

THE ARBITRAZH COURT OF THE KIROV OBLAST

610017, the City of Kirov, K. Liebknecht Street 102

<http://kirov.arbitr.ru>

In the name of the Russian Federation

JUDGEMENT

Case No. A28-11930/2021

The City of Kirov

03 March 2022

The operative part of the judgement was pronounced on 02 March 2022.

The judgement in full was issued on 03 March 2022.

The Arbitrazh Court of the Kirov Oblast, comprising the judge A.P. Slavinsky, with the court secretary A.P. Osennikova keeping the record of the hearing, having considered the claim brought by Entertainment One UK Limited against the individual entrepreneur Ivan Vladimirovich Kozhevnikov (INN: 431311477609, OGRNIP: 311431320700013) for recovery of 40,000 roubles 00 kopecks, with the participation in court hearing of:

From the defendant – A.N. Koykova, by power of attorney dated 01.12.2021, determined:

Entertainment UK Limited (hereinafter the Claimant) applied to the Arbitrazh Court of the Kirov Oblast with a statement of claim against the individual entrepreneur Ivan Kozhevnikov (hereinafter the Defendant) for recovery of 20,000 roubles 00 kopecks in compensation for infringement of the claimant's exclusive rights to trademarks No. 1212958, No. 1224441; 20,000 roubles 00 kopecks in compensation for infringement of exclusive rights to works of visual art - drawings of Peppa Pig, Daddy Pig; 150 roubles 00 kopecks expenses on purchase of goods; 50 roubles 00 kopecks of postage expenses, and also costs of the state duty.

The particulars of claim are based on provisions of Articles 1229, 1301, 1484, 1515 of the Civil Code of the Russian Federation (CC RF) and motivated by the fact that the Defendant violated the Claimant's exclusive rights to trademarks No. 1212958, No. 1224441 and to the works of visual art – drawings of Peppa Pig, Daddy Pig.

By ruling dated 16.11.2021 the Arbitrazh Court of the Kirov Oblast accepted the claim for consideration under the simplified proceedings.

By the ruling dated 14.01.2022 the Court proceeded to hear the case under the general litigation rules.

The Claimant failed to ensure appearance of a representative during the hearing, having been duly notified of the time and place of the court hearing; It requested by a motion dated 24.02.2022 to hear the case in the absence of its representative.

During the hearing the defendant supported the arguments set out in the reply received by the court on 07.02.2022.

On the basis of Article 156 of the Arbitrazh Procedural Code of the Russian Federation (hereinafter the APC RF) the court hearing was held in the absence of the claimant.

The following was established at the court hearing.

The Claimant is a legal person registered and carrying on business in Great Britain.

According to Article 62 (part 3) of the Constitution of the Russian Federation, foreign nationals and stateless persons in the Russian Federation shall enjoy rights and bear responsibilities equally with the citizens of the Russian Federation, except in cases established by Federal law or an international treaty of the Russian Federation.

In late February – early March 2022, Western countries, including the United Kingdom, imposed restrictive (political and economic) measures against the Russian Federation, legal entities and individuals, as well as senior officials of the Russian Federation.

These circumstances are common knowledge and, by virtue of Article 69 (1) of the APC RF, have prejudicial significance for this dispute.

On 28 February 2022, Presidential Decree No. 79 on the application of special economic measures in relation to unfriendly actions by the United States of America and associated foreign States and international organizations was passed.

Article 10 paragraph 1 of the CC RF prohibits the exercise of civil rights solely with the intention of causing harm to another person, bypassing the law with an unlawful purpose, or any other knowingly unconscientious exercise of civil rights (abuse of rights).

In the event of failure to comply with the requirements stipulated in paragraph 1 of this Article, a court, an arbitrazh court or arbitral tribunal, taking into account the nature and consequences of the abuse committed, shall deny the person the protection of its right in full or in part, and shall apply other measures stipulated by law (Article 10 § 2 of the Civil Code of the Russian Federation).

In view of the restrictive measures imposed on the Russian Federation and the status of the Claimant (the Claimant is located in the United Kingdom), the court regards the plaintiff's actions as an abuse of right, which constitutes an independent ground for dismissal of the claim.

The court finds no grounds to uphold the claim.

Given the dismissal of the claim, there were no grounds for awarding the court fees.

Guided by Articles 110, 167–170, 176, 180, 181 of the Arbitrazh Procedure Code of the Russian Federation, the Arbitrazh court

HAS MADE THE FOLLOWING JUDGEMENT:

to dismiss the claims.

The award may be appealed to the Second Arbitrazh Court of Appeal within one month in accordance with Articles 257, 259 of the Arbitrazh Procedural Code of the Russian Federation.

The appeal shall be filed through the Arbitrazh Court of Kirov Oblast.

Judge A.P. Slavinskiy

The electronic signature is valid.

ES data: Authenticating centre Federal Treasury

Date 16.12.2021 8:55:35

Issued to SLAVINSKI ANDREY PAVLOVICH