

Milan, November 22, 2016

Viacheslav Rybchak
Trademark & Design Attorney

HOW TO PROTECT IP IN FASHION – DESIGN PROTECTION IN RUSSIA

GORODISSKY

*GORODISSKY & PARTNERS
PATENT AND TRADEMARK
ATTORNEYS IP LAWYERS*

INDUSTRIAL DESIGN

The solution defining the outer appearance of an industrial or handicraft article

A set of articles

Article

Composite article

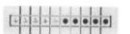
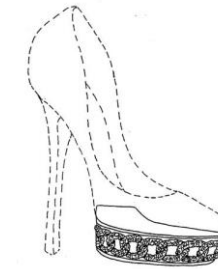
Independent part of an article

Packaging

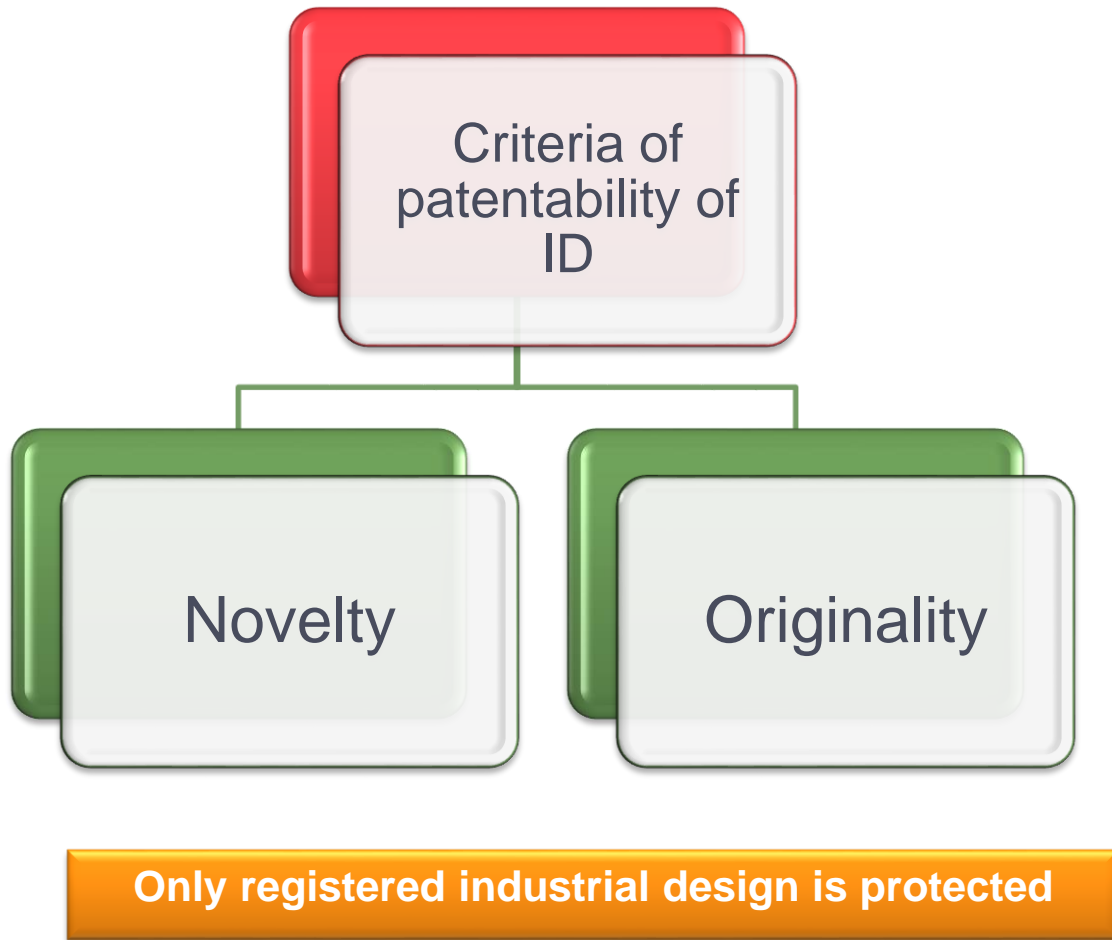
Graphical user interface (GUI)

Typeface

Label



INDUSTRIAL DESIGN



Non-patentable as ID

Solutions, whose features are determined exclusively by technical function of the article

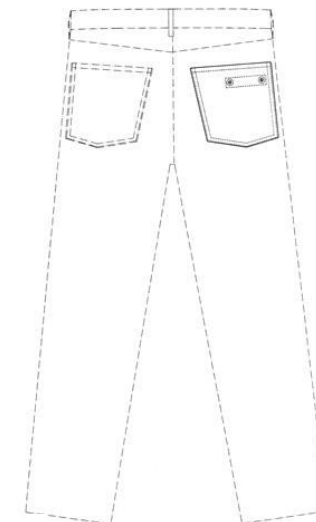
Solutions, which are capable to mislead the consumers

Solutions, which are contrary to public interests, principles of humanity and morality

Solutions, which include state symbols and signs, names, symbols and signs of international organizations, official control and warranty seals, awards and other insignia

CRITERIA OF PATENTABILITY: NOVELTY

The ID is new in case the combination of its essential features displayed on the pictures of outer appearance of the article, is not known from the information which was publicly available in the world before the priority date of ID

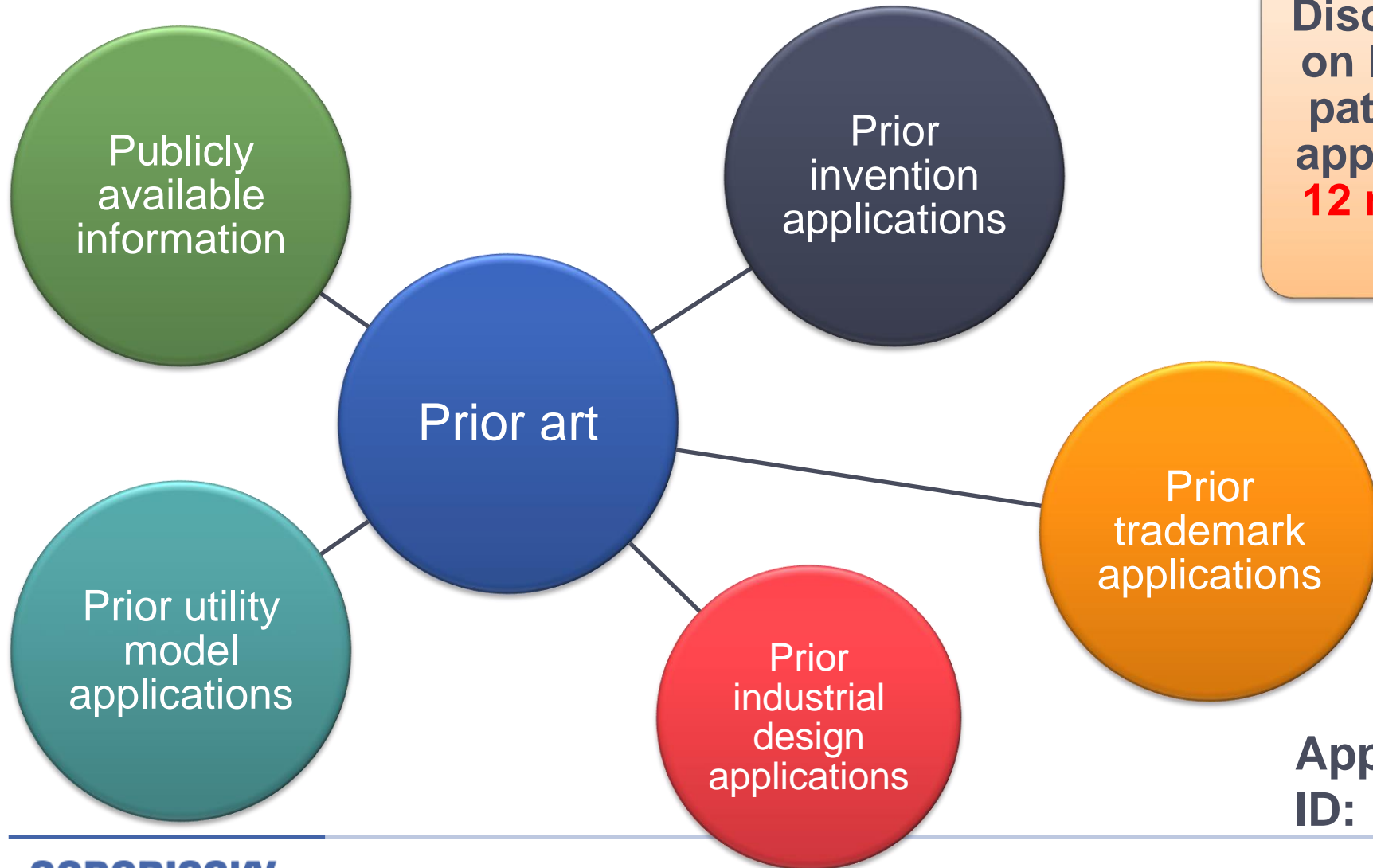


CRITERIA OF PATENTABILITY: ORIGINALITY

The ID is original in case its essential features are determined by creative character of the particularities of the article, in particular if there is no known solution of the outer appearance of the article of similar purpose which make the same overall impression on the informed user



PRIOR ART FROM OCTOBER 01, 2014



Disclosure of information on ID does not affect the patentability in case the application is filed within **12 months** from the date of disclosure

Applied ID:



Cited registered Trademark:



SCOPE OF PROTECTION OF INDUSTRIAL DESIGN

Scope of protection of industrial design

The scope of protection of an industrial design is defined by **the combination of its essential features displayed on the pictures of outer appearance of the article** which are contained in the ID patent

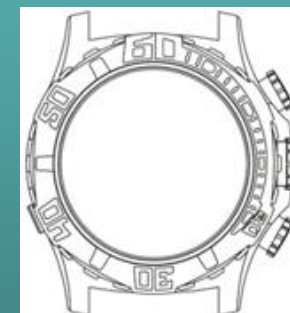
Essential features of industrial design define **aesthetic characteristics of outer appearance of the article**, in particular the shape, configuration, pattern, combination of colors, lines, contours of the article, texture of the material the article is made of



SCOPE OF PROTECTION OF INDUSTRIAL DESIGN

Scope of protection of industrial design

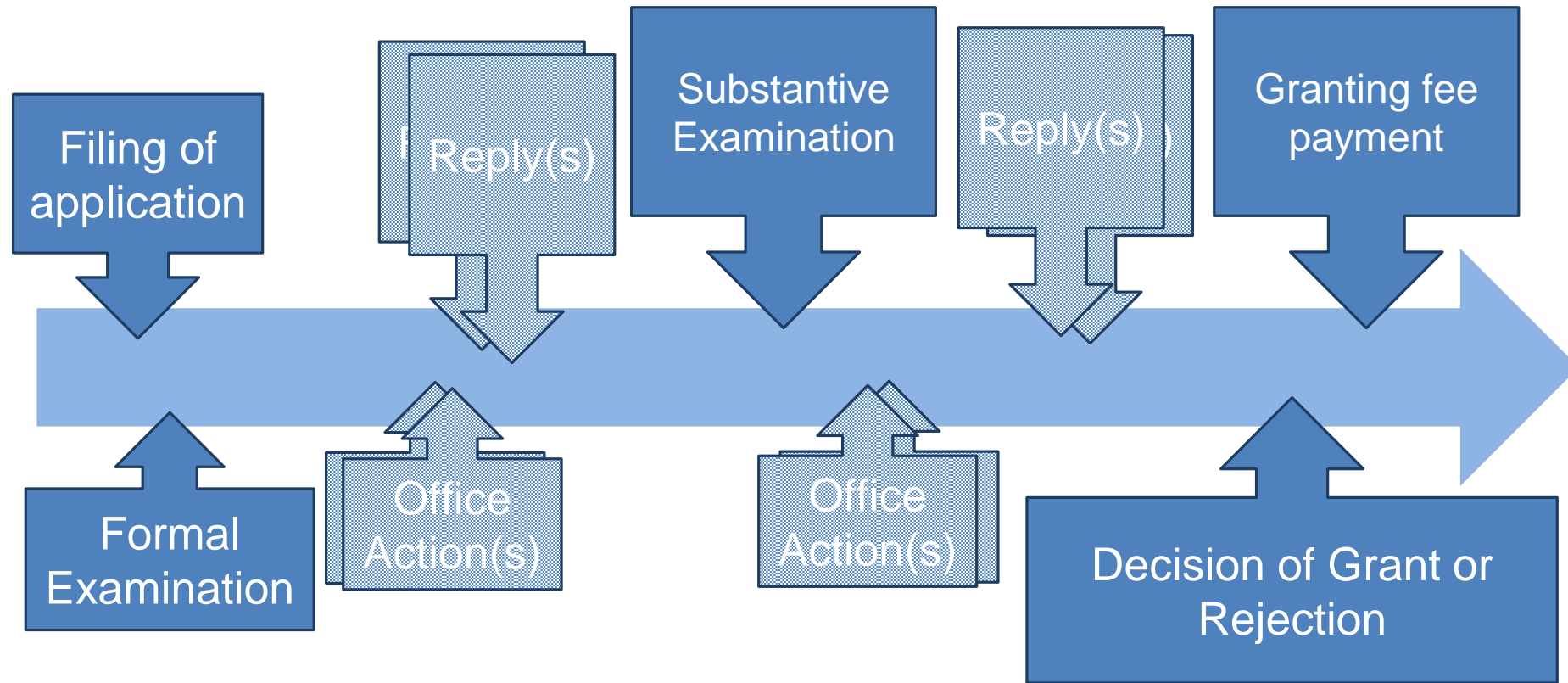
ID is considered as being used in the article in case the latter contains all essential features of ID or a combination of features, **which make the same overall impression on the informed user as the patented ID** provided that the articles have similar purpose



WAYS OF GETTING DESIGN PROTECTION



DESIGN EXAMINATION BEFORE THE RUSSIAN PTO



AVERAGE FILING – GRANT TIME



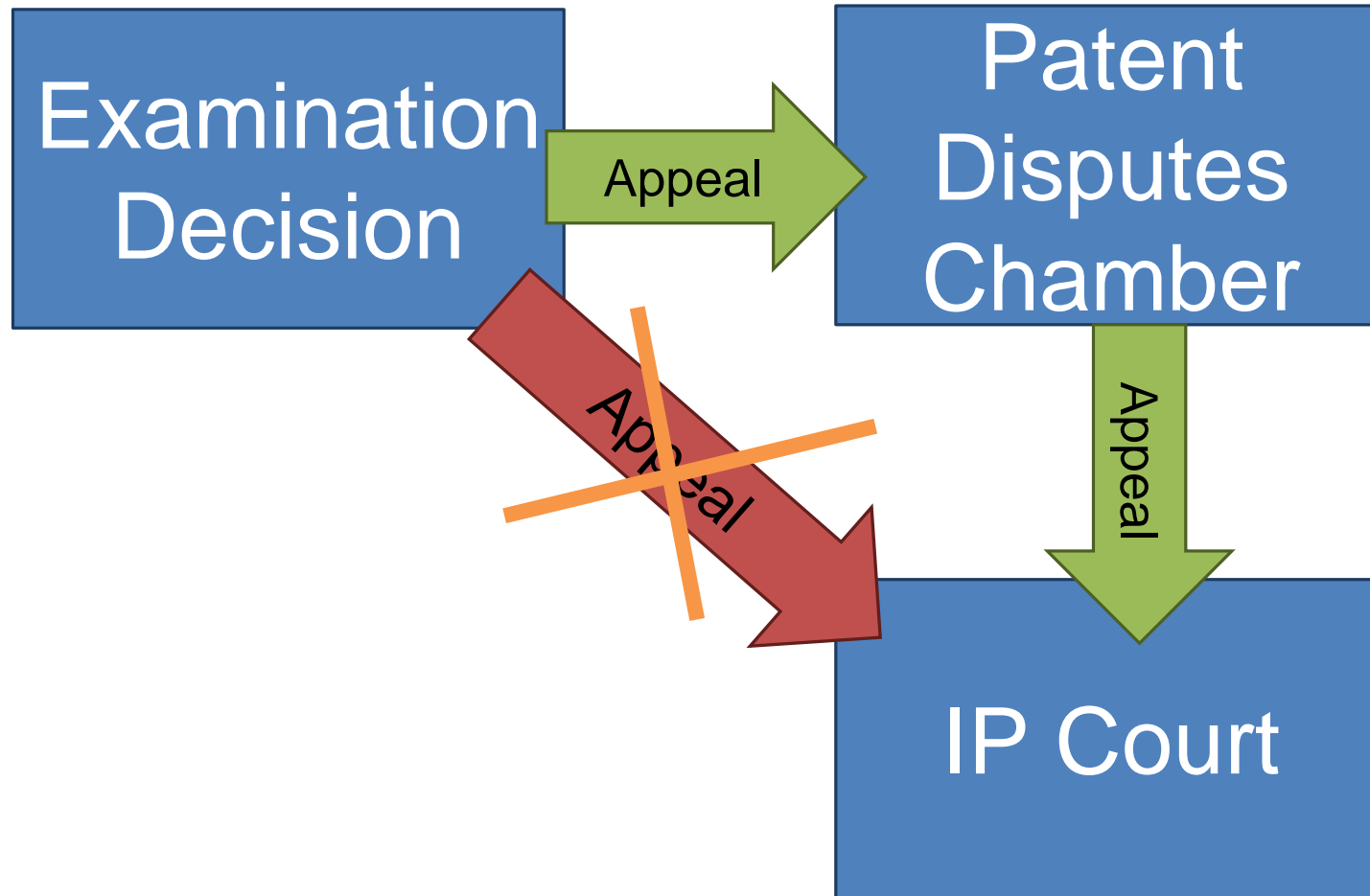
TERM OF VALIDITY

5 years

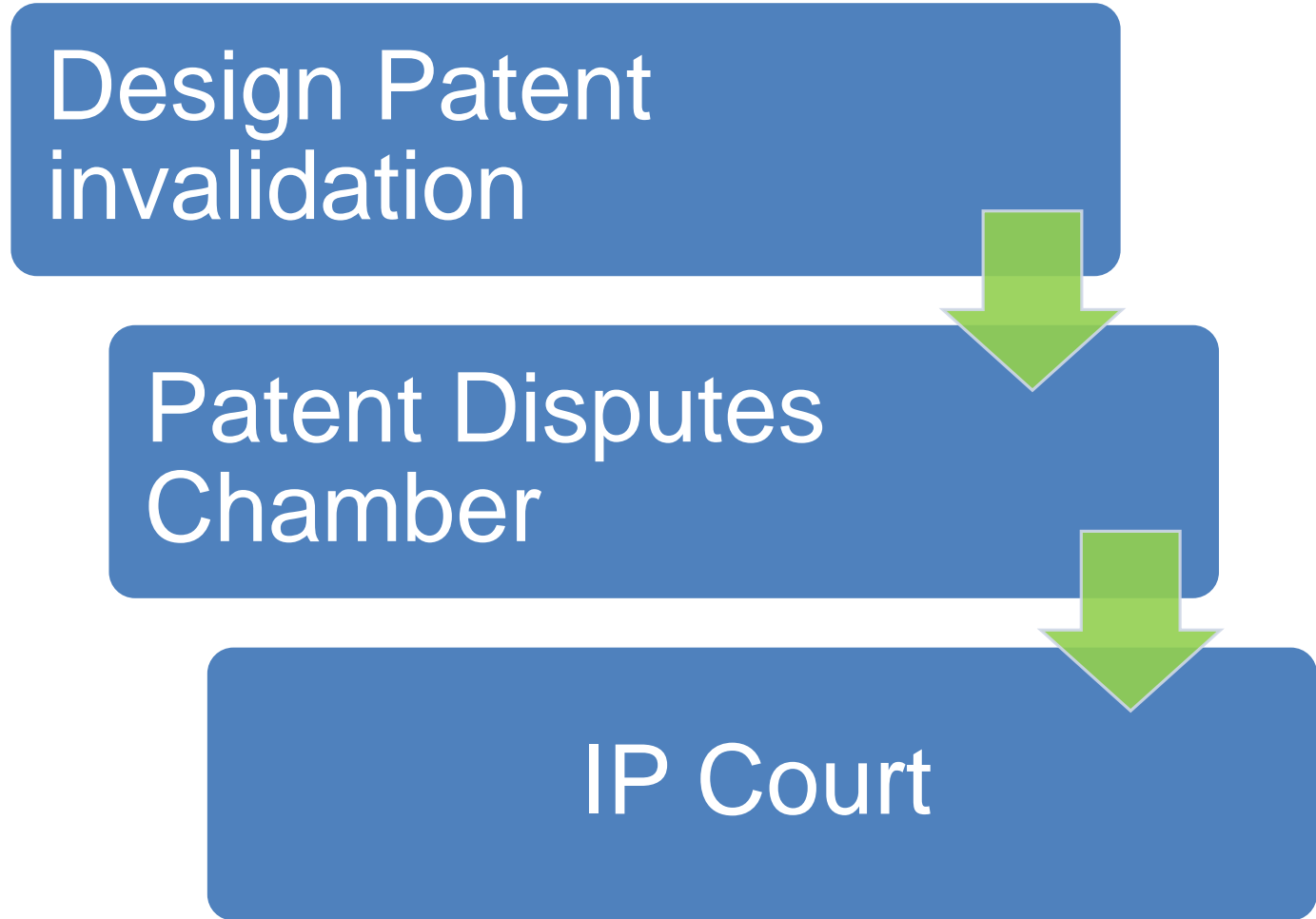
Can be
repeatedly
extended for 5
years

25 years
maximum

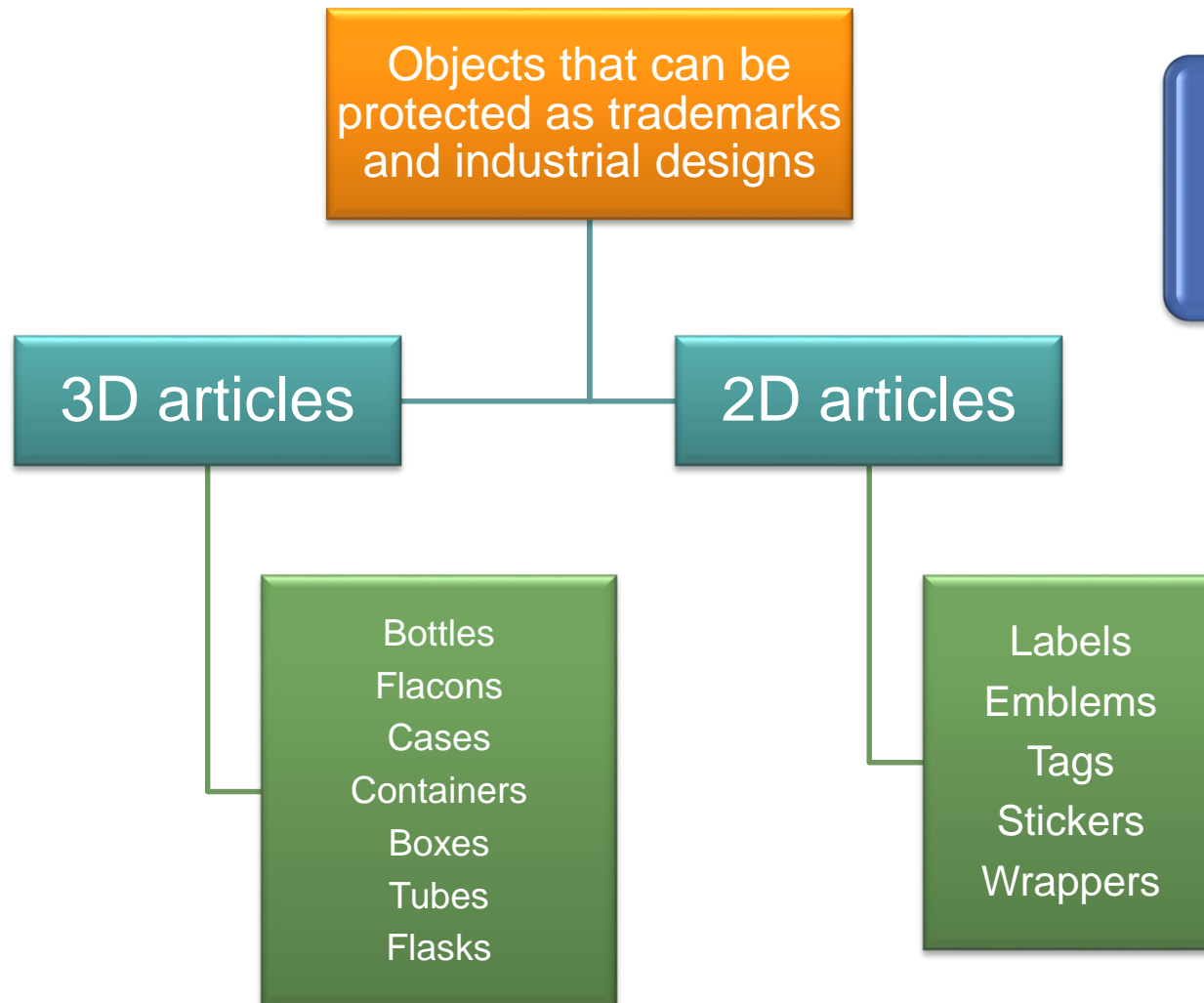
APPEALS AGAINST RUSSIAN PTO DECISIONS



INVALIDATION PROCEDURE



TRADEMARKS AND INDUSTRIAL DESIGNS



3D marks: shape of goods should be distinctive and perceived as a trademark

Non-protectable as 3D marks:

- The form determined exclusively or mainly by the function
- Realistic or schematic depictions of goods, applied for registration in respect of these goods

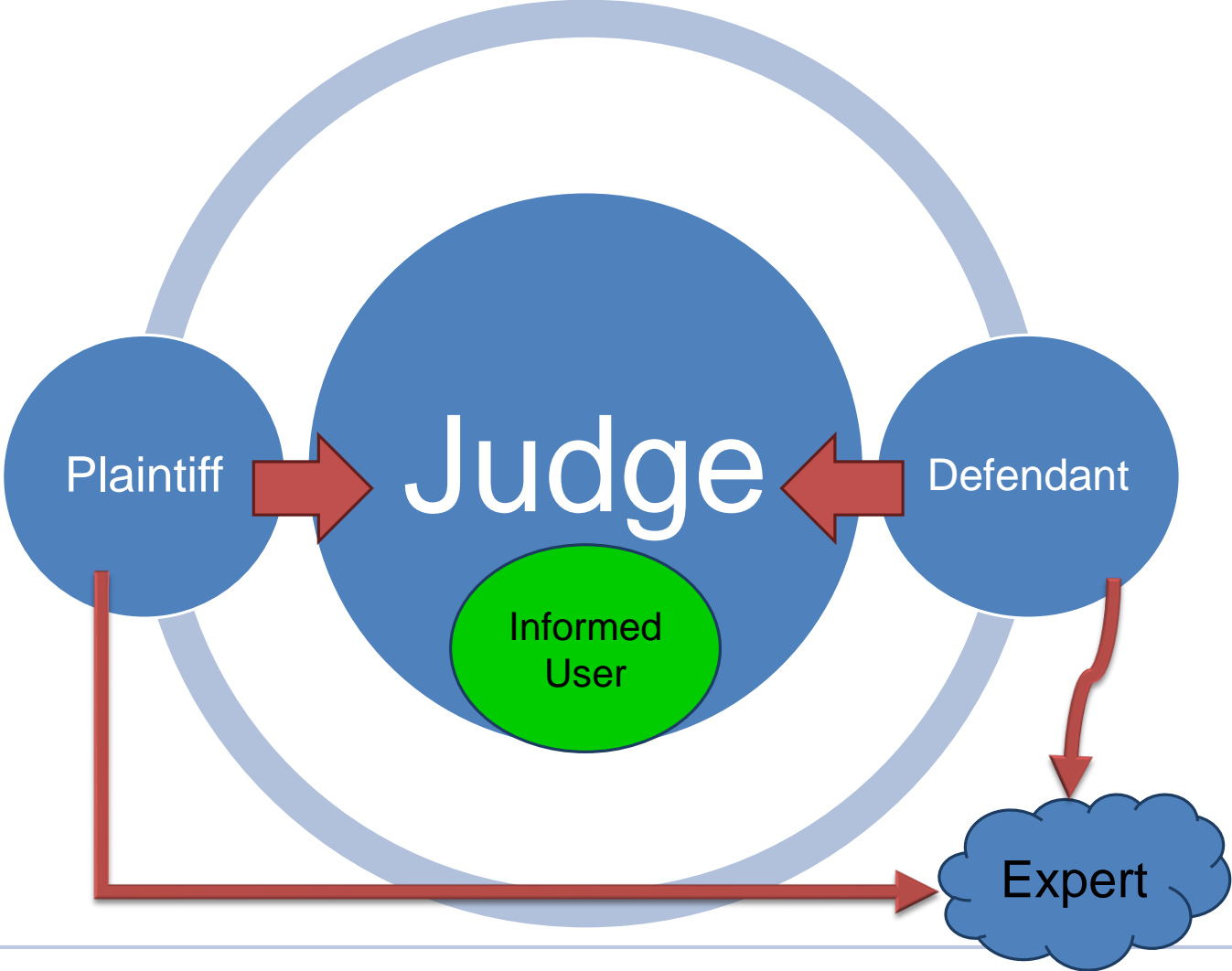
INFORMED USER

It.75(1) of Rules for registration of IDs of 30.09.2015:

A person who will use the article and who shows interest in articles of the same or similar purpose and who has knowledge about the features usually attributed to such articles

By comparison of overall impressions made by claimed and cited IDs there should be taken into the account the information about known solutions of the outer appearance of articles of the same or similar purpose (the range of analogous solutions) as well as the degree of freedom of the designer

INDUSTRIAL DESIGN INFRINGEMENT ESTABLISHMENT



INDUSTRIAL DESIGN AND COPYRIGHT PROTECTION

- The design is an object of copyright according to the Law
- Copyright on the design should be protected independently of whether the industrial design is registered or not
- The design of an industrial or handicraft article can be protected by patent law as an industrial design and by copyright law



V
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- **RECOGNITION OF COPYRIGHT**
- **CESSATION OF INFRINGEMENT**
- **MONETARY COMPENSATION**
- **ELIMINATION OF COUNTERFEIT BINDINGS AND PRESS MOLDS**

THANK YOU FOR YOUR ATTENTION!



 +7 (495) 937 6116

 +7 (495) 937 6104 / 6123

 pat@gorodissky.ru

 www.gorodissky.com

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