

For years now, we have been hearing about how the "digital revolution" has made "perfect digital copies" of popular music available over the Internet. This is a lie. Anyone who tells you otherwise is trying to sell you something. The RIAA and the Music Industry are trying to sell you CD's, so they tell you downloads are perfect because that justifies their aggressive actions against P2P networks. Apple Computers is trying to sell you digital downloads, and so they want you to believe they are just as good as a CD. Yes, there are exceptions. Yes, it is -possible- to make perfect digital copies. But your average MP3 download from a P2P network is not a perfect copy. The MP3 file format is a compression format. What that means, is that some data has been removed to make the file-size smaller. Truth be told, most people's ears are probably not trained enough to notice the difference between a CD and an MP3 file. After all, we all listened to music on cassettes for decades, and those were imperfect in a much more noticeable way. But this inability to notice the difference does not make the difference non-existent.

It is not illegal to convert your CD's to MP3's. It is not illegal to copy those MP3's as often as you like. It is not illegal to burn as many copies of a CD as you would like. You cannot violate the copyrights of a piece of music by yourself. MP3's and burned CD's only become illegal when people begin to distribute them to other people. Copyrights should probably be called publishing rights or distribution rights, because they don't protect against other people making copies, they protect against other people profiting from the publishing or distribution of those copies.

I no longer participate in P2P file swapping. The RIAA has made it clear they are willing to prosecute anyone and everyone they catch, regardless of how much bad press it generates, and I have a family and a career to consider. During the period of time when I was actively downloading music, I was purchasing something like 5-10 CD's a month. I was up to the minute on all the latest trends and sounds. I felt like I was "in the know". I do not listen to the radio. Most radio stations hardly play music anymore, favoring personality shock-jocks and too many advertisements to make it worth my while. Since I stopped downloading, I am completely out of the loop. I have no idea what's going on, what's new, or what is out there. I now buy less than 10 CD's a year; and almost none of these are new releases.

And this is what the RIAA just doesn't get. In spite of several studies, the most recent published by researchers at Harvard University and UNC Chapel Hill, which indicate that P2P file-sharing has no negative impact on CD purchasing habits, the RIAA still insists that people's online trading has somehow -replaced- their CD purchasing.

They operate on the assumption that every file downloaded is a CD sale that's been stolen. This is a false assumption. There are four main reasons that people download music:

- 1) To get legitimate copies of independent material or out of print material which is impossible to buy.
- 2) To get copies of underground remixes by independent artists who cannot get legitimate distribution for their work because the cost of royalties for sampling and remixing are beyond prohibitive for the independent artist.
- 3) To get copies of music which, if P2P technology did not exist, they would not have attempted to acquire at all.
- 4) To get copies of music they think they might like, which they then go out and buy if they find they do like it.

The first involves music that the Music Industry refuses to sell in

spite of demand because the volume involved isn't profitable enough for such gigantic companies. The second involves music that they actively goes out of its way to censor, claiming that unlicensed sampling somehow inhibits creativity by violating copyrights (ironic, considering they actively attempt to destroy an entire genre of music in the name of protecting creativity). The third involves material that is so disposable no one was interested in purchasing it in the first place. For example, I used to download a lot of pop singles to play as a joke at parties. But if P2P didn't exist, I wouldn't have gone out and bought the album or the single simply to play the song once, as a joke, at a party. So, there is no possible loss of sales from these activities because potential sales never existed in the first place. And in the fourth case, these downloads actually generate sales. Just like the "mix tapes" of yesteryears and just like the radio, MP3's are a form of advertising for music. They are a quick, easy, almost instant way of hearing a song. The Music Industry knows that "free radio" is their best marketing option. In fact, they know it so well, that congress had to pass a law making it illegal for them to pay radio stations to play their songs more often. They know that the more you hear a song, the more likely you are to buy it. And yet, they can't figure out that hearing an MP3 is exactly the same thing.

The RIAA points to statistics that CD sales are down significant percentages over the last few years as evidence that P2P is damaging their industry. What they choose not to point out is that the Music Industry's production of new music is down by almost the exact same percentages. They also choose to ignore significant economic factors. They somehow expect that the record-breaking sales rates of the late 90's boom years to carry straight through the deep recession of the last 4 years. They think that we will buy as much music when we're unemployed as we did when we all had jobs.

However, as an independent musician, I think that this entire issue is tangential. I think the entire argument about the legality of P2P and the impact it does or does not have on CD's is a smoke-screen. Simply put, P2P is the best thing that ever happened to independent musicians. When I first heard about Napster, I was thrilled. Suddenly I didn't have to come up with the money to press my music to CD in order to distribute it to a potential audience. My band, Scissorkiss, has pressed 3 albums, to date. We have lost money on every single one. To press 500 professional looking CD's costs about \$3 per unit. That doesn't include the cost of the recording studio, the audio engineer, the mastering engineer, or our equipment. That's just to get the final result pressed. While Newbury Comics gets away with selling you CD's for \$11-15 a piece, and Strawberry's somehow gets away with \$17-20, a local band selling out of the trunk of their car is lucky to get \$5. We've never sold enough discs to cover the cost of pressing. So, file-sharing is a god-send. Suddenly, we only need to be able to create the music. Once created, we can instantly distribute it online. For free.

The big record labels exist because musicians never could afford all the expenses of creating their material, pressing it and distributing it. Big labels acted predominantly as a bank. They financed the project. In return, they generally reaped the biggest profits. Courtney Love published an article a few years back detailing how an artist could sign a contract, produce a platinum selling album and a sell-out national tour, and not make a dime, while their label would make millions. But with online distribution, the cost of getting my music to the public suddenly plummets. I no longer need a label like before.

In the wake of the opening of the Apple iTunes Music Store, the company was bombarded with requests from almost every independent record label

in the country to have their material available through the site. To date, I am not aware of any which have been included. Many people in the independent industry now believe that part of the arrangement between Apple and the Big Five is that other labels will be excluded. Combine this with the RIAA's aggressive actions to eliminate every single free P2P software application and suddenly, my options as an independent musician to take advantage of this new and exciting distribution model vanish into thin air.

Make no mistake, the actions of the RIAA and the Music Industry are not about protecting rights or even about prosecuting theft. They are about maintaining complete control of a rapidly evolving market space. These organizations are too big to evolve quickly enough to maintain control through normal, capitalist means, so they are using the power afforded them by copyright legislation to attempt to impede this evolution at a pace they can (barely) maintain. The recent explosion of legal download for-pay sites proves that the industry knows that this is the future and that they cannot change that.

Does any of this justify breaking the law? No, I can't say that it does. But I can't help but wonder why, if this was really about legalities, the same industry that ignored the mix tape culture for 20 years has suddenly decided that burned CD mixes and MP3 sharing is worth spending hundreds of millions of dollars to prosecute.