

Digital Music Technology & Law

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33rd Annual National Conference on Law & Higher Education





DISCLAIMER.....

Overview

- MP3 Technology
- Copyrights
- Fair Use
- Digital Rights Management
- RIAA and DMCA
- P2P Sharing
- Parody
- Ringtones

The MP3 File



MPEG-I AUDIO LAYER 3

MP3 Development



Patents Rights to MP3?



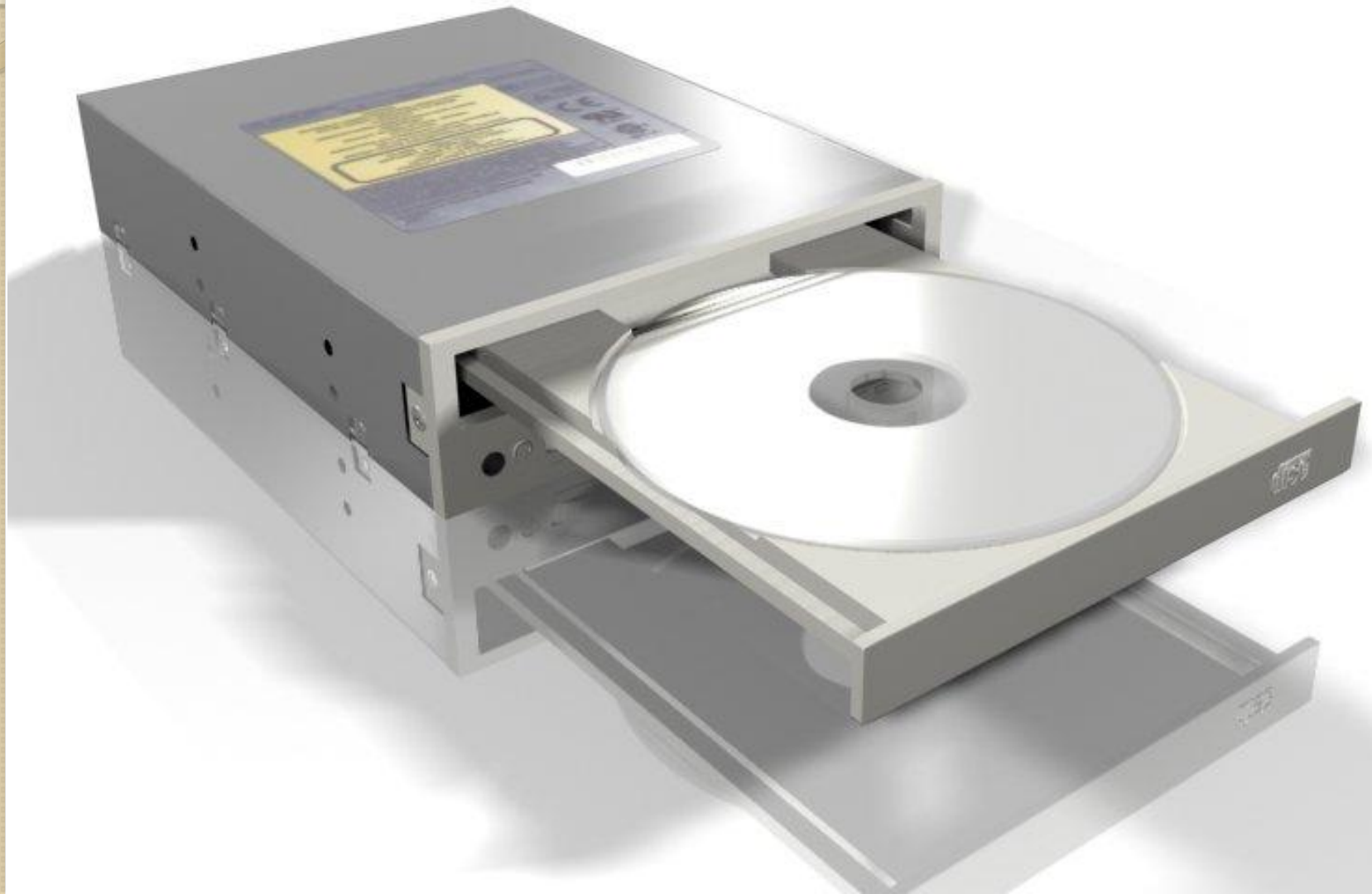


COPYRIGHTS TO DIGITAL AUDIO

Five (5) Exclusive Rights Given to Copyright Owners?

- #1 _____
- #2 _____
- #3 _____
- #4 _____
- #5 _____

#1: Right to Reproduce the Work



#2: Right to Create Derivatives



#3: Distribute Copies to Public



#4: Perform Work Publicly



#5: Display Work Publicly

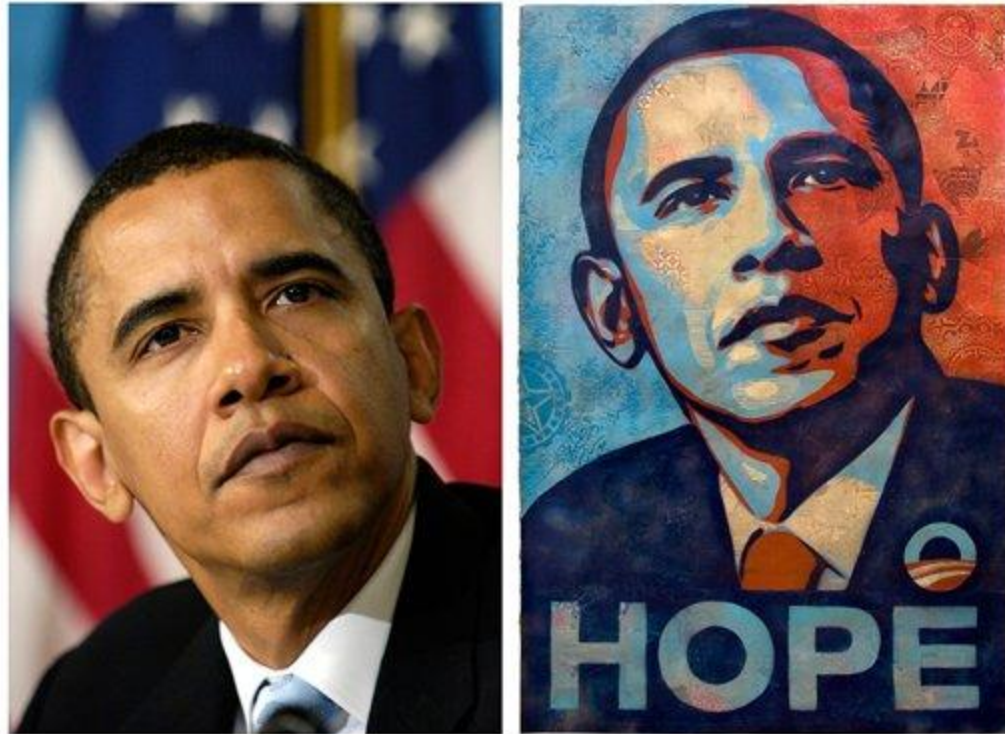


Four (4) Factors of Fair Use

- #1 _____
- #2 _____
- #3 _____
- #4 _____

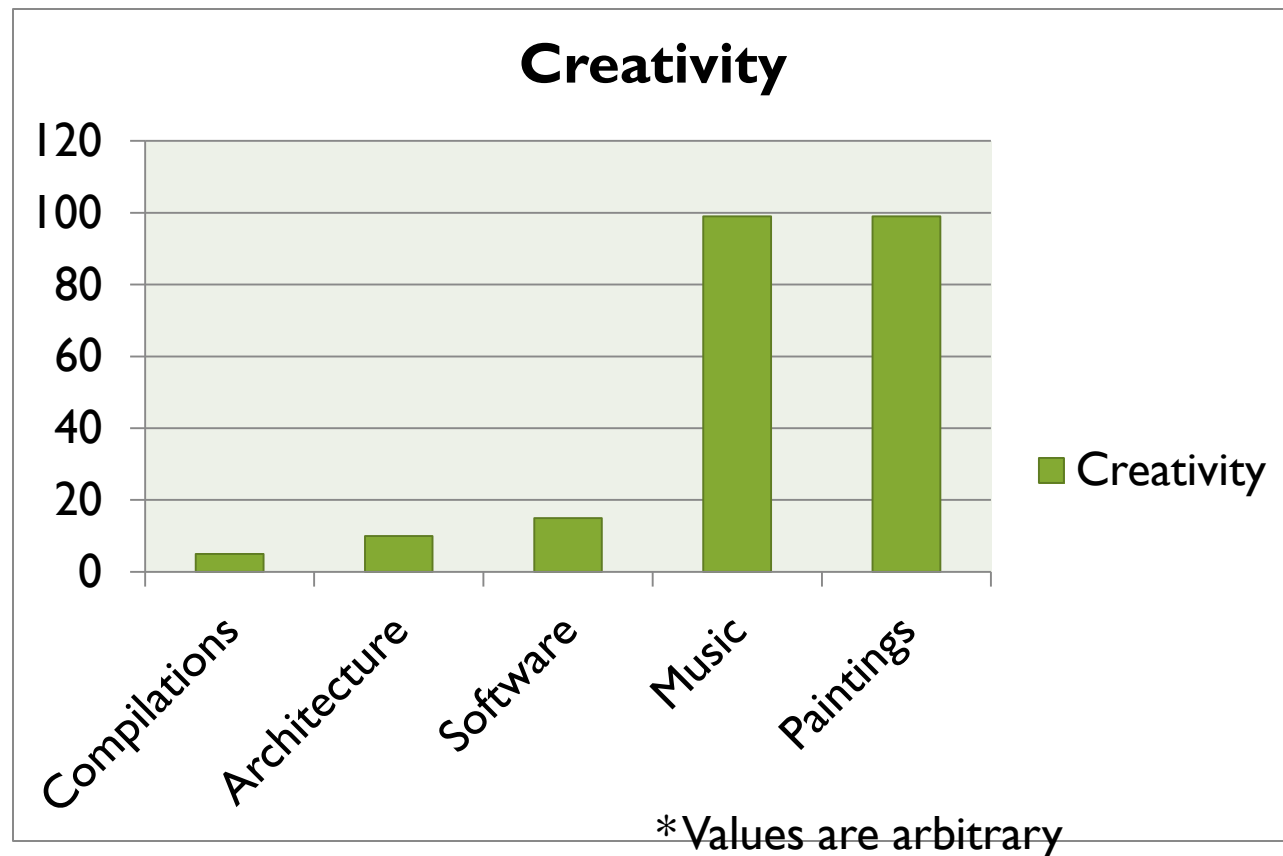
Fair Use Factor #1

- Purpose and Character of Use



Fair Use Factor #2

- Nature of the Use



Fair Use Factor #3

- Portion Used

10% Rule

Fair Use Factor #3

- Portion Used

100% Rule



Fair Use Factor #4

- Effect of Use on Market

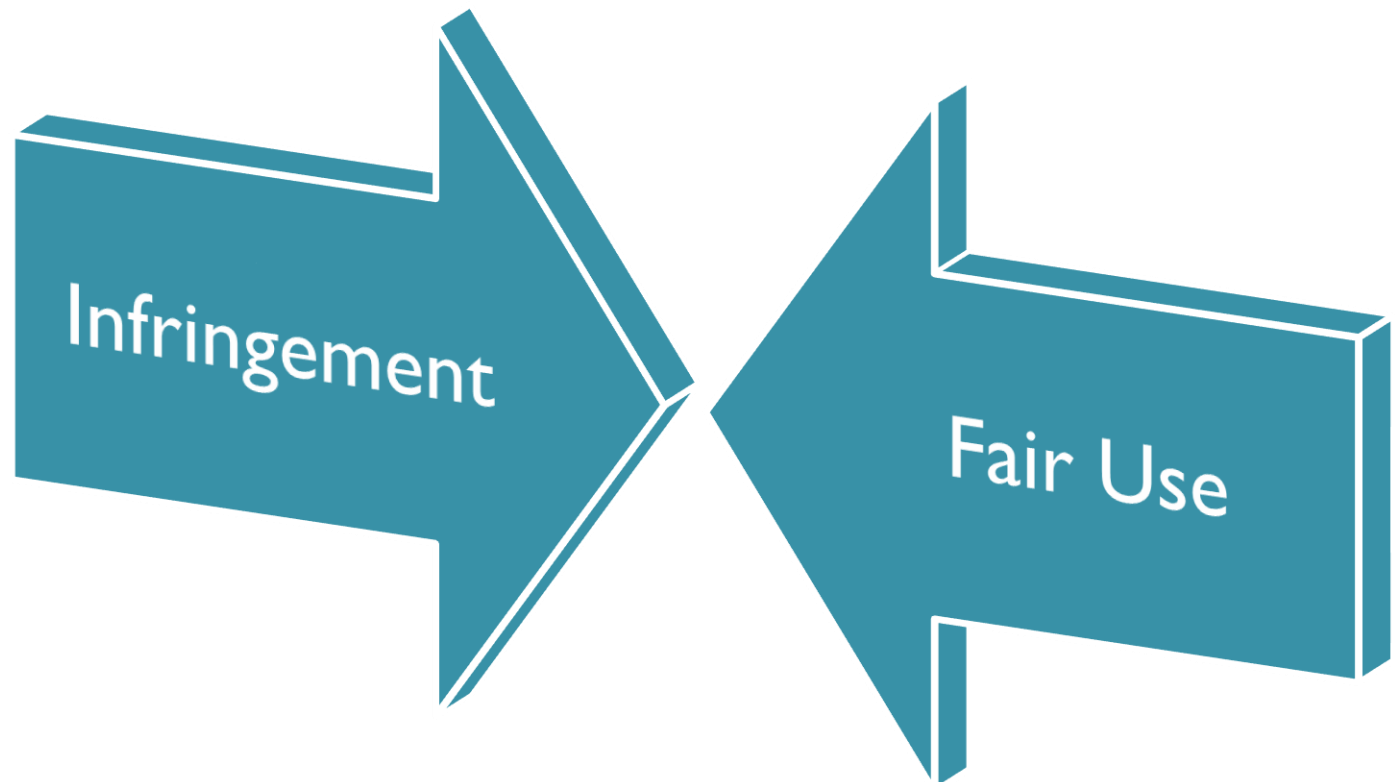


Music CD Sales



DIGITAL RIGHTS MANAGEMENT

DRM Issues



How is digital media different from analog media?



DRM in device licensing



Does HDMI have DRM?



Advanced Access Content System

- Disney
- Intel
- Microsoft
- Panasonic
- Warner Bros.
- IBM
- Toshiba
- Sony

DRM – Content Scrambling System



Jon Lech Johansen

DRM – Contest Scrambling System

```
void CSSdescramble(unsigned char *sec,unsigned char *key) {
    unsigned int t1,t2,t3,t4,t5,t6;
    unsigned char *end=sec+0x800;
    t1=key[0]^sec[0x54]|0x100;
    t2=key[1]^sec[0x55];
    t3=((unsigned int *)(key+2))^((unsigned int *)(sec+0x56));
    t4=t3&7;
    t3=t3*2+8-t4;
    sec+=0x80;
    t5=0;
    while(sec!=end) {
        t4=CSSt2[t2]^CSSt3[t1];
        t2=t1>>1;
        t1=((t1&1)<<8)^t4;
        t4=CSSt5[t4];
        t6((((t3>>3)^t3)>>1)^t3)>>8)^t3)>>5)&0xff;
        t3=(t3<<8)|t6;
        t6=CSSt4[t6];
        t5+=t6+t4;
        *sec++=CSSt1[*sec]^(t5&0xff);
        t5>>=8;
    }
}
```

DeCSS Code Fragment

Sony BMG CD DRM (2005)

- Extended Copy Protection (XCP)
- MediaMax CD-3

Current DRM Approach

- ~\$.99 downloads non-DRM
- Unlimited subscriptions – DRM enabled

May 14, 1998



DIGITAL MILLENNIUM COPYRIGHT ACT

DMCA - Reverse Engineering



eBook's Security - Theory and Practice



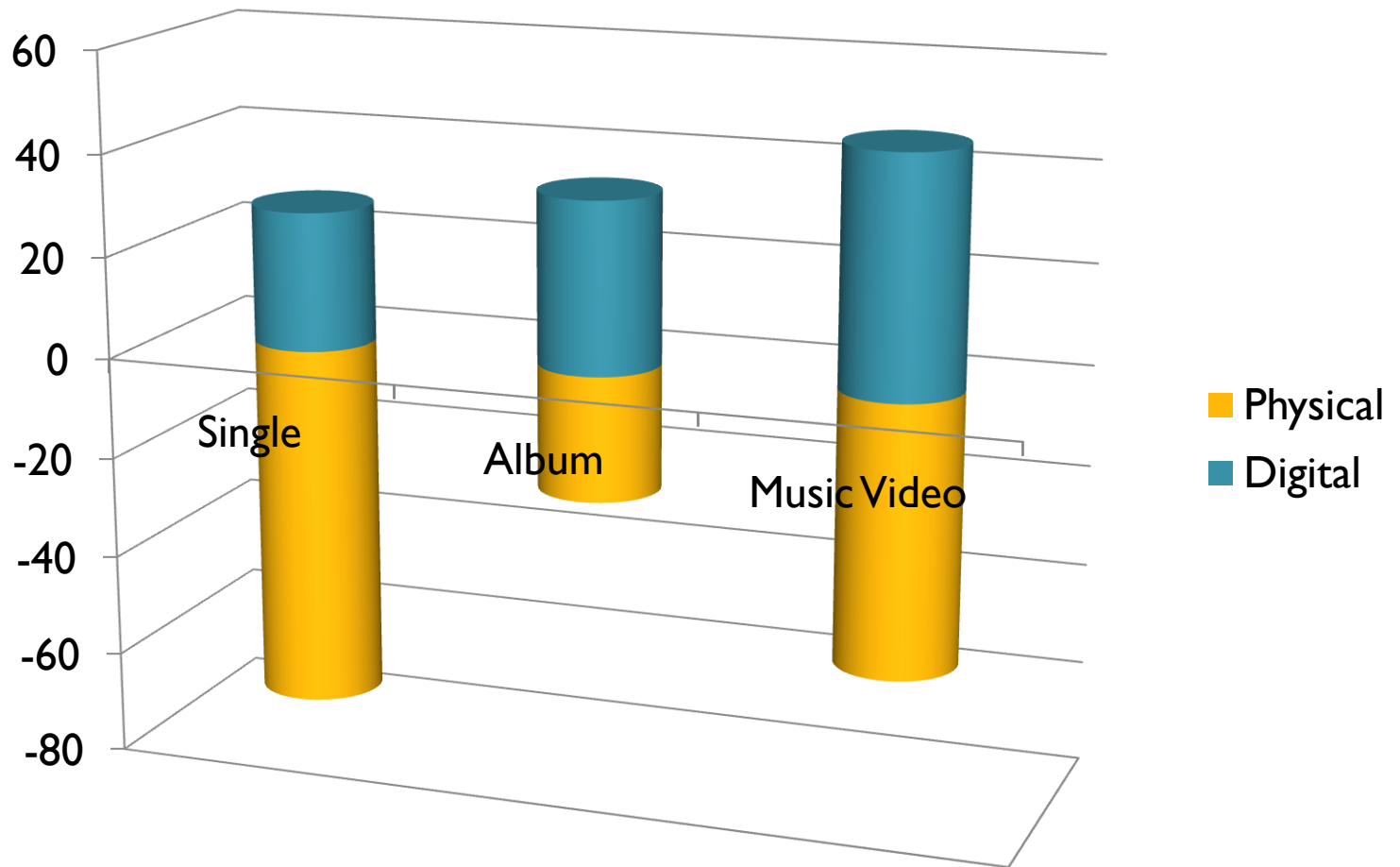
Dmitry Sklyarov



RECORDING INDUSTRY ASSOCIATION OF AMERICA (RIAA)

RIAA Shipment Statistics

% increase/decrease in sales 2007/2008



DMCA Safe Harbor

The screenshot shows a web browser window displaying the Florida State University Office of Audit Services website. The browser's address bar shows the URL <http://www.auditservices.fsu.edu/services/copyright/#contact>. The website has a dark red header with the Florida State University logo and the text "Office of Audit Services". A left sidebar contains a "OAS Contents" menu with links to "OAS Home", "Staff", "Primary Services" (with sub-links for Consulting, Audits, and Investigations), "Sexual Harassment", "Copyright Info:" (with sub-links for Guidelines, FAQ, Policy, and Policy Memo), "Annual Report", "Work Plan", "Training", "Operations Manual", and "Links". At the bottom of the sidebar is contact information for Florida State University. The main content area is titled "Copyright Compliance Guidelines" and includes sections for "Contents:" (with sub-sections for Electronic Objects and Media, and Print Media), "Summary PowerPoint Documents:" (with sub-sections for Electronic Media and Print Media), "Links to Additional Information", "Purpose", "Copyright", "Background", and "I. ELECTRONIC OBJECTS AND MEDIA". The "I. ELECTRONIC OBJECTS AND MEDIA" section includes a sub-section for "Unauthorized Copying and Distribution of Copyrighted Materials" with an "Issue:" heading and a paragraph of text.

Office of Audit Services -- copyright - Windows Internet Explorer provided by Smith & Hopen, PA

<http://www.auditservices.fsu.edu/services/copyright/#contact>

Office of Audit Services -- copyright

FLORIDA STATE UNIVERSITY

Office of Audit Services

OAS Contents

- OAS Home
- Staff
- Primary Services
 - » Consulting
 - » Audits
 - » Investigations
- Sexual Harassment
- Copyright Info:
 - » **Guidelines**
 - » FAQ
 - » Policy
 - » Policy Memo
- Annual Report
- Work Plan
- Training
- Operations Manual
- Links

Florida State University
407 Westcott
P.O. Box 3061390
Tallahassee, FL
32306-1390
Phone (850) 644-6031
Fax (850) 644-2576

Copyright Compliance Guidelines

Contents:

- Electronic Objects and Media**
 - Frequently Asked Questions - Electronic Materials
 - TEACH Act (for online course delivery)
- Print Media**
 - Frequently Asked Questions - Print Media

Summary PowerPoint Documents:

- Electronic Media
- Print Media

Links to Additional Information

Purpose

This guide is intended to encourage and promote legitimate use of copyrighted material, regardless of the form or format in which it exists. This document provides descriptions of issues, guidelines, frequently asked questions and related sources for proper consideration of the intellectual property rights of others. These are provided to assist in understanding the acceptable use practices of electronic objects and media, as well as print media, as they relate to copyright compliance.

Copyright

A copyright provides the rights and protections granted by the laws of the United States to the authors of "original works of authorship." By definition this consists of literary, musical (including accompanying words), dramatic (including accompanying music), sound recordings, motion picture, other audiovisual, pantomimes and choreographic, pictorial, graphic, sculptural, architectural and certain other intellectual works.

Background

The 1976 Copyright Act generally provides the owner of a copyright the exclusive rights to reproduce a copyrighted work, prepare derivative works, distribute copies, perform publicly, or display a copyrighted work publicly. The Copyright Office of the Library of Congress registers these copyrights.

[top^](#)

I. ELECTRONIC OBJECTS AND MEDIA

Unauthorized Copying and Distribution of Copyrighted Materials

Issue: Unauthorized Electronic Copying and Distribution of Copyrighted Materials

The motion picture, gaming, recording and software industries have legitimate objections to the unauthorized copying and distribution of copyrighted materials in electronic form. These complaints refer to works that are typically in the form of movies, games, music, TV programs, electronic books, etc. Making unauthorized copies of these materials is a COPYRIGHT INFRINGEMENT.

Internet | Protected Mode: On

DMCA Safe Harbor

00668098

Amended Interim Designation of Agent to Receive Notification of Claimed Infringement

Full Legal Name of Service Provider: The Florida State University

Alternative Name(s) of Service Provider (including all names under which the service provider is doing business):

Address of Service Provider: 222 South Copeland Street; Tallahassee, Florida 32306

Name of Agent Designated to Receive Notification of Claimed Infringement: Joseph A. Lazor

Full Address of Designated Agent to which Notification Should be Sent (a P.O. Box or similar designation is not acceptable except where it is the only address that can be used in the geographic location):
Director of Information Technology Services; 68107 University Center C; Tallahassee, Florida 32306-2620

Telephone Number of Designated Agent: 850-644-0062

Facsimile Number of Designated Agent: 850-644-0068

Email Address of Designated Agent: dmca@fsu.edu

Identify the Interim Designation to be Amended, by Service Provider Name and Filing Date, so that it may be Readily Located in the Directory Maintained by the Copyright Office: David P. Coury

Designating Service Provider: [Redacted] Date: 6-29-11

Typed or Printed Name and Title: David P. Coury, Chief Audit Officer

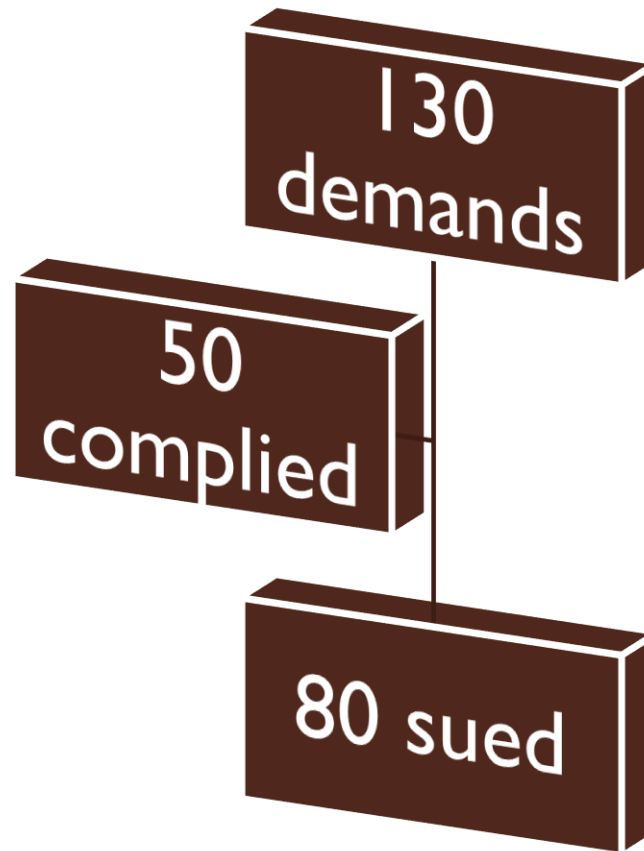
Note: This Amended Interim Designation Must be Accompanied by a Filing Fee*
Made Payable to the Register of Copyrights.
*Note: Current and adjusted fees are available on the Copyright website at www.copyright.gov/docs/fees.html

Mail the form to:
Copyright I&R/Recordation
P.O. Box 71537
Washington, DC 20024

160991997

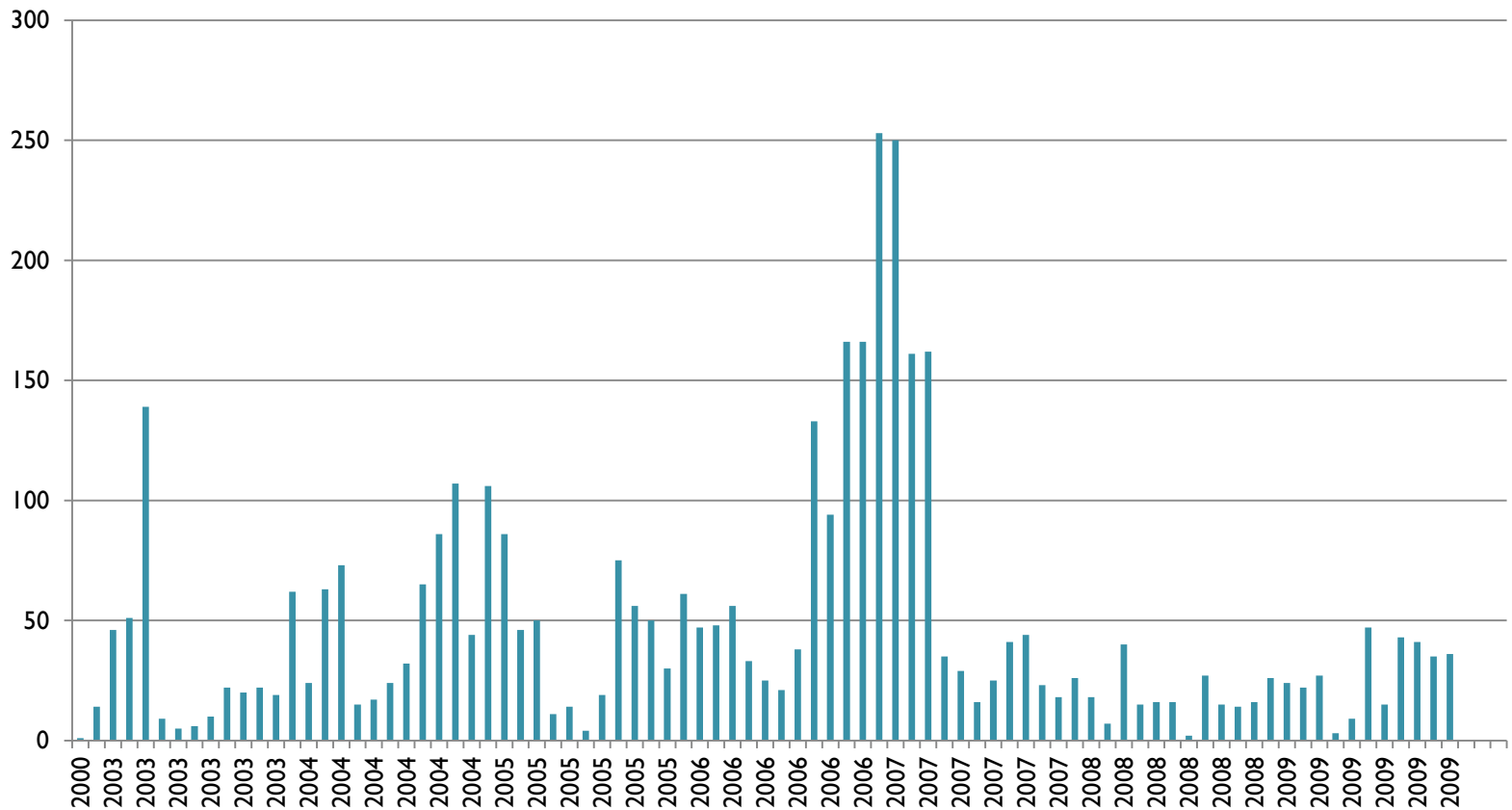
160991997

RIAA 2007 demands letters to USF



Claims of © Infringement to USF

Number of DMCA Notices



Source: USF General Counsel's Office

Lenz v. Universal Music Corp.



Lenz v. Universal Music Corp.



Capitol v. Thomas



Napster, Grokster, et al.



PEER-TO-PEER FILE SHARING

P2P – Entrepreneurs



Napster

Napster v2.0 BETA 7

File Actions Help

Home Chat Library Search Hot List Transfer Discover Help

Artist: Find it! Bitrate:

Title: Clear Fields Connection: AT LEAST DSL

Max Results: Advanced << Ping time:

☒ Ping search results

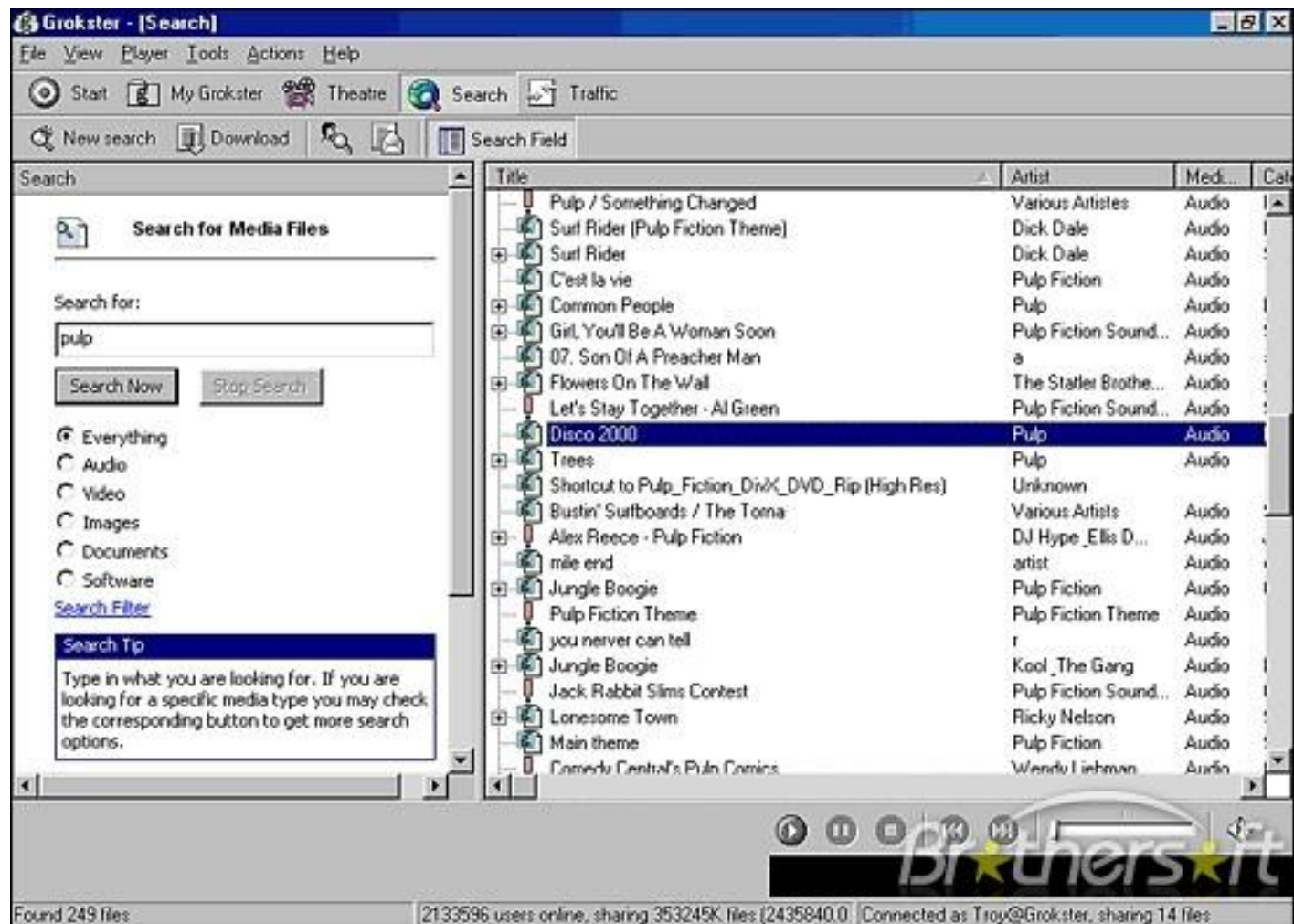
Filename	Filesize	Bitrate	Freq	Length	User	Connection	Ping
White Album\be11b - 12 - revolution 9.mp3	12,053,653	192	44100	8:16	therealh...	DSL	50
White Album\be11b - 08 - revolution 1.mp3	6,138,531	192	44100	4:15	therealh...	DSL	50
Past Masters Volume Two\be15 - 08 - revolution.mp3	4,912,821	192	44100	3:25	therealh...	DSL	50
Beatles - Revolution 1.mp3	3,068,032	96	44100	4:15	ryanm1c	T3	90
The Beatles_1 Revolution 9 master version, RS1(mono).mp3	7,489,536	128	44100	7:42	ryanm1c	T3	90
nbd\the_revolution-nbd.mp3	2,589,304	160	44100	2:12	Wisema...	DSL	100
Napster\Talkin' Bout A Revolution.mp3	3,196,928	160	44100	2:41	wakflakes	T1	110
Music\Revolution 1993.mp3	24,672,131	320	44100	10:08	yoshizumi	DSL	120
Music\Purple Rain - Prince And The Revolution - The Beautiful Ones[1].mp3	3,772,105	96	44100	5:12	mjking46	T1	131
Music\The Beatles - Revolution.mp3	3,282,624	128	44100	3:26	donnie2...	T3	131
Music\Queensryche\Operation Mindcrime=Revolution Calling.mp3	2,473,200	128	44100	2:36	frankief...	DSL	140
Prince and the Revolution - Raspberry Beret.mp3	3,402,470	128	44100	3:33	xmurdoc	DSL	141
Sway and King Tech feat. Rza, Eminem, KRS-One, Ezibit and DJ Revolution - The Anthem.mp3	5,439,488	160	44100	4:31	JtheLover	T1	160
Coalesce 012 Revolution in Just Listening\09-They Always Come In Fall.mp3	2,118,272	128	44100	2:15	youasth...	T1	160
Coalesce 012 Revolution in Just Listening\08-Counting Murders and Drinking Beer (the \$46000 escap...	2,454,384	128	44100	2:35	youasth...	T1	160
Coalesce 012 Revolution in Just Listening\07-Jesus In the Year 2000 Next On the Shit List.mp3	2,839,324	128	44100	2:59	youasth...	T1	160
Coalesce 012 Revolution in Just Listening\06-Where the Hell Is Rick Thorne These Days.mp3	1,852,523	128	44100	1:59	youasth...	T1	160
Coalesce 012 Revolution in Just Listening\05-Sometimes Selling Out Is Waking Up.mp3	3,219,249	128	44100	3:22	youasth...	T1	160
Coalesce 012 Revolution in Just Listening\04-While the Jackass Operation Spins Its Wheels.mp3	2,275,915	128	44100	2:24	youasth...	T1	160
Coalesce 012 Revolution in Just Listening\03-Burn Everything That Bears Our Name.mp3	2,300,575	128	44100	2:26	youasth...	T1	160
Coalesce 012 Revolution in Just Listening\02-cowards.com.mp3	2,330,250	128	44100	2:28	youasth...	T1	160
Coalesce 012 Revolution in Just Listening\001-What Happens On the Road Always Comes Home.mp3	2,965,548	128	44100	3:07	youasth...	T1	160
and everything else\weakerthans - ringing of revolution.mp3	3,312,326	128	44100	3:28	youasth...	T1	160
Beatles\Beatles - Revolution.mp3	4,874,385	192	44100	3:24	geenljr	T1	180
World-Wide-Message-Tribe-Revolution.mp3	3,377,663	128	44100	3:32	sh8463	DSL	190
Bad Religion\Victims of the Revolution.mp3	3,154,337	128	44100	3:18	robertje...	T1	240
[Dance Dance Revolution] Get Up 'n Move.mp3	1,272,740	128	44100	1:23	pmckni...	DSL	240
Music\Pantera - Revolution is my name.mp3	5,103,616	128	44100	5:17	POD4Bi...	DSL	261
Music\Pantera - Revolution is my name.mp3	5,103,616	128	44100	5:17	POD4Bi...	DSL	261
Music\Pantera - Revolution is my name.mp3	5,103,616	128	44100	5:17	POD4Bi...	DSL	261
Music\Pantera - Revolution is my name.mp3	5,103,616	128	44100	5:17	POD4Bi...	DSL	261

Returned 82 results.

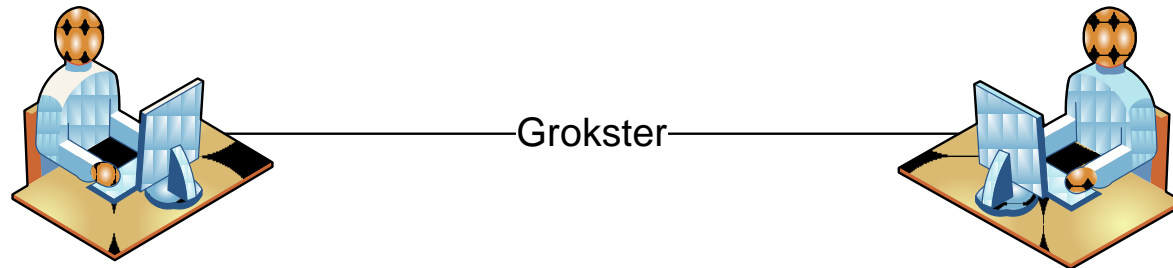
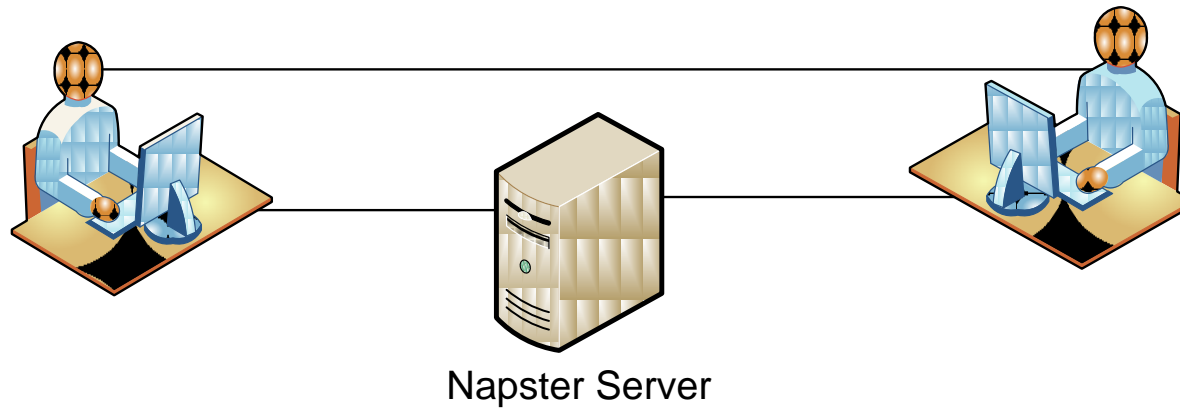
Get Selected Songs Add Selected User to Hot List

Online (dwiner): Sharing 368 files. Currently 871,800 files (3,524 gigabytes) available in 7,119 libraries.

Grokster



Functional Differences



Napster Defenses



Grokster Defenses



Sony Defense



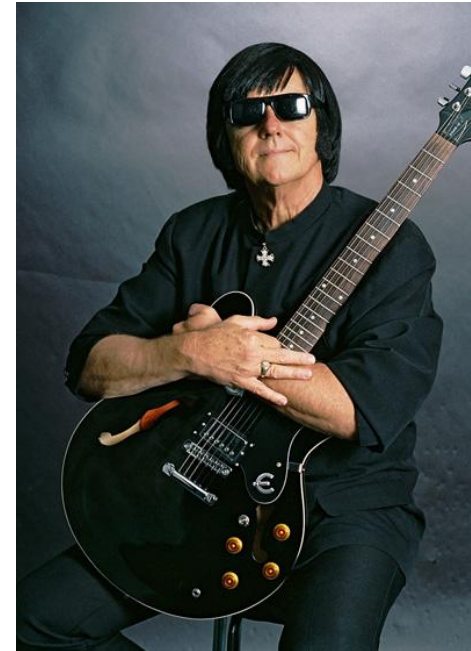
Grokster's Sins (according to U.S. Supreme Court)



Dec. 2008 RIAA Shifts Policy



Campbell v. Acuff-Rose Music



Four (4) Factors of Fair Use

- #1 Purpose and Character of Use
- #2 Nature of Copyrighted Work
- #3 Amount Used
- #4 Effect Upon Potential Market

AT&T and ASCAP



RINGTONES & RINGBACKS


AT&T Media Mall - Windows Internet Explorer provided by Smith & Hopen, PA

http://mediamall.wireless.att.com/sf/storefront/endUserHTMLDir.jsp

File Edit View Favorites Tools Help

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



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My Chick Bad (Chorus)	Ludacris feat. Nicki Minaj	 BUY
Baby	Justin Bieber feat. Ludacris	 BUY
BedRock	Young Money feat. Lloyd	 BUY
How Low (Can You Go)	Ludacris	 BUY
Everything To Me	Monica	 BUY
Hey, Soul Sister	Train	 BUY
Hey Daddy (Daddy's Home) (Ft. Plies)	Usher	 BUY
Nothin' On You (Ft. Bruno B.O.B. Mars)		 BUY
Imma Be	Black Eyed Peas	 BUY
Telephone (Intro)	Lady GaGa feat. Beyonce	 BUY
Blah Blah Blah (Ft. 3OH!3)Ke\$ha		 BUY
Lil Freak (Ft. Nicki Minaj)	Usher	 BUY
Ando Bien Pedo	Banda Los Recoditos	 BUY
Hillbilly Bone (Ft. Trace Adkins)	Blake Shelton	 BUY
Over	Drake	 BUY
Women Lie, Men Lie (Ft. Lil Wayne)	Yo Gotti	 BUY
A Little More Country Than That	Easton Corbin	 BUY

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"Carry Out" featuring Justin Timberlake & "Say Something" with Drake

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Internet | Protected Mode: On

100%

Four (4) Factors of Fair Use

- #1 Purpose and Character of Use
- #2 Nature of Copyrighted Work
- #3 Amount Used
- #4 Effect Upon Potential Market

Conclusions

- Copyright a powerful tool for owners
- Digital medium has spawned a number of new legal issues.
- Fair use analysis an issue in almost all contested © cases.



THE END

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