

The Dangers of Downloading

A German attorney explains the rules and pitfalls...

by Joerg Modellmog

Music and movie downloads have become very popular. It's so easy and convenient to download entertainment in the privacy of your own home. Unfortunately, not everything that is available online for downloading is a legal download. Even if you obey the rules and are careful which websites you visit, you may put yourself at risk if you use an unsecured Wireless Local Area Network (WLAN) router for downloading. "Uninvited visitors" may use your WLAN for improper downloading. You could easily wind up getting sued for copyright infringement.

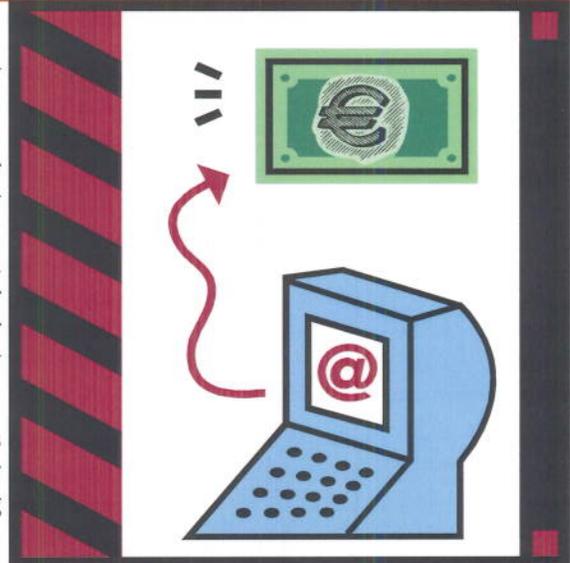
This is no laughing matter. More than 30 clients have sought my help in recent months because they received letters from German attorneys representing license holders of copyrighted downloaded material. These letters contained demands of various sorts, with the implicit threat of a lawsuit if those demands are not met. ***If you use a WLAN or have one in your home, you can't afford not to read this article...***

In Germany, internet providers are required by law to disclose the physical address/identity of an individual whose IP address is involved in illegal downloading. That's how they track you down. It may be that you were away from home when the downloading took place. If so, you will be unpleasantly surprised when you receive a registered letter in the mail from a German law firm demanding that you pay monetary damages, attorney fees, penalties, and the like.

Let's break these demands down:

- **Monetary damages.** Damages are owed if you were the one who actually performed the illegal download. Face it, you got caught and you should be happy you weren't prosecuted for it. The amount of damages claimed is generally around €500.
- **Attorney fees.** The license holder for the copyrighted material is the victim as his rights were violated by the illegal download. Under the German legal system, the wronged party can always recover his attorney's fees from the other party in the case of a legitimate claim. The only good news is that, in most of the cases in which the illegal download happened on an unsecured WLAN router, the courts have limited the attorney fees to €100.
- **Statement of forbearance with contractual penalty clause.** Even if you did NOT perform the illegal download, you will be required to sign a statement of forbearance. You don't have to say that you will not perform, aid, or foster any future illegal download but merely that you will no longer leave your WLAN router unsecured. Nevertheless, for any future violations you will be required to pay a "reasonable" penalty, which could easily be around €5,000, because the illegal download would have not happened had you properly secured your WLAN router. By leaving it "open" or insufficiently locked, you allow third parties to download highly illegal materials via your WLAN router.

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How do you secure your WLAN router, to avoid the consequences discussed above? You should take the following precautions:

- Change your password often. All passwords can be hacked; it's just a matter of time. Never keep/use the default password but pick a new password immediately. The default passwords might "leak" and be published online. It's also advisable to simply switch off the WLAN router when you are not home, or at night when you have no intention of going online.
- If you are using a wireless router, you should disable the server set identifier (SSID), to prevent the name of your network from being broadcast.
- Allow configuration only to be made via hardware. That way admin rights can only be exercised if a cable is physically put into the device. Use an additional password and username protection for any hardware configuration.
- Change the settings in order to block download ports, e.g., bittorrent sites.
- Think also of encryption. The current state-of-the-art standard is WPA2 and, although legally you are not required to constantly upgrade to the highest standard, you may want to stay current on your protective software.



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If you have legal questions related to downloading, make an appointment to see a legal assistance attorney by calling DSN 483-8848 or Civilian 0631-411-8848.

NATIONAL MILITARY PRO BONO PROGRAM

by CPT Mike Gilbertson

The Secretary of Defense has launched an initiative to assist the American Bar Association's National Military *Pro Bono* Program (MPBP) by educating judge advocates about the program and providing all possible assistance to ensure the program works as smoothly and efficiently as possible. The MPBP accepts case referrals from legal assistance offices worldwide on behalf of income-eligible service members with civil legal issues and then places these cases with volunteer *pro bono* attorneys anywhere in the United States. Military legal assistance attorneys can register at the website that appears below and refer cases to the MPBP. The MPBP then attempts to place eligible cases with *pro bono* attorneys wherever legal assistance is needed. [Note: *pro bono* is a legal term that connotes free legal services.]

The MPBP is a very valuable asset to legal assistance attorneys and their clients. As of July 2010, there are 740 *pro bono* attorneys and coordinators registered with the MPBP website, demonstrating the strong willingness of civilian attorneys across the nation to assist service members with civil matters back home. Recent analysis showed that 75% of cases referred to the MPBP were for family law matters (including child custody issues). In response to this need, the MPBP successfully reached out to the family law community and was able to increase *pro bono* registrants that practiced family law. In one recent month alone, 167 new cases were placed with attorneys. The total cases placed represent approximately \$1,060,618 in donated billable hours by the MPBP volunteers.

For more information on the MPBP, visit <http://www.militaryprobono.org/>