



Rambler Group claims its rights for world leading web-server program Nginx

📅 24/12/2019 📖 INTELLECTUAL PROPERTY, RUSSIA

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Rambler Group is a Russian group of companies and one of the leading players in media, technology, Internet and e-commerce markets in Russia.

Recently, Rambler claimed that program Nginx (web server software) was created by Igor Sysoev as a work for hire for Rambler, and cannot be used without Rambler's consent. Nginx is one of the world's most popular open source web server, which is hosting 400 million websites. It was created by Igor Sysoev, who was an employee of Rambler in 2010 and resigned from Rambler in 2011. The official site of Nginx says that web server Nginx was first launched by Sysoev in 2004. Igor Sysoev was also a co-founder of company Nginx Inc. that exists since 2011, and besides open source web server services, also offers other paid services. According to a

survey conducted by Netcraft (a UK based internet service company), in 2012 Nginx was the second most popular web server worldwide.

More particularly, Rambler assigned the maintenance of its rights to a company called Lynwood Investments in 2015. Recently, Lynwood initiated a criminal case claiming liability for infringement of Rambler's copyright for the Nginx program. Within the context of a criminal action, the Russian police searched Nginx Inc.'s office in Moscow and interviewed Igor Sysoev.

Copyright infringement can be countered under Russian administrative, civil or criminal law; however, neither civil nor administrative claims were filed by Lynwood. It should also be noted that Rambler claimed its right to the software only now, whereas the web server program was successfully operated by



Nginx Inc. since 2011, and furthermore, chose to start criminal proceedings, where the penalty (fine) is much lower than the compensation that could be obtained under civil law.

Proving the right to a program in civil proceedings may be a challenging task, so a criminal case could be used to produce an expert examination within the criminal framework, which could then be used in the civil case. Besides, a finding of infringement made by a criminal court could be used in a civil case. In order to win the criminal case, plaintiff Lynwood must prove that the program was created by employees of Rambler, that the program was a work for hire created within employment duties, and that it was the same program that was later launched by Nginx.

On December 17, Rambler announced that the Rambler Board of Directors, at its extraordinary meeting of 16 December 2019, decided to terminate the agreement with Lynwood and withdraw the criminal case. Rambler also decided to proceed with the dispute only on the basis of Russian civil law and remedies.

In accordance with current case law, in copyright litigations between employee and employer the Russian Courts often side with employees, unless the company proves that the program was created by the employee within his/her direct job duties. It will be interesting to see what the outcome of the case will be.



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