

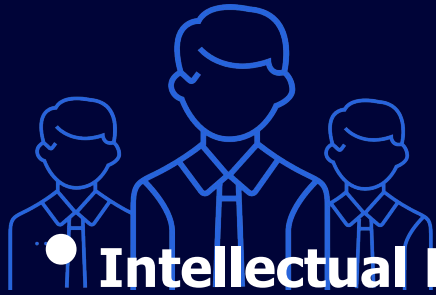


GRATA
INTERNATIONAL

Legal mechanism of IP rights protection in Mongolia

2022

Prepared by Bolormaa Volodya,
Partner, GRATA International Mongolia



Content:

- **Intellectual Property Regulations – International and local**

- **Principles of protection of intellectual property rights**
- **Organizational system of IP**
- **Registration of trademark**
- **Exclusive rights of trademark right holder**
- **Trademark use**
- **License agreement**
- **Protection mechanism of trademark**

Intellectual Property Regulations

Mongolia is a party to the following international conventions:

Paris Convention for the Protection of Industrial Property/1970/

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)/1997/

Convention Establishing the World Intellectual Property Organization/1967/

The Strasbourg Agreement Concerning the International Patent Classification (or IPC)/1971/

The Patent Cooperation Treaty (PCT)/1970/

The Locarno Agreement/1968/

The Berne Convention for the Protection of Literary and Artistic Works/1886/

Hague Agreement Concerning the Deposit of Industrial Design/1925/

Domestic regulations regarding Intellectual Property:

Law of Mongolia on Intellectual Property/2020/

Law of Mongolia on Copyrights/2021/

Law of Mongolia on Patent/2021/

Law of Mongolia on Trademarks and geographical indications/2010/

Law on Technology transfer/1998/

Law on Competition/2010/

Procedure for the introduction of goods pertaining to intellectual property/2009/

Intellectual Property

□ Principles of protection of intellectual property rights

To follow first-to-file concept of industrial property

To have unified system and methodology

To uphold the rule of law

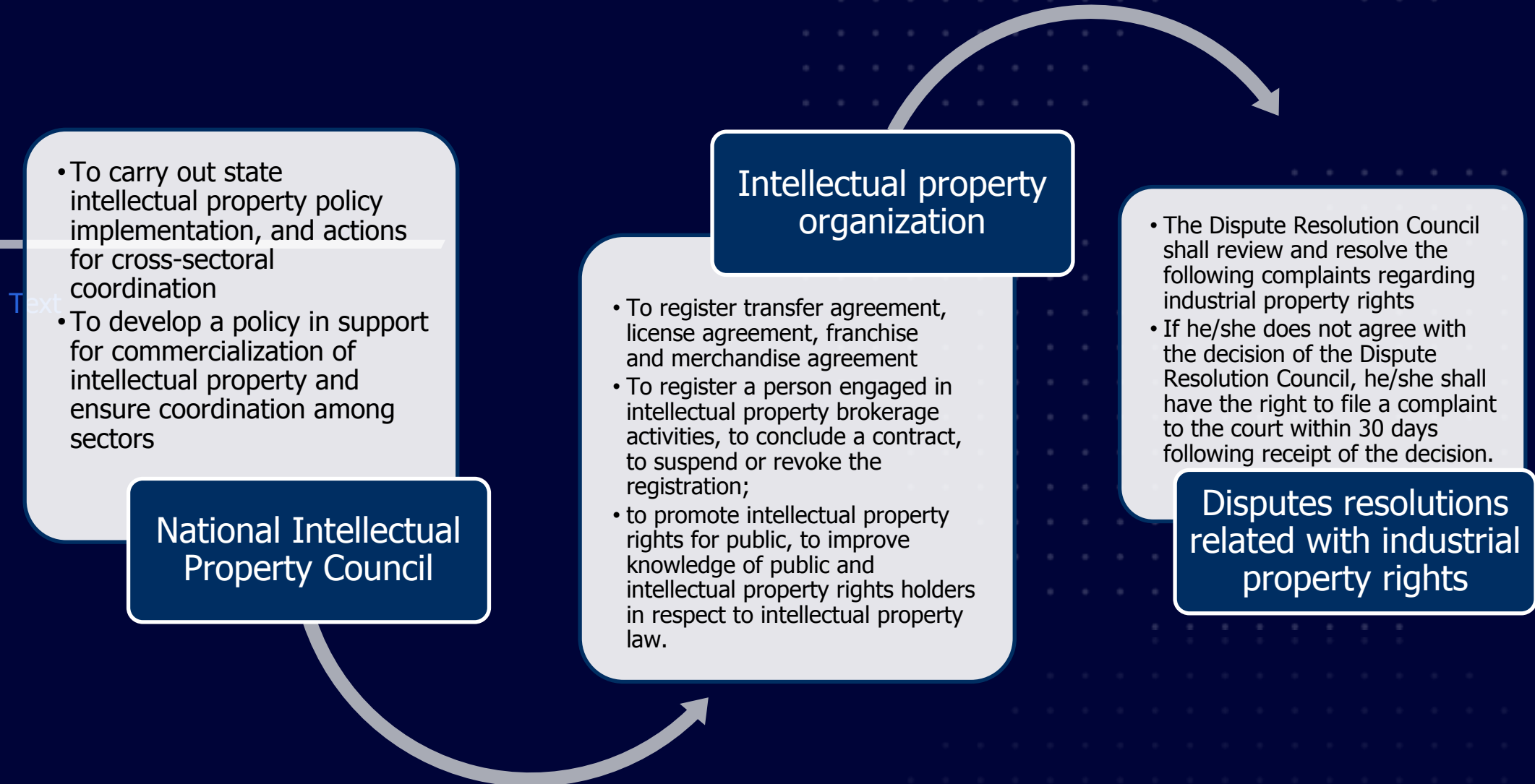
To ensure balance of intellectual property right holders and public interests

Be in accordance with the public interest and morals

To ensure engagement of government, non-government, private institutions as well as public participation in intellectual property relations

To make intellectual property information available to public

ORGANIZATIONAL SYSTEM OF INTELLECTUAL PROPERTY



The following intellectual property rights shall be protected:

Copyright
and related
rights

- Works of literature and art

Industrial
property
rights

- Invention
- Utility model
- Industrial design
- Trademark
- Geographical indication

Registration of Trademarks

Trademark means distinctive expression used by a natural or a legal person in order to distinguish the goods or services from those of others.

Trademarks may be expressed in words, figures, letters, numerals, three-dimensional configurations, colors, sounds, scents or any combinations thereof.

- ✓ Application
- ✓ Power of Attorney (if represented by a proxy)
- ✓ Trademarks: words, images, logos, etc. (To be given to authorized representatives)
- ✓ A copy of the state registration certificate for an organization, and a copy of an identity card for an individual
- ✓ List of goods and services (or description of activities) or class (NICE classification)

Exclusive rights of trademark right holder

The Government Agency shall record the trademark in the State Trademark Registry, issue a certificate for 10 years(can be extended for 10 yrs) where the decision has been taken to register the trademark.

The trademark owner shall have the following exclusive rights in respect of the trademark:

- ✓ to own registered trademark;
- ✓ to permit others the use of registered trademark;
- ✓ to transfer registered trademark to others on basis of right transfer agreement;
- ✓ where the registered trademark is used by others without permission/consent, to request to discontinue the use of a mark;
- ✓ to request to discontinue the use of a mark by others which is identical with or similar to the registered trademark where its use would result in a likelihood of confusion on the part of consumers.
- ✓ to claim compensation from guilty person for damages caused by actions.

Trademark use

The following cases shall be considered to use of a mark:

- ✓ If using the trademark on the goods, packaging or containers thereof, or in services;
- ✓ if supplying, offering for sale the goods or stocking them for such purposes, or offering services under the trademark;
- ✓ if importing or exporting the goods bearing the trademark;
- ✓ if using the trademark in correspondence, prospectus or other documents and in advertising or in Internet;

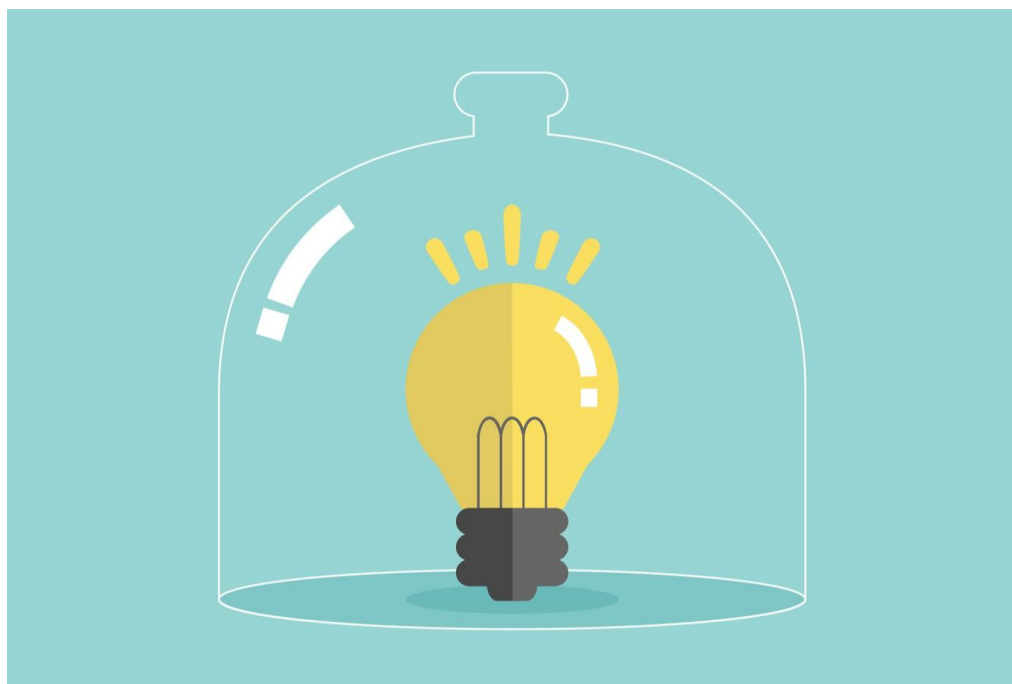
The trademark owner may use a circled Latin letter R alongside the trademark to show that the trademark is registered.

LICENSE AGREEMENT

- name and description of work;
- type of license agreement and type of rights granted by this license;
- whether the granted rights can be re-transferred;
- the term, conditions, territory for exploitation right of the work which is granted;
- amount of compensation for the exploitation of work, payment conditions;
- rights and responsibilities of the licensor;
- rights and responsibilities of the licensee;
- liability for failure to fulfill agreement obligations;
- regulation on dispute resolution.

Protection mechanism of Trademarks

1. Enforcement action by Intellectual property authority
2. Enforcement action by the Customs authority
3. Enforcement action by courts (Case study on claiming intangible rights)



THANK YOU!

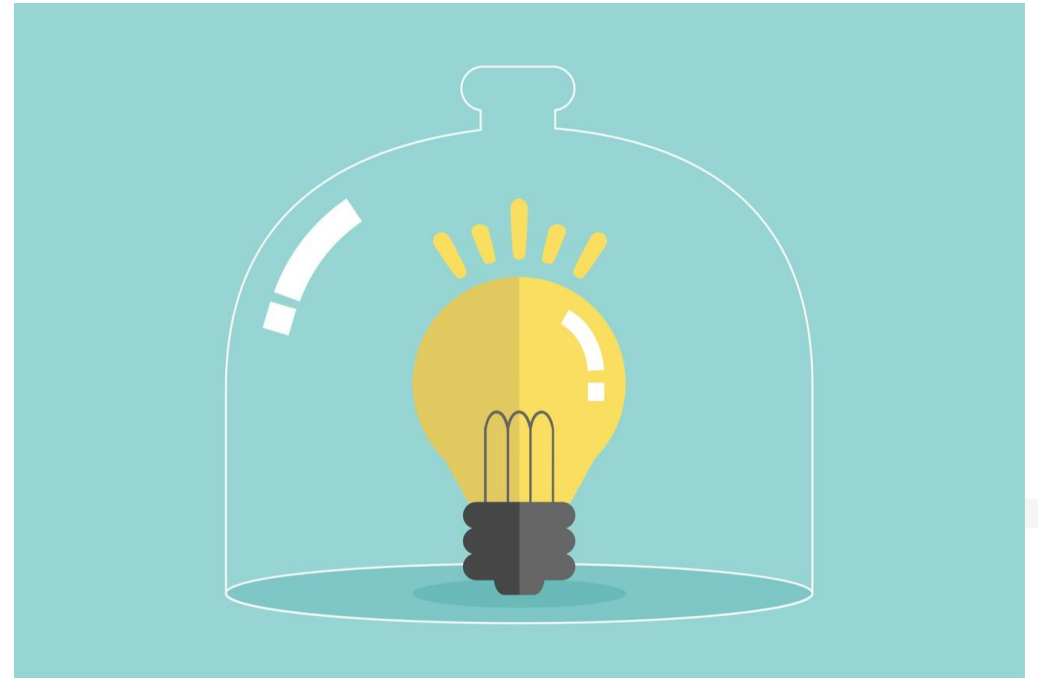
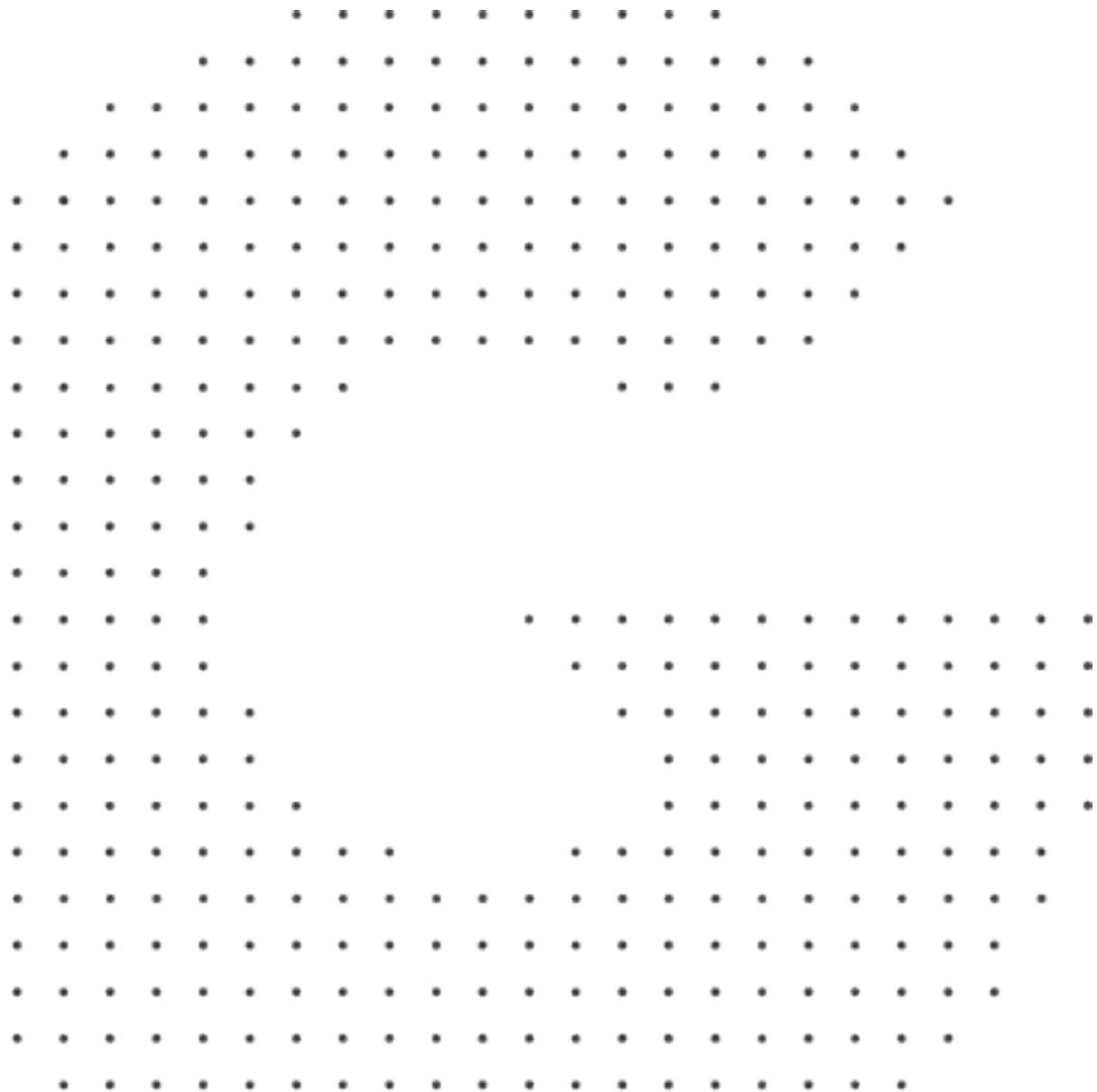
Bolormaa Volodya, Partner in Mongolia

Phone: 976 99085031

Bvolodya@gratanet.com

www.gratanet.com

www.gratanet.com



QUESTIONS?