

Session 4: The Great Copyright Debate

CSUSA Annual Meeting

June 12, 2018

Question: *Be it resolved that modern remedial options, including site blocking and de-indexing, are essential and appropriate tools to combat online piracy.*

Technological developments have made the internet an extremely efficient vehicle for disseminating infringing content. However, opinions differ regarding whether the producers of artistic works should be forced to accept any weakening of intellectual property rights resulting from illegal file sharing, or if governments should intervene to protect these rights.

Countries around the world have taken different views of the issue, with several implementing site blocking practices either through legislation or court ordered practices.

- <https://www.mpa-i.org/wp-content/uploads/2016/02/Site-Blocking-October-2015.pdf>

United Kingdom was at the forefront of the trend:

- Copyright, Designs and Patents Act of 1988, S. 97A inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498)

Spread throughout Europe with Austrian case going to the Court of Justice of the European Union:

- UPC Telekabel Wien GmbH v. Constantin Film Verleih GmbH
- The case addressed the Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, Article 8.3 which states, “Member States shall ensure that rightholders are in a position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right.”
- The court decided that an internet service provider that allows users to access copyrighted material on its website acts as an intermediary for purposes of Article 8(3) of European Union Directive 2001/29/EC (Directive). As such, a national court may issue an injunction against an internet service provider that is allowing access to copyrighted material on their website.

United States:

- Stop Online Piracy Act (SOPA) and companion bill Protect IP Act (PIPA) – Bills introduced in 2011 that was meant to expand the ability of U.S. law enforcement to combat online copyright infringement and online trafficking in counterfeit goods. Specifically, it would have allowed court orders requiring site blocking by ISPs.
- Opponents said it would limit free speech and innovation, questions of interplay with the DMCA

- January 18, 2012 – Internet black out

Canada:

- Google Inc. v. Equustek Solutions Inc., 2017 SCC 34: The Supreme Court of Canada granted an interlocutory injunction against Google to remove all of a company's websites from its worldwide search engine
- FairPlay Canada - coalition asking the Canadian Radio-television and Telecommunications Commission (CRTC) to take action to address the theft of digital content by illegal piracy websites.
 - Backlash against FairPlay from OpenMedia and the UnFairPlay movement

Does site blocking work to limit online piracy?

- UK Case Study: <https://www.mpa-i.org/wp-content/uploads/2016/02/Site-Blocking-October-2015.pdf>