

# Conflicting Value of Digital Music Piracy

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## INTRODUCTION

The term MP3 conjures up a great many different thoughts and feelings. To some the creation and proliferation of the MP3 music file has meant the ability to transport a vast music collection on devices no bigger than a deck of cards. It has meant the ability to listen to music that until several years ago would have not been readily available to the average consumer. To others, the MP3 represents one of the biggest challenges in business models and retaining business revenue their industry has seen. To both collectives however, the MP3 has links to the topic of digital piracy.

Digital piracy in general represents the electronic duplication and illegal distribution (or sharing) of digital files, be they music or movies, games or business software. Although this has been an issue for almost two decades, the rise of audio and video encoding standards such as MP3 and DivX, the availability of high speed Internet access and other sharing mechanisms, and the popularity of portable devices capable of playing this content have shifted this issue to the forefront.

The music recording industry, along with the motion picture and gaming industries, is at the forefront of any discussion relating to this issue. Both industry bodies such as the Recording Industry Association of America (RIAA) and industry giants such as Sony and Universal Music have been quick to cast judgment on the new technologies and their users, damning any individual who illegally acquires copyrighted digital materials and claiming that these people are responsible for the industry losing “millions of dollars a day” (RIAA, 2003).

The purpose of this article is to take a different approach in examining the issues surrounding these record label concerns. A brief historical overview of the technologies in question will be provided in order to lay foundation for the discussion. Using this as a springboard, issues relating to digital piracy will be raised, primarily from a recording industry perspective, including an analysis of music sales figures. Of equal importance however are case studies of several

high-profile recording artists which serve to contradict this record label rhetoric, revealing how the advent of digital music has facilitated not only greater exposure for artists, but also greater sales. The MySpace phenomenon will also be raised as a contradiction to industry concerns. It must be noted that the intent of this piece is not necessarily to discredit industry concerns, but rather to raise questions as to the true nature of the existing problems, their documented impact, and exceptions to the perceived rule.

## A HISTORICAL BACKGROUND OF DIGITAL MUSIC AND PIRACY

It was in 1991 that the seed of what would become the digital music standard was born: MPEG-1 Audio Layer 3, more commonly known as MP3 (Brandenburg, 1999). At a standard quality of 128 kbit/s, the size of a digital music file could be reduced to approximately 1 MB per minute of audio, enabling easier sharing of these files (Anonymous, 2000). Prior to this development, one minute of audio would be represented by over 11 MB of data.

Widespread adoption of this standard came with the availability of a number of PC-based applications for playing these files, however their popularity boomed with worldwide proliferation of high-speed Internet access such as ADSL. With faster data transmission on conventional phone lines, combined with software to facilitate ease of file sharing, the distribution of MP3 files has become simple for even the most novice PC user. The term MP3 has also become synonymous with music portability, thanks to mobile devices such as the iPod, mobile phones, and personal data assistants (PDAs). It has however become linked with the widely publicized issue of music piracy.

Digital piracy has been in existence for many years. The first targets of the copying and distribution of digital files were PC games and software. Thanks to affordable media (which in the late 1980s primarily consisted of floppy discs) and global PC networking

technologies (such as bulletin boards), pirated games and “warez” were commonplace among computing students. Although acknowledged as a legitimate issue at the time, this was still primarily the domain of select groups who were computer savvy and part of a larger, dedicated community.

The MP3 arrived and began its proliferation, however it was a simple file-sharing utility called Napster that placed it well and truly within the piracy vernacular. Released in 1999, Napster facilitated sharing of music between individual computers; it was rapidly embraced by a music-loving community becoming increasingly disenfranchised with increasing CD costs and perceived lower quality of albums. Napster suddenly created the ability for users to acquire individual songs without buying a whole CD. It is important to acknowledge however that users were primarily trading copyrighted songs, illegal under copyright acts around the world. Recording labels were alerted and began to complain.

In 2000, the issue came to a head, with one of the world’s largest recording artists, Metallica, filing suit against Napster for facilitating the illegal distribution of its recordings. This action, ultimately settled in 2001, was a call to arms for more than 20 million registered Napster users, who protested against the Napster lawsuit, showing that the music-listening community had evolved significantly (Anonymous, 2001). Thanks to Napster and the broader Internet, a significant shift in thought on the legalities of copyright had begun. The Internet was now being viewed as a place of free trade of ideas and data, particularly by teenage users. A new generation of music consumers with a different mindset had been born.

In the years since Napster’s demise, illegal sharing of MP3 files has only strengthened. Similar file-sharing software such as Morpheus, eDonkey, and more recently Bit Torrent technologies have seen no slow down in this activity, now embracing Hollywood movies with arguably more vigor. It is difficult to obtain accurate statistics, given the reluctance of peer-to-peer (P2P) software companies to divulge account numbers, and the nature of the Bit Torrent technology. Data collected by Big Champagne Online Media Measurement, in conjunction with Nielsen Entertainment, indicates that the number of people logged on to P2P networks at the same time and at any point around the clock rose from approximately 5.6 million in December 2003, to approximately 7.6 million in December 2004,

and to approximately 9.6 million in December 2005 (Anonymous, 2006a).

It has been during this time that the major recording labels have also complained more strongly about the impact of this file sharing. In 2006, four major record labels dominate the recording market: Universal Music Group, Sony BMG Music Entertainment, EMI Group, and Warner Music Group (Lamb, 2006). All claim to be experiencing a drop in music sales, primarily citing the rise of digital piracy as the major reason.

Recording industry bodies such as the Recording Industry Association of America (RIAA) and Australian Recording Industry Association (ARIA) are also placing blame for lagging sales on piracy. Both association Web sites provide news and their response to the issue of piracy. The RIAA in particular provides many articles and editorials. One goes so far as to dramatically state: “Today’s pirates operate not on the high seas but on the Internet, in illegal CD factories, distribution centers, and on the street” (Recording Industry Association of America, 2003). It must be asked, however, is the argument this clear-cut?

## WHAT IS THE ACTUAL ISSUE?

### Sales

Again, the RIAA, ARIA, and recording labels would have you believe that lagging sales are the direct result of digital piracy. Before further discussion, it must be acknowledged that many downloaders of digital music fit the RIAA profile, with substantial numbers of computer users today downloading music without any intent of purchasing the original recording. Importantly, however, anecdotal evidence suggests that most people who are downloading copyrighted music are individuals who would not normally buy the albums they have downloaded. The RIAA also discounts the many users who download in order to sample a recording before purchase. Although this practice is still by definition illegal, to simplify the argument as the RIAA has done is unproductive.

Simply on face value, figures from both the United States and Australia do paint the picture of a declining music industry. In the United States, total retail record sales have dropped from a high of 869.7 million in 1999 to 634.8 million in 2005: a drop of approximately 27% (RIAA, 2006). In Australia, the statistics tell a similar,

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