

No. 22-1078

IN THE
Supreme Court of the United States

WARNER CHAPPELL MUSIC, INC., *et al.*,

Petitioners,

v.

SHERMAN NEALY. *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE ELEVENTH CIRCUIT

**BRIEF OF *AMICI CURIAE* ELECTRONIC
FRONTIER FOUNDATION, AUTHORS ALLIANCE,
AMERICAN LIBRARY ASSOCIATION AND
ASSOCIATION OF RESEARCH LIBRARIES
IN SUPPORT OF PETITIONERS**

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**STATEMENT OF IDENTITY AND INTEREST
OF *AMICI CURIAE*¹**

The Electronic Frontier Foundation (“EFF”) is a non-profit civil liberties organization with over 39,000 dues-paying members that has worked for 30 years to ensure that technology supports freedom, justice, and innovation for all people of the world. EFF and its members have an interest in ensuring that copyright law fulfills its purpose of promoting progress, while preserving free expression and technological growth that contributes to a more just society. EFF’s work includes more than a decade of counseling clients and the public about copyright trolls, the subject of this brief.

Authors Alliance is a 501(c)(3) nonprofit that seeks to advance the interests of authors who want to serve the public good by sharing their creations broadly. Authors Alliance has over 2,500 members, ranging from Nobel Laureates, MacArthur Fellows, novelists, historians, fanfiction writers, journalists, and others. Our members, and authors of all types, rely heavily on the creativity and insights of other authors who came before them. When authors reuse earlier works, potential copyright liability can be daunting. We’ve seen over and over again how fear of abusive copyright litigation can stifle new creative work, even when authors have a good faith belief that their use of the work of others is ultimately supported by

1. No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amici curiae, or their counsel, made a monetary contribution intended to fund its preparation or submission. Web sites cited in this brief were last visited on November 28, 2023.

the law, for example under fair use. A liability regime in which damages awards can reach far into the past would tend to further inhibit creativity, undermining the very purposes of the Copyright Act.

The American Library Association (“ALA”), established in 1876, is a non-profit professional organization of more than 57,000 librarians, library trustees, and other friends of libraries dedicated to providing and improving library services and promoting the public interest in a free and open information society.

The Association of Research Libraries (“ARL”) is an association of 126 research libraries in North America. ARL’s members include university libraries, public libraries, and government and national libraries. ARL programs and services promote equitable access to and effective use of recorded knowledge in support of teaching and research.

Collectively, ALA and ARL represent over 117,000 libraries in the United States. Libraries make thousands of copies every day pursuant to exceptions in the Copyright Act, and open-ended liability could have a chilling effect on libraries’ use of these exceptions in furtherance of their mission. If the statute of limitations in essence evaporated for all preservation copies under 17 U.S.C. §§ 107 and 108(b) and (c), document supply under 17 U.S.C. §§ 108(d) and (e), and accessible format copies under 17 U.S.C. §§ 121 and 121A, libraries would be more reluctant to make them. All these exceptions have ambiguous conditions, and the knowledge that a copyright troll could emerge seeking a payout a decade or more after the copying occurred would force libraries to become more conservative in their

reliance on the exceptions and engage in more burdensome recordkeeping. The same is true with educational institutions with respect to distance education under 17 U.S.C. § 110(2) or electronic reserves in compliance with 17 U.S.C. § 107. *See Cambridge University Press v. Becker*, 446 F. Supp. 3d 1145 (N.D. Ga. 2020).

INTRODUCTION AND SUMMARY OF ARGUMENT

Statutes of limitations protect defendants against stale claims. *John R. Sand & Gravel Co. v. United States*, 552 U.S. 130, 133 (2008). They also “protect important social interests in certainty, accuracy, and repose.” *Cada v. Baxter Healthcare Corp.*, 920 F.2d 446, 453 (7th Cir. 1990) (Posner, J). Those interests are of paramount importance in copyright infringement cases. Because copyright applies automatically to most forms of creative expression from the moment they are fixed in a tangible medium, copyrighted works are ubiquitous in everyday life, especially on the internet. 17 U.S.C. § 102(a). When using digital technology, nearly every encounter with creative expression—whether text, images, sound, video, software code, or otherwise—involves making a copy, and thus a potential copyright infringement. And in many cases, a rightsholder can plausibly threaten statutory damages far in excess of actual damages. The authors of creative works such as websites and internet-based applications thus face an ever-present risk of crippling copyright liability when they interact with digital media created by others. The Copyright Act’s three-year statute of limitations is one of the important safeguards that Congress enacted to limit this risk.

The ubiquity of copyrighted works on the internet and the potential for statutory damages have fueled a business model—copyright trolling—that seeks profit through monetizing threats of litigation against thousands of internet users. Copyright trolling inhibits creativity rather than promoting it. Recognizing the harm caused by copyright trolling, the courts have interpreted many substantive and procedural aspects of copyright law to discourage the practice.

The discovery accrual rule as interpreted by the Eleventh Circuit in this case, and by the Ninth Circuit in *Starz Entertainment, LLC v. MGM Domestic Television Distribution, LLC*, 39 F.4th 1236 (9th Cir. 2022), encourages copyright trolling. The ability to recover damages for infringements that occurred an arbitrarily long time ago, as long as litigation is begun within three years of discovery, expands the opportunities to seek nuisance-value settlements against numerous internet users. The problem of copyright trolling illustrates why the Court should hold that infringement claims accrue when the infringement occurs, with the three-year statute of limitations running from that date.

ARGUMENT

I. Copyright Trolling Inflicts a Substantial Burden on Creativity.

A. Overview of Copyright Trolling

Over the past fifteen years, a business model has arisen that exploits features of the copyright system—including the possibility of massive, unpredictable statutory damages awards—to generate profit from

litigation without advancing copyright's goals. This business model, often called copyright trolling, involves using search tools to identify technical, often low-value infringements on the internet, then seeking nuisance settlements from many defendants. Copyright trolls seek "quick settlements priced just low enough that it is less expensive for the defendant to pay the troll rather than defend the claim." *Design Basics, LLC v. Lexington Homes, Inc.*, 858 F.3d 1093, 1097 (7th Cir. 2017), quoting Matthew Sag, *Copyright Trolling, An Empirical Study*, 100 Iowa L. Rev. 1105, 1108 (2015).² As the Seventh Circuit observed,

[i]n recent years, opportunistic holders of copyrights, patents, and other intellectual property have developed unsavory reputations for "trolling," bringing strategic infringement claims of dubious merit in the hope of arranging prompt settlements with defendants who would prefer to pay modest or nuisance settlements rather than be tied up in expensive litigation. Like the proverbial troll under the bridge, these firms try to extract rents from market participants who must choose between the cost of settlement and the costs and risks of litigation.

Design Basics, 858 F.3d at 1097. Another court described a copyright troll as one who is "more focused on the business of litigation than on selling a product or service or licensing their copyrights to third parties to sell a product or service." *Bell v. Wilmott Storage Servs., LLC*,

2. available at <https://ilr.law.uiowa.edu/sites/ilr.law.uiowa.edu/files/2023-02/ILR-100-3-Sag.pdf>.

12 F.4th 1065, 1082 (9th Cir. 2021) (Clifton and Wardlaw, JJ., concurring) (cleaned up).

Copyright trolling thus embodies some of the “negative features” of copyright: it imposes unnecessary costs on others who are “exercising their own creative powers.” *Google LLC v. Oracle Am., Inc.*, 593 U.S. ___, 141 S.Ct. 1183, 1195 (2021). These negative features contrast with a positive goal of copyright law: to encourage the production of original works of authorship, and thereby enrich the public. *Id.* Copyright trolling disserves that goal. Unlike licensing through ordinary markets, a copyright troll’s revenues *increase* as infringement increases. This is because for low-value uses, the net gain from nuisance settlements, inflated by the threat of large statutory damages, can be greater than the revenues from licensing.

The negative effects of trolling on the copyright system occur even when lawsuits do little more than state a prima facie case of infringement and otherwise comply with formal rules. Numerous everyday uses of copyrighted works, such as personal, noncommercial copying and incidental uses of works in online media rely on untested applications of the fair use doctrine, 17 U.S.C. § 107, and the forbearance of rightsholders. See Shyamkrishna Balganesh, *The Uneasy Case Against Copyright Trolls*, 86 S. Cal. L. Rev. 723, 760–64 (2013).³ Lawsuits (or threats) against these socially important but commercially low-value uses disrupt “an enforcement equilibrium that is integral to the functioning of copyright

3. available at <https://southerncalifornialawreview.com/2013/05/03/the-uneasy-case-against-copyright-trolls-article-by-shyamkrishna-balganesh/>.

as an institution,” because the troll’s incentives “bear no relationship whatsoever to the market for creative works.” *Id.* at 729, 730. Trolling imposes a financial burden on creative pursuits like online publishing, and other important activities like libraries and archives, without an offsetting gain in incentives for original creation.

What’s more, because profitable copyright trolling “depends on dispersing fixed costs over a large group of defendants and persuading a reasonable number of defendants to settle reasonably quickly,” and because these cases are rarely contested in court, copyright trolls’ attorneys have an incentive to cut corners. *Sag, Copyright Trolling*, 100 Iowa L. Rev. at 1116, 1140. Some have joined hundreds of defendants from numerous jurisdictions in a single suit, making individual consideration much harder. *See, e.g., AF Holdings, LLC v. Does 1-1058*, 752 F.3d 990, 993-94 (D.C. Cir. 2014). Many rightsholders whose targets have reached out to Amicus EFF for assistance obfuscate or outright misrepresent the date on which the work at issue was registered, creating the misimpression that they are entitled to statutory damages and attorney fees under 17 U.S.C. § 412 when, in fact, their recovery is limited to actual damages.

Over the past several decades, copyright trolling has reared its ugly head in several different industries. The following sections provide examples. In many of these cases, courts have imposed procedural and substantive constraints on infringement actions—many of them meritorious on their face—to discourage the opportunistic pursuit of nuisance settlements.

B. Articles

Righthaven LLC was a company founded “to identify copyright infringements on behalf of third parties, receive ‘limited, revocable assignment[s]’ of those copyrights, and then sue the infringers.” *Righthaven LLC v. Hoehn*, 716 F.3d 1166, 1168 (9th Cir. 2013). Specifically, Righthaven allegedly acquired rights to sue on articles in newspapers such as the *Las Vegas Review-Journal* and the *Denver Post*. The company then filed infringement lawsuits, without advance notice, as part of a business model of “encouraging and exacting settlements from Defendants cowed by the potential costs of litigation and liability.” *Righthaven LLC v. Hill*, Case No. 1:11-cv-00211 (D. Colo. April 7, 2011) (order denying motion to enlarge time), Dkt. 16 at 2.⁴ Righthaven endeavored “to create a cottage industry of filing copyright claims, making large claims for damages and then settling claims for pennies on the dollar.” *Righthaven LLC v. Democratic Underground, LLC*, Case No. 2:10-cv-1356 (D. Nev. April 14, 2011) (order on motion for reconsideration), Dkt. 94 at 2.⁵ Before eventually going out of business, Righthaven filed more than 250 lawsuits seeking to extort such settlements.⁶

4. available at <https://storage.courtlistener.com/recap/gov.uscourts.cod.124054.16.0.pdf>.

5. available at <https://storage.courtlistener.com/recap/gov.uscourts.nvd.75386/gov.uscourts.nvd.75386.94.0.pdf>.

6. Lex Machina search for Righthaven LLC, https://law.lexmachina.com/party/view?id=259780&pending-from=2009-01-01&filters=true&view=analytics&tab=summary&filed_on-from=2000-01-01&filed_on-to=2020-12-31&cols=475&start=275; see *Righthaven v. Democratic Underground*, <https://www.eff.org/cases/righthaven-v-democratic-underground>; *Righthaven v. Wolf*, <https://www.eff.org/cases/righthaven-v-wolf>.

C. Photographs

Many instances of copyright trolling involve photographs posted to websites or social networks. *See, e.g., Bell*, 12 F.4th at 1069-70; *McDermott v. Monday Monday, LLC*, Case No. 17CV9230 (DLC), 2018 WL 1033240, at *1-3 (S.D.N.Y. Feb. 22, 2018); *Oppenheimer v. Williams*, Case No. 2:20-CV-4219-DCN, 2021 WL 4086197, at *1-3 (D.S.C. Sept. 8, 2021). Amicus EFF regularly counsels website authors who receive demand letters relating to photographs posted in obscure locations within their websites where a “reverse image search” for a specific photograph will find them but a general search engine query or human visitor likely will not. (*See Bell*, 12 F.4th at 1069 & n.4, for an explanation of a reverse image search.) These demands frequently concern images posted well over three years earlier. Such postings cause little or no monetary harm to rightsholders, no significant gain for website authors, and would not otherwise be the subject of litigation.

D. Movies Transmitted over Torrents

Attorneys representing small movie producers (often pornographic films) have sued more than 200,000 anonymous John Doe defendants for infringement when the Doe defendants allegedly downloaded certain films using the BitTorrent protocol.⁷ These cases all follow a similar pattern. The plaintiff files a single complaint against dozens, sometimes hundreds, of John Does at

7. Sarah Purewal, *Copyright Trolls: 200,000 BitTorrent Users Sued Since 2010*, PCWorld (August 9, 2011), available at https://www.pcworld.com/article/481716/copyright_trolls_200_000_bittorrent_users_sued_since_2010.html.

once. After obtaining permission for early discovery, the plaintiff then uses the subpoena process to seek the Does' identities from their online service providers. It then sends out form settlement demands for approximately \$2,000 (or some other number significantly less than the cost of litigation). Such lawsuits accounted for over 43% of copyright suits in 2013. Sag, *Copyright Trolling*, 100 Iowa L. Rev. at 1117.

Many courts have thrown out these suits on procedural grounds (such as improper joinder and lack of personal jurisdiction), and courts have recognized the impropriety of using the judicial process solely to extract quick settlements. As one court observed:

This course of conduct indicates that the plaintiffs have used the offices of the Court as an inexpensive means to gain the Doe defendants' personal information and coerce payment from them. The plaintiffs seemingly have no interest in actually litigating the cases, but rather simply have used the Court and its subpoena powers to obtain sufficient information to shake down the John Does. Whenever the suggestion of a ruling on the merits of the claims appears on the horizon, the plaintiffs drop the John Doe threatening to litigate the matter in order to avoid the actual cost of litigation and an actual decision on the merits. The plaintiffs' conduct in these cases indicates an improper purpose for the suits.

K-Beech, Inc. v. John Does 1-85, Case No. 3:11-cv-469 (E.D. Va. Oct. 13, 2011) (order severing Does 2-85) Dkt.

13 at 4-5;⁸ *see also CP Prods., Inc. v. Does 1-300*, Case No. 1:10-cv-6255 (N.D. Ill. Feb. 24, 2011) (order dismissing for abuses of joinder, jurisdiction, and venue) (Shadur, J.), Dkt. 32.⁹

In *AF Holdings, LLC*, 752 F.3d at 992, the district court had granted AF Holdings' request to take discovery of over a thousand unnamed Does by serving subpoenas on five Internet service providers. The D.C. Circuit reversed the discovery order, holding it "quite obvious that AF Holdings could not possibly have had a good faith belief that it could successfully sue the overwhelming majority of the 1,058 John Doe defendants in this district." *Id.* at 996.

Another serial movie copyright plaintiff using the "John Doe" methodology is Strike 3 Holdings LLC. Strike 3 is "a copyright troll. Its swarms of lawyers hound people who allegedly watch their content through Bittorrent, an online service enabling anonymous users to share videos despite their copyright protection," but Strike 3's methodology "is famously flawed." *Strike 3 Holdings, LLC, v. John Doe subscriber assigned IP address 73.180.154.14*, D.D.C No. 1:18-cv-01425 (November 16, 2018) (opinion ordering dismissal of case).¹⁰

When a John Doe contested another of those cases, Strike 3 attempted to dismiss its claims, but the Ninth

8. available at <https://storage.courtlistener.com/recap/gov.uscourts.vaed.269663/gov.uscourts.vaed.269663.13.0.pdf>.

9. available at <https://storage.courtlistener.com/recap/gov.uscourts.ilnd.248010.32.0.pdf>.

10. available at https://storage.courtlistener.com/recap/gov.uscourts.dcd.197770/gov.uscourts.dcd.197770.5.0_1.pdf.

Circuit awarded the Doe attorney’s fees. *Strike 3 Holdings LLC v. Doe*, Case No. 20-35196, 849 F. App’x 183, 184–86 (9th Cir. March 18, 2021) (non-precedential).¹¹

E. Home Building Plans

A company called Design Basics, LLC, has been the plaintiff in several cases involving alleged copyrights in floor plans for homes. *Design Basics, LLC v. Kerstiens Homes & Designs*, 1 F.4th 502 (7th Cir. 2021); *Design Basics, LLC v. Signature Construction, Inc.*, 994 F.3d 879 (7th Cir. 2021); *Design Basics, LLC v. Lexington Homes, Inc.*, 858 F.3d 1093. Its business model is to hold “copyrights to thousands of home floor plans, and its employees receive incentives to stalk the Internet in hopes of finding a target for an infringement suit.” *Design Basics, LLC v. Kerstiens Homes & Designs*, 1 F.4th at 504.

Home designs are necessarily “tightly constrained by functional requirements,” *Design Basics, LLC v. Lexington Homes, Inc.*, 858 F.3d at 1101; for example, homes frequently have a laundry room off the garage, have three bedrooms on the second floor, and (not unexpectedly) have the kitchen on the first floor instead of the second floor. *Design Basics, LLC v. Kerstiens Homes & Designs*, 1 F.4th at 507. Thus, the Seventh Circuit described the copyrights in all three cases as “thin.” *Design Basics, LLC v. Kerstiens Homes & Designs*, 1 F.4th at 504–05; *Design Basics, LLC v. Signature Construction, Inc.*, 994 F.3d at 882, 884-85, 889-90; *Design Basics, LLC v. Lexington Homes, Inc.*, 858 F.3d at 1101, 1102. The Seventh Circuit affirmed the district court’s grant of

11. available at <https://cdn.ca9.uscourts.gov/datastore/memoranda/2021/03/18/20-35196.pdf>.

summary judgment in all three cases. Getting somewhat fed up with this plaintiff, in the last of the three cases the court affirmed an award of over \$500,000 in fees and costs to the prevailing defendant. *Design Basics, LLC v. Kerstiens Homes & Designs*, 1 F.4th at 508 (“[A]warding fees would discourage Design Basics from manipulating the copyright laws to extract quick settlements.”).

II. Allowing an Unlimited Look-Back Period for Damages Encourages Copyright Trolling.

The persistence of trolling illustrates why the three-year limit on damages accrual is so important in copyright cases. Under the Eleventh Circuit’s holding, damages can accrue for a potentially unlimited time period before suit is filed. That holding, if not reversed by this Court, would throw gasoline on the fire of copyright trolling, encouraging nuisance lawsuits and money demands over ancient conduct of little financial significance to either party.

A. The Discovery Rule with Unlimited Look-Back Increases Uncertainty, Making Speculative Litigation and Nuisance Settlements More Likely.

An unlimited look-back period for damages adds risk and uncertainty for authors and other defendants. The question of when the plaintiff discovered or reasonably could have discovered the infringement takes on increased significance if it unlocks many years of accrued damages.

When infringement was or should have been discovered is a question of fact. *Polar Bear Prods., Inc. v. Timex Corp.*, 384 F.3d 700, 707 (9th Cir. 2004); *DeGette*

v. Mine Co. Restaurant, Inc., 751 F.2d 1143, 1145 (10th Cir. 1985); *see* Pet. App. at 6a, 31a-32a (in this very case, finding a genuine issue of fact as to when Respondent knew when his claims arose). Two more cases involving Design Basics illustrate the fact-intensive inquiry under the discovery rule, even for a frequent plaintiff. In *Design Basics, LLC v. Forrester Wehrle Homes, Inc.*, 305 F. Supp. 3d 788, 794-95 (N.D. Ohio 2018), the district court denied the defendant’s motion for summary judgment excluding damages for any infringing acts that occurred more three years before the suit was filed. The court found that Design Basics “encourages its employees to look for potential copyright infringements on the Internet and pays them a finder’s fee if the employee’s research leads to a successful infringement suit,” and had filed over 100 infringement suits. However, even that wasn’t enough to put Design Basics on notice of that particular defendant’s alleged infringement, at least for the purposes of what a reasonable jury would think, so the court denied summary judgment under the discovery rule. Similarly, *Design Basics, LLC v. Chelsea Lumber Co.*, 977 F. Supp. 2d 714, 724-25 (E.D. Mich. 2013) rejected the defendant’s argument that it “maintained an online presence and distributed pamphlets promoting Plaintiff’s products since the late 1990s and early 2000s, and that Plaintiff could have easily investigated to determine whether any of these materials were potentially infringing.” The court held that Design Basics had no duty to investigate what the defendant had put online or “to police its copyrights,” and rejected the statute of limitations defense. *Id.* at 724-25.

The fact-intensive inquiry under the discovery rule has two implications. First, because those facts are generally under the control of the plaintiff, a party accused

of infringement that occurred long ago—such as a website owner or social media user who posted content online many years earlier—is often unable to determine whether the statute of limitations will apply without engaging in litigation discovery.

Second, a copyright troll can leverage that discovery requirement to increase its settlement demands. The troll can demand that the accused infringer pay a higher sum to settle dubious or poorly supported claims, to avoid the cost of discovery and the risk of far greater damages. The troll can also argue that even after discovery, the defendant won't be able to get summary judgment and will have to proceed to trial—an expensive trial that can only be avoided by paying the troll's initial demand. All this, in turn, encourages more money demands and lawsuits based on dubious infringement claims in the first place.

By contrast, the rule advanced by Petitioners eliminates most if not all of these factual inquiries. The date the suit was filed, and three years before that date, will not ordinarily be subject to dispute.

B. The Information Inequalities Created By Ancient Damages Disproportionately Benefit Plaintiffs, Encouraging Abuse.

When a qualifying copyright holder elects to receive statutory damages, they are excused from the normal requirement to prove damages or the defendant's profits. *See Los Angeles News Serv. v. Reuters Television Int'l, Ltd.*, 149 F.3d 987, 996 (9th Cir. 1998). A court may award damages of \$750 to \$30,000 per work “as the court considers just.” 17 U.S.C. § 504(c). The maximum increases

to \$150,000 per work in cases of willful infringement. *Id.* Statutory damage awards vary greatly between cases and courts, even when based on similar facts. Pamela Samuelson and Tara Wheatland, *Statutory Damages in Copyright Law: A Remedy in Need of Reform*, 51 William & Mary L. Rev. 439, 441-43, 485-88 (2009).¹² Because the actual damages resulting from (for example) the mere posting of a photograph on a website will often not be enough to justify bringing a lawsuit, statutory damages make the copyright troll business model worthwhile. As one commentator put it, statutory damages “are the pot of gold at the end of the litigation rainbow” and “make the stakes of copyright litigation fundamentally uneven.” Sag, *Copyright Trolling*, 100 Iowa L.Rev. at 1121.

When suits are filed many years after infringement occurs, statutory damages create an even greater asymmetry that advantages plaintiffs. A rightsholder can expect a significant damages award for old infringements, even if evidence of harm has disappeared. A defendant accused of infringement, on the other hand, will have less access to evidence that could mitigate the damages award. For example, logs showing how many times a photograph has been viewed or downloaded from a website are typically deleted after some fixed period. Evidence about the financial impact or lack thereof flowing from an infringement is also likely to become unavailable as time passes.

This asymmetry encourages copyright trolling by increasing the probability of a large damages award for

12. available at <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1011&context=wmlr>.

marginal claims of infringement, leading defendants to settle for higher sums to avoid the risk. Statutory damages magnify the importance of the repose and certainty that the statute of limitations is meant to provide.

Consider the following hypothetical. An online blog publishes a post in 2011 containing a photograph, which the blog's author reasonably assumes is a fair use. The author abandons the blog in 2016, and (having never received any claim of infringement) removes the post in 2019 and any associated analytical data that could defend against a damage award. The post (but not the data) remains accessible through various internet archiving services. In 2023, a copyright troll searches the archives and files suit, claiming that it could not have reasonably discovered the 2011 post until 2023. Under the rule advanced by Petitioners, the troll can't recover damages for the 2011 blog post. But under the rulings of the Eleventh and Ninth Circuits, the troll can reach back twelve years, argue that there are at least triable issues of fact under the discovery rule and fair use, and hold up the blog's author by threatening a large statutory damage award. This latter result encourages trolling, and is contrary to the purposes of the Copyright Act.

CONCLUSION

Copyright trolling is a burden on website owners and other internet users, and on the courts, and does not advance the purposes of copyright law. The federal courts have frequently interpreted the Copyright Act and rules of procedure to discourage the opportunistic pursuit of nuisance settlements. This Court should do likewise by holding that the statute of limitations limits the recovery of damages in an infringement suit to the three-year window before filing suit, as established by Congress.

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Respectfully submitted,

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