

Internet Copyright Law

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• Intellectual Property

- **Copyright Law** – protects original “works of authorship i.e., literary works, musical works, dramatic works
- **Patent Law** – protects new, useful inventions and processes
- **Trademark Law** – protects words, names and symbols used by manufacturers to identify goods or services
- **Trade Secret Law** – protects valuable information, not generally known, that has been kept secret by its owner.

“An Intellectual Property Law Primer For Multimedia and Web Developers.” J. Dianne Brinson and Mark F. Radcliffe.
<http://www.cfl.org/pub/CADlaw/ip-primer> copyright 1996. (accessed 2/15/01)

Exclusive Rights of Copyrighted Work

Reproduction Right	Right to copy, duplicate or transform work in a fixed form.
Modification Right	Right to modify work or to create a new work.
Public Performance Right	Right to recite, play, or show the work in a public place or through transmission. Does not apply to sound recordings.
Public Display Right	Right to show a copy of the work directly, by film or television in a public place or through transmission
Moral Right	Limits modification or use of the author’s name without permission.

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• Types of Copyright Infringement

- **Direct Infringement** – includes wholesale reproduction and distribution of copyrighted works.
- **Contributory Infringement** – knowingly encouraging infringing activity.
- **Vicarious Infringement** – violation occurs when operator has the ability to supervise users, but chooses not to for financial benefit.

Appeal from the United States District Court for the Northern District of California, Marilyn Hall Patel, Chief District Judge, Presiding. Argued and Submitted October 2, 2000, San Francisco, CA, Filed Feb 12, 2001 (accessed Feb. 15, 2001)

Myths on Internet Copyright Infringement

- Finding something on the net means it is okay to copy without getting permission
- When someone puts something on the net it means they want you to use the material, and therefore you can do anything with it.
- It's okay to copy material of a website without getting permission.
- It's okay to use copyrighted material on a personal website as long as there is no fee to visit the site.

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(Accessed 2/15/01)

“Re-Identification”

- **Data swapping** – switching key information about one person to another with a similar background that lives nearby.
- Re-identification is the technique the census bureau fears could allow marketers and other “intruders” to match the names of people with the anonymous census information they provided prior to data swapping.
- Increasingly powerful computers allow outsiders to match personally identified information for an individual using census data.

“Bureau Blurs Data to Keep Names Confidential” Glenn R. Simpson, Wall Street Journal, Wednesday 14, 2001, p.B1

Fair Use v. Direct Infringement

Napster v. RIAA

(using Digital Millennium Copyright Act as defense)

- **Napster**
 - **Sampling** – users make temporary copies before purchasing
 - **Space-shifting** – user copies something they already own on CD to different medium
 - **Permissive Distribution** by artists.
- **RIAA**
 - **Sampling** – users download a free and permanent copy of music.
 - **Space-shifting** – song is made available to millions, not maintained for personal use only
 - **Permissive Distribution** – was not challenged

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Contributory Infringement

Napster v. RIAA

(using Sony Betamax case as defense)

- **Napster**
 - Like Sony's Betamax, Napster is not able to distinguish between infringing and non infringing files.
 - Like the Betamax, Napster's service offers other legitimate uses such as concert information, promotions.
- **RIAA**
 - Infringing uses of Napster far out weight Non-infringing uses.
 - Napster provides the site and service for infringement.
 - Napster could block users who violate infringement laws if they desired.

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Vicarious Infringement

(as applied to Napster)

- **Financial Benefit**
 - An increase in users = an increase in quality and quantity of music
 - Future revenues are dependent on an increase in user base.
- **Supervision**
 - Napster reported "improved methods of blocking users" as named by the copyright holder.
 - Napster has an electronic bulletin board service that can suspend subscribers' accounts.
 - Reservation of Rights Policy states "right to refuse service and terminate accounts in [its] discretion, including, but not limited to, if Napster believes that user conduct violates applicable law...or for any reason in Napster's sole discretion, with or without cause."

Appeal from the United States District Court for the Northern District of California, Marilyn Hall Patel, Chief District Judge, Presiding. Argued and Submitted 10/2/00, San Francisco, CA, Filed 2/12/01
