

Bolivia succeeds in the fight against online piracy: shutdown of a network of sites pirating movies and series.

Context

The consumption of digital content has grown at great speed as a result of the constant development of new technologies. As a result, it has allowed a faster and more efficient access to information and content that is being generated and transformed minute by minute.



This phenomenon becomes perfectly visible in the access to movies and series through streaming sites and/or platforms. Currently, watching a movie or series is as easy as having a smart device and subscribing to a platform such as Netflix, Amazon Prime, among others. It is not necessary to be in front of a TV or at the moment the events are happening; it is simply necessary to have the right technology to enjoy at the time and where the consumer wants.

Notwithstanding this, the existence of a parallel illegal reality is no exception to these facts. Pirated movie and series sites are becoming increasingly common and represent one of the main threats to the intellectual and industrial property rights of content creators. As a result, there are already several countries in Latin America that have targeted and implemented measures against these sites, and Bolivia has not been the exception.

Case: Network of pirate sites operated from Bolivia

In September 2020, it was found the existence of a **network of pirate websites dedicated to the unauthorized public distribution of movies and series**, thus infringing the copyrights and related rights of the copyright holder companies.

These sites were **operated by two individuals domiciled in the Plurinational State of Bolivia** and were ranked among the top 100 most visited sites in Mexico and as the 529th and 1,119th most visited sites in the world.

The movies and series were uploaded by their administrators to well-known cyberlockers (cloud servers) so that users could access the streaming multimedia content without having to download it to their devices and/or use special programs to do so.

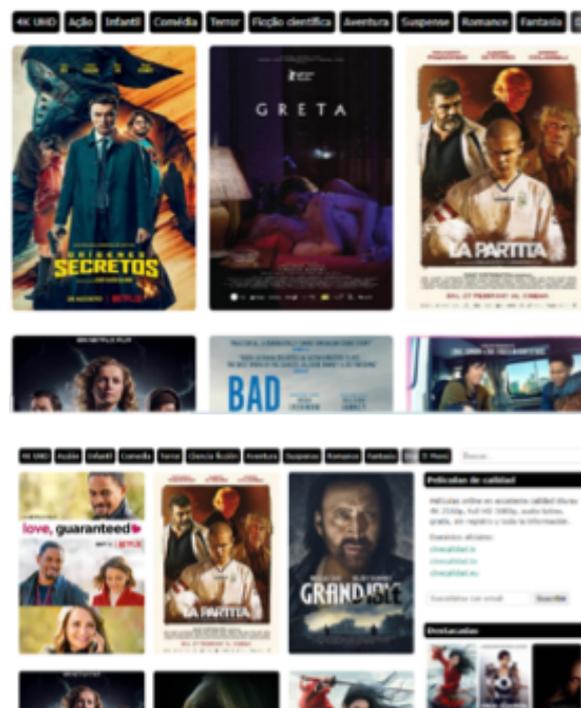
Internet users simply had to access them from any smart device and they could immediately enjoy a wide and organized library of movies and series, available in Spanish, English and Portuguese, completely free of charge.

The administrators' **profit** was generated from the advertisements that appeared within the sites. In order for the user to access the pirated content, he or she had to view and click on pop-up ads in new browser windows or in the same browser window, thus, the greater the number of users, the greater the amount of revenue generated by the pirated content.

Infringement and legal grounds

The concerned pirate websites committed the crime against **intellectual property**, prescribed by Article 362 of the Criminal Code.

This article punishes with imprisonment from three months to two years and a fine of sixty days, to whoever, for profit, to the detriment of others, **publishes** on screen all or part of a cinematographic work and **distributes** the same without the authorization of the respective holders of the rights. Film production companies are the only holders of copyrights and related rights that may publicly broadcast works, thus,



The monetization of the sites was estimated at between US\$27,843 and US\$114,000 per year, according to information obtained from marginhound.com

Article 362 - Criminal Code (Crimes against Intellectual Property): *Whoever, for profit, to the detriment of others, reproduces, plagiarizes, distributes, publishes on screen or television, totally or partially, a literary, artistic, musical, scientific, television or cinematographic work, or its transformation, interpretation, artistic performance through any media without the authorization of the holders of the intellectual property rights or their licensees or imports, exports or stores copies of such works, without the referred authorization, shall be punished with imprisonment from three months to two years and a fine of sixty days.*

when a third party uses technological means to “pirate” these works and make them available for free on the Internet, the damage they cause to the owners grows to immeasurable levels.

Likewise, based on the investigation performed it was identified the commitment of a **crime of Criminal Organization**, pursuant to article 132 Bis of the Criminal Code. There were elements indicating the existence of a criminal organization formed by two Bolivian nationals and a foreigner, who with the purpose of obtaining illicit profits dedicated to committing active crimes (in this case crimes against intellectual property) within the international scope.

This type of operations attempts to circumvent the authorities of all the countries where their members reside, since they are in constant communication and directed by an organizational logic whose profits are not reported or declared to the relevant authorities precisely because they come from a criminal origin.

Article 132 Bis - Criminal Code (Criminal Organization): *Whoever is part of an association of three (3) or more individuals organized in a permanent manner, under rules of discipline or control, intended to commit the following crimes: genocide, destruction or deterioration of State property and national wealth, abduction of a minor or incapable person, trafficking of migrants, deprivation of liberty, human trafficking, abuse and torture, kidnapping, legitimizing illicit profits, illicit manufacture or trafficking of controlled substances, environmental crimes provided for in special laws, crimes against intellectual property, or takes advantage of commercial or business structures, to commit such crimes, shall be punished with imprisonment of one (1) to three (3) years.*

Legal actions initiated

In September 2020, the main film production companies filed a criminal complaint before the District Attorney’s Office of Santa Cruz. The complaint requested the investigation of the alleged criminal acts by the Special Force against Crime and the search and seizure measures at the domicile of the offenders, two Bolivians and a foreigner,

As a result of the investigation, it was confirmed:

- ▶ The existence of the group of illegal pirate websites;
- ▶ That the reported persons were indeed the administrators of the pirate sites, and were domiciled in the city of Santa Cruz, Bolivia.
- ▶ That the pirate websites had an approximate value of 1,904,208 USD.



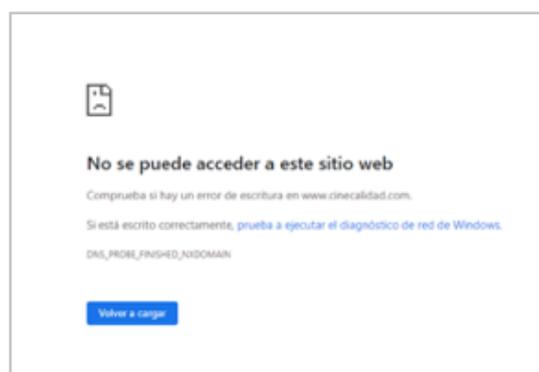
Finally, on February 12, 2021, a **search** was performed at the homes of the offenders and at their business premises. Computers, documents, hard disks, debit cards and cell phones, among other goods, **were seized**.

Following the criminal legal actions and taking into account that the sites remained active, **administrative actions** were initiated before the National Service of Intellectual Property “SENAPI”, in order to have the case heard by a specialized administrative authority and thus obtain through administrative proceedings the effective deactivation of the pirate sites.

Deactivation of the pirate sites

Finally, the criminal action before the Public Prosecutor’s Office and the administrative action before SENAPI concluded with the signing of a **settlement agreement** between the film companies and the infringers, in which they committed to:

- ▶ **Deactivate the pirate websites and delete the audiovisual content** available therein.
- ▶ **Transfer the administration of the domains** to the film companies.
- ▶ **Report any other involvement in the development of similar sites** that were active and infringing the rights of the film companies.
- ▶ To reveal the **origin of the audiovisual content**.
- ▶ **Not to commit in the future**, directly or indirectly, acts of intellectual property infringement.



Conclusions

This is the first case in Bolivia in which, through legal actions, one of the main groups of websites of pirate movies and series has been effectively deactivated, with views ranked within the top 100 most visited sites in Mexico and as sites number 529 and 1,119 in the ranking of most viewed sites in the world.

For the first time an Internet crime committed by Bolivian citizens has been investigated and the authorities have managed not only to confirm the evidence and deactivate the pirate websites, but to have handed over as well the administration of the sites to the owners of the infringed rights, in order to avoid future infringements of their intellectual property rights.

The doctrine and case law regarding the information society, movies and series piracy via streaming is scarce in Latin America, however, it is precisely through these specific cases that innovation in IT law is being achieved.

The fight against piracy of audiovisual content is in itself a fight to protect the stability of the film industry, the market and employment of actors, screenwriters and filmmakers.

Promoting legal streaming involves preventing people in bad faith from generating profits by evading taxes and state control to the detriment of the film industry's investment.

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