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KYIV

ALMATY

www.cipr.org | mail@cipr.org

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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 Progress – In the past year, Russia has made significant progress in its WTO accession bid to address outstanding legislative gaps in Part IV of the Civil Code, the Customs Code (ex officio language) and data exclusivity (Law on Medicine). However, according to CIPR's sources in the Office of the United States Trade Representative, concerns remain that Russia is still not taking sufficient steps to improve enforcement against product counterfeits, piracy and internet crime. This lack of enforcement is a barrier for winning support from Congress to graduate Russia from Jackson-Vanik, which would give Russia Most-Favored Nation status (MFN) and grant Permanent Normal Trade Relations (PNTR) with the United States. USTR has informed Russia that providing improved enforcement statistics will help, but unless the Russian government demonstrates more political will against IP crime, the U.S. Congress will be very reluctant to support Russia's WTO application. Russian officials have responded that they are doing everything they can to enforce IP legal protections. The issue will likely be a topic of discussion at the next Obama-Medvedev Summit meeting.

CIPR is pleased with Russia's progress, but remains concerned about its enforcement efforts. We believe that increased IP protections and enforcement are not only important to rights holders, but to the development and modernization of Russia's economy.

New IP Court – The Russian government has created a specialized commercial court that will resolve disputes related to the protection of intellectual property rights. The court will begin hearing cases no later than January 1, 2012. IP infringement cases will be heard by ordinary commercial courts, which will also deal with the first appeal stage. The new IP Court will act as the second appeal stage in infringement actions, after which only appeals to the Supreme Court will be available.

However, the IP Court will act as the Court of first instance in cases concerning the granting or termination of IP rights, excluding copyright. It will also be the first appeal stage for Rospatent's decisions.

1150 18th Street, NW | Suite 325 | Washington, D.C. 20036 | USA
1.202.466.6210 | fax: 1.202.466.6205

3 Uspensky per. | Building 4 | Moscow | 127006 | Russia
7.495.775.0077 | fax: 7.495.775.0075

In response to criticisms that Russia is not adequately protecting IP, the Russian government has cited the establishment of the IP Court as further evidence of its commitment to strengthening Russia's IP protections.

CUSTOMS UNION

Unified Trademark Registry – In order to prevent the import of counterfeited goods into the territory of the Customs Union, the Customs Code of the Customs Union provides for the creation of a unified register for intellectual property rights, where the participants of trade activities will be required to register trade names and trademarks relating to the goods transferred. This was signed into law by President Medvedev on November 19, 2010 when he signed the Federal Law *On Ratification of the Agreement on a Unified Customs Register of Intellectual Property Items of the Customs Union Member States*.

At the end of February 2011, this registry had some 1,863 objects registered – for comparison's sake, there were only 264 registered in 2010. However, more than half of all objects registered are Russian-owned. Of these goods, 27% are alcoholic beverages, 20% are confectionery, 13% are tobacco and food, 12% are sports clothing and footwear and 10% are hygiene products. In addition, there are 29 copyrights protected, as well as one appellation of origin (“Russian vodka”).

In January 2011, the Customs Code of the Customs Union determined that the customs authorities of Russia, Belarus and Kazakhstan have the authority take action on intellectual property infringements if they encounter them, even if those objects are not registered with the Customs Union.

However, at the second round of talks between the Belarus-Kazakhstan-Russia Customs Union and the European Free Trade Association (EFTA) in Almaty on April 11, 2011, the head of the Kazakhstani delegation, Zhanar Aitzhanova, stated that, “[a]ll the issues relating to trade will be negotiated between the two blocs, but matters outside the Customs Union authority – services, investments, government purchases, intellectual property protection – will be handled by individual Customs Union member states taking into account their economic interests.” Aitzhanova also noted that the potential foreign partners have a keen interest in “[...] quality standards and product safety, protection of intellectual property rights, etc.” Despite the creation of the unified registry and joint IP action with the Customs Union, it appears that a consensus view of the role of the Customs Union in the enforcement IP laws is still being developed by the three member states.

USTR is closely following developments regarding the implementation of Customs Union legislation in Russia, Kazakhstan and Belarus. It is aware of the difficulties with customs clearances and IP protections that international and domestic rights holders are facing on the new Customs Union borders. USTR officials question whether the member states can fulfill the July 1, 2011 deadline of enacting a harmonized IP protection legal regime and a unified trademark registry for the Customs Union. USTR is also concerned that the Customs Union's IPR and

customs problems could further complicate the process of winning U.S. Congressional support for Russia's admission into the WTO and approval of PNTR.

CIPR shares these concerns and is working with USTR to encourage the three countries to demonstrate more political will and to commit more resources to enforcing IP protections. This is especially applicable to Russia, because demonstrating this commitment will be essential to achieving support from other WTO member states.

UKRAINE

U.S.-Ukraine Cooperation – USTR has been working closely with the Government of Ukraine to address gaps in IP legislation and enforcement. In February 2011, both governments signed a revised IP protection plan that calls for enacting specific legislation, including the Copyright Amendment (Bill No. 6523) and amendments to legislation on distributing audiovisual works, phonograms, videogames, computer programs, and data bases, as well as improving enforcement practices both internally and at Ukraine's borders. The IP protection plan also calls on the Ukrainian government to undertake public awareness initiatives to provide information about illegal downloading of copyright pirated works, end-user software piracy, the distribution of counterfeit pharmaceuticals and pesticides, and the sale of IPR infringing goods at markets.

USTR noted that Ukraine has taken steps to enact important IP protection legislation, but more needs to be done to accelerate pending legislation important for improving copyright protections. Additionally, USTR officials remained concerned about Ukraine's efforts to enforce IP protection in the marketplace and on the borders. USTR is hopeful that the revised IP protection agreement will result in increased enforcement actions against product counterfeits, piracy and internet crime.

CENTRAL ASIA

Kazakhstan's WTO Accession Process Moving Forward – Kazakhstan is likely to fulfill all of its WTO accession obligations before the end of 2011, although there are several outstanding requirements to be completed for IP protection, particularly in law enforcement and other trade areas. The widespread presence of counterfeits and pirated goods in the market, and enforcement challenges along the border with China, remain problematic. Despite this, USTR does not anticipate any major barriers that could delay the legislative and implementation process of fulfilling these requirements. USTR has noted that Kazakhstan has been very cooperative throughout the bilateral process.

USTR is concerned about the ability of Kazakhstan's customs service to interdict against counterfeits entering into the Customs Union zone at the border with China. The U.S. is addressing this concern through the bilateral discussions with Kazakhstan and training programs for Kazakhstani customs officials.

International Efforts to Promote IP Protections in Kazakhstan – The U.S. government dedicated resources to assisting Kazakhstan with its WTO accession, providing training programs for customs officers and IP awareness programs targeted at business owners led by the U.S. Patent and Trademark Office (USPTO). In April, USPTO organized two-day workshops in Astana and Almaty for Copyright and Trademark Office patent examination, technology transfer and intellectual property commercialization in the United States.

In March, the Committee on Intellectual Property Rights, Ministry of Justice of the Republic of Kazakhstan, the World Intellectual Property Organization (WIPO) and International Confederation of Societies of Authors and Composers (CISAC) organized a seminar on the protection of copyright, related rights and collective management in Astana.

Kyrgyzstan Intends to Join Customs Union – In early April, Kyrgyzstan’s Prime Minister, Almazbek Atambayev, announced that Kyrgyzstan would join the Customs Union on January 1, 2012. This appears to be a political decision as Kyrgyzstan is already a member of the WTO and has lower import and export tariffs than the Customs Union states. According to Atambayev, “joining the Customs Union is needed first of all for Kyrgyzstan. Membership in the organization will strengthen the [Kyrgyz] republic’s external borders and improve working and living conditions for about 500,000 [Kyrgyz] citizens working in Russia and Kazakhstan.”

How Kyrgyzstan will change its existing laws to match Customs Union laws remains to be seen. CIPR hopes that Kyrgyzstan will not deviate from the commitments that it made when joining the WTO.

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