

New Zealand: New evidence about US operation to shut down Megaupload

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Documentary evidence has been uncovered showing that American film industry executives worked closely with the Obama administration to take down the filesharing website Megaupload.

The site's founder, Kim Dotcom, a German-born New Zealand resident, and three business associates appeared in a New Zealand court last week, prior to extradition hearings next month. The US Justice Department is seeking their extradition to the US on charges of copyright infringement, racketeering and money laundering through Megaupload, which once carried about 4 percent of the world's Internet traffic.

The defendants deny the charges and are seeking details of the evidence being used against them, some of which was acquired by covert operations by FBI agents and the surveillance of Skype conferences. The NZ Crown Law Office, acting for the US government, maintains it is only required to provide a case summary.

Dotcom, together with Finn Batato, Mathias Ortmann and Bram van der Kolk, was arrested in January during a series of co-ordinated operations in New Zealand and internationally. In Auckland, 80 police officers were involved, including the Armed Offenders Squad and several helicopters. The four men were granted bail in February, despite strenuous opposition by legal counsel for both the US and NZ governments.

Last week, Chief High Court Judge Justice Helen Winkelmann ruled that the warrants used in the raid were illegal because they were too broad and did not properly describe Dotcom's alleged offences. The judge also ruled it was unlawful for copies of Dotcom's computer data to be taken offshore. Police seized 135 hard drives and computers, containing 150 terabytes of data, including over 10 million emails. Some were copied and removed from the country by

FBI agents. Dotcom's lawyer Paul Davison said cloning the hard drives had subverted his client's rights.

The US government is mounting a global campaign, at the behest of media conglomerates, to criminalise file-sharing operations. It was initiated by the Justice Department's Task Force on Intellectual Property, established by President Obama's attorney general, Eric Holder. Holder claimed that Megaupload was the hub of an "international organised criminal enterprise" responsible for online "piracy" of copyrighted movies, television programs, music, software and books.

According to a report in the *New Zealand Herald* on July 4, White House logs demonstrate that meetings took place between Hollywood studio executives and US Vice President Joe Biden six months before the raids on Megaupload. Biden met powerbrokers from Warner Brothers, Paramount, Sony, Universal and Walt Disney, as well as the Motion Picture Association's Asia managing director Mike Ellis and Motion Picture Association of America (MPAA) chief executive Chris Dodd.

Dotcom told the *NZ Herald*: "Hollywood is one of the most significant contributors to Obama and his campaign. They are trying to defend their own outdated business model." Dotcom told TV One News that Biden had been asked by powerful interests "to put these guys out of business—and that's what happened." He said the accusations against him were "pioneering" a new area of law. The US administration was trying to turn "civil law into criminal law" and "make me liable for the actions of those who have used my cloud storage site."

The White House logs also provide further evidence that the raid was carried out with the collusion of the New Zealand government. Mike Ellis of the Motion

Picture Association, a former police superintendent in Hong Kong and an expert in extradition, met New Zealand's then justice minister, Simon Power. Power then intervened to rescind Dotcom's application to buy the mansion in which he was living, despite overseas investment officials having approved the sale. The intervention came days after the Crown Law Office started working on the FBI case against Megaupload.

Prime Minister John Key has maintained he was distant from the case. However, emails released to the *Herald* under the Official Information Act show the Department of Labour, the Prime Minister's Office and the Overseas Investment Office were all involved.

Dotcom's American lawyer, Ira Rothkin, told Radio New Zealand that Judge Winkelmann's ruling was "incredibly embarrassing" for both the US and NZ governments, and a "tremendous blow" to the case against Dotcom. "The government was engaged not only in wrongful conduct but in double wrongful conduct," Rothkin said. "In terms of egregious behaviour this is at the high end of the scale of a wrongful intrusion on privacy."

The ruling is the third legal setback for the prosecution's case. It previously emerged that police used the wrong type of restraining order to seize Dotcom's funds, and seized his property without notice when he should have been permitted to file a challenge. It has also emerged that the Crown knew it was using the wrong order while the raid was in progress.

Last month, lawyers for American Megaupload user Kyle Goodwin appeared alongside those for Dotcom in a district court in Virginia, seeking the return of information that had been legally stored on the site but seized by US authorities. The court was asked to dismiss the charges against Megaupload, order the release of Dotcom's frozen assets to pay for legal fees and give legitimate users such as Goodwin access to the data they lost. The judge has scheduled a fact-finding hearing for this month.

Concerns are increasingly being raised in New Zealand that the accused's rights have been trampled at the behest of financial and corporate interests. Despite a media blitz to demonise Dotcom over his extravagant lifestyle, the revelations that the NZ government and police collaborated in a US-directed operation has seen public support gather for Megaupload. Participants in a phone-in conducted last week by TV3's "Campbell

Live" program condemned the attack on Dotcom and his associates.

By contrast, New Zealand's pseudo-left groupings have effectively lined up behind the actions of the New Zealand and US governments. Socialist Aotearoa dismissed Dotcom as someone linked to the far-right ACT Party. The sole article on the so-called Workers Party's website objected to Dotcom "being painted as some kind of a folk hero" and asserted that as "a businessman with an amoral attitude toward commerce," he had no right to be defended.

In reality, the measures taken against Dotcom and Megaupload constitute an assault on basic democratic and legal rights that sets a dangerous precedent for similar police actions against workers and youth in the future.



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