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by [Mariana Migliore](#) : [March 2012](#), [Music Law](#)

Recycling Music



The concept of going green assumes a change in behavior. For the past few decades, we have become more and more educated about saving energy, choosing products from socially responsible companies, and recycling waste. The music industry is not an island and a Boston startup, ReDigi, has recently proposed a new idea: recycling pre-owned digital music. The company has become a magnet of media attention since it was launched early last June, joining a space occupied by Spotify, MegaUpload, and Google Music.

ReDigi

ReDigi works as a used digital record store. The prospective user has to make an account using his or her Facebook username in order to download the Beta ReDigi application and accept its terms of use. Once downloaded, the application scans the computer's hard-drive looking for "eligible" mp3 files. What ReDigi defines as eligible is music that has been legally acquired. During the scanning process the Redigi Media Manager uses a forensic verification engine that identifies which songs are available for the user to resell.

Selling a song from a user library means that, once sold, it will no longer be available for access. ReDigi erases the track from the computer and all sync devices when the "Send to ReDigi" button is pressed. Once uploaded, the song is offered in ReDigi's market for 59 cents, and the user gets 10 cents when a sale is completed. In fact, ReDigi has its own currency. There are ReDigi Credits and ReDigi Coupons. ReDigi Credits are equal to real money. In order to get credit, the user has to add money into a hosted account or earn it by selling songs. ReDigi coupons are the same as any supermarket's discount coupons. Every time a song is uploaded for sale, a coupon is earned for discounts on future purchases.

The Controversy

The company calls itself “The World’s One and Only Verified, Pre-Owned Storage and On-line Marketplace for Digital Music.” Nevertheless, this does not mean that the rest of the world agrees. Recently, RIAA and Capitol Records have sued ReDigi for copyright infringement.

At first sight, if ReDigi functions as a used record store, it should be protected by the “first sale doctrine”. Section 109 (a) of the Copyright Act states that “the owner of a particular copy or phonorecord ... or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.” However, even if the law stipulates that reselling an “owner’s particular copy” is allowed, it does not make a distinction of how to handle a copy of a copy. This is pounced upon by the RIAA, which maintains that “[ReDigi’s] software duplicates the user’s copy of the track, places a watermark on that copy, stores it on ReDigi servers and purportedly deletes the original file from the user’s hard drive or mobile device. Then ReDigi offers sale of the copy to other users of its service.”

If that’s the case, shouldn’t ReDigi pay a mechanical license for making a copy of the track to sell it? The answer is tricky. ReDigi is paying the users who sell tracks to them. If those tracks have been legally acquired, mechanical royalties have already been paid. Also, ReDigi takes away all of the user’s copies and replaces them with their own. But ReDigi cannot prevent users from keeping the tracks if they want to, by copying them to a different source first.

Capitol Records is targeting ReDigi too, claiming that the company is also violating the right of copyright owners to distribute, reproduce and perform their music. The giant search engine Google recently tried to enter into the fray, arguing that it was in the best interests of the cloud computing industry (worth about \$40 billion) that the Court hear the case at length and not reach a premature decision; for Google, some file transfers in the cloud still need legal clarification. The judge disagreed, though, and told Google that it would proceed with *Capital Records vs ReDigi* as it saw fit.

Moving Forward

ReDigi’s business claims to be on the artist’s side by paying copyright royalties. Its business plan, though, has weaknesses. In addition to the presumption that a user will give away a digital copy of a file without saving it elsewhere, patrons are unlikely to take kindly to software that scans their hard-drives.

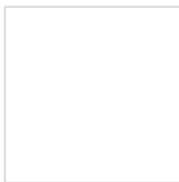
The law is still catching up with the rapid changes in the digital music market, and ReDigi’s story is familiar. Change brings fear, uncertainty, and new challenges. ReDigi’s proponents will underline the value of returned copyright monies and savings for recorded music listeners. Still, for ReDigi to find a way forward with mp3 sharing users, there will have to be more buy in for the idea of recycled music. There is no precedent for monetizing that and the record labels will want to make sure that this new business model is not built on their backs.

By Mariana Migliore

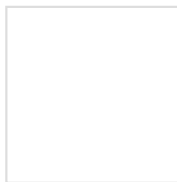
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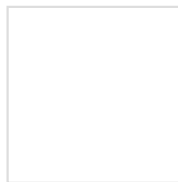
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The Music Business Journal, published at Berklee College of Music, is a student publication that serves as a forum for intellectual discussion and research into the various aspects of the music business. The goal is to inform and educate aspiring music professionals, connect them with the industry, and raise the academic level and interest inside and outside the Berklee Community.

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