

On approval of the Treaty on coordination of actions to protect of intellectual property rights

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated November 26, 2015 No. 951.

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The Government of the Republic of Kazakhstan HEREBY DECREES:

1. To approve the attached Treaty on coordination of actions to protect of intellectual property rights, made in Grodno on September 8, 2015.

2. This decree shall enter into force from the date of its signing.

*Prime Minister
of the Republic of Kazakhstan*

K. Massimov

Approved
by decree of the Government
of the Republic of Kazakhstan
dated November 26, 2015 no. 951

TREATY

on coordination of actions to protect of intellectual property rights

**Entered into force on July 19, 2016 -
Bulletin of International Treaties of the Republic of Kazakhstan 2016, no. 5, art. 85**

Member States of the Eurasian Economic Union represented by their governments hereinafter referred to as the Member States,

For the purposes of implementation of the Protocol on Security and Protection of the Intellectual Property Rights (annex no.26 to the Treaty on the Eurasian Economic Union dated May 29, 2014),

Expressing the intention to develop cooperation by the Member States in the field of protection of rights to intellectual property in the framework of the Eurasian Economic Union (hereinafter - the Union),

have agreed as follows:

Article 1

For the purposes of the present Treaty, the definitions used herein shall have the following meaning:

“coordination of actions” means the interaction of the authorized bodies of the Member States among themselves and with the Eurasian Economic Commission in order to ensure mutual interests of the Member States and in the field of protection of intellectual property rights;

“violation of intellectual property rights” means the use of intellectual property assets including in the “Internet” informational-telecommunication network, production, distribution or other use, as well as import, transfer or storage of goods for these purposes, if such actions entail a violation of intellectual property rights protected in accordance with the laws of the Member States;

“joint activities” means coordinated activities on prevention, detection, suppression and investigation of the violations of intellectual property rights, conducted by the authorized bodies of two or more Member States;

“authorized body” means an executive body, as well as other body, which, in accordance with the regulatory legal acts of a member state has the powers in protection of intellectual property rights.

Article 2

1. Member States shall cooperate and shall ensure effective interaction between authorized bodies, on the basis of the need to establish a unified system of protection of intellectual property rights.

2. For the purposes of protection of intellectual property rights, including ensuring the effective suppression of violations of these rights in the customs territory of the Union:

coordination of actions to prevent, detect, suppress and investigate violations of intellectual property rights, as well as to improve the activities of authorized bodies in this field;

harmonization and improvement of the legislation of the Member States in the field of protection of intellectual property rights in the customs territory of the Union;

other actions (if necessary) shall be carried out.

Article 3

For the purposes of coordination of actions, the representatives of the authorized bodies shall consider at the meetings of the relevant consultative body under the Board of the Eurasian Economic Commission issues arising in the framework of implementation of the present Treaty, on the basis of the following principles:

equality of authorized bodies in setting tasks and carrying out activities in the framework of coordination of actions;

the independence of each authorized body within the powers granted to it in accordance with the legislation of a member state;

publicity to the extent that it does not contradict the requirements of the laws of the Member States on the protection of the rights and freedoms of man and citizen, on state and other secrets protected by law.

Article 4

Within the framework of this Treaty, the Eurasian Economic Commission together with the authorized bodies shall:

carry out analysis and generalization of experience in suppressing violations of intellectual property rights in the territories of Member States, as well as forecasting trends in the prevention, detection, suppression and investigation of offenses in this area;

carry out an analysis of the law enforcement practice of the Member States in the field of protection of intellectual property rights , including the implementation of international treaties in this field;

develop proposals to improve the protection of intellectual property rights, including the prevention of violations of these rights in the customs territory of the Union;

participate in the organization and conduct of joint seminars, conferences, other events aimed at improving the skills of employees of authorized bodies and the Eurasian Economic Commission in the field of protection of intellectual property rights.

Article 5

In order to ensure coordination of activities, the authorized bodies shall cooperate in the following forms:

cooperation within the framework of activities of the consultative body under the Board of the Eurasian Economic Commission;

exchange of information on the issues of protection of intellectual property rights including on prevention of violations of these rights in the customs territory of the Union;

holding meetings of the representatives of the authorized bodies;

development and implementation of agreed plans on the coordination of actions;

carrying out joint activities, including as part of the implementation of the agreed plans provided for in paragraph five of this article;

conducting internships, seminars, conferences, as well as other events in order to exchange experiences;

publication of bulletins (collections) and other information editions;

other forms by mutual agreement of the Member States.

Article 6

1. The authorized bodies shall exchange information on their own initiative or at the request of other authorized bodies:

about specific facts and events related to violation of intellectual property rights;

about persons, involved in violation of intellectual property rights;

about the transfer of goods from the territory of one member state to the territory of another member state, as a result of which the rights to intellectual property are violated, as well as about goods and vehicles used in the transfer of these goods;

about goods being imported (imported) from the territories of third countries to the customs territory of the Union, if the import of such goods entails a violation of intellectual property rights, as well as other information (if necessary).

2. The transfer of the information referred to in paragraph 1 of this article by the authorized body to third parties may be carried out only with the written consent of the authorized body that provided such information.

The authorized body that has received such information shall ensure a level of protection equivalent to the level of protection applied to such information by the authorized body that has provided it.

3. For violation of the conditions stipulated in paragraph 2 of this article, the authorized body and its employees who received the information specified in paragraph 1 of this article shall bear responsibility established by the laws of the state of this authorized body.

Article 7

1. To carry out joint activities or to assist in their implementation, the authorized bodies shall have the right to apply to each other with a corresponding request.

2. The interaction of the authorized bodies with regard to the execution of requests for assistance in the suppression of crimes in the field of intellectual property and violations of intellectual property rights, as well as in the provision of information and its treatment shall be carried out on the basis of international treaties to which the Member States are parties, and in accordance with the laws of the Member States.

Article 8

The Member States shall independently bear the costs associated with the implementation of this Treaty. At the same time, transportation costs, living expenses during the events provided for in article 5 of the present Treaty, shall be borne by the sending Member.

Article 9

1. The implementation of this Treaty shall be carried out by authorized bodies that interact within their competence, in compliance with the laws of the respective Member State, international treaties and acts constituting the law of the Union.

2. In order to implement this Treaty, the Eurasian Economic Commission shall assist to the authorized bodies in their cooperation in the field of protection of intellectual property rights within the Union.

3. The Member States shall determine the authorized bodies and within 3 months from the date of entry into force of this Treaty enter shall notify thereof the depositary, which shall notify about such authorized bodies other Member States.

The Member States shall notify the depositary about the change of the authorized bodies within one month.

Article 10

1. The informational interaction of the authorized bodies with the Eurasian Economic Commission under this Treaty, as well as the execution of requests shall be carried out in accordance with the procedure prescribed by the regulation of interaction of authorized bodies and the Eurasian Economic Commission.

2. The regulations referred to in paragraph 1 of this article shall be approved by the Eurasian Economic Commission within 3 months from the date of entry into force of this Treaty.

Article 11

1. The present Treaty may be amended, which shall be executed as separate protocols.

2. Disputes between member states related to the interpretation and (or) application of this Treaty shall be resolved in accordance with the procedure established by the Treaty on the Eurasian Economic Union dated May 29, 2014.

Article 12

1. This Treaty is an international treaty concluded within the Union, and is included in the law of the Union.

2. The present Treaty shall enter into force on the date of receipt by the depositary through diplomatic channels of the last written notice on the implementation by Member States of the domestic procedures required for the entry into force of the present Treaty.

Made in the city of Grodno, on September 8, 2015 in one original copy in the Russian language.

The original copy of this Treaty is stored in the Eurasian Economic Commission, which, being the depositary of this Treaty, will send a certified copy to each Member State.

For the Government of the Republic of Armenia

For the Government of the Kyrgyz Republic