

# Intellectual Property Update Regarding Russia, Belarus and Ukraine

March 17, 2022

Cooley has been closely monitoring the situation in Russia, Belarus and Ukraine following Russia's invasion of Ukraine in February 2022. Although the situation is in flux and circumstances may change with little or no notice, we've provided a summary below of recent intellectual property (IP) developments in Russia, Belarus, Ukraine and the Eurasian Patent Organization, along with a description of the actions that Cooley has taken in response to these developments and our current recommendations. (You can find additional information about financial sanctions and export control restrictions imposed on Russia and Belarus by the United States, the United Kingdom and the European Union [in our March 4 client alert](#).)

## Recent developments

### **Payments to Russia, Belarus and Ukraine**

While we are currently authorized to make payments to foreign associates in Russia and Belarus, we have been informed that sanctions are impacting banks inside and outside of Russia, Belarus and Ukraine. In addition, several vendors have suspended the processing of payments to Russia and/or Belarus. Consequently, it may be difficult to send funds to these jurisdictions, even for transactions that are permitted under applicable sanctions.

### **Martial law in Ukraine**

Martial law has been declared in Ukraine and will last at least until April 14, 2022. It is expected that all Ukrainian IP deadlines will be suspended as long as martial law is in place.

### **Russian patents**

Russia recently issued a decree that removes protections for patent holders who are registered in "unfriendly countries," do business in them or hold their nationality. The list of "unfriendly countries" includes the United States and Great Britain, as well as other European Union member countries. As a result of this decree, impacted patent holders will not be entitled to any compensation for infringing activities in Russia.

While IP protections for trademarks and copyrights are not subject to the same decree, at least one recent court decision has indicated that world-famous images can be used without punishment in Russia. Russian officials also have raised the possibility of lifting restrictions on unauthorized use of some copyrighted works and trademarks not owned by Russian entities.

### **United States Patent and Trademark Office (USPTO) actions**

The USPTO has terminated its engagement with officials from intellectual property agencies in Russia (Rospatent) and Belarus, as well as with the Eurasian Patent Organization (a regional organization covering Azerbaijan, Armenia, Belarus, Kyrgyzstan, Kazakhstan, Russia, Tajikistan and Turkmenistan). In addition, effective March 11, 2022, the USPTO is no longer granting requests to participate in the Global Patent Prosecution Highway (GPPH) when the requests are based on work performed by Rospatent. For any pending cases where the USPTO has granted special status under the GPPH based on work performed by Rospatent, the USPTO will remove that status, and return the application to the regular processing and examination queue.

### **Sanctions and export control restrictions**

As part of the sanctions levied against Russia and Belarus, the US government has significantly tightened export control restrictions to those jurisdictions, and it will be necessary to obtain a foreign filing license from the USPTO before filing any patent applications in Russia and/or Belarus.

# Cooley's responses

- Your Cooley team will be reviewing all deadlines in Russia, Belarus, Ukraine and the Eurasian Patent Organization through the end of 2022 and, absent your instructions to the contrary, will work to satisfy all deadlines in these jurisdictions as quickly as possible.
- We are monitoring sanctions lists to confirm that we can continue to work with our current local counsel based in Russia, Belarus and Ukraine.
- In addition, we have identified law firms located outside of these countries that are able to assist with prosecution in Ukraine and Eurasia, so please reach out to a member of your Cooley team if you are interested in making a change.

# Cooley's recommendations

- Inform Cooley **as soon as possible** whether or not you are still interested in maintaining your existing IP filings in Russia, Belarus, Eurasia and/or Ukraine, so we can take the necessary actions and inform local counsel in these jurisdictions accordingly.
- Let your Cooley team know in advance of any deadline(s) if you plan to make new filings in Russia, Belarus, Eurasia and/or Ukraine.
- Confirm with your annuity service provider that they will be able to pay any annuities in Russia, Belarus, Eurasia and/or Ukraine that are due in 2022. Contact a member of your Cooley team if your vendor will not be able to make an annuity payment in any of these jurisdictions, as we may be able to work with local counsel to make the payment.
- Consider updating IP risk factors (e.g., in Form 10-K, Form S-1, etc.) and/or license provisions to reflect the current situation in impacted countries.

We will continue to monitor developments in these jurisdictions, and we will provide additional information and guidance if necessary. In the meantime, please reach out to a member of your Cooley team with any specific questions or if you need more information regarding these issues.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our [legal notices](#).

## Key Contacts

Susan Piascik Christoff Washington, DC	<a href="mailto:schristoff@cooley.com">schristoff@cooley.com</a> +1 202 842 7854
Dr. Carol Laherty Seattle	<a href="mailto:claherty@cooley.com">claherty@cooley.com</a> +1 206 452 8777

Christina Stock Boston	cstock@cooley.com +1 617 937 2383
---------------------------	--------------------------------------

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.