

Freelancers Claim Victory in Electronic Publishing Decision

A federal appeals court has ruled in favor of freelance writers' intellectual property rights by extending the standard principles of copyright law to cover electronic publishing.

The court ruled in the case of *Tasini vs. The New York Times* that companies, including the *Times*, Lexis-Nexis, Time Inc. and Newsday Inc., cannot resell freelance stories in their electronic databases without the authors' permission.

"As of this moment, a federal court has supported our view that copyrighted material is being illegally sold every day by media companies," said Jonathan Tasini, the lead plaintiff in the case and the National Writers Union's president.

According to NWU, the decision will force publishers to share online revenue with freelance writers—or face potential litigation.

Lawrence Savell, a media law defense attorney with Chadbourne & Parke LLP in New York, was not quite convinced, however, that the decision is a watershed.

"For some publishers," he agreed, "the reversal may, in fact, have limited impact." He said, for example, that the ruling might force some publishers to pull freelance material from their databases or to offer retroactive payment. But in many cases, he said, the statute of limitations has probably already run out.

Meanwhile, he said, "prudent publishers contemplating online publication have been protecting themselves by requiring that freelancers enter into contracts granting the publishers the broadest rights possible, often described as a grant of 'all rights.'"

Savell also cautioned that other federal courts could reach a different conclusion if presented with a similar case.