

For the RIAA, Time is Running Out  
by Robert Chapin  
5 October 2007

“For several years record companies remained unconvinced of the overall value as a promotional medium for their products, so they too joined the throng in fighting the idea. They thought people were less likely to buy a record if they could hear it for free. This fear was borne out by some figures which showed that urban areas were suffering a downturn in record sales. The larger record companies started taking legal steps and a series of lawsuits ensued.”<sup>1</sup>

If you think I’m quoting an article about the recent peer-to-peer (P2P) music sharing lawsuits, you couldn’t be more wrong. That paragraph was an explanation of the technological revolution that took place in the United States music industry during the 1930s. I’ve simply taken it out of context by deleting the words “radio” and “disc jockey”.

At that time, the throng was an organization of performing artists, the medium radio, and the criminals radio DJs. They stood accused of violating copyrights by broadcasting music recordings with no license to do so. One case almost reached the U.S. Supreme Court when an appellate judge ruled against the plaintiff, “They have never copied his performances at all; they have merely used those copies which he and the RCA Manufacturing Company, Inc. made and distributed.”<sup>2</sup>

It goes without saying the recording industry thrived in the 67 years since that ruling. In retrospect, the idea that radio broadcasts would hurt record sales is as absurd as the idea that the Earth is flat.

Perhaps equally absurd is the idea that suing tens of thousands of pop music fans would benefit the music industry. There have been many more revolutions and precedents since 1940, however the parallels cannot be denied. Once again a new technology has cast doubt on some artists’ ability to sell recordings, and once again the recording companies have charged to their rescue waving lawsuits to maintain the status quo.

For the recording companies to make this mistake again after the first time is inexcusable, and their declining sales bare that out. But the real danger lies in the apparent disconnect between the recording companies and their customers. Much like Ford Motor Co, they have realized far too late that their factories are making products that went out of style years ago.

Look how these dangers have given rise to anti-CD movements. When the P2P lawsuits began, many songs were shared on the Internet through Napster. It was a slow, inefficient system where low-quality music files could be traded with some success. Now after the rise and fall of more and more advanced systems, it is easier to download an entire CD than it is to purchase a single low-quality song over the Internet.

As long as the recording companies reject the latest distribution technologies, they will be continuously outstripped by pop music fans who can use the Internet to accomplish that distribution at almost no cost.

Where is the danger in that, you may wonder? The truth is, everyone involved in this issue still needs the recording companies. Somebody still has to make the recordings, and as long as the recording control lies within a recording contract, there are massive, untapped opportunities to profit from that control on the Internet.

Retail digital music websites, as I have attempted to make people aware, are an enormous liability to the entire music industry. The client-server retail model has several inherent disadvantages that make it inefficient, insecure, and as a result, expensive. P2P business models would solve most efficiency and spending problems, but what about security?

Let me phrase this as an ultimatum. I have seen P2P networking concepts that are years ahead of their time. There will come a fork in the road where those concepts are being developed by early adopters. It will be either the record companies embracing that technology, or it will be pop music fans who had their older sharing systems sued out of existence. These new networks are not being developed yet because there is no immediate demand for them. But one way or the other, the recording industry is going to create that demand in the near future.

The recent \$220,000 verdict against an accused pop music fan is no surprise to me. It is upsetting because it will affect when and how people listen to music. But it is no surprise, considering the record companies were dealt several defeats and successes before the major verdict of 1940.

What is definitely surprising to me is the dangerous precedent set for the first time I am aware of, and unanimously by a jury, that it is illegal to make copyrighted works available on a P2P network without a license. If this new interpretation of copyright law should be upheld in the future, mark my words, you will see the emergence of new distribution technologies the likes of which can only be seen on the drawing board today.

For the recording companies, time is running out. History proves lawsuits might delay the inevitable, but I believe the status quo leads quickly to obsolescence.

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<sup>1</sup> "Last Night a DJ Saved My Life" 1999 by Bill Brewster and Frank Broughton

<sup>2</sup> "Matthew Lasar's blog" June 29, 2007 <http://www.lasarletter.net/drupal/node/424>