

Литература

1. Шмидт Б. Бизнес в стиле шоу // Маркетинг в культуре впечатлений. — 283 с.
2. Essential part to marketing planning Marian Burk Wood [Электронный ресурс] — 2010. — Режим доступа: /www.pearsoned.co.uk/bookshop/. — Дата доступа: 05.04.2010.

Quality of Goods under the CISG

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Today the United Nations Convention on Contracts for the International Sale of Goods (the CISG), adopted by 76 states, is one of the key instruments in international trade. The CISG covers a number of important trade issues, among which “quality of goods” is. The question whether the goods delivered are of the right quality is at the heart of many sales of goods disputes.

In general the quality of goods is regulated by article 35 of the CISG. Good guidance in the application of this article is provided by Secretariat commentary, scholarly commentaries and numerous reported decisions applying article 35 of the CISG. In order to define the quality of goods you have to buy (if you are a buyer) or to sell (if you are a seller), first of all, it is necessary to find out whether the quality is unambiguously described in the contract signed between you and the other contracting party. If it is, then analyze the contract, if it is not, then, as a rule, take the below-mentioned steps in the following succession. In case the sample or model of goods has been provided, the goods must be as per sample or model; then, in case the particular purpose of using the goods has been made known, the goods must be fit for this particular purpose; at last, in case the previous two conditions are not applicable, the goods must be fit for their ordinary purposes of use.

So, first of all, the quality of goods must be as specified in the contract, since article 35(1) of the CISG provides that “the seller must deliver goods which are of the quantity, quality and description required by the contract” [1]. Almost no one has any doubts that the contract is the main source of regulation of relations between parties. Therefore, it is the contract that must be analyzed and investigated thoroughly in order to find out which of the parties is right about the quality of goods and whether the breach of contractual obligations took place. To prove this position we can refer to case law, e. g. according to the International Commercial

Court Arbitration Case № 7645, “when parties have concluded a contract ... the agreement of the parties has to be analyzed in first instance by interpreting the wording of the contract itself” [2]. However, it is necessary to be very attentive when applying this rule, since, according to article 8 of the CISG, the contract must be interpreted according to the understanding that a reasonable person of the same kind would have had in the same circumstances. In this situation all relevant circumstances of the case (the negotiations, any practices that the parties have established between themselves, usages or any subsequent conduct of the parties) must be considered. Sometimes there are some contradictions between these circumstances and the wording of the contract, and in that case the tribunal will have to decide on them.

Secondly, if it is not possible to identify the quality of goods from the contract unambiguously and if a sample or model was provided, then, according to article 35(2)(c) of the CISG, the goods are of the right quality, if they possess the qualities of goods which the seller has held out to the buyer as a sample or model. The meaning of this provision is clear, however goods not in conformity with the sample or the model are not necessarily defective. E. g. if the seller indicates that the sample is different from the goods to be delivered in certain respects, he will not be held to those qualities of the sample or model. Besides, the rules of international customs apply in different spheres of trade. E. g., once an arbitral tribunal decided that a buyer could not argue that infected buckwheat delivered from China did not conform to the sample, as in the cereal business samples had a limited aim, being intended to define such type-specific characteristics as the kind of buckwheat and the colour and size of the kernel; they were irrelevant to phytosanitary purposes [3].

Thirdly, if it is not possible to identify the quality of goods from the contract unambiguously and if a sample or model were not provided, then article 35(2)(b) of the CISG applies, which states that the goods are of the right quality if they are fit for any particular purpose expressly or impliedly made known to the seller at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable for him to rely, on the seller’s skill and judgement. Thus, to successfully argue the fact that the goods are not fit for the particular purpose under article 35(2)(b) of the CISG, four conditions must be present. First, there must be a particular purpose for the goods. Second, explicitly or implicitly the seller must have been made aware of this particular purpose. Third, the seller must have been made aware of it at the time of or before entering into the Contract. And fourth, the buyer must have reasonably relied on the seller’s skill and judgment in the circumstances.

At last, in case none of the above-mentioned criteria are applicable, according to article 35(2)(a) of the CISG the goods must be fit for the purposes for which goods of the same description would ordinary be used.

Of course, it is possible to name other important rules about the quality of goods, but, from our point of view, these are the basic rules applicable when defining the quality of goods under the CISG and the most frequent questions you will be puzzled by.

Литература

1. United Nations Convention on Contracts for the International Sale of Goods. [Electronic resource] — 1980. — Mode of access: <http://www.cisg.law.pace.edu/cisg/text/treaty.html>. — Date of access: 30.04.2011.
2. International Commercial Court Arbitration Case № 7645 [Electronic resource] — 2000. — Mode of access: <http://www.cisg.law.pace.edu/cases/957645i1.html>. — Date of access: 30.04.2011.
3. International Commercial Court Arbitration Case № 9773. [Electronic resource]. — 1999. — Mode of access: <http://www.iccdri.com/>. — Date of access: 30.04.2011.

Фонографические средства в рекламных слоганах (на материале английского языка)

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Рекламный текст представляет собой речевое произведение с определенной формальной и смысловой структурой, которое выступает в качестве коммуникативного сообщения, имеющего прагматическую установку передать информацию о рекламируемом продукте. Из понимания рекламного текста как целостной коммуникативной структуры вытекает функциональная обусловленность рекламного текста: с одной стороны, он выполняет функцию передачи информации; с другой стороны, — функцию воздействия на возможного потребителя. Эти функции реализуются различными средствами, в зависимости от типа рекламной продукции [1]. В печатном рекламном модуле воздействующий эффект во многом достигается за счет фонографических средств и их различных комбинаций. Этим обстоятельством объясняется актуальность проблемы, которой посвящена данная статья.

Фонографические средства подразделяются на фонетические и графические. В состав фонетических средств входят аллитерация (консонанс), ассонанс, параномастический повтор, слоговый и морфемный повторы. Аллитерация — повторение одинаковых или однородных согласных в предложении,