



Russian Court rules that imported lighters infringe trademark rights of PEPSI Co., Inc.

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In 2018, a Russian commercial Court held an importer of lighters liable to a fine for illegal use of trademarks and infringement of the trademark right of PepsiCo., Inc., based on administrative offence report of the Russian Customs Authority (case A51-14283/2018).

In the course of customs clearance, the Russian Customs found that imported lighters featured the "PEPSI" marks, and turned to the owner of the trademark, asking if the importer or producer had the right to use the mark in Russia.

The trademark owner representative informed the Customs that neither had been granted the right to use the mark. The Court adjudged the defendant administratively liable for the infringement of well-known word trademark PEPSI registered for soft

drinks in Class 32 of the Nice classification.

The importer argued that placing the mark PEPSI on the lighters was not intended to refer to PepsiCo., and could not lead to confusion among consumers.

The trademark owner, in turn, argued that its trademark placed on the lighters could create an association of the company with smoking and unhealthy lifestyles and damage its reputation.

The Courts of higher instance reviewed the case and affirmed the position of the first instance Court, that a Russian well-known registered trademark is protected not only for the claimed goods, namely non-alcoholic beverages, but also for non-similar goods if the use of the mark can create an association with the trademark owner and can impinge upon its interests.



Both the appeal court and the Russian Court for Intellectual Property as cassation instance issued coincident rulings during 2019 confirming the wider protection granted by Russian law to the registered well-known mark.

The Courts adjudged that the importer should have shown appropriate carefulness and prudence to avoid

infringement by checking the marking of the goods received from the producer.

In accordance with Russian law and the Court ruling the infringing goods under administrative offence shall be confiscated.





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