

Direitos Autorais na Era dos Conteúdos Eletrônicos

Marcelo Goyanes

murta
goyanes

Era uma vez...

1970 – ARPA (Advanced Research Projects Agency Network)

1975 – Primeiro computador pessoal

1983 - O Homem do Ano da TIME:



1985 – Estabelecido o sistema de nomes de domínio; FAPESP se conecta à Internet

1992 – Internet Society, órgão internacional de administração da Internet

1994 – Netscape Navigator

1995 – Sun Microsystems lança a linguagem JAVA; e a Microsoft, o Internet Explorer

1995 – 20 estados brasileiros conectados; Comitê Gestor Internet Brasil

A partir de 1995 - massificação do uso da Internet no mundo...

Questões recorrentes na ocasião:

- Internet é um território livre?
- Novas leis são necessárias?

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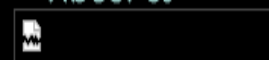
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Now you will occasionally get the message "Corruption found in *filename* at *X*". This is ok. That part of the download will be removed and the download will continue. -Swamp

Testing... :: 1.24.01

I just posted a test version that I hope will fix the problem with all the corrupt files floating around. I'm now checking every 9.5MB of a file to make sure it is correct rather than the whole thing. So problems should be detected sooner and your whole download wont be ruined by a few bad bytes.

I had to change things enough to where old downloads wont be able to be continued with the new version. This is actually good since it will remove all the corrupted files that are out there now from the system. The test version will probably be up for a few days and then I will make it official. So you have until probably Friday night to finish your current downloads. -Swamp

Donkey needs Hay :: 1.18.01

Well I'm starting to run out of money so this means I've either got to get a job or find some investors. If anyone out there has some money they want to put into the next big peer to peer file sharing service, let me know.

Corrupted Downloads: I've been getting a lot of reports of large files being corrupted. I'm pretty sure this is due to bugs in previous versions that caused some partial files to be corrupted and because people are corrupting their own partial files by viewing them before they are done. Because of the way the donkey works any corrupted partial file will be spread



2000

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... e a explosão da Web 2.0

blogspot

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How does it work?

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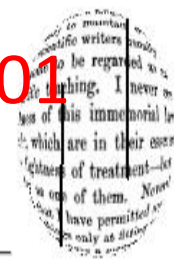
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What is Skype?

Skype is the next phenomenon from the people who brought you KaZaA. Just like KaZaA, Skype uses P2P (peer-to-peer) technology to connect you to other users – not to share files this time, but to talk for free with your friends.

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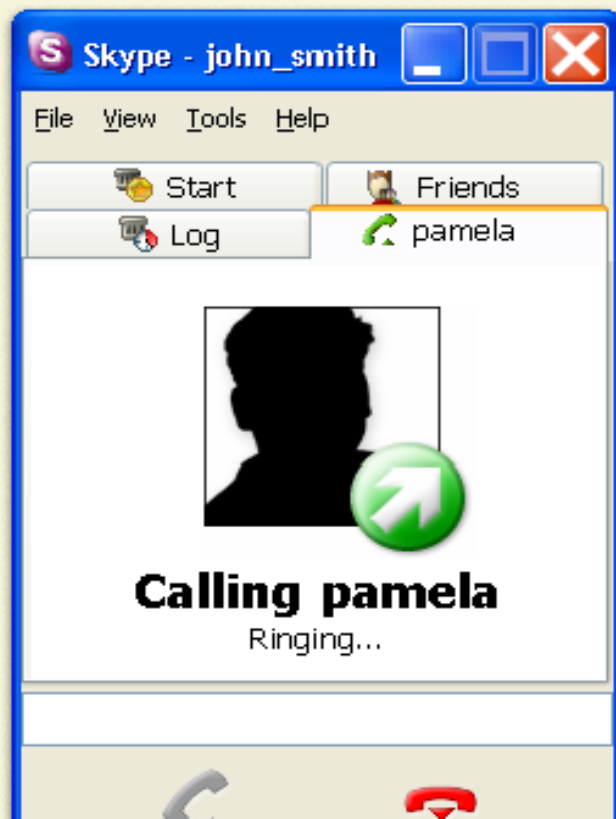
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Skype Beta Launched

Oct 22, 2003 - Fireworks to Celebrate





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- Função social do direito autoral?
- Necessidade de novas leis?

Sistema internacional de direitos autorais:

- Autorização necessária para reprodução e comunicação ao público (Berna, TRIPS e WCT)
- Digitalização é forma de reprodução (WCT)
- Limitações: *casos especiais; que não conflitem com a exploração normal da obra; e não cause prejuízo injustificado ao autor* (Berna)
- Direitos morais: integridade e paternidade em Berna. TRIPS não inclui

Algumas decisões judiciais relevantes:

1984: Sony Corp. of America v. Universal City Studios (*avanço tecnológico incentivado se capaz de usos lícitos substanciais*)

2000: UMG Recordings v. MP3.com, Inc. (*viola direito autoral quem distribui música sem autorização*)

2001: A&M Records v. Napster (P2P)
(contribuição e vicarious liability)

2001: New York Times v. Tasini
(republicação de textos em jornal eletrônico não autorizada)

2002: Kelly v. Arriba Soft Corporation
(thumbnails permitidos em buscadores)

2004: CoStar Group v. LoopNet *(UGC não responsável por fotografias postadas por usuários. DMCA)*

2005: MGM Studios, Inc. v. Grokster, Ltd.
(indução à infração)

2006: Perfect 10 v. Google Inc (*thumbnails permitidos em buscadores*)

2006: Field v. Google, Inc. (*website cached/ cópia disponível em buscador permitida*)

2007: Viacom International, Inc. v. YouTube, Inc. (*conteúdo não autorizado disponibilizado no YouTube – pending*)

2010: Arista Records LLC v. Lime Group LLC
(LimeWire)

2010: Twentieth Century Fox Film Corporation & Anor v. Newzbin Ltd *(Newzbin I. Indexação de conteúdo. Sistema similar a torrent, mesmo sem reprodução, viola o direito de autorização da lei inglesa)*

2011: Twentieth Century Fox Film Corp. et. al. v. British Telecommunication PLC *(Newzbin II. Bloqueio de acesso ao site aos usuários)*

2011: Anderson Cardoso Rubin v. Instituto Evariste Galois (*Apostila disponibilizada sem autorização no site do réu. Violação caracterizada.* REsp 1.201.340; Rel. Ministra Maria Isabel Gallotti)

2012: Google Brasil Internet Ltda v Eduardo Bresolin (*Texto ofensivo ao autor. Responsabilidade subjetiva; danos ocorridos por conteúdo de terceiros não é risco inerente à atividade de provedores. Incidência do CDC. Inércia do réu após notificação.* Resp 1.308.830; Rel. Ministra Nancy Andrighi)

2012: Mauro Sergio Pereira de Assis v. Google Brasil Internet Ltda. *(Utilização ofensiva da imagem do autor no Orkut. Responsabilidade do réu não caracterizada. Responsabilidade subjetiva; danos ocorridos por conteúdo de terceiros não é risco inerente à atividade de provedores de internet. Resp 1.306.066; Rel. Ministra Nancy Andrighi)*

2012: Grasielle Salme Leal v. Google Brasil Internet Ltda. *(Texto ofensivo à autora. Incidência do CDC. Responsabilidade caracterizada pela inércia do réu após ser notificado da suposta violação. Estabelecimento de prazo de 24 horas para retirada do conteúdo, após ser informado da suposta violação. Resp 1.323.754; Rel. Ministra Nancy Andrighi)*

GUERRA DOS DIREITOS AUTORAIS



- Titulares x Provedores x Usuários
- *Three strikes laws*: suspensão e bloqueio de usuários à Internet (HADOPI - França 2009; Digital Economy Act – UK 2010)
- SOPA, PIPA, ACTA

Privacy?



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2007

Your concept looks terrific and I wish you the best of luck with it. -- [Daniel Ellsberg](#) (2007)

Wikileaks is developing an uncensorable Wikipedia for untraceable mass document leaking and analysis. Our primary interests are oppressive regimes in Asia, the former Soviet bloc, Sub-Saharan Africa and the Middle East, but we also expect to be of assistance to those in the west who wish to reveal unethical behavior in their own governments and corporations. We aim for maximum political impact; this means our interface is identical to Wikipedia and usable by non-technical people. We have received over 1.2 million documents so far from dissident communities and anonymous sources.

We believe that transparency in government activities leads to reduced corruption, better government and stronger democracies. Many governments would benefit from increased scrutiny by the world community, as well as their own people. We believe this scrutiny requires information. Historically that information has been costly - in terms of human life and human rights. Wikileaks will facilitate safety in the ethical leaking movement.

Wikileaks opens leaked documents up to a much more exacting scrutiny than any media organization or intelligence agency could provide. Wikileaks will provide a forum for the entire global community to examine any document for credibility, plausibility, veracity and falsifiability. They will be able to interpret documents and explain their relevance to the public. If a document comes from the Chinese government, the entire Chinese dissident community can freely scrutinize and discuss it; if a document arrives from Iran, the entire Farsi community can analyze it and put it in context. Our first **sample analysis** is available from the [news page](#), providing a look into the future of what Wikileaks can provide.

In its landmark ruling on the Pentagon Papers, the US Supreme Court ruled that "only a free and unrestrained press can effectively expose deception in government." We agree.

The ruling stated that "paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell."

We believe that it is not only the people of one country that keep their government honest, but also the people of other countries who are watching that government. That is why the time has come for an anonymous global avenue for disseminating documents the public should see.

[Volunteer to help](#). Almost everyone can be of some assistance. See the [FAQ](#) for further details.

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"Three things can not hide
for long: the Moon, the
Sun and the Truth" --
Siddhartha

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Wikileaks has received documents up to 1000 pages long, some containing sensitive information. We are currently working on a way to make the documents available to the public in a way that is secure and anonymous. We are currently working on a way to make the documents available to the public in a way that is secure and anonymous. We are currently working on a way to make the documents available to the public in a way that is secure and anonymous.

In its latest leak, Wikileaks has revealed the Pentagon's secret plan to use unmanned aircraft to attack Iran, the latest in a series of leaks from Wikileaks. The Pentagon's secret plan to use unmanned aircraft to attack Iran, the latest in a series of leaks from Wikileaks.

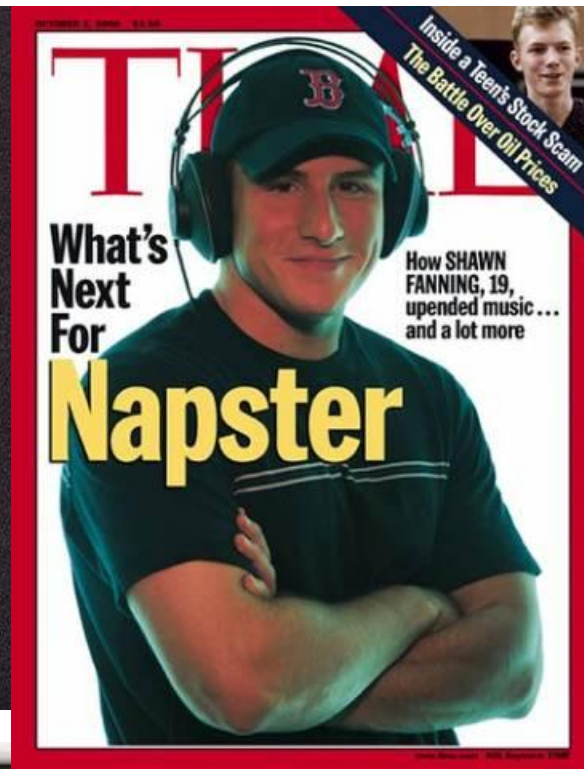
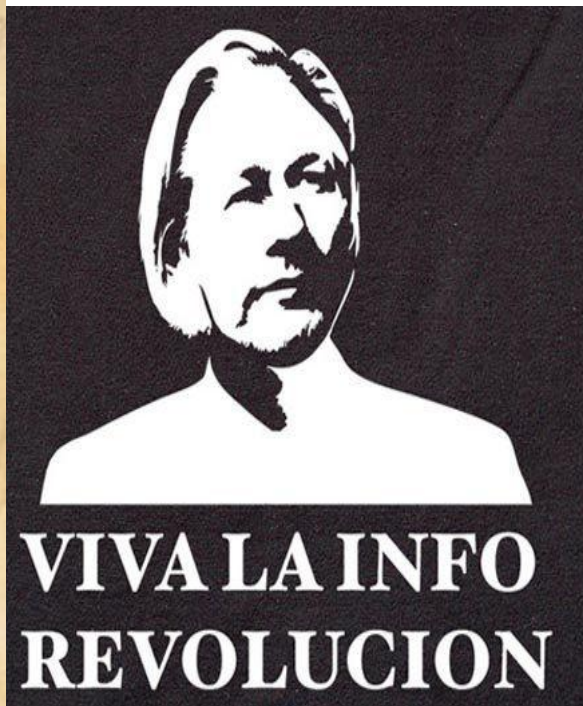
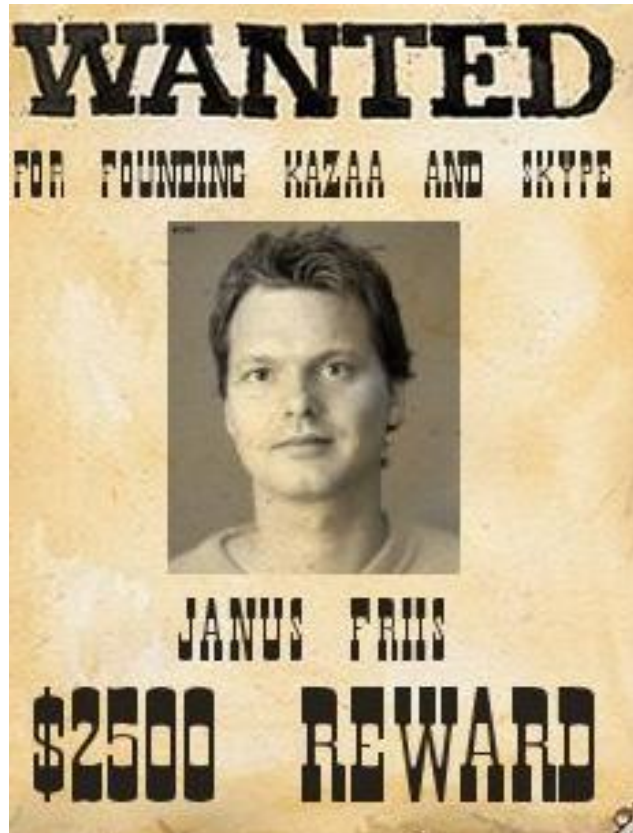
The ruling elite of the government of Iran, the latest in a series of leaks from Wikileaks. The ruling elite of the government of Iran, the latest in a series of leaks from Wikileaks.

We believe that it is not only the people of one country that keep their government honest, but the people of other countries who are watching that government. That is why the time has come when the people should see the documents the public should see.

[Volunteer to help.](#) Almost everyone can be of some assistance. See the [FAQ](#) for further information.

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"The government can not hide the Moon, the Truth" —






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This domain name associated with the website Megaupload.com has been seized pursuant to an order issued by a U.S. District Court.

A federal grand jury has indicted several individuals and entities allegedly involved in the operation of Megaupload.com and related websites charging them with the following federal crimes:

Conspiracy to Commit Racketeering (18 U.S.C. § 1962(d)), Conspiracy to Commit Copyright Infringement (18 U.S.C. § 371), Conspiracy to Commit Money Laundering (18 U.S.C. § 1956(h)), and Criminal Copyright Infringement (18 U.S.C. §§ 2, 2319; 17 U.S.C. § 506).

RIAA Sues Stroke Victim in Michigan



By [Chris V. Thangham](#)

Mar 14, 2007 in [Crime](#)

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RIAA sues a paralyzed man for copyright infringement, who is dependent on disability checks

The RIAA has now brought suit against a stroke victim in Michigan in Warner v. Paladuk: [Summons in Warner v. Paladuk](#)

The defendant John Paladuk, is an employee of C&N Railroad for 36 years and was living in Florida at the time of alleged copyright infringement. He notified RIAA that he did not engage in any copyright infringement. He suffered a stroke last year, which resulted in complete paralysis of his entire left side and has impaired his speech severely, rendering him disabled.

Paladuk is collecting disability checks from the Government. RIAA know all of these facts about the defendant John Paladuk, yet RIAA has commenced a suit against him recently on February 27, 2007.

The Summons as shown below requires John Paladuk to respond within the next 20 days to the Plaintiff's attorney and answer their questions. Failure will lead to a judgement by default against Paladuk for the relief amount demanded by the complaint.



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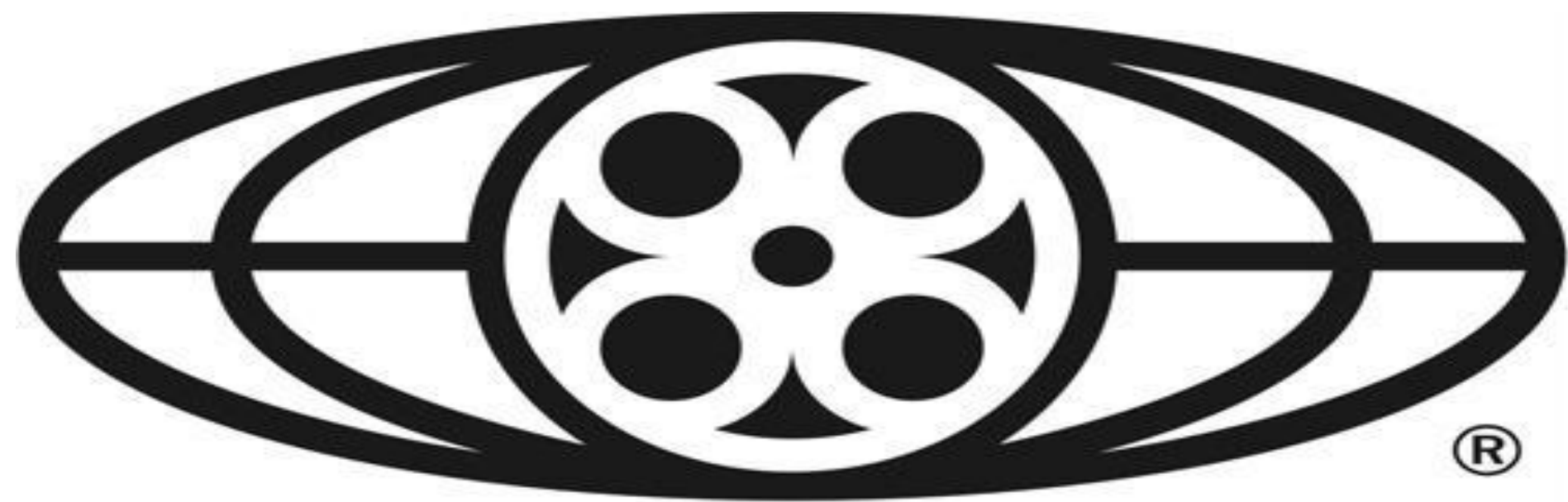
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RIAA

Victimising students across America



MUST PUNISH ALL ARTISTS



BREVES CONSIDERAÇÕES FINAIS:

- Quem deve suportar o ônus de fiscalizar a violação de direitos autorais na rede?
- Qual o papel dos provedores?
- Qual o papel do cidadão diante de lojas saqueadas?

COLABORAÇÃO DOS PROVEDORES:

- Formulários amigáveis de *notice and take down*;
- Remover conteúdo impugnado imediatamente;
- Educar o usuário - proteção da PI;
- Banir acesso a infratores contumazes;
- Cooperar com titulares e autoridades

REFORMA LEGISLATIVA MESMO NECESSÁRIA?

- Sistema internacional de direitos autorais ultrapassado?
- Marco Civil da Internet (princípios, garantias, direitos e deveres para o uso da Internet): SEQUER CONTÉM A EXPRESSÃO DIREITO DA PROPRIEDADE INTELECTUAL!
- LDA: sempre precisou de ajustes
- CC Direitos da Personalidade: idem



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copyright claim

Sorry about that.

Obrigado!

Marcelo Goyanes
marcelo.goyanes@murtagoyanes.com.br

murta
goyanes