



## 1st QUARTER 2008 DIGEST

The Digest Covering Anti-Piracy Operations and Related Topics

Visit GrayZone online <http://www.grayzone.com> for late-breaking news!!

### **HEADLINE NEWS**

#### **Music Community Supports Crackdown on Piracy**

Reacting to an announcement from the United States Trade Representative and the Congressional Caucus on Intellectual Property and Piracy Prevention regarding an agreement to combat piracy, ten groups—AFM, AFTRA, ASCAP, BMI, NMPA, RAC, RIAA, SESAC, The Latin Recording Academy and The Recording Academy—issued a statement applauding their efforts.

"The music community... has been particularly hard hit by piracy in recent years. We are confronting the increased role of organized criminal syndicates in the manufacture and distribution of pirate discs at the same time that developments in communications technologies have posed ever more tension on the ability to guard against unauthorized uses... governments must step up their enforcement actions, and legal systems must demand greater accountability on the part of all parties involved in the transmission of infringing materials."

The RIAA went on to say that the initiative built on previous efforts by the G-8 and others, and that fighting piracy online should be a "priority for law enforcement," urging all parties to make good on the provisions of the agreement in order to combat borderless crime.

RIAA.com October 23, 2007

Read The Press Release: <http://www.riaa.org/newsitem.php?id=631D2032-D723-367C-79BA-84809B95AEE7>

### **ARTIST'S CORNER**

#### **Louisiana Musician Kid Rock'd in Lawsuit**

Kid Rock won a dismissal of the copyright infringement lawsuit against him filed by Troy Landry, a musician based in New Orleans who claimed that Rock's song "Somebody's Gotta Feel This" borrowed substantially from Landry's own work.

The subjects of Landry's 2004 lawsuit included Atlantic Recording Corp. and Kid Rock; Landry alleged that Rock's song was similar to a 1994 song of Landry's, particularly an eight second segment that comprised 45% of the song.

Rock's defense argued that defendants had no contact with Landry's work and that the riff in question was not copyrightable because "it is common and in the public domain" and "a fairly common progression" similar to many other songs. According to Michael Novak, one of Rock's attorney's, "Whenever you have a hit record, you can pretty much plan on attracting this kind of lawsuit." He went on to indicate that Rock's team would attempt to recoup costs from the plaintiff, but did not name an amount.

U.S. District Judge Mary Ann Vial Lemmon said, in her ruling in Rock's favor, "The works are not so strikingly or substantially similar as to preclude independent creation... a layman would not view the works as substantially similar."

Associated Press, Dec 7, 2007

[http://www.hollywoodreporter.com/hr/content\\_display/music/news/e3idf612c96b4705db4f8e9d7546de16b71](http://www.hollywoodreporter.com/hr/content_display/music/news/e3idf612c96b4705db4f8e9d7546de16b71)

### **Fans to Prince: Why You Wanna Treat Us So Bad?**

Fans of Prince have banded together to fight legal notices received from the musician demanding that unofficial websites take down pictures of the singer, song lyrics, or "anything linked to Prince's likeness," including personal tattoos and license plates related to Prince.

The three websites in question—[www.housequake.com](http://www.housequake.com), [www.princefams.com](http://www.princefams.com), and [www.prince.org](http://www.prince.org)—who have indicated they are willing to go to court, have formed a group called "Prince Fans United" (PFU).

The sites issued a statement: "We strongly believe that such actions are in violation of ... freedom of speech and should not be allowed." John Giacobbi, managing director of Web Sheriff, objects to that characterization. "At no time is Prince suing his fans and this is not about freedom of speech."

Prince had previously threatened legal action against YouTube, among others, for posting videos making use of Prince's music.

In more recent developments, PFU has said that they "are working towards a position where mutually-acceptable guidelines can be agreed upon for unofficial fan sites."

Reuters, Mike Collett-White

<http://www.reuters.com/article/mediaNews/idUSL0782091020071107>

<http://princefansunited.com/>

### **The Least of Britney's Problems**

Louis Vuitton, the French luxury item maker, won a lawsuit against popstar Britney Spears, in which she was accused of infringing on Vuitton's brand by depicting their "Cherry Blossom" design on the dashboard of a car in her music video for "Do Something."

In the video, there's a brief shot of Spears in a flying pink Hummer beating time with her hand against a dashboard plastered with what resembles a Vuitton design, including pink flowers and the signature "LV" logo.

A Parisian civil court ruled enjoined Sony BMG and MTV online from broadcasting or selling the video and handed down a fine of \$117,000 to both companies, according to an unnamed spokeswoman for Vuitton, a company that battles against frequent piracy of its products.

Though Spears was not found guilty, both Sony BMG and MTV Online were held to have violated laws against counterfeiting. Vuitton's spokeswoman indicated that the court found that the video represented an "attack" on LV's brands and image as a luxury goods maker.

Yet to be determined is how the ruling will be imposed or if the defendants, who declined immediate comment, will appeal.

Fox News, AP, Nov 20, 2007

<http://www.foxnews.com/wires/2007Nov20/0,4670,FranceBritneyBan,00.html>

## **LEGAL BEAGLE**

### **Department of Justice to Protect Intellectual Property**

Senator Patrick Leahy (D-VT), joined by Senator John Cornyn (R-TX) introduced a bill in the Senate called the Intellectual Property Enforcement Act of 2007. The law would augment counterfeiting laws already on the books, as well as mandating and providing resources for better enforcement.

According to The International Anti-Counterfeiting Coalition, various forms of piracy and copyright infringement drain billions of dollars from the US economy, costing hundreds of thousands of jobs.

According to Leahy, this new law would be only the beginning of a new legislative effort to combat counterfeiting. The bill would allow the Department of Justice to pursue civil, as opposed to criminal, remedies against copyright infringers, and would provide more money for agents to pursue pirates, as well as protect people from loss of copyright due to "harmless errors" in filling out copyright forms, such as spelling mistakes.

According to Leahy, "It is impossible to put a price tag on creativity, but we must do all we can to protect the fruits of creative labor."

Patrick Leahy, November 7, 2007

<http://leahy.senate.gov/press/200711/110707c.html>

### **Lime Lawsuit a Lemon**

Online file-sharing company LimeWire's antitrust suit against a combination of record companies has been dismissed by U.S. District Judge Gerard E. Lynch, who ruled

that New York-based Lime Group LLC did not demonstrate that it had been harmed by the record companies, dismissing some of the claims outright, while dismissing other state claims without prejudice, meaning the plaintiffs may refile their claims.

LimeWire, a company that allows peer-to-peer file-sharing, alleged that the music groups had refused to license works to LimeWire in order to force them out of business, and were themselves monopolizing sales of online music.

Judge Lynch ruled that even if record labels had fixed prices for online music, LimeWire had not established that it had been harmed by such practices and that record companies were free "to refrain from doing business" with the company. Though LimeWire alleged that record companies had hacked LimeWire's network and subsequently claimed that LimeWire promoted child pornography, Lynch found these alleged acts could not be construed as anticompetitive.

According to the AP, "Lime Group's lawsuit was a counterclaim to a copyright infringement lawsuit brought last year against by record labels owned by the four major recording companies: Vivendi's Universal Music Group, Warner Music Group Corp., Britain's EMI Group PLC, and Sony BMG Music Entertainment, a joint venture of Sony Corp. and Bertelsmann AG."

The record companies have maintained that providing a means for peer-to-peer file sharing encourages internet users to steal movies and music.

AP December 4, 2007

<http://www.foxnews.com/story/0,2933,314977,00.html>

### **Lobbyists Advocate Putting Orphans to Work**

Public Knowledge, a group lobbying on behalf of fair use reform, is advocating for laws which will would permit indexing to facilitate online searching, allow the use of "orphan works" after a good faith effort to find the copyright holder, and provide relief from frivolous requests to remove legitimate material from websites, which would necessitate Congress amending the Digital Millennium Copyright Act.

According to Public Knowledge President Gig B. Sohn, unchecked growth of copyright protections in past decades is at odds with emerging technologies.

K.C. Jones, InformationWeek, October 26, 2007 05:39 PM

<http://www.informationweek.com/news/showArticle.jhtml?articleID=202602188>

### **If They Did It: Confessions of the Swedish Pirates**

Fred Goldman, the father of murder victim Ron Goldman, has filed a lawsuit against The Pirate Bay, a Swedish file-sharing website, for illegally distributing the O. J. Simpson book, "If I Did It: Confessions of the Killer."

Fred Goldman had acquired the rights to the best-seller through legal action against O. J. Simpson; Simpson had been ordered to pay the family of Nicole Brown Simpson and the Goldman family 33.5 million dollars. Though Simpson has not paid a

substantial portion of the judgment, Goldman was awarded 90% of the royalties for Simpson's book.

Goldman has claimed to have lost at least \$150,000 through free downloads at The Pirate Bay, and wants to recoup the losses through advertising monies received by the site from Target, Jamster, and Wal-Mart.

The website's operators have refused demands from Goldman's attorneys to stop posting the book, indicating that "they are not subject to the laws of the United States," according to the lawsuit .

According to David Cook, Goldman's attorney, "It's the wealth through the advertising that allows the site to remain. Ron Goldman LLC will never be able to stop these pirates from posting that book online but they can do that in the poorhouse."

AP, Friday , November 30, 2007  
<http://www.foxnews.com/story/0,2933,314065,00.html>

## **Quick BITS AND BYTES**

### **Nag Nag Nag**

Microsoft has announced that that they will no longer end Windows Vista functionality for users who do not authenticate after a 30 day period. Instead, Vista users will be subject to what's known in the industry as "Nagware"—notices will pop up periodically on users' computer monitors, reminding them that the product they are using is not genuine.

According to IDC analyst Al Gillen, "This does represent a step backward for Microsoft. It's always been pretty aggressive about trying to reduce piracy, so this is a significant move." However, Microsoft has indicated that piracy rates for Vista are about half those of Windows XP.

Still, there are reports from consumers that Vista does not always authenticate correctly, and that functionality has become degraded for customers even when registration has been completed.

Windows Genuine Advantage senior product manager Alex Koch apologized for this in a post on the WGA blog.

"I want everyone to know that I am personally very disappointed that this event occurred. As an organization, we've come a long way since this program began and it's difficult knowing that this event confused, inconvenienced, and upset our customers."

There has been speculation that Microsoft is responding to the loss of customers to Linux, but analyst Gillen disputes this. "Linux is just not a huge threat to Microsoft. Yes, in some underdeveloped geographies, Linux has made a little progress, but in more mature geographies, it hasn't been much of a factor. I doubt that was part of Microsoft's reasoning."

Frederick Lane December 5, 2007  
[http://www.newsfactor.com/story.xhtml?story\\_id=57084](http://www.newsfactor.com/story.xhtml?story_id=57084)

## **Demonic Dispossession**

The file-sharing website demonoid recently put up the following placeholder on its website:

"The CRIA [Canadian Recording Industry Association] threatened the company renting the servers to us, and because of this it is not possible to keep the site online. Sorry for the inconvenience and thanks for your understanding."

<http://www.demonoid.com/>  
<http://torrentfreak.com/demonoid-shuts-down-again-071109/>

## **MPFee**

EMI Group has instigated a second copyright infringement lawsuit against Michael Robertson and MP3tunes, the company of which he is CEO. (The first suit occurred in 2000 and was settled by his former company for 100 million dollars.)

EMI alleges that though [sideload.com](http://sideload.com) and [mp3tunes.com](http://mp3tunes.com), two websites run by MP3tunes, offer downloadable music online, "MP3tunes... does not own the music it exploits; nor does MP3tunes have any legal right or authority to use or exploit that music."

Robertson has called the suit "retaliatory"—MP3Tunes had slapped EMI with a lawsuit after that company had given [sideload.com](http://sideload.com) a take-down order. Robertson's old company, MP3.com, had been sued before by some of the current plaintiffs, one of which, Vivendi's Universal Music Group, ended up buying MP3.com for \$385 million.

Robertson went on to comment "These guys rush off to court and tell the court that I am terrible and then they end up buying my company. It is really a shame because instead of using these technologies to improve their business they make an enemy of every technology company out there."

Hollywood Reporter November 13, 2007  
[http://www.hollywoodreporter.com/hr/content\\_display/business/news/e3i26138003c343f1a18c80cc9d1a3d20dd](http://www.hollywoodreporter.com/hr/content_display/business/news/e3i26138003c343f1a18c80cc9d1a3d20dd)

## **OiNK Goes BOiNK**

Shortly after being forced offline by the music industry, online piracy site OiNK has announced plans to relaunch the site as "BOiNK." The new domain will have to rely on former OiNK users to upload their own files again in order to offer content competitive with OiNK's former offerings. The move has caused concern in music industry circles, as the destruction of OiNK may end up spawning a host of new piracy sites.

Ken Fisher November 5, 2007  
<http://arstechnica.com/news.ars/post/20071105-oinks-new-piglets-proof-positive-that-big-content-efforts-often-backfire.html>

## **1 Q 2008 (First Quarter) BUSTS**

Be sure to peruse the Recording Industry Association of America's (RIAA) monthly newsletter which covers numerous bootleg, piracy and counterfeit raids across the United States. Read about the recent busts at our website:

<http://www.grayzone.com/usabusts.htm>

### **G'Doh!**

Jose Duarte, a 21-year-old Sydney man, had the distinction of becoming the first known person to have uploaded a pirated version of "The Simpsons Movie" onto the internet, was given a fine of \$1,000 Australian dollars (U.S. \$888) by a magistrate for copyright infringement.

Duarte was located after an international effort initiated by Fox, which distributed the film. Though he pled guilty his lawyer, Ken Stewart, insists that Duarte "had no idea what he was doing."

Duarte had made two attempts to upload the film, believing he'd failed to do so. "It would appear that this young man had the sophistication of a dead fish," Stewart said.

According to Prosecutor Chuan Ng, though the film had been online for only a short time, it was downloaded 3,213 times.

International Herald Tribune, AP, November 13, 2007  
<http://www.iht.com/articles/ap/2007/11/13/business/AS-TEC-Australia-Simpsons-Pirating-Fine.php>

### **Pre-Release Pirate Site Shut Down by Police**

Polish police shut down a server at Wroclaw Technical University that was being used to post new music online before its announced date of release. Two persons were arrested and are cooperating with authorities.

The server, called HPN, was a "topsite," which allowed users to transfer large files in a short amount of time. It was host to over 11,000 MP3 albums and CDs available for download. 'Release groups,' members who pride themselves on releasing music before it becomes available to the general public, used HPN to illegally post songs. This practice can hurt the sale of albums, which sell mostly in the first weeks after release.

According to Jeremy Banks, Head of the Internet Anti-Piracy Unit at IFPI which represents the record industry globally: "People that post pre-release material onto the internet are without doubt harming the music industry; one posting on a topsite can see an album appear in thousands of different locations across the internet in a matter of hours. The industry is highly focused on the problem of pre-release piracy and these actions in Poland will not be the last of their kind."

IFPI November 9, 2007

<http://www.grayzone.com/ifpinews-11-9-07.html>

## **WORLDWIDE PIRACY UPDATE**

### **Bush to Global Pirates: Time To Walk the Plank**

An international Anti-Counterfeiting Trade Agreement is in the works, sponsored by the Bush Administration; cooperating nations would include Canada, Mexico, the EU, Switzerland, New Zealand, and South Korea, who would join on a voluntary basis. The Agreement would emphasize international cooperation, improved tactics for battling piracy, and tougher enforcement against violators of intellectual property rights.

According to U.S. Trade Representative Susan Schwab, global pirates and counterfeiters engage in the theft of billions each year, victimizing artists, businesspeople, and ordinary workers.

Office of the United States Trade Representative October 23, 2007

[http://www.ustr.gov/Document\\_Library/Press\\_Releases/2007/October/Ambassador\\_Schwab\\_Announces\\_US\\_Will\\_Seek\\_New\\_Trade\\_Agreement\\_to\\_Fight\\_Fakes.html](http://www.ustr.gov/Document_Library/Press_Releases/2007/October/Ambassador_Schwab_Announces_US_Will_Seek_New_Trade_Agreement_to_Fight_Fakes.html)

## **CHINA**

### **Chinese Company and Microsoft BFF's and HackOr H4t0rz 4-Ever!!!111**

Microsoft Corporation and Founder Technology Group, a Chinese personal computer manufacturer, agreed to package the Windows OS in Founder's PCs in order to help combat the growth of software piracy in China. In addition to Windows, Founder will load Microsoft's email, instant messaging, and photo-sharing.

While other Asian countries' rates of piracy are around 55%, China leads the pack with a rate of 82%. The companies issued a joint statement, announcing a "commitment of both companies to protect intellectual property rights."

Founder declined to discuss financial terms of the deal, but indicated virtually all of its consumer PCs and around 40% of its business computers would have pre-installed versions of Windows, according to the Business Software Alliance.

In March of 2007, China's largest PC maker, Lenovo Group, made a deal to include Microsoft software on its PCs.

International Herald Tribune AP, November 6, 2007

<http://www.iht.com/articles/ap/2007/11/07/business/AS-TEC-China-Microsoft.php>

## **FRANCE**

### **France Takes a Hard Line on Internet Piracy**

A "groundbreaking" agreement in France has been reached whereby a French government agency will be responsible for policing internet users who share files illegally. The agency will have the power to warn, suspend internet accounts, or even terminate subscriptions.

With the support of French President Sarkozy, a memorandum of understanding was signed by internet service providers, producers of music and audiovisual content, and "public authorities."

According to the CEO of IFPI, John Kennedy: "This is the single most important initiative to help win the war on online piracy that we have seen so far. President Sarkozy has shown leadership and vision. He has recognised the importance that the creative industries play in contemporary western economies. The winners will be French music, French employees and French music fans. By requiring ISPs to play a role in the fight against piracy, President Sarkozy has set an example to others of how to ensure that the creative industries remain strong in difficult markets so that they can remain major economic and cultural contributors to society."

Access providers will, according to the agreement, try new methods to sift out online content which infringes copyright. The usefulness of the new procedures will be assessed on a monthly basis by the government agency.

Kate Holton with David Cowell, Reuters, November 23, 2007

Read the Press Release: <http://www.ifpi.org/>

[http://oto-online.com/index.php?option=com\\_content&task=view&id=710&Itemid=42](http://oto-online.com/index.php?option=com_content&task=view&id=710&Itemid=42)

## **INDIA**

### **Indian Company Says Mumbai-Bye To YouTube**

Super Cassettes Industries Ltd, a large Mumbai based entertainment company, got a court order prohibiting YouTube India from posting music or videos from SCIL, which took legal action against parent company Google earlier this year.

SCIL issued a statement saying, "The business model of YouTube allows, encourages and profits from use of copyrighted work uploaded on the website without obtaining any license or permission from the rightful copyright owners and without paying them any royalty."

The company has indicated concern that pirating creative works from artists robs them of their ability to make a living, and websites which encourage users to violate copyright are engaging in "a new form of piracy in the digital medium."

YouTube has argued in the past that they are compliant with applicable laws in that they instruct to users not to post copyrighted material, and remove content upon the request of the copyright holder, though there is speculation that YouTube may at some point be required to show greater initiative in policing their own content.

CMU Daily November 12th, 2007

<http://www.cmumusicnetwork.co.uk/daily/071112.html>

## **MEXICO**

### **Once Upon a Crime in Mexico**

A poll conducted in September of three of Mexico's largest cities reveals that at least 90% of Mexicans purchase pirated goods.

CD's are especially popular, and are most frequently bought by 16 to 24-year-olds, according to a poll commissioned by the American Chamber of Commerce of Mexico. Movie DVD's, clothes, and shoes, are also in demand.

In Mexico City, Monterrey, and Guadalajara (which comprise 40% of the country's consumer base), 60% of those polled said they occasionally buy pirated goods, 31% indicated that they almost always do, while 9% describe themselves as always doing so, with 75% of all respondents indicating that lower prices was the reason they bought counterfeit goods.

Estimates are that the industry cost of pirated goods during the last twelve months in Mexico is \$226 million, with the government losing out on \$110 million in taxes.

43% of those polled indicated they understood piracy was illegal, and over 70% affirmed their belief that it led to crime, the compromising of public safety, and damage to the economy.

E. Eduardo Castillo, AP November 29, 2007  
<http://www.ibtimes.com/articles/20071129/poll-90-pct-in-mexico-buy-pirated-goods.htm>

## **END OF GRAYZONE DIGEST**

Publisher: Dorothy Sherman  
Managing Editor: Ephraim Rosenbaum  
Graphic Design: Ajaxx63/Seattle

Copyright © 2008 GrayZone, Inc.

GrayZone, Inc.  
P.O. Box 22068  
Brooklyn, NY 11202-2068

To be removed from this mailing, please contact us at: [GrayZone@grayzone.com](mailto:GrayZone@grayzone.com) .  
Visit GrayZone online: <http://www.grayzone.com>