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ISOHUNT.COM TO SHUT DOWN IN LAWSUIT SETTLEMENT

Settlement strengthens marketplace for legal commerce online, helps ensure that legitimate, innovative new services can thrive

WASHINGTON — The website isoHunt.com today agreed to halt all operations worldwide in connection with a settlement of the major movie studios' landmark copyright lawsuit against the site and its operator Gary Fung. As part of the settlement, the parties have jointly asked the court to enter a judgment of \$110 million against the defendants. The settlement also includes a global prohibition against Fung further profiting from the infringement of MPAA member studio content. IsoHunt.com is one of the most popular BitTorrent sites on the Internet; it claims to offer 44.2 million peers, 13.7 million active torrents, and is currently ranked as the 426th most-visited website on the Internet according to Alexa.com.

“Today’s settlement is a major step forward in realizing the enormous potential of the Internet as a platform for legitimate commerce and innovation,” said Senator Chris Dodd, Chairman and CEO of the Motion Picture Association of America (MPAA). “It also sends a strong message that those who build businesses around encouraging, enabling, and helping others to commit copyright infringement are themselves infringers, and will be held accountable for their illegal actions.”

The settlement in *Columbia Pictures Industries, Inc. v. Fung* comes after a three-judge panel of the U.S. Court of Appeals for the Ninth Circuit issued a unanimous decision on March 21, 2013, affirming the district court’s 2009 ruling against isoHunt for “inducing” users to illegally download and distribute the MPAA members’ movies and TV shows over the BitTorrent peer-to-peer network. Further, the appellate court affirmed that isoHunt and Fung were not protected by the “safe harbor” provisions of the Digital Millennium Copyright Act.

“Consumers today have more options than ever before to legally access movies and TV shows on the Internet – from Hulu to HBO Go to Vudu to Crackle to UltraViolet and literally hundreds of others,” Dodd said. “Clearing the field of illegal services like isoHunt will help ensure that these legitimate services can grow and thrive, and that consumers have even more choices. The successful outcome of this landmark lawsuit will also will help preserve jobs and protect the tens of thousands of businesses in the creative industries, whose hard work and investments are exploited by sites like isoHunt.”

Background:

In 2006, the MPAA's member studios sued Fung and his business, isoHunt Web Technologies, in federal court in New York, and the case was later transferred to Los Angeles. In 2009, Judge Stephen Wilson of the Central District of California granted summary judgment in favor of the plaintiffs, finding that "Defendants' intent to induce infringement is overwhelming and beyond reasonable dispute." Subsequently, Judge Wilson issued an injunction permanently prohibiting Fung from hosting, indexing, linking to, or otherwise providing access to MPAA member company copyrighted works then in existence or created in the future.

[In its opinion](#) released last March, the Ninth Circuit held that Fung and his company committed inducement by, among other things, taking "no steps to develop filtering tools or other mechanisms to diminish the infringing activity by those using his services" and running advertisements on a site whose object is to promote copyright infringement.

On the DMCA, the Ninth Circuit first made clear that it will be exceedingly difficult for any defendant who induces copyright infringement to fit within the safe harbor exception. It then held that Fung and his company were ineligible for the safe harbors for at least two reasons.

First, they had "red flag knowledge" of the infringement occurring via his site: "The material in question" – the MPAA members' movies and TV shows – "was sufficiently current and well-known that it would have been objectively obvious to a reasonable person that the material solicited and assisted was both copyrighted and not licensed to random members of the public, and that the induced use was therefore infringing."

And second, Fung and his company were ineligible for the safe harbor exception because they profited from the infringement through advertising while having the "right and ability to control" infringing activity occurring through their site.

In a pretrial ruling in advance of the trial on damages previously scheduled for November 5, the district court ruled that defendants' infringement was "willful," which means that defendants could have been held liable for up to \$150,000 for each of the thousands of studio works infringed through the isoHunt site.

Despite the injunction against it, isoHunt.com had continued to operate through private servers in Canada, and it is the fourth most popular BitTorrent site on the Internet. Under the settlement agreement, the site will shut down by October 23, 2014.

About the MPAA:

The Motion Picture Association of America, Inc. (MPAA) serves as the voice and advocate of the American motion picture, home video and television industries from its offices in Los Angeles and Washington, D.C. Its members are: Walt Disney Studios Motion Pictures; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century Fox Film Corporation; Universal City Studios LLC; and Warner Bros. Entertainment Inc.

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For more information, contact:
Kate Bedingfield
(202) 293-1966
Kate_Bedingfield@mpaa.org