



The IPReport *May-June 2009*

CIPR is pleased to provide select updates on pertinent IPR developments in Russia and other countries in the region, and international issues of importance to the region. Please let us know if you have questions or suggestions.

RUSSIA

Russia – Kazakhstan – Belarus Customs Union – WTO member states were dumbfounded by Russia's announcement on June 9th that it was withdrawing its application to the World Trade Organization and would reapply as part of a Customs Union with Kazakhstan and Belarus. Prime Minister Putin announced this dramatic change in policy only days after senior Russian, EU and US trade officials met in St. Petersburg. Both EU Trade Commissioner Catherine Ashton and US Trade Representative Ron Kirk commented afterwards that they were surprised by the decision and had been in full support of Russia's WTO application and expected all outstanding requirements to be completed by the end of the year.

According to news reports, the Customs Union will enter into force on January 1, 2010 using a unified tariff system for all three countries. On or before July 1, 2011, a new customs territory will be implemented with unified customs regulations and operations along all three countries' borders. IPR protections in Russia, Kazakhstan and Belarus will be harmonized during this period. The timeline to put the Customs Union into operation is ambitious. Potential delays during the process of inter-governmental discussions are highly likely. For example, when the creation of the Customs Union was announced, Belarus was vigorously disputing Russia's decision to stop the import of Belarusian dairy products. Enacting legislation and implementing unified customs regulations and practices will likely be a lengthy process. On top of this, the Customs Union and WTO negotiations will likely be quite lengthy in order to address issues related to the first ever WTO application from a regional organization of three sovereign states.

What impact the Customs Union will have on WTO mandated IP legislation, such as amendments to Part IV of the Civil Code and ex-officio amendments to the Customs Code, is yet to be known. The future of other non-WTO mandated IP issues, such as parallel imports, are also unclear. It is also unknown if the Russian government will follow through on its announcement to appoint a commission to review proposed changes to IP laws that would allow more parallel imports into Russia. However, CIPR's preliminary view is that the status of pending IP legislation and other initiatives will become clear in the short term. For example, recent news coverage gives indications that a committee created by President Medvedev to review and make recommendations for improvements to Russia's Civil Code, including Part IV, will go forward. The drafters of Part IV, Professor Makovsky and the Center for Private Law,

will conduct the assessment. Moreover, the WTO is not likely to drop the requirements for amendments to bring Part IV into compliance with TRIPs or to enact ex officio legislation for the Customs Union.

CIPR will update you on any major developments in the Customs Union and IPR related issues. (May-June 2009)

KAZAKHSTAN

Kazakhstan's Parliament Passes Amendments to IPR Laws – Kazakhstan's parliament is enacting legislation to improve protections for copyrighted materials. The lower house, the Majilis, approved amendments proposed by the Inter-Chamber Commission, which is comprised of members of the Majilis and the upper house, the Senate. The amendments included revisions to the Criminal and Administrative Codes, and the Law on Copyrights and Allied Rights, and were forwarded to President Nazarbayev for his signature.

However, the Majilis and the Senate were unable to reach a consensus on critical issues, including revisions to the Administrative and Criminal Codes concerning responsibility for the “manufacturing, distribution and any other use of counterfeit recorded products, programs and organization of on-air and cable broadcasting.”

According to news reports, the aim of the proposed amendments was to bring Kazakhstan's protections for copyrights into closer compliance with the Bern Convention for the Protection of Literary and Artistic Works, which Kazakhstan became a party to in April 1999. CIPR will continue to monitor the situation and provide updates on emerging developments. For further information, please contact the Kazakhstan Today Information Agency's website at www.kt.kz. (June 17, 2009)

In 2009, Violations of Copyright Laws Under Investigation Amount to Damages of Over One Quarter Million USD – The government of Kazakhstan's Economic Crimes and Corruption Prevention Agency announced that 175 suspected criminal violators of the Law on Copyright and Allied Rights are under investigation for the production and trafficking of fake goods totaling in value of 41.5 million tenge or \$276,000. One hundred and seven court cases are now underway. According to law enforcement officials, the maximum penalty for violations against the Law on Copyrights and Allied Rights is five years in prison and the confiscation of materials used in the production of counterfeit goods. For further information, please contact the Panorama newspaper's website at www.panaorama.kz. (June 12, 2009)

KYRGYSTAN

Kyrgyzstan Strengthens Law on Copyright – Kyrgyzstan's PTO, Kyrgyzpatent, drafted amendments to the Law on Copyright and Allied Rights for legislative consideration to protect “authors, performers, soundtrack producers, on-air and cable broadcasters connected to the development of IT and Internet technologies from violations over the Internet.” No date was

given when the amendments will be introduced to the Kyrgyz parliament. For further information, please contact www.spy.kz. (June 10, 2009)

GEORGIA & AZERBAIJAN

Georgia and Azerbaijan Sign Agreements on Mutual Recognition of IPR – During a state visit to Baku, Georgian President Saakashvili met with Azerbaijani President Aliyev to discuss a range of trade and economic cooperation issues, and signed agreements in several areas, including an agreement to provide mutual recognition of intellectual property rights. Azerbaijan is an aspiring member of the WTO and taking steps to improve its IP legislation and customs practices. Entering into agreements with other WTO members on IPR issues will assist Azerbaijan in its quest to become a WTO member. Georgia acceded into the WTO in June 2000. For additional information, please contact Asbarez news service at www.asbarez.com. (May 21, 2009)

INTERNATIONAL

Internet Companies Quietly Battle Against Spammers and Cyber-Criminals – The same Internet that provides borderless connections to commerce, education, information and social networks is also a battleground between organized cyber criminals and the companies that run the global Internet systems. AT&T, Google, Yahoo, Comcast and Verizon and several others have banded together to form the Messaging Anti-Abuse Working Group (MAAWG) to reduce high levels of spam, viruses and hacking.

As reported in a June 14, 2009 Financial Times article about MAAWG's activities, the problem with spam and hackers is global and growing. The internet security company Symantec estimated that 94% of all e-mail messages are spam. Equally disturbing, it is also reported that over 90% of spam is sent from computers without the owner's knowledge after being hacked into by cyber criminals. Spam accounts for a growing percentage of the marketing and sale of counterfeits, identity theft, bank fraud and other scams.

MAAWG's mission is to develop technologies in the ongoing fight against spam, such as blocking certain types of e-mails, and to weigh the potential civil liberties issues that they could create. Cyber criminals do not share MAAWG's concerns about civil liberties and develop more sophisticated methods to send even higher volumes of spam when faced with new technical barriers. MAAWG acknowledges the difficulties in maintaining parity with the technology advances made by cyber criminals. MAAWG is beginning to be more open about its activities in order to make consumers more aware of the threats posed by cyber criminals, and how they can assist in the fight against cyber crime through using computer software protections and to be more knowledgeable about the spam that arrives in their e-mail inboxes. For further information, please contact the Financial Times' website at www.ft.com. (June 14, 2009)

###