CHAPTER 72. PATENT LAW

§ 1. Basic Provisions

Article 1345. **Patent Rights**

1. Intellectual rights to inventions, utility models, and industrial designs are patent rights.

2. The following rights shall belong to the author of an invention, utility model, or industrial design:

1) the exclusive right;

2) the right of authorship.

3. In cases provided by the present Code, other rights also belong to the author of an invention, utility model, or industrial design including the right to receipt of a patent, the right to reward for the use of an employment invention, utility model, or industrial design.

Article 1346. **Effectiveness of Exclusive Rights to Inventions, Utility Models, and Industrial Designs on the Territory of the Russian Federation**

On the territory of the Russian Federation exclusive rights to inventions, utility models, and industrial designs shall be recognized if the rights are certified by patents issued by the Federal agency of executive authority for intellectual property or by patents in force on the territory of the Russian Federation in accordance with international treaties of the Russian Federation.

Article 1347. **The Author of an Invention, Utility Model, or Industrial Design**

The author of an invention, utility model, or industrial design is the citizen by whose creative work the corresponding result of intellectual activity has been created. The person indicated as the author in an application for the issuance of a patent for an invention, utility model, or industrial design shall be considered to be the author of the invention, utility model, or industrial design, unless it is proved otherwise.

Article 1348. **Coauthors of an Invention, Utility Model, or Industrial Design**

1. Citizens who have made an invention, utility model, or industrial design by joint creative labor are coauthors.

2. Each of the coauthors shall have the right to use the invention, utility model, or industrial design at his discretion, unless an agreement among them has provided otherwise.

3. The rules of Paragraph 3 of Article 1229 of the present Code shall be applied correspondingly to relations of coauthors connected with distribution of income from the use of an invention, utility model or industrial design and with the disposition of the exclusive right to an invention, utility model, or industrial design.

The disposition of the right to receipt of a patent for an invention, utility model, or industrial design shall be conducted by the authors jointly.

4. Each of the coauthors shall have the right to take measures independently for the protection of his rights to the invention, utility model or industrial design.

Article 1349. **Objects of Patent Rights**

1. The objects of patent rights are the results of intellectual activity in the scientific and technical area that meet the requirements established by the present Code for inventions and utility models and the results of intellectual activity in the area of artistic design that meet the requirements established by the present Code for industrial designs.

2. The provisions of the present Code extend to inventions containing information constituting a state secret (secret inventions), unless otherwise provided by the special rules of Articles 1401-1405 of the present Code and by legal acts issued in accordance with them.

3. Legal protection in accordance with the present Code shall not be granted to utility models and industrial designs containing information constituting a state secret.

4. The following may not be objects of patent rights;

1) methods of cloning of a human being;

2) methods of modification of the genetic integrity of cells of the embryonic line of a human being;

3) use of human embryos for industrial and commercial purposes;

4) other solutions contradicting societal interests, principles of humanity and morality.

Article 1350. **Conditions of Patentability of an Invention**

1. A technical solution in any area related to a product (including a structure, substance, microorganism strain, or culture of cells of plants or animals) or a means (a process of conducting actions on a material object with the help of material means) shall be protected as an invention.

An invention shall be granted legal protection if it is new, has an inventive level, and is industrially applicable.

2. An invention is new if it is not known from the level of technology.

An invention has an inventive level if for a specialist it does not obviously follow from the level of technology.

The level of technology includes any information that became generally accessible in the world before the priority date of the invention.

In establishing the novelty of an invention the level of technology also includes, on the condition of their earlier priority, all applications for the issuance of patents for inventions and utility models filed in the Russian Federation by other persons with whose documentation any person has the right to be acquainted in accordance with Paragraph 2 of Article 1385 or Paragraph 2 of Article 1394 of the present Code and inventions and utility models patented in the Russian Federation.

3. Disclosure of information relating to an invention by the author of the invention, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the invention became generally accessible shall not be a circumstance precluding the recognition of the patentability of the invention if an application for the issuance of a patent for the

invention has been filed with the Federal agency of executive authority for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the invention shall rest on the applicant.

4. An invention is industrially applicable if it may be used in industry, agriculture, health care, other branches of the economy, or the social sphere.

5. The following are not inventions:

1) discoveries;

2) scientific theories and mathematical methods;

3) solutions involving only the external form of manufactures and directed at the satisfaction of esthetic needs;

4) rules and methods for games and for intellectual or economic activity;

5) computer programs;

6) solutions consisting only of the presentation of information.

In accordance with the present Paragraph the possibility of categorizing the aforementioned objects as inventions shall be excluded only in the case when the application for the issuance of a patent for an invention involves the aforementioned objects as such.

6. Legal protection as inventions shall not be granted to:

1) varieties of plants, breeds of animals and biological methods of obtaining them, with the exception of microbiological methods and products obtained through the use of such methods;

2) the topology of integrated circuits.

Article 1351. **Conditions of Patentability of a Utility Model**

1. A technical solution relating to a structure shall be protected as a utility model.

A utility model shall be granted legal protection if it is new and industrially applicable.

2. A utility model is new if the totality of its essential characteristics is not known from the level of technology.

The level of technology includes information published in the world on means for the same purpose as the utility model applied for and information on their application in the Russian Federation if such information become generally accessible before the priority date of the utility model. The level of technology also includes, on the condition of their earlier priority, all applications for the issuance of patents for inventions and utility models filed in the Russian Federation by other persons with whose documentation any person has the right to be acquainted in accordance with Paragraph 2 of Article 1385 or Paragraph 2 of Article 1394 of the present Code and inventions and utility models patented in the Russian Federation.

3. Disclosure of information relating to a utility model by the author of the utility model, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the utility model became

generally accessible shall not be a circumstances precluding the recognition of the patentability of the utility model if an application for the issuance of a patent for the utility model has been filed with the Federal agency of executive authority for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the utility model shall rest on the applicant.

4. A utility model is industrially applicable if it may be used in industry, agriculture, health care, other branches of the economy, or the social sphere.

5. Legal protection as utility models shall not be granted to:

1) solutions involving only the external form of manufactures and directed at the satisfaction of esthetic needs;

2) the topology of integrated circuits.

Article 1352. **Conditions of Patentability of an Industrial Design**

1. An artistic design solution of a manufacture of industrial or handicraft production defining its external form shall be protected as an industrial design.

An industrial design shall be granted legal protection if in its essential characteristics it is new and original.

The essential characteristics of an industrial design are the characteristics determining the esthetic and/or ergonomic features of the external form of the manufacture, including form, configuration, ornamentation, and combination of colors.

2. An industrial design is new if the totality of its essential characteristics reflected in images of the manufacture and included in the list of essential characteristics of the industrial design (Paragraph 2 of Article 1377) is not known from information that had become generally accessible in the world before the priority date of the industrial design.

In establishing the novelty of an industrial design all applications for industrial designs filed in the Russian Federation by other persons, on the condition of their earlier priority and with the documents for which any person has the right to be acquainted in accordance with Paragraph 2 of Article 1394 of the present Code and industrial designs patented in the Russian Federation shall also be considered.

3. An industrial design is original if its essential characteristics are determined by the creative nature of the features of the manufacture.

4. Disclosure of information relating to an industrial design by its author, applicant, or other person who received this information directly or indirectly from them, as a result of which information on the nature of the industrial design became generally accessible shall not be a circumstance preventing the recognition of the patentability of the industrial design if an application for the issuance of a patent for the industrial design has been filed with the Federal agency of executive authority for intellectual property within the course of six months from the day of disclosure of the information. The burden of proof that the circumstances have taken place by virtue of which the disclosure of information does not prevent the recognition of the patentability of the industrial design shall rest on the applicant.

5. Legal protection as an industrial design shall not be granted to:

1) solutions determined exclusively by the technical function of the manufacture;

2) objects of architecture (other than small architectural forms), industrial, hydrotechnical, and other stationary structures;

3) objects of instable form from liquid, gas, flowing or similar substances.

Article 1353. **State Registration of Inventions, Utility Models, and Industrial Designs**

The exclusive right to an invention, utility model, or industrial design shall be recognized and protected on the condition of state registration of the respective invention, utility model, or industrial design on the basis of which the Federal agency of executive authority for intellectual property shall issue a patent for the invention, utility model or industrial design.

Article 1354. **Patent for an Invention, Utility Model, or Industrial Design**

1. A patent for an invention, utility model or industrial design shall certify the priority of an invention, utility model, or industrial design, the authorship, and the exclusive right to an invention, utility model, or industrial design.

2. The protection of intellectual rights to an invention or utility model shall be granted on the basis of a patent in the scope determined by the claims contained in the patent for the invention or correspondingly the utility model. The specification and drawings (Paragraph 2 of Article 1375, Paragraph 2 of Article 1376) may be used for interpreting the claims for an invention or utility model.

3. Protection of intellectual rights for an industrial design shall be granted on the basis of a patent in a scope determined by the totality of its essential characteristics that have found expression in the images of the manufacture and are included in the list of essential characteristics of an industrial design (Paragraph 2 of Article 1377).

Article 1355. **State Provision of Incentives for the Creation and Use of Inventions, Utility Models and Industrial Designs**

The state shall provide incentives for the creation and use of inventions, utility models, and industrial designs, provide their authors and also patent holders and licensees using the respective inventions, utility models, and industrial designs with benefits in accordance with the legislation of the Russian Federation.

§ 2. Patent Rights

Article 1356. **The Right of Authorship to an Invention, Utility Model, or Industrial Design**

The right of authorship, i.e., the right to be recognized as the author of an invention, utility model or industrial design – is inalienable and nontransferable, including upon transfer to a third person or passage to him of the exclusive right to an

invention, utility model, or industrial design and in the granting to another person of the right to its use. A waiver of this right is void.

Article 1357. **The Right to Receipt of a Patent for an Invention, Utility Model, or Industrial Design**

1. The right to receipt of a patent for an invention, utility model or industrial design shall belong originally to the author of the invention, utility model, or industrial design.

2. The right to receipt of a patent for an invention, utility model, or industrial design may pass to another person (the legal successor) or may be transferred to him in the cases and on the grounds that have been established by a statute including by way of universal legal succession or by contract, including by labor contract.

3. A contract on alienating the right to receipt of a patent for an invention, utility model or industrial design must be concluded in written form. Nonobservance of written form shall entail invalidity of the contract.

4. Unless otherwise provided by agreement of the parties to a contract for alienation of the right to receipt of a patent for an invention, utility model, or industrial design, the risk of nonpatentability shall be borne by the recipient of the right.

Article 1358. **The Exclusive Right to an Invention, Utility Model, or Industrial Design**

1. The exclusive right of use of an invention, utility model, or industrial design in accordance with Article 1229 of the present Code by any means not contrary to a statute (the exclusive right to an invention, utility model, or industrial design), including by the means provided in Paragraphs 2 and 3 of the present Article shall belong to the patent holder. The patent holder may dispose of the exclusive right to an invention, utility model, or industrial design.

2. The use of an invention, utility model or industrial design shall include in particular:

1) import onto the territory of the Russian Federation, preparation, use, offer to sell, sale, other introduction into civil commerce or the storage for these purposes of a product in which the invention or utility model is used, or of a manufacture in which the industrial design is used.

2) the taking of the actions provided by the numbered subparagraph 1 of the present Paragraph with respect to a product obtained directly by a patented method. If the product obtained by the patented method is new, an identical product shall be considered obtained by way of use of the patented method to the extent not proven otherwise;

3) the taking of the actions provided by the numbered subparagraph 2 of the present Paragraph with respect to a device during the functioning (use) of which in accordance with its purpose the patented method is automatically exercised;

4) the realization of a method in which the invention is used, in particular by the application of this method.

3. An invention or utility model shall be considered used in a product or method if the product contains or in the method there is used each characteristic of the invention or utility model stated in a separate claim contained in the claims for the invention or utility model in the patent, or a characteristic equivalent thereto that has become known as such in the given area of technology before the taking with respect to the corresponding product or the method of the actions provided by Paragraph 2 of the present Article.

An industrial design shall be considered used in a manufacture if the manufacture contains all the essential characteristics of the industrial design that found expression in the illustrations of the manufacture and that were stated in the list of essential characteristics of the industrial design (Paragraph 2 of Article 1377).

If in the use of an invention or utility model there are used all the characteristics stated in a separate claim of the claims contained in the patent of another invention or another utility model, and in the use of an industrial design, all the characteristics included in the list of essential characteristics of another industrial design, the other invention, the other utility model, or the other industrial design shall be also considered to be used.

4. If the holders of a patent for one invention, one utility model, or one industrial design are two or more persons, the rules of Paragraphs 2 and 3 of Article 1348 of the present Code shall be correspondingly applied to relations between them, regardless of whether or not any of the patent holders is the author of this result of intellectual activity.

Article 1359. **Actions that are Not an Infringement of the Exclusive Right to an Invention, Utility Model, or Industrial Design**

The following are not an infringement of the exclusive right to an invention, utility model, or industrial design:

1) use of a product in which the invention or utility model is utilized and use of a manufacture in which an industrial design is utilized in the construction, in the supplementary equipment, or in the exploitation of means of transport (water, air, automotive, and railroad transport) and space technology of foreign states on the condition that these means of transport or this space technology is present temporarily or accidentally on the territory of the Russian Federation and that the aforesaid product or manufacture is used exclusively for the needs of the means of transport or space technology. Such an action shall not be recognized as an infringement of the exclusive right of the patent holder with respect to the means of transport and space technology of those foreign states that provide the same rights with respect to means of transport and space technology registered in the Russian Federation;

2) the conduct of scientific study of a product or method in which the invention or utility model is utilized, or scientific study of a manufacture in which an industrial design is utilized or the conduct of an experiment on such a product, method, or manufacture;

3) the utilization of an invention, utility model, or industrial design in extraordinary circumstances (natural disasters, catastrophes, accidents) with

notification of this use to the patent holder as soon as possible and with subsequent payment to him of proportionate compensation;

4) the utilization of an invention, utility model, or industrial design for the satisfaction of personal, family, home, or other needs not connected with entrepreneurial activity if the purpose of such utilization is not the receipt of profit or income;

5) the one-time preparation in pharmacies on physicians' prescriptions of medicinal substances with the use of the invention;

6) the import onto the territory of the Russian Federation, the utilization, proposal for sale, sale, other introduction into civil commerce or storage for these purposes of a product in which the invention or utility model is utilized or of a manufacture in which the industrial design is utilized if this product or this manufacture was previously introduced into civil commerce on the territory of the Russian Federation by the patent holder or by another person with the consent of the patent holder.

Article 1360. **Use of an Invention, Utility Model, or Industrial Design in the Interests of National Security**

The Government of the Russian Federation shall have the right in the interests of national security to permit the use of an invention, utility model, or industrial design without the consent of the patent holder with notification to him of this as soon as possible and with payment to him of proportionate compensation.

Article 1361. **Right of Prior Use of an Invention, Utility Model, or Industrial Design**

1. A person who before the priority date of an invention, utility model or industrial design (Articles 1381 and 1382) in good faith used on the territory of the Russian Federation the same solution created independently of the author or made the preparations necessary for this shall keep the right to further uncompensated use of the same solution without expanding the volume of such use (the right of prior use).

2. The right of prior use may be transferred to another person only together with the enterprise at which the use of the same solution took place or on which the necessary preparations had been made.

Article 1362. **Compulsory License to an Invention, Utility Model, or Industrial Design**

1. If an invention or industrial design is not used or is used insufficiently by the patent holder during the course of four years from date of the issuance of a patent, or a utility model – during the course of three years from the date of issuance of the patent, which leads to insufficient offering of the respective goods, work or services on the market, any person wishing and prepared to use such invention, utility model, or industrial design in case of refusal by the patent holder to conclude with this person a license contract on conditions corresponding to established practice shall have the right to go to court with a suit against the patent holder for the granting of a compulsory

simple (non-exclusive license) for the use on the territory of the Russian Federation of an invention, utility model, or industrial design. In the demand in the lawsuit, this person must indicate the proposed terms of the granting to him of such a license, including the scope of use of the invention, utility model, or industrial design, the amount, procedure, and times of payments.

If the patent holder does not show that nonuse or insufficient use by him of the invention, utility model, or industrial design is based on valid causes, the court shall adopt a decision on the granting of the license indicated in the first subparagraph of the present Paragraph and on the conditions of its granting. A summary measure of payments for such a license must be established in the decision of the court not lower than the price of a license determined in comparable circumstances.

The effect of a compulsory simple (nonexclusive) license may be terminated by judicial procedure on a suit by the patent holder if the circumstances that were the basis for the granting of such a license cease to exist and their reappearance is unlikely. In such a case the court shall establish the time and procedure for termination of the compulsory simple (nonexclusive) license and of the rights that arose in connection with the receipt of this license.

2. If the patent holder cannot use the invention to which he has the exclusive right without infringing thereby the rights of the holder of another patent (the first patent) to an invention or utility model who has refused to conclude a license contract on terms corresponding to established practice, the patent holder shall have the right to go to court with a suit against the holder of the patent (the second patent) for the granting of a compulsory simple (nonexclusive) license for the use on the territory of the Russian Federation of the invention or utility model of the holder of the first patent. The terms proposed by the holder of the second patent granting him such a license, including the scope of use of the invention or utility model, the amount, procedure, and times of payments shall be indicated in the lawsuit. If this patent holder having the exclusive right to such a dependent invention shows that it is an important technical achievement and has a significant economic advantage over the invention or utility model of the holder of the first patent, the court shall adopt a decision on the granting to him of a compulsory simple (nonexclusive) license. A right obtained under this license to use the invention protected by the first patent may not be transferred to other persons except in case of alienation of the second patent.

An overall measure of payments for such a compulsory simple (nonexclusive) license must be established in the decision court not lower than the price of a license determinable in comparable circumstances.

In the case of granting in accordance with the present Paragraph of a compulsory simple (nonexclusive) license, the holder of the patent for the invention or utility model the right to the use of which is granted on the basis of the aforesaid license shall also have the right to the receipt of a simple (nonexclusive) license for the use of the dependent invention in connection with which the compulsory simple (nonexclusive) license was granted on conditions corresponding to the established practice.

3. On the basis of the decision of the court provided for by Paragraphs 1 and 2 of the present Article, the Federal agency of executive authority for intellectual property shall conduct state registration of the compulsory simple (nonexclusive) license.

Article 1363. **Time Periods of Effectiveness of the Exclusive Rights to an Invention, Utility Model, and Industrial Design**

1. The time period of effectiveness of the exclusive right to an invention, utility model, or industrial design and of the patent certifying this right shall be calculated from the filing date of the original application for the issuance of a patent to the Federal agency of executive authority for intellectual property and, upon the condition of observance of the requirements established by the present Code shall constitute:

twenty years – for inventions;

ten years – for utility models;

fifteen years – for industrial designs.

Protection of the exclusive right certified by a patent may be realized only after state registration of the invention, utility model or industrial design and issuance of the patent (Article 1393).

2. If from the filing date of an application for the issuance of patent for an invention relating to therapeutic means, a pesticide, or an agrochemical, for the use of which the receipt by the procedure established by a statute of a permission is required, and until the day of receipt of the first permission for its application more than five years have elapsed, the time period of effectiveness of the exclusive right to the corresponding invention and of the patent certifying this right shall be extended on request by the patent holder by the Federal agency of executive authority for intellectual property. This time period shall be extended for the time that has passed from the filing date of the application for issuance of the patent for the invention to the day of receipt of the first permission for the use of the invention, minus five years. In such a case, the time period of effectiveness of the patent for the invention may not be extended for more than five years.

An application for extending the term shall be filed by the patent holder during the time period of effectiveness of the patent and before the expiration of six months from the date of receipt of the permission for application of the invention or from the date of issuance of the patent, depending upon which of these time period expires later.

3. The time period of effectiveness of the exclusive right to a utility model and the patent certifying this right shall be extended by the Federal agency of executive authority for intellectual property on application of the patent holder for the time period indicated in the application but not for more than three years, and of the exclusive right to an industrial design and of the patent certifying this right – for a time period indicated in the application but not for more than ten years.

4. The procedure for extending the time period of effectiveness of a patent for an invention, utility model, or industrial design shall be established by the Federal agency of executive authority that conducts normative-legal regulation in the area of intellectual property.

5. The effectiveness of the exclusive right to an invention, utility model, or industrial design, and of the patent certifying this right may recognized as invalid or be terminated early on the bases and by the procedure that are provided by Articles 1398 and 1399 of the present Code.

Article 1364. **Passage of an Invention, Utility Model, or Industrial Design into the Public Domain**

1. Upon the expiration of the time period of effectiveness of the exclusive right, an invention, a utility model, or an industrial design shall pass into the public domain.

2. An invention, utility model or industrial design, that has passed into the public domain may be used freely by any person without any consent or permission whatsoever and without the payment of compensation for use.

§ 3. Disposition of the Exclusive Right to an Invention, Utility Model or Industrial Design

Article 1365. **Contract for the Alienation of the Exclusive Right to an Invention, Utility Model, or Industrial Design**

Under a contract for the alienation of the exclusive right to an invention, utility model, or industrial design (a contract for the alienation of a patent), one party (the patent holder) transfers or becomes obligated to transfer the exclusive right belonging to him to the corresponding result of intellectual activity in full scope to the other party - the recipient of the exclusive right (the recipient of the patent).

Article 1366. **Public Proposal to Conclude a Contract for the Alienation of a Patent for an Invention**

1. An applicant who is the author of an invention, in the filing of an application for the issuance of a patent for the invention may attach to the documents of the application a declaration to the effect that in the case of issuance of a patent he shall be obligated to conclude a contract for the alienation of the patent on conditions corresponding to established practice, with any citizen of the Russian Federation or Russian legal person who first has declared such a desire and ahs notified the patent holder and the Federal agency of executive authority for intellectual property of this. If such a statement is present, the patent fees provided by the present Code shall not be collected from the applicant with respect to the application for the issuance of a patent for the invention nor with respect to the patent issued according to such an application.

The Federal agency of executive authority for intellectual property shall publish information about the aforesaid declaration in the official gazette.

2. A person who has concluded with the patent holder on the basis of his declaration indicated in Paragraph 1 of the present Article, a contract on the alienation of a patent for an invention shall be obligated to pay all patent fees from whose payment the applicant (or patent holder) was freed. In the future patent fees shall be paid by the established procedure.

For registration at the Federal agency of executive authority for intellectual property of the contract for alienation of the patent, a document confirming the payment of all patent fees from whose payment the applicant (or patent holder) was freed must be attached to the application for registration of the contract.

3. If within the course of two years from the day of publication of information on the issuance of a patent for the invention with respect to which the declaration indicated in Paragraph 1 of the present Article was made, no written notice of the wish to conclude a contract on the alienation of the patent has come to the Federal agency of executive authority for intellectual property, the patent holder may submit to the aforesaid Federal agency a petition for the withdrawal of his declaration. In such a case the patent fees provided by the present Code from the payment of which the applicant (or patent holder) was freed shall be subject to payment. In the future the patent fees shall be paid by the established procedure.

The Federal agency of executive authority for intellectual property shall publish in the official gazette information on the withdrawal of the declaration indicated in Paragraph 1 of the present Article.

Article 1367. **License Contract on Granting the Right of Use of an Invention, Utility Model, or Industrial Design**

Under a license contract one party - the patent holder (the licensor) grants or becomes obligated to grant to the other party (the licensee) within the limits established by the contract the right of use of an invention, utility model, or industrial design certified by a patent.

Article 1368. **Open License to an Invention, Utility Model, or Industrial Design**

1. The patent holder may submit to the Federal agency of executive authority for intellectual property a declaration on the possibility of granting to any person the rights of use of an invention, utility model, or industrial design (an open license).

In this case the amount of the patent fee for maintaining the patent for an invention, utility model, or industrial design in force shall be reduced by fifty percent beginning from the year following the year of publication by the Federal agency of executive authority for intellectual property of information on the open license.

The terms of the license on which the right of use of an invention, utility model, or industrial design may be granted to any person shall be communicated by the patent holder to the Federal agency of executive authority for intellectual property, which shall publish at the expense of the patent holder the corresponding information on the open license. The patent holder shall be obligated to conclude with a person who has expressed the desire to use the aforesaid invention, utility model, or industrial design, a license contract on the conditions of a simple (non-exclusive) license.

2. If the patent holder in the course of two years from the day of publication of information on an open license has not received proposals in written form for conclusion of a license contract on the conditions contained in his declaration, on the expiration of two years he may submit to the Federal agency of executive authority for intellectual property a petition for the withdrawal of his declaration on an open license.

In this case the patent fee for the maintenance of the patent in force shall be subject to being paid up for the period that has passed from the day of publication of information on the open license and in the future shall be paid in full amount. The aforesaid Federal agency shall publish information on withdrawal of the declaration in the official gazette.

Article 1369. **Form and State Registration of Contracts for the Disposition of the Exclusive Right to an Invention, Utility Model, and Industrial Design**

A contract on the alienation of a patent, license contract, and also other contracts by means of which the disposition of the exclusive right to an invention, utility model, or industrial design is conducted shall be concluded in written form and is subject to state registration at the Federal agency of executive authority for intellectual property.

§ 4. An Invention, Utility Model, or Industrial Design Created in Connection with the Performance of an Employment Task or in the Fulfillment of Work under a Contract

Article 1370. **Employment Invention, Employment Utility Model, or Employment Industrial Design**

1. An invention, utility model, or industrial design created by an employee in connection with the performance of his employment obligations or of a concrete task from the employer shall be recognized correspondingly as an employment invention, employment utility model, or employment industrial design.

2. The right of authorship to an employment invention, employment utility model or employment industrial design shall belong to the employee (to the author).

3. The exclusive right to an employment invention, employment utility model, or employment industrial design and the right to receipt of a patent shall belong to the employer unless by a labor or other contract between the employee and the employer provides otherwise.

4. In the absence in the contract between the employer and employee of an agreement to the contrary (Paragraph 3 of the present Article) the employee must notify the employer in writing of the creation in connection with the performance of his employment obligations or of a concrete task from the employer of such a result with respect to which legal protection

If the employer within four months from the day of notification by his worker does not submit an application for the issuance of a patent for the respective employment invention, employment utility model, or employment industrial design to the Federal agency of executive authority for intellectual property, does not transfer the right to receipt of a patent for an employment invention, employment utility model, or employment industrial design to another person, and does not communicate to the employee on the maintenance of information on the corresponding result of intellectual activity in secrecy, the right to receipt of a patent for such an invention, utility model, or industrial design shall belong to the employee. In this case the employer during the time period of effectiveness of the patent shall have the right to of use of the employment invention, employment utility model, or employment industrial design in his own

production on conditions of a simple (non-exclusive) license with payment to the patent holder of compensation, the amount, terms, and procedure for payment of which shall be determined by contract between the employee and the employer and in case of dispute – by a court.

If the employer receives a patent for an employment invention, employment utility model, or employment industrial design, or takes a decision to keep information on such an invention, such a utility model, or such an industrial design in secret and communicates about this to the employee or transfers the right to receipt of a patent to another person or does not receive a patent on an application filed by him due to circumstances for which he is responsible, the employee shall have the right to compensation. The amount of compensation, the conditions, and the procedure for its payment by the employer shall be determined by a contract between him and the employee and in case of a dispute - by a court.

The Government of the Russian Federation shall have the right to establish minimum rates of compensation for employment inventions, employment utility models, and employment industrial designs.

5. An invention, utility model, or industrial design created by an employee with the use of monetary, technical, or other material assets of the employer, but not in connection with the performance of his employment obligations or of a concrete task from the employer is not an employment invention, utility model, or industrial design. The right to receipt of a patent and the exclusive right to such invention, utility model, or industrial design shall belong to the employee. In this case the employer shall have the right at its option to demand the grant to him of an uncompensated simple (nonexclusive) license for the use of the created result of intellectual activity for his own needs for the whole time period of effectiveness of the exclusive right or for compensation for the expenditures borne by him in connection with the creation of such invention, utility model, or industrial design.

Article 1371. **Invention, Utility Model, or Industrial Design Created in Performance of Work Under a Contract**

1. In the case when an invention, utility model, or industrial design is created in the performance of a work contract or a contract for performance of scientific research, experimental design, or technological work, that does not directly envision its creation, the right to receipt of a patent and the exclusive right to such an invention, utility model, or industrial design shall belong to the contractor (the performer) unless the contract between him and the customer provides otherwise.

In this case the customer shall have the right, unless otherwise provided by the contract, to use the invention, utility model, or industrial design created in such manner for the purposes for the achievement of which the corresponding contract was concluded on the conditions of a simple (non-exclusive) license during the course of the whole time period of effectiveness of the patent without payment of supplementary compensation for this use. In case of transfer by the contractor (the performer) of the right to receipt of the patent or alienation of the patent itself to another person, the

customer shall retain the right of use of the invention, utility model or industrial design on the aforesaid terms.

2. In the case when in accordance with a contract between a contractor (a performer) and a customer the right to receipt of a patent or an exclusive right to an invention, utility model, or industrial design has been transferred to the customer or to a third person designated by him, the contractor (the performer) shall have the right to use the created invention, utility model, or industrial design for his own needs on the conditions of an uncompensated simple (non-exclusive) license during the course of the whole period of effectiveness of the patent unless provided otherwise by the contract.

3. The author of an invention, utility model, or industrial design indicated in Paragraph 1 of the present Article who is not the patent holder shall be paid compensation in accordance with Paragraph 4 of Article 1370 of the present Code.

Article 1372. **Industrial Design Made on Order**

1. In the case an industrial design is made under a contract, the subject of which was its creation (on order), the right to receipt of a patent and the exclusive right to such an industrial design shall belong to the customer, unless the contract between the contractor (performer) and the customer provides otherwise.

2. In the case when the right to receipt of a patent and the exclusive right to an industrial design in accordance with Paragraph 1 of the present Article belongs to the customer, the contractor (the performer) shall have the right, to the extent that the contract does not provide otherwise to use such industrial model for its own needs on conditions of uncompensated simple (nonexclusive) license during the whole time period of effectiveness of the patent.

3. In the case when in accordance with a contract between the contractor (performer) and the customer the right to receipt of a patent and the exclusive right to an industrial design belongs to the contractor (the performer), the customer shall have the right to use the industrial design for his own needs on the terms of an uncompensated simple (non-exclusive) license during the course of the whole time period of effectiveness of the patent.

4. The author of a utility model created on order who is not the patent holder shall be paid compensation in accordance with Paragraph 4 of Article 1370 of the present Code.

Article 1373. **Invention, Utility Model, or Industrial Design Created in Performance of Work Under a State or Municipal Contract**

1. The right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design created in performance of work under a state or municipal contract for state or municipal needs shall belong to the organization performing the state or municipal contract (the performer) unless the state or municipal contract has established that this right shall belong to the Russian Federation, the subject of the Russian Federation or the municipal formation in whose name the state or municipal customer is acting, or jointly to the performer and the Russian Federation, the subject of the Russian Federation or the municipal formation.

2. If in accordance with a state or municipal contract the right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design belongs to the Russian Federation or municipal formation, the state or municipal customer may file an application for the issuance of a patent in the course of six months from the day of his written notification by the performer of the receipt of a result of intellectual activity capable of legal protection as an invention, utility model, or industrial design. If in the course of the aforesaid time period the state or municipal customer does not file an application the right to receipt of the patent shall belong to the performer.

3. If the right to receipt of a patent and the exclusive right to an invention, utility model, or industrial design , on the basis of a state or municipal contract, belongs to the Russian Federation, to a subject of the Russian Federation, or to a municipal formation, the performer shall be obligated by the conclusion of corresponding agreements with his employees and third persons to obtain all the rights and ensure their being retained for transfer correspondingly to the Russian Federation, the subject of the Russian Federation, or the municipal formation. In such case, the contractor shall have the right to compensation for the expenditures borne by him in connection with obtaining the respective rights from third persons.

4. If a patent for an invention, utility model, or industrial design created in the performance of work under a state or municipal contract for state or municipal needs belongs in accordance with Paragraph 1 of the present Article not to the Russian Federation, not to a subject of the Russian Federation, and not to a municipal formation, the patent holder on demand of the state or municipal customer shall be obligated to present to the person indicated by it an uncompensated simple (non-exclusive) license for the use of the invention, utility model or industrial design for state or municipal needs.

5. If a patent for an invention, utility model or industrial design created in the performance of work under a state or municipal contract for state needs is obtained jointly in the name of the performer and the Russian Federation, or of the performer and a subject of the Russian Federation, or of the performer and a municipal formation, the state or municipal customer shall have the right to grant a compensated simple (nonexclusive) license for the use of such invention, utility model, or industrial design for the purpose of performing work or conducting supply of products for state or municipal needs after having notified the performer of this.

6. If a performer who has received a patent for an invention, utility model or industrial design in accordance with Paragraph 1 of the present Article in his own name, takes a decision for the early termination of the effectiveness of the patent, he shall be obligated to notify the state or municipal customer of this and on its demand to transfer the patent on an uncompensated basis to the Russian Federation, subject of the Russian Federation, or municipal formation.

In the case of adoption of a decision on the early termination of the effectiveness of a patent obtained in connection with Paragraph 1 of the present Article in the name of the Russian Federation, a subject of the Russian Federation, or a

municipal formation, the state or municipal customer shall be obligated to inform the performer of this and on his demand to transfer to him the patent on an uncompensated basis.

7. The author of an invention, utility model, or industrial design indicated in Paragraph 1 of the present Article who is not the patent holder shall be paid compensation in accordance with Paragraph 4 of Article 1370 of the present Code.

§ 5. Receipt of a Patent

1. Application for Issuance of a Patent, its Amendment, and Withdrawal

Article 1374. **Filing an Application for the Issuance of a Patent for an Invention, a Utility Model, or an Industrial Design**

1. An application for the issuance of a patent for an invention, utility model, or industrial design shall be filed with the Federal agency of executive authority for intellectual property by a person holding the right to receipt of a patent in accordance with the present Code (the applicant).

2. A request for the issuance of a patent for an invention, utility model, or industrial design shall be presented in the Russian language. Other documents of the application shall be presented in the Russian language or another language. If the documents of the application are presented in another language, a translation of them into the Russian language shall be attached to the application.

3. A request for the issuance of a patent for an invention, utility model, or industrial design shall be signed by the applicant and in case of filing of a request through a patent agent or other representative, by the applicant or his representative filing the application.

4. Requirements for the documents of an application for issuance of a patent for an invention, utility model or industrial design shall be established on the basis of the present Code by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

5. To an application for the issuance of a patent for an invention, utility model, or industrial design there shall be attached a document confirming the payment of the patent fee in the established amount or a document confirming the basis of freeing from payment of the patent fee or the reduction of its amount, or the delay of its payment.

Article 1375. **Application for the Issuance of a Patent for an Invention.**

1. An application for the issuance of a patent for an invention (an application for an invention) must relate to one invention or to a group of inventions connected with one another to the extent that they form a unified inventive idea (requirement of unity of the invention).

2. An application for an invention must contain:

1) a request for the issuance of a patent with an indication of the name of the author of the invention and of the person in whose name the patent is sought and also of the place of residence or place of location of each of them;

2) a description of the invention, disclosing it with a thoroughness sufficient for realization;

3) claims for the invention expressing its essence and fully based on its description;

4) drawings and other materials, if they are necessary for understanding the nature of the invention;

5) an abstract.

3. The filing date of an application for an invention shall be considered to be the date of receipt at the Federal agency of executive authority for intellectual property of an application containing a request for the issuance of a patent, a description of the invention, and drawings if there is a reference to them in the description, and if the aforesaid documents are not presented simultaneously - the date of receipt of the last of these documents.

Article 1376. **Application for the Issuance of a Patent for a Utility Model**

1. An application for the issuance of a patent for a utility model (application for a utility model) must relate to one utility model or to a group of utility models connected with one another to the extent that they form a unified creative idea (requirement of unity of the utility model).

2. An application for a utility model must contain:

1) a request for the issuance of a patent with an indication of the author of the utility model and of the person in whose name the patent is sought and also of the place of residence or place of location of each of them;

2) a description of the utility model, disclosing it with a thoroughness sufficient for realization;

3) claims for the utility model expressing its essence and fully based on its description;

4) drawings if they are necessary for understanding the nature of the utility model;

5) an abstract.

3. The filing date of an application for a utility model shall be considered to be the date of receipt at the Federal agency of executive authority for intellectual property of an application containing a request for the issuance of a patent, a description of the utility model, and drawings, if there is a reference to them in the description, and, if the aforesaid documents are not presented simultaneously, the date of receipt of the last of these documents.

Article 1377. **Application for the Issuance of a Patent for an Industrial Design**

1. An application for issuance of a patent for an industrial design (an application for an industrial design) must relate to one industrial design or to a group of industrial designs connected with one another to the extent that they form a unified creative idea (requirement of unity of the industrial design).

2. An application for an industrial design must contain:

1) a request for the issuance of a patent with an indication of the author of the industrial design and of the person possessing the right to obtain the patent, as well as indication of the place of residence or place of location of each of them;
2) a set of reproductions of the product giving a full detailed representation of the essential characteristics of the industrial design, which define the aesthetical features of the external form of the product;
3) a drawing of the general form of the product, and ergonomic diagram, if they are necessary for the disclosure of the nature of the industrial design;
4) description of the industrial design;

3. The filing date of an application for an industrial design shall be considered to be the date of receipt at the Federal agency of executive authority for intellectual property of an application containing a request for the issuance of a patent, a set of reproductions of the product giving a full detailed representation of the essential characteristics of the industrial design, which define the aesthetical features of the external form of the product, if the aforesaid documents are not presented simultaneously - the date of receipt of the last of these documents.

Article 1378. **Making Amendments to the Documents of an Application for an Invention, Utility Model, or Industrial Design**

1. The applicant shall have the right to make corrections and clarifications, including by way of submission of supplementary materials, in the documents of the application for an invention, utility model, or industrial design until the taking with respect to this application of a decision on the issuance of a patent or on the refusal of issuance of a patent if these corrections and clarifications do not change the nature of the applied-for invention, utility model, or industrial design.

Supplementary materials change the nature of an applied-for invention or utility model if they contain characteristics subject to inclusion in the claims of the invention or utility model, which characteristics not revealed on the priority date in the documents serving as the basis for its establishment, or not revealed in the claims for the invention or utility model in the case if on the priority date the application contained claims for the invention or utility model.

Supplementary materials change the nature of an applied-for industrial design if they contain characteristics subject to inclusion in the list of essential characteristics of the industrial design and absent on the filing date of the application in the depictions of the manufacture.

2. Changes in the documents of an application of information on the applicant including in the transfer of the right to the receipt of the patent to another person or as the result of the change of the name or designation of the applicant and also corrections of obvious and technical mistakes may made in the documents of the application before the registration of the invention, utility model, or industrial design.

3. If changes in documents of an application are made on the initiative of an applicant in the course of two months from the date of filing the application no patent fee shall be taken for the making of the changes.

4. Changes made by the applicant in the documents of an application for an invention shall be taken into consideration in the publication of information on the application, if such changes are presented to the Federal agency of executive authority for intellectual property in the course of twelve months from the filing date of the application.

Article 1379. **Transformation of an Application for an Inventions, Utility Model, or Industrial Design**

1. Before the publication of information on an application for an invention (Paragraph 1 of Article 1385), but not later than the date of adoption of the decision on the issuance of a patent for an invention (Paragraph 1 of Article 1387), the applicant shall have the right to transform it into an application for a utility model by submitting the corresponding request to the Federal agency of executive authority for intellectual property, with the exception of the case when the declaration on a proposal to conclude a contract on alienation of the patent provided by Paragraph 1 of Article 1366 of the present Code is attached to the application.

2. Transformation of an application for a utility model into an application for an invention is allowed until the date of adoption of a decision on the issuance of a patent and in the case of taking a decision on refusal in the issuance of a patent – until the possibility of submitting an objection against this decision as provided by the present Code is exhausted.

3. In case of the transformation of an application for an invention or utility model in accordance with Paragraphs 1 and 2 of the present Article, the priority of the invention or utility model shall be maintained.

Article 1380. **Withdrawal of an Application for an Invention, Utility Model, or Industrial Design**

An applicant shall have the right to withdraw an application filed by him for an invention, utility model or industrial design until the registration of the invention, utility model, or industrial design in the corresponding register.

2. Priority of an Invention, Utility Model, and Industrial Design

Article 1381. **Establishment of the Priority of an Invention, Utility Model or Industrial Design**

1. The priority of an invention, utility model, or industrial design shall be established by the date of filing with the Federal agency of executive authority for intellectual property of an application to an invention, utility model, or industrial design.

2. The priority of an invention, utility model, or industrial design may be established by the date of receipt of supplementary materials if they are formalized by the applicant as an independent application that is filed before the expiration of a three-month period from the day of receipt by the applicant of notification from the Federal

agency of executive authority for intellectual property on the impossibility of taking into consideration of supplementary materials in connection with the recognition of their changing the essence of a an applied-for solution and on the condition that on the filing date of such an independent application, the application containing the aforementioned supplementary materials has not been withdrawn and has not be recognized as withdrawn.

3. The priority of an invention, utility, model, or industrial design, may be established by the filing date by the same applicant to the Federal agency of executive authority for intellectual property of an earlier application disclosing this invention, utility model or industrial design on the condition that the earlier application has not been withdrawn and has not been recognized as withdrawn on the date of filing the application under which such priority is requested and the application for which priority is requested was filed within twelve months from the date of the earlier application for the invention or six months from the date of the earlier application for a utility model or industrial design.

Upon the filing of an application for which priority is requested, the earlier application shall be considered withdrawn.

Priority may not be established by the filing date of an application for which an earlier priority has already been requested.

4. The priority of an invention, utility model, or industrial design under a divisional application shall be established by the filing date by the same applicant to the Federal agency of executive authority for intellectual property of the initial application disclosing this invention, utility model, or industrial design, and in the presence of the right to the establishment of an earlier priority under the original application – by the date of this priority on the condition that on the filing date of the divisional application the original application for an invention, utility model, or industrial design has not been withdrawn and has not been recognized as withdrawn, and a divisional application is filed before the exhaustion of the possibility provided by the present Code for the presentation of an objection to a decision to refuse to issue a patent on the original application or before the date of registration of the invention, utility model, or industrial design, if a decision on the issuance of a patent has been adopted on the original application.

5. The priority of an invention, utility model, or industrial design may be established on the basis of several previously filed applications or supplementary materials to them with the observance for them correspondingly of the conditions provided correspondingly by Paragraphs 2, 3, and 4 of the present Article and by Article 1382 of the present Code.

Article 1382. **Convention Priority of an Invention, Utility Model, or Industrial Design**

1. The priority of an invention, utility model, or industrial design may be established as of the date of the first application for the invention, utility model, or industrial design in a state that is a participant in the Paris Convention for the Protection of Industrial Property (Convention priority) on the condition of the filing with the

Federal agency of executive authority for intellectual property of an application for an invention or a utility model in the course of twelve months from the aforementioned date and an application for an industrial design in the course of six months from the aforementioned date. If due to circumstances not dependant on the applicant, an application for which Convention priority is sought cannot be filed within the indicated time period, this time period may be extended by the Federal agency of executive authority for intellectual property, but not for more than two months.

2. An applicant wishing to use the right of Convention priority with respect to an application for a utility model or an industrial design must communicate about this to the Federal agency of executive authority for intellectual property before the expiration of two months from the day of filing such application and must present a certified copy of the first application indicated in Paragraph 1 of the present Article before the expiration of three months from the day of filing with the aforesaid Federal agency of the application for which Convention priority is requested.

3. An applicant desiring to use the right of Convention priority with respect to an application for an invention must communicate about this to the Federal agency of executive authority for intellectual property and to present to this Federal agency a certified copy of the first application within the course of six months from the day of its submission to the patent office of a state that is a participant in the Paris Convention for the Protection of Industrial Property.

In case of failure to present a certified copy of the first application within the aforementioned time period the right of priority may nevertheless be recognized by the Federal agency of executive authority for intellectual property on petition of the applicant filed by him to this Federal agency before the expiration of the aforementioned time period on the condition that a copy of the first application has been requested by the applicant at the patent office at which the first application was filed within fourteen months from the day of filing of the first application and it is presented to the Federal agency of executive authority for intellectual property in the course of two months from the date of its receipt by the applicant.

The Federal agency of executive authority for intellectual property shall have the right to demand from the applicant the presentation of a translation into the Russian language of the first application for the invention only in the case when the verification of the validity of the claim to priority of the invention is connected with the establishment of the patentability of the applied-for invention.

Article 1383. **Consequences of the Coincidence of the Priority Dates of an Invention, Utility Model, or Industrial Design**

1. If in the process of examination it is established that different applicants have filed applications for identical inventions, utility models, or industrial designs, and that these applications have one and the same priority date, a patent for the invention, utility model, or industrial design may be granted only on one of these applications to the person determined by agreement among the applicants.

In the course of twelve months from the day of receipt from the Federal agency of executive authority for intellectual property of the corresponding notification, the applicants must report to this Federal agency of the agreement reached by them.

Upon the issue of the patent on one of the applications, all the authors indicated in the applications shall be recognized as coauthors with respect to identical inventions, utility models, or industrial designs.

In the case when such applications having one and the same priority date for identical inventions, utility models, or industrial designs have been filed by one and the same applicant, the patent shall be issued under the application chosen by the applicant. The applicant must communicate his choice within the time and in the manner which are provided by the second subparagraph of the present Paragraph.

If the aforementioned communication or petition for extending the established time period does not reach the Federal agency of executive authority for intellectual property from the applicants within the course of the established time period in the manner provided by Paragraph 5 of Article 1386 of the present Code, the applications shall be considered withdrawn.

2. In case of coincidence of the priority dates of an invention and of a utility model identical to it, with respect to which applications for issuance of patents have been filed by one and the same applicant, after issuance of a patent on one of these applications, issuance of a patent on the other application shall only be possible on the condition of submission to the Federal agency of executive authority for intellectual property by the holder of the earlier issued patent for an identical invention or identical utility model of a request for the termination of the effect of this patent. In this case the effectiveness of the earlier issued patent shall be terminated from the date of publication of information on the issuance of a patent on the other application in accordance with Article 1394 of the present Code. Information on the issuance of a patent on an application for an invention or utility model and information on the termination of the effect of the earlier issued patent shall be published simultaneously.

3. Examination of an Application for the Issuance of a Patent for an Invention, Utility Model, or Industrial Design. Temporary Legal Protection of an Invention, Utility Model or Industrial Design

Article 1384. **Formal Examination of an Application for an Invention**

1. Formal examination of an application for an invention that has reached the Federal agency of executive authority for intellectual property shall be conducted. In the process of this examination the presence of the documents provided for by Paragraph 2 of the 1375 of the present Code and their correspondence to established requirements shall be verified.

2. In the case when the applicant has presented supplementary materials to the application for an invention in accordance with Paragraph 1 of Article 1378 of the present Code it shall be verified whether they change the essence of the invention applied for.

Supplementary materials in the part changing the essence of the invention applied for shall not be taken into account in the consideration of the application for the invention, but may be presented by the applicant as independent applications. The Federal agency of executive authority for intellectual property shall inform the applicant of this.

3. The Federal agency of executive authority for intellectual property shall notify the application of a positive result of formal examination and of the filing date of the application for the invention immediately after the completion of formal examination.

4. If an application for an invention does not meet the established requirements for documents of the application, the Federal agency of executive authority for intellectual property, shall send the applicant an inquiry with a proposal to present corrected or missing documents within two months from the date of the receipt by him of the request. If the applicant does not present the requested documents or a petition for extending this period within the established time period, the application shall be considered withdrawn. This period may be extended by the aforesaid Federal agency of executive authority, but not for more than ten months.

5. If an application for an invention has been filed with the violation of the requirement of unity of an invention (Paragraph 1 of Article 1375), the Federal agency of executive authority for intellectual property shall propose to the applicant to communicate, within two months from the date of receipt by him of the respective notification, which of the applied for inventions is to be considered, and in case of necessity to make changes in the documents of the application. Other inventions applied for in this application may be formalized by divisional applications. If the applicant does not communicate within the established time period which of the inventions applied for must be considered or does not present in case of necessity the corresponding documents, the invention shall be considered that is indicated first in the claims for the invention.

Article 1385. **Publication of Information on the Application for an Invention**

1. The Federal agency of executive authority for intellectual property, upon the expiration of eighteen months from the day of submission of an application for an invention, which application has undergone formal examination with a positive result shall publish information on the application for the invention in the official gazette. The composition of the published information shall be determined by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

The author of the invention shall have the right to refuse to be indicated as such in the published information on the application for an invention.

On petition of an applicant filed before the expiration of twelve months from the day of submission of the application for an invention, the Federal agency of executive authority for intellectual property may publish information on the application for an invention before the expiration of eighteen months from the day of its submission.

Publication shall not be made if before the expiration of twelve months from the day of submission of the application for the invention it was withdrawn or recognized as withdrawn or if on its basis registration of the invention took place.

2. Any person after publication of the information on the application for the invention shall have the right to become acquainted with the documents of the application unless the application has been withdrawn or recognized as withdrawn on the date of publication of information on it. The procedure for acquaintance with the documents of the application and for issuance of copies of such documents shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

3. In case of publication of information on an application for an invention, which application on the date of publication had been withdrawn or recognized as withdrawn, such information shall not be included in the level of technology with respect to subsequent applications of the same applicant filed with the Federal agency of executive authority for intellectual property before the expiration of twelve months from the day of publication of information on the application for an invention.

Article 1386. **Substantive Examination of an Application for an Invention**

1. On petition of the applicant or of third parties, which may be filed with the Federal agency of executive authority for intellectual property with the submission of the application for an invention or during the course of three years from the filing date of this application, and on the condition of completion of formal examination of this application with a positive result, substantive examination of the application for an invention shall be conducted. The Federal agency of executive authority for intellectual property shall notify the applicant of petitions received from third parties.

The time period for submission of a petition for the conduct of substantive examination of an invention may be extended by the Federal agency of executive authority for intellectual property on petition of the applicant filed before the expiration of this time period, but not for more than two months, on the condition of presentation together with the petition of a document confirming payment of the patent fee.

If a petition for the conduct of a substantive examination of an invention has not been filed within the established time period, the application shall be considered withdrawn.

2. Substantive examination of an invention shall include:

an information search with respect to the invention applied to determine the level of technology in comparison with which an evaluation will be made of the novelty and inventive level of the invention;

verification of the correspondence of the invention applied for to the conditions of patentability provided by Article 1350 of the present Code.

An information search with respect to the invention applied for, relating to the objects indicated in Paragraph 4 of Article 1349 and in Paragraphs 5 and 6 of Article 1350 of the Present Code, shall not be conducted. The Federal agency of executive authority for intellectual property shall notify the applicant about this before the

expiration of six months from the day of the start of substantive examination of the invention.

The procedure for conduct of an information search and the presentation of a report on it shall be established by the Federal agency of executive authority exercising normative-legal regulation in the area of intellectual property.

3. Upon the expiration of six months from the date of the start of the substantive examination of the application for an invention, the Federal agency of executive authority for intellectual property shall send the applicant a report on the information search, if a priority earlier than the filing date of the application was not requested for such application and if the petition on the conduct of substantive examination of the application for the invention was filed on the filing date of the application.

The time period for sending the applicant a report on the information search may be extended by the Federal agency of executive authority for intellectual property if the necessity has appeared of an inquiry to other organizations for a source of information absent in the collections of the aforesaid Federal agency or if the invention applied for is characterized in such a way that makes it impossible to conduct an information search by the established procedure. The aforesaid Federal agency shall notify the applicant of the extension of the time period for sending the report on the information search and of the reasons for of its extension.

4. The applicant and third persons shall have the right to petition for the conduct for an application for an invention that has undergone formal examination with a positive result, of an information search for determination of the level of technology in comparison with which the evaluation of the novelty and inventive level of the invention applied for will be conducted. The procedure and conditions for the conduct of such an information search and provision of information about its results shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

5. In the process of substantive examination of an application for an invention the Federal agency of executive authority for intellectual property may request from the applicant supplementary materials (including amended claims for the invention) without which the conduct of expert examination would be impossible. In this case supplementary materials without changing the essence of the invention must be presented within the course of two months from the day of receipt by the applicant of the inquiry or copy of materials set against the application, on the condition that the applicant has requested the aforesaid copies within the course of a month from the day of receipt by him of the inquiry from the aforesaid Federal agency. If within the established time period the applicant does not present the requested materials or does not present a petition on the extension of this time period, the application shall be considered withdrawn. The time period established for presentation by the applicant of the requested materials may be extended by the aforesaid Federal agency not for more than ten months.

Article 1387. **Decision on the Issuance of a Patent for an Invention or of Refusal of its Issuance**

1. If as the result of the substantive examination of an application for an invention it is established that the invention applied for, expressed by the claims proposed by the applicant corresponds to the conditions of patentability provided by Article 1350 of the present Code, the Federal agency of executive authority for intellectual property shall adopt a decision on the issuance of a patent for the invention with these claims. The priority date of the invention shall be indicated in the decision.

If in the process of substantive examination of the invention it is established that the invention applied for, as expressed by the claims proposed by the applicant, does not correspond to the conditions of patentability provided by Article 1350 of the present Code, the Federal agency of executive authority for intellectual property shall adopt a decision to refuse the issuance of a patent.

Before the adoption of a decision on the issuance of a patent or on the refusal of the issuance of a patent, the Federal agency of executive authority for intellectual property shall send the applicant a notification of the results of the verification of the patentability of the invention applied for with a proposal to present his positions on the reasons presented in the notification. The Positions of the applicant shall be considered in the taking of a decision if they are presented within the course of six months from the day of receipt of notification by him.

2. An application for an invention shall be recognized as withdrawn in accordance with the provisions of the present chapter on the basis of a decision of the Federal agency of executive authority for intellectual property with the exception of the case when it is recalled by the applicant.

3. A decision of the Federal agency of executive authority for intellectual property on refusal of the issuance of a patent for an invention, on the issuance of a patent for an invention, or on recognition of an application for an invention as withdrawn, may be contested by the applicant by submitting an objection with the chamber for patent disputes in the course of six months from the day of his receipt of the decision or of copies of materials requested from the aforesaid Federal agency that were set against the application and referenced in the decision on refusal of the issuance of a patent on the condition that the applicant requested copies of these materials within two months from the date of receipt of the decision adopted on the application for the invention.

Article 1388. **Right of the Applicant to Become Acquainted With the Patent Materials**

The applicant shall have the right to become acquainted with all the materials relating to the patenting of inventions to which there is a reference in inquiries, reports, decisions, notices, and other documents received by him from the Federal agency of executive authority for intellectual property. Copies of the patent documents requested by the applicant from the aforesaid Federal agency shall be sent to him within a month from the day of receipt of the request.

Article 1389. **Reinstatement of Missed Time Periods Connected With the Conduct of Examination of an Application for an Invention**

1. A basic or extended time period missed by the applicant for presentation of documents or supplementary materials on a request of the Federal agency of executive authority for intellectual property (Paragraph 4 of Article 1384 and Paragraph 5 of Article 1386), the time period for submission of a petition for the conduct of substantive examination of the application for an invention (Paragraph 1 of Article 1386), and the time period for submission of an objection to the chamber for patent disputes (Paragraph 2 of Article 1387) may be reinstated by the aforesaid Federal agency on the condition that the applicant presents proof of the validity of the reasons because of which the time period was not observed and a document confirming payment of the patent fee.

2. A petition for the reinstatement of a missed time period may be filed by the applicant during the course of twelve months from the date of expiration of the established time period. The petition shall be filed with the Federal agency of executive authority for intellectual property simultaneously either:

with documents or with supplementary materials for the presentation of which the reinstatement of the time period is necessary or with a petition for extending the time period for presenting these documents or materials;

with a petition for the conduct of substantive examination of the application for an invention;

with an objection to the Chamber for Patent Disputes.

Article 1390. **Examination of an Application for a Utility Model**

1. For an application for a utility model received by the Federal agency of executive authority for intellectual property, an examination shall be conducted in the process of which the presence of the documents provided for by Paragraph 2 of Article 1376 of the present Code shall be verified, as well as their correspondence to established requirements and the observance of the requirement of unity of the utility model (Paragraph 1 of Article 1376) and it also shall be established whether the decision applied for relates to the technical decisions capable of protection as a utility model.

Correspondence of the utility model applied for to the conditions of patentability provided for by Paragraph 1 of Article 1351 of the present Code shall not be verified in the process of examination.

The provisions established by Paragraphs 2, 4, and 5 of Article 1384, Paragraphs 2 and 3 of Article 1387, 1388, and 1389 of the present Code correspondingly shall be applied to the conduct of examination of an application for a utility model.

2. The applicant and third persons shall have the right to petition for the conduct of an information search with respect to a utility model that has been applied for in order to determine the level of technology in comparison with which the patentability of the utility model may be evaluated. The procedure and conditions for the conduct of the information search and the presentation of information on its results shall be

established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

3. If in the claim proposed by the applicant for a utility model there are characteristics that were absent from the description of the utility model and characteristics absent from the claims of the utility model (if the application for the utility model on the date of its application contained such claims), the Federal agency of executive authority for intellectual property shall send the applicant a request with a proposal to exclude the aforesaid characteristics from the claim.

4. If as the result of examination of an application for a utility model it is established that the application was filed for a technical solution capable of protection as a utility model and if the documents of the application correspond to the established requirements, the Federal agency of executive authority for intellectual property shall adopt a decision on the issuance of a patent with an indication of the filing date of the application for a utility model and of the established priority.

If as the result of the examination it is established that an application for a utility model has been filed for a solution not capable of protection as a utility model, the Federal agency of executive authority for intellectual property shall adopt a decision on refusal to issue a patent for a utility model.

5. In the case when, in the consideration at the Federal agency of executive authority for intellectual property of an application for a utility model it is established that the information contained in it constitutes a state secret, the documents of the application shall be treated as secret by the procedure established by the legislation on state secrecy. In this case the applicant shall be notified of the possibility of withdrawal of the application for a utility model or of transformation of it into an application for a secret invention. Consideration of such application shall be suspended until the receipt from the applicant of the corresponding request or until the declassification of the application.

Article 1391. **Examination of an Application for an Industrial Design**

1. For an application for an industrial design received at the Federal agency of executive authority for intellectual property a formal examination shall be conducted in the process of which the presence of the documents provided by Paragraph 2 of Article 1377 of the present Code and their correspondence to established requirements shall be verified.

In case of a positive result of formal examination, substantive examination of the application for an industrial design shall be conducted, which examination shall include the verification of the correspondence of the industrial design applied for to the conditions of patentability established by Article 1352 of the present Code.

2. The provisions provided by Paragraphs 2-5 of Article 1384, by Paragraph 5 of Article 1386, by Paragraph 3 of Article 1387, and by Articles1388-1389 of the present Code shall be applied correspondingly in the conduct of the formal examination of an application for an industrial design and the substantive examination of this application.

Article 1392. **Temporary Legal Protection of an Invention**

1. An invention for which an application has been filed with the Federal agency of executive authority for intellectual property shall be granted temporary legal protection in the scope of the published claims of the invention, but not more than in the scope determined by the claims contained in the decision of the aforesaid Federal agency on the issuance of a patent for the invention, from the date of publication of information on the application (Paragraph 1 of Article 1385) until the date of publication of information on the issuance of a patent (Article 1394).

2. Temporary legal protection shall be considered not to have occurred if the application for invention was withdrawn or recognized as withdrawn or if, with respect to the application for invention a decision on refusal to issue a patent has been taken and the possibility of filing an objection against this decision provided for by the present Code has been exhausted.

3. A person who has used an invention that has been applied for during the period indicated in Paragraph 1 of the present Article shall pay monetary compensation to the patent holder, after receipt by the latter of a patent. The amount of compensation shall be determined by agreement of the parties and, in case of a dispute, by a court.

4. Registration of an Invention, Utility Model, or Industrial Design and Issuance of a Patent

Article 1393. **Procedure for State Registration of an Invention, Utility Model, or Industrial Design and Issuance of a Patent.**

1. On the basis of a decision on issuance of a patent for an invention, utility model, or industrial design, the Federal agency of executive authority for intellectual property shall enter the invention, utility model, or industrial design into the corresponding state register – in the State Register of Inventions of the Russian Federation, the State Register of Utility Models of the Russian Federation, or the State Register of Industrial Designs of the Russian Federation and shall issue a patent for an invention, utility model, or industrial design.

If a patent is requested in the name of several persons, they shall be issued one patent.

2. State registration of an invention, utility model, or industrial design shall be conducted and the patent shall be issued on the condition of payment of the corresponding patent fee. In case of failure to present by the applicant, by the established procedure, a document confirming the payment of the patent fee, registration of the invention, utility model, or industrial design and issuance of the patent shall not be conducted and the corresponding application shall be considered withdrawn.

3. The form of the patent for an invention, utility model or industrial design and the composition of the information contained in it shall be established by Federal agency of executive authority exercising normative-legal regulation in the area of intellectual property.

4. The Federal agency of executive authority for intellectual property shall enter corrections of obvious and technical errors in an issued patent for an invention, utility model, or industrial design, and/or in the corresponding state register.

5. The Federal agency of executive authority for intellectual property shall publish in the official gazette information on any changes of entries in the state registers.

Article 1394. **Publication of Information on the Issuance of a Patent for an Invention, a Utility Model, or an Industrial Design**

1. The Federal agency of executive authority for intellectual property shall publish in the official gazette information on the issuance of a patent, utility model, or industrial design including the name of the author, unless the author has refused to be mentioned as such, the name or designation of the patent holder, the name and claims of the invention or utility model or list of essential characteristics of a utility model and its depiction.

The Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property shall determine the composition of the published information.

2. After publication in accordance with the present Article of information on the issuance of a patent for an invention, utility model, or industrial design, any person shall have the right to become acquainted with the documents of the application and the report on the information search.

The procedure for becoming acquainted with the documents of the application and the report on the information search shall be established by the Federal agency of executive authority conducting normative-legal regulation in the area of intellectual property.

Article 1395. **Patenting Inventions or Utility Models in Foreign States and in International Organizations**

1. An application for the issuance of a patent for an invention or utility model created in the Russian Federation may be filed with a foreign state or with an international organization upon the expiration of six months from the day of filing of the corresponding application with the Federal agency of executive authority for intellectual property, unless within the aforesaid time period the applicant has been informed that the application contains information constituting a state secret. An application for an invention or utility model may be filed earlier than the aforesaid time period, but after the conduct on the request of the applicant of a verification for presence in the application of information constituting a state secret. The procedure for verification of the application containing information constituting a state secret shall be established by the Government of the Russian Federation.

2. Patenting in accordance with the Patent Cooperation Treaty or the Eurasian Patent Convention of an invention or utility model created in the Russian Federation shall be allowed without prior filing of the corresponding application with the Federal

agency of executive authority for intellectual property, if the application in accordance with the Patent Cooperation Treaty (the international application) was filed with the Federal agency of executive authority for intellectual property as the receiving office and the Russian Federation was indicated in it as a state in which the applicant intended to receive a patent or the Eurasian application was filed through the Federal agency of executive authority for intellectual property.

Article 1396. **International and Eurasian Applications Having the Force of the Applications Provided For by the Present Code.**

1. The Federal agency of executive authority for intellectual property shall commence the consideration of an international application filed in accordance with the Patent Cooperation Treaty for an invention or a utility model in which the Russian Federation is named as a state in which the applicant intends to obtain a patent for an invention or utility model upon the expiration of the thirty-first month from the day of the priority requested in the international application. On request of the applicant, the international application shall be considered before the expiration of this time period on the condition that the international application was filed in the Russian language or if the applicant before the expiration of the aforesaid time period has presented to the Federal agency of executive authority for intellectual property of a translation into Russian of the application for the issuance of a patent for the invention or utility model contained in an international application filed in a different language.

The presentation to the Federal agency of executive authority for intellectual property of a translation into the Russian language of a request contained in an international application for the issuance of a patent for an invention or utility model may be replaced by the presentation of the application for issuance of a patent provided for by the present Code.

If the aforementioned documents are not presented within the established time period, the effectiveness of the international application with respect to the Russian Federation in accordance with the Patent Cooperation Treaty shall be terminated.

The time period established by Paragraph 3 of Article 1378 of the present Code for the making of changes in the documents of an application shall be calculated from the day of beginning of consideration of the international application by the Federal agency of executive authority for intellectual property of the international application in accordance with the present Code.

2. The consideration of a Eurasian application for an invention having in accordance with the Eurasian Patent Convention the effect of an application for an invention provided for by the present Code shall be conducted beginning from the day when the Federal agency of executive authority for intellectual property has received a verified copy of the Eurasian application from the Eurasian Patent Office. The time period provided by Paragraph 3 of Article 1378 of the present Code for the making of changes in the documents of an application shall be calculated from this same date.

3. Publication of an international application in the Russian language by the International Bureau of the World Intellectual Property Organization in accordance with the Patent Cooperation Treaty or publication of the Eurasian application by the Eurasian

Patent Office in accordance with the Eurasian Patent Convention shall substitute for the publication of information about the application provided for by Article 1385 of the present Code.

Article 1397. **Eurasian Patent and Patent of the Russian Federation to Identical Inventions**

1. In the case when a Eurasian patent and a patent of the Russian Federation to identical inventions, or an identical invention and utility model, having one and the same priority date belong to different patent holders, such inventions or, respectively invention and utility model may be used only with the observance of the rights of all their patent holders.

2. If a Eurasian patent and a patent of the Russian Federation to identical inventions or to an identical invention and utility model having one and the same priority date belong to one and the same person, then this person may grant any person the right of use of such inventions or, respectively invention and utility model under license contracts concluded on the basis of these patents.

§ 6. Termination and Reinstatement of the Effect of a Patent

Article 1398. **Recognition of the Invalidity of a Patent for an Invention, Utility Model, or Industrial Design**

1. A patent for an invention, utility model, or industrial design may be recognized, during the course of its time period of effectiveness as invalid in whole or in part in cases of:

1) failure of the invention, utility model, or industrial design to correspond to the conditions of patentability established by the present Code;

2) presence in the claims for the invention or utility model or in the list of essential characteristics of an industrial design that are contained in the decision on issuance of the patent of characteristics that were absent on the filing date of the application in the description of the invention or the utility model and in the claims for the invention or utility model (if the application for an invention or utility model contained such claims on the filing date) or in illustrations of a manufacture;

3) issuance of a patent in the presence of several applications for identical inventions, utility models, or industrial designs having one and the same priority date in violation of the conditions provided by Article 1383 of the present Code.

4) issuance of a patent with an indication in it as the author or patent holder of a person who is not such in accordance with the present Code or without the indication in the patent as the author or patent holder of a person who is such in accordance with the present Code.

2. The issuance of a patent for an invention, utility model or industrial design may be contested by any person who has become aware of the violations provided by numbered subparagraphs 1 - 3 of Paragraph 1 of the present Article by submission of an objection to the chamber for patent disputes.

The issuance of a patent for an invention, utility model or industrial design may be contested by judicial procedure by any person who has become aware of the violations covered by numbered subparagraph 4 of Paragraph 1 of the present Article.

3. A patent for an invention, utility model or industrial design shall be recognized as invalid in full or in part on the basis of a decision of the Federal agency of executive authority for intellectual property adopted in accordance with Paragraphs 2 and 3 of Article 1248 of the present Code or of a decision of a court that has entered into legal force.

In case of recognition of a patent for an invention, utility model, or industrial design as invalid in part, a new patent shall be issued.

4. A patent for an invention, utility model, or an industrial design that is recognized as invalid in whole or in part shall be annulled as of the filing date of the application for a patent.

Licensing contracts concluded on the basis of the patent later recognized as invalid shall maintain their effect to the extent that they were performed by the time of rendering of the decision on the invalidity of the patent.

5. Recognition of a patent as invalid shall signify the reversal of the decision of the Federal agency of executive authority for intellectual property on the registration of the invention, utility model, or industrial design and on the issuance of a patent for the invention, utility model, or industrial design (Article 1387) and annulling the entry in the corresponding state register.

Article 1399. **Early Termination of the Effectiveness of a Patent for an Invention, Utility Model, or Industrial Design**

The effectiveness of a patent for an invention, utility model, or industrial design shall be terminated early:

on the basis of a request filed by the patent holder with the Federal agency of executive authority for intellectual property – from the day of receipt of the request. If a patent was issued for a group of inventions, utility models, or industrial designs, and the request of the patent holder is filed with respect to not all the objects of patent rights included in the group, the effect of the patent shall be terminated only with respect to the inventions, utility models, or industrial designs indicated in the request;

in case of failure to pay the patent fee for maintaining a patent for an invention, utility model, or industrial design in force within the established time period – from the date of expiration of the established time period for the payment of the patent fee for maintaining a patent in force.

Article 1400. **Reinstatement of the Effectiveness of a Patent for an Invention, Utility Model, or Industrial Design. Right of Later Use**

1. The effectiveness of a patent for an invention, utility model or industrial design, which effectiveness was terminated in connection with the fact that the patent fee for maintaining the patent in force was not paid within the established time period may be reinstated by the Federal agency of executive authority for intellectual property on petition of the person to whom the patent belonged. The petition for reinstatement

of the effectiveness of a patent may be filed with the aforementioned Federal agency during the course of three years from the day of expiration of the time period for payment of the patent fee but before the expiration of the time period of effectiveness of a patent provided by the present Code. A document confirming payment in the established amount of the patent fee for reinstatement of the effectiveness of the patent must be attached to the petition.

2. The Federal agency of executive authority for intellectual property shall publish information on the reinstatement of the effectiveness of a patent for an invention, utility model, or industrial design in the official gazette

3. A person who in the period between the date of termination of the effectiveness of the patent for the invention, utility model, or industrial design and the date of publication in the official gazette of the Federal agency of executive authority for intellectual property of information on the reinstatement of the patent, began use of the invention, utility model or industrial design or made the preparations necessary for this within the indicated time period shall keep the right to its further uncompensated use without broadening the scope of its use (the right of later use).

§ 7. Peculiarities of Legal Protection and Use of Secret Inventions

Article 1401. **Filing and Consideration of Applications for the Issuance of a Patent for a Secret Invention**

1. Filing of an application for the issuance of a patent a for secret invention (an applications for a secret invention), consideration of such an application and dealing with it shall be conducted in accordance with the legislation on state secrecy.

2. Applications for secret inventions for which the degree of secrecy "of extraordinary importance" or "top secret" is established, and also for secret inventions that relate to armaments and military technology and to methods and means in the area of intelligence, counterintelligence, and operational investigation activity and for which the degree of secrecy "secret" has been established shall be filed, depending upon their thematic category, with the Federal agencies of executive authority authorized by the Government of the Russian Federation (the authorized agencies). Applications for other secret inventions shall be filed with the Federal agency of executive authority for intellectual property.

3. If in the course of consideration by the Federal agency of executive authority for intellectual property of an application for an invention it is established that the information contained therein constitutes a state secret, such application shall be classified as secret by the procedure established by the legislation on state secrecy and shall be considered to be an application for a secret invention.

Classifying as secret an application filed by a foreign citizen or foreign legal person is not allowed.

4. In consideration of an application for a secret invention as secret the provisions of Articles 1384, 1386-1389 of the present Code shall be applied respectively. Publication of information on the application for an invention provided for by Paragraphs 1 and 2 of Article 1385 of the present Code shall not be done in this case.

5. In establishing the novelty of a secret invention secret inventions patented in the Russian Federation and secret inventions to which author's certificates have been issued in the USSR shall also be included in the level of technology (Paragraph 2 of Article 1350), on condition of their earlier priority, if the level of secrecy established for these inventions is not higher than the level of secrecy of the invention whose novelty is being established.

6. Objection against a decision taken under an application for a secret invention by an authorized agency shall be considered by the procedure established by it. A decision taken on such an objection may be disputed to court.

7. The provisions of Article 1377 of the present Code on the transformation of an application for an invention into an application for a utility model shall not be applied to applications for secret inventions.

Article 1402. **State Registration of a Secret Invention and Issuance of a Patent for it. Dissemination of Information on a Secret Invention**

1. State registration of a secret invention in the State Registry of Inventions of the Russian Federation and issuance of a patent for a secret invention shall be done by the Federal agency of executive authority for intellectual property, or, if the decision on issuance of a patent for a secret invention has been adopted by an authorized agency, by this agency. An authorized agency that has registered a secret invention and has issued a patent for a secret invention shall inform the Federal agency of executive authority for intellectual property about this.

The authorized agency that has conducted the registration of a secret invention and has issued a patent for it shall enter changes connected with the correction of obvious and technical errors in the patent for the secret invention and/or into the State Register of Inventions of the Russian Federation.

2. Information on applications and patents for secret inventions and also about changes in the registers relating to secret inventions shall not be published in the State Register of Inventions of the Russian Federation. Transfer of information about such patents shall be conducted in accordance with the legislation on state secrecy.

Article 1403. **Change of the Level of Secrecy and Declassification of Inventions**

1. Change of the level of secrecy and declassification of inventions and also change or removal of secrecy markings from the documents of an application and from a patent for a secret invention shall be conducted by the procedure established by the legislation on state secrecy.

2. In case of raising the level of secrecy of an invention, the Federal agency of executive authority for intellectual property shall transfer the documents of the application for a secret invention in accordance with their thematic category to the corresponding authorized agency. Further consideration of an application consideration of which at the time of raising the level of secrecy has not been completed by the aforesaid Federal agency shall be conducted by the authorized agency. In case of reduction of the level of secrecy of an invention, the further consideration of an

application for the secret invention shall be conducted by the same authorized agency that previously was considering the application.

3. In case of declassification of an invention the authorized agency shall transfer the declassified documents of the application that it has to the Federal agency of executive authority for intellectual property. Further consideration of an application consideration of which has not been completed before the time of declassification by the authorized agency shall be conducted by the aforesaid Federal agency.

Article 1404. **Recognition of the Invalidity of a Patent for a Secret Invention**

An objection against the issuance by an authorized agency of a patent for a secret invention on the bases provided in numbered subparagraphs 1 - 3 of Paragraph 1 of Article 1398 of the present Code shall be submitted to this authorized agency and shall be considered by the procedure established by it. The decision of the authorized agency taken on the objection shall be approved by the head of this agency, shall take effect from the date of its approval and may be disputed in court.

Article 1405. **Exclusive Right to a Secret Invention**

1. The use of a secret invention and the disposition of the exclusive right to a secret invention shall be conducted with observance of the legislation on state secrecy.

2. A contract on alienation of a patent and also a license contract for the use of a secret invention are subject to registration in the agency that issued the patent for the secret invention or its legal successor and, in the absence of a legal successor, in the Federal agency of executive authority for intellectual property.

3. A public proposal to conclude a contract on alienation of a patent and a declaration on open license provided for respectively by Paragraph 1 of Article 1366 and Paragraph 1 of Article 1368 of the present Code are not allowed with respect to a secret invention.

4. A compulsory license provided for by Article 1362 of the present Code shall not be granted with respect to a secret invention.

5. The activities provided for by Article 1359 of the present Code, also the use of a secret invention by a person who did not know and could not know on lawful bases of the existence of a patent for the given invention shall not be an infringement of the exclusive right of the holder of a patent for a secret invention. Following the declassification of the invention or notification of the indicated person by the patent holder on the existence of a patent for the particular invention such person shall be obligated to terminate the use of the invention and to conclude a license contract with the patent holder except the case where the right of prior use was being exercised.

6. Levy of execution on the exclusive right to a secret invention is not allowed.

§ 8. Protection of the Rights of Inventors and Patent Holders

Article 1406. **Disputes Connected With the Protection of Patent Rights**

1. Disputes connected with the protection of patent rights shall be considered by a court. Such disputes include in particular, disputes:

1) on the authorship of an invention, utility model, or industrial design;

2) on establishing the patent holder;

3) on infringement of the exclusive right to an invention, utility model, or industrial design;

4) on the conclusion, on the performance, on the amendment, and on the termination of contracts for the transfer of an exclusive right (or alienation of a patent) and license contracts for the use of an invention, utility model, or industrial design;

5) on the right of prior use;

6) on the right of later use;

7) on the measure, time period, and procedure for payment of compensation to the author of an invention, utility model, or industrial design in accordance with the present Code;

8) on the amount, time period and procedure for payment of the compensations provided by the present Code.

2. In the cases indicated in Articles 1387, 1390, 1391, 1398, 1401, and 1404 of the present Code, protection of patent rights shall be conducted by administrative procedure in accordance with Paragraphs 2 and 3 of Article 1248 of the present Code.

Article 1407. **Publication of a Decision of a Court on Infringement of a Patent**

The patent holder shall have the right, in accordance with numbered subparagraph 5 of Paragraph 1 of Article 1252 of the present Code to require publication in the official gazette of the Federal agency of executive authority for intellectual property of a decision of a court on the unlawful use of an invention, utility model, industrial design or other infringement of his rights in accordance with Paragraph 1 of Article 1251 of the present Code.