

Music exec blasts infringers during Pirate Bay trial

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One of the most difficult tasks for companies that sell copyrighted music, movies, or computer software is estimating how much money they lose due to piracy. So they have been known to--how to put this delicately?--exaggerate.

That's the topic that The Pirate Bay trial in Stockholm explored on Wednesday when John Kennedy, the chief executive of the International Federation of Phonographic Industries, testified that every MP3 file that is swapped online represents a lost sale. The IFPI is the Recording Industry Association of America's international affiliate.

Kennedy answered "Yes" to Pirate Bay defense attorneys when asked whether that was true, to peals of laughter from less-than-sympathetic spectators, according to news reports.

In the trial that started last week, prosecutors have accused the defendants, who have insisted that their Web site is legal under Swedish law, of making available copyrighted material in violation of the law.

Defendants Frederik Neij, Gottfrid Svartholm Warg, Peter Sunde Kolmsioppi, and Carl Lundstorm have argued that no infringing content is located on their servers. Instead, they claim that The Pirate Bay acts as a search engine that points visitors to files--many of which are Hollywood films, music videos, and commercial software--available through the BitTorrent protocol.

IFPI said in a statement Wednesday that, in the post-Grokster and post-Kazaa era, The Pirate Bay became the world's most popular font of copyright-infringing music files. "If you lost 1,000 sales in week one, your recording, instead of going into the charts at No. 5, would go in at No. 20. If you aimed at No. 10--which is good for a new artist--you could fall to No. 75 and if you had aimed at No. 20 you may not make the chart at all," Kennedy said, adding that CD sales fell 38 percent from 2001 to 2007.

Kennedy called the damage requests from the music companies--2.1 million euros, or about \$2.67 million--"justified and maybe even conservative because the damage is immense."

The music industry's statistics have been called into question before: a 2006 government report obtained by The Australian says copyright owners "failed to explain" how they reached such dire conclusions. A report by the Organization for Economic Cooperation and Development found that losses due to counterfeiting and piracy are much lower than estimated by business groups. (In a related industry, The Economist has assailed software piracy statistics.)

"I want Pirate Bay to close down," Kennedy told the Associated Press after his testimony. "I want some compensation and I want it to be clear people cannot steal other people's property without there being consequences."

Also testifying on Wednesday, according to Swedish news site The Local, was Ludvig Werner, head of the Swedish chapter of IFPI. Pirate Bay attorney Jonas Nilsson pressed him on whether or not the group had done an analysis of copyright infringement and lost revenue for specific songs (it hadn't).

A day earlier, prosecutors adjusted the language of the indictment, according to The Local. This language was removed: "All components are necessary for users of the service are able to share files with one another." And the phrase "provide the ability to others to upload torrent files to the service" was changed to "provide the ability to others to upload and store torrent files to the service."

A civil claim brought by large content holders--Warner Bros. Entertainment, MGM Pictures, Columbia Pictures Industries, Twentieth Century Fox Film, Sony BMG, Universal, and EMI--is also being heard with the Swedish government's criminal prosecution.

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