

ALERT

Supreme Court Reverses Cox Communications Copyright Infringement Liability Ruling in Landmark Unanimous Decision

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On March 25, 2026, the U.S. Supreme Court issued its opinion in *Cox Communications, Inc. v. Sony Music Entertainment*, a highly anticipated copyright infringement case that delivers a landmark win for internet service providers (ISPs).[1] In the unanimous decision, the Court reversed the U.S. Circuit Court of Appeals for the Fourth Circuit's ruling that Cox Communications was vicariously and contributorily liable for users' music piracy.

In the opinion, Justice Clarence Thomas emphasized that internet access ISPs cannot be held "liable as a copyright infringer for merely providing a service to the general public with knowledge that it will be used by some to infringe copyrights." [2]

Background: A Historic Copyright Infringement Legal Battle

In June 2025, the Supreme Court granted Cox's Petition for a writ of certiorari to review the Fourth Circuit's decision finding Cox liable for providing internet access to customers who used the service to engage in copyright infringement. The Fourth Circuit decision reversed in part, vacated in part, and affirmed in part the district court's decision that Cox was vicariously and contributorily liable for users' infringement of 10,017 copyrighted works. In a verdict that sent shockwaves throughout the internet access ISP industry, the jury awarded Sony \$1 billion in statutory damages.

The Fourth Circuit concluded that Cox could not be vicariously liable for subscribers' downloading and distribution of copyrighted works. Yet, because the Fourth Circuit affirmed the jury's finding of

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contributory infringement against Cox, the court determined that ISPs could be held contributorily liable for infringement committed by consumers using their internet services.

In petitioning the Supreme Court to review the Fourth Circuit's decision, Cox asked the high court to answer two questions:

- "Did the Fourth Circuit err in holding that a service provider can be held liable for 'materially contributing' to copyright infringement merely because it knew that people were using certain accounts to infringe and did not terminate access, without proof that the service provider affirmatively fostered infringements or otherwise intended to promote it?"
- "Did the Fourth Circuit err in holding that mere knowledge of another's direct infringement suffices to find willfulness under 17 U.S.C. § 504(c)?"

Cox asked the Court to grant its Petition "to prevent these cases from creating confusion, disruption, and chaos on the Internet."

The Supreme Court's Landmark Decision

Writing for the majority, Justice Thomas explained that "the Copyright Act does not expressly render anyone liable for infringement committed by another" and that this omission counsels against expansive secondary liability under the Act.^[3] The cornerstone of the Supreme Court's analysis rests on distinguishing between an ISP's knowledge of infringement, versus active facilitation of users' infringement. Wiley authored an *amicus* brief before the Supreme Court supporting Cox and outlining many of the prevailing arguments in Justice Thomas' opinion.

ISPs can be contributorily liable, the Court found, "if it intended that the provided service be used for infringement."^[4] According to Supreme Court precedent, an ISP's intent can be shown by "actively encourag[ing] infringement" or being "tailored to" infringement – that is, being incapable "of 'substantial' or 'commercially significant' noninfringing uses."^[5] Ultimately, Justice Thomas wrote, the "Court has repeatedly made clear that mere knowledge that a service will be used to infringe is insufficient to establish the required intent to infringe."^[6]

Applying this precedent to the facts at hand, the Supreme Court determined that Cox did not face contributory liability because "it did not intend for [its internet] service to be used to commit copyright infringement."^[7] Rather than inducing or providing a service tailored to infringement, "Cox simply provided Internet access, which is used for many purposes other than copyright infringement."^[8] The Court also rejected Sony's argument that if ISPs cannot be held secondarily liable under the Copyright Act, the "DCMA safe harbor would have no effect." ^[9]

While all nine Justices agreed on the judgment in the case, Justice Sonia Sotomayor (joined by Justice Ketanji Brown Jackson) wrote a concurring opinion questioning the Court's possible narrowing of secondary infringement liability.

Looking Ahead: What Does This Mean for ISPs?

The Supreme Court's *Cox* opinion is a significant victory for internet access ISPs. Under the Supreme Court's decision, internet access ISPs generally cannot be held liable for merely providing services that connect customers to the internet where the service is used by some consumers to infringe third-party copyrights.

Wiley's Copyright; Intellectual Property; Telecom, Media & Technology; and Issues and Appeals practices have broad experience in copyright infringement enforcement and litigation, and have been involved in ISP-related copyright issues for many years. If you have questions about the Supreme Court's opinion or ISP infringement liability generally, please contact one of the attorneys listed on this alert.

[1] No. 24-171, slip op. (Mar. 25, 2026) ("*Cox Communications*").

[2] *Id.* at 1.

[3] *Id.* at 6.

[4] *Id.* at 7.

[5] *Id.*

[6] *Id.*

[7] *Id.* at 9.

[8] *Id.*

[9] *Id.* at 10.