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Pirate Bay walks the plank

ByRasmus Fleischer

The Pirate Bay wears its pirate eye badge with pride. Launched in 2003, it's a Swedish website that catalogs and tracks BitTorrent files. On 30 June 2009, an advertising company, Global Gaming Factory X AB announced plans to purchase the website for \$7.8 million. Here, Rasmus Fleischer reacts and provides context for the changing of hands.

Users of The Pirate Bay are raging.

About a thousand comments were posted at The Pirate Bay's blog during the first day after the news, probably 90-95 percent expressing sadness or anger over the supposed sell-out. Some mainstream commentators in Sweden, on the other hand, greeted this as a step towards the abandonment of digital piracy.

We are used to imagining The Pirate Bay as a legendary entity fighting an epic battle, on behalf of the millions of file-sharers. However, it is not exactly a legendary entity that is being sold. It is something different. So what is about to be sold?

'The Pirate Bay' is today, among other things:

Â Â * A domain name

Â Â * A web site

Â Â * An ad selling business

Â Â * A blog

Â Â * The world's largest bittorrent tracker

Â Â * A clothing store

Â Â * Three persons

Â Â * A swarm

Â Â * A symbol

'The Pirate Bay' must be defined as an assemblage. Any of the listed parts would, on its own, be powerless. Only through its connections, the assemblage becomes so powerful. However, all the parts are not needed all the time. Two are enough to make up the practice of bittorrent file-sharing: a swarm of file-sharers, and a tracker to connect them. Many file-sharers are using The Pirate Bay's tracker services without even visiting the website. Other indexing websites, like Mininova, are using The Pirate Bay's tracker. Technically speaking, The Pirate Bay's website has always been rather redundant. But the website is a platform for connecting two other parts: The commercial part of the ads, which are needed to finance the large costs for bandwidth and hardware, and the political part of linking to current side-projects and publishing sporadic blog posts.

This assemblage is now being disassembled and reassembled, in one way or another. That means something else than a 'sell-out' of all the parts. All the details of the affair are not clear yet, but to clear up the picture, we should first consider each part for itself, and ask three simple questions:

1) Is it ownable?; 2) Is it sellable?; 3) Is it copyable?

* The domain name, www.thepiratebay.org, is definitely part of the affair. It is ownable and sellable, but not copyable given the current DNS regime. The web site that the visitor of the domain is directed to could be said to be ownable, in the sense that any new owner can change its contents. But it is also copyable, meaning that the 'original' version can pop up again at another domain name. Actually, it is

very simple to copy. You can fit all of The Pirate Bay, including the software and every torrent, on a USB stick.

* The ads have a value only as long as people visit the web site (and do not know how to use Adblock). The blog derives its meaning from the personal activity of the three persons involved, and could be hosted anywhere.

* The three persons (Peter Sunde, Fredrik Neij, Gottfrid Svartholm Warg) are especially interesting, as they can definitely not be copied. But can they be owned and sold? Yes, theoretically. In earlier cases of 'P2P sell-out', individuals have signed contracts regulating their future involvements in other projects. This is not the case here. The trio is free to do what they want, including political activism and even exact copies of The Pirate Bay.

* The tracker consists of hardware and (open source) software, possible to copy but not to uphold without financing. This part will not be part of the incorporation. Instead of being sold, the tracker service will be transferred to a separate entity, that provides the service freely to any index wanting to use it, and supposedly does not even have the information about files it is tracking. This essentially would mean a small step towards decentralisation of the file-sharing infrastructure. It probably also undermines the whole case the prosecutor made against The Pirate Bay in court. Questions about the financing of and control over this new third party tracker remains to be answered. However, it should not be assumed that control goes to the buyers of 'The Pirate Bay'.

* The swarm of millions of file-sharing humans and machines can not be owned, nor sold, nor copied. It can, indeed, be fooled. Usually, that's what cases of 'P2P sell-out' aims for, without much success. This time chances are even smaller that the swarm would keep using a service if it began to filter torrents or demand money for downloads. The Pirate Bay's tradition of strong principles have educated people to be wary even of small restrictions. If such would occur, the swarm is ready to move on. However, nothing at this point (except some vague formulations in a press release from the buying company) indicates that there are any such plans.

* The (visual and ideological) symbol 'The Pirate Bay', finally, is fundamentally transformed by the act of selling 'The Pirate Bay'. It does not really mean that the symbol can be sold. Rather, any attempt by the owner of the domain name to change what the symbol stands for, would mean that the symbol is dissolving and its associations re-projected at multiple other symbols. This could have quite interesting results. Even if The Pirate Bay and its associated projects have been able to use the power of one singular symbol, there has also been an awareness of the problem with The Pirate Bay's oligopolic status.

File-sharing was never about leaning behind and letting other people do the work. The act of selling 'The Pirate Bay' (which really means selling some of the components in a larger assemblage) could work as a wake-up call. Ideally, the anger of some users will transform into action, so that more open bittorrent indexing websites, maybe even trackers, will be set up. That would mean that The Pirate Bay, finally and paradoxically, reaches its goal, which is to be copied. The Pirate Bay never asked to be the sole representative of file-sharing. When large parts of the world's internet traffic depends on whether Fredrik is too drunk to fix a server error, a radical diversification is needed to maintain the power of P2P file-sharing. Dissolving the centered subject, abandoning a trademark to multiply what it stands for. That's the implicit schizo-politics of The Pirate Bay's recent move.

RASMUS FLEISCHER

(Me = co-founder of Piratbyrå. Cooperating with, but not involved in, The Pirate Bay. No financial connection whatsoever with the current incorporation plans.)

PS. Also read Jonas Andersson's great analysis:

<http://liquidculture.wordpress.com/2009/07/01/the-pirate-bay-two-important-speculations/>

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