



Russian IP Court rules on ownership of computer program created by former employee

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📌 INTELLECTUAL PROPERTY, RUSSIA

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On August 01, 2019 the Russian IP Court upheld a decision of lower courts stating that the exclusive right to a computer program belongs to the author unless employer proves that the work was done for hire (case A40-202764/2018 Amedico v. TelePat).

Two employees of a Russian company Amedico developed a computer program. A messenger for communications between doctor and patient.

After quitting their jobs the former employees registered their right for the program with the Russian Patent Office (the registration of rights for computer program is possible in Russia at the request of the proprietor), and assigned it to newly established own company TelePat.

The former employer claimed that the program had been created by the authors as employees under a special project of the company. The first instance court considered that the employer had not provided sufficient evidence to prove its ownership in the program.

In accordance with Russian law, the author has an exclusive right in created work. However, the author is not always the owner of such right, since the exclusive right can be assigned. The person other than the author who claims a right in the work must prove his/her ownership.

In the case reported, the former employer failed to prove that the program had been created by the employees under their work duties. The Court did not consider the employment agreements sufficient proof that the program created within the performance



of work duties and the right to the program had been assigned to the employer.

The Court furthermore held that the mere use of materials and equipment of the employer was not significant to make the program a work for hire.



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