



BRADLEY BUCKLES
EXECUTIVE VICE PRESIDENT, ANTI-PIRACY

June 2, 2016

VIA E-MAIL

[REDACTED]

Elizabeth Finberg
General Counsel, Public Interest Registry

[REDACTED]

Re: www.thepiratebay.org

Dear Ms. Finberg:

It has come to our attention that the notorious site The Pirate Bay, has returned to www.thepiratebay.org. As you know, the operators of The Pirate Bay were found criminally liable in Sweden on April 17, 2009 for copyright infringement occurring via this service, and that decision of liability was upheld by the Svea appeals court on November 26, 2010, and by the European Court of Human Rights on February 29, 2013.

In addition, several courts in Europe and in other jurisdictions have similarly found the service liable for copyright infringement, and issued orders to intermediaries to have The Pirate Bay blocked within their borders. These orders include, without limitation, the following:

- Italy, Supreme Court, 29 September 2009, 49437/09
- Denmark, Supreme Court, 27 May 2010, 153/2009
- Malaysia, Criminal Court, 16 June 2011
- Belgium, Court of Appeal Antwerp, 26 September 2011, 3399
- United Kingdom, High Court London, 13 June 2012, HC11C04518
- Finland, Court of Appeal Helsinki, 15 June 2012, 1687
- Ireland, High Court Dublin, 12 June 2013, 225 COM
- Germany, Landgericht Hamburg, 6 May 2010, 310 O 154/10

With respect to the U.S, please remember that the infringing nature of The Pirate Bay has been noted in each of the Notorious Market Reports issued by the USTR for the past several years. Per the Google copyright transparency report, over 400,000 infringements have been

identified on www.thepiratebay.org, with over 50,000 since The Pirate Bay moved back to its .org domain. This is in addition to the over 3,000,000 infringements identified on its previous alter ego, www.thepiratebay.se. It is well known that The Pirate Bay does not take action in response to notices. In addition, there have been numerous reports recently of malware and other abuse occurring via The Pirate Bay at its various domains.¹

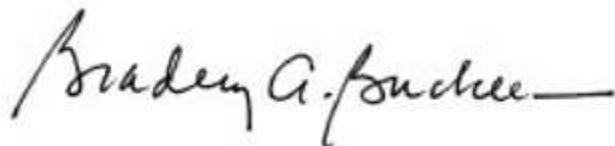
It seems to us that the clearly criminal, infringing, and abusive nature of The Pirate Bay is inconsistent with .org's stated intent for the .org domain to "communicate trust, credibility and community interest," and PIR's commitment to "do the right thing, even when it is unpopular." When, as in this case, there is overwhelming evidence of infringing and abusive activity on a domain, along with court orders from several jurisdictions with well-developed copyright jurisprudence, it cannot be the "right thing" or "in the community interest" to hold out for those decisions to be processed before the U.S. courts before taking action.

In addition, we note that the activities at this domain violate .org's Anti-Abuse policy, which prohibits use of the domain for illegal or fraudulent activity. Finally, we note that .org has reserved for itself the right to suspend or terminate a domain engaged in illegal or fraudulent activity. In light of this, where there is undisputed evidence of wrongdoing and PIR has the means to take action within its terms of service, we ask PIR to reconsider whether it wants its services to continue to be criminally exploited by The Pirate Bay.

If you need more information about the illegal, fraudulent or abusive behavior occurring via thepiratebay.org or have any questions, please don't hesitate to contact us.

Regards,

THE RECORDING INDUSTRY ASSOCIATION OF AMERICA

A handwritten signature in black ink that reads "Bradley A. Buckles" followed by a horizontal line.

By: Bradley Buckles
Executive Vice President, Anti-Piracy

¹ See, e.g., <https://blog.malwarebytes.org/threat-analysis/exploits-threat-analysis/2016/04/malvertising-on-the-pirate-bay-drops-ransomware/>;
<http://en.yibada.com/articles/122786/20160511/the-pirate-bay.htm>;
<http://www.ibtimes.com/torrent-sites-pirate-bay-expose-12-million-computers-malware-every-month-study-2218672>