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## The Battle Over Online Music

Jennifer Sullivan  01.29.99

Sightsound.com, a tiny company that owns a patent for selling music through online downloads, is demanding that other music companies pay licensing fees or face patent-infringement lawsuits. The Mt. Lebanon, Pennsylvania, company has already sent formal warnings to some music sites, including [MP3.com](#), one of the main hubs for downloading music files.

"We're highly confident in the validity of our intellectual property," said Scott Sander, chief executive at Sightsound.com. "We have two US patents that control the sale of downloadable music. We're not trying to slow [the Internet music industry] down. We're trying to speed it up."

But some companies said they'll challenge Sightsound.com's patents and put up a serious fight before paying licensing fees.

The brewing fight once again raises the question of how competent the US Patent and Trademark Office is in handing out exclusive rights to basic technologies underlying the Internet. If Sightsound.com's patents are upheld in court, it could exact a toll from the entire online music industry.

That prospect hasn't been lost on the traditional music industry. The Recording Industry Association of America, or RIAA, no friend to the online music movement, said Sightsound.com very likely will have to fight to get its money.

"At this point, the validity of these patents is almost certain to be challenged," said an RIAA spokeswoman. She declined to say whether the association would file suit.

[Sightsound.com](#) creates Web sites for other companies that want to sell music online. It claims its patents cover the idea of selling audio and video files through downloads. On Wednesday, Sightsound.com sent [cease and desist letters](#) to four Internet music companies including [MP3.com](#), [Platinum Entertainment \(PTET\)](#), [GoodNoise \(GDNO\)](#), and [Amplified.com](#).

Christopher Reese, vice president and general counsel for Sightsound.com, asked the sites to either pay a 1 percent royalty on all revenue from online music sales, or to "immediately cease and desist." "They didn't do their homework," said Michael Robertson, president of [MP3.com](#). Robertson said his site doesn't infringe on the patents because it doesn't sell music files or players over the Net. [MP3.com](#), which runs a record label, offers free downloads to promote the physical CDs it sells. "This is nothing more than a money play."

Robertson said he doesn't know what he'll do next.

Meanwhile, other companies are willing to go along, just to avoid legal hassles.

"It seemed like good insurance," said Howie Singer, chief technology officer at a2b, a music software publisher that agreed to go along with Sightsound.com's request last June.

This isn't the first time Sightsound.com has tried to enforce its patents. The company is suing Web CD retailer [N2K](#) over its [e-mod](#) software for playing downloadable music.

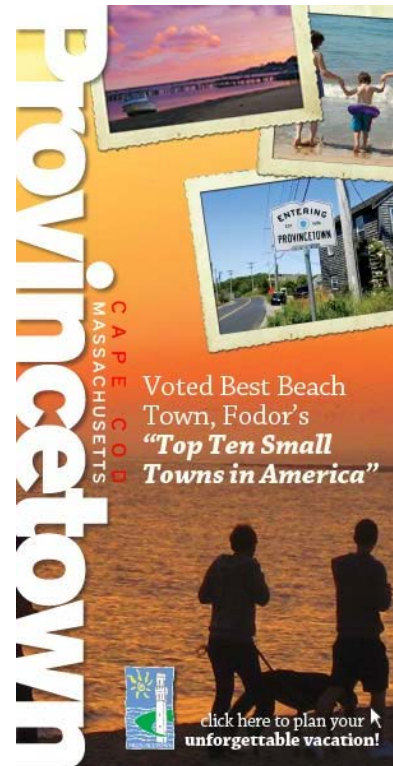
It's also not the first time a controversial patent has embroiled a lucrative niche of the technology industry. Online auctioneer [Priceline.com](#), for example, has patented the idea of applying reverse auctions to the Internet. Some experts say the patent office was wrong to give one company exclusive rights to the digital form of an idea pervasive before the Internet existed.

In general, the patent holder usually has the legal advantage. But in this case, a defendant likely will be able to show in court that the idea of downloadable music was floating around before Sightsound.com patented it.

"There's a good chance there's [prior] art out there to bust the thing," said Greg Aharonian, a patent consultant.

Earlier Internet-like technologies like France's Minitel and Videotext, a failed interactive TV project in the early 1980s, flirted with the idea of sending music through electronic networks, for example. Even venerable Bell Labs [experimented](#) with online jukeboxes.

"Based on a very preliminary review of the patents, I think they probably could be attacked a number of different ways," said Brad Biddle, counsel for [MP3.com](#).



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