

# FEDERAL JUDGE RULES MUSIC DOWNLOADING NOT ILLEGAL

by Jonathan Smith  
Reporter

In a ruling by a judge of a federal court last Wednesday, it was determined that internet service providers cannot be forced by the music industry to reveal the identity of music downloaders. This effectively means that the practice will be legal in this country, and that downloaders will not have to fear prosecution. Judge von Finckenstein of the Federal Court decided that he didn't consider the practice of file sharing and downloading to be stealing. Supposedly, because the consumer pays tax on blank CDs it remains legal. Not surprisingly, the record companies are unhappy with the ruling. However, between artists and distributors, many of whom are independent from the industry giants such as Universal, there is much debate raging. Some feel the ruling is a sign that the court sees through the record industry's claim that downloading and file-sharing will have dire consequences for music. Others feel that it is a sign that the judge simply didn't understand the concept of the media and how it affects artists.

The reality is that threatening to make file-sharing and downloading illegal and even threats of legal action against selected individuals hasn't done much to curb the habit. Since the ability to download free music really hit the mainstream with the development of Napster, it's become something that many people do on some level or another. Over the years it seems to have become as routine as copying albums to cassette tapes and trading them, a practice that in its time was seen as an enormous threat to music sales and artists' copyrights. Yet the

industry survived, and sales didn't plummet to an apocalyptic low.

The question that must be asked of course is whether this means that downloading music is right. Many people seem to have opinions about this. It is worth noting that the people the companies went after (29 of them) were not casual downloaders of music but were actually chronic uploaders of as many as 4000 songs each to millions of users. What about the average user, who may make a mixed CD for their own use or to share with their friends some of the new music they've discovered? Does such behaviour really harm artists or the industry? Isn't it possible that there are other reasons why CD sales are dropping?

It seems to me that these days the focus is no longer on artists and their music, but more on promotion and making money. These days the singles seem to be the focus. The artists, heavily endorsed by companies in terms of everything from their sound to their image, spend all their effort into that one radio hit, and fill the rest of the album with filler. Personally, I like to listen to albums. I like the idea of finding bands that don't care what the average public thinks and that produce albums that I want to play all the way through. To me it seems such albums are becoming a thing of the past, and that isn't a good thing. I don't enjoy paying through the nose for a CD, but I don't mind paying as much when I know I'll be getting value for my money and an album that I

could enjoy for years to come. Maybe I'm biased, because I listen to music for its own sake. Music accompanies almost every aspect of my life, and I wouldn't have it any other way. It's not just about finding that rocking dance tune to accompany Friday nights at the bar.

Society seems to have taken a strange view of music as a whole. We have artists that are being created under the guise of entertainment, but only if they produce maximum profits for the companies behind them. This seems to be the case for artists that are being produced as a side effect of such "reality" TV shows as Canadian Idol. There seems to be an expectation that artists work for the paying public, and that bothers me. In my opinion, like other artists, musicians should be allowed to create the art they want, and if millions of people like it, great, and if they don't, then

they shouldn't have to change to suit mass public demand. When I go to a concert and enjoy a show, or listen to an album that makes a bad day seem just a little bit more bearable, than I don't expect the artists to owe me anything. It is I who wants to thank them for producing the music they wanted to that just happens to fit with what's happening in my life as well.

Personally, I download music for many reasons. I do it to discover artists I wouldn't ordinarily discover living on isolated and sheltered PEI. When there are artists that I particularly enjoy, I will use file-sharing to download rare demos or b-sides that are no longer com-

mercially available. This usually only increases my interest in the bands, and makes me more inclined to dish out my money to buy their albums or even go see them on the road, an experience that I have personally found to be beyond listening to any album.

Today on CBC radio, a music industry analyst whose name I cannot recall pointed out that the vast majority of independent research indicates that downloaders are more likely to spend money buying music. Another on the news the other night pointed out that while the record labels quote declines in sales of umpteen millions, the American economy hasn't exactly thrived as of late and a large number of other sectors have experienced negative growth as well.

Perhaps the key is for artists and companies to work with the technology rather than against it, and not offer us poor excuses for efforts like puretracks.com. The times are obviously changing, so perhaps it's time the industry did as well.

So go and download that song you've heard on the radio but are tired of waiting to be played again, or that rare single that hasn't been commercially available for years. Distribute those songs by your favourite band in an attempt to convert your friends and family. If you succeed, perhaps they'll go out and buy the albums, and tell their friends and families. Don't be afraid to support an artist whose work you sincerely care about and respect. Perhaps by only buying into artists who make it worthwhile, we can encourage a better general quality of music. Music is one of the grand things we have, and being able to experience it without going bankrupt is one of life's pleasures.

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