[FR] Six Advertisers Accused of Complicity in Infringement of Copyright on Peer-to-peer Sites

IRIS 2006-8:1/21

Amélie Blocman
Légipresse

Can a number of major advertisers (SNCF, AOL France, 9 Telecom, La Française des Jeux, etc) advertising their own products or services on peer-to-peer sites on which downloading is being offered be considered accomplices in the infringement of copyright in respect of the works that are downloaded? That was the question at the heart of the legal proceedings brought before the higher regional court of Paris by the co-producers and the director of the hugely successful film “The Chorus” (8.5 million tickets at the box office in 2004, and 1400 downloads per day on the eDonkey site in September 2004). The complainants claimed that the peer-to-peer sites are largely financed by advertising.

In its judgment delivered on 21 June, the court established that copyright was indeed being infringed by both a number of unidentified Internet users and the peer-to-peer sites. According to the judgment, the purpose of these sites was to promote and organise systematically the distribution of intellectual works without the authorisation of the rightsholders. It then went on to recall that the provisions of Article 121-7 of the Criminal Code, which makes complicity a crime in itself, require that the accomplice has knowingly facilitated the commission of a crime. The intentional element therefore had to be proven. In the present case, however, the defendant advertisers produced the contracts between them and their advertising agencies in which it is specifically stated that they are not allowed to advertise on peer-to-peer sites. All produced statements of the advertisements that had been placed and their media schedules, which did not include any of the disputed sites. Their advertising agencies had in fact sub-contracted to other agencies and it was these which had entered into contracts with the disputed sites. Lastly, there was no proof of any money changing hands between the advertisers and the peer-to-peer sites. Thus, while it was “plausible to suppose that the advertisers tolerated their presence on these sites, since they attract several million Internet users every day and constitute particularly attractive advertising media”, “it had to be said that these deductions [were] based on no more than verisimilitude and hypothesis”. The defendant advertisers were therefore discharged, as there was nothing to prove any intention to infringe copyright. The complainants have appealed.

© European Audiovisual Observatory (Council of Europe) 2026

TGI Paris (31e ch.), 21 juin 2006, Pathé Renn Production et autres c/ 9 Télécom Réseau et autres

http://www.legalis.net/jurisprudence-decision.php3?id_article=1685

Higher regional court of Paris (31st chamber), 21 June 2006, in the case of Pathé Renn Production et al. vs. 9 Télécom Réseau et al.

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026