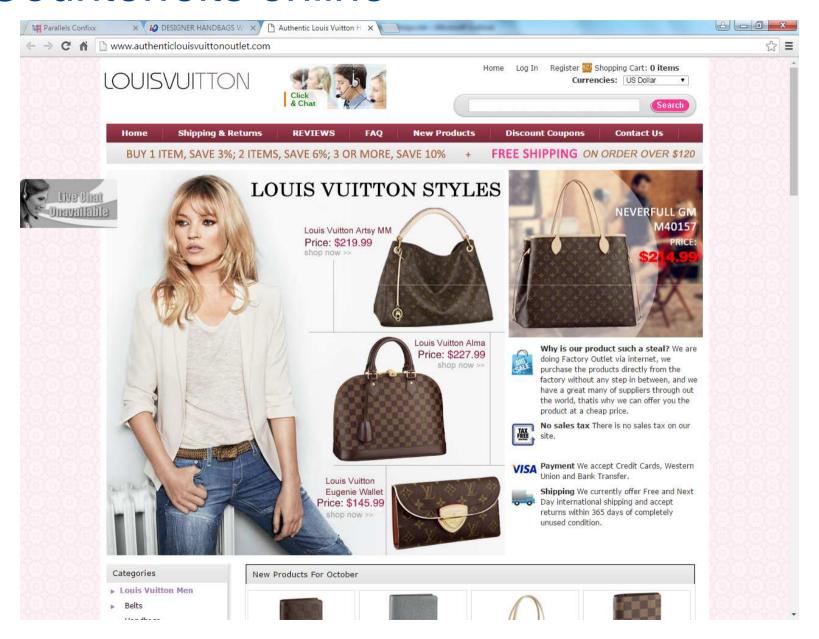


The Nature of Online Infringement

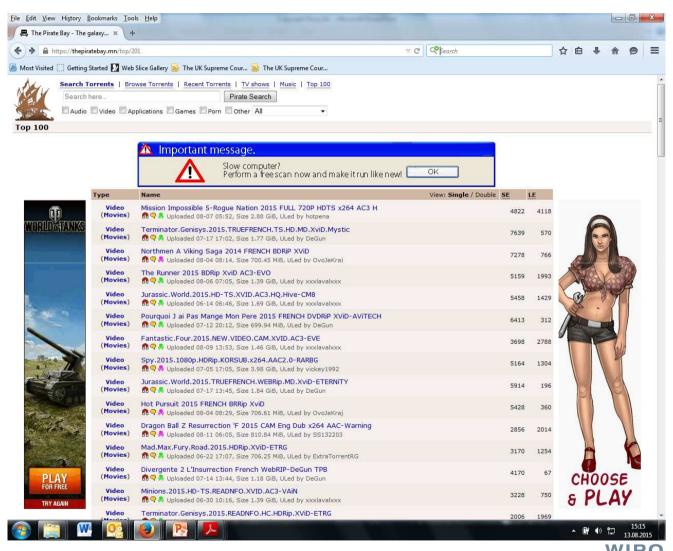
Workshop on Building Respect for IP Rights October 19, 2016 - Kyiv, Ukraine

Thomas Dillon
Legal Counsellor, Building Respect for IP Division

Counterfeits online

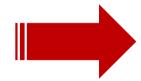


Copyright Crime



Crime and Internet

Internet + digitisation of entertainment products



Massive online copyright piracy

Cheap global reach via WWW + problems of cross-border enforcement + efficient global trade



Massive importation of counterfeits

Copyright and Internet

- Copyright works, films, sound recordings and broadcasts are protected online as in the offline world.
- When A 'sends' a work to B, a copy is made on B's computer.
- Making a work available online results in <u>communication</u> to the public.
- Downloading = copying; uploading = communicating
- Streaming = communicating
- According to the CJEU, a communication targeted at the jurisdiction results in an act within the jurisdiction.
- Criminal liability may depend on 'commercial scale'.



ISP liability: 'safe harbors'

- Under statute, an exemption from liability is usually given to:
 - An ISP, in relation to copies made during the <u>neutral</u>, technical process of giving internet access to subscribers
 - A web site <u>passively</u> hosting content uploaded by others.
- Once a host has notice of an infringement, it must act quickly to end it, or lose the exemption.
- The liability for infringement of the person primarily responsible remains unaffected.
- No general duty to monitor traffic.
- ISPs remain subject to duty to assist the public authorities when legally required to do so by a warrant or otherwise.



Online Piracy is Cybercrime

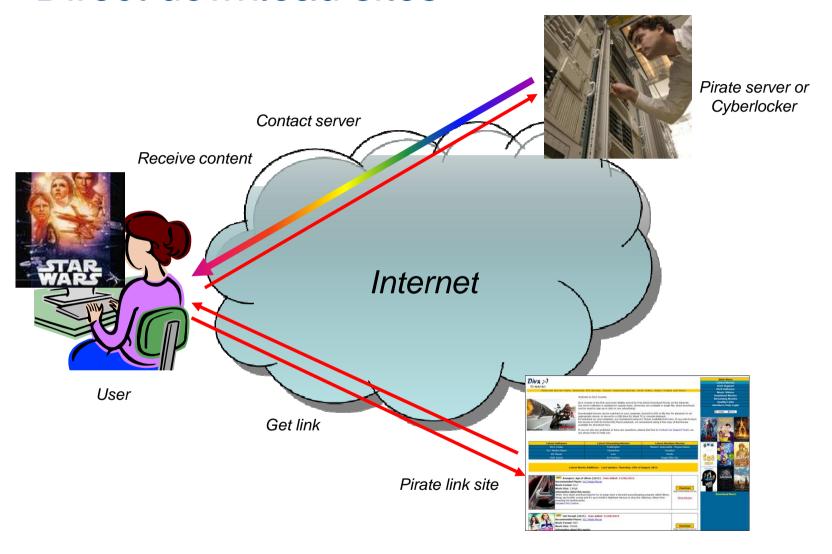
- Council of Europe Convention on Cybercrime (2001)
 - Azerbaijan (01/07/2010); Georgia (01/10/2012); Hungary (01/07/2004); Turkey (01/01/2015); Ukraine (01/07/2006)
- Article 10 Offences related to infringements of copyright and related rights: must criminalise infringing acts "committed wilfully, on a commercial scale and by means of a computer system."
 - Mutual assistance and extradition provisions provided
- Ukraine Presidential Decree No. 96/2016: Cybersecurity Strategy
 - Enforcement and prevention responsibility lies with National Police of Ukraine



Direct download sites

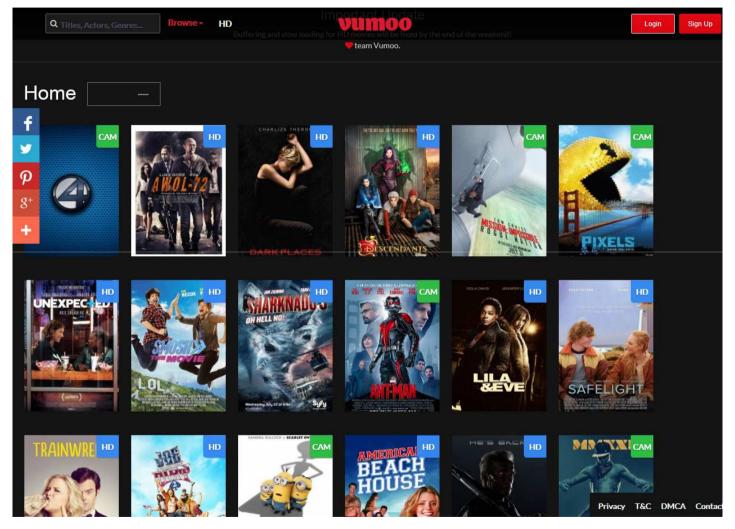


Direct download sites





Streaming – pirated copies



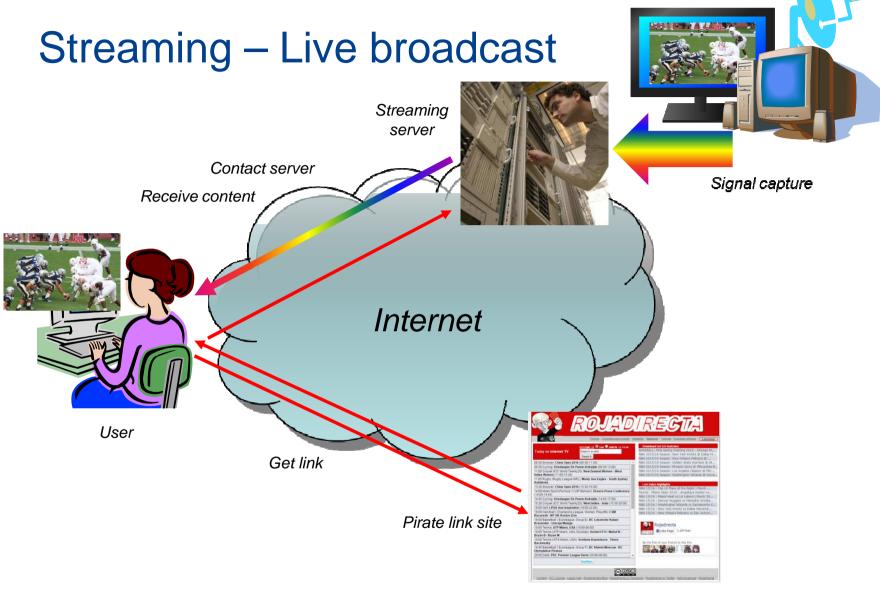
Streaming – Live broadcast





Social media







Source: City of London Police

Cyberlocker – Downloading/Streaming









Servers



Sony Alpha 6000 (Body Only, Black)

Sony Alpha 6000 mirrorless interchangeable-lens camera almost has it all Original, independent content, re-promoted by sponsor.



CNET . Tech Culture . FBI charges MegaUpload operators with piracy crimes

FBI charges MegaUpload operators with piracy crimes

Seven people accused of operating the site and committing acts of online piracy were named in an indictment. Four people-including Kim DotCom, aka Kim Schmitz-have been arrested in New Zealand.

by Greg Sandoval y @sandoCNET / January 19, 2012 11:50 AM PST



















The FBI has busted the alleged operators of Internet locker service MegaUpload, which had become one of the most popular video destinations on the Web, according to a statement

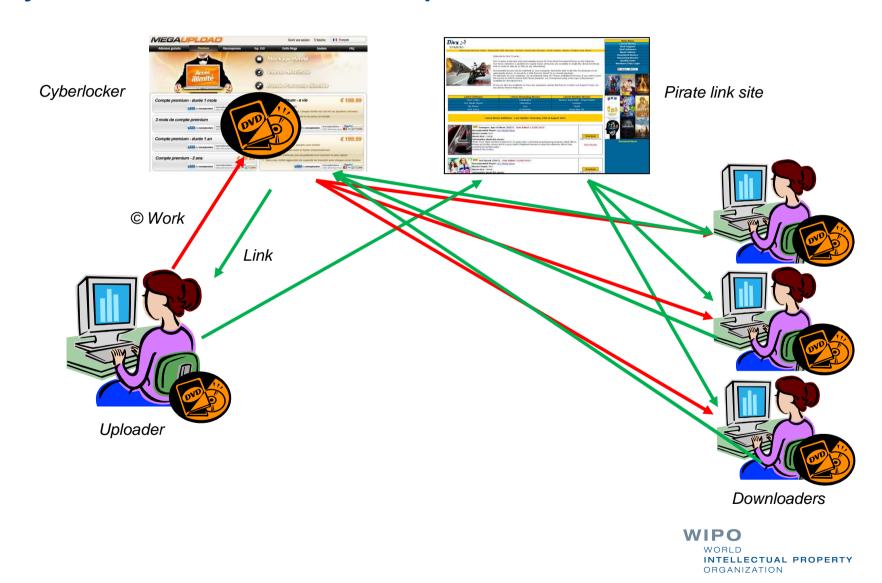
from the U.S. Justice Department and FBI.

Seven people have been named in an indictment and four suspects have been taken into custody, according to the statement today. They have been charged in Virginia with crimes related to online piracy, including racketeering conspiracy, conspiring to commit copyright infringement, and conspiring to commit money laundering.

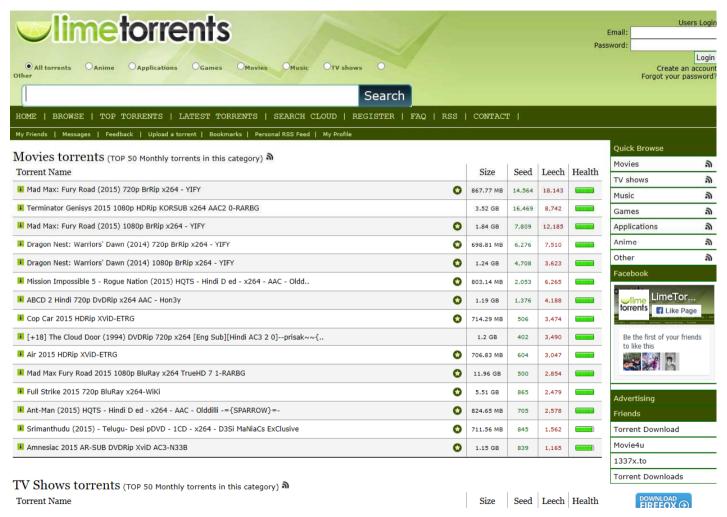


Kim Schmitz, aka Kim DotCom, is the founder of MegaUpload, an online file storage service

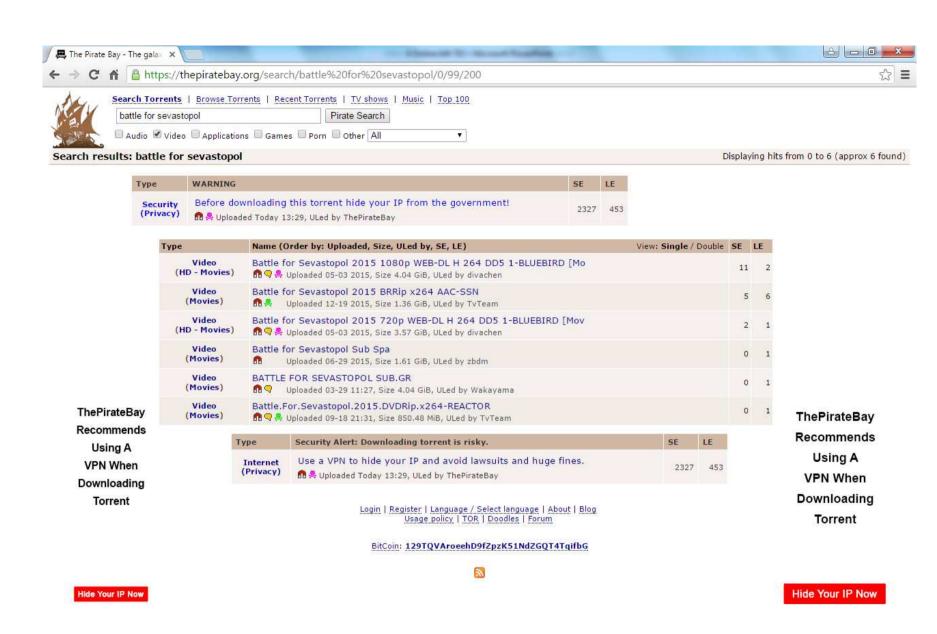
Cyberlockers – how copies are "shared"



Peer-to-Peer download sites











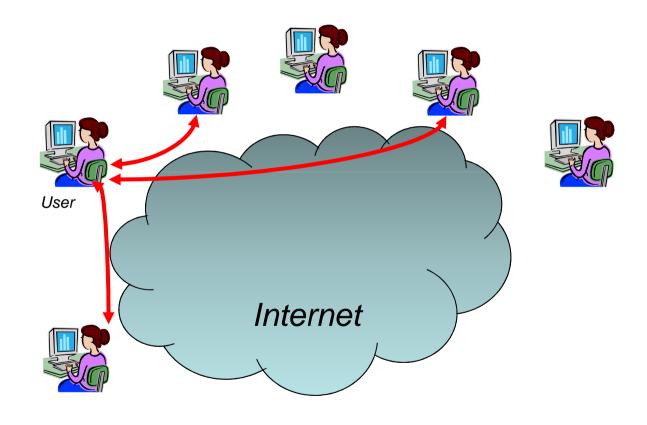








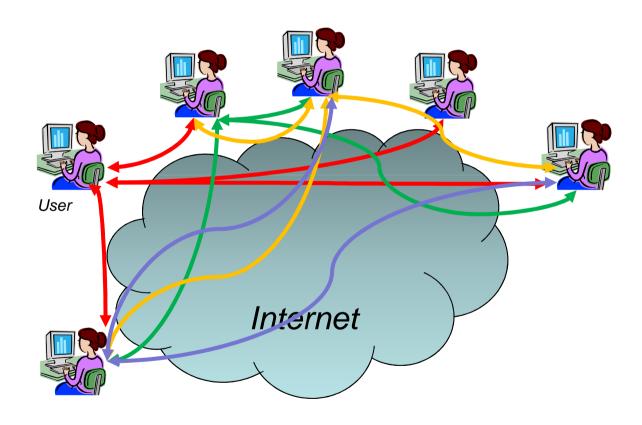
Software gives number ("hash value") to a pirate copy; breaks up file into small pieces



Ask network for sources (may be facilitated by a coordinating server or 'tracker')

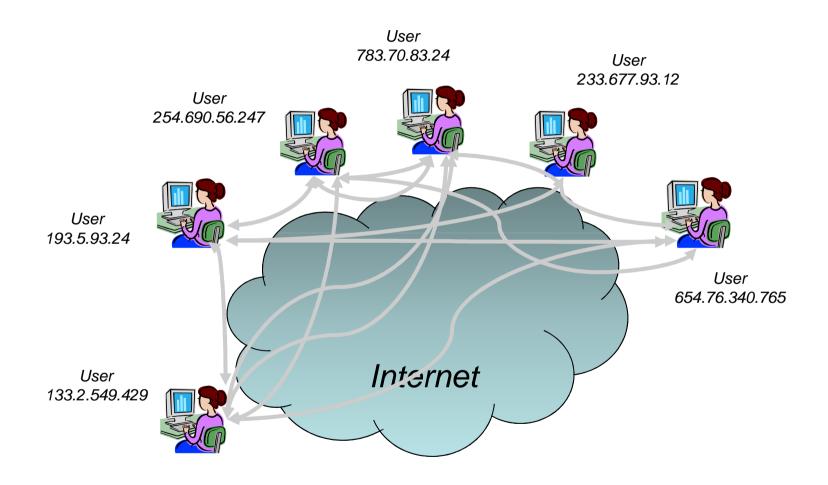


Receive and share slices of content...



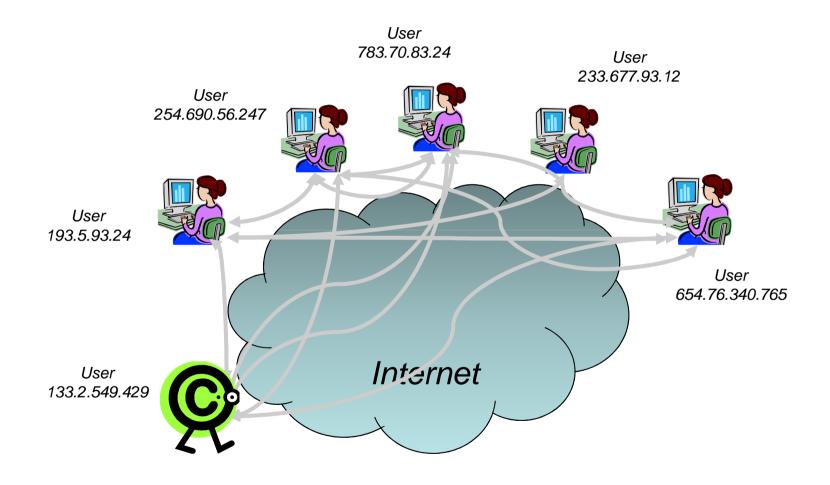


... until everyone has 100% of the file



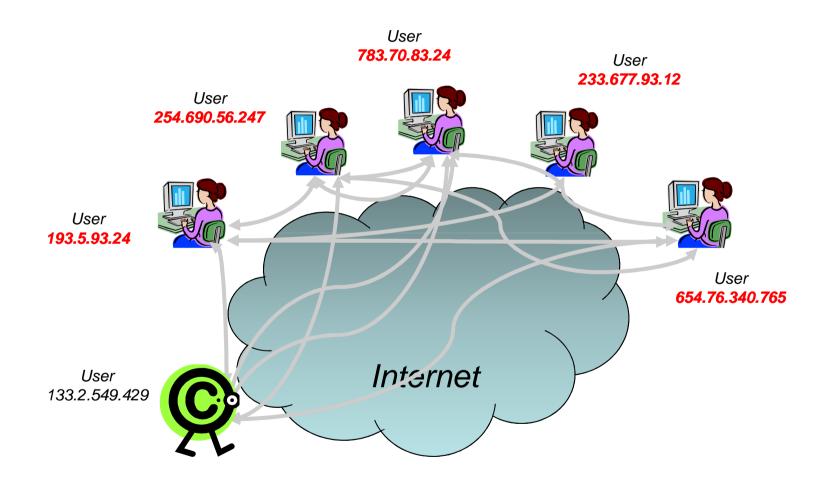


But IP addresses are visible



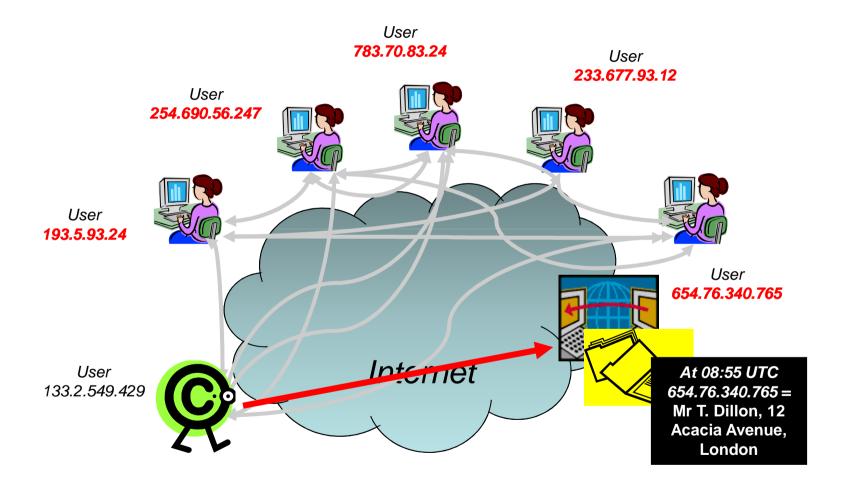


But IP addresses are visible





But IP addresses are visible







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Court jails Pirate Bay founders

A court in Sweden has jailed four men behind The Pirate Bay (TPB), the world's most high-profile file-sharing website, in a landmark case.

Frederik Neij, Gottfrid Svartholm Warg, Carl Lundstrom and Peter Sunde were found guilty of breaking copyright law and were sentenced to a year in jail.



Pirate Bay's Peter Sunde, speaking on his website: 'We cannot and wouldn't pay'

They were also ordered to pay \$4.5m (£3m) in damages.

Record companies welcomed the verdict but the men are to appeal and Sunde said they would refuse to pay the fine.

Speaking at an online press conference, he described the verdict as "bizarre".

"It's serious to actually be found guilty and get jail time. It's really serious. And that's a bit weird," Sunde said.

"It's so bizarre that we were convicted at all and it's even more bizarre that we were [convicted] as a team. The court said we were organised. I can't get Gottfrid out of bed in the morning. If you're going to convict us, convict us of disorganised crime.

"We can't pay and we wouldn't pay. Even if I had the money I would rather burn everything I owned, and I wouldn't even give them the ashes."

The damages were awarded to a number of entertainment companies, including Warner Bros, Sony Music Entertainment, EMI, and Columbia Pictures.

It is almost certain that The Pirate Bay will keep on sailing, long after today's court judgement

▶ Read more at the dot.life blog

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