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Digital Law in the Russian Court Practice: Key Results of 2021

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Аннотация

The development of new technologies and the subsequent digitalization of the economy significantly affect legal relations, forcing us to rethink the usual institutions and establishing new problems that have not arisen before. The legal system can change, adapt and meet new challenges in two basic and interrelated ways: regulatory (that is, the adoption of new regulatory legal acts) and in the course of judicial resolution of legal conflicts that have developed within a particular dispute. The article provides an overview of the most significant cases considered by Russian courts in the field of digital law in 2021. A selection of court decisions was carried out in four areas of emerging judicial practice: 1) use of cryptocurrencies and other electronic currencies; 2) protection of intellectual property; 3) protection of personal data and information; and 4) violation of antitrust laws. The purpose of the article is to establish the current status of the development of law enforcement in the field of digital law in Russia and to demonstrate the multidirectional nature of legal relations, which are part of the subject area of digital law as an academic discipline. As a result, the main trends in the consideration of disputes by courts over the past year are determined.

Ключевые слова: international law, Internet, civil law, Internet law, cloud computing, jurisdiction, online, criminal law, conflicts of law

INTRODUCTION

The year 2021 was intended to be a breakthrough year in the development of the technological and scientific sectors and was thus declared the year of science and technology in Russia[1]. This circumstance not only symbolized the progress of Russian scientists and technological specialists on the way toward designing new inventions, creating advanced programs, enriching the Russian and world science, but also meant setting tasks for the domestic legal system to respond to new challenges both in rule-making and applying the law.

Undoubtedly, the past year will be remembered for the rapid development of the regulatory environment. Suffice it to recall the adoption of the law "On the Activities of Foreign Persons in the Information and Telecommunication Network 'Internet' on the Territory of the Russian Federation," also known as the "landing law",[2] the ongoing discussion of the "Digital Ruble" project[3] and many other legislative and government initiatives. For market participants, the regulatory agenda was aimed at protecting a wide range of people and stimulating Russian IT companies to implement competitive strategies.

Innovations in the regulatory sphere inevitably provoke disputes over the application of new rules. However, the process of formation of judicial practice in the field of digitalization is uneven and characterized by the following trends. Those changes in regulatory legal acts that are initiated by the executive authorities (for example, Roskomnadzor — Federal Service for Supervision of Communications, Information Technology, and Mass Media) and are aimed at regulating relations mainly by an imperative method (primarily a body of administrative regulatory legal acts — for example, the Law on Information Protection[4]), may facilitate the emergence of new cases (for example, to challenge the decisions of

1. Decree of the President of the Russian Federation "On holding the Year of Science and Technology in the Russian Federation", December 25, 2020, No. 812, http://publication.pravo.gov.ru/Document/View/0001202012250002

2. Federal Law of the Russian Federation "On the activities of foreign persons in the information and telecommunication network 'Internet' on the territory of the Russian Federation". Russian Federation Collection of Legislation, 2021, No. 27 (part I), Item. 5064.

3. Bank of Russia. (2020). A Digital Ruble. Consultation Paper. https://www.cbr.ru/StaticHtml/File/113008/Consultation_Paper_201013_eng.pdf

4. Federal Law of the Russian Federation «On information, information technologies and information protection». Russian Federation Collection of Legislation, 2006, No. 31 (part 1), Item. 5064.

the body) shortly after the appearance of the new rules. Such quick-impact changes are also characterized by the fact that the executive authorities already have models, methods and technologies for applying the amended or adopted acts.

The changes in legal acts that are based on a dispositive method of regulating social relations provide a different view on the problem. We are talking primarily about the sphere of private law particularly in the field of intellectual, corporate, and labor law. Normative models of behavior that require private autonomy for their implementation, as a rule, meet with a rather wary attitude of the subjects. The assimilation of new norms and analysis of the risks of their application lead to huge transaction costs for persons and organizations and, accordingly, require time to find ways to resolve conflict situations in practice. At the same time, due to the fact that the IT implementation market has a pronounced professional component and includes, for example, well-known IT giants — Google, Apple, Facebook, etc., its adaptability to new changes is significantly higher as compared to the non-digital market segment, and therefore postulates the accelerated appearance of major disputes arising from the commercial activity of such companies.

In addition, legal disputes on the use of digital technologies are often not submitted for discussion in court. For example, well-known media platforms are making significant efforts to out-of-court settlement of the conflict with both the user and the executive authorities. Accordingly, this circumstance significantly limits the scope of the study of conflicts in the field of digital law.

Since “digital law” as an academic discipline includes consideration of various branches of legislation[5], it seems reasonable to clarify which branches will be discussed further when reviewing specific judicial acts issued in 2021. First of all, we will consider a number of cases related to the use of cryptocurrencies and other e-currencies in Russia. Secondly, we will turn to a number of significant cases of protection of intellectual property. Thirdly, we will discuss the category of cases of the violation of the legislation on protection of personal data and the law on the protection of information by IT companies. Finally, we will focus on a number of major antitrust disputes that have arisen in the digital sector of the economy.

5. Inozemtsev, M.I. (2021). Digital law: The pursuit of certainty. Digital Law Journal, 2(1), 8–28. https://doi.org/10.38044/2686-9136-2021-2-1-8-28

CASES ON THE USE OF CRYPTOCURRENCIES AND OTHER E-CURRENCIES

CASE ON UNREASONABLE ENRICHMENT OF CRYPTOCURRENCY SELLER

In February 2021, the Supreme Court ruled on an unjust enrichment case of a cryptocurrency seller.[6] In 2018, third parties, having fraudulently received bank card details, transferred funds from the deposit of a Sberbank client to the account of another third party. The client was recognized as a victim under Part 3 of Art. 159 of the Criminal Code of the Russian Federation, and, subsequently, she asked the court to recover from Sberbank the full amount of lost money, consumer fines and moral damages. All customer demands were satisfied.

In turn, Sberbank filed a lawsuit to recover the sum of unjust enrichment against a third party who received the money from the victim. The defendant substantiated the impossibility of recovering unjust enrichment under Art. 1102 of the Civil Code of the Russian Federation by the fact that there was a legal basis for such enrichment — an agreement for the sale of cryptocurrency with the user on the BTC Banker platform (Hong Kong) in Telegram messenger, payments for which are anonymized.

The court of first instance refused Sberbank to recover from the defendant the amount of unjust enrichment. The appellate court, pointing out that the funds were not transferred against the obligation of the injured client, came to the conclusion that the existence of a lawful transaction between the platform user and the cryptocurrency seller does not exclude the possibility of recovering the amount of unjust enrichment. Subsequently, the Court of Cassation upheld that decision.

The Supreme Court considered that the recovery of unjust enrichment was impossible, since the cryptocurrency seller had legal grounds for receiving funds, namely, a contract for the sale of cryptocurrency. The court noted that the damage to the bank was caused by the actions of another third party to pay for this purchase. However, the presence of a clear economic interest on the part of the

6. Ruling of the Judicial Chamber on Civil Cases of the Russian Federation Supreme Court of Feb. 2, 2021, No. 44-КГ20-17-К7, 2-2886/2019.

defendant (seller) serves as an obstacle to recovering from him the sum of unjust enrichment.

The court pointed out the subsidiarity of the rules on the recovery of unjust enrichment, and ordered a retrial, focusing the attention of the appellate court on the question of the possibility of defining the nature of the claim as a claim for the recovery of damages and determining the proper defendant.

CASES OF BLOCKING OF BANK CARD DUE TO THE PAYMENT FOR THE SOLD CRYPTOCURRENCY

In 2021, cases similar in factual circumstances were considered by the Second Cassation Court of the Russian Federation[7] and the Sverdlovsk Regional Court[8]. In both cases, the bank blocked its clients' cards due to suspicious payments. The clients tried to prove the purpose of the payment and define it as a payment for the contract of sale of cryptocurrencies concluded on the crypto exchange.

In the first case, the courts of first instance and appeal denied the client's claim, confirming the bank's actions and allowing unjust enrichment to be recovered (by analogy with the case discussed above). The court of cassation ordered a retrial, clarifying the subject of proof by the need for the court to study the rules of the crypto exchange and request a register of operations and persons involved in them.

In the second case, the court of first instance ruled in favor of the bank. However, the appellate court, having ensured that the defendant had provided financial documentation confirming the purpose of the payment and the nature of the transactions being carried out, took his side, obliging Sberbank to unblock the cards and partially reimburse the funding of the client's the legal representative.

7. The Second Cassation Court of General Jurisdiction. (2021, April). The Second Court of Cassation have ordered a retrial. https://2kas.sudrf.ru/modules.php?name=press_dep&op=1&did=335

8. Appellate Ruling of Sverdlovsk Regional Court No. 2-135/2021 of July 9, 2021, No. 33-8120/2021. https://oblsud--svd.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=15003808&delo_id=5&new=5&text_number=1

THE CASE OF ELECTRONIC CURRENCY WEB MONEY

On June 1, 2021, the Supreme Court issued a landmark ruling in which it recognized WMZ, the electronic currency of the Web Money Transfer payment system, as an object of civil rights.[9] According to the circumstances of the case, the claimant transferred 5.000 WMZ to the defendant under several assignment agreements. The claimant went to court to recover the debt from the party to a contract of sale of rights.

The positions of the court of first instance, the appellate court and the court of cassation were based on Art. 128, 140 of the Civil Code of the Russian Federation, clause 1.1, Ch. 1 of the Regulation of the Bank of Russia dated June 19, 2012 “On the rules for the transfer of funds”, paragraph 19 of Art. 3 of the Federal Law of June 27, 2011 “On the National Payment System”. According to the courts’ opinions, WMZ is a title unit — an accounting unit that is subject to exchange only within the virtual payment system. Since this title sign is not an object of the material world, it does not have the quality of a thing, including money and securities, it is not an object of civil rights and the rights to it cannot be the subject of an assignment agreement.

The Supreme Court approached the analysis of the existing legal relations more flexibly, taking into account the actual realities of the circulation of the electronic currency WMZ. The Judicial Chamber took into account the variety of ways to replenish the wallets of the Web Money Transfer System, the nature of this payment system, based on the guarantee of Amstar Holdings Limited, as well as the possibility of paying for services and items of the material world in Russia and abroad, including state duties, fines, etc. Thus, the Supreme Court demonstrated an exemplary analysis of the legal relations of using WMZ and took into account the actual involvement of this electronic currency in the legal field.

CASE OF THE RECOVERY OF BITCOINS HELD IN ADVERSE POSSESSION

While in the case considered above, the claimant tried to recover the debt under the contractual obligation in court, in the case that will be discussed below, the claimant turned to a different way of

9. Ruling of the Judicial Chamber on Civil Cases of the Russian Federation Supreme Court of June 1, 2021 № 48-KG21-3-K7, 2-5227/2019.

protecting the violated right — suit in rem — for the purpose of recovering bitcoins.[10]

According to the circumstances of the case, in 2018, the claimant transferred bitcoins to the defendant for fiduciary management. Under the terms of the parole agreement, he had to invest them over five months and then return them back, retaining 20 % of the profit. However, after the expiration of the contract, the defendant did not return the cryptocurrency, explaining that he had lost it.

At the time of the presentation of the vindicatory action, the "Law on Digital Financial Assets" had already been adopted, according to which bitcoin refers to property.[11] Nevertheless, this does not give grounds to consider signs of an item of property as an object of civil rights. Accordingly, the claimant chose an improper way to protect the right. However, due to the controversial nature of the transferred assets, the court noted that, all other things being equal, in accordance with paragraph 32 of the Plenary Ruling of the Supreme Court of the Russian Federation and of the Highest Arbitration Court of the Russian Federation "On some issues arising in judicial practice in resolving disputes related to the protection of property rights and other property rights", it was not established that the property is in the possession of the defendant.[12] It was found that the defendant returned the remaining amount of cryptocurrency, which was not disputed by the claimant. The risk of a decrease in the value of a cryptocurrency in the course of its trust management, which happened in the present case, does not give rise to the right on the claimant's side to sue for its quantitative equivalent.

CASE OF THE RECOVERY OF LOST PROFITS FROM THE ELECTRICITY SUPPLIER

Allo-Info LLC applied to the Arbitrazh Court with a statement of claim against Saratov Enterprise of Urban Electric Networks LLC, demanding the recovery of losses in the form of real damage in the amount of 1 500 000 rubles and lost profits in the amount of 14 800 000 rubles.[13] After clarification, the claims were directed to

10. Decision of Sverdlovsk District Court of Sep. 9, 2021, No. 2-2888/2021. https://mos-gorsud.ru/rs/savyolovskij/cases/docs/content/3348f6c0-541c-11ec-9476-c344114bec22

11. Federal Law of the Russian Federation «On Digital Financial Assets, Digital Currency and on Amendments to Certain Legislative Acts of the Russian Federation». Russian Federation Collection of Legislation, 2020, No. 31 (part I), Item 5018.

12. Plenary Ruling of the Supreme Court of the Russian Federation and of the Highest Arbitration Court of the Russian Federation "On some issues arising in judicial practice in resolving disputes related to the protection of property rights and other property rights". Ros. Gaz., 2010, No. 109.

recover losses from the defendant in the form of lost profits caused in connection with damage to mining equipment in the amount of 11 200 000 rubles.

The court of first instance satisfied the claims for the recovery of actual damages, leaving the claims for the recovery of lost profits unsatisfied due to the lack of evidence of a causal relationship.

In addition, the court, being extremely categorical, indicated that the risks of carrying out business activities related to mining in the absence of proper legal regulation are fully borne by the claimant and he “is not entitled to receive income that he could have received under normal conditions of civil circulation if his right was not violated (lost profits).”

Of course, the last statement — about the absence of the right to recover lost profits from persons who carry out cryptocurrency mining — is unjustified. The issue of satisfying such demands should be decided upon based on the general provisions on civil liability.

CASES OF INTELLECTUAL PROPERTY PROTECTION

VK V. DOUBLE DATA

This dispute has become one of the most tendentious disputes in Russia at the intersection of digital law and intellectual property law[13][14]. Double Data LLC, which specializes in data mining — the collection of publicly available data, — regularly monitored the VK network, aggregated information about users and, at the request of credit institutions, compiled a profile of potential borrowers. This type of data mining is also known as parsing.

VK demanded to stop extracting information from user databases and stop reusing it.

In 2017, the court of first instance completely refused VK to satisfy the claims.[15] The appellate court overruled the decision of the court

13. Ruling of the Twelve Arbitrazh Appellate Court. Case No. A57-15876/2020. https://kad.arbitr.ru/Document/Pdf/c79022cb-988a-427b-87a8-a49862173a8a/9f93cfcc-6916-47ae-b9d7-cc2744d36cdb/A57-15876-2020_20210630_Postanovlenie_apelljacionnoj_instancii.pdf?isAddStamp=True

14. Ruling of the Ninth Arbitrazh Appellate Court of July 8, 2021, No 09АП-31545/2021-GK. https://kad.arbitr.ru/Kad/PdfDocument/1f33e071-4a16-4bf9-ab17-4df80f6c1556/a8505aef-b00b-4962-a25c-cce1bf9e18d5/A40-18827-2017_20210708_Postanovlenie_apelljacionnoj_instancii.pdf

15. Decision of Moscow Arbitrazh Court of October 12, 2017, No. A40-18827/17-110-180. https://kad.arbitr.ru/Kad/PdfDocument/1f33e071-4a16-4bf9-ab17-4df80f6c1556/f00dab8b-54b3-4283-bd50-133b5009310b/A40-18827-2017_20171012_Reshenija_i_postanovlenija.pdf

of first instance and partially satisfied the requirements of VK.[16] The Intellectual Property Court reversed the decisions of the lower courts and ordered a retrial.[17]

In 2021, the court of first instance refused to satisfy the requirements of VK.[18] Finally, the appellate court granted VK claims in full.[19] At the same time, the Intellectual Property Rights Court will have to revert to the consideration of this dispute again in May 2022.

Whether the parsing of web resources in Russia will be allowed depends on the decision in this case. According to the latest position of the appellate court, data mining and the subsequent use of information obtained from sites is allowed only if the rights and legally protected interests of users are not violated.

Moreover, the key conclusion of the courts in this case was that the exclusive right to the user database belongs to VK. When deciding the issue of ownership of exclusive right to a database, it does not matter whether the database is an “indirect product” or not, it is only required to establish that significant costs are objectively required to create a database. At the same time, Double Data did not refute the presumption that VK costs were significant for its creation.

CASE ABOUT SAMSUNG PAY BAN

In 2021, the Swiss company Squin SA filed a lawsuit against Samsung Electronics Rus and Samsung Electronics Co Ltd. to stop using Samsung Pay in Russia because the technology infringes on the claimant’s patent called “electronic payment system”.

The Moscow Arbitrazh Court fully satisfied the claim and banned “the use of products that include the Samsung payment service.”[20] Subsequently, the court clarified in an additional decision dated

16. Ruling of the Ninth Arbitrazh Appellate Court of February 6, 2018, No 09AP-61593/2017-GK https://kad.arbitr.ru/Kad/PdfDocument/1f33e071-4a16-4bf9-ab17-4df80f6c1556/2604674d-9228-4a7b-9e29-df5a0b36a7c3/A40-18827-2017_20180206_Postanovlenie_apelljacionnoj_instancii.pdf

17. Ruling of Intellectual Property Court of July 24, 2018, Case No. A40-18827/2017. https://kad.arbitr.ru/Kad/PdfDocument/1f33e071-4a16-4bf9-ab17-4df80f6c1556/4c9d2b02-4fbd-4554-82c8-53282523639c/A40-18827-2017_20180724_Reshenija_i_postanovlenija.pdf

18. Decision of Moscow Arbitrazh Court of March 22, 2021, Case No. A40-18827/17-110-180. https://kad.arbitr.ru/Kad/PdfDocument/1f33e071-4a16-4bf9-ab17-4df80f6c1556/5f0df387-8b34-426d-9fd7-58facdb8a367/A40-18827-2017_20210322_Reshenija_i_postanovlenija.pdf

19. Ruling of the Ninth Arbitrazh Appellate Court of July 8, 2021 Case No. 09АП-31545/2021-GK. https://kad.arbitr.ru/Kad/PdfDocument/1f33e071-4a16-4bf9-ab17-4df80f6c1556/a8505aef-b00b-4962-a25c-cce1bf9e18d5/A40-18827-2017_20210708_Postanovlenie_apelljacionnoj_instancii.pdf

October 26, 2021, which models of smartphones are prohibited from being imported into Russia due to patent infringement.

In December, the appellate court started a review of the decision of the Moscow Arbitrazh Court, under which the latter had refused to involve Visa Payment System LLC, Mastercard LLC and National Payment Card System JSC as third parties that do not declare independent claims.[21] Then the court rejected the claim due to violation of the procedural deadlines for filing it, and in 2022 the court terminated the proceedings.[22]

CASES OF THE PROTECTION OF PERSONAL DATA AND THE LAW ON THE PROTECTION OF INFORMATION BY THE IT COMPANIES

CASE OF THE TELEGRAM BOT “EYE OF GOD”

In June 2021, Roskomnadzor filed a lawsuit against the owner of one of the largest services for finding information about citizens and organizations, called “Eye of God”. This Telegram bot specialized in systematizing big data from open sources: social networks, messengers, search engines, websites, applications, etc. providing, in essence, services for parsing Internet resources to a wide range of people (see the aforementioned VK v. Double Data case). The main difference is that, according to the position of Roskomnadzor, the service also used data from closed sources without the proper consent of the subjects of personal data.

After consideration of this case, the court ruled in favor of Roskomnadzor, recognizing the activity of the owner of the resource as “illegal and violating the rights of citizens to privacy, personal and family secrets” (Part 1 of Art. 13.11 of the Code of Administrative Offenses of the Russian Federation)[23], which serves as the basis for

20. Decision of Moscow Arbitrazh Court of July 27, 2021, Case No A40-29590/20-12-183. https://kad.arbitr.ru/Kad/PdfDocument/12c0db2f-d4ed-4af5-8d64-46a890fbc9b3/09ecf346-23df-4689-9097-572e75cd9674/A40-29590-2020_20210727_Reshenija_i_postanovlenija.pdf

21. Ruling of the Ninth Arbitrazh Appellate Court No. 09AP-56078/2021, Case No. A40-29590/20. https://kad.arbitr.ru/Kad/PdfDocument/12c0db2f-d4ed-4af5-8d64-46a890fbc9b3/5dd60842-bdc7-480d-a524-430e1b0ea413/A40-29590-2020_20210820_Opredelenie.pdf

22. Ruling of the Ninth Arbitrazh Appellate Court No. 09AP-77387/2021, Case No. A40-29590/20. https://kad.arbitr.ru/Kad/PdfDocument/12c0db2f-d4ed-4af5-8d64-46a890fbc9b3/04c6d1b8-1915-4fe0-9049-b1ef11c22cb6/A40-29590-2020_20220304_Opredelenie.pdf

including this Telegram bot in the Register of violators of the rights of subjects of personal data (Part 5 of Art. 15.5 of the “Law on Information Protection”).

PERSONAL DATA STORAGE CASE — ROSKOMNADZOR V. GOOGLE

In July 2021, as a result of administrative proceedings initiated by Roskomnadzor, Google LLC was fined 3 million rubles for refusing to localize the data of Russian users on the territory of the Russian Federation (Part 8 of Art. 13.11 of the Code of Administrative Offenses of the Russian Federation).[24]

The provision of Part 5 of Art. 18 of the “Law on Personal Data” prohibits the storage of personal data of Russian citizens on foreign servers and provides for the obligation to use Russian servers for these purposes. Under this provision, the maximum fine is 6 million rubles and 18 million rubles for repeated violation.

ROSKOMNADZOR V. GOOGLE — THE FIRST NEGOTIABLE FINE IN RELATION TO AN IT COMPANY

On December 24, 2021, the court issued a ruling imposing an administrative penalty on Google LLC for repeated violation of the procedure for restricting access to information at the request of Roskomnadzor (Part 5 of Art. 13.41 of the Code of Administrative Offenses of the Russian Federation).[25] The turnover fine provided for by this rule — from one twentieth to one tenth of the total amount of revenue received from the sale of all goods (works, services) for the period specified by law — was amounted to more than 7.2 billion rubles.

This decision was the first case in Russia of the imposition of a turnover fine and the corresponding application of Part 5 of Art. 13.41 of the Code of Administrative Offenses of the Russian Federation in relation to an IT company.

23. Decision of Moscow Court of Taganskiy District of July 1, 2021, Case No. 2-2418/2021. https://mos-gorsud.ru/rs/taganskij/cases/docs/content/435ed4c0-db5a-11eb-8710-cff7cfa2902d

24. Ruling of magistrate judge of Moscow judicial district No. 422 on the imposition of an administrative penalty of July 29, 2021. https://mos-sud.ru/422/cases/docs/content/b66f679f-d9b9-4faf-86ac-344a10306ffa

25. Ruling of magistrate judge of Moscow judicial district No. 422 on the imposition of an administrative penalty of July 24, 2021. https://mos-sud.ru/422/cases/docs/content/1b6bebe4-4c2a-4a73-b8b0-d65fa664e175

ANTITRUST DISPUTES

BOOKING.COM V. FEDERAL ANTIMONOPOLY SERVICE OF THE RUSSIAN FEDERATION

At the end of 2020, the Federal Antimonopoly Service of Russia (hereinafter — the FAS) saw in the activities of Booking.com an abuse of its dominant position in the market, which was expressed in the imposition of unfavorable General Conditions for the Provision of Services on hotels (Clause 3, Part 1, Art. 10 of the "Law on the Protection of Competition"). In accordance with these conditions, contracting hotels guarantee rooms to tourists or other agencies at prices lower than those set on the Booking.com platform website. Thus, Booking.com tried to protect itself from losing booking fees in the case when a tourist chose a hotel on the platform, and made the final booking directly at a better price.

The Federal Antimonopoly Service demanded that the price parity clause be removed from hotel contracts, but the company took no action to comply with the demands of the antitrust authority. The FAS also ruled to impose a turnover fine on Booking.com in the amount of 1.3 billion rubles, which amounted to 11.5 % of the turnover of the booking service in Russia in 2020.

Booking.com did not agree with the decision of the FAS and in 2021 went to court to challenge the decision of the antimonopoly body. The Moscow Arbitrazh Court upheld the claim of Booking.com to challenge the decision of the FAS.[26] The appellate court[27] and court of cassation[28] upheld the decision of the Arbitrazh Court of first instance in force.

Similar cases involving hotel booking aggregators have already been considered by antitrust authorities in many countries (in particular, in Germany[29] and France[30]). In similar cases, the price

26. Decision of Moscow Arbitrazh Court of Sep. 9, 2021, Case No. A40-19473/2021-147-138. https://kad.arbitr.ru/Document/Pdf/1ed35e79-1aa7-45a9-934c-e41875c3e42d/b5fec426-9eb9-44bd-9f1e-078aad99ad3b/A40-19473-2021_20210906_Reshenija_i_postanovlenija.pdf?isAddStamp=True

27. Ruling of the Ninth Arbitrazh Appellate Court of Nov. 17, 2021, No. 09АП-69386/2021, Case No. A40-19473/2021https://kad.arbitr.ru/Document/Pdf/1ed35e79-1aa7-45a9-934c-e41875c3e42d/4f5322ad-4acf-444d-a45d-e30a867b99d4/A40-19473-2021_20211117_Postanovlenie_apelljacionnoj_instancii.pdf?isAddStamp=True

28. Ruling of Arbitrazh Court of Moscow Circuit of March 11, 2022, Case No. A40-19473/2021. https://kad.arbitr.ru/Document/Pdf/1ed35e79-1aa7-45a9-934c-e41875c3e42d/43c9d03b-0255-4283-a67f-ac9d6f6a76f4/A40-19473-2021_20220311_Reshenija_i_postanovlenija.pdf?isAddStamp=True

29. Decree of Federal Cartel Office NoB9-66/10 https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Entscheidungen/Kartellverbot/B9-66-10.html

parity clause was found to restrict competition and therefore be contrary to antitrust regulation.

Price parity can be of two types:

1. Narrow parity — the aggregator prohibits direct sales to consumers on better terms (for example, from its own website or by phone).
2. Wide parity — the aggregator prohibits sales on better terms through other aggregators.[31]

The FAS banned broad and narrow parity at the same time, which generally corresponds to the experience of foreign law enforcement agencies, which came to this step by step banning wide and then narrow price parity.

The price parity condition is typical for any other contracts that are entered into by the owners of aggregators and e-commerce platforms (for example, delivery services or marketplaces). Therefore, it is likely that other e-commerce platforms are forced to follow the decision of the FAS, confirmed by the court decision, and revise the terms of their agreements with counterparties.

CONCLUSIONS

In the article, we have analyzed the most significant, in our opinion, litigation disputes that were resolved by Russian courts in 2021. We have tried to demonstrate the breadth of the problematic issues which Russian legal system faced in the context of digitalization, as well as their solutions, which, regardless of their success and compliance needs of professional market participants, consumers and the state, determine the agenda for the development of digital law in several directions.

Of course, there are many other equally interesting disputes, cases and legal positions that the reader would probably like to get acquainted with in the course of reading the Digital Law Journal. That is why we invite you — our thoughtful readership — to become the author of an article, essay or review, in which you could state your views on certain issues of digital law, laying strong doctrinal

30. Décision 15-D-06 du 21 avril 2015. https://www.autoritedelaconcurrence.fr/fr/decision/sur-les-pratiquesmises-en-oeuvre-par-les-societes-bookingcom-bv-bookingcom-france-sas-et

31. Jaremchuk, A.V. (2022). Anti-Competitive Practices in Digital Markets: Experience of Foreign Countries Российское конкурентное право и экономика. Special Issue. pp. 78–87, https://doi.org/10.47361/2542-0259-2022-SpV-78-87

foundation for the further evolution of the legal regulation of the digital economy in 2022.

For the third year, the Digital Law Journal has been an important discussion platform for debating and developing international and national problems of digital law and economics, a place for scientific cooperation in one of the most adaptable, innovative and changing fields of knowledge. The Journal invariably strengthens its position as a publishing and scientific project.

All this would not have been possible without the already established readership, authors willing to share their views, staunch adherents of the ideals of science and ethics of the reviewers, the team of editors and the support of the publisher.

With great pleasure, we present to your attention the first issue of the third volume of the Digital Law Journal and express the hope that in 2022 we will succeed in mastering the new frontiers of digital law and economics!