

affects the throughput, reducing the waiting time of vehicles and reducing the likelihood of unforeseen and conflict situations.

Thus, the interaction of the customs and border authorities of the Republic of Belarus is an important element of ensuring security at the border and the effectiveness of customs procedures. The introduction of new technologies, the development of international relations and the improvement of human resources can positively affect the effectiveness of cooperation between bodies. It is important to pay attention to the fact that the interaction of customs and border authorities should be organized at a high level and based on mutual trust and understanding. It is also necessary to take into account the rights and interests of citizens, comply with international standards and laws, and take measures to protect information and personal data. This is the only way to ensure the efficient and safe work of customs and border authorities, which will contribute to the development of the economy and society as a whole.

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DIRECTIONS FOR IMPROVING CUSTOMS OPERATIONS WITH REGARD TO GOODS CONTAINING OBJECTS OF INTELLECTUAL PROPERTY IN THE EAEU

Research Field:

Intellectual property as an object of international trade

One of the main elements of intellectual property cooperation within the Eurasian Economic Union is customs protection. Among the areas of cooperation between EEU Member States is ensuring effective customs protection of intellectual property rights, including maintenance of a unified customs register of intellectual property objects of the Member States. The development of the customs control system in the context of Eurasian integration is aimed at ensuring an optimal balance between the interests of the state, citizens, businesses and the integration entity itself¹. The issues of customs protection of exclusive rights and counteraction to counterfeiting become topical in the conditions of digital transformations, one of the perspective directions of which may be the formation of a single digital market of intellectual rights.

¹ Agamagomedova S.A. Customs control in the conditions of Eurasian economic integration: concept, signs, development trends // State and law. 2018. № 4. P. 64-72

The legal basis for the customs protection of the exclusive rights is constituted by the acts of the international and domestic law. A special role is played by acts of supranational (regional) law, primarily the EAEU Treaty and the EAEU Customs Code. International standards of customs regulation in the context of integration processes in the Eurasian space affect not only the development of national legislation, but also directly affect the level of supranational regulation within the EAEU.

The main measure for the protection of exclusive rights applied by the customs authorities is the suspension of the release of goods on the basis of information from the customs register of intellectual property objects. It includes objects of copyright and related rights, trademarks (service marks) and appellations of origin. These objects are subject to inclusion in a single customs registry of intellectual property objects of the EEU member states. In accordance with the EEU Customs Code, the EEC provides for its maintenance. Thus, the EEU legislation stipulates a list of intellectual property objects to be included in the unified customs register of intellectual property objects (UCRIPO). However, EEU member states have the right to include appropriate objects in customs registers on the terms and according to the procedure stipulated by national legislation.

In accordance with the EEU Customs Code, the customs authorities of the member states take measures to protect rights to intellectual property objects included in the UCRIPO and (or) the national customs register maintained by the customs authorities of the EEU member state. In order to include an object into the UCRIPO it is necessary to coordinate with the customs authorities of all the EEU countries. If an intellectual property object is included in the UCRIPO, protection is granted for two years.

Customs registers of EAEU countries include different numbers of intellectual property objects. Meanwhile, it was expected that UCRIPO would be an overlap of objects contained in the customs registries of the EAEU countries. The procedure of inclusion of an intellectual property object in the UCRIPO also acts as a certain constraint. An application of a right holder must meet the requirements of all the countries concerning customs registers at the same time. At the same time, the advantages of the UCRIPO institute are a single application and centralized check by all the customs authorities of the EEU member-states.

If goods with counterfeit features are detected, their release is suspended for ten days, if the object of intellectual property is included in the register, or up to seven days if it is not. If the right holder decides to protect its rights in court, the suspension period is extended for another ten days. Upon the expiry of that period, the release of goods is resumed. Exceptions are cases when the suspension is extended at the request of the right holder; the suspension of release is

cancelled on the grounds stipulated by the EEU legislation; documents evidencing the seizure, attachment or confiscation of goods are submitted.

The EEC has a special role with regard to this administrative procedure. Thus, the competence of the Commission includes the establishment of the procedure for drawing up decisions on suspending the release of goods and on extending the period of suspension; notifying the declarant, right holder or person representing his interests of the adoption of such decisions; and the rules for drawing up cancellation decisions. The powers of the EEC are spelled out in detail in the EEU Customs Code.

Having reviewed the activities of customs authorities in protecting intellectual property rights, a number of main problems can be highlighted. First of all, an insufficient level of harmonisation and unification of intellectual property laws and customs regulations in the EEU member states. In particular, different requirements for the registration of trademarks, as well as the registration of identical trademarks, the rights of which belong to different persons in the EEU countries, increase the risk of recognition of goods as counterfeit.

Unified powers of customs authorities should be consolidated in the EEU Member States, which will allow to initiate administrative offence cases and procedures to suspend the release of goods without entering the intellectual property objects into the customs register¹. In addition, a unified approach to the principle of exhaustion of trademark rights should be established, which implies preserving the regional principle with possible exceptions to it in the current conditions, it means a differentiated approach.

An important factor for improving customs protection is the harmonisation of intellectual property rights, as well as the development of a methodology for classifying goods as counterfeit at the regional level. In addition, it is advisable to extend customs protection to inventions, industrial designs and integrated circuit topologies.

Summing up, the following should be noted. First of all, it should be noted the trend of expanding the scope of supranational regulation of customs protection of intellectual property rights in the EAEU. It seems necessary to establish a unified approach to the principle of exhaustion of the exclusive right to a trademark at the EEU level, namely, to recognize the regional principle of exhaustion and introduce exceptions to it, it means to enshrine a differentiated approach. Finally, an effective fight against counterfeit goods moving across the EAEU customs border will require further development of digitalization processes at various stages of customs activities.

¹ Getman A.G. A new vector in Theory of customs protection of intellectual property in the EAEU space // Intellectual Property Law. 2019. № 3. P. 31-35