

CLIENT ALERT

ISP-Liability & Media Law

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The Pirate Bay has recently been subject to negative court decisions throughout Europe. The Pirate Bay is a website that facilitates file-sharing by offering bittorrent files and is among the 100 most visited websites in the world. Although The Pirate Bay was already considered illegal in Sweden since 17 April 2009, the Swedish software company Global Gaming Factory X AB outlined in June 2009 its plans to acquire The Pirate Bay website and the technology company Peerialism that has developed next generation file-sharing technology.

Introduction

On 17 April 2009 the founders of The Pirate Bay website were found guilty in Sweden of breaking copyright law and were sentenced to a year in jail and ordered to pay about € 2.7m in fines and damages to a coalition of media firms. Also in other jurisdictions, the founders of the Pirate Bay faced negative court decisions. This did not prevent the Swedish software company Global Gaming Factory X AB to outline its plans to acquire the website. The acquisition was planned for August 2009, but has been delayed and is currently facing further setbacks.

Negative court decisions for The Pirate Bay

The first negative court decision for The Pirate Bay was on 17 April 2009 when the Stockholm district court in Sweden found that the founders of The Pirate Bay were all guilty of accessory to crime against copyright law, strengthened by the commercial and organized nature of the activity. However, the website has remained open since. This has prompted a series of further lawsuits and calls to have the site closed or blocked in various jurisdictions. For instance, in the Netherlands, the court of Amsterdam decided on 30 May 2009 that the holders/administrators of The Pirate Bay had to make the website inaccessible for internet users in the Netherlands.

Press release of Global Gaming Factory X AG

One month after the decision of the Dutch court, the Swedish listed company Global Gaming Factory X AG announced that it intended to take over The Pirate Bay website. The plan was to launch new business models that would allow compensation to the content providers and copyright owners. This plan would include models for cooperation and a clear allocation of responsibilities between the Internet Service Providers, other service providers, search engines and rights' holders.

Setbacks for Global Gaming Factory X AG

Nevertheless, this plan is far from being implemented.

In the Netherlands, the court of Amsterdam decided on 6 July 2009 that Global Gaming Factory X AG must make The Pirate Bay website inaccessible for internet users in the Netherlands as soon as it would acquire The Pirate Bay.

In August 2009 trading in shares of Global Gaming Factory X AG was suspended after an investigation was launched into financial irregularities, leading up to a bankruptcy petition in September 2009.

These setbacks make it less likely that the plan of creating new compensation models would be implemented soon.

References: Rb. Amsterdam, 30 July 2009, KG ZA 09-1092 WT/RV; Judgment, 17 April 2009, Stockholm district court, B 13301-06

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