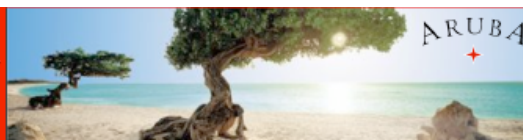


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## Can't stop the (free) music

The Boston Globe

Why last month's \$675,000 judgment against a BU student won't stop people from downloading songs illegally

By [Joseph P. Kahn](#)  
Globe Staff / August 25, 2009

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iTunes wasn't around yet, and David Tanklefsky was in the eighth grade when Napster, the now defunct music file-sharing website, became the must-go destination for computer-savvy music fans. He and his friends stopped shelling out \$15 or \$20 for new CDs and quickly became accustomed to downloading and swapping songs for free. And they've never looked back, even after a judge last month gave them 675,000 reasons to maybe reconsider.

"Free music? That cat's been out of the bag for a long time," says Tanklefsky, 23, a 2008 Boston University graduate who played in a rock band in college. "I understand that artists deserve to make money, too. But I haven't bought a CD in five years."

Those are words that make artists and music executives around the globe cringe, which is why when BU graduate student Joel Tenenbaum was fined a whopping \$675,000 in US District Court last month for downloading and sharing 30 copyrighted songs, it was a judgment that a

desperate recording industry hoped would serve as a warning shot, and ultimately a deterrent to others. After all, a study in March by the NPD Group, which does market research for the entertainment industry, found that 13- to 17-year-olds bought 19 percent less music last year than in 2007, and specifically, sales of CDs to teenagers dropped 26 percent and downloads plunged 13 percent.

Though Tanklefsky, a broadcast journalism major now living in Brooklyn, N.Y., and writing about the television industry, is not pulling out his wallet to save the music industry - and his peers aren't either - the industry says it's making progress in slowing down illegal downloading. NPD has said that in 2008, the percentage of Internet users who downloaded music legally surpassed those who downloaded illegally (22 percent versus 18 percent) for the first time.

Tanklefsky, like many who grew up in the free-music era, where digital tracks are swapped, or now streamed on their computers, as casually as their parents once traded baseball cards, is skeptical that attitudes - and habits - will change as a result of a single high-profile court case. The fine, he says, was "ludicrous,"

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and only made an unlikely martyr out of Tenenbaum.

“It basically showed me I don’t want to download and share” music from sites like the ones Tenenbaum frequented, Tanklefsky says. “But if a friend has 10,000 songs on his iPod, you can move them all onto your iPod in about an hour, anyway.”

Until the music industry figures out a way to compel listeners, especially the younger ones, to stop freeloading and pay for their tunes (a dilemma the newspaper industry can relate to), the free-music era seems here to stay. “The onus is really on the record companies to figure out a new business model,” Tanklefsky says.

A number of college students said they buy all or most of their music from websites like iTunes and Rhapsody, and are therefore unconcerned about being prosecuted for illegal activity. And while many affirmed the rights of recording artists and record labels to realize a profit, they didn’t see the big deal about free downloading and swapping among friends. Few said they felt personally threatened by the Tenenbaum ruling, or threatened enough to bypass file-sharing websites like LimeWire and Project Playlist. They argue that they support artists in other ways, by buying tickets to live performances, for example.

“I generally pay for my music, but it’s easy to get it for free,” said John Rodgers, 21, a student at Berklee College of Music, as he stood outside the Berklee Performance Center. “As far as big [file-sharing] sites go, they might get stopped. But there are plenty of other ways to go with peer-to-peer [file sharing].”

Rodgers noted that Berklee students have access to their own internal computer network, where music files are traded freely without being accessed through the college server, one small but telling example, perhaps, of how free music flows well below the recording industry’s radar screen, through channels big and small.

Ryan Hawkins, 17, a Berklee student from Londonderry, N.H., said that while he willingly pays for music on websites like iTunes, many of his friends do not – and in all likelihood never will, no matter how aggressively illegal downloaders are targeted. “Their attitude is, why pay for something that’s free everywhere?” said Hawkins. A case like Tenenbaum’s may make people think twice, he acknowledged, but only if major record labels make a big deal out of it. “And there aren’t a lot of big labels around anymore,” Hawkins said.

Lauren Miedzionoski, 18, of Beverly, a student at Salem State College, agreed that it’s “way too easy” to access free music for anyone to declare the practice will end soon.

“I’ve heard the government is trying to crack down,” she said on campus last week. “But realistically, I don’t know how many people they can catch.” Is she personally worried, after the ruling against Tenenbaum? “Yeah, it makes you think,” said Miedzionski. “But I don’t think anyone really fears it. If the government finds millions of teens [illegally downloading] who don’t happen to have \$675,000, they’re asking for money they can’t ever get anyway.”

Sitting next to her in a student lounge, Jessica Mayo, 18, agreed that no single court case will have a major impact on ingrained practices.

“The entire teenage population is downloading music; everybody knows that,”



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Mayo said. “If they tried to catch all the people who download music illegally, it’d be impossible. What are the odds of catching you? It’s the people who run the websites who are more at risk, I think.”

That was certainly true a decade ago, when the assault on illegal file-sharing began, spurred by the rise of Napster. Although driven out of business in 2001 by court order (Napster has since been relaunched as a legal, pay-per-song site for music downloading), it spawned many imitators, some more durable than others. In 2003, the Recording Industry Association of America (RIAA) launched another aggressive campaign against illegal downloaders, threatening fines as high as \$150,000 per copyrighted song. According to some surveys conducted over the past few years, more than half of all college students were downloading music and movies off the Internet without paying for them. The practice was widespread enough that the RIAA began targeting individual colleges, including BU and the University of Massachusetts at Amherst.

Full-court policing appears to be nearly impossible, though.

“I feel mixed about it, because I’m also in a band that’s just put out a CD,” said Jaroslaw Maj, 18, a Salem State student from Billerica. “I’ll go on MySpace to hear a band’s songs, but I don’t really buy many. If I like a song, I’ll probably go to a friend who has the CD and take it from there.”

A couple of his friends recently obtained a raw, unfinished copy of his own band’s CD, Maj noted. And while he would have preferred that they wait to buy the finished product, he’s not all that upset about it. “We’re not big,” Maj said, “so obviously there won’t be any file-sharing going on.”

Tucker Davis, 19, another Salem State student, said some of his friends have learned to minimize their legal risks by using overseas-based websites, where illegal downloading is harder to track. “I have indirect sources for free music,” Davis said with a grin, “because I’m too lazy to get it myself.”

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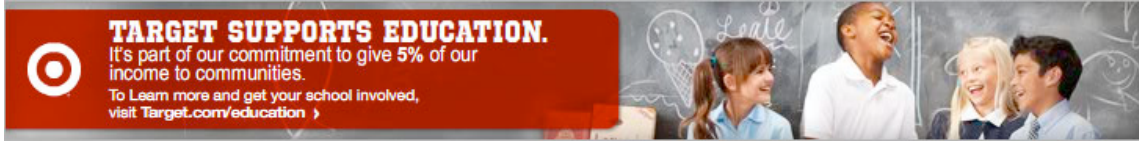


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