

# QUARTERLY REVIEW OF LEGISLATION NEWS, COURT PRACTICE AND ROSPATENT PRACTICE IN THE FIELD OF INTELLECTUAL PROPERTY

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MOSCOW, ST. PETERSBURG, DUBNA, KAZAN  
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NOVOSIBIRSK, SAROV TECHNOPARK, SAMARA  
PERM, VLADIVOSTOK, UFA, KIEV (Ukraine)

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The draft law also proposes to issue the titles of protection in electronic form, while it remains possible for the applicant to receive them in hard copy as well.

### PATENT SEARCH AND PATENT EXAMINATION TO BE OUT- SOURCED, AND THE START DATE FOR FILING A REQUEST FOR EXAMINATION TO BE CHANGED

On December 27 2019, the government submitted a draft federal law «Amendments to the Civil Code» (No. 873108-7) to the State Duma.

At present, patent search and patent examination are carried out only by Rospatent. The proposed revisions are aimed, inter alia, at creating conditions for the Russian scientific and educational organizations accredited by Rospatent under which they could conduct a preliminary patent search and patentability assessment of the claimed technical solution. This service will be provided to the applicants at their request. The cost of the service will be determined by the organizations in contracts concluded with the applicants.

Besides, the draft law proposes to give the government the right to determine the number of applications that can be submitted by one applicant without paying a fee if he files a declaration to surrender a patent, if granted, to any person. Currently, the number of such applications is not limited.

## LAWS AND DRAFT LAWS

### DIGITAL TECHNOLOGIES IN THE REGISTRATION OF IP RIGHTS TO BE USED ON A WIDER SCALE

The State Duma considered a draft federal law No. 774338-7 «Amendments to the Civil Code» introduced by the government and recommended its adoption during the 2020 spring session.

It is proposed to amend Articles 1375, 1376, 1377 and 1492 of the Civil Code in order to provide the applicant with the opportunity to attach three-dimensional models of the claimed inventions, utility models, industrial designs and trademarks to the application in electronic form.

The draft law also stipulates that if an international application is filed, the three-year period for filing a request for substantive examination of the application should be calculated from the date of transfer of the international application into the national stage, and if the Eurasian application is filed – from the date of conversion of the Eurasian application into the Russian national application. At present, the law provides that the start date of the three-year period is the filing date of the international application or the filing date of the Eurasian application respectively.

## GOVERNMENTAL AND DEPARTMENTAL ENACTMENTS

### THE GOVERNMENT REVOKED THE ORDERS OF ROSPATENT ON APPROVAL OF THE GUIDELINES ON EXPERT EXAMINATION OF INDUSTRIAL DESIGNS AND TRADEMARKS

The Government's Decree dated December 18, 2019 No. 3081-r revoked the orders of Rospatent dated July 24, 2018 No. 127, 128. As a result, the Guidelines on Expert Examination of Trademarks (2018) and the Guidelines on Expert Examination of Industrial Designs (2018) approved by these orders are no longer applied from December 18, 2019. Along with revocation of these orders the effect of previous recommendations is obviously being restored.

In particular, it is likely that the Recommendations on examination of industrial design applications (2009), the Recommendations for applying the provisions of the Civil Code regarding the consent of the right holder to register a similar trademark (2009), the Methodological recommendations for determining the similarity of goods and services in the examination of applications for state registration of trademarks and service marks (2009), the Recommendations on selected issues related to the examination of labels and printing packaging (2009) and the Methodological recommendations for checking of claimed signs for identity and similarity (2009) may be applied again.

## COURT PRACTICE

### 1. PATENTS

#### THE COURT ORDERED ROSPATENT TO RESTORE LEGAL PROTECTION OF INVENTION UNDER PATENT NO. 2488999 IN ITS ORIGINAL CLAIMS (IP COURT'S DECISION DATED OCTOBER 7, 2019 IN CASE No. SIP-685/2017)

The patent holder appealed to IP court to partially invalidate the Rospatent's decision taken on the basis of the results of considering an objection to the grant of a patent for invention No. 2488999 as contrary to subparagraph 1 of paragraph 1 of Article 1398 of the Civil Code, and to restore the patent for the invention «Herbi-

cidal composition and method for controlling weeds ...» in its original claims.

According to the Examination Guidelines, if an invention relates to a composition consisting of at least two known ingredients that ensure a synergistic effect, the possibility of which is not apparent from the prior art, such an invention is recognised as complying with the inventive step requirement.

The patent holder insisted that the Chinese patent application translation submitted along with the objection was not duly certified, and stated that the term synergy was indicated by a hieroglyph which was not included in the opposed application while the hieroglyph indicated in the application meant «additive effect», but not «synergistic effect» as implied in the disputed invention.

The court agreed that the Chinese patent document translation submitted along with the objection was wrong and these arguments of the applicant were not examined by Rospatent when making the decision.

The court concluded that the «effective combination» feature in the independent claim 1 of the patent for invention was essential and efficiency should be understood as a possibility of achieving a synergistic effect.

Therefore, it is necessary to examine whether the possibility of achieving a synergistic effect as a feature of the invention is disclosed in the opposed Chinese patent document.

The impossibility of achieving a synergistic effect when using the herbicidal composition described in the opposed patent document is consistent with the opinion of experts set forth in the responses to a court request. Thus, the Chinese patent document does not describe the herbicidal composition containing an effective composition of known active ingredients and aimed at achieving a synergistic effect.

However, a synergistically active composition is claimed in the disputed patent, and the possibility of achieving the corresponding effect is confirmed by examples. Consequently, these circumstances prove the illegitimacy of Rospatent's conclusions that the composition and method do not comply with the inventive step patentability requirement in some claims of the disputed patent and the novelty patentability requirement in some others in relation to the solutions known from the Chinese patent application.

The court concluded that the invention complied with the inventive step patentability requirement, since the technical solution, namely, the achievement of a synergistic effect with a certain range of herbicidal composition, was not obvious to the expert, and taking into account that this feature was recognised as essential and was absent in the opposed source, the disputed invention complied with the novelty patentability requirement.

The court restored the legal protection for invention under the patent.

**AN AMENDMENT TO THE PATENT CLAIMS PROPOSED BY ONE OF THE PATENT HOLDERS SHOULD BE CONSIDERED BY ROSPATENT ON THE MERITS EVEN IF THERE ARE OBJECTIONS FROM THE SECOND PATENT HOLDER WHO FILED THE OBJECTION TO THE GRANT OF THE PATENT. ONLY IF A DISPUTE BETWEEN PATENT HOLDERS REGARDING THE AMENDED PATENT CLAIMS REMAINS, THIS DISPUTE MAY BE SUB-**

**JECT TO JUDICIAL REVIEW GIVEN THAT THE AUTHORITY TO ACCEPT AND EVALUATE THE AMENDED PATENT CLAIMS IS GIVEN TO ROSPATENT SPECIFICALLY (THE PRESIDIUM OF IP COURT, RULING DATED OCTOBER 28, 2019 IN CASE NO. SIP-540/2017).**

The disputed patent No. 2397634 is issued in the name of two persons who are the inventors.

One of the patent holders appealed to Rospatent with an objection to the grant of a patent, believing that this patent did not comply with the novelty and inventive step requirements.

When considering the objection, Rospatent proposed that the patent claims should be amended by the patent holders in order to partially preserve the technical solution. However, the first patent holder, who had filed an objection to the patent, refused to make these changes. In such a situation, the Chamber of Patent Disputes did not give the second patent holder the opportunity to submit the amended patent claims.

The objection was upheld and the patent was invalidated in full by Rospatent's decision.

The second patent holder appealed to IP Court believing that Rospatent's decision did not comply with the law and violated his rights and legitimate interests.

IP Court concluded that the contested Rospatent's decision was lawful and justified as well as the arguments of the second patent holder set forth in the application did not refute the conclusions on non-patentability of the invention contained in Rospatent's decision and did not confirm the existence of grounds for invalidating the decision.

The Presidium of IP Court, examining the cassation appeal of the second patent holder, noted that the court had come to the correct conclusion on reasonable upholding of the first patent holder's objection by Rospatent. The Presidium of IP Court also noted that the court had complied with all of its instructions, except for resolving a dispute regarding the future fate of the patent.

The Presidium of IP Court did not agree with the conclusion of the court that there was no way of resolving the dispute between the patent holders on the issue of amending the patent claims.

The refusal to amend the contested patent claims was expressed by the patent holder who had filed the objection. The second patent holder was deprived of the opportunity to submit the amended patent claims.

According to the Presidium of IP Court, amending of the patent claims is a way of protecting the exclusive right to an invention, since it allows the patent holder while defending himself against the arguments set forth in the objection to be able to maintain legal protection at least to some extent.

The Presidium of IP Court came to the following conclusion: if an objection to the grant of a patent is filed by a third party (not the patent holder) the patent holders jointly determine the possibility of amending the patent claims, unless otherwise provided by an agreement between them. If an objection to the grant of a patent is filed by one of the patent holders, his will to invalidate a patent is expressed. In such circumstances, another patent holder (other patent holders) cannot be deprived of their right to protect the granted patent and maintain its legal protection, albeit to a lesser extent. The Presidium stated that an amendment to the patent claims proposed by the remaining patent holder (patent holders) should be

considered by Rospatent on the merits even if there were objections from the person who had filed the objection. Only subsequently, in the event that a dispute between patent holders regarding the amended patent claims remains, it may be subject to judicial review given that the authority to accept and evaluate the amended patent claims is given to Rospatent.

The Presidium of IP Court noted that Rospatent had proposed that the contested patent claims should be amended by the patent holders, but the first patent holder's rejection of this proposal was an obstacle to partially invalidate the disputed patent. Rospatent failed to find out the second patent holder's position regarding submission of his proposals for amending the contested patent claims, in the preservation of which he was interested.

The legal consequence of the refusal to recognize Rospatent's decision as invalid is inability to restore the validity of disputed patent and the loss of exclusive right to the invention by both patent holders.

Under such circumstances, the Presidium of IP Court adopted a new judicial act recognizing the impugned Rospatent's decision as invalid without sending a case back for a new hearing.

Since the verification of options for amending the contested patent claims to preserve the patent validity in the scope of the amended patent claims in this situation is possible only if the objection is considered by Rospatent, the Presidium of IP Court ordered Rospatent to reconsider the objection to the grant of the patent for invention No. 2397634.

**COURT REJECTED PATENT INFRINGEMENT SUIT AND SATISFIED A COUNTERCLAIM TO ISSUE A COMPULSORY LICENSE TO USE THE DEPENDENT INVENTION (IP COURT'S RULING DATED OCTOBER 29, 2019 IN CASE NO. A40-166505/2017)**

IP Court found that:

Sugen LLC and PHARMACIA & UPJOHN COMPANY LLC (hereinafter — the Companies) filed a lawsuit against Nativa LLC (hereinafter — the Company) and the Ministry of Health of the Russian Federation (hereinafter — the Ministry of Health) with the following claims:

- to oblige the Company to stop infringement of the Eurasian patent No. 005996 including the manufacture, offer to sell, sale, other introduction into commerce and storage for these purposes of a medicinal product under any trade name containing the substance Sunitinib, including the medicinal product under the "Sunitinib-native" trade name;

- to oblige the Ministry of Health to cancel the state registration of the "Sunitinib-native" medicinal product and the state registration of the maximum selling price for this medicinal product.

The Company submitted the counterclaims:

- to recognize the invention protected by the patent No. 2567535 as dependent on the invention under the Eurasian patent No. 005996;

- to oblige the Companies to grant a compulsory non-exclusive license to the Company to use the invention under the patent No. 005996.

The court came to the conclusion that the counterclaims were justified and there were no grounds to satisfy the original claim.

The court based its judgment, inter alia, on the conclusion of appointed experts who recognized the Company's

invention under patent No. 2567535 as important technical achievement.

The court took into account that both, the Company's invention and the Companies' invention were used in the manufacture of medicinal products for treating serious diseases, including oncology. A variety of medicines that allow individual approach to the treatment of a disease in humans, the availability of medicines, and most importantly, its high efficiency, may help prolong and save the life of a person, which is important for the public and the State. The opinion of an expert from the Institute of State and Law of the Russian Academy of Sciences submitted to the court, in particular, states that **when interpreting the meaning of "important technical achievement" the emphasis should be placed on "important", but not on "technical achievement", since any patented invention is a technical achievement**; a dependent invention must contain such an innovation, the use of which is significant for society as a whole.

When evaluating a dependent invention in terms of importance, it is necessary to take into account the significance of the proposed technical solution to meet the public interests. In order to identify the economic advantage, it is necessary to compare the economic indicators of the dependent invention and the invention used in the dependent one, and if the generic medicine is used as a dependent invention, it is reasonable to assume that its cost will be significantly lower than that of the original medicine.

Having ascertained that there were all conditions provided for in Article 1362 of the Civil Code, the trial court came to the conclusion that there were grounds for granting a compulsory license to use the invention protected by the Companies' Eurasian patent in Russia.

The Court of appeal upheld the trial court's findings. IP Court acting as a court of cassation also saw no reason to set aside or change the appealed judicial acts and noted, inter alia, the following.

The criterion of «importance of the technical achievement» given in paragraph 2 of Article 1362 of the Civil Code does not really have a legal definition and there is no stable court practice regarding its interpretation. However, IP Court did not agree with the Companies' argument that the trial and appeal courts, concluding that this criterion was met in the present case, proceeded only from the fact that the grant of a patent for the Company's invention in itself proved the importance of technical achievement. IP Court noted that the courts took into account other circumstances, in particular, the difference in the rate of the active substance appearance in the rabbits' blood and the fact that Sunitinib might exhibit polymorphism, which, in the court's opinion, confirmed the importance of technical achievement of the invention under the Company's patent.

These two circumstances were investigated by the experts appointed by the court, who, using scientific sources and based on an experiment example set forth in the specification of the Russian patent, came to the conclusion that the Company's dependent invention should be considered as an important technical achievement.

IP Court did not find any reason to reassess the findings of the courts of the first and appeal instances regarding the recognition of the Company's dependent invention as **an important technical achievement**, which were made on the basis of the parties' arguments assessment and the evidence presented in the case file.

IP Court also saw no reason to recognize unfounded the findings of the courts of first and appeal instances concerning the **economic advantages** of the Company's invention over the invention under the plaintiffs' patent in the original claim. In relation to the specific conditions for granting a compulsory license, the Russian law does not have a definition of "significant economic advantages of one invention over another one".

Nevertheless, the Companies criticizing the Company's calculation and referring to their significant costs did not provide any reasonable calculations, and indicated that they had invested about 1 billion USD in their medicinal product development without providing any evidence of this statement.

The expert opinions attached to the cassation appeal related to the interpretation of the "important technical achievement" and "significant economic advantages" concepts, as well as the letter of Rospatent attached to the appendix to the cassation appeal, which had not been submitted to the courts of 1st and 2nd instances, were not taken into account by the court of cassation due to the lack of authority to establish circumstances, accept and evaluate new evidence.

IP court also noted other shortcomings in the pieces of evidence presented by the companies which led to their defeat.

#### **A COMPANY FILED A REQUEST FOR EXTENSION OF THE PATENT VALIDITY NOT IN RELATION TO ALL POSSIBLE ALTERNATIVES TO CLAIM 1 OF THE PATENT CLAIMS, BUT ONLY IN RELATION TO A SPECIFIC S-STEREoisomer AT THE PHOSPHORUS ATOM, I.E. IN RELATION TO SOFOSBUVIR (IP COURT'S DECISION DATED NOVEMBER 28, 2019 IN CASE No. SIP-740/2018)**

IP court considered a claim of GILEAD PHARMASSET LLS (USA) company (hereinafter — the Company) for invalidating Rospatent's decisions on refusal to extend the validity of the patent No. 2651892 and obligation of Rospatent to extend the patent validity based on the patent holder's application.

The patent for a group of inventions "Nucleoside phosphoramidates as Antiviral Agents" was granted in the name of the Company with the following patent claims (Claim 1 is cited):

"1. Isopropyl ether (S)-2-[[[(2R,3R,4R,5R)-5-(2,4-dioxo-3,4-dihydro-2H-pyrimidin-1-yl)-4-fluoro-3-hydroxy-4-methyl-tetrahydrofuran-2-ylmethoxy]-phenoxy-phosphorylamino]-propionic acid or its stereoisomer."

The Company applied to Rospatent with a request to extend the patent validity and grant an additional patent with the following patent claims (only the first claim is given):

"1. (S)-H3onpomui-2-[[[(S)-((2R,3R,4R,5R)-5-(2,4-hokco-3,4-dihydropyrimidin-1(2H)-yl)-4-fluoro-3-hydroxy-4-methyltetrahydrofuran-2-ylmethoxy)]-(phenoxy-phosphorylamino) propanoate."

In support of its application, the Company referred to the fact that the invention described in independent claim 1 of the patent claims related to Sofosbuvir medicinal product, the use of which was allowed under Registration Certificate No. LP-003527 dated March 25, 2016.

The court rejected the application. Thus, the refusal was motivated by the fact that the active ingredient of medicinal product specified in the permission for this product's

use was not identical to the compound described in claim 1 of the claims under patent No. 2651892.

The active ingredient of the Sovaldi medicinal product indicated in the Registration Certificate No. LP-003527 dated March 25, 2016 is Sofosbuvir, which, in turn, is a S-stereoisomer at the phosphorus atom of isopropyl ether (S)-2-[[[(2K,3K,4K.5K)-5-(2,4-dioxo-3,4-dihydro-2H-pyrimidin-1-yl)-4-fluoro-3-hydroxy-4-methyl-tetrahydrofuran-2-ylmethoxy]-phenoxyphosphorylamino]-propionic acid. However, claim 1 of the claims under patent No. 2651892 describes a compound without specifying its stereoisomers.

Rospatent considered extension of patent No. 2651892 impossible, since the product described in the patent claims as a compound was not identical to the active ingredient of the medicinal product specified in the permission for this product's use.

Rospatent also indicated that the S-stereoisomer at the phosphorus atom specified in claim 1 of the patent claims was not disclosed in the specification of patent No. 2651892, i.e. the specification did not contain information that the specified compound had indeed been created and was active enough to use it for the stated purpose. IP court considered Rospatent's decision as unlawful and unfounded.

**The law does not establish any restrictions on extension of the exclusive right in relation to the patent claims, if these claims are formulated by means of alternative concepts, which, in turn, is permitted by the regulatory acts.**

The specification of patent No. 2651892 indicates the existence of two possible stereoisomers at the phosphorus atom, both in the form of the S-stereoisomer and the R-stereoisomer of the compound according to claim of patent claims with respect to the «or its stereoisomer» feature. Thus, two alternatives are possible with respect to the «or its stereoisomer» feature: the R-stereoisomer or the S-stereoisomer.

A different interpretation of paragraph 8 of the Procedure would lead to an unjustified infringement of the rights of patent holders who formulated the patent claims by means of alternative concepts, if there were no corresponding restrictions in the law.

IP Court concluded that Rospatent's actions did not comply with paragraph 2 of Article 1363 of the Civil Code and violate the applicant's right to extend the exclusive right to the invention under patent No. 2651892. The court ordered Rospatent to extend the exclusive right to invention under patent No. 2651892 and grant an additional patent.

## 2. TRADEMARKS

**THE COURT CANNOT, AT ITS DISCRETION, CHANGE THE TYPE OF COMPENSATION CHOSEN BY THE PLAINTIFF (IP COURT'S RULING DATED OCTOBER 3, 2019 IN CASE No. A08-15101/2017)**

Rikor Electronics JSC (hereinafter — the Plaintiff) filed a lawsuit with the Commercial Court of the Belgorod Oblast against an individual entrepreneur Kamenev S.V. (hereinafter — the Entrepreneur) to recover compensation in the amount of 180,000 rubles for the illegal use of trademark No. 289416. The amount of compensation was determined by the plaintiff on the basis of the double cost of the rights granted by the plaintiff under a license agreement with a third party for a fee of 90,000 rubles.

The court granted the claims. However, the court reduced the amount of compensation to 90,000 rubles.

When considering the cassation appeal IP court noted that the courts had incorrectly applied the rule of law, which affected the legality of the adopted judicial acts.

The courts did not take into account that the court was not entitled, on its own initiative, to change the type of compensation chosen by the right holder (Clause 35 of the Review of Judicial Practice approved by the Presidium of the Supreme Court on September 23, 2015 (hereinafter referred to as the Review dated September 23, 2015)). A similar explanation is contained in paragraph 59 of the Resolution of the Plenum of the Supreme Court dated April 23, 2019 No. 10.

After the court establishes the price, which is usually charged for the lawful use of a trademark under comparable circumstances, the indicated price in the double amount is the compensation for the relevant violation, determined according to the Subparagraph 2 of Paragraph 4 of Article 1515 of the Civil Code. The amount determined in such a way, within the meaning of Paragraph 3 of Article 1252 of the Civil Code, is the only (both minimum and maximum) amount of compensation prescribed by law. Thus, the formula for calculating the amount of compensation determined on the basis of the double cost of the right to use a trademark is imperatively determined by law. The court is not entitled to reduce the amount of compensation below the minimum limit established by law on its own initiative. In this case, the courts changed the procedure for determining the amount of compensation for the violation from the one stipulated in Subparagraph 2 of paragraph 4 of article 1515 of the Civil Code (twice the value of the right to use a trademark) to the one provided for in Subparagraph 1 of Paragraph 4 of Article 1515 of the Civil Code (amount of compensation determined at the discretion of the court based on the nature of the violation) without an appropriate Plaintiff's request and recovered the compensation in the amount of 90,000 rubles from the Defendant.

The court overturned the adopted judicial acts and sent the case back for a new hearing to the court.

**DESPITE THE COINCIDENCE OF SYLLABLES IN THE COMPARED WORD ELEMENTS, THE “SENSI” ELEMENT HAS AN INDEPENDENT MEANING AND MEANS «SENSSES». COINED ELEMENT “SENSIMI” HAS NO SEMANTIC MEANING, IT IS NOT DIVIDED INTO SYLLABLES AND MUST BE EVALUATED AS A WHOLE (PRESIDIUM OF IP COURT'S RULING DATED OCTOBER 4, 2019 IN CASE No. SIP-78/2018)**

IP Court made a comparative analysis of the contested trademark under the International Registration No. 726307 and the opposed trademarks “Sensimi” under

**SENSI**

Registration No. 726307

certificate No. 523682 and “Sensimi Сэнсими” under certificate No. 523140 and recognized Rospatent's conclusion on the main individualizing function in these trademarks by “SENSI»/«Sensimi” word elements as justified.

The court agreed with Rospatent that the compared trademarks had phonetic similarities due to the complete inclusion of the “SENSI” element of the contested trademark

in the opposed trademarks “Sensimi” / “Sensimi СЭНСИМИ”. In the opinion of the court the “SENSI” / “Sensimi” word elements are letters of one (Latin) alphabet, which enhances the graphic similarity of the compared trademarks, and individual minor graphic differences are not able to affect the conclusion on their similarity in general.

## Sensimi СЭНСИМИ

Registration No. 523682

Registration No. 523140

The court also took into account that the Maarschall Group B.V. products marked with the “Sensimi” / “Sensimi СЭНСИМИ” trademarks had been on the Russian market since 2016 and were known to the consumer to some extent, as they were sold in various regions of the Russian Federation.

Thus, the court upheld Rospatent’s conclusion that there was a possibility of confusion between the compared trademarks, and the grant of protection for the trademark under international registration No. 726307 in respect of similar goods of Class 33 of ICGS contradicted the requirements of Subparagraph 2 of Paragraph 6 of Article 1483 of the Civil Code.

Regarding this court’s conclusion the Presidium of IP Court noted that prior to the date of the appealed decision IP Court had examined another case No. SIP-77/2018 in which the court had not found any similarities between the word elements of the “SENSIMI” / “СЭНСИМИ” trademarks and the «18 K SENSI» trademark where the only protected element was the «SENSI» designation. The court decision noted that Rospatent had had no grounds for recognizing the compared designations as confusingly similar: analysis of the “SENSI” and “SENSIMI” / “СЭНСИМИ” elements according to the semantic similarity criterion had revealed the meaning of the “SENSI” word («senses» in Italian or «meaning» in French) and the coined nature of the “SENSIMI” / “СЭНСИМИ” word.

Given that the fact of similarity of the “sensi” and “sensimi” / “сенсими” word elements was established in both cases and the legal dispute was considered between the same parties, the court conclusions had prejudicial character in this area. Moreover, the principle of legal certainty does not preclude the possibility of assessing the circumstances previously assessed in another court case in a different way, but only if appropriate reasons for another assessment of the same circumstances are indicated.

The Presidium of IP Court found the arguments set forth in the cassation appeal that the trial court had not assessed the facts of fame of the SENSI VIGNE & VINI S.R.L. products since 1987, fame of wines produced by the named company under the “SENSI” designation and in the territory of the Russian Federation; the coincidence of the “SENSI” word designation with one of the word elements of the SENSI VIGNE & VINI S.R.L. company name registered in the Italian company register on February 19, 1996, that is, long before the priority date of opposed trademarks owned by the Maarshall Group B.V. company.

As a result, the Presidium of IP Court overturned the trial court’s decision and sent the case back for a new hearing to the trial court. Upon reconsideration, the claims were satisfied; the trial court invalidated the Rospatent’s decision and ordered to restore the legal protection of international mark No. 726307 in Russia.

## THE CONCLUSION ON POSSIBILITY OF PERCEIVING THE DESIGNATION AS AN INDICATION OF THE KIND, QUALITY, QUANTITY, PROPERTY, PURPOSE, VALUE, AS WELL AS TIME, PLACE AND METHOD OF PRODUCTION OR MARKETING OF GOODS MAY BE SUFFICIENT TO MAKE A DECISION ON REFUSAL TO REGISTER IT (SUPREME COURT’S RULING DATED OCTOBER 31, 2019 IN CASE No. 300-ES19-12932)

Confectionery filed an application No. 2016742012 with Rospatent to register the coined word designation “Кейкпопс” (Cakepops) as a trademark in relation to goods in Class 30 of ICGS, including various flour and confectionery products.

## Кейкпопс

Registration No. 2016742012

Rospatent refused to register the designation as a trademark due to its inconsistency with the requirements of Paragraphs 1 and 3

of Article 1483 of the Civil Code.

Believing that Rospatent’s decision was unlawful, the Confectionery applied to IP Court to invalidate the decision and oblige Rospatent to register the “Кейкпопс” designation as a trademark.

IP Court satisfied the Confectionery’s claims, recognized Rospatent’s decision as invalid and ordered Rospatent to continue consideration of application filed by the company.

Considering a complaint against the IP court’s decision filed by Rospatent, the Supreme Court noted the following. By virtue of Paragraph 2 of part B of Article 6. quinquies of the Paris Convention and Paragraph 1 of Article 1483 of the Civil Code, a trademark registration may be refused if the claimed designation consists only of the elements characterizing the goods, including those indicating their kind, quality, quantity, property, purpose, value, as well as time, place and method of their production or marketing. Rospatent’s decision to refuse registration of the “Кейкпопс” designation is explained by the fact that the claimed designation characterizes the goods indicating their kind and properties in relation to part of the claimed goods, namely cakes.

Rospatent made this conclusion on the basis of publicly available information posted on the Internet. Referring to the information revealed, Rospatent concluded that the product name “cakepops”, as well as its Russian-language version “кейкпопс” had become known to the Russian consumers much earlier than the company filed an application for registration the “Кейкпопс” trademark. IP Court did not refute the use of the “Кейкпопс” designation on the Internet by various persons to designate a culinary product (sponge cake on a stick), but nevertheless considered that “Кейкпопс” designation was not a kind of goods of the 30th class of ICGS and not identified without indicating a specific type of such goods — cake, and therefore this designation did not indicate the goods; the designation also could not mislead the consumer with respect to other goods in Class 30 of ICGS that were not related to cakes.

Filing a cassation appeal to the Supreme Court, Rospatent drew attention to the fact that the product characteristics, among other things, indicating its kind included in this case not only the “cake” word, but also an indication of its variety, for example, “eclair”, “choux pastry”, etc.

Designations that are varieties of goods may also characterize the goods.

Rospatent established that the “Кейкпопс” designation was used by the modern Russian consumers as the name of a small sponge cake on a stick, from which Rospatent concluded that this designation acquired the meaning of the kind of goods and characterized the products in relation to goods in Class 30 of ICGS «flour confectionery», namely a cake.

The Supreme Court confirmed the legitimacy of Rospatent`s conclusion that the “Кейкпопс” designation filed for registration characterized the products, indicating its kind, properties (cake on a stick), and was perceived by the consumers as an indication of a flour confectionery. This conclusion may be sufficient to make a decision on refusal to register a designation in accordance with Subparagraph 3 of Paragraph 1 of Article 1483 of the Civil Code.

**THE USE OF THE “KOMMUNALETС” DESIGNATION IN COMBINATION WITH THE WORD “SENSOR” BY THE DEFENDANT WHEN ADVERTISING HIS OWN PRODUCTS IS A VIOLATION OF THE PLAINTIFF’S EXCLUSIVE RIGHT TO A TRADEMARK (IP COURT’S RULING DATED DECEMBER 2, 2019 IN CASE No. A62-7909/2018)**

The NPK VIP company is the right holder of the trademark No. 381266 «KOMМУHAЛEЦ» (KOMMUNALETС) registered in relation to a wide range of goods including pressure gauges.

**КОММУHAЛEЦ**

Registration No. 381266

The NPK VIP company found that when entering a search query “sensor kommunalets” in a search engine

of [www.google.ru](http://www.google.ru), the following advertisement appeared: “Pressure Sensor Kommunalets | Reliable Pressure Sensors An advertisement [www.intepkomplekt.ru/sets/NT\\_sensors](http://www.intepkomplekt.ru/sets/NT_sensors) 8 (465) 195-95-91

*Producer prices. High quality. Order! Warranty. Quality product. Affordable price. Types: Pressure Transmitters. Pressure transducers TSP-N. KTS-N sets. “.*

When going to the website indicated in the advertisement a page opens containing offers to purchase pressure sensors. Thus, a [www.intepkomplekt.ru](http://www.intepkomplekt.ru) domain name administrator is the INTEP COMPLEX company.

The right holder filed a lawsuit against the INTEP COMPLEX company to recover compensation in the amount of 1,000,000 rubles for illegal use of a trademark and interest for using of another’s monetary assets in case of delay in payment of the compensation awarded. The courts granted the claims in full.

IP Court as a court of cassation upheld the findings of the trial and appeal courts. In particular, IP Court agreed that the phrase “Pressure Sensor Kommunalets | Reliable Pressure Sensors” recorded in the inspection report, misled consumers and attracted them to the advertisement posted by the defendant, since the plaintiff’s trademark was placed in the first line of the defendant’s advertisement and was an active link to the website [www.intepkomplekt.ru](http://www.intepkomplekt.ru) which offered for sale the products similar in functionality. Such actions violate the exclusive rights of the trademark owner.

**THE ACTIONS FOR ACQUISITION AND SUBSEQUENT USE OF EXCLUSIVE**

**RIGHTS TO A TRADEMARK BY FILING AN OBJECTION WITH ROSPATENT AGAINST THE GRANT OF LEGAL PROTECTION TO A COMPANY’S TRADEMARK WERE CARRIED OUT FOR THE SOLE PURPOSE TO CAUSE HARM TO THE COMPANY AND CONSTITUTED ABUSE OF RIGHTS (IP COURT’S DECISION DATED OCTOBER 28, 2019 IN THE CASE No. 398/2018)**

The British Broadcasting Corporation (hereinafter — the Company) registered with Rospatent the “TOP GEAR” word trademark № 538851 in 2015.

**TopGear TOP GEAR**

Registration No. 339837

Registration No. 538851

In 2017, an entrepreneur filed an objection with Rospatent against the grant of legal protection to that trademark. In support of the objection, the entrepreneur referred to the fact that this trademark was confusingly similar to his own trademark under Certificate No. 339837 with priority date of October 25, 2005 in relation to the similar services. Based on the results of the examination of the appeal, Rospatent recognized the grant of legal protection for the contested trademark as invalid.

Challenging Rospatent`s decision in IP Court, the Company stated that the entrepreneur had filed an objection against granting legal protection for its trademark solely for the purpose of causing harm to the Company.

IP Court concluded that the Company provided evidence that its trademark had become widely known in connection with the Company`s activities on the date of trademark acquisition by the entrepreneur (August 2016).

The evidence provided by the Company indicates that the trademark had been used in good faith by the Company for many years and is widely known to the Russian consumers, including on the date of acquisition of the rights to trademark No. 339837 by the entrepreneur and on the date of filing an objection with Rospatent. The courts have repeatedly recognized this entrepreneur`s actions of registering trademarks, filing objections, filing complaints with the court as an abuse of rights (case No. SIP -85/2017, case No. SIP-73/2017). Moreover, IP Court upheld Rospatent`s decisions and refused to satisfy the entrepreneur`s claims on the basis of Article 10 of the Civil Code pointing out that the sole purpose of acquiring the rights to the opposed trademarks with an earlier priority date by the entrepreneur is to cause harm to the right holder, but not to use this designation in the commercial activities.

IP Court found that it was also obvious in this particular case that the entrepreneur had not intended to protect his right to trademark No. 339837 by filing an objection with Rospatent against trademark No. 538851, and he had sought to create obstacles to the use by the Company of its trademark in good faith, i.e. he had abused the right, and the contested Rospatent`s decision made as a result of consideration of such objection filed by the entrepreneur was subject to recognition as invalid in accordance with Article 10 of the Civil Code, since the objection of the party abusing its right could not be satisfied on this basis.

**THE MERE FACT OF PUBLISHING A LITERARY WORK IN THE ABSENCE**

**OF EVIDENCE OF THE RELEVANT TANGIBLE MEDIUM ACQUISITION DOES NOT INDICATE THE FAME OF WORK (IP COURT'S DECISION DATED OCTOBER 21, 2019 IN CASE No. SIP-312/2019)**

Group 7 LLC (hereinafter referred to as the Company) appealed to IP Court to invalidate Rospatent's decision made as a result of consideration of the objection filed by the Company against the grant of legal protection to the trademark No. 479121 and oblige Rospatent to reconsider this objection.



Registration No. 479121

The Company's objection was motivated by the fact that registration did not comply with the provisions of Article 1483 of the Civil Code (a trademark identity with the name of a work known in Russia). In this case, the fact of creation of the literary works, namely, a book "The Club of Cheerful and Sharp-Witted" (1965) (Russian acronym of the title of the book is "KVN") and the scripts for the television shows "KVN-61", "KVN-62" and "KVN-63" by their authors before the priority date of the contested trademark and the protectability of these works were not disputed by the parties. There is disagreement between the parties regarding the fame of these works on the filing date of the application for registration of the contested trademark (June 09, 2012), as well as the identity of the designation registered as a trademark with the names of these works.

IP Court stated that the burden of proving the fame of work on the filing date of the application for registration of a trademark rested with the person who had filed the objection against the grant of legal protection to the trademark.

In support of the fact that the book "The Club of Cheerful and Sharp-Witted" (KVN) and the scripts for the television shows "KVN-61", "KVN-62" and "KVN-63" had been published, the Group 7 company submitted to Rospatent copies of works containing, among other things, information on circulation of the book and scripts; information on the KVN television show taken from the press of 60s and 70s of the XX century; letters from the Russian Book Chamber containing information on the title of the book "The Club of Cheerful and Sharp-Witted" and its distribution among libraries and book collections.

IP Court rejected the Company's argument that a well-known work should be understood as any published work, regardless of the time of its publication and the number of persons who had gained access to such a work according to Subparagraph 1 of Paragraph 9 of Article 1483 of the Civil Code.

IP Court recognized Rospatent's conclusion that the Company had not proved fame of the literary works specified in the objection on the priority date of the contested trademark as justified and lawful.

The lack of proof of the work fame is sufficient and independent basis for dismissing the objection to the grant of legal protection to a trademark due to non-compliance with the requirements of Subparagraph 1 of Paragraph 9 of Article 1483 of the Civil Code.

**CONCLUSION OF THE COURT OF APPEAL ON POSSIBILITY OF BRINGING "REGIS-**

**TRAR P01" COMPANY WHICH IS NOT A DOMAIN ADMINISTRATOR OR A PERSON DIRECTLY USING THE WEBSITE, OR AN INFORMATION INTERMEDIARY, TO CIVIL LIABILITY BY MEANS OF RECOVERING COMPENSATION IS NOT IN LINE WITH INTERPRETATION OF SUBSTANTIVE LAW GIVEN BY THE HIGHEST COURT (IP COURT'S RESOLUTION DATED OCTOBER 22, 2019 IN CASE No. A40-91339/2017)**

The DIXY South company, the owner of trademarks No. 451307 "ДИКСИ" and No. 330196 "DIXY" appealed to the court and claimed that Registrar P01 should cancel the registration of the <http://dixy-kit.ru/> domain name and claimed compensation in the amount of 1,000,000 rubles for violation of the exclusive right to these trademarks.

The trial court rejected the claims. The Court of Appeal overturned the judgment and awarded compensation in the amount of 100,000 rubles.



Registration No. 451307



Registration No. 330196

The Registrar P01 filed a cassation appeal with IP Court and asked to cancel the appeal court's decision and uphold the trial court's decision.

IP Court noted that according to Paragraph 158 of Resolution of the Plenum of the Supreme Court dated April 23, 2019 No. 10 (hereinafter referred to as Resolution No. 10), as a general rule, violation of the exclusive right to a trademark was the actual use of a domain name that was identical or confusingly similar to a trademark in respect of the goods that were similar to those for which this trademark had been granted legal protection.

The trial and appeal courts found that Registrar P01 did not actually use the contested domain name, and therefore it was impossible to make claims against it on a general basis. Moreover, the claims of the DIXY South company were also based on the provisions of Article 12531 of the Civil Code establishing liability for information intermediaries. The court shall determine whether a particular person is an information intermediary, taking into account the nature of activities carried out by such a person.

The trial court found that Registrar P01 could not be held liable for violation of the plaintiff's exclusive right by recovering compensation on the grounds stated by the plaintiff. The court of appeal, on the contrary, came to the conclusion that there were legal grounds for recovering compensation from the Registrar P01 company.

IP Court also noted that according to Paragraph 159 of Resolution No. 10 a claim for compensation might be brought against the administrator of the corresponding domain name and the person who actually used the domain name. Moreover, such persons are jointly and severally liable to the right holder.

The administrator's actions to acquire the right to a domain name (in particular, taking into account the circumstances of its subsequent use) may be recognized as an act of unfair competition. In this case, based on the purpose of registration of a domain name, such a registration by itself may be considered as violation of the exclusive right to a trademark. If the acquisition of right to a domain name



is recognized as violation of the exclusive right, the claim for obligation to cancel the corresponding registration may be satisfied by the court.

Based on the provisions of the current legislation and clarifications of the highest court, as a general rule, a claim for compensation for violation of the exclusive right filed by the right holder in the present case may be brought against the administrator or the actual owner of the website.

By itself, a domain name registration may be recognized as an independent violation of the exclusive right to a trademark only in the context of the administrator's actions to acquire the right to such a domain name, and not the registrar's actions to record a domain name in the corresponding registry.

The trial court analyzed the nature of Registrar P01's activities and found that it did not fall within the characteristics of the information intermediary's activities, as provided in Article 12531 of the Civil Code. In this connection, IP Court concluded that the trial court had refused to recover compensation lawfully.

In addition, the delegation of the contested domain name was canceled and, therefore, the plaintiff's claim to stop violation of his exclusive right was not subject to satisfaction either.

IP Court overturned the appeal court's decision and upheld the trial court's decision.

### 3. SECRET OF PRODUCTION (KNOW-HOW)

**GIVEN THAT THE SPECIFICATIONS COULD NOT BE ATTRIBUTED TO OBJECTS OF CIVIL RIGHTS AND THE 1469-001-67983609-2011 SPECIFICATIONS DID NOT INDICATE THE PRESENCE OF SECRETS OF PRODUCTION (KNOW-HOW), THE TRIAL COURT CAME TO THE CORRECT CONCLUSION THAT THE FACT OF USING THESE SPECIFICATIONS DID NOT ENTAIL ANY LIABILITY (IP COURT'S RESOLUTION DATED OCTOBER 17, 2019 IN CASE No. A40-249078/2018)**

SPETSTECH LLC filed a lawsuit against Expert Organization "ENGINEERING SECURITY" LLC for an obligation to revoke a certificate of conformity No. TC RU C-RU.MX24.B.00482 issued by the defendant to a third party.

The plaintiff became aware that the defendant had issued a certificate of conformity No. TC RU C-RU.MX24.B.00482 for serial production of goods under specifications, including 1469-001-67983609-2011 to a third party.

In support of the claims, the SPETSTECH company stated that it was the right holder of secrets of production described in the 1469-001-67983609-2011 specifications. The trial and appeal courts dismissed the claims.

Having examined the SPETSTECH LLC's cassation appeal, IP Court noted that the 1469-001-67983609-2011 specifications were a type of documentation used in the production of a certain type of goods, as found by the courts. The contents of any specifications are regulated by the Interstate Standard GOST 2.114-95. These specifications are not creative in nature, they conform to the requirements of GOST and do not have features of novelty and uniqueness. These specifications do not indicate the presence of secrets of production (know-how).

IP Court agreed with the trial and appeal courts that the specifications could not be the works of copyright, since the list of results of intellectual activity to which legal protection is granted (intellectual property) set forth in Paragraph 1 of Article 1225 of the Civil Code was exhaustive, and the specifications were not attributed to any objects of intellectual activity.

IP Court took into account that the plaintiff had not provided evidence of violation of its exclusive rights to any secret of production by using it in any way (Article 1229 of the Civil Code), as well as evidence of its exclusive rights to any result of intellectual activity (Paragraph 1 of Article 1225 of the Civil Code). A possible fact of using these specifications does not entail any liability.

IP Court also stated that the plaintiff had not been bound by any rights and obligations either to the defendant or to a third party, and the issuance of a certificate of conformity by the defendant to a third party could not violate the rights and legitimate interests in the business or other economic activities of the plaintiff. The third party exercised the right to voluntary certification granted by law and received from the defendant a certificate of conformity disputed by the plaintiff.

Given the above, IP Court recognized the refusal to satisfy the claim as lawful.

### 4. BRAND NAMES

**THE WORD "FEDERAL" CONTAINED IN THE FEDERALSTROY BRAND NAME IS A STABLE WELL-KNOWN WORD DERIVED FROM THE "RUSSIAN FEDERATION" OFFICIAL NAME CAUSING PERSISTENT ASSOCIATION FOR CONSUMER WITH THE STATE PARTICIPATION IN THE COMPANY'S ACTIVITIES (IP COURT'S RESOLUTION DATED OCTOBER 17, 2019 CASE No. A51-27104/2018)**

A tax inspectorate filed a lawsuit with the Commercial Court against FederalStroy LLC (hereinafter referred to as the Company) to force it to change its brand name. The trial court satisfied the claims, pointing out that the word "Federal" contained in the FederalStroy brand name was a stable well-known letter combination derived from the "Russian Federation" official name causing a persistent association for consumer with the state participation in the defendant's activities.

The court of appeal agreed with the trial court's findings and also noted that the defendant's constituent documents did not contain a transcript of the word "Federal" which was not related to the "Russian Federation" name.

Meanwhile, in the Company's opinion, expert knowledge in the field of linguistics is required in order to draw a conclusion reached by the court and, therefore, the court should have appointed an expertise in the case. The court of appeal rejected the relevant Company's request, stating that this issue was a question of fact and should be resolved by the court from the perspective of an ordinary consumer. The company, nevertheless, considered that such an approach should be applied only when comparing trademarks, and not brand names.

Having examined the Company's cassation appeal IP court agreed with the findings of the trial and appeal courts, IP Court stated that the Company's arguments set out in the cassation appeal did not refute the courts' findings that the word "Federal" in the Company's brand

name was an obvious derivative of the word “Federation”, and the words “Russian Federation” from the point of view of an ordinary consumer.

Thus, IP Court noted that assessment of the brand name for its compliance with the requirements of Article 1473 of the Civil Code was not conducted from the point of view of specialists in the field of linguistics or based on information published in reference literature or encyclopedias, but from the perspective of an ordinary person on the market (a consumer). The brand name assessment was conducted by the courts from this position, while the corresponding conclusion was motivated in the judicial acts. The Company did not provide evidence proving a different perception of the word “Federal” by an ordinary consumer or a consumer of the Company’s goods (services).

## EAPO PRACTICE

EAPO launched a technology of instant publication of the Eurasian patents. Since November 2019, information on the grant of the Eurasian patent and its full specification are immediately published on the Eurasian publication server after the completion of the technical preparation of the publication. The EAPO Gazette “Inventions (Eurasian Applications and Patents)” will be prepared online on the Eurasian publication server as the publication of the Eurasian patents monthly starting from the first calendar day of each month and will be closed on the last calendar day of the respective month. The date of grant of the Eurasian patent will be considered the date of publishing the information on the grant of the Eurasian patent on the server, and the Eurasian applications – on the closing date of the Gazette, that is, the last calendar day of the respective month (<https://www.eapo.org/ru/index.php?newspress=view&d=979>).

## ROSPATENT PRACTICE

### 1. PATENTS

**ONLY ANGLE 60° IS APPLICABLE FOR METRIC THREAD. ALL METRIC THREADED PRODUCTS ARE MANUFACTURED ACCORDING TO GOST (A RUSSIAN STANDARD), INCLUDING JOINED REINFORCING BARS, I.E. WHEN USING METRIC THREADS WITH AN ANGLE OF 60° (ROSPATENT’S DECISION (CPD) DATED OCTOBER 08, 2019)**

The Chamber of Patent Disputes considered an objection to the grant of a patent for utility model No. 124910 “Butt joint of Reinforcing Bars” in the patent claims of which it was stated that “... a metric thread is made on the inner surface of the coupling and the ends of the reinforcing bars,... the coupling is a hollow cylinder on the entire inner surface of which there is a thread with a profile from 60° to 75°...”. It was noted in the objection to the patent that the utility model did not meet the criterion of “industrial applicability”, since the feature “metric thread is made ... with a profile from 60° to 75°” could not be applied to the entire specified range. Moreover, the person who filed the objection states that all metric threaded products, including

joined reinforcing bars, are manufactured according to GOST using metric threads with an angle of 60°. The panel of the Chamber of Patent Disputes found that according to the information set forth in the objection regarding a vertex angle of the metric thread profile this angle could be only 60°. Therefore, it is impossible to make a metric thread with angles of more than 60° and up to 75° as indicated in the claims of the contested patent. That is, in the panel’s opinion, the means and methods for implementing the mentioned feature of the utility model’s claims are not known from the prior art. Consequently, the objection contains arguments giving reason to recognize that the utility model described in the above patent claims does not meet the patentability criterion of “industrial applicability”.

The patent holder presented revised patent claims, corrected by excluding the features relating to the vertex angle of the metric thread profile other than 60° from the independent clause of the claims. As a result, Rospatent decided to partially invalidate the patent and grant a new patent for a utility model with an updated patent claims.

### 2. TRADEMARKS

**“BARBARIS” DESIGNATION’S FAME AND ITS HIGH DISTINCTIVE ABILITY HAVE ALREADY BEEN ESTABLISHED BY ROSPATENT THROUGH RECOGNIZING THE “BARBARIS” DESIGNATION AS A WELL-KNOWN TRADEMARK IN RUSSIA SINCE JANUARY 01, 1997 (ROSPATENT’S DECISION (CPD) DATED OCTOBER 24, 2019 ON THE TRADEMARK No. 215461)**

The panel of the Chamber of Patent Disputes considered an objection filed by ROT FRONT OJSC against the grant of legal protection to the trademark under certificate No. 215461 registered by AKKOND JSC in relation to goods in Class 30 of ICGS.



Registration No. 215461

According to the objection, legal protection is granted to a trademark under certificate No. 215461 in violation of the requirements prescribed by Paragraph 2 of Article 6 of the Trademark Law.

Under Paragraph 2 of Article 6 of the Trademark Law, it is not allowed to register designations or their elements that are false or capable of misleading the consumer regarding the goods or their manufacturer.

A designation shall be considered false or misleading if at least one of its elements is false or misleading. The panel of the Chamber of Patent Disputes recognized the objection’s arguments as convincing, despite the fact that the trademark did not contain any elements that were false or capable of misleading the consumer. According to the panel’s conclusion, due to the presence of the “BARBARIS” word element in the trademark, there is a possibility of misleading the consumer through associations arising in connection with another person(s) and not the right holder of the contested trademark, owing to prior consumer knowledge of the designation. These associations may arise due to the intensive use (since 1935) of the “BARBARIS” designation by the person who has

filed an objection, that is, long before the priority date of the contested trademark, in relation to similar goods, as confirmed by the factory's annual reports and the ROT FRONT OJSC certificate on the BARBARIS sweets production volume for the period from 1935 to May 2019. Thus, the "BARBARIS" designation has been intensively and continuously used by the person who filed the objection for a long period of time (more than 60 years before the priority date of the contested mark), as a result, it has gained fame in Russia for confectionery products, namely, sweets. Moreover, the "BARBARIS" designation has been a well-known trademark in Russia since January 01, 1997. Thus, the objection indicates that the confectionery products marked with the contested trademark may be perceived by the consumer as goods produced by the person who has filed the objection, or under his control, and may be associated with OJSC ROT FRONT, and not with the right holder of the disputed trademark. As a result, Rospatent recognized the grant of legal protection to the trademark under certificate No. 215461 as completely invalid.

### 3. WELL-KNOWN TRADEMARKS

In October — December, Rospatent recognized the following trademarks as well-known:

<b>Trade Mark</b>	<b>SIEMENS</b>
<b>Right Holder</b>	Siemens Aktiengeschaft (Germany)
<b>Goods/Services</b>	dishwashers; electric machines and devices for processing linen and clothes, namely washing and drying machines (the 7th class of ICGS); electric household appliances and kitchen appliances, namely ovens; electric hoods; cookers, stoves with burners and hobs; refrigerators and freezers (the 11th class of ICGS)
<b>Date of Becoming Well-Known</b>	01.01.2016
<b>Trade Mark</b>	<b>ZARINA</b>
<b>Right Holder</b>	Malon Fashion Group JSC (Russia)
<b>Goods/Services</b>	clothes (the 25th class of ICGS)
<b>Date of Becoming Well-Known</b>	31.12.2015

In the same period, Rospatent refused to recognize the designations "Smeshariki" (the applicant: Smeshariki GmbH,



**ДОШИРАК**



Germany, Rospatent's decision dated November 21, 2019), "Mercator" (the applicant: Mercator Holding LLC, Russia, Rospatent's decision dated December, 27, 2019) and DOSHIRAK (the applicant: PALDO Co. Ltd., Republic of Korea, Rospatent's decision dated December 13, 2019) as well-known trademarks.

### 4. APPELLATIONS OF ORIGIN

In October-December, Rospatent registered the following Appellations of Origin:

Number in the Register of Appellations of Origin	Appellation of Origin	Goods
219	VYATKA PICKLE	pickle
220	SEMYONOVSKAYA MATRYOSHKA	Matryoshka doll
221	STOLBUSHINSKY SBITEN	sbiten
222	STOLBUSHINSKY ZVAR	zvar
223	VAZISUBANI ვაზისუბანი	wine
224	MANAVI მანავი	wine
225	NAPAREULI ნაფარეული	wine
226	GURJAANI გურჯაანი	wine
227	KAKHETI კახეთი	wine
228	KVARELI ყვარელი	wine
229	TELIANI თელიანი	wine
230	VYATKA BASKET (VYATKA BASKETRY)	baskets; boxes; birch baskets; caskets; etc.
231	BREAD "GORODISHCHENSKY" bread	
232	NATURAL DEEP DRINKING WATER "BAIKAL"	natural drinking water



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