application filing through a patent attorney or other representative - by the applicant, patent attorney, or other representative.

Article 16 Application for an Invention Patent

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

(2) The invention application shall contain:

- the request for the grant of a patent, stating the names of the inventor (or inventors) and the person (or persons) in whose name the patent is sought, and their places of residences or places of business;
- the description, disclosing the claimed invention in sufficient detail for it to be carried out;
- the claims, stating the essential features of the invention and fully supported by the description;
- the drawings or other material, where indispensable for the understanding of the disclosure;
- the abstract.

The invention application shall be accompanied by a document, certifying the payment of patent fees in the prescribed amount, or a document, certifying the exemption from patent fees, or reduction of fees, or their deferred payment.

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

(3) requirements to the documents of the invention application shall be determined by the Federal executive authority on intellectual property.

Article 17 Application for the Grant of a Utility Model Patent

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

(2) The utility model application shall contain:

- the request for the grant of a patent, stating the names of the creator (or creators) and the person (or persons) in whose name the grant of the patent is sought, and the addresses of their residences or places of business;
- the description, disclosing the claimed utility model in sufficient detail for it to be made;
- the claims, stating the essential features of the utility model and fully supported by the description;
- the drawings if they are needed to understand the essence of the utility model;
- the abstract.

The utility model application shall be accompanied by a document, certifying the payment of patent fees in the prescribed amount, or a document, certifying the exemption from patent fees, or reduction of fees, or their deferred payment.

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

(3) The conditions to be met by the elements of the utility model application shall be determined by the Federal executive authority on intellectual property.

Article 18 Application for the Grant of an Industrial Design Patent

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

(2) The industrial design application shall contain:

- the request for the grant of a patent, stating the name of the author or authors and the person (or persons) in whose name the patent is sought, and their place of residence or place of business;
- a set of representations of the article, giving a full and detailed perception of its outward appearance;
- a drawing of the general view of the article, ergonomic scheme, flow chart, if they are needed to disclose the essence of the industrial design;
- description of the industrial design;
- list of essential features of the industrial design.

The industrial design application shall be accompanied by a document, certifying the payment of patent fees in the prescribed amount, or a document, certifying the exemption from patent fees, or reduction of fees, or their deferred payment.

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

(3) The conditions to be met by the elements of the industrial design application shall be determined by the Federal executive authority on intellectual property.

Article 19 Priority of the 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 application filing with the Federal executive authority on intellectual property.

(2) The priority of an invention, utility model or industrial design may be established as per the date of the first application filing in a member state of the Paris Convention on Protection of Industrial Property (convention priority), subject to a filing with the Federal executive authority on intellectual property of an application for invention, utility model or industrial design within twelve months from the above date, and an application for an industrial design - within six months from the above date. If, for reasons beyond the control of the applicant, an application seeking Convention priority failed to be filed within the above time period, such period may be extended, but for not more than two months.

An applicant, wishing to make use of the Convention Priority right in respect to a utility model or an industrial design application, shall be obliged to inform thereon the Federal executive authority on intellectual property within two months from the date of filing of such application and present a certified copy of the first application within three months from the date of filing with the Federal executive authority on intellectual property of the application, seeking Convention Priority. An applicant, wishing to make use of the Convention Priority right in respect to an invention application, shall be obliged to inform thereon the Federal executive authority on intellectual property and present to the Federal executive authority on intellectual property a certified copy of the first application not later than within sixteen months from the date of its filing with the patent office of the member state of the Paris

Convention on Protection of Industrial Property. In case of failure to present a certified copy of the first application within the above stated time period, the priority right may be restored on request of the applicant, submitted to the Federal executive authority on intellectual property before the expiration the said time period, on condition that a copy of the first application is requested by the applicant from the patent office, with which the first application was filed, not later than within fourteen months from the filing date of the first application, and is presented to the Federal executive authority on intellectual property within two months after its receipt by the applicant. Submission of a Russian translation of the first application, if it were made in another language, may be requested by the Federal executive authority on intellectual property from the applicant only if the examination of the priority claim validity involves examination of the claimed invention's patentability.

(3) Priority may be determined by the date of receipt by the Federal executive authority on intellectual property of additional documents if they are submitted by the applicant as a separate application, provided that it has been filed within three months following the date of receipt by the applicant of a notification from the Federal executive authority on intellectual property to the effect that the additional data cannot be taken into consideration since they are recognized as modifying the essence of the claimed solution, and on condition that as of the date of filing the separate application, the application, containing the said additional data, has not been revoked and has not been recognized as revoked.

(4) The priority of an invention, utility model or industrial design may be established for the date of filing by the same applicant, with the Federal executive authority on intellectual property, of the earlier application, disclosing the invention, utility model or industrial design, and not revoked or deemed revoked as of the date of filing of the application, for which such priority is sought, if the application is filed not later than within twelve months from the date of the earlier application for an invention and six months from the date of the earlier application for a utility model or industrial design. Upon filing of application, for which such priority is sought, the earlier application is recognized as revoked.

Priority may not be established for the filing date of an application, on which earlier priority had been sought.

(5) Priority of an invention, utility model or industrial design under a divisional application shall be established for the date of filing by the same applicant with the Federal executive authority on intellectual property of the initial application, disclosing said invention, utility

model or industrial design, and, in the presence of the right to get earlier priority under the initial application - for that priority date, if, as of the filing date of the divisional application, the initial application for invention, utility model or industrial design has not been revoked, nor recognized as revoked, and the divisional application was filed before the expiration of the term, provided under the present Law, for lodging an opposition against refusal to grant a patent under the initial application, or prior to the date of registration of the invention, utility model or industrial design, as provided in Article 26 of the present Law, in case of patent grant on the basis of the initial application.

(6) Priority of an invention, utility model or industrial design may be established on the basis of several earlier applications, or additional data thereto, in compliance with conditions, stipulated in Paragraphs 2, 3, 4 and 5 of the present Article.

(7) In the event that the examination process reveals that several applicants filed applications for identical inventions, utility models or industrial designs, and that these applications have the same priority date, the patent for the invention, utility model or industrial design may be granted only on one of these applications to the person, determined by agreement between the applicants. In the event that these applications were filed by one and the same applicant, the patent shall be granted on the application chosen by the applicant.

Within twelve months from the date of receipt of the respective notification, the applicants shall inform of the agreement reached between them, and the applicant shall inform of his choice. In the event of patent grant on one of the applications, all authors, stated in the applications, shall be considered co-authors in respect to identical inventions, utility models or industrial designs. In the event that the Federal executive authority on intellectual property fails to receive, within the established time period, from the applicants (applicant) such notification or request to extend the time period, as provided in paragraph 8 of Article 21 of the present Law, the applications shall be recognized as revoked.

In the event of coincidence of priority dates of an invention and an identical utility model from the applications of one and the same applicant, after grant of patent against one of these applications, patent grant under the other application shall be possible only if a declaration of the earlier patent owner is filed with the Federal executive authority on intellectual property on the termination of the patent for the identical invention or identical utility model. The validity of the earlier patent for the identical invention or identical utility model shall be terminated from the date of publication on the patent grant against the other application,

as provided in Article 25 of the present Law. The publication on patent grant against an invention or utility model application and the publication on the termination of the earlier patent for an identical invention or utility model shall be concurrent.

Article 20 Amendment or Correction of Invention, Utility Model or Industrial Design Application Documents

(1) An applicant shall have the right to make amendments or clarifications in the application documents for an invention, utility model or industrial design, without changing the essence of the claimed invention, utility model or industrial design, prior to the decision on grant of patent for invention, utility model or industrial design, or refusal of patent under this application.

Additional data shall change the essence of the claimed invention, utility model or industrial design, if they contain features that are to be included into the claims of an invention or utility model and are missing in the description on the filing date, and also are omitted in the claims of an invention or utility model in the event that the application, on its filing date, contained the claims of the invention or utility model. Additional data 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 in the representations of the article on the filing date.

(2) Change of applicant, in case of transferring the right to patent grant, or in case of change of his name, as well as correction of obvious and technical errors in the application documents, may be done prior to the date of registration of invention, utility model or industrial design, in accordance with Article 26 of the present Law.

(3) In the event that changes in the application documents were made on the initiative of the applicant within two months from filing date, no patent fees shall be charged for such changes.

(4) Changes, made by the applicant in the application documents, shall be taken into account in the publication on the application for invention, utility model or industrial design, if such changes were presented to the Federal executive authority on intellectual property within twelve months after application filing date.

Article 21 Examination of Patent Application

(1) Upon receipt of a patent application the Federal executive authority on intellectual property shall carry out a formal examination to verify the presence of documents provided for by Paragraph 2 of Article 16 of

this Law and their conformity to prescribed conditions.

(2) Where the applicant files additional elements relating to the application under Article 20 of this Law it shall be ascertained whether they modify the subject matter of the claimed invention.

The additional elements that modify the subject matter of the claimed invention shall not be taken into consideration for the purposes of the examination, and the applicant may submit them as a separate application, of which possibility the applicant shall be notified.

(3) Upon completion of the formal examination the applicant shall be promptly notified of this fact and the filing date.

(4) Where the documents contained in the application are not in order the applicant shall be invited to furnish the corrected or missing documents within two months from the date of the receipt of such invitation. If the applicant fails, within the prescribed time limit, to furnish the documents in question or to file a request for the extension of the time limit the application shall be deemed to have been recalled. The time limit may be extended by the Federal executive authority on intellectual property by no more than ten months from the date of its expiry.

(5) If the application does not fulfil the unity of invention requirement the applicant shall be invited to state, within two months following the date of his notification to that effect, which of the claimed inventions should be examined, and, if necessary, to correct the documents in the application. Other inventions claimed in the original application may be submitted as divisional applications. If the applicant fails within the prescribed time limit to state which of the claimed inventions should be examined and to furnish appropriate documents, where they are necessary, the examination shall be carried out only in respect of the invention that comes first in the claims.

(6) The particulars of the application in respect of which the formal examination finding is favorable shall be published by the Federal executive authority on intellectual property upon expiry of a period of 18 months from the date of receipt of the said application, except where, before the expiry of 12 months from the filing date, the application was recalled or considered recalled or it served as grounds for the registration of an invention under Article 26 of this Law. The list of published particulars shall be determined by the Federal executive authority on intellectual property.

After the publication of the particulars of the application any person shall have the right to familiarize himself with its documents unless the application has been recalled or considered to have been recalled on the date of publication of such particulars. In the case of the publication

of the particulars of the application that on the date of such publication was recalled or deemed to have been recalled, such particulars shall not be included in the prior art in the processing of subsequent applications from the same applicant filed with the Federal executive authority on intellectual property before the expiry of 12 months from the date of publication of the said particulars. The procedure governing access to the documents in the application shall be established by the Federal executive authority on intellectual property.

At the request of the applicant submitted before the expiry of 12 months from the filing date the Federal executive authority on intellectual property may publish the particulars of the application before the expiry of 18 months after the date of its filing.

The inventor may waive his right to be identified as such in the published particulars of the application.

(7) Upon successful completion of the formal examination, a substantive examination of the patent application shall be conducted at the request of the applicant or third parties that may be submitted to the Federal executive authority on intellectual property within three years after the filing date. The Federal executive authority on intellectual property shall inform the applicant about the receipt of requests from third parties. The time allocated for the submission of a request about the conduct of a substantive examination may be extended by the Federal executive authority on intellectual property by a period not exceeding two months at the request of the applicant submitted before the expiry of the three-year period after the filing date under the proviso that the request be accompanied by a document proving the payment of the required patent fee. Where the request about the conduct of a substantive examination is not submitted within the prescribed time, the application shall be deemed recalled.

The substantive examination of a patent application shall include a prior art search in respect of the claimed invention and a patentability check stipulated by Article 4 of this Law.

Upon expiry of six months after the beginning of the substantive examination the applicant shall be sent a search report, unless the application claims a priority earlier than the filing date and if the request for the conduct of substantive examination was submitted simultaneously with the filing of the application.

The time allocated for the sending of a search report to the applicant may be extended by the Federal executive authority on intellectual property if the necessary information source has to be obtained from other organizations or the characterization of the claimed invention is such

as to make information search impossible, of which fact the applicant shall be notified.

Information search in respect of the claimed invention belonging to the categories of subject matter in paragraphs 2 and 3 of Article 4 of this Law shall not be conducted, of which fact the applicant shall be notified within six months of the start of the substantive examination.

The manner of the conduct of information search and the provision of the search report shall be established by the Federal executive authority on intellectual property.

(8) During the substantive examination the applicant may be requested to furnish additional elements (including amended claims), where such elements are indispensable for the purposes of the examination. The additional elements requested by the examiner shall be furnished within two months after receipt by the applicant of the request or the copies of the documents cited in the notice of opposition, provided that the applicant has requested the said copies within one month from the date of receipt of the examiner's request. Where the applicant has failed to furnish, within the prescribed time limit, either the additional elements requested by the examiner or the request for extension of the said time limit, the application shall be deemed to have been recalled. The time limit prescribed for the furnishing by the applicant of additional elements may be extended by the Federal executive authority on intellectual property by a period not exceeding ten months from the date of the expiry of the said time limit; and, where good motives have been provided for the impossibility of complying with the prescribed time limit, the Federal executive authority on intellectual property may extend it by a period exceeding ten months from its expiry.

Where the substantive examination finding is that the claimed invention, as defined by the applicant in the claims, meets the criteria of patentability, the Federal executive authority on intellectual property shall decide to grant a patent for the invention corresponding to the said claims and containing a priority date.

Where the substantive examination in respect of a patent application finds that the claimed invention, as defined by the applicant in the claims, does not meet the criteria of patentability, the grant of a patent shall be refused.

Before a decision is taken the applicant shall be sent a notification about the results of the patentability check of the claimed invention along with an invitation to comment on the motivation offered. The applicant's counter-arguments shall be taken into account when a decision is taken about the results of the substantive examination, provided that

such counter-arguments are furnished within six months after the date of the sending of the said notification.

(9) Where the applicant wishes to oppose a decision to refuse the grant of patent, a decision to grant a patent or a decision to consider the application as recalled, he may do so to the Patent Disputes Chamber of the Federal executive authority on intellectual property (hereinafter referred to as the Patent Disputes Chamber) within six months following the date of the receipt of the decision or the copies of the documents cited in the notice of opposition and referred to in the decision to refuse the grant of a patent, provided that he has requested the Federal executive authority on intellectual property to send the said copies within two months following the date of the receipt by the applicant of the decision taken in respect of the patent application.

The opposition procedure (submission and processing) shall be established by the Federal executive authority on intellectual property.

The decision of the Patent Disputes Chamber shall be approved by the head of the Federal executive authority on intellectual property and become effective from the date of such approval; it may be contested in a court of law.

(10) Where the preliminary examination of an application has produced a favorable result, the applicant or a third party may request that a prior-art search be carried out in respect of the said application in order to determine whether the claimed invention meets the criteria of novelty and inventive step. The procedure and modalities for conducting the search and communicating its results shall be determined by the Federal executive authority on intellectual property.

(11) The applicant shall have the right to acquaint himself with all materials cited in the examiner's request, the examination findings or the search report. The Federal executive authority on intellectual property shall furnish copies of patent documents requested by the applicant within one month of the date of receipt of the request.

(12) If the applicant fails to respect the time limits for the furnishing of documents or additional elements at the examiner's request, the request for the conduct of an examination as to substance or the filing of exception with the Patent Disputes Chamber, such time limits may be reinstated by the Federal executive authority on intellectual property, provided that the applicant gives good reasons for the delay and provides proof of the payment of the prescribed fee.

The request for such reinstatement shall be made by the applicant not later than twelve months following the expiry of the corresponding time limit. The said request shall be submitted to the Federal executive

authority on intellectual property simultaneously with the documents or additional elements requested by it, or a request for the extension of the time limit for the furnishing of these documents or elements, or a request for the conduct of an examination as to substance, or simultaneously with the filing of an opposition with the Patent Disputes Chamber.

Article 22 Provisional Protection

(1) During the period between the date of publication of the particulars of the application and the date of publication of the particulars of the patent grant the claimed invention shall enjoy provisional protection within the scope of the published claims but anyway not in a scope greater than that defined by the claims contained in the decision on the grant of a patent. (Federal Law of 07.02.2003 No 22-FZ)

(2) The provisional protection shall be deemed as nonhappening where the patent application has been recalled or is deemed to have been recalled, or a decision to refuse the grant of a patent has been taken in respect of the patent application and the possibility to oppose it provided by this Law has been exhausted.

(3) Any natural person or legal entity using the claimed invention during the period specified in Paragraph 1 of this article shall pay compensation to the owner of the patent after the grant thereof in an amount to be determined by agreement between the parties.

(4) The provisions of Paragraph 3 of this Article shall apply to inventions, utility models and industrial designs from the date of receipt by the natural person or legal entity using them of the notification by the applicant about the filing of a patent application, provided that as regards inventions the said date preceded the publication of the particulars of the application, and as regards utility models and industrial; designs - preceded the publication of the particulars of the patent grant.

Article 23 Examination of Utility Model Applications

(1) An examination conducted in respect of an application for a utility model filed with the Federal executive authority on intellectual property shall verify that all the necessary documents required under Paragraph 2 of Article 17 of this Law have been furnished and are in order, that there is compliance with the unity of utility model requirement and that the claimed solution is protectable as a utility model. There shall be no patentability check required by Paragraph 1 of Article 5 of this Law. The conduct of the examination of a utility model application shall be governed by the appropriate provisions of Paragraphs 2, 4, 5, 9, 11 and 12 of Article 21 of this Law.

(2) Where the examination finds that the application for a utility model has been filed in respect of a technical solution protectable as a utility model and the documents in the application are in order, the decision to grant a patent with a filing date and a priority date is taken. Where the claims in the application contain features that were not part of the specification at the time of filing, if the application for a utility model contained such claims at the moment of its filing, the applicant shall be requested to exclude such features from the claims.

Where the examination finds that the application for a utility model was submitted in respect of subject matter unprotectable as a utility model, the decision shall be taken to refuse the grant a patent for a utility model.

(3) The applicant or a third party may request the conduct of a prior art search in respect of the claimed utility model, the result of which will be used in the patentability check. The appropriate procedure for the conduct of a prior art search and communicating the findings thereof shall be determined by the Federal executive authority on intellectual property.

(4) Where the examination of a utility model application finds that its subject matter constitutes an official secret, the documents of the application shall be classified in a manner provided for by the official secrets legislation. The applicant shall be informed about the possibility to recall the application or transform it into an application for a secret invention. The examination shall be suspended pending the receipt from the applicant of an appropriate petition or the declassifying of the application.

Article 24 Examination of Industrial Design Application

(1) A formal examination conducted in respect of an application for an industrial design filed with the Federal executive authority on intellectual property shall verify that all the necessary documents required under Paragraph 2 of Article 18 of this Law have been furnished and are in order; where the formal examination finding is favorable, substantive examination shall be conducted including the patentability check required by Article 6 of this Law.

(2) The conduct of the formal examination of an industrial design application shall be governed by the appropriate provisions of Paragraphs 2, 3, 4, 5, 8, 9, 11 and 12 of Article 21 of this Law.

Article 25 Publication of Information about the Grant of Patent

The Federal executive authority on intellectual property shall publish

in its official bulletin information about the grant of patent including the names the author (authors) if the person (persons) in question did not waive the right to be cited as such, the name of the patent owner, the title and the claims of the invention or the utility model, or a list of the essential features of an industrial design and its graphic representation. The complete list of information published shall be determined by the Federal executive authority on intellectual property. After the publication of information about the grant of patent, utility model or industrial design any person shall have the right to familiarize himself with the documents of the application and the search report. The procedure for such familiarization shall be determined by the Federal executive authority on intellectual property.

Article 26 Registration of Inventions, Utility Models and Industrial Designs; Grant of Patents

(1) The Federal executive authority on intellectual property shall register the invention in the Official Register of Invention of the Russian Federation, shall register the utility model in the Official Register of Utility Models of the Russian Federation, and shall register the industrial design in the Official Register of Industrial Designs of the Russian Federation (hereinafter referred to as the Registers) and shall grants a patent for the invention, utility model or industrial design respectively.

Where protection is sought by several persons, only one patent shall be granted.

A fee shall be paid for the registration and grant of a patent, utility model or industrial design.

The registration and grant of patent shall be refused and the corresponding application considered to have been recalled in the case of failure to furnish, using the established procedure, a document proving the payment of the said fee.

(2) The layout of the patent and the list of particulars contained therein shall be determined by the Federal executive authority on intellectual property.

(3) The Federal executive authority on intellectual property shall rectify obvious and clerical errors in the granted patent for an invention, utility model or industrial design and/or the corresponding Register.

(4) The Federal executive authority on intellectual property shall publish in its official bulletin information about any changes in the records in the Registers.

Article 27 Withdrawal of Application for Grant of Patent for Invention, Utility Model or Industrial Design

The applicant shall have the right to withdraw the application for the grant of patent for invention, utility model or industrial design not later than the date of the recordal of the invention, utility model or industrial design in the corresponding Register.

Article 28 Conversion of Application

Prior to the publication of the particulars of the invention application but anyway not later than the date of the decision to grant a patent for the invention the applicant may convert the said application into a utility model application by filing a request to that effect, with the exception of the case where a declaration provided for by Paragraph 3 of Article 13 of this Law is attached to the application. The conversion of a utility model application to an invention application is possible prior to the date of the decision to grant a patent, and in the case of a decision to refuse the grant of patent prior to the exhaustion of the possibility provide by this Law to contest this decision.

The converted application shall have the priority date and the filing date of the invention or utility model respectively.

Section VI LAPSE AND RENEWAL OF PATENT

Article 29 Invalidation of Patent, Utility Model or Industrial Design

(1) A patent for an invention, utility model or industrial design may, at any time during its period of validity, be invalidated in part or in full in the following cases:

- 1) failure of the patented invention, utility model or industrial design to meet patentability conditions stipulated by this Law;
- 2) the claims of the invention or the utility model or the list of essential features of the industrial design cited in the decision to grant the patent contain features that on the filing date were not part of the specification of the invention or the utility model or of the claims of the invention or the utility model, if on the date of its filing the application contained claims, or on the graphic representation of the product;
- 3) the grant of a patent where there have been several applications for identical inventions, utility models or industrial designs having the same priority date in breach of the conditions provided for in Paragraph 7 of Article 19 of this Law;
- 4) the patent was granted in the name of a person who is not the author or patent owner under this Law, or without citing the name of the author or patent owner under this Law.

(2) The notice of opposition filed on the grounds specified in Subparagraphs 1 - 3 of Paragraph 1 of this Article shall be submitted to the Patent Disputes Chamber.

The procedure for submitting a notice of opposition to the grant of a patent to the Patent Disputes Chamber and the procedure for processing it shall be determined by the Federal executive authority on intellectual property.

The decision of the Patent Disputes Chamber shall be approved by the head of the Federal executive authority on intellectual property and become effective on the date of its approval; it may be contested in the courts.

(3) A patent for an invention, utility model or industrial design shall be invalidated in part or in full on the strength of a decision taken in respect of the notice of opposition submitted in accordance with Paragraph 2 of this Article, or an effective court decision including one taken in respect of the grounds set forth in Paragraph 4 of Paragraph 1 of this Article.

The patent for an invention, utility model or industrial design that has been declared invalid in full or in part shall be voided. If the patent has been deemed invalid in part, a new patent shall be granted.

Article 30 Early Termination of a Patent for Invention, Utility Model or Industrial Design

The validity of a patent for an invention, utility model or industrial design shall be subject to early termination in the following cases:

- on the strength of a petition submitted by the patent owner to the Federal executive authority on intellectual property - from the date of such petition. Where the patent has been granted for a group of inventions, utility models or industrial designs, and the petition of the patent owner has been submitted in respect of the entire group, the patent shall be invalidated only in respect of the invention, utility model or industrial design cited in the petition;
- in the case of failure to pay in due time the maintenance fee in respect of the invention, utility model or industrial design - from the date of the expiry of the prescribed term for the payment of the maintenance fee.

Article 30-1 Restoration of Patent for Invention, Utility Model or Industrial Design. Right of Post-grant Use

(1) The patent for an invention, utility model or industrial design invalidated because of non-payment of the maintenance fee may be restored at the request of the person who owned the patent for an invention, utility model or industrial design. Such request shall be submitted to the Federal executive authority on intellectual property within three years following the expiry of the term prescribed for the payment of the said fee but anyway before the expiry of the duration of the patent stipulated by this Law. Documentary proof of the payment of the renewal fee shall be attached to the request.

(2) The Federal executive authority on intellectual property shall publish in its official bulletin information about the restoration of the patent for an invention, utility model or industrial design.

(3) Any person that during the period between the invalidation of the patent for an invention, utility model or industrial design and the date of publication in the official bulletin of the Federal executive authority on intellectual property of information about the restoration of the patent had begun using the patented invention, utility model or industrial design or had made during the said period necessary preparations with a view to such use, shall retain the right to its subsequent free use without expanding the scope of such use (the right of post-grant use).

Section VI-1 PROTECTION OF SECRET INVENTIONS

Article 30-2 Filing and Processing of Applications for the Grant of a Patent for a secret Invention

(1) Applications for the grant of a patent for secret inventions classified as "especially important" or "top secret" as well as for secret inventions in the fields of armaments, war materiel, intelligence, counterintelligence and operative - investigative activities classified as "secret" shall be filed depending on the respective subject matter with federal agencies authorized by the Government of the Russian Federation (hereinafter referred as the authorized agencies). Other applications for the grant of a patent for secret inventions shall be filed with the Federal executive authority on intellectual property.

(2) Where the Federal executive authority on intellectual property finds that the application contains official secrets the said application shall be classified in accordance with procedure established by legislation on official secrets, and shall henceforth be considered to be an application for the grant of a patent for a secret invention.

Security classification of applications filed by foreign subjects or foreign legal entities shall not be allowed.

(3) The processing of an application for a patent for a secret invention (hereinafter "application for a secret invention") shall be governed by the provisions of Article 21 of this Law. There shall be no publication of the particulars of such applications required by Paragraph 6 of Article 21 of this Law.

Notices of opposition to decisions taken in respect of an invention, utility model or industrial design by the authorized agency shall be processed in accordance with procedure established by it. Decisions taken in respect of notices of opposition may be contested in the courts.

(4) In the determination of novelty of a secret invention prior art shall include, provided they have an earlier priority date, secret inventions patented in the Russian Federation and secret inventions in respect of which USSR author's certificates had been granted, provided their security classification rating is not higher than that of the invention whose novelty is being determined.

(5) Provisions of Article 28 of this Law regarding the conversion of an application for an invention into an application for a utility model shall not be applied to applications for secret invention.

(6) The filing of applications for secret inventions, their processing and handling shall comply with the legislation on official secrets.

**Article 30-3 Registration and Grant of Patent for Secret Invention.
Information about Secret Inventions**

(1) The registration of a secret invention in the Official Register of Inventions of the Russian Federation and the grant of a patent for it shall be carried out by the Federal executive authority on intellectual property or, where the decision about the grant of a patent for a secret invention had been taken by an authorized agency, by the said agency. The authorized agency that registered the secret invention and granted a patent for it shall inform the Federal executive authority on intellectual property to that effect.

The Federal executive authority on intellectual property or the authorized agency shall rectify obvious and clerical mistakes in the patent for a secret invention they granted or in the register.

(2) Information about applications and patents for secret inventions or changes concerning secret inventions in the registers shall not be published. Any disclosure of information about such patents shall conform to the official secrets legislation.

**Article 30-4 Changes in Security Classification Rating and
Declassification of Inventions**

(1) Changes in security classification rating and declassification of inventions, as well as changes in and removal of security classification stamps from the application documents and the patent for a secret invention shall be carried out in accordance with procedure established by the official secrets legislation.

(2) Where it becomes necessary to heighten the security classification rating of an invention the Federal executive authority on intellectual property shall turn over the application documents depending on the subject matter to the appropriate authorized agency. Subsequent processing of an application, proceedings in respect of which have not been completed by the Federal executive authority on intellectual property by the time of the heightening of the security classification rating, shall be carried out by the authorized agency. Where it becomes necessary to lower the security classification rating of the invention, subsequent processing of the application for a secret invention shall be carried out by the same authorized agency that processed the application.

(3) Where it becomes necessary to declassify an invention the authorized agency shall turn over the declassified application documents to the Federal executive authority on intellectual property. Subsequent processing of the application proceedings in respect of which have not been completed by the authorized agency by the time of the declassification,

shall be carried out by the Federal executive authority on intellectual property.

Article 30-5 Invalidation of Patent for Secret Invention

The notice of opposition to the grant by an authorized agency of a patent for a secret invention on grounds provided for in Subparagraphs 1-3 of Paragraph 1 of Article 29 of this Law shall be filed with the said authorized agency and processed in accordance with its procedure. The decision of the authorized agency in respect of the notice of opposition shall be approved by the head of the said agency and become effective from the date of such approval; the decision may be contested in the courts.

Article 30-6 Exclusive Right to Secret Invention

(1) The use of a patented secret invention, the transfer of the exclusive right to a secret invention (cession of a patent) and the granting of the right to use a secret invention to another person shall conform to the official secrets legislation.

(2) The license agreement for the use of a patented secret invention shall be registered at the agency that issued the patent for a secret invention or its successor, and, where there is no successor, at the Federal executive authority on intellectual property. Without such registration the license agreement shall be invalid.

(3) Declarations about an open license and the transfer of the exclusive right to the invention (cession of a patent) provided for by Paragraphs 2 and 3 respectively of Article 13 of this Law cannot be submitted in respect of a secret invention. Declarations submitted in respect of such an invention shall not have the legal effects provided for by the said paragraphs.

(4) Involuntary licenses in respect of a secret invention provided for by Paragraphs 3 and 4 of Article 10 of this Law shall not be granted.

(5) The use of a patented secret invention by a person that was not aware and could not be reasonably aware of the existence of a patent for the invention shall not be deemed a breach of the patent owner's right to the secret invention, with the exception of actions provided for by Article 11 of this Law.

After the declassification of the invention or the notification of the said person by the patent owner about the existence of a patent for the invention, the said person shall discontinue using the patented invention or enter into a license agreement with the patent owner, unless there existed the right to prior use.

Section VII PROTECTION OF RIGHTS OF PATENT OWNERS AND INVENTORS

Article 31 Settlement of Disputes in Court Proceedings

The competence of the courts shall extend to disputes over:

- the authorship of an invention, utility model or industrial design;
- the identification of the patent owner;
- breach of the exclusive right to an invention, utility model or industrial design;
- the conclusion and execution of agreements on the transfer of the exclusive right (cession of patent) and license agreements for the use of inventions, utility models and industrial designs;
- the right of prior use;
- the right of subsequent use;
- the amount, time and manner of the payment of remuneration to the inventor or creator of a utility model or industrial design in accordance with this Law;
- the amount, time and manner of the payment of compensations provided for by this Law;
- other disputes relating to the protection of rights certified by the patent.

Article 32 Responsibility for Breaching This Law

Breach of this Law entails civil-law, administrative or criminal-law responsibility in accordance with the legislation of the Russian Federation.

Section VIII FINAL PROVISIONS

Article 33 Patent Fees

The performance of any legal acts in relation to a patent shall be subject to the payment of a patent fee. A list of acts for which fees are payable, the amount, time and manner of payment thereof, as well as grounds for exemption from, reduction of or reimbursement of a fee shall be determined by the Government of the Russian Federation.

Article 34 Promotion by the State of the Creation and Use of Inventions, Utility Models and Industrial Designs

The State shall promote the creation and use of inventions, utility models and industrial designs and shall grant inventors and economic entities using them tax privileges, favorable credit terms and other benefits in accordance with the legislation of the Russian Federation.

Article 35 Patenting of Inventions or Utility Models Abroad

(1) The application for an invention or utility model created in the Russian Federation may be filed abroad or with international organizations upon the expiry of six months from the filing of the corresponding application with the Federal executive authority on intellectual property, unless within the said period the applicant has been notified that the application contains state secrets. An application for an invention or utility model may be filed before the above time limit but anyway after the conduct at the request of the applicant of a check with a view to determining whether the application contains official secrets. The procedure for conducting a check with a view to determining whether the application contains official secrets 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 corresponding application with the Federal executive authority on intellectual property, provided that the application under the Patent Cooperation Treaty (international application) has been filed with the Federal executive authority on intellectual property as the Receiving Patent Office and the Russian Federation has been designated as the country in which the applicant intends to obtain a patent, and provided that the Eurasian application has been filed through the intermediary of the Federal executive authority on intellectual property.

Article 36 Rights of Foreign Nationals and Legal Entities

Foreign natural persons and legal entities shall, on the basis of international treaties to which the Russian Federation is party, or on the basis of reciprocity, enjoy the rights provided for in this Law on an equal basis with natural persons and legal entities of the Russian federation.

Article 37 International Treaties

Where an international treaty to which the Russian Federation is party contains provisions different from those specified in this Law, the former shall prevail.

Article 37-1 International and Eurasian Applications Having the Effect of Applications Regulated by this Law

(1) The Federal executive authority on intellectual property shall begin processing of an international application for an invention or a utility model filed under the Patent Cooperation Treaty and designating the Russian Federation as the state in which the applicant intends to obtain a patent for the invention or utility model before the expiry of thirty one months from the date of priority claimed in the international application, or, at the applicant's request, before such expiry, provided that the international application was filed in Russian or the applicant furnished, prior to such expiry, to the Federal executive authority on intellectual property a translation into Russian of the request 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 on intellectual property of a translation into Russian of the petition for the grant of a patent for the invention or utility model making part of the international application may be replaced by the submission of a petition for the grant of patent provided for by this Law.

In the case of failure to submit the said documents within the time limits stipulated the validity of the international application in respect of the Russian Federation under the Patent Cooperation Treaty shall be terminated.

The period of time provided by Paragraph 3, Article 20 of this Law for making changes in the application documents shall begin on the date of the beginning of processing of an international application by the Federal executive authority on intellectual property in accordance with this Law.

(2) The processing of a Eurasian application for an invention having in accordance with the Eurasian Patent Convention the effect of an application

for an invention in this Law shall begin on the date of receipt by the Federal executive authority on intellectual property of a certified copy of the Eurasian application from the Eurasian Patent Office. The period of time provided by Paragraph 3, Article 20 of this Law for making changes in the application documents shall begin on the same date.

(3) The publication in Russian of an international application by the International Bureau of the World Intellectual Property Organization pursuant to the Patent Cooperation Treaty, or the publication of a Eurasian application by the Eurasian Patent Office pursuant to the Eurasian Patent Convention shall replace the publication of the particulars of the application provided for by Paragraph 6, Article 21 of this Law.

Article 37-2 Eurasian Patent and Patent of the Russian Federation for Identical Inventions

Where a Eurasian patent and a patent of the Russian Federation for identical inventions or an identical invention and a utility model having the same priority date belong to different patent owners, such invention or the invention and the utility model may only be used on the condition that the rights of all the patent owners are observed.

Where a Eurasian patent and a patent of the Russian Federation for identical inventions or an identical invention and a utility model having the same priority date belong to the same person, this person may grant to any person the right to use such inventions or the invention and the utility model in accordance with a license agreement concluded on the basis of these patents.