

Breaking the Law To Get a Break

Social Site Partners With Music Label That Sued It

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For many music-oriented Web start-ups, a copyright lawsuit can be a death sentence. But for [Imeem](#), getting sued by one of the biggest record labels played a pivotal role in its success.

In May, [Warner Music Group](#) sued the social network, saying that it allowed millions of people to share Warner artists' music and video content without permission. It sought up to \$150,000 in damages for every unlicensed song or video posted on the Imeem site.

Two months later, Warner executives changed their tune. They scrapped the lawsuit, invested in the company, and struck a deal to make its entire catalog available to Imeem's growing number of members for free -- to stream, not download -- in exchange for a cut of the site's advertising revenue.

Warner now regards the site as a powerful word-of-mouth marketing asset.

"If you can take that, sponsor it with advertising, and have an integrated way to buy, we think we can not only retain those customers but also grow the business," said Michael Nash, Warner Music Group's executive vice president of digital strategy and business development. "The more music people experience, the more they'll want to download and own."

Imeem lets its members upload and swap songs, music videos and photos and is the first start-up to get all four major labels to sign off on an ad-supported model for distributing digital music.

The site got the attention of users -- and music labels -- by first allowing the unauthorized exchange of music on its site. Like [Napster](#) and [Kazaa](#) before it, Imeem gained popularity by using music to promote its technology -- even before getting the necessary licenses from record labels. The lesson of Imeem, however, points out a dilemma in the entrepreneurial world: Is breaking the law the secret to success in the digital music industry?

For many other start-ups, it's a tough trade-off to become legitimate.

Like Imeem, Sonific, an online service that allows users to stream music to blogs or personal Web pages, is trying to strike licensing deals with large record labels to expand

its music library, which now has about 250,000 tracks from smaller, independent labels. But Gerd Leonhard, the site's founder, said it cannot get the interest of labels because of its relatively small pool of 100,000 users.

"Our major hurdle is that we're trying to do it legally," he said. "You're either forced to use the music without the proper permission or you just don't get your audience."

David Pakman, chief executive of [eMusic](#), a competitor to [Apple's iTunes](#), said his decade-old company has licenses only with independent labels because getting the attention of the major studios has been difficult.

"Companies that are most often rewarded with licenses are the ones that got big on illegal actions," he said. "It's hard to advise entrepreneurs to follow the law because it's unlikely they'll get off the ground."

In 2000, [Universal Music Group](#) sued Mp3.com, one of the first music-sharing Web sites, for copyright infringement. A few months later, the label acquired the start-up. The site's founder, Michael Robertson, now has a new service called Mp3Tunes.com that stores music files online and is facing another major lawsuit from [EMI Group](#).

The Web in general has given consumers more unfettered access to digital music at the labels' expense. Sales of digital tracks from services such as iTunes and Amazon continue to climb -- up 45 percent last year from 2006, according to Nielsen SoundScan. Record labels have not been able to recoup the slide of CD sales, which are down 15 percent from 2006.

Therefore, major record labels now seem more willing to cooperate with social networks and other Web sites to distribute their music, said [Forrester Research](#) analyst James McQuivey.

"Now that labels are bleeding cash, it's easy to go from threat to opportunity," he said. "Imeem built a business that music labels just couldn't resist participating in."

Labels warmed to Imeem's technology in part because it also lets them track which artists and songs are most popular -- which are being discussed on members' profiles and shared on their playlists. Ads are shown on the page as members listen to music, and the site is experimenting with sprinkling short audio ads between songs.

Imeem members can upload and share their own versions of songs as well as tap into the playlists of other members. But they can't download and own a track without paying a fee to online vendors such as iTunes. Before striking deals with the major labels, the company started using software from Snocap, which was created by Napster's founder, to filter out the tracks with copyright restrictions.

"A social media network is not just about having media on the site," said Imeem chief executive Dalton Caldwell, 28, who founded the San-Francisco-based start-up in 2006.

"It's about having a system that lets content owners have an equal handshake in achieving its goal."

Often, music and new technology go hand in hand. Jango, a four-month-old social network that claims 782,000 registered users, lets members create ad-supported, personalized radio stations that friends can share. Jango operates under an Internet radio license that does not allow users to choose the exact song they want to hear; instead they can stream songs that fit their tastes.

Last.fm, which was acquired by [CBS](#) last year, also works like a social network by letting users show their friends what they're listening to. Real Network's Rhapsody service offers free music streaming, but limits users to 25 free songs per month. A company called iLike lets people share their favorite playlists on their social network profiles. SpiralFrog has licenses from the major labels to let users download free tracks in exchange for watching ads.

Like many other legal music Web start-ups, these sites decided that using unauthorized tracks was not worth the risk of attracting potentially crippling lawsuits, said Jonathan Zittrain, professor of Internet governance at [Oxford University](#).

"Premising a business model on illegal activity is a dicey approach -- Napster and others have ended up as hollow shells by walking that line," Zittrain said. "Trying to do something fully licensed and approved can end up taking years, and by the time the demands of a skittish industry are met, the resulting product may not resemble something that people want."

Imeem entered discussions with the labels shortly after launching the site, but it took about 18 months to convince them to sign on. Since then, Imeem has continued to grow.

The site had 19 million unique visitors in February, according to [ComScore](#), compared to 4.7 million a year ago. Quantcast, a Web measurement firm, ranks Imeem as the third-largest U.S. social network with 7.8 million monthly visitors, behind [MySpace](#)'s 45 million and [Facebook](#)'s 28 million. In January, Imeem acquired Web music player Anywhere.fm.

Bands, in turn, say they use Imeem to reach fans and promote album releases.

All Time Low, a pop-punk band from [Baltimore](#), has promoted its tour on Imeem. The band said it relies most heavily on its MySpace and Facebook profiles and [YouTube](#) video blogs to reach users.

"As with any online resource, Imeem is just another outlet for us to reach people," said Alex Gasgarth, 20, the group's singer and guitarist. "Because of it a lot of people have discovered us."