[GB] Easyinternetcafe Ltd Found Liable for Facilitating "Burning" of CDs

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On 28 January 2003, the High Court of Justice decided, in a summary judgement, that Easyinternetcafe Ltd (owners and operators of a chain of cybercafés, part of the EasyGroup, owners and operators of EasyJet) was liable for copyright infringement. The action was brought by Sony Music and the British Phonographic Industry (BPI), representing a variety of labels - Universal, Virgin, Polydor and EMI.

At issue was the legality of customers using CD "burners" on computers in the cafés in order to "burn", or copy into blank CDs copyrighted music that they had downloaded from the Internet. Easyinternet charged GBP 5 for this service, though it had been withdrawn in September 2001. After the BPI had complained, Easyinternet removed the CD burners and offered access to the servers so that the BPI could assess the amount of copyrighted material that had been downloaded.

Easyinternet argued that it should not be held liable because some of its customers had downloaded and burned copyrighted materials, which, it argued, they were entitled to do. Easyinternet advanced the "timeshift" argument, namely that people may legitimately copy copyrighted material in order to view or listen to it at a personally convenient time.

The company has announced that it intends to appeal the decision. It says it will base any appeal on Section 70 of the 1988 Copyright Design and Patents Act. This states that: "The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable programme or in any work included in it." Whilst being given leave to appeal the judge's decision, it has been reported, on 9 April, that Easyinternet Cafe has agreed to an out-of-court settlement of the case, for a sum of GBP 210 000 (GBP 80 000 damages plus BPI's legal fees).

Sony Music Entertainment (UK) Limited; Sony Music Entertainment Inc.; Polydor Limited; UMG Recordings Inc.; and Virgin Records Limited v. Easyinternetcafe Limited, [2003] EWHC 62 (Ch), 28 January 2003

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http://www.hmso.gov.uk/acts/acts1988/Ukpga_19880048_en_1.htm

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