



October 1, 2018

Daniel Lee  
Assistant U.S. Trade Representative for Innovation and Intellectual Property  
Office of the United States Trade Representative  
600 17th Street, NW  
Washington, DC 20508

In re: Docket No. USTR-2018-0027

Dear Mr. Lee:

Attached please find RIAA's submission in response to your request for comments identifying Internet and physical markets based outside the United States that should be included in the forthcoming Notorious Markets List (List). The online and physical markets identified in our comments are harming American creators, businesses, and the American economy.

The U.S. music industry is highly dependent on the Internet and, in turn fuels other parts of the Internet economy, job growth, and trade surplus. In the first half of 2018, approximately 90 percent of U.S. record label revenue came from a wide array of digital sources, with 75 percent of our revenue coming from digital streaming sources.<sup>1</sup>

RIAA members license their music globally, with several hundred licensed platforms operating around the world. This contributes significantly to the U.S. digital trade services surplus, and to the U.S. economy generally. A recent report found that the music industry creates \$143 billion annually in value when both direct and indirect effects are included and supports 1.9 million American jobs across a wide range of professions.<sup>2</sup> Moreover, intellectual property rights (IPR) licensing – of which music is a core part – globally generated an \$80 billion digital trade surplus for the United States in 2016, according to a U.S. Department of Commerce report entitled *Digital Trade in North America*.<sup>3</sup>

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<sup>1</sup> Source: RIAA.

<sup>2</sup> Siwek, Steven, "The U.S. Music Industry: Jobs and Benefits, April 2018," prepared for the Recording Industry Association of America, available at <http://www.riaa.com/wp-content/uploads/2018/04/US-Music-Industries-Jobs-Benefits-Siwiek-Economists-Inc-April-2018-1-2.pdf>.

<sup>3</sup> Nicholson, Jessica; U.S. Department of Commerce, Economics and Statistics Administration, Office of the Chief Economist; *Digital Trade in North America*; pp. 3-5; January 5, 2018, available at <https://www.commerce.gov/sites/commerce.gov/files/media/files/2018/digital-trade-in-north-america.pdf>. See also Statement of the Recording Industry Association of America (RIAA) before the United States International Trade Commission Global Trade 1: *Market Opportunities and Key Foreign Trade Restrictions*, April 21, 2017, which describes the relationship between music and smartphone growth, and Internet growth generally.

While the growth in music streaming is promising, the music industry recovery is fragile, and continues to be threatened by online marketplaces that infringe our members' music, as well as by sales of counterfeit products over ecommerce platforms, outdated laws and their misapplication and abuse, and lack of proper enforcement mechanisms. Keep in mind that our 2017 annual revenues were roughly 40 percent less than what they were in 1999 and were roughly the same as they were in 2008.

In this submission, we have identified some of the major online actors that threaten our industry's recovery and jeopardize the U.S. digital trade competitive advantage. Simply put, the prosperity of the music industry and America's cultural production, which impacts our trade surplus, is greatly undermined by distortions in the marketplace that flow from what is essentially illegal trafficking in stolen goods – our sound recordings.

In addition, the same physical markets that we identified last year continue to flood e-commerce platforms with high quality counterfeit CDs that unwitting buyers are purchasing at full retail price. These counterfeits result in a one-for-one displacement of legitimate sales.

We hope you find this information useful, and we look forward to continuing to work with the U.S. government to find solutions to these problems.

Sincerely yours,

George York  
Senior Vice President, International Policy  
Recording Industry Association of America (RIAA)



## **2018 SPECIAL 301 OUT-OF-CYCLE REVIEW OF NOTORIOUS MARKETS**

### **ONLINE MARKETPLACES**

The following is a list of online markets that we request to be included on the 2018 Notorious Markets List. These markets are based outside the United States and engage in the unlicensed sale, streaming, and/or distribution/downloading of sound recordings that significantly damage the rights of U.S. companies.

These services harm U.S. artists, record labels, and music publishing companies by (i) disseminating music without authorization and without providing any compensation to the creators and owners of the music, and (ii) artificially distorting the market value of the music, thereby reducing the compensation to the creators and owners from licensed services. Recognizing the enormous cost of such IP theft to the United States, this Administration identified intellectual property theft as a significant threat to American prosperity in the December 2017 National Security Strategy of the United States. Likewise, in the President's April 2018 World Intellectual Property Day proclamation, the President underscored the U.S. commitment to protecting IP as critical to promoting American economic competitiveness and national security. Similarly, the 2018 Special 301 Report states clearly that "the Internet [is] an extremely efficient vehicle for disseminating infringing content, thus competing unfairly with legitimate e-commerce and distribution services that copyright holders and online platforms use to deliver licensed content."

Many of the services that are disseminating infringing content that we have included in this year's submission unfortunately have been included in the past. While some of these sites have made incremental changes to the way they operate to limit some of their exposure, unfortunately the traffic to these sites remains high and the damage inflicted on the U.S. recording industry is immense.

We continue to engage in various forms of "self-help" to try to address this infringing activity, including sending traditional infringement notices, warning letters, and cease and desist letters, and engaging in civil litigation and criminal enforcement referrals where sites refuse to respond. These actions, along with efforts to highlight the problems and engage other governments in solutions, such as through the Notorious Market Report, have been helpful in modifying the behavior of some illegal services.

However, we continue to face significant challenges in our investigation and enforcement efforts. One challenge we face is that the sites that have shut down can reappear as quickly as they disappeared. In some cases, they reemerge with the same second-level domain name but on a different top-level domain, from the same hosting Internet service provider (ISP), and with the same functionality (what we call domain-hopping). In other instances, they return with slightly altered domain names with new hosting ISPs, new registrars, and/or new registrant information. We also often see "copycat" infringing services pop up as well. In fact, infringing operations these days are often multi-jurisdictional and based on complex, dynamic structures involving various types of third-party intermediaries. Such complex and dynamic structures are often deliberate as they increase the time, cost, and difficulty of enforcement action and thus reduce the right of any action being taken against the operators. The dynamic and low-cost nature of the Internet presents unique challenges in comprehensively identifying and addressing notorious markets.

In addition, in today's environment, it has become exceedingly difficult to track, enforce against, and accurately associate various notorious websites because of, among other things:

- **Severely Restricted Access to Domain Name Registration Data** – In May 2018, ICANN changed the policy regarding Domain Name Registration or Whois data to significantly limit access to such data. Where once such data was in general publicly available online, in response to the General Data Protection Regulation in the EU, ICANN chose to implement a severely over-compliant approach to restrict access to Whois data. Now, registrars can, and often do on a worldwide basis, hide such data behind a “privacy” screen, and provide no consistent mechanism to access the data for legitimate investigation and enforcement purposes. This frustrates our ability to contact the registrant directly to address infringement issues, investigate relationships between infringing sites, and analyze our other enforcement options.
- **Privacy/Proxy Protected Domain Name Registration and False Domain Name Registration Data** – In addition, operators of pirate sites typically hide their identity behind privacy/proxy services or appear to submit false or incomplete registrant information, further creating obstacles to enforcement against these sites.
- **Prevalent Use of Reverse Proxy Services to Obfuscate Hosting ISP** – These services are utilized by pirate websites to hide the identity and location of actual hosting ISPs. More and more pirate sites employ reverse proxy services, most commonly Cloudflare, to obfuscate their IP address, creating obstacles to enforcement against such sites. While Cloudflare will provide the underlying IP address when presented with an infringing URL, the Cloudflare customer is notified of our request and can quickly migrate its site to a new hosting ISP while continuing to utilize Cloudflare. Since there is no real-time access to the site's location, any IP address provided by Cloudflare one day may be inaccurate the next.
- **Use of “Bulletproof” ISPs** – Several infringing sites use off-shore hosting ISPs that support the sites' infringing activities. These “Bulletproof” ISPs support various types of criminality through considerable leniency in the kinds of materials they permit to be uploaded and distributed via their networks. These ISPs do not respond to notices of infringement or warning letters that the ISP is hosting and supporting known infringing sites. We describe two of these types of ISPs, namely Ecatel/Quasi Networks and FlokiNet, below as a class of notorious markets that are the U.S. music sector.
- **IP Address Space Subleases** – IP address space is often subleased to another ISP hosting service, which adds a further level of complication to our investigative efforts.

In fact, there are thousands of websites on the Internet that are dedicated to piracy, with new ones appearing all the time and existing ones frequently changing their online location (whether domain or hosting environment, or both) to avoid enforcement. This list of notorious markets is therefore by no means comprehensive. We focus instead on those sites and services that inflict the most damage on the U.S. recording industry either globally or in specific country markets.

We monitor traffic to the sites using Alexa.com for overall global rankings and SimilarWeb, a web traffic analytics company, to track website visits. The ranking and traffic data used in this submission is based on the data available in September 2018 from these two sources.

## **1. Streamripping Sites**

The most pressing music copyright infringement problems continues to come from sites that engage in the unauthorized reproduction and distribution of the popular copyrighted music that appears on YouTube, Facebook, and other services licensed to stream music.

These illegal sites violate YouTube's and other licensed streaming services' terms of use and circumvent the technological measures that YouTube and other licensed services employ to prevent copying and distribution of audio and video musical works streamed through their service. These streamripping sites capture copies of content licensed for streaming and provide unlicensed free downloads. They monetize the infringing activity through advertising and, in some cases, the sale of conversion and editing software. There are estimates that as many as one in three Internet users has used a streamripping service to illegally acquire music.<sup>4</sup> The distribution of permanent downloads of files from streaming services deprives the record companies and artists of streaming revenue by eliminating the need for users to return to YouTube and other licensed services every time they listen to the music. They harm premium streaming services that offer tethered downloads for off-line listening. Streamripping services also undercut pay-for-download sites like iTunes, Google Play, and Amazon by providing permanent downloads for free. The overall popularity of these sites and the staggering volume of traffic they attract evidence the enormous damage being inflicted on the U.S. record industry.

We are currently tracking more than 100 active streamripping sites. The most popular and, hence, the most damaging of these streamripping sites are:

### **Flvto & 2Conv**

*Domain:* Flvto.biz and 2conv.com

*Registrant:* Uses the privacy/proxy service DomainsbyProxy (DBP)

DBP disclosed the operator of both sites most recently as Tofig Kurbanov; previously disclosed as Tatyana Levchenko as operator of the site; both are identified as being in the Russian Federation

*Registrar:* GoDaddy

*Hosting Provider:* Hetzner Online GmbH, Germany

*Traffic:* Flvto.biz has a global Alexa Ranking of 571 and 2conv.com has global Alexa ranking of 1618; collectively the two sites have had over 1.7 billion visits in the past year.

*Revenue Source:* Advertising and questionable software downloads

*Flvto.biz* and *2Conv* are essentially the same service operating from different front-end domains. They are operated by the same individual in Russia and serve downloads of converted YouTube videos to users as mp3 audio files from the same servers in Germany. They copy and convert into audio-only mp3 files YouTube links that users copy and paste into the conversion bar. All the user needs to do is to click on a "convert to mp3" button. As noted in our 2017 submission, these sites used to induce infringement by listing and highlighting the top downloads, which always included our members' music. Following some of our enforcement activity, they changed their operations slightly to be less obvious, but nonetheless continue to engage in unauthorized distribution of our members' music. We also have reason to believe that the operators may be involved in other streamripping sites as well. We filed a lawsuit against these sites earlier in 2018.

### **Mp3juices**

*Domain:* mp3juices.cc

*Registrant:* Uses the privacy/proxy service Global Domain Privacy Services, Panama

*Registrar:* Pananames - URL Solutions, Panama

*Hosting Provider:* Servers.com and United Network, LLC, both in Moscow, Russian

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<sup>4</sup> Source: IFPI Music Consumer Insight Report, September 2017, available at <http://www.ifpi.org/downloads/Music-Consumer-Insight-Report-2017.pdf>.

Federation

*Traffic:* Global Alexa ranking of 2748, with nearly 1.3 billion visits globally in the past year

*Revenue Source:* Advertising

*Mp3juices* permits a user to select YouTube music videos and to make a permanent download of an audio-only mp3 file that can be added to the user's music library. The site itself provides search functionality to locate desired YouTube videos and then utilizes a separate service as the back-end for its distribution of mp3 downloads to the user. When users request an mp3 download, the files are served up from a domain that is not otherwise publicly accessible. This back-end function is currently operating from the domain *yxww.xyz*. *Yxww.xyz* has the same Whois registrar and privacy proxy service as *mp3juices.cc* and is hosted on the same ISPs in Moscow.

Please note *mp3juices.cc* modified its infrastructure in early 2018 by dropping Cloudflare, changing the underlying hosting service, and also changing the back-end domain from *mjcdn.cc* to *yxww.xyz*. The last publicly available Whois information identified the operator as an individual in Turkey.

### **Ytmp3 (formerly youtube2mp3.cc)**

*Domain:* *ytmp3.cc* (formerly *youtube2mp3.cc*)

*Registrant:* Uses privacy/proxy service Global Domain Privacy Services, Panama

*Registrar:* Pananames - URL Solutions, Panama

*Hosting Provider:* Servers.com and United Network, LLC, both in Moscow, Russian Federation

*Traffic:* Global Alexa ranking of 1392, with over a half a billion visits in the past year combined to both domains

*Revenue Source:* Advertising

*Ytmp3* is likely connected in some way to *mp3juices*. *Mp3juices* and *ytmp3.cc* are hosted on the same ISPs, and both use a separate back-end domain to copy, convert, and deliver the download file to the users. Content accessed through *ytmp3* site is also delivered through a domain that is not publicly accessible – in this case *wywx.xyz*. *Wywx.xyz* operates with the same registrant information, registrar, and hosting provider as *ytmp3*. *Mp3juices* and its back-end delivery domain, *yxww.xyz*, also operate from the same registrant information, registrar, and hosting provider. *Ytmp3* differs from *mp3juices* only in that it does not offer the YouTube search capability. Rather, it requires the user to otherwise locate the desired file on YouTube and then cut and paste a YouTube URL into its conversion bar, and the site then delivers an audio-only mp3 file ripped from the original video file.

### **Convert2mp3**

*Domain:* *convert2mp3.net*

*Registrant:* Data not currently disclosed in Whois record, but believed to be Marius Seipp, Linden, Germany

*Registrar:* easyDNS Technologies, Inc.

*Hosting Provider:* Served through Cloudflare, (U.S.), the underlying ISP hosting provider is believed to be Online SAS (frontend), and OVH SAS (back-end), both in France

*Traffic:* Global Alexa ranking of 652, with over a billion visits in the past year

*Revenue Source:* Advertising

*Convert2mp3* continues to be a highly popular site globally although the operators have taken steps to limit its use from U.S. and selected other country IP addresses. These measures, however, are easily bypassed using a free IP proxy service which masks the true location of the user. While the steps taken to limit its availability has resulted in some loss of traffic, it remains an extremely popular site globally for acquiring permanent downloads of audio-only mp3 files from YouTube.

In July 2018, a Danish Court ordered ISPs to block their users' access to the site on the basis of copyright infringement. There is also pending litigation in Germany against the site that was initiated by record companies in Germany.

### **Peggo**

*Domain:* Peggo.tv

*Registrant:* Uses privacy/proxy service Contact Privacy, Inc., Canada

*Registrar:* Tucows, Inc., Canada

*Hosting Provider:* OVH Hosting, Inc., Canada

*Traffic:* Global Alexa ranking of 7488, with over 120 million visits in the past year

*Revenue Source:* Advertising

*Peggo* offers a search capability to locate YouTube videos. Once the user starts typing in the text box, predictive results are suggested. *Peggo* also allows the user to cut and paste a YouTube URL into the search bar. The site promotes on its homepage that users can record video, audio, or both simultaneously, change the name of the artist and title of the music before saving, choose the time frame of the video or audio file, check a video by using the video preview option, etc. Users are enabled to download either an audio-only mp3 or the entire audio-visual work as an mp4 file.

### **Y2mate**

*Domain:* y2mate.com

*Registrant:* Uses privacy/proxy service Whois Privacy, Panama; registrant believed to be Ken Nguyen in Vietnam

*Registrar:* NameCheap, Inc.

*Hosting Provider:* Served through reverse proxy Cloudflare, (U.S.); underlying ISP believed to be Choopra, LLC

*Traffic:* Global Alexa ranking of 1409, with nearly 300 million visits in the past year

*Revenue Source:* Advertising

*Y2mate* offers a search capability to locate YouTube videos or allows the user the cut and paste a YouTube URL into the search bar. Users are enabled to download either an audio-only mp3 or the entire audio-visual work as an mp4 file.

### **Onlinevideoconverter.com**

*Domain:* Onlinevideoconverter.com

*Registrant:* Uses privacy/proxy service Contact Privacy, Canada

*Registrar:* Easy DNS

*Hosting Provider:* Netrouting, Netherlands

*Traffic:* Global Alexa ranking of 192, with 3.3 billion visits in the past year

*Revenue Sources:* Advertising

*Onlinevideoconverter* is currently one of the most popular sites globally. The site claims to support many platforms including YouTube, Dailymotion, and Liveleak. While the site appears to block distribution of MP3s of some videos in the music category in the U.S., other videos with our members' music outside of the music category are still converted, and the mp3 distributed, via this site. In addition, the site does not apply these limits on conversions of videos in the music category globally, but rather only applies them in jurisdictions where significant enforcement activity has occurred. Once a user has converted a track, a QR code appears allowing users to download the track to their phone or tablet.

### **H2converter.com**

*Domain:* h2converter.com

*Registrant:* Uses privacy/proxy service WhoisGuard, Inc., Panama

*Registrar:* Namecheap Inc

*Hosting Provider:* Vultr Holdings LLC, Canada

*Traffic:* Global Alexa ranking of 15,973, with over 36 million visits in the past year

*Revenue Sources:* Advertising

*H2converter* distributes mp3 files ripped from YouTube videos, and offers easy instructions regarding how to convert and download a file. This site had changed its practices in the U.S. for a few months following a warning letter but has since reverted to its practice of distributing unauthorized mp3s of our members' music.

### **Convertmp3**

*Domain:* convertmp3.io (formerly youtubeinmp3.com)

*Registrant:* No registrant information available for .io TLD

*Registrar:* NameCheap, Inc.

*Hosting Provider:* Served through Cloudflare, (U.S.), underling ISP believed to be OVH Canada and OVH France

*Traffic:* Global Alexa ranking of 37,624, with over 170 million visits combined to both sites in the past year

*Revenue Source:* Advertising

*Convertmp3* provides easy access to downloadable mp3 files for YouTube music videos. The conversion and distribution of downloads appears to come directly from *convertmp3* servers.

## **2. Mp3 Search-and-Download Sites**

This class of sites directly or indirectly offers unauthorized on-demand streaming and/or downloading of our members' music, including their most popular and valuable content. Commonly, these sites also provide unauthorized downloading of pre-release music, i.e., tracks and albums that have not yet been commercially released to the public. As noted above, such infringing activity clearly harms U.S. artists, songwriters, record labels, and music publishers by disseminating their works without authorization and severely diminishing the commercial value of those works.

### **Newalbumreleases**

*Domain:* newalbumreleases.net

*Registrant:* Uses privacy/proxy service Super Privacy Services, last identified registrant believed to be Sergey Kobilin, Svetogorsk, Russia

*Registrar:* Dynadot, LLC

*Hosting Provider:* WIBO (Czech Republic)

*Traffic:* Global Alexa ranking of 9,440, with nearly 64 million visits in the past year

*Revenue Sources:* Advertising

*Newalbumreleases* makes available a substantial library of newly-released popular music content, as well as albums not yet commercially released. The site features the most recently uploaded albums on the home page using album artwork. In addition, it organizes earlier posts by genre under menu tabs for Rock, Pop, Metal, etc. The home page also offers a search capability for content by artist or title. The site hosts its content on cyberlockers and provides users with links to services like Rapidgator.net and Hitfile.net from where the files are available for download. All the files appear to have been uploaded to the cyberlocker sites by *Newalbumreleases*, as the download files usually include "newalbumreleases" in the file name. As the uploaders of the files, *Newalbumreleases* are direct infringers. Takedown notices sent by rights holders to this site are ineffective. The domain was suspended briefly in 2018 but the service resumed.

### **Rnbexclusive**

*Domain:* rnbexclusive1.com

*Registrant:* Uses privacy/proxy service WhoisGuard

*Registrar:* Namecheap, Inc



*Hosting Provider:* Served through Cloudflare, (U.S.), underlying ISP believed to be Contabo GmbH

*Traffic:* Global Alexa ranking of 8,733, with over 8.4 million combined visits to the two domains in the past year

*Revenue Sources:* Advertising

*Rnbexclusive* is a popular Ukrainian-based service providing downloads for popular R&B and Hip-hop recordings, both full albums and popular tracks for free download. The site uses various problematic cyberlockers to host and distribute the files. Most recently, it began using two new cyberlocker sites, *suprafiles.me* and *cloudyfiles.me*. The site has also been a prolific domain-hopper, having hopped domains approximately 16 times since 2016, with 6 hops in 2018 alone.

### **Leakthis**

*Domain:* Leakthis.is

*Registrant:* Not disclosed

*Registrar:* Unavailable

*Hosting Provider:* Served through Cloudflare, (U.S.), underlying ISP believed to be Incrediserve LTD (Netherlands)

*Traffic:* Global Alexa ranking of 84,183, with over million visits to the site in the past year

*Revenue Sources:* Advertising

*Leakthis* is, as its name implies, a site that specializes in the most damaging forms of piracy which is the leaking of tracks and albums before their commercial release. The site itself is not a massively popular site, but it is the source of content that, once leaked, rapidly spreads across the entire music piracy landscape. Thus, its damage is measured not in how many users visit the site itself but by the massive distribution that takes place once the file is made available on the site.

### **3. BitTorrent Indexing Sites**

BitTorrent indexing sites provide a searchable index of links to content which can be downloaded by users running the appropriate client software. Indexing services can generate revenue from advertising and/or user donations. The financial model, structure, and approach varies from site to site.

The following popular sites are the most egregious, based on: (i) the extent of the infringement, i.e., the number of users visiting the site to infringe copyright; (ii) the amount of unlicensed content on the site; and (iii) the site's failure to take steps to address the massive piracy problem across its network. Moreover, these BitTorrent index sites demonstrate they are dedicated to infringement by the way they organize and display the files they index. Files are typically organized into categories of movie, music, software, and games with file names clearly and unmistakably describing content in a way that the operators know they are distributing torrents for copyright-protected content.

Increasingly BitTorrent sites are registering multiple domains to mitigate the problem of their sites going off line if one of their domains is seized or blocked, and to work around search engine demotion algorithms. A simple change in the county code or other top-level domain allows the site to reappear in top search results.

### **ThePirateBay**

*Domain:* thepiratebay.org (formerly thepiratebay.se, thepiratebay.vg)

*Registrant:* Fredrik Neij, Stockholm, Sweden

*Registrar:* easyDNS Technologies Inc.

*Hosting Provider:* Served through Cloudflare, (U.S.), underlying ISP believed to be Lir.bg EOOD, Bulgaria  
*Traffic:* Global Alexa ranking of 152, with nearly 3.26 billion visits in the past year  
*Revenue Sources:* Advertising, pay-per-install of potential malware

*Thepiratebay* continues to be the single most popular BitTorrent index site in the world. This continues to be the case even though courts in a multitude of countries around the world (including: Austria, Belgium, Denmark, Finland, Iceland, Ireland, Italy, Portugal, Spain, and the UK) have issued orders blocking access to the site in their jurisdictions. Earlier this year, *thepiratebay* began blocking U.S. IP addresses. However, the site remains easily accessible using free proxy service that makes it appear the user is accessing the site from another jurisdiction. The world's most popular and newly released films and vast catalogues of music can be downloaded via the site. The site makes no pretense of legitimacy, fails to respond to any takedown notices, and has previously ridiculed those who have sent them such notices.

There are a number of other very popular BitTorrent index sites that operate in essentially the same fashion as *thepiratebay*, making a broad range of copyrighted content downloadable using the BitTorrent P2P protocol. The worst of these sites include:

### **1337x**

*Domain:* 1337x.to (site lists mirror infringing domains as including 1337x.se, 1337x.st, x1337x.ws, x1337x.eu, and x1337x.se)  
*Registrant:* None provided for .to TLD  
*Hosting Provider:* Served through Cloudflare, (U.S.), underlying ISP believed to be the bulletproof ISP FlokiNet, Ltd.  
*Traffic:* Global Alexa ranking of 281, with nearly 1 billion visits in the past year  
*Revenue Sources:* Advertising, pay-per-install of potential malware

### **Rarbg**

*Domain:* Rarbg.to  
*Registrant:* None provided for .to TLD  
*Hosting Provider:* Nets App/S A and A Stroi Proekt EOOD, Bosnia and Herzegovina  
*Traffic:* Global Alexa ranking of 262, with 1.5 billion visits in the past year  
*Revenue Sources:* Advertising, pay-per-install of potential malware

### **Torrentz2**

*Domain:* torrentz2.eu (mirror or copycat sites may include torrentz2eu.xyz, torrentz2.is)  
*Registrant:* None provided for .to TLD  
*Hosting Provider:* Served through Cloudflare, (U.S.), underlying ISP believed to be Private Layer, Inc.  
*Traffic:* Global Alexa ranking of 573, with 547 million visits in the past year  
*Revenue Sources:* Advertising, pay-per-install of potential malware

## **4. Cyberlockers**

A “cyberlocker” is a type of website/service which enables users to upload, store, and distribute digital files on a dedicated storage infrastructure on the Internet that is controlled, managed, and maintained by the website's operator. Although there appears to be some similarity between cyberlockers and legitimate cloud storage services (as they both allow users to upload files to servers for storage and sharing), their business models are strikingly different. The business model for legitimate storage services is principally based around personal file storage and limited ability to share access to the files. Cyberlockers are all about maximizing and monetizing traffic to their service. Nothing draws traffic like popular copyrighted content that can be downloaded for free. Thus, their

business model is at its heart the distribution of unlicensed content.

Cyberlockers typically earn revenue from one or more of the following means: advertising such as banner and “pop-up” ads which typically appear on the pages where the files to be downloaded are accessed; and sale of “premium accounts” which offer users benefits such as greatly increased download speeds, no-wait downloads, and simultaneous downloads – all features of particular interest to users who want to download large files such as films and albums. Some cyberlockers provide financial rewards to uploaders whose content draws large volumes of traffic to the site (which translate to advertising dollars) or when a downloader purchases a premium account after accessing an uploader’s content. Conversely, cyberlocker sites often have a policy of deleting content uploaded by non-paying users that is not regularly downloaded by others – in other words, content which is not drawing traffic to the site. Finally, these services provide little if any accountability for infringing uploaders. Files can often be uploaded without even opening an account, or free accounts can be opened with nothing more than an email address. Thus, there is no ability to police uploaders and effectively remove repeat infringers from their system. The fact of the matter is that, for many of these services, there would be no economic viability in the absence of traffic generated through piracy.

To a limited extent, rights holders can attempt to tackle these infringements by sending takedown notices to the site operators. However, this often entails monitoring thousands of third-party link resources – e.g., blogs, forum sites, and search engines – to locate the information that is needed to notify the locker of infringements occurring on their own services. These services are in a much better position to identify infringing content being uploaded to or distributed from their own servers if they really had an interest in conducting their business legally. There are efficient and reasonable technological solutions available that would assist in this. Some cloud services, for example *Mediafire* and *Depositfiles*, have successfully employed such technology.

The following are some of the most problematic cyberlocker sites plaguing the U.S. music industry:

### **Turbobit**

*Domain:* Turbobit.net

*Registrant:* Uses privacy/proxy services Whois Privacy Corp., Nassau, Bahamas

*Registrar:* Internet.BS Corp.

*Hosting Provider:* Webzilla, BV, Netherlands

*Traffic:* Global Alexa ranking of 980, with 424 million visits in the past year

*Revenue Sources:* Advertising, pay-per-install programs, paid premium accounts

*Turbobit* is one of the top cyberlocker sites for music piracy with nearly 360,000 infringing links identified in the past year. *Turbobit* along with *Rapidgator* are two popular sites used by download sites like *newalbumreleases* to store infringing files for download. *Turbobit* derives revenue from premium accounts, advertising placed on the site, and through likely revenue-sharing arrangements with the uploaders of popular content that will attract the most traffic to the site. We believe the rewards/revenue-share arrangement is run via a separate website, *costaction.com*. We also believe that *Turbobit* is linked to cyberlocker *Hitfile* as well.

### **Rapidgator**

*Domain:* Rapidgator.net (and rg.to, which redirects to rapidgator.net)

*Registrant:* Uses privacy/proxy service Whois Privacy Corp., Nassau, Bahamas

*Registrar:* Internet.BS Corp.

*Hosting Provider:* NetVillage Ltd/Ddos Protection, Ltd. (Russia)

*Traffic:* Global Alexa ranking of 733, with 573 million visits in the past year

*Revenue Sources:* Advertising, pay-per-install of potential malware, pop-up ads and redirects to third-party sites, and premium accounts

This cyberlocker launched in October 2011 and has from the beginning been a major source of the

distribution of infringing music content. The site even offers a rewards program that shares revenue with users to upload material that draws large amounts of traffic, thus encouraging the uploading of popular copyrighted content and undercutting any pretense of operating a simple cloud storage service. The Google Transparency Report reveals that Google has received complaints from over 7,500 copyright owners relating to over 28.6 million infringing *Rapidgator* URLs. The site makes available vast amounts of content which is yet to be commercially released. Despite millions of takedown notices having been sent to *Rapidgator*, the same content re-appears and there is no proactive action being taken to prevent infringement by the service. Users complain on social media of being ignored when trying to cancel premium accounts and failure to deliver on premium services. The corporate structure of *Rapidgator* uses a sophisticated network of offshore companies and specialized corporate vehicles to further obscure the underlying beneficiaries.

### **Zippyshare**

*Domain:* zippyshare.com

*Registrant:* Uses privacy/protection service Contact Privacy Inc. (Canada)

*Registrar:* Tucows Domains Inc. (Canada)

*Hosting Provider:* OVH SAS (France)

*Traffic:* Global Alexa ranking of 335, with 1.2 billion visits in the past year

*Revenue:* Advertising, pay-per-install of third party applications

*Zippyshare* is a very popular cyberlocker, particularly for infringing music, which allows users to upload files, share links to these files online, and to stream music via an embedded music player. The site specifically markets the site as a place to upload, store, and share music files. While the site responds to takedown notices, it permits the anonymous upload of content to the site so there is no way to screen out those who abuse the service or simply repeatedly re-upload content that was previously removed.

### **Chomikuj**

*Domain:* chomikuj.pl

*Registrant:* Unavailable (technical contacts for the site link it to Belize and Cyprus)

*Registrar:* Instra Corporation Pty Ltd (Australia)

*Hosting Provider:* Served through Cloudflare, (U.S.), underlying ISP believed to be LeaseWeb Netherlands, B.V. (Netherlands)

*Traffic:* Global Alexa ranking of 3,324, with 228 million visits in the past year

*Revenue Sources:* Advertising, paid subscriptions

This site is the most popular cyberlocker in Poland. Over 80% of the visitors to the site are in Poland, but the site hosts a broad range of U.S. repertoire. The site enables users to upload files (e.g., music, films, images, software, books) to the site and then share links to the content. Users can choose to have a free account or pay for an account via subscription or paid text messages. The site offers rewards to users who upload popular content downloaded by other users. The site appears to be owned and operated by a company called FS File Solutions Limited, registered in Nicosia, Cyprus.

The Google Transparency Report indicates that 28.5 million infringing URLs have been reported to the search engine by 4,576 copyright owners. RIAA alone has reported over four million infringing URLs. The site has been the subject of litigation in Poland. In September 2017, the Krakow Court of Appeal (No. I ACa 1494/15) held that the site had infringed right holders' rights and ordered it to pay damages. The Court found the service had directly infringed the making available right and was not able to claim safe harbor protection because it was not "passive."

### **Dbree**

*Domain:* Dbr.ee

*Registrant:* Not disclosed (technical contacts for the site link it to Belize and Cyprus)

*Registrar:* NameISP AB, Sweden

*Hosting Provider:* Served through Cloudflare, (U.S.), underlying ISP believed to be Incrediserve LTD (Netherlands)  
*Traffic:* Global Alexa ranking of 5,395, with 61 million visits in the past year  
*Revenue Sources:* Advertising

*Dbree* is a relatively new locker site that has been very popular with several music sites specializing in leaking music content before its commercial release date. It requires no account set-up, so uploaders can avoid leaving a trail that might identify them. *Dbree* is commonly found to be distributing the pre-release and newly released popular music files linked to from sites like *leakth.is*. It has become more resistant to rightsholder intervention by banning rights holder IP addresses and being less responsive or non-responsive to rights holder notifications of infringement.

### **Suprafiles and Cloudyfiles**

*Domain:* Suprafiles.me and cloudyfiles.me  
*Registrant:* Not disclosed  
*Registrar:* Namecheap, Panama  
*Hosting Provider:* Leaseweb Netherlands  
*Traffic:* Both sites have a global Alexa ranking in the 13,000s and generated 11 million visits in less than a month online  
*Revenue Sources:* Advertising

These sites were both established in August 2018 and host pre-releases and other popular music that are linked to from sites like *mbxclusive*. Both sites tout that uploaders can earn profits by promoting their files on other sites and generating download traffic to the cyberlocker site. The two sites offer to pay \$12 per 1,000 downloads that take place from the U.S. and the UK, with lesser amounts for downloads in other jurisdictions. Notably, the site advises users that “your files will be deleted in case of receiving abuse report **but your account balance will not be affected** (emphasis added).” The clear message being given to users is – don’t worry about uploading copyrighted content that might have to be ultimately removed because you won’t lose any money you made until then.

### **Hitfile.net**

*Domain:* Hitfile.net  
*Registrant:* Uses privacy/proxy service Whois Privacy Corporation, Bahamas  
*Registrar:* Internet Domain Service BS Corp.  
*Hosting Provider:* Webzilla, B.V., Netherlands  
*Traffic:* Global Alexa ranking of 7,808, with over 57.58 million visits in past year  
*Revenue Sources:* Premium accounts and advertising

*Hitfile* is another locker service that permits unauthorized downloads of music.

### **Nippyspace.com**

*Domain:* Nippyspace.com  
*Registrant:* Uses privacy/proxy Whois Privacy Corporation, Bahamas  
*Registrar:* Internet Domain Service BS Corp.  
*Hosting Provider:* Served through Cloudflare, (U.S.), underlying ISP believed to be Incrediserve LTD (Netherlands)  
*Traffic:* Global Alexa ranking of 101,057, with over 10.54 million visits in past year  
*Revenue Sources:* Advertising

While this site is relatively unpopular today as compared to the other lockers noted above, this site focuses on music and has been responsible for several “first seen” infringement of pre-release or early release music.

## 5. Unlicensed Pay-for-Download Sites

There are a dozen or so websites based in Russia and the Ukraine that engage in the unlicensed sale of singles and albums at a fraction of the cost found on licensed services. The fact that they pay no royalties to copyright owners allows them to completely undercut legitimate licensed services. The sites look professional, utilizing official album art and selling all the latest releases as well as popular older catalog works.

### Mp3va

*Domain:* mp3va.com

*Registrant:* Uses privacy/proxy service MyPrivacy.net Ltd. (Canada)

*Registrar:* easyDNS Technologies, Inc.

*Hosting Provider:* Filanco LTD (Russia)

*Traffic:* Global Alexa ranking of 83,770, with 8.7 million visits in the past year

*Revenue Sources:* Sale of singles and full albums

*Mp3va* engages in the unlicensed sale of music. The site has the look and feel of a legal music site like Amazon or iTunes; however, they sell single tracks for an average of 15 cents and full albums for about \$1.50. Music is sold by the file size, so the cost of singles and albums varies slightly. Users must set up an account and add money to the account, using credit cards or payment intermediaries. Major U.S. credit card and payment processors have terminated support for the site, but offshore intermediaries can still be used. While the operator of the site is currently masked behind a privacy proxy service, older Whois data indicated the site was run by companies in Russia and Cyprus.

### Mp3fiesta

*Domain:* mp3fiesta.com

*Registrant:* Sergey Novato, Streamusic Ltd (Nicosia, Cyprus)

*Registrar:* Key-Systems GmbH

*Hosting Provider:* ASN-AVANTEL-MSK (Russia)

*Traffic:* Global Alexa ranking of 235,965, with 1.4 million visits in the past year

*Revenue Sources:* Sale of singles and full albums

*Mp3fiesta* operates exactly like *mp3va* in its sale of unlicensed music. Like *mp3va*, the site has the look and feel of legal music sites like Amazon or iTunes; however, they sell single tracks for an average of 15 cents and full albums for about \$1.50. Music is sold by the file size so the cost of singles and albums varies slightly. Like *mp3va* users must set up an account and add money to the account, using credit cards or payment intermediaries, and then purchases are made drawing down on the amount of funds available in the account.

## 6. Emerging Issues

### **Bulletproof ISPs**

As noted above, infringing sites are turning more towards offshore hosting ISPs that support the sites' infringing activities. These "Bulletproof" ISPs support various types of criminality through considerable leniency in the kinds of materials they permit to be uploaded and distributed via their networks. These ISPs do not respond to notices of infringement or warning letters that the ISP is hosting and supporting known infringing sites. The two most problematic bulletproof ISPs that support infringing activity relating to music are:

- **Ecatel/Quasi Networks (Novogara LTD and Incrediserve LTD) – Seychelles / Amsterdam.** Ecatel is a Dutch hosting provider founded in 2005, registered in the UK, and

headquartered in The Hague. It offers offshore hosting options and, over the last decade, has consistently hosted criminal and toxic content, and generated spam and DDoS traffic from its IP space. Ecatel is known to law enforcement, has been shut down by its peers at least once (in 2008), and was subject in 2012 to DDoS attacks by Anonymous for hosting child pornography. In 2017, BREIN raised an action against Ecatel and its associated hosting companies for the hosting of, and failure to remove, infringing and illegal content. One such associated hosting company is Quasi Networks (<http://www.quasinetworks.com/>) operated from Mahe, Seychelles with the infrastructure located in the Netherlands. Quasi Networks is responsible for hosting various sites engaged in the transmission of pre-release works, including *dbr.ee*, *xclusivejams*, *nippyspace*, *mp3monkey.net*, *gosongs*, and *leakth.is*. With little recourse to remove infringements, both Ecatel and Quasi represent a significant danger to our member companies.

- **FlokiNET – Romania/Iceland/Finland.** FlokiNET (<https://flokinet.is/>) is a web hosting service that prides itself on allowing the completely anonymous hosting of content across its three server locations: Romania, Iceland, and Finland. In a recent case involving pre-release music piracy for a site known as *musicmafia.to*, FlokiNET was listed as the registrant of the domain. FlokiNET advertises quite openly, "We do not require any personal details or identification; any valid e-mail address is enough information to be a client." As a result, many different types of websites hosted on the ISP host bestiality pornography and fraudulent sites, amongst others. Other infringing sites hosted on FlokiNet include *avxhome.se*, *djnotorioussam.com*, and *x1337.to*. The operator of FlokiNET is known to the authorities and resides in Romania but, to date, no action has been taken to close the service.

### **Nigerian-Operated Infringing Sites**

In the last 12 months, we have seen a significant growth in the number of Nigerian-operated sites that are distributing direct download links for pre-release and newly released music affecting our member companies. The number of such infringing sites with a Nigerian operator stands at over 400. The total number of Nigerian-operated sites has grown significantly since the last submission and is a great cause for concern to the industry and has the effect of preventing the growth of this emerging market. The sites' primary method of promotion is via Twitter, and most sites make use of the Nigerian-operated ISP speedhost247.com.

## **PHYSICAL MARKETS**

In 2017, physical CD sales continued to generate considerable revenue for U.S. record companies. Prominent ecommerce platforms have become the ideal outlet for counterfeit physical products being produced in Russia and China. In some cases, Russian and Chinese sellers will sell directly on retail platforms, shipping the goods to consumers from Russia or China. In other cases, the principles behind the Chinese and Russian counterfeits sell to third-party sellers on platforms that may or may not know they are buying and reselling counterfeits.

### **Chinese and Russian Counterfeit CD Manufacturing and Distribution**

Counterfeits being manufactured and sold out of China are high in quality and difficult to identify. The outside packaging will copy pull tabs, security seals, and tight shrink-wrapping, while the insert booklet will mirror the legitimate versions of the product, printed on high-grade commercial printing machinery. The artwork and markings on the discs themselves are also manufactured to look exactly like the legitimate version of the product.

Counterfeits being manufactured and sold out of Russia are of somewhat lower quality. The artwork and packaging are often not as professional looking as the official versions of the CD, making the

counterfeits manufactured in Russia somewhat easier to identify. At the end of the day, however, the primary distinguishing characteristic of these counterfeits is that the rights holders, creators, and artists are not paid for their work.

Test purchases have established that massive quantities of these counterfeits were finding their way into the legitimate market on various platforms. Consumers are paying full price for product that, to the untrained eye, appears legitimate.

In the past year, Amazon has taken steps to disrupt the distribution of such counterfeit CDs through its platforms. Amazon shut down the opening of new music seller accounts and worked to identify and remove sellers of counterfeits from its platform. The result has been a dramatic reduction in the volume of Chinese and Russian counterfeits entering the United States through Amazon. Steps taken by eBay have been less successful and more work needs to be done. Still, even as the U.S. marketplace is made more secure from Chinese and Russian counterfeits, those products continue to move into other marketplaces around the world.