

Picking at the Bones of Napster

Napster was the biggest, baddest application to hit the Web since the Web itself. But when a federal court dinged the application, technology companies were quick to pile on. By Brad King.



IT DIDN'T TAKE long for the vultures to swoop down and claim Napster's carcass.

Everybody's got an angle. Everybody's got a solution. In the wake of a federal court's ruling Monday that could shut down the file-trading company, those in the music and technology industry are circling Napster's 51 million users with dollar signs in their eyes.

"It's a feeding frenzy of free publicity and an attempt to snag Napster users," IDC analyst Malcolm Maclachlan wrote in an e-mail.

Some were just staking claim to what they felt is rightfully theirs. Others are hoping to entice frustrated Napster users with the notion that there is another way.

The Recording Industry Association of America is offering up a series of tough statements, including one by President Hilary Rosen in which she demanded that Napster stand down and admit defeat. Several musicians applauded the ruling as well, including Metallica, which sued the company earlier last year.

Napster also received very little support from digital music companies, many of which took the opportunity to support the RIAA while also offering alternatives to peer-to-peer networks.

"It's mostly pretty opportunistic," Maclachlan said. "(There were) lots of 'we're like Napster except we're legal' or 'we're like Napster except we can't be shut down by the courts,' depending on whether they're trying to appeal to record labels or music fans."

Security companies led the charge against Napster, offering solutions and alternatives meant to satisfy the needs of the company's 51 million users.

"Much of the press release-driven support for the decision came from security tech companies whose positions improve with Napster shut down," Webnoize analyst Ric Dube wrote in an e-mail.

Digital rights management company Reciprocal fits that mold. The company's president said that while he wholeheartedly agreed with the court's decision, he feared that an injunction would shut down the file-trading service. That would send users off to other de-centralized -- and harder to control -- applications.

"Napster will likely be shut down before it has an opportunity to migrate millions of users from the free illegal service to the paid legitimate one," said President Larry Miller. "Consumers will then likely turn to other illegal services, which might set the industry as a whole back even farther."

LiquidCD CEO Paul Marin declared his company had solved the copyright infringement problem with the introduction of a software platform that downloads a music file, burns it to a CD, and then deletes it from the user's hard drive.

"This will change the industry because our technology prevents piracy and protects copyrights," Marin said in a written statement.

The LiquidCD system offers users access to 20,000 songs from 100 record labels, while Napster offered access to an unlimited number of songs.

The reason for the land grab: Napster users are active. On Sunday, Napster users downloaded 130 million songs according to Internet research firm Webnoize. One day later, as the court was issuing its decision, 91 million files were zipping across the company's network.

Some critics, such as Emusic, have more at stake than establishing themselves in the marketplace.

Emusic.com (EMUS) sells licensed music in MP3 files. Emusic CEO Gene Hoffman has repeatedly said that Napster threatened to ruin his business. Monday's ruling sent a clear message to technology companies that piracy wouldn't be tolerated, thus allowing digital businesses to begin growing.

"(The) decision is a fair, important re-affirmation of the rights of copyright holders to be able to determine how and where their work is used," Hoffman said in a written statement. "This should establish a clear foundation for the growth of legitimate music download services on the Internet."

Not every company was out to pile on Napster. Two trade organizations came out in defense of copyright law without offering a hint of support for the company itself.

The Consumer Electronics Association -- which represents hardware and electronics manufactures -- roundly dismissed the appellate court's ruling around fair use and copyright infringement without ever supporting Napster.

"Technological innovation helps the U.S. economy and consumers," said CEO Gary Shapiro. "This ruling, unless overturned upon appeal, could stymie technological development and sets a dangerous precedent for the preservation of fair use rights enjoyed by consumers for more than 20 years."

Those rights refer to the Supreme Court's decision in 1981 that made the use of VCRs legal, despite the fact that the technology could readily be used to pirate movies and television shows.

A coalition of Internet companies that includes America Online -- parent company to the Warner Music Group that was part of the suit against Napster -- Doubleclick, and Terra Lycos (Wired News' parent company) lauded the court's ruling that Internet safe harbors in the Digital Millennium Copyright Act could be used in this case.

But the coalition offered no support for Napster itself, saying it took "no position on Napster's liability under the law."

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