

Importance of Creative Commons

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Abstract

This article was originally called *Graduate Student Ordered to Pay \$675,000* which was a commentary on RIAA's lawsuit against a graduate student for downloading copyrighted music as reported by CBC News on August 1, 2009.

What Happened?

On August of 2009, the Recording Industry Association of America was awarded a judgement of \$675,000¹ from a lawsuit against a graduate student for *thirty (30) instances of downloading copyrighted music*.

This comes out to \$22,500 per "violation" according to the story as reported by CBC News².

The Motive for the Adverse Action

On one hand, this is the major record labels protecting *a business model that has been outmoded and outdated by technology*. The RIAA actually represents the three major recording labels, namely Sony, Warner Brothers, and Vivendi Universal³.

On the other hand, what was copied was *copyrighted commercial music*. By commercial, I mean the record labels, which get most of the money for each copy of the song in question, determine the licensing for the songs, usually allowing you to own a copy of the vinyl, cassette or CD of which the song resides, and then play that copy in a private setting, usually at home, on a portable CD or cassette player when travelling, or in the car.

Suppliers of background music and radio stations (both online and over the air), must obtain a special license to play commercial music on their services (of course allowing for royalty payments to the recording labels).

The introduction of peer to peer file sharing services (starting with Napster), and digitizing of audio recordings made it easier for people to obtain music and play on their computers introduced a copyright concern. However, that concern is nothing new. When travelling, we like to take our music with us. Who has not made copies of vinyl albums to cassette or CD? Before the introduction of media players such as Sansa Fuze⁴ or the more common iPod⁵, we used cassette and portable CD players. RIAA never took such action at that time. One can then speculate that the real reason for the lawsuit has more to do with the decreasing profit margins resulting from digitizing audio and file sharing than the actual copying of music itself. The RIAA could have taken such action when we were copying music to cassettes, but then, some RIAA members⁶ *also sell blank cassettes and CDs*.

The Case for Creative Commons Licensing

What about the recording artists and music composers?

The people who actually recorded the songs and composed the music usually get a mere pittance (around 10 percent at best) for each copy of the recording per contract with the three major labels taking *more than the lion's share of the profits*⁷.

Of course, I do not advocate downloading and sharing copyrighted music. But, how many of you know about the *Creative Commons* licensing concept? Music or other works of art licensed in this manner can be freely distributed, modified, or otherwise collaborated on. There are different types of CC licenses. Some allow for derivative works,

¹This was a unprecedented amount of money for that type of lawsuit at that time against an *individual*.

²<http://www.cbc.ca/arts/music/story/2009/08/01/downloading-payment-boston.html>

³At one time, RIAA represented a much larger list, but due to mergers in the past 40 years, there are now only three

⁴Sansa Fuze is a registered trademark of SanDisk

⁵iPod is a registered trademark of Apple, Inc.

⁶Sony for example is one such company.

⁷Herein lies the *real reason* for this adverse action mentioned in this article.

for example, you can take a piece of music licensed with a CC license that allows for derivative works, and freely include it in a remix. Some CC licenses allow for commercial use, which means you can make money off the music.

However, all CC licenses require that if you use a CC licensed work, you are required to *attribute what you use to the original author of the work*. In addition, you must *license your resulting work under the same or a compatible CC license*.

Jamendo (<http://www.jamendo.com>) and Magnatune (<http://www.magnatune.com>) are examples of music labels where you can freely download and exchange music, or if you are a musician, you can upload your music for distribution under a CC license. These companies make their money from CD sales and donations. Their business model calls for half of their proceeds to go to the artists who record for their labels. Contrast that with a major record label contract.

In the case of the student who downloaded the music in question, had that student gone to a site such as Jamendo, Magnatune, or ccMixter (<http://ccmixter.org>), the situation would have been avoided in the first place.

Note: ccMixter is a place where music and remixes are freely distributable. There is some great music to be found here, and legal for you to download.

There are other places where you can legally download and share music. Go to the Creative Commons site (<http://www.creativecommons.org>) to get a listing.