

By the Judgement of 3 July 2018 No. 28-II/2018 the Constitutional Court appraised constitutionality of Item 6 of Article 1232 of the Civil Code of the Russian Federation.

The contested provision was a subject-matter of consideration insofar as it serves as grounds for decisions on transition of the exclusive right to a trademark to a juridical person reorganised by way of adhesion to it of another juridical person – possessor of the right to this trademark, and on the possibility to prolong the term of effect of the exclusive right to it on application of the juridical person – successor of the possessor of the right to a trademark, whereas the successor has not earlier turned to the federal body of executive power on intellectual property (Rospatent) for the State registration of the transition of the exclusive right to this trademark.

The Constitutional Court has recognised the contested provision as not contradicting the Constitution of the Russian Federation since it contemplates that:

in reorganisation of juridical persons in the form of adhesion of a juridical person – possessor of the exclusive right to a trademark to another juridical person the exclusive right to a trademark is regarded as gone over to the latter from the moment of insertion in the Unified State Register of juridical persons of the record about discontinuance of the activity of the adhered juridical person, whereas realisation of powers constituting the content of this right in full is only possible on condition of State registration of the transition of the right in the established order;

in solving the question of prolongation of the term of effect of the exclusive right to a trademark on application of a juridical person to which the exclusive right to this trademark has gone over as a result of reorganisation in the form of adhesion to it of another juridical person in the absence of State registration of its transition consideration of this question is ensured simultaneously with the question of State registration of the transition of the exclusive right to a trademark.