

Chasing illegal movie downloaders proves an unprofitable exercise

August 21 2015, by David Glance

It has been a bad week for companies wanting to build businesses around make money from illegal movie downloaders. Last Friday saw an Australian judge refuse Voltage Pictures the right to send downloaders of Dallas Buyers Club a letter demanding an undisclosed payment. Justice Nye Perram decided that Voltage and its lawyers, were engaging in "speculative invoicing", a practice that is a form of legal blackmail: "pay us a large enough sum so that we don't take you to court where you will possibly face an even larger but unspecified fine".

Although this has effectively shut down an avenue of chasing money from downloaders in Australia through threatening letters, the practice continues unabated elsewhere. Alleged downloaders of the movie in Singapore have received letters ending in a [settlement demand](#) of around \$5,000 Singapore. The letters sent threaten extremely large potential punishment, including prison sentences.

Rightscorp finds it hard to do it right

Law firms rushing to handle this work on behalf of Voltage Pictures should look to the case of [Rightscorp](#) in the US. Rightscorp is a company whose entire business is based on chasing alleged downloaders of movies and TV shows. They also engage in the practice of speculative invoicing, but so far, have found the business to be far from profitable. In [2014](#), Rightscorp reported a loss of \$3.4 million, and so far this year have lost nearly a \$1million in the first quarter alone.

Rightscorp ask for relatively small payments of US \$20 and so either they will need to find more downloaders, or ask for more money. The problem with asking for more money is that if the stakes get too high, people might call their bluff and then Rightscorp would be faced with the expensive option of taking them to court.

Rightscorp is also finding that the process of unmasking downloaders is getting harder. In the US this week, a Judge denied [an appeal](#) that would have forced ISP Birch Communications to reveal the identities of their customers accused of downloading movies. In this case, Rightscorp has been using the practice of a "DMCA subpoena" to get the identities of downloaders from ISPs, even though this had been previously [ruled](#) inappropriate in a previous case involving the Recording Industry Association of America and Verizon in 2002.

Malibu Media does it better?

One company that seems to have made a better job of making money out of the practice of "[copyright trolling](#)" is pornography producer [Malibu Media](#). A report analysing copyright court cases in the US, documented that Malibu Media, owners of the "x-art" porn site, had filed 4,332 court cases since 2009. 90% of these cases had settled out of court but 66 of the those that wen to court resulted in damages of US \$3 million being awarded.

Malibu Media are perhaps more effective in getting people to pay up because they engage in [a practice](#) of unique intimidation of their victims. In filing court documents, along with the movies that Malibu Media is responsible for, they list other porn movies that the defendant has downloaded that have extremely graphic titles. According to the [Electronic Frontier Foundation](#), this tactic is designed expressly to embarrass the defendant into settling and serves as an additional warning to others about what might happen if the matter goes to court.

The future

Streaming services from companies like Netflix and Amazon supporting global distribution rights of movies and TV may see a reduction in the need to illegally download movies in the coming years. However, the ease and convenience of accessing films and TV using BitTorrent, combined with more effective means of masking that activity using VPNs, will continue to make this form of accessing media extremely popular.

Whether the movie industry and companies like Rightscorp continue to try and seek compensation by chasing [downloaders](#) is unclear. From a rational perspective it would seem like a futile exercise. The film and TV industry are still producing content, and piracy has not stopped that, despite dire warnings from the industry that left unabated, this is what it would do.

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Citation: Chasing illegal movie downloaders proves an unprofitable exercise (2015, August 21) retrieved 2 May 2024 from <https://phys.org/news/2015-08-illegal-movie-downloaders-unprofitable.html>

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