



The IPReport
December 2009 - January 2010

The Coalition for Intellectual Property Rights (CIPR) is pleased to offer select updates on pertinent IPR developments in Russia, other countries in the region and around the globe. Please let us know if you have questions or suggestions.

RUSSIA

WTO Accession - Russia's WTO accession has not made any significant progress in the past two months, especially in terms of bilateral negotiations between the U.S. and Russia. According to Deputy Prime Minister Igor Shuvalov, negotiations between Moscow and Washington on Russia's accession to the World Trade Organization should be raised to the top political level, i.e. the presidential level, after negotiators failed to resolve outstanding issues between the two countries. At a meeting with Prime Minister Vladimir Putin, Shuvalov said, "the main disagreements existing with the United States remain at the same level." Shuvalov also accused the United States of failing to respond to Russian overtures to jumpstart WTO negotiations.

On January 29, 2010 Deputy Prime Minister and Minister of Finance Alexei Kudrin, who led Russia's delegation at the World Economic Forum in Davos, declared that Russia still strives to join the WTO. Kudrin stated that it was difficult to provide the terms of Russia's accession to the WTO, but said he hoped the terms would be determined in the near future. While not mentioning it specifically, it seems likely that he was referring to the Customs Union and how it will impact Russia's WTO accession.

Russia continues to communicate mixed messages on its intentions regarding WTO accession. For example, Russia has yet to send information requested by the WTO about how the Customs Union will affect its WTO accession process. In fall 2009, Russia publicly reaffirmed its commitment to pursuing its application for WTO accession as an individual country. However, the events over the past month suggest that Russia's political leadership is far from unified on its position on whether to abandon a joint WTO accession bid with its Customs Union partners Kazakhstan and Belarus.

Customs Union - The Customs Union, comprised of Russia, Kazakhstan and Belarus, officially went into effect on January 1, 2010. The Union's Customs Code is expected to come into force on July 1, 2010 and the formation of a common economic zone between the three countries is to be completed within two years. Customs clearance procedures for goods produced in the three member countries will be abolished by July 2010, and by July 2011 official border crossings will be reduced.

Russia's Customs Code will serve as the basis for the Union's Custom Code, which is currently being amended to harmonize regulations and procedures. IPR protections are serious issues of concern for government officials and rights holders. CIPR and other rights holder organizations have publicly raised concerns about the lack of reciprocity of legal protections for trademarks registered in Russia, Kazakhstan or Belarus. To address this issue, Russia, Kazakhstan and Belarus have formed an inter-governmental committee to make recommendations for harmonizing their IPR laws. CIPR is encouraged by the steps being taken by the three governments and is closely monitoring this process.

Third IP Council Meeting of EurAsEc's Integration Committee - Representatives from Belarus, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan met on November 13 to discuss IP rights protection across the region during meetings of the Eurasian Economic Community (EurAsEc), a regional intergovernmental body that has also provided the diplomatic framework for the Customs Union between Russia, Kazakhstan and Belarus. A project for IP protection on the territory of EurAsEc member-states and agreements on a unified standard of intellectual property rights protections on the territory of EurAsEc members, among other issues, were raised at the meeting. The delegates agreed to create two working groups — one dealing with the mutual recognition and legal protection of trademarks and service marks in EurAsEc member states, and another with the mutual recognition of patents made on the territory of EurAsEc member-states.

KAZAKHSTAN

Kazakhstan Government Aims for a Better IP Record in 2010 - According to the World Economic Forum, the Republic of Kazakhstan was rated 75 out of 134 countries in the world for copyright protection in 2008. The Kazakhstani government has stated publicly that it aims to improve its rating and move up to 71st place in 2010.

With that in mind, Kazakhstan's new Legal Policy Concept calls for legislative reforms to align Kazakhstan's IP legislation with world standards, while also taking into account the country's national interests. On its official website, the Ministry of Justice described the government's plans for implementing the "Program for the Development of the International Patent System of the Republic of Kazakhstan," which includes conducting anti-counterfeit raids, improving Kazakhstan's IPR legislation, and collaborating with international organizations. The government is also in the process of preparing draft legislation authorizing Kazakhstan's accession to the Nairobi Treaty on the Protection of the Olympic Symbol, the Madrid Protocol System of International Trademark Registration, and the Patent Law Treaty.

Kazakhstan has been on the international stage actively communicating its commitment to improving its IP protections by participating in global policymaking, and through its 2010 chairmanship of the OECD.

Two Almaty Businessmen Charged with Piracy - The government of Kazakhstan's commitment to improving IP protection resulted in a higher frequency of media coverage on law

enforcement efforts against counterfeiters and pirates. In one media report, two Almaty businessmen were charged with illegally selling Counter-Strike, a popular video game. Representatives of the Almaty Department for Combating Corruption and Economic Crimes estimated the damage incurred by the legal owner of the rights to the game in Kazakhstan to be three million tenge (\$20,000).

Daniyar Eskozhanov, the Deputy Head of Taldykorgan Department of Justice, denounced the crime saying that, “piracy causes significant harm to our budget. We lose tax revenues from the legal owners of the intellectual property rights, whose profits are reduced because of piracy.”

Other regions of Kazakhstan also appear to be stepping up their effort to fight intellectual property theft. In December, the authorities in the Mangistau region carried out an anti-counterfeit raid and confiscated over 1,400 pirated CDs and DVDs. This was one in a series of anti-counterfeit raids carried out by the local law-enforcement authorities. The Mangistau Department of Justice Intellectual Property Affairs Head, Daniyar Shamov, said that the authorities will continue to fight against producers and retailers of counterfeits.

However, the efforts of regional police authorities may still be insufficient in addressing the problem of IP theft in Kazakhstan. The number of vendors selling pirated goods increased by 50% in 2009 according to independent experts quoted by Copyright.ru, an IP-focused website supported by the Russian Federal Agency for Press and Mass Communications. The experts note that this is a sign that intellectual property rights are still not sufficiently protected by the Kazakhstani authorities, leaving the pirates with a sense of impunity.

Despite these gloomy assessments, CIPR is pleased to see renewed efforts by Kazakhstani authorities to address IP protection issues on a nationwide basis. We will continue to report on other emerging developments in this important area of concern for rights holders.

UKRAINE

Enforcement Activities in 2009 - The government of Ukraine publicized impressive IPR enforcement figures from its 2009 campaign to aggressively pursue counterfeiters and copyright pirates. According to Ukraine’s Ministry of Internal Affairs, 18 websites were taken down in 2009 due to pirated music content, and criminal cases were initiated against four of the sites. Also in 2009, Ukrainian courts made decisions (using civil, criminal, and administrative procedures) in favor of several international trademark owners, including Adidas, Nike and Lee. The court ordered the destruction of over 80,000 counterfeit goods and ordered the trademark owners to be reimbursed for the damage, which in one case equaled 500,000 hryvnias (\$65,650).

A total of 1,004 intellectual property rights violation crimes were investigated in 2009, among which were 482 cases related to copyright infringement and related rights, and 58 cases addressing the illegal use of trademarks for goods and services. Approximately 800 criminal cases were sent to the courts. More than 6,000 administrative cases related to intellectual

property rights infringements and the illegal distribution of CDs were investigated. Also, the authorities stopped 103 underground factories producing counterfeit goods.

Upcoming Legislation - The Ukrainian legislature, the Verkhovna Rada, will consider several pieces of legislation in 2010 to strengthen intellectual property protection, particularly for copyrighted goods. The draft laws will strengthen existing laws to combat piracy on the Internet, increase penalties for using camcorders to illegally record films at movie theatres, and improve collecting societies. Government and rights holder stakeholders are actively participating in the policy debate on these important legislative initiatives. CIPR will closely monitor all developments on these draft laws as they move through the legislative process and provide updates.

- End -