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Armenia

INTELLECTUAL PROPERTY

Contributor

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This country-specific Q&A provides an overview of intellectual property laws and regulations applicable in Armenia.

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ARMENIA
INTELLECTUAL PROPERTY

1. What different types of intellectual property rights exist to protect: (a) Inventions (e.g. patents, supplementary protection certificates, rights in trade secrets, confidential information and/or know-how); (b) Brands (e.g. trade marks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality guarantees); (c) Other creations, technology and proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in trade secrets, confidential information and/or know-how).

(a) Invention invention patent – a document that certifies the fact of providing legal protection to the invention and, as a result, the exclusive right to the invention, the patent is granted for a period of 20 years;

short-term invention patent – a document that certifies the fact of providing legal protection to the invention and, as a result, the exclusive right to the invention, the patent is issued for a period of 10 years;

Eurasian patent a license issued according to the Eurasian Convention.

undisclosed information, including production secrets (know-how) – information that is unknown to third parties (undisclosed information) and which a person in legal possession has the right to protect from illegal use, has a real or potential commercial value by virtue of being unknown to third parties, there is no possibility to obtain it freely on legal grounds and the person possessing the information takes measures to maintain its confidentiality;

(b) trade names: the trade name is the name under which the commercial organization carries out its activities and differs from other legal entities,

Trademark: any sign represented graphically, which is used to distinguish goods and/or services of one person/entity from goods and/or services of another person/entity;

certification mark: a trademark used to certify the conformity of certain characteristics of goods or services;

geographical indication: the name of an area (locality), a specific location or, in exceptional cases a country, which serves to indicate a product that originates from a given area, a specific location or a country, the unique quality, reputation or other characteristic features of which are mainly due to the given geographical origin, and which was produced and (or) processed and (or) prepared in a given geographical location;

designations of origin: a geographical name of an area (locality), a specific location or, in exceptional cases, a country, which serves to indicate a product that originates from a given area, a specific location or a country, and whose unique quality or other characteristic features are mainly or exclusively due to the given geographical conditions (including natural and human factors) and whose production, processing and preparation take place in a given geographical location;

a guaranteed traditional product – an agricultural product or a food product, the characteristics of which are recognized and which is registered according to the law;

Article 17, Part 1, Clause 1 of the RA Law “On the Protection of Economic Competition” states that unfair competition is any action or product offered by a business entity, including a product sold or otherwise put into circulation in the territory of the Republic of Armenia whose packaging or labels or other product-related information or internet domain names or advertising contain such a name, sign, character, phoneme or word that is identical or confusingly similar to another

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business entity, maintained in the Republic of Armenia or previously owned by it to a used or well-known trademark or service mark or brand name.

According to Article 18, Part 1 of the RA Law “On the Protection of Economic Competition”, unfair competition is an action or behavior related to the acquisition or use of exclusive rights to the means of personalization of civil circulation participants, goods, works or services, which is aimed at ousting another entity from the product market, preventing entry into the product market, restricting or hindering the activities of other economic entities, or otherwise restricting competition in the product market.

(c) copyright: Copyright extends to works of science, literature and art considered to be the result of creative activity, regardless of the meaning and merits of the work, as well as the way of expressing it.

Neighbouring rights (to copyright) which target specific holders such as performers, audio and video producers, database producers and press publishers.

industrial design: Industrial design is an ornamental or aesthetic solution to the appearance of an object. Design can be dimensional, such as the shape or surface of an object, or have two-dimensional features, such as patterns, lines, or colors. Industrial designs are a wide variety of industrial and household products, from technical and medical equipment to watches, jewelry and other valuables, from household items and electrical equipment to automobiles and architectural structures;

unregistered industrial design: an industrial design that is protected without filing an application, an unregistered industrial design is protected when it has become publicly available in accordance with RA legislation;

In accordance with the protocol attached to the Eurasian Patent Convention, the rights arising from the Eurasian patent are recognized and protected on the territory of the Republic of Armenia.

breeding achievements: legal protection of new varieties of plants and new breeds of animals.

topologies of integrated microcircuits: integrated microcircuit (hereinafter referred to as IMC) is a final or intermediate form of microelectronic preparation for performing the function of an electronic circuit, the elements and connections of which are integrally formed in the volume and (or) surface of the material that served as the basis for the preparation of the given item; spatio-geometric arrangement of the integration of elements of the integrated microcircuit fixed on the material carrier and the connections between them;

2. What is the duration of each of these intellectual property rights? What procedures exist to extend the life of registered rights in appropriate circumstances?

Duration

1. Patent for invention –the patent is valid for 20 years, calculated from the date of application.

2. Short term patent– is valid for 10 years, calculated from the date of application.

3. Non disclosed information / trade secrets(know-how) – the right of protections is valid as long as the conditions provided by Civil Cove of RA are met.

4. Brand name – none

5. trademark (service mark)– is valid for 10 years, calculated from the date of application.

6. Certification mark – the provisions of the law relating to trademarks apply equally the provisions of the law relating to trademarks apply equally therefore the validity period is 10 years.

7. geographical indications – protection for GI is effective from the date of submission of the application to the state authorized body, without time limit. The right to use a protected GI or place of origin is granted for a period of 10 years.

8. designation of origin – protection is valid from the date of submission of the application to the state authorized body, without time limit.

9. Guaranteed traditional product– protection is valid from the date of submission of the application to the state authorized body, without time limit.

10. Copyright – non-property rights are inalienable and non-transferable and are valid without time limit, except for right of revocation, which is valid through author’s lifetime.

property rights are valid during the author’s lifetime and are valid after author’s death for 70 years.

11. Industrial designs – protection, the validity period of the patent is five years, counting from the date of submission of the application.

12. Selection achievements – the validity period of the patent is 30 years.

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13. Topographies of Integrated Circuits – The exclusive right to use the topology is valid for 10 years, the beginning of which is determined by the earlier of the following recorded dates:

-with the date of first use of the topology, that is the earliest date fixed by the document to put the given topology or Topographies of Integrated Circuits with that topology into economic circulation anywhere in the world.

In the field of topology registration, the body of the state management system authorized by law, in the field of intellectual property, whose intellectual property protection, as well as other functions provided, as well as other functions provided for by this law, are carried out by the intellectual property office of that body in order provided by the law, as of the date of the topology registration.

14. Plant varieties– the breeder's right is granted for a period of 20 years from the date of granting the right to the breeder. For fruit trees and grapes, the term is 25 years from the date of granting the right to the breeder.

15. Eurasian patent – the Eurasian patent is valid for 20 years from the date of the Eurasian application.

16. Eurasian industrial design– validity period 5 years from the date of submission of the application to the authorized body.

Procedures

1. Patent for invention – 1. Before the expiration of the terms set by the law for performing certain actions, the applicant or the patent holder may submit an application for their extension to the state authorized body by attaching the document confirming the payment of the state duty defined by the law. The state authorized body can extend the established terms by a maximum of six months.

2. Short term patent – 1. Before the expiration of the terms set by the law for performing, the applicant or the patent holder may submit an application for their extension to the state authorized body by attaching the document confirming the payment of the state duty defined by the law. The state authorized body can extend the established terms by a maximum of six months.

3. Non disclosed information/Trade secrets (know-how) – is valid until disclosed.

4. Brand name – none

5. Trademark (service mark) – The term of validity of trademark registration may be extended multiple times for all goods and/or services or a part of them (for which is registered) for a period of ten years each time.

6. Certification mark – The term of validity of trademark registration may be extended multiple times for all goods and/or services or a part of them (for which is registered) for a period of ten years each time.

7. Geographical indication – The term can be extended each time for a period not exceeding ten years if the technical specifications of the given product are maintained. Persons with the right to use a protected GI or designation of origin may apply to the state authorized body to extend the term of the right to use before the expiration of each ten-year term. The application for the extension of the term of the right of use is submitted to the state authorized body together with the certificate issued by the competent body about the preservation of the characteristic feature of the product, as well as the receipt of the payment of the state duty prescribed by law for the extension of the term of the right of use.

8. Appellation of origin– The term can be extended each time for a period not exceeding ten years, if the technical specifications of the given product are maintained.

Persons with the right to use a protected GI or designation of origin may apply to the state authorized body to extend the term of the right of use before the expiration of each ten-year term. The application for the extension of the term of the right of use is submitted to the state authorized body together with the certificate issued by the competent body about the preservation of the characteristic features of the product, as well as the receipt of the payment of the state duty prescribed by law for the extension of the term of the right of use.

9. Guaranteed traditional product– none

10. Copyright – none

11. Industrial design – The period of validity of the industrial design protection patent is five years, counting from the date of submission of the application. The period of validity of an industrial design patent may be extended one or more times, each time for a period of five years, in total until the expiration of twenty-five years from the date of submission of the application.

12. Selection achievements – none

13. Topographies of Integrated Circuits – none

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14. Plant varieties – none

15. Eurasian patent – Pursuant to Rule 16(5) of the Patent Regulation of the Eurasian Patent Convention, the term of the Eurasian patent referred to in Article 11 of the Eurasian Patent Convention may be extended in the territory of the State Party to the Eurasian Patent Convention (hereinafter referred to as the State Party to the Convention) whose legislation provides for the extension of a national patent for an invention. At the same time, the extension of the validity period of the Eurasian patent for such a state is carried out by the Eurasian Office in accordance with the conditions provided by the national legislation of this state for the extension of the national validity period.

16. Eurasian industrial design – This period may be extended at the request of the patent holder every five years in the territory of all Member States where the patent is valid. At the same time, the total term of validity of the Eurasian Industrial Design patent shall not exceed twenty-five years from the date of submission of the Eurasian application.

3. Who is the first owner of each of these intellectual property rights and is this different for rights created in the course of employment or under a commission?

The author of the invention and industrial design owns the copyright to the invention and industrial design, as well as the right to name the invention and industrial design. Copyright and other personal rights to inventions, industrial designs arise from the moment the patent-based rights arise. The person named in the application as the author of the invention and industrial design is considered the author, unless otherwise proven. The right to the invention, industrial design (service invention, service industrial design) created by the employee during the performance of service duties or the employer's task belongs to the employer, unless otherwise stipulated by the contract concluded between them.

Trade secrets/Know-how: The holder of the trade secret/Know-how may claim trade secret protection.

The right holder of the brand name is a legal entity;

The natural person who created the work is recognized as the author. The employer owns the property rights to the work created by the employee in the course of the employer's official assignments or performance of official duties, unless otherwise stipulated in the contract signed between the author and the employer.

trademark right holder: a person or persons whose trademark is protected in the Republic of Armenia, usually it is the natural person who submitted the application and received the registration (it is also possible to be a private entrepreneur or a legal entity); The applicant is the first owner.

The exclusive right to use the topology belongs to the author or other rights holder. The exclusive right to use the topology created by the performance of service duties or the task of the employer belongs to the employer, unless otherwise stipulated by the contract signed between him and the author. The exclusive right to use the topology created by the contract signed between the client and the author, who is not considered an employer, belongs to the client, unless otherwise stipulated by the contract.

4. Which of the intellectual property rights described above are registered rights?

The following are subject to registration in the territory of the Republic of Armenia: inventions, short-term inventions, industrial designs, trademarks and service marks, certification marks, , designations of origin, guaranteed traditional products, as well as topologies of integrated microcircuits.

5. Who can apply for registration of these intellectual property rights and, briefly, what is the procedure for registration?

To obtain a patent for an invention (short-term patent), the author, employer or their successor, that is, the person who owns the right to obtain a patent, can apply (submit an application). The applicant is the natural or legal person or the organization in whose name the patent is requested.

In order to obtain an invention patent (short-term patent) in RA, an application is submitted to the intellectual property office of the RA Ministry of Economy. After conducting appropriate examinations, the Intellectual Property Office issues a patent if the invention meets all the necessary requirements.

For international applications submitted to WIPO International Bureau under the procedure of the Patent Cooperation Treaty (CIS/PCT), as well as for Eurasian applications submitted to the Eurasian Patent Organization under the procedure of the Eurasian Convention, the state authorized body acts as a receiving department only for citizens and organizations of the Republic of Armenia, as well as for natural persons permanently residing in the Republic of Armenia. The

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international application is submitted in English or Russian, and the Eurasian application in Russian.

Industrial design:

The application is submitted to the intellectual property office of the RA Ministry of Economy by the author, employer or their successor, that is, the person who owns the right to receive a patent and in whose name the patent is requested.

The application for registration in the Republic of Armenia is submitted to the intellectual property office of the Ministry of Economy of the Republic of Armenia. The application can be submitted either by submitting it to the office or through the electronic system of the Intellectual Property Office. According to the Hague Agreement, international applications are submitted to the International Bureau, and according to the protocol attached to the Eurasian Patent Convention, Eurasian applications are submitted to the Eurasian Patent Organization directly or through a state authorized body. The international application must be submitted in English, and the Eurasian application in Russian.

Trademark:

A trademark can be registered in the name of a legal entity, a natural person or an individual entrepreneur. Trademark registration is carried out by the state authorized body (Intellectual Property Office of the RA Ministry of Economy) based on the application submitted for trademark registration. The application is submitted by the applicant directly or through his representative. Trademark registration involves several stages. After the submission of the application, a preliminary examination of the application is conducted, during which the compliance of the application documents and the conditions of their submission is checked. After passing the preliminary examination of the application, the Intellectual Property Office publishes the application in the official bulletin “Industrial Property”, where it includes the application number and date of submission, the applicant’s first name, surname or name and location, the image of the applied trademark and the goods and (or) services and the list for which trademark registration is applied for. After passing this stage, the Intellectual Property Office conducts an examination of the merits of the application within three months from the date of publication of the application to verify the compliance of the applied for trademark with the conditions of protection established by law.

Geographical designs, place names of origin, guaranteed traditional products can be registered in the RA register. Only the group that carries out the production activity of the products specified in the application, and the product created as a result of this activity meets the requirements of the RA “On Geographical Indications” law, has the right to submit an application for registration.

To the group applying for the registration of a geographical indication or appellation of origin:

1) can be equalized one natural or legal person if, as of the year of submission of the application, he is the only person who carries out the production activity of the goods specified in the application;

2) can also join other interested persons.

The registration process starts with the application of the applicants to the RA Intellectual Property Office. However, one individual or legal entity may be considered the rightful owner of the application if, as of the year of submission of the application, he is the only person who carries out the production activity of the goods specified in the application.

Topologies of integrated microcircuits: The author of the topology or other right holder may directly or through his representative submit an application for state registration of the IMC topology (hereinafter: application) to a state authorized body. If the topology has been used before filing the application, the application may be filed up to two years after the first use. The state authorized body verifies the compliance of the received application with the requirements defined by the law within a period of two months. In case of a positive result of the inspection, the Intellectual Property Office registers the topology in the State Register of IMC Topologies of the Republic of Armenia within a five-day period, issues a certificate of state registration of IMC Topologies) and publishes information about the registered topology in its official bulletin within a three-month period.

6. How long does the registration procedure usually take?

1. Patent – After setting the date of submission of the application, the state authorized body conducts a preliminary examination of application within three months. Basically, the examination can take up to a year. After that, the registration is done.

2. Short term patent – After setting the date of submission of the application, the state authorized body conducts a preliminary examination of the application within three months. Basically, the examination can take up to a year.

3. Industrial design – registration takes 9-10 months.

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4. Trademark and service mark– registration takes 5-6 months.

5. Certification mark –registration takes 5-6 months.

6. Geographical indication, appellation of origin, guaranteed traditional product – registration takes 9-10 months.

Appeal procedure in case of refusal to issue a patent of Industrial design and Invention of EAEU.

In case of disagreement with eh decision of the Eurasian Office to refuse granting of a Eurasian patent, the applicant, in accordance with Article 15, Clause 8 of the Convention, may within three months from the date of receiving the notification of refusal issue a Eurasian patent, submit a corresponding objection.

In case of disagreement with the decision of the Eurasian Office regarding the application or petition submitted during the proceedings regarding the Eurasian application of Eurasian patent, the applicant or the patent owner may, within three months from the date of sending the decision to submit an appropriate objection to him by the Eurasian Office.

The objections mentioned in clauses 1 and 2 of this article are considered to be submitted subject to the payment of the prescribed fees.

The submitted objection is considered by the Eurasian Office within four months from the date of sending the notice of acceptance of the objection for consideration. In case of complex applications, this period can be extended by the decision of the head of the Eurasian office.

As a result of consideration of the objection mentioned, a decision may be made to reject this objection or to satisfy it and cancel the earlier decision of the Eurasian Office.

The decision on the objection can be challenged by submitting a complaint to the President of the Eurasian Office within four months from the date of sending this decision.

The complaint is considered to have been submitted subject to the payment of the prescribed fee to the Eurasian Office.

The complaint is considered to have been submitted subject to the payment of the prescribed fee to the Eurasian Office.

7. Do third parties have the right to take part in or comment on the registration process?

In the case of inventions, after the date of publication of the application, but not later than before any decision is made by the state authorized body based on the results of the examination of the substance of the claimed invention, any third party may submit an objection to the state authorized body against granting a patent for the given application.

Within two months from the publication of the application, any interested person can submit a written objection to the granting of an industrial design patent to the state authorized body on the following grounds:

1) the industrial design does not comply with the requirements established by law or is contrary to the interests of society or the morality principles;

2) an industrial design includes subject matter protected by copyright if those rights were acquired prior to the date of filing of the industrial design application or the initial date (if any) or any other protected subject matter of industrial property with an initial date without the permission of the right holder;

As for trademarks, after the publication of the application, within two months, any person may submit a written objection to the registration of the applied trademark to the state authorized body. Also, within a two-month period after the publication of the application, the right holder of an earlier trademark or well-known trademark, as well as the holders of earlier rights to geographical indication or place of origin, protected industrial design, name or surname, pseudonym, image protected in the Republic of Armenia; the owners of earlier copyrights to protected works of literature, science or art and any other interested person may submit a written objection to the registration of the applied trademark to the state authorized body.

Within three months after the publication of the application for registration of a geographical indication, appellation of origin or traditional guaranteed product, any interested person, state bodies and organizations, including those of other countries, have the right to submit an objection against the registration.

8. What (if any) steps can the applicant take if registration is refused?

In case of not agreeing to any decision of the examination on applications for an invention patent or a

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short-term invention patent, within three months from the date of sending the decision, the applicant personally or through his representative can submit a complaint to the Board of Appeal of the state authorized body.

In case of disagreement with any decision made by the state authorized body during the consideration of the application and examination of the merits of the industrial design, the applicant may submit a complaint to the Board of Appeal of the state authorized body within three months from the date of sending the decision.

Any decision on applications for a geographical indication, appellation of origin or guaranteed traditional product may be contested by the parties within two months after the date of its receipt, or by third parties with information on their registration, between the year of adoption of the decision and the year of registration. The appeal is submitted to the Appeals Council in writing and must be substantiated.

In case of refusal of trademark registration or disagreement with the decision of re-examination on partial registration, the applicant or his representative may submit a complaint to the Board of Appeal within three months after the day of receiving the decision.

In all presented cases, in case of disagreement with the decision of the Appeals Council, the party may appeal the decision to the RA Administrative Courts.

9. What are the current application and renewal fees for each of these intellectual property rights?

The state fee for an application for an invention patent (short-term patent) is 20,000 AMD. Additional 5,000 AMD for each of more than 5 claims definition points. 120,000 AMD for conducting an examination of the essence of the invention and making a decision based on its results. 15,000 AMD for state registration of an invention and granting a patent (short-term patent):

The following state fees are charged for trademark registration:

To submit an application: 30,000 AMD,

For conducting an examination: 40,000 AMD

For more than one class: 15,000 AMD each (in case of an additional class);

The above fees are payable and submitted at the time of application

The trademark registration fee is 50,000 AMD to be paid within three months from the date of receiving the decision to register or partially register the trademark.

For extending the period of trademark registration: 120,000 AMD,

For more than one class: AMD 10,000 each (in case of an additional class).

The following state fees are payable for actions related to the legal protection of industrial designs:

20,000 AMD for registering the application for granting an industrial design patent, conducting a preliminary examination of the application and making a decision based on its results.

For more than one industrial design included in the application: additional 8000 AMD each.

30,000 AMD for the examination of the merits of the industrial design application and making a decision based on its results.

for state registration and patenting of industrial design: 15,000 AMD.

For the extension of the validity period of the industrial design patent:

60,000 AMD for the first five-year period.

120,000 AMD for the second five-year period.

180,000 AMD for the third five-year period.

270,000 AMD for the fourth five-year period.

480,000 AMD for the fourth five-year period.

In terms of actions related to the legal protection of geographical indications, appellations of origin and guaranteed traditional products:

for submitting an application for registration of geographical indication or place of origin or guaranteed traditional product – 30,000 AMD.

for conducting examination of geographical indication, place of origin or guaranteed traditional product: 40,000 AMD.

for issuing a certificate of the right to use a geographical indication or appellation of origin: 50,000 AMD.

for extending the period of the right to use a

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geographical indication or appellation of origin – 100,000 AMD.

On actions related to legal protection of topologies of integrated microcircuits for submitting an application for registration of the topology of an integrated microcircuit and issuing a certificate: 20,000 AMD.

To see the current AMD rate, go to https://rate.am/en/armenian-dram-exchange-rates/banks/non-cash

10. What are the consequences of a failure to pay any renewal fees and what (if any) steps can be taken to remedy a failure to pay renewal fees?

Non-payment of the state fee may result in the loss of the right, however, the legislation provides for cases where, by observing the relevant rules, usually by paying an additional % of the state fee, you get the opportunity to recover the missed period.

11. What are the requirements to assign ownership of each of the intellectual property rights described above?

The agreement on the transfer of the right to the patent must be concluded in a writing form, and the rights arising from the agreement are registered in the authorized body. The trademark owner can transfer the right to a trademark to another person by contract. That transfer, whether by contract or succession, must be registered in the Office of Intellectual Property. The property rights of the author can be transferred (ceded) to another person by contract. The property rights to the topology can be fully or partially transferred to other individuals or legal entities on the basis of the contract. The contract should define: the method and volume of topology use, the amount of payments and the order of payment, the term of validity of the contract. Contracts for the transfer of property rights to topology can be registered with the state authorized body with the agreement of the parties. In the case of an industrial design, the rights of the patent holder may be transferred to another person entirely or partially by the way of succession or by contract. The transfer of such rights shall be recorded in the database or in the register of industrial design applications and shall be effective towards third parties from the moment of registration.

12. Is there a requirement to register an assignment of any of these intellectual property rights and, if so, what is the consequence of failing to register?

As mentioned in the answer to q.11, registration of the transfer is necessary for inventions, industrial designs, trademarks, otherwise the transaction will be considered invalid. Also, registration of the transfer of property rights to the topology is applicable, but in this case, the legislator leaves the issue of registration of the contract to the will of the parties.

13. What are the requirements to licence a third party to use each of the intellectual property rights described above?

Licensing agreements may include information on various provisions regarding payment, exclusivity, period, territorial coverage, jurisdiction, applicable law, and royalty. The license agreement is refundable. The license agreement must define the amount of remuneration and (or) the procedure for determining it and the deadlines of its payment, as well as the granted rights and the limits and terms of their use.

14. Is there a requirement to register a licence of any of these intellectual property rights and, if so, what is the consequence of failing to register?

Failure to maintain the written form or registration requirement of license and sublicense agreements with respect to a patent makes the agreement invalid.

In the case of license agreements for trademarks, the legislator states that the license is valid for third parties from the date of its registration in the state register. So, if it is not registered, it will not apply to third parties.

In the case of industrial design, failure to register a license shall invalidate the license.

A license to copyright is not subject to registration.

15. Are exclusive and non-exclusive licensees given different rights in respect of the enforcement of the licensed IP, and if so, how do those rights differ?

In the case of industrial design, in case of an exclusive license, the exclusive right of use is provided to the licensee within the limits determined by the contract (in scope, period and territory). moreover, the licensor

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retains the right to use the industrial design to the extent not provided to the licensee. In the case of a simple license, the licensor, by granting the right to use the industrial design to the licensee, retains all its rights, including the right to grant a simple license to third parties.

In the case of an invention, in case of an exclusive license, the exclusive right of use is transferred to the licensee within the limits (in scope and territory) determined by the contract, and the licensor retains the right to use the invention in the scope not transferred to the licensee. In the case of a simple license, the licensor, granting the right to use the invention to the licensee, retains all its rights, including the right to grant licenses to third parties.

In the case of trademarks, the license may be:

1) exclusive, if it is granted only to one licensee and excludes the use of the trademark by the owner of the trademark and the granting of a license to other persons;

2) non-exclusive, if it does not exclude the use of the trademark by its right holder and the granting of a license to any other person;

3) unique, if granted to only one licensee, which excludes the granting of a license by the trademark owner to other persons, but does not exclude the use of the trademark by its owner.

In the case of copyright, the contract may be exclusive or non-exclusive. With a non-exclusive copyright contract, the right holder grants the user the right to use the work within a certain period and within the limits specified in the contract, while maintaining the exclusive rights to the work, including the right to grant permission to other persons to use the work. With an exclusive copyright contract, the right holder transfers to the user the exclusive right to use the work within a certain period and limits, keeping the right to use the work to the extent stipulated by the contract. In this case, the right to prohibit the use of the work by other persons can be exercised by the right holder, if the user does not do so.

16. Are there criminal sanctions for infringement of any intellectual property rights, and if so, what are they and how are they invoked?

Misappropriation of authorship or illegal use of the object of copyright or related rights or realization of their work without the consent of the owner of copyright or related rights, if it caused large property damage to the author or other right holder is punishable by a fine of 20,000 AMD or public works for a period of eighty to one hundred and fifty hours, or depriving the right to hold certain positions or engage in certain activities. If the same crime caused particularly large property damage to the author or other right holder, or was committed using information or communication technologies, was committed by coercion of co-authorship, was committed by using governmental or official powers or the influence caused by them, or was committed by a group of persons with prior consent, it shall be punished with a fine in the amount of 10,000-30,000 AMD, or with public works for a period of one hundred to two hundred hours, or with deprivation of the right to hold certain positions or engage in certain activities for a period of two to five years, or with restriction of freedom for a maximum period of three years, or with short-term imprisonment for one to two months, or imprisonment for a maximum term of three years.

Illegally using the object of the patent right or disseminating information about its essence without the consent of the applicant before the official recognition of that right or misappropriating its authority, if it caused large property damage, is punished by a fine in the maximum amount of 20,000 AMD, or public works in the amount of eighty to one hundred and fifty hours, or by depriving the right to hold certain positions or engage in certain activities for a maximum period of three years, or by restricting freedom for a maximum period of two years, or by short-term imprisonment for a maximum period of two months, or by imprisonment for a maximum period of two years.

If a person caused particularly large property damage, the crime was committed using information or communication technologies, the crime was committed by coercing co-authorship, the crime was committed by using governmental or official powers or the influence caused by them, or the crime was committed by a group of persons with prior consent, shall be punished with a fine in the amount of 10,000 to 30,000 AMD, or with public works for a period of one hundred to two hundred hours, or with deprivation of the right to hold certain positions or engage in certain activities for a period of two to five years, or with restriction of freedom for a maximum period of three years, or with short-term imprisonment for a period of one to two months, or by imprisonment for a maximum period of three years.

17. What other enforcement options are available for each of the intellectual property rights described above? For

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example, civil court proceedings, intellectual property office proceedings, administrative proceedings, alternative dispute resolution.

A party has 6 months to appeal decisions of the Intellectual Property Office. There is no need for prior notice or an executive stage. During preliminary court hearings, the parties clarify the basis and subject of the claim, present the available evidence. The court examines the case ex officio. Sessions at the first instance and appeals are held in the order of oral examination. The Court of Cassation, whose decisions are precedential in nature, examines the case in writing. The decisions of state and local self-government bodies are appealed in the administrative court.

A court of general jurisdiction hears intellectual property infringement disputes. There is no specialized court for intellectual property disputes. In order to apply to a court of general jurisdiction, it is also not necessary to follow the process of formal notification. However, if there is an agreement between the parties, which describes the procedure, then the parties are obliged to observe it and after that apply to the court again. In the first instance, the dispute is examined in an oral procedure. During the preliminary court session, the parties present the basis and object of the claim, as well as the available evidence. Presenting evidence is no longer allowed during the trial (except as provided by law). The case is examined based on the principle of competition. In the Court of Appeal, cases are examined by written procedure, except for those cases when the court found it necessary to hold an oral session for the resolution of the case, or satisfied the petition of the party to hold the session orally. The decisions of the Court of Cassation are proceeded in a written form.

In both courts, after a final judgment is issued, the judgment becomes legally binding in 30 days. During that time, the parties have the opportunity to appeal the decision to a higher court. The act of the Court of Cassation enters into legal force from the moment it is made, is final and is not subject to appeal.

18. What customs procedures are available to stop the import and/or export of infringing goods?

According to Point 12 of the Protocol “On Protection and Maintainance of Intellectual Property Rights” of Appendix 26 of the Treaty “On the Eurasian Economic Union” “The right holder of a trademark has the exclusive right to use the trademark in accordance with the legislation of the member state and to manage that exclusive right, and also has the right to prohibit other persons from using that trademark or confusingly similar indications in relation to similar goods and (or) services.”

According to clause 16 of section 5 of the same treaty “The principle of exhaustion of the exclusive right to the trademark and the trademark of the Union”: “In the territories of the member states, the principle of exhaustion of the exclusive right to the trademark, the Union trademark is applied, according to which the use of the given trademark, the Union trademark in relation to the goods, which have been lawfully put into civil circulation in the territory of any member state, is directly related to the trademark and (or) is not a violation of the exclusive right to a trademark, a trademark of the Union by the right holder of the Union trademark or other persons with the consent of the latter.”

Paragraph 16 of Annex 26 of the EAEU Treaty, Article 5 of Protocol “Principle of Expiration of Exclusive Right to Trademark, Union Trademark” prohibits parallel import from a third country.

In case of having a trademark registered in the territory of the Republic of Armenia, in the case of registering that trademark in the customs registry, the customs authority will have the opportunity to stop the entry of the product not intended by the right holder into the territory of the Republic of Armenia.

19. What options are available to settle intellectual property disputes in your jurisdiction?

At the moment, there are arbitrations in RA, and an international arbitration – AMCA – is being built, the jurisdiction of these arbitrations can be defined by the contract.

Also, there are accredited mediators in the Republic of Armenia who can work to resolve the dispute either before going to court or after going to court, when the parties are given time to find possible ways of reconciliation.

Except for the cases when the parties choose an alternative mechanism for the resolution of their disputes by contract, there is no mandatory non-judicial mechanism for the resolution of disputes regarding intellectual property objects in the territory of the Republic of Armenia.

20. What is required to establish

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infringement of each of the intellectual property rights described above? What evidence is necessary in this context?

In order to establish the fact of infringement of inventions (patents and short-term patents), industrial design, the Plaintiff must first prove that he is the rightful owner by presenting the registration certificate. He must also provide evidence of infringement by submitting samples or facts that will prove the existence of infringement.

In the case of know-how, the Plaintiff must prove that he is the rightful owner, that the information meets the legal requirements to qualify as a trade secret. He must also provide evidence of the Respondent's unlawful possession of confidential information.

In the case of registered trademarks, certification marks, collective marks, appellations of origin and geographical indications, in order to establish the fact of infringement, the plaintiff must submit a registration certificate and evidence of the infringing product.

In the case of applying to the State Commission for the Protection of Economic Competition, the applicant must present evidence of unfair competition, as well as the risk of misleading consumers.

In the case of copyright, it is up to the Claimant to prove that he is the author or right holder, or perhaps has the right under a license agreement. In RA, the copyright is not subject to registration, but it is possible to deposit the work in "ArmAuthor" NGO, which will serve as proof of authorship in the future. The claimant must prove that the infringer is reproducing or using the copyrighted material in some way without permission.

21. How does the court acquire any necessary information (fact or technical) and in what circumstances does it do so? In particular a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence? b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?

a) Judges in courts have exclusively legal education and solve the case in light of law. In other words, judges do not have special technical knowledge, however, if in any case one of the parties or the court finds it necessary to involve a person with technical knowledge on certain issues, an expert may be involved in the case by the decision of the court, who will provide his professional opinion on the respective separate issues.

b) In RA, the following are used as means of securing a claim:

to place a ban on all allegedly imitated copies of works, databases, sound recordings or video recordings, as well as materials and equipment intended for their creation and reproduction, to prohibit the performance of certain actions;

to place a ban on all allegedly imitated copies of works, databases, sound recordings or video recordings, as well as materials and equipment intended for their creation and reproduction, to prohibit the performance of certain actions;

the court has the power to seize all alleged imitations, as well as the materials and equipment for their creation and reproduction, confiscation and destruction if necessary.

22. How is information and evidence submitted to the court scrutinised? For example, is cross-examination available and if so, how frequently is it employed in practice?

Any evidence during the trial becomes the basis of a separate examination and is examined by the court. Cross-examinations are applicable, however, they are not used so much in private disputes in RA. If the witness was brought in by the petition of the party, then according to the decision of the court, the witness is first interrogate by the petitioning party, then by the other party and then by the court.

23. What defences to infringement are available?

1) confiscation of material objects that served as a basis for violation of exclusive rights and were created as a result of such violation;

2) with mandatory publication of the allowed violation, including information about who owns the violated right, as well as at the expense of the offender, with the full or partial mandatory publication of the court ruling in the mass media operating in the Republic of Armenia specified by the right holder;

3) In case of violation of contracts for the use of

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intellectual activity results and means of personalization, the general rules on liability for breach of obligations are applied.

4) recognition of rights

5) preventing actions that violate the right or create a risk for its violation

6) invalidating an act of a state or local government body

7) self-defense of the right

8) paying damages.

24. Who can challenge each of the intellectual property rights described above?

Any third party who will be able to substantiate the violation of his rights can file a claim in civil disputes regarding intellectual property objects.

However, during the publication of applications by the Intellectual Property Office, third parties have the opportunity to object to the registration of such applications.

In the case of inventions, after the date of publication of the Application, but not later than before any decision is made by the state authorized body based on the results of the examination of the substance of the claimed invention, any third party may submit an objection to the state authorized body against granting a patent for the given application;

In the case of industrial design, within two months from the publication of the Application, any interested person may submit a written, justified objection to the granting of an industrial design patent to the state authorized body on the following grounds:

1) the industrial design does not comply with the requirements established by law or is contrary to the interests of society or the morality principles;

2) an industrial design includes subject matter protected by copyright if those rights were acquired prior to the date of filing of the industrial design application or the initial date (if any) or any other protected subject matter of industrial property with an initial date without the permission of the right holder;

3) the applicant is not a person authorized to submit an application.

In the case of trademarks, within two months after the publication of the application, any person may submit a written objection against the registration of the applied trademark to a state authorized body or the right holder of an earlier trademark or well-known trademark, as well as a geographical indication or place of origin protected in the Republic of Armenia. Owners of earlier rights to protected industrial designs, names or surnames, pseudonyms, images, owners of earlier copyrights to protected works of literature, science or art and any other interested person may submit a written objection to the registration of the applied trademark to the state authorized body.

The registration of a trademark may be canceled based on a court decision made as a result of consideration of a claim or counterclaim filed by any person in respect of all goods and/or services for which it is registered, if three consecutive years have elapsed since the registration of the trademark, or if the claim (counterclaim) is filed later, the trademark has not been used at all or has not been put into actual use during the three consecutive years immediately preceding it.

Within three months after the publication of the application for registration of a geographical indication, appellation of origin or traditional guaranteed product, any interested person, state bodies and organizations, including those of other countries, have the right to submit an objection against the registration.

Registrations may also be invalidated by a legally enforceable court order.

25. When may a challenge to these intellectual property rights be made (e.g. during any registration process or at any time during the subsistence of the right)?

Submission of objections against registration is limited to the time limitations defined by the law, that is, the time period when the application for invention, industrial design, trademark is published. However, during the period of operation of the objects of industrial property, they can be declared invalid based on the application of any interested person. Trademark non-use may be revoked at any time upon application by any interested party.

26. Briefly, what is the forum and the procedure for challenging each of these intellectual property rights and what are the grounds for a finding of invalidity of

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each of these intellectual property rights?

Claims for invalidity are heard by the administrative court, and disputes regarding the revocation of registration based on non-use of the trademark are heard by courts of general jurisdiction (civil court).

27. Are there any other methods to remove or limit the effect of any of the intellectual property rights described above, for example, declaratory relief or licences of right?

License agreements are applied in RA, which, during their validity, may limit the rights of the right holder in the scope of which the license was granted. Inventions may also be subject to a compulsory license, which requires a legally enforceable court order to use the patent without the patent owner's permission. Exclusion of rights to personalization tools and industrial property objects is also possible.

28. What remedies (both interim and final) are available for infringement of each of the intellectual property rights described above?

Considering the fact that the court proceeding can last months or even years, the party has the opportunity to apply to the court for it to apply a measure of securing the claim, which is written in more detail above. Owners of intellectual property objects have the ability to ban their objects without proper permission, and in the case of geographical indication, designation of origin and guaranteed traditional product name, without applying them to a product lacking the relevant characteristics. In intellectual property disputes, the parties have the right to seek damages, and in copyright disputes, double the honorarium. When trademarks are registered in the customs register, rights holders are also able to avoid parallel imports, thereby gaining protection.

29. What are the costs of enforcement proceedings and is any kind of costs recovery available for successful parties? Is there a procedural mechanism enabling or requiring security for costs?

I touched on court costs in question 18. If the claim includes confiscation of the paid state fee, other court costs and a reasonable attorney's fee, the court shall also consider this issue in the final judicial act. When submitting these claims, the party must submit all the evidence, for example, submit a contract with the lawyer, which indicates the cost of the service. However, the court at its discretion decides to what extent the mentioned costs should be satisfied. If a similar request is not presented to the court, the party cannot expect the court to grant it.

30. The Unified Patent Court ("UPC") [came into] [will come into] existence in certain European states on 1 June 2023, as did the introduction of European patents with unitary effect ("unitary patents"). Have industry-specific trends developed in your country in terms of the number of patent applicants seeking unitary patent protection and/or enforcing European patents or unitary patents before the UPC?

At the moment, the creation of a professional court is not yet planned in RA, but experts repeatedly point out its necessity, based on the specifics of the disputes. In case of increasing of disputes regarding intellectual property objects, it is possible that the Republic of Armenia will also create a professional court.

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