

Web Site Content: Legal Aspects

By [Ekaterina Karlova-Ignatyeva](#)

October 11, 2010

The  **Moscow Times**



Ekaterina Karlova-Ignatyeva

LL.M., Senior Associate

Beiten Burkhardt

Issues surrounding the protection of intellectual property are gaining importance from year to year. As part of the international community, Russia also shows great consideration for intellectual property matters. Such consideration has resulted in the enactment of Part 4 of the Civil Code of the Russian Federation (hereinafter “Civil Code”), which is fully devoted to the legal regulation of IP assets.

If you do business online or use the Internet for marketing purposes, the role of your web site cannot be undermined. From the IP law perspective, two main questions arise in connection with web site content: The first is whether the web site content is legally protected and the second is whether the web site content infringes the rights of any third parties.

Article 1259 of the Civil Code does not classify web sites as IP assets. Nevertheless, this does not mean that web site content is denied protection. In practice, a web site may contain several elements that are considered IP assets. Such elements include, among other issues, design layout, photographs and literary works such as texts. These objects are deemed IP assets. Therefore, if someone has illegally copied such objects from a web site and used them further, Article 1252 of the Civil Code entitles the web site owner to claim, among other things, for recognition of its right to a particular IP asset, for cessation of the infringement by the third party and for compensation for damages.

The situation is unfortunately not so clear in practice. Considering the technical simplicity of web site content thefts, one of the issues a web site owner must resolve is that of evidence. How can a web site owner prove that it holds the rights to a particular IP asset, rather than the person who stole it? Without prejudice to existing technical measures, there are several legal measures to be discussed. When the web site owner is a legal entity, there are certain features

that should be considered. In particular, a legal entity cannot be the author of an IP asset. This means that it has obtained the rights from another legal entity or directly from the author of the work. Consequently, before placing any works such as photographs or texts on a web site, it is necessary to ensure that all agreements have been entered into with the authors or other right holders. If works are created by employees of the legal entity, the creation of IP assets should be confirmed by the employment agreements, job descriptions and duty assignments of the employees, followed by a signed act of transfer and acceptance of the work. In the event of any further infringements, the mentioned documents will confirm that the rights have been transferred to the legal entity and the date of the transfer. As concerns an individual web site owner who is the author of works placed on the web site, it is advisable to carry out a work-depositing procedure before the works are placed. Among other ways, this depositing may be accomplished via notarization of the date of presentation of the document.

From another perspective, when making a decision on placing an IP asset on a web site, do not forget to ensure that rights of third parties will not be violated. In other words, you must be certain that the author of the particular asset has granted you the right to use it and, in particular, to place it on your web site. It is also necessary to verify that authors' personal non-property rights are not violated either, and that the authors' names are indicated next to the corresponding work.

Original url: <https://www.themoscowtimes.com/2010/10/11/web-site-content-legal-aspects-a2128>