

Kim Dotcom extradition hearing begins in New Zealand

21 September 2015, by Nick Perry



Kim Dotcom sits in the Auckland District Court during an extradition hearing in Auckland, New Zealand, Monday, Sept. 21, 2015. U.S. extradition hearing against Megaupload co-founder Dotcom began Monday. Dotcom is the colorful German-born entrepreneur who started the Internet site Megaupload, which was shut down by federal authorities in 2012. (Jason Oxenham/New Zealand Herald via AP) AUSTRALIA OUT, NEW ZEALAND OUT

Kim Dotcom and three colleagues face an extradition hearing that began Monday in an Auckland courtroom. Dotcom is the colorful German-born entrepreneur who started the Internet site Megaupload, which was shut down by federal authorities in 2012. Here's what's at stake:

THE CASE: U.S. [prosecutors](#) are trying to extradite Dotcom from his home in New Zealand to face trial in Virginia. His Megaupload site was once used by millions of people to store files and download songs and movies. Federal authorities accuse Dotcom of facilitating Internet piracy on a massive scale and have charged him with conspiracy to commit [copyright infringement](#), racketeering and money-laundering. Dotcom argues that plenty of people used his site for legitimate reasons he can't

be held responsible for those who chose to use it for illegal downloads. As well as Dotcom, the U.S. is also trying to extradite former Megaupload officers Mathias Ortmann, Bram van der Kolk and Finn Batato.

THE HEARING: The hearing is expected to last about four weeks. U.S. prosecutors don't have to prove Dotcom and his colleagues are guilty. Instead, they have a lower legal bar: proving the men have a case to answer, also known as a prima facie case. It's similar to the level of proof that prosecutors would need to launch a criminal trial in the U.S.

THE DEFENSE: The defense has argued since his arrest that Dotcom should never have faced criminal charges and that any case against him should be heard in civil court. They argue that prosecutors have overplayed their hand, knowing they needed a criminal case to effect an [extradition](#). In an affidavit for the defense, Harvard Law School professor Lawrence Lessig argues that criminal copyright infringement applies only to people who directly download or steal something and not to secondary parties like website operators. The defense also plans to argue the hearing should be delayed.

THE MONEY: Defense lawyers say that they have been hamstrung because Dotcom and his colleagues don't have access to their money in order to mount a robust defense. When Megaupload was shut down, prosecutors froze tens of millions of dollars in accounts in Hong Kong and New Zealand. New Zealand courts have since allowed Dotcom some living and legal expenses, but not enough to cover all his legal bills.

THE IMPLICATIONS: The case highlights the tensions between content creators, like the Hollywood studios who make movies and expect royalties for their work, and Internet sites that collect, curate or distribute content that others have

made. Some argue the case could have broader implications for everyone from moviemakers and musicians to popular websites like YouTube and Google.

WHAT'S NEXT: Whichever side loses the extradition judgment is likely to appeal, setting off a new round of legal wrangling. That means even if Dotcom is extradited, it may be months or even years before he faces trial in the U.S.

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APA citation: Kim Dotcom extradition hearing begins in New Zealand (2015, September 21) retrieved 20 January 2022 from <https://phys.org/news/2015-09-kim-dotcom-extradition-zealand.html>

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