



No DMCA safe harbor for Cox's 13-strike policy for terminating repeat infringers



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On February 1, 2018, the U.S. Court of Appeals for the Fourth Circuit issued a decision in the case, *[BMG Rights Management LLC v. Cox Communications, Inc.](#)* The Fourth Circuit affirmed in part the district court's granting of summary judgment to BMG on the § 512(a) Digital Millennium Copyright Act (DMCA) safe harbor defense. The court also reversed in part and remanded for a new trial because of errors in the jury instructions.

Ultimately, the Fourth Circuit agreed with the district court's decision that Cox was not entitled to the safe harbor defense, finding that Cox's 13-strike policy for repeat infringers was effectively no policy at all, and far less than the termination policy required in order to maintain safe harbor protections.

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