

The Internet : A Lawless Kingdom

By Norman Abdul Halim
RIM - Chairman

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Creative Industry

Enterprises which have their origin in individual creativity, skill and talent and which generate revenue, create jobs and promote trade through the generation and legitimate exploitation of intellectual property, in particular works protected by copyright. The Creative Industry (including the Music Industry) form complex business networks in content-driven sectors and contribute significantly to the economic, social and cultural development of nations.

Music Industry Professionals

There are many individuals and organizations that operate within the music industry :

- Professionals - Singers, Producers, Composers, Lyricists, Musicians, Music Arrangers, Sound Engineers, Music Video Directors, Music Video Editors, Talent Managers, Entertainment Lawyers, etc
- Companies - Who create and sell recorded music - Record Labels, Music Publishers, Recording Studios, Production Houses, Post Production Studios, DVD and CD Replicators, Printing Companies, Retail and Online Music Stores, etc
- Support Industries, Organizations & Individuals –
 1. Media Industry (e.g. Television Networks, Radio Networks, Publications employing Entertainment Journalists, Editors, Radio DJs, Cameramen, Make Up Artistes, Stylists, Photographer, etc)
 2. Those that present live music performances (Booking Agents, Promoters, Music Venues, Road Crew, etc)
 - 3.Others - Educators, Music Instrument Manufacturers and many others



What is Copyright?

- ❖ Basic exclusive rights given to creators and owners of works to control, amongst others, the reproduction of their works in physical and digital formats e.g. the copying of CDs and DVDs and the downloading of songs and movies via the Internet.

Why Protect Copyright?

- ❖ Copyright and its related rights are essential to human creativity, by giving creators incentives in the form of recognition and fair economic rewards. Under this system of rights, creators are able to disseminate their works with protection from unauthorized copying or piracy. This in turn helps increase access to and enhances the enjoyment of culture, knowledge and entertainment all over the world.

Copyright Piracy

- ❖ The civil and/or criminal offences of making and distributing copies of copyrighted works such as songs and movies in physical and/or digital formats without permission from the relevant copyright creators/owners. It is the equivalent of theft or stealing.



Impact of Copyright Piracy

- ❖ Such large levels of copyright piracy affects the livelihoods of all the people involved in the creative industries and financially undermines their ability to continuing create new and quality music and movies, ultimately lowering social and cultural development. It also negatively affects the economy in terms of lost jobs and taxes.
- ❖ Illegal file-sharers further hog bandwidth and slow down connection speeds for legitimate broadband users who end up unfairly subsidising the internet usage costs of such copyright free-loaders.

Positive Developments

1. Idea that ISPs have a role in dealing with online piracy now widely accepted
2. Focus now is on “what” they should do, rather than on “if” they should do anything
3. Specific obligations of ISPs being refined and take shape in many countries
4. Graduated response procedure + blocking injunctions available in a number of countries
5. Pending laws in other countries

Measures to Combat Online Piracy

1. P2P

- About half of online music piracy today
- Content not hosted on ISP servers and cannot be taken down
- **Graduated response to address repeat infringement**

2. Hosted Content

- An increasing number of services e.g. Websites and Cyberlockers
- Accounts for an increasingly larger share of overall online piracy
- Migration from P2P to sophisticated hosted-content services
- **Takedown of hosted content**
- **Website blocking**

3. Services offering links to hosted/P2P content

- Blogs/forums
- Search engines
- **Website blocking**

4. Other possible measures to complement graduated response/takedown/blocking:

- **Seizure of domain names**
- **Blocking the source of funding, through payment providers and advertising services**
- **Both in pending bills in the US**

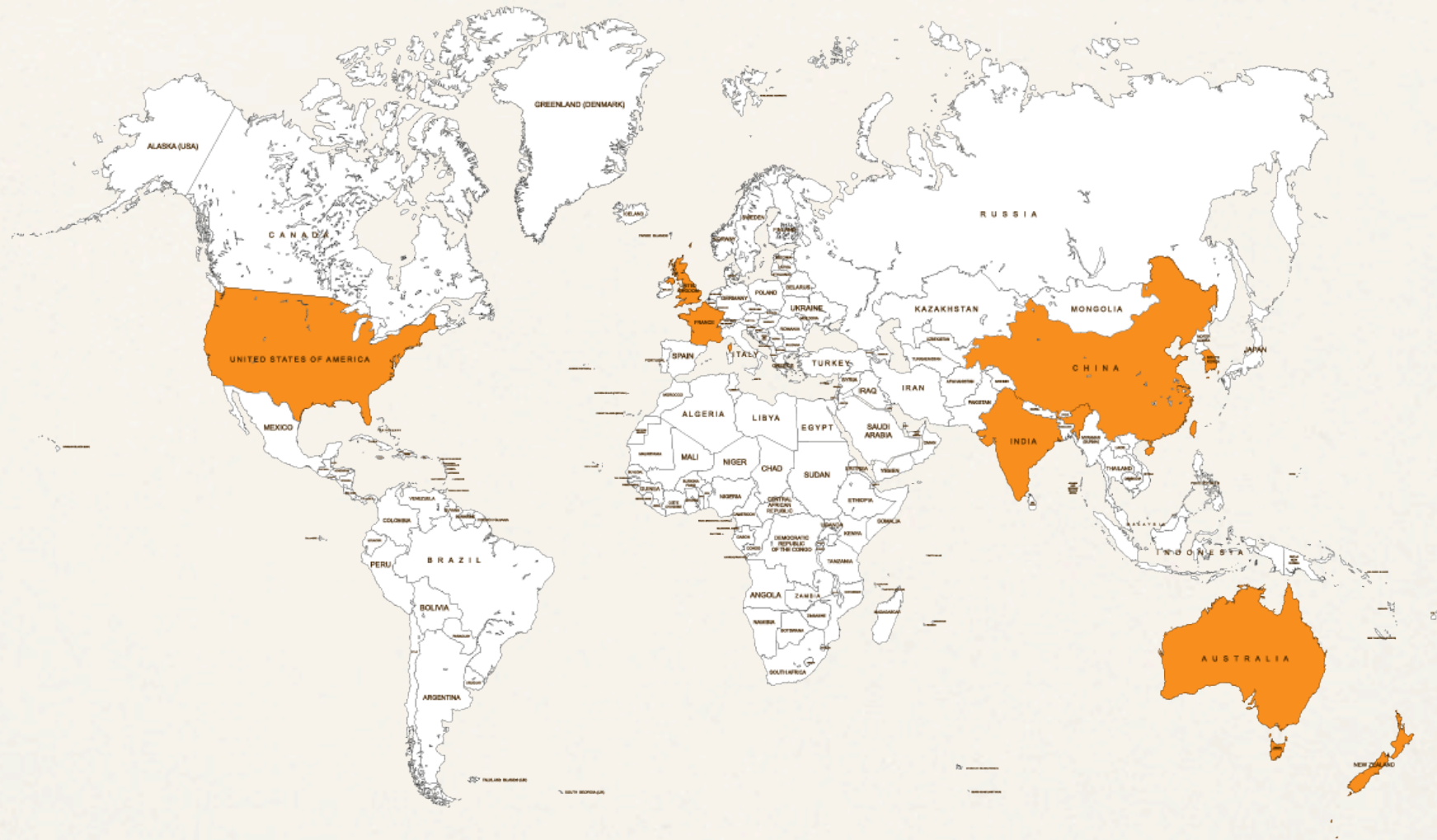
Graduated Response

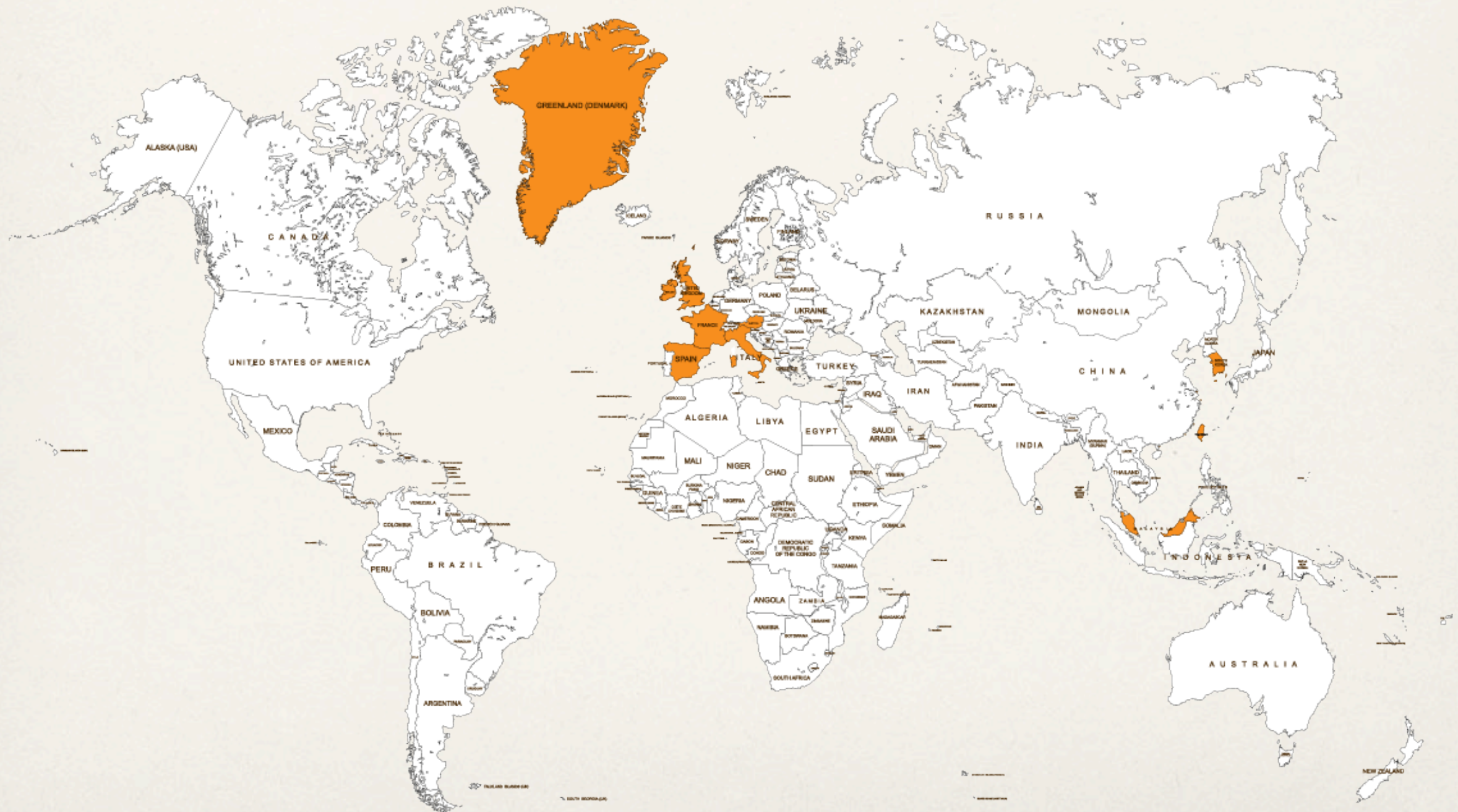
1. Rightholders participate in P2P networks
2. Identify IP addresses making available infringing content
3. Notify relevant ISP and provide evidence of infringement
4. ISP matches IP address to subscriber and sends warning
5. After multiple notices (usually three) if subscriber refuses to stop, deterrent sanction applied

Industry's message:

1. Focus on 'educational aspect': a series of educational warnings, with ultimate deterrent sanction
2. Suspension is easiest and best sanction.
 - Simple solution:
 - i. In ISP contract with subscribers
 - ii. ISPs already suspend accounts for non-payment
 - Not cutting off all internet access for offenders
 - i. Could have partial suspension
 - ii. Temporary and not permanent
 - iii. Ability to access the internet from other accounts

Graduated Response





Arguments - Privacy

- ❖ Attempts to argue to graduated response involved ‘monitoring’ of user activity.

EU: data protection rules used by opponents.

Issue: whether an IP address is ‘personal data’

Our position: this is not an issue because:

- IP address does not identify an individual subscriber, it identifies a computer
- Name of subscriber not disclosed to rightsholders in graduated response procedures
- Information (IP address, and matching with actual account holder) only used internally by the ISP

Argument

- Human Rights & Bills of Guarantee

1. What is illegal offline is also illegal online and Governments should carry out its basic responsibilities to enforce the laws of the country.
2. Human rights do not include the right to steal from others
3. Malaysia's Bills of Guarantee not to censor the Internet does not mean that criminal offenses should be allowed. If they do, it would be equivalent to saying that public access to websites inciting violent terrorism or promoting child pornography should also be permitted.

Law & Order

- A New Era of The Internet

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The Telegraph

Student faces extradition to US over TV website

A British student is facing extradition to the United States and up to five years in jail for running a website that offered links to pirated films and television shows.



Richard O'Dwyer is facing extradition to the United States Photo: CENTRAL

By [Christopher Williams](http://www.telegraph.co.uk/journalists/christopher-williams/) (<http://www.telegraph.co.uk/journalists/christopher-williams/>), and [Andy Bloxham](http://www.telegraph.co.uk/journalists/andybloxham/) (<http://www.telegraph.co.uk/journalists/andybloxham/>)

7:30AM BST 17 Jun 2011

Richard O'Dwyer, 23, a computer science undergraduate at Sheffield Hallam University, is accused of criminal copyright infringement by [US](http://www.telegraph.co.uk/news/worldnews/northamerica/usa/) (<http://www.telegraph.co.uk/news/worldnews/northamerica/usa/>) authorities.

The case comes amid deepening concern over Britain's extradition treaty with the United States, which allows suspects to be handed over without the courts considering the evidence. A Home Office review was started in September in response to the outcry over the attempted extradition of Gary McKinnon, a computer expert with Asperger's syndrome who hacked into Pentagon systems to look for UFO technology.

Mr O'Dwyer appeared at a preliminary hearing at Westminster Magistrates' Court this week. Until last November he ran TVShack, a popular website offering lists of links to other websites that carried unlawful

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Thank You

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