

P2P File-Sharing Website Ordered to Pay Movie Studios \$110 Million in Damages

by Kimberly L. Buffington and Lesley S. Kim

As a sanction for electronic discovery violations, the U.S. District Court in the Central District of California ordered Valence Media LLC, the parent company of TorrentSpy.com, to pay \$110,997,000 in damages to six motion picture studios for secondary liability for copyright infringement.

The plaintiffs—six motion picture studios—own the copyrights or exclusive reproduction and distribution rights to a multitude of films and television programs. The defendants—Valence Media LLC and the three individuals behind TorrentSpy.com, Justin Bunnell, Forrest Parker, and Wes Parker—operated a website that enabled users to locate and download torrent files (files that contain information for coordinating the sharing and downloading of files from other users). TorrentSpy.com users joined a peer-to-peer network that allegedly allowed them to search for, store, and distribute copyrighted movies and television programs. The plaintiffs, claiming that TorrentSpy.com aided its users in infringing their copyrighted films and television programs, brought an action for willful inducement of copyright infringement, contributory copyright infringement, and vicarious copyright infringement.

U. S. District Court Judge Florence-Marie Cooper held in favor of the motion picture studios. However, she based the court's decision on the plaintiffs' Motion for Terminating Sanctions rather than on the substantive issues presented—whether TorrentSpy.com willfully infringed any copyrighted material. The Court concluded that the defendants deleted and/or modified evidence after they received notice of the lawsuit and that the conduct prejudiced the plaintiffs' ability to prove their case.

As examples, the defendants removed forum threads on the website that discussed “piracy” shortly after suit was filed, deleted directory headings used to aid users in searching for and downloading the website's contents, and failed to provide the plaintiffs with full IP addresses of posts that explained how to locate and download copyrighted materials. Based on the defendants' destruction of valuable evidence, the court issued a default judgment in favor of the motion picture studios as a sanction for the misconduct. The court awarded the motion picture studios damages of \$30,000 for each movie allegedly infringed by TorrentSpy.com's site. For the 3,699 movies listed in the motion picture studios' complaint, the award totaled \$110,970,000.

The court's order also included a permanent injunction against TorrentSpy.com. Arguably, the permanent injunction is the motion picture studios' more valuable award, as the defendants have already filed for bankruptcy. The permanent injunction prohibits TorrentSpy.com from encouraging its users to download, upload, or stream copyrighted material without the owner's permission, or to make available unauthorized material for sharing.

Ultimately, the case did not resolve the substantive copyright issues involved in the matter. Accordingly, whether a website can legally assemble and organize links to copyrighted works for their unauthorized use by third-party users will have to be resolved by the next peer-to-peer file sharing case.

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