

Napster company background essay

[Art & Culture](#), [Artists](#)



Company Background Napster, formerly Roxio, operates a popular online music service that allows users to download secure audio files to PCs and portable music players. The online platform also offers electronic audio files for purchase. The original Napster was created by Shawn Fanning and Sean Parker, and was released on June 1, 1999. It was primarily designed to allow individuals to share files, specifically music files in MP3 format, from their computer to another. From its inception, Napster has always been embattled with legal and ethical issues.

Currently, Napster's business model is now completely legal in the eyes of the courts, the music industry, and the artists. As reported by PR Newswire, Napster has become "the first legal digital music service to offer music fans free, on-demand listening to over two million major and independent-label tracks five times each" (2006). An additional service of Napster allows "music fans pay one low monthly price and enjoy a premium music subscription experience that includes unlimited access to CD-quality music and advanced discovery, community and programming features" (PR Newswire, 2006). Members can also download music files for a fee. In this paper, I will discuss, evaluate, and analyze the important legal and business concepts of ethics, intellectual property protections, and product liability and warranty issues in Napster. These issues will be before and after Napster was ordered shut down by the 9th U.

S. Circuit Court of Appeals (Harris, 2001, p. 1. A). Legal and Business

Concepts of Ethics According to Warren Richey, from 1999 to 2001, the illegal downloads perpetuated by Napster's technology numbered to 2.6 billion a month! (2005, p.

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1). Furthermore, the music industry claimed that “ it has lost 25 percent of its revenue since file-sharing began” (Richey, 2005, p. 1). According to federal judge Marilyn Hall Patel, “ Napster was designed to violate copyrights; its illegality is inherent in its technical design” (Chapman, 2000, p. 4). With this judgment, it can be concluded that Napster, the way it was originally designed, was inherently unethical, and illegal.

Twomey and Jennings defined business ethics as application of values and standards to business conduct and decisions (2005). I think that the illegality discussed in Judge Patel’s injunction stems from the illegality general principle as discussed in the book. This principle says that illegality embraces situations in which a statute declares that certain conduct is unlawful or a crime such as contracts requiring the commission of a tort, contracts that are contrary to public policy, contracts that are unconscionable, and to some extent, contracts that are oppressive, unfair, or made in bad faith (Twomey & Jennings, 2005).

Napster’s illegality came from it being contrary to public policy: it harmed the public welfare more than it benefited it as a result of its apparent disregard of the billions of copyright infringements within its systems. With past developments in the corporate environment, the collapse of large companies like Enron, WorldCom, and Xerox, organisations and their stakeholders are now more concern on ethics and social responsibility. Ethics, in a broad sense, is the “ set of moral principles or values” that govern the conduct of an individual towards other people and its environment (Treviño and Nelson 13). Social responsibility, on the other

hand, is the philanthropic attitude of an individual towards society as a whole. This attitude includes donating one's time in building houses for the poor like joining a Habitat for Humanities projects. In business settings, ethical behaviour is "that is consistent with the principles, norms, and standards of business practice that have been agreed upon by society" (Treviño and Nelson 15). More and more business leaders today are now being called "enlightened capitalists" – these are individuals who are leading their organisations in acknowledging that they don't exist in a vacuum, that they interact not only with their direct stakeholders and customers but also with society as a whole. In this regard, the ethical behaviours of an organisation would most likely dictate its outlook towards its responsibility to society.

Say, a company who doesn't consider irresponsible dumping toxic wastes into the environment is likely to irresponsibly manage its toxic waste. Because ethical considerations are about the conduct of the organisation as a whole, then an organisation thinks about the effects of its actions to all stakeholders: stockholders, employees, suppliers, distributors, customers, and the society. Ethics force companies to look further in its environment. As such, I believe that Napster's failed in this respect. It failed to consider everything that its technology might affect; the result of which was an unethical business.

During the litigations, one of Napster's defense is it can not control how its users use its technology. However, the fact that Napster's servers were centralized at that time means it can monitor the activities of its members.

This was pointed out by the court. As such, I think that Napster was actively hid the truth about the illegal activities of its members, and chose to do nothing about it. In other words, Napster defrauded the court, and the labels in saying it didn't know what its members were doing.

Fraud, as Twomey and Jennings said, happens when concealment goes beyond silence and consists of actively hiding the truth, the conduct is fraud rather than nondisclosure (2005). In this world, as emphasized by economists, there is no such thing as free lunch. In Napster's case, the trade off for higher public access to music was too high: as the music industry claimed " it has lost 25 percent of its revenue since file-sharing began" (Richey, 2005, p. 1). Parties who actively promoted the side of Napster, looked at the concept of unfair competition. The defense of these parties for Napster is that by trying to halt the progress of file sharing technology in general and Napster in particular, the label giants are promoting and colluded with each other unfair competition which will further sustain the ridiculous prices they charge for copyrighted items.

After Napster's jump to the ethical and legal side of doing business, several file sharing sites filled up the void. One of the biggest file sharing service is Grokster. Grokster is one of the online gateways to FastTrack network which is the biggest online file-sharing network since Napster. Grokster shut down for the same reason that Napster did, although its demise garnered almost no publicity in contrast to that of Napster. The service's Web site says: The United States Supreme Court unanimously confirmed that using this service to trade copyrighted material is illegal. Copying copyrighted motion picture

and music files using unauthorized peer-to-peer services is illegal and is prosecuted by copyright owners” (grokster. com). Furthermore, when I accessed the site to copy the warning, the Web page displayed my IP address and that it has been logged, and warned that “ Don’t think you can’t get caught.

You are not anonymous” (grokster. com). Intellectual Property

Protections For Napster’s numerous violation of the copyright law, it settled most of the litigations pertaining to these violations.

EMI, one of the record labels which sued Napster, “ is believed to have received up to \$100 million (Pounds 50. 8 million) from Bertelsmann to settle the long-standing litigation relating to Napster, the once illegal music-sharing website” (Sabbagh, 2007, p. 61). Several labels sued Napster in 2001 which led to its shut down. Bertelsmann “ briefly lent money to the website at the beginning of the decade” (Sabbagh, 2007, p. 61), and right after that became embroiled in the infringement suits against Napster. At the beginning of the litigations, Napster vowed to fight the allegations of copyright infringement, and even appealed to its users to lobby Congress.

It “ has argued it is not to blame for its subscribers’ use of copyrighted material, citing the Sony Betamax decision of 1984, in which the U. S. Supreme Court refused to hold VCR manufacturers and videotape retailers liable for people copying movies” (Harris, 2001, p. 1. A).

Unfortunately, it lost the cases and was forced to settle which resulted to its bankruptcy. As the court said: “ Having digital downloads available for free

on the Napster system necessarily harms the copyright holders' attempts to charge for the same downloads" (Harris, 2001, p. 1. A).

What is amusing is that in the beginning Napster, although it might not have been intentional, promoted the illegal copying of copyrighted material, but now is toeing the law to the letter. After the brand and its technology were purchased by Roxio, it has cooperated with different labels, and the law to uphold intellectual property rights. The result of which is Napster's new business model. Lastly, after all that have been said and done, copyright is defined as the exclusive right given by federal statute to the creator of a literary or an artistic work to use, reproduce, or display the work (Twomey and Jennings, 2005). Copyrights run for the life of the creator plus 70 years after his or her death. Of course, before doing anything, copyright owners need to consult with their lawyers.

Legal remedies of copyright owners for infringement, as stated in the United States Copyright Law, are injunctions, impounding and disposition of infringing articles, damages and profits, costs and attorney's fees, and forfeiture and destruction of all infringing things. Product Liability and Warranties As inherent in the products and services it is now legally providing the public, Napster is also governed by the Uniform Commercial Code or UCC. Napster sells music in electronic format; hence it does sell tangible goods. It also receives fees for its music subscription service providing the public the right to listen to copyrighted materials: the UCC doesn't apply only to the sale of securities or intellectual property (Twomey & Jennings, 2005). By the nature of its business, Napster finds it not

difficult to perform its obligations as a seller in terms of product liabilities and warranties.

It delivers the product or service in real time – few moments after the buyer has paid. As such Napster, that is the Napster now, observes UCC's "reasonable commercial standards of fair dealing in the trade" (Twomey & Jennings, 2005). In beginning of its existence, Napster in choosing not to do something about the illegal activities of some of its members was guilty of negligence with regard to the product, digital music, distributed through its systems. As Twomey and Jennings said negligence exists when an entity acts with less care than is reasonable, causing foreseeable injury (2005). In this case, harm or injury was made to the music industry, particularly the labels, which claimed that "it has lost 25 percent of its revenue since file-sharing began" (Richey, 2005, p. 1). As far as I know and according to my research, there has been no reported action against Napster regarding product liability and warranty. As part of the company's end-user licensing agreement for the use of its software, it includes a warranty or the lack of one.

The company's Web site says that; You expressly acknowledge and agree that the use of the Software is at your own sole risk. THE SOFTWARE HAS BEEN PROVIDED SOLELY, "AS IS" AND WITHOUT WARRANTY OF ANY KIND BY NAPSTER (napster.com). Conclusion In doing business – whether completely virtual, a mixture of brick and click, or purely brick and mortar – all parties must take into account the important legal and business concepts of ethics, intellectual property protections, and product liability and warranty

issues affecting that business. As can be learned from Napster's case, it is less costly to do so in the beginning than by waiting for the aggrieved party to take matters into its own hands. Allow me to say that maybe it is time for society as a whole to take a look at the laws that had helped held society civilized over the centuries.

The point is these laws were crafted at a time much more different than now. And when technologies help people, or a large proportion of the population, disregard the law, and then perhaps it is time for the law to change. Change is inevitable, and laws shouldn't hamper change and progress.

Whether society heeds this call, either way the digital music technology that Napster pioneered is here to stay. ReferencesChapman, G. (2000). THE CUTTING EDGE: FOCUS ON TECHNOLOGY; Digital Nation; Seeing the Value in the Social Impact of Design; Conference focuses on how information technology can be made to reflect ethics.

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