

IP Rights Get a Boost

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Emerging economies like Russia have long been the bane of industries dependent on intellectual property rights, such as the software industry. Sixty-five percent of software in Russia is stolen, Bloomberg reported last year. The country's accession to the WTO, however, has already resulted in important steps to more effectively enforce intellectual property rights, said Michael Malloy, head of the intellectual property and technology practice at DLA Piper in Russia.

Most notably, a specialized court to be established by February 2013 will hear intellectual property cases in Russia. The State Duma amended federal legislation to create the court late last year.

U.S. demands for better enforcement of intellectual property rights made during WTO negotiations most likely led to the introduction of the specialized court, Malloy said. The United States, which is home to many knowledge-based businesses, pushed for legal improvements to better protect intellectual property in Russia during its bilateral negotiations with the country. The resolution of this issue was "a big holdup" in the process

of negotiating Russia's entrance to the organization, Malloy said.

"The creation of the intellectual property court is probably connected to the accession to the WTO, and the creation of this court will do more to protect intellectual property rights than any changes in the rules," Malloy said.

According to Malloy, several problems hinder rights enforcement in Russia, including the lack of a discovery process (the plaintiff typically must gather his or her evidence before filing a case), the difficulty of getting Internet-based evidence accepted by a court and the poor understanding of intellectual property rights among judges. Most likely, the new court will better handle evidence related to intellectual property disputes, and its judges will develop expertise in this area of law, he said.

In addition to the new court, recent limitations on the use of clinical trial results for registration of medicines and the cancellation of unequal patent fees (fees were four times higher for nonresidents), both of which were done in the lead-up to WTO accession, aim to improve intellectual property rights in Russia.

Although the Office of the U.S. Trade Representative, a part of the Commerce Department, praised the creation of the court, it still included Russia in its annual listing of countries with the poorest intellectual property rights protection for the 16th year in a row, The Moscow Times reported in early May.

"While Russia made important progress in the past year to improve intellectual property rights protection and enforcement, significant concerns remain, particularly with respect to piracy over the Internet and enforcement generally," the trade representative said in the report.

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