(i) Certain aspects of the applicable national or regional patent law, related to prior art, novelty, inventive step (non-obviousness), grace period, sufficiency of disclosure, exclusions from patentable subject matter and/or exceptions and limitations of the rights

(1) Prior Art

1. Any information made available to the public before the ~~filing date (~~priority date~~)~~.

2. Contents of published Russian Federation patent applications for inventions, utility models and industrial designs, the granted patents, international and of Eurasian applications with an earlier filing date (priority date), and published information thereon.

(2) Novelty

The invention is not anticipated by the prior art.

The prior art consists of any information made available to the public before the ~~filing date (~~priority date~~)~~, and the contents of published Russian Federation national patent applications for patents, utility models and industrial designs and granted patents, international and of Eurasian applications with an earlier filing date (priority date), and published information thereon.

(3) Inventive Step (Non-Obviousness)

An invention is not obvious to a person skilled in the art having regard to the state of the art.

The state of the art consists of any information made available to the public before the ~~filing date (~~priority date~~)~~.

(6) Exclusions from Patentable Subject Matter

1. Discoveries.

2. Scientific theories and mathematical methods.

3. Proposals concerning solely the outward appearance of manufactured articles and intended to satisfy aesthetic requirements.

4. Rules and methods of games, intellectual or business activities.

5. Computer programs.

6. Ideas on presentation of information.

7. Varieties of plants, breeds of animals and biological methods of obtaining thereof with the exception of

microbiological methods and products obtained by the use of such methods.

8. Layout-designs (topographies) of integrated circuits.

9. Methods of cloning of a human being and its clone.

10. Methods of modification of the genetic integrity of cells of the embryonic line of a human being.

11. Use of human embryos for industrial and commercial purposes.

12. Other proposals that are contrary to public interest, principles of humanity and morality.

(ii) National and regional laws on opposition systems and other administrative revocation and invalidation mechanisms

For the Russian Federation, information is currently available in subsections:

(1) Administrative revocation and invalidation mechanisms

(2) Submission of information by third parties.

(1) The subsection: Administrative revocation and invalidation mechanisms

Propose to update the information contained in this subsection of the WIPO website to reflect the current version of Articles 1398 and 1363(5) of the Civil Code of the Russian Federation and update the reference to the Rules of IP disputes consideration and resolution by the federal executive body in the administrative procedure.

Furthermore, it is proposed to replace the last paragraph of this subsection with the following paragraphs: "Granting legal protection to an industrial design in the territory of the Russian Federation in accordance with an international treaty of the Russian Federation may be declared invalid completely or partially on the grounds and in accordance with the procedure provided by Article 1398 of the Civil Code".

(2) The subsection: Submission of information by third parties

The text: *"In the Russian Federation, there are no formal third part observations. However, a right of any person to provide prior art documents known to him exists, which might be used in the patent examination process at any stage of the examination process until the grant of the patent. Where an examiner found that a piece of prior art is relevant for the invention claimed, i.e., essential, such prior art is included in the search report. Those*

statements have purely informational value and may be ignored by the examiner" is proposed to replace with the following in accordance with article 1386 (5) of the Civil Code: *"After the publication of application information for an invention, any person has the right to submit his/her comments on the conformity of the claimed invention with the requirements and conditions of patentability established by the Civil Code of the Russian Federation. Such persons shall not participate in the proceedings on such applications. Comments shall be taken into account deciding on such applications".*

(iii) international worksharing and collaborative activities for search and examination of patent applications

(iv) Compilation of laws and practices regarding the scope of client attorney privilege and its applicability to patent advisors

https://www.wipo.int/export/sites/www/scp/en/confidentiality_advisors_clients/docs/03_russian_federation.pdf

Origin of the professional secrecy obligation and its coverage

Article 23 of the Constitution of the Russian Federation guarantees that each person shall have the right to inviolability of private life, and personal and family secrecy. This right may be restricted only on the basis of a court decision (Article 23, Chapter 2 "Rights and Freedoms of Human Beings and Citizens" of the Constitution of the Russian Federation, December 12, 1993). Presidential Decree No. 188 of March 6, 1997, defines a list of confidential information. The list includes inter alia: information linked to professional activities, access to which is restricted in accordance with the Constitution of the Russian Federation and Federal Laws (medical and notarial secrecy, and attorney privilege, confidentiality of correspondence, telephone conversations, postal dispatches, the telegraph or other communications, etc.); information linked to commercial activities, access to which is restricted in accordance with the Civil Code of the Russian Federation and Federal Laws (commercial secrecy); information on the essential features of an invention, utility model or industrial design prior to the official publication of information thereon.

Federal Law No. 149-FZ of July 27, 2006, on Information, Information Technologies and Protection of Information (Article 9(5) of the Federal Law No. 149 FZ of July 27, 2006 on Information, Information Technologies and Protection of Information. (Further "Federal Law on Information")) states that information obtained by citizens when carrying out professional obligations, or by organizations in their performance of specific types of activities (professional secrecy) shall be protected in cases where obligations are placed on these persons by federal laws to observe the confidentiality of such information. Thus, it can be said that the institution of "professional secrecy" is based on the constitutional right of citizens to the inviolability of their private life, and personal and family secrecy. The laws regulating one or other specific activity may contain provisions obliging confidentiality of the information obtained in the performance of such activities to be observed. The sphere of validity of this institution covers the activities of natural persons in their performance of professional obligations or of organizations in their performance of specific forms of activities.

Thus, it can be said that the institution of "professional secrecy" is based on the constitutional right of citizens to the inviolability of their private life, and personal and family secrecy. The laws regulating one or other specific activity may contain provisions obliging confidentiality of the information obtained in the performance of such activities to be observed. The sphere of validity of this institution covers the activities of natural persons in their performance of professional obligations or of organizations in their performance of specific forms of activities.

Professionals bound by the secrecy obligation

The requirement to observe professional secrecy is established by the laws in various spheres of activity: for doctors (medical secrecy), lawyers (attorney privilege) (Articles 6(4) and 8 ~~4(5)~~ of the Federal Law on Advocatory Activity and Advocacy in the Russian Federation, May 31, 2002, N63-FZ), notaries and other persons carrying out notarial activities (notarial secrecy), courts of arbitration (secrecy of arbitration proceedings), for persons registering acts of civil status (secrecy of child adoption), for telecommunications operators and their employees (secrecy of communication), tax authorities and their

employees (fiscal secrecy), banks and their employees (banking secrecy), pawnbrokers and their employees, internal affairs authorities and their employees, etc. Federal Law No. 316-FZ of December 30, 2008, on Patent Attorneys (which came into force on April 1, 2009) establishes, in relation to patent attorneys, a prohibition "to transmit or otherwise disclose", without the client's written consent, the information contained in "documents obtained and/or produced as part of the performance of their activities" (Article 4(6) of the Federal Law on Patent Attorneys, No. 316-FZ of December 30, 2008 (Further: Federal Law on Patent Attorneys)). In addition, an employer of a patent attorney, who has concluded a civil law agreement with a client providing for the patent attorney's services, shall not disclose confidential information obtained as part of the implementation of this agreement (Article 3(2)(4) of the Federal Law on Patent Attorneys).

Federal Law No. 416-FZ dated December 21, 2021 amended the Federal Law No. 316-FZ on Patent Attorneys dated December 30, 2008.The amendments concern the introduction of the patent attorney secrecy. Any information about the principal activities and related rights to results of intellectual activity and means of individualization, received by the patent attorney or its employer from the principal shall be considered as the patent attorney secrecy (Article 4.1(1) of Federal Law No. 316-FZ on patent attorneys dated December 30, 2008 including the above-mentioned amendments).

The patent attorney and its employer shall keep the patent attorney secrecy and apply necessary measures thereto. In case of transfer and/or disclosure of information constituting the patent attorney secrecy in breach of requirements of this Federal Law the patent attorney, its employer shall bear responsibility pursuant to the legislation of the Russian Federation (Article 4.1(2) of Federal Law No. 316-FZ on patent attorneys dated December 30, 2008 including the above-mentioned amendments).

Information constituting the patent attorney secrecy shall not be requested from the patent attorney, its employer, transferred or disclosed by them to third parties. Under the legislation of the Russian Federation these restrictions do not apply to the information that may be requested by the State authorities and local governments (Article 4.1(3) of Federal Law No.

316-FZ on patent attorneys dated December 30, 2008 including the above-mentioned amendments).

The indicated amendments to the Federal Law No.316-FZ on Patent Attorneys dated December 30, 2008 entered into force on December 22, 2022.

Type of information/communication covered by the secrecy obligation

There is no general description in the legislation of the types of information/ communications which may be protected by professional secrecy. In each specific profession, the relevant law establishes the type of information/communication relating to confidential issues, not subject to disclosure without the consent of the client. As far as attorneys are concerned, the following types of information and documents, inter alia, are covered by a secrecy obligation: any documents and evidence prepared by an attorney in preparation of litigation; information received from the clients; information about clients which became known to the attorney in the course of the provision of legal advice; the content of legal advice provided and any other type of information related to the provision of legal assistance by the attorney to the client. The attorneys' secrecy obligation in relation to the above-listed commutations/documents is not time-bound and can only be waived by the client. In relation to a patent attorney, the restriction contained in Presidential Decree No. 188 of March 6, 1997, which defines as confidential information the essential features of an invention, utility model or industrial design prior to publication of official information thereon, is applicable. The Law on Patent Attorneys identifies as protectable by professional secrecy the content of documents obtained and/or produced as part of the activities of a patent attorney, and also confidential information obtained as part of the implementation of an agreement with a client. As a general rule, the Federal Law on Information establishes that "information which constitutes a professional secret may be passed on to third parties in accordance with federal laws and/or on a court decision" (Article 9(6) of the Federal Law on Information). Nevertheless, an exception to this rule is established for attorneys. In particular, the Federal Law on Advocatory Activity and Advocacy in the Russian Federation provides that "an attorney cannot be called or questioned as a witness in relation to circumstances made known to him as a result of a request for legal assistance made to him

or in connection with its provision" (Article 8(2) of the Federal Law No. 63-FZ of May 31, 2002, on Advocatory Activity and Advocacy in the Russian Federation, amended on October 28, 2003, and August 22 and December 20, 2004). A similar provision, in relation to attorneys, exists under the Code of Criminal Procedure of the Russian Federation (Article 56(3) of the Code of Criminal Procedure of the Russian Federation of December 18, 2001, No.174 FZ).

Consequences of the loss of confidentiality and penalties for unauthorized disclosure

Penalties for disclosure of confidential information are established by law. Penalties may be civil, administrative or criminal. The patent attorney who has allowed disclosure of confidential information may be subject to special measures provided for under the Law on Patent Attorneys: an administrative caution; suspension of activity of the patent attorney for a period of up to one year or exclusion from the Register of Patent Attorneys for a period of up to three years according to a court decision, taken at the request of the Patent Office (Articles 9 and 10 of the Federal Law on Patent Attorneys). The Code of the Russian Federation on Administrative Offences (December 30, 2001) provides for administrative penalties for the deliberate disclosure of information with limited access by a person who gained access to such information in the performance of his/her official or professional duties: ~~an administrative fine ranging from 500 to 1,000 rubles for citizens and from four to five thousand rubles for officials~~ an administrative fine ranging from five to ten thousand rubles for citizens, from forty to fifty thousand rubles or disqualification for up to three years for officials and from one hundred to two hundred thousand rubles for legal entities (Articles 13.14 of the Code on Administrative Offences including the amendments introduced by Federal Law No. 206-FZ dated June 11, 2021). The disclosure of information without the author's or applicant's consent on the essential features of an invention, utility model or industrial design prior to its official publication, where these acts have caused major harm, shall incur criminal penalties in accordance with Article 147 of the Criminal Code of the Russian Federation: a fine of up to 200,000 rubles or the salary or other income of the convicted person, for a period of up to 18 months, or compulsory labor for a period- ranging from 480 hours to two years~~ranging from 180 to 240 hours~~, or a prison sentence of up to

two years (Article 147 of the Criminal Code of the Russian Federation, June 13, 1996, No.63 FZ). Furthermore, under Article 7.12 (2) of the Code on Administrative Offences an unlawful use of an invention, utility model or industrial design, or disclosure of their essence without the author's or applicant's consent before the official publication of information about them, or appropriation of inventorship and coercion to co-inventorship, shall entail the imposition of an administrative fine amounted from 1,500 to 2,000 rubles; for officials – from 10,000 to 20,000 rubles; and for legal entities – from 30,000 to 40,000 rubles.

Requirements/qualifications for patent advisors

A citizen of the Russian Federation may be registered as a patent attorney of the Russian Federation if he or she resides permanently on its territory, has attained the age of 18, completed higher education, and has not less than four years' experience working in the sphere of activity of a patent attorney in accordance with his or her chosen specialization, has successfully passed the qualifying examination, at which knowledge of legislation on intellectual property is tested, and has the practical skills to work as a patent attorney in his or her chosen specialization (specialization: inventions and utility models; industrial designs; trademarks and service marks; appellations of origin; computer programs, databases and topographies of integrated circuits) (Article 2 of the Federal Law on Patent Attorneys).

Summary

~~Patent attorneys have an obligation to keep the contents of documents obtained and/or produced as part of the activities of a patent attorney, as well as confidential information obtained as part of the implementation of an agreement with a client, undisclosed to third parties without the consent of the client. However, unlike general attorneys at law, patent attorneys do not enjoy "immunity" and have to provide confidential information upon court request.~~ The Federal Law on Advocatory Activity and Advocacy and the Code of Criminal Procedure of the Russian Federation provides that an attorney in law cannot be called or questioned as a witness in relation to circumstances made known to him as a result of a request for legal assistance made to him or in connection with its provision. Unlike the general attorneys, the patent attorneys do not enjoy such an "immunity".

In accordance with the updated legislation the status of the patent attorney to a certain extent equated to the status of the lawyer.

Any information about the principal activities and related rights to the results of intellectual activity and means of individualization, received by the patent attorney or its employer from the principal shall be considered as the patent attorney secrecy.

The patent attorney, its employer shall keep the patent attorney secrecy and apply necessary measures thereto.

However, under the legislation of the Russian Federation these restrictions do not apply to the information that may be requested by the State authorities and local governments.