

Angelo Carosio

CMJR 245

Dr. Rick Malleus

5/21/2006

### A New Kind of Pirate

When the word "pirate" is mentioned in an everyday conversation, the majority of people immediately move their thoughts to the past. Images of Captain Jack Sparrow, huge ships, buried treasure, long voyages, and eye patches will probably come to their mind. Pirates were people who sailed the high seas and stole things from cargo ships. Very few people, when asked to picture a "pirate," will visualize a college student walking to class listening to the newest Black Eyed Peas album on their iPod. A new form of piracy has emerged in the digital age, and that piracy doesn't involve any looting or talking parrots.

Media piracy has quickly become one of the most controversial, heavily debated issues in the media industry today. Content is being distributed across the Internet largely cost-free, and whether it is music, movies, or television shows, the evolution of the Internet and increased speeds has made the sharing of many different types of media easier and easier. Additionally, this media has become increasingly easy to utilize with the use of media players such as the Apple iPod. Like any other industry, the media industry is first and foremost concerned with making money, and free distribution of their content is obviously hindering that objective. As media piracy has become more widespread, different methods of putting a stop to it have been

implemented, none of which have succeeded in any significant way. Scare tactics and questionable behavior in regards to this issue have also given the RIAA (Recording Industry Association of America) and MPAA (Motion Picture Association of America) a bad name in the minds of most serious computer users. If the media industry wants to put that significant dent in piracy, serious changes need to be made in the way that media is distributed, and the industry as a whole needs to clean up their act regarding the way pirates are prosecuted.

The issue of piracy, and more specifically, music piracy, which will be focused on because it's the most widespread, goes back more than 10 years. It can be traced back to a few developments: the start of the digital age in music, when CD's first started to outsell vinyl, and the introduction of the MP3 as a digital audio format (Dilanchian). The general availability of entirely digital music made it easier to be able store said music on one's computer, but the only problem was that the direct audio stream from a CD is very large, too large to be stored on an average computer at the time. Fraunhofer IIS set out to change that. Through many years of research and experimentation, the MPEG compression standard was created around 1991, and subsequently, by 1995 MPEG Layer 3 (MP3) was adapted as the standard for digital audio compression. MP3 reduces the file size of a straight audio stream from a CD without noticeably reducing quality, a feat many other audio compression methods had not done by this point. It was now possible to have large libraries of music on a standard size computer. The excellent sound quality and small size was what caused it to catch on, and also what made it quite easy to share over the Internet (Fraunhofer). At this point, MP3s were

being shared, but they were still hard to find, and weren't making a significant dent in music sales just yet.

Then, in 1999, Shawn Fanning, an "18 year old college-dropout," would completely change the face of the face of the music industry by releasing the Napster software. This software allowed users to easily swap files by providing a searchable database of every user's music library (on a global scale), and allowing every other user to easily grab those files. Peer-To-Peer (P2P) file sharing was born, and every system that has been released since Napster contains a good number of the same elements (Filesharng – Napster - History). Now that it was so easy for users to exchange music files, the RIAA began to realize what was going on, since they and their artists felt they were losing out on lots of valuable money because of the files being shared. They successfully sued Napster, and "won a temporary injunction, which ordered Napster to stop trading copyrighted music over its network. Napster was forced to pay over \$26 million to settle its legal battle with songwriters and music publishers, and an additional \$10 million against future royalties" (Singer).

The battle over media piracy had begun, and it wasn't going to come to any sort of close for a long time. Although the RIAA had successfully shut down Napster, other networks would emerge in its wake, and those networks would become harder and harder to simply "shut down." Piracy in the post-Napster age has gotten bigger, better, and harder to put a stop to than it ever had in the past, and the largest reason is the BitTorrent network. "BitTorrent lets users quickly upload and download enormous amounts of data, files that are hundreds or thousands of times bigger than a single

MP3" (Dean). Whole albums can be easily transferred, let alone whole episodes of television shows and feature length DVD quality movies. "Analysts at CacheLogic, an Internet-traffic analysis firm in Cambridge, England, report that BitTorrent traffic accounts for more than one-third of all data sent across the Internet" (Dean). The very nature of BitTorrent also makes it impossible for an organization like the RIAA to "shut it down." BitTorrent isn't so much a network like Napster was with central servers controlling all activity; instead, it is a protocol, encompassing various clients and websites, and each individual file literally has its own network of "peers" who either have the file or are trying to access the file. These networks are decentralized, and can sometimes even be protected so that you have to be a member of an exclusive website to be able to connect to them.

Since it was clear that it wouldn't be easy to simply take down these behemoth networks, the RIAA, MPAA and other media regulating organizations have started to take other approaches to combat this issue, many of which have come under heavy scrutiny by computer users. The first, most hotly debated issue is the targeting of individual users for pirating, instead of the network as a whole. The RIAA has recently been on a lawsuit "rampage," attempting to make clear the fact that "downloading or 'sharing' music from a peer-to-peer network without authorization is illegal, it can have consequences and it undermines the creative future of music itself" (Dean).

It seems that no network is safe from these lawsuits, as thousands of people over multiple different file sharing networks and applications have been targeted, and all forced to pay up based on the number of songs that they have downloaded. The

problem is that some of the largest and most used networks are the private ones mentioned earlier. This poses a problem for the RIAA, as they need to get access to figure out whom to sue. This is where the questionable practices start, the practices that the RIAA needs to change if they want to have any integrity in the public's eye. The RIAA and MPAA have been attempting to infiltrate these private piracy sites by posing to be normal users who just want to download, and nabbing people's Internet addresses that way. According to the L.A. Times, the RIAA and MPAA have literally asked the California state government (which has recently been considering a bill that would ban the use of misleading statements to get private information) for "permission to deceive." That is, to "use subterfuge as they pursue bootleggers in flea markets and on the Internet" (Lifsher & Chmielewski). It would obviously be hard for these "media police" to make these pirates comfortable if they were reveling themselves as such, so in order to get them to reveal their goods, they need to pretend they are a pirate themselves. "Basically, we want criminals to feel comfortable that who they're dealing with is probably some other criminal and let us in on what's going on," said Brad Buckles, the RIAA's executive vice president for anti-piracy (Lifsher & Chmielewski).

Another tactic that the RIAA has taken recently is the targeting of the people who they think will most easily get scared and pay up: college students. Usually newly living on their own and without a source of a stable income, the RIAA knows that they can easily get the \$3000 settlement that they are asking for without any worry of any of the students taking them to court over their (usually fairly faulty) evidence (Bratton). The college students, who for the most part are not what the RIAA needs to be

worrying about, will receive a letter letting them know that they have been “found” downloading illegal copyrighted songs, and that if they want to avoid the RIAA’s big money lawyers, they need to pay up to the sum of three thousand dollars. If the students chose not to settle, they will be taken to court and charged in amounts approaching \$750 per song. (Harrell) For an average file sharer, that amount can really add up, considering having thousands of songs on one’s computer is fairly common faire. Mostly these college students are scared and poor, so paying up is their only option, even though the evidence that the RIAA gathers can be sketchy at best. It seems that the only reason college students are the ones being targeted is simply because they are the ones who are least likely to actually take these media companies to court.

Even if the RIAA is using questionable practices, the file sharing that is being done is still illegal. It could be argued that they have the right to do these kinds of things, because said college students are stealing from their artists. CD sales are declining, and it is possible that it is piracy’s fault. Again, however, the big recording companies that form the RIAA have proven that it really isn’t the artists that they care about, only the money that they make from them. In the hundreds of lawsuits and settlements that these recording companies have raked in because of piracy, not one penny has gone to any of the bands whose music has been “stolen.” The idea isn’t to help these artists make a living making music; the idea is to make as much money as possible, fueling their crusade, and hopefully scaring people out of downloading music in the future. (Robertson)

Piracy isn't going to stop, however. Lawsuits don't scare some people, obviously, and ways will be found around every roadblock the RIAA and MPAA will put in a pirate's way. Unfortunately, however, the media companies' uptight attitude around copyright law can end up hurting the end user who actually wants to purchase his music and other media. This comes in the form of DRM, or digital rights management. According to Microsoft, DRM is "Any technology used to protect the interests of owners of content and services (such as copyright owners). Typically, authorized recipients or users must acquire a license in order to consume the protected material—files, music, movies—according to the rights or business rules set by the content owner." This DRM can come in many shapes and sizes, such as the protection on every commercially produced DVD that doesn't allow it to be copied to a computer, or the software embedded into an iTunes Music Store music file that only allows you to play each song on 5 computers. Each form of DRM is restrictive, and each makes it so that someone who legally purchased media is unable to do with it as he or she pleases. You can't play an iTunes Music Store song without an active connection to the Internet, and you can't play a movie downloaded from the Microsoft Zune store in any software besides Windows Media Player. On the other hand, however, if you were to pirate that same song and that same movie off the BitTorrent network, you could play them both in a wide variety of players, including players on the Linux OS (Apple and Microsoft have both failed to provide a solution for this alternative operating system). If DRM continues being used to protect files, there will not be a significant decrease in piracy.

Why would I want to pay for something that has less compatibility than the same thing I can get for free?

I'm not trying to advocate piracy here. I'm not saying that what is going on is in any way justified. What I'm trying to say is that changes need to be made, or else this is only going to get worse. With every step these companies are taking to prevent piracy, it just makes it more and more appealing. If DRM is removed from purchased media, it will make consumers want to buy more media. The RIAA says that they have the artist's best interests at heart with all of this, but it is clear that it's largely about money for them. I want to know how much of this \$20 CD I'm buying is actually going to the artists that made it, and I want that percentage to be high, so I know that with my money I am supporting art, not fueling corporate scare tactics. Until that point comes, I will continue to sail the high seas of the Internet and pirate music. This allows me to find new artists that I would never have found before if I had to pay \$20 for their CD, and then, in turn, allows me to support them by attending live shows, a place where I know that my money will go directly to them.

## References

Bratton, Anna Jo. "Music Piracy Crackdown Nets College Kids." The Associated Press.

2007. 21 May 2007. <<http://www.msnbc.msn.com/id/18644781/>>

Dean, Katie. "New Flurry of RIAA Lawsuits." Wired Magazine. 2004. 21 May 2007.

< <http://www.wired.com/entertainment/music/news/2004/02/62318>>

Dilanchian, Noric. "Digital Music Technology and Copyright Timeline." Dilanchian

Lawyers and Consultants. 2007. 21 May 2007. <

<http://www.dilanchian.com.au/content/view/202/56/>>

"Filesharing – Napster – History." M/Cyclopedia of New Media. 2005. Queensland

University Of Technology. 21 May 2007. <[http://wiki.media-](http://wiki.media-culture.org.au/index.php/Filesharing_-_Napster_-_History)

[culture.org.au/index.php/Filesharing - Napster - History](http://wiki.media-culture.org.au/index.php/Filesharing_-_Napster_-_History)>

Fraunhofer IIS. "The MP3 History." Fraunhofer IIS. 21 May 2007.

<<http://www.iis.fraunhofer.de/EN/bf/amm/mp3history/mp3history01.jsp>>

Harrel, Josh. "RIAA Files 23 Lawsuits Against NCSU." Technician Online. 2007. 21 May

2007. <[http://media.www.technicianonline.com/media/storage/paper848/new](http://media.www.technicianonline.com/media/storage/paper848/news/2007/04/13/News/Riaa-Files.23.Lawsuits.Against.Ncsu-2839394.shtml)

[s/2007/04/13/News/Riaa-Files.23.Lawsuits.Against.Ncsu-2839394.shtml](http://media.www.technicianonline.com/media/storage/paper848/news/2007/04/13/News/Riaa-Files.23.Lawsuits.Against.Ncsu-2839394.shtml)>

Lifsher, Marc & Chmielewski, Dawn. "Recording, Movie Industries Lobby For

Permission To Deceive." The Los Angeles Times. 2007. 21 May 2007.

< [http://www.latimes.com/business/la-fi-](http://www.latimes.com/business/la-fi-pretext7apro7,1,1936238.story?ctrack=1&cset=true)

[pretext7apro7,1,1936238.story?ctrack=1&cset=true](http://www.latimes.com/business/la-fi-pretext7apro7,1,1936238.story?ctrack=1&cset=true)>

<[http://media.www.technicianonline.com/media/storage/paper848/news/2007/](http://media.www.technicianonline.com/media/storage/paper848/news/2007/04/13/News/Riaa-Files.23.Lawsuits.Against.Ncsu-2839394.shtml)

[04/13/News/Riaa-Files.23.Lawsuits.Against.Ncsu-2839394.shtml](http://media.www.technicianonline.com/media/storage/paper848/news/2007/04/13/News/Riaa-Files.23.Lawsuits.Against.Ncsu-2839394.shtml)>

Robertson, Grant. "The RIAA Vs. John Doe, a Layperson's Guide to Filesharing

Lawsuits." Digital Music Weblog. 2006. 21 May 2007.

<<http://digitalmusic.weblogsinc.com/2006/08/07/the-riaa-vs-john-doe-a-laypersons-guide-to-filesharing-lawsui/>>

Singer, Michael. "Napster Inches Closer to Re-Launch." Silicon Valley Internet News.

2001. 21 May 2007.

[http://siliconvalley.internet.com/news/article.php/3531\\_890541](http://siliconvalley.internet.com/news/article.php/3531_890541)