



Data exchanges between the Rospatent and the operator of the mandatory goods labelling system may decrease counterfeiting in Russia



26/04/2021



INTELLECTUAL PROPERTY, RUSSIA

Alisa Pestryakova

The countering problem is one of the global challenges for successful businesses. Russia obviously is no exception and a newly launched approach may turn out promising.

Trademarks chiefly serve the purpose of identifying products, but may also be used as a tool to fight counterfeits, rather than just being their victims. Let us see how.

The registered trademark cannot be used without the consent of the right holder, so the import or sale of goods without the consent of the trademark owner is an infringement, except for cases of exhaustion of the right. Companies may

use customs registers both as a tool of prevention of the import of counterfeits and as a source of information on unauthorized importers. However, it was for practical purposes almost impossible to track the movement of goods affixed with a trademark within the country. This is bound to change, as a result of a joint project of the Russian Patent Office (Rospatent) and the mandatory labelling system in Russia.

In accordance with the newly conceived plan on the implementation of the labelling system, all goods in Russia shall be labelled with special identification marks by 2024.

The mandatory labelling was first tested for fur garments, and was later



introduced for medicinal products, tobacco products and footwear.

The system is based on Federal Law 381-FZ “On general principles of State regulation of sales of goods” and Federal Law 487-FZ amending existing provision concerning the labelling of goods, and prohibiting starting from 01 January 2019 the sale of goods that do not comply with labelling requirements.

The Russian Government has competence to define a list of goods subject to mandatory labelling. Currently, the following goods already fall under requirements for special labelling: furs, tobacco, footwear, perfumes, tyres, some types of clothing, household linens, photocameras, photoflash bulbs and flash lights.

Starting from 01 June 2021 the mandatory labelling will moreover apply to cheeses, ice creams and edible ices. Other milk products of storage life over 40 days shall be individually labelled starting from 01 September 2021, and the same products having storage life below 40 days from 01 December 2021. Besides, starting from 01 September 2021 bicycles will also fall under the labelling requirement.

The next type of goods to be caught by the list is bottled water, but the Russian Government has not set yet the effective date. The date will be set after completion of relevant tests on labelling bottled water, which are scheduled to start on 01 June 2021.

The labelling operator, which is private company “Center of development of advanced technologies” (CDAT), has a key-role in creation and maintenance of the labelling system in Russia. It issues and secures special digital labelling codes and track marks identifying physical commodity flows. The system issues an individual digital code for each product, so that it can be monitored at every stage of the flows involving it. The system allows to keep record of all details about a product, including its producer, importer, distributor and the whole physical path of the product from production till retail sale.

The code can be put on the product using different technologies, e.g. DataMatrix code or RFID. Although, the cost of issuance of the code by CDAT is claimed to be very low, the producer or importer bears additional costs for the installation and operation of the labelling equipment to affix the code on each product.

Individual identity codes issued by the labelling system for each item cannot be falsified, as a special check code is issued together with the identity code (i.e. a cryptographical conversion of identity code), which confirms the authenticity of the code (or otherwise).

The Russian Government issued Regulation on labelling system no. 515 dated 26 April 2019 which includes Rules of labelling of goods and a Policy Directive on informational goods flow monitoring system, providing the detailed regulation of the mandatory labelling of goods in Russia.

Interestingly, in February 2021, the Rospatent signed an agreement on data exchange with the Russian Ministry of Industry and Trade and the labelling operator CDAT. The agreement aims at enhancing the protection of trademark rights, as well as rights for appellations of origin (AO) and geographical indications (GI).

More particularly, the agreement provides the Rospatent with access to the information of which the labelling system is comprised, whilst the labelling system operator will obtain access to the Rospatent databases of registered trademarks, including well-known trademarks, GIs and AOs.

It was indicated that the information sourced from the labelling system will allow the Rospatent to identify goods (and their producers and importers) unlawfully affixed with trademarks, AOs and GIs. Due to the mandatory registration of trademarks, AOs and GIs, as well as of licenses, the register of the Rospatent contains all information about the rightholders and licensees authorized



to use the relevant trademark, AO and GI rights in Russia.

As a result of the new system, the competent State supervisory agencies will receive from the Rospatent and the labelling operator relevant information on companies utilizing intellectual property right without the authorization of the holder and, at the same time, on the

goods affixed with such trademarks, as well as AOs and GIs which are widely used for a variety of cheeses, milk products and bottled waters.

The fight against counterfeits indeed goes on in Russia, and it is hoped that the integrated coupling of IP tools and labelling control and enforcement will make the difference.



Alisa Pestryakova

ASSOCIATE



a.pestryakova@dejalex.com



+7 495 792 54 92



Ulitsa Bolshaya Ordynka 37/4
119017 - Moscow

MILANO

Via San Paolo, 7 · 20121 Milano, Italia
T. +39 02 72554.1 · F. +39 02 72554.400
milan@dejalex.com

ROMA

Via Vincenzo Bellini, 24 · 00198 Roma, Italia
T. +39 06 809154.1 · F. +39 06 809154.44
rome@dejalex.com

BRUXELLES

Chaussée de La Hulpe 187 · 1170 Bruxelles, Belgique
T. +32 (0)26455670 · F. +32 (0)27420138
brussels@dejalex.com

MOSCOW

Ulitsa Bolshaya Ordynka 37/4 · 119017, Moscow, Russia
T. +7 495 792 54 92 · F. +7 495 792 54 93
moscow@dejalex.com

