Jail for copyright infringement

In a recent High Court case (Phonographic Performance Ltd v Fletcher [2015] EWHC 2565) a 28-day custodial sentence, suspended for 12 months, was given to a nightclub owner, a Mr Fletcher, for copyright infringement.

The Phonographic Performance Ltd ("PPL") had, in 2013, obtained an injunction against Mr Fletcher after he was found to have been playing music at his nightclub without buying a yearly license from PPL. After it gathered evidence to show that Mr Fletcher was in breach of the court order, PPL subsequently brought him back to Court and applied to have him committed to prison for breaking the terms of the injunction.

The Court found that the Defendant had indeed continued to play music at the nightclub without a licence and that he had persistently failed to obtain a music licence from PPL and make licence fee payments to it. Mr Fletcher was sentenced to 28 days imprisonment suspended for 12 months providing that he stopped infringing the Claimant's copyright. Mr Fletcher was also ordered to pay £14,000 in respect of court costs and the Claimant received damages in the sum of £6,000 in relation to the unpaid licence fees.

Given that the breach of the injunction related to one single incident and given that the nightclub was set to close down, making future infringement unlikely, some may consider the sentence harsh.

However to those who repeatedly suffer from infringement of their intellectual property, this recent judgment is a welcome reminder that the civil courts are willing to hand down custodial sentences in intellectual property cases

For further informaiton, or if you need advice regarding intellectual property please contact Robert Ganpatsingh.

Robert Ganpatsingh
Partner
01293 605093
Email me

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