

Protection of Intellectual Property Rights in the Eurasian Economic Union

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Abstract—The article deals with various aspects of the enforcement of intellectual property in the territory of the member States of the Eurasian economic Union. The systematization of areas of cooperation in which the member States implement law enforcement measures to ensure effective protection and protection of intellectual property rights. The specific features of the Unified customs register of intellectual property in accordance with international law.

Keywords—economy; intellectual property; intellectual property protection; regulation of legal relations; protection and protection of intellectual property rights; Eurasian economic Union; international customs cooperation

I. INTRODUCTION

The most important source of supranational law in the Russian Federation is the Eurasian economic Union (hereinafter — the EAEU), which is the penultimate level of regional economic integration. The EAEU is established and operates in accordance with the Treaty on the Eurasian economic Union, within the framework of which free movement of goods, services, capital and labor takes place in the territory of the member States of such Treaty, in addition, a joint coordinated and coordinated policy in economic sectors is carried out [1]. EEU members are Russia (from 01.01.2015), Belarus (from 01.01.2015), Kazakhstan (from 01.01.2015), Armenia (02.01.2015), Kyrgyzstan (12.08.2015).

II. ENFORCEMENT OF INTELLECTUAL PROPERTY IN THE TERRITORY OF THE EAEU MEMBER STATES

In the above-described agreement, the XXIII section regulating the General provisions, legal regime, as well as

the legal applicability of intellectual property in the territory of the EAEU member States is highlighted. The section describes the General provision on the protection of intellectual property rights, it provides that the member States of the agreement are obliged to coordinate and cooperate in this matter, as well as to ensure the protection and protection of such rights in their territory in accordance with the rules of international law, including international treaties, conventions and acts, which in turn are components of the rights of the EAEU and national legislation of the member States. Protection is based on the following tasks, which include the harmonization of the legislation of the member States in the field of protection and enforcement of intellectual property rights, as well as the protection of the interests of intellectual property rights of the member States. The Eurasian economic Commission (hereinafter referred to as the EEC) conducts consultations of the member States to ensure effective protection and enforcement of intellectual property rights and the phenomena of problematic issues, based on the results of such consultations the EEC forms proposals to address such problems [1].

The member States of the agreement shall implement law enforcement measures to ensure effective protection and protection of intellectual property rights, as well as act in accordance with the Customs code of the Eurasian economic Union (hereinafter the EAEU CC) and international treaties, conventions, acts constituting the law of the EAEU [1].

Cooperation is carried out in accordance with the following areas:

- Support for scientific and innovative development;

- Improvement of mechanisms of commercialization and use of intellectual property;
- Provision of favorable conditions for holders of copyright and related rights of member States;
- Introduction of the system of registration of trademarks and service marks of the Eurasian economic Union and appellations of origin of goods of the Eurasian economic Union;
- Protection of intellectual property rights, including the Internet;
- Effective customs protection of rights to objects of the source-term of ownership, including by keeping a single customs registry for errors-RA of intellectual property of States members of the;
- Implementation of coordinated measures aimed at preventing and preventing the circulation of counterfeit products [1].

The member States of the agreement shall carry out their activities in accordance with the norms of international law, thereby providing the persons of one member state with a national regime for intellectual property objects, as well as other rights regulated in international acts, in the territory of another member state, as well as the following intergovernmental treaties:

- Berne Convention for the protection of literary and artistic works of 9 September 1886;
- Budapest Treaty on the international recognition of the Deposit of microorganisms for the purposes of patent procedure of 28 April 1977;
- Treaty of the world intellectual property organization on copyright of 20 December 1996;
- The Treaty of the world intellectual property organization performances and phonograms Treaty of 20 December 1996;
- Patent cooperation Treaty of 19 June 1970;
- Patent law Treaty of 1 June 2000;
- Convention for the protection of producers of phonograms against unlawful reproduction of their phonograms of 29 October 1971;
- Madrid agreement concerning the international registration of marks of 14 April 1891 and Protocol To the Madrid agreement concerning the international registration of marks of 28 June 1989;
- International Convention for the protection of performers, producers of phonograms and broadcasting organizations of 26 October 1961;
- Paris Convention for the protection of industrial property of 20 March 1883;
- Singapore Treaty on the law of trademarks of 27 March 2006 [1].

Regulation of legal relations in the field of protection and protection of intellectual property rights is also regulated by Annex No. 26 (Protocol on protection and enforcement of intellectual property rights) to the Treaty on the Eurasian Economic Union, it contains the features of the regimes for the provision of protection for each object.

Thus, according to this Protocol, the objects of intellectual property should be understood as: works of science, literature and art, trademarks and service marks; inventions, utility models, appellations of origin, geographical indications, computer programs, performances, phonograms, selection achievements, industrial designs, secrets of production, topology of integrated microchemes; also other objects of intellectual property to which protection is applied in accordance with international treaties, conventions and acts [2].

Copyright applies to works of science, literature and art, in this case, the author has the exclusive right to the works, as well as the right of authorship, in the name, the inviolability of the work, the publication of the work. Computer programs, including source and object codes are protected as literary works. Encyclopedias, collections and other works are composite works and are protected without prejudice to the rights of each author, the author-compiler owns the copyright for composing, i.e. selection of material. Translations, adaptations and other variations of literary and artistic works are derivative works and are protected on an equal basis with the original works without prejudice to the authors of such works, since the author of the derivative work has only the right to process the original work. The main duty of the member States of the Union is to comply with the terms of protection established by the Berne Convention for the protection of literary and artistic works of 09.09.1886 and the trips Agreement of 15.04.1994.

With respect to cinematographic and audiovisual works, the member States shall provide the right holders with a legal opportunity to prohibit the public rental of the original work or a copy of such work protected by copyright in the territory of another member state. Related rights are recognized as property and personal non-property rights to the results of performance and to phonograms. Performers are granted the exclusive right to execution and the right to a name. The performer can act as a performer, directly performing the role in the performance; Director of the play; conductor. The producer of phonograms-Li-TSO, performing the first recording of performance sounds and other sounds, such persons are granted the exclusive right to the phonogram. Member States are obliged to provide protection for a period that will be equal to or not less than the period established by the trips Agreement and the International Convention for the protection of performers, producers of phonograms and broadcasting organizations of 26.10.1961 [2].

A trademark and service mark in accordance with the Protocol is a designation that serves for the individualization of goods or services of participants in civil turnover. The designation can be registered in verbal, visual and volumetric forms, as well as in the form of their combinations. The right holder has the exclusive right to use such a mark in

accordance with the legislation of the member state, the right of disposal and the right to prohibit the use of his mark, as well as signs similar to the extent of confusion. The term of registration and validity of a trademark is at least 10 years, in case of filing an application and fulfillment of other obligations, the term of protection may be extended for the same period. Legal protection in this case is provided in the territory of all member countries of the economic community.

The concept of geographical indication is disclosed as a designation that identifies the goods as occurring in the territory, region or locality of a member state of the Union, affecting the reputation or other characteristics of the goods. Such an object is granted protection if it is subject to the existence of domestic national law providing for such protection or if there are rules in international law.

Under the name of the place of origin of the goods (hereinafter — NPOG) should be understood the designation, which is the name of the country, urban or rural settlement, which directly or indirectly determines the characteristic properties of the goods, as well as if the goods, thanks to this name, became known and gained wide popularity. This name allows you to identify the goods as goods originating from the territory of a certain object. The symbol shall be protected in accordance with national or international law. The member States of the EAEU apply measures to prevent the use of protected NPOG, as well as prevent any other use of such names, which are an act of unfair competition, described in article 10 of the Paris Convention for the protection of industrial property of 20.03.1883. Thus, the member States of the EAEU carry out the registration of the NPOG, thereby providing legal protection to the rights holders in the territory of the member States of the agreement, and such relations are regulated by an international Treaty within the EAEU [2].

Patent law under the Protocol implies the existence of rights to an invention, utility model or industrial design in obtaining a patent, which gives the author an exclusive right, priority to the objects of patent law, and in some cases the right to remuneration for the use of intellectual property. The term of the exclusive right to inventions is not less than 20 years, for utility models and industrial designs not less than 5 years.

Selection achievements and topologies of integrated circuits are provided with similar protection within the national legislation of the EAEU member States. Thus, the authors of such objects are granted the exclusive right and the right of authorship, in some cases, the right to remuneration for the use of official selection achievements and topologies is also provided. The period of validity of the exclusive right to the derived varieties of plants and breeds of animals is 25 years, for topologies the period of 10 years is provided. [2].

The secret of production, also referred to as know-how, is any kind of information that has commercial or other value for other persons who do not have the right of access to such information on a legal basis due to the introduction of the right holder information in the trade secret.

An important norm of supranational legislation is the Customs Code of the Eurasian economic Union (hereinafter — the EAEU CC). Chapter 52 contains measures to protect intellectual property rights that customs authorities are required to apply to the protection of intellectual property objects when placing goods under customs procedures, with the exception of placement under customs transit, destruction or special customs procedure, as well as in cases where the transferred intellectual property objects are officially used by diplomatic, consular and international missions. In the case of a special customs procedure, the EEC has the right to determine the cases and the procedure for taking measures within the framework of such a procedure [3].

III. THE SPECIFICS OF THE UNIFIED CUSTOMS REGISTER OF INTELLECTUAL PROPERTY

The EEC, in turn, assumed responsibility for maintaining the Unified customs register of intellectual property objects (hereinafter — ETROIS). If the right holder believes that there is a violation of his / her rights to the protected intellectual property object belonging to him / her, he / she or his / her attorney may submit an application to the EEC for inclusion of the object in the list of ETROIS. The application procedure includes submission of documents on the availability of intellectual property rights; documents representing the interests of the right holder; samples of goods; facts of violation of rights; the obligation of the right holder to compensate for property damage caused to the declarant or the owner in connection with the suspension of the release of the goods, the amount must be at least 10,000 euros. Such a register may include objects of copyright and related rights, as well as trademarks, service marks and NPOG. Information about the ETROIS facilities is publicly available and available on the official websites of the EAEU and customs authorities. The term of protection for intellectual property objects when they are entered into the ETROIS cannot be more than 2 years from the date of inclusion in the register, such a period can be extended for an unlimited number of times. The term of protection of rights by customs authorities may not exceed the term of the exclusive right to the intellectual property object, as well as the protection of rights in the use of ETROIS may not exceed the term of protection of the intellectual property object in the country-party to the agreement, in which such term is earlier [3].

The customs authorities of the participating countries of the EAEU have national registries of objects intellectually of ownership (hereinafter — the ESCALATOR). The terms of application, the procedure for maintaining the TROIS and the term of protection of rights is determined by the national legislation of the EAEU member States.

Measures, according to the EAEU CC, include the suspension of the term of release of goods containing intellectual property objects, as well as the renewal of such term. Article 124 provides that if the customs authority finds signs of violation of the rights of the owner to the intellectual property objects under its control, the term of release of such objects shall be suspended for 10 working days, if they are included in the ETROIS or TROIS. Upon a reasoned written

request of the right holder or attorney, such term may be extended for another 10 working days. The customs authority is obliged to notify the declarant of the suspension of the release of goods, as well as to present the reasons and terms of such suspension no later than 1 working day after the detection of the violation of rights, in addition, the customs authority is obliged to inform the contact details of the right holder [3].

The law of the EAEU includes the Agreement on coordination of actions on protection of intellectual property rights, which was adopted in order to implement the above-described Annex No. 26 to the Treaty on the Eurasian economic Union of 29.05.2014. Thus, the participating countries expressed their desire to cooperate and coordinate the actions of the authorized bodies in the field of protection of intellectual property rights. Under the Agreement, a number of actions devoted to the prevention, it was revealed the understanding and suppression of violations of the rights to objects of intellectual property, in addition to this is the unification and perfection of the legislation of member countries on the EAEU territory. The exchange of information includes the provision by the authorized bodies on the basis of the request of one state party to the agreement to another of facts and events of violation of the law; information on persons, goods, vehicles and other technical means involved in the violation of such rights; with the subsequent protection of the transmitted information [4].

Within the framework of international cooperation, a Memorandum of understanding between the EEC and the Eurasian patent organization (hereinafter — EPO) was signed in 2016, within the framework of which proposals and recommendations concerning the improvement of legal regulation in the field of protection of intellectual property rights are being developed. In addition, work is being done to study international experience in this field. Cooperation takes place through the exchange of information in the field of protection of intellectual property rights; participation of authorized bodies of one member state in joint meetings, consultations, seminars and conferences organized by another member state [5].

The decision of the EEC also organized the international forum "anti-Counterfeit", which is held in the framework of regular scientific activities in the field of combating violations of intellectual property rights, including illegal trade in industrial and agricultural products. The forum is attended by stakeholders-various business communities, international and scientific organizations of rights holders and producers of the EAEU member States for the exchange of experience [6].

IV. CONCLUSION

The main objectives of the international forum include the development of proposals to improve the law of the EAEU and recommendations for the improvement of such mechanisms; the development of proposals for the introduction of common approaches to the settlement of disputes; the introduction of innovative information technologies to facilitate the identification of turnover of

goods of interest; the improvement of the norms of supranational and national legislation in the field of intellectual property rights protection; rapprochement and establishment of contact between entrepreneurs, right holders and other stakeholders in this area with the legislative bodies [6]. Meetings are held according to the following areas: customs methods of protection of markets; increasing effectively-STI quality control and safety of products and services; the protection of rights to objects intellectually of ownership in the framework of the EAEU; improvement and development of personnel authorized in the field of protection of intellectual property rights; the development of technologies and systems for monitoring trafficking; counteraction against counterfeit products; others are of an operational nature.

REFERENCES

- [1] The Pact about Eurasian Economic Union from the 29.05.2014. Astana, Kazakhstan.
- [2] An Application №26 for The Pact about Eurasian Economic Union from the 29.05.2014. Astana, Kazakhstan.
- [3] Custom Code of Eurasian Economic Union (an application №1 for The Pact of Custom Code of Eurasian Economic Union from 29.05.2015).
- [4] The Pact about action's coordination for rights protection of intellectual property from the 08.09.2015, Grodno, Byelorussia.
- [5] Memorandum about relationship of Eurasian Economic Commission and Eurasian Patent Organization from the 27.12.2016, Moscow, Russia.
- [6] The Decision of The Soviet of Eurasian Economic Commission №46 from the 22.08.2017, Cholpon-Ata, Kirgizia.
- [7] V.A. Shumaev, A.A. Odintsov, A.A. Sazonov, V.V. Raniuk, N.I. Arkhipova and D.E. Morkovkin. Model of efficient cost reduction instrument for machine construction // Modern journal of language teaching methods. 2018. T.8. № 3. pp. 279-289.
- [8] D.S. Reznichenko, E.S. Tishchenko, I.V. Taranova, M.V. Charaeva, A.V. Nikonorova, E.R. Shaybakova. Sources of Formation and Directions of the Use of Financial Resources in the Region // International Journal of Applied Business and Economic Research. 2017. № 15 (23), pp. 203-219.