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Fighting Free Music, Europeans Take Aim at Personal Computers

By EDMUND L. ANDREWS

RANKFURT, Feb. 13 - While American music producers pursue their marathon court battle against Napster and other free-music sites on the Internet, European composers and record companies are opening an entirely different front in the war against unauthorized copying: the personal computers that do the actual work.

Here in Germany, copyright societies representing the entertainment and publishing industries are pushing to impose flat fees on all the components in a home computer that can be used in copying, the devices that write or "burn" music onto blank CD’s, computer hard-disk drives, image scanners and printers.

There has even been talk about imposing charges on Internet-ready mobile phones that could also record music free. The levies would likely be paid by the manufacturers and passed on to consumers when they purchased the computer equipment or telephones.

Computer executives estimate that the charges would total more than $80 for a fully equipped computer, regardless of whether it was being used to copy music or not.

All told, industry executives say the fees would add up to more than $500 million a year in Germany alone, where a court has already upheld demands for a charge on CD burners.

Similar demands are surfacing in several other European countries. Last month, the French pop star Johnny Hallyday joined a slew of other singers and musicians to support demands for steep fees on blank computer diskettes and computer equipment.

Copyright groups in Belgium, Austria and Denmark have put forward their own proposals, though many are watching Germany and France for guidance on tactics.

In contrast to the United States, there is precedent in Europe for such fees. Most countries have long had laws or industry agreements that imposed copyright fees on audio and videocassette recorders, as well as blank tapes and disks.
Typically, the fees are collected by government-regulated copyright societies similar to American groups like the American Society of Composers, Authors and Publishers and Broadcast Music Inc., which collect royalties on music played on radio stations. The copyright societies then distribute the money back to record companies, estimating the payments by examining record sales and the program logs of radio broadcasters.

Many European governments also impose a heavy annual tax on television sets, which is used to underwrite public television networks.

Like Metallica, the American heavy-metal group that has infuriated many of its own fans by railing against unauthorized copying, top-selling European musicians say the measures would provide at least some compensation for what they view as an epidemic of music piracy.

"We are probably the most heavily bootlegged group in Germany," said Stephan Weidner, the composer and bass player for a heavy-metal band that has long cultivated a bad-boy image with songs like "Knife and Blood," and "Necrophilia."

Böhse Onkelz (a wacky German spelling, but meaning Evil Uncles), operates its own record label and sells about 500,000 albums a year. Its most recent release, "Evil Fairy Tales," was the top-selling album in Germany last spring. But Mr. Weidner said bootleggers produce between 30 and 60 unauthorized albums a year, each of which can result in thousands of unapproved compact disks.

"The problem isn’t the individuals who get one of our CD’s, copy it on a CD-burner and give it to a friend," he said. "The problem is the professionals, who are organized and do it in a huge way and have factories."

But computer executives adamantly argue that imposing fees on personal computers is a major departure, because computers are used for many purposes other than duplicating copyrighted music, videos or books.

"It is completely new territory," said Thomas Vinje, a lawyer in Brussels at Morrison & Foerster, the large American law firm that represents Siemens-Fujitsu in the battle over German copyright fees. "A PC is an entirely different type of equipment from a cassette recorder or a video recorder. A PC is used for a myriad of tasks, and many of them are arguably never used for copying protected material."

Germany has moved furthest toward imposing fees on computer equipment. In a test case brought by copyright societies against the Hewlett-Packard Company, a court in Stuttgart ruled last November that the big company could indeed be forced to pay a flat fee for every CD burner it sells here - and has sold since 1998.

Hewlett-Packard has tentatively agreed to pay 12 marks, or about $5.60, for
each CD burner. But the German copyright society representing musicians and composers is already pushing for fees on hard-disk drives and other components used in copying. And a separate society representing publishers is pushing for additional fees, not just on hard-drives but on scanners and printers.

"We are talking about a volume of money far higher than the current money that comes from existing copyright levies on analog equipment," said Hans-Jochen Lückefett, chief financial officer for Hewlett- Packard’s German subsidiary. "If all the levies planned right now - on CD’s, computers, printers, scanners and others - then the volume of money collected would climb from 140 million marks to 1.2 billion marks per year."

In France, music producers kicked off a fiery political battle last month within the government of Prime Minister Lionel Jospin. France has for years imposed heavy fees on blank audio and video cassettes, but French record companies wanted to extend those fees to blank computer equipment and compact-disks.

Catherine Tasca, France’s culture minister, delighted the music industry in late January when she said publicly supported a wide range of charges. Some of France’s most enduring singers, including Charles Aznavour and the aging rock star Mr. Hallyday, the French rock star, quickly circulated a petition in support of the proposal.

But French newspapers immediately reacted with alarming headlines about new taxes, and several papers quickly renamed the minister "Madame Taxe." Mr. Jospin, apparently surprised by sudden dust-up, quickly announced that he disagreed with his culture minister and she publicly retreated.

In Belgium, music producers are negotiating with the government and the computer industry about revising the law to allow for fees on computer equipment as well. Christophe Depreter, chief operating officer of Sabam, Belgium’s copyright society for authors and composers, said the society already collects about 300 million francs or about $7 million a year from fees on traditional tape recorders and VCR’s.

"We think we should at least double our income," Mr. Depreter said. "We think the loss to the rights holders is quite a bit higher than that."

But European countries are sharply divided, which could make computer levies a nightmare to enforce across the Continent. Britain, Ireland and Luxembourg have never imposed fees on analog tape-recording equipment, and they are against the digital fees as well.

Computer executives argue that consumers would simply evade the fees in Germany or France by ordering their computer over the telephone or the Internet from Ireland. Ireland, as it happens, happens to be the Dell Computer’s main European manufacturing center.
Because of the disagreement, the European Union essentially avoided the issue in a sweeping new directive of digital copyrights that is expected to pass the European Parliament on Wednesday.

Negotiated after three years of lobbying battles involving music producers, publishers, broadcasters and consumer groups, the new directive would essentially extend existing copyrights in traditional media to those based on the Internet and computer technology. But the directive leaves the issue of computer levies up to national governments.

Rock groups like Böhse Onkelz are skeptical about the value of computer fees, but they want them anyway.

Founded in 1980, the group soon became infamous for expletive-filled songs on subjects ranging from drug-dealing and street-fighting to harassing foreign immigrants. Indeed, some music critics have charged that the group harbored sympathy for right-wing, neo-Nazi extremists, a charge adamantly denied.

Either way, bootlegging has become an increasingly serious problem. Band members say they have found factories in Central Europe that had thousands of compact disks emblazoned with their music.

"I don't think fees on computer equipment will do anything to stop the bootleggers," said Mr. Weidner, the group’s lead composer, adding that his group would probably get little added revenue. "Despite that, I would be in favor of the fees, because at least they have the virtue of being simple."

Roger Wallis, chairman of the Swedish society for popular music composers, said he supports such fees in principle but admitted that fees on multipurpose computers will run into consumer opposition.

"Anyone who makes money out of my content ought to contribute something to my well-being," Mr. Wallis said. "It is pretty clear when people buy blank CD-ROM’s that they want to do some copying, and it is fairly easy to argue that a certain levy should be imposed. But when you come to the actual machine, that will be harder for people to understand."

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