



Mesmer & Deleault, PLLC  
41 Brook Street, Manchester, NH 03104  
Seacoast Office: One New Hampshire Ave., Suite 125  
Portsmouth, NH 03801



## *“Tip of the Month”*

### **File Sharing Lawsuits**

People in New Hampshire have recently encountered copyright lawsuits related to file sharing software on the internet. These private citizens received letters from Comcast and Metrocast (Internet Service Providers-ISP) with subpoenas calling for each ISP to reveal the identities of more than 5,000 internet accounts. The ISP's then notified the consumers of the limited time within which each consumer must file a motion to quash the subpoena or take other action before the ISP reveals the consumer's identity.

In one case the homeowner did not know if the alleged download at 4:15 a.m. on a day last December was done by someone in his family. He could not find the porn video alleged to have been downloaded, though as a computer programmer he regularly clears out his computer network at home and might have missed it. He acknowledges that one of his kids had downloaded BitTorrent, a file-sharing site that allows people to get media from any participating computer that also has BitTorrent. His household has a WiFi router that one of his kids made unsecure when downloading a video game. This meant that anyone within the WiFi range (including a neighbor) might have downloaded the copyrighted content on his ISP account to a computer outside his house.

In another case from a different part of NH, the consumer was mystified because he says he did not download the porn (from a publisher different from the first case) and his kids are little. They are not old enough to even load BitTorrent. This consumer did note that his WiFi is not secure and that a neighbor might have hijacked his account for downloads. He called up the Hollywood, California lawyer who filed the lawsuit in Washington, D.C. The lawyer told him he could settle for \$1,000.

In the first case, a different lawyer who had also filed suit in Washington D.C. for the first adult film producer said the consumer could settle that case for \$2,000. These settlement amounts are just enough to justify not spending money on lawyers to fight the claims. The consumers are worried, however, that if that if they settle this time, they might become targets for more claims later if people have downloaded other copyrighted material through their unsecure WiFi.

We can draw some lessons from this unfortunate experience. First, beware of using any file-sharing software at your house. Especially if you have teenagers, you might have to ask around to see if anyone might have downloaded BitTorrent or Limewire or any number of other file-sharing programs. Second, be sure to secure your WiFi router to prevent those pirates next door from downloading their porn on your account through their file-sharing program.

Finally, if you get a notice that your URL has been subpoenaed, try to avoid revealing your identity to the claimant in the far-away lawsuit.

Give us a call at (603) 668-1971 or send an email to [mailbox@biz-patlaw.com](mailto:mailbox@biz-patlaw.com). We might be able to help you fight them off.

Frank B. Mesmer, Jr., Esq.  
Robert R. Deleault, Esq.  
Charles M. Vivian, Esq.  
Steven H. Slovenski, Esq.  
0611

(603) 668-1971  
Fax (603) 622-1445  
E-mail: [mailbox@biz-patlaw.com](mailto:mailbox@biz-patlaw.com)  
Website: [www.biz-patlaw.com](http://www.biz-patlaw.com)