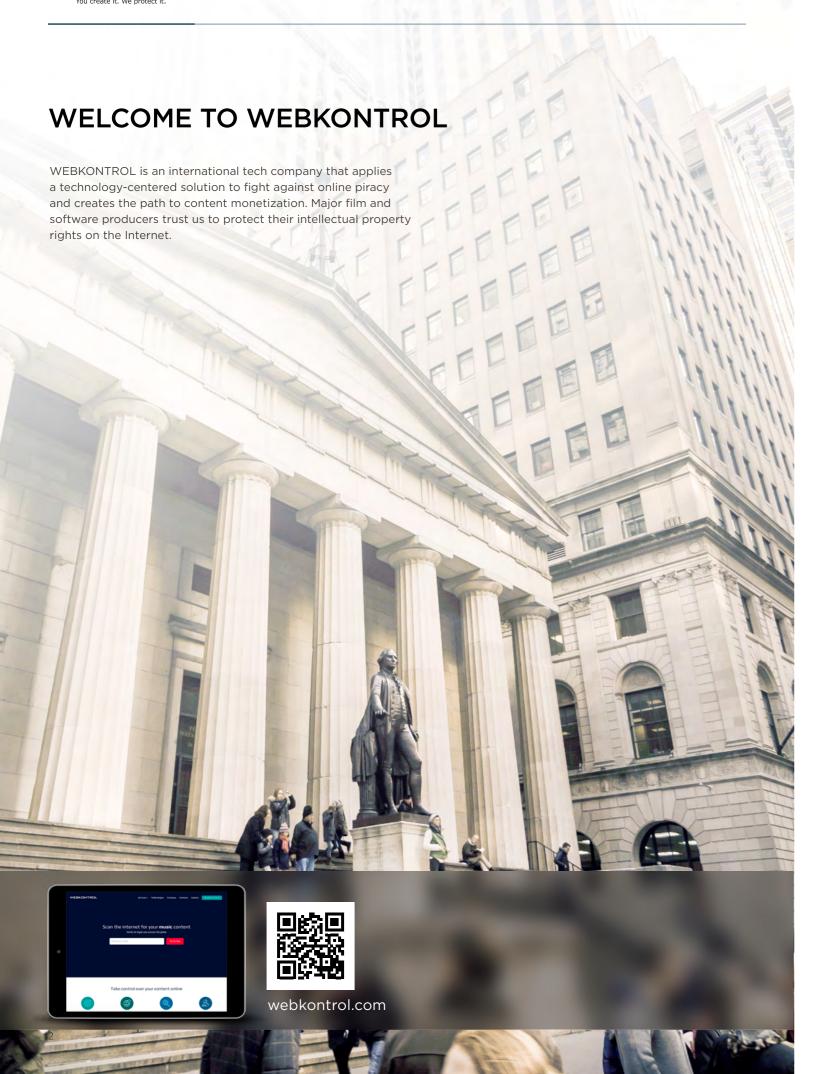


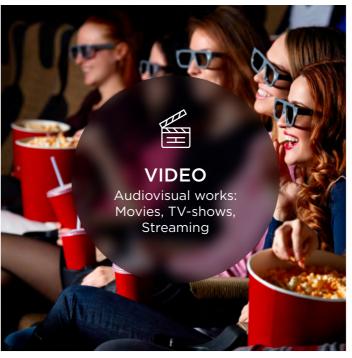
Read more >

CONTENT REMOVAL PROCEDURE IN RUSSIA



## **CONTENT REMOVAL PROCEDURE IN RUSSIA**

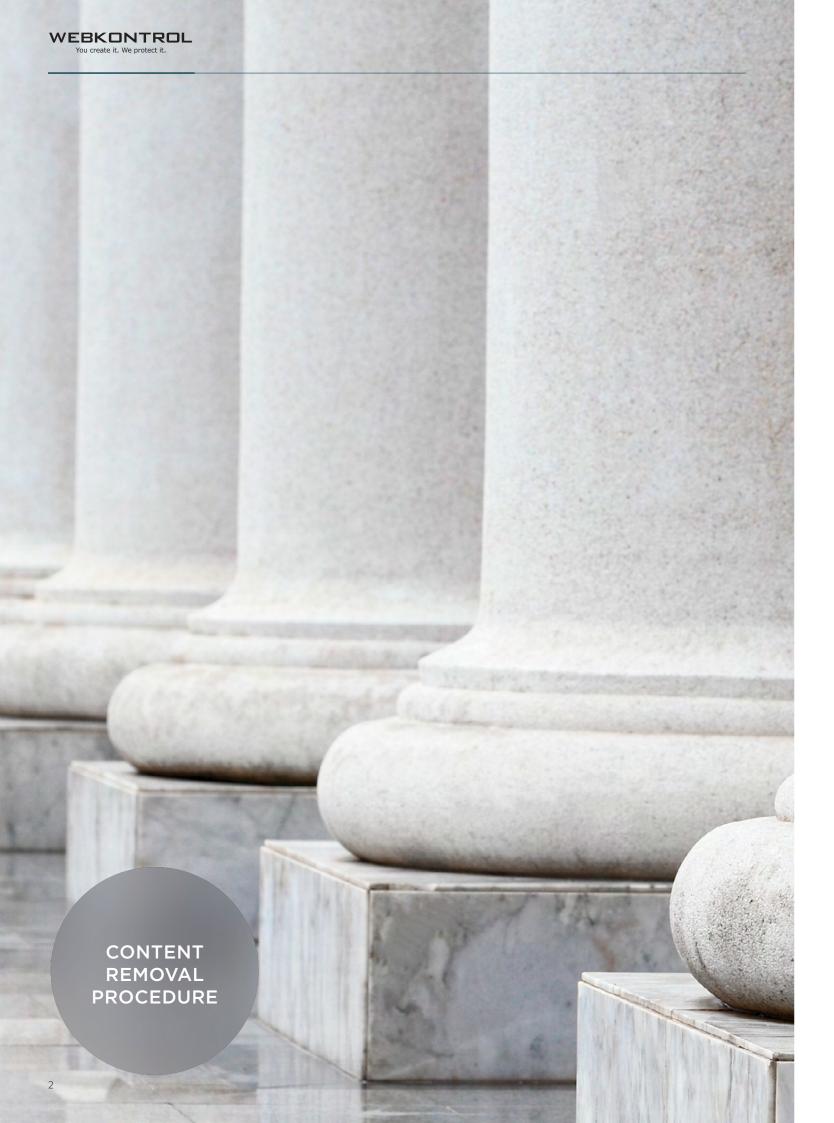
Russia has implemented anti-piracy laws allowing right holders to effectively protect their content online











### **OVERVIEW**

Step-by-Step Guide under the Federal Law No. 187-FZ of August 1, 2013

STEP 1.

Claim for a preliminary injunctive relief

STEP 2. Statement of claim

2-15 DAYS 30 DAYS / 1 MONTH

STEP 3. Entry into legal force

### STEP 1. **CLAIM FOR A PRELIMINARY** INJUNCTIVE RELIEF

IN ORDER TO APPLY FOR PRELIMINARY INJUNCTIVE RELIEF WITH THE MOSCOW CITY COURT, WEBKONTROL:

- 1.1. Collects hard copies of the following documents:
  - · Corporate documents (Certificate of Incorporation, Certificate of Good Standing, Bylaws (if any), Incumbency Certificate).
  - Chain-of-title documents (assignment/exclusive) license agreements, copyright registration certificates, affidavits).
  - · Documents confirming copyright infringement.
- 1.2. Translates documents into Russian and certifies them by the notary public.
- 1.3. Applies for the preliminary injunctive relief with the Moscow City Court (via online form or delivers documents to the court)
- 1.4. In 1-2 days, the Court grants the preliminary injunction and orders Roskomnadzor to send notices to hosting providers and websites' owners.
- 1.5. The right holder has 15 days to submit the statement of claim so that the preliminary injunctions could remain in force until the final judgement is made. Otherwise, the Court will revoke the injunction.

### STEP 2. STATEMENT OF CLAIM

- 2.1. WEBKONTROL prepares the statement of claim against hosting providers or websites' owners (if possible) to stop any unlawful use of the content. WEBKONTROL takes part in court hearings until the court decision is made.
- 2.2. WEBKONTROL participates in court hearings until the Court's final decision.

### STEP 3. **ENTRY INTO LEGAL FORCE**

3.1. WEBKONTROL takes part in the enforcement proceedings which include obtaining a stamped and sealed court decision after it comes into force.

For the details please see figures of Stage 1 and Stage 2 on pages 4-5 on pages 4-5

# **ESCALATION PROCEDURE**

for preliminary two-week injunction under the Federal Law No. 187-FZ of August 1, 2013

# STAGE 1 WEBKONTROL ON **MOSCOW** Claim on **BEHALF OF RIGHT** → preliminary CITY injunction **COURT** HOLDER Court ruling on preliminary injunction WEBKONTROL ON BEHALF OF RIGHT **HOLDER** ROSKOMNADZOR ◆ Request on content removal **HOSTING-PROVIDER / WEBSITE OWNER** CONTENT REMOVED < - Compliant Non-compliant WEBSITE TEMPORARY Request on temporary **BLOCKED** website bloking

**OPERATOR** 

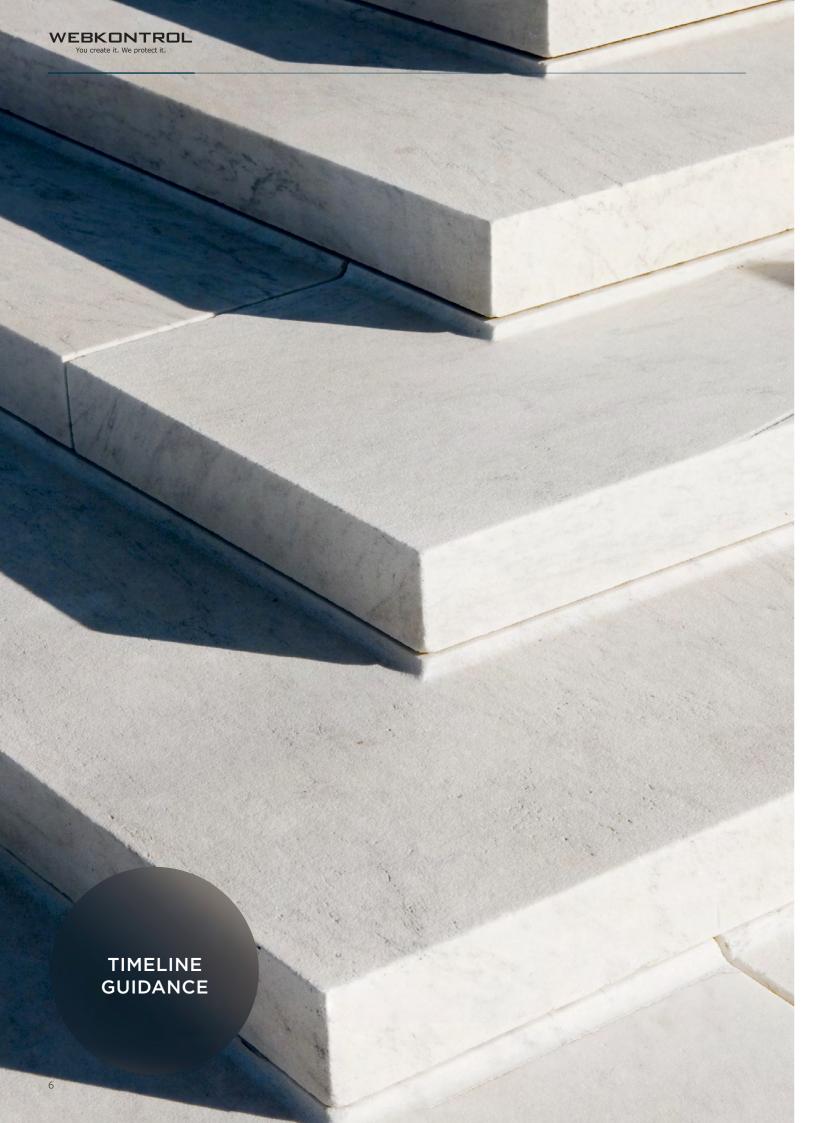
# **ESCALATION PROCEDURE**

for obtaining a Court decision on content removal under the Federal Law No. 187-FZ as of August 1, 2013

# STAGE 2 WEBKONTROL ON **BEHALF OF RIGHT** HOLDER Statement of claim **MOSCOW** CITY Court decision COURT **CONTENT REUPLOADED** ROSKOMNADZOR -Request of content removal Compliant Non-compliant CONTENT REMOVED **TELECOM OPERATOR** SITE TEMPORARY

1

**BLOCKED** 



# **TIMELINE GUIDANCE**

for content-removal procedure

# 3 months

Cton 1	Step 2	Stop 7
Step 1	step 2	Step 3
<b>1-4</b> days*	<b>1</b> day	<b>1</b> day
Preparing CoT and corporate documents Preparing evidence of copyright infringement	Court grants the injunctions	Passing the court ruling to Roskomnadzor  (the Federal Supervision Agency for Information Technologies and Communications)
Step 4	Step 5	Step 6
<b>3</b> days	<b>1</b> day	<b>1-2</b> days
NOTICES FROM ROSKOMNADZOR:  to a hosting provider to a website owner	Website owner REMOVES THE CONTENT, otherwise the site is temporary blocked by Roskomnadzor	Filing a statement of claim
Step 7	Step 8	Step 9
14-21 days (2-3 weeks)	<b>21</b> days (3 weeks)	<b>30</b> days (1 month)
Appointing court hearings	Court decision	Entry into force
Step 1 Step 4 Step 6 Step 7 Step 2 Step 3 Step 5	Step 8	Step 9

<sup>\*</sup> Depends on when all entitling/CoT documents are presented

# DOCUMENTS TO BE SUBMITTED TO THE COURT

- A Power of Attorney empowering WEBKONTROL and its lawyers to appear before the court on behalf of the right holder (apostilled and certified by the notary public);
- Assignment/exclusive license agreements, copyright registration certificates, an affidavit confirming that the company holds all right, title and interest in and to the content;
- 3. Corporate documents:
  - Certificate of Incorporation
  - Certificate of Good Standing
  - By-Laws (in any)
  - Incumbency Certificate authorizing corporate official (CEO, Vice President, etc.) to sign contracts, PoAs, affidavits, etc. on company's behalf.

MOSCOW CITY COURT HAS NOT YET COME TO UNIFORMITY IN JUDICIAL PRACTICE ON THE REQUIREMENTS TO THE DOCUMENTS SUBMITTED. HOWEVER, THERE ARE SOME GENERAL REGULATIONS THAT ARE APPLIED:

- all foreign-language documents shall be presented with translations into Russian;
- it is possible to submit extracts with the necessary information from the document instead of the whole document:
- the Court may ask for the notary certification or apostilization of the documents.

THE ABOVE LIST OF DOCUMENTS IS NOT EXHAUSTIVE AND MAY BE AMENDED DEPENDING ON THE RIGHT HOLDER AND THE TYPE OF CONTENT PROTECTED





### PRACTICE INDICATORS

Legal Department works with IT and Monitoring Departments to provide accurate hourly updated information on infringing websites



500+

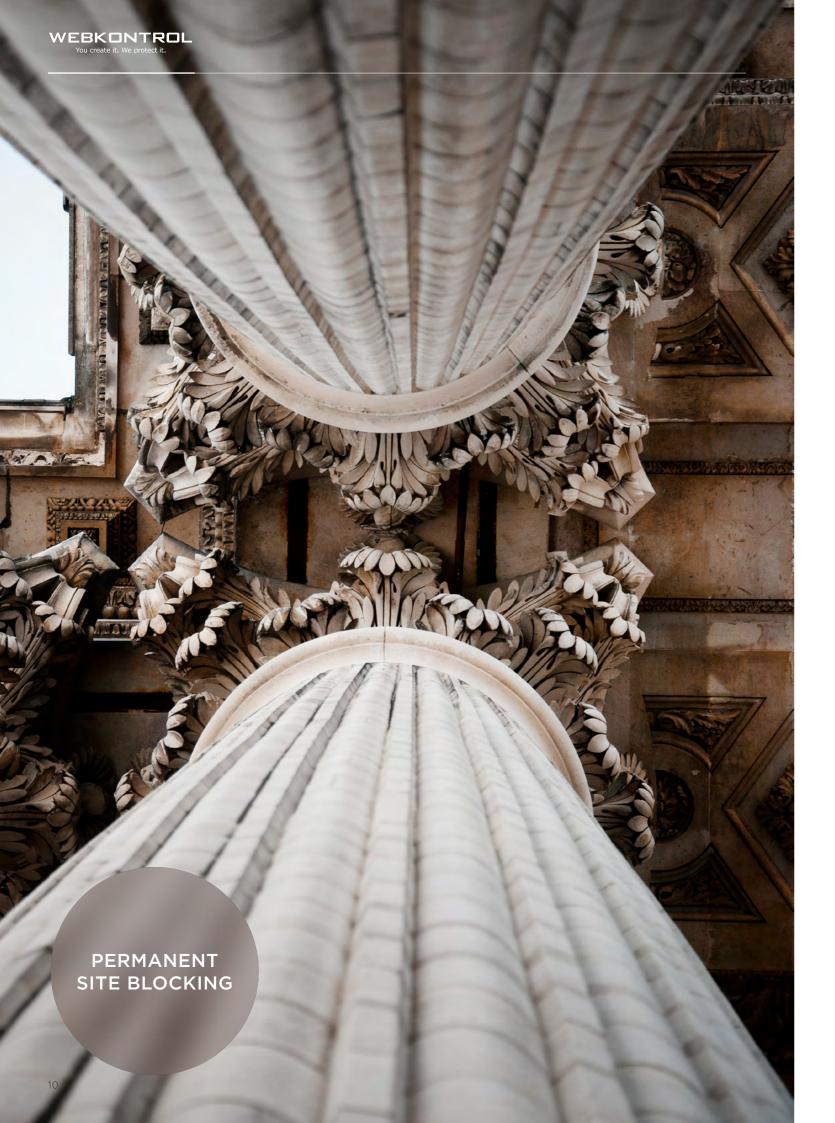
WEBSITES
PROSECUTED
We have won cases
against over 544 largest
infringing websites

40+
COPYRIGHT
HOLDERS
We are honoured to represent major production and film distribution companies

100%

CLAIMS
SATISFIED

We proceed with every case within the shortest possible time



# PERMANENT SITE BLOCKING

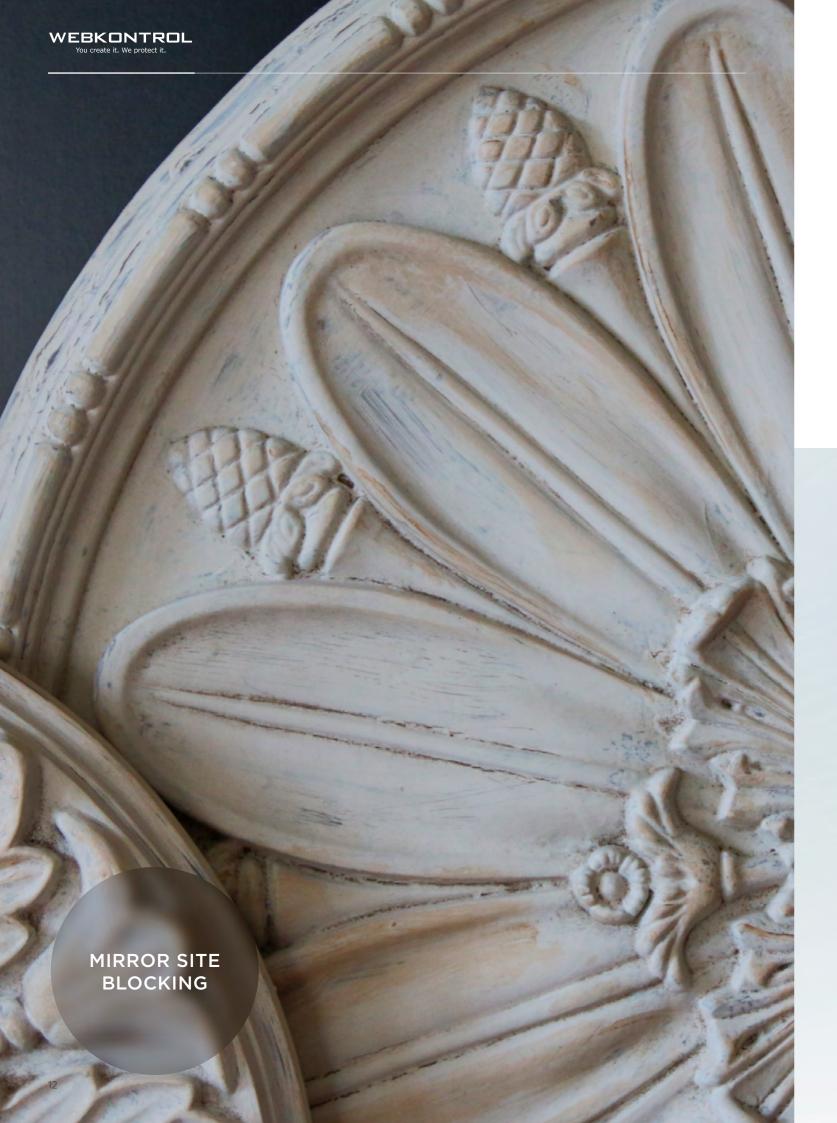
under the Federal Law No. 364-FZ of May 1, 2015

# THE FEDERAL LAW NO. 364-FZ STIPULATES THE OPPORTUNITY FOR PERMANENT SITE BLOCKING

On May 1, 2015 the second Anti-Piracy law was introduced and implemented a procedure of permanent site blocking.

#### MAIN REQUIREMENTS

- The court decision on content removal came into force (see page 3);
- The website illegally uploaded right holder's content more than once;
- Second lawsuit is initiated against the same website by the same right holder after content removal procedure (see page 3).



### MIRROR SITE BLOCKING

under the Federal Law No. 156-FZ as of October 1, 2017

Right holders may block mirror sites by submitting applications to the Ministry of Communications. The procedure is well-tested and takes only 1 day to block a mirror. The procedure is applied to search engine operators which shall deindex mirror sites within only 3 days upon receiving a notice from the Ministry of Communications.

#### MAIN REQUIREMENTS

Right holder obtained two decisions of the Moscow City Court:

- (1) Content removal; and
- (2) Permanent site blocking decision.

The infringing website shall meet the mirror site criteria introduced

by the Order of the Government No. 1225 as of October 7, 2017 (see p. 16).

### **ESCALATION PROCEDURE**



Moscow City Court decision on permanent site blocking (30 days)



Web Kontrol detects mirror sites and files online application with the Ministry of Communications



Ministry of Communications decides if the site is a copy (i.e. a mirror) (1 day)



Ministry of Communications sends notices to RKN and website's owner (within 1 day upon deciding)



RKN sends notices to a hosting provider and orders telecom operators to block mirror site (1 day after MinCom issues decision)



RKN sends search engine operators an order to remove mirror sites from the search results (1 day)



Search engines shall delist all URLs of the mirror site upon receiving RKN's notice (within 1 day upon receiving RKN's notice)



Telecom operators shall restrict access to the mirror site (within 1 day upon receiving RKN's notice)

### **TIMELINE GUIDANCE\***

### Step 1 Step 2 Step 3 **30** days **1-2** days\*\* 1 day Moscow City Court decision Web Kontrol detects Web Kontrol files online on permanent site blocking mirror sites, prepares application with the Ministry enters into force of Communications on behalf application of the right holder Step 4 Step 6 1 day 1 day 1 day Ministry of Communications RKN sends notices to Telecom operators and issues the decision and sends hosting providers, telecom search engines shall comply notices to RKN and website operators and search with RKN's orders by restricting access to mirror engines owner site and delisting URLs



 $<sup>^{*}</sup>$  The deadline to block a mirror site – 3 days upon receiving right holder's application  $^{**}$  Depends on the number of mirror sites, their characteristic analysis

### MIRROR SITE CHARACTERISTICS

order of the RF Government No.1225 as of October 7, 2017



### **GENERAL RESEMBLANCES**

(website colours, design, website template, arrangement of elements)



**SIMILARITIES** OF DOMAIN NAMES



### SIMILAR CONTENT POSTED ON THE WEBSITE

(copyright objects or information necessary to access such objects via Internet)



**USERS MAY ACCESS** THEIR ACCOUNT USING THE SAME LOGIN DETAILS



### **TECHNICAL** CORRESPONDENCE OF THE WEBSITES

(redirect, names reserved on the same IP-address)



SIMILAR CONTACT **DETAILS OF WEBSITES' ADMINISTRATORS** 

NOTES	
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## CONTACTS

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