



REPORT PREPARED FOR:
CRITIQUE (MEGAUPLOAD)

COMPANY:
4Shared

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MegaUpload: Introduction & History

- Megaupload was cloud-based file sharing website
- Founder: Kim Dotcom
- ❖ Megaupload was shut down by FBI on 19th January 2012.

Reason: Providing cloud based service for users to encourage illegal copyrighted material sharing and profiting from it.

- Facts and figures:
 - 180 million users
 - 50 million daily visitors
 - 4% of total internet traffic



MegaUpload features

- Cloud servers: To upload or Download data
- Limited file size for free users
- Large file sizes for premium users
- Multiple times file downloads
- Cash attractions based on numbers of downloads
- Delete uploaded files: not downloaded > 90 days



Facts and Figures about Piracy

- 146 million visits per day
- 1,00,000 + visits per minute
- 53 billion visits per year

- ❖ \$ 12.5 billion losses every year in Music industry
- ❖ 71,060 jobs lost in U.S. per year
- ❖ \$ 2.7 billion earning lost per year of workers of online industry
- ❖ 42% of software were running in the world are illegally downloaded

- > 75% of commuters have at least 1 illegal software or application downloaded



Charges against MegaUpload

Megaupload was charged under 13 counts. Charges rely directly or indirectly on 2 criminal copyright status:

- “17 U.S.C. 506(a)(1)(A)”, Criminal Infringement: If any person wilfully infringes a copyright shall be punished according to section 2319 (18)
- The provision for penalty according to “18 U.S.C. 2319(d)(2)”, if any person manipulates section 506(a) which is related to criminal offence of title number 17 shall be punished in under subsections (b), (c), & (d). Few charges shall be in add on to another person of title number 17 or any other law



Charges against MegaUpload

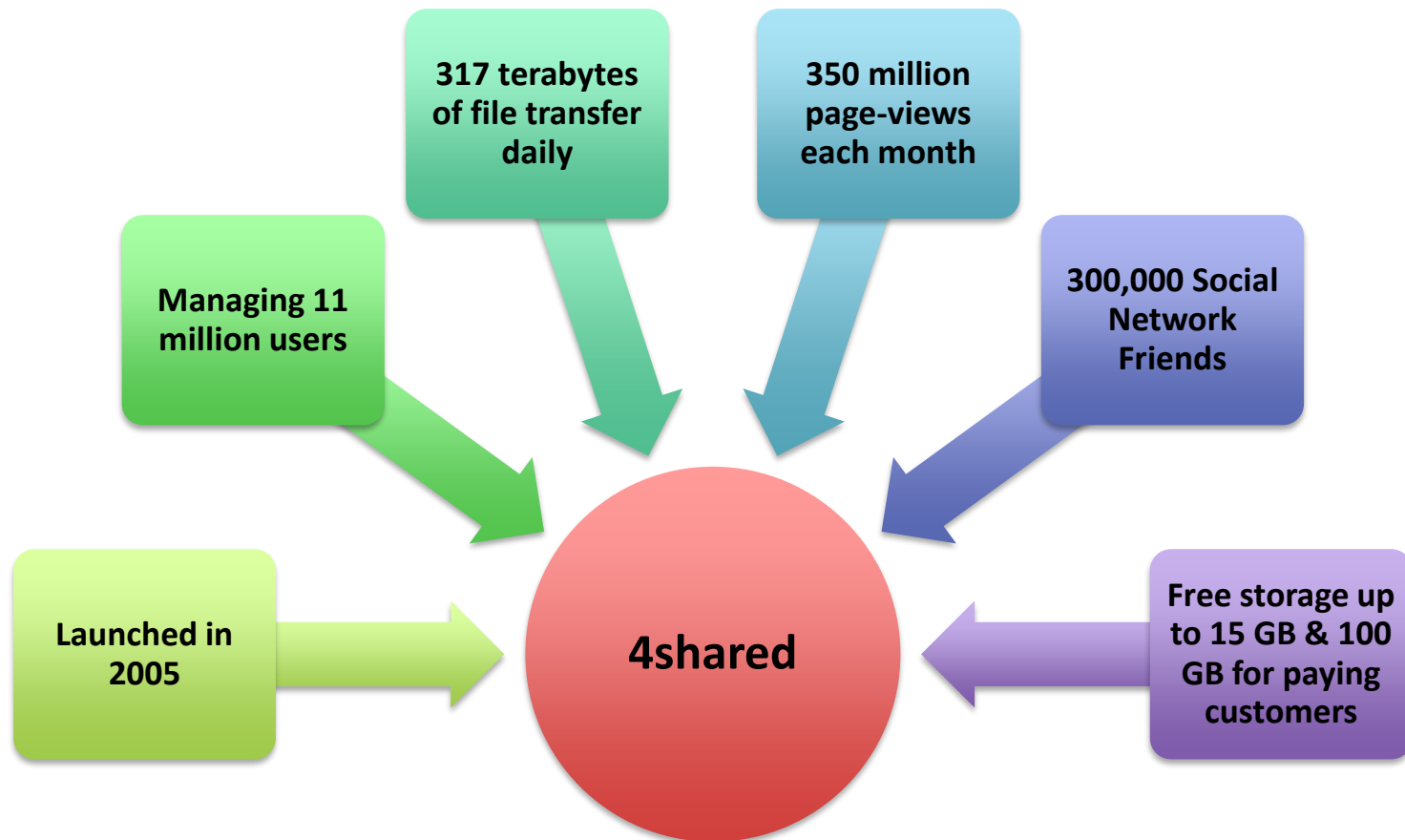
MegaUpload business was considered unlawful for following reasons:

- Cash rewards based on numbers of times content was downloaded
- No accountability nor inspection of any files that were uploaded
- Generated profits out of files stored on their server
- Deleted files that were not downloaded after 90 days
- 91% had never uploaded any personal or official documents
- 90% of the upload and download was of infringing materials



4Shared – Company Background

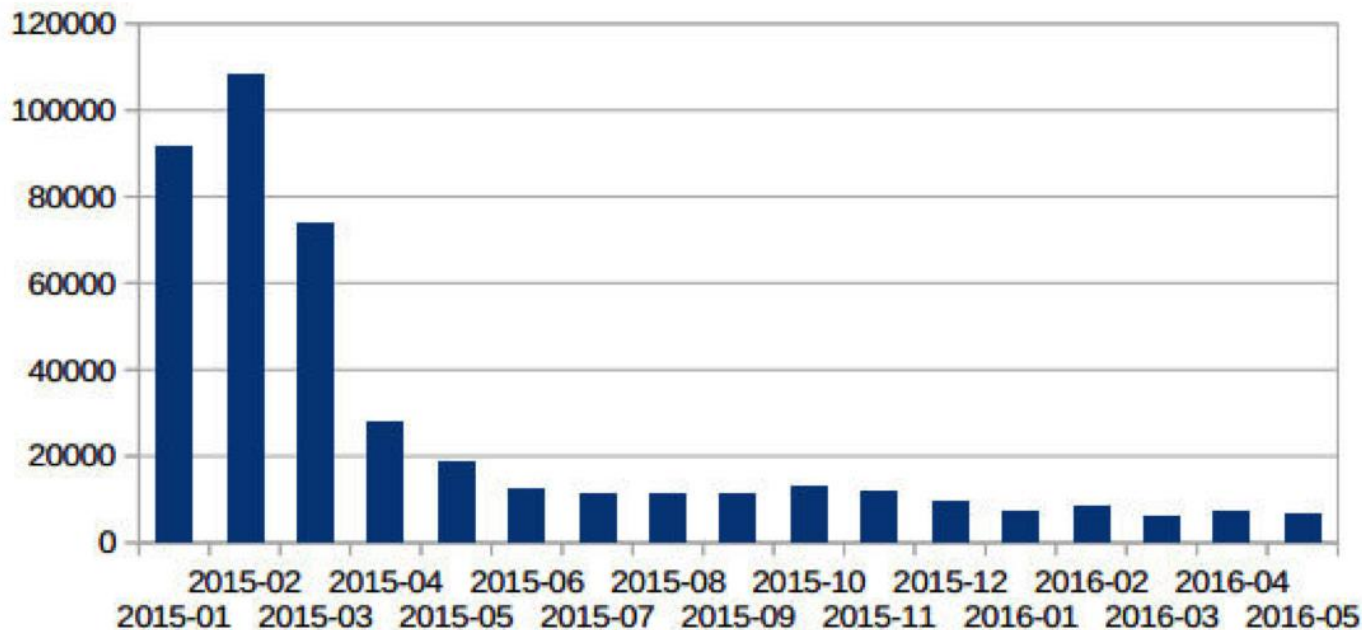
4Shared online storage and file sharing offers high quality free online hosting and sharing services to a diverse customer base across the globe. One of the largest file hosting service on the internet.





4shared – Copyright Infringement

- Over the past few years the search engine has received 50 million takedown requests.
- This popular file-hosting website is on top of Google's list of reported domain names followed by rapidgator.net and uploader.net
- The staggering number of takedown requests indicates that there is heaps of infringing content on 4shared.
- 4shared received 90,000 monthly takedown requests but over the past 2 years the takedown requests have reduced by fifteen times which is 6000 per month now.
- RIAA (leading music industry group) also complained about 4shared to the U.S. Government, listing 4shared as one of the pirate sites on the internet.





Copyright in NZ context

A	B	C	D
Sections	Description	Megaupload	4shared
37	This copyright act outlines that other than copyright owner no individual can make, import, possess, or sell, let hire, offer, sale or expose any content which is adapted for making copies are the work that are illegal.	Yes	Yes
92B	The copyright act puts liability on internet service provider if its users infringes copyright. No restrictions on website. It doesn't fullfil 122A-122U and 234(eb)-(eh)	Yes	No
92C	Liable if ISP provides a platform to store unauthorised copyrighted content from its users.	Yes	Yes
92E(2)	The law states that if ISP doesn't delete the information or prevent access to it's users after the internet service provider came to know about the copyright infringement then it is considered laible.	Yes	No
131 and 226C	The sites can face upto NZ\$ 15,000 fine or five years imprisonment	Yes	Yes

Source: NZ Copyright Act 1994 (New Zealand Legislation, 1994)

Key Findings:

- Megaupload and 4shared both provided means to it's users for infringing copyright content.
- Megaupload didn't put any liability on its users for any copyright infringement where as 4shared in serious cases (after receiving the court orders) did hold its users responsible for infringement.
- The New Zealand laws can be considered well protected for parties from saving them from liability of copyright infringement in case if ISP is following all the rules.
- 4shared allows its rightholders to send them the request to block any link that is infringed.



Copyright Owner:

- Who is a copyright owner?
- Exclusives rights such as:
 - ✓ Reproduction Rights
 - ✓ Distribution Rights
 - ✓ Right to create adaptations
 - ✓ Performance and Display Rights



Copyright Laws in New Zealand

- 4 Guiding Principles: Protect | Preserve | Develop | Promote.
- New Zealand Copyright Act 1994
- 2011 Amendment:
 - ✓ File Sharing Regime.
 - ✓ Defined IPAP.
 - ✓ IPAP Obligations.
 - ✓ Notices related to Infringement → Detection → Enforcement → Warning.
 - ✓ Remedies and Punishments.



4shared in Copyright Context

- Technical model similar to iCloud, OneDrive or DropBox.
- Peer to Peer File Sharing Protocol.
- The Copyright Issue.



Issues, complexities and Implications.

Issue	Management Action
<p>1. Users loss the access to their own data.</p>	<p>When use cloud or any other data sharing site to store critical data, keeping a backup and availability of business continuity plan is essential to mitigate temporary or permanent data losses (Cotton, 2012).</p>
<p>2. Business impact on third party service providers.</p> <ul style="list-style-type: none">• Carpathia Hosting has preserved servers that contain Megaupload data at the cost of US\$ 9000 per day. (Hart, 2012; Electronic Frontier Foundation, 2012).	<p>Government and regulatory bodies should be taken necessary measures to minimize the economic impacts on innocent third parties under such an incident of Megaupload.</p>
<p>3. Uncertainties in judicial decisions and cross border laws and regulations.</p>	<p>Since digital industries are functioning crossing the borders, its reveals that harmonization of cross country laws and regulations is required and the governments around the globe and other International Standards Setting bodies should be concerned on that.</p>



Issues, complexities and Implications *cont....*

Issue	Management Action
4. Centralized data storage increases the potential risk and devastating impact on customers due to service failures, outages, security breaches and hacker attacks.	Decentralization structures or appropriate business continuity mechanisms need to minimize the related risk factors.
5. Under the Multitenancy environment with cloud based system may increase the risk of privacy and security breaches of neighbouring tenants (Gasser, 2014).	Cloud Technology developers should provide effective solutions like “virtual walls between tenants” and introduce new data security solutions.
6. Competing with online pirates.	Promoting alternative solutions such as introducing new business models and educate end users about online piracy. <ul style="list-style-type: none">- Sites such as apple icloud, iTunes, spotify, Magnatune, Jamendo and Radiohead are classic examples for successful alternatives for copyright piracy and illegal file sharing sites (Angelov, 2013).



Conclusions :

1. There have observed uncertainties in laws, regulations and policies including jurisdiction mainly in the international context.
2. In digital ecosystem file sharing service providers should be key regulatees.
3. Introducing new business models as alternatives for illegal file sharing sites is worthwhile action.
4. Introducing sites with rich contents (e.g. range of songs, movies etc.), ease of use, fast searching, attractive pricing structures (e.g. proportionate to works offered, low price, subscription free etc.), safe path for downloading to users who are doing so without recognising violation of copyrights as alternative for copyrights infringement is meaningful action.



Conclusions :

5. Implementing and promoting awareness and education activities to change the consumer perception of piracy and copyrights is meaningful approach.
6. Above non- legal approaches are well effective in developing and transition countries which judicial systems and intellectual property laws are not matured, but still emerging markets for digital industries.



THANK YOU...!!!