

Illegal file sharing



According to Article 1, Section 8 of the United States Constitution, " Congress shall have the power to ... promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries..." In the debate of whether or not file-sharing and illegal downloading of music is right or wrong, one must consider all the laws enacted to protect the original artist of the document and whether or not strict copyright laws have been breached. The fact remains that file-sharing has become one of the most popular on-line activities since the inception of Napster in 1999. In 2003 alone, there were more than three million users simultaneously sharing over half a billion files on what has now become the most popular peer-to-peer (P2P) network, KaZaA. Each week on this P2P network there are more than one billion illegal downloads of music files alone (Ipsos-Reid, 2002). The three most popular file-sharing P2P network sites have a combined 70 million active users. Besides costing the music industry billions of dollars every year, file-sharing can also be construed as stealing. The fact that this music is readily available on-line does not mean that it is anyone's for the taking. Most of the music files that are illegally downloaded by the billions every single day in the world were copyrighted by the original artist to protect their own personal property. Piracy, as this illegal downloading of music is titled, is defined as the unauthorized duplication of an original recording for commercial gain without the consent of the rights owner. The term of piracy is generally used to describe the deliberate infringement of copyright on a commercial scale. The basic fact attempting to be portrayed here is that file-sharing on the internet is illegal and therefore, wrong. When permission is granted to a P2P network, you also give permission to all others on the network to gain access

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to your hard drive. Once this access is gained, anyone on the network can download music files right from your own computer. An initial fee is paid in order to gain access to a P2P network, which grants the user unlimited access to copyrighted material. These paid networks aren't even authorized to distribute or make copies of copyrighted music. This constitutes stealing of copyrighted music on your part and stealing music is the same as stealing anything else. It is illegal and comes along with heavy consequences.

Criminal penalties for first-time offenders can be as high as five years in prison and \$250,000 in fines. Civil penalties can run into many thousands of dollars in damages and legal fees. The minimum penalty is \$750 per song (MusicUnited 2004). Illegal file-sharing has severely affected music sales globally and significantly contributed to the loss of thousands of jobs and livelihoods in the music sector. This phenomenon has been occurring around the world, as global record sales slumped from US\$38 billion in 1998 to just over US\$30 billion in 2003. Just from simple illegal music downloading alone, music retail sales in Canada fell by almost 30 percent in 2003. Sales in Germany are down more than 30 percent in three years. Album sales in Denmark slumped 50 percent over that same three-year period and sales in Italy have fallen by 50 million euro between 2001 and 2003 (IFPI 2004).

According to the Singapore Press, worldwide sales of music (CDs, tapes, minidisks, etc.) fell 6.5 percent last year – about \$3 billion worth. So what are the top-selling records pulling in as a result of file-sharing? The 10 most popular albums in the world last year sold a total of 40 million copies combined – down 20 million from the previous year. Not one of the world's top 10 albums in 2001 sold more than 5 million copies. The previous year, seven albums topped that number (Robinson, 2002). Another negative

impact of the illegal file-sharing craze is that it defeats the parental advisory labeling. When children have access to illegally download music with curse words and underage material, parents lose control of their child's listening as P2P networks allow kids to listen to and download music parents would otherwise not approve of. " A lot of people think these activities are legal, and they think they ought to be legal," said John Malcolm, Deputy Assistant Attorney General. Malcolm also stated the internet has become the world's largest copy machine. " Most parents would be horrified if they walked into a child's room and found 100 stolen CDs ... However, these same parents think nothing of having their children spend time on-line downloading hundreds of songs without paying a dime. There does have to be some kind of public message that stealing is stealing is stealing," said Malcolm, who oversees the arm of the Justice Department that prosecutes copyright and computer crime cases (McCullagh, 2002). The number of copyrighted music tracks stored on internet file-sharing networks throughout the world is estimated at 800 million files -- up from 500 million in 2002. Amazingly, this astronomical figure is down from the one billion files estimated in April 2003. So what does this cost the musician? " I estimate that I lose 30 percent of my income to downloading and copying of CDs," said Kurt Bestor, a Utah-based recording artist and performer who makes his living selling his music. " We should celebrate this incredible technology that makes music available around the globe minus all the middlemen," said Bestor. " As long as I can make my traditional cut, I don't really care. The problem is that we went from \$16 a CD to zero! Now that's not right." Bestor makes a measly \$1. 50 for each of his CDs that sells (Robinson, 2002). So who exactly is doing all of this illegal downloading? File-sharing is heavily skewed to youth. Over 60 million

Americans above the age of 12 have downloaded music. While a majority of Americans under 18 have downloaded and half of those are heavy users, only a fifth of those aged 35-44 have downloaded files. Among U. S. adults at least 18 years old, the number of downloaders has about doubled since 2000. A great deal of this illegal file-sharing is even being done on college campuses by students accessing higher bandwidth computers supplied by the universities for study purposes. In a recent lawsuit, the Recording Industry Association of America (RIAA) targeted 477 illegal file sharers, including 69 individuals using university networks to illegally distribute copyrighted sound recordings on unauthorized P2P services. The university networks include schools from Connecticut, Georgia, Kansas, Minnesota, New Jersey, Pennsylvania, Rhode Island, Texas, Virginia and Washington. Much is being done to foil this practice of illegal file-sharing. Rep. Howard Berman of California introduced a bill to attempt to minimize the illegal trading of copyrighted songs on P2P networks by allowing copyright holders to use technology against pirates. According to Berman, illegal P2P networks should not be "cleared out," but rather "cleaned up." However, despite the passage in 1998 of the Digital Millennium Copyright Act, piracy continues to nag at copyright holders and businesses. The DMCA has been used to threaten suspected copyright violators, but questions about what constitutes legal sharing and illegal piracy continue to dilute the law's power. Berman's bill would allow copyright holders to set up decoy files and use other technotricks like file-blocking and redirection to throw P2P pirates off the trail, but it would forbid those holders from employing tactics that would damage or destroy pirates' own computer systems (MacMillan, 2002). It seems to reason that no matter how many warnings are given or how many laws are

put in to place to stop illegal file-sharing, pirates will always find a way to steal music and other copyrighted property that they are not entitled to. And for some reason, they will not think it is stealing. Illegal file-sharing is wrong and it is against the law - plain and simple.