

NEWZBINNED AGAIN

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Today Arnold J handed down a landmark 110 page judgment in *20th Century Fox v BT* holding that the claimants, 20th Century Fox and other members of the Motion Pictures Association of America, were entitled to an injunction requiring BT to extend its CleanFeed system to Newzbin2.

By way of background, the CleanFeed system was originally aimed at preventing unintentional access to child abuse pictures on the internet.

In previous proceedings the Newzbin website had been held to infringe the claimants' copyright in popular films by making it easy for subscribers of Newzbin to download pirate copies of films which had been uploaded onto Usenet servers. Without Newzbin this was difficult and time consuming to do. In the previous proceedings Kitchin J had granted an injunction against the owners of the Newzbin website. This had caused the website to close down but within a few days a very similar website; called Newzbin2 had sprung up offering the same service.

The claimants decided that although BT was not involved with the Newzbin2 website in any way, it was best placed to prevent its subscribers from visiting the Newzbin2 website and infringing copyright in popular films. They put the other major Internet Service Providers on notice that they were applying for an injunction against BT.

Arnold J held, in the first case under section 97A of the Copyright Designs and Patents Act 1988, that he had jurisdiction to grant such an injunction against an Internet Service Provider who had knowledge of the findings in the Newzbin case and the probability that some of its subscribers would use its service to infringe copyright using the Newzbin2 website.

This was a test case which has clarified a difficult area of law and set the standard for such applications against all major Internet Service Providers in the future. The outcome will be of particular interest to those in the media and entertainment

industry. The terms of the Order will be finalised at a later date, likely to be in October.

BT was represented by Antony White QC of Matrix Chambers and **Roger Wyand QC** of **Hogarth Chambers**.

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