



Music Industry Piracy
Investigations (Pty) Ltd

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RECORD INDUSTRY WINS HISTORIC COPYRIGHT TRIAL **KAZAA ORDERED TO END ITS ILLEGAL MUSIC TRADE**

In an historic victory, the record industry has won its copyright case against Kazaa with a court ruling that the internet piracy system must shut down its worldwide trade in stolen music.

The Federal Court of Australia today ruled that by authorising music file sharing Kazaa is guilty of massive copyright infringement. The court imposed stringent orders, which will put an end to Kazaa's illegal supply of music across the world.

Welcoming the judgment Music Industry spokesman Mr Michael Speck said, "We are delighted by today's ruling. This judgment is one of the most important achievements in the fight against music piracy anywhere. The court's decision confirms that people cannot build a business on stealing the creative work of others and profiting from it."

"The orders imposed by the court are cause for celebration for all those who create, produce and distribute music. We intend to enforce this judgment and pursue damages against the operators of Kazaa."

After a three-week trial, Justice Murray Wilcox made findings against the Kazaa companies Sharman Networks, LEF Interactive Pty Ltd, Altnet Inc, and Brilliant Digital Entertainment Inc, along with executives Nicola Hemming and Kevin Bermeister.

In his landmark judgment Justice Wilcox concluded:

Sharman had power to prevent, or at least substantially reduce, the incidence of copyright file-sharing. Yet Sharman did nothing; even when it introduced KMD v3 [the latest version of the software] one week before commencement of the trial of this proceedings.

Sharman always knew users were likely to share files that were subject to copyright. Sharman, through Ms Hemming (CEO) and Mr Morle (Chief Technical Officer), have been aware this was a major, even the predominant, use of the Kazaa system. (Wilcox J)

Explaining the significance of the judgment Mr Speck said, "This is a significant step towards making the internet a fair and legal place for consumers who want to download music. We can now look forward to a solid future for the legal online music businesses, which have struggled to gain a foothold against Kazaa's illegal free trade in copyrighted tracks."

Justice Wilcox was critical of the Kazaa companies and executives for failing to give evidence in the case;



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Voluminous though it was, the evidence was also notable for what it lacked; direct evidence from those responsible for establishing and operating the Kazaa system, with its adjunct Altnet technology. Between them all, the respondents called only one witness who was directly involved in the operation....As Sharman's Director of Technology...he made a disappointing contribution...He claimed ignorance of many matters about which I would have expected him to be informed. (Wilcox J).

"This judgment explodes the myth that illegal file sharing is simply part of the "internet revolution". It is nothing of the sort and the court's ruling confirms that people who misuse technology should not be able to profit from the creative work of others. Kazaa is not and has never been a legitimate player in the music industry," Mr Speck said.

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A full copy of the judgment can be seen at:

http://www.austlii.edu.au/au/cases/cth/federal_ct/recent-cases.html