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### **Making a Copy of your (legitimately purchased) Music CD on Your Computer IS Illegal According to the RIAA:**

#### **The Recording Industry Association of America (RIAA) is now going after Personal Use:**

It was bound to happen. When any industry rightfully attacks, and the number of law suits which are filed are in the tens of thousands, overreaching is a real possibility. In the case of the RIAA, overreaching has come to pass.

Laying the ground work early on, and after winning the much publicized case against a 30 year old single mother (Jammie Thomas) in Federal Court to the tune of \$220,000, or \$9,250 for each of 24 songs she was accused of sharing online, record companies have filed against Jeffrey Howell, a Scottsdale, Arizona recipient of an RIAA letter who has decided to fight the RIAA in court.

In legal documents that were filed by the RIAA, the Industries lawyers have asserted that when the consuming public copies a legally purchased CD to their own personal computer (i.e. for playback on the PC), even when the file is not shared with anyone else, the copy is illegal.

According to The Washington Post:

"The Howell case was not the first time the industry has argued that making a personal copy from a legally purchased CD is illegal. At the Thomas trial in Minnesota, Sony BMG's chief of litigation, Jennifer Pariser, testified that "when an individual makes a copy of a song for himself, I suppose we can say he stole a song." Copying a song you bought is "a nice way of saying 'steals just one copy.'" The Washington Post, Marc Fisher, Dec. 30, 2007, Pg. M05.

However, this is in contrast to the RIAA website, which states:

- It's okay to copy music onto an analog cassette, but not for commercial purposes.
- It's also okay to copy music onto special Audio CD-R's, mini-discs, and digital tapes (because royalties have been paid on them) – but, again, not for commercial purposes.
- Beyond that, there's no legal "right" to copy the copyrighted music on a CD onto a CD-R. However, burning a copy of a CD onto a CD-R, or transferring a copy onto your

computer hard drive or your portable music player, *won't usually raise concerns so long as:*

- The copy is made from an authorized original CD that you legitimately own
- The copy is just for your personal use. It's not a personal use – in fact, it's illegal to give away the copy or lend it to others for copying.

Source: <http://www.riaa.com>

Even further supporting their charitable position is the FAQ statement that:

Record companies have never objected to someone making a copy of a CD for their own personal use. We want fans to enjoy the music they bought legally. But both copying CDs to give to friends and downloading music illegally rob the people who created that music of compensation for their work. When record companies are deprived of critical revenue, they are forced to lay off employees, drop artists from their rosters, and sign fewer bands. That's bad news for the music industry, but ultimately bad news for fans as well. We all benefit from a vibrant music industry committed to nurturing the next generation of talent.

Source: <http://www.riaa.com/faq.php>

While these statements make the RIAA and associated record companies sound magnanimous, it would appear that, in fact, they are really red herrings as these contentions cannot be reconciled with their actions.

As mentioned earlier, the Howell case is not the RIAA's first assertion that making a personal copy from a legally purchased CD is illegal. "At the Thomas trial in Minnesota, Sony BMG's chief of litigation, Jennifer Pariser, testified that "when an individual makes a copy of a song for himself, I suppose we can say he stole a song." Copying a song you bought is "a nice way of saying 'steals just one copy.'" The Washington Post, Marc Fisher, Dec. 30, 2007, Pg. M05.

Whether or not the RIAA's position is tenable has yet to be decided. The problem is that if the RIAA decides to pursue these contentions, as it did previously, in a litigious manner, it could be "pandemonium."

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Mr. Paparella is Principal and founder of Paparella & Associates, a law firm specializing in intellectual property matters. Mr. Paparella has extensive experience in all phases of IP practice including patent and trademark prosecution, as well as infringement analysis. Additionally, Mr. Paparella has broad experience in the corporate environment. Before practicing law, Mr. Paparella worked for 3M as an engineer, progressed into project management, and culminated his corporate career as a Key Account Representative, overseeing the entire eastern half of the United States. Mr. Paparella has garnered numerous corporate awards, and was himself patented twice for inventions relating to

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Paparella & Associates is a law firm which specializes in intellectual Property: Namely, Patents, Trademarks, & Copyrights. With offices in Atlanta, Georgia and Grand Rapids, Michigan, Paparella & Associates is uniquely situated to deliver the highest quality representation. Handling all Intellectual Property matters including, Patents, Trademarks, Copyrights, Infringement Matters, Clearance Opinions, Freedom to Operate Opinions, and Litigation. Paparella & Associates serves a worldwide clientele.

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