

# TOP TECH NEWS

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## Hollywood Gives TorrentSpy a Black Eye

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**With a judge handing the victory to the Motion Picture Association of America (MPAA) in its lawsuit against TorrentSpy, the multimillion-dollar question now is whether the lawsuit will make a significant impact on the \$7 billion that the MPAA says its member companies lose ever year as a result of illegal Internet distributions.**

In an unusual victory for the major Hollywood studios, a federal judge in Los Angeles halted an ongoing lawsuit against the operators of TorrentSpy.com in favor of all six of the Motion Picture Association of America's member companies.

The MPAA classifies TorrentSpy as one of the world's most notorious pirate Web sites and claims that the site blatantly contributes to and profits from massive infringement of copyrighted content, including movies, music, and games.



The court imposed the harshest sanction against the TorrentSpy defendants because of their destruction of evidence and subversion of the judicial process. The ruling against TorrentSpy means TorrentSpy operators are liable for copyright infringement, despite the fact that the case did not come to a normal close.

"The court's decision is a significant victory for MPAA member companies and sends a potent message to future defendants that this egregious behavior will not be tolerated by the judicial system," John Malcolm, executive vice president and director of Worldwide Anti-Piracy Operations for the MPAA, said in a statement.

"TorrentSpy is a one-stop shop for copyright infringement," he went on to say, "and we will continue to aggressively enforce our members' rights to stop such infringement."

## **Destroying Evidence**

The evidence the defendants destroyed included forum postings with references to copyright infringement, site directories referencing copyrighted works, and records of user IP addresses.

Judge Florence-Marie Cooper of the U.S. District Court in the Central District of California ruled that "although termination of a case is a harsh sanction appropriate only in extraordinary circumstance, the circumstances of this case are sufficiently extraordinary to merit such a sanction."

The court found that the evidence was "not deleted or modified negligently, but intentionally in direct response to the institution of this lawsuit." Observing that defendants "already had been subjected to lesser sanctions in this case," including a fine for \$30,000 for violation of a court order, the court concluded that the "harsh sanction" of terminating the defendants' case was the only appropriate remedy.

## **A Pyrrhic Victory?**

The MPAA maintains that the worldwide motion picture industry, including foreign and domestic producers, distributors, theaters, video stores and pay-per-view operators, lose more than \$18 billion annually as a result of movie theft. More than \$7 billion in losses can be attributed to illegal Internet distributions, while \$11 billion in losses is the result of illegal copying and bootlegging, according to the MPAA.

The multimillion-dollar question is whether this suit will make a significant impact on these piracy figures. Jeffrey Johnson, a partner with New York City-based law firm Pryor Cashman, said he isn't certain.

"The ruling in the MPAA's suit against TorrentSpy was a victory, but something of a pyrrhic one in that it deprived the industry of a good opportunity to obtain a judgment in its favor on the merits of the case," Johnson said.

"Unfortunately," he went on to say, "the defendants behavior was so egregious that the court apparently lost its patience with their antics and, rather than carefully reviewing the evidence and reaching a decision based on the law of the case, simply entered judgment in the MPAA's favor as a means of punishing TorrentSpy."