

CLINE WILLIAMS

WRIGHT JOHNSON & OLDFATHER

U.S. Supreme Court Weighs Internet Provider's Responsibility for Downstream Piracy

On December 1, 2025, the United States Supreme Court heard oral arguments in *Cox Communications v. Sony Music Entertainment*, a case centered around the obligations of internet providers in addressing illegal actions by their users. Sony has sued Cox, rather than its users, for copyright infringement based on Cox's failure to terminate the internet access of suspected copyright infringers. The Fourth Circuit Court of Appeals affirmed a jury verdict holding Cox liable.

Background.

Cox Communications sells internet service to millions of homes and businesses throughout the country. Sony (along with several other companies which joined the lawsuit as plaintiffs) owns a large portion of the most popular music heard and circulated in America today. A few years ago, Sony discovered that certain individuals using Cox's internet service were infringing on Sony's copyrights by distributing its music online without permission. Sony claims that from February 2013 to November 2014, infringement occurred in connection with over 7,000 Sony-owned sound recordings and almost 3,500 musical compositions.

Sony brought a copyright infringement suit not against the individual infringers, however, but against Cox Communications. Sony theorized that Cox was both contributorily and vicariously liable for failing to stem widespread infringement by its users during the claim period. *Sony Music Ent. v. Cox Commc'ns, Inc.*, 426 F. Supp. 3d 217, 221 (E.D. Va. 2019). Sony pointed out that although Cox received over 160,000 copyright infringement notices during that period, Cox in response only terminated internet access for 32 of its users. *Sony Music Ent. v. Cox Commc'ns, Inc.*, 93 F.4th 222, 228 (4th Cir. 2024), *cert. granted*, 145 S. Ct. 2841 (2025), and *cert. denied*, 145 S. Ct. 2844 (2025). (By contrast, during that same period, Cox terminated more than 600,000 users over payment issues. *Id.*) At trial the jury found Cox liable under both theories of liability and awarded \$1 billion in statutory damages. *Id.* at 227. Cox appealed.

Fourth Circuit Decision.

The Fourth Circuit Court of Appeals agreed Cox was liable, but on narrower grounds. It affirmed the jury's finding that Cox willfully contributed to its users' infringement; there was evidence that Cox continued providing internet service to habitual infringers despite believing they would infringe again, enough to satisfy the "knowledge of . . . infringing activity" and "material[] contribut[ion]" elements of contributory infringement. *See id.* at 233–37. The Fourth Circuit reversed the vicarious liability verdict, however, observing that Cox did not profit from its subscribers' acts of infringement—a prerequisite for vicarious liability in copyright infringement cases. *Id.* at 230–33. The Fourth Circuit remanded for a new trial on damages as a result.

Cox petitioned for a writ of certiorari, which the U.S. Supreme Court granted.

Early Predictions.

It's impossible to know at this stage how the Supreme Court will decide *Cox v. Sony*, but the December 1 oral arguments might spell trouble for Sony and its co-plaintiffs. Sony reiterated its arguments from below that Cox took too little action in curtailing infringers' internet access, while Cox argued that it was unreasonable to expect it to terminate internet service on a larger scale than it did, especially when some of the alleged infringers were places like universities, hospitals, and military bases. Justice Samuel Alito remarked that Sony's position was not "workable" in situations involving universities with tens of thousands of students. Justice Elena Kagan further questioned whether Sony's positions align with current precedent, suggesting Sony has failed to show how Cox has sought by its actions to make the infringement occur. Others expressed a general reluctance to impose such heavy liability on an internet provider without direct statutory authorization.

Regardless of the outcome, the Court's decision in this case is sure to have ripple effects across both the entertainment and internet service industries, and perhaps beyond.