



Database Rights, Social Networks and Access to Publically Available Data: The Case of VKontakte v. Double Data

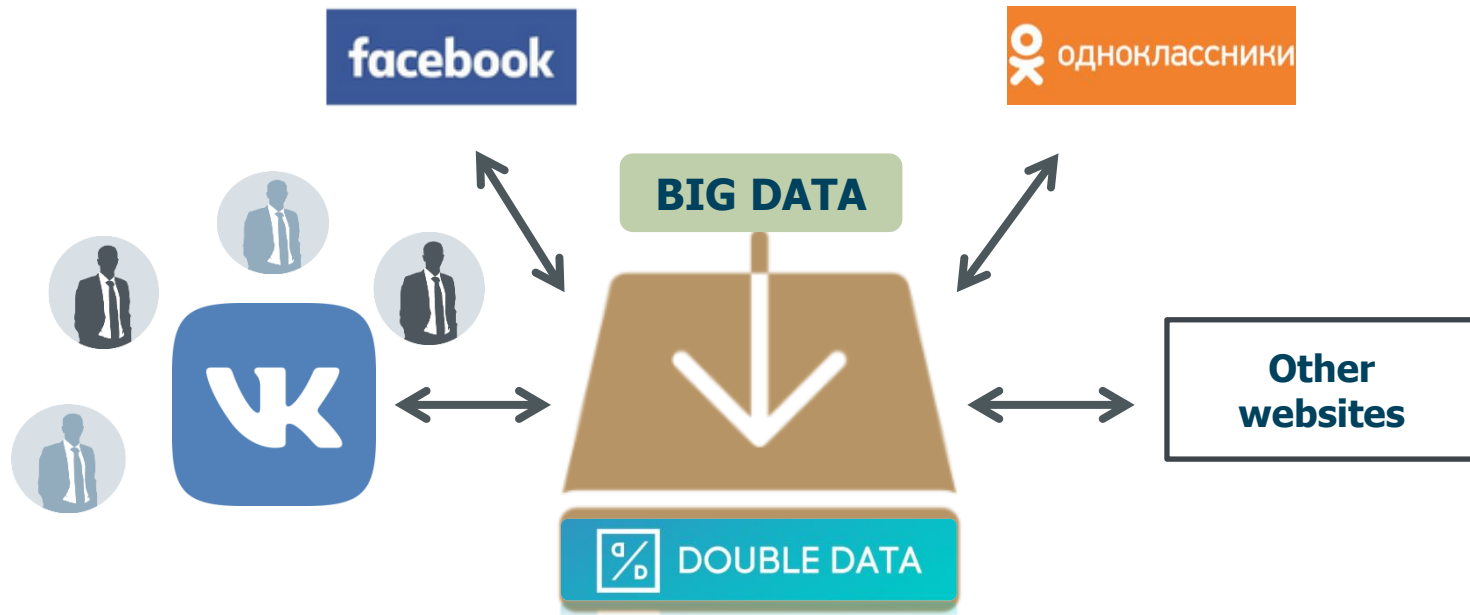
Irina Shurmina, Senior Associate, LL.M, IP/Digital
Bryan Cave Leighton Paisner (Russia) LLP

23 February 2019

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in Russia

Double Data vs VK

- Social network VK filed a lawsuit against the tech startup Double Data
- VK state they have *sui generis* right to the database of user data
- Precedent case about big data



Key Questions of the Case

1. IP right to the database?

2. Do search engines infringe IP rights?

3. Can social network limit access to the publicly available information?

Database protection in Russia

Database



Creative work

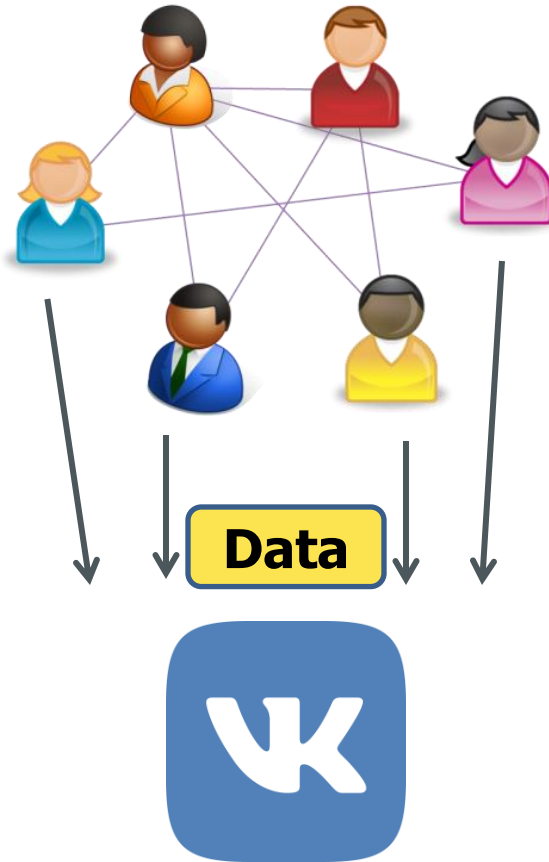


**\$ or other substantial investment
into creation of the database**



LexisNexis[®]

Does VK make a substantial investment?



Substantial investment into creation of the database ?



Sui generis or spin-off?

EU approach: *sui generis* database right protects substantial investments, not spin-off products

**The British Horceracing Board
v William Hill Organisation**



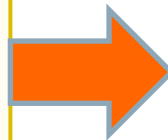
**No substantial investment into search and collection of materials =
no *sui generis* right**

Ryanair cases

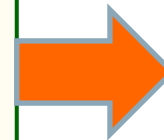


Investments into development and support of website \neq substantial investment into creation of database

No substantial investment

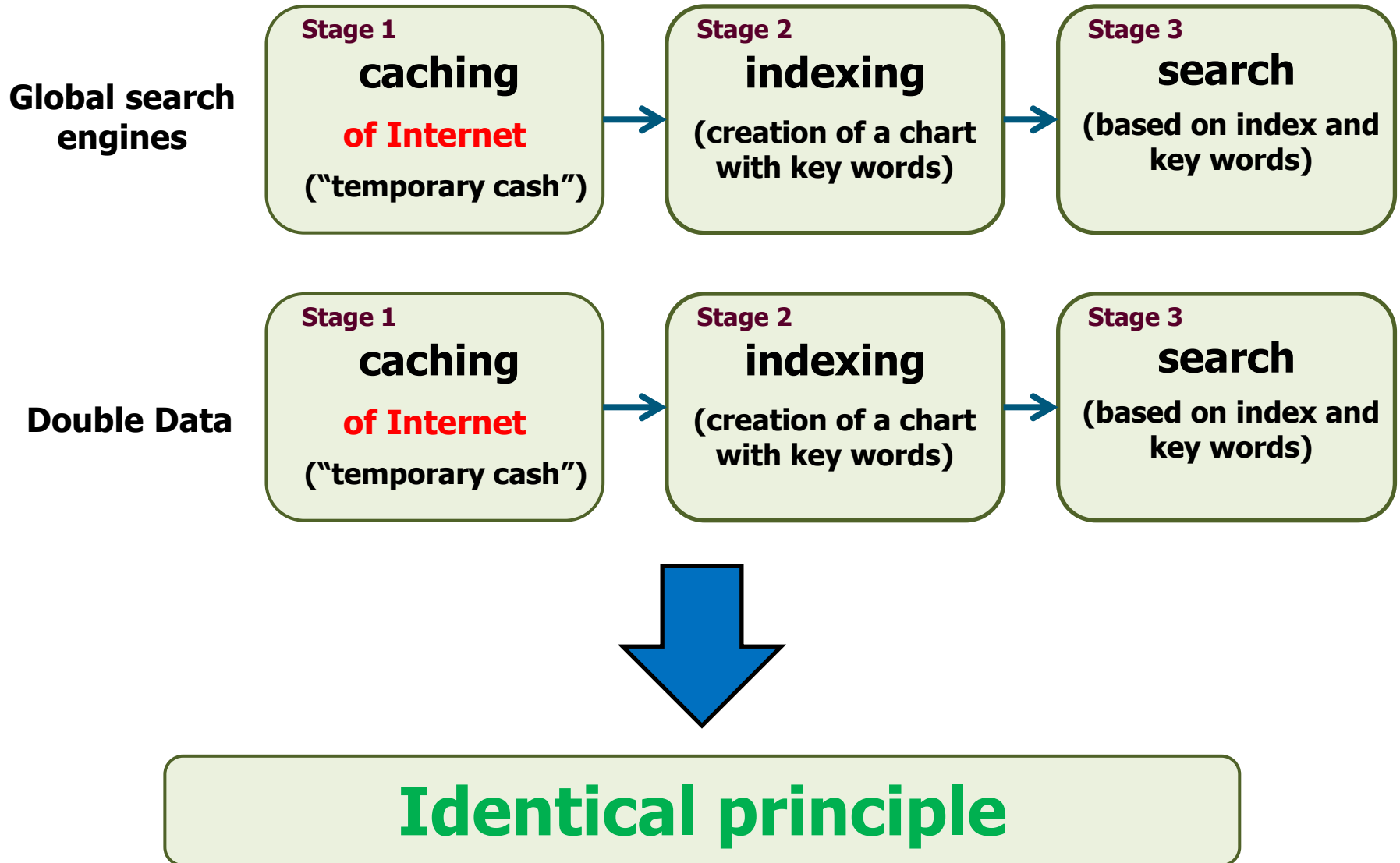


Spin-off



No *sui generis* right

Double Data and search engines



Can VK Limit Access to the Open Data?

Open page

The image shows two screenshots from the VK mobile app. The left screenshot displays the privacy settings for a user's profile, with the 'Все' (All) option selected and highlighted by a red box. The right screenshot shows the user's profile page, which is publicly accessible, displaying personal information, contact details, and a list of friends.

14:02 0,49КБ/с 79%

← Приватность 1 1

Кому в интернете видна моя страница

- Все**
- Всем, кроме поисковых сайтов
- Только пользователям ВКонтакте

Сохранить

На главную Полная версия Выход

Глеб Любочко Online

День рождения: 1 февраля
Город: Москва
Образование: НИУ ВШЭ (ГУ-ВШЭ) '16
Скрыть подробную информацию

Контактная информация
Instagram: gleb.lyubochko

588 друзей 135 подписчиков 16 фотографий 36 видеозаписей

Друзья 588 новости

Вероника Серёжа Алиса
Ирина Карен Серёжа

Фотографии Глеба 16

Private page

The image shows two screenshots from the VK mobile app. The left screenshot displays the privacy settings for a user's profile, with the 'Только пользователям ВКонтакте' (Only VK users) option selected and highlighted by a red box. The right screenshot shows the user's profile page, which is private, displaying a placeholder profile picture and a message indicating that the page is only accessible to authorized users.

14:02 1,52КБ/с 79%

← Приватность 1 1

Кому в интернете видна моя страница

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«Generally accessible information may be used by any persons at their discretion...» (Federal Law "On information...")

hiQ v LinkedIn: Threat to Free Flow of Information



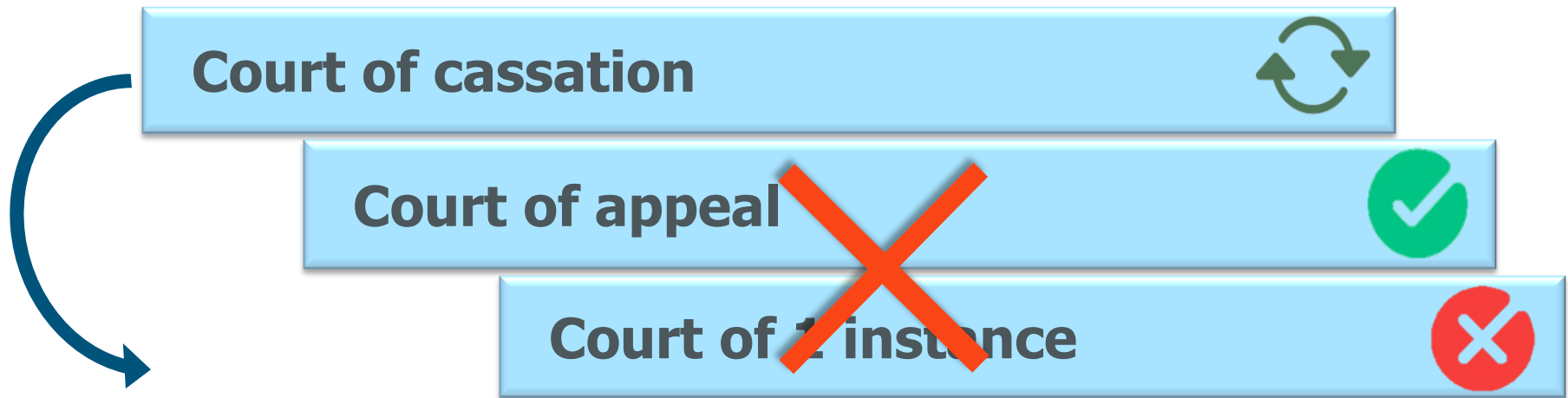
“[C]onferring on private entities ...the blanket **authority to block viewers from accessing information publicly available on its website for any reason:**

- “could pose an **ominous threat** to public discourse and **the free flow of information promised by the Internet**”
- “**LinkedIn’s behavior may be anticompetitive conduct** in violation of California’s Unfair Competition Law”

HIQ Labs, Inc. v. LinkedIn Corp. 273 F. Supp. 3d 1099 (N.D. Cal. 2017)



VKontakte vs Double Data



Why is the Case So Important?

First case about Big Data in Russia



Important question whether user data is IP

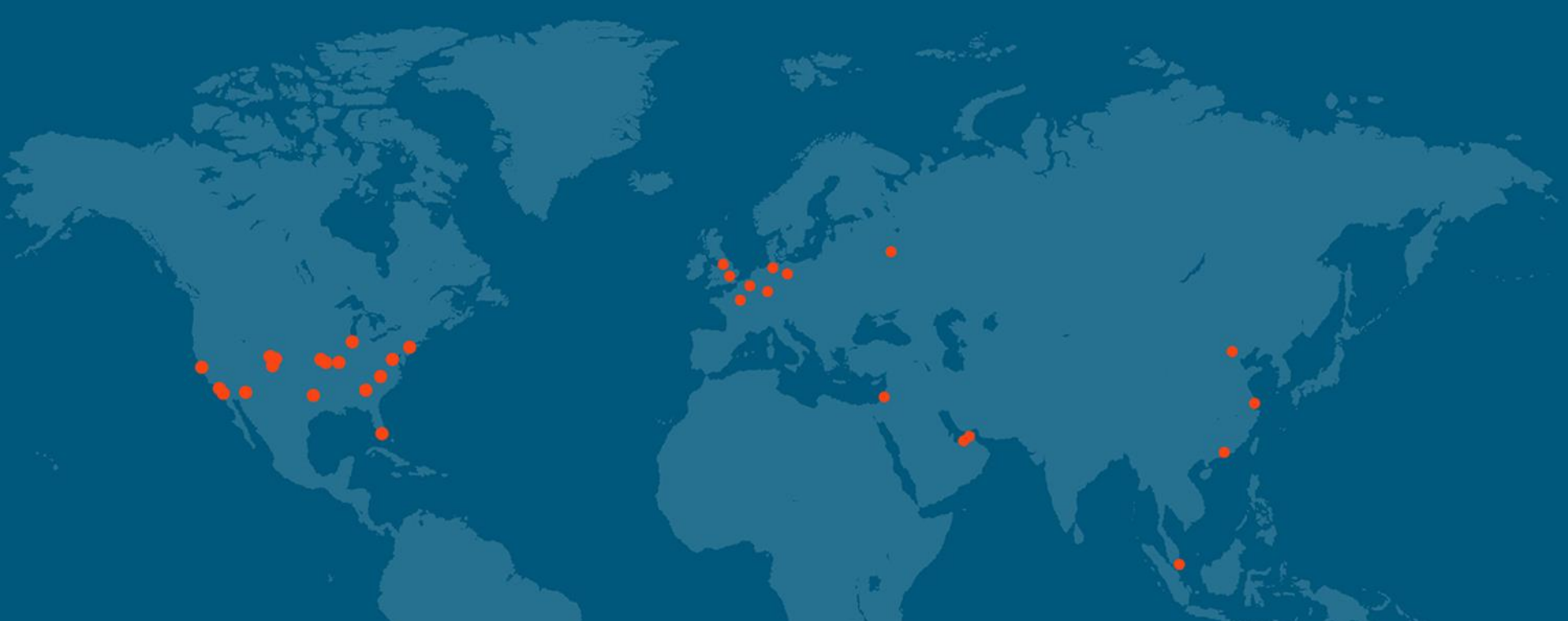


Longstanding consequences for the IT market and digital economy



If VK wins – potential monopoly of major online platforms





**THANK YOU FOR
YOUR ATTENTION!**

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Irina Shurmina

Senior Associate, LL.M

Email:

Irina.Shurmina@bclplaw.com

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CAVE
LEIGHTON PAISNER **BLP**

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