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The EAEU trademark is almost here – all documents are in force, but one technical issue remains

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- **The Treaty on Trademarks, Service Marks and Appellations of Origin of Goods of the Eurasian Economic Union entered into force in April 2021**
- **The new system for the registration of EAEU trademarks will give the possibility of obtaining trademark protection in all member countries**
- **The system is now ready but the technical possibility to file applications is still missing**

Stakeholders with interests in the Eurasian market are awaiting the launch of the new registration system for the trademark of the Eurasian Economic Union ('EAEU trademark'), which will give the possibility of obtaining a trademark registration that is valid in all member countries of the Eurasian Economic Union: namely, Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia.

Background

The Treaty on Trademarks, Service Marks and Appellations of Origin of Goods of the Eurasian Economic Union was signed on 3 February 2020 and entered into force in April 2021. The first step towards its implementation was the adoption of the Instructions to the Treaty, which were introduced by Decision No 53 of the Council of the Eurasian Economic Commission of 18 May 2021 "On certain issues concerning the implementation of the Agreement on Trademarks, Service Marks and Appellations of Origin of Goods of the Eurasian Economic Union of 3 February 2020", which were published on 7 June and entered into force on 17 June 2021.

The EAEU trademark: key points

- An EAEU trademark has the force of a national registration in each member country of the Eurasian Economic Union.
- Trademarks which cannot be graphically represented cannot be registered as EAEU trademarks.
- A trademark registration's duration is 10 years from the filing date, can be renewed without limitations.
- Infringement is defined pursuant to the laws of the country where the infringement took place and is resolved in accordance with such laws.
- An EAEU trademark application can be transformed into national applications before a decision of grant or refusal has been issued by the receiving trademark office; conversely, a national application can be transformed into an EAEU trademark application.
- Conventional priority as well as exhibiting priority will be applied, and multiple priority regarding different goods can be claimed.
- Prior national applications or registered trademarks are a bar to the registration of an EAEU trademark.
- In case of refusal based on a lack of distinctiveness, acquired distinctiveness (if any) should be proven in all member countries of the Eurasian Economic Union.
- The registration of identical marks for the same goods is prohibited.
- If a non-use cancellation action is filed, genuine use should be demonstrated in at least one member country.
- If an entity has identical national registrations in each country of the union, it can transform such registrations into a single EAEU trademark.

Procedure – specific features

- Applications must be filed with the national trademark office of a member country (receiving trademark office).
- The procedure contains several steps: formal examination, online publication and substantive examination.
- After publication, the applicant is notified of the fee that must be paid for substantive examination. After payment has been made, substantive examination is handled by each trademark office in the member countries of the union.
- Interested third parties can file objections against an application within three months of publication.
- Based on the arguments of the applicant, the national offices will issue their final decision - grant, partial grant for some goods/services or refusal in the relevant country.
- Such decisions can be appealed in accordance with the relevant national procedures.
- If no appeal is filed, the receiving trademark office will make a decision of grant, partial grant or refusal in the union.

An invalidation procedure will be carried out in the relevant member country in accordance with the laws of that country; invalidation in one of the member countries will lead to the cancellation of the EAEU trademark.

Next steps

The system is now ready but there is one thing missing: the technical possibility to file applications. It is hoped that the system will start operating soon, since the unified economic area of the Eurasian Economic Union creates an urgent need for effective and unified trademark protection in all the countries of the union.

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