MOTION PICTURE ASSOCIATION
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P2P MOVIE PIRATE CONVICTED IN HONG KONG IN FIRST CRIMINAL CASE AGAINST BITTORRENT USER

Hong Kong / Encino – On October 24, a Hong Kong court convicted 38-year-old Chan Nai-ming of violating Hong Kong's Copyright Ordinance by distributing illegal copies of three Motion Picture Association (MPA) member company titles without authorization via a peer-to-peer (P2P) network forum. The case was the world's first in which criminal charges were filed against a user of BitTorrent (BT) technology.

On January 12, 2005, the Intellectual Property Investigations Bureau (IPIB) of the Hong Kong Customs and Excise Department (Hong Kong Customs) arrested Chan, launching Hong Kong's first prosecution for copyright violations involving the illegal distribution of motion pictures through the Internet. Chan will be sentenced on November 7, 2005. Hong Kong laws provide for a maximum of four years in prison and $6,400 fine for every copy distributed without copyright owner's permission.

Chan's arrest came on the heels of the recent formation of a joint private-public sector task force on Internet enforcement. On December 16, 2004, the IPIB convened the first meeting of an Internet Task Force consisting of government and private sector representatives to coordinate resources against the unauthorized distribution of copyrighted works over P2P networks.

Following three weeks of intensive investigation undertaken jointly by members of the Task Force, Hong Kong Customs arrested the defendant, suspected of having used the Bit Torrent file-transfer protocol to upload three films onto the bt.newsgroup.com.hk forum hosted by iAdvantage Limited. The authorities also seized two computers and more than 400 VCDs and burned CD-Rs located on the premises. The MPA coordinated logistical support for the investigation.

"Hong Kong has long been a leader regionally in the protection of intellectual property rights," said Dan Glickman, Chairman and CEO of the Motion Picture Association. **"Today's conviction sends a message to pirates that you can and will be found and prosecuted, for the theft of intellectual property. Another important message is that downloading unauthorized**

copyrighted content through BitTorrent or other P2P software is often accompanied by uploading that creates criminal liability."

P2P Piracy Enforcement in Asia-Pacific

Within the past two months, courts elsewhere in the Asia-Pacific region have also issued judgments against P2P copyright pirates.

On September 5, the Federal Court of Australia ruled that Kazaa peer-to-peer (P2P) network owners and operators Sharman License Holdings Ltd and five other defendants had infringed the music copyrights of 30 companies and individual by authorizing Kazaa users to copy and distribute copyrighted materials.

Kazaa is a peer-to-peer file-sharing network that permits users to search for and download unauthorized versions of copyrighted works without compensating the rights holders, and as a result enables criminal activity by thousands of Kazaa members in Australia and elsewhere.

On September 9, the Taipei District Court ruled that the Kuro peer-to-peer (P2P) network had infringed the copyrights of music industry companies by authorizing Kuro users to copy and distribute copyrighted materials. Kuro, Taiwan's largest P2P file-sharing network, charges users a monthly subscription fee in exchange for permitting them to search for and download unauthorized versions of copyrighted works without compensating the rights holders.

These judgments followed the ruling on June 27, 2005 by the U.S. Supreme Court that Internet file-sharing services such as Grokster should be held accountable for what users do with the material they download.

In Japan, the developer of another P2P system, Isamu Kaneko, is on trial in Kyoto District Court. Kaneko was arrested last year for abetting the illegal distribution of copyrighted material (specifically, for helping two already convicted individuals upload copyrighted material). The prosecution is Japan's first against the developer of an Internet file-sharing program.

Piracy in Asia

The MPA estimates that its member companies lose an excess of US$896 million in potential revenue annually in the Asia-Pacific region alone. In 2004, the MPA operations in the Asia-Pacific region investigated more than 25,500 cases of piracy and assisted law enforcement officials in conducting nearly 12,000 raids. These activities resulted in the seizure of approximately 49,000,000 illegal optical discs, and the initiation of more than 8,000 legal actions.

About the MPA: *The Motion Picture Association (MPA) represents the interests of major motion picture companies in the global marketplace. On behalf of its Member Companies, the MPA*

conducts investigations around the world, assists with the criminal and civil litigation generated by such cases, and conducts education outreach programs to teach movie fans around the world about the harmful effects of piracy. The MPA directs its worldwide anti-piracy operations from its headquarters based in Encino, California and has regional offices located in Brussels (Europe, Middle East and Africa), São Paulo (Latin America), Montreal (Canada) and Singapore (Asia-Pacific). The MPA's anti-piracy activities have helped to transform entire markets from pirate to legitimate, benefiting video distributors, retailers, and foreign and local filmmakers alike. The MPA Member Companies include: Buena Vista International, Inc.; Metro-Goldwyn-Mayer Studios Inc.; Paramount Pictures Corporation; Sony Pictures Releasing International Corporation; Twentieth Century Fox International Corporation; Universal International Films, Inc.; and Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc.

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For more information, contact:
Mike Ellis
MPA Asia-Pacific
65-6253-1033

Margaret Fu
MPA Asia-Pacific
852-2785-8677