[FI] Torrent files, Sharing and Copyright in the Finreactor Case

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On 30 June 2010 the Finnish Supreme Court upheld the decision of the Turku court of appeal on the Finreactor I case and fined the defendants for the unauthorised distribution and reproduction of copyrighted material on the Finreactor network. Finreactor was a peer to peer network used to share copyrighted files without permission from the copyright holders. The functioning of the system was based on simultaneous file-sharing between users who had downloaded the files to their own computers. The files in the network were available for downloading through torrent files, not immediately from the defendants' network. The defendants in this case maintained the Finreactor network along with other parties.

The network was run on the basis that the users connected to the defendants' tracker server and got access to files located in other users' computers through torrent files. The users were not connected to the tracker server, but to other users' computers while downloading the files. The tracker server contained information about the files located in the computers of the network users. Trackers also stored the information about the number of downloads and uploads. The effective functioning of the server and reaching of the proper file transfer rate required the users to distribute the downloaded files from their own computers. Using the Finreactor network was free and required only registration. Every user had their own username and users were divided into seven groups as administrators or users; the higher-raking the group, the bigger the tasks, rights to use and benefits.

The copyright holders sued Finreactor administrators of various status before the district court in Turku. The court found some of the defendants guilty of copyright infringement and some of them of aiding a copyright offence. The court ordered all of the defendants to pay compensation to the claimants. The Turku court of appeal upheld the judicial evaluation of the infringing act.

In its decision, the Supreme Court stated that a procedure whereby copyright protected data is distributed for copying in digital form can be estimated as making data available to the public. The protection of copyright holders should not be dependent on the way in which the unlawful distribution was executed. The file-sharing and copying in the Finreactor network was evaluated as distributing

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and reproducing a work.

The Supreme Court stated that the file-sharing process should be evaluated as a whole and the liability of the defendants should not be evaluated as separate actions. Administration of the system serving the unlawful use of works can be significant in the context of copyright and can mean complicity in a copyright offence. Maintaining and controlling the use of the network was an essential element in making the protected works available to the public.

The Supreme Court ordered the defendants who were found liable for copyright infringement to pay compensation to the rightsholders. Compensation is due when an act infringes an author's exclusive right to make copies of a work and to make the work available to the public. The persons found liable for a copyright infringement had used the works with other users in a way that created a basis for compensation. The compensation should be based on an amount that corresponds to the price of legal distribution in the same way. The amount of compensation was evaluated by taking in to consideration that the administrators were not acting with the intent of earning and did not receive any economic benefit from maintaining the network or from the downloads of users. The amount of compensation was 15 % of the retail price for files that did not contain music and 25 % of the wholesale price for music files. Following the same line of reasoning, on 30 June 2011 the Finnish Supreme Court upheld the judgment of the Helsinki court of appeal on the Finreactor II case and fined the defendant in this case for the unauthorised distribution of video games on the Finreactor network.

Korkein oikeus 30.6.2010 nro 1396, KKO:2010:47

http://www.finlex.fi/fi/oikeus/kko/kko/2010/20100047

Supreme Court, decision of 30 June 2010 nr 1396, KKO:2010:47

Korkein oikeus 30.6.2010 nro 1398, KKO:2010:48

http://www.finlex.fi/fi/oikeus/kko/kko/2010/20100048

Supreme Court decision of 30.6.2010, Nr. 1398, KKO:2010:48

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