

U.S.

Open-Access Advocate Is Arrested for Huge Download

By JOHN SCHWARTZ JULY 19, 2011

A respected Harvard researcher who also is an Internet folk hero has been arrested in Boston on charges related to computer hacking, which are based on allegations that he downloaded articles that he was entitled to get free.

A federal indictment unsealed in Boston on Tuesday morning on charges that the researcher, Aaron Swartz, broke into the computer networks at the Massachusetts Institute of Technology to gain access to JSTOR, a nonprofit online service for distributing scholarly articles online, and downloaded 4.8 million articles and other documents — nearly the entire library.

Mr. Swartz, 24, made his name as a member of the Internet elite as a teenager when he helped create RSS, a bit of computer code that allows people to receive automatic feeds of online notices and news. Since then, he has emerged as a civil liberties activist who crusades for open access to data.

In 2008, Mr. Swartz released a “Guerrilla Open Access Manifesto,” calling for activists to “fight back” against the sequestering of scholarly papers and information behind pay walls.

“It’s time to come into the light and, in the grand tradition of civil disobedience, declare our opposition to this private theft of public culture,” he

wrote. One goal: “We need to download scientific journals and upload them to file-sharing networks.”

He also earned renown for downloading nearly 20 million pages of court documents for a project that put them free online. That brought Mr. Swartz under federal investigation. He was not indicted but later published the resulting F.B.I. file online.

He faces up to 35 years in prison and \$1 million in fines for charges related to wire fraud, computer fraud and unlawfully obtaining information from a protected computer. He surrendered to the authorities on Tuesday morning, was arraigned in Federal District Court and pleaded not guilty to all counts. He was released on \$100,000 unsecured bond.

Institutions like colleges and libraries pay for access to JSTOR, which is then available free to their users. Supporters were quick to defend Mr. Swartz. David Segal, executive director of Demand Progress, an activist group that Mr. Swartz founded, said in a statement that the arrest “makes no sense,” comparing the indictment to “trying to put someone in jail for allegedly checking too many books out of the library.” An online petition gathered 15,000 signatures in just a few hours.

In an interview, Mr. Segal said that his comments went to the principle, not to anything Mr. Swartz might have done in obtaining the documents.

“I know him as a person who cares deeply about matters of ethics and government,” Mr. Segal said. “I don’t know about the matter of what has been alleged.”

Beginning in September of last year, according to the indictment, Mr. Swartz used several methods to grab articles, even breaking into a computer-wiring closet on the M.I.T. campus and setting up a laptop with a false identity on the school network for free JSTOR access under the name Gary Host — or when shortened for the e-mail address, “ghost.” When retrieving the computer, he hid his face behind a bicycle helmet, peeking out through the ventilation holes.

The flood of downloads was so great that it crashed some JSTOR servers, the indictment stated, and JSTOR blocked access to the network from M.I.T. and its users for several days.

Ultimately Mr. Swartz returned the hard drives containing the articles to JSTOR and promised that the material would not be disseminated.

“We are not pursuing further action,” the organization’s general counsel, Nancy Kopans, said; the organization said in a statement that the criminal case “has been directed by the United States Attorney’s Office.”

As for the comments from Mr. Swartz’s supporters that he had done nothing wrong, however, Ms. Kopans said, “It’s an unfortunate situation, but I think the facts speak for themselves.”

Mr. Swartz recently completed a 10-month fellowship at the Edmond J. Safra Center for Ethics at Harvard. “Aaron has never done anything in this context for personal gain — this isn’t a hacking case, in the sense of someone trying to steal credit cards,” said Lawrence Lessig, the center’s director. “That’s something JSTOR saw, and the government obviously didn’t.”

In a statement announcing the charges, a United States attorney, Carmen M. Ortiz, said: “Stealing is stealing, whether you use a computer command or a crowbar, and whether you take documents, data or dollars. It is equally harmful to the victim whether you sell what you have stolen or give it away.”

Carl Malamud, an online activist who worked with Mr. Swartz on the court-documents project, called Mr. Swartz “one of the Internet’s most talented programmers,” but said that “the JSTOR situation is very disturbing.”

In an e-mail exchange with a reporter, Mr. Malamud, who is engaged in a project intended to put all laws and government documents online, said: “My style, when I see a gate barring entry and that gate is sanctioned by the law, is to go up to that gate and pound on it hard and force them to open up. Others sometimes look for a back door.”

He added, “I’m not convinced that style is always effective, and it is certainly often dangerous.”

Nick Bilton contributed reporting.

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