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**Online Ads Supporting Copyright Piracy Need to Be Stopped**

by

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An August 2021 report by the Digital Citizens Alliance found that Amazon, Facebook, and Google top the pack of Fortune 500 companies that advertise on alleged copyright piracy websites and apps. Between June 2020 and May 2021, those three Internet platforms reportedly paid \$100 million for such ads. The report also found that Google's ad technologies facilitated about 51% of all ads on piracy apps during that time span. Action is needed to clamp down on ad-sponsored piracy and to make major companies, including the dominant Internet platforms, more accountable for their online ad practices.

Companies with large online ad budgets and online ad brokers need to take more initiative to prevent multimillion-dollar ad buys on piracy websites and apps. Federal agencies and law enforcement should seek to disrupt their lucrative digital ad revenue streams. And Congress ought to strengthen secondary liability for companies that induce or financially benefit from online copyright infringement through their digital advertising practices.

The online black market for copyrighted music, movies, and TV shows is multifaceted. Sales of unauthorized digital copies or subscription access to illicit streaming services hammer creative artists and content owners with annual losses that far exceed \$1 billion. In prior *Perspectives*

from *FSF Scholars papers*, [op-eds](#), and [blog posts](#), Free State Foundation President Randolph May and I have called attention to these harmful criminal activities and urged the adoption of remedial measures.

Yet online copyright pirates' lucrative connections to digital advertisers and ad tech companies are often overlooked. Helpfully, the Digital Citizens Alliance (along with collaborator White Bullet) has produced a report titled "[Breaking \(B\)ads: How Advertiser-Supported Piracy Helps Fuel A Booming Multi-Billion Dollar Illegal Market](#)." Released on August 12, the report estimated that pirates who unlawfully traffic in copyrighted media content raked in a worldwide total of \$1.34 billion from online advertising over a twelve-month period ending in June 2021. According to the report, advertising on piracy websites generated about \$1.08 billion, and ads on piracy apps made about \$259 million. Fortune 500 companies paid out about \$100 million to piracy websites and apps to advertise their goods and services.

Significantly, the report identified three Big Tech companies for their apparent role as ad sponsors for piracy apps:

**Amazon, Facebook, and Google dominated the list of Fortune 500 companies found on these piracy apps.** Ads for these three well-known companies accounted for **73 percent** of all Major Brands that appeared frequently on piracy apps during the year-long investigation. That means these three companies are supporting these piracy operators with potentially tens of millions of dollars in advertising on piracy apps alone. [Emphasis in the original.]

On the upside, the report credited Amazon for successfully reducing the appearance of its ads on piracy websites and apps by about 78% between the beginning of 2021 and May of this year. However, on the downside, the report spotlighted Google's outsized role in supporting ads on piracy apps. Google operates a content delivery network (CDN) and an ad tech company that facilitate the purchase and placement of digital ads, generating massive revenues from these businesses. According to the Digital Citizens Alliance Report, Google's ad technologies combined "appear to have provided a majority (51 percent) of ads to piracy apps" and "Google CDN was involved in the placement of 44 percent of all fraudulent and malware ads on piracy apps." If the findings in the report are correct, then it would seem that Google has been a key indirect enabler of massive global copyright infringement.

None of the foregoing suggests that Google or any other Fortune 500 company is guilty of civil or criminal copyright infringement in any specific instance. But closer scrutiny of the ad-sponsored piracy market is warranted. And swift action by major private companies is needed to stop the flow of advertising dollars to online pirates. Amazon apparently has shown that private companies can curb the appearance of their ads on piracy websites and apps. Other Fortune 500 companies ought to do the same, and ad tech companies similarly ought to take measures to halt their brokering of piracy-sponsoring ads.

Moreover, federal agencies should investigate the ad market for piracy websites and apps. And federal law enforcement should combat the ad-supported side of online piracy where civil and criminal prosecutions are viable.

Finally, Congress should pursue legislation to make Fortune 500 company advertisers and ad tech companies more accountable for their roles in indirectly supporting online piracy. Secondary liability doctrines of contributory liability and vicarious liability generally apply when third parties induce others to engage in copyright infringement or when they financially benefit from infringement while declining to stop it. These doctrines are firmly grounded in the common law.

The application of secondary liability may be uncertain in the online advertising context given the wide immunity afforded by lower courts to online service providers under Section 230 of the Communications Decency Act and Section 512 of the Digital Millennium Copyright Act. Accordingly, Congress should consider confirming that secondary liability for copyright infringement may exist when sophisticated companies know or ought to know that their ad budgets are supporting ads on piracy websites and apps – and also when ad tech companies know or ought to know that they are facilitating piracy-sponsored ads. If need be, Congress should strengthen such secondary liability.

Copyrighted music, movie, and TV content are increasingly important to the U.S. economy and, of course, to those individuals and entities whose livelihoods are dependent upon the protection of copyrighted works. In order to secure the constitutional rights of creative artists and other content owners in the Digital Age, large-scale ad support for piracy websites and apps needs to be stopped.

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### **Further Readings**

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