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ORIZZONTI

Central Asian AI Industry:
Trademark protection and branding strategies

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ABSTRACT

Artificial intelligence (AI) has transformed economies across Central Asia, yet trademark policy gaps hamper growth. This paper investigates features of trademark regulation and their impact on domestic AI enterprises. A comparative analysis of the laws of Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, benchmarked against international IP treaties, demonstrates the importance of striving for legal development. Despite some progress, most countries do not yet fully address issues like protections for well-known marks and non-traditional trademarks critical for AI. Registration and enforcement mechanisms also lag global standards. These legal uncertainties and hurdles constrain emerging regional AI leaders seeking to leverage branding. Case studies of leading firms highlight cross-border trademark management challenges. Recommendations include acceding to international treaties, strengthening online brand enforcement, and public-private collaboration on reforms tailored to AI sector needs. Key findings show substantial upgrades to statutory provisions, registration systems and regional cooperation are urgently required to support the rise of Central Asian AI. This research strives to fill an important gap in the trademark ecosystem for a vital high-tech growth engine. It provides policymakers and enterprises a roadmap to transform Central Asia into a thriving AI IP center through legal modernization and strategic global branding.

KEYWORDS: Central Asia, artificial intelligence, intellectual property, trademark management

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1. Introduction

The emergence of artificial intelligence (AI) companies in Central Asia over the last decade has transformed the regional economic landscape, yet also exposed vulnerabilities in intellectual property rights frameworks. Countries like Kazakhstan, Uzbekistan and Kyrgyzstan have seen the growth of prominent AI and machine learning driven companies in sectors like finance, e-commerce and logistics. Homegrown fintech providers such as Kaspi Bank in Kazakhstan (Achilov, 2017) and Payme in Uzbekistan have achieved multi-billion dollar valuations, while Kiwi and Chocofamily have become household brands (Chocofamily, 2022). However, the lack of robust trademark protection mechanisms in many Central Asian countries threatens the ability of these new AI leaders to fully capitalize on their innovations and establish strong brand reputations (Salybekov et al., 2021).

At the international level, the World Intellectual Property Organization (WIPO) has emphasized the urgent need to modernize trademark laws globally to address the rise of AI (WIPO, 2019). AI systems are playing an increasing role in generating and protecting trademarks. However, most national frameworks in Central Asia do not adequately cover challenges like ownership and protection of AI-devised trademarks. There are also wide gaps between countries in substantive trademark law and registration procedures. For instance, Kazakhstan's trademark law regime has been rated more advanced than neighboring nations, with accession to the Singapore Treaty and Madrid Protocol (U.S. Department of State, 2020). But other countries like Turkmenistan and Tajikistan lag behind in adopting international best practices. Such fragmentation creates hurdles for regional AI enterprises seeking to build and defend their brands across Central Asia.

2. Problem statement

While the development of artificial intelligence has accelerated across Central Asia, the policy and legal environment surrounding protection of IP assets including trademarks remains inadequate. Most regional countries have outdated trademark laws that fail to address emerging issues like online brand enforcement and protections for AI-created marks.

There are also significant disparities between national laws and procedures for trademark registration and adjudication of conflicts. These deficiencies impose constraints on domestic AI companies that are rapidly trying to scale their platforms and tap cross-border synergies. The lack of harmonization further complicates branding and anti-counterfeiting strategies. More research is urgently required to diagnose gaps in national trademark regimes in Central Asia and formulate policy reforms to support the burgeoning AI industry.

3. Research questions and objectives

This paper will investigate the following key research questions:

What are the main shortcomings and inconsistencies in trademark legal frameworks across Central Asian countries? How aligned are national laws with international best practices on issues like well-known marks and IP protections for AI owners?

What unique trademark enforcement and brand management challenges do AI companies face in Kazakhstan, Uzbekistan and other Central Asian markets compared to Western firms?

What policy, regulatory and strategic steps can Central Asian governments and domestic AI enterprises take to strengthen trademark protections and leverage branding for competitive advantage?

The overarching objectives are to:

Conduct a comparative analysis of national trademark laws and procedures in Central Asia and benchmark against international IP agreements

Evaluate the on-the-ground impacts of legal deficiencies and inconsistencies on domestic AI companies through case studies and industry insights

Formulate a set of policy recommendations and branding strategies tailored to the needs of the Central Asian AI sector

4. Significance of study

This research aims to fill an important gap in understanding of the trademark policy landscape for artificial intelligence in Central Asia. While existing scholarship has examined strengths and weaknesses of national IP frameworks, there has been limited focus on implications for the burgeoning

regional AI industry. This study will provide policymakers, international organizations and domestic companies detailed insights into legal hurdles and best practices for protecting AI trademarks and leveraging branding. The findings will support governments in harmonizing laws and upgrading enforcement mechanisms to foster innovation. For nascent AI enterprises across Central Asia, the analysis will highlight steps to navigate complex IP terrain and maximize value of their brands as strategic assets. With AI poised to revolutionize economies from Almaty to Tashkent, establishing facilitative and coherent trademark policies is an urgent priority.

5. Methods

Comparative analysis of trademark laws in Central Asia

To diagnose deficiencies in national trademark frameworks across Central Asia, a systematic comparative analysis of legal statutes and regulations in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan was undertaken. This enabled benchmarking against international best practices and treaties including the World Intellectual Property Organization (WIPO) Joint Recommendation on Trademark Licenses, the Singapore Treaty on Trademark Law, and the Madrid Protocol for international trademark registration.

The review specifically examined substantive provisions on trademark eligibility, registration procedures, rights conferred, assignment and licensing, maintenance requirements, well-known mark protections, and enforcement mechanisms in each country (Pisacane, Zibetti, 2020). Metrics assessed included alignment with the TRIPS Agreement minimum standards, adherence to the "first-to-file" principle, availability of multi-class applications, accession to the Madrid System, recognition of unregistered marks, and digitalization of databases and filings (Salybekov et al., 2021).

Comparative analysis reveals a lack of harmonization across Central Asia, with trademark law regimes at varying stages of development. For instance, Kazakhstan (AirJet, 2022) emerged as a regional leader through recent accession to the Singapore Treaty and Madrid Protocol, which expedites trademark prosecution and enhances tools against counterfeit-

ing (U.S. Department of State, 2020). By contrast, Turkmenistan's legal framework contains substantial gaps in protecting well-known marks and providing civil remedies, as noted in the U.S. Special 301 Report (U.S. Department of State, 2022).

Tajikistan also lacks critical provisions on well-known mark recognition and protection for non-traditional marks like sounds, scents and holograms - posing enforcement hurdles for AI innovators exploring new sensory branding techniques. Overall, the heterogeneity in substantive trademark law and procedures impedes regional enterprises from seamlessly registering and enforcing their marks across Central Asia.

6. Review of international IP agreements and treaties

The comparative analysis incorporated a detailed review of leading international IP agreements, with a focus on evaluating Central Asian countries' adoption of best practice treaty provisions into national law. Core treaties examined included the Paris Convention for the Protection of Industrial Property, the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), the Singapore Treaty on the Law of Trademarks, and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol).

The review found critical gaps in implementation of treaty standards on well-known mark recognition, trademark licensing, examination rules and electronic filing systems. For instance, though most Central Asian countries have ratified the Paris Convention, few have translated Article 6bis protections for well-known marks into clear statutory provisions on fame criteria, dilution and enforcement against unauthorized use. There has also been limited uptake of the Madrid System for streamlined international trademark registration, with only Kazakhstan acceding through recent reforms.

Moreover, certain TRIPS Agreement enforcement obligations around civil judicial procedures and criminal trademark penalties have not been fully incorporated in national laws across the region (Yu, 2009, p. 46). Thus, despite Central Asia's general participation in international IP frameworks, substantial work remains to integrate key treaty protections

into domestic trademark regimes. Targeted training and technical assistance programs are required to build legislative and institutional capacity.

7. Results

Result 1: Assessment of National Trademark Laws and Regional Harmonization

Overview of Kazakhstan's main trademark law and regulations
Kazakhstan has the most advanced national trademark law framework in Central Asia, reflecting significant progress in adopting international best practices. The core statute governing trademarks is the Law on Trademarks, Service Marks and Appellations of Origin of Goods No. 456-I, enacted in 1999 and most recently amended in 2020. Kazakhstan is also party to major international treaties including the Madrid Protocol on international trademark registration (Achilov, 2017).

Key features of Kazakhstan's trademark regime include adherence to the first-to-file principle, lack of substantive examination, and multi-class application system. The law provides protections for well-known marks and collective marks, and recognizes unregistered trademarks based on use and reputation. Recent changes enabled accession to the Madrid Protocol and Singapore Treaty, which expedited prosecution and enhanced anti-counterfeiting tools.

However, certain gaps remain around protections for non-traditional marks, licensing requirements and parallel imports. Kazakhstan does not explicitly permit registration of unconventional trademarks like sounds, scents and holograms. Statutory provisions on trademark licensing are limited compared to international best practices like the WIPO Joint Recommendation on Trademark Licenses. Courts have issued some conflicting rulings on parallel imports of genuine goods without the mark owner's consent (Salybekov et al., 2021).

Overall, Kazakhstan's trademark law offers regional AI companies strong protections and registration mechanisms relative to neighboring countries. But full alignment with leading international standards calls for targeted reforms around licensing, non-traditional marks and other emerging issues.

CENTRAL ASIAN AI INDUSTRY: TRADEMARK PROTECTION AND BRANDING STRATEGIES

Kyrgyzstan's legal framework for trademarks

Kyrgyzstan's basic trademark legislation is set out in the 1999 Law on Trademarks, Service Marks and Appellations of Origin, last amended in 2020. While the law complies with international agreements like the Paris Convention, critical gaps remain around well-known mark recognition, licensing, registration procedures and enforcement[1].

Protection for well-known marks against dilution and unfair exploitation is deficient compared to global best practices. Statutory provisions on trademark assignment and licensing are limited, creating uncertainty for AI companies. Examination procedures still rely on paper filings and notices rather than electronic systems. And civil remedies are constrained, with damages limited to lost profits rather than including infringement losses (GRATA International, 2014).

Thus, despite Kyrgyzstan's strong foundation of trademark law, targeted reforms are still needed to address challenges facing domestic AI enterprises. Priority areas include codifying protections for well-known marks, facilitating digital filings and prosecution, liberalizing licensing requirements, and expanding enforcement remedies. With modernization, Kyrgyzstan can offer its AI innovators globally-competitive trademark tools.

Tajikistan's trademark law provisions

Tajikistan's 2007 Law on about Trademarks and service marks provides the legislative basis for trademark protection, though critical improvements are required to align with international standards (World Trade Organization, 2012). Unlike Kazakhstan, Tajikistan is not a Madrid Protocol member, limiting access to streamlined international trademark registration.

Substantive gaps also exist around licensing requirements, well-known mark recognition, and protections for non-traditional marks. Compulsory licensing of unused marks risks undermining investments by AI brands in building reputation. Courts have narrowly interpreted well-known mark safeguards, leaving leading brands exposed to local infringers. Sensory

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[1] Legal Acts of the Kyrgyz Republic (1999): On trademarks, service marks and appellations of origin.

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and non-visual types of marks like sounds and holograms are not expressly permitted (Priyanga, 2023).

Thus, despite recent steps to strengthen enforcement and expand IP protections, further upgrades to Tajikistan's trademark framework are vital to support domestic AI companies. Priority areas include Madrid Protocol accession, codifying well-known mark rights, liberalizing licensing rules, and adding protections for emerging unconventional mark types.

Uzbekistan's trademark law regime

Uzbekistan's core trademark legislation is the 2001 Law on Trademarks, Service Marks and Appellations of Origin, supplemented by various regulations[2]. Recent years have seen efforts to expand IP protections and align closer with international standards, including through joining the Madrid Protocol.

However, certain substantive and procedural gaps remain when benchmarked against global best practices. Registration procedures continue to involve manual paperwork lodged directly at the national patent office. The law lacks robust protections for non-traditional trademarks like sounds, scents and 3D shapes that AI innovators increasingly seek to register.

Overall, while Uzbekistan has taken significant steps to modernize its IP framework, targeted reforms are still required to address the evolving needs of domestic AI companies around trademark registration, licensing and enforcement.

Evaluation of substantive provisions on licensing, assignment, rights conferred in each national law

The comparative legal review paid particular attention to evaluating substantive statutory provisions on trademark licensing, assignment, and the scope of rights conferred in each Central Asian country. These issues are vital for regional AI enterprises seeking to fully leverage and monetize their trademark assets across borders.

In general, the analysis found less developed frameworks for permitting and regulating licensing compared to international best practice

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[2] WIPO Lex. (2001): Law of the Republic of Uzbekistan on trademarks, service marks and appellations of origin. https://wipolex-res.wipo.int/edocs/lexdocs/laws/en/uz/uz001en.pdf

standards like WIPO's Joint Recommendation Concerning Trademark Licenses. Most countries impose strict requirements around quality control, recorded licenses, and eligibility of licensees (Pisacane, Zibetti, 2020). However, leading practices like presuming validity of certain open licenses are absent. This risks constraining sophisticated licensing models used by AI brands to expand into new markets.

Similarly, statutes in some countries lack clear provisions on trademark assignment, creating uncertainties around transferability. Recording requirements for license and transfer deals also vary widely. This heterogeneity adds transaction costs and legal risks for regional AI firms undertaking cross-border branding partnerships and M&A deals.

8. Overview of AI leaders in Central Asia

Central Asia has given rise to a number of pioneering AI-driven companies across key sectors like financial services, e-commerce and logistics. In fintech, Kazakhstan's Kaspi Bank has emerged as a leader, leveraging machine learning and data analytics to provide digital banking and payments services to millions of customers (Kaspi Bank, 2022).

Regional e-commerce giants such as Chocofamily have also grown rapidly by utilizing AI-enabled personalized recommendations and predictive analytics. Chocofamily, Kazakhstan's leading online retailer, applies artificial intelligence across its operations from inventory and logistics to customized promotions (Chocofamily, 2022).

Logistics startups including Kazakhstan's AirJet also demonstrate Central Asia's AI potential. AirJet optimized routing and cargo loading for airlines through big data analytics, while providing an online platform for freight delivery (AirJet, 2022). Such innovators show the transformative capacity of AI across economic sectors in Central Asia.

Result 2: Trademark Protection Strategies for AI Industry

Examination of cross-border strategies of AI multinationals like Huawei
As Chinese tech giant Huawei and other multinationals expand into Central Asia, their cross-border branding and enforcement strategies offer insights for regional firms. Analysis shows how globally leading AI enter-

prises leverage sophisticated tools like trademark analytics, management software and watch services to streamline protection (Clarivate, 2022).

Huawei centralizes oversight of its trademark portfolio through a global IP management system, while outsourcing national registration and monitoring to local law firms. Analytics help forecast future brand infringement risks by geography. Huawei also runs a worldwide customs recordal program to detect counterfeit exports (Al Shami, 2019).

Regional AI companies can similarly pursue centralized, data-driven portfolios brining costs down through outsourcing routine filings and watch services. Joint ventures are another avenue – Huawei partners with national telecom operators to co-brand products and share enforcement costs. Ultimately, leveraging scale, automation and partnerships is key for startups to secure brands across borders.

Discussion of best practices for trademark watch services, cease and desist letters

The research identified global best practices Central Asian AI companies can adopt for cost-effective preliminary protection of trademarks, including watch services and cease and desist letters (Clarivate, 2022).

Retaining a professional watch service provides early warning against potential third party uses that could dilute brands or require enforcement action. Services utilize online monitoring tools to identify emerging risks worldwide.

Brand owners can also proactively send cease and desist letters to potential violators requesting they voluntarily halt any infringing use. While lacking legal force, such letters establish rights and may deter infringement. Templates are available, but custom drafting by counsel tailored to the scenario is recommended (Gulyamov et al., 2021).

Adopting these global tools can help Central Asian AI firms take proactive steps to monitor and protect trademarks before issues escalate. However, the region still requires strong legal systems for pursuing enforcement if dialogue fails.

9. Discussion

Recommendations on leveraging trademarks to build brand value and competitive advantage

Based on the analysis, the following recommendations emerge for Central Asian AI enterprises seeking to leverage trademarks strategically to create brand value and competitive advantage:

Pursue registration of key brands even before product launch to preempt others. Defensively register marks years in advance of planned expansion into new countries.

Establish comprehensive trademark monitoring programs internally and via external watch services to identify infringement risks early.

Develop coordinated regional and global branding strategies to maximize synergies across jurisdictionsm (Gulyamov et al., 2023). Prioritize countries offering strongest protections.

Leverage litigation selectively to signal enforcement commitment, while pursuing negotiated resolutions where possible to save costs.

For maximum flexibility, register trademarks globally via WIPO's Madrid System as well as directly in key countries.

With well-crafted, proactive branding strategies, Central Asia's nascent AI innovators can overcome legal hurdles to build valuable reputations and gain competitive edge.

Summary of key findings on trademark protection landscape for AI in Central Asia

This comprehensive comparative analysis of national trademark frameworks across Central Asia yields important findings on the IP protection landscape for regional AI enterprises.

While certain countries have taken positive steps like accession to international treaties, critical substantive and procedural gaps remain in areas like well-known mark safeguards, licensing rules, non-traditional mark eligibility and online infringement remedies. Divergences across countries on issues like opposition and cancellation processes also impose hurdles.

Overall, despite progress, reforms are urgently required to harmonize statutory trademark provisions, streamline prosecution, upgrade enforcement cooperatives and integrate international best practices. This will strengthen the competitive position of Central Asia's rising AI sector.

Implications of findings for policymakers and AI companies in strengthening IP frameworks

The research findings have salient implications for both policymakers and AI enterprises in taking steps to shore up trademark protections.

For policymakers, clear priorities include acceding to global treaties, codifying international standards in national laws, building examination capabilities, implementing electronic application systems and establishing specialized IP courts. Stronger customs enforcement and public-private collaborations will also be vital.

For AI companies, key actions include closely monitoring prosecution trends, leveraging analytics in portfolio management, adopting proactive anti-counterfeiting strategies and participating actively in awareness-raising.

A dual track agenda of legal/institutional reform and enhanced enterprise IP management, underpinned by greater regional harmonization, will be essential to transform Central Asia into a flourishing AI innovation center.

10. Conclusion

Limitations of the study and directions for future research

While covering significant ground, this study has limitations that provide directions for future research. The legal analysis was limited to trademark statutes rather than beyond IP fields like copyright and patents highly relevant to AI. Broader survey data on enterprise IP challenges was also not available. Furthermore, the focus on Central Asia omitted comparisons with more advanced AI ecosystems like China.

Future studies could expand into deeper cross-disciplinary assessments encompassing the full range of IP frameworks impacting Central Asian

AI innovators. More extensive enterprise surveys and quantitative bench-marking against leading Asian AI nations could reveal further insights.

Concrete steps for policymakers to improve trademark laws and har-monization

Based on the comprehensive legal and industry analysis, the following concrete recommendations emerge for Central Asian policymakers to reform and harmonize national trademark laws to better support the AI sector:

Accede to key international treaties including Madrid Protocol, Singapore Treaty to enable integration into global registration systems

Enact clear statutory provisions codifying protections for well-known marks based on WIPO Joint Recommendation principles to prevent dilution

Liberalize restrictive statutory requirements around trademark licensing to facilitate commercialization

Expand eligible trademark subject matter to unambiguously include non-traditional marks like sounds, scents, 3D shapes to align with AI innovations

Implement centralized online filing platforms and databases to modernize application and recordal processes, reduce pendency times

Strengthen civil remedies through introducing statutory damages, expedited injunctive relief and lowering evidentiary burdens for rights holders

Upgrade criminal penalties to deter large-scale online counterfeiting syndicates especially on e-commerce platforms

Establish specialized IP courts and train judges to improve trademark adjudication expertise and predictable rule of law

Invest in customs enforcement cooperation through regional mechanisms and agreements with rights holders to prevent circulation of counterfeit goods

Create public-private multi-stakeholder platforms for collaborating with tech enterprises on IP policy reforms attuned to AI innovation needs

By proactively adopting legal and branding best practices, Central Asia's AI enterprises can better navigate the complex regional IP environment to compete globally.

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Il presente numero di GEOPOLITICA – curato da Tiberio Graziani e Michela Mercuri – raccoglie articoli e saggi utili al progresso degli studi di geopolitica nell'ambito dell'area mediterranea, contribuendo a qualificare il dibattito in corso.

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