

## Development of Soviet inventive legislation

[isfic.info/patent/promsob05.htm](http://isfic.info/patent/promsob05.htm)

-PATENT LAW

-RIGHT TO MEANS OF INDIVIDUALIZATION

-The history of the development of legislation on means of individualization and sources of legal regulation of relations in the field of their legal protection and use

-UNFAIR COMPETITION

-PROTECTION OF RIGHTS TO INDUSTRIAL PROPERTY AND LIABILITY FOR THEIR VIOLATION

-INTERNATIONAL COOPERATION IN THE FIELD OF LEGAL PROTECTION OF INDUSTRIAL PROPERTY

-International agreements aimed at assistance in obtaining legal protection of certain objects of industrial property

International agreements aimed at facilitating the search for information on certain industrial property objects

⇐ History of development of patent law

In the period from 1917 to 1919, the law of 1896 formally retained its legal significance. The provisions it contained could not meet the interests of the new government, therefore, already on June 30, 1919, V.I. Lenin signed the first decree concerning inventions, which approved the Regulation on Inventions. This Regulation proclaimed principles of the state's attitude towards inventions and inventors, unknown to foreign patent legislation. It, as they say, broke the connection with the pre-revolutionary patent legislation and in Art. 10 contained a rule that repealed all laws and provisions on privilege for inventions issued before the publication of the decree. According to A.V. Venediktov, Regulations on inventions of 1919 A.V. Venediktov Organization of state industry in the USSR. T. 1.M., 1957.S. 641-642.... The main meaning of the said Regulation consisted in a new definition of the legal nature of an invention as an object withdrawn from civil circulation, accessible to anyone and everyone on conditions dictated by the state. Any invention recognized as useful by the Committee for Inventions could be declared the property of the RSFSR by decision of the Presidium of the Supreme Council of the National Economy. In Art. 2 of the Regulations, a rule was established according to which inventions declared to be the property of the RSFSR, with the exception of secret, but the publication of this had to go to the general use of all citizens and institutions on special conditions stipulated in each individual case. At the same time, the path to the contractual procedure for the use of inventions was not closed either. In accordance with comp. 3 Regulations 1919 the very declaration of the invention

as the property of the state had to take place by agreement with the inventor, which also provided for the condition of remuneration of the latter. If an agreement with the inventor was not reached, then the declaration of the invention to the state property took place compulsorily with the payment of a special remuneration not subject to taxation.

The norms contained in the Regulations of 1919 were further developed in the Regulations on the Committee for Inventions at the Scientific and Technical Department of the Supreme Council of the National Economy of the RSFSR dated December 9, 1920. The said Regulations, in particular, expanded the range of objects of inventive law (inventions and models), institutes of application certificates, fixing priority, and copyright certificates, establishing the existence of the very right of the inventor were introduced. The regulation, in addition, delimited the functions of the structural divisions of the Committee, which established the novelty, usefulness of the invention and kept records of the application of inventions recognized as useful.

In connection with the country's transition to a new economic policy, on September 12, 1924, the Central Executive Committee and the Council of People's Commissars of the USSR adopted a resolution "On the enactment of the resolution on patents for inventions", which was the first act providing for the all-Union regulation of relations in the field of invention. This act was essentially a law on patents, since the patent acted as the only form of legal protection for an invention that again became a commodity value. The decree, in particular, allowed to acquire the patent of the inventor, to obtain a license to use the invention not only to state and cooperative organizations, but also to private entrepreneurs. In Art. 15 of the Resolution provided for the state's right to alienate the patent in its favor if it was impossible to reach an agreement with the patent owner.

The 1924 decree established the examination of the novelty and patentability of the invention, introduced the institution of prior use, provided for the possibility of passing the patent by inheritance, but not as part of the hereditary mass, and imposed the obligation to pay annual fees.

At the same time, the Central Executive Committee and the Council of People's Commissars of the USSR adopt a resolution on patents for inventions "On industrial designs (drawings and models)". According to the said decree, the protected industrial designs included:

- art-industrial drawings new in appearance and form, intended for reproduction in the corresponding products;

- new in appearance, shape, arrangement or arrangement of parts of the model, intended for industry, handicraft production, trade, handicrafts, household items and any kind of work in general.

The author of the created technical solution was given the right to choose the filing of an application for an industrial design or invention. In this case, the applicant, in the event of a refusal to issue a patent for an invention, could transform his application for a design while maintaining the priority of the application for an invention. The right

to an industrial design was confirmed by a special certificate, which was valid for three years with the possibility of a subsequent two-fold extension of the period for three and four years.

The fluctuations in economic policy at the end of the 1920s and the political recognition of the fact of building the foundation of socialism in the USSR entailed new changes in the legislation on invention. On April 9, 1931, the Central Executive Committee and the Council of People's Commissars of the USSR adopted the Regulation on Inventions and Technical Improvements, which was developed in the instructions of the Invention Committee under the Labor and Defense Council "On Remuneration for Inventions, Technical and Organizational Improvements". As noted in the preamble to the Resolution, the patent legislation in force until now, protecting the interests of the inventor by granting him the exclusive right to his invention, no longer corresponds to the aspirations of progressive inventors - the conscious builders of a socialist society.

The 1931 regulation established two alternative forms of legal protection, namely copyright certificate and patent. The issuance of copyright certificates meant that the right to use the invention within the USSR belonged to the state, as well as to cooperative and other organizations of the socialized sector. At the same time, the remuneration to the inventor was paid by the industry body for inventions, depending on the amount of annual savings provided by the invention. The author also had a number of incentives for income tax, admission to studies, occupation of positions of scientific workers, additional vacations, housing, pension and other benefits. If a patent was issued, and its validity period was 15 years, the patentee acquired the exclusive right to use the invention.

All other persons, not excluding government organizations, could use the invention only with the permission of the patent holder and under the conditions specified in the license agreement with him. The grant of a patent was not accompanied by the benefits that were associated with obtaining an inventor's certificate.

In addition to the legal protection of inventions, the 1931 Regulations established legal protection for technical improvements not recognized as inventions. Moreover. The regulation determined: the system of bodies in the field of invention; the procedure for selecting inventions and technical improvements; the procedure for filing applications and conducting an examination of the submitted proposals; features of foreign patenting and a number of other issues.

The 1931 regulation was accompanied by a number of acts concretizing it. Thus, on November 19, 1932, the Presidium of the Invention Committee under the Labor and Defense Council approved the Regulation on Conflict Commissions at Enterprises for Considering Disputes on the Amount and Procedure for Payment of Remuneration for Technical and Organizational Proposals. Earlier, on August 13, 1931, the Regulation on Bonus Funds was adopted for achievements in the implementation and over fulfilment of the industrial financial plan, as well as for inventions, technical improvements and rationalization proposals.

In the mid-1930s, in connection with the abolition of the Labor and Defense Council, a reorganization of the management of inventive business was carried out. The

Invention Committee was liquidated by the decree of the Central Executive Committee and the Council of People's Commissars of the USSR dated July 22, 1936, and its functions were transferred to the People's Commissariats and the State Planning Committee of the USSR. The issuance of copyright certificates and patents was entrusted to departments, and the State Planning Committee was engaged in their registration. In 1936, the decree "On industrial designs (drawings, models)" was also canceled. The protection of industrial designs began to be regulated by copyright laws, and models by the rules of inventive law on technical improvements.

At the same time, the mid-30s is the starting point for the introduction of legal protection of breeding achievements in the USSR. In 1937, the Council of People's Commissars of the USSR adopted a resolution "On measures to further improve the seeds of grain crops", according to which newly identified or improved varieties of cereals were included in the list of protected selection results. In addition, the said Resolution provided for: the creation of a system of state testing of varieties of grain crops and their use in the national economy; issuance of titles of protection to authors of new varieties of plants and bonuses for their introduction into production; registration and publication of information about new plant varieties that have passed state variety tests and regionalization in farms. Copyright certificates were issued for all plant varieties created or improved since 1918.

On March 5, 1941, due to the prevailing circumstances, the Council of People's Commissars of the USSR adopted a new Regulation on inventions and technical improvements, which, however, was not a fundamentally new act in its content. It assigned to the People's Commissariats of the USSR and the Union Republics, committees and main directorates under the Council of People's Commissars of the USSR, cooperative centers, the management of the development and implementation of inventions, technical improvements and rationalization proposals based on state plans. The 1941 regulation provided for the administrative and judicial procedure for the consideration of disputes. Administratively, disputes about novelty, about the amount of remuneration were subject to consideration, and disputes about authorship, violations of the procedure and terms of payment of remuneration were subject to judicial review. The 1941 regulation was attributed to the results of creative activity, protected by the norms of inventive law, selection achievements. Their creators were issued certificates of authorship similar to copyright certificates for inventions.

The decentralized system for managing inventions lasted until February 1956, when the Regulation on the Committee for Inventions and Discoveries under the Council of Ministers of the USSR was approved. The named body was empowered to manage the development of inventions in the country and the introduction of inventions and discoveries into the national economy, to control the activities of ministries and departments in the field of introducing inventions and discoveries, to assist inventors.

On April 24, 1959, the Council of Ministers of the USSR approved the Regulation on discoveries, inventions and rationalization proposals and the Instruction on remuneration for discoveries, inventions and rationalization proposals.

In the Regulation of 1959, the criteria for the protection of a discovery and an invention were first formulated, and technical improvements lost the regime of an object of inventive law and began to be called rationalization proposals. The regulation confirmed the previously established procedure for issuing titles of protection for breeding achievements and expanded the range of the latter. According to clause 5 of the 1959 Regulations, copyright certificates were issued not only for new, but also for improved breeds of farm animals and birds, mulberry and oak silkworm breeds, varieties of agricultural crops. At the same time, copyright certificates were issued only to breeders, selection stations and stations for breeding work. The issuance was carried out not by the Committee for Inventions and Discoveries, but by the USSR Ministry of Agriculture.

The subsequent period of development of inventive legislation was marked by the inclusion of norms regulating inventive relations in codified acts of the union and republican level. Special sections were devoted to the legal protection of discoveries, inventions and rationalization proposals in the Fundamentals of Civil Legislation of the USSR and the Union Republics, adopted on December 8, 1961, and similar subdivisions in the Civil Codes. In the early 60s of the last century, a number of very important documents of an organizational and administrative nature were adopted, including the resolution of the Council of Ministers of the USSR of June 14, 1962 "On improving the protection of state interests in the field of inventions and on further improving the organization of invention in the USSR ", Dated June 30, 1964. "On measures to improve the business of invention and rationalization in agriculture", Resolution of the Government of the USSR dated May 19, 1965 "On making additions to the Regulation on discoveries, inventions and rationalization proposals." In the mid-1960s, in connection with the USSR's accession to the Paris Convention for the Protection of Industrial Property, legal protection of industrial designs was resumed. On June 9, 1965, the Council of Ministers of the USSR adopted a resolution "On Industrial Designs", which is concretized in the Regulation on Industrial Designs approved by the Committee for Inventions and Discoveries. Within the meaning of these normative acts, new, industrially suitable artistic solutions for the appearance of an industrial product were subject to protection as industrial designs, in which the unity of technical and aesthetic qualities was achieved. Artistic solutions for the appearance of a significant part of light industry products, for example, haberdashery items, garments and knitwear products, were not protected. The 1965 regulation provided for two forms of legal protection of an industrial design: a certificate and a patent. The patent was issued for five years with the possibility of one-time renewal.

On August 21, 1973, by a resolution of the USSR Council of Ministers, a new Regulation on discoveries, inventions and rationalization proposals was adopted, which entered into force on January 1 1974. The said Regulation and the normative acts issued in its development constituted an integral system of normative mediation of inventive relations, which operated for almost two decades.

The 1973 regulation provided for two forms of legal protection of inventions. The first form was mediated by the inventor's certificate and additional inventor's certificate. The latter was issued for an additional invention, which is an improvement of the

main one, protected by a certificate or patent. When issuing a copyright certificate, the exclusive right to an invention was assigned to the state as a special subject of inventive law. Foreign firms and citizens admitted to carry out economic activities on the territory of the USSR, as well as residents engaged in fishing (artisans), did not have the right to use in their activities the inventions for which copyright certificates were issued for 15 years from the date of filing the application without obtaining a license for an invention.

The second form of legal protection of inventions was mediated by a patent for an invention and an additional patent. The patent secured to its owner the exclusive right to an invention for a period of 15 years from the date of filing the application.

According to clause 25 of the Regulation, only the copyright certificate could protect substances obtained by chemical means, medicinal substances, methods of prevention, diagnosis or treatment of diseases of humans and animals. A patent also could not be issued for inventions that were created in connection with the work of the author at a state, cooperative and public enterprise or on their instructions, or with the receipt of material assistance from them.

The regulation provided for a verification system for the examination of applications, which included two stages: preliminary examination and state scientific and technical examination of inventions. Four criteria of protection were established: the technical solution of the problem, the novelty of the technical solution, significant differences in the technical solution, the positive effect of the technical solution.

The 1973 regulation continued the tradition of legal protection of breeding achievements by general rules of inventive legislation (clause 22). At the same time, a number of special acts were adopted, reflecting the specifics of recognizing biological solutions as protected. Thus, the Ministry of Agriculture of the USSR approved the Regulations on the Approbation of Breeding Achievements in Livestock Breeding of November 9, 1976, the Regulations on the Legal Protection of New Plant Varieties in the USSR of August 13, 1980, the Regulations on State Testing and Zoning of Agricultural Crops Varieties of May 11 1981 year

As for industrial designs, the new Regulation on Industrial Designs was approved by Resolution No. 539 of the Council of Ministers of the USSR of June 8 1981.

According to paragraph 10 of this Provision, an industrial design was recognized as a new artistic and design solution of the product, which determines its appearance, meets the requirements of technical aesthetics, is suitable for implementation in an industrial way and gives a positive effect.

In contrast to the Provision of 1965, the new Provision provided for the criterion of the world novelty of industrial designs.

a list of artistic and design solutions that could not be recognized as industrial designs. Among them were:

products that do not perform a utilitarian function, such as books,  
paintings, sculptures;

residential buildings, industrial, hydraulic engineering and other structures, except for small architectural forms (kiosks, stalls, tents, etc.);

products that are not observed during operation( consumption), such as radio tubes;

products whose appearance is determined solely by their function (nuts, bolts, screws);

products that contradict the public interests, the principles of humanity and socialist morality in their purpose and design.

Paragraph 4 of the Regulation provided that the author of an industrial design could claim a certificate or patent. The certificate confirmed the exclusive right of the State to the design, and the patent-the exclusive right of the patent owner. The validity of the certificate was not limited in time, and the exclusive right of the state was valid for 10 years. The patent was valid for five years, with the possibility of extension, but not for more than five years.

The Soviet stage of development of legislation on invention ended in the early 90s of the last century. By this time, the theory and practice of invention had come to the conclusion that it was necessary to regulate inventive relations through a normative act in the rank of a union law. And such a law was passed. On May 31, 1991, the Supreme Soviet of the USSR, after lengthy discussions with the involvement of the legal community, adopted The Law of the USSR "On Inventions in the USSR", which was put into effect on July 1 1991. However, this Law was not destined to play the role of a fundamental one act in the field of invention. The subsequent collapse of the USSR and the course of the former Soviet republics to sovereign existence prematurely made the Law of the USSR "On Inventions in the USSR" is nothing more than a historical monument in the field of legal regulation of inventive relations.

A similar fate befell the USSR Law "On Industrial Designs" of July 10, 1991, which was to be enacted on January 1, 1992