

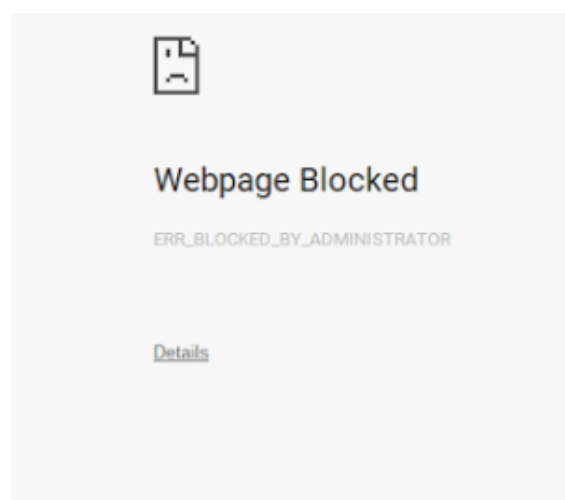
Russia: IP Court compelled domain registrars to remove illegal content

Kluwer Trademark Blog

November 7, 2018

[Boris Malakhov \(Lidings\)](#)

Please refer to this post as: Boris Malakhov, 'Russia: IP Court compelled domain registrars to remove illegal content', Kluwer Trademark Blog, November 7 2018, <http://trademarkblog.kluweriplaw.com/2018/11/07/russia-ip-court-compelled-domain-registrars-to-remove-illegal-content/>



The issue of whether domain registrars shall be liable for online infringements has been actively debated in Russia for the recent 3 years. Starting from a remarkable MMK vs. REG.RU case ([A40-52455/2015](#)), where the IP Court

refused to apply the regime of information intermediaries.

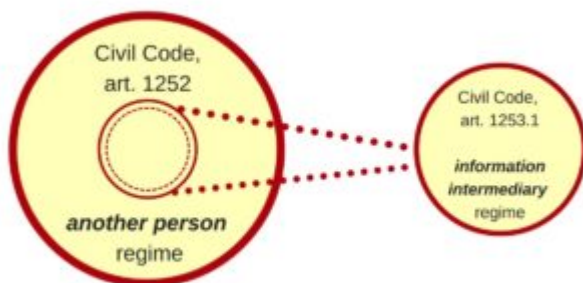
After several futile attempts, the IP Court's recent decision in Azbuka Vkusa vs. Registrar R01 case ([A40-132026/2017](#)) has become a major win. The court found a new legal mechanism (deeply hidden in the Civil Code) against domain registrars.

BACKGROUND

The IP Court's landmark judgment was rendered on 4 July 2018. Under the merits of the case, Azbuka Vkusa (trademark holder) sued Registrator R01 (prominent domain registrar) aimed to cease delegation of azbuka-vkusa-nim.ru.

The courts of the first, appeal and cassation instances satisfied the claims. They noted that the issue of whether domain registrars are classified as information intermediaries has no ultimate legal significance.

Instead of the *specific* regime of information intermediaries, judges have to examine if domain registrars fall under the *general* regime of *persons capable to cease an infringement or a threat thereof*.



As a defense, the domain registrar referred to the mandatory Terms and Conditions of Domain Name Registration in .RU and .PФ. The document contains an exhaustive list of the grounds when domain registrars have to cease delegation. Trademark infringements are not on the list, what impedes domain registrars from the right to cease delegation, as alleged by the respondent.

The IP Court strongly criticized this argument. The judges noted that the industrial standard in no way can undermine the trademark holder's right to demand ceasing an infringement [*Civil Code*, art. 1252(1)(2)].

IMPACT

A fierce dispute on classification of registrars as information intermediary in fact has taken a back seat.

Now removal of illegal content can be achieved with less effort if a domain

registrar is evidenced to be a *person capable to cease an infringement* in the court.

(!) Important for trademark holders:

- to sue a domain registrar, one does not have to prove the status of information intermediary, a mere reference to capability of ceasing an infringement [*Civil Code*, art. 1252(1)(2)] shall suffice

(!) Important for domain registrars:

- if sued for a trademark infringement, a domain registrar is entitled to claim damages (e.g., expenses for legal services) against a domain administrator (*Terms and Conditions of Domain Name Registration in .RU and .PΦ*, art. 3.1.3)