

Music downloading hearing can't be streamed online

April 16 2009, By RUSSELL CONTRERAS , Associated Press Writer

(AP) -- Oral arguments in a music downloading lawsuit filed by the recording industry against a Boston University student can't be streamed online, a federal appeals court ruled Thursday.

The 1st U.S. Circuit Court of Appeals overturned a previous decision that allowed online streaming and said it was "bound to enforce" rules that close federal courtrooms in Massachusetts to webcasting and other forms of broadcast.

Charles Nesson, a Harvard Law School professor representing student Joel Tenenbaum, had requested that a courtroom video service be allowed to transmit a hearing to the school's Berkman Center for Internet and Society, which wanted to stream it unedited on its Web site with free access.

U.S. District Judge Nancy Gertner approved the request in January.

But the Recording Industry Association of America appealed the decision, arguing that it violated federal court guidelines on cameras and threatened its ability to get a fair trial.

The [federal appeals court](#) agreed with the recording industry and said Gertner's ruling was based on "incorrect interpretation" of the law.

"This is not a case about free speech writ large, nor about guaranty of a fair trial," the court wrote, but about "the governance of the federal

court."

Nesson did not return phone calls after the ruling.

RIAA spokeswoman Cara Duckworth said the organization was pleased with the appeals court's decision and looked forward to moving on to the [copyright infringement](#) case.

Fourteen news organizations, including The Associated Press and The New York Times Co., had urged the appeals court to allow online streaming.

In a concurring opinion, Judge Kermit Lipez agreed that Gertner erred in allowing webcasting of oral arguments. But Lipez wrote that existing rules prohibiting online streaming should be re-examined.

Tenenbaum, of Providence, R.I., is accused of downloading at least seven songs and making 816 music files available for distribution on the Kazaa file-sharing network in 2004.

He offered to settle the case for \$500, but music companies rejected that, ultimately demanding \$12,000. He could be forced to pay \$1 million if it is determined his alleged actions were willful.

The [recording industry](#) has said in court documents that its efforts to enforce the copyright law are protected under the First Amendment.

In December, the group said it had abandoned its policy of suing people for sharing songs protected by copyright and will work with Internet service providers to cut abusers' access if they ignore repeated warnings.

The recording association said it will still continue to litigate outstanding cases.

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