Copy What Can't Be Sold

(and Sell What Can't Be Easily Copied):

What Musicians Have Learned From Blogging

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Abstract

The "crisis in the music industry" (declining profits blamed on piracy) has been presented in the media as a crisis for musicians. This thesis challenges such assumptions by differentiating between various components of the industry and by illustrating how some musicians are benefiting from, and sometimes even promoting, piracy and other types of free online content.

Studies of the music industry suffer from a marked inability to comprehend the underlying logic of the Internet when analyzing digital music distribution. Digital music lives within the framework of the Internet, therefore it is subject to the logics of that context. By analyzing this context and looking closely at the influence that the Internet and blogging culture are having on music distribution, this thesis updates outdated concepts and presents recommendations for musicians living in a 'post-Napster' era.

Through a wide range of academic texts, empirical reports, interviews and case studies, I equate the current role of the musician to that of the blogger, ultimately arriving at the conclusion: successful musicians must copy what can't easily be sold, and sell what can't easily be copied.

FOREWORD

My inspiration for this thesis came from personal experiences working with and writing about music. In 2000 I studied audio engineering and classical guitar at James Madison University while also working at the recording studio Stratosphere Sound in New York City. This gave me access to the recording studio, during which time I practiced writing and recording songs. Later that year I released the album "Locus" with the band My Blue Pill, and over the next few years I would both perform with and manage the band. During this time I became very interested in learning about music distribution and marketing. I was obsessed with the idea that free music could be used as a promotional tool. Over the next few years I continued exploring my interest in the subject by interviewing bands; researching piracy, and contributing articles to music blogs such as MusicNeutral, TorrentFreak and Music Think Tank.

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INTRODUCTION

This month, Napster celebrated its tenth birthday. Since it first came onto the scene in 1999 as a music-sharing free-for-all, Napster, just like any young kid, was full of energy, promise and a blatant disregard for all types of authority. In 2001 Napster was shut down by the recording industry, only to resurface a year later as a commercial entity. Today Napster is all grown-up, punches the clock, and would easily be mistaken for a stranger by its old friends. The site is no longer run by its users, nor is it under the supervision of an eighteen-year-old college student; today it is owned by Best Buy, a major consumer electronic retail chain.

The transformation of Napster from a decentralized peer-to-peer (P2P) network into a centrally run business has done absolutely nothing in the way of stopping piracy.[1] Online there is more free music, more ways to find it, and less of a chance of controlling it than ever before. Napster in particular has played a large role in inciting what has become a free music movement.

The battle to control the flow of digital music online consistently falls in favor of the internet and against the corporations. Nonetheless, industry folk are relentless in their struggle to police and unsuccessfully monetize the distribution of music online.

The fundamental mistake found in music industry studies is an inability to comprehend the underlying logic of the Internet. Digital music lives within the framework of the Internet and therefore is subject to the rules of the Internet. This thesis looks closely at the influence that the Internet and blogging culture are having on the production and distribution of music. The research for this thesis applies *new media studies* to *music industry studies* in order to decipher the evolving characteristics of the music industries.[2] Through a close examination of new media's influence on musicians I show how a

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1 Napster was never fully peer-to-peer since it used a central server to maintain lists of connected servers and files, but it is commonly characterized as such because the actual files were shared between users and because a flurry of P2P sites were spawned after it was shut down.

2 The decision to use the plural form 'music industries' as opposed to the more colloquial term 'music industry' is explained in section 1.1

reorganization of power in the music industries has given musicians greater autonomy. Taking this into consideration, I then document the benefits of piracy and noncommercial production as musicians are now creating art at the level of the blogger.

1. Research Questions

1. How can musicians make money despite diminishing profits from album sales?
2. What are the incentives for musicians that give music away music for free online?
3. Ten years after Napster, which terms and concepts in the music industries need to be updated? What new terms and concepts have emerged?
4. Is resistance to free music and innovative distribution models in the music industries a successful strategy for generating profit?

2. Corpus

David Baskerville's *Music Business Handbook & Career Guide* and Geoffrey P. Hull's *The Recording Industry* provide in-depth coverage on the components that make up the music industries: recording, songwriting, publishing, promotion, copyright and licensing. Unfortunately these books lack a comprehensive examination of the Internet's role in the music industries and leave much to be desired in terms of addressing 'post-Napster' issues like illegal and non-commercial content. Instead, to give the impression of being up-to-date, words like "iPod" and "hard drive" are gratuitously inserted in a now antiquated ideology.

Dr. Stephen Marcone, music industry professor at William Paterson University, takes issue with this:

> I am using the same texts basically for the last five years. However, they are almost useless. Most of the information for in-class lectures is from the Internet. The focus of the class has left the record companies as being the almighty and now concentrates on entrepreneurship and personal management.[3]

John Williamson, who is both the manager of the pop group Belle and Sebastian and a University of Glasgow professor, commented:

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3 Stephen Marcone, "Question," personal email (June 21, 2009).

I think academic studies of the music industries are well behind the realities of the situation and most of the existing texts are (at best) outdated.[4]

Despite such criticisms, these outdated books serve as an important starting point because they seem to accurately characterize the structure of the music industry prior to the introduction of Napster and P2P file sharing programs.

Moving into a post-Napster era, it is first necessary to look at texts that draw from cultural studies, sociology and musicology. Key authors here include John Williamson, Simon Frith and Peter Webb.[5] While these interdisciplinary studies are important for understanding the music industries within the broader scope of the cultural industries, they still do not address the influence of the network economy and Internet theory. Here texts by scholars like Lawrence Lessig, Yochai Benkler, Siva Vaidhyanathan, Kevin Kelly and Chris Anderson are useful for studying the Internet's affect on the music industries.[6] While each of these authors touches on issues affecting the music industries, a critical cross-examination of this work from the perspective of the musician is missing.

My research adds to the lack of critical analysis by comprehensively applying the recent work of new media authors, copyright critics and network theorists to the study of the music industries.

3. Methodology and Object of Study

This thesis looks at music industry studies through the lens of new media theory. While it draws on broader issues of cultural production—as well as the social tensions between art and commerce—the specific focus is on the Internet's influence over music creation and

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4 John Williamson, "Rethinking The Music Industry," personal email (May 27, 2009).

5 John Williamson and Martin Cloonan, Rethinking 'the music industry', (University of Paisley, 2007); Simon Frith, Performing rites: on the value of popular music (Cambridge: Harvard University Press, 1998); Andrew Leyshon and Peter Webb, "On the reproduction of the music economy after the Internet," in Media, Culture & Society (London: Sage Publications, 2005).

6 Lawrence Lessig, Remix (New York: The Penguin Press, 2008); Yochai Benkler, The Wealth of Networks (London: Yale University Press, 2006); Siva Vaidhyanathan, Copyrights and Copywrongs (New York: NYU Press, 2003); Kevin Kelly, Better Than Free, January 2008, http://www.kk.org/thetechnium/archives/2008/01/better_than_fre.php (accessed July 12, 2009); Chris Anderson, Free! Why 0.00 Is The Future Of Business, February 25, 2008, http://www.wired.com/techbiz/it/magazine/16-03/ff_free?currentPage=all (accessed July 20, 2009).

distribution. The research relies on a body of practical and theoretical work written about the music industries and attempts to expand the study by focusing heavily on these issues from the perspective of the musician.

The research material for this thesis comes from a variety of sources: academic texts, empirical reports, interviews, news journalism, and blogs. It studies the characteristic of digital music on the Internet through file sharing sites like The Pirate Bay and Mininova, streaming audio sites like Last.fm and Pandora, and a variety of music players and applications, some of which include Songbird, iTunes and the iPod.

Analyzing the music industries from the point of view of the musician challenges the recording industry's insistence that "piracy is a problem" and presents new opportunities for musicians.

4. Structure

Chapter 1, "The Language of the 'Music Industries'," begins by addressing the misconception that the 'music industry' is only one industry when in actuality it is several independent industries. This is an important distinction because too often the "crisis in the recording industry" (declining profits blamed on piracy) is presented as being the same type of crisis for musicians. This chapter ends with an overview of the economic, cultural and social factors that have created the new music industries landscape – a shift that I refer to as "the post-Napster era."

Chapter 2, "Music Industry Studies & New Media Studies," contends that when digital music enters the web it mimics the same underlying characteristics of the Internet. These characteristics (as they relate to music) are explored through examples of illegal and non-commercial music. Drawing on the work of Lawrance Lessig, Yohai Benkler and Michael Strangelove, this chapter concludes that illegal and non-commercial music are prominently displacing money and power within the music industries, and therefore should be recognized as independent sectors within the music industries.

Chapter 3, "What Musicians Have Learned From Blogging," argues that - as a result of the changes outlined in Chapter 2 - musicians are acting more like bloggers. It highlights the incentives musicians have to give their music away for free online, while providing

evidence that musicians are thriving economically despite the "crisis in the recording industry". As a part of this equation, the chapter concludes with stories from artists that are profiting by leveraging qualities that cannot be copied (e.g. authenticity, embodiment, personalization, etc.).

1. The Language of the 'Music Industries'

This section provides a brief narrative of the relationship between musicians and the recording industry in the twentieth century. The argument put forth is that the recording industry promotes an 'industry-driven' ideology. This model of thought has been under attack over the past few years, thereby presenting musicians with an opportunity to shift the paradigm to an 'artist-driven' model.

The sensationalized death of the "music industry" is not the death of commercial music nor is it the death of the musician. To say this would be analogous to believing that a serious pain in your foot is a symptom that the entire human body is ill. To extrapolate this analogy: the music industry is generally referred to as though it were the entire human body, but in reality it should be thought of as a ligament. The solution to the problem is not to focus all of the attention on the diseased ligament that is leeching on the body's resources. Rather, the diseased ligament needs to be treated separately and/or replaced. In short, the music industry crisis is not a problem of the whole system, it is a problem within just one of its sectors.

1.1 What are the 'Music Industries'?

A well-defined taxonomy of the related industries that comprise the "music industry" does not exist. This has led to the misuse of principle terms in news reports and discussions about the industry. The term 'music industry' itself is a misnomer and is often used in ways that distort the reality of the situation. For example,

- The Recording Industry Association of America (RIAA) occasionally misrepresents itself as being a figurehead for the entire "music industry" when in actuality it is a trade organization for a group of labels in the recording industry.[7]

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7 A complete list of all RIAA members can be found on the RIAA's website. Additionally, the site RIAA Radar is helpful for understanding which albums have not been distributed by the RIAA. RIAA, RIAA Members, http://www.riaa.com/aboutus.php?content_selector=aboutus_members (accessed August 4, 2009); RIAA Radar, http://www.riaaradar.com/ (accessed August 4, 2009).

- Peter Jamieson, chair of the British Phonographic Industry, attempted to speak about the "The Music Industry Crisis" at an industry convention in the UK in September 2003, but instead outlined issues particular to the recording sector.[8]

In the media, long-winded articles documenting the decline and future of the "music industry" have been a recurring theme over the past few years. Almost every major news outlet including the NY Times, MTV and Billboard Magazine has weighed in on the topic:

- In the aftermath of the Napster shut down Wired Magazine ran an article "The Year the Music Died" predicting that in five to ten years file sharing will have completely torn apart the "music industry".[9]

- Nearing the close of 2007, MTV.com began a three part story that began with the article "The Year the Music Industry Broke" and asked, "If The Old Music Business Is Dead, What's Next?"[10]

- In 2007 Rolling Stone Magazine published "The Record Industry's Decline" highlighting "how it all went wrong" and the "future of the music business".[11]

- Times Online in 2007 wrote, "The Day The Music Industry Died: There is no money in recorded music any more, that's why bands are now giving it away. "[12]

Common throughout all of these stories is the conflation of the term 'music industry' with 'music business' and 'record industry'. Surprisingly the same ambiguities are present in the university texts and academic reports that are discussed in the next section.

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8 Peter Jamieson, "BPI and the pirates" (Manchester: BPI, 2003).

9 Charles C. Mann, "The Year The Music Dies," Wired, February 2003,

http://www.wired.com/wired/archive/11.02/dirge.html (accessed June 20, 2009).

10 James Montgomery, Madonna Ditches Label, Radiohead Go Renegade: The Year The Music Industry Broke, December 17,

2007, http://www.mtv.com/news/articles/1576538/20071214/madonna.jhtml (accessed February 12, 2009).

11 Brian Hiatt and Evan Serpick, "The Record Industry's Decline ," Rolling Stone, June 28, 2007,

http://www.rollingstone.com/news/story/15137581/the_record_industrys_decline (accessed February 08, 2009).

12 Robert Sandall, "The day the music industry died," Times Online, October 07, 2007,

http://entertainment.timesonline.co.uk/tol/arts_and_entertainment/music/article2602597.ece (accessed May 23, 2009).

Considering the abundance of writing on the subject it is surprising that so little attention has been paid to how the term *music industry* is being (ab)used. For instance, when a headline declares, "Piracy is Killing the Music Industry" or "The Music Industry Sues 482 More Computer Users" it oversimplifies the issue by assuming that the music industry is the only music economy.

A paper entitled "Rethinking the Music Industry" published by John Williamson and Martin Cloonan has helped demystify the media's use of the term 'music industry'. They argue that the concept of a single music industry is inappropriate for understanding the economics and politics that surround music. Therefore, they suggest, "It is necessary to use the term music industries (plural)."[13]

What are the 'music industries'? At the most fundamental level the music industries encompass a wide-range of individuals, organizations and corporations that sell compositions, recordings and live performances of music. Because a clear list defining which sectors should be included in the music industries has not been adopted, there are many inconsistencies in this model.[14] In this paper I adopt the term 'music industries' when speaking generally about more than one of the sectors, yet make the distinction when referring to specific sectors (e.g. artists, the recording industry, the live music industry, the music publishing industry, the creative industries, etc).

1.2 The Recording Industry

1.2.1 What is the Role of the Recording Industry?

The two primary responsibilities of the recording industry are the production and distribution of music.[15] Record labels make the bulk of their profit from album sales. As is common with other industries that produce symbolic goods, to make and market the initial product costs a lot of money upfront, while it is relatively cheap to distribute copies of the final product. It is a high-risk strategy where the labels are anticipating that

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13 John Williamson and Martin Cloonan, Rethinking 'the music industry', (University of Paisley, 2007), 3.

14 John Williamson and Martin Cloonan, Rethinking 'the music industry', (University of Paisley, 2007), 17.

15 A more detailed list includes: finding talent (A&R), manufacturing music, marketing recordings and music videos, maintaining contracts with recording artists and managers and enforcing copyright. Geoffrey P. Hull, The Recording Industry (New York: Routledge, 2004), 18.

album revenue will exceed the initial investment. This equation is made even more precarious considering nine out of ten records fail to recoup expenses.[16] Therefore, the label relies on 10% of its releases to cover all their artists' expenses and hopefully to do well enough that the company can also make a profit.

A standard feature of almost all major label contracts is the transfer of copyright from the artist to the label, which essentially takes away the musician's right to reproduce or sell copies of material outside of the label. Ownership of exclusive publishing rights and enforcement of copyright law protect a label's investment. The record companies are careful when writing the contract in order to ensure that the author will never recapture the copyright.[17] This degree of control has been necessary for the recording industry's financial strategy since, as Geoffrey Hull explains, "The recording industry runs on its copyrights".[18]

1.2.2 The Industry-Driven Model

The recording industry has always been a hierarchical power structure. Most major and independent labels are owned by one of the following four international conglomerates: Universal Music Group, Warner Music Group, Sony Music Entertainment and EMI (commonly referred to as 'The Big Four'). Entering 2000, The Big Four accounted for roughly 75% of the total market for recorded music in the United States.[19] This consolidation of power started in the 1970s with five corporations controlling 58.2% of the Billboard charts and grew to control nearly 90% of the charts in 2003.[20] As Hull has summarized,

> As the 1970s wore on into the 1980s the oligopoly became more pronounced. In a flurry of consolidations and merges of the late 1980s and 1990s, ownership became the key factor. Large labels bought out smaller labels. The identity of the smaller label may have been retained, but the ownership was usually in the hands of a large entertainment conglomerate.

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16 Ibid., 135.

17 Ibid., 40.

18 Ibid., 27.

19 Ibid., 124.

20 Ibid., 124.

By 2000 the four major labels had scooped up about 80% of the independent labels allowing them to sell their products in a wide range of markets.[21] This ownership strategy is known as 'horizontal integration' and has been critiqued by Robert McChesney for greatly maximizing corporate profit and control while doing little for the consumer.[22] To give one example: Epic Records, Columbia Records, RCA and BMG may appear to have individual interests (they do technically compete against each other), but in actuality they are all owned and controlled by Sony Music (figure 1).

In addition there is a substantial amount of 'vertical integration': the larger conglomerates not only own the labels, but the production and distribution methods as well. For example, Time Warner also owns Internet Service Providers (ISP), film, television and publishing companies.
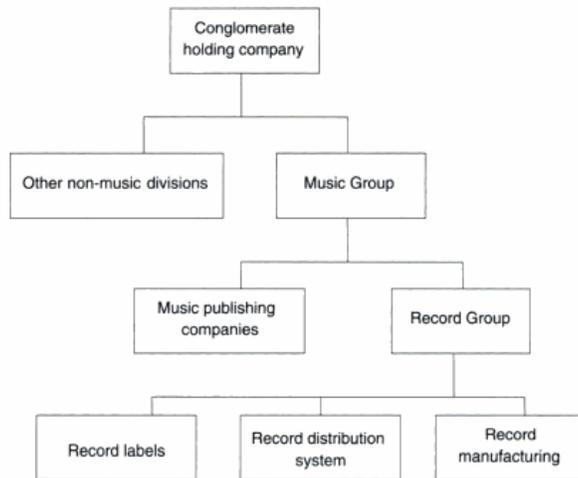
Figure 1 The structure of the corporation lying behind the major record labels. From *The Recording Industry*, by Geoffrey Hull [23]

Within the record label (located in the bottom left of figure 1) there is a second hierarchy (see figure 2).

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21 Ibid., 124.

22 Robert McChesney, "The Big Media Game Has Fewer and Fewere Players," *The Progressive*, November 1, 1999.

23 Geoffrey P. Hull, The Recording Industry (New York: Routledge, 2004), 124.

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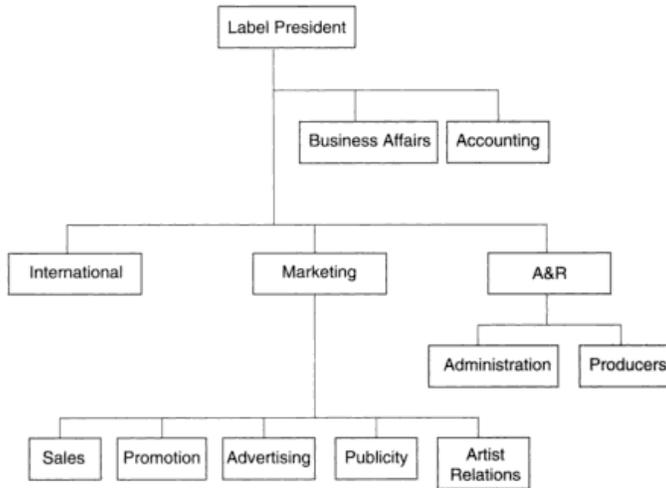
Figure 2 The structure of a major record label. From *The Recording Industry*, by Geoffrey Hull[24]

The managers at the record label are in the central command tower and take charge of coordinating everything for the musician, from production, distribution and marketing to managing the band's trademark and legal issues.

Industry-driven is a term that I believe aptly describes the model of music distribution and production that dominated much of the twentieth century. The key defining characteristic is that one or many of the sectors of the music industries command a majority of control over a musician's career (i.e. through the ownership of copyright, creative control, branding etc.). Since the recording industry is the sector that has exercised the most control over musicians for the past few decades it is the main focus of study here.

The extent to which the recording industry manages the careers of musicians through copyright, term commitment and branding embodies the concept of the industry-driven model. As shown in figure 3 the musician's career is almost entirely within the control of the recording industry. After the term expires the musician has the opportunity to leave the label and release new music elsewhere, but the copyright on music that has already been published under past contracts will be controlled by the label long after the author dies.

24 Ibid., 125.

'Institutional autonomy', as analyzed by Jason Toynbee, is the amount of creative control that is conceded by the recording industry and retained by musicians.[25] The significance of institutional autonomy is that it maintains a formal separation between art and commerce by giving the impression that musicians are creating music *outside* of the industry.[26]
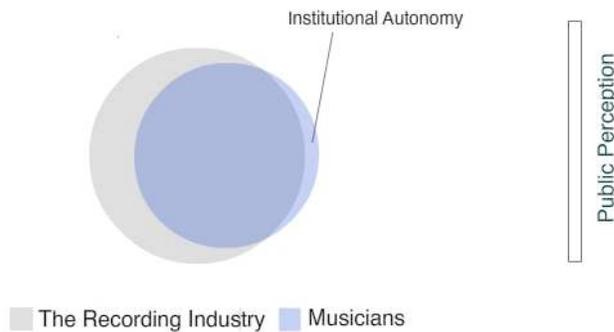
Figure 3 – Industry-Driven Model

Generally this layer of institutional autonomy and its projection of a Romantic author is the only image the public witnesses. 'Public Perception', labeled in figure 3 and covered with more depth in the next section, represents Lee Marshall's notion that despite the industry's dominance over the career of their musicians it is necessary that musicians maintain the role of the Romantic author.

1.3 The Musician

1.3.1 Maintaining The Romantic Author

The Romantic author, as defined by Marshall, is someone who embodies the artistic ideals of individuality, creativity and authenticity, while rejecting society and commercialism. A degree of *originality* is key for a musician's success and is exemplified by the high acclaim that is given to musicians that write their own material (as opposed to cover bands). Marshall believes that the *authentic* artist, in this respect,

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25 Mike Jones, " Writing for Your Supper," in Words and Music, ed. John Williamson (Liverpool: Liverpool University Press, 2005), 233.

26 Lee Marshall, Bootlegging (London: Sage Publications, 2005), 73.

allows for an experience that is less mediated. Quoting Allan Moore, he claims that, "the distance between origin (the music) and its (physical) manifestation is willfully compressed to nil."[27] *Anti-commercialistic* and *authentic* images of an artist are important because they foster the appearance of the artist existing outside of capitalism.

Conversely, when an artist's motivation appears to be under the auspices of commercialization, the continuity of the Romantic author decays. Commercialization here can be thought of as another type of mediation between bands and their fans that disengages the audience and sometimes results in disparaging accusation that the artist has "sold-out". As an example, Korn front-man Jonathan Davis was recently accused of "selling out" by many of his fans when he made the statement that the band's new record contract would help "build the KORN *brand*".[28]

Additional evidence is shown in situations where musicians display a blatant desire for financial gain, as explained by Marshall:

> Anti-piracy arguments that concentrate solely on the economic side of artistry are unlikely to be successful…because an artist risks losing credibility if they show an interest in financial reward, as occurred when Metallica protested against…Napster.[29]

While I agree with Marshall, it should be added that it is difficult to assess whether this loss of credibility is substantial enough to harm a band's career. Nonetheless, the recording industry, and not musicians, are typically responsible for delivering rhetoric that favors commercialization over Romanticism. As an example, The Rolling Stones sued the popular rock band The Verve for using five seconds of a Rolling Stones song in their 1997 hit single "Bittersweet Symphony". After winning the case, The Rolling Stones claimed all rights, writing credit and 100% royalties for the song. Yet when Keith Richards of The Rolling Stones was asked whether he thought it was too harsh taking all

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27 Lee Marshall, Bootlegging (London: Sage Publications, 2005), 63.

28 Jonathan Davis, Who Cares If I Call KORN A "Brand"?, Feburary 11, 2006,

http://www.roadrunnerrecords.com/BLABBERMOUTH.NET/news.aspx?mode=Article&newsitemID=48220. (accessed June 20, 2009).

29 In 2000 Metallica drummer Lars Ulrich led the case against Napster for violating copyright laws. Lee Marshall, Bootlegging (London: Sage Publications, 2005), 84.

of The Verve's royalties he distanced himself from the case (thus emphasizing his level of institutional autonomy) replying, "I'm out of whack here, this is serious lawyer shit."[30]

From the perspective of the industry Marshall argues that it is necessary to maintain the image of Romantic authorship in order for the corporation to strengthen its most valuable asset: copyright. Marshall explains how the Romantic author supports copyright expansion and extension, and presents copyright infringement as an aesthetic and thus moral crime:

1) In 1976, the Copyright Term Extension Act (also known as CTEA and the Sonny Bono Extension Act) extended the copyright on a 'sound recording' to the life of an author plus 75 years. It is curious that copyright since 1909 has been built upon the life of the author even after the artist has ceded ownership to the label. While ostensibly the law grants more protection for the author, the irony of this situation is that once the author has transferred his copyright to the label the extension serves the industry and not the actual author. Siva Vaidhyanathan explains that before 1909 only individual authors could claim copyright, but a revision in the law that year gave corporations the same rights as an author. "Authorship could not be considered mystical or romantic after 1909", this was the real "death of the author", writes Vaidhyanathan.[31] Yet the persistence of institutional autonomy shows that Vaidhyanathan's statement shouldn't be taken too literally, for clearly some degree of the Romantic author has existed after 1909.

2) Marshall's second point is that putting the author at the center of copyright law is important for the recording industry because it makes piracy a moral issue. As Marshall explains, the perpetuation of this myth is essential for the recording industry's rhetoric, which makes copyright an aesthetic rather than an economic issue.[32] Appealing to the emotions of copyright violators by presenting piracy as a moral crime – "depriving honest working musicians from their ability to make money" - is much more persuasive.

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30 Q Magazine, "Cash For Questions: Keith Richards," January 1999.

31 Siva Vaidhyanathan, Copyrights and Copywrongs (New York: NYU Press, 2003), 102.

32 Lee Marshall, Bootlegging (London: Sage Publications, 2005), 84.

The success of the morality defense has successfully permeated though society and is frequently recited by musicians and music fans.[33]

Marshall concludes, "Whereas Romanticism is traditionally conceptualized as capitalism's other […] it is more correct to see romanticism as a part of capitalism." Thus in the industry-driven model the interests of the musician and record label are fused together. The recording industry uses Romantic authorship to protect their copyrights (and thus protect their assets), conversely musicians use Romantic ideas to separate themselves from the industry thus disguising cultural commoditization.

Since the Metallica case ended in 2001 no other musicians have directly supported the efforts of the RIAA to sue fans for copyright violation. Actually the opposite has occurred as musicians stand up to the RIAA and fight for control over their careers.

A leading example of this movement is the Featured Artists Coalition (FAC) who are urging all artists to have more control of their music and a much larger share of the profits from publishing and recording. The coalition is supported by many musicians including Badly Drawn Boy, Annie Lennox, Tom Jones and Radiohead. The FAC believes it can achieve its goals by updating laws to reflect the new music landscape and by changing how companies negotiate artist rights and incomes. One recent example of the FAC's efforts is that some coalition members have agreed to testify against the RIAA in copyright violation cases against their fans.[34] Ultimately FAC artists are looking to create a greater degree of institutional autonomy for artists.

If having Romantic ideals makes a musician more desirable to their fans, then an apathetic attitude towards file sharing is an appropriate, if not savvy, marketing strategy for musicians. Chapters 2 and 3 return to this discussion with the analysis of the archetypal Romantic artists and more characteristics that define them.

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33 Shoshana Altschuller, Is music downloading the new prohibition? What students reveal through an ethical dilemma , Academic (New York: Springer Science Business Media, 2009).

34 Ernesto, Radiohead to Testify Against the RIAA, April 4, 2009, http://torrentfreak.com/raiohead-to-testify-against-the-riaa-090404/ (accessed August 2, 2009).

1.3.2 The Artist-Driven Model

A new reliance on technology has made the label a more dispensable entity, resulting in a reallocation of property rights from the label to the artist.[35] With less reliance on the recording industry, musicians can retain greater control over their music's copyright, thus nurturing autonomy.

An illustration of the artist-driven model is seen in figure 4 where the professional musician has moved outside of the industry's boundaries. The intersection between the musician and the industry exists, but more control is retained by the musician.
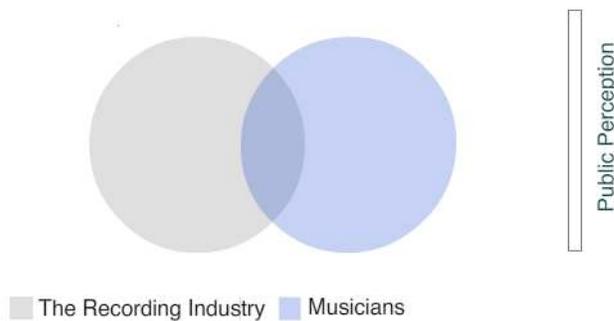
Figure 4 – Artist-Driven Model

Team Love Records, started by Conor Oberst and Nate Krenkel in 2003, is an "artist-friendly" label that claims to be more concerned about artistic control then commercialization. The label does not sign artists into exclusive multi-album deals, and does not interfere with copyright. Oberst has explained,

> First and foremost we want to be a label that's good to our artists, that's truly artist-driven and -friendly, and [we're] not just saying that.[36]

The label developed out of Oberst's frustration at not being able to sign and showcase talent quickly enough through his parent label Saddle Creek Records. The solution for

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35 Halonen-Akatwijuka and Tobias Regner, *Digital Technology and the Allocation of Ownership in the Music Industry*, (University of Bristol, 2004).

36 Heather Green, *Team Love: Downloads Sell CDs*, September 6, 2004, http://www.businessweek.com/magazine/content/04_36/b3898117_mz063.htm (accessed May 11, 2009).

Oberst was to give away MP3 downloads of the label's entire catalog of music for free on their website (Team Love is notable for being one of the first labels to attempt this experiment). Oberst says,

> Obviously, it seems like a good thing to do. There's a morality about it, about saying let's just share this with everyone, let's not just let this be a commercial good when in our eyes it's a work of art. The whole comparison to shoplifting is absurd and a desperate attempt to hold onto this control that has been accumulated[…]We want people to hear the music.

The shift from the industry-driven to the artist-driven model did not happen overnight, but as the next section shows, many years of frustration with the industry-driven model (from both artists and fans) came to a head in 2001 as CD piracy, the iPod, iTunes, and most notably Napster all went mainstream.

1.4 Post-Napster

In 2001 there were a variety of cultural and economic factors occurring simultaneously that were weakening the recording industry. Of these events, the rise and fall of Napster that year is most significant because it marks the beginning of a period of free music sharing.

In the 1970s and 1980s the ability to make reproductions of music on cassettes led to fears about piracy in the recording industry. The British Phonographic Industry launched a campaign in 1979 expressing their trepidation with the slogan "Home Taping Is Killing Music". Yet despite these worries the cassette never did kill music; instead the recording industry profited for many years from this medium.[37] While revenue in the recording industry nearly doubled between 1989 and 1994, in 1996 the industry would struggle as recorded music stagnated around 0.4% and eventually began to decline.[38] An article in

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37 Geoffrey P. Hull, The Recording Industry (New York: Routledge, 2004), 175.

38 The boom between 1989 and 1994 is attributed to the fact that (in addition to buying new albums) people were replacing their current vinyl and cassette collection with CDs, yet in 1996 this trend had plateaued. In addition, during the stagnation of CD sales beginning in 1996 gaming equipment and DVDs began to rise. John Jordan, Technology Evolution and the Music Industry's Business Model Crisis, (Cap Gemini Ernst & Young, 2003), 2.

Billboard in April of 1999 reported on the puzzling drop in music sales, noting that the college-aged crowd (20- to 24 year-olds) was purchasing half as many albums as the same demographic a decade prior. [39]

John Williamson commented on the problems at that time in the recording industry,

> It could be argued that the root of all these changes goes further back to the ability to copy digital quality music files and make near perfect reproductions, so it could be argued that the turning point was closer to the advent of the CD in the eighties and that everything else was a kind of delayed reaction to that! [40]

And so the "delayed reaction" would culminate in 2001 when a variety of factors came together to substantially lower the retail value of recorded music:

- In 2001 the global market for pirated cassettes and CDs tripled, accounting for 40% of all recorded music sales. [41]

- In 2001 global sale of CD-Rs (writable CDs) more than doubled (48% of all compact disc sales in 2001 were CD-Rs). [42]

- In 2001 Apple's iPod and iTunes were both launched. Together these two products would devalue the cultural significance of the CD. By 2008 iTunes would become the largest music retailer in the world, surpassing brick and mortar retailers like Wal-Mart and Best Buy.

- Also in 2001 Napster membership would grow almost exponentially (eventually peaking at 26.4 million users), only to be shut down by a court injunction that summer. [43]

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39 Bill Holland, "Demo Shifts Seen In '98 RIAA Survey," Billboard, April 3, 1999.

40 John Williamson, "Rethinking The Music Industry," personal email (May 27, 2009).

41 IFPI, "IFPI Music Piracy Report IFPI," June 2002, 2.

42 The CD-R was a larger threat to the industry than the cassette, because unlike cassettes, CD-Rs held the potential for better quality copies, and at 24 times the duplication speed. Ibid., 2.

43 Jupiter Media Metrix, ", Global Napster Usage Plummets, But New File-Sharing Alternatives Gaining Ground. (July 20, 2001).," July 20, 2001.

After Napster was shut down in 2001 it almost immediately spawned a litany of other P2P networks and, alongside the 'free culture movement', would be responsible for ushering in an era of free online music.[44] In *Free Culture*, lawyer and Internet scholar Lawrence Lessig points to the rise in file sharing spawned from Napster as "the crack cocaine of the Internet's growth", driving demand for Internet access and free content in general.[45]

There have not been many attempts to periodize the recent changes in the music industries in the 2000s, although some people refer to it loosely as "the new music industry" or a part of the "changing media environment".[46] Gerd Leonhard, a self-proclaimed media futurist, calls it "Music 2.0", aligning the shift with Web 2.0 ideology. Leonhard's attempt at periodizing is dismissive as he provides little justification for the term and hastily uses the suffix 2.0 throughout his work - affixing it to concepts like TV 2.0, Radio 2.0 and Marketing 2.0.[47] Considering the broad range of factors, periodizing this shift in the music industries is a difficult task.

Andrew Leyshon and Peter Webb argue that, "Software formats *and* Internet distribution systems represent… a 'tipping point' that has triggered a wholesale reorganization of the music industry,"[48] positing the shift as a gradual accumulation of influences that erupted around the year 2001. While "software formats" clearly had an impact on the recording industry, it is doubtful that CD piracy and CD-Rs alone could have caused the current shift in the music industries. Conversely, I'm arguing that "Internet distribution" alone could have caused the shift; therefore the rise and fall of Napster should be marked as the key event that signified the start of a new structural order in the music industries – a shift that I refer to as "the post-Napster era."

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44 The free culture movement is a social movement that promotes the freedom to distribute and modify creative works. Lawrence Lessig and Richard Stallman are two prominent figures responsible for developing the philosophies of the free culture movement.

organization commonly associated with free culture is Creative Commons founded by Lawrence Lessig.

45 Lawrence Lessig, Free Culture (New York: The Penguin Press, 2004), 296.

46 Andrew Dubber, New Music Strategies, June 16, 2009.

47 Gerd Leonhard, Music 2.0 (Hämeenlinna: Hämeen Offset-Tiimi Oy, 2008).

48 Andrew Leyshon and Peter Webb, "On the reproduction of the music economy after the Internet," in Media, Culture & Society (London: Sage Publications, 2005), 197.

The distinction between the CD and the network is best made through what Yochai Benkler refers to as the 'networked information economy'. Basically, the global economy before the Internet was centered around information goods and industrial reproduction: after a creative work was produced it could then be captured and stored on a physical medium. In this model the economics of production and distribution took over.[49] Benkler explains the significance of the network economy as compared to industrial economy:

> The most important aspect of the networked information economy is the possibility it opens for reversing the control focus [of what came before]. In particular, it holds out the possibility of reversing two trends in cultural production central to the project of control: concentration and commercialization.[50]

The networked-information economy thus offers a genuine reorganization of the recording industry that was not possible under industrial reproduction.

With traditional records and CDs, much of the financing goes into licensing and capturing culture - while reproduction of the original costs a fraction of the price. But in the 'networked information economy' the reproduction cost of information drops to zero, and the removal of physical restraints allows for more decentralization, thus introducing more nonmarket goods. As shown in section 2.2, it is the decentralized nature of the Internet that has created an as-yet unstoppable opponent for the RIAA.

The weakness of the "software format" argument is the geographical limitations of the CD as a physical medium and the still prevalent cost of production and distribution. For example, this type of piracy can't move as cheaply or quickly; and its more centralized nature makes it more susceptible to being shut down. In support of this is the fact that in 2001, 90% of all CD piracy was happening outside of Westernized countries, thus relying on import/export points.[51] The physical medium is also easier to regulate: the RIAA collects 3% from every blank CD sold and $2.00 from every computer with a CD

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49 Yochai Benkler, The Wealth of Networks (London: Yale University Press, 2006), 31.

50 Ibid., 44.

51 IFPI, "IFPI Music Piracy Report IFPI," June 2002, 4.

recorder.[52] Furthermore, from an economic point of view the higher costs of distribution and production do not qualify CD/CDRs as a 'pure public good', thus lowering the likelihood that the price of music could have ever dropped to zero with this model alone.[53] In addition to piracy's impact, the ability to cheaply distribute music via the Internet has led to a great deal of non-commercial music distribution that potentially poses a greater long-term affect than piracy (as will be explained in section 2.4).

I use the term 'post-Napster' as a way of periodizing the transformation of power that began in the music industries around the year 2001 and continues to influence acts of piracy and non-commercial distribution. While the term seems to suggest that the Napster application itself was the sole force of change, it should instead be thought of more broadly as the moment when piracy reached its tipping point. Napster may not have been the beginning of the free music movement, but it was the catalyst for large-scale change.

Michael Strangelove, in his work on digital piracy and the anti-capitalist movement in 2005, explained that 'Napsterization' signifies the business community's fear that massive amounts of uncontrolled duplication outside of the market will damage the recording industry.[54] In 2009, ten years after Napster launched, The Pew Research Center wrote that napsterization can even more broadly refer to "a massive shift in a given industry where networked consumers armed with technology and high-speed connectivity disrupt traditional institutions, hierarchies and distribution systems."

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52 Ernesto, Where The RIAA Gets Its Money, August 14, 2006, http://torrentfreak.com/where-the-riaa-gets-its-money (accessed July 12, 2009).

53 A 'pure public good' is a good that is both non-rivalrous (consumption by one customer does not prevent simultaneous consumption by another customer - for example, broadcast radio or a scenic view) and non-excludable (it is impossible to prevent people who have not paid from enjoying the benefits of something - for example, fish in the ocean or air). With the advent of the MP3, music has become a pure public good (much like water and air); for example, if I consume an MP3 it does not prevent anyone else from listening to a copy of that same MP3, and it is increasingly difficult to deny access to others. CDs are the opposite: the price of and access to physical formats can be regulated, therefore lowering the likelihood that the price of CDs could fall to $0.00. Annelies Huygen, Ups and Downs: Economic and cultural effects of file sharing on music, film and games, (TNO Information and Communications Technology, 2009), 15. Will Page, Is The Price of Music Heading Towards Zero?, (London: Transmission, 2006).

54 Michael Strangelove, The Empire of Mind (Toronto: University of Toronto Press, 2005), 56.

To put it a different way, if 'napsterization' refers to such a shift in general, then 'post-Napster' refers specifically to the shift in power and disruption of hierarchies in the music industries.

2. Music Industry Studies & New Media Studies

> Most often, when people are asked to describe the current media landscape, they respond by making an inventory of tools and technologies. Our focus should be not on emerging technologies but on emerging cultural practices. Rather than listing tools, we need to understand the underlying logic shaping our current moment of media in transition. –Henry Jenkins[55]

The emerging cultural practices of digital music are best understood by examining the underlying logic of the Web. This section examines the characteristics of the web (and digital music) through Gilles Deleuze and Felix Guattari's (D&G) rhizome metaphor.[56]

In *A Thousand Plateaus*, D&G introduce the concept of a "rhizome" to describe a representative model that extends in all directions and has multiple entryways.[57] Understanding digital music as rhizomatic is important because it interprets the transformations of the digital music culture as a natural progression towards rhizomatic qualities – and provides us with an insight into what might be the future of the music industries.

If music can be understood as rhizomatic when its characteristics mimic those of the rhizome; then music becomes *more* rhizomatic when those characteristics are amplified.

2.1 The Evolutionary Traits of Digital Music

In Brian Massumi's forward to the translation of *A Thousand Plateaus,* he explains how we listen to music rhizomatically:

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55 Henry Jenkins, Eight Traits of the New Media Landscape, Confessions of an Aca-Fan, November 6, 2006, http://www.henryjenkins.org/2006/11/eight_traits_of_the_new_media.html (accessed May 24, 2009).

56 Gilles Deleuze and Felix Guattari have written many influential works on philosophy, film and art, but are not specifically considered media theorists.

57 Gilles Deleuze and Félix Guattari, A Thousand Plateaus , trans. Brian Massumi (London: Continuum International Publishing Group, 1988), 3.

When you buy a record there are always cuts that leave you cold. You skip them. You don't approach a record as a closed book that you have to take or leave. Other cuts you may listen to over and over again. They follow you. You find yourself humming them under your breath as you go about your daily business.

Listening to the music in this way, Massumi exemplifies the deterritorialized map that has come to define the rhizome.

According to D&G, any point of a rhizome "can and must be connected to anything other". So anything that blocks connectivity might be thought of as a deterrent for making something more rhizomatic. Firewalls and 404-errors are just two examples of obstacles on the Internet. Digital music is subject to a large set of infringing obstacles, some of which include 'digital rights management' (DRM), restrictions due to copyright laws, and pay-only access for downloads. As these barriers disappear, I argue that digital music is also becoming more rhizomatic.

A few of the defining characteristics of both the rhizome and the digital music landscape are connectivity, heterogeneity, ubiquity, decentralization and pervasiveness.[58]

Connectivity: digital music wants to be connected and linked.

Heterogeneity: digital music can be diverse, non-linear, and dissimilar in quantity, quality, duration, place and space

Ubiquity: digital music is something that can be presented in a variety of places and formats on the web simultaneously, allowing for multiple copies to exist (copies that may or may not be exact replications of the original).[59]

Decentralization: digital music is moving away from the administrator and closer to the people. There is no single permission point or failure point in the architecture of the web, and therefore music on the web is highly modular.[60]

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58 These characteristics have been modified from D&G's original work in order to be more concise.

59 Dan Clinton, Rhizome, January 15, 2006, http://csmt.uchicago.edu/annotations/deleuzerhizome.htm (accessed April 3, 2009).

Pervasiveness: digital music and information are widespread, uncertain and difficult to contain

The following five sections are examples of how these characteristic are active online and within the music industries:

2.1.1 The Persistence of File Sharing

The persistence of file sharing spreads more music around the web, thereby extending the territory of the rhizome. According to D&G:

> A rhizome may be broken, shattered at a given spot, but it will start up again on one of its old lines, or on new lines. You can never get rid of ants because they form an animal rhizome that can rebound time and again after most of it has been destroyed.

This trait is further detailed by D&G as "asignifying ruptures", and it is exemplified in P2P file sharing sites: when one file sharing site is shut down, two more turn up to replace it. The RIAA has shut down popular music file sharing sites like Napster and Oink.cd, but shortly after new sites are launched to replace them.

The characteristic of *decentralization* is also present in the spread of music files online. Here a parallel can be drawn to the phenomenon of music "leaking" on the Internet to D&G's depiction of the rhizome plant:

> Go first to your old plant and watch carefully the watercourse made by the rain. By now the rain must have carried the seeds far away. Watch the crevices made by the runoff, and from them determine the direction of the flow. Then find the plant that is growing at the farthest point from your plant. All the devil's weed plants that are growing in between are yours.

U2's 2009 release No Line On The Horizon most notably follows D&G's metaphor considering it was only available for "a brief period" in Australia after Universal Music

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60 Yochai Benkler, The Wealth of Networks (London: Yale University Press, 2006), 115.

accidentally put it up for sale.[61] Within hours the album was posted to BitTorrent sites and downloaded for free around the world. Hundreds of artists including The Red Hot Chili Peppers, Metallica, Fiona Apple, Wilco and the Yeah Yeah Yeahs have also been subjected to unauthorized leaking before the anticipated album release date.

2.1.2 Music on the Internet Is Free

In 1984 Stewart Brand famously hypothesized, "Information Wants To Be Free." With this statement Brand wasn't referring directly to the price, but to a person's ability to copy, distribute and adapt information to one's own uses. Brand, continuing with his thought, then notes that "information also wants to be expensive" because it is so valuable.[62] Since then other *free* advocates such as Chris Anderson and Kevin Kelley have exclaimed the inevitability of free and ubiquitous information, while adding more emphasis on the *price* also becoming free.[63] Notable in this work is the analysis of business models that seem to benefit from embracing *free*.

Gerd Leonhard adds that free for music is best understood with the metaphor *music like water:*

> *Music like water* is the concept of music that is as "freely" (but not for free!) available and as omnipresent as water or electricity, with everyone paying and everyone using, and with ubiquitous coverage, accessed via an infinite number of entry points (Net, cable, wireless, satellite…), on many different devices, and in many different shapes.[64]

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61 Asher Moses, *Look Who Leaked U2's New Album*, February 20, 2009,

http://www.smh.com.au/news/technology/web/look-who-leaked-u2s-new-album/2009/02/20/1234633039937.html (accessed March 18, 2009).

62 Dorothy E. Denning, *Concerning Hackers Who Break into Computer Systems*, October 1990,

http://www.cs.georgetown.edu/~denning/hackers/Hackers-NCSC.txt (accessed April 6, 2009).

63 Kevin Kelly, *Technology Wants To Be Free*, November 14, 2007,

http://www.kk.org/thetechnium/archives/2007/11/technology_want.php (accessed February 2, 2009).

Chris Anderson, *Free! Why 0.00 Is The Future Of Business*, February 25, 2008, http://www.wired.com/techbiz/it/magazine/16-03/ff_free?currentPage=all (accessed July 20, 2009).

64 Gerd Leonhard, Music 2.0 (Hämeenlinna: Hämeen Offset-Tiimi Oy, 2008), 68.

Music, much like water, is difficult to regulate. Moreover, both are necessary and valuable. And although people will pay for the convenience and immediacy of having water brought into their home, regulating someone from "stealing" water from the ocean, a spring, or a puddle on the street is nearly impossible.

Digital music has also been compared to water by economists that have demonstrated how music on the Internet is free for anyone to take.[65] The basic idea is that two or more people can share a digital music file at the same time without infringing on each others quality (what is know as 'non-rivalrous'), and attempting to exclude and regulate others is undesirable because the price to do so is very high (what is known as 'non-excludable'). Economists have a term for when a good meets both of these qualifications: it is called a 'pure public good'. In general it difficult to regulate and profit from a pure public good like water, air or digital music.

TechCrunch's Michael Arrington in his article "The Inevitable March of Recorded Music Towards Free" explains the situation,

> Unless effective legal (copyright), technical (DRM) or other artificial impediments to production can be created, simple economic theory dictates that the price of music, like its marginal cost, must also fall to zero as more "competitors" (in this case, listeners who copy) enter the market.[66]

The problem with enforcing copyright laws or technical solutions is that both have failed in their ability to exclude people from sharing music. Regardless of the laws that govern the real world, digital music on the Internet tends to exhibit more autonomy as it continues to become increasingly free.

P2P file sharing sites have made almost every track of music available for free - connecting fans to the millions of copies of music that exist on the Internet. It does not take a great deal of effort or technical sophistication to visit a site like The Pirate Bay, Mininova or Waffles.fm and begin downloading from their enormous library of music.

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65 Lawrence Lessig, *Remix* (New York: The Penguin Press, 2008), 313.

66 Michael Arrington, The Inevitable March of Recorded Music Towards Free , October 4, 2007, http://www.techcrunch.com/2007/10/04/the-inevitable-march-of-recorded-music-towards-free/ (accessed July 12, 2009).

And despite the fact that this content is illegal to download, these sites persist. The fundamental point being that this large library of music does exist for free on the Web.

The market for legal music continues to fall towards $0.00 as if it were an inverted Moore's Law. A 2006 study by Will Page, Chief Economist at the Performing Rights Society in the UK, explains how certain trends have illustrated that "the price of a unit of recorded digital music has been heading towards zero."[67] TechCrunch's Michael Arrington made a similar observation noting, "In April 2007 the benchmark price for a DRM-free song was $1.29. Today it is $0.89, a drop of 31% in just six months. "[68]

In addition to the larger distributers that are cutting prices to lure customers, some musicians have begun giving away their music for free, or even asking fans to "steal it".[69] The following is a sample of notable bands and websites that have voluntarily allowed free downloads between 2005-2009:

Bands offering Free Album Downloads
Wilco - Yankee Hotel Foxtrot (2001 – None Such Records)
Harvey Danger - Little By Little... (2005 - Kill Rock Stars)
Jenny Lewis with the Watson Twins - Rabbit Fur Coat (2006 – Team Love Records)
Black Kids - Wizard of Ahhs (2007 – Self-Released)
Radiohead - In Rainbows (2007 - ATO Records)
Saul Williams - The Inevitable Rise and Liberation of NiggyTardust! (2007 – Wichita Recordings)
Girltalk - Feed the Animals (2008 - llegal Art)
The Charlatans UK - Cross My Path (2008 - Cooking Vinyl)
Nine Inch Nails - Ghosts I-IV (2008 - The Null Corporation)
Nine Inch Nails - The Slip (2008 - The Null Corporation)
Coldplay - LeftRightLeftRightLeft (2009 - Self-released)

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67 Will Page, Is The Price of Music Heading Towards Zero?, (London: Transmission, 2006).

68 Michael Arrington, The Inevitable March of Recorded Music Towards Free , October 4, 2007,

http://www.techcrunch.com/2007/10/04/the-inevitable-march-of-recorded-music-towards-free/ (accessed July 12, 2009).

69 Sarah Rodman, "Digital Retailers Cut Prices to Lure CD Buyers," The Boston Globe, March 28, 2009.

Trent Reznor, Trent Reznor: Steal it!...(1:09)", June 21, 2009, http://www.youtube.com/watch?v=TJ5iHaV0dP4 (accessed June 21, 2009).

Websites offering Free Music Downloads

- Team Love Records and Beep! Beep! Back up the Truck both use free album downloads as a way of helping new bands get discovered.

- Jamendo is a music platform that offers over 19,000 full albums for free (licensed under Creative Commons)

- South by Southwest (SXSW), one of the largest music festivals in the world, releases a catalog of free music every year to promote artists performing at the festival. In 2008 alone they released 6.15GB of free music.[70]

- RCRDLBL.com (pronounced "record label") offers free daily song downloads from both high-profile and up-and-coming acts like Moby, MGMT and Sigur Ros.

- The Free Music Archive is an interactive library of high-quality, legal audio downloads that are hand-picked by audio curators. [71]

Streaming music sites are additional justification for the vast amount of free music that can be found on the Internet. A variety of sites including Last.fm, Pandora.com, and Lala.com legally stream millions of audio tracks. A recent entry into the streaming music market is Spotify, a propriety P2P streaming music program that offers 6 million tracks from all major labels and a handful of independent labels.[72] Personally, I've found that playing music on Spotify is quicker and more efficient than buying music or downloading it from a P2P site. Eliot Van Buskirk at Wired Magazine in his review of Spotify adds, "At its best, Spotify feels like a version of iTunes that contains all the music

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70 Chris Castiglione, *SXSW Free Music, Free Torrents.* , March 10, 2009, http://www.musicneutral.com/discuss/2009/03/10/sxsw-free-music-free-torrents (accessed August 12, 2009).

71 Free Music Archive, http://freemusicarchive.org (accessed July 17, 2009).

72 Currently, the free version of Spotify is limited to users in Sweden, Norway, Finland, the UK, France and Spain. Kristen Schweizer, *Swedish Virtual Jukebox Charms Pirates for Universal, Warner*, April 9, 2009, http://www.bloomberg.com/apps/news?pid=20601109&sid=aFwq160nZCeg.H (accessed June 12, 2009).

in the world, making even the most encyclopedic music collection look spotty by comparison."[73]

Another growing trend has been for bands to stream their entire album on the Internet (e.g. The Mars Volta, Moby, Wilco, Regina Spektor, Grizzly Bear etc). Similarly, the once coveted live (illegal) bootleg albums that ran as much as two times the cost of a retail CD have been almost unanimously reduced to $0.00.[74] To summarize, piracy is an important reason why music is becoming free, and the corollary is that many musicians have reacted by voluntarily giving their music away for free.

2.1.3 Unbundling

Nicholas Carr coined the term unbundling to describe the highly interconnected, and non-linear nature of content on the web. The concept came from his observation that when readers purchase a traditional newspaper they navigate within the boundaries of that newspaper, yet when a newspaper moves online the "bundle" falls apart. Carr explains

> Readers don't flip through a mix of stories, advertisements, and other bits of content. They go directly to a particular story that interests them, often ignoring everything else.[75]

The phenomenon of unbundling is also occurring in the recording industry as consumers tend to purchase more singles, rather than full albums. In 1998 musicians sold 50 times the amount of albums than CD singles, but in 2008 this number inverted with 50 times more singles being downloaded than albums.[76] Selling singles is less profitable than selling full albums and for that reason some artists like Kid Rock and AC/DC avoid distribution networks like iTunes.[77]

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73 Eliot Van Buskirk, *End Game: Spotify on the iPhone*, February 23, 2009, http://www.wired.com/epicenter/2009/02/end-game-spotif (accessed June 2, 2009).

74 Many legal sites with free live music exist on the web including: NPR Music, Morning Becomes Eclectic, and The Internet Archive's Audio Archive.

75 Nicholas G. Carr, *The Big Switch* (New York City: W. W. Norton & Co., 2008), 149.

76 RIAA, *Key Statistics*, http://www.riaa.com/keystatistics.php (accessed June 20, 2009).

77 Ethan Smith and Nick Wingfield, *More Artists Steer Clear of iTunes*, August 28, 2008, http://online.wsj.com/article/SB121987440206377643.html?mod=googlenews_wsj (accessed May 23, 2009).

Unbundling affects every artist differently: album-oriented rock artists like Pink Floyd continue to sell more albums as opposed to singles, while a pop-artist like Katy Perry sells nearly ten times the amount of singles in comparison to albums. Nonetheless, a hit single does not necessarily guarantee a hit album. A decade ago Sugar Ray's album *Floored* sold over 2,000,000 copies based on their one hit-single *Fly*.[78] But what used to happen for bands like Sugar Ray would never happen these days, and the recording industry bears the brunt of the lost revenue from diminished album sales.

More evidence of unbundling is found in music search engines that allow users to quickly locate songs and albums around the Internet. In the past few years music search engines like SeeqPod and Skreemr have increased the level of *connectivity* to music. These sites crawl the web for music and provide links to the MP3s they find. For example, Songza is a music search engine that searches YouTube and strips out the audio tracks from uploaded videos. Music search engines look for data already present on the network and create new lines of access.

The open-source music player Songbird adds *connectivity* by allowing you to browse the web for MP3s and download music to your local library. The remarkable thing about Songbird is the set of add-ons that instantly connect your music to relevant data brought in from around the web. Within the Songbird interface, users can match upcoming concerts, lyrics, photos and reviews to the tracks. Songbird's add-ons facilitate direct connectivity and re-use of data that–in comparison–frames iTunes as a music prison.[79]

If the Internet is a large map, then by uploading music to the web the map is extended; by using music search engines more *connectivity* emerges. And because content on the web is unbundled from the album, one is free to connect directly to the music of interest and ignore everything else.

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78 The 2,000,000 copies of Floored is derived from the album's 'double-platinum' status according to the Billboard charts. Wikipedia, *Floored*, http://en.wikipedia.org/wiki/Floored (accessed August 4, 2009).

79 Two examples of how Apple's iTunes has resisted connectivity and ubiquity: all of the music for sale in Apple's iTunes store uses the proprietary ACC music file format (instead of the ubiquitous MP3 file format) which cannot be played on all MP3 players; and until April 2009 downloads in the iTunes store were bounded by Digital Rights Management (DRM).

2.1.4 Remix Culture

'Remix culture' is a term used by Lawrence Lessig and other copyright activists to encourage derivate works. The term is frequently associated with DJs that cut-up, rearrange and sample music tracks, but it also extends to the many derivative works uploaded to sites like YouTube. Remix culture thus expresses the rhizomatic qualities of *heterogeneity* and *multiplicity*.

D&G in their description of the rhizome assert the natural ability of music to produce derivatives. "Music has always sent out lines of flight", they write, and it is because of these "ruptures and proliferations " that the musical form is "comparable to a weed, a rhizome."[80] The "lines of flight" refer to the fact that a song can never be re-played exactly the same by a musician (e.g., no matter how minuscule, there will always be some variation in tempo or timbre). In addition I believe that the lines of flight encompass all of the derivative works.

2.1.5 RSS Feeds: Podcasts & MP3s

Deleuze in *Dialogues II* stressed that the *concept* should be removed from the *style* in order to translate, but not interpret, the meaning. As the Internet becomes more complex, "the good ways" of reading the web will be to connect people directly to the information that interests them most, independent of format.[81] Receiving music through RSS feeds allows for an updated, more immediate and connected experience.

RSS feeds stimulate connectivity and multiplicities on the web because the information they encode can be presented and styled in a variety of different formats simultaneously. While RSS feeds are more commonly used to deliver news subscriptions online, they are also used to connect people to podcasts and MP3s.

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80 Gilles Deleuze and Félix Guattari, A Thousand Plateaus , trans. Brian Massumi (London: Continuum International Publishing Group, 1988), 12.

81 Deleuze wrote, "The good ways of reading today succeed in treating a book as you would treat a record you listen to, a film or a TV programme you watch." He believed that we should not let the medium of the book – its length and suggested linearity - define how we read the book. Gilles Deleuze, Dialogues II, et al., trans. Eliot Ross Albert (London: Continuum International Publishing Group, 2006).

2.2 When the Hierarchy Fights The Network

Attempting to control information that has been injected into the public sphere of the Internet is onerous. It is perhaps as difficult as controlling ideas that travel through society: Is it possible to dispel urban legends?[82] How easy is it to start an Internet meme?[83] Researchers like Chip Heath and Henry Jenkins have examined these questions and shown that attempts to control decentralized information is akin to throwing sticks at fish in a river: with great effort it may be possible to catch a few fish, but throwing sticks will never create a dam to trap all the fish.

Regulating copies on the Internet is dubious in the same way because the Internet is a copy machine. As Kevin Kelly has explained, "In order to send a message from one corner of the internet to another, the protocols of communication demand that the whole message be copied along the way several times."[84] The large number of recorded albums that leak before release date exemplifies the problems of regulating perfect duplications on the Internet.

Efforts by the recording industry to combat illegal file sharing and retain control of their intellectual property have consistently failed. As musicians embrace the artist-driven model and music becomes more rhizomatic, is it possible for the recording industry to fight the rhizome and regain control? What are the challenges of fighting for control in the artist-driven model and where are the opportunities to generate revenue?

The RIAA's strategy of serving music consumers with lawsuits (selecting people based on their geographic location) is antagonistic to the distributed nature of the Internet, which was designed to withstand geographically-aimed attacks.[85] In 2008 the RIAA

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82 The first chapter of Made to Stick explains why urban legends 'stick' in the minds of a society. The Heath brothers' research suggests that at a certain point these myths cannot be dislodged from our psyche because they are either improvable (having been disassociated from the original author) or simply because they become so popular in a society that they are unlikely to be disputed. Chip Heath and Dan Heath, *Made to Stick* (New York: Random House, 2007), 1.

83 Henry Jenkins, *Eight Traits of the New Media Landscape, Confessions of an Aca-Fan*, November 6, 2006, http://www.henryjenkins.org/2006/11/eight_traits_of_the_new_media.html (accessed June 20, 2009).

84 Kevin Kelly, Better Than Free, January 2008, http://www.kk.org/thetechnium/archives/2008/01/better_than_fre.php (accessed July 12, 2009).

85 Alexander Galloway, Protocol (Cambridge: MIT Press, 2004), 29.

acknowledged this inefficiency when they agreed to stop suing fans after having delivered subpoenas to more than 35,000 people for illegal file sharing. Lessig clarifies this problem of the hierarchy: when the real world of resistance, subversion and evasion enters cyberspace they are subject to the laws of the Internet, and these laws operate at the level of computer code.[86] Alexander Galloway, building on Lessig's argument, shows how control exists after Internet decentralization through the regulation of the Internet protocols.[87] He goes on to say that "resistance" itself has changed as a result of the enemy being brought into the distributed network. Therefore, to "live in the age of protocol" we need to understand resistance from within the protocological sphere, rather than drawing our tactics from "a bygone age".[88]

Initially it seemed like the RIAA was fighting a legal war - not just a war against copyright infringement - but against the file-sharing technologies.[89] While they could not successfully stop people from using the technology, they did manage to shut down some popular P2P sites. Since then, the RIAA has caught onto the logic behind Galloway's argument and in December 2008 they declared that they would begin fighting file sharing at the level of the ISP. Under the new proposal the RIAA would send out notices to ISPs reporting the violator's IP address. The ISP, in turn, would then notify the offenders, and according to RIAA spokeswoman Cara Duckworth, "Violators could lose internet access after three or more alleged violations".[90]

While this solution seems effective, it is also flawed. Firstly, any type of content filtering (a technique whereby content is analyzed and either allowed or blocked) is problematic because it is invasive and not always accurate. Managing director Simon Hackett from Australia's biggest ISP Internode adds

Anything you are going to put in the end-to-end data path that actually does blocking

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86 Lawrence Lessig, Code 2.0 (New York: Basic Books, 2006), 38.

87 Specifically, Galloway explains that protocological management is possible due to the TCP/IP and DNS protocols that ultimately govern and account for all information flowing through the Internet. Alexander Galloway, Protocol (Cambridge: MIT Press, 2004), 29.

88 Ibid., 150.

89 Lawrence Lessig, Free Culture (New York: The Penguin Press, 2004).

90 David Kravets, No ISP Filtering Under New RIAA Copyright Strategy, December 19, 2008, http://www.wired.com/threatlevel/2008/12/no-isp-filterin.

can be invasive. It's invasive meaning it is expensive [to implement], and invasive in the sense that installing it in our network is complicated and may in fact cause outages.[Furthermore] if the stuff goes a bit wrong it will start blocking other content.

This may be the rationale for why, six months after introducing the plan, no ISPs have joined the RIAA in their fight against piracy.[91]

Furthermore, fighting at the level of the ISP is problematic because internationally each country regulates file sharing slightly differently, and in ways that do not necessarily comply with U.S. law.[92] In the Netherlands, for example, downloading is legal, and only uploading is a criminal act.[93] Spain has also stood behind those who download music and movies as long as it is without financial gain.[94] Moreover, using an anonymous proxy to access music from a country like Spain or the Netherlands would most likely bypass the technological boundaries of an ISP.

Lessig stands against regulating at the level of code, adding, "It is time we stop developing tools that do nothing more than break the extraordinary connectivity and efficiency of this network".[95] Therefore, he has proposed changes to copyright law that include the decriminalization of file sharing in the form of a blanket license or tax.

After a decade of unsuccessful battles against piracy, the decriminalization of file sharing is a must. Of the millions of dollars collected by the RIAA against illegal file sharers, none of this money has trickled down to the artists.[96] The war on piracy does not get

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91 Greg Sandoval, Six months later, no ISPs joining RIAA piracy fight, June 3, 2009, http://news.cnet.com/8301-1023_3-10256481-93.html (accessed May 23, 2009).

92 The RIAA is a trade group that only represents the recording industry in the United States and has no jurisdiction internationally

93 Annelies Huygen et. al, Ups and Downs: Economic and cultural effects of file sharing on music, film and games, (TNO Information and Communications Technology, 2009).

94 Ernesto, Downloading 3322 Copyrighted Movies is Okay in Spain, May 29, 2009, http://torrentfreak.com/downloading-3322-movies-is-okay-in-spain-090529/ (accessed June 1, 2009).

95 Lawrence Lessig, Remix (New York: The Penguin Press, 2008), xix.

96 Enigmax, RIAA Keeps Settlement Money, Artists May Sue, February 28, 2008, http://torrentfreak.com/riaa-keeps-settlement-money-080228/ (accessed July 17, 2009); Alex Chasick, RIAA Pockets Filesharing Settlement Money, Doesn't Pay Artists Whose Copyrights Were Infringed, March 17, 2008, http://consumerist.com/368663/riaa-pockets-filesharing-settlement-money-doesnt-pay-artists-whose-copyrights-were-infringed (accessed July 18, 2009).

musicians paid. The more important (though less often discussed) question in the recording industry should be: how are musicians going to be compensated for their work?

2.3 Illegal Music as a Part of the Music Industries

Until file sharing is decriminalized, "illegal music" should be included as a component part of the music industries. To acknowledge illegal music within the analysis of the music industries does not excuse or condemn the act. Rather, it focuses on how illegal music is displacing profit and power within the music industries and creating effects that can be seen as positive.

The Australian government's framework of the music sectors is rare in that it includes "illegal downloads" as a sub-sector of the music industries. The official document from the Music Council of Australia does not provide a detailed justification for the decision, but simply mentions that illegal downloads are important to include because "the record companies…are under increasing threat from piracy".[97]

The recording industry has indeed suffered from declining sales over the past ten years and it may be tempting to point the blame at file sharing, yet a mistake that is commonly made is to claim that the *recording industry* crisis is a *music industry* crisis. For example, evidence from a Dutch study by Annelies Huygen in 2009 shows the "positive effect" of illegal file sharing: people who download music illegally (aka. pirates) are more willing to pay for concerts and related music products.[98] Huygen illustrates that the other sectors of the music industries (the artists and live music) are benefiting from illegal music. A Pew Internet report from 2004 interviewed 2,755 musicians to get their opinion on the impact of P2P file sharing on the music industries.[99] In the report, more than two-thirds of musicians revealed that file sharing was only a minor threat to them, or no threat at all.

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97 Hans Hoegh-Guldberg and Richard Letts, *A Statistical Framework For the Music Sector*, (Music Council of Australia, 2005), 32.

98 Annelies Huygen, Ups and Downs: Economic and cultural effects of file sharing on music, film and games, (TNO Information and Communications Technology, 2009), 90.

99 Mary Madden, *Artists, Musicians and the Internet*, (Pew Internet & American Life Project, 2004), ii.

Within the past five years there have also been a number of bands (e.g., The National and Clap Your Hands Say Yeah) whose success has been attributed to P2P file sharing.[100]

The rock band Wilco is one of the first bands to famously benefit from P2P file sharing. In 2001 the band was dropped from the Warner subsidiary Reprise because they were unwilling to negotiate creative changes on the album. At first Reprise refused to hand over the (already recorded) album to the band unless Wilco signed a $50,000 deal to transfer the rights, but shortly after Reprise agreed to give it to Wilco for free as a peace offering. Ten years prior, being dropped from a label might have been the end of a band's career, considering the challenges of distributing the album (among other factors). Instead of finding another distributer, Wilco gave the album away for free on their website. Within weeks *Yankee Hotel Foxtrot* had been downloaded by thousands of fans and was met with critical acclaim in the blogosphere. Then, in an ironic turn of events, Warner bought back the album they had given to Wilco a year earlier! Warner released the physical copy in 2002 and the album went on to sell over 590,000 units, peaking at number thirteen on the Billboard charts.[101]

I have personally experienced some of the benefits of sharing music on P2P networks while promoting my band Dance at the Postoffice's latest album. In July 2009 I uploaded the album to the BitTorrent sites Mininova and Waffles.fm with the hope of reaching a few new fans. The Dance at the Postoffice project had begun only six months prior to this, and admittedly we had less than one hundred fans. When the download statistics came in over the next few days I was shocked to learn that the album had 20 downloads on Waffles.fm and 450 downloads on Mininova (figure 5).

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100 Alec Hanley Bemis, *Busking For Stardom*, December 1, 2005, http://www.laweekly.com/2005-12-01/calendar/busking-for-stardom (accessed August 2, 2009).

101 Jonathan Cohen, *The Comfort Zone*, April 13, 2007, http://www.billboard.com/bbcom/feature/article_display.jsp?vnu_content_id=1003571465 (accessed June 3, 2009).
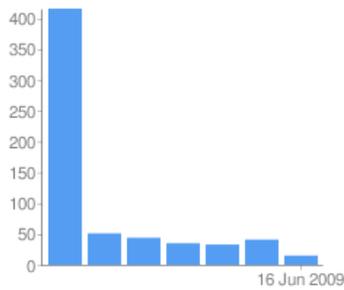
Figure 5 –Statistics documenting the first seven days of downloads for the Dance at the Postoffice album on the BitTorrent site Mininova

In that first day, Dance at the Postoffice had made it onto the front page of Mininova as a "featured torrent". I assumed that this might have explained the large amount of downloads, but still was not totally convinced. That week I contacted Erik Dubbelboer at Mininova to find out if there was a mistake in my interpretation of these statistics, to which he replied,

> Some of these are other websites who download our torrents to use on their own website. And some of these are indeed random people sampling music. Since we have a lot of visitors the chance that a random person tries out your music isn't that small. The huge number of downloads on [sic] the first 24 hours are because your torrent was placed on top of our front page at that time.[102]

Similarly a moderator at Waffles.fm that goes by the name "wozgo" replied,

> Yes, those are all real users sampling the music. We do not download any files for backup.[103]

One month after uploading my album to these two BitTorrent sites, Dance at the Postoffice continues to receive an average of twelve downloads per day.

Additional reasoning for why acknowledging illegal downloading should be included as a part of the music industries' strategy is that websites are profiting immensely from illegal content:

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102 Erik Dubbelboer, interview by Chris Castiglione, , Mininova Interview , (June 16, 2009).

103 wozgo, interview by Chris Castiglione, , Torrent Article (Waffles.fm), (July 10, 2009).

- The Pirate Bay claims to be "the world's largest BitTorrent tracker" with over 3 million users. Despite prosecution against four members in April 2009, the site still operates legally under Swedish law and generates about $780,000 annually from advertisements.[104]

- According to the Dutch recording association BREIN, 92% of torrents on the BitTorrent site Mininova point to illegal content.[105] Nonetheless, Mininova operates as a legitimate, tax-paying business in Utrecht, The Netherlands, and earned 1,037,560€ ($1,460,676) in 2007.[106]

- Tens of thousands of YouTube videos violate copyright law, nonetheless the company remains extremely profitable and is worth billions of dollars.[107]

The use of "illegal music" in YouTube videos has been greeted with mixed reactions from the record labels. In 2008 Warner Music pulled hundreds of thousands of videos from the site that they believed weren't fairly compensating their artists.[108] Removing connectivity is usually problematic (as was shown in the last section in regard to content filtering at the level of the ISP). Ultimately it does little to benefit the artists, and in some cases can harm musicians. For example, one negative side effect of the Warner Music takedown is that some Warner Music artists that have embedded YouTube videos on their own sites now display black boxes that read, "This video is no longer available due to a copyright claim by WMG" (figure 6.1, figure 6.2). This connection failure not only

104 According to speculations by Svenska Dagbladet, the advertisements generate about 600,000 SEK (US$65,000, £46,000). The Pirate Bay, http://en.wikipedia.org/wiki/The_Pirate_Bay#cite_note-24 (accessed June 20, 2009).

105 Ernesto, Mininova and Brein Clash in Court, June 02, 2009, http://torrentfreak.com/mininova-and-brein-clash-in-court-090602/ (accessed June 2, 2009).

106 Nate Anderson, Torrent search engine Mininova earning €1 million a year, March 11, 2009, http://arstechnica.com/tech-policy/news/2009/03/torrent-search-engine-mininova-earning-1-million-a-year.ars (accessed August 2, 2009).

107 While I was unable to locate the exact number for the claim "tens of thousands", this figure is demonstrated by the 30,000 clips allegedly removed, as reported by the BBC. An article in Wired gives more evidence of YouTube clips that infringe on copyright. YouTube Cuts 30,000 Illegal Clips, October 20, 2006, http://news.bbc.co.uk/2/hi/business/6069692.stm (accessed June 3, 2009); Eliot Van Buskirk, Warner Pulls Music from YouTube, December 22, 2008, http://www.wired.com/epicenter/2008/12/warner-pulls-mu/ (accessed August 2, 2009).

108 Danny Shea, Warner Music Videos Pulled From YouTube After Talks Collapse, December 22, 2008, http://www.huffingtonpost.com/2008/12/22/warner-music-videos-pulle_n_152783.html (accessed August 5, 2009).

cuts the flow of information between Warner Music artists and their fans, but it disrupts the level of continuity between the two, thus diminishing the Romantic author role by revealing *industry-driven* control.

Figure 6.1 – Death Cab For Cutie's website displaying the Warner Music takedown notice for their own music[109]
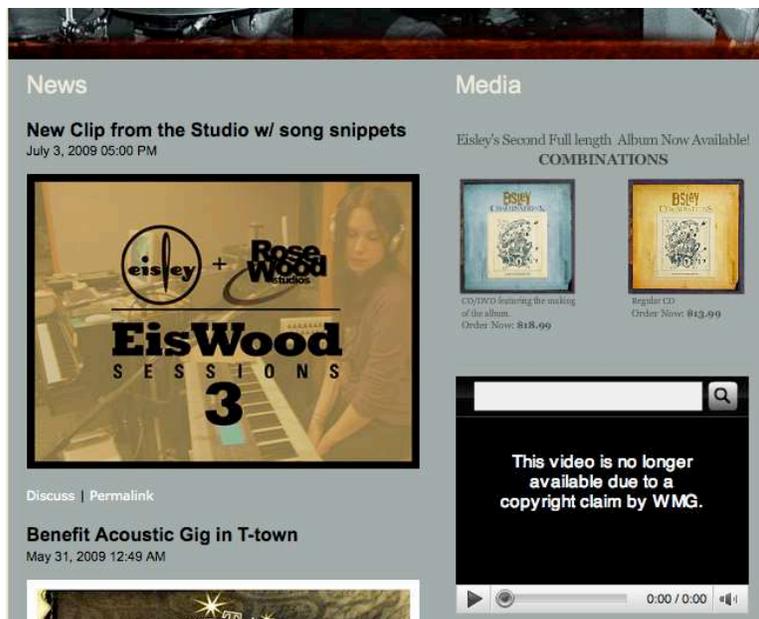

Figure 6.2 – Eisley's website displaying the Warner Music takedown notice for their own music[110]

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109 Death Cab For Cutie, http://www.deathcabforcutie.com/ (accessed January 25, 2009).

While Warner Music has chosen to take down videos from YouTube, most other labels display indifference to the threat of YouTube. This is fortunate for Jive Records' artist Chris Brown, who benefited in 2009 when his song "Forever" was used as background music in the YouTube hit "JK Wedding Entrance". Within five days after the video was posted it became the most popular clip on the Internet, according to Nielsen's BlogPulse, quickly passing 10 million views. Despite Brown's song "Forever" having been released a year prior, it returned to the iTunes Top 10 list shortly after the release of "JK Wedding Entrance".[111]

Record labels experiencing a decline in growth need not look further than the illegal content sites and P2P services that are cutting into their profits. Nonetheless, while album sales have slowed over the past decade record labels are still generating enough cash to remain profitable. For example, in 2008 Warner Music brought in $878 million in revenue and the company's net income surged 20%.[112] This is more evidence of the "hybrid economy" that Lessig argues for in *Remix*:

> Work successfully licensed in a commercial economy can also be freely available in a sharing economy. If this weren't true, then there would be no commercial record industry at all: despite the war on file sharing, practically every bit of commercially available music is also available illegally on p2p networks […] Yet despite this massive sharing, according to the recording industry's own statistics, sales of music have declined by 21 percent. If parallel economies were not possible, that 21 percent would be 100 percent.*[113]*

Illegal content continues to augment and influence various sectors of the music industries. Therefore, it should be included as a component part even though the recording companies themselves have failed to take advantage of this dynamic market.

110 Eisley, http://www.eisley.com (accessed August 2, 2009).

111 Nielsen News Wire, Viral Wedding Video Gives Chris Brown's 'Forever' A Boost, July 29, 2009, http://www.billboard.biz/bbbiz/content_display/genre/e3i98008be32bed3d6cc637a7f8148e7977 (accessed August 5, 2009).

112 Kerry Grace, Warner Music Posts an Unexpected Profit, February 6, 2009, http://online.wsj.com/article/SB123383469663751907.html (accessed August 1, 2009).

113 Lawrence Lessig, Remix (New York: The Penguin Press, 2008), 225.

2.4 Non-commercial Music as a Part of the Music Industries

2.4.1 The Definition of Non-Commercial

The definition of 'non-commercial' is controversial.[114] In 2009 Creative Commons launched an empirical study to understand the public's interpretation of the terms 'commercial' and 'noncommercial'. As of this writing the study is still underway and this thesis builds on the current Creative Commons definition:

Non-commercial: you (the public) are free to copy, distribute and transmit the work under the condition that it is not for commercial purposes.[115]

Lessig uses a similar definition in *Remix* to describe a work that can both be licensed commercially and shared freely. In his equation the economies of commerce and sharing can co-exist. Considering the characteristics of the artist being studied here (the industry autonomous musician that also hopes to benefit financially) this is the primary definition of "non-commercial" used in this thesis. In addition, the term should include anyone distributing music freely with no limitations on usage, and with or without the desire for financial gain. In this way "non-commercial" provides a much broader scope that is indicative of the large amount of free music available on the Internet. It is this library of free music available on the Internet that I'm suggesting should be included as a component part of the music industries.

2.4.2 The Power of Non-Commercial Production

Production outside of the market economy is not new, but what is new is the ability to cheaply produce and distribute content on the Internet that, in turn, cuts into the older hierarchical models. For musicians, new models of non-commercial production are particularly relevant, as the barriers to entry into the marketplace have been lowered. Following the same logic as my argument for why piracy should be included as a sub-sector in the music industries, non-commercial music, which also is repositioning money

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114 The Definition of Free Culture Works web site argues a case against the definition of the Creative Commons non-commercial licensing option. *Licenses/NC* , June 24, 2009, http://freedomdefined.org/Licenses/NC (accessed June 30, 2009).

115 *Attribution-Noncomercial 2.5 Generic*, http://creativecommons.org/licenses/by-nc/2.5/ (accessed June 20, 2009).

and power within the music industries, should be included as well.

Media critics like Lawrence Lessig, Robert McChesney and Alexander Galloway have lamented that despite the Internet's initial promise, it has quickly succumbed to government and corporate colonization at the level of computer code.[116] In contrast to such thinking, Michael Strangelove directly attacks both McChesney and Lessig, instead arguing that unfettered expression and free content are unstoppable agents of resistance against capitalistic control. More specifically, he believes that non-commercial cultural production is powerful enough to undermine the capabilities of capitalism and commercial media.[117]

In the recording industry some examples of non-commercial music that are threatening capitalistic control are the netlabels that release digital copies for free online, the 19,000 albums on Jamendo.com and numerous other examples of artists giving away music (outlined in section 2.1.2, "Music on the Internet is Free"). The rise of non-commercial music is particularly ominous for those holding onto the industry-driven ideology. Non-commercial music has the potential to be more threatening to the hierarchy and digital audio sales because, unlike piracy, there are no laws that can litigate against people who are giving their music away for free. There is no *illegal* file sharing of non-commercial music, it is all just file sharing—thus sparking the unofficial tagline: "Creative Commons: Saving the world from *failed sharing*".[118]

If illegal file sharing is seen as the 'tipping point' that triggered the shift in the music industries; then a similar rise in non-commercial music could set off a second tipping point to further reorganize the industries. If the devaluation of music prompted this tipping point, then the market for *new* digital audio sales on iTunes (for example) would likely fail.[119] I emphasize "new" because the copyright licensing for most pre-Napster era music is still held by the industry, and thus out of the control of the musicians who wrote and performed it. In the case of market failure for "new music," iTunes could continue to

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116 Robert McChesney, Rich Media, Poor Democracy (New York: The New Press, 2000), 183; Lawrence Lessig, Code 2.0 (New York: Basic Books, 2006).

117 Michael Strangelove, The Empire of Mind (Toronto: University of Toronto Press, 2005), 12.

118 Creative Commons, A Shared Culture, http://creativecommons.org/videos/a-shared-culture/ (accessed August 2, 2009).

119 Will Page, Is The Price of Music Heading Towards Zero?, (London: Transmission, 2006), 1.

sell tracks by any artist who does not own their copyright (e.g. The Rolling Stones, Pearl Jam and Britney Spears), although in this situation it is doubtful that the economic market for digital audio downloads sales could sustain itself on previously licensed music alone.[120] If the market failed completely, then (in this case) Strangelove would be correct in his hypothesis that corporations are no match for decentralized anarchy on the Internet.

While Stranglove tends to exaggerate and generalize at times, his argument in regard to online digital audio is plausible. Music creation is a decentralized process that, even during the halcyon days of the recording industry, has taken place outside of the industry. Before the formation of the "music industry" as it is known today, in the nineteenth century music was largely a relational good.[121] Music was created and performed locally; it was geographically dispersed and in this way quite decentralized. It was not until the rise of the phonograph in the early 1900s that the high cost of entry for the production and distribution of recorded music led to a centralization of power that became the recording industry. Ultimately, by the year 2000 the four major record labels in the recording industry were responsible for distributing over two-thirds of all commercial music.[122]

Considering the romantic and decentralized nature of music, its creation seems to thrive when it is out of the hands of corporate control. If the Romantic author were someone who allowed for a less-mediated experience (or at least the appearance of it) then one of the most romantic means of expression would be to give music away non-commercially. Marshall explained that Romanticism shouldn't be seen as capitalism's opposite because they are actually two sides of the same coin. Thus, accentuating Romanticism through non-commercial music distribution does not make musicians anti-capitalistic, it positions them at a better angle to connect with fans: to create music in a nonmarket environment while still generating sales through external agents.

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120 It is not fantastical that the market for music downloads on iTunes could fail. The iTunes music store almost fell apart in 2008 when the Library of Congress declared they would raise the royalties rate paid to publishers and songwriters by six cents per song, leaving Apple to absorb the additional costs. In this case Apple threatened to "shut down the iTunes store" rather than "operate at a loss". Eliot Van Buskirk, Apple Threatens iTunes Shutdown over Royalty Dispute, October 1, 2008, http://www.wired.com/listening_post/2008/10/thursdays-copyr/ (accessed August 1, 2009).

121 Yochai Benkler, The Wealth of Networks (London: Yale University Press, 2006), 50.

122 Geoffrey P. Hull, The Recording Industry (New York: Routledge, 2004), 124.

3. What Musicians Have Learned From Blogging

As music progresses towards the rhizomatic qualities of the Internet, musicians are acting more like bloggers. Much of the published discussion and research on blogs and bloggers addresses the subject from a wider cultural perspective or as a communicative technique, but rarely is there an analysis of who or what a blogger is. The definition of a blogger is commonly given as "someone who maintains a blog". Yet on many sites, including Wikipedia and Dictionary.com, 'blogger' does not have its own page, "blogger" forwards to the page for 'blog'.[123] "The State of the Blogosphere 2008", published by the Internet search engine for blogs Technorati, is particularly interesting in this respect because it has gone beyond the blog and into the mind of the blogger:

> We surveyed bloggers directly about the role of blogging in their lives, the tools, time, and resources used to produce their blogs, and how blogging has impacted them personally, professionally, and financially.[124]

The study shows that bloggers are not a homogeneous group: they have a variety of personal and professional motivations for blogging, and they come from a variety of political, economic and social backgrounds. Blogging is not a full-time job for most bloggers, nor is it their main source of income.[125] A blogger can also be a doctor, a mechanic, a lawyer or a musician, and thus bloggers typically maintain a variety of professions for which the act of blogging is their communicative outlet with the public.

When musicians participate in the blogosphere and on social networking sites like MySpace and Twitter it augments the role of the musician:

- it influences how fans interact with musicians

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123 Upon discovering that the page for 'blogger' did not exist on Wikipedia I added the definition. Since then it has been reviewed by the Wikipedia bots and contributors and remains live on Wikipedia. Chris Castiglione, What is a 'blogger'?, July 14, 2009, http://mastersofmedia.hum.uva.nl/2009/07/14/what-is-a-blogger/ (accessed August 1, 2009); Chris Castiglione, Blogger, http://en.wikipedia.org/wiki/Blogger (accessed August 13, 2009).

124 Technorati, *State of the Blogosphere 2008*, September 2008, http://technorati.com/blogging/state-of-the-blogosphere/the-what-and-why-of-blogging/ (accessed February 12, 2009).

125 Ibid.

- it influences how music is shared
- it breaks the "fourth wall" and treats the audience as a community

This chapter analyzes the defining characteristic of bloggers and shows the ways in which musicians are becoming more like bloggers. As musicians adapt to these traits the trend is that musicians are leaving the hierarchical channels that dominated the pre-Napster era in order to compete for attention at the level of the blogger.

3.1 Four Lessons From Blogging

3.1.1 Bloggers Connect With The World

Blogs facilitate communication between the author and the audience. The ability to have a conversation and collaborate on ideas has not only become a defining characteristic of blogs, but of Web 2.0 culture in general. Successful bloggers agree that connecting with an audience maximizes the quality of a blog and attracts more readers.[126] What musicians are learning from blogging is that having a conversation and connecting with the audience improves the quality of the band as a brand.

A long list of musicians actively blog, some of which include: Belle and Sebastian, The Smashing Pumpkins, David Byrne, Moby, My Chemical Romance and Death Cab for Cutie. In addition, musicians are also communicating on the micro-blogging site Twitter (over 2700 musicians listed) and on the social networking site MySpace (over 19 million musicians have MySpace pages).[127]

Some musicians blog strictly about music, news and tour related details. There is often the suspicion from fans that these types of blogs are ghostwritten. For example, a Tweet from Björk in support of her latest album *Voltaic* on July 10th 2009 reads, "Voltaic premiered in Iceland and a hurrah x 4 for Greenland…", followed on July 16th 2009 by "Remember to check out the Voltaic special…"[128]

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126 Michael A. Banks, *Blogging Heroes* (New York: John Wiley and Sons, 2007).

127 An approximation of the musicians on Twitter and MySpace are listed at the previously listed two web addresses. *We Follow*, http://wefollow.com/twitter/music (accessed June 20, 2009).

MySpace, June 20, 2009, http://music.myspace.com/ (accessed June 20, 2009).

128 Björk, Björk on Twitter, http://twitter.com/Bjork (accessed August 5, 2009).

The postings by Radiohead are often more personal and politically motivated. This is an entry from the day after the 2008 US election that also comes with a link to a free track of music:

> "did i fall or was i pushed?
> in celebration of nov 5th
> jonnys burthday
> amid bonfire and fireworks in the UK
> and the dawn of a new era in politics in the USA
> i humbly donate a remix of harrowdown hill that was finished ages ago during the band webcasts,
> a small reminder of the dark days of Bush's....
> x" – Radiohead's Thom Yorke 11/05/08[129]

Silversun Pickups ran a tour blog on their website for a while, but eventually decide against it and began using Twitter instead. Lead singer Brian Aubert explains,

> At one point we had a journal on our website and it became daunting, we were all daunted by it cause we thought we had to write these masterful paragraphs. But the twitter thing, it's like cliff notes. It makes it really easy.[130]

These days Silversun Pickups have been linking to photographs in their Twitter stream via Twitpic (figure 7.1, figure 7.2). When they are backstage or on the road they use their iPhone to take a photo that then immediately updates their Twitter feed.

we are in Paris... yes indeed we are... _b
http://twitpic.com/83gmy
2:46 PM Jun 22nd from TwitterFon

Figure 7.1, example Silversun Pickups Tweet

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129 Thom Yorke, *did i fall or was i pushed?*, November 2005, 2008, http://www.radiohead.com/deadairspace/?a=460 (accessed April 23, 2009).

130 Chris Castiglione, New Media & Music: an Interview with the Silversun Pickups, August 4, 2009, http://www.ccastig.com/2009/08/04/interview-silversun-pickups/ (accessed August 5, 2009).

Figure 7.2, linked image from Silversun Pickups' Twitter feed

Others musicians provide frequent ramblings about their life that are about as personal and incomprehensible as a fingerprint:

> "oh shit the inspartion fairy sprinkeld her glitter... in the last 6 days 4 of us seriously the tightest unit in rock history (mine ore nayones i know)...we have written liek a whole other album" – Courtney Love 11/04/07[131]

The previous post by Love begs the question whether every musician should have a blog? In some cases, especially with pop musicians, a great deal of money is spent developing an artist's identity. For certain artists it seems plausible that a few loose ramblings or a proven inability to spell words correctly could impact the artist's image negatively. Andrew Dubber, senior lecturer at Birmingham School of Media, agrees that there are some exceptions, but optimistically argues that "every" musician should blog. Dubber's writes, "Accessibility is the norm online", explaining that if it is difficult to find

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131 Courtney Love, *oh shit the inspartion fairy sprinkeld her glitter*, Novemeber 04, 2007, http://www.courtneylove.com/ (accessed June 12, 2009).

information and feel connected to a musician then it is easier to look elsewhere rather than digging around the web looking for it.[132]

Musicians should understand that "your online presence should be a conversation and not a brochure", adds Dubber. In contrast to Dubber's expressed desire, some musicians have fallen into the trap of passivity, most notable on MySpace where musicians tend to use the social networking site to maintain what is essentially a static webpage. Be that as it may, MySpace as a blog platform is notable for igniting the careers of a handful of musicians like Lily Allen and Colbie Caillat. Allen commenting on her MySpace success,

> It was obvious that something was going on, because there were so many subscribers to the blog and so many people listening to the music-- the plays were just going up and up and up.[133]

Similarly, YouTube as a blog platform has stirred up excitement, and in some cases record deals, for a handful of musicians (e.g. Kina Grannis, 'Straight, No Chaser', Monks, Kutiman).

Sony BMG, one of the "Big Four" record labels, has taken a cue from this and is urging up-and-coming musicians to start their own blogs. The announcement came in 2007 when Sony BMG decide they would no longer accept demo submissions and would begin scouting for new music on the blogging site Vox.com. "Blogging is clearly one of the major trends in music, media and entertainment," said Sony BMG's U.K. and Ireland Music Entertainment Chairman and Chief Executive Ged Doherty. He continued, "It makes complete sense for the major labels to use the process in a creative way to encourage, discover and communicate with new artists… The bottom-line: if you get a lot of buzz on your blog we'll be there to check you out!"[134]

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132 Andrew Dubber, *Do I Really Have To Blog*, April 14, 2008, http://newmusicstrategies.com/2008/04/14/do-i-really-have-to-blog (accessed April 12, 2009).

133 Scott Plagenoef, Lily Allen, November 6, 2006, http://pitchfork.com/features/interviews/6476-lily-allen/ (accessed April 23, 2009).

134 DemosFAQ, The FAQ - Vox, March 28, 2007, http://demosfaq.vox.com/ (accessed July 28, 2009).

3.1.2 Bloggers Share Content

The general rule of thumb is that everything posted to the Internet is on display for the world to see. When a blogger presses the submit button to move a post from 'private' to 'publish' that post is being made accessible by the general public. In many cases the story will be distributed through a feed, cached by a search engine and/or archived for future viewing (perhaps long after the post has been deleted). On the Web, linking to original material and references is considered a core characteristic of communication. Benkler affirms,

> At the very core of hypertext markup language (HTML)[…][and the] distributed network is the ability to allow materials to be archived by whoever wants to archive them, and then to be accessible to whoever has the reference.

The persistence of file sharing is not resisted by bloggers; they embrace it. For bloggers, releasing content on the web and trying to restrict who views it through a paid portal or walled garden is rare. Only 6% of bloggers restrict their content with subscriptions or paid postings, while the majority of professional bloggers use advertising or other methods to generation revenue.[135] The *NY Times* realized this trend in 2007 when they stopped charging for access to parts of its website. They reported that many more readers were coming to the site from search engines and links on other sites instead of coming directly to NYTimes.com. "These indirect readers, unable to get access to articles behind the pay wall and less likely to pay subscription fees than the more loyal direct users, were seen as opportunities for more page views and increased advertising revenue" explained the NY Times.[136]

The critical factor for enabling a conversation on the web is found in the freedom of the content being shared. The ability to freely share ideas on the web has been crucial for bloggers: it is free to start a blog, readers don't need to pay to read a blog, anyone can comment on blog posts and anyone can link to or repost a blog entry on their blog. Lev

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135 Technorati, State of the Blogosphere 2008, September 2008, http://technorati.com/blogging/state-of-the-blogosphere/blogging-for-profit/ (accessed February 12, 2009).

136 Richard Pérez-Peña, Times to Stop Charging for Parts of Its Web Site, September 18, 2007, http://www.nytimes.com/2007/09/18/business/media/18times.html (accessed February 12, 2009).

Manovich has elaborated on the subject with his perspective that "Often 'content', 'news' or 'media' become *tokens* used to initiate or maintain a conversation." Bloggers create, rewrite and repost these *tokens*, and the most popular blogs will often generate long discussions, which branch off into further discussion, which lead us rhizomatically into other conversations around the Internet. Music as a token is a problematic case because there is uneasiness from the artists, as well as from the fans, to freely post and share music. For artists, this paranoia stems from a fear of diminishing revenue stream, while fans are fearful of legal enforcement of copyright laws. Embracing the idea of the musician as a blogger (or an entrepreneur) facilitates competition in the industry. Musicians can then set their own price and decide if they want to use a traditional copyright license or a Creative Commons license to establish various levels of protection – or none at all – for their intellectual property.

3.1.3 Bloggers Blog Because They Love It (Not for Money)

"Personal bloggers aren't in it for the money… but wouldn't mind making some", explains Technorati. Most bloggers (75%) blog for "personal satisfaction," while comparably a much smaller amount of bloggers (16%) measure success based on revenue.[137] Bloggers tend to blog because it is enjoyable and because they want to communicate a message, but this does not take away from the fact that blogging is a time consuming activity. Bloggers work on their sites an average of 3-20 hours each week, and despite their effort few bloggers charge direct fees to their readers. Instead, bloggers overwhelmingly rely on advertising to generate income.[138]

One reason most bloggers do not restrict content or charge membership fees is due to the low barrier of entry for participation: practically anyone can start a blog, resulting in an exorbitant amount of competition for viewers. "Just as email has made us all writers, weblogs have made us all publishers," explains Rebecca Blood in *We've Got Blog: How Weblogs are Changing Our Culture*. She continues, "Almost all webblogs are non-

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137 Technorati, State of the Blogosphere 2008, September 2008, http://technorati.com/blogging/state-of-the-blogosphere/the-what-and-why-of-blogging/ (accessed February 12, 2009).

138 Technorati, State of the Blogosphere 2008, September 2008, http://technorati.com/blogging/state-of-the-blogosphere/blogging-for-profit/ (accessed February 12, 2009).

commercial ventures: they don't make money for their maintainers, and in fact probably even cost them a little."[139]

In music the same phenomenon is occurring. Anyone with an Apple computer has access to the pre-installed and free music creation software Garageband, and therefore millions of people have the power to write and record music without the use of any additional instruments or devices. From there it is free and simple to create a music website on something like MySpace or Bandcamp. As Anderson illustrates in *The Long Tail*: the era of a hit-driven music economy has peaked, giving way to a swarm of micro-stars and niche markets.[140] More than ever musicians, much like bloggers, are creating and distributing music just because they love it: they don't need financing or fame, and it doesn't have to be their career.

3.1.4 Bloggers Make A Community, Then Make Money

> Faith and trust are building blocks for online social engagement. Until you get past worrying about how you'll control your tribe and trust them, the results of your online community building might not fare the best. Open comments, ask for feedback, and trust the responses.[141]

Godin's ideals of letting the community lead your 'tribe' contradict the principles of the pre-Napster recording artist that sells music (on websites or at shows) before establishing a fanbase. This artistic conceit stems from the established tradition in the twentieth century to treat music as property, rather than as a part of our shared culture. While most major retails like iTunes and Amazon have recently abated using DRM technology, the norm in the recording industry is still to control the flow of music through access points and strict copyright laws. Yet as more musicians follow in the model of the blogger, exceptions are being made by the author to allow their music to be shared.

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139 Rebecca Blood, John Rodzvilla, "Forward," in We've got blog: how weblogs are changing our culture, xi (New York: Perseus Publishing, 2002).

140 Chris Anderson, The Long Tail (New York: Hyperion, 2006), 35.

141 Seth Godin, *Tribes* (New York: The Penguin Group, 2008), 80.

For example, the electronic band Passion Pit's first demo *Chunk of Change* was never intended to be released to the public (it was actually a present for lead singer Michael Angelakos' girlfriend). In 2007 Passion Pit had only played a handful of shows and did not have many fans. Then seemingly overnight these songs had begun circulating on popular blog sites. They were astonished when less then a year after forming the band their single "Sleepyhead" had made its way onto MTV and in a Canadian television commercial. I asked drummer Nate Donmoyer about the influence that the blogging community has had on their band's success,

> Blogs have had everything to do with our success. Before the Internet appeared people would hear about bands from word to mouth, but now sharing music and experiences on blogs has an immense power to influence many people and very quickly.[142]

Passion Pit, without much effort on their part, was able to harness the power of the blogosphere and online music sharing in order to create an audience.

3.2 What Musicians Can Learn From Authenticity

In the age of postmodernism and globalization our need to hold onto an authentic experience seems to be intensifying according to David Boyle.[143] Displaying a strong sense of authenticity is not only important for maintaining the role of the Romantic author, but it is valuable because of the inherent scarcity: authenticity is a quality that cannot be copied.[144] Preserving authenticity with recorded music is problematic. In 1936 Walter Benjamin wrote on mechanical reproduction, "from a photographic negative […] one could make any number of prints; to ask for the 'authentic' print makes no sense."[145] Similarly in an age of digital reproduction we could say: From a recorded master one can make any number of copies; and so to ask for the 'authentic' copy makes no sense. An

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142 Chris Castiglione, Interview: Passion Pit, August 10, 2009, http://amsterdameventguide.com/ (accessed August 10, 2009).

143 David Boyle, *Authenticity, Brands, Fakes, Spin and the Lust for Real Life*, (London: Flamingo, 2003); Lee Marshall, *Bootlegging* (London: Sage Publications, 2005), 3.

144 Kevin Kelly, "Better Than Free", January 2008, http://www.kk.org/thetechnium/archives/2008/01/better_than_fre.php (accessed July 12, 2009).

145 Walter Benjamin, "The Work of Art in the Age of Mechanical Reproduction," (1936), 3.

original object, like a painting, is fixed in time and is restricted to a specific location and so the unique object is rare awarding it greater cultural and economic value. For a photographic image (or other reproduction) the exhibition value (the experience) is thus superior to the traditional ritualistic value (the appreciation of the authentic object).

3.2.1 Selling Recorded Music As Art

A mass produced piece of art doesn't garner the same value as an original painting because various copies can be simultaneously spread around the globe and distanced from the hands of the artist. The shattering of the original, as explained by Benjamin, occurs when anyone can get at the artwork and directly assert control over it.[146] In the twenty-first century P2P networks give the world increased access to perfect duplications, further liquidating the value and uniqueness of all other existing embodiments of the work. "At its core the digital copy is without a body", writes Kevin Kelly. Therefore, what musicians can learn from artwork is that value can be added through authentic embodiment and exhibition value.

Authentic embodiment treats music like a piece of artwork. Hypothetically, if the band Blur released their latest album only as a MP3 download, but pressed a limited edition release of only five official CDs, the value of each of those CDs would be significantly higher than if they had pressed a million of them. In this scenario the CD has been transformed into a rare and precious object. Nine Inch Nails did this with the release of *Ghosts I-IV*: selling downloads for $5, but selling a limited edition release of 2,500 copies at $300 each. Within the first three days of sales all 2,500 limited edition copies sold out, totaling $750,000 in sales (which is equivalent to selling 62,500 CDs at $12 each).

In March 2009 Josh Freese released his second solo-album *Since 1972* using a tiered pricing scheme whereby he sold himself as the authentic experience. Freese, best known as the drummer for A Perfect Circle, The Vandals and Devo, made the album available online for $7, but for those willing to pay $50 Freese offered to give them a call to say "thank you". For $250 he agreed to show his appreciation by taking a limited number of fans to The Cheesecake Factory. Every package above $50 includes a signed CD and a t-

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146 Ibid., 5.

shirt: For $2500 Freese offers private drum lessons and lets the buyer pick any member of the Vandals or Devo to go together to the Hollywood Wax Museum. For $20,000 (limited edition 1 person) Freese will "write 2 songs about you" and "take you mini-golfing" with his former band members. Finally, for $75,000 Freese will join your band for a month and the two of you can take mushrooms and cruise Hollywood together.[147] Freese didn't initially believe that anyone would pay for these more expensive packages, but within the first month of the announcement Freese's strategy has proven to be very successful – he has even sold the $20,000 package.

3.2.3 The Performance as an Authentic Experience

Benjamin wrote that painting is "in no position to present an object for simultaneous collective experience", and that an experience for larger audience would instead come from something like movies and architecture.[148] The musician, unlike the painter, benefits from the collective experience in the form of live shows. Performances on stage are authentic because they are less mediated, or what Benjamin calls an "equipment-free aspect… of immediate reality", by which he means free from editing.[149]

False starts and wrong notes make the artist more real and human.[150] The live anxiety roused from these out of control moments lies beyond the reach of cultural commodification. In most performances, the musician is directed by an external force (the recording) that acts like a safety net for the artist. The audience's recognition of these "false starts and wrong notes" may refer to the musician's inability to accurately mimic the recording. Thus, in this case, the singer is not only performing the song, but also performing a performance of the song.[151] If a musician were to be completely stripped from the physical object (for example, by never releasing a studio recording), then the unmediated live experience could be seen as the only manifestation of this musician's art.

The value of such impermanence has been celebrated by performing artists (e.g. Carolee Schneemann, Marina Abramović), as well as by dancers and actors. Simon Frith explains,

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147 The complete list of Freese's incentives for Since 1972 are available in Appendix 1

148 Walter Benjamin, "The Work of Art in the Age of Mechanical Reproduction," (1936), 11.

149 Ibid., 10.

150 Lee Marshall, Bootlegging (London: Sage Publications, 2005), 144.

151   Simon Frith, Performing rites: on the value of popular music (Cambridge: Harvard University Press, 1998), 206.

The performance artist mocked the ideology of transcendence and the exploitation of art as property (though, of course, tapes of performances were soon marketed). In the pop world, recording made a performance property from the start […], but the most important "permanent" element of pop music culture is not the event but the star.[152]

To update Frith's commentary for the post-Napster era: as musicians share their music for free (as was shown in section 2.1.2, "Music on the Internet is Free"), the significance of the recording as an object (i.e. property) diminishes, thus reigniting the importance of the live event.

At the forefront of the battle between authenticity and artificial is the American musician Girl Talk (aka. Gregg Gillis). Gillis is famous for his musical mash-ups that typically combine dozens of unauthorized samples into a single song. Despite his unapologetic use of other people's work, Gillis is regarded by fans as being a *musician* – not a DJ. All of Girl Talk's albums are free to download, making it easy for people to access, share or remix his music. Gillis is also notable for high levels of energy and authenticity during his live shows: he insists that the crowd dance beside him (or with him) throughout the performance. At a recent show at the Paradiso in Amsterdam, a few fans dancing beside Gillis were literally covered in his sweat, and one fan even went as far as to lick his bare back while he was performing.

As Kevin Kelly has written, "The music is free; the bodily performance expensive. This formula is quickly becoming a common one […] for musicians."[153] The live performance is extremely important for musicians because, like a painting, it is fixed in time and space and allows the artist to capitalize on the unique embodiment of their music. The live performance becomes even more lucrative for bands that already have a large following: musicians can benefit from the economies of scale by performing in larger venues. Pre-Napster artists such as No Doubt, Prince and Coldplay have used this to their advantage by offering free music to their fans in order to stimulate concert ticket sales. Using digital

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152 Ibid., 211.

153 Kevin Kelly, Better Than Free, January 2008, http://www.kk.org/thetechnium/archives/2008/01/better_than_fre.php (accessed July 12, 2009).

music as a marketing tool to sell an authentic experience is quickly becoming a successful business strategy.

3.2.3 Highlighting Authenticity

Another approach to establish authenticity is to highlight the unique qualities of an artwork. Without prior knowledge, Andy Warhol's Oxidation Paintings (1978) might just appear to be rusty sheets of copper, but the aura is intensified when the viewer learns that these were made with Warhol's urine. An explanation of this supplementary knowledge is what Seth Godin refers to as "Making the invisible visible" and is essentially a marketing technique that can be used to help distinguish the uniqueness of a product from other seemingly interchangeable products.[154] Similarly, it helps prevent musicians from being reduced to a commodity:

- Rage Against The Machine are known for their innovative blend of musical styles and unorthodox guitar sounds. In the liner notes to every album they reinforce their reputation by proudly stating, "No samples, keyboards or synthesizers were used in the making of this recording."

- Kutiman's project ThruYou mixes unrelated YouTube videos to create original music. The added knowledge that each of the songs has been ingeniously sliced together from YouTube audio accentuates the project's uniqueness and makes the songs more special than if a listener were not aware of this fact.

- San Francisco DJ and musician General Fuzz provides a behind-the-scenes analysis of the writing and recording process for his albums, thereby adding context and a human element to the electronic music he creates. General Fuzz releases all his music for free, but has received enough donations from fans to cover costs for his latest album. Perhaps this is a testament to both the quality of his music and the unique, personal experience he offers his fans.

In these three cases the musicians have added value to their b(r)and by illustrating unique value.

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154 Seth Godin, *Free Prize Inside* (New York: Portfolio, 2004).

3.2.4 Sell What Can't Easily Be Copied

> In the decade since Napster's launch, selling recorded music has become as much of
> an art as making the music itself. - Pew Internet[155]

Lessig and Galloway have asserted that as the real world enters cyberspace it is subject to the laws of the Internet (section 2.2), yet in contrast to this argument, the truth is that a world still exists outside of the Internet. Geert Lovink crafted a similar sentiment in an email response to Galloway pointing out that "the Internet protocols are not ruling the world" –thus justifying the importance that sovereign powers hold despite the existence of the Internet.[156] In the case of the music industries, the recording industry and the live music industry have retained a significant degree of power over gatekeeping in the real world. The following are a few examples of gatekeeping that exist outside of the Internet:

- **Live performances:** The Reading Festival in England can only have a select amount of headliners, thereby allowing the live music industry to retain a degree of control over musicians selected to play at the festival.

- **Advertising:** Only a limited amount of content can be showcased in Times Square at any given moment, thereby allowing a controlled market by advertisers.

- **Physical medium:** The production and distribution of the physical medium is still substantial. For example, in 2008 approximately 362.6 million CDs were sold, and more vinyl albums were purchased (1.88 million) than any other year since Nielsen SoundScan began tracking sales in 1991.[157]

Considering the proliferation of free music and the obvious problem of regulating digital files on the Internet, profit in the music industries is made (and always has been made) on

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155 Mary Madden, The State of Music Online: Ten Years After Napster , Research (Washington DC: Pew Internet & American Life Project, 2009), 1.

156 Alexander R. Galloway and Eugene Thacker, *The Exploit* (Minneapolis: University of Minnesota Press, 2007), 1.

157 Associated Press, *Album Sales Plunge, Digital Downloads Up*, January 1, 2009, http://www.msnbc.msn.com/id/28463074/ (accessed June 12, 2009).

the attributes that cannot be perfectly duplicated. Kevin Kelly, in his brilliant piece "Better Than Free," outlines a list of "generatives" that cannot be copied and thus are *better than free*. Here I've retrofitted seven of Kelly's generatives (those relevant for musicians and consumers in an artist-driven era) into more readable definitions:

Authenticity – something original in connection with the original author

Immediacy – instant involvement, receiving something quickly

Personalization – service or product designed to meet individual requirements

Accessibility – being able to access something at anytime, anywhere

Embodiment – physical works that accompany the digital track, live performances

Patronage – people want to contribute money and support the brand when they receive something for free

Findability – being able to find something quickly

There is almost a direct correlation between the rise of cheap copies on the internet and the value of these seven generatives: The more diluted our daily lives become with cheap copies, the larger our desire to quickly find and access relevant data becomes. Likewise, the more simulated the world becomes, the more we seem to crave authenticity.

Examples of musicians who have exhibited these seven qualities have been given throughout this thesis. The final two sections demonstrate the archetypal musician and record label in the post-Napster era. These are people who have learned to copy what can't easily be sold, and sell what can't easily be copied.

3.3 Case Study: Nine Inch Nails

> "It's not really up to me to give you free music: it's free anyway, for anybody that wants to admit it." - Nine Inch Nails' Trent Reznor, on his decision to give away his music for free[158]

Discussing a recent case study on the band Nine Inch Nails (NIN) at Midem (an annual music industry convention), Techdirt's Michael Masnick argued that the new music business model comes down to this formula:

Connect With Fans (CwF)+ Reason To Buy (RtB)= The Business Model ($$$$)

Many musicians these days already have their own blog, MySpace or Twitter account, but NIN front man Trent Reznor connects with fans in a more meaningful and honest way. Here are a few examples from the case study detailing NIN's innovative strategies:

- NIN dropped a USB stick with a new NIN song in the bathroom at a NIN show
- NIN highlighted letters on the back of a NIN shirt that led fans to the secret site (iamtryingtobelieve.com) where they could take part in an alternative reality game
- NIN leaked their own music on BitTorrent sites
- NIN made their 2008 release The Slip available for free – the release coincided with an announcement for their upcoming tour. Information visualizations were made available, mapping where NIN fans who downloaded *The Slip* were located
- The NIN site aggregates Flickr photos and YouTube videos tagged by fans
- The band released 400GB of live HD concert footage for fans via torrents
- NIN gave away free concert tickets in a cryptic treasure-hunt game. For example, one fan found tickets in an Los Angles drainpipe

NIN has connected with their fans to such a degree that the fans feel like they are part of a movement. Moreover, they respect Reznor and want to continue to support his initiative. This can help explain why NIN has been so successful with the second part of Masnick's equation: *give fans a reason to buy*. The first nine tracks of NIN's 2007

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158 Trent Reznor, interview by Kevin Rose, Digg Dialogg: Trent Reznor, Revision 3, http://digg.com/dialogg/Trent_Reznor, March 31, 2009 (accessed June 11, 2009).

release *Ghosts I-IV* were made available for free download on their site, yet they profited by selling the full download high bitrate MP3, the physical release and from live shows. They even took the initiative to give away their catalog of music on popular torrent sites, and despite it being free, *Ghosts I-IV* brought in $1.6 million in the first week of sales and became Amazon's best selling (downloaded) album of 2008.

3.4 Beep! Beep! Back up the Truck

Beep! Beep! Back up the Truck is a Dutch record label that offers downloads of their entire catalog of music for free under a Creative Commons license. The label prides itself on their united brand and quality of music, as well as the elaborate album artwork that is part of the physical releases – two characteristics that they believe separate them from netlabels. In addition, they

- Organize live music showcase in the Netherlands
- Sell limited edition posters at their live shows that are personalized for that night
- Have a partnership with the BitTorrent site Mininova, allowing them to spread their music around the web effortlessly
- Sell high-quality physical copies of their albums, while accepting donations for the free digital downloads

Beep! Beep! Back up the Truck is the archetypal record label in the post-Napster age because their philosophy for digital music distribution complies with all the rhizomatic characteristics of digital music (section 2.1) while taking advantage of all seven of Kelly's generatives that cannot be copied (section 3.2.4).

More information about Beep! Beep! Back up the Truck can be found in my interview with co-founder Nicolai Adolfs (Appendix B).

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CONCLUSION

The relationship between musicians, their music and their audiences has evolved immensely over the past ten years. The origin of this transformation is traced back to 2001 when a variety of technological, economic and social factors helped usher in an era of free online content. While the commonly-held belief is that this is destroying the 'music industry' as a whole, some musicians seem to be benefiting from piracy and other types of free content online. This, along with emergent technologies such as blogs, RSS and Twitter, has led to a reorganization of power within the music industries that has left musicians with more autonomy, choice and control.

At the moment there are still many musicians that acquired their fame prior to 2001 (e.g. The Rolling Stones, No Doubt, Radiohead, Metallica, etc.). These musicians came to prominence through the help of national radio, television, and/or were financed by a major-label recording budget. Today, much of this has changed. As Anderson explains in *The Long Tail*, "We are turning from a mass market back into a niche nation."[159] While the future may not bring as many Madonnas or Michael Jacksons, we will witness the rise of a middle-class musician.

Despite the abundance of music that is available online, artists continue to find innovative ways to make money: Nine Inch Nails gave away their music for free while relying on the generosity of their fans to leave donations; Silversun Pickups uses Twitter to connect with fans on a more personal level; Girl Talk gives his music away for free while relying on sales from live shows; and Josh Freese sold *himself* along with his album.

In Masnick's report on Nine Inch Nails he suggested that the "new business model" has become: *Connect with fans (CwF) + Reason to buy (RtB)*. The reasoning behind his equation is accurate, but Masnick does not provided a method for successfully executing it.

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159 Chris Anderson, The Long Tail (New York: Hyperion, 2006), 40.

Instead it might be helpful to think of the parameters for *CwF* as being the same traits found in Deleuze and Guattari's rhizome: connectivity, heterogeneity, ubiquity, decentralization and pervasiveness, while the traits for *RtB* could be thought of as Kelly's list of generatives that are better than free: immediacy, personalization, authenticity, accessibility, embodiment, patronage and findability.

Thus, maximizing the rhizomatic characteristics that cannot easily be sold (digital music, video, online communication, etc.), and selling the generatives which cannot easily be replicated (the live show, limited edition physical copies, etc.) is a successful equation for musicians in the post-Napster era.

Resistance to free music is not a successful strategy for generating profit. Instead, both artists and the recording industry should focus on how musicians will be compensated for their work. This thesis intends to provide a helpful starting point, and from here more research should be conducted to study the consumer's needs and perspective on purchasing music. For example, what motivates people to buy music? Does the percentage of money the musician receives influence the customer's decision on whether to purchase or pirate music?

In the future the distribution and consumption of digital music will continue to evolve. As cloud computing and mobile devices penetrate mainstream society the need to actually *own* music may drastically diminish.[160]

It would be shortsighted to believe that any one model will last forever. At the moment musicians seem to be following in the path of bloggers, but considering the ever-fluctuating state of technology, blogging (as we know it) will most likely be displaced in the future by some other communication platform. Nonetheless, as our world becomes more connected, more immediate, and more intangible, our need for authenticity will become more pronounced, and the rule for success will remain: copy what can't easily be sold, and sell what can't easily be copied.

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160 Cloud computing refers to any web-based software that allows users to store their personal information on the web - as opposed to on their local computer. A notable example of a cloud computing application is Google Docs which provides a web-based alternative to Microsoft's Word software.

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Appendices

Appendix A

In March 2009 Josh Freese released his second solo-album *Since 1972* using a tiered pricing scheme whereby he sold himself as the authentic experience (explained in section 3.2.1, "Selling Recorded Music As Art"). The following is a complete list of the pricing options available for Freese's album *Since 1972*.[161]

$7

HA!   HA!

JOSH FREESE
HAS A NEW CD OUT!
BUY NOW :

BUY NOW

$15

JOSH FREESE SINCE 1972
-CD/DVD double disc set
-Digital Download
Buy Now
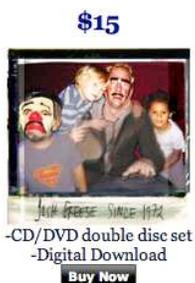
$50

- Signed CD/DVD and digital download.
- T-shirt*
THANK YOU phone call, from josh, for buying "since 1972"-You can tell me what you like about my new record you purchased, or what you thought sucked...
Ask whatever you like" Is maynard really that weird?"or"Which of Stings mansions has the comfiest bed?"or" Are DEVO really suburban robots who monitor Reality, or just a bunch of Dads from Ohio?"
or "Why dont the Vandals play more stuff off the first record?"
It's your five minutes to yack it up- Talk about whatever you want!
BUY NOW :

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161 John Freese, John Freese, http://www.joshfreese.com/buynow/#7 (accessed August 2, 2009).

$250 (limited edition of 25)

-$250 (limited edition of 25)
-Signed CD/DVD and digital download.
- T-shirt**
-Signed Drum Head and Drumsticks.
-We have lunch together at the PF Changs or The Cheesecake Factory (whatever you're into)

SOLD OUT!

$500 (limited edition of 15)

5 Sold! Only 10 left!

-Signed CD/DVD and digital download.
-T-shirt*
-Signed Cymbal and sticks.
-Meet me in Venice, CA and we go floating in a Sensory Deprivation Tank (filmed and posted on youtube).
-Dinner at Sizzler (get your $8.99 Steak and "all you can eat" Shrimp on)

BUY NOW

$1000 (limited edition of 10)

5 Sold! Only 5 left!

-Signed CD/DVD and digital download.
-T-shirt*
-Signed Cymbal, Drum head and Drumsticks.
-Josh washes your car OR does your laundry....or you can wash his car.
-Have dinner with Josh aboard the "Queen Mary" in Long Beach, CA
-Drinks at Alex's Bar in Long Beach and afterwards cut each other's hair in the parking lot of the Long Beach courthouse (filmed and posted on youtube of course)

BUY NOW

$2,500 (limited edition 5)

2 Sold! Only 3 left!

- Signed CD/DVD and digital download.
-T-shirt**
-I give you a drum lesson. Or (for all you non-drummers) I'll give you a back and foot massage (couples welcome)
- Pick any 1 member of the Vandals or DEVO (subject to availability) to accompany you and I to either the "Hollywood Wax Museum".
- Or if you're not into that we can do the lunch buffet at the "Spearmint Rhino"
-A signed DW snare drum.
-Take 3 items of your choice out of my closet (first come, first serve).
-Change diapers and make bottles with me for an afternoon (preferably AFTER the lunch buffet at the Strip club).

BUY NOW

66

$5000(limited edition of 3)

- Signed CD/DVD and digital download.
-T-shirt **
-I write a song entirely about you and put it up on Itunes (also on upcoming record that I'm working on now).
-Then you and I "co-direct" a video for the song I write about you and throw it on youtube.
-*I give you and a friend a private tour of Disneyland.
-Have Blue Margaritas at El Torito. If you don't drink we can go to my Dads place and hang out under the "Tuba Tree."
-Stone from Pearl Jam will send you a letter telling you about his favorite song on "Since 1972"

BUY NOW

$10000 (limited edition of 1)

- Signed CD/DVD and digital download.
- T-shirt**
- Go on Joe Escalante's Indie 103.1 radio show and talk about the package you just purchased. Maybe even play a few hot tracks.
- Signed DW snare drum from A Perfect Circle tour 2000-2001.
- Drum lesson or his and hers foot/back massage.
- We go to lunch at "Club 33" (super exclusive, private restaurant at Disneyland located above the Pirates Of The Caribean) and hit a couple rides afterwards (preferably the "Tower Of Terror, The TIki Room and The Haunted Mansion")
- At the end of the day at Disneyland drive away in my Volvo. It's all yours.....take it. Just drop me off at home on your way out though please.

BUY NOW

93' Volvo 940, 72K miles

$20,000 -(limited edition of 1-SOLD!)

-Signed CD/DVD and digital download.
-T-shirt**
-A signed DW Snare from the 2008 Nine Inch Nails tour.
-*Maynard James Keenan, Mark Mothersbaugh from DEVO and I take you miniature golfing and then drop you off on the side of the freeway (all filmed and posted on youtube of course).
-I give you a tour of Long Beach. I'll show ya my first apartment, the coffee shop on 2nd St where my buddy paid Dave Grohl $40 to rip up some tile just weeks before he joined "Nirvana". I'll show you all my old stomping grounds....the Vandals old rehearsal spot, the house Quackenbush and I use to rent, where to go for the best tacos, Snoop Dogg's high school, etc....
for an extra 50 bucks I'll show you where Adrian and Tom from "No Doubt" live. For another $25 I'll throw in Brooks from Bad Religion and Eric from NOFX's houses too!
We then spend the night at the Queen Mary and take the "Ghost Tour" (seperate rooms of course.....no spooning).
-I write 2 songs about you (or if you want 1 can be about you and the other one can be about whatever or whomever you'd like) and it goes on my next record (you can sing back up on them, clap, play the drums, triangle solo...whatever you want).
-Drum lesson OR foot and back massage (once again.....couples welcome).
- Pick any 3 items out of my closet.

67

$75,000 (limited edition of 1)

-Signed CD/DVD and digital download.
-T-shirt**
-Come out on tour with me for a few days.
-I write, record and market a 5 song EP about you and your life story.
-Take home any of my drumsets (only one but you can pick which one)
-*Take shrooms and cruise Hollywood in Danny from TOOL's Lamborgini OR we play "quarters" and then hop on the Ouija board for a while.
-If you have a band, I'll join it for a month....play shows, record a CD together, have a swim party, etc.... or none of the above. We could also just sit in yer basement and jam old Van Halen.
OR
If you don't have a band I'll be your personal assistant for a month (4 day work weeks....10 am to 5 pm) and then we take a limo down to Tijuana and I'll show you how it's done (what that means I can't legally get into here, right this minute). If you don't live in LA but are in the USA I will come to you and be your personal assistant/cabana boy for 2 weeks.
-Take a Flying Trapeze lesson together in the San Fernando Valley and then Robin from NIN and his wife make us raw lasagna.

BUY NOW

68

Appendix B: Interview: Beep! Beep! Back up the Truck

Beep! Beep! Back up the Truck is a Dutch record label that offers downloads of their entire catalog of music for free under a Creative Commons license (explained in section 3.4, "Beep! Beep! Back up the Truck"). I spoke with co-founder Nicolai Adolfs about Beep! Beep!'s innovative business strategy at a label showcase in Utrecht, The Netherlands. The following is an excerpt from that interview:

What are the benefits of being a label that gives away your MP3s online?
The way we work right now is it gets global, because of course the Internet is global. If it is really easy for people to know your music then more people will pick it up and say to their friends, "Hey! I downloaded this record. Go to this website," which is what we notice, we get attention from everywhere. MySpace is nice in a way, but it is more for promoters if they want to give a quick impression. But MySpace is this huge thing, so people generally think MySpace is good enough and they won't also put it on their own site. People need to put it on their iPod.

Are there any other labels doing what Beep! Beep! is doing?
Bright Eye's label Team Love was - I think it stopped - but even if they do give their music away now, it is probably only in the U.S. because they had the same licensing problem we did.[162]

Why do you have a licensing problem if you give away your music for free?
If we look for a partner in the U.S. for example - to have better promotion over there - they have to have the same ideas as we do. But generally they say "Well, you give away your music for free, so what's the purpose of selling your hardcopies over here? People can just get it for free!"

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162 Team Love's free MP3 downloads are still on the Team Love site, but instead of having their entire catalog available at one time they've decided to rotate the inventory. Co-founder Nate Krenkel replied to an email of mine explaining the reason for this change, "As for the free records, we modified the approach...in a hope to get more people to listen to some of the smaller bands. By rotating the selections and making only some of the catalog available at one time, we think the smaller band's will be discovered more often by people with no knowledge of the band." Nate Krenkel, interview by Chris Castiglione, Team Love Research Questions, (June 15, 2009).

We don't agree with that, but a lot of old fashion labels think that way. So Team Love is the only record label I know that releases free music and hard copies.

Who finances the albums?
Our bands finance most of their own products. There are a lot of bands that approach us and we can't put that much money into them, but it is logical as well because it is just like a loan at the bank. If we put money into a band - and we do consider this once in a while –the money that comes back has to come back to us first. It is some kind of loan in a way.

Most money is made by selling records at shows so it is really important that bands play shows. And that's why it is also important that bands pay for their own album because then we know that then they have invested in their own album and want to get their investment back.

If it is our investment, then we worry that after 10 shows [the band] can say, "Sorry, we quit!" or "We don't like touring, so we'll stop touring". That is really what happens with a lot of bands. So for us it is a safer approach to ask the bands to finance their own records.

The whole thing seems really logical to us. It is amazing other labels don't do this yet. Sub Pop for example, they can't do this, because if they did than people would be out of jobs, so I guess it makes sense why they don't all the sudden decide to do this. But if you start a new label right now, it is the most logical thing to do.

Can you tell me about your relationship with the BitTorrent site Mininova?
Mininova has been great. Normally you have to pay for the bandwidth that is used, but they store it for us, and when there is not enough seeders then they kick in as a backup so the music is always available.

Do you think every band should be under Creative Commons right now?
No, because Creative Commons is not ready right now. One example is with airplay. In Holland we can be played on the radio, but we don't benefit from it financially. The Dutch collection agency won't help us get money from airplay because our music is under Creative Commons.

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