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Recording Industry Goes After Students Over Music Sharing

By AMY HARMON

COLLEGE PARK, Md. — Jason, a senior at the University of Maryland, ran one of the most popular Web sites on campus out of his shoebox dorm room here. The site let his 8,500 fellow dorm residents search for music files, among other things, stored on one another's computers and copy them in seconds.

Then came the news that the record industry had filed lawsuits against four students running similar sites at other universities, accusing them of enabling large-scale copyright infringement and asking for billions of dollars in damages. Within an hour, Jason, who insisted on anonymity for fear of being sued himself, had dismantled his site.

"I don't think I was doing anything wrong," said Jason, a computer science major. "But who wants to face a \$98 billion debt for the rest of their lives? I was scared."

The lawsuits, filed on April 3, are the most aggressive legal action the record industry has ever directed against college students, who in recent years have exercised an enduring predisposition to consume large quantities of music by copying it over the Internet without ever paying for it. College campuses, the record industry says, have become far and away the prime locus for online piracy.

Wary of alienating young customers who continue to generate a large chunk of their revenue, record companies until recently focused on



Steve Ruark for The New York Times

"I don't think I was doing anything wrong," said Jason, a University of Maryland student who used to run a popular music-sharing Web site.

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chunk of their revenue, record companies until recently focused on prodding university administrators to discipline their students. But freshman orientation sessions on respect for intellectual property have had little effect. With CD sales in a tailspin that record executives attribute at least partly to the downloading frenzy in academia's hallowed halls, they said they needed to try another approach.

Record executives say the lawsuits — singling out four students at three colleges — mark a turning point in the battle they have been waging since Napster popularized Internet music trading three years ago. (A federal judge in 2001 ruled that Napster had abetted copyright infringement, and it has been off line since.) The unauthorized copying of digital music that has become as routine a part of college life as cramming and keg parties may have finally lost some of its charm.

"We have decided to bring to the attention of universities just how much music piracy is going on on college campuses and universities," said Cary Sherman, president of the Recording Industry Association of America, which brought the suits, "and we think that message has been received."

College students are not the only ones copying music off the Internet. But students, who often justify their behavior by arguing that CD's are too expensive and that artists do not get the money anyway, may be more hostile toward the music industry than most. Many say record labels should accept that the Internet has irrevocably changed their business and instead offer new services, like chat sessions with artists or early ticket sales for concerts, which they would be willing to pay for. Others say they buy as many or more CD's as they ever did because they are able to sample music free and discover artists they like.

"This is just more crazy litigation that shows everyone over 40 not understanding the future of music," said Thomas Geoghegan, 21, a history major at Maryland and a frequent user of Jason's site before it was so abruptly removed.

College administrators say they are mindful of their responsibility to teach students that what they are doing is wrong. They are also aware of the expense they are incurring as the constant flow of large media files strains campus networks.

At the same time, they want to protect students' privacy and rights to free speech and stay out of the role of monitoring what is sent over their networks. As a result, most colleges have simply sent warnings to students whom industry groups have reported as downloading copyrighted material. Some have required students to write papers on copyright law or have temporarily deprived them of Internet access. But such measures have had little impact

"It's been very difficult because students have grown up viewing the Internet as a place where you go to get lots of free access to things,"

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said Graham Spanier, president of Pennsylvania State University. "As we have tried to educate our students, half of them understand it's like going into a store and putting a CD in your pocket and the other half just can't see it that way."

The threat of legal retribution may be improving their vision. Since the record industry filed its lawsuits, officials say they have seen over a dozen internal campus Web sites devoted to music-sharing go dark.

The complaints charge Daniel Peng, a student at Princeton University; Joseph Nievelt, a student at Michigan Technological University; and Aaron Sherman and Jesse Jordan, both students at Rensselaer Polytechnic Institute, with directly infringing copyrights by providing dozens of songs from popular artists to other students to copy.

They also charge the students with contributing to much broader infringement by running programs that indexed tens of thousands of songs stored on other computers connected to the campus network by students who chose to make them available to copy. Accusing the four of having "taken a network created for higher learning and academic pursuits and converted it into an emporium of music piracy," the lawsuits ask for \$150,000 for each of the recordings listed on the students' Web sites, but recording industry officials acknowledge that having made their point, they expect to settle out of court.

The proliferation of campus file-trading networks appears to have started two years ago, when many universities capped the amount of bandwidth allotted to each student.

In response, students began using programs that would let them share files over the superfast networks that connect computers on campus, without relying on the Internet.

Because those files may be notes from Psych 101, family pictures or music by bands that choose to distribute it freely, some academic community members argue that the students running the programs should not be held accountable for how others may have used them. By singling out the technology, they say, the record industry has also raised First Amendment issues in what otherwise could have been a straightforward copyright infringement case.

"If this becomes more about a challenge to the technology than about downloading music for recreational purposes, that is a serious concern for us," said Peter McDonough, general counsel for Princeton. "Because we emphatically believe the technologies themselves are not illegal."

That is also the conclusion of Brendan Dolan-Gavitt, 19, a freshman at Wesleyan University who has continued to run his own site, which indexes the shared files of every computer on the Wesleyan network.

Mr. Dolan-Gavitt took his site down the day after the suits were filed but put it back up the next day after poring over copyright statutes. He said that if a copyright holder notified him of an infringing file in his index, he would remove it, just as the law says. His mother is nervous, but "I just figured if there was something I was going to take a stand on it might as well be this," he said.

Even before the lawsuits, university administrators felt the heat of the music industry's stepped-up anti-piracy campaign. In recent months, entertainment companies have barraged administrators with complaints documenting alleged copyright infringement over their networks. Several colleges, in turn, issued more stringent policies regarding student behavior.

Harvard University warned undergraduates this month that they would lose their Internet access for a year if they illegally shared copyrighted material more than once. The United States Naval Academy punished 85 students who were found to have downloaded copyrighted movies and songs through the academy's Internet connection. Penn State warned students that file-sharing could lead to huge fines and jail time, and deprived 220 students of high-speed Internet connections in their dorms after finding that they were sharing copyrighted material. A committee of university presidents and entertainment industry executives are in the process of formulating strategies to address the illegal activity on campus. One idea under consideration: negotiating campuswide licenses for legal online music services, which colleges could provide as part of a standard student activities fee along with recreation facilities and newspaper subscriptions.

Colleges have a financial interest in working with the entertainment industry to solve the downloading problem: the free bandwidth they provide to students is getting more and more expensive, and they must constantly investigate all of the entertainment industry's complaints to avoid being held liable for the infringement themselves.

The preemptory lawsuits have also angered some college administrators.

"They have apparently changed their minds about wanting to work cooperatively with universities," said Curtis Tompkins, president of Michigan Tech, who vented his frustration in an open letter to the recording industry association. "To pick four individuals out of thousands and line them up against the wall and say, 'Here's the firing squad,' is not the way you deal in higher education."

Just how successful the industry's tougher tactics will be is unclear. On a recent afternoon at Maryland, a student who once used Jason's site showed a reporter how to log on to another local network instead.

"We can't live without it," said Eric Lightman, a junior majoring in

computer science. "If one goes down, another comes up."

On the other hand, an advertisement for a new administrator for Jason's site willing to "take on whatever legal risks may come about" has so far received no replies.

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