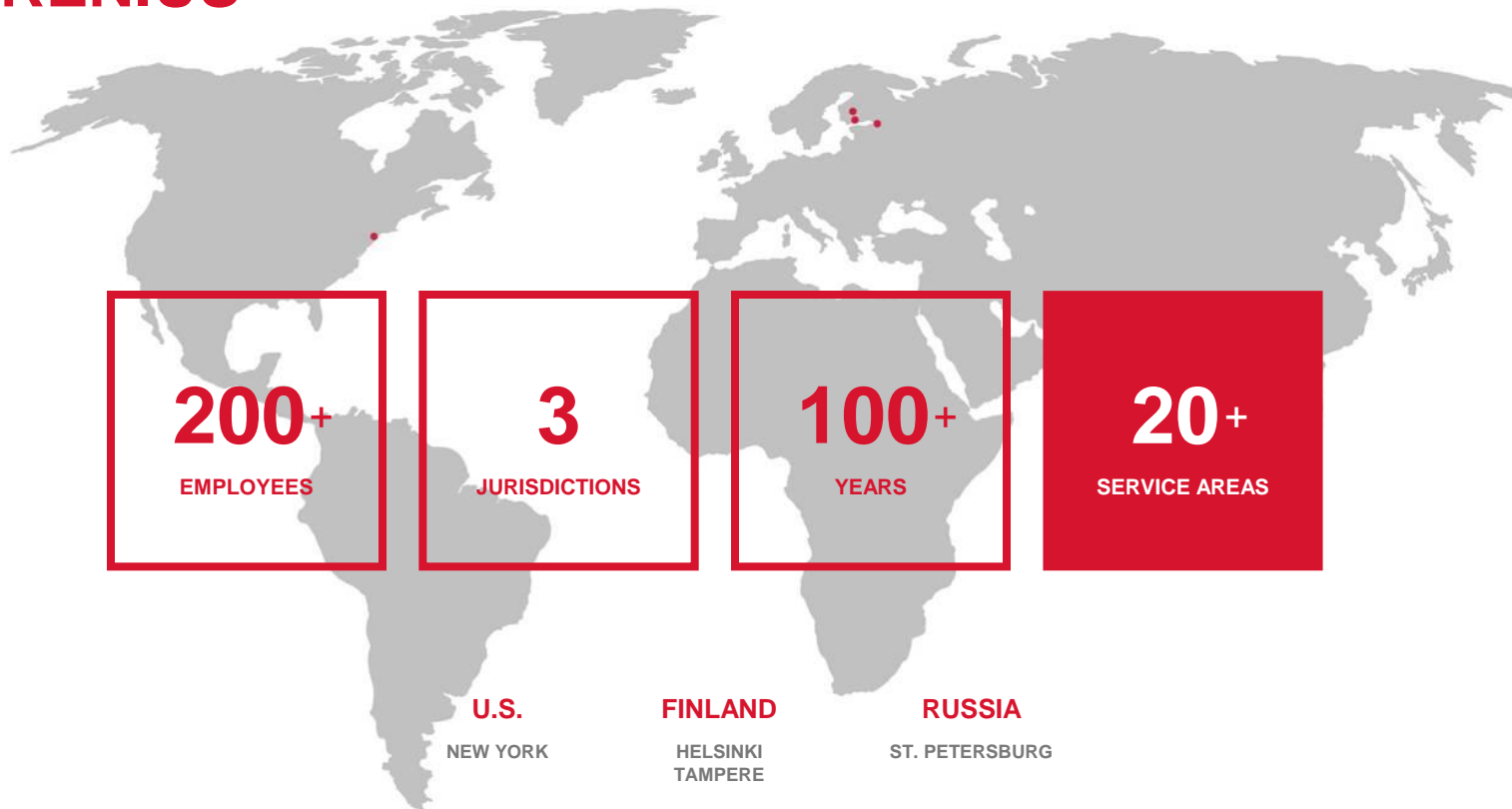


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CONSEQUENCES OF SANCTIONS FOR IP IN RUSSIA

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SANCTIONS ARE NOT *FORCE MAJEURE*

- Russian courts generally do not recognize sanctions as *force majeure*
 - Russian client may sue a Russian supplier – subsidiary of a Western company, and will likely win the case under Russian law
 - Russian companies, normally, are not allowed to choose non-Russian law as the governing law in a contract
-

May be named as *force majeure* if

- (a) license is governed by a non-Russian law,
- (b) granted by a non-Russian entity,
- (c) litigated in Russia.

SOFTWARE LICENSING IN SUPPLIES OF EQUIPMENT

- If there is a license, the vendor / supplier may have to revoke the license keys.
 - Any software may be refused upgrades which will cause security threats.
-

- Russian IP law does not require licensing of built-in software (Art.1227(2), Civil Code).
- If there is no license agreement, the user, arguably, may legally re-engineer the software to keep it working (Art.1280(3), Civil Code).

IP IS TERRITORY-SPECIFIC

- Normally, sanctions regulations bless earlier transactions.
- “Historical” assignments of patents and copyright to a Russian company, likely, will not be cancelled.
- Assignments of registrable IP (patents, trade marks, some software) are subject to state registration in Russia.

US AND NON-US COMPANIES MAY DO IN RUSSIA:

- file and prosecute new patent and TM applications;
- maintain existing rights;
- assert any IP rights;
- have all IP that originates in Russia or outside Russia, fully protected anywhere;
- execute IP license and assignment agreements (with most Russian companies).

FUTURE OF R&D IN RUSSIA (SPOILER: STILL POSITIVE)

- Currently, not restricted (save for the territories of Crimea and Sebastopol)
- R&D may be performed locally in Russia, with the following safety rules:
 - stringent project time-management;
 - regular IP assignments to non-Russian companies;
 - regular audit of local IP acquisition practices in Russia;
 - (potential) acquisition of entire development teams.

RUSSIA MAY DECIDE TO...

- Prohibitions on software licensing in Russia: relax the eligibility conditions for the Register of Russian Software;
- More Kaspersky cases: mirror the ban with respect to non-Russian software vendors (akin to “food sanctions”);
- Patent filing restrictions in Russia: simplify life for local Russian generic pharma, software developers, etc.; foster the introduction of mandatory licenses; relax unauthorized “parallel” imports.

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