

LEGAL PROTECTION AND COMMERCIALISATION OF INTELLECTUAL PROPERTY IN RUSSIA

Paper for Panel 2

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Introduction

Today with the development of worldwide economy the exchange of scientific and engineering achievements, of various intellectual property subject matters has become an independent sphere of economic relationships. The formation and development of a patent system has created prerequisites for distribution of state-of-the-art scientific and engineering knowledge in trade form, in particular, by trade in patents and licenses.

A condition for integrating of Russia into the international system of economic relations, including patent-license exchange, is improvement of the national system of legal protection and transfer of intellectual property.

Transition of Russia to market relations sharply raised interests of international business in all the spheres of activity mainly in the field of high technology transfer.

For better understanding of problems with which foreign and national companies are facing in Russia it is necessary to look back into the history.

As the now days existing problems have historical roots and were being created during existing administrative-law system of the former Soviet Union.

PART 1. HISTORY REVIEW

To begin with, the former Soviet Union had an enormous scientific and engineering potential. About one-third of all the inventions in the world were created in the USSR. With respect to the number of inventions annually registered, the Soviet Union together with the USA were in second place in the world after Japan. Every year in the USSR there were registered more than 80 thousand inventions and the majority of these 64% were created in the Russian Federation in respect of other industrial property subject matters, Russia held more than 80%. For this reason the data relating to the USSR can with a sufficient degree of accuracy be considered as relating to Russia. (Figure 1).

Now it is very hard to speak about each separate republic. An invention was very often done in one republic, implicated in another one, improved in the third one. And the old country's legislation assisted that process.

The number of Soviet inventions prior to 1991 exceeded 1.5 million.

As can be seen, this is a powerful intellectual resource from which technology for international and domestic exchange, ideas for new developments and for wide use in the national economy are being taken at present.

1.1. Organization of Legal Protection of Intellectual Property in USSR

The first Patent law in Russia was adopted in 1812 but this law was annuled in 1919.

In accordance with legislation in force prior to 1991, almost all the inventions were protected by Inventor's Certificates and belong to the State. What is an Inventor's Certificate? First of all it provides the state's protection of a right to an invention. If you have an Inventor's Certificate you are the only author. An exclusive right to use the invention belongs to the State. Anybody in the USSR, now in Russia, may use an invention which has received an Inventor's Certificate, without a patentee's consent.

Then, if you have received that certificate your don't need to pay any fee for it, but you may not sell it or a license to use your idea because it has become state's property.

Also, the patent as a form of exclusive right for an invention was available in USSR. However, only foreigners could avail themselves of that form of protection.

The Russian subjects could satisfy themselves with the inventor's certificates which only confirmed their authorship and allowed them a modest remuneration from the enterprise they worked at.

As a result. The State property in general and inventors' certificates in particular contributed to the notion that new technical solutions were not regarded as anyone's property. Inventions protected by inventor's certificates could be used free without the inventor's permission.

This knowledge in very essential as here lies one of the main problems of Russian technology transfer.

The reason lies in our past when property belonged to the State, then, immediately, it passed into the hands of entrepreneurs unaccustomed to private property. Some of them are still inclined to think that they may use the results of other people's work without the owner's authorization. It is not always the case of ill will. Sometimes it is lack of education.

It should be noted that a inventor's certificates issued in 1992 are valid up to 2012.

Inventors offering their technologies often did not think who is the holder of intellectual property rights.

That's why the first what is necessary to be done during negotiations concerning Russian technologies licensing is to find out who actually is the owner of the rights of IP: the State, a company or the inventor himself.

Analysis of statistical date for the 1985-1991 confirms aforesaid.

Inventions

Thus, beginning with 1985, the number of annually registered inventions is constant and equal to about 82 thousand and almost all them were protected by Inventor's Certificates.

Patents composed only an insignificant portion - about 8% - of the whole number of protective documents and were granted for foreign applicants.

In this time the dynamics of inventive activity of national and foreign applicants reflects rather precisely political and economic situation in the country. It is known that the main purpose of a patent is to protect a product in which the patented invention was used. It was not possible for foreign companies to realize their patents for commercial purposes in Russia, as all import operations were centralized and carried out through different branches of the Ministry of foreign Economic Relations of the USSR and it was prohibited to involve foreign investments for arranging production in the former USSR. This fact quite naturally

influenced the level of activity of foreign applicants who treated a Soviet patent just in view of setting their priority and blocking Soviet inventions from being used in the most progressive fields of science and technology.

It is also proved by the analysis of the fields to which the registered inventions relate.

The largest number of inventions created by Russian inventors are in the fields of machine building, mechanical processing of materials (Class B), chemistry (Class C), energetics (Class H), aerospace research (Class G), and arms (Class F). With regard to foreign applicants, protection has been obtained in chemistry (Class C), technological processes (Class B), consumer goods (Class A), and arms (Class F).

An analysis of the geographical structure of the flow of foreign patent applications shows that in 1991 52 countries throughout the world protected their achievements in the former Soviet Union: 79.8% of the patents belonged to firms of leading industrial countries, 19.8% to Eastern European countries, and 0.6% to developing countries.

Firms of 11 countries exhibited the greatest activity in this respect. Among the 6,956 patents valid in the USSR at the end of 1991, the following numbers belonged to firms from:

Germany	1,643
USA	1,080
Japan	803
France	782
Switzerland	540
Italy	433
Great Britain	293
Finland	298
Sweden	298
The Netherlands	221
Austria	193

Industrial designs

The character of the dynamics of legal protection of industrial design was similar. The total number of designs registered annually constantly rose. However, the share of foreign designs did not exceed 1%. At the end of 1991, firms from 28 countries had obtained protection of 281 industrial designs. There were firms from the USA, Denmark, Germany, France, Great Britain, Italy, Austria and other countries.

Trademarks

The situation with trademarks is entirely different.

The period from 1989 through 1991 was marked by the transition of Russia to a new economic course, and a large number of enterprises came to realize how important it was to protect their trademarks. During that period, a sharp increase in the number of applications for and registrations of trademarks was observed. The activity of national and foreign applicants increased.

In contrast to the legal protection of inventions and industrial designs, 60% of all valid trademarks belonged to foreign firms.

Sixty-four countries from around the world have actively protected their trademarks and service marks in the former Soviet Union. In 1991 alone, 7,794 trademarks of foreign

firms were registered, among them:

Germany	1,796
France	1,357
USA	917
Italy	885
Switzerland	701
The Netherlands	468
Spain	336
Austria	268
Belgium	174
Japan	117

There were 99989 valid trademarks in USSR by the end of 1991.

1.2. Commercialization of IP

As it was already said above, all scientific and technical achievements in the former Soviet Union belonged to the state and any firm could freely use any of them in its production without signing a license agreement. That is why in the USSR there was no system of internal licensing, and licensing existed only as a way of foreign economic operations.

As is known, a permitting order under conditions of the State monopoly on foreign trade was in force in the USSR up to the end of 1991.

Since the exclusive right of use of inventions and other industrial property rights belonged to the State, all the procedure for patenting abroad and for trading in licenses was carried out under the State control with all expenses associated with the filing of applications in foreign offices borne by the State budget.

Any enterprise had no right to enter the international market by itself. If it wanted to patent its invention abroad or to sell a license on it to foreign companies, it had to apply to higher organizations. The only Soviet organization, engaged in foreign patenting was Chamber of Commerce of the USSR.

And all activities related to commercial realization of Soviet technologies and purchase of foreign technologies were carried out by the specialized international economic organization "Licensintorg".

The former Soviet Union) has sufficient experience of participating in international license trade. The beginning of the USSR active participation in international license trade may be referred to 1962.

Export

Since 1976 the USSR has become an active exporter of technologies in international market. The basis for such a growth was more than 1 million inventions had been registered for that period. In all about 5 thousand licenses on new Soviet technologies were sold by 1992.

Fig.2 represents geographic structure of Soviet Licensing Export in 1976-1990. Geography of Soviet export includes 69 countries of the world. The largest portion of export (68%) has been falling on the former socialist countries.

Bulgaria, Czechoslovakia, German Democratic Republic, and Hungary were the main importers of Soviet technologies. Yugoslavia was a permanent partner of the Soviet Union in license trade. Strong contacts have been set going with China which first bought 2 licenses in 1986, then 6 in 1988, and 8 in 1989.

Capitalist countries portion in the total volume of the USSR license export makes up 21%. Dynamics of Soviet license export to the Western countries have been constantly increasing. Their main importers were leading industrial countries: Finland, Japan, Germany, Italy, the USA, France, Great Britain, Switzerland, Sweden.

In all 23 capitalist countries have imported Russian technologies.

Among licensees of Soviet technologies there were such well known companies as: "Nippon Steel", "Kawasaki Steel", "Tsukisima Kakai" (Japan); "Krupp", "Mannesmann", "Ferroschtal", "Zaltsgitter", "Schlemann Zimag", "Aizenbaum Essen", "Assig" (Germany), "American Home Products", "Diverseafide", "McDermott", Ethyl Corp., Allied Steel and Tractor Cop., Kaiser Aluminum, Ciber Geigy, etc. (USA); Monvisoimpianty, Snamprodgetty (Italy); Nokia Electronic, "Vyartsilya", "Kemira Oy" (Finland).

The USSR license contacts with developing countries have become stronger. Though their portion in total export volume makes up about 11%, it has increased 4 times. The main importers of Soviet technologies were companies from India, Iraq, Yemen, Syria, Turkey, Afghanistan. Our export to countries of Latin America has been growing: companies from Brazil, Venezuela, Argentina, Bolivia were active importers of Soviet technologies.

What technologies did Russia export?

Industrial structure of Soviet export is shown at fig.3.

You can see that export of technologies of machinery construction makes up 27%, of military industries - 11, metallurgy - 9, chemical/timber complex - 4.5, other industries - 2.3%. The largest license suppliers in the world market were metallurgy, gas industry, power engineering, instrument-making, heavy machinery construction, oil-extraction, geological prospecting and medicine.

Import

Geography of technologies import presented in fig. 2 shows that technologies imported from the former socialist countries make up only 6% of the total number of contracts. Among active USSR partners there are Democratic Republic of Germany, Czechoslovakia, Hungary, and Yugoslavia.

The main license exporters to Russia are leading industrial countries which supply 94% of Soviet technologies import. Dynamics of Soviet license import shows that in general volume of foreign technologies import has an unstable character, and since 1988 it has been decreasing sharply.

The most part of contracts (70%) are concluded with companies from Germany, Italy, Japan, Switzerland, and France. Totally 20 capitalist countries sold their licenses for the period 1976-1990.

Active licensers are the following companies: Krupp, Hereus, Porsche, Almatic, Walter Scheid (Germany); Raketto, Manky (Italy), LASS, Renault (France); OMC (Great Britain); Yamaha, Dzhuky (Japan).

An analysis of industrial aspect of foreign technologies shows that 47% of them were imported for machinery construction, 27% - for military industries, 6 - chemical/timber complex, 5 - metallurgy, 7 - consumer goods production. The most part of licenses from 47% were imported for automobile production, radio and electronic equipment, aerospace industry, agriculture (fig.3).

Research in industrial structure of import shows that it before the USSR purchased licenses for coal and chemical industries, then it imports technologies for, first of all, science-capacious industries: machinery construction, auto- and airtransport, radioelectronics and so on.

Such was the system of legal protection and commercial realization of new technologies in Russia. Today, as I've already mentioned, the situation has changed very suddenly.

PART 2. IP IN RUSSIA IN MODERN CONDITIONS

Disintegration of USSR and establishing new economic relations in Russia completely changed the situation described above:

- First of all, Russia is an independent state in the Commonwealth of other states of the former Soviet Union;
- Russia is passing to the market economy;
- new kinds of property, including private, have appeared;
- instead of one political party there are more than 40 ones there;
- country's new legislative basis is being founded;
- Russia's cooperation with other countries has expanded considerably; now it has become possible to set up companies with foreign investments in Russia.

Sure, businessmen are interested in what laws can protect their investments in Russian economy and what changes have taken place now in Russian Federation.

The Law "On Foreign Investments in the RSFSR" of July 4, 1991 permitted to use foreign investments in the national economy of the Russian Federation. (Chart 1)

According to Article 2 of that law "foreign investments shall be all types of material and intellectual values invested by foreign investors in objects of business and other kinds of activities for the purpose of gaining profit (income)."

According to Article 31 "...Protection and realization of rights to intellectual enterprises with foreign investments shall be secured in compliance with the legislation currently in force in the territory of Russia.

Improvement of the national system of the legal protection and commercialization of the use of Intellectual property is one of the major condition for successful economic development of Russia and its integration into the system of international economic relations.

2.1. New system of the Legal Protection of IP

In 1992 after the adoption of a whole series of laws the new Russian system of legal protection of intellectual property was established.

First of all Russian Agency For Patents and Trademarks (Rospatent) was set up instead of the State Committee for inventions and discoveries of the USSR.

Rospatent

The Russian Agency for Patents and Trademarks (Rospatent) is a federal executive body duly authorized to grant, register, and maintain rights to inventions, utility models, industrial design, trademarks, service marks, appellation of origin, as well as to effect registration of computer programs, databases, and topographies of integrated circuits in the Russian Federation. It performs functions of the State Patent office of Russia and those of the Agency for the legal protection of computer programs, databases, and topographies of integrated circuit.

Rospatent is empowered to implement uniform state policies on the legal protection of industrial property rights, computer programs, databases, and topographies of integrated

circuits, improve the legislative and statutory basis in the sphere of intellectual property, provide conditions for bringing industrial property rights into commercial circulation, realize tasks of international co-operation in the aforementioned sphere and develop its inner structure and forms of activity.

Also, in April 1999 Rospatent was empowered to improve legislation international cooperation and interaction with public organizations in the field of copyright and related rights.

The functional structure of Rospatent is aggregate of several structural elements.

Functions of the State Patent Office:

The Central Body (functions of the federal executive agency: working out of proposals, in cooperation with ministries and offices, on the formulation of state policies in a given field, intentional co-operation, financial support for the system, registration of licenses and contacts, professional certification and registration of patent attorneys, coordination of activities of all structural elements, general questions).

The Federal Institute of Industrial Property (FIPS) (acceptance and examination of applications, registration of titles of protection, publication of official data on the above titles, acquisition of patent collections, provision of patent information services, participation in Rospatent's activity to up-date legislation in the field of industrial property protection, improvement of the normative base of examination, solution of specific legal and methodological problems, etc.).

The Board of Appeals (examination of appeals against the Examiner's decisions and objections against the grant of titles of protection of registration of industrial property rights).

The Higher Patent Chamber (a collegiate body within Rospatent; established in order to examine appeals, statements, and requests of applicants, holders of titles of protection, and third parties).

The State Anti-Monopoly Committee

Aside from the Patent Office dealing with the registrations of trade marks there is a State Anti-Monopoly Committee which monitors the activities of business entities from the point of view of their allegiance to the existing legislation. It bases its activities on the Law on Competition and Limitation of Monopoly Activities on the Markets.

Specifically, Article 10 of the Law relates to unfair competition and bans the sales of goods violating intellectual property rights.

The Anti-Monopoly Committee may also forbid activities which mislead the consumer in respect of the source of goods and the manufacturer.

In 1999 Rospatent WEB-site was development. This site is opened under address www.rupto.ru for wide range of user access.

2.2. Legislative Basic

As it was said above a whole series of new laws was adopted in 1992-1993.

Now the results of scientific and engineering activity are objects of private ownership and are protected by patents or certificates of equal jurisdiction.

New subject matters such as utility models, appellations of origin, computer programs, databases and the topographies of integrated circuits are given protection.

The most important of them is the Patent Law.

1. "Patent Law of Russian Federation No. 3517-1 as of 23.09.1992".

In accordance with the Patent Law of the Russian Federation, the structure of legal protection of industrial property subject matter is defined, in particular, postponed examination of inventions has been introduced.

In compliance with Patent law the results of scientific and engineering activity are objects of private ownership and are protected by patents or certificates of equal jurisdiction. The Patent Law regulates the relations occurred in compliance with development, legal protection and use of the inventions, utility models (UM) and industrial design (ID).

According to the Patent Law an invention may be protected if it is new, is characterized by the inventive level and is applicable in industry.

An invention is new if it is not known from the prior art.

An invention is characterized by the inventive level if it does not follow obviously from the prior art for an expert.

The prior art includes any information which is generally available in the world before the priority date of the invention.

While establishing the novelty of an invention the prior art includes all applications for inventions and utility models (except for those withdrawn) filed by other persons in the Russian Federation if they have an earlier priority, and also inventions and utility models patented in the Russian Federation.

An invention is considered to be applicable in industry if it can be used in industry, agriculture, public health service and in other fields of activity.

The law contains also an exception to novelty which is six months after the disclosure of the invention.

The subject matter of an invention may be: a device, a method, a substance, a strain of microorganism, cultures of cells of plants and animals as well new application of a previously known device, method, substance, strain.

There are solutions which are not regarded as patentable inventions. These are mainly scientific theories and mathematical methods; methods of organization and management of economy; methods of performing mental operations and some others.

The Patent law incorporates provisions for utility models and designs. A utility models (U.M.) is a structural embodiment of a means of production and of consumer goods. The design concerns (industrial design - ID) the outer appearance of an object determined by its artistic/structural embodiment.

The right to an invention, and ID, or a UM shall be protected by the State and certified by the grant of a patent or a certificate:

- the patent for an invention shall be effective for 20 years
- the patent for an ID shall be effective for 10 years
- the certificate for a UM shall be protected for 5 years

Inventorship

A national whose creative work resulted in an invention, industrial design (ID), or utility model (UM), is recognized as the inventor.

The right of the inventorship shall belong to the inventor as it is an inalienable personal right. Inventorship is protected permanently.

The Patentee

A patent for an invention, UM, or ID shall be granted:

- to the inventor;
- to a national or legal entity (under an agreement) who is indicated by the inventor in the application;

- to the heir of the inventor;
- to the employer, if the appropriate agreement has been concluded between an employee and an employer.

According to Russian Civil legislation, legal entity is an organization which possesses separate property in the process of economic, proprietary and management activities and which incurs liability for its obligations by said property and can act on behalf of its name, when acquiring and exercising its personal rights of property and non-property rights, presents itself before the court as the plaintiff or defendant.

Application for a Patent

The application for a patent for an invention, ID, or UM shall be filed with the Russian Patent Office.

National and stateless persons domiciled outside the Russian territory or foreign legal entities shall conduct actions in Russia concerning obtaining patents and keeping them in force through the intermediance of Russian patent attorneys registered by PRO.

Priority of invention, ID, or UM

The priority of an invention, ID, or UM, shall be established by the date of filing an application with PRO. The priority may be established by the application filing date in a foreign state (member of Paris Convention for the Protection of Industrial Property - convention priority) if the application for the invention or UM is filed with the PRO within 12 months and the application for the ID is filed within 6 months from the foreign filing date.

Appeal of Decision on Application for Invention, ID, or UM

In the case of disagreements with the decision of the substantive examination, the applicant has the right to submit a motivated appeal to the Appellate Board of the PRO. In the case of disagreement with the decision of the Appellate Board, the applicant has the right to submit an appeal to the Patent Court of the PRO.

In fig. 4 represents a new system of organization of legal protection of industrial property in Russia.

In accordance with the new law any inventor or national or legal entity may file an application to the Russian State Patent Office (PRO). The foreigners have equal rights with Russian citizens.

Today in Russia provisional legal protection of inventions has been introduced. Provisional legal protection of inventions shall be effective for 3 years from a date of publication of an application. If within 3 years you don't file to the PRO a petition to carry out substantive examination an application for an invention is to be cancelled .

After substantive examination you can receive the patent. A patent for an invention shall be effective for 20 years, for an industrial design - for 10 years and for a useful model - for 6 years from the date of filing an application with the PRO.

The exclusive right to use an invention (ID; UM) belongs to a patentee. No one may use an invention for which a patent has been granted without a patentee's consent.

2. "The Law of the Russian Federation on trademarks, service marks and appellations of origin" No. 3520-1 as of 23.09.1992".

According this Law the Trademark signs whereby goods manufactured and services rendered by natural person or legal entity may be distinguished from goods or services of the

same type manufactured or offered by another natural person or legal entity.

The trademark can be registered on the juridical person or private owner. The registered trademark is proved by a certificate. The right to trademark shall be protected by state and certified by the grant of the certificate. The certificate of trademark shall be effective for 10 years, and can be prolonged every 10 years.

The certificate on appellation of origin is granted only once and life-effected.

In 2000 the *"Rules on Recognition of Trademark as Well-Known Mark in the Russian Federation"* entered into effect. The provisions of above mentioned document are harmonized with the provisions of the Joint Recommendations Concerning Protection of Well-Known Marks adopted by the General Assembly of the Paris Union on Protection of Industrial Property and the General Assembly of the World Intellectual Property Organization in September, 1999.

The Rules determines the features of well-known mark as follows (1) intensive use; (2) reputation (notoriety) in the Russian Federation among the relevant groups of population; (3) reputation of trademark as sign marking the goods of specific manufacturer.

The Rules define the list and content of the documents, which can be attached to application.

3. Legal protection of trade names. *"Civil Code of the Russian Federation" part I No.51-FL as of 30.11.1994, part 2 No.15-FL as of 26.11.1996.*

Basically, legal regulation of trade names is implemented by provisions of the Civil Code of the Russian Federation, Federal Laws also include certain provisions related to this issue. However, said Laws are not special Laws devoted to practice of legal protection of trade names.

Namely, according to Article 51 of the Civil Code of the Russian Federation, legal protection of trade name is beginning after effecting the registration of right holder - legal entity - by the Ministry of Justice. Trade name is a piece of information for official registration of legal entity, which is included in Common State Register of legal entities i.e., it is not independent registration but "accompanying" registration; trade name itself is not under registration.

4. *The Law of Russian Federation on "Legal protection of computer programs and data protection" № 3523-1 as of 23.09.1992.*

The Law regulates the relations connected with development, legal protection and use of computer programs and data base. According this Law:

"computer program" means the objective form of presenting a totality of data and commands which are intended for the operation of computers and other computer devices for the purpose of obtaining a certain result. By a computer program are also understood the preparatory materials.

"data base" means the objective form of presenting and organizing a totality of data (e.g., articles, calculations) systematized in such a way that this data may be found and processed by a computer.

Relations Governed

Computer programs and data bases are referred by this Law to the subject matters protected by copyright. Computer programs shall be legally protected as literary works, and data bases shall be legally protected as compilations.

Subject Matter of Legal Protection

The legal protection granted by this Law shall cover all kinds of computer programs (including those for operational systems and software complexes) which may be expressed in any language and in any form, including the initial text and the objective code.

The legal protection granted by this Law shall cover data bases that are the results of creative work on selection and organization of data. Data bases shall be protected regardless of the fact whether the data, on which they are based or which they include, are protectable by copyright.

Conditions for Recognizing Author's Rights

The holder of the right, in order to announce about his rights, may, from the first issuance of a computer program or a data based, use the symbol of copyright consisting of three elements:

- the letter C in a circle or in parenthesis;
- the designation (name) of the holder of the right;
- -the year of the first issuance of the computer program or data base.

Copyright for Data Base

Copyright for a data base consisting of materials not protectable by copyright shall vest in the persons that have created that data base.

5. The Law of the Russian Federation on "Legal protection of topographies of integrated microcircuits" № 3526-1 as of 23.09.1992.

The Law regulates the relations connected with development, legal protection, use of topographies and defines:

"topography of integrated microcircuit" (hereinafter "topography") means a three-dimensional disposition, as fixed on a material carrier, of a totality of the elements of an integrated microcircuit and the interconnections therebetween..

Subject Matter and Conditions of Legal Protection

The legal protection provided by this Law shall cover original topographies only. The original topography is a topography made in the result of the creative activity of the author. The topography shall be regarded as original provided and until there is no proof to the contrary.

Authorship of a Topography

By the author of a topography is recognized the natural person which creative activity has resulted in the creation of the topography.

Property Rights

The author or other holder of the right shall enjoy the exclusive right to use the topography at his own discretion, in particular, by manufacturing and distributing IMCs having this topography, including the right to prevent other persons from using this topography without a corresponding authorization, except for the cases provided for in Article 8 of this Law.

Registration and Notice

In order to announce his rights, the author of a topography or his successor in title shall have the right to make, on the protected topography as well as on the products containing this topography, a notice to that effect in the form of an upper-case letter T ("T", [T] (T), T* or T, date of the beginning of the exclusive right to use the topography, and information allowing to identify the holder of the right.

6. The Law of the Russian Federation on "Copyrights and allied rights" № 5351-1 as of 09.07.1993.

The Law regulates the relations connected with development, legal protection and use of research works, literature and art (copyright), phonograms of the performances, programs (allied rights). There is no need to be officially registered for obtaining copyright in Russia. The copyright occurs after the development of work and is effected and protected during author's life and 50 years after author's death.

7. The Law of Russian Federation on "Legal protection of achievements in Selection № 5605-1 as of 06.08.1993.

The Law regulates the relations with development, legal protection and use of achievements in Selection. Achievement in Selection means the new plant varieties and animal breeds.

The right to an achievement shall be protected by the State and certified by the grant of a patent. The patent shall be effective for 30 years.

Above mentioned laws are basic basement and provide effective functioning of the legal protection of IP System in Russia (fig.5).

8. International cooperation in IPR

Russia is a member of many international conventions in the field of intellectual property. The basic one is the Paris Convention. It allows the applicant to file a patent application in his home country after which he has twelve months to decide on filing corresponding patent applications in other countries. This helps the applicant to search for potential consumers of his product before he files in other countries.

The applicant may also file a so called PCT patent application. There is a Receiving Office in Russia for this purpose.

If the applicant limits his claims by Europe he may file a European patent application. Russia is not a member of the European Patent Convention, however since the Convention is open to third countries the Russian applicants use it .

Recently, there became available another regional patent, i.e. a Eurasian patent. The members of the Eurasian Patent Convention are most of the former USSR republics, now independent states.

A Eurasian patent application shall be filed in the Eurasian Patent Office in Moscow which is a multinational office. After an examination procedure a Eurasian patent is granted. Unlike the European patent it does not break into the national patents but remains as such and is maintained undivided. After the grant of a Eurasian patent the applicant shall pay a combined maintenance fee which is a sum of national maintenance fees.

The Eurasian patent system is open for filing patent applications from other, non-member countries and is open for joining other countries.

2.3 . Statistic review

The new Russian system of legal protection of intellectual property has been in force for seven years, and some tendencies can be detected.

Inventions

A reduction of inventive activity was observed after implementation of the Patent Law of the Russian Federation in 1992. There has been a sharp drop in the number of invention applications submitted by Russian applicants (from 200 000 in 1989 up to 28 000 in 1993). There are a number of reasons for such a situation:

- Non-stable economical situation in Russia and a sharp drop in production;
- The legal status of a patent, according to which the exclusive right of using an invention belongs not to the State but to the patent owner, who is interested in the protection of a commercialized invention. Due to all this there has been an abrupt rise in the requirements for selection of inventions to be patented;
- The necessity of paying for substantive examination and for maintenance of a patent, while Inventor's Certificates were granted free of charge, etc.

This tendency towards reduction of the number of applications was observing up to 1998, when there appeared an increase in the inventive activity (Table 1).

Table 1

Number of applications for a patent submitted to ROSPATENT	1993	1994	1995	1996	1997	1998	1999
Total number	32216	23081	22202	23211	19992	21362	24659
Russian applicants	28478	19482	17551	18014	15106	21362	19900
Foreign applicants	3738	3599	4651	5197	4886	4908	4759

Wherewith the decrease in the foreign applicants' activity was insignificant while the share of the foreign applications increased from 1.2 % in 1989 up to 20 % in 1999.

Speaking about the formation of market relations in Russia, attention should be directed to the specific features of the patent policy carried out by foreign firms of the leading countries throughout the world. Beginning with 1985, a substantial increase in the flow of applications from leading industrial countries abroad was noted on the international market of patents and licenses. Today the USA is the country with the highest degree of involvement in patenting inventions abroad. The proportion of American applications in the worldwide flow is 28%. The degree of activity of Japanese and German firms has also increased, to 14.3% and 19%, respectively. Great Britain and France are next in line in respect of foreign patenting.

At present the volume of mutual foreign patenting of leading industrially developed countries is tens of thousands of patents.

An analysis of the legal protection of foreign inventions in Russia shows that there is a growth in the interest of foreign firms in the protection of their inventive developments in our country. However, the general policy of the leading countries in the world toward Russia has not substantially changed. And even though the share of applications filed by foreign applicants has increased, these numbers do not in any way compare with the volume of mutual foreign patenting between the leading industrial countries. For example, firms of the USA, which are the most active foreign applicants at the Russian market, sent 1186 applications to ROSPATENT in 1999, then come that of Germany – 812, France – 385.

Among the CIS countries the most active country is Ukrain, which is the fourth after the USA, Germany and France as to the number of patent applications submitted to Russia.

Formation of the intellectual property market is characterised by the growth of the total number of valid patents and certificates. During the period under consideration the number of the valid patents on the territory of Russia was constantly increasing and there were 191 129 of them by the 1.01.2000 (Table 2), 38 143 of them belonging to the firms from 85 countries of the world.

Table 2

Dynamics of Legal Protection of Intellectual Property in Russia.

Items valid by the end of the year	1994	1995	1996	1997	1998	1999
Patents for inventions	60321	76186	109467	155247	173081	191129
Patents for production prototype		4700	5560	6400	7234	8651
Certificates for useful model	186	2971	3361	5700	8185	11591
Certificates for trade marks and service marks	81675	92915	102241	109993	107561	117920
Registrations of -computer programs	534	1018	1601	2322	3071	4087
-databases	43	84	133	224	302	463
-microchip topologies	8	16	20	23	31	43

It is important to emphasize the following tendency. The majority of the annually registered inventions belong to juridical entity. Along with it the number of patents given to juridical entities from Russia is on the average twice as that of the patents received by the physical persons from Russia. For foreign applicants this ratio is much higher (about six times as many).

For example, 14138 patents from 19508 were given to juridical entities in 1999:

10 378 patents – to Russian representatives;

3 760 – to foreign firms.

Analysis of the structure of flow of the patents for inventions proves that the leading countries of the world still carry out the same policy concerning Russia as described above. Foreign firms protect their priorities in the same fields in which they had used to do it before the new laws were adopted. These fields are as follows – “Chemistry and Metallurgy”(C), “Technological Processes”(B), “Armament”(F), “Necessities of Life”(A).

On the contrary, Russian applicants have absolutely changed their priorities. Previously the numbers of national applications under A-category were least of all, but now in this category one can observe the greatest level of activity. Russian enterprises are trying to gain the priorities and markets in the area of meeting the necessities of life, first of all, but not in

the area of armament and explosives, as it was previously.

Utility models

The analysis of data given in Table 2 proves that a system of utility models legal protection is now being established in Russia. This fact is confirmed by considerable increase both in the number of national applications for utility model (from 14 applications in 1992 up to 3444 in 1999), and in the number of their registrations.

Foreign applicants still show slight interest to protection of this kind of property in Russia. In 1993-1999 there were submitted only 202 applications from foreign applicants, mainly, from Ukraine and Byelorussia.

The analysis of branch structure of the registered utility models proves, that the leading position is occupied by the Russian applicants in section B - "Different Technological Processes", and section A - "Necessities of Life" then comes section F - "Mechanics, light, weapons, ammunition", section G- "Physics".

For foreign applicants the picture is quite different: first comes section B, then section D - "Textiles, paper", then sections A and F etc.

All in all there are 11591 valid certificates for utility model which are in force on the territory of Russia by 01.01.2000.

Industrial design

Under conditions of an operating market, one of the main objects of industrial property is industrial design.

At present firms abroad pay special attention to the protection of this subject matter, since in the long run the appearance of goods ensures their successful sale. Unfortunately, the industrial design has not yet attained an independent economical value in Russia, this being confirmed by the reduction in the number of applications for the registration of national industrial designs (Table 3).

Table 3

Dynamics of Applications for Industrial Design Patenting.

Number of applications	1994	1995	1996	1997	1998	1999
Total number	1423	1370	1266	1302	1509	1585
Russian Participants	1225	1165	994	929	1076	1274
Foreign Participants	198	205	272	373	433	311

And on the contrary, the volume of the applications on registration of foreign industrial design permanently increases. However their total is not comparable with the number of applications given by the corporations to other countries. Thus in 1999 there were 36 applications for registration of industrial designs submitted from the USA to Russia, from Germany - 30, from France - 44, from Great Britain - 10, from Netherlands - 31 . In 1999 Japan, which is most active in protecting its industrial designs abroad, submitted 17 applications to Russia. It is necessary to mark that foreign corporations submit to Russia

applications for consumer goods, sporting goods and items of light industry, and practically do not protect products of mechanical engineering. The reason to that is the condition of the Russian market and low level of domestic design.

Trade marks and service marks

In Russia one of the intensively growing intellectual property subject matters is the trademark, servicing mark together with the name of the place of origin or geographic names, or the so-called means of individualization of the products and services.

It is a well-established fact that the world practice acknowledges acquisition of the exclusive rights through registration or through use. In Russia, the rights to trademark are acquired by registration. The analysis of the dynamics of the trademarks protection allows to reveal the tendency as follows (Table 4):

Analysis of changes in trademark legal protection allows revealing a different tendency. First of all, the number of the annually registered trademarks permanently increases. Thus it is necessary to mark a steady tendency of increase in the number of applications given by domestic applicants. They obtain 63% of all the trademarks applications in 1999. Special attention attracts a ratio of the registered national and foreign trademarks. If earlier more than 60 % of all registered and operational trademarks belonged to foreign corporations, now the transition of Russia to a new economical structure has shown to many Russian companies how important it is to protect trademarks in time. In 1999 the registered trademarks of the Russian companies was about 50%.

Foreign firms also show a steady concern about protection of their goods at the Russian market. 64 countries of the world register their trademarks in Russia. Corporations from Germany, France, the USA, Switzerland, Netherlands, Great Britain and Spain take the leading position. Among countries of the former socialist commonwealth there are firms from Czech and Poland. There come applications from CIS countries -first of all, from Byelorussia and Ukraine (Table 4).

Table 4.

Changes in Submission of Applications for Registration of Trademarks (TM) and Service Marks (SM).

Years	1993	1994	1995	1996	1997	1998	1999
In total number of applications for registration TM and SM in Russia:	25920	23875	21403	24127	28157	28581	28995
- Russian applicants	18028	14419	11829	13513	15998	15583	18254
- Foreign applicants	7892	9456	9574	10614	12159	12993	10741
Total number of new registrations:	11246	12805	12647	20313	17401	17701	19507

- Russian applicants	3996	5780	10256	10108	8249	7791	9181
- Foreign applicants	7250	7025	2391	10205	9152	9910	10326
By the end of the year of registration	74676	81675	92915	102241	109993	107561	117920

It is also necessary to mark changes in the structure of registrations as to branches. Earlier there were mainly trademarks that were protected, but in 1994-1999 about 23 % of national applications were submitted for registration of service marks, that is first of all due to the development of Russian market of services. Among foreign applications the share of service marks is less than 10 %.

Totally 117920 of registered trademarks and service marks were effective in Russia by 01.01.2000.

The Appellations of origin

Specifying the appellation of origin is a principally new for Russian applicants object of legal protection and they still insufficiently use the advantages of such registration. For all the period, while the Law protecting this object of intellectual property has been in force, 129 applications from Russian applicants have been submitted to ROSPATENT and 104 certificates granted the right of using the name of appellations of origin were given.

Mostly granting rights to use appellations of origin which are sings associated with traditional Goods, like "Gzhel", "Khokhloma", "Fedoskino", "Vologodskoye maslo", mineral waters. There were no such applications from foreign applicants.

Computer programs, data base and topology of integrated circuits

In 1993 the official registration of computer programs, databases (DB) and topology of integrated circuits (TIC) began. Data presented in Table 5 prove that a legal protection of these objects is being formed in Russia. In 1997-99 a considerable increase in the number of appeals for official registration of the computer programs is marked and it is also true for Russian applicants. The activity of foreign applicants has increased, that proves that foreign firms are interested in defending their positions at the Russian market of software. Such foreign Companies as IBM, Microsoft, Unigraphics are the most active in registration of their programs.

Table 5.

Changes in Registration of Computer Programs, DB and TIC.

Object of Protection	1994	1995	1996	1997	1998	1999	Total
Computer Programs	534	484	583	721	749	1016	4087
Databases	43	41	49	91	78	161	463
Integrated Circuits Topology	8	8	4	3	8	12	43

PART 3. RUSSIAN SYSTEM OF LICENSING

The commercial realization of intellectual property is a constituent part of its legal protection.

A characteristic of modern-day development of economic relations is the constant expansion of the volume of transfer of intellectual property such as technology, which is accomplished on a commercial basis in the form of license trades.

For the majority of countries, license trade is carried out on both a national and an international level, i.e. firms carry out an exchange of technologies within a country and actively use license trade in their foreign trade practice.

3.1. Technology transfer regulation

As it was already said above, all scientific and technical achievements in the former Soviet Union belonged to the state. That is why in the USSR there was no system of internal licensing, and licensing existed only as a way of foreign economic operations.

License trade within the country is a absolutely new phenomenon for Russia. For the moment Russia does not have the special law governing the transfer of technology.(fig.6).

Legislative acts and regulations, adopted in Russia in 1991-1999, had laid a foundation for the domestic legal system in the field of technologies licensing. It is comprised of: the Civil Code of the RF,, Patent Law of the RF, Laws "On Legal Protection of Computer Programs and Data Bases", "On Legal Protection of Integrated Micro-Circuits Topologies", "On Legal Protection of Achievements in Selection", "On Copyrights and Allied Rights", "On Export Control", "On Competition and Limitation of Monopoly Activities on the Markets".

The domestic system of technology transfer

With a variety of ways for technological exchange, a patent assignment contract, a license agreement on the grant of the right to use the protectable industrial property subject matter, a contract for granting know-how and a commercial concession contract to provide the user with a set of exclusive rights, including a trade name or a business name, are the basic legal means of transferring and acquiring technology in the Russian Federation.

- The patent assignment contract as an independent contract type is designated in Article 10(6) of the Patent Law of Russian Federation.

In this case rights to a patent can be transferred to a national or legal entity under a civil agreement shall be registered in Rospatent.

- Article 13 of the RU Patent Law states that a license agreement between the Party, which expressed a desire to use the industrial property object, and the Patentee should be obligatory signed and registered in the Russian Patent Office (ROSPATENT).

Wherewith state registration is obligatory only for the internal operations connected with protected industrial property objects: agreements on providing a patent and agreements on patent license transfer. Agreements, the subject of which is the transfer of technological activity products not protected by a patent ("know-how" agreements), are not the subject for registration. Neither are international treaties on export of Russian technologies or import of foreign ones. Except for military and dual-purpose technologies, for which there exists a special state control (fig.6).

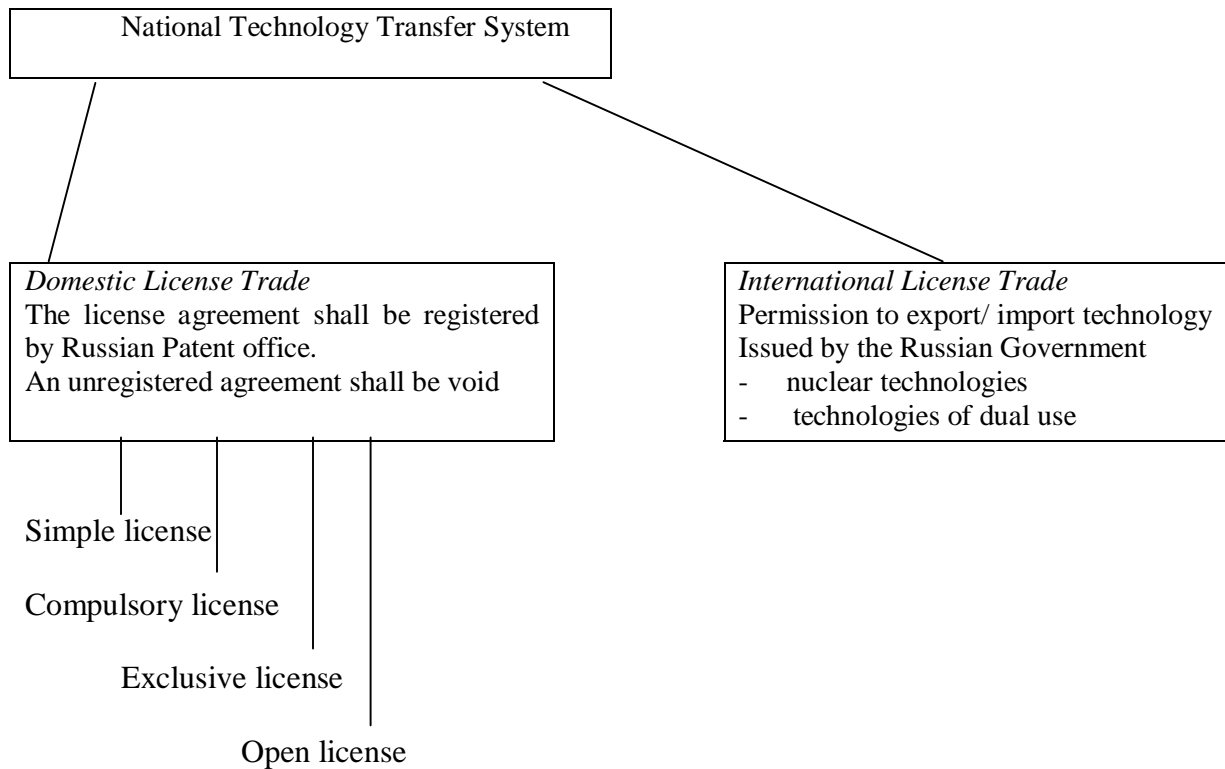


fig. 6

- Article 13 of the RU Patent Law defines four types of license:

Simple license - the licensor, giving to the licensee a right to use the invention, keeps all rights arising from a patent including the right to grant a license to a third party.

Compulsory license - in the case the invention and ID fails to work or perform insufficiently within 4 years from the date of publication (UM is 3 years) a person willing and preparing himself to use the invention may lodge a suit before the Patent Court of Russia to grant him a compulsory, simple license fixing the Units of the use of the invention, amounts, time limits, and terms of payment.

Amount of payment must be comparable with market price of the license. This license is granted if it is not possible to conclude a license agreement with the patentee, and the latter cannot justify the failure to work or insufficient performance of the invention, UM ID with legitimate reason.

Exclusive license - the exclusive right to use the invention in the scope specified by an agreement is assigned to the licensee. The licensor retains the right to use the invention in

part-not transferred to the licensee.

Open license - a patentee may submit an application - to the RPO-offering any person the right to use his invention, in which case the maintenance fee shall be reduced by 50% starting from date of application publication..

The registration of license agreement is carried out in accordance with “**Regulations on Consideration and Registration of the Contract for the Assignment of a Patent and Granting the rights to exploit the invention, utility model, industrial design**”. The registration procedure is aimed to providing for legality of contracts for the assignment and exploitation of intellectual property rights, namely to preventing the assignment of intellectual property rights by unauthorized person, the inclusion to the contracts of clauses contradicting current legislation, the revocation of rights under the contracts concluded.

The list of the documents accompanying the application for registration of a contract is enumerated in Par. 2 of the Regulations. Presence of the protective document (patent for invention, utility model, industrial design) and the possibility of access to State Registers Data bases allows to confirm the authority of person transferring the rights of the patent and to control the patent validity on the date of registration.

The amendments and additions to the contract registered relating to determination of the contracting parties, object of the contract, the scope of rights transferred, the territory and term of contract validity, including prematurely expiration of contract validity shall be also registered (Par. 6 of the Regulations).

Particularities licensing of trademarks and trade names.

According Article 26 the Law of the Russian Federation "On Trademarks, Service Marks and Appellations of Origin" national and legal entity wishing to use an trademark any license agreement with the patentee.

Above all - it is subject-matter of licensing.

According to the Russian legislation usually only the signs registered by the Patent Office are protected as trademarks. In other worlds, in Russian the signs used for marking of goods, but not registered in due form, are not protected as trademarks. And, respectively, they could not be the object of license contract. (Note: this presentation does not cover well-known trademarks which are protected without any registration.)

Legal protection of **trade names** is regulated in a different way. Russia, as contracting party of Paris Convention for the Protection of Industrial Property, shall provide legal protection to trade names without mandatory filing of application or special registration, notwithstanding the fact whether it is a part of trademark. Above international obligation was applied in the Russian legislation.

Thus, trade name of the Russian right holder can be an object of licensing if said right holder is registered as legal entity. In case when right holder is foreign (not Russian) subject of law, trade name can be the object of licensing in Russia if said trade name is protectable in accordance with national legislation of right holder.

Secondly, success of trademark and trade name licensing depends greatly on correct determination of legal status of person granting right to make use trademark or trade name.

In accordance with Article 2 of the RU Law "On Trademarks, Service Marks and Appellations of Origin", trademark owner may be legal entity or natural person engaged in entrepreneurial activity.

Both commercial and non-commercial organizations can be regarded as legal entity. In should be noted, that daughter companies and affiliates are not regarded as legal entities. Legal entity shall be registered by the Ministry of Justice.

As second subject of law, which can be the trademark owner, Laws determines the natural person engaged in entrepreneurial activity. In accordance with Russian legislation citizen has right to be engaged in entrepreneurial activity without establishing legal entity since the time of its registration as individual entrepreneur.

There are legal requirements as to status of trade name owner. Only legal entity, which is commercial organization can be regarded as trade name owner. "Commercial organization" means an organization which main goal is to derive a profit in result of its activity.

Non-respecting above requirements can lead to annulment of registration of a license contract.

The license contract registration procedure and terms are governed in details by the ***“Rules for registration on registration of the Trademark Assignment Contracts and License Contracts for the Grant of the Right to Exploit the Trademark”*** which is Departmental normative (by-laws).

In Russia the agreement on ***commercial concession*** is widely used. In particular, according to Article 1027 ("Franchising arrangement") of the RU Civil Code," under a franchising arrangement, one party to an agreement (the franchiser) shall be obliged, in exchange for consideration, to allow another party to an agreement (the franchisee) for a certain period of time or without indication of time limits to use in the franchisee's commercial activity the system of exclusive rights belonging to the franchiser, including the right to a trade name and/or business name of the franchiser, right to undisclosed information as well as the other objects of exclusive rights provided for in the agreement - a trademark, service mark, etc."

Licensing of Computer Programs, Databases and Topographies of Integrated Circuits

In accordance with the Art 13 of the RU Law "On Legal Protection of Computer Programs and Databases" a holders of all the economic rights in the computer program or database may, with the term of the copyright protection, register it at his discretion by filing an application in accordance with established procedures. The application for registration of the topographies of integrated circuits should be filed within two year period from the date of the first use.

The contracts for the complete assignment of all property rights and contracts for the transfer (licensing) of property rights for these computer programs, databases, and topographies shall be registered in Rospatent. In contract registration procedure is governed by the ***“Rules on registration of Contracts for the complete assignment rights and Contracts for the transfer of rights. for computer programs, databases, and topographies”***.

In particular, according to said regulations the contract (or copying) any kind of intellectual property, the application for registration of a contract and the proof of payment of the prescribed fee shall be filed within the Patent Office for registration of the license contract. All said documents, in accordance with the regulations, shall be written in Russian. If the documents are written in the language other that Russian, the said documents shall be accompanied by a Russian translation certified in due manner.

Application for registration of the contract shall be considered within two mounts

following the filing date.

Information relating to licenses granted is recorder in the Official Register of the Russian Federation. In addition the information shall be published in the Official Gazette by the Patent Office.

Know-how transfer

Now there is no a specialized legal act combining all rules relating to know-how in Russia.

As the same time, a contract for granting know-how is the popular way for technological exchange. Also, conditions on the know-how transfer to optimally use the protectable industrial property subject matter are included in the majority of license agreements and commercial concession contracts.

The protection and putting in economic turnover of know-how became possible following the adoption of revised Civil Code of the Russian Federation.

According Article 139 “Commercial secrets”.

... The various valuable commercial knowledge connected with manufacturing, management, financial activities etc., are recognized as know-how. For example, the knowledge of technological character such as scientific reports, design drawings, methods of carrying out experiments, methods of calculations, specification, principles of prescription-writing, records of tests. Economic and management confidential information are also protected as know-how or commercial secrets, for example, client’s and provider’s cards, financial operations, business plans, analytical information.

It is necessary to put into consideration the RU Government Resolution of December 5, 1991 No. 35 “On the list of data which can not be regarded as commercial secrets”.

Defining the term “know-how” requires special care to take into account some peculiarities of the RF legal system. Often some “generic notion”, is understood as know-how including all commercially valuable information, and that which is not kept in secret. However in the RF this term has a more narrow construction and essentially is equivalent to the notion of a trade secret. To avoid possible misunderstandings, parties to an international license agreement should strictly define what is meant by licensed information; otherwise a license agreement can be recognized as invalid.

Contract on assignment rights for know-how does not require an official registration.

3.2. Russian market of licenses

So, what are the specific features of formation of the Russian license market? The dynamics of registration of license transactions presented in fig. 7 provide evidence of the presence in Russia of conditions for converting intellectual property into goods.

Licensing of inventions, utility models, industrial design.

Formation of the intellectual property market began with the invention license trade. Since 1992 till 1999 there were 9643 license agreements registered in Russia, among which there were:

3512 - agreement for patents concession;

860 - agreement for granting an exclusive license;

5271 - agreement for granting a non-exclusive license.

As to the transferred rights volume most part of the signed agreements consists of the

non-exclusive licenses (57,6 %) and agreements for the patent cession (33,8 %).

Though, changes in licensed invention trade show the reduction of the non-exclusive licenses' share (from 72 % in 1994 up to 40 % in 1999) at a simultaneous increase in the share of agreements on patent cession (Table 6).

The share of the exclusive licenses is insignificant and makes only 8,6 % from the total number of agreements.

The picture described above greatly differs from the world practice, as all over the globe there is a keen competition and licensee, aiming to protect its rights, purchases an exclusive license. In Russia the predominance of the non-exclusive license is explained by a high market capacity and complexity of guarantying exclusive rights, furthermore non-exclusive license is much cheaper.

Table 6

Registration of the license agreements and agreements for patent cession.

	1992	1993	1994	1995	1996	1997	1998	1999
Agreements on patent cession	98	97	214	292	422	757	851	781
Agreements on exclusive license	98	80	101	101	82	115	115	168
Agreements on non-exclusive license	433	579	820	702	809	649	650	629
Total number of the registered agreements	629	756	1135	1095	1313	1521	1616	1578

At cession of rights the territory of their validness is stipulated. The geography of license trade in Russia has the following structure:

Agreements, according to which a license is valid

- on all the territory of Russia, make 78 %:
- on the territory of CIS countries - 10 %,
- in some regions, districts, cities - 5,7 %
- on some firms - 6,3 %

There exist license agreements, which stipulate the usage of the license object in a concrete branch only, for example, in aircraft manufacturing.

One more thing that differs license trade in Russia from the global practice is that distant foreign countries do not take part in this process and agreements have limited validity on the territory of Russia and CIS countries.

As to the industrial property objects there is a tendency of growth in the number of agreements on the use of utility models and industrial design. However, if till 1996 these agreements on license inventions had made practically 100 %, since 1996 there has been an increase in the number of the agreements on using industrial designs (from 60 in 1996 up to 161 in 1999) and utility models (from 37 in 1996 up to 159 in 1999). Almost five times increase in the number of agreements on using utility models proves that the demand for "small inventions" is increasing.

During the considered period there also happened considerable changes in the activity of the subjects of the license bargains. Thus, if till 1995 most active licensors were physical persons (57 % from the total number of the agreements) and state firms (26 %), then today their activity has considerably decreased, but the activity of non-state structures, on the

contrary, has increased (from 17 % up to 58 %).

Till 1995 most active licensees were state firms and organizations. They have gained the main share (62 %) of all patents and rights for using inventions, then come state structures (22 %) and physical persons (16 %). In 1998 the number of agreements, in which state structures (firms, research institutes, design bureaus and higher educational establishments) act as a receiving party, was reduced up to 7 %. Simultaneously, the share of the physical persons has reduced (12 %) but the share of non-state structures has sharply increased (81 %).

An important tendency for the Russian market of licenses is the increase in the number of agreements with foreign firms. Thus, in 1996 the share of agreements, in which as a receiving or transferring party acted foreign firms, was less than 4 % and in 1999 it was 12%.

Analysis of the concluded agreements as to branches of industry proves that there were also considerable changes. In the period from 1992 till 1995 most of the agreements were concluded in the field of medicine - 20 of %; light and food-processing industry - 14,5 %; chemistry, petrochemistry - 15 %; engineering, machine-tool construction and manufacturing of tools - 11,3 %; houses construction and building stuffs - 11,2 %. Agreements in the field of power engineering and the electrical engineering made 8,3 %, electronics engineering and computer facilities - 5,7 %, metallurgy - 3,6 %, other - 4,1 %.

By 1999 the quantity of the agreements in the field of oil and gas increased 2,4 times, engineering increased 2 times, and in the field of medicine reduced 2 times. The share of the agreements in the field of houses construction and building stuffs, light and food-processing industry, power engineering and electrical engineering first decreased and since then remains stable. The share of the agreements in the field of chemistry, petrochemistry, electronics engineering and computer facilities, instrument making is quite stable.

Licensing of trademarks and service marks

In modern conditions trademark becomes a very important object at the market of intellectual property. Now more than 80 % of all items produced and exported by firms from the leading industrial countries are labeled with the trademarks. Now in the global market there is a competition not so much among the goods, but much more among the trademarks. The share of the agreements on acquisition of a trademark or of the rights for using it in the total amount of license trade permanently increases.

In Russia this process is also under development.

Analysis of the data presented in Table 7 allows to reveal a steady tendency of growth in the total amount of registrations of both license agreements, and agreements for cession of a trademark. Thus, in 1999 the number of registrations increased up to 4638 as compared to 450 in 1993. And though, as it was already said above, the formation of the intellectual property market in Russia began from the invention license trade, the rate of growth in the number of registrations of the agreements on trademarks is considerably greater than of those on invention license, that proves that Russian market of trademarks is quickly developing.

Table 7

Registration of the agreements on trademark (TM) concession and licensing.

	1993	1994	1995	1996	1997	1998	1999
Total number of registered agreements, among which:	450	1256	1125	1893	2214	3101	4638
On trademark concession	403	656	1014	1202	1285	1645	2608

On trademark licensing	47	600	111	691	929	1456	2030
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There were 14677 agreements registered in Russia by 01.01.99: 8813 agreements for trademark concession and 5864 license agreements. It is necessary to note the reduction of the share of the agreements on trademark concession from 85 % up to 56 %. Along with it there are considerable changes in the ratio of national and foreign subjects of agreement. As distinguished from the invention market, at the initial stage of the Russian trademarks market formation most of the agreements (~75 %) were made between foreign firms. By the end of 1999 their share reduced up to 20 %.

Such changes in the activity of Russian businessmen correspond to the changes, which are taking place in our country. The second stage of privatization is now underway in Russia, there appear a great number of new firms with different ownership, to which the old firms transfer their trademarks. Companies disintegrate, join, detach affiliates etc.

As distinguished from the agreements on trademark concession the situation with license bargains is quite different. Along with general increase in the total number of registrations the share of license agreements with foreign participants is rather stable and makes approximately 25 % from the total number of the registered licenses. Such situation proves great interest of foreign corporations in promoting their goods and services onto the Russian market. And practically all corporations conclude the license agreements with their own representatives in Russia.

It shows that foreign companies, especially TNK, carry out the usual strategy of market development by creating their affiliates and representative offices, that significantly reduces the risks they are taking, specially in conditions of economical instability.

The USA corporations are most widely represented at the Russian market of trademarks, their share in the total amount of agreements exceeding 13 %, then come firms from Germany, Canada, Netherlands, Great Britain and Finland.

But most of license bargains in the Russian market (~75%) are made between home firms and organizations.

Analysis of branch structure of the license bargains proves, that the greatest quantity of the agreements relate to food-processing, drinks and cigarettes manufacturing (~20 %), then follow petroleum production - 17 %, electrical industry and instrument making - 11 %, light industry - 8 %, services (including finance) - 7 %, chemistry and pharmaceuticals - 5 %, publishing - 5 % etc.

The increase of the license bargains' volume is due to the fact that in Russia there appear new forms, such as "franchising" and "merchandising", when cession of rights for using a trademark is just a part of the general agreement.

In Russian legislation system the term "Franchise" is replaced by "commercial concession". This type of commercial relations (namely the agreement on commercial concession) was introduced in Russia in 1997 together with adoption of 2d part of Civil Code of RF. Now the largest share of franchise market in Russia belongs to the foreign Companies, like Macdonald's, Coca Cola, PepsiCo, Pizza Hat, Buskin Robbins, Beeline and others.

As far as merchandising is concerned, for the present time there is no appropriate legislative base, regulating such type of trademarks licensing. In practice merchandising is widely used for goods promotion on the Russia market.

Licensing of computer programs, data base and topology of integrated circuits

Since 1993 the formation of the market of computer programs, databases and

integrated circuit topologies began in Russia. During six years there were registered 471 agreements, 120 of which were agreements for full concession of rights and 351 agreements for property rights transfer (Table 8)

Table 8.
Dynamics of registration of the agreements on concession of rights for computer programs, databases and integrated circuit topologies.

	1994	1995	1996	1997	1998	1999	total
Total number of agreements	90	50	62	131	75	63	471
agreements on concession	17	9	8	39	32	15	120
agreements on rights transfer	73	41	54	92	43	48	351

From the data presented in Table 8 it follows that agreements on property rights transfer make the main part of all registered agreements. Their share, however, decreased from 80 % to 57 %. The number of the agreements on full concession of rights increased and was 43 % in 1999, that corresponds to the growth of the number of agreements on cession of invention patent.

The above given analysis concerned only registered objects of intellectual property. However, license trade also includes transfer of "know-how", results of research and development, such services as "engineering" etc.

In international practice the volume of these operations considerably exceed that of the protected objects trade. The absence in Russia of legal base and registration of the agreements on transfer of such objects slows down the process of formation of the national market of licenses.

3.3. Particularization of international technology transfer

As is known, a permitting order under conditions of the State monopoly on foreign trade was in force in the USSR up to the end of 1991.

Under the Russian Federation Presidential Decree "On Liberalization of Foreign Economic Activities in the RSFSR Territory" on November 15, 1991, the right to perform export-import commercial operations, including purchase-sale of licenses, has been afforded to all domestic legal and natural persons engaged in entrepreneurial business. In particular, the Law of the Russian Federation, No. 2551-1 "On Conversion in the War Industry" of March 20, 1992 provided enterprises of the military industrial complex with the capacity to independently transfer (exchange and sell) technology, know-how. In addition, under the USSR Council of Ministers Ordinance "On Licensing and Quoting of Export and Import of Goods (Works, Services)" of January 01, 1992 inventions, know-how, achievements on scientific and technological activities, except for those which may be used in the creation of the military equipment, were excluded from a list of goods and services sale and purchase of which could be effected with authorization of competent bodies.

The permitting order to purchase-sale licenses was so abolished. Legal and natural persons obtained the right to carry out license activities independently and enter into license agreements with foreign partners, without a specific system for registering license transactions provided for.

At present, the foreign economic activity in our country is regulated by the Russian Federation Law ***“On the State Regulation of Foreign Trade Activities” No. 157-F.L., dated October 13, 1995.***

The Law determines bases of the State regulation of foreign trade activities, a procedure for carrying out thereof by the Russian and foreign persons, rights, obligations and responsibility of government agencies in the field of foreign trade activities. The Law applies to entrepreneurial business in the area of international exchange of goods, works, services, information, achievements of intellectual activity, including the exclusive rights thereof. Special attention is paid to the issues of strict regulation of the processes for transferring technology having military, special and dual purpose.

Thus, at present Russia has a paradoxical situation. National system of technology transfer regulates only license trade inside the country and there is practically no unified mechanism for state regulation of selling licenses abroad:

1. A system for the State regulation of the process for transferring technology having civil purpose is absent.

2. All reforms carried out in the field of foreign economic activities have brought about a rather strict control over the transfer abroad of technologies having military and dual purpose as well as so-called “sensitive” technologies:

- in accordance with Russian Federation Presidential Decree ***“On Measures to Establish the Export Control System in Russia” No. 11, dated April 11, 1992.*** Under this Decree, a Commission for the export control of the Russian Federation was formed.

- Specific regulating lists of goods of strategic significance, including military and dual-purpose technologies, not to be exported without authorization of the Department for export control of the Russian Ministry of Economy were worked out and adopted.

- In pursuance of the Russian Federation Presidential Decree No. 556, dated March 14, 1998 ***“On Legal Protection of Achievements of the Research, Development and Technological Works Having Military, Special and Dual Purpose”***, Russian Federation Government Ordinance No. 1132, dated September 29 was issued. To control over the process for transferring such works, a special structure – Federal Agency for the Legal Protection of Intellectual Property Achievements Having Military, Special and Dual Purposes – has been established. The objectives of this Agency are, in particular, to hold a single Register, control and account the use of intellectual property achievements having military, special and dual purpose to be put in economic and civil circulation.

At present, however, it is impossible to appraise the scope of intellectual property transactions on the external market, since in Russia there is no official statistic regarding the sale of licenses abroad. However, one may judge by indirect features the active character of the sale and transfer abroad of technologies developed by Russian manufacturers.

But the tendency of Soviet license export development seems to be very interesting. During the last years center of gravity was moving towards science-capacious industries: instrument-making, radioelectronics, medical biology. New license objects have appeared – RF, relating, in particular, to employee’s inventions, export control procedures, legal protection of intellectual property, created in the RF territory, contract relations, and, in particular, the norms about invalidity of agreements;

- Do not take into account the requirements of the Russian administrative proceedings and court proceedings.

As a result of errors made by the parties, license agreements concluded by them can be recognized invalid. This situation can turn out in practice in essential economic losses for cooperation participants, which undoubtedly, affects the results of the international integration interaction.

3. Now, when the Russian firms independently execute export-import transactions, independently introduce their scientific and technological products to the external market and create joint ventures with foreign firms, there are next important problems:

- a poor professional level of the specialists in this activity, which is rather new to the majority of firms.

In order to make licensing one of profitable economical operations, it is necessary to know the state, tendencies and specific features of the world license trade. It is especially important to make use of the license trade experience already available in our country. Thus in USSR there existed a powerful state system represented by “Licenzintorg”, in which professionals of the highest class were available. Almost a 30-year experience demonstrated, that the greatest quantity of the Soviet licenses was sold to the former socialist countries (about 66%), the share of the advanced industrial countries being about 24%. But today Russian firms try to find buyers or investors for their technologies in the advanced industrial countries first of all, not having necessary finance and business ties.

- Russian firms try to transfer abroad latest knowledge of purely scientific character, without providing any manufacturing technologies, secrets and such services as “engineering”. And here appears a whole series of problems, which complicate commercial implementation of Russian technologies both inside the country and at the foreign market. Buyers are first of all interested not in the technology itself, but in the products, which can be manufactured by this technology, in those advantages, which these products give them enabling successful competition with similar goods. Unfortunately, Russian firms speaking about technology forget about the final product.

- One more reason of low efficiency of license trade is the level of industrial development of a license subject. The majority of technologies offered by Russian firms cannot be implemented in industry.

Implementation in industry of the developed technologies is now, perhaps, the most acute problem for Russian firms.

- The next problem is novelty protection. Most firms have no unified policy in the field of intellectual property protection neither in the field of promoting their goods the technologies onto the market.

4. Speaking about problems of license trade, it is necessary to pay special attention to importing foreign technologies to Russia.

- A common mistake of Russian firms is that when concluding a license agreement they do not take into account such problems as legal protection for the subject of license and patent purity of the manufactured goods, conditions for continuation of goods production after the license agreement is expired etc.

- An important problem of import is its price. Unfortunately, not all Russian firms, gaining the licenses, realize that the royalties make only part of payment. quite often cost of production equipment necessary for the technology development 2-3 times exceeds the cost of the license. Delays with launching into industry reduce the novelty and competitiveness of plants, strains, computers' programs, space technic achievements.

The most promising technological fields are the following:

- vacuum and plasma technologies;
- informatics;
- optical instrument manufacture, optical spectrometers;
- laser technology, advanced optical means for information transmission;
- the technologies of production of special materials (synthetic diamonds, crystals,

nanoparticles);

- biotechnological equipment(environment protection technology) etc.

TAX issues in relation with licensing.

According to *“The TAX Code of the Russian Federation” part 1 No. 147-FL as of 31.07.1998, part 2 No. 118-FL as of 05.08.2000* there are no any privileges for the patent-license operations with Russia.

As for international operations in the technology transfer it is only here that there exist direct privilege.

Article 148 of the RU TAX Code states that payments for export licenses and patents (when the license contracts and patent assignment contracts are attached) exempt from value added tax (VAT).

The legal mechanism for regulating processes of technology transfer in Russia has not yet been fully established.

A new system of regulations will be issued with due regards for the positive experience of the State regulation of license operations in the developed countries.

PART 4. OPPORTUNITIES AND PROBLEMS IP LICENSING

4.1. Common problems

In spite of the substantial progress, reached in the law creative sphere in the Russian Federation, the activation of international operations in the technologies transfer and intensification of information exchange, revealed a whole number of problems, relating to the legal conditions of licensing, both at the macro-, and at the micro-levels.

1. This is first of all related to still existing legislative vagueness in respect of:

- rights of ownership, disposal and use of the intellectual activity results, created full or partially at the expense of the Federal budget resources;
- legal basis of the transfer of business confidential information and secrets of production (know-how);

- unfair competition and restricting monopolistic activity in licensing.

2. One of the reasons causing is the lack of adequate understanding be technologies licensing process participants of the key difinitions and legal procedures, related to the international transfer of technologies. Practice shows that many foreign partners, entering into license relations with Russian organizations, as a rule:

- Do not take into account the specific of the Russian scientific research organizations, as a rule, representing the state scientific-research structures of organizations with the state financing;

- Do not take into account the provisions of the whole number of legislative acts of the license product.

- One more problem of import is the quality of gained foreign technologies. Quite often they are out-of-date achievements and now there are available more modern technologies of fair prices.

5. An important problem when organizing export of Russian technologies is absence of

information and license autarchy.

Despite of the problems listed above the process of improving the system of legal protection and intellectual property licensing is under way in Russia.

A number of measures carried out by the State during the considered period also facilitate the development of this process.

4.2. Opportunities

In spite of the named in 4.1. problems the license market in Russia is successfully developing. A whole set of positive circumstances support this process.

Information and organization opportunities

It becomes significantly easier now to search partners and necessary information:

1. LES Russia is created and actively functioning. LES members are capable to assist practically in searching and realization desired technology both in Russia and states-members of CIS. All information possible to find: www.LES-Russia.org.

2. In Russia there is already a system of science & technology parks, business incubators and innovation-technological Centers (several scores of such Centers have been organized on the base of Ministry of Science and have a success at their functioning).

3. Technology exchange is easily done in the frame of international cooperation.

There are many international center in Russia:

Russian-German space technology center; International Science & Technology Center (the parties – EU, Japan, USA, Norway and Republic of Korea) etc.

Law enforcement practice in the field of IPR and technology transfer in Russia.

Protective documents obtained for inventions are actively used by the patent holders. They make it part of the business. According to the data published by “Patents and Licenses” magazine roughly one hundred assignments and licenses are registered every month in Russia.

The opportunities connected with the effective protection of intellectual property rights are more and more important in national economy.

IP rights

The primary trend of protection of intellectual property rights ensured by civil and patent law, in the first place (see 2.1).

There is a number of administrative ways to fight infringement of IP owners rights. These are administrative actions under the auspices of the Patent Office and administrative actions by other government authorities:

1. First of them is the State Anti-Monopoly Committee.

Specifically, Article 10 of the “*Law on Competition and Limitation of Monopoly Activities on the Market*” relates to unfair competition and bans the sales of goods violating intellectual property rights.

This provision of the law is frequently used by the trade mark owners.

It is advisable to recur to this provision to stop the use of a trade mark very similar to a registered trade mark. As an example, one can cite a “Coca-Cola” case. In the south of Russia the defendant labelled his product with a “Coca-Cola” trade mark. The Coca-Cola company lodged a complaint in the Anti-Monopoly Committee and forced the local producer to cease

the use of the similar trade mark.

A very convenient side to this approach is that the interested party may initiate the case in Moscow regardless of the location of the infringer unlike civil cases in which the plaintiff has to sue the defendant at his location.

2. Civil action is also possible in case of infringement of rights of IP owners. The suits shall be brought at the location of the infringer and this creates certain inconvenience for the plaintiff. The route to follow in each particular case depends on the nature of the infringement and on the specifics of the case. When the courts examine trade mark cases they take into account also international agreements to which Russia is a party, the Paris Convention in the first place.

3. Criminal action may be brought in IP infringement cases too. The protection of right in the sphere of intellectual property has got a considerable encouragement through adoption of the new RU Criminal Code of 1996 year in which considerably more attention has been paid to the protection of intellectual property:

- in the existing Code it is made distinctions between the crimes committing in the sphere of the protectable patent and author right (with neighbouring rights). As the infringement of the author right and neighbouring rights involving criminal responsibility is recognized an illegal exploitation (i.e. in case of unauthorised use or in cases referred to the Law) of the objects of the author right or of the neighbouring rights as well as the misappropriation of the authorship if these crimes have caused large damage. As a qualifying indication serves, furthermore, the repetition of crime, committing it by a criminal group of persons and a conspiratorial crime (Art. 146 of Criminal Code).

- Particular attention the new legislation gives to computer software protection.

The Criminal Code has introduced the chapter (Ch. 28) based on principle, concerning the operations which in the sphere of computer information are considered as criminal offences. There articles of the Criminal Code (272-274) lay the bases for prosecuting of illegal actions in the sphere of computer information.

Technology transfer

Analysis of the court and arbitrage practice shows that the RU Civil Code and the RU Patent Law are the main legal Acts governing the contractual relationship in regard to transferring the right to industrial property title and granting the right to its exploitation.

The relationships between a patent owner and a person exploiting industrial property rights are based on the license contract which shall be registered by the Patent Office in accordance with Article 13 of the Patent Law of the Russian Federation.

Rospatent has no competence to supervise the execution of obligations under the contract, including the obligations concerning the patent and legal guaranties.

The administrative settlement of disputes in the field of assignment of rights to protected industrial property titles is not provided for by current legislation.

According to Article 31 of the Patent Law the competence of the courts shall extend to settlement of disputes arising from the conclusion and execution of license contracts for the use of the protected industrial property title.

Analysis of court and arbitrage practice on dispute settlement allows us to determine the type of disputes as follows: disputes on the contract concluding; disputes on amendment to contract and premature expiring the validity of the contract; disputes on invalidation of the contract. (Table 9).

Types of Disputes	The most popular grounds for actions
Disputes on contracts conclusion	<ul style="list-style-type: none"> • absence of registration by Rospatent • legality of requirements of registration body • coercion of patent holders to contracts registration
Disputes on amendment to contract and premature expiring the validity of contracts	<ul style="list-style-type: none"> • non-execution of contractual obligations (payment, technical warranties, patent and legal guaranties)
Disputes on invalidity of contracts	<ul style="list-style-type: none"> • non-fulfillment of law provisions • absence of registration by Rospatent • non-fulfillment of patent and legal guaranties

Table 9 represents the most popular grounds for disputes:

1. *In disputes on the contract* concluding the main ground of nullity actions is:

- the lack of registration of the contract by Rospatent.
- The coercion of one party of the contract into registration of said contract by Rospatent is widespread ground for action. According to Article 165 (Par. 3) of the RU Civil code “if deal which shall be officially registered is concluded in the form prescribed, but one of the parties is avoiding from registration effecting, court has a power of judgement on registration of a deal on the request of another party. In such a case a deal is registered on the basis of court ruling.” It should be noted that this provision is provided for the possibility of court judgement on registration of a deal only when meeting two requirements, as following: a deal is concluded in the form prescribed (Article 160 of the RU Civil code) and one of the parties is avoiding from registration of such a deal. It seems to be that neither said Article nor Article 13 of the RU Patent Law is not a ground for coercion to the contract conclusion on the terms demanded by one party.

2. *Dispute proceedings relating to execution and premature expiring the validity of the license contracts* testify that:

- only a few number of the license contracts contain well-drafted parts devoted to technical guaranties that presumably will lead to arising hardly resolved conflicts and disputes;
- unfair trade practice implemented by the patent owner – the licensor, expressed in imposing the licensee by burdensome clauses of the contract at the absence of legal regulations in this field is a barrier to development of licensing. At present besides of compulsory licensing according to article 10 (Par. 4) of the RU Patent Law, the only legal ground for prohibition of any monopoly abuse in the field of industrial property is Article 2 (Par. 2) of the RU Law “On Competition and Restriction of Monopoly Activity on Commodities Markets” which provides for that said Law is not applicable to relationships dealing with exclusive rights excluding the situation when contracts covering its exploitation lead to restriction of said rights. Settlement of the said problem is made in the framework of

the RU Civil Code where a Chapter (Chapter 54, “Commercial concession”) provides for legal governing unfair trade practice under conclusion of one type of technology transfer contract – commercial concession contract (franchising agreement).

3. “Classical” ground for arising *the disputes on invalidation* of license contracts, and patent assignment contracts is infringement of patent and legal guaranties including the guaranties of patent validity and its maintenance into force, the guaranties of absence (on the time of contract conclusion) the claims from the third parties, whose exclusive rights are infringed by use of the technology transferred under contract.

- Court practice and especially arbitrage practice has a trend in increasing the number of disputes relating to recognition of transactions as null and void with utilization of circumstances of invalid transactions.

- Special attention should be paid to the meeting of formalities dealing with the conclusion of license contracts and patent assignment contracts in accordance with current legislation as well as conformity of contract clauses with current law.

- To meeting all requirements provided for by Rules on Examination and Registration of the Contract on Assignment of Rights of Use Inventions, Utility Models, Industrial Design, Trademarks and Trade names.

4.3. State policy in the field of IP

Now the effective use of the Russian scientific and technological potential and introduction of intellectual property rights in civilian circulation are considered to be the basis of the growth of economy.

Recently, a number of documents on the State regulation in the sphere of using intellectual property rights has been adopted.

1. Thus Russian Government established *the Interdepartmental Commission on Intellectual Property Protection*. The Commission is organized to co-ordinate the activity of state bodies providing the fulfillment of Laws of Russian Federation on intellectual property protection and obligations take by Russia under international treaties in this area.

2. An important role in forming the national system of protection and transfer of intellectual property and in intensifying innovative activity should play *The Eurasian Patent Convention entered* into force on August 12, 1995.

It aims at creating a unified patent space on the territory of 11 states – members of CIS and is one of the important factors enabling recovery of economic connections with the nearby foreign countries.

3. The Russian Federation Government Ordinance has adopted the *Conception of innovation policy for 1998-2000* under which enforcement of intellectual property in innovation area and its introduction in civilian circulation constitute one of orientations in activities.

4. The issue of affording the rights in technology created at the expense of means provided from the Federal budget is of particular importance.

The Russian Federation Presidential Decree No. 863, dated July 22, 1998 defines the problem of well balanced rights and legal interests of all subject of legal relationships, including the State, as one of the major priorities in the implementation of the State policies in the process of economic circulation of the achievements of scientific and technological activities and intellectual property rights in the sphere of sciences and technologies.

5. The important task the cooperation with those persons investing means in high technology production, including on the basis of different forms of sharing and joint, with the State, participation in the financing of scientific and technology and innovation activities.

The possibility to cooperate with investors for the participation in the financing of industrial development of the latest technology is directly dependent on the rights of use of the achievements of scientific and technology activities created at the expense of funds provided from the federal budget.

At present, in accordance with *Russian Federation Governmental Ordinances No. 982 dated September 2, 1999 and No. 1132, dated September 29, 1998*, all rights in the achievements of scientific and technology activities earlier obtained at the expense of funds provided from the state budgets of all levels shall belong to the Russian Federation in the person of authorized federal executive bodies. The use of the results of works not related to the provision of federal governmental needs may be carried out by third persons under license agreements, in accordance with legislation of the Russian Federation. So, persons wishing to participate in the realization of federal technology may only rely upon the non exclusive license, and accordingly, they are not protected against competition.

6. Now a separate system is being developed for the State control and regulation of export of the Russian technologies having a civil purpose, including those created using the federal budgetary funds.

7. For an effective realization of the intellectual property rights it is necessary to establish an improved system of a evaluation of the exclusive rights for the results of intellectual activities.

The Federal Law "On Evaluation Activities in the Russian Federation" of June 29, 1998 No. 135-FL, provides for, the use by value the standards on the evaluation, development and drafting of the standard versions by the representatives of State Bodies, and approval of the standards by the Government of the Russian Federation.

At present time the State standard of Intellectual property and Intangible Assets is developed in accordance with the current international valuation standards.

All these measurers prove that now Russian has undertaken a qualitatively new approach to the system of economical relations, where intellectual property should take the proper position, and the policy of firms carried out at the market of intellectual property should become an integral part of their general development strategy, which would take into account both concerns of a separate firm and of the country as a whole.

In conclusion, I would like to point out that improvements in the legislation and mechanisms for protecting and licensing intellectual property rights are of paramount importance for the growth in the scientific and technological potential of Russia, for the international technological exchange, expansion of international trade and business.

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Registered inventions in former Soviet Republics (in 1990-1991 years)

• Byelorussia	4.69%
• Usbekistan	1.48%
• Kazakhstan	2.25%
• Georgia	0.85%
• Azerbaijan	0.97%
• Lithuania	0.96%
• Moldavia	0.76%
• Latvia	0.90%
• Kirgizia	0.43%
• Tadjikistan	0.22%
• Armenia	0.61%
• Turkmenistan	0.13%
• Estonia	0.19%

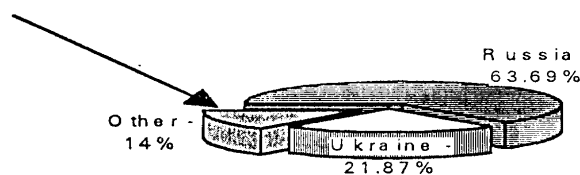


Figure 1

Geographic Structure of Soviet Licensing Export and Import 1976-1990

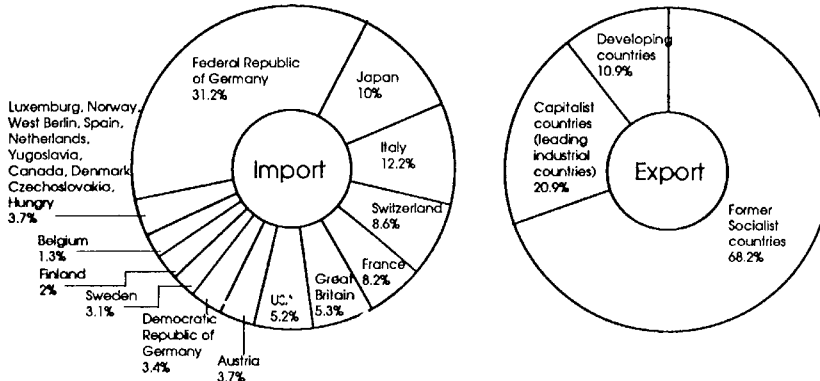


Figure 2

Industrial Structure of the Soviet Licensing Export and Import 1976-1990

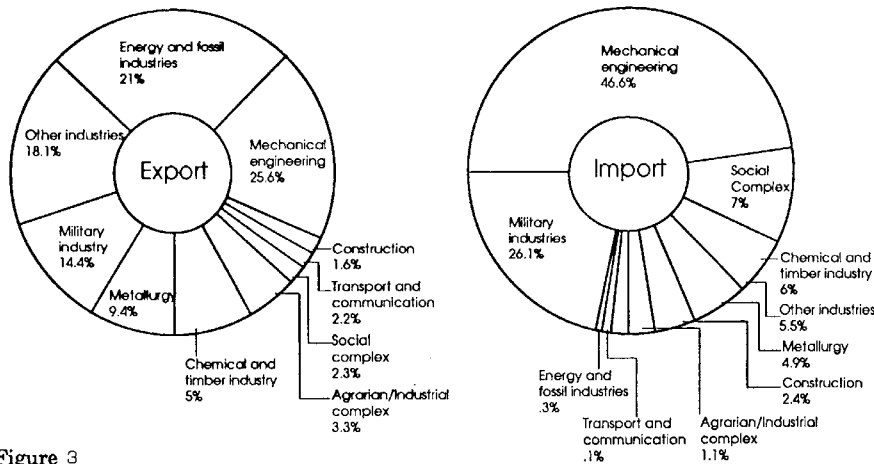
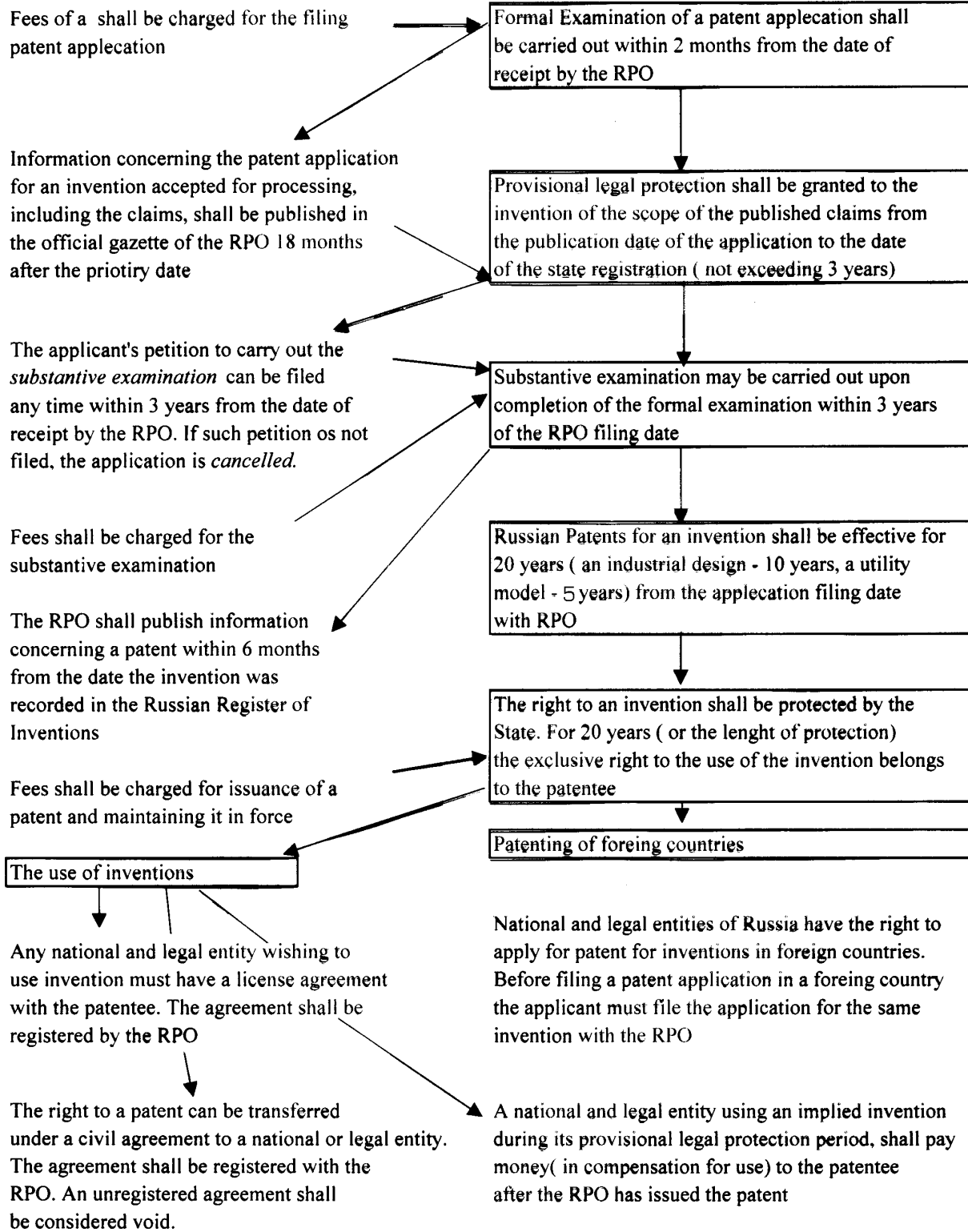


Figure 3

Organization of Legal Protection of Industrial Property in Russia

The patent application for an invention(industrial design, utility model, trademark) is filed with the Russian State Patent Office (RPO)



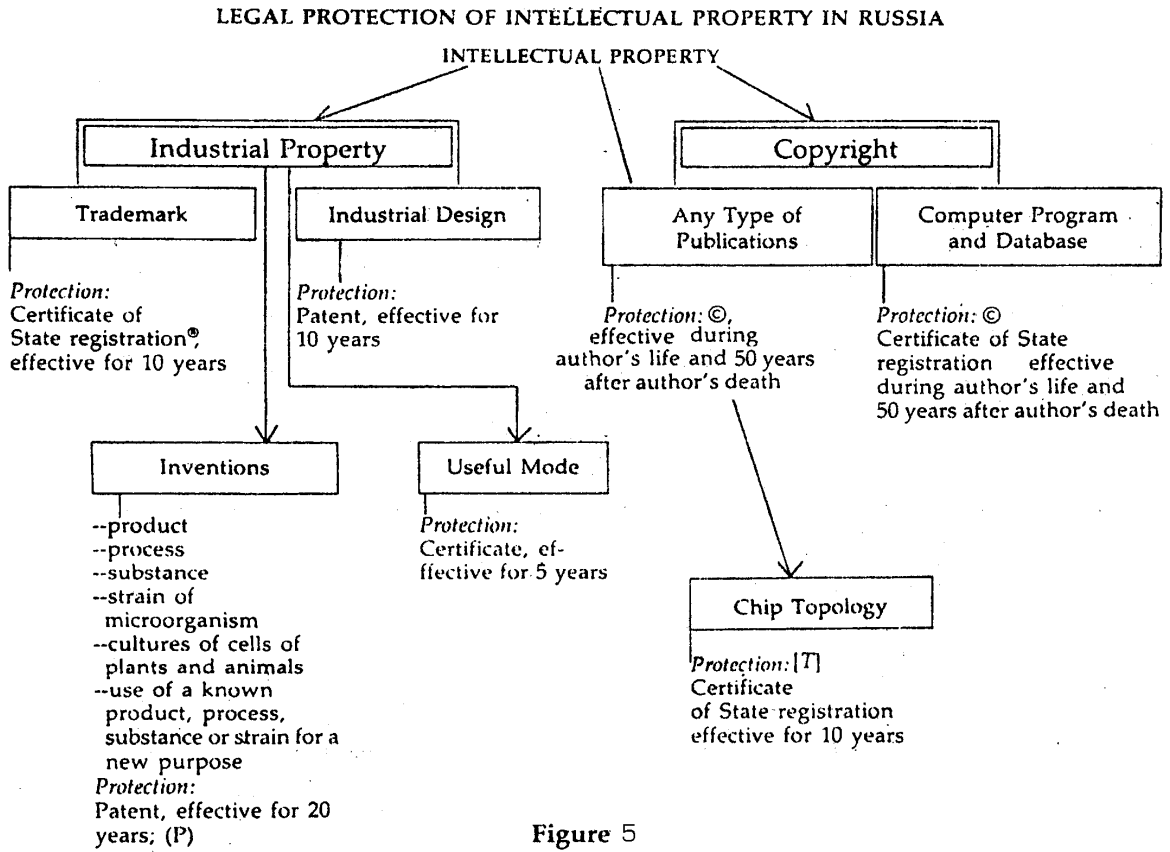


Figure 5

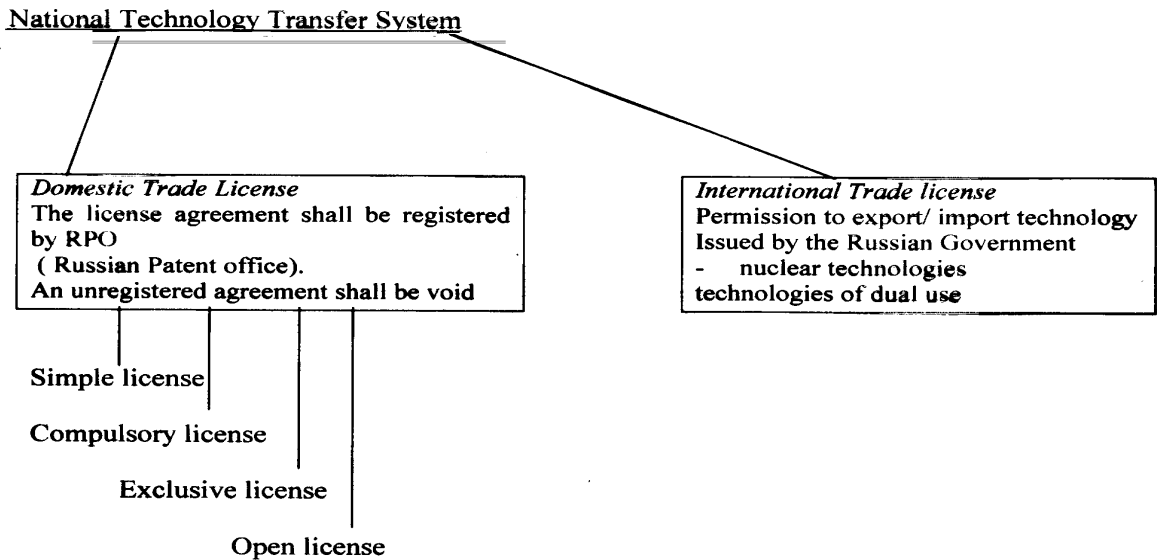


Figure 6

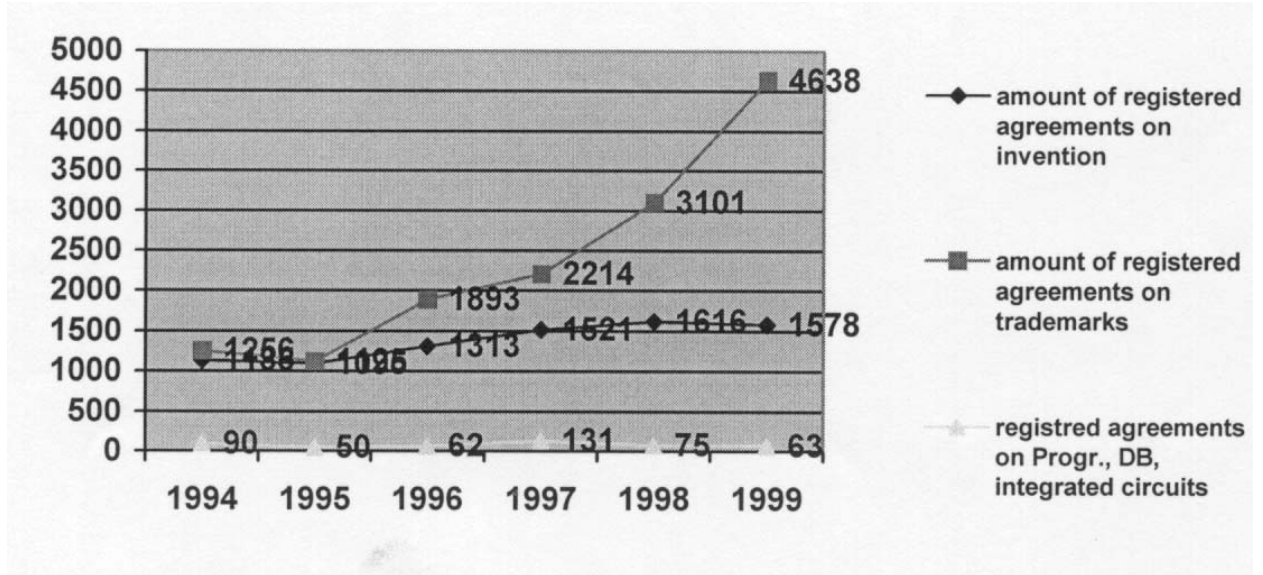


Fig.7: Dynamics of License Transactions Registration.