

US court grants Elsevier millions in damages from Sci-Hub

Some doubt that the publishing giant will see any money from the pirate site.

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One of the world's largest science publishers, Elsevier, won a default legal judgement on 21 June against websites that provide illicit access to tens of millions of research papers and books. A New York district court awarded Elsevier US\$15 million in damages for copyright infringement by Sci-Hub, the Library of Genesis (LibGen) project and related sites.

Judge Robert Sweet had ruled in October 2015 that the sites violate US copyright. The court issued a preliminary injunction against the sites' operators, who nevertheless continued to provide unauthorized free access to paywalled content. Alexandra Elbakyan, a former neuroscientist who started Sci-Hub in 2011, operates the site out of Russia, using varying domain names and IP addresses.

In May, Elsevier gave the court a list of 100 articles illicitly made available by Sci-Hub and LibGen, and asked for a permanent injunction and damages totalling \$15 million. The Dutch publishing giant holds the copyrights for the largest share of the roughly 28 million papers downloaded from Sci-Hub over 6 months in 2016, followed by Springer Nature and Wiley-Blackwell. (*Nature* is published by Springer Nature, and *Nature's* news and comment team is



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Sci-Hub founder Alexandra Elbakyan lost a copyright infringement lawsuit brought by the science publisher Elsevier.

editorially independent of the publisher.) According to a recent analysis, almost 50% of articles requested from Sci-Hub are published by these three companies ¹.

The defendants’ “unlawful activities have caused and will continue to cause irreparable injury to Elsevier, its customers and the public,” Elsevier’s New York-based attorneys, DeVore & DeMarco, told the court. After the 21 June hearing, Judge Sweet of the US district court in southern New York ruled in favour of Elsevier, in the absence of Elbakyan or legal representatives of any of the defendants.

“The Court has not mistaken illegal activity for a public good,” said Maria A. Pallante, president and CEO of the Association of American Publishers — a trade group that Elsevier belongs to — in a statement released on 22 June. “On the contrary, it has recognized the defendants’ operation for the flagrant and sweeping infringement that it really is and affirmed the critical role of copyright law in furthering scientific research and the public interest.”

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But observers in academic publishing who are following the case have questioned whether Elsevier will ever see any damages from Elbakyan, who lives outside the court’s jurisdiction and has no assets in the United States. The ruling is also unlikely to prompt Sci-Hub or other pirate sites to close up shop.

Elbakyan could not be reached for comment.

“Sci-Hub is obviously illegal,” says structural biologist Stephen Curry at Imperial College London in the United Kingdom. “But the fact that it is so immensely popular, inside and outside academia, is a symptom of many people’s frustration with the status quo in academic publishing.”

Academic institutions and libraries in several countries, including the Netherlands, Germany, Finland and Taiwan are at loggerheads with Elsevier over affordable licensing agreements, he notes. In Finland, for example, several thousand scientists have signed a petition saying they will abstain from

all editorial and reviewing requests from Elsevier journals until a “fair deal” is reached between the publisher and the Finnish library consortium over subscription costs and open access models.

“This ruling should stand as a warning to those who knowingly violate others’ rights,” says Matt McKay, a spokesperson for the International Association of Scientific, Technical and Medical Publishers in Oxford, UK. “Sci-Hub does not add any value to the scholarly community. It neither fosters scientific advancement nor does it value researchers’ achievements. It is simply a place for someone to go to download stolen content and then leave.”

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