



29 May 2007

Wiggin secures record £41 million damages award for the BPI

CD WOW ordered to pay £41 million now

Mareva secured in Hong Kong

Wiggin, the media law firm, announced today that it has secured a record £41 million damages judgment to be paid by the company behind the CD WOW Internet retail business.

In March 2007 the Honourable Mr Justice Evans-Lombe held that CD WOW was in contempt of Court and had breached copyright on a very substantial scale. This judgment followed a four day trial in which CD WOW sought to argue that the instances of contempt that had been discovered by the UK record industry were isolated and the result of human error.

The judge rejected this contention having read and heard the evidence of 45 witnesses from the worldwide record industry, who collectively established that CD WOW was engaged in the parallel importation of sound recordings on a massive scale.

Yesterday, the Court was asked to assess the damages to be paid by CD WOW. This assessment took place following CD WOW's failure to give any disclosure of its dealings in sound recordings over the previous 3 years.

Wiggin gathered evidence from public sources and previous disclosure given by CD WOW and led evidence that CD WOW had sold no less than 12.13 million CDs in the previous 3 years and that 94% of these were parallel imports (CDs and music DVDs placed on the market outside the EEA for sale outside the EEA).

The Judge accepted the entire basis for the claim on behalf of the record industry and ordered CD WOW to pay £41 million now.

Clifford Chance in Hong Kong were on standby and after the judgment was handed down they made an immediate application in Hong Kong for a freezing order over the assets of the Internet retailer. That application was granted.

This award is one of the largest ever obtained by the UK recording industry in a copyright infringement case. It sets a vital legal precedent as the industry continues to act to prevent infringement of copyright in all its forms.



The process of enforcement will now continue. Additional damages, any penalty and legal costs are to be considered at a hearing in July.

Simon Baggs, partner at Wiggin, led Wiggin's team in the UK, working closely with Roz Groome (General Counsel of the BPI). Counsel for the damages hearing was Mark Vanhegan of 11 South Square. Leading Counsel for the judgment in March was Richard Spearman QC of 4-5 Gray's Inn Square. Jim Jamison of Clifford Chance in Hong Kong represented the BPI on the Mareva.

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Editor's Notes

About Today's Ruling

The £41 million awarded to the record industry represents damages and interest for infringements of copyright undertaken by the retailer since January 2004.

This award follows the court's finding in March 2007 that CD WOW was in very substantial breach of the undertakings it gave to the court in January 2004 that it would not illegally import CDs into the UK and Ireland.

Following a 4-day trial in March 2007, Judge Evans-Lombe ordered a damages inquiry which was due to take place in July. CD WOW's failure to co-operate with the court's orders for disclosure and payment of security resulted in the Judge's assessment of damages today, without delaying the matter until July.

About Wiggin LLP:

Wiggin LLP is a one of the UK's leading media law firms which specializes in film, music, sport, gaming, technology, broadcast and publishing and has recognised strengths in litigation, corporate, property and employment issues all with a strong media sector focus. The firm has offices in London and Cheltenham and provides high level legal services to international corporate clients in its chosen sectors.

For more information please visit www.wiggin.co.uk

About the BPI

The BPI is the British record industry's trade association. For further detail please visit www.bpi.co.uk

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