

Media Alert

Federal Court Judgment - Roadshow Films Pty Ltd & Ors v iiNet Ltd

1 February 2010: Justice Cowdroy of the Federal Court of Australia is due to hand down his judgment in the Roadshow Films Pty Ltd & Ors v iiNet Ltd case on Thursday 4 February at 9.30 am in the Court Room 18C Federal Court, Sydney.

Media outlets are reminded that iiNet's full closing submissions to the Court are available on iiNet's website at: <http://www.iiNet.net.au/press/copyright-case.html>

The closing submissions have been uploaded in the following chapters

Chapter 1: This is an introduction and provides an outline to the case.

Chapter 2: Addresses the important aspects of the evidence adduced during the trial. It also responds to the unwarranted attacks on the credit of Mr Malone and Mr Dalby in the applicants' closing submissions ("ACS"). A series of careful logical steps which should be answered, in iiNet's submission, is then presented as follows:

Chapter 3: Primary infringement is addressed. iiNet submits that in the final analysis the only acts of primary infringement that the Court will find, on the balance of probabilities, are likely to occur in the day-to-day activities of some iiNet users are the making available of cinematograph films online to the public, and the associated making of copies on some users' computers.

Chapter 4: The so-called Digital Agenda reforms are considered in this chapter. (Sub-section 101(1A) and section 112 of the Act, which were introduced in 2000).

Chapter 5: Deals with the principles of authorisation liability and their application in the present case. The question of authorisation should be approached on ordinary and orthodox principles. Despite the applicants' rhetoric, this case goes well beyond any other, anywhere in the world, in attempting to extend liability to a utilities provider/carriage service provider for authorisation of copyright infringement. iiNet will succeed on the issue of authorisation on an application of the ordinary and well established principles of that doctrine.

Chapter 6: The reasons are advanced in detail regarding section 112E which provides iiNet with a complete defence to the applicants' case. This is the 'mere conduit' exemption which applies to carriage service providers.

Chapter 7: Contains the argument for the proper interpretation of Part 13 of the Telecommunications Act 1997 (Cth) (the "Telco Act"). iiNet could not lawfully take the steps which the applicants demand.

Chapter 8: The safe harbour provisions dramatically limit the remedies available to the applicants. This chapter addresses the construction of the safe harbour provisions of the Act and their application to this case.



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Chapter 9: (with [attachment](#)) The conclusion in these submissions answers the questions raised in the statement of issues annexed to iiNet's written outline of opening submissions. iiNet submits that the Court would answer those questions in the same manner with the result that the Application would be dismissed with costs.

Schedules: 1, 2, 3, 4: The submissions included various schedules, including summaries of the extensive legal content available on iiNet's Freezone or elsewhere on the Internet.

MEDIA ARRANGEMENTS:

The Federal Court hearing is open to the public so media outlets are permitted in the Court.

Media outlets seeking comment or wanting to arrange interviews should in the first instance should contact Tim Grau at Springboard Australia via email tim.grau@springboard.net.au or 0438 044 598.

It is anticipated that iiNet's Chief Executive Officer, Michael Malone, will be available to make an initial comment on the judgment outside the Court shortly after it is handed down. As it is also anticipated the judgment will be lengthy and extensive a more detailed and full response is likely to be made via a media statement later in the day after due consideration and further consultation with iiNet's legal representatives.

- ENDS -

For further information or interviews, please contact:

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About iiNet

iiNet was established in 1993 and listed on the ASX in 1999, growing from a small Perth business into the third largest Internet Service Provider in Australia. The company now supports over 750,000 broadband, telephony and dialup services nationwide, with revenues of over \$400m, and proudly employs around 1300 people in Perth, Sydney, Auckland and Cape Town.

iiNet's goal is to lead the market with the best internet access products and then differentiate with genuine, plain speaking customer service. The company has its own high speed ADSL2+ network reaching around 4million households across Australia, the largest Voice over IP network in the country, and is delighted to have led yet again with Naked DSL, recognised by PC User Magazine as the 2007 Product of the Year.