

Supreme Court to Hear Cox Communications Case on ISP Copyright Liability

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On June 30, 2025, the Supreme Court accepted a petition for certiorari brought by Cox Communications, and denied one brought by Sony in the same matter, following the advice of Solicitor General Sauer. The dispute stems from a massive \$1 billion copyright infringement verdict against Cox Communications, in which music publishers (including Sony, Universal, and Warner Music, among others) alleged that Cox was liable for the illegal distribution of 10,017 musical works by the ISPs subscribers. The Fourth Circuit previously affirmed a lower court's ruling that Cox was liable to the plaintiff publishers for contributory infringement, while overturning the lower court's finding of vicarious liability. As a result, both Cox and Sony filed competing petitions for certiorari seeking clarification from the Supreme Court regarding different aspects of ISP copyright liability. The Supreme Court will review two critical questions that could reshape how internet service providers handle copyright infringement.

First, whether an ISP materially contributes to copyright infringement by continuing to provide internet access to particular subscribers after receiving notice that their accounts have been linked to active and ongoing copyright infringement. The Department of Justice noted this ruling creates "substantial tension" with a recent Supreme Court analysis of contributory liability in *Twitter v. Taamneh*, where the Court found that mere passive provision of services without active assistance doesn't constitute contributory liability.

Second, the Court will examine the "circumstances under which a contributory infringer can be held liable for enhanced statutory damages based on a finding of "willful infringement,"" specifically whether knowledge of subscriber infringement alone suffices for a willfulness finding or if the ISP must have reasonably believed its own conduct violated copyright law. The decision could fundamentally alter how ISPs manage their networks and respond to copyright infringement notices, with Cox arguing that overly broad liability standards could jeopardize internet access for all Americans.

Depending on the outcome of this case, American internet users may see ISPs tighten their grip when enforcing against pirate websites or unauthorized distributors of IP, as ISPs aim to minimize any and all liability potential. We will continue to keep this space updated as the case progresses.