

New Russian Decree Imposes Restrictions on Transfer of IP Rights

June 5, 2024

On May 20, 2024, President Putin signed Decree No. 430 (the “Decree”), effective the same day. The Decree establishes restrictions on the acquisition of IP rights by Russian persons from so-called “unfriendly” jurisdictions. The term “unfriendly” jurisdiction has been used in other countersanctions regulations and includes all foreign states that commit unfriendly acts towards the Russian Federation and Russian legal entities and natural persons (*i.e.*, countries that have introduced sanctions against Russia, including the European Union, United Kingdom, and United States).

The Decree provides that any new contracts for the acquisition of IP rights by Russian residents or governmental bodies from unfriendly persons and persons controlled by such persons require clearance from the Governmental Commission and may be conditioned, including on the transfer of the payments for the IP to restricted O-type accounts. Funds may be withdrawn from such accounts only upon approval from the Governmental Commission. Pursuant to the Decree, the Russian government may impose other conditions for clearance in addition to these payment-related requirements.

Separately, the Decree provides that any payments under existing IP-rights agreements, including any late payments overdue as of the date when the Decree became effective, must be transferred to restricted O-type accounts with Russian banks.

The Decree instructs the Russian government to issue regulations implementing the approval process. Specifically, the Decree instructs the Russian government to determine which federal ministry will be responsible for interpreting the Decree. Such ministry and the Central Bank of Russia (with respect to O-type accounts) will be authorized to issue official interpretations of the Decree.

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The Decree does not apply to copyright agreements (*i.e.*, agreements relating to the acquisition of IP-rights in scientific, literary and artistic works, sound recordings, broadcasting, and computer software) or transactions not exceeding RUB 15 million (c. USD 166,000¹). There is no indication that this is a monthly amount, so this is likely to be interpreted as any remaining amount to be paid under the relevant agreement. Interestingly, the Decree does not contain a typical exemption that foreign persons from unfriendly jurisdictions controlled by Russian residents and disclosed as controlled foreign companies are not considered “unfriendly” (and so are not within the scope of the Decree).

It is not entirely clear if the Decree applies to any transfer and use of IP rights, thus capturing any license agreements and payments thereunder, such as royalties, or only to “alienation” of IP rights (*i.e.*, only to situations when the owner of IP rights from an unfriendly jurisdiction assigns the IP rights to a Russian person). The language of the Decree could be interpreted either way.

There are already Russian countersanctions regulations relating to IP rights. Presidential Decree No. 322 of May 27, 2022 provided for the possibility of freezing in O-type accounts of royalties payable to the licensors from unfriendly jurisdictions and certain other categories of licensors, including those that attempted to unilaterally terminate the licenses, but it is not entirely clear if any significant amount of funds has been frozen in O-type accounts under Decree No. 322. If the new Decree is interpreted to cover any royalty payments, the impact may be more significant. Around the date of the Decree, President Putin issued another decree that establishes the framework allowing the Russian government to seize any U.S. assets in Russia (see our separate [alert](#)²) and funds in S-type and O-type accounts could be the first assets to be seized.

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¹ Based on the exchange rate as of the date of this alert.

² See “[Potential Seizure of U.S. Assets in Russia](#)”, CLEARY GOTTLIB STEEN & HAMILTON LLP (May 29, 2024).