

MUSIC PIRACY

MILLIONS OF WRONGS DON'T MAKE IT RIGHT

The Facts About:

DOWNLOADING

FILE SHARING

CD BURNING

DEFINITION

Music piracy is any form of unauthorized duplication and/or distribution of music including downloading, file sharing, and CD-burning.

CONSIDER THIS

Most of us would never even consider stealing something—say, a picture or a piece of clothing—from a friend's house. Our sense of right and wrong keeps most of us from doing something so selfish and antisocial.

Yet when it comes to stealing digital recordings of copyrighted music, people somehow seem to think the same rules don't apply—even though criminal penalties can be as high as five years in prison or \$250,000 in fines. Contrary to popular opinion, illegally downloading or copying copyrighted music is the same as stealing; there is no difference.

BOTTOM LINE: It's Stealing

Stealing music is the same as stealing anything else. It is illegal and the consequences are real - for you and for the music.

- Stealing music is against the law.
- Stealing music betrays the songwriters and recording artists who create it.
- Stealing music stifles the careers of new artists and up-and-coming bands.
- Stealing music threatens the livelihood of the thousands of working people—from recording engineers to Christian music retailers and their staffs—who are employed in this ministry.

Enjoy the music! But please respect copyrights. Stop burning multiple copies. Stop offering to upload music files to millions of users on the Internet. Stop downloading from unauthorized sites.

EFFECTS ON YOU

Music piracy doesn't just affect the music industry, it affects you as well. When you use software that facilitates illegal downloads, you open your computer to unwanted pornography, security breaches, and viruses.

Illegal downloading and file-sharing is also subject to federal prosecution. Here are a few facts:

- The RIAA (Recording Industry Association of America) can sue for as much as \$150,000 per song illegally downloaded.
- Almost 2000 individuals have been sued by the RIAA for illegally downloading as of March, 2004.
- More than 400 individuals have settled, paying fines averaging \$3000.
- The Department of Justice recently announced the creation of the Intellectual Property Task Force, which examines all aspects of how the DOJ handles intellectual property issues.

EFFECTS ON ARTISTS & THEIR MINISTRY

The explosion in illegal copying is affecting the entire music community. It has a very real and harmful impact on virtually everyone - from countless musicians, songwriters, performers, producers, recording engineers and others who use music as their platform for ministry.

ARTISTS SPEAK OUT



STEVEN CURTIS CHAPMAN

"A lot more goes into a CD than it may appear. The price of a CD doesn't just go back to the record company. Everyone who works with me to record and distribute my music makes a living and supports their families from CD sales as well. It's a big network of people from my co-producer, the engineers, my band all the way to assembly line people who help to manufacture the CDs and the truck drivers who get them to the stores. There are now legitimate websites that provide an alternative to illegal burning. I want to encourage my listeners to use these sites and to buy instead of burning illegally. On behalf of the team who works alongside me, we'd appreciate it."



STACIE ORRICO

As an artist it can be discouraging that people don't realize how much time and effort you put into making and promoting a record. I've found that in both the Christian and mainstream markets, the misconception is the same - everyone thinks that as soon as you have a song on radio, you are living glamorously. For many of us, that is far from the truth. There are many people that contribute to my career as an artist and when you participate in illegal copying of music, you not only hurt the artist, you hurt all the support staff that work with them. I think I speak for most artists when I say that we do this because we love music and we love people - that is what motivates us to keep a hectic pace and be away from our families. We need the support of our fans and that includes your support by choosing legal downloading.



SHAUN GROVES

"Students I've spoken with adopt a Robin Hood complex, saying they're stealing from wealthy people and therefore it's not

wrong. Perhaps artists should be more open with their audiences, shattering the Lifestyles of the Rich and Famous image. The reality is that my wife and two kids live in an apartment. We drive 10-year old Camrys, not BMWs. And what about the bands of four or five guys signed to a small label, splitting love offerings from weekend shows, buying gas for their van, sharing a house or hotel room and working as waiters or garbage men to make ends meet? Very few artists I know are getting rich, and our consumers need to know that so we can correct their perception and obliterate their rational for stealing music. But even if I was outrageously wealthy..., would it then justify someone illegally downloading my music? Of course not.

WHAT IS COPYRIGHT?

The principle that the work one has created belongs to the creator and should be controlled by them is as timeless as it is global. Around the world, this principle is encoded in law. "Copyright" is a term of intellectual property law that prohibits the unauthorized duplication, adaptation or distribution of a creative work.

In the recording industry, there are usually two copyrighted works involved:

- The copyright in the musical composition, i.e. the actual lyrics and notes on paper. This is usually owned by the songwriter or music publisher.
- The copyright in the sound recording, i.e. the recording of the performer singing or playing a given song. This is usually owned by the record company.

On the federal level, titles 17 and 18 of the U.S. Code protect copyright owners from the unauthorized reproduction, adaptation or distribution of sound recordings, as well as certain digital performances to the public. The penalties differ slightly, depending upon whether the infringing activity is for commercial advantage or private financial gain. Under U.S. copyright law, "financial gain" includes bartering or trading anything of value, including sound recordings.

Where the infringing activity is for commercial advantage or private financial gain, sound recording infringements can be punishable by up to five years in prison and \$250,000 in fines. Repeat offenders can be imprisoned for up to 10 years. Violators can also be held civilly liable for actual damages, lost profits, or statutory damages up to \$150,000 per infringement, as well as attorney's fees and costs.

The online infringement of copyrighted music can be punished by up to 3 years in prison and \$250,000 in fines. Repeat offenders can be imprisoned up to 6 years. Individuals also may be held civilly liable, regardless of whether the activity is for profit, for actual damages or lost profits, or for statutory damages up to \$150,000 per infringed copyright. For more information, please go to: www.riaa.com/issues/copyright/laws.asp.

FAQ

Besides the record companies, who does copying music actually hurt?

First and foremost, illegal copying hurts the songwriters and recording artists who make the music. These people depend on the royalties they get from the authorized sales of their recordings to make a

living. Many recording artists receive most of their income from royalties. For many young artists, income from royalties means survival. In the end, illegal downloading guarantees that artists won't be fully rewarded for their hard work and devotion to the craft.

How do I know if something is copyrighted?

When you buy music legally, there is usually a copyright mark somewhere on the product. Stolen music generally doesn't bear a copyright mark or warning. Either way, the copyright law still applies. A copyrighted creative work does not have to be marked as such to be protected by law.

Does copyright law speak against "peer-to-peer" services?

Copyright law does not speak against P2P services. It speaks against people who steal and illegally distribute copyrighted music that doesn't belong to them. The music industry has been a major beneficiary of new technology (from wax cylinders to vinyl to LPs to CDs), and the current technological developments are no exception. But let's face it, even great technology can be abused. And that's what the industry is confronting right now. We have to figure out how to take advantage of the great new delivery systems that the Internet offers, without being seriously damaged by uncontrolled piracy. P2P in particular can really be a fabulous technology - but right now it's doing far more harm than good.

Doesn't the First Amendment give me the right to download and upload anything I want, including copyrighted music?

The answer is, no, it does not. What copyright law prohibits is theft, not free expression.

Doesn't the "Fair Use doctrine" give me the right to download and upload copies of music I've purchased?

No, it doesn't. In certain instances, the use of a copyrighted work for purposes of criticism, comment, news reporting, teaching, scholarship or research might not constitute infringement, depending on (1) the purpose and character of the use, (2) the nature of the copyrighted work, (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole, and (4) the effect of the use on the potential market for or value of the copyrighted work. However, courts have rejected the notion that uploading and downloading copyrighted sound recordings without permission constitutes the "fair use."

How do I know what's legal and what's not when it comes to copying music?

Here's the bottom line: If you distribute copyrighted music without authorization from the copyright owner, you are breaking the law. (Distribution can mean anything from "sharing" music files on the Internet to burning multiple copies of copyrighted music onto blank CD-Rs.) For more information about what's okay and what's not, please go to: www.musicunited.org/2_theLaw.html#5.

Is downloading and uploading music really stealing?

If it's done without the permission of the copyright holder, it's legally no different than walking into a music store, stuffing a CD into your pocket, and walking out without paying for it.

What if I upload or download music to or from a server that is based outside of the U.S.?

If you are in the United States, U.S. law applies to you regardless of where the server may be located.

Can I use E-mail or instant messenger services to exchange songs with my friends?

The use of e-mail or instant messenger services to exchange songs is governed by the same copyright laws that apply to any other form of reproduction or distribution.

Can an author grant any of his/her copyright rights to others? If yes, then how?

Yes. A copyright holder can transfer or license his or her rights, and he/she often does. For example, artists may transfer or license their labels and/or publishers the copyrights to their recordings and/or songs so that the labels can produce CDs, make them available on the Internet, and promote and sell the CDs. Rights are assigned or licensed only with the express written consent from the copyright holder.

What will happen to me if I get caught illegally copying or distributing copyrighted music?

Under federal law, first-time offenders who commit copyright violations that involve digital recordings can face criminal penalties of as much as five years in prison and/or \$250,000 in fines. You could also be sued by the copyright holder in civil court, which could cost you hundreds of thousands of dollars more in damages and legal fees. For more information about legal penalties, please go to: www.musicunited.org/2_theLaw.html.

Are there any sites where it's legal to download music?

There are plenty of Internet sites that offer music for legal downloading. Please go to: www.musicunited.org/6_legalsites.html.

UNINSTALLING PEER-TO-PEER SOFTWARE

Reset or uninstall your peer-to-peer software to keep it—and you—legal. When used properly, "peer-to-peer" file sharing is an exciting new technology. Unfortunately, P2P networks are often used improperly—usually for the illegal distribution of copyrighted content.

If you're involved in P2P file sharing, you may be using KaZaA software, GTK-Gnutella, LimeWire or some similar application. You may not be aware of it, but when you registered as a P2P software user, you probably agreed to let the network use your computer as a distribution source of music files. In other words, if you're like most P2P software users, you do more than simply download files. You probably also make files on your hard drive available for others to upload. Not only does this make you a potential illegal distributor, it also means that whenever you're online, every other network user around the world (and there are tens of millions of them) has the ability to access your hard drive.

If you want to do the right thing—and, not incidentally, keep strangers out of your hard drive—you should disable your P2P software's uploading capability. For more information, please visit: <http://www.musicunited.org/kazaa.pdf>.

PARENTS' CORNER: What Every Parent Should Know About Illegal File Sharing

Stealing music on the Internet is every bit as wrong as stealing goods from a store. Yes, it's against the law. And, yes, offenders can be prosecuted in criminal court and sued for damages in civil court.

But what if the offender is a minor? Well, for one thing, that doesn't make the activity any less a crime. For another, it may subject the offender's parents or guardians to legal action.

The fact is that civil liability can extend to the parents of under-age offenders, even if they were unaware that their child had been stealing. It's a chilling thought. While you're downstairs watching TV, thinking your teenager is upstairs studying, he or she could be doing something illegal that could land you in court.

Even more shocking is the fact some illicit "peer to peer" networks, such as Kazaa, actually commandeer a portion of the hard drive on your computer for illegal downloading and uploading by network members around the world. Once you register with them, all the files on your computer hard drive can be fair game. Depending on the settings you choose, peer-to-peer users can explore your computer to find private financial information; confidential, personal and professional data; and other sensitive documents.

It works like this: when a computer user signs up to become a member of one of these so-called "peer-to-peer" networks, they designate a special file and a certain amount of hard-drive capacity that can be accessed by any other member of the network. That means anybody, in any country, anywhere in the world, who has a computer and Internet access, can access the computer in your home and make illegal unauthorized copies of the music and anything else contained in that location. Once your child becomes a member, other members—who could be anybody from the kid down the street to someone half way around the globe—can access the computer and its contents in your house.

Remember, the Internet is a tremendous learning tool that represents a great technological advance for society. But right now, it's a lot like the Wild West. Everyone, from the most seemingly innocent teens to the hardest of hardened criminals, is out there surfing cyberspace with very few rules—and even less enforcement—to maintain order.

If you haven't been paying much attention to what your children are doing on their—or your—home computer, it's probably time to get involved in a sensible and supportive way.

FOR MORE INFORMATION

For more information, please visit www.gospel-music.org, www.cmta.com, www.riaa.com, www.whatstheDownload.com, or www.musicunited.org.

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