[SE] The Pirate Bay Appeal

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On 26 November 2010 Svea Hovrätt (the Svea Court of Appeals) delivered its verdict on the appeal in the case against the people behind the well-known file sharing site The Pirate Bay (TPB), hereinafter jointly referred to as the accused. IRIS already reported on the judgment of the District Court of Stockholm (first instance) (see IRIS 2009-6/29).

It was established that a considerable amount of the (torrent) files directed through TPB was subject to copyright. According to the Svea Court of Appeals the accused had been aware that illegal file sharing on a large scale occurred on TPB. The Svea Court of Appeals found, in agreement with the court of first instance, that TPB's services had facilitated such illegal file sharing in a way that resulted in criminal liability.

The Svea Court of Appeals concluded that the accused had participated in the illegal activities in different ways and to varying degrees. Unlike the court of first instance, the Svea Court of Appeals did not adopt a collective assessment of responsibility. The Svea Court of Appeals instead made a more individualised assessment, emphasising that liability for the actions of the accused should be tried on an individual basis. Overall, this lead to a reduction in the custodial sentences for the accused (ten, eight and four months respectively, instead of 1 year for each of the accused as had been ruled in the first instance).

Moreover, the Svea Court of Appeals, unlike the district court, accepted the plaintiffs' evidence in relation to the damages. The plaintiffs also submitted further support of their claims. The Svea Court of Appeals raised the damages from approximately SEK 30 million to SEK 46 million accordingly. Still, the Svea Court of Appeals upheld the finding of the court of first instance that the accused are jointly liable to pay the damages.

Due to illness one of the accused was unable to attend the court proceedings in the Svea Court of Appeals. Therefore, the case against him will be tried separately at a later stage.

Execution of the judgment is stayed pending a decision on the application for leave to appeal the judgment before the Supreme Court.

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Svea Hovrätts dom den 26 november 2010 i mål nr B 4041-09

Judgment of the Svea Court of Appeals of 26 November 2010 in case No. B 4041-09

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