

Research Paper

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In 1999, a wiry teenager sat in his basement sipping Mountain Dew on a Saturday evening as his mother, Mrs. Parker, cooked dinner for a few friends. It was an ordinary evening in Herndon, Virginia. Suddenly, the door to the house broke down, which was certainly not the way Mrs. Parker's friends usually entered. Was there a robbery going on? No, it was the F.B.I. with an arrest warrant for Mrs. Parker's son, Sean. Sean was no ordinary criminal, though: his frame was small, he was failing out of high school without even considering going to college, but he was starting a revolution. A 2009 movie titled *The Social Network* encapsulated Sean's work into one simple question, "You wanna buy a Tower Records, Eduardo?" implying that Sean had destroyed the industry that refused to coexist with his peer-to-peer (P2P) file-sharing program, Napster. Sean Parker certainly changed the way the music industry operated. As record distributing companies, such as Tower Records, waged a war to the death with online music vendors such as iTunes, Parker produced a system that took the easiness and quickness of iTunes and integrated that with the sharing capabilities of a CD to create every music fan's dream, an endless database of free music.

At the start of the 21st century, musicians and businessmen alike panicked over the uncertain future of the music industry. Some of the world's most powerful musicians, such as Lars Ulrich of Metallica, expressed frustration with Napster and other P2P sites, stating, "It is sickening to know that our art is being traded like a commodity rather than the art that it is" (Wired.com). Napster was forced to shut its doors in June of 2001; however, its impact on the music industry has continued to live on. As fearful as the government, musicians, and businesses were of the new file sharing sites that began to emerge, the music industry has survived. Famous

musicians are still living lavishly, and with the music industry's continued adaptation to the online era, new musicians have been able to jumpstart their careers with ease, leading some to say that piracy has actually made the music industry prosper. Internet start-ups such as YouTube, Spotify, and iHeartRadio have allowed fans to listen to unlimited music for free while still paying artists. So if musicians are doing well and fans are happier than ever, why are record labels and the government still so insistent about getting rid of piracy? After months and months of the *Piracy, It's a Crime* campaign persistently advertising slogans such as "You wouldn't download a car," the campaign reached a screeching halt when artists it was supposed to protect spoke out against it. "So... I guess as a reward for being a true fan you get ripped off," responded Trent Reznor of Nine Inch Nails, upon learning the 29-dollar price tag for his band's newest album (Bledsoe). Piracy is, in fact, good for musicians and fans alike and should be legalized; the only reason piracy has not been legalized is because record companies want to profit.

University of Illinois professor Robert McChesney once stated, "Music is the people's medium" (Money for Nothing). While music has always been around, there has not always been a music industry. The business aspect of music was created to assist artists in making a living out of composing music; however, during the 20th century, the music business began to extort money from musicians, instead of assist them in making it. Originally, there were hundreds of different record companies, and artists had the ability to choose which company would best help them. In fact, record companies tailored themselves to fit the needs of musicians. As time progressed, companies merged or went out of business, leaving only five record corporations to monopolize the industry. These five record corporations made up the Record Industry Association of America (RIAA).

During this time, signing to a record label went from being an optional tool for musicians to a vital necessity. While record companies became corporate, so did television and radio, leaving artists with no choice but to sign with one of the five major record corporations in order to obtain airtime. The record companies took advantage of their high importance and seized the music industry as a whole. Companies now controlled which songs received airplay and which musicians became popular. Musicians had lost all power in an industry that they fueled, and now had to morph their music and image to fit the label's needs. It became extremely hard for up and coming artists to cut record deals, and those who had record deals were paid less and less as the years went on. Nielson reported that out of total record sales, bands or musicians themselves were only making 13% of the profit, while distributors made 24% and the record label made 63% (Jefferson).

As corrupt as the music industry was at this time, artists had no other choice but to become complacent. People who wanted to make music for a living were willing to accept all of the unfair conditions that came with the industry. As record prices and sales reached all time highs, musicians were making less and less money. Towards the late 1990s, the structure of the record industry became extremely exploitive of musicians, while record corporations were making yearly profits in the billions (Goldman). 2000 marked the first year record sales dipped (Boorstin 25), striking great fear in the soulless hearts of the RIAA with the stunning realization that the tight grip they held over the music industry for so long was now in the past. What caused the dip in 2000 was Sean Parker's file sharing program, Napster. Fans were now able to download endless amounts of music to their computers using Napster and the perplexing thought that people all over the world could now "share" music swept the nation. Around six months after the site launched, 14,000 songs were being downloaded every single minute and there were

26.4 million Napster users worldwide (Lamont). The program that was started in a Virginia basement now left a gaping hole in the global music industry, through which millions of dollars were lost by the hour. The RIAA fought against Napster with lawsuit after lawsuit, and popular musicians, namely hip-hop artist Dr. Dre and heavy metal band Metallica, expressed extreme concern over the future of the music industry, calling Napster an "insidious and on going thievery scheme" (Manafy). Many musicians thought conditions within the industry just went from bad to worse, however, Napster eventually became a blessing in disguise.

While popular musicians berated Napster, independent artists became strongly supportive of the program. For independent artists, Napster provided them with a rare opportunity to showcase their music without needing a record company. Napster allowed independent artists to finally gain exposure, and to level the playing field between them and mainstream artists. Though not many people were willing to purchase a 10-dollar album by an artist they had never heard of, many people were willing to download a song for free and try something new. Radio and television repeatedly played an extremely small percentage of music being made; Napster on the other hand had a database that held virtually all music worldwide. Artists such as Ben Folds, of the independent rock band Ben Folds Five, raved, "Music is for everybody. When people get excited about it, whether from hearing it on the radio or borrowing a record from a friend, or accessing it through Napster, they buy records and come out to shows" (NKU.edu). Although independent artists were not making money off of record sales, the exposure they were getting through Napster became a priceless asset.

Towards the beginning of 2001, an overwhelming majority of musicians were speaking in favor of Napster, embracing the new change and direction of the music industry. Household names, such as Dave Matthews, Madonna, and Bono, stated that file-sharing ushered in a new,

better era for the music industry (NKU.edu). Piracy allowed fans to access more music, and allowed musicians to reach a wider audience. It was no longer a necessity for artists to sign to a record label. While artists were not necessarily making money off of record sales because of piracy, they were gaining more exposure to the public, and this increased publicity resulted in more than just growing popularity -- it increased concert revenue. According to a study conducted by *Science Direct*, published in March of 2012, the amount of concerts performed in 2004 was 24,000 (4), which was double the amount of concerts performed in the year 2000 (4), when piracy was still in its embryotic stages. While concerts certainly take more time, the artists receive much more lucrative contracts for performing concerts. *Science Direct* reported that “A typical deal gives 70–80% of merchandise revenues and 70–85% of the gross ticket revenues to the artist,” (5) which is much more than the 13% artists receive from record sales.

Although piracy began to assist artists in making more money than they had before, scholars such as Kate Gary doubted the ability for concerts to make up for a lack of record sales. In Gary’s article, “Stealing From the Rich to Entertain the Poor?: A Survey of Literature on the Ethics of Digital Piracy,” Gary tries to show that piracy is bad for musicians and the money being lost from record sales cannot be made up in concert sales (3). Good introduction of source. While Gary’s argument might seem logical, artists who have established themselves in the piracy age invalidate it. One artist in particular who has used piracy to fuel concert sales is pop artist Lady Gaga. In 2006, Gaga signed to recording label Def Jam but was released from her contract within three months. Despite being dropped from the label, she released an album in 2008 titled *The Fame*, which was critically acclaimed and sold 15 million copies worldwide. Despite selling so well, “The Fame” has reportedly been illegally downloaded 56 million times as a whole (Khan). When questioned about piracy, she responded, “[Y]ou know how much you can earn off

touring, right? Big artists can make anywhere from \$50 million for one cycle of two years' touring. Giant artists make upwards of \$100 million. Make music--then tour. It's just the way it is today" (Huffington Post). Two years after Gaga's album was released, she embarked on an 138-show tour entitled "Monster's Ball," garnering her an unprecedented 90 million dollars, which was nine times the amount she made off of record sales that year (Greenburg). Although Gaga was initially dropped from Def Jam in 2006, four years later she became the seventh richest musician in the entire world, hereby showing how immensely beneficial the internet and piracy can be for modern day musicians.

While piracy continued to assist artists in overcoming the boundaries set by record companies, the RIAA refused to budge in their position against piracy, and after hundreds of lawsuits filed against Napster, the company was forced to shut its doors. Although the RIAA won the battle against Napster, they had already lost the war against piracy. There were thousands of other file sharing programs out by the time Napster shut down, and the number of programs continued to grow by the second. Record companies were vehemently outnumbered, and no matter how many lawsuits were filed, there was no fathomable way to take down all P2P programs.

In possibly the vilest act the RIAA has ever committed, once record companies realized that there was no possible way to shut down all file-sharing programs, they went after the fans. Record companies were now filing lawsuits against the music fans. Many people were now being embroiled in million dollar lawsuits with the RIAA for downloading less than one hundred songs. In 2006, a US woman was ordered to pay 1.5 million dollars for downloading 24 songs off of the file-sharing program Kazaa (Toronto Sun). In Eben Moglen's "Pay Artists, Not 'Owners'," Moglen mocks the music industry for trying to persecute file sharers and says that

suing one's own customers is circular logic. The record industry argues that sharing music is equal to stealing a CD; conversely, Moglen shows that technically if only one person buys a CD and decides to share it with the rest of the world, that is not stealing, so in that same vein, file sharing is, again, not stealing.

The millions of dollars the RIAA won from ordinary hardworking Americans went to finance the newly established anti-piracy campaign: *Piracy, It's a Crime*. While this campaign tried to persuade Americans that they should not steal music because they were taking money away from hard working musicians, the musicians that the campaign tried to protect spoke out against it. While the campaign flopped, the RIAA decided to take its battle with music fans to the next level by proposing a bill to Congress. A bill called the Stop Online Piracy Act (SOPA) was introduced by U.S. Representative Lamar S. Smith to help the US law enforcement battle piracy. Although no one questions laws that prevent theft in the real world, SOPA, which tried to prevent theft in the digital world, was met with a lot of resentment and annoyance.

Across the country, men and women accompanied by titans of the digital world, such as Google, YouTube, Facebook, Yahoo, Twitter, and Wikipedia, joined forces to protest SOPA. SOPA was met with the largest protest in Internet history for its plan to prevent illegal downloads. Blogs, forums, search engines, and social media sites would have all needed to shut down because of SOPA, which in turn would have violated the first amendment. Due to this extreme criticism, SOPA did not pass, and instead Congress is still contesting a modified version of the bill called the Online Protection and Enforcement of Digital Trade Act (OPEN). Although some websites that provided illegal downloads were forced to shutdown, it still does not take someone more than a couple of minutes or seconds to find the file they're looking for using a Google search.

In recent years while Congress has been disputing OPEN, the music industry has had several monumental events take place. Internet startups, such as Spotify, Youtube, and iHeartRadio, have allowed for fans to stream millions of songs for free while still paying artists for their music. These start up companies in addition to P2P sites have essentially eliminated the need for record companies as a whole. In 2012, the revolution that Sean Parker started thirteen years ago came full circle. An independent artist by the name of Macklemore became the first unsigned artist in modern history to claim the top spot of the US Billboard charts. While Macklemore did not have a label to help him advertise his music, he took advantage of the piracy age using YouTube, Spotify, and P2P sites to post new songs and gain recognition. Once Macklemore's album *The Heist* was officially released, the album was streamed over 250 million times on YouTube and was illegally downloaded millions of times as well. While Macklemore did not make as much money off of selling his album, YouTube has reportedly paid him 500,000 dollars from advertisements on his videos, and his world tour titled "The Heist World Tour" has garnered him 1.5 million dollars in revenue (Demassed.com).

In an interview I conducted with Ira Antelis, Music Director for Leo Burnett USA, I asked him about piracy. He uneasily responded:

Some people will say it's a bad thing, some people will say it's a good thing.

Though, it has had a positive impact on musicians. Sure musicians aren't making as much, but there are more of them who are getting big, they are touring more and making money from there. There are also more of them (mainstream musicians). And if there's one thing for sure, you look at the popular musicians now: Kendrick Lamar, Macklemore, even a Justin Bieber, without the internet, without piracy, no one would know about these guys.

No matter how many lawsuits the RIAA files against P2P sites, or the music fans, there is no ultimate way that the RIAA can win. They cannot sue everyone, and as long as musicians and fans alike continue to stand up for piracy, then both parties will continue to prosper. Piracy has freed musicians from the chains they were placed in by record companies, and although at first musicians were making less money because of piracy, musicians have intelligently found ways to make more money than ever using piracy. For the fans, the benefits are clear; however, fans need to continue to actively stand up against bills like SOPA and OPEN for themselves and for musicians. The power is in the hands of the people - the people who love to make music and the people who love to listen to music - and as long as both parties continue to fight against the RIAA, we can enter a musical renaissance.

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Interview with Ira Antelis on 4/29/2013

Danny: "Hi Ira, thank you so much for taking time out of your day to speak with me"

Ira: "Sure, no problem Daniel"

Danny: "So, with the recent developments within the music industry, how do you feel that piracy has effected the music industry?"

Ira: "Well, as you know, I work two fields within the industry, I'm a producer and I'm a music director. On the producer side of the fence, piracy hasn't necessarily done as much harm for me, I am still producing artists music, but on the director side, piracy has definitely, definitely affected my career negatively. The people in the suits, the people who sit behind the desks, the people who make up the record industries, they're the ones losing the money. I get this question a lot, artists for the most part are still putting food on the table, but it's the corporate guys who aren't making as much. It's been bad as its taken tens of millions of dollars away in comparison to what this industry was taking in before."

Danny: "So on the corporate side of the industry, things have been bad?"

Ira: "Yes, very. That side is dying, well maybe not dying, but its becoming much weaker."

Danny: "But how has it effected the musicians?"

Ira: "Well, that's definitely a loaded question with a lot of different layers, but I think I know what you're getting at. For the most part, I can't answer this without bias. I don't think its been good for the industry, but there is definitely an argument to be made against. People say that the artists make money off of touring, that's definitely true, but they're still losing money off of album sales. Tours aren't so easy, and I've seen the figures, artists show that you cant expect to make serious money in this industry without going on serious global tours. Look at big names, Bieber, Lady Gaga, Lil Wayne, all of these people are constantly touring and constantly selling

out. Yea, the Internet fuels the success of these tours, but at the end of the day these guys are still losing money right out of their pockets from record sales because of piracy.”

Danny: “Well, given the success of these tours, has piracy been good or bad for musicians?”

Ira: “Once again, that’s a really difficult question to answer. I would say no, but a lot of people would say yes. There is substantial evidence for both sides, touring sales have gone up, record sales have gone down, everyone knows that. What I will say though is this: it has definitely, absolutely changed the music industry, but, its impact on the industry as a whole, you know, take it for what it is. Some people will say it’s a bad thing, some people will say it’s a good thing.

Though, it has had a positive impact on musicians. Sure musicians aren’t making as much, but there are more of them who are getting big, they are touring more and making money from there.

There are also more of them. And if there’s one thing for sure, you look at the popular musicians now: Kendrick Lamar, Macklemore, even a Justin Bieber, without the internet, without piracy, no one would know about these guys. This is how musicians do things now. They’re releasing music online. You don’t see too many guys standing on the streets anymore handing out promos or mixtapes or whatever. Its all done online, whether its free or not. Its unbelievable how much the industry has had to adapt to this piracy age. It all happened very quickly one year everything was about CDs and the next thing you know everyone’s running around with an iPod. Answering whether it’s had a positive or negative effect on the industry, that’s hard to do. I cant say, I don’t think well know for a while until were looking back. But one things for sure, like I said before, it’s a different industry now than it was fifteen years ago.”

Danny: “Thank you for your time and your extremely insightful responses Ira.”

Ira: “Anytime, it was my pleasure!”

