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PARALLEL IMPORT: IS IT WORTH?

ПАРАЛЛЕЛЬНЫЙ ИМПОРТ: ПРОБЛЕМЫ И ПЕРСПЕКТИВЫ

At the age of globalization, the term “parallel imports” is used to relate to a number goods ranging from musical instruments to cars, pharmaceuticals, computers. But what does it all mean? The goal of the research is to estimate the value of parallel import. Parallel imports are one of the most iridescent and enigmatic phenomena of international trade. In a nutshell, a parallel import is an item that is brought into another country where the seller of the product hasn't sought permission from the trademark owner. It is important to note that a parallel import does not include counterfeit goods, like bootleg copies of things like DVDs or electronic products. Parallel imports are only goods that are genuine and authentic. That is why they are referred to as a “grey market” product, as opposed to a black market product. The importation and sale of genuine goods by unauthorized dealers is unofficial but not illegal.

Traditionally, a government policy has always supported parallel importing, safe for certain categories of protected products. However, what comes into question is how goods arrive in a particular country. For example, if you originally exported goods to the UK and then discovered that those goods were then moved from the UK to Spain for consumption without your permission, that form of parallel importing is illegal. On one hand, parallel imports strictly follow the laws of the market; yet on the other hand, the laws of the market are not the only ones that apply to this kind of activity. While industrial producers are pressing for general barriers in order to maintain price differences of goods among various countries, consumers find such differences puzzling in a world that is increasingly heading towards international trade and the removal of trade barriers. Easy resolution of the problem is not in sight. The term “parallel importation” refers to goods produced and sold legally, and subsequently exported. In that sense, there is nothing “grey” about them. Grey and mysterious may only be the distribution channels by which these goods find their way to the importing country. In the importing country, such goods may create havoc particularly for entrepreneurs who sell the same goods, obtained via different distribution channels and perhaps more expensively. In order to exclude such unwelcome competition, intellectual property rights were designed to protect first-

hand sellers. If products sold or imported by third parties fall within the scope of patents, trademarks or copyrights valid in this particular country, such sale or importation by third parties is generally deemed infringing. Owners of products covered by intellectual property rights have the exclusive right to put such products on the market. On the contrary, there is little doubt that once the owner of an intellectual property right has put such goods on the market himself or with his consent, there is little he can do about further acts of commercial exploitation, such as resale, on the domestic market. Even if a car is covered by number of patents, once the car maker has put that car on the market, there is a consensus that he cannot prevent that car from being resold or leased-out. The reason for this has been answer differently in different jurisdictions. The courts in two industrialized countries, Britain and Japan, have recently confirmed the lawfulness of parallel importation of patented products in the absence of any indication to the contrary. Permitting the parallel importation of patented products under different circumstances in different jurisdictions is certainly not the best of all worlds. For this reason alone, harmonization in this field looks desirable. However, the GATT/TRIPs negotiations have already exposed the wide differences in opinion on this aspect. The difficulties are both legal and economic.

Summing everything up, parallel imports are here to stay. At their best, the consumer can save heaps on such things as brand-name pharmaceuticals, electrical goods and even grocery items. But at worst, you can be stuck with a big-ticket item such as boat, car or bike that no one wants to repair in case of a problem. The usual buyer safeguards apply to purchases of every kind, whether they are parallel imports or not. Needless to say, consumers should research the product thoroughly before making a decision. And sellers of parallel imports should be honest and upfront for the sake of their continued business growth.