

Music Lover on the Hook to the Tune of \$675K

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In case you didn't know, practically anything you read, listen to or watch at the movie theater is protected by US [copyright laws](#). Breaking those laws by copying those items or using them without permission can lead to big legal problems, and possibly a lifetime of debt.

- A graduate student has to pay for illegal music downloads
- Copyright laws have sharp teeth to protect the owners of covered works
- It may take years, even a lifetime, to pay off a court judgment

Sometimes Loving Music isn't Worth It

For **Joel Tenenbaum**, the music began [turning sour in 2005](#). That's when, as an undergraduate student, his parents received a notice directing them to call the [Recording Industry Association of America](#) (RIAA) to arrange payment of \$5,250 for pirated music downloaded to a computer in their home - by Tenenbaum, as it turned out.

According to Tenenbaum, the RIAA refused his offers to settle the case, and he heard nothing until 2007. That's when the RIAA filed a lawsuit against him for copyright infringement, asking for \$4.5 million in damages. Ultimately, a jury determined that Tenenbaum, who's now in graduate school, had to pay RIAA \$675,000, but a judge lowered the award to \$67,500 because the original award was **unconstitutionally excessive**.

This week, a [federal appeals court](#) reinstated the original award. It also ordered another judge to decide whether Joel and the RIAA can agree on what he should pay - something the first judge should have done but didn't do - and, if not, decide whether the RIAA's award should be lowered.

The case is strikingly similar to a case where the RIAA's original [\\$1.9 million](#) award against another "music pirate," Jammie Thomas-Rasset, a single mother of four, was reduced to \$54,000. But that legal battle is [still ongoing](#), too.

No matter how these cases finally end, one thing is crystal clear: The music industry takes piracy seriously. It may have already paid over [\\$3 million in legal fees](#) in the Thomas-Rasset case and may only get a judgment against her for \$54,000. Both numbers are drops in the bucket, though, considering the RIAA's estimate that the music industry [loses billions of dollars](#) each year to piracy. Not to mention the loss of tens of thousands of jobs in the industry.

It's no surprise, then, that Jennifer Pariser, Senior Vice President of Litigation for the RIAA, is "very pleased" with the ruling against Tenenbaum, adding that the "court's summary of the facts makes plain why statutory damages are necessary and why the appropriate measure of damages should be left to the jury's discretion."

Of course, when it comes to file sharing, the best advice is **don't do it**. The few dollars you save may cost you dearly in the future. You may get a [notice or letter](#) from the RIAA or a record label demanding payment for your music downloads. You may end up in court where the statutory damages mentioned by Jennifer Pariser may mean having to pay thousands of dollars more, per song, than the songs' \$1 or \$2 price tags.

Noted intellectual property attorney [Dale Cendali](#) warns of the danger, and the potential high price, of file sharing. "The Tenenbaum case highlights the importance to users of peer-to-peer networks of understanding the consequences of their actions. In particular, those who choose to continue their conduct despite receiving warnings about their potential liability." She adds that the decision to reinstate the \$675K award "underscores the importance of courts continuing to make clear the standards by which damages awards are determined."



Dale Cendali

And it's very possible that the courts will see more of these cases. Cara Duckworth Weiblinger, the RIAA's Vice President of Communications, promises that, "The RIAA will continue to enforce its rights



Jennifer Pariser

where necessary in order to raise awareness to the job-killing effects of content theft and direct users to [legitimate services](#) that pay creators."

Saddled with huge court judgments, Tenenbaum, Thomas-Rasset and others who lose music piracy cases face bleak choices. It's doubtful either can afford to pay up, so the RIAA could look to [wage garnishment](#) or other [unpleasant ways to collect](#) what it's owed. [Bankruptcy](#) may be the only way out. It may not come to that, if they can all agree on a price tag for the illegal downloads. Of course, it should go without saying, it's a good idea to contact a lawyer immediately if you're accused of downloading music illegally. You may be able to avoid a lot of these and other problems.

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