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Trademark Squatting in Kazakhstan: From Russia with Love. Part II

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In the [first](#) part of this series, we examined how geopolitical factors have contributed to a rise in trademark squatting, focusing on Russian companies taking advantage of foreign brands' market exits due to sanctions. In this part, we delve into the case between LLC "ALAYV TRADE" and SANYO Electric Co. Ltd.

"ALAYV TRADE" vs SANYO

Background of the Dispute and Ownership Status

LLC "ALAYV TRADE" is a Russian company established in 2017, engaged in the wholesale and retail of electrical goods, computers, software, and office equipment. The company also provides a variety of services, including transportation, IT development, and advertising.

It is also the holder of the following trademarks in Russia.

Registration number	Trademark	Registration date	Status in Russia
792605		19.01.2021	Protection Granted
853862	SANYO	14.03.2022	Protection Granted
885395	SANYO	04.08.2022	Protection Granted
963636		01.09.2023	Protection Granted
972677	SANYO	09.10.2023	Protection Granted

In 2021, LLC “ALAYV TRADE” became the owner of the SANYO trademarks in Russia after a legal victory. Initially, the company’s application for trademark registration (No. 853862) was rejected due to its similarity to existing trademarks owned by SANYO Electric Co. Ltd. However, after a favorable Russian [court ruling](#), LLC “ALAYV TRADE” secured ownership of the disputed trademarks.

In 2022, the company swiftly launched a website under the domain sanyo-electric.com, where it boldly promoted the “*brand’s*” return with the message:

“The legendary Japanese brand is returning to Russia, ready to impress consumers with an updated line of high-tech products featuring modern designs. We knew what you were waiting for, and we delivered it with love!”^[1]

Following this, LLC “ALAYV TRADE” applied to register trademark **SANYO** in 14 other countries, including Cyprus, the UAE, Armenia, Egypt, Israel, and Kazakhstan. However, all of these applications were denied on the grounds that the trademarks were confusingly similar to those already held by SANYO Electric Co. Ltd.

Kazakhstan denied the registration due to the pre-existing trademarks of SANYO Electric Co. Ltd., which are listed below.

Registration number	Trademark	Expiration date	Status in Kazakhstan
3236	SANYO	28.09.2033	Protection Granted
21699	SANYO	06.05.2025	Protection Granted

The Core of the Dispute

In April 2024, LLC “ALAYV TRADE” filed lawsuits in Kazakhstan seeking to cancel SANYO’s trademarks, registered under certificates ?3256 and ?21699. The plaintiff argued that these trademarks had not been used in Kazakhstan for over three years, citing Article 19 of the Law on Trademarks as the basis for cancellation.

Plaintiff’s Argument

LLC “ALAYV TRADE” claimed that SANYO’s trademarks had become dormant due to the company’s restructuring and its exit from specific markets, which violated the legal requirements for maintaining a trademark.

Defendant’s Position

SANYO Electric Co. Ltd. presented evidence of ongoing trademark use in Kazakhstan, including sales records and market presence, and certificates demonstrating its integration with Panasonic. The defendant invoked Article 1025 of the Civil Code, affirming the rights of trademark owners to use and manage their trademarks as they see fit.

Qazpatent’s Role

Initially named as a defendant, Qazpatent was later reclassified as a third party, as it does not monitor the use of trademarks.

Courts’ Decisions

In a ruling similar to the “[R-Climate](#)” vs. [Ericsson](#) case, the court emphasized the principles of good faith, fairness, and ethical use of trademark rights. It found that LLC “ALAYV TRADE” had attempted to exploit SANYO’s brand reputation without a legitimate business interest, violating Article 8 of the Civil Code.

SANYO Electric Co. Ltd. successfully demonstrated active use of its trademarks in Kazakhstan, refuting the plaintiff’s claims of non-use. The court also clarified that the burden of proof lay with the plaintiff, who failed to provide sufficient evidence.

Although LLC “ALAYV TRADE” appealed the ruling, the Astana Court of Appeal upheld the original decision.

Conclusion

The outcome of the case hinged on two critical factors: SANYO's ability to demonstrate active use of its trademarks and the flagrant bad-faith behavior of LLC "ALAYV TRADE." Had either of these elements not been present, the decision might have been different. This highlights the ongoing challenges faced by brand owners who have fully withdrawn from a market, as they may still struggle to defend their trademarks against bad-faith actors.

These cases serve as a critical reminder for businesses to maintain comprehensive documentation of trademark use in order to defend against non-use claims. In the context of the ongoing armed conflict between Russia and Ukraine, trademark squatting has become even more prevalent, as sanctions and market exits create opportunities for bad-faith actors to exploit foreign brands' intellectual property. In jurisdictions with evolving legal frameworks like Kazakhstan, vigilance and strong legal protection are more essential than ever.

Moreover, these cases set important "precedents" for future trademark disputes in Kazakhstan, promoting fairness and transparency in the marketplace. It also reaffirms the need for upholding the principles of good faith and ethical business conduct to safeguard the reputations and rights of established brands from exploitation.

[1] Translated from Russian into English by the author of this article

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