

Odex case – a summary essay



Introduction Odex is a Singapore-based company that licenses and releases anime for local and regional (Southeast Asian) consumption. It was registered in 1998, for the purpose of licensing and importing overseas drama and animation into Singapore, which it began distributing in 2000 (Wikimedia Foundation, Inc. , 2008) . In 2007, Odex caused uproar among anime fans, when it decided to crack down on illegal anime downloading .

Anime is animation originating from Japan which has recently become widely popular among the non-japanese speaking population in Asia. Prior to the 1990s, anime had limited exposure beyond Japan's borders. However, the Internet has played a significant role in the exposure of anime beyond Japan . Since May 2007, Odex, has sent out letters to alleged downloaders demanding settlement sums of S\$3, 000 to S\$5, 000 . ODEX obtained records from ISPs in order to detect and track down local internet users who used their accounts to download anime illegally.

Adopting the RIAA style lawsuits as implemented by the US recording industry to track down illegal file sharing/ downloading, ODEX hired a US-based company, BayTSP to track down the IP addresses of the illegal downloaders who used BitTorrent in Singapore (MIRANDAH, 2005) . Odex vs Singnet Odex won court orders in early 2007 to get SingNet to disclose names of subscribers allegedly downloading anime. In May, Odex went after SingNet subscribers accusing them of illegally downloading anime. Anyone who received the letter by registered mail could contact the company for an out-of-court settlement within a week, or Odex would proceed to sue.

In addition, the downloaders were also made to sign a non-disclosure agreement that he or she would destroy all copies of the downloaded anime and not continue any further downloading. **Odex vs Starhub** In Aug 2007, the a Subordinate Court ordered StarHub to disclose the identity of about 1, 000 of its subscribers accused of illegally downloading anime. StarHub had initially resisted the company's efforts to get its customer data, said a spokesman for the telco, as it had " an obligation to protect our customers' information. " But it now had no choice but to comply with the court order, as Odex had " satisfied the court of its need for the information. " **Odex vs PacNet** On 23 August 2007, the Subordinate Court denied Odex's appeal for PacNet to release its subscriber's IP addresses.

The court ruled that Odex had to prove an " extremely strong prima facie case", as Pacnet owed its subscribers a duty of confidentiality under the Telecommunications Competition Code, and hence the court would not grant the order unless Odex could satisfy that burden of proof. Based on the evidence provided to the court, Odex failed to prove such an " extremely strong prima facie case". Therefore, Odex failed in its application. In contrast to the SingNet and Starhub cases, the judge noted that ' for the SingNet case, the orders were made by consent'. This meant that Singnet had consented to Odex's application for the court order and so there were no arguments before the court.

The judge also noted that Starhub had resisted the application, but their lawyers did not make the same arguments that Pacnet's lawyers did, so presumably the court hearing Starhub's case did not consider those issues. On 3 January 2008, Odex filed an appeal to the High Court for the case to be <https://assignbuster.com/odex-case-a-summary-essay/>

reheard. Aftermath and Repercussions Odex There was a public relations backlash against Odex. The company's crackdown led to a public outcry, including death threats against director Stephen Sing, an anti-Odex T-shirt campaign, and an online flaming war . Many felt that Odex was being unfair in not sending any warnings and heavy-handed in targeting teenagers . They were also incensed when company director Sing made comments on an online forum ' gloating' over his company's actions .

Some also expressed their opinion that Odex products were of low quality and overpriced. Odex has tried to repair its image by organizing a press conference in which they defended their action against illegal downloaders as a form of enforcement against piracy rather than for profit. They said an independent auditor would look over all the company's accounts on its collections and the costs of its enforcement to make sure they were above board. After deducting the enforcement costs, the remainder, if any, would go to charity . They also added that no one was forced to pay beyond his/her means .

In a later announcement, Sing also stated that Odex would cease to take action against illegal downloaders if they stopped immediately . However as public relations veteran Rick Clements, head of Rick Clements and Associates, noted, " Although Odex has offered explanations and clarifications, it is now a damage limitation exercise. " Odex has launched a new website and video-on-demand service, however it seems the consequences of their actions continue to haunt them (see Latest Developments below). SingTel As a result of District Judge Ernest Lau releasing his 14-page written judgement on the PacNet case in an extremely

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rare legal move, several Netizens expressed anger over SingNet's seemingly ready compliance with Odex's requests for its users' IP addresses.

Judge Lau noted that ' for the SingNet case, the orders were made by consent'. A lawyer familiar with such proceedings said that meant during the run-up to the hearing, SingNet had written to Odex to ' consent' to its request. Judge Lau also noted that SingNets' lawyers did not attend the hearing . Many people, including corporate counsel and Nominated Member of Parliament Siew Kum Hong, interpreted this to mean that SingNet had agreed to Odex's application, thus expediting it. Online users thus felt SingNet had betrayed them, and this probably fuelled the online outrage against the ISP, said Mr Siew. SingNet has since clarified that it did not ' consent' nor help Odex's application in any way.

SingNet spokesman Chia Boon Chong said, ' We reject all requests from third parties for information pertaining to our customers. We will release such information only under a court order or if the law enforcement and regulatory agencies demand such information from us. ' In Odex's case, as it does in all such cases, he said, the firm would ' entrust the courts to apply the law and make a ruling'. The Telecommunications Competition Code prohibits ISPs from disclosing subscriber information without a court order, and a spokesman for the Infocomm Development Authority said SingNet had not breached the code .

However whether this has appeased the online community remains uncertain . Illegal downloaders Although Singaporeans may now be more wary of BitTorrent anime downloads, many other forms of downloading such

as HTTP, FTP, IRC, video streaming etc. are not as affected as they are not as easily tracked. Hence whether there will be a measurable reduction in illegal downloads is still uncertain. Also, as the High Court ruled, it should not be the ' sub-licensee' (Odex) that takes action against infringers, but the relevant copyright holders instead. However it remains to be seen what form of action they will take.

(See Latest Developments below). Latest developments On November 21, 2007, Odex's website was defaced by an unknown hacker. After breaking into the site, the perpetrator put up a note urging a boycott of the anime distributor's products, suggesting ways to continue downloading anime without getting found out. He also urged readers to ' trust' his allegations that the controversial company was ' bad and evil'. The company has since taken down the site and made a police report.

Users on sites like HardwareZone, sgCafe and Xedo Defense cheered the news that the site had been hacked, perhaps an indication that the company has a long way to go in repairing its public image . On January 29, 2008, a High Court judge in Singapore ruled that Odex was not the right party to make the court application. Instead, Pacnet would have to turn over its subscriber records to the Japanese copyright holders, not Odex. The six Japanese anime distributors that joined the case were Sunrise, Kadokawa Pictures, GDH, TV Tokyo MediaNet, Yomiuri Telecasting and Showgate.

Odex was also made to pay the legal costs of the appeal (S\$20, 000) to PacNet . It now remains to be seen Japanese studios would use the information, and in particular whether they would disclose it to Odex for

further action. Regardless, the ruling has shown Singapore's stance on the issue - that ' the right to privacy is no shield for those who commit online piracy. This is in contrast to an EU court ruling on the same day which upheld Spanish Internet provider's refusal to reveal the identity of customers sharing music downloads. The protection of authors' rights " cannot ..

. affect the requirements of the protection of personal data," the Luxembourg-based European Court of Justice (ECJ) said in its ruling. European copyright laws " do not require the (EU) member states to lay down, in order to ensure effective protection of copyright, an obligation to communicate personal data in the context of civil proceedings," the court said . On 7 February 2008, a senior manager from StarHub confirmed that StarHub had not yet released any customer information to Odex. He declared that the company took a serious view of the obligation to safeguard customers' confidentiality. However, the Court had assessed the merits of Odex's application and had made a ruling that Odex was entitled to the discovery of the information.

Given the High Court's decision on Odex's appeal (against PacNet) the previous week, the company would continue to review its rights with regard to Odex's request for information . Works Cited Singapore Press Holdings Ltd. Co. .

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