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Contact us:

■ **Bolotov & Partners LLP**
Almaty Residence BC, 6 floor
60 Auezov St., Almaty 050008
Republic of Kazakhstan
+7 (727) 357 23 80
info@BolotovIP.com
www.BolotovIP.com

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Trademark as a part of company's assets



Gulzhikhan
Nauruzova

In modern society we can observe growing interest to the results of creative activity and to the issues of protection of rights to intellectual property. Small and medium businesses in Kazakhstan can get both financial assistance at the stage of financial regulation of business activity by the state bodies and also are provided with information related to patents and other intellectual property items.

Production of competitive goods starts long before its appearance at the market through search and design works with further commercialization of the results of searches. More and more producers choose to start their business through complicated way of promotion of their products and services at the market. This way of promotion requires considerable investments into marketing surveys, advertising and drafting of business plans. Thus such producers express their intention to be presented at the competitive market for a long time.

In this connection it is necessary to mention about importance of protection of intellectual property in order to avoid registration of the rights to a trademark by the third parties.

This procedure should start from drafting a trademark that shall be used on the goods and documentation. In particular this initial stage is a basis for successful future of production process. Harmonious, recognizable and memorable trademark can become a reliable partner and then some kind of a business card of a company provided good quality of produced goods. It is always easier to determine the target then to implement it.

In order to achieve better results it is recommended to apply for services and capabilities of marketing companies, designers, physiologists and analysts which can assist in developing an original and successful designation that then becomes a trademark upon appropriate registration with the authorized body.

This authorized body in Kazakhstan is the Committee for Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan. Developers of the trademarks should keep in mind that notwithstanding considerable choice of opportunities not all designations can be registered as trademarks. The grounds for refusal in registration are given in Articles 6 and 7 of the Law of the Republic of Kazakhstan "On Trademarks, Service Marks and Appellations of Origin of Goods" (hereinafter "the Law").

Article 6 contains grounds for refusal that are based purely on the features of a trademark itself that can be taken into account while working out the draft of a trademark, and Article 7 provides for availability of early priority rights to the trademarks and other items of intellectual property that can be disclosed and referred to during the examination procedure. For avoidance of unjustified time and financial expenses in case of refusal to register it is possible to determine a trademark's protectability during the process of its working out.

The preliminary search as to novelty can be conducted before filing an application. The searches are conducted in the databases of trademarks applied for registration and in the databases of trademarks registered and protected in the Republic of Kazakhstan. Experienced specialists can comment on reasonability of application for registration or can advise as to registration of more promising designation and also shall provide report on search results. It is not rare when partners become competitors and try to take advantage by registering in their names a trademark that was introduced in business by the third parties.

Appropriate and timely registration of rights to intellectual property may avoid negative consequences in conducting business and keeping good relations with business partners. Expenses related to creation and promotion of a trademark shall require producer's patience and shall bring benefits after starting production. Appropriate amount of time is required in order a trademark becomes recognizable, however since working out of a trademark it shall be taken in the balance of a company as its intangible asset.

The value of intellectual property items shall change as the goods shall be promoted at the market. The market value of a trademark may exceed

value of production and material assets of a company. Estimation of a company's trademark (brand name) positively affects its general market value and accordingly its attractiveness to the partners and investors.

Registration and use of items of intellectual property as assets and property of a company are needed for control of effectiveness of their use, capitalization (transforming into intellectual capital), commercialization (acquiring profit from their use) and other way of introduction into business. There are methods of estimation and assessment of value of items of intellectual property, including trademarks.

Nowadays we can often hear that recommended trademarks act as a pledge in the banks and also assist in determining market value of companies at the stock exchanges.

The main features of intellectual property items are their proprietary character, capacity of financial estimation, capacity of disposition and capacity to use them as items of money-commodity relationships. Question of protection of intellectual property becomes important when items of intellectual property are involved in business turnover by their commercialization, in particular when concluding delivery and license agreements.

Results of competition depend on the aims of the producer: achievement of advantages before the competitor on the account of use of someone's labor or on the account of acquiring reputation in the process of creation of own product accompanied by recognizable trademark. For modern producers it should be obvious that transforming of intellectual property into an asset is an opportunity to benefit from exclusive rights that can be estimated and can increase company's assets.

[Gulzhikhan Nauruzova - Magazine «Intellectual Property of Kazakhstan», 2004](#)