

LEGAL ALERT

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Customs protection of trademarks in Mongolia



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The Mongolian legislation currently allows the trademark owners to obtain the customs protection. Starting from 2009 the Procedures on Customs Clearance of Goods Related to Intellectual Property Rights (the “Procedures”) were adopted in the national legislation of Mongolia. In 2020 Bolotov & Partners started to render the legal services of obtaining the customs protection in Mongolia.

There is a number of special aspects that differ the procedure of obtaining the customs protection in Mongolia from the procedure in the countries that are members of TRIPS Agreement.

1. Customs Register. There is no concrete Customs Register; the Customs Office HQ simply notifies all the customs points about the need to suspend the import of products containing the trademark that received the customs protection in Mongolia.
2. Term of the customs protection. The Procedures do not provide certain timeframe, during which the customs protection shall be provided to a trademark. In this regard in practice the customs protection is provided for the whole term of trademark registration, which may be up to 10 years. In most of member-states of TRIPS Agreement this term is limited with 2 or 3 years.
3. Deposit. In order to ensure the recovery of damages that a customs detention may inflict the Procedures provide that the trademark owner

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has to pay the deposit of about US \$540. The peculiarity of this deposit is that it is supposed to be returnable, but there is no procedure to return the deposit. Most probably the return of this deposit would have to be done only through the court.

4. Term of taking decision regarding the customs protection. The Mongolian Customs Office does not have limits in taking decision to either grant or refuse the customs protection to a trademark. In practice the process takes about 2 weeks, though it is not excluded that the process might take much longer.
5. Customs detention. The customs detention of the goods that contain the trademark that is protected by the customs bodies is being for a period of 30 days. This period may be extended upon trademark owner's request for the next 30 days. In the countries of TRIPS Agreement the detention is normally allowed for 10 days with the possibility to extend the detention for another 10 days.
6. Notification. The Procedures allow the customs bodies to inform the right holder (or its representative) about the customs detention within 7 days.
7. Grounds for suspension of the goods. There are several grounds, when the customs bodies conduct a detention of goods with a trademark that received customs protection in Mongolia:
 - a. An application for action was submitted by the holder of IP rights or its authorized representative;
 - b. An application for action was submitted by the Intellectual Property Office, other governmental authorities, customs authorities of foreign countries or other authorized organizations; or
 - c. The customs body deems at its own initiative that detaining the goods is appropriate on the basis of the apparent infringement of intellectual property rights.

It all means that there is no mandatory requirement to suspend any unauthorized import of goods containing the trademark.

In order to obtain the customs protection in Mongolia it is required to provide the following documents:

1. Notarized and apostilled original of a Power of Attorney
2. A copy(ies) of trademark certificate(s)
3. A copy of company registration document (certificate of registration or

- extract from commercial register)
4. Customs codes of the goods
 5. Description of genuine and fake products bearing the trademark
 6. List of authorized importers
 7. Proof of payment of deposit in amount of MNT 1,500,000 (approximately US \$540) to the account of the Customs Authority

About us

Bolotov & Partners LLP provides a full range of services in the field of intellectual property, both in Kazakhstan and in other countries, including assistance in trademark registration, obtaining patents for inventions, industrial designs, preparation of license agreements and franchising agreements, know-how, in issues related to protection of copyright and related rights, as well as IP enforcement, including representation of clients in court.

Lawyers of our firm are engaged in obtaining the customs protection in Mongolia, as well as in the other countries of our region – Kazakhstan, Armenia, Azerbaijan, Georgia, Tajikistan, Kyrgyzstan and Uzbekistan.

For more information, please visit our website www.BolotovIP.com or contact us on +7 727 357 23 80.