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Do You Download Music Over A File-Sharing Network?

By "Jason A. Martin"

It can be estimated that millions of people around the world share music over a file-sharing network.

For this article, I am addressing the issue in America mainly because I am not aware of the laws in other countries. Do you think it is illegal to download music from file-sharing networks? What about music you already own? An important recent court decision will answer these questions directly and you might be surprised.

Recently the United States Court of Appeals for the Seventh Circuit heard a case against a Chicago woman, Cecilia Gonzalez. Many plaintiffs including BMG, Sony and others brought the case against her. Gonzalez allegedly had downloaded over 1,000 songs through KaZaA—although she admitted to only 30. Keep that number in mind, 30. Many, if not just about all, people who download files over a file-sharing network don't stop at one file. Thirty files can be reached in minutes to an hour without thought. In fact, it was alleged that Gonzalez downloaded 1,370 songs in just a few weeks, which is an average of 65 songs per day.

If you were caught downloading thirty songs over a file-sharing network, what would your defense be? Let's look at two specific common defenses and see how a court might react. I have selected two defenses that I feel are most common, because they not only appear in the court case I have referenced, but many others I have surveyed would try to use them as their defense as well.

First Defense: I was simply trying out the songs to see if I liked them and then I planned to buy the ones I liked and erase the ones I don't. (Simplified: try-before-you-buy)

Judge Eastbrook, one of the judges hearing the Gonzalez case, pointed out that this defense is not valid because one had many avenues to hear music before purchasing. Eastbrook names iTunes, radio, internet radio, Yahoo! Music and others as ways to legally try before buying. If this was going to be your defense, you will lose.

Second Defense: I am only downloading music that I already own.

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This seems like a great defense, at first. You already own the music and the law allows you to create a backup copy. Ah, but here is where it goes south. Downloading music you already own is not considered fair use under the U.S. Copyright Law and your action is therefore copyright infringement. See *UMG Recordings Inc. v. MP3.com, Inc.*, 92 F. Supp. 2d 349.

Furthermore, the try-before-you-buy scenario is really blown away by the fact that you no longer need to buy CD's in whole. iTunes really helped change the legal arena in this respect because a user can both sample songs at their leisure and purchase single songs. The ability to purchase single songs is the big one.

In the end, Gonzalez lost her case. The thirty songs, that would have cost \$29.70 at iTunes, will end up costing her \$22,500 in damages—imagine what it would be if the plaintiffs had pushed for a decision on all 1,370 songs. She was given the opportunity to settle for \$3,500 before going to court, which she declined—another bad decision. If you download music over file-sharing networks and are caught, what will be your legal defense?

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Legal Music Download Sites VS P2P File Sharing.

By Anna Rowe

This article compares the differences between legal music download sites VS file sharing networks.

1) Music files available for download:

The p2p file sharing networks heavily outnumber the legal music sites when it comes to the amount of files available for download. A p2p application provides millions of unlimited mp3 music files, while a legal music download site provides legitimately licensed music files in the hundreds of thousands.

2) The cost of downloading music:

You can download p2p file sharing networks for free, or for a very cheap one-time fee. A legal music download site is usually either "subscription-based" or "pay-per-download". A legal site will also usually charge extra for the ability to rip or burn music.

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3) Variety of files available for download:

A legal music site mainly provides ONLY music files for downloading. A p2p application gives you, besides music files, full movie, game, video, software, TV show and ring-tone files to download as well.

4) Legal Issues & Controversy:

Legitimate legal music download sites are completely free of controversy and 100% legal to use. P2p file sharing networks, while legal, are not without lawsuit concerns and controversy due to how the file sharing technology can be used.

If you choose to use a p2p file sharing program, there are potential risks you need to be aware of, including:

Lawsuit Risks – Peer to peer file sharing networks have been ruled legal in a court of law. However, if you download and share "copyrighted material" you could risk becoming targeted, and possibly sued, by the RIAA (Recording Industry Association of America).

Virus And Privacy Risks – In using a file sharing application, you risk the possibility of installing harmful spyware, viruses, worms and malware on your computer. And if that's not bad enough, many p2p applications also leave you exposed to online hackers and identity thieves that can steal you personal information.

Legal Music Download Sites VS P2P File Sharing – Summary:

At first glance the p2p file sharing networks may seem to offer an easy way to get unlimited free file downloads. But remember, nothing is really free and this is especially true with the p2p file sharing applications.

The file sharing programs come with a price of increased privacy and security threats, and potential RIAA lawsuit risks. The ONLY way to guarantee getting safe music downloads online is by using a legitimately licensed music site that provides downloads of music legally licensed from the record labels and artists themselves.

Article by Anna Rowe, webmaster of

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that provides music download site

reviews and quality online music download solutions. Sign-up for a Free Mp3 mini-course that details critical facts about downloading music online.

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