

## **Lawsuit Filed against Cloudflare, Inc. (Headquarters: San Francisco, California, USA), a Content Delivery Network (CDN) Provider Used by Malicious Piracy Websites**

On February 1, 2022, Shogakukan Inc., together with KADOKAWA, Kodansha, and Shueisha, filed a lawsuit with the Tokyo District Court against Cloudflare, Inc (Head office: San Francisco, California, U.S.A.), an international content delivery network (CDN) provider that has been providing services to more than half of the top 10 malicious piracy sites with the highest number of accesses for a long period of time, seeking an injunction against the public transmission and reproduction of piracy content, as well as compensation for damages (one work by each company, total damages for the four works amount to approximately 5.6 billion yen. As part of such damages, each company seeks approximately 1.15 million yen, approximately 1 million dollars, for each company).

CDN providers set up high-capacity servers in various parts of the world, and temporarily duplicate (cache) the contents of the contracted sites on those servers to distribute accesses from users, and at the same time, deliver data from the server closest to the user to ensure the communication speed of the site. The services provided by CDN providers in various countries are recognized as one of the public services that are indispensable for maintaining a comfortable Internet environment. In many cases, major CDN providers take various measures to ensure that the site operator's identity is properly verified at the time of contract signing and that the site does not distribute illegal or unfair contents.

By contrast, CDN service provided by Cloudflare does not have a limited period of free service and can be contracted with insufficient identification. Therefore, by using Cloudflare's service, a site operator can maximize the benefits of CDN services while keeping the origin server provider and site operator's IP address secret. Because of these characteristics, many piracy site operators who do not want to be identified are turning to Cloudflare's CDN service.

Among those piracy sites, there are several malicious sites that receive over 100 million accesses per month and rake in advertising revenue. The ABJ, a general incorporated association, has estimated the retail value of manga illegally read on online reading sites where such estimation is possible, among the top 10 piracy sites with the highest number of accesses, and the result is that the amount of retail value exceeded a trillion1 yen\* in 2021 alone. As mentioned above, more than half of the top sites have been using Cloudflare's CDNs for most of the time.

The origin servers and other communication infrastructure used by piracy sites do not have the capacity to handle more than 100 million accesses per month, even from the perspective of operating costs. Therefore, if the CDN service provided by Cloudflare is stopped, the operation of many malicious piracy sites will be disrupted. In other words, Cloudflare's CDN service has become indispensable for the operation of many malicious piracy sites. In other words, Cloudflare's CDN service has become indispensable for the operation of many malicious piracy sites.

The plaintiff 4 publishers, together with their legal advisors (Kensaku Fukui, Tatsuo Ninoseki, and Hajime Idei = Kotto Dori Law Office; Tetsuo Maeda - Somei, Maeda & Nakagawa Law Office; Makoto Ito, Yuki Hirai, and Norikazu Maruta - Rights Law & Patent Office; and Hiroyuki Nakajima -

Tokyo Flex Law Office), have repeatedly asked Cloudflare by specifying piracy sites that clearly infringe copyrights concerning their infringing contents illegally stored:

- stop public transmissions through the Cloudflare's servers;
- stop temporary caching at Cloudflare's servers in Japan; and
- terminate contracts with operators of piracy sites that are clearly illegal.

Although Cloudflare eventually responded that they had taken the necessary measures for the sites in question, they refused to provide any specific explanation as to which sites they had taken what measures. Above all, it is difficult to believe that they have taken effective measures when the sites in question continue to operate at the same communication speed as before. Furthermore, technical verification by experts has shown that there is a high probability that the piracy sites are still using and caching Cloudflare's CDN.

Based on the above background and recognition of the current situation, the 4 publishers have determined to initiate a lawsuit against Cloudflare, seeking injunction against public transmission and reproduction of the piracy contents and compensation for damages (115 million, approximately 100 million dollars for each company as part of the damages).

Through this lawsuit, the 4 plaintiffs and their legal advisors would like to ask society whether the uncooperative attitude that Cloudflare has shown over the past few years in response to requests for cooperation in fighting piracy is appropriate as a company that is responsible for a public service such as telecommunications infrastructure.

The operation of piracy sites is nothing but a criminal act that steals the works that manga artists and other creators have poured their hearts and souls into creating, and usurps the just rewards that they should receive. We would like to ask for the understanding and cooperation of all readers and concerned parties in order to stop the spread of damage as soon as possible.

Shogakukan Inc.

\* This is a figure converted to retail value based on the number of accesses, time spent, etc., and is not a calculation of lost profit.