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Russia: the IP Court has clarified that the use of a “plot generating object” in a movie may constitute copyright infringement

Boris Malakhov (Lidings) · Tuesday, March 21st, 2017

In mid-February, the Russian Intellectual Property Court issued an interesting [decision](#), in which it indicated when filmmakers have to obtain a copyright owner’s consent for use of a movie prop.

Under the auspices of the case, Pan Press Publisher filed a lawsuit against Ren-TV TV Channel and AN-film Production Company claiming that its book cover design was illegally used in an episode of a comic TV series.



The book (Anna Karenina by Leo Tolstoy) appeared in a famous comic TV series, which made the TV channel’s attorneys giggle nervously before the Russian IP Court

The first instance and appeal courts satisfied the claims, despite the respondents’ defence that the book cover had not brought any sense or artistic value, which should have led the courts to classify it as an ordinary movie prop and apply the *fair use* doctrine.

To much regret on the part of the respondents, the IP Court upheld the findings of the lower courts. The panel of judges concluded that the players' dialogues and actions as well as other plot details were intended to focus the viewer's attention on the particular book by Leo Tolstoy, featuring the claimant's design on the cover. As the book was an essential part of the plot, it was recognised as a "plot generating object" that falls outside the scope of the *fair use* doctrine.

The IP Court's *ratio decidendi* in this case made it clear that the issue of whether a particular prop is a "plot generating object" or an ordinary functional element should be determined by judges based on the factual background of each case (e.g., artistic value, length of time shown, purpose of use).

Along with the decisions in [Louis Vuitton vs. Nidan Soky \(2009\)](#) and [Carte Blanche Greeting Ltd vs. Dalan-Story \(2016\)](#), the IP Court's interpretation of what constitutes a "plot generating object" could be of particular interest for the enforcement of IP in the sphere of filmmaking.

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This entry was posted on Tuesday, March 21st, 2017 at 2:26 pm and is filed under [Case Law](#), [Infringement](#), [Limitations](#), [Russia](#)

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