

12 December 2008

Press Release

DAVENPORT LYONS RESPONDS TO CONSUMER GROUP'S COMPLAINT ON FILE SHARING ACTION

We have seen the press release put out by Which? stating that they have written to the Solicitors Regulation Authority ('SRA') complaining of our conduct in relation to the file sharing litigation we have been undertaking for various copyright owners.

Subsequently we have seen the letter that Which? has sent to the SRA. We do not propose to comment directly on this letter as we do not want to prejudice any SRA investigation with which we will fully co-operate. We are confident that we have not breached SRA rules. What we will say is that Which?'s letter to the SRA contains a number of errors, misstatements and assumptions that are simply incorrect.

We cannot speculate on Which?'s decision to take this course of action but note that the letter to the SRA specifically states their intention to engage with the media. We are surprised that Which?, a consumer group, should wish to attack so strongly a scheme which is designed to protect copyright, the theft and/or unlawful misappropriation of which costs consumers each year. Which? says it is acting on behalf of consumers generally, but we wonder how many consumers are frustrated that they continually purchase music, film and games legally while others make that copyright material available for others to download for free. The honest consumer ends up paying in the end.

The starting point for our actions is that our clients have a legitimate right to protect. Our clients own copyright in works that are made available on peer-to-peer networks where they are downloaded by others for free. This practice is causing our clients significant loss and to combat it they have engaged experts to identify, using reliable methods of detection, the IP addresses used at the time our clients' copyright material was made available on peer-to-peer networks. Acting on instructions, when those IP addresses are supplied to us, we apply to the High Court for an order that the relevant internet service provider discloses the name and address of the individual responsible for the IP address.

We then write to the individuals whose IP address has been identified, setting out our client's claim which, as it is a civil action, we will need to prove on a balance of probabilities. We give those individuals to whom we write the option of settling the matter for a sum which is a fraction of the loss suffered by our client. We explain that if the early offer to settle is not accepted, we will issue proceedings subject to any submissions the individual may wish to make. We take full account of those submissions before deciding our next step. Which? has accused us of ignoring evidence in defence. This is untrue and we wonder how Which? could purport to know this or our state of mind.

We requested some information from Which? as soon as we became aware of their press release but we are yet to receive a substantive response to our request. We will await such a response before deciding on the steps that we take next.