



Regulation through Geo-identification Technology

– An All or Nothing Answer to Cyberborders?

“Judges and legislators faced with adapting existing legal standards to the novel environment of cyberspace struggle with terms and concepts that the average [...] five-year-old tosses about with breezy familiarity.”

(American Libraries Association v. Pataki (969 F.Supp. 160, 170 (S.D.N.Y.,1997)) Per Preska J.)



What is “geo- location/identification”?

- Geo-identification/location = The Practice of Identifying Internet Users’ Geographical Locations
- Accuracy?





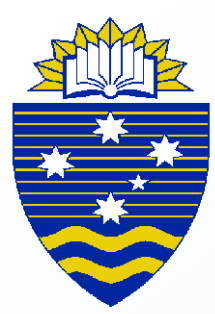
Macquarie Bank Limited & Anor v Berg [1999] NSWSC 526

- *“The limitation [to publication occurring in NSW only] is ineffective. Senior counsel [for the plaintiffs] acknowledged that he was aware of no means by which material, once published on the Internet, could be excluded from transmission to or receipt in any geographical area. Once published on the Internet material can be received anywhere, and it does not lie within the competence of the publisher to restrict the reach of the publication.”*



Important distinctions:

- ‘Location independence’ vs. ‘Borderlessness’
 - Different countries = different laws
 - Lawless Internet
 - Country of origin
 - International law doctrine of ‘selective legal compliance’
- ‘Bite jurisdiction’ vs. ‘Bark jurisdiction’
- ‘Targeting’ vs. ‘Distargeting’
 - “Intentional” targeting/directing (*Hotel Alpenhof/Pammer*)



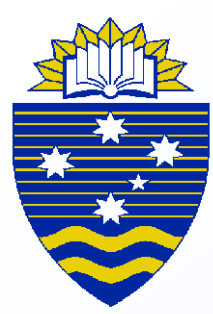
The starting point:

Global blocking/removal cannot be the default response to every court order requiring blocking/removal of certain content in a certain country. We need a more measured and more sophisticated approach.



‘ccTLD blocking’:

- Hotel Alpenhof/Pammer
- “If, for example, an undertaking with its place of establishment in the United Kingdom sets up a website with the domain name ‘.es’, it is apparent that it is directing its activities in whole or in part to the Spanish market”
- But, “parti.es”, “fameli.es”
- And, “.tv” & “.nu”
- And “.com”



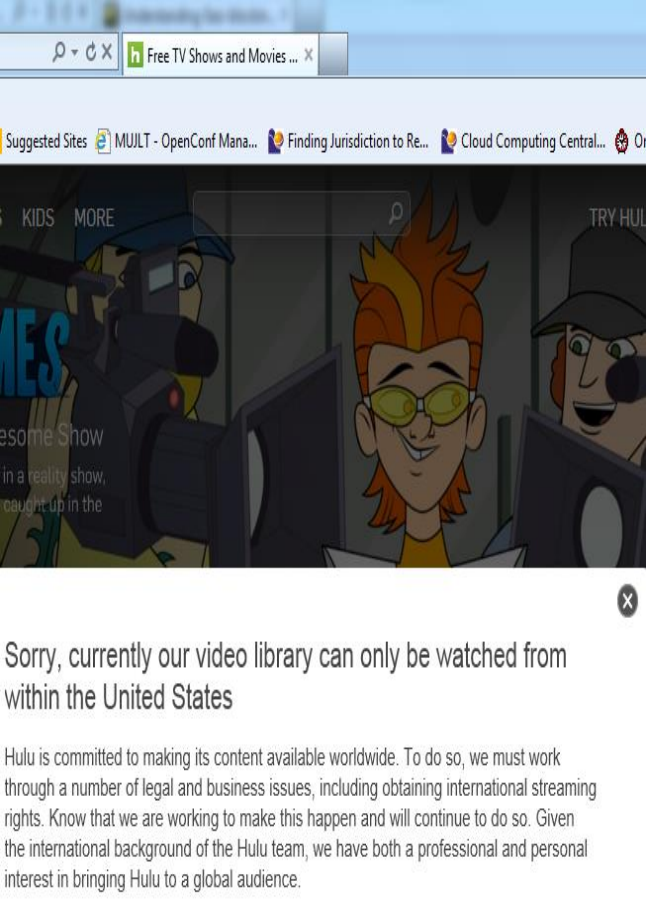
‘Strict geo-location blocking’:

Sorry, Netflix is not available in your country yet.





Enter your email & we'll let you know when Netflix is available.




 Secure Server. See our [Privacy Policy](#).



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Suggested Sites  MULT - OpenConf Mana...  Finding Jurisdiction to Re...  Cloud Computing Centra...  On

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esome Show
in a reality show,
caught up in the

Sorry, currently our video library can only be watched from within the United States

Hulu is committed to making its content available worldwide. To do so, we must work through a number of legal and business issues, including obtaining international streaming rights. Know that we are working to make this happen and will continue to do so. Given the international background of the Hulu team, we have both a professional and personal interest in bringing Hulu to a global audience.



‘Country lens approach’:

- **Pros:**
- Avoids killing borderlessness
- Avoids ccTLD issues
- **Cons and issues:**
- Transparency?
- Cybertravel?
- Leakage?



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THANK YOU!



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