



Joseph, the toymaker, has asked the police to identify the culprit making 'dreadful images' of his toy, portraying it in violent situations. However, as Joseph tells Holmes, he has been told by the police that 'these anonymous street artists are almost impossible to track down'.

In the video, this sentiment is visualised by numerous copies of the Guy Fawkes mask, from the graphic novel *V for Vendetta* written by Alan Moore and illustrated by David Lloyd. Moore and Lloyd appropriated the legacy, myth and image of Fawkes for their story. In turn, their own Fawkes mask was subsequently co-opted by the hacktivist group Anonymous and has become an icon of protest movements around the world. (Anonymous, among other things, are known for their virtual attacks on media conglomerates and copyright industry organisations.)

This Case File #4 considers the often problematic relationship between copyright and digital technology, as well as how copyright law is enforced in the online world.

## UNLAWFUL USE OF COPYRIGHT MATERIAL ONLINE

Copyright law and policy has a close relationship with the advancement of new technology. Recent developments in online technologies have had a significant effect on the copyright landscape, bringing benefits and challenges for creators, copyright owners and the public.

Technology provides new opportunities for the production and spread of knowledge by creating new ways to innovate. Whether people are recording music in their bedroom or creating video mash-ups to post online, it is now cheaper and easier than ever before to make new work which, in turn, can encourage people to be more creative. New technologies have also made it much easier and cheaper for creators and copyright owners to make their work available online to a global audience. And, digital technologies can be used to help safeguard copyright work, for example, by using tools that notify the owner when their work has been uploaded online without permission.



On the other hand it is now also easier to access, copy and share copyright protected material unlawfully, and this has caused considerable difficulties for copyright owners. If creators cannot rely on their copyright to benefit financially from their creations, they may decide not to create any work at all which could have a negative impact on the development and spread of knowledge and culture in general.

## BLOCKING INJUNCTIONS

One way that creators and rightsholders have tried to overcome the challenge of online copyright infringement in the UK is to ask courts to grant an order to block a website that provides access to unlawful material.

To do this, copyright owners apply to the court for an injunction against Internet Service Providers. If the injunction is granted the Internet Service Provider must take technical steps to block access to the infringing website which means their customers will not be able to access that particular website.

Website blocking is becoming more and more common. However, it is considered by some to be a controversial measure. Some people believe that this type of copyright enforcement is too strong and interferes with people's fundamental rights, such as free speech and the freedom to access and distribute information.

It is also unclear how effective website blocking is as a long term solution because users often can easily bypass the block or find the material they are looking for on other illicit websites. In addition, the process of securing an injunction takes time and this gives website operators the opportunity to change the location of the website long before any injunction comes into force.

## THE CASE: Dramatico Entertainment v British Sky Broadcasting [2012] EWHC 268

This case concerned a well-known website called The Pirate Bay. This website provided links to infringing content, much in the same way that a search engine does to legal content.

The Pirate Bay argued that they were not infringing copyright because they did not actually host any illegal content on their website. However, the Court decided that as they were providing links to illegal content they were facilitating infringement. As a result, the court ordered five leading British Internet Service Providers (ISPs) to take steps to prevent their users from accessing The Pirate Bay website.

This did not stop users from accessing The Pirate Bay site, however. Indeed, The Pirate Bay claimed that it received **12 million more visitors** on the day after the court order came into effect than it had received before the ISPs took steps to block access to their site. This demonstrates the limitations that legal and technological mechanisms alone can achieve in trying to overcome the challenge of online infringement.



**FOR DISCUSSION:  
ENFORCE, ENGAGE, ENABLE**

The case above demonstrates some of the tensions between copyright and technology. New innovation does not always promote compliance with copyright, and using technological enforcement measures to protect work is not always effective.

Recently, though, some creators and copyright industries have been developing new ways to continue to benefit from copyright works while also making these works more easily accessible to their customers online.

Can you think of any examples of innovative ways of rewarding creators while satisfying customer expectations for quick and easy access to copyright works?

**USEFUL REFERENCES**

Dramatico Entertainment Ltd and Others v British Sky Broadcasting Ltd and Others [2012] EWHC 268 (CH) is available here:  
<http://www.bailii.org/ew/cases/EWHC/Ch/2012/268.html>

For a list of websites that have been blocked in the UK by court orders to protect the interests of copyright owners, see: [www.ukiscourtorders.co.uk](http://www.ukiscourtorders.co.uk)