

INTELLECTUAL RIGHTS PROTECTION IN STATE PROCUREMENT: IT AND PHARMACEUTICAL INDUSTRY SPECIFICS AND JUDICIAL PRACTICE

On June 21, 2016, VEGAS LEX hosted a roundtable on ways to protect the exclusive rights of copyright holders in public procurement, and judicial practice in the field of software, drugs and medical goods procurement.

On June 21, 2016, VEGAS LEX hosted a roundtable on *Protection of Exclusive Rights of Copyright Holders in Public Procurement* for major Russian and foreign companies in the pharmaceutical, IT and other industries.

VEGAS LEX Technology and Investment group, represented by Partner, Head of Technology and Investment group [Alexandra Vasyukhnova](#) and lawyer **Dmitry Borodin**, explained the regulations and practices of FAS Russia. Apparently, the competition authority does not allow customers to include the requirement into the tender documentation that bidders should provide confirmation of their exclusive rights to the subject matter of the procurement. VEGAS LEX experts and conference participants discussed how the customer can verify the bidder's exclusive rights; the rights and obligations of customers and bidders; options for protecting intellectual property rights (recover damages or compensation). The current situation with the protection of intellectual property rights in public procurement is determined by Law No.44-FZ, which establishes a closed list of reasons for a bid to be rejected, while courts use more of a perfunctory approach, judging by actual disputes over the procurement of medicines, medical equipment and software.

The participants reviewed the draft roadmap for competition development in healthcare, in particular the clauses on improving the legislation that regulates copyright protection in the pharmaceuticals and medical products procurement for state and municipal needs. The lawyers clarified various approaches to developing injunctive remedies; the positions of the Federal Antimonopoly Service and the Intellectual Property Rights Court on copyright protection; the possible "points" of exclusive rights protection in the course of public procurement; and the sequence of steps the copyright holder should take.

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