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INDUSTRY NEWS

DCN v Omnilab: Smith breaks down during cross-examination

by: [Alex Prior](#)

Screen Hub

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Michael Smith, who is representing himself in the Digital Cinema Network v Omnilab Media damages hearing, today broke down in tears and collapsed to the floor while conducting the cross-examination of DCN director, Martin Gardiner.

Smith had been conducting the cross-examination for slightly over two hours when he suddenly apologized to Justice Michelle Gordon, and burst into tears at the counsel table before collapsing to the floor.

Counsel for Omnilab and a court officer moved immediately to assist him, while Justice Gordon adjourned the court for a lunch recess.

Up until his collapse, Smith had been pursuing Gardiner over whether the purpose of Digital Cinema Network (in which Smith had been a shareholder and director) had been to pursue virtual print fee agreements with the Hollywood studios, or whether its primary business had been to sell and install digital cinema projection equipment.

This is the damages phase of a long-running case in which the Federal Court has found that Omnilab Media assisted Smith to breach his fiduciary duties as a director of DCN.

Smith and Omnilab face the potential of having to pay millions of dollars in damages.

The question of the purpose for which DCN was established as a company is relevant to reducing the damages.

Smith had demonstrated, through detailed questioning of Gardiner, that another Gardiner company, DigitAll, made substantial profits from DCN sales and installations, and was questioning him closely about an email exchange between Gardiner and Rodney Bolt, which concerned a potential deal between DigitAll and Bolt for cinema content distribution, when the collapse occurred.



Smith`s last words were: "... and yet you have claimed that I stand to face up to five years in jail."

In his opening statement to the court on Monday, Smith told the court that he had acted at all times with the best intentions, but had "failed to think through all of the implications."

He said that as a cinema operator, and a member of the Independent Cinemas Association of Australia, he had pursued Virtual Print Fee agreements with the studios as "an objective without a plan."

Smith had been represented in court during both the [original trial](#) and [the appeal](#) by barrister Daniel Crennan, but notified the court that he intended to represent himself in the damages phase.

Michael Smith owns the Sun Theatre in Yarraville, and is a partner in the regional Bairnsdale Cinema Centre.

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