

Copyright	Date	December 19, 2024	Court	Tokyo District Court, 40th Civil Division
	Case number	2024 (Wa) 70166		
- A case in which the court ruled that senders infringed the right to transmit to the public for a video, for which copyright is held by the Defendant, by means of BitTorrent.				

### Summary of the Judgment

The Defendant alleges that unidentified persons shared the electronic data, which are reproduced pieces of the video stated in the List of Work attached to this judgment (referred to below as the "Video"), by means of BitTorrent, a so-called file exchange and sharing software, thereby infringing the copyright held by the Defendant (the right to make available for transmission and the right to transmit via automatic public transmission). Based on this allegation, the Defendant demands that the Plaintiff, which engages in the telecommunications business, etc., disclose pieces of information stated in the List of Sender Identification Information attached to this judgment (referred to below as the "Sender Identification Information") under Article 5, paragraph (1) of the Act on the Limitation of Liability of Specified Telecommunications Service Providers for Damages and the Right to Demand Disclosure of Sender Identification Information (referred to below as the "Provider Liability Limitation Act").

This is a case in which the Plaintiff instituted an action under Article 14, paragraph (1) of the Provider Liability Limitation Act to oppose the decision that granted the abovementioned Defendant's demand.

The court ruled as summarized below and found it evident that the copyright for the Video was infringed.

Article 5, paragraph (1) of the Provider Liability Limitation Act provides that a person alleging that their rights are infringed due to dissemination of information through specified telecommunications may demand the disclosure of sender identification information relative to the infringement of the relevant rights, in accordance with the applicability of the items of the same paragraph specified according to the category of the relevant information. The same paragraph provides for a means for recovering rights for a person damaged due to the dissemination of information that was transmitted anonymously through specified telecommunications, but from the perspective of ensuring the balance between such recovery of rights and the senders'

privacy, freedom of expression and secrecy of communications, it limits the scope of disclosure to the sender identification information relative to the infringement of rights due to dissemination of information. Considering such purport of the provisions of that paragraph, it is reasonable to construe that the infringement of rights referred to in that paragraph means a situation where rights are directly infringed due to dissemination of infringement-related information (see 2018 (Ju) 1412, judgment of the Third Petty Bench of the Supreme Court rendered on July 21, 2020, Minshu Vol. 74, No. 4, at 1407).

When a sender sends a piece that constitutes part of the reproduction of a work by means of BitTorrent, persons who receive that piece become able to replay the reproduction as a whole only by using that piece. Then, it can be said that the abovementioned sender carries out a key act in achieving automatic public transmission of the entirety of the work by inputting the information that is essential for replaying the entirety of the reproduction identical with the abovementioned work via BitTorrent.

Accordingly, it is reasonable to find that the abovementioned sender directly causes the infringement of the copyright of the abovementioned work as a whole by disseminating the abovementioned piece.

Given the above, the court upheld the decision rendered by the Tokyo District Court on April 4, 2024.