

IP IN FASHION



Anti-counterfeiting measures, customs control & parallel import in Russia and in other countries of the Eurasian Economic Union

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Trademarks & Patents



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- Customs protection
- Parallel import
- Civil prosecution
- Police action
- Investigations
- Internet

MEASURES ON BORDER – Customs Code of Customs Union



BLR



KAZ



RUS



ARM



KGZ

Legal environment in the Eurasian Economic Union



Members:

- Kazakhstan, Belarus, Russia, Kyrgyzstan, Armenia



Legal acts:

- Treaty on the Eurasian Economic Union (Annex 26 – Protocol on Protection and Enforcement of Intellectual Property Rights)
- Customs Code of the Customs Union
- Agreement on the Common Customs Register
- Relevant national laws

Purpose:

- Generation of free market zone
- Elimination of customs duties between member-states
- Enhancement of trade between member-states

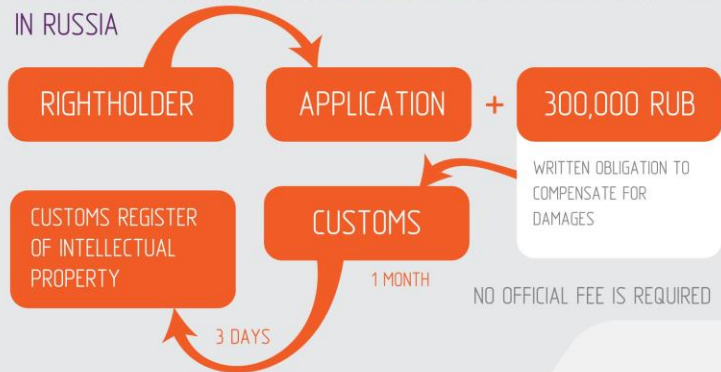
Customs control – RUSSIA

CUSTOMS REGISTER

CUSTOMS REGISTER OF THE UNION
HAS NOT BEEN CREATED YET

NATIONAL CUSTOMS REGISTERS
TRADEMARKS

PROCESS OF ENTERING IP OBJECTS INTO THE CUSTOMS REGISTER IN RUSSIA



EX-OFFICIO

CONTROL OF INTERNATIONAL PRIVATE PARCELS

CONTROL USING STATE INTELLECTUAL PROPERTY REGISTERS

POST-CONTROL

POST CONTROL CAN BE MADE UPON A REQUEST OF ANY PERSON OR AT A SOLE DISCRETION OF CUSTOMS OFFICE

POST CONTROL CAN BE MADE WITHIN 3 YEARS AFTER THE GOODS HAVE BEEN RELEASED

POST CONTROL CAN BE CARRIED OUT IN TWO WAYS: CAMERAL CUSTOMS CHECK, ON-SITE CUSTOMS CHECK





Customs control – RUSSIA

- Ex officio measures
- Any types of trademarks, appellations of origin of goods, copyright, neighboring rights (recordings) are subject of registration

	✓		✓		✓
	✓		✓		✓
	✓		✓		✓
	✓		✓		✓

Customs control – BELARUS

- NO ex officio measures
- Trademarks, appellations of origin, copyrights and related rights. In practice – only trademarks so far. Device marks are often refused of customs registration:

April 2014	TOYOTA	✓		✓
December 2014	Philipp Plein	✓		✗
September 2016	KINDER	✓		✗
	NUTELLA	✓		✗

Customs control – KAZAKHSTAN

- Ex officio measures (rarely used)
- Any types of trademarks, appellations of origin of goods, copyright, neighboring rights (recordings) are subject of registration

WD-40	✓	NESCAFÉ	✓		✓
	✓	CTP	✓		✓

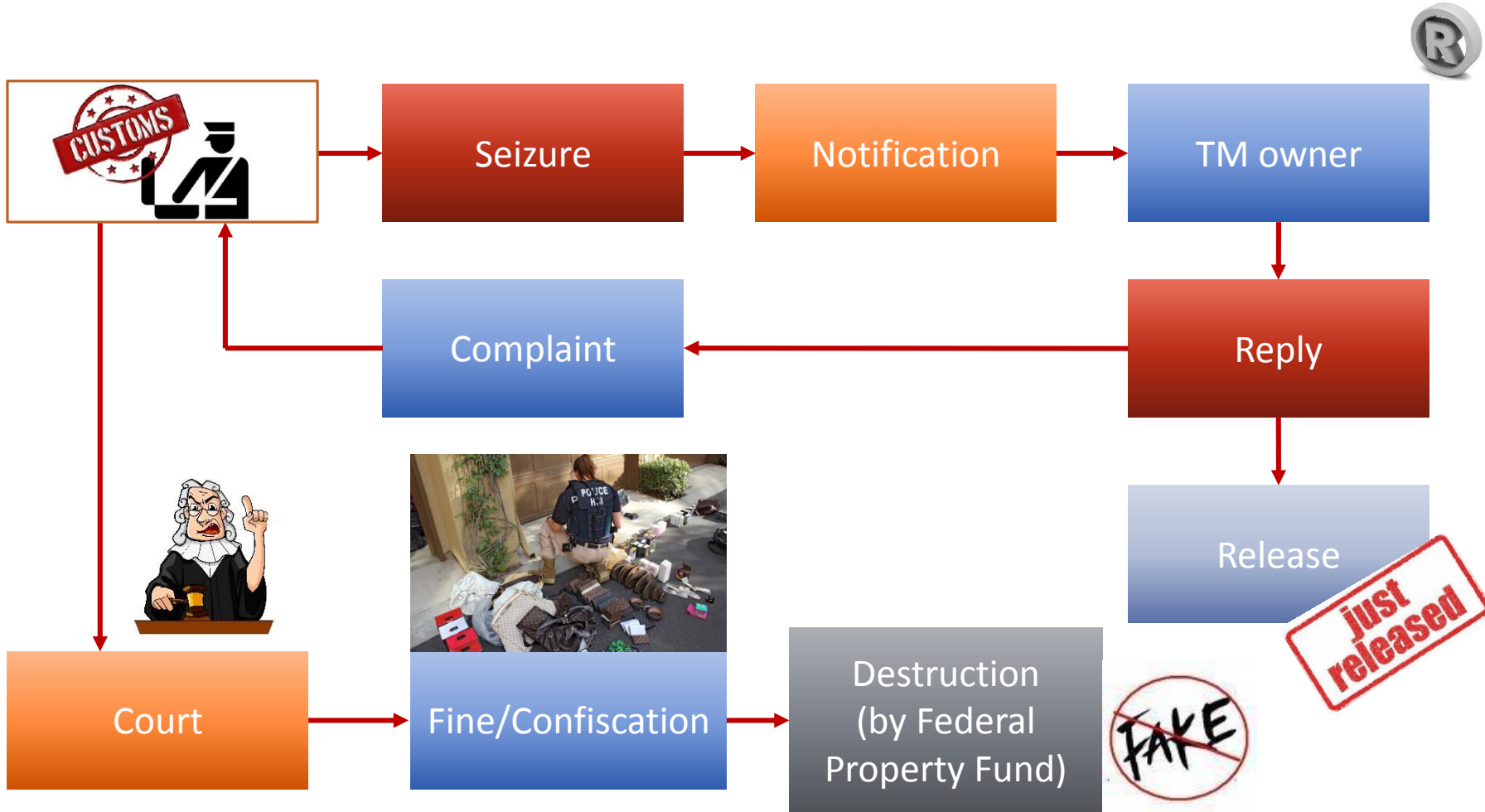
IP monitoring by the customs

Only with respect to the goods **placed under one of the customs procedures** (smuggled – NO, private luggage of individuals – NO).

Documentary control and **selective inspection** of the goods themselves:

- **additional indicators of possible infringement are needed** (country of origin / departure, sender /recipient of goods etc.).

Customs action (Russia)



Destruction – RUSSIA

Report on destruction:

- Place and time
- Basis for confiscation
- Quantity
- Description of goods
- Cost of goods









Customs statistics – RUSSIA

	2013	2014	2015
Seized counterfeit goods (mln, items)	9,4	9,5	18,1
Initiated administrative cases (total, cases)	1188	1270	1121

Interface Public-Members Programme – www.wcoipm.org



- Home
- News
- Customs Officers
- Right Holder**
- Security Solution Providers
- Partnerships



Advantages of IPM: Right Holder

- ✓ Real-time transmission of product information to Customs officers on the ground
- ✓ Direct access to Customs officials
- ✓ Continuous training of Customs officers
- ✓ Share news and alerts
- ✓ Invitations to conferences involving Customs officers and security solution providers
- ✓ Access product specific analytical data

Who is currently involved with IPM?

BRANDS FROM THESE DIFFERENT SECTORS TRUST IPM

Art	Electronics	Pesticides	Software
Audiovisual	Cosmetics	Pharmaceutical	Sports Industry
Automotive	Fashion	Tobacco	Other
Food & Beverages	FMCG	Watches	

Parallel import in Eurasian Economic Union

- Regional exhaustion of trademark rights
- Parallel import constitutes trademark infringement
- Positive court practice
- Eurasian Economic Commission examines PI issue
- Automotive spare parts, cosmetics, pharmaceuticals?



CIVIL

ADMINISTRATIVE

CRIMINAL

Civil remedies

Details	RUSSIA	BELARUS	KAZAKHSTAN
Body	Court	IP Chamber of the Supreme Court	Court
C&D letter	Yes (commercial courts)	Yes (companies / entrepreneurs)	No
Duration	4-6 months	2-12 months	1-12 months
Remedies	<ul style="list-style-type: none"> • Injunctions • Confiscation • Publication of court decision • Removal of TM • Damages / compensation 	<ul style="list-style-type: none"> • Injunctions • Confiscation • Publication of court decision • Removal of TM • Destruction of goods • Damages / compensation 	<ul style="list-style-type: none"> • Injunctions • Confiscation • Publication of court decision • Removal of TM • Damages • Destruction of goods
Amount of compensation	<ul style="list-style-type: none"> • 180 – 80 000 USD • dbl cost of goods • dbl cost of license 	10 – 525 000 USD	N/A
Raids	No	No	No

Police actions



Administrative remedies

Details	RUSSIA	BELARUS	KAZAKHSTAN
Body	<ul style="list-style-type: none"> • Customs • Police 	<ul style="list-style-type: none"> • Customs • Police 	Justice Departments and Administrative courts
Duration	2-4 months	2-6 months	15-30 days
Sanctions	<ul style="list-style-type: none"> • Fine • Confiscation 	<ul style="list-style-type: none"> • Fine • Confiscation 	<ul style="list-style-type: none"> • Fine • Confiscation
Maximum fine	<ul style="list-style-type: none"> • 3 200 USD • or 5x cost of goods 	3 200 USD	330 USD
Raids	Yes	Yes	Yes

Criminal remedies

Details	RUSSIA	BELARUS	KAZAKHSTAN
Body	<ul style="list-style-type: none"> • Police • Prosecutor • Court 	<ul style="list-style-type: none"> • Police • Court 	Department of State Revenues (Financial Police) Court
Duration	6-12 months	2-12 months	2-12 months
Remedies	<ul style="list-style-type: none"> • Confiscation • Fine • Correctional works • Imprisonment up to 6 years 	<ul style="list-style-type: none"> • Confiscation • Fine • Correctional works • Imprisonment up to 5 years 	<ul style="list-style-type: none"> • Confiscation • Fine • Correctional works • Imprisonment up to 75 days
Raids	Yes	Yes	Yes

Criminal case – RUSSIA

- A group of persons (infringers) used fake crystals while making chandeliers and designated their products with the trademark **SWAROVSKI**
 - They were sentenced to fine in the amount of ~\$ 3,400
 - The counterfeit goods were confiscated (more than \$ 35,000)



Cases against counterfeit fashion goods – BELARUS



Challenges

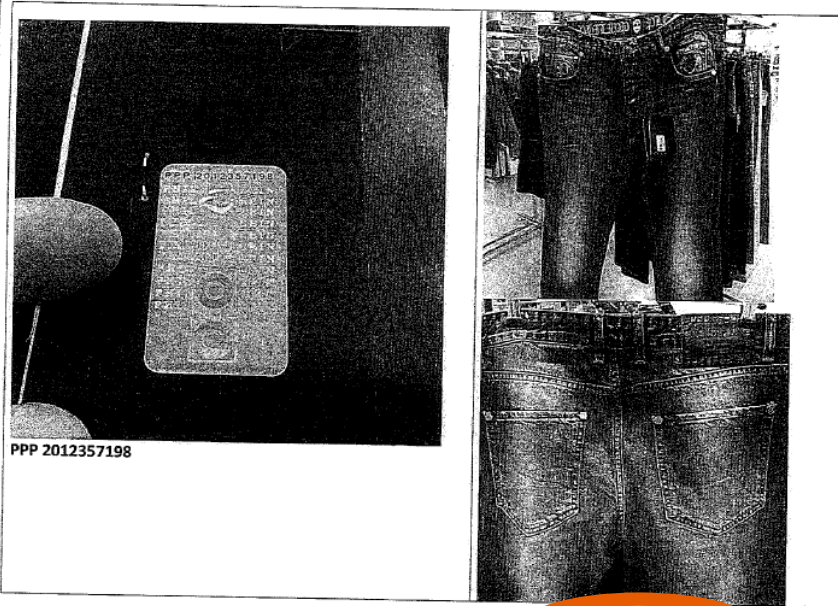
Proving counterfeitness might be difficult for fashion goods:

- Right holder's affidavit regarding common features of all original goods (labels, holograms etc.)
- Personal inspection of goods by the right holder's technical specialist
- Inspection of photos taken by the police

Counterfeit holograms



Foglio 15/16/17
Brev. 11641

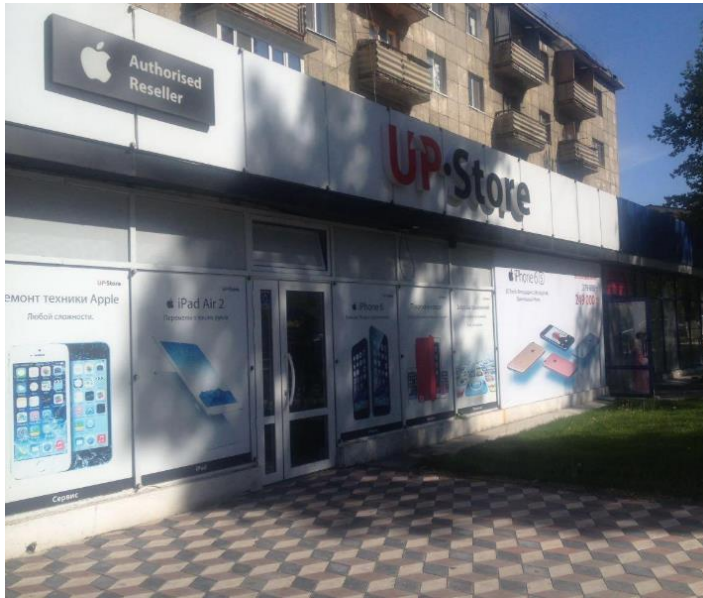


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F&S



Internet infringements, illegal signboards, advertisement, printed materials – KAZAKHSTAN



Cases in RUSSIA

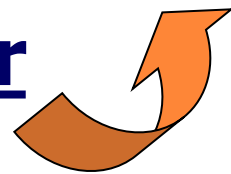




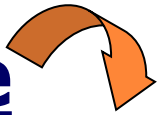
Before



After



Before

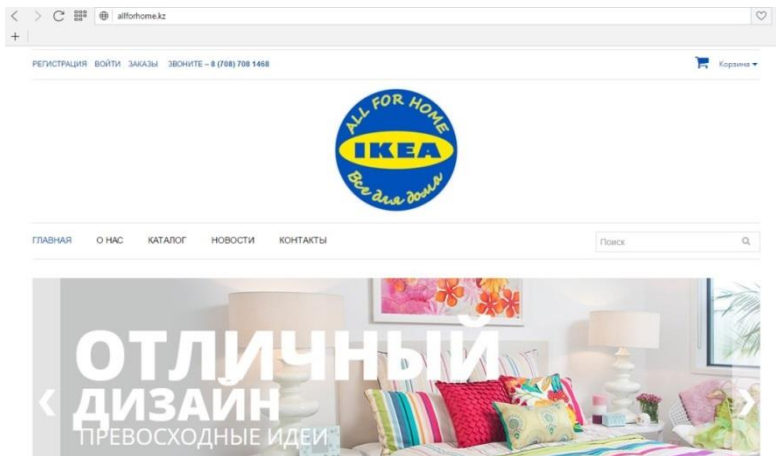


After

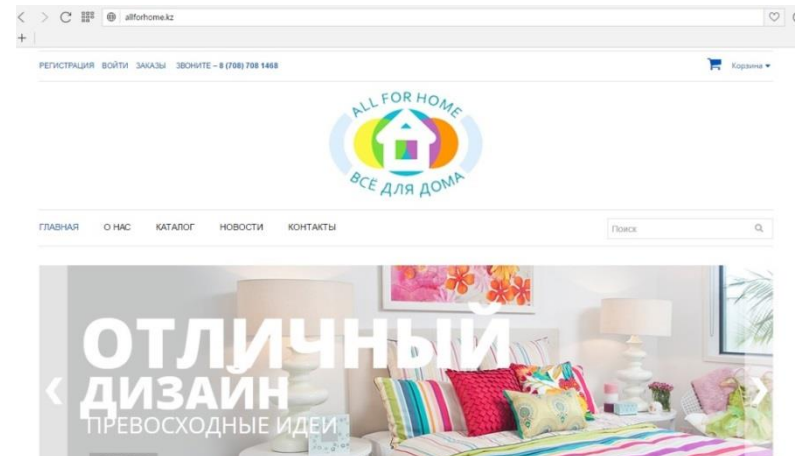


Infringements on the Internet – on-line trading

BEFORE

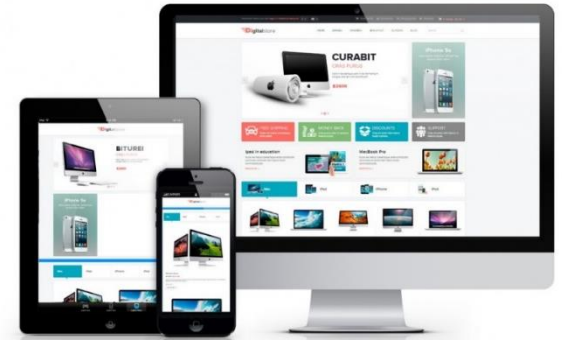


AFTER



Trading platforms

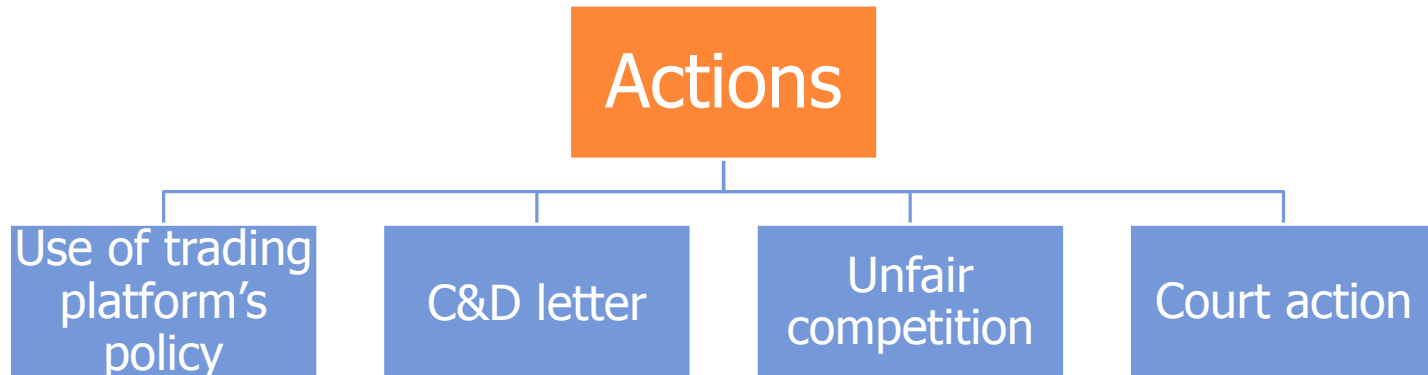
- On-line shops
- Auctions / catalogues



molotok.ru



Actions against Internet-sellers



Difficulties:

- identification of seller;
- evidence of infringement;
- jurisdiction.

Investigations

Services	Countries
<ul style="list-style-type: none">▪ On ground IP investigations▪ Test purchase▪ Identification of supply channels▪ Online brand monitoring▪ Domain names monitoring▪ Destruction of counterfeit goods	<ul style="list-style-type: none">▪ Belarus▪ Kazakhstan▪ Kyrgyzstan▪ Russia▪ Ukraine▪ Uzbekistan▪ Tajikistan▪ Mongolia

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THANK YOU !