

Entertainment Law Society Run Conference Proposal

Submitted by:

Entertainment Law Society (ELS)
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Potential Faculty Advisors:

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Conference Topic and Importance:

Bridging Troubled Waters: Streaming, Downloading, and the Entertainment Industry's Transition into the Digital Age

Streaming and downloading represent advents of the Digital Age that have fundamentally changed the way that much of the world receives media in all of its forms. Whereas media was once restricted to analog formats and the airwaves, the digital distribution of media has now become ubiquitous. The Internet has given the public unprecedented access to digital information, and it has forced the entertainment industry to come to terms with the reality that it no longer retains the control over the distribution of its wares it once did. While illegal acquisitions of movies, games, TV shows, and music remain rampant, the entertainment industry is adapting to the newfound market demand for immediate access to the newest entertainment. A host of legal issues continue to arise as the entertainment world scrambles to adapt and thrive in a world where keeping content secure is nearly impossible, and bandwidth is a commodity.

This symposium is an opportunity to examine the many issues revolving around downloading and streaming, the way they have changed the way we consume and produce entertainment, and how the entertainment industry has been forced to transform in response. Free options such as YouTube and SoundCloud are creative playgrounds for communities of amateur musicians and filmmakers, allowing their material reach further than ever before. However, users

also exploit inherent difficulty of policing such massive websites by uploading copyrighted material without permission. Nearly any TV show, movie, video game, or album is downloadable via torrents, P2P networks, or file hosting services if one looks hard enough, but each poses unique challenges of enforcement through statutes such as the Digital Millennium Copyright Act (DMCA).

The effect these developments on the industry is evident, as labels, networks, cable companies, and video game companies attempt to adapt, and new contenders enter the market. The market demand for instant access to entertainment has created a host of subscription streaming services such as Netflix, Hulu Plus, and Roku. Cable companies provide their content through on-demand services accessible via the television or the computer. Digital distribution is now a matter of course for music, movies, TV, and even books (iTunes, Google Play, Amazon), and video game companies are thriving without any existence on physical mediums (Valve, mobile games). Cable companies and networks cling to the few markets over which they retain substantial control such as live sports, but, sure enough, new services are offering live online video for major sporting events. Furthermore, as much of the entertainment industry has shifted its competition to the Internet, unrestrained access to the Internet is becoming a commodity as Internet service providers like Comcast gain unparalleled market-shares and wield the power to distribute bandwidth.

These are but a handful of examples of the influence of streaming and downloading on the entertainment industry. This symposium is an important opportunity to bring in representatives of the entertainment industry together to discuss the legal implications of this fundamental shift in the consumption, distribution, and marketing of entertainment. This is a

crucial point in the evolution of the public's relationship with entertainment, and this symposium would provide a forum for examining what these developments mean for the future of artists, athletes, the industry, and the consumers.

Suggested dates:

The symposium will take place on a Thursday night and all day Friday. Preferably between early-March and early-April.

Schedule:

Thursday:

Approximately 6:00pm: Screening of the film "Downloaded - Napster: The Music. The Battle. The Revolution" which looks at the evolution of digital media sharing on the Internet. This documentary follows Napster's history through its rise, struggles amidst massive lawsuits, and eventual acquisition by Rhapsody in 2011. It features interviews with software developers, musicians, a former record producer, and the former CEO of the RIAA. This film would be a great introduction into the Digital Age and the evolution of downloading.

Approximately 8:00pm: Conference paper presentation will allow students from universities across the country to present research related to issues covered in the symposium. We will select three to four papers for a one hour presentation and attempt to cover the different range of panel topics that will be addressed later in the symposium. This will open the symposium to a range of students from different disciplines.

Friday:

8:00 - 8:30 Welcome breakfast and registration

8:30 - 9:15 Introduction speaker: Introductory speaker will address issues of entertainment law in the digital age in a general framework. Either having tried a formative case, or occupying a position of interest, this speaker would be able to provide a broad perspective on the issues addressed by this symposium and their effect on the entertainment industry.

Possible Speakers: Howard E. King, Attorney on *Metallica v. Napster*.
Hilary Rosen, Former counsel for the Recording Industry Association of America.

9:15 - 10:30 Panel 1: From Peer-to-Peer Sharing to Streaming. A look at the evolution from legal issues with downloading to the newer problems emerging from the addition of streaming on the Internet.

10:30 - 10:45 Break

10:45 - 12:00 Panel 2: Invasion of Privacy through Digital Distribution. A discussion of legal issues such as extortion and human rights violations emerging from access to instant digital distribution and hackers who manipulate this new technology.

12:15 - 1:15 Lunch and Keynote Speaker: Businesses of the Digital Age

David Hyman: General Counsel of Netflix

Chadwick Ho: General Counsel of Hulu, LLC

1:15 - 2:30 Panel 3: Creation and Compensation: Artistic Benefits and Detriments of Unrestrained Public Access (Looking at the effect of unprecedented consumer access to artistic material on the creators themselves. Contrasting the benefits provided to artists starting their careers to the detriments to established artists from the unlicensed usage of copyrighted material).

2:30 - 2:45 Break

2:45 - 4:00 Panel 4: Jumping on Board: Television and cable embracing online access as a viable method of distribution for TV, Movies, and Sports. (Examining how the realities of illegal online access have forced the television and cable industries to adapt to offering options that allow immediate access to their content.)

4:00 - 5:00 Closing Panel: Internet Service Providers and Bandwidth as the New Commodity. (Addressing the legal conflicts arising from internet access being controlled by a body with vested interests in the market competitors.)

5:00 - 6:00 Reception

If UCI Law School held a conference on a similar topic within the last 4 years, explain how the proposed conference builds on or differs from the previous conference:

UCI Law has not held a conference on a similar topic within the last 4 years.

List sponsoring individuals and organizations and any special knowledge, expertise, or interest they have in the topic, and sources of potential alternative funding from outside the Law School (for example, funding from the organization's national chapter):

California Lawyers for the Arts: California Lawyers for the Arts empowers the creative community by providing education, representation and dispute resolution. CLA aims to lead and service artists and arts organizations for the benefit of communities throughout California. This organization would have a vested interest in protecting the legal interest of artists affected by downloading and streaming. They are located in San Francisco, California.

Association of Corporate Counsel: The Association of Corporate Counsel is a bar organization with more than 30,000 members employed by over 10,000 organizations in more than 75 countries. ACC promotes the common professional and business interests of in-house counsel who work for corporations, associations and other private-sector organizations through information, education, networking opportunities and advocacy initiatives. Because in-house counsel from entertainment industries are often most affected by copyright and licensing issues resulting from streaming and downloading, we believe many members of this organization

would be interested in sponsoring, providing information to, or attending the symposium. They also have chapters in San Diego and generally in Southern California.

Thomas Jefferson School of Law Entertainment Law Society: TJSJL has a well known entertainment law society whose organization has held multiple symposiums on issues within the entertainment industry. Their members and affiliates would likely be interested in attending this type of symposium and would provide support for it.

Orange County Bar Association's Entertainment Department:

OCBA's Entertainment, Sports, and Marketing Law department focuses on an array of cutting-edge issues, including video game licensing, film production and finance, musical recording contracts, sports agent representation, TV production and syndication, children's advertising, celebrity endorsements, athlete and spectator liabilities, social media, "green" advertising, toy manufacturing and more. They would like hold an interest in legal issues within downloading and streaming.

Southwestern Entertainment Law Society: Southwestern has an established entertainment law society whose organization and has even holds Entertainment Law Career Day Fairs. Their members and affiliates would likely be interested in attending this type of symposium and would provide support for it.

San Diego School of Law Entertainment Law Society: San Diego School of law also has a well known entertainment law society whose organization has held multiple symposiums on issues within the entertainment industry. Their members and affiliates would likely be interested in attending this type of symposium and would provide support for it.

California Arts Council: CAC is a non-profit supporting artists and art organizations.

List suggested speakers and participants and any special knowledge, expertise, or interest they have in the topic:

Local Orange County/ Los Angeles Speakers:

- David Branfman, Esq., Branfman Law Group, P.C. (New Media, Intellectual Property, Entertainment Law Attorney).
- Howard E. King, King, Holmes, Paterno & Berliner, LLP (Business and Intellectual Property Litigation, counsel for the plaintiff in Metallica v. Napster).
- Members of the Entertainment Dept. of the Orange County Bar Association.
- Rita Tuzon, Executive VP and General Counsel for Fox Networks Group.
- Martin D. Singer, Lavelly & Singer, P.C.

- Chadwick Ho, General Counsel for Hulu, LLC.

Out-of-Town Speakers:

- David Zapolsky, General Counsel at Amazon.com (Seattle, Washington)
- Zahavah Levine, (YouTube, RealNetworks, Inc., Listen.com, Inc.; San Francisco, CA)
- Jared Grusd (General Counsel for Spotify; New York, NY)
- Delida Costin (General Counsel for Pandora; Palo Alto, CA)
- Hilary Rosen (Former counsel for the Recording Industry Association of America;)
- Eleanor “Nell” DeVane, (Deputy Chief Counsel, ESPN)
- Mitchell Edwards, CFO and GC of BitTorrent, Inc.

Proposal Budget: (numbers are based on OCHRA’s Access to Rights in the Prison Industrial Context Symposium for a one day symposium)

Item	Cost
Panel speaker travel costs - airfare for panelists from out of town (15 panelists x \$400 = \$8,000)	\$6,000
Panel speaker travel costs - gas reimbursements for local (LA, OC, San Diego) panelists traveling 20 miles or more (7 panelists x \$60 = \$420)	\$420
Hotel (\$119 per night at the Radisson which includes breakfast, free parking, and internet, 2 nights per panelist - \$119 x 2 x 22 = \$6,426)	\$5,236
Parking and Transportation (\$20 road signs, \$124 parking attendant, \$325 shuttle)	\$469
Movie Snacks - popcorn, soda, water (100 attendees x \$3 = \$300)	\$300
Breakfast - coffee, tea, juice, bagels, fruit, etc. (100 attendees x \$5 = \$500)	\$500
Lunch - catering (100 attendees x \$10 = \$1,000)	\$1,000
Daylong supply of coffee, tea, water, etc. (100 attendees x \$3 = \$300)	\$300
Reception - wine and hors d'oeuvres (100 attendees x (\$3 wine + \$5 food) = \$800)	\$800
Panelist dinner after reception (22 panelists + 10 organizers and guests = 32 attendees x \$50 for food, drink, tax, and tip under the \$64 maximum = \$1,600)	\$1,600
Thank you gifts for speakers (\$15 x 22 panelists + \$50 for keynote speaker = \$330)	\$330
Screening “Downloaded - Napster: The Music. The Battle. The Revolution”: movie cost from VH1 \$298 (licensed for non-commercial and educational exhibition where no admission fees are charged)	\$298
Administrative costs (special paper for posters and program \$20 for 200 sheets from Office Max + \$4 cardstock for handwritten invitations + \$75 program stapling + \$100 t-shirts + other miscellaneous = approx. \$250)	\$250
Total:	\$17,503

Conference Paper Presentation

Local graduate students will be invited to present papers that relate to the theme of the symposium. The planning committee will select three to four papers to present at the symposium on Thursday night before the full day event. This will be a great opportunity to attract scholars in a variety of fields because it will incorporate an interdisciplinary look at understanding these legal issues that not only affect the entertainment industry, but also its consumers (the general population). It could also start a tradition that would make the symposium appeal to other areas of academia. This is one of the ways, in addition to inviting activists, practitioners, and academics from all over the country this symposium will be able to attract audience from outside UCI Law. We would require the assistance of professors who would be able to select papers and reach out to graduate programs throughout the country to help continue the tradition established by OCHRA's symposium this year.

Alternative Publication:

Typically the student-run symposium has been linked to an issue of Law Review. We would be prepared to request that our panelists submit written work appropriate for Law Review, but we would also like to propose an alternative publication. For example, we would like to see an Entertainment Law emerge from this symposium.