Scholarly Piracy vs Scholarly Activism: Where Sci-Hub Fits in the Information Literacy Landscape

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SCHOLARLY PIRACY VS SCHOLARLY ACTIVISM
WHERE SCI-HUB FITS IN THE INFORMATION LITERACY LANDSCAPE

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WHY ARE LIBRARIANS TALKING ABOUT SCI-HUB?

- Information has value
- Librarians’ history of teaching information literacy
- Libraries work to promote and advance open and accessible information to all
- Libraries pay big money for electronic content
- Our communities are using Sci-Hub (a LOT)
- Library users find that Sci-Hub is very easy to use
A QUICK PEEK BEHIND THE SKULL AND CROSSBONES

Image credit: Andrew Cameron, Noun Project
Combustion Science and Technology

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Y. Gao, N. Chakraborty, N. Swaminathan (2014)

10.1080/00102202.2014.947401
WHAT’S A SCHOLAR TO DO?
WHAT IS SCI-HUB DOING ILLEGALLY?

- Elsevier Inc. ET AL v. Sci-Hub ET AL (U.S. District Court, Southern District of NY)
- Copyright Infringement under Copyright law (17 U.S. Section 101)
- Violations of the Computer Fraud and Abuse Act (18 U.S.C. Section 1030)
COPYRIGHT INFRINGEMENT

- Two levels of Copyright infringement: Direct and Secondary

- Violation of owner rights to display, reproduce, distribute, prevent digital anti-circumvention of protection, i.e. go around pay walls

- Elsevier sought money damages and preliminary injunction

- Elsevier's 2015 Lawsuit alleged "piracy is supported by persistent intrusion and authorized access to Elsevier computer networks and its institutional subscribers."

- Storing duplicate copies of requested documents on the Libgen repository violates Elsevier's copyright(s) to reproduce, distribute, display, and circumvent digital protection (pay walls)

- Encouraging, inducing users to infringe, i.e. access unauthorized content
VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT

- Sci-Hub violates the CFAA by "persistent intrusion and unauthorized access" to protected computers through proxy servers (maybe other means?)

- "Protected computer" means one that facilitates communication/commerce among the states or internationally, including, but not limited to, public workstations at your library!
Court granted preliminary injunction to shut down Sci-Hub.org, Booki.org, and Elibgen.org

Days later, domain names moved and piracy continues.

Food for thought: Are Sci-Hub's actions good for public policy? Think big picture and long term!
INSTITUTIONAL RESPONSIBILITY

- Breach of Contract?
- Contributory Copyright Infringement?
Generally, the institution/library will not be held liable when an individual user shares their login information with Sci-Hub so long as:

- Must tell users not to share credentials with third parties
- Upon becoming aware of any unauthorized use of the Subscribed Products, must inform the Vendor
- Must take appropriate steps to end such activity and to prevent any recurrence
The Subscriber [Library] will not be liable for unauthorized use of the Subscribed Products by any Authorized Users provided that the unauthorized use did not result from
- The Subscriber’s own negligence or willful misconduct and
- That the Subscriber did not permit such unauthorized use to continue after having actual notice thereof
USER LIABILITY

- Vendor contracts do not contemplate suing users.
- Campus IT policies generally forbid sharing or misuse of institution-issued credentials.
WHAT ARE LIBRARIAN’S ETHICAL RESPONSIBILITIES

- We provide the **highest level of service to all library users** through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.

- **We respect intellectual property rights and advocate balance between the interests of information users and rights holders.**

- We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.
THE FUTURE....