

## Legal Alert

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[www.bakermckenzie.com](http://www.bakermckenzie.com)

For further information please contact

**Eugene Arieovich**

+7 495 787 27 00

[eugene.ariovich@bakermckenzie.com](mailto:eugene.ariovich@bakermckenzie.com)

**Denis Khabarov**

+7 495 787 27 00

[denis.khabarov@bakermckenzie.com](mailto:denis.khabarov@bakermckenzie.com)

**Maxim Kalinin**

+7 812 325 60 13

[maxim.kalinin@bakermckenzie.com](mailto:maxim.kalinin@bakermckenzie.com)

**Baker & McKenzie —  
CIS, Limited**

White Gardens, 10th Floor

9 Lesnaya Street

Moscow 125047, Russia

Tel.: +7 495 787 27 00

Fax: +7 495 787 27 01

BolloevCenter, 2nd Floor

4a Gritsova Lane

St. Petersburg 190000, Russia

Tel.: +7 812 303 90 00

Fax: +7 812 325 60 13

## Russia Extends the Application of Anti-Piracy Legislation

In August 2013 Russia introduced country-wide blocking injunctions for the rights owners of movies and TV shows and codified safe harbor principles for information intermediaries.

Starting from 1 May 2015 blocking injunctions will also become available to owners of other categories of copyrighted content (with the exception of photographs). In addition, notice and take-down procedures will be described in more detail with respect to online copyright infringement.

### Key implications for copyright owners

Starting from 1 May 2015 the owners of any works protected by copyright or neighboring rights (with the exception of photographs) can apply for preliminary blocking injunctions with the Moscow City Court. If the injunction is granted, website owners will have one business day to address the injunction, after which access to infringing materials will be disabled by hosting providers or, if necessary, by Internet service providers Russia-wide at the request of the responsible Russian authority (Roskomnadzor).

Furthermore, Moscow City Court will be entitled to issue an order to permanently block access to repeatedly infringing websites. Infringement will be considered repeated if there is an effective prior decision of the Moscow City Court against the same website owner/operator at the request of the same copyright owner.

The law also described in more detail the content of the private take-down notices addressed to website owners/operators and set specific timeframes for websites owners/operators to react. The take-down notices would need to:

- clearly identify the copyright owner or its representative (and an enclose power of attorney for the representative);
- identify the domain name and/or IP address of the infringing website (without a requirement to indicate the URL of the infringing material);
- identify the copyrighted work claimed to have been infringed and contain an acknowledgement of the copyright to it; and
- contain a statement that use of the material is not authorized.

The timeframe to react to a take-down notice will be 24 hours. Such notices may be sent either in writing or electronically.

## Key implications for website owners and Internet businesses

Starting from 1 May 2015 the owners/operators of Internet sites must indicate on their websites their names, postal addresses and e-mail addresses that will be used for sending take-down notices. They may also use special on-line forms for submission of take-down notices on their websites.

Upon receipt of a take-down notice from a copyright holder, the owner of the website must react within 24 hours by either:

- requesting additional information;
- removing infringing materials from the website; or
- providing the applicant with evidence that the website owner is authorized to use the respective works.

Failure to properly indicate the website owner or to timely react to take-down notices will most likely forfeit the safe harbors of the website owners/operators as information intermediaries, in which case they may be subject to liability for copyright infringement on their website.

Failure to properly react to the take-down notices will also contribute to the practical risk that copyright owners would prosecute relevant copyright violations. This should be taken into account considering the new powers of the Moscow City Court to permanently block access to the repeatedly infringing websites. At the same time, the option to unblock such infringing websites (for example, in situations where an infringement is eventually addressed) is not explicitly allowed in the currently adopted wording of the law.

Furthermore, if the Moscow City Court issues a preliminary blocking injunction, Russian authorities will inform the website owners/operators on the alleged infringement directly or through their hosting providers, and website owners/operators will only have 1 business day to remove the infringing content. If website owners/operators fail to do so, access to the respective content or entire website may be blocked by hosting providers or Russian Internet service providers.

Website owners/operators and other Internet businesses should consider clear identification on their websites (and possibly also in other services provided online), as well as implementation of expedited take-down procedures that will enable them to timely react to Russian take-down notices within 24 hours. They should also ensure that their hosting providers promptly forward any private take-down notices and governmental take-down requests received by post or email.

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