



## **Here Come Homeland Security Internet Police, and They're Already Shutting Down Web Sites They Don't Like**

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Last week, the Department of Homeland Security seized 82 domain names for allegedly hawking counterfeit goods ranging from knockoff Coach handbags to bootleg DVDs. Enacted under the auspices of its Immigrations and Customs Enforcement arm, the sites were wiped out and replaced with an ominous message from the DHS that laid out the stakes, including the warning, "Intentionally and knowingly trafficking in counterfeit goods is a federal crime that carries penalties for first-time offenders of up to 10 years in federal prison, a \$2,000,000 fine, forfeiture and restitution."

Most of the seized Web sites had names like [thelouisvuittonoutlet.com](http://thelouisvuittonoutlet.com) and [getdvdset.com](http://getdvdset.com), and sold reproductions of designer goods and hard copies of jacked movies. A few sites on the list, though, stuck out: [Onsmash.com](http://Onsmash.com), [rapgodfathers.com](http://rapgodfathers.com) and [dajaz1.com](http://dajaz1.com) are popular music blogs that were generally involved in the promotion of artists, rather than outright piracy. Well-known among rap fans for posting the latest videos, singles and remixes (always hosted from third-party download sites), their seizure was shocking, not just to the hip-hop blogosphere, but to music sites everywhere. Their inclusion on a list of sites that profit from manufacturing hard goods seemed arbitrary and ignorant. Furthermore, these sites were directly involved with artists, widely viewed as outlets that could help artists build buzz and promote their upcoming albums.

And in what ICE termed its "Cyber Monday" crackdown, a statement on the official DHS site made it clear that this was only the beginning:

The coordinated federal law enforcement operation targeted online retailers of a diverse array of counterfeit goods, including sports equipment, shoes, handbags, athletic apparel and sunglasses as well as illegal copies of copyrighted DVD boxed sets, music and software.

But these rap blogs weren't selling any music. They weren't selling DVDs. In fact, the only thing you could accuse them of selling was ads -- hardly big income, definitely not enough to turn a profit. They aren't even close to the biggest music downloading sites out there. So why were they targeted?

The DHS seems to be tiptoeing in the music pool, testing its boundaries and seeing what it can get away with. ICE began seizing domain names mere days after Senator Ron Wyden, D-Oregon, blocked the Combating Online Infringement and Counterfeits Act

(COICA), a bill that would effectively allow the government to  censor any Web site it sees fit, and one that is widely viewed as an attack on our free speech. The EFF:

When you type an address into a browser, the browser doesn't just know where to take you. For that it counts on the globally distributed DNS system, which takes you to the specific IP address where the site is hosted. The DNS system is built on a basic foundation of trust -- a DNS provider can't manipulate the results to stop you from going where you want to go on the Web.

COICA would subject DNS operators to government and industry pressure to intercept and block traffic to sites they don't like, and gives the Department of Justice the power to sue DNS operators to effectively disappear a site from one-click access on the Internet. There are some sites out there that are devoted primarily to posting copyrighted material, like torrent-tracking Web sites, but serious concerns have been raised the dragnet could be extended to file-storage utilities like Dropbox or to services like Facebook where large amounts of copyrighted material are easily stored and posted by users. Moreover, DNS blocking inherently targets entire Web sites, not just specific offending content, raising the troubling possibility that legal content and protected political speech on those websites would be censored in the United States.

Normally, when a music site unwittingly posts a song that is not cleared for release, it will receive a standard, cease-and-desist form letter from the Recording Industry Association of America. If the site then removes the link or song, which most do, it will generally have no subsequent trouble. This most recent action, though, is an example of RIAA's ever-expanding involvement in legislation, and reflects its consistently paranoid, regressive conception of the Internet. COIAA is, of course, backed by the music industry. A November 18 statement by RIAA CEO Mitch Bainwol regarding the bill:

"We are proud to lend our voice to the chorus of supporters of this important bipartisan legislation. In a world where hackers and copyright thieves are able to take down websites, rip off American consumers and rake in huge profits operating rogue businesses built on the backs of the American creative community, the committee has taken a strong step toward fostering a more safe and secure online experience for consumers.

Bainwol's language not only reeks of McCarthyist scare tactics, it's simply misleading. While "hackers" may be able to "take down websites," there have been no instances of a "copyright thief" -- or, in more direct terms, music blogger -- doing this. By offering free music, it's unclear why he believes American consumers are getting ripped off. And as established, the types of blogs shut down by ICE last week do not rake in huge profits... most rake in barely enough to pay for their Web domain names.

Simply put, RIAA is vehemently against music blogs (and, it sometimes seems, the Internet as a whole) because it does not understand the music industry it purports to represent. This was established back in 2003, when RIAA made aggressive efforts to sue 261 individuals -- including, notoriously, a 12-year-old honors student from the projects --

accused of downloading music from the Internet on P2P services. But that was seven years ago, and it's astonishing that since then, RIAA has apparently made no effort to understand how the Internet works, and how blogs such as OnSmash ultimately help their artists' buzz, posting videos based on their personal tastes and those that reflect their vast audience of potential hip-hop consumers. Or, perhaps, labels just really miss the days when they had to pour cash into the proffers of radio stations to get any airplay.

RIAA's continued support of Internet censorship is a clear and desperate attempt to justify its existence in an ever-altering information society. You could call it an effort to stop time. Often, though, marketers and others employed by major labels will send out mp3s to blogs under the radar, knowing that ultimately having the music available will help their artists' buzz and contribute to their bottom line, as income comes decreasingly from album sales and relies more on cross-promotion, marketing deals, tours and merchandise. That's because RIAA doesn't support artists -- it supports corporations. It's transparent about this; its mission statement explicitly states that it "supports and promotes the creative and financial vitality of the major music companies."

Casey Rae-Hunter, a communications director and policy strategist for the artist advocacy group Future of Music Coalition (FMC), illustrates why an open Internet is, ultimately, much better for musicians in the long run:

"The two things that are most important to today's musicians and creative entrepreneurs are innovation and access... For a decade, Future of Music Coalition has called for a straightforward Internet framework that lets artists compete in a legitimate digital music marketplace alongside the biggest companies. Open access to the Internet has led to tremendous innovations in the marketplace and inspired countless examples of creative enterprise."

Of course, with COIAA, the music industry -- and the takedown of relatively small sites like OnSmash and Rap Godfathers -- is just the tip of the iceberg. According to the Electronic Frontier Foundation, a digital civil liberties group, widely used hosting sites could end up in the government's crosshairs as well; an act that would not only affect our ability to disseminate information, but would target our very outlets for free speech on the Internet:

If this bill passes, the list of targets could conceivably include hosting Web sites such as Dropbox, MediaFire and Rapidshare; MP3 blogs and mashup/remix music sites like SoundCloud, MashupTown and Hype Machine; and sites that discuss and make the controversial political and intellectual case for piracy, like pirate-party.us, p2pnet, InfoAnarchy, Slyck and ZeroPaid. Indeed, had this bill been passed five or 10 years ago, YouTube might not exist today. In other words, the collateral damage from this legislation would be enormous. (Why would all these sites be targets?)

With the recent firestorm surrounding Wikileaks, and the chorus of voices calling for its elimination (not to mention Julian Assange's head) the state of COIAA is increasingly urgent. Wyden may have stalled it for now, but if it's reintroduced next year with the conservative new Congress, it's likely to pass. However, free-speech advocates do have

an ally in FCC Chairman Julian Genachowski. On December 1, he announced an agenda for a meeting later this month that would include conversations about an Open Internet Policy, preserving the infrastructure and freedom that keeps the American Web from mirroring that of China. Clearly, net neutrality and blocking COIAA go hand in hand. Genachowski observed:

The Internet has been an unprecedented platform for speech and democratic engagement, and a place where the American spirit of innovation has flourished. We've seen new media tools like Twitter and YouTube used by democratic movements around the world.

Not only is the Internet becoming a central part of the daily lives of Americans, the Internet has been a strong engine of job creation and economic growth.

Internet companies have begun as small start-ups, some of them famously in dorm rooms and garages with little more than a computer and access to the open Internet. Many have become large businesses, providing high-paying, high-tech jobs in communities across our country. It's the American dream at work....

Why has the Internet proved to be such a powerful engine for innovation, creativity, and economic growth? A big part of the answer traces back to one key decision by the Internet's original architects: to make the Internet an open platform.

It is the Internet's openness and freedom -- the ability to speak, innovate, and engage in commerce without having to ask anyone's permission -- that has enabled the Internet's unparalleled success.

Very important words. Let's hope his colleagues and Congress hear them.

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