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Headline News

Napster Sued

"They have conceived a business that is based on (copyright) infringement."

(Russell Frackman, RIAA attorney, to Associated Press, March 28, 2000)

"(Napster is) trying in a PR-way to make Metallica the bad guys in the eyes of our fans, and that's what pisses us off even more. This is about piracy and that is morally and legally wrong."

(Metallica drummer Lars Ulrich to rollingstone.com, April 14 and May 4, 2000)

"I don't like people stealing my music."

(Dr. Dre to rollingstone.com, after filing a lawsuit against Napster, April 27, 2000)

"That Napster s- -t, if that gets any bigger, it could kill the whole purpose of making music. It's not just about the money.... I've seen those little sissies on TV, talking about (how) 'The working people should just get music for free.' I've been a working person. I never could afford a computer, but I always bought and supported the artists that I liked. ...If you can afford a computer, you can afford to pay \$16 for my CD."

(Eminem to writer Gary Graff, wallofsound.com, May 17, 2000)

In December 1999, the Recording Industry Association of America (RIAA) filed a lawsuit against Napster in which it accused the company of encouraging its software users and computer servers to trade copyrighted music online without the owners' permission. Napster, based in San Mateo, California and founded by two college students, provides a free software application whereby users who are logged on to the Internet simultaneously can download MP3 music files from each other free of charge. Napster, which is popular with college students, overloads university networks throughout the U.S., with an estimated 1 million hits a day. About 100 universities around North America had to ban or restrict use of Napster to keep their Internet lines from becoming clogged by people trading music.

The RIAA is seeking \$100,000 for each work infringed and preliminary and permanent injunctions against further copyright infringement by Napster.

On April 14, Metallica became the first recording act to take legal action against Napster. The band, along with E/M Ventures and Creeping Death Music, filed a \$10 million copyright-infringement and racketeering lawsuit against the company and three universities that provide access to the company's swapping software: University of Southern California, Indiana

University and Yale University. Two weeks after the launch of the Metallica lawsuit, Dr. Dre's record label, Aftermath Entertainment, filed a suit against Napster when it refused to delete his tracks from their directory.

The lawsuits are taking a toll on universities that had turned a blind eye to students' use of Napster. In late April, Yale University banned the software from its servers. In response, Metallica dropped Yale from its lawsuit. The University of Southern California followed with an announcement that it would only permit access to Napster on its server for "legal purposes from designated University personal computers and under University supervision."

The Metallica lawsuit caused a backlash from fans, which prompted the group to respond to them in an online net chat in early May. (Read a transcript of the live chat: <http://www.artistdirect.com/metallica/>)

Metallica's attorneys hired NetPD, an online-consulting firm, to monitor the Napster service. The firm came up with 335,435 individual users who had made the band's content available online. The band stressed to fans that, despite collecting names of Napster users who were trading Metallica MP3s online, its fight is strictly with Napster. The list of Metallica song-traders was personally hand-delivered to Napster by Metallica drummer Lars Ulrich.

Recently Napster agreed to review the names presented to them by Metallica and banned those fans from its site who allegedly traded songs by the band. "Napster intends to comply with the Digital Millennium Copyright Act and it takes those obligations seriously," said a Napster attorney. Despite Napster's concessions, the band has not dropped its lawsuit. U.S. District Judge Patel ruled that Napster is not entitled to "safe harbor" under the Digital Millennium Copyright Act and can be liable for monetary damages.

Legal analysts contend that Napster's strategy to use the contributory infringement defense (or the "Betamax defense") is weak. Read an overview of this argument:

<http://www.nytimes.com/library/tech/00/05/cyber/cyberlaw/12law.html>

Read more about the "Betamax defense" (Sony Corp. v. Universal City Studios, Inc.): <http://laws.findlaw.com/us/464/417.html>

Napster Can Be Monetarily Liable; Findlaw News, May 9, 2000

Point Your Browser Tip:
<http://news.findlaw.com/news/s/20000508/napsterliability.html>

On a Related Note...Latest Internet Freeware Creates Pirating Bonanza

Gnutella, the latest freeware program on the Internet, can be downloaded in minutes and is much more pernicious than Napster. Gnutella users can log on, type in a search word, and download from each other's hard drives whatever is being offered, whether or not that information is copyrighted. Unlike Napster, Gnutella searches go through no central server, so there are no Internet addresses from which the universities or recording companies, for example, can block access. It is a vast and ever-changing network of users.

Mercury.com Center, April 10, 2000; Main site index: <http://www.mercurycenter.com/>

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Jerry Garcia's "Pizza Tape" Bootleg Released

A collection of bootlegged recordings by the late Jerry Garcia, dubbed "The Pizza Tape" because it was reportedly stolen by a pizza delivery man, was officially released in a digitally remastered format on April 25.

Artist's
Corner

Rolling Stone Daily, March 28, 2000

The Corrs Confirmed As The New European Music Industry's Artist Spokespersons

The popular Irish band, The Corrs, will work with the International Federation of the Phonographic Industry [IFPI] to voice the concerns of artists over copyright protection in the digital age, support the fight against piracy and promote the success of the music sector in Europe. They replace French composer Jean Michel Jarre who had been the artist spokesman since 1998.

Read the IFPI Press Release, May 2, 2000; Point Your Browser Tip: <http://www.grayzone.com/ifpi50200.htm>

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Italy

Italy Under Pressure to Ratify Bill

IFPI is urging Italy to adopt anti-piracy legislation that will raise penalties against convicted pirates. The ongoing delays of the passage of a bill, which has been promised for years, has prompted IFPI along with the RIAA and the US copyright industries coalition to urge the US government to take formal trade measures. Although the Italian government is pledging to ratify the new law, the recent resignation of Italian Prime Minister Massimo D'Alema could delay the bill indefinitely. Criminal penalties for piracy in Italy are currently among the lowest in Western Europe. Despite pressure from police and the courts, the country's \$US150 million Mafia-infiltrated illegal music business is now diversifying into new forms of high-tech piracy.

Italy On Front Line of New High-Tech Piracy Threat; IFPI Press Release, March 31, 2000
Point Your Browser Tip: <http://www.grayzone.com/ifpi33100.htm>

International Music Industry Urges US Trade Action on Italy; IFPI Press Release, April 14, 2000
Point Your Browser Tip: <http://www.grayzone.com/ifpi41400.htm>

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Scotland

The Third International Conference of Criminal Intelligence Analysts (ICCIA) in Edinburgh on March 21 marks the first time the music industry and law enforcement have come together to publicly discuss their common concerns. In an effort to alter the common perception that music piracy is solely a problem for trading standards officials, IFPI chairman Jay Berman stressed the ties between music piracy and organized crime. He cited an investigation earlier this year in which IFPI staff members were instrumental in bringing down a gang of alleged pirates who were also charged with high-level credit card fraud. According to Berman, "The only possible way to fight it (piracy) is to form a partnership between the recording industry and enforcement authorities, so information is shared and enforcement can be made more effective."

Recording Industry Calls For New Anti-Piracy Partnership With Government Enforcement Authorities; IFPI Press Release, March 21, 2000
Point Your Browser Tip: <http://www.grayzone.com/ifi32100.htm>

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MP3 Under Fire

MP3.com has been found liable for copyright infringement in a case brought against the company by the RIAA. The suit challenged MP3.com's Beam-it service, wherein the company uploaded more than 80,000 albums - without authorization, contended the RIAA - and allowed users to listen to them online after registering their own music collection. On May 1, U.S. district Judge Jed Rakoff ruled in favor of the RIAA and found MP3.com liable for copyright infringement. This is the first significant ruling against the San Diego-based company and will dramatically affect future Internet copyright lawsuits. Although damages have yet to be decided, MP3.com intends to appeal.

Point Your Browser Tip:
<http://news.findlaw.com/legalnews/s/20000504/techmp3.html>

Read the decision on Findlaw [Adobe Acrobat Reader is required]:
<http://news.findlaw.com/source/MP3-00-04756.PDF>

The RIAA lawsuit has been followed with a suit brought by the Harry Fox agency along with MPL Communications and Peer International which filed in late March on behalf of 22,000 music publishing companies. The New York-based publishers control copyrights to songs which are allegedly being illegally distributed over the Internet by MP3.com. Musicians representing '50s-era groups the Chambers Brothers, the Coasters, the Original Drifters and the Main Ingredient have also joined with a suit filed April 12.

MP3.com Under Fire Again; Wired News, March 22, 2000

Point Your Browser Tip: <http://www.wired.com/news/business/0,1367,35107,00.html>

Related Reading: RIAA Filings Against Napster and MP3.com; Point Your Browser Tip: <http://www.riaa.com/legal.cfm>

Stiff Penalties Sought For Computer Crime

The U.S. Sentencing Commission sent Congress guidelines for judges recommending jail time and sentencing terms for credit card and identity theft, using computers to solicit or sexually exploit minors, and violating copyrights or trademarks online.

ZDNet News, May 2, 2000 (Mike Brunner)

Point Your Browser Tip: <http://www.zdnet.com/zdnn/stories/news/0,4586,2559889,00.html>

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