

Wendy Seltzer

Server with Files

User

search requests

music files

User

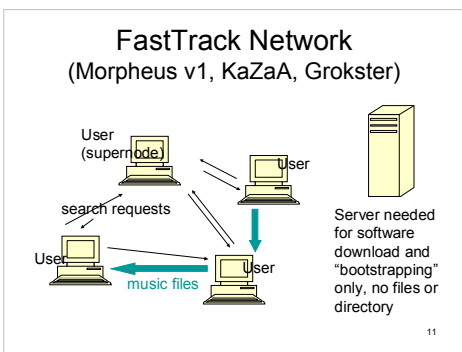
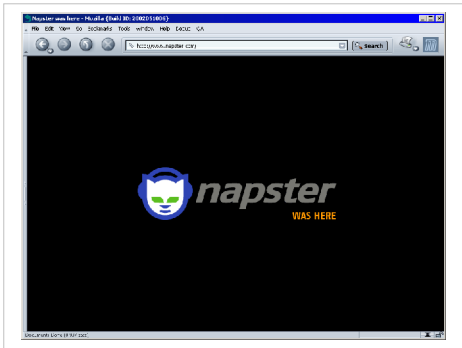
User

Server hosts all files for users to download

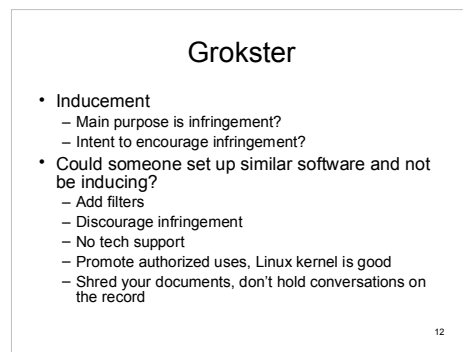
The diagram illustrates Napster's architecture. A central server, labeled "Server With Search/Directory", is connected to three user computers. A "search request" is shown as an arrow from a user to the server. A large blue arrow labeled "music files" points from one user to another, indicating file exchange. Text on the right states: "Users supply and exchange files among themselves; Napster server maintains search directory".

- Betamax: capable of substantial non-infringing uses -> lawful
- Napster:
 - Search directory – actual knowledge of specific infringing uses
 - Control, on an ongoing basis
 - Space-shifting different from time-shifting?
 - How much non-infringing use?
 - Is Google doing the same thing?
 - general-purpose search vs mp3.
 - but some mp3s non-infringing
- What's angering the music companies?

[illegible]



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Music Downloads

- The networks keep going
- Jurisdiction: music sites abroad
 - Credit card companies
- Whom to sue next?
 - ISPs?
 - Social policy. Networks have lots of beneficial uses, filesharing not decidedly harmful
 - Legal policy. DMCA safe harbor
 - End-users

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Suing End-Users

- Find the “John Does”
 - Subpoena ISPs
 - Not with DMCA 512(h) subpoenas
 - FRCP 45 subpoena
 - Start by suing John Doe
 - Maybe the University doesn't have full identifying information
 - university shouldn't be compelled to *create* information
 - Pre-litigation notices
 - Should ISPs forward them?
 - Do we have to forward notices for everyone who asks?
 - Concerns about privacy? FERPA? Maybe more concern in the case of information sent back to RIAA

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