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Judge Won't Bar CNET From Pointing to P2P Software

An injunction is denied because a judge says there's no evidence that CBS Interactive purposely encourages infringement "now or in the foreseeable future."

BY ERIQ GARDNER FEBRUARY 20, 2013 11:51AM





A federal judge has rejected a requested injunction that would bar CBS Interactive from encouraging the public to download BitTorrent P2P technology through links and editorial articles.

Tuesday's ruling came in a lawsuit that was filed by more than a dozen R&B and hip-hop artists led by FilmOn's **Alki David**. The plaintiffs allege that the CBS' digital subsidiaries including CNET and Download.com induced copyright infringement by pointing users to P2P software such as Grokster and Limewire and writing about how to use the software and how to remove digital rights protections.

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Last year, U.S. District Judge **Dale Fischer** **denied CBS' motion to dismiss the suit**. The plaintiffs followed up by motioning for a preliminary injunction, but Fischer ruled that the plaintiffs haven't met their burdens in attaining such a measure.

The ruling seems to backtrack slightly from Fischer's opinion in July in which he wrote that distributing P2P software while at the same time providing explicit commentary on that software's effectiveness "does not directly implicate any First Amendment issues."

Now, in his denial of an injunction ([read here](#)), the judge wrote that there are aspects of this lawsuit that "suggests that Plaintiffs' goal goes far beyond stopping actual infringement by Defendants and extends instead to silencing public discussion of P2P technologies."



CBSI **strongly opposed** what the plaintiffs were asking for in court papers last month, arguing, “Any suggestion that reporting on the distribution of authorized, noninfringing music through the BitTorrent protocol evidences intent to induce infringement is simply absurd.”

Fischer didn't draw such a line in the sand, but he did agree that in the plaintiffs' burdens in obtaining an objection — showing a likelihood of prevailing and irreparable harm — “there must be at least some evidence that future infringement may occur.”

He wrote, “While there might be some evidence of past inducement of copyright infringement, there is no evidence of any ongoing distribution of any file-sharing software with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement.”

The judge noted that the evidence of possible inducement comes from CNET reviews of “... [BitTorrent] software.”



“The Court has no reason to believe that Defendants will purposefully encourage copyright infringement now or in the foreseeable future,” he added.

CBS’ opposition to the injunction drew some attention because it came in the wake of a new policy by the company not to publish reviews on CNET of technologies such as Dish Network’s Hopper and Aereo’s TV streaming device mired in pending litigation with CBS.

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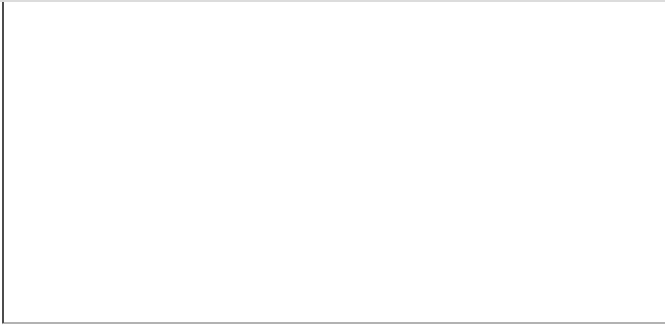
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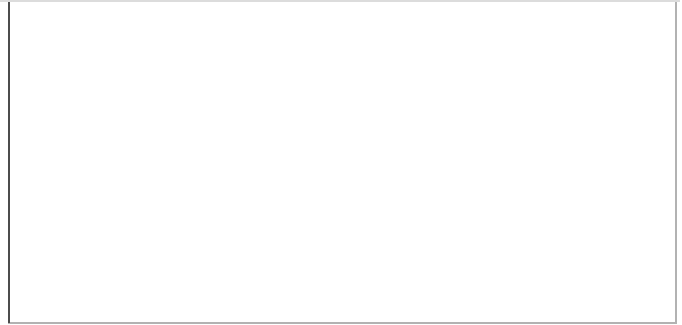
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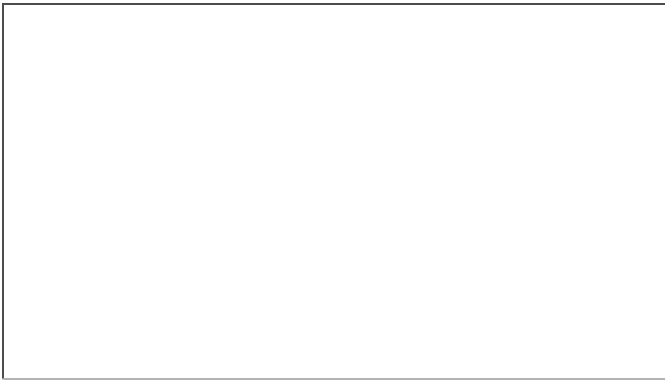
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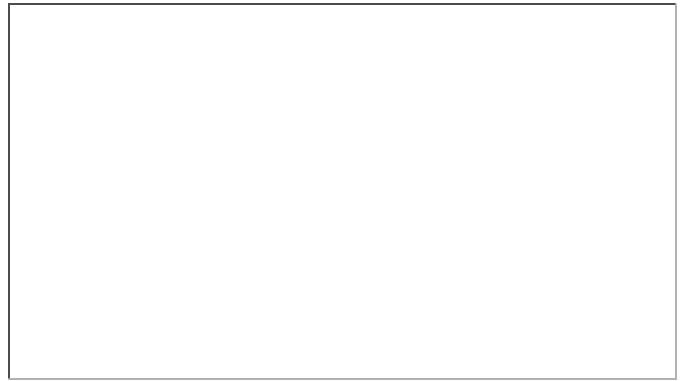
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