

[Home](#) > [Current News and Features](#) > Stories

INDUSTRY NEWS

DCN v Omnilab: want \$70 million, will settle for \$3 million

by: [Alex Prior](#)

Screen Hub

Tuesday 29 October, 2013



In a dramatic day in Melbourne's Federal Court, Digital Cinema Network laid out its case for a damages payment of \$69.5 million from Omnilab Media – and then offered to settle for \$3 million on the grounds that Omnilab was in deep financial trouble. The third party in the case, Michael Smith, appeared without a barrister, representing himself for the first time.

As we explained [here](#) Digital Cinema Network has been heading relentlessly towards this legal tournament since 2010. The two companies manoeuvred to secure the right to negotiate the Virtual Print Fee on behalf of the Independent Cinema Association of Australia, which was the gateway to running the system by which the cinemas would manage delivery of the files. In the process, Michael Smith, a director of DCN, allegedly came to work for ICAA to secure the deal on behalf of Omnilab. If so, he was breaching his fiduciary duties.

DCN won the case, and then the appeal. Since then, Omnilab has never settled with DCN, and has elected to go to court.

Appearing for Digital Cinema Network (DCN), Suresh Senathirajah broke their claim for damages into components:

- \$5.5 million for the loss of sales and profitability on DCN's digital equipment business as it existed in 2010, when it made of profit of \$1.3 million.
- \$23 million in profit that would have been made over the ten year lifespan of the Virtual Print Fees
- \$40.5 million that would have been made from the content distribution (cinema advertising) business, once a network was in place.

In a dramatic twist, however, DCN said it would settle the matter for \$3 million plus interest, plus legal costs, arguing that Omnilab's latest filing with the Australian Securities and Investment Commission had reported a \$28 million loss and a "current deficiency of \$43 million."

Mr Senathirajah said that his client had "grave concerns" about Omnilab's

financial position, and that the "offer of \$3 million is very generous." The offer would be open for twenty-four hours, he said.

That offer set off some serious byplay in Courtroom 8F, as Justice Michelle Gordon discovered that Omnilab had not sent a representative to the court. "Are you serious?" she asked, and went on to make herself perfectly clear: "your client should have been here."

DCN's opening statement also revealed the financial basis (now hypothetical) for how it would have operated a Virtual Print Fee scheme for independent cinema exhibitors.

Under the DCN scheme, cinema owners would have been asked to pay a \$1,000 per screen set up fee, a \$9,000 "overhead fee" for the life of the agreement, and \$2,600 per year per screen for support and monitoring.

Based on 823 independent cinema screens in Australia, that would have given the DCN business revenue of \$21.4 million in annual fees over the ten year life of the VPF scheme, plus \$8.23 million in overhead and sign up fees.

While DCN is arguing that Omnilab illegally removed this opportunity, it is also arguing that the real commercial prize did not lie in the VPF fees, but in establishing the network between the Network Operations Centre (which monitors all of the digital equipment in member cinemas, and reports performance).

That network, DCN argued, could work two ways to send content "from the integrator to each of the cinemas, and that is a real big opportunity," Mr Senathirajah said. "That's where the real future value lies, and that is what Omnilab wanted as well. Once you establish the VPF network, it really does open up the opportunity."

It is an opportunity that DCN is valuing at \$72.9 million, but "discounting to the present day" to \$40.5 million for the purposes of damages.

Alex Prior

Alex Prior is the Managing Director of Screen Hub.

news@screenhub.com.au

<http://www.screenhub.com.au>

[Comments](#) — [Post a new comment](#)

[- Posted: 08/11/2013 11:44:33 AM](#)

Other Recent Industry News Items

[ADG Conference 2013: the power and the passion - 08/11/2013 10:47:16 AM](#)

[NZ Woes: industry gathers to fight nasty decline - 08/11/2013 10:13:15 AM](#)

[Auckland: forum to discuss woes - 08/11/2013 9:51:58 AM](#)

[Blood Punch: leads more Kiwi actors to a cabin in the woods - 08/11/2013 7:06:17 AM](#)

[Omnilab: posts loss of \\$24.9 million as revenue plummets - 07/11/2013 4:54:04 PM](#)

[NZ Box Office: week ending 6 November 2013 - 07/11/2013 2:14:14 PM](#)