

Napster: Ethical and Legal Issues



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Outline

- History
- Techniques behind Napster
- The story of Napster (Lawsuits, shutdown)
- Stakeholders
- Legal issues (DMCA, Copyright Laws)
- Ethical issues (PEO, ACM)
- Technological advancements :Morpheus etc.
- The Future
- Relation with Software Engineering
- Conclusion
- Bibliography



History

- Who, when :Shawn Fanning, 18, Northeastern University, Boston,1999
- How: MP3 uses compression, reduces number of bytes without affecting quality
- Why: easy access from internet, free, availability

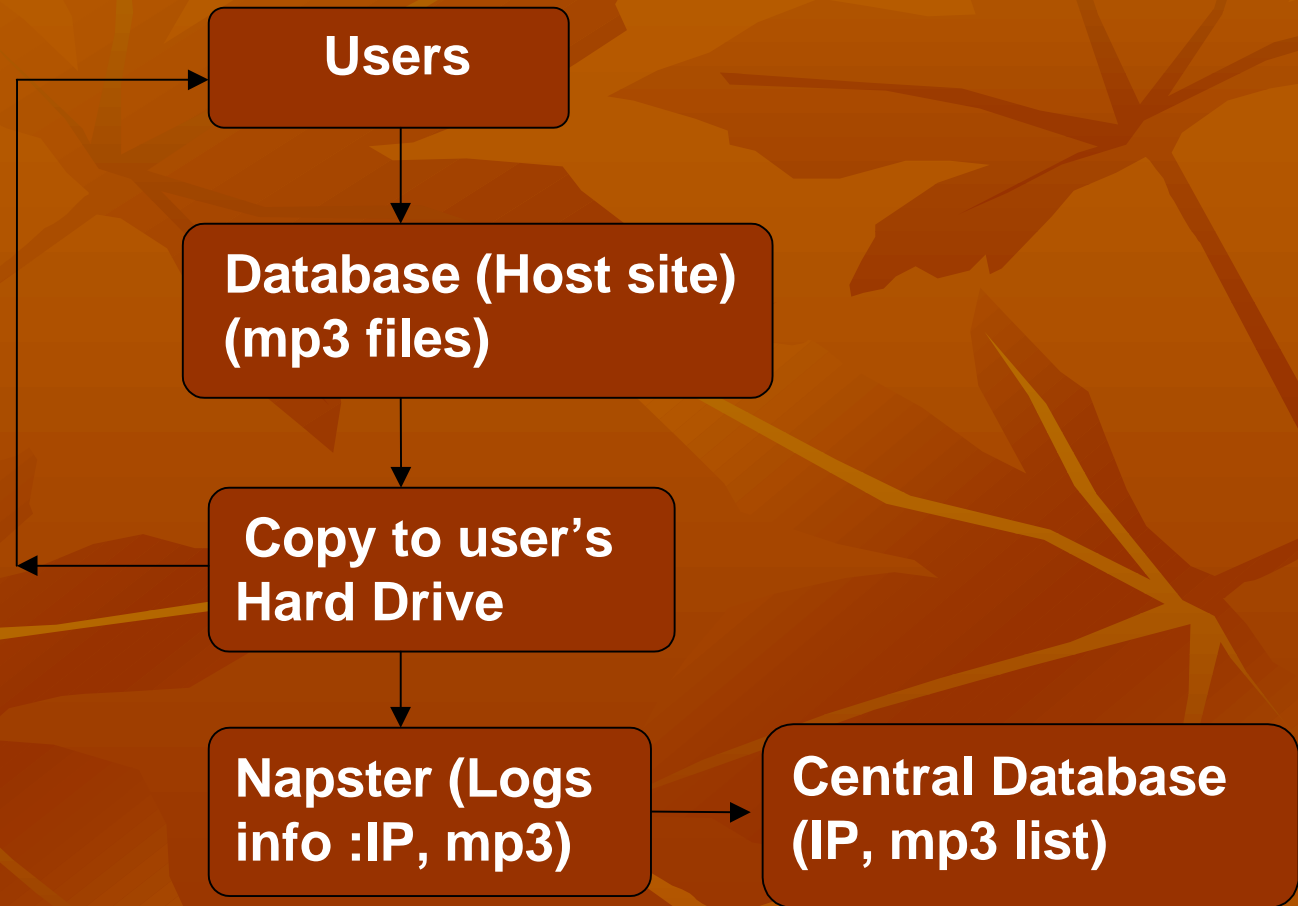


Techniques Behind Napster

- Peer to peer network (P2P): computers communicating to exchange resources
- Maintained index facility (database) via web
- Centralized directory of mp3s files on its servers
- Doesn't store copies of music on its computer but only on user's HD



How Napster Worked :



Napster: Right or Wrong?

- File sharing through central server
- Napster directly transfers music from other users' computers
- Continuous monitoring of user's logging info by Napster system
- My conclusion: Wrong!

Lawsuits and Shutdown

- RIAA (The Recording Industry Association of America) and music companies: Dec 1999, case filed against Napster
- Napster's used "Fair Use", Copyright Act of 1976
- Court rejected the defense: the purpose, amount used, nature of copyrighted work and effect on potential market
- Napster lost, asked to remove copyrighted materials
- More lawsuits by the Academy of Motion Picture Arts and Sciences etc.

Stakeholders

- Music Industry : Artists, singers etc.
- Movie Industry
- Entertainment Industry
- **Napster** and its employees
- Its Users : free music, easy accessibility

Legal Issues

- Copyright infringement under Copyright Laws of the United States (17 U.S.C)
 - Copyright infringement: violating any of the exclusive rights of the copyright owner
- Users infringing at least 2 copyright's rights: the right of reproduction and distribution
- Napster knowingly encouraged and assisted the infringement of copyright

Digital Millennium Copyright Act (DMCA), Oct 28 1998:

Napster violated two important laws:

- Contributory infringement:
 - a) Direct infringement by 3rd party
 - b) User's knowledge of infringement

Napster: didn't prevent distribution of copyrighted material

- Vicarious infringement: Napster's control, monitoring services used by users is not allowed

Online Copyright Infringement Liability

Limitation: Section 512 (b,c)

- System caching: limits the practice of retaining copies from the original source
- Storage of information on systems or networks at directions of users: providers must not have knowledge of infringing activity
- Information location tools :same as above
- Napster violated laws stated above

Ethical Issues : Perspectives...

- Professional: stealing perspective on behalf of artists
 - Unfair: to artists and music industry, artists lose recognition
- Economic: artists loose monetary compensation, music companies loose business
- Common good perspective: violated laws of society

Ethical Issues cont'd...

- Negative motivation to honest music buyers (CDs, tapes etc)
- Personal gain for users: free music
- Unclear vision: usually not seen as stealing
- Napster being platform for other such software: increase in competition, financial loss, discouraging

Codes of Ethics Breached (ACM)

- (1.5) Honor property rights including copyrights and patent
- (1.6) Give proper credit for intellectual property
- (2.3) Know and respect existing laws pertaining to professional work

(Source: ACM)

PEO: Codes of Ethics Breached

- Fairness and loyalty to the practitioner's associates, employers, clients, subordinates and employees
- Fidelity to public needs
- Devotion to high ideals of personal honour and professional integrity
- Give proper credit for engineering work, uphold the principle of adequate compensation for engineering work

Technological Advancements: Decentralized P2P

- Commonly used software: Morpheus, Kazaa, Gnutella, BearShare
- Morpheus acts as a “Matchmaker” for the searched item (IP address of the user)
 - decentralized technology :song files are traded directly from the directory of files on user’s computer, not via central server (host site)
 - no way to track information about users
- Make efficient use of the available bandwidth and include powerful search engines

The Future

- Current decentralized technologies abide by laws
- Music industry: copyrighted songs available for download on Yahoo! (Sony and Universal)
- Monitor people at the ISP level: violates individual privacy and network security
- User licensing fees
- Technology vs technology: laws for use of protective mechanisms (digital watermarks, encryption technologies) to prevent infringement

Relation with Software Eng.

- Pirating software without authorization
- Using other's work as one's own without giving them credit
- Sharing, distributing software without consent/authorization of the owner
- Making money by using other's work without compensating them

Conclusion

- Decentralized technology: answer to today's demand of exchange of “open ideas”
- Copyright Laws : continuous amendments to support copyright owners
- Unethical to violate laws for own interest
- Give credit to the creator/owner : they deserve it!

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