



## *The IPReport* July 2009

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**

#### **Russia, the WTO and the Customs Union**

Russia appears to have reversed course on its decision last month to drop its WTO accession bid in favor of creating a Customs Union with Kazakhstan and Belarus and then joining the WTO together as a union. After the Group of Eight Summit in Italy, President Dmitry Medvedev announced that joining the WTO as a Customs Union would be “nice, but rather problematic” and that Russia will likely continue with its nearly complete talks to join the WTO individually.

It is not clear what factors led to this change in Russia’s WTO policy. Did Russia underestimate the practical challenges of collaborating with Belarus and Kazakhstan to achieve a never-before-tried entry into the WTO as a Customs Union? Was it the cool response to the Customs Union from the EU, the US and the WTO? We’ll probably never know for certain what were the real deciding factors. Russia may have also gotten agreements from US and EU officials that their accession process would be sped up, meaning that they would be in the WTO by mid-2010.

In another unusual twist, Kyrgyzstan has announced that it was interested in joining the Customs Union as well. The country’s ambassador to Kazakhstan, Dzhanysh Rustembekov, acknowledged, however, that this could be a difficult process because Kyrgyzstan is already in the WTO. He stated, "We need to agree on customs tariffs, and because Kazakhstan, Russia and Belarus are only preparing to join the WTO, whereas Kyrgyzstan has long been a WTO member, it will not be easy."

How the Customs Union will be created and what IP and tariff laws will be put in to place remains to be seen, as does when the Customs Union will actually come into existence. Belarus and Russia are engaged in yet another trade war. Belarus has blocked a major Russian diesel pipeline to Latvia, ostensibly for fear of leaks, and Moscow has banned some Belarussian meat imports. Additionally, for Kazakhstan, joining the Customs Union has both pluses and minuses. Joining would give Kazakh exporters duty-free access to Russia, but its firms would be forced to compete directly with Russian imports.

CIPR views Russia's decision to join the WTO individually as a positive development. Not only will accession benefit Russia's economy, but will also provide incentive for the passage of laws that bring Russia into compliance with international IP norms. The formation of a Customs Union would still have potential impacts on IPR, particularly in the areas of border enforcement. We will continue to monitor developments in this dynamic situation.

## **KAZAKHSTAN**

### **IP Developments in Kazakhstan**

As mentioned in last month's report, Kazakhstan is moving forward with strengthening its IP legislation to better comply with the Bern Convention for the Protection of Literary and Artistic Works, which it is a party to. The upper house of the Kazakh Parliament, the Senate, approved suggestions made by the Conciliatory Commission on the points of disagreement between the two chambers (the Senate and the Majilis, the lower house) over the bill "On changes and amendments to some legislative acts in regard to intellectual property issues" and approved the bill, which has been forwarded to the President for signature.

The Parliament also passed amendments to Kazakhstan's Patent Law that further clarified the rights to patents for inventions created at the workplace, not connected to job responsibilities, but created using technical, material and other means provided by the employer. This right belongs to the author (i.e. the employee), unless otherwise specified by an agreement with his/her employer.

## **KYRGYZSTAN**

### **Head Copyright Regulator Announces Plans for Lowering Piracy Rates in the Marketplace**

Licensed CDs might only be sold in special stores in the future to control the growth of pirated goods, which currently represents 90 % of the Kyrgyz marketplace, said Kyrgyzstan's Head of Copyright and Allied Rights Department, Askar Najimudinov. In an Internet-based news report, Mr. Najimudinov said that the regulation of points of sale is being considered to allow only designated retail outlets to sell licensed CDs. He offered no details on how these special stores would be selected or how these changes would impact existing retailers.

He acknowledges that most pirated goods in the marketplace are illegally imported into Kyrgyzstan and improvements in his country's customs service and border patrol are needed to interdict the traffic of fake goods. In 2006-07 an interdepartmental commission was formed, which included the PTO, to develop a program to combat the flow of fakes into the marketplace. Currently, in the marketplace, the Financial Police are responsible for arresting fake goods, the means of productions and the criminals involved. The Financial Police bring confiscated CDs to the Copyright and Allied Rights Department for forensic examinations. All counterfeit products are returned to the Financial Police who then begin court cases to prosecute the alleged pirates.

Despite acceding into the WTO in 1998, Kyrgyzstan still has significant IP protection challenges. Mr. Najimudinov notes that his country's poor economy and the impact of the global economic downturn have contributed to the problem by making lower priced pirated goods more attractive to consumers than higher priced licensed copyrighted goods. His proposal to designate exclusive retail outlets to purchase licensed CDs could be interpreted as anti-competitive or a realistic approach to addressing a nearly uncontrollable problem. If you would like additional information, please visit <http://www.bpc.kg/news/6877-23-06-09>.

CIPR will provide further IP updates on Kyrgyzstan in future issues.

## **BELARUS**

### **Belarus Sees Increase in Trademark Registrations In 2009**

During the first half of 2009 trademark registrations doubled in comparison with the same period in 2008, according to figures released by the Republic of Belarus' Patent and Trademark Office. Foreign owners were responsible for more than 80 percent of the overall number of trademark registrations, with the majority of registrations originating from Germany, the United States and the Russian Federation. While smaller in volume, registrations by domestic trademark owners also climbed significantly. This continues a five-year trend of growth of domestic and foreign trademark registrations, which is remarkable given the start of the global economic downturn in 2008.

The rise in trademark registrations during a global economic downturn is typically a sign of the business community's optimism and preparations for the return of a stronger economy. Another reason might be the shift in Belarus' foreign policy towards nurturing relationships with its European neighbors. Over the past few years Belarus has been attempting to shed its anti-West image and to build political and economic bridges with the EU, while maintaining its strong relationship with Russia. Belarus is not moving away from its close relationship with Russia, as evidenced by its participation in the proposed Customs Union with Russia and Kazakhstan, but is trying to attract foreign investors and to invigorate its moribund domestic economy.

The strengthening of IPR protections in Belarus is likely another sign of this change in policy. For example, the 2007 decision on parallel imports by the Chamber of Intellectual Property Disputes of the Supreme Court of Belarus to uphold the rights of Bacardi & Company, the owners of internationally well-known trademark "MARTINI", against two Belarusian companies that were importing alcohol beverage products with the "MARTINI" trademark into Belarus without the approval of Bacardi & Company.

On Friday, July 24<sup>th</sup>, Belarus' President Lukashenko continued to publicly criticize Russia's foreign policies towards Belarus and said Belarus would reorient its foreign policies away from Russia and pursue closer relationships with the EU, the US and Ukraine. CIPR will continue to report on emerging developments in Belarus of relevance to the membership.