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Intellectual property rights infringement in the Republic of Armenia
on the examples of trademarks

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Since getting independence in 1991 and transition to market economy new claims were presented to the intellectual property. And one of the important things was formation of legislation in this field. And the national system of intellectual property protection in Armenia started by the establishment of the Patent Office Under the Government of the Republic of Armenia in January 1992. Main goal of which was state registration of industrial property objects, provision of documents for protection of industrial property objects and providing corresponding information, as well as formation of legislation. The National Agency of Copyright was established in December 1993 with the goal of making state policy in the field of copyright, supporting participation of State in the international system. Later, on 6 of March 2002, the Intellectual Property Agency of the Republic of Armenia was established by merger of those two organizations, which has the status of separate division acting within the Ministry of Economy of the Republic of Armenia. The Agency carries out the registration of intellectual property objects by granting them legal protection.

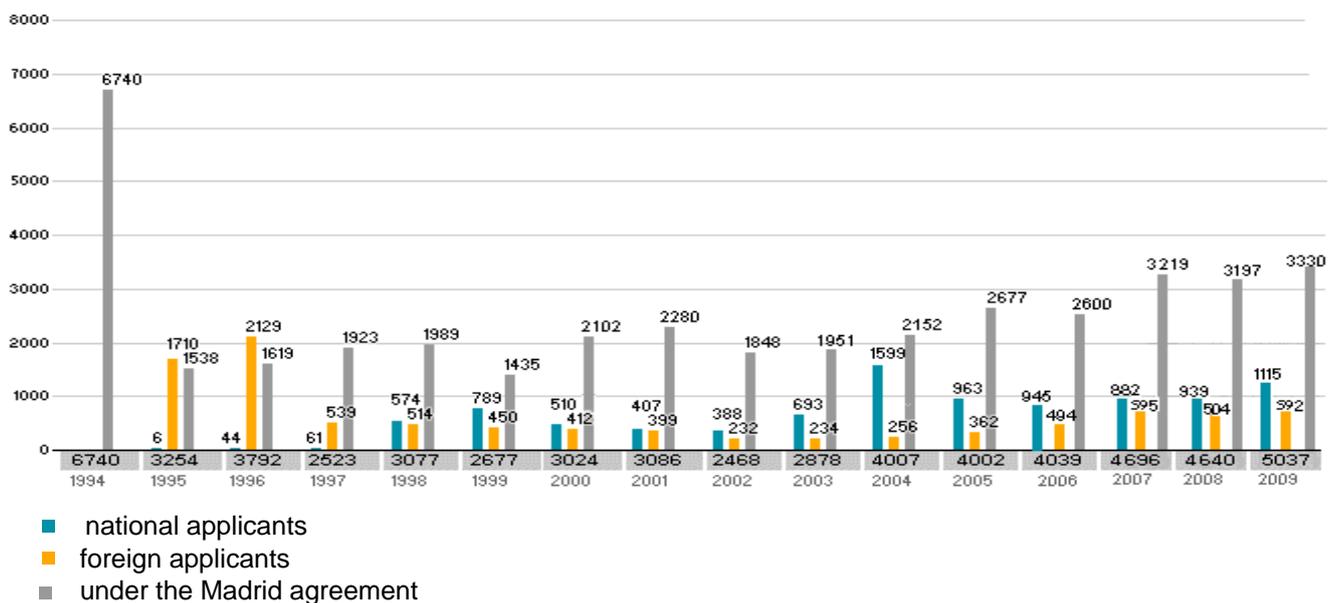
The legislation is regulated by adopted laws and rules, as well as international treaties to which the RA is a party: RA is a member of World Intellectual Property Organization (WIPO) since 1993 and the Eurasian Patent Office (EAPO) since 1995. Being a member of the Agreement of Partnership and cooperation Republic of Armenia is obliged to become a party to some international treaties, the part of which was signed under the patronage of WIPO.

Talking about intellectual property we should mention two spheres included, these are industrial property and copyright. The main part of industrial property is covered by inventions and trademarks. Speaking about trademarks it is important to mention that for regulation of the trademarks registration procedure in the Republic of Armenia only on 19 August of 1995 National Assembly adopted Provisional regulation on trademark that was called to regulate the registration and protection of trademarks and filling the application on trademark. And the first law on trademarks and service marks and appellation of origin was adopted on July of 1995, which regulates national registration procedure of marks. Later new law - "The law of Republic of Armenia on trademarks and service marks and appellation of origin" was adopted on 20 March 2000, and in 2005 where some significant changes have been done. With regard to international protection of trademarks, RA is a party of Madrid agreement concerning the international registration of marks and from October 19, 2000 a party to Protocol related to the Agreement. Above mentioned Madrid agreement and the protocol allow not only the protection of marks on the territory of Republic of Armenia, but as well physical and juridical persons of RA has right to get protection to their marks in each of the contracting countries parties to this agreement and protocol. It is important to mention those parts of law, which is devoted to exclusive right. The owner of registered trademark has exclusive right to prevent third persons from manufacturing, application, import, sale or offering for sale, as well putting into economic turnover in other way of trademark or goods designated by it, or stocking of the goods

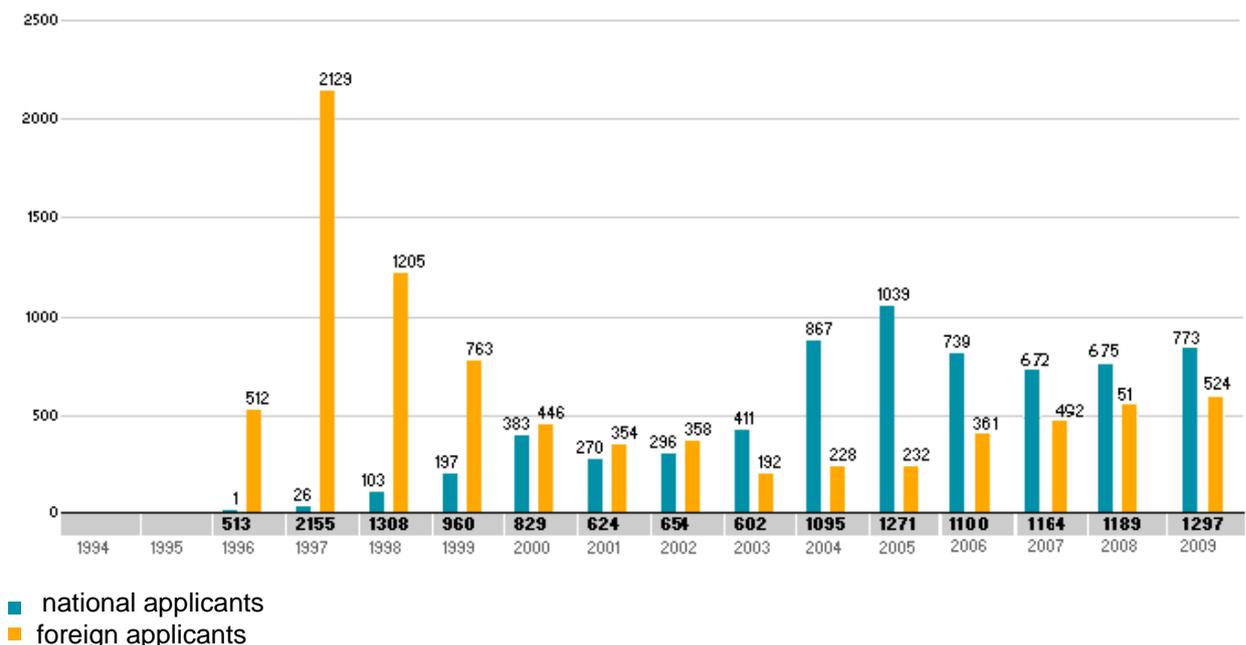
designated by that mark or of the trademark for the same purpose or from using them in advertisements. As identification sign of the goods and (or) services of one person (legal or physical) from the other, trademarks have its role in commerce, which means in the whole economy. That is why the owner of trademark has possibility to protect its trademark for unlimited time. This practices not only in Armenia and has main reason as trademarks are used with commercial purpose, which means continual effect.

In order to clarify current situation with trademarks protection in the RA let here are some statistical data taken from our web site www.aipa.am. For the 2009 IP agency received 1707 application by national procedure for trademarks registration from which 1115 are national applicants about 65% and 3330 notifications via Madrid system. During the same year 1297 trademarks were registered from which 773 national holders about 60%.

Comparing with year 2008 939 national applicants we can conclude that the interest of national producers in acquiring protection for their TM grows, as the producers are interested in reputation of their intangible assets, which is trademark. Here are some statistical data for trademarks applications filed, taken from ww.aipa.am



And for registered trademarks



Nevertheless protection of TM are still new for our country and many entrepreneurs realize the importance of legal protection to their trademark that is why in spite of crisis the quantity of national registrations increase. Besides the quantity of applicants, which register their trademarks in other countries via Madrid, system 89 increase. Many of producers started to realize the importance of entering international market must be in legal way, which has its positive impact on the economy. But this creates additional problem for the trademark owners, which is infringement. That is why for the economy of the RA the protection of trademarks and control of unfair use of trademarks are very important issues. Of course such kind of problems appear not only in developing countries like Armenia but in developed countries as well. With this purpose new law on trademarks, which is already in force on 1 July 2010. It includes special points for preventing registration of such signs and is harmonized with the EU directives and TRIPS. And new “Law on geographical indication” is in force as well.

With regard to this question IP agency of the republic of Armenia is in close cooperation with police, which has special division involved in preventing illegal use of trademark. The police presents letter of inquiry on counterfeiting trademark examples disclosed from the market and asks for specialized expertise. Department of trademarks and industrial designs makes a conclusion on the presented examples which becomes a basis for the police decision about entrepreneurs who uses trademarks in bad faith. Here is some example of TM infringement that was presented by the police for specialized expertise to the Trademark and industrial design department. The police has presented trademark “Cleoparto”



which is confusingly similar to the registered trademarks. The question of similarity and confusingly similarity is regulated by the Law and Rule.



According to the Law “if an agent or representative of the owner of the trademark or any other person, which is protected in one of member states of Paris Convention has filed an application of registration without permission of the trademark owner the latter is entitled to oppose the registration for the claimed trademark or demand its cancellation or the assignment of that trademark in his favor, unless such agent, representative or other person justifies his/her action”.

Nevertheless the owner of trademark has possibility to fight against this as well by notifying the other side and demanding not use trademarks in commerce. Second the owner can apply to the court asking to solve the problem. According to Criminal code of RA for illegal use of trademark infringer must pay penalty 500-1000 times of minimal salary.

Even if already formed and adopted legislation can be the guarantee for the protection of intellectual property rights but the realization of protection is not enough yet, which prevents further development of this field. Some problems connected with not efficient management of intellectual property objects not only by State, but by private sector as well. Another problem is low level of awareness of the public about intellectual property,

in the result of which rights of the owners are infringed; people cannot protect and exercise their rights in the appropriate way to get profit from it, due to lack of the knowledge of the laws. Besides we still don't have specialized court system or at least judges specialized in this field with IP background like in many developed countries where such kind of problems with IP rights infringement can be solved in right and legal way.

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