

[RU] Highest Court Rules on Copyright Infringement on Internet

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On 11 March 2011 the Supreme Arbitration Court of the Russian Federation (the highest court in commercial disputes) de facto upheld the decisions of lower courts that a popular social networking site was not liable for the actions of its users.

In 2008 VGTRK, or the All-Russian State Television and Radio Company, filed a lawsuit against Vkontakte (InContact) social network demanding RUB 3 million (about EUR 75,000) in compensation for the unlicensed posting by one of its users of the popular feature film “Okhota na piranyu” (Piranha Hunt). Access to the film was apparently free of charge.

Vkontakte did not accept responsibility for the infringement of the rights of VGTRK as rightsholder as it did not post the film and according to the bylaws of Vkontakte was ready to remove the illegal content if there was a complaint. During the session of the arbitration court of the first instance in 2010 the material was not found on the website, and no proof of the continuation of the violation was presented by the plaintiff. Thus the case was dismissed.

The second instance court, while upholding the findings of the lower court, decided that the measures taken by Vkontakte in accordance with its bylaws were not sufficient to counter the copyright violation and awarded the state broadcaster 1 million rubles in compensation.

The third instance court overturned the decision of the second instance court as it was confirmed in court that the uploaders who had violated the copyright law could in fact be found and held accountable despite using a nickname.

The Supreme Arbitration Court (or the fourth instance) refused to take this case as its panel found no lawful grounds for the highest court to intervene and review it. Thus the position of VGTRK that the courts erred in their interpretation of the facts and application of the law has finally failed; this might have a negative effect on the audiovisual industry.

ОПРЕДЕЛЕНИЕ об отказе в передаче дела в Президиум Высшего Арбитражного Суда Российской Федерации № ВАС-18116/10, Москва,

11 марта 2011 г.

Ruling No. VAS-18116/10 of 11 March 2011 of the Supreme Arbitration Court on the refusal to pass the case to the Presidium of the Supreme Arbitration Court of the Russian Federation

