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Artists Call CBS the Chief Copyright Pirate

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LOS ANGELES (CN) - Dozens of recording artists accuse CBS Interactive and its subsidiary CNET Networks of promoting "massive infringement" of copyright by offering free downloads of file-sharing software specifically designed for media piracy. They claim CBS and CNET were the main distributors of the "infringement engines," and made a fortune in

ad revenue from their "pay per download" screens.

The artists compare CBS' and CNET's inducement to violate copyright with LimeWire and Napster, which were "sued into oblivion" for their copyright violations.

"Over the last decade, countless websites and 'file sharing' or peer-to-peer ('P2P') software programs - from Napster, in 2001, to LimeWire in 2010 - have been sued into oblivion because a multitude of courts have found that they were essentially engines of infringement, designed with the specific aim of knowingly encouraging, inducing and/or assisting others in direct copyright infringement of artists' works, and profiting thereby," the complaint states.

"As a result of these lawsuits, an overwhelming number of these file-sharing sites are now completely inactive and their founding companies are bankrupt. Yet, for most if not all of this time, one particular group of businesses - led by defendants CBS Interactive and CNET - have knowingly and willingly participated in and profited mightily from the same massive infringement that engendered large copyright suits against Napster and LimeWire and that ultimately crippled them financially. And they have done so with impunity.

"In fact, because they owned a number of the most heavily visited sites in the world for downloading software of all types, defendants did more to further this massive infringement than Napster or LimeWire ever could by falsely legitimizing it and popularizing it to the masses.

"As recently as 2010, one could access a legitimate portion of defendants' sites and download non-infringing, licensed software such as Quickbooks accounting software or Adobe Acrobat, and could during the same shopping session download the LimeWire infringement engine, which was clearly intended to be downloaded for infringing purposes. This ambiguity worked even further to defendants' advantage by making it seem to the casual consumer that a LimeWire download had the same legitimacy as a download of licensed office software.

"In essence, defendants have taken music piracy from the dorm room to the board room. Thus, while other companies faced heavy statutory penalties and went bankrupt, and music labels banded together to levy practically unconscionable penalties on unemployed college students and housewives, defendants quietly made billions by inducing those same individuals to break the law, by providing them the software to do it, and then by giving even the least computer-savvy a step-by-step guide as to how to do it."

For more than 10 years, the plaintiffs say, CBS, through its website CNET, has offered free downloads of several peer-to-peer software programs (also called clients), such as BitComet, Morpheus, KaZaa and Frostwire, which were designed primarily for copyright infringement, with built-in features that allow users to search for media on websites dedicated to piracy. The file-sharing networks let users transfer files from one another's hard drives and locate music and video files by artist name, album, genre and other criteria.

The complaint states: "Defendants furthered the massive infringement carried out through the P2P applications they distributed and popularized by providing detailed reviews that included information regarding the suitability of the clients for copyright infringement as well as instructions and tips on how to use the P2P software to infringe. On cnet.com, Download.com, and other CBS interactive-owner websites, the defendants offered videos, articles, and other media that instructed how to use P2P software to locate pirated copies of copyrighted works and remove electronic protections placed on digital music files in order to prevent infringement."

The artists say CBS and CNET actively encouraged copyright infringement, in web postings, videos and radio shows, and offered infringement tools to "users that they knew to be actively and unlawfully copying plaintiffs' works," such as Napster's former customers.

"Far from being innocent purveyors of 'sharing' technologies co-opted by an international piracy community, defendants were in fact among the architects and developers of that international piracy community and received billions in profits from their efforts," the artists say.

They add: "The underlying irony in this case is that, despite its endemic inducement of the infringement of plaintiffs' songs, defendants' parent, CBS, does not hesitate to cast itself as a defender of intellectual property rights when it concerns its own financial interests. For example, defendants' parent company, CBS, routinely harasses individuals and small websites which post small portions of its own programming with 'cease and desist' letters threatening crushing litigation. When that does not work, it does not hesitate to sue."

The artists say the defendants' hypocrisy is evident in the conduct of CNET's co-founder and former CEO Shelby Bonnie, who served on the Board of Directors of Warner Music Corporation, a prominent member of the RIAA (Recording Industry Association of America), while the RIAA sued LimeWire for copyright infringement.

At the same time, the plaintiffs say, "CNET made a fortune distributing millions of copies of LimeWire and other file-sharing software designed to infringe."

After a federal judge shut down LimeWire for massive copyright infringement in May 2010, the defendants stopped distributing LimeWire and similar Gnutella applications, but continued to promote and distribute newer, even harder to detect infringing technology, such as BitTorrent applications.

The complaint adds that BitTorrent, which has been downloaded about 100 million times from the defendants' websites, has become a popular means of transferring files online and "one of the preferred means of digital piracy."

The artists say CBS and CNET made billions from their pay-per-download program and from ads on popular download websites that encourage copyright infringement.

What's more, they say, the defendants discouraged users from downloading applications that prevented infringement.

The artists add: "Defendants' activities vis a vis P2P software are especially egregious, given that CBS defendants own the rights to a massive catalog of television programming and other intellectual property that has been and continues to be persistently infringed over the same P2P networks it helped assemble and grow through CNET and Download.com. Defendants made a cynical decision to attempt to recapture whatever profits were lost through the infringement arising from P2P networks by profiting from the popularity of those networks through Download.com and CNET P2P revenues. By helping construct, expand and preserve the P2P networks, defendants did much more than 'recoup' their (self-inflicted) losses from digital piracy, but rather directly and massively profited from the infringement of all the artists whose work was illegally shared on P2P networks. Defendants never offered to share any of the income made from their promotion of infringement with plaintiffs or any other copyright owners whose work was persistently infringed by P2P systems distributed and promoted by defendants." (Parentheses in complaint.)

The artists seek an injunction and damages for inducement of copyright infringement and contributory and vicarious copyright infringement.

Plaintiffs include film producer Alkiviades David, record company Sugar Hill Music, and various hip-hop and R&B artists.

They are represented by Jaime Marquart with Baker Marquart. 