

Intellectual Property

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BAKER & MCKENZIE

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Priority registration of domain names in the new .PФ (.RF) Cyrillic domain

Owners of trademarks and service marks registered in the Russian Federation will be able to obtain priority domain name registrations in the new Cyrillic .PФ domain and avoid cybersquatting, but this advantage may extend to owners of trademarks in Cyrillic only

On November 16, 2009 the International Corporation for Assigned Names and Numbers (ICANN) launched the Internationalized Country-Code Top-Level Domain Names (IDN ccTLD) Fast Track Process, the aim of which is to introduce a limited number of internationalized country-code top level domain names. For the first time in the history of the Internet users will be able to register domain names in characters other than Latin characters. According to the ICANN official statement, registration of the discussed domain names will be available to all countries and territories where the official language is based on scripts other than Latin, which means that users in corresponding countries will be able to register domain names in their own language. The first internationalized country-code top-level domain name to be introduced will be the .PФ (.RF) domain name, pertaining to the Russian Federation.

Beginning November 25, 2009, priority registration of domain names in the new .PФ Cyrillic top-tier domain will become available for owners of the exclusive rights to trademarks and service marks. Priority registration of domain names in the .PФ domain is regulated by the Rules of Domain Name Registration in the .PФ Domain (the "**Rules**") and the Provisions on Priority Registration of Domain Names in the .PФ Domain (the "**Provisions**").

The list of domain name registrars accredited to perform priority registrations of domain names in the .PФ domain can be found on the website of the Russian Coordinating Center of the National Internet Domain: www.cctld.ru/en/registrators.

Requirements for obtaining priority domain name registrations

The Provisions establish that a priority registration in the .PФ domain is performed with respect to a domain name corresponding to a word designation of a trademark that is registered with respect to any goods or services. Furthermore, the trademark must be registered either in the Russian Federation under the national procedure, or under the international procedure with Russia designated as one of the designated countries, and be effective on the date of filing a priority domain name registration request with a domain name registrar.

The domain name must either reproduce the word designation contained in the trademark, or match the word designation contained in the trademark if all breaks between words are removed or substituted with hyphens. In addition, the word designation contained in the trademark must contain at least one protectable element.

The domain name must also correspond to requirements set forth with respect to domain names in the .RU domain that can be registered under the Rules. According to the Rules, domain names in the .RU domain must begin and end with a letter of the Cyrillic alphabet or a number, and the intervening symbols must be letters of the Cyrillic alphabet, numbers or hyphens, with the permissible symbol range beginning with "a", the first letter of Cyrillic alphabet, and ending with "я", the last letter of Cyrillic alphabet, and also including an additional question sign symbol, "?".

Priority domain name administrator

The Provisions establish that only the owner of the exclusive right to the trademark may become the administrator of a priority domain name. Special terms for priority registration of domain names are set for cases when the exclusive trademark right was assigned with regard to a part of goods and services.

If two or more requests for priority registration of the same domain name are filed, the domain name will be registered in the name of the applicant that first filed all of the required documents and paid the priority registration fee.

Registration procedure

In order to obtain a priority domain name registration, the interested party must file a request for priority domain name registration with the registrar it selected for domain name registration purposes in the form established by that registrar. Together with the request the applicant must also file copies of the trademark registration certificate or an international trademark registration certificate showing that the trademark is effective in Russia, and of the certificate of the applicant's incorporation as a legal entity or individual entrepreneur (for Russian entities), or documents confirming the applicant's registration as a legal entity in another country, issued in accordance with requirements established under the laws of the country of origin (for foreign entities). Copies of certificates must be authenticated by the applicant's seal.

Each domain name registrar authorized to perform priority domain name registration must set forth its own rules with respect to the documents to be provided, such as must such documents be translated or legalized etc. Thus, if a trademark is eligible for obtaining a priority domain name registration, it may be advisable to contact the relevant domain name registrar prior to filing the required documents and priority domain name application to understand in what form the documents are to be provided, in order not to jeopardize the priority domain name registration.

Timeframes

The period during which applications for obtaining priority domain name registrations in the .RU domain will be accepted begins on

November 25, 2009 and ends on **March 25, 2010**. The "sunrise period" officially ends on **April 8, 2010**, the day when processing of priority domain name registration applications will end.

The timeframe during which applications will be reviewed by domain name registrars is **ten business days** upon receipt of all required documents from the applicant. Before this ten-day term ends the relevant registrar must either confirm successful registration of the requested priority domain name, or provide the applicant with a written letter of denial which must list the reasons for denying registration.

Delegation of a domain name registered during the "sunrise period" will be available no later than **one month** after initial delegation of the .PФ domain.

The .PФ domain names may be registered for a **one-year period only**, with the possibility of subsequent renewal of the domain name's registration annually.

Cost of obtaining .PФ domain name registrations during the "sunrise period"

Currently the average price of priority domain name registration in the .PФ domain for a one-year period is RUR 1,150 - 1,200 (approximately US\$ 40). According to the registrars each subsequent annual renewal of the priority domain name's registration will cost no more than the initial fee.

General notes

In accordance with the Provisions, domain names must either **reproduce or match** word designations contained in trademarks. Further, in accordance with the Rules, only letters of the Cyrillic alphabet can be used in domain names. Judging by the commentaries of the Russian Coordinating Center of the National Internet Domain, the discussed terms of priority registration imply that, at least at this particular moment, priority registration of domain names in the .PФ domain will be available **to right holders of trademarks in Cyrillic only**. Consequently, owners of trademark registrations in Latin will be able to register Cyrillic domain names only during the subsequent "auction" period (intended to take place from April 12, 2010 to June 4, 2010) and the "free-for-all" domain name registration period (which would allegedly begin on **June 7, 2010**). This limitation extends to, *inter alia*, well-known trademarks in Latin.

Additional notes

Questions regarding this issue may be addressed to Eugene Arievidh, Partner, Denis Khabarov, Partner, and Mikhail Tretyak, Associate, at Baker & McKenzie, Moscow (+7 495 787 2700) or to Maxim Kalinin, Partner, at Baker & McKenzie, St. Petersburg (+7 812 303 9000).

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