

Hollywood studios lose landmark Internet download battle

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Hollywood film studios have lost a landmark court bid to hold an Australian Internet provider responsible for illegal movie downloads by its customers, in a blow to their efforts against piracy.

Hollywood film studios on Thursday lost a landmark court bid to hold an Australian Internet provider responsible for illegal movie downloads by its customers, in a serious blow to their fight against piracy.

In a world-first judgement, a Federal Court judge ruled [Internet Service Provider](#) (ISP) iiNet did not authorise the downloads or have the power to stop them, thwarting the studios' latest attempt to stem billion-dollar losses.

"It is impossible to conclude that iiNet has authorised [copyright infringement](#)... (it) did not have relevant power to prevent infringements occurring," Justice Dennis Cowdroy told a packed courtroom.

The case, involving major studios such as Warner Bros, Disney, Paramount, Columbia and Twentieth Century Fox, was seen as an ambitious attempt to force ISPs to act against piracy.

It hinged on thousands of downloads over the Perth-based iiNet network, Australia's third-largest ISP, over 59 weeks from June 2008 involving nearly 90 films and TV series including "Batman Begins", "Transformers" and "Heroes".

The movie studios hoped to set a worldwide precedent forcing ISPs to act against offenders, while Internet rights groups feared it would compel the firms to cut customers' web access without having to take them to court.

Cowdroy acknowledged widespread copyright violations but said these were not the responsibility of iiNet, whose customers downloaded films using the BitTorrent file-sharing application to watch on their laptops and PCs.

"The evidence establishes that copyright infringement of the applicants' films is occurring on a large scale, and I infer that such infringements are occurring worldwide," he said.

"However, such fact does not necessitate or compel... a finding of authorisation, merely because it is felt that 'something must be done' to stop the infringements."

Australian Federation Against Copyright Theft (AFACT) chief Neil Gane, speaking on behalf of the consortium of 34 studios, expressed disappointment at the outcome of the case but held out hope the government would take action.

"We are confident that the government does not intend a policy outcome

where rampant copyright infringement is allowed to continue unaddressed and unabated via the iiNet network," he said.

iiNet chief executive Michael Malone welcomed the "great" ruling and said the studios and Internet industry had to find ways to make legal film and TV downloads more widely available.

"I think the best way for us all to stop the copyright violations -- it doesn't help iiNet either -- is to make material legitimately available for customers," Malone told reporters.

The case comes after a Swedish court found four people behind the Pirate Bay [file-sharing](#) site guilty of promoting copyright infringement in April 2009, sentencing them to a year in prison. The four have appealed the verdict.

Andrew Wiseman, a partner of law firm Allens Arthur Robinson's intellectual property arm, said the latest ruling would be cheered by Internet providers and closely watched worldwide.

He added that Hollywood was likely to make further attempts to tighten up on ISPs, rather than pursuing individually the millions of users who download illegal material.

"There were certainly some excited voices outside the courtroom from the ISPs and there were some very long faces from the studios," Wiseman told AFP.

"One thing's for sure: this is not the end of the journey. There's too much at stake. They can't sit there and have a whole new generation grow up with the understanding and belief that they can watch this stuff for free."

The trial was also Australia's first proceedings reported live on Twitter.

Judge Cowdroy approved the unusual measure, which resulted in hundreds of postings on the micro-blogging site.

"This proceeding has attracted widespread interest both here in Australia and abroad, and both within the legal community and the general public," he said in a summary of the case released on Thursday.

"So much so that I understand this is the first Australian trial to be Twittered or tweeted. I granted approval for this to occur in view of the public interest in the proceeding, and it seems rather fitting for a copyright trial involving the Internet."

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