

# Napster and intellectual property



The Internet. It is a vast network of millions of users, surfing and sharing billions of files, all day, every day. To individuals holding copyrights on intellectual property, this is a frightening proposition. After all, there is virtually no protection for these copyright holders from the misuse of their property. But, as Scott Sullivan, writer for The FBI Law Enforcement Bulletin stated, as history has proven, technological and societal advances usually come with a price. The price society is paying for the Internet is a loss of copyright protection by laws for their intellectual material.

Napster is a good example of how these intellectual property rights are being compromised on the Internet. Napster is a simple, yet sophisticated program created by a young college student named Shawn Fanning that enables users to anonymously swap and share audio files known as MP3s. During its infancy, Napster only had approximately 3, 000 users. At that time, Napster could probably have been protected by the Audio Home Recording Act, which gives consumers the right to create and transfer digital music for noncommercial purposes (Gurly). Since that time, according to Chris Sherman, writer for the magazine Online, Napster has become the most successful new Web technology ever by gaining more than 25 million registered users in just over a year of existence. At this point, however, the Recording Industry Association of America (RIAA) is quite unhappy with Napsters existence and its service. They believe the fact that millions of users can share songs with one another is a violation of copyright and constitutes outright theft of intellectual property (Sherman). The RIAA won a lawsuit under this argument against Napster in early 2001, so the program may go offline unless a compromise is reached.

If the final ruling is made to stop Napster's service, doing so will not be difficult because it is a centralized service. However, file sharing, a mainstay of Web activity that's considered almost a right by many users, is too popular to stomp out in one fell swoop (Sherman). The technology under which Napster operates, File Transfer Protocol (FTP), has been in use since 1971. It would be as difficult to destroy this technology as it would music itself. Nonetheless, as with many other technologies that threaten to freely distribute copyrighted music, the RIAA is attempting to stop the file sharing movement in its tracks. Alex Torralbas, who has worked in the recording industry, states, in the 1980s they (the RIAA) effectively killed the digital audio tape, and in the 70s, albums and tapes bore skull-and-crossbones stickers warning buyers against taping the music on cassettes. The MP3 and services such as Napster are no different from these technologies as they provide consumers with a way to abuse copyrighted material. The record industry's business model is pure Industrial Age; manufacturing and shipping pieces of plastic. MP3 and other forms of digital music threaten this model (Torralbas). The RIAA doesn't seem to see that, if adopted by them, this technology would effectively allow them to come into the Digital Age by letting users directly download music, bypassing the CD stage. Millions of people want easily accessible music, whether they pay for it or not. If the RIAA doesn't make efforts to utilize the available technology to their advantage, that technology may provide consumers with an unstoppable way to bypass them.

The United States Supreme Court has issued a ruling against Napster, but how it will hold up in reality, or more specifically, on the Internet is debatable. In some areas, the law has not been able to keep up with the

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rapid growth of technology, and the Internet is a prime example of this. Simply put, conventional laws were never intended to apply to an entity such as the Internet. Due to that fact, the Web offers anonymity and a buffer from getting caught (Sullivan). When a major crime has been committed anywhere in the world, the local law enforcement agencies are competent enough to track down the criminal and put him or her behind bars. What of the case of a single copyright violation? Is it really feasible to involve the FBI in tracking down an individual who downloads an illegally copied song from Napster? Not hardly. The Internet needs officers who would act as the liaison between the online public and law enforcement agencies, policing the Internet in much the same way they police the streets (Sullivan). Just as cities need beat officers to stop minor crimes and enforce the law, online communities need an equivalent. Since online law is virtually nonexistent, people feel free to do as they wish. Perhaps if the Internet did have beat cops regularly checking out the latest programs and technologies, Napster would not have gone so long unchecked, growing out of hand. Even if law enforcement is springing into action to fight Internet crime (Sullivan), they are not springing nearly fast enough. Many more lawsuits may arise before a police presence can be placed on the Internet. Even though Napster may not survive its lawsuit, dozens of similar programs are rising to take its place. Like a digital hydra, if one program is slain, two or more will grow to take its place. In an effort to avoid the legal troubles that have arisen for Napster, programs like Gnutella and FreeNet have a decentralized server system. The only way to shut down these programs is to individually shut down and erase the program from each machine an impossible task (Stephen). However, there are no programs like this as user-friendly as Napster yet, but only time

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will show us what develops.

As the Internet evolves, companies and governments are forced to evolve along with it. If the RIAA does not start making MP3s available for download soon, they may not survive the Digital Age. If the government does not start making the law more present online, the Internet may slip into ungovernable chaos. However, the rapid spread of internet technology differs little from television and radio in their early days and as we know, the FCC was created to regulate them. With this in mind, it is easier to believe that the Internet will eventually be developed into not only a prosperous business opportunity but also into a controlled media that is as reliable as its predecessors.

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