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Suing Everyone Will Not Solve the Problem: An Analysis of the Development of Peer-to-Peer File Sharing, the Actions Taken by the Music and Movie Industries Against Them

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File Sharing, the Actions Taken by the Music and Movie Industries Against Them

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Introduction

Imagine the vast expanse of cyberspace known as the internet. It connects millions upon millions of computers and brings over two billion people together. Today, an average person using the internet can find information on a large amount of topics within seconds. But one of the more recent advancements of the Internet is the creation of networks that allow transfers of files between computers without even using a server. This is the system known as peer-to-peer (P2P) file sharing.

In its simplest definition, P2P file sharing is the transfer of files between two different users connected on a network through the use of a P2P client. The client is software that uses the P2P network to search out other computers on the network that hold the files a user may request. This differs from the traditional downloading model due to the fact that the computers are connected to each other to share files instead of a storage server. Each computer acts as both a download server and a client simultaneously which gives them the term “peers” implying that they share an equal relationship (Miller, 2006).

This method of sharing files has several advantages over the standard client-server model. The software required to transfer files costs virtually nothing which eliminates the expenses of supporting a server. In addition, the overall network will not suffer reduced performance based on the number of users because there are more computers online to transfer files; the network merely connects the clients. Another distinct advantage is that the P2P network experiences almost no downtime due to the fact that the structure of the network involves many nodes that assume the service of other nodes that might experience failure (Jones, 2005).

However, the content shared over the P2P networks is not always legitimate. While P2P file sharing in itself is not illegal, the networks can be used to transfer copyrighted files such as

music, movies, electronic books, and software. The growth of P2P file sharing has also led to a massive spike in copyright infringement due to the ease and cost-freedom of transferring files. Miller (2006) comments in his study that an estimated 13 billion songs were available for download on P2P networks around the world according to Big Champagne, a media tracking company. Miller also notes that the recording industry and movie industry lose approximately \$2.4 billion and \$3 billion a year respectively.

This has led the creative industry groups like the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA) to take measures to prevent the copyright infringement from further hurting their industries. The trade groups have brought the early file sharing networks to court seeking injunctions. They were initially successful in shutting down Napster, the first notable file sharing network. However, it was not long before other networks began to surface each becoming more advanced and harder to track in regards to its users' activity. In the case of a file sharing software called Grokster, the case had to be appealed to the Supreme Court to obtain an injunction. With each network adapting to these litigations, it was becoming harder to bring cases against networks (Miller, 2006).

In response, the creative industries switched their strategies to target individual users instead of P2P networks themselves. Beginning in 2003, the RIAA and MPAA began to file lawsuits against individual alleged infringers. To this day, both the RIAA and MPAA have targeted and sued more than 100,000 individuals to this day. However, it is debatable whether this mass lawsuit campaign was successful as the campaign created a public relations fallout due several targeted defendants being single mothers, young teenagers, and even dead people, one of which still had his estate sued after the RIAA allotted sixty days to grieve before deposing family members (Siebens, 2011).

The current copyright system, due to abuse of copyright lawsuits and takedown notices, has led to the creation of an exploitable business model, the disconnection of copyright holders from the general public, and an overall failure in truly stopping infringement through digital downloading. Several of the questions that will be answered include the following:

- How much public relations has the industry lost through its frivolous use of lawsuits and other legal tools?
- How have the P2P software providers adapted to the looming litigation that might affect them?
- Have the lawsuits truly discouraged consumers from using P2P programs to download copyrighted files?
- What alternatives to copyright enforcement could be implemented to promote internet innovation and restore the relationship between rights holders and consumers?
- What can the creative industry do to protect its copyrights without destroying their consumer image?
- Has the bad publicity resulting from the mass lawsuits strengthened the infringer's resolve to continue their activities?

Review of Literature

Peer-to-peer file sharing, while being an amazing advancement in technology, has become a problem for record and movie companies to enforce their copyrights. They have tried some methods to combat this infringement but most of what they did only furthered the advancement of the practice. The three main points that will be addressed in the literature review are the rise of file sharing, the creative industry's efforts to contest it, and the proposed alternatives to their current methods.

The Rise and Litigation of P2P File Sharing

Peer-to-peer (P2P) file sharing is a system in which one computer connects to another through a software client. In this, files would be stored on individual computers instead of a centralized server creating a system in which any computer could be a client, a server, or both through means of connecting through an index (Miller, 2006). Seth Miller further elaborates on the structure of the P2P system by evaluating the moniker peer-to-peer. His claim is that the network creates "an equal relationship among peers" and that it "gives every user equal priority and power in relation to one another as both a supplier and recipient of shared files" (Miller, 2006). He continues with explaining the design by stating the role of the index which is the component that file sharing clients send requests to. The index searches the users for the requested resource and directs the client to connect with the other computer holding the file they requested.

The Forerunner: Napster

The system of P2P file sharing has grown substantially over the years, but it did not gather a significant following until the creation of one of the forerunners of modern file sharing: Napster. This software, created in 1999, allowed users to connect with each other through a

centralized server that indexed all the user-hosted folders directing each request to its appropriate host (Miller, 2006). Despite everything running from a centralized server, it remained true to the concept of P2P file sharing because the server itself never stored any files; it merely stored user information to relay communications. Below is an image used by the University of Missouri-Kansas City (2014) to visually explain how the central server searches the connected users for their requested files instead of storing the files itself (Schwender, 2011).

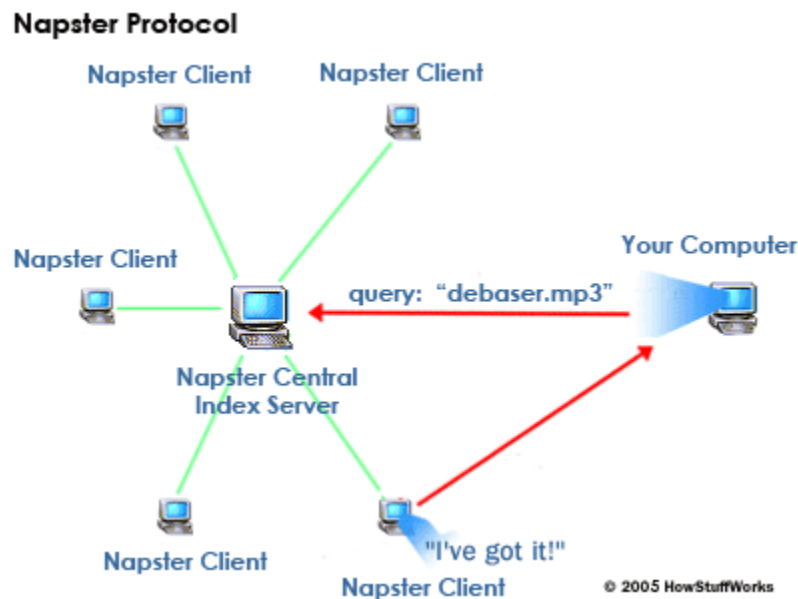


Figure 1 – The Napster Protocol

The system grew so large that it attracted nearly 70 million users (Gluth 2010); however, it was not long before the Recording Industry Association of America decided to file lawsuits against Napster on grounds of contributory copyright infringement blaming the use of the software for its falling music sales. Research conducted by Bender and Wang (2009) indicates that there is a direct relationship between P2P downloading and music sales; every 1% increase in file sharing decreases legitimate sales by 0.6%. Alejandro Zentner's (2006) research also concurs the relationship by stating the likelihood of a 15 to 40 year old purchasing a CD after downloading it through a P2P network is reduced by nearly 32%.

Some of the evaluated sources mentioned a previous case for contributory infringement called *Sony Corp. of America v. Universal City Studios Inc.*, better known as the Betamax case, a precursor to Napster's lawsuit. The case involved one of Sony's products called the Betamax which was capable of recording broadcasted television shows onto video tapes. Ultimately, the court ruled that Sony was not liable for contributory copyright infringement on the grounds that the product had "substantial non-infringing uses" like time shifting of shows for example (Miller 2006).

In a case of its own, Napster tried to use the ruling of the Betamax to free itself of liability claiming that their own service could be used for purposes other than copyright infringement. The Ninth Circuit court ruled otherwise, however, and held that Napster had a direct financial interest in its users' copyright infringement stating that more illegal uses of the network would lead to more users which would influence its advertising revenue (Miller, 2006). The court found that the substantial non-infringing use claim did not apply like it did to Sony because they found that Napster had full knowledge of its users' infringement and also had the ability to stop it. The court upheld the previous court's injunction and Napster disappeared by 2001 until it became a pay service for legal music in 2009.

A New Challenger: Grokster

However, the ruling did not stop the file sharing community from developing new networks and software. In 2001, a new program named Grokster emerged. Grokster was also a P2P program like Napster, except there was a key difference. Grokster, unlike Napster, used a decentralized node system in which computers with the best performance would function as "supernodes" which functioned as indexes themselves relaying search queries to other supernodes to search for files on the computers connected to them (Miller, 2006). The RIAA and

the Motion Picture Association of America (MPAA) filed suit later in the case of *Metro Goldwyn Myer Studios v. Grokster Ltd.*, placing Grokster in a similar situation to Napster's. Grokster's main point of argument was that because of the layout of its network, the ability to suspend user accounts was near impossible. The lower courts initially upheld this; the content industry could not prove that Grokster either benefited from or had the ability to stop infringement (Miller, 2006). However, the Supreme Court overturned this ruling on the grounds that Grokster had promoted the use of its software for infringing purposes. This ultimately led to the shutdown of Grokster leaving nothing but a cryptic warning on its homepage revealing the user's IP address and the fact that they are not anonymous.

File sharing continues to advance despite litigation. P2P networks today have further adopted to these court rulings in the form of further decentralization. In particular, the FastTrack protocol, which was Grokster's primary indexing system, was used by other P2P programs that would follow Napster and Grokster like Kazaa, Morpheus, and iMesh (Jones, 2005). Later advancements would create the Gnutella and BitTorrent networks which decentralized file sharing even further and allowed the exchange of massive files with relative ease respectively (Lambrick 2009).

Gnutella and LimeWire: Trillions of Dollars in Damages?

Although Grokster met its demise at the hands of the music and movie industries, it was not long before file sharing began advancing once more. In early 2000, a new search protocol was created under the name "Gnutella." This network was in many ways similar to Grokster in terms of its principles; however, these qualities were taken and applied to an entire search network instead of just one program (Kwok & Chan, 2004). In particular, Gnutella has three specific features that made it comparable to Grokster: decentralization, anonymity, and

autonomy (Kwok & Chan, 2004). Like Grokster, the Gnutella network focused on splitting its network into small nodes that connected themselves to other nodes instead of through a central server. Since the network is decentralized, Gnutella nodes also have complete autonomy in deciding what nodes are trustworthy enough to connect with (Kwok & Chan, 2004). And finally, the direct identity of a file sharer cannot be determined by the information shared when they connect providing a completely anonymous service.

This node system works by using connected computers through a series of five commands: QUERY, PING, PONG, HIT, and PUSH. First, when a computer (herein Computer A) requests to search for a file, it creates a QUERY, a data packet containing the search criteria they specified. The computer then “PINGS” the other computers connected in the nearby area. A PING is a request for a connected computer to show the files it can share. The computer (herein Computer B) then returns a PONG which contains its IP address and its sharable files. If Computer B has any that match the criteria in the QUERY, it will generate a HIT which lists the matching files. Computer B will then PING any other nodes connected to it in order to find their sharable files. If any HITS are found, they are relayed back to Computer B which then sends it back to Computer A. This chain of computers can expand almost infinitely depending on how long the user is willing to wait for the search. Finally, when Computer A decides what file it would like to download, it creates a PUSH command that requests the other nodes to provide a connection to the specified computer. Below is an image illustrating a simple Gnutella connection by showing how three nodes interact with each other under this system (Kwok & Chan, 2004).

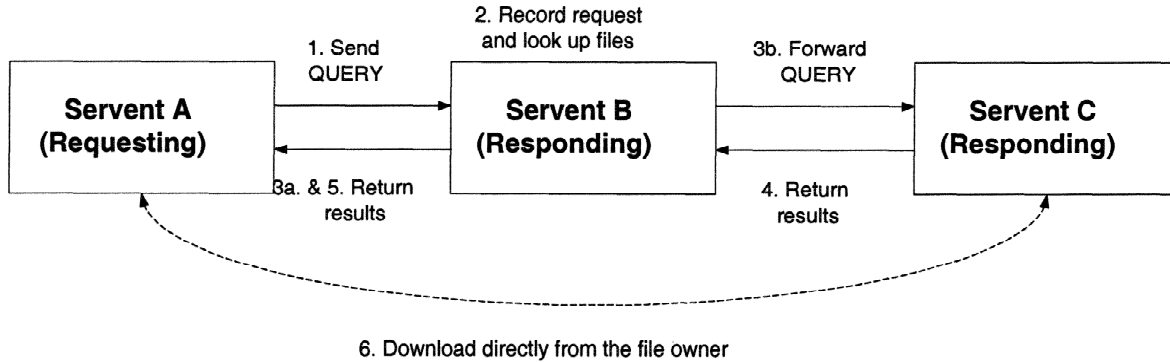


Figure 2 – A simple interaction over a Gnutella network

The largest and most notable P2P program that used the Gnutella network was LimeWire. Created in 2000, LimeWire amassed a following of 50 million users over its ten years of operation (Stempel, 2010). Stempel (2010) also notes that the service can be linked to an NPD survey that stated approximately 58% have downloaded music from a P2P file sharing service. LimeWire continued for ten years until its prevalence once again caused the music industry to act by filing a lawsuit. In *Arista Records LLC v. Lime Group LLC* (2010), thirteen record companies led by Arista Records claimed that Lime Group should be held liable for contributory copyright infringement, vicarious infringement, inducement of copyright infringement, unfair competition, and common law infringement. On May 11, 2010, Judge Kimba Wood granted summary judgment on all claims made by the plaintiffs earning them a permanent injunction against the file sharing company and statutory damages. However, the amount of damages to be awarded was a more disputed topic in the court. Plaintiffs claimed that statutory damages should be awarded per work infringed and per number of infringing acts on that work. Defendants argued that only one award should be given per work regardless of how many times that work was downloaded. The court ruled in favor of the defendants on the grounds that if every work

infringed were multiplied by the number of times it was infringed and then multiplied by the maximum damage award for willful copyright infringement, the damages would climb into trillions of dollars which would likely exceed the entire amount of revenue made by the music industry since the invention of the phonograph and the world's GDP. Fortunately, for both parties, the lawsuit was settled out of court with Lime Group paying \$101 million and complying with a permanent injunction.

The Litigation of Individual Users

Due to the fact that P2P networks were still emerging despite litigation, the content industries switched to a different strategy: using lawsuits against individual sharers. According to Christopher Siebens (2011) in his article "Divergent Approaches to File-Sharing Enforcement in the United States and Japan," beginning in 2003, the RIAA targeted a total of 30,000 individuals over a five year period. His statistics would also show that the RIAA wanted to only use this as tool to educate the public about the problems of file sharing; the industry had settled a vast majority of the cases had either settled out of court or were dropped completely (Siebens, 2011). Other researchers would state that the efforts would focus on a small sample but would achieve public awareness through the publicity of the lawsuits (Bhattacharjee, 2006). Behavior statistics gathered by Robertson and company (2012) suggest that this theory of enforcement might negatively impact the prevalence of file sharing due to creating a greater perceived risk; their study showed that those who participated in file sharing showed a greater tendency to commit theft if they knew there was no chance of detection or penalty.

The mass lawsuits had some success initially reducing file sharing as much as 90% (Bhattacharjee, 2006). However, they did develop some setbacks for the recording industry. Siebens notes that the new lawsuit campaign created a "public relations nightmare" for the RIAA

when the public found out about some of the targets of their lawsuits which included a 13-year old girl, several single mothers, and a dead person (2011). According to David Schwender (2012), the social norms concerning whether not a person decides to share files had not changed at all despite litigation. Several of the reasons were the lack of convincing evidence to show that file sharing was a problem, the portrayal of the industry as greedy, and the lack of any social consequences (Schwender, 2011). Other researchers such as McDonald (2011) and Janssens and company (2009) can confirm the last two details indicating that the legal actions committed by the music and movie industries have created a “Robin Hood effect.” In addition, the amount of money they gained from litigation was nowhere near the amount of legal costs they incurred; the industry’s return on investment dwindled to around 2%.

Fighting Back: The Thomas-Rasset Case

In the wake of the onslaught of lawsuits, there was one case in particular that received national attention. In the case of *Capitol Records v. Thomas-Rasset*, the plaintiff sued young mother Jammie Thomas-Rasset on the charges of copyright infringement for using the then-popular file sharing site KaZaA to obtain twenty-four songs (McDonald, 2011). Unlike other file sharing cases, Thomas-Rasset decided to take the case to court under a jury making it the first and only case of its kind to do so (McDonald, 2011). Other file sharers caught in the lawsuit campaign would simply comply with the plaintiffs and pay a settlement between \$2,000 and \$5,000 (Hrobak, 2013). However, in a lawsuit, a plaintiff can obtain anywhere from \$750 to \$30,000 per infringement in statutory damages (Hrobak, 2013). The Minnesota District Court jury ruled in favor of Capitol Records finding Thomas-Rasset liable for copyright infringement and awarding the plaintiffs \$222,000 (\$9,250 per song) in statutory damages (McDonald, 2011).

However, the chief judge of the court, Michael J. Davis, reviewed the case in terms of damages to determine if the verdict and award were fair. After careful deliberation, the Judge Davis vacated the ruling by the District Court and criticized the jury for allowing an excessive award to be levied against a person in unstable economic condition like Thomas-Rasset (Hroback, 2013). Judge Davis he compared the actual damages of her case to the price of CDs at the time:

The damages awarded in this case are wholly disproportionate to the damages suffered by Plaintiffs. Thomas allegedly infringed on the copyrights of 24 songs—the equivalent of approximately three CDs, costing less than \$54, and yet the total damages awarded is \$222,000 more than five hundred times the cost of buying 24 separate CDs and more than four thousand times the cost of three CDs. (Hroback, 2013)

The court also invited Congress to review laws that award damages like these stating that these laws and damages were meant to deter businesses, not individuals, from profiteering, not simply sharing. Thomas-Rasset was granted a retrial in September of 2008 with a new jury in an attempt to reduce the excessive damages (Horsfield-Bradbury, 2008). However, the results were not as Thomas-Rasset had hoped as the second jury awarded the plaintiffs an even greater award of \$1.92 million (\$80,000 per song) for “illegally and willfully downloading songs” (McDonald, 2011).

Thomas-Rasset called the ruling “ridiculous” while the RIAA was glad that the jury took copyright infringement as a serious matter (McDonald, 2011). This new ruling also sparked some media attention due to the large disparity between the damages awarded and the number of songs actually shared (McDonald, 2011). Judge Davis, seeing that this new trial did not bring about a reduction in damages, decided to use his tool of remittitur and reduce the award to

\$54,000 (\$2,250) per song stating that a near \$2 million award for downloading twenty four songs simply for the purpose of obtaining them for free cannot be justified (McDonald, 2011). According to McDonald (2011), he intended to set a precedent for future cases involving statutory damages by forcing the damages to resemble the actual damages in some way. This decision to reduce the award left record companies and other rights holders dissatisfied since they believed that this deprived them of a trial by jury; however, the decision to use remittitur was upheld on the grounds that remittitur can be used if the verdict “shocks the conscience of the court” (McDonald, 2011). The plaintiffs were given one week to accept the decision or initiate another trial (McDonald, 2011).

However, in spite of Judge Davis reducing the statutory damages for Thomas, she still found the award too excessive since she was a “low-to-middle income individual” (McDonald, 2011). Since neither party wished to continue in this court battle, the RIAA offered a settlement deal asking Thomas to pay \$25,000. Thomas rejected this settlement, however, with her attorney contending that the RIAA is simply trying to coerce people in bowing to their will (McDonald, 2011). The RIAA commented that they believe Thomas should have just accepted responsibility for her actions and taken the modest settlement; they considered the rejection to be an absolute disappointment (McDonald, 2011). The court attempted to appoint special negotiators in order form a settlement between the RIAA and Thomas and prevent a third trial. However, these negotiations failed and the parties filed a joint motion to leave the negotiation stage (McDonald, 2011).

Both parties returned to trial in November of 2010. The defense and judge were hoping that the third jury would produce a lesser award than in the previous trials. However, once again, the jury held Thomas liable for willful copyright infringement awarding the plaintiffs \$1.5

million (\$62,500 per song) which was only \$420,000 less than the previous ruling (McDonald, 2011). The RIAA hailed this ruling saying that Thomas needed to take responsibility for her actions and this award was what was needed (McDonald, 2011). Once again, Thomas stated that her economic status makes her incapable of paying and that she would seek an appeal of the jury's ruling. Similarly to the second ruling, Judge Davis reduced the award to \$54,000 stating that anything more exceeds the maximum permitted by the Due Process Clause of the Fifth Amendment (Capitol, 2012).

This time, Capitol Records sought an appeal to the Eight Circuit Court of Appeals seeking the original damages of \$220,000 (Capitol, 2012). Thomas contended to the court that any award of statutory damages is unconstitutional since it requires no evidence of actual harm to the plaintiffs (Capitol, 2012). The court disagreed, however, and held that statutory damages are used for when any actual harm is difficult or impossible to calculate (Capitol, 2012). The court ruled in favor of the record companies by reinstating the original award of \$222,000 (\$9,250 per song) alongside issuing an injunction preventing any further file sharing by the defendant (Capitol, 2012).

The Danger of the Current System

The enforcement tactic of using mass lawsuits coupled alongside proposing increased legislation has created some dangerous precedents and exploitable loopholes that could have negative implications for both the file sharing community and software providers. Some court cases have assisted in outlining this. A study by John Horsfield-Bradbury (2008) was conducted on an individual lawsuit in which Jammie Thomas-Rasset, who was discussed earlier in this chapter, was ordered to pay \$220,000 for sharing about twenty four songs over KaZaA, a P2P network. The court ruled that "making available" was enough to prove that Thomas had

committed copyright infringement (Horsfield-Bradbury, 2008). He contends that establishing this “making available” doctrine could create liability regardless of whether the shared files were downloaded or not (Horsfield-Bradbury, 2008). Further research by Kristy Wiehe (2008) supplements this topic by arguing that the Copyright Act of 1976 only covers copies and phonorecords. She also mentions the danger of expanding liability for intermediaries like cable companies due to this doctrine (Wiehe, 2008).

An example of exploitability was outlined by James DeBriyn (2012) in his analysis on statutory damages. In his case, he examined the production company Voltage Pictures targeted an estimated 250,000 individuals for legal action due to the sharing of its movie *The Hurt Locker* (DeBriyn, 2012). Most cases were settled out of court but not without a steep price of \$3000 per settlement. Due to the fact that several thousand defendants could be jointly filed in a single court case, the studio generated a profit of \$10.9 million from just the first 5,000 defendants while filing the case only cost about \$350 (DeBriyn, 2012). The use of the settlement letters in these cases also shed light on the unequal bargaining power between copyright holders and individuals (DeBriyn). Sean Karunaratne (2012) further analyzes the mass lawsuits by stating that using the joinder for purposes like this violate rules like the connecting transaction clause. He also argues that minimum requirements should be further elaborated to prevent system abuse like this (Karunaratne, 2012).

An argument made by Michael Carrier (2012) is that the strict enforcement of copyrights has caused technological innovation to dwindle. He contends that the primary growth of the many successful companies (including Google, Apple, Microsoft, and many others) were through the efforts of venture capitalists (Carrier, 2012). The same could be said of P2P file sharing networks like Napster which he described the aftermath of it as a “venture capital

wasteland” (Carrier, 2012). He believes that similar factors like the decline of venture capital investment have led to the stifling of innovation which has been detrimental to both copyright holders and the Internet (Carrier 2012).

File Sharing Today: BitTorrent and the Pirate Bay

After the demise of LimeWire and other Gnutella P2P file sharing programs, a new protocol was introduced to further decentralize P2P file sharing. This method, called the BitTorrent protocol, divides files into several different pieces and distributes one copy of the pieces individually to each of the connected computers. Afterward, each computer copies their own piece of the file and then sends them to other computers within their group which is called a swarm. In the end, each computer has all of the pieces of the file which is then reassembled by the program while the host computer has only sent out one copy of the file (McDonald, 2011).

In order to find these swarms, the users first need to download a file containing the data that locates their desired content. This file, called a torrent, can be downloaded through any site that hosts them. However, none are more popular than the Swedish torrent tracker, the Pirate Bay. This site, founded in 2001, possesses several advantages over its predecessors. The first is the status of the country in which it is established. Sweden’s copyright laws are considerably weaker and not enforced to the degree of laws in the U.S. or U.K. Sweden even has an entire political party dedicated to reform of copyright laws which is accordingly named the Pirate Party (translated from Piratpartiet). Secondly, the BitTorrent protocol itself spreads the sharing process across several different users since each computer shares pieces of the file that they receive. Since the program itself does not store files, it will be much more difficult to obtain an injunction against it (Touloumis, 2009).

Nevertheless, the Pirate Bay has brought about one of the most infamous cases in today's file sharing world. The Pirate Bay has been known to disrespectfully refuse requests from rights holders to investigate torrent files that infringe on their copyrights (McDonald, 2011). When it was apparent that the Pirate Bay had no intent to comply with the creative industry, the government and the rights holders took action. In 2006, the Swedish police raided the headquarters of the Pirate Bay and seized all of the servers there in the process. Two years later, four Pirate Bay employees--Fredrik Neij, Gottfrid Swartholm Warg, Peter Sunde, and Carl Lundstrom--were formally charged with aiding and abetting copyright infringement. The four men proclaimed and defended their innocence citing reasons such as deriving no profit from the shared files (McDonald, 2011). However, the court ruled in favor of the prosecution and sentenced all four of the men to a one year jail sentence and a 30 million kronor (approximately \$3.6 million) fine (McDonald, 2011). Following their conviction, the Pirate Bay associates attempted to appeal the ruling to the Svea Court of Appeals. Their result was that their prison sentences were reduced varying from four months to ten months; however, their fines were increased to 46 million kronor (approximately \$6.57 million) (McDonald, 2011). The defendants are expected to appeal their sentences to the Supreme Court.

The reactions to the raid and sentence were mixed in their dispositions. The recording and movie industries of Sweden and the United States hailed this as a victory over mass copyright infringement and they intended to use this verdict as a warning to future endeavors (McDonald, 2011). However, the Pirate Bay simply relocated its remaining servers to the Netherlands after the raid and reappeared after only three days of downtime (Li, 2009). In addition, the raid drew many street protests which attracted the attention of mainstream media. The sudden international attention resulted in the dramatic increase in both domestic and

international membership in the Pirate (Li, 2009). In 2009, the Pirate Party tripled in size and gained enough votes to earn two seats in the Swedish Parliament in addition to establishing branches in over 20 different countries (McDonald, 2011).

SOPA/PIPA

While the raid on the Pirate may have been executed in a foreign country, there was still effort by the entertainment industry to expand copyright enforcement domestically. The movie and recording industries began launching a lobbying effort to produce new legislation that will hinder domestic traffic to file sharing websites (Belleville, 2012). The primary reason to this action was the fact that prosecuting or obtaining injunctions against popular torrent trackers like the Pirate Bay was extremely difficult due to copyright laws being more relaxed or insufficiently enforced.

To form a solution to this, Congress created two bills: the Stop Online Piracy Act (SOPA) and the Protect Intellectual Property Act (PIPA) in the House of Representatives and Senate respectively. These bills targeted websites that are entirely offshore and outside U.S. jurisdiction. To help control access to the sites in question, the bills included provisions to give the U.S. Attorney General power to compel certain third parties to deny access by their users to the “rogue” site (Belleville, 2012). Belleville (2012) states that there were four types of internet parties the bills affected: “Operators of domain name servers (DNS), financial transaction providers (such as PayPal), internet advertisers, and information location tools.” With such influence, the United States could filter any site from search results of all kinds and block any financial support received from payment services (Belleville, 2012).

The bills did receive some support in their early stages. Many trade groups and individuals of the creative and entertainment industries like the RIAA, the MPAA, book

publishers, and the Chamber of Commerce were the strongest supporters since the bill was likely to help them recover lost sales due to piracy (Belleville, 2012). However, the bills had large opposition from technology companies particularly those that primarily operate on the Internet. Some companies that announced their opposition of the bill were Google, Yahoo, and the Consumer Electronics Association primarily due to the concern of the limitation of the First Amendment rights (Belleville, 2012). In addition, 108 different law professors signed a joint letter stating that the bills are unconstitutional on similar grounds (Belleville, 2012). Opponents also indicated that using DNS filters could cause several legitimate sites to be unjustly filtered which would be detrimental to the general public and ineffective against those who are experienced with technology and can easily use a proxy server to evade the filter (Belleville, 2012). Other issues included the non-specific language used in the bills which would create incorrect interpretations (Belleville, 2012).

In January 2012, thoughts turned to action for SOPA/PIPA's opponents. Google contacted Congress about another issue that could stem from passing SOPA/PIPA: Internet censorship. They contended that giving DNS blocking powers to the United States government could lead to unprecedented levels of censorship which is comparable to that of China or Iran (Bridy, 2012). As a result, the popular free information wiki known as Wikipedia announced that they would be blacking out their service in protest of SOPA/PIPA. On January 18, 2012, the Wikipedia homepage began displaying a black screen that prevented users from searching or editing with a message describing the dangers arising from the bills. More than 100,000 internet companies including Google, Mozilla, Reddit, I Can Haz Cheezburger (a popular internet humor site), and Twitter followed suit by either making their site inaccessible or displaying message on their homepage in protest (Bridy, 2012). On that day, an estimated 160 million people visited the

blackout Wikipedia site (Belleville, 2012). This led to an online petition in opposition to SOPA/PIPA obtaining 4.5 million signatures on that day alone which was sent to both Congressmen and Senators (Bridy, 2012). Soon after the protests, opponents in the Senate skyrocketed from 12 Senators to a whopping 45 (Belleville, 2012). In the House, SOPA's original author and House Judiciary Chairman Rep. Lamar Smith (R-TX) postponed the vote on SOPA indefinitely (Belleville, 2012).

Belleville (2012) performed an analysis on the two bills in the context of current copyright law, technological feasibility, and other factors. First, he evaluated the bills on whether or not it would even be possible to implement the restrictions they call for. Technologically speaking, the required DNS filtering system would produce redirects that would conflict with security systems that authenticate data (Belleville, 2012). In addition, accessing a foreign proxy server would allow virtually anyone who knows how to use them to dodge the filter with ease (Belleville, 2012). Next, Belleville (2012) examined the bills in terms of the United States Constitution. The current legislative system only has the right to regulate free speech as long as it is a "least restrictive means of a compelling state interest" (Belleville, 2012). Also, before determining if material is unlawful, parties must first go through adversarial hearings as required by the Constitution (Belleville, 2012). SOPA and PIPA would allow infringing sites to be seized by the federal government almost immediately and without warning (Belleville, 2012). Although supporters claim that these provisions were meant to target foreign websites that profit off infringing material, there is no text in either bill that would prevent these unconstitutional actions from being applied to U.S. citizens (Belleville, 2012). In addition, Belleville (2012) contends that these DNS blocking provisions would make U.S. internet access ironically similar to that of Egypt or China which is harshly criticized by other countries including the U.S. One final point

he also adds is that the bills would hinder innovation as new websites could face an immediate shutdown and loss of advertising revenue over any object on their site that has been deemed infringing.

Proposed Alternatives

There have been several scholars in this study that have mentioned at least one alternative for the current system of enforcing copyright. The first method is the one that several international record companies have already implemented. Since the failure of the mass lawsuit program, some rights holders have begun collaborating with Internet Service Providers (ISPs) to shut off internet access to those caught file sharing a certain amount of times (Bridy, 2011). Annemarie Bridy believes that this alternative is a better choice primarily because it places responsibility of enforcing copyright with a neutral third party (2011). France has already adopted this system in the form of the HADOPI act which forces ISPs to disclose the identity of their users that share copyrighted files (Bridy, 2011). Upon forwarding this to the rights owners, a notification would be sent stating the legality of their actions along with educational material about intellectual property law (Bridy, 2011). Repeated offenders would have their internet access shut off for a limited time of two months to one year (Bridy, 2011). Michael Boardman (2011) adopted a more cautious approach to this in his article which addresses concerns from human rights activists which state that such measures would violate different fundamental human rights including expression and privacy.

Content Filtering Database

Another proposed alternative was the content filtering system proposed by Lital Helman and Gideon Parchomovsky (2011). Under their system, webhosts would implement a content filtering database which would contain information about all copyright-protected works. The

main strength of their proposition was that it would remove all liability from content hosts in exchange for implementing this filter. They did address some weaknesses under this system. Sometimes the filter might miss an infringing item, or it might inappropriately target a non-infringing item (Helman, 2011). Also, they do realize implementing a content filter could set a dangerous precedent to internet censorship (Helman, 2011). However, they do believe that the greater benefits would help protect internet stakeholders like ISPs and P2P software providers in order to further advance internet innovation (Helman, 2011).

Changing Social Norms

The evaluation of alternatives brings this study back to the article of Danwill Schwender (2012) which proposed an alternative of its own. Schwender (2012) examined the situation passed the terms of laws or court decision and instead analyzed the social norms which can either “support or supplant a law.” The primary method to change social norms that the recording industry attempted to use was its mass lawsuit campaign which was supposed to help the public associate file sharing with piracy and theft (Schwender, 2012). Several reasons Schwender (2012) cited for its failure included the ineffectiveness of punishment, the anonymity of internet users, and portrayal of the industry as greedy. The main objective he proposed was obtaining voluntary compliance in copyright laws by winning the public’s support on the issue (Schwender, 2012). The central method he suggested was having the record companies shift copyrights to the individual authors which would greatly improve public perception of the industry (Schwender, 2012). He claims that the file sharing community does not believe the recording industry best serves the artists and that it is a soulless machine that only benefits itself. This proposal coincides with his earlier assertion that whether or not people follow the law is based on social norms and values.

Statutory Damages

Cases like *Capitol v. Thomas* call the issue of statutory damages into question. Under the current copyright system, statutory damages for infringement are no less than \$750 per shared work. Hroback (2013) states that standards for statutory damages were created well before P2P file sharing or even the Internet even existed, and holding P2P file sharers to this unadjusted standard would be “misguided.”

Hroback (2013) analyzed the current standard on how to determine statutory damages. Since all three verdicts of the Thomas trials drastically differed from each other, there was no observable consistency in deciding these damages. He also notes that the Thomas case can be compared to a similar case known as the Williams case. In this, two sisters sued a railroad company for being overcharged by \$.66; under an Alabama statute, they were to be awarded \$50 and \$300 for every overcharge. The company attempted to appeal this judgment to the Supreme Court on the grounds that such a large award that is significantly disproportionate to any actual damage caused violates the Due Process Clause of the Fifth Amendment (Hroback, 2013).

The Supreme Court declined to hear an appeal and responded that the legality of statutory damages are not to be tested in their court, but state that statutory damages are unconstitutional “if the penalty is so severe and oppressive as to be wholly disproportion to the offense and obviously unreasonable” (Hroback, 2013). Hroback (2013) notes that this standard is largely ignored in today’s courts, which allows the record companies a significant advantage in cases like these. This is mainly due to the fact that the Williams standard will cast doubt on whether or not the relation to actual damages will be questioned at all.

Hroback (2013) has proposed some alternatives to this unchecked system of statutory damages. One these reforms includes changing the standard of statutory damages to one similar

to the Supreme Court's standard of punitive damages. This standard can be outline in another court case called the BMW of North America v. Gore case. In this trial, three guidelines were established for determining punitive damages: "The reprehensibility of the defendant's conduct, the ratio of punitive damages to actual harm, and the difference between punitive damages awarded to actual harm, and the difference between the punitive damages awarded and the civil penalties imposed or authorized in similar cases" (Hroback, 2013).

Hroback (2013) documents that both punitive and statutory damages serve the same purpose in trials since they are both decided arbitrarily and used to deter and retribute illegal behavior. In addition, the Copyright Act allows provisions for increased damages if the infringement is determined to be willful which functions exactly like punitive damages. However, changing statutory damages to punitive damages would allow defendants the rights they are entitled to in a criminal trial whereas a civil trial would not allow these rights. There are some objections to instituting these standards. Hroback (2013) notes that some argue that statutory damages are meant for cases like copyright infringement for when actual damages are difficult or impossible to determine. Nevertheless, he maintains that Congress increased the statutory minimum to \$750 when file sharing began to surface which indicates that Congress never intended to exceed a modest award like this one since plaintiffs could simply rely on this amount (Hroback, 2013).

Compromise: Reducing Costs for Both Sides

William Mosely (2010) has examined the different cases that have surfaced over the history of P2P file sharing. In particular, he studied the ever changing situation of the Thomas-Rasset case that called several provisions of copyright law into question. The two areas he wishes to address are excessive statutory damages and costly court procedures that essentially

negate the entire litigation process. To form a solution to these problems, he examines a proposal already established by two other acclaimed scholars: Mark Lemley and Anthony Reese. In their article, they proposed creating a copyright dispute resolution system similar to those of Canada and Europe. In this system, rights holders may submit claims of infringement along with any evidence of the act into an online dispute site. Defendants would then be given a chance to present their case along with any evidence of fair use. The judge assigned to oversee the system would then announce a decision in a timely manner which would be usually less than two months. If infringement is found, the infringer would be penalized \$250 or greater depending on if the infringement is willful. To supplement the modest damages, the internet service provider would also label the user as a copyright infringer which assists in their obligation to terminate access to repeat infringers (Mosely, 2010).

Open Regulation: Cyber Socialism and Creative Commons

Michael Filby (2011), a professor at the Leicester University School of Law, has studied the free nature of the internet and compared it to the regulators copyright holders in the United States attempt to enforce on it. In his article, he noted that one end of the regulatory spectrum is often overlooked when deciding new laws and policies for the internet: something that some experts call cyber socialism. This philosophy of cyber socialism approaches internet regulation with four different ideals: (1) that internet policy should be made in the best interests of internet users, (2) that intellectual property regulations should be abolished entirely, that consumers are producers and vice versa, and (4) that digital rights management (DRM) is intrinsically immoral (Filby, 2011). In summary, any attempt to reduce the sharing of information among users would be seen as an attempt to hinder internet technology.

To further enforce the benefits of cyber socialism, Filby (2011) contrasts aspects of the physical world to those of the digital world. First, he notes that a property in the physical world needs protection due to the reality of scarce resource; a physical creative work like a CD or book can be seen from the same perspective. In contrast, the digital world's resources are virtually limitless; without the fear of scarcity, internet users will develop a moral code for themselves to promote and deter right and wrong actions respectively. As an example, he cites that most websites or programs are often capable of regulating themselves to a great extent. Wikipedia is one of the sites he mentions since it allows virtually anyone to edit most of the pages but will restrict or ban users that "vandalize" their pages. BitTorrent was an example for a P2P program. As a deterrent to file downloading, some copyright holders will place empty, incomplete, or fake files on P2P networks causing the network to flood with useless files. However, BitTorrent users can give negative feedback on torrent files with too many negative votes leading to the post being buried and hidden from search results.

However, Filby (2011) recognizes that a pure cyber socialism philosophy is impractical and will likely not be implemented due to the current stances of copyright holders. To reconcile this, he examines alternative methods to benefit producers. One of the examples he cites is the network effect. In the case of P2P file sharing, Filby (2011) argues that publishing legitimate files on a P2P network will result in more users joining the network and increasing the value accordingly. Combining that with the suggestion that the program providers host advertisements to generate advertising revenue will ensure that copyright holders will still be compensated for the popularity of their file. To further implement this idea, internet service providers (ISPs) could charge different subscription prices with the more expensive plans being capable of supporting the bandwidth capacity that most P2P programs demand.

As one more alternative to traditional copyright enforcement, he evaluates a recent development in creative industry: Creative Commons. Creative Commons is an alternative copyright system used by those who wish to allow their works to be shared as long as they are credited for the work. Creative Commons licenses can be customized to include additional restrictions like permitting only non-commercial distributions, allowing derivative works only with the same license as the original, or prohibiting derivative works altogether. These permissions were created to attempt to better define the ambiguity between complete copyright and public domain. He contends that using these licenses will allow creators to obtain publicity and awareness through other users that share their works while still offering legal protection against unwanted derivative works or not being credited for their work. Similarly to what he mentioned earlier, creators can also profit off of subscriptions and advertising revenue embedded in their works; by prohibiting modifications and derivatives, advertisements cannot be removed legally ensuring that revenue will still be earned (Filby, 2011).

Methodology

Creating an argument that the current copyright system is inefficient will take an extensive amount of research in both past and present events. The methodology will be broken up into two major methods with one method being under consideration at the moment. The first, and most extensively used, method will be scholarly research already conducted on past events in the file sharing timeline. Some of the topics covered through this method include the Napster case, the Grokster case, the individual lawsuits, and the public's backlash against the industry. Evaluating the alternatives presented will also primarily use this method to obtain both propositions and feedback for amending the copyright system.

The second method will involve using periodicals and other media to find comments made by both the file sharing industry and file sharing supporters. This will assist the research in finding the current state of the relationship between the two parties. Some of the recent events covered through this method include the shutdown of LimeWire, the internet protests of SOPA/PIPA, and the current situation of the controversial torrent tracker known as the Pirate Bay.

The third method will involve conducting interviews and surveys with both random students and people who have participated in file sharing. The primary objective with this method is to obtain opinions of the file sharing debate from everyday users in order to form a perspective from the individual level and to discover why those who currently participate in file sharing still do it or if they even realize their liability. One difficulty I might have with this method is the uncertainty of how much a student would be willing to divulge. This might be solved by ensuring anonymity or not taking the student's name or information (beyond basic

demographics like age or gender). As with all research that involves human subjects, the survey was approved by the Institutional Research Board.

Chapter 1: Introduction

The first chapter will provide a general outline of what P2P file sharing is in order for the reader to understand how the system works. This will also summarize why P2P file sharing is considered harmful to the music and movie industries and how they have been attempting to prosecute all stakeholders of the practice. This section will also provide a generalized timeline outlining different developments of P2P file sharing including modern day systems like the Pirate Bay.

Chapter 2: Review of Literature

The first chapter will describe the past events in file sharing that have led up to this point. The thesis will demonstrate different occurrences such as pre-file sharing piracy, the rise of Napster and Grokster, and their respective court decisions. The objective in this chapter will be to show how the legal landscape has been affected by these events. Information regarding these topics will rely heavily on scholarly journals; however, some other commentary might be gathered from surveying the students as well.

The second section will detail the efforts of the creative industry to combat file sharing on the individual level. The overview will primarily focus on the mass lawsuit campaign and the public relations fallout that resulted from it. The objective of this chapter is to show how the content industry has failed to effectively enforce its copyrights due to factors like file sharing technology improvements, court cases that have complicated lawsuits, the high cost of the campaign, and most importantly the poor public perception of the industry.

The third section of this chapter will be composed of what has happened most recently in the file sharing debate. Points of interest will include the creation of the BitTorrent protocol, the recent shutdown of LimeWire, the failed SOPA/PIPA bill, and the shutdown and reappearance of the Swedish torrent host, the Pirate Bay. One topic that is currently under consideration is to document the shutdown of the file hosting (a method similar to P2P file sharing) site MegaUpload and the arrest of its leaders; however this has not been confirmed as this might take the paragraph off-topic from the thesis. This is one section where periodicals and individual interviews might become more prominent in the thesis discussion.

The fourth section of this chapter will outline each of the proposed alternatives to our copyright system. Some have already been mentioned in the literature review portion of this prospectus. The evaluations of each alternative will include the benefits, the disadvantages, and the overall feasibility that the new system could be implemented. One topic that might also be worth researching would be any comments made by the industry on these proposed changes. This section will rely almost entirely on scholarly commentary.

The final section of the chapter will discuss the results of each alternative as well as indicate any ones that have potential to replace the current system. The goal will be to give my own personal feedback on the methods in the previous chapter and suggest my own changes (if any). I am certain there will be an alternative that will enforce copyright while restoring the industry's good name simultaneously.

Chapter 3: Methodology

The methodology of the thesis will outline each section including the introduction, the literature review, the survey results, and the summary. Some sections will have subsections

which will also be outlined there. The methods in which information will be gathered will be detailed in this section.

Chapter 4: Survey and Results

Chapter 4 will cover the different segments of the survey along with discussing the results. Each question will be outlined along with its appropriate premise. The results for each individual answer will then be displayed in chart form.

Chapter 5: Summary and Discussion

The final chapter of the thesis will detail what implications the results might bring. The results would also be compared to that of other studies that are used in Chapter 2. The results will confirm, disprove, or not be conclusive enough to derive anything from them. From there, I will discuss if action needs to be taken.

Results

To help further analyze attitudes toward P2P file sharing, an online survey was conducted by the thesis investigators. The survey was sent out to students attending Intro to Psychology, a common class that is required of all students, and posted on Facebook, a popular social media website. In total, the survey garnered 64 different responses. This survey was approved by Southeastern University's Institutional Review Board (IRB) on October 30th 2013. The survey ran for about two weeks from January 15th to January 27th of 2014. All participants must have been older than 18 years of age and voluntarily consented to take the survey. In compliance with general anonymity guidelines, no identifying characteristics were collected except age and gender. The results of the survey will indicate if the preventive action taken against file sharing is effective or ineffective. Otherwise, the results would be inconclusive; however, there could still be some suggestions for further research from the results.

Strengths and Weaknesses of the Survey

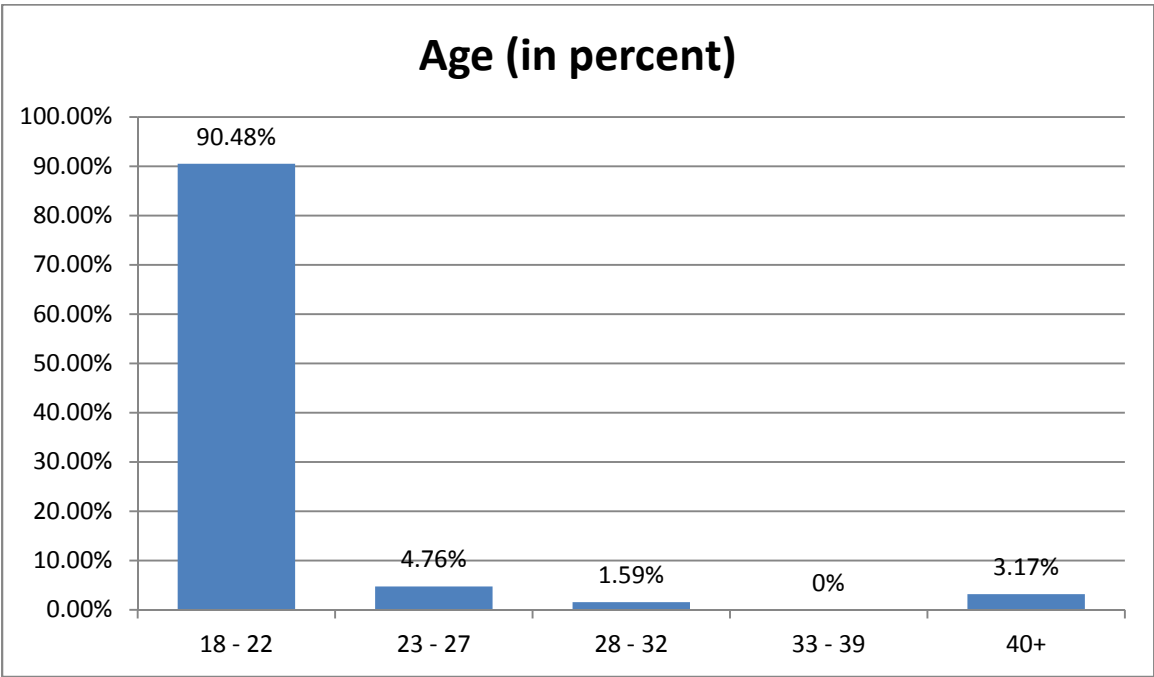
This survey will allow us to analyze some of the viewpoints of both participants and non-participants of file sharing. The responses to each question were relatively simple and did not require much thought unless the taker chose the "other" option on some questions. The survey was also conducted on a college campus which is a near-ideal environment for file sharing since we have addressed previously that file sharing occurs most commonly on college campuses. According to the Project on Student Debt (2011), the average debt for most college students in the state of Florida is \$22,873; this large amount of debt suggests that some of these students might not have as much money to dispose on downloadable music and may search for alternative methods of obtaining them.

However, there are several flaws that might impact the results of the survey. First, the sample size is very narrow in some respects due to the timeframe we had for the survey. Only 64 people responded which is about 2% of the estimated 3,500 students of Southeastern University. On the other hand, the sample might be too broad concerning the indiscriminate nature of the survey. Responses of file sharers are mixed in with non-file sharers which might mean that responses like “I don’t know” or “I have never used a file sharing program” might be common. Finally, this university is religiously oriented, so there might also be some hesitations of students to participate in file sharing for moral reasons which might hinder the results.

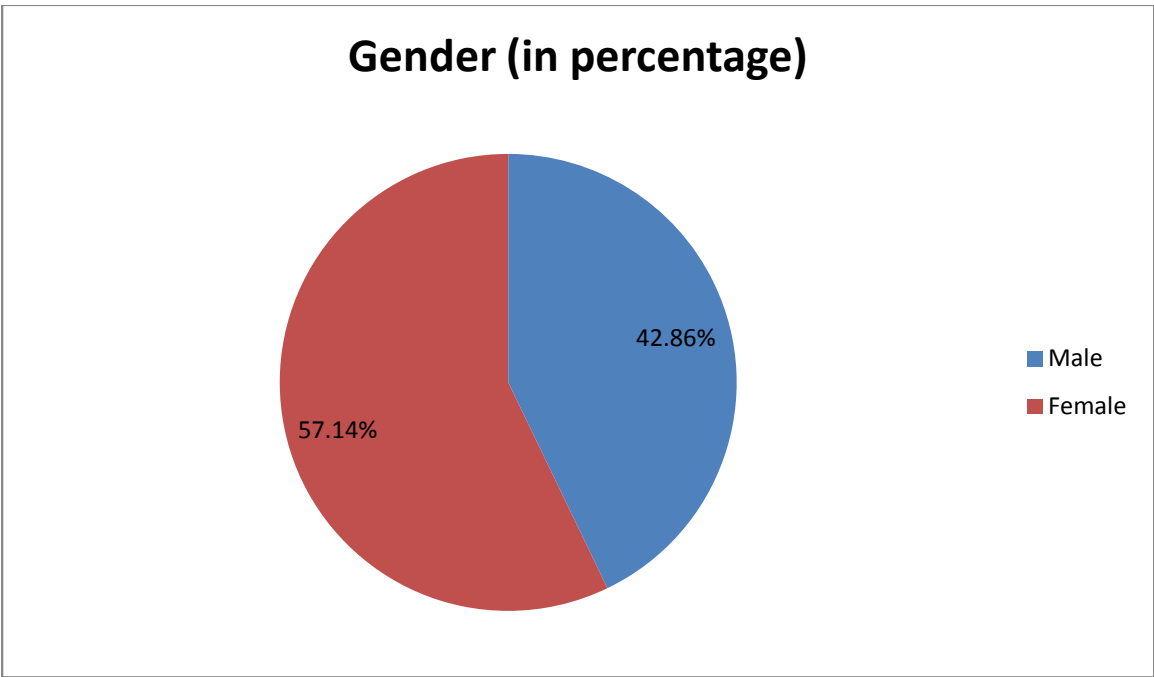
Please note that the survey website automatically numbers each question regardless of purpose or skip logic. Because of this, question one will be skipped in the question numbering for appendix reference purposes. If any skip logic was used in a question, it will be noted in the descriptive paragraph below each chart. All survey questions can be found in Appendix A.

Demographic Questions

Q2: What is your age range?



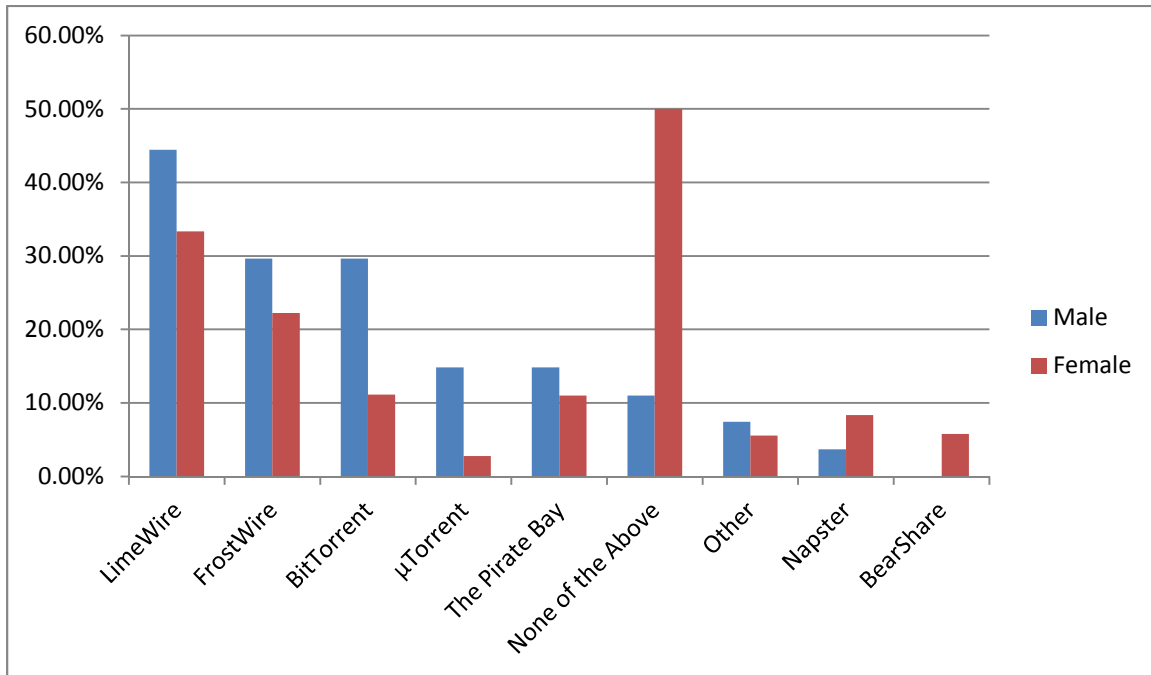
Q3: What is your gender?



These questions simply asked respondents what their gender and age range was. All 63 respondents answered these questions. The overwhelming amount of respondents between ages 18 and 22 was to be expected since the majority of responses were collected from a college class. Although more females responded to the survey, each individual question and response will have to be surveyed to determine which gender has actually participated in more file sharing.

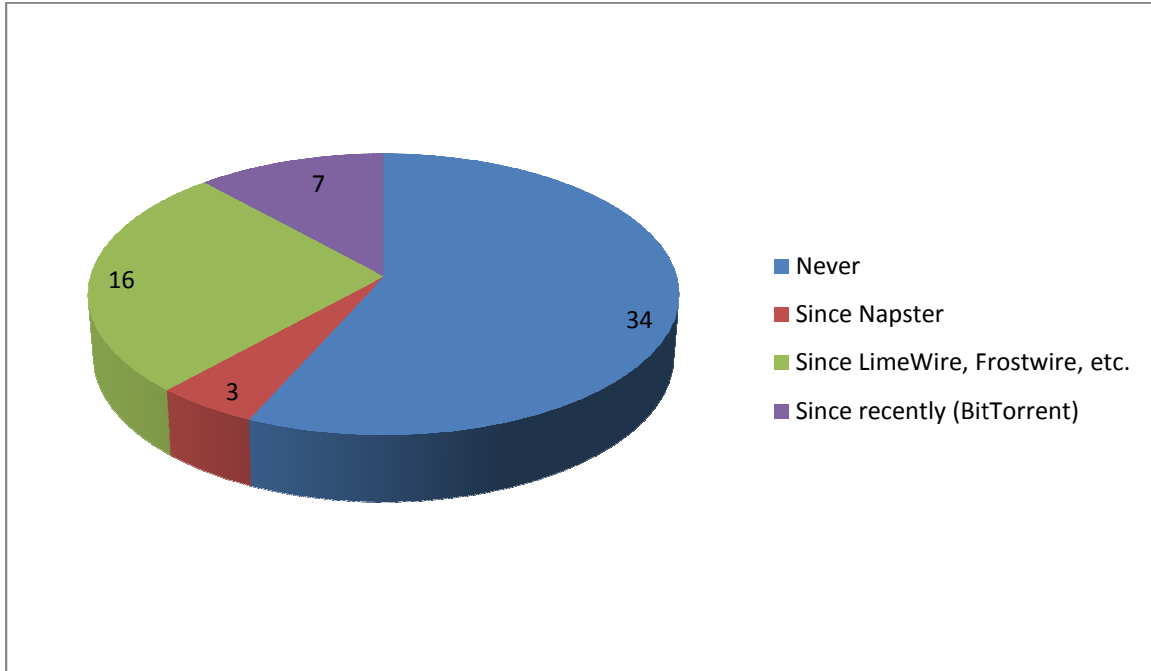
File Sharing Use Questions

Q4: Which of the following programs or websites have you used or considered using? (Check all that apply)



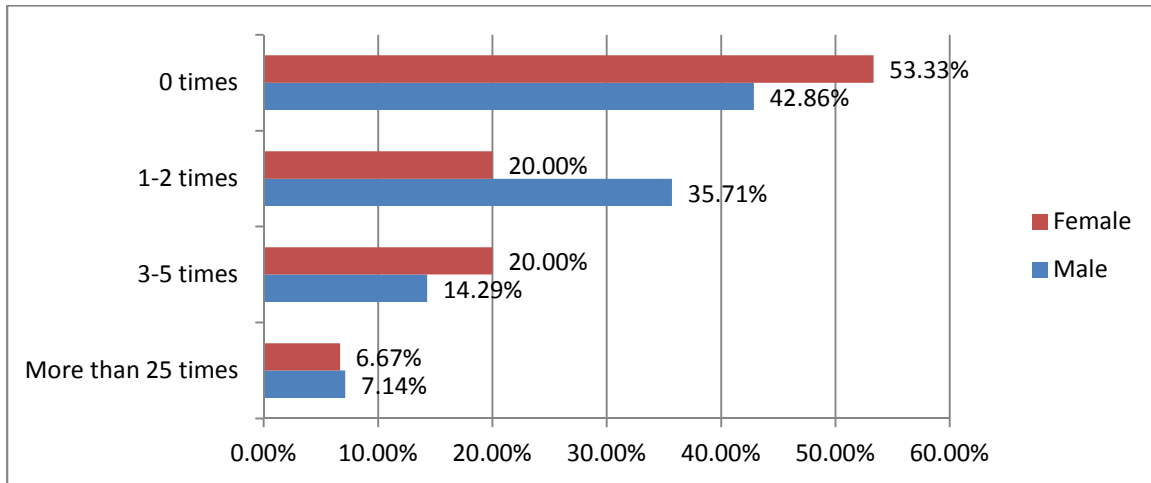
This question was to ask what file sharing programs respondents have used (if any) to determine what program was the most successful in drawing its audience. It also helps to indirectly answer the next question which inquires when the student began file sharing (if they did). The results suggest that more males have participated in file sharing at some point in their life than females. It can also be inferred that LimeWire was the program that attracted the largest audience. Other responses were KaZaA and Grokster which obtained no responses along with an “other” option obtaining a negligible amount of qualifying responses.

Q5: How long have you used P2P file sharing programs?



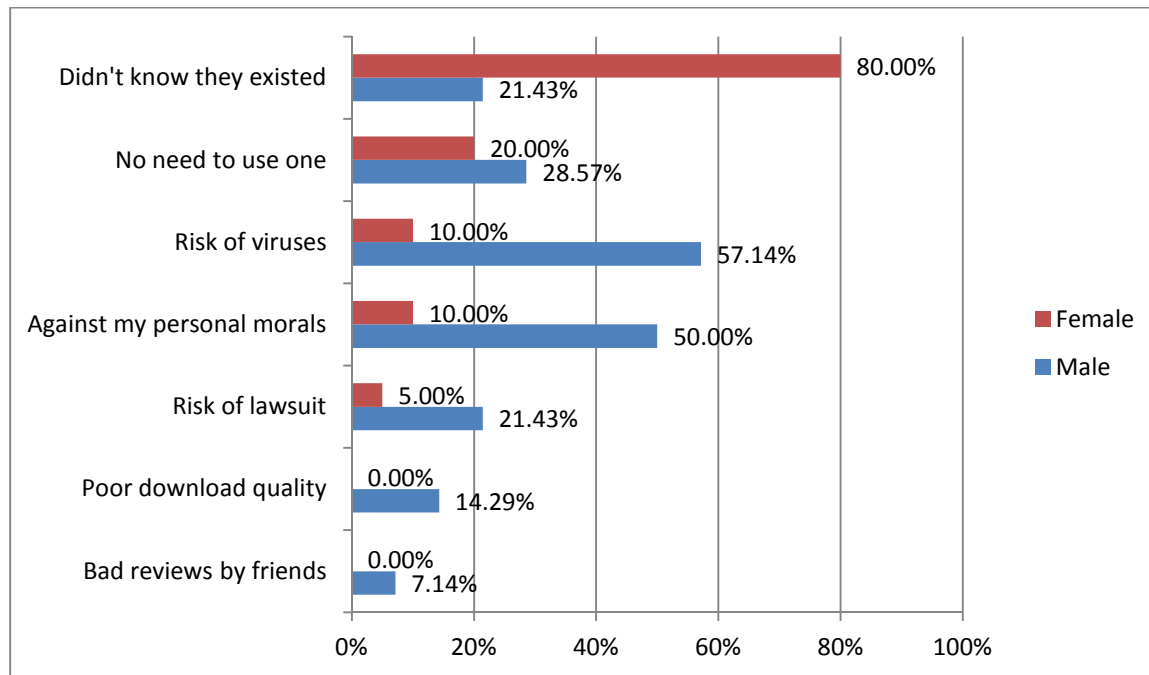
This question served to analyze at what point in time file sharing attracted the most users. In consistency with the previous question, the majority of responses (approximately 55%) indicated that they never used such programs or websites. However, the amount of positive responses show that the majority of the school's file sharing participants began sharing since the age of LimeWire which was approximately 2000 – 2010 (approximately 61%).

Q6: How often have you used a Peer-to-Peer (P2P) file sharing program (ex. BitTorrent, μ Torrent, FrostWire, etc.) program or torrent tracker (ex. The Pirate Bay) within the last two months?



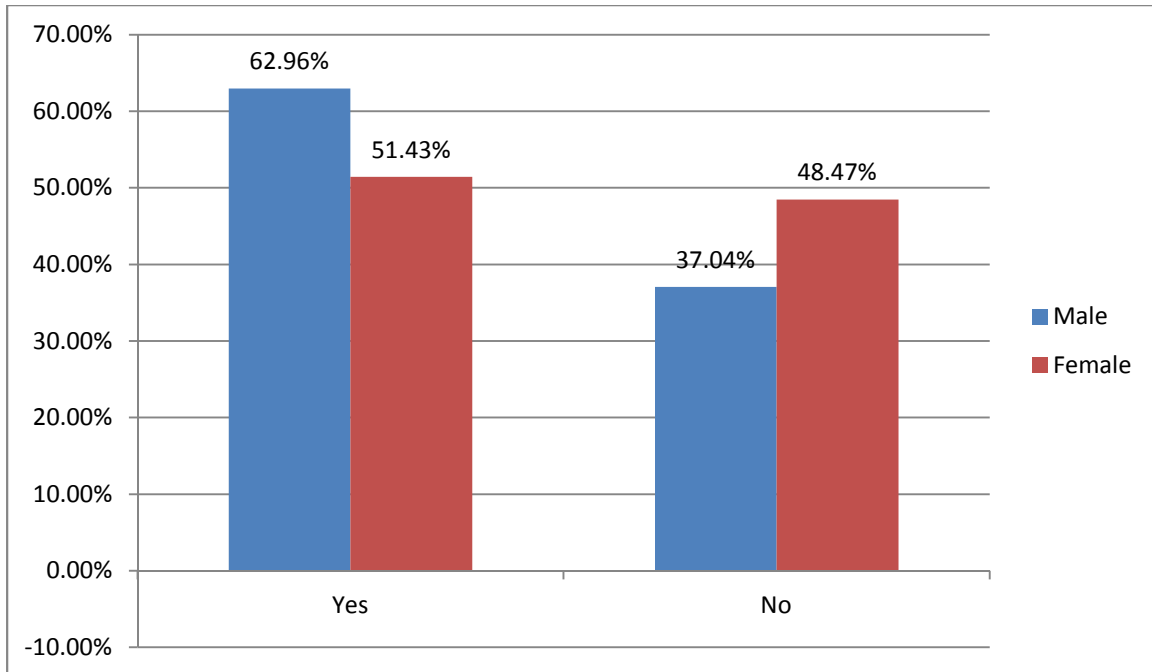
Everyone that answered anything other than the first response of the previous question was directed to this question. This question served to determine if file sharing participants still continue to do so today. The results indicate that those who have participated at some point have not done so recently. The reasons might be explained in the upcoming questions and through further research.

Q7: What made you decide against using a Peer-to-Peer (P2P) file sharing program? (Please check all that apply)



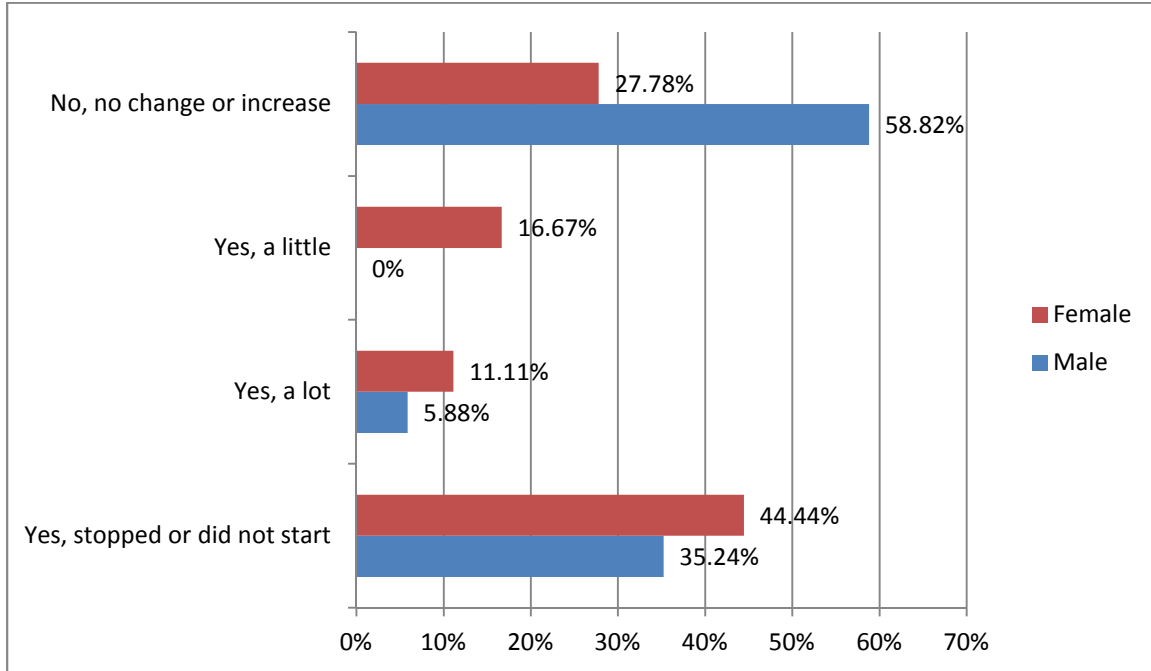
All respondents that indicated they never used a P2P file sharing program were redirected to this question skipping question 6. This purpose of this question was to examine the reasons why people would choose not to use a file sharing program. The results differed greatly by gender. Female respondents overwhelmingly answered that they did not know such programs existed. For males, a majority answered that the risk of viruses and violation of personal morals were the main reasons. This question also shows that people will actually care enough about music and movie creators to choose not to participate in file sharing which might cast some validity to artist promotion alternative proposed in chapter 2. Nevertheless, the results show that the fear of a lawsuit was minimal to almost non-existent in respondents which casts doubt on the RIAA and MPAA efforts to spread awareness of legal risk.

Q8: Are you aware of the efforts of the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA) to prosecute individual file sharers?



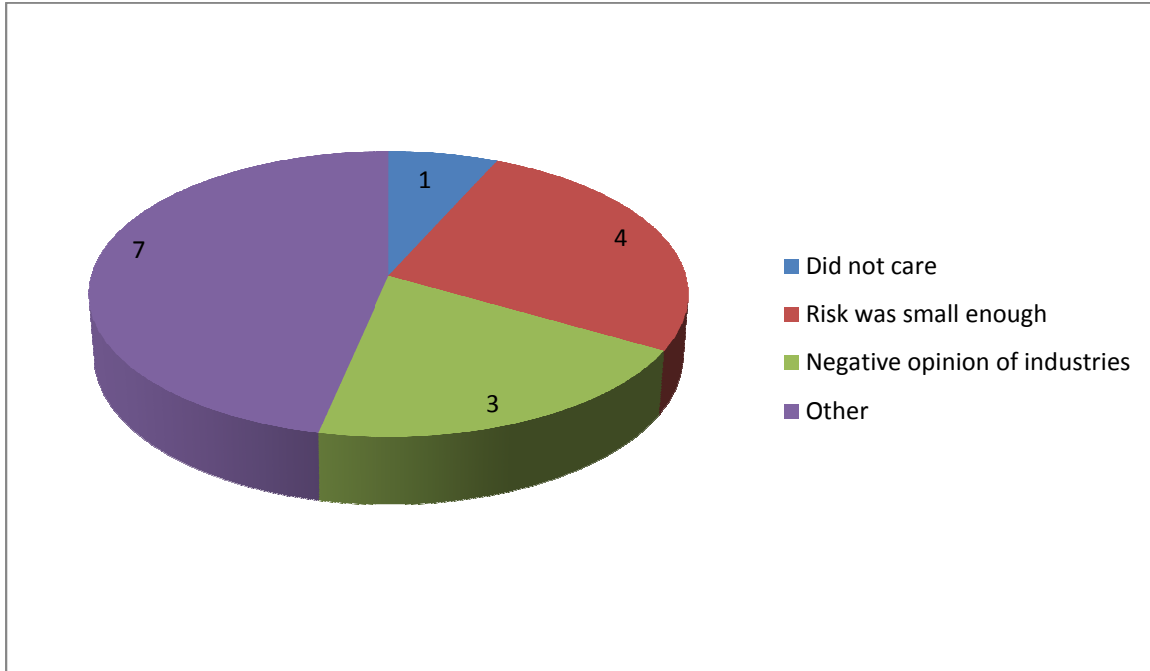
All respondents were asked to answer this question to see if they were at any point aware of the lawsuits filed by the RIAA and MPAA against individual file sharers. There was a moderate difference between male and female answers with males answering positively about 10% more. Even though the margin was only slight when both demographics were combined (about 56% yes), this shows that the majority of respondents were aware of the lawsuits at some point in their life.

Q9: Did this change your file sharing habits?



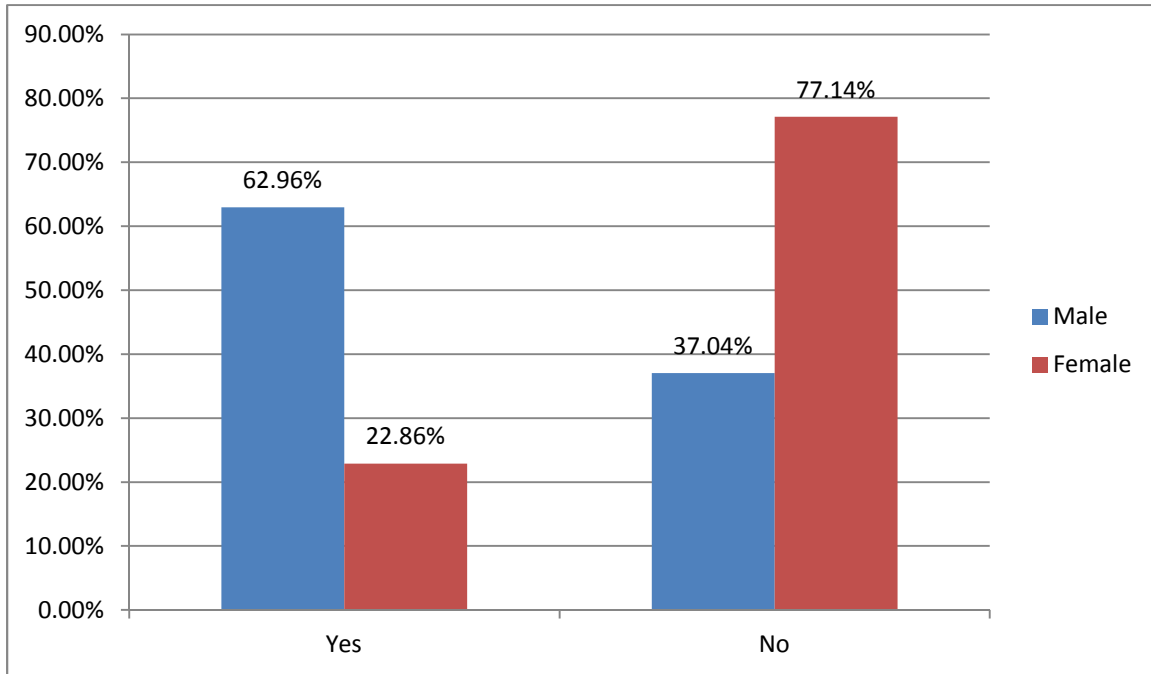
Anyone that answered yes to the previous question was redirected to this question. Since previous questions have shown that males have participated in file sharing more than females have, the fact that the lawsuits from the music and movie industries have had virtually no impact among males. This is somewhat supportive of the arguments mentioned in the literature review that legal actions against file sharing have not successfully deterred the practice. However, the results of the next question could dispute the validity of this conclusion due to invalid responses (see question 10).

Q10: What was the reason you continued file sharing?



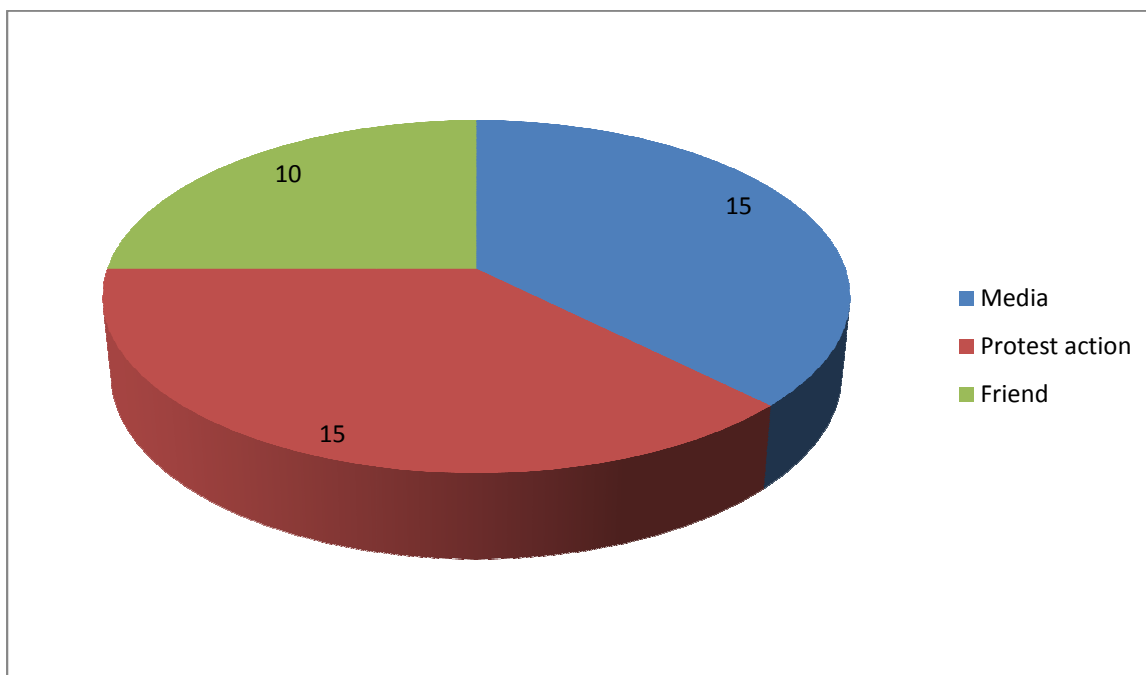
The results of the previous questions were further narrowed to filter only those that have continued file sharing despite being aware of the mass lawsuits. Since the pool of respondents left was extremely small, genders were not separated in the evaluation of this question. At first, it seemed like the responses did not adequately survey the people who continued file sharing. However, upon further review, 5 out of the 7 “other” responses were from people who had not ever file shared. This might have either been caused by confusing wording from a previous question or respondent misunderstanding. Upon removing these responses, only 2 had sufficiently answered the question. One response was “generally legal use” indicating the lack of belief that file sharing can be prosecuted. The other response was “I was not overdoing it so I think I wouldn’t be a target.” Though the pool of survey takers is too small to form a conclusion for this question, this might invite further research to explore the motives of those that continue file sharing despite the uncertain legal atmosphere.

Q11: Were you aware of the Stop Online Piracy Act (SOPA) or the Protect Intellectual Property Act (PIPA) when they were being considered by Congress in January and February of 2013?



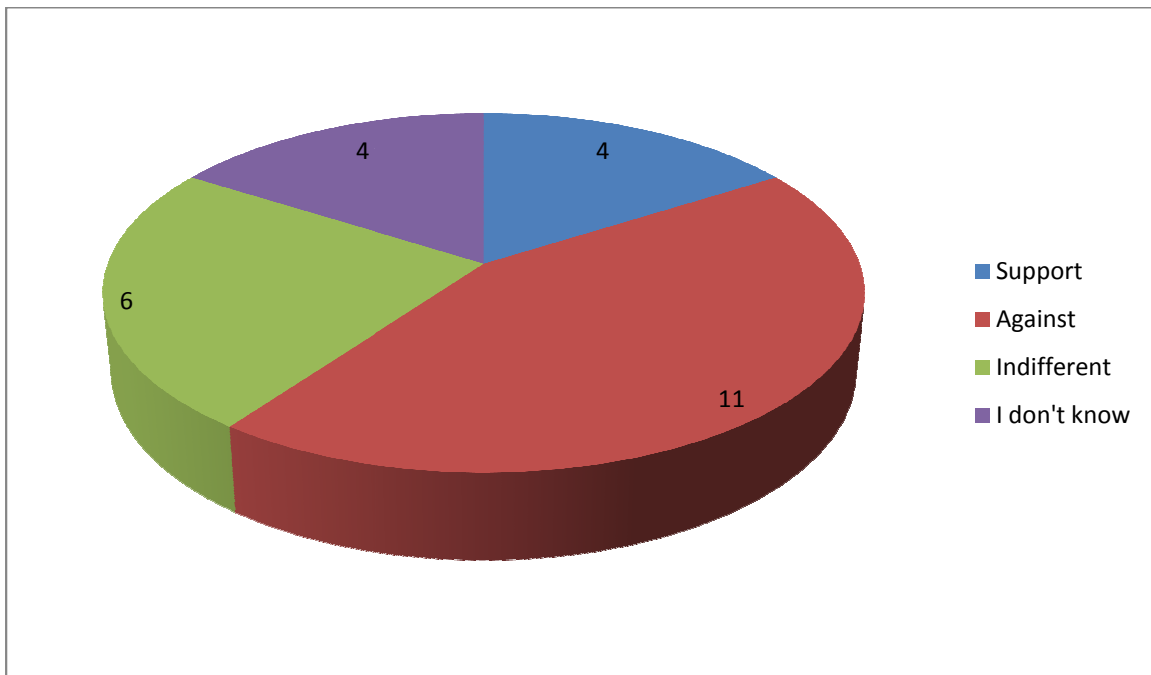
This question served to ask if the respondents knew about SOPA/PIPA in general during the time they were being considered. In general, about 60% said that they were not aware of SOPA/PIPA. However, the results were highly disproportionate between genders. Although there was no hypothesis concerning this outlined in the thesis, the gender discrepancy in awareness was noted since this might be significant for studying internet behavior.

Q12: How did you become aware?



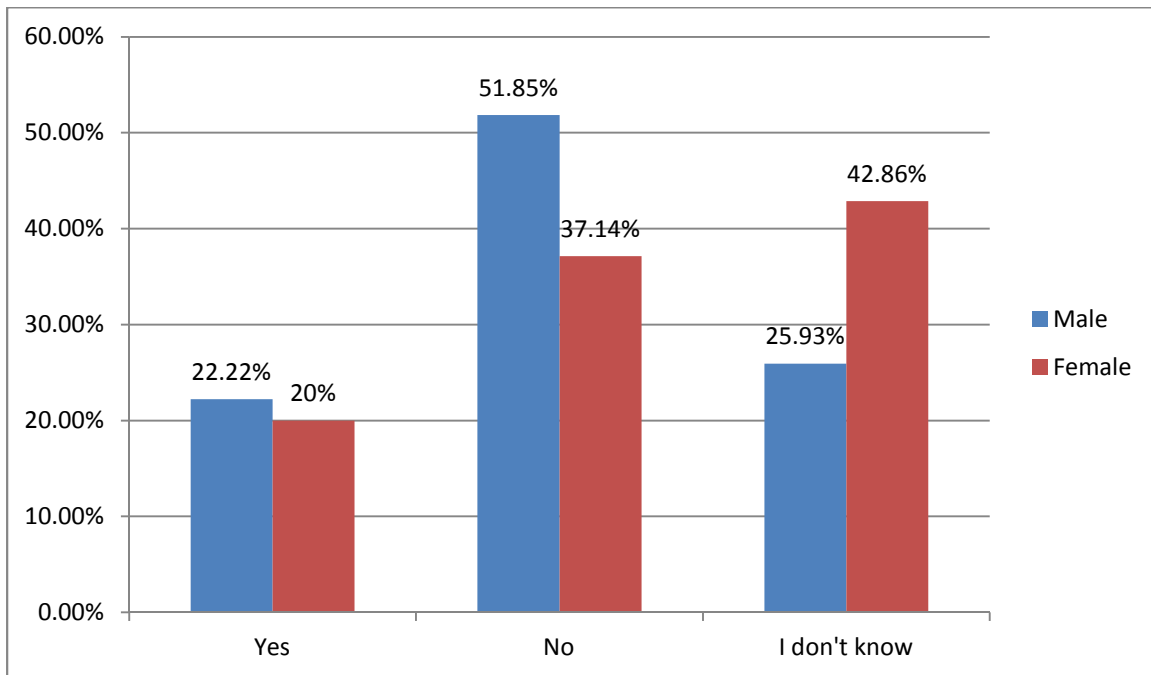
Those that answered “Yes” to the previous question continued to this question; other responses caused the survey to skip to question 14. Since the respondent pool for this question was considerably smaller and no useful information can be drawn from gender separation, the results of both genders were consolidated in the chart above. The results above indicate that the internet protest actions were somewhat effective in promoting SOPA/PIPA awareness equaling that of mainstream media.

Q13: What was your opinion of SOPA/PIPA?



All respondents of question 12 were directed to this question. This question asked their general opinion of SOPA/PIPA based on the information they knew. The results shown here further supplement the claim that the internet protests have successfully raised awareness of and amassed opposition against the two bills to some degree when they were being considered.

Q14: Overall, do you believe the music and movie industries have effectively reduced the practice of file sharing?



All respondents of the survey regardless of any answer participated in this last question. In this, participants are asked to determine based on their overall experience if the music and movie industries have successfully protected their copyrights by combating file sharing. The majority response was “No” by total number of respondents (about 43%). Although there are slight gender gaps, this was to expected since the survey indicated in earlier questions that most female respondents have never participated in file sharing.

Discussion

The file sharing use questions at the beginning of the survey provided some relevant results for this study. Question 7 in particular indicates that although most respondents have avoided using file sharing programs, fear of the music and movie industries was not the primary reason they did so which helps cast doubt on the effectiveness of the lawsuit campaign which was meant to raise awareness. In addition, a considerable amount of respondents said that sharing files is against their personal beliefs or morals which both benefits and hinders the hypothesis. If people believe in their moral codes that file sharing hurts artists and content creators, this greatly supports the alternative of changing social norms. However, the same results could imply that the content providers have had some success in generating awareness of file sharing and its detrimental effects on creativity. Further research would be required to locate the source of this morality.

The responses to questions 9 and 10 show some inconsistency since some of the survey takers misread the question. However, if the results are filtered to show only those that answered anything other than “None of the above” for question 3, it actually shows that 50% did not change or increased their file sharing which further supports the hypothesis that lawsuits against file sharing and its participants have not deterred the practice. Unfortunately, the results of question 10 are too narrow to show any significance to the study since there are only 10 responses after misdirected responses were removed. Further study should be performed to obtain a conclusion in concerns to that question.

Finally, the SOPA/PIPA section provided mixed results. Question 11 showed that the majority of respondents had no awareness of SOPA/PIPA at all when the bills were being

considered. However, question 12 showed that many of the people who were aware of the bills were informed through an internet protest action which seemed to work just as effectively as mainstream media. Question 13 also indicates that a near majority of those that had heard about SOPA/PIPA displayed opposition to the bills. This shows that the internet companies were successful in gathering support against a bill that would threaten the current state of the internet in exchange for music and movie profits.

As stated previously, there are several weaknesses that prevent this survey from effectively forming a completely concrete conclusion. The sample is not nearly large enough to encompass file sharing participants from a variety of backgrounds and beliefs, especially at a faith-based institution. The sample is also too broad in terms of population parameters. Unnecessary responses of those who had never even heard of file sharing were mixed in with qualifying responses which might have skewed the results. However, the survey results will at least contribute somewhat to existing studies of file sharing behaviors, internet culture, and the future of the legal atmosphere of P2P file sharing.

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Appendix A – File Sharing Survey

Survey of the public opinion of the content industry's actions to prevent file***1. Voluntary Consent for Online Survey**

This survey is designed to gather information for a research project conducted by Stephen Lee as part of his honors thesis. The principal investigator at SEU is Dr. Timothy Welch, Associate Professor in the College of Business and Legal Studies.

The purpose of this research study is to determine whether or not the actions of the the music and movie industry have deterred the practice of Peer-to-Peer (P2P) file sharing. The creative industry (mainly the music and movie industries) have taken actions against P2P file sharing filing injunctions against software providers and initiating lawsuits against those who upload or download copyrighted files.

The results of individual responses to the survey will remain totally anonymous and will be used only for reporting grouped results in the honors thesis. This survey should take only about 15-20 minutes of your time and will serve to further understanding the public's response to legal actions against file sharing. Please respond truthfully to all the items.

By taking this survey, you certify that you are 18 years of age or older and that you consent to participate.

If you have any questions related to this survey, please feel free to contact Mr. Stephen Lee at sglee@seu.edu and/or Dr. Timothy Welch at rtwelch@seu.edu.

Thank you so much for your assistance in this important research project! Your prompt response to the survey is very much appreciated.

- ☐ I have read and voluntarily accept the above terms and conditions
- ☐ I do not accept the above terms and conditions

Survey of the public opinion of the content industry's actions to prevent file***2. What is your age range?**

- ☐ 18-22
☐ 23-27
☐ 28-32
☐ 33-39
☐ 40+

***3. What is your gender?**

- ☐ Female
☐ Male

***4. Which of the following programs or websites have you used or considered using?
(Check all that apply)**

- ☐ Napster
☐ Grokster
☐ LimeWire
☐ FrostWire
☐ BitTorrent
☐ µTorrent
☐ BearShare
☐ KaZaA
☐ The Pirate Bay
☐ None of the above
☐ Other (please specify)

Survey of the public opinion of the content industry's actions to prevent file

*5. How long have you used Peer-to-Peer (P2P) file sharing programs?

- ☐ I have never used a P2P file sharing program
- ☐ Since the beginning of P2P file sharing (Napster, Grokster, Aimster)
- ☐ Since the era of LimeWire, FrostWire, KaZaA, and other programs in that time period
- ☐ Since the recent era of BitTorrent, µTorrent, and the Pirate Bay

*6. How often have you used a Peer-to-Peer (P2P) file sharing program (ex. BitTorrent, µTorrent, FrostWire, etc.) program or torrent tracker (ex. The Pirate Bay) within the last two months?

- ☐ 0 times
- ☐ 1-2 times
- ☐ 3-5 times
- ☐ 6-10 times
- ☐ 11-25 times
- ☐ More than 25 times

*7. What made you decide against using a Peer-to-Peer (P2P) file sharing program? (please check all that apply)

- ☐ Risk of lawsuit
- ☐ Risk of viruses/spyware/malware
- ☐ Bad reviews by friends
- ☐ Poor download quality
- ☐ Poor internet connection
- ☐ Against my personal morals
- ☐ No need to use a P2P program
- ☐ Didn't know they existed
- ☐ Other (please specify)

Survey of the public opinion of the content industry's actions to prevent file

***8. Are you aware of the efforts of the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA) to prosecute individual file sharers?**

- ☐ Yes
☐ No

***9. Did this change your file sharing habits?**

- ☐ No. I either did not change or increased my file sharing
☐ Yes. I reduced my file sharing a little
☐ Yes. I reduced my file sharing a lot
☐ Yes. I completely stopped file sharing or chose not to start

***10. What was the reason you continued file sharing?**

- ☐ Negative opinion of the music/movie industry
☐ The risk of a lawsuit was small enough to continue
☐ I simply did not care
☐ Other (please specify)

***11. Were you aware of the Stop Online Piracy Act (SOPA) or the Protect Intellectual Property Act (PIPA) when they were being considered by Congress in January and February of 2013?**

- ☐ Yes
☐ No

Survey of the public opinion of the content industry's actions to prevent file

*12. How did you become aware? (check all that apply)

- ☐ Mainstream media (news channels, news papers, etc.)
- ☐ Internet protest action (Wikipedia blackout, Google and Mozilla homepage changes, etc.)
- ☐ Friend or colleague
- ☐ Other (please specify)

*13. What was your opinion of SOPA/PIPA?

- ☐ I supported it
- ☐ I was indifferent
- ☐ I was against it
- ☐ I don't know

*14. Overall, do you believe the music and movie industries have effectively reduced the practice of file sharing?

- ☐ Yes
- ☐ No
- ☐ I don't know