

Russian Authors' Society determined as royalty collector for re-broadcast Russian copyrighted music on TV channels

The Russian Authors Society's ("RAO") traditional function is to manage the copyright issues for authors on any relevant license agreements, part of which involves collecting the royalty payments due to the owners of the copyright. Recently RAO appears to have changed its position regarding the collection of royalty payments owed for music used in films broadcast in Russia. Several large foreign channels have recently received letters from RAO requesting that license agreements be signed with RAO and that all subsequent royalty payments are made to RAO for any music used in films which are broadcast.

Russian law does not legislate on the issue of who is liable to pay royalties to collective management organisations such as RAO. Part IV of the Russian Civil Code ("RCC") (which regulates all IP issues in Russia) came into effect in 2008. Prior to this, the situation that existed was reliant on RAO's own development and interpretation of the existing legal provisions.

Since 2008 the general function of RAO has been to collect payments due to its members from cable TV operators who were considered liable to pay the royalties incurred from use of any music when they transmitted their films by cable. This is specified by the Russian Civil Code as one of the legal ways to use this copyright protected material. In 2010 this was confirmed as the correct approach by the court in the much publicized case of Broadcasting Company Pioneer TV v RAO. RAO's approach was also supported by the Russian Federal Surveillance Service for Compliance with the Law in Mass Communications and Cultural Heritage Protection (Rosokhrankultura). They were responsible for monitoring and enforcing compliance with copyright law in Russia, which included the licensing of copyright management agencies.

A lack of legal definitions for "broadcaster" and "cable operator" in the RCC led to the situation in which RAO could collect payments from both broadcasters and cable operators simultaneously.

More recently, the approach of the Russian Authors Society seems to be changing. The cable operators

are now divided into two groups, depending on the type of agreement concluded between the respective TV channel and the cable operator. Based on this classification, the cable operator may now only be considered responsible for the payments to RAO in situations when the agreement with the respective broadcaster is a license agreement to use audio-visual works. If the agreement with the cable operator is only for the provision of telecommunication services, then it is the TV channel (broadcaster) who is responsible for paying any necessary royalties.

The media market is currently following RAO's approach. It is hoped that it will be confirmed by the court as the correct practice going forward.



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