

## **Kirill Vozisov commented on holding social network *Vkontakte* users liable for unauthorized content uploading, RIA PrimaMedia reports.**

**Lawyers of Primorye believe the copyright violation shall not be solved only by holding users liable.**

*Vkontakte*, the largest Russian social network volunteered to hold its users liable for unauthorized content uploading, as *Commersant* newspaper writes.

Vkontakte network submitted data on its users' IP addresses in its court settlement with Gala Records/EMI company, while the latter one demanded giving their passport information too. Nikitin label managed to institute a criminal procedure against one of the network users for copyright infringement early this year.

Gala Records/EMI filed two lawsuits against *Vkontakte*, the largest Russian social network (according to TNS, it had 23.78 million followers in Russia in May 2011), concerning Infinity band and female singer Maksim's songs uploading. The lawsuits were addressed to St. Petersburg Arbitration Court and merged into one case with claim amount about 1.15 million rubles.

Kirill Vozisov, a partner of *Inmar* Law Company says that today a provider (Internet resource owner) is not liable for information transmitted if he or she does not send it, select information addressee and tamper with its integrity. This approach has been developed as a part of Russian legal strategy, the Concept of Civil Legislation and Project of the Civil Code of the Russian Federation, and has foreign equivalents (including EU Electronic Commerce Directive as of February 28, 2000 (part 4, art. 12-15); American Digital Millennium Copyright Act (DMCA), 1998; English Defamation Act, 1996).

At the same time courts consider owner and provider's actions in a dispute settlement, for example, if there has been sent a notice to provider (Internet resource owner) in order to stop infringement, or if the real infringer (user) has been identified. But it is true to say that these pre-trial procedures are not prescribed by the current legislation. However, the courts follow the principle, "A person who is responsible for copyright infringement shall pay a fine, if he or she does not prove to be innocent in the case".

That is why *Vkontakte* has to give the court information about its users, uploading illegal content. In this regard while passport details are sure to be personal data, IP-address has the same nature only with taking into account some criteria, like IP-address permanent status, other data support (like frequency and time of visiting certain sites), etc., Kirill Vozisov states.

*Inmar* Law Company partner believes the situation to become worse due to collision of such constitutional and internationally recognized concepts as privacy and copyright protection. Accordingly, by promoting the first of them and letting a provider not to disclose information about a certain user guilty of copyright infringement we neglect the second one, and vice versa. Currently US courts support copyright owners with special attention to the existing important copyright communities in the country. Switzerland has an opposite policy and sticks to privacy protection.

According to Kirill Vozisov, copyright infringement in file storages should not be fought only by massive court action against Internet users. Otherwise we may start disputing basic concepts of reasoning, practical use and public interests protection. Here we can see the disbalance between current legislation and the reality of data usage in communication networks. In that case the lawyer states, that the government shall create an environment where all parties of the process will understand the practical use of legal content placement. On the one hand, they are copyright owners or an organization representing them, on the other hand there are users and providers. Then, by applying real world working principles, providers shall sign a contract with copyright

owners in order to use their creations. Internet resources owners may charge their users for this content if they wish (like *now.ru*), or leave it free, obtaining their profit from advertisement.

Kirill Vozisov, who defended his PhD research paper on this topic, thinks that the offered rules may help to create balance for parties engaged in civil matters, who are owner, provider and user.

Source: [Primamedia.ru](http://Primamedia.ru)