

Lab #4 Case Study on Digital Millennium Copyright Act: Napster

Introduction

If someone creates art, what is the value of the creation? How does the creator establish ownership of the art and protect that ownership? What is the government's role in helping protect that person's creation from someone else duplicating and profiting from it?

These are some of the questions to ask when discussing intellectual property and how to protect it. To help protect intellectual property, the United States used established treaties from the World Intellectual Property Organization (WIPO) to extend its own copyright law in the online realm. The result of that copyright extension is now known as the Digital Millennium Copyright Act (DMCA). The DMCA contains a significant number of provisions and exemptions.

In this lab, you will review the Digital Millennium Copyright Act and its provisions. You will also review a case study involving Napster, a company that violated the Digital Millennium Copyright Act.

Learning Objectives

Upon completing this lab, you will be able to:

- Describe the highlights of the Digital Millennium Copyright Act and its provisions.
- Relate the Digital Millennium Copyright Act to the Napster music-piracy case.
- Explain why Napster was not able to hide behind the defense of the Digital Millennium Copyright Act.
- Assess the impact of violations of copyright and the Digital Millennium Copyright Act from a legal, ethical, and information systems security perspective.

Deliverables

Upon completion of this lab, you are required to provide the following deliverables to your instructor:

1. Lab Report file;

Instructor Demo

The Instructor will present the instructions for this lab. This will start with a general discussion about copyright law and the Digital Millennium Copyright Act (DMCA). The Instructor will then present an overview of the DMCA and the case study.

Hands-On Steps

►Note:

This is a paper-based lab. To successfully complete the deliverables for this lab, you will need access to Microsoft® Word or another compatible word processor. For some labs, you may also need access to a graphics line drawing application, such as Visio or PowerPoint. Refer to the Preface of this manual for information on creating the lab deliverable files.

1. On your local computer, **create the lab deliverable files.**

Copyright Versus Trademark Versus Patent

This lab discusses copyright law. It uses the legal case against Napster, enforced by the Digital Millennium Copyright Act. But copyright is only one way to protect intellectual property. The other two are trademarks and patents. How do they differ? How are they the same? For as common as each protection is, understanding why one is used over the other is not as common as you might think.

The primary difference between a copyright, a trademark, and a patent is the type of intellectual property being protected. Other significant differences include for how long the property is protected, how to determine who wins if there's a dispute over ownership, and, basically, how to tell if the property is worthy of being protected.

If you write a song, produce a film, sculpt a piece of art, or write a mobile phone application and wish to protect it, then you will claim a copyright.

If you design a graphic, slogan, or symbol for your company and its product, then you would file for a trademark.

Lastly, if you invent a machine or design a special process, you may wish to file for a patent. A notable and recent change to how patents protect intellectual property is that since March 2013 the patent is awarded to the person who files first for the patent. This is a big change from more than 200 years of awarding the patent to the person who first came up with the invention.

3. **Review** the following case study on the Digital Millennium Copyright Act and Napster:

Napster was a company that used peer-to-peer networking to provide a file-sharing service that gave its users the ability to share music. The company existed only from June 1999 to July 2001.

In December 1999, the Recording Industry Association of America (RIAA) took legal action against Napster for copyright infringements. RIAA, the plaintiff, represented all major record labels in this action. It claimed that Napster violated “exclusive rights for reproduction and distribution of their copyright works.” RIAA claimed that Napster made a “direct” infringement on its copyright and that it was liable for “contributory infringement of the plaintiff’s copyright” and for “vicarious infringement of the plaintiff’s copyright.”

The law that stopped Napster from continuing its operations is the Digital Millennium Copyright Act that was enacted in 1998. The act addresses treaties signed in 1996 at the World Intellectual Property Organization (WIPO) Geneva conference and it contains other provisions. Software and entertainment industries supported the law, but many others opposed it, including academics, scientists, and librarians.

Following are key components of the act:

- It is a crime to circumvent antipiracy measures in commercial software.
- The manufacture, sale, or distribution of code-cracking devices used to illegally copy software is illegal.
- Copyright protection devices may be cracked for the purposes of encryption research, to assess product interoperability, and for the purposes of testing security systems.
- Under certain conditions, anti-circumvention provisions exempt nonprofit libraries, archives, and educational institutions.
- Internet service providers are protected from copyright infringement liability for the act of transmitting information over the Internet.
- Web site content that appears to infringe copyright law can be removed.
- Nonprofit institutions of higher education are protected from liability when faculty and students infringe on copyright.
- “Webcasters” must pay licensing fees to record companies.
- The Register of Copyrights, upon consulting with relevant parties, must provide Congress recommendations for “how to promote distance education through digital technologies” while “maintaining an appropriate balance between the rights of copyright owners and the needs of users.”
- The act says that “nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use....”

4. On your local computer, **open** a new **Internet browser window**.

5. Using your favorite search engine, **search for more information** on the Napster case.

► **Note:**

When developing your answers for the lab, try to remain objective and factual in your responses. Questions regarding whether actions by Napster or RIAA were justified are framed in the legal sense, not in the sense of any goodwill made from music sharing.

6. In your Lab Report file, **describe** the case and be sure to include the following topics:

- How did Napster try to defend itself against RIAA’s claims?
- What does contributory infringement of copyright mean and how did this affect Napster?
- What does material contribution mean and how did this affect Napster?
- What was the court’s decision about the case? What became of Napster?

56 | LAB Case Study on Digital Millennium Copyright Act: Napster

7. In your Lab Report file, **describe** the provisions of the Digital Millennium Copyright Act.
8. In your Lab Report file, **explain** how the Digital Millennium Copyright Act affected the Napster music-piracy case.

► Note:

Consider how the DMCA affects sharing of any intellectual property, not just music. Intellectual property can be anyone's idea or creation, be it art, music, an invention, or a book.