

[RU] Copyright claims dismissed because of “Western sanctions”

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*Andrei Richter
Comenius University (Bratislava)*

On 3 March 2022, the Arbitration Court of the Kirov Region issued a judgment in the case of Entertainment One UK Ltd vs. Kozhevnikov Ivan Vladimirovich (an individual entrepreneur). The lawsuit was filed on 9 September 2021, when the claimant demanded RUB 40 000 (then EUR 500) for copyright violations, by the respondent, of the exclusive rights for the use of trademarks Peppa Pig and Daddy Pig through illegal reproduction of their images.

The court dismissed the claims. It found that although in the Russian Federation foreign entities enjoyed the same rights as Russian ones (part 1 of Article 62 of the Constitution of the Russian Federation), in February and March 2022 the UK had introduced political and economic sanctions in regards to the Russian Federation, its legal entities and citizens, as well as Russian political leaders. The court found that this was a prejudicial factor for the dispute under review and referred to a decree issued on 28 February 2022 by the Russian President on a set of economic measures related to the “unfriendly actions of the United States of America and foreign states and international organisations that allied with it”. The decree referred to by the court does not in fact regulate the activity of foreign entities (or indeed copyright), it is purely about limiting the circulation of hard currency and stocks in Russia.

Taking into consideration that the complainant was located in the UK, and while the UK had introduced sanctions against the Russian Federation, the court considered the claims of the complainant an abuse of law “performed with the express purpose of inflicting damage on another person, as well as the abuse of civil rights in other forms” (para 1 of Article 10 of the Civil Code of Russia).

The decision was appealed on 21 March 2022, and on 26 June 2022 the Second Arbitration Court of Appeals in Kirov reversed the above decision of the lower court. The court practice so far shows that in 18 cases similar lawsuits to the copyright holders from “unfriendly states” were dismissed, while in three more - upheld.

«О применении специальных экономических мер в связи с недружественными действиями Соединенных Штатов Америки и примкнувших к ним иностранных государств и международных

организаций»

<http://publication.pravo.gov.ru/Document/View/0001202202280049>

Decree of the President of the Russian Federation of 28.02.2022 N 79 On application of special economic measures in relation with the unfriendly actions of the United States of America and foreign states and international organizations that allied with it”, officially published on 28 February 2022

The Civil Code of the Russian Federation, Part One, No. 51-FZ of 30 November 1994.

https://www.wto.org/english/thewto_e/acc_e/rus_e/wtaccrus58_leg_360.pdf

Арбитражный суд Кировской области. Решение, дело №А28-11930/2021

<https://kad.arbitr.ru/Card/a45fa186-05bb-43b5-87d9-1f0d3b640142>

Arbitration Court of the Kirov Region. The card for Case N A28-11930/2021

Обзор судебной практики, связанной с введением после 22.02.2022 антироссийских санкций и антисанкционных мер РФ

<http://ivo.garant.ru/#%2Fdocument%2F77186356%2Fparagraph%2F251%3A0>

Review of the case law related to the introduction, after 22.02.2022, of anti-Russian sanctions and counter-sanction measures of the Russian Federation

