

THE NAPSTER REVOLUTION ON COLLEGE CAMPUSES: HOW UNIVERSITIES AND THE RECORDING INDUSTRY ARE COPING WITH THE MUSIC FILE-SHARING SENSATION

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The rise of the Internet has produced new social practices that never could have been predicted. Among those is the practice of peer-to-peer (P2P) music file sharing. This swapping was encouraged by the introduction of a file compression technology known as MP3. This software program, which Internet consumers gained access to in the mid-1990s, enables users to compress recorded songs from personal music collections into a file of 3.5 megabytes from a song on CD originally of 40 MB, thus decreasing transfer time from two hours to 10 minutes.

This convenience began to fuel the practice of file swapping and was further encouraged by the introduction of the website MP3.com, portable MP3 players, and later, Napster. Instead of following in the footsteps of MP3.com, which provides music from its own database, Napster introduced a web site in 1999 that allowed MP3 users who were looking for and offering music files to connect with each other, thus facilitating P2P file sharing. MP3.com was sued by the 5 major record labels, but four of those labels eventually settled, costing MP3.com millions of dollars. Napster hoped to avoid such litigation because the service does not actually disseminate the recorded music files; it merely connects users who then exchange the files directly with each other.

Napster became an overnight sensation in 1999. *Business Week* states “Napster raged across the college circuit like a forest fire. College students throughout the US were discovering Napster, and they couldn’t get enough of it” (*Business Week*, 8/14/00). Colleges became the hot spots of Napster activity because students had access to the high-speed connections that still are not prevalent in homes.

THE POPULARITY OF NAPSTER

In June 1999, Napster founder Shawn Fanning distributed beta software of the new system to 30 friends. In just a few days, 3-4,000 people had downloaded the software. By the beginning of fall semester 1999, college campuses were caught off guard as returning students began to take advantage of the campus facilities to download music files. *Webnoize* reports that as of March 2001, a whopping 85% of students have downloaded music--nearly 58 % of them using Napster. The actual number of users has been estimated at between 20 million and 66 million. Media Matrix, Inc., which measures Internet growth, has called it the “fastest-growing Internet utility in history,” as it has landed on 6% of all home PCs. Napster’s popularity is widely attributed to the fact that the service is free. But students use Napster for other reasons, and half of students surveyed indicated they would be willing to pay for the music they download. Napster offers its young customers convenience and depth of product.

THE RECORDING INDUSTRY RESPONDS

The impact of file swapping on music sales is subject to debate. Sales were up

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nationally over the past two years overall, but sales were down by 4% in stores located near college campuses. The recording industry used this figure as a basis for a lawsuit. A survey by Field Research found that the more people use Napster, the fewer discs they purchase, and 41% of users indicated that the main reason they use Napster is to avoid having to purchase music they like. But almost 60% said it had no effect on their purchases and that it helps them decide what records to buy. A study of online shoppers by Greenfield Online found that “nearly 70% say that they have not paid—and will not pay—for digital music downloads.” The same study found that two-thirds of college students who use Napster say they download so they can preview music before deciding which CDs to purchase. Jupiter Research has found that 45% of users are more likely to have increased music purchases as a result of sampling via downloads, and 71% are willing to pay to download entire albums.

Nevertheless, the Recording Industry Association of America (RIAA) sued Napster in December 1999, claiming Napster had cost the record labels more than \$700 million in lost sales. The RIAA sued for copyright infringement alleging that “the popular music trading service helped facilitate massive piracy among its...users.” In April 2000, the RIAA was joined by the rock band Metallica who sued Napster and three universities that the band said had encouraged students to pirate their music. In October of 2000, media conglomerate Bertelsmann AG announced a partnership with Napster to develop a subscription-based music service. As a result, Bertelsmann Music Group (BMG) withdrew from the RIAA lawsuit.

COLLEGES RESPOND

Universities were forced to react to the phenomenon by the fall semester of 2000 when students returned to campus. By then, Napster was facing the lawsuit from the RIAA as well as the suit filed by Metallica and rapper Dr. Dre. Metallica’s drummer had delivered to Napster the names of 335,000 users who had illegally copied the band’s recordings. Add to that the Metallica/Dr. Dre suit against three schools, Indiana University, the University of Southern California (USC), and Yale, which had been filed that April. Howard King, attorney for the recording artists, stated, “Metallica selected the three large, diverse universities to make examples of them.” Officials at Yale were quick to react, announcing that they would ban use of Napster on campus. A Yale spokesperson commented that the block was in effect “until legal issues could be clarified, even though the university did not believe it has any liability to Metallica.” The band agreed to drop Yale from the suit.

Indiana University also responded quickly and agreed to block access. Indiana had previously lifted its ban on access to Napster to test new software designed to alleviate network congestion. The university promptly reinstated the Napster ban.

Both universities emphasized an interest in protecting intellectual property; however, they did not admit responsibility. Yale released a statement saying that “the law [Digital Millennium Copyright Act] relieves ‘on-line providers’—such as universities that offer Internet connections to students—of some responsibility for copyright infringement by their users.” USC, which was

involved in “town meetings” with students over bandwidth issues at the time of the Metallica lawsuit, initially decided against banning access to the site. However, the October 6 issue of *The Chronicle of Higher Education* reported that the lawsuit had been dropped against all three schools “after they agreed to block access to the Napster service.”

In September 2000, King sent letters to 27 colleges asking them to block access to Napster. After two weeks, none had agreed. University of California officials rejected the request, comparing Napster’s removal to removing copying machines because they could be used to reproduce works illegally. By October 6, at least 14 of the schools had decided not to ban access: Columbia, Cornell, Duke, Harvard, Princeton, Stanford, Georgia Institute of Technology, Massachusetts Institute of Technology, U.C. Berkley, UCLA, University of Florida, U. of Michigan, U. of Pennsylvania, and UNC. King stated he would not file suit but would attempt to “educate them about copyright infringement.”

Throughout the fall semester, schools formulated policies for dealing with the issue, until more than one-third of US colleges had banned access. Other schools, such as Cornell and the University of Virginia, opted to educate students about copyright issues. Oklahoma State campus police confiscated one student’s computer after determining it was being used in copyright violations.

But legal concerns weren’t the only reasons for the shutdown. Schools reported that Napster traffic was clogging campus servers. Two of the nation’s largest schools, the University of Texas and Ohio State, decided to block Napster solely based on the fact that the music swapping was clogging campus servers. Texas estimated 20% of their bandwidth was going toward Napster use. Smaller campuses estimated that between one-third and one-half of campus traffic involved Napster. In a notice to students, Bates College pleaded with students to use Napster only during off-peak hours, claiming it hogs up to 90% of the network. Students at BYU found it difficult to register for classes or apply for financial aid this past January, due to Napster. At that point, BYU decided to block the site. USC was in the process of educating its students about the bandwidth bottleneck when legal concerns prompted the school to block access to Napster.

CURRENT STATE OF AFFAIRS

A March 2001 ruling by a U.S. District Court of Appeals upheld an injunction against Napster, requiring it to block copyrighted songs. Four of the five major record labels have refused to grant licenses to Napster despite the offers of millions of dollars to do so. The ruling angered students but came as a relief to embattled administrators who had been trying to balance copyright protection, and server limitations with open access to the Internet. After a last minute grab for songs, the injunction went into effect and traffic on the Napster site has been somewhat reduced. Meanwhile, campuses are looking into bandwidth management programs such as Packetshaper®, which is designed to prioritize server traffic, preventing a single type of traffic (such as streaming media) from monopolizing the network. Implementation of programs such as this on college servers will come just in time to manage the next craze--streaming video--which students will have access to in the near future.