



First case rejecting protection of IP right in Russia for foreign rightholder from unfriendly country

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📌 INTELLECTUAL PROPERTY, RUSSIA

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On 03 March 2022 the Kirov Arbitrazh Court issued a decision (Case A28-11930/2021) on a trademark and copyright infringement claim brought by Entertainment One UK Limited, who is the owner of the popular Peppa Pig cartoon character and the relevant trademarks in Russia.

The defendant was an individual entrepreneur (small business).

In 2021 the rightholder had filed with the Kirov Arbitrazh Court as many as 134 lawsuits against individual entrepreneurs or companies infringing its Peppa Pig copyrights and trademarks. Until now, the court had awarded moderate compensations in 94 disputes, recorded settlements in 29 cases and rejected one judicial claim, while 10 cases are still pending.

The decision which we are commenting is significant as a first precedent of denial of protection of IP rights solely on the ground of country of origin of the rightholder.

The Kirov Arbitrazh Court provided the following sequence as ground for its decision:

- a) The political and economic sanctions imposed against the Russian Federation by foreign countries, including the United Kingdom, in February-March 2022, constitute generally known facts, which do not need to be proved;
- b) The order of the President no. 79 “On application of special economic measures related to unfriendly actions of USA and adjoined foreign countries and international organizations” dated 28 February 2022 is in force;
- c) Parts 1 and 2 of article 10 of the Russian Civil Code generally prohibiting abuses of right allowing the court to deny the rightholder protection of its right. On that basis, the court held that the rightholders’ claim amounted to an abuse of right. The rightholder may appeal the decision within 30 days.

It remains to be seen if the decision of the Kirov Arbitrazh Court, and even more those of courts of higher instances if they



uphold it, will remain an isolated precedent, or rather set a new trend of case-law on the judicial protection of IP rights in Russia for foreign rightholders. If the second should prove true, one will be confronted with a judicial policy of objective discrimination between


rightholders based on nationality, which is arguably in conflict with the international treaties on intellectual property. Russia is a party to, besides the TRIPS Agreement in particular.



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