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## Quarterly Digest

### April - June 1999

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## The MP3 Dilemma: The Debate Continues

**"Behind every unauthorized download there are a few pennies in missed royalties for songwriters and record labels." (The New York Times, 4/5/99, Neil Strauss)**

The clock is ticking. As the Secure Digital Music Initiative (SDMI), a consortium of computer companies, electronics manufacturers and major record labels, hasten to deliver their specifications for secure delivery of music, video and digital content through the Internet to the electronic manufacturers for a deadline of June 30, some of these same manufacturers are continuing to release non-secure technology.

A case in point is RealNetworks' system, Real Jukebox, designed to let consumers copy, store and play audio CDs on personal computers. It enables consumers to copy their CDs to either MP3 or RealNetworks' G2 digital music format. Real Jukebox conforms to copyright law by means of an electronic "tether" that restricts digital copies of the audio CDs to the hard drive of the user's personal computer. "People can turn the tethering feature off, but we remind them that they can't legally take a file and mail it to a 100 friends," says Rob Glaser, chairman and chief executive of RealNetworks in an interview with the New York Times.

This support of MP3 by RealNetworks illustrates that technology companies will not wait for the recording industry to catch up. While they respect the record labels' intentions, they also need to acknowledge the market demand for MP3. This demand for distribution of music through the Internet has spread from home PC users and college students to small record companies and major recording artists who see the enormous potential in reaching fans.

Alanis Morissette, Tom Petty, and the Beastie Boys are among the growing number of established acts tapping into a new web audience through legal downloads offered by the web site MP3.com in the unprotected MP3 format. Some labels, such as Capitol and Virgin records routinely offer songs on their official label sites as a way to promote music and offer a legitimate alternative to pirated MP3 files. "We know that we can't stop piracy online, but at least this way we have some control over how our artists' music is played," says one new-media executive at a label. "I'd rather have the music fans get it from our site than elsewhere."

Understandably, the major labels are eager to tap into this market and are aggressively working with technology companies to develop secure formats. In fact, Universal Music Group will begin selling music by download this fall. With the goal of having authorized players onto store shelves for the Christmas season, it must be decided if these new devices would be able to play not just music recorded with a new secure standard, but also recordings made with the MP3 format. A compromise to this would be a "sunset model" which would allow players to initially play unprotected MP3 files but would stop playing them after a decided

upon period of time. This assumes that future formats with the new security standard will supplant MP3.

More than 110 companies involved with the SDMI met for two days at the end of March. During this third meeting of the Portable Device Working Group, 28 companies proposed technology solutions to implement the functional requirements of the portable device architecture.

"The majors are going to be aggressively in (the online world) in a big way," RIAA President Hilary Rosen said. She vows not to let the traditional music industry be left behind by cyber-savvy competitors, the way major networks miscalculated the popularity of cable TV. "The record companies are not going to make that mistake with the Internet."

**Update: SDMI announces standard for new portable devices.**  
**Click [here](#) for details!**

"Free Web Music Spreads From Campus To Office", The New York Times, April 5, 1999 (Neil Strauss)

Point Your Browser Tip: <http://www.nytimes.com/>

Extra Cyber Tip: "keyword" search using name of article above.

"SDMI On Track", RIAA Fast Tracks, April 13, 1999

"I.B.M. Joins RealNetworks On Format For Net Music", The New York Times, April 13, 1999 (Reuters)

Point Your Browser Tip: <http://www.nytimes.com/>

Extra Cyber Tip: "keyword" search using name of article above.

**[Editor's Note: We highly recommend this article to our readers]**

"eMusic Giants Fight A Corporate War Online", CNN, April 14, 1999 (Lessley Anderson)

Point Your Browser Tip: <http://www.cnn.com/>

Extra Cyber Tip: keyword search: "Music giants fight a corporate war online"

"Sony And IBM Create Alliance On Internet Music", The New York Times, April 16, 1999 (Matt Richtel)

Point Your Browser Tip: <http://www.nytimes.com/>

Extra Cyber Tip: "keyword" search using name of article above.

"Movie Makers Shudder As Illegal copies Of Hot Films Spread On The Internet", CNN interactive CNN.com, April 23, 1999 (Associated Press)

"Pirate-Proof Music On Web? So Far, That Does Not Compute", The New York Times, April 24, 1999 (Neil Strauss)

Point Your Browser Tip: <http://www.nytimes.com/>

Extra Cyber Tip: "keyword" search using name of article above.

"New System For PC Music Stirs Recording Industry's Piracy Concerns", The New York Times, May 3, 1999, John Markoff

Point Your Browser Tip: <http://www.nytimes.com/>

Extra Cyber Tip: "keyword" search using name of article above.

"MP3 Audio Enters The Mainstream", CNN interactive CNN.com, May 4, 1999 (L.A. Times)

"Digital Nation: RIAA Turns A Corner On Net Piracy", Music News Of The World, May 13, 1999 (Chris Nelson)

"Thank U, MP3", Rolling Stone, June 10, 1999 (Eric Boehlert)

**Busts and Raids**

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## **Beatles Bootlegger Sentenced**

In early May, Gary Bright was sentenced to six months of house arrest and three years probation for violating California's True Name and Address Statute following his arrest in October 1998 at the Beatlefest in Los Angeles where he was selling bootleg music videos and CDs. Bright was previously arrested and convicted in 1990 on similar charges, but at that time the law was classified as a misdemeanor.

See also [GrayZone Digest First Quarter 1999](#)

RIAA Fast Tracks, May 18, 1999

## **Latin Music Pirate Arrested Following CD Plant Tip**

Acting on a tip from a CD manufacturing plant, who reported the suspect order, the Westminster Police Department with assistance from the RIAA, arrested Jose Valle after confiscating nearly 10,000 alleged piratical CDs from a storage facility.

RIAA Fast Tracks, May 18, 1999

## **California Raids Hit the Jackpot**

California authorities turned up big numbers with a total of eight raids including four vendors at the Santa Fe Springs Swap Meet, two residences in Bellflower, a retail store in Anaheim and one residence in Artesia. The Whittier Police Department with assistance from the RIAA, confiscated approximately 27,500 alleged pirate CDs, 4,700 alleged counterfeit cassettes and 623,400 alleged pirate insert cards. The seized contraband was of mostly Hip Hop repertoire. The case is ongoing.

RIAA Fast Tracks, May 18, 1999

## **FYI Corner: Other Interesting High-Tech Reading**

### **"Copyright Flap Over Star Wars - Lucasfilm Warns ISPs About Phantom Menace Misuse"**

ABC News, May 5, 1999 (Dan Goodin)

Point Your Browser Tip:

[http://abcnews.go.com/sections/tech/CNET/cnet\\_netcopyright990503.html](http://abcnews.go.com/sections/tech/CNET/cnet_netcopyright990503.html)

"Real Menace For New `Star Wars' May Be Bootlegger", Reuters, May 26, 1999. "A Bootleg Star Wars", Associated Press, May 26, 1999  
Taken from USENET News Group: clari.living.movies

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## **Tupac Shakur Shakedown**

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Corner

The estate of the late Tupac Shakur is going after online pirates who illegally post MP3 files of the rapper's music, or take online orders for bootleg records. Shakur attorney Donald David says that his estate is compelled to "maintain the integrity of his catalog." Nearly two dozen bootleg albums featuring unreleased Shakur tracks have made their way illegally into the hands of fans via the Internet. Most of those unreleased songs are raw, unmixed and often the samples have not been approved. In one case the estate found an unreleased track, featuring Shakur and another well-known rapper, edited and crudely cut so that the new bootleg version featured Shakur and the amateur online pirate. Shakur's estate recently won concessions from online giant Lycos, which agreed to take down offending Shakur-related sites from the company's affiliated web host, Tripod. Lycos terminated between 15 and 20 MP3 sites and 15 to 20 non-MP3 sites.

Rolling Stone Network: Random Notes, April 23, 1999 (Eric Boehlert)

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### IFPI And BPI Crack Down On Illegal CD Imports Into The U.K.

In late March, in a cooperative effort between enforcement bodies, 10,000 illegal CDs were seized and two men arrested in raids at a record fair held at the Birmingham NEC. This operation involved CDs manufactured in Sweden and en route, via the UK, to Europe. As a result of the raids, a German trader was charged for importation of illicit recordings and remanded in custody. Iain Grant, head enforcement for IFPI, said: "This is an excellent example of the international coordination that is now essential in the fight against piracy."

IFPI Press Release, March 24, 1999

Visit our web site to read the full text of the above press release: <http://www.grayzone.com/ifpi32499.htm>

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### Court Freezes Music Pirate's Assets

A Federal court issued a preliminary injunction freezing the assets of alleged music pirate Danny Jordan and his company, Global Arts Productions in March. Previously the court issued a declaration that Jordan's sales of music licenses for popular back catalog recordings were invalid and required that he immediately cease and desist operations. The RIAA will file a motion seeking damages for more than \$10 million.

RIAA Fast Tracks, April 13, 1999

### Piracy Update

While cassette piracy in the U.S. is down for the fifth year, CD, CD-R and Internet piracy is on the rise according to the RIAA's 1998 year-end anti-piracy statistics report released in April. The statistics on counterfeit, pirate, and bootleg CD-R seizures skyrocketed from 442 in 1997 to 103,971 in 1998, the piracy fueled by an influx of inexpensive CD-R hardware and blank discs. The RIAA is responding with education programs, enforcement actions and

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legislation. Last year they began their Soundbyting Campaign (visit their web site: <http://www.soundbyting.com>), an artist/company rights campaign involving more than 200 college campuses. This past year the RIAA also provided CD plants with educational and instructional tools to spot bogus orders from pirates. They sent out thousands of warnings and cease-and-desist orders to owners of music sites and initiated or already settled five lawsuits against online music-site pirates. Arrests and indictments were up from 211 in 1997 to 324 last year. Guilty pleas and convictions were also up, from 150 to 204 as were piracy-related judgments and settlements, from 6 to 10.

"Record Industry Losing Millions to Bootleggers", Lee Bailey's EUR/ELECTRONIC URBAN REPORT, April 9, 1999.  
Point Your Browser Tip: <http://www.EURweb.com/>, April 9, 1999.

A study conducted by Price Waterhouse Coopers for the Business Software Alliance shows that about 40% of all software programs in use worldwide in 1997 were pirated copies, resulting in a loss of \$11.4 billion and 130,000 American jobs. Colleen Pouliot, senior vice president and general counsel for Adobe systems, told a hearing of the trade subcommittee of the Senate Foreign Relations Committee: "The software industry currently employs well over a million people and generates more than \$28 billion in tax revenues. However, if software theft was eliminated in the U.S. and substantially reduced abroad, the software industry could produce an additional one million jobs by 2005 and raise an additional \$25 billion in government revenues."

A key treaty passed in an effort to curtail software piracy is the World Intellectual Property Organization's (WIPO) agreement on digital copyrights. However, only six countries along with the U.S. have so far ratified the agreement. A total of 30 signatories are needed for it to take force. In a further effort, the State Department has made the protection of software and other intellectual property a cornerstone of its commercial diplomacy.

"Software Piracy Costs U.S. Billions, Senate Panel Is Told", The New York Times, April 30, 1999 (Jeri Clausing)

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