What is a Registrable Trademark in Russia

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OVERVIEW

- Introduction
- Designations that can be registered
- Designation that cannot be registered
- Acquired distinctiveness
- Protection of non-traditional marks: requirements, examples, problems of enforcement
INTRODUCTION

- Article 1477 or the Russian Civil Code: Trademark is a designation which individualizes the goods / services of legal entities or individual entrepreneurs.

- Rospatent examines trademarks on both absolute and relative grounds.
WHAT CAN BE REGISTERED

- Words, images, 3D and other designations or combinations thereof
- Other designations:
  - Color or combination of colors
  - Sound marks
  - Texture marks
  - Hololgrams
  - Motion marks
  - Smell marks
  - Taste marks
  - Position marks
- Trademark may be registered in any color or color combination
WHAT CAN BE REGISTERED

STATISTICS

577597 registered national trademarks

- 2532 - 3D marks
- 64 - Sound marks
- No registrations of taste marks
WHAT CANNOT BE REGISTERED

- Descriptive words or signs that lack distinctiveness
- Generic terms
- Single letters / digits or combination of consonants
- Designations which represent the form of goods which is determined exclusively by properties or functional purpose of the goods
- Deceptive names or signs
WHAT CANNOT BE REGISTERED

- Signs identical or similar to the symbols and names of the states, international and intergovernmental organizations

- Official control, guarantee marks or seals, awards and other marks of distinction

- Designations representing or containing elements which are protected in one of the state as designations identifying a wine or alcoholic beverages as originating from its territory
ACQUIRED DISTINCTIVENESS

All trademarks must possess distinctive character!

If not

prove acquired distinctiveness
ACQUIRED DISTINCTIVENESS

DOCUMENTS:

- Intensive use in Russia before application date (duration of use, shipping and customs documents, invoices, agreements)
- Annual sales
- Advertising costs, advertising materials
- Opinion polls (mark is known to the public and it is associated with the applicant and its goods)
- Statement of evidence from local distributors
EXAMPLES OF NON-TRADITIONAL MARKS

COLOR MARKS

Single color can be registered only if it has acquired distinctiveness.

Requirements: color sample + indication of color code (Pantone, RAL, etc)

RU 310048 Pantone 226C
Priority date - 07.04.2004
Owner - Reckitt Benckiser, BX
Class 03

RU 561631 Pantone 300CV
Priority date - 29.10.2012
Owner - PAO "Gazprom", RU
Classes 01, 04, 35, 37, 39, 40, 42

RU 310048 combination of colors
Priority date - 09.06.2008
Owner - OAO "Vympel-Communications", RU
Class 38
EXAMPLES OF NON-TRADITIONAL MARKS

SOUND MARKS

Requirements - written notes, an audio file or a phonogram

IR 729484
Priority date - 12.07.1999
Owner - Deutsche Telekom AG, DE
Classes 09, 16, 25, 28, 35, 36, 37, 38, 39, 41, 42

IR 1264210
Priority date - 04.08.2014
Owner - TUI AG, DE
Classes 09, 16, 35, 38, 39, 41, 43

RU 318691
Priority date – 28.09.2005
Owner – Intel Corporation, US
Class 09
EXAMPLES OF NON-TRADITIONAL MARKS

**POSITION MARKS**

**IR 695568** (Red strip located in the heel of a men's shoe)
Priority date - 23.04.1998
Owner - LLOYD Shoes GmbH, DE
Class 25 - Men's shoes

**IR 1031242**
(Color red (Pantone 18.1663TP) applied to the sole of a shoe)
Priority date - 03.02.2010
Owner - Christian LOUBOUTIN, FR
Class 25 - Ladies footwear

**RU 369587**
Priority date - 29.10.2007
Owner - Adidas AG, DE
Class 25 - Head gear
EXAMPLES OF NON-TRADITIONAL MARKS

MOTION MARKS

Requirements: video record on a digital media or printed reproduction of several frame-by-frame images

**RU 437590**
Priority date - 21.05.2010
Owner - The Procter & Gamble Company, US
Class 03

**RU 442442**
Priority date - 15.02.2010
Owner - The Procter & Gamble Company, US
Class 03
EXAMPLES OF NON-TRADITIONAL MARKS

**HOLOGRAMS**

Holograms have very similar requirements to their graphical representation as motion marks

RU 180965
Priority date - 30.01.1998
Owner - GlaxoSmithKline Consumer Healthcare, GB
Classes - 03, 10, 21
EXAMPLES OF NON-TRADITIONAL MARKS

3D MARKS

Registration of 3D marks is a common practice in Russia.
EXAMPLES OF NON-TRADITIONAL MARKS
3D MARKS
EXAMPLES OF NON-TRADITIONAL MARKS

**CHANGING MARK**

RU 526621  
Priority date – 06.06.2013  
Owner – Yandex, RU  
Classes – 09, 35, 38, 39, 41, 42

**SMELL MARK**

RU 470375  
Priority date – 28.07.2011  
Owner – Private person, RU  
Class -41

**TEXTURE MARK**

RU 462927  
Priority date – 19.07.2011  
Owner – Fund of assistance for blind and visually impaired persons, RU  
Class - 45
CURRENT PRACTICE

NOT REGISTERED

RU 2014730728

REGISTERED

RU 302679

RU 304491
CURRENT PRACTICE

NOT REGISTERED

RU 2013737742

REGISTERED

RU 433401

RU 429760

RU 443230
CURRENT PRACTICE

NOT REGISTERED

IR 1170653
IR 1170654
IR 172336

REGISTERED

IR 658667
RU 317939
RU 317940
Thank you for your attention!

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