

The Rise and Fall of Megaupload.com and Kim Dotcom, and the Possible Implications for the
Internet-based World of Piracy and Theft of Intellectual Property

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Abstract

In January 2012 the U. S. Government took down the Megauploads.com website and then quickly filed charges against the owner, Kim Dotcom, and his colleagues for alleged “copyright infringement, conspiracy to commit money laundering, racketeering, rewarding users who uploaded pirated content for sharing, and turning a blind eye to requests from copyright holders to remove copyright-protected files.” Kim Dotcom and his colleagues were arrested a few hours later in New Zealand and await extradition to the U.S. to be tried for these charges. Conviction on these charges could result in severe fines and possibly many years in a U.S. Federal prison. This paper will discuss the rise and fall of Kim Dotcom and Megauploads.com and it will review issues how lawful governments may treat similar offenses in the future.

The Rise and Fall of Megaupload.com and Kim Dotcom, and the Possible Implications for the World of Internet-based Software Piracy and Theft of Intellectual Property

Less than 24 hours after end of the global SOPA Protest on the world wide web, on January 19, 2012, the governments of the U.S. and New Zealand acted swiftly to stop the Megauploads.com empire that Kim Dotcom had built. The U.S. Department of Justice shut down the Megaupload.com website and produced a 72-page federal indictment against Kim Dotcom, Megaupload.com, and several of the business partners for alleged “copyright infringement, conspiracy to commit money laundering, racketeering, rewarding users who uploaded pirated content for sharing, and turning a blind eye to requests from copyright holders

to remove copyright-protected files. Almost 12,000 miles away, on January 20, 2012, New Zealand's law enforcement authorities were forcibly entering Mr. Dotcom's home, a leased luxury mansion in the serene New Zealand countryside, and forcing their way into a "safe room" where Mr. Dotcom was hiding with guns, cash, and his closest colleagues (Acohido, 2012). Mr. Kim Dotcom and his colleagues were then arrested and now await extradition to the U.S. to be tried for these charges. Conviction on these charges could result in severe fines and possibly many years of imprisonment in a U.S. Federal prison. This paper will discuss the rise and fall of Kim Dotcom and Megaupload.com and it will review issues how lawful governments may treat similar offenses in the future.

Originally as Kim Schmidt, Mr. Dotcom, a native citizen of Germany, began his computer career in Germany in his early 20s in the early 1990s. He first began his career as a "computer expert" and then very shortly afterwards opened a computer security-related business. A short time later, Mr. Schmidt was indicted in Germany on computer fraud charges and later paid a fine and was released on probation. A few years later, Mr. Schmidt changed his name legally to "Kim Dotcom", perhaps as a prelude to starting the Megaupload.com business, and to position himself as a self-styled Internet mogul entrepreneur.

Now as a 38-year old German foreign national and temporary resident of New Zealand, at 6 feet 6 inches tall and over 285 pounds, Mr. Kim Dotcom, is both in stature and in his actions, a larger than life figure, who openly flaunted his wealth and his playboy lifestyle, the obvious results of the success of his Megaupload.com business (MikelVizualBazzikHck, 2012). With an annual income of more than \$30 million, the flamboyant Mr. Dotcom could afford nearly

everything he wanted, except permanent citizenship as a New Zealander. Yet after his arrest on January 20, 2012, he and his colleagues were incarcerated in a New Zealand jail, awaiting extradition to the U.S. to stand trial for the charges listed in their U.S. federal indictment (Acohidio, 2012)” However, Mr. Dotcom and his colleagues were initially denied the right to post bail to obtain temporary freedom because they were deemed by the local magistrate as a “severe flight risk” due to the vast amount of wealth at their disposal.

At his arraignment on January 23, 2012, Mr. Dotcom and his codefendants audaciously denied all the charges in their indictment, claiming total innocence (Booth, 2012). At this moment, Mr. Dotcom, his fellow incarcerated colleagues, and their legal defense team are continuing to vigorously fight extradition on grounds that the U.S. does not have the legal standing to indict them for the charges listed in the federal indictment.

Nevertheless, the manner in which the authorities in New Zealand apprehended Mr. Dotcom and his colleagues while New Zealand soil, while the United States was shutting down the Megaupload.com business website could be a foreshadowing of how certain countries will treat others accused of software piracy and copyright infringement in the future. This trend could possibly occur, with or without the passage of SOPA, PIPA, and/or federal legislation to protect the rights of intellectual property owners on the Internet. Indeed, this high profile case of the demise of Mr. Dotcom, his colleagues and their Megaupload.com business shows the lengths to which the U.S. Government may be willing to go to shut down websites that promote software piracy, including producing detailed criminal indictments and incarcerating people, even if they are in foreign countries. Such actions may occur with or without the benefit of legislation such

as SOPA or PIPA. Such actions are also very likely to have a chilling effect on rampant software piracy by international perpetrators which had not been taken very seriously until these events (RT.com, 2012).

Some legal experts have predicted that it is likely that Mr. Dotcom and his colleagues will likely try to use the concept of “hactivism” as a defense against the charges for which they are indicted (Bright 2012). The idea behind “hactivism” is that it could be construed to be an act protected by the First Amendment because they may try to say they were exercising their rights of Free Speech as guaranteed by the First Amendment to the U.S. Constitution. Of course, the U.S. Government could easily argue that the First Amendment applies only to U.S. citizens and those living in the U.S., which would easily defeat the hactivism as protected Free Speech argument.

On February 16, 2012, the U.S. Department of Justice returned a superseding indictment against Kim Dotcom and his colleagues. The updated indictment was the result of additional investigation by the Department of Justice and it contained even more charges than the first indictment. The superseding indictment also shed additional light on how Megaupload.com was actually being used. The document provides additional details stating that Megaupload.com, which originally had claimed to have had more than 180 million registered users, actually had only 66.6 million users as of Jan. 19, 2012. Furthermore, the investigation also revealed that only 5.86 million of these users had ever uploaded a file to either Megaupload.com or Megavideo.com, prosecutors said (Halzack, 2012).

On February 22, 2012, the New Zealand justice system finally permitted Kim Dotcom and his colleagues to post bail and gain provisional freedom while they wait to determine if the U.S. Government will have them extradited to the U.S. to stand trial for the charges listed in the superseding indictment that was filed on February 16, 2012 (Tsukayama, 2012).

Conclusion

The strange, unfolding case of Mr. Dotcom and Megaupload.com, and all the circumstances surrounding the related actions of the governments of New Zealand and the United States are certainly worthy of examination as a case study in a Cyberethics course. In addition, as more facts and events with multiple dimensions in ethics and law are revealed in this case, the outcome will likely shed additional light on some timely legal issues related to Internet-based software piracy, the theft of intellectual property, and how lawful governments will treat others who commit similar offenses in the future. Will the United States and other governments reach beyond their borders again to incarcerate and criminally try trial those they believe are guilty of Internet-related crimes such as software piracy and copyright violations? Only time will tell, but the implications of the U.S. Government's case against Mr. Dotcom and his colleagues will likely have far-reaching effects in the area of intellectual property, copyrights, software piracy, and the national and international laws related to these topics for many years to come.

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