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Customs Protection of Intellectual Property in Kazakhstan: The TROIS Mechanism, Counterfeits and Parallel Imports

The Customs Register of Intellectual Property Objects (TROIS) of the Republic of Kazakhstan may include objects of copyright and related rights, trademarks, geographical indications and appellations of origin of goods. Yet today, just as in 2012, when the register effectively began to operate in its current form, it contains almost nothing but trademarks: for protection in Kazakhstan, they are the most convenient tool.

Over the past five years, the TROIS of the Republic of Kazakhstan has grown almost one and a half times — from 748 to 1,076 trademarks. Far more important, however, is something else: the number of right holders in the register has grown 2.4 times, from 173 to 417. The register is no longer a tool for a narrow circle of companies; it has gone mainstream.

Concentration has fallen as the register has grown. In 2021, the ten largest right holders held half of the register; in 2026, just over a quarter. The list of representatives — the law firms and patent attorneys through whom trademarks are entered into the register — has changed as well. The share of the five largest representatives fell from 62.6% to 42.8%, while their total number rose from 42 to 100.

A separate and largely independent topic is parallel imports. Since 2022, Russia, by decision of its government, has permitted them for a number of product categories, and that decision remains in force and continues to be updated. Kazakhstan has not legalised parallel imports: the EAEU still applies a mixed principle of exhaustion of rights. This difference in approach creates real tension within the union, where there are no customs controls between member states.

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How the Customs Measure Works

Entering a trademark in the TROIS does not give the right holder a prohibition as such, but rather a control point at the border. On detecting signs of infringement when goods are imported, the customs authority suspends the release of the goods for 10 working days and notifies the right holder. This notification alone is valuable: the right holder learns who is importing the goods and in what volume. Under ordinary circumstances, such data would take months to collect, and it later becomes the basis for a claim for damages or statutory compensation.

Suspension does not in itself entail destruction of the goods. Their fate is decided in court — in administrative, criminal or civil proceedings — as a rule after the right holder files a claim of infringement or threat of infringement. However, the economics of the process are such that matters do not always reach this stage.

The main economic effect comes not from the time limits as such, but from storage costs. Suspended goods are kept in a temporary storage warehouse at the importer's expense. Ten working days, once weekends and holidays are counted, are in practice fourteen or more calendar days, and if extended, the period doubles. The importer is forced to build these costs into the price of the goods. That is why the customs measure often works without a single court hearing: repeat imports become economically pointless.

What the Register Protects Against: Counterfeits and Parallel Imports

A common misconception is that customs measures target counterfeits only. In fact, the register also protects the market against genuine products imported without the right holder's consent, that is, against parallel, or grey, imports. The law allows parallel imports to be recognised as an infringement of trademark rights, and in practice this measure is entirely workable.

The legal basis here is the principle of exhaustion of trademark rights. If goods bearing a trademark have been placed on the market within the EAEU by the right holder itself or with its consent, further use of the trademark in relation to those goods (storage, use or sale) is not an infringement.

This rule primarily protects the consumer. If a consumer bought goods within the EAEU from the right holder or from a third party with the right holder's consent, further use of the goods does not infringe the trademark rights. Here, everything is clear-cut. Far more important, however, is the flip side of the rule: if the goods were not placed on the market in the EAEU by the right holder or with its consent, use of the trademark in relation to such goods, including their importation, is an infringement.

Hence the practical limit of what the register can do. Customs measures do not work against goods placed on the market in Russia or Belarus by the right holder or with its consent and then moved

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into Kazakhstan: the rights are exhausted. Against imports from outside the union, they work in full, and this scenario is the main one for the TROIS.

There is also a separate case that importers learn about too late: the same trademark may belong to different persons in different countries. Classic examples are the tobacco designations "Prima", "Polyot" and "Belomorkanal" and the vodka names "Stolichnaya", "Russkaya" and "Moskovskaya". Goods lawfully placed on the market in a neighbouring country become counterfeit as soon as they enter Kazakhstan, because here the rights to the trademark belong to someone else. Free movement within the union offers no protection against this risk.

Three Decades of Legislation: Why the Register Looks the Way It Does

The current structure of the register is a direct consequence of how regulation has changed. The history of customs protection of IP in Kazakhstan can be reduced to five milestones:

- **1995.** The first Decree of the President of the Republic of Kazakhstan "On Customs Affairs in the Republic of Kazakhstan" contained no provisions on the protection of intellectual property at all.
- **16 July 1999.** Amendments were adopted under which a trademark owner gained the ability to enter its trademarks in the register.
- **5 April 2003.** The Customs Code defined counterfeit goods — as goods moved across the border in violation of the rights of the right holder — and established a detention procedure. The list of protected objects was not limited to trademarks: trade names, patents and plant and animal breeding achievements could also be included.
- **2010.** The new Code "On Customs Affairs in the Republic of Kazakhstan" removed the definition of counterfeit goods. It became impossible to apply customs measures against parallel imports, and in this area the mechanism effectively ceased to function.
- **1 January 2012.** Article 13 of the Agreement on Uniform Principles of Regulation in the Sphere of Protection and Enforcement of Intellectual Property Rights, signed within the framework of the Customs Union, restored this possibility.

The register in its present form has existed not since 1999 but, in effect, since 2012, and it started from a low base: in 2013 it held just over two hundred entries. The first major entries after the relaunch were high-profile. In February 2012, Toyota Motor Corporation entered its trademarks in the register, granting the exclusive right to import spare parts to a single distributor. Orders placed by others before the entry were partly shielded from claims by a transition period until 1 September 2012. The episode was widely covered in the press — above all because of rising spare-parts prices — and became the market's first clear demonstration that customs measures work.

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In thirteen years, just over two hundred entries have grown to 1,076, and the list of users has changed beyond recognition.

Who Used the Register in 2021

Portfolios were large, and the circle of users was narrow. Half of all active entries belonged to ten right holders. The typical TROIS user in 2021 was a multinational corporation or a large local manufacturer entering several trademarks at once. Of the 173 right holders, 74 had one entry and 35 had two. The median was 2 trademarks.

Who Uses the Register Now

The picture has changed qualitatively. Of the 417 right holders, 228 have exactly one entry, and another 91 have two. The median has fallen to one trademark. The ten largest portfolio holders control only 27.6% of the register, compared with 50.1% five years earlier.

Behind this is the arrival of a new type of applicant: Kazakhstani importers, distributors and manufacturers who enter their own trademarks independently, without engaging a consultant. The 2026 register contains more than 30 such entries.

The practical significance of this shift is that customs protection is no longer seen as an option only for global brands. The barrier to entry has turned out to be lower than was commonly believed.

The Largest Portfolio Holders

Top 10 in 2021

№	**Right holder**	**Trademarks**	**Share of register**
1	Rakhat	213	28,5%
2	Association of Confectioners of Kazakhstan	40	5,3%
3	BIOFARMA	36	4,8%
4	Puma	16	2,1%
5	Mars / Wrigley	14	1,9%
6	Shell Brands	12	1,6%
7	Beiersdorf	12	1,6%

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8	Richemont Group	11	1,5%
9	AVTOVAZ	11	1,5%
10	Unilever	10	1,3%

Top 10 in 2026

№	**Right holder**	**Trademarks**	**Share of register**
1	Lotte Rakhat	112	10,4%
2	Association of Confectioners of Kazakhstan	46	4,3%
3	GALANZ BOTTLERS	42	3,9%
4	SPACE Y	18	1,7%
5	Procter & Gamble	15	1,4%
6	L'Oréal	15	1,4%
7	LEGO	14	1,3%
8	Alina Group	13	1,2%
9	Beiersdorf	12	1,1%
10	Mars / Wrigley	10	0,9%

What the Comparison Shows

Concentration has nearly halved. The top three held 38.6% of the register; now they hold 18.6%. The largest portfolio has shrunk from 213 to 112 trademarks, and its share from 28.5% to 10.4%.

More than half of the list has changed. Only four of the 2021 top ten remain in the 2026 top ten: Lotte Rakhat (in 2021, "Rakhat"), the Association of Confectioners, Beiersdorf and Mars / Wrigley. BIOFARMA, Puma, Shell Brands, Richemont Group, AVTOVAZ and Unilever have dropped out — not necessarily from the register altogether, but from among the largest holders.

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Local holders of large portfolios have emerged. GALANZ BOTTLERS, SPACE Y and Alina Group are Kazakhstani companies that were entirely absent from the top of the 2021 list. Three of the ten largest portfolio holders represent themselves in the register.

A stable core: FMCG and cosmetics. The companies at the top of both lists operate in the categories with the highest counterfeiting risk: confectionery, personal care products and cosmetics.

The Register as a Source of Information

The TROIS also has a second, less obvious function: it is public and contains data on the right holder and its authorised representatives. For a good-faith importer buying goods from someone other than the trademark owner, it is a ready-made verification tool. Before importing a shipment, it is sensible to proceed step by step:

1. check whether the trademark on the goods is registered in Kazakhstan;
2. check whether this trademark is included in the TROIS;
3. find out whether the trademark owner has representatives in Kazakhstan;
4. if the trademark is registered, request the owner's permission to import at the address given in the trademark register or in the TROIS;
5. if the goods bear a designation that is merely similar to a registered one, assess whether it is confusingly similar; as a rule, this requires an expert opinion.

There is also a flip side: a right holder that has entered its trademark in the register becomes reachable. Some enquiries about licences and direct contracts come precisely from there. This is one more argument in favour of entry: the register works not only as a barrier but also as a channel for legitimising supplies.

What This Means for Right Holders

1. **Check the status of your entries.** More than half of the rows in the register are excluded entries. The risk that part of a portfolio has dropped out unnoticed is very real. Checking takes minutes; restoring takes months.
2. **Keep your TROIS renewal calendar separate from your trademark renewal calendar.** TROIS protection periods and the terms of trademark certificates do not coincide. Trying to manage them as a single process is the most common reason for losing customs protection.
3. **Do not judge a representative by the number of entries.** A large number of entries at a firm may reflect a single corporate portfolio: in both 2021 and 2026, the leaders by volume

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relied on a single client. What matters more is how many different right holders the firm serves and for how long.

4. **The tool is more accessible than it seems.** The 2.4-fold growth in the number of right holders and the appearance of 228 companies with a single entry show that customs protection is no longer the preserve of multinational corporations. For a Kazakhstani manufacturer or importer with one significant brand, the TROIS is a practical and inexpensive tool.

5. **Understand the limits of the mechanism.** Customs measures do not apply to goods placed on the market within the EAEU by the right holder or with its consent. The register's main scenario is imports from outside the union. Risks within the union require other tools: contractual distribution, licences, pre-trial claims and litigation.

6. **Parallel imports via Russia are a separate and growing risk.** Since 2022, Russia has permitted parallel imports within its territory for certain categories, and that decision remains in force. Such goods are placed on the market without the right holder's consent, so under EAEU law the rights in them are not exhausted, and their importation into Kazakhstan formally remains an infringement. But the TROIS will not stop them: there are no customs controls between Russia and Kazakhstan. Protection here is contractual, together with pre-trial claims and litigation against sellers in Kazakhstan.

7. **Entry gives you not only a barrier but also data.** A suspension notice contains information about the infringer and import volumes — material for a subsequent compensation claim. This alone justifies entry, even for those who do not expect to stop shipments regularly.

8. **For foreign right holders, the register is the fastest route to working protection.** It requires no court decision and is triggered when goods cross the border. Trade within the EAEU is growing, distribution is moving into the region, and the cost of inaction is rising faster than the cost of entry.

Conclusion

In thirteen years, the TROIS has grown fivefold, become fragmented and more competitive — both among right holders and among representatives. From just over two hundred entries in 2013, shortly after the relaunch, to more than a thousand today; from a narrow circle of corporations to more than four hundred companies, over half of which have entered exactly one trademark.

For right holders, this is good news: the choice of representatives is wider, and the barrier to entry is lower. But there is another side to the coin. Responsibility for maintaining protection rests entirely with the right holder. The mechanism works automatically only while the register entry is in force,

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and its reach is still limited to the external border of the EAEU. This protection does not and cannot solve the problem of parallel imports within the union.

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