Music industry drops bid to sue song swappers

Los Angeles - The group representing the US recording industry said yesterday it has abandoned its policy of suing people for sharing songs protected by copyright and will work with Internet service providers to cut abusers' access if they ignore repeated warnings.

The move ends a controversial program that saw the Recording Industry Association of America sue about 35,000 people since 2003 for swapping songs online. Because of high legal costs for defenders, virtually all of those hit with lawsuits settled, on average for around $3,500. The association's legal costs, in the meantime, exceeded the settlement money brought in.

The association said yesterday it stopped sending out lawsuits and warnings in August, and then agreed with several leading US Internet service providers, without naming them, to notify alleged illegal file-sharers and cut off service if they failed to stop.

The RIAA credited the lawsuit campaign with raising awareness of piracy and keeping the number of illegal file-sharers in check while the legal market for digital music took off. With two weeks left in the year, legitimate sales of digital music tracks soared for the first time past 1 billion, up 28 percent over all of last year, according to Nielsen Soundscan.

"We're at a point where there's a sense of comfort that we can replace one form of deterrent with another form of deterrent," said RIAA chairman and chief executive Mitch Bainwol. "Filing lawsuits as a strategy to deal with a big problem was not our first choice five years ago."

The new notification program is also more efficient, he said, having sent out more notices in the few months since it started than in the five years of lawsuits.

The decision to scrap the legal attack was first reported in The Wall Street Journal.

The group says it will still continue to litigate outstanding cases, most of which are in the prelawsuit warning stage.
The decision to press on with existing cases drew the ire of Harvard Law professor Charles Nesson, who is defending a Boston University graduate student targeted in one of the music industry's lawsuits.

"If it's a bad idea, it's a bad idea," said Nesson. He is challenging the constitutionality of the suits, which, based on the Digital Theft Deterrence and Copyright Damages Improvement Act of 1999, can impose damages of $150,000 per infringement, far in excess of the actual damage caused.

Nesson's client, Joel Tenenbaum, faces the possibility of more than $1 million in damages for allegedly downloading seven songs illegally, which Nesson called "cruel and unusual punishment." The case is set to go to trial in district court in Massachusetts on Jan. 22.

Brian Toder, a Minneapolis lawyer who defended a single mother in an RIAA copyright suit, said he is set to retry the case after a judge threw out a $222,000 decision against her.

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