

Newsletter

Temporary legal protection of industrial designs during examination of applications

January 15, 2019

Dear Ladies and Gentlemen,

We would like to inform you that on December 27, 2018, the President of the Russian Federation signed the Federal Law No. 549-FZ "On Making Amendments to the Part Four of the Civil Code of the Russian Federation" (previously known as the Bill No. 428309-7) that provides for temporary legal protection to industrial designs during the stage of substantive examination of applications¹ ("**Law**").

The Law was officially published on December 28, 2018, and will enter into force upon expiry of 180 days from that date².

What does "temporary legal protection within an examination of an application" mean?

Currently (until the Law is entered into force) such protection is provided only to an invention as a subject matter of patent rights (Article 1392 of the Civil Code of the Russian Federation).

It means that within the period starting from the date of publication of an application³ until the date of a patent issuance⁴, i.e., during the substantive examination of the application by the Russian Patent Office, the invention is protected by law (within the scope of a published formula of the invention).

What legal remedies are available?

If a person uses the claimed invention during that period, such person will have to pay a monetary compensation to the applicant provided that the applicant has received a patent to the invention. The amount of the compensation should be determined by their agreement, or in the case of a dispute – by the court.

What IP rights are protected?

The Law extends the procedure of temporary legal protection of inventions to industrial designs. While an invention is protected within the scope of its published formula, an industrial design will be protected within the scope of a combination of its essential features reflected in the images of a product appearance contained in a published application.

We hope that the information provided herein will be useful for you. If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message.

¹ URL: <http://sozd.duma.gov.ru/bill/428309-7>

² URL: <http://publication.pravo.gov.ru/Document/View/0001201812280020>

³ Publication of information regarding an application after a formal examination with a successful result.

⁴ Publication of information regarding a patent issuance after a substantive examination with a successful result.

If you would like to learn more about our **Intellectual Property Practice**, please let us know in reply to this email. We will be glad to provide you with our materials.

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If you have any questions, please, do not hesitate to contact the Partner of ALRUD Law Firm



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Intellectual Property

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