

Jurisdiction on the Web

NFL succeeds against Web Operator

However, a Federal Judge in Manhattan distinguished these cases as the nfltoday.com Website owner, Ken Miller of Northern California, earned substantial income from interstate commerce from sale of advertising on the Web site, including sports betting ads.

The National Football League brought action against a Web site called "nfltoday.com" in the State of New York, even though the site's alleged trademark and copyright infringements occurred in California. The NFL contends that Mr. Miller made unauthorized use of its trademarks and copyrighted material by providing a hyperlink in his site that connected to the official NFL site. The NFL content appeared in a frame promoting nfltoday.com, Mr. Miller's site.

Prior cases have established that a Web site operator does not subject himself to the jurisdiction of courts in another state simply because residents of that state visit the site.

The Judge stated:

"[I]n those cases there was no evidence that the defendants derived substantial income from interstate commerce and it was far from clear that the defendants' conduct substantially injured the plaintiffs in New York."

Mr. Miller must have "recognized that in using the NFL mark to attract people to a site that could pass them on to an electronic bookie, he could do significant damage to the image of the NFL and its marketing efforts in New York, the judge said. Since he apparently profits substantially from the activity that does damage to the plaintiffs in New York, it does not offend due process to require him to defend his actions in a New York courtroom."

Mr. Miller's claim that the action should be transferred to the Northern District of California where he lives was also rejected. Judge Martin said a greater number of potential witnesses were in New York.

See National Football League v. Miller, 99 Civ. 11846.

April 17, 2000