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## Impact of covid-19 pandemic on IP practice in Russia

Russian Federation - [A Zalesov & Partners Patent & Law Firm LLC](#)

- **The IP Court, Rospatent and the Federal Anti-monopoly Service have introduced a system that allows the parties to participate in hearings online**
- **Rospatent has sped up the introduction of new online platforms encompassing all its services**
- **The approach to the extension and reinstatement of deadlines has differed among the various bodies**

### Introduction

The challenges brought about by the covid-19 pandemic have been similar in all the jurisdictions affected; at the same time, these challenges have encouraged the introduction of digital services and the acceptance of documents in a digital form even in very traditional spheres, and have boosted the IT industry.

Russia, as many other countries, introduced quarantine measures all over the country - although different measures applied from region to region - and encouraged as many industries as possible to work remotely.

The IP Court, the Russian Patent Office (Rospatent) and the Federal Anti-monopoly Service (the body responsible for unfair competition disputes) introduced a system that allows the parties to participate in hearings online.

Rospatent benefited from its existing online filing systems. However, since not all the services offered by Rospatent are available digitally - and, in some cases, it is still necessary to provide the original documents to start prosecution - Rospatent was encouraged to speed up the introduction of new online platforms encompassing all its services, which was initially planned only for 2021. Between 22 and 24 April 2020, Rospatent organised webinars devoted to the new digital services.

### Extension and reinstatement of deadlines

The approach to the prolongation and reinstatement of deadlines has differed among the various bodies.

#### *Rospatent's approach*

Since the president, by two decrees, declared the days between 30 March and 8 May 2020 to be non-working days (bearing in mind that there were official holidays between 9 May and 11 May), all the deadlines falling within this period were considered to be met if the necessary action was performed on the first operative business day (ie, 12 May 2020). The same approach was followed by the Eurasian Patent Office.

Rospatent declared its readiness to implement Article 82 *quater* of the Patent Cooperation Treaty to situations related to covid-19, and initiated work, together with the Ministry of Economic Development, to amend the legislation concerning the prevention and liquidation of emergency situations. The said amendments were adopted, which empowered the government to adopt Decree 893 of 20 June 2020, under which all deadlines related to the services of Rospatent (including the payment of official fees) which were due to expire within the period from 30 March to 30 November 2020 will be prolonged until 31 December 2020 on request. Such request should be filed within a month from the expiration of the deadline, or within a month starting from 20 June 2020, whichever is later.

#### *Courts' approach*

The court practice was divided into two periods:

- from 30 March to 8 May, which were declared as non-working days; and
- after 12 May, when the courts started to operate fully, although limitations on the movement of people were still in force in the majority of regions.

The Supreme Court adopted two overviews of certain issues relating to court practice due to covid-19 for the Russian Federation: No 1 (adopted on 21 April 2020) and No 2 (adopted on 30 April 2020).

These two overviews stipulated that, although the above-mentioned decrees of the president declared the establishment of non-working days, the general rules for calculating procedural deadlines, as applied by Rospatent, would not be applied to these days for court proceedings. The Supreme Court stated that, since the above non-working days do not apply to federal public authorities, which are only required to determine the number of federal public employees who ensure the functioning of these bodies, non-working days falling within the period from 30 March to 8 May 2020 are included in the procedural terms and do not constitute a basis for transferring the date of the end of the procedural terms to the next working day.

At the same time, if a hearing was scheduled within this period, it should have been rescheduled to a later date, and the courts were allowed, on case-to-case basis and at their discretion, to satisfy petitions by the parties to postpone the hearings, suspend the case, or reinstate missed terms as well as missed deadlines for claims limitation, if the parties, acting in good faith, were deprived of the possibility to take part in the hearings due to covid-19.

The Supreme Court also stipulated the circumstances in which the covid-19 outbreak should be considered as a *force majeure* event preventing a party from fulfilling its obligations, or as an excuse for the early termination of an agreement. All the circumstances of the case should be taken into account, including the restrictions introduced in the region at issue, the industry involved and the measures taken by the party, acting in good faith, to prevent the negative effects of the covid-19 outbreak. The performance of all civil obligations may otherwise have been suspended for a long period of time, and civil turnover in general may have been significantly restricted, which would not have met the objectives of the above-mentioned decrees of the president. Since the non-working days were not universal, but depended on various conditions (eg, the party's economic activity, its location and the restrictive measures imposed in that particular region), there may have been no obstacle to the performance of the obligations in some cases, while, in other cases, it may have been impossible to perform such obligations.

### Comment

While the pandemic created significant uncertainties for IP practice, on the whole, the measures taken did not greatly affect the ability of IP firms to work remotely and provide their services. Although IP practice follows the ups and downs of other industries, its overall situation in Russia is more or less stable.

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