

Client Alert

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Applications Against Network Service Providers for Discovery of Subscriber Details - Ongoing Developments

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Application for Third Party Discovery

Internet users may believe that accessing illegal content online grants them some anonymity. Nonetheless, content owners have the ability to track such users' IP addresses and apply to court for the Network Service Providers (the "NSPs") to disclose the details of subscribers who are associated with these IP addresses.

The Dallas Buyers Club Case

In 2015, the Singapore High Court ordered major local NSPs to disclose customer details to Dallas Buyers Club LLC and its parent company, Voltage Pictures, the co-producer and studio owner of the movie 'Dallas Buyers Club'. Rather than applying for website-blocking orders against the pirate websites, Voltage Pictures' lawyers issued demand letters to 77 M1 individual subscribers, with written offers of damages and costs, while specifying maximum fines and imprisonment for the alleged copyright infringements.

However, there were concerns whether the unrepresented individuals were being pressured into offering compensation without them fully examining the claims in such demand letters.

Recent Developments on Similar Applications

Following the Dallas Buyers Club case, QOTD Film Investments and Fathers & Daughters Nevada LLC (the respective rights-owners of the movies, 'Queen of the Desert' and 'Fathers & Daughters') have similarly filed applications to seek the NSPs' customer information. Both sued subscribers in the United States earlier this year for illegally downloading the movies and infringing copyright.

The AGC's Potential Intervention

In light of the Dallas Buyers Club case, the Attorney-General's Chambers (the "AGC") has expressed that it is considering intervention in the latest applications to ensure that there is no abuse of process.

Further, the AGC has requested clarification from the lawyers representing Voltage Pictures (which is now acting through Fathers & Daughters Nevada LLC), including the amount of damages sought and the amounts' bases.

Commentary

The scope of the AGC's overall intervention is currently unclear, but its request for the rights owners' clarification highlights the importance of having fully and clearly justified claims. Further, the AGC's possible intervention signals a potential increase in regulation and safeguards for enforcement against individuals. Likewise, the Intellectual Property Office of Singapore stated that content owners have the right to enforce their intellectual property rights, but this should be done in a way that builds legitimacy and respect for the entire process.

In similar applications in Australia, the Australian Court had imposed pre-conditions for the rights owners of Dallas Buyers Club to obtain customers' information¹ and required:

- (i) that customers' information would be only used for the purpose of recovering compensation for the infringements; and
- (ii) that the rights owners submit a draft of the letter to be sent to the account holders.

The present case provides an opportunity for the Singapore Courts to consider whether similar conditions are to be imposed before it grants access to such customer information from the NSPs.

¹ *Dallas Buyers Club LLC v iiNet Limited* [2015] FCA 317