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# GrayZone

## Quarterly Digest

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## THE INDUSTRY STRIKES BACK / INTERNET2: THE NEXT GENERATION

In its continuing fight against illegal file-sharing, the Recording Industry Association of America (RIAA) has taken action against rampant piracy infecting the next generation of the Internet. *Internet2* is an advanced network created by participating colleges and universities for important academic research. Through the use of a file-sharing application known as "i2hub," however, Internet2 is increasingly becoming the network of choice for students seeking to steal copyrighted songs and other works on a massive scale. Downloading from i2hub via Internet2 is extremely fast -- in most cases, less than five minutes for a movie or less than 20 seconds for a song. Students find i2hub especially appealing because they mistakenly believe their illegal file-sharing activities can't be detected in the closed environment of the Internet2 network.

In response to this next generation of music theft, the RIAA, on behalf of the major record companies, has filed copyright infringement lawsuits against 405 students at 18 different colleges across the country.

The 405 lawsuits were filed against students at Boston University, Carnegie Mellon University, Columbia University, Drexel University, Georgia Institute of Technology, Harvard University, Massachusetts Institute of Technology, Michigan State University, New York University, Ohio State University, Princeton University, Rensselaer Polytechnic Institute, Rochester Institute of Technology, University of California – Berkeley, University of California – San Diego, University of Massachusetts – Amherst, University of Pittsburgh and University of Southern California. Combined, the students being sued have illegally distributed more than 1.5 million total files, including more than 930,000 songs.

In addition to these 18 campuses, the RIAA has evidence of i2hub infringement at another 140 schools in 41 states. While these schools were not included in the initial round of lawsuits, letters have been sent to each university president alerting them to the illegal activity occurring on their campuses.

According to the RIAA, it has chosen to limit the number of lawsuits to 25 per school at this time. In addition, the 405 lawsuits that were filed were against some of the most egregious abusers of Internet2 technology. The average number of mp3 files shared by users sued in this round is more than 2,300, while the average number of total files is more than 3,900. Some users have shared as many as 13,600 mp3 files and as many as 72,700 total audio, software and video files.

On April 27, 2005, the RIAA also set forth a new wave of copyright infringement lawsuits against 725 illegal file-sharers, not associated with Internet2, or university networks. These "John Doe" suits cite the individuals for illegally distributing copyrighted music on the Internet via unauthorized peer-to-peer services such as KaZaA, eDonkey and Grokster. The cases were filed in federal district courts across the country, including: California, Colorado, Georgia, Missouri, New York, Pennsylvania, Virginia, and the District of Columbia.

In addition to the "John Doe" lawsuits, music companies filed 200 named defendant lawsuits on April 27, 2005 against illegal file-sharers in California, Florida, Iowa, Kansas, Missouri and Texas. The names of these individuals, whose Internet Protocol addresses were previously identified in "John Doe" lawsuits, have been subpoenaed from their respective Internet Service Providers.

RIAA.com, April 12 & 27, 2005

Read the press releases: <http://www.riaa.com/news/newsletter/041205.asp>  
<http://www.riaa.com/news/newsletter/042705.asp>

FindLaw.com, April 12, 2005 (Ted Bridis)

<http://news.lp.findlaw.com/ap/0/51/04-12-2005/fd04001ccf0bb588.html>

The Rocky Mountain Collegian, April 14, 2005 (Hallie Woods)

<http://www.collegian.com/vnews/display.v/ART/2005/04/14/425e04c21d25f>

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Artist's  
Corner**50 CENT's Early Massacre**

Due to bootlegging of his new album, "The Massacre," 50 CENT and Interscope Records decided to push the release date up by almost a week. Instead of the original Tuesday, March 8, 2005 date, the album hit stores early on Thursday, March 3, 2005. Two hundred and fifty thousand limited edition packages were manufactured for the early release. The set came in a special digipack and included a CD key that unlocked exclusive online content such as a bonus track, a trailer for 50 CENT's upcoming video game, "Bullet Proof," and many uncensored photographs. In addition, 10 lucky fans won G Unit clothing and footwear, Formula 50 Vitamin Water, a G Unit dog tag designed by Jacob the Jeweler plus autographed photos of 50 CENT. Steve Berman, Senior Executive, Marketing and Sales for Interscope Geffen A&M added, "50 CENT is linked so closely to the streets, that we have to react quickly when his album surfaces illegally. The best way to combat piracy problems is by getting the real version into stores with all the exclusive content and special packaging that comes with it."

ign.com, February 24, 2005  
<http://music.ign.com/articles/590/590611p1.html>

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## 2Q Busts

**U.S. Busts**

Be sure to peruse the Recording Industry Association of America's (RIAA) monthly newsletter "RIAA Anti-Piracy Seizure Information," 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>

**MPAA, RIAA, NYPD Coordinate to Take Down Pirates**

The Motion Picture Association of America, Inc. (MPAA) and the Recording Industry Association of America (RIAA) assisted the New York Police Department's (NYPD) Bronx Task Force and Manhattan District Attorney Squad in the execution of two criminal search warrants on April 25, 2005, where three individuals were arrested.

The NYPD's Bronx Task Force executed the first search warrant in the basement of a residence located at 4026 Baychester Ave. in the Bronx. The main subject, Ibrahima Sow, 38, was arrested shortly after arriving and entering the location. Seizures included 25 DVD burners, 54 CD burners, 1,148 DVD-R's, 5,250 CD-R's and various raw materials. Sow was charged with violating New York's Penal Law: Felony Trademark Counterfeiting.

As the Bronx raid was occurring, additional members of the MPAA and RIAA were simultaneously assisting members of the NYPD's Manhattan District Attorney Squad in the execution of a search warrant on W. 36th Street in Manhattan. This warrant resulted in the arrest of two additional individuals and the seizure of 5,800 DVD-R's, 14,600 audio CDs and 1,700 music DVD-R's.

"The NYPD's continued vigilance has stamped out yet another significant pirate operation," said James W. Spertus, the MPAA's Vice President and Director of US Anti-Piracy Operations. "This latest takedown sends a clear signal to those engaging in illegal pirate activities that New York law enforcement is strongly committed to the day-to-day fight against movie piracy. Pirates have nowhere to hide."

RIAA.com, April 25, 2005  
 Read the press release: <http://www.riaa.com/news/newsletter/042605.asp>

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**Worldwide Update**

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## China

**China Cracks Down on Counterfeits to Combat Criticism**

On March 31, 2005, China announced the arrests of 419 people in a new crackdown on product piracy as it tries to fend off complaints that it is failing to stop rampant counterfeiting of movies, music and other goods. Authorities have seized sporting goods, drugs, auto parts and other counterfeit goods worth 100 million yuan (\$12 million) since the year-long crackdown began in November 2004, said Xiang Xin, general secretary of the State Office of Intellectual Property Protection. The announcement came after the United States said in a report issued in March 2005 that product piracy in China had reached "epidemic levels" and that Beijing was failing to do enough to stop it. In April 2005, the Chinese government launched a publicity campaign with billboards, the

public destruction of counterfeit products and other events aimed at discouraging the public from buying counterfeit goods.

FindLaw, April 6, 2005 (Alexa Olesen, Associated Press)  
<http://news.findlaw.com/ap/o/51/04-07-2005/1e76001277445232.html>

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## Denmark

### Denmark 's Biggest Piracy Case

On April 14, 2005, eight men were convicted of making and selling illegal copies of copyrighted music, games and software worth 3.4 billion kroner (\$585 million) in Denmark's largest computer piracy case. The group allegedly made about one million illegal copies between 1998 and 2002 abroad and sold them in Denmark on the Internet. According to the court, the pirated copies included programs by Microsoft, Adobe and Macromedia.

Two leaders of the group will serve up to one year in prison for violating Denmark's copyright laws. Four others were given prison sentences ranging between two and four months, and the remaining two were given fines. None of the men were identified by the court in line with Danish privacy rules and it was not immediately clear whether they would appeal.

The Register, April 18, 2005 (John Oates)  
[http://www.theregister.co.uk/2005/04/18/denmark\\_imprisons\\_pirates/](http://www.theregister.co.uk/2005/04/18/denmark_imprisons_pirates/)

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## Hong Kong

### Hong Kong Man Pleads Innocent to Piracy

On April 29, 2005, a Hong Kong man pleaded innocent to violating copyright laws by uploading three movies onto the Internet using the popular BitTorrent file-sharing software. Chan Nai-ming, 38, was arrested in January 2005 for allegedly uploading the Hollywood films, "Daredevil," "Red Planet" and "Miss Congeniality," onto a Website so that others could obtain them - the first such arrest in Hong Kong. If convicted, Chan faces up to four years in prison and a fine of 50,000 Hong Kong dollars (\$6,410) for every illegal copy. Officials have promised to step up copyright protection efforts in Hong Kong, which is known for its fake luxury goods and illegally copied music and films.

FindLaw, May 2, 2005 (Associated Press)  
<http://news.findlaw.com/ap/o/51/04-29-2005/f7ad0006883042bb.html>

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## Norway

### Norway Court Upholds Napster Conviction

On January 27, 2005, Norway's Supreme Court ruled that a student must compensate the music industry for making illegal downloads available on his website. The country's highest court upheld a lower court ruling that ordered the student to pay \$15,900 in compensation because his Napster.no homepage was linked to free Internet music files. The Norwegian student was learning computer engineering in the southern Norway town of Lillehammer when he set up the Napster.no site as part of a school project in 2001. His site had nothing to do with the widely known Napster.com music site in the United States. Online between August and November 2001, the Napster.no site provided links to music files in MP3 format that could be downloaded for free, and also provided links to about 170 free music files on servers outside Norway. In a summary of its ruling, the Supreme Court said the music was clearly published in violation of copyright law.

USA Today, January 28, 2005 (Associated Press)  
[http://www.usatoday.com/tech/news/techpolicy/2005-01-28-2005-01-28-norway-napster\\_x.htm](http://www.usatoday.com/tech/news/techpolicy/2005-01-28-2005-01-28-norway-napster_x.htm)

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## Pakistan

### Raids in Karachi

On May 3, 2005, Pakistani authorities confiscated 100,000 pirated video cassettes, CDs, DVDs and the equipment to make them in southern Pakistan. Ten people were arrested during the raids in Karachi, the capital of southern Sindh province. Pakistan is believed to be one of the world's largest producers of pirated goods. The United States and Britain, among others, have asked Islamabad to crack down on pirating, which has also badly damaged the country's own entertainment industry.

FindLaw.com, May 3, 2005 (Associated Press)  
<http://news.findlaw.com/ap/o/51/05-03-2005/dc8f0003a005a352.html>

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## Russia

### IFPI, Russian Plant Settle CD Piracy Case

Russia's Roff Technologies optical disc plant has agreed to a substantial settlement with international recording industry body IFPI and eight member company plaintiffs over the manufacture of counterfeit CDs containing repertoire by major international artists. Settling the case out of court, Roff admitted to having infringed neighboring rights in the past. The agreement brings to a halt civil court proceedings, which had been brought by IFPI member companies in January 2004. Lauri Rechardt, IFPI Director of Licensing and Litigation said: "We hope this substantial settlement will be a warning to CD plants in Russia and elsewhere who fail to take the necessary safeguards against copyright infringements by their plants."

IFPI.org March 29, 2005

Read the press release: <http://www.ifpi.org/site-content/press/20050329a.html>

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## Scotland

### Scottish Pirate Jailed

A Scottish man has been jailed for 20 months after a court heard how he turned his family home into a major counterfeiting operation. Ian McNaughton, 44, was copying and selling copyrighted material to pay off some high gambling debts. Copying equipment was apparently found in every single room in McNaughton's house. His 20 month sentence is the longest sentence ever handed down by a Scottish court for counterfeiting.

Cd-rw.org, April 5, 2005 (Dela)

<http://www.cd-rw.org/news/archive/6275.cfm>

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## Legal Beagle

### President Bush Approves Prison for Movie Pirates

On April 27, 2005, President Bush signed a bill into law that prohibits the secret videotaping of movies when they are shown in theaters. In addition to three years in prison, those found guilty of movie-pirating could face lawsuits from copyright holders.

The law also toughens penalties for hackers and industry insiders who distribute music, movies or other copyrighted works before their official release dates.

Copies of hit movies frequently show up on the Internet while they are still in theaters, allowing fans to see new releases without buying a ticket. Pirates sneak camcorders into movie theaters to tape films directly off the screen, and some industry insiders leak copies to hackers before they are officially released. The U.S. Customs Department has estimated that distribution groups like these are responsible for 95% of all pirated movies available online.

Dan Glickman, president of the Motion Picture Association of America, hailed the enactment of the legislation, adding that, "Video piracy is not a victimless crime."

International Herald Tribune, April 28, 2005 (Reuters)

<http://www.ihf.com/articles/2005/04/28/business/pirate.php>

### International Effort Targets Illegal File-Sharers

On April 12, 2005, the biggest international wave of legal action against Internet music file-sharers was announced by the International Federation of the Phonographic Industry (IFPI). New copyright infringement cases have been launched against nearly 1,000 individuals in 11 countries across Europe and Asia. IFPI confirmed the filing of 963 lawsuits in Japan, the Netherlands, Finland, Ireland and Iceland, bringing the total number of legal actions to more than 11,000 worldwide.

Japan, the first Asian country to take legal action, announced that it is joining the battle against online music piracy. Home of the world's second-largest music market, Japan has been hit hard by Internet piracy and other factors in recent years losing 30% of its value (\$1.8 billion) between 2000 and 2004.

On the European front, the international actions have extended the policy of suing alleged illegal file-sharers to four new countries - Netherlands, Finland, Ireland and Iceland. They join Austria, Denmark, France, Germany, Italy and the UK, who all began litigation in the last year.

The new wave of lawsuits, coordinated by IFPI on behalf of its more than 1,450 member record companies,

affects users not just of the KaZaA network (KaZaA, KaZaA Lite, iMesh), but also those on newer file-sharing services including eDonkey, eMule and various Gnutella services including Bearshare, Limewire, OpenNap, WinMX and Winny, DirectConnect, and BitTorrent.

In the U.S., 9,900 cases have been brought to date, bringing the total number of lawsuits launched internationally to 11,552.

IFPI Chairman and CEO, John Kennedy, commented on the worldwide initiative to stop illegal file-sharers in their tracks, "Around the world, people sued come from all walks of life. We didn't choose them - they chose themselves by the extent of their uploading. It doesn't give me any pleasure to say that some offenders have had to pay substantial damages. However they ignored all the warnings, and have regretted it since. I hope that people are learning from the experiences of those who decided not to buy their music legally."

IFPI.org April 12, 2005

Read the press release: <http://www.ifpi.org/site-content/press/20050412.html>

Money.CNN.com, April 12, 2005 (Reuters)

[http://money.cnn.com/2005/04/12/news/international/music\\_lawsuits.reut/](http://money.cnn.com/2005/04/12/news/international/music_lawsuits.reut/)

## **Court Rules Common Law Protects Older Recordings**

On April 5, 2005, New York's highest court ruled that common law protects a record company's copyright on recordings made prior to 1972 - a decision that could have industry wide ramifications for everything from classical to rock and roll.

That lawsuit involved Tennessee-based Naxos of America Inc., which restored and marketed 1930s classical records made in England by The Gramophone Co. Limited, after the 50-year British copyright had expired. Capitol Records Inc., which currently holds the rights to those recordings, sued the company.

Previously, a federal court had dismissed Capitol's suit, saying federal copyright law only protected recordings since 1972, and Capitol had no common-law protections under New York state law. Following the decision, Capitol appealed the common-law finding to the New York Court of Appeals, which has ruled in its favor. A federal appeals court will now rule on the company's lawsuit using the state court's decision.

Most of the recordings at issue feature classical performances, dramatic readings and oral histories. The court argument also included British Invasion rock and pop groups from the 1960s, some of which will soon lose copyright protection under British law.

The New York court ruling applies to all recordings marketed in New York even if no other state or foreign law or common law was still in force, according to the decision.

Capitol Records attorney Philip Allen Lacovara commented on the significant decision, "I hope the companies who have been inclined to copy older classical recordings realize the New York court has spoken definitively on this and end any unlicensed copying. It does have enormous importance."

Yes90 TVi News, April 6, 2005 (Associated Press)

<http://smart90.com/tvimagazine/2005/1505/108copyrightsprovatiesWin.htm>

## **Supreme Court Can Redefine File-Swapping**

The entertainment and technology industries are looking to the U.S. Supreme Court to define the rules of innovation and copyright infringement. On March 30, 2005, attorneys for the major record labels and Hollywood studios argued their case in front of the court, which many observers say could help set the ground rules in the entertainment and technology industries for years to come. The case, which pits MGM alongside several music and motion picture studios against Grokster and StreamCast Networks, is the culmination of five years of legal battles against the peer-to-peer networks that entertainment companies believe are undermining the viability of copyrights.

While Napster quickly fell to the RIAA in 2001, this has not been the case for Grokster. Unlike Napster, Grokster functions on a decentralized network, specifically FastTrack. While Napster maintained centralized indexing servers at their headquarters, the FastTrack network distributes this functionality online through "SuperNodes."

Since Grokster cannot control these SuperNodes, two Federal courts have negated the copyright industry's claim that P2P developers are liable for copyright infringement. The only course of action left for the entertainment industry was the appeal to the United States Supreme Court.

The justices were clear that they were concerned about the effect of their ruling on the ability of technology companies to create future products like Apple Computer's iPod. However, several appeared to seek a way of holding file-swapping companies responsible for the piracy on their networks without endangering other technology companies. Allowing companies to issue products with no concern for copyright infringement would amount to "unlawful expropriation of property as a kind of start-up capital," said Justice Anthony Kennedy. "From an economic standpoint and legal standpoint, that sounds wrong."

As influential as the case is likely to be, few believe the issue will end with the Supreme Court, whose decision is expected in June. Many observers expect the losing side to take its case to Congress after the court rules.

News.com, March 29, 2005(John Borland)  
[http://news.com.com/Supreme+Court+takes+hard+look+at+P2P/2100-1028\\_3-5644861.html](http://news.com.com/Supreme+Court+takes+hard+look+at+P2P/2100-1028_3-5644861.html)

Slyck News, March 28, 2005 (Thomas Mennecke)  
<http://www.slyck.com/news.php?story=723>

Duke Law, 2004-2005  
<http://www.law.duke.edu/publiclaw/supremecourtonline/certgrants/2004/mgmvgro.html>

=====SIDEBAR=====

### **Infringement on the Net – It's Not Just the Music**

In recent times, when we think of copyright infringement on the Internet, illegal file-sharing and downloading is what comes to mind. However, websites themselves have become battlegrounds for trademark infringement disputes. From the actual name of a website, to the way it's setup, and to the advertising it creates, websites have stirred up a lot of battles over just how much is too much in the realm of online similarity. Google.com has sued Froogles.com, charging the rival shopping search engine with trademark infringement. Filed in the Eastern District Court of New York, the 68-page complaint alleges that Froogles.com proprietor Richard Wolfe, illegally used Google's name and brand for profit. Google asked the court to shut down Froogles.com and order transfer of the domain name. The legal row goes back more than a year, when Wolfe filed a petition against approval for Google's trademark, Froogle.

In April 2005, a company called *Oneupweb* developed a trademark protection tool to identify advertising trademark infringements on search engines such as Google.com. The tool can keep an eye on what's happening on the search engines, and when an infringement takes place, it takes a snapshot of the offending page, archives the data for later retrieval, and sends an e-mail alert to the trademark owner. The rights holder can use this data to take steps to halt infringements. The data can also be evidence in court if the case should get that far. The struggle for retailers to protect their trademark online, and hold trademark infringers accountable continues, with more cases due to be settled in the courts.

News.com, April 19, 2005 (Stefanie Olsen)  
[http://news.com.com/Google+sues+Froogles.com/2100-1030\\_3-5676955.html?tag=cd.top%22%22](http://news.com.com/Google+sues+Froogles.com/2100-1030_3-5676955.html?tag=cd.top%22%22)

Internet Retailer.com, April 5, 2005  
<http://internetretailer.com/dailyNews.asp?id=14608>

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### **Quick Bits and Bytes**

#### **File-Sharing Case Unites Unlikely Allies**

Religious and other conservative groups have not been quiet about their disapproval of some of the practices of Hollywood and the recording industry over the years, condemning issues from explicit rap lyrics to TV violence. While often on opposing sides of hot issues, many of these religious and conservative groups are now stepping up to back the entertainment industry in its most recent effort: a high-stakes battle against online file-sharing services.

There is a reason for this unlikely alliance. File-swapping services make pornography easily accessible to minors, a major concern amongst religious and conservative groups. Meanwhile, the entertainment companies blame file-sharing for declining sales and lost revenue.

"Hollywood is definitely a strange bedfellow to most of us," said Jim Backlin, vice president of legislative affairs for the Christian Coalition of America. "Our goal was to cut down child pornography and other kinds of pornography, and if for some reason we were allied with the Hollywood types this time, so be it."

On the other side, the file-sharing companies have also found unlikely allies, including libraries concerned that tighter copyright controls may stifle free speech.

Forbes.com, February 27, 2005 (Associated Press)  
<http://www.forbes.com/technology/feeds/ap/2005/02/27/ap1850970.html>

#### **Technology Claims to Thwart DVD Copying**

A new technology from Macrovision Corp. claims to block virtually all known methods for making unauthorized copies of DVDs. The company's *RipGuard* DVD, launched in mid-February 2005, is designed to thwart cracking programs that get around the encryption system used in standard DVDs. Macrovision also claims a related system to be used with *RipGuard* can foil attempts to make analog copies of DVDs. Such copies are made by connecting a video recorder to a DVD player's video and audio output jacks, a method that previous DVD copy protection software has failed to fully prevent.

Attempts to copy-protect DVDs and CDs have often been plagued by hardware compatibility problems and have been easily thwarted using something as simple as a black marker or by holding down the "shift" key while accessing the content. DVDs fitted with the new Macrovision technology do not require new software or hardware to be played and should be compatible with nearly all existing DVD players and DVD computer drives, the company says.

RedNova News, February 17, 2005 (Alex Veiga, Associated Press Writer)

[http://www.rednova.com/news/technology/128614/new\\_technology\\_claims\\_to\\_thwart\\_dvd\\_copying/index.html](http://www.rednova.com/news/technology/128614/new_technology_claims_to_thwart_dvd_copying/index.html)

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