

IP Protection in Ukraine and Russia in Light of Crimea Conflict

By Yuriy Karlash, *PETOSEVIC, Ukraine*

First published on www.petosevic.com

On July 22, the Ukrainian PTO held a roundtable on the issues related to intellectual property protection in Crimea, a former Ukrainian region that Russia annexed on March 21.

The discussion centred on the legal status of IP rights owners, namely the Crimean IP rights owners and their IP rights on the territory of Ukraine, as well as the protection of IP rights in Crimea.

On the same date, July 22, Russia's President Vladimir Putin signed a law regulating IP protection on the territory of the Crimean Peninsula, i.e. the Federal law on the additional amendments to the Federal Law on the introduction into effect of Part IV of the Civil Code of the Russian Federation. The law is available in Russian on the official [legislation website](#). It entered into force on July 22.

According to the law, Russia recognizes the exclusive rights to inventions, utility models, industrial designs, trademarks, service marks and appellations of origin that were originally registered in Ukraine and owned by the parties permanently residing or located in Crimea, provided that the rights are re-registered on the basis of applications submitted to the Russian PTO by IP right owners who had become citizens of the Russian Federation or by former Ukrainian legal entities that had been re-registered as legal entities in the Russian company register.

In case they have pending Ukrainian applications, the above-mentioned persons can re-file the applications in Russia in order to maintain prior rights from Ukrainian applications.

The deadline for revalidating IP rights (whether re-registering or re-filing) as well as resolving other IP-related issues is set for January 1, 2015.

The Russian PTO has already started the process of accepting the revalidation applications. The relevant information on how to file them is posted in Russian on the [Russian PTO website](#). No English translation is available.

There have been no official letters or explanations from the Ukrainian authorities regarding the IP protection issues that have arisen as a result of the Crimean crises.

On May 9, the Ukrainian [Law on Ensuring Protection of the Rights and Freedoms of Citizens and Legal Regime on the Temporarily Occupied Territory of Ukraine](#) entered into force.

According to this law, the Crimean peninsula is still regarded as part of Ukraine, with a special legal status as an occupied territory. Ukraine guarantees protection of property in the Autonomous Republic of Crimea and the city of Sevastopol in accordance with Ukrainian laws. However, the law states that the responsibility for violation of the protected rights and freedoms is placed on the Russian Federation, as the state invader.

The analysis of the situation shows that neither Ukrainian nor Russian legislation solves the problem concerning existence of rights (establishing the right holder) in Ukraine and Russia in case of identical or similar IP rights, when such rights belong to different right holders, and are being executed in Crimea. It is obvious that Ukraine will recognize the IP rights that originated on the basis of Ukrainian legislation, and that Russia will recognize the rights that originated on the basis of the Russian legislation. It is expected that Russia will not enforce Ukrainian court rulings in favor of the right holder who enforced his rights under Ukrainian laws derogating the Russian laws. And it will be vice versa in Ukraine.

Taking the whole situation into account, we recommend that the right holders check their IP portfolios in Russia and Ukraine. If their rights are protected in only one of the two countries, they should apply for protection of the same IP rights in the other country, and in the future file national applications for IP protection simultaneously in Russia and Ukraine.

For more information, please contact:



Yuriy Karlash
PETOSEVIC Ukraine
yuriy.karlash@petosevic.com
www.petosevic.com