



1st QUARTER 2007 DIGEST

The Digest Covering Anti-Piracy Operations and Related Topics

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HEADLINE NEWS

Universal Music Sues MySpace

On November 17, 2006, Universal Music Group (UMG) filed suit against MySpace.com, claiming the online social network site is encouraging its users to illegally share music and music videos. The recording company is seeking unspecified damages, including up to \$150,000 for each unauthorized music video or song posted on MySpace.

The lawsuit, filed in U.S. District Court, is the latest major battle in the ongoing conflict between the music industry and Internet sites who offer their users new ways to access music, videos and other content. Universal has embarked on an aggressive legal campaign against social networking sites since it reached an agreement in 2006 to license its songs and music videos to YouTube, Inc., now owned by Google, Inc.

In the complaint, Universal claims that MySpace tries to avoid liability for copyright violations by making its users give the website the right to publish the content. However, the users do not have the right to give that permission, UMG argues. Universal contends that MySpace "encourages, facilitates and participates in the unauthorized reproduction, adaptation, distribution and public performance" and maintains that much of the media posted by MySpacers is not user-generated, but actually music and videos stolen from copyright owners.

In the lawsuit, Universal accuses MySpace of being a willing partner in that theft by allowing people to illegally upload videos and providing the technology for users to share the content with others. Universal asserts that links to their artists' work including THE KILLERS, JAY-Z and GWEN STEFANI are readily available.

Universal has pointed to key features on the website that enable users to save copies of videos to their profile pages or share them with others on the site. UMG claims the MySpace Video and MySpace Music services also enable users to access copyright material without permission.

"Our music and videos play a key role in building the communities that have created hundreds of millions of dollars of value for the owners of MySpace," the company said in a statement. "Our goal is not to inhibit the creation of these communities, but to ensure that our rights and those of our artists are recognized."

In October 2006, MySpace began using "audio fingerprinting" technology to block users from uploading copyrighted music to the site. These efforts, however, failed to satisfy UMG

that the site was taking sufficient action and when negotiations between the two companies to forge a licensing deal failed, the lawsuit was filed.

Universal Music also filed separate copyright infringement lawsuits during 2006, against online video-sharing sites run by Grouper Networks, Inc. and Bolt, Inc.

Law.com, November 21, 2006 (Alex Veiga, Associated Press)
<http://www.law.com/jsp/article.jsp?id=1164029732585>

Los Angeles Times, November 18, 2006 (Dawn C. Chmielewski)
http://www.latimes.com/business/la-fi-universal18nov18,1,6550289_story?track=crosspromo&coll=la-headlines-business&ctrack=1&cset=true

BBC News, November 17, 2006
<http://news.bbc.co.uk/1/hi/business/6160414.stm>

ARTIST'S CORNER

Obsessed Fan Hacks into LINKIN PARK Cell Phone

A woman has been accused of hacking into the cell phone records of the lead singer of the Grammy-winning rock group, LINKIN PARK. Devon Townsend, 27, a former employee of Sandia National Laboratories, allegedly used her position with the company to access frontman CHESTER BENNINGTON's Verizon Wireless account online. According to its website, Sandia National Laboratories develops technology to support national security.

Townsend is accused of accessing digital pictures and obtaining the phone numbers listed in the phone. She allegedly called the singer's wife, Talinda Bennington, and made threats to her. During a search of Townsend's home in Albuquerque, New Mexico, investigators found Linkin Park posters, autographed band memorabilia, pictures of Townsend with Bennington, bootlegged Linkin Park music and copies of messages and photographs intercepted from the Bennington family's e-mail accounts.

Townsend's attorney, Ray Twohig, said that investigators were still analyzing his client's computer and that it remains to be seen what exact violations will be alleged. "This is the Internet version of a groupie hiding in Mick Jagger's dressing room," said Twohig. "We're in a different age, and fans have more skills than they used to."

Linkin Park has sold more than 36 million records worldwide. In February 2006, Linkin Park and rapper JAY-Z shared a Grammy Award for best rap/sung collaboration for "Numb/Encore." In 2001, the band won a Grammy for best hard rock performance for "Crawling."

ShortNews.com, November 28, 2006 (John Smith)
<http://www.shortnews.com/start.cfm?id=58564&newsid=10&sort=1&start=1&sparte=4>

International Herald Tribune, November 24, 2006 (Associated Press)
http://www.iht.com/articles/ap/2006/11/24/arts/NA_A-E_CEL_US_Linkin_Park.php

Read The Criminal Complaint (U.S. v. Townsend)
<http://news.lp.findlaw.com/hdocs/docs/cyberlaw/ustwmsnd112006cmp.html>

50 CENT Cleared of Copyright Infringement

On October 27, 2006, a Miami judge ruled in favor of 50 CENT, when he dismissed a copyright infringement lawsuit that was filed against the rapper in January 2006. Attorneys representing Lil Joe Wein Music, the copyright holders for Luther "LUKE" Campbell's early recordings, had filed suit against 50-Cent, alleging that he stole a line from the Miami rapper and used it in his smash hit "In Da Club."

U.S. District Judge Paul C. Huck found the disputed opening phrase, "go shorty, it's your birthday," was a "common, unoriginal, and non-copyrightable element of the song" and was not entitled to copyright protection. The judge also stated that there are almost no similarities between the works, and the phrase in question represents only 11 seconds of a more than three-minute song.

According to previous reports, Luke had no part in the lawsuit and in 2006 issued a statement distancing himself from the proceedings. Lil Joe Wein Music acquired the rights to Campbell's music after the Miami rapper filed for bankruptcy protection in the 1990s.

XXL Magazine, October 30, 2006
<http://xxlmag.com/online/?p=5733>

See GrayZone Digest 2Q 2006: <http://www.grayzone.com/406.htm#artists>

LEGAL BEAGLE

Software Ripper Gets Five Years in Slammer

On November 29, 2007, 35-year-old Scott Laney was sentenced to five years in prison and ordered to pay \$9.4 million in restitution for selling computer software with fraudulent licenses.

Laney, residing most recently in Ogden, Utah, pled guilty to conspiracy to traffic in counterfeit labels and computer program documentation as well as conspiracy to engage in money laundering. His co-conspirator, Tobias Grace, of Vancouver, is to be sentenced in early 2007.

According to prosecutors, the two obtained some of their software at a fraction of the retail value from Microsoft workers who allegedly exploited the company's internal ordering system. Laney and Grace then created multiple companies to re-label and sell the software as if it were legitimate.

They also altered the software licenses for expensive server software to authorize more users than originally provided for, enabling them to reap a greater profit.

Microsoft said it lost \$12.4 million as a result of the fraudulent activity. Several of the workers who abused the internal system have also been charged and convicted in federal court.

International Business Times, November 29, 2006 (Associated Press)
<http://www.ibtimes.com/articles/20061129/software-fraud.htm>

Music Publishers Settle With Kazaa

The music publishing industry has reached a tentative deal with the operators of the Kazaa file-sharing network over claims of copyright infringement. On October 30, 2006, publishers pursuing a class-action suit against Kazaa informed the U.S. District Court that the peer-to-peer network had agreed to pay "a substantial sum" under the agreement, according to the National Music Publishers' Association (NMPA). The exact amount of the settlement, however, was not disclosed.

The settlement "will be another key milestone of the ongoing transformation of the digital music marketplace to one that will allow legal services to thrive," NMPA President and Chief Executive David Israelite said in a statement. Kazaa parent company, Sharman Networks, announced in July 2006 that they had settled copyright infringement lawsuits with music labels and movie studios, agreeing to redesign its software to block customers from downloading protected music and movies and to pay more than \$115 million in penalties.

The ongoing negotiations are among a wave of legal settlements between file-sharing networks and the entertainment industry since the Supreme Court ruled in 2005 that technology companies caught encouraging customers to steal music and movies over the Internet could be sued. In 2006, a federal judge ruled against StreamCast, Inc., the distributor of the Morpheus online file-sharing software, finding the firm encouraged computer users to share music, movies and other copyright works without permission.

ABC News, November 1, 2006 (Associated Press)

<http://abcnews.go.com/Technology/Technology/wireStory?id=2619445&CMP=OTC-RSSFeeds0312>

See GrayZone Digest 4 Q 2006: <http://www.grayzone.com/1006.htm#legal>

Copyright Office Rules on Ringtones

On October 16, 2006, the U.S. Copyright Office issued a decision on the legal status of ringtones, finding that the excerpts of pre-existing sound recordings used for ringtones fall under the compulsory license provisions of section 115 of the copyright law.

The ruling by the Register of Copyrights may increase opportunities for ringtone creators and distributors by making more copyrighted music available through compulsory licensing. The decision is considered a victory for record labels that want to offer ringtone operators the master rights and publishing rights for ringtones as one package. The ruling has been hailed by the Recording Industry Association of America (RIAA) and criticized by music publishers and songwriters, who can no longer refuse licenses or negotiate higher-than-statutory royalties.

Pillsbury Law, October 23, 2006 (Lawrence A. Schultis et al.)

<http://pillsburylaw.com/bv/bvisapi.dll/portal/ep/paPubDetail.do/pub/20061023168260/channelId/-8595/tabId/5/pageTypeId/9208>

RIAA.com, October 17, 2006

Read the Press Release: <http://www.riaa.com/news/newsletter/101706.asp>

U.S. Copyright Office, October 16, 2006

Read the decision: <http://www.copyright.gov/docs/ringtone-decision.pdf>

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SIDEBAR: *International LawFare* – Record Labels Reach Out and Slap Suit on Russian Pirates

Several major record labels have sued the operator of the Russian music website AllofMP3.com, claiming the company has been profiting by selling copies of music without their permission.

The lawsuit was filed in federal court in New York on December 20, 2006, against Moscow-based Mediaservices, which owns AllofMP3 and another music site, allTunes.com. The major record labels, including Arista Records LLC, Warner Bros. Records, Capitol Records and UMG Recordings Inc., filed the lawsuit, claiming that Mediaservices' sites sell millions of songs by their artists without paying them "a dime" for the right to do so.

The music companies are seeking a court order against Mediaservices and unspecified compensatory and punitive damages. AllofMP3 typically charges under one dollar for an entire album and just cents per track. By contrast, an album at Apple Computer's iTunes Music Store and other licensed services typically costs about \$10 and 99 cents per tune.

Mediaservices has maintained that by paying royalties to a Russian licensing group, the website is in compliance with Russian laws. The music industry contends that the Russian licensing group doesn't have the authority to collect and distribute royalties. This fall, Visa International and MasterCard stopped accepting credit card transactions for purchases made at Mediaservices' sites.

The ability for users worldwide to access illegal files, regardless of where they are hosted, has opened up the playing field for international legal battles against copyright infringement. Earlier in 2006, the British Phonographic Industry (BPI) also filed copyright infringement claims against the Moscow-based Mediaservices on behalf of the major recording companies.

USA Today, December 20, 2006 (Alex Veiga, Associated Press)
http://www.usatoday.com/tech/news/2006-12-20-allofmp3-suit_x.htm

See GrayZone Digest 3 Q 2006: <http://www.grayzone.com/706.htm>

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QUICK BITS & BYTES

Microsoft's Frankenbuild to Fight Piracy Monster

On December 14, 2006, Microsoft released an update to Windows Vista that shuts down unauthorized versions of the operating system (OS) that allowed users to skip the product's activation system.

The update, which Microsoft calls "Frankenbuild," detects tampering of Windows Vista code that would allow users of the OS to work around the product's built-in activation system. Frankenbuild mixes files from various test and final versions of the software. It will require

only systems in which it detects specific tampering to go through a validation check for authenticity.

According to Microsoft, if a version of Vista that has used a workaround to avoid product activation is detected, the user of that software will have 30 days before the OS goes into a reduced functionality mode. In this mode, all users can do is access their existing files and surf the Web for an hour before having to log back on to the software.

This latest anti-theft move by Microsoft came as pirated copies of Vista were already spreading, only weeks after the product was released to business customers.

PC World, December 14, 2006 (Elizabeth Montalbano, IDG News Service)
<http://www.pcworld.com/article/id,128210-c.vistalonghorn/article.html>

Pet Care Biters Fined for Fake Flea-Fighters

On October 10, 2006, the U.S. Environmental Protection Agency (EPA) announced that Care-A-Lot, Inc., owner of a pet supply warehouse in Virginia Beach, Virginia, has agreed to pay a \$30,000 penalty to settle alleged violations of a federal pesticide law.

According to EPA, the company offered for sale and distribution various tick and flea control products under "Advantage" and "Frontline" labels that were not registered with EPA, and were misbranded with labels of EPA-registered pesticide products. The products were offered for sale in the company's store, catalogue, and website. EPA cited the company for violating the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which requires EPA regulation of pesticide products and prohibits the distribution or sale of misbranded/improperly labeled pesticides.

A variety of distributors and retailers may be selling counterfeit pet care products in the U.S., sometimes without realizing these products are actually counterfeit versions of legitimate pet care products. Once EPA learns of a suspected violation, it works in cooperation with its state partners in issuing orders to stop the sale of counterfeit Frontline Top Spot, Frontline Plus, and Advantage flea and tick control products for dogs and cats. As part of the settlement, Care-A-Lot, Inc. neither admitted nor denied liability for the alleged violations, but has certified that it is now in compliance with FIFRA requirements.

U.S. Environmental Protection Agency, October 10, 2006 (Bonnie Smith)
<http://yosemite.epa.gov/opa/admpress.nsf/93216b1c8fd122ca85257018004cb2dc/367532ecf2dfb6fd85257203005ed9ee!OpenDocument>

1 Q 2007 (First Quarter) BUSTS

U.S. Busts

Be sure to peruse the Recording Industry Association of America's (RIAA) monthly newsletter 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>

DJ DRAMA Arrested

A police SWAT team and antipiracy agents from the RIAA raided the Atlanta-based Aphilliates Music Group office and Gangsta Grillz studio, arresting DJ Drama and his partner DJ Don Cannon.

Authorities confiscated more than 81,000 mixtape CDs, several computers, recording equipment, and four cars, among other items. DJ Drama, real name Tyree Simmons, and DJ Don Cannon, spent the night in Fulton County Jail. The raid occurred under the Racketeering Influenced Corrupt Organizations Act, and Drama and Cannon could face felony charges.

Chief James Baker of the Morrow Police Department said, "We have a partnership with joint vice task force working against pirated tapes in the country. CDs must list the true name and address of their office, which these CDs didn't, nor did they obtain copyright permission. People were able to make purchases over the Internet and these guys sold the pirated discs for profit."

DJ Drama's Aphilliates Music Group is known as a seller of mixtape CDs, which are widely used to promote new artists and those with a new album on the way. The consequences of the raid and arrests could be huge for the hip-hop community. Mixtape CDs often feature rappers performing over well-known beats from other producers and thus could be exposed to potential copyright-infringement lawsuits.

MP3.com, January 17, 2007 (Jim Welte)
<http://www.mp3.com/news/stories/8149.html>

Homeland Security Snaps Major Piracy Ring

Four people have been arrested as members of a counterfeit ring that stretched from New Jersey and New York to Texas, according to a federal complaint filed by U.S. Attorney Michael J. Garcia.

On December 14, 2006, Department of Homeland Security agents seized more than \$6 million worth of foreign-made fake clothing and shoes smuggled into the United States and sold under famous labels including Nike, Sean Jean and Lacoste. According to the criminal complaint, the merchandise was produced in countries including Pakistan and China and smuggled into the United States through two New Jersey ports and John F. Kennedy International Airport.

Two of the suspects also face charges of paying bribes to acquire the smuggled goods without inspection. According to Garcia, ring members have given undercover federal agents more than \$140,000 since 2005, attempting to bribe customs officials to release goods without inspection. Authorities have conducted 66 seizures in connection with this investigation.

Taiwan News Online, December 15, 2006 (Verena Dobnik)
http://www.taiwannews.com.tw/etn/news_content.php?id=344994&lang=eng_news&cate_img=logo_world&cate_rss=WORLD_eng

WORLDWIDE PIRACY UPDATE

ARGENTINA

Major Seizure of Blank Media

Argentine customs officials began 2007 with a major seizure of 3 million blank CDRs/DVDs at the Port of Buenos Aires. The investigation, initiated in late 2006, began to take effect when customs officials noticed a significant difference in the declared weight of targeted shipments and their actual weight. The goods in question had been declared as 'general electronics and optical media' and showed some risk factors, such as origination from Taiwan, that prompted customs to conduct a more thorough review.

In collaboration with the local anti-piracy team (Apdif Argentina), it was determined that the declared importers were not involved in the electronics or optical media business. When they could not provide original importation documents, the entire shipment was seized as suspected contraband.

The preliminary investigation indicates that the declared importers were fronting for a third party suspected of providing the blank optical media to the pirate market. The estimated retail value of the media seized was almost 25 million pesos (\$8 million).

IFPI.org, January 9, 2007

Read the Press Release: http://www.ifpi.org/content/section_news/20070109.html

AUSTRALIA

Record Companies Win Case Against ISP

Australia's recording labels have won an important legal victory against the operator of a music piracy website, its Internet Service Provider (ISP) and a director who were infringing copyright.

On December 18, 2006, Australia's Full Federal Court rejected an appeal by Stephen Cooper, the operator of the mp3s4free website and his ISP who had earlier been found guilty of copyright infringement.

According to the court, Cooper had power to prevent the communication of copyright sound recordings to the public in Australia via his website because he was responsible for creating and maintaining MP3s4FREE.com

The Full Court also found that the ISP, E-Talk/ Com-Cen, and its director, Liam Bal had failed to take reasonable steps to prevent copyright infringement and instead had sought to achieve a commercial advantage from advertising on MP3s4free.com. Cooper, E-Talk/ Com-Cen and Bal have been ordered to pay the costs of the record companies for both the original proceedings and the appeal.

The appeal upheld the 2006 decision of Justice Tamberlin which found that all parties involved in MP3s4Free.com website had authorized copyright infringement. The website was

described by the Court as a “carefully structured and highly organized site” which included hyperlinks to facilitate the downloading of infringing copies of recorded music.

IFPI.org, December 18, 2006

Read the Press Release: http://www.ifpi.org/content/section_news/20061218.html

CZECH REPUBLIC

Czech Police Keep Pirates in Check

Czech police and customs have carried out a series of raids at separate locations in November and December 2006, resulting in the seizure of hundreds of millions of Euros worth of pirate and counterfeit goods. Deemed Europe's biggest piracy black spot, the recording industry has long complained of massive intellectual and industrial property piracy in open air markets in the Czech Republic, mostly along the 500 mile border with Germany and Austria.

On December 2, 2006, police raided the “Dragon Market” in the Plzen area, which is the largest marketplace of Vietnamese traders in the region. Enforcement authorities seized pirate CDs, counterfeit brand name clothing and accessories worth €3.5 million (\$4.5 million). In actions against another market in Cheb, West Bohemia, 250 customs officers found pirate or counterfeit goods in almost all 130 booths. In total, the raids netted pirate and counterfeit items worth hundreds of thousands of Euros, including 54,000 illegal CDs.

IFPI Chairman & CEO, John Kennedy, said: “It is unacceptable that such an enormous hub of counterfeiting and pirate trading should be allowed to exist right in the heart of Europe. These raids are a good first step - we would now like to see the Czech authorities go much further. Pirate stalls need to be shut down indefinitely, stall owners should be prosecuted and the Czech authorities should make those who exploit these illegal markets liable for their actions.”

The music industry has commended the recent actions against piracy in the region. The scale of the problem along the Czech border calls for the proactive and comprehensive involvement of the Czech government and sustained pressure for change from the European Union.

IFPI.org, December 6, 2006

Read the Press Release: http://www.ifpi.org/content/section_news/20061206a.html

ITALY

Italian Raids on Internet Cafes

Police raids on eight Internet cafes in Tuscany, Italy resulted in the arrests of seven Chinese nationals who were involved in a massive piracy ring.

The cafes were used to reproduce, store and distribute millions of files of copyright protected works through file-sharing networks. For a fee, users of the service were allowed to upload and download music, films and software. The operation, carried out by the Fiscal police (GdF) of Prato led to the seizure of the eight cafes and a total of 462 computers containing more than 1 million music tracks, movies, videogames and computer programs.

The arrests of the Internet cafe owners were ordered by the Public Prosecutor of Prato and the raids were conducted with the assistance of music, movie and software anti-piracy associations, FPM, Fapav and BSA as well as the Italian Authors' Society SIAE. Another 23 people were also indicted for the violation of several administrative laws and for illegal immigration.

IFPI.org, November 22, 2006

Read the Press Release: http://www.ifpi.org/content/section_news/20061122.html

JAPAN

YouTube Removes 30,000 Japanese Vids

The popular U.S. based video-sharing website, YouTube, has deleted nearly 30,000 files over copyright concerns after being asked by a group representing Japan's entertainment industry.

During October, 2006, the Japan Society for Rights of Authors, Composers and Publishers found 29,549 files posted by users without authorization from Japanese copyright holders. Acting on behalf of 23 Japanese TV stations and movie and music companies, the group instructed YouTube to remove the copyrighted materials.

The files included video clips from TV programs, music videos and movies posted on YouTube's site without permission.

USA Today, October 20, 2006 (Associated Press)

http://www.usatoday.com/tech/news/2006-10-20-youtube-deletes_x.htm?POE=TECISVA

THE NETHERLANDS

Dutch ISP Ordered to Disclose ID

On January 5, 2007, the Dutch district court of The Hague ruled in favor of the Dutch anti-piracy organization BREIN in a complaint filed against the largest Dutch Internet service provider, KPN.

KPN had previously refused to take down the illegal website, dutchtorrent.org, and to disclose the identity details of its subscriber. The website operated from a server that was connected to the internet via KPN. The anonymous site owner was put on notice repeatedly by BREIN but did not respond and persisted in illegal activities. After BREIN notified KPN, the service provider also refused to shut down the website and disclose the identity of the website holder to BREIN. Dutchtorrent.org hosted hundreds of illegal files available to thousands of its registered users.

The judge granted the claims of BREIN, ordering KPN to disclose the identity of the website holder and take down the illegal website. The legal victory enables BREIN to hold the operator of the illegal website liable with an injunction and damages claim. In his decision, the judge ruled that KPN's refusal to take action was unlawful because the website facilitated structural copyright infringements. According to the judge, there was hardly any doubt about the illegality of the site's activities.

In the summer of 2006, the Amsterdam district court also awarded the disclosure of identity details to BREIN in a procedure against the ISP, UPC/Chello. ISPs now have to disclose name and address details to injured parties to enable them to take action against the respective infringer/s. According to director Tim Kuik, BREIN took down a total of 115 illegal peer-to-peer (p2p) sites with over 1.5 million registered users in 2006 alone.

The recent actions against Dutch sites are a big step in the music industry's fight against illegal file-sharing. Dutch-based sites are notorious for non-compliance and rampant piracy.

IFPI.org, January 5, 2007

Read the Press Release: http://www.ifpi.org/content/section_news/20070105.html

UNITED KINGDOM

Chief of Treasury to Battle Against Pirates

In a December 6, 2006 speech, U.K. treasury chief Gordon Brown announced his support for increased prison sentences of up to 10 years for organized gangs that pirate films and music from the original creators, depriving the industries an estimated 20 percent of their profits.

Brown announced plans to reduce the abuse of copyright and intellectual property aimed at catching both petty and serious criminals. His targets range from people who sell counterfeit CDs and DVDs at open-air markets to the pirates who set up websites and sell stolen films and songs downloaded from the Internet.

An extra £5 million (\$9.8 million) has been allocated for Trading Standards officers to begin taking action against copyright infringement, who have previously only been able to act against trademark infringement. The preceding penalty for online copyright infringement in the U.K. had been two years in prison. Under the proposed clamp-down on pirates, the sentences will go up to 10 years, with intellectual property crime becoming a recognized area for police action.

Times Online, December 6, 2006 (Philip Webster)

<http://www.timesonline.co.uk/article/0,,2-2489166,00.html>

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