

**ALERT**

# Supreme Court Takes Up Cox Communications Copyright Infringement Case

July 8, 2025

On June 30, 2025, the U.S. Supreme Court agreed to hear an appeal in *Cox Communications, Inc. v. Sony Music Entertainment*, setting the stage for the high court to define copyright infringement liability for internet service providers (ISPs) based on their customers' acts of infringement.

In taking up the case, the Supreme Court granted Cox Communications, Inc.'s Petition for a Writ of Certiorari, a request to review the decision by the U.S. Circuit Court of Appeals for the Fourth Circuit finding that internet service providers can be held liable for providing service to customers who engage in copyright infringement. On the same day, the Supreme Court denied the Petition filed by Sony Music Entertainment (Sony) and music publishers to review the Fourth Circuit's decision to vacate the unprecedented \$1 billion judgment against Cox.

Oral arguments and party briefing will begin after the Supreme Court begins its new term in October.

## ***History: A Vacated \$1 Billion Jury Verdict, But Questions Remain***

The Supreme Court's decision to hear the case follows the Fourth Circuit's February 2024 decision in *Sony Music Entertainment v. Cox Communications*, a highly anticipated ruling for ISPs and content owners. 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 ISP industry, the jury awarded Sony \$1 billion in statutory damages.

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Copyright  
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Issues and Appeals  
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While the Fourth Circuit concluded that Cox could not be vicariously liable for subscriber downloading and distribution of copyrighted work, the court left a key question about contributory liability unresolved. The court affirmed the district court's grant of summary judgment against Cox for contributory copyright infringement on procedural grounds. Because the jury's verdict did not distinguish between liability for vicarious copyright infringement and contributory copyright infringement, the Fourth Circuit vacated the district court's \$1 billion statutory damages award to Sony and remanded the case for a new trial on damages.

### ***Petitioning the Supreme Court***

On August 15, 2024, Cox petitioned the Supreme Court to review the Fourth Circuit's decision, which it claims assigns copyright infringement liability to "whoever provides the internet connection used to commit it." Specifically, Cox asks the Supreme 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)?"

Describing the "stakes" in this case as "immense," Cox argued that "[t]he question of who is responsible for online copyright infringement carries immense public implications." Therefore, Cox asked the Court to "grant certiorari to prevent these cases from creating confusion, disruption, and chaos on the internet."

The next day, on August 16, 2024, Sony and the music publishers petitioned the Supreme Court to review the Fourth Circuit's decision. In particular, Sony asked the Supreme Court to review the Fourth Circuit's decision to vacate the \$1 billion damages award to Sony. Sony and the music publishers asked the Court to "vindicate its Copyright Act precedent, to resolve the confusion among the lower courts regarding the scope of vicarious liability in the digital age, and to protect the rights of creators."

On May 27, 2025, the Solicitor General of the United States and the Department of Justice filed a brief encouraging the Supreme Court to grant Cox's Petition and deny Sony's Petition. Following this recommendation, the Supreme Court granted Cox's Petition.

### ***Looking Ahead: What to Expect at the Supreme Court***

Cox and Sony will have the opportunity to present briefs and oral arguments in the case after the Supreme Court begins its next term in October. Third parties will also have the opportunity to submit *amicus* briefs to share their perspectives on the case and its potential impact on copyright law, ISPs, and more.

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 upcoming Supreme Court litigation or

ISP infringement liability, please contact one of the attorneys listed on this alert.