

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

BY BORIS MALAKHOV OF LIDINGS LAW FIRM AND ILYA KHODAKOV OF LIDINGS LAW FIRM ON APRIL 12, 2017

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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 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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ILN IP Insider **About the ILN IP Specialty Group**

Executive Offices
179 Kinderkamack Road
Westwood, NJ 07675
Tel: 201.594.9985/ Fax: 201.740.9765

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