



“Parallel import”

“To be or not to be...”

10 September, 2014

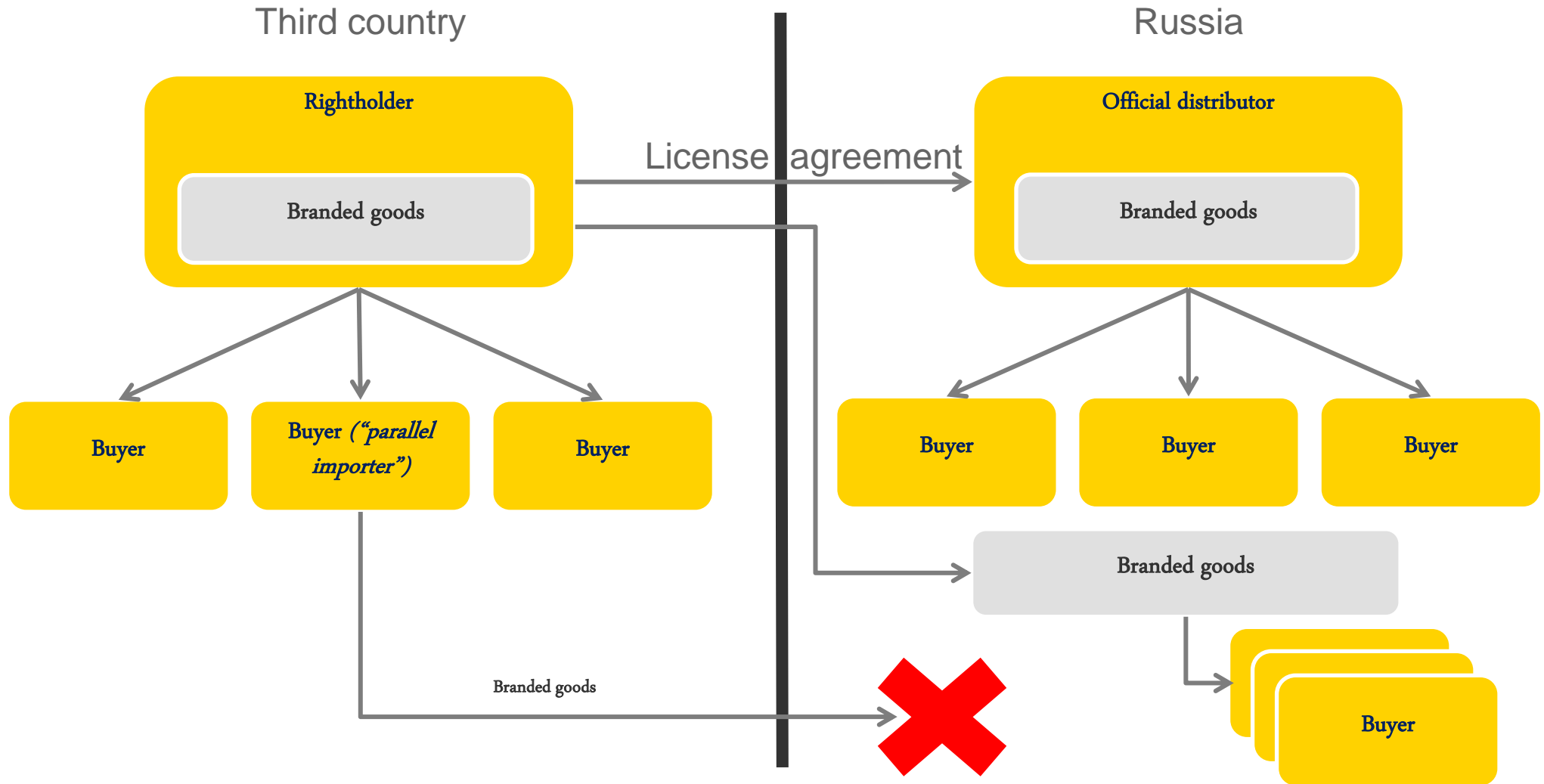


## Legal grounds for “parallel import” prohibition and intellectual property protection

- ▶ Civil Code of the Russian Federation establishes the national principle of exhaustion of exclusive right (art.1487)
- ▶ Russian Federal Law “On Protection of Competition” (sub-item 4 item 1 art. 14) protects intellectual property rightholder against unfair competition
- ▶ The Customs Code of the Customs Union (art.330) obliges the Customs to control “parallel import” through Customs register



# Legal means of branded goods import to Russia

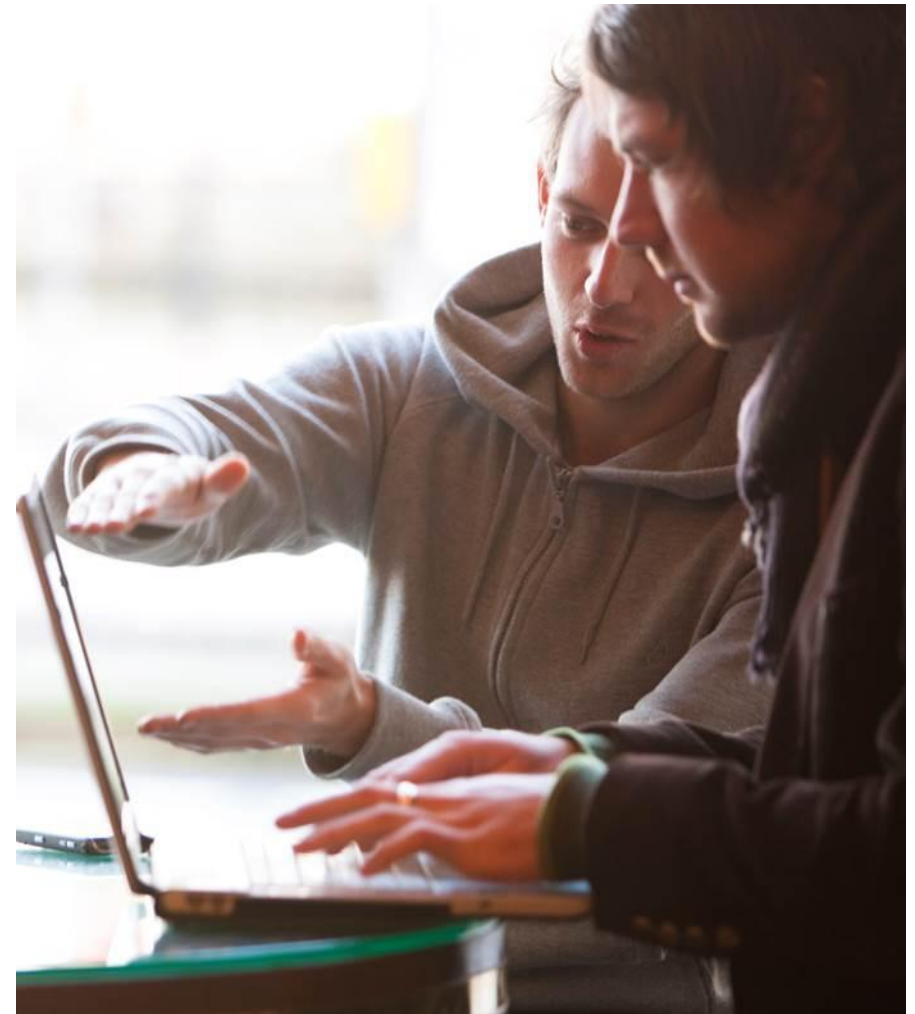


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## Customs register as an effective way of “parallel import” control

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- ▶ Inclusion into the Customs register
- ▶ Notification of a rightholder
- ▶ Suspension of release of disputable branded goods
- ▶ Branded goods release / arrest/ destruction



## Civil means of intellectual property rightholder protection against “parallel importer”

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- ▶ Court proceedings:
  - ▶ Application for Injunction (arrest)
  - ▶ Claim for compensation (from 10 000 to 5 000 000 rubles)
  - ▶ Claim for general prohibition to import branded goods by a definite “parallel importer”
  - ▶ Claim for destruction of a branded goods

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## Pros and Cons

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### Pros

#### Ministry of Industry and Trade

“The national principle of exhaustion of intellectual property rights is an important factor in the investment attractiveness of the Russian economy to foreign investors, localizing their production in our country”.

### Cons

#### The Anti-monopoly authority

“It is expected that this initiative may bring to the expansion of the range of goods on the Russian market and reduce prices by 20-30%”.

# Anna Kostyra



## Anna Kostyra

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### General information

- ▶ Partner, head of Law practice, EY office in St. Petersburg
- ▶ Works in EY since 2007

### Education and qualifications

- ▶ Degree in Law, St. Petersburg State University
- ▶ Kyiv Foreign Languages University

### Project experience

- ▶ Anna has 14 years of experience in representing commercial organizations in arbitration courts, tribunals, the Federal Antimonopoly Committee and other dispute resolution bodies.
- ▶ Specializes in various disputes (including court proceedings) with tax, Customs and other government agencies, disputes with unfair competitors, counterparties and borrowers

- ▶ Significant experience in the strategy and tactics of development to defend client interests in courts and state bodies, including preparing counterclaims and independent claims and obtaining injunctions.
- ▶ Anna also has significant experience of integrated IP/IT projects, including the development of corporate strategies and tactics for defending intellectual property rights

### Client portfolio include

- ▶ Izhorskiye Zavody – OMZ Group
- ▶ IZ-KARTEX – OMZ Group
- ▶ Uralmashzavod– OMZ Group
- ▶ Power Machines
- ▶ Gazpromneft Marin Bunker
- ▶ Nizhpharm
- ▶ Pfeleiderer
- ▶ Bioprocess (Pharmapark)
- ▶ REP-Holding

- ▶ Russian Venture Company
- ▶ Fazer
- ▶ General Electric
- ▶ Efes
- ▶ Sandoz
- ▶ SNS Group
- ▶ Stada
- ▶ EMC
- ▶ Теле-2
- ▶ Heineken
- ▶ IQ One Holding
- ▶ Parallels
- ▶ Avito