

## MEDIA RELEASE

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### Film Studios Commence Online Piracy Case Against iinet

#### Over 94,000 Infringements on the iinet Network

Thirty four parties including Australian and US film studios and the Seven Network today commenced their case in the Federal Court against iinet for failing to prevent the repeat copyright infringement of its customers.

Barrister for the studios, Tony Bannon SC, told the court that 59 weeks of investigation into iinet and its customers use of the internet revealed rampant copyright infringements on the iinet network.

He said that in that time there were 94,942 instances of iinet customers making available online unauthorized copies of the applicants titles. These titles included *Batman Begins*, *Dark Knight* and *Harry Potter*. *Wanted* is the most infringed title with over 1000 infringements on the iinet network.

"These unauthorised copies available via the iinet network represented free handouts of my clients copyright," he said.

"Films and video require a large amount of bandwidth to share via Bit Torrent, which is the programme of choice for internet users intent on infringing copyright. iinet profits from selling bandwidth to its customers.

"In this case there is no issue that infringements have been occurring on the iinet network weekly, daily and hourly since 23 June 2008. There is no issue that iinet was made aware of the infringements on its network – they were aware because AFACT informed them every week for fifty nine weeks.

"Despite these weekly notices and their terms and conditions that prohibit the use of account for breach of copyright, iinet did nothing to prevent the rampant infringement on its system.

"iinet authorized – that is sanctioned, countenanced and approved these illegal activities on their network and only paid lip service to their own terms and conditions.

"iinet point blank refuses to enforce its own customer services agreement yet in the same breath points to the agreement as evidence of reasonable steps they took in preventing copyright infringement. They are caught between a rock and a hard place and when push comes to shove, they will not enforce the terms of their customer agreement.

"iinet says it has a policy for repeat infringers yet they can't point to a single document that contains such a policy. In fact, when iinet acquired ISPs and then Westnet who has a policy of informing infringing customers, iinet CEO Mr Malone prescribed that policy be abandoned in favour of the iinet policy of doing nothing.

“The message this sends iinet customers is that they can be rest assured that iinet will not enforce its customer agreement. iinet does not want to enforce its customer agreement because it does not want to lose those customers because it is afraid of losing revenue.

“iinet asked the court to protect its profits and its profits from pirate activity.

“Rather than taking steps against such persons [repeat copyright infringers], iinet offers them more bandwidth. There is active encouragement for users to upgrade their [subscription] plans which equals more money for iinet. The more bandwidth a customer uses the more money for iinet.

“When there is rampant copyright infringement, there is only one winner and one loser. The winner is the ISP and the loser is the rights owner.

“Copyright infringement harms the applicants because it deprives them of their right to revenue through sales of their titles. This is loss is further exasperated because of varying release dates in different territories and therefore if a film is available online before it is released in that country.

The case will continue for two weeks with a two week recess and then a further two weeks of hearings.

ENDS

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**About AFACT**

The Australian Federation Against Copyright Theft was established in 2004 to protect not only the film and television industry, but also retailers and movie fans, from the adverse impact of copyright theft in Australia. AFACT works closely with industry, government and law enforcement authorities to achieve its aims. AFACT acts on behalf of the 50,000 Australian employees directly impacted by copyright theft, including employees of independent cinemas, video rental stores and film and television producers across the country.

Further information is available at [www.afact.org.au](http://www.afact.org.au)