

Judge: Internet provider doesn't abuse copyrights

(AP) -- An Australian judge ruled Thursday that an Internet service provider cannot be held accountable for illegal movie downloads by its customers, in a test case of a key strategy by entertainment companies to combat online piracy.

The judge said it was the first time a court had ruled on the question of whether an ISP should be liable for copyright violations by its users, and one expert said the decision would have global implications.

A group of 34 movie companies, including Australian branches of Hollywood studios Universal Pictures, Warner Bros. and 20th Century Fox, claimed Australia's third-largest Internet provider, iiNet, breached their film copyrights by failing to stop users from illegally downloading files.

Federal Court Justice Dennis Cowdroy ruled that while iiNet knew its users violated copyrights, that did not mean the provider was authorizing those breaches and it could not be held accountable for them. He said iiNet did not have the power to stop illegal downloads.

iiNet Managing Director Michael Malone welcomed the outcome and said his company wanted to work with the film companies to find ways iiNet users could access movies legally.

Neil Gane, the executive director of the industry group participating in the suit, said the outcome was disappointing and based on a technical interpretation of how infringements occur. He said an appeal would be considered and suggested the industry would lobby for tighter copyright laws.

Cowdroy said infringement of movie copyrights was evident on a large scale worldwide but Internet providers should not be blamed "merely because it is felt that something must be done."

The judge said the critical issue in the case was whether iiNet's failure to stop infringement in fact authorized it. "I find that the mere provision of access to the Internet is not the `means' of infringement," he said.

The movie companies employed investigators to record illegal file sharing among iiNet customers using the BitTorrent protocol, then sent the alleged infringements to iiNet along with demands that the provider warn the user to stop, then cut them off if they did not.

The volume was huge - 3,000 pages of alleged copyright violations in one week. The companies also wanted iiNet to block certain Web sites.

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iiNet said it asked users not to engage in illegal activity but that meeting the film companies' demands would breach privacy and freedom of speech laws.

David Vaile, executive director of the Cyberspace Law and Policy Center at the University of New South Wales, said getting courts or governments to make Internet service providers liable for illegal activity by their customers was one method music and movie companies were trying to use to combat online piracy.

Cowdroy's decision was the first time a court had ruled on the issue. He said the case may have been launched in Australia against a comparatively small provider in the hope the industry could secure a court victory to build momentum elsewhere.

"If the ISPs become responsible for the acts of their customers, essentially they become this giant and very cheap mechanism for anyone with any sort of legal claim" against illegal downloaders, he said. "The ISPs become the policemen, the enforcers."

"In this case the ISPs have retained the lack of liability for the bad actions of their customers," he said.

Cowdroy said the case had attracted so much interest globally that he decided to allowed the proceedings to be posted on Twitter - a first for Australia.

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