

Supreme Court Clarifies Contributory Copyright Infringement in *Cox v. Sony*

March 25, 2026

On March 25, 2026, the Supreme Court issued its decision in *Cox Communications, Inc. v. Sony Music Entertainment*, reaffirming the limited scope of contributory copyright liability. The Court reversed a \$1 billion jury verdict against Cox and clarified that mere knowledge of user infringement—without more—is insufficient to establish contributory liability.

Background

Sony Music and other copyright holders sued Cox, alleging that the internet service provider (“ISP”) was secondarily liable for widespread peer-to-peer file sharing by its subscribers. Over a two-year period, Cox received more than 160,000 infringement notices tied to subscriber IP addresses.

Despite implementing a graduated response system (warnings, suspensions, and eventual termination), Cox continued providing service to many repeat infringers. A jury found Cox liable for both contributory and vicarious infringement and awarded \$1 billion in statutory damages.

The Fourth Circuit reversed the jury’s finding of vicarious liability but affirmed the jury’s finding of contributory liability, holding that providing a service with knowledge it will be used for infringement is sufficient. The Supreme Court agreed to review only the issue of contributory infringement.

The Supreme Court’s Decision

In a seven Justice majority opinion by Justice Thomas, the Court rejected the Fourth Circuit’s approach and reaffirmed the narrow framework for contributory copyright liability.

1. Intent Is Required—and Strictly Defined

The Court reaffirmed that contributory liability requires intent that the service be used for infringement, and that intent can be shown in one of two ways:

- Inducement (actively encouraging infringement), or
- Provision of a product/service “tailored” to infringement (i.e., lacking substantial noninfringing uses)

2. Knowledge Alone Is Insufficient

The Court emphasized the key doctrinal point that “mere knowledge that a service will be used to infringe is insufficient” to establish contributory liability. Slip Op. at 8.

The Court expressly rejected the Fourth Circuit’s rule—imposing liability based on knowledge plus continued service—as inconsistent with precedent.

3. Cox Did Not Induce Infringement

The Court found no evidence that Cox encouraged infringement:

- No promotion, marketing, or intent to promote infringement
- Affirmative steps to discourage infringement (warnings, suspensions, terminations)

Accordingly, inducement liability failed.

4. Internet Access Is Not “Tailored to Infringement”

The Court further concluded that Cox’s broadband service was plainly capable of substantial lawful uses and thus was not a “service tailored to infringement”:

- General-purpose internet access is not designed for infringement
- The service has “commercially significant noninfringing uses”

Thus, intent could not be shown through a “product tailored to infringement” theory.

5. DMCA Safe Harbor Does Not Expand Liability

Sony argued that limiting liability would render the DMCA’s repeat-infringer policy meaningless. The Court disagreed:

- The DMCA creates defenses, not affirmative liability
- Failure to qualify for safe harbor does not imply infringement liability

* * *

Key Takeaway

The main takeaway from the Court’s Cox decision is that a service provider is contributorily liable only if it induces infringement or provides a service tailored to infringement—and not merely because it knowingly continues serving infringing users.

- Concurrence: Warning Against Over-Narrowing

Justice Sotomayor (joined by Justice Jackson) concurred in the judgment but criticized the majority for unduly limiting secondary liability doctrine.

Key points from the concurrence:

- The majority improperly restricts liability to two categories, ignoring broader common-law theories (e.g., aiding and abetting)
- Secondary liability should remain flexible and grounded in common-law principles
- Nonetheless, Cox was not liable because plaintiffs failed to prove intent to facilitate infringement,

even under broader theories

Final Note

It is worth noting that Sony Music had also sought certiorari from the Fourth Circuit's decision in this case (See *Sony Music Entertainment v. Cox Communications, Inc.*, No. 24-181 (S. Ct.)). Sony asked the Court to review the Fourth Circuit's determination with regard to vicarious liability.

The Fourth Circuit held that a vicarious infringement theory failed because of a lack of evidence that Cox expected commercial gain from the act of infringement itself. Sony argued that this determination conflicts with other circuits, which hold that an expectation of commercial gain from the enterprise in which infringement occurs is sufficient. The Court denied certiorari on that issue, leaving that an open issue.

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