

Aussie software pirate extradited

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A disturbing article [Ed.]

BEFORE he was extradited to the United States, Hew Griffiths, from Berkeley Vale in NSW, had never even set foot in America. But he had pirated software produced by American companies.

Now, having been given up to the US by former justice minister Chris Ellison, Griffiths, 44, is in a Virginia cell, facing up to 10 years in an American prison after a guilty plea late last month.



First Hicks now Hew Griffiths -- vote John Howard

Griffiths' case - involving one of the first extraditions for intellectual property crime - has been a triumph for US authorities, demonstrating their ability to enforce US laws protecting US companies against Australians in Australia, with the co-operation of the Australian Government.

"Our agents and prosecutors are working tirelessly to nab intellectual property thieves, even where their crimes transcend international borders," US Attorney Chuck Rosenberg said.

In some corners of the Australian legal community, however, there is concern about Griffiths' case. In a recent article for the Australian Law Journal, NSW Chief Judge in Equity, Peter Young, wrote: "International copyright violations are a great problem. However, there is also the consideration that a country must protect its nationals from being removed from their homeland to a foreign country merely because the commercial interests of that foreign country are claimed to have been affected by the person's behaviour in Australia and the foreign country can exercise influence over Australia."

Griffiths, a Briton, has lived in Australia since the age of seven. From his home base on the central coast of NSW, he served as the leader of a group named Drink Or Die, which "cracked" copy-protected software and media products and distributed them free of cost. Often seen with long hair and bare feet, Griffiths did not make money from his activities, and lived with his father in a modest house.

But Drink or Die's activities did cost American companies money — an estimated \$US50 million

(\$A60 million), if legal sales were substituted for illegal downloads undertaken through Drink or Die. It also raised the ire of US authorities.

In 2003, the US Department of Justice charged Griffiths with violating the copyright laws of the US, and requested his extradition from Australia. Senator Ellison signed a notice for Griffiths' arrest and Australian Federal Police arrested him at his home.

Griffiths fought the prospect of extradition through the courts for three years, in which time he was denied bail and detained in prison. He indicated that he would be willing to plead guilty to a breach of Australian copyright law, which meant he could serve time in Australia.

Last year, Griffiths ran out of avenues for appeal in Australia. His fate lay in the hands of Senator Ellison, who had the power to refuse Griffiths' extradition. But in December, Senator Ellison issued a warrant for extradition — a decision welcomed by the US Government. Griffiths' extradition in February is believed to be the first out of Australia for a breach of intellectual property law.

"This extradition represents the (US) Department of Justice's commitment to protect intellectual property rights from those who violate our laws from the other side of the globe," US Assistant Attorney-General Alice Fisher said.

But Justice Young described as "bizarre" the fact that "people are being extradited to the US to face criminal charges when they have never been to the US and the alleged act occurred wholly outside the US".

Griffiths appears to have been singled out by US authorities. British-based members of Drink or Die were reportedly tried in Britain. Last month, in news that slipped the local media's radar, Hew Griffiths pleaded guilty in a US District Court in Alexandria, Virginia, to criminal copyright infringement offences. According to US authorities, Griffiths admitted to overseeing all the illegal operations of the now-disbanded Drink Or Die.

On top of a possible 10-year jail term, Griffiths could be fined \$US500,000. (By way of comparison, the average sentence for rape in Victoria is six years and 10 months.)

Any Australian who has pirated software worth more than \$US1000 could be subject to the same extradition process as Griffiths was. "Should not the Commonwealth Parliament do more to protect Australians from this procedure?" Justice Young asked in his article. Others, however, argue that extradition is necessary to prevent internet crimes that transcend borders.

Griffiths will be sentenced on June 22.

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