

**By the Judgement of 13 February 2018 No. 8-II/2018 the Constitutional Court appraised constitutionality of the provisions of Item 4 of Article 1252, Article 1487, Items 1, 2 and Sub-Item 1 of Item 4 of Article 1515 of the Civil Code of the Russian Federation.**

The contested provisions were the subject-matter of consideration to the extent to which on their basis it is decided to make a person answerable for violation of the exclusive right to a trademark by importing respective goods into the territory of the Russian Federation in order to put them in civil turnover without the consent of holder of this exclusive right.

The Constitutional Court has recognised the contested provisions as not contradicting the Constitution of the Russian Federation, so far as:

national principle of depletion of the exclusive right to a trademark, fixed by the federal legislator, is used in the interconnection with the regulation of depletion of rights by international treaties to which the Russian Federation is a party;

court's power to refuse in full or partly to apply consequences of import into the territory of the Russian Federation without the consent of a trademark owner of a specific batch of goods, on which the trademark has been placed by the right holder himself or with his consent and which has been legally emitted into turnover outside the Russian Federation, is not excluded in cases when due to *mala fide* behaviour of the trademark owner application of such consequences on his demand can create threat for life and health of citizens, other publicly significant interests. In this case, the trademark owner's conforming to the regime of sanctions against the Russian Federation, its economic subjects, established by any State out of an appropriate international-law procedure and contrary to multilateral international treaties to which the Russian Federation is a party, which has expressed itself in the right holder's position in respect of the Russian market, may in itself be regarded as *mala fide* behaviour;

application of the same (in gravity of consequences) measures of the civil law liability for the import into the territory of the Russian Federation without the trademark owner's consent of a specific batch of goods, on which the trademark has been placed by him or with his consent, as for the import of forged goods, on which the trademark is placed not by the right holder and not with his consent, is not contemplated, if according to circumstances of a specific case this does not entail for the right holder losses comparable with losses of putting forged goods into turnover;

goods, on which the trademark has been placed by the right holder himself or with his consent, imported into the territory of the Russian Federation without the right holder's consent, may only be withdrawn from turnover and exterminated in application of consequences of violation of the exclusive right to a trademark in the event of their inappropriate quality and (or) in order to ensure security, to protect life and health of people, to guard nature and cultural values.