

MEDIA RELEASE

18 December 2006

Record companies win legal copyright case against ISP

Australia's recording labels have won an important legal victory against the operator of a music piracy website, its hosting Internet Service Provider (ISP) and a director who were infringing copyright.

The Full Federal Court today rejected an appeal by Stephen Cooper, the operator of the mp3s4free website and his Internet Service Provider who had earlier been found guilty of copyright infringement. The website was providing access to illegal music files.

The Full Court has held that:

Mr Cooper had power to prevent the communication of copyright sound recordings to the public in Australia via his website.... He had that power because he was responsible for creating and maintaining his MP3s4FREE website....

"It was not reasonably open to Mr Cooper to claim mere indifference to the use internet users made of the website".

The Full Court also found that the ISP, E-Talk/ Com-Cen, and its director, Liam Bal- labelled the "controlling mind"- had failed to take reasonable steps to prevent copyright infringement and instead had sought to achieve a "commercial advantage" from advertising on MP3s4free.com.

"E-Talk countenanced the infringing downloading by internet users who visited the website that it hosted."

Cooper, E-Talk/ Com-Cen and Bal have been ordered to pay the costs of the record companies for both the original proceedings and the appeal.

Sabiene Heindl, General Manager of Music Industry Piracy Investigations (MIPI) welcomed the court's ruling as a significant confirmation of the corporate responsibility that ISPs hold in relation to copyright infringement.

"Internet Service Providers have an important role in ensuring that wholesale music copyright infringement is not taking place on their networks and this judgment sends a clear message to the industry that operators are at risk of being held liable if they are doing the wrong thing", Ms Heindl said.

The appeal upheld the last year's decision of Justice Tamberlin which found the owner and operator of the MP3s4Free.com website had authorised copyright infringement. The website was described by the Court as a "carefully structured and highly organised site" which included hyperlinks to facilitate the downloading of infringing copies of recorded music. Justice Tamberlin also found the internet service provider, E-Talk/ Com-Cen (and its director, Bal), which hosted Cooper's website had authorised copyright infringement.

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About MIPI

Music Industry Piracy Investigations Pty Ltd (MIPI) is an organisation that provides investigative and intellectual property-right-enforcement-related services to the Australian music industry.

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