Internet-Based Protest in European Policymaking: The Case of Digital Activism

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ABSTRACT

European Institutions, especially the European Parliament, are venues of access for digital activist networks wishing to influence policymaking on issues of intellectual property rights, internet regulation and the respect of civil rights in digital environments. We refer to these networks as “digital activism”. They are more or less loosely rooted in hacker culture and are intensively making use of online tools to organize and consolidate a collective identity and build a transnational public sphere. This study focuses on the “no software patents” campaign led by this movement that aimed at influencing the directive on the patentability of computer-implemented inventions (2002-2005). By discussing the advocacy techniques—both online and offline—that were developed by this digital activist network, we provide an insight into power struggles that are currently taking place in Europe, but also in other regions of the world.

Keywords: Civil Rights, Civic Networks, European Union, Information Age, Intellectual Property Rights, Online Community, Political Campaigns, Public Sphere

INTRODUCTION

On July 6, 2005 the European Parliament (EP) rejected the directive on the “patentability of computer-implemented inventions” (CII). This historical decision—it was the first time the EP rejected a directive in its second reading—should be read as a compromise between proponents and opponents of the directive: on the one side, corporate interests pushing for the directive to pass, as it was proposed by the European Commission in February 2002. On the other side, a loose coalition of activists, rooted in the Free, Libre and Open Source Software (FLOSS) movement, that considered the directive as a hidden attempt to introduce software patents in Europe and who aimed at modifying the directive. The outcome was the result of a fierce battle between both camps that lasted over two years and was marked by extensive lobbying on behalf of both sides that is still remembered nowadays in the halls of the EP.

This struggle marks the politicization of a community characterized by the intensive use of electronic means of communication. The FLOSS movement is one of the first “online communities” that has emerged, using the internet in order to develop free and open source software as its core activities. The mobilization surrounding the CII directive shows that this
community has begun to organize in order to
defend its interests, notably, but not exclusively,
by influencing European policymaking. The
aim of this paper is to examine how these ac-
tivists organize, in order to influence European
policymaking. The research question can be
subsumed as follows: how do digital activists
use the internet in order to influence European
policymaking?

The focus lies on the advocacy techniques
developed by the loose coalitions of activists
who took part in these political debates. In the
first case opposing the introduction of “software
patents”\(^1\) in the EU, in the second, mobilizing
around issues of privacy, internet regulation and
above all the implementation of a mechanism
known as “graduated response” or “three-strikes
approach”\(^2\) aiming at countering illegal down-
loading. While not entering into the discussion
of these issues, we argue that both campaigns are
exemplary of an emergent movement currently
constituting itself - a movement we refer to as
digital activism as it makes not only extensive
use of the internet, but claims for the protection
of “digital rights”. While various movements
across the globe work on the protection of
civil rights in digital environments, the cam-
paigns under study are particular in the sense
that, inspired by hacker culture, they advocate
alternative models, notably in the domain of
intellectual property rights (IPRs).

Digital activism underlines the shift
current “information societies” are undergo-
ing. This transformation is not disruptive or
revolutionary as some may have claimed. On
the contrary, many of the observations in this
paper link to theories developed before the
advent of the internet. In this sense, this paper
rejects technological determinist claims about
the sole transformative power of the internet.
The shape and objectives of political actors are
being transformed, not due to the sole presence
of the internet but in a socio-technical process
of coevolution.

The outline of this article is as follows:
first we present the methodology used. Second,
we discuss the relevance of the internet for
activism before considering the “hacking com-
munity” that constitutes the natural constitu-
ency of digital activism. Third, we discuss the
way in which European policymaking can be
considered an opportunity structure for diffuse
interest representation. Finally, we examine the
two campaigns in the light of the developed
framework.

Methodology

To analyze digital activism, we draw upon first
findings from two case studies of campaigns
aimed at influencing European directives. Yin
(2002) defines the case study as follows: “an
empirical inquiry that investigates a contempo-
rary phenomenon within its real-life context;
when the boundaries between phenomenon and
context are not clearly evident; and in which
multiple sources of evidence are used” (p. 23).
As research on online activism is emergent, it
is particularly necessary to consider the con-
text in which it is situated. To understand how
“digital activists” proceed, one needs to look
at their community and culture, the political
system they wish to influence and society at
large. The goal is not to achieve generalizable
results but to provide an insight into an emer-
gent movement.

The “no software patents” (SWPat)
campaign was selected because it marks the
politicization of the community as it constitutes
its first large mobilization at European level.
The “Telecoms package” campaign provides
a second example of digital activism as it is
currently taking place. If the claims of both
campaigns are very different, this article aims
at highlighting the similarities between the
advocacy techniques used and the importance
of the internet in both campaigns.

Triangulation, i.e. the use of multiple
data collection techniques, is used in order to
obtain reliable information. The internet itself
constituted a crucial resource for collecting the
data sets supporting this analysis. The dataset
comprises documents generated by the activists
themselves. These are messages posted on mail-
ing lists, documents and analyses published on
websites\(^3\). For the “no SWPat” directive, written
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