

## U.S. Is Only the Tip of Pirated Music Iceberg

By MARK LANDLER

**B**RUSSELS, Sept. 25 — Hang around any schoolyard in Germany or college campus in Indonesia and it becomes clear that the recording industry's problems with the illegal online distribution of music in the United States pale beside the rampant piracy that goes on overseas.

From factories in Taiwan and Eastern Europe that churn out counterfeit CD's to teenagers in Scandinavia and Singapore who download songs from the Internet and "burn" them on to blank discs, the line between legitimate and pirated music has all but vanished in many countries.

Music executives abroad are scrutinizing the American industry's legal campaign against people who share files on the Internet. But many doubt such tactics would work in their countries, given the relative weakness of laws protecting copyrights and the ubiquity of the activity. "People in their 60's are burning CD's at home," said Gerd Gebhardt, the chairman of the German Phonographic Industry Association. "Housewives, who should be cooking, are burning. It's not like we can go after 80-year-old men or 12-year-old kids. We have to find the right approach."

Mr. Gebhardt hopes the German music industry will bring its first lawsuit against a file sharer in a few months. In the meantime, it is trying to win back the public through sympathy rather than subpoenas.

In August, the German labels started a Web site that preaches the evils of file sharing. They are also working to create legal online distribution services in Europe to rival the unauthorized file swappers, though progress has been slowed by the demands of the copyright agencies.

The industry's biggest hurdle may be cultural. As is the case among many young people in the United States, swapping files and burning tracks on CD's are viewed in most countries as routine, not renegade, behavior. After all, the most popular file-sharing software, KaZaA, was dreamed up by a Swede and written by three young Estonians.

"I don't feel like I'm infringing on the artists," said Mike, a 26-year-old business student in Berlin, who says he has burned 700 to 800 CD's, many with downloaded songs for himself and his friends.

"Whether Robbie Williams makes 15 million or 12 million a year doesn't matter to me, honestly speaking," he said, referring to the British pop star whose songs are actively swapped over the Internet.

Despite his claims of innocence, Mike agreed to talk only if his last name was not published. Germany, he noted, recently adopted a new copyright law, which tightens the rules against downloading music. He is also unnerved by the lawsuits against 261 file sharers in the United States.

Piracy, of course, affects more than a pop star's paycheck. Sales of recorded music have plunged more steeply in several European and Asian countries than in the United States because of a combination of file sharing, home CD burning and the mass production of knock-off disks. In Germany, Europe's largest and hardest-hit market, sales have fallen by a third in the last five years. They are projected to decline another 20 percent this year, compared with a 12 percent first-half decline in the United States.

A survey by the market research concern GfK estimates that Germans bought 500 million blank CD's last year. That compares with sales of 160 million prerecorded CD's. (In the United States, about 1.8 billion blank CD's were sold last year versus 800 million recorded CD's.)

"If you walk into an electronics store in Frankfurt, you've got to jump over the stacks of CD burners to get to the prerecorded CD's," said Rick Dobbis, the president of Sony Music International.

These examples leave out China, where piracy exists on an entirely different scale. Nine out of 10 recordings in China are pirated, according to the International Federation of the Phonographic Industry, an umbrella group for 46 national industry organizations.

Because of China's vast size and a deeply rooted culture of counterfeiting, the music industry tends to put the country in its own category when it comes to combating piracy overseas.

Even in other Asian countries with stricter laws protecting intellectual property, however, piracy is both prevalent and culturally accepted. Edward Neubronner, the chief executive of the Record Industry Association of Singapore, estimates that roughly 500,000 people there download music, out of a population of four million.

Copyright infringement is a crime in Singapore, but Mr. Neubronner cited a recent survey that found 75 percent of Singaporeans had no personal objection to the use of pirated material. The industry sent warning letters to people identified as having exchanged music online. It has not taken anyone to court; Mr. Neubronner said most people who received a letter apologized and promised to stop.

File sharing appears to be as cross-cultural as any other type of piracy. The amount of swapping in a country generally correlates to the number of people who have PC's with high-speed Internet connections.

In India, for example, where few people own PC's and fewer still have broadband access, file sharing is relatively rare. It does exist in cities, in Internet cafes, and among expatriate Indians, who download songs, mainly from Indian movie soundtracks.

"The bulk of file swapping is among Indians not living in India," said Shridhar Subramaniam, the managing director of Sony Music in Bombay. "They behave exactly like their Western counterparts."

In Europe, the volume of file sharing is lower than in the United States, but only because the Internet has not spread as far. Jupiter Research, the market research firm, estimates that 32 percent of the 160 million Europeans with Internet access, or 51 million people, engage in file sharing. (Over 60 million Americans have KaZaA on their computers and other file-swapping programs may add another few million to the total.)

There are differences from country to country, according to Mark Mulligan, a senior analyst at Jupiter in London. People in Spain and Italy, he said, tend to be more avid file swappers than northern Europeans, perhaps because other forms of piracy are also more common there.

In Europe, Mr. Mulligan said, file sharing appears to be a main driver of growth in the broadband market. And in contrast to the situation in the United States, where the threat of lawsuits has scared Internet providers from dealing with file sharing services, providers here are cautiously receptive.

Joltid, a Swedish start-up company founded by the software designer who created KaZaA, said it had signed deals with three Internet service providers to use its PeerCache software. It enables providers to store popular material, like the latest Britney Spears tune, in a cache on their networks.

For the user, that makes downloading songs faster. For the provider, it cuts costs by reducing the data traffic on its network.

Niklas Zennstrom, the company's founder, said he showed the system to engineers at America Online, but they did not sign up. "I guess they thought it was not a politically good move to make a deal with us," he said.

Mr. Zennstrom will not identify his customers. His one publicly disclosed client, the Internet service provider

Wanadoo, said it had tested PeerCache in the Netherlands but pulled the plug in July. "It was an experiment," said Caroline Ponsi, a spokeswoman for Wanadoo's parent, France Télécom.

Mr. Zennstrom, 37, knows all about the hazards of taking on the music industry. He was sued last year by the record labels for promoting KaZaA, and eventually sold the service for barely \$500,000 to Sharman Networks, which is tucked away on the South Pacific island of Vanuatu.

Yet he remains defiant. The industry's lawsuits against teenagers, Mr. Zennstrom said, are a "ridiculous act" that would backfire if they were tried in Europe. He insisted his new PeerCache software poses no threat to copyrights — a claim that provokes howls from music executives.

"In the U.S., people are more prone to sue each other," he said. "In Scandinavia, the public would turn on the industry."

In truth, the real impediment to legal action is not public opinion, but Europe's crazy quilt of laws. The European Union passed a uniform copyright protection law similar to that in the United States. Now, it is up for ratification in each member state — a process that has bogged down.

Aside from a handful of cases against file sharers in Belgium and Denmark, the European authorities have yet to test these laws. Even when they do, they will face obstacles, said Thomas C. Vinje, an expert on copyright law at the firm of Morrison & Foerster in Brussels.

Germany's new law makes the downloading of songs illegal, but only if the user knows they are copyrighted. In Britain, proving illegal downloading is easier, but strict laws on data privacy could make it hard to force Internet service providers to hand over names.

Jay Berman, chairman of the record industry federation, said his group strongly supported the legal campaign in the United States. But he acknowledged that it might be a while before suits are filed in Europe. "It's a question of timing," he said. "The process has taken much longer than anyone anticipated."

In the meantime, Mr. Berman said, the music industry is trying to educate consumers and Internet service providers in Europe and Asia about the corrosive effects of file sharing on the vitality of recorded music.

That case will be no easier to make in Berlin or Bombay than it is in Boston. Consider the crowded store hidden between the curry stands and photocopying shops at Trisakti University in Jakarta, Indonesia.

A sign outside advertises "Recordings! Your Favorite Songs in Cassette & CD Finished in 3-7 days." Inside, four students peddle counterfeit CD's for 12,500 Indonesian rupiah each (about \$1.50). A legitimate CD bought in Jakarta's business district would cost six times that.

For a little extra, customers can name 15 to 19 songs, and the shop will burn them on to a CD. Hip-hop and rhythm and blues are the most popular requests, and if the shop does not already have the song, no problem. One of the students, Ferbie, will download it from the Internet at his father's office.

"The customer is king," he said.