

A Dark Day on the Internet Leads to a Sea Change in Copyright Policy

On January 18, 2012 Wikipedia went black, and a black bar replaced the Google logo. In addition, many other Internet sites including Reddit, Boingboing.net, and Wired.com also went dark, all in order to protest consideration of two intellectual property bills by the United States Congress: Stop Online Piracy Act (SOPA) and Protect Intellectual Property Act (PIPA). These bills, promoted by the Record Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA), would have placed serious restrictions on the ability of Internet companies to do business, and those companies struck back, arguing that the bills would, in effect, shut them down. In challenging these bills, the Internet companies changed the discourse around copyright and intellectual property law in the 21st century. At one time the major media conglomerates who run the movie, television and music industries dominated copyright policy, but in 2012 Internet companies and consumers challenged and defeated two bills championed by these media conglomerates, indicating that copyright policy will no longer be dominated by content owners.

Elsewhere in this annual, Kim Gainer reports on the content of the SOPA and PIPA bills, while this essay is intended to discuss the ways that key Internet companies and users mobilized to fight them. As the protest included sites commonly used by students for online research, teachers and students were made aware of copyright and intellectual property issues in a new and startling way. But that is not the only effect of these issues. Students often serve as producers of content for such sites and so are also affected by copyright legislation that seeks to restrict user-created content that incorporates copyrighted material, such as videos that include copyrighted music or images.

The resistance was led by major Internet companies worried that the bills' sweeping approach would shut down links to suspect sites without due process, thus damaging their business models. Google claimed that "Among other things, search engines could be forced to delete entire websites from their search results." In addition, "Law-abiding U.S. internet companies would have to monitor everything users link to or upload or face the risk of time-consuming litigation." Rob Beschizza, managing editor of BoingBoing.net, argued on CNN that the measures contained in SOPA/PIPA are "so wide-ranging and so open to abuse that sites like ours could be brought down by frivolous claims." The threat to the business models of the Internet companies was thus at the heart of the objections to the bills.

The resistance to SOPA and PIPA included not only the major Internet companies and organizations, but also their users, whose activities skirt copyright law in various ways. Sites such as Google's YouTube, Wikipedia, BoingBoing, and Reddit rely on user-created content, providing a venue for users to publish their own material. Among these users are gamer groups and

the budding musicians, as well as other fan communities. Often the content posted by these users lies in a gray area in relation to copyright, containing copyrighted material but in such a way that arguments for fair use can be made. Take Justin Bieber, for instance. Like many young musicians currently, he got his start by posting performances of cover songs to YouTube. Because the music is copyrighted, the posted videos violate copyright law, but the performances are original to the young musicians, and a global community has emerged as these musicians share their work with others. Sites like these serve a similar purpose for video game players, and players will post videos of themselves working through a difficult level in order to demonstrate their techniques to other users. While the RIAA and MPAA cast SOPA and PIPA as preventing the distribution of pirated copies of films, television shows, and music, user opposition came first from those who perceived that their own transformation of copyrighted material would be at risk.

Thus, resistance to current efforts to change copyright law began with the Commercial Felony Streaming Act portion of PIPA (the Senate bill), which "Makes unauthorized web streaming of copyrighted content a felony with a possible penalty of up to 5 years in prison. Illegal streaming of copyrighted content is defined in the bill as an offense that 'consists of 10 or more public performances by electronic means, during any 180-day period, of 1 or more copyrighted works'" (opencongress.org). Sponsored by Senator Amy Klobuchar of Minnesota, the bill seems to criminalize many YouTube videos created by musicians and gamers, and so early resistance came from those communities. According to sopastrike.com, a website devoted to the January 18th protest, gamers first became aware of the bill in June, 2011. By October, amateur musicians had become aware of the bill as well, and the website FreeBieber.org had been created, using singer Justin Bieber as their spokesman.

On November 16, 2011, the day the House Judiciary Committee began hearings on SOPA, Bloomberg reported that a number of Internet sites participated in "American Censorship Day" by darkening their logos with "censored" bars: Tumblr, Mozilla, Reddit, Techdirt, and the Center for Democracy and Technology, while others such as Google and Facebook supported the effort. The following day Congresswoman Nancy Pelosi tweeted: "Need to find a better solution than #SOPA #DontBreakTheInternet MT @jeffreyrodman: Where do you stand on Internet censoring and #SOPA?" Clearly a response to a tweeted question, Pelosi's message indicates that not only are politicians hearing from the bill's opponents, the messages are coming via the media at issue.

Meanwhile, Internet companies that had not yet lined up against the bills were under pressure. GoDaddy.com, a company that hosts and registers domains for websites, had come out in support of the bills. Their customers, who also used Reddit, began calling for a boycott of the service. According to Hayley Tsukayama of the Washington Post, Go Daddy's chief counsel, Christine Jones, had participated in the crafting revisions to the legislation, but faced with the loss of their customers, the company announced in a December 23 press release that it was "no longer supporting SOPA."

By mid-January, as SOPA was approaching the floor of the House of Representatives, online opposition to the bills had been organized into a plan of

attack. On January 10, 2012 the Reddit blog announced that “we will be blacking out reddit [sic] on January 18th from 8am-8pm EST[...]”. In addition to blacking out the site, Reddit announced that it would provide a video stream of the house hearings on the bills. On the same day, Media Matters' Eric Boehlert examined the lack of coverage of the bills in the mainstream media, even as the issue was being publicized extensively across the major Internet sites. On the 14th, the White House weighed in on the issue with a press release from Victoria Espinel, Intellectual Property Enforcement Coordinator, Howard Schmidt, cybersecurity coordinator, and Aneesh Chopra, the president's chief technology officer, stating that "Any effort to combat online piracy must guard against the risk of online censorship of lawful activity and must not inhibit innovation by our dynamic businesses large and small" (Phillips).

By January 18th, the day of the strike, Wikipedia, Amazon, Craigslist, and many other sites had also joined the planned black out. Members of Congress, hearing from their constituents, started to back away from their previous support of the bill. That same day a group of artists, authors, and musicians also came out against the bills, with Neil Gaiman and Trent Reznor leading 18 signers of “An Open Letter to Washington from Artists and Creators.” The statement acknowledged that copyright piracy does affect them but also stated, “We, along with the rest of society, have benefited immensely from a free and open Internet.” Asserting the importance of Internet media for their relationships with their fans, the group also noted that artists and creators could suffer collateral damage due to the bills: “Online piracy is harmful and it needs to be addressed, but not at the expense of censoring creativity, stifling innovation or preventing the creation of new, lawful digital distribution methods.” With the Internet in an uproar and Congressional support waning, both bills were withdrawn from consideration for further revision.

The mobilization of the Internet against the SOPA and PIPA bills so desired by the traditional media conglomerates reflects an alternate model of creation, production and distribution of content. Traditional media operates on a model in which the content is purchased from creators, produced as a product, and distributed to consumers, a model which is threatened by the ways that online piracy disrupts the distribution chain. In contrast, new media, social media in particular, use a model in which content is generated by the consumers themselves and circulated to other consumers via a company's technology. Existing copyright law, as constructed for the benefit of traditional media companies, does not recognize the nuances of creation, publication, and distribution within the new media model. The SOPA and PIPA bills, developed according to the copyright philosophies of traditional media were thus perceived by Internet companies and their users as extremely damaging within the context of the new media business model. By mobilizing Internet companies and users, the Internet strike of January 18, 2012 rejected those copyright philosophies in a power play that challenged and defeated the traditional media corporations and their supporters. That's not to say that the battle is over. Legislation similar to SOPA and PIPA is currently being considered in Europe in the form of the Anti-Counterfeiting Trade Agreement (ACTA), a multinational treaty with implications for copyright and intellectual property.

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