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War of the words

Both sides claim victory in the latest ruling on file sharing. So, who won? P7

War of the nerds

The trash-talking over the next great game console heats up at E3 P12/13



20°C
TODAY



5°C
TONIGHT



RELAX!

P4/5

PRIVACY ADVOCATE'S TAKE

The Federal Court of Appeal's decision was seen as a victory for privacy advocates because it meant the recording industry couldn't get access to files that would show who was swapping music online. Dose spoke with Alex Cameron, a lawyer from the Canadian Internet Policy and Public Interest Clinic who argued the case in defence of the alleged file sharers, about what the decision means.

WHAT DO YOU THINK ABOUT THE DECISION?

We're very happy with it. (The recording industry) didn't get what they wanted. They didn't get the names of the people so they can't sue them. ... The court clearly recognized the great significance of online privacy. You lost on one point. What was it? Although the court recognized the importance of privacy, it also lowered the threshold (for the evidence it would require to get Internet service providers to turn over records) in a future case. That part of the ruling might have consequences for a whistle-blower. **WHY?**

If Internet users perceive there is a high likelihood their identity could be revealed by court procedures like this ... then they may be less likely to use those means to whistle blow.

THIS APPEAL WAS PART OF THE LARGER FILE-SHARING ISSUE. WHAT'S GOING TO HAPPEN WITH THAT CASE?

(The recording industry) is claiming victory, but that's a bit of a stretch. The victory is for privacy. ... Now, the big focus (for) the recording industry is ... getting the government to pass a changed copyright law so it's easier for them to get after people for file-sharing. — CEIRAN BISHOP/DOSE

A victory – but for whom?

Privacy won the battle, but the door's still open to more litigation

ILLUSTRATION: ZELA LOBB



THE FEDERAL COURT of Appeal rejected yesterday a bid by the Canadian Recording Industry Association to force Internet service providers (ISPs) to release the names of 29 people accused of sharing large quantities of music online. While the decision is a significant blow to the recording industry's attack on file sharing, it's also about a key social value increasingly threatened south of the border: the right to privacy.

In the case of BMG Canada vs. John Doe, the court unanimously found CRIA's evidence — a series of screen grabs showing shared music folders taken in 2003 — was insufficient and outdated, Canada Newswire reports. The shots only showed the P2P handles of the 29 users, who are accused of

collectively making 43,541 songs available for free download. In order to pursue legal action against the users, the CRIA needs service providers such as Shaw, Bell and Rogers to reveal its clients' true identities. Further complicating the matter is the fluid nature of Internet protocol (IP) addresses assigned to users by ISPs, which can change from session to session.

Both sides heralded the decision as a win, with file-sharing opponents pointing to judges' suggestions the CRIA could come back with updated evidence to further pursue personal lawsuits. Judges also refused to make broad statements about online copyright laws and chastised the lower court's previously presented opinion

on the legality of file sharing.

For now, the decision effectively tipped the balance of power in favour of the service providers. Statements by Justice Edgar Sexton emphasized the need to protect citizens from invasions into their private affairs that the Internet is making increasingly easy.

But Toronto Internet lawyer Gil Zvulony said the issue is nowhere near being resolved.

"This will probably go to the Supreme Court," he said.

"The law is ... not the correct tool for addressing the proliferation of file sharing. Everybody shares files. Going after these file sharers, they're just going to go underground."

— JOEL MCCONVEY/DOSE

CRIA PRESIDENT'S TAKE

Graham Henderson is the president of the Canadian Recording Industry Association. Dose reached him by phone for his reaction on the decision. **How do you feel about today's decision?**

From our perspective, we're delighted. The fact that we can't proceed against these 29 potential defendants is irrelevant to us. ... We lost the battle — not even a battle but a minor skirmish — but the war, we won. The judge has determined that uploading, downloading, it's illegal. (The first judge) ruled we needed to meet very high standards to get what we want. But this judge set a new threshold which is so low, we could meet it in a heartbeat. ... We have the right to go out and pursue the information we need and now we know how to do it.

What's the next step?

The next step is collecting new targets' names and we'll file again in a month. We will proceed immediately with another round of applications. Now we know how easy it will be.

— CHRISTIE TUCKER/DOSE

Figure it out

30%
OF MUSICIANS SAY
FREE DOWNLOADING
INCREASES
ATTENDANCE AT
THEIR CONCERTS

19%
SAY IT INCREASES
RADIO TIME FOR
THEIR MUSIC
(ZEROPAID.COM)

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