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# GrayZone

## Quarterly Digest

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## RECORD LABELS LOOK TO SHUT DOWN LIMEWIRE

Some of the world's largest record labels have sued the makers of the file-sharing program LimeWire, claiming the software allows users to download music without paying for it.

The complaint, filed August 4, 2006 in Manhattan Federal Court, is the latest in a string of lawsuits the music industry has filed in an attempt to curb Internet piracy. The effort to bring down file-sharing services was bolstered in 2005 when the U.S. Supreme Court ruled that content companies can take legal action against technology firms that encourage copyright infringement. Record labels owned by the world's four major music companies, Universal Music Group, Sony BMG, EMI Group PLC, and Warner Music Group Corp., brought the lawsuit against the New York-based Lime Group LLC.

The plaintiffs are accusing the file-sharing giant of facilitating the trade of illegal music files between its users. The labels are seeking damages, including \$150,000 per occurrence of an illegally traded file. The Recording Industry Association of America (RIAA) claims that LimeWire's business model allows it to profit from the piracy trade, and its failure to block copyright content is a sign that the company is actively encouraging its users to pirate music. "The defendants not only have known of the infringement, but have promoted and relied upon it to build their business," it said in the complaint.

The lawsuit came just days after the recording industry settled with Kazaa for \$115 million, and dropped all pending litigation in that case. Filtering technologies have been introduced on the Kazaa service that will make it impossible to share illicit files. After Kazaa and other peer-to-peer sites have either closed their doors or went legal, LimeWire continues to profit from staying in its current form, the RIAA alleges. The service has been around since 2000, and has grown into one of the most popular peer-to-peer file-sharing networks.

On September 25, 2006, Lime Group LLC, the owners of LimeWire, filed a countersuit denying that it encourages computer users to swap music without permission. Lime Group's counterclaim, filed in the Southern District of New York, says the record labels conspired to "destroy any online music distribution service" not under their control by withholding licenses to distribute

their recordings or forging restrictive licensing agreements. In a statement, the RIAA called Lime Group's claims "a kitchen sink of frivolous charges."

Limewire has had time to go legal - it was one of several peer-to-peer services to receive a letter in September 2005, threatening legal action if they did not either shut down, or transfer to a licensed business model. Most, including WinMX and BearShare, decided to exit the business. In recent years, illicit file-sharing networks have lost ground as legitimate music services like Apple Computer Inc.'s iTunes have gained popularity. "While other services have come productively to the table, LimeWire has sat back and continued to reap profits on the backs of the music community," the RIAA said in a statement.

The battle to shut down illegal file-sharing services like LimeWire rages on in the courts. The recording industry hopes to slam the door on LimeWire and claim another victory over the file-sharing services they have tangled with in the legal arena.

BusinessWeek Online, September 26, 2006 (Alex Veiga)  
<http://www.businessweek.com/ap/financialnews/D8KCSUO00.htm>

ComputerWorld, August 06, 2006(Nichola Groom)  
[http://www.computerworld.com/action/article.do?command=viewArticleBasic&articleId=9002228&intsrc=article\\_more\\_bot](http://www.computerworld.com/action/article.do?command=viewArticleBasic&articleId=9002228&intsrc=article_more_bot)

BetaNews August 4, 2006 (Ed Oswald)  
[http://www.betanews.com/article/RIAA\\_Sues\\_LimeWire\\_Over\\_Piracy/1154722015](http://www.betanews.com/article/RIAA_Sues_LimeWire_Over_Piracy/1154722015)

See GrayZone Digest 1Q 2006: <http://www.grayzone.com/106.htm#legal>

See GrayZone Digest 1Q 2005: <http://www.grayzone.com/1005.htm>

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## **BEYONCÉ Wins Copyright Infringement Lawsuit**

On September 21, 2006 a United States District Court in Houston dismissed the copyright infringement case brought against BEYONCÉ and the co-authors of the Grammy Award winning song, "Baby Boy." Judge Nancy Atlas ruled that Beyoncé and the other defendants named in case did not infringe on the copyright of the plaintiff's song. "Baby Boy" was written and produced by Beyoncé, SEAN PAUL, SCOTT STORCH, ROBERT WALLER and JAY-Z.

In a lawsuit filed in July 2005, Minneapolis singer-songwriter, Jennifer Armour, asserted that her former manager, Marc McKinney p/k/a Theo Forrest, submitted demo recordings of her song "Got a Little Bit of Love for You" to Music World Entertainment, Columbia Records, and Atlantic Recording Corporation in early March 2003. She soon discovered in the litigation, however, that the writing and recording of "Baby Boy" was substantially complete by February 10, 2003, approximately one month before Armour alleged that her demo was submitted.

The basis of the court's decision, however, was not the fact that "Baby Boy" was in existence before the date on which the plaintiff's demos were allegedly submitted to various people and entities affiliated with the "Baby Boy" songwriters. Beyoncé's attorney filed a motion for summary judgment in which he asked the court to make a side-by side comparison of the plaintiff's song and "Baby Boy." The court made the requested comparison and determined that the two songs are "substantially dissimilar" from one another.

UrbanMecca.com, Oct 2, 2006

[http://www.urbanmecca.com/artman/publish/article\\_934.shtml](http://www.urbanmecca.com/artman/publish/article_934.shtml)

### **THE KNACK to RUN DMC: My Sharona - Not Yours!**

Members of the 80s rock band THE KNACK have filed a lawsuit against the members of RUN DMC, their producers, distributors, publishers and record companies, over Run DMC's use of an unlicensed sample of The Knack 's 1979 platinum hit "My Sharona" in Run DMC's song, "It's Tricky."

On September 15, 2006, the Knack's Doug Fieger and Berton Averre filed a copyright infringement lawsuit against Run DMC in the United States District Court for the Central District of California. The complaint alleges that members of Run DMC, their manager, producers, publishers, and record label unlawfully sampled portions of "My Sharona," including the song's signature guitar riff, for use in "It's Tricky," which first appeared on Run DMC's 1986 Raising Hell album. The suit also names several companies involved in the distribution of the allegedly infringing albums.

Fieger and Averre wrote "My Sharona" and obtained a copyright registration for it in 1979. The lawsuit seeks unspecified damages and attorneys' fees. Fieger and Averre only recently learned that Run DMC's smash hit from the mid-80s sampled the famous guitar riff from The Knack's "My Sharona." They are seeking damages for the alleged unauthorized use of "My Sharona" in numerous Run DMC albums that contain the song "It's Tricky," including albums released as far back as 1986. According to the complaint, each of the allegedly infringing albums containing the song "It's Tricky" are still being sold and distributed.

Rolling Stone, September 15, 2006

<http://www.rollingstone.com/rockdaily/index.php/2006/09/15/the-knack-sue-run-dmc-over-its-tricky-riff/>

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## **4Q 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>

### **NYC Police Uncover Major Piracy Lab**

On September 14, 2006, New York City police confiscated about 40,000 bootlegged discs, including several CD and DVD burners in raids that industry leaders called a significant blow to the nation's piracy market.

According to the RIAA and the Motion Picture Association of America (MPAA), both of which helped police, authorities uncovered one of the largest CD burning and movie pirating labs in the country. The alleged bootlegging group acted as a wholesaler, capable of producing more than 6,000 CDs an hour, and sold the discs to people who would then peddle them in flea markets. It frequently changed its production locations and distribution centers as well.

One man was arrested on the scene, Abdouraitamance Diallo, 19, who faces a charge of trademark counterfeiting. Police said they executed their first warrant at a garage, where they found 23 duplicator towers, containing more than 200 burners. The second search warrant was served hours later at an office where the 40,000 discs were found.

Among the films being illegally reproduced were some not yet officially released on DVD, including "Snakes on a Plane" and "World Trade Center." The music ranged from Latin to gospel.

FindLaw, September 15, 2006 (Nahal Toosi)

<http://news.lp.findlaw.com/ap/o/632/09-15-2006/476e0011ccf6277d.html>

### **Cops Bust Phony Footwear Ring**

The New York Police Department's Organized Crime Investigation Division (OCID) busted four men driving a truck filled with fake Nike sneakers. During the July 1, 2006 bust, police also uncovered \$5 million worth of the counterfeit sneakers stashed at a storage warehouse near Court Square in Long Island City, Queens.

According to police, there was enough phony footwear to fill more than three trailers. The fake sneakers filled seven rooms in a self-storage warehouse. "It's the largest seizure of counterfeit Nike sneakers in North America in history," said Captain Chris Monahan, who heads OCID.

OCID officers were on patrol in Long Island City just before noon when they spotted the four men loading a van and a truck with shoeboxes bearing the Nike name. The officers became suspicious, and pulled over both vehicles about two blocks from the warehouse. While the men were being questioned at the 108th Precinct, police called Nike officials, who sent inspectors to check the sneakers for authenticity. According to police, the inspectors "took one look" at the sneakers in the truck and van, and confirmed they were fakes. The four suspects were later charged with trademark counterfeiting.

Queens Tribune, July 7, 2006

<http://www.queenstribune.com>

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## Worldwide Update

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### Argentina

#### Argentina Sends Pirates to Prison

On September 14, 2006, an Argentine Court issued prison sentences against two major music pirates for intellectual property violations. The defendants, who were found with 11 CD-R burners, 10,000 CDRs and a gun during a raid conducted in September 2003, have each been sentenced to two years in prison. After being arrested immediately on the scene, both men were kept in preventive incarceration until February 2006 to await sentencing.

The defendants, a Paraguayan and an Argentine, controlled a piracy ring that operated in the La Matanza section of Greater Buenos Aires and were a significant source of illegal music and film product at the infamous flea market known as "La Salada."

This case is viewed as an important step for the country, in that the convictions were based on an original complaint provided by the Argentine anti-piracy team, Apdif Argentina.

IFPI.org, September 14, 2006

Read the press release: <http://www.ifpi.org/site-content/press/20060914a.html>

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### Canada

#### Toronto Firm Fined For Unlicensed Software Use

On October 4, 2006, the Canadian Alliance Against Software Theft (CAAST) announced that a Toronto firm has agreed to pay out \$73,300 for using unlicensed software. The construction consulting firm, Curran, McCabe, Ravidran and Ross, agreed to the settlement after an audit revealed the company was using unlicensed copies of Adobe, Autodesk and Microsoft programs.

CAAST, a coalition of software industry companies battling software piracy, believes such crackdowns are vital to the goal of stamping out piracy and that it is the duty of businesses to ensure the software they use is licensed. According to CAAST, the anti-piracy group is most often alerted to software piracy by someone who has worked for or is working in the company in question. The normal procedure is to inform the firm about the allegation and request in writing that CAAST be allowed to conduct an audit. The money received from erring companies is funneled back to CAAST to fund its operations which includes public awareness campaigns and piracy law enforcement.

## China

An estimated 33% of software installed in Canadian computers is pirated. This represents a loss of \$943 million to software producers, while the estimated global loss from piracy totaled \$41 billion in 2005.

ItWorld Canada, October 5, 2006 (Nestor E. Arellano)

<http://www.itworldcanada.com/Pages/Docbase/ViewArticle.aspx?ID=idgml-8d3faf53-ee21-492c-b711-168fbb510fd4>

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### **China Agrees to 'Smart and Safe' Trades with EU**

The European Union and China announced plans to introduce “smart and safe” trade plans in an effort to enhance trade while countering the threats of piracy and terrorism.

Announced on September 19, 2006, the program will begin with pilot projects between Britain and China and the Netherlands and China, focusing at the outset on sea containers coming in and out of Shenzhen in southern China. The goals are to increase security and trade facilitation, with security measures focused on tackling intellectual property infringements, smuggling and the threats posed by terrorism.

EU officials point out that 50% of seized counterfeit goods come from China while Chinese ministers site growing customs revenues, expected to rise to 600 billion yuan (\$76 billion) this year from 540 billion yuan (\$68 billion) last year, as proof of more effective customs policing. EU-China trade has boomed in recent years, reaching an estimated 200 billion euros (\$256 billion) last year. The EU has become China's biggest trading partner while China is now the EU's second-largest trading partner after the United States, according to the European Commission.

Yahoo! Finance September 20, 2006 (AFP)

<http://au.biz.yahoo.com/060919/33/w8ux.html>

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## Italy

### Police Raid Counterfeiting Factory in Prato

On September 25, 2006, Italian police confiscated more than 650,000 fake Gucci and Louis Vuitton bags and other branded accessories in the Tuscan town of Prato in a raid on a counterfeiting factory owned by Chinese businessmen. Police said in a statement on Monday the factory was also used as a dormitory for illegal immigrants who produced the bags. During the raid two such immigrants were arrested and face deportation. Police reported two Chinese businessmen to prosecutors for counterfeiting, handling stolen goods and using illegal labor. According to Italian police, Prato has become “a cradle of counterfeiting in Italy.”

CNNMoney.com, September 25, 2006 (Reuters)

[http://money.cnn.com/2006/09/25/news/international/counterfeit\\_bags.reut/index.htm?section=cnn\\_topstories](http://money.cnn.com/2006/09/25/news/international/counterfeit_bags.reut/index.htm?section=cnn_topstories)

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## Indonesia

### Raids in Jakarta

On August 8, 2006, police in Jakarta raided a pirate disc factory seizing discs and manufacturing equipment. Their suspicion was raised after police stopped and searched a commercial van carrying a large number of pirate discs and traced its movements back to the piracy plant.

The police found a concealed entrance to the hidden plant in the Pergudangan complex. This secret factory contained four lines of replicating machinery capable of producing a minimum of 40,000 finished discs per day. Police seized 27,000 finished pirate VCDs and 500,000 unfinished discs as well as six stampers. In addition, half a million DVD substrates were recovered including enough stored polycarbonate present to produce an additional 700,000 discs. Nearly 21,000 of the seized discs contained local music repertoire and the police found documentary evidence that the plant had produced a variety of other music titles since it was established in early 2006.

Five suspects were arrested for the operation of the unlicensed replicating facility and the production of pirate optical discs in the raid. The owner of the plant is an Indonesian national who has reportedly fled Jakarta.

IFPI.org, August 11, 2006

Read the press release: <http://www.ifpi.org/site-content/press/20060811a.html>

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## Russia

### Russia Enacts Tough Internet Piracy Law

A new law, aimed to crack down on digital pirates in Russia went into effect on September 1, 2006. The new legislation makes it illegal to share copyrighted material online, and provides for sentences up to 5 years in prison. Until this new legislation went into effect, there was no law in Russia that protected copyright holders from Internet piracy.

Legal sales of copyright-protected music over the Internet are estimated at less than one million dollars per year in Russia in contrast to the value of illegal music traded online which is believed to be between 25 and 30 million dollars.

Russia is the only major economy still not a member of the 149-country WTO. The major stumbling block to Russia's WTO bid has been an ineffective protection of intellectual property. The United States, one of the only countries still refusing to endorse Russia's WTO entry, has cited intellectual property protection as one of its chief concerns. Russian president Vladimir Putin, and other world leaders discussed piracy in July 2006 at the G8 summit in St. Petersburg.

All Headline News, September 1, 2006 (Nidhi Sharma)  
<http://www.allheadlinenews.com/articles/7004724242>

TorrentFreak.com, September 1, 2006 (Ernesto)  
<http://torrentfreak.com/russia-toughens-piracy-laws/>

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## Taiwan

### Taiwan's Kuro Shuts Down

Taiwan's best-known unauthorized file-sharing service, Kuro, has agreed to shut down its copyright-infringing peer-to-peer operation and pay a substantial sum in damages to the recording industry.

According to the settlement reached on September 14, 2006 between record companies (represented by IFPI Taiwan) and Kuro's operator, Taipei-based Fashion Now Co Ltd, the copyright-infringing service immediately halted all software distribution and agreed to completely shut down by October 15, 2006.

Kuro's directors and president received a criminal conviction for copyright infringement in September 2005. The service was run as a commercial subscription business, with an estimated 500,000 registered users in Taiwan and mainland China. The operators say they will launch a new legitimate music download website and will completely dismantle the old infringing service.

Kuro is the latest among a growing number of unauthorized file-sharing services to settle with the recording industry around the world. It follows major settlements with the recording industry by Korea's Soribada and Taiwan's Ezpeer.

IFPI.org, September 14, 2006  
Read the press release: <http://www.ifpi.org/site-content/press/20060914.html>



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### **Microsoft Legal Action Aims to Fight Piracy**

On September 19, 2006, Microsoft announced 20 lawsuits against U.S. companies allegedly engaged in the distribution of infringing software and software components. The company also announced research findings from its first large-scale forensic analysis of counterfeit versions of Microsoft Windows XP acquired in 17 countries around the world, which it says demonstrates that counterfeit software contains risks for typical users, not just the “pirates” who manufacture and sell it.

The lawsuits were filed against companies in nine states: Connecticut, Florida, Georgia, Kansas, New Jersey, New York, Ohio, Oregon and Texas.

According to Microsoft, the lawsuits are part of a broader company initiative to combat counterfeiting and other forms of software piracy. Microsoft officials say the company is determined to protect its intellectual property, while trying to protect consumers from the deceptive and dangerous practices of counterfeiting. The legal actions and results of the forensic analysis are part of a broader Microsoft program, the Genuine Software Initiative (GSI), designed to protect the company’s intellectual property.

Microsoft has long raised concerns about countries such as China, Russia and India, where piracy is rampant, but has recently increased its monitoring in the United States as well. According to Microsoft, although the piracy rate is thought to be lower here than elsewhere, the sheer number of computers running Windows makes it a big company concern.

Microsoft.com, September 19, 2006

Read the Press Release: <http://www.microsoft.com/presspass/press/2006/sep06/09-19MSPIracyCounterfeitingPR.mspx>

### **Kazaa Settles with Record Industry**

Major record companies have reached a global out-of-court settlement against the operators of the Kazaa peer-to-peer network.

The settlement, announced on July 27, 2006, by the trade organizations representing the international and U.S. recording industries (IFPI and RIAA), applied to Kazaa’s operations worldwide and concluded the ongoing legal proceedings brought by the record companies against the service’s operators in Australia and the United States. Under the terms of the settlement,

Kazaa agreed to pay a substantial sum in compensation to the record companies that took legal action to stop copyright infringement on the Kazaa network. Kazaa will also introduce filtering technologies ensuring that its users can no longer distribute copyright-infringing files.

The settlement follows a 2005 landmark ruling in the Federal Court of Australia which found Kazaa responsible for authorizing widespread copyright infringement. The case against Grokster and Streamcast ultimately reached the U.S. Supreme Court, which in June 2005 unanimously ruled that individuals or companies that promote copyright theft by users of their service can be held responsible. Grokster eventually settled the case with the record labels and motion picture studios in November 2005.

Kazaa was one of the world's most popular peer-to-peer networks, famous for widespread music and movie piracy. At its peak, Kazaa had 4.2 million simultaneous users worldwide. In May 2003, Sharman Networks declared Kazaa the most downloaded software ever, at 239 million downloads. Illegal file-sharing on the Kazaa network and other peer-to-peer networks has caused significant damage to the legitimate music industry internationally, with numerous independent studies showing the close link between unauthorized file-sharing and declining record sales.

RIAA.com, July 27, 2006

Read the Press Release: <http://www.riaa.com/news/newsletter/072706.asp>

See GrayZone Digest 1Q 2006: <http://www.grayzone.com/106.htm#legal>

See GrayZone Digest 1Q 2005: <http://www.grayzone.com/1005.htm>

## =====SIDEBAR=====

### **Video-Sharing Websites: A New Battle Ground for Copyright Infringement**

More than 150 companies that host user-generated videos on their sites have cropped up in the past year, and many of them don't prescreen the material their users upload. Too often, critics charge, the rights to those videos are owned by someone other than the poster.

The Digital Millennium Copyright Act should define a company's obligations regarding copyrights, and new video-sharing site, YouTube, says it goes out of its way to follow those rules. However, legal experts wonder if the courts will ultimately have to decide how the DMCA and other laws apply to this new market.

That could be an unnerving possibility to the fledgling video-sharing sites. Many are just starting to figure out their business models, and getting dragged into expensive legal tussles or being forced to implement complicated copyright-protection procedures could snuff out a new kind of business just as it's starting to get traction.

So who's right? For now, YouTube is standing on the legal argument that it is protected under the same federal law that protects other online services (such as Craigslist, eBay and GeoCities) from liability for copyright violations its customers may commit. However, intellectual property attorneys also see areas where YouTube risks violating the DMCA. For example, the law specifically prohibits a website from profiting from copyrighted material, yet ads have appeared on YouTube alongside individual video clips.

The new video-sharing culture appears to be here to stay. How well it can exist without violating intellectual property rights remains to be seen.

CNet News.com, July 24, 2006 (Greg Sandoval)

[http://news.com.com/YouTube+dances+the+copyright+tango/2100-1025\\_3-6097365.html](http://news.com.com/YouTube+dances+the+copyright+tango/2100-1025_3-6097365.html)



## Quick Bits and Bytes

### **CinemaNow Sells Movie Downloads**

CinemaNow Inc. is now selling mainstream movies for download that can be transferred to DVD, marking a first for Hollywood films bought and distributed over the Internet.

The online movie provider's "Burn to DVD" service debuted on July 19, 2006 with more than 100 movies available, including "Scent of a Woman," "About a Boy," "Charlie's Angels: Full Throttle" and "Barbershop." Previously, Hollywood movies purchased through CinemaNow could be watched on a PC but not transferred to DVD. Studios have been reluctant to offer movies for at-home DVD copying because of piracy concerns. However, the development of more secure technology has eased the fears of an industry looking toward digital distribution as a way to generate revenue amid rising manufacturing and retail costs.

CinemaNow sells the mainstream films starting at \$8.99. The offerings contain all the features of their store-bought counterparts, including boosted sound settings, interactive menus, deleted scenes, commentaries and other extras. The high quality downloads deliver a product nearly identical to the DVDs consumers find in retail stores.

Among the major Hollywood film distributors providing content for the service are The Walt Disney Co.'s Buena Vista Home Entertainment, Sony Corp.'s Sony Pictures Home Entertainment, MGM Worldwide Digital Media and Universal Studios Home Entertainment. Independents Lionsgate, EagleVision and Sundance Channel have also licensed films for home download and transfer to DVD.

Sydney Morning Herald, July 19, 2006

<http://www.smh.com.au/news/Technology/CinemaNow-to-sell-movie-downloads-that-can-be-burned-to-DVD/2006/07/19/1153166436800.html>

### **Man Accused of Hijacking 'World Trade Center' Script**

Paramount Pictures has sued a New York artist for copyright infringement, claiming that the man used a "bootleg script" to create a knockoff version of director Oliver Stone's film on the September 11 attacks, "World Trade Center." The studio contends in a federal lawsuit that Chris Moukarbel, 28, somehow obtained a copy of the screenplay for "World Trade Center" and used the script as the basis for a 12-minute film that mirrors "a significant portion" of Stone's work. Paramount's complaint charged that Moukarbel's film, like Stone's production, centers around a pair of rescue workers trapped in debris following the collapse of the towers.

Included in the studio's June 16, 2006 complaint were nine pages from the "World Trade Center" screenplay that Paramount contends were used by Moukarbel for his unnamed work, which he posted online (but had since removed). Additionally, the studio prepared a side-by-side comparison to highlight similarities in the two films. The Paramount complaint, which does not

specify monetary damages, seeks a permanent injunction barring Moukarbel from distributing his film. In a statement, Moukarbel said that the film was produced as part of his Yale University master's thesis and that he never intended to profit from it.

The SmokingGun, June 21, 2006

<http://www.thesmokinggun.com/archive/0621061stone1.html>

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