



# INTERNET LAW

## Part 2 of 3: Copyrights

Kevin R. Haley, Esq.  
Brann & Isaacson  
184 Main Street  
Lewiston, ME 04243  
[www.brannlaw.com](http://www.brannlaw.com)  
[khaley@brannlaw.com](mailto:khaley@brannlaw.com)  
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# **The Internet and IP Law**

The Internet implicates a host of novel intellectual property issues:

Trademarks

**Copyrights**

Jurisdiction



# **COPYRIGHTS**



# Copyright Definition

- In very simple terms, copyright is the equivalent of property rights in an original work.
- Includes five basic rights: the right to reproduce, distribute, display, perform, and create derivative works.



# Copyright Issues

- Internet presents numerous fascinating conceptual issues. For example, the act of browsing the Internet itself necessitates the copying of copyrighted material.
- In *Intellectual Reserve, Inc. v. Utah Lighthouse Ministry*, 53 U.S.P.Q.2d 1425 (D. Utah 1999), the court found that browsing an unauthorized copy of a document posted on the Internet was in itself an infringement.

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# **On-Line Copyright Issues**

File Sharing

Linking

Framing

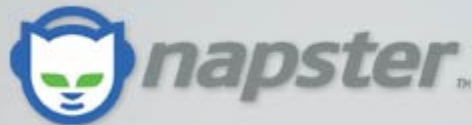


# File Sharing

- Perhaps the most high-profile example of copyright issues on the Internet is the Napster file-sharing case
- Napster was a piece of software that enabled subscribers to locate files on the hard drives of other subscribers and download them
- Those files were almost always copyright protected audio files of popular music

# A&M Records, Inc. v. Napster, Inc.

*284 F.3d 1091 (9<sup>th</sup> Cir. 2002)*

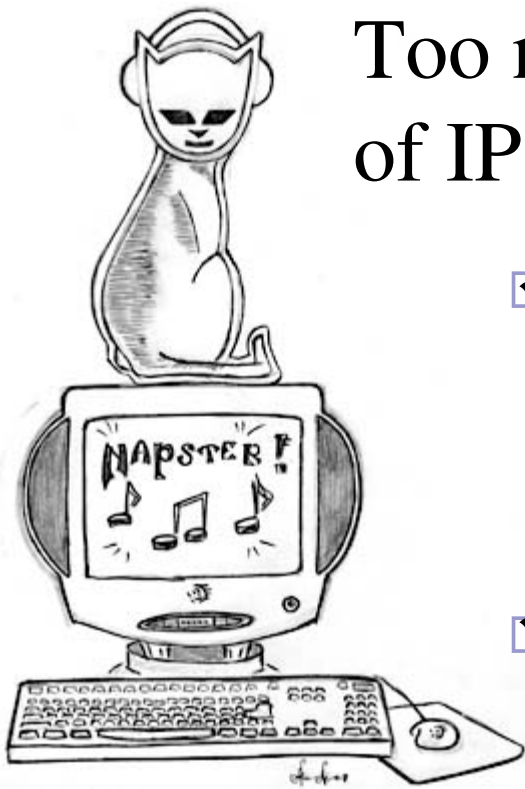


9<sup>th</sup> Circuit Court of Appeals held that the file-sharing activities of Napster users was a copyright infringement and that Napster was liable for contributory infringement for enabling and encouraging such infringement.



# Lessons of Napster

Too numerous for a 60 minute overview of IP issues but:



- ✓ Significant ongoing issues for IP owners regarding the potential of the Internet as a means for unauthorized distribution of copyrighted works
- ✓ Significant risks for businesses built upon a model that permits or encourages activities that include copyright infringement



# Linking

Linking is the practice of inserting  
hypertext links leading to other web  
sites within the body of a web site, e.g.

[www.llbean.com](http://www.llbean.com)



# IP Implications of Linking

- Ubiquitous practice on the Internet – some theoretical risks based upon unauthorized distribution or the presence of infringing material on the linked-to site.
- Some courts have taken the view that use of a mark in a link can constitute infringement.
- Safest practice is to have permission to include links on a web site.



# Framing

- “Framing” or “in-line linking” is the practice of causing a reproduction of material to be pulled into the linking site.
- Often, it is not possible to tell that the material is being imported from a different site.

Eudora - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media Print

Address [http://www.mail.eudoramail.com/frameset.nlshtml?session\\_time=1079543750&goto=jumpPage&.rnd=FjAHaJyGZKGKRf](http://www.mail.eudoramail.com/frameset.nlshtml?session_time=1079543750&goto=jumpPage&.rnd=FjAHaJyGZKGKRf)

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## Creating a Seller's Account

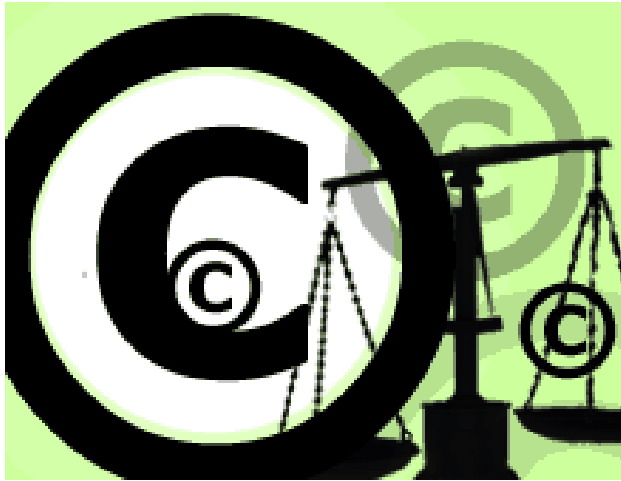
Registered members of eBay just need to complete **two steps** to create a seller's

### 1) Verify your information

To help provide a safe environment for the eBay community, you'll need to put the when you create a seller's account:

- A credit or debit card, and
- Checking account information

# Framing Can Be Risky



Framing presents more problems than garden-variety linking, creating issues of duplication and distribution under copyright law, unfair competition, and trademark infringement.

# Arriba Case



- In *Kelley v. Arriba Soft Corp.*, 336 F.3d 811 (9<sup>th</sup> Cir. 2003), court found a public display right infringement based upon framing of photos from plaintiff's web site.
- Other than Arriba, there are relatively few reported cases, because cases are almost universally settled prior to judgment.