

The Pirate Bay takes to the high seas

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“*The Boat that Rocked*” may be a comedy film, but its history resides in a serious and true story. In the 1960s, in the wake of government crackdowns on illegal radio broadcasting, radio pirates took to the high seas. By broadcasting from international waters, radio pirates at the time removed themselves from local jurisdictions and sanction. Even New Zealand had a pirate radio station, *Radio Hauraki*, which operated illegally from the Hauraki Gulf in the late 1960s.

Recently, the infamous torrent downloading website, The Pirate Bay, shifted domain from the global “.org” to Swedish “.se”. Its aim is similar to that of pirate radio, namely, to remove itself from the potential reach of (United States) authorities. In the same vein, many businesses, such as MegaUpload, have previously considered Hong Kong to be a relative safe-haven for setting up dubious company fronts and hosting file servers.

Despite years of widespread publicity, scrutiny and investigation, The Pirate Bay reportedly remains the 75th most visited website in the world, with over 31 million users, 5 million registered users and more than 3.5 million torrent files. Indeed, the Pirate Bay prides itself as being the “galaxy’s most resilient BitTorrent site”, with a history that now spans almost a decade.

Recently, the Swedish Supreme Court rejected the opportunity of The Pirate Bay’s founders to appeal their case from the Court of Appeal. The current imprisonment sentences (ranging from 4 to 10 months) and damages awards (totalling NZ\$8 million) will, therefore, stand.

This, in addition to the recent shutdown of MegaUpload and the arrest of its founder Kim Dotcom, has prompted torrent and file sharing websites to take precautionary measures and underground tactics. For instance, the identities of The Pirate Bay’s current operators are unknown. While some have reported that website is now run by the controversial religious group the “*Missionary Church of Kopimism*”, the group’s founder Isak Gerson denies any connection.

The Pirate Bay’s move to “.se” is by no means the end of the matter. A Dutch Court recently ordered two of the Netherlands’ primary Internet Service Providers (ISPs) to block all access to The Pirate Bay. While the ISPs have complied with the Court Order, they have also stated their intention to appeal the matter. At the same time, a proposal is before the Dutch Parliament to extent current copyright laws to fall in line with the Court Order. These legal changes follow the recent British saga involving BTnet and the Digital Economy Act 2010.

In Australia, the third biggest ISP, iiNet, has successfully defended claims from a group of Hollywood studios that it had authorised or enabled copyright infringement by allowing users to download copyrighted material. The final appeal judgment will be released in the coming months, although it appears that the ISP will be successful in defending its position.

In China, Hong Kong's Commerce and Economic Development Bureau has pledged that it is willing to work with the US Federal Bureau of Investigation and that it will establish an electronic crime investigation centre later in 2012. It aims to better scrutinise digital content hosted within its jurisdiction.

In New Zealand, the Copyright (Infringing File Sharing) Amendment Act 2011 operates to make file sharing of copyright material illegal. While the Act has received a lukewarm reception from all parties involved (from rights holders to ISPs to file sharers), it is clear that many countries are looking at practical measures for the prevention of copyright infringement, particularly by digital means.