

THE REPORT

Jordan 2009

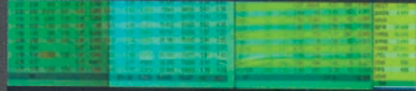
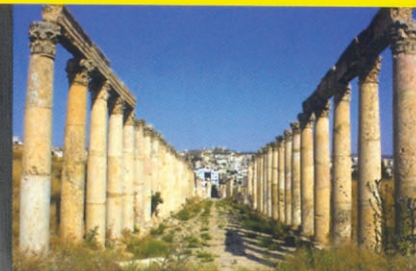
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Talal Abu-Ghazaleh

Setting limits

Talal Abu-Ghazaleh, Chairman, Talal Abu-Ghazaleh Organisation, on the importance of combatting online piracy

Intellectual property and piracy are pressing issues, both in the region and around the world. However, not all piracy is created equal and I want to distinguish between piracy in the real world and piracy on the internet. Piracy is a significant concern; it is bad not only for our economy because of impacted sales, but also for the consumer because after all, it is the consumer who is paying for an inferior product.

In the real world, Jordan has taken gigantic steps in combating piracy, including working to stop pirated or imitated products coming through our borders. There are similar arrangements now in place in most of the other Arab countries. Actions like this demonstrate that the political will to stop the reproduction or sale of counterfeit products exists here and in all Arab countries. I have not seen a single Arab country that has not shown the will to do everything possible to combat the problem.

However, at the end of the day, it's impossible to have a zero piracy rate. Even in countries like the US, there is a very high piracy rate. The difference is that in the US the trafficking of pirated goods is internal and doesn't cross international borders.

I have often publicly stated that countries like Jordan are always accused of piracy, whereas we are actually victims, not culprits. Here, pirated products come from outside our borders, from countries whom you know well; indeed, our position at the crossroads of global trade means we must be far more vigilant than the US as a result. Jordan's state library is now working with us to combat piracy in the copyright field and together, we are expanding our coverage of internet and software-related issues.

However, crucially, internet piracy is extremely different from counterfeited goods. In the real world, there are laws, agreements and jurisdictions and there is sovereignty. In the virtual world none of these exist, and a number of countries – including, notably, the US – do not want these to exist. There is a train of thought that states that the internet is a virtual space

that does not belong to any one country, that has no borders and that should not be under the jurisdiction of any country. The result is the absolute absence of national sovereignty on any internet issue bar domain name registration. While domain name registration is an important battleground in fighting internet piracy issues – we recently established a dispute resolution centre on domain names for the Arab world to help reduce cyber-squatting, for example – it is the only forum we have to fight against piracy on the internet. Beyond that, you have to apply real world laws in the virtual world. Legally, to fight online piracy, you have to prove that piracy has occurred in a particular country, under particular laws and eventually go to that country for litigation. This makes it difficult to prosecute digital piracy cases and it is why efforts to combat piracy on the internet are lagging.

Two other major areas in need of improvement are implementation and enforcement. The implementation of intellectual property laws is done by the executive branch, while enforcement is conducted through the judicial system; that distinction is important. We have had some problems with the implementation of legal frameworks but a much greater problem with judicial enforcement. The Arab Society for Intellectual Property has developed programmes for training government officers on implementation and on piracy issues, and we are working with the World Intellectual Property Organisation on special training programmes for judges and capacity building across the Arab world. However, the laws need to be changed to make the penalty equivalent to the potential or actual damage of piracy. Unfortunately, most of the anti-piracy laws currently in place put a ceiling on penalties, which are nominal in today's world. For example, for a \$1m violation, the law may say the maximum fine is \$10,000. That has to change so that the penalty is equal to the violation value. Overhauling the punitive system will go a long way in improving enforcement and providing a deterrent to online piracy.