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B2B: Copyright Protection in the Internet: Current Amendments to Russian Law

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Copyright protection in the Internet is subject to changing regulations in Russia. Last year, significant amendments came into force and now at least two draft laws on Intellectual Property (IP) are under consideration by the legislature.

One of the main changes was made in the copyright enforcement legislation. These changes provided new efficient rules on protection of exclusive film rights. Now a copyright holder may receive an injunctive relief to protect its video content by applying to the Moscow City Court online. It is required from the applicant to attach evidence of its entitlement to copyright and the fact of its violation in the Internet.

According to the Civil Procedural Code, applications for an injunction must be considered in one day. If the court grants an interim injunction, it notifies the federal agency "Roskomnadzor." This agency has to find out what company provides Internet services to the website containing unlawfully uploaded material. Then Roskomnadzor instructs this specific Internet provider to take necessary measures to remove it from the web-site.

The necessary measures require "the owner of the information resource" to remove the uploaded movie. If it's not removed within three days from the federal agency's notice, the web site — its domain name, network address, webpage indexes — must be blocked by the communications service provider. Then copyright holder must file a proper lawsuit within 15 days of the court ordering the interim measures. If he fails to do so, the order is lifted.

This procedure works only for the infringement of copyrights on movies. However, last month the State Duma adopted a new draft law that may extend this regulation to all kinds of IP violation on the Internet.

As you may see, recent amendments provided a quick and quite efficient legal device to protect copyright from violations on the Internet. However copyright holders also have another option if their IP was unlawfully uploaded to the Internet. This option is to notify the relevant Internet service provider.

Now an Internet service provider may be held liable if he knows or should have known that the using of IP by the customer — who uploaded the content — is unlawful. As a general rule, Internet service providers are not liable for third party violations. However they may lose the immunity if one of the following conditions does not comply:

• they don't initiate the transfer of the content and don't specify its recipient;

• they don't change the content;

• they neither know nor ought to have known that the use of IP is unlawful.

The application of the last condition was criticized by Internet service providers. They alleged that it is unreasonable to impose such a burden on them because they are not able to control content and they just carry out a transfer of information. Moreover one of the first editions of the draft law # 47538-6/7 (as to 11.10.2013) excluded the provisions about Internet providers' knowledge from the Civil Code. However the last edition of the act does not contain such provisions (adopted by the Upper House of Parliament on May 5. 2014).

That "knowledge rule" means that Internet providers after receiving a notice on violation of copyright have a risk to be held liable if they don't take necessary measures to block the infringing material. In other words, copyright holders may send to a relevant Internet provider a notice about violation of its IP, and that would be a good incentive for the Internet provider to block the infringing material.

I believe that these two ways to protect IP will work properly and the changes will have a positive effect to improving the protection of IP in Russia. I would be glad to answer all questions regarding the topic. Please do not hesitate to ask me via email or The Moscow Times.

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