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The Day the Napster Died

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Once the darling of the technology world with 80 million registered users, the revolutionary software allowed people to use the Internet to do what they had done for years in neighborhoods, schoolyards and concert venues: They swapped music. Within months of its release, Napster was the Internet's killer app.

Napster and its founder held the promise of everything the new medium of the Internet encompassed: youth, radical change and the free exchange of information. But youthful exuberance would soon give way to reality as the music industry placed a bull's-eye squarely on Napster.

Ironically, that litigation propelled file trading to further astronomical heights. Open-source developers, long the defenders of free speech in the digital world, set about developing alternatives to Napster in case the record industry successfully shut down the rogue service.

The most successful alternative, Gnutella, was developed by Justin Frankel, a programmer who worked for one of the very companies suing Napster for copyright infringement.

The service, which the media companies have fought so desperately to destroy, has been co-opted by AOL, Yahoo and Microsoft. Each has introduced instant-messenger products that allow people to swap files with their friends. Sony now distributes some of its music through the revamped ScourExchange. And media giant Bertelsmann funded Napster.

Yet in its desire to slow the technology revolution, the recording industry continually shot itself in the foot. Fans have revolted; last year proved to be one of the worst in recent memory for CD sales because of it.

And in a further irony, Fanning's legacy won't be the company he founded. Napster may have been like a shooting star that galvanized the digital world for a brief moment, but his legacy will live on with services like Grokster and Kazaa.

The second-generation file-trading services exist because people want to swap files -- something they didn't even know they could do just four years ago.

In 1998, long before the lawsuits and the international furor, Napster was just an idea in a young college student's head.
Fanning, then a 19-year-old freshman at Northeastern University in Boston, wanted to solve a problem his roommate was having. Back then, downloading music required people to search for websites where songs were posted. Most were unreliable. Links broke. Traffic spikes slowed download times.

So Fanning wrote a simple program that would search and index music files. By aggregating all the websites in one place, this allowed music fans to easily sift through hundreds of sites.

(Incidentally, there was another file-trading service called the ScourExchange, but it never achieved the popularity of Napster.)

Fanning began bouncing ideas for Napster off Sean Parker, whom he met using Internet Relay Chat, when they were beta-testing a program with a few friends in the summer of 1999.

Something happened: The simple download was a hit. Word of mouth spread news of the new killer app. It was a music aficionado's dream. Media outlets began to hear rumblings about this new software product.

Moving quickly, Fanning's uncle, John Fanning, raised seed money and moved the dynamic duo to the Bay Area, the epicenter of the digital revolution. Here, Uncle John believed, the trio would turn the world upside down.

Meanwhile, 3,500 miles away in Washington, there was a problem brewing in the headquarters of the Recording Industry Association of America, a trade organization that represents the five largest music labels. Along with its sister organizations around the world, the RIAA was already formulating a plan to take down individual sites posting MP3 music files.

That was the big problem then: Regular Janes and Joes, sitting in basements, putting up websites with lots of music files there for the taking.

But as Napster emerged into the Internet consciousness, shutting down millions of sites became irrelevant. Once enough people had Napster on their computer, the number of files being traded back and forth would reach the billions.

The RIAA launched its ill-fated legal action in December 1999. Although the RIAA eventually accomplished its goal of serving Napster with a copyright infringement lawsuit, Napster still turned into a nationwide phenomenon: Not only was it simple to use, it now was easy to find as well.

The network grew almost exponentially, as friends told friends who then told more friends. The more people who signed on, the more music available.
It was a fabulous time for Napster. The boys had an interim CEO in Eileen Richardson and a team of programmers and executives, many of who left the music

industry to work for the startup. But the spotlight smacked the Napster founders directly in the eyes, leaving them blinded.

Richardson, a gregarious woman, had a chance to circumvent the RIAA's legal action. Instead, she and her minions repeatedly told anyone who would listen they would run Napster with or without the record labels.

Those statements, made so early in the days of file trading, set the tone for the contentious relationship between the technology industry and the entertainment industry in countless other legal -- and philosophical -- fights.

With the RIAA bearing down on Napster, the open-source community kicked into action in early 2000, led by AOL's Frankel who released Gnutella, a new file-trading application, into the world.

Now, anyone with a computer and some programming skills could create their own version of Napster.

AOL quickly pulled Gnutella for its system in an act similar to locking the barn door after the horse has been stolen, because the programming code was now out there. Even if Napster was forced to shut down, file trading -- no matter how much the recording industry wanted it stopped -- was now part of the Internet. Frankel made sure of that.

Gnutella proved that file trading was more than just Napster. That got executives at Bertelsmann, a German media conglomerate, thinking. The company offered Napster millions of dollars to develop a secure distribution system. Over the next year, Bertelsmann poured $85 million dollars into the company, even as its music division fought to shut the service down.

The intersection of Fanning, the RIAA, media conglomerates and the open-source community created a laundry list of unforeseen consequences, the most profound pitting individual freedom versus corporate interests.

Innovative technology companies had felt safe since 1984, when the Supreme Court ruled that people could record television and movies in their homes. For 15 years, new devices from digital tapes to personal computers that allowed people to record and share information were shielded from legal action.

Napster changed that thinking. Media companies successfully argued in federal court that laws governing analog taping devices -- such as a VCR --shouldn't apply in a digital age, when copies of music or movies suddenly became perfect replicas. Ninth Circuit U.S. District Judge Marilyn Hall Patel, the forceful judge presiding over the Napster imbroglio, was one of the first magistrates to come down against the technology. Patel's scathing rebuke in July 2000, in which she called Napster "a monster," issued the first of two injunctions that shuttered the service.

Her stunning destruction of Napster's defense, which incorporated some of the Sony Betamax arguments, left many in the technology industry aghast. Napster's defense team, led by David Bose, never fully recovered from the blow.

The company officially shuttered its service July 11, 2001, almost one year after the initial injunction.

For the second half of 2001, Napster executives debated and tinkered with their new, secure file-trading network. They even launched a private beta test in January.

By all accounts, the architecture was coming along nicely, but the major labels were still not convinced the system would work. But no deal was struck, in large part because the labels already launched two music services themselves, Pressplay and MusicNet.

With no file-trading network, no music licenses and no money, Napster faded from the collective consciousness. Kazaa, Morpheus, BearShare and Gnutella replaced Napster as the file-trading sources of choice.

The company began cutting expenses.

By February 2002, Bertelsmann was willing to pony up $20 million to buy Napster, thanks to Hilbers, a former Bertelsmann executive.

With the smell of money in the air, internal politics ripped the company apart. John Fanning organized a coup, trying to oust former CEO Hank Barry and John Hummer, the venture capitalists who initially funded the company with $12 million.

The fighting continued through early spring, with Fanning eventually filing a lawsuit to have Barry and Hummer dismissed from the board of directors. The suit was thrown out of court, but the damage was done. Bertelsmann began to back away from the deal, although Hilbers had put together one last offer. On Tuesday, the board voted to reject the Bertelsmann sale.

Within hours of the decision, Hilbers turned in his resignation, followed closely by Shawn Fanning and other senior executives. As the carnage mounted, Barry called the employees, letting them know they could leave and collect some severance money or take unpaid vacation and pray that somehow enough money would materialize to keep Napster afloat.

Many, weary of the constant threat of bankruptcy, decided to take the money and run. The official shutdown is expected next week, but for all practical purposes, the company that rocked the Web has quietly disintegrated.

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