



IP Litigation and Enforcement Guide: Russia



IP Litigation & Enforcement in Russia

This is a brief guide addressing common questions and concerns of the IP litigation and enforcement landscape in Russia.

Is your jurisdiction a common law or civil law jurisdiction?

Russia is a Civil law jurisdiction.

What methods are there for enforcing IP rights in your jurisdiction?

IP Right	Civil	Administrative	Criminal	Customs
Trade Mark	Yes	Yes	Yes	Yes
Unfair competition/ passing off	Yes	Yes	No	No
Copyright	Yes	Yes	Yes	Yes
Registered designs/design patents	Yes	Yes	Yes	No
Patent	Yes	Yes	Yes	No

What courts have jurisdiction to handle civil IP cases?

Both the courts of general jurisdiction and state commercial courts have the jurisdiction to handle civil IP cases. In addition, the Russian Intellectual Property Court was created in 2013 and specialises in commercial civil cases.

Is there any bifurcation of proceedings? For example, for determining validity or damages?

Civil proceedings in Russia do not provide the option of bifurcation of proceedings.

What are procedures for civil enforcement?

A civil action is initiated by filing a Statement of Claim to the competent court. The residence or location of the defendant will establish the jurisdiction of the court. A trial begins after the Statements of Claim have been accepted. The Defendant should submit their Defence to the court before the start of trial. As Russia does not have a discovery system, both parties should collect and secure all evidence before the lawsuit.

Is a power of attorney needed for civil action to be brought? If so what are the procedures and time lines?

A power of attorney is necessary to take civil action in Russia. A power of attorney must be submitted in order to file a civil claim or application for an interim injunction. A power of attorney must be notarised and apostilled. In specific, a notary officer must certify a power of attorney and verify that the Principal is duly authorised by a rights holder, and the power of attorney must then be apostilled. These steps must be completed in order for it to be used in a civil action (or in any other court or official representation action before the authorities).

What is the average time to trial in a civil case?

The average duration of civil proceedings will depend on the complexity of the case. Decisions from a first instance court can usually be obtained within six to nine months for the average straightforward case.

What is the language of the proceedings? Is there a choice of language?

Proceedings are conducted in the Russian language. There is no choice of language but interpretation services may be provided to parties upon their request.

Is it possible to apply for summary judgment?

Under some circumstances it is possible to apply for summary judgement.

On what basis are interim injunctions granted?

Grants of interim injunctions are rare in Russia. The applicant must prove that it would be difficult or impossible to enforce a judgement without the interim injunction or to prevent irreparable harm made by the defendant. The core principle for IP interim injunctions are that they must be fair, keep the balance between the rights and interests of the parties, and that the value of assets should not exceed the amount of the claim.

On what basis are permanent injunctions granted?

Permanent injunctions are granted as a part of the decision by courts on a case-by-case basis. A plaintiff should claim for a permanent injunction (e.g. to prohibit further use of a look-a-like designation), and the court should study the grounds to satisfy the particular claim(s) for interim injunction.

What appeal procedures are available from a first instance judgment?

An appeal against a first instance judgement must be brought before the appellate court within one month after the date the judgement was made. The appellate court will then consider the case by taking into account the decision made by the court of first instance for its decision. The timeline of the appeal will depend on the complexity of the case, but on average an appeal lasts for three to seven months.

What are the procedures for criminal enforcement?

A right holder has the right to address a matter to the police or other law enforcement agencies if the amount of damages caused by IP infringements exceeds the criminal threshold of RUB 250,000. IP infringements are considered as economic crimes in Russia if they meet the criminal threshold, so such crimes will be discovered or investigated by the Economic Crime Departments of the police. A formal letter or complaint in regard to the alleged criminal offence should be submitted to an Economic Crimes Department of the police in accordance to its territorial jurisdiction. Criminal investigations and court proceedings are formalised and the police will usually attempt to receive all necessary evidence before they proceed with a raid against infringers. It takes approximately 2 years to progress from a raid to a first instance judgement. The most severe punishment for IP infringements conducted by an organised criminal group is up to 6 years of imprisonment. In most cases, courts will sentence infringers to probation and fines. Seized counterfeits and infringing products will be confiscated and destroyed.

What are the procedures for criminal appeals?

If a right holder believes that there is an error in the judgement of a criminal case (e.g. a sentence is unfair or too light), then it has a right to file an appeal within 10 days from the date of judgement to a relevant court of appeal (in accordance with the territorial jurisdiction) for a re-sentence. A right holder should also provide the grounds for such re-sentence.

What are the procedures for administrative enforcement?

Administrative action is usually commenced by filing a complaint to the police or customs authorities, who will then take action against the infringer. In these cases, the police or Customs will be the plaintiff, while the infringer will be the defendant. The rights-holder may join the action as a 3rd party (the infringed party).

What are the measures for Customs border protection?

Like many other countries, Russia has a customs recordal system where rights-holders can record their rights with Customs. Russia Customs must suspend the release of products that they suspect to have infringed IP rights registered in the Russia Customs IP Register. When products are detained, Customs must give notice of the action to the IP owner detailing the facts and pictures of the seized products. Upon receipt of the notice the IP owner can decide whether to take legal action against the infringer within the statutory period of 10 days.

What IP treaties is your jurisdiction a member of?

- Madrid Agreement & Protocol
- WTO – TRIPS Agreement
- WIPO – Performances and Phonograms Treaty
- WIPO – Copyright Treaty
- WIPO – Trade Mark Law Treaty
- Nice Agreement
- Strasbourg Agreement
- Locarno Agreement
- Berne Convention
- Paris Convention
- Patent Cooperation Treaty
- Singapore Treaty
- Universal Copyright Convention
- Rome Convention
- Hague Convention
- Brussels Convention
- Budapest Treaty
- Phonograms Convention, etc.

Further reading

Guides:

- [*IP in Russia: How can rights holders protect themselves?*](#)
- [*Well-known Trade Marks in Russia*](#)

Articles:

- [*Mind the Gap - The IP Protection law vs. reality in raids in Russia*](#)
- [*The Eurasian Patent Office has launched a Pharmaceutical Register*](#)
- [*Eurasian Patents in light of the Eurasian Economic Union*](#)
- [*Positive patent developments in Russia· Cutting the copying in Russia*](#)
- [*Geographical indications in Russia*](#)
- [*Customs recordal in Russia*](#)
- [*Remarkable decision on interim injunction in Russia*](#)
- [*Electronic registration certificates*](#)

Contact Us

Yana Tsygankova

Tel. +7 495 230 03 37

Fax +7 495 230 03 38

Email ytsygankova@rouse.com

Rouse & Co. International (UK) Ltd.

(Moscow branch)

Office 416, 4th floor

Bld. 1

5 Bolshaya Sadovaya street

Moscow

Russia

123001

