

Spanish cut-price music web site forced to close

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Spanish web site Puretones has closed as a result of the giant music companies' campaign against anyone who threatens their near monopoly.

The Recording Industry Association of America (RIAA) has filed a lawsuit against Puretones parent company Sakfield Holding Company, which operates in the US, declaring: "the theft of copyrighted music on the Internet has reached epidemic proportions." The music industry claims it loses \$3.5 billion a year because of the illegal distribution of copyrighted music on the Internet and blames this for the 25 percent drop in CD sales over the last four years. It is estimated 1 billion copyrighted and non-copyrighted tracks are downloaded every week from file-sharing or peer-to-peer (P2P) networks, which have more than 80 million subscribers.

Puretunes was set up in May, charging \$3.99 for eight hours of unlimited downloads or \$24.99 per month without any restrictions on playing or copying songs. Subscribers were able to download music normally only available on CDs or vinyl by artists such as The Beatles, U2 and Elvis Presley.

Puretunes did not get permission from the record companies to allow downloads, claiming Spanish copyright law allowed it to make its own agreement to pay musicians and artists with the Spanish Association of Artists, Performers and Players (Sociedad de Artistas Intérpretes o Ejecutantes de España) and Association of Authors and Editors (Sociedad General de Autores y Editores).

The lawsuit against Puretones is part of the continuing effort by the entertainment industry dominated by Sony, AOL Time Warner, Vivendi Universal, EMI and BMG to keep the production and distribution of music and movies under its control. The record companies have developed special techniques to

stop people downloading music and to spy on those who do. In addition they have set up alternative sites that charge much more than Puretones. Customers subscribing to iTunes Music Store created by Apple Computers pay 99 cents for each of the 200,000 tracks on offer. Each downloaded song has an embedded signal that stops it working on P2P services.

Last year the P2P network Napster was shut down after action by the RIAA. The RIAA has also targeted Napster's successors, such as Grokster, Kazaa and Morpheus, but with less success. A US federal court ruled that these companies are not breaking copyright law because they only provide file-sharing software that allows the exchange of songs that sit on members' computers and do not list the songs centrally as Napster did.

The RIAA has responded to this ruling and its difficulty pursuing foreign-based ISPs by targeting P2P users instead. A US federal appeals court, citing the 1998 Digital Millennium Copyright Act, recently ordered provider Verizon to identify customers whom they suspect are distributing copyrighted songs for people to download. As a result, music companies have started sending "cease and desist" letters to suspects. Internet detective agency BayTSP, for example, sends 50,000 to 100,000 such notices each week.

Over the last few weeks the RIAA has been compiling dossiers on P2P users who have uploaded the most songs. It has begun issuing subpoenas to ISPs with a view to suing hundreds of individuals who, if convicted, face fines of \$750 to \$150,000 for each song. Earlier this year four students settled out of court for \$12,000-\$17,000 each after the RIAA accused them of operating "local area Napster networks." Campuses are major centres of P2P activity and the recording industry has commissioned companies such as Audible

Magic to develop systems that block song transfers on college networks and pressured college authorities to treat song downloading as a disciplinary offence. Some colleges have identified students who allegedly distributed music.

The RIAA has also lobbied for a bill now before the US House of Representatives that will make it a criminal offence to upload copyrighted files to a P2P network without the copyright holder's permission. The Author, Consumer and Computer Owner Protection and Security Act of 2003, sponsored by Democratic Representatives John Conyers and Howard Berman, proposes fines up to \$250,000 and sentences of up to five years. The bill also intends to strengthen cooperation between different countries.

P2P companies such as Blubster, Morpheus and iMesh have reacted to these threats by developing software to protect customers from detection. Elan Oren, iMesh CEO, explained, "It's the virus versus the anti-virus software. The firewall versus the hacker.... They're going to come with a measure, we're going to come with a countermeasure."

At meetings with the record companies, Oren said, "They told us we're just not going to get our music [and told us to] shut this service down, then we will talk." The record companies claim anonymity is impossible and point to another recent federal appeals court ruling that cloaking users might violate copyright law precisely because it intends to hide illegal activities.

The P2P companies are intending to form a trade and lobby group to counteract the influence of the RIAA. However, Grokster President Wayne Rosso gave an indication that the companies are prepared to make an agreement with the entertainment industry. Rosso called on his associates to "take responsibility and clean up our own house" and suggested they will support compulsory licensing and an overhaul of the payment system along the lines of radio broadcasting.

The RIAA has presented its defence of profits as a defence of the intellectual property rights of the artist against "music pirates." But whilst some artists such as the heavy metal band Metallica have joined the record companies' efforts to destroy free file sharing, many others have supported the new technology as a liberating, cheap and effective way to distribute their music directly to fans.

In an open letter, artist Janis Ian likens called the record industry's set-up, with its obligatory seven albums and difficult to end contracts, "at best indentured servitude (and at worst slavery)." She continued, "everyone is forgetting the main way an artist becomes successful—exposure. Without exposure, no one comes to shows, no one buys CDs, no one enables you to earn a living doing what you love. Again, from personal experience: in 37 years as a recording artist, I've created 25-plus albums for major labels, and I've never once received a royalty check that didn't show I owed them money. So I make the bulk of my living from live touring, playing for 80-1,500 people a night, doing my own show.... Who gets hurt by free downloads? Save a handful of super-successes like Celine Dion, none of us. We only get helped."



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