
Kluwer Trademark Blog

Trademark Squatting in Kazakhstan: From Russia with Love

Bauyrzhan Zhanadilov (National Institute of Intellectual Property) · Wednesday, August 21st, 2024

Trademark squatting involves registering a trademark identical or similar to an established brand to profit from its reputation. This practice thrives in jurisdictions with weaker trademark laws, often forcing disputes to hinge on bad faith arguments in court.

Nowadays, the phenomenon has been evolving and taking various forms. For example, trademark squatters now register domain names similar to those of trademark holders, as discussed in the [post](#).

But this post highlights the other example of trademark squatting conducted by Russian companies. Recently, Russian companies, amid sanctions from the Russia-Ukraine conflict, have engaged in trademark squatting by claiming unused trademarks of foreign brands exiting the Russian market. A similar trend is seen in Kazakhstan, where Russian companies file lawsuits to terminate unused trademarks and expand their businesses. This is an example which highlights the importance of the concept of good and bad faith in trade mark proceedings.

“R-Climate” vs Ericsson

Status of Ownership

LLC “R-Climate” is one of the largest companies in Russia and is the owner of several trademarks registered with extension to the territory of the Republic of Kazakhstan. In December 2023, LLC “R-Climate” applied through WIPO for the registration of “**Ericsson**.”



Ericsson, the Swedish telecommunications company headquartered in Stockholm has registered three trademarks through the national registration process.

The trademarks of both companies are presented below.

LLC “R-Climate”

Registration number	Trademark	Application date	Status in Kazakhstan
1425593		05.03.2018	Protection Granted
1365206	Yin & Yang	30.01.2017	Protection Granted
1229492		28.04.2014	Protection Granted
1211444	BALLU	28.04.2014	Protection Granted
1214629	SHUFT	14.04.2014	Protection Granted
1778876	Ericsson	14.12.2023	Awaiting Decision

Ericsson

Registration number	Trademark	Application date	Status in Kazakhstan
3256		08.11.1995	Protection Granted
35409		24.05.2011	Protection Granted
37557		27.01.2012	Protection Granted

Background of the Dispute

In April 2024, R-Climate filed three lawsuits against Ericsson and the Kazakhstani patent office (Qazpatent), seeking to cancel the above trade marks for non-use. The disputes were consolidated into two cases overseen by two different judges.

The disputes are governed by the following Kazakhstani legal acts: the Civil Code ([General Part](#) and [Special Part](#)) and the [Law on Trademarks](#).

The plaintiff cites Article 19 of the Law on Trademarks, which mandates trademark use and allows challenges by any interested party for non-use.

Ericsson, however, claims active use through its subsidiary, supported by supply agreements and technical support from LLP “Ericsson Kazakhstan” and actively sells goods and services in Kazakhstan. The defendant cites Article 1025 of the Civil Code, emphasizing the trademark owner’s right to use and dispose the trademarks. Ericsson also questions the plaintiff’s choice of naming Qazpatent as a defendant, as it has no authority to monitor market use of trademarks. Moreover, the plaintiff could clearly explain the reason for naming Qazpatent as a defendant to the court, but simply referred to his right to involve parties he considered appropriate. Furthermore, Ericsson highlights that the plaintiff owns five distinct trademarks that are unrelated to the name “Ericsson” or its company, which the defendant views as indicative of trademark squatting.

Qazpatent’s Position in both cases

Initially named as a defendant, Qazpatent requested a change in legal status, arguing its role does not include trademark use monitoring. The burden of proof for non-use lies with the interested party challenging the trademark, while the trademark owner must prove use in court. Later, the status of Qazpatent as a defendant was reclassified as a third party without independent claims.

Court Decisions

Taking into account all arguments supported by legal grounds and facts provided by the parties, the

two judges reached the following mutual conclusions in both cases.

The court dismissed the plaintiff's claims, identifying the plaintiff's actions as an abuse of rights, contrary to the principles of good faith, reasonableness, and fairness under Article 8 of the Civil Code. The court acknowledged the Ericsson's use of the disputed trademarks and recognized Ericsson's longstanding brand reputation, viewing the plaintiff's trademark registration attempts as an association with this reputation, and thus, denied the plaintiff's claims. The court's decisions were not appealed by the plaintiff and have entered into force.

Conclusion

This case in Kazakhstan highlights the ongoing issue of trademark squatting, where entities exploit legal loopholes to claim trademarks of well-established brands. In this instance, the plaintiff's actions were deemed an abuse of rights, as they attempted to associate with Ericsson's longstanding reputation without genuine use of the trademarks. The court's decisions to dismiss the claims underscores the importance of good faith and ethical practices in trademark law. It also serves as a reminder of the need for stronger legal frameworks to address and deter trademark squatting effectively.

An additional case involving another Russian company's attempt to claim the trademark of a well-established company will be discussed in the next part.

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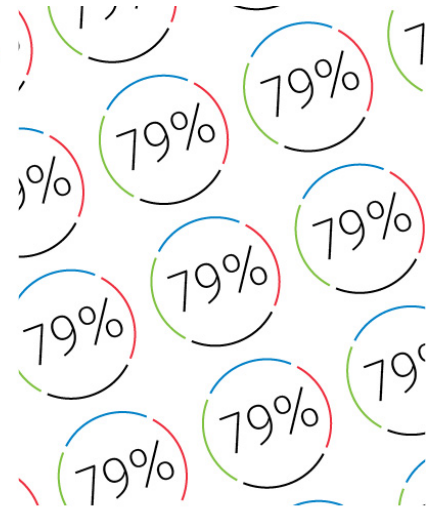
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