

COPYRIGHT LAW, PRIVACY, AND ILLEGAL FILE SHARING: DEFEATING A DEFENDANT'S CLAIMS OF PRIVACY INVASION

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This Comment addresses privacy counterclaims by defendants engaged in litigation with the Recording Industry Association of America for copyright infringement.

It is well settled that those mediums that specifically provide an avenue for the illegal file sharing of music can be held liable for contributory infringement of copyright, and this Comment provides an overview of the accepted law. Furthermore, it is also well settled that those persons, who share music over the Internet, are themselves liable for direct infringement of copyright. This Comment specifically addresses the latter topic.

The Recording Industry Association of America has brought claims of copyright infringement against direct infringers. More often than not, these claims have arisen due to the monitoring of a suspected copyright infringer's computer for "stolen files." The allegations of copyright infringement, and the facts alleged therein, gave rise to counterclaims of invasion of privacy, trespass to chattels, and violations of the Computer Fraud and Abuse Act. This Comment explains why such counterclaims of privacy invasion will not survive.

After defeating the privacy counterclaims, the Comment argues that a sound recording copyright is tangible property, which is central to defeating the privacy counterclaims. It is this last analysis that stresses the importance of a sound recording copyright and its application to the current state of the unauthorized downloading of music.

Lastly, this Comment examines how arms of government are

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