International Journal of Law, Justice & Statutory Affairs
Volume 2, Issue 1, 2026

An analysis of domain name trademark protection in the context of the Russian Federation network

Asmadi Syam[1] , Mohd Din[2] , Rizanizarli[3]
Lecture Master Program,
Law of Universitas Syiah Kuala Banda Aceh, Indonesia

Research Article

Date of Submission: 27-01-2026 **Date of Acceptance: 04-02-2026** **Date of Publication: 08-03-2026**

Abstract
This research highlights the difficulties presented by the internet and the need for more robust legislative measures by examining the legal frameworks and practices for trademark and domain name protection in Russia's digital environment. It examines existing legislation, court rulings, and global comparisons to find weaknesses and provide enhancements for online trademark protection.
Strong legal protections for trademarks on the Internet are becoming more and more important as e-commerce expands. Even though Russia's Civil Code has advanced, there are still problems with trademark protection in the digital sphere. This essay explores these issues and the necessary legislative solutions.
The study evaluates existing rules and suggests improvements using a thorough approach that includes systemic analysis and comparative legal studies. It focuses on things like domain name disputes, cybersquatting, and unlawful trademark usage.
The research comes to the conclusion that while Russia has improved its trademark rules for the digital era, more work needs to be done. Stronger online trademark protection requires implementing worldwide best practices, such the UDRP, and enhancing legal procedures. In order to protect trademark rights in the digital age, our study establishes the foundation for further legislative development and improved enforcement.

Keywords: Russian Federation intellectual property, cybersquatting, internet legislation, legal protection, civil code, trademark infringement, and the digital environment

1. Introduction

The relevance of trademarks has been greatly impacted by the worldwide growth of e-commerce, requiring strong legal structures to safeguard them. In the digital era, trademarks are essential assets for companies, particularly in their online presence, as well as instruments for personalizing products and services. The Russian Federation's legal system has made an effort to address these difficulties, especially via the Civil Code, but in order to properly protect trademark owners' rights, new, complicated problems must be handled in light of the Internet's quick development.
A major step in updating Russia's trademark laws was taken in 2008 with the addition of the fourth section of the Civil Code. However, there are still a lot of unanswered questions about trademark protection on the Internet. In order to guaranty that the legal system can successfully defend trademark rights in the digital sphere, this paper attempts to examine these problems and provide solutions.
The goal of this study is to thoroughly examine how Russian law now protects trademarks online, pinpoint any weaknesses or loopholes, and contrast them with global best practices. Additionally, the research will examine how trademarks are exploited and abused online, especially in domain names, and provide ways to strengthen Russia's legal protection of trademark rights.

2. Methods

This study provides a comprehensive knowledge of the problems pertaining to trademark protection in the digital era by combining doctrinal analysis,

case studies, and comparative legal analysis. The contrasts and similarities between Russian trademark rules and those in other countries, such the US and the EU, are highlighted via comparative legal study. This method makes it possible to assess Russian legal systems critically and points out areas where global best practices may be implemented. The case studies focus on significant Russian court cases pertaining to online trademark issues.

These cases provide light on how Russian courts interpret and enforce trademark rules in the digital sphere and highlight the practical difficulties encountered by trademark owners in asserting their rights. The doctrinal study explores how trademark law's theoretical underpinnings are being modified—or not—to satisfy the needs of the digital age.

3. Analysis and Results

3.1 The concept of trademarks and their use on the internet

By setting a producer's products and services apart from those of other producers, trademarks serve as essential legal tools that safeguard their identity. A trademark's legal recognition and protection in Russia start with its registration with the Federal Service for Intellectual Property (Rospatent). The exclusive right to use the mark in a variety of business situations, including product labeling, marketing, and digital environments like websites and online adverts, is granted to the trademark owner upon registration.

International accords like the Madrid Agreement and the Paris Convention, which guaranty that a trademark registered in Russia is acknowledged and protected in many other nations, further strengthen the protection offered by Russian law. These agreements are essential for companies that operate internationally because they prohibit unapproved cross-border use of their trademarks, preserving the integrity and worth of their brand globally.

However, the conventional interpretation and enforcement of trademark rights now face additional difficulties due to the Internet's rapid growth. Due to the Internet's worldwide reach, trademarks are more susceptible to infringement than ever before, and these breaches often take place on a large scale. The use of trademarks in domain names, where people or organizations may register domains that are confusingly close to or identical to a brand, is one of the most urgent challenges in this area. Cybersquatting is a practice that may cause serious issues for trademark owners, including as dilution of their brand, financial loss, and erosion of customer confidence.

Domain names are only one aspect of the complexity of internet trademark protection. New opportunities for possible violation have been made possible by the digital environment, especially in the area of internet advertising. Trademarks may be utilized as keywords in search engine marketing efforts, which might lead prospective buyers away from the rightful owner of the trademark and toward rivals or unlicensed vendors. In addition to endangering trademark owners' financial interests, its abuse puts customers at risk of being duped into buying subpar or fake goods.

Example: The Google France SARL v. Louis Vuitton Case The Google France SARL v. Louis Vuitton case is a noteworthy illustration of the intricacies of trademark usage on the Internet. The well-known luxury brand Louis Vuitton filed a complaint against Google in this instance, alleging that the search engine had violated its trademark rights by allowing third-party marketers to use "Louis Vuitton" as a term in Google's AdWords program. By placing a bid on the Louis Vuitton trademark, these advertisers—some of whom were selling fake goods—were able to guaranty that their advertising would show up when consumers searched for the brand.

In the end, the European Court of Justice (ECJ) decided in Google's favor, finding that the search engine's sale of terms did not directly violate Louis Vuitton's trademark. The court stressed that Google's function was that of an impartial middleman, giving advertising a platform without directly taking part in the trademark violation. The decision did, however, also make it plain that marketers may still be held accountable if their use of the trademarked phrases led to consumer uncertainty or deceit about the source of the supplied products or services.

This case highlights the challenges faced by trademark owners in the digital sphere, where it is sometimes impossible to distinguish between infringement and lawful usage. It also emphasizes how important it is for trademark owners to keep an eye on how their marks are utilized in digital advertising and to take legal action when needed to preserve the integrity of their brands.

Implications for Russian Trademark Law

Cases such as Google France SARL v. illustrate the difficulties. In the Russian setting, where the legal framework for trademark protection has to keep changing to take into account the realities of the internet economy, Louis Vuitton is especially pertinent. Similar problems have arisen in Russian courts, where complicated legal challenges have resulted from the use of trademarks in online contexts, especially in domain names and advertising.

Although Russian trademark law, which is backed by international agreements, offers a solid basis for trademark protection, more precise rules and unambiguous legal norms that take into account the subtleties of online trademark usage are obviously needed. Russian trademark law needs change to adequately protect brand owners' rights in the internet sphere as e-commerce and digital marketing continue to grow.

Stronger legal frameworks, like those in the US and the EU, may provide Russian trademark owners the means to protect their marks online. Campaigns for public education and awareness might also assist companies in comprehending the significance of trademark protection in the digital era and the actions necessary to preserve their trademarks.

Internet trademark protection poses special difficulties that need for constant legal innovation. It is feasible to develop a more successful framework for trademark protection in the digital age by taking lessons from global best practices and incorporating them into the Russian legal system.

Illegal Use of Trademarks in Domain Names 3.2 One of the biggest obstacles to safeguarding trademark rights online is cybersquatting. In order to benefit from the goodwill of the actual trademark owner, this technique entails registering domain names that are either identical to or confusingly similar to well-known brands. In order to dilute the value of the trademark and confuse customers, cybersquatters usually try to sell these domain names to the legitimate owners for an exorbitant price or use them to redirect web traffic to irrelevant websites.

The judicial system in Russia has had difficulty keeping up with the quick advancements in cybersquatting.

This has led to inconsistent resolution of various matters due to a patchwork of judicial rulings and legal interpretations. Many trademark owners are now in a precarious situation, facing protracted legal fights with unpredictable conclusions due to the absence of a coherent legal approach to address cybersquatting.

Case Study: The case of Tissot v. tissot.ru

The Tissot v. tissot.ru case is a well-known illustration of the difficulties caused by cybersquatting in Russia. The well-known Swiss watchmaker Tissot found that an illegal third party had registered the domain name tissot.ru. This person caused a great deal of customer confusion by using the name to run a website that sold goods unrelated to Tissot. Consumers who visited the website thought they were buying authentic Tissot goods, but they weren't. In addition to harming the brand's image, this abuse of the Tissot trademark may have resulted in monetary losses. Following a lengthy legal fight, the Russian court finally found in Tissot's favor and ordered the domain name to be transferred to the legitimate trademark owner. But the case made clear how hard it is for trademark owners to defend their rights online. Tissot had to spend a significant amount of time and money to recover its trademark since there was no efficient procedure for settling such disputes. This case serves as a sobering reminder of the shortcomings of Russia's present legal system for dealing with cybersquatting.

3.2 The Need for Clearer Legal Standards.

Numerous cybersquatting cases have been heard by Russian courts, but the absence of precise, defined legal norms has resulted in inconsistent and occasionally conflicting decisions. In certain cases, courts have appropriately ordered the transfer of contested domain names in favor of trademark owners. In other instances, however, courts have determined that the registration of a domain name did not amount to trademark infringement, depriving the legitimate owners of any practical redress. In order to safeguard trademark rights in the digital era, there is an urgent need for more precise legal guidelines and efficient enforcement procedures.

Russia's legal system stands in stark contrast to other countries' more advanced legal systems. For instance, trademark owners in the US have a straightforward and effective legal means to contest cybersquatting thanks to the Anticybersquatting Consumer Protection Act (ACPA). By enabling trademark owners to pursue damages and the transfer of domain names via a

simplified legal procedure, the ACPA has played a significant role in reducing the practice. Through the Uniform Domain-Name Dispute-Resolution Policy (UDRP), which is overseen by the World Intellectual Property Organization (WIPO), the European Union has also established strong procedures for settling domain name disputes.

3.3 Lessons from International Practices.

Countries like the United States and the European Union have created more advanced and successful strategies to prevent cybersquatting, according to comparative studies with other legal systems. In particular, the UDRP gives trademark owners a workable substitute for drawn-out legal fights by offering a speedier and more effective procedure for settling domain name disputes. This approach has been extensively embraced and has shown itself to be an effective instrument for safeguarding trademark rights worldwide.

The protection of trademark rights online might be greatly improved by the implementation of comparable procedures in Russia. Russia might lessen the prevalence of cybersquatting and provide trademark owners the resources they need to successfully protect their businesses by implementing more precise legal regulations and a more efficient dispute resolution procedure. Such changes will improve the nation's entire legal framework for intellectual property protection while also bringing Russian law into compliance with international best practices.

In conclusion, combating cybersquatting requires a multifaceted strategy that involves international collaboration, legislative change, and raising trademark owners' knowledge. It is feasible to develop a stronger system that protects trademark owners' rights in the digital era by taking lessons from other nations' experiences and applying them to the Russian setting.

Protection Mechanisms and Legal Shortcomings 3.4 Although the Russian Civil Code offers trademark protection measures, these rules often fail to meet the particular difficulties presented by online trademark infringement. Traditional legal structures were not built to address the complexity brought forth by the digital landscape's wide reach and anonymity. The difficulty of establishing infringement is one of the main obstacles to online trademark enforcement. Since infringement usually includes actual goods or direct marketing efforts, it is often simpler to detect and prove in the real world. But in the digital sphere, trademark infringement may happen in more covert ways, such when trademarks are used without permission in domain names, meta tags, or online advertisements. It is more difficult for trademark owners to get the proof because of this intricacy.

Case Study: The Domain Conflict at Smeshariki.ru

The instance of the well-known Russian cartoon "Smeshariki" serves as an illustration of the difficulties experienced by Russian trademark owners. The Smeshariki brand, which is well-known for its unique and adored characters, got into a legal dispute over the domain name smeshariki.ru. This domain was being used to host material unrelated to the Smeshariki franchise and had been registered by someone who had no connection to the brand. The cartoon's audience was very confused by the unapproved usage of the domain, since many of them came to the website anticipating official material. Rather, they saw irrelevant or deceptive content that directly threatened the brand's image and may undermine the loyalty and confidence of its fan base.

The trademark owners filed a lawsuit to recover the domain after realizing the possible harm. The procedure was far from simple, even though the court ultimately found in their favor and ordered the domain name to be transferred to the legitimate owners. The case brought to light serious shortcomings in the current system, especially the drawn-out and difficult legal procedure. The trademark owners had to deal with a difficult and drawn-out legal struggle while the unlawful use of the domain continued to damage the brand since there was no efficient dispute resolution process like the UDRP.

3.4 The Need for Legal Reform

It is clear that the Russian legal system would substantially benefit from implementing processes like to the UDRP, which has been effectively implemented in the US, the EU, and several other jurisdictions, when compared to international standards. The UDRP gives trademark owners a workable and successful way to settle domain name disputes more quickly and cheaply than via conventional litigation. The UDRP serves to reduce the harm caused by cybersquatting and guaranties that trademark owners may regain their domains without going through protracted legal fights by enabling disputes to be settled swiftly and equitably.

Furthermore, the UDRP's focus on arbitration as an alternative to litigation fits in well with the demands of the digital economy, where efficiency and speed are critical. Russia might provide a more effective and dependable way to protect trademark rights by implementing a comparable system that is adapted to the unique requirements of the Russian legal system. In addition to helping trademark owners, such a mechanism would make the internet economy more stable and predictable.

3.5 Jurisdictional Challenges and the Need for International Cooperation

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4. Conclusion

In conclusion, protecting trademark rights in the digital era has special difficulties that call for creative and flexible legal strategies. Even though the fourth section of the Civil Code was introduced in 2008, the Russian legal system still has a long way to go before it can meet the rapidly changing needs of the Internet. The urgent need for comprehensive legal reform is highlighted by the problems of cybersquatting, jurisdictional complexity, and the absence of a consistent strategy to domain name disputes.

4.1 Addressing the Challenges

One of the study's most pressing concerns is the inadequacy of the present procedures to effectively tackle online trademark infringement. Due to the challenges of proving infringement in the digital realm and the drawn-out legal procedure, trademark owners are often subjected to ongoing infringements that might gravely harm their business and reputation. It is obvious that a more efficient and efficient process is needed to resolve disputes, particularly those involving domain names.

Russia's absence of a formal system for settling domain name disputes has led to protracted, costly, and time-consuming legal battles. However, international procedures like the Uniform Domain-Name Dispute-Resolution Policy (UDRP) provide a tried-and-true model that might be adjusted for the Russian context. The development of a similar domestic procedure would provide a more reliable and effective means of safeguarding trademark rights, reduce the burden on the courts, and facilitate quicker outcomes for both trademark owners and domain name registrants.

The Importance of a National Trademark Database4.2

The creation of a national trademark database similar to ICANN's "Clearinghouse of Trademarks" is another important proposal of this research. A database like this would be an essential tool for tracking trademark use on the internet and alerting trademark owners to any infringements.By enabling trademark owners to take action before breaches become prevalent, this proactive strategy would help avoid problems.This database would improve the overall protection provided to trademarks in Russia by facilitating more efficient enforcement of trademark rights.

4.2

4.3 The Role of International Cooperation

Because of the Internet's worldwide reach, trademark rights enforcement cannot be limited to country boundaries. Online trademark disputes usually include jurisdictional difficulties, which makes international collaboration crucial for successful enforcement. In order to ensure that Russian trademarks are protected overseas and that foreign trademarks are sufficiently protected inside Russia, Russia's legal system would significantly benefit from aligning its rules with international best practices.

In addition to making cross-border enforcement easier, this kind of collaboration would improve Russia's economic integration. Strong protection for intellectual property rights, particularly

trademarks, will be essential for drawing in foreign investment and encouraging innovation as the nation develops its digital economy.

4.4 Public Awareness and Education

Public awareness and education are also crucial components of effective trademark protection. Many businesses, particularly small and medium-sized enterprises (SMEs), may lack the knowledge and resources to adequately protect their trademarks in the digital age. Educational programs and public awareness campaigns can play a vital role in helping businesses understand the importance of trademark protection and the steps they need to take to safeguard their brands online. Such initiatives would not only empower businesses to be more proactive in monitoring and defending their trademarks but also contribute to a broader culture of respect for intellectual property rights in Russia.

4.5 Adapting to Emerging Technologies

The field of trademark usage and protection is changing dramatically as new technologies like blockchain, artificial intelligence, and the Internet of Things (IoT) continue to develop. From automated web platforms that control brand visibility to decentralized systems that have the potential to drastically change how intellectual property is registered and enforced, these technologies provide new ways to engage with trademarks. In order to face these changing problems and ensure that the principles of trademark protection are upheld while embracing the possibilities new technologies bring, Russia's legal system must be both strong and flexible.

For example, artificial intelligence is being utilized more and more in brand management, allowing companies to monitor trademark use more effectively and react quickly to any infringements. But this also begs the issue of how much material produced by AI may violate already-registered trademarks and how these instances need to be decided. To guaranty that AI enhances rather than compromises the protection of intellectual property, the Russian legal system will need to establish precise regulations for its use in trademark-related activities.

Another intriguing option for trademark protection is provided by blockchain technology, especially when it comes to the generation of unchangeable digital records that may be used as proof of trademark ownership and use. By offering an open and unchangeable log of trademark transactions, this might drastically lower the number of trademark disputes. However, there are drawbacks to blockchain's decentralized structure, including problems with jurisdiction and the execution of court rulings across several blockchain networks. In order to possibly set the norm for trademark protection in a decentralized digital economy, the Russian legal system has to investigate how to incorporate blockchain technology into its current structure.

The Internet of Things (IoT) makes it possible for a huge network of linked objects to communicate and interact on their own, which further complicates the trademark environment. As more goods and services join this network, trademarks will be used more often as essential parts of automated systems that affect customer behavior in addition to serving as identifiers of goods and services. This presents important legal issues about trademark protection in a setting where conventional ideas of usage and infringement could not hold true. To solve these problems and guaranty that trademarks continue to work well in an IoT-driven environment, Russian trademark law must change.

Furthermore, these new technologies are not separate innovations; rather, they are integrating in ways that provide intricate, multidimensional trademark protection issues. AI and blockchain, for instance, might cooperate to establish decentralized autonomous organizations (DAOs) that function independently of human interference, posing novel concerns around trademark rights ownership and enforcement inside such entities. The legal system has to be ready to deal with these intricacies, providing precise instructions on how trademark rules apply in situations that were unthinkable a few years ago.

Russian legislators, attorneys, and companies must constantly communicate and work together to keep ahead of these technological developments. Russia can make sure that its trademark protection system is both forward-looking and prepared to handle the problems that may emerge as technology continues to advance by encouraging a proactive approach to legal change. This flexibility will be crucial for preserving the legal system's efficacy and relevance in the face of technological developments that are changing the global economy.

In the end, successfully adapting Russia's legal system to these new technologies would improve the nation's competitiveness in the international market in addition to safeguarding trademark owners' rights. Russia may establish itself as a leader in the digital economy, where intellectual property is still essential for commercial success,

by embracing innovation while respecting the fundamentals of trademark protection.

4.6 Looking to the Future

The capacity of the legal system to adjust to these difficulties will determine the future of trademark protection in Russia. Russia may establish a legislative framework that not only safeguards trademark owners' rights but also promotes the expansion and competitiveness of its digital economy by using global best practices, funding public education, and encouraging international collaboration.

Even though trademark protection has advanced significantly, much more has to be done. A proactive and forward-thinking approach to legislative change is necessary to address the issues raised by the Internet and the digital economy. Russia can make sure that its trademark rules are appropriate for the digital era by filling up the gaps in the present legal framework and putting the study's suggestions into practice.

4.7 The Ultimate Goal

The ultimate objective is to provide a legal framework that strikes a compromise between the demands of trademark owners and the reality of the contemporary economy. In addition to defending company rights, this will foster economic expansion, competitiveness, and innovation. Protection of intellectual property, particularly trademarks, will be essential to Russia's long-term economic success as it continues to integrate into the global economy.

Policymakers, legal experts, and corporate executives must collaborate to handle the issues of the digital era in order to accomplish these objectives. Russia can create a legislative framework that is both efficient and flexible by encouraging cooperation and communication among various parties, guaranteeing that trademark protection will continue to be strong and relevant in the years to come.

In conclusion, trademark protection in Russia is at a critical juncture. The nation's economic future will be significantly impacted by the choices taken today. Russia can create a legal framework that both protects trademark rights and improves its standing in the international market by accepting change and putting the required changes into place. The chance to influence the direction of trademark protection in Russia must not be lost; the time to act is now.

Furthermore, good trademark protection is not only required by law but also plays a critical role in promoting innovation, drawing in foreign capital, and guaranteeing Russian companies' ability to compete internationally. Trademarks represent a company's reputation, quality, and reliability; they are more than simply symbols. Strong trademark protection will be essential to preserving the integrity and worth of Russian brands as Russia continues to modernize its economy and integrate more fully into the global digital ecosystem.

Legislators, legal experts, and corporate executives must work together to find a way ahead. It entails both the adoption of global best practices and the creation of customized solutions that cater to the unique requirements and difficulties of the Russian market. This entails developing a legal framework that offers accessible, effective, and transparent channels for resolving conflicts while also being sensitive to the quick changes in technology and online business.

Furthermore, harmonizing legal standards and promoting an atmosphere of reciprocal respect for intellectual property rights will depend heavily on Russia's continuous communication with its foreign partners. Such collaboration would guaranty that Russian companies may prosper in the international market, safeguarded by a strong and contemporary legal framework.

The significance of trademarks will only increase as the digital economy grows. They will become more and more important to a business's capacity to stand out in a crowded and cutthroat market. Russia can make sure that its companies are prepared to compete and thrive on the international scene by taking swift action to improve trademark protection.

5. Conclusion

Russia's capacity to defend and advance intellectual property rights is directly related to the country's economic growth in the future. The study's suggested changes provide a roadmap for creating a more robust and efficient legal system that can handle the demands of the digital era and ensure a bright future for Russian companies and the country's economy overall. Russia must act quickly and strategically because the choices it makes now will shape its position in the world economy for many years to come.

6. Acknowledgments

I want to sincerely thank everyone who helped to finish this study. First and foremost, I would like to express my gratitude to my academic supervisors, Dr. Han, my co-supervisor, and Professor Sun Fabai from the Humanity and Law Faculty at Shandong University of Science and Technology. Throughout this process, their advice, knowledge, and support were crucial. Their observations significantly improved the breadth and quality of this work.

I also want to express my sincere gratitude to those who funded this study. This research would not have been feasible without their kind sponsorship. Their dedication to furthering legal studies in the area of intellectual property has had a profound effect, and I feel privileged to have benefited from their assistance.

We also want to express our gratitude to everyone who helped with this study at different phases. I want to thank the proofreaders for their efforts, since their painstaking attention to detail made sure the final product was coherent and clear. I also like to thank the vendors who supplied the materials and resources needed for the research, as well as the typists who helped prepare the several versions of this work.

Finally, I would like to thank my peers and colleagues for their support and comments during the creation of this work. Their helpful critiques and support were essential in helping to improve the arguments made in this book.

Without the combined efforts of everyone above, this study would not have been feasible, and I really appreciate their contributions.

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