



court holds vicarious copyright liability claim can move forward against major isp

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Last week, the music industry enjoyed a high profile victory in its efforts to combat music piracy allegedly facilitated by Internet service providers (ISPs), including cable and telecommunications companies that provide Internet access to members of the public. In *Warner Records Inc. et al. v. Charter Comm'ns, Inc.*, No. 1:19-cv-00874, Judge R. Brook Jackson in the U.S. District Court of Colorado adopted a Magistrate's Judge's ruling from October 2019 allowing claims of vicarious copyright infringement against Charter Communications, one of this country's largest ISPs, to proceed beyond the pleading stage.

The *Charter Communications* lawsuit was initiated last year by Warner Records and a group of several dozen record companies and music publishers, who collectively have produced or control the rights to millions of sound recordings and musical compositions. In their Complaint, the plaintiffs allege that Charter is contributorily and vicariously liable for the infringement of thousands of copyrighted works that were unlawfully reproduced and distributed by its subscribers via peer-to-peer (P2P) file sharing programs such as BitTorrent. According to the Complaint, Charter has known for years that subscribers were using its network to pirate music—including particular customers that were repeatedly infringing the plaintiffs' copyrights—by virtue of the thousands of infringement notices that were sent to Charter detailing specific instances of infringement on its network. The plaintiffs claim that despite those notices, Charter nonetheless failed to take appropriate action to curb the infringement in order to avoid the loss of subscriber revenue.

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