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Routes of distributing fake products often coincide with the routes of distributing drugs



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Intellectual property (IP) law is a private law and IP rights owners should take care of their IP rights. This is a right, not the obligation of a company to register its trademarks, patent inventions, however without state registration such rights are not protected.

The Intellectual Property Rights Committee of the Ministry of Justice is engaged in the registration of trademarks and patents in Kazakhstan. The IP rights owners are actively assisted by the patent attorneys and intellectual property law firms such as Bolotov&Partners.

As in many countries, explains Yuri Bolotov, Managing Partner of Bolotov & Partners, there are counterfeiters in Kazakhstan, and there are counterfeit products that are in demand due to lower prices, even though their quality is significantly lower than the quality of original goods. The largest amount of counterfeit goods, according to the expert, relates to clothing, perfumery and cosmetics and alcoholic beverages. A consumer does not pay attention to the quality of the packaging, the correct spelling of a trademark if the goods are offered for a lower price.

Yuri Bolotov gave a detailed interview to Capital.kz about the importance of protecting intellectual property rights.

- How does the situation with consumer rights protection affect the image

of Kazakhstan and the development of business in our country?

- IP protection has, of course, political significance. Large foreign companies shall not come to Kazakhstan without proper protection of intellectual property, and their presence largely determines the image of Kazakhstan. After all, a significant share of the value of large foreign companies is not their tangible assets (that is, not buildings, land, machinery and equipment), but, first of all, intellectual property, and those countries where there is no protection of intangible assets are not attractive for such companies.

- What do you think needs to be done to improve the situation?

- It is necessary to increase the level of legal literacy of the population, which will increase the attention of producers of goods to the protection of their intellectual property, and, on the other hand consumers shall refuse buying counterfeited goods.

As studies of international organizations show, the ways of spreading counterfeits often coincide with the routes of distributing drugs. The money received from the sale of drugs by criminal communities is reinvested in the production and trade of counterfeits and vice versa. Thus, by buying counterfeits, consumers finance criminals to a much greater extent than by harming a specific producer and trademark owner.

Faked goods can be dangerous to life and health, however this is already a quality issue and rather only an indirect violation of IP rights.

- How can a businessman protect himself from violation of his intellectual property rights?

- Certainly it is necessary to know what rights a businessman has. Whether he has the know-how, significant trademarks and logos that he places on his products or when providing services. A businessman needs to conduct a kind of inventory of his intangible assets. In large companies, such an inventory usually requires the assistance of an intellectual property professional. It is time consuming, however the results are very rewarding. Then it should be determined what developments need to be patented, and what to keep as know-how - a trade secret, what to put on the company's balance sheet, what can be commercialized in other ways - to issue a license, sell, modify and introduce into production.

Significant brands (or as they are also called in everyday life, logos or trademarks) are registered as trademarks, inventions, industrial designs and other objects are patented, labor agreements with employees, contracts with

partner companies are structured and put in order. It is also necessary to monitor violations of IP rights and to fight against violations.

Taking care of intellectual property always positively influences the perception of the company by investors, especially foreign ones. Like any other property, there is no point in just having IP, it must be used, and for its effective and correct use it must be properly protected.

- How convenient and simple is the procedure for obtaining a patent for a product in the Republic of Kazakhstan? Are there bureaucratic delays or any other hindrances?

- The patenting procedure established by legislation in Kazakhstan is significantly formalized and does not differ significantly from such procedures in other countries. At the same time, in our opinion, there are opportunities to simplify it and reduce the terms for consideration of applications. These issues are currently being reviewed by the specialists of the Intellectual Property Committee, patent attorneys, and we believe that improvements in legislation and procedures shall be implemented in future.

- How does the fact that many national brands are patented in other countries (for example, kumis in Germany) affect business in Kazakhstan?

Registration of trademarks and patents is of a territorial nature, in other words, a trademark or patent registered in Kazakhstan is not protected in other countries, in other words registration is required in every country where there is a need to protect goods. Sometimes one registration is possible in a number of countries, for example, on the territory of the European Union, but in relation to neighboring countries of Kazakhstan, registration must be performed in each of these countries separately.

If a brand of one of our producers is registered in any country as a trademark, it will be illegal to import products with this trademark into this country, and the Kazakh producer will either need to change the brand for export to this country, or pay for the use of a trademark to a trademark owner.

Prior entering other markets, it is necessary to check whether the import of products shall violate the third party's rights, and then take care of protecting your IP rights in advance. In all cases, we recommend that you contact patent attorneys and IP specialists.

I do not know the details of registration of kumis in Germany. It is possible to register a new method of its production, its new composition, however if the registration of a traditional recipe is really carried out, then such registration can

be challenged and we believe that the chances of winning this case are quite high.

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