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Taking Sides in the Napster War

With Copyright Law at Issue, Sites Battle for the Ears and Minds of Music Lovers

By CATHERINE GREENMAN

WHEN John Fix 3rd closes Cornell's True Value hardware store in Eastchester, N.Y., every night at 6, he turns out the lights but leaves the computers running. During the day they perform inventory checks or crunch numbers, but at night, the store's 12 personal computers are connected to Napster, the music file-sharing service.



on Lee Fineman for The New York Times
 CRUSADERS - John Fix 3rd, left, and his brother, Michael, have decided to sabotage some of the MP3 files shared by Napster users.

But unlike other Napster users, Mr. Fix doesn't have a long list of favorite songs he hopes to have downloaded by the time he returns in the morning. Instead, he is using his battalion of PC's to work toward a different goal: he wants to riddle the Napster universe with thousands of unusable song files, thereby making Napster less reliable -- and less attractive -- to its many fans.

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Mr. Fix and his brother, Michael, operate a Web site that explains how to "lay" what they call cuckoo's eggs, or bad song files, onto the hard drives of Napster users. The brothers' Web site is just one of many homespun initiatives that have come out of the disputes generated by Napster and other sites, like Gnutella and Scour, that let users trade MP3 music files.

Next month, a three-judge panel is expected to hear arguments on whether to permit an anti-Napster injunction to go into effect. The injunction would stop Napster users from trading copyrighted music. But many people have not been content to wait for the court's decision and have gone online to express their own opinions on the issue -- and even take action to promote their points of view.

Napster and its kin can be viewed as sharing or stealing, as an innocent means of file sharing or an insidious way to infringe on copyright. There are plenty of sites on both sides of the issue.

Musicians are behind many of the anti-Napster sites. Earlier this summer, the Fix brothers were gleefully downloading live Bruce Springsteen tracks from Napster and reveling in the fact that all of it was free. But Michael Fix, whose wife, Stephanie, is a singer and songwriter, started thinking about the unfairness of taking the work of other people without their permission.

"I was all thrilled by it," he said, "and then all of a sudden repulsed by it because of Stephanie. We wish there was a fair system for artists to share their work online. It's not so much about compensation for us, but it is about permission. It should be up to the artist."

Working after hours at the hardware store, the Fix brothers released their first batch of cuckoo's eggs in mid-June,

As the sharing of MP3 music files grows on the Internet, so does the debate over the ethics and legality of the practice. The variety of sites reflect the diverging points of view on the issue. Here are some of the sites related to the Napster controversy. Here are some of the sites related to the Napster controversy.

MP3-Sharing Sites
www.napster.com
www.scour.com
www.gnutella.wego.com
www.macster.com (for Macintosh users)

Pro-Napster Sites
www.napsterfreedom.com Information about legal action, pro-Napster musicians, and links.
www.savenapster.net Information about the status of lawsuits against Napster.
members.linkopp.com/napster Banned Napster Users Association site.

Anti-Napster Sites
www.hand-2-mouth.com/cuckooegg Information on how to create corrupted MP3 files for sharing via Napster.
www.stopnapster.com Information on various anti-Napster tactics, including how to create mislabeled MP3 files.

Other Sites
www.fairtunes.com Users can "tip" artists whose MP3's they listen to.
freelisten.com Promotional site offers MP3 files of lesser-known artists.
throttlebox.com Lesser-known artists' music available (requires special software).

transferring songs by Stephanie Fix to Napster and renaming them as songs by popular artists.

music available (requires special software).
boycottmetallica.org One of many sites critical of Metallica, which has been very vocal.

Napster users who searched for Bruce Springsteen's "American Skin," for example, and downloaded the version offered by the Fix brothers would instead hear a song by Stephanie.

But the Fixes had to change their strategy when they realized that their message was being misunderstood.

"People sent e-mails accusing us of promoting Stephanie's work, not protesting Napster," Michael Fix said. The second batch of song files consisted of correctly named song files, but 30 or so seconds into each song, the brothers inserted an audio clip of the cartoon character Charlie Brown saying, "Congratulations," followed by a clip of Yosemite Sam saying, "Looks like you goofed up somewhere," followed by the sound of a chirping cuckoo that continued for the rest of the track.

The Cuckoo's Egg Project has received an onslaught of angry e-mail messages at the site (www.hand-2-mouth.com/cuckooegg), and hundreds of messages about it have been sent to Slashdot, the technology site. John Fix said messages were also sent to the Napster site from people who have downloaded Cuckoo's Egg Project song files. He estimates that the 91 cuckoo's eggs he and his brother have created are downloaded 300 to 400 times a day. He said he was banking on the idea that many people made their song files available to others without listening to them first.

"Most of the folks who disagree write a profane e-mail and move on, or try to write an intelligent response," Michael Fix said, "but a lot of people have contacted us to say they think we're doing a great job. The discussion makes us happy and makes it worth all the work."

One cuckoo's egg went to Tim Poirier, of Bath, Me., when he recently downloaded what he thought was a Backstreet Boys remix for his daughter.

When he played the song using a Winamp MP3 player, he heard a string of cuckoos and saw the Cuckoo's Egg Project Web site address in the tag window. He went to the site to find out what had happened.

"I was annoyed at first," Mr. Poirier said, "but then I went to

check it out and read what he had to say. He has a very good case that people like his wife aren't ever going to make any money through Napster."

He also went to Stephanie Fix's site and listened to a couple of her songs. The experience made him re-evaluate his use of Napster.

"I have no problem downloading a song for my kids that they're going to listen to once instead of buying the CD for \$15," he said. "But I'd buy Stephanie's CD instead of downloading it because it's something I'd listen to again and again."

Another site, Stopnapster.com (www.stopnapster.com), started by The Tabloids, a rock band in Oakland, Calif., explains and encourages the use of "Napster bombs" (mis-labeled song files) and cuckoo's eggs (it calls them Trojan horses).

It also presents the legal arguments against sharing copyrighted material, as well as the dangers file sharing presents for users' computers.

Michael Robinson, the lead singer of The Tabloids, says file sharing is like "unsafe sex." Mr. Robinson says sites like Napster hurt recording artists who release albums on independent labels because it is more difficult for them to recover the costs of lost album sales.

If record companies hired anti-Napster staffs to create and disperse bad song files, the site says, Napster and other file-sharing sites would soon "go the way of the Hula-Hoop."

"Napster has started this Orwellian logic where things aren't really what they seem," Mr. Robinson said. "Stealing is called 'sharing' or 'sampling,' but in our minds, it's stolen."

Mr. Robinson said he had started the site because he believed that people were overlooking the fact that Napster is a business. "This is not two college kids e-mailing songs to each other," he said, "but a corporation making money off of published music."

Tracy Robinson, Stopnapster's administrative manager, said the site got about 4,000 visitors a day and a steady influx of e-mail.



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The site has received 132 e-mail messages from people who are anti-Napster, 173 e-mail notes from people who are still on the fence, and 278 e-mail messages from people who support Napster -- some of whom Ms. Robinson calls howlers because of the obscenities they use in their protests.

Although the Cuckoo's Egg Project and Stopnapster encourage the proliferation of unusable music files, Travis Hill, a software designer in Provo, Utah, has been working on a different way to squelch Napster users. Media Enforcer software that he released in May allows an individual to search Napster and Gnutella servers and compile lists of the screen names of people who are offering to share specific artists or song titles.

A new version of the software, which will soon be released, will also reveal the music sharer's I.P. address, which can be traced to that person's Internet service provider.

Mr. Hill, an amateur musician, said he had designed the program to help artists track people distributing their music without permission. He thinks that music-sharing sites are a deterrent for aspiring artists, he said. "If you eliminate intellectual property royalties," he said, "there won't be a reason for musicians to create any work. The music industry really should put together a better digital distribution plan. But for now, people need to respect copyrights and intellectual property."

Although the trail back to the Napster user ends with the I.S.P., Mr. Hill said, his software will allow artists, their managers or their record labels to get in contact with the I.S.P. with a request to forward a "cease and desist" notice from the artist to the computer that was used to share music files. The privacy policies of most I.S.P.'s require a court order before they will contact one of their clients or forward a message to a client, but Mr. Hill said he believed that an artist whose music was being shared without permission would have grounds to get such an order. Mr. Hill said the Media Enforcer software would work on other MP3 sites so would be effective even if Napster was shut down.

"If an artist or a label really wants to stop someone from making their music available," Mr. Hill said, "they're going to need a sizable group of people working just to track the usage patterns of Napster users on the Internet. It's really the only productive way to go about it."

The flip side of the music-sharing debate -- the contention that

MP3 sites like Napster and Gnutella benefit musicians and that file sharing over the Internet should be unregulated -- are also represented online. Matt Miszewski, a band manager in Milwaukee, for example, began Napster Freedom (Napsterfreedom.com) in August in an effort to show anti-Napster bands that consumers were buying their albums as a result of listening to them through files shared online.

The site's Tracker section features a list of recording artists who have spoken out against Napster, and it invites visitors to say how much they have spent on records by each artist.

That information (which the site does not verify) is sent to each artist's management.

In a press release, Mr. Miszewski wrote that Napster Freedom was a powerful way to garner support for "downloadable music and its martyr, Napster." The site also features a pro-Napster petition and encourages the purchase of CD's from pro-Napster artists by listing some of them.

Mr. Miszewski's argument for supporting Napster -- that it helps support little-known bands -- has been widely debated. "We utilize Napster and other MP3 sites to market products that aren't getting air time elsewhere," he said. "Shutting down the site will be an unfortunate side effect for them."

Many people believe that because Napster is a search engine that lets people look up specific songs and artists, there is little opportunity for people to encounter new artists through serendipity. (Mr. Miszewski argues that Napster and similar sites promote new artists through chat rooms and other programs.) Other music sites, like ThrottleBox (Throttlebox.com) and Freelisten.com, have been created to help promote the work of lesser-known recording artists via the Web.

ThrottleBox, based in Johnson City, N.Y., promotes the work of new and lesser-known artists by making audio and video files, liner notes and other marketing material available on the site. It also protects the artists' work by putting them into a file format that is difficult to copy (users must download ThrottleBox Player software to listen to the music files).

"We have what we believe to be the single-largest collection of sanctioned downloadable content for free," said Drew Saur, ThrottleBox's chief technology officer. The site, he said, is based on the idea that exposure drives record sales.

"I find that after I find something I like, I buy it," he said. "Now it's time for the record labels to step up to the plate and start doing this sort of thing."

Adario Strange, formerly editor-in-chief of The Source, a hip-hop magazine, started Freelisten.com this month to highlight new artists with both free music files and other promotional material. Instead of providing an unending array of free music files, Mr. Strange said, Freelisten will focus on a few artists and offer exclusives from better-known artists to attract listeners.

"I'm trying to accrue value and cool points with the fans," Mr. Strange said.

Fans can tip their favorite artists online through Fairtunes, which was started this month by two students at the University of Waterloo in Ontario (fairtunes.com). The site lets the fan enter in a dollar amount, indicate the recipient and submit a credit card number. The founders of Fairtunes, Matt Goyer and John Cormie, then send checks to the artist's management. (Mr. Goyer said postage fees came out of their tuition money.)

"We started the site because we were downloading songs from our favorite artists but it seemed inefficient to go to the record store and buy a CD as a way of compensating them," Mr. Goyer said. "We thought, 'We can get songs over the Web, so why can't we pay artists over the Web?'"

Fairtunes has raised nearly \$1,400 in American and Canadian dollars. It recently sent a check to U2 for \$80, and a check for \$30 to a lesser-known Canadian band called The Noisies, Mr. Goyer said.

Mr. Goyer and Mr. Cormie also hope to work with other MP3 sites to add tip buttons next to downloading bars so people downloading music can choose to pay the artists through the Web site.

It's even conceivable that Fairtunes or other programs like it could become a vehicle for not only voluntary tipping, but enforced payment. Last week, NapsterFreedom made an agreement with Fairtunes to include a voluntary tipping button on a new Napster-like file-sharing program being developed by Topical Networks, the company that created NapsterFreedom.

Mr. Miszewski, of NapsterFreedom, said that the new file-sharing program would be based on voluntary payments but

that Topical Networks would work with record companies if a court decision mandated payment for MP3 files.

"We won't flip the switch until a court decision mandates payment," Mr. Miszewski said, "but we're ready for it if it happens."

Related Sites

These sites are not part of The New York Times on the Web, and The Times has no control over their content or availability.

- www.hand-2-mouth.com/cuckooegg
- www.stopnapster.com
- Napsterfreedom.com
- Throttlebox.com
- Freelisten.com
- fairtunes.com

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