

# Alert

## IP - Review

### Intellectual property rights: an unconventional weapon for Russia

Following the invasion of Ukraine by the Russian Federation, Western Countries reacted by imposing sanctions packages, aimed at affecting the main economic sectors of the Russian Federation. Similarly, numerous companies and brands (McDonald's, Coca-Cola, Apple, IKEA, Starbucks, H&M, Zara, and Levi's, to name a few) have also severed relations with Russia.

In response, the Russian Government, as well as the Russian Courts and Intellectual Property Offices, have adopted countermeasures to try to contain the economic consequences on national soil.

#### **PATENTS, UTILITY MODELS AND DESIGNS**

The first steps in this direction concerned the area of patents, utility models and designs.

As of March 6, 2022, with the issuance of Ministerial Decree No. 669, in the case of patents, utility models and designs owned by parties belonging to the list of States deemed "hostile" by the Russian Federation (including Italy, as a Member State of the European Union), the Russian Government now has the power to grant compulsory patent licences, without the holders of such patents being paid any royalty, not even by way of fair compensation.

The provision of compulsory licences was already regulated by Russian law before this regulatory intervention. However, this measure was limited to extreme cases, including those related to defence and state security, and it still provided for the right of the holder to fair compensation, which will be, instead, denied as of 6 March 2022.

In all likelihood, this provision will be invoked with reference to devices and technologies that are in short supply (or are destined to disappear shortly on Russian territory), due to the blocking of exports to Russia and the decisions of companies to break off relations with that State.

#### **COPYRIGHT**

Copyright protection has also been a bone of contention.

In particular, there has been a considerable uproar over the decision issued on 3 March 2022 by the Arbitration Court of the Kirov region, concerning the alleged infringement of the exclusive rights to the well-known British children's cartoon Peppa Pig, owned by Entertainment One UK Ltd.

The Arbitration Court, faced with a claim for damages, rejected Entertainment One UK Ltd.'s claim, justifying this decision based on the "restrictive" political and economic sanctions imposed by the West on Russia due to the military invasion of Ukraine.

#### **TRADEMARKS**

On the trademark law front, the closure of McDonald's restaurants in the country caused a stir.

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As a result, a group of Russian entrepreneurs, to replace the US fast-food giant, filed an application with



the Russian Trademark Office for registration of the trademark (“UNCLE VANYA”), i.e., a sign which is evidently similar and confusable with the famous curved "M" of McDonald's, to distinguish a chain of restaurants providing food at reduced prices and with 100% Russian materials.

Although it was reported that the above trademark application has been withdrawn by the applicant, it appears that, in recent months, there has been an increase in applications for registration by Russian parties of signs identical or very similar to famous foreign trademarks. For example, it was reported that brands



such as IKEA, (it was filed a registration application for the sign “IDEA”), Christian Dior, Chanel, Coca-Cola, Givenchy, Nike, Adidas, Puma, Sisley, Levi's, BMW, Dove, Nivea, e Audi, to name a few, were targeted.

At the moment, there is no information regarding the success of these applications for registration, as they are currently being examined by the competent Office.

It will be critical to follow further developments, in order to understand if such glaring cases, like the ones described above, will remain isolated or if the violation of intellectual property rights whose holders belong to 'hostile' States will increase, with the consequent violation of the international Agreements on the subject signed by the Russian Federation.

What is certain is that the Russian reactions further reveal how industrial property rights are assets whose protection is increasingly imperative, and how they can become weapons in warfare situations.

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