

RUSSIA

Trademark Law

#3520-1 of September 23, 1992, as amended by the federal law 166-FL on
December 11, 2002

ENTRY INTO FORCE: December 27, 2002

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LAW ON DECEMBER 11, 2002 # 166-FL "ON INTRODUCING CHANGES AND AMENDMENTS
INTO THE LAW OF THE RUSSIAN FEDERATION "ON TRADEMARKS, SERVICE MARKS AND
APPELLATIONS OF ORIGIN OF THE GOODS" "

SECTION I TRADEMARK AND SERVICE MARK

Chapter 1 TRADEMARK AND SERVICE MARK, THEIR LEGAL PROTECTION

Article 1 Trademark and Service Mark

A trademark and a service mark (hereinafter "trademark") are signs capable of individualizing goods, active jobs or services (hereinafter "goods") of natural persons or legal entities.

Article 2 Legal Protection of Trademark

1. A trademark shall be legally protected in the Russian Federation on the basis of its State registration (hereinafter "registration") effected through the procedure set forth by this Law or by virtue of international treaties to which the Russian Federation is a party.
2. The right to a trademark shall be protected by the Law.
3. A legal entity and a natural person engaged in business activities shall hold an exclusive right to a trademark (right holder).

Article 3 Trademark Certificate

1. A Trademark Certificate shall be issued for a registered trademark.
2. The Certificate shall attest to the priority of the trademark, the exclusive right to a trademark in respect of the goods listed in the certificate.

Article 4 Exclusive Right to Trademark

1. A right holder shall have the exclusive right to use and to prevent others from using the trademark.

Nobody shall be allowed to use a trademark protected in the Russian Federation without authorization by its holder.

2. The commercial use of a trademark or a confusingly similar sign on the territory of the Russian Federation in respect of goods for which this trademark has been registered, or similar goods shall be regarded as an infringement of rights of the right holder (illegal use of a trademark), including the use of the trademark or a confusingly similar sign:

- on the goods, labels, packages, which are manufactured, offered for sale, sold, displayed at exhibitions and fairs or used commercially on the territory of the Russian Federation, or stored and (or) transported with this purpose, or imported into the territory of the Russian Federation;
- while performing jobs, providing services;
- on documents introducing goods commercially;
- while offering goods for sale;

- in the Internet, particularly in the domain names and in other forms of addressing.

The goods, labels, packages of these goods on which the trademark or a confusingly similar sign are used shall be regarded as counterfeits.

Article 5 Kinds of Trademarks

1. Word, figurative, three-dimensional, or other signs or their combinations may be registered as trademarks.

2. A trademark may be registered in any color or combination of colors.

Article 6 Statutory Grounds for Rejection of Registration

1. Signs shall not be registered as trademarks if they do not have a distinguishing capacity or consist only of the elements:

- that are commonplace to designate of a certain kind;
- that are generally adopted symbols and terms;
- that point to the kind, quality, quantity, properties, application, value of goods and the place and time of their manufacture or sale;
- that represent the configuration of goods which is determined exclusively or mainly by the property of function of the goods.

The signs set forth in Subparagraphs 2, 3, 4 and 5 of this Paragraph may be incorporated as non-protected elements in a trademark, provided they do not prevail.

The provisions of this Paragraph shall not be applied to the signs that have acquired a distinctive character as a result of their use.

2. Signs shall not be registered as trademarks by virtue of international treaties to which the Russian Federation is a party, that consist only of the elements representing State armorial bearings, flags or other State emblems, abbreviated or full names of international intergovernmental organizations, their armorial bearings, flags and other emblems, official signs and hall-marks of control and warranty, seals, awards and other distinguishing signs or signs confusingly similar to them. Such signs may be incorporated as non-protected elements, in a trademark, provided the consent of an appropriate authority is available.

3. The following signs will not be registered as trademarks or their elements:

- that are misleading or capable of confusing consumers in respect of a good or its manufacturer;
- that are contrary to public interests, principles of humanity or morals.

4. The signs identical or confusingly similar to official names and images of particularly valuable objects of cultural heritage of the peoples of the Russian Federation or of the world cultural or natural heritage, or

also to the images of cultural values stored in collections and funds shall not be registered as trademarks provided such registration is requested for persons who are not their proprietors (owners), and who do not have the consent of the proprietors or persons, authorized by them, to register such signs as trademarks.

5. By virtue of international treaties to which the Russian Federation is a party, signs shall not be registered as trademarks on the territory of the Russian Federation that represent or incorporate the elements that are protected in one of the States-parties to that treaty in the capacity of the signs, identifying wines or alcoholic beverages, originating from its territory (produced within the geographic boundaries of that State), and possessing individual quality, name and other properties that are mainly determined by their origin, provided the trademark shall be used for identifying wines or alcoholic beverages that are not produced on the given geographic territory.

Article 7 Other Grounds for Rejection of Registration

1. The following signs shall not be registered as trademarks if they are identical or confusingly similar to:

- trademarks of other persons, applied for registration (provided applications for them have not been recalled) or protected in the Russian Federation by virtue of international treaties to which the Russian Federation is a party, in respect of similar goods with an earlier priority;
- trademarks of other persons, recognized as famous by the Law of the Russian Federation in respect to similar goods.

Registration of the sign as a trademark in respect to similar goods, confusingly similar to the trademark, mentioned in Subparagraph 2 and 3 of this Paragraph shall be allowed only with the consent of the right holder.

2. The signs, identical or confusingly similar to appellations of origin of goods, protected under the Law, except for the cases where these signs are incorporated as non-protected elements into trademarks, registered in the name of persons having the right to use such appellations, shall not be registered as trademarks in respect of any goods.

3. The following signs shall not be registered as trademarks if they reproduce:

- trade names (or its part) protected in the Russian Federation in respect of similar goods, industrial design, compliance mark, the rights to which belonged to other persons in the Russian Federation, prior to the priority date of the registered trademark;
- titles of works of science, literature and art, characters or quotations

from them, works of art or their fragments known in the Russian Federation by the filing date of the application, without the consent of a copyright owner or his successor in title, provided the rights to these works were used prior to the priority date of the registered trademark;

- last names, first names, pseudonyms and their derivatives, portraits and facsimile of the person known at the filing date of application, without the consent of that person or his successor.

Chapter 2 REGISTRATION OF TRADEMARK

Article 8 Application for Registration of Trademark

1. An application for registration of a trademark (hereinafter "application") shall be filed with the Federal executive authority on intellectual property by a legal entity or a natural person in business (hereinafter "applicant").

2. An applicant, a right holder or any other interested person may practice before the Federal executive authority on intellectual property either independently or through a patent attorney registered for the practice before the Federal executive authority on intellectual property.

Foreign legal entities or natural persons having their permanent domicile outside the Russian Federation or their patent attorneys shall perform the formalities before the Federal executive authority on intellectual property through patent attorneys registered for the practice before the Federal executive authority on intellectual property. The competence of a patent attorney shall be attested by a power of attorney issued to him by the applicant, the right holder or any other interested person.

A citizen of the Russian Federation, permanently residing on its territory, may be registered as a patent attorney. The Government of the Russian Federation shall set other requirements to a patent attorney, procedures for his certification and registration, and also his warrants for practice, related to the legal protection of trademarks.

3. An application shall relate to one trademark only.

4. An application shall contain:

- a request for the registration of the sign as a trademark with the indication of the applicant as well as his seat or residence;

- the claimed sign;

- the list of goods for which the trademark registration is applied for, grouped under headings of the International Classification of Goods and Services for the Purposes of the Registration of Marks;

- description of the claimed sign.

An application shall be filed in the Russian language.

5. An application shall be accompanied by:

- a document certifying payment of the fee for filing an application in the prescribed amount;
- the by-law of a collective mark, if the application is filed for registration of a collective mark.

The documents accompanying an application shall be filed in Russian or another language. Where such documents are filed in another language, the application shall be accompanied by their translation into Russian. The translation into Russian may be submitted by the applicant within two months after the date of notification by the Federal executive authority on intellectual property of the need to meet this requirement.

6. The date of filing an application with the Federal executive authority on intellectual property shall be the date of filing documents set forth in Paragraphs 2, 3, and 4 of this Article, or when these documents were filed at different dates - the last filing date.

7. After filing the application with the Federal executive authority on intellectual property, any person shall have the right to familiarize himself with the documents of the application that were incorporated in it at the filing date. The Federal executive authority on intellectual property shall set the familiarization procedure with the documents of the application.

8. The Federal executive authority on intellectual property shall determine the requirements for the documents of application.

Article 9 Priority of Trademark

1. Priority of a trademark shall be fixed as of the filing date of the application with the Federal executive authority on intellectual property.

2. Priority of a trademark may be fixed as of the date of filing of the first application in a member country of the Paris Convention for the Protection of Industrial Property (convention priority), provided the application is filed with the Federal executive authority on intellectual property within six months from the above-mentioned date.

3. Priority of a trademark affixed to exhibits of official or officially recognized international exhibitions organized in the territory of a member country of the Paris Convention for the Protection of Industrial Property may be fixed as of the date at which the display of the exhibit began at the exhibition (exhibition priority), provided the trademark application is filed with the Federal executive authority on intellectual property within six months from the above-mentioned date.

4. An applicant wishing to enjoy the right of convention or exhibition priority shall be liable to make the statement to the effect at filing

trademark application or within two months from the filing date of the application with the Federal executive authority on intellectual property, and shall submit the necessary documents in support of such request, or submit such documents within three months from the filing date of the application with the Federal executive authority on intellectual property.

5. Priority of a trademark filed by an applicant under Paragraph 6 of Article 10 of the Law (hereinafter "divisional application") on the basis of another application of that applicant for the same sign (hereinafter "original application") shall be fixed as of the filing date of the original application with the Federal executive authority on intellectual property, when there is the right to an earlier priority for the original application - by the priority date, provided the original application has not been recalled as of the date of filing the divisional application, and is not considered to be recalled, and when the divisional application was filed prior to taking an action on the original application.

6. When different applicants filed applications for identical trademarks with the same priority date in respect of fully or partially concurrent lists of goods, registration of the trademark with respect to the goods for which the above-mentioned lists coincide, shall be made in the name of one of them on the basis of the agreement reached between the applicants. Whereas the same applicant filed applications for identical trademarks with the same priority date in respect of fully or partially concurrent lists of goods, the trademark in respect of such goods may be registered with one of the applications, selected by an applicant.

Within six months after receiving the corresponding notification, the applicants (applicant) should inform of the agreement reached by them (his choice) in respect of the application for which the registration of the trademark is requested.

Whereas within the fixed time the Federal executive authority on intellectual property fails to receive the above-mentioned information or request on the extension of time, the applications shall be recalled.

7. Priority of a trademark may be fixed as of the date of its international registration by virtue of international treaties to which the Russian Federation is a party.

Article 10 Examination of Application for Trademark

1. The examination of an application shall be carried out by the Federal executive authority on intellectual property and shall include a formal examination and an examination of the sign.

2. The applicant shall have the right, on his own initiative, to supplement or correct the application materials during the examination before an

action is issued.

If the supplementary materials incorporate the list of goods that was not mentioned in the application as of its filing date or materially change the application, they shall not be accepted and may be filed by the applicant in an independent application.

3. A change of the applicant as a result of conceding the right to the application or of changing the name of the applicant, as well as the correction of obvious or technical errors in the documents of the application shall be made before the registration date of a trademark.

4. During the examination the Federal executive authority on intellectual property shall be entitled to request from the applicant the supplementary materials, the lack of which makes the examination impossible.

The supplementary materials incorporating the list of goods, which is not mentioned in the application as of its filing date, or materially change the sign, follow the procedure set forth in Paragraph 2 of this Article.

The supplementary materials or copies of these materials, requested by the Examiners, shall be submitted within two months from the date of receipt of such request, provided that these copies were requested by an applicant within one month after receiving the request of the Examiners. If the applicant does not comply with the time limit or fails to file a reply to the Examiner's request, the application shall be deemed abandoned. At the request of the applicant, the Federal executive authority on intellectual property may extend this period by not more than six months. When a reasonable excuse for failing to confine to the time limit is confirmed, the Federal executive authority on intellectual property can extend it by more than six months.

5. An application may be withdrawn at the request of the applicant at any stage of examination, but not later than the date of registration of the trademark.

6. During examination of the application, before an action is taken, the applicant has the right to file a divisional application for the same sign, which incorporates the list of goods, mentioned in the original application as of its filing date with the Federal executive authority on intellectual property, and which differs from the goods listed in the original application.

Article 11 Formal Examination

1. The formal examination of an application shall be carried out within one month from the date of its filing with the Federal executive authority on intellectual property.

2. During the formal examination an application and the accompanying documents shall be checked for their compliance with the statutory requirements. Based on the results of the formal examination, the applicant shall be informed either of acceptance of the application or of its rejection.

3. Parallel with notifying the applicant of the positive result of the formal examination, he shall be informed of the filing date set forth in conformity with Paragraph 6 of Article 8 of this Law.

Article 12 Examination of Sign

1. The examination of a sign shall be carried out when the formal examination is over.

During the examination a sign shall be checked for its compliance with the requirements set forth in Articles 1, 6 and Paragraph 1 and 2 of Article 7 of this Law, and the priority of the trademark shall be fixed.

2. Based on the results of the examination, an action either to register the trademark or to reject its registration shall be issued.

3. Before taking an action on the results of examination of a sign, a notification shall be sent to the applicant in a written form on the results of checking the compliance of the sign with the requirements of Subparagraph 2 of Paragraph 1 of this Article with a proposal to advance reasons for the motives adduced in the notification. The applicant's reasons shall be accounted for in taking an action on the results of examination of a sign, provided that such reasons have been submitted within six months from the date of sending the above-mentioned notification to the applicant.

4. An action to register a trademark can be revised by the Federal executive authority on intellectual property prior to the registration of a trademark in connection with:

- the receipt of an application with an earlier priority in compliance with Article 9 of this Law for an identical or confusingly similar sign in respect of similar goods;
- the registration of a sign, as an appellation of origin of a good, identical or confusingly similar to that trademark;
- the discovery of an application containing an identical trademark, or a protected identical trademark in respect of a full or in part coincidence of the lists of goods with the same or earlier priority of a trademark;
- satisfying the application to change the applicant, which could result in misleading a consumer with regard to the good or its manufacturer, provided that such a sign shall be registered as a trademark.

Article 13 Appeal against Decision on Application and Extension of Time Limits

1. If an applicant disagrees with an action taken on the results of the formal examination of an application, or refusal to examine it, or with an action taken on the results of examination of a sign, or with an action on recognizing the application abandoned, the applicant shall be entitled to lodge, within three months from the date of receipt of an appropriate action, an appeal with the Board on Patent Disputes or request copies of the materials opposed to the application from the Federal executive authority on intellectual property, provided they shall be requested by an applicant within a month from the date of his receipt of a corresponding action.

2. The time limits set forth in Paragraph 4 of Article 10 of this Law and in Paragraph 1 of this Article which have expired, may be reinstated by the Federal executive authority on intellectual property at the request of an applicant, filed within two months from its expiration, provided there is a reasonable excuse and an appropriate fee is paid.

Such request shall be submitted to the Federal executive authority on intellectual property parallel with the supplementary materials, requested by the Examiners, or a request to extend the time limits for their submission, or parallel with lodging an appeal to the Board on Patent Disputes.

Article 14 Registration of Trademark

Based on the decision to register the trademark the Federal executive authority on intellectual property shall, within one month from the date of receipt of a document certifying payment of the statutory fee, enter the trademark in the State Register of Trademarks and Service Marks of the Russian Federation (hereinafter "Register"). Entered in the Register shall be the trademark, its right holder data, the priority date of the trademark, and the date of its registration, the list of goods for which the trademark is registered, other data having to do with the registration of the trademark and any subsequent changes in this data.

A trademark shall not be registered and the application shall be recalled when there is no document confirming the payment of the registration fee and the issuance of a trademark certificate.

Article 15 Issuance of Trademark Certificate

1. A trademark certificate shall be issued by the Federal executive authority on intellectual property within three months from the date of registration of the trademark in the Register.

2. The form of the certificate and its contents shall be determined by the Federal executive authority on intellectual property.

Article 16 Registration Period

1. Registration of a trademark shall be valid for ten years from the filing date of the application with the Federal executive authority on intellectual property.

2. The trademark registration period may be extended at the request of its right holder, which should be filed during the last year of the expiring term, each time for the next ten years.

At the request of a trademark owner wishing to prolong the term of the trademark registration, the owner may be given a six-month grace period after expiration of the registration period, provided the owner has paid the additional fee.

3. Prolongation of the trademark registration shall be entered by the Federal executive authority on intellectual property in the Register and the Trademark Certificate.

Article 17 Entering Changes in Registration

1. A trademark owner shall inform the Federal executive authority on intellectual property of any changes in its name, last name, first name or patronymic, reduction of the list of goods for which the trademark has been registered, alterations of individual elements of the trademark which do not materially alter it, and of any other changes having to do with the registration of the trademark.

When the grant of legal protection for a trademark is contested on the grounds and the order set forth by Article 28 of this Law, a single registration of such trademark for a good or part of goods, which are not similar to the goods whose list remains in the primary registration can be separated, at the request of the right holder, from the registration of a trademark valid for several goods. This request may be submitted by the right holder before the action shall be taken on the results of dispute settlement on the registration of a trademark.

The changes shall be entered in the Register and the Trademark Certificate, provided an appropriate fee has been paid.

2. The Federal executive authority on intellectual property may enter changes into the Register and Trademark Certificate to remedy evident and technical errors.

Article 18 Publication of Information about Registration

Information having to do with registration of a trademark and entered

in the Register as set in Article 14 of this Law shall be published by the Federal executive authority on intellectual property in the Official Gazette immediately after registration of a trademark in the Register or after the changes in the registration of the trademark have been entered in the Register.

Article 19 Registration of Trademark Abroad

Legal entities and natural persons of the Russian Federation shall be entitled to have their trademarks registered abroad or to register them according to an international procedure.

An application for the international registration of a trademark shall be filed through the Federal executive authority on intellectual property.

Chapter 2-1 WELL-KNOWN TRADEDEMARK, ITS LEGAL PROTECTION

Article 19-1 Well-known Trademark

1. At the request of a legal entity or a natural person, a trademark, protected on the territory of the Russian Federation on the basis of its registration; a trademark, protected on the territory of the Russian Federation without registration by virtue of an international treaty of the Russian Federation, and also a sign, used as a trademark which is not protected on the territory of the Russian Federation can be recognized as well-known trademarks on the territory of the Russian Federation if such trademarks or signs, as a result of their intensive use at the date, indicated in the application, became widely known in the Russian Federation among consumers in respect of the goods of that person.

A trademark or a sign cannot be considered as a well-known trademark if they became widely known after the priority date of an identical or confusingly similar trademark of another person, intended to be used in respect of similar goods.

2. A well-known trademark is granted legal protection set by this Law for a trademark.

When the already registered trademark is recognized as a well-known trademark, the legal protection for such trademark shall be applied also to the goods non-similar to those covered by the well-known trademark, provided the use of that trademark by another person in respect of the above-mentioned goods will be associated by consumers with the right holder and may infringe upon his lawful interests.

Article 19-2 Granting Legal Protection to Well-known Trademark

1. The legal protection for a well-known trademark shall be granted on

the basis of an action of the Board on Patent Disputes, taken by an application submitted in conformity with Subparagraph 1, Paragraph 1, Article 19-1 of this Law.

2. A trademark, recognized as well-known, shall be entered by the Federal executive authority on intellectual property in the List of well-known trademarks in the Russian Federation (hereinafter "List").

3. A Certificate for a well-known trademark shall be issued by the Federal executive authority on intellectual property within a month after the date of entering the trademark in the List. The form of the Certificate and the data to be included into it shall be set by the Federal executive authority on intellectual property.

4. The data related to a well-known trademark shall be published by Federal executive authority on intellectual property in the official Gazette immediately after they are entered in the List.

5. The legal protection of a well-known trademark shall have an indefinite period.

Chapter 3 COLLECTIVE MARK

Article 20 Right to Collective Mark

1. In conformity with an international treaty of the Russian Federation an association of persons, whose foundation and business activities do not run counter to the legislation of the country where it has been founded, shall have the right to register a collective mark in the Russian Federation, which shall be a trade mark of a business association, intended to be affixed to their manufactured or marketed goods possessing common qualitative or other general properties.

2. A collective mark and the right to use it may not be transferred to other persons.

Article 21 Registration of Collective Mark

1. An application for registration of a collective mark shall be accompanied by a By-law of the collective mark which shall contain the name of the business association authorized to register the mark in its name, the list of enterprises having the right to use this mark, the objective of its registration, the list of goods and common qualitative or other general properties of goods which are to bear the collective mark, the conditions for its use, the procedure of control over its use, the responsibility for violation of the By-law of the collective mark.

2. Information about the enterprises having the right to use the collective mark in addition to the information set forth in Article 14 of this Law

shall be entered in the Register and the Certificate for the collective mark. This information as well as an excerpt from the By-law of the collective mark concerning common qualitative or other general properties of the goods for which the mark has been registered shall be published by the Federal executive authority on intellectual property in the Official Gazette. The owner of the collective mark shall inform the Federal executive authority on intellectual property of any changes in the By-law of the collective mark.

3. In case where a collective mark is used on goods not possessing common qualitative or other general properties, its legal protection may be suspended fully or in part on following the ruling of the Court issued at the request of any person.

4. A collective mark and an application for its registration may be transformed respectively into a trademark and an application for the registration of a trademark and contrariwise.

Chapter 4 USE OF TRADEMARK

Article 22 Use of Trademark and Consequences of Its Nonuse

1. A trademark shall be considered as used if it is affixed to the goods for which it has been registered and/or to their packages by the trademark holder or a person who has been granted such right on the basis of a license contract as set forth in Article 26 of this Law.

A trademark shall be also considered as used if it is utilized in advertising, in printed publications, official forms, signboards, while displaying exhibits at exhibitions or fairs held in the Russian Federation, provided there is a reasonable excuse for nonuse of the trademark on goods and/or their packages.

2. Legal entities and natural persons engaged in intermediary activities may, according to a contract, use their trademark in addition to the trademark of the manufacturer of the goods or instead of the trademark of the latter.

3. Legal protection of a trademark may be terminated ahead of time in respect of all or a part of goods in connection with a nonuse of a trademark for any three years in a row after its registration. An application on the termination ahead of time of legal protection of a trademark due to its nonuse may be submitted to the Board on Patent Disputes on the expiry of the above-mentioned three years provided that trademark had not been used before such an application was submitted.

A right holder shall submit a proof of using the trademark.

For the purposes of this Paragraph the use of a trademark with changes

in some of its elements that do not alter it materially shall be considered as the use of a trademark.

In settling an issue on the termination ahead of time of the legal protection for a trademark due to its nonuse, a proof submitted by a right holder to the effect that it has not been used for reasons beyond the right holder's control shall be taken into consideration.

Article 23 Exhaustion of Rights Based on Trademark Registration

Registration of a trademark shall not give its holder the right to prevent other persons from using this mark for goods, which have been commercially introduced on the territory of the Russian Federation directly by the right holder or with his consent.

Article 24 Precautionary Marking

A right holder may affix, at its trademark, a precautionary marking in the form of a letter "R" or a circled letter "R" (®) or a word sign "trademark" or "registered trademark" indicating that the sign used is a trademark registered in the Russian Federation.

Chapter 5 TRANSFER OF TRADEMARK

Article 25 Transfer of Exclusive Right to Trademark (assignment of trademark)

An exclusive right to a trademark in respect of all or some goods for which it has been registered may be assigned by the right holder to a legal entity or a natural person under a contract on the transfer of an exclusive right to a trademark (contract on the assignment of a trademark). Assignment of a trademark shall not be allowed if it may lead to confusion of consumers with regard to goods or their manufacturer.

Article 26 License for Use of Trademark

The right to use a trademark may be granted by a right holder (licensor) to another legal entity or a natural person (licensee) under a license contract in respect of all or a part of goods for which it has been registered. A license contract shall set forth a provision to the effect that quality of licensee's goods shall not be inferior to those of the licensor and that the licensor should exercise control over compliance with this provision.

Article 27 Registration of Contract of Assignment of Trademark and of License Contract

Any contract on the transfer of an exclusive right to a trademark (contract on assignment of a trademark) or a license contract shall be registered with the Federal executive authority on intellectual property. Without such registration they shall be deemed invalid.

The Federal executive authority on intellectual property shall set procedures for the registration of the above-mentioned contracts.

Chapter 6 TERMINATION OF LEGAL PROTECTION OF TRADEMARK

Article 28 Contesting and Holding Registration of Trademark Invalid

1. Granting of legal protection to a trademark may be contested and held invalid:

- 1) fully or in part for its whole period of validity if it has been effected in contravention of the requirements set forth in Article 6 and Paragraph 3 of Article 7 of this Law or within five years from the date of publication of information about registration of the trademark in the Official Gazette on the grounds set forth in Paragraph 1 and 2 of Article 7 of this Law;
- 2) fully during the whole period of its validity if it has been granted infringing the requirements set in Paragraph 3 of Article 2 of this Law;
- 3) fully during the whole period of its validity, if it has been granted in the name of an agent or representative of a right holder of an exclusive right to this trademark in one of the countries - members of the Paris Convention on the Protection of Industrial Property, infringing the requirements set by that Convention;
- 4) fully or in part during the whole period of validity, if actions of a right holder relating to the registration of a trademark have been treated, in the order set by the law, as an action of unfair competition.

2. The grant of legal protection for a well-known trademark in the Russian Federation may be contested and held invalid fully or in part during the whole period of legal protection, if it has been granted with infringements of the requirements set by Paragraph 1 of Article 19-1 of this Law.

3. Any person may file, within the time limits and on the grounds set forth in Subparagraph 1 and 2 and Paragraph 1 of this Article with the Board on Patent Disputes, an opposition against granting legal protection to a trademark.

Opposition to the grant of legal protection for a trademark on the grounds set forth in Subparagraph 3, Paragraph 1 of this Article shall be filed by an interested holder of an exclusive right against a trademark in one of the countries - members of the Paris Convention on the Protection of

Industrial Property with the Board on Patent Disputes.

Opposition to granting legal protection for a well-known trademark in the Russian Federation on the grounds, set forth by Paragraph 2 of this Article may be filed by any person with the Board on Patent Disputes. An application on declaring invalid the granting of legal protection for a trademark on the grounds of an action taken in the order set by Subparagraph 4 of Paragraph 1 of this Article shall be filed by any person with the Federal executive authority on intellectual property.

4. The granting of legal protection for a trademark shall be declared invalid fully or in part by an action taken as a result of the opposition or application submitted under Paragraph 3 of this Article.

Article 29 Termination of Legal Protection for Trademark

1. Legal protection for a trademark is terminated:

- in connection with the expiration of the period of validity of trademark registration;

- on the grounds of the ruling of the Court, coming into force on terminating legal protection of a collective mark ahead of time due to the use of that trademark on the goods that do not possess common qualitative or other general properties as set forth in Paragraph 3 of Article 21 of this Law;

- following the decision on its earlier termination on the grounds of nonuse of the trademark as set forth in Paragraph 3 of Article 22 of this Law;

- following the decision of the Federal executive authority on intellectual property on earlier termination of legal protection for a trademark in case of liquidation of a legal entity - the right holder or termination of business activity by a natural person - the right holder;

- when the right holder abandons it;

- on the basis of the decision taken on the application of any person filed with the Board on Patent Disputes on earlier termination of legal protection for a trademark where the registered trademark has become a commonplace sign used to designate a certain kind of goods.

2. Legal protection of a famous trademark shall be terminated on the grounds set forth by Subparagraphs 4-7 of Paragraph 1 of this Article, and also on the basis of the decision of the Board on Patent Disputes when a well-known trademark loses the features set forth in Subparagraph 1 of Paragraph 1 of Article 19-1 of this Law.

SECTION II APPELLATION OF ORIGIN OF GOODS

Chapter 7 APPELLATION OF ORIGIN AND ITS LEGAL PROTECTION

Article 30 Appellation of Origin of Goods

1. An appellation of origin of goods is the name of a country, settlement, locality or other geographic place (hereinafter "geographic place") or a derivative of such name, and which became known as a result of its use to designate the special properties of goods which are defined, exclusively or prevailing, by natural conditions and/or human factors specific for this area.

2. A designation, which represents or includes the name of a geographic place and which is a commonplace name in the Russian Federation as designating a certain kind of goods without association with the place of its manufacture, shall not be regarded as an appellation of origin.

Article 31 Origin of Legal Protection

1. Legal protection of an appellation of origin of good in the Russian Federation shall start following its registration by the procedure set forth in this Law or by virtue of international treaties to which the Russian Federation is a party.

2. Any appellation of origin shall be protected by the law.

3. The appellation of origin of good may be registered by one or several legal entities or natural persons. A person having the appellation of origin registered shall be granted the right to use it, provided that the goods manufactured by this person comply with the requirements set forth in paragraph 1 of Article 30 of this Law.

The right to use the same appellation of origin registered by the statutory procedure may be granted to any legal entity or natural person residing at the same geographic place and manufacturing goods having the same properties.

4. An appellation of origin shall be registered for an indefinite period.

Chapter 8 REGISTRATION, AND GRANT OF THE RIGHT TO USE APPELLATION OF ORIGIN

Article 32 Application for Registration and Grant of the Right to Use an Appellation of Origin

1. An application for registration, and grant of the right to use an appellation of origin or an application for grant of the right to use a registered appellation of origin (hereinafter "application") shall be filed with the Federal executive authority on intellectual property by

an applicant ("applicants") either in its own name or through a patent attorney as set forth in paragraph 2 of Article 8 of this Law.

2. An application shall relate to one appellation of origin only.

3. An application shall contain:

- a request for registration, and grant of the right to use the appellation of origin of good or for the grant of the right to use the registered appellation of origin on goods indicating the applicant (applicants) and his/her (their) seat or residence;

- the claimed name;

- the kind of goods for which the registration, and grant of the right to use the appellation of origin or the grant of the right to use the registered appellation of origin is requested;

- indication of the place where such goods are manufactured (borders of the geographic place);

- a description of specific properties of the goods.

The application shall be drafted in Russian.

The application is signed by an applicant and when submitted through a patent attorney - by an applicant or patent attorney.

4. In the case where the geographic place, whose name is claimed as an appellation of origin of the goods, is on the territory of the Russian Federation, an application shall be accompanied by a determination of a competent authority by the government of the Russian Federation (hereinafter "competent authority") to the effect that the applicant resides in the designated geographical place and produces goods the specific properties of which are due to natural conditions and/or human factors specific for this geographic place.

In the case where the geographic place whose name is claimed as an appellation of origin of the goods is 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 of goods in the country of origin.

An application shall also be accompanied by a document certifying payment of the statutory fee.

The documents accompanying the application shall be filed in Russian or another language. In the case where the documents are filed in another language, the application shall be accompanied by their translation into Russian. Translation into Russian may be submitted by the applicant within two months from the date of notification by the Federal executive authority on intellectual property.

5. The filing date of an application with the Federal executive authority on intellectual property shall be the date set forth by Paragraph 3 of

this Article or, if such documents shall not be submitted concurrently, the entry date of the last document.

6. The requirements to the application documents shall be set forth by the Federal executive authority on intellectual property.

Article 33 Examination of Application

1. The examination of an application shall be carried out by the Patent Office and shall include a formal examination and an examination of the appellation.

2. During the examination of an application, prior to issuance of an action, the applicant shall be entitled, at his own motion, to supplement, correct or amend the application materials.

Where the supplementary materials materially change the application, such materials shall not be accepted and may be filed by the applicant in an independent application.

3. During the examination the Federal executive authority on intellectual property shall have the right to request from the applicant any additional materials without which the examination is impossible.

The additional materials requested by the Examiner shall be submitted within two months from the date of receipt of the request by an applicant. At the request of the applicant this period may be extended, provided that the request has been received prior to its expiration. If the applicant failed to comply with the above-mentioned time limit or to reply to the Examiner's request, the application shall be considered abandoned.

4. The formal examination of an application shall be carried out within two months from the date of filing with the Federal executive authority on intellectual property.

During the formal examination the availability of the necessary documents and their compliance with the statutory requirements shall be checked. Based on the results of the formal examination the applicant shall be informed either of acceptance of the application or of its rejection. Parallel with the notification on the acceptance of the application the applicant shall be informed of the filing date of the application set forth by Paragraph 5 of Article 32 of this Law.

5. The appellation of origin of the goods in an accepted application shall be examined for its compliance with the requirements set forth in Article 30 of this Law.

The validity of the appellation of origin of goods (manufacture) on the territory of the Russian Federation shall be checked during examination. Before taking an action on the results of examination of the appellation, a notification may be sent to an applicant with the results of checking

the compliance of the appellation with the requirements set forth by Article 30 of this Law with a proposal to adduce his arguments for the motives given in the notification. His arguments shall be taken into account in taking an action on the results of the appellation, provided that they shall be submitted within six months from the date of forwarding the notification.

6. According to results of the examination the Federal executive authority on intellectual property shall decide either to register the appellation of origin or refuse its registration and grant the right to use it, or grant the right to use the already registered appellation of origin, or to refuse the right to use it.

7. The applicant may withdraw the application at any stage of the examination before information on registration of the appellation of origin of the goods and (or) grant of the right to use it shall be entered in the State Register of the Appellation of Origin of the Goods of the Russian Federation (hereinafter in this Chapter "Register").

Article 34 Appeal against Decision on Application and Extension of Time Limits

1. Where an applicant disagrees with an action based on the results of the formal examination, on refusal of acceptance or with the decision taken as a result of the examination of appellation or the decision to abandon it, the applicant shall be entitled, within three months from the date of receipt of such action, to lodge an appeal with the Board on Patent Disputes.

2. Time limits set forth in Paragraph 3 of Article 33 of this Law and Paragraph 1 of this Article and disobeyed by an applicant may be extended by the Federal executive authority on intellectual property at the request of an applicant filed within two months after their expiration, provided there is a reasonable excuse and an appropriate fee is paid.

Such request is submitted by an applicant to the Federal executive authority on intellectual property parallel with the supplementary materials, requested by the Examiner, or a request to extend the time limits or parallel with filing an appeal against decision with the Board on Patent Disputes.

Article 35 Registration of Appellation of Origin and Issuance of Certificate Attesting the Right to Use Appellation of Origin

1. Following an Examiner's action the Federal executive authority on intellectual property shall register an appellation of origin in the Register. The following information shall be entered in the Register: the appellation of origin, information on the holder of the certificate

attesting the right to use the appellation of origin (hereinafter "certificate"), indication and description of specific properties of goods for which the appellation of origin has been registered, other information relating to the registration and the grant of the right to use the appellation of origin, the renewal of the term of the certificate, as well as any subsequent changes in the above.

2. The Federal executive authority on intellectual property shall issue a certificate attesting the right to use the appellation of origin within one month from the date of receipt of a document certifying payment of an appropriate fee.

Such certificate shall not be issued if there is no document attesting to the payment of an appropriate fee for the right to use the appellation of origin.

3. The form of the certificate and its contents shall be set forth by Federal executive authority on intellectual property.

Article 36 Validity Period of Certificate

1. A certificate shall be valid for ten years starting from the date of filing the application with the Federal executive authority on intellectual property.

2. The term of the certificate may be extended at the request of its holder provided a determination of a competent authority is submitted to certify that the holder of the certificate is a resident of a given geographic place and manufactures goods with properties cited in the Register. When the geographic place is outside the territory of the Russian Federation, the holder of the certificate, instead of the above determination, submits a document attesting his right to use the appellation of origin of the goods manufactured in the country as of the date of filing an application for the extension of the validity period.

Such request shall be filed during the last year of the expiring term. The term of a certificate shall be renewed each time for ten years. At the request of a certificate holder who wishes to renew the term of the certificate, an additional grace period of six months may be granted after the expiration of the term of the certificate, provided that an additional fee is paid.

3. Renewal of the term of a certificate shall be entered by the Federal executive authority on intellectual property in the Register and the certificate.

Article 37 Changes in the Register and Certificate

A certificate holder shall inform the Federal executive authority on

intellectual property of any changes in the name, last name, first name or patronymic and of any other changes relating to the registration and grant of the right to use the appellation of origin.

A record in the Register and the certificate shall be made subject to payment of an appropriate fee.

The Federal executive authority on intellectual property shall enter changes in the Register and certificate to correct obvious and technical errors.

Article 38 Publication of Information About Registration and Grant of the Right to Use Appellation of Origin

Information relating to registration, and grant of the right to use the appellation of origin entered in the Register as set forth in Article 35 and 37 of this Law with an exception of information incorporating the description of specific properties of the goods shall be published by the Federal executive authority on intellectual property in the Official Gazette right after their entry in the Register.

Article 39 Registration of Appellation of Origin Abroad

1. Legal entities and natural persons of the Russian Federation shall be entitled to have their appellations of origin registered abroad.
2. An application for registration of an appellation of origin abroad shall be filed after registration and grant of the right to use such appellation of origin in the Russian Federation.

Chapter 9 USE OF APPELLATION OF ORIGIN

Article 40 Use of Appellation of Origin

1. An appellation of origin shall be considered as used if it is affixed to goods, labels and their packages, in advertising, in leaflets, invoices, forms, and other documents having to do with commercial introduction of goods.

2. No registered appellation of origin may be used by persons who do not have an appropriate certificate even if the genuine place from which the goods originate is indicated or the appellation of origin is used in translation or in combination with expressions such as "sort of", "kind of", "imitation", "and the like", and no similar appellation of origin may be used on any goods which may confuse consumers in respect of origin and specific properties of goods (illegal use of an appellation of origin). The goods, labels and packages on which an appellation of origin or signs confusingly similar to them are illegally used shall be treated as

counterfeits.

3. A certificate holder shall not be entitled to grant licenses for use of the appellation of origin to other persons.

Article 41 Precautionary Marking

A certificate holder may affix at the appellation of origin a Precautionary marking in the form of a word sign "registered appellation of origin of the good" or "registered AOG" indicating that the used name is an appellation of origin registered in the Russian Federation.

Chapter 10 TERMINATION OF LEGAL PROTECTION FOR APPELLATION OF ORIGIN

Article 42 Contestation of Grant of Legal Protection for Appellation of Origin, Issuance of Certificate and Holding them Invalid

1. The grant of legal protection for the appellation of origin of the good may be contested and attested invalid during the whole period of protection, provided it has been granted in contravention of the requirements set forth in this Law.

The issuance of the certificate may be contested and may be held invalid during the whole period of its validity, provided it has been issued in contravention of the requirements set forth in this Law, or admitting invalidity of the grant of legal protection for the appellation of origin.

2. Any person may file an opposition against the grant of legal protection for the appellation of origin and issuance of the certificate with the Board on Patent Disputes on the grounds set forth in Paragraph 1 of this Article.

3. The grant of legal protection for the appellation of origin and the certificate is admitted invalid following the decision of the Chamber on Patent Disputes and the ruling of the Court that came into force.

Article 42-1 Termination of Legal Protection for Appellation of Origin and Validity of Certificate

1. Legal protection of the appellation of origin shall be terminated if:

- specific conditions for a given geographic place disappear and the goods having properties indicated in the Register cannot be produced;
- a foreign legal entity or a natural person loses the right to a given appellation of origin in the country of origin;

2. The validity of a certificate shall be terminated:

- if goods have lost their specific properties cited in the Register in respect of a given appellation of origin;
- if legal protection for the appellation of origin has been terminated;

- if a legal entity - the certificate holder has been liquidated;
- if the certificate holder files an application with the Federal executive authority on intellectual property.

3. Any person may file with the Board on Patent Disputes an application for the termination of legal protection of the appellation of origin and validity of the certificate on the grounds set forth in Paragraph 1 and Subparagraphs 2 and 3 of Paragraph 2 of this Article.

Any person may file an application on terminating the validity of the certificate with the Federal executive authority on intellectual property on the grounds set forth in Subparagraph 4 of Paragraph 2 of this Article.

4. Legal protection of the appellation of origin and validity of the certificate are terminated following an action of the Board on Patent Disputes, the Federal executive authority on intellectual property and the ruling of the Court that came into force.

SECTION III FINAL PROVISIONS

Article 43 Federal Executive Authority on Intellectual Property

The Federal executive authority on intellectual property shall be authorized to implement the State policy and the functions set forth in this Law to provide legal protection of trademarks and appellations of origin of the goods.

The Federal executive authority on intellectual property in the cases outlined in this Law publishes, in conformity with its competence, standard and legal enactments on the use of this Law.

Article 43-1 Actions of Board on Patent Disputes

The Federal executive authority on intellectual property sets an order for filing oppositions and applications with the Board on Patent Disputes and an order of their consideration.

Decisions of the Board on Patent Disputes taken on oppositions and applications, filed in the order set forth in Articles 13, 19-2, 22, 28, 29, 34, 42 and 42-1 of this Law shall be approved by the Head of the Federal executive authority on intellectual property and shall come into force from the date of their approval and may be appealed in Court in conformity with the applicable legislation of the Russian Federation.

Article 44 Fees

Fees shall be charged for legally significant acts having to do with registration of trademarks, registration, and grant of the right to use appellations of origin.

The list of acts for which fees are charged, their amounts, the order and time limits for payment and the grounds for refund of fees shall be determined by the Government of the Russian Federation.

Article 45 Hearing Disputes Related to Implementation of this Law

1. Disputes related to the implementation of this Law shall be heard following a procedure set forth in the legislation of the Russian Federation by a court, including disputes over:

- infringement of the exclusive right to a trademark;
- termination of legal protection of a collective mark ahead of time due to its use on the goods which do not possess common qualitative and other common properties;
- conclusion and implementation of license contracts and contracts of assignment exclusive rights to trademarks (contract on assignment of a trademark);

- illegal use of an appellation of origin.

Article 46 Responsibility for Illegal Use of Trademark and Appellation of Origin

1. Any use of a trademark or an appellation of origin or a sign or a name similar to a trademark or appellation of origin for similar goods in contravention of Paragraph 2 of Article 4 or Paragraph 2 of Article 40 of this Law shall entail civil, administrative or criminal responsibility under the law of the Russian Federation.

2. Civil rights may be also protected against illegal use of a trademark, apart from the request of injunction to stop the infringement or damages through:

- publication of a court order with the aim of restoring goodwill of the injured party;

- removal from the goods or their packages of the illegally used trademark or a sign confusingly similar to it, or destruction at the expense of an infringer of counterfeited goods, labels, packages, if it is impossible to remove an illegally used trademark or confusingly similar to it except for the cases when these counterfeited goods, labels and packages shall be appropriated by the State or handed over to the right holder on his application to compensate for the damage or with the purpose of their further destruction.

3. A person illegally using a registered appellation of origin or a sign confusingly similar to it shall be obliged, at the request of the holder of the certificate attesting to the right to use this appellation of origin, a state authority, a public organization, or a public prosecutor:

- to stop its use and pay damages in conformity with the Civil Law;
- to publish the court order with the aim of restoring goodwill of the injured party;

- to remove from counterfeited goods, labels or their packages the illegally used appellation of origin or a sign confusingly similar to it, or to destroy counterfeited goods, labels and packages if it is impossible to remove illegally used appellations of origin or a sign confusingly similar to it.

4. The right holder and the certificate holder of the right to use the appellations of origin of the goods, instead of making an infringer illegally using a trademark or appellation of origin pay for the damage shall be entitled to the right to require monetary compensation appointed by a Court at the rate of 1 thousand to 50 thousand minimal wages set forth by the Federal Law.

5. A person using a precautionary marking in respect of a trademark or

appellation of origin unregistered in the Russian Federation shall bear the responsibility following a procedure set forth in the legislation of the Russian Federation.

Article 47 Rights of Foreign Legal Entities and Natural Persons

Foreign legal entities and natural persons shall enjoy the rights provided for in this Law on a par with legal entities and natural persons of the Russian Federation by virtue of international treaties to which the Russian Federation is a party or on a reciprocity basis.

The right to register appellations of origin in the Russian Federation shall be granted to legal entities and natural persons of the countries, which grant the same right to legal entities and natural persons of the Russian Federation.

Article 48 International Treaties

If an international treaty to which the Russian Federation is a party set forth rules other than those set forth in this Law, the rules of such international treaty shall apply.

FINAL AND TRANSITION PROVISIONS SET FORTH BY ARTICLES 2 AND 3 OF THE FEDERAL LAW ON DECEMBER 11, 2002 # 166-FL "ON INTRODUCING CHANGES AND AMENDMENTS INTO THE LAW OF THE RUSSIAN FEDERATION "ON TRADEMARKS, SERVICE MARKS AND APPELLATIONS OF ORIGIN OF THE GOODS""

Article 2

The following transition provisions shall be used in respect to applications for the registration of a trademark, service mark, applications for registration and grant of the right to use appellation of origin of the goods, applications for grant of the right to use the registered appellations of origin filed before the date of entrance into force of this Federal Law, and also in respect of the trademarks and service marks registered before the date this Federal Law entered into force:

1) applications for the registration of a trademark, service mark, applications for the registration and grant of the right to use appellations of origin of the goods, applications for granting the right to use the registered appellation of origin of the goods, consideration of which has not been completed before this Federal Law entered into force, shall be handled by the Federal executive authority on intellectual property in the order set forth by this Law;

2) oppositions and complaints and applications whose consideration has not been completed by the Board of Appeals of the Russian Patents and Trademarks Office (hereinafter "Board of Appeals") and the Supreme Patent Board of the Russian Patents and Trademarks Office (hereinafter "Supreme Patent Board") before the date of entering into force of this Federal Law, shall be adjudicated by them before the foundation of the Board of Patent Disputes. In the case where consideration of the above oppositions, complaints and applications has not been completed prior to the foundation of the Board on Patent Disputes, after the foundation of the Board on Patent Disputes, shall be adjudicated by the Board on Patent Disputes. The oppositions that were filed after the Federal Law came into force, shall be adjudicated by the Board of Appeals prior to the foundation of the Board on Patent Disputes. In the case where adjudication of the above oppositions has not been completed before the foundation of the Board on Patent Disputes, after its foundation shall be tried by the Board on Patent Disputes.

While considering, in conformity with this Article, the oppositions and complaints mentioned in Subparagraphs 1 and 2 of this Paragraph by the Board of Appeals, Supreme Patent Board and the Board on Patent Disputes, requirements shall be used, set forth by the legislation valid as of the filing date of an application.

When the Supreme Patent Board and the Board on Patent Disputes consider the applications mentioned in Subparagraph 1 of this Paragraph, they shall use provisions of the legislation valid as of the filing date of the application with the Supreme Patent Board.

The actions, taken on the results of considering the oppositions, complaints and applications, mentioned in this Paragraph, shall be approved by the Head of the Federal executive authority on intellectual property, shall enter into force from the date of their approval and an appeal may be lodged with the Court under the legislation of the Russian Federation.

3) The requirements set by the legislation valid as of the date of filing an application shall be used to the signs, applied for registration before the date of entering into force of this Federal Law;

4) The terms of opposition and recognition as invalid the grant of legal protection for trademarks and service marks, set forth in this Federal Law, shall be used to the registered trademarks and service marks, whose period of validity, set forth by the previous legislation to recognize, on corresponding grounds as invalid the registration of trademarks or service marks, has not expired as of the date of entrance into force of this Federal Law.

Article 3

The President of the Russian Federation and the Government of the Russian Federation shall bring their legislative enactments in accord with this Federal Law.