

PROTOCOL
on the Protection and Enforcement
of Intellectual Property Rights

I. General Provisions

1. This Protocol has been developed in accordance with Section XXIII of the Treaty on the Eurasian Economic Union and governs relations in the sphere of protection and enforcement of intellectual property rights.

2. For the purposes of this Protocol the intellectual property shall refer to works of science, literature and art, programmes for electronic computers (computer programmes), phonograms, performances, trademarks and service marks, geographical indications, appellations of origin of goods, inventions, utility models, industrial designs, selection achievements, integrated circuit topologies, production secrets (know-how), as well as other intellectual property entitled to legal protection in accordance with international treaties, international treaties and acts constituting the law of the Union and the legislation of the Member States.

II. Copyright and Related Rights

3. Copyright shall apply to works of science, literature and art. The author of a work shall hold, in particular, the following rights:

- 1) the exclusive right to the work;
- 2) the right of authorship;

- 3) the right to the name;
- 4) the right to inviolability of the work;
- 5) the right to disclosure of the work;
- 6) other rights determined by the legislation of the Member States.

4. The Member States shall ensure compliance with the periods of protection of the exclusive rights to works of an author, the exclusive rights to works of joint authorship, and the exclusive rights to works published after the author's death, which shall not be less than the deadlines set by the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886 (as amended in 1971) and the World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994. The legislation of the Member States may determine longer periods for the protection of these rights.

Programmes for electronic computers (computer programmes), including the source code and object code, shall be protected similarly to literary works under the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886 (as amended in 1971).

Composite works (encyclopaedias, compilations and other works) representing creative products by selection or arrangement of content shall be protected without prejudice to the rights of authors of each work forming part of the composite work. The author of a composite work shall hold the copyright for the compilation thereof (selection and arrangement of the material). Composite works shall be protected by copyright, regardless of whether the items they are based on or composed of are subject to the copyright protection.

Derivative works (translations, adaptations, arrangements of music and other alterations of a literary or artistic works) shall be protected similarly to

the original works without prejudice to the rights of the authors of the original works. The author of a derivative work shall hold the copyright to the effected translation and other adaptation of the other (original) work.

5. The Member States shall grant the holders of rights in respect to cinematographic works the right to authorise or prohibit the commercial rental to the public of the originals or copies of their copyrighted works on the territory of other Member States.

6. Property and personal non-property rights to the results of performing activities (performances), phonograms and other rights determined by the legislation of the Member States shall be related to the copyright (related rights).

Performers shall refer to natural persons having created a performance as a result of their creative work, including artistic performers (actors, singers, musicians, dancers or other persons performing a role, reading, reciting, singing, playing a musical instrument or otherwise involved in the execution of works of literature, art or folk art, including variety, circus or puppet shows), as well as directors of plays (persons having directed a theatre performance, a circus show, a puppet show, a variety show or another type of dramatic or entertaining performance) and conductors.

The Member States shall, on a reciprocal basis, grant to performers of the Member States the following rights:

the exclusive right to the performance;

the right to the name, implying the right to put own name or nickname on copies of phonograms and in other cases of use of the performance, the right to specify the name of a group of performers, except when the use of the performance prevents specification of the name of the performer or a group of performers;

other rights determined by the legislation of the Member States.

7. Performers shall exercise their rights respecting the rights of the authors of pieces performed. The rights of a performer shall be recognised and shall be valid independently of the presence and effect of the copyright to the pieces performed.

8. The producer (manufacturer) of a phonogram shall be a person having taken the initiative and responsibility for the first recording of the sounds of a performance or other sounds, or representations of the sounds. In the absence of proof to the contrary, the producer (manufacturer) of a phonogram shall be the person the name or designation of which is indicated in the usual manner on a copy of the phonogram and/or on its packaging.

The Member States shall grant to the producers (manufacturers) of phonograms of the Member States the following rights:

the exclusive right to the phonogram;

other rights determined by the legislation of the Member States.

9. The Member States shall ensure compliance with the period of protection of the exclusive rights for performances and phonograms, which shall not be less than the deadlines set by the World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994 and the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations of October 26, 1961. The legislation of the Member States may determine longer periods for the protection of these rights.

10. An organisation for collective management of rights shall be an organisation acting on the basis of the powers obtained from authors, performers, producers (manufacturers) of phonograms and other holders of copyright and related rights, unless otherwise provided for by the legislation

of the Member States, as well as the powers obtained from other organisations for collective management of rights, in the management of the relevant rights on a collective basis, in order to ensure that authors and other rightholders obtain remunerations for the use of objects of copyright and related rights.

All relations arising in connection with the activities of organisations for collective management of rights in order to enable the fair use of copyright and related rights shall be governed by an international treaty within the Union.

III. Trademarks and Service Marks

11. A trademark and service mark (hereinafter - “a trademark”) shall refer to a designation protected in accordance with the legislation of the Member State and international treaties acceded to by the Member States and serving for individualisation of goods and/or services of participants in civil circulation of goods and/or services from goods and/or services of other participants in civil commerce.

in accordance with the legislation of the Member States, a trademark may be registered as a verbal, visual, three-dimensional and other designations or combinations thereof. A trademark may be registered in any colour or a combination of colours.

12. The right holder of a trademark shall have the exclusive right to use the trademark in accordance with the legislation of the Member State, shall be entitled to dispose of this exclusive right, and shall have the right to prevent other persons from using the trademark or a designation similar to the point of confusion in relation to homogeneous goods and/or services.

13. The period of validity of the initial registration of a trademark shall be 10 years. This period may be extended an unlimited number of times upon request of the right holder, each time for a period of at least 10 years.

Legal protection of a trademark may be terminated early on the territory of a Member State in respect of all goods and/or services or part thereof, for the individualisation of which the trademark is registered on the territory of the Member State, as a result of non-use of the trademark continuously for any period of 3 years after its registration in the manner provided for by the legislation of the Member State, except in cases of non-use of the trademark for reasons beyond the control of the right holder.

Legal protection of a trademark may be challenged and invalidated in the procedure and on the grounds provided for by the legislation of the Member State of registration of the trademark.

IV. Trademarks of the Eurasian Economic Union and Service Marks of the Eurasian Economic Union

14. The Member States shall register the trademark of the Eurasian Economic Union and the service mark of the Eurasian Economic Union (hereinafter - “the trademark of the Union”). The trademark of the Union shall enjoy legal protection simultaneously on the territories of all Member States.

Only a designation presented in graphical form may be registered as the trademark of the Union.

The rightholder of the trademark of the Union shall have the exclusive right to use the trademark of the Union in accordance with the legislation of the Member States, and shall be entitled to dispose of this exclusive right, as well as shall be entitled to prevent other persons from using the trademark of

the Union or a designation similar to it to the point of confusion in relation to homogeneous goods and/or services.

15. The relations arising in connection with the registration, legal protection and use of the trademark of the Union on the territories of the Member States shall be governed by an international treaty within the Union.

V. Principle of Exhaustion of the Exclusive Right for a Trademark and the Trademark of the Union

16. The principle of exhaustion of the exclusive right to a trademark and the trademark of the Union shall be applied on the territories of the Member States, in accordance with which the use of a trademark or the trademark of the Union in relation to goods lawfully put into civil circulation on the territory of any Member State directly by the right holder of the trademark and/or the trademark of the Union or other persons with its consent shall not be regarded as a violation of the exclusive rights to the trademark or the trademark of the Union.

VI. Geographical Indications

17. A geographical indication shall refer to a designation identifying goods as originating from the territory of a Member State, region or locality in that territory, if the quality, reputation or other characteristics of the goods are largely due to its geographical origin.

18. Geographical indication may be granted legal protection on the territory of a Member State, if such legal protection is provided for by the legislation of that Member State or international treaties to which it is a participant.

VII. Appellation of Origin of Goods

19. A legally protected appellation of origin of goods shall refer to a designation representing or containing contemporary or historical, formal or informal, full or abbreviated name of a country, urban or rural settlement, locality or other geographical object as well as a designation representing a derivative thereof that has become known as a result of its use in relation to goods the special properties of which are exclusively or mainly determined by any natural conditions and/or human factors specific to such a geographical area.

These provisions shall apply to a designation allowing the identification of goods as originating from a particular geographical object does not contain the name of this object, but has become known as a result of the use of the designation in respect of goods the special properties of which meet the requirements specified in the first indent of this paragraph.

20. Designations representing or containing the name of a geographical object, but have come into general use as designations of goods of a certain kind, not related to the place of their manufacture, shall not be regarded as appellations of origin of goods.

Legal protection of an appellation of origin of goods may be challenged and invalidated in the procedure and on the grounds provided for by the legislation of the Member States.

21. With regard to appellations of origin of goods, the Member States shall provide for legal remedies allowing the interested parties to prevent:

1) the use of any means in the designation or presentation of goods indicating or suggesting that the goods originate from a geographical area other than their true place of origin to the extent misleading for the consumers as to the place of origin and special properties of the goods;

2) any use thereof constituting an act of unfair competition within the meaning of Article 10-bis of the Paris Convention for the Protection of Industrial Property of March 20, 1883.

VIII. Appellation of Origin of Goods of the Eurasian Economic Union

22. The Member States shall register the appellation of origin of goods of the Eurasian Economic Union (hereinafter - “the appellation of origin of the goods of the Union”). The appellation of origin of goods of the Union shall enjoy legal protection simultaneously on the territories of all Member States.

23. All relations arising in connection with the registration, legal protection and use of the appellation of origin of goods of the Union on the territories of the Member States shall be governed by an international treaty within the Union.

IX. Patent Rights

24. The right to an invention, utility model or industrial design shall be protected in accordance with the legislation of the Member States and confirmed by a patent certifying the priority, authorship and exclusive right to the invention, utility model or industrial design.

25. The author of an invention, utility model or industrial design shall have the following rights:

- 1) the exclusive right to the invention, utility model, industrial design;
- 2) the right of authorship;

26. In the cases provided by the legislation of the Member States, the author of an invention, utility model or industrial design shall own such other

rights, including the right to obtain a patent, the right to remuneration for the use of the official invention, utility model or industrial design.

27. The period of validity of the exclusive right to an invention, utility model, industrial design shall be:

- 1) at least 20 years for inventions;
- 2) at least 5 years for utility models;
- 3) at least 5 years for industrial designs.

28. A patent for an invention, utility model or industrial design shall grant the patent holder the exclusive right to use the invention, utility model or industrial design in any manner not contrary to the legislation of the Member States, as well as the right to prohibit the use thereof by any other persons.

29. The Member States may provide for a restriction of the rights conferred by a patent, provided that such exceptions do not unreasonably prejudice the normal use of inventions, utility models and industrial designs and do not unreasonably prejudice the legitimate interests of the patent holder, taking into account the legitimate interests of third persons.

X. Selection Achievements

30. The rights to plant varieties and animal breeds (selection achievements) shall be protected in the cases and in the procedure determined by the legislation of the Member States.

31. The author of a selection achievement shall have the following rights:

- 1) the exclusive right to the selection achievement;
- 2) the right of authorship;

32. In cases provided for by the legislation of the Member States, the author of a selection achievement shall enjoy other rights, including the right to obtain a patent, the right to the name of the selection achievement, the right to remuneration for the use of the official selection achievement.

33. The period validity of the exclusive right to a selection achievement shall be at least 25 years for plant varieties and animal breeds.

XI. Topologies of Integrated Circuits

34. Integrated circuit topology shall refer to a spatial geometric arrangement of a set of elements of an integrated circuit and connections between them recorded on a tangible medium.

35. Intellectual property rights for integrated circuit topologies shall be protected in accordance with the legislation of the Member States.

36. The author of an integrated circuit topology shall be granted the following rights:

- 1) the exclusive right to the integrated circuit topology;
- 2) the right of authorship;

37. In the cases provided for by the legislation of the Member States, the author of an integrated circuit topology shall enjoy other rights, including the right to remuneration for the use of the official topology.

38. The period of validity of the exclusive right to an integrated circuit topology shall be 10 years.

XII. Production Secrets (Know-How)

39. Production secrets (know-how) shall refer to information of any kind (industrial, technical, economic, organisational data, etc.), including information on the results of intellectual activities in the scientific and

technical sphere, as well as information on the method of conducting professional activities having an actual or potential commercial value due to being unknown to third persons and legally inaccessible to third persons, with regard to which the holder of such information has defined the treatment of trade secret.

40. Legal protection of production secrets (know-how) shall be exercised in accordance with the legislation of the Member States.

XIII. Law Enforcement Measures for Protection of Intellectual Property Rights

41. Actions of the Member States to protect the rights of intellectual property within the Union shall be coordinated under an international treaty within the Union.
