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Minnesota Song Downloader Must Pay \$222,000, Court Says

By Don Jeffrey on September 11, 2012

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A Minnesota woman accused by the music industry of illegally downloading songs was ordered to pay \$222,000 in damages, after an appeals court overturned a lower-court ruling that had reduced the amount.

The St. Louis-based U.S. Court of Appeals said in an opinion today that the record companies, which appealed the district court's decision to assess \$54,000 in damages against Jammie Thomas-Rasset, were entitled to the larger amount. The case has been tried before three juries.

U.S. District Judge Michael Davis in July 2011 reduced the third jury's \$1.5 million damage award to \$54,000, or \$2,250 for each of 24 recordings infringed. The music labels appealed to reinstate the first jury's award of \$222,000. The U.S. also appealed, to defend the assessment of damage awards under the federal Copyright Act.

"The evidence against Thomas-Rasset demonstrates an aggravated case of willful infringement by an individual consumer who acted to download and distribute copyrighted recordings," the court said. "We conclude that the record companies are entitled to the remedies that they seek on appeal."

Record companies say they have lost billions of dollars in revenue due to the Internet distribution of songs without payment to the artists and copyright holders. They have sued file-sharing sites such as Lime Wire LLC as well as individuals.

Association 'Pleased'

"We are pleased with the appellate court's decision and look forward to putting this case behind us," the Recording Industry Association of America, the record companies' trade group, said in an e-mailed statement.

Thomas-Rasset was sued in 2006 and accused of downloading 1,702 songs without authorization from the file-sharing website Kazaa and making them available for free to other computer users. For the case, the judge approved a sample of 24 songs to reduce the time and expense of researching copyrights.

Andrew Mohraz, a lawyer for Thomas-Rasset, didn't immediately respond to a message seeking comment.

Three juries reached verdicts in favor of the record companies. The judge granted a second trial after the first because of an improper jury instruction. A third trial was set after the record companies refused to accept the judge's reduction of the jury's \$1.92 million award in the second trial.

Parallel Case

The case parallels one in Massachusetts federal court. A college student, Joel Tenenbaum, was accused of

downloading and distributing thousands of songs without paying for them. A jury set a \$675,000 penalty against the defendant and the district court upheld that award last month.

The Minnesota suit was brought by labels owned by the world's four largest recording companies, Sony Corp. (6758)'s Sony Music Entertainment, Access Industries Holdings Inc.'s Warner Music Group Corp., Vivendi SA (VIV)'s Universal Music Group and Citigroup Inc. (C)'s EMI Group.

The downloaded songs included Journey's "Don't Stop Believin'," Richard Marx's "Now and Forever," Def Leppard's "Pour Some Sugar on Me," and Green Day's "Basket Case."

The appeals case is Capitol Records v. Thomas-Rasset, 11- 2820, U.S. Court of Appeals for the Eighth Circuit (St. Louis). The lower-court case is Capitol v. Thomas-Rasset, 06-01497, U.S. District Court, District of Minnesota.

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