

CAMPUS TECHNOLOGY

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Lost Under the Streetlight

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A cop walking his beat one night finds a drunk on his knees, searching for something on the street. The cop asks the drunk, "What are you doing?" "Looking for my car keys," says the drunk. The cop asks, "Where did you lose your keys?" "I don't know," the man answers. The cop, a bit perplexed, asks, "Then, why are you looking here if you don't know where you lost your keys?" Responds the drunk, "Because the light is better here, under the streetlight."

Admittedly, this is not a great joke. But it is a telling joke: The drunk is taking the easy way out, yet given his search strategy, it's unlikely that he will find the lost keys. The story came to mind early in September as I read a short (five-page) report prepared by the Joint Committee on the Higher Education and Entertainment Communities on the Progress of Addressing Illegal File Sharing on College Campuses. As described by *The Chronicle of Higher Education* (Sept. 3, 2004), the Joint Committee is a "higher education and entertainment industry group" that has "scrutinized song-swapping among college students over the past two years." The Committee's co-chairs are Penn State president Graham Spanier, and Cary Sherman, president of the Recording Industry Association of America (www.riaa.org). The Joint Committee's September report summarizes the efforts of a growing number of colleges and universities to "address the challenges presented by digital copying and distribution ... through peer-to-peer (P2P) file-sharing networks."

The Joint Committee's report was submitted to the Subcommittee on the Courts, the Internet, and Intellectual Property of the House Judiciary Committee, which, according to the RIAA Web site, "has long been interested in illegal file-sharing on college campuses."

Stipulating the Facts

As they say in law school (or at least in the movie *Paper Chase*), what are the facts of this case?

Fact One—Let us agree that copyright is a good thing: authors, artists, musicians, and the corporations involved in developing and distributing artistic work should enjoy the legal protections and financial benefits of copyright.

Fact Two—Let us agree that long before the Internet, the Web, Napster, and Kazaa, many individuals who purchased recorded music also made copies, either for themselves or for family and friends. Although unhappy about this private duplication of content, the recording industry did not make a major effort to track down whoever may have been buying blank cassettes at Radio Shack.

Fact Three—Let us agree that many individuals, including—but not limited to—those of "college-age" (ages 18 to 68?) have used the Internet to access and download digital content (i.e., music, movies, and other media) using P2P networks, and have done so in violation of the letter and spirit of copyright.

Fact Four—Moreover, let us agree that circa 2000 (The "Napster I" era), college students in on-campus housing represented perhaps the largest identifiable population of individuals who had generally unrestricted 24/7 access to broadband, i.e., high-speed Internet services.

Fact Five—Finally, let us also agree that not all 16 million full- and part-time college students enrolled in more than 4,000 two- and four-year public, private, and for-profit degree-granting American colleges and universities have 24/7 access to campus broadband services. The actual number of college students who enjoy 24/7 broadband access probably amounts to some 2.5 million students, primarily those full-time undergraduates who are fortunate enough to live in on-campus housing and dorms.

Connecting the Dots

Let's now describe the dots that seem to define the media industry's persistent complaint about "song-swapping among college students."

First—College students are a subgroup of the larger "youth population," ages 12 to 30, that is the nation's primary consumer of music, movies, and media.

Second—College students in wired campus dorms were among the first to experience unrestricted access to broadband.

Third—The late 1990s arrival of Napster as an unrestricted P2P file-sharing utility enabled individuals with access to high-speed networks (including but not limited to college students) to download digital content, including music and movies often in violation of copyright.

Connecting the dots led the RIAA and others in the media industries to portray college students as digital pirates: thoughtless, vile villains who steal music and movies with little regard for copyright, intellectual property, the creative efforts of artists, actors, and musicians, and the enabling financial investments of music distributors and movie studios.

Additionally, beyond targeting college students, the RIAA and others in the media industries have also attempted to hold colleges and universities—as the Internet service providers (ISPs) for college students—implicitly culpable for the admittedly inappropriate

downloading of music and media on campus networks.

That Was Then

Today, various IT industry sources estimate that more than 23 million American households enjoy high-speed Internet access. This means that college students are just another subgroup within the larger and fast-growing population of consumers who have broadband services provided by Adelphia, Verizon, Comcast, Cox, Earthlink, SBC and Time Warner, among others.

Moreover, colleges and universities are far more aggressive and vigilant about content and copyright issues than are the consumer ISPs. For example, data from the Campus Computing Survey (www.campuscomputing.net) reveal that four-fifths of US universities and two-thirds of four-year colleges have (and enforce) policies that address digital content on campus networks. As noted in the Joint Committee report, many institutions have made changes in their acceptable use policies; some now require incoming students to complete an online tutorial that includes information about copyright issues before issuing e-mail accounts.

Why Us?

Why, then, do the media industries and media reports continue to focus on college students as the culprits in the public conversation about digital piracy? Consider the Reuters report of September 30 ("Recording Industry Sues 762 for Net Music Swaps"), describing RIAA's September 2004 lawsuits against 762 people suspected of distributing music over the Internet, including "students at 25 different colleges and universities, where the prevalence of high-speed

networks and cash-poor students has led to an explosion of peer-to-peer traffic." Yet, the RIAA's September 30 press release, which is the basis for the Reuters report, indicates that 32 of the 762 individuals just targeted by the September 2004 lawsuit are college students.

In the broader context, the RIAA reports that just 191 of the 5,441 individuals who have been the named targets of RIAA P2P lawsuits over the past few years are based on college campuses, using campus networks: that's just 3.5 percent of the RIAA "bad guys." Still, the media industries and the media continue to focus on college students, as opposed to Adelphia, Cox, Comcast, Time Warner, or Verizon—the providers of consumer broadband services that allow their customers to engage in P2P file-sharing. So, how long before the media industries and members of Congress focus their public comments and copyright efforts on the consumer ISPs? When will the consumer ISPs be subjected to the same criticism, and subject to same standards, effectively imposed on colleges and universities?

Searching Under the Streetlight

There's no other way to say it: The continuing efforts to portray college students as the primary source of digital piracy is just wrong. Not to mention ill-informed. The P2P file-sharing activity has shifted from college networks to consumer broadband services. Unfortunately, while the terrain and technologies have shifted, it seems as if the media generals continue to fight the last war. Like the drunk, they continue to look under the streetlight for something they lost elsewhere.