

# MARIMUN 2024

Filename	Filesize	Bitrate	Freq	Length	User	Connection	Ping
Music\Metalica-The Unforgiven.mp3	2,113,536	128	44100	2:15	aek2cool	Cable	30
Music\Primus - The Thing That Should Not Be (Metalica cover).mp3	6,463,892	128	44100	6:40	karouja	Unknown	41
Incomplete\Metalica - The Unforgiven.mp3	299,008	128	44100	0:24	sam258...	56K	50
Music\Metalica - Master of Puppets.mp3	8,268,331	128	44100	8:30	meekert...	Cable	80
Millenium\[Metalica] No Leaf Clover.mp3	8,237,056	192	44100	5:41	ubung	Cable	100
Music\Metalica- Enter Sandman.mp3	5,312,512	128	44100	5:30	jdbjr	Unknown	100
Music\Metalica - Nothing Else Matters.mp3	6,215,096	128	44100	6:25	jdbjr	Unknown	100
Metalica - The Unforgiven	6,327,400	128	44100	6:32	RedOX...	DSL	101
Music\Metalica - Kill It Steeps	3,777,400	112	44100	4:29	10sami	Unknown	121
Music\Metalica - No Leaf Clover	8,237,056	192	44100	5:41	10sami	Unknown	121
Music\Metalica - The Unforgiven	6,327,400	128	44100	6:32	10sami	Unknown	121
Music\Metalica - Master of Puppets	8,249,728	128	44100	8:29	medicm...	Cable	130
Music\Metalica- And Justice For All.mp3	9,414,656	128	44100	9:40	meltonjeff	DSL	131
Music\Metalica - Whiskey in the jar.mp3	4,871,860	128	44100	5:03	meltonjeff	DSL	131
Music\Metalica - Turn the Page.mp3	5,714,792	128	44100	5:54	meltonjeff	DSL	131
Music\Metalica - Stone Cold Crazy.mp3	4,120,660	128	44100	4:17	meltonjeff	DSL	131
Music\Metalica - No Leaf Clover.mp3	8,237,056	192	44100	5:41	meltonjeff	DSL	131
Music\Metalica - Kill 'em All The Five Men.mp3	2,217,124	192	44100	1:36	meltonjeff	DSL	131
Music\Metalica - (Mission Impossible - I Disappear.mp3	2,467,936	192	44100	1:46	meltonjeff	DSL	131
Mission Impossible 2 - Metalica - I Disappear.mp3	2,467,936	192	44100	1:46	bigNar...	56K	140
Music\Metalica - The Unforgiven II	841,664	128	44100	5:02	shortin...	Unknown	140
Music\Metalica - Wiskey a jar.mp3	4,871,860	128	44100	5:03	upcyd...	Unknown	151
Music\[Metalica] - Enter Sandman	5,312,512	128	44100	5:30	gho...	Unknown	171
Music\Mission Impossible 2 - Metalica - I Disappear.mp3	6,557,858	192	44100	4:32	caseygrl...	Unknown	190
waves\Metalica - Ride The Lightning .mp3	6,350,848	128	44100	6:33	golvw1	Cable	210
Music\Metalica - Whisky in a jar.mp3	6,089,780	160	44100	5:03	Dieuwer...	14.4	210
Music\Metalica_EnterTheSandman.mp3	5,305,863	128	44100	5:29	jmeash	33.6	241
Music\Metalica - Nothing Else Matters.mp3	6,227,968	128	44100	6:26	mrlflatus	56K	241
Metalica - Whiskey In The Jar.mp3	4,886,183	128	44100	5:04	vooodoo...	Cable	250
download\Metalica - The Unforgiven.mp3	6,131,096	128	44100	6:20	finewine0	56K	271
My Music\Metalica - Master of Puppets.mp3	7,229,074	112	44100	8:30	imboy2	Cable	331

Rocking the Music Industry



## Napster v. A&M Records Case

*Semi Legal Committee*

# Table Of Contents

---

Land Acknowledgement.....	3
Letter From The USG & Deputy USG GA/SA.....	4
Letter From The Dias.....	5
Topic Introduction.....	6-7
What is Napster?.....	7
Napster Case.....	8
Committee Description.....	8
Topic 1: Innovation and the Protection of Artists’ Rights in the Music Industry.....	8-9
Intellectual Property.....	9
Digital Revolution .....	9
Music as Intellectual Property.....	10
Copyright Law in the USA.....	11
Case Study: Vanilla Ice vs. Queen and David Bowie.....	11
The Napster Case.....	12
Fair Use as Applied to Napster.....	13
Protecting the Integrity of Artists Work.....	14
Topic 2: Public Access to Music.....	14
The History of Music Distribution.....	15
Revolutionizing Music Sharing and Accessibility.....	16
Effects on the Music Industry.....	17
Metallica’s Lawsuit Against Napster & its Impact on Artists’ Musical Integrity.....	17
Napster’s Cultural Impact: Redefining Music Consumption and Distribution.....	18
Guiding Questions.....	19
Public Access to Music.....	20
Character Guide .....	21
Bibliography.....	29

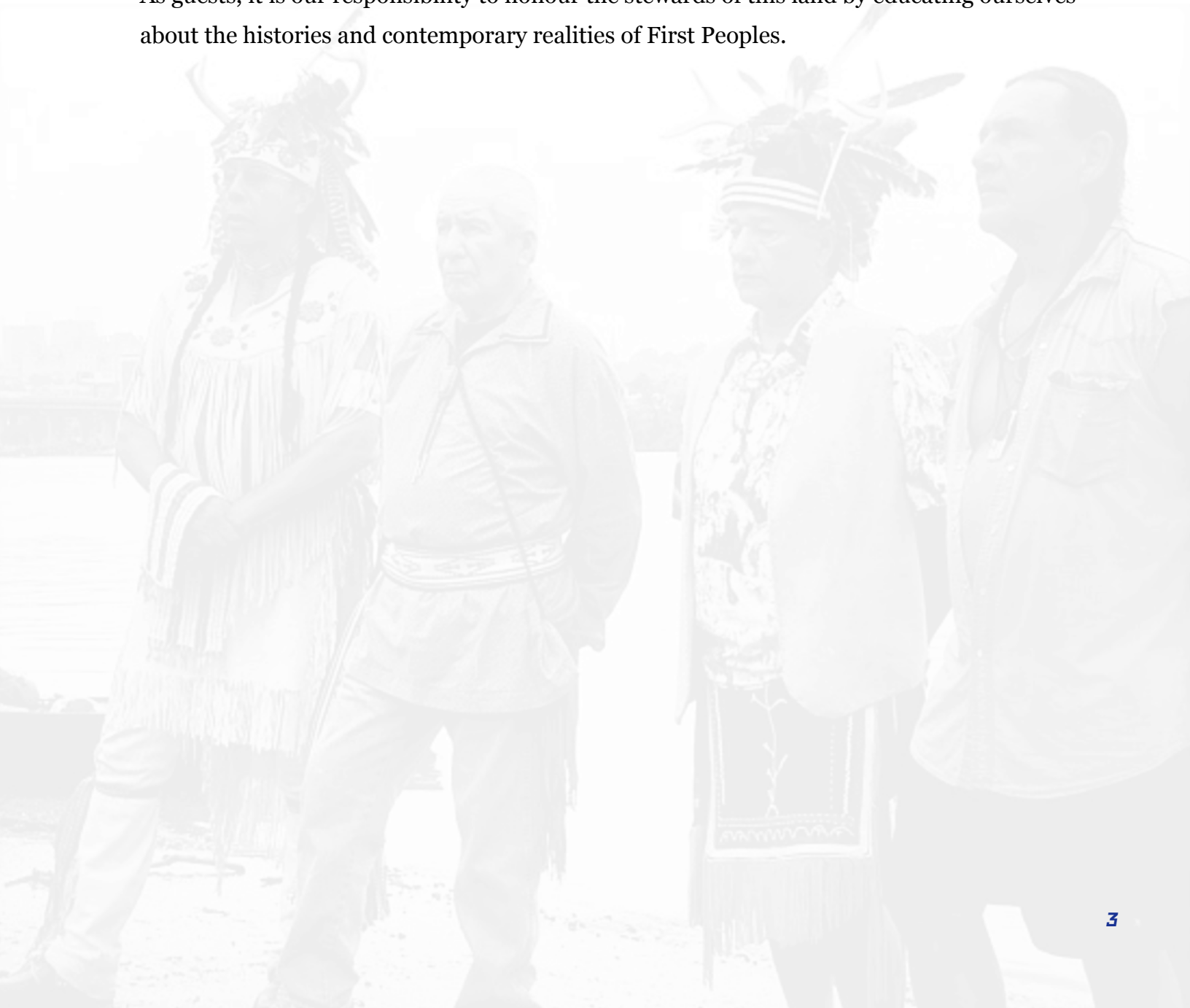
## Land Acknowledgement

---

Marianopolis College is located on unceded Indigenous lands. The Kanien'kehá:ka Nation is recognized as the custodians of the lands and waters on which we gather today.

Tiohtià:ke/Montréal is historically known as a gathering place for many First Nations, including the Haudenosaunee and Anishinabeg nations. Today, it is home to a diverse population of Indigenous and other peoples. We respect the continued connections with the past, present and future in our ongoing relationships with Indigenous and other peoples within the Montreal community.

As guests, it is our responsibility to honour the stewards of this land by educating ourselves about the histories and contemporary realities of First Peoples.



# Letter From The USG and Deputy USG of General Assemblies and Specialized Agencies

---

Dear Delegates,

It is our pleasure to welcome you to the 37th iteration of Marianopolis College's Model UN conference! Our names are Alyssa and Angie and we are this year's Under Secretary General and Deputy Under Secretary General of General Assemblies and Specialized Agencies. Joining the Model UN community has been one of the most immersive experiences we have had at the college. The rewarding feeling of having your resolution passed, as well as the life long friends you meet along the way make the MUN experience something that we will treasure forever. Through MariMUN, we have been introduced to a world of cooperation, diplomacy, and communication, which are skills that we will keep close to us forever.

Numerous members from the MariMUN team have spent countless hours working towards this conference hoping to provide you with a memorable weekend. We have had such a wonderful time brainstorming committee ideas and finalizing topic selections to hope that you have the most rewarding MariMUN experience possible. This committee will allow you to have riveting discussions on legal issues that are taking the music industry by storms!

We are so excited to be able to present to you our background guide for the Napster v. A & M Records Case! This document will provide you with an extensive overview of the topic, as well as any contextual information you need. Thank you for your participation, we are looking forward to meeting you all!

Best regards,

**Alyssa Guaragna**

*USG GA and SA*

**Angie Xiong**

*Deputy GA and SA*

# Letter From The Dias

---

Hello, Esteemed Delegates!

We hope that this letter finds you well and in good spirits. As Co-Chairs of the Rocking the Music Industry committee, we would like to extend our appreciation for your active participation and commitment to this conference; regardless of whether this is your first conference or your hundredth, you are at the right place!

My name is Jiayin, and we will be spending this weekend in this committee alongside my co-chair Lina. I am currently in my first year of law school at McGill and I had the immense pleasure of serving as Secretary-General last year, and as USG of Crisis the year before. MariMUN holds a special space in my heart as it is the second conference I participated in and the first during which I had the courage to give my first speech. At its core, it has always been a friendly conference where first-time MUNers can dip their toes into this unique world and more advanced delegates can get more creative without pressure!

Hey there, my name is Lina, the other chair of this committee. I am a third year at McGill Law, and I have the tremendous pleasure of coming back to Marianopolis to listen to dynamic debate on a legal topic that I happen to be highly interested in. I was MariMUN's Director of Communications back in 2020-2021 (yes, the COVID year), and I was a chair at the 2022 conference (which was also virtual), so I am incredibly excited to finally be back in person! MUN was elemental to my growth as a public speaker, so I care immensely about making it a safe and welcoming space, where everyone feels comfortable voicing their thoughts. I sincerely hope we can spend a fun, energetic, and fruitful weekend together, and I can't wait to meet you all!

It is important to emphasize that MUN serves as an opportunity for each delegate to feel at ease expressing their thoughts, discovering their unique voice, and welcoming the perspectives of others. We invite all of you to join us in establishing an environment conducive to passionate, enjoyable, and respectful discussions, ensuring that everyone feels included. So, if you are ready for it...let the games begin!

If you have any questions or concerns about the conference—including the position paper, research, or Model UN in general—please do not hesitate to reach out via the following email: [committees@marimun.ca](mailto:committees@marimun.ca). Thank you for your involvement, and we look forward to meeting you all!

Sincerely,  
Lina Li & Jiayin Zhou  
Co-Chairs, MariMUN 2024

## TOPIC INTRODUCTION

---

### *Topics*

1. Innovation and the Protection of Artists' Rights in the Music Industry
2. Public Access to Music

### *What is Napster?*

Napster came to life on June 1st of the year 1999, launched by Shawn Fanning and Sean Parker. It was created as a peer-to-peer (P2P) sharing network to allow people to share their digital music files - usually in MP3 format - with other participants. From its conception, Napster became extremely popular, as it provided easy and free of charge access to millions of people surfing the internet and gave them the privilege to use an enormous amount of free audio files that could, in addition, be shared with other members of the service. Napster included a plethora of resources for music lovers, such as the aforementioned MP3 files -

stemming from audio sources like CD's and vinyl records - as well as rare albums, the latest top hits, and, last but not least, bootleg recordings.<sup>1</sup>The latter is where the problem essentially starts.

Napster allows for files to be downloaded through MusicShare, a platform that gives access to publicly filed songs. Users would log into their Napster account, search up the song they wished to download, and find all the possible links from which they could download the song. Napster worked in unison with MusicShare to provide the smoothest and most effective downloading process for their users.

Although this service may be great for music lovers, the question that now arises is: What about the artists? Napster contains one major drawback: all of their services are provided without any copyright approvals. This means that Napster is essentially an illegal service and that most of its activities are unlawful.

## ***The Case***

Since its creation, Napster has experienced many clashes with the law, ultimately leading to the main case leading this committee: *A&M Records, Inc. v. Napster, Inc.*

The Recording Industry Association of America (RIAA) has had Napster on their radar for a while now, and the discovery of their illegal activities finally led to legal action which brought the case to court here today. Indeed, both Metallica and Dr.Dre, who shared the same litigator and law firm, filed lawsuits against Napster. Through the RIAA, A&M Records filed a lawsuit by reason of contributory and vicarious copyright infringement under the US Digital Millennium Copyright Act (DMCA).

---

<sup>1</sup> Harris, Mark. "A Short History of Napster." Lifewire, February 16, 2023. <https://www.lifewire.com/history-of-napster-2438592>.

This legal case dealt with the issue of whether sharing copyrighted works in the form of digital audio files was considered fair use.<sup>2</sup> The aforementioned companies sued Napster with the goal of stopping them from “downloading, uploading, transmitting, or distributing copyrighted music”.<sup>3</sup>

## ***The Committee***

Taking place in the early 2000s, this committee pushes delegates to have an effective and progressive discussion surrounding how new technologies, including Napster, have been revolutionizing the music industry. Through this necessary conversation jump started by the Napster trial, solutions and collaborations will form to ensure that the future of the music industry is protected to the best of their abilities.



# **1 - Innovation and the Protection of Artists' Rights in the Music Industry**

---

## ***Intellectual property***

Intellectual property (IP) is a broad category of legal rights protecting creations of the mind, such as inventions, ideas, designs, symbols, names, artistic works, etc. It consists of four

---

<sup>2</sup> *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004 (9th Cir. 2001). Accessed November 21, 2023. <https://www.copyright.gov/fair-use/summaries/a%26mrecords-napster-9thcir2001.pdf>.

<sup>3</sup> Nair, Sushmita. “A&M Records, Inc. v. Napster Inc..” *IP Matters*, September 26, 2022. <https://www.theipmatters.com/post/a-m-records-inc-v-napster-inc>.



broad categories of law, each representing a type of IP: patents, trademarks, trade secrets, and copyrights.<sup>4</sup> There are certain protections which give exclusive rights to the creators or owners of IP, allowing them to control their creations for a specific amount of time. In the case at hand, we will focus primarily on the copyright law branch of IP.

## **Digital Revolution**

The rapid development of digital technologies has forever changed the way copyright law works. The rise of technology and the internet has had a huge impact on how people produce, consume, and distribute music as legal content, and in turn, how copyrighted material is consumed and produced.<sup>5</sup> The copyright regime has had to be continuously reformed and expanded in order to deal with now prevalent issues, such as digital piracy, or sharing of copyrighted files, in contexts similar to that engendered by Napster. Copyrighted materials are becoming easier to obtain for the consumer, while owners of copyrighted works confront increasing difficulties in protecting their materials and life works.<sup>6</sup> Companies, in this case, *A&M Records, Inc.* file lawsuits against individuals or companies, who they believe share infringing material. Copyright law is still continuously evolving as a consequence of the Digital Revolution, and it played a crucial role in this revolution. A key element that developed during the Digital Revolution is the drafting of The Digital Millennium Copyright Act (DMCA), which passed in 1998. This Act explicitly addresses the protection of online services and users while forbidding the removal of copyrighted materials without the permission of the original owner, among many more safeguards in this new era of digital work.<sup>7</sup> The DMCA is a key factor to copyright law in the digital age.

---

<sup>4</sup> "Intellectual Property Definition & Meaning." Merriam-Webster. Accessed November 16, 2023. <https://www.merriam-webster.com/dictionary/intellectual%20property>.

<sup>5</sup> Uk, Lawessaypros Co. "Impact of Digital Technologies on Legal Issue Copyright." Medium, August 19, 2022. <https://lawessaypros-co-uk.medium.com/impact-of-digital-technologies-on-legal-issue-copyright-de43bcc77949>

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

## ***Music as Intellectual Property***

To understand music as intellectual property, we must first establish which one of the four categories it fits in. Music is intellectual property, but how is it characterized? Music is mainly protected under copyright law. It is copyrighted based on composition, including the harmony, melody, and lyrics. As aforementioned, this protects the creator/owner's exclusive rights, such as the rights to reproduce, distribute, perform, and display their work. It is also based on Sound Recording, meaning that the sound recording itself, as well as the music composition, is copyrightable. From the record label, recording artist, or other parties—could own the rights to the sound recording.

## ***Copyright law in the USA***

Copyright gives the owner the sole right to reproduce, distribute, publish, and publicly perform their work for a specified amount of time, which usually corresponds to the creator's lifetime plus 70 years after their demise<sup>8</sup>. The copyright regime covers works of literature, art, drama, and most importantly, music. Under the United States' regime, copyright encompasses originality and fixation. As per the USA Government, works “are original when they are independently created by a human author and have a minimal degree of creativity.”<sup>9</sup> To be classified as creative, the Supreme Court of the USA claimed that a work must have “modicum” and “spark” of creativity<sup>10</sup>. Music is then classified as copyright, and any publishing or public distribution of work that is not your own is seen as Copyright infringement<sup>11</sup>.

---

<sup>8</sup> “How Long Does a Copyright Last.” Copyright Alliance, June 15, 2023. Accessed November 19, 2023. <https://copyrightalliance.org/faqs/how-long-does-copyright-last/#:~:text=Generally%2C%20copyright%20protection%20last%20for,author%20plus%20another%2070%20years>.

<sup>9</sup> Office, U.S. Copyright. “What Is Copyright?” What is Copyright? | U.S. Copyright Office. Accessed November 19, 2023. <https://www.copyright.gov/what-is-copyright/>.

<sup>10</sup> Ibid.

<sup>11</sup> “Definitions.” Definitions [FAQ] | U.S. Copyright Office. Accessed November 19, 2023. <https://www.copyright.gov/help/faq/faq-definitions.html#:~:text=As%20a%20general%20matter%2C%20copyright,permission%20of%20the%20copyright%20owner>.

## Case Study

In this case study, we will be looking at the copyright case of Vanilla Ice vs Queen and David Bowie. Although this is not the same case that delegates will be dealing with, the copyright issues and analysis pertaining to it are relevant to this committee.

The song “Under Pressure” by David Bowie and Queen came out in 1981, while “Ice Ice Baby” by Vanilla Ice came out in 1990. It came to people’s attention that the exact same beat from Under Pressure was also used for “Ice Ice Baby,” yet the opening guitar riff in Vanilla Ice’s song was originally composed and produced by David Bowie and Queen. When this issue came to light, Vanilla Ice made a claim. He insisted that while he did use the same beat, he also added a beat between the notes of the song, which made it different.<sup>12</sup>

An out-of-court decision determined that Ice’s claim was not valid, which led Queen and Bowie to file a copyright infringement lawsuit for the use and distribution of their work without consent or license<sup>13</sup>. This case study is extremely relevant to the Napster case, since Napster is being accused of copyright infringement on the basis of distributing MP3 files to the public without the proper license, or at least aiding it.

Whenever one uses musical works that are not their creation, or to which they do not have authorial rights, they must ask for permission from the original artist, such as through a license. .<sup>14</sup>

---

<sup>12</sup> Sanchelimadev. “Copyright Case: Vanilla Ice vs Queen & David Bowie.” Sanchelima & Associates, P.A., December 16, 2022. <https://www.sanchelima.com/2022/11/30/copyright-case-vanilla-ice-vs-queen-david-bowie/>.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

In the end, this case was settled privately, and both parties came to an agreement. Vanilla Ice bought the rights to Bowie and Queen's song and gave them credit for "Ice Ice Baby".<sup>15</sup>

## ***The Napster Case***

As previously mentioned, Napster is a free P2P sharing platform for music files (MP3). It is argued, however, that Napster itself does not participate in copyright infringement; all it does is facilitate users of the platform to share and transfer music files, some of which are protected by copyright. All of the file sharing is done on the web, bypassing the servers from Napster. The files pass through the internet rather than Napster servers, but the latter's software and main servers are key to the file swap.<sup>16</sup> The Napster software furthermore cannot distinguish between the authorized and non-authorized software. There are three main ways that Napster aids in the exchange of these files.

1. It provides a current directory of all shared files of all users who are currently connected to the Napster System;
2. It provides the necessary IP address information and linkage to enable users to exchange music files;
3. It monitors the exchange process to ensure the transmission is completed without errors.<sup>17</sup>

However, Napster still comes into conflict with copyright laws, as they nonetheless facilitate and supervise potential acts of infringement by their consumers.

---

<sup>15</sup> Ibid.

<sup>16</sup> Langenderfer, Jeff, and Don Lloyd Cook. "Copyright Policies and Issues Raised by R&M Records v. Napster: 'The Shot Heard 'Round the World' or 'Not with a Bang but a Whimper?'" *Journal of Public Policy & Marketing* 20, no. 2 (2001): 280-88. <http://www.jstor.org/stable/30000594>.

<sup>17</sup> Ibid.

## ***Fair Use as Applied to Napster***

Fair use is usually brought up as a defense to infringement. It is a defense that permits a party to use copyrighted works without the owner's permission (to infringe, so to speak), but only for certain specific uses of the work: criticism, comment, news reporting, teaching, scholarship, or research for personal use.<sup>18</sup> However, the examples mentioned above only show what could/might be considered as fair use; this doctrine does not limit itself to a static list of instances.. The lines when it comes to arguing fair use can be very nuanced, as they are usually case-by-case determinations.

When it comes to copyright law, there are four factors that have been established when it comes to considering whether the usage of a copyrighted item is indeed fair use. They are as follows:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.<sup>19</sup>

It should be noted that all of these factors must be considered in conjunction with one another in determining whether a potential infringement falls under the fair use doctrine.. One factor may have more pull than the others, but delegates must consider all of these factors when it comes to arguing fair use.

## ***Protecting the Integrity of Artists' Work***

Now more than ever, artists' works are being distributed on a large scale, whether it be through legal or illegal means. Artists need to learn how to protect their intellectual property

---

<sup>18</sup> "What Is Fair Use?" Copyright Alliance, May 17, 2023. <https://copyrightalliance.org/faqs/what-is-fair-use/>.

<sup>19</sup> Ibid.

and understand it. Their art is part of who they are—it is a creation of their mind—and they should know how to protect themselves.



## 2 - Public Access to Music

---

The accessibility of music for the public was undergoing many changes in 2000 as a result of the rapid advancements in technology and the continuous evolution of the Internet. There were significant shifts in how individuals accessed music as the industry underwent swift evolution.

With the emergence of the Internet, there were platforms beginning to spread that allowed consumers to purchase or download their music files conveniently from their personal devices. Napster played a significant role in reshaping the digital music landscape by encouraging file-sharing mechanisms to ensure that music enthusiasts had the most comfortable listening experiences. Retail stores and music sales were booming, allowing the music industry to make profitable income off of the distribution of music, since people were required to purchase music from the stores that sold them.

### *The History of Music Distribution*

In the early 2000s, cassette tapes dwindled in popularity as the music industry transitioned towards a more CD-driven sphere.<sup>20</sup> CDs facilitated mass production, catering to

---

<sup>20</sup> Contributor·MUSIC, Guest. "Music Accessibility throughout the Years - Imullar." The iMullar, April 11, 2023. <https://imullar.com/2023/03/09/accessibility-of-music-throughout-the-years/>.

the needs of record labels that demanded large quantities. They were also available in a wide range of retail stores which made them one of the more convenient and accessible options for purchasing music. CDs provided artists with control over their work, allowing them to decide who can sell, distribute, and carry their albums, a level of authority not present in audio sharing platforms such as Napster

During the mid-2000s, MP3 players and file downloading through websites became increasingly popular. Since this was seen as an easier way to gain access to music, people grew more accustomed to listening to songs this way. MP3 players worked in unison with digital online music stores where users could purchase songs and transfer them to their devices. This facilitated individuals paying for the music they wanted, all while enjoying the convenience of easy accessibility. MP3 players significantly contributed to the advancement of digital music downloads on their own

Once applications like Napster were brought onto the market, users gained access to a wide array of songs without incurring any expenses. Consequently, people listened to, shared, and downloaded music without making any purchase. Some claimed that Napster contributed to the democratization of music by allowing individuals to disseminate songs to a wider audience without using traditional distribution techniques.

## ***Revolutionizing Music Sharing and Accessibility***

Napster facilitated music files sharing among users by operating on a decentralized network. The appeal, according to Napster, lay in the ability for individuals to share their personally curated music libraries through this platform. Napster quickly took charge of music sharing, which provided more people with access to good quality music and compressed song file sizes.

With the platform, users were able to search and download almost any song they desired, from the most popular radio hits to the niche underground tunes. Napster's



community-driven approach significantly enhanced music accessibility for the general public. The technology was free to use and download, allowing easy sharing and transfer of songs among users on the platform. Napster held great appeal for those who were unable or unwilling to purchase newly released albums or preferred to stream music from the comfort of their bedroom. It provided an alternative for individuals who did not want to spend substantial amounts on music, offering a hassle-free way to access it.

Alongside providing the chance for others to listen to music at a quicker and more convenient pace, Napster became a safe space for many dedicated fans to share their love for artists and their favorite music. Napster introduced a social dimension to the music sphere that went beyond simply audio sharing. Artists benefited from reaching a more diverse population as their music gained wider exposure without the conventional distribution efforts.

## ***Effects on the Music Industry***

Despite the increased availability of music, the music industry experienced a downturn. Traditional music platforms, such as CDs and vinyl records, were rapidly declining. In the year 2000, total record sales plummeted by 33%<sup>21</sup> adversely affecting both record labels and artists alike. Since Napster provided the chance for music streaming at no cost, people were less inclined to support artists in a standard manner. Consequently, artists began to see their songs and albums distributed without receiving any compensation.<sup>22</sup> Furthermore, artists faced challenges due to their lack of control over how their music was administered, resulting in concerns about sound quality through Napster and potential damage to their reputation.

As seen above, this widespread accessibility raised concerns regarding the infringement of artists' intellectual property rights. It is crucial for the committee to seek equitable and

---

<sup>21</sup> Andrews et al. "Napster: The Black Market That Publicly Dominated the Music Industry." *Perspectives on Black Markets v3*. Accessed November 20, 2023. <https://iu.pressbooks.pub/perspectives3/chapter/napster-the-black-market-that-publicly-dominated-the-music-in-dustry/>.

<sup>22</sup> Ibid.



balanced solutions to ensure music accessibility, while allowing artists' to preserve the integrity of their work.

## ***Metallica's Lawsuit Against Napster and its Impact on Artists' Musical Integrity***

It is important to note that Metallica's music was among the many available for download on Napster. This section aims to delve deeper into the case at hand and shed light on the repercussions of violating artists' musical integrity.

In 2000, Metallica, a heavy metal band established in 1981, filed a lawsuit against Napster. This suit was prompted by the discovery that their track "I Disappear," part of the upcoming Mission: Impossible II film soundtrack, was being broadcast on the radio despite not being officially released. They were able to trace the leak of the song to Napster's platform, which made this song freely available to download by anyone.

Metallica wished for their songs to no longer be accessible through file sharing due to this breach of their musical integrity. They were concerned about their own situation and the implications for the music industry. Metallica aimed to safeguard their fellow artists from such infringements on their musical property. Despite the resulting publicity, the leak resulted in Metallica's inability to control when and how the song was released, a fundamental aspect of releasing music.

## ***Napster's Cultural Impact: Redefining Music Consumption and Distribution***

During Napster's peak, there were as many as 80 million users<sup>23</sup> sharing audio files across the globe<sup>24</sup>. This led to some schools and public sectors having to ban the platform because it was causing network congestion on their devices.<sup>25</sup> This phenomenon underscores the platform's immense popularity among the general public, granting them access to their favorite songs without any additional costs. Napster unintentionally popularized the notion that downloading songs for free was becoming the new norm, prompting an unrelenting demand for this approach, thus circumventing the traditional purchase of music. As a result, the public perceived Napster as a win-win situation because they were able to download this music for free while the application gained increasing popularity.

Napster's focus on community and connection between users provided an environment for sharing passions and love for songs. The more downloads a song received, the more it gained exposure and popularity.<sup>26</sup> Napster's consumers also felt a sense of pride in providing rising artists with an easier means for distributing their music in the market. John Perry Barlow, for example, was forever grateful for the spread of his music through similar applications, happy to bypass the industry's conventional controlling distribution methods.

## Guiding Questions

---

<sup>23</sup> Harris, Mark. "A Short History of Napster." Lifewire, February 16, 2023. <https://www.lifewire.com/history-of-napster-2438592>.

<sup>24</sup> "Napster." Encyclopædia Britannica, October 20, 2023. <https://www.britannica.com/topic/Napster>.

<sup>25</sup> Mayor, Dana. "Napster Guide: History, Origin, and More." History, July 26, 2023. <https://history-computer.com/napster-guide/>.

<sup>26</sup> Ibid.

## ***Innovation and the Protection of Artists' Rights in the Music Industry***

- △ How should copyright law strike a balance between safeguarding artists' rights to their existing works and promoting the free flow of information and creativity in society? What reforms should be implemented?
- △ Is the current copyright law regime too restrictive for artists, or does it appropriately protect all their interests? Why or why not?
- △ Does the current copyright law regime hinder or promote innovation and creativity in the music industry?
- △ How can one differentiate between creative inspiration and acts of plagiarism?
- △ How should copyright law be reformed to keep up with the continuous evolution of digital trends in the modern era?
- △ To what extent should artists have control over the distribution and use of their music, and how much should they yield to their labels?

## ***Public Access to Music***

- △ What is copyright law's role in balancing artists' financial rights to their productions (thus incentivizing artistic creation) vs the general public's access to creative works? Should streaming platforms revise their royalty models to ensure fair compensation to artists without compromising public access to affordable music?
- △ What measures can be implemented to address the ethical and legal implications of music piracy while maintaining public access to diverse musical content?
- △ Should the copyright law regime be modified to accommodate the evolving ways in which the public consumes and shares music in the modern digital age?
- △ What is the impact of digital sampling and remix trends on the creation and dissemination of music? Should copyright law play a role in this trend?



## Character Guide

---

### ***Dr Dre***

Not only is he a renowned rapper, Dr Dre's legacy in the music industry goes beyond his musical talent. He founded a group alongside rappers Eazy-E and Ice Cube, and their second album; Straight Outta Compton, was at the forefront of popularizing the gangsta rap subgenre. Dr. Dre's talents went beyond those of singing, he is more known for his producer skills. He

founded two production companies; Death Row and Aftermath Records, that were both huge successes. He has produced music and launched careers for renown artists such as Snoop Dogg and Eminem. Additionally, he has won a plethora of awards demonstrating his talents and has collaborated with artists such as Jay-Z and 50 Cent. He has had a huge role to play in the Napster trial.

### ***James Hetfield [Metallica]***

James Hetfield is a co-founder, lead vocalist, central songwriter, and rhythm guitarist of the infamous heavy metal group, Metallica. His group has won multiple Grammy Awards and Hetfield is considered one of the greatest rhythm guitar players ever known. Metallica played a lead role in the Napster case, initiating legal actions against the company.

### ***Shawn Fanning***

Shawn Fanning is the developer of the infamous peer-to-peer sharing file sharing network , Napster. He is a computer programmer, and an entrepreneur. The founding of Napster, as well as its downfall, changed the way music is shared and viewed forever. After the lawsuit, he went on to be an angel investor in many technology startup companies.

### ***Sean Parker***

Sean Parker is most known as the co-founder of the peer-to-peer file sharing service Napster, alongside his partner Shawn. He was also the first president of Facebook. Despite Napster facing a lawsuit and shutting down, Parker and his partners changed the sharing and distribution of music, shaping it to what it is today. Parker went on in his career as an entrepreneur.

## ***Taylor Swift***

World-Renowned pop and country music singer-songwriter Taylor Swift has had immense success in the music industry. She has won an immense amount of awards throughout her career and has gained a huge following. She is an incredibly important artist in the music industry and plays a primary role considering her immense fanbase. Taylor Swift is very important in the world of music copyright, as she owns the composition of her songs and was able to find a loophole and re-record her entire discography, although it's important to look into the technicalities of it all.

## ***Kanye West [Ye]***

It is no surprise that Kanye West is a very successful producer, fashion designer, and rapper. His animated personality and musical talent lead to his quick rise to fame and he has been at the top ever since, winning multiple awards and dropping many albums. He has produced songs for artists such as Beyoncé and Mariah Carey. The image he projects of himself is constantly changing, but nonetheless, his music stays important in the world of hip hop. Kanye West has been the subject of many copyright lawsuits, and is interesting when it comes to the topic.

## ***Pharrell Williams***

Pharell Williams has left his mark in the music industry, yes through his own music, but more importantly, through his producing team called the Neptunes, as a songwriter. The Neptunes were in extremely high demand as producers and writers of hip-hop as their style mixed soul and rock. They produced an abundance of award winning albums and songs such as “Rock Your Body” by Justin Timberlake and “Drop It Like It’s Hot” by Snoop Dogg. Being a big time producer, it is no secret that Pharell Williams has come across many copyright lawsuits.

## ***Whitney Houston***

Whitney Houston is one of the greatest singers in musical history. She changed the way music is produced and sung with her grand influence on artists, and has over 220 million records sold around the world. She has had a few instances of copyright infringement throughout her life. Whitney Houston is a pivotal artist in the music industry and it is important she be part of this conversation.

## ***Courtney Love***

Courtney Love is one of the most influential singers in music. She is a singer, songwriter and guitarist in the alternative and grunge genres. She had a big part to play in the Napster trial; being one of the artists supporting the peer-to-peer file sharing network.

## ***Snoop Dogg***

Snoop Dogg is a rapper and songwriter who is one of the main representations of gangsta rap and is the embodiment of West Coast hip-hop culture. He has had a huge influence in the music industry, and has worked alongside artists like Dr. Dre. He has had a few instances of copyright infringement in his career and disagrees with copyright laws when it comes to photos.

## ***Thom Yorke***

Thom Yorke is a multi-instrumentalist who is also the main vocalist and songwriter of the rock band Radiohead, whose albums have received the praise of numerous critics and more than 30 million sales. This artist has been described as one of the greatest and most influential singers of his generation by the Rolling Stones. His success hasn't, however, prevented him from being an active socialist for environmental, animal, and human rights.

## ***Chuck D***

Chuck D is the rapper and leader of the music group Public Enemy. He is politically active; he has aimed to create politically and socially conscious hip-hop music through his work, co-hosted the show Unfiltered, testified before the United States Congress in support of Napster, and was involved in a rap convention in 2004. His achievements and his efforts make him an essential member of this trial.

## ***Madonna***

Known as the “Queen of Pop”, Madonna is a singer, songwriter, and actress. She has been praised for always pushing and reinventing music production. Her works include an array of political, social, religious, and sexual themes, which have sometimes been controversial. However, she remains one of the most well-documented artists of the modern age, with numerous reviews, books, and video productions having been created about her. With her many years of production, she is no stranger to copyright and music pirating.

## ***David John Matthews***

David John Matthews is the main vocalist and songwriter of the Dave Matthews Band (DMB). His band was the first and only group to have six consecutive studio albums debut on the podium of the Billboard charts, and he remains the first to have uploaded his music on Napster.

## ***Richard Melville Hall (Moby)***

Richard Melville Hall, more commonly known as Moby, is an American musician, songwriter, and activist. He has found commercial and critical success, having sold over 20 millions records all over the world. Having brought dance music to a larger audience in both the USA and the UK, some consider him to be one of the most important dance music figures of the 1990s.



## ***William Durst (Limp Bizkit)***

William Frederick Durst is the main singer and lyricist of the metal band Limp Bizkit. He is also a rapper, songwriter, and director. His albums *Significant Other* and *Chocolate Starfish and the Hot Dog Flavoured water* helped him reach mainstream media popularity. However, he has become a controversial figure over the years due to bad press and his sponsorship by Napster.

## ***Prince***

Prince was an American singer, songwriter and record producer whose work explored a variety of styles, ranging from rock, to soul, and to jazz. He was extremely successful, topping the Billboard 200 for six months straight and achieving critical acclaim. He is often recognized as one of the greatest musicians of his generation. He was also extremely protective of his work and was adamant about stopping music piracy and copyright infringement.

## ***Aimee Mann***

Having released more than a dozen albums, the solo singer and songwriter Aimee Mann had a great influence on American alternative rock. Her work is widely known for her sardonic and literate lyrics about dark subjects. Having been in conflict with her record company after the release of her first albums, Aimee created and released her later songs under her own label SuperEgo Records, establishing herself as someone who didn't need to depend on the major label system. She has been acclaimed as one of the greatest songwriters in 2006 by both *NPR* and *Paste*.

## ***Eminem***

Through selling over 100 million albums worldwide, Eminem has successfully left his mark on the world of hip-hop music. Many even go as far as to claim that the commercialization of the

hip-hop genre happened through his influence. At the start of his career, he was discovered by Dr. Dre, who then signed him onto his record label. He was always very adamant on keeping in touch with his true emotions, not shying away from angry or sad lyrics in his music. This allowed for his work to be more widely enjoyed and appreciated worldwide.

## ***Usher***

Usher has earned his spot at being one of the most influential artists of our time. Starting his career at only 18 years old, he was quickly launched into the world of fame and began forever changing the world of music. Through songs mentioning topics such as racism and other important social issues, he advocates for the voices of those who so often go unheard. He began his own record label (RBMG) in 2008, helping to debut artists such as Justin Bieber. Usher has also been known to take part in cultural movements such as Neo Soul, aiming to revolutionize the music industry even more.

## ***Britney Spears***

The idolization of Britney Spears began through her rise to fame in the tabloids. Her every move was photographed and published for millions of people to read, emphasizing the hold she had not only over the music industry, but over the general public as well. Her cult-following made it so that many were following trends Britney was starting, as seen in her many music videos.

## ***Hank Barry***

Through his entrepreneurial experience, Hank Barry was given the role of interim CEO of Napster, helping construct the new world of peer-to-peer music sharing. He took pride in the revolutionary industry that Napster was creating and preached this to other board members, as well as during press conferences. Barry was proud of the ease of communication that it created,

and also believed that he was playing a role in helping the music industry rather than hurting it.

## ***Beyoncé***

After splitting from Destiny's Child, Beyoncé's solo career did not fail to break records worldwide and continue to push the boundaries of the music industry. Beyoncé is very unique when it comes to her promotional techniques, sometimes giving her audience no warning when dropping new hits. This gives her an advantage in the industry, constantly keeping the press and her fans on their toes. She is an artist who stays true to who she is, constantly striving to rewrite the norms of the industry while empowering her culture.

## ***Cary Sherman***

Being the chairman and CEO of the Recording Industry Association of America has given Cary Sherman the opportunity to have an inside look at some of the biggest music labels. Sherman is a strong advocate for wanting to keep music file sharing from taking over the industry. He takes pride in pointing out how music sales have improved since the decline of Napster. Sherman believed that the lawsuit against Napster was the only logical proceeding and he stands by his opinions in trying to get the industry out of this dark period.

## ***Missy Elliott***

From a very early age, Missy Elliott was surrounded with musical influences, launching her headfirst into the industry. Through numerous successes, she has persevered and proven her will to want to be a prominent figure. Her constant exposure to different forms, types, and genres of music have made her an innovative persona. Her ability to blend these musical styles and be praised for it shows her immense influence and makes her stand out from other artists.

## ***Billy Corgan***

Previously part of the band Smashing Pumpkins, Billy Corgan has made a name for himself in the industry. Having started as a grunge and hard-rock group, they later decided to shift towards a more positive and techno-based sound. The fans' loyalty to the group was tested and remained constant through this change, showing their popularity amongst their listeners. Corgan was especially fond of pushing the stylistic boundaries while escaping norms created in the industry. He even went on to expand his portfolio and create soundtracks for numerous movies including "Batman and Robin" as a way to exercise his capabilities.

# Bibliography

---

- R&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004 [9th Cir. 2001]. Accessed November 21, 2023. <https://www.copyright.gov/fair-use/summaries/a%26mrecords-napster-9thcir2001.pdf>.
- Andrews, Peter, Mary Kate Rusbrook, Ashley Brown, Casey Carroll, Maria Emmanoelides, Lauren Fischer, Aisha Green, et al. "Napster: The Black Market That Publicly Dominated the Music Industry." *Perspectives on Black Markets v3*. Accessed November 20, 2023. <https://iu.pressbooks.pub/perspectives3/chapter/napster-the-black-market-that-publicly-dominated-the-music-industry>.
- Contributor·MUSIC, Guest. "Music Accessibility throughout the Years - iMullar." *The iMullar*, April 11, 2023. <https://imullar.com/2023/03/09/accessibility-of-music-throughout-the-years/>.
- Harris, Mark. "A Short History of Napster." *Lifewire*, February 16, 2023. <https://www.lifewire.com/history-of-napster-2438592>.
- "Intellectual Property Definition & Meaning." *Merriam-Webster*. Accessed November 16, 2023. <https://www.merriam-webster.com/dictionary/intellectual%20property>.
- Journal of Public Policy & Marketing* 20, no. 2 (2001): 280–88. <http://www.jstor.org/stable/30000594>.
- Langenderfer, Jeff, and Don Lloyd Cook. "Copyright Policies and Issues Raised by *R&M Records v. Napster*: 'The Shot Heard 'Round the World' or 'Not with a Bang but a Whimper?'"
- Mayor, Dana. "Napster Guide: History, Origin, and More." *History*, July 26, 2023. <https://history-computer.com/napster-guide/>.
- Nair, Sushmita. "*R&M Records, Inc. v. Napster Inc.*." *IP Matters*, September 26, 2022. <https://www.theipmatters.com/post/a-m-records-inc-v-napster-inc>.
- "Napster." *Encyclopædia Britannica*, October 20, 2023. <https://www.britannica.com/topic/Napster>.
- Office, U.S. Copyright. "What Is Copyright?" *What is Copyright? | U.S. Copyright Office*. Accessed November 19, 2023. <https://www.copyright.gov/what-is-copyright/>.

- "How Long Does a Copyright Last." Copyright Alliance, June 15, 2023. Accessed November 19, 2023  
[https://copyrightalliance.org/faqs/how-long-does-copyright-last/\\*:~:text=Generally%2C%20copyright%20protection%20lasts%20for,author%20plus%20another%2070%20years.](https://copyrightalliance.org/faqs/how-long-does-copyright-last/*:~:text=Generally%2C%20copyright%20protection%20lasts%20for,author%20plus%20another%2070%20years.)
- "Definitions." Definitions [FAQ] | U.S. Copyright Office. Accessed November 19, 2023.  
<https://www.copyright.gov/help/faq/faq-definitions.html#:~:text=As%20a%20general%20matter%2C%20copyright,permission%20of%20the%20copyright%20owner.>
- Sanchelima, Dev. "Copyright Case: Vanilla Ice vs Queen & David Bowie." Sanchelima & Associates, P.A., December 16, 2022. <https://www.sanchelima.com/2022/11/30/copyright-case-vanilla-ice-vs-queen-david-bowie/>.
- "What Is Fair Use?" Copyright Alliance, May 17, 2023.  
<https://copyrightalliance.org/faqs/what-is-fair-use/>.