



## 1st QUARTER 2011 DIGEST

The Digest Covering Anti-Piracy Operations and Related Topics

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## HEADLINE NEWS

### U.S. SHUTS DOWN SITES IN MAJOR PIRACY CRACKDOWN



As part of a major crackdown on copyright infringement online, the federal government has seized a number of websites, focused primarily on the illegal sharing of files and selling of counterfeit goods.

The seizures took place on November 26, 2010, when the government effectively redirected all online traffic to its own takedown notice. Visitors to the websites involved were greeted with a graphic featuring the seals of the Department of Justice, the National Intellectual Property Rights Coordination Center and a badge reading "Homeland Security Investigations," along with text that read:

*"This domain name has been seized by ICE - Homeland Security Investigations, pursuant to a seizure warrant issued by a United States District Court under the authority of 18 U.S.C., Sections 981 and 2323. Willful copyright infringement is a federal crime that carries penalties for first time offenders of up to five years in federal prison, a \$250,000 fine, forfeiture and restitution (17 U.S.C., Section 506, 18 U.S.C., Section 2319). Intentionally and knowingly trafficking in counterfeit goods is a federal crime that carries penalties for first time offenders of up to ten years in federal prison, a \$2,000,000 fine, forfeiture and restitution (18 U.S.C., Section 2320)."*

The actions involved the seizure of nearly 80 websites, including a number of popular music and movie torrent sites such as [torrent-finder.com](http://torrent-finder.com) and [dvdcollects.com](http://dvdcollects.com). Additionally, a number of sites were taken down that officials said were involved in the distribution of counterfeit goods, including [2009jerseys.com](http://2009jerseys.com), [throwbackguy.com](http://throwbackguy.com) and [raggodfathers.com](http://raggodfathers.com).

The seizures came after a US Senate committee approved a proposal allowing the federal government to shut down websites accused of aiding in computer piracy. The proposal, called the *Combating Online Infringement and Counterfeits Act* (COICA), allows a domain to be seized if it "has no demonstrable, commercially significant purpose or use other than" offering or providing access to unauthorized copies of copyrighted works.

The MPAA (Motion Picture Association of America), the RIAA (Recording Industry Association of America) and a number of media companies have supported the measure.

"Federal law enforcement authorities have now hung a 'closed for business' sign on some of the most notorious music websites that were havens for copyright theft. No anti-piracy initiative is a silver bullet, but targeted government enforcement against the worst of the worst rogue sites sends a strong message that illegally trafficking in creative works carries real consequences and won't be tolerated." said Mitch Bainwol, RIAA Chairman and CEO.

The sites included in the seizure action were: 2009jerseys.com, 51607.com, amoyhy.com, b2corder.com, bishoe.com, borntrade.com, borntrade.net, boxedtvseries.com, boxset4less.com, boxsetseries.com, burberryoutletshop.com, cartoon77.com, cheapscarfshop.com, coachoutletfactory.com, dajaz1.com, discountscarvesonsale.com, dvdcollectionsale.com, dvdcollects.com, dvdorderonline.com, dvdprostore.com, dvdscollection.com, dvdsetcollection.com, dvdsetonline.com, dvdsuperdeal.com, eluxury-outlet.com, getdvdset.com, gofactoryoutlet.com, golfstaring.com, golfwholesale18.com, handbag9.com, handbag.com, handbagspop.com, icqshoes.com, ipodnanouk.com, jersey-china.com, jerseyclubhouse.com, jordansbox.com, lifetimereplicas.com, louis-vuitton-outlet-store.com, lv-outlets.com, lv-outlets.net, lv-outletstore.com, massnike.com, merrytimberland.com, mycollects.com, mydreamwatches.com, mygolfwholesale.com, newstylerolex.com, nfljerseysupply.com, nibdvd.com, odvdo.com, oebags.com, onsmash.com, overbestmall.com, rapgodfathers.com, realtimberland.com, rmx4u.com, scarfonlineshop.com, scarfviponsale.com, shawls-store.com, silkscarf-shop.com, silkscarfonsale.com, skyergolf.com, sohob2b.com, sohob2c.com, storeofeast.com, stuff-trade.com, sunglasses-mall.com, sunogolf.com, tbl-sports.com, throwbackguy.com, tiesonsale.com, timberlandlike.com, topabuy.com, torrent-finder.com, usaburberryscarf.com, and usaoutlets.net.

New York Times, November 26, 2010 (Ben Sisario)

[http://www.nytimes.com/2010/11/27/technology/27torrent.html?\\_r=4&ref=technology](http://www.nytimes.com/2010/11/27/technology/27torrent.html?_r=4&ref=technology)

11Alive.com, November 27, 2010 (Michael King)

[http://www.11alive.com/rss/rss\\_story.aspx?storyid=165264](http://www.11alive.com/rss/rss_story.aspx?storyid=165264)

RIAA.com, November 29, 2010

Read The Press Release: <http://riaa.com/newsitem.php?id=097C515F-4241-2DF4-8C25-1D111383D88D>

Govtrack.US, November 18, 2010

Read the COICA Bill Online: <http://www.govtrack.us/congress/billtext.xpd?bill=s111-3804>

# **ARTIST'S CORNER**

## **THE BEATLES Arrive on iTunes**

Legendary music group THE BEATLES have made their music available on iTunes as of November 16, 2010. Tracks from all of the band's albums were made available for purchase individually or as complete iTunes LPs. Apple announced the arrival of the band's catalog on its website, with a picture of the "Fab Four" taking up the front page. A special section of Apple's website dedicated to The Beatles was also launched.

The arrival of The Beatles on iTunes was a long road, completed more than seven years after the iTunes Store first began selling music. Apple, Inc. and the Beatles' parent company, Apple Corp, were engaged in a trademark dispute for years, before it was finally settled in 2007.

In 1991, the two had updated a 10-year-old agreement regarding how each of them would be allowed to use its trademarks. Apple Inc. (at the time known as Apple Computer Inc.) paid Apple Corps \$27 million and agreed not to enter the music distribution business under the Apple name and logo. Apple Corps later said that the computer maker broke that agreement by opening the iTunes Store, and sued in 2003. Apple Computer eventually emerged victorious when a U.K. judge ruled that it was not in violation of the agreement because it was selling prerecorded content, not original music under the logo. The dispute was officially resolved in 2007, when a new deal replaced the 1991 agreement, which prohibited Apple Inc. from distributing music through physical media such as CDs and cassette tapes.

The parties involved in the latest deal commented on the arrival of the songs from The Beatles on iTunes:

"We're really excited to bring the Beatles' music to iTunes," said PAUL McCARTNEY. "It's fantastic to see the songs we originally released on vinyl receive as much love in the digital world as they did the first time around."

"I am particularly glad to no longer be asked when the Beatles are coming to iTunes," said RINGO STARR.

"We love the Beatles and are honored and thrilled to welcome them to iTunes," said Steve Jobs, Apple's CEO. "It has been a long and winding road to get here. Thanks to the Beatles and EMI, we are now realizing a dream we've had since we launched iTunes ten years ago."

Apple Insider, November 16, 2010

[http://www.appleinsider.com/articles/10/11/16/the\\_beatles\\_catalog\\_comes\\_to\\_apples\\_itunes.html](http://www.appleinsider.com/articles/10/11/16/the_beatles_catalog_comes_to_apples_itunes.html)

CNet News, November 16, 2010 (Erica Ogg)

[http://news.cnet.com/8301-31021\\_3-20022922-260.html](http://news.cnet.com/8301-31021_3-20022922-260.html)

## **HORRORPOPS' DAY In Court Against Barbie Maker**

PATRICIA DAY, lead singer of the psychobilly style band, HORRORPOPS, is suing Mattel for infringement for using her likeness to create the new "Rockabilly Barbie" doll.

Day, a Danish citizen now living in the US, filed suit in federal court in Indianapolis against Barbie-maker Mattel and Hard Rock Cafe International, Inc. The suit charges infringement of the right of publicity and false endorsement.

In her lawsuit, Day charges that in recent months Mattel and Hard Rock have released a series of rock 'n' roll-themed Barbies featuring pioneering female musicians including DEBBIE HARRY of BLONDIE, JOAN JETT and CYNDI LAUPER. Another doll, called the "Hard Rock Cafe Rockabilly Barbie Doll," is made in the image of Day but lacks any direct acknowledgement of the singer.

"Day has provided no authorization to defendants for the use of her likeness in any manner, let alone for the creation and sale of a Barbie doll," the suit charges. It cites that she is known for her black hair meticulously done in 50s pin-up fashion, heavily-applied black eye shadow, deep red lipstick, form-fitting 50s-style pencil skirts, tattoos on her upper arms and her giant tattooed upright bass. All are features shared by the Hard Rock's Barbie doll.

Since the release of the Hard Rock Barbie, Day has been repeatedly approached by fans who have been perplexed by the striking resemblance of the Hard Rock Barbie to her likeness and persona and who have expressed disappointment in their (mistaken) belief that Day would permit such a use of her likeness in a manner, "so at odds with her values and the values of her fans," the lawsuit charges.

Hard Rock and Mattel have not yet responded to the lawsuit, which demands the defendants stop selling the doll in question and pay Day their profits from the doll sales.

Las Vegas Sun, December 25, 2010 (Steve Green)

<http://www.lasvegassun.com/news/2010/dec/25/singer-alleges-barbie-doll-made-her-likeness/>

## **LEGAL BEAGLE**

### **Pirate Bay Loses Appeal**

Pirate Bay's co-founders have lost their appeal against convictions for encouraging illegal file-sharing, and have had their collective fine increased by \$2 million to \$6.5 million.

On November 26, 2010, a Stockholm court of appeals ruled that Fredrik Neij, Peter Sunde and Carl Lundstrom remain guilty of helping Pirate Bay users illicitly share copyrighted music and film content via their website. While the Swedish appeals court did reduce each of their prison sentences from one year to between four and 10 months, it also raised the amount they have to pay in damages to the entertainment industry to \$6.5 million.

All four Pirate Bay co-founders were found guilty in April 2010 of assisting in the distribution of copyrighted content. The fourth co-founder convicted in April 2010, Gottfrid Svartholm Warg, did not appear at the appeals court hearings, citing illness.

Following the ruling, Sunde vowed to take the appeal "to the highest

court". Defense lawyers for Neij and Lundstrom said they were not surprised but disappointed by the ruling and confirmed that they would probably appeal to the European Supreme Court.

The four Pirate Bay co-founders were ordered to pay damages to 17 different music and media companies including Sony BMG, Universal, EMI, Warner Music, MGM and 20th Century Fox, having being found guilty of making 33 specific files accessible for illegal sharing.

Neij, 32, must now serve 10 months in prison; Sunde, 32, will serve eight months, and Lundstrom, 50, will serve four. Svartholm, the youngest of the four at 26 years old, will have his case heard at a later date.

The Guardian, November 26, 2010 (Josh Halliday)  
<http://www.guardian.co.uk/technology/2010/nov/26/pirate-bay-founders-appeal>

See GrayZone 4Q 2009 Digest: <http://www.grayzone.com/1009.htm>

### **RIAA Wins Big in Third Minn. Downloader Trial**

Jammie Thomas-Rasset, the Minnesota woman who has been found guilty of illegally downloading and sharing songs online in 2006, has lost another round in court.

On November 3, 2010, a jury in Minneapolis decided that she was liable for \$1.5 million in copyright infringement damages to Capitol Records, or \$62,500 for each song she illegally shared in April 2006. The RIAA who represents the four major music labels in the case applauded the verdict.

"We are again thankful to the jury for its service in this matter and that they recognized the severity of the defendant's misconduct," the RIAA said in a statement. "Now with three jury decisions behind us along with a clear affirmation of Ms. Thomas-Rasset's willful liability, it is our hope that she finally accepts responsibility for her actions."

Thomas-Rasset continues to appeal the judgments that have been ruled against her, "We intend to raise our constitutional challenge again," said Kiwi Camara, an attorney representing Thomas-Rasset. "The fight continues."

The trial is the third for Thomas-Rasset, who was originally accused of sharing 1,700 songs, enough to fill about 150 CDs. After one jury found her liable for copyright infringement in 2007 and ordered her to pay \$222,000, the judge in the case later ruled that he erred in instructing the jury and called for a retrial. In the second trial, which took place in 2009, a jury found Thomas-Rasset liable for \$1.92 million. Thomas-Rasset subsequently asked the federal court for a new trial or a reduction in the amount of damages in July 2009.

But in 2010, the judge found that amount to be "monstrous and shocking" and reduced the amount to \$54,000. Following that, the RIAA informed Thomas-Rasset that it would accept \$25,000, if she agreed to ask the judge to "vacate" his decision, which means removing his decision from the record. Thomas-Rasset rejected that offer almost immediately.

The third milestone win for the RIAA in this case is viewed as an effective way to communicate their anti-piracy message to the public. The cases create awareness about the consequences illicit file-sharing may have.

CNet News, November 3, 2010 (Steven Musil)  
[http://news.cnet.com/8301-1023\\_3-20021735-93.html](http://news.cnet.com/8301-1023_3-20021735-93.html)

RIAA.com, November 3, 2010

Read The Press Release: <http://riaa.com/newsitem.php?id=057E43FB-CA99-8074-479B-60D3D9629585>

See GrayZone 3Q 2009 Digest: <http://grayzone.com/709>

See GrayZone 4Q 2009 Digest: <http://grayzone.com/1009.htm>

## Federal Judge Shuts Down LimeWire

LimeWire has officially been shut down by a federal judge.

The LimeWire case has come to an end as a federal judge Kimba M. Wood of Federal District Court in Manhattan found the P2P (peer-to-peer) file sharing site guilty of assisting users in committing copyright infringement. Judge Wood sided with the plaintiffs who claimed that over 93% of the software's traffic was made up of infringing content. The case against LimeWire LLC by the RIAA started in 2006, charging LimeWire with online infringement.

Judge Wood also found LimeWire founder Mark Gordon to be personally liable. The RIAA then made two separate motions, one for permanent shut down of the company, and the other for freezing of the company's assets. The first of these motions was immediately upheld, as LimeWire stopped distributing its software. In its place at the LimeWire company website there is a legal notice posted:

*"THIS IS AN OFFICIAL NOTICE THAT LIMEWIRE IS UNDER A COURT-ORDERED INJUNCTION TO STOP DISTRIBUTING AND SUPPORTING ITS FILE-SHARING SOFTWARE. DOWNLOADING OR SHARING COPYRIGHTED CONTENT WITHOUT AUTHORIZATION IS ILLEGAL."*

The Examiner, October 27, 2010 (Cheryl Phillips)

<http://www.examiner.com/google-trends-in-national/judge-shuts-down-limewire#ixzz1BLovh1Wf>

San Francisco Chronicle, November 18, 2009 (Richard Lardner, AP)

<http://www.sfgate.com/cgi-bin/article.cgi?f=/n/a/2009/11/17/national/w152831S46.DTL>

Library of Congress, November 17, 2009

Read The Bill: <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.4098>

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### **SIDEBAR – UMG Loses Appeal For Promos**

On January 4, 2011, the US Court of Appeals, Ninth Circuit sided with consumer advocates, upholding a lower court's ruling that a record company couldn't block the resale of used CDs just by marking them as "not for sale."

The case pitted Universal Music Group against online merchant Troy Augusto, who acquired numerous promotional CDs and then sold them on eBay.com. Such discs, which the record company mails to reviewers and industry insiders, typically carry labels that declare "Promotional Use Only - Not for Sale." They may also instruct the recipient that the discs remain the property of the record company and are merely being licensed for promotional use.

The "first sale" provision of federal copyright law holds that the owner of a copy of a work may sell or dispose of it without the copyright owner's approval. UMG argued that its promotional CDs weren't covered by the first-sale rule because recipients of the discs didn't own them, they merely were licensees with limited privileges.



## **PC Mag Called Out For Encouraging Piracy**

The music industry has accused the IT magazine, PC Mag, of encouraging copyright theft after it listed a number of alternative P2P services in the wake of Limewire being shut down. PC Mag received a letter signed by a number of music industry executives which accused the publication of encouraging copyright infringement.

The PC Mag story had listed six P2P services and torrent trackers, along with the disclaimer that "all of these services should be used for legal downloads, of course."

Despite the disclaimer the music industry executives were fuming. "The harm done to the creative community when people are encouraged to steal our music is immeasurable. Disclaimer or no, when you offer a list of alternative P2P sites to LimeWire and include more of the serial offenders, PC Magazine is slyly encouraging people to steal more music."

PC Mag editor-in-chief Lance Ulanoff, replied that it was his magazine's job to cover all aspects of technology, which includes the products, services and activities that some groups and individuals might deem objectionable.

TechEYE.net, November 25, 2010 (Nick Farrell)  
<http://www.techeye.net/internet/music-industry-grows-at-pc-mag>

## **1 Q 2011 (First Quarter) BUSTS**

### **Largest Piracy Bust in LA History**

In the largest raid on counterfeit goods in Los Angeles history, the city's Anti-Piracy Task Force made 10 arrests and seized more than \$4 million worth of counterfeit goods, including a sizeable number of DVDs.

The series of raids conducted in December 2010, dubbed *Operation Chimney Sweep*, involved dozens of LAPD officers and private investigators, and resulted in the seizure of \$4.06 million worth of illegal movies, music and apparel.

"The film industry is one of America's greatest exports that drives economic growth, provides good jobs, and generates vital revenue for governments and communities at all levels, especially in Los Angeles," said Larry Hahn, director of domestic content protection for the MPAA. "We are grateful to the city of Los Angeles and the LAPD for their leadership and sustained commitment to curbing piracy in Los Angeles, the film and television capitol of the world."

Since 2004, L.A. anti-piracy law enforcement has made nearly 500 arrests, served more than 700 warrants and seized more than \$305 million worth of counterfeit goods. The Los Angeles County Economic Development Corporation estimates the amount that Los Angeles county businesses lose to piracy annually is over \$5.2 billion.

Home Media Magazine, December 22, 2010 (Chris Tribbey)  
<http://www.homemediamagazine.com/piracy/la-anti-piracy-bust-largest-citys-history-21501>

# **WORLDWIDE PIRACY UPDATE**

## **CHINA**

### **New Crackdown on Piracy**

China's government has announced a new crackdown on rampant illegal copying of products from software to music that is adding to tensions with the US and other governments over trade and currency complaints.

Trade groups have insisted Chinese piracy of software and some other goods is growing despite repeated promises to stamp it out. The WTO (World Trade Organization) sided with the US in January 2010 in a complaint that Beijing was failing to enforce patents, copyrights and trademarks aggressively enough.

Announced on November 30, 2010, the latest six-month campaign will target illegally copied or phony goods as varied as software, Internet materials, medicines and corn that is falsely labeled as organic, deputy commerce minister, Jiang Zengwei, said at a news conference. He promised closer cooperation with the US, Japan and Europe.

The share of PCs in China with legitimate operating systems rose from 87.7 percent in 2007 to 98 percent last year, according to Chinese officials. Still, some 79 percent of software used in China last year was illegally copied, according to the BSA (Business Software Alliance).

The Star, November 30, 2010 (AP)

<http://biz.thestar.com.my/news/story.asp?file=/2010/11/30/business/20101130135749&sec=business>

## **INDIA**

### **Google Combats Piracy**

Google Inc. has launched a music service in India to help users search for legal online streams and downloads, a move aimed at combating rampant digital piracy that has held back the country's entertainment industry.

The US tech giant partnered with three digital music providers who together have the rights to hundreds of thousands of Indian tracks, from Bollywood hits to Indian classical tunes. Google first made the service available on October 15, 2010 and has since integrated it into its main search bar.

When Internet users in India type a song into Google's search bar, the top links in response are now from Google's partners, including India's largest music label, Saregama India Ltd., New York-based media company Saavn, and Web portal In.com. Clicking on a link will launch a pop-up music player where the requested content is streamed for free.

Global interest in Indian music has increased in recent years as it has received greater exposure through films such as Oscar-winner "Slumdog Millionaire." However, piracy in the form of knock-off CDs and dozens of websites peddling illegal downloads, has stunted the Indian market. Despite piracy, India's domestic music market is expected to grow to \$590 million by 2014, and much of the growth is likely to come from the wireless industry. Sales of ringtones and songs to the nation's 670 million cell phone users already make up 30% of overall music industry sales.

Wall Street Journal, October 20, 2010 (Amol Sharma)

<http://online.wsj.com/article/SB10001424052702304023804575566363927521030.html>

## **FRANCE**

### **Second Wave of Warnings Issued**

French authorities have advanced to the second stage of enforcement of the controversial HADOPI law, under which Internet users suspected of illegal file-sharing could end up having their Internet connection suspended.

After starting to send warning emails on October 5, 2010, the authorities have announced that they are sending out a second wave of emails accompanied by a certified letter. If violators continue to illegally download copyrighted material, the HADOPI's Rights Protection Commission (CPD) can then ask a judge to order their Internet Service Provider to disconnect them for a month.

According to CPD president Mireille Imbert-Quaretta, 70,000 Internet users have so far received an initial warning email under HADOPI's "graduated response" procedure. The 70,000 email warnings so far sent are the outcome of 100,000 requests to ISPs to identify suspected offenders from IP addresses. Imbert-Quaretta still hopes to reach the rate of 10,000 warnings a day, the volume cited when parliament debated the HADOPI law.

"Less than 10% of those who were sent warnings (about 7,000 people), got back to us directly," Imbert-Quaretta said. "Three quarters of them asked us to identify the offending material, while the others disputed the claim or suggested that their computers must have been hacked."

Reporters Without Borders, January 17, 2011

<http://en.rsf.org/france-second-wave-of-warning-emails-17-01-2011,39337.html>

## **MEXICO**

### **Prison for 14 Pirates**

A Mexican judge in Monterrey, Nuevo Leon, Mexico has sentenced 14 music pirates to five years and three months in prison after they were found guilty of copyright infringement in violation of the Mexican Federal Criminal Code. The judge also ordered each defendant to pay a fine of \$4,000. The trial took place on October 15, 2010 and was the culmination of a case that began on July 20, 2009. On this date, the 14 individuals were arrested in an anti-piracy operation that was conducted by the Mexican Army.

During the raid, the army dismantled 16 laboratories and 23 warehouses located in Monterrey City that allegedly were under the control of a major criminal organization, which is committed to illegal drug trafficking. The operation led to the seizure of 1,180 CD burners, 3,141,273 recorded CDRs, 3,268 blank CDs, one plotter machine, 20 automated serigraphy machines, two kilos of marijuana, one laptop, one firearm, radios, cell phones, and motor vehicles. The pirates were kept in protective custody while awaiting trial. They are now serving their sentences in the detention center, "Centro de Reinsercion Social" in Apodaca, Nuevo Leon.

IFPI.org, November 23, 2010

Read The Press Release: [http://ifpi.org/content/section\\_news/20101123.html](http://ifpi.org/content/section_news/20101123.html)

## **THE NETHERLANDS**

### **"Black on White" Campaign Against Software Piracy**

The BSA (Business Software Alliance) has launched a new campaign in the Netherlands to fight against corporate software piracy. From mid-January 2011, the BSA campaign "Black on White" will try to get the attention of consumers through direct and viral marketing as well as radio commercials.

According to the BSA, the use of pirated software is unfair competition and leads to the loss of jobs. The organization hopes the campaign will encourage people to report software piracy.

"The impact of software piracy on the economy and unfair competition should be enough reason to sign on," says Alastair de Wet, president of the BSA Committee in the Netherlands. "We think that if companies see that the BSA encourages the reporting of piracy, they will make sure that they are immediately compliant. I understand that for some people it is a big step to report software piracy, but not reporting it is unjust for many companies that do use legal software."

Informants can now fill in a form on the BSA website. If their tips lead to damages paid by the offending companies, the informants can earn up to 10% of the fines paid, with a maximum of €10,000 (US \$13,500).

Dutch Daily News, January 17, 2011  
<http://www.dutchdailynews.com/software-piracy/>

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## **END OF GRAYZONE DIGEST**

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