

1 August 2013

Dear Sirs,

Please find below the Newsletter concerning Federal law as of July 02, 2013 No. 187-FZ “**On Amending Separate Legislative Acts of the Russian Federation Concerning the Questions of Protection of Intellectual Property Rights in Information and Telecommunication Networks**” (hereinafter referred as the “**Anti-piracy law**”), which comes into legal force from **August 01, 2013**.

The Anti-piracy law introduces amendments to the Civil Code of the Russian Federation, Arbitrazh Procedural Code of the Russian Federation, Civil Procedural Code of the Russian Federation and to Federal law No. 149 - FZ “On Information, Information Technologies, and Information Protection”.

Please kindly note that in accordance with the Anti-piracy law only IP rights in films, including motion films and TV films, will be additionally protected as described below.

- 1 The Anti-piracy law sets forth grounds for bringing the **Information intermediary** (an entity which: (i) transfers materials through the Internet (e.g. Internet providers); (ii) provides possibility to place material on the Internet (e.g. administrators of web-sites); (iii) provides access to illegal content placed on the Internet (e.g. hosting providers)) to the liability for infringement of IP rights in films on the Internet.

As a general rule an information intermediary is liable for unlawful placement of films on the Internet if its fault is proved.

However an **information intermediary shall be discharged from liability if simultaneously:**

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| • An entity which transfers materials | (A) did not initiate such transfer and does not determine the recipient of the materials; |
| | (B) did not change the materials; |
| • An entity which transfers materials • An entity which provides possibility to place materials | (C) was not aware and should not be aware that the sender illegally used the intellectual property rights; |
| • An entity which provides possibility to place materials | (D) took all required and sufficient remedies in order to stop the infringement upon receipt of the claim of the IP rights owner. |

Similar rules are applicable with respect to the entities that provide access to the placed materials (i.e. hosting providers).

All the cases concerning infringement of intellectual property rights in the films on information and telecommunication networks under which the interim remedies described below were granted shall be examined by the **Court of Moscow city**.

1.2 The Anti-piracy law establishes a procedure for applying for specific **interim remedies** to protect IP rights in films on the Internet.

- (i) The IP rights holder must file an application to the Court of Moscow city asking for limitation of access to the web site or to the page of the web site where pirate content is placed.

The applicant shall obligatory provide the court with the evidences confirming the fact of infringement.

- (ii) If the court grants interim remedies against possible infringer, the claimant is obliged to file a lawsuit against the infringer to the court within the term (not exceeding 15 days) specified in the ruling of the Court of Moscow city. If no lawsuit is filed, the Court of Moscow city abolishes the interim remedies imposed on the possible infringer.

2 Once the act of the Court of Moscow city ordering to take **measures to limit access to the information resource** comes into legal force, the following procedures will be initiated:

- (i) Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications (Roscomnadzor) must identify the hosting provider which provides the placement of information resource on the Internet where the pirate content is located **within 3 working days** and send a request (both in Russian and English) to delete the pirate content;
- (ii) The hosting provider must send the similar request to the owner of the information resource **within 1 working day** since receipt of the request of Roscomdanzor;
- (iii) The owner of the information resource must delete or limit access to pirate content **within 1 working day** since receipt of the request of the hosting provider;
- (iv) If the above actions are not taken by the owner of the information resource then the hosting provider must limit access to the resource on its own authority **within 3 working days** since receipt of the request of Roscomdanzor;
- (v) In a case neither the hosting provider, nor the owner of the information resource fulfills the request of Roscomnazardroz, the latter sends the request to take actions in order to limit access to the respective web-site and the pirate content placed thereon to the communication carriers (i.e. Internet-providers);
- (vi) The communication carrier shall limit access to the information resource (web-site or web-page) **within 1 working day** since receipt of the request of Roscomdanzor.

We hope you will find this information helpful. Should you have any questions, please do not hesitate to contact **Irina Anyukhina**, Partner, Head of the Intellectual property practice.

Kind regards,

ALRUD Law firm

Note: All information was obtained from publicly available sources. The author of this information letter assumes no liability for the consequences of decision-making based on such information.