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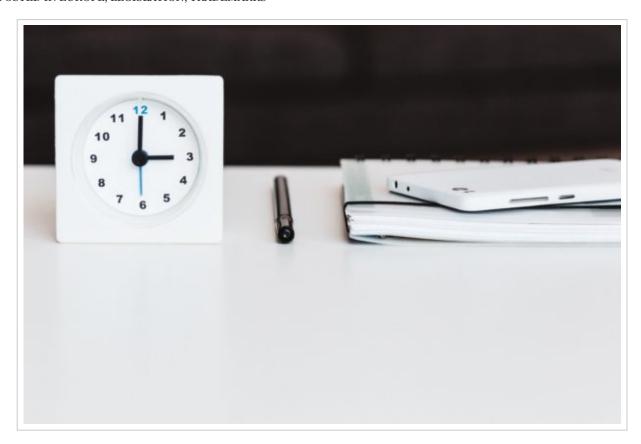


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## Amendments to the pre-trial procedure for IP disputes

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On June 1, 2016, the mandatory pre-trial procedure came into force. On May 26, 2017 the State Duma approved in the second reading amendments to the current pre-trial procedure.

Under the amendments, the pre-trial procedure extends only to the monetary disputes. The amendments (art. 1252 of the Russian Civil Code) also directly prescribe that the pre-trial procedure doesn`t apply to nonpecuniary claims for infringement of IP rights (for example, suppression of acts that infringe or endanger the IP rights; seizure and destruction of counterfeit goods; official publication of the court decision rendered against an infringer).

The general term of pre-trial procedure is 30 days, unless other term and (or) procedure is stipulated by law or agreement.

The amendments provide a special pre-trial procedure for disputes on early termination of a trademark. The interested party (claimant) has to send to the right holder a proposal to annul the trademark or to conclude a trademark assignment or license agreement with respect to all goods or part of the goods.

The proposed bill provides a two-month period for consideration of the proposal. The claimant is entitled to file a lawsuit for the early termination of a trademark within 30 days from the expiry of the two-month period for consideration of the proposal.

Moreover, the three-year period of non-use is calculated not from the date of filing the application to a court, but from the date of mailing a proposal to a right holder.

The amendments introduce a special pre-trial procedure for filing an application for preliminary injunction, if the pre-trial procedure for the dispute is mandatory. The court, which grants the preliminary injunction, sets in a time limit for filing the pre-trial claim, not exceeding 15 days. Currently, this deadline is prescribed for filing a lawsuit, and therefore the claimant could not apply the preliminary injunction and comply with the pre-trial procedure simultaneously. Under the new provisions, the lawsuit must be filed within 5 days from the expiry of the pre-trial procedure.

Thus, if the bill is adopted and enters into force in the version, outlined above, the pre-trial procedure will not apply for nonpecuniary claims, with the exception of the disputes on the early termination of a trademark, and the legislation will take into account the influence of pre-trial procedure on the application of preliminary injunction.

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Headed by Eddie Powell of Fladgate LLP, London, and Norman Zivin of Cooper & Dunham LLP, New York, New York, the ILN's Intellectual Property Group provides the platform for enhanced communication, enabling all of its members to easily service the needs of their clients requiring advice on cross-border transactions. Members of the group meet regularly at ILN conferences and industry events, and have collaborated on discussions and publications of mutual interest.

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