

[NO] Unsuccessful Attempt to Block the Pirate Bay

IRIS 2010-1:1/33

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On 6 November 2009, a District Court in Norway ruled that there were no grounds for ordering Telenor, a major Norwegian Internet Service Provider, to block Internet access to the peer-to-peer search engine The Pirate Bay. The court ruled that Telenor cannot be held liable for copyright violations that arise from illegal downloads.

The Pirate Bay, a BitTorrent search engine, enables the download of data from multiple sources on a peer-to-peer file-sharing system. This rather popular service has been a frequent target for the entertainment industry, with lawsuits filed in several countries across Europe (see IRIS 2008-6: 7, IRIS 2008-10: 13, IRIS 2009-6: 17, IRIS 2009-8: 19, IRIS 2009-9: 14 and IRIS 2009-9: 18).

This summer Telenor refused to block access to the site after having received a petition for a temporary injunction from a group of copyright holders, including IFPI (the International Federation of the Phonographic Industry). The Court (the District Court of Asker and Baerum) ruled in favor of Telenor and concluded that the Internet Service Provider did not unlawfully contribute to copyright infringements. Accordingly, the court held that there was no legal basis for blocking Internet access.

The court held that Telenor and other Internet providers, being private companies, are not under an obligation to monitor or assess whether or not to block a relevant website or service. This task normally belongs to public authorities and the court found that in the present situation it is unnatural to assign such responsibility to private companies.

The court decision is not yet final and may be appealed.

6.11.09 i Asker og Baerum tingrett, Sak nr.: 09-096202

http://www.wiersholm.no/SiteCollectionDocuments/2009_kjennelse_telenorsaken_gu_lbrandsen_opdahl.pdf

6.11.09 Asker & Baerum tingrett, Case No: 09-096202

