

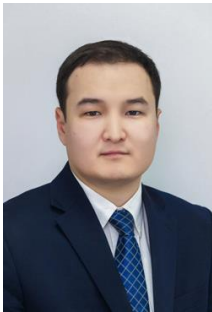
LEGAL ALERT

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Procedure for IP inclusion in Kazakhstan's Customs Register simplified



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On January 19, 2021, Kazakhstan's "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Customs Regulation and Entrepreneurship" came into effect.

The law simplifies the procedure for including intellectual property objects in the Customs Register.

Previously, applicants had to present a document indicating infringement of IP rights during customs clearance in any member nation of the Eurasian Economic Union. The members are Kazakhstan, Russia, Belarus, Armenia and Kyrgyzstan. The document may be a court decision or administrative sanction imposed by any administrative state body such as the Customs Office or the Antimonopoly Agency. It was a requirement for acquiring customs protection in Kazakhstan.

The new Law has removed the paragraph stating such requirement. In addition, it has now made electronic services available for Customs Register procedures for entering, extending and excluding IP objects.

Zhanat Nurmagambetov, a senior associate at Bolotov & Partners in Almaty and Annikki Hämäläinen, a partner at Papula-Nevinpat in Helsinki, agree that the procedure has become more simple and convenient.

Citing the old prerequisite of providing a document to prove IP infringement, Nurmagambetov said not many rights holders can provide such a precedent. As a result, the inclusion of trademarks to Kazakhstan's

Customs Register seemed impossible.

With the new version of the Customs Code, the goal of having an IP object being granted customs protection in Kazakhstan becomes more realistic.

“Yes, we believe that the procedure has been simplified and become more IP owner-friendly,” said Hämäläinen. “The procedure should now be available online and electronic filing system will be launched in the nearest future.”

Hämäläinen handles foreign trademark registrations, infringement and counterfeit cases, among others, in Russia and the Commonwealth of Independent States which includes Kazakhstan.

However, Nurmagambetov spots a gap in its requirement for applicants to sign and pay an insurance agreement electronically

“Under the previous version of the Customs Code, the insurance agreements had to be signed physically, but now the applicants will have to move to a new form of agreement. The flaw is that the insurance companies have not proposed yet an option of electronic agreements on IP protection. Such an option is currently being elaborated. On the other hand, the Customs Office of Kazakhstan is also not insisting on the electronic insurance agreements at the moment, and still accepts the hard copies of agreements,” he explained.

Despite this, Nurmagambetov is confident the simplified procedure will be beneficial.

“Yes, the procedure is beneficial because it allows the right holders to obtain the additional protection with no additional administrative obstacles that were following the previous version of the Customs Code,” he said.

“The amendments should make the procedure more attractive to the IP right owners as including the mark into the Customs Register of Intellectual Property Rights is an efficient tool to fight against possible counterfeits,” Hämäläinen added.

In 2018, more than 260,000 units of counterfeit products were seized by authorities in Kazakhstan. The number of counterfeit goods in the market continues to increase, with several areas in Almaty and other parts of the country selling fake fashion items, gadgets, alcohol, household goods and

car parts, among others.

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