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Porn Companies File Mass Piracy Lawsuits: Are You At Risk?

So-called 'copyright trolls' are pulling internet data on movie downloads to sue for thousands in damages.

By JASON KOEBLER

February 2, 2012

Since the Recording Industry Association of America announced in 2008 that it would stop suing individual users for illegally downloading music, the high-profile piracy lawsuit has essentially disappeared. In its place, content producers—many of them in the pornography industry—have launched hundreds of quick-hitting lawsuits designed to get settlements from as many as 5,000 people at a time, advocates and defense attorneys say.

And by having a wireless internet connection, you're vulnerable.

The anonymous defendants—it's happened to more than 220,000 people since mid-2010—are accused of having illegally downloaded movies—from the porno "Stripper Academy" to the war film "The Hurt Locker"—using a peer-to-peer file sharing client called BitTorrent, lawsuit documents show.

[Opinion: Digital piracy is still a problem.]

The content producers (or their lawyers) log onto BitTorrent, download a movie, and mine other downloaders' easily-accessible internet protocol, or IP, addresses. A few weeks later those users will get an ominous letter from their internet service provider, saying a company has filed a subpoena requesting their identity, lawsuits allege.

The demands are usually the same: Pay a settlement of up to \$3,000 or face as much as \$150,000 in fines. Internet rights activists, such as the Electronic Frontier Foundation, have a name for these law firms and content providers: "copyright trolls."

"It's a common pattern at this point, they file lawsuits against hundreds or thousands of people at a time," says Corynne McSherry, intellectual property attorney at the EFF. People are liable as long as their internet connection was used—leaving anyone with a wireless connection vulnerable.

Many of the defendants in these cases say a stranger tapped into their Wi-Fi connection, something that can take only seconds if your connection is open, or a few minutes longer if a hacker uses one of the many Wi-Fi cracking programs available.

It happened to an IT professional, who wishes to remain anonymous, saying he was accused of downloading a pornographic movie about six months ago.

"I knew I didn't do it, I knew no one in my household did it," he says. "Your internet could have been used by neighbors, used by a guest."

"To carte blanche fire a shotgun in the air and say 'pay up' is just ridiculous," he adds.

His experience led him to create the blog DieTrollDie, a trove of information for people who find themselves accused of piracy. "It can be really scary and really confusing," he says of being subpoenaed.

[Should Congress Pass Anti-Online Piracy Legislation?]

His case was eventually dismissed, but he's learned a lot about what the "trolls" want: either your name (so they can sue you), or a quick settlement check. That makes fighting back difficult, because responding to the subpoena often requires defendants to identify themselves.

EXHIBIT A

"It's a fundamental Catch 22," McSherry says. "In a lot of places, by filing a motion to quash the subpoena, they have to identify themselves." And a lot of people are uncomfortable with their names being associated with downloading porn, whether they did it or not.

"No one wants to be associated with downloading something like [pornography]. That's going to make a lot of people extremely uncomfortable," McSherry says. That, she says, is why a lot of defendants end up paying the settlements.

Most of these cases end up eventually being thrown out, either because the company is going after people in the wrong district—it's not unusual for someone who lives in Maine to be sued in Washington, D.C.—or because the case links too many defendants together.

It's "preposterous," McSherry says, that 5,000 John Does were all working together in an elaborate piracy ring. "They sue them in one big lawsuit because it's convenient that way," she adds.

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It's also more convenient for a lot of the defendants to just pay up.

"A lot of people out there are paying the money because it's cheaper than getting an attorney. If you're rich enough, it's almost easier to write it off," the IT professional who was a victim of a piracy lawsuit says. "This is a cash cow, and the content trolls want to ride it out to the end."

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