[SE] Internet Service Provider Ordered to Cease Providing Internet Capacity to The Pirate Bay

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The Pirate Bay saga continues. On 21 August 2009, Stockholms tingsrätt (the District Court of Stockholm) issued an order, subject to a conditional fine, enjoining an Internet Service Provider, Black Internet AB, from contributing to the making-available of certain films and music albums to the public by means of supplying Internet capacity to the file-sharing site The Pirate Bay.

The court held that Black Internet AB was well aware that users of The Pirate Bay are considered to be engaging in illegal file sharing and that the people behind The Pirate Bay have been found guilty of complicity in activities in breach of the Swedish Copyright Act.

Furthermore, the court stated that Black Internet AB, as a supplier of Internet capacity to The Pirate Bay, objectively could be deemed to be an accomplice to the infringements performed by the users of The Pirate Bay.

Black Internet AB argued that it was not the sole supplier of Internet capacity to The Pirate Bay. Therefore, an injunction against Black Internet AB would not suspend public access to The Pirate Bay.

Nonetheless, the court held that, for complicity in activities in breach of the Copyright Act to be found, it was not necessary to establish that Black Internet AB's supply of Internet capacity was an absolute condition for infringement. Consequently, it was irrelevant that other companies also supplied Internet capacity to The Pirate Bay.

The court concluded that the interest of the rightsholders outweighed that of Black Internet AB. Therefore, it was proportionate to enjoin Black Internet AB from complicity in making the films and music albums in question available to the public by means of supplying Internet capacity to the file-sharing site The Pirate Bay, subject to a conditional fine of SEK 500,000.

In practice this meant that Black Internet AB has had to cut off Internet access to The Pirate Bay.

Given that Black Internet AB only had the option of hitting the "off button", meaning that lawful material will also be affected, critics have claimed that the

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proportionality of the decision in relation to its effects can be brought into question.

At the time of writing it was not known whether the decision would be appealed.

Stockholms tingsrätts beslut den 21 augusti 2009 i mål nr T 7540-09 och T 11712-09

Decision of the District Court of Stockholm of 21 August 2009 in cases No. T 7540-09 and No. T 11712-09

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