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Marketing & Media

**Recording Industry Group Sues Napster, Alleging Copyright  
Infringement on Net**

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Eighteen record companies accused a Silicon Valley start-up of creating an electronic bazaar for music piracy, in a lawsuit that highlights a gray area in copyright law on the Internet.

The record companies, working through the Recording Industry Association of America (RIAA), filed suit in U.S. District Court in San Francisco against **Napster** Inc. for "contributory and vicarious" copyright infringement. Closely held **Napster**, San Mateo, Calif., distributes free software through its Web site that makes it easier to find and download computerized recordings on the Internet.

Eileen Richardson, **Napster's** chief executive officer, argued that the company essentially offers a listing service, making it no more a party to piracy than other search services that consumers use to find MP3 files, which store music in a particular digital format. The five-month-old company was formed to help consumers cope with common MP3 problems such as outdated links to Web sites that are no longer in operation.

RIAA, based in Washington, D.C., has long tried to shut down Web sites that it says provide unauthorized copies of music, which are mostly stored in MP3. It also tried, unsuccessfully, to use the courts to block sales of a portable MP3 player called Rio that was sold by Diamond Multimedia, a unit of S3 Inc.

The latest suit also raises thorny issues. Unlike pirate MP3 sites, **Napster** doesn't store any copyrighted recordings itself. Rather, the company's software helps personal-computer users with MP3 files to find each other and share recordings among themselves.

Users of **Napster's** software can designate any MP3 files on their computers that they want to make available for others to download. **Napster's** own computers keep an updated inventory of what song titles are available and what users are online at the moment. Users can search by song or artist and then download files directly from other

users' PCs.

The RIAA suit alleges it randomly sampled thousands of recordings made available through the **Napster** service, and found that about 90% of them infringed copyrights held by the RIAA's member labels. The group also alleged that **Napster** lets users remain anonymous, creating a "haven" for piracy on a "massive" scale.

Robert Kohn, chairman of EMusic.com Inc. and a lawyer specializing in copyright, said the battle may turn on whether **Napster** can show legitimate uses for its technologies beyond exchanging copyrighted material. Another issue is whether **Napster** has the ability to supervise and block users from exchanging pirated material, a legal principle that has been used in suing a company whose employees were violating copyrights.

"It's a novel application of this doctrine, but it seems well-considered," said Richard Gray, a Menlo Park, Calif. intellectual-property lawyer.

The RIAA suit asks for \$100,000 in damages for each copyrighted work that is infringed because of **Napster's** actions, an amount it estimated would exceed \$100 million.

Ms. Richardson said her company unsuccessfully tried to negotiate with RIAA. "Instead of trying to stomp on some little company, they should try to work with the industry," she said.

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