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CORBIS CORP. V. AMAZON.COM, INC.

351 F. Supp. 2d 1090 (W.D. Wash. 2004)

The United States District Court for the Western District of Washington ruled that the Digital Millennium Copyright Act (DMCA) immunizes a service provider from infringement claims arising out of unauthorized sales of copyrighted material by a nonaffiliated party using its third party vendor platform.

Amazon.com is a company best known for selling books and other media over the internet. Amazon also operates certain third party vendor platforms—areas linked to its website that allow individuals and merchants to conduct their own sales using Amazon’s forms and resources. In order to use this service, vendors are required to pay a fee and enter into a participation agreement which, among other conditions and restrictions, prohibits vendors from linking to images that infringe intellectual property rights.

Corbis, a company which licenses and distributes copyrighted photographs, sued Amazon and fifteen other defendants for vicarious copyright infringement, unfair competition, dilution of Corbis’ trademark, and tortious interference with Corbis’ business relations when defendant vendors sold photographs in which Corbis had copyright on zShops.com, one of Amazon’s third party vendor platforms. As an affirmative defense, Amazon argued that it was immune to infringement claims under Title II of the DMCA.

The court ruled that Amazon, as a “service provider,” satisfied all of the requirements for protection under the DMCA’s safe harbor provision by adopting a policy to terminate service access for repeat copyright infringers, informing users of this policy, and implementing it in a reasonable manner. As such, the court pronounced Amazon immune from all monetary relief and, except for the limited relief in 17 U.S.C. § 512(j), all injunctive relief for any copyright infringement committed by zShops vendors on the Amazon site. The court also dismissed Corbis’ Lanham Act claim, ruling no valid claim was posed under the Act. Finally, the court held that Amazon was immunized from the Washington State law Consumer Protection Act by Section 230 of the Communications Decency Act (CDA). Section 230 provides immunity from any claim, aside from federal criminal provisions and intellectual property claims, that seeks to hold a provider of interactive computer services liable for content created by third parties.