

I will donate \$200 towards defending WikiLeaks in their first amendment fight but only if 10 other good people will give \$20 to \$200 dollars and encourage others to do the same!

– James & Jennifer McCain, programmer & journalist

More details: The Wikileaks case runs over the next two months. Wikileaks has won the second round. <http://wikileaks.org/>

From the New York Times (many more: <http://news.google.com/news?q=wikileaks>)

A growing number of privacy and civil rights advocates are calling on a federal court to reconsider its decision two weeks ago ordering the controversial Wikileaks.org whistleblower Web site to be disabled.

In a motion filed Wednesday in the U.S. District Court for the Northern District of California, the Electronic Frontier Foundation, the American Civil Liberties Union, the Project on Government Oversight (POGO) and a Wikileaks user asked the court for permission to intervene in the case.

In a 20-page brief, the groups said they were asking to intervene in a bid asking the court to dissolve its permanent injunction disabling the Wikileaks.org Web site. They claimed that the court's action violated their First Amendment right to access the contents of the Wikileaks Web site.

"The First Amendment encompasses the right to receive information and ideas," the groups said in the brief. "The documents and materials posted on the Wikileaks website concern matters of great public interest" which each of the parties filing the motion had regularly accessed, they said.

Expressing similar support was Harvard Law School's Berkman Center for Internet & Society's Citizen Media Law Project (CMLP). On Wednesday the center filed a brief opposing the court's injunctions against Wikileaks and its domain registrar Dynadot LLC. The amici curiae (friend of the court) brief, which was developed in collaboration with several media and public interest organizations, asked the court to take back its decision and cited First Amendment concerns.

"Under established First Amendment law, prior restraints, if constitutional at all, are permissible only in the most extraordinary circumstances," David Ardia, director of the CMLP said in a statement. "In this case, you have court orders that effectively shut down a website that has been at the forefront of exposing corruption in governments and corporations around the world," he said.

The groundswell of support for Wikileaks comes in the wake of two injunctions issued by U.S. District Court Judge Jeffrey White on Feb 15. The injunctions were in response to a lawsuit filed by the Julius Baer Group, a Swiss bank that, according to documents on Wikileaks, was involved in offshore money laundering and tax evasion in the Cayman Islands for customers in several countries, including the U.S.

Wikileaks claimed the documents had been leaked by a bank employee. In its complaint, the Swiss bank claimed that Wikileaks published hundreds of illegally obtained documents and confidential and copyrighted information belonging to the bank. The bank sued both Wikileaks and its domain registrar Dynadot.

In response, White issued a permanent injunction ordering Dynadot to immediately disable the wikileaks.org domain name and lock it to prevent the domain from being transferred to another registrar. The injunction also required Dynadot to immediately remove all DNS hosting records for the wikileaks.org domain name. The court asked Dynadot to prevent the domain name from resolving to the wikileaks Web site or any other Web site or server "other than a blank park page."

The judge also issued a temporary restraining order that forbade Wikileaks from displaying, posting, publishing or distributing any material pertaining to the bank on any site that it directly owned or over which it had any control. The order instructed Wikileaks to ensure that all of the bank's information was removed from all Web sites it owned or controlled, to disable links to the material on such sites and to provide the court with proof that it had complied with the orders. The judge's order even enjoined everyone who read the order or received notice of it from publishing or even linking to the documents.

The rulings drew scathing criticism from privacy and civil rights groups who saw it as an unprecedented violation of First Amendment rights. Several felt the court had overreacted in ordering the entire domain shut down, just because a relatively small number of documents it hosted were being disputed.

This week's friends-of-the-court briefs and the move to intervene by the EFF and the ACLU have been the most visible manifestations of that concern.

Matt Zimmerman, senior staff attorney at the EFF said his organization decided to file a motion to intervene because the case raises several troubling issues. For instance, the Swiss bank's strategy of getting Dynadot to disable the Wikileaks domain and the court's endorsement of that tactic could set a dangerous precedent if allowed to stand, he said.

"The strategy of going after the registrar is an attempt in a collateral way to get at the remedy," he said. "It shouldn't be a remedy that plaintiffs think is acceptable or that the courts think is acceptable. It's overkill to say the least," he said. It should serve as a warning to others of how vulnerable their Web presence can be if their domain registrars or service providers are unable or unwilling to stand up to legal pressure, he said.

Similarly, Julius Baer's attempt to block access to all materials on Wikileaks because it wanted to protect its own documents, and the court's acceding to that strategy, is unwarranted, Zimmerman said. For one thing, it violates Wikileaks' First Amendment rights, he said. The court's action also violates the First Amendment rights of Web users who might have had a legitimate interest in reading all of the other material posted on Wikileaks, he said.

A hearing on the case is scheduled for Friday.

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This pledge closes on 1st June 2008. Thanks!

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