

Kazaa hit by file-sharing crackdown

Following in the footsteps of the U.S. courts, an Australian federal judge Monday ruled against the file-swapping network Kazaa for making it easier for Web users to download copyrighted music, but he denied allegations by the music industry that the company had actually violated international copyright laws.

The ruling was a blow to file-sharing networks including Sharman Networks of Australia, which has owned Kazaa since 2002 when the company was forced to shut down after a slew of lawsuits worldwide amid increasing allegations of copyright violations. At the same time, however, the ruling did not go far enough according to some music industry analysts who had been expecting the judge to rule that the company actually breached copyright laws as well. Kazaa was sued by 30 record companies including Sony BMG and EMI.

"The respondents authorized users to infringe the applicants' copyright in their sound recording," stated federal judge Murray R. Wilcox in Sydney in his summation of the case and who made the final ruling to conclude the 18-month long dispute.

He pointed out that Kazaa not only facilitated the breaching of copyright laws, but it also did little to crack down on it, arguing that the effect of the Kazaa Web site "would be to encourage visitors to think it 'cool' to defy the record companies by ignoring their copyright constraints." As a result, Wilcox ruled that the company must change its software to prevent files with names matching a list of copyrighted music, which makes it easy for Kazaa users to download music. Specifically, the company will have two months to comply and install filters on future versions of its software to prevent trading of copyrighted music.

Since it started up in 2001, Kazaa has been at the forefront of the file-sharing business, with over 317 million worldwide having downloaded its free software to date. Moreover, file downloaders can connect to each other on a peer-to-peer basis, without going through a central server, which has increased Kazaa's popularity among technologically savvy users. The problem for business executives and music industry officials in particular is because Kazaa is free and has a global following, many would-be customers have turned to the file-sharing network rather than actually paying for the music they listen to. Kazaa itself, meanwhile, has generated profit by advertisements on its Web site.

Granted, Kazaa does not specify that it is a music-sharing Web site, as the network can be used for sharing all digital information, including music. In fact, the company warns its downloaders to avoid violating copyright laws.

Nevertheless, the judge rejected arguments that Kazaa itself had actually broken copyright regulations, which was bittersweet for Kazaa.

In a statement following the ruling, Kazaa owner Sharman said that "both parties have had a win, although neither side had a complete victory. Sharman Networks is obviously disappointed that we have not been completely successful. But we will appeal those parts of the decision where we were not successful and are confident of a win on appeal."

Meanwhile, Denis Handlin, head of the Australian Record Industry Association, said in a news release that "this decision represents another important step in the industry's commitment towards creating a commercially viable legitimate online music business."

Certainly, the ruling by the Australian judge did not go as far as the U.S. court three months ago. In June the U.S. Supreme Court made a similar ruling against Grokster and Morpheus, both which are rival

file-sharing network companies to Kazaa.

"This ruling may only be legally enforceable in Australia, but its impact is likely to be felt worldwide, alongside that of the U.S. ruling in June," stated Jonathan Arber, an analyst with Ovum, a London-based information-technology research group.

"While file-sharing companies may previously have pleaded ignorance to the fact that their software is being used to share copyrighted material, this decision is another indicator that this defense will no longer work. And although no similar ruling has yet been made in Europe, it is probably only a matter of time before this happens," he added.

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