Chapter 8

Internet Service Provider Liability in Relation to P2P Sites:
The Pirate Bay Case

Nisha Dhanraj Dewani
Jamia Millia Islamia University, India

ABSTRACT

Different systems require different levels of security according to the services they provide to their users. Cyberspace is the alliance of various networks together connected through internet service providers (ISPs). However, the alliance of these networks often faces security issues. Some use the internet as a path for illegal activities such as breaching of others computer or networks, damaging and stealing information, and blocking or denying legitimate users from services they subscribe. So, the purpose of this chapter is to review the responsibilities of ISPs in securing their customers' network, and find out whether there are legal provisions, or liabilities that are bindings on the ISPs to provide security for their customers. What protections are envisaged under the umbrella of safe harbors? Are ISPs responsible for end users' network security? The Swedish Court recently found The Pirate Bay (TPB) guilty of making copyright works available. Finally, this chapter will analyze the issues raised in the TPB along with ISPs liability.

INTRODUCTION

The internet entity is extremely dependent on information and network security. The entire enterprise of the information society becomes crucial when internet content is disseminated, hosted and placed through online intermediaries. In this relation, an ISP's position can be called a gateway to the Internet which host of legal and ethical duties. The ability of unidentified users to freely exchange information over the Internet creates legal responsibilities for ISPs to act in the public's interest. Customers rely on the Internet for personal communication, information, and to conduct business, giving ISPs an obligation to deliver reliable service and access to the websites and services their customers depend upon. On the other hand, the online activity affects innovation and free speech. Even most creative expression today takes place over communications networks owned by private enterprises. The intermediaries have to block their users or unwanted online content in order to repress dispute, hate speech, privacy violations and the like (Min, 2012). Therefore online intermediary liability has become very controversial in relation to copyright material due to unauthorized downloading of digital music, film and video since the beginning of the P2P revolution; and the arrival of "Web 2.0" interactive user generated or mediated content (UGC or UMC) sites such as eBay, YouTube, Facebook etc. The problem of the liability of Internet intermediaries for content authored by or activities carried out by third parties known at first as the issue of "ISP liability. Recently among the top most internet piracy battles The Pirate Bay (TPB), probably the largest and most famous BitTorrent piracy site on the Web. It offers millions of movies, music, software and TV shows that can be downloaded for free. The decision stopped people from accessing the site as a consequence of such a judgment. Then TPB wrapped up the code that runs its entire Web site, and offered it as a free downloadable file for anyone to copy and install their own servers. People started locating hundreds of new versions of the site, and the piracy continues unrelieved. Therefore, it is a challenge to deal with the problems generated in and by the digital environment by such acts by P2P site holders (Michael, 2009).

Peer- to- Peer Technology

Liability for copyright infringement committed online via P2P file sharing frequently occurs across different jurisdictions, creating private international law challenges (Strowel, 2009). The Napster, Gnutella, and Kazaa are superlative examples of P2P technology. P2P has gained tremendous public attention through Napster which is a system supporting music sharing on the Web. It is an emerging and interesting research technology with a promising product base. Intel P2P working group gave

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