

Protection of individualization in the Russian Federation

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Legal institute for protection of the means of individualization in the system of Russian law:

- **Civil law – branch in the system of civil law**
- **Intellectual property – sub-branch of civil law**
- **Protection of the means of individualization – institute of the “Intellectual property” sub-branch**

The principles of the legal institute for protection of the means of individualization:

- **the principle of independence of individual means of individualization from each other**
- **the principle of priority in case of conflict between the means of individualization**
- **the principle of obligatory use of the means of individualization in practice**
- **the principle according to that rightholders have not any non-property rights in respect of the means of individualization**
- **the principle of prohibition of misleading other participants of the civil commerce circulation and consumers**
- **the principle of independence of individual means of individualization from each other**

The Civil Code of the Russian Federation as a basic source of legal regulation of relations connected with the protection and the use of the means of individualization:

- **the structure of Chapter 76 of the Civil code of the Russian Federation “Rights to Means of Individualization of Legal Persons, Goods, Work, Services and Enterprises”:**

§1. Right to a Firm name (4 articles)

§2. Right to a Trademark and the Right to a Service Mark (33 articles)

§3. Right to a designation of the Place of Origin of Goods (22 articles)

§4. Right to a Commercial Designation (4 articles)

- **advantages and disadvantages of Chapter 76 of the Civil Code of the Russian Federation**

- **draft of amendments to Chapter 76 of the Civil Code of the Russian Federation**

Other sources of legal regulation of relations connected with the protection and the use of the means of individualization:

- **other provisions of the Civil Code of the Russian Federation and the other statutes on the means of individualization specified provided for Chapter 76 of the Civil Code of the Russian Federation**
- **the Statutes protecting the means of individualization that are not provided by Chapter 76 of the Civil code of the Russian Federation**
- **by-laws regulating patent procedures**

Courts' practice as a source of legal regulation:

- **decree of the Plenum of the Supreme Court of the Russian Federation and Plenum of the Supreme Arbitration Court of the Russian Federation of March 3, 2009 № 5/29 «On some issues arising in connection with the putting into effect of Chapter 76 of the Civil Code of the Russian Federation»**
- **decisions of the Presidium of the Supreme Arbitration Court of the Russian Federation on specific disputes**
- **current courts' practice**

Peculiarities of legal protection of the individual means of individualization in the Russian Federation:

- **special procedure for recognition a trade mark as well-known**
- **the principle of national exhaustion of the exclusive right to a trade mark**
- **the consequences of the coincidence of trademark priority day**
- **the prohibition of disposition of the exclusive right to a firm name to another person**
- **the exclusive right to a commercial designation may pass to another person only in a composition of the enterprise**
- **protection for the commercial designations shall be granted only for the enterprises located in the territory of the RF**
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The typical mistakes of foreign rightholders doing business in the RF:

- **the use of trademarks which are not protected in the RF including the use of trademarks which are registered in the EU and marks registered in the Madrid procedure but without extending their effect in the territory of the RF**
- **the use of a trademark not of the same type as is registered**
- **the use of a trademark not for the same goods as is registered**

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Settlement of disputes relating to the means of individualization:

- **Disputes settled by the Patent Office**
- **Disputes settled by court. The issue concerning the Patent Court**

Protection of right to the means of individualization:

- **General provisions on the protection of right to the means of individualization**
- **Compensation for losses**
- **Abuse of right or unfair competition as grounds for the recognizing the registration of the trademark as invalid**
- **Security measures**
- **Measures of criminal and administrative liability**