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Amid recent protest, US already able to shut websites

Internet protest was silent in 2008

By **Hiawatha Bray**

Google, Wikipedia, and the millions of Americans who joined last week's protest against giving the government new authority over the Internet may have missed something: Federal agencies already have that kind of power, at least over websites registered in the United States.

Under a 2008 law called the Pro-IP Act, federal authorities can seize the assets of a company charged with copyright violations. The Justice Department exercised that muscle on Thursday, when it shut down one of the Internet's most popular file-sharing sites: Megaupload.com, accused of distributing illegal copies of music, movies, and books.

A company's assets include its Internet address, or domain name. Under the Pro-IP Act, the government can seize that domain name from organizations that violate copyrights as long as the online address ends in .com, .org, or .net. Those addresses are issued by a registry based in the United States and are subject to US law.

The Justice Department used "an authority that was [originally] intended for seizing a drug dealer's cars as a method for shutting down an entire website," said Julian Sanchez, a research fellow at the Cato Institute, a libertarian think tank in Washington.

Sanchez said the same power could be used against other major websites implicated in allegations of data piracy. One potential example: the Swedish site thepiratebay.org, which offers users links for downloading illicit content, and which has a US-registered domain name.

A Justice Department spokeswoman said the agency would not comment on any pending investigations.

Although the Pro-IP Act was a major expansion of the government's power to regulate the Internet, opposition was muted at the time it was passed.

"I think there was generally just less attention to these issues of Internet freedom," Sanchez said.

He said he believes it would be a different story if the law were put up for a vote today. One reason is the fallout from last year's "Arab Spring" protests. Reports that embattled Middle Eastern regimes tried to cut off Internet access within their countries alarmed Americans who wouldn't want their own government to have such power.

"The public was much more sensitized by all of these events," Sanchez said.

Another factor, said Sanchez, was the rise of social networking services like Twitter and Facebook, which are used by twice as many Americans now than in 2008, according to the Pew Internet and American Life Project. The social networks made it much easier to quickly organize opposition to additional Internet regulations, Sanchez said.

Millions of Internet users may have participated in last week's massive online demonstration, in which numerous websites, including Wikipedia, blacked out their pages, while sites like the search service Google posted protest messages.

The action was held in opposition to the Stop Online Privacy Act, under consideration in the House of Representatives, and its Senate counterpart, the Protect Intellectual Property Act. The two bills would force Internet service providers and search engines to block access to foreign websites that offer illicit files.

The furious opposition generated by the protest, which unleashed a flood of calls to congressional offices, prompted congressional supporters to delay indefinitely votes that would move the bills forward.

Critics said the proposed bills would give the government extraordinary power to censor Internet communication, similar to tactics used in authoritarian countries like China and Iran. Yet the 2008 Pro-IP Act already lets the US government shut down websites accused of breaking copyright law, like Megaupload.

Even though Megaupload.com is based in Hong Kong, the company operated hundreds of computer servers on US soil and it had a US-issued .com address. That gave the Justice Department the opening it needed to crack down on the company.

According to the federal indictment, Megaupload and seven of its executives raked in \$175 million by distributing illegally copied digital files, costing copyright holders more than half a billion dollars in lost revenues.

“They structured their business model to attract and profit from illegal activities,” said Kevin Suh, senior vice president of Internet content protection at the Hollywood trade group Motion Picture Association of America in Sherman Oaks, Calif., a proponent of the bills targeted by the Web protest.

“If this service were hosted and operated, for example, in a foreign country, our government would be essentially powerless to do anything about it,” said Cary Sherman, chief executive of the Recording Industry Association of America, also a supporter of the two bills, in a statement celebrating the Megaupload shutdown. “That needs to change.”

There are many Internet domain name registries based outside the US. The world’s nations each have their own domains - .ru for Russia, for example. American agencies have no legal authority to confiscate a .ru domain name.

The protested bills would have let the government order American Internet companies to block US users’ access to foreign sites offering illegal materials. Because so many major file-swapping sites are based outside the United States, the recording and movie industries strongly supported the legislation.

But Cato’s Sanchez argued that the Pro-IP Act already gives the government too much power. Megaupload is probably in violation of US copyright laws, he said, but closing the site before it’s been found guilty in court sets an unhealthy precedent.

“Our constitutional tradition has always rejected the idea of shutting down speech before someone is convicted of a crime,” Sanchez said.