

Parallel importation and trademark law in the Czech Republic, EU and USA

Parallel imports are a non-counterfeit (genuine) goods, bearing a trademark, intended for sale in one country, but instead put on market without the consent of the trademark owner in another country. The price of parallelly imported good is actually lower than the price of the authorized good, due to several factors: currency exchange rates, laws, taxes, logistical expenditures etc. It is not only the price, but also other features of the merchandise, such as the appearance, required characteristics and customer safety measures that differ from the ones of the authorized goods. Such differences may damage the goodwill consumers associate with the trademark. Trademarks are protected dependently on national laws, therefore different countries address the issue differently. There is no international treaty that would solve the problem of parallel importation on international level. No consent has ever been unanimously reached.

The issue of parallel importation is closely connected to the doctrine of exhaustion. Various countries apply national exhaustion whereas others apply international/global one. European Union developed specific type of regional exhaustion which means that once a trademark owner sells a good bearing the mark within the territory of the EU, his rights to that particular good are exhausted in all EU territories. The United States applies a doctrine of exhaustion on an international level. Thus, once a U.S. trademark owner introduces a good bearing the mark in on territory, the trademark owner's rights to that particular good are exhausted in all territories. However, the principle of exhaustion is undermined by so many exceptions that scholars call the US system to be the „hybrid“ one. The United States nominally applies the principle of international exhaustion, but goods may only be allowed for importation if they come from a company which is affiliated with the brand owner, and they are not materially different from those marketed in the United States.

I described approaches, laws and cases regarding parallel importation and rule of exhaustion. I included the latest developments and thoughts in terms of dealing with grey markets and pitfalls of both international and national exhaustion. Subsequently I was comparing the approaches and laws regarding parallel importation in the Czech Republic, European Union and the United States of America.